

AMENDED IN ASSEMBLY MARCH 4, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 316

Introduced by Assembly Member Cooper

January 25, 2021

An act to add Section 19818.11 to the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

AB 316, as amended, Cooper. State employees: pay equity: under-represented groups.

Existing law prohibits an employer, including both public and private employers, from paying any of its employees at wage rates less than the rates paid to employees of the opposite sex or another race or ethnicity for substantially similar work, when viewed as a composite of skill, effort, and responsibility, and performed under similar working conditions, unless the employer demonstrates the wage differential is based upon specified factors including, but not limited to, a seniority system, a merit system, or a system that measures earnings based on quality or quantity of production.

Existing law, the California Fair Employment and Housing Act, protects and safeguards the right and opportunity of all persons to seek, obtain, and hold employment without discrimination or abridgment on account of race, religious creed, color, national origin, ancestry, physical disability, mental disability, mental condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. The act defines "employer" to include the state or any political or civil subdivision of the state.

Existing law establishes the Department of Human Resources (department) and requires the department to administer the Personnel Classification Plan, including allocating every position to the appropriate class. Existing law requires the allocation of a position to a class be derived from, and determined by, ascertaining the duties and responsibilities of the position, and be based on the principle that all positions are to be included in the same class if certain qualifications apply, including, but not limited to, that the positions are sufficiently similar in respect to duties and responsibilities that the same descriptive title may be used, and substantially the same requirements as to education, experience, knowledge, and ability are demanded of incumbents.

This bill would require the department, prior to January 1, 2023, and every 2 years thereafter, to prepare a report on gender and ethnicity pay equity in each classification under the Personnel Classification Plan where there is an underrepresentation of women and minorities. The bill would require the report to contain a plan for each state agency to attain pay equity that is consistent with existing state and federal law if a discrepancy is found, a plan to recruit, attract, and retain women and minorities that is consistent with existing state and federal law in positions where there is an underrepresentation of those groups, and each state agency's efforts that are consistent with state and federal law toward meeting the goals for wage parity and increasing the number of women and minorities in the state agency. The bill would require the department to submit the report to the Legislature no later than January 1 following the completion of the report. The bill would further require the head of each state agency, or their representative, to present the facts and findings from the report for that state agency to the appropriate legislative budget committees when the budget of that state agency is before the subcommittee.

~~This bill would state the intent of the Legislature to enact legislation that would achieve pay equity in state employment across gender, racial, ethnic, and under-represented groups.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 19818.11 is added to the Government*
- 2 *Code, to read:*

1 19818.11. (a) The department shall, prior to January 1, 2023,
2 and once every two years thereafter, evaluate all state civil service
3 classifications in the Personnel Classification Plan and prepare
4 a detailed report on gender and ethnicity pay equity in each
5 classification where there is an underrepresentation of women
6 and minorities.

7 (b) (1) The report described in subdivision (a) shall include at
8 least the following:

9 (A) A plan for each state agency that is consistent with existing
10 state and federal law to attain pay equity if a discrepancy is found.

11 (B) A plan to recruit, attract, and retain women and minorities
12 that is consistent with existing state and federal law in positions
13 where there is an underrepresentation of those subgroups.

14 (C) Each state agency's efforts that are consistent with existing
15 state and federal law toward meeting the goals for wage parity
16 and increasing the number of women and minorities in the state
17 agency.

18 (2) The department shall develop the plans described in
19 paragraph (1) in a collaborative manner with each state agency.

20 (3) Each state agency shall, by a date determined necessary by
21 the department and in a format determined necessary by the
22 department, provide statistical information to the department for
23 each state civil service classification within that state agency.

24 (4) On or before a date determined necessary by the department,
25 each state agency shall submit to the department information
26 regarding the state agency's progress toward the state agency's
27 plans described in paragraph (1) of subdivision (b) for wage parity
28 and increasing representation of underrepresented groups,
29 including women and minorities. This shall include a detailed
30 proposed timeline for meeting the goal of wage parity and creating
31 a diverse workforce subject to paragraph (1) of subdivision (b).

32 (c) Until January 1, 2031, the department shall submit the report
33 described in subdivision (a) to the Legislature no later than
34 January 1 following the completion of the report. The report shall
35 be submitted in accordance with Section 9795.

36 (d) The facts and findings from the report for each state agency
37 shall be presented by the head of each state agency, or their
38 representative, to the appropriate legislative budget subcommittees
39 when the budget of that state agency is before the subcommittee.

1 ~~SECTION 1. The Legislature hereby finds and declares all of~~
2 ~~the following:~~
3 ~~(a) In 2015, Governor Brown signed Senate Bill 358, known as~~
4 ~~the Fair Pay Act, which strengthened Section 1197.5 of the Labor~~
5 ~~Code, part of what is known as the California Equal Pay Act.~~
6 ~~(b) In 2016, Governor Brown signed Senate Bill 1063, known~~
7 ~~as the Wage Equality Act of 2016, and Assembly Bill 1676, each~~
8 ~~of which made further improvements to the California Equal Pay~~
9 ~~Act.~~
10 ~~(c) In 2017, Governor Brown signed Assembly Bill 168 and~~
11 ~~Assembly Bill 46, each making further enhancements to the~~
12 ~~California Equal Pay Act.~~
13 ~~SEC. 2. It is the intent of the Legislature to enact legislation~~
14 ~~that would achieve pay equity in state employment across gender,~~
15 ~~racial, ethnic, and under-represented groups.~~