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SB-791 Postsecondary education: academic and administrative employees: disclosure of sexual harassment. (2023-2024)

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Senate Bill No. 791

CHAPTER 415

An act to add Sections 87604.5, 89521, and 92612.1 to the Education Code, relating to postsecondary education.

[Approved by Governor October 07, 2023. Filed with Secretary of State October 07, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

SB 791, McGuire. Postsecondary education: academic and administrative employees: disclosure of sexual harassment.

(1) Under existing law, the segments of postsecondary education in this state include the University of California, the California State University, and the California Community Colleges. Existing law authorizes the governing board of each community college district and the Trustees of the California State University to employ persons in academic and administrative positions in order to carry out the functions of their respective institutions. The California Constitution provides that the University of California constitutes a public trust administered by the Regents of the University of California, a corporation in the form of a board, with full powers of organization and government, subject to legislative control only for specified purposes.

This bill would request the Regents of the University of California, and would require the Trustees of the California State University and the governing boards of community college districts, to require, as part of the hiring process for an appointment to an academic or administrative position, that the applicant disclose any final administrative decision, as defined, or final judicial decision, as defined, issued within the last 7 years, as provided, determining that the applicant committed sexual harassment, as defined. The bill would request the University of California to not ask, and would prohibit the California State University or a community college district from asking, an applicant to disclose, orally or in writing, information concerning any final administrative decision or final judicial decision described above, including any inquiry about an applicable decision on any employment application, until it has determined that the applicant meets the minimum employment qualifications stated in the notice issued for the position.

To the extent that this bill would impose new requirements on community college districts, the bill would constitute a state-mandated local program.

(2) 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 provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

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

SECTION 1. Section 87604.5 is added to the Education Code, to read:

87604.5. (a) (1) The governing board of a community college district shall require, as part of the hiring process for an appointment to an academic or administrative position with that district, that the applicant disclose any final administrative decision or final judicial decision issued within the last seven years from the date of submission of the application determining that the applicant committed sexual harassment.

(2) Applicants shall be permitted to disclose if they have filed an appeal with the previous employer or, if applicable, with the United States Department of Education.

(b) A community college district shall not ask an applicant to disclose, orally or in writing, information concerning any final administrative decision or final judicial decision described in subdivision (a), including any inquiry about an applicable decision on any employment application, until the community college district has determined that the applicant meets the minimum employment qualifications stated in the notice issued for the position.

(c) For purposes of this section, the following definitions shall apply:

(1) "Final administrative decision" means the written determination of whether or not sexual harassment occurred as determined by the decisionmaker following the final investigative report and the subsequent hearing.

(2) "Final judicial decision" means a final determination of a matter submitted to a court that is recorded in a judgment or order of that court.

(3) "Sexual harassment" has the same meaning as described in subdivision (a) of Section 66262.5 or, if applicable, as defined in Section 106.30 of Title 34 of the Code of Federal Regulations.

SEC. 2. Section 89521 is added to the Education Code, to read:

89521. (a) (1) The trustees shall require, as part of the hiring process for an appointment to an academic or administrative position with the California State University, that the applicant disclose any final administrative decision or final judicial decision issued within the last seven years from the date of submission of the application determining that the applicant committed sexual harassment.

(2) Applicants shall be permitted to disclose if they have filed an appeal with the previous employer or, if applicable, with the United States Department of Education.

(b) The California State University shall not ask an applicant to disclose, orally or in writing, information concerning any final administrative decision or final judicial decision described in subdivision (a), including any inquiry about an applicable decision on any employment application, until the California State University has determined that the applicant meets the minimum employment qualifications stated in the notice issued for the position.

(c) For purposes of this section, the following definitions shall apply:

(1) "Final administrative decision" means the written determination of whether or not sexual harassment occurred as determined by the decisionmaker following the final investigative report and the subsequent hearing.

(2) "Final judicial decision" means a final determination of a matter submitted to a court that is recorded in a judgment or order of that court.

(3) "Sexual harassment" has the same meaning as described in subdivision (a) of Section 66262.5 or, if applicable, as defined in Section 106.30 of Title 34 of the Code of Federal Regulations.

SEC. 3. Section 92612.1 is added to the Education Code, to read:

92612.1. (a) (1) The regents are requested to require, as part of the hiring process for an appointment to an academic or administrative position with the University of California, that the applicant disclose any final administrative decision or final judicial decision issued within the last seven years from the date of submission of the application determining that the applicant committed sexual harassment.

(2) Applicants shall be permitted to disclose if they have filed an appeal with the previous employer or, if applicable, with the United States Department of Education.

(b) The University of California is requested to not ask an applicant to disclose, orally or in writing, information concerning any final administrative decision or final judicial decision described in subdivision (a), including any inquiry about an applicable decision on any employment application, until the University of California has determined that the applicant meets the minimum employment qualifications stated in the notice issued for the position.

(c) For purposes of this section, the following definitions shall apply:

(1) "Final administrative decision" means the written determination of whether or not sexual harassment occurred as determined by the decisionmaker following the final investigative report and the subsequent hearing.

(2) "Final judicial decision" means a final determination of a matter submitted to a court that is recorded in a judgment or order of that court.

(3) "Sexual harassment" has the same meaning as described in subdivision (a) of Section 66262.5 or, if applicable, as defined in Section 106.30 of Title 34 of the Code of Federal Regulations.

SEC. 4. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.