

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: April 20, 1998 Revised: 4/20/98 _____

Subject: Release of Employee Information

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Schmeling</u>	<u>Austin</u>	<u>CM</u>	<u>Fav/1 amendment</u>
2.	<u>_____</u>	<u>_____</u>	<u>JU</u>	<u>_____</u>
3.	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>
4.	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>
5.	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>

I. Summary:

This bill expands the immunity given to employers for the disclosure of information regarding former employees to the disclosure of information regarding current employees. This bill further requires certain employers to provide complete employment histories to law enforcement background investigators.

This bill amends section 768.095, Florida Statutes.

II. Present Situation:

Section 768.095, F.S., provides that an employer who discloses information about a former employee's job performance to a prospective employer of the former employee upon request of the prospective employer or of the former employee is presumed to be acting in good faith and, unless lack of good faith is shown by clear and convincing evidence, is immune from civil liability for such disclosure or its consequences. Furthermore, for purposes of this section, the presumption of good faith is rebutted upon a showing that the information disclosed by the former employer was knowingly false or deliberately misleading, was rendered with malicious purpose, or violated any civil right of the former employee protected under ch. 760, F.S.

III. Effect of Proposed Changes:

Section 1 amends s. 768.095, F.S., expanding the immunity given to employers for the disclosure of information regarding former employees to the disclosure of information regarding current employees.

Section 2 requires employers of current or former auxiliary law enforcement officer or correctional officer applicants to provide complete employment histories to law enforcement background investigators. Release of such information is contingent upon the presentation to the employer of an authorization. Whoever fails to comply with the provisions of this section commits a noncriminal violation, punishable by a fine up to \$500.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Employers may experience costs related to compliance of employment history disclosure.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Commerce and Economic Opportunities:

This amendment provides that whoever fails to comply with the provisions of this section commits a noncriminal violation, punishable by a fine up to \$500 only if the law enforcement or correction agency had informed the person of the legal requirement and the person's immunity under s. 768.095, F.S.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
