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Substitute Bill Comparative Synopsis

Sub. H.B. 327

135th General Assembly

House Commerce and Labor

Paul Luzzi, Attorney

This table summarizes how the latest substitute version of the bill differs from the immediately preceding version. It addresses only the topics on which the two versions differ substantively. It does not list topics on which the two bills are substantively the same.

Previous Version (I_135_0215-4)	Latest Version (I_135_0215-6)
Covered public contracts	
Requires a “contract for a public improvement or services” to include provisions requiring the use of E-verify (<i>R.C. 4151.01, 4151.02(A), and 4151.04</i>).	Applies the requirement only to public improvement construction contracts or public improvement maintenance contracts (<i>R.C. 4151.01, 4151.02(B), and 4151.04</i>).
Defines “services” as labor, time, or effort, by a person or persons, not involving the delivery of a specific end product other than a report (<i>R.C. 4151.01(F)</i>).	Defines “maintenance” as any activity necessary to keep a public improvement, its fixtures, and its components in proper working condition; includes nonexhaustive lists of activities that are maintenance and activities that are not maintenance (<i>R.C. 4151.01(F)</i>).
Breaching public improvement contract-remedies, liabilities, and penalties	
Requires a contract or subcontract for construction of a public improvement or services to include a provision to allow an agency, political subdivision, or contractor to cancel the contract or subcontract if a party recklessly fails to use E-verify as required by the contract or subcontract (<i>R.C. 4151.02(A)(2) and (3)</i>).	No provision.

Previous Version (I_135_0215-4)	Latest Version (I_135_0215-6)
<p>Makes a contractor liable for a state agency's or political subdivision's foreseeable economic damages when the agency or political subdivision cancels a contract in accordance with contract provisions required under the bill, including the reasonable costs of soliciting a new bid.</p>	<p>No provision.</p>
<p>Makes a subcontractor liable for a contractor's foreseeable economic damages when the contractor cancels a subcontract in accordance with the bill (<i>R.C. 4151.02(E)</i>).</p>	<p>No provision.</p>
<p>Requires a subcontractor engaged by a contractor to perform work on a public improvement or services contract to provide an affidavit to the contractor that the subcontractor does not employ, contract with, or subcontract with unauthorized aliens as defined in federal law (<i>R.C. 4151.02(D)</i>).</p>	<p>No provision.</p>
<p>Disqualifies a contractor or subcontractor from participating in state contracts for one year if the contractor or subcontractor is found by a court to have recklessly failed to use E-verify as required by a contract for a public improvement or services (<i>R.C. 4151.03</i>).</p>	<p>Limits the disqualification to reckless violations as defined under the bill and requires the Attorney General to enforce violations of these E-verify contract provisions using the same process the Attorney General uses to enforce E-verify requirements the bill applies to specified employers and nonresidential construction contractors (see "Enforcement by the Attorney General" and "Lawsuit by the Attorney General," below (<i>R.C. 4151.05</i>)).</p>
Enforcement by the Attorney General	
<p>Requires the Attorney General to prescribe a complaint form for alleged violations of the requirements for employers and residential contractors and to investigate complaints received on that form (alternatively, the Attorney General may, but is not required to, investigate complaints made on a nonprescribed form) (<i>R.C. 4151.12</i>).</p>	<p>Allows a complaint regarding an alleged violation of the public contract provisions required under the bill to be made via that form and requires the Attorney General to investigate those complaints (and permits an investigation if made on another form) (<i>R.C. 4151.05</i>).</p>

Previous Version (I_135_0215-4)	Latest Version (I_135_0215-6)
<p>Requires the Attorney General to file a lawsuit against a person required to use E-verify (and keep a record of it) after finding reasonable evidence that the person failed to do so (R.C. 4151.12(D)).</p> <p>No provision.</p>	<p>Requires the Attorney General, after finding reasonable evidence of a failure to comply with the proposed E-verify requirements or violation of a contract provision requiring E-verify, to provide notice and an opportunity for an administrative hearing, before ordering the individual or entity to do both of the following:</p> <ul style="list-style-type: none"> ▪ Pay a fine of \$1,000 for a single violation, \$3,500 for two violations, and \$5,000 for each additional violation when there are three or more violations; ▪ Provide satisfactory proof that any violation has been corrected (R.C. 4151.05(D)). <p>Requires the Attorney General to file a lawsuit only if the individual or entity fails to comply with the order within 30 days after its issuance (R.C. 4151.05(E)).</p>
Lawsuit by the Attorney General	
<p>Requires, in a suit by the Attorney General, a court to order a violator to pay a \$5,000 fine for each violation of the bill's E-verify requirements (R.C. 4151.13(A)).</p> <p>Disqualifies a violator from state contracts for one year if the court finds the employer recklessly violated the bill's E-verify requirements (R.C. 4151.13(B)(1)).</p> <p>No provision.</p>	<p>Requires the court to order the violator to pay the fine for each violation of the bill's E-verify requirements or each breach of a contract requiring the use of E-verify and otherwise comply with the Attorney General's administrative order (R.C. 4151.06(B)(1)).</p> <p>Also requires the court to order the violator to pay a fine of \$10,000 for each reckless violation (R.C. 4151.06(B)(2)).</p> <p>Specifies that an individual or entity acts recklessly when the individual or entity conducted business in bad faith and has acted with conscious disregard or indifference to the E-verify program (R.C. 4151.06(E)).</p> <p>Prohibits a court from fining an individual or entity twice when a violation of a required public contract provision and a violation of either the</p>

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<p>Requires the Director of Administrative Services to remove a disqualified person from the list maintained by the Director when the one-year disqualification period ends <i>(R.C. 4151.13(C))</i>.</p>	<p>employer E-verify requirement or a required provision in a nonresidential construction contract arose from the same facts and circumstances <i>(R.C. 4151.06(D))</i>.</p> <p>Prohibits the Director from removing an individual or entity from the list if the individual or entity has not paid a court-ordered fine ordered under the bill <i>(R.C. 4151.06(C)(2))</i>.</p>
Exception	
<p>Allows a covered employer, contractor, or subcontractor to forgo using E-verify when rehiring an individual, provided the employer has previously confirmed the individual's identity and working status using E-verify and a specific exception to the verification requirements in the federal Immigration Reform and Control Act (IRCA) applies <i>(R.C. 4151.02(B) and 4151.11(A)(2) and (B)(2))</i>.</p>	<p>Expands the exception to also include when hiring such an individual and to when any exception to the IRCA verification requirements apply <i>(R.C. 4151.02(C) and 4151.04(A)(2) and (B)(2))</i>.</p>
E-verify enforcement fund	
<p>No provision.</p>	<p>Creates the E-verify Enforcement Fund in the state treasury, requires fines levied under the bill be deposited in the fund, and designates amounts in the fund for use by the Attorney General to enforce the bill <i>(R.C. 4151.06)</i>.</p>
Nonresidential contractor	
<p>Defines "nonresidential contractor" as an individual or contracting company, in addition to meeting other requirements, either performs construction or other activities on a nonresidential construction project with respect to the individual's or company's trade, or employs tradespersons to do so <i>(R.C. 4151.11)</i>.</p>	<p>Includes, as a nonresidential construction contractor, an individual or contracting company that assigns tradespersons to perform that work <i>(R.C. 4151.01)</i>.</p>