

California Legislature Clarifies Salary History Ban And Equal Pay Statute

On July 18, 2018, Governor Brown signed into law AB 2282, which amends the California Labor Code to clarify aspects of California's salary history and equal pay statutes.

Labor Code Section 432.3

As we previously reported, effective January 1, 2018, Labor Code section 432.2 prohibits both public and private employers from asking job applicants for "salary history information." The new amendments specify that an employer *may* ask an applicant about his or her salary expectation for the position being applied for.

The salary history statute also requires employers to provide applicants, upon reasonable request, with a pay scale for the relevant position. The amendments now define "pay scale," "reasonable request," and "applicant" for purposes of this law.

"Pay Scale" means a salary or hourly wage range.

"Reasonable Request" means a request made after an applicant has completed an initial interview with the employer.

"Applicant" or "Applicant for Employment" means an individual who is seeking employment with the employer and is not currently employed with that employer in any capacity or position.

Labor Code Section 1197.5

Under this statute, employers may not discriminate on the basis of sex, race, or ethnicity, with respect to employee compensation for substantially similar work, except under limited circumstances.

The new amendments clarify that an employer may make a compensation decision based upon an employee's current salary, as long as any wage differential resulting from that compensation decision is justified by one or more of the following factors: (1) a seniority system; (2) a merit system; (3) a system that measures earnings by quantity or quality of production; and (4) a bona fide factor other than race or ethnicity, such as education, training, or experience.

by Lisa M. Pooley & Emily Leahy



If you have any questions about how your hiring or pay practices may be impacted by these amendments, please contact your Hanson Bridgett attorney.

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