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FISCAL IMPACT REPORT

ORIGINAL DATE 02/09/09
 LAST UPDATED 02/27/09 **HB** _____

SPONSOR Beffort

SHORT TITLE Employee Leasing Contractor Bond Requirements **SB** 180/aSCORC

ANALYST Wilson

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	\$75.0 See Below	Recurring	Employee Leasing Act Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to Appropriation in the General Appropriation Act

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	FY10	FY11		
	(\$75.0)	(\$75.0)	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)
 General Services Department (GSD)
 Regulation and Licensing Department (RLD)

SUMMARY

Synopsis of SCORC Amendment

The Senate Corporations and Transportation Committee amendment removes language relating to revising bonding requirements for employee leasing contractors.

Synopsis of Original Bill

Senate Bill 180 creates the Employee Leasing Act Fund (fund) into which will be deposited fees charged by the RLD pursuant to the Employee Leasing Act (act) as well as other income given, granted or donated to the fund. The fund is to be administered by the RLD and money in the fund is appropriated to the RLD for the purpose of carrying out the provisions of the act.

The bill also provides that an affidavit of assurance can be accepted in lieu of the bonding requirement imposed on employee leasing companies.

FISCAL IMPLICATIONS

The enforcement of the Employee Leasing Act is not currently funded. The RLD enforces the Act using a Construction Industries Division FTE and funds appropriated to the RLD Program 1-CID/MHD budget. The fees collected through enforcement of the Act are currently deposited into the general fund and equal approximately \$75,000.00, annually. This bill will capture those revenues in the Employee Leasing Fund and appropriate them for the purpose of carrying out the provisions of the act. This will adequately fund the enforcement of the act and alleviate the need to reallocate program 1 funding to non-program 1 activity.

Money in the fund shall not revert to the general fund.

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This bill creates a new fund and provides for continuing appropriations. The LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the legislature to establish spending priorities.

This bill will result in declining revenue to the general fund. According to the December 2008 revenue estimate, FY recurring revenue will only support a base expenditure level that is \$293 million or 2.6 percent, less than the FY09 appropriation. All appropriations outside of the general appropriation act will be viewed in this declining venue context.

SIGNIFICANT ISSUES

RLD believes that an affidavit of assurance will reduce the current level of security for employees. The bond requirement ensures that wages will be paid to the employees of the leasing company in the event the company defaults. If an assurance is accepted in lieu of the bond, all companies can be expected to select that less expensive option, undermining and eroding the sound protection provided by the bond requirement.

ADMINISTRATIVE IMPLICATIONS

RLD states the administration of the act will be supported by adequate funding. Its operation will not depend on funding that is appropriated to an entirely separate function, without regard to the actual cost of enforcing the Act. Budgeting can be planned, projected, expended, and audited in the context of the enforcement operation, and the operation can be held accountable for its efficiency. Further, it is anticipated that the fund could support an FTE investigator. This will allow the RLD to investigate violations of the act, which is currently not fiscally feasible.

DW/mc:svb