



Regulatory Compliance Bulletin

November 19, 2020

SB 973 - Annual Pay Data Report

Chaptered on September 30, 2020, SB 973 requires new pay data reporting for certain California employers.

SB 973, among other things, adds Chapter 10 (commencing with Section 12999) to the Government Code that will require private employers with 100 or more employees and who are also required to file an Employer Information Report ("EEO-1") to submit a pay data report to the Department of Fair Employment and Housing ("DFEH"). The pay data report must include the number of employees categorized by race, ethnicity, and sex in each of the following job categories:

- Executive or senior level officials and managers
- First or mid-level officials or managers
- Professionals
- Technicians
- Sales workers
- Administrative support workers
- Craft workers
- Operatives
- Laborers and helpers
- Service workers

In addition, the pay data report must include the number of employees by race, ethnicity, and sex, whose annual earnings fall within each of the pay bands used the

U.S. Bureau of Labor Statistics in the Occupational Employment Statistics survey.

This information must be provided by employers beginning on or before March 30, 2021 and then on or before March 31 each year thereafter.

The legislation requires employers calculating this information to create a "snapshot" that counts all of the individuals in each job category employed during a single pay period of the employer's choice between October 1 and December 31 of the reporting year.

For purposes of establishing the numbers to be reported, the employer is required to calculate the total earnings, as shown on the W-2 form, for each employee in the "snapshot" for the entire reporting year, regardless of whether or not an employee worked for the full calendar year and requires the employer to tabulate and report the number of employees whose W-2 earnings during the reporting year fell within each pay band.

SB 973 requires an employer to report the total number of hours worked by each employee counted in each pay band. For employers with multiple "establishments", they must submit a report for each

November 19, 2020

establishment and a consolidated report for all employees.

The pay data report must include a section for employers to provide clarifying remarks regarding any of the information provided, although employers are not required to provide any clarifying remarks.

An employer may satisfy compliance with the pay data reporting requirements by submitting their EEO-1 Report as long as it contains the same or substantially similar pay data as that required by this bill.

The DFEH is authorized to enforce this new law in coordination with the Division of Labor Standard Enforcement and If an employer fails to comply, the DFEH may seek an order requiring compliance as well as recovery of costs associated with seeking compliance.

CBA was opposed SB 973 arguing that this legislation further burdens employers by requiring them to turn over pay data information that could give the false impression of pay disparity where none may exist.

The information contained in this CBA Regulatory Compliance Bulletin is not intended to constitute, and should not be received as, legal advice. Please consult with your counsel for more detailed information applicable to your institution.

© This CBA Regulatory Compliance Bulletin is copyrighted by the California Bankers Association, and may not be reproduced or distributed without the prior written consent of CBA.
