


REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: May 26, 2016

TO: Honorable Members of the Rules, Elections, Intergovernmental Relations, and
Neighborhoods Committee

FROM: Sharon M. Tso 
Chief Legislative Analyst

Council File No: 15-0002-S140
Assignment No: 16-03-0244

SUBJECT: Resolution (Martinez-Bonin) to SUPPORT AB 1676 (Campos) relative to gender
pay equity.

CLA RECOMMENDATION: Adopt Resolution (Martinez-Bonin) to include in the City's 2015 – 2016 State Legislative Program, SUPPORT for AB 1676 (Campos) that would prohibit an employer, including state and local government employers, from seeking salary history information about an applicant for employment.

SUMMARY

Resolution (Martinez-Bonin), introduced on March 18, 2016, concerns AB 1676 (Campos) that would encourage gender pay equity by prohibiting employers from seeking salary history information from a job candidate and by requiring that employers provide a salary range to job applicants. The Resolution states that women comprise almost half of California's workforce and that gender inequality directly affects the pocket books of California women and families because California women are losing \$39 billion in income every year due to unequal pay. The Resolution states that AB 1676 will target a practice that perpetuates discriminatory wages by basing workers' new wages on their old wage instead of basing it on their qualifications, experience and training or the value of the position itself. The Resolution seeks an official position of the City of Los Angeles to support AB 1676.

BACKGROUND

Existing law imposes various restrictions on employers with respect to applicants for employment and employees. One such restriction is that employers cannot pay less wages to employees of the opposite sex in the same establishment for equal work that require equal skill, effort, and responsibility and that are performed under the same working conditions. A violation of any of the restrictions is a misdemeanor.

AB 1676 would amend California Labor Code Section 432.3 to prohibit an employer, including state and local government employers, from seeking salary history information, including compensation and benefits, from a job applicant. This bill would also require that an employer, upon reasonable request, provide the pay scale for a position to an applicant applying for employment. The provisions contained in this bill would be applicable to all employers, including state and local government employers. A violation of these provisions would result in a misdemeanor.

Supporters of this bill state that AB 1676 will give women more bargaining power when negotiating their salaries by removing past salary history from their new salary determination.

Supporters believe that AB 1676 will make employers more transparent in their hiring practices and would prohibit employers from using an applicant's history of low pay as a justification to continue underpaying women. Moreover, supporters state that this bill will help empower women to negotiate a fair salary and move closer to achieving equal pay in California.

Opponents of AB 1676 state that basing compensation solely on an applicant's prior salary is already a questionable business practice. In addition, opponents state that there are other non-discriminatory reasons why an employer seeks information on prior compensation, such as collecting accurate information to determine the current market rate for the position. Opponents also indicate that a current law exists that provides similar protections. Labor Code Section 1197.5 requires employers to provide equal pay for substantially similar work. While supporters find that Labor Code Section 1197.5 remedies wage discrimination once it occurs, they believe that AB 1676 will help to prevent wage discrimination in the first place. Supporters also indicate that AB 1676 will complement existing laws and will further help in reducing the pay gap in California.


Support of AB 1676 is consistent with existing City policies regarding gender pay equity.

DEPARTMENTS NOTIFIED

None

BILL STATUS

1/19/2016	Introduced
2/04/2016	Referred to the Assembly Committee on Labor and Employment
4/21/2016	Passed Committee on Labor and Employment; referred to Committee on Appropriations
5/04/2016	In Committee on Appropriations; referred to Appropriations Suspense File



Cheryl A. Banares
Analyst

SMT:cab

Attachment: 1. Resolution (Martinez-Bonin)
2. AB 1676 (Campos)

RESOLUTION RULES, ELECTIONS & INTERGOVERNMENTAL RELATIONS

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations, or policies proposed to or pending before a local, state, or federal governmental body or agency must first have been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, the California Legislative Women's Caucus is sponsoring a legislative package of policy and budget priorities centered around four pillars: Equal pay and job opportunities, access to childcare, family-friendly workplaces and building economic security by addressing poverty; and

WHEREAS, women comprise almost half of California's workforce today, and families depend on women's income more than ever before. Estimates are that in the United States, 70 percent of mothers work and more than 40 percent of mothers are the sole or primary breadwinners for their families, earning at least half of their family's income; and

WHEREAS, gender inequality directly affects the pocket books of California women and families, as California women losing \$39 billion in income every year due to unequal pay; single mothers must spend 44 percent of their income on childcare; and two-thirds of low-wage earners in California are women; and

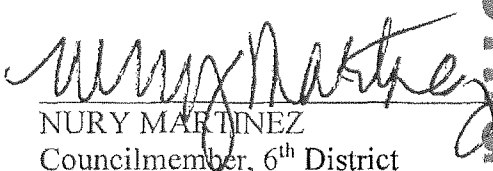
WHEREAS, one legislative measure proposed by the California Legislative Women's Caucus targets a practice that perpetuates discriminatory wages by basing workers' new wages on their old wage, not by their qualifications, experience, and training, nor by the value of the position itself; and

WHEREAS, Assembly Bill 1676 introduced by Assmemblymember Campos would encourage Gender Pay Equity by prohibiting employers from seeking job candidates' salary histories and by requiring that employers provide a salary range to a job applicant, upon reasonable request; and


WHEREAS, if enacted, AB 1676 would remove past salary history from the hiring determination, require employers to be more transparent, and help ensure that employers will not use a history of low pay as justification for continuing to underpay women;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by adoption of this Resolution, the City of Los Angeles, hereby includes in its 2015-2016 State Legislative Program SUPPORT for AB 1676 (Campos) which would give women more bargaining power when negotiating their salaries by removing past salary history from a new salary determination.

PRESENTED BY:


NURY MARTINEZ
Councilmember, 6th District

SECONDED BY:



MAR 18 2016



ORIGINAL

ASSEMBLY BILL

No. 1676

Introduced by Assembly Member Campos

(Principal coauthor: Senator Jackson)

**(Coauthors: Assembly Members Bonilla, Chiu, Cristina Garcia,
Eduardo Garcia, and Gonzalez)**

(Coauthor: Senator Liu)

January 19, 2016

An act to add Section 432.3 to the Labor Code, relating to employers.

LEGISLATIVE COUNSEL'S DIGEST

AB 1676, as introduced, Campos. Employers: salary information.

Existing law imposes various restrictions on employers with respect to applicants for employment. A violation of those restrictions is a misdemeanor.

This bill would prohibit an employer, including state and local government employers, from seeking salary history information about an applicant for employment, except as otherwise provided. The bill would require an employer, except state and local government employers, upon reasonable request, to provide the pay scale for a position to an applicant for employment. The bill would specify that a violation of its provisions would not be subject to the misdemeanor provision.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 432.3 is added to the Labor Code, to
2 read:

3 432.3. (a) An employer shall not, orally or in writing,
4 personally or through an agent, seek salary history information,
5 including, but not limited to, compensation and benefits, about an
6 applicant for employment.

7 (b) Except as provided in subdivision (e), an employer, upon
8 reasonable request, shall provide the pay scale for a position to an
9 applicant applying for employment.

10 (c) Section 433 does not apply to this section.

11 (d) This section shall not apply to salary history information
12 disclosable to the public pursuant to federal or state law, including
13 but not limited to, the California Public Records Act (Chapter 3.5
14 (commencing with Section 6250) of Division 7 of Title 1 of the
15 Government Code) or the federal Freedom of Information Act
16 (Section 552 of Title 5 of the United States Code).

17 (e) This section, except for subdivision (b), applies to all state
18 and local government employers, including, but not limited to, the
19 Legislature.