

DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

2016 LEGISLATIVE SUMMARY

The following bills were signed and chaptered into law by Governor Edmund G. Brown, Jr., in 2016 and become effective January 1, 2017.

EMPLOYMENT

Sheltered Workshops

Certain entities in California – sheltered workshops and rehabilitation facilities – are licensed to employ workers with disabilities at sub-minimum wages. AB 488 eliminated an exemption from the Fair Employment and Housing Act in which “individual[s] employed under a special license pursuant to Section 1191 or 1191.5 of the Labor Code in a nonprofit sheltered workshop, day program, or rehabilitation facility” are not protected from harassment or discrimination in the workplace. AB 488 also created an affirmative defense with two elements – the challenged activity must be both permitted by statute or regulation and necessary to serve workers in the licensed workshop.

Bill Number: AB 488 (Gonzalez) (Stats. 2016, ch. 683.)

Code Section Amended: Government Code section 12926.

Code Section Added: Government Code section 12926.05.

HUMAN TRAFFICKING

DFEH Enforcement

AB 1684 amended the Department of Fair Employment and Housing’s (DFEH) functions, powers, and duties to give the Department authority to receive, investigate, conciliate, mediate, and prosecute civil complaints alleging human trafficking (Civ. Code, § 52.5, the California Trafficking Victims Protection Act).

Bill Number: AB 1684 (Stone) (Stats. 2016, ch. 63.)

Code Section Amended: Government Code section 12930.

Code Section Added: None.

DISCRIMINATION IN STATE-FUNDED PROGRAMS

Government Code section 11135 et al.

SB 1442 transferred the authority to investigate, enforce, and promulgate regulations regarding Government Code section 11135 et al., and transferred substantive regulations as well, from the California Health and Human Services Agency to the DFEH. The bill does not substantively amend the law but rather reorganizes it into the existing framework of the DFEH and eliminates redundant provisions and the

requirement that nearly every department promulgate its own set of anti-discrimination regulations.

Bill Number: SB 1442 (Liu) (Stats. 2016, ch. 870.)

Code Section Amended: Government Code sections 11135, 11136, 11137, 11139, 12930, and 12935.

Code Section Added: Government Code sections 7400, 7401, and 7405.

Code Section Repealed: Education Code section 261; Government Code sections 11138, 11139.3, 11139.5, 11139.6, and 11139.7.

FAIR EMPLOYMENT AND HOUSING COUNCIL

Staggering of Councilmembers' Terms

AB 2780 amended existing law to stagger the terms of the seven members of the Fair Employment and Housing Council.

Bill Number: AB 2780 (Holden) (Stats. 2016, ch. 188.)

Code Sections Amended: Government Code section 12903.

Code Section Added: None.

OTHER

Sexual Harassment Prevention Training and Education for Local Agency Officials

AB 1661 requires local agency officials to receive sexual harassment prevention training and education if the local agency provides any type of compensation, salary, or stipend to those officials. The bill also allows a local agency to require any of its employees to receive sexual harassment prevention training or information. Finally, the bill requires an entity that develops curricula to consult with the city attorney or county counsel regarding the sufficiency and accuracy of proposed content. The bill does not vest enforcement authority in DFEH.

Bill Number: AB 1661 (McCarty) (Stats. 2016, ch. 816.)

Code Section Amended: None.

Code Section Added: Government Code sections 53237, 53237.1, 53237.2, and 53237.5.

Property Service Workers Protection Act

AB 1978 requires the Division of Labor Standards Enforcement (DLSE) of the Department of Industrial Relations to establish a requirement for biennial in-person sexual violence and harassment prevention training for janitorial workers and employers, create a registration system for janitorial employers, and maintain an online database of registered janitorial employers. AB 1978 also requires subject janitorial employers to register with DLSE, provide certain information to DLSE, and keep accurate records as specified for three years. The bill creates penalties for janitorial

employers who do not register with DLSE and any entity that contracts with an unregistered janitorial service. The bill specifies effective dates for its provisions, vests DLSE with enforcement authority, and directs representatives of DFEH, amongst others, to be part of an advisory committee tasked with developing standards for the sexual violence and harassment prevention training.

Bill Number: AB 1978 (Gonzalez) (Stats. 2016, ch. 373.)

Code Section Amended: None.

Code Section Added: Labor Code sections 1420, 1421, 1422, 1423, 1424, 1425, 1426, 1427, 1428, 1429, 1429.5, 1430, 1431, 1432, 1433, and 1434.

Contractor Compliance with the Fair Employment and Housing Act and the Unruh Civil Rights Act

AB 2844 requires any person who submits a bid or proposal to enter into or renew a contract of \$100,000 or more with a state agency to certify under penalty of perjury the following:

- 1) Compliance with the Fair Employment and Housing Act and the Unruh Civil Rights Act, and
- 2) Any policy against any sovereign nation or peoples recognized by the government of the United States, including, but not limited to, the nation and people of Israel, will not be used to discriminate in violation of the FEHA or the Unruh Act.

The bill does not vest enforcement authority in DFEH.

Bill Number: AB 2844 (Bloom) (Stats. 2016, ch. 581.)

Code Section Amended: None.

Code Section Added: Public Contract Code section 2010.