

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 160

Short Title: Public Contracts/Illegal Immigrants. (Public)

Sponsors: Representatives Conrad, Cleveland, Millis, and Szoka (Primary Sponsors).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Government.

February 28, 2013

1 A BILL TO BE ENTITLED
2 AN ACT PROHIBITING STATE AND LOCAL GOVERNMENT CONTRACTS WITH
3 CONTRACTORS WHO EMPLOY ILLEGAL IMMIGRANTS AND REQUIRING
4 CONTRACTORS TO VERIFY AND CERTIFY THEIR EMPLOYEES'
5 AUTHORIZATION TO WORK IN THE UNITED STATES.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** Article 8 of Chapter 143 of the General Statutes is amended by
8 adding the following new section to read:

9 "**§ 143-133.1. Contracts with illegal immigrants prohibited; verification and certification**
10 **required.**

11 (a) No contract for construction or repair work or for the purchase of apparatus,
12 supplies, materials, or equipment shall be awarded by any agent or employee of the State, any
13 board or governing body of the State or of any institution of the State government, or by any
14 agent, employee, or board or governing body of any political subdivision of the State to any
15 contractor who knowingly employs or contracts with an illegal immigrant to perform work
16 under the contract or who knowingly contracts with a subcontractor who knowingly employs or
17 contracts with an illegal immigrant to perform work under the contract. For purposes of this
18 section, the term "contractor" means any person, firm, association, or corporation that desires to
19 submit a bid for or enter into a contract with any State department, institution, or agency, or any
20 political subdivision of the State, to perform construction or repair work or to supply apparatus,
21 supplies, materials, or equipment. For purposes of this section, the terms "employs" and
22 "employed" include any instance in which a contractor provides to another person any form of
23 financial or other remuneration in return for performing any work or services under a contract
24 awarded by any State department, institution, or agency, or any political subdivision of the
25 State. The provisions of this section shall apply to all contracts involving the expenditure of
26 public money, regardless of the amount, and shall apply to both formal and informal bids.

27 (b) Prior to submitting a bid to or entering into a contract with any State department,
28 institution, or agency, or any political subdivision of the State, a contractor shall verify the
29 authorization to work in the United States of each individual employed by the contractor,
30 whether permanent, temporary, or seasonal, to perform work under the contract in accordance
31 with the terms and conditions of the E-Verify Program administered by the United States
32 Department of Homeland Security pursuant to section 403(a) of the Illegal Immigration Reform
33 and Immigrant Responsibility Act of 1996 (8 U.S.C. § 1324a note), P.L. 104-208, as amended.
34 The verification required by this subsection shall be conducted only after the hiring of the
35 individual as an employee to work in the United States.



1 (c) A contractor submitting a bid to or entering into a contract with any State
2 department, institution, or agency, or any political subdivision of the State, shall certify on a
3 form approved by the Secretary of Administration that the contractor has verified, as provided
4 in subsection (b) of this section, the authorization to work in the United States of each
5 individual employed by the contractor, whether permanent, temporary, or seasonal, to perform
6 work under the contract. Any person who submits a certification required by this subsection
7 known to be false shall be guilty of a Class I felony.

8 (d) Every contract entered into under this Article shall contain a provision that:

9 (1) The contractor shall not:

10 a. Knowingly employ or contract with an illegal immigrant to perform
11 work under the contract.

12 b. Enter into a contract with a subcontractor who fails to certify to the
13 contractor that the subcontractor shall, by using the E-Verify
14 Program, verify the authorization to work in the United States of
15 each individual employed by the subcontractor, whether permanent,
16 temporary, or seasonal, to perform work under the contract.

17 (2) The contractor has, by using the E-Verify Program, verified the
18 authorization to work in the United States of each individual employed by
19 the contractor, whether permanent, temporary, or seasonal, to perform work
20 under the contract.

21 (e) A violation of this section shall render the contract void. A contract that is void
22 under this section may continue in effect until an alternative can be arranged when (i)
23 immediate termination would result in harm to the public health or welfare and (ii) the
24 continuation is approved, in writing, by the Secretary of Administration after consultation with
25 the affected State department, institution, or agency, or the governing body of the political
26 subdivision of the State. Approval of continuation of contracts under this subsection shall be
27 given for the minimum period necessary to protect the public health or welfare.

28 (f) If a contractor is discovered to have knowingly used the services of an illegal
29 immigrant in the performance of a contract under this Article, the contractor shall be prohibited
30 from submitting a bid to or entering into a contract to supply goods or services with any State
31 department, institution, or agency, or any political subdivision of the State, for one year from
32 the date the violation was discovered."

33 **SECTION 2.** This act becomes effective October 1, 2013, and applies to all bids
34 submitted and all contracts entered into on or after that date.