

Assembly Bill No. 2900

Passed the Assembly May 17, 2004

Chief Clerk of the Assembly

Passed the Senate August 16, 2004

Secretary of the Senate

This bill was received by the Governor this _____ day of
_____, 2004, at _____ o'clock __M.

Private Secretary of the Governor



CHAPTER _____

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, Laird. Employment: discrimination.

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.

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.



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

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

44100. (a) The Legislature finds and declares the following:

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

(2) It is educationally sound for the minority student attending a racially impacted school to have available to him or her the positive image provided by minority classified and certificated employees. It is likewise educationally sound for the child from the majority group to have positive experiences with minority people, that can be provided, in part, by having minority classified and certificated employees at schools where the enrollment is largely made up of majority group students. It is also educationally important for students to observe that women as well as men can assume responsible and diverse roles in society.

(3) Past employment practices created artificial barriers and past efforts to promote additional action in the recruitment, employment, and promotion of women and minorities did not result in a substantial increase in employment opportunities for these persons.

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

(b) It is the intent of the Legislature to do all of the following:

(1) Establish and maintain a policy of equal opportunity in employment for all persons.

(2) Prohibit discrimination on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code, except as otherwise provided in Section 12940 of the Government Code, in every aspect of personnel policy and practice in the employment, development, advancement, and treatment of persons employed in the public school system.



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

(c) The Legislature recognizes that it is not enough to proclaim that public employers do not discriminate in employment, but that effort must also be made to build a community in which opportunity is equalized. It is the intent of the Legislature to require educational agencies to adopt and implement plans for increasing the numbers of women and minority persons at all levels of responsibility.

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

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

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

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

(b) “Goals and timetables” means projected new levels of employment of women and minority racial and ethnic groups to be attained on an annual schedule, given the expected turnover in the work force and the availability of persons who are qualified or may become qualified through appropriate training or experience within a reasonable length of time. Goals are not quotas or rigid



proportions. They should relate both to the qualitative and quantitative needs of the employer.

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

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

44858. The Legislature hereby declares that it is contrary to the interest of this state and of the people of the state for any governing board or any person charged by the governing board of any school district with the responsibility of interviewing and recommending persons for employment in positions requiring certification, to fail or refuse to interview or recommend a person applying for employment in a position requiring certification on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code, except as otherwise provided in this code and in Section 12940 of the Government Code.

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

45293. No questions relating to political or religious opinions or affiliations, or relating to any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code, shall be asked of any applicant, or any candidate whose name has been certified for appointment, nor shall any discrimination be exercised therefor, except as otherwise provided in Section 12940 of the Government Code.

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

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

- (1) The total number of positions available.



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

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

(4) The educational benefits provided by the position.

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

(c) Following execution of the agreement pursuant to subdivision (b), the employer may interview prospective work-study employees. The institution shall provide the employer and each applicant for the work-study position with adequate information to facilitate a proper placement. Provided that the priorities specified in Section 69959 have been met, the employer may indicate his or her hiring preferences. An employer shall not discriminate between applicants on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code, except as otherwise provided in Section 12940 of the Government Code, or subject any applicant to any other discriminatory practices prohibited by state or federal law.

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

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

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

(2) Academic excellence can best be sustained in a climate of acceptance and with the inclusion of persons from a wide variety of backgrounds and preparations to provide service to an increasingly diverse student population.



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

(b) It is the intent of the Legislature to establish and maintain within the California Community College districts a policy of equal opportunity in employment for all persons, and to prohibit discrimination or preferential treatment based on ethnic group identification, or on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code, except as otherwise provided in Section 12940 of the Government Code. Every aspect of personnel policy and practice in the community college districts should advance the realization of inclusion through a continuing program of equal employment opportunity.

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

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

88112. No questions relating to political or religious opinions or affiliations, or any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code, shall be asked of any applicant, or any candidate whose name has been certified for appointment, nor shall any discrimination be exercised therefor, except as otherwise provided in Section 12940 of the Government Code.

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

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



- (a) Fraud in securing appointment.
- (b) Incompetency.
- (c) Inefficiency.
- (d) Inexcusable neglect of duty.
- (e) Insubordination.
- (f) Dishonesty.
- (g) Drunkenness on duty.
- (h) Intemperance.
- (i) Addiction to the use of controlled substances.
- (j) Inexcusable absence without leave.
- (k) Conviction of a felony or conviction of a misdemeanor involving moral turpitude. A plea or verdict of guilty, or a conviction following a plea of nolo contendere, to a charge of a felony or any offense involving moral turpitude is deemed to be a conviction within the meaning of this section.
- (l) Immorality.
- (m) Discourteous treatment of the public or other employees.
- (n) Improper political activity.
- (o) Willful disobedience.
- (p) Misuse of state property.
- (q) Violation of this part or of a board rule.
- (r) Violation of the prohibitions set forth in accordance with Section 19990.
- (s) Refusal to take and subscribe any oath or affirmation that is required by law in connection with the employment.
- (t) Other failure of good behavior either during or outside of duty hours, which is of such a nature that it causes discredit to the appointing authority or the person's employment.
- (u) Any negligence, recklessness, or intentional act that results in the death of a patient of a state hospital serving the mentally disabled or the developmentally disabled.
- (v) The use during duty hours, for training or target practice, of any material that is not authorized for that use by the appointing power.
- (w) Unlawful discrimination, including harassment, on any basis listed in subdivision (a) of Section 12940, as those bases are defined in Sections 12926 and 12926.1, except as otherwise provided in Section 12940, against the public or other employees while acting in the capacity of a state employee.



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

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

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

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

- (1) Fraud in securing appointment.
- (2) Incompetency.
- (3) Inefficiency.
- (4) Inexcusable neglect of duty.
- (5) Insubordination.
- (6) Dishonesty.
- (7) Drunkenness on duty.
- (8) Intemperance.
- (9) Addiction to the use of controlled substances.
- (10) Inexcusable absence without leave.
- (11) Conviction of a felony or conviction of a misdemeanor involving moral turpitude. A plea or verdict of guilty, or a conviction following a plea of nolo contendere, to a charge of a felony of any offense involving moral turpitude is deemed to be a conviction within the meaning of this section.
- (12) Immorality.
- (13) Discourteous treatment of the public or other employees.
- (14) Improper political activity.
- (15) Willful disobedience.
- (16) Misuse of state property.
- (17) Violation of this part or of a board rule.
- (18) Violation of the prohibitions set forth in accordance with Section 19990.
- (19) Refusal to take and subscribe any oath or affirmation that is required by law in connection with the employment.



(20) Other failure of good behavior either during or outside of duty hours that is of such a nature that it causes discredit to the appointing authority of the person's employment.

(21) Any negligence, recklessness, or intentional act that results in the death of a patient of a state hospital serving the mentally disabled or the developmentally disabled.

(22) The use during duty hours, for training or target practice, of any material that is not authorized for that use by the appointing power.

(23) Unlawful discrimination, including harassment, on any basis listed in subdivision (a) of Section 12940, as those bases are defined in Sections 12926 and 12926.1, except as otherwise provided in Section 12940, against the public or other employees while acting in the capacity of a state employee.

(24) Unlawful retaliation against any other state officer or employee or member of the public who in good faith reports, discloses, divulges, or otherwise brings to the attention of, the Attorney General or any other appropriate authority, any facts or information relative to actual or suspected violation of any law of this state or the United States occurring on the job or directly related to the job.

(c) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if any provision of that memorandum of understanding requires the expenditure of funds, that provision shall become effective only if approved by the Legislature in the annual Budget Act.

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

19702. (a) A person shall not be discriminated against under this part on any basis listed in subdivision (a) of Section 12940, as those bases are defined in Sections 12926 and 12926.1, except as otherwise provided in Section 12940. A person shall not be retaliated against because he or she has opposed any practice made an unlawful employment practice, or made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. This subdivision is declaratory of existing law.



(b) For purposes of this article, “discrimination” includes harassment.

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

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

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

(e) Any person claiming discrimination within the state civil service may submit a written complaint that states the particulars of the alleged discrimination, the name of the appointing authority, the persons alleged to have committed the unlawful discrimination, and any other information that the board may require. The complaint shall be filed with the appointing authority or, in accordance with board rules, with the board itself.



(f) (1) Complaints shall be filed within one year of the alleged unlawful discrimination or the refusal to act in accordance with this section, except that this period may be extended for not greater than 90 days following the expiration of that year, if a person allegedly aggrieved by unlawful discrimination first obtained knowledge of the facts of the alleged unlawful discrimination after the expiration of one year from the date of its occurrence. Complaints of discrimination in adverse actions or rejections on probation shall be filed in accordance with Sections 19175 and 19575.

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

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

(h) If a person demonstrates by a preponderance of evidence that the person's opposition to any practice made an unlawful employment practice under this part, or the person's charging, testifying, assisting, or participation in any manner in an investigation, proceeding, or hearing under this part, was a contributing factor in any adverse employment action taken against him or her, the burden of proof shall be on the supervisor, manager, employee, or appointing power to demonstrate by clear and convincing evidence that the alleged adverse employment



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

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

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

19704. (a) It is unlawful to require, permit, or suffer any notation or entry to be made upon or in any application, examination paper, or other paper, book, document, or record used under this part indicating or in any way suggesting or pertaining to any basis listed in subdivision (a) of Section 12940, as those bases are defined in Sections 12926 and 12926.1.

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

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

19793. By November 15 of each year, beginning in 1978, the State Personnel Board shall report to the Governor, the Legislature, and the Department of Finance on a census of the state workforce and any underutilization problems in a state agency or department that may indicate failure to provide equal employment opportunity to minorities, women, and persons with disabilities during the past fiscal year. The report also shall include information on laws that discriminate or have the effect of



discrimination on the basis of political affiliation or any basis listed in subdivision (a) of Section 12940, as those bases are defined in Sections 12926 and 12926.1. The Legislature shall evaluate the equal employment opportunity efforts of state agencies during its evaluation of the Budget Bill.

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

1156.3. (a) A petition that is either signed by, or accompanied by authorization cards signed by, a majority of the currently employed employees in the bargaining unit, may be filed by an agricultural employee or group of agricultural employees, or any individual or labor organization acting on behalf of those agricultural employees, in accordance with any rules and regulations prescribed by the board. The petition shall allege all of the following:

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

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

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

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

(b) Upon receipt of a signed petition, as described in subdivision (a), the board shall immediately investigate the petition. If the board has reasonable cause to believe that a bona fide question of representation exists, it shall direct a representation election by secret ballot to be held, upon due notice to all interested parties and within a maximum of seven days of the filing of the petition. If, at the time the election petition is filed, a majority of the employees in a bargaining unit are engaged in a strike, the board shall, with all due diligence, attempt to hold a secret ballot election within 48 hours of the filing of the petition.



The holding of elections under strike circumstances shall take precedence over the holding of other secret ballot elections.

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

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

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

(2) Upon receipt of a petition under this subdivision, the board, upon due notice, shall conduct a hearing to determine whether the election shall be certified. This hearing may be conducted by an officer or employee of a regional office of the board. The officer may not make any recommendations with respect to the certification of the election. The board may refuse to certify the election if it finds, on the record of the hearing, that any of the assertions made in the petition filed pursuant to this subdivision are correct, that the election was not conducted properly, or that misconduct affecting the results of the election occurred. The board shall certify the election unless it determines that there are sufficient grounds to refuse to do so.

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

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

(1) The Department of Fair Employment and Housing finds that the labor organization engaged in discrimination on any basis



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

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

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

1735. A contractor shall not discriminate in the employment of persons upon public works on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code, except as otherwise provided in Section 12940 of the Government Code. Every contractor for public works who violates this section is subject to all the penalties imposed for a violation of this chapter.

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

1777.6. An employer or a labor union shall not refuse to accept otherwise qualified employees as registered apprentices on any public works on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code, except as provided in Section 3077 of this code and Section 12940 of the Government Code.

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

3095. Every person who willfully discriminates in any recruitment or apprenticeship program on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code, except as otherwise provided in Section 12940 of the Government Code, is guilty of a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000) or by imprisonment for not more than six months, or both.

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



130. (a) Members of the militia of the state shall not be discriminated against in enlistments, promotions, or commissions on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code, except as otherwise provided in Section 12940 of the Government Code.

(b) It is hereby declared to be the policy of the State of California that there be equality of treatment and opportunity for all members of the militia of the state without regard to any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code. This policy shall be put into effect in the militia by rules and regulations to be issued by the Governor with due regard to the powers of the federal government that are, or may be, exercised over all the militia of the state with regard to positions requiring federal recognition.

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

25051. (a) If a majority of the employees employed by a transit district in a unit appropriate for collective bargaining indicate a desire to be represented by a labor organization, the transit board, after determining pursuant to Section 25052 that the labor organization represents the employees in the appropriate unit, shall bargain with the accredited representative of those employees. Both parties shall bargain in good faith and make all reasonable efforts to reach agreement on the terms of a written contract governing wages, salaries, hours, working conditions, and grievance procedures.

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

(2) (A) The arbitration board shall be composed of two representatives of the transit board, two representatives of the labor organization, and a fifth member to be agreed upon by the representatives of the transit board and labor organization.



(B) If the representatives of the transit board and labor organization are unable to agree on the fifth member, then the names of five persons experienced in labor arbitration shall be obtained from the California State Mediation and Conciliation Service within the Department of Industrial Relations. The labor organization and the transit district shall, alternately, strike a name from the list supplied by the California State Mediation and Conciliation Service. The labor organization and the transit district shall determine by lot who shall first strike a name from the list. After the labor organization and the transit district have stricken four names, the name remaining shall be designated as the arbitrator.

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

(b) A contract or agreement shall not be made with any labor organization, association, group, or individual that denies membership on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code. However, the organization may preclude from membership any individual who advocates the overthrow of the government by force or violence.

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

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

28850. (a) If a majority of the employees employed by a district in a unit appropriate for collective bargaining indicate a desire to be represented by a labor organization, then the board, after determining pursuant to Section 28851 that the labor organization represents the employees in the appropriate unit, shall bargain with the accredited representative of those employees. Both parties shall bargain in good faith and make all reasonable efforts to reach agreement on the terms of a written contract governing wages, salaries, hours, working conditions, and grievance procedures.



(1) If a dispute arises over the terms of a written contract governing wages, salaries, hours, or working conditions that is not resolved by negotiations conducted in good faith between the board and the representatives of the employees, then upon the agreement of both parties, the board and the representatives of the employees may submit the dispute to an arbitration board. The decision of a majority of the arbitration board shall be final.

(2) (A) The arbitration board shall be composed of two representatives of the district, two representatives of the labor organization, and a fifth member to be agreed upon by the representatives of the district and the labor organization.

(B) If the representatives of the district and the labor organization are unable to agree on the fifth member, then the names of five persons experienced in labor arbitration shall be obtained from the California State Mediation and Conciliation Service within the Department of Industrial Relations. The labor organization and the district shall, alternately, strike a name from the list supplied by the California State Mediation and Conciliation Service. The labor organization and the district shall determine by lot who shall first strike a name from the list. After the labor organization and the district have stricken four names, the name remaining shall be designated as the arbitrator.

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

(b) A contract or agreement shall not be made with any labor organization, association, group, or individual that denies membership on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code. However, the organization may preclude from membership any individual who advocates the overthrow of the government by force or violence.

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

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



30750. (a) Subject to subdivision (b), if a majority of the employees employed by a district in a unit appropriate for collective bargaining indicate a desire to be represented by a labor organization, then the board, after determining pursuant to Section 30751 that the labor organization represents the employees in the appropriate unit, shall bargain with the accredited representative of those employees. Both parties shall bargain in good faith and make all reasonable efforts to reach agreement on the terms of a written contract governing wages, hours, and working conditions. In the absence of the expression of the desire to be represented by a labor organization, employees are subject to any personnel system established pursuant to Section 30257.

(b) Upon the acquisition by the district of the property of the Los Angeles Metropolitan Transit Authority pursuant to Chapter 8 (commencing with Section 31000), the district shall assume and observe all existing labor contracts and shall recognize the labor organization certified to represent the employees in each existing bargaining unit as the sole representative of the employees in each of those bargaining units. Any certification of a labor organization previously made by the California State Mediation and Conciliation Service under the provisions of the Los Angeles Metropolitan Transit Authority Act of 1957 to represent or act for the employees in any collective bargaining unit shall remain in full force and effect and shall be binding upon the district. Those certifications and any certifications made under this subdivision shall not be subject to challenge on the grounds that a new substantial question of representation within the collective bargaining unit exists until the lapse of one year from the date of certification or the expiration of any collective bargaining agreement, whichever is later; provided, that no collective bargaining agreement shall be construed to be a bar to representation proceedings for a period of more than two years.

(c) The obligation of the district to bargain in good faith with a duly designated or certified labor organization and to execute a written collective bargaining agreement with that labor organization covering the wages, hours, and working conditions of the employees represented by that labor organization in an appropriate unit, and to comply with the terms of that collective bargaining agreement, shall not be limited or restricted by any other provision of law. The obligation of the district to bargain



collectively shall extend to all subjects of collective bargaining, including, but not limited to, retroactive pay increases. Notwithstanding any other provision of law, the district shall make deductions from the wages and salaries of its employees, upon receipt of authorization to make those deductions, for the payment of union dues, fees, or assessments, for the payment of contributions pursuant to any health and welfare plan or pension plan, or for any other purpose for which deductions may be authorized by employees where the deductions are pursuant to a collective bargaining agreement with a duly designated or certified labor organization.

(d) (1) If a dispute arises over wages, hours, or working conditions that is not resolved by negotiations conducted in good faith between the board and the representatives of the employees, then upon the agreement of both parties, the board and the representative of the employees may submit the dispute to an arbitration board. The decision of a majority of the arbitration board shall be final and binding.

(2) (A) The arbitration board shall be composed of two representatives of the district, two representatives of the labor organization, and a fifth member to be agreed upon by the representatives of the district and labor organization.

(B) If the representatives of the district and labor organization are unable to agree on the fifth member, then the names of five persons experienced in labor arbitration shall be obtained from the California State Mediation and Conciliation Service within the Department of Industrial Relations. The labor organization and the district shall, alternately, strike a name from the list supplied by the California State Mediation and Conciliation Service. The labor organization and the district shall determine by lot who shall first strike a name from the list. After the labor organization and the district have stricken four names, the name remaining shall be designated as the arbitrator. The decision of a majority of the arbitration board shall be final and binding upon the parties.

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

(e) A contract or agreement shall not be made with any labor organization, association, group, or individual that denies membership on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections



12926 and 12926.1 of the Government Code. However, the organization may preclude from membership any individual who advocates the overthrow of the government by force or violence.

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

SEC. 21. Section 50120 of the Public Utilities Code is amended to read:

50120. (a) If a majority of the employees employed by a transit district in a unit appropriate for collective bargaining indicate a desire to be represented by a labor organization, then the board, after determining pursuant to Section 50121 that the labor organization represents the employees in the appropriate unit, shall bargain with the accredited representative of those employees. Both parties shall bargain in good faith and make all reasonable efforts to reach agreement on the terms of a written contract governing wages, salaries, hours, working conditions, and grievance procedures.

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

(2) (A) The arbitration board shall be composed of two representatives of the transit board, two representatives of the labor organization, and a fifth member to be agreed upon by the representatives of the transit board and labor organization.

(B) If the representatives of the transit board and labor organization are unable to agree on the fifth member, then the names of five persons experienced in labor arbitration shall be obtained from the California State Mediation and Conciliation Service within the Department of Industrial Relations. The labor organization and the district shall, alternately, strike a name from the list supplied by the California State Mediation and Conciliation Service. The labor organization and the district shall determine by



lot who shall first strike a name from the list. After the labor organization and the transit district have stricken four names, the name remaining shall be designated as the arbitrator.

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

(c) A contract or agreement shall not be made with any labor organization, association, group, or individual that denies membership on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code. However, the organization may preclude from membership any individual who advocates the overthrow of the government by force or violence.

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

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

70121. (a) A contract or agreement shall not be made, or assumed, with any labor organization, association, group, or individual that denies membership to, or in any manner discriminates against, any employee on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code. However, the organization may preclude from membership any individual who advocates the overthrow of the government by force or violence.

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

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

90300. (a) Employees have the right to self-organize, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in



other concerted activities for the purpose of collective bargaining or other mutual aid or protection. It is declared to be in the public interest that the district not express any preference for one union over another.

(1) (A) Notwithstanding any other provision of this act, if a majority of the employees employed by a district in a unit appropriate for collective bargaining indicate a desire to be represented by a labor organization, then the district, after determining pursuant to subdivision (f) that the labor organization represents the employees in the appropriate unit, shall enter into a written contract with the accredited representative of those employees governing wages, salaries, hours, and working conditions.

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

(ii) The arbitration board shall be composed of two representatives of the district, two representatives of the labor organization, and a fifth member to be agreed upon by the representatives of the district and labor organization.

(iii) If the representatives of the district and labor organization are unable to agree on the fifth member, then the names of five persons experienced in labor arbitration shall be obtained from the California State Mediation and Conciliation Service within the Department of Industrial Relations. The labor organization and the district shall, alternately, strike a name from the list supplied by the California State Mediation and Conciliation Service. The labor organization and the district shall determine by lot who shall first strike a name from the list. After the labor organization and the district have stricken four names, the name remaining shall be designated as the arbitrator. The decision of a majority of the arbitration board shall be final and binding upon the parties.

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

(b) If the board and the representatives of the employees do not agree to submit the dispute to an arbitration board as provided in subdivision (a), either party may notify the California State



Mediation and Conciliation Service that a dispute exists and that there is no agreement to arbitrate. The California State Mediation and Conciliation Service shall determine whether or not the dispute can be resolved by the parties and, if not, the issues that are the subject of the dispute. After making its determination, the service shall certify its findings to the Governor who shall, within 10 days of receipt of certification, appoint a factfinding commission consisting of three persons. The factfinding commission shall immediately convene and investigate the issues involved in the dispute. The commission shall report to the Governor within 30 days of the date of its creation.

(c) After the creation of the commission and for 30 days after the date the commission made its report to the Governor, the parties to the controversy shall not make any change, except by mutual agreement, in the conditions out of which the dispute arose. Service to the public shall be provided during that time.

(d) A contract or agreement shall not be made, or assumed, with any labor organization, association, group, or individual that denies membership to, or in any manner discriminates against, any employee on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code. However, the organization may preclude from membership any individual who advocates the overthrow of the government by force or violence.

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

(f) (1) Any questions regarding whether a labor organization represents a majority of employees or whether the proposed unit is or is not appropriate, shall be submitted to the California State Mediation and Conciliation Service for disposition. The California State Mediation and Conciliation Service shall promptly hold a public hearing after due notice to all interested parties to determine the unit appropriate for the purposes of collective bargaining. In making that determination and in establishing rules and regulations governing petitions and the conduct of hearings and elections, the California State Mediation



and Conciliation Service shall be guided by relevant federal law and administrative practice, developed under the Labor-Management Relations Act of 1947 (29 U.S.C. Sec. 141 et seq.).

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

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

(1) To the extent necessary for operation of facilities, all of the employees of the acquired public utility whose duties pertain to the facilities acquired shall be appointed to comparable positions in the district without examination, subject to all the rights and benefits of this act. Those employees shall be given sick leave, seniority, vacation, and pension credits in accordance with the records and labor agreements of the acquired public utility.

(2) Members and beneficiaries of any pension or retirement system, or other benefits established by the public utility, shall continue to have the rights, privileges, benefits, obligations, and status with respect to the established system. No employee of any acquired public utility may be subject to a reduction in wages, seniority, pension, vacation, or other benefits as a result of the acquisition.

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

(h) The district shall not do any of the following:

(1) Acquire any existing system or part of an existing system, whether by purchase, lease, condemnation, or otherwise.

(2) Dispose of or lease any transit system or part of the transit system.



(3) Merge, consolidate, or coordinate any transit system or part of the transit system.

(4) Reduce or limit the lines or service of any existing system or of the district's system unless the district has first made adequate provision for any employees who are or may be displaced. The terms and conditions of that provision shall be a proper subject of collective bargaining.

(i) Notwithstanding any provision of the Government Code, the district may make deductions from the wages and salaries of its employees who authorize the deductions for the following purposes:

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

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

(3) For any purpose for which employees of any private employer may authorize deductions.

(j) (1) The obligation of the district to bargain in good faith with a duly designated or certified labor organization and to execute a written collective bargaining agreement with that labor organization covering the wages, hours, and working conditions of the employees represented by that labor organization in an appropriate unit, and to comply with the terms of the collective bargaining agreement, shall not be limited or restricted by any provision of law. The obligation of the district to bargain collectively shall extend to all subjects of collective bargaining that are or may be proper subjects of collective bargaining with a private employer, including retroactive provisions.

(2) Notwithstanding any other provision of law, the district shall make deductions from the wages and salaries of its employees, upon receipt of authorization to make those deductions, for the payment of union dues, fees, or assessments, for the payment of contributions pursuant to any health and welfare plan or pension plan, or for any other purpose for which employees of any private employer may authorize deductions, where those deductions are pursuant to a collective bargaining agreement with a duly designated or certified labor organization.

(k) The district may provide for a retirement system, provided that the adoption, terms, and conditions of any retirement system



covering employees of the district represented by a labor organization in accordance with this section shall be pursuant to a collective bargaining agreement between the or organization and the district.

(l) The district shall take any steps that may be necessary to obtain coverage for the district and its employees under Title II of the Federal Social Security Act (42 U.S.C. Sec. 401 et seq.), and the related provisions of the Federal Insurance Contributions Act (26 U.S.C. Sec. 3101 et seq.).

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

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

95650. (a) If a majority of the employees employed by a transit district in a unit appropriate for collective bargaining indicate a desire to be represented by a labor organization, then the board after determining pursuant to Section 95651 that the labor organization represents the employees in the appropriate unit, shall bargain with the accredited representative of those employees. Both parties shall bargain in good faith and make all reasonable efforts to reach agreement on the terms of a written contract governing wages, salaries, hours, working conditions, and grievance procedures.

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

(2) (A) The arbitration board shall be composed of two representatives of the transit board, two representatives of the labor organization, and a fifth member to be agreed upon by the



representatives of the transit board and labor organization. If the representatives of the transit board and labor organization are unable to agree on the fifth member, then the names of five persons experienced in labor arbitration shall be obtained from the California State Mediation and Conciliation Service within the Department of Industrial Relations.

(B) The labor organization and the district shall, alternately, strike a name from the list supplied by the California State Mediation and Conciliation Service. The labor organization and the district shall determine by lot who shall first strike a name from the list. After the labor organization and the district have stricken four names, the name remaining shall be designated as the arbitrator.

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

(c) A contract or agreement shall not be made with any labor organization, association, group, or individual that denies membership on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code. However, the organization may preclude from membership any individual who advocates the overthrow of the government by force or violence.

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

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

98161. All citizens shall have equal opportunity to obtain and hold employment, and to advance in that employment, without discrimination on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code, except as otherwise provided in Section 12940 of the Government Code.

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

100303. (a) A contract or agreement shall not be made with any labor organization, association, group, or individual that



denies membership on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code. However, the organization may preclude from membership any individual who advocates the overthrow of the government by force or violence.

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

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

101343. (a) A contract or agreement shall not be made, or assumed under this part, with any labor organization, association, or group that denies membership to, or in any manner discriminates against, any employee on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code. However, the organization may preclude from membership any individual who advocates the overthrow of the government by force or violence.

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

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

102402. (a) A contract or agreement shall not be made, or assumed under this article, with any labor organization, association, or group that denies membership to, or in any manner discriminates against, any employee on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code. However, the organization may preclude from membership any individual who advocates the overthrow of the government by force or violence.



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

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

103403. (a) A contract or agreement shall not be made with any labor organization, association, or group that denies membership on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code. However, the organization may preclude from membership any individual who advocates the overthrow of the government by force or violence.

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

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

120504. (a) A contract or agreement shall not be made with any labor organization, association, or group that denies membership to, or in any manner discriminates against, any employee on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code.

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

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

125523. (a) A contract or agreement shall not be made with any labor organization, association, or group that denies membership on any basis listed in subdivision (a) of Section 12940



of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code. However, the organization may preclude from membership any individual who advocates the overthrow of the government by force or violence.

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

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

1256.2. (a) Except as otherwise provided in subdivision (b), an individual who terminates his or her employment shall not be deemed to have left his or her most recent work without good cause if his or her employer deprived the individual of equal employment opportunities on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code.

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

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

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

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

11320.31. Sanctions shall not be applied for a failure or refusal to comply with program requirements for reasons related to employment, an offer of employment, an activity, or other training for employment including, but not limited to, the following reasons:

(a) The employment, offer of employment, activity, or other training for employment discriminates on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the



Government Code, except as otherwise provided in Section 12940 of the Government Code.

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

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

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

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

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

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

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

11322.62. Employers, sponsors of training activities, and contractors shall not discriminate against participants on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the



Government Code, except as otherwise provided in Section 12940 of the Government Code.

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

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

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

(2) Membership in, or affiliation with, any society, medical group, or teaching facility, or upon the basis of any criteria lacking professional justification, such as any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code, except as otherwise provided in Section 12940 of the Government Code.

(b) The special negotiator may authorize a contracting hospital to impose reasonable limitations on the granting of medical staff membership or clinical privileges to permit an exclusive contract for the provision of pathology, radiology, and anesthesiology services, except for consulting services requested by the admitting physician.

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



Approved _____, 2004

Governor

