

SENATE BILL NO. 109

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 4/7/17

Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to background investigation requirements for state employees whose
2 job duties require access to certain federal tax information; relating to persons under
3 contract with the state with access to certain federal tax information; establishing state
4 personnel procedures required for employee access to certain federal tax information;
5 and providing for an effective date."

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 * **Section 1.** AS 12.62.400 is amended by adding a new subsection to read:

8 (c) To obtain a national criminal history record check for determining a
9 current or prospective employee's qualifications under AS 39.55.015 or a contractor's
10 qualifications under AS 36.30.960, the agency or the procurement officer shall submit
11 the current or prospective employee's or contractor's fingerprints to the department
12 with the fee established by AS 12.62.160. The department shall submit the fingerprints
13 to the Federal Bureau of Investigation to obtain a national criminal history record

1 check of the current or prospective employee or contractor for the purpose of
 2 evaluating a person's qualifications under AS 36.30.960 and AS 39.55.015. In this
 3 subsection, unless the content otherwise requires,

4 (1) "agency" means a department, Office of the Governor, or entity in
 5 the executive branch, including the University of Alaska, public or quasi-public
 6 corporations, boards or commissions, and the Alaska Railroad Corporation;

7 (2) "employee" has the meaning given in AS 39.55.015;

8 (3) "contractor" has the meaning given in AS 36.30.960.

9 * **Sec. 2.** AS 36.30 is amended by adding a new section to read:

10 **Sec. 36.30.960. Background investigation for contractors with access to**
 11 **federal tax information.** (a) Upon request of an agency, the procurement officer shall
 12 notify each current or prospective contractor if a contract with the state requires access
 13 to federal tax information for performance of the contract. Each person under contract
 14 with the state whose duties require access to federal tax information must submit to
 15 and pass a background investigation that includes a state and national criminal history
 16 record check. The contractor shall provide information for the background
 17 investigation, including fingerprints in a format requested by the procurement officer
 18 or the contracting agency. The procurement officer or the contracting agency shall
 19 submit the fingerprints to the Department of Public Safety to obtain a report of
 20 criminal justice information under AS 12.62 and a national criminal history record
 21 check. The Department of Public Safety is authorized to submit the fingerprints to the
 22 Federal Bureau of Investigation for a national criminal history record check.

23 (b) The current or prospective contractor shall pay to the procurement officer
 24 or contracting agency the fee established by AS 12.62.160 for the national criminal
 25 history record check.

26 (c) A background investigation under this section, including a state and
 27 national criminal history record check, is confidential.

28 (d) In this section, unless the context otherwise requires,

29 (1) "agency" means a department, Office of the Governor, or entity in
 30 the executive branch, including the University of Alaska, public or quasi-public
 31 corporations, boards or commissions, and the Alaska Railroad Corporation;

1 (2) "contractor" means a person who has applied for or been awarded a
 2 contract with a state agency and includes a subcontractor;

3 (3) "federal tax information" has the meaning given in AS 39.55.015.

4 * **Sec. 3.** AS 39 is amended by adding a new chapter to read:

5 **Chapter 55. State Personnel Procedures Relating to Employee Access to Federal Tax**
 6 **Information.**

7 **Sec. 39.55.010. Purpose of chapter.** It is the purpose of this chapter to
 8 establish procedures to safeguard the confidentiality of protected federal tax
 9 information as required by 26 U.S.C 6103(p)(4). The procedures established in this
 10 chapter apply to a current or prospective state employee whose job duties include
 11 access to protected federal tax information.

12 **Sec. 39.55.015. Background investigation for employees with access to**
 13 **federal tax information.** (a) In connection with an initial application or as a condition
 14 of continued employment in a position with the state for which the job duties include
 15 access to federal tax information, an agency shall require a prospective or current
 16 employee to provide information for a background investigation and request a state
 17 and national criminal history record check.

18 (b) Each current or prospective employee of an agency subject to (a) of this
 19 section whose job duties include access to federal tax information shall provide their
 20 fingerprints in a format requested by the agency. The agency shall submit the
 21 fingerprints and the fees required to the Department of Public Safety to obtain a report
 22 of criminal justice information under AS 12.62 and a national criminal history record
 23 check. The Department of Public Safety is authorized to submit the fingerprints to the
 24 Federal Bureau of Investigation for a national criminal history record check.

25 (c) A background investigation under this section, including a state and
 26 national criminal history record check, is confidential. The agency that requested the
 27 criminal history record check shall use the information obtained under this section to
 28 determine the current or prospective employee's qualification to access federal tax
 29 information. With the written approval of the employee, an agency may share an
 30 employee's background investigation with another agency if the employee applies for
 31 employment with, or works for, another agency that has access to federal tax

1 information and the employee's job duties will include access to federal tax
2 information.

3 (d) Each agency that has access to federal tax information shall develop a
4 written policy establishing procedures and standards for the background investigation
5 and establish criteria to determine if an individual is qualified to access federal tax
6 information. The policy shall require a reinvestigation to be conducted not later than
7 10 years from the date of the previous background investigation.

8 (e) In this section, unless the context otherwise requires,

9 (1) "agency" means a department, Office of the Governor, or entity in
10 the executive branch, including the University of Alaska, public or quasi-public
11 corporations, boards or commissions, and the Alaska Railroad Corporation;

12 (2) "employee" means a permanent, probationary, seasonal, temporary,
13 provisional, or nonpermanent employee of an agency, whether in the classified,
14 partially exempt, or exempt service;

15 (3) "federal tax information" means a federal tax return, return
16 information, and information derived from the federal tax return or return information
17 that is in an agency's possession or control, and that is received directly by an agency
18 under 26 U.S.C. 6103(d) or (l) from the Internal Revenue Service, an Internal Revenue
19 Service authorized secondary source, or another entity acting on behalf of the Internal
20 Revenue Service under 26 U.S.C. 6103(p)(2)(B);

21 (4) "return" has the meaning defined in 26 U.S.C. 6103(b)(1);

22 (5) "return information" has the meaning defined in 26 U.S.C.
23 6103(b)(2).

24 * **Sec. 4.** This Act takes effect July 1, 2017.