

AMENDED IN SENATE SEPTEMBER 4, 2015

AMENDED IN SENATE AUGUST 31, 2015

AMENDED IN SENATE JULY 16, 2015

AMENDED IN ASSEMBLY JUNE 1, 2015

AMENDED IN ASSEMBLY APRIL 6, 2015

AMENDED IN ASSEMBLY MARCH 24, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## ASSEMBLY BILL

**No. 883**

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**Introduced by Assembly Member Low**

February 26, 2015

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An act to add Section 432.6 to the Labor Code, relating to employment.

### LEGISLATIVE COUNSEL'S DIGEST

AB 883, as amended, Low. Employment: public employee status.

Existing law regulates the terms and conditions of employment and, in particular, contracts and applications for employment. Existing law prohibits private employers from requiring an applicant for employment to take a polygraph test as a condition of employment or continued employment. Existing law generally prohibits public and private employers from requiring an applicant to disclose an arrest or detention that did not result in a conviction, subject to various exceptions. Existing law makes a violation of these provisions a misdemeanor.

This bill ~~would~~ *would, on and after July 1, 2016*, prohibit a state or local agency, as defined, from publishing or posting a job advertisement or announcement that states or indicates ~~directly or indirectly that the~~

~~applicant for employment must not be a current or former public employee, as described. The bill would also prohibit these employers from communicating, directly or indirectly, that an applicant's status as a current or former public employee disqualifies an individual from eligibility for employment or from basing an adverse employment decision on an applicant's current or former employment as a public employee. The bill would create a related prohibition for a person who operates an Internet Web site for posting jobs in this state: that an individual's status as a current or former public employee disqualifies an individual from eligibility for employment. The bill would, on and after July 1, 2016, also prohibit a state or local agency from asking an applicant to specifically disclose, orally or in writing, the applicant's status as a current or former public employee until the employer has determined that the applicant meets the minimum employment qualifications for the position. The bill would except these provisions from the misdemeanor provisions described above.~~

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 432.6 is added to the Labor Code, to
- 2 read:
- 3 432.6. (a) A state or local agency shall not do any of the
- 4 following:
- 5 (1) Publish in print, on an Internet Web site, or in any other
- 6 medium, an advertisement or announcement for any job that
- 7 includes a provision stating or indicating ~~directly or indirectly that~~
- 8 ~~the applicant for employment must not be a current or former~~
- 9 ~~public employee. that an individual's status as a current or former~~
- 10 ~~public employee disqualifies an individual from eligibility for~~
- 11 ~~employment.~~
- 12 ~~(2) Communicate or disclose directly or indirectly, through any~~
- 13 ~~written form or verbally, that an applicant's status as a current or~~
- 14 ~~former public employee disqualifies an individual from eligibility~~
- 15 ~~for employment.~~
- 16 ~~(3) Make an adverse employment decision based on an~~
- 17 ~~applicant's current or former employment as a public employee.~~
- 18 ~~(b) A person who operates an Internet Web site for posting jobs~~
- 19 ~~in this state shall not publish on that Internet Web site an~~

1 ~~advertisement or announcement for any job that includes a~~  
2 ~~provision stating or indicating directly or indirectly that the~~  
3 ~~applicant for employment must not be a current or former public~~  
4 ~~employee.~~

5 *(2) Ask an applicant to specifically disclose, orally or in writing,*  
6 *the applicant's status as a current or former public employee until*  
7 *the employer has determined that the applicant meets the minimum*  
8 *employment qualifications for the position, as stated in the*  
9 *published notice for the job.*

10 ~~(e)~~

11 *(b)* This section shall not be construed to prohibit an employer  
12 or a person who operates an Internet Web site for posting jobs  
13 from:

14 *(1)* Publishing in print, on an Internet Web site, or in any other  
15 medium, an advertisement or announcement for a job that contains  
16 provisions setting forth qualifications for the job, including:

17 *(A)* Holding a current and valid professional or occupational  
18 license, certificate, registration, permit, or other credential.

19 *(B)* Requiring a minimum level of education or training or  
20 professional, occupational, or field experience.

21 *(C)* Stating that only individuals who are current employees of  
22 the employer will be considered for that job.

23 *(2)* Setting forth qualifications for a job, including:

24 *(A)* Holding a current and valid professional or occupational  
25 license, certificate, registration, permit, or other credential.

26 *(B)* Requiring a minimum level of education, training, or  
27 professional, occupational, or field experience.

28 *(C)* Stating that only individuals who are current employees of  
29 the employer will be considered for that job.

30 *(3)* Obtaining information regarding an individual's current or  
31 former status as a public employee, including recent relevant  
32 experience.

33 *(4)* Having knowledge of a person's current or former status as  
34 a public employee.

35 *(5)* Otherwise making employment decisions pertaining to that  
36 individual.

37 ~~(d)~~

38 *(c)* Section 433 does not apply to this section.

39 ~~(e)~~

- 1     (d) As used in this section, “current or former public employee”  
2 includes any person who is currently, or was previously, employed  
3 by a public entity, as well as any person who is a participant in a  
4 government retirement system.
- 5     (f)
- 6     (e) As used in this section:
- 7         (1) “State agency” means any state office, officer, department,  
8 division, bureau, board, commission, or agency.
- 9         (2) “Local agency” means any county, city, city and county,  
10 including a charter city or county, or any special district.
- 11     (f) *This section shall become operative on July 1, 2016.*