

SENATE BILL No. 48

By Committee on Federal and State Affairs

1-18

1 AN ACT enacting the Kansas employer e-verify accountability act.

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3 *Be it enacted by the Legislature of the State of Kansas:*

4 Section 1. (a) On and after January 1, 2014, all state agencies,
5 departments, boards and commissions, counties or any municipality which
6 are employers shall enroll and actively participate in e-verify for
7 verification of employment status of all employees whose employment
8 commences on and after January 1, 2014.

9 (b) (1) On and after January 1, 2014, no state agency, department,
10 board, commission, county or municipality shall award either a public
11 works or a purchase contract for goods or services having a value of at
12 least \$50,000 to a bidder, contractor or employer unless such bidder,
13 contractor or employer verifies the employment eligibility of the
14 employees of such bidder, contractor or employer through e-verify.

15 (2) On and after January 1, 2014, no bidder, contractor or employer
16 shall be eligible to bid for or receive either a public works contract or a
17 purchase contract having a value of at least \$50,000 from any state agency,
18 department, board, commission, county or municipality unless such bidder,
19 contractor or employer certifies that such bidder, contractor or employer
20 verifies the employment eligibility of the employees of such bidder,
21 contractor or employer through e-verify.

22 (3) Each such bidder, contractor or employer who bids on or receives
23 a contract referenced in either paragraph (1) or (2) shall be responsible for
24 ensuring that any subcontractor used by the bidder, contractor or employer
25 in the performance of the public works contract or a purchase contract
26 having a value of at least \$50,000 certifies the employment eligibility of
27 the employees of such subcontractor through e-verify.

28 (4) Certification required by this subsection shall be in the form of an
29 affidavit filed by the bidder, contractor or employer with the state agency,
30 department, board, commission, county or municipality that offers or
31 awards the public works contract or a purchase contract having a value of
32 at least \$50,000.

33 (c) Any bidder, contractor or employer who is found by the secretary
34 to have violated this section shall be prohibited from being awarded,
35 bidding on or otherwise attempting to obtain a public works or purchase
36 contract for a period of two years commencing on the date of the

1 secretary's final determination that such bidder, contractor or employer
2 violated this section.

3 (d) Any person who believes a bidder, contractor or employer has
4 violated any provision of this section may file a complaint with the
5 secretary. Such complaint shall be in writing and signed by the individual
6 filing the complaint. The secretary shall review and may investigate any
7 such complaints. If, after an investigation, the secretary determines that a
8 violation of this section has occurred, the secretary shall notify the bidder,
9 contractor or employer who has been found to be in violation of this
10 section that such bidder, contractor or employer has been found to be in
11 violation of this section and shall be placed on the list of bidders,
12 contractors and employers prohibited from being awarded public works or
13 purchase contracts. Such bidder, contractor or employer shall be given an
14 opportunity for a hearing in accordance with the Kansas administrative
15 procedures act.

16 (e) The secretary shall create and maintain a list of all bidders,
17 contractors and employers found by the secretary to be in violation of this
18 section. Such bidders, contractors and employers shall remain on such list
19 for the duration of the two-year period set forth in subsection (c). At the
20 expiration of such two-year period, the bidder, contractor or employer
21 shall be removed from the list. The secretary shall make the list readily
22 available to municipalities in this state in such form and manner as
23 prescribed by the secretary.

24 (f) The requirement for certain businesses to participate in e-verify
25 shall not apply if the federal government:

- 26 (1) Discontinues e-verify; or
27 (2) fails to authorize e-verify.

28 (g) Nothing in this section shall be construed to require a bidder,
29 contractor or employer to take any action that the bidder, contractor or
30 employer believes in good faith would violate federal or state law.

31 (h) The secretary is hereby authorized to and shall adopt rules and
32 regulations necessary to implement and administer the provisions of this
33 section. Such rules and regulations shall be adopted on or before January
34 1, 2014.

35 (i) As used in this section, unless the context otherwise requires:

36 (1) "Employee" means any person who performs employment
37 services for an employer pursuant to an employment relationship between
38 the employee and the employer.

39 (2) "Employer" means any individual or type of organization that
40 transacts business in this state and that employs one or more individuals
41 who perform employment services in this state.

42 (3) "E-verify" means an electronic system as jointly administered by
43 the United States department of homeland security and the social security

1 administration or its successor program, pursuant to 8 U.S.C. § 1324a,
2 which is used to verify the employment authorization of employees.

3 (4) "Municipality" shall have the same meaning ascribed thereto in
4 K.S.A. 75-1117, and amendments thereto.

5 (5) "Secretary" means the secretary of labor.

6 (j) This act shall be known and may be cited as the Kansas employer
7 e-verify accountability act.

8 Sec. 2. This act shall take effect and be in force from and after its
9 publication in the statute book.