

**Second Regular Session  
Sixty-fifth General Assembly  
STATE OF COLORADO**

**REREVISED**

*This Version Includes All Amendments  
Adopted in the Second House*

LLS NO. 06-0916.01 Ed DeCecco

**HOUSE BILL 06-1343**

---

**HOUSE SPONSORSHIP**

**Crane,**

**SENATE SPONSORSHIP**

**Keller,**

---

**House Committees**

State, Veterans, & Military Affairs  
Appropriations

**Senate Committees**

State, Veterans & Military Affairs  
Appropriations

SENATE  
Amended 3rd Reading  
May 5, 2006

---

**A BILL FOR AN ACT**

101 **CONCERNING MEASURES TO ENSURE THAT AN ILLEGAL ALIEN DOES**  
102 **NOT PERFORM WORK ON A PUBLIC CONTRACT FOR SERVICES,**  
103 **AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.**

---

SENATE  
Amended 2nd Reading  
May 4, 2006

**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Prohibits a state agency or a political subdivision from entering into or renewing a public contract for services with a contractor who knowingly employs or contracts with an illegal alien to perform work under the contract or who contracts with a subcontractor who knowingly employs or contracts with an illegal alien to perform work under the contract. Requires a prospective contractor to certify that it does not

HOUSE  
3rd Reading Unamended  
April 17, 2006

HOUSE  
Amended 2nd Reading  
April 14, 2006

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

knowingly employ or contract with an illegal alien.

Requires each public contract for services to include a provision prohibiting a contractor from using an illegal alien to perform work under the contract and a provision requiring a contractor to comply with investigations by the department of labor and employment (department) relating to illegal aliens performing work under the contract. Establishes penalties for a breach of these contractual provisions.

Requires the department to establish and operate a tipline for the purpose of allowing any person to report a suspected violation of a provision of a public contract for services relating to illegal aliens. Allows the department to investigate whether a contractor is complying with the provisions of a public contract for services relating to illegal aliens.

Defines terms.

---

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** Title 8, Colorado Revised Statutes, is amended BY  
3 THE ADDITION OF A NEW ARTICLE to read:

4 **ARTICLE 17.5**

5 **Illegal Aliens - Public Contracts for Services**

6 **8-17.5-101. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE  
7 CONTEXT OTHERWISE REQUIRES:

8 (1) "BASIC PILOT PROGRAM" MEANS THE BASIC PILOT  
9 EMPLOYMENT VERIFICATION PROGRAM CREATED IN PUBLIC LAW 208,  
10 104TH CONGRESS, AS AMENDED, AND EXPANDED IN PUBLIC LAW 156,  
11 108TH CONGRESS, AS AMENDED, THAT IS ADMINISTERED BY THE UNITED  
12 STATES DEPARTMENT OF HOMELAND SECURITY.

13 (2) "CONTRACTOR" MEANS A PERSON HAVING A PUBLIC CONTRACT  
14 FOR SERVICES WITH A STATE AGENCY OR POLITICAL SUBDIVISION OF THE  
15 STATE.

16 (3) "DEPARTMENT" MEANS THE DEPARTMENT OF LABOR AND  
17 EMPLOYMENT.

1           (4) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF  
2 THE DEPARTMENT OF LABOR AND EMPLOYMENT.

3           (5) "POLITICAL SUBDIVISION" MEANS ANY CITY, COUNTY, CITY AND  
4 COUNTY, TOWN, SPECIAL DISTRICT, SCHOOL DISTRICT, LOCAL  
5 IMPROVEMENT DISTRICT, OR ANY OTHER KIND OF MUNICIPAL,  
6 QUASI-MUNICIPAL, OR PUBLIC CORPORATION.

7           (6) "PUBLIC CONTRACT FOR SERVICES" MEANS ANY TYPE OF  
8 AGREEMENT, REGARDLESS OF WHAT THE AGREEMENT MAY BE CALLED,  
9 BETWEEN A STATE AGENCY OR POLITICAL SUBDIVISION AND A  
10 CONTRACTOR FOR THE PROCUREMENT OF SERVICES.

11           (7) "SERVICES" MEANS THE FURNISHING OF LABOR, TIME, OR  
12 EFFORT BY A CONTRACTOR OR A SUBCONTRACTOR NOT INVOLVING THE  
13 DELIVERY OF A SPECIFIC END PRODUCT OTHER THAN REPORTS THAT ARE  
14 MERELY INCIDENTAL TO THE REQUIRED PERFORMANCE.

15           (8) "STATE AGENCY" MEANS ANY DEPARTMENT, COMMISSION,  
16 COUNCIL, BOARD, BUREAU, COMMITTEE, INSTITUTION OF HIGHER  
17 EDUCATION, AGENCY, OR OTHER GOVERNMENTAL UNIT OF THE EXECUTIVE,  
18 LEGISLATIVE, OR JUDICIAL BRANCH OF STATE GOVERNMENT.

19           **8-17.5-102. Illegal aliens - prohibition - public contracts for**  
20 **services.** (1) A STATE AGENCY OR POLITICAL SUBDIVISION SHALL NOT  
21 ENTER INTO OR RENEW A PUBLIC CONTRACT FOR SERVICES WITH A  
22 CONTRACTOR WHO KNOWINGLY EMPLOYS OR CONTRACTS WITH AN  
23 ILLEGAL ALIEN TO PERFORM WORK UNDER THE CONTRACT OR WHO  
24 KNOWINGLY CONTRACTS WITH A SUBCONTRACTOR WHO KNOWINGLY  
25 EMPLOYS OR CONTRACTS WITH AN ILLEGAL ALIEN TO PERFORM WORK  
26 UNDER THE CONTRACT. PRIOR TO EXECUTING A PUBLIC CONTRACT FOR  
27 SERVICES, EACH PROSPECTIVE CONTRACTOR SHALL CERTIFY THAT, AT THE

1 TIME OF THE CERTIFICATION, IT DOES NOT KNOWINGLY EMPLOY OR  
2 CONTRACT WITH AN ILLEGAL ALIEN AND THAT THE CONTRACTOR HAS  
3 PARTICIPATED OR ATTEMPTED TO PARTICIPATE IN THE BASIC PILOT  
4 PROGRAM IN ORDER TO VERIFY THAT IT DOES NOT EMPLOY ANY ILLEGAL  
5 ALIENS.

6 (2) (a) EACH PUBLIC CONTRACT FOR SERVICES SHALL INCLUDE A  
7 PROVISION THAT THE CONTRACTOR SHALL NOT:

8 (I) KNOWINGLY EMPLOY OR CONTRACT WITH AN ILLEGAL ALIEN TO  
9 PERFORM WORK UNDER THE PUBLIC CONTRACT FOR SERVICES; OR

10 (II) ENTER INTO A CONTRACT WITH A SUBCONTRACTOR THAT FAILS  
11 TO CERTIFY TO THE CONTRACTOR THAT THE SUBCONTRACTOR SHALL NOT  
12 KNOWINGLY EMPLOY OR CONTRACT WITH AN ILLEGAL ALIEN TO PERFORM  
13 WORK UNDER THE PUBLIC CONTRACT FOR SERVICES.

14 (b) EACH PUBLIC CONTRACT FOR SERVICES SHALL ALSO INCLUDE  
15 THE FOLLOWING PROVISIONS:

16 (I) A PROVISION STATING THAT THE CONTRACTOR HAS VERIFIED OR  
17 ATTEMPTED TO VERIFY THROUGH PARTICIPATION IN THE BASIC PILOT  
18 PROGRAM THAT THE CONTRACTOR DOES NOT EMPLOY ANY ILLEGAL ALIENS  
19 AND, IF THE CONTRACTOR IS NOT ACCEPTED INTO THE BASIC PILOT  
20 PROGRAM PRIOR TO ENTERING INTO A PUBLIC CONTRACT FOR SERVICES,  
21 THAT THE CONTRACTOR SHALL APPLY TO PARTICIPATE IN THE BASIC PILOT  
22 PROGRAM EVERY THREE MONTHS UNTIL THE CONTRACTOR IS ACCEPTED OR  
23 THE PUBLIC CONTRACT FOR SERVICES HAS BEEN COMPLETED, WHICHEVER  
24 IS EARLIER. THE PROVISION SPECIFIED IN THIS SUBPARAGRAPH (I) SHALL  
25 NOT BE REQUIRED OR EFFECTIVE IN A PUBLIC CONTRACT FOR SERVICES IF  
26 THE BASIC PILOT PROGRAM IS DISCONTINUED.

27 (II) A PROVISION THAT PROHIBITS THE CONTRACTOR FROM USING

1 BASIC PILOT PROGRAM PROCEDURES TO UNDERTAKE PREEMPLOYMENT  
2 SCREENING OF JOB APPLICANTS WHILE THE PUBLIC CONTRACT FOR  
3 SERVICES IS BEING PERFORMED.

4 (III) A PROVISION THAT, IF THE CONTRACTOR OBTAINS ACTUAL  
5 KNOWLEDGE THAT A SUBCONTRACTOR PERFORMING WORK UNDER THE  
6 PUBLIC CONTRACT FOR SERVICES KNOWINGLY EMPLOYS OR CONTRACTS  
7 WITH AN ILLEGAL ALIEN, THE CONTRACTOR SHALL BE REQUIRED TO:

8 (A) NOTIFY THE SUBCONTRACTOR AND THE CONTRACTING STATE  
9 AGENCY OR POLITICAL SUBDIVISION WITHIN THREE DAYS THAT THE  
10 CONTRACTOR HAS ACTUAL KNOWLEDGE THAT THE SUBCONTRACTOR IS  
11 EMPLOYING OR CONTRACTING WITH AN ILLEGAL ALIEN; AND

12 (B) TERMINATE THE SUBCONTRACT WITH THE SUBCONTRACTOR IF  
13 WITHIN THREE DAYS OF RECEIVING THE NOTICE REQUIRED PURSUANT TO  
14 SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (II) THE  
15 SUBCONTRACTOR DOES NOT STOP EMPLOYING OR CONTRACTING WITH THE  
16 ILLEGAL ALIEN; EXCEPT THAT THE CONTRACTOR SHALL NOT TERMINATE  
17 THE CONTRACT WITH THE SUBCONTRACTOR IF DURING SUCH THREE DAYS  
18 THE SUBCONTRACTOR PROVIDES INFORMATION TO ESTABLISH THAT THE  
19 SUBCONTRACTOR HAS NOT KNOWINGLY EMPLOYED OR CONTRACTED WITH  
20 AN ILLEGAL ALIEN.

21 (III) A PROVISION THAT REQUIRES THE CONTRACTOR TO COMPLY  
22 WITH ANY REASONABLE REQUEST BY THE DEPARTMENT MADE IN THE  
23 COURSE OF AN INVESTIGATION THAT THE DEPARTMENT IS UNDERTAKING  
24 PURSUANT TO THE AUTHORITY ESTABLISHED IN SUBSECTION (5) OF THIS  
25 SECTION.

26 (3) IF A CONTRACTOR VIOLATES A PROVISION OF THE PUBLIC  
27 CONTRACT FOR SERVICES REQUIRED PURSUANT TO SUBSECTION (2) OF THIS

1 SECTION, THE STATE AGENCY OR POLITICAL SUBDIVISION MAY TERMINATE  
2 THE CONTRACT FOR A BREACH OF THE CONTRACT. IF THE CONTRACT IS SO  
3 TERMINATED, THE CONTRACTOR SHALL BE LIABLE FOR ACTUAL AND  
4 CONSEQUENTIAL DAMAGES TO THE STATE AGENCY OR POLITICAL  
5 SUBDIVISION.

6 (4) A STATE AGENCY OR POLITICAL SUBDIVISION SHALL NOTIFY  
7 THE OFFICE OF THE SECRETARY OF STATE IF A CONTRACTOR VIOLATES A  
8 PROVISION OF A PUBLIC CONTRACT FOR SERVICES REQUIRED PURSUANT TO  
9 SUBSECTION (2) OF THIS SECTION AND THE STATE AGENCY OR POLITICAL  
10 SUBDIVISION TERMINATES THE CONTRACT FOR SUCH BREACH. BASED ON  
11 THIS NOTIFICATION, THE SECRETARY OF STATE SHALL MAINTAIN A LIST  
12 THAT INCLUDES THE NAME OF THE CONTRACTOR, THE STATE AGENCY OR  
13 POLITICAL SUBDIVISION THAT TERMINATED THE PUBLIC CONTRACT FOR  
14 SERVICES, AND THE DATE OF THE TERMINATION. A CONTRACTOR SHALL  
15 BE REMOVED FROM THE LIST IF TWO YEARS HAVE PASSED SINCE THE DATE  
16 THE CONTRACT WAS TERMINATED, OR IF A COURT OF COMPETENT  
17 JURISDICTION DETERMINES THAT THERE HAS NOT BEEN A VIOLATION OF  
18 THE PROVISION OF THE PUBLIC CONTRACT FOR SERVICES REQUIRED  
19 PURSUANT TO SUBSECTION (2) OF THIS SECTION. A STATE AGENCY OR  
20 POLITICAL SUBDIVISION SHALL NOTIFY THE OFFICE OF THE SECRETARY OF  
21 STATE IF A COURT HAS MADE SUCH A DETERMINATION. THE LIST SHALL BE  
22 AVAILABLE FOR PUBLIC INSPECTION AT THE OFFICE OF THE SECRETARY OF  
23 STATE AND SHALL BE PUBLISHED ON THE INTERNET ON THE WEBSITE  
24 MAINTAINED BY THE OFFICE OF THE SECRETARY OF STATE.

25 (5) (a) THE DEPARTMENT MAY INVESTIGATE WHETHER A  
26 CONTRACTOR IS COMPLYING WITH THE PROVISIONS OF A PUBLIC CONTRACT  
27 FOR SERVICES REQUIRED PURSUANT TO SUBSECTION (2) OF THIS SECTION.

1 THE DEPARTMENT MAY CONDUCT ON-SITE INSPECTIONS WHERE A PUBLIC  
2 CONTRACT FOR SERVICES IS BEING PERFORMED, REQUEST AND REVIEW  
3 DOCUMENTATION THAT PROVES THE CITIZENSHIP OF ANY PERSON  
4 PERFORMING WORK ON A PUBLIC CONTRACT FOR SERVICES, OR TAKE ANY  
5 OTHER REASONABLE STEPS THAT ARE NECESSARY TO DETERMINE  
6 WHETHER A CONTRACTOR IS COMPLYING WITH THE PROVISIONS OF A  
7 PUBLIC CONTRACT FOR SERVICES REQUIRED PURSUANT TO SUBSECTION (2)  
8 OF THIS SECTION. THE DEPARTMENT SHALL RECEIVE COMPLAINTS OF  
9 SUSPECTED VIOLATIONS OF A PROVISION OF A PUBLIC CONTRACT FOR  
10 SERVICES REQUIRED PURSUANT TO SUBSECTION (2) OF THIS SECTION AND  
11 SHALL HAVE DISCRETION TO DETERMINE WHICH COMPLAINTS, IF ANY, ARE  
12 TO BE INVESTIGATED. THE RESULTS OF ANY INVESTIGATION SHALL NOT  
13 CONSTITUTE FINAL AGENCY ACTION. THE DEPARTMENT IS AUTHORIZED TO  
14 PROMULGATE RULES IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S.,  
15 TO IMPLEMENT THE PROVISIONS OF THIS SUBSECTION (5).

16 (b) THE EXECUTIVE DIRECTOR SHALL NOTIFY A STATE AGENCY OR  
17 POLITICAL SUBDIVISION IF HE OR SHE SUSPECTS THAT THERE HAS BEEN A  
18 BREACH OF A PROVISION IN A PUBLIC CONTRACT FOR SERVICES REQUIRED  
19 PURSUANT TO SUBSECTION (2) OF THIS SECTION.

20 **SECTION 2. Appropriation.** In addition to any other  
21 appropriation, there is hereby appropriated, out of any moneys in the  
22 general fund not otherwise appropriated, to the department of labor and  
23 employment, for allocation to the executive director's office, for the fiscal  
24 year beginning July 1, 2006, the sum of one hundred forty thousand one  
25 hundred sixty-six dollars (\$140,166) and 1.9 FTE, or so much thereof as  
26 may be necessary, for the implementation of this act.

27 **SECTION 3. Effective date - applicability.** (1) This act shall

1 take effect at 12:01 a.m. on the day following the expiration of the  
2 ninety-day period after final adjournment of the general assembly that is  
3 allowed for submitting a referendum petition pursuant to article V,  
4 section 1 (3) of the state constitution (August 9, 2006, if adjournment sine  
5 die is on May 10, 2006); except that, if a referendum petition is filed  
6 against this act or an item, section, or part of this act within such period,  
7 then the act, item, section, or part, if approved by the people, shall take  
8 effect on the date of the official declaration of the vote thereon by  
9 proclamation of the governor.

10 (2) The provisions of this act shall apply to public contracts for  
11 services that are entered into or renewed on or after the applicable  
12 effective date of this act.