

Assembly Bill No. 2713

Passed the Assembly May 30, 2018

Chief Clerk of the Assembly

Passed the Senate August 21, 2018

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2018, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Article 4 (commencing with Section 18730) to Chapter 2 of Part 2 of Division 5 of Title 2 of the Government Code, relating to public employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 2713, Rodriguez. Public employment: sexual harassment tracking.

Existing law grants the Department of Human Resources the power to operate the state civil service system in accordance with Article VII of the California Constitution, the Government Code, the merit principle, and applicable rules duly adopted by the State Personnel Board. Existing law prohibits a person from being discriminated against in the terms, conditions, and privileges of his or her employment with the state based on his or her medical condition, mental disability, or physical disability. Existing law provides that each state agency is responsible for an effective employment opportunity program within that agency, and requires the appointing power of that agency to carry out specified duties, including establishing procedures for filing, processing, and resolving discrimination complaints. Existing law requires the appointing power of each state agency, and the director of each state department, to appoint an equal employment opportunity officer to develop, implement, coordinate, and monitor the agency's equal employment opportunity program.

The California Fair Employment and Housing Act (FEHA) makes specified employment practices unlawful, including sexual harassment of an employee or other specified persons by an employer, labor organization, employment agency, apprenticeship training program, or any training program leading to employment. FEHA authorizes a person alleging a violation of specified provisions of the act relating to employment discrimination to submit a verified complaint to the Department of Fair Employment and Housing, and requires the department to take actions to investigate and conciliate that complaint.

This bill would require the equal employment officer of each state agency to, by July 1, 2019, and annually on that date

thereafter, submit a report to the Department of Human Resources that contains specified information relating to sexual harassment complaints received by, or filed with, that agency within a specified time period, and information related to any judgment or settlement paid or received by the agency relating to sexual harassment. The bill would prohibit the equal employment officer from including in the report any individually identifiable information pertaining to a complainant or witness. The bill would require the Department of Human Resources to, by January 1, 2020, and annually on that date thereafter, submit a report to the Legislature, and post the report, in a machine readable format, on its Internet Web site, using the information submitted by state agencies as described in the previous sentence that includes information related to sexual harassment complaints received by, or filed with, any state agency statewide during the time period reflected in the reports, as well as information related to any judgment or settlement paid or received statewide relating to sexual harassment. The bill would require the Department of Human Resources, in preparing that annual report, to include detailed information on each agency that submitted a report, and to provide specified information for each complaint.

The bill would require the Department of Fair Employment and Housing by January 1, 2020, and annually on that date thereafter, to compile a report, and post it on its Internet Web site, relating to sexual harassment complaints received by the Department of Fair Employment and Housing, pursuant to the provisions governing FEHA described above, and would require that report to include specified information relating to the number of verified complaints alleging sexual harassment received by, or filed with, the Department of Fair Employment and Housing, as well as the results of any investigation of those complaints.

The bill would require the employment officer of each state agency, or supervisor directly involved in the investigation of a claim, who receives a complaint alleging sexual harassment to provide the complainant specified information in writing relating to the complainants rights under federal and state law.

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

SECTION 1. Article 4 (commencing with Section 18730) is added to Chapter 2 of Part 2 of Division 5 of Title 2 of the Government Code, to read:

Article 4. Sexual Harassment Tracking

18730. For purposes of this article, “equal employment opportunity officer” means a equal employment opportunity officer appointed by the appointing power of a state agency or the director of each state department pursuant to Section 19795.

18731. (a) The equal employment opportunity officer of each state agency shall, by July 1, 2019, and annually on that date thereafter, submit a report to the department, in the form and manner prescribed by the department, relating to sexual harassment complaints received by, or filed with, that agency that includes all of the following information:

(1) The total number of sexual harassment complaints filed by employees of that agency in the immediately preceding calendar year. And for each complaint, the report shall include the date of filing, length of time to resolve, whether the complaint was investigated, the ultimate outcome of the complaint, and whether the complaint was against an individual who was employed by that agency.

(2) The total number of sexual harassment complaints received, but not filed, by the agency in the immediately preceding calendar year. And for each complaint, the report shall include the date received, length of time to resolve, whether the complaint was investigated, the ultimate outcome of the complaint, and whether the complaint was against an individual who was employed by that agency.

(3) The total dollar amount of final judgements and settlements paid by the state agency with respect to sexual harassment complaints in the immediately preceding fiscal year.

(4) An identification of source of funding, including, if applicable, the budget act item number or statute, that authorized the payment of that judgment or settlement described in paragraph (3).

(5) The total dollar amount of final judgements and settlements received by the agency with respect to sexual harassment complaints in the immediately preceding fiscal year.

(6) An identification of the fund or account in which the money from judgment or settlement described in paragraph (5) was deposited.

(7) The average number of employees working at the agency during the reporting period.

(b) The equal employment opportunity officer shall not include in the report submitted pursuant to subdivision (a) any individually identifiable information pertaining to any individual who brings a complaint or any witness. For purposes of this section, “individually identifiable information” means any data concerning a complaint that could uniquely identify an individual or any other information that would constitute an unwarranted invasion of personal privacy.

18732. The department, using the information submitted by each state agency pursuant to Section 18731, shall, by January 1, 2020, and annually on that date thereafter, submit to the Legislature consistent with Section 9795, and post on the department’s Internet Web site, a report relating to sexual harassment complaints statewide. The department shall also post the data used to generate the report in a machine readable format. The report shall include all of the following:

(a) The total number of sexual harassment complaints filed by employees statewide in the calendar year covered by the reports submitted pursuant to Section 18731. The department shall also include detailed information for each agency that submitted a report pursuant to Section 18731 that lists the total number of sexual harassment complaints filed by employees of that agency in that time period. And for each complaint, the report shall include the date of filing, length of time to resolve, whether the complaint was investigated, the ultimate outcome of the complaint, and whether the complaint was against the individual who was employed by the agency.

(b) The total number of sexual harassment complaints received, but not filed, by all state agencies statewide in the calendar year covered by the reports submitted pursuant to Section 18731. The department shall also include detailed information for each agency that submitted a report pursuant to Section 18731 that lists the total

number of sexual harassment complaints filed by employees of that agency in that time period. And for each complaint, the report shall include the date received, length of time to resolve, whether the complaint was investigated, the ultimate outcome of the complaint, and whether the complaint was against an individual who was employed by the agency.

(c) The total dollar amount of final judgements and settlements paid by all state agencies that submitted a report pursuant to Section 18731 with respect to sexual harassment complaints in the fiscal year covered by the reports submitted pursuant to Section 18731. The department shall also include detailed information for each agency that submitted a report pursuant to Section 18731 that lists the total number of final judgements and settlements paid by that agency in that time period, and an identification of the source of funding, including, if applicable, the budget act item number or statute, that authorized the payment of that judgment or settlement.

(d) The total dollar amount of final judgements and settlements received by all state agencies that submitted a report pursuant to Section 18731 with respect to sexual harassment complaints in the fiscal year covered by the reports submitted pursuant to Section 18731. The department shall also include detailed information for each agency that submitted a report pursuant to Section 18731 that lists the total number of final judgements and settlements received by that agency in that time period, and an identification of fund or account in which the money from judgment or settlement was deposited.

(e) The average number of employees working at each agency during the reporting period.

18733. The Department of Fair Employment and Housing shall by January 1, 2020, and annually on that date thereafter, compile a report, and post that report on its Internet Web site, relating to sexual harassment complaints received by the Department of Fair Employment and Housing. The Department of Fair Employment and Housing shall also post the data used to generate the report in a machine readable format. The report shall include all of the following:

(a) The total number of verified complaints that allege sexual harassment, within the meaning of subdivision (j) or (k) of Section 12940, filed by state employees from each state agency with the Department of Fair Employment and Housing in the immediately

preceding calendar year. And for each complaint, the report shall include the date of filing, length of time to resolve, whether the complaint was investigated, the ultimate outcome of the complaint, and whether the complaint was also filed with the state agency that employs the state employee who submitted the complaint.

(b) The total number of verified complaints that allege sexual harassment, within the meaning of subdivision (j) or (k) of Section 12940, filed against employees from each state agency by an individual who is not employed by that agency in the immediately preceding calendar year. And for each complaint, the report shall include the date of filing, length of time to resolve, whether the complaint was investigated, the ultimate outcome of the complaint, and whether the complaint was also filed with the state agency that employs the individual subject to the complaint.

(c) Detailed information listing the results of any investigations of all verified complaints that allege sexual harassment, within the meaning of subdivision (j) or (k) of Section 12940, filed by state employees with the Department of Fair Employment and Housing.

18734. The equal employment officer of each state agency, or any supervisor that is directly involved in the investigation of a claim, who receives a complaint alleging sexual harassment shall, upon receiving the complaint, provide the complainant all of the following in writing:

- (a) The state agency's sexual harassment complaint process and procedures.
- (b) The complaint process available through the federal Equal Employment Opportunity Commission.
- (c) The complaint process available through the California Fair Employment and Housing Act.
- (d) The right to representation from the complainant's respective recognized employee organization, if applicable.

Approved _____, 2018

Governor