SENATE BILL NO. 109

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 4/7/17
Referred:

A BILL

FOR AN ACT ENTITLED

"An Act relating to background investigation requirements for state employees whose job duties require access to certain federal tax information; relating to persons under contract with the state with access to certain federal tax information; establishing state personnel procedures required for employee access to certain federal tax information; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

*** Section 1.** AS 12.62.400 is amended by adding a new subsection to read:

(c) To obtain a national criminal history record check for determining a current or prospective employee's qualifications under AS 39.55.015 or a contractor's qualifications under AS 36.30.960, the agency or the procurement officer shall submit the current or prospective employee's or contractor's fingerprints to the department with the fee established by AS 12.62.160. The department shall submit the fingerprints to the Federal Bureau of Investigation to obtain a national criminal history record check of the current or prospective employee or contractor for the purpose of evaluating a person's qualifications under AS 36.30.960 and AS 39.55.015. In this subsection, unless the content otherwise requires,

(1) "agency" means a department, Office of the Governor, or entity in the executive branch, including the University of Alaska, public or quasi-public corporations, boards or commissions, and the Alaska Railroad Corporation;

(2) "employee" has the meaning given in AS 39.55.015;

(3) "contractor" has the meaning given in AS 36.30.960.

* **Sec. 2.** AS 36.30 is amended by adding a new section to read:

Sec. 36.30.960. Background investigation for contractors with access to federal tax information. (a) Upon request of an agency, the procurement officer shall notify each current or prospective contractor if a contract with the state requires access to federal tax information for performance of the contract. Each person under contract with the state whose duties require access to federal tax information must submit to and pass a background investigation that includes a state and national criminal history record check. The contractor shall provide information for the background investigation, including fingerprints in a format requested by the procurement officer or the contracting agency. The procurement officer or the contracting agency shall submit the fingerprints to the Department of Public Safety to obtain a report of criminal justice information under AS 12.62 and a national criminal history record check. The Department of Public Safety is authorized to submit the fingerprints to the Federal Bureau of Investigation for a national criminal history record check.

(b) The current or prospective contractor shall pay to the procurement officer or contracting agency the fee established by AS 12.62.160 for the national criminal history record check.

(c) A background investigation under this section, including a state and national criminal history record check, is confidential.

(d) In this section, unless the context otherwise requires,

(1) "agency" means a department, Office of the Governor, or entity in the executive branch, including the University of Alaska, public or quasi-public corporations, boards or commissions, and the Alaska Railroad Corporation;

(2) "contractor" means a person who has applied for or been awarded a contract with a state agency and includes a subcontractor;

(3) "federal tax information" has the meaning given in AS 39.55.015.

*** Sec. 3.** AS 39 is amended by adding a new chapter to read:

Chapter 55. State Personnel Procedures Relating to Employee Access to Federal Tax Information.

Sec. 39.55.010. Purpose of chapter. It is the purpose of this chapter to establish procedures to safeguard the confidentiality of protected federal tax information as required by 26 U.S.C 6103(p)(4). The procedures established in this chapter apply to a current or prospective state employee whose job duties include access to protected federal tax information.

Sec. 39.55.015. Background investigation for employees with access to federal tax information. (a) In connection with an initial application or as a condition of continued employment in a position with the state for which the job duties include access to federal tax information, an agency shall require a prospective or current employee to provide information for a background investigation and request a state and national criminal history record check.

(b) Each current or prospective employee of an agency subject to (a) of this section whose job duties include access to federal tax information shall provide their fingerprints in a format requested by the agency. The agency shall submit the fingerprints and the fees required to the Department of Public Safety to obtain a report of criminal justice information under AS 12.62 and a national criminal history record check. The Department of Public Safety is authorized to submit the fingerprints to the Federal Bureau of Investigation for a national criminal history record check.

(c) A background investigation under this section, including a state and national criminal history record check, is confidential. The agency that requested the criminal history record check shall use the information obtained under this section to determine the current or prospective employee's qualification to access federal tax information. With the written approval of the employee, an agency may share an employee's background investigation with another agency if the employee applies for employment with, or works for, another agency that has access to federal tax information and the employee's job duties will include access to federal tax information.

(d) Each agency that has access to federal tax information shall develop a written policy establishing procedures and standards for the background investigation and establish criteria to determine if an individual is qualified to access federal tax information. The policy shall require a reinvestigation to be conducted not later than 10 years from the date of the previous background investigation.

(e) In this section, unless the context otherwise requires,

(1) "agency" means a department, Office of the Governor, or entity in the executive branch, including the University of Alaska, public or quasi-public corporations, boards or commissions, and the Alaska Railroad Corporation;

(2) "employee" means a permanent, probationary, seasonal, temporary, provisional, or nonpermanent employee of an agency, whether in the classified, partially exempt, or exempt service;

(3) "federal tax information" means a federal tax return, return information, and information derived from the federal tax return or return information that is in an agency's possession or control, and that is received directly by an agency under 26 U.S.C. 6103(d) or (*l*) from the Internal Revenue Service, an Internal Revenue Service authorized secondary source, or another entity acting on behalf of the Internal Revenue Service under 26 U.S.C. 6103(p)(2)(B);

(4) "return" has the meaning defined in 26 U.S.C. 6103(b)(1);

(5) "return information" has the meaning defined in 26 U.S.C. 6103(b)(2).

* **Sec. 4.** This Act takes effect July 1, 2017.