

The House Committee on Judiciary offers the following substitute to HB 1164:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 3 of Chapter 10 of Title 13 of the Official Code of Georgia Annotated,  
2 relating to security and immigration compliance, so as to clarify certain provisions and  
3 requirements relating to public employers' verification of employee work eligibility; to  
4 provide for a definition; to provide for related matters; to repeal conflicting laws; and for  
5 other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 3 of Chapter 10 of Title 13 of the Official Code of Georgia Annotated, relating to  
9 security and immigration compliance, is amended by revising Code Section 13-10-90,  
10 relating to definitions for the article, by adding a new paragraph to read as follows:

11 "(2.1) 'Physical performance of services' means the building, altering, repairing,  
12 improving, or demolishing of any public structure or building or other public  
13 improvements of any kind to public real property including the construction,  
14 reconstruction, or maintenance of all or part of a public road."

15 **SECTION 2.**

16 Said article is further amended by revising subsection (b) of Code Section 13-10-91, relating  
17 to the verification of new employee eligibility, applicability, and rules and regulations, as  
18 follows:

19 "(b)(1) No public employer shall enter into a contract pursuant to this chapter for the  
20 physical performance of services within this state unless the contractor registers and  
21 participates in the federal work authorization program to verify information of all newly  
22 hired employees or subcontractors. Before a bid for any such service is considered by a  
23 public employer, the bid shall include a signed, notarized affidavit from the contractor  
24 attesting to the following:

25 (A) The affiant has registered with and is authorized to use the federal work  
26 authorization program;

27 (B) The user identification number and date of authorization for the affiant; and

28 (C) The affiant is using and will continue to use the federal work authorization  
29 program throughout the contract period.

30 An affidavit required by this subsection shall be considered an open public record once  
31 a public employer has entered into a contract for physical performance of services;  
32 provided, however, that any information protected from public disclosure by federal law  
33 or by Article 4 of Chapter 18 of Title 50 shall be redacted. Affidavits shall be maintained  
34 by the public employer for five years from the date of receipt.

35 (2) No contractor or subcontractor who enters a contract pursuant to this chapter with a  
36 public employer or a contractor of a public employer shall enter into such a contract or  
37 subcontract in connection with the physical performance of services within this state  
38 unless the contractor or subcontractor registers and participates in the federal work  
39 authorization program to verify information of all newly hired employees. Any  
40 employee, contractor, or subcontractor of such contractor or subcontractor shall also be  
41 required to satisfy the requirements of this paragraph.

42 (3) Upon contracting with a new subcontractor, a contractor or subcontractor shall, as a  
43 condition of any contract or subcontract entered into pursuant to this chapter, provide a  
44 public employer with notice of the identity of any and all subsequent subcontractors hired  
45 or contracted by that contractor or subcontractor. Such notice shall be provided within  
46 five business days of entering into a contract or agreement for hire with any  
47 subcontractor. Such notice shall include an affidavit from each subsequent contractor  
48 attesting to the subcontractor's name, address, user identification number, and date of  
49 authorization to use the federal work authorization program.

50 (4) Contingent upon appropriation or approval of necessary funding and in order to  
51 verify compliance with the provisions of this subsection, each year the Commissioner  
52 shall conduct no fewer than 100 random audits of public employers and contractors. The  
53 results of the audits shall be published on the [www.open.georgia.gov](http://www.open.georgia.gov) website and on the  
54 Georgia Department of Labor's website no later than December 31 of each year. The  
55 Georgia Department of Labor shall seek funding from the United States Secretary of  
56 Labor to the extent such funding is available.

57 (5) Any person who knowingly and willfully makes a false, fictitious, or fraudulent  
58 statement in an affidavit submitted pursuant to this subsection shall be guilty of a  
59 violation of Code Section 16-10-20 and, upon conviction, shall be punished as provided  
60 in such Code section. Contractors and subcontractors convicted for false statements

61 based on a violation of this subsection shall be prohibited from bidding on or entering  
62 into any public contract for 12 months following such conviction."

63 **SECTION 3.**

64 All laws and parts of laws in conflict with this Act are repealed.