

ASSEMBLY BILL

No. 163

Introduced by Assembly Member Jeffries

January 19, 2011

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

LEGISLATIVE COUNSEL'S DIGEST

AB 163, as introduced, Jeffries. Department of Forestry and Fire Protection: employment: criminal background checks.

Existing law requires the Department of Forestry and Fire Protection 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, as defined, for a position with the department or the State Board of Forestry and Fire Protection, with exceptions. The bill would require the Department of Justice to provide the information electronically, and require the department to request the Department of Justice to provide subsequent arrest notification services.

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. The bill would require the department to implement the requirements of these provisions utilizing any existing funds that are available to the department and

would prohibit the department from assessing a fee on an applicant for purposes of conducting a background check.

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, full-time employment with the department
8 or the board.

9 790. Each applicant shall have his or her fingerprint images
10 and related information submitted to the department for submission
11 to the Department of Justice, pursuant to regulations adopted
12 pursuant to Section 794, for a state and federal level criminal
13 offender record information search, including subsequent arrest
14 information.

15 791. Each application for employment shall require the
16 applicant’s social security number in order to establish the identity
17 of the applicant. The information obtained as a result of a state
18 and federal level criminal offender record information search shall
19 be used in accordance with Section 11105 of the Penal Code, and
20 to determine whether the applicant is eligible for employment.

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

31 (2) When received, the Department of Justice shall forward to
32 the Federal Bureau of Investigation requests for federal summary
33 criminal history information received pursuant to this subdivision.

1 The Department of Justice shall review the information returned
2 from the Federal Bureau of Investigation and compile and
3 electronically disseminate a response to the department, as provided
4 pursuant to Section 11105 of the Penal Code.

5 (3) The Department of Justice shall electronically provide the
6 response to the department.

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

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

13 793. A certified EMT-I or EMT-II shall be exempt from the
14 requirements of this article if he or she meets all of the following
15 conditions:

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

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

22 (c) He or she submits to the department a written verification
23 that the certifying entity, as defined in Section 1797.62 of the
24 Health and Safety Code, the Emergency Medical Services
25 Authority, as described in Section 1797.101 of the Health and
26 Safety Code, or the employer has had a state and federal level
27 criminal offender record information search conducted, including
28 subsequent arrest information, and that nothing in the criminal
29 offender record information search precluded the individual from
30 obtaining EMT-I or EMT-II certification.

31 794. The department shall make and enforce those regulations
32 that are necessary and proper for the implementation and
33 maintenance of the requirements of this article.

34 795. The department shall implement the requirements of this
35 article utilizing any existing funds that are available to the
36 department. The department shall not assess a fee on an applicant
37 for purposes of conducting a background check.