

REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: MARCH 15, 2018

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

FROM: Sharon M. Tso *SL* Council File No.: 18-0002-S4
Chief Legislative Analyst Assignment No.: 18-02-0118

SUBJECT: Resolution (Martinez – Koretz) to SUPPORT Senate Bill 820 (Levy) and Assembly Bill 403 (Melendez).

CLA RECOMMENDATION: Adopt Resolution (Martinez – Koretz) to include in the City's 2017-18 State Legislative Program SUPPORT for SB 820 and AB 403 which would improve the legal protections of legislative employees who report harassment and other ethical violations.

SUMMARY

The Resolution (Martinez – Koretz), introduced January 16, 2018, states that reports of sexual harassment have recently flooded the film industry; local, state, and federal politics; and professional sports. The City Council and Mayor of City of Los Angeles have expressed their support of efforts to eradicate these activities, including requiring all supervisory employees to be trained in identifying, preventing, and reporting any incidents of sexual harassment. Current State law contains many protections for employees who file complaints, but more can be done to improve these protections.

Senator Connie Levy (D-Chino) introduced Senate Bill 820 to ban non-disclosure agreements in sexual harassment settlements in the public and private sector, thereby eliminating these protections for those committing these crimes. Assemblymember Melissa Melendez introduced Assembly Bill 403 to provide legislative employees who report harassment and other ethical violations with all of the protections currently available to others under the California Whistleblower Protection Act.

The Resolution recommends that the City support SB 820 and AB 403.

BACKGROUND

SB 820

Senate Bill 820 aims to limit the use of confidentiality provisions in sexual harassment settlement agreements. Currently, in civil lawsuits, when writing the settlement agreement, there are often non-disclosure agreements that prevent parties from disclosing information as part of the settlement. This prevents sexual harassment survivors from discussing any information about the lawsuit. The bill would prevent the inclusion of a term in the settlement agreement that prevents parties from disclosing information about the cause of action of the lawsuit if the cause

of action is sexual assault, sexual harassment, workplace harassment, or sexual discrimination, etc. However, there is still an option for the claimant to request non-disclosure terms.

The provision would become operative on January 1, 2019 and any settlement agreement that violates the provisions on or after this date would be voided.

AB 403

Assembly Bill 403 aims to expand protections to employees who report sexual harassment at work. Existing law generally protects employees who disclose illegal or improper workplace activities by prohibiting interference with, and retaliation for, making such disclosures. Existing law provides procedures for a person to file a complaint alleging violations of legislative ethics. Existing law also authorizes each house of the Legislature to adopt rules for its proceedings and to select committees necessary for the conduct of its business.

This bill would impose criminal and civil liability on a Member of the Legislature or legislative employee, who interferes with, or retaliates against, a legislative employee's exercise of the right to make a protected disclosure. Protected disclosure is a good faith allegation made by a legislative employee that a Member of the Legislature or a legislative employee has engaged in, or will engage in, activities such as sexual harassment, or a violation of a legislative standard of conduct. The bill would also impose civil liability on an entity that interferes with, or retaliates against, a legislative employee's exercise of the right to make a protected disclosure, as specified.

By creating new crimes, the bill would impose a state-mandated local program. The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the State. Statutory provisions establish procedures for making that reimbursement. This bill would declare that it is to take effect immediately as an urgency statute.

The City Council has consistently expressed its strong support of efforts to eradicate sexual harassment in the workplace. The City has taken steps to combat harassment by requiring that all supervisory employees be trained in identifying, preventing, and reporting any incidents of sexual harassment.

The City should support SB 820 and AB 403 in order to improve the legal protections of legislative employees who report harassment and other ethical violations.

DEPARTMENTS NOTIFIED

Personnel Department

Commission on the Status of Women

BILL STATUS

SB 820

01/03/18 Introduced. Read first time. To Com. on RLS. for assignment. To print.

01/16/18 Referred to Com. on JUD.

AB 403

02/09/17 Read first time. To print.

02/21/17 Referred to Coms. on JUD. and RLS.

03/14/17 From committee: Do pass and re-refer to Com. on RLS. with recommendation: To Consent Calendar. (Ayes 11. Noes 0.) (March 14). Re-referred to Com. on RLS.

04/24/17 From committee: Do pass and re-refer to Com. on APPR. (Ayes 11. Noes 0.) (April 24). Re-referred to Com. on APPR.

05/03/17 From committee: Do pass. To Consent Calendar. (Ayes 16. Noes 0.) (May 3).

05/04/17 Read second time. Ordered to Consent Calendar. 02/05/18 Chaptered by Secretary of State - Chapter 2, Statutes of 2018.

05/11/17 Read third time. Passed. Ordered to the Senate. (Ayes 77. Noes 0. Page 1487.)

05/11/17 In Senate. Read first time. To Com. on RLS. for assignment.

05/24/17 Referred to Com. on JUD. 02/05/18 Approved by the Governor.

06/13/17 From committee: Do pass and re-refer to Com. on APPR. with recommendation: To Consent Calendar. (Ayes 7. Noes 0.) (June 13). Re-referred to Com. on APPR.

06/26/17 In committee: Referred to suspense file.

09/01/17 In committee: Held under submission.

01/03/18 Withdrawn from committee.

01/03/18 Re-referred to Com. on RLS.

01/23/18 From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on RLS.

01/24/18 Withdrawn from committee.

01/24/18 Ordered to second reading.

01/25/18 Read second time. Ordered to third reading.

01/29/18 Read third time and amended. Ordered to second reading.


01/30/18 Read second time. Ordered to third reading.

02/01/18 Read third time. Urgency clause adopted. Passed. Ordered to the Assembly.

02/01/18 In Assembly. Concurrence in Senate amendments pending. May be considered on or after February 3 pursuant to Assembly Rule 77.

02/05/18 Urgency clause adopted. Senate amendments concurred in. To Engrossing and Enrolling. (Ayes 75. Noes 0.).

02/05/18 Enrolled and presented to the Governor at 3 p.m.


 Pranita Amatya
 Analyst

Attachment:

1.

Resolution

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 have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, reports of sexual harassment have recently flooded the film industry, local, state and federal politics, and professional sports, showing the breadth of this abhorrent behavior in our society; and

WHEREAS, the City Council and Mayor of the City of Los Angeles, on numerous occasions, have expressed their strong support of all efforts to eradicate these activities, including requiring all supervisory employees to be trained in identifying, preventing, and reporting any incidents of sexual harassment; and

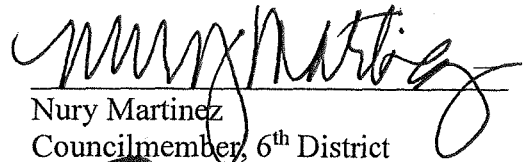
WHEREAS, current state law contains many protections for employees who file complaints, but much more can be done to improve these protections; and

WHEREAS, Senator Connie Leyva (D-Chino) recently introduced Senate Bill 820, which would ban non-disclosure agreements in sexual harassment settlements in the public and private sector, thereby eliminating these protections for those committing these crimes; and

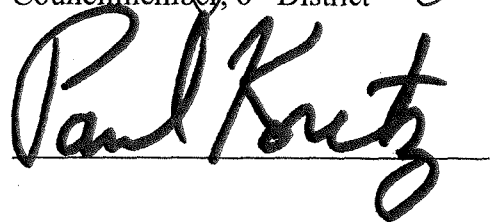
WHEREAS, in February of 2017, Assemblymember Melissa Melendez (R-Lake Elsinore) introduced Assembly Bill 403 to provide legislative employees who report harassment and other ethical violations with all of the protections currently available to others under the California Whistleblower Protection Act; and

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by adoption of this Resolution, the City of Los Angeles hereby include in its 2017-2018 State Legislative Program SUPPORT for Senate Bill 820 to provide greater transparency with regard to settlements in sexual harassment cases, and SUPPORT for Assembly Bill 403 to improve the legal protections of legislative staffers who report harassment and other ethical violations.

PRESENTED BY:


Nury Martinez
Councilmember, 6th District

SECONDED BY:



JAN 16 2018