

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

SB 464 (Smallwood-Cuevas)
Version: April 10, 2025
Hearing Date: April 29, 2025
Fiscal: Yes
Urgency: No
ME

SUBJECT

Employer pay data

DIGEST

This bill amends the pay data reporting law for specified private employers at Government Code section 12999 and requires public employers, as defined, to submit a pay data report to the Civil Rights Department (CRD) for the prior calendar year, as specified.

EXECUTIVE SUMMARY

Because of occupational segregation and disparities in pay, it is well documented that white men regularly receive greater compensation than their counterparts who are not white men. Recent California initiatives have sought to reduce that pay gap by increasing transparency around employee pay and requiring equal pay for equal work. Despite California's Equal Pay Act (Labor Code § 1197.5) and private employer pay data reporting law (Gov. Code § 12999), data continues to demonstrate persistent inequities in income for Black people, people who are not men, and people of color in California.¹ The author notes that "[i]ncome inequality has plagued Black Californians for centuries. In 2022, for every \$1 earned by white families, Black families earn just 58 cents, and just 52 cents for Latino families." The author further highlights that these "disparities are further exacerbated in the promotion of minority workers to executive or senior level positions." The author points to 2022 data that shows that "while white Californians make up 62% at executive or senior level, Black Californians hold just 4% of these positions." This bill makes changes to the current private employer pay data reporting law and creates a new public employer pay data reporting law. Public employers that have 100 or more employees would be required to adhere to the new reporting requirement. The public employers would be required to submit a pay data report to the CRD annually. The pay data report must include demographic data

¹ Kelly Lu, "New pay data shows ongoing gender, racial pay gaps in California," Davis Vanguard (April 5, 2025), <https://davisvanguard.org/2025/04/new-pay-data-shows-ongoing-gender-racial-pay-gaps-in-california/>.

provided by employees relative to ethnicity, race, disability, veteran status, gender, gender identity, and sexual orientation organized by job category as listed in the civil service pay scale. The bill specifies that individually identifiable information submitted to the CRD pursuant to the public employer pay data reporting law shall be considered confidential information and is not subject to disclosure pursuant to the California Public Records Act.

The bill is sponsored by the California Legislative Black Caucus and supported by the California-Hawaii State Conference of the NAACP, the Greater Sacramento Urban League, and the California Employment Lawyers Association. The bill is opposed by the California Chamber of Commerce, employer organizations, and organizations that represent cities, counties, and special districts. SB 464 was heard in the Senate Committee on Labor, Public Employment and Retirement and passed the Committee on a vote of 4 to 1.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Requires that on or before the second Wednesday of May 2023, and on or before the second Wednesday of May of each year thereafter, a private employer that has 100 or more employees shall submit a pay data report to the CRD covering the prior calendar year, which, for purposes of this section, shall be referred to as the "Reporting Year." (Gov. Code § 12999 (a)(1).)
- 2) Requires that on or before the second Wednesday of May 2023, and on or before the second Wednesday of May of each year thereafter, a private employer that has 100 or more employees hired through labor contractors within the prior calendar year shall submit a separate pay data report to the CRD covering the employees hired through labor contractors in the prior calendar year. The private employer shall also disclose on the pay data report the ownership names of all labor contractors used to supply employees. A labor contractor shall supply all necessary pay data to the private employer. (Gov. Code § 12999 (a)(2).)
- 3) Specifies that the pay data report shall include the number of employees by race, ethnicity, and sex in each of the following job categories: executive or senior level officials and managers; first or mid-level officials and managers; professionals; technicians; sales workers; administrative support workers; craft workers; operatives; laborers and helpers; and service workers. (Gov. Code § 12999 (b)(1)(A)-(J).)
- 4) Specifies that the pay data report shall include the number of employees by race, ethnicity, and sex whose annual earnings fall within each of the pay bands used by

the United States Bureau of Labor Statistics in the Occupational Employment Statistics survey. (Gov. Code § 12999 (b)(2).)

- 5) Specifies that the pay data report shall include the median and mean hourly rate within each job category, for each combination of race, ethnicity, and sex. (Gov. Code § 12999 (b)(3).)
- 6) Specifies that the pay data report shall include, for purposes of establishing the numbers required to be reported, an employer shall create a “snapshot” that counts all of the individuals in each job category by race, ethnicity, and sex, employed during a single pay period of the employer’s choice between October 1 and December 31 of the “Reporting Year.” (Gov. Code § 12999 (b)(4).)
- 7) Specifies that the pay data report shall include, for purposes of establishing the numbers to be reported, the employer shall calculate the total earnings, as shown on the Internal Revenue Service Form W-2, for each employee in the “snapshot,” for the entire “Reporting Year,” regardless of whether or not an employee worked for the full calendar year. The employer shall tabulate and report the number of employees whose W-2 earnings during the “Reporting Year” fell within each pay band. (Gov. Code § 12999 (b)(5).)
- 8) Specifies that the pay data report shall include the total number of hours worked by each employee counted in each pay band during the “Reporting Year.” (Gov. Code § 12999 (b)(6).)
- 9) Specifies that the pay data report shall include the employer’s North American Industry Classification System (NAICS) code. (Gov. Code § 12999 (b)(7).)
- 10) Specifies that employers with multiple establishments must submit a report covering each establishment. (Gov. Code § 12999 (c).)
- 11) Requires the report to include a section for employers to provide clarifying remarks regarding any of the information provided. An employer is not required to provide clarifying remarks. (Gov. Code § 12999 (d).)
- 12) Requires the information submitted as required to be made available in a format that allows the CRD to search and sort the information using readily available software. (Gov. Code § 12999 (e).)
- 13) Requires the CRD to maintain pay data reports for at least 10 years. (Gov. Code § 12999 (j).)

- 14) Defines “employee” to mean an individual on an employer’s payroll, including a part-time individual, and for whom the employer is required to withhold federal social security taxes from that individual’s wages. (Gov. Code § 12999 (k)(1).)
- 15) Defines “labor contractor” to mean an individual or entity that supplies, either with or without a contract, a client employer with workers to perform labor within the client employer’s usual course of business. (Gov. Code § 12999 (k)(2).)
- 16) Defines “establishment” to mean an economic unit producing goods or services. (Gov. Code § 12999 (k)(3).)
- 17) Defines “individually identifiable information” as data submitted pursuant to this section that is associated with a specific person or business. (Gov. Code § 12999 (g).)
- 18) Requires the Employment Development Department to provide the CRD with the names and addresses of all businesses with 100 or more employees in order to ensure compliance with the pay data reporting law, as specified. (Gov. Code § 12999 (l).)
- 19) Provides that it is unlawful for any officer or employee of the CRD or the Division of Labor Standards Enforcement (DLSE) to make public in any manner whatever any individually identifiable information obtained pursuant to their authority under the pay data reporting law prior to the institution of an investigation or enforcement proceeding by the DLSE or CRD under Labor Code §1197.5 or §12940 involving that information, and only to the extent necessary for purposes of the enforcement proceeding. (Gov. Code § 12999 (g).)
- 20) Provides that any individually identifiable information submitted to the CRD pursuant to pay data reporting law shall be considered confidential information and not subject to disclosure pursuant to the California Public Records Act. (Gov. Code § 12999 (h).)
- 21) Provides that notwithstanding the above, the CRD may develop, publish on an annual basis, and publicize aggregate reports based on the data obtained pursuant to their authority under the pay data report law, provided that the aggregate reports are reasonably calculated to prevent the association of any data with any individual business or person. (Gov. Code § 12999 (i).)
- 22) Provides that if the CRD does not receive the required report from an employer, the CRD may seek an order requiring the employer to comply with the pay data reporting requirements and shall be entitled to recover the costs associated with seeking the order for compliance. (Gov. Code § 12999 (f).)

- 23) Provides that upon request by the CRD, a court may impose a civil penalty not to exceed \$100 per employee upon any employer who fails to file the required report and not to exceed \$200 per employee upon any employer for a subsequent failure to file the required report. (Gov. Code § 12999 (f).)
- 24) Provides that these penalties shall be payable to the Civil Rights Enforcement and Litigation Fund. (Gov. Code § 12999 (f).)
- 25) Allows the court to apportion an appropriate amount of penalties to any labor contractor that has failed to provide the pay data to the employer that is unable to submit a complete and accurate report because a labor contractor has not provided the pay data as required under the pay data reporting law. (Gov. Code § 12999 (f).)

This bill:

- 1) Requires that any demographic information gathered by an employer or labor contractor pursuant to the private employer pay data reporting law shall be collected and stored separately from employees' personnel records.
- 2) Requires that for purposes of collecting the information required to be reported pursuant to the private employer pay data reporting law, information regarding an employee's sexual orientation shall be collected only if voluntarily disclosed by the employee to the employer by the employee themselves.
- 3) Requires the private employer pay data report include sexual orientation in addition to the other categories already required (race, ethnicity, and sex).
- 4) Requires the CRD to publish private employer pay data reports provided that the publication is reasonably calculated to prevent the association of any data with any individual person.
- 5) Provides that the court shall impose a civil penalty upon an employer who fails to file the required report upon request by the CRD.
- 6) Creates a new public employer pay data reporting law.
- 7) Requires that on or before the second Wednesday of May 2027, and on or before the second Wednesday of May of each year thereafter, a public employer that has 100 or more employees shall submit a pay data report to the CRD covering the prior calendar year, which, for purposes of the public employer pay data reporting law, shall be referred to as the "reporting year."
- 8) Requires that the pay data report shall include demographic data provided by employees relative to ethnicity, race, disability, veteran status, gender, gender

identity, and sexual orientation organized by job category as listed in the civil service pay scale.

- 9) Provides that demographic data disclosed or released pursuant to this subdivision shall disclose only aggregated statistical data and shall not identify any individual.
- 10) Specifies that any individually identifiable information submitted to the CRD pursuant to the public employer pay data reporting law shall be considered confidential information and not subject to disclosure pursuant to the California Public Records Act.
- 11) Defines “public employer” for purposes of the public employer pay data reporting law as: the state and every state entity, including, but not limited to, the Legislature, the judicial branch, including judicial officers, and the California State University; and any political subdivision of the state, or agency or instrumentality of the state or subdivision of the state, including, but not limited to, a city, county, city and county, charter city, charter county, school district, community college district, joint powers authority, joint powers agency, and any public agency, authority, board, commission, or district.
- 12) Makes the following legislative finding: in order to protect the privacy of public employees, while also gathering useful data, it is necessary that individually identifiable information submitted to the CRD remain confidential.

COMMENTS

1. Author statement

According to the author:

SB 464 is a priority bill in the California Legislative Black Caucus’ 2025, Road to Repair Package. On June 29, 2023, the Task Force to Study and Develop Reparation Proposals for African Americans issued its final report to the California Legislature. In their report, the Task Force offers recommendation to remedy longstanding income inequality, specifically enhancing pay data reporting requirements.

To ensure greater transparency and accountability, SB 464 will expand existing reporting requirements in Government Code Section 12999 to public sector employees. Furthermore, this bill will include sexual orientation as a category to be included in annual payee data reports. Importantly, this data would be provided by employees voluntarily with employers required to collect and store data separately from personnel records. Finally, SB 464 will require CRD to make these anonymized reports available to the public. By ensuring the

public has access to this key data, we can provide workers, their representatives, and lawmakers with greater tools to hold employers accountable to closing wealth and promotional gaps.

Existing law, requires all [private] employers with 100 or more employees to file an annual payee data report with the Civil Rights Department showing the number of employees by race, ethnicity, and sex in specified job categories. The data collected from these reports are then combined and made public on the Department's website. SB 464 enhances these reporting requirements by expanding applicable employers, ensuring individual reports are available to the public, and making this data more accurate by including data on the LGBTQ+ community.

2. Pay data reporting

In 2020, California enacted SB 973 (Jackson, Ch. 363, Stats. 2020) in an effort to better understand and help close the pay gaps. In broad strokes, SB 973 required California employers with 100 or more employees to compile data showing how much they pay their employees, broken down by rough category of work performed and cross-referenced by race, ethnicity, and gender. (Gov. Code § 12999(b).) Under SB 973, the covered employers have to submit this pay equity data to the DFEH annually by March 31. (Gov. Code § 12999(a).) DFEH must keep each individual employer's data confidential (Gov. Code § 12999(i)), but it has the authority to develop and publish a yearly report based on the aggregate data. (Gov. Code § 12999(k).)

Employers submitted their first SB 973 pay equity data reports in 2021 and, on March 15 of 2022, DFEH published its inaugural report on the overall results. As summarized in its press release about the report, DFEH concluded the following based on the data:

[T]he statewide findings related to sex include:

- Among workers in the lowest pay bands (earning \$30,679 or less in 2020), women were overrepresented. Women made up 55% of workers in the lowest pay bands, compared to 48% of the total reported worker population.
- Among workers in the highest pay bands (earning \$128,960 or more in 2020), women were underrepresented. Women made up 36% of workers in the highest pay bands.
- Among executives or senior level officials or managers, 34% were women.
- Among administrative support workers, 70% were women.

The findings related to race/ethnicity include:

- Among workers in the lowest pay bands (earning \$30,679 or less in 2020), Hispanic/Latino and Black/African American

workers were overrepresented. Hispanic/Latino workers made up 50% of workers in the lowest pay bands, compared to 37% of total reported workers. Black/African American workers made up 8% of workers in the lowest pay bands, compared to 6% of total reported workers. The lowest pay bands also included 25% Whites, 10% Asians, 5% two or more races, 1% Native Hawaiian or Other Pacific Islander, and 1% American Indian or Alaskan Native

- Among workers in the highest pay bands (earning \$128,960 or more in 2020), Hispanic/Latino and Black/African American workers were underrepresented.
- Hispanic/Latino workers made up 9% of workers in the highest pay band, compared to 37% of total reported workers. Black/African American workers made up 3% of workers in the highest pay bands, compared to 6% of total reported workers. The highest pay bands also included 3% two or more races, 1% Native Hawaiian or Other Pacific Islander, and 0.3% American Indian or Alaskan Native.
- White and Asian workers were overrepresented in the highest pay bands (earning \$128,960 or more in 2020). White workers made up 51% of workers in the highest pay bands, compared to 34% of total reported workers. Asian workers made up 33% of workers in the highest pay bands, compared to 18% of total reported workers.²

In 2022, California updated the pay equity data program through SB 1162 (Limón, Ch. 559, Stats. 2022). SB 1162 modified the pay equity data reporting program by authorizing the CRD to seek penalties in court against employers who fail to submit their data as required and required employers of 100 or more workers hired through labor contractors to provide the CRD certain specified information, including pay data, about their workers.

According to the Greater Sacramento Urban League, who writes in support of the bill:

As part of the California Legislative Black Caucus's 2025 Reparations Priority Bill Package, SB 464 directly responds to the persistent and measurable income disparities affecting Black Californians. In 2022, Black families earned just 58 cents for every dollar earned by white families – a gap further reflected in underrepresentation in senior-level positions. This bill strengthens existing reporting requirements and ensures transparency across both the public and

² *California Pay Data Reports Show Women, Latinos, and Other Groups Overrepresented Among Low-Wage Workers* (Mar. 15, 2022) California Department of Fair Employment and Housing <https://www.dfeh.ca.gov/wp-content/uploads/sites/32/2022/03/DFEH-Pay-Data-Results-Press-Release-2022-03-15-1.pdf> (as of Apr. 25, 2025).

private sectors, giving communities and policymakers the tools needed to address discriminatory pay practices.

The California-Hawaii State Conference of the NAACP writes the following in support of the bill:

On June 29, 2023, the Task Force to Study and Develop Reparation Proposals for African Americans issued its final report to the California Legislature. The final report surveys the ongoing and compounding harms experienced by African Americans as a result of slavery and proposes a comprehensive reparations plan in satisfaction of the direction set forth by the Legislature in AB 3121 (2020). As part of the policy proposals, the Task Force recommended a slate of measures to address the needs of the LGBTQ+ African American community and remedy the ongoing harms of stolen labor. Specifically, the Task Force recommends enhancing annual payee data reporting requirements to ensure greater transparency and accountability in employment decisions.

Income inequality has plagued Black Californians for centuries. In 2022, for every \$1 earned by white families, Black families earned just 58 cents, and just 52 cents for Latino families. These disparities are further exacerbated in the promotion of minority workers to executive or senior-level positions. According to 2022 payee data, while white Californians make up 62% of positions at the executive or senior level, Black Californians hold just 4% of these positions.

While existing pay data provides insight into disparities, they do not fully encompass the experience of workers in the public sector, or of LGBTQ+ workers. Furthermore, without access to individual reports, stakeholders are limited in their ability to hold employers accountable to equitable pay practices. With recent threats to DEI programs in both the private and public sectors, it is more important than ever to ensure that data is available to the public to ensure accountability to pay equity in the absence of robust enforcement of these crucial programs

3. Amends the private employer pay data reporting law and requires public employers to report pay data to the CRD

Despite California's Equal Pay Act (Labor Code § 1197.5) and private employer pay data reporting law (Gov. Code § 12999), data continues to demonstrate persistent inequities in income for Black people, people who are not men, and people of color in

California.³ The bill amends the private employer pay data reporting law in the following ways. First, the bill requires that a private employer covered by the pay data reporting law must collect and store any demographic information gathered by an employer or labor contractor, pursuant to the pay data reporting law, separately from the employees' personnel records.

Second, the bill requires the CRD to publish private employer reports provided that the publication is reasonably calculated to prevent the association of any data with any individual person. A coalition of business organizations, including the California Chamber of Commerce writes about their concern with this bill. Their opposition focuses on the provision of the bill that would require the CRD to make the pay data reports public. The author has agreed to amend this provision out of the bill. A mock-up of the amendments are at the end of this analysis.

Third, the bill *requires* a court to impose the statutory civil penalty on an employer who fails to file the required report upon request of the CRD. Currently a court *may* impose the civil penalty upon employers. The penalty structure has built in judicial discretion. In order for the CRD to obtain civil penalties under current law, an employer must be out of compliance and then the CRD has to request the court to impose a civil penalty not to exceed \$100 per employee for their failure. For a second failure the court could impose a penalty not to exceed \$200 per employee. The range in this scenario under current law is \$0 to \$100 per employee and \$0 to \$200 per employee respectively. Changing the statute to require the court to impose a penalty just shift this range from \$1 to \$100 per employee for the first failure to file the pay report and \$1 to \$200 per employee for the second failure to file.

Finally, the private employers subject to the pay data reporting law will need to report demographic information regarding employees' sexual orientation. The author has agreed to amend this provision out of the bill.

4. Requiring public employers to submit annual pay data reports

The pay data reporting law only applies to specified private employers and does not apply to public employers. SB 464 would require public employers that have 100 or more employees to submit a pay data report to the CRD annually. Public employer is defined by the bill to mean:

- The state and every state entity, including, but not limited to, the Legislature, the judicial branch, including judicial officers, and the California State University.

³ Kelly Lu, "New pay data shows ongoing gender, racial pay gaps in California," Davis Vanguard (April 5, 2025), <https://davisvanguard.org/2025/04/new-pay-data-shows-ongoing-gender-racial-pay-gaps-in-california/>.

- Any political subdivision of the state, or agency or instrumentality of the state or subdivision of the state, including, but not limited to, a city, county, city and county, charter city, charter county, school district, community college district, joint powers authority, joint powers agency, and any public agency, authority, board, commission, or district.

The bill requires that report to include demographic data provided by employees relative to ethnicity, race, disability, veteran status, gender, gender identity, and sexual orientation organized by job category as listed in the civil service pay scale. The bill protects the employees' demographic data through two provisions in the bill. The first provision provides that the public employer shall only disclose aggregated statistical data that does not identify any individual. Second, the bill contains a provision that specifies that any individually identifiable information submitted to the CRD pursuant to this law shall be considered confidential information and not subject to disclosure pursuant to the California Public Records Act. The confidentiality provision seems appropriate to ensure that sensitive information like an employee's disability is kept private.

A coalition of organizations representing cities, counties, and special districts writes in opposition to the provisions requiring cities and counties to submit pay data reports. The State of California already collects demographic information relative to ethnicity, race, disability, veteran status, and gender of state civil service employees. The information is collected from personnel through form CalHR 1070 and through survey links.⁴ The author has agreed to amend the bill to specify that the public employer pay data reporting requirements apply to public employers who employ employees in the state civil service as defined in Article VII of the Constitution. The amendments specify that the data report shall include demographic data provided by state civil service employees pursuant to Government Code sections 8310.6, 19233, 19704, 19762, 19799, and 11019.12 relative to ethnicity, race, disability, veteran status, and gender.

The amendments agreed to by the author, reflected in the mock-up at the end of the analysis, appear to address all concerns raised by opposition. These amendments are subject to nonsubstantive technical changes suggested by the Office of Legislative Counsel.

SUPPORT

California Employment Lawyers Association
California-Hawaii State Conference of the NAACP
Greater Sacramento Urban League

⁴ See California Department of Human Resources CALHR, Human Resources Manual, available at <https://hrmanual.calhr.ca.gov/Home/ManualItem/1/1009> [as of Apr. 4, 2025]

OPPOSITION

Acclamation Insurance Management Services
Agricultural Council of California
Allied Managed Care
Anaheim Chamber of Commerce
Brea Chamber of Commerce
California Alliance of Family-Owned Businesses
California Apartment Association
California Association of Sheet Metal and Air Conditioning Contractors National Association
California Chamber of Commerce
California Credit Union League
California Farm Bureau
California Hotel and Lodging Association
California League of Food Producers
California Legislative Conference of the Plumbing, Heating and Piping Industry
California Retailers Association
California Special Districts Association
California State Association of Counties
California State Council of the Society of Human Resource Management
California Trucking Association
Carlsbad Chamber of Commerce
Chino Valley Chamber of Commerce
Civil Justice Association of California
Coalition of Small and Disabled Veteran Businesses
Colusa County Chamber of Commerce
Corona Chamber of Commerce
Construction Employers Association
Elk Grove Chamber of Commerce
Finishing Contractors Association of Southern California
Flasher Barricade Association
Gateway Chambers Alliance
Glendora Chamber of Commerce
Greater Coachella Valley Chamber of Commerce
Greater High Desert Chamber of Commerce
La Cañada Flintridge Chamber of Commerce
Lake Elsinore Valley Chamber of Commerce
League of California Cities
Long Beach Area Chamber of Commerce
Mission Viejo Chamber of Commerce
Murrieta/Wildomar Chamber of Commerce
National Electrical Contractors Association
National Federation of Independent Business

Newport Beach Chamber of Commerce
Northern California Allied Trades
Norwalk Chamber of Commerce
Oceanside Chamber of Commerce
Orange County Business Council
Paso Robles and Templeton Chamber of Commerce
Rancho Cucamonga Chamber of Commerce
Rancho Mirage Chamber of Commerce
Roseville Area Chamber of Commerce
Rural County Representatives of California
San Manual Band of Mission Indians
Santa clarity Valley Chamber of Commerce
Simi Valley Chamber of Commerce
Southern California Contractors Association
Southern California Glass Management Association
Southwest California Legislative Council
Torrance Area Chamber of Commerce
United Contractors
Urban Counties of California
Valley Industry & Commerce Association
Wall and Ceiling Alliance
West Ventura County Business Alliance
Western Electrical Contractors Association
Western Growers Association
Western Line Constructors Chapter
Western Painting & Coating Contractors Association,
Western Wall & Ceiling Contractors Association

RELATED LEGISLATION

Pending Legislation: SB 642 (Limón, 2025) amends the equal pay for equal work law. SB 642 is currently pending before this Committee and set to be heard on the same day as this bill.

Prior Legislation:

SB 1162 (Limón, Ch. 559, Stats. 2022) required employers of 100 or more workers hired through labor contractors to provide the Department of Fair Employment and Housing (DFEH) certain specified information, including pay data, about their workers. This bill also requires employers to provide the pay scale for a position to an applicant for employment and include it in job postings

AB 1192 (Kalra, 2021) would have required the report and publication of a series of metrics for large California employers about the nature of their workforce, pay, benefits,

and conditions including, among others, disparities in pay based on race and gender. AB 1192 died on the Assembly inactive file.

SB 973 (Jackson, Ch. 363, Stats. 2020) required California employers with 100 or more employees to compile and submit pay equity data to the DFEH annually and directed DFEH to publish a yearly report on statewide pay equity based on this data in the aggregate.

SB 171 (Jackson, 2019) was substantially similar to SB 973. SB 171 died in the Assembly Appropriations Committee.

SB 1284 (Jackson, 2018) was substantially similar to SB 973. SB 1284 died in the Assembly Appropriations Committee.

AB 2282 (Eggman, Ch. 127, Stats. 2018) clarified that, while prior salary information cannot justify disparities in compensation, an employer may make a compensation decision based on an applicant's current salary as long as any wage differential resulting from that compensation decision is justified by: (a) a seniority system; (b) a merit system; (c) a system that measures earnings by quantity or quality of production; or (d) a bona fide factor other than sex, such as education, training, or experience.

AB 46 (Cooper, Ch. 776, Stats. 2017) clarified that the California Equal Pay Act applies to public as well as private sector employers.

AB 168 (Eggman, Ch. 688, Stats. 2017) prohibited an employer from seeking or relying on the salary history information of an applicant as a factor in determining whether to offer an applicant employment or what salary to offer an applicant. The bill also required an employer, upon reasonable request, to provide the pay scale for a position to an applicant.

AB 1209 (Gonzalez-Fletcher, 2017) would have required employers with 500 or more employees in California to provide the Secretary of State with specific information regarding gender wage differentials for exempt employees and board members every two years as part of their corporate filings. In his message vetoing AB 1209, then Governor Brown wrote that "ambiguous" language in the bill "could be exploited to encourage more litigation than pay equity." In addition, he wrote that "[w]hile transparency is often the first step to addressing an identified problem, it is unclear that the bill... will provide data that will meaningfully contribute to efforts to close the gender wage gap."

SB 1063 (Hall, Ch. 866, Stats. 2016) expanded the prohibitions in the California Equal Pay Act regarding gender to include discrimination based on race or ethnicity.

AB 1676 (Campos, Ch. 856, Stats. 2016) required that prior salary shall not, by itself, justify any disparity in compensation.

SB 358 (Jackson, Ch. 546, Stats. 2015) amended the Equal Pay Act to require employers to justify any gender pay differential with a legitimate non-sex-based factor. The bill also prohibited retaliation against employees for disclosing or discussing their wages with co-workers.

AB 160 (Grunsky, Ch. 804, Stats. 1949) enacted California's original Equal Pay Act.

PRIOR VOTES:

Senate Labor, Public Employment and Retirement Committee (Ayes 4, Noes 1)

Amended Mock-up for 2025-2026 SB-464 (Smallwood-Cuevas (S))

Mock-up based on Version Number 98 - Amended Senate 4/10/25

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 12999 of the Government Code is amended to read:

12999. (a) (1) On or before the second Wednesday of May 2023, and on or before the second Wednesday of May of each year thereafter, a private employer that has 100 or more employees shall submit a pay data report to the department covering the prior calendar year, which, for purposes of this section, shall be referred to as the "Reporting Year."

(2) On or before the second Wednesday of May 2023, and on or before the second Wednesday of May of each year thereafter, a private employer that has 100 or more employees hired through labor contractors within the prior calendar year shall submit a separate pay data report to the department covering the employees hired through labor contractors in the prior calendar year. The private employer shall also disclose on the pay data report the ownership names of all labor contractors used to supply employees. A labor contractor shall supply all necessary pay data to the private employer.

(3) Any demographic information gathered by an employer or labor contractor pursuant to this section shall be collected and stored separately from employees' personnel records.

~~(4) For purposes of collecting the information required to be reported pursuant to paragraph (1) of subdivision (b), information regarding an employee's sexual orientation shall be collected only if voluntarily disclosed by the employee to the employer by the employee themselves.~~

(b) The pay data report shall include the following information:

(1) The number of employees by race, ethnicity, ~~sex~~, and ~~sex~~ ~~sexual-orientation~~ in each of the following job categories:

(A) Executive or senior level officials and managers.

(B) First or mid-level officials and managers.

(C) Professionals.

(D) Technicians.

(E) Sales workers.

(F) Administrative support workers.

(G) Craft workers.

(H) Operatives.

(I) Laborers and helpers.

(J) Service workers.

(2) The number of employees by race, ethnicity, ~~sex~~, and ~~sexual-orientation~~, ~~sex~~, whose annual earnings fall within each of the pay bands used by the United States Bureau of Labor Statistics in the Occupational Employment Statistics survey.

(3) Within each job category, for each combination of race, ethnicity, ~~sex~~, and ~~sexual-orientation~~ ~~sex~~, the median and mean hourly rate.

(4) For purposes of establishing the numbers required to be reported under paragraph (1), an employer shall create a "snapshot" that counts all of the individuals in each job category by race, ethnicity, ~~sex~~, and ~~sexual-orientation~~, ~~sex~~, employed during a single pay period of the employer's choice between October 1 and December 31 of the "Reporting Year."

(5) For purposes of establishing the numbers to be reported under paragraphs (2) and (3), the employer shall calculate the total earnings, as shown on the Internal Revenue Service Form W-2, for each employee in the "snapshot," for the entire "Reporting Year," regardless of whether or not an employee worked for the full calendar year. The employer shall tabulate and report the number of employees whose W-2 earnings during the "Reporting Year" fell within each pay band.

(6) The employer shall include in the report the total number of hours worked by each employee counted in each pay band during the "Reporting Year."

(7) The report shall include the employer's North American Industry Classification System (NAICS) code.

(c) For employers with multiple establishments, the employer shall submit a report covering each establishment.

(d) The report shall include a section for employers to provide clarifying remarks regarding any of the information provided. An employer is not required to provide clarifying remarks.

(e) The information required by this section shall be made available in a format that allows the department to search and sort the information using readily available software.

(f) If the department does not receive the required report from an employer, the department may seek an order requiring the employer to comply with these requirements and shall be entitled to recover the costs associated with seeking the order for compliance. Upon request by the department, a court shall impose a civil penalty not to exceed one hundred dollars (\$100) per employee upon any employer who fails to file the required report and not to exceed two hundred dollars (\$200) per employee upon any employer for a subsequent failure to file the required report. Any penalty under this subdivision shall be payable to the Civil Rights Enforcement and Litigation Fund established under Section 12907. If the employer is unable to submit a complete and accurate report because a labor contractor has not provided the pay data as required under paragraph (2) of subdivision (a), the court may apportion an appropriate amount of penalties to any labor contractor that has failed to provide the pay data to the employer.

(g) It shall be unlawful for any officer or employee of the department or the Division of Labor Standards Enforcement to make public in any manner whatever any individually identifiable information obtained pursuant to their authority under this section prior to the institution of an investigation or enforcement proceeding by the Division of Labor Standards Enforcement or the department under Section 1197.5 of the Labor Code or Section 12940 involving that information, and only to the extent necessary for purposes of the enforcement proceeding. For the purposes of this section, "individually identifiable information" means data submitted pursuant to this section that is associated with a specific person or business.

(h) Any individually identifiable information submitted to the department pursuant to this section shall be considered confidential information and not subject to disclosure

pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1).

(i) ~~(1)~~ Notwithstanding subdivision (g), the department may develop, publish on an annual basis, and publicize aggregate reports based on the data obtained pursuant to their authority under this section, provided that the aggregate reports are reasonably calculated to prevent the association of any data with any individual business or person.

~~(2) Notwithstanding subdivision (g), the department shall publish private employer reports provided that the publication is reasonably calculated to prevent the association of any data with any individual person.~~

(j) The department shall maintain pay data reports for not less than 10 years.

(k) For purposes of this section, the following definitions shall apply:

(1) "Employee" means an individual on an employer's payroll, including a part-time individual, and for whom the employer is required to withhold federal social security taxes from that individual's wages.

(2) "Labor contractor" means an individual or entity that supplies, either with or without a contract, a client employer with workers to perform labor within the client employer's usual course of business.

(3) "Establishment" means an economic unit producing goods or services.

(l) Upon request by the department, no later than 60 days from the date of the request, the Employment Development Department shall provide the department with the names and addresses of all businesses with 100 or more employees in order to ensure compliance with this section.

(m) The amendments made to this section by Senate Bill 1162 of the 2021-22 Regular Session of the Legislature shall not affect the requirement of employers to file reports in 2021 and 2022 pursuant to this section as it read on December 31, 2022, or the department's authority to pursue those employers on and after January 1, 2023.

SEC. 2. Section 12999.1 is added to the Government Code, to read:

12999.1. (a) On or before the second Wednesday of May 2027, and on or before the second Wednesday of May of each year thereafter, a public employer that has 100 or more employees shall submit a pay data report to the department covering the prior calendar year, which, for purposes of this section, shall be referred to as the "reporting year."

(b) The pay data report shall include demographic data provided by employees pursuant to Government code sections 8310.6, 19233, 19704, 19762, 19799, and 11019.12 relative to ethnicity, race, disability, veteran status, and gender, ~~gender identity, and sexual orientation~~ organized by job category as listed in the civil service pay scale.

(1) Demographic data ~~disclosed or released~~ submitted to the department pursuant to this subdivision shall disclose only aggregated statistical data and shall not identify any individual.

(2) Any individually identifiable information submitted to the department pursuant to this section shall be considered confidential information and not subject to disclosure pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1).

(c) For purposes of this section, “public employer” means: the employer of an employee in the state civil service as the phrase is defined in Article VII of the Constitution.

(d) For purposes of this section, “employee” means a person employed in the “state civil service” as the phrase is defined in Article VII of the Constitution.

~~(1) The state and every state entity, including, but not limited to, the Legislature, the judicial branch, including judicial officers, and the California State University.~~

~~(2) Any political subdivision of the state, or agency or instrumentality of the state or subdivision of the state, including, but not limited to, a city, county, city and county, charter city, charter county, school district, community college district, joint powers authority, joint powers agency, and any public agency, authority, board, commission, or district.~~

SEC. 3. The Legislature finds and declares that Section 2 of this act, which adds Section 12999.1 to the Government Code, imposes a limitation on the public’s right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to protect the privacy of public employees, while also gathering useful data, it is necessary that individually identifiable information submitted to the Civil Rights Department remain confidential.