



CBA Regulatory Compliance Bulletin

October 13, 2017

New Bill Limits Employers' Inquiry About Salary History

A new bill, AB 168¹, prohibits an employer from relying on the salary history information of an applicant for employment as a factor in the hiring decision and what salary to offer. The rationale for the new law is that the gender wage gap is exacerbated when employers inquire about salary history and thus are in a position to perpetuate past salary discrimination. An applicant may voluntarily (without prompting) disclose salary history information to a prospective employer, and in that case the employer may consider that information "in determining the salary for that applicant." The bill also requires that, upon reasonable request, the employer must provide the pay scale for a position applied for. No guidance is offered for employers considering internal candidates for positions.

AB 168 creates an exception for salary history information that is disclosable to the public under federal or state law such as the California Public Records Act² or the federal Freedom of Information Act³.

The bill applies to all employers, including state and local government employers and the legislature. It also clarifies that, "consistent with Section 1197.5, nothing in this section shall be construed to allow prior salary, by itself, to justify any disparity in compensation."

The bill becomes effective January 1, 2018. Jason Lane is the lead lobbyist for CBA on the bill.

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¹ AB 168 adds new section 432.3 to the Labor Code.

² Government Code Section 6250.

³ 5 U.S.C. Section 552.