Alabama Enacts Comprehensive Immigration Law

Insights
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On June 9, 2011, Gov. Robert Bentley signed into law the Beason-Hammon Alabama Taxpayer and Citizen Protection Act described as the toughest immigration law in the country. The new law 1) requires Alabama businesses to participate in E-Verify no later than April 1, 2012 to confirm the work authorization of new hires; 2) prohibits employers from terminating or refusing to hire a U.S. citizen or work-authorized individual while retaining or hiring an individual that the employer knows or reasonably should have known was unauthorized; 3) disallows as a business deduction any wage or compensation paid to an unauthorized alien; and, 4) makes it a crime to knowingly transport or harbor an individual who is not lawfully present in the U.S.

The law echoes federal law by requiring that Alabama employers shall not knowingly employ, hire, or continue to employ an unauthorized alien. Knowing violations of this requirement could result in a three-year probationary period, termination of every unauthorized alien, and suspension or revocation of the business licenses and permits. Relying on the results of an E-Verify query will provide an affirmative defense that the employer did not knowingly hire or employ an unauthorized alien. In addition, an employer that verifies the employment eligibility of an employee in good faith through the E-Verify program, and acts in good faith in accordance with all federal laws, will be immune from liability under Alabama law for any wrongful discharge or retaliation action.

Starting January 1, 2012, any business awarded a state contract or grant must present a sworn, notarized affidavit that it will not knowingly employ, hire, or continue to employ an unauthorized alien, and must provide evidence that it is enrolled in E-Verify and will continue to use it during the contract performance period. This requirement also applies to subcontractors on state contracts. Any violation of this provision will be considered a breach of contract and may result in suspension or revocation of the business license or permits.

It will be important for Alabama businesses and employers to become familiar with the E-Verify program and take necessary steps to enroll. For more information contact your local Fisher Phillips attorney or any member of our Global Immigration Practice Group.

This Global Immigration Alert provides an overview of a specific new law. It is not intended to be, and should not be construed as, legal advice on any particular fact situation.

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