

Senate Bill 160

By: Senators Ginn of the 47th, Miller of the 49th, Jones of the 25th, Cowser of the 46th,  
Mullis of the 53rd and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 13-10-91 of the Official Code of Georgia Annotated, relating to  
2 verification of new employee eligibility, applicability, and rules and regulations, so as to  
3 provide for an annual report by public employers relative to compliance with certain laws;  
4 to amend Code Section 36-60-6 of the Official Code of Georgia Annotated, relating to  
5 utilization of federal work authorization program, "employee" defined, issuance of license,  
6 evidence of state licensure, annual reporting, standardized form affidavit, violation, and  
7 investigations, so as to exempt from such Code section persons who have fully complied in  
8 the past; to provide for a certain compliance report to the Department of Audits and  
9 Accounts; to amend Chapter 36 of Title 50 of the Official Code of Georgia Annotated,  
10 relating to verification of lawful presence within the United States, so as to change a certain  
11 definition; to provide for the identification of relevant public benefits; to provide for the  
12 submission of documents; to define certain terms; to provide for an immigration compliance  
13 report; to provide for technical support; to provide for the contents of such report; to provide  
14 for resubmission; to provide for limitation of liability; to repeal conflicting laws; and for  
15 other purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

17 **SECTION 1.**

18 Code Section 13-10-91 of the Official Code of Georgia Annotated, relating to verification  
19 of new employee eligibility, applicability, and rules and regulations, is amended by revising  
20 subparagraph (b)(7)(A) as follows:

21 ~~"(7)(A) Not later than December 31 of each year, a public employer shall submit a~~  
22 ~~compliance report to the state auditor certifying compliance with the provisions of this~~  
23 ~~subsection. Such compliance report shall contain the public employer's federal work~~  
24 ~~authorization program verification user number and date of authorization and the legal~~  
25 ~~name, address, and federal work authorization program user number of the contractor~~  
26 ~~and the date of the contract between the contractor and public employer. Public~~  
27 ~~employers subject to the requirements of this subsection shall provide an annual report~~

28 to the Department of Audits and Accounts pursuant to Code Section 50-36-4 as proof  
 29 of compliance with this subsection. Subject to available funding, the state auditor shall  
 30 conduct annual compliance audits on a minimum of at least one-half of the reporting  
 31 agencies and publish the results of such audits annually on the ~~department's~~ Department  
 32 of Audits and Accounts' website on or before September 30."

33 **SECTION 2.**

34 Code Section 36-60-6 of the Official Code of Georgia Annotated, relating to utilization of  
 35 federal work authorization program, "employee" defined, issuance of license, evidence of  
 36 state licensure, annual reporting, standardized form affidavit, violation, and investigations,  
 37 is amended by adding a new subsection to read as follows:

38 "(d.1) The requirements of this Code section shall not apply to any business or person  
 39 renewing a business license, occupational tax certificate, or other document required to  
 40 operate a business with a specific county or municipal corporation if such business or  
 41 person has previously complied with the requirements of this Code section by submission  
 42 of a signed and sworn affidavit containing such business's or person's federally assigned  
 43 employment eligibility verification system user number and date of authority for use and  
 44 has previously complied with the requirements of Code Sections 50-36-1 and 50-36-2 by  
 45 submission of a signed and sworn affidavit and a secure and verifiable document  
 46 establishing that such applicant is a United States citizen."

47 **SECTION 3.**

48 Said Code section is further amended by revising subsection (e) as follows:

49 ~~"(e) Beginning December 31, 2012, and annually thereafter, any county or municipal~~  
 50 ~~corporation issuing or renewing a business license, occupational tax certificate, or other~~  
 51 ~~document required to operate a business shall provide to the Department of Audits and~~  
 52 ~~Accounts a report demonstrating that such county or municipality is acting in compliance~~  
 53 ~~with the provisions of this Code section. This annual report shall identify each license or~~  
 54 ~~certificate issued by the agency in the preceding 12 months and include the name of the~~  
 55 ~~person and business issued a license or other document and his or her federally assigned~~  
 56 ~~employment eligibility verification system user number as provided in the affidavit~~  
 57 ~~submitted at the time of application. Counties and municipal corporations subject to the~~  
 58 ~~requirements of this Code section shall provide an annual report to the Department of~~  
 59 ~~Audits and Accounts pursuant to Code Section 50-36-4 as proof of compliance with this~~  
 60 ~~Code section.~~ Subject to funding, the Department of Audits and Accounts shall annually  
 61 conduct an audit of no fewer than 20 percent of such reporting agencies."

**SECTION 4.**

62  
63 Chapter 36 of Title 50 of the Official Code of Georgia Annotated, relating to verification of  
64 lawful presence within the United States, is amended in Code Section 50-36-1, relating to  
65 verification requirements, procedures, and conditions, exceptions, regulations, and criminal  
66 and other penalties for violations, by revising paragraph (4) of subsection (a) as follows:

67 "~~(4)(A) 'Public benefit' means a federal benefit as defined in 8 U.S.C. Section 1611; a~~  
68 ~~state or local benefit as defined in 8 U.S.C. Section 1621, a benefit identified as a public~~  
69 ~~benefit by the Attorney General of Georgia, or a public benefit identified as such~~  
70 ~~pursuant to subparagraph (B) of this paragraph,~~ which shall include the following:

- 71 (i) Adult education;
- 72 (ii) Authorization to conduct a commercial enterprise or business;
- 73 (iii) Business certificate, license, or registration;
- 74 (iv) Business loan;
- 75 (v) Cash allowance;
- 76 (vi) Disability assistance or insurance;
- 77 (vii) Down payment assistance;
- 78 (viii) Energy assistance;
- 79 (ix) Food stamps;
- 80 (x) Gaming license;
- 81 (xi) Grants;
- 82 ~~(xi)(xii)~~ Health benefits;
- 83 ~~(xii)(xiii)~~ Housing allowance, grant, guarantee, or loan;
- 84 ~~(xiii)(xiv)~~ Loan guarantee;
- 85 ~~(xiv)(xv)~~ Medicaid;
- 86 ~~(xv)(xvi)~~ Occupational license;
- 87 ~~(xvi)(xvii)~~ Professional license;
- 88 (xviii) Public or assisted housing;
- 89 ~~(xvii)(xix)~~ Registration of a regulated business;
- 90 ~~(xviii)(xx)~~ Rent assistance or subsidy;
- 91 (xxi) Retirement benefits;
- 92 ~~(xix)(xxii)~~ State grant or loan;
- 93 ~~(xx)(xxiii)~~ State identification card;
- 94 ~~(xxi)(xxiv)~~ Tax certificate required to conduct a commercial business;
- 95 ~~(xxii)(xxv)~~ Temporary assistance for needy families (TANF);
- 96 ~~(xxiii)(xxvi)~~ Unemployment insurance; and
- 97 ~~(xxiv)(xxvii)~~ Welfare to work.

98 (B) Each year before August 1, the Attorney General shall prepare a detailed report  
 99 indicating any 'public benefit' that may be administered in this state ~~as defined in 8~~  
 100 ~~U.S.C. Sections 1611 and 1621~~ and whether such benefit is subject to SAVE  
 101 verification pursuant to this Code section. Such report shall provide the description of  
 102 the benefit and shall be updated annually and distributed to the members of the General  
 103 Assembly and be posted to the Attorney General's website."

104 **SECTION 5.**

105 Said chapter is further amended by revising subsection (e) of said Code section as follows:

106 "(e)(1) An agency or political subdivision providing or administering a public benefit  
 107 shall require every applicant for such benefit to:

108 (A) Provide at least one secure and verifiable document, as defined in Code Section  
 109 50-36-2; and

110 (B) Execute a signed and sworn affidavit verifying the applicant's lawful presence in  
 111 the United States and stating:

112 (i) The applicant is a United States citizen or legal permanent resident 18 years of age  
 113 or older; or

114 (ii) The applicant is a qualified alien or nonimmigrant under the federal Immigration  
 115 and Nationality Act, Title 8 U.S.C., 18 years of age or older lawfully present in the  
 116 United States and providing the applicant's alien number issued by the Department  
 117 of Homeland Security or other federal immigration agency.

118 (2) The state auditor shall create affidavits for use under this subsection and shall keep  
 119 a current version of such affidavits on the Department of Audits and Accounts' official  
 120 website.

121 (3) Documents or copies of documents required by this subsection may be submitted in  
 122 person, by mail, or electronically, provided the submission complies with Chapter 12 of  
 123 Title 10. Copies of documents submitted in person, by mail, or electronically shall satisfy  
 124 the requirements of this subsection. For purposes of this paragraph, electronic  
 125 submission includes, but is not limited to, submission via facsimile, Internet, or any other  
 126 electronically transmitted method approved by the agency or political subdivision.

127 (4) The requirements of this subsection shall not apply to:

128 (A) Any applicant renewing an application for a public benefit within the same agency  
 129 or political subdivision if the applicant has previously complied with the requirements  
 130 of this subsection by submission of a secure and verifiable document establishing that  
 131 such applicant is a United States citizen; or

132 (B) Any applicant applying for a new public benefit within the same agency or political  
 133 subdivision if the applicant has previously complied with the requirements of this

134 subsection by submission of a secure and verifiable document establishing that such  
 135 applicant is a United States citizen."

136 **SECTION 6.**

137 Said chapter is further amended by revising subsection (i) of said Code section as follows:

138 "(i) It shall be unlawful for any agency or political subdivision to provide or administer any  
 139 public benefit in violation of this Code section. ~~On or before January 1 of each year, each~~  
 140 ~~agency or political subdivision which administers any public benefit shall provide an~~  
 141 ~~annual report to the Department of Community Affairs that identifies each public benefit,~~  
 142 ~~as defined in subparagraph (a)(3)(A) of this Code section, administered by the agency or~~  
 143 ~~political subdivision and a listing of each public benefit for which SAVE authorization for~~  
 144 ~~verification has not been received. Agencies and political subdivisions subject to the~~  
 145 requirements of this subsection shall provide an annual report to the Department of Audits  
 146 and Accounts pursuant to Code Section 50-36-4 as proof of compliance with this  
 147 subsection."

148 **SECTION 7.**

149 Said chapter is further amended in Code Section 50-36-2, relating to secure and verifiable  
 150 identity document and applicability, by revising paragraph (3) of subsection (b) as follows:

151 "(3) 'Secure and verifiable document' means a document issued by a state or federal  
 152 jurisdiction or recognized by the United States government and that is verifiable by  
 153 federal or state law enforcement, intelligence, or homeland security agencies. Secure and  
 154 verifiable document shall not mean a Matricula Consular de Alta Seguridad, matricula  
 155 consular card, consular matriculation card, consular identification card, or similar  
 156 identification card issued by a foreign government regardless of the holder's immigration  
 157 status. Only those documents approved and posted by the Attorney General pursuant to  
 158 subsection (f) of this Code section shall be considered secure and verifiable documents.  
 159 Copies of secure and verifiable documents submitted in person, by mail, or electronically  
 160 shall satisfy the requirements of this Code section. For purposes of this paragraph,  
 161 electronic submission includes, but is not limited to, submission via facsimile, Internet,  
 162 or any other electronically transmitted method approved by the agency or political  
 163 subdivision."

164 **SECTION 8.**

165 Said chapter is further amended by adding a new Code section to read as follows:

166 "50-36-4.

167 (a) As used in this Code section, the term:

- 168 (1) 'Agency or political subdivision' means any department, agency, authority,  
169 commission, or governmental entity of this state or any subdivision of this state.
- 170 (2) 'Annual reporting period' means from December 1 of the preceding year through  
171 November 30 of the year in which the report is due.
- 172 (3) 'Contractor' shall have the same meaning as set forth in Code Section 13-10-90.
- 173 (4) 'Department' means the Department of Audits and Accounts.
- 174 (5) 'Physical performance of services' shall have the same meaning as set forth in Code  
175 Section 13-10-90.
- 176 (6) 'Public employer' shall have the same meaning as set forth in Code Section 13-10-90.
- 177 (b) Each agency or political subdivision subject to any of the requirements provided in  
178 Code Sections 13-10-91, 36-60-6, and 50-36-1 shall submit an annual immigration  
179 compliance report to the department by December 31 that includes the information required  
180 under subsection (d) of this Code section for the annual reporting period. If an agency or  
181 political subdivision is exempt from any, but not all, of the provisions of subsection (d) of  
182 this Code section, it shall still be required to submit the annual report but shall indicate in  
183 the report which requirements from which it is exempt.
- 184 (c) The department shall create an immigration compliance reporting system and shall  
185 provide technical support for the submission of such reports. The department shall further  
186 provide annual notification of such reports with submission instructions to all agencies and  
187 political subdivisions subject to such requirements. The department is authorized to  
188 implement policy as is needed to carry out the requirements of this subsection.
- 189 (d) The immigration compliance report provided for in subsection (b) of this Code section  
190 shall contain the following:
- 191 (1) The agency or political subdivision's federal work authorization program verification  
192 user number and date of authorization;
- 193 (2) The legal name, address, and federal work authorization program user number of  
194 every contractor that has entered into a contract for the physical performance of services  
195 with a public employer as required under Code Section 13-10-91 during the annual  
196 reporting period;
- 197 (3) The date of the contract for the physical performance of services between the  
198 contractor and public employer as required under Code Section 13-10-91;
- 199 (4) A listing of each license or certificate issued by a county or municipal corporation  
200 to private employers that are required to utilize the federal work authorization program  
201 under the provisions of Code Section 36-60-6 during the annual reporting period,  
202 including the name of the person and business issued a license and his or her federally  
203 assigned employment eligibility verification system user number as provided in the  
204 private employer affidavit submitted at the time of application; and

205 (5) A listing of each public benefit, as defined in subparagraph (a)(4)(A) of Code Section  
206 50-36-1, administered by the agency or political subdivision and a listing of each public  
207 benefit for which SAVE authorization for verification has not been received.

208 (e) In the event that the immigration compliance report submitted by an agency or political  
209 subdivision is found to be deficient, a new compliance report submitted to the department  
210 by the agency or political subdivision shall be deemed satisfactory and shall correct the  
211 prior deficient compliance report so long as the new report fully complies with this Code  
212 section.

213 (f) No agency or political subdivision shall be subject to lawsuit or liability arising from  
214 any act to comply with the requirements of this Code section.

215 (g) No political subdivision of this state shall be found to be in violation of this Code  
216 section by the department as a result of any actions or omissions of a county constitutional  
217 officer."

218 **SECTION 9.**

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