Employers in the nation’s third largest state have a lot of new employment law items to consider this fall. Following is a summary of some of the more significant items affecting those with workers in the Sunshine State.

**New Independent Contractor Reporting Law**

Florida’s newest employment law, effective October 1, 2021, requires Florida employers to report newly retained independent contractors in the same manner as they report new employees to the Florida Department of Revenue’s State Directory of New Hires.

The law requires a service recipient to report to the Department any newly engaged, non-employee to whom the service recipient pays more than $600 in a calendar year for services performed by the individual *in the course of the service recipient’s trade*
or business. Fortunately, this does not mean that the average homeowner will need to start reporting their plumber or housekeeper, but the average business owner must. Previously, the law only required that employers report newly hired employees to the Department, while reporting independent contractors was optional.

To comply with the law, employers must report the following: the independent contractor’s name; address; Social Security number (or other identifying number assigned under Section 6109 of the Internal Revenue Code); the date services for payment were first performed by the individual; and the name, address, and employer identification number of the service recipient.

The information must be submitted on the Florida New Hire Reporting Center website within twenty days after the first payment to the independent contractor, or the date the business and independent contractor entered into contract, whichever is earlier.

A Minimum Wage Increase

On November 3, 2020, Florida voters approved a constitutional amendment to gradually increase the state’s minimum wage each year until reaching $15 per hour in September 2026. Consequently, on September 30, 2021, Florida’s minimum wage increased from $8.65 to $10 per hour – the largest percentage increase in the state’s history.

Florida businesses must display Federal and State of Florida employment law posters where employees can easily view them. The federal minimum wage poster is available here, and Florida’s updated minimum wage poster can be found here.

A Reminder on the E-Verify System Requirements

Effective January 1, 2021, Florida’s E-Verify mandates took effect, requiring public and private employers to comply. The Statute, § 448.095, makes the use of the web-based E-Verify system, regulated by the Department of Homeland Security, mandatory for all government and public employers.

Pursuant to this statute, every public employer, contractor, and subcontractor in the state of Florida is required to enroll in and use the E-Verify system in order to verify the identity and confirm the eligibility of all new employees. The Statute defines a “contractor” as a person or entity that has entered into or is attempting to enter into a contract with a public employer to provide labor, supplies, or services to the public employer in exchange for salary, wages, or other remuneration. A public employer includes any state, region, county, local or municipal government, public school, community college, or state university.

Moreover, no public contract can be entered into without an E-Verify certificate. Any subcontractor working on a public contract must provide the contractor with an affidavit (which must be retained by the contractor during the duration of the contract), stating that the subcontractor does not employ, contract with or subcontract with unauthorized aliens. Contractors will need to go through this process for all public projects, and they cannot enter into a contract with another
party unless the party registers and uses the E-Verify system.

The new law also requires a party to a public contract to terminate the contract if it has a good-faith belief that another party to the contract is employing an unauthorized person, or is not enrolled in and using E-Verify.

Finally, the law applies to all private employers in two cases:

1) If the private employer applies for taxpayer-funded incentives through the state Department of Economic Opportunity.

2) If the private employer has a contract with a public employer.

Regardless, however, all Florida private employers must still complete and maintain I-9 Employment Eligibility Verification forms for the duration of an employee’s employment, and for at least one (1) year from the date the employee is terminated or three (3) years from hire, whichever is later under the federal Immigration Reform and Control Act of 1986. Finally, under the new Florida law, any private employer who does not use E-Verify must also maintain copies of the documents used to complete the Form I-9 for three (3) years.

Florida employers should remain in compliance with the adoption of these new requirements and use of the E-Verify system

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