

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5303H.011
 Bill No.: HB 2489
 Subject: Department of Labor and Industrial Relations; Immigration; Employees - Employers; Contracts and Contractors; Business and Commerce; Licenses - Miscellaneous; Department of Revenue, Taxation and Revenue - General
 Type: Original
 Date: January 29, 2024

Bill Summary: This proposal 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 2025	FY 2026	FY 2027	Fully Implemented (FY 2028)
General Revenue Fund*	Up to (\$2,252,707)	Up to (\$2,828,035)	Up to (\$2,943,469)	Up to (\$3,187,880)
Total Estimated Net Effect on General Revenue	Up to (\$2,252,707)	Up to (\$2,828,035)	Up to (\$2,943,469)	Up to (\$3,187,880)

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

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2025	FY 2026	FY 2027	Fully Implemented (FY 2028)
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 2025	FY 2026	FY 2027	Fully Implemented (FY 2028)
Total Estimated Net Effect on All Federal Funds	\$0	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)				
FUND AFFECTED	FY 2025	FY 2026	FY 2027	Fully Implemented (FY 2028)
General Revenue - AGO	20 FTE	20 FTE	20 FTE	20 FTE
General Revenue - DOLIR	3 FTE	3 FTE	3 FTE	3 FTE
General Revenue - DOC	0 FTE	0 FTE	0 FTE	1 FTE
Total Estimated Net Effect on FTE	23 FTE	23 FTE	23 FTE	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 2025	FY 2026	FY 2027	Fully Implemented (FY 2028)
Local Government	\$0	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

In response to the similar proposal, HB 1515 – 2024, officials from the **Department of Labor and Industrial Relations (DOLIR)** noted:

Per Section 285.530 all businesses must use E-Verify. If the businesses being deemed 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. 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. Section 2 within that section also requires the department to enforce against an employer regarding unpaid wages. DOLIR estimates that section 285.530 will require an additional AOSA and section 285.545 will require at least two additional Regulatory Auditors (investigators). Section 290.045 (there is currently a 290.045, this does not replace it) adds 16 and 17 year olds, requiring them to get work certificates, creating the need for more investigations and office support.

Additionally, DOLIR noted:

Per Department of Labor Standards (DLS), time spent on E-Verify and submitting names of "Qualified Aliens" to DOLIR. This legislation adds 16 and 17 year olds to the Youth Employment laws (hours of work, etc.) limiting employers options.

Per Department of Employment Security (DES), there are over 171,000 small businesses covered by Missouri's unemployment insurance system. Changes to Missouri's unemployment insurance laws have the potential to increase or decrease the amount of unemployment taxes small businesses pay depending on the state's average unemployment rate.

Oversight notes officials from DOLIR assumed the need for 2 Regulatory Auditors (at 45,000/ each annually) and 1 Admin Support Assistant (36,847 annually) for the provisions related to Section(s) 285.530 and 285.545 and 1 additional Regulatory Auditor is for the Section 290.045.

DOLIR – ITSD

DOLIR noted per Department of Labor Standards, a database of all "Qualified Aliens" must be developed and maintained by DOLIR. The ITSD can create a new application based off a model of the similar applications DOLIR-Web team has completed in the past. The EFS system that would be needed for the Section 285.545 can be modeled off a combination of other applications reducing the development time needed.

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 \$24,456

(254.88 Hrs. x \$95 per Hour) in FY 2025, \$5,062 in FY 2026, and \$5,189 in FY 2027 cost, for implementation of changes in first year and an ongoing maintenance thereafter, to the general revenue fund.

In response to the similar proposal, HB 1515, officials from the **Department of Corrections (DOC)** noted:

This proposal modifies provisions relating to employment and creates new requirements relating 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 could 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 could be served in prison with 1.7 years to first release. The remaining 2.2 years could be on parole. Probation sentences could be 3 years.

The cumulative impact on the department is estimated to be 24 additional offenders in prison and 66 additional offenders on field supervision by FY 2029.

Change in prison admissions and probation openings with legislation

	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032	FY2033	FY2034
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	24	24	24	24	24	24	24	24
Parole	0	0	3	12	21	21	21	21	21	21
Probation	15	30	45	45	45	45	45	45	45	45
Impact										
Prison Population	9	18	24	24	24	24	24	24	24	24
Field Population	15	30	48	57	66	66	66	66	66	66
Population Change	24	48	72	81	90	90	90	90	90	90

	# to prison	Cost per year	Total Costs for prison	Change in probation & parole officers	Total cost for probation and parole	# to probation & parole	Grand Total - Prison and Probation (includes 2% inflation)
Year 1	9	(\$9,689)	(\$72,668)	0	\$0	15	(\$72,668)
Year 2	18	(\$9,689)	(\$177,890)	0	\$0	30	(\$177,890)
Year 3	24	(\$9,689)	(\$241,930)	0	\$0	48	(\$241,930)
Year 4	24	(\$9,689)	(\$246,769)	1	(\$92,771)	57	(\$339,540)
Year 5	24	(\$9,689)	(\$251,704)	1	(\$81,159)	66	(\$332,863)
Year 6	24	(\$9,689)	(\$256,739)	1	(\$81,970)	66	(\$338,709)
Year 7	24	(\$9,689)	(\$261,873)	1	(\$82,790)	66	(\$344,663)
Year 8	24	(\$9,689)	(\$267,111)	1	(\$83,618)	66	(\$350,729)
Year 9	24	(\$9,689)	(\$272,453)	1	(\$84,455)	66	(\$356,908)
Year 10	24	(\$9,689)	(\$277,902)	1	(\$85,299)	66	(\$363,201)

* 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 \$26.545 per day or an annual cost of \$9,689 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 \$99.90 per day or an annual cost of \$36,464 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.

In instances where the proposed legislation would only affect a specific caseload, such as sex offenders, the DOC will use the average caseload figure for that specific type of offender to calculate cost increases/decreases.

Oversight notes that according to the latest data from [Higher Ed Immigration Portal](#) there are 53,499 undocumented immigrants in State. Additionally, the immigrant share of Total Population is approximately 4% at any given time (or approximately 245,000). As provided by the DOLIR currently there are 171,000 businesses covered by Missouri's unemployment insurance system throughout Missouri.

Oversight notes the DOC projections of various violations of the proposal could be probable given the amount of immigrant population of immigrants and employers in the State. Therefore, Oversight will reflect a DOC impact in the fiscal note.

In response to the similar proposal, HB 1515 – 2024, officials from the **Attorney General's Office (AGO)** assumed this proposal will increase caseloads. AGO requests an additional twenty (20) attorneys to manage the additional cases. Additional support staff are also requested to support the additional attorneys.

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 will reflect a fiscal impact of "up to" AGO's high end (20 FTE) estimated impact in the fiscal note.

Officials from the **Department of Public Safety – Highway Patrol** 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 Highway Patrol.

In response to the similar proposal, HB 1515-2024, officials from the **Office of Administration - Administrative Hearing Commission**, the **Department of Public Safety – Capital Police**, and the **Department of Public Safety – Director's Office** each assumed 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 agencies.

In response to the similar proposal, HB 1515 – 2024, officials from the **Northwest Missouri State University** and the **University of Central Missouri** both assumed 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.

Officials from the **University of Missouri System**, the **City of Kansas City**, the **Phelps County Sheriff**, the **Kansas City Police Department**, and the **Saint Louis County Police Department** each assumed 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.

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 2025 (10 Mo.)	FY 2026	FY 2027	Fully Implemented (FY 2028)
GENERAL REVENUE				
Costs – AGO – Section(s) 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	(\$662,163)	(\$804,480)	(\$814,562)	(\$830,853)
Expense & Equipment	(\$257,660)	(\$196,819)	(\$200,756)	(\$204,771)
Total Costs -	(\$1,982,323)	(\$2,301,799)	(\$2,341,828)	(\$2,388,664)

<u>FISCAL IMPACT – State Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027	Fully Implemented (FY 2028)
FTE Change	Up to 20 FTE	Up to 20 FTE	Up to 20 FTE	Up to 20 FTE
<u>Costs – DOLIR – Section(s) 285.530 and 285.545 (p.3)</u>				
Personnel Service	(\$85,924)	(\$178,721)	(\$185,870)	(\$189,587)
Fringe Benefits	(\$63,316)	(\$129,203)	(\$131,878)	(\$134,516)
Expense & Equipment	(\$24,020)	(\$35,360)	(\$36,774)	(\$37,509)
<u>Total Costs -</u>	(\$173,260)	(\$343,284)	(\$354,522)	(\$361,612)
FTE Change	3 FTE	3 FTE	3 FTE	3 FTE
<u>Costs – DOLIR ITSD modifications – p.5</u>	(\$24,456)	(\$5,062)	(\$5,189)	(\$5,293)
<u>Cost – DOC (p. 3-6) (§§569.100 and 570.030) Increase in P&P officers</u>				
Personal service	\$0	\$0	\$0	(\$46,757)
Fringe benefits	\$0	\$0	\$0	(\$33,598)
Equipment and expense	\$0	\$0	\$0	(\$12,416)
<u>Total cost – DOC</u>	(\$0)	(\$0)	(\$0)	(\$92,771)
FTE Change – DOC	0 FTE	0 FTE	0 FTE	1 FTE
<u>Costs - Increased incarceration costs – (§§569.100 and 570.030)</u>	(\$72,668)	(\$177,890)	(\$241,930)	(\$339,540)
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>Up to</u> <u>(\$2,252,707)</u>	<u>Up to</u> <u>(\$2,828,035)</u>	<u>Up to</u> <u>(\$2,943,469)</u>	<u>Up to</u> <u>(\$3,187,880)</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 – Local Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027	Fully Implemented (FY 2028)
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT – Small Business

Small businesses would now be required to participate in verification of employment eligibility of every employee starting January 1, 2025.

FISCAL DESCRIPTION

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

The provisions relating to municipal sanctuary policies under Section 67.307, RSMo do not apply to qualified immigrant workers registered in the Missouri Department of Labor and Industrial Relations (DOLIR) database established by this bill (Section 67.307).

Currently, public employers must enroll and actively participate in a Federal work authorization program, this bill adds private employers and business entities. Beginning January 1, 2025, 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 program. If the private employer or business entity fails to comply, it must provide an affidavit as specified in the bill. If a general contractor or subcontractor of any tier knows its direct subcontractor has knowingly employed an unauthorized alien, such contractor or subcontractor must report to DOLIR. If the contractor or subcontractor fails to report to DOLIR, it will be subject to the same penalty for the violation as the direct subcontractor (Section 285.530).

Currently, upon a court's finding that a business entity has knowingly violated Subsection 1 of Section 285.530, the court must direct the applicable county or municipal governing body to suspend the entity's business license and other applicable licenses and exemptions for 14 days. The bill raises the length of the suspension to 120 days. A second or subsequent violation is a class D felony, as is a second or subsequent violation by a business entity awarded a State contract or receiving a State- administered tax credit, tax abatement, or loan from the State. (Section 285.535)

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

- (1) Is an alien, but not an unauthorized alien, legally authorized under Federal law to accept employment;
- (2) Has obtained a valid work permit; and

(3) Is a new hire or employed in the state of Missouri. The Department is required to maintain a database or registry of qualified immigrant workers, and must provide employers with a mechanism to verify registration of any qualified immigrant worker. A qualified immigrant worker is required to sign an affidavit of understanding detailing the conditions under which the worker may be employed. Further, upon receiving documentation from a qualified immigrant worker, the employer is required to provide the documentation to DOLIR as specified in the bill, and DOLIR must provide written confirmation of the worker's registration. The Attorney General (AG) shall 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 investigation and enforcement of any additional criminal liabilities under Chapter

143. A qualified immigrant worker who fails to provide the employer-requested documentation required to verify work authorization status is guilty of a class D felony. Nothing in the section shall be construed to imply the state of Missouri is an advocate for a legal immigration status relating to a qualified immigrant worker or worker (Section 285.545).

This bill requires that a person who is 16 years of age or older but under 18 years of age, enrolled in a secondary school as a full-time student, and employed for wages not be permitted or forced to work beyond 10:00 p.m. on an evening before a school day when the school is in session unless the requirements of the section are waived by the Director of the Department of Labor and Industrial Relations. A person employed by or working under the direct control of the person's parent or legal guardian, a student who attends home school, and a full-time student who is eligible to receive credit for work performed during the school year are exempt from this requirement (Section 290.045).

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, which prohibit a government entity, or official from restricting a government entity or official from communicating or providing information with respect to the immigration status, lawful or unlawful, of any individual. A qualified immigrant worker registered in the DOLIR database is added to the exemption (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

Office of the Secretary of State
Joint Committee on Administrative Rules
University of Missouri System
City of Kansas City
Phelps County Sheriff

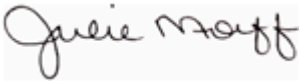
L.R. No. 5303H.011

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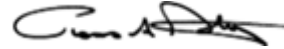
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Kansas City Police Department
Saint Louis County Police Department
Department of Public Safety – Highway Patrol



Julie Morff
Director
January 29, 2024



Ross Strobe
Assistant Director
January 29, 2024