

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

April 6, 2011

TO: Honorable Byron Cook, Chair, House Committee on State Affairs

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

IN RE: HB3252 by Chisum (Relating to a prohibition against the knowing employment of unauthorized foreign nationals; providing administrative penalties.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3252, As Introduced: a negative impact of (\$28,999,717) through the biennium ending August 31, 2013.

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
2012	(\$15,403,248)
2013	(\$13,596,469)
2014	(\$12,784,328)
2015	(\$12,784,880)
2016	(\$12,785,565)

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from General Revenue Fund 1	Probable Revenue Gain from General Revenue Fund 1	Change in Number of State Employees from FY 2011
2012	(\$21,803,248)	\$6,400,000	211.0
2013	(\$19,996,469)	\$6,400,000	209.0
2014	(\$19,184,328)	\$6,400,000	203.0
2015	(\$19,184,880)	\$6,400,000	203.0
2016	(\$19,185,565)	\$6,400,000	203.0

Fiscal Analysis

The bill would amend the Labor Code relating to a prohibition against the knowing employment of unauthorized foreign nationals; providing administrative penalties. The bill requires the Texas Workforce Commission (TWC) to establish and adopt rules; investigate complaints filed to verify information regarding the immigration status of the relevant employee(s) of the employer alleged to have violated and determine if a hearing should be conducted; and establish hearing tribunals to hear and decide complaints.

Under provisions of the bill a hearing would be subject to the rules and hearings procedures used by TWC in the determination of a claim for unemployment compensation benefits. If the hearing tribunal finds by clear and convincing evidence that the employer has committed a violation under provisions

of the bill the following would occur (1) for a first violation enter a written order requiring the employer to request on-site training by United States Department of Homeland Security to assist the employer in instituting compliance protocols to prevent subsequent violations; or (2) for a second or subsequent violation occurring before the second anniversary of the initial order, enter a written order assessing an administrative penalty against the employer based upon the size of the employer: \$50,000 for fewer than 100 employees; \$100,000 for 100-199 employees; \$200,000 for 200-299 employees; and \$300,000 for 300 or more employees. If the hearing tribunal does not find by clear and convincing evidence that the employer has committed a violation, then it shall enter a written order dismissing the complaint. The bill would also allow TWC to review a hearing tribunal order on its own motion, or may permit any of the parties affected by the order to initiate an appeal before the Commission.

This bill would take effect September 1, 2011.

Methodology

The following assumptions were included in this analysis based on information provided by TWC for fiscal year (FY) 2012: TWC projected the population affected (460,763); number of complaints that would be received and investigated (9,215); number of complaints that would go to hearing tribunal (2,580); number of complaints that would be appealed (133); total number of hearing tribunal cases (2,713); number of complaints that would be dismissed (6,635); number of cases not adverse (407); number of cases adverse (2,306); number of cases resulting in written order - first violation (2,075); number of cases for second violation (115); tribunal cases to appeals (98); and appeals to Commission (119). For the purposes of this analysis, similar projections were made for subsequent years.

Based on the analysis of TWC, it is assumed that additional staff would be needed to investigate complaints, conduct hearing tribunals, and administer the appeals process; and that a new division would be created within TWC to implement the provisions of the bill. For the purposes of this analysis, additional staff that would be needed would include: 4 Clerks; 10 Administrative Assistants; 80 Accounts Examiners; 39 Program Specialists; 1 Program Supervisor; 1 Director; 24 Attorneys; 6 Managers; 37 Legal Assistants; and 11 Information Technology Staff. Total costs for FY 2012 are estimated at \$21,803,248 in fiscal year 2012 for the following: Salaries/Benefits (\$14,361,584) + Professional Services (\$429,792) + Other Operating Expenses (\$4,765,417) + Administrative and Support Costs (\$2,246,455). This analysis also assumes that after initial start up costs, the number of staff would be reduced to 209 in FY 2013 and subsequently to 203 in FY 2014, with staffing levels continuing at the 2014 level in each subsequent year. Similarly, costs would also be reduced to approximately \$20 million in 2013 and \$19.2 million beginning in FY 2014 and continuing at that level in each subsequent year.

For the purpose of this analysis, TWC estimates 115 second and subsequent penalties each fiscal year. TWC states that based on the expected number of cases involving second or subsequent violations, assuming the full penalty amount is assessed (\$300,000), the maximum revenue to the state would be \$6.4 million each year.

Technology

TWC assumes a technology impact of approximately \$4.5 million to implement the provisions of the bill. There is a recurring cost for one staff to provide ongoing support to the systems. Additional technology costs components would include: work on imaging system to scan data; a web-based tracking system to process complaints and hearings; a batch system to support and process complaints; mailing costs; and employee start up costs for cabling, personal computers and phone lines.

Local Government Impact

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

Source Agencies: 320 Texas Workforce Commission

LBB Staff: JOB, KJG, MW, NV, AG