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FISCAL IMPACT REPORT

ORIGINAL DATE 2/22/19

SPONSOR Armstrong, D LAST UPDATED 3/14/19 HB 556/ec/aHFl#1/aSJC

SHORT TITLE Human Services Dept. Background Checks SB _____

ANALYST Esquibel

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		\$30.0	\$10.0	\$40.0	Recurring	General Fund and Federal Matching Funds

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Public Safety (DPS)

Human Services Department (HSD)

SUMMARY

Synopsis of SJC Amendment

The Senate Judiciary Committee Amendment to House Bill 556 as amended clarifies that employees' background checks shall only be used related to a person's HSD-related activities.

Synopsis of House Floor Amendment #1

The House Floor Amendment #1 to House Bill 556 clarifies that HSD would conduct background checks on its employees and prospective employees that have or will have access to federal tax information, provided that the employee or prospective employee who is denied employment or whose employment is terminated based on information obtained in a background check, shall be entitled to review the information obtained pursuant to the background check and to appeal the decision.

Synopsis of Original Bill

House Bill 556 would require the Human Services Department (HSD) to conduct background checks on employees, prospective employees, contractors, prospective contractors, subcontractors and prospective subcontractors that have or will have access to federal tax

information (FTI).

HSD would conduct background checks on personnel and prospective personnel by 1) conducting local law enforcement agency criminal history record checks where the subject has lived, worked, and/or attended school within the last 5 years; 2) submitting fingerprint cards to the Department of Public Safety (DPS) and the Federal Bureau of Investigation (FBI) for the purpose of conducting a national agency check on the subject; and 3) conducting a citizenship/residency check to confirm that the subject is eligible to legally work in the United States.

Contractors, prospective contractors, subcontractors and prospective subcontractors would be responsible for their own costs for conducting background checks.

Criminal history records obtained pursuant to this policy would be confidential, and any person who releases or discloses information from these records would be guilty of a misdemeanor and sentenced.

Personnel and prospective personnel denied employment or terminated based on this policy would be entitled to appeal the decision.

The bill has an emergency clause.

FISCAL IMPLICATIONS

HSD estimates the fiscal impact of the bill in the first year would be approximately \$30 thousand from the general fund and federal matching funds. Background checks would be required for current staff who have access to federal tax information, as well as for new hires in similar positions. Beyond FY20, HSD would require background checks for new hires and renewals for current employees.

DPS indicates its Law Enforcement Records Bureau serves as a pass through for the fees for the FBI submission for background checks.

SIGNIFICANT ISSUES

HSD indicates the Internal Revenue Service (IRS) issues safeguards to verify compliance with Internal Revenue Code (IRC) 6103 that identify and mitigate any risk of loss, breach, or misuse of federal tax information (FTI) held by external government agencies. HSD's receives FTI from the IRS, Social Security Administration (SSA), Federal Office of Child Support Enforcement (OCSE), Bureau of the Fiscal Service (BFS), and Centers for Medicare and Medicaid Services (CMS).

On September 30, 2016, the IRS issued new safeguards establishing minimum requirements for background investigations. External governmental agencies are now required to develop a written policy requiring that employees, contractors and sub-contractors with access to FTI complete a background investigation and begin implementing the policy.

HSD notes it has agreements with agencies of the federal government to receive and utilize federal tax information (FTI) to determine income support and medical assistance program

eligibility, and to establish and enforce child support obligations.

ADMINISTRATIVE IMPLICATIONS

DPS notes if the legislation is enacted, HSD will be required to apply to the FBI for final review and approval, and when the FBI approval is completed, a federal agency identifier will be assigned to HSD.

HSD would be required to establish regulations which sets out general provisions regarding background checks including compliance, prohibitions and appeal rights.

RAE/al/sb