

STATE OF CALIFORNIA
Budget Change Proposal - Cover Sheet
 DF-46 (REV 10/20)

Fiscal Year 2022-23	Business Unit 1700	Department Department of Fair Employment and Housing	Priority No.
Budget Request Name		Program	Subprogram

Budget Request Description
 Department of Fair Employment and Housing Name Change

Budget Request Summary

The Department of Fair Employment and Housing requests trailer bill language to change the DFEH's name to the Civil Rights Department and to change the name of the Fair Employment and Housing Council to the Civil Rights Council. This change will more accurately reflect DFEH's existing powers and duties, increase Californians' awareness of and access to departmental services, and more effectively and efficiently implement budget provisions related to combatting hate violence.

Requires Legislation <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Code Section(s) to be Added/Amended/Repealed Government Code section 12925 and various other corresponding sections	
Does this BCP contain information technology (IT) components? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <i>If yes, departmental Chief Information Officer must sign.</i>	Department CIO	Date

For IT requests, specify the project number, the most recent project approval document (FSR, SPR, S1BA, S2AA, S3SD, S4PRA), and the approval date.

Project No. Project Approval Document:

Approval Date:

If proposal affects another department, does other department concur with proposal? Yes No

Attach comments of affected department, signed and dated by the department director or designee.

Prepared By Mike Miller	Date 5/12/2022	Reviewed By Mary Wheat	Date 5/12/2022
Department Director Kevin Kish	Date 5/12/2022	Agency Secretary Lourdes M. Castro Ramirez	Date 5/12/2022

Department of Finance Use Only

Additional Review: Capital Outlay ITCU FSCU OSAE Dept. of Technology

PPBA Andrew March	Date submitted to the Legislature 5/13/2022
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A. Budget Request Summary

The Department of Fair Employment and Housing (DFEH) requests trailer bill language to change the DFEH's name to the Civil Rights Department and to change the name of the Fair Employment and Housing Council to the Civil Rights Council. This change will more accurately reflect the DFEH's existing powers and duties, increase Californians' awareness of and access to departmental services, and more effectively and efficiently implement budget provisions related to combatting hate violence.

B. Background/History

In accordance with its statutory mandate to "eliminate discrimination" in California, DFEH receives, investigates, conciliates, mediates, and prosecutes complaints of alleged violations of the Fair Employment and Housing Act (FEHA) and other state and federal antidiscrimination laws covering employment and housing. (Gov. Code § 12930) In addition to enforcing civil rights laws applicable to employment and housing, the department receives, investigates, conciliates, mediates, and prosecutes complaints under:

- The **Ralph Civil Rights Act**, which prohibits violence or intimidation by threat of violence against an individual based on a protected characteristic (popularly known as "hate violence") (Civ. Code § 51.7);
- The **California Trafficking Victims Protection Act**, which provides a civil remedy against human trafficking (Civ. Code § 52.5);
- The **Unruh Civil Rights Act**, which prohibits private businesses and other types of public accommodations from denying services to or otherwise discriminating against an individual based on a protected characteristic (Civ. Code § 51);
- **Government Code section 11135**, which prohibits state-administered and state-funded programs and activities from denying full and equal access to an individual based on a protected characteristic;
- **The Disabled Persons Act**, which provides individuals with disabilities or medical conditions the same full and free access to public rights-of-way, buildings, medical facilities, and other public facilities and places, as is granted to the general public (Civ. Code § 54); and
- **Civil Code section 51.9**, which prohibits sexual harassment by a person who has, or who holds themselves out to have, a business, service, or professional relationship, against the individual with whom they have or purport to have that relationship. (Gov. Code § 12930.)

A critical component of meeting DFEH's mission is the department's extensive efforts to provide employers, housing providers, businesses, state-funded programs and activities, and the public clear, accurate, and easily accessible information related to their rights and responsibilities under the laws that DFEH enforces. With respect to hate violence, for example, in the past two years, DFEH leadership has reached tens of thousands of individuals through webinars, and the department has conducted substantial outreach to community groups, business groups, and other stakeholders to provide information and support. For example, since August 2020, DFEH and Stop AAPI Hate have collaborated to ensure that members of the Asian American and Pacific Islander (AAPI) communities know their rights and know that the DFEH is available to them. Additionally, DFEH and Stop AAPI Hate have co-produced webinars and DFEH has trained Stop AAPI Hate volunteers on the services DFEH offers. In February 2021, DFEH launched a statewide anti-discrimination campaign titled Keep California Fair – with social media, videos, radio spots, posters, and even billboards on the sides of food trucks. And, most recently, DFEH has been working to implement the "California v. Hate resource line and network" (see Justification for more information).

In addition, DFEH is authorized to "provide assistance to communities and persons therein in resolving disputes, disagreements, or difficulties relating to discriminatory practices . . . that impair the rights of persons in those communities under the Constitution or laws of the United States or of this state." (Gov. Code § 12931.) DFEH also must "maintain liaison with the human relations commissions of cities, counties, and any city and county, and shall provide any information not designated by law as confidential to such commissions on request." (Gov. Code § 12933.)

Within DFEH is the Fair Employment and Housing Council, which is authorized to promulgate regulations implementing most of the laws enforced by DFEH and to “hold hearings, issue publications, results of inquiries and research, and reports to the Governor and the Legislature that, in its judgment, will tend to aid in effectuating the purpose of this part, promote good will, cooperation and conciliation, and minimize or eliminate unlawful discrimination, or advance civil rights in the State of California.” (Gov. Code § 12935.) At present, the Council has subcommittees actively working on topics related to hate violence (Ralph Civil Rights Act), businesses/public accommodations (Unruh Civil Rights Act), and state-funded and state-administered programs and activities (Gov. Code § 11135), as well as topics related to employment and housing. For example, the Council recently held an all-day civil rights hearing on hate violence, sponsored a free public training on bystander intervention against racist and xenophobic harassment, and wrote to law enforcement departments and district/city/county attorneys across California to share information about DFEH’s authority and resources relevant to hate violence.

DFEH did not always have such broad authority outside of employment and housing. In 1959, California enacted the Fair Employment Practices Act and, in 1963, the Rumsford Fair Housing Act – the state’s first antidiscrimination laws covering employment and housing, respectively. In 1980, the Legislature combined these two laws into the FEHA, established DFEH to investigate FEHA violations, and established the Fair Employment and Housing Commission as part of DFEH to adjudicate FEHA claims and promulgate regulations. In 2013, the Legislature transformed DFEH from an adjudicatory agency to a prosecutorial agency, abolished the Fair Employment and Housing Commission, and established the Fair Employment and Housing Council.

Since 1980, DFEH’s authority has grown to include each of the civil rights laws that the department now enforces. Today, DFEH is the largest state civil rights agency in the United States.

Resource History
(Dollars in thousands)

Program Budget	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22 (projected)
Authorized Expenditures	\$30,165	\$29,038	\$35,747	\$36,621	\$40,303	\$59,963
Actual Expenditures	\$28,218	\$27,615	\$32,288	\$34,070	\$39,541	\$59,963
Revenues	\$187	\$503	\$1,638	\$556	\$412	\$700
Authorized Positions	213.8	220.8	238.8	238.8	275.5	300.5
Filled Positions	178.3	196.4	193.1	210.8	216.5	270.5
Vacancies	35.5	24.4	45.7	28.0	59.0	30.0

C. State Level Consideration

The Legislature has expressed the state's public policy that the civil rights of each and every Californian must be protected. The services of the Department are "necessary to protect and safeguard the right and opportunity of all persons to seek, obtain, and hold employment without discrimination or abridgment on account of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender expression, gender identity, age, sexual orientation, or military and veteran status." (Gov. Code § 12920.) Likewise, hate violence, housing discrimination, and other civil rights violations are against public policy. (Id.) California provides greater civil rights protections than does federal law, as set forth in the Government Code, which states that "this state's law has always, even prior to passage of the federal act, afforded additional protections." (Gov. Code § 12926.1).

Hate violence and other forms of discrimination and harassment are contrary to DFEH's mission, and the department works hard each day to counter biases at the individual and systemic level. In addition to DFEH's core enforcement, mediation, and prosecutorial activities, the department conducts extensive outreach and education aimed at preventing discrimination before it occurs and ensuring victims know to turn to DFEH. In the course of these efforts, it has become clear to the Administration and to stakeholders that the department's name is an obstacle to Californians knowing about and accessing DFEH's services related discrimination, harassment, and hate violence occurring outside of employment and housing. Community-based organizations, civil rights groups, and law enforcement officials have all noted that our current name prevents some people from reaching out to us to receive services because they think that we do not address issues like human trafficking, hate violence or discrimination in public accommodations in addition to employment and housing.

D. Justification

Summary

California residents, businesses, housing providers, and governmental agencies typically understand that DFEH enforces antidiscrimination laws pertaining to employment and housing, because the department's current name – the Department of Fair Employment and Housing – says so. However, they are often unaware that DFEH also enforces civil rights laws outside of those areas, including civil laws that prohibit hate violence, human trafficking, and discrimination by private businesses and state-administered or state-funded entities. To increase awareness regarding its scope of authority, to better enable Californians to access the department's services, and to more effectively and efficiently implement budget provisions relating to stemming hate violence, DFEH requests trailer bill language to change its name to the Civil Rights Department. Relatedly, DFEH proposes to change the name of the Fair Employment and Housing Council to the Civil Rights Council. The department does not, however, propose to rename the FEHA, which is accurate to its scope.

Problem to be addressed

Despite the broad scope of DFEH's existing powers and duties outside of employment and housing, the department's current name implies that its authority is limited to the enforcement of antidiscrimination laws relating only to employment or housing. And while DFEH's authorizing statute, website, intake forms, complaint portal, educational materials, and annual report accurately reflect the department's responsibilities and activities, the department's name is an obstacle to Californians knowing about and accessing the department's services, as numerous stakeholders have identified.

For example, DFEH's authority includes the Ralph Civil Rights Act, which, as noted above, provides a civil remedy against hate violence. DFEH staff have subject matter expertise regarding not only legal rights, obligations, and process, but also the broader social and cultural context and effective interventions. Since the onset of the COVID-19 Pandemic, DFEH has played a leadership role in responding to the intensification of hate violence against individuals and communities of Asian descent, among others. In addition to DFEH's core enforcement activities, DFEH has issued

guidance, provided educational programs, conducted extensive outreach, and sponsored a statewide multimedia campaign called Keep California Fair. Most recently, \$10 million was included in the 2021 Budget Act for DFEH to create the “California v. Hate resource line and network” (see subsection below for more information).

Still, to this day, many stakeholders and the general public remain unaware of DFEH's relevant authority and subject matter expertise. That is not surprising given DFEH's current name: many people who have experienced hate violence while walking down the street, dining at a restaurant, exercising at the gym, or in any other non-employment or non-housing setting simply do not think to turn to DFEH, because the department's current name implies it is only concerned with employment and housing issues. The same is true for other areas of DFEH's authority outside of the employment and housing contexts, such as consumers facing disability or religious discrimination at a movie theater or supermarket, patients facing racial or gender identity discrimination by a hospital or insurance company, beneficiaries of state-funded programs who cannot access them due to language barriers, and people who have been trafficked for forced labor and/or sex. Such fact patterns are within DFEH's existing jurisdiction, but few Californians know this.

In fact, over the past few years, stakeholder groups have repeatedly remarked that the department's name is not helpful with respect to effectuating DFEH's role against hate violence and other forms of discrimination and harassment happening outside of employment and housing contexts. Still, these stakeholder groups have continued to partner with DFEH because they have come to trust our department's relevant expertise, commitment to combatting bias, and follow-through.

Solution

Renaming DFEH to the Civil Rights Department will help ensure that Californians, as well as other agencies and bodies, are better aware of the full scope of DFEH's services. For example, Californians commonly understand and use the concept of “civil rights” to mean protections against hate violence as well as discrimination, harassment, and retaliation in employment, housing, commerce, health care, public benefits, and other spheres. In turn, when a victim of hate violence or discrimination in any setting is looking for the state agency that can serve them, they commonly look for a “civil rights” agency. Therefore, changing DFEH's name to be the Civil Rights Department will enable people to more easily identify the department and utilize its services. This is especially important outside of the employment and housing settings, because, as explained above, DFEH's current name masks the department's pertinent powers and duties. In this regard, renaming DFEH is directly responsive to the call of community leaders, law enforcement officials, and others who have shared that DFEH's current name prevents people who would benefit from our services from accessing them.

In addition to helping dispel confusion and misperceptions about DFEH's authority, renaming the department to be the Civil Rights Department will more clearly center Californians' civil rights into California governance. At the same time, renaming DFEH to be the Civil Rights Department reflects existing law. The FEHA – which creates DFEH and the Fair Employment and Housing Council and which establishes that it is administered and principally enforced by DFEH – “recognize[s]” and “declares” its protections to be “civil rights.” (Gov. Code § 12921.) Likewise, the proposed name reflects how the department already describes itself. For example, DFEH's mission statement explains that DFEH “is the state agency charged with enforcing California's civil rights laws” and DFEH's educational materials describe the department as “California's civil rights agency.” And the proposed name is more consistent than DFEH's current name with agencies like DFEH in other jurisdictions, such as the Michigan Department of Civil Rights and the Los Angeles City Civil + Human Rights and Equity Department.

Renaming DFEH will also benefit California by allowing the department to more successfully implement specific budget provisions related to combatting hate violence. The 2021 Budget Act included \$10 million for DFEH to administer and implement a Statewide Hate Crimes Hotline. Following dozens of meetings with community groups, state and local agencies, academics, and

other stakeholders, as well as strategic planning, DFEH is in the process of creating the “California v. Hate Resource Line and Network,” which will be an online and phone-based service that (1) informs victims of hate about their options, including available governmental and non-government services, such as culturally-competent health services, DFEH’s complaint process and mediation services, and criminal law enforcement options; (2) connects victims to the services they believe will benefit them and supports victims through the process; and (3) gathers information on hate incidents in California and their adverse effects on health, well-being, and the economy, to provide better understanding for community organizations, local governments, and service providers trying to meet the needs of people targeted for hate and for policy makers trying to more effectively direct resources and support. DFEH is planning to launch California v. Hate in the latter part of 2022. As DFEH prepares to launch this major initiative, the department’s current name is proving an impediment. Some community advocates and law enforcement officials we have consulted rightfully wondered at first: Why is the Department of Fair Employment and Housing charged with launching a statewide hotline for victims of hate incidents? While the answer – that DFEH enforces the Ralph Civil Rights Act and the Unruh Civil Rights Act – is clear, DFEH’s current name is apt to not only cause confusion among Californians who might utilize this resource, but may even deter them from taking advantage of it. In response, DFEH would need to expend substantial time and resources dispelling such confusion. If DFEH is renamed to be the Civil Rights Department, in contrast, there will be instant synergy between the department’s new name and California v. Hate, which will aid implementation of this program.

Renaming DFEH to be the Civil Rights Department will help ensure the success of two pending budget proposals for Community Conflict Resolution and Conciliation and to establish the Commission on the State of Hate pursuant to Chapter 712, Statutes of 2021 (AB 1126).

E. Outcomes and Accountability

If this proposal is approved, DFEH expects the following outcomes:

- Increased public awareness of DFEH’s role as California’s civil rights agency
- Increased use by the public of DFEH’s services for issues outside of employment and housing
- Reduced impediments to DFEH educating Californians about their civil rights, and helping employers, businesses, housing providers, and state and local agencies understand and comply with the law.
- More effective and efficient implementation of the California v. Hate resource line and network, as well as other budget provisions that may be approved.

By approving this proposal, complaints and requests for DFEH services may increase beyond projections due to increased awareness of DFEH’s role as California’s civil rights agency. The ultimate goal, however, is to reduce complaints filed with DFEH by reducing actual bias and increasing awareness of California law.

The vast majority of complaints received by the department are related to employment or housing, reflecting the department’s current name. DFEH anticipates that trend to continue, given the prominence of employment and housing in Californians’ lives. DFEH is committed to ensuring its name change does not detract from its employment and housing activities, including by conducting extensive public outreach and education across the state and to stakeholders, thoughtfully implementing the name change over a transition period as other departments have successfully done, and ensuring that existing DFEH resources, such as DFEH’s website, redirects people to a new URL utilizing the new name.

F. Analysis of All Feasible Alternatives

Alternative 1: Approve the request.

Pro: DFEH will be able to more effectively and efficiently administer and implement its existing powers and duties, as well as specific budget provisions related to combatting hate violence.

Con: None identified.

Alternative 2: Deny the request.

Pro: None identified.

Con: Californians will continue to be unaware or confused about the full scope of DFEH's services, and the department will have to expend significant time and resource informing Californians about its services outside of employment and housing settings.

G. Implementation Plan

DFEH has consulted with other departments that recently changed names and has identified the major activities needed, including updating the department's IT infrastructure (such as staff email addresses and the department's website address), website content, social media accounts, complaint forms, educational materials, seal, state dire letterhead, envelopes, business cards and location signage. In addition, the department plans to conduct extensive public outreach and education across the state and to stakeholders to reintroduce the department, thoughtfully implement the name change over a transition period, and ensure that DFEH's current website redirects people to a new URL utilizing the new name.

H. Supplemental Information

None

I. Recommendation

Approve Alternative 1 to change the DFEH's name to the Civil Rights Department and to change the name of the Fair Employment and Housing Council to the Civil Rights Council. This change will more accurately reflect the DFEH's existing powers and duties, increase Californians' awareness of and access to departmental services, and more effectively and efficiently implement budget provisions related to combatting hate violence.