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SECRETARY OF STATE
PUBLICATIONS

STATE OF TENNESSEE

EXECUTIVE ORDER

BY THE GOVERNOR

Number 41

AN ORDER REGARDING COMPLIANCE WITH FEDERAL AND STATE LAWS RELATED TO EMPLOYING AND CONTRACTING WITH ILLEGAL IMMIGRANTS

WHEREAS, over the last several years, substandard enforcement of federal immigration laws by the federal government has resulted in a massive influx of immigrants coming into the United States illegally; and

WHEREAS, recent studies have indicated that as many as 3,000,000 illegal immigrants are coming in to the United States annually; many of these illegal immigrants have migrated and are continuing to migrate to Tennessee; and

WHEREAS, although most illegal immigrants enter the United States for the peaceful purpose of pursuing a better life for themselves and their families, their failure to pursue lawful avenues for entering this country places an enormous burden on state resources, the citizens of this state, other individuals who are residing in this state legally, and the illegal immigrants themselves; and

WHEREAS, while the federal government has both the exclusive authority and supreme responsibility to secure the borders of this country and to enforce federal laws prohibiting illegal immigration into the United States, the State of Tennessee is committed to assisting the United States government in carrying out this vital function; and

WHEREAS, the lure of employment is a primary factor that attracts illegal immigrants to the United States and the State of Tennessee; and

WHEREAS, Tennessee Code Annotated Section 50-1-103 prohibits individuals and businesses within Tennessee from knowingly employing or referring for employment any individual who has illegally entered the United States; and

WHEREAS, to ensure that state government complies fully with the letter and spirit of this law, on June 15, 2006, I signed into law House Bill No. 111, later assigned Public Chapter No. 878, which specifically prohibits the state or any state entity from contracting with any person who knowingly utilizes the services of illegal immigrants in the performance of a contract entered into with the state or any state entity; and

WHEREAS, this Administration is committed to enforcing the requirements of this new law in a manner to ensure that the State of Tennessee effectively discourages illegal immigration into this state and recognizes that while Public Chapter No. 878 does not take effect until January 1, 2007, many of its provisions can be implemented immediately through executive action.

NOW THEREFORE, I, Phil Bredesen, Governor of the State of Tennessee, by virtue of the power and authority vested in me by the Tennessee Constitution and law, do hereby order and direct the following:

1. The Commissioner of Finance and Administration is directed to immediately begin promulgating rules and regulations to effectuate Public Chapter No. 878 in order to ensure full compliance with both the letter and spirit of this law.

2. The Department of Finance and Administration is directed to develop policies to ensure that all contracts entered into by an Executive branch state entity are in compliance with the provisions of Public Chapter 878 and this Executive Order. The Department of Finance and Administration is directed further to assist each Executive branch state entity in implementing procedures, including, if appropriate, random checks of the personnel records of entities with which they contract, to ensure compliance with Public Chapter 878 and this Executive Order.

3. In addition to attesting to compliance with Public Chapter 878 upon entering into a contract, as required by Public Chapter 878, each Executive branch state entity that enters into a state contract shall require contractors to update such attestations at least semi-annually during the term of the contract. Contractors shall also be required to obtain such semi-annually attestations from any subcontractor utilized to perform work that is the subject of the state contract. Attestations obtained from such subcontractors shall be maintained by the contractor and made available to state officials performing the random checks described in paragraph two (2) above.

4. To the extent possible under existing law and the terms of such contracts, each Executive branch state entity shall apply and enforce the provisions of both Public Chapter 878 and this Executive Order both to all current and future contracts to which their entity is a party.

5. In order to carry out the provisions of this Executive Order, every contract procurement initiated by an Executive branch state entity on or after October 1, 2006, shall include the following:

   a. Explicit language deeming the requirements of Public Chapter 878 a material provision of the contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of the contract.

   b. Language explicitly establishing the authority of the state to conduct random checks of personnel records, as described above in paragraph two (2).

   c. Language requiring the semi-annually attestations and requiring contractors to obtain such semi-annually attestations from any subcontractor utilized to perform work that is the subject of the state contract, as described above in paragraph three (3). Attestations obtained from such subcontractors shall be maintained by the contractor and made available to state officials upon request.

IN WITNESS WHEREOF, I have subscribed my signature and caused the Great Seal of the State of Tennessee to be affixed this 5th day of September, 2006.

GOVERNOR

ATTEST:

SECRETARY OF STATE