

The Senate Judiciary Non-Civil Committee offered the following substitute to HB 125:

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 provide for records maintenance; to amend Chapter 36 of Title 50 of the
10 Official Code of Georgia Annotated, relating to verification of lawful presence within the
11 United States, so as to change a certain definition; to provide for contracts; 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 provide for a list of agencies and
15 political subdivisions; to repeal conflicting laws; and for other purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

21 "(7)(A) Public employers subject to the requirements of this subsection shall provide
22 an annual report to the Department of Audits and Accounts pursuant to Code Section
23 50-36-4 as proof of compliance with this subsection. ~~Not later than December 31 of~~
24 ~~each year, a public employer shall submit a compliance report to the state auditor~~
25 ~~certifying compliance with the provisions of this subsection. Such compliance report~~
26 ~~shall contain the public employer's federal work authorization program verification user~~

27 ~~number and date of authorization and the legal name, address, and federal work~~
 28 ~~authorization program user number of the contractor and the date of the contract~~
 29 ~~between the contractor and public employer. Subject to available funding, the state~~
 30 ~~auditor shall conduct annual compliance audits on a minimum of at least one-half of the~~
 31 ~~reporting agencies and publish the results of such audits annually on the department's~~
 32 ~~Department 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)(1) The requirements of this Code section shall not apply to any applicant who has
 39 previously complied with the requirements of Code Sections 50-36-1 and 50-36-2 by
 40 submission of a signed and sworn affidavit and a secure and verifiable document
 41 establishing that such applicant is a United States citizen in the same agency.

42 (2) Any business or person not subject to the requirements of this Code section to utilize
 43 the federal work authorization program based upon the number of employees employed
 44 by such business or person shall attest in the affidavit required by this Code section that
 45 they will register and utilize the federal work authorization program upon employing
 46 more than ten employees. Any such business or person shall only be required to submit
 47 a new affidavit to any county or municipal corporation which issues or renews a business
 48 license, occupational tax certificate, or other document required to operate a business to
 49 such business or person within ten days of such event."

50 SECTION 3.

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

52 "(e) Counties and municipal corporations subject to the requirements of this Code section
 53 shall provide an annual report to the Department of Audits and Accounts pursuant to Code
 54 Section 50-36-4 as proof of compliance with this Code section. Beginning December 31,
 55 2012, and annually thereafter, any county or municipal corporation issuing or renewing a
 56 business license, occupational tax certificate, or other document required to operate a
 57 business shall provide to the Department of Audits and Accounts a report demonstrating
 58 that such county or municipality is acting in compliance with the provisions of this Code
 59 section. This annual report shall identify each license or certificate issued by the agency
 60 in the preceding 12 months and include the name of the person and business issued a
 61 license or other document and his or her federally assigned employment eligibility

62 ~~verification system user number as provided in the affidavit submitted at the time of~~
 63 ~~application.~~ Subject to funding, the Department of Audits and Accounts shall annually
 64 conduct an audit of no fewer than 20 percent of such reporting agencies."

65 **SECTION 4.**

66 Said Code section is further amended by adding a new subsection to read as follows:

67 "(k) Any records required to be collected by a county or municipal corporation pursuant
 68 to this Code section may be maintained in electronic or paper format and shall be
 69 maintained pursuant to the county's or municipal corporation's records retention schedule."

70 **SECTION 5.**

71 Chapter 36 of Title 50 of the Official Code of Georgia Annotated, relating to verification of
 72 lawful presence within the United States, is amended by revising subparagraph (a)(4)(A) of
 73 Code Section 50-36-1, relating to verification requirements, procedures, and conditions,
 74 exceptions, regulations, and criminal and other penalties for violations, as follows:

75 "(4)(A) 'Public benefit' means a federal benefit as defined in 8 U.S.C. Section 1611 as
 76 it existed on January 1, 2013, a state or local benefit as defined in 8 U.S.C. Section
 77 1621 as it existed on January 1, 2013, a benefit identified as a public benefit by the
 78 Attorney General of Georgia, or a public benefit which shall include the following:

- 79 (i) Adult education;
 80 (ii) Authorization to conduct a commercial enterprise or business;
 81 (iii) Business certificate, license, or registration;
 82 (iv) Business loan;
 83 (v) Cash allowance;
 84 (vi) Disability assistance or insurance;
 85 (vii) Down payment assistance;
 86 (viii) Energy assistance;
 87 (ix) Food stamps;
 88 (x) Gaming license;
 89 (xi) Health benefits;
 90 (xii) Housing allowance, grant, guarantee, or loan;
 91 (xiii) Loan guarantee;
 92 (xiv) Medicaid;
 93 (xv) Occupational license;
 94 (xvi) Professional license;
 95 (xvii) Registration of a regulated business;
 96 (xviii) Rent assistance or subsidy;

- 97 (xix) State grant or loan;
 98 (xx) State identification card;
 99 (xxi) Tax certificate required to conduct a commercial business;
 100 (xxii) Temporary assistance for needy families (TANF);
 101 (xxiii) Unemployment insurance; and
 102 (xxiv) Welfare to work."

103 **SECTION 6.**

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

105 "(d) Verification of lawful presence under this Code section shall not be required:

- 106 (1) For any purpose for which lawful presence in the United States is not required by
 107 law, ordinance, or regulation;
 108 (2) For assistance for health care items and services that are necessary for the treatment
 109 of an emergency medical condition, as defined in 42 U.S.C. Section 1396b(v)(3), of the
 110 alien involved and are not related to an organ transplant procedure;
 111 (3) For short-term, noncash, in-kind emergency disaster relief;
 112 (4) For public health assistance for immunizations with respect to immunizable diseases
 113 and for testing and treatment of symptoms of communicable diseases whether or not such
 114 symptoms are caused by a communicable disease;
 115 (5) For programs, services, or assistance such as soup kitchens, crisis counseling and
 116 intervention, and short-term shelter specified by the United States Attorney General, in
 117 the United States Attorney General's sole and unreviewable discretion after consultation
 118 with appropriate federal agencies and departments, which:
 119 (A) Deliver in-kind services at the community level, including through public or
 120 private nonprofit agencies;
 121 (B) Do not condition the provision of assistance, the amount of assistance provided,
 122 or the cost of assistance provided on the individual recipient's income or resources; and
 123 (C) Are necessary for the protection of life or safety;
 124 (6) For prenatal care; ~~or~~
 125 (7) For postsecondary education, whereby the Board of Regents of the University System
 126 of Georgia or the State Board of the Technical College System of Georgia shall set forth,
 127 or cause to be set forth, policies regarding postsecondary benefits that comply with all
 128 federal law, including, but not limited, to public benefits as described in 8 U.S.C. Section
 129 1611, 1621, or 1623;
 130 (8) For any contract under \$25,000.00; or
 131 (9) For the provision of utilities, communications, and related services, including water,
 132 sewer, electrical power, gas, telecommunications, and cable services."

SECTION 7.

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

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

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

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

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

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

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

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

(4) The requirements of this subsection shall not apply to any applicant applying for or renewing an application for a public benefit within the same agency or political subdivision if the applicant has previously complied with the requirements of this subsection by submission of a secure and verifiable document, as defined in Code Section 50-36-2, and a sworn affidavit attesting that such applicant is a United States citizen or a lawful permanent resident.

(5) Any records required to be collected by an agency or political subdivision pursuant to this Code section may be maintained in electronic or paper format and shall be maintained pursuant to the agency's or political subdivision's records retention schedule."

SECTION 8.

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

"(i) It shall be unlawful for any agency or political subdivision to provide or administer any public benefit in violation of this Code section. Agencies and political subdivisions subject

169 to the requirements of this subsection shall provide an annual report to the Department of
 170 Audits and Accounts pursuant to Code Section 50-36-4 as proof of compliance with this
 171 subsection. On or before January 1 of each year, each agency or political subdivision
 172 which administers any public benefit shall provide an annual report to the Department of
 173 Community Affairs that identifies each public benefit, as defined in subparagraph (a)(3)(A)
 174 of this Code section, administered by the agency or political subdivision and a listing of
 175 each public benefit for which SAVE authorization for verification has not been received."

176 **SECTION 9.**

177 Said chapter is further amended by revising paragraph (3) of subsection (b) of Code Section
 178 50-36-2, relating to secure and verifiable identity document and applicability, as follows:

179 "(3) 'Secure and verifiable document' means a document issued by a state or federal
 180 jurisdiction or recognized by the United States government and that is verifiable by
 181 federal or state law enforcement, intelligence, or homeland security agencies. Secure and
 182 verifiable document shall not mean a Matricula Consular de Alta Seguridad, matricula
 183 consular card, consular matriculation card, consular identification card, or similar
 184 identification card issued by a foreign government regardless of the holder's immigration
 185 status. Only those documents approved and posted by the Attorney General pursuant to
 186 subsection (f) of this Code section shall be considered secure and verifiable documents.
 187 Copies of secure and verifiable documents submitted in person, by mail, or electronically
 188 shall satisfy the requirements of this Code section. For purposes of this paragraph,
 189 electronic submission includes, but is not limited to, submission via facsimile, Internet,
 190 or any other electronically transmitted method approved by the agency or political
 191 subdivision."

192 **SECTION 10.**

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

194 "50-36-4.

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

196 (1) 'Agency or political subdivision' means any department, agency, authority,
 197 commission, or governmental entity of this state or any subdivision of this state.

198 (2) 'Annual reporting period' means from December 1 of the preceding year through
 199 November 30 of the year in which the report is due.

200 (3) 'Contractor' shall have the same meaning as set forth in Code Section 13-10-90.

201 (4) 'Department' means the Department of Audits and Accounts.

202 (5) 'Physical performance of services' shall have the same meaning as set forth in Code
 203 Section 13-10-90.

- 204 (6) 'Public employer' shall have the same meaning as set forth in Code Section 13-10-90.
- 205 (b) Each agency or political subdivision subject to any of the requirements provided in
206 Code Sections 13-10-91 and 50-36-1 shall submit an annual immigration compliance report
207 to the department by December 31 that includes the information required under
208 subsection (d) of this Code section for the annual reporting period. If an agency or political
209 subdivision is exempt from any, but not all, of the provisions of subsection (d) of this Code
210 section, it shall still be required to submit the annual report but shall indicate in the report
211 which requirements from which it is exempt.
- 212 (c) The department shall create an immigration compliance reporting system and shall
213 provide technical support for the submission of such reports. The department shall further
214 provide annual notification of such reports with submission instructions to all agencies and
215 political subdivisions subject to such requirements. The department is authorized to
216 implement policy as is needed to carry out the requirements of this subsection.
- 217 (d) The immigration compliance report provided for in subsection (b) of this Code section
218 shall contain the following:
- 219 (1) The agency or political subdivision's federal work authorization program verification
220 user number and date of authorization;
- 221 (2) The legal name, address, and federal work authorization program user number of
222 every contractor that has entered into a contract for the physical performance of services
223 with a public employer as required under Code Section 13-10-91 during the annual
224 reporting period;
- 225 (3) The date of the contract for the physical performance of services between the
226 contractor and public employer as required under Code Section 13-10-91; and
- 227 (4) A listing of each public benefit, as defined in subparagraph (a)(4)(A) of Code Section
228 50-36-1, administered by the agency or political subdivision and a listing of each public
229 benefit for which SAVE authorization for verification has not been received.
- 230 (e) In the event that the immigration compliance report submitted by an agency or political
231 subdivision is found to be deficient, a new compliance report submitted to the department
232 by the agency or political subdivision shall be deemed satisfactory and shall correct the
233 prior deficient compliance report so long as the new report fully complies with this Code
234 section.
- 235 (f) No agency or political subdivision shall be subject to lawsuit or liability arising from
236 any act to comply with the requirements of this Code section.
- 237 (g) No political subdivision of this state shall be found to be in violation of this Code
238 section by the department as a result of any actions or omissions of a county constitutional
239 officer.

240 (h) The department shall provide a list of all agencies and political subdivisions which
241 have submitted an annual immigration compliance report by the date provided in
242 subsection (b) of this Code section to the Department of Community Affairs by May 1 of
243 the following year. Such list shall include all agencies and political subdivisions and
244 indicate whether each such agency or political subdivision provided information or claimed
245 to be exempt from each of the provisions identified in subsection (d) of this Code section."

246 **SECTION 11.**
247 All laws and parts of laws in conflict with this Act are repealed.