

## Department of Planning and Budget 2008 Fiscal Impact Statement

**1. Bill Number:** SB90

House of Origin	<u>X</u>	Introduced	<u>    </u>	Substitute	<u>    </u>	Engrossed
Second House	<u>    </u>	In Committee	<u>    </u>	Substitute	<u>    </u>	Enrolled

**2. Patron:** Colgan

**3. Committee:** Commerce and Labor

**4. Title:** Employment; verification of eligibility.

**5. Summary:** This bill requires that employers participate in an electronic employment verification system operated by the US Department of Homeland Security, or any equivalent federal work authorization program. The bill also prohibits an employer from allowing an individual to start work unless the employer has conducted the identity verification process through the electronic employment verification system and has obtained a response that affirmatively verifies that the individual is legally eligible for employment in the United States. Violations constitute a Class 1 misdemeanor.

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

**7. Budget Amendment Necessary:** No.

**8. Fiscal Implications:** This bill makes it a Class 1 misdemeanor for employers to (i) employ a worker who cannot provide documents indicating their legal status, (ii) neglect to participate in an electronic employment verification system, and (iii) neglect to conduct the identity verification process through an electronic employment verification system for each new hire. The penalties of a Class 1 misdemeanor include confinement in jail for not more than twelve months and a fine of not more than \$2,500. Therefore, this proposal could result in an increase in the number of persons in jail. There is not enough information available to reliably estimate how many additional inmates in jail could result from this proposal. Any increase in jail population will increase costs to the state. The Commonwealth pays the localities \$8.00 a day for each misdemeanant or otherwise local responsible prisoner held in a jail. It also funds most of the jails' operating costs, e.g. correctional officers. The state's share of these costs on a per prisoner, per day basis varies from locality to locality. However, according to the Compensation Board's most recent Jail Cost Report (November 2007), the estimated total state support for local jails averaged \$28.42 per inmate per day in FY 2006.

It is anticipated that this bill could result in a positive revenue impact to the State Literary Fund, as any penalties collected are directed towards this fund. However, any revenue impact cannot be determined and is dependent on the number of convictions.

The Department of Labor and Industry (DOLI) may be required to do civil enforcement of violations as a result of this bill. However, under federal law, employers are not required to share with DOLI the documents they have used in hiring employees. Should these enforcement barriers be removed, DOLI anticipates that at least two inspectors will be needed to enforce any violations. Administrative support and legal support would be needed to support the activities of the inspectors. The total cost for these new hires would be three and a half new FTEs, and an annually-recurring cost to the general fund of \$199,425.

**9. Specific Agency or Political Subdivisions Affected:** Department of Labor and Industry, local court systems, Jails.

**10. Technical Amendment Necessary:** No.

**11. Other Comments:** None.

**Date:** 1/11/2008 dpbaek

**Document:** G:\FIS\2008 Fiscal Impact Statements\DOLI\SB90.Doc aek

cc: Secretary of Commerce and Trade  
Secretary of Finance