

ASSEMBLY BILL NO. 51—ASSEMBLYMAN OCEGUERA

PREFILED FEBRUARY 1, 2007

Referred to Committee on Government Affairs

SUMMARY—Revises provisions pertaining to the disclosure of certain information regarding applicants for certain positions with public safety agencies. (BDR 19-247)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to employment; requiring an employer or former employer of a person who is an applicant for a position as a firefighter with a fire-fighting agency to provide certain information regarding the applicant to the fire-fighting agency under certain circumstances; providing immunity from civil liability in certain circumstances for an employer or former employer who provides such information; revising provisions governing the sharing of information concerning applicants for certain positions with public safety agencies; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Under existing law, a law enforcement agency is authorized to request an
2 employer or former employer of a person who is an applicant for a position as a
3 peace officer with the law enforcement agency to provide certain information
4 regarding the employment history of the applicant to the law enforcement agency
5 under certain circumstances. (NRS 239B.020) An employer is immune from civil
6 liability under certain circumstances for providing such information. (NRS 41.755)
7 This bill expands the authority to request information regarding the employment
8 history of an applicant to fire-fighting agencies and extends immunity from civil
9 liability to employers who disclose such information to fire-fighting agencies under
10 certain circumstances. This bill also places restrictions on the sharing of
11 information concerning applicants for certain positions with a public safety agency.



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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 239B.020 is hereby amended to read as follows:

239B.020 1. Upon the request of a ~~law-enforcement~~ **public safety** agency, an employer shall provide to the ~~law-enforcement~~ **public safety** agency information, if available, regarding a current or former employee of the employer who is an applicant for the position of **firefighter or** peace officer, **as applicable**, with the ~~law-enforcement~~ **public safety** agency. A request for information by a ~~law-enforcement~~ **public safety** agency pursuant to this subsection must be:

(a) In writing;

(b) Accompanied by an authorization signed by the applicant and notarized by a notary public or judicial officer in which the applicant consents to the release of the information; and

(c) Presented to the employer by a sworn officer or other authorized representative of the ~~law-enforcement~~ **public safety** agency.

2. The information that a ~~law-enforcement~~ **public safety** agency may request pursuant to subsection 1 includes, without limitation:

(a) The date on which the applicant began his employment and, if applicable, the date on which the employment of the applicant was terminated;

(b) A list of the compensation that the employer provided to the applicant during the course of the employment;

(c) An application for a position of employment that the applicant submitted to the employer;

(d) A written evaluation of the performance of the applicant;

(e) A record of the attendance of the applicant;

(f) A record of disciplinary action taken against the applicant;

(g) A statement regarding whether the employer would rehire the applicant and, if the employer would not rehire the applicant, the reasons therefor; and

(h) If applicable, a record setting forth the reason that the employment of the applicant was terminated and whether the termination was voluntary or involuntary.

3. An employer shall not provide information pursuant to subsection 1 if the disclosure of the information is prohibited pursuant to a federal or state statute or regulation.

4. A ~~law-enforcement~~ **public safety** agency may use the information that it receives pursuant to this section only to



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determine the suitability of an applicant for employment as a **firefighter or** peace officer ~~{ }~~, **as applicable.**

5. Except as otherwise provided in this subsection, a ~~law enforcement~~ **public safety** agency shall maintain the confidentiality of information that it receives pursuant to this section. A ~~law enforcement~~ **public safety** agency may share information regarding an applicant that it receives pursuant to this section with another ~~law enforcement~~ **public safety** agency if:

(a) The applicant is also an applicant for a position as a **firefighter or** peace officer, **as applicable**, with the other ~~law enforcement~~ **public safety** agency ~~{ }~~ and **the applicant submitted a single application to be used by multiple public safety agencies; and**

(b) The confidentiality of the information is otherwise maintained.

6. As used in this section:

(a) "Employer" includes a public employer and a private employer.

~~{ "Law enforcement agency" has the meaning ascribed to it in NRS 277.035. }~~ **"Firefighter" means a person who is a salaried employee of a fire-fighting agency and whose principal duties are to control, extinguish, prevent and suppress fires.**

"Fire-fighting agency" means a public fire department, fire protection district or other agency of this State or a political subdivision of this State, the primary functions of which are to control, extinguish, prevent and suppress fires.

~~{ (c) }~~ (d) "Peace officer" has the meaning ascribed to it in NRS 289.010.

(e) **"Public safety agency" means:**

(1) A fire-fighting agency; or

(2) A law enforcement agency as defined in NRS 277.035.

Sec. 2. NRS 41.755 is hereby amended to read as follows:

41.755 1. Except as otherwise provided in subsection 3, an employer who, at the request of an employee, discloses information regarding:

(a) The ability of the employee to perform his job;

(b) The diligence, skill or reliability with which the employee carried out the duties of his job; or

(c) An illegal or wrongful act committed by the employee,
 ➔ to a prospective employer of that employee is immune from civil liability for such disclosure and its consequences.

2. Except as otherwise provided in subsection 3, an employer who discloses information regarding an employee to a ~~law enforcement~~ **public safety** agency pursuant to NRS 239B.020 is



1 immune from civil liability for such disclosure and its
2 consequences.

3 3. An employer is not immune from civil liability for a
4 disclosure made pursuant to subsection 1 or NRS 239B.020 or for
5 the consequences of a disclosure made pursuant to subsection 1 or
6 NRS 239B.020 if the employer:

- 7 (a) Acted with malice or ill will;
8 (b) Disclosed information that he believed was inaccurate;
9 (c) Disclosed information which he had no reasonable grounds
10 for believing was accurate;
11 (d) Recklessly or intentionally disclosed inaccurate information;
12 (e) Deliberately disclosed misleading information; or
13 (f) Disclosed information in violation of a state or federal law or
14 in violation of an agreement with the employee.

15 4. As used in this section:

16 (a) “Employee” means a person who currently renders or
17 previously rendered time and services to an employer.

18 (b) “Employer” includes an employee or agent of an employer
19 who is authorized by the employer to disclose information regarding
20 an employee.

21 (c) *“Public safety agency” has the meaning ascribed to it in*
22 *NRS 239B.020.*

