

Senate Bill 973

Pay Data Reporting

Senator Jackson

SUMMARY

This bill will require that California employers with 100 employees or more submit a pay data report annually to the Department of Fair Employment and Housing, outlining the compensation and hours worked of its employees by gender, race, ethnicity and job category.

BACKGROUND

Despite strong equal pay laws, including the enactment of SB 358 (Jackson), the California Fair Pay Act, in 2016, the gender pay gap persists, resulting in an estimated \$78.6 billion in lost wages for women each year in California. Pay discrimination is not just a women's issue, but also harms families and the state's economy. In California, women working full-time make 88 cents to every dollar earned by men, and for women of color, the gap is far worse. In 2019, Asian-American women on average earned 75 cents, African-American women 61 cents, Native American women 50 cents, and Latinas just 42 cents, for every dollar earned by white, non-Hispanic men. Nationwide, women overall make just 80 cents to every dollar a man earns.

For more than 50 years, large companies have submitted demographic information annually to the federal agency responsible for enforcing workplace anti-discrimination laws, the Equal Employment Opportunity Commission (EEOC) via the Employer Information Report (EEO-1). This data has helped identify patterns of employment segregation and discrimination. Recognizing that pay discrimination is difficult to detect, the Obama Administration announced a revision to the EEO-1 report to include the reporting of pay data by gender, race, and ethnicity beginning in 2018. The pay data collection revision was adopted by the EEOC and approved by the Office of Management and Budget after a rigorous and transparent process that spanned several years and included a pilot study, a public hearing and two public comment periods. The agency heard from employer and employee advocates, researchers, academics, and members of the public, and ultimately determined that compliance was

manageable for employers and benefits were substantial.

However, in 2017, the Trump Administration put a halt to the implementation of the new rule, dealing a blow to the fight for equal pay. Litigation ensued and a federal court ruled that the Administration had unlawfully halted implementation of the rule and ordered the EEOC to collect two years of pay data, which it just completed. However, the EEOC has issued a public notice that it will not seek renewal of the pay data collection beyond what was required by the court. In addition, the Trump Administration, in a historically unprecedented move, is prohibiting the sharing of any EEO-1 data with state agencies, despite the fact that it has been shared and used as an enforcement tool in many states for decades.

Under the Trump Administration, the case has only grown stronger for California to pursue its own path for pay data collection to combat gender and race-based discrimination.

SOLUTION -

SB 973 will ensure this important pay data collection, which is being discontinued at the federal level, will be compiled and aggregated in California. Modelled after the Obama Administration rule, employers will report payroll data broken down by gender, race, ethnicity, and job category to the Department of Fair Employment and Housing (DFEH).

SB 973 will encourage employers to analyze their own pay and hiring practices to ensure they are fair and promote self-evaluation and correction. In addition, SB 973 will allow DFEH to more efficiently identify patterns of wage disparities, particularly as they relate to job segregation by gender and race, which, with additional information, could lead to the targeted enforcement of equal pay and anti-discrimination laws.

If the pay data collection is reinstated at the federal level consistent with the requirements of SB 973, an

employer may comply with SB 973 by simply submitting a copy of the EEO-1.

In addition, SB 973 strengthens enforcement by allowing the Department of Fair Employment and Housing to also enforce the California Fair Pay Act, in coordination with the Department of Labor Standards Enforcement.

SUPPORT

AAUW (co-sponsor)
California Employment Lawyers Association (co-sponsor)
Equal Rights Advocates (co-sponsor)
American Civil Liberties Union
Asian Americans Advancing Justice
California Labor Federation
California Women's Law Center
Consumer Attorneys of California
FreeFrom
Friends Committee on Legislation
Legal Aid at Work
National Association of Social Workers
National Women's Political Caucus of California
Public Counsel
Santa Barbara Women's Political Committee
SEIU
United Food and Commercial Workers
The Women's Foundation of California
Voices for Progress Education Fund
Work Equity Action Fund



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