

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 157 of the Regular Session

1 State of Arkansas

As Engrossed: H1/19/07 S1/31/07 S2/14/07

2 86th General Assembly

A Bill

3 Regular Session, 2007

HOUSE BILL 1024

4
5 By: Representatives R. Green, Woods, Burris, M. Martin, Cornwell, Davenport, Garner, Hardwick,
6 Kidd, Medley, Norton, Ragland, Walters

7 By: Senator Whitaker

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10 **For An Act To Be Entitled**

11 AN ACT TO PROHIBIT STATE AGENCIES FROM
12 CONTRACTING WITH BUSINESSES THAT EMPLOY ILLEGAL
13 IMMIGRANTS; AND FOR OTHER PURPOSES.

14
15 **Subtitle**

16 AN ACT TO PROHIBIT STATE AGENCIES FROM
17 CONTRACTING WITH BUSINESSES THAT EMPLOY
18 ILLEGAL IMMIGRANTS.

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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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23 SECTION 1. Arkansas Code Title 19, Chapter 11, Subchapter 1 is amended
24 to add an additional section to read as follows:

25 19-11-105. Illegal immigrants -- prohibition -- public contracts for
26 services.

27 (a) As used in this section:

28 (1) "Contractor" means a person having a public contract with a
29 state agency for professional services, technical and general services, or
30 any category of construction in which the total dollar value of the contract
31 is twenty-five thousand dollars (\$25,000) or greater;

32 (2) "Exempt agency" means the constitutional departments of the
33 state, the elected constitutional offices of the state, the General Assembly,
34 including the Legislative Council and the Legislative Joint Auditing
35 Committee and supporting agencies and bureaus thereof, the Arkansas Supreme



1 Court, the Court of Appeals, circuit courts, prosecuting attorneys, and the
2 Administrative Office of the Courts;

3 (3) "Illegal immigrants" means any person not a citizen of the
4 United States who has:

5 (A) Entered the United States in violation of the Federal
6 Immigration and Naturalization Act or regulations issued the act;

7 (B) Legally entered but without the right to be employed
8 in the United States; or

9 (C) Legally entered subject to a time limit but has
10 remained illegally after expiration of the time limit;

11 (4) "Professional services contract" means a contract between a
12 state agency and a contractor in which:

13 (A) The relationship between the contractor and the state
14 agency is that of an independent contractor rather than that of an employee;

15 (B) The services to be rendered consist of the personal
16 services of an individual that are professional in nature;

17 (C) The state agency does not have direct managerial
18 control over the day-to-day activities of the individual providing the
19 services;

20 (D) The contract specifies the results expected from the
21 rendering of the services rather than detailing the manner in which the
22 services shall be rendered; and

23 (E) Services rendered under a professional services
24 contract are rendered to the state agency itself or to a third-party
25 beneficiary;

26 (5) "Public contract for services" means any type of agreement
27 between a state agency and a contractor for the procurement of services and
28 all categories of construction with a state agency in which the total dollar
29 value of that contract is twenty-five thousand dollars (\$25,000) or greater;

30 (6)(A) "State agency" means any agency, institution, authority,
31 department, board, commission, bureau, council, or other agency of the state
32 supported by appropriation of state or federal funds, except an exempt agency
33 under subdivision (a)(7)(B) of this section.

34 (B) "State agency" includes an exempt agency when any
35 agency or exempt agency procures any item subject to Arkansas Constitution,
36 Amendment 54;

1 (7)(A) "Technical and general services" means:

2 (i) Work accomplished by skilled individuals
3 involving time, labor, and a degree of expertise in which performance is
4 evaluated based upon the quality of the work and the results produced;

5 (ii) Work performed to meet a demand, including
6 without limitation work of a recurring nature that does not necessarily
7 require special skills or extensive training; or

8 (iii) The furnishing of labor, time, or effort by a
9 contractor or vendor, not involving the delivery of any specific end product
10 other than reports that are incidental to the required performance.

11 (B) "Technical and general services" shall not be
12 construed to include the procurement of professional services under § 19-11-
13 801 et seq.

14 (b) No state agency may enter into or renew a public contract for
15 services with a contractor who knows that the contractor or a subcontractor
16 employs or contracts with an illegal immigrant to perform work under the
17 contract.

18 (c) Before executing a public contract, each prospective contractor
19 shall certify in a manner that does not violate federal law in existence on
20 January 1, 2007, that the contractor, at the time of the certification, does
21 not employ or contract with an illegal immigrant.

22 (d)(1) If a contractor violates this section, the state shall require
23 the contractor to remedy the violation within sixty (60) days.

24 (2)(A) If the contractor does not remedy the violation within
25 the sixty (60) days specified under subdivision (d)(1) of this section, the
26 state shall terminate the contract for breach of the contract.

27 (B) If the contract is terminated under subdivision
28 (d)(2)(A) of this section, the contractor shall be liable to the state for
29 actual damages.

30 (e)(1)(A) If a contractor uses a subcontractor at the time of
31 certification, the subcontractor shall certify in a manner that does not
32 violate federal law in existence on January 1, 2007, that the subcontractor,
33 at that time of certification, does not employ or contract with an illegal
34 immigrant.

35 (B) A subcontractor shall submit the certification
36 required under subdivision(e)(1)(A) of this section within thirty (30) days

1 after the execution of the subcontract.

2 (2) The contractor shall maintain on file the certification of
3 the subcontractor throughout the duration of the term of the contract.

4 (3) If the contractor learns that a subcontractor is in
5 violation of this section, the contractor may terminate the contract with the
6 subcontractor and the termination of the contract for a violation of this
7 section shall not be considered a breach of the contract by the contractor
8 and subcontractor.

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10 /s/ R. Green

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12 APPROVED: 2/28/2007
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