

Date of Hearing: July 8, 2025

ASSEMBLY COMMITTEE ON JUDICIARY
Ash Kalra, Chair
SB 464 (Smallwood-Cuevas) – As Amended May 1, 2025

As Proposed to be Amended

SENATE VOTE: 27-9

SUBJECT: EMPLOYER PAY DATA

KEY ISSUE: SHOULD CERTAIN PUBLIC EMPLOYERS BE REQUIRED TO SUBMIT ANNUAL PAY DATA REPORTS REFLECTING SPECIFIED DEMOGRAPHIC INFORMATION INCLUDING EMPLOYEES' RACE, ETHNICITY, VETERAN STATUS, AND DISABILITY?

SYNOPSIS

California may have one of the smallest pay gaps in the country, but nonetheless the gap persists. A recent report from the Civil Rights Department (CRD), based on 2021 pay data reporting, reflected that women overall earn approximately 81 cents for every dollar earned by their white male counterparts, with women of color seeing an even lower average. Latina workers make an average of 44 cents to every dollar earned by a white man, and Black women earn 61 cents for every dollar earned by a white man. Previous legislative efforts to close the pay gap have included implementing pay data reporting requirements. Existing law requires private employers with 100 or more employees to submit pay data to CRD covering the prior year. The data is required to reflect information relating to employees' race, ethnicity, and sex in specified job categories including executive or senior level positions, mid-level positions, administrative support workers, service workers, and technicians. Existing law also imposes numerous demographic reporting requirements on public employers.

In an effort to further increase transparency into pay disparities between demographics, this bill expands existing pay data reporting requirements to public employers beginning in 2027. Some local government and county employers have raised concerns that the bill improperly includes them in its scope, despite unique circumstances and funding sources that would skew the data collected under the bill's provisions. In order to address this concern, the author proposes to amend the definition of public employer to explicitly exclude local agencies, as defined. This amendment is incorporated into the SUMMARY and discussed in further detail in the COMMENTS section of this analysis.

This author-sponsored measure is supported by the California Commission on the Status of Women and Girls, the California Employment Lawyers Association (CELA), the California-Hawaii State Conference of the NAACP, Equal Rights Advocates, and the Greater Sacramento Urban League. It is opposed by a coalition of construction employers and Valley Industry and Commerce Association (VICA). This bill was previously heard by the Assembly Committee on Labor and Employment where it was approved on a vote of 7-0.

SUMMARY: Expands annual pay data reporting requirements to specified public employers beginning in 2027. Specifically, **this bill:**

- 1) Requires any demographic information gathered by an employer or labor contractor as required for the statutorily required annual pay data report to be collected and stored separately from employees' personnel records.
- 2) Requires, instead of authorizes, a court, upon request by the Civil Rights Department (CRD or Department), to impose a civil penalty of up to \$100 per employee on any employer who fails to file the required annual pay data report up to \$200 per employee on any employer for a subsequent failure to file the report.
- 3) Requires, on or before the second Wednesday of May 2027, and on or before the second Wednesday of each year thereafter, an employer with 100 or more employees to submit a pay data report to the department covering the prior calendar year, which is referred to as the "reporting year."
- 4) Requires the pay data report to include demographic data provided by employees pursuant to specified sections of the Government Code, relative to ethnicity, race, disability, veteran status, and gender organized by job category as listed in the civil service pay scale.
- 5) Requires demographic data submitted to the department pursuant to 4) to disclose only aggregated statistical data and to not identify any individual.
- 6) Requires any individually identifiable information submitted to the department to be considered confidential information and not subject to disclosure pursuant to the California Public Records Act.
- 7) Defines each of the following:
 - a) "Employee" means a person employed in the state "civil service," as that phrase is defined in Article VII of the Constitution;
 - b) "Public employer" means the employer of an employee in the state "civil service," as that phrase is defined in Article VII of the Constitution. "Public employer" does not include a local agency, as defined in subdivision (c) of Section 3511.1.

EXISTING LAW:

- 1) Requires, to the extent possible, both the State Controller's Office and Department of Human Resources, to include information on Black or African American persons hired for state positions reflecting whether they are a descendant of an enslaved person in the United States, or, if they are not a descendant of an enslaved person, whether they are a descendant of another demographic "including, but not limited to, African Blacks, Caribbean Blacks, and other Blacks." (Government Code Section 8310.6. All further statutory references are to the Government Code unless otherwise specified.)
- 2) Requires specified agencies to provide an opportunity for applicants to self-report veteran status or affiliation. (Section 11019.12.)
- 3) Requires the CRD to survey the number of state employees with a disability in each state agency or department, specified by job category and salary range. (Section 19233.)

- 4) Prohibits applications for state positions from including any opportunity to disclose an applicant's protected characteristic as outlined by the Fair Employment and Housing Act, but authorizes collection of workers' ethnic, marital status, and gender data after they are hired. (Section 19704.)
- 5) Requires the CRD to engage programs that "ensure equal employment opportunity for all state job applicants and employees through broad, inclusive recruitment efforts and other measures as allowed by law." Further requires the CRD to maintain data and analysis, including "specific data to determine the underutilization of groups based on race, ethnicity, gender, disability, and veteran status." Further requires the data generated to reflect the "current state civil service workforce composition by race, ethnicity, gender, age, veteran status, department, salary level, occupation, and attrition rates by occupation." (Section 19792.)
- 6) Requires, whenever an agency conducts a demographic survey of its employees, to use separate categories for each major Asian and Pacific Islander group, including Chinese, Japanese, Filipino, Korean, Vietnamese, Asian Indian, Hawaiian, Guamanian, Samoan, Laotian, and Cambodian. (Section 19799.)
- 7) Requires, on or before the second Wednesday of May 2023, and on or before the second Wednesday of May of each year thereafter, a private employer that has 100 or more employees to submit a pay data report to the CRD covering the prior calendar year (reporting year). (Section 12999 (a)(1).)
- 8) Requires, on or before the second Wednesday of May 2023, and on or before the second Wednesday of May of each year thereafter, a private employer that has 100 or more employees hired through labor contractors within the prior calendar year to submit a separate pay data report to the CRD covering the employees hired through labor contractors in the prior calendar year. The private employer shall also disclose on the pay data report the ownership names of all labor contractors used to supply employees. (Section 12999 (a)(2).)
- 9) Requires the pay data report to include the following information:
 - a) The number of employees by race, ethnicity, and sex in specified job categories. An employer shall create a "snapshot" that counts all of the individuals in each job category by race, ethnicity, and sex, employed during a single pay period of the employer's choice between October 1 and December 31 of the reporting year;
 - b) The number of employees by race, ethnicity, and sex, whose annual earnings fall within each of the pay bands used by the United States Bureau of Labor Statistics in the Occupational Employment Statistics survey. Additionally, within each job category, for each combination of race, ethnicity, and sex, the median and mean hourly rate. Requires the employer to calculate the total earnings, as shown on the Internal Revenue Service Form W-2, for each employee in the "snapshot," for the entire reporting year, regardless of whether or not an employee worked for the full calendar year. The employer shall tabulate and report the number of employees whose W-2 earnings during the reporting year fell within each pay band.
 - c) The total number of hours worked by each employee counted in each pay band during the reporting year.

- d) The employer's North American Industry Classification System code. (Section 12999 (b)(1-7).)
- 10) Authorizes, if the CRD does not receive the required report from an employer, the CRD to seek an order requiring the employer to comply with these requirements and shall be entitled to recover the costs associated with seeking the order for compliance. Upon request by the CRD, a court may impose a civil penalty not to exceed one hundred dollars (\$100) per employee upon any employer who fails to file the required report and not to exceed two hundred dollars (\$200) per employee upon any employer for a subsequent failure to file the required report. (Section 12999 (f).)
- 11) Authorizes the CRD to develop, publish on an annual basis, and publicize aggregate reports based on the data obtained pursuant to their authority, as specified. (Section 12999 (i).)
- 12) Defines "employee" to mean an individual on an employer's payroll, including a part-time individual, and for whom the employer is required to withhold federal social security taxes from that individual's wages. (Section 12999 (k)(1).)
- 13) Defines "labor contractor" to mean an individual or entity that supplies, either with or without a contract, a client employer with workers to perform labor within the client employer's usual course of business. (Section 12999 (k)(2).)

FISCAL EFFECT: As currently in print this bill is keyed fiscal.

COMMENTS: California may have one of the smallest pay gaps in the country, but nonetheless the gap persists. A recent report from the Civil Rights Department based on 2021 pay data reporting reflected that women overall earn approximately 81 cents for every dollar earned by their white male counterparts, with women of color seeing an even lower average. Latina workers make an average of 44 cents to every dollar earned by a white man, and Black women earn 61 cents for every dollar earned by a white man. (Orbach-Mandel, Nair, and Pryor (California Budget & Policy Center) *California Women's Well-Being Index: Wage Gap Fact Sheet*, August 2024 available at: https://calbudgetcenter.org/app/uploads/2024/08/Fact-Sheet_wagegap.pdf.)

Existing law requires private employers with 100 or more employees to submit pay data to the CRD covering the prior year. The data is required to reflect information relating to employees' race, ethnicity, and sex in specified job categories including executive or senior level positions, mid-level positions, administrative support workers, service workers, and technicians. (Government Code Section 12999 (a) – (b).) The statute also requires employers to provide similar reporting related to labor contractors.

Existing law also requires public employers to complete a number of demographic reporting requirements:

- Government Code Section 8310.6 requires, to the extent possible, both the State Controller's Office and Department of Human Resources, to include information on Black or African American persons hired for state positions reflecting whether they are a descendant of an enslaved person in the United States, or, if they are not a descendant of

an enslaved person, whether they are a descendant of another demographic “including, but not limited to, African Blacks, Caribbean Blacks, and other Blacks.”

- Government Code Section 11019.12 requires specific agencies to provide an opportunity for applicants to self-report veteran status or affiliation.
- Government Code Section 19233 requires CRD to survey the number of state employees with a disability in each department, specified by job category and salary range.
- Government Code Section 19704 prohibits applications for state positions from including any opportunity to disclose an applicant’s protected characteristic as outlined by the Fair Employment and Housing Act, but authorizes collection of workers’ ethnic, marital status, and gender data after they are hired.
- Government Code Section 19792 requires CRD to engage programs that “ensure equal employment opportunity for all state job applicants and employees through broad, inclusive recruitment efforts and other measures as allowed by law.” In order to do so, the statute also requires CRD to maintain data and analysis, including “specific data to determine the underutilization of groups based on race, ethnicity, gender, disability, and veteran status.” The data generated is further required to reflect the “current state civil service workforce composition by race, ethnicity, gender, age, veteran status, department, salary level, occupation, and attrition rates by occupation.”
- Government Section 19799 requires, whenever an agency conducts a demographic survey of its employees, to use separate categories for each major Asian and Pacific Islander group, including Chinese, Japanese, Filipino, Korean, Vietnamese, Asian Indian, Hawaiian, Guamanian, Samoan, Laotian, and Cambodian.

According to the author:

In June of 2023, the Task Force to study and develop Reparation Proposals for African Americans issued its final report to the California Legislature and proposed comprehensive reparations plan pursuant to AB 3121 (2020). As part of the Task Force’s policy proposals to address the long lasting implications of stolen labor (Chapter 20 and Chapter 27), the Task Force called upon the legislature to adopt policies to enhance pay equity data reporting. SB 464 furthers the recommendations of the Task Force’s report by expanding reporting requirements to specified public employers. This bill is part of the 2025 California Legislative Black Caucus Road to Repair Package.

This bill expands existing pay data reporting requirements to public employers. Under its provisions, public employers with 100 or more employees are required to submit an annual report beginning in May 2027. It further specifies that the report must include the demographics reflected in each of the Government Code Sections identified above.

The bill also makes two changes to the existing provisions relating to private employers. First, it requires the data gathered by employers or labor contractors to be collected and stored separately from employees’ personnel records. Second, it requires, rather than allows, a court to impose a civil penalty of up to \$100 per employee against any employer who violates any of the existing statute’s provisions.

While pay data reporting is by no means the silver bullet that will finally close the pay gap, it undoubtedly provides valuable insight into pay discrepancies to better equip policy makers to develop appropriate solutions. Bolstering enforcement of the existing provisions may very well help the CRD gather more data and therefore provide more accurate insight into pay discrepancies in the private sector.

Additionally, extending existing reporting requirements to capture some public employers could provide valuable insight into how California is compensating its public employees across demographics. Moreover, the Legislature has already demonstrated interest in gathering data related to public employee's ethnicity, race, disability, veteran status, and gender, as exemplified through the statutory requirements established in the existing Government Code. Requiring reporting on those same demographics related to pay seems in keeping with past Legislative intent.

In order to protect the privacy of individual state workers, the data provided pursuant to this bill's provisions would be disclosed only in aggregated statistical data. Importantly, the bill makes any individual identifiable information submitted to the CRD in compliance with the reporting requirement confidential information and exempts it from disclosure under the California Public Records Act.

The California Public Records Act (CPRA) provides that public records are open to inspection at all times during the office hours of a public agency for inspection by the public, and subject to disclosure upon request, unless exempted. (Section Government Code 7922.525.) An exemption can be explicit in the CPRA itself, pursuant to another law, or justified by the agency's determination that, based on the facts of the particular case, the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record. (See Government Code Sections 7922.000, 7922.525, 7922.530.)

One common exemption is for "personal identifying information" (PII) within the records of a public agency; the information, but not the record itself, is confidential and therefore exempt from disclosure. Existing law makes PII within an agency's records about the demographics of the individuals the agency serves, confidential. For example, Government Code Section 8310.5, cited above, requires the data collected by the state agency, board, or commission to "be made available to the public in accordance with state and federal law, except for personal identifying information, which shall be deemed confidential." (*Id.*, at (b).) Similarly, when the California Department of Corrections (CDC) collects demographic data about inmates, all PII is confidential (and therefore exempt from public disclosure in response to a CPRA request). (Penal Code Section 2068 (b).)

Penal Code Section 530.55 defines PII to mean the following:

[A]ny name, address, telephone number, health insurance number, taxpayer identification number, school identification number, state or federal driver's license, or identification number, social security number, place of employment, employee identification number, professional or occupational number, mother's maiden name, demand deposit account number, savings account number, checking account number, PIN (personal identification number) or password, United States Citizenship and Immigration Services-assigned number, government passport number, date of birth, unique biometric data including fingerprint, facial scan identifiers, voiceprint, retina or iris image, or other unique physical representation, unique electronic data including information identification

number assigned to the person, address or routing code, telecommunication identifying information or access device, information contained in a birth or death certificate, or credit card number of an individual person, or an equivalent form of identification.

This definition of PII is commonly used to not only protect the privacy of persons whose personal information is included within public records, but also to ensure that an agency does not withhold more information from the public than is necessary. (See e.g. Welfare & Institutions Code Section 18961.5 [restricting county welfare departments from sharing PII]; and Family Code Section 8813 [authorizing the sharing of information about an adoptive family with a parent under specified circumstances, except for PII about the adoptive family].) While a record can be public, PII within the record may be confidential and exempt from public disclosure.

Considering the types of the data collection the bill proposes, making personal identifying information confidential seems advisable. It is additionally consistent with the existing provisions for private employers.

Proposed amendments to address concerns from local governments. A number of local government advocates, including the Rural County Representatives of California and California State Association of Counties, have taken a position of oppose unless amended. They raise the concern that while the bill's current language was intended to limit its scope to state workers and exclude local governments and county workers, as currently in print it fails to do so. In particular they argue that the definition of "public employer" currently applies to "employer of an employee in the state 'civil service,' as that phrase is defined in Article VII of the Constitution," Article VII does not define "civil service." Therefore because "the term is often used to refer to not only the state workforce, but also segments of the local workforce whose positions are funded in part by the federal government or social services and child welfare programs," the definition in print is insufficient to exclude county employees. In order to properly achieve the goal of excluding counties and local governments from the scope of the bill, the author proposes the following amendment:

12999.1. (a) On or before the second Wednesday of May 2027, and on or before the second Wednesday of May of each year thereafter, a public employer that has 100 or more employees shall submit a pay data report to the department covering the prior calendar year, which, for purposes of this section, shall be referred to as the "reporting year."

[...]

(c) For purposes of this section, the following terms have the following meanings:

[...]

(2) "Public employer" means the employer of an employee in the state "civil service," as that phrase is defined in Article VII of the Constitution. "Public employer" does not include a local agency, as defined in subdivision (c) of Section 3511.1.

Government Code Section 3511.1 defines "local agency" as "a county, city, whether general law or chartered, city and county, town, school district, municipal corporation, district, political subdivision, or any board, commission, or agency thereof, or other local public agency." Incorporating this cross-reference explicitly excludes the listed subdivisions of state government.

The California State Association of Counties, the League of California Cities, the Rural County Representatives of California, and the Urban Counties of California removed their opposition in a letter submitted July 2.

Additional concerns from opposition appear to reflect a previous version of this bill. This bill is also opposed by Valley Industry and Commerce Association (VICA) and a coalition of construction employers. In a letter submitted to this Committee on July 1st, VICA expresses opposition to SB 464 in part on the grounds that the bill “allows for the public release of employer pay reports, provided the publication is ‘reasonably calculated’ to prevent identification of individuals. This standard is vague and subjective, offering insufficient protections for employees’ privacy and exposing businesses to unnecessary liability.” An April 10th letter from the coalition of construction employers mirrors this concern.

However, the public reporting requirement seemingly referenced in both letters appears in a previous version of this bill. Amendments taken earlier this year removed the language. The remaining public reporting language authorizes the Civil Rights Department to publish aggregate reports based on data provided by private employers, and is present in existing law. (Government Code Section 12999 (i).)

Additionally, the construction employer’s April 10th letter says the bill would require employers to ask employees about their sexual orientation. Again, this language was amended out of the bill and thus this concern appears to have been addressed.

ARGUMENTS IN SUPPORT: This measure is supported by the California Commission on the Status of Women and Girls, the California Employment Lawyers Association (CELA), the California-Hawaii State Conference of the NAACP, Equal Rights Advocates, and the Greater Sacramento Urban League. In support of the measure, CELA and Equal Rights Advocates submit:

On June 29, 2023, the Task Force to Study and Develop Reparation Proposals for African Americans issued its final report to the California Legislature. The final report surveys the ongoing and compounding harms experienced by African

Americans as a result of slavery and proposes a comprehensive reparations plan in satisfaction of the direction set forth by the Legislature in AB 3121 (2020). As part of the policy proposals the Task Force recommended a slate of measures to address the needs of the LGBTQ+ African American community, and remedy the ongoing harms of stolen labor. Specifically, the Task Force recommends enhancing annual payee data reporting requirements to ensure greater transparency and accountability in employment decisions.

Income inequality has plagued Black Californians for centuries. In 2022, for every

\$1 earned by white families, Black families earn just 58 cents, and just 52 cents for Latino families. These disparities are further exacerbated in the promotion of minority workers to executive or senior level positions. According to 2022 payee data, while white Californians make up 62% of positions at the executive or senior level, Black Californians hold just 4% of these positions.

While existing pay data provides insight into disparities, they do not extend to workers in the public sector. Requiring this pay data will help public employers assess trends of

occupational segregation, prompting public employers to make changes to their hiring, pay, or promotional practices to ensure better representation of women and people of color at all wage levels.

ARGUMENTS IN OPPOSITION: SB 464 is opposed by a coalition of construction employers and Valley Industry and Commerce Association (VICA). VICA submits:

While VICA supports policies that promote workplace equity, this bill goes beyond the appropriate scope of government-mandated reporting and introduces significant administrative, legal, and privacy concerns. Under SB 464, employers with 100 or more employees would be required to collect and report data on employee sexual orientation and store this data separately from personnel records, even though the information may only be voluntarily disclosed. Requiring employers to maintain a dual data system creates operational inefficiencies and increases compliance costs.

Moreover, SB 464 allows for the public release of employer pay reports, provided the publication is “reasonably calculated” to prevent identification of individuals. This standard is vague and subjective, offering insufficient protections for employees’ privacy and exposing businesses to unnecessary liability. Smaller employers or organizations with limited staff in specific job categories may face a higher risk of inadvertently revealing identifiable information.

In 2027, the bill would also impose identical reporting requirements on public employers, from school districts to local governments. This mandate would add to the administrative burden on agencies that are already stretched thin and would require significant investments in systems to collect, separate, and report the data accurately.

California already has strong anti-discrimination and pay equity laws. SB 464 creates overlapping obligations without demonstrating how additional reporting will meaningfully advance enforcement or equity outcomes. Instead, it places new burdens on employers without clear benefit, while risking employee trust and organizational efficiency.

REGISTERED SUPPORT / OPPOSITION:

Support

California Commission on the Status of Women and Girls
California Employment Lawyers Association
California-Hawaii State Conference of the NAACP
Equal Rights Advocates
Greater Sacramento Urban League

Opposition

California Legislative Conference of Plumbing, Heating & Piping Industry
Construction Employers Association
Finishing Contractors Association of Southern California
National Electrical Contractors Association (NECA)
Northern California Allied Trades
San Manuel Band of Mission Indians

Southern California Contractors Association
Southern California Glass Management Association (SCGMA)
United Contractors (UCON)
Valley Industry and Commerce Association (VICA)
Wall and Ceiling Alliance
Western Line Constructors Chapter, Inc., Neca, INC.
Western Painting and Coating Contractors Association
Western Wall and Ceiling Contractors Association (WWCCA)

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