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CALIFORNIA RAISES PAY DATA REPORTING PENALTIES FIVEFOLD: 5 THINGS YOU SHOULD DO

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California Raises Pay Data Reporting Penalties Fivefold: 5 Things You Should Do

California employers that fail to file their required pay data report with the state will soon face increased fines, seeing certain penalties jump from $200 to $1,000 per employee. Thanks to SB 1237, signed by the Governor late yesterday, the court-imposed maximum civil penalty for subsequent failures to file an annual pay data report with the Civil Rights Department (CRD) will see the fivefold increase. The good news is that the new law will leave the first violation cap at $100 per employee, only ratcheting up the maximum fines for succeeding violations. What are the five things you should do to prepare for your next filing period?

Who Does the Pay Data Report Requirement Apply To?

California employers with 100 or more employees, or 100 or more labor contractors and at least one employee or labor contractor in the state or connected to the state, are subject to the law.

How Quickly Can Penalties Add Up?

Very. For an employer with 1,000 reportable employees, a second missed filing could now support a penalty of up to $1 million rather than $200,000. Because penalties are assessed per employee, exposure is based on headcount, so the largest filers will absorb the largest increase.

When is the Next Report Due?

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The reports are due on the second Wednesday of May each year. The next deadline falls on May 12, 2027, which is the first cycle in which a heightened SB 1237 penalty could apply.

Which Report Types Are Covered?

The increase is not limited to the main pay data report that must be submitted by employers with 100 or more employees. The statute separately requires those private employers with 100 or more employees hired through labor contractors to file a distinct report covering those workers, and to disclose the ownership names of all labor contractors used. A repeat failure on the labor contractor employee report carries the same $1,000 per-employee exposure as a repeat failure on the employee report.

What Hasn't Changed?

The bill leaves the apportionment provision untouched. If an employer cannot submit a complete and accurate report because a labor contractor failed to provide the required pay data, the court may apportion an appropriate share of the penalties to that labor contractor. The employer carries the primary obligation and the risk that a court declines to shift any share. And because the underlying penalty on a repeat violation is now up to five times larger, the practical value of a documented record of data requests and contractor non-response rises with it.

Does the Court Have Any Discretion?

No, thanks to a change that already took effect this year. SB 464, passed in 2025 and taking effect for the 2026 reporting year, replaced the prior discretionary standard (where a court "may" impose penalties) with a mandatory one (where a court "shall" impose" on CRD's request). Under the current framework, if CRD petitions the court over a nonfiling, the penalty follows, and administrative explanations such as technical problems, internal miscommunication, or a misread deadline do not reduce it.

What Should Employers Do Now?
Here is your five-step plan to prepare for the May 2027 report period.

1. Confirm coverage before the next cycle. Reassess employee and labor contractor counts, integrated enterprise

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questions among affiliated entities, and whether any entity crossed the 100-employee threshold during the reporting year.

2. Lock in data collection from labor contractors contractually. Build reporting obligations, data formats, and delivery deadlines into vendor agreements so you are not dependent on voluntary cooperation weeks before the deadline.

3. Assign single-point ownership of the filing, with a backup. Most non-filings trace to turnover or an unassigned task rather than a decision not to comply.

4. Cure past non-filing. Because the penalty tier turns on whether a failure is a first or subsequent one, you have a strong reason to resolve prior gaps and document the correction before the next deadline.

5. Retain proof of submission. Save confirmation records, portal receipts, and correspondence with CRD, since these are the practical defense to a claim that no report was filed.

Conclusion

Fisher Phillips will continue to monitor any new developments related to this new law and provide update employers as needed. Make sure you are signed up for Fisher Phillips' Insight System to receive updates straight to your inbox. If you have questions or need assistance filing, contact your Fisher Phillips attorney, the authors of this Insight, or any attorney in any of our California offices or on our Pay Equity and Transparency Team.

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