

REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: September 25, 2017

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

FROM: Sharon M. Tso *KEK*
Chief Legislative Analyst
Council File No. 17-0002-S111
Assignment No. 17-08-0858

SUBJECT: Resolution (O'Farrell-Koretz) to SUPPORT SB 396 (Lara).

CLA RECOMMENDATION: Adopt Resolution (O'Farrell-Koretz) to include in the City's 2017-2018 State Legislative Program, SUPPORT for SB 396 (Lara) which would require employers to train their supervisors in the prevention of all forms of harassment based on gender identity, gender expression, and sexual orientation.

SUMMARY:

Resolution (O'Farrell-Koretz), introduced August 23, 2017, notes that California law requires all supervisors employed in companies with 50 or more employees to receive at least two hours of training and education in the prevention of all forms of sexual harassment. The Resolution advises that SB 396 (Lara) proposes to specifically include as part of that mandatory training information on preventing harassment that is based on gender identity, gender expression, and sexual orientation, as well as requiring employers to post in a prominent and accessible location in the workplace an informational poster regarding transgender rights at work. The Resolution therefore requests that the City support SB 396.

BACKGROUND:

Section 12950.1 of the California Government Code, adopted in 2004, requires all supervisors employed in companies with 50 or more employees to receive at least two hours of training and education in the prevention of all forms of sexual harassment. SB 396 (Lara) would specifically include as part of that mandatory training information on preventing harassment that is based on gender identity, gender expression, and sexual orientation, as well as requiring employers to post in a prominent and accessible location in the workplace an informational poster regarding transgender rights at work.

The Assembly legislative analysis of SB 396 states that the Department of Fair Employment and Housing received 15,832 Fair Employment and Housing Act (FEHA) employment discrimination complaints in 2016, of which over 500 were sexual harassment complaints and more than 800 were sex/gender discrimination complaints, including complaints alleging discrimination on the basis of gender identity or gender expression.

The City of Los Angeles has, on multiple occasions, expressed its strong commitment to support policies that protect against any form of discrimination based on race, ethnicity, national origin,

religion, sexual orientation, and disability, including the establishment of a Transgender Advisory Council to advise the City's policymakers on critical issues facing the transgender community, such as economic development, public safety, and public awareness. Support for SB 396 would be consistent with the City's previous positions.

The legislature has adopted SB 396 and has sent the bill to the Governor for approval. With adoption of this Resolution, the City would urge the Governor to sign the bill into law.

DEPARTMENTS NOTIFIED:

Human Relations Commission

BILL STATUS:

09/20/17	Enrolled
09/15/17	Passed in Senate
09/14/17	Passed in Assembly
09/07/17	Amended in Assembly
08/31/17	Amended in Assembly
06/28/17	Amended in Assembly
04/04/17	Amended in Senate
02/15/17	Introduced in Senate


Alex Whitehead
Analyst

Attachment: 1. Resolution (O'Farrell)
2. SB 396 (Lara)

RULES, ELECTIONS, INTERGOVERNMENTAL RELATIONS
RESOLUTION

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, current law requires all supervisors employed in companies with 50 or more employees to receive at least two hours of training and education in the prevention of all forms of sexual harassment; and

WHEREAS, on June 28, 2017, Senate Bill 396, authored by Senator Ricardo Lara, was amended to specifically include as part of that mandatory training information on preventing harassment that is based on gender identity, gender expression, and sexual orientation; and

WHEREAS, SB 896 would also require employers to post in a prominent and accessible location in the workplace an informational poster regarding transgender rights at work; and

WHEREAS, according to an Assembly legislative analysis of SB 396, in 2016, the Department of Fair Employment and Housing received 15,832 FEHA employment discrimination complaints, of which over 500 were sexual harassment complaints and more than 800 were sex/gender discrimination complaints, including complaints alleging discrimination on the basis of gender identity or gender expression.

WHEREAS, on multiple occasions, the City of Los Angeles has expressed its strong commitment to support policies that protect against any form of discrimination based on race, ethnicity, national origin, religion, sexual orientation, and disability, including the establishment of a Transgender Advisory Council to advise the City's policymakers on critical issues facing the transgender community, such as economic development, public safety, and public awareness.

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 396 (Lara), which would require employers to train their supervisors in the prevention of all forms of harassment based on gender identity, gender expression, and sexual orientation.

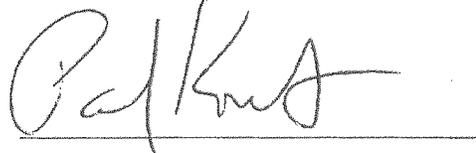
ORIGINAL



PRESENTED BY:


Mitch O'Farrell
Councilmember, 13th District

SECONDED BY:



MAY 23 2017

AMENDED IN ASSEMBLY SEPTEMBER 7, 2017

AMENDED IN ASSEMBLY AUGUST 31, 2017

AMENDED IN ASSEMBLY JUNE 28, 2017

AMENDED IN SENATE APRIL 4, 2017

SENATE BILL

No. 396

Introduced by Senator Lara
(Coauthor: Assembly Member Thurmond)

February 15, 2017

An act to amend Sections 12950 and 12950.1 of the Government Code, and to amend Sections 14005 and 14012 of the Unemployment Insurance Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

SB 396, as amended, Lara. Employment: gender identity, gender expression, and sexual orientation.

The California Fair Employment and Housing Act (FEHA) makes specified employment practices unlawful, including the harassment of an employee directly by the employer or indirectly by agents of the employer with the employer's knowledge. FEHA requires employers with 50 or more employees to provide at least 2 hours of prescribed training and education regarding sexual harassment to all supervisory employees within 6 months of their assumption of a supervisory position and once every 2 years, as specified.

This bill would additionally require employers with 50 or more employees to include, as a component of that prescribed training and education for supervisors, training inclusive of harassment based on gender identity, gender expression, and sexual orientation.

FEHA requires each employer to post a poster on discrimination in employment, which includes information relating to the illegality of sexual harassment, in a prominent and accessible location in the workplace.

The bill would also require each employer to post a poster developed by the Department of Fair Employment and Housing regarding transgender rights in a prominent and accessible location in the workplace.

The California Workforce Innovation and Opportunity Act makes programs and services available to individuals with employment barriers and creates a board, composed of the Governor and Governor-appointed members who represent specified interests, including representatives of the state workforce, to carry out specified functions in furtherance of that act.

This bill would expand the definition of an “individual with employment barriers” to include transgender and gender nonconforming individuals. The bill also would authorize the appointments to the board representing the state workforce to include representatives of community-based organizations that serve transgender and gender nonconforming individuals.

This bill would incorporate additional changes to Section 14012 of the Unemployment Insurance Code proposed by AB 957 to be operative only if this bill and AB 957 are enacted and this bill is enacted last.

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 12950 of the Government Code is
2 amended to read:
3 12950. In addition to employer responsibilities set forth in
4 subdivisions (j) and (k) of Section 12940 and in rules adopted by
5 the department and the council, every employer shall act to ensure
6 a workplace free of sexual harassment by implementing the
7 following minimum requirements:
8 (a) (1) The department shall amend its current poster on
9 discrimination in employment to include information relating to
10 the illegality of sexual harassment. This amended poster shall be
11 distributed to employers when the supply of the current poster is
12 exhausted. One copy of the amended poster shall be provided by