

AMENDED IN ASSEMBLY APRIL 1, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2900**

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**Introduced by Assembly Member Laird**  
*(Coauthors: Assembly Members Dymally, Goldberg, Hancock,  
Kehoe, Leno, Lieber, Longville, and Nation)*  
*(Coauthor: Senator Kuehl)*

February 20, 2004

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An act to amend Sections 44100, 44101, 44858, 45293, 69958, 87100, and 88112 of the Education Code, to amend Sections 19572, 19572.1, 19702, 19704, and 19793 of the Government Code, to amend Sections 1156.3, 1735, 1777.6, and 3095 of the Labor Code, to amend Section 130 of the Military and Veterans Code, to amend Sections 25051, 28850, 30750, 50120, 70121, 90300, 95650, 98161, 100303, 101343, 102402, 103403, 120504, and 125523 of the Public Utilities Code, to amend Section 1256.2 of the Unemployment Insurance Code, and to amend Sections 11320.31, 11322.62, and 14087.28 of the Welfare and Institutions Code, relating to employment discrimination.

LEGISLATIVE COUNSEL'S DIGEST

AB 2900, as amended, Laird. Employment: discrimination.

~~Under existing law, it is unlawful to engage in specified discriminatory employment practices, including hiring, promotion, and termination, on the basis of~~

*Various provisions of existing law prohibit discrimination in employment on different bases, including the race, color, sex, religion, and marital status of a person.*

*This bill would amend those provisions to instead prohibit discrimination on the same bases as in the Fair Employment and Housing Act. Those bases are race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation.*

~~This bill would state the intent of the Legislature to enact legislation to address employment discrimination issues.~~

*Because existing law makes a violation of certain of those nondiscrimination provisions a misdemeanor, this bill, by expanding the bases on which discrimination is prohibited, would impose a state-mandated local program.*

*This bill would also make technical, nonsubstantive changes to those provisions.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 ~~SECTION 1. It is the intent of the Legislature to enact~~  
2 ~~legislation to address employment discrimination issues.~~

3 SECTION 1. Section 44100 of the Education Code is  
4 amended to read:

5 44100. (a) The Legislature finds and declares ~~that the~~  
6 following:

7 ~~(a)~~

8 (1) Generally, California school districts employ a  
9 disproportionately low number of racial and ethnic minority  
10 classified and certificated employees and a disproportionately low  
11 number of women and members of racial and ethnic minorities in  
12 administrative positions.

13 ~~(b)~~

14 (2) It is educationally sound for the minority student attending  
15 a racially impacted school to have available to him *or her* the  
16 positive image provided by minority classified and certificated



1 employees. It is likewise educationally sound for the child from  
2 the majority group to have positive experiences with minority  
3 people ~~which~~, *that* can be provided, in part, by having minority  
4 classified and certificated employees at schools where the  
5 enrollment is largely made up of majority group students. It is also  
6 educationally important for students to observe that women as well  
7 as men can assume responsible and diverse roles in society.

8 ~~(e)~~

9 (3) Past employment practices created artificial barriers and  
10 past efforts to promote additional action in the recruitment,  
11 employment, and promotion of women and minorities ~~have not~~  
12 ~~resulted~~ *did not result* in a substantial increase in employment  
13 opportunities for these persons.

14 ~~(d)~~

15 (4) Lessons concerning democratic principles and the richness  
16 ~~which~~ *that* racial diversity brings to our national heritage can be  
17 best taught by ~~the presence of~~ *staffs composed of* mixed races and  
18 ethnic groups working toward a common goal.

19 (b) It is the intent of the Legislature to ~~establish~~ *do all of the*  
20 *following*:

21 (1) *Establish* and maintain a policy of equal opportunity in  
22 employment for all persons ~~and to prohibit~~.

23 (2) *Prohibit* discrimination ~~based on race, sex, color, religion,~~  
24 ~~age, disability, ancestry, or national origin on any basis listed in~~  
25 *subdivision (a) of Section 12940 of the Government Code, as those*  
26 *bases are defined in Sections 12926 and 12926.1 of the*  
27 *Government Code, except as otherwise provided in Section 12940*  
28 *of the Government Code, in every aspect of personnel policy and*  
29 *practice in the employment, development, advancement, and*  
30 *treatment of persons employed in the public school system,* ~~and to~~  
31 ~~promote~~.

32 (3) *Promote* the total realization of equal employment  
33 opportunity through a continuing affirmative action employment  
34 program.

35 (c) The Legislature recognizes that it is not enough to proclaim  
36 that public employers do not discriminate in employment, but that  
37 effort must also be made to build a community in which  
38 opportunity is equalized. It is the intent of the Legislature to  
39 require educational agencies to adopt and implement plans for



1 increasing the numbers of women and minority persons at all  
2 levels of responsibility.

3 SEC. 2. Section 44101 of the Education Code is amended to  
4 read:

5 44101. For the purposes of this article *the following*  
6 *definitions apply*:

7 (a) (1) "Affirmative action employment program" means  
8 planned activities designed to seek, hire, and promote persons who  
9 are underrepresented in the work force compared to their ~~number~~  
10 *numbers* in the population, including individuals with disabilities,  
11 women, and persons of minority racial and ethnic backgrounds. It  
12 is a conscious, deliberate step taken by a hiring authority to assure  
13 equal employment opportunity for all staff, both certificated and  
14 classified. ~~Such~~ *These* programs require the employer to make  
15 additional efforts to recruit, employ, and promote members of  
16 groups formerly excluded at the various levels of responsibility  
17 who are qualified or may become qualified through appropriate  
18 training or experience within a reasonable length of time. ~~Such~~  
19 *These* programs should be designed to remedy the exclusion,  
20 whatever its cause.

21 (2) Affirmative action requires imaginative, energetic, and  
22 sustained action by each employer to devise recruiting, training,  
23 and career advancement opportunities ~~which~~ *that* will result in an  
24 equitable representation of women and minorities in relation to all  
25 employees of the employer.

26 (b) ~~"Disability," means (1) a physical or mental impairment~~  
27 ~~that substantially limits one or more of the major life activities of~~  
28 ~~the individual, (2) a record of such an impairment, or (3) being~~  
29 ~~regarded as having such an impairment.~~

30 (c) ~~"Goals and timetables"~~ means projected new levels of  
31 employment of women and minority racial and ethnic groups to be  
32 attained on an annual schedule, given the expected turnover in the  
33 work force and the availability of persons who are qualified or may  
34 become qualified through appropriate training or experience  
35 within a reasonable length of time. Goals are not quotas or rigid  
36 proportions. They should relate both to the qualitative and  
37 quantitative needs of the employer.

38 (d)



1 (c) “Public education agency” means the Department of  
2 Education, each office of the county superintendent of schools,  
3 and the governing board of each school district in California.

4 *SEC. 3. Section 44858 of the Education Code is amended to*  
5 *read:*

6 44858. The Legislature hereby declares that it is contrary to  
7 the interest of this state and of the people ~~thereof of the state~~ for  
8 any governing board or any person charged by the governing board  
9 of any school district with the responsibility of interviewing and  
10 recommending persons for employment in positions requiring  
11 certification, to fail or refuse to ~~do so for reason of the age or~~  
12 ~~marital status of any applicant for such employment~~ *interview or*  
13 *recommend a person applying for employment in a position*  
14 *requiring certification on any basis listed in subdivision (a) of*  
15 *Section 12940 of the Government Code, as those bases are defined*  
16 *in Sections 12926 and 12926.1 of the Government Code, except as*  
17 *otherwise provided in this code and in Section 12940 of the*  
18 *Government Code.*

19 *SEC. 4. Section 45293 of the Education Code is amended to*  
20 *read:*

21 45293. No questions relating to political or religious opinions  
22 or affiliations, ~~race, color, national origin or ancestry, sex, or~~  
23 ~~marital status~~ *or relating to any basis listed in subdivision (a) of*  
24 *Section 12940 of the Government Code, as those bases are defined*  
25 *in Sections 12926 and 12926.1 of the Government Code, shall be*  
26 *asked of any applicant, or any candidate whose name has been*  
27 *certified for appointment, nor shall any discrimination be*  
28 *exercised therefor, except as otherwise provided in Section 12940*  
29 *of the Government Code.*

30 *SEC. 5. Section 69958 of the Education Code is amended to*  
31 *read:*

32 69958. (a) Potential work-study positions may be located by  
33 the institution or by eligible students in cooperation with the  
34 institution. Each position located shall be critically reviewed by  
35 the appropriate student financial aid and experiential education  
36 personnel to determine whether it satisfies all the conditions  
37 specified in Section 69960. To assist the institution in assessing the  
38 position, the employer shall submit a written statement to the  
39 institution ~~which~~ *that* provides all of the following information:

40 (1) The total number of positions available.



1 (2) A job description of each available position, including the  
2 suggested rate of pay.

3 (3) The skills required of the prospective work-study  
4 employee.

5 (4) The educational benefits provided by the position.

6 (b) Once the institution has approved the work-study position,  
7 the employer and the institution, acting as the authorized agent of  
8 the Student Aid Commission, shall execute a written agreement  
9 ~~which~~ *that* confirms the employer’s eligibility to participate in the  
10 program and its willingness to comply with all program  
11 requirements, and specifies the responsibilities of each of the  
12 parties. The agreement shall be subject to annual renewal by  
13 mutual agreement of the institution and the employer.

14 (c) Following execution of the agreement pursuant to  
15 subdivision (b), the employer may interview prospective  
16 work-study employees. The institution shall provide the employer  
17 and each applicant for the work-study position with adequate  
18 information to facilitate a proper placement. Provided that the  
19 priorities specified in Section 69959 have been met, the employer  
20 may indicate his or her hiring preferences. ~~No~~ *An* employer shall  
21 *not* discriminate between applicants on ~~the basis of race, color, sex,~~  
22 ~~religion, or national origin~~ *any basis listed in subdivision (a) of*  
23 *Section 12940 of the Government Code, as those bases are defined*  
24 *in Sections 12926 and 12926.1 of the Government Code, except as*  
25 *otherwise provided in Section 12940 of the Government Code, or*  
26 *subject any applicant to any other discriminatory practices*  
27 *prohibited by state or federal law.*

28 *SEC. 6. Section 87100 of the Education Code is amended to*  
29 *read:*

30 87100. (a) The Legislature finds and declares all of the  
31 following:

32 ~~(a)~~

33 (1) In fulfilling its mission within California’s system of public  
34 higher education, the California Community Colleges are  
35 committed to academic excellence and to providing all students  
36 with the opportunity to succeed in their chosen educational  
37 pursuits.

38 ~~(b)~~

39 (2) Academic excellence can best be sustained in a climate of  
40 acceptance and with the inclusion of persons from a wide variety



1 of backgrounds and preparations to provide service to an  
2 increasingly diverse student population.

3 ~~(e)~~

4 (3) A workforce that is continually responsive to the needs of  
5 a diverse student population may be achieved by ensuring that all  
6 persons receive an equal opportunity to compete for employment  
7 and promotion within the community college districts and by  
8 eliminating barriers to equal employment opportunity.

9 ~~(d)~~

10 (b) It is the intent of the Legislature to establish and maintain;  
11 within the California Community College districts; a policy of  
12 equal opportunity in employment for all persons, and to prohibit  
13 discrimination or preferential treatment based on ethnic group  
14 identification, ~~race, color, national origin, religion, age, gender,~~  
15 ~~disability, ancestry, or sexual orientation~~ or on any basis listed in  
16 subdivision (a) of Section 12940 of the Government Code, as those  
17 bases are defined in Sections 12926 and 12926.1 of the  
18 Government Code, except as otherwise provided in Section 12940  
19 of the Government Code. Every aspect of personnel policy and  
20 practice in the community college districts should advance the  
21 realization of inclusion through a continuing program of equal  
22 employment opportunity.

23 ~~(e)~~

24 (c) The Legislature recognizes that it is not enough to proclaim  
25 that community college districts must not discriminate and must  
26 not grant preferential treatment on impermissible bases. The  
27 Legislature declares that efforts must also be made to build a  
28 community in which nondiscrimination and equal opportunity are  
29 realized. It is the intent of the Legislature to require community  
30 college districts to adopt and implement programs and plans for  
31 ensuring equal employment opportunity in their employment  
32 practices.

33 *SEC. 7. Section 88112 of the Education Code is amended to*  
34 *read:*

35 88112. No questions relating to political or religious opinions  
36 or affiliations, ~~race, color, national origin or ancestry, sex, or~~  
37 ~~marital status~~ or any basis listed in subdivision (a) of Section  
38 12940 of the Government Code, as those bases are defined in  
39 Sections 12926 and 12926.1 of the Government Code, shall be  
40 asked of any applicant, or any candidate whose name has been



1 certified for appointment, nor shall any discrimination be  
2 exercised therefor, *except as otherwise provided in Section 12940*  
3 *of the Government Code.*

4 SEC. 8. Section 19572 of the Government Code is amended to  
5 read:

6 19572. Each of the following constitutes cause for discipline  
7 of an employee, or *of a* person whose name appears on any  
8 employment list:

9 (a) Fraud in securing appointment.

10 (b) Incompetency.

11 (c) Inefficiency.

12 (d) Inexcusable neglect of duty.

13 (e) Insubordination.

14 (f) Dishonesty.

15 (g) Drunkenness on duty.

16 (h) Intemperance.

17 (i) Addiction to the use of controlled substances.

18 (j) Inexcusable absence without leave.

19 (k) Conviction of a felony or conviction of a misdemeanor  
20 involving moral turpitude. A plea or verdict of guilty, or a  
21 conviction following a plea of nolo contendere, to a charge of a  
22 felony or any offense involving moral turpitude is deemed to be a  
23 conviction within the meaning of this section.

24 (l) Immorality.

25 (m) Discourteous treatment of the public or other employees.

26 (n) Improper political activity.

27 (o) Willful disobedience.

28 (p) Misuse of state property.

29 (q) Violation of this part or *of a* board rule.

30 (r) Violation of the prohibitions set forth in accordance with  
31 Section 19990.

32 (s) Refusal to take and subscribe any oath or affirmation ~~which~~  
33 *that* is required by law in connection with the employment.

34 (t) Other failure of good behavior either during or outside of  
35 duty hours, which is of such a nature that it causes discredit to the  
36 appointing authority or the person's employment.

37 (u) Any negligence, recklessness, or intentional act ~~which~~ *that*  
38 results in the death of a patient of a state hospital serving the  
39 mentally disabled or the developmentally disabled.



1 (v) The use during duty hours, for training or target practice, of  
2 any material ~~which~~ *that* is not authorized ~~therefor~~ *for that use* by  
3 the appointing power.

4 (w) Unlawful discrimination, including harassment, on ~~the~~  
5 ~~basis of race, religious creed, color, national origin, ancestry,~~  
6 ~~disability, marital status, sex, or age~~ *any basis listed in subdivision*  
7 *(a) of Section 12940, as those bases are defined in Sections 12926*  
8 *and 12926.1, except as otherwise provided in Section 12940,*  
9 against the public or other employees while acting in the capacity  
10 of a state employee.

11 (x) Unlawful retaliation against any other state officer or  
12 employee or member of the public who in good faith reports,  
13 discloses, divulges, or otherwise brings to the attention of, the  
14 Attorney General, or any other appropriate authority, any facts or  
15 information relative to actual or suspected violation of any law of  
16 this state or the United States occurring on the job or directly  
17 related ~~thereto~~ *to the job*.

18 *SEC. 9. Section 19572.1 of the Government Code is amended*  
19 *to read:*

20 19572.1. (a) Notwithstanding Section 19572, this section  
21 shall apply to state employees in State Bargaining Unit 8.

22 (b) Disciplinary actions pursuant to Section 19576.5 shall be  
23 for just cause or one or more of the following causes for discipline:

- 24 (1) Fraud in securing appointment.
- 25 (2) Incompetency.
- 26 (3) Inefficiency.
- 27 (4) Inexcusable neglect of duty.
- 28 (5) Insubordination.
- 29 (6) Dishonesty.
- 30 (7) Drunkenness on duty.
- 31 (8) Intemperance.
- 32 (9) Addiction to the use of controlled substances.
- 33 (10) Inexcusable absence without leave.
- 34 (11) Conviction of a felony or conviction of a misdemeanor  
35 involving moral turpitude. A plea or verdict of guilty, or a  
36 conviction following a plea of nolo contendere, to a charge of a  
37 felony of any offense involving moral turpitude is deemed to be a  
38 conviction within the meaning of this section.
- 39 (12) Immorality.
- 40 (13) Discourteous treatment of the public or other employees.



- 1 (14) Improper political activity.
- 2 (15) Willful disobedience.
- 3 (16) Misuse of state property.
- 4 (17) Violation of this part or *of a* board rule.
- 5 (18) Violation of the prohibitions set forth in accordance with
- 6 Section 19990.
- 7 (19) Refusal to take and subscribe any oath or affirmation that
- 8 is required by law in connection with the employment.
- 9 (20) Other failure of good behavior either during or outside of
- 10 duty hours that is of such a nature that it causes discredit to the
- 11 appointing authority of the person’s employment.
- 12 (21) Any negligence, recklessness, or intentional act that
- 13 results in the death of a patient of a state hospital serving the
- 14 mentally disabled or the developmentally disabled.
- 15 (22) The use during duty hours, for training or target practice,
- 16 of any material that is not authorized ~~therefor~~ *for that use* by the
- 17 appointing power.
- 18 (23) Unlawful discrimination, including harassment, on ~~the~~
- 19 ~~basis of race, religious creed, color, national origin, ancestry,~~
- 20 ~~disability, marital status, sex, or age~~ *any basis listed in subdivision*
- 21 *(a) of Section 12940, as those bases are defined in Sections 12926*
- 22 *and 12926.1, except as otherwise provided in Section 12940,*
- 23 *against the public or other employees while acting in the capacity*
- 24 *of a state employee.*
- 25 (24) Unlawful retaliation against any other state officer or
- 26 employee or member of the public who in good faith reports,
- 27 discloses, divulges, or otherwise brings to the attention of, the
- 28 Attorney General; or any other appropriate authority, any facts or
- 29 information relative to actual or suspected violation of any law of
- 30 this state or the United States occurring on the job or directly
- 31 related ~~thereto~~ *to the job.*
- 32 (c) If *the* provisions of this section are in conflict with the
- 33 provisions of a memorandum of understanding reached pursuant
- 34 to Section 3517.5, the memorandum of understanding shall be
- 35 controlling without further legislative action, except that if ~~those~~
- 36 ~~provisions~~ *any provision of a that* memorandum of understanding
- 37 ~~require~~ *requires* the expenditure of funds, ~~the~~ *that* provision shall
- 38 ~~not~~ become effective ~~unless~~ *only if* approved by the Legislature in
- 39 the annual Budget Act.



1     *SEC. 10. Section 19702 of the Government Code is amended*  
2 *to read:*

3     19702. (a) A person shall not be discriminated against under  
4 this part ~~because of sex, race, religious creed, color, national~~  
5 ~~origin, ancestry, marital status, physical disability, or mental~~  
6 ~~disability on any basis listed in subdivision (a) of Section 12940,~~  
7 ~~as those bases are defined in Sections 12926 and 12926.1, except~~  
8 ~~as otherwise provided in Section 12940.~~ A person shall not be  
9 retaliated against because he or she has opposed any practice made  
10 an unlawful employment practice, or made a charge, testified,  
11 assisted, or participated in any manner in an investigation,  
12 proceeding, or hearing under this part. ~~For purposes of this article,~~  
13 ~~“discrimination” includes harassment.~~ This subdivision is  
14 declaratory of existing law.

15     (b) ~~As used in this section, the term “physical disability” has~~  
16 ~~the definition set forth in Section 12926, as that section presently~~  
17 ~~reads or as it subsequently may be amended.~~

18     (c) ~~As used in this section, the term “mental disability” has the~~  
19 ~~definition set forth in Section 12926, as that section presently reads~~  
20 ~~or as it subsequently may be amended.~~

21     (d) ~~Notwithstanding subdivisions (b) and (c), if the definition~~  
22 ~~of disability used in the federal Americans with Disabilities Act of~~  
23 ~~1990 (Public Law 101-336) would result in broader protection of~~  
24 ~~the civil rights of individuals with a mental disability or physical~~  
25 ~~disability, as defined in subdivision (b) or (c), then that broader~~  
26 ~~protection shall be deemed incorporated by reference into, and~~  
27 ~~shall prevail over conflicting provisions of, the definitions in~~  
28 ~~subdivisions (b) and (c). The definitions of subdivisions (b) and (c)~~  
29 ~~shall not be deemed to refer to or include conditions excluded from~~  
30 ~~the federal definition of “disability” pursuant to Section 511 of the~~  
31 ~~federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec.~~  
32 ~~12211).~~

33     (e) ~~For purposes of this article, “discrimination” includes~~  
34 ~~harassment.~~

35     (c) If the board finds that a person has engaged in  
36 discrimination under this part, and it appears that this practice  
37 consisted of acts described in Section 243.4, 261, 262, 286, 288,  
38 288a, or 289 of the Penal Code, the board, with the consent of the  
39 complainant, shall provide the local district attorney’s office with  
40 a copy of ~~its~~ *the board’s* decision and order.



1 ~~(f) (1) If~~

2 (d) (1) Except as otherwise provided in paragraph (2), if the  
3 board finds that discrimination has occurred in violation of this  
4 part, the board shall issue and cause to be served on the appointing  
5 authority an order requiring the appointing authority to cause the  
6 discrimination to cease and desist and to take any action,  
7 including, but not limited to, hiring, reinstatement, or upgrading  
8 of employees, with or without backpay, and compensatory  
9 damages, which, in the judgment of the board, will effectuate the  
10 purposes of this part. Consistent with this authority, the board may  
11 establish rules governing the award of compensatory damages.  
12 The order shall include a requirement of reporting the manner of  
13 compliance.

14 (2) Notwithstanding paragraph (1), this paragraph shall apply  
15 applies to state employees in State Bargaining Unit 6 or 8. If the  
16 board finds that discrimination has occurred in violation of this  
17 part, the board shall issue and cause to be served on the appointing  
18 authority an order requiring the appointing authority to cause the  
19 discrimination to cease and desist and to take any action,  
20 including, but not limited to, hiring, reinstatement, or upgrading  
21 of employees, with or without backpay, adding additional  
22 seniority, and compensatory damages, which, in the judgment of  
23 the board, will effectuate the purposes of this part. Consistent with  
24 this authority, the board may establish rules governing the award  
25 of compensatory damages. The order shall include a requirement  
26 of reporting the manner of compliance.

27 ~~(g)~~

28 (e) Any person claiming discrimination within the state civil  
29 service may submit a *written* complaint that shall be in writing and  
30 set forth states the particulars of the alleged discrimination, the  
31 name of the appointing authority, the persons alleged to have  
32 committed the unlawful discrimination, and any other information  
33 that the board may be required by the board require. The complaint  
34 shall be filed with the appointing authority or, in accordance with  
35 board rules, with the board itself.

36 ~~(h)~~

37 (f) (1) Complaints shall be filed within one year of the alleged  
38 unlawful discrimination or the refusal to act in accordance with  
39 this section, except that this period may be extended for not to  
40 exceed greater than 90 days following the expiration of that year,



1 if a person allegedly aggrieved by unlawful discrimination first  
2 obtained knowledge of the facts of the alleged unlawful  
3 discrimination after the expiration of one year from the date of its  
4 occurrence. Complaints of discrimination in adverse actions or  
5 rejections on probation shall be filed in accordance with Sections  
6 19175 and 19575.

7 (2) Notwithstanding paragraph (1), this paragraph shall apply  
8 only to state employees in State Bargaining Unit 8. Complaints  
9 shall be filed within one year of the alleged unlawful  
10 discrimination or the refusal to act in accordance with this section,  
11 except that this period may be extended for not-to-exceed *greater*  
12 *than* 90 days following the expiration of that year, if a person  
13 allegedly aggrieved by unlawful discrimination first obtained  
14 knowledge of the facts of the alleged unlawful discrimination after  
15 the expiration of one year from the date of its occurrence.  
16 Complaints of discrimination in disciplinary actions defined in  
17 Section 19576.5 shall be filed in accordance with that section.  
18 Complaints of discrimination in all other disciplinary actions shall  
19 be filed in accordance with Section 19575. Complaints of  
20 discrimination in rejections on probation shall be filed in  
21 accordance with Section 19175.3.

22 ~~(i) (1) When~~

23 (g) *If* an employee of the appointing authority refuses, or  
24 threatens to refuse, to cooperate in the investigation of a complaint  
25 of discrimination, the appointing authority may seek assistance  
26 from the board. The board may provide for direct investigation or  
27 hearing of the complaint, the use of subpoenas, or any other action  
28 ~~which~~ *that will effect effectuate* the purposes of this section.

29 ~~(2) This subdivision shall not apply to complaints of~~  
30 ~~discrimination filed in accordance with Section 19576.2.~~

31 ~~(j)–~~

32 (h) If a person demonstrates by a preponderance of evidence  
33 ~~that having opposed the person's opposition to~~ any practice made  
34 an unlawful employment practice under this part, or ~~having made~~  
35 ~~a charge, testified, assisted, or participated the person's charging,~~  
36 *testifying, assisting, or participation* in any manner in an  
37 investigation, proceeding, or hearing under this part, was a  
38 contributing factor in any adverse employment action taken  
39 against him or her, the burden of proof shall be on the supervisor,  
40 manager, employee, or appointing power to demonstrate by clear



1 and convincing evidence that the alleged adverse employment  
 2 action would have occurred for legitimate, independent reasons  
 3 even if the person had not engaged in activities protected under this  
 4 part. If the supervisor, manager, employee, or appointing power  
 5 fails to meet this burden of proof in any administrative review,  
 6 challenge, or adjudication in which retaliation has been  
 7 demonstrated to be a contributing factor, the person shall have a  
 8 complete affirmative defense to the adverse employment action.

9 As

10 (i) As used in this part, “adverse employment action” includes  
 11 promising to confer, or conferring, any benefit, effecting, or  
 12 threatening to effect, any reprisal, or taking, or directing others to  
 13 take, or recommending, processing, or approving, any personnel  
 14 action, including, but not limited to, appointment, promotion,  
 15 transfer, assignment, performance evaluation, suspension, or other  
 16 disciplinary action.

17 *SEC. 11. Section 19704 of the Government Code is amended*  
 18 *to read:*

19 19704. (a) It is unlawful to require, permit, or suffer any  
 20 notation or entry to be made upon or in any application,  
 21 examination paper, or other paper, book, document, or record used  
 22 under this part indicating or in any wise way suggesting or  
 23 pertaining to the race, color, religion, sex, or marital status of any  
 24 person. Notwithstanding the provisions of this section any basis  
 25 listed in subdivision (a) of Section 12940, as those bases are  
 26 defined in Sections 12926 and 12926.1.

27 (b) Notwithstanding subdivision (a), subsequent to  
 28 employment, ethnic, marital status, and gender data may be  
 29 obtained and maintained for research and statistical purposes when  
 30 safeguards preventing misuse of the information exist as approved  
 31 by the Fair Employment and Housing Commission, except that in  
 32 no event shall any notation, entry, or record of such that data be  
 33 made on papers or records relating to the examination,  
 34 appointment, or promotion of an individual.

35 *SEC. 12. Section 19793 of the Government Code is amended*  
 36 *to read:*

37 19793. By November 15 of each year, beginning in 1978, the  
 38 State Personnel Board shall report to the Governor, the  
 39 Legislature, and the Department of Finance on a census of the state  
 40 workforce and any underutilization problems in a state agency or



1 department that may indicate failure to provide equal employment  
2 opportunity to minorities, women, and persons with disabilities  
3 during the past fiscal year. The report also shall include  
4 information on laws that discriminate or have the effect of  
5 discrimination on the basis of ~~race, color, religion, national origin,~~  
6 ~~political affiliation, sex, age, or marital status~~ *political affiliation*  
7 *or any basis listed in subdivision (a) of Section 12940, as those*  
8 *bases are defined in Sections 12926 and 12926.1.* The Legislature  
9 shall evaluate the equal employment opportunity efforts of state  
10 agencies during its evaluation of the Budget Bill.

11 *SEC. 13. Section 1156.3 of the Labor Code is amended to*  
12 *read:*

13 1156.3. (a) A petition ~~which~~ *that* is either signed by, or  
14 accompanied by authorization cards signed by, a majority of the  
15 currently employed employees in the bargaining unit, may be filed  
16 *by an agricultural employee or group of agricultural employees,*  
17 *or any individual or labor organization acting on behalf of those*  
18 *agricultural employees, in accordance with such any rules and*  
19 *regulations as may be prescribed by the board, by an agricultural*  
20 ~~employee or group of agricultural employees, or any individual or~~  
21 ~~labor organization acting in their behalf alleging.~~ *The petition*  
22 *shall allege all of the following:*

23 (1) That the number of agricultural employees currently  
24 employed by the employer named in the petition, as determined  
25 from ~~his~~ *the employer's* payroll immediately preceding the filing  
26 of the petition, is not less than 50 percent of ~~his~~ *the employer's* peak  
27 agricultural employment for the current calendar year.

28 (2) That no valid election pursuant to this section has been  
29 conducted among the agricultural employees of the employer  
30 named in the petition within the 12 months immediately preceding  
31 the filing ~~thereof~~ *of the petition.*

32 (3) That no labor organization is currently certified as the  
33 exclusive collective-bargaining representative of the agricultural  
34 employees of the employer named in the petition.

35 (4) That the petition is not barred by an existing  
36 collective-bargaining agreement.

37 (b) Upon receipt of ~~such~~ a signed petition, *as described in*  
38 *subdivision (a),* the board shall immediately investigate ~~such~~ *the*  
39 ~~petition, and, if it.~~ *If the board* has reasonable cause to believe that  
40 a bona fide question of representation exists, it shall direct a



1 representation election by secret ballot to be held, upon due notice  
 2 to all interested parties and within a maximum of seven days of the  
 3 filing of the petition. If, at the time the election petition is filed,  
 4 a majority of the employees in a bargaining unit are engaged in a  
 5 strike, the board shall, with all due diligence, attempt to hold a  
 6 secret ballot election within 48 hours of the filing of ~~such the~~  
 7 petition. The holding of elections under strike circumstances shall  
 8 take precedence over the holding of other secret ballot elections.

9 (c) The board shall make available at any election *held* under  
 10 this chapter ballots printed in English and Spanish. The board may  
 11 also make available at ~~such the~~ election ballots printed in any other  
 12 language as may be requested by an agricultural labor  
 13 organization; or *any* agricultural employee eligible to vote under  
 14 this part. Every election ballot, except ballots in runoff elections  
 15 where the choice is between labor organizations, shall provide the  
 16 employee with the opportunity to vote against representation by a  
 17 labor organization by providing an appropriate space designated  
 18 “No Labor ~~Organizations~~”.

19 ~~(b) Organizations.~~

20 (d) Any other labor organization shall be qualified to appear on  
 21 the ballot if it presents authorization cards signed by at least 20  
 22 percent of the employees in the bargaining unit at least 24 hours  
 23 prior to the election.

24 ~~(e)~~

25 (e) (1) Within five days after an election, any person may file  
 26 with the board a signed petition asserting that allegations made in  
 27 the petition filed pursuant to subdivision (a) were incorrect,  
 28 *asserting* that the board improperly determined the geographical  
 29 scope of the bargaining unit, or objecting to the conduct of the  
 30 election or conduct affecting the results of the election.

31 (2) Upon receipt of a petition under this subdivision, the board,  
 32 upon due notice, shall conduct a hearing to determine whether the  
 33 election shall be certified. ~~Such~~ *This* hearing may be conducted by  
 34 an officer or employee of a regional office of the board. ~~He shall~~  
 35 ~~make no recommendations with respect thereto. If the board~~ *The*  
 36 *officer may not make any recommendations with respect to the*  
 37 *certification of the election. The board may refuse to certify the*  
 38 *election if it finds, on the record of such the hearing, that any of the*  
 39 *assertions made in the petition filed pursuant to this subdivision*  
 40 *are correct, or that the election was not conducted properly, or that*



1 misconduct affecting the results of the election occurred, ~~the board~~  
2 ~~may refuse to certify the election. Unless the board. The board~~  
3 *shall certify the election unless it* determines that there are  
4 sufficient grounds to refuse to do so, ~~it shall certify the election.~~

5 ~~(d)~~

6 (f) If no petition is filed pursuant to subdivision ~~(e)~~ (e) within  
7 five days of the election, the board shall certify the election.

8 ~~(e)~~

9 (g) The board shall decertify a labor organization if ~~the~~ either  
10 of the following occur:

11 (1) *The Department of Fair Employment and Housing finds*  
12 *that the labor organization engaged in discrimination on any basis*  
13 *listed in subdivision (a) of Section 12940 of the Government Code,*  
14 *as those bases are defined in Sections 12926 and 12926.1 of the*  
15 *Government Code, except as otherwise provided in Section 12940*  
16 *of the Government Code.*

17 (2) *The United States Equal Employment Opportunity*  
18 *Commission has found finds, pursuant to Section 2000(e)(5)*  
19 *2000e-5 of Title 42 of the United States Code, that the labor*  
20 *organization engaged in discrimination on the basis of race, color,*  
21 *national origin, religion, sex, or any other arbitrary or invidious*  
22 *classification in violation of Subchapter VI of Chapter 21 of Title*  
23 *42 of the United States Code during the period of such the labor*  
24 *organization's present certification.*

25 *SEC. 14. Section 1735 of the Labor Code is amended to read:*

26 1735. ~~No discrimination shall be made~~ *A contractor shall not*  
27 *discriminate in the employment of persons upon public works*  
28 ~~because of the race, religious creed, color, national origin,~~  
29 ~~ancestry, physical disability, mental disability, medical condition,~~  
30 ~~marital status, or sex of such persons, except as on any basis listed~~  
31 *in subdivision (a) of Section 12940 of the Government Code, as*  
32 *those bases are defined in Sections 12926 and 12926.1 of the*  
33 *Government Code, except as otherwise provided in Section 12940*  
34 *of the Government Code, and every. Every contractor for public*  
35 *works violating who violates this section is subject to all the*  
36 *penalties imposed for a violation of this chapter.*

37 *SEC. 15. Section 1777.6 of the Labor Code is amended to*  
38 *read:*

39 1777.6. ~~It shall be unlawful for an~~ *An employer or a labor*  
40 *union to shall not refuse to accept otherwise qualified employees*



1 as registered apprentices on any public works, ~~on the ground of the~~  
2 ~~race, religious creed, color, national origin, ancestry, sex, or age~~  
3 ~~on any basis listed in subdivision (a) of Section 12940 of the~~  
4 ~~Government Code, as those bases are defined in Sections 12926~~  
5 ~~and 12926.1 of the Government Code, except as provided in~~  
6 ~~Section 3077, of such employee of this code and Section 12940 of~~  
7 ~~the Government Code.~~

8 SEC. 16. Section 3095 of the Labor Code is amended to read:

9 3095. Every person who willfully discriminates in any  
10 recruitment or apprenticeship program ~~on the basis of race,~~  
11 ~~religious creed, color, national origin, ancestry, or sex any basis~~  
12 ~~listed in subdivision (a) of Section 12940 of the Government Code,~~  
13 ~~as those bases are defined in Sections 12926 and 12926.1 of the~~  
14 ~~Government Code, except as otherwise provided in Section 12940~~  
15 ~~of the Government Code, is guilty of a misdemeanor punishable by~~  
16 ~~a fine of not more than one thousand dollars (\$1,000) or by~~  
17 ~~imprisonment for not more than six months, or both.~~

18 SEC. 17. Section 130 of the Military and Veterans Code is  
19 amended to read:

20 130. (a) Members of the militia of the state shall not be  
21 ~~segregated on the basis of race, national origin or ancestry, or~~  
22 ~~color, nor discriminated against on such basis discriminated~~  
23 ~~against in enlistments, promotions, or commissions on any basis~~  
24 ~~listed in subdivision (a) of Section 12940 of the Government Code,~~  
25 ~~as those bases are defined in Sections 12926 and 12926.1 of the~~  
26 ~~Government Code, except as otherwise provided in Section 12940~~  
27 ~~of the Government Code.~~

28 (b) It is hereby declared to be the policy of the State of  
29 California that there shall be equality of treatment and opportunity  
30 for all members of the militia of the state without regard to ~~race,~~  
31 ~~national origin or ancestry, or color. Such any basis listed in~~  
32 ~~subdivision (a) of Section 12940 of the Government Code, as those~~  
33 ~~bases are defined in Sections 12926 and 12926.1 of the~~  
34 ~~Government Code. This policy shall be put into effect in the militia~~  
35 ~~by rules and regulations to be issued by the Governor with due~~  
36 ~~regard to the powers of the federal government which that are, or~~  
37 ~~may be, be exercised over all the militia of the state, and to the time~~  
38 ~~required to effectuate changes without impairing the efficiency or~~  
39 ~~morale of the militia with regard to positions requiring federal~~  
40 ~~recognition.~~



1 SEC. 18. Section 25051 of the Public Utilities Code is  
2 amended to read:

3 25051. ~~Whenever~~ (a) If a majority of the employees  
4 employed by ~~said~~ a transit district in a unit appropriate for  
5 collective bargaining indicate a desire to be represented by a labor  
6 organization, the transit board, ~~upon~~ after determining as  
7 ~~provided in pursuant to~~ Section 25052 that ~~said~~ the labor  
8 organization represents the employees in the appropriate unit, ~~and~~  
9 ~~the accredited representative~~ shall bargain with the accredited  
10 representative of those employees. Both parties shall bargain in  
11 good faith and make all reasonable efforts to reach agreement on  
12 the terms of a written contract governing wages, salaries, hours,  
13 working conditions, and grievance procedures. ~~In case of~~

14 (1) If a dispute arises over the terms of a written contract  
15 governing wages, salaries, hours, or working conditions, ~~which~~  
16 that is not resolved by negotiations conducted in good faith  
17 between the transit board and the representatives of the  
18 employees, then upon the agreement of both parties, the transit  
19 board and the representatives of the employees may submit ~~said~~  
20 the dispute to the decision of the majority of an arbitration board,  
21 ~~and the~~. The decision of a majority of ~~such~~ the arbitration board  
22 shall be final.

23 (2) (A) The arbitration board shall be composed of two  
24 representatives of the transit board, two representatives of the  
25 labor organization, and ~~they shall endeavor to agree upon the~~  
26 ~~selection of the fifth member. If they a fifth member to be agreed~~  
27 ~~upon by the representatives of the transit board and labor~~  
28 ~~organization.~~

29 (B) If the representatives of the transit board and labor  
30 organization are unable to agree, on the fifth member, then the  
31 names of five persons experienced in labor arbitration shall be  
32 obtained from the ~~Supervisor of Conciliation of the Division of~~  
33 ~~Conciliation, California State Mediation and Conciliation Service~~  
34 within the Department of Industrial Relations. The labor  
35 organization and the transit district shall, alternately, strike a name  
36 from the list ~~so supplied, and~~ supplied by the California State  
37 Mediation and Conciliation Service. The labor organization and  
38 the transit district shall determine by lot who shall first strike a  
39 name from the list. After the labor organization and the transit  
40 district have stricken four names, the name remaining after the



1 ~~labor organization and the district have stricken four names, shall~~  
 2 ~~be designated as the arbitrator. The labor organization and the~~  
 3 ~~district shall determine by lot who shall first strike from the list.~~  
 4 ~~The expenses of such impartial arbitrator shall be provided half by~~  
 5 ~~the transit board and half by the labor organization.~~

6 ~~No~~

7 *(C) The transit board and the labor organization shall each pay*  
 8 *half of the cost of the impartial arbitrator.*

9 *(b) A contract or agreement shall not be made with any labor*  
 10 *organization, association, group, or individual where such*  
 11 ~~organization, association, group or individual that denies~~  
 12 ~~membership on the grounds of race, creed or color, provided such~~  
 13 *any basis listed in subdivision (a) of Section 12940 of the*  
 14 *Government Code, as those bases are defined in Sections 12926*  
 15 *and 12926.1 of the Government Code. However, the organization*  
 16 *may preclude from membership any individual who advocates the*  
 17 *overthrow of the government by force or violence.*

18 *(c) The district shall not discriminate with regard to*  
 19 *employment against any person on any basis listed in subdivision*  
 20 *(a) of Section 12940 of the Government Code, as those bases are*  
 21 *defined in Sections 12926 and 12926.1 of the Government Code,*  
 22 *except as otherwise provided in Section 12940 of the Government*  
 23 *Code.*

24 *SEC. 19. Section 28850 of the Public Utilities Code is*  
 25 *amended to read:*

26 28850. ~~Whenever~~ *(a) If a majority of the employees*  
 27 *employed by the a district in a unit appropriate for collective*  
 28 *bargaining indicate a desire to be represented by a labor*  
 29 *organization, then the board, upon after determining as provided*  
 30 ~~in pursuant to~~ *Section 28851 that said the labor organization*  
 31 *represents the employees in the appropriate unit, and the*  
 32 ~~accredited representative~~ *shall bargain with the accredited*  
 33 *representative of those employees. Both parties shall bargain in*  
 34 *good faith and make all reasonable efforts to reach agreement on*  
 35 *the terms of a written contract governing wages, salaries, hours,*  
 36 *working conditions, and grievance procedures. In case of*

37 *(1) If a dispute arises over the terms of a written contract*  
 38 *governing wages, salaries, hours, or working conditions, which*  
 39 *that is not resolved by negotiations conducted in good faith*  
 40 *between the board and the representatives of the employees, then*



1 upon the agreement of both *parties*, the board and the  
2 representatives of the employees may submit ~~said~~ *the* dispute to ~~the~~  
3 ~~decision of the majority of an arbitration board, and the.~~ *The*  
4 ~~decision of a majority of such~~ *the* arbitration board shall be final.

5 (2) (A) The arbitration board shall be composed of two  
6 representatives of the district ~~and~~, two representatives of the labor  
7 organization, and ~~they shall endeavor to agree upon the selection~~  
8 ~~of a fifth member. If they~~ *a fifth member to be agreed upon by the*  
9 *representatives of the district and the labor organization.*

10 (B) *If the representatives of the district and the labor*  
11 *organization are unable to agree on the fifth member, then the*  
12 *names of five persons experienced in labor arbitration shall be*  
13 *obtained from the* ~~Supervisor of Conciliation of the Division of~~  
14 ~~Conciliation,~~ *California State Mediation and Conciliation Service*  
15 *within the Department of Industrial Relations. The labor*  
16 *organization and the district shall, alternately, strike a name from*  
17 *the list* ~~so~~ *supplied, and by the California State Mediation and*  
18 *Conciliation Service. The labor organization and the district shall*  
19 *determine by lot who shall first strike a name from the list. After*  
20 *the labor organization and the district have stricken four names,*  
21 *the name remaining after the labor organization and the district*  
22 *have stricken four names, shall be designated as the arbitrator. The*  
23 *labor organization and the district shall determine by lot who shall*  
24 *first strike from the list. The expenses of such impartial arbitrator*  
25 *shall be provided half by the district and half by the labor*  
26 *organization.*

27 ~~No~~

28 (C) *The transit board and the labor organization shall each pay*  
29 *half of the cost of the impartial arbitrator.*

30 (b) A contract or agreement shall *not* be made with any labor  
31 organization, association, group, or individual ~~where such~~  
32 ~~organization, association, group or individual that~~ denies  
33 membership on the grounds of race, creed or color; ~~provided, such~~  
34 *any basis listed in subdivision (a) of Section 12940 of the*  
35 *Government Code, as those bases are defined in Sections 12926*  
36 *and 12926.1 of the Government Code. However, the organization*  
37 *may preclude from membership any individual who advocates the*  
38 *overthrow of the government by force or violence.*

39 (c) *The district shall not discriminate with regard to*  
40 *employment against any person on any basis listed in subdivision*



1 (a) of Section 12940 of the Government Code, as those bases are  
2 defined in Sections 12926 and 12926.1 of the Government Code,  
3 except as otherwise provided in Section 12940 of the Government  
4 Code.

5 SEC. 20. Section 30750 of the Public Utilities Code is  
6 amended to read:

7 30750. (a) Subject to ~~the provisions of~~ subdivision (b) of this  
8 ~~section, whenever,~~ if a majority of the employees employed by a  
9 district in a unit appropriate for collective bargaining indicate a  
10 desire to be represented by a labor organization, *then* the board,  
11 ~~upon after~~ after determining ~~as provided in~~ pursuant to Section 30751  
12 that ~~said~~ the labor organization represents the employees in the  
13 appropriate unit, ~~and the accredited representative~~ shall bargain  
14 *with the accredited representative of those employees. Both parties*  
15 *shall bargain* in good faith and make all reasonable efforts to reach  
16 agreement on the terms of a written contract governing wages,  
17 hours, and working conditions. In the absence of the expression of  
18 ~~such~~ the desire to be represented by a labor organization,  
19 employees ~~would be~~ are subject to any personnel system  
20 established pursuant to ~~the provisions of~~ Section 30257.

21 (b) Upon the acquisition by the district of the property of the  
22 Los Angeles Metropolitan Transit Authority pursuant to ~~the~~  
23 ~~provisions of~~ Chapter 8 (commencing with Section 31000) of this  
24 ~~part,~~ the district shall assume and observe all existing labor  
25 contracts and shall recognize the labor organization certified to  
26 represent the employees in each existing bargaining unit as the sole  
27 representative of the employees in each ~~such bargaining unit of~~  
28 *those bargaining units.* Any certification of a labor organization  
29 previously made *by the California State Mediation and*  
30 *Conciliation Service* under the provisions of the Los Angeles  
31 Metropolitan Transit Authority Act ~~by the State Conciliation~~  
32 ~~Service of 1957~~ to represent or act for the employees in any  
33 collective bargaining unit shall remain in full force and effect and  
34 shall be binding upon the district. ~~Such~~ *Those* certifications and  
35 any certifications made ~~hereunder~~ *under this subdivision* shall not  
36 be subject to challenge on the grounds that a new substantial  
37 question of representation within ~~such~~ the collective bargaining  
38 unit exists until the lapse of one year from the date of certification  
39 or the expiration of any collective bargaining agreement,  
40 whichever is later; provided, that no collective bargaining



1 agreement shall be construed to be a bar to representation  
2 proceedings for a period of more than two years.

3 (c) The obligation of the district to bargain in good faith with  
4 a duly designated or certified labor organization and to execute a  
5 written collective bargaining agreement with ~~such that~~ labor  
6 organization covering the wages, hours, and working conditions  
7 of the employees represented by ~~such that~~ labor organization in an  
8 appropriate unit, and to comply with the terms ~~thereof of that~~  
9 *collective bargaining agreement*, shall not be limited or restricted  
10 by ~~the provisions of the Government Code or other laws or statutes~~  
11 ~~and the any other provision of law~~. *The obligation of the district to*  
12 *bargain collectively shall extend to all subjects of collective*  
13 *bargaining, including, ~~without limitation but not limited to,~~*  
14 *retroactive pay increases. Notwithstanding ~~the provisions of the~~*  
15 *Government Code or other laws or statutes any other provision of*  
16 *law*, the district shall make deductions from *the* wages and salaries  
17 of its employees, upon receipt of authorization ~~therefor to make~~  
18 *those deductions*, for the payment of union dues, fees, or  
19 assessments, for the payment of contributions pursuant to any  
20 health and welfare plan or pension plan, or *for* any other purpose  
21 for which deductions may be authorized by employees where ~~such~~  
22 *the* deductions are pursuant to a collective bargaining agreement  
23 with a duly designated or certified labor organization.

24 (d) ~~In case of (1) If a dispute arises over wages, hours, or~~  
25 ~~working conditions which that~~ is not resolved by negotiations  
26 *conducted* in good faith between the board and the representatives  
27 of the employees, *then* upon the agreement of both *parties*, the  
28 board and the representative of the employees ~~said may submit the~~  
29 ~~dispute may be submitted to the decision of the majority of an~~  
30 ~~arbitration board, and the~~. *The decision of a majority of such the*  
31 *arbitration board shall be final and binding.*

32 (2) (A) The arbitration board shall be composed of two  
33 representatives of the district ~~and~~, two representatives of the labor  
34 organization, and ~~they shall endeavor to agree upon the selection~~  
35 ~~of a fifth member. If they a fifth member to be agreed upon by the~~  
36 *representatives of the district and labor organization.*

37 (B) *If the representatives of the district and labor organization*  
38 *are unable to agree; on the fifth member, then the names of five*  
39 *persons experienced in labor arbitration shall be obtained from the*  
40 ~~Supervisor of Conciliation of the Division of Conciliation;~~



1 *California State Mediation and Conciliation Service within the*  
 2 *Department of Industrial Relations. The labor organization and the*  
 3 *district shall, alternately, strike a name from the list so supplied;*  
 4 ~~*and by the California State Mediation and Conciliation Service.*~~  
 5 *The labor organization and the district shall determine by lot who*  
 6 *shall first strike a name from the list. After the labor organization*  
 7 *and the district have stricken four names, the name remaining after*  
 8 ~~*the labor organization and the district have stricken four names;*~~  
 9 *shall be designated as the arbitrator. The labor organization and*  
 10 ~~*the district shall determine by lot who shall first strike a name from*~~  
 11 ~~*the list. The decision of a majority of the arbitration board shall be*~~  
 12 ~~*final and binding upon the parties thereto. The expenses of such*~~  
 13 ~~*impartial arbitrator shall be provided half by the district and half*~~  
 14 ~~*by the labor organization.*~~

15 *(C) The district and the labor organization shall each pay half*  
 16 *of the cost of the impartial arbitrator.*

17 *(e) No A contract or agreement shall not be made with any labor*  
 18 *organization, association, group, or individual where such*  
 19 ~~*organization, association, group or individual that denies*~~  
 20 ~~*membership on the grounds of race, creed or color; provided, such*~~  
 21 ~~*any basis listed in subdivision (a) of Section 12940 of the*~~  
 22 ~~*Government Code, as those bases are defined in Sections 12926*~~  
 23 ~~*and 12926.1 of the Government Code. However, the organization*~~  
 24 ~~*may preclude from membership any individual who advocates the*~~  
 25 ~~*overthrow of the government by force or violence.*~~

26 *(f) The district shall not discriminate in with regard to*  
 27 ~~*employment against any person because of his race, creed, or color*~~  
 28 ~~*on any basis listed in subdivision (a) of Section 12940 of the*~~  
 29 ~~*Government Code, as those bases are defined in Sections 12926*~~  
 30 ~~*and 12926.1 of the Government Code, except as otherwise*~~  
 31 ~~*provided in Section 12940 of the Government Code.*~~

32 *SEC. 21. Section 50120 of the Public Utilities Code is*  
 33 ~~*amended to read:*~~

34 ~~*50120. Whenever (a) If a majority of the employees*~~  
 35 ~~*employed by said a transit district in a unit appropriate for*~~  
 36 ~~*collective bargaining indicate a desire to be represented by a labor*~~  
 37 ~~*organization, then the board, upon after determining as provided*~~  
 38 ~~*in pursuant to Section 50121 that said the labor organization*~~  
 39 ~~*represents the employees in the appropriate unit, and the*~~  
 40 ~~*accredited representative shall bargain with the accredited*~~



1 *representative of those employees. Both parties shall bargain in*  
2 *good faith and make all reasonable efforts to reach agreement on*  
3 *the terms of a written contract governing wages, salaries, hours,*  
4 *working conditions, and grievance procedures. In case of*

5 *(b) (1) If a dispute arises over the terms of a written contract*  
6 *governing wages, salaries, hours, or working conditions, which*  
7 *that is not resolved by negotiations conducted in good faith*  
8 *between the board and the representatives of the employees, then*  
9 *the board and the representatives of the employees shall submit*  
10 *said the dispute to the decision of the majority of an arbitration*  
11 *board, and the. The decision of a majority of such the arbitration*  
12 *board shall be final.*

13 *(2) (A) The arbitration board shall be composed of two*  
14 *representatives of the transit board and, two representatives of the*  
15 *labor organization, and they shall endeavor to agree upon the*  
16 *selection of a fifth member. If they a fifth member to be agreed*  
17 *upon by the representatives of the transit board and labor*  
18 *organization.*

19 *(B) If the representatives of the transit board and labor*  
20 *organization are unable to agree, on the fifth member, then the*  
21 *names of five persons experienced in labor arbitration shall be*  
22 *obtained from the Supervisor of Conciliation of the Division of*  
23 *Conciliation, California State Mediation and Conciliation Service*  
24 *within the Department of Industrial Relations. The labor*  
25 *organization and the district shall, alternately, strike a name from*  
26 *the list so supplied, and by the California State Mediation and*  
27 *Conciliation Service. The labor organization and the district shall*  
28 *determine by lot who shall first strike a name from the list. After*  
29 *the labor organization and the transit district have stricken four*  
30 *names, the name remaining after the labor organization and the*  
31 *district have stricken four names, shall be designated as the*  
32 *arbitrator. The labor organization and the district shall determine*  
33 *by lot who shall first strike from the list. The expenses of such*  
34 *impartial arbitrator shall be provided half by the transit board and*  
35 *half by the labor organization.*

36 ~~No~~  
37 *(C) The transit board and the labor organization shall each pay*  
38 *half of the cost of the impartial arbitrator.*

39 *(c) A contract or agreement shall not be made with any labor*  
40 *organization, association, group, or individual where such*



1 ~~organization, association, group or individual~~ that denies  
 2 membership on the grounds of race, creed or color, provided such  
 3 any basis listed in subdivision (a) of Section 12940 of the  
 4 Government Code, as those bases are defined in Sections 12926  
 5 and 12926.1 of the Government Code. However, the organization  
 6 may preclude from membership any individual who advocates the  
 7 overthrow of the government by force or violence.

8 (d) The district shall not discriminate with regard to  
 9 employment against any person on any basis listed in subdivision  
 10 (a) of Section 12940 of the Government Code, as those bases are  
 11 defined in Sections 12926 and 12926.1 of the Government Code,  
 12 except as otherwise provided in Section 12940 of the Government  
 13 Code.

14 SEC. 22. Section 70121 of the Public Utilities Code is  
 15 amended to read:

16 70121. ~~No~~ (a) A contract or agreement shall not be made, or  
 17 assumed, with any labor organization, association, group, or  
 18 individual, ~~or be assumed under the provisions of this section,~~  
 19 ~~where such organization, association, group, or individual~~ that  
 20 denies membership to, or in any manner discriminates against,  
 21 any employee on the grounds of race, creed, color or sex; provided,  
 22 that such any basis listed in subdivision (a) of Section 12940 of the  
 23 Government Code, as those bases are defined in Sections 12926  
 24 and 12926.1 of the Government Code. However, the organization  
 25 may preclude from membership any individual who advocates the  
 26 overthrow of the government by force or violence.

27 (b) The district shall not discriminate ~~in~~ with regard to  
 28 employment against any person ~~because of his race, creed, or color~~  
 29 on any basis listed in subdivision (a) of Section 12940 of the  
 30 Government Code, as those bases are defined in Sections 12926  
 31 and 12926.1 of the Government Code, except as otherwise  
 32 provided in Section 12940 of the Government Code.

33 SEC. 23. Section 90300 of the Public Utilities Code is  
 34 amended to read:

35 90300. (a) Employees shall have the right to  
 36 ~~self-organization~~ self-organize, to form, join, or assist labor  
 37 organizations, to bargain collectively through representatives of  
 38 their own choosing, and to engage in other concerted activities for  
 39 the purpose of collective bargaining or other mutual aid or



1 protection. It is declared to be in the public interest that the district  
2 shall not express any preference for one union over another.

3 (1) (A) Notwithstanding any other provision of this act,  
4 ~~whenever~~ if a majority of the employees employed by ~~the~~ a district  
5 in a unit appropriate for collective bargaining indicate a desire to  
6 be represented by a labor organization, ~~then~~ the district, ~~upon~~ after  
7 determining ~~as provided in~~ pursuant to subdivision ~~(b)~~ of this  
8 ~~section that such~~ (f) that the labor organization represents the  
9 employees in the appropriate unit, shall enter into a written  
10 contract with the accredited representative of ~~such~~ those  
11 employees governing wages, salaries, hours, and working  
12 conditions. ~~In case of~~

13 (B) (i) If a dispute *arises* over wages, salaries, hours, or  
14 working conditions, ~~which that~~ is not resolved by negotiations  
15 *conducted* in good faith between the district and the labor  
16 organization, *then* upon the request of either *party*, the district and  
17 the labor organization may submit ~~said~~ the dispute to ~~the decision~~  
18 ~~of the majority of~~ an arbitration board, ~~and the~~. The decision of ~~the~~  
19 a majority of ~~such~~ the arbitration board shall be final.

20 (ii) The arbitration board shall be composed of two  
21 representatives of the district, ~~and~~ two representatives of the labor  
22 organization, and ~~they shall endeavor to agree upon the selection~~  
23 ~~of the fifth member. If they a fifth member to be agreed upon by~~  
24 ~~the representatives of the district and labor organization.~~

25 (iii) ~~If the representatives of the district and labor organization~~  
26 ~~are unable to agree on the fifth member, then~~ the names of five  
27 persons experienced in labor arbitration shall be obtained from the  
28 ~~Supervisor of Conciliation of the Division of Conciliation,~~  
29 ~~California State Mediation and Conciliation Service within the~~  
30 Department of Industrial Relations. The labor organization and the  
31 district shall, alternately, strike a name from the list ~~so~~ supplied;  
32 ~~and by the California State Mediation and Conciliation Service.~~  
33 ~~The labor organization and the district shall determine by lot who~~  
34 ~~shall first strike a name from the list. After the labor organization~~  
35 ~~and the district have stricken four names, the name remaining after~~  
36 ~~the labor organization and the district have stricken four names,~~  
37 shall be designated as the arbitrator. ~~The labor organization and~~  
38 ~~the district shall determine by lot who shall first strike from the list.~~  
39 The decision of a majority of the arbitration board shall be final  
40 and binding upon the parties ~~thereto~~.



1 (iv) The expenses of arbitration shall be borne equally by the  
 2 parties. Each party shall bear the party’s own costs.

3 ~~In the event~~

4 (b) ~~If the board and the representatives of the employees do not~~  
 5 ~~agree to submit such the dispute to an arbitration board as herein~~  
 6 ~~provided; in subdivision (a), either party may notify the California~~  
 7 ~~State Mediation and Conciliation Service may be notified by~~  
 8 ~~either party that a dispute exists and that there is no agreement to~~  
 9 ~~arbitrate. Said service~~ *The California State Mediation and*  
 10 *Conciliation Service shall determine whether or not the dispute*  
 11 ~~may can be resolved by the parties and, if not, the issues~~  
 12 ~~concerning which that are the subject of the dispute exists; upon~~  
 13 ~~such. After making its determination, the service shall certify its~~  
 14 ~~findings to the Governor of the State of California who shall,~~  
 15 ~~within 10 days of receipt of certification, appoint a factfinding~~  
 16 ~~commission consisting of three persons which. The factfinding~~  
 17 ~~commission shall immediately convene and inquire into and~~  
 18 ~~investigate the issues involved in the dispute. Such The~~  
 19 ~~commission shall report to the Governor within 30 days of the date~~  
 20 ~~of its creation.~~

21 (c) After the creation of ~~such the~~ commission and for 30 days  
 22 after ~~such the date the~~ commission has made its report to the  
 23 Governor, ~~no the parties to the controversy shall not make any~~  
 24 ~~change, except by mutual agreement, shall be made by the parties~~  
 25 ~~to the controversy in the conditions out of which the dispute arose~~  
 26 ~~and service. Service to the public shall be provided during that~~  
 27 ~~time.~~

28 ~~No~~

29 (d) A contract or agreement shall *not* be made, *or assumed,*  
 30 *with any labor organization, association, group, or individual, or*  
 31 ~~be assumed under the provisions of this section, where such~~  
 32 ~~organization, association, group, or individual that denies~~  
 33 ~~membership to, or in any manner discriminates against, any~~  
 34 ~~employee on the grounds of race, creed, color or sex; provided;~~  
 35 ~~that such any basis listed in subdivision (a) of Section 12940 of the~~  
 36 ~~Government Code, as those bases are defined in Sections 12926~~  
 37 ~~and 12926.1 of the Government Code. However, the organization~~  
 38 ~~may preclude from membership any individual who advocates the~~  
 39 ~~overthrow of the government by force or violence.~~



1 (e) The district shall not discriminate ~~in~~ with regard to  
2 employment against any person ~~because of the person's race,~~  
3  ~~creed, or color~~ on any basis listed in subdivision (a) of Section  
4 12940 of the Government Code, as those bases are defined in  
5 Sections 12926 and 12926.1 of the Government Code, except as  
6 otherwise provided in Section 12940 of the Government Code.

7 ~~(b) If there is a question~~

8 (f) (1) Any questions regarding whether a labor organization  
9 represents a majority of employees or whether the proposed unit  
10 is or is not appropriate, ~~such matters~~ shall be submitted to the  
11 California State Mediation and Conciliation Service for  
12 disposition. The California State Mediation and Conciliation  
13 Service shall promptly hold a public hearing after due notice to all  
14 interested parties ~~and shall thereupon~~ to determine the unit  
15 appropriate for the purposes of collective bargaining. In making  
16 ~~such that~~ determination and in establishing rules and regulations  
17 governing petitions, and the conduct of hearings and elections, the  
18 California State Mediation and Conciliation Service shall be  
19 guided by relevant federal law and administrative practice,  
20 developed under the Labor-Management Relations Act, 1947, as  
21 ~~presently amended~~ of 1947 (29 U.S.C. Sec. 141 et seq.).

22 (2) The California State Mediation and Conciliation Service  
23 shall provide for an election to determine the question of  
24 representation and shall certify the results to the parties. ~~Any~~ A  
25 certification of a labor organization to represent or act for the  
26 employees in any collective bargaining unit shall not be subject to  
27 challenge on the grounds that a new substantial question of  
28 representation within ~~such the~~ collective bargaining unit exists  
29 until the lapse of one year from the date of certification or the  
30 expiration of any collective bargaining agreement, whichever is  
31 later; ~~provided, that~~. However, no collective bargaining agreement  
32 shall be construed to be a bar to representation proceedings for a  
33 period of more than two years.

34 ~~(e) Whenever~~

35 (g) If the district acquires existing facilities from a publicly or  
36 privately owned public utility, either in proceedings by eminent  
37 domain or otherwise, the district shall assume and observe all  
38 existing labor contracts.

39 (1) To the extent necessary for operation of facilities, all of the  
40 employees of ~~such the~~ acquired public utility whose duties pertain



1 to the facilities acquired shall be appointed to comparable  
2 positions in the district without examination, subject to all the  
3 rights and benefits of this act, ~~and these~~. *Those* employees shall be  
4 given sick leave, seniority, vacation, and pension credits in  
5 accordance with the records and labor agreements of the acquired  
6 public utility.

7 (2) Members and beneficiaries of any pension or retirement  
8 system, or other benefits established by ~~that~~ *the* public utility,  
9 shall continue to have the rights, privileges, benefits, obligations,  
10 and status with respect to ~~such~~ *the* established system. No  
11 employee; of any acquired public utility ~~shall suffer any worsening~~  
12 ~~of the person's~~ *may be subject to a reduction in wages, seniority,*  
13 *pension, vacation, or other benefits by reason as a result of the*  
14 *acquisition.*

15 (3) The district may extend the benefits of this section to  
16 officers or supervisory employees of the acquired utility.

17 ~~(d)~~

18 (h) The district shall not ~~acquire~~ *do any of the following:*

19 (1) *Acquire* any existing system or part ~~thereof~~ *of an existing*  
20 *system, whether by purchase, lease, condemnation, or otherwise;*  
21 ~~nor shall the district dispose.~~

22 (2) *Dispose* of or lease any transit system or part ~~thereof, nor~~  
23 ~~merge~~ *of the transit system.*

24 (3) *Merge, consolidate, or coordinate* any transit system or part  
25 ~~thereof, or reduce~~ *of the transit system.*

26 (4) *Reduce* or limit the lines or service of any existing system  
27 ~~or of its~~ *the district's* system unless ~~it shall first have~~ *the district has*  
28 *first made adequate provision for any employees who are or may*  
29 *be displaced. The terms and conditions of such that provision shall*  
30 *be a proper subject of collective bargaining.*

31 ~~(e)~~

32 (i) Notwithstanding ~~the provisions~~ *any provision* of the  
33 ~~Government Code, employees of this district may authorize and,~~  
34 ~~upon such authorization,~~ the district may make deductions from  
35 *the wages and salaries of such its employees who authorize the*  
36 *deductions for the following purposes:*

37 (1) Pursuant to a collective bargaining agreement with a duly  
38 designated or certified labor organization, for the payment of  
39 union dues, fees, or assessments.



1 (2) For the payment of contributions pursuant to any health and  
2 welfare plan, or pension or retirement plan.

3 (3) For any purpose for which ~~deductions may be authorized by~~  
4 employees of any private employer *may authorize deductions*.

5 ~~(f)~~

6 (j) (1) The obligation of the district to bargain in good faith  
7 with a duly designated or certified labor organization and to  
8 execute a written collective bargaining agreement with ~~such that~~  
9 labor organization covering the wages, hours, and working  
10 conditions of the employees represented by ~~such that~~ labor  
11 organization in an appropriate unit, and to comply with the terms  
12 ~~thereof of the collective bargaining agreement~~, shall not be limited  
13 or restricted by ~~the provisions of the Government Code or other~~  
14 ~~laws or statutes and the any provision of law~~. The obligation of the  
15 district to bargain collectively shall extend to all subjects of  
16 collective bargaining ~~which that~~ are or may be proper subjects of  
17 collective bargaining with a private employer, including  
18 retroactive provisions.

19 (2) Notwithstanding ~~the provisions of the Government Code or~~  
20 ~~other laws or statutes any other provision of law~~, the district shall  
21 make deductions from *the* wages and salaries of its employees,  
22 upon receipt of authorization ~~therefor to make those deductions~~,  
23 for the payment of union dues, fees, or assessments, for the  
24 payment of contributions pursuant to any health and welfare plan  
25 or pension plan, or for any other purpose for which ~~deductions~~  
26 ~~may be authorized by~~ employees of any private employer *may*  
27 *authorize deductions*, where ~~such those~~ deductions are pursuant to  
28 a collective bargaining agreement with a duly designated or  
29 certified labor organization.

30 ~~(g)~~

31 (k) The district may provide for a retirement system~~;~~, provided~~;~~  
32 that the adoption, terms, and conditions of any retirement system  
33 covering employees of the district represented by a labor  
34 organization in accordance with this section shall be pursuant to  
35 a collective bargaining agreement between ~~such the~~ or  
36 organization and the district.

37 ~~(h)~~

38 (l) The district shall take ~~such any steps as that~~ may be  
39 necessary to obtain coverage for the district and its employees  
40 under Title II of the Federal Social Security Act, ~~as amended~~ (42



1 U.S.C. Sec. 401 et seq.), and the related provisions of the Federal  
 2 Insurance Contributions Act, ~~as amended~~ (26 U.S.C. Sec. 3101 et  
 3 seq.).

4 ~~(i)~~

5 (m) The district shall take ~~such any steps as~~ that may be  
 6 necessary to obtain coverage for the district and its employees  
 7 under the workers' compensation (Division 4 (commencing with  
 8 Section 3200) and Division 4.5 (commencing with Section 6100)  
 9 of the Labor Code), unemployment compensation disability (Part  
 10 2 (commencing with Section 2691) of Division 1 of the  
 11 Unemployment Insurance Code), and unemployment insurance  
 12 (Part 1 (commencing with Section 100) of Division 1 of the  
 13 Unemployment Insurance Code) laws of the State of California.

14 SEC. 24. Section 95650 of the Public Utilities Code is  
 15 amended to read:

16 95650. ~~Whenever~~ (a) If a majority of the employees  
 17 employed by ~~said~~ a transit district in a unit appropriate for  
 18 collective bargaining indicate a desire to be represented by a labor  
 19 organization, ~~then~~ the board, ~~upon after determining as provided~~  
 20 ~~in pursuant to~~ Section 95651 that ~~said~~ the labor organization  
 21 represents the employees in the appropriate unit, ~~and the~~  
 22 ~~accredited representative~~ shall bargain with the accredited  
 23 representative of those employees. Both parties shall bargain in  
 24 good faith and make all reasonable efforts to reach agreement on  
 25 the terms of a written contract governing wages, salaries, hours,  
 26 working conditions, and grievance procedures. ~~In case of~~

27 (1) If a dispute arises over the terms of a written contract  
 28 governing wages, salaries, hours, or working conditions, ~~which~~  
 29 ~~that~~ is not resolved by negotiations conducted in good faith  
 30 between the board and the representatives of the employees, ~~then~~  
 31 the board and the representatives of the employees shall submit  
 32 ~~said~~ the dispute to ~~the decision of the majority of~~ an arbitration  
 33 board, ~~and the~~. The decision of a majority of ~~such~~ the arbitration  
 34 board shall be final.

35 (2) (A) The arbitration board shall be composed of two  
 36 representatives of the transit board ~~and~~, two representatives of the  
 37 labor organization, and ~~they shall endeavor to agree upon the~~  
 38 ~~selection of a fifth member. If they a fifth member to be agreed~~  
 39 ~~upon by the representatives of the transit board and labor~~  
 40 ~~organization. If the representatives of the transit board and labor~~

1 organization are unable to agree; on the fifth member, then the  
2 names of five persons experienced in labor arbitration shall be  
3 obtained from the ~~Supervisor of Conciliation of the Division of~~  
4 ~~Conciliation, California State Mediation and Conciliation Service~~  
5 within the Department of Industrial Relations.

6 (B) The labor organization and the district shall, alternately,  
7 strike a name from the list ~~so~~ supplied, ~~and by the California State~~  
8 ~~Mediation and Conciliation Service. The labor organization and~~  
9 ~~the district shall determine by lot who shall first strike a name from~~  
10 ~~the list. After the labor organization and the district have stricken~~  
11 ~~four names, the name remaining after the labor organization and~~  
12 ~~the district have stricken four names, shall be designated as the~~  
13 ~~arbitrator. The labor organization and the district shall determine~~  
14 ~~by lot who shall first strike from the list. The expenses of such~~  
15 ~~impartial arbitrator shall be provided half by the transit board and~~  
16 ~~half by the labor organization.~~

17 ~~No~~

18 (C) The transit board and labor organization shall each pay  
19 half of the cost of the impartial arbitrator.

20 (c) A contract or agreement shall not be made with any labor  
21 organization, association, group, or individual ~~where such~~  
22 ~~organization, association, group or individual that denies~~  
23 ~~membership on the grounds of race, creed or color, provided such~~  
24 ~~any basis listed in subdivision (a) of Section 12940 of the~~  
25 ~~Government Code, as those bases are defined in Sections 12926~~  
26 ~~and 12926.1 of the Government Code. However, the organization~~  
27 ~~may preclude from membership any individual who advocates the~~  
28 ~~overthrow of the government by force or violence.~~

29 (d) The district shall not discriminate with regard to  
30 employment against any person on any basis listed in subdivision  
31 (a) of Section 12940 of the Government Code, as those bases are  
32 defined in Sections 12926 and 12926.1 of the Government Code,  
33 except as otherwise provided in Section 12940 of the Government  
34 Code.

35 SEC. 25. Section 98161 of the Public Utilities Code is  
36 amended to read:

37 98161. All citizens shall have equal opportunity to obtain and  
38 hold employment, and to advance ~~therein in that employment,~~  
39 without discrimination ~~because of race, religion, color, national~~  
40 ~~origin or ancestry on any basis listed in subdivision (a) of Section~~



1 12940 of the Government Code, as those bases are defined in  
2 Sections 12926 and 12926.1 of the Government Code, except as  
3 otherwise provided in Section 12940 of the Government Code.

4 SEC. 26. Section 100303 of the Public Utilities Code is  
5 amended to read:

6 100303. ~~No~~ (a) A contract or agreement shall *not* be made  
7 with any labor organization, association, group, or individual  
8 ~~where such organization, association, group or individual that~~  
9 ~~denies membership on the grounds of race, creed or color;~~  
10 ~~provided, that such~~ any basis listed in subdivision (a) of Section  
11 12940 of the Government Code, as those bases are defined in  
12 Sections 12926 and 12926.1 of the Government Code. However,  
13 the organization may preclude from membership any individual  
14 who advocates the overthrow of the government by force or  
15 violence.

16 (b) The district shall not discriminate with regard to  
17 employment against any person on any basis listed in subdivision  
18 (a) of Section 12940 of the Government Code, as those bases are  
19 defined in Sections 12926 and 12926.1 of the Government Code,  
20 except as otherwise provided in Section 12940 of the Government  
21 Code.

22 SEC. 27. Section 101343 of the Public Utilities Code is  
23 amended to read:

24 101343. ~~No~~ (a) A contract or agreement shall *not* be made,  
25 or assumed under this part, with any labor organization,  
26 association, or group, ~~or be assumed under the provisions of this~~  
27 ~~part, where such organization, association, or group that~~ denies  
28 membership to, or in any manner discriminates against, any  
29 employee on ~~the grounds of race, creed, color, or sex~~ any basis  
30 listed in subdivision (a) of Section 12940 of the Government Code,  
31 as those bases are defined in Sections 12926 and 12926.1 of the  
32 Government Code. However, ~~such~~ the organization may preclude  
33 from membership any individual who advocates the overthrow of  
34 the government by force or violence.

35 (b) The district shall not discriminate ~~in~~ with regard to  
36 employment against any person ~~because of his race, creed, or color~~  
37 on any basis listed in subdivision (a) of Section 12940 of the  
38 Government Code, as those bases are defined in Sections 12926  
39 and 12926.1 of the Government Code, except as otherwise  
40 provided in Section 12940 of the Government Code.



1 SEC. 28. Section 102402 of the Public Utilities Code is  
2 amended to read:

3 102402. ~~No~~ (a) A contract or agreement shall *not* be made,  
4 or assumed under this article, with any labor organization,  
5 association, or group, ~~or be assumed under the provisions of this~~  
6 ~~article, where such organization, association, or group, that~~ denies  
7 membership to, or in any manner discriminates against, any  
8 employee on the grounds of race, creed, color, or sex; ~~provided,~~  
9 ~~that such any basis listed in subdivision (a) of Section 12940 of the~~  
10 *Government Code, as those bases are defined in Sections 12926*  
11 *and 12926.1 of the Government Code. However, the organization*  
12 *may preclude from membership any individual who advocates the*  
13 *overthrow of the government by force or violence.*

14 (b) The district shall not discriminate ~~in~~ with regard to  
15 employment against any person ~~because of his race, creed, color,~~  
16 ~~or sex on any basis listed in subdivision (a) of Section 12940 of the~~  
17 *Government Code, as those bases are defined in Sections 12926*  
18 *and 12926.1 of the Government Code, except as otherwise*  
19 *provided in Section 12940 of the Government Code.*

20 SEC. 29. Section 103403 of the Public Utilities Code is  
21 amended to read:

22 103403. ~~No~~ (a) A contract or agreement shall *not* be made  
23 with any labor organization, association, or group ~~where such~~  
24 ~~organization, association, or group that~~ denies membership on the  
25 ~~grounds of race, creed, or color; provided, that such any basis~~  
26 *listed in subdivision (a) of Section 12940 of the Government Code,*  
27 *as those bases are defined in Sections 12926 and 12926.1 of the*  
28 *Government Code. However, the organization may preclude from*  
29 *membership any individual who advocates the overthrow of the*  
30 *government by force or violence.*

31 (b) *The district shall not discriminate with regard to*  
32 *employment against any person on any basis listed in subdivision*  
33 *(a) of Section 12940 of the Government Code, as those bases are*  
34 *defined in Sections 12926 and 12926.1 of the Government Code,*  
35 *except as otherwise provided in Section 12940 of the Government*  
36 *Code.*

37 SEC. 30. Section 120504 of the Public Utilities Code is  
38 amended to read:

39 120504. ~~No~~ (a) A contract or agreement shall *not* be made  
40 with any labor organization, association, or group ~~which that~~



1 denies membership to, or in any manner discriminates against, any  
2 employee on ~~the grounds of race, creed, color, or sex~~ any basis  
3 listed in subdivision (a) of Section 12940 of the Government Code,  
4 as those bases are defined in Sections 12926 and 12926.1 of the  
5 Government Code.

6 (b) The board shall not discriminate ~~in~~ with regard to  
7 employment against any person ~~because of race, creed, color, or~~  
8 ~~sex~~ on any basis listed in subdivision (a) of Section 12940 of the  
9 Government Code, as those bases are defined in Sections 12926  
10 and 12926.1 of the Government Code, except as otherwise  
11 provided in Section 12940 of the Government Code.

12 SEC. 31. Section 125523 of the Public Utilities Code is  
13 amended to read:

14 125523. ~~No~~ (a) A contract or agreement shall *not* be made  
15 with any labor organization, association, or group ~~where such~~  
16 ~~organization, association, or group~~ that denies membership on ~~the~~  
17 ~~grounds of race, creed, or color; provided, that such~~ any basis  
18 listed in subdivision (a) of Section 12940 of the Government Code,  
19 as those bases are defined in Sections 12926 and 12926.1 of the  
20 Government Code. However, the organization may preclude from  
21 membership any individual who advocates the overthrow of the  
22 government by force or violence.

23 (b) The district shall not discriminate with regard to  
24 employment against any person on any basis listed in subdivision  
25 (a) of Section 12940 of the Government Code, as those bases are  
26 defined in Sections 12926 and 12926.1 of the Government Code,  
27 except as otherwise provided in Section 12940 of the Government  
28 Code.

29 SEC. 32. Section 1256.2 of the Unemployment Insurance  
30 Code is amended to read:

31 1256.2. ~~An~~ (a) Except as otherwise provided in subdivision  
32 (b), an individual who terminates his or her employment shall not  
33 be deemed to have left his or her most recent work without good  
34 cause if his or her employer ~~operated so as to deprive him~~ deprived  
35 the individual of equal employment opportunities ~~because of that~~  
36 ~~individual's race, color, religious creed, sex, national origin,~~  
37 ~~ancestry, or physical handicap, except that this section shall not~~  
38 ~~apply~~ on any basis listed in subdivision (a) of Section 12940 of the  
39 Government Code, as those bases are defined in Sections 12926  
40 and 12926.1 of the Government Code.



1 (b) Subdivision (a) does not apply to the following:

2 ~~(a) To a~~

3 (1) A deprivation of equal employment opportunities that is  
4 based upon a bona fide occupational qualification or applicable  
5 security regulations established by the United States or this state,  
6 specifically, as provided in Section 12940 of the Government  
7 Code.

8 ~~(b) If the~~

9 (2) An individual who fails to make reasonable efforts to  
10 provide the employer with an opportunity to remove any  
11 unintentional deprivation of the individual's equal employment  
12 opportunities.

13 SEC. 33. Section 11320.31 of the Welfare and Institutions  
14 Code is amended to read:

15 11320.31. ~~No sanctions shall~~ Sanctions shall not be applied  
16 for a failure or refusal to comply with program requirements for  
17 reasons related to employment, an offer of employment, an  
18 activity, or other training for employment including, but not  
19 limited to, the following reasons:

20 (a) The employment, offer of employment, activity, or other  
21 training for employment discriminates in terms of age, sex, race,  
22 religion, national origin, or physical or mental disability on any  
23 basis listed in subdivision (a) of Section 12940 of the Government  
24 Code, as those bases are defined in Sections 12926 and 12926.1  
25 of the Government Code, except as otherwise provided in Section  
26 12940 of the Government Code.

27 (b) The employment or offer of employment exceeds the daily  
28 or weekly hours of work customary to the occupation.

29 (c) The employment, offer of employment, activity, or other  
30 training for employment requires travel to and from the place of  
31 employment, activity, or other training and one's home that  
32 exceeds a total of two hours in round-trip time, exclusive of the  
33 time necessary to transport family members to a school or place  
34 providing care, or, when walking is the only available means of  
35 transportation, the round-trip is more than two miles, exclusive of  
36 the mileage necessary to accompany family members to a school  
37 or a place providing care. An individual who fails or refuses to  
38 comply with the program requirements based on this ~~paragraph~~  
39 subdivision shall be required to participate in community service  
40 activities pursuant to Section 11322.9.



1 (d) The employment, offer of employment, activity, or other  
2 training for employment involves conditions that are in violation  
3 of applicable health and safety standards.

4 (e) The employment, offer of employment, or work activity  
5 does not provide for ~~worker's~~ workers' compensation insurance.

6 (f) Accepting the employment or work activity would cause an  
7 interruption in an approved education or job training program in  
8 progress that would otherwise lead to employment and sufficient  
9 income to be self-supporting, excluding work experience or  
10 community service employment as described in subdivisions (d)  
11 and (j) of Section 11322.6 and Section 11322.9 or other  
12 community work experience assignments, except that a recipient  
13 may be required to engage in welfare-to-work activities to the  
14 extent necessary to meet the hours of participation required by  
15 Section 11322.8.

16 (g) Accepting the employment, offer of employment, or work  
17 activity would cause the individual to violate the terms of his or her  
18 union membership.

19 *SEC. 34. Section 11322.62 of the Welfare and Institutions*  
20 *Code is amended to read:*

21 11322.62. Employers, sponsors of training activities, and  
22 contractors shall not discriminate against participants on ~~the basis~~  
23 ~~of race, sex, national origin, age, or disability~~ any basis listed in  
24 subdivision (a) of Section 12940 of the Government Code, as those  
25 bases are defined in Sections 12926 and 12926.1 of the  
26 Government Code, except as otherwise provided in Section 12940  
27 of the Government Code.

28 *SEC. 35. Section 14087.28 of the Welfare and Institutions*  
29 *Code is amended to read:*

30 14087.28. (a) A hospital contracting with the Medi-Cal  
31 program pursuant to this chapter, shall not deny medical staff  
32 membership or clinical privileges for reasons other than a  
33 physician's individual qualifications as determined by  
34 professional and ethical criteria, uniformly applied to all medical  
35 staff applicants and members. Determination of medical staff  
36 membership or clinical privileges shall not be made upon the basis  
37 of any of the following:

38 ~~(a)~~

39 (1) The existence of a contract with the hospital or with others.

40 ~~(b)~~



1 (2) Membership in, or affiliation with, any society, medical  
2 group, or teaching facility, or upon the basis of any criteria lacking  
3 professional justification, such as ~~sex, race, creed or national~~  
4 ~~origin~~ any basis listed in subdivision (a) of Section 12940 of the  
5 Government Code, as those bases are defined in Sections 12926  
6 and 12926.1 of the Government Code, except as otherwise  
7 provided in Section 12940 of the Government Code.

8 (b) The special negotiator may authorize a contracting hospital  
9 to impose reasonable limitations on the granting of medical staff  
10 membership or clinical privileges in the following instances:

11 ~~(a) To~~ to permit an exclusive contract for the provision of  
12 pathology, radiology, and anesthesiology services, except for  
13 consulting services requested by the admitting physician.

14 SEC. 36. No reimbursement is required by this act pursuant  
15 to Section 6 of Article XIII B of the California Constitution  
16 because the only costs that may be incurred by a local agency or  
17 school district will be incurred because this act creates a new crime  
18 or infraction, eliminates a crime or infraction, or changes the  
19 penalty for a crime or infraction, within the meaning of Section  
20 17556 of the Government Code, or changes the definition of a  
21 crime within the meaning of Section 6 of Article XIII B of the  
22 California Constitution.

