

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 21, 2009

TO: Honorable Burt R. Solomons, Chair, House Committee on State Affairs

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB48 by Riddle (Relating to the suspension of certain licenses held by employers for the knowing employment of persons not lawfully present in the United States.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB48, As Introduced: a negative impact of (\$35,170,779) through the biennium ending August 31, 2011.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	(\$16,641,990)
2011	(\$18,528,789)
2012	(\$18,521,601)
2013	(\$18,756,342)
2014	(\$18,756,342)

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from General Revenue Fund 1	Change in Number of State Employees from FY 2009
2010	(\$16,641,990)	235.0
2011	(\$18,528,789)	252.0
2012	(\$18,521,601)	254.0
2013	(\$18,756,342)	258.0
2014	(\$18,756,342)	258.0

Fiscal Analysis

This bill would amend the Labor Code relating to the suspension of certain licenses held by employers for the knowing employment of persons not lawfully present in the United States.

This bill would take effect September 1, 2009.

Methodology

For the purposes of this analysis the Texas Workforce Commission (TWC) assumes the following: Texas' population of persons not lawfully present in the United States is about 1.7 million persons of the approximate 13 million nationally (source: Federation for American Immigration Reform-- FAIR); persons not lawfully present in the United States comprise approximately 4.9 percent of the civilian

labor force (source: Pew Hispanic Center Report: "Size and Characteristics of the Unauthorized Migrant Population in the United States," March 7, 2006); Texas' total number of employers (including all industries and federal, state and local governments having unemployment insurance accounts) is estimated to be 437,118 (source: Texas Quarterly Census of Employment & Wages); using total number of employers in Texas as a proxy for all holders of licenses, certificates, registrations, permits or other authorizations issued by the state or a political subdivision of the state is a reasonable approximation that avoids double-counting; and that each complaint will result in only 1 investigation and each investigation will require research on all, or on a statistically valid sample, if less than all, of an employer's employees and specialized training would be needed to keep staff current regarding proper identification and processing of immigration documents under federal laws and regulations, to ensure staff can identify "knowing" deviations from required practices and norms.

Based on information provided by TWC, this analysis assumes 113 additional staff would be needed to conduct investigations and serve as examiners. Staff would also be responsible for issuing standardized orders either finding substantial evidence of a violation or dismissing the complaint. TWC assumes that its investigations must address three issues: (1) whether the individual was hired as an employee; (2) whether the individual is authorized to work in the U.S.; and (3) whether the employer knew the individual's unauthorized status.

This analysis also assumes that staff would be needed to conduct hearings. TWC estimates that to perform 2,622 hearings on complaints, including the appeals of a preliminary dismissal order, two groups of staff will be required: (1) legal and support staff to prosecute the enforcement cases and (2) hearing officers, with support staff, to preside at the hearing. Based on an expected caseload of 175 cases annually per attorney, TWC would expect to need 15 attorneys to provide full coverage. Accordingly, 20 legal assistants would be needed to provide support for 15 attorneys. Additionally, of the 15 attorneys, two would be at a team leader level, and one Director level manager of this group would be required. TWC estimates it would need a staff of 28 hearing officers and 13 legal assistants to cover hearing tribunal duties. The extensive document management required under the bill would also require use of administrative assistants. A manager and 8 administrative assistants would also be needed to provide support to additional staff. TWC estimates that each hearing officer could carry a caseload of 96 cases annually, equating to 2 cases a week for 48 weeks. TWC assumes the nature and complexity of these cases would result in an average hearing length of one day, leading to a 2-hearing weekly caseload. This estimate is based upon the experience of TWC in conducting a variety of cases using TWC hearing officers. It is estimated additional staff would be needed for reviewing all appeals of hearing tribunal decisions, as well as all motions for rehearing. To accomplish these duties TWC estimates it would need 20 attorneys, 5 administrative assistants, 6 clerks and 1 program supervisor. The number of hearings and appeals will require additional legal oversight. To address the increased numbers of hearing transcripts and materials to review the TWC would require 4 attorneys and 2 legal assistants to provide support and research functions.

In summary, estimated costs for TWC, including full-time-equivalent positions (FTEs), would total: \$15.2 million and 213 FTEs in fiscal year (FY) 2010; \$15.3 million and 215 FTEs in FY 2011; \$15.4 million and 217 FTEs in FY 2012; and \$15.7 million and 221 FTEs in FYs 2013 and 14.

Based on information provided by the Office of the Attorney General (OAG), it is assumed that beginning in FY 2010 additional staff would be needed, which would include an Assistant Attorney General IV, two Assistant Attorneys General III, two Assistant Attorneys General II, a Legal Assistant II, an Executive Assistant I, and a Legal Secretary II. In March 2010, it is assumed that the OAG would need to add an Assistant Attorney General V, two Assistant Attorneys General IV, two Assistant Attorneys General III, two Assistant Attorneys General II, three Legal Assistants II, three Legal Secretaries II, and an Administrative Assistant II. Beginning FY 2011, it is assumed that the OAG would need to add an Assistant Attorney General V, six Assistant Attorneys General III, six Assistant Attorneys General II, a Legal Assistant II, and a Legal Secretary II. For FY 2011 through 2014, the program would be fully implemented and full staffing (25 Assistant Attorney Generals and 12 support staff) would be required. In addition, due to limited office space, lease space would be required to accommodate the increased staffing (\$4,000 per FTE).

In summary, estimated costs for OAG, including FTEs, would total: \$1.4 million and 22 FTEs in FY 2010, \$3.2 million and 37 FTEs in FY 2011; and \$3.1 million and 37 FTEs in FYs 2012 through 2014.

Technology

TWC estimates technology costs would total \$810,111 in FY 2010; \$498,267 in FY 2011; \$163,685 in FYs 2012 through 2014. The agency assumes the following: agency website changes to include information on how to file as well as information on relevant statutes and rules; database development to track complaints through the process; database linkage to the employer tax system to allow for additional checks; implementation of batch-processing capability; development of a web-based front-end system to allow access to information and the capability to generate reports, notice and letters; and scanning capability in order to process written materials through the database.

OAG estimates a one-time technology impact of \$50,726 in FY 2010 and \$39,804 in FY 2011.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 320 Texas Workforce Commission, 329 Real Estate Commission, 452 Department of Licensing and Regulation, 503 Texas Medical Board, 507 Texas Board of Nursing

LBB Staff: JOB, KJG, MW, NV