

**REMINDER: LB 403 REQUIREMENTS REGARDING
PUBLIC BENEFITS, EMPLOYMENT, AND CONTRACTING
EFFECTIVE OCTOBER 1, 2009**

*David J. A. Bargaen, Esq.
Rembolt Ludtke LLP*

Municipalities and other Nebraska political subdivisions and state agencies must comply with the requirements of LB 403 in the dispensing of public benefits, hiring of employees, and public contracting starting October 1, 2009.

LB 403 was signed into law in April, 2009. The thrust of the legislation is to ensure that public benefits, public jobs, and public contracts in Nebraska go to persons who are lawfully present in the United States.

The legislation provides that “[e]very agency or political subdivision of the State of Nebraska shall verify the lawful presence in the United States of any person who has applied for public benefits administered by an agency or a political subdivision of the State of Nebraska.” The legislation defines “public benefit” as:

any grant, contract, loan, professional license, commercial license, welfare benefit health payment or financial assistance benefit, disability benefit, public or assisted housing benefit, post-secondary education benefit involving direct payment of financial assistance, food assistance benefit, or unemployment benefit or any other similar benefit provided by or for which payments or assistance are provided to an individual, a household, or a family eligibility unit by an agency of the United States, the State of Nebraska, or a political subdivision of the State of Nebraska.

The legislation excludes from “public benefit” a number of services broadly related to certain types of health care, disaster relief, and charitable aid. Verification of lawful presence requires that the applicant for public benefits attest that s/he is a United States citizen, or that s/he is a qualified alien under the federal Immigration and Nationality Act and is lawfully present in the United States. The Nebraska Department of Administrative Services has developed an attestation form that can be used, and is available at www.das.state.ne.us. If the applicant attests s/he is a qualified alien, the political subdivision must then verify lawful presence using the U.S. Department of Homeland Security’s SAVE (Systematic Alien Verification for Entitlements) Program. If they have not already done so, political subdivisions should get registered for SAVE immediately in order to have the service in place by October 1. Information about SAVE and instructions to register can be found on the U.S. Citizenship and

**Municipal Law
Practice Group**

David J. A. Bargaen
dbargaen@remboltludtke.com

Mark A. Fahleson
mfahleson@remboltludtke.com

Timothy L. Moll
tmoll@remboltludtke.com

Rembolt Ludtke LLP
Attorneys at Law

MAIN OFFICE

**1201 Lincoln Mall, Suite 102
Lincoln, NE 68508
Fax: 402 / 475-5087
402 / 475-5100**

BRANCH OFFICES

**125 South 6th Street
Seward, NE 68434
Fax: 402 / 643-3969
402 / 643-4770**

**3280 Woodridge Boulevard
Suite 160
Grand Island, NE 68801
308 / 384-6888**

www.remboltludtke.com

We find the way®

Immigration Services web site at www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=1721c2ec0c7c8110VgnVCM1000004718190aRCRD&vgnextchannel=1721c2ec0c7c8110VgnVCM1000004718190aRCRD.

LB 403 also impacts public hiring. All public employers in the state are required to register with and use a federal immigration verification system, or E-Verify, to determine work eligibility of all new hires on or after October 1 who will physically perform work within the state. The requirement applies to permanent and temporary employees.

LB 403 also mandates new requirements for public contracts entered into on or after October 1, 2009. The legislation provides “[e]very contract between a public employer and public contractor shall contain a provision requiring the public contractor to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska.” Thus, what the law requires political subdivisions to do to verify employment eligibility for its new hires, the law also requires companies contracting with a political subdivision to do the same for its new hires. The Nebraska Department of Administrative Services states that if the contractor is an individual, the attestation form and procedure for public benefits should be used. The Department has drafted contract language that will satisfy the legislation’s requirement, and can be found at www.das.state.ne.us.

More information is available on the Nebraska Department of Administrative Services web site at www.das.state.ne.us, and information on signing up for E-Verify and other information may be found at the U.S. Citizenship and Immigration Services web site at www.uscis.gov/portal/site/uscis.

David Barga is an associate with the Lincoln-based law firm of Rembolt Ludtke LLP and may be reached at (402) 475-5100 or dbarga@remboltludtke.com. This article is provided for general information purposes only and should not be construed as legal advice. Those requiring legal advice are encouraged to consult with their attorney.