

## Agenda Item Summary

### BACKGROUND

House Bill 2224 has been approved by the 2009 Legislative Assembly. The bill passed in the House on February 24, 2009, passed in the Senate on May 14, 2009, and was signed by the Governor on June 2, 2009. HB 2224 expands the Oregon Department of Fish and Wildlife's authority to conduct criminal background checks on vendors, volunteers (such as those residing on ODFW complexes), employees and prospective employees in additional areas not previously covered in statute. The employees and prospective employees who come under this provision would be those that perform payroll functions, have responsibility for financial transactions, purchase or sell property, perform mailroom duties, perform auditing functions, have access to social security numbers, dates of birth or criminal background information of employees or members of the public, or have access to tax or financial information about individuals or business entities, or have access to information that is defined as confidential.

Since 1990, the department has conducted criminal background checks for its employees who are authorized to use firearms as part of their duties under Executive Order 90-05 signed by Governor Goldschmidt. In September 2004, the department began conducting criminal background checks for its employees in Information Technology positions who have access to secure and confidential data. In July 2005, HB 2157 was passed granting ODFW authority to conduct criminal background checks for employees and volunteers who interact with children in the hunter and angler education programs and/or teach firearms instruction through the hunter education programs.

The department has adopted rules in both its employment and volunteer programs to support the statutory requirement including identifying those individuals on whom it will conduct state and/or national criminal background checks, identifying a contested case process for applicants who are denied employment due solely to the criminal background check results, and providing proper notification of the criminal background check requirement to individuals applying for employment or volunteering time on behalf of the department's programs. Based on the passage of HB 2224, the department's updated rule is herein placed before the Commission for adoption.

### PUBLIC INVOLVEMENT

A series of legislative hearings were held on HB 2224. Additionally, the proposed rules have been sent to all of the publics listed on the Commission packet mail out list within the Director's office. The proposed rules are also posted on the department's website.

### ISSUE 1

**Whether to adopt the proposed rules**

### ANALYSIS

The proposed rules are consistent with the requirements of HB 2224 and

will provide the department with flexibility to use the most cost effective methods for taking action deemed necessary to meet objectives under the department's statutory authority to conduct criminal history checks on persons who are employed by or applying for employment with the agency or those that provide services or seek to provide services to the agency as a contractor or volunteer in certain categories of positions.

**OPTIONS**

1. Adopt the rules as proposed
2. Adopt the rules in some amended form

**STAFF  
RECOMMENDATION**

Option 1.

<b>DRAFT MOTION:</b>	I move to adopt OAR Chapter 635 Division 600 as proposed.
<b>EFFECTIVE DATE:</b>	Upon Filing.