

North Carolina Lawmakers Override Veto of Measure Providing E-Verify Exemptions

By Andrew Ballard

RALEIGH, N.C.—Workers employed in North Carolina for less than nine months in a year will be exempt from E-Verify requirements after lawmakers overrode a gubernatorial veto Sept. 4.

Gov. Pat McCrory (R) said he vetoed the bill (H.B. 786) because it had the potential to allow more undocumented immigrants to be employed in the state (158 DLR A-15, 8/15/13). Supporters of the legislation said it would ease the burden on North Carolina employers, particularly those in the agricultural sector.

Changes to 2011 State Law

North Carolina originally enacted its E-Verify law in June 2011, requiring businesses and other organizations with 25 or more employees to use the program (123 DLR A-4, 6/27/11).

The law, codified at North Carolina General Statutes Section 64-25 et seq., requires the use of E-Verify to screen potential employees and imposes penalties for noncompliance. Prior to the changes adopted under H.B. 786, only seasonal workers employed for no more than 90 days during a year were not subject to the verification requirements.

H.B. 786 also would prohibit state and municipal agencies from contracting with private companies unless those firms are using E-Verify.

The state House of Representatives voted to override the veto Sept. 3 by a vote of 84-32, and the Senate voted to override Sept. 4 by a vote of 39-5. A three-fifths vote of approval by each body was necessary to override the veto.

Governor to Pursue Executive Authority

In a Sept. 4 statement issued following the override of his veto, McCrory said H.B. 786 “has created a loophole that could cost legal North Carolinians jobs.”

“This measure changes the law's focus from exempting ‘temporary seasonal employees’ to help the state's farming industry to exempting a category of employees for any industry, regardless of the season or the needs,” the governor said. “Thus, I will direct the executive branch to explore all legal and executive authority to ensure the letter and spirit of our nation's immigration law is followed in this state.”

Alan Gordon, a Charlotte, N.C.-based immigration attorney, told Bloomberg BNA Sept. 4 that the solution to North Carolina's debate is comprehensive federal immigration legislation. There is potential for such reform, Gordon said, under a bill pending before Congress (S. 744) that would create a “blue card” for work-authorized agricultural workers as well as enact additional work authorization provisions (90 DLR A-13, 5/9/13).