

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.

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  
36 Court, the Court of Appeals, circuit courts, prosecuting attorneys, and the



1 Administrative Office of the Courts;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

