

# DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

## 2010 LEGISLATIVE SUMMARY

The following bills, affecting or related to California's civil rights statutes, were signed and chaptered into law by Governor Schwarzenegger in 2010. Unless otherwise noted, the measures became effective January 1, 2011. They are organized by subject matter.

### EMPLOYMENT

#### Retiree health benefits

Assembly Bill 1814 conformed the Fair Employment and Housing Act (FEHA) to the federal Age Discrimination in Employment Act (ADEA) by amending Government Code section 12940, subdivision (a)(5), to expressly state that bridge retiree health benefits, which either cease or are reduced when a retiree becomes eligible for Medicare at age 65, do not violate the FEHA's prohibition against age discrimination in employment. The amendment applied to all retiree health benefit plans and contractual provisions in effect on January 1, 2011.

**Bill Number:** AB 1814 (Buchanan) (Stats. 2010, ch. 130.)

**Code Section Amended:** Government Code section 12940.

**Code Section Added:** None.

### HOUSING

#### Housing discrimination damage caps; source of income: age discrimination

The Department of Fair Employment and Housing drafted and sponsored Senate Bill 1252 which: (1) amended Government Code section 12987 to raise the civil penalty caps for housing discrimination committed with fraud, oppression, or malice from \$10,000, \$25,000, and \$50,000 for first, second, and third violations, respectively, to \$16,000, \$37,500, and \$65,000, to conform the FEHA to the federal Fair Housing Amendments Act; (2) added "source of income" to the list of protected characteristics in Government Code sections 12920, 12921 and 12955.8, which were not amended to be consistent with existing law when "source of income" was permanently added as a protected characteristic effective January 1, 2005; (3) added subdivision (i) to section 12927 of the Government Code to make clear that, as used throughout the FEHA in connection with housing accommodations, "source of income" means "lawful, verifiable income paid directly to a tenant or paid to a representative of a tenant" and "a landlord is not considered a representative of a tenant" under the FEHA's housing provisions; and (3) amended Civil Code sections 51.2 and 51.10 and Government Code section 12955 to expressly state that admission preferences based on age, imposed in

connection with a federally-approved housing program, do not constitute age discrimination in housing.

**Bill Number:** SB 1252 (Corbett) (Stats. 2010, ch. 524.)

**Code Sections Amended:** Civil Code sections 51.2 and 51.10; Government Code sections 12920, 12921, 12927, 12955, 12955.8, and 12987.

**Code Sections Added:** None.

## **RELATED STATE STATUTES**

### **Paid leave entitlement for organ and bone marrow donations**

California law requires that state employees who have exhausted sick leave be permitted to take up to thirty days of paid leave to donate organs and up to five days of paid leave to donate bone marrow. SB 1304 requires private employers with fifteen or more employees to provide up to thirty days paid leave per year for organ donation and up to five days of paid leave per year for bone marrow donation. The bill also requires private employers to restore an employee returning from leave for organ or bone marrow donation to the same position the employee held when the leave began, or to an equivalent position. The bill prohibits a private employer from interfering with an employee taking organ or bone marrow donation leave and from retaliating against an employee for taking the leave or opposing a related unlawful employment practice. The bill also creates a private right of action for an aggrieved employee to seek enforcement of its provisions.

**Bill Number:** SB 1304 (DeSaulnier) (Stats. 2010, ch. 646.)

**Code Section Amended:** None.

**Code Section Added:** Labor Code sections 1508 & 1509.