A bill to be entitled
An act relating to the verification of employment eligibility; amending s. 448.09, F.S.; providing definitions; requiring public employers, contractors, and subcontractors to register with and use the E-Verify system; prohibiting such entities from entering into a contract unless each party to the contract registers with and uses the E-Verify system; requiring a subcontractor to provide a contractor with a certain affidavit; requiring a contractor to maintain a copy of such affidavit; authorizing the termination of a contract under certain conditions; providing that such termination is not a breach of contract; authorizing a challenge to such termination; requiring private employers to verify the employment eligibility of newly hired employees, beginning on a specified date; providing an exception; providing acceptable methods for verifying employment eligibility; requiring a private employer to provide a public employer with a certain affidavit in order to bid on or otherwise contract with the public employer; authorizing the termination of a contract under certain conditions; providing that such termination is not a breach of contract; providing certain liability if a contract is terminated; providing specified immunity and nonliability for private employers; creating a rebuttable presumption for private employers; providing construction; providing an effective date.
Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 448.09, Florida Statutes, is amended to read:

448.09 Unauthorized aliens; employment prohibited.—

(1) EMPLOYMENT ELIGIBILITY.—It **shall be** unlawful for any person **or entity to** knowingly to employ, hire, recruit, or refer, either for herself or himself or on behalf of another, for private or public employment within the state, an alien who is not duly authorized to work by the immigration laws or the Attorney General of the United States.

(2) DEFINITIONS.—As used in this section, the term:

(a) “Contractor” means a person or an entity that has entered or is attempting to enter into a contract with a public employer to provide labor, supplies, or services to such employer in exchange for salary, wages, or other remuneration.

(b) “Employee” means a person filling an authorized and established position who performs labor or services for a public or private employer in exchange for salary, wages, or other remuneration.

(c) “E-Verify system” means an Internet-based system operated by the United States Department of Homeland Security that allows participating employers to electronically verify the employment eligibility of newly hired employees.

(d) “Legal alien” means a person who is or was lawfully present or permanently residing legally in the United States and allowed to work at the time of employment and remains so throughout the duration of that employment.

(e) “Private employer” means a person or an entity that
employs persons to perform labor or services in exchange for 
salary, wages, or other remuneration. The term does not include:

1. A public employer;
2. The occupant or owner of a private residence who hires:
   a. Casual labor, as defined in s. 443.036, to be performed 
      entirely within the private residence; or
   b. A licensed independent contractor, as defined in federal 
      laws or regulations, to perform a specified portion of labor or 
      services; or
3. An employee leasing company licensed under part XI of 
   chapter 468 that enters into a written agreement or 
   understanding with a client company which places the primary 
   obligation for compliance with this section upon the client 
   company. In the absence of a written agreement or understanding, 
   the employee leasing company is responsible for compliance with 
   this section. Such employee leasing company shall, at all times, 
   remain an employer as otherwise defined in federal laws or 
   regulations.

(f) “Public employer” means an agency within state, 
regional, county, local, or municipal government, whether 
executive, judicial, or legislative, or any public school, 
community college, or state university that employs persons who 
perform labor or services for that employer in exchange for 
salary, wages, or other remuneration or that enters or attempts 
to enter into a contract with a contractor.

(g) “Subcontractor” means a person or an entity that 
provides labor, supplies, or services to or for a contractor or 
another subcontractor in exchange for salary, wages, or other 
remuneration.
(h) “Unauthorized alien” means a person who is not authorized under federal law to be employed in the United States, as described in 8 U.S.C. s. 1324a(h)(3). The term must be interpreted consistently with that section and any applicable federal rules or regulations.

(3) PUBLIC EMPLOYERS, CONTRACTORS, AND SUBCONTRACTORS.—

(a) Beginning January 1, 2021, every public employer, contractor, and subcontractor shall register with and use the E-Verify system to verify the work authorization status of all newly hired employees. A public employer, contractor, or subcontractor may not enter into a contract unless each party to the contract registers with and uses the E-Verify system.

(b)
1. If a contractor enters into a contract with a subcontractor, the subcontractor must provide the contractor with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien.

2. The contractor shall maintain a copy of such affidavit for the duration of the contract.

(c)
1. A public employer, contractor, or subcontractor who has a good faith belief that a person or an entity with which it is contracting has knowingly violated subsection (1) shall terminate the contract with the person or entity.

2. A public employer that has a good faith belief that a subcontractor knowingly violated this subsection, but the contractor otherwise complied with this subsection, shall promptly notify the contractor and order the contractor to immediately terminate the contract with the subcontractor.

3. A contract terminated under subparagraph 1. or
subparagraph 2. is not a breach of contract and may not be considered as such.

(d) A public employer, contractor, or subcontractor may file an action with a circuit or county court to challenge a termination under paragraph (c) no later than 20 calendar days after the date on which the contract was terminated.

(e) If a public employer terminates a contract with a contractor under paragraph (c), the contractor may not be awarded a public contract for at least 1 year after the date on which the contract was terminated.

(4) PRIVATE EMPLOYERS.—

(a) Beginning January 1, 2021, a private employer shall, after making an offer of employment which has been accepted by a person, verify such person’s employment eligibility. A private employer is not required to verify the employment eligibility of a continuing employee hired before January 1, 2021. However, if a person is a contract employee retained by a private employer, the private employer must verify the employee’s employment eligibility upon the renewal or extension of his or her contract.

(b) A private employer shall verify a person’s employment eligibility by:

1. Using the E-Verify system; or
2. Requiring the person to provide a picture identification card that complies with the Real ID Act of 2005, Pub. L. No. 109-13, and a certified copy of one of the following documents:
   a. A United States birth certificate;
   b. A certificate of naturalization;
   c. A certificate of citizenship;
d. An alien registration receipt card; or

e. A United States immigration form I-94 stamped to indicate “employment authorized.”

The private employer must retain a copy of the documents provided under this subparagraph for at least 3 years after the person’s initial date of employment.

(c) A private employer may not bid on or otherwise contract with a public employer for the performance of labor or services in this state unless the private employer provides the public employer with an affidavit stating that:

1. The private employer is registered with and uses the E-Verify system to verify that all newly hired employees are legal citizens of the United States or legal aliens.

2. The private employer will continue to use the E-Verify system to verify the employment eligibility of all newly hired employees for the duration of the contract.

3. The private employer requires all subcontractors to provide an affidavit stating compliance with subparagraphs 1. and 2.

(d) 1. A private employer that violates this subsection may be subject to termination of its public contract, if applicable, and may not be awarded a public contract for at least 1 year after the date on which the contract was terminated. The termination of the contract is not a breach of contract and may not be considered as such.

2. A private employer is liable for any additional costs incurred by the public employer as a result of the termination of the contract.
(e) A private employer that complies with this subsection may not be held civilly or criminally liable under state law for hiring, continuing to employ, or refusing to hire an unauthorized alien if the information obtained under paragraph (b) indicates that the person’s work authorization status was not that of an unauthorized alien.

(f) For purposes of this subsection, compliance with paragraph (b) creates a rebuttable presumption that a private employer did not knowingly employ an unauthorized alien in violation of subsection (1).

(5) PENALTIES.—

(a) The first violation of subsection (1) is a noncriminal violation as defined in s. 775.08(3) and, upon conviction, is punishable as provided in s. 775.082(5) by a civil fine of not more than $500, regardless of the number of unauthorized aliens with respect to whom the violation occurred.

(b) Any person who has been previously convicted for a violation of subsection (1) and who thereafter violates subsection (1) commits, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Any such subsequent violation of this section constitutes a separate offense with respect to each unauthorized alien.

(6) CONSTRUCTION.—This section shall be enforced without regard to race, color, or national origin and shall be construed in a manner so as to be fully consistent with any applicable federal laws or regulations.

Section 2. This act shall take effect July 1, 2020.