

  
*Colorado Legislative Council Staff Fiscal Note*  
**STATE**  
**FISCAL IMPACT**

**Drafting Number:** LLS 07-0262  
**Prime Sponsor(s):** Sen. Schultheis  
 Rep. Lambert

**Date:** January 10, 2007  
**Bill Status:** Senate SVMA  
**Fiscal Analyst:** Gary J. Estenson (303-866-4976)

**TITLE:** CONCERNING EMPLOYER PARTICIPATION IN THE EXTENDED FEDERAL BASIC EMPLOYMENT VERIFICATION PILOT PROGRAM FOR THE PURPOSE OF DETERMINING THE WORK ELIGIBILITY STATUS OF EMPLOYEES.

Fiscal Impact Summary	FY 2007-2008	FY 2008-2009
<b>NET TOTAL</b>		
<b>State Revenue</b>	\$0	\$0
<b>State Expenditures</b>	\$144,172	\$141,167
<b>FTE Position Change</b>	1.0 FTE	1.0 FTE
<b>State Revenue Detail</b>		
Cash Funds - Employment Support Fund	Minimal	Minimal
<b>State Expenditures Detail</b>		
Cash Funds - Employment Support Fund	\$144,172	\$141,167
<b>Effective Date:</b> Unless a referendum petition is filed, the bill will take effect August 8, 2007, assuming the General Assembly adjourns on May 9, 2007, as scheduled.		
<b>Appropriation Summary for FY 2007-2008:</b> See State Appropriations section.		

**Summary of Legislation**

This legislation requires all employers to apply to participate in the Basic Employment Verification Pilot Program but exempts federal, state, and political subdivisions from compulsory participation. As follows, timetables are established requiring employers to apply to the program based on employer size:

- November 1, 2007 -- Employers with 200 or more employees
- July 1, 2008 -- Employers with 50 employees but fewer than 200 employees
- July 1, 2010 -- Employers with fewer than 50 employees

Every six months, an employer shall apply for participation and continue to apply until acceptance is granted. The director of the Division of Labor, Department of Labor and Employment (DOLE), may require employers to provide documentation of application submission. An employer that fails to apply is subject to a fine for each 30-day period that the employer did not submit an application. The fine amount is based on the employer's size. An employer must terminate the employment of an employee upon receipt of a final notice of non-confirmation of work eligibility.

The DOLE, with the cooperation of the Secretary of State, is required to establish a system to notify all employers of the bill's requirements and the DOLE shall also make information available on its website. Finally, the DOLE is required to investigate complaints that an employer has not applied to participate in the Basic Employment Verification Pilot Program.

### **State Revenue**

The bill subjects an employer to a fine for each 30-day period that the employer fails to apply for participation in the Basic Employment Verification Program. The amount of civil penalties to be collected is unknown but based on the bill's timetable, the earliest date an employer could be subject to a fine would be November 30, 2007. In FY 2007-08 only employers with 200 more employees could be fined for a violation of this bill.

The fiscal note estimates that little or no fine revenue will be collected through FY 2008-09. It is estimated that between 1,000 and 1,200 employers have 200 or more employees. Since the bill's requirements for employers are relatively simple, near universal compliance is anticipated and fine revenue is expected to be minimal. Any revenue from administrative fines will be credited to the Employment Support Fund.

### **State Expenditures**

The bill will increase state expenditures by \$144,172 CF and 1.0 FTE in FY 2007-08 and by \$141,167 and 1.0 FTE in FY 2008-09 in the DOLE.

In FY 2007-08, the Division of Labor will require personnel to establish program compliance measures, educate employers, determine methods for investigation, investigate complaints, create program policies, and implement the website. Since compliance by some employers will not be required until July 2008, it is estimated that only 1.0 FTE will be necessary in FY 2007-08 and FY 2008-09.

It is unknown whether additional staff will be necessary in FY 2009-10 because even though the state's remaining private employers will be subject to the bill by that date most employers with 50 or more employees should be in compliance. If additional staff is necessary, the DOLE may require additional funding. It is assumed this would be addressed through the annual budget process.

Additionally, the division will be required to notify employers of the requirements of the Basic Employment Verification Program. It is estimated that all employers will require notification on an annual basis. This will be necessary for two reasons: first, it is currently not possible to segregate employers by size; and second, due to shifts in employee numbers some employers with less than 200 employees on July 1, 2008, may have reached this number at some point during the fiscal year but prior to the next required date for smaller employers to comply. The total annual mail notification cost is estimated at \$75,660 in both fiscal years. Finally, a minimal amount of expenditures will be required for operating costs and legal services from the Department of Law.

Legal service costs are estimated at \$6,506 in both FY 2007-08 and FY 2008-09. Table 1 summarizes the costs to the DOLE in FY 2007-08 and FY 2008-09.

<b>Table 1. Department of Labor and Employment Costs</b>		
	<b>FY 2007/08</b>	<b>FY 2008/09</b>
<b>General Professional III</b>	1.0 FTE - \$58,501	1.0 FTE - \$58,501
Operating Expenses	500	500
Non-Recurring Expenses (Capital)	3,005	
Notification Letter Mailing	75,660	75,660
Legal Expenses	6,506	6,506
<b>Total Expenses</b>	<b>\$144,172</b>	<b>\$141,167</b>

### **Expenditures Not Included**

Pursuant to a Joint Budget Committee policy, funding for the items noted below will not be included in fiscal note expenditure estimates. However, indirect costs are calculated for the purpose of identifying the "per applicant" cost of a new or revised fee to reflect the total direct and indirect costs required to support a particular program.

- group health, life and dental insurance
- inflation indices
- amortization equalization disbursements
- supplemental amortization equalization disbursements
- short-term disability
- leased space
- indirect costs

### **Local Government Impact**

Since this bill exempts political subdivisions of the state, it has no impact on local governments.

### **State Appropriations**

The fiscal note indicates the Department of Labor and Employment, Division of Labor, requires a cash funds appropriation of \$144,172 and 1.0 FTE from the Employment Support Fund for FY 2007-08.

### **Departments Contacted**

Labor and Employment      Personnel and Administration      Law  
Secretary of State