

Employers who do not participate in the E-Verify program are subject to a fine of not more than \$5,000 for the first offense, and not more than \$25,000 for the second offense. Subsequent offenses are subject to a fine of not more than \$25,000 and up to a six-month suspension of all the employer's business licenses. The bill includes a safe harbor provision for employers that comply in good faith with the act but unintentionally or unknowingly employ an authorized alien or wrongfully terminate an employee after receiving a final notice of nonconfirmation of work eligibility through the E-Verify program.

The Department of Labor and Employment (DOLE) must include notification of the bill requirements in its quarterly electronic publication to employers and on its website. The Secretary of State is also required to post the bill requirements on its website.

State Expenditures

This bill has no overall increase in expenditures. Under current law, the Division of Labor in the DOLE requires employers to maintain specific documentation including an affirmation that the employer has examined specific documents to confirm the legal work status of each newly hired employee. The director of the division can conduct random audits of this documentation or, if he suspects that an employer has not complied with the employment verification requirements, require the employer to submit the documentation. Under House Bill 12-1309, the E-Verify employment eligibility information the employer receives through the program will replace the documents required under current law. Part of the current verification process focuses on state contracting and is funded by the Executive Director's Office statewide indirect cost recoveries. HB12-1309 combines all the employment verification process functions under the Division of Labor funded by the Employment Support Fund. For FY 2012-13 this is a \$78,503 and 1.0 FTE reduction from the Executive Director's Office and corresponding increase to the Employment Support Fund. For FY 2013-14, these amounts are \$156,610 and 1.9 FTE. Because the reduction is made to statewide indirect costs recoveries, these moneys are appropriated to the DPA to supplant General Fund.

The bill requires that all state agencies participate in E-Verify. The fiscal note assumes that each agency will enroll as an individual employer with the United States Department of Homeland Security and perform its own employment verification through the program. This is expected to result in a small increase in workload for startup but should not affect the time required to verify legal work status. The Division of Human Resources in the Department of Personnel and Administration (DPA) will develop expertise and technical assistance on the E-Verify program and provide assistance to all agencies in implementing the E-Verify program. This will require 166 hours of staff time that can be addressed within existing appropriations.

Local Government Impact

As employers, local governments will be required to participate in E-Verify. For those not already using the program, this will require entering into agreements with the United States Department of Homeland Security and implementing the use of E-Verify. This is expected to be done within existing resources.

State Appropriations

For FY 2012-13, the following adjustments are required:

- Reduction of \$78,305 and 1.0 FTE from the DOLE Executive Directors Office, reappropriated funds;
- Increase of \$78,305 to the DPA Office of the State Controller, reappropriated funds;
- Reduction of \$78,305 from the General Fund; and
- Increase of \$78,305 and 1.0 FTE to the Employment Support Fund.

Departments Contacted

All agencies