



Jesse Arreguín
Councilmember, District 4

CONSENT CALENDAR
March 19, 2013

To: Honorable Mayor and Members of the City Council
From: Councilmember Jesse Arreguín
Subject: Support Assembly Bill 218, “Banning the Box”

RECOMMENDATION:

Adopt a Resolution supporting Assembly Bill 218, introduced by Assemblymember Roger Dickinson, which postpones the criminal background check of a job applicant to the State or local agency until after the first screening for qualifications has found the applicant qualified. Copies of the Resolution should be sent to Senate President Pro Tem Darrell Steinberg, State Senator Loni Hancock, Assembly Speaker John A. Perez, and Assemblymembers Nancy Skinner and Roger Dickinson.

BACKGROUND:

This is a follow-up to last year’s unanimous Council support for AB 1831, which was held in committee at the author’s request. The bill has been reintroduced for the 2013-2014 Legislative Session as AB 218, which extends the hiring practices to the State.

Existing law requires the hiring practices and promotional practices of a local agency, conform to the Federal Civil Rights Act of 1964 and prohibits any local agency from, as a part of its hiring practices or promotional practices, employing any educational prerequisites or testing or evaluation methods which are not job-related unless there is no adverse effect.

Assembly Bill 218, introduced by Assemblymember Roger Dickinson, would authorize the State or local agency to consider an applicant’s criminal history only after the applicant’s qualifications have been screened and the agency has determined the applicant meets the minimum employment requirements, as stated in any notice issued for the position. AB 218 would not apply to a position for which the State or a local agency are otherwise required by law to conduct a criminal history background check

An estimated one in four adult Californians has an arrest or conviction record on file with the state, creating unnecessary employment barriers. The Department of

Justice generates over 1.7 million criminal background checks every year for employment and licensing purposes.

Across the nation, qualified job applicants are often plagued by old or minor records and discouraged from applying because a “box” on job applications requires disclosure of criminal history information that often leads employers to reject applicants at the outset. People of color are especially hard hit by criminal background checks, which is why the U.S. Equal Employment Opportunity Commission (EEOC) requires employers to establish a strong nexus between an individual’s criminal history and the specific responsibilities of a given job. AB 218 follows the lead of five states and over 30 U.S. cities and counties that have removed the conviction history inquiry from initial job applications in public employment and delayed a criminal background check until the later stages of the hiring process.

With this bill, the State of California, and its cities and counties will take an important step toward becoming model employers, leading the way for the private sector to allow people with a conviction history to compete fairly for employment without compromising safety and security on the job.

FINANCIAL IMPLICATIONS:

NONE

CONTACT PERSON:

Jesse Arreguín, Councilmember, District 4

981-7140

Attachments:

1. Resolution
2. Copy of Assembly Bill 218

RESOLUTION NO.

SUPPORTING ASSEMBLY BILL 218 (DICKINSON), WHICH REQUIRES THAT LOCAL GOVERNMENTS POSTPONE A CRIMINAL BACKGROUND CHECK OF A JOB APPLICANT UNTIL AFTER THE APPLICANT HAS BEEN INITIALLY SCREENED AND FOUND TO BE QUALIFIED FOR THE POSITION

WHEREAS, existing law requires the hiring practices and promotional practices of a local agency, to conform to the Federal Civil Rights Act of 1964 and prohibits any local agency from, as a part of its hiring practices or promotional practices, employing any educational prerequisites or testing or evaluation methods which are not job-related unless there is no adverse effect; and

WHEREAS, in California and around the country, qualified job applicants are often plagued by old or minor records and discouraged from applying because a “box” on job applications requires criminal history information that often leads employers to dismiss applicants at the outset; and

WHEREAS, people of color are especially hard hit by criminal background checks, which is why the U.S. Equal Employment Opportunity Commission (EEOC) requires employers to establish a strong nexus between an individual’s criminal history and the specific responsibilities of a given job; and

WHEREAS, in 2010, California became the sixth state to do so when the State Personnel Board removed the question from job applications for state positions; and

WHEREAS, “Realignment” (AB 109) of California’s criminal justice system seeks to produce budgetary savings by reducing recidivism and promoting rehabilitation; and

WHEREAS, employment of eligible people with a conviction history is key to the success of realignment at the local level, as studies have shown that stable employment significantly lowers recidivism and promotes public safety; and

WHEREAS, Assembly Bill 218, introduced by Assemblymember Roger Dickinson, would prohibit the State or local agency from inquiring into or including any inquiry about the criminal history of a job applicant on any initial employment application; and

WHEREAS, the bill would authorize the State or local agency to consider an applicant’s criminal history after the applicant’s qualifications have been screened and the agency has determined the applicant meets the minimum employment requirements, as stated in any notice issued for the position; and

WHEREAS, the bill would not apply to a position for which the State or a local agency are otherwise required by law to conduct a criminal history background check; and

WHEREAS, the bill would also express a legislative finding and declaration that reducing barriers to employment for people who have previously offended, and decreasing unemployment in communities with concentrated numbers of people who have previously offended, is a matter of statewide concern; and

WHEREAS, the State, and all cities and counties, including charter cities and counties, would be subject to the provision of the bill; and

WHEREAS, AB 218 follows the lead of five states and over 30 U.S. cities and counties that have removed the conviction history inquiry from initial job applications in public employment and delayed a criminal background check until the later stages of the hiring process; and

WHEREAS, like public employment at the state level, California's cities and counties should pave the way for the private sector to reduce barriers to employment of people with criminal records; and

WHEREAS, the City of Berkeley strongly supports AB 218, which goes a long way to promote public safety by reducing unnecessary barriers to employment for the nearly seven million adult Californians with a criminal record.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council hereby supports Assembly Bill 218, introduced by Assemblymember Roger Dickinson, which postpones the criminal background check of a job applicant until after the first screening for qualifications has found the applicant qualified.

BE IT FURTHER RESOLVED that copies of this Resolution be sent to Senate President Pro Tem Darrell Steinberg, State Senator Loni Hancock, Assembly Speaker John A. Perez, and Assemblymembers Nancy Skinner and Roger Dickinson.

ASSEMBLY BILL**No. 218**

Introduced by Assembly Member DickinsonFebruary 4, 2013

An act to add Section 432.9 to the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 218, as introduced, Dickinson. Employment applications: criminal history.

Existing law prohibits both public and private employers from asking an applicant for employment to disclose, either in writing or verbally, any information concerning an arrest or detention that did not result in a conviction.

This bill would prohibit a state or local agency from asking an applicant to disclose information regarding a criminal conviction, except as specified, until after the applicant's qualifications for the position have been determined to meet the requirements for the position. This bill would include specified findings and declarations of the Legislature in support of this policy.

Because this bill would impose new requirements on local agencies relative to employment application procedures, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,

reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares that reducing
2 barriers to employment for people who have previously offended,
3 and decreasing unemployment in communities with concentrated
4 numbers of people who have previously offended, are matters of
5 statewide concern. Therefore, this act shall apply to state agencies,
6 all cities and counties, including charter cities and charter counties,
7 and special districts. The Legislature further finds and declares
8 that, consistent with the 2011 Realignment Legislation addressing
9 public safety, increasing employment opportunities for people who
10 have previously offended will reduce recidivism and improve
11 economic stability in our communities.

12 SEC. 2. Section 432.9 is added to the Labor Code, to read:

13 432.9. (a) A state or local agency shall not ask an applicant
14 for employment to disclose, through any written form or verbally,
15 information concerning the criminal history of the applicant or
16 include any inquiry about criminal history on any initial
17 employment application. A state or local agency may inquire into
18 or consider an applicant's criminal history after the applicant's
19 qualifications have been screened and the agency has determined
20 the applicant meets the minimum employment requirements, as
21 stated in any notice issued for the position.

22 (b) This section shall not apply to a position for which a state
23 or local agency is otherwise required by law to conduct a criminal
24 history background check, to any position within a criminal justice
25 agency, as that term is defined in Section 13101 of the Penal Code,
26 or to any individual working on a temporary or permanent basis
27 for a criminal justice agency on a contract basis or on loan from
28 another governmental entity.

29 (c) This section shall not be construed to prevent a state or local
30 agency from conducting a criminal history background check after
31 complying with all of the provisions of subdivision (a).

1 (d) As used in this section, “state agency” means any state office,
2 officer, department, division, bureau, board, commission, or
3 agency.

4 (e) As used in this section, “local agency” means any county,
5 city, city and county, including a charter city or county, or any
6 special district.

7 (f) Section 433 does not apply to this section.

8 SEC. 3. If the Commission on State Mandates determines that
9 this act contains costs mandated by the state, reimbursement to
10 local agencies and school districts for those costs shall be made
11 pursuant to Part 7 (commencing with Section 17500) of Division
12 4 of Title 2 of the Government Code.

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