

February 2, 2012

The Honorable Pete Brungardt, Chairperson
Senate Committee on Federal and State Affairs
Statehouse, Room 136-E
Topeka, Kansas 66612

Dear Senator Brungardt:

SUBJECT: Fiscal Note for SB 284 by Senate Committee on Commerce

In accordance with KSA 75-3715a, the following fiscal note concerning SB 284 is respectfully submitted to your committee.

SB 284 would create the Kansas Employer E-Verify Accountability Act. Beginning January 1, 2013, SB 284 would require all state agencies and state boards and commissions to use E-Verify to establish the residency status of a potential employee. This same requirement would apply to all counties and municipalities. E-Verify is an electronic system jointly administered by the U.S. Department of Homeland Security and the Social Security Administration.

The bill would prohibit any public works or purchase contracts greater than \$50,000 from being awarded to an employer unless they and their subcontractors verified employment eligibility through E-Verify. The Secretary of Labor would be required to establish a complaint system to investigate potential violations. The Secretary must also maintain a list of contractors and employers that have claimed compliance, but have been found to have violated the Act. If the federal government discontinues or fails to authorize E-Verify, businesses no longer have to participate in the program.

According to the Department of Labor, enactment of SB 284 would increase costs for the agency. A new investigation process would have to be established, additional use of the Office of Administrative Hearings would occur, staff would be needed for litigation and enforcement, as well as for creating and maintaining a database of offenders and handling inquiries from public agencies. The agency reports it cannot determine an accurate estimate of workload volume, but a minimum projected staffing level would include one Public Service Executive I, two investigators/auditors; one administrative assistant; two research analysts; and one half-time attorney. All staff would require computers and phones along with monthly network and phone service charges. Information technology staff and resources would also be required, estimated at one server, two application developers in the first year and then one for ongoing support, one database administrator, one-fourth of a network service technician. Various server and security

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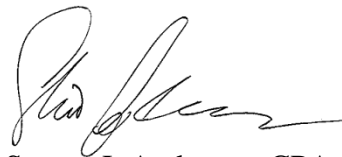
licensing costs would have to be acquired as well. In total, the agency estimates new costs of \$711,031, which would be financed by the State General Fund. In future years, ongoing costs of \$605,738 are estimated.

The Office of Human Resources within the Department of Administration is responsible for taking the lead in incorporating the use of E-Verify in the state's hiring process. The E-Verify system is free, but does require staff time to learn and then use the system. The state's hiring process would need to be changed if SB 284 were to become law to inform candidates that they must be verified before being hired and that personal information must be submitted to the agency before the candidate could be offered a position. If the use of the system delays hiring, agencies could experience difficulties in managing operations, depending on the nature of the position to be filled. Regarding the provisions of the bill related to contractors, the Department's Procurement and Contracts Office would need to include language in bid documents to explain the requirements, and could elect to provide a self-certification form for bidders to confirm their participation. Assuming the E-Verify system remains free to use, the Department anticipates no long-term financial considerations.

The League of Kansas Municipalities indicates that passage of this bill would cause negligible fiscal effect on cities. However, it could heighten exposure of cities to litigation and liability in a number of areas that do not now exist. If E-Verify should provide erroneous information to a city which then relies on that information to make hiring or contracting decisions, it would be at risk of facing potential litigation from someone who alleges discrimination. It is not possible to quantify the fiscal effect of this additional risk for cities.

According to the Kansas Association of Counties, the bill would require counties to incur costs relating to participation in the E-Verify system. The Association cannot calculate the extent of these costs, but they are anticipated to be significant. Any fiscal effect associated with SB 284 is not reflected in *The FY 2013 Governor's Budget Report*.

Sincerely,



Steven J. Anderson, CPA, MBA
Director of the Budget

cc: Kathie Sparks, Department of Labor
Marilyn Jacobson, Administration
Melissa Wangemann, Kansas Association of Counties
Larry Baer, League of Kansas Municipalities