

### **AB 1867 (REYES): EMPLOYMENT DISCRIMINATION: SEXUAL HARASSMENT: RECORDS**

**POSITION:** The Chamber's Education & Workforce Roundtable voted to OPPOSE this bill on February 6, 2018. The Chamber's Public Policy Committee voted to OPPOSE this bill on February 13, 2018.

**STATUS:** The bill was introduced on January 12, 2018 by Assembly Member Reyes.

#### **SUMMARY**

AB 1870 would require an employer with 50 or more employees to maintain records of employee complaints of sexual harassment for 10 years from the date of filing. The bill would authorize the department to seek an order requiring an employer that violates the recordkeeping requirement to comply.

#### **INDUSTRIES IMPACTED**

Because the bill applies to businesses with 50 or more employees, it is reasonable to assume that every industry would be touched by such a regulation.

#### **SUPPORTERS**

Consumer Attorneys of California  
California Employment Lawyer Association

#### **OPPONENTS**

None reported.

#### **ARGUMENTS IN FAVOR**

This bill would make it more difficult for an employer to cover up a history of harassment by an employee or for an employer to deny being aware of such abuses.

#### **ARGUMENTS IN OPPOSITION**

The bill would add administrative requirements for businesses as well as additional costs without directly addressing the issue of sexual harassment. The bill creates more of a financial burden than actually preventing bad behavior. While the intent is commendable, the bill fails to prevent negative actions and instead makes businesses vulnerable while assuming their guilt.

#### **MORE INFORMATION**

Existing law, the California Fair Employment and Housing Act (FEHA), prohibits an employer from taking steps that constitute harassment against an employee, including sexual harassment, as defined. The act also prohibits an employer from failing to take corrective action to remedy harassment in the workplace if the employer knows or should have known of the harassment. It prohibits an employer from failing to take all reasonable steps necessary to prevent discrimination and harassment from occurring. As currently written, the act does direct employers of five or more employees to maintain personnel documents for a minimum of two years.

FEHA further already requires the Department of Fair Employment and Housing to provide employers with a poster and an information sheet regarding sexual harassment and requires employers to post the poster in an accessible area of the workplace and either provide each employee with a copy of the information sheet or provide a specified minimum curriculum of sexual harassment education. It also 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.