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SB 403 – Caste Bias Prohibition Up for Discussion

SB 403 proposes to amend the Unruh Civil Rights Act, Education Code, and FEHA to add caste as a protected category and, in turn, to prohibit discrimination based upon caste. The bill proposes to define "caste" as:

- an individual's perceived position in a system of social stratification on the basis of inherited status. A system of social stratification on the basis of inherited status may be characterized by factor that may include, but are not limited to, inability or restricted ability to alter inherited status; socially enforced restrictions on marriage, private and public segregation, and discrimination; and social exclusion on the basis of perceived status.

Section 1(a). As the bill describes, while "caste systems are strongly associated with South Asia, similar systems exist" elsewhere. Section 1(b). Wikipedia has a good summary explanation of what a caste system is: https://en.wikipedia.org/wiki/Caste

Importantly, if enacted, the bill essentially applies retroactively as it expressly provides that the amendments are simply "declarative of and clarify existing law' and "shall not be construed to mean that caste discrimination is not already prohibited under existing law, including by protections for religion, ancestry, national origin, ethnicity, race, color, or any other protected characteristic under existing law." Section 1(g).

SB 403 follows on the heels of recent lawsuits alleging discrimination against Dalit people, members of the lowest caste in India's caste system (the so-called "untouchable" caste). Caste discrimination lawsuits have been brought against Apple and Cisco, and incidents of caste discrimination at Google and Meta Platforms (i.e., Facebook) have all made the news rounds.

On April 26, 2023, the bill unanimously passed through the Appropriations Committee. If enacted, the law is anticipated to be challenged as violating religious freedom and equal protection.

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