

profile on a social networking web site. Further, the substitute bill stipulates that it is unlawful for public or private institutions of higher education to:

- Deny admission to an applicant or potential applicant for admission on the basis of applicant or potential applicant's refusal to provide access to the applicant or potential applicant's account or profile on a social media networking site.
- To take any disciplinary action against a student for the student's refusal to grant access to the student's account or profile on a social media networking site.

Subsection D of SB 422 permits a public or private institution of post-secondary education from obtaining information about a student, applicant or potential applicant for admission that is in the public domain.

Lastly, the bill creates a definition for "social networking website."

FISCAL IMPLICATIONS

No fiscal impact.

SIGNIFICANT ISSUES

The HED in its previous analysis of the original bill indicated that the intersection between social media, privacy rights and employer interests (e.g., protection of employer trade secrets, among others) is not yet codified, but there is an international trend favoring the prohibition of employers from requiring social media password from employees or prospective employees. This trend is now starting to include high education institutions with regard to students and prospective students.

ADMINISTRATIVE IMPLICATIONS

Public and private institutions of postsecondary education would be responsible for compliance with SB 422.

The HED reported that there are no apparent implications to the Department, however there may be additional recurring costs for administration in the future.

RELATIONSHIP

SB 371 is a related bill that prohibits prospective employers from requesting or requiring a prospective employee to provide a password or access to the prospective employee's social networking account.

OTHER SUBSTANTIVE ISSUE

The National Conference of State Legislatures reports as of February 2013, legislation has been introduced or is pending in at least 21 states to prevent employers from requesting passwords to keep personal internet accounts—including email, banking and social networking sites—to get or keep a job. Some states have similar legislation to protect students in public colleges and universities from having to grant access to their social networking accounts.

ALTERNATIVES

There is no law addressing this issue at this time.

MIR/blm:svb