

April 20, 2016

REVISED

The Honorable Janice Pauls, Chairperson
House Committee on Federal and State Affairs
Statehouse, Room 285-N
Topeka, Kansas 66612

Dear Representative Pauls:

SUBJECT: Revised Fiscal Note for HB 2525 by House Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following revised fiscal note concerning HB 2525 is respectfully submitted to your committee.

HB 2525 would make it unlawful for an employer to knowingly hire, recruit or refer for a fee for employment an unauthorized alien. Complaints of an employer knowingly employing an unauthorized alien could be filed with the Office of the Attorney General and the Attorney General must investigate the complaints. If the Attorney General determines that an employer knowingly employed an unauthorized alien, the Attorney General must notify the U.S. Immigration and Customs Enforcement, the law enforcement agencies within the jurisdiction of the municipality in which the unauthorized alien was allegedly employed, and the district or county attorney for the county in which the unauthorized alien was allegedly employed. Upon receiving notification, district or county attorneys may bring a civil action against an employer. A separate action may be filed for each business location at which the employer employs an unauthorized alien.

Upon a first violation, courts may order an employer be placed on probation for three years and execute an affidavit that states that the employer terminated the employment of all unauthorized aliens. Upon a second violation, courts may order an employer be placed on probation for ten years and execute an affidavit stating that the employer terminated the employment of all unauthorized aliens. Upon a third or subsequent violation, courts may suspend an employer's license for period of time as determined by the court or revoke the license permanently. The bill specifies several factors that the court may consider prior to suspending or revoking a license. Copies of all court orders must be sent to the Attorney General and made available on the agency's website. The Attorney General would be required to create a database of the names and addresses of all employers who have been found to have violated the provisions of the bill. Courts would be required to dismiss any action filed against an employer if the

employer has complied in good faith with all federal laws. No civil action could be filed against an employer that has complied in good faith through participation in e-verify.

During a probationary period ordered by a court, employers must file quarterly reports with the Attorney General concerning each new individual the employer hires at the specific business location where the unauthorized alien was employed.

Any agency receiving a court order must immediately suspend or revoke the applicable license of the employer. No state, county or local official should attempt to independently determine whether an individual is an unauthorized alien. Any employer who violates the provisions of the bill would be prohibited from obtaining a public works contract with any agency or municipality for two years. The Department of Labor would be required to maintain a list of employers who are prohibited from public contracts.

An employer would be prohibited from terminating the employment of any employee because the employee filed a complaint regarding unauthorized aliens against an employer or participated in legal proceedings relating to unauthorized aliens. Any employee who believes that he or she has been terminated or otherwise discriminated against for filing a complaint or participating in legal proceedings may file a complaint with the Department of Labor. The Department must investigate the complaints and if it is determined that a violation occurred the Department may bring a civil action against an employer.

The Office of the Attorney General estimates that HB 2525 would require additional expenditures totaling \$861,041 to \$911,041 from the State General Fund in FY 2017 for operational and litigation expenses. The total amount includes operational expenses of \$611,041 to hire 6.00 new FTE positions plus associated costs. Operational expenses would include \$373,261 for the salaries and wages of 1.00 Special Agent In-Charge FTE position, 3.00 Special Agent FTE positions, 1.00 Administrative Assistant FTE position and 1.00 FTE position for IT support. The remaining operational expenses would include \$20,000 for translation services; \$25,000 for an online database; \$24,250 for additional office space; \$55,360 for two law enforcement vehicles; \$6,250 for office furniture; \$9,860 for IT workstation expenses; \$1,800 for desk phones and cell phones; \$20,000 for ongoing IT expenses; \$39,620 for law enforcement equipment; \$15,640 for travel and training; and \$20,000 for other commodities and contractual service costs. The Office anticipates that the bill would result in litigation, which would require the use of outside counsel. The Office estimates litigation expenses could range from \$250,000 to \$300,000 in FY 2017.

The Department of Labor estimates that the agency would need to hire 1.00 Investigator FTE position and 1.00 Attorney FTE position at a total cost of \$156,000 from the State General Fund in FY 2017. This amount includes \$131,000 for salaries and wages plus \$25,000 for workstation setup, supplies and other overhead expenses.

According to the Office of Judicial Administration, the bill could increase the number of cases filed in district courts related to the new crime of hiring unauthorized aliens by employers.

Also, additional civil cases could be filed if an employer terminates or discriminates against an employee when the employee files a complaint against the employer. The additional criminal and civil cases would increase the workload of judicial and non-judicial staff. The bill would also result in additional revenue from the collection of docket fees associated with new cases. However, it is not possible to predict the number of additional court cases that would arise or how complex and time-consuming they would be. Therefore, a precise fiscal effect cannot be determined.

Because the provisions of the bill required employers who violate the law to be placed on probation, the Office of Judicial Administration indicates more Court Service Officers would be needed to provide the necessary supervision. However, it is unknown how many additional Court Service Officers would be needed because it is uncertain how many cases would be filed under the new law.

According to the Kansas Sentencing Commission, the bill would have no effect on prison admissions and bed space. Also, there would be no effect on the journal entry workload of the Commission. Information from the Commission was not included in the previous version of this fiscal note. Any fiscal effect associated with HB 2525 is not reflected in *The FY 2017 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Shawn Sullivan", with a horizontal line extending to the right.

Shawn Sullivan,
Director of the Budget

cc: Dawn Palmberg, Department of Labor
Willie Prescott, Attorney General's Office
Jack Smith, Department of Revenue
Scott Schultz, Sentencing Commission
Ashley Michaelis, Judiciary