

File No. 130302

Committee Item No. _____

Board Item No. 19

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee _____

Date _____

Board of Supervisors Meeting

Date April 9, 2013

Cmte Board

- | | | |
|--------------------------|-------------------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Resolution |
| <input type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form (for hearings) |
| <input type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
| <input type="checkbox"/> | <input type="checkbox"/> | Public Correspondence |

OTHER (Use back side if additional space is needed)

- | | | |
|--------------------------|--------------------------|-------|
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |

Completed by: Joy Lamug
Completed by: _____

Date April 4, 2013
Date _____

An asterisked item represents the cover sheet to a document that exceeds 20 pages. The complete document is in the file.

1 [Supporting Assembly Bills 218 and 870 - Expansion of California's Fair Hiring Policies to
2 Cities, Counties, State Agencies, Special Districts, and Private Employers That Contract with
3 State Agencies]

4 **Resolution supporting Assembly Bill 218, which expands California's existing fair**
5 **hiring policies for state and public employees to city and county workers statewide,**
6 **and Assembly Bill 870, which expands California's existing fair hiring policies to**
7 **private employers that contract with the State.**

8
9 WHEREAS, Existing law requires the hiring practices and promotional practices of a
10 local agency, as defined, to conform to the Federal Civil Rights Act of 1964 and prohibits any
11 local agency from, as a part of its hiring practices or promotional practices, employing any
12 educational prerequisites or testing or evaluation methods, which are not job related unless
13 there is no adverse effect; and

14 WHEREAS, California Assembly Bill 218 (Dickinson), on file with the Clerk of the Board
15 of Supervisors in File No. 130302, which is hereby declared to be part of this resolution as if
16 set forth fully herein, recently introduced in the California Assembly, would prohibit a local
17 agency from inquiring into or considering the criminal history of an applicant and including any
18 inquiry about criminal history on any initial employment application; and

19 WHEREAS, California Assembly Bill 218 would allow a local or state agency to
20 consider an applicant's conviction history after the applicant's qualifications have been
21 screened and the agency has determined the applicant meets the minimum employment
22 requirements, as stated in any notice issued for the position; and

23 WHEREAS, California Assembly Bill 218 would not apply to a position for which a local
24 agency is otherwise required by law to conduct a criminal history background check; and
25

1 WHEREAS, California Assembly Bill 218 would also express a legislative finding and
2 declaration that reducing barriers to employment for people who have previously offended,
3 and decreasing unemployment in communities with concentrated numbers of people who
4 have previously offended, is a matter of statewide concern; and

5 WHEREAS, All cities, counties, state agencies, and special districts, including charter
6 cities and counties would be subject to the provisions of California Assembly Bill 218; and

7 WHEREAS, California Assembly Bill 870 (Jones-Sawyer), on file with the Clerk of the
8 Board of Supervisors in File No. 130302, which is hereby declared to be part of this resolution
9 as if set forth fully herein, recently introduced in the California Assembly, would prohibit the
10 State from contracting with a person or entity that inquires into or considers the criminal
11 history of a potential employee on an initial employment application; and

12 WHEREAS, California Assembly Bill 870 would authorize the State to contract with a
13 person or entity that inquires into or considers an applicant's criminal history after the
14 applicant's qualifications have been screened and the employer has determined the applicant
15 meets the minimum employment requirements; and

16 WHEREAS, California Assembly Bill 870 would not apply to a position for which an
17 employer is otherwise required by law to conduct a criminal history background check or to
18 any contract position with a criminal justice agency; and

19 WHEREAS, California Assembly Bill 870 would also express a legislative finding and
20 declaration that reducing barriers to employment for people who have previously offended,
21 and decreasing unemployment in communities with concentrated numbers of people who
22 have previously offended, is a matter of statewide concern; and

23 WHEREAS, In California and around the country, qualified job applicants often are
24 plagued by old or minor convictions and are discouraged from submitting applications for
25

1 employment because a check box on job applications requires disclosure of criminal history
2 information that often leads employers to dismiss applicants at the outset; and

3 WHEREAS, People of color are disproportionately impacted by criminal background
4 checks in employment, which is why the U.S. Equal Employment Opportunity Commission
5 (EEOC) requires employers to establish a strong nexus between an applicant's criminal
6 history and the specific duties and responsibilities of a given position; and

7 WHEREAS, The City and County of San Francisco and over 45 other cities and
8 counties in the United States removed the conviction history inquiry from initial employment
9 applications in public employment and delayed the criminal background check until the later
10 stages of the hiring process; and

11 WHEREAS, In 2010, California became the sixth state to do so when the State
12 Personnel Board removed the question from employment applications for state level positions
13 in public service; and

14 WHEREAS, Realignment of California's criminal justice system, as described in
15 California Assembly Bill 109, seeks to produce budgetary savings by reducing recidivism and
16 promoting rehabilitation; and

17 WHEREAS, Employment of eligible people with a conviction history is key to the
18 success of the realignment strategy at a local level, as studies show that stable employment
19 significantly lowers recidivism and promotes public safety; and

20 WHEREAS, In October 2005, the San Francisco Board of Supervisors unanimously
21 adopted legislation that promoted the successful integration of individuals with criminal
22 histories and initiated the removal of the request for conviction history information in the initial
23 application process for public employment; and

24 WHEREAS, The Reentry Council of the City and County of San Francisco, in its
25 Annual Report, identified arrest and conviction records as barriers to employment, and it

1 recommends that the City and County of San Francisco's policy on criminal background
2 checks should be extended to other jurisdictions; and

3 WHEREAS, The City and County of San Francisco strongly supports California
4 Assembly Bill 218 and California Assembly Bill 870 because they promote public safety by
5 reducing unnecessary barriers to employment for nearly seven million adults in California with
6 criminal records; now, therefore, be it

7 RESOLVED, That the Board of Supervisors of the City and County of San Francisco
8 hereby supports California Assembly Bill 218 and California Assembly Bill 870 and authorizes
9 the Clerk of the Board of Supervisors to communicate to the California State Legislature its
10 support of California Assembly Bill 218 and California Assembly Bill 870; and

11 FURTHER RESOLVED, That the San Francisco Board of Supervisors hereby directs
12 the Clerk of the Board to transmit copies to the members of the State Assembly from San
13 Francisco and the members of the State Senate that represent San Francisco with a request
14 to take all action necessary to achieve the objectives of this resolution.

ASSEMBLY BILL

No. 218

Introduced by Assembly Member Dickinson

February 4, 2013

An act to add Section 432.9 to the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 218, as introduced, Dickinson. Employment applications: criminal history.

Existing law prohibits both public and private employers from asking an applicant for employment to disclose, either in writing or verbally, any information concerning an arrest or detention that did not result in a conviction.

This bill would prohibit a state or local agency from asking an applicant to disclose information regarding a criminal conviction, except as specified, until after the applicant's qualifications for the position have been determined to meet the requirements for the position. This bill would include specified findings and declarations of the Legislature in support of this policy.

Because this bill would impose new requirements on local agencies relative to employment application procedures, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,

reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

1 SECTION 1. The Legislature finds and declares that reducing
2 barriers to employment for people who have previously offended,
3 and decreasing unemployment in communities with concentrated
4 numbers of people who have previously offended, are matters of
5 statewide concern. Therefore, this act shall apply to state agencies,
6 all cities and counties, including charter cities and charter counties,
7 and special districts. The Legislature further finds and declares
8 that, consistent with the 2011 Realignment Legislation addressing
9 public safety, increasing employment opportunities for people who
10 have previously offended will reduce recidivism and improve
11 economic stability in our communities.

12 SEC. 2. Section 432.9 is added to the Labor Code, to read:

13 432.9. (a) A state or local agency shall not ask an applicant
14 for employment to disclose, through any written form or verbally,
15 information concerning the criminal history of the applicant or
16 include any inquiry about criminal history on any initial
17 employment application. A state or local agency may inquire into
18 or consider an applicant's criminal history after the applicant's
19 qualifications have been screened and the agency has determined
20 the applicant meets the minimum employment requirements, as
21 stated in any notice issued for the position.

22 (b) This section shall not apply to a position for which a state
23 or local agency is otherwise required by law to conduct a criminal
24 history background check, to any position within a criminal justice
25 agency, as that term is defined in Section 13101 of the Penal Code,
26 or to any individual working on a temporary or permanent basis
27 for a criminal justice agency on a contract basis or on loan from
28 another governmental entity.

29 (c) This section shall not be construed to prevent a state or local
30 agency from conducting a criminal history background check after
31 complying with all of the provisions of subdivision (a).

1 (d) As used in this section, "state agency" means any state office,
2 officer, department, division, bureau, board, commission, or
3 agency.

4 (e) As used in this section, "local agency" means any county,
5 city, city and county, including a charter city or county, or any
6 special district.

7 (f) Section 433 does not apply to this section.

8 SEC. 3. If the Commission on State Mandates determines that
9 this act contains costs mandated by the state, reimbursement to
10 local agencies and school districts for those costs shall be made
11 pursuant to Part 7 (commencing with Section 17500) of Division
12 4 of Title 2 of the Government Code.

ASSEMBLY BILL

No. 870

Introduced by Assembly Member Jones-Sawyer

February 22, 2013

An act to add Sections 10186 and 10324 to the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 870, as introduced, Jones-Sawyer. Public contracts: bidders: employment practices.

The State Contract Act prescribes the procedures and requirements applicable to various state agency contracts. Existing law governs contracts between state agencies and private contractors, and sets forth requirements for the procurement of materials, supplies, equipment, and services, and the acquisition of information technology goods and services by state agencies.

This bill would prohibit the state from contracting with a person or entity that inquires into or considers the criminal history of a potential employee on an initial employment application. The bill would authorize the state to contract with a person or entity that inquires into or considers an applicant's criminal history after the applicant's qualifications have been screened and the employer has determined the applicant meets the minimum employment requirements, as stated in any notice issued for the position. The bill would not apply to a position for which an employer is otherwise required by law to conduct a criminal history background check or to any contract position with a criminal justice agency, as specified.

The bill would also express a legislative finding and declaration that reducing barriers to employment for people who have previously

offended, and decreasing unemployment in communities with concentrated numbers of people who have previously offended, is a matter of statewide concern.

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. The Legislature finds and declares that reducing
2 barriers to employment for people who have previously offended,
3 and decreasing unemployment in communities with concentrated
4 numbers of people who have previously offended, are matters of
5 statewide concern. Therefore, this act shall apply to individuals
6 and entities who do business with the state. The Legislature further
7 finds and declares that, consistent with the Criminal Justice
8 Realignment Act of 2011 (Chapter 39 of the Statutes of 2011),
9 increasing employment opportunities for people who have
10 previously offended will reduce recidivism and improve economic
11 stability in our communities.

12 SEC. 2. Section 10186 is added to the Public Contract Code,
13 to read:

14 10186. (a) The state shall not accept a bid from a person or
15 entity that inquires into or considers the criminal history of a
16 potential employee or includes any inquiry about criminal history
17 on any initial employment application. The state may accept a bid
18 from a person or entity that inquires into or considers a potential
19 employee's criminal history after the applicant's qualifications
20 have been screened and the person or entity has determined that
21 the applicant meets the minimum employment requirements, as
22 stated in any notice issued for the position.

23 (b) This section shall not apply to a position for which an
24 employer is otherwise required by law to conduct a criminal history
25 background check or to any contract position with a criminal justice
26 agency, as that term is defined in Section 13101 of the Penal Code.

27 (c) This section shall not be construed to prevent the state from
28 accepting a bid from a person or entity that conducts a criminal
29 history background check after complying with all of the provisions
30 of subdivision (a).

31 SEC. 3. Section 10324 is added to the Public Contract Code,
32 to read:

1 10324. (a) The state shall not accept a bid from a person or
2 entity that inquires into or considers the criminal history of a
3 potential employee or includes any inquiry about criminal history
4 on any initial employment application. The state may accept a bid
5 from a person or entity that inquires into or considers a potential
6 employee's criminal history after the applicant's qualifications
7 have been screened and the person or entity has determined that
8 the applicant meets the minimum employment requirements, as
9 stated in any notice issued for the position.

10 (b) This section shall not apply to a position for which an
11 employer is otherwise required by law to conduct a criminal history
12 background check or to any contract position with a criminal justice
13 agency, as that term is defined in Section 13101 of the Penal Code.

14 (c) This section shall not be construed to prevent the state from
15 accepting a bid from a person or entity that conducts a criminal
16 history background check after complying with all of the provisions
17 of subdivision (a).

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date _____

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee.
An ordinance, resolution, motion, or charter amendment.
- 2. Request for next printed agenda without reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [] inquires"
- 5. City Attorney request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. []
- 9. Request for Closed Session (attach written motion).
- 10. Board to Sit as A Committee of the Whole.
- 11. Question(s) submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative

Sponsor(s):

Supervisor Jane Kim; Supervisor John Avalos, Supervisor David Campos, Supervisor Malia Cohen

Subject:

Resolution Supporting California Assembly Bills 218 and 870

The text is listed below or attached:

Please see attached.

Signature of Sponsoring Supervisor: 

For Clerk's Use Only:

130202