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OAKLAND

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Approved as to Form and Legality


City Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION NO. 86700 C.M.S.

INTRODUCED BY COUNCIL PRESIDENT LARRY REID

A RESOLUTION IN SUPPORT OF ASSEMBLY BILL 1008 (McCARTY) AMENDING THE FAIR EMPLOYMENT AND HOUSING ACT (FEHA) AND EXTENDING THE BAN THE BOX TO PRIVATE EMPLOYERS, DELAYING THE BACKGROUND CHECK UNTIL THE CONDITIONAL OFFER PHASE OF THE HIRING PROCESS, AND INCORPORATING THE 2012 EEOC GUIDELINES THAT PROTECT PEOPLE OF COLOR AGAINST DISCRIMINATION BASED ON A BACKGROUND CHECK

WHEREAS, under existing law, the California Fair Employment and Housing Act, prohibits an employer from engaging in various defined forms of discriminatory employment practices; and

WHEREAS, existing law prohibits an employer, whether a public agency or private individual or corporation, from asking an applicant for employment to disclose, or from utilizing as a factor in determining any condition of employment, information concerning an arrest or detention that did not result in a conviction, or information concerning a referral or participation in, any pretrial or postural diversion program, except as specified; and

WHEREAS, Assembly Bill 1008 (McCarty) would provide it is an unlawful employment practice for an employer to include on any application for employment any question that seeks the disclosure of an applicant's criminal history, to inquire into or consider the conviction history of an applicant until that applicant has received a conditional offer, and, when conducting a conviction history background check, to consider, distribute, or disseminate specified information related to prior criminal convictions, except as provided; and

WHEREAS, Assembly Bill 1008 (McCarty) would also require an employer who intends to deny an application a position of employment solely or in part because of the applicant's prior conviction of a crime to make an individualized assessment of whether the applicant's conviction history has a direct and adverse relationship with the specific duties of the job, and to consider certain topics when making that assessment; and

WHEREAS, Assembly Bill 1008 (McCarty) would require that, if an employer makes a preliminary determination based on that individualized assessment to deny the applicant employment, the employer must notify the applicant of the reasons for that preliminary decision and, would authorize an applicant to respond to that notification within 10 days with information that challenges the accuracy of the information in the notification or that includes specified mitigation or rehabilitation evidence and, would require an employer to consider information submitted by the applicant before making a final decision; and

WHEREAS, Assembly Bill 1008 (McCarty) would require an employer who has made a final decision to deny employment to the applicant to notify the applicant in writing of specified topics; now, therefore, be it:

RESOLVED: That the Oakland City Council hereby supports Assembly Bill 1008 (McCarty) and urges the California State Legislature act to add Section 12952 to the Government Code, relating to employment discrimination.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

APR 18 2017

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GIBSON MCELHANEY, GUILLÉN, KALB,
KAPLAN, AND ~~PRESIDENT REID~~ - 7

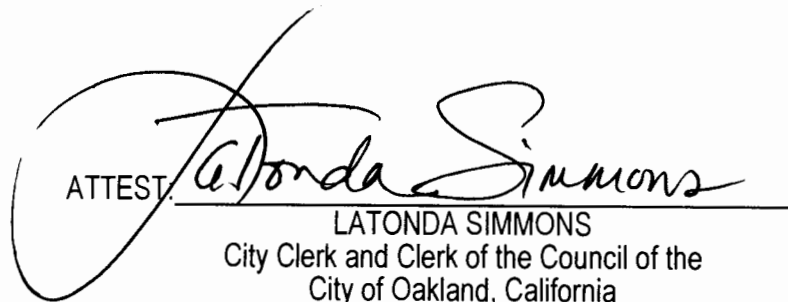
NOES - 0

ABSENT - 0

ABSTENTION - 0

Excused - Reid - 1

ATTEST.


LATONDA SIMMONS
City Clerk and Clerk of the Council of the
City of Oakland, California