

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 14, 2009

TO: Honorable John Carona, Chair, Senate Committee on Transportation & Homeland Security

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

IN RE: SB357 by Patrick, Dan (Relating to a prohibition against the knowing employment of persons not lawfully present in the United States and the suspension of licenses held by certain employers for the knowing employment of those persons.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB357, As Introduced: a negative impact of (\$960,968) 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	(\$799,244)
2011	(\$161,724)
2012	(\$161,724)
2013	(\$161,724)
2014	(\$161,724)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2009
2010	(\$799,244)	2.0
2011	(\$161,724)	2.0
2012	(\$161,724)	2.0
2013	(\$161,724)	2.0
2014	(\$161,724)	2.0

Fiscal Analysis

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

Methodology

The bill would establish that employers could not knowingly employ a person not lawfully present, and employers violating this provision would be subject to the suspension of each government-issued license held. "License" is defined as a license, certificate, registration, permit, or other authorization. "Licensing authority" is defined as a department, commission, board, office, or other agency of the state or a political subdivision of the state that issues or renews a license.

If the Texas Workforce Commission audits an employer under the Texas Unemployment Compensation Act and finds that an employer is operating substantially on a cash-only basis in order to avoid the payment of a tax and that the employer is knowingly employing a person not legally present in the U.S., the Commission would pass the violation case to the Comptroller of Public Accounts (CPA) for further investigation and possible administrative hearings. Upon determining that an actual violation occurred, the CPA would issue orders to the violating employer that any unlawful employees be terminated. The CPA would be obliged to notify the United States Immigration and Customs Enforcement agency of the names and addresses of each unlawful employee. Should an employer violate these provisions, the CPA would notify each licensing authority that issued a license to the employer ordering the suspension of the license. Provisions are provided for the reinstatement of a suspended license, and a licensing authority may charge the employer a fee to recover its administrative costs.

The CPA indicates that it would be necessary to hire 2 additional full-time-equivalent positions (FTEs) each fiscal year starting from fiscal year 2010 to fiscal year 2014. In addition, fiscal year 2010 reflects a one-time technology cost of \$637,500 included in the fiscal year 2010 for development of a new automated system to handle new duties of the Comptroller's Office.

Local Government Impact

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

Source Agencies: 304 Comptroller of Public Accounts, 320 Texas Workforce Commission, 452 Department of Licensing and Regulation

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