

GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2007

Legislative Fiscal Note

BILL NUMBER: House Bill 1485 (First Edition)

SHORT TITLE: NC Illegal Immigration Prevention Act

SPONSOR(S): Representatives Blust, Cleveland, Holloway, and Neumann

| FISCAL IMPACT | | | | | |
|---|---|----------------------------|----------------------------------|----------------------------|----------------------------|
| | Yes (X) | No () | No Estimate Available () | | |
| | <u>FY 2007-08</u> | <u>FY 2008-09</u> | <u>FY 2009-10</u> | <u>FY 2010-11</u> | <u>FY 2011-12</u> |
| REVENUES: | | | | | |
| Secretary of State | \$400,000 to \$800,000 | \$400,000 to \$800,000 | \$400,000 to \$800,000 | \$400,000 to \$800,000 | \$400,000 to \$800,000 |
| EXPENDITURES: | | | | | |
| Crime Control and Public Safety | Some fiscal impact expected, but amount not significant. | | | | |
| Corrections | Some fiscal impact expected on DOC (Community Corrections) and local jails, but amount not significant. | | | | |
| NC Community College System | No fiscal impact. | | | | |
| Revenue | No fiscal impact. | | | | |
| Health and Human Services | Some fiscal impact, but actual impact cannot be determined. | | | | |
| Transportation | No fiscal impact. | | | | |
| Labor | \$66,994 | \$70,246 | \$73,836 | \$77,657 | \$81,550 |
| Secretary of State | \$2,622,639 to \$3,440,733 | \$2,622,639 to \$3,440,733 | \$2,622,639 to \$3,440,733 | \$2,622,639 to \$3,440,733 | \$2,622,639 to \$3,440,733 |
| POSITIONS: | | | | | |
| Secretary of State | 31 to 44 | 31 to 44 | 31 to 44 | 31 to 44 | 31 to 44 |
| Labor | 1 | 1 | 1 | 1 | 1 |
| PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of the Secretary of State; Department of Administration; Department of Crime Control and Public Safety; University of North Carolina; North Carolina Community College System; Department of Revenue; Department of Health and Human Services; Department of Transportation; Department of Labor, all public and private North Carolina employers. | | | | | |

EFFECTIVE DATE: Part II: The article applies January 1, 2008, to employers and contractors with 500 or more employees; April 1, 2008, to employers and contractors with 100 or more employees; and July 1, 2008, to all other employers and contractors; Parts VI and VII: January 1, 2007; All other Parts: January 1, 2008.

BILL SUMMARY:

The act is divided into seven substantive parts: public and private employer participation in the federal work authorization program; facilitation of enforcement of federal immigration laws; determination of the immigration status of persons who are jailed for felony or driving offenses; establishment of an immigration assistance registration act; elimination of income tax deductions for wages paid to illegal immigrants; ensuring tax withholding on wages paid to illegal immigrants; and verification of a person's lawful presence in the United States as a prerequisite to receiving public benefits. Some of the effective dates for the individual sections are inconsistent with the bill's effective date of January 1, 2008 and are delineated below.

Part II of the act amends G.S. Chapter 95 by adding a new Article 24 (comprised of new G.S. 95-280 through G.S. 95-283) entitled Workplace Immigration Compliance, requiring all NC public and private employers to register and participate in the electronic verification of work authorization programs operated by the US Department of Homeland Security (US DHS), and prohibiting the making of contracts for the physical performance of services between employers and contractors unless the contractor has registered and participates in US DHS's new employee work authorization programs. The article applies January 1, 2008, to employers and contractors with 500 or more employees; April 1, 2008, to employers and contractors with 100 or more employees; and July 1, 2008, to all other employers and contractors. Part II also directs the Commissioner of Labor to adopt rules and forms to implement the article and the Department of Transportation to adopt any rules necessary to apply the article to any contract relating to public transportation.

Part III amends Article 20 (Arrest) of G.S. Chapter 15A, by adding new G.S. 15A-407, which directs the Secretary of Crime Control and Public Safety to negotiate and enter into, along with the Governor, a memorandum of understanding on behalf of NC with the United States Department of Justice or the US DHS pursuant to which NC law enforcement officers will be trained and certified so as to enforce federal immigration and customs laws while performing their state-authorized duties.

Part IV amends G.S. Chapter 162 (Sheriff) by adding a new G.S. 162-62 providing that jail administrators are to make reasonable efforts to determine the nationality of any person charged with a felony or an impaired driving offense. If the prisoner is a foreign national, the jail administrator is directed to make a reasonable effort to verify that the prisoner is in the United States legally, either from documents in possession of the prisoner or by making an inquiry of the US DHS. If it is determined that the prisoner is in the country illegally, then the jail administrator must notify US DHS.

Part V enacts a new G.S. Chapter 84B entitled the Immigration Assistance Registration Act, establishing and enforcing ethical standards for non-attorneys providing immigration assistance services. The Chapter requires any person who provides immigration assistance services to

register with the Secretary of State and authorizes the Secretary to charge a fee of no more than \$20 to cover administrative costs. The Chapter exempts attorneys and those working under their supervision, nonprofit organizations accredited under 8 CFR 292.2(a) and (d), and organizations desiring to employ aliens or nonimmigrant aliens that provide immigration advice without compensation. The Chapter limits the kinds of services that persons registered as immigration assistance service providers may perform to (1) completing those forms that do not require the use of legal judgment; (2) transcribing customer responses onto government agency forms;(3) translating information on forms or customer answers to forms; (4) helping the customer to secure supporting documents; (5) arranging for photographing, fingerprinting, and medical testing; (6) making attorney referrals; and (7) conducting English and civics courses. The Chapter explicitly prohibits providers of immigration assistance services from giving any legal advice or allowing customers to believe that they possess any special professional skills or knowledge with respect to immigration matters and requires providers to post conspicuous notices to that effect. Violation of the Chapter is a Class 1 or 2 misdemeanor subject to a fine of up to \$1,000 for each violation.

Part VI amends G.S. 105-130.2, 105-130.5(a), 105-134.1, and 105-134.6(c) (corporate and individual income tax) to provide that amounts in excess of \$600 that are paid to an unauthorized alien as wages or compensation must be added to federal taxable income in determining NC taxable income, to the extent those amounts are not included in federal taxable income. These changes are effective for taxable years beginning on or after January 1, 2007.

Part VII amends G.S. 105-163.1 (the definitions section for withholding and estimated state income tax for individuals) to include in the definition of contractor from whose compensation taxes must be withheld an “unauthorized alien who performs any personal services in this State for compensation other than wages.” Part VII also makes conforming changes and is effective January 1, 2007.

Part VIII enacts a new G.S. Chapter 135A entitled “Public Benefits,” requiring state agencies or political subdivisions to verify that any person 18 years of age or older who applies for state or local public benefits or for federal public benefits that are administered by a state agency or political subdivision is in the United States legally. The act lists public benefits that do not require verification of legal presence, including emergency medical treatment; short-term, non-cash emergency disaster relief; public health assistance for immunization against or symptoms of communicable diseases; and prenatal care. Part VIII requires state agencies and political subdivisions to verify eligibility for benefits by obtaining an affidavit from each applicant and confirming eligibility through the US DHS alien verification program and makes it a Class I felony for any person to knowingly making a false representation in an affidavit executed for the purposes of obtaining public benefits.

Source: Bill Digest H.B. 1485 (04/12/0200)

ASSUMPTIONS AND METHODOLOGY:

Part II

Session Law 2006-256 amended G.S. 126-7.1 requiring all State agencies, departments, institutions, universities, community colleges, and public schools to verify an individual’s legal status or authorization to work in the United States after hiring the individual by using the Basic

Pilot Program. This new law was effective for all State employees and community colleges employees hired after January 1, 2007 and all public school employees hired after March 1, 2007.

The Basic Pilot Program, sometimes referred to as the Employment Eligibility Verification Program (EEV), is the only electronic federal work authorization program. The Basic Pilot Program permits employers to electronically verify whether their new employees are authorized to work in the United States. Employers are already required to complete Form I-9 for all newly hired employees in accordance with the Immigration Reform and Control Act of 1986. Upon completion of the forms, an employer may query the Basic Pilot Program's automated system by entering employee information from the Form I-9 into the Basic Pilot Program web site. The Basic Pilot Program electronically matches the entered information against information in the Social Security Administration's (SSA) and, if necessary, the Department of Homeland Security's (DHS) databases to determine whether the employee is eligible to work. The Basic Pilot Program notifies the employer electronically whether the employee's work authorization was confirmed. Queries that the DHS automated verification cannot confirm are referred to DHS immigration status verifiers who check employee information against other DHS information. In cases where the Basic Pilot Program cannot confirm an employee's work authorization status either through the automatic check or the check by an immigration status verifier, the system issues the employer a tentative non-confirmation of the employee's work authorization status. In these cases, the employer must notify affected employees of the finding, and the employee has the right to contest their tentative non-confirmation by contacting the SSA or the U.S. Citizenship and Immigration Services (CIS) to resolve any inaccuracies within 8 days. Employers are required to either immediately terminate the employee or notify DHS of the continued employment of workers who do not successfully contest the tentative non-confirmation and those who the Basic Pilot Program finds are not work-authorized.

Inasmuch as all State agencies, departments, institutions, universities, community colleges, and public schools are currently participating in a Federal work authorization program, there would be no additional fiscal impact to the State associated with the requirement to register and participate in the federal work authorization program.

Department of Labor

The Department of Labor is unclear as to what their responsibilities will be under the bill. However, the Department estimates that they would need at least one new Paralegal I position to promulgate rules and develop forms for compliance with the Act. Standard inflationary increases were applied to salary, fringe, and associated costs of such a position to determine the additional General Fund appropriation required each year.

North Carolina Department of Transportation

Within the Department of Transportation, business practices would change in that contractors will be required to certify that they have participated in the federal work authorization program to DOT when bidding on projects. It will be incumbent upon the contractor to update their information as employees are added to projects. NCDOT will be required to monitor this in the same manner as it monitors the overall contract for transportation contracted projects. While contract monitoring will be impacted as a result of this act, it is assumed there will be no additional costs for implementation of this act.

Part III

Department of Crime Control and Public Safety

The Department has indicated that this bill will create additional agency costs but these costs cannot be determined. Taking officers off the job for long periods of time will result in additional overtime costs. Officer training for similar immigration enforcement programs usually lasts about six weeks. While officers are in training they are paid their regular salary plus reimbursements for travel and lodging. In addition to these costs, the regular work shifts that these officers would have worked would still have to be covered by other officers working overtime. The actual expenditure amounts cannot be calculated because the number of officers to be trained and the length of the training program have not been determined. For these reasons, the Department states that it will be difficult to implement this bill without training program details and additional resources.

Part IV

Department of Crime Control and Public Safety

Local sheriff offices where suspected illegal aliens are processed already employ trained officers and possess the technology resources needed to identify the nationality and residence status of arrested individuals. Also, the federal government often assists these offices in identifying suspected illegal aliens. The Department does not expect to incur any costs for identifying suspected illegal aliens. This work is primarily conducted by local sheriff offices and US Immigration and Customs Enforcement (ICE).

Part V

Department of the Secretary of State

The Department of the Secretary of State has used an assumption of a total of 1,000,000 aliens of both legal and illegal status in North Carolina. The Department has provided fiscal information based on the assumption that the proportion of ISAPs to aliens would be 2%, 3% or 4%, or approximately 20,000 potential registrants, 30,000 potential registrants or 40,000 potential registrants. It is assumed that 60 – 70% of customers will be illegal aliens.

As noted in technical considerations, the breadth of the Act's definitions extends coverage to ISAPs providing "immigration assistance" to US citizens, aliens legally authorized to be in the US, and aliens not legally authorized to be in the US. According to the website of the NC State Demographer¹, the population of North Carolina in July 2006 was 8,856,505.

There are many groups of legal and illegal immigrants in North Carolina other than those of Hispanic origin. No source was found which claimed to be an actual accurate estimate of the number of both legal and illegal immigrants or aliens in North Carolina. However, for the Hispanic portion of the population only, a 2006 study² from the Kenan-Flagler Business School at the University of North Carolina at Chapel Hill states that North Carolina's Hispanic population totaled 600,913, or 7 percent of the state's total population, in 2004. Nearly half (45 percent) of North Carolina's Hispanic residents in 2004, and over three-quarters (76 percent) of those

¹ <http://www.demog.state.nc.us/>

² John D. Kasarda and James H. Johnson, Jr., "The Economic Impact of the Hispanic Population on the State of North Carolina", Frank Hawkins Kenan Institute of Private Enterprise, Kenan-Flagler Business School, University of North Carolina at Chapel Hill.

migrating to the state from abroad between 1995 and 2004, did not have authorized documentation.

It appears that “notario publicos” or “notarios”³ are a primary focus of Section 5 of the Bill. Fiscal Research found no credible data with regard to the number of “notario publicos”. Many operate in what is essentially an underground economy. Based on the actual and anecdotal knowledge of the Department’s Notary Section, the number of “notario publicos” operating in North Carolina exceeds 2,000. Section 5 of the bill requires registration of individuals and organizations who fall within the definition of “immigration assistance” providers but who are not commissioned notary publics.

The potential regulated community is atypical in several respects. The minimal level of initial education and outreach regarding HB 1485’s registration requirements is, therefore, unlikely to reach a substantial number of potential registrants and inform them of the duty to register. A minimal outreach will consist of press releases and paid public service announcements in foreign language media outlets. It is expected that customer service functions will be necessary to address questions concerning the law change. The Department of the Secretary of State has, at present, few staff members who are fluent in foreign languages. As a result, SOS is expected to hire Spanish speaking staff and utilize interpreter and translator services for other foreign languages.

No civil penalties are set forth with regard to violations of HB 1485 or the rules which would be adopted to implement and enforce it, even the most minimal violation would be punishable only by a criminal sanction. It is assumed that civil enforcement is needed to ensure all applicable immigration assistance providers are registered and all registered providers restrict activities to the duties explicitly stated in this bill.

It is assumed that the registry will be electronically accessible, but it will not be searchable on the Internet. Some computer programming for data input into the SOS KB system is needed in order to maintain fiscal and other controls.

HB 1485 includes a one-time registration fee of \$20.00 “to cover the administrative costs associated with establishing and maintaining the registry”. The Department has provided fiscal impact information based on a range of numbers of potential Immigration Assistance Providers:

| | | | |
|------------------|--------------|--------------|-----------|
| Low Estimate: | 20,000 ISAPs | Fee Revenue: | \$400,000 |
| Medium Estimate: | 30,000 ISAPs | Fee Revenue: | \$600,000 |
| High Estimate: | 40,000 ISAPs | Fee Revenue: | \$800,000 |

The costs of implementation of HB 1485 to the Department of the Secretary of State are:

| | | | |
|------------------|-------------|-------------------|-------------|
| Low Estimate: | \$2,622,639 | Less Fee Revenue: | \$2,222,639 |
| Medium Estimate: | \$3,002,293 | Less Fee Revenue: | \$2,402,293 |
| High Estimate: | \$3,440,733 | Less Fee Revenue: | \$2,640,733 |

³ “Notario” is the Spanish word for lawyer. As a result, many Hispanics believe a “notario publico” is authorized to practice law in North Carolina.

Cost details for each range level appear below.

| Cost Detail for Low Estimate | | | | | |
|-------------------------------------|-------|---------------------|----------|-----------------------|-------------|
| Title | Grade | Number of Positions | Salary | Benefits per Position | Total |
| Director | 74 | 1.0 | \$55,448 | \$11,877.33 | \$67,325 |
| AA III (supervisor) | 67 | 3.0 | \$41,029 | \$9,790.90 | \$152,460 |
| AA (division support) | 63 | 1.0 | \$34,867 | \$8,899.25 | \$43,766 |
| AA (admin/budget/HR) | 63 | 1.0 | \$34,867 | \$8,899.25 | \$43,766 |
| Processors | 61 | 21.0 | \$32,328 | \$8,531.86 | \$858,057 |
| Admin. Supp. | 59 | 2.0 | \$29,935 | \$8,185.59 | \$76,241 |
| Interpreter Serv. Cons. | 68 | 2.0 | \$42,817 | \$10,049.62 | \$105,733 |
| Total Staffing | | | | | \$1,347,349 |
| Administrative Costs | | | | | \$1,275,290 |
| Grand Total | | | | | \$2,622,639 |

| Cost Detail for Medium Estimate | | | | | |
|--|-------|---------------------|----------|-----------------------|-------------|
| Title | Grade | Number of Positions | Salary | Benefits per Position | Total |
| Director | 74 | 1.0 | \$55,448 | \$11,877.33 | \$67,325 |
| AA III (supervisor) | 67 | 4.0 | \$41,029 | \$9,790.90 | \$203,280 |
| AA (division support) | 63 | 1.0 | \$34,867 | \$8,899.25 | \$43,766 |
| AA (admin/budget/HR) | 63 | 2.0 | \$34,867 | \$8,899.25 | \$87,533 |
| Processors | 61 | 25.0 | \$32,328 | \$8,531.86 | \$1,021,497 |
| Admin. Supp. | 59 | 2.0 | \$29,935 | \$8,185.59 | \$76,241 |
| Interpreter Serv. Cons. | 68 | 2.0 | \$42,817 | \$10,049.62 | \$105,733 |
| Total Staffing | | | | | \$1,605,375 |
| Administrative Costs | | | | | \$1,396,918 |
| Grand Total | | | | | \$3,002,293 |

| Cost Detail for High Estimate | | | | | |
|--------------------------------------|-------|---------------------|----------|-----------------------|-------------|
| Title | Grade | Number of Positions | Salary | Benefits per Position | Total |
| Director | 74 | 1.0 | \$55,448 | \$11,877.33 | \$67,325 |
| AA III (supervisor) | 67 | 4.0 | \$41,029 | \$9,790.90 | \$203,280 |
| AA (division support) | 63 | 1.0 | \$34,867 | \$8,899.25 | \$43,766 |
| AA (admin/budget/HR) | 63 | 3.0 | \$34,867 | \$8,899.25 | \$131,299 |
| Processors | 61 | 29.0 | \$32,328 | \$8,531.86 | \$1,184,936 |
| Admin. Supp. | 59 | 3.0 | \$29,935 | \$8,185.59 | \$114,362 |
| Interpreter Serv. Cons. | 68 | 3.0 | \$42,817 | \$10,049.62 | \$158,600 |
| Total Staffing | | | | | \$1,903,568 |
| Administrative Costs | | | | | \$1,537,165 |
| Grand Total | | | | | \$3,440,733 |

If it is the intention for the fee to be used to pay for the full costs associated with administering and enforcing the registry, the fee should be raised from \$20.00 to:

| | |
|------------------|-------|
| Low Estimate: | \$111 |
| Medium Estimate: | \$80 |
| High Estimate: | \$66 |

Department of Corrections – Division of Prisons

Violation of Chapter 84B would result in a Class 1 or 2 misdemeanor charge with a fine of up to \$1,000 for each violation. Since the proposed bill creates new offenses, the Sentencing Commission does not have any historical data from which to estimate the impact of this bill on the prison population. It is not known how many offenders might be sentenced under this bill. However, convictions for these proposed offenses would not be expected to have a significant impact on the prison population. Most offenders that would be sentenced to active time would be sent to local jails. The impact on local jail populations is not known.

In fiscal year 2005-2006, 20% of Class 1 misdemeanor convictions resulted in active sentences. The average estimated time served for Class 1 misdemeanor convictions was 13 days. In FY 2005-06, 17% of Class 2 misdemeanor convictions resulted in active sentences, with an average estimated time served of 13 days. Under Structured Sentencing, Class 2 misdemeanor active sentences may range from 1 to 60 days. Offenders serving active sentences of 90 days or less are housed in county jails. To the extent that future convictions for the proposed offense were to result in active sentences longer than 30 days, the Department of Correction could incur some additional costs for county reimbursement. But given the typical length for Class 2 active sentences, Fiscal Research does not anticipate a significant increase in reimbursements due to this proposal.

Department of Correction – Division of Community Corrections

For felony offense classes E through I and all misdemeanor classes, offenders may be given non-active (intermediate or community) sentences exclusively, or in conjunction with imprisonment (split-sentence). Intermediate sanctions include intensive supervision probation, special probation, house arrest with electronic monitoring, day reporting center, residential treatment facility, and drug treatment court. Community sanctions include supervised probation, unsupervised probation, community service, fines, and restitution. Offenders given intermediate or community sanctions requiring supervision are supervised by the Division of Community Corrections (DCC); DCC also oversees community service.⁴

If new convictions were to occur as a result of this bill, the Division of Community Corrections (DCC) would incur some costs for the additional offenders placed under its supervision. General supervision of intermediate and community offenders by a probation officer costs DCC \$1.96 per offender, per day; no cost is assumed for those receiving unsupervised probation, or those who are ordered only to pay fines, fees, or restitution. The daily cost per offender on intermediate sanction ranges from \$7.71 to \$14.97, depending upon sanction type. Thus, assuming intensive supervision probation – the most frequently used intermediate sanction – the estimated daily cost per

⁴ DCC incurs costs of \$0.69 per day for each offender sentenced to the Community Service Work Program; however, the total cost for this program cannot be determined.

intermediate offender is \$14.97 for the initial six-month intensive duration, and \$1.96 for general supervision each day thereafter. Total costs to DCC are based on average supervision length and the percentage of offenders (per offense class) sentenced to intermediate sanctions and supervised probations.

Parts VI and VII

Department of Revenue

Sections 6 and 7 of the bill pertain to income taxpayer deductions and withholdings. Compliance with these parts would have a minimal increase on income tax revenue collections. Based on discussions with the Department of Revenue, however, it was determined insufficient data is available to reliably estimate the impact on collections from enactment of either Part VI or VII of the bill.

Part VIII

North Carolina Community Colleges

The North Carolina Community College System anticipates no fiscal impact as a result of this legislation. The definitions for “federal public benefit” and “State or local public benefit” are as defined in Section 8 of the U.S. Code, paragraphs 1611 and 1621, respectively. Those definitions include grants, loans and postsecondary education provided by federal, state or local entities. Community Colleges already participate in the SAVE program for employment verification and utilize Windstar’s Tax Navigator software to track and properly report for documented foreign nationals who receive payments, both wages and financial aid.

The University of North Carolina

The University of North Carolina anticipates no fiscal impact as a result of this legislation, as the expansion of the Basic Pilot program as delineated in this legislation would lead to no significant expansion of duties or responsibilities on the part of the University.

Department of Health and Human Services

The Department of Health and Human Services anticipates some fiscal impact from the proposed legislation. The proposed legislation requires all programs providing a federal, state, or local public benefit as defined under federal law to persons 18 years old or greater to verify citizenship status as a part of the eligibility criteria. All public benefit programs in the Department of Health and Human Services that fall under the federal definitions and are not exempted verify citizenship status, but not all of these public benefit programs utilize the SAVE program operated by the US Department of Homeland Security to verify immigration status of aliens. Programs that only serve children under the age of 18 are not included in this analysis.

The following programs operated by the Department of Health and Human Services are exempted under federal law or the proposed legislation and are not affected by the requirements to utilize the SAVE program: AIDS Drug Assistance Program, local public health department services, and mental health services provided by LMES and state institutions.

The following programs operated by the Department of Health and Human Services already utilize the SAVE program to verify immigration status and will not be affected by the proposed legislation: Medicaid, State/County Special Assistance, Food Stamps, and Work First.

The following programs operated by the Department of Health and Human Services do not utilize the SAVE program to verify immigration status and will be affected by the proposed legislation: Adult Cystic Fibrosis Program, Sickle Cell Program, Assistive Technology Program, Cancer Purchase of Medical Care Program, Kidney Purchase of Medical Care Program, and Low Income Energy Assistance Program. Requiring these programs to utilize the SAVE program to verify immigration status will increase the administrative cost and processing time for their application process. The cost to use the SAVE program is twenty-six cents per inquiry and forty-eight cents for a secondary inquiry. Since these programs do not track the number of immigrants that they serve, the actual fiscal impact to each program cannot be determined.

SOURCES OF DATA:

Department of the Secretary of State; Department of Administration; Department of Crime Control and Public Safety; Department of Corrections; Judicial Branch; University of North Carolina – General Administration; North Carolina Community College System; Department of Revenue; Department of Health and Human Services; Department of Transportation; Department of Labor, Office of State Personnel, United States Citizenship and Immigration Services web site, U.S. Government Accountability Office; the Social Security Administration, Office of the Inspector General, Administrative Challenges Facing the Social Security Administration presented to the U.S. Senate Committee on Finance, March 14, 2006; U.S. Department of Homeland Security Report to Congress on the Basic Pilot Program, June 2004; N.C. Department of Public Instruction; U.S. Office of Congressional Relations.

TECHNICAL CONSIDERATIONS:

Part II:

The Basic Pilot Program has recently been extended to all employers in the United States. The United States Citizenship and Immigration Services web site states that "...if significantly more employers than anticipated choose to participate in the Basic Pilot Program, USCIS may have to limit the number of participants." The Basic Pilot Program was authorized by Congress in 1996, has been extended several times, and currently expires in November 2008. The Basic Pilot Program allows only two levels of hierarchy. Corporate administrators oversee the use of the program for a particular hiring site. Program administrators/general users run the employment eligibility verifications. This can be problematic for public or private employers who have multiple hiring sites as a "corporate" office would not be able to oversee the multiple hiring sites to monitor compliance.

The United States Department of Homeland Security requires a signed memorandum of understanding (MOU) for each hiring location. Public and private employers with multiple hiring locations will be required to sign a MOU for each hiring site.

Some individuals may be legally eligible to work but not yet possess a social security number. A social security number is required to run a Basic Pilot Program verification check. If a new hire has not yet received a social security number, it may not be possible to complete the Basic Pilot Program verification within three days as is required by the MOU.

This legislation prohibits a public or private employer from entering into a contract for the physical performance of services within this State unless the contractor registers and participates in the federal work authorization program to verify information of all new employees. The Basic Pilot Program can't be used selectively by an employer. Thus, this would require any contractor bidding on a NC contract to implement the federal work authorization program company wide if there is only one company hiring site. If there are multiple hiring sites, the contractor would have to implement the federal work authorization program at the particular hiring site or sites that are supplying workers for the NC contract. For example, if a New York based company does all of its northeastern hiring from its Albany office, and wants to bid on a NC contract, that company would have to begin to verify every person hired in the entire northeast in order to comply with this requirement. Some companies might be discouraged from bidding on NC contracts, thereby indirectly making North Carolina contracts more expensive.

Similarly, many Information Technology (IT) companies may choose to outsource computer software coding to other countries. It is not inherently clear how Section 95-281 would apply in situations where a North Carolina employer chooses to contract for the performance of services with a contractor who chooses to outsource a portion of the work to another country.

The University of North Carolina reports that it has verified the work eligibility status of 10,904 new employees across the 16 campus system since January 1, 2007. In processing these new employees through the Basic Pilot Program, the universities received 538 tentative non-confirmations or approximately 5%. Of the 538 tentative non-confirmations, one employee was ultimately determined as ineligible to work in the United States and seven voluntarily terminated the employment. The universities report having spent 4,710.3 hours completing these verification checks through the Basic Pilot Program.

Part V:

The Department of the Secretary of State raised the following technical considerations to Part 5 of this bill.

A. Definitions

- “Employed by” definition: As written, this definition may exclude many employers and employees. For example, those employers may be excluded that technically make no deductions because they contract out human relations and payroll management. Day laborers may be viewed by some as not covered, as well. Furthermore, the application of the definition to independent contractors is not clear. Does the bill apply to all independent contractors or only those who “receive” compensation from the employer? By employer in this instance, does the bill mean the contractor himself or herself?
- “Immigration assistance service” definition. It is not clear whether the phrase “compensated for” should be included. If it is intended that the bill apply solely to compensated ISAPs, the scope of the bill would be somewhat narrower.
- “Immigration Matter” definition. See discussion below in the Scope section.

- The terms for which a definition is needed include “alien” and “non-immigrant alien”.

B. Scope

The bill is much broader in scope than might be apparent at first glance. As HB 1485 covers actions affecting the immigration status of “any person”, ISAPs include those who assist not only legal and illegal aliens, but also American citizens. Because of the interplay between the definitions of “immigration assistance services” and “immigration matters” in HB 1485, a broader universe of ISAPs than just “Notario Publicos” is encompassed. Furthermore, as HB 1485 does not limit ISAPs to persons compensated for providing “immigration assistance services”, a broad universe of volunteers, religious organizations, and arguably, even family members are encompassed. Finally, as HB 1485 defines “immigration matters” to include all actions affecting immigration status, a wide range of issues and matters are covered. Examples of the types of action covered by the definition of “immigration matters” include:

- Criminal Matters – Conviction of certain crimes can result in loss of legal status and deportation. Therefore, with regard to criminal proceedings, the bill would cover ISAP actions such as: translation and/or completion of forms to prove indigence in order to qualify for court appointed counsel.
- Assistance to legal immigrants whose status is changing., *e.g.*, students who are nearing the end of a degree for which they had a student visa and who are seeking to extend the visa for graduate school.
- Assistance to once legal immigrants whose status has changed to illegal (or while in the limbo of the immigration process), *e.g.*, students or tourists who have overstayed a visa.
- Assistance to U.S. citizens on matters related to immigration status, *e.g.*, foreign adoptions, exchange programs, family re-unification.
- Assistance by uncompensated ISAPs, *e.g.*, providing services to refugees.
- Assistance to non-Hispanic illegal immigrants.
- Assistance to legal and illegal immigrants in complying with provisions of any form of federal immigration bill which passes and which includes a way for illegal immigrants to obtain a form of legal status, whether as a temporary worker, a resident alien or some other status. For example, some federal proposals would require completing and filing forms accompanied by a fine.

C. Inconsistency with Current Notary Act Penalties

HB 1485 appears to be inconsistent with the current Notary Act in several areas and, therefore, it may weaken the enforcement of the Notary Act. First, HB 1485 would permit a notary public to register as an ISAP and to advertise as an ISAP as long as certain advertising related requirements are met. This is contrary to G.S. §10B-20(j), which generally prohibits a non-attorney notary public from representing himself or herself as an “immigration consultant”. Pursuant to G.S. §10B-20(j), notaries may advertise as immigration consultants or experts only if they are accredited representatives of organizations recognized by the Board of Immigration Appeals. HB

1485 would exempt those very same notaries from registering as ISAPs at all. *See* HB 1485, Section 5, 84B-5(3) Other notaries, however, would be permitted to register as an ISAP and to advertise as providing immigration assistance, contrary to the provisions of the Notary Act.

HB 1485 permits a notary public registered as an ISAP to complete forms and perform other tasks prohibited by the Notary Act. G.S. §10B-20(k) states that a non-attorney notary “shall not assist another person in drafting, completing, selecting, or understanding a record or transaction requiring a notarial act.” HB 1485 specifically lists tasks such as completing forms as permissible for ISAPs.

Crimes related to violations of the Notary Act are classified as either Class 1 Misdemeanors or Class I felonies. Under HB 1485 crimes similar to those prohibited in the Notary Act are classified initially only as Class 2 Misdemeanors, with the most severe penalty being a Class 1 Misdemeanor for a repeat of the same offense within 5 years.

HB 1485 allows an ISAP who is also a Notary Public to notarize “signatures on government agency forms”. The fact that this is the only listed permissible notarial act means a Notary who is also an ISAP could be interpreted to be barred from doing any other notarial act in relation to immigration matters. So, for example, a Notary who is an ISAP could notarize a government form but could not notarize an affidavit in connection with an immigration matter.

G.S. §10B-20(c)(6) prohibits a Notary Public from directly receiving monetary or other forms of compensation from a transaction connected to the notarial act if it exceeds the statutory fees for notarial acts. A Notary can be disciplined for violation of this provision, up to and including revocation of commission. HB 1485 can be read to undermine this prohibition by permitting notaries to receive payment in addition to statutory notary fees for performing notarial acts related to government forms.

D. Constitutional Issues

The US Supreme Court has interpreted the 1st Amendment to the US Constitution⁵ to apply to commercial speech.⁶ The Court has, therefore, restricted regulation (“abridging”) of commercial advertising to narrow circumstances on the grounds that advertising is speech. For example, regulation of advertising to bar misleading statements has been deemed permissible while some content based regulation of advertising has been deemed impermissible. G.S. 84B-7 of HB 1485 may have the unintended consequence of being deemed as abridging commercial speech.

E. Exemptions

The limited exemptions from HB 1485 registration requirements and the phrasing of some of those exemptions may have the unintended consequence of greatly expanding the pool of ISAPs beyond the stated intent of the law. Government agencies providing immigration assistance services are

⁵ The 1st Amendment states that:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”

⁶ That is to say, speech by or on behalf of those “persons” who are not human beings but rather are what are classified as persons created by action of law, *e.g.*, business entities and other organizations.

not exempted. If government agencies have to pay to register each individual employee who provides “immigration assistance services”, as defined in HB 1485, there will be potential for significant fiscal impact as the agencies pay the required fees. The judicial approval phrase in the attorney exemption can be read to apply to all attorneys not just foreign attorneys, thus imposing an additional obligation not only upon licensed American attorneys but also upon the judicial system. The scope of the exemption relating to organizations employing or desiring to employ aliens is unclear. There does not appear to be an exemption for family members, friends, church volunteers, etc. It may be considered to clarify that there is no exemption for out-of-state or foreign companies if they offer or provide services to North Carolina customers. Clarification is needed to determine what constitutes sufficient contacts with North Carolina to invoke long arm jurisdiction regarding an out-of-state ISAP serving NC customers.

F. Registrants and Registration

HB 1485 does not set forth qualifications for registration or delineate registration requirements similar to those typically found in registration, certification and licensure statutes. In the absence of such registration requirements, the State registration agency is presumed to be required to accept all applications regardless of completeness. Typical registration requirements include some sort of verification of accuracy of application information submitted, either by applicant certification or by notarized applicant verification. The lack of authority to require verification of accuracy poses an obvious problem in a piece of legislation with a stated purpose of establishing and enforcing ethical standards. In addition, the lack of qualifications to be an ISAP means that the State registration agency cannot deny an application to be registered as an ISAP but must, instead, register all persons who submit an application.

Registration of unqualified people could lead to unintended consequences such as registering ISAPs who are themselves illegal aliens or registering ISAPs with a criminal history of such crimes as: unauthorized practice of law, engaging in notarial acts when not a commissioned North Carolina Notary Public, or crimes of dishonesty or moral turpitude.

Additional considerations include a verification process, guidance on when a registration application may be rejected for incompleteness or incorrect information, and any guidance for when an application may be rejected based on applicant qualifications, bounced checks, violations of this statute, or any other reasons. Additional clarification is also necessary to determine the duration of the registration and renewal intervals.

Many registration, certification and licensure statutes include specific requirements regarding registration maintenance. Examples of maintenance requirements include: continuing education, compliance with ethical standards, and notification of status changes. HB 1485 includes some signage and advertising requirements, as well as a list of permissible ISAP activities but does not include some of the other typical maintenance requirements. For instance, must a registered ISAP notify the State registration agency of changes in name, citizenship status, address, etc.? Furthermore, many registration, certification and licensure laws include a requirement that the State registration must be posted in a location in which it may easily be read by customers.

Many registration, certification and licensure laws include a requirement that the registrant periodically undergo training and education, at a minimum, in the laws and ethical standards

applicable to the registrant. In addition, it should be considered whether ISAPs should be required to keep and maintain a journal of their actions. Journals can be used in investigation of complaints, to either refute or prove a complaint. In addition, the mere requirement to maintain a journal may strengthen compliance with ethical standards.

G. Registry of ISAPs

HB 1485 requires creation of a registry of ISAPs which is publicly accessible but does not include other typical requirements for such registries. Further clarification is needed to determine the mode of public access. Specifically, is a searchable database contemplated? How often should the registry be updated?

H. Permissible ISAP Actions

In some instances, the present HB 1485 phraseology with regard to those activities which are authorized for ISAPs may have unintended consequences. Proposed G.S. 84B-6(4) provides that a registered ISAP is allowed to obtain existing documents for a customer if the documents are to be submitted with government forms. The wording of the provision can be read to mean that a registered ISAP cannot secure existing documents for a customer unless the documents are to be submitted with government forms. Does this mean a registered ISAP cannot secure existing documents for a customer for any other purpose, e.g., personal or medical records?

G.S. 84B-6(5) permits a registered ISAP to translate documents from another language to English. May a registered ISAP translate documents from English to another language?

G.S. 84B-6(6) permits a registered ISAP who is also a North Carolina Notary Public to notarize “immigration matter” related documents which are government forms. The wording of the provision can be read to mean that a registered ISAP who is also a North Carolina Notary Public can only notarize “immigration matter” related documents which are government forms. Can a registered ISAP who is a North Carolina Notary Public also notarize “immigration matter” related documents which are not government forms?

G.S. 84B-6(7) permits a registered ISAP to make referrals without a fee to someone who is an attorney who represents clients in immigration matters. The wording of the provision can be read to mean that a registered ISAP can only make such non-fee referrals to an attorney who represents clients in immigration matters. Thus it can be read either: to not permit other referrals at all, or, to require charging a fee for other referrals, e.g., referral to a criminal lawyer or referral to an entity exempted pursuant to 84B-6(7).

Accurate transcription and translation by ISAPs is not specified or required.

Under current State law, a North Carolina Notary Public could not both translate or transcribe a document and notarize the document. The Department of the Secretary of State recommends that HB 1485 clarify that the standards set out in the Notary Act are not affected.

In addition, it is assumed that an express duty will be imposed on the ISAPs to report customers’ requested ISAP services which are or may be illegal activities.

I. Enforcement

Although HB 1485 specifies that the Secretary of State adopt rules for enforcement, it does not fully address the components of an effective enforcement program: education and outreach, complaints, investigations, civil and criminal sanctions, and an appeals process.

A new registration, certification or licensure law, typically requires a minimal public outreach and education campaign in order to achieve effective implementation and optimal registration. HB 1485 deals with a potential regulated community which has atypical characteristics for a group about to be subjected to regulation, including: no prior regulation (therefore, no familiarity with government requirements); trade associations which, if in existence, are limited in scope and do not cover the entire universe of potential registrants; a customer base in which the majority can be assumed to be illegal aliens not easily reached; and, a potentially regulated community and customer base for which English is probably a second language. Because of these atypical characteristics it is assumed that a one time, “you need to register” campaign will be insufficient and that a continuing and changing outreach campaign will be needed. These components of such outreach are critical to success:

1. Outreach to the potential regulated community to inform them:
 - a. Of the registration requirement;
 - b. Of the permissible and impermissible activities and consequences;
 - c. Of any maintenance requirements.
2. Outreach to customers, law enforcement and the general public to:
 - a. Inform them of the existence of registered ISAPs;
 - b. Inform them of the things registered ISAPs legally can and cannot do;
 - c. To encourage them to seek out registered ISAPs;
 - d. To encourage them to remind unregistered persons to register;
 - e. To encourage them to report unregistered persons; and
 - f. To encourage them to complain about violations.
3. Continuing education for the registered ISAPs and for law enforcement.

Because the Department of the Secretary of State has very little involvement in law enforcement relating to immigration matters, a substantial initial internal education investment will be required for management, general departmental customer service representatives and HB 1485 specific employees. An ongoing investment in keeping all training and education current for all employees will be required as the Department of Homeland Security is engaged in a continuous process of change and improvement in immigration and security related matters. The General Counsel and Assistant General Counsel will require additional continuing education related to immigration law. Training and education will also be required with regard to internal policies, procedures, forms and systems, as well as HB 1485 and any rules adopted pursuant to HB 1485. Training and education will also be required with regard to other agencies and entities to which referrals should be made (and of whom departmental staff would have little current reason to be aware as we would make few referrals).

HB 1485 does not specify the agency to which the public, the regulated community and ISAP customers would submit complaints of violations. As written, HB 1485 gives the State registration agency no authority to receive or to respond to complaints and therefore, the only source of relief for an aggrieved customer or citizen will be the filing of criminal charges. If it is intended that there be a civil component or if a State criminal law enforcement agency is to have enforcement responsibilities, it would be helpful if the bill addressed the following issues: To whom may complaints of civil and criminal violations be made? May complaints be made anonymously? What are the minimum elements a complaint must contain before it may be accepted by the enforcement agency? Some complaint provisions in civil enforcement schemes require notification to the person against whom allegations are made of the receipt of the complaint. At what point must notice be provided to the subject of a complaint?

HB 1485 does not contain the investigative authorities and requirements which are typical of other similar statutes. It may be considered that the bill addresses the following issues:

1. Administrative subpoenas and warrants;
2. Interrogatories and other typical investigative provisions;
3. Authority to cooperate and share information with other agencies;
4. Authority for other agencies to share information with the enforcement agency;
5. A provision similar to that found in G.S. §120C-600(c)⁷;
6. Regional offices would be required to effectively conduct investigations on a statewide basis.

It may be considered that the bill could address the following issues:

1. May cease and desist orders be issued to unregistered ISAPs to require that they cease activity until they register?
2. Are there to be civil penalties such as summary suspension of a registration, probation, warnings or registration revocation?
3. Are there to be monetary civil penalties? If yes, what are the applicable standards?
4. Are there to be possible remedies such as a requirement that an ISAP attend additional training?
5. Are there to be possible remedies such as recoupment of monetary losses to customers due to violations?

The following are criminal enforcement issues that may be considered in future versions of this legislation. Sworn law enforcement officer investigators with arrest authority may be authorized and funded. We note that there are other solutions for more efficiently providing a statewide enforcement and investigative presence by sworn law enforcement officers. For example, ALE already has sworn law enforcement officers stationed throughout the State who might be utilized for investigations under the bill. Based on the experience of SOS in enforcing the Notary Act and given the greater potential impact on the customer harmed by a violation⁸, it may be more effective if the penalty provisions in 84B-9 are increased to a Class 1 misdemeanor for a first offense, and for a second offense, a Class I felony for a second occurrence of the same offense within 5 years

⁷ G.S. §120C-600(c): “Complaints of violations of Articles 4 and 8 of this Chapter and all other records accumulated in conjunction with the investigation of these complaints shall be considered records of criminal investigations under G.S. 132 1.4.”

⁸ Potentially including loss of citizenship or legal immigrant status.

and some greater penalty for a second offense which is not an occurrence of the same offense, *e.g.*, a willful occurrence of a different offense under the law. A maximum fine of at least \$5,000 may be more effective from an enforcement perspective.

J. Rules and Appeals

The APA⁹ requires fiscal note preparation for rules with substantial economic impact and for certain other rules. Revisions to rulemaking fiscal note requirements are proposed by OSBM to be effective on July 1, 2007. The proposed rulemaking fiscal note requirements which OSBM has proposed are assumed to apply to departmental rulemaking to implement and enforce HB 1485. Outside resources will be required of SOS to conduct the research and studies necessitated by the OSBM requirements. In addition, extensive resources in SOS will be devoted to substantive rules research, writing and hearings, in order to, in essence, create new ethical standards for a previously non-regulated community as well as disciplinary guidelines including criteria for revocation of registrations. For example, it is assumed that rules will be needed to the end that ISAPs are required to only accept valid identity and supporting documentation from their clients in the performance of their ISAP duties.

HB 1485 does not include any civil sanctions. As noted above, inclusion of civil sanctions is likely to make the Act more effective. If there are civil sanctions, a State civil appeals process such as that provided under the APA or another process for administrative actions will be required. A sanctioned ISAP would be able to appeal matters such as: denials of ISAP registrations; summary suspensions of ISAP registrations; monetary civil penalties; and, revocations of ISAP registrations. An appeals process will be accompanied by fiscal costs, including costs of counsel for the enforcing agency and for the staff time and resources used in the course of the appeals process, *e.g.*, pretrial staff witness preparation and trial testimony, file and exhibit copies.¹⁰

K. Prohibitions

HB 1485 includes certain prohibitions on activities by registered ISAPs. Future versions of this legislation should address the following unintended consequences. Certain people are exempted from registration by HB 1485. Because they are exempted from registration, they are also exempted from the prohibitions. Thus, unless another law applies to prohibit the behavior, exempted persons can engage in the prohibited behavior. For example, an exempted person could lawfully use false or misleading statements to induce patronage or retain documents provided by or prepared for a customer. Furthermore, HB 1485 prohibits a registered ISAP from making misrepresentations to obtain patronage. The present wording of the prohibitions could be read to, therefore, permit a registered ISAP to make misrepresentations for other reasons, *e.g.*, to misrepresent (mistranslate) a document or the purpose of medical testing.

L. Fiscal Impact of the Above Technical Considerations on the Department of the Secretary of State:

It is assumed that incorporation of the technical considerations will increase the knowledge, skills and abilities required to manage the new division. It is also assumed that additional staff time will be expended on each registration and on each customer service contact due to the increased complexity inherent in the addressing of the technical considerations. If continuing education

⁹ G.S. §150B

¹⁰ The potential fiscal impact on the Office of Administrative Hearings is not covered in this memo.

other than an annual review of law and rules is required, the costs of this technical consideration will substantially increase. Similarly, costs will increase if the processing of any form of continuing education certification is required (whether by the agency or the ISAP). It is assumed that regional offices will be required in order to increase investigation efficiency, improve customer service and outreach to the regulated community, law enforcement and the public. It is also assumed that additional translators and interpreters will be needed for investigative purposes because translation and interpretation during investigation and enforcement proceedings will be more time consuming than for registration and customer service.

Additional costs and search capabilities and other IT enhancements will be required by incorporation of the technical considerations and that there will be additional IT needs related to regional offices. If these technical considerations are added, costs will increase to the following:

| | | |
|------------------|--------------|------------------------|
| Low Estimate: | 20,000 ISAPs | Fee Revenue: \$400,000 |
| Medium Estimate: | 30,000 ISAPs | Fee Revenue: \$600,000 |
| High Estimate: | 40,000 ISAPs | Fee Revenue: \$800,000 |

The costs of implementation of HB 1485 to the Department of the Secretary of State are:

| | | | |
|------------------|-------------|-------------------|-------------|
| Low Estimate: | \$4,136,347 | Less Fee Revenue: | \$3,736,347 |
| Medium Estimate: | \$4,913,124 | Less Fee Revenue: | \$4,313,124 |
| High Estimate: | \$5,831,669 | Less Fee Revenue: | \$5,031,669 |

Cost details for each range level appear below and on the next two pages.

| Cost Detail for Low Estimate | | | | | |
|------------------------------|-------|---------------------|----------|-----------------------|-------------|
| Title | Grade | Number of Positions | Salary | Benefits per Position | Total |
| Director | 79 | 1.0 | \$69,552 | \$13,918.17 | \$83,470 |
| Attorney | 79 | 1.0 | \$69,552 | \$13,918.17 | \$83,470 |
| Paralegal | 69 | 1.0 | \$44,666 | \$10,317.17 | \$54,983 |
| Assistant Director | 74 | 1.0 | \$55,448 | \$11,877.33 | \$67,325 |
| Law Enf. Sup. | 71 | 1.0 | \$48,681 | \$10,898.14 | \$59,579 |
| Law Enf. Agent | 70 | 3.0 | \$46,662 | \$10,605.99 | \$171,804 |
| Staff Dev. Spec. | 69 | 1.0 | \$44,666 | \$10,317.17 | \$54,983 |
| AA III (supervisor) | 67 | 3.0 | \$41,029 | \$9,790.90 | \$152,460 |
| AA (division support) | 63 | 2.0 | \$34,867 | \$8,899.25 | \$87,533 |
| AA (admin/budget/HR) | 63 | 2.0 | \$34,867 | \$8,899.25 | \$87,533 |
| Processors | 61 | 24.0 | \$32,328 | \$8,531.86 | \$980,637 |
| Admin. Supp. | 59 | 2.0 | \$29,935 | \$8,185.59 | \$76,241 |
| Interpreter Serv. Cons. | 68 | 4.0 | \$42,817 | \$10,049.62 | \$211,466 |
| Inform. and Comm. Spec | 68 | 1.0 | \$42,817 | \$10,049.62 | \$52,867 |
| Total Staffing | | | | | \$2,224,351 |
| Administrative Costs | | | | | \$1,911,996 |
| Grand Total | | | | | \$4,136,347 |

| Cost Detail for Medium Estimate | | | | | |
|--|-------|---------------------|----------|-----------------------|-------------|
| Title | Grade | Number of Positions | Salary | Benefits per Position | Total |
| Director | 79 | 1.0 | \$69,552 | \$13,918.17 | \$83,470 |
| Attorney | 79 | 1.0 | \$69,552 | \$13,918.17 | \$83,470 |
| Paralegal | 69 | 2.0 | \$44,666 | \$10,317.17 | \$109,966 |
| Assistant Director | 74 | 1.0 | \$55,448 | \$11,877.33 | \$67,325 |
| Law Enf. Sup. | 71 | 1.0 | \$48,681 | \$10,898.14 | \$59,579 |
| Law Enf. Agent | 70 | 6.0 | \$46,662 | \$10,605.99 | \$343,608 |
| Staff Dev. Spec. | 69 | 1.0 | \$44,666 | \$10,317.17 | \$54,983 |
| AA III (supervisor) | 67 | 4.0 | \$41,029 | \$9,790.90 | \$203,280 |
| AA (division support) | 63 | 2.0 | \$34,867 | \$8,899.25 | \$87,533 |
| AA (admin/budget/HR) | 63 | 2.0 | \$34,867 | \$8,899.25 | \$87,533 |
| Processors | 61 | 28.0 | \$32,328 | \$8,531.86 | \$1,144,076 |
| Admin. Supp. | 59 | 2.0 | \$29,935 | \$8,185.59 | \$76,241 |
| Interpreter Serv. Cons. | 68 | 5.0 | \$42,817 | \$10,049.62 | \$264,333 |
| Inform. and Comm. Spec | 68 | 1.0 | \$42,817 | \$10,049.62 | \$52,867 |
| Total Staffing | | | | | \$2,718,264 |
| Administrative Costs | | | | | \$2,194,860 |
| Grand Total | | | | | \$4,913,124 |

| Cost Detail for High Estimate | | | | | |
|--------------------------------------|-------|---------------------|----------|-----------------------|-------------|
| Title | Grade | Number of Positions | Salary | Benefits per Position | Total |
| Director | 79 | 1.0 | \$69,552 | \$13,918.17 | \$83,470 |
| Attorney | 79 | 1.0 | \$69,552 | \$13,918.17 | \$83,470 |
| Paralegal | 69 | 2.0 | \$44,666 | \$10,317.17 | \$109,966 |
| Assistant Director | 74 | 1.0 | \$55,448 | \$11,877.33 | \$67,325 |
| Law Enf. Sup. | 71 | 2.0 | \$48,681 | \$10,898.14 | \$119,158 |
| Law Enf. Agent | 70 | 9.0 | \$46,662 | \$10,605.99 | \$515,412 |
| Staff Dev. Spec. | 69 | 2.0 | \$44,666 | \$10,317.17 | \$109,966 |
| AA III (supervisor) | 67 | 4.0 | \$41,029 | \$9,790.90 | \$201,880 |
| AA (division support) | 63 | 2.0 | \$34,867 | \$8,899.25 | \$87,533 |
| AA (admin/budget/HR) | 63 | 3.0 | \$34,867 | \$8,899.25 | \$131,299 |
| Processors | 61 | 32.0 | \$32,328 | \$8,531.86 | \$1,307,516 |
| Admin. Supp. | 59 | 3.0 | \$29,935 | \$8,185.59 | \$114,362 |
| Interpreter Serv. Cons. | 68 | 6.0 | \$42,817 | \$10,049.62 | \$317,200 |
| Inform. and Comm. Spec | 68 | 1.0 | \$42,817 | \$10,049.62 | \$52,867 |
| Total Staffing | | | | | \$3,301,423 |
| Administrative Costs | | | | | \$2,530,246 |
| Grand Total | | | | | \$5,831,669 |

If it is the intention for the fee to be used to pay for the full costs associated with administering and enforcing the registry, the fee should be raised from \$20.00 to:

Low Estimate: \$187
Medium Estimate: \$144
High Estimate: \$126

Part VIII:

North Carolina Community Colleges

The North Carolina Community College System states that its primary area of concern is Basic Skills where anyone – documented or undocumented – can take classes at no charge. Does that constitute post-secondary education where the definition of federal, state or local benefit is invoked thereby requiring colleges to verify the lawful presence of every basic skills student? An effort like that would be quite burdensome for colleges. However, one could argue that by the very nature of the basic skills programs that it does not constitute post-secondary education and is exempt from this verification process. Further clarification is necessary to determine if this section would lead to a fiscal impact.

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