


Colorado Legislative Council Staff Fiscal Note
FINAL
FISCAL NOTE

Drafting Number: LS 08-0607
Prime Sponsor(s): Rep. Looper
 Sen. Tapia

Date: July 14, 2008
Bill Status: Signed into Law
Fiscal Analyst: Clare Pramuk (303-866-2677)

TITLE: CONCERNING THE COLORADO NONIMMIGRANT AGRICULTURAL SEASONAL WORKER PILOT PROGRAM, AND MAKING AN APPROPRIATION THEREFOR.

Fiscal Impact Summary	FY 2008-2009	FY 2009-2010
State Revenue		
Cash Funds		
Nonimmigrant Agricultural Seasonal Worker Pilot Program Cash Fund*	\$102,000	\$108,000
State Expenditures		
General Fund	\$ 7,020	\$ 7,020
Cash Funds		
Nonimmigrant Agricultural Seasonal Worker Pilot Program Cash Fund	\$82,047	\$85,940
FTE Position Change	1.0 FTE	1.3 FTE
Effective Date: The Governor signed the bill into law on June 5, 2008, and unless a referendum petition is filed, the bill will take effect August 5, 2008.		
Appropriation Summary for FY 2008-2009: See State Appropriations section of fiscal note.		
Local Government Impact: None.		

* Fees are set to cover both the direct and indirect costs of a program's implementation. Pursuant to JBC policy, the fiscal note does not include all costs incurred under the bill. See **Expenditures Not Included** section of the fiscal note for these costs.

Summary of Legislation

This bill, creates the “Nonimmigrant Agricultural Seasonal Worker Pilot Program” in the Department of Labor and Employment. The purpose of the program is to expedite the federal H-2A visa certification process so that eligible workers can come to Colorado legally to meet the staffing needs of Colorado farmers and ranchers. The department may retain agents to:

- ▶ assist employers with labor certification application materials;
- ▶ recruit workers;
- ▶ assist workers with their H-2A visas;
- ▶ coordinate medical screening prior to departure to the U.S.; and
- ▶ coordinate travel to Colorado.

The pilot program is limited to 1,000 employees in the first year, with annual increases of 1,000 each year for 4 years. The Nonimmigrant Agricultural Seasonal Worker Pilot Program Advisory Council, made up of legislators, agency executives and stakeholders, is created to make recommendations for the adoption of rules, determine the availability of health insurance for program participants, and to assist in the preparation of reports to the General Assembly.

The bill establishes requirements for employers and employees who participate in the program. Employees are required to apply for an identification card within 2 weeks of arrival in Colorado. Employers are required to:

- ▶ reimburse employees for transportation and subsistence costs from the site of recruitment, and pay return expenses;
- ▶ provide free transportation to the worksite, free housing, low-cost meals, and workers' compensation insurance;
- ▶ pay wages in compliance with the Immigration Reform and Control Act of 1986;
- ▶ not displace a U.S. worker;
- ▶ notify the department if an employee cannot be located; and
- ▶ pay fees associated with the program.

HB08-1325 authorizes the department to fine employers up to \$200 per day per violation for failure to report visa violations, and up to \$5,000 for violation of any provision. On or before February 1, 2010, the department is required to report to the General Assembly regarding the progress of the program and any recommended legislative changes.

State Revenue

The program will generate cash funds revenue of \$102,000 for FY 2008-09 and \$108,000 for FY 2009-10 to the Nonimmigrant Agricultural Seasonal Worker Pilot Program Cash Fund from fees paid by employers.

Fee Impact on Individuals, Families or Business. Section 2-2-322, C.R.S., requires legislative service agency review of measures which create or increase any fee collected by a state agency. Fees are based on the direct and indirect costs to implement the program. Table 2 below identifies the fee impact of this bill.

Table 2. Fee Impact on Employers			
Administrative Fee	Proposed Fee	Number of Employees	Total Fee Impact
FY 2008-09	\$102	1,000	\$102,000
FY 2009-10	\$54	2,000	\$108,000

Penalties. Per HB08-1325, the penalty for failing to report a visa violation is up to \$200 per day per violation, and up to \$5,000 for any violation, to be deposited into the Nonimmigrant Agricultural Seasonal Worker Pilot Program Cash Fund. No fine revenue is expected during the initial year of the program.

State Expenditures

This bill has an expected fiscal impact of \$89,067 and 1.0 FTE in FY 2008-09 and \$92,960 and 1.3 FTE in FY 2009-10 as described below and shown in Table 2.

Department of Labor and Employment — will require \$82,047 and 1.0 FTE for FY 2008-09 and \$85,940 and 1.3 FTE for FY 2009-10. The cost and staffing increase in FY 2009-10 is due to the increase in H-2A employees from 1,000 to 2,000. The department is expected to retain agents who specialize in handling the processing, recruitment and governmental approvals required for employment of nonimmigrant workers. Employers will pay the agent fees directly. The department will require additional staff to:

- ▶ oversee the program;
- ▶ qualify potential agents;
- ▶ educate prospective employers;
- ▶ review and monitor employer and agent compliance in the field; and
- ▶ enforce the provisions of the bill.

Department of Law — will provide legal services to the Department of Labor and Employment for rulemaking. These are estimated at \$4,322 in FY 2008-09 and \$2,161 in FY 2009-10.

Nonimmigrant Agricultural Seasonal Worker Pilot Program Advisory Council — The bill provides for reimbursement of actual and necessary expenses for members. The fiscal note assumes 9 members will meet once per month for a total of \$7,020 to be reimbursed by the Legislative Council.

Table 2. Expenditures for State Agencies Under HB08-1325		
Cost Components	FY 2008-09	FY 2009-10
Department of Labor and Employment		
Personal Services	\$70,100	\$75,068
FTE	1.0	1.3
Operating Expenses	7,625	8,712
Legal Services	4,322	2,161
Subtotal	\$82,047	\$85,940
Legislative Department - Legislative Council		
Committee Member Reimbursement (9 members * \$65 * 12 meetings)	7,020	7,020
TOTAL	\$89,067	\$92,960

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 to reflect the total direct and indirect costs required to support a particular program. The sum of these expenditures for this program are \$19,807 for FY 2008-09.

- group health, life and dental insurance (\$6,299)
- short-term disability (\$70)
- amortization equalization disbursements (\$862)
- indirect costs (\$12,307)
- supplemental amortization equalization disbursements (\$269)

State Appropriations

For FY 2008-09, the following appropriations are required to implement HB08-1325:

- ▶ Department of Labor and Employment - Nonimmigrant Agricultural Seasonal Worker Pilot Program Cash Fund - \$82,047 and 1.0 FTE
- ▶ Department of Law - Reappropriated Funds - \$4,322
- ▶ Legislative Council - General Fund - \$7,020

Departments Contacted

Agriculture
Judicial Branch
Public Safety

Corrections
Law
Revenue

Governor's Office
Labor and Employment
Legislative Council