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AB-168 Employers: salary information. (2017-2018)

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Assembly Bill No. 168

CHAPTER 688

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

[Approved by Governor October 12, 2017. Filed with Secretary of State October 12, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 168, Eggman. 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 from relying on the salary history information of an applicant for employment as a factor in determining whether to offer an applicant employment or what salary to offer an applicant. The bill also would prohibit an employer from seeking salary history information about an applicant for employment and would require an employer, upon reasonable request, to provide the pay scale for a position to an applicant for employment. The bill would not prohibit an applicant from voluntarily and without prompting disclosing salary history information and would not prohibit an employer from considering or relying on that voluntarily disclosed salary history information in determining salary, as specified. The bill would apply to all employers, including state and local government employers and the Legislature and would not apply to salary history information disclosable to the public pursuant to federal or state law. 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 Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

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

432.3. (a) An employer shall not rely on the salary history information of an applicant for employment as a factor in determining whether to offer employment to an applicant or what salary to offer an applicant.

(b) An employer shall not, orally or in writing, personally or through an agent, seek salary history information, including compensation and benefits, about an applicant for employment.

(c) An employer, upon reasonable request, shall provide the pay scale for a position to an applicant applying for employment.

(d) Section 433 does not apply to this section.

(e) This section shall not apply to salary history information disclosable to the public pursuant to federal or state law, including the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) or

the federal Freedom of Information Act (Section 552 of Title 5 of the United States Code).

(f) This section applies to all employers, including state and local government employers and the Legislature.

(g) Nothing in this section shall prohibit an applicant from voluntarily and without prompting disclosing salary history information to a prospective employer.

(h) If an applicant voluntarily and without prompting discloses salary history information to a prospective employer, nothing in this section shall prohibit that employer from considering or relying on that voluntarily disclosed salary history information in determining the salary for that applicant.

(i) Consistent with Section 1197.5, nothing in this section shall be construed to allow prior salary, by itself, to justify any disparity in compensation.