

ASSEMBLY BILL

No. 1669

Introduced by Assembly Member Jeffries

January 20, 2010

An act to add, repeal, and add Article 4 (commencing with Section 789) of Chapter 2.5 of Division 1 of the Public Resources Code, relating to forestry and fire protection.

LEGISLATIVE COUNSEL'S DIGEST

AB 1669, as introduced, Jeffries. Department of Forestry and Fire Protection: employment: criminal background checks.

Existing law requires the Department of Forestry and Fire Protection (CAL-Fire) to be responsible for the fire protection, fire prevention, maintenance, and enhancement of the state's forest, range, and brushland resources, contract fire protection, associated emergency services, and assistance in civil disasters and other nonfire emergencies.

This bill would require the department to conduct a state and federal level criminal offender record information search through the Department of Justice prior to hiring an applicant for a permanent position as a firefighter with the department or the State Board of Forestry and Fire Protection, with exceptions, beginning on January 1, 2012. The bill would require the department to conduct the same criminal offender record information search for applicants of both permanent and seasonal positions as a firefighter, with exceptions, beginning on January 1, 2014. The bill would require the Department of Justice to provide the information electronically, and would require the department to request the Department of Justice to provide subsequent arrest notification services. The bill would require the applicant to pay the fee charged by the Department of Justice for

processing the request, unless otherwise negotiated under collective bargaining procedures, and would require the department to refund the fee once that person had been employed for 24 months cumulatively.

This bill would require the department to make and enforce those regulations necessary and proper for the implementation and maintenance of the requirements of these provisions.

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

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

1 SECTION 1. Article 4 (commencing with Section 789) is added
2 to Chapter 2.5 of Division 1 of the Public Resources Code, to read:

3
4 Article 4. Employment Applicant Criminal Background Check

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6 789. For purposes of this article, “applicant” means a person
7 applying for permanent employment as a firefighter with the
8 department or the board.

9 790. (a) (1) Prior to hiring an applicant for a employment
10 with the department or the board, the department shall
11 electronically submit to the Department of Justice fingerprint
12 images and related information required by the Department of
13 Justice on the applicant for the purposes of obtaining information
14 as to the existence and content of a record of state or federal
15 convictions and state or federal arrests and also information as to
16 the existence and content of a record of state or federal arrests for
17 which the Department of Justice establishes that the person is free
18 on bail or on his or her own recognizance pending trial or appeal,
19 as provided pursuant to subdivision (p) of Section 11105 of the
20 Penal Code.

21 (2) When received, the Department of Justice shall forward to
22 the Federal Bureau of Investigation requests for federal summary
23 criminal history information received pursuant to this subdivision.
24 The Department of Justice shall review the information returned
25 from the Federal Bureau of Investigation and compile and
26 electronically disseminate a response to the department, as provided
27 pursuant to Section 11105 of the Penal Code.

28 (3) The Department of Justice shall electronically provide the
29 response to the department.

1 (b) The department shall request the Department of Justice to
2 provide subsequent arrest notification service, as provided pursuant
3 to Section 11105.2 of the Penal Code, for persons described in
4 subdivision (a).

5 (c) The Department of Justice shall charge a fee sufficient to
6 cover the cost of processing the request described in this section.

7 791. Each applicant shall have his or her fingerprint images
8 and related information submitted to the department for submission
9 to the Department of Justice, pursuant to regulations adopted
10 pursuant to Section 795, for a state and federal level criminal
11 offender record information search, including subsequent arrest
12 information.

13 792. (a) Each applicant shall pay to the department the fee
14 charged by the Department of Justice to cover the costs of
15 processing the request for a criminal background check, unless
16 otherwise negotiated by the collective bargaining unit of the
17 department firefighters and the department.

18 (b) An employee who is employed by the department or the
19 board for 24 months, cumulatively, shall be refunded, by the
20 department, the amount he or she paid for processing costs of the
21 criminal background check.

22 793. Each application for employment shall require the
23 applicant's social security number in order to establish the identity
24 of the applicant. The information obtained as a result of a state
25 and federal level criminal offender record information search shall
26 be used in accordance with Section 11105 of the Penal Code, and
27 to determine whether the applicant is eligible for employment.

28 794. A certified EMT-I or EMT-II shall be exempt from the
29 requirements of this article if he or she meets all of the following:

30 (a) He or she is currently certified pursuant to Division 2.5
31 (commencing with Section 1797) of the Health and Safety Code.

32 (b) His or her fingerprint images were previously submitted to
33 the Department of Justice and a state and federal level criminal
34 offender record information search, including subsequent arrest
35 information, has been conducted.

36 (c) The EMT-I or EMT-II submits to the department a written
37 verification that the certifying entity, as defined in Section 1797.62
38 of the Health and Safety Code, the Emergency Medical Services
39 Authority, as described in Section 1797.101 of the Health and
40 Safety Code, or the employer has had a state and federal level

1 criminal offender record information search conducted, including
2 subsequent arrest information, and that nothing in the criminal
3 offender record information search precluded the individual from
4 obtaining EMT-I or EMT-II certification.

5 795. The department shall make and enforce those regulations
6 that are necessary and proper for the implementation and
7 maintenance of the requirements of this article.

8 796. This article shall become operative on January 1, 2012,
9 and shall remain in effect only until January 1, 2014, and as of that
10 date, is repealed, unless a later enacted statute, that is enacted
11 before January, 1, 2014, deletes or extends that date.

12 SEC. 2. Article 4 (commencing with Section 789) is added to
13 Chapter 2.5 of Division 1 of the Public Resources Code, to read:

14
15 Article 4. Employment Applicant Criminal Background Check

16
17 789. For purposes of this article “applicant” means a person
18 applying for permanent or seasonal work as a firefighter with the
19 department or the board.

20 790. (a) (1) Prior to hiring an applicant for a employment
21 with the department or the board, the department shall
22 electronically submit to the Department of Justice fingerprint
23 images and related information required by the Department of
24 Justice on the applicant for the purposes of obtaining information
25 as to the existence and content of a record of state or federal
26 convictions and state or federal arrests and also information as to
27 the existence and content of a record of state or federal arrests for
28 which the Department of Justice establishes that the person is free
29 on bail or on his or her own recognizance pending trial or appeal,
30 as provided pursuant to subdivision (p) of Section 11105 of the
31 Penal Code.

32 (2) When received, the Department of Justice shall forward to
33 the Federal Bureau of Investigation requests for federal summary
34 criminal history information received pursuant to this subdivision.
35 The Department of Justice shall review the information returned
36 from the Federal Bureau of Investigation and compile and
37 electronically disseminate a response to the department, as provided
38 pursuant to Section 11105 of the Penal Code.

39 (3) The Department of Justice shall electronically provide the
40 response to the department.

1 (b) The department shall request the Department of Justice to
2 provide subsequent arrest notification service, as provided pursuant
3 to Section 11105.2 of the Penal Code, for persons described in
4 subdivision (a).

5 (c) The Department of Justice shall charge a fee sufficient to
6 cover the cost of processing the request described in this section.

7 791. Each applicant shall have his or her fingerprint images
8 and related information submitted to the department for submission
9 to the Department of Justice, pursuant to regulations adopted
10 pursuant to Section 796, for a state and federal level criminal
11 offender record information search, including subsequent arrest
12 information.

13 792. (a) Each applicant shall pay to the department the fee
14 charged by the Department of Justice to cover the costs of
15 processing the request for a criminal background check, unless
16 otherwise negotiated by the collective bargaining unit of the
17 department firefighters and the department.

18 (b) An employee who is employed by the department or the
19 board for 24 months, cumulatively, shall be refunded, by the
20 department, the amount he or she paid for processing costs of the
21 criminal background check.

22 793. Each application for employment shall require the
23 applicant's social security number in order to establish the identity
24 of the applicant. The information obtained as a result of a state
25 and federal level criminal offender record information search shall
26 be used in accordance with Section 11105 of the Penal Code, and
27 to determine whether the applicant is eligible for employment.

28 794. An applicant for seasonal employment shall not be
29 required to submit his or her fingerprint images or pay the fee,
30 upon a determination by the department that the applicant's
31 fingerprint images have previously been submitted to the
32 Department of Justice during the seasonal employee's initial hiring
33 or initial rehiring on or after January 1, 2014, if no more than two
34 years has elapsed from the date of last employment.

35 795. A certified EMT-I or EMT-II shall be exempt from the
36 requirements of this article if he or she meets all of the following:

37 (a) He or she is currently certified pursuant to Division 2.5
38 (commencing with Section 1797) of the Health and Safety Code.

39 (b) His or her fingerprint images were previously submitted to
40 the Department of Justice and a state and federal level criminal

1 offender record information search, including subsequent arrest
2 information, has been conducted.

3 (c) The EMT-I or EMT-II submits to the department a written
4 verification that the certifying entity, as defined in Section 1797.62
5 of the Health and Safety Code, the Emergency Medical Services
6 Authority, as described in Section 1797.101 of the Health and
7 Safety Code, or the employer has had a state and federal level
8 criminal offender record information search conducted, including
9 subsequent arrest information, and that nothing in the criminal
10 offender record information search precluded the individual from
11 obtaining EMT-I or EMT-II certification.

12 796. The department shall make and enforce those regulations
13 that are necessary and proper for the implementation and
14 maintenance of the requirements of this article.

15 797. This article shall become operative on January 1, 2014.

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