

# KANSAS LEGISLATIVE RESEARCH DEPARTMENT

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**To:** Senate Committee on Commerce  
**From:** Kathie Sparks, Principal Analyst  
**Re:** SB 260, An Illegal Alien Prohibited from Performing Work on a Public Contract

SB 260 would prohibit a state agency, a political subdivision, or a quasi-municipal or public corporation (an example would be the Kansas Housing Resource Corporation) from entering into or renewing 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 contracts with a subcontractor who knowingly employs or contracts with an illegal alien to perform work under the contract.

## Contractor Responsibilities

A contractor would be required to certify that it does not employ illegal aliens. In addition, the Act would require that subcontractors must certify to contractors that they do not knowingly employ or contract with illegal aliens. Each public contract must include provisions stating that:

- The contractor shall not knowingly employ or contract with an illegal alien to perform work under a public contract;
- The contractor shall not enter into a contract with a subcontractor that employs or contracts with an illegal alien; and
- The contractor shall cooperate with reasonable investigations conducted by the Kansas Department of Labor (KDOL).

A contractor would be required to participate in, or attempt to participate in, the federal Basic Pilot Program administered by the Department of Homeland Security until such time as the Pilot Program is discontinued. The Pilot Program was created to verify that illegal aliens are not employed by participating entities.

A contractor also would be required to notify the contracting state agency or political subdivision within three days of obtaining knowledge that a subcontractor has knowingly employed or contracted with an illegal alien. The provision further requires such contractors to terminate the contract with the subcontractor within three days if the subcontractor does not stop employing or contracting with the illegal alien.

## **State Agencies' Responsibilities**

The KDOL would be granted authority to investigate public contract compliance related to the employment of illegal aliens. It would be a breach of contract for a contractor to violate these provisions and the contractor would be liable for damages to the agency or political subdivision. The state agency or political subdivision also could terminate the contract. The KDOL could investigate suspected violations. State agencies and political subdivisions would be required to notify the Secretary of State's Office if a contractor violates the provisions of the Act. The Secretary of State's Office would be required to maintain a list of contractors who had public contracts terminated due to failure to comply with the Act. A contractor's name would be removed from the list two years after the contract terminates or if a court determines that there was no violation. The list would be made available to the public and posted on the Internet.

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