

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0924H.03C
 Bill No.: HCS for HB 188
 Subject: Labor and Management; Department of Labor and Industrial Relations;
 Employees - Employers; Immigration; Taxation and Revenue - General; Taxation
 and Revenue - Income; Contracts and Contractors; Crimes and Punishment
 Type: #Updated
 Date: March 30, 2023
 #Updated based on DOLIR's revised response which removed the Federal Non-Compliance
 fiscal impact - pages 2, 8 & 9.

Bill Summary: Modifies provisions relating to employment and creates new requirements
 relating to the verification of the immigration status of certain persons.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2024	FY 2025	FY 2026	Fully Implemented (FY 2027)
General Revenue Fund*	Up to (\$2,188,549)	Up to (\$2,713,847)	Up to (\$2,841,083)	Up to (\$2,985,486)
Total Estimated Net Effect on General Revenue	Up to (\$2,188,549)	Up to (\$2,713,847)	Up to (\$2,841,083)	Up to (\$2,985,486)

*Oversight notes the above expenditures reflect DOC's increased incarcerations, 3 FTE for DOLIR (Regulatory Auditors and Team member), and up to 20 FTE for AGO (15 AAG and 5 support staff).

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2024	FY 2025	FY 2026	Fully Implemented (FY 2027)
Total Estimated Net Effect on Other State Funds	\$0	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2024	FY 2025	FY 2026	Fully Implemented (FY 2027)
#Unemployment Compensation Administration Fund (0948)	\$0	\$0	\$0	\$0
#Job Development and Training Fund (0155)	\$0	\$0	\$0	\$0
#Total Estimated Net Effect on <u>All</u> Federal Funds*	\$0	\$0	\$0	\$0

*Officials from the Department of Labor and Industrial Relations state the proposal will not put Missouri out of Federal compliance or pose any further issues to the Missouri UI Program.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)				
FUND AFFECTED	FY 2024	FY 2025	FY 2026	Fully Implemented (FY 2027)
General Revenue	Up to 23 FTE	Up to 23 FTE	Up to 23 FTE	Up to 24 FTE
Total Estimated Net Effect on FTE	Up to 23 FTE	Up to 23 FTE	Up to 23 FTE	Up to 24 FTE

- Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS				
FUND AFFECTED	FY 2024	FY 2025	FY 2026	Fully Implemented (FY 2027)
Local Government	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Labor and Industrial Relations (DOLIR)** assume section 285.530 requires all businesses to use E-Verify. If they are found to be out-of-compliance they will need to provide an affidavit to the department, necessitating a database for the department to maintain. The department will turn over to the AGO those out of compliance.

Section 285.545 requires the department to develop and maintain a registry of those qualified aliens that are eligible to work in Missouri. That section also requires investigations by the department in response to written complaints. Subsection 2 within that section also requires the department to enforce against an employer regarding unpaid wages. DOLIR estimates Section 285.530 will require at least two (2) additional FTE Regulatory Auditors (investigators) and one (1) additional Administrative Support Assistant – payable from the General Revenue Fund.

Oversight notes officials from DOLIR estimate a potential loss of federal funds of \$61.6 Million. Additionally, DOLIR would need to hire 1 FTE Administrative Support Assistant (\$33,000 annually) and 2 FTE Regulatory Auditor (\$33,000 annually) in order to comply with the proposal.

Oversight notes that DOLIR provided range for the FTE due to the fluctuation of prices for Regulatory Auditors who insure additional expenditures involving car rentals, overnight lodging, gasoline expenditures, and meals while traveling throughout the Missouri. Oversight will note the lower range of the expense in the fiscal note.

Lastly, **Oversight** notes the DOLIR-ITSD will require modification to its database in order to comply with the rules under the proposal. Therefore, Oversight will note DOLIR's estimate of \$24,214 (254.88 Hrs x \$95 per Hour) in FY 2024, \$4,964 in FY 2025, and \$5,088 in FY 2026 cost, for implementation of changes in first year and an ongoing maintenance thereafter, to the general revenue fund.

Officials from the **Department of Corrections (DOC)** note:

This proposal modifies provisions relating to employment and creates new requirements to the verification of the immigration status of certain persons.

Section 285.535.8 is modified to include penalty provisions for knowingly employing an unauthorized alien to perform work within the state of Missouri. A second violation of 285.530 is a class D felony.

Section 285.535.9 is modified to include penalty provisions for knowingly employing an unauthorized alien to perform work within the state of Missouri when awarded a state contract or

grant or receiving a state-administered tax credit, tax abatement, or loan from the state. A second violation of 285.530 is a class D felony.

The bill creates section 285.545, to be known as the “Immigrant Employment Registration and Taxation Protection Act.” In that section, it creates a class D felony offense for “any qualified immigrant worker or an individual seeking employment who fails to provide the employer-requested documentation that is required to verify work authorization status with the employer...within thirty days of the date of the request.”

The intent of the bill is to create three new class D felony offenses.

For each new nonviolent class D felony, the Department estimates three people will be sentenced to prison and five to probation. The average sentence for a nonviolent class D felony offense is 5 years of which, 2.8 years will be served in prison with 1.7 years to first release. The remaining 2.2 years will be on parole. Probation sentences will be 3 years.

The cumulative impact on the Department is estimated to be 25 additional offenders in prison and 65 additional offenders on field supervision by FY 2028.

Change in prison admissions and probation openings with legislation-Class D Felony (nonviolent)

	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032	FY2033
New Admissions										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	9	9	9	9	9	9	9	9	9	9
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	15	15	15	15	15	15	15	15	15	15
Change (After Legislation - Current Law)										
Admissions	9	9	9	9	9	9	9	9	9	9
Probations	15	15	15	15	15	15	15	15	15	15
Cumulative Populations										
Prison	9	18	25	25	25	25	25	25	25	25
Parole			2	11	20	20	20	20	20	20
Probation	15	30	45	45	45	45	45	45	45	45
Impact										
Prison Population	9	18	25	25	25	25	25	25	25	25
Field Population	15	30	47	56	65	65	65	65	65	65
Population Change	24	48	72	81	90	90	90	90	90	90

	# to prison	Cost per year	Total Costs for prison	Change in for probation & parole officers	Total cost for probation and parole	# to probation & parole	Grand Total - Prison and Probation (includes 2% inflation)
Year 1	9	(\$9,499)	(\$71,243)	0	\$0	15	(\$71,243)
Year 2	18	(\$9,499)	(\$174,402)	0	\$0	30	(\$174,402)
Year 3	25	(\$9,499)	(\$247,069)	0	\$0	47	(\$247,069)
Year 4	25	(\$9,499)	(\$252,010)	1	(\$87,582)	56	(\$339,592)

Year 5	25	(\$9,499)	(\$257,051)	1	(\$79,747)	65	(\$336,798)
Year 6	25	(\$9,499)	(\$262,192)	1	(\$80,603)	65	(\$342,795)
Year 7	25	(\$9,499)	(\$267,435)	1	(\$81,467)	65	(\$348,903)
Year 8	25	(\$9,499)	(\$272,784)	1	(\$82,344)	65	(\$355,128)
Year 9	25	(\$9,499)	(\$278,240)	1	(\$83,228)	65	(\$361,468)
Year 10	25	(\$9,499)	(\$283,805)	1	(\$84,124)	65	(\$367,928)

* If this impact statement has changed from statements submitted in previous years, it could be due to an increase/decrease in the number of offenders, a change in the cost per day for institutional offenders, and/or an increase in staff salaries.

If the projected impact of legislation is less than 1,500 offenders added to or subtracted from the department’s institutional caseload, the marginal cost of incarceration will be utilized. This cost of incarceration is \$26.024 per day or an annual cost of \$9,499 per offender and includes such costs as medical, food, and operational E&E. However, if the projected impact of legislation is 1,500 or more offenders added or removed to the department’s institutional caseload, the full cost of incarceration will be used, which includes fixed costs. This cost is \$87.46 per day or an annual cost of \$31,921 per offender and includes personal services, all institutional E&E, medical and mental health, fringe, and miscellaneous expenses. None of these costs include construction to increase institutional capacity.

DOC’s cost of probation or parole is determined by the number of P&P Officer II positions that are needed to cover its caseload. The DOC average district caseload across the state is 51 offender cases per officer. An increase/decrease of 51 cases would result in a cost/cost avoidance equal to the salary, fringe, and equipment and expenses of one P&P Officer II. Increases/decreases smaller than 51 offender cases are assumed to be absorbable.

Oversight notes that according to the latest data from [MigrationPolicy.org](https://www.migrationpolicy.org) there were 127,637 non-U.S. citizens in Missouri. As provided by the DOLIR currently there are minimum of 171,000 businesses throughout the Missouri. Therefore, **Oversight** notes the DOC projections of various violation of the proposal could be possible and will reflect DOC’s estimates.

In response to the previous version of the proposal, officials from the **Attorney General’s Office (AGO)** assume the proposal will require additional 14-20 FTE in order to comply with the recommended investigation and enforcement responsibilities within the Section 285.545. The AGO ranged their fiscal impact from 10-15 new FTE Assistant Attorneys General and 4-5 Support Staff.

Oversight notes that Section 285.545 states an enforcement action is initiated through a signed, written complaint to the AGO by any state official, business entity or state resident. Additionally the AGO needs to inform and cooperate with DOR on various investigations.

Oversight notes this proposal does not change the duties of AGO officials from the previous version. Therefore, Oversight will reflect a fiscal impact of “up to” AGO’s high end (20 FTE) estimated impact in the fiscal note.

Officials from the **City of Kansas City** and **City of Springfield** both assume the proposal will have no fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for CKC.

Officials from the **City of Ulrich** assume the proposal will have a potential negative impact on the City.

Officials from the **City of Claycomo** assume the proposal will have a potential negative impact on the City

Oversight notes that officials from City Ulrich and City of Claycomo both assume the proposal will have a fiscal impact on their respective organization. **Oversight** does not have any information to the contrary. Therefore, **Oversight** will reflect a range from zero (employers comply with the proposal) to an unknown negative impact (employers do not comply and cities losing revenues and fees) in the fiscal note.

Officials from the **Office of Administration – Administrative Hearing Commission**, the **Department of Public Safety – Missouri Highway Patrol**, the **Office of Administration**, the **University of Central Missouri**, the **Missouri State University**, **Kansas City Police Department**, **St. Louis Police Department**, the **Phelps County Sheriff**, and the **Missouri State University**, and **University of Central Missouri** each, assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these organizations.

In response to the previous version of the proposal, officials from the **Office of Administration – Administrative Hearing Commission**, the **Department of Commerce and Insurance**, the **Missouri Department of Agriculture**, the **Missouri Department of Transportation**, the **Missouri Ethics Commission**, the **Office of Administration**, the **City of Springfield**, the **Phelps County Sheriff Department**, the **Saint Joseph Police Department**, and the **Missouri Office of Prosecution Services** each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these organizations.

Oversight notes the HCS provides further clarification regarding the responsibility for the workers and employers in regards to classification of immigrant and procedural steps to undertake in cases where an alien’s work qualification is being determine by the courts. Additionally, the clarification allows

Oversight notes the changes within the proposal will have no additional fiscal impact on above organizations.

Rule Promulgation

Officials from the **Joint Committee on Administrative Rules** assume this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

Officials from the **Office of the Secretary of State (SOS)** note many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. **The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$5,000. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs.** However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with its core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

<u>FISCAL IMPACT – State Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026	Fully Implemented (FY 2027)
GENERAL REVENUE				
<u>Costs – AGO – Section(s)</u> 285.530 and 285.545 (p.7)	Up to...	Up to...	Up to...	Up to...
Personnel Service	(\$1,062,500)	(\$1,300,500)	(\$1,326,510)	(\$1,353,040)
Fringe Benefits	(\$657,248)	(\$798,237)	(\$807,967)	(\$824,126)
Expense & Equipment	(\$250,595)	(\$196,819)	(\$200,756)	(\$204,771)
<u>Total Costs -</u>	<u>(\$1,970,343)</u>	<u>(\$2,295,556)</u>	<u>(\$2,335,233)</u>	<u>(\$2,381,938)</u>
FTE Change	Up to 20 FTE			
<u>Costs – DOLIR – Section(s)</u> 285.530 and 285.545 (p.3)				
Personnel Service	(\$56,000)	(\$114,240)	(\$116,525)	(\$118,856)
Fringe Benefits	(\$44,329)	(\$89,495)	(\$90,350)	(\$92,157)
Expense & Equipment	(\$22,420)	(\$35,190)	(\$46,818)	(\$47,754)
Other Expense – ITSD modifications (p.5)	<u>(\$24,214)</u>	<u>(\$4,964)</u>	<u>(\$5,088)</u>	<u>(\$5,190)</u>
<u>Total Costs -</u>	<u>(\$146,963)</u>	<u>(\$243,889)</u>	<u>(\$258,781)</u>	<u>(\$263,957)</u>
FTE Change	3 FTE	3 FTE	3 FTE	3 FTE

<u>Cost – DOC (p. 3-6)</u> (§§569.100 and 570.030) Increase in P&P officers				
Personal service	\$0	\$0	\$0	(\$43,015)
Fringe benefits	\$0	\$0	\$0	(\$32,151)
Equipment and expense	\$0	\$0	\$0	(\$12,416)
Increased incarceration costs	(\$71,243)	(\$174,402)	(\$247,069)	(\$252,010)
Total cost – DOC	(\$71,243)	(\$174,402)	(\$247,069)	(\$339,592)
FTE Change – DOC	0 FTE	0 FTE	0 FTE	1 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>Up to (\$2,188,549)</u>	<u>Up to (\$2,713,847)</u>	<u>Up to (\$2,841,083)</u>	<u>Up to (\$2,985,486)</u>
Estimated Net FTE Change on General Revenue	Up to 23 FTE	Up to 23 FTE	Up to 23 FTE	Up to 24 FTE

<u>FISCAL IMPACT – State Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026	Fully Implemented (FY 2027)
FEDERAL FUNDS				
UNEMPLOYMENT COMPENSATION ADMINISTRATION FUND				
<u>#Loss - DOLIR – Section 285.545.9(5)(c) (p.4)</u> If UI program fails to be certified	\$0	\$0	\$0	\$0
#ESTIMATED NET EFFECT ON UNEMPLOYMENT COMPENSATION ADMINISTRATION FUND	\$0	\$0	\$0	\$0

#JOB DEVELOPMENT AND TRAINING FUND (0155)				
<u>#Loss - DHEWD - Section 285.545.9(5)(c) if found out of compliance – Wagner-Peyser reemployment services (p.4)</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON JOB DEVELOPMENT AND TRAINING FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

#per DOLIR’s revised response the proposal will not pose any compliance issues to the Missouri UI Unemployment Funds.

<u>FISCAL IMPACT – Local Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026	Fully Implemented (FY 2027)
LOCAL POLITICAL SUBDIVISION				
Section(s) 285.530 and 285.545	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>

FISCAL IMPACT – Small Business

Small businesses would now be required to participate in verification of employment eligibility of every employee starting January 1, 2024.

FISCAL DESCRIPTION

Under this bill, the provisions relating to a sanctuary policy under Section 67.307, RSMo do not apply to qualified immigrant workers who are registered in the Missouri Department of Labor and Industrial Relations (DOLIR) database.

This bill requires all public employers, private employers, and business entities to enroll and actively participate in a federal work authorization program. Beginning January 1, 2024, an

employer or business entity is required to verify the employment eligibility of every employee who is hired after the employer or business entity enrolls in the federal work authorization program. If the private employer or business entity fails to comply, the private employer or business entity shall provide an affidavit as indicated in the bill (Section 285.530).

This bill establishes the "Immigrant Employment Registration and Taxation Protection Act". The bill defines the terms "alien", "unauthorized alien", "undetermined alien" and provides that a "qualified immigrant worker" is regarded as a person who:

- (a) Is an alien or undetermined alien, but not an unauthorized alien, as defined under this section, and therefore is legally authorized under federal law to accept employment;
- (b) Has been granted entrance into the United States by the federal government to await a hearing or has a notice to appear in immigration court;
- (c) Obtained a valid work permit or conditional work permit but whose current immigration status is in a suspended quasi-legal status; and
- (d) Is a new hire or employed in the state of Missouri.

As specified in the bill, DOLIR is required to maintain a database or registry of qualified immigrant workers. The DOLIR shall provide employers with a mechanism to verify registration of any qualified immigrant workers. Further, upon receiving documentation from a qualified immigrant worker, the employer is required to provide the documentation to DOLIR as indicated in the bill.

The bill includes penalty provisions whereby an employer's licenses, permits or exemptions are suspended if the employer is in noncompliance with the provisions of the Act. A qualified immigrant worker who fails to provide the employer-requested documentation that is required to verify work authorization status, shall be guilty of a class D felony.

The Attorney General (AG) has been authorized to enforce the Act. An enforcement action is initiated through a signed, written complaint to the AG by any state official, business entity or state resident. The bill details the course of action taken by the AG upon receipt of a valid complaint. The bill authorizes the AG to inform and cooperate with the Department of Revenue for the investigation and enforcement of any additional criminal liabilities under Chapter 143 (Section 285.545).

The bill also details a contractor's responsibilities on contracts entered into on or after January 1, 2024 for construction, reconstruction, demolition, alteration, maintenance, or repair, other than an owner-occupied residence, for any debt owed to an employee, or third-party, incurred by a subcontractor at any tier acting under, by, or for the contractor for the employee's performance of labor under the contract. The contractor's responsibility extends to unpaid wages plus interest owed and to penalties or liquidated damages. The bill authorizes DOLIR to institute an action

against the contractor for unpaid wages. The bill includes subcontractor's obligations to provide payroll records of employees and project details. However, a subcontractor's noncompliance does not relieve the contractor from any obligation as further explained in the bill (Section 290.520).

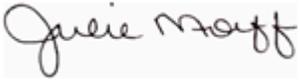
Currently, any state or local agency administering one or more federal public benefit programs is exempt from the requirements of subsections 1 and 3 of Section 650.475 that does not prohibit a public employee, government entity or official from communicating or providing information with respect to the immigration status, lawful or unlawful, of any individual. This bill exempts any qualified immigrant worker registered in the DOLIR database from the requirements of subsections 1 and 3 of Section 650.475.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Labor and Industrial Relations
Department of Corrections
Office of Administration – Administrative Hearing Commission
Office of Administration
Department of Commerce and Insurance
Department of Public Safety
Capital Police
Highway Patrol
Missouri Department of Agriculture
Missouri Department of Transportation
Missouri Ethics Commission
Office of Administration
University of Central Missouri
Missouri State University
City of Springfield
Phelps County Sheriff Department
Kansas City Police Department
Saint Louis County Police Department
Saint Joseph Police Department
Missouri Office of Prosecution Services
City of Kansas City
City of Ulrich
City of Springfield
City of Claycomo

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