



# DALE KOOYENGA

STATE REPRESENTATIVE • 14<sup>th</sup> ASSEMBLY DISTRICT

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January 16, 2018

TO: Members of the Assembly Committee on State Affairs  
FR: Representative Dale Kooyenga  
RE: support for Assembly Bill 718 – Federal Tax Information Background Checks

Thank you for holding a hearing on Assembly Bill 718. Senator Marklein and I introduced this bill in cooperation with the Departments of Workforce Development, Children and Families, and Revenue.

Assembly Bill 718 brings Wisconsin into compliance with IRS Publication 1075, "Tax Information Security Guidelines For Federal, State, and Local Agencies." The IRS issued a revision to Publication 1075, which are guidelines that states are required to follow in order to receive confidential federal tax information (FTI).

Several state agencies currently use FTI as part of their routine execution of agency duties, including the Departments of Children and Families, Revenue, Workforce Development, and Corrections, among others. State agencies use federal tax information for a variety of purposes, including matching taxpayer information between state and federal returns and confirming employment claims. The revised version of Publication 1075 that is now in effect has significantly increased the security requirements that state agencies must follow in order to continue receiving FTI from the IRS.

Publication 1075 requires a background check for any state employee and contractor that is granted access to federal tax information. The background check must include:

- Fingerprinting matched against the FBI's database.
- Checks with law enforcement agencies where the individual has lived, worked, and/or attended school within the last five years and review of any identified arrests.
- Validation of the individual's eligibility to legally work in the United States.

Agencies must repeat the above background check requirement at some point within every subsequent ten years. In order to meet the mandatory fingerprinting and background check requirements created by the revised Publication 1075, state statutes must reflect this mandate as a condition of employment for state employees and contractors granted access to federal tax information.

If Wisconsin does not comply with the mandates of Publication 1075, the IRS has indicated that it will at some point discontinue providing FTI to state agencies, which will severely hamper these agencies from properly and fully administering their duties.

The Departments of Workforce Development, Children and Families, and Revenue drafted AB 718 to provide explicit authority to all state agencies that rely on FTI to conduct the required background check contained in Publication 1075.

Lastly, I call to your attention Assembly Amendment 2 that has been introduced in response to concerns raised by stakeholders. AA 2 does two things – it delays the effective date for six months and it ensures that all state, local and contracted employees with access to FTI are covered by the provisions of AB 718.

Thank you for hearing this bill and I respectfully ask for your support.



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# HOWARD MARKLEIN

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STATE SENATOR • 17<sup>TH</sup> SENATE DISTRICT

**January 17, 2018**

**Senate Committee on Labor and Regulatory Reform  
Testimony on Assembly Bill 718**

Good Morning! Thank you Chairman Swearingen and committee members for hearing Assembly Bill 718 (AB 718), which would require fingerprinting when conducting background checks for state and local employees who have access to Federal Tax Information (FTI).

Currently, state agencies and local governments conduct background checks on their employees or contract workers depending on the nature of the employment or the access to sensitive information during the normal course of business. Recent changes in federal guidelines by the Internal Revenue Service (IRS) require an enhanced level of scrutiny.

In order to meet the mandatory fingerprinting and background check requirements created by the revised federal guidelines, state statutes must reflect this mandate as a condition of employment for state employees and contractors granted access to federal tax information.

Specifically, the Background Checks must include:

- Fingerprinting matched against the FBI's database.
- Checks with law enforcement agencies where the individual has lived, worked, and/or attended school within the last five years and review of any identified arrests.
- Validation of the individual's eligibility to legally work in the United States.

Data security breaches and information losses make daily headlines and nightly newscasts. The public is extremely sensitive about the vulnerability of their confidential data. They have serious and very legitimate worries about identity theft.

When well-respected public agencies lose personal data about their customers (the taxpayer), whether by theft, accident, or negligence, it does more than make the news. It's an event that undermines the public's confidence in institutions they trusted.

In addition, I would like to call your attention to Assembly Amendment 2 (AA 2). Working with stakeholders, we drafted AA 2 to ensure that all state, local and contracted employees with access to FTI are covered by AB 718, and it allows 6 months for implementation of the bill.

Thank you again for hearing AB 718, and your timely action on this proposal.

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Scott Walker, Governor  
Ray Allen, Secretary

## Assembly Committee on State Affairs

### Testimony on Assembly Bill 718

#### Janell Knutson, Director of Legal Affairs, Unemployment Insurance

Chairperson Swearingen and members of the Assembly Committee:

I am Janell Knutson, Director of the Bureau of Legal Affairs for Unemployment Insurance (Division) and with me today is Andy Rubsam, Senior Supervising Attorney of the Bureau of Legal Affairs. On behalf of the DWD, I would like to thank you for hearing the proposal on fingerprint-based FBI background checks of certain state employees.

The Internal Revenue Service-issued guidance requires fingerprint-based background checks conducted by the FBI for individuals who have access to federal tax information ("FTI"). The FBI will only conduct fingerprint background checks if a state statute permits it to do so.

The legislation before you today provides that state agencies must conduct FBI background checks that may include fingerprinting for future contractors as well as future and current state employees who access FTI. DWD has reviewed the proposed language and finds it acceptable.

Without this law change, the state will not receive FTI from the IRS. FTI includes information related to employers and unemployment claimants that is necessary for the administration of the unemployment program in Wisconsin. DWD estimates that the loss of FTI would cost the state millions of federal dollars. For the period of 2011-2016, the DWD received a total of about \$51 million in treasury offset program ("TOP") funds related to claimant overpayments and penalties. Most of these amounts (other than some penalties) are deposited into the UI trust fund. TOP has contributed to the growth in the trust fund over the past several years. A larger trust fund balance results in lower unemployment taxes for employers. And, federal law requires states to participate in TOP. The state failing to participate in TOP would mean a loss of the \$60 million in annual federal grant funds for the administration of Wisconsin's unemployment insurance program. DWD also receives necessary Form-1099 information from the IRS, which DWD uses in determining which employers to audit.

Andy and I would be happy to answer any technical questions you may have. Thank you again for your time and for the opportunity to testify today.



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Governor Scott Walker  
Secretary Eloise Anderson

Secretary's Office

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Date: January 17, 2018  
To: Members of the Assembly Committee on State Affairs  
From: Brad Wassink, Assistant Deputy Secretary  
Connie Chesnik, Office of Legal Counsel  
Re: 2017 Assembly Bill 718

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Chairman Swearingen and Members of the Assembly Committee on State Affairs:

Thank you for the opportunity to appear before you today to provide information about Assembly Bill 718. My name is Brad Wassink and I am the Assistant Deputy Secretary for the Department of Children and Families. I am accompanied by Connie Chesnik, an attorney in the Office of Legal Counsel at the Department who specializes in child support matters.

Assembly Bill 718 requires that an individual selected to a position in the state civil service or with a political subdivision, the duties of which require the individual to have access to federal tax information (FTI), that authority must conduct a background check on the individual, which may include finger printing. The bill also permits authorities to conduct additional background checks on such individuals, and extends the requirement for individuals who perform duties under contract with the state that require access to FTI.

The Internal Revenue Service (IRS) recently added additional security requirements for persons who access FTI. One of the requirements is a completed background check. State and county employees use FTI to administer the Child Support program and they will require a background check in order for the state to comply with federal requirements. Some employees in the Wisconsin Works program are also affected by the requirement.

Additionally, the requirement for a background check applies to temporary employees or contractors accessing FTI.

Failure of a state to comply with the requirement could result in significant federal sanctions for the W-2 program. Additionally, failure to comply could result in a loss of access to federal tax information in the child support program. Wisconsin collects \$40-\$45 million annually in federal tax offsets for families owed child support.

Based on our interpretation of IRS requirements either the original bill or the bill as amended by Assembly Amendment 2 would provide the statutory authority needed to enable compliance.

We are pleased to answer any questions you may have.



# State of Wisconsin • DEPARTMENT OF REVENUE

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*Scott Walker*  
Governor

*Richard G. Chandler*  
Secretary of Revenue

January 17, 2018

## **Testimony to the Assembly Committee on State Affairs on Assembly Bill 718**

Chairman Swearingen and members of the committee, thank you for the opportunity to testify in favor of Assembly Bill 718.

The Internal Revenue Service (IRS) recently updated its guidelines for federal, state, and local agencies that have access to federal tax information. These updated guidelines require that any individual that has access to federal tax information must now include Federal Bureau of Investigation (FBI) fingerprint results. Currently, all DOR employees are subject to background checks performed by the Crime Information Bureau of the Wisconsin Department of Justice. However, fingerprints are not collected as a part of these background checks.

Under this bill, if any part of an employee's duties require the employee to have access to federal tax information, the appointing authority for the position must conduct a background check on the individual which may include fingerprinting.

Currently the Department of Revenue already collects fingerprints for Wisconsin Lottery employees. In addition to these employees, DOR has approximately 1,400 employees that have access to federal tax information for which the Department would be required to conduct a background check. If Wisconsin does not comply with these new guidelines, the IRS has indicated that it will discontinue providing federal tax information to state agencies, which will severely disrupt our administration of tax laws within the state.

Thank you again for the opportunity to discuss AB 718. I'm happy to take questions.