



# Senate

## File No. 871

General Assembly

January Session, 2013

**(Reprint of File No. 314)**

Substitute Senate Bill No. 910  
As Amended by Senate Amendment Schedule  
"A" and House Amendment Schedules "A" and  
"B"

Approved by the Legislative Commissioner  
May 24, 2013

### ***AN ACT CONCERNING EMPLOYEE ACCESS TO PERSONNEL FILES.***

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

1 Section 1. Section 31-128b of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2013*):

3 (a) Each employer shall, [within a reasonable time] not more than  
4 seven business days after receipt of a written request from an  
5 employee, permit such employee to inspect, and if requested, copy his  
6 or her personnel file if such a file exists. Such inspection shall take  
7 place during regular business hours at a location at or reasonably near  
8 the employee's place of employment. Each employer who has  
9 personnel files shall be required to keep any personnel file pertaining  
10 to a particular employee for at least one year after the termination of  
11 such employee's employment.

12 (b) Each employer shall, not more than ten business days after  
13 receipt of a written request from a former employee, permit such  
14 former employee to inspect, and if requested, copy his or her

15 personnel file if such a file exists, provided the employer receives such  
16 written request not later than one year after the termination of such  
17 former employee's employment with the employer. Such inspection  
18 shall take place during regular business hours at a location mutually  
19 agreed upon by the employer and former employee. If the employer  
20 and former employee cannot agree upon a location to conduct such  
21 inspection, the employer may satisfy the requirements of this  
22 subsection by mailing a copy of the former employee's personnel file to  
23 the former employee not more than ten business days after receipt of  
24 the written request from the former employee.

25 (c) Each employer shall provide an employee with a copy of any  
26 documentation of any disciplinary action imposed on that employee  
27 not more than one business day after the date of imposing such action.  
28 Each employer shall immediately provide an employee with a copy of  
29 any documented notice of that employee's termination of employment.

30 Sec. 2. Section 31-128e of the general statutes is repealed and the  
31 following is substituted in lieu thereof (*Effective October 1, 2013*):

32 (a) If, upon inspection of his or her personnel file or medical  
33 records, an employee disagrees with any of the information contained  
34 in such file or records, removal or correction of such information may  
35 be agreed upon by such employee and his or her employer. If such  
36 employee and employer cannot agree upon such removal or correction  
37 then such employee may submit a written statement explaining his or  
38 her position. Such statement shall be maintained as part of such  
39 employee's personnel file or medical records and shall accompany any  
40 transmittal or disclosure from such file or records made to a third  
41 party.

42 (b) Each employer shall include a statement in clear and  
43 conspicuous language in any documented disciplinary action, notice of  
44 termination of such employee's employment or performance  
45 evaluation that the employee may, should the employee disagree with  
46 any of the information contained in such documented disciplinary

47 action, notice of termination or performance evaluation, submit a  
 48 written statement explaining his or her position. Such employee  
 49 statement shall be maintained as part of such employee's personnel file  
 50 and shall accompany any transmittal or disclosure from such file or  
 51 records made to a third party.

52 Sec. 3. Subsection (b) of section 31-69a of the general statutes is  
 53 repealed and the following is substituted in lieu thereof (*Effective*  
 54 *October 1, 2013*):

55 (b) Any employer, officer, agent or other person who violates any  
 56 provision of chapter 563a [shall] may be liable to the Labor  
 57 Department for a civil penalty of not greater than five hundred dollars  
 58 for the first violation of chapter 563a related to an individual employee  
 59 or former employee, and for each subsequent violation of said chapter  
 60 related to such individual employee or former employee, [shall] may  
 61 be liable to the Labor Department for a civil penalty of not greater than  
 62 one thousand dollars. In setting a civil penalty for any violation in a  
 63 particular case, the Labor Commissioner shall consider all factors  
 64 which the commissioner deems relevant, including, but not limited to,  
 65 (1) the level of assessment necessary to insure immediate and  
 66 continued compliance with the provisions of chapter 563a; (2) the  
 67 character and degree of impact of the violation; and (3) any prior  
 68 violations of such employer of chapter 563a.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2013</i>	31-128b
Sec. 2	<i>October 1, 2013</i>	31-128e
Sec. 3	<i>October 1, 2013</i>	31-69a(b)

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 14 \$	FY 15 \$
Labor Dept.	GF - Revenue Gain	Potential	Potential
Labor Dept.	GF - Revenue Loss	Potential	Potential

**Municipal Impact:** None

**Explanation**

The bill provides the Department of Labor (DOL) the option to fine employers at less than current statutory levels for violating the Personnel Files Act, and requires DOL to consider certain factors when levying the penalty. The bill also allows DOL to fine employers for violations related to former employees. Current law requires DOL to levy a fine of \$500 for a first offense and \$1, 000 for subsequent offenses.

There is a revenue gain to DOL associated with levying fines for violations related to former employees. This is potentially offset by a revenue loss associated with allowing DOL to levy lower fines than those set in statute, to the extent DOL would choose to do so.

The bill also makes several changes to the way employers must maintain and provide access to an employee's personnel file. These changes have no fiscal impact on the state or municipalities. The bill, which amends the Personnel Files Act, does not apply to state or municipal employers.

Senate "A" requires employers to allow employees to inspect or

copy their personnel files within seven, rather than five, days and makes a clarifying change. These changes have no fiscal impact.

House "A" makes changes to the way DOL can enforce the Personnel Files Act and results in the above identified fiscal impact.

House "B" allows employers to mail a copy of a former employee's personnel file, rather than meet at an agreed upon location. This change has no fiscal impact.

### ***The Out Years***

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

**OLR Bill Analysis****sSB 910 (File 314, as amended by House “A” and “B” and Senate “A”)\******AN ACT CONCERNING EMPLOYEE ACCESS TO PERSONNEL FILES.*****SUMMARY:**

This bill specifies how quickly an employer must provide a current or former employee with access to his or her personnel file. It allows an employer to mail the file to a former employee if they cannot agree on a location for the former employee to inspect the files.

The bill also requires employers to (1) provide employees with copies of documentation of any disciplinary action or termination and (2) notify employees that they can include in their personnel file a written statement disagreeing with disciplinary, termination, or evaluation documents.

The bill provides the labor commissioner with discretion to determine penalty amounts, within certain limits, for individual violations of the Personnel Files Act and specifies factors that she must consider when making this determination.

\*House Amendment “A” adds the provision allowing the labor commissioner, within certain limits and guidelines, to determine how much an employer will be penalized for violating the Personnel Files Act.

\*House Amendment “B” adds the provision allowing an employer to mail a former employee his or her personnel file if they cannot agree on a location to inspect it.

\*Senate Amendment "A" (1) gives an employer seven, instead of five, business days to allow an employee access to his or her files and (2) allows an employee to disagree with an employer's disciplinary action, termination notice, or performance evaluation, instead of the employer's statement regarding the employee's right to submit a written disagreement.

EFFECTIVE DATE: October 1, 2013

### **EMPLOYEE ACCESS TO PERSONNEL FILES**

Current law requires employers to let employees inspect their personnel files within a reasonable time after receiving a written request. The inspection must be during regular business hours at a location at, or reasonably near, the employee's place of employment. The bill requires employers to provide this access and, if requested, allow the files to be copied within (1) seven business days for current employees and (2) 10 business days for former employees.

If an employer and former employee cannot agree on a location for the former employee to inspect the files, the bill allows the employer to mail a copy of the file to the former employee within 10 days of receiving the written request for the file. Under the bill, former employees must request their files within one year of their termination from the employer. By law, employers must keep a former employee's records for at least one year.

### **DISCIPLINE, TERMINATION, AND EVALUATION DOCUMENTS**

The bill requires employers to provide an employee with a copy of any documentation of any disciplinary action imposed on that employee within one business day. It also requires employers to immediately provide an employee with a copy of any documented notice of the employee's termination from employment.

Under the bill, whenever an employer documents an employee's disciplinary action, termination notice, or performance evaluation, the employer must include a statement in clear and conspicuous language

that the employee can submit a written statement disagreeing with anything in the disciplinary action, termination notice, or performance evaluation. The employer must keep the employee's statement in the personnel file and include it whenever the file is transmitted or disclosed to a third party.

**PENALTIES**

Current law requires the labor commissioner to issue a \$500 civil penalty for the first violation of the Personnel Files Act against a particular employee and a \$1,000 penalty for any subsequent violations related to the same employee. The bill instead allows the commissioner to issues penalties up to \$500 for first violations and up to \$1,000 for subsequent violations related to an employee or former employee.

When determining a penalty's amount, the bill requires the labor commissioner to consider (1) the penalty level needed to insure immediate and continued compliance with the Personnel Files Act, (2) the violation's character and degree of impact, (3) any prior violations of the Personnel Files Act by the employer, and (4) any other factors she deems relevant.

**COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 10 Nay 0 (03/19/2013)