

Department of Planning and Budget 2008 Fiscal Impact Statement

1. Bill Number: HB90

House of Origin X Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. Patron: Nichols

3. Committee: Referral Pending

4. Title: **Public Procurement Act; verification of legal presence for eligibility of employment.**

5. Summary: This bill requires all public contractors and their subcontractors to register and participate in a federal Electronic Work Verification Program or similar electronic verification of work authorization program to determine that their employees and individual independent contractors are legally eligible for employment in the United States. Contractors and subcontractors are required to verify the employment status of their employees and independent contractors, and are prohibited from employing or contracting with an individual who is not determined to be legally eligible for employment in the United States as determined through the verification of the individual's status. Contractors who do not register and participate in the registration program are ineligible for prequalification.

6. Fiscal Impact Estimates: Preliminary. See Item 8.

7. Budget Amendment Necessary: Yes, Item 80, HB 30.

8. Fiscal Implications: The bill mandates that all contractors doing business with the Commonwealth register and utilize the e-Verify system. Latest reports indicated that the e-Verify system only has 24,000 employers using the system for employment verification. It is not know how many of the registered e-Verify employers can provide the goods and services needed by the Commonwealth.

Contractors that currently provide goods and services to the Commonwealth may be reluctant to participate in what is designed to be a voluntary system and opt to stop providing goods and services to the public bodies of the Commonwealth. Competition or lack thereof may result in an indeterminate amount of increased costs. If the cost for goods and services increases by one percent due to reduced competition, the result would be an annual increase of \$50 million for state agencies based on \$5 billion in annual spend by state agencies, institutions and departments of the Commonwealth. Local governments may experience a similar percentage increase and increase in costs as a result of reduced competition. Local government spend is also approximately \$5 billion annually.

The Department of Homeland Security does not currently provide a searchable database of employers that are registered and actively utilizing the e-Verify system. As a result, the Department of General Services would need to establish and maintain a listing accessible by

all public bodies to confirm participation and enforce the penalties associated with this bill. The agency claims they will need additional resources and one position to administer this system. Administration of the system would entail adding and deleting companies to the database to keep it updated, assisting public bodies with usage of the database, performing research on contractors and subcontractors, as well as ensuring compliance by contractors and subcontractors. The agency estimates the cost of this will be \$90,000 annually. Since DGS cannot absorb this cost, a budget amendment is needed. (See Item 7.)

9. Specific Agency or Political Subdivisions Affected: All public bodies of the Commonwealth.

10. Technical Amendment Necessary: No

11. Other Comments: None

Date: 1/17/2008 dpb

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cc: Secretary of Administration