
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2334 Session of
2022

INTRODUCED BY R. MACKENZIE, COX, GALLOWAY, M. MACKENZIE, MOUL,
ROWE AND RYAN, FEBRUARY 9, 2022

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, FEBRUARY 9, 2022

AN ACT

1 Amending the act of July 5, 2012 (P.L.1086, No.127), entitled
2 "An act requiring public works contractors and subcontractors
3 to verify employment eligibility; providing for the powers
4 and duties of the Department of General Services; prescribing
5 sanctions; and establishing good faith immunity under certain
6 circumstances," further providing for verification form, for
7 violations and for enforcement and sanctions.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Sections 4(a) and (b), 5(2) and 6 of the act of
11 July 5, 2012 (P.L.1086, No.127), known as the Public Works
12 Employment Verification Act, are amended to read:

13 Section 4. Verification form.

14 (a) General rule for public works contractors.--As a
15 precondition of being awarded a contract for a public work, or
16 with respect to a contract that was awarded prior to the
17 effective date of this subsection but has not yet been executed,
18 prior to the execution of the contract, a public works
19 contractor shall provide the public body with a verification
20 form described in subsection (c), acknowledging its

1 responsibilities under and its compliance with section 3. The
2 verification form shall be accompanied by proof of registration
3 in EVP. A public works contractor with no employees may submit
4 an affidavit swearing that the public works contractor does not
5 have employees in lieu of proof of registration in EVP.

6 Contracts between a public works contractor and its
7 subcontractors shall contain information about the requirements
8 of this act.

9 (b) General rule for subcontractors.--Prior to commencing
10 work on a public works project, a subcontractor shall provide
11 the public body with a verification form described in subsection

12 (c) acknowledging its responsibilities and its compliance with
13 section 3. The verification form shall be accompanied by proof
14 of registration in EVP. A subcontractor with no employees may
15 submit an affidavit swearing that the subcontractor does not
16 have employees in lieu of proof of registration in EVP.

17 Contracts between a subcontractor and its subcontractors shall
18 contain information about the requirements of this act.

19 * * *

20 Section 5. Violations.

21 It is a violation of this act for a public works contractor
22 or subcontractor on a public work to:

23 * * *

24 (2) Not provide the verification form as required under
25 section 4, accompanied by proof of registration in EVP or an
26 affidavit stating that the public works contractor or
27 subcontractor does not have employees, or to make a false
28 statement or misrepresentation with respect to completing the
29 form.

30 Section 6. Enforcement and sanctions.

1 (a) General rule.--The department shall enforce this act.

2 (b) Investigation of complaints.--The department shall
3 accept, review and investigate in a timely manner any credible
4 complaint that a public works contractor or subcontractor has
5 violated a provision of this act. The department shall provide
6 confirmation of receipt of a complaint to the person making a
7 complaint. If a complaint does not include enough specific
8 information to initiate an investigation, the department shall
9 inform the person making the complaint of what additional
10 information is needed to initiate an investigation within 30
11 days of receipt of the complaint.

12 (b.1) Verification.--Prior to the execution of a contract
13 with a public works contractor and prior to the commencement of
14 work by a subcontractor, the public body shall certify that the
15 public works contractor or subcontractor has provided the
16 verification form and proof of registration in EVP or an
17 affidavit stating that the public works contractor or
18 subcontractor does not have employees.

19 (c) Audits.--To ensure compliance with the requirements of
20 this act, the department shall conduct complaint-based and
21 random audits of public works contractors and subcontractors in
22 this Commonwealth.

23 (c.1) Reimbursement.--A public works contractor or
24 subcontractor shall reimburse the department for the cost of an
25 audit if the public works contractor or subcontractor:

26 (1) is debarred from work under a contract under
27 subsection (d); or

28 (2) is subject to a civil penalty under subsection (e).

29 (d) Sanctions.--The following sanctions shall apply only to
30 a violation under section 5(1):

1 (1) For a first violation, a public works contractor or
2 subcontractor shall receive a warning letter from the
3 department detailing the violation. The letter shall be
4 posted on the department's Internet website.

5 (2) For a second violation, a public works contractor or
6 subcontractor shall be debarred from public work for [~~30~~] 60
7 days.

8 (3) For a third violation and subsequent violations, a
9 public works contractor or subcontractor shall be debarred
10 from public work for not less than [~~180 days~~] one year and
11 not more than [~~one year~~] two years.

12 (4) In the case of an alleged willful violation, the
13 secretary shall file a petition in Commonwealth Court seeking
14 to have the court issue a rule to show cause why a public
15 works contractor or subcontractor did not engage in the
16 willful violation. If the court finds that the public works
17 contractor or subcontractor engaged in a willful violation,
18 the court shall order that the public works contractor or
19 subcontractor be debarred from public work for a period of
20 [~~three~~] five years.

21 (5) Notwithstanding the provisions of paragraph (1), (2)
22 or (3), a violation by a public works contractor or
23 subcontractor that occurs ten years or more after a prior
24 violation shall be deemed to be a first violation.

25 (6) For the purposes of assessing sanctions, violations
26 committed by a contractor or subcontractor subject to this
27 act involving a single public works contract shall be
28 considered a single violation despite the number of employees
29 that are the subject of the violations.

30 (e) Civil penalty.--A public works contractor or

1 subcontractor that violates section 5(2) shall be subject to a
2 civil penalty of [not less than \$250 and not more than \$1,000
3 for each violation,] 2.5% of the amount that the public works
4 contractor or subcontractor will be paid under the contract for
5 a first violation, and 5% of the amount that the public works
6 contractor or subcontractor will be paid under the contract for
7 a second or subsequent violation, to be imposed by the
8 department.

9 (f) Notice and appeal.--Actions taken by the department
10 under subsections (d)(1), (2) and (3) and (e) shall be subject
11 to the notice, appeal and other provisions of 2 Pa.C.S.
12 (relating to administrative law and procedure).

13 Section 2. This act shall take effect in six months.