

EMPLOYEE VERIFICATION

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Christopher N. Herrod

Senate Sponsor: Michael G. Waddoups

LONG TITLE**General Description:**

This bill modifies provisions related to state affairs in general by conditioning certain economic incentives and 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 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 eligibility verification as a requirement for receiving**
33 **economic development 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 tax rebate described in Part 13, Aerospace and Aviation Zone;

39 (iii) a partial tax 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 a federal employment verification program referred to in Subsection (1)(e); 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.

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

90 Responsibility Act of 1996, P.L. 104-128, 110 Stat. 3009, Title IV, Subtitle A, (as amended
91 2002, 2003); or
92 (ii) a similar program operated by the United States Department of Homeland Security.
93 (2) A state public procurement unit shall require as a condition of an agreement to
94 procure supplies, services, or construction that is the subject of a request for proposals that an
95 employer submits with the employer's response to a bid a certification that the employer:
96 (a) participates in a federal employment verification program referred to in Subsection
97 (1)(d); and
98 (b) has not been found to violate the requirements of the federal employment
99 verification program by:
100 (i) the United States Department of Homeland Security; or
101 (ii) the Division of Purchasing and General Services.
102 (3) (a) If the division learns that the employer does not participate in the federal
103 employment verification program or an employer is found by the United States Department of
104 Homeland Security to violate the requirements of the federal employment verification program,
105 the employer may not enter into a new agreement or renew an agreement to provide supplies,
106 services, or construction to a state public procurement unit for one year after the day on which
107 the finding described in this Subsection (3) becomes final.
108 (b) If an employer described in this Subsection (3) has an agreement to provide
109 supplies, services, or contraction to a state procurement unit, the employer shall notify the
110 division of the finding described in Subsection (3)(a) within five business days of the day on
111 which the finding described in Subsection (3)(a) is final.

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

Office of Legislative Research and General Counsel

**Revised
Fiscal Note**

H.B. 257 - Employee Verification

2008 General Session
State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

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.
