THIRD READING

Bill No: SB 403
Author: Wahab (D), et al.
Amended: 4/17/23
Vote: 21

SENATE JUDICIARY COMMITTEE: 11-0, 4/25/23
AYES: Umberg, Wilk, Allen, Ashby, Caballero, Durazo, Laird, Min, Niello, Stern, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Discrimination on the basis of caste

SOURCE: Alphabet Workers Union–Communication Workers of America
Ambedkar Association of North America
Asian Pacific American Labor Alliance
Equality Labs
Hindus for Caste Equity
Jakarta Movement
Sikh American Legal Defense and Education Fund
Sikh Coalition
South Asian Network
Tech Equity Collaborative

DIGEST: This bill clarifies that discrimination on the basis of caste, as defined, is prohibited under existing anti-discrimination statutes, as specified.

ANALYSIS:

Existing law:

1) Establishes the Unruh Civil Rights Act, which provides that all persons in California are free and equal, and regardless of a person’s actual or perceived sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, citizenship, primary
language, or immigration status, everyone is entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments. (Civ. Code, § 51.)

2) Provides that it is the policy of this State to afford all persons in public schools equal rights and opportunities in the educational institutions of this state, regardless of their actual or perceived disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, immigration status, or association with a person or group with one or more of these actual or perceived characteristics. (Ed. Code, §§ 200, 210.2.)

3) Provides that no person in the State shall, on the basis of their actual or perceived sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, or sexual orientation, be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by the state or by any state agency, is funded directly by the state, or receives any financial assistance from the state, including at the California State University. (Gov. Code, § 11135.)

4) Establishes the Fair Employment and Housing Act (FEHA), which prohibits discrimination in housing and employment on the basis of a person’s actual or perceived race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, subject to specified exceptions. (Gov. Code, §§ 12920 et seq.)

5) Establishes the Civil Rights Department (CRD) (formerly DFEH), which is tasked with enforcing California’s civil rights laws, issuing publications that will tend to minimize or eliminate prohibited discrimination, providing assistance to communities and persons in resolving disputes relating to discriminatory practices based on race, religious creed, color, national origin, ancestry, physical disability, mental disability, veteran or military status, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, familial status, age, reproductive health decisionmaking, or sexual orientation that impair the rights of persons in those communities under the Constitution or laws of the United States or of this state. (Gov. Code, §§ 12930, 12931.)
This bill:

1) Clarifies that discrimination on the basis of caste is prohibited under the civil rights laws set forth in 1)-4), above.

2) Defines “caste,” for purposes of 1), as an individual’s perceived position in a system of social stratification on the basis of inherited status; a system of social stratification on the basis of inherited status may be characterized by factors that may include, but are not limited to: inability or restricted ability to alter inherited status; socially enforced restrictions on marriage, private and public segregation, and discrimination; and social exclusion on the basis of perceived status.

3) Extends the CRD’s authority under 5) to include anti-caste-discrimination enforcement activities, consistent with its other activities surrounding other protected characteristics.

Comments

This bill clarifies that discrimination on the basis of caste is prohibited under the Unruh Civil Rights Act, state laws prohibiting discrimination in publicly funded programs and public education, and FEHA. This change is intended to provide additional clarity to businesses, employers, and schools about what forms of discrimination are prohibited. While it may seem clear to some that caste falls into existing enumerated categories, the reports of caste-based discrimination in the state suggest that employers and other entities are not adequately protecting against this form of discrimination without a specific statutory reference to caste.

As defined in the bill, “caste” is a person’s perceived position in a system of social stratification on the basis of inherited status; a caste system may be characterized by factors that may include, but are not limited to: inability or restricted ability to alter inherited status; socially enforced restrictions on marriage, private and public segregation, and discrimination; and social exclusion on the basis of perceived status. Caste can intersect with, and incorporate, existing concepts of race and color, ethnicity, national origin, and ancestry.¹

Although caste systems are hierarchical, this bill is neutral in its approach to the nature of the caste-based discrimination: discrimination on the basis of someone’s

¹ For example, some legal scholars argue that caste can be considered a form of race for purposes of the federal Title VII and Section 1981 anti-discrimination laws. (Brown et al., Does U.S. Federal Employment Law Now Cover Caste Discrimination Based on Untouchability? If All Else Fails There Is The Possible Application of Bostock v. Clayton County, 46 N.Y.U. Rev. of Law & Social Change 117, 125.)
perceived position in the system is prohibited regardless of whether the position is considered a “high” position or a “low” position in the hierarchy. Accordingly, a person who experienced discrimination because someone believed they were in a dominant caste would have just as much of a claim as a person who experienced discrimination because it was believed they were a member of a historically disfavored caste. Similarly, this bill does not require both the discriminator and the victim of discrimination to identify as being a member of a caste system; a person who believed they were not part of a system could still violate the laws if they discriminated against a person based on their understanding of the person’s caste. This bill is also neutral in that it applies to all caste systems, regardless of the origin of the system.

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: No

**SUPPORT:** (Verified 5/8/23)

Alphabet Workers Union – Communication Workers of America (co-source)
Ambedkar Association of North America (co-source)
Asian Pacific American Labor Alliance (co-source)
Equality Labs (co-source)
Hindus for Caste Equity (co-source)
Jakarta Movement (co-source)
Sikh Coalition (co-source)
Sikh American Legal Defense and Education Fund (co-source)
South Asian Network (co-source)
Tech Equity Collaborative (co-source)
Academics in Support of SB 403
ACLU California Action
Alameda County Democratic Party, Central Committee
Ambedkar International Center
Ambedkar International Co-Ordination Society
Ambedkar International Mission Center Houston, USA
Ambedkar International Mission Society, Calgary
Ambedkar International Social Reform Organization
Ambedkar King Study Circle
Ambedkar Times
Ambedkarite Buddhist Association of Texas
Ambedkarites International Mission Society – Canada
Americans Against Caste Discrimination
Asian Americans Advancing Justice – Asian Law Caucus
Asian American Disinformation Table
Begumpura Cultural Society of New York
Bend the Arc: Jewish Action California
Boston South Asian Coalition
Boston Study Group
California Association of Human Relations Commissions
California Coalition for Community Investment
California Employment Lawyers Association
California Faculty Association
California Immigrant Policy Center
Caste Equity Legal Task Force
Chetna Association of Canada
Coalition of Americans for Pluralism in India
Coalition of Seattle Indian Americans
Consumer Attorneys of California
Council on American-Islamic Relations, California
Dalit Solidarity Forum
Desh Doaba
DFW Shri Guru Ravidass Organization
Dhamma Waves
Dr. Ambedkar International Mission, Toronto
Dr. B.R. Ambedkar Educational Aid Society
Dr. Cornel West
East Bay for Everyone
Federation of Indian American Ambedkarities of Bay Area
Feminist Critical Hindu Studies Collective
Friends for Education International
Global NRI Forum
Global Bahujan Group
Great Truth
Hidden Leaf Foundation
Hindus for Human Rights
India Civil Watch International
Indian American Muslim Council
International Bahujan Organization
International Bajuhan Organization California
International Bodhisattva Guru Ravidass Organization Inc.
Legal Aid at Work
me too. International
Mental Health Professionals for Caste Equity and Healing
National Academic Coalition for Caste Equity
National Association of Social Workers – California Chapter
Periyar Ambedkar Study Circle
Periyar International USA
Power in Education
Proud Ravidassia Global Organization
Radha Swami Rasila Satsang Center
Sahayaatra International Alliance for Social Justice
Saman Sangh
Santa Clara County Democratic Party
Seattle Councilmember Ksharma Sawant
Shri Guru Ravidass Sabha, Fresno, California
Shri Guru Ravidass Sabha, New York
Shri Guru Ravidass Temple, Pittsburgh, California
Shri Guru Ravidass Temple, Rio Linda, California
Shri Guru Ravidass Temple, Selma, California
Shri Guru Ravidass Temple, Union City, California
Shri Guru Ravidass Temple, Yuba City, California
Sikh American Legal Defense and Education Fund
Socialist Alternative – Bay Area
South Asia Scholar Activist Collective
South Asian Coalition to Renew Democracy
South Asian Dalit Adivasi Network, Canada
South Asian Left Activist Movement
South Asian SOAR
South Asian Bar Association of North America
Sri Guru Ravidass Sabha Ontario
Sri Guru Ravidass Society, Calgary
Stanford Heisler Sharp, LLP
Stop AAPI Hate
Tech Workers for Caste Equity
United Nations Special Rapporteur on contemporary forms of racism, racial
discrimination, xenophobia and related intolerance
United Way of Northern California
V-Day
Voices for Progress
Workers Strike Back
Approximately 42 individuals

**OPPOSITION:** (Verified 5/8/23)

Ambedkar-Phule Network of American Dalits and Bahujans
American Atheists
American Hindu Federation
American Hindus Against Defamation
American Muslim and Multifaith Women’s Empowerment Coalition
Americans for Equality
Americans4Hindus
Annapoorna USA Foundation
Balagokulam LoneHill Chapter
Bangladeshi Minorities in USA
Bay Area Bengalis
Bay Area Youth Vaishnav Parivar
Bharati Tamil Sangam
Coalition of Hindus of North America
Cupertino Action & Advocacy
Dalit-Bahujan Solidarity Network
Federation of Indo-Americans of Northern California
Foundation for India and Indian Diaspora Studies
Fremont Hindu Temple
Hindu American Foundation
Hindu American Political Action Committee
Hindu Community Institute
Hindu Cultural Center
Hindu Mandir Executives’ Conference
Hindu Speakers Bureau
HinduACTion
HinduPact
Hindus Not Caste-Opressors
HSS-USA
India Heritage Foundation
Indian Americans of Irvine and Orange County
Indo-American Community Federation
InterfaithShaadi
Kailasa San Diego Hindu University
Let’s Play Badminton Group
Mandir
My Temple
Natomas Group of Sacramento
Satsang Group
Sewa International, Inc.
Shiva Murgan Temple
ARGUMENTS IN SUPPORT: According to the co-sponsors of the bill:

California is home to many South Asians who contribute immensely to local education, corporate, and community organizations. Our California members affirm that caste-oppressed families in the state not only experience significant discrimination based on race but caste as well. Caste may not be as visible as race to the California legislature, but it is a longstanding system of exclusion both in our homelands and within intergovernmental bodies like the UN, the EU, and many others…

We ask[] that you stand with and create safe harbors for our caste-oppressed neighbors, friends, co-workers, faith leaders, and family members so that they can safely come out and exercise their rights. Without institutional support and protection, caste-oppressed Californians will endure continued discrimination.

ARGUMENTS IN OPPOSITION: According to the Hindu American Foundation:

Absent a historical or current legal basis to regulate caste in the United States and the lack of an agreed-upon legal, academic or sociological definition, will administrators and the state be asked to rely on India’s laws related to caste and impose foreign laws on those working or residing in California? Or will administrators simply treat people of South Asian origin as presumptively guilty because SB-403 states as much? Will only South Asians be forced to answer intrusive questions about or be judged for who they are married to because the state has defined caste as limited to [marriage]? Or perhaps, will South Asians, unlike members of every other
racial or ethnic group, be required by the state or policy administrators to identify as “oppressed” or “oppressor”? 

Prepared by: Allison Whitt Meredith / JUD. / (916) 651-4113
5/10/23 15:29:11

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