



Affirmative Action Program Services

# Gerstco NEWS Alert!

## New California SB 973 Would Require Pay Data Reporting!

PROPOSED DEADLINE FOR FILING FIRST PAY REPORTS IS MARCH 31, 2021!  
PAY DATA TO BE FILED ANNUALLY ON JANUARY 1, EACH YEAR!

### What to Know

On September 30, 2020, California Governor Newsom approved Senate Bill 973, requiring all private employers with 100 or more employees, who file an annual EEO-1 Report (Employer Information Report) under federal law, to now submit a [Pay Data Report](#) to California's DFEH (Department of Fair Employment and Housing).

Specifically, SB 973 will require certain employers on or before March 31, 2021, and on or before March 31 each year thereafter, to report specified wage information and workforce demographics to DFEH in a proscribed user-friendly and searchable format. The report would include: W-2 pay data, total hours worked for each employee, EEO-1 Category, gender, race, and ethnicity, for the prior Calendar Year (Reporting Year).

SB 973 authorizes the DFEH to receive, investigate, conciliate, mediate, and prosecute complaints alleging unlawful pay practices. It also requires the EDD (Employment Development Department) to provide DFEH upon request, the names and addresses of all businesses with 100 or more employees. If DFEH does not receive the required report, it may seek an Order requiring the employer to comply.

SB 973 would require [additional reporting for federal contractors](#) who employ 100 or more employees and file an EEO-1 report.

### Background and How Did This Happen?

While SB 973 acknowledges California's progress under its recent equal pay laws, it also cites a continued gender pay gap and reminds that pay discrimination can harm families and State economies, as well as individuals.

Additionally, readers may remember the recent EEOC Component 2 EEO-1 reporting requirement rescinded by President Trump in 2019. The California SB 973 at this time is looking very similar to EEOC rescinded Component 2 reporting!

The Legislation is new and does pose interesting questions. At this time, it is not clear if SB 973 Pay Data reporting includes more than California establishments. The California Senate states the following in Section 1.(e) of the Bill:

*"It is the intent of the Legislature, in enacting this bill, to ensure that this pay data will continue to be compiled and aggregated in California."*



## SB 973 Annual Pay Data Reporting Elements.

On, or before March 31, 2021, and each year thereafter, private employers with 100 or more employees, who file annual EEO-1 Reports under federal law, would submit a pay data report to the California DFEH covering the prior calendar year.

- A. Pay Data Reports would include the total number of employees by, race, ethnicity, and sex, in the following EEO Job Categories:
    - 1.1 Executive or Senior Level Officials and Managers
    - 1.2 First or Mid-level Officials and Managers
    - 2.0 Professionals
    - 3.0 Technicians
    - 4.0 Sales Workers
    - 5.0 Administrative Support Workers
    - 6.0 Craft Workers
    - 7.0 Operatives
    - 8.0 Laborers and Helpers
    - 9.0 Service Workers
  - B. Pay data reports must include the number of employees by race, ethnicity, gender, whose annual earnings fall within each of the pay bands used by the U.S. Bureau of Labor Statistics in the Occupational Employment Statistics Survey.
  - C. Employers will select a “snapshot” period that counts all individuals by Job Category, race, ethnicity, and gender, during a single pay period between October 1 – December 31 of the selected “Reporting Year” period.
  - D. Total earnings will be calculated using the IRS Form W-2, for each of the employees in the “Reporting Year” regardless of full-time or part-time status.
  - E. “Hours worked” will be included in terms of the total number of hours worked for each employee counted in each pay band during the “Reporting Year.”
  - F. Multi-establishment employers will submit a report for each establishment and a consolidated report that includes all employees.
  - G. Include an employer North American Industry Classification System (NAICS) code with each set of pay data information.
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## SB 973 - More Information To Come.

A copy of SB 973 is included for your information. Gerstco clients will receive a data template for gathering the requested pay information as soon as there is more clarity on the scope of pay data reporting.

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## How to Prepare for 2020 Pay Data Reporting.

- A. Contact your HRIS/Payroll System regarding a possible DFEH 4th Quarter 2020 pay data request.
  - B. Select a payroll date for gathering the requested data. Contractor organizations with a January 1, 2021 AAP effective date may use the same information for Pay Data reporting. The payroll “snapshot date” would be December 31, 2020.
  - C. Review any equal pay reporting and results that have recently been done. Investigate job title areas where pay discrepancies exist. Document the business reasons for discrepancies that are significant or continue to exist.
  - D. Contractors that use Gerstco AAP services may Request an Equal Pay Data Level 1 Analysis set of reports from Gerstco for the period they will be reporting. A data gathering template will be provided by Gerstco.
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We will keep you informed. Please contact us with any questions.

Sincerely,

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