

1 **UTAH EMPLOYMENT VERIFICATION ACT**

2 2008 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Glenn A. Donnelson**

5 Senate Sponsor: Margaret Dayton

6

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions of the Labor Code in General to require certain employers
10 to participate in a federal program to verify the employment eligibility of employees.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ enacts the Utah Employment Verification Act including:

- 14 • defining terms;
- 15 • addressing interpretation of the act; and
- 16 • providing for severability;

17 ▶ requires public employer participation in the federal employment verification
18 program; and

19 ▶ requires recordkeeping by public employers of documentation required under the
20 federal employment verification program.

21 **Monies Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 This bill takes effect on July 1, 2008.

25 **Utah Code Sections Affected:**

26 ENACTS:

27 **34-45-101**, Utah Code Annotated 1953



- 28 **34-45-102**, Utah Code Annotated 1953
- 29 **34-45-103**, Utah Code Annotated 1953
- 30 **34-45-104**, Utah Code Annotated 1953
- 31 **34-45-201**, Utah Code Annotated 1953
- 32 **34-45-202**, Utah Code Annotated 1953

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

35 Section 1. Section **34-45-101** is enacted to read:

36 **CHAPTER 45. UTAH EMPLOYMENT VERIFICATION ACT**

37 **Part 1. General Provisions**

38 **34-45-101. Title.**

39 This chapter is known as the "Utah Employment Verification Act."

40 Section 2. Section **34-45-102** is enacted to read:

41 **34-45-102. Definitions.**

42 As used in this chapter:

43 (1) "Employee" means an employee as defined in Internal Revenue Code, Section
44 3401.

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

47 (a) operated by the United States Department of Homeland Security to verify
48 information of an employee pursuant to the Illegal Immigration Reform and Immigrant
49 Responsibility Act of 1996, P.L. 104-128, 110 Stat. 3009, Title IV, Subtitle A, (as amended
50 2002, 2003); or

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

52 (3) "Local government entity" means:

53 (a) a county;

54 (b) a city;

55 (c) a town;

56 (d) a school district;

57 (e) a local district; or

58 (f) a special service district.

- 59 (4) "Public employer" means:
- 60 (a) the state;
- 61 (b) a local government entity;
- 62 (c) an institution of higher education, as defined in Section 53B-3-102;
- 63 (d) an independent entity, as defined in Section 63E-1-102; and
- 64 (e) any of the following of an entity described in Subsections (4)(a) through (d):
- 65 (i) a department;
- 66 (ii) a division;
- 67 (iii) a commission;
- 68 (iv) a council;
- 69 (v) a board;
- 70 (vi) a bureau;
- 71 (vii) a committee;
- 72 (viii) an institution; or
- 73 (ix) an other entity, official, or employee.

74 Section 3. Section **34-45-103** is enacted to read:

75 **34-45-103. Interpretation of chapter.**

76 This chapter shall be interpreted so as to be fully consistent with federal immigration,
77 labor, and tax laws.

78 Section 4. Section **34-45-104** is enacted to read:

79 **34-45-104. Severability.**

80 (1) If a provision of this chapter or the application of a provision to a person or
81 circumstance is held invalid, the invalidity may not affect other provisions or applications of
82 this chapter.

83 (2) The provisions of this chapter are severable.

84 Section 5. Section **34-45-201** is enacted to read:

85 **Part 2. Participation in Federal Employment Verification Program**

86 **34-45-201. Participation in federal employment verification program required for**
87 **public employer.**

88 (1) (a) By the later of July 1, 2008 or the day on which a public employer first employs
89 an employee, the public employer shall execute the documentation required under the federal

90 employment verification program to participate in the federal employment verification
91 program.

92 (b) On and after the date described in Subsection (1)(a), in accordance with the federal
93 employment verification program, a public employer shall participate in the federal
94 employment verification program.

95 (2) In accordance with the federal employment verification program, a public employer
96 shall verify the employment eligibility of each employee that the public employer hires on or
97 after the day on which a public employer executes the documentation described in Subsection
98 (1)(a).

99 Section 6. Section **34-45-202** is enacted to read:

100 **34-45-202. Recordkeeping.**

101 (1) A public employer shall maintain a public record of the public employer's
102 execution of the documentation required under the federal employment verification program
103 for the employer to participate in the federal employment verification program.

104 (2) A public employer shall keep a record of verifying the employment eligibility of an
105 employee in accordance with Subsection 34-45-201(2) for the longer of:

106 (a) the time period required under the federal employment verification program; or

107 (b) the period:

108 (i) beginning with the day on which the employee's eligibility is verified under the
109 federal employment verification program; and

110 (ii) ending one year after the day on which the employee is no longer employed by the
111 public employer.

112 Section 7. **Effective date.**

113 This bill takes effect on July 1, 2008.

Legislative Review Note
as of **12-4-07 10:45 AM**

Office of Legislative Research and General Counsel

H.B. 98 - Utah Employment Verification Act

Fiscal Note

2008 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Local governments may incur costs associated with registering electronically to participate in the employment verification program and electronically submitting information for verification on newly hired workers. Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals or business.
