

AMENDED IN ASSEMBLY MARCH 14, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 25

Introduced by Assembly Member Campos

December 3, 2012

An act to amend Section 980 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 25, as amended, Campos. Employment: social media.

Existing law prohibits a private employer from requiring or requesting an employee or applicant for employment to disclose a username or password for the purpose of accessing personal social media, to access personal social media in the presence of the employer, or to divulge any personal social media. Existing law prohibits a private employer from discharging, disciplining, threatening to discharge or discipline, or otherwise retaliating against an employee or applicant for not complying with a request or demand that violates these provisions.

This bill would apply the provisions described above to public employers. The bill would state that its provisions address a matter of statewide interest and apply to public employers generally, including charter cities and counties.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 980 of the Labor Code is amended to
- 2 read:

1 980. (a) As used in this chapter:

2 (1) “Employer” means a private employer or a public employer.
3 *For purposes of this chapter, “public employer” means the state,*
4 *a city, a county, or a district.*

5 (2) “Social media” means an electronic service or account, or
6 electronic content, including, but not limited to, videos, still
7 photographs, blogs, video blogs, podcasts, instant and text
8 messages, ~~email~~, *e-mail*, online services or accounts, or Internet
9 Web site profiles or locations.

10 (b) An employer shall not require or request an employee or
11 applicant for employment to do any of the following:

12 (1) Disclose a username or password for the purpose of
13 accessing personal social media.

14 (2) Access personal social media in the presence of the
15 employer.

16 (3) Divulge any personal social media, except as provided in
17 subdivision (c).

18 (c) Nothing in this section shall affect an employer’s existing
19 rights and obligations to request an employee to divulge personal
20 social media reasonably believed to be relevant to an investigation
21 of allegations of employee misconduct or employee violation of
22 applicable laws and regulations, provided that the social media is
23 used solely for purposes of that investigation or a related
24 proceeding.

25 (d) Nothing in this section precludes an employer from requiring
26 or requesting an employee to disclose a username, password, or
27 other method for the purpose of accessing an employer-issued
28 electronic device.

29 (e) An employer shall not discharge, discipline, threaten to
30 discharge or discipline, or otherwise retaliate against an employee
31 or applicant for not complying with a request or demand by the
32 employer that violates this section. However, this section does not
33 prohibit an employer from terminating or otherwise taking an
34 adverse action against an employee or applicant if otherwise
35 permitted by law.

36 SEC. 2. Because of the crucial privacy rights at issue and the
37 growing abuse of those rights, the Legislature finds and declares

- 1 that this act addresses a matter of statewide interest and applies to
- 2 public employers generally, including charter cities and counties.

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