



This Bill Analysis reflects the contents of the bill as it was presented in committee.

HOUSE BILL 318: Protect North Carolina Workers Act

2015-2016 General Assembly

Committee:	Rules and Operations of the Senate	Date:	September 23, 2015
Introduced by:	Reps. Cleveland, Millis, Whitmire, Conrad	Prepared by:	Kara McCraw
Analysis of:	PCS to Third Edition H318-CSTC-60		Committee Counsel

SUMMARY: *HB 318 would make various changes to the law related to verification of work authorization for certain employees, including:*

- *Requiring E-Verify compliance in certain governmental contracts.*
- *Providing that consulate or embassy documents may not be used to determine identification or residency for law enforcement purposes.*

The PCS for HB 318 would remove a section amending the law to increase the number of employers who are required to participate in the federal E-Verify Program, repealing the exemption for temporary employees, and excluding farm workers from the definition of employee under Article 2 of Chapter 64. The PCS would also add Sections 15 and 16, making the following changes:

- *Section 15 – Prohibiting counties and cities from adopting sanctuary ordinances.*
- *Section 16 – Prohibiting the Department of Health and Human Services from seeking certain work requirement waivers for food and nutrition benefits for able-bodied adults without dependents.*

CURRENT LAW: Under Article 2 of Chapter 64, employers of 25 or more employees are required to use the federal E-Verify system to verify that their employees are authorized to work in the United States. A copy of the e-verification must be maintained by the employer while the employee is employed and for one year thereafter. The Commissioner of Labor is authorized to conduct investigations and enforce the law. Failure to comply with the law can result in civil penalties. The Commissioner is also required to notify the US Immigration and Customs Enforcement agency if the Commissioner has reason to believe any unverified employee is an unauthorized alien.

The law also requires municipalities and counties to use the E-Verify program for all their new employees and for their contractors. S.L. 2014-119 amended the law prohibiting municipalities and counties from entering contracts unless the contractor complies with the State E-Verify requirement. The amendment limited the prohibition to contracts subject to the public contracting law.

BILL ANALYSIS:

Section 1(a) of the bill adds a new section to the Public Contracts law. The new provision prohibits any board or governing body of the State, any State institution, or any political subdivision of the State from entering a contract unless the contractor and any subcontractors comply with the State E-verify requirements. The government entities can satisfy this requirement by including in the contract a term requiring the contractor and any subcontractors to comply with the State E-verify requirements. The provision specifically exempts from its application contracts for travel expenses, solely for the purchase

O. Walker Reagan
Director



Research Division
(919) 733-2578

* H 3 1 8 - S M T C - 6 5 C S T C - 6 0 - V 4 *

House Bill 318

Page 2

of goods, apparatus, supplies, materials, or equipment, contracts with other units of government, and so-called "piggy-back" contracts. These are contracts for purchases established by the State or federal government in which the contractor is willing to extend to a political subdivision the same or more favorable prices, terms, and conditions.

Sections 1(b) and (c) repeal the provisions prohibiting municipalities and counties from entering contracts unless the contractor complies with the State E-verify requirement since they are now covered by the new section.

Section 2 amends the Local Government Finance act with regard to penalties imposed on finance officers who give a false certificate to a contract or agreement. Under current law, the finance officer is liable for any funds illegally committed or disbursed. This section adds a provision that inclusion of a contract term requiring the contractor to comply with the State E-verify requirements is deemed compliance with the requirement.

Sections 3 through 9 make conforming changes to various sections of Article 2 of Chapter 64.

Section 10 adds a new section to Article 2 of Chapter 64 which establishes the consequences for violation of the new governmental contract E-verify requirement. The Commissioner of Labor is directed to notify any governmental entity found in violation of the statute and the Department of Labor must maintain a list of governmental entities so notified and publish the list on its website.

Section 11 adds a new Article 18 to Chapter 15A entitled "Identification Documents". This provision makes the use of certain documents unacceptable by any government official for purposes of determining a person's identity or residency. The documents are a matricula consular or other similar document other than a valid passport, and an identity document created by any person, organization, county, city, or other local authority except where expressly authorized by the General Assembly.

Sections 12, 13 and 14 make conforming changes to the motor vehicle law, the insurance law, and the medical assistance law to remove use of consular documents from the list of documents that can be used to verify State residency.

Section 15 would create new prohibitions on counties and cities, restricting any policy, ordinance, or procedure that would:

- Limit or restrict the enforcement of federal immigration laws to less than the full extent permitted by federal law.
- With regards to citizenship or immigration status information, lawful or unlawful, of any individual:
 - Prohibit law enforcement officials or agencies from gathering such information.
 - Direct law enforcement officials or agencies not to gather such information.
 - Prohibit the communication of such information to federal law enforcement agencies.

Section 16 – Federal law, 7 CFR 273.24, permits states to seek waivers to the 3 month limit on food and nutrition benefits for able-bodied adults without dependents who have not met federal work requirements (20 hours per week) in areas where the unemployment rate exceeds 10 percent or there is an insufficient number of jobs to provide employment for the individuals. The United States Department of Agriculture indicates that North Carolina has a statewide waiver that will expire at the end of the federal fiscal year, October 1, 2015.

Section 16 would prohibit the Department of Health and Human Services (DHHS) from seeking federal time limit waivers for food and nutrition benefits for able-bodied adults without dependents who have

House Bill 318

Page 3

not met federal work requirements. DHHS would not be prohibited from seeking waivers for the Disaster Supplemental Nutrition Assistance Program in an area that has received a Presidential disaster declaration of Individual Assistance from the Federal Emergency Management Agency. DHHS would be required to withdraw any pending waiver requests prohibited by the new statute.

EFFECTIVE DATE: Sections 1-14 of this act becomes effective October 1, 2015, and apply to contracts entered into on or after that date. Section 15 becomes effective when it becomes law. Section 16 becomes effective October 1, 2015.

O. Walker Reagan, Director of the Research Division, and Karen Cochrane-Brown, Staff Attorney, substantially contributed to this summary.