



# House of Representatives

General Assembly

**File No. 202**

January Session, 2009

Substitute House Bill No. 5521

*House of Representatives, March 25, 2009*

The Committee on Labor and Public Employees reported through REP. RYAN of the 139th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## ***AN ACT ELIMINATING CREDIT REPORTS AS A BASIS FOR EMPLOYMENT DECISIONS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2009*) (a) No employer or an  
2 employer's agent, representative or designee may require an employee  
3 or prospective employee to consent to the creation of a consumer  
4 report that contains information about the employee's or prospective  
5 employee's credit score, credit account balances, savings or checking  
6 account balances or savings or checking account numbers, as a  
7 condition of employment unless (1) such a report is substantially  
8 related to the employee's current or potential job, (2) such report is  
9 required by law, or (3) the employer has reasonable cause to believe  
10 the employee has engaged in specific activity that constitutes a  
11 violation of the law. For the purposes of this section, "employee"  
12 means any person engaged in service to an employer in a business of  
13 his employer, and "employer" means any person engaged in business  
14 who has one or more employees, including the state or any political

15 subdivision of the state.

16 (b) Any employee or prospective employee may file a complaint  
 17 with the Labor Commissioner alleging a violation of the provisions of  
 18 subsection (a) of this section. Upon receipt of such complaint, the  
 19 commissioner shall hold a hearing, in accordance with the provisions  
 20 of chapter 54 of the general statutes. The commissioner shall impose a  
 21 fine of five hundred dollars on an employer for each report created in  
 22 violation of this section, which shall be paid to the aggrieved employee  
 23 or prospective employee, and may award the employee or prospective  
 24 employee all other appropriate relief. Any party aggrieved by a  
 25 decision of the commissioner may appeal the decision to the Superior  
 26 Court in accordance with the provisions of said chapter 54.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2009	New section

**Statement of Legislative Commissioners:**

In subsection (b) of section 1, "or prospective employee" was added for consistency with the remainder of the bill.

**LAB**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

## **OFA Fiscal Note**

### **State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 10 \$</b>	<b>FY 11 \$</b>
Labor Dept.	GF - Cost	44,970	58,685
Comptroller Misc. Accounts (Fringe Benefits) <sup>1</sup>	GF - Cost	11,436	14,924

Note: GF=General Fund

**Municipal Impact:** None

### **Explanation**

The bill could result in a cost to the Department of Labor associated with holding a hearing for every complaint filed by an employee or prospective employee alleging an employer required their consent to create a consumer report containing certain information about the employee's finances. Depending upon the number of complaints filed with DOL, an additional staff attorney would be needed at an annual salary of \$58,685 with fringe benefits of \$14,924.

### **The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

Source: Department of Administrative Services,

[http://www.das.state.ct.us/HR/CompPlans/Cmp\\_Cur\\_list\\_doc.asp](http://www.das.state.ct.us/HR/CompPlans/Cmp_Cur_list_doc.asp)

<sup>1</sup> The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller on an actual cost basis. The following is provided for estimated costs associated with additional personnel. The estimated non-pension fringe benefit rate as a percentage of payroll is 25.43%. Fringe benefit costs for new positions do not initially include pension costs as the state's pension contribution is based upon the 6/30/08 actuarial valuation for the State Employees Retirement System (SERS) which certifies the contribution for FY 10 and

**OLR Bill Analysis****sHB 5521*****AN ACT ELIMINATING CREDIT REPORTS AS A BASIS FOR EMPLOYMENT DECISIONS.*****SUMMARY:**

This bill bans an employer, its agent, representative, or designee, from requiring, as a condition of employment, an employee or prospective employee to consent to the creation of a consumer report that includes information about his or her (1) credit score; (2) credit, savings, or checking account balances; or (3) savings or checking account numbers. The bill creates exceptions to this ban such as when a consumer report is substantially related to the person's job or potential job.

It permits complaints regarding potential violations of this ban to be filed with the labor commissioner. The commissioner must hold a hearing and must impose a fine of up to \$500 per violation. Aggrieved parties can appeal to the Superior Court.

EFFECTIVE DATE: October 1, 2009.

**EXCEPTIONS TO THE BAN ON CONSUMER REPORTS AS A CONDITION OF EMPLOYMENT**

The bill creates exceptions to the ban on consumer reports containing certain credit information if one of the following conditions are met:

1. the report is substantially related to the employee's current or potential job,

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FY 11. Therefore, new positions will not impact the state's pension contribution until FY 12 after the next scheduled certification on 6/30/2010.

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2. the report is required by law, or
3. the employer has reasonable cause to believe the employee has engaged in specific activity that constitutes a violation of the law.

The bill defines employee as any person engaged in service to an employer in a business of the employer. Employer means any person engaged in business with at least one employee. It includes the state, municipalities, and any other political subdivision of the state.

### **ENFORCEMENT**

An employee alleging a violation of the bill's provisions can file a complaint with the labor commissioner. Upon receipt of the complaint, the commissioner must hold a hearing in accordance with the Uniform Administrative Procedures Act. The commissioner must impose a \$500 fine for each violation which must be paid to the aggrieved employee or prospective employee. The commissioner may also award the employee or prospective employee all other appropriate relief. Aggrieved parties can appeal to the Superior Court.

### **BACKGROUND**

#### ***Federal Fair Credit Reporting Act (FCRA)***

FCRA contains a number of requirements regarding the accuracy, fairness, and privacy of information in the files of consumer reporting agencies (CRA). It allows CRAs to issue "consumer reports" in a number of circumstances, but contains special provisions for situations where the consumer or prospective employee does not initiate the transaction (i.e., for employment background screening). Among other things, FCRA prohibits an agency from furnishing a consumer report, which may include credit information, about a job candidate or employee without getting the person's permission. Furthermore, if the employer or prospective employer decides to use information in the consumer report to deny a job application, refuse to promote an employee, or any other "adverse action" the employer must:

1. before taking the action, give the job candidate or employee a

copy of the consumer report and a summary of the person's rights under the FCRA, and

2. after taking the adverse action, give the job candidate or employee individual notice that adverse action has been taken and he or she has the right to dispute the information's accuracy.

**COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 8      Nay 3      (03/10/2009)