



Senate

General Assembly

File No. 58

January Session, 2011

Substitute Senate Bill No. 361

Senate, March 14, 2011

The Committee on Labor and Public Employees reported through SEN. PRAGUE of the 19th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT PREVENTING THE USE OF CREDIT SCORES BY CERTAIN EMPLOYERS IN HIRING DECISIONS.

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

1 Section 1. (NEW) (*Effective October 1, 2011*) (a) As used in this
2 section:

3 (1) "Employee" means any person engaged in service to an employer
4 in a business of his employer;

5 (2) "Employer" means any person engaged in business who has one
6 or more employees, including the state or any political subdivision of
7 the state; and

8 (3) "Financial institution" means any state bank and trust company,
9 national banking association, state or federally chartered savings bank,
10 state or federally chartered savings and loan association or state or
11 federally chartered credit union.

12 (b) No employer or employer's agent, representative or designee
 13 may require an employee or prospective employee to consent to a
 14 credit inquiry that contains information about the employee's or
 15 prospective employee's credit score, credit account balances, payment
 16 history, savings or checking account balances or savings or checking
 17 account numbers as a condition of employment unless (1) such
 18 employer is a financial institution, (2) such report is required by law,
 19 or (3) the employer reasonably believes that the employee has engaged
 20 in specific activity that constitutes a violation of the law related to the
 21 employee's employment.

22 (c) Any employee or prospective employee may file a complaint
 23 with the Labor Commissioner alleging a violation of the provisions of
 24 subsection (b) of this section. At the request of either party, the
 25 commissioner shall hold a hearing, in accordance with the provisions
 26 of chapter 54 of the general statutes. An employer shall be liable to the
 27 Labor Department for a civil penalty of three hundred dollars for each
 28 inquiry made in violation of subsection (b) of this section.

29 (d) The Attorney General, upon complaint of the Labor
 30 Commissioner, shall institute civil actions to recover the penalties
 31 provided for under subsection (c) of this section. Any amount
 32 recovered shall be deposited in the General Fund and credited to a
 33 separate nonlapsing appropriation to the Labor Department, for other
 34 current expenses, and may be used by the Labor Department to
 35 enforce the provisions of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2011	New section

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:

Agency Affected	Fund-Effect	FY 12 \$	FY 13 \$
Labor Dept.	GF - Cost	84,860	86,557
Labor Dept.	GF - Revenue Gain	Potential Minimal	Potential Minimal
State Comptroller - Fringe Benefits ¹	GF - Cost	20,162	20,565

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill allows complaints to be filed with the Department of Labor (DOL) if an employer uses credit scores in certain hiring decisions. This is anticipated to increase the number of complaints received by the department and may require a half-time Special Investigator (salary of \$35,554). This is also anticipated to result in an increase in the number of probable cause hearings conducted by DOL, requiring a half-time Staff Attorney II (salary of \$49,306).

The bill establishes a \$300 civil penalty for each violation, which results in a potential minimal revenue gain. These funds are to be deposited into a separate non-lapsing account in the general fund and may be used to enforce the provisions of this bill.

¹ 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 changes in personnel. The estimated non-pension fringe benefit rate as a percentage of payroll is 23.76%. Fringe benefit costs for new positions do not initially include pension costs as the state's pension contribution is based upon the 6/30/10 actuarial valuation for the State Employees Retirement System (SERS) which certifies the contribution for FY 12 and FY 13. Therefore, new positions will not impact the state's pension contribution until FY 14 after the next scheduled certification on 6/30/2012.

The Out Years

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

OLR Bill Analysis**sSB 361*****AN ACT PREVENTING THE USE OF CREDIT SCORES BY CERTAIN EMPLOYERS IN HIRING DECISIONS.*****SUMMARY:**

This bill prohibits employers and their agents, representatives, or designees from requiring an employee or prospective employee to consent to a credit inquiry as a condition of employment. The prohibition does not apply when the (1) employer is a financial institution, (2) report is required by law, or (3) employer reasonably believes the employee committed a violation of the law related to the employee's employment.

The bill allows an employee or prospective employee to file a complaint about a violation of the bill's provisions with the labor commissioner. The commissioner must hold a hearing if either party requests it. Violators face a \$300 civil penalty for each inquiry that violates the bill's provisions. At the request of the labor commissioner, the attorney general must initiate a civil lawsuit to recover the penalties. Any amount recovered must be deposited in the General Fund and credited to a separate, nonlapsing Labor Department appropriation for other current expenses. It may be used to enforce the bill's provisions.

EFFECTIVE DATE: October 1, 2011

CREDIT INQUIRY

Under the bill, a credit inquiry contains information about the employee's credit score, credit account balances, payment history, or savings or checking account numbers and balances.

EMPLOYERS AND EMPLOYEES

It applies to any employer engaged in business with at least one employee, including the state or a political subdivision. But the bill's provisions do not apply to financial institutions, which it defines as state bank and trust companies; national banking associations; or state or federally chartered savings banks, savings and loan associations, or credit unions.

An employee is anyone engaged in service to an employer in a business.

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. 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 take any other "adverse action," the employer must give the job candidate or employee a copy of the consumer report and a summary of the person's rights under the FCRA before taking the action.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 7 Nay 4 (03/01/2011)