1 SB71
2 194406-2
3 By Senators Orr, Holley and Allen
4 RFD: Governmental Affairs
5 First Read: 05-MAR-19
SYNOPSIS: Existing law prohibits businesses from knowingly employing or hiring unauthorized aliens to perform work within the State of Alabama and provides penalties.

This bill would require any person who applies for a business license or permit from a municipality or county and who employs five or more persons to prove enrollment in E-Verify prior to issuance of a business license or permit, and would provide penalties.

Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the
affected entity; or the Legislature appropriates funds, or provides a local source of revenue, to the entity for the purpose.

The purpose or effect of this bill would be to require a new or increased expenditure of local funds within the meaning of the amendment. However, the bill does not require approval of a local governmental entity or enactment by a 2/3 vote to become effective because it comes within one of the specified exceptions contained in the amendment.

A BILL
TO BE ENTITLED
AN ACT

Relating to immigration; to add Section 31-13-15.1 to the Code of Alabama 1975, to require all business license and permit applicants who employ five or more persons to prove enrollment in E-Verify prior to the issuance of a business license or permit by a municipality or county; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:
Section 1. Section 31-13-15.1 is added to the Code of Alabama 1975 to read as follows:

§ 31-13-15.1

(a)(1) Before any county or municipality issues a business license, permit, or other document required to operate a business to any person employing at least five persons, the person shall provide evidence that he or she is enrolled in E-Verify or shall provide evidence this section does not apply to the person. Evidence of use of E-Verify shall be in the form of an affidavit as provided by the Attorney General in subsection (b) attesting that the person uses E-Verify in accordance with federal regulations, that the person employs fewer than five persons, or that the person otherwise is not subject to the requirements of this section. The affidavit shall include the employer's federal work authorization user identification number and the date of enrollment unless the applicant is not subject to the requirements of this subsection.

(2) Upon satisfying the requirements of subdivision (1), for all subsequent renewals of a business license, permit, or other document, the person shall submit the federal work authorization user identification number to the county or municipality or assert that the person is exempt from this requirement, provided the federal work authorization user number provided for the renewal is the same federal work authorization user number provided in the affidavit under subdivision (1). If the federal work authorization user number
is different than the federal work authorization user number
provided in the affidavit under subdivision (1), then the
person shall be subject to the requirements of subsection (c).

(b) The Attorney General shall provide to the public
a standardized form affidavit which shall be used as
acceptable evidence demonstrating use of E-Verify or that
subsection (a) does not apply to the applicant. The form
affidavit shall be posted by the Attorney General on the
official website of the Office of the Attorney General no
later than January 1, 2020.

(c) Once an applicant for a business license,
permit, or other document required to operate a business has
submitted an affidavit with a federally assigned employment
eligibility verification system user number, the person may
not submit a renewal application using a new or different
federally assigned employment eligibility verification system
user number unless the application is accompanied by a sworn
document explaining the reason the applicant obtained a new or
different federally assigned employment eligibility
verification system user number.

(d)(1) Any person presenting false or misleading
evidence of business licensure shall be guilty of a Class C
misdemeanor.

(2) Any official or employee of a county or
municipality knowingly acting in violation of this subsection
shall be guilty of a Class C misdemeanor.
(3) Any person who knowingly submits a false or misleading affidavit pursuant to subsection (a) shall be guilty of a Class C misdemeanor.

(4) It shall be a defense to a violation of this subsection that the person acted in good faith and made a reasonable attempt to comply with its requirements.

Section 2. Although this bill would have as its purpose or effect the requirement of a new or increased expenditure of local funds, the bill is excluded from further requirements and application under Amendment 621, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, because the bill defines a new crime or amends the definition of an existing crime.

Section 3. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.