



E-Verify State-by-State Legislation Survey updated 07/26/2010			
State	E-Verify Required for Private Employers	E-Verify Required for Public Employers	E-Verify Required for Contractors
Arizona HB2779 (Effective on 01/01/08). Amended by HB 2745, effective on 09/30/2008. A writ of certiorari has been filed with the Supreme Court of the United States challenging Arizona's E-Verify law.	Every employer must verify employment eligibility using E-Verify. There is also a good faith defense based upon completion of I-9. "Employer" means any individual or type of organization that transacts business in the state, that has a license issued by an agency in the state and that employs one or more individuals who perform employment services in the state. "Employer" also includes the state, any political subdivision of this state and self-employed persons.	Every employer must verify employment eligibility using E-Verify. See note under private employer section. In addition, effective September 30, 2008, a government entity shall not award a contract to any contractor/subcontractor that has failed to comply with the requirement imposed on all Arizona employers to enroll in and use E-Verify. "Government entity" is defined as the state of Arizona and any political subdivision of the state that receives and uses tax revenues. "Contract" is defined as all types of government entity agreements for the procurement of services in Arizona (regardless of what they are actually called). "Services" means the furnishing of labor, time or effort in this state by a contractor or subcontractor.	Arizona does not have a true contractor rule. See note on public employers.

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Colorado HB 1343 . Effective 08/07/2006. Amendments allowing verification through state program effective 05/13/2008.	No requirement for private employers to use E-Verify	A state agency or political subdivision may not enter into or renew a public contract for services with a contractor who knowingly employs or contracts with an illegal alien to perform work under the contract or who knowingly contracts with a subcontractor who knowingly employs or contracts with an illegal alien to perform work under the contract. Prior to executing a public contract for services, each prospective contractor shall certify that, at the time of the certification, it does not knowingly employ or contract with an illegal alien and that the contractor has participated or attempted to participate in the basic pilot program in order to verify that it does not employ any illegal aliens. The statute defines "state agency" as "any department, commission, council, board, bureau, committee, institution of higher education, agency, or other governmental unit of the executive, legislative, or judicial branch of state government." "Political subdivision" means any city, county, city and county, town, special district, school district, local improvement district, or any other kind of municipal, quasi-municipal, or public corporation.	Any contractor who enters into a contract for the procurement of services with a state agency must participate in either E-Verify or a state verification program. "Contractor" means a person having a public contract for services with a state agency or political subdivision of the State. "Public contract for services" means any type of agreement, regardless of what the agreement may be called, between a state agency or political subdivision and a contractor for the procurement of services but does not include any grant, award, or contract funded by any federal or private entity for any research or sponsored project of an institution of higher education or its affiliate that has restricted funding. "Services" means the furnishing of labor, time or effort by a contractor or a subcontractor not involving the delivery of a specific end product other than reports that are merely incidental to the required performance. For more information, visit: http://www.coworkforce.com/lab/pcs/default.asp .

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Georgia SB 529, 2006 . Effective date 07/01/07, but phased in over time.	No requirement for private employers to use E-Verify	All public employers must register and participate in E-Verify to verify the status of newly hired employees. "Public employer" means every department, agency, or instrumentality of the state or a political subdivision of the state. Effective dates: On or after July 1, 2007, with respect to public employers, contractors, or subcontractors of 500 or more employees; on or after July 1, 2008, with respect to public employers, contractors, or subcontractors of 100 or more employees; and on or after July 1, 2009, with respect to all public employers, contractors, or subcontractors.	Any contractor or subcontractor who enters into a contract with a public employer for the performance of services in the state must register for and participate in E-Verify. "Subcontractor" includes a subcontractor, contract employee, staffing agency, or any contractor regardless of its tier. Effective dates: On or after July 1, 2007, with respect to public employers, contractors, or subcontractors of 500 or more employees; on or after July 1, 2008, with respect to public employers, contractors, or subcontractors of 100 or more employees; and on or after July 1, 2009, with respect to all public employers, contractors, or subcontractors. "Services" not defined by statute or regulations. Applied prospectively, not to current contracts. If you have any questions concerning SB 529 or the Georgia Department of Labor Rules to implement, contact Mark Woodall, Director, Governmental Affairs at 678-298-4116.
Idaho Executive Order No. 2006-40. Effective date 12/13/06.	No requirement for private employers to use E-Verify	State agencies must verify and ensure that all new employees are eligible for employment under federal and state law. Contracts for services performed in the State must be with businesses that employ individuals who are eligible to work under federal and state law. The Idaho Division of Purchasing is developing procedures to assure that this requirement is met. For more information, please visit: http://adm.idaho.gov/purchasing/bidopportunities.html . Note that E-Verify is not specifically mentioned by the Executive Order, but is encouraged by the state.	Idaho does not have a true contractor rule. See note on public employers.

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<p>Illinois HB1744 Effective date 01/01/2008. On March 11, 2009, United States District Court Judge Jeanne E. Scott permanently enjoined the state of Illinois from enforcing the law. IL employers now may enroll in the E-Verify program.</p>	<p>Employers are prohibited from enrolling in any Employment Eligibility Verification System, including E-Verify, until SSA and DHS databases can make a determination on 99% of tentative nonconfirmation notices within 3 days, unless otherwise required by federal law. Employers who enroll in E-Verify are prohibited from using the system to confirm employment authorization of new hires unless the employer attests to certain specified information. Provides that the Illinois Department of Human Rights will establish an advisory council to study the effects of E-Verify on employers and employees in Illinois and will make a report to the Department of Human Rights and the Department of Labor 18 months after enactment.</p>		
<p>Massachusetts Executive Order No. 481, issued Feb. 23. 2007. Effective immediately.</p>	<p>No requirement for private employers to use E-Verify.</p>	<p>Bars state agencies from contracting with employers who knowingly employ unauthorized immigrants. "State agencies" include all executive offices, boards, commissions, agencies, departments, divisions, councils, bureaus, and offices.</p>	<p>Specifies that "all Executive Branch contracts entered into after the effective date...shall require contractors to certify...that they shall not knowingly use undocumented workers in connection with the performance of the contract" and "that, pursuant to federal requirements, they shall verify the immigration status of all workers assigned to the contract." Massachusetts issued a "Contractor Certification" Form in March 2007 which is now "a condition of receiving Commonwealth funds under any Executive Branch contract." Note that Massachusetts does not explicitly require registration or use of E-Verify, and that the Executive Order applies prospectively (to contracts entered into after March 23, 2007)</p>

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<p>Minnesota Executive Order 08-01 . Effective date 01/29/08.</p>	<p>No requirement for private employers to use E-Verify.</p>	<p>All hiring authorities within the executive branch of state government are required to use E-Verify. State vendors will be asked to certify compliance with the EO when and if they respond to a solicitation for a new state contract or their existing contract is extended or otherwise amended after January 29, 2008. The EO applies to all agencies as defined in Minn. Stat. 16C.02 Subd. 2; "agency" means any state officer, employee, board, commission, authority, department, entity, or organization of the executive branch of government. According to Minn. Stat. Chapter 16C.02 subd. 2, and 16C.03, Minnesota's contractor rule does not apply to Minnesota State Colleges and Universities.</p>	<p>Any vendor or subcontractor seeking to enter into a state contract in excess of \$50,000 must participate in E-Verify. The Executive Order requires use of E-Verify for "all newly hired employees in the US who will perform work on behalf of the State of Minnesota." "Vendor" is defined as "a natural person or a business and includes both if the natural person is engaged in a business." Applies prospectively -- "state vendors will be asked to certify compliance with the EO when and if (1) they respond to a solicitation for a new state contract or (2) their existing contract is extended or otherwise amended after January 29, 2008." Does not apply to grants or "provider agreements" with the Minnesota Health Care Program (MHCP). Enforcement: state will follow up on allegations of violations of federal immigration law. Applies to procurements only -- according to Executive Order, Minnesota's state contractor rule is implemented pursuant to Commissioner of Administration's authority over state procurements as set forth in Minnesota Statutes, Chapter 16C and the applicable administrative rules. According to the FAQs released by Minnesota, "contracting officials will indicate in the relevant procurement documents whether a contract and any anticipated amendments may</p>
<p>Mississippi SB 2988 . Effective date July 1, 2008. Phased in over time.</p>	<p>Effective July 1, 2008, all private employers with 250 or more employees must use E-Verify; effective July 1, 2009, all private employers with between 100 and 250 employees must use E-Verify; effective July 1, 2010, all private employers with between 30 and 99 employees must use E-Verify; effective July 1, 2011, all private employers must use E-Verify. A company is an "employer" in Mississippi if it is required by federal or state law to issue a IRS Form W-2 or Form 1099 to report income paid to employed/contracted personnel in Mississippi.</p>	<p>Effective July 1, 2008, all public employers must use E-Verify. "Public employer" is defined as every department, agency or instrumentality of the state or a political subdivision of the state.</p>	<p>Effective July 1, 2008, all public contractors and subcontractors must use E-Verify to verify information of all newly hired employees. An "employee" is defined as "any person or entity that is hired to perform work within the State of Mississippi and to whom a United States Internal Revenue Service Form W-2 or Form 1099 must be issued." The requirement applies prospectively -- ie, to contracts entered into on or before July 1, 2008.</p>

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Missouri HB 1549, enacted in 2008; effective date 01/01/09.	E-Verify is optional for all employers who are not public employers or state contractors. However, those employers who enroll in E-Verify and verify all new hires have an affirmative defense to allegations of hiring unauthorized aliens.	All public employers are required to enroll and participate in E-Verify or other federal work authorization program. "Public employer" is defined as every department, agency, or instrumentality of the state or political subdivision of the state.	Effective 1/1/09, business entities receiving a state contract or grant in excess of \$5,000 or a state-administered or subsidized tax credit, tax abatement, or loan from the state must enroll all employees working in connection with the contracted services in E-Verify. "Employee" is defined as "any person performing work or service of any kind or character for hire within the state of Missouri." Enforcement: The law lays out specific penalties if the business entity is found to have knowingly violated the law by employing an unauthorized worker. Upon the first violation, business entity shall be deemed in breach of contract and the state may terminate the contract and suspend/debar the business entity from doing business with the state for a period of 3 years.
Nebraska LB 403. Effective date 10/1/2009.	E-Verify not required for private employers, however, a variety of economic development tax incentives will only be available to those entities that use E-Verify for new hires.	All public employers must use E-Verify to verify new employees. "Public employer" means any agency or political subdivision of the state.	All "public contractors" must use E-Verify to verify new employees physically performing services within the state of Nebraska. "Public contractor" is defined as any contractor, or his or her subcontractor, who is awarded a contract by a public employer for the physical performance of services within the state. LB 403, Section 7(2). "Physical performance of services" is not further defined. Note that "[e]very contract between a public employer and public contractor shall contain a provision requiring the public contractor to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska."

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North Carolina SB 2988. This statute applies to employees hired on or after January 1, 2007, except for employees of local education agencies hired on or after March 1, 2007.	No requirement for private employers to use E-Verify	All state agencies, offices, and universities must use E-Verify.	
Oklahoma HB1804. Original effective date was 7/1/08. On June 4, 2008, the U.S. District Court for the Western District of Oklahoma issued an injunction that stopped OK from enforcing HB1804. The injunction prevented Oklahoma from enforcing the law until a final decision on the merits was reached that determined whether HB 1804 should be invalidated. On February 2, 2010, the U.S. Court of Appeals for the 10th Circuit ruled that Oklahoma <u>may enforce</u> the provision of HB 1804 that requires state contractors to verify the employment eligibility of new workers by using a system like E-Verify. This decision is now final.	No requirement for private employers to use E-Verify	After July 1, 2008, no public employer shall enter into a contract for the physical performance of services within this state unless the contractor registers and participates in E-Verify or the Social Security Number Verification Service (SAVE), or other acceptable verification program to verify the work eligibility status of all new employees. Only applies to contracts entered into after effective date and only to new employees hired after effective date. Public employer means every department, agency, or instrumentality of the state or a political subdivision of the state.	Any contractor or subcontractor who enters into a contract with a public employer to perform services within the state must register and participate in E-Verify or the Social Security Number Verification Service (SAVE), or other acceptable verification program to verify information of all new employees. "Subcontractor" means a subcontractor, contract employee, staffing agency, or any contractor regardless of its tier.

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Pennsylvania HB 2319	No requirement for private employers to use E-Verify	No requirement for public employers to use E-Verify	Forbids any person from knowingly employing or knowingly permitting the labor services of an illegal alien on any project which is financed, in whole or in part, by grants or loans issued by departments, boards, commissions, and other officers and agencies of the executive branch of the commonwealth. HB 2319 provides an affirmative defense where the person requires a contractor to certify compliance with the Federal Immigration Reform and Control Act of 1986 with respect to hiring, recruiting or referral for employment of an alien in the U.S. and has notified the appropriate Federal authority if the person knew the contractor used labor by an illegal alien.
Rhode Island Executive Order 08-01 established mandate for state E-Verify program with an effective date of 05/15/08. Final E-Verify regulations went into effect on 2/18/09 and were upheld by a Rhode Island Superior Court on 4/3/2009.	No requirement for private employers to use E-Verify	The Department of Administration must register and use E-Verify for all new hires in the Executive Branch. "Executive Branch" is defined as "all agencies and departments in the Executive Branch, excluding...the Department of Attorney General, Lieutenant Governor, Secretary of State, and General Treasurer." Executive Order 08-01.	Any person, business, contractor, subcontractor, or grantee doing business with the state must register and use E-Verify and certify E-Verify participation as part of a response to an offer for a bid. "Doing business with" the state includes registering with the Rhode Island Vendor Information Program (RIVIP), submitting a bid offering, responding to a "request for proposals," "request for quotations," "request for information or LOI," receiving a monetary grant, or entering into/ renewing/ or extending a contract to provide goods or services to an Executive Branch department or agency which has resulted in or is expected to result in the issuance of a purchase order. Current contracts are NOT covered. Final regs only apply to contracts entered into after February 18, 2009.

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South Carolina HB 4400 . Effective January 1, 2009; phased in over time.	On and after 07/01/09 all private employers of 100 or more employees, and as of 07/01/10 all employers, must register and participate in the E-Verify program or employ only workers who have a valid South Carolina driver's license or ID card; or are eligible to obtain a South Carolina driver's license or ID card; or have a valid driver's license or ID card from another state where the license requirements are at least as strict as those in South Carolina. "Private employer" is defined as any person carrying on any employment and the legal representative of a deceased person or the receiver or trustee of any person, and any person for whom an individual performs a service, of whatever nature, as an employee.	Starting January 1, 2009, every public employer shall register and participate in E-Verify. Also, a public employer may not enter into a services contract with a contractor for services within the State valued in excess of \$25,000 (or \$15,000 if with a political subdivision of the state) unless the contractor agrees to register and participate in E-Verify and agrees to require agreement from its subcontractors to register and participate in E-Verify or employ only workers who have a valid South Carolina driver's license or ID card or are eligible to obtain either document or have a valid driver's license or ID card from another state where the license requirements are at least as strict as those in South Carolina. "Public employer" means every department, agency, or instrumentality of the State or a political subdivision of the State. "Service contract" is defined as a contract involving the physical performance of manual labor, if the total cost of such labor exceeds either 30% of total cost of all labor or 5% of the contract price, BUT does not include a contract primarily for the acquisition of an end product or a contract for professional or consultant services.	Effective 1/1/09 for contractors with more than 500 employees, 7/1/09 for contractors with 100 to 499 employees, and 1/1/10 for all state contractors, a contractor may not enter into a services contract with a public employer valued in excess of \$25,000 (\$15,000 if with a political subdivision of the state) unless the contractor agrees to register and participate in E-Verify or employ only workers who have a valid South Carolina driver's license or ID card or are eligible to obtain either document or have a valid driver's license or ID card from another state where the license requirements are at least as strict as those in South Carolina, and agrees to require agreement from its subcontractors on the same. "Contractor" means any person having a contract with a public employer valued as stated above. "Service contract" is defined as a contract involving the physical performance of manual labor, if the total cost of such labor exceeds either 30% of total cost of all labor or 5% of the contract price, BUT does not include a contract primarily for the acquisition of an end product or a contract that is predominantly for the performance of professional or consultant services. Enforcement: Should the contractor fail to verify employment eligibility by checking the new employee's driver's license or querying E-Verify, employer will be subject to civil penalties of \$100 to \$1000 for each violation.

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Tennessee HB 729. Effective date January 1, 2008	Tennessee's law provides that E-Verify is an affirmative defense to knowingly hiring illegal aliens.	Tennessee law (HB 111) prohibits the state or any state entity from contacting with any person who knowingly utilizes the services of illegal immigrants in the performance of a contract entered into with the state or any state entity.	
Utah SB 81. Effective date 07/01/09; and SB 251 Effective Date 07/01/2010	Under SB 251, private employers with 15 or more employees are required to verify the employment authorization of all new hires on and after July 1, 2010 through a "status verification system." The law defines "status verification system" broadly to include E-Verify, the Social Security Number Verification System, or another similar program run by the federal government. Notably, the law exempts H-2A and H-2B workers from the verification requirement. The law also includes a "safe harbor" rule. If an employer unlawfully hires an alien without work authorization, the employer cannot be held civilly liable if the employer was registered with and used the status verification system, and the information received from the system indicated the employee had authorization to work in the U.S. Likewise, an employer cannot be held civilly liable if the employer refuses to hire the alien because the information from the status verification system indicated the alien was not authorized for employment by the federal government.	Under SB 81, all public employers shall register with and use an acceptable verification system, including E-Verify and SAVE, to verify the federal employment authorization status of a new employee. "Public employer" means a department, agency, instrumentality, or political subdivision of the state.	Under SB 81, for contracts entered into after 7/1/09 for the physical performance of <u>services</u> within the state, public contractors must register and participate in an acceptable verification system, including E-Verify and SAVE. Contractors are responsible for verifying the employment status of only new employees who work under the contractor's supervision or direction and not those who work for another contractor or subcontractor. Each contractor or subcontractor who works under or for another contractor shall certify to the main contractor by affidavit that the contractor or subcontractor has verified the employment status of each new employee of the respective contractor or subcontractor through E-Verify. Does not apply to contracts entered into before July 1, 2009, or that involve underwriting, remarketing, broker-dealer activities, securities placement, investment advisory, financial advisory, or other financial or investment banking services. "Contractor" means a subcontractor, contract employee, staffing agency, trade union, or any contractor regardless of its tier.
Virginia HB 737 Effective Date 12/01/2012	No requirement for private employers to use E-Verify	Requires public employers to use E-Verify for new hires on or after December 1, 2012.	Virginia has no contractor rule.

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Please note that these state laws are updated frequently, so please contact your Klasko Law Attorney for updates. If you have any questions or would like more information regarding E-Verify state legislation, please contact:

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