

State Restrictions on Services to Illegal Immigrants

The subject of illegal immigration received special consideration by the state legislature this summer. A summary of the bills adopted during that special session may have an impact on Colorado counties. The specific subjects that follow were taken from the SDA's Legislative Digest.

Restrict Economic Development Incentives

HB 06S-1001 requires any employer which receives any grant, loan, performance-based incentive or other economic development incentive from the Colorado Economic Development Commission pursuant to article 46 of title 24, C.R.S., to prove that each employee employed by the employer within the United States is a U.S. citizen or is lawfully present in Colorado and authorized to work. If an employer is later found to be in noncompliance, it must repay the money and then becomes ineligible for economic development money for five years. The effective date is October 1, 2006.

Licenses or Permits

HB 06S-1009 requires municipalities, counties and any division, board or agency of the Colorado Department of Regulatory Agencies to issue or renew any license, permit, certificate or other authorization to conduct business only to persons who are lawfully present in the United States, and to deny any such authorization or renewal thereof upon determining that the person is unlawfully present in the U.S.

State Income Tax Withholding

HB 06S-1015 requires the deduction and withholding of state income tax (4.63%) from payment for services to certain persons who fail to provide a validated taxpayer identification number or who provide an IRS-

issued taxpayer identification number issued for nonresident aliens. An example would be payments to an independent contractor which are required to be reported on IRS form 1099-MISC.

Employers to Verify Legal Work Status

HB 06S-1017 requires Colorado employers to affirm within 20 days of hiring a new employee that the employer:

- 1) has examined the legal work status of such newly-hired employee;
- 2) has retained file copies of the documents required to establish identity and employment authorization as part of the Employment Eligibility Verification Form I-9 process;
- 3) has not altered or falsified the employee's identification documents; and
- 4) has not knowingly hired an unauthorized alien.

The employer must keep a written or electronic copy of the affirmation and of the documents required by 8 U.S.C. sec. 1324a for the term of employment of each employee and must be prepared to submit such documentation to the Colorado Department of Labor and Employment upon request. The Department is authorized to conduct random and targeted audits of employers to obtain the documentation. Fines up to \$25,000 may be imposed for reckless disregard of these provisions, which moneys will be deposited into the newly-created employment verification cash fund. Effective January 1, 2007.