

HCS HB 1736 & 2320 -- ILLEGAL ALIENS

SPONSOR: Nolte

COMMITTEE ACTION: Voted "do pass" by the Special Committee on Immigration by a vote of 9 to 4.

This substitute changes the laws regarding illegal aliens and immigration status.

SANCTUARY CITIES

Any county, city, town, or village is prohibited from enacting a sanctuary policy. Any municipality that enacts a sanctuary policy will be ineligible for money provided through grants administered by any state agency or department until the policy is repealed or is no longer in effect. Upon complaint by any state resident or before the provision or award of any funds or grants to any municipality, any member of the General Assembly may request that the Attorney General issue an opinion as to whether the municipality has a written or unwritten sanctuary policy. County and municipal law enforcement officers must be notified in writing of their duty to cooperate with state and federal agents and officials regarding matters of immigration.

PUBLIC BENEFITS

Persons who are not citizens or permanent residents of the United States or who do not possess lawful immigration status are prohibited from receiving state or local public assistance unless it is mandated under federal law. Documentary evidence accepted by the Department of Revenue for obtaining a driver's license will suffice as proof of citizenship, permanent residency, or lawful immigration status when applying for benefits. Individuals can temporarily receive state or local public assistance for up to 90 days while obtaining the necessary documentation or indefinitely if the applicant provides a copy of a completed birth certificate application which is pending. Nonprofit organizations regulated by the federal Internal Revenue Service are not required to enforce these restrictions, nor are they prohibited from providing aid.

FEDERAL EMPLOYMENT AUTHORIZATION

Business entities and employers are prohibited from knowingly employing, recruiting, hiring, or continuing to employ illegal aliens to perform work in Missouri. Participation in a federal work authorization program which enables employers to electronically verify employment eligibility is required for all public employers and business entities receiving a state contract

or grant or a state-administered tax credit, tax abatement, or loan. Participation in a federal program is an affirmative defense to an allegation that a business entity knowingly hired illegal aliens, unless it is shown by clear and convincing evidence that the business entity had actual knowledge of the unauthorized status of an employee. Only the federal government can determine whether a worker is an unauthorized alien.

A contractor will not be held liable under the provisions of the substitute regarding the prohibited employment of illegal aliens if the contractor provides documented proof of enrollment in a federal work authorization program or executes a sworn affidavit attesting that all employees are lawfully present in the United States.

Employing an illegal alien, failing to provide identity information on employees when requested to do so by the Division of Labor Standards within the Department of Labor and Industrial Relations, or failing to correct violations within 10 business days will result in the suspension of a company's applicable local licenses, permits, and exemptions until the violation is corrected.

A second violation for employing an illegal alien will result in the suspension of a company's applicable local licenses, permits, and exemptions for a minimum of 30 to a maximum of 60 days. A third or subsequent violation will result in the suspension of a company's applicable local licenses, permits, and exemptions for a minimum of one to a maximum of five years.

A violation of the prohibition against employing illegal aliens or the requirement to provide information or correct violations by a business entity awarded a state contract or grant or a state-administered tax credit, tax abatement, or loan from the state will result in the termination of the contract and the suspension or debarment of the business entity from doing business in this state for a period of three years. A subsequent violation will result in the termination of the contract and the permanent suspension or debarment of the business entity from doing business in this state.

Any person who files a frivolous complaint clearly lacking in any basis in fact or law will be liable for actual, compensatory, and punitive damages to the alleged violator.

Failure by a municipality or county to suspend any applicable license or permit of a violator as directed by the division will be deemed a violation of Section 67.307, RSMo, governing sanctuary cities and will subject the municipality or county to authorized penalties.

If the federal government discontinues or fails to authorize any work authorization program, the provisions of the substitute will be reviewed by the General Assembly to determine if they need to be repealed.

COMMUNICATIONS WITH FEDERAL OFFICIALS

No government entity, official, or political subdivision can prohibit or restrict any other government entity or official from communicating or cooperating with federal officials on the immigration status of any person in this state. No person or agency can prohibit or restrict any public employee from communicating or cooperating with local, state, or federal officials on the immigration status of any person in this state.

Upon complaint by any state resident or before the provision or award of any funds or grants to any government agency or political subdivision, any member of the General Assembly may request that the Attorney General issue an opinion as to whether the entity has written or unwritten policies prohibiting or restricting public officials or employees from communicating or cooperating with local, state, or federal officials on the immigration status of any person in this state.

The substitute becomes effective January 1, 2009.

FISCAL NOTE: Estimated Cost on General Revenue Fund of \$872,377 in FY 2009, \$1,022,007 in FY 2010, and \$1,052,668 in FY 2011. No impact on Other State Funds in FY 2009, FY 2010, and FY 2011.

PROPOSERS: Supporters of House Bill 1736 say that the bill will discourage illegal immigration, and when illegal aliens leave an area, wages tend to increase because citizens and lawful aliens demand higher pay.

Supporters of House Bill 2320 say that the bill will protect Missouri residents from losing their jobs to illegal aliens. The employment of illegal aliens is a tremendous magnet for illegal immigration and is unfair to the employers that are doing the right thing by paying fair wages and providing benefits.

Testifying for HB 1736 were Representative Schneider; Kris Kobach; Robert Lowery, Jr., City of O'Fallon; Joyce Mucci, Federation for American Immigration Reform; Missourians Against Illegal Immigration; and Dale Russell.

Testifying for HB 2320 were Representative Nolte; Missourians Against Illegal Immigration; and Dale Russell.

OPPOSERS: Those who oppose House Bill 1736 say that it will be

prohibitively expensive and have many unintended consequences. It will make aliens fearful to report crimes and, therefore, will decrease public safety.

Those who oppose House Bill 2320 say that the error rate for E-Verify is high enough to be unacceptable, and it is not as easy to enroll in and use as has been reported. If the transient employer laws already on the books had been used consistently, the problems in the City of O'Fallon probably would not have occurred.

Testifying against HB 1736 were Catholic Charities Archdiocese of St. Louis; Missouri Chamber of Commerce and Industry; Associated General Contractors of Missouri, Incorporated; Jennifer Rafanan, Missouri Immigrant and Refugee Advocates; American Civil Liberties Union of Eastern Missouri; and Virginia Martinez, Mexican Legal Defense Fund.

Testifying against HB 2320 were Missouri Chamber of Commerce and Industry; and Associated General Contractors of Missouri, Incorporated.

OTHERS: Others testifying on House Bill 1736 say they are concerned that public libraries will be subject to the requirements of the bill, and that the "hassle factor" of requiring E-Verify should be considered and addressed.

Others testifying on House Bill 2320 say they would like to see some indemnification provisions for municipalities, and they are concerned about frivolous complaints.

Testifying on HB 1736 were Missouri Library Association; Missouri Municipal League; Builders Association of Missouri; National Federation of Independent Business; Roger Loesche, Associated General Contractors of St. Louis; Associated Builders and Contractors; and Associated Industries of Missouri.

Testifying on HB 2320 were Missouri Municipal League; Builders Association of Missouri; National Federation of Independent Business; Roger Loesche, Associated General Contractors of St. Louis; Associated Builders and Contractors; and Associated Industries of Missouri.