

2010 -- H 8060

LC02368

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO PUBLIC PROPERTY AND WORKS -- SCREENING OF VENDORS

Introduced By: Representatives Slater, and Almeida

Date Introduced: April 28, 2010

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 37 of the General Laws entitled "PUBLIC PROPERTY AND  
2 WORKS" is hereby amended by adding thereto the following chapter:

3 CHAPTER 2.4

4 SCREENING OF VENDORS

5 **37-2.4-1. Legislative findings.** – It is hereby found and declared as follows:

6 (1) The State of Rhode Island has focused on developing a system of screening for those  
7 with criminal backgrounds that is fair to all concerned;

8 (2) The state contracts for goods and services with thousands of vendors;

9 (3) These vendors employ hundreds of thousands of employees;

10 (4) The state has a responsibility to ensure that its vendors have fair policies relating to  
11 the screening and identification of persons with criminal backgrounds;

12 (5) The State of Rhode Island employees BCI-related policies and practices that are fair  
13 to all persons involved and seeks to do business with vendors that have substantially similar  
14 policies and practices; and

15 (6) The State of Rhode Island will only do business with vendors that have adopted and  
16 employ BCI-related policies , practices, and standards that are consistent with state standards.

17 **37-2.4-2. Purpose.** – This chapter is intended to ensure that the persons and businesses  
18 supplying goods and/or services to the State of Rhode Island employ fair policies relating to the  
19 screening and identification of persons with criminal backgrounds through the BCI system.

1           **37-2.4-3. Definitions.** – The following words and phrases when used in this chapter shall  
2 have the meanings given to them in this section, unless the context clearly indicates otherwise:

3           (1) “Applicant” means any current or prospective employee, licensee, or volunteer.

4           (2) “Awarding Authority” means any department, agency, or office of the State of Rhode  
5 Island that purchases goods and/or services from a vendor.

6           (3) “BCI” means the department of attorney general, bureau of criminal identification.

7           (4) “Otherwise Qualified” means any applicant that meets all other criteria for a position  
8 or consideration for a position.

9           (5) “RILETS” means Rhode Island law enforcement transmission system.

10          (6) “State” means the State of Rhode Island or department, agency, or office thereof.

11          (7) “Vendor” means any vendor, contractor, or supplier of goods and/or services to the  
12 State of Rhode Island.

13          **37-2.4-4. BCI-related standards of the State of Rhode Island.** – (a) The awarding  
14 authority shall review all vendors’ BCI policies for consistency with state standards. The  
15 awarding authority shall consider all vendors’ BCI standards as part of the criteria to be evaluated  
16 in the awarding of a contract and will consider a vendor’s execution of the BCI standards to be  
17 evaluated among the performance criteria of a contract. The awarding authority shall consider any  
18 vendor’s deviation for the BCI standards as grounds for rejection, rescission, revocation, or any  
19 other termination of the contract.

20          (b) The BCI-related policies and practices of the state shall include, but are not limited to:

21           (1) The state does not conduct a BCI check on an applicant unless a BCI check is  
22 required by law or the state has made a good faith determination that the relevant position is of  
23 such sensitivity that a BCI report is warranted.

24           (2) The state reviews the qualifications of an applicant and determines that an applicant is  
25 otherwise qualified for the relevant position before the state conducts a BCI check. The state does  
26 not conduct a BCI check for an applicant that is not otherwise qualified for a relevant position.

27           (3) If the state has been authorized by the RILETS to receive BCI reports consisting  
28 solely of conviction and case-pending information and the BCI report received by the state  
29 contains other information (i.e. cases disposed favorably for the applicant such as not guilty,  
30 dismissal) then the state informs the applicant and provides the applicant with a copy of RILETS  
31 information for the applicant to pursue correction.

32           (4) When the state receives a proper BCI report of an applicant that contains only the BCI  
33 information that the state is authorized to receive and the state is inclined to refuse, rescind, or  
34 revoke the offer of a position to an applicant then the state fully complies with all current BCI-

1 related regulations by, including, but not limited to, notifying the applicant of the potential  
2 adverse employment action, providing the applicant with a photocopy of the BCI report received  
3 by the state, informing the applicant of the specific parts of the BCI report that concern the state,  
4 providing an opportunity for the applicant to discuss the BCI report with the state including an  
5 opportunity for the applicant to present information rebutting the accuracy and/or relevance of the  
6 BCI report, reviewing any information and documentation received from the applicant, and  
7 documenting all steps taken to comply with all current BCI-related regulations.

8 (5) The state shall make final employment-related decisions based on all of the  
9 information available to the state, including: (i) The seriousness of the crime(s); (ii) The  
10 relevance of the crime(s); (iii) The number of crime(s); (iv) The age of the crime(s); and (v) The  
11 occurrences in the life of the applicant since the crime(s).

12 If the final decision of the state is adverse to the applicant and results in the refusal,  
13 rescission, or revocation of a position with the state then the state shall promptly notify the  
14 applicant of the decision and the specific reason(s) therefore.

15 **37-2.4-5. Waiver.** – (a) Under exigent circumstances, an awarding authority, by its  
16 highest ranking member, may grant a waiver of the requirements as set forth in section 37-2.4-3  
17 on a contract-by-contract basis, and shall submit a written record of the waiver to the department  
18 of attorney general’s bureau of criminal identification, who shall provide a copy to the general  
19 assembly. The written record shall include, but not be limited to: (1) A summary of the terms of  
20 the contact; (2) The details of the vendor’s failure or refusal to conform with the state’s BCI-  
21 related standards; and (3) A brief analysis of the exigency causing the grant of waiver.

22 (b) No waiver may be considered perfected unless the awarding authority fully complies  
23 with the provisions of this section.

24 **37-2.4-6. Data collection and report.** – Any awarding authority, vendor, applicant, or  
25 other interested party may contact the department of attorney general, bureau of criminal  
26 identification, to report any problems, concerns, or suggestions regarding the implementation,  
27 compliance, and impacts of these sections, and the department of attorney general, bureau of  
28 criminal identification, shall log every comment received with a summary of the comment and  
29 shall keep on file any written comments. Subsequent to logging any comment, the department of  
30 attorney general, bureau of criminal identification, may refer a complaint to the RILETS and shall  
31 notify the relevant awarding authority. The department of attorney general, bureau of criminal  
32 identification, shall prepare a written report including, but not limited to, a summary of the  
33 granted waivers, a summary of any feedback regarding BCI-related policies and/or practices, and  
34 any other information or analysis deemed noteworthy. A report shall be filed with the Rhode

1 Island general assembly via the Rhode Island secretary of state every six (6) months from the  
2 effective date of this chapter.

3 **37-2.4-7. Applicability.** – If any provision of these sections imposes greater restrictions  
4 or obligations than those imposed by any other general law, special law, regulation, rule,  
5 ordinance, order, or policy then the provision of these sections shall control.

6 **37-2.4-8. Regulatory authority.** – The department of attorney general bureau of criminal  
7 identification shall have the authority to promulgate rules and regulations necessary to implement  
8 and enforce these sections.

9 **37-2.4-9. Severability.** – If any provisions of these sections shall be held to be invalid by  
10 a court of competent jurisdiction, then such provision shall be considered separately and apart  
11 from the remaining provisions, which shall remain in full force and effect.

12 SECTION 2. This act shall take effect on July 1, 2010.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO PUBLIC PROPERTY AND WORKS -- SCREENING OF VENDORS

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1           This act would create a system of screening the criminal background of vendors and their  
2 employees.

3           This act would take effect on July 1, 2010.

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