
Labor & Workforce Development Committee

HB 1272

Brief Description: Requiring the employment security department to verify that workers referred to employers are authorized to work in the United States.

Sponsors: Representatives Chandler and Condotta.

Brief Summary of Bill

- Expresses legislative findings and intent related to requiring the Employment Security Department (Department) to verify the employment eligibility of certain workers.
- Requires the Department to refer for employment only those individuals that the Department has verified are legally authorized to work in the United States.

Hearing Date: 1/21/11

Staff: Jill Reinmuth (786-7134).

Background:

Federal law makes it unlawful for employers to knowingly hire workers who are unauthorized to work in the United States. Employers are required to verify the employment eligibility and identity of workers using the procedures specified in federal law (the Form I-9 process).

An employer must attest on a Form I-9 that he or she has examined certain documents that establish the worker's employment eligibility and identity. The worker also must attest that he or she is a citizen or national of the United States, an alien lawfully admitted for permanent residence, or an alien who is otherwise authorized to be hired for employment. The employer must retain the Form I-9 and make it available for inspection by certain officials during the three-year period after the date of hire or the one-year period after the date of termination,

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whichever is later. An employer may be subject to civil penalties for paperwork violations and criminal penalties for pattern or practice violations.

An employer who establishes that he or she complied in good faith with the Form I-9 process may establish an affirmative defense. With respect to a worker referred by a state employment agency to an employer, the employer is deemed to have complied with the Form I-9 process, so long as the employer retains appropriate documentation of the referral, and the documentation certifies that the agency complied with the Form I-9 process.

A state employment agency may choose to verify the employment eligibility and identity of workers that the agency refers to employers. (For a limited period of time, verification was required for domestic workers referred to growers seeking to participate in the H-2A visa program. Verification is no longer required pursuant to federal rules that took effect in 2010.)

Summary of Bill:

The Legislature finds that federal law prohibits the hiring of workers whom employers know are unauthorized to work in the United States. The Legislature also makes findings about verification of employment eligibility by employers, and referrals of workers to employers by the Employment Security Department (Department). The Legislature expresses its intent to require the Department to verify that referred workers are authorized to work in the United States, and to provide appropriation documentation to referred workers and employers.

The Department is required to refer for employment only those workers whom the Department has verified are legally authorized to work in the United States. The Department must comply with the procedures specified in federal law. The Department also must provide the worker and the employer with documentation of the referral that certifies compliance with the procedures.

Appropriation: None.

Fiscal Note: Requested on 1/18/2011.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.