

# SB 2028

## **RELATING TO E-VERIFY**

*Description:*

Requires purchasing agencies that entering in to any procurement contract to obtain proof that the responsible bidder or offeror uses the e-verify system to verify employment eligibility.

DEPARTMENT OF BUDGET AND FISCAL SERVICES  
**CITY AND COUNTY OF HONOLULU**  
530 SOUTH KING STREET, ROOM 208 • HONOLULU, HAWAII 96813  
PHONE: (808) 768-3900 • FAX: (808) 768-3179 • INTERNET: www.honolulu.gov

PETER B. CARLISLE  
MAYOR



MICHAEL R. HANSEN  
DIRECTOR

NELSON H. KOYANAGI, JR.  
DEPUTY DIRECTOR

TESTIMONY OF MICHAEL R. HANSEN, DIRECTOR  
DEPARTMENT OF BUDGET AND FISCAL SERVICES  
CITY AND COUNTY OF HONOLULU

Sen. Will Espero, Chair,  
Sen. Michelle N. Kidani, Vice Chair,  
and Members of Committee on  
Public Safety, Government Operations,  
and Military Affairs  
The Senate  
The Twenty-Fifth State Legislature  
State Capitol  
Honolulu, Hawaii 96813

Dear Chair Espero, Vice Chair Kidani and Members:

Subject: PGM Hearing - February 7, 2012 at 2:45 p.m. HST  
Senate Bill No. 2028 Relating to E-Verify

Thank you for the opportunity to testify on S.B. 2028. The City & County of Honolulu understands the intent of the bill. However, the City strongly opposes S.B. 2028 which requires purchasing agencies that enter into any procurement contract to obtain proof that the responsible bidder or offeror uses the e-verify system to verify employment eligibility.

The bill's proposed e-verify contractual requirements has unintended consequences for the state. These requirements have the potential to 1) increase the number of bid protests received which puts projects' funding and timeliness in risk, 2) unnecessarily delay the execution of contracts which in turn extends the overall timeline of projects, 3) reduce the overall bidding vendor/contractor base as government contracts become less appealing because of their increased administrative burden. All these consequences will adversely affect the costs and quality of the services received by the State.

Furthermore, the bill's requirements are at odds with the Code of Federal Regulations (CFR) guidelines for the e-verify system. This bill requires the e-verify contract provision for "all procurement contracts" while the CFR exempts contracts that are below \$100,000.00, or are for the furnishing of commercially available off-the-shelf items, or have a contract term of less than 120 days. Also, this bill requires the enrollment into the e-verify system as a prerequisite of entering into the contract while the CFR requires the contractor to enroll within 30 calendar days of contract award.

Thank you.



# HAWAI'I CIVIL RIGHTS COMMISSION

830 PUNCHBOWL STREET, ROOM 411 HONOLULU, HI 96813 PHONE: 586-8636 FAX: 586-8655 TDD: 568-8692

February 7, 2012  
2:45 pm  
Conference room 224

To: The Honorable Will Espero, Chair,  
and Members of the Senate Committee on Public Safety,  
Government Operations and Military Affairs

From: Linda Hamilton Krieger, Chair,  
and Commissioners of the Hawai'i Civil Rights Commission

Re: S.B. No. 2028

The Hawai'i Civil Rights Commission (HCRC) has enforcement jurisdiction over state laws prohibiting discrimination in employment, housing, public accommodations, and access to state and state-funded services. The HCRC carries out the Hawai'i constitutional mandate that "no person shall be discriminated against in the exercise of their civil rights because of race, religion, sex or ancestry". Art. I, Sec. 5.

The HCRC opposes S.B. No. 2028 which would add a section to Hawai'i Revised Statutes Chapter 103D to require all purchasing agencies procuring goods or services to require all bidders or offerors to use the E-Verify program to verify the employment eligibility of their employees. E-Verify is a federal program under which certain employers and contractors enter into a memorandum of understanding with the Department of Homeland Security and Social Security Administration regarding the use

of the program to verify the employment eligibility of all newly hired employees.

There are several reasons for HCRC opposition to S.B. No. 2028:

- 1) All employers are already required by federal law to verify identity and employment authorization by I-9 verification after an offer of employment. A state law requiring the additional mandatory use of the E-Verify system for all state contractors would impose a requirement greater than federal law. Federal law only requires the use the E-Verify system for specific classes of employers (certain federal contractors, employers previously convicted of hiring unauthorized workers, and employers in states that require the use of E-Verify) and not for all employers or contractors.
- 2) Enactment of this proposed state law requirement would raise a number of concerns, including: the need for state enforcement of federal program requirements; preemption issues; continuing problems with false negative E-Verify results that prevent non-citizens who are authorized to work from getting employment; and, contribution to anti-immigrant sentiment and ancestry discrimination.

The HCRC opposes S.B. No. 2028, and urges the Committee to hold this measure.