



# Senate

General Assembly

**File No. 330**

*January Session, 2013*

Substitute Senate Bill No. 159

*Senate, April 4, 2013*

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

## ***AN ACT CONCERNING EMPLOYEE PRIVACY.***

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

1 Section 1. (NEW) (*Effective October 1, 2013*) (a) For purposes of this  
2 section:

3 (1) "Applicant" means any person actively seeking employment  
4 from an employer;

5 (2) "Employee" means any person engaged in service to an  
6 employer in a business of his or her employer;

7 (3) "Employer" means any person engaged in business who has  
8 employees, including the state and any political subdivision thereof;

9 (4) "Personal on-line account" means an on-line account that is used  
10 by an employee or applicant exclusively for personal purposes and  
11 unrelated to any business purpose of such employee's or applicant's  
12 employer or prospective employer, including, but not limited to,

13 electronic mail, social media and retail-based Internet web sites.  
14 "Personal on-line account" does not include any account created,  
15 maintained, used or accessed by an employee or applicant for  
16 business-related purposes or for a business purpose of such  
17 employee's or applicant's employer or prospective employer.

18 (b) No employer shall:

19 (1) Request or require that an employee or applicant provide such  
20 employer with a user name, password or any other authentication  
21 means for accessing a personal on-line account; or

22 (2) Discharge, discipline, discriminate against, retaliate against or  
23 otherwise penalize any employee or applicant (A) who refuses or  
24 declines to provide such employer with a user name, password or any  
25 other authentication means for accessing his or her personal on-line  
26 account; (B) who files, or causes to be filed, any complaint, whether  
27 verbally or in writing, with a public or private body concerning such  
28 employer's violation of subdivision (1) of this subsection; (C) who  
29 institutes, or causes to be instituted, any proceeding concerning such  
30 employer's violation of subdivision (1) of this subsection; or (D) who  
31 testifies or is about to testify in any such proceeding.

32 (c) (1) The Attorney General may bring an action in Superior Court  
33 against an employer who violates any provision of subsection (b) of  
34 this section. The court may assess a civil penalty of not more than ten  
35 thousand dollars and may order such other equitable relief as the court  
36 deems appropriate.

37 (2) In determining the amount of any penalty under subdivision (1)  
38 of this subsection, the Attorney General shall take into account the  
39 previous record of the employer in terms of compliance with this  
40 section and the seriousness of the violation.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2013	New section

**Statement of Legislative Commissioners:**

In the first sentence of subsection (c)(1), "act" was changed to "section" for accuracy.

**LAB**      *Joint Favorable Substitute -LCO*

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.

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**OFA Fiscal Note**

**State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 14 \$</b>	<b>FY 15 \$</b>
Attorney General	GF - Revenue Gain	less than 20,000	less than 20,000

**Municipal Impact:** None

**Explanation**

The bill results in a revenue gain of less than \$20,000 per year through civil penalties which the Attorney General may assess on employers that violate provisions of the bill concerning requiring passwords or other means of authentication for on-line accounts as a condition of employment. Fewer than four such penalties are anticipated per year.

**The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of violations.

**OLR Bill Analysis****SB 159*****AN ACT CONCERNING EMPLOYEE PRIVACY.*****SUMMARY:**

This bill prohibits an employer from requesting or requiring an employee or job applicant to provide the employer with his or her password or other access to a personal on-line account. It also bans an employer from (1) firing, disciplining, or otherwise penalizing an employee or applicant who refuses to provide this information and (2) firing or retaliating against an employee who files a complaint under the bill. The bill applies to all public and private employers.

The bill gives the attorney general the authority to bring a Superior Court civil action against an employer and allows the court to fine the employer up to \$10,000. It defines “applicant” as anyone actively seeking employment from an employer, and “employer” means anyone engaged in business who has employees, including the state and any of its political subdivisions.

EFFECTIVE DATE: October 1, 2013

**BAN ON REQUESTING PASSWORDS OR ACCOUNT ACCESS**

The bill bans an employer or prospective employer from requesting or requiring that an employee or applicant provide the employer or prospective employer with a user name, password, or any other authentication needed for accessing a personal on-line account.

Under the bill, “personal on-line account” means an on-line account used by an employee or applicant exclusively for personal purposes and unrelated to any business purpose of the employer or prospective employer, including, e-mail, social media, and retail-based Internet web sites. It does not include any account created, maintained, used or

accessed by an employee or applicant for business-related purposes or for a business purpose of the employer or prospective employer.

The bill also bans employers from discharging, disciplining, discriminating against, retaliating against, or otherwise penalizing any employee or applicant who:

1. refuses or declines to provide the employer with a user name, password, or any other authentication for accessing his or her personal on-line account;
2. files any complaint, whether verbally or in writing, with a public or private body concerning the employer's violation of the ban on asking for personal account access;
3. institutes a proceeding concerning the employer's violation of the ban on asking for personal account access; or
4. who testifies or is about to testify in any a proceeding related to a complaint under the bill.

**CIVIL ACTION AND PENALTY**

The bill authorizes the attorney general to bring a civil action in Superior Court against an employer who violates any of the bill's provisions. The court can assess a civil penalty of up to \$10,000 and order other appropriate equitable relief.

In determining the amount of any penalty, the bill requires the attorney general to take into account the employer's previous violations of the bill's provisions and the seriousness of those violations. This provision conflicts with the language that requires the court, not the attorney general, to determine the penalty.

**COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable

Yea 7 Nay 3 (03/19/2013)