



**Colorado  
Legislative  
Council  
Staff**

**HB16-1202**

**FINAL  
FISCAL NOTE**

**FISCAL IMPACT:**  State  Local  Statutory Public Entity  Conditional  No Fiscal Impact

**Drafting Number:** LLS 16-0908  
**Prime Sponsor(s):** Rep. Wist  
Sen. Tate

**Date:** June 30, 2016  
**Bill Status:** Postponed Indefinitely  
**Fiscal Analyst:** Amanda Hayden (303-866-4918)

**BILL TOPIC:** MANDATORY EMPLOYER E-VERIFY PARTICIPATION

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018
<b>State Revenue</b>	See State Revenue section.	
<b>State Expenditures</b>	<b>(\$45,282)</b>	<b>(\$157,539)</b>
Cash Funds	(34,357)	(130,557)
Centrally Appropriated Costs	(10,925)	(26,982)
<b>FTE Position Change</b>	(1.0 FTE)	(1.9 FTE)
<b>TABOR Impact</b>	See TABOR Impact section.	
<b>Appropriation Required:</b> (\$34,357) - Department of Labor and Employment (FY 2016-17).		
<b>Future Year Impacts:</b> Ongoing decrease in state cash fund expenditures.		

**NOTE: This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.**

**Summary of Legislation**

On or after January 1, 2017, this bill requires each employer in Colorado, defined as any person or entity engaged in business with 10 or more employees, to enroll and participate in the federal E-Verify program to verify the work eligibility status of all newly hired employees. Employers must maintain documentation of enrollment in the program and a written or electronic copy of the employment eligibility information it receives through the program.

Employers that do not maintain enrollment with the E-Verify program or that fail to verify the eligibility status of new employees may be fined up to \$5,000 for the first offense and up to \$25,000 for the second offense. For subsequent offenses, the state may fine the employer up to \$25,000 and suspend his or her business license for up to six months. The bill includes a safe harbor provision for employers that comply in good faith with the act but unintentionally employ an unauthorized alien or wrongfully terminate an employee after receiving a final notice of ineligibility through the E-Verify program.

The bill requires the Colorado Department of Labor and Employment (CDLE) to notify every employer of the requirements and to publish a notice of the requirements on its website and in its electronic communications. The Secretary of State is also required to publish on its website the requirements for participation in the E-Verify program.

## Background

Under current law, the Division of Labor in CDLE requires employers to maintain specific documentation, including an affirmation that the employer has examined specific documents to confirm the legal work status of each newly hired employee. The director of the division can conduct random audits of this documentation or, if he or she suspects that an employer has not complied with the employment verification requirements, require the employer to submit the documentation. The division can fine employers (\$5,000 for the first offense and \$25,000 for the second and subsequent offenses) for failing to submit documentation or for submitting false documentation. Part of the current verification process focuses on state contracting and is funded by indirect cost recoveries credited to the Employment Verification Cash Fund.

## State Revenue

This bill may reduce state cash fund revenue beginning in FY 2016-17. This bill reduces workload that is currently funded by indirect cost recoveries. Indirect cost recoveries are fees collected from other programs to help offset costs for centralized programs such as employment verification and other administrative costs, such as leased space. This analysis assumes that, with the reduction in costs for this program, fees for other programs will be adjusted accordingly.

No change in state revenue is expected from the collection of fines. Penalties under the bill are the same as penalties under current law, and employers are required to maintain similar documentation to prove their compliance under the bill.

## TABOR Impact

To the extent that the passage of this bill reduces fees collected by other programs, state cash fund revenue will decrease, which will reduce the amount of money required to be refunded under TABOR. TABOR refunds are paid from the General Fund. No TABOR impact is expected in FY 2016-17.

## State Expenditures

**This bill decreases state cash fund expenditures in CDLE by \$45,282 and 1.0 FTE in FY 2016-17 and by \$157,539 and 1.9 FTE in FY 2017-18 from the Employment Verification Cash Fund.** The bill also increases state agency workload. These impacts are shown in Table 1 and explained below.

<b>Table 1. Expenditures Under HB16-1202</b>		
<b>Cost Components</b>	<b>FY 2016-17</b>	<b>FY 2017-18</b>
Personal Services	(\$34,357)	(\$130,557)
FTE	(1.0 FTE)	(1.9 FTE)
Centrally Appropriated Costs*	(10,925)	(26,982)
<b>TOTAL</b>	<b>(\$45,282)</b>	<b>(\$157,539)</b>

\* Centrally appropriated costs are not included in the bill's appropriation.

**Colorado Department of Labor and Employment.** This bill reduces the workload of CDLE by removing the requirement that CDLE investigate public contracts. This change reduces cash fund expenditures in CDLE by \$34,357 and 1.0 FTE in FY 2016-17 and by \$157,539 and 1.9 FTE in 2017-18. Costs in FY 2016-17 are prorated to account for the January 1, 2017, effective date of the bill. Any workload increase associated with adopting new procedures and informing businesses of the change in law can be addressed within existing appropriations.

**Department of Personnel and Administration (DPA).** The Division of Human Resources in the DPA will develop expertise and technical assistance on the E-Verify program and provide assistance to all agencies implementing the E-Verify program. This increased workload can be addressed within existing appropriations.

**All state agencies.** The bill requires that all state agencies participate in E-Verify. The fiscal note assumes that each agency will enroll as an individual employer with the United States Department of Homeland Security (USDHS) and perform its own employment verification through the program. This is expected to result in a small one-time increase in workload for implementation but should not affect the time required to verify legal work status.

### **Local Government and Statutory Public Entity Impact**

As employers, local governments and statutory public entities will be required to participate in E-Verify. For those not already using the program, this will require entering into agreements with the USDHS and implementing the use of E-Verify. This workload increase is expected to be minimal.

### **State Appropriations**

For FY 2016-17, this bill requires a reduction in cash fund appropriations of \$34,357 and 1.0 FTE in the Department of Labor and Employment from the Employment Verification Cash Fund.

### **Effective Date**

The bill was postponed indefinitely by the House State, Veterans, and Military Affairs Committee on March 9, 2016.

**State and Local Government Contacts**

All Departments