

NJBIA Supports Governor's Veto of "Facebook" Privacy Bill

May 3, 2013

The New Jersey Business & Industry Association strongly supports Governor Christie's conditional veto of legislation that was aimed at protecting privacy rights pertaining to personal social media accounts, but went much further.

Christie conditionally vetoed **A-2878 (Burzichelli, Greenwald)**—known as the "Facebook" Privacy Bill—yesterday, making significant changes that address a number of issues raised by NJBIA.

"The changes provide greater protections for businesses from needless litigation and give employers necessary leeway to investigate misconduct and protect their proprietary information," NJBIA Assistant Vice President of Employment and Labor Policy Stefanie Riehl said today.

"We agree with Governor Christie's conditional veto," added Riehl. "While we understand the good intentions of this legislation, certain provisions in the bill could have led to frivolous lawsuits against employers."

The initial goal of the bill was to protect the privacy rights of job candidates and employees as it pertains to an employer or prospective employer's request for a password or access to a personal social media account. However, the language in the bill went much further, inadvertently expanding the scope of the bill and dramatically increasing the potential liability to employers.

As the bill moved through the legislative process, NJBIA worked with Assemblyman Burzichelli on a series of amendments addressing an employer's obligation to investigate instances of misconduct and sexual harassment on social networking sites, as well as clarifying the difference between a personal account and a business account.

The bill that went to the Governor's desk still included a provision that allowed a prospective employee to sue a prospective employer if that employer simply asked about a personal social media account, regardless of whether doing so was consistent with business necessity. "The potential liability was significant, but with the Governor's changes, we strike a balance between employer obligations and rights, as well as personal privacy rights," said Riehl.

The Governor returned the bill, with his recommended changes, to the Assembly. It must now be accepted and ratified by the Legislature to become law.

—End—