

Colorado Legislative Council Staff Fiscal Note
**STATE, LOCAL and STATUTORY
 PUBLIC ENTITY FISCAL IMPACT**

Drafting Number: LLS 13-0015
Prime Sponsor(s): Rep. Swalm
 Sen. Harvey

Date: February 7, 2013
Bill Status: House SVMA
Fiscal Analyst: Clare Pramuk (303-866-2677)

TITLE: CONCERNING THE REQUIREMENT THAT ALL EMPLOYERS IN THE STATE VERIFY THE WORK ELIGIBILITY STATUS OF NEW EMPLOYEES THROUGH THE FEDERAL ELECTRONIC VERIFICATION PROGRAM.

Fiscal Impact Summary	FY 2013-2014	FY 2014-2015
State Revenue		
State Expenditures	See State Expenditures section.	
FTE Position Change		
Effective Date: January 1, 2014, unless a referendum petition is filed.		
Appropriation Summary for FY 2012-2013: None required.		
Local Government Impact: See Local Government and Statutory Public Entity Impact section.		

Summary of Legislation

This bill repeals the current documentation requirements for employers to verify the legal work status of new employees and creates the Colorado Mandatory E-Verify Act. It requires all employers in Colorado to participate in the federal E-Verify program to verify the work eligibility status of newly hired employees on or after January 1, 2014. Employers are required to retain a copy of the employment eligibility information received from the program. Each employer will enter into an agreement as required by the United States Department of Homeland Security to participate in the E-Verify program and must comply with the program requirements.

Employers who do not participate in the E-Verify program are subject to a fine of not more than \$5,000 for the first offense, and not more than \$25,000 for the second offense. Subsequent offenses are subject to a fine of not more than \$25,000 and up to a six-month suspension of all the employer's business licenses. The bill includes a safe harbor provision for employers that comply in good faith with the act but unintentionally employ an authorized alien or wrongfully terminate an employee after receiving a final notice of nonconfirmation of work eligibility through the E-Verify program.

The Colorado Department of Labor and Employment (CDLE) must include notification of the bill requirements in its quarterly electronic publication to employers and on its website. The Secretary of State is also required to post the bill requirements on his or her website.

State Expenditures

This bill increases state agency workload but does not require additional appropriations.

Colorado Department of Labor and Employment, Division of Labor. Under current law, the Division of Labor in the CDLE requires employers to maintain specific documentation, including an affirmation that the employer has examined specific documents to confirm the legal work status of each newly hired employee. The director of the division can conduct random audits of this documentation or, if he suspects that an employer has not complied with the employment verification requirements, require the employer to submit the documentation. Under House Bill 13-1098, the E-Verify employment eligibility information the employer receives through the program replaces the documents required under current law. This change is expected to be addressed by the division within existing appropriations.

Department of Personnel and Administration (DPA), Division of Human Resources. The Division of Human Resources in the DPA will develop expertise and technical assistance on the E-Verify program and provide assistance to all agencies implementing the E-Verify program. This will require 166 hours of staff time that can be addressed within existing appropriations.

Department of Personnel and Administration, Central Contracts Unit. When E-Verify was mandatory for contractors in Colorado between 2006 and 2008, the Central Contracts Unit in DPA experienced an increase in workload when negotiating contracts with large multi-state companies. Due to the increasing use of E-Verify by companies, this is not expected to be an issue with this legislation. If problems with contracting due to E-Verify being mandatory results in an increase in workload for the unit, the fiscal note assumes additional resources will be requested in the annual budget process.

All state agencies. The bill requires that all state agencies participate in E-Verify. The fiscal note assumes that each agency will enroll as an individual employer with the United States Department of Homeland Security and perform its own employment verification through the program. This is expected to result in a small one-time increase in workload for implementation but should not affect the time required to verify legal work status.

Local Government and Statutory Public Entity Impact

As employers, local governments and statutory public entities will be required to participate in E-Verify. For those not already using the program, this will require entering into agreements with the United States Department of Homeland Security and implementing the use of E-Verify. This is expected to be accomplished within existing resources.

Departments Contacted

Counties	Labor and Employment	Law
Local Affairs	Personnel and Employment	Municipalities
Regulatory Agencies	State	