

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 06-0916.01 Ed DeCecco

HOUSE BILL 06-1343

HOUSE SPONSORSHIP

Crane,

SENATE SPONSORSHIP

(None),

House Committees

State, Veterans, & Military Affairs
Appropriations

Senate Committees

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.**

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 knowingly employ or contract with an illegal alien.

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.

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) "CONTRACTOR" MEANS A PERSON HAVING A PUBLIC CONTRACT
9 FOR SERVICES WITH A STATE AGENCY OR POLITICAL SUBDIVISION OF THE
10 STATE.

11 (2) "DEPARTMENT" MEANS THE DEPARTMENT OF LABOR AND
12 EMPLOYMENT.

13 (3) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF
14 THE DEPARTMENT OF LABOR AND EMPLOYMENT.

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

1 (5) "PUBLIC CONTRACT FOR SERVICES" MEANS ANY TYPE OF
2 AGREEMENT, REGARDLESS OF WHAT THE AGREEMENT MAY BE CALLED,
3 BETWEEN A STATE AGENCY OR POLITICAL SUBDIVISION AND A
4 CONTRACTOR FOR THE PROCUREMENT OF SERVICES.

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

9 (7) "STATE AGENCY" MEANS ANY DEPARTMENT, COMMISSION,
10 COUNCIL, BOARD, BUREAU, COMMITTEE, INSTITUTION OF HIGHER
11 EDUCATION, AGENCY, OR OTHER GOVERNMENTAL UNIT OF THE EXECUTIVE,
12 LEGISLATIVE, OR JUDICIAL BRANCH OF STATE GOVERNMENT.

13 **8-17.5-102. Illegal aliens - prohibition - public contracts for**
14 **services.** (1) A STATE AGENCY OR POLITICAL SUBDIVISION SHALL NOT
15 ENTER INTO OR RENEW A PUBLIC CONTRACT FOR SERVICES WITH A
16 CONTRACTOR WHO KNOWINGLY EMPLOYS OR CONTRACTS WITH AN
17 ILLEGAL ALIEN TO PERFORM WORK UNDER THE CONTRACT OR WHO
18 CONTRACTS WITH A SUBCONTRACTOR WHO KNOWINGLY EMPLOYS OR
19 CONTRACTS WITH AN ILLEGAL ALIEN TO PERFORM WORK UNDER THE
20 CONTRACT. PRIOR TO EXECUTING A PUBLIC CONTRACT FOR SERVICES,
21 EACH PROSPECTIVE CONTRACTOR SHALL CERTIFY THAT, AT THE TIME OF
22 THE CERTIFICATION, IT DOES NOT KNOWINGLY EMPLOY OR CONTRACT
23 WITH AN ILLEGAL ALIEN.

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

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

1 (II) ENTER INTO A CONTRACT WITH A SUBCONTRACTOR THAT
2 KNOWINGLY EMPLOYS OR CONTRACTS WITH AN ILLEGAL ALIEN TO
3 PERFORM WORK UNDER THE PUBLIC CONTRACT FOR SERVICES.

4 (b) EACH PUBLIC CONTRACT FOR SERVICES SHALL INCLUDE A
5 PROVISION THAT REQUIRES THE CONTRACTOR TO COMPLY WITH ANY
6 REASONABLE REQUEST BY THE DEPARTMENT MADE IN THE COURSE OF AN
7 INVESTIGATION THAT THE DEPARTMENT IS UNDERTAKING PURSUANT TO
8 THE AUTHORITY ESTABLISHED IN SUBSECTION (5) OF THIS SECTION.

9 (3) IF A CONTRACTOR VIOLATES A PROVISION OF THE PUBLIC
10 CONTRACT FOR SERVICES REQUIRED PURSUANT TO SUBSECTION (2) OF THIS
11 SECTION, THE STATE AGENCY OR POLITICAL SUBDIVISION MAY TERMINATE
12 THE CONTRACT FOR A BREACH OF THE CONTRACT. IF THE CONTRACT IS SO
13 TERMINATED, THE CONTRACTOR SHALL BE LIABLE FOR ACTUAL AND
14 CONSEQUENTIAL DAMAGES TO THE STATE AGENCY OR POLITICAL
15 SUBDIVISION.

16 (4) A STATE AGENCY OR POLITICAL SUBDIVISION SHALL NOTIFY
17 THE OFFICE OF THE SECRETARY OF STATE IF A CONTRACTOR VIOLATES A
18 PROVISION OF A PUBLIC CONTRACT FOR SERVICES REQUIRED PURSUANT TO
19 SUBSECTION (2) OF THIS SECTION AND THE STATE AGENCY OR POLITICAL
20 SUBDIVISION TERMINATES THE CONTRACT FOR SUCH BREACH. BASED ON
21 THIS NOTIFICATION, THE SECRETARY OF STATE SHALL MAINTAIN A LIST
22 THAT INCLUDES THE NAME OF THE CONTRACTOR, THE STATE AGENCY OR
23 POLITICAL SUBDIVISION THAT TERMINATED THE PUBLIC CONTRACT FOR
24 SERVICES, AND THE DATE OF THE TERMINATION. A CONTRACTOR SHALL
25 BE REMOVED FROM THE LIST IF TWO YEARS HAVE PASSED SINCE THE DATE
26 THE CONTRACT WAS TERMINATED, OR IF A COURT OF COMPETENT
27 JURISDICTION DETERMINES THAT THERE HAS NOT BEEN A VIOLATION OF

1 THE PROVISION OF THE PUBLIC CONTRACT FOR SERVICES REQUIRED
2 PURSUANT TO SUBSECTION (2) OF THIS SECTION. A STATE AGENCY OR
3 POLITICAL SUBDIVISION SHALL NOTIFY THE OFFICE OF THE SECRETARY OF
4 STATE IF A COURT HAS MADE SUCH A DETERMINATION. THE LIST SHALL BE
5 AVAILABLE FOR PUBLIC INSPECTION AT THE OFFICE OF THE SECRETARY OF
6 STATE AND SHALL BE PUBLISHED ON THE INTERNET ON THE WEBSITE
7 MAINTAINED BY THE OFFICE OF THE SECRETARY OF STATE.

8 (5) (a) THE DEPARTMENT MAY INVESTIGATE WHETHER A
9 CONTRACTOR IS COMPLYING WITH THE PROVISIONS OF A PUBLIC CONTRACT
10 FOR SERVICES REQUIRED PURSUANT TO SUBSECTION (2) OF THIS SECTION.
11 THE DEPARTMENT MAY CONDUCT ON-SITE INSPECTIONS WHERE A PUBLIC
12 CONTRACT FOR SERVICES IS BEING PERFORMED, REQUEST AND REVIEW
13 DOCUMENTATION THAT PROVES THE CITIZENSHIP OF ANY PERSON
14 PERFORMING WORK ON A PUBLIC CONTRACT FOR SERVICES, OR TAKE ANY
15 OTHER REASONABLE STEPS THAT ARE NECESSARY TO DETERMINE
16 WHETHER A CONTRACTOR IS COMPLYING WITH THE PROVISIONS OF A
17 PUBLIC CONTRACT FOR SERVICES REQUIRED PURSUANT TO SUBSECTION (2)
18 OF THIS SECTION. THE DEPARTMENT MAY CONDUCT AN INVESTIGATION
19 [REDACTED] UPON THE INITIATIVE OF THE EXECUTIVE DIRECTOR.

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

24 **SECTION 2. Effective date - applicability.** (1) This act shall
25 take effect at 12:01 a.m. on the day following the expiration of the
26 ninety-day period after final adjournment of the general assembly that is
27 allowed for submitting a referendum petition pursuant to article V,

1 section 1 (3) of the state constitution (August 9, 2006, if adjournment sine
2 die is on May 10, 2006); except that, if a referendum petition is filed
3 against this act or an item, section, or part of this act within such period,
4 then the act, item, section, or part, if approved by the people, shall take
5 effect on the date of the official declaration of the vote thereon by
6 proclamation of the governor.

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