

**EMPLOYEE VERIFICATION, PROCUREMENT,
AND INCENTIVES**

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen E. Sandstrom

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions related to state affairs in general to condition certain economic incentives and procurement agreements on participation in a federal employee verification program.

Highlighted Provisions:

This bill:

► requires employee verification under a federal employee verification program of a newly hired employee's employment eligibility as a condition for receiving certain economic incentives and procurement contracts including:

- defining terms;
- requiring participation; and
- providing for penalties.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

63-38f-206, Utah Code Annotated 1953



28 **63-56-427**, Utah Code Annotated 1953

29
30 *Be it enacted by the Legislature of the state of Utah:*

31 Section 1. Section **63-38f-206** is enacted to read:

32 **63-38f-206. Employment verification as a requirement for economic development**
33 **incentives.**

34 (1) As used in this section:

35 (a) "Economic development incentive" means one or more of the following:

36 (i) a loan, grant, or other financial assistance described in Part 9, Industrial Assistance
37 Fund;

38 (ii) a partial rebate described in Part 13, Aerospace and Aviation Zone;

39 (iii) a partial rebate described in Part 17, Economic Development Incentives Act;

40 (iv) an incentive described in Part 18, Motion Picture Incentive Fund;

41 (v) monies distributed under Part 19, Economic Development on Military Installations;

42 or

43 (vi) monies or other incentives distributed under Part 21, Economic Development -
44 Government Procurement Contracts.

45 (b) "Employee" means an individual performing or applying for work or service of any
46 kind or character for hire.

47 (c) "Employer" means a person employing or seeking to employ an individual for hire.

48 (d) "Employment" means:

49 (i) the act of employing; or

50 (ii) the state of being employed, engaged, or hired.

51 (e) "Federal employment verification program" means a program to electronically
52 verify employment eligibility that is:

53 (i) operated by the United States Department of Homeland Security to verify
54 information of employees pursuant to the Illegal Immigration Reform and Immigrant
55 Responsibility Act of 1996, P.L. 104-128, 110 Stat. 3009, Title IV, Subtitle A, (as amended
56 2002, 2003); or

57 (ii) a similar program operated by the United States Department of Homeland Security.

58 (2) The office shall require as a condition for receipt of an economic development

incentive that an employer certify that the employer:

(a) participates in the federal employment verification program; and

(b) has not been found to violate the requirements of the federal employment verification program by:

(i) the United States Department of Homeland Security; or

(ii) the office.

(3) (a) If the office learns that an employer does not participate in the federal employment verification program or is found by the United States Department of Homeland Security to violate the requirements of the federal employment verification program within one year after the day on which the employer receives or otherwise claims an economic development incentive, the office may require the employer to repay to the state up to the full value of the economic development incentive as of the day on which the employer receives or otherwise claims the economic development incentive.

(b) If an employer described in this Subsection (3) receives or claims an economic development incentive, the employer shall notify the office of a finding described in Subsection (3)(a) within ~~five~~ **eight** business days of the day on which the finding described in Subsection (3)(a) is final.

Section 2. Section ~~63-56-427~~ is enacted to read:

63-56-427. Participation in federal employment verification program.

(1) As used in this section:

(a) "Employee" means an individual performing or applying for work or service of any kind or character for hire.

(b) "Employer" means a person employing or seeking to employ an individual for hire.

(c) "Employment" means:

(i) the act of employing; or

(ii) the state of being employed, engaged, or hired.

(d) "Federal employment verification program" means a program to electronically verify employment eligibility that is:

(i) operated by the United States Department of Homeland Security to verify information of employees pursuant to the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, P.L. 104-128, 110 Stat. 3009, Title IV, Subtitle A, (as amended

2002, 2003); or

(ii) a similar program operated by the United States Department of Homeland Security.

(2) ~~It~~ (a) ~~is~~ A state ~~public~~ procurement unit shall require as a condition of any agreement to procure supplies, services, and construction ~~that is the subject of a request for proposals~~ described in Subsection (2)(b) ~~that~~ that an employer submit with that employer's response to a bid ~~related to that agreement~~ a certification that the employer:

~~It~~ (a) (i) ~~participates in the federal employment verification program; and~~
~~It~~ (b) (ii) ~~has not been found to violate the requirements of the federal employment verification program by:~~

~~It~~ (i) (A) ~~the United States Department of Homeland Security; or~~
~~It~~ (B) ~~the~~ ~~division~~ Division of Purchasing and General Services ~~.~~
 (b) This section applies to an agreement to procure supplies, services, or construction that:

(i) is the subject of a request for proposals; and
 (ii) has a total dollar value equal to or greater than \$25,000.
 (c) (i) This section does not apply to a person that does not directly submit a response to a bid described in Subsection (2)(a) for the right to enter into an agreement with the state public procurement unit, including a person who is a subcontractor of the employer that submits a response to the bid.

(ii) An employer who submits a response to a bid in accordance with Subsection (2)(a) may not be required under this section to certify whether or not any subcontractor of that employer participates in the federal employment verification program. ~~It~~

(3) (a) If the ~~It~~ ~~division~~ Division of Purchasing and General Services ~~It~~ learns that the employer does not participate in the federal employment verification program or an employer is found by the United States Department of Homeland Security to violate the requirements of the federal employment verification program ~~It~~ [] :

(i) the employer shall remedy the violation within 60 days of the earlier of:
 (A) the day on which the ~~division~~ Division of Purchasing and General Services notifies the employer that the ~~division~~ Division of Purchasing and General Services learned that the employer is subject to this Subsection (3); or
 (B) the day on which the employer notifies the ~~division~~ Division of Purchasing and

General Services of the finding as required by Subsection (3)(b); and

(ii) if the employer fails to remedy the violation within the 60-day period described in

Subsection (3)(a)(i):

(A) for an agreement entered into on or after April 30, 2007, any agreement with a state public procurement unit that is in effect terminates on the day immediately following the day on which the 60-day period ends;

(B) the state public procurement unit has any remedy available under an agreement described in Subsection (3)(a)(ii)(A) for breach of that agreement; and

(C) ~~the~~ the employer may not enter into a new agreement or renew an agreement to provide supplies,

services, or construction to a state ~~the~~ public ~~the~~ procurement unit for one year after the day on which the

finding described in ~~the~~ [this] ~~the~~ Subsection (3) ~~the~~ (a)(i) ~~the~~ becomes final.

(b) If an employer described in this Subsection (3) has an agreement to provide supplies, services, or contraction to a state ~~the~~ public ~~the~~ procurement unit, the employer shall notify the

~~the~~ [division] Division of Purchasing and General Services ~~the~~ of the finding described in Subsection (3)(a) within ~~the~~ [five] eight ~~the~~ business days of the day on which the finding described in Subsection (3)(a) is final.

Legislative Review Note
as of 1-16-07 4:49 PM

Office of Legislative Research and General Counsel

H.B. 127 - Employee Verification, Procurement, and Incentives

Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill will require a one-time General Fund appropriation of \$9,700 to the Division of Purchasing and General Services for training vendors and staff, as well as implementing form and system changes.

	FY 2007	FY 2008	FY 2009	FY 2007	FY 2008	FY 2009
	<u>Approp.</u>	<u>Approp.</u>	<u>Approp.</u>	<u>Revenue</u>	<u>Revenue</u>	<u>Revenue</u>
General Fund, One-Time	\$0	\$9,700	\$0	\$0	\$0	\$0
Total	\$0	\$9,700	\$0	\$0	\$0	\$0

Individual, Business and/or Local Impact

Individuals and businesses that receive economic incentives or procurement contracts with the state will bear the cost of verifying their employees' employment eligibility.