

**EMPLOYEE VERIFICATION**

2008 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Christopher N. Herrod**

Senate Sponsor: Michael G. Waddoups

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**LONG TITLE****General Description:**

This bill modifies provisions related to state affairs in general by conditioning ~~H→ [certain economic incentives and]~~ ~~←H~~ procurement agreements on employer participation in a federal employee eligibility verification program.

**Highlighted Provisions:**

This bill:

► requires employee eligibility verification by an employer under a federal employee verification program of a newly hired employee's employment eligibility as a condition for receiving ~~H→ [certain economic incentives and]~~ ~~←H~~ 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:

~~H→ [63-38f-206, Utah Code Annotated 1953]~~ ~~←H~~

63-56-427, Utah Code Annotated 1953

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

**H→** ~~[Section 1. Section 63-38f-206 is enacted to read:~~

~~63-38f-206. Employment eligibility verification as a requirement for receiving economic development incentives.~~

~~(1) As used in this section:~~

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

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

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

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

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

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

~~or~~

~~(vi) monies or other incentives distributed under Part 21, Economic Development - Government Procurement Contracts;~~

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

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

~~(d) "Employment" means:~~

~~(i) the act of employing; or~~

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

~~(e) "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) The office shall require as a condition for receipt of an economic development~~

~~incentive that an employer certify that the employer:~~

~~—— (a) participates in a federal employment verification program referred to in Subsection (1)(c); 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 business days of the day on which the finding described in Subsection (3)(a) is final.]~~ ←H

Section H→ [2] 1 ←H . 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.

**Ĥ→ (e) "State public procurement unit" includes the State Capitol Preservation Board and its executive director in exercising their procurement power under Section 63C-9-301. ←Ĥ**

(2) A state public procurement unit shall require as a condition of an agreement to procure supplies, services, or construction that is the subject of a request for proposals **Ĥ→ or contract bidding ←Ĥ** that an

employer submits with the employer's response to a bid a certification that the employer:

(a) participates in a federal employment verification program referred to in Subsection (1)(d); 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 Division of Purchasing and General Services.

(3) (a) If the division 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, the employer may not enter into a new agreement or renew an agreement to provide supplies, services, or construction to a state public procurement unit for one year after the day on which the finding described in this Subsection (3) becomes final.

(b) If an employer described in this Subsection (3) has an agreement to provide supplies, services, or contraction to a state procurement unit, the employer shall notify the division of the finding described in Subsection (3)(a) within five business days of the day on which the finding described in Subsection (3)(a) is final.

**Ĥ→ (4)(a) An employer who participates in a federal employment verification program under this section may not be penalized by a state public procurement unit for an inaccuracy in the program as administered by the federal government that applies to an employee of the employer.**

**(b) The employer shall work with the program administrator, if practicable, to correct the inaccuracy. ←Ĥ**

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Legislative Review Note  
as of 11-29-07 12:45 PM

Office of Legislative Research and General Counsel

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**Revised  
Fiscal Note**

**H.B. 257 - Employee Verification**

2008 General Session  
State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

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

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