



HOUSE BILL 306: E-Verify Required - All Government Contracts.

2017-2018 General Assembly

Committee:	House State and Local Government II. If favorable, re-refer to Regulatory Reform. If favorable, re-refer to Judiciary III	Date:	April 19, 2017
Introduced by:	Reps. Millis, Cleveland, Conrad, Collins	Prepared by:	Cindy Avrette Staff Attorney
Analysis of:	First Edition		

OVERVIEW: House Bill 306 would require all contractors and subcontractors that contract with the State or any political subdivision of the State for services to use the federal E-Verify program. The bill would become effective October 1, 2017, and apply to contracts awarded on or after that date.

CURRENT LAW: It is illegal to employ an undocumented worker. The federal E-Verify program is a voluntary computer-based system that employers may use to verify the work authorization of newly hired employees. The system was created by The United States Department of Homeland Security and other federal agencies. State agencies and institutions, counties, and cities must use the federal E-Verify system to verify the work authorization of newly hired employees.¹ Private employers who employ 25 or more employees in the State must also use E-Verify.² For purposes of determining the number of employees a private employer has, an employee does not include an individual whose term of employment is less than nine months in a calendar year.

State agencies, universities, counties, cities, and other political subdivisions of the State are prohibited from entering into a contract unless the contractor, and the contractor's subcontractors, comply with North Carolina's E-Verify hiring requirements of Article 2 of Chapter 64 of the General Statutes. The prohibition does not apply to contracts solely for the purchase of goods, apparatus, supplies, materials, or equipment. The prohibition does apply to construction contracts and contracts for services.

BILL ANALYSIS: House Bill 306 would expand the federal E-Verify compliance requirement for governmental contracts to include all contractors and subcontractors, not just those contractors and subcontractors who employ 25 or more employees in the State. By removing the current applicability of the contract prohibition to Article 2 of Chapter 64, small businesses that employ less than 25 employees will have to meet different standards for governmental contracts than they will for private contracts.

Examples of contracts the bill may impact include service companies that employ family members, such as plumbers, electricians, and HVAC. The bill would mean that the employer would need to E-Verify each family member that is employed by the business, including the employer if the company is organized as an entity other than a sole proprietorship, to be able to enter into a contract with a governmental entity. Many architectural, engineering, legal, and accounting businesses employed by units of local government to service wastewater plants, provide contract legal services for various departments such as tax offices and child protective services, and conduct annual audits employ less than 25 employees.

¹ G.S. 126-7.1; G.S. 153A-99.1, G.S. 160A-169.1.

² Article 2 of Chapter 64 of the General Statutes.

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The provisions apply not only to contracts where the governmental unit is receiving a service; it also applies to contracts where the unit is giving a service. For example, if a county or LEA leases a school gym to a church for Sunday services, the church will have to verify the work authorization for its employees through E-Verify. Likewise, if a unit of local government contracts with a LME/MCO to provide mental health services, the LME/MCO will have to use E-Verify to verify the work authorization for its employees.

While the State agencies and institutions, LEAs, counties, and cities must use E-Verify, not all political subdivisions must use it. For example, a volunteer fire department that hires a few firefighters as employees may verify their work authorization through the federal E-Verify system, but it may verify it through other means as well. However, if a city contracts with that local fire department to provide city fire services, the fire department will have to verify all employees through E-Verify or the contract may be declared null and void.

EFFECTIVE DATE: The bill would become effective October 1, 2017, and apply to contracts awarded on or after that date.