



Date: May 21, 2015

To: Patrick H. West, City Manager *PHW*

From: Deborah R. Mills, Director of Human Resources *Deborah R. Mills*

For: Mayor and Members of the City Council

Subject: City of Long Beach Implementation of AB 218

The following information is provided in response to the City Council's March 10, 2015 request (attached) for an update on how the City of Long Beach is actively implementing the requirements of Assembly Bill 218, and how it is impacting the City, including the date of implementation, particularly as it relates to contractors.

DISCUSSION

On October 10, 2013, California Governor Jerry Brown signed Assembly Bill 218 ("AB 218") into law, which added 432.9 to the California Labor Code, stating that state and local agencies are prohibited from asking an applicant for employment to disclose, orally or in writing, information concerning the conviction history of the applicant, including any inquiry about conviction history on any employment application until the agency has determined the applicant meets the minimum employment qualifications, as stated in any notice issued for the position. The provisions of AB 218 officially went into effect July 1, 2014, and City Departments were compliant with the bill requirements prior to its effective date.

AB 218 IMPLEMENTATION PREPARATION

The Department of Human Resources was active in reviewing the City's current hiring practices, forms, and policies and procedures to ensure compliance with AB 218. On October 18, 2013, immediately after the bill was signed into law, communications were sent to City Departments regarding the passage of AB 218 and the provisions of the new bill. In addition, departments were requested to forward to the Department of Human Resources their internal hiring practices and procedures, including submission of any employment applications, forms, and/or questionnaires that referenced any questions relating to an applicant's criminal conviction history or status. Those applications that did ask for conviction information were modified to comply with the law.

CITY RECRUITMENT PROCESS

The City does not ask applicants about criminal history, with the exception of Police Officer candidates who are exempt from the provisions of AB 218. We do not request criminal history information until after the recruitment process has been finalized and a conditional offer of employment has been made to the applicant. This process ensures that we are not considering criminal history during the selection process, which provides an equal opportunity to applicants and allows the City to assess individuals on their merits.

For all classified and some unclassified recruitments, the City contracts with NEOGOV, a service utilized primarily to assist with the collection of online job applications for the recruitment of classified service positions that fall under the Civil Service system. NEOGOV has updated its system to allow the exclusion of conviction questions from the application process.

CONTRACTORS

The City's contractors are required to comply with applicable laws. In addition to AB 218, Section 432.7 of the California Labor Code already prohibits both public and private employers from asking job applicants to disclose, either in writing or verbally, any information concerning an arrest or detention that did not result in a conviction. Under this law, contractors must continue to comply with State and/or federal laws regarding applicant background information.

Staff is proposing several additional steps that would be taken to locally ensure all parties with contracts (including consultants, contractors, and suppliers) are aware of the law and in compliance when bidding on City procurements:

1. Staff will notify all 16,000 registered vendors of the requirement and provide them a summarized version of the law;
2. In all outreach events that Purchasing and Business License staff attends, interested vendors will post the summary on the City's website, and will highlight the change in email outreach efforts; and
3. Staff is recommending that a page be added to both construction and goods materials bids, as well as Requests for Proposals (RFPs), that would require the bidder to positively affirm that they have read and understand the requirement, and agree to follow the intent of the legislation while being considered as a bidder and if awarded. This would be inserted into the bid specifications as an additional required signature and be subject to the penalty of perjury if falsified. Staff will bring this new requirement to City Council for approval in the near future.

Lastly, former State Senator Roderick E. Wright requested that the City consider reinforcing AB 218; first, by strengthening our requirements on contracts as recommended above, and second, by adding a provisional hiring component for City workers. Specifically, if an individual meets the requirements and the position has no restrictions (as listed on the job announcement), the individual would be given a conditional job offer. Mr. Wright noted that, if the background check was conducted first,

it would be impossible to determine why the applicant was denied. Conversely, if the applicant was otherwise qualified, a non-relevant conviction would not disqualify them. We believe that Long Beach meets this standard for all classifications, with the exception of Police Officer, as we do not check on an applicant's criminal history until after a conditional offer of employment has been made.

IMPACT TO THE CITY

There has been no impact to the City in the implementation of AB 218. City Departments have had a longstanding practice of not inquiring about criminal conviction history during the recruitment selection process, and have consistently evaluated applicants based on an assessment of qualifications related to the function of the job.

Should you have any questions, please feel free to contact me at 570-6140 or Cynthia Stafford, Manager of Personnel Operations, at 570-5045.

DRM:DLA

CC: Charles Parkin, City Attorney
Laura Doud, City Auditor
Tom Modica, Assistant City Manager
Arturo Sanchez, Deputy City Manager
Jyl Marden, Assistant to the City Manager



Dee Andrews
City of Long Beach
Councilmember, Sixth District

R-7

Date: March 10, 2015
To: Honorable Mayor and Members of the City Council
From: Councilmember Dee Andrews, Sixth District *DA*
Councilmember Rex Richardson, Ninth District *RR*
Subject: Implementation AB 218 in the City of Long Beach

RECOMMENDATION:

Request the City Manager to update City Council on how Long Beach is actively implementing the requirements of Assembly Bill 218 and how it is impacting the City, including the date of implementation, particularly as it relates to contractors, and report back to City Council in 30 days.

DISCUSSION:

In October 2013, Gov. Jerry Brown signed Assembly Bill 218, one of the most significant pieces of legislation to alleviate discriminatory practices in housing and employment opportunities for formerly incarcerated persons in California. The vast majority of formerly incarcerated persons having completed their sentences for low-level and non-violent offenses.

AB 218 (the "Ban the Box" Law) warrants the removal of the question regarding convictions from State, County, City and special Districts jobs for convicted and formerly incarcerated persons. Under AB 218, every County was mandated by the State of California to implement Ban the Box by July 1, 2014.

Compared to other Ban the Box policies in various jurisdictions (including several states), AB 218 falls dramatically short in fulfilling its noble intentions. Since the passage of AB 218, its implementation has been moving at somewhat of a snail's pace throughout most California cities and counties, despite the bill's language calling for the swift implementation and removal of discriminatory questioning on applications for public employment. The City of San Francisco has gone beyond the mandates of AB 218 in passing the Fair Chance Ordinance Act-signed into law on March 4, 2014 by Mayor Edwin Lee. The ordinance requires employers with 20 or more employees, City contractors, and housing providers to limit the request for and use of conviction history information.

It is wise and essential that California, and most particularly major cities in Southern California, take the necessary and bold steps in an expeditious manner. Los Angeles County will account for nearly 30% of inmate releases from California prisons mandated by Assembly Bill 109 (the "Realignment" Law). With the passage of Prop

47 (Safe Neighborhoods and Schools Act, 2014) some 4,500 additional releases alone will return to Los Angeles County in 2015. The City of Long Beach can expect an increase of 15 % of new case/releases under Prop 47, on top of releases under AB 109. Whether under AB 109 or Prop 47, these releases will still face employment barriers.

Access to fair employment opportunities are critical and essential components in addressing the needs of the formerly incarcerated and sustaining the overall well-being of healthy communities.

FISCAL IMPACT:

There is no significant cost for this item at this time.