

The 12 Days of California Labor and Employment Series – Day 4 “Local Enforcement of Discrimination Protections Now in Play”

2 min read

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In the spirit of the season, we are using our annual “12 Days of California Labor and Employment” blog series to address new California laws and their impact on employers. On the fourth day of the holidays, my labor and employment attorney gave to me four calling birds and SB 1340.

What Does SB 1340 Do?

SB 1340 amends Government Code Section 12993 to enable local governmental entities to enforce local laws prohibiting employment discrimination. Currently, the Civil Rights Department is the only entity authorized to enforce the employment discrimination laws as detailed in the Unruh Civil Rights Act and the Fair Employment and Housing Act (FEHA).

Under SB 1340, any city, county, or locality can enforce any local law that prohibits discrimination on the basis of race, religion, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, age, reproductive health decision making, or sexual orientation.

However, for local enforcement to be allowed, the following four requirements need to be met:

1. The local enforcement concerns an employment complaint filed with the department.
2. The local enforcement occurs after the department has issued a right-to-sue notice under Section 12965.
3. The local enforcement commences before the expiration of the time to file a civil action specified in the right-to-sue notice described in clause (ii).



4. The local enforcement is pursuant to a local law that is at least as protective as the FEHA.

The Civil Rights Department has been tasked with promulgating regulations governing local enforcement pursuant to this provision. Any local enforcement must comply with these regulations within one year of the effective date of those regulations. More importantly, SB 1340 tolls the one-year statute of limitations provided by the right-to-sue notice during any local enforcement proceedings.

What is Next for Employers?

SB 1340 takes effect as of January 1, 2025. The availability of local enforcement creates additional challenges, so employers should follow these steps to prepare:

- Monitor local laws and determine if they allow for more restrictive behavior than the Unruh Civil Rights Act or FEHA will be tantamount to staying on top of compliance.
- Unfortunately, the ability to toll the statute of limitations could effectively lengthen the time an employee has to file suit. Employers may want to consider having a point person who monitors any local anti-discrimination laws for their applicability to the employer.
- It would also be useful for employers to hold additional training or a refresher on discrimination issues in hopes of preventing any future claims.

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