

Introduced by Senator Negrete McLeodFebruary 23, 2012

An act to amend Sections 7296, 7299.2, 7299.4, 7299.5, 7299.6, 11435.30, 11435.40, 11435.45, 11435.50, 18522, 18524, 18538, 18573, 18576, 18720, 18720.1, 18720.3, 18720.4, 18901, 18901.5, 18902, 18906, 18930, 18930.5, 18933, 18934, 18935, 18938, 18938.5, 18938.6, 18939, 18990, 18991, 18992, 19050.4, 19050.5, 19052, 19055, 19057.1, 19057.3, 19058, 19063, 19063.1, 19063.4, 19063.8, 19172, 19180, 19232, 19233, 19236, 19237, 19240, 19241, 19242, 19242.2, 19242.8, 19243, 19243.2, 19600, 19600.1, 19602, 19603, 19606, 19609, 19701, 19702.5, 19705, 19790, 19792, 19792.5, 19794, 19795, 19798.5, 19816.4, and 19816.6 of, to add Sections 18501, 18502, and 18521.5 to, to add Article 1.5 (commencing with Section 18660) to Chapter 2 of Part 2 of Division 5 of Title 2 of, and to repeal Sections 19815.2 and 19816.22 of, the Government Code, relating to human resources.

LEGISLATIVE COUNSEL'S DIGEST

SB 1309, as introduced, Negrete McLeod. Human resources.

The California Constitution establishes the State Personnel Board (board) and requires the board to, among other things, enforce the civil service statutes, prescribe probationary periods and classifications, adopt rules authorized by statute, and review disciplinary actions. The Constitution also requires the executive officer of the board to administer the civil service statutes under the rules of the board. Existing law establishes the Department of Personnel Administration for purposes of managing the nonmerit aspects of the state's personnel system.

Governor's Reorganization No. 1, operative July 1, 2012, creates the Department of Human Resources, which is vested with the duties, purposes, responsibilities, and jurisdiction exercised by the board as its

designee with respect to the board's administrative and ministerial functions.

This bill would instead vest the Department of Human Resources with those powers, duties, and authorities necessary to operate the state civil service system in accordance with the California Constitution, statutory law, the merit principle, and applicable rules duly adopted by the board. The bill would transfer certain functions and duties from the responsibility of the board to the Department of Human Resources. The bill would make related changes.

The plan also abolishes the Department of Personnel Administration, and transfers the functions and duties performed by the Department of Personnel Administration to the Department of Human Resources. The plan eliminates certain functions of the board relating to investigating and hearing complaints of discrimination in the civil service. The plan also authorizes the Department of Human Resources to establish disciplinary criteria applicable to adverse actions taken by appointing bodies pursuant to causes of discipline for employees and individuals established pursuant to specified provisions of law. The plan requires the board to give consideration and respect to any applicable disciplinary criteria established by the Department of Human Resources in making certain decisions relating to disciplinary proceedings.

This bill would also specify that the rules and regulations of the board and of the Department of Personnel Administration would remain in effect unless amended or repealed by the board or the Department of Human Resources.

The bill would authorize the board to perform audits on the personnel practices of any appointing authority, as defined, to ensure compliance with the civil service laws and board regulations.

Existing law authorizes the Department of Personnel Administration to assess special funds, bond funds, and nongovernmental cost funds in sufficient amounts to support the cost of the Human Resources Modernization Project, as specified.

This bill would also repeal that provision.

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

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

- 1 SECTION 1. Section 7296 of the Government Code is amended
- 2 to read:

1 7296. (a) As used in this chapter, a “qualified bilingual
2 person,” “qualified bilingual employee,” or “qualified interpreter”
3 is a person who is proficient in both the English language and the
4 non-English language to be used. For any state agency, “qualified”
5 means one of the following:

6 (1) A bilingual person or employee who ~~the State Personnel~~
7 ~~Board~~ *Department of Human Resources* has tested and certified
8 as proficient in the ability to understand and convey in English
9 and a non-English language commonly used terms and ideas,
10 including terms and ideas regularly used in state government.

11 (2) A bilingual employee who was tested and certified by a state
12 agency or other *approved* testing authority ~~approved by the State~~
13 ~~Personnel Board~~ as proficient in the ability to understand and
14 convey in English and a non-English language commonly used
15 terms and ideas, including terms and ideas regularly used in state
16 government.

17 (3) An interpreter who has met the testing or certification
18 standards ~~established by the State Personnel Board~~ for outside or
19 contract interpreters, as proficient in the ability to communicate
20 commonly used terms and ideas between the English language
21 and the non-English language to be used and has knowledge of
22 basic interpreter practices, including, but not limited to,
23 confidentiality, neutrality, accuracy, completeness, and
24 transparency.

25 (b) The determination of what constitutes “qualified” for local
26 agencies, shall be left to the discretion of the local agency.

27 SEC. 2. Section 7299.2 of the Government Code is amended
28 to read:

29 7299.2. ~~The State Personnel Board~~ *Department of Human*
30 *Resources* shall be responsible for informing state agencies of their
31 responsibilities under this chapter and providing state agencies
32 with technical assistance, upon request on a reimbursable basis.

33 SEC. 3. Section 7299.4 of the Government Code is amended
34 to read:

35 7299.4. (a) Notwithstanding any other provision in this chapter,
36 each state agency shall conduct an assessment and develop and
37 update an implementation plan that complies with the requirements
38 of this chapter.

39 (b) Each agency shall conduct a survey of each of its local
40 offices every two years to determine all of the following:

1 (1) The number of public contact positions in each local office.

2 (2) The number of qualified bilingual employees in public
3 contact positions in each local office, and the languages they speak,
4 other than English.

5 (3) The number and percentage of non-English-speaking people
6 served by each local office, broken down by native language.

7 (4) The number of anticipated vacancies in public contact
8 positions.

9 (5) Whether the use of other available options, including
10 contracted telephone-based interpretation services, in addition to
11 qualified bilingual persons in public contact positions, is serving
12 the language needs of the people served by the agency.

13 (6) A list of all written materials that are required to be translated
14 or otherwise made accessible to non- or limited-English-speaking
15 individuals by Sections 7295.2 and 7295.4.

16 (7) A list of materials identified in paragraph (6) that have been
17 translated and languages into which they have been translated.

18 (8) The number of additional qualified bilingual public contact
19 staff, if any, needed at each local office to comply with this chapter.

20 (9) Any other relevant information requested by the ~~State~~
21 ~~Personnel Board~~ *Department of Human Resources*.

22 (c) Each agency shall calculate the percentage of
23 non-English-speaking people served by each local office by
24 rounding the percentage arrived at to the nearest whole percentage
25 point.

26 The survey results *and any additional information requested*
27 ~~shall be reported on forms provided by the State Personnel Board~~
28 *in the form and at the time required by the Department of Human*
29 *Resources*, and delivered to the ~~board~~ *department* not later than
30 October 1 of every even-numbered year beginning with 2008.

31 (d) Beginning in 2009 and in every odd-numbered year
32 thereafter, each state agency shall develop an implementation plan
33 that, at a minimum, addresses all of the following:

34 (1) The name, position, and contact information of the employee
35 designated by the agency to be responsible for overseeing
36 implementation of the plan.

37 (2) A description of the agency's procedures for identifying
38 written materials that need to be translated.

1 (3) A description of the agency’s procedures for identifying
2 language needs at local offices and assigning qualified bilingual
3 staff.

4 (4) A description of how the agency recruits qualified bilingual
5 staff.

6 (5) A description of any training the agency provides to its staff
7 on the provision of services to non- or limited-English-speaking
8 individuals.

9 (6) A detailed description of how the agency plans to address
10 any deficiencies in meeting the requirements of this chapter,
11 including, but not limited to, the failure to translate written
12 materials or employ sufficient numbers of qualified bilingual
13 employees in public contact positions at local offices, the proposed
14 actions to be taken to address the deficiencies, and the proposed
15 dates by when the deficiencies can be remedied.

16 (7) A description of the agency’s procedures for accepting and
17 resolving complaints of an alleged violation of this chapter.

18 (8) A description of how the agency complies with any federal
19 or other state laws that require the provision of linguistically
20 accessible services to the public.

21 (9) Any other relevant information requested by the ~~State~~
22 ~~Personnel Board~~ *Department of Human Resources*.

23 (e) In developing its implementation plan in 2003, each state
24 agency may rely upon data gathered from its 2002 survey.

25 (f) Each state agency shall submit its implementation plan to
26 the ~~State Personnel Board~~ *Department of Human Resources* no
27 later than October 1 of each applicable year. The ~~board~~ *department*
28 shall review each plan, and, if it determines that the plan fails to
29 address the identified deficiencies, the ~~board~~ shall order the agency
30 to supplement or make changes to its plan. A state agency that has
31 been determined to be deficient shall report to the ~~State Personnel~~
32 ~~Board~~ *Department of Human Resources* every six months on its
33 progress in addressing the identified deficiencies.

34 (g) If the ~~board~~ *Department of Human Resources* determines
35 that a state agency has not made reasonable progress toward
36 complying with this chapter, the ~~board~~ *department* may issue orders
37 that it deems appropriate to effectuate the purposes of this chapter.

38 SEC. 4. Section 7299.5 of the Government Code is amended
39 to read:

1 7299.5. ~~The State Personnel Board~~ *Department of Human*
2 *Resources* may exempt state agencies from the requirements of
3 Section 7299.4, where ~~the State Personnel Board~~ *it* determines that
4 any of the following conditions apply:

5 (a) The agency's primary mission does not include responsibility
6 for furnishing information or rendering services to the public.

7 (b) The agency has consistently received such limited public
8 contact with the non-English-speaking public that it has not been
9 required to employ bilingual staff under Section 7292 and the
10 agency employs fewer than the equivalent of 25 full-time
11 employees in public contact positions.

12 In order to receive an exemption, each state agency shall ~~annually~~
13 ~~petition the State Personnel Board~~ *Department of Human Resources*
14 for the exemption and receive approval in writing by the date
15 established by the ~~board~~ *department*. An agency may receive an
16 exemption for up to five ~~consecutive surveys or implementation~~
17 ~~plans~~ *years*, if it demonstrates that it meets the requirements of
18 subdivision (a) or (b), and provides all required documentation to
19 ~~the State Personnel Board~~ *Department of Human Resources*.

20 SEC. 5. Section 7299.6 of the Government Code is amended
21 to read:

22 7299.6. ~~The State Personnel Board~~ *Department of Human*
23 *Resources* shall review the results of the surveys and
24 implementation plans required to be made by Section 7299.4,
25 compile this data, and provide a report to the Legislature every
26 two years. The report shall identify significant problems or
27 deficiencies and propose solutions where warranted.

28 SEC. 6. Section 11435.30 of the Government Code is amended
29 to read:

30 11435.30. (a) ~~The State Personnel Board~~ *Department of*
31 *Human Resources* shall establish, maintain, administer, and publish
32 annually an updated list of certified administrative hearing
33 interpreters it has determined meet the minimum standards in
34 interpreting skills and linguistic abilities in languages designated
35 pursuant to Section 11435.40. Any interpreter so listed may be
36 examined by each employing agency to determine the interpreter's
37 knowledge of the employing agency's technical program
38 terminology and procedures.

39 (b) Court interpreters certified pursuant to Section 68562, and
40 interpreters listed on the ~~State Personnel Board's~~ *Department of*

1 *Human Resources*' recommended lists of court and administrative
2 hearing interpreters prior to July 1, 1993, shall be deemed certified
3 for purposes of this section.

4 SEC. 7. Section 11435.40 of the Government Code is amended
5 to read:

6 11435.40. (a) ~~The State Personnel Board~~ *Department of*
7 *Human Resources* shall designate the languages for which
8 certification shall be established under Sections 11435.30 and
9 11435.35. The languages designated shall include, but not be
10 limited to, Spanish, Tagalog, Arabic, Cantonese, Japanese, Korean,
11 Portuguese, and Vietnamese until the ~~State Personnel Board~~
12 *Department of Human Resources* finds that there is an insufficient
13 need for interpreting assistance in these languages.

14 (b) The language designations shall be based on the following:

15 (1) The language needs of non-English-speaking persons
16 appearing before the administrative agencies, as determined by
17 consultation with the agencies.

18 (2) The cost of developing a language examination.

19 (3) The availability of experts needed to develop a language
20 examination.

21 (4) Other information the ~~board~~ *department* deems relevant.

22 SEC. 8. Section 11435.45 of the Government Code is amended
23 to read:

24 11435.45. (a) ~~The State Personnel Board~~ *Department of*
25 *Human Resources* shall establish and charge fees for applications
26 to take interpreter examinations and for renewal of certifications.
27 The purpose of these fees is to cover the annual projected costs of
28 carrying out this article. The fees may be adjusted each fiscal year
29 by a percent that is equal to or less than the percent change in the
30 California Necessities Index prepared by the Commission on State
31 Finance.

32 (b) Each certified administrative hearing interpreter and each
33 certified medical examination interpreter shall pay a fee, due on
34 July 1 of each year, for the renewal of the certification. Court
35 interpreters certified under Section 68562 shall not pay any fees
36 required by this section.

37 (c) If the amount of money collected in fees is not sufficient to
38 cover the costs of carrying out this article, the ~~board~~ *department*
39 shall charge and be reimbursed a pro rata share of the additional
40 costs by the state agencies that conduct administrative hearings.

1 SEC. 9. Section 11435.50 of the Government Code is amended
2 to read:

3 11435.50. ~~The State Personnel Board~~ *Department of Human*
4 *Resources* may remove the name of a person from the list of
5 certified interpreters if any of the following conditions occurs:

6 (a) The person is deceased.

7 (b) The person notifies the ~~board~~ *department* that the person is
8 unavailable for work.

9 (c) The person does not submit a renewal fee as required by
10 Section 11435.45.

11 SEC. 10. Section 18501 is added to the Government Code, to
12 read:

13 18501. This part and Part 2.6 shall be known as the State Civil
14 Service Act.

15 SEC. 11. Section 18502 is added to the Government Code, to
16 read:

17 18502. (a) There is hereby created in state government the
18 Department of Human Resources. The department succeeds to and
19 is vested with the following:

20 (1) All of the powers and duties exercised and performed by
21 the Department of Personnel Administration.

22 (2) Those powers, duties, and authorities necessary to operate
23 the state civil service system in accordance with Article VII of the
24 California Constitution, this code, the merit principle, and
25 applicable rules duly adopted by the State Personnel Board.

26 (b) The State Personnel Board shall prescribe rules consistent
27 with a merit based civil service system to govern classification,
28 examinations, probationary periods, and disciplinary actions. The
29 State Personnel Board may conduct audits and investigations of
30 personnel practices of the department and appointing authorities
31 to ensure compliance with civil service policies, procedures, and
32 statutes.

33 (c) Nothing in this section limits the authority of the Department
34 of Human Resources and the State Personnel Board to delegate,
35 share, or transfer between them responsibilities for programs within
36 their respective jurisdictions pursuant to an agreement.

37 (d) The rules and regulations of the State Personnel Board and
38 of the Department of Personnel Administration shall remain in
39 effect unless and until contradicted by the terms of this chapter or

1 amended or repealed by the board or the Department of Human
2 Resources.

3 SEC. 12. Section 18521.5 is added to the Government Code,
4 to read:

5 18521.5. “Department” means the Department of Human
6 Resources.

7 SEC. 13. Section 18522 of the Government Code is amended
8 to read:

9 18522. “Position” means any office or employment in the “state
10 civil service” as the phrase is defined in Section 1 of Article VII
11 of the Constitution.

12 “Former position” means either of the following:

13 (a) A position in the classification to which an employee was
14 last appointed as a probationer, permanent employee, or career
15 executive, under the same appointing power where that position
16 was held, and within a designated geographical, organizational,
17 or functional subdivision of that state agency—~~as determined~~
18 ~~appropriate by the board.~~

19 (b) With the concurrence of both the appointing power and the
20 employee, a position in a different classification to which the same
21 appointing power could have assigned such an employee in
22 accordance with this part. However, the former position shall not
23 include positions from which the employee has been separated
24 through disciplinary action, rejected during a probationary period,
25 terminated under Section 19889.3, or terminated, demoted, or
26 transferred in accordance with Section 19253.5; or terminated on
27 a nonpunitive basis under Section 19585.

28 SEC. 14. Section 18524 of the Government Code is amended
29 to read:

30 18524. “Appointing *authority*” or “*appointing power*” means
31 a person or group having authority to make appointments to
32 positions in the ~~State~~ *state* civil service.

33 SEC. 15. Section 18538 of the Government Code is amended
34 to read:

35 18538. “Part” means this part, *Part 2.5 (commencing with*
36 *Section 19800), and Part 2.6 (commencing with Section 19815)*
37 *and those portions of Part 1 (commencing with Section 18000) that*
38 *confer powers or impose duties on the board or the department.*

39 SEC. 16. Section 18573 of the Government Code is amended
40 to read:

1 18573. Each appointing power shall ~~report promptly to the~~
2 ~~board such information as the board may require in connection~~
3 ~~with each appointment, separation from service, or other change~~
4 ~~in position or salary, or other matter affecting the status of positions~~
5 ~~or the performance of duties of employees in the state civil service,~~
6 ~~and all these reports shall be prepared in the manner and form~~
7 ~~prescribed by the board~~ *provide access to records and prepare*
8 *reports as required by the board or the department.*

9 Information given to the board *and the department* by any person
10 shall not be open to public inspection except under conditions
11 prescribed by board rule, except that a person may inspect any
12 record relating to his or her own services.

13 SEC. 17. Section 18576 of the Government Code is amended
14 to read:

15 18576. Judicial notice shall be taken of board *and department*
16 rules, *regulations*, and amendments.

17 SEC. 18. Article 1.5 (commencing with Section 18660) is
18 added to Chapter 2 of Part 2 of Division 5 of Title 2 of the
19 Government Code, to read:

20
21 Article 1.5. Policy and Audit
22

23 18660. Pursuant to Section 3 of Article VII of the California
24 Constitution, the board shall establish rules implementing and
25 enforcing the merit principle in the state civil service system.

26 18661. (a) The board may conduct an audit of any appointing
27 authority's personnel practices to ensure compliance with the civil
28 service laws and board regulations. The board may audit selection
29 and examination procedures, appointments, promotions, the
30 management of probationary periods, personal services contracts,
31 discipline and adverse actions, or any other area related to the
32 operation of merit principle in state civil service.

33 (b) When conducting an audit, the board may inspect documents,
34 policies, practices, and procedures of the appointing authority
35 relating to its personnel practices and interview appointing
36 authority staff and witnesses regarding the subject of the audit.
37 Failure by an appointing authority to cooperate with an audit may
38 result in corrective action.

39 (c) Upon completion of the audit, the board may provide a report
40 to the appointing authority and the department, identifying any

1 deficiencies in the appointing authority’s personnel practices,
2 policies, and procedures.

3 (d) If the board finds an appointing authority deficient in
4 personnel practices, policies, and procedures, the appointing
5 authority shall be subject to corrective action. The board may order
6 any or all of the following remedies:

7 (1) Revocation or modification of the terms of the delegation
8 agreement between the appointing authority and the department.

9 (2) That the appointing authority compensate the department
10 for the actual and necessary cost of any and all of the personnel
11 functions the department performs and training and supervision
12 the department provides on behalf of the appointing authority,
13 either permanently or for a specified term.

14 (3) Void examinations administered by the appointing authority,
15 abolish eligibility lists, and void appointments made therefrom.

16 (4) Seek approval from the Department of Finance for
17 redirection to the department of a sufficient number of the
18 appointing authority’s positions to perform all personnel related
19 functions formerly performed by the appointing authority.

20 18662. The board shall recover from an audited department
21 the entire cost of any audit or investigation conducted under this
22 article.

23 SEC. 19. Section 18720 of the Government Code is amended
24 to read:

25 18720. ~~It is the purpose of this article to ensure that the~~
26 ~~employment procedures of the department and of each state agency~~
27 ~~shall conform to the federal and state laws governing employment~~
28 ~~practices, including the use of employment forms. The State~~
29 ~~Personnel Board~~ *department* and the Department of Fair
30 Employment and Housing shall work cooperatively to develop
31 uniform employment forms where possible pursuant to the
32 provisions of this article and shall coordinate their enforcement of
33 this article.

34 SEC. 20. Section 18720.1 of the Government Code is amended
35 to read:

36 18720.1. ~~The State Personnel Board~~ *department* shall be
37 responsible for the collection and review of all employment forms
38 used by state agencies for civil service employment and for the
39 development of standard employment forms for general use by all
40 state agencies. ~~The board~~ *department* may designate an appointing

1 power to review employment forms in accordance with Section
2 18654 and board rules. Each state agency shall use the standard
3 forms. However, the ~~board~~ *department*, or an appointing power
4 designated by the ~~board~~ *department*, may approve the use of a
5 nonstandard form by a state agency if the information requested
6 on the form is job-related and the forms and procedures to be used
7 conform with federal and state law governing employment
8 practices. Copies of nonstandard forms approved by a designated
9 appointing power shall be transmitted to the ~~board~~ *department*.
10 Nonstandard forms proposed by a state agency shall be
11 accompanied by a petition submitted by the agency which specifies
12 the reasons why a nonstandard form is necessary to meet the
13 agency's needs.

14 SEC. 21. Section 18720.3 of the Government Code is amended
15 to read:

16 18720.3. Each state agency is responsible for ensuring that the
17 employment application forms, and occupational licensing and
18 registration forms, used by the agency conform to federal and state
19 laws governing registration and employment practices. An agency
20 shall not use a form which is not approved by either the ~~State~~
21 ~~Personnel Board~~ *department* or by the Department of Fair
22 Employment and Housing.

23 SEC. 22. Section 18720.4 of the Government Code is amended
24 to read:

25 18720.4. State agencies shall exhaust existing supplies of forms
26 which conform with federal and state law before using any new
27 form approved by the ~~State Personnel Board~~ *department* or the
28 Department of Fair Employment and Housing pursuant to this
29 article.

30 SEC. 23. Section 18901 of the Government Code is amended
31 to read:

32 18901. (a) The ~~board~~ *department* may remove all names from
33 open and promotional eligible lists after they have remained
34 thereon for more than one year from the date of the adoption of
35 the lists that created their eligibility, and shall remove all names
36 from lists of eligibles not later than four years after the adoption
37 of the lists that created their eligibility.

38 Whenever an open or a promotional eligible list has fewer than
39 three names of persons who are willing to accept employment, all

1 names on the list may be removed even though one year has not
2 elapsed from the date of the adoption of the list.

3 (b) When a list of eligibles becomes exhausted for temporary
4 or permanent employment before the legal expiration of the list,
5 and a new list of eligibles for the same class is created by
6 examination to supply the demands of the service, such new list
7 shall become a part of the list of eligibles to be certified to the
8 positions covered by the list. Those holding places on the prior list
9 shall be given preference for appointment until such time as the
10 prior list may automatically expire or all names are removed
11 therefrom by action of the ~~board~~ *department*. When the prior list
12 has expired by reason of limitation of time, or the names have been
13 removed therefrom by order of the ~~board~~ *department*, then
14 certification shall be made solely from the latter list.

15 (c) The ~~board~~ *department* or a designated appointing power
16 shall include in the announcement of any examination that the list
17 of eligibles secured thereby will expire not less than one but less
18 than four years after the adoption of such list.

19 (d) The ~~board~~ *department* or a designated appointing power
20 may make changes in its records to correct clerical errors both
21 before and after the announcement of an eligible list; provided,
22 that any changes of rank, or addition or subtraction of names, made
23 on lists of eligibles because of clerical errors or reratings, shall not
24 change the date of the adoption of such lists, nor give to any
25 persons the right to claim beginning date of eligibility other than
26 the date of the adoption of the original eligible list that created
27 their eligibility.

28 SEC. 24. Section 18901.5 of the Government Code is amended
29 to read:

30 18901.5. Notwithstanding subdivision (a) of Section 18901,
31 the ~~board~~ *department* may authorize the retention of eligibles on
32 an employment list for an indefinite period of time based on the
33 following factors:

34 (a) The number of names remaining on the list in relation to the
35 anticipated number of vacancies.

36 (b) The qualifications of the eligibles.

37 (c) The gender, ethnic, and disability composition of the eligibles
38 remaining on the list.

39 (d) The lack of unreasonable denial of a competitive opportunity
40 for potential applicants.

1 (e) The availability of alternative appointment options.

2 (f) The modifications that have been made in the duties,
3 responsibilities, and qualifications in the class specifications since
4 the establishment of the eligible list.

5 SEC. 25. Section 18902 of the Government Code is amended
6 to read:

7 18902. The ~~board~~ *department* may divide the state into districts
8 and departments and establish district eligible lists and
9 departmental eligible lists therefor. A person on an eligible list or
10 a departmental eligible list may be included in any other eligible
11 or departmental eligible list on which he or she indicates a desire
12 to be placed, when in the judgment of the ~~board~~ *department* the
13 best interests of the state are served thereby.

14 SEC. 26. Section 18906 of the Government Code is amended
15 to read:

16 18906. Any name, after a period of five consecutive years,
17 shall be removed from the ~~re-employment~~ *reemployment* lists for
18 the class unless the period is extended by action of the ~~board~~
19 *department*.

20 SEC. 27. Section 18930 of the Government Code is amended
21 to read:

22 18930. Examinations for the establishment of eligible lists shall
23 be competitive and of such character as fairly to test and determine
24 the qualifications, fitness, and ability of competitors actually to
25 perform the duties of the class of position for which they seek
26 appointment.

27 Examinations for managerial positions, except for career
28 executive assignments as defined in Section 18547, peace officers
29 defined in subdivision (a) of Section 830.2 of the Penal Code, and
30 managerial positions of the Department of Forestry and Fire
31 Protection in the classes of State Forest Ranger IV and Assistant
32 Deputy State Forester, shall be held on an open basis unless the
33 appointing authority determines otherwise. "Managerial position"
34 means those positions having the duties which are defined under
35 "managerial employees" in subdivision (e) of Section 3513. When
36 an open examination is administered for a noncareer executive
37 assignment managerial position, the names of the applicants who
38 pass the examination with a passing score shall be placed on one
39 list and ranked in the relative order of the examination score
40 received.

1 Examinations may be assembled or unassembled, written or oral,
2 or in the form of a demonstration of skill, or any combination of
3 these; and any investigation of character, personality, education,
4 and experience and any tests of intelligence, capacity, technical
5 knowledge, manual skill, or physical fitness which the ~~board~~
6 *department* deems are appropriate, may be employed.

7 SEC. 28. Section 18930.5 of the Government Code is amended
8 to read:

9 18930.5. The ~~board~~ *department* may designate an appointing
10 power to design, announce, or administer examinations for the
11 establishment of employment lists in accordance with Section
12 18654 and board rule. No later than January 1, 1987, the board
13 shall authorize or assess the ability of appointing powers to design,
14 announce, or administer designated examinations for the
15 establishment of employment lists. The board may audit
16 examinations and order corrective action or nullify any examination
17 or parts thereof which have been conducted improperly.

18 A designated appointing power may contract with the ~~board~~
19 *department* or another designated appointing power for the purpose
20 of designing, publicizing, or administering an examination.

21 SEC. 29. Section 18933 of the Government Code is amended
22 to read:

23 18933. Within a reasonable time before the scheduled date,
24 the ~~board~~ *department* or a designated appointing power shall
25 announce or advertise examinations for the establishment of
26 eligible lists. ~~Such~~ *The* announcement shall ~~contain such~~
27 ~~information as the board deems proper and information concerning~~
28 *include:*

29 (a) The date and place of the examination.

30 (b) The nature of the minimum qualifications.

31 (c) The general scope of the examination.

32 (d) The relative weight of its several parts if more than one type
33 of test is to be utilized.

34 SEC. 30. Section 18934 of the Government Code is amended
35 to read:

36 18934. Every applicant for examination shall file a formal
37 signed application in the office of the ~~board~~ *department* or a
38 designated appointing power within a reasonable length of time
39 before the date of examination. Blank application forms shall be
40 furnished without charge to all persons requesting them. Such

1 applications when filed and all other examination materials,
2 including examination questions and booklets, are the property of
3 the ~~board~~ *department* and are confidential records open to
4 inspection only if and as provided by ~~board~~ rule.

5 The application form shall include a place for listing volunteer
6 experience and such experience shall be considered if it is relevant
7 to the position being applied for. Each form shall have prominently
8 displayed on its face the fact that volunteer experience will be
9 given consideration as qualifying experience for state employment.

10 SEC. 31. Section 18935 of the Government Code is amended
11 to read:

12 18935. The ~~board~~ *department* may refuse to examine or, after
13 examination, may refuse to declare as eligible or may withhold or
14 withdraw from certification, prior to appointment, anyone who
15 comes under any of the following categories:

16 (a) Lacks any of the requirements established by the board for
17 the examination or position for which he or she applies.

18 (b) At the time of examination has permanent status in a position
19 of equal or higher class than the examination or position for which
20 he or she applies.

21 (c) Is physically or mentally so disabled as to be rendered unfit
22 to perform the duties of the position to which he or she seeks
23 appointment.

24 (d) Is addicted to the use of intoxicating beverages to excess.

25 (e) Is addicted to the use of controlled substances.

26 (f) Has been convicted of a felony, or convicted of a
27 misdemeanor involving moral turpitude.

28 (g) Has been guilty of infamous or notoriously disgraceful
29 conduct.

30 (h) Has been dismissed from any position for any cause which
31 would be a cause for dismissal from the state service.

32 (i) Has resigned from any position not in good standing or in
33 order to avoid dismissal.

34 (j) Has intentionally attempted to practice any deception or fraud
35 in his or her application, in his or her examination, or in securing
36 his or her eligibility.

37 (k) Has waived appointment three times after certification from
38 the same employment list.

1 (l) Has failed to reply within a reasonable time, ~~as specified by~~
2 ~~the board,~~ to communications concerning his or her availability
3 for employment.

4 (m) Has made himself or herself unavailable for employment
5 by requesting that his or her name be withheld from certification.

6 (n) Is, in accordance with ~~board~~ rule, found to be unsuited or
7 not qualified for employment.

8 (o) Has engaged in unlawful reprisal or retaliation in violation
9 of Article 3 (commencing with Section 8547) of Chapter 6.5 of
10 Division 1, as determined by the board or the court.

11 SEC. 32. Section 18938 of the Government Code is amended
12 to read:

13 18938. The ~~board~~ *department* or a designated appointing power
14 may issue certificates of competence to candidates who are
15 successful in certain phases of examinations involving a particular
16 knowledge, ability or skill. For the period named in such a
17 certificate, the ~~board~~ *department* or a designated appointing power
18 may accept it as evidence of the candidate's competence in lieu
19 of participation in that phase of an examination.

20 SEC. 33. Section 18938.5 of the Government Code is amended
21 to read:

22 18938.5. When the employment list resulting from examination
23 has been established, each competitor shall be notified in writing
24 of the results of the examination. For competitors unsuccessful in
25 an oral examination, the ~~board~~ *department* or a designated
26 appointing power shall, upon the written request of the competitor,
27 specify the reasons why such person was unsuccessful.

28 SEC. 34. Section 18938.6 of the Government Code is amended
29 to read:

30 18938.6. The ~~board~~ *department* shall provide ~~by rule~~ for the
31 inspection of examination papers for all written test competitors.

32 SEC. 35. Section 18939 of the Government Code is amended
33 to read:

34 18939. For classes of positions for which the ~~board~~ *department*
35 or a designated appointing power finds it difficult to maintain
36 adequate eligible lists it may receive applications, conduct
37 examinations, and create eligible lists continuously. The names of
38 eligibles who took the same or a comparable examination on
39 different dates may be ranked for purposes of certification in the
40 order of final earned ratings, except as the order may be modified

1 by the application of veterans preferences or career credits,
2 consistent with applicable statutes. Eligibility from a continuous
3 examination may be deemed to be established as of the date of
4 examination.

5 SEC. 36. Section 18990 of the Government Code, as added by
6 Section 4 of Chapter 353 of the Statutes of 2008, is amended to
7 read:

8 18990. (a) Notwithstanding any other provision of law or rule,
9 persons employed by the Legislature for two or more consecutive
10 years shall be eligible to apply for promotional civil service
11 examinations, including examinations for career executive
12 assignments, for which they meet the minimum qualifications as
13 prescribed by the class specification. Persons receiving passing
14 scores shall have their names placed on promotional lists resulting
15 from these examinations or otherwise gain eligibility for
16 appointment. In evaluating minimum qualifications, related
17 legislative experience shall be considered state civil service
18 experience in a *comparable* class ~~deemed comparable by the State~~
19 ~~Personnel Board~~, based on the duties and responsibilities assigned.

20 (b) In cases where promotional examinations are given by more
21 than one department for the same classification, the employee shall
22 select one department in which to compete. Once this selection is
23 made, it cannot be changed for the duration of the promotional list
24 established from the examination in which the employee
25 participated. Employees may transfer list eligibility between
26 departments in the same manner as provided for civil service
27 employees.

28 (c) Employees who meet the requirements of this section, are
29 employed by the Legislature, and who resign or are released from
30 service, shall be eligible to take promotional civil service
31 examinations, including examinations for career executive
32 assignments, for one year following their resignation or release in
33 accordance with subdivisions (a) and (b).

34 (d) Employees who meet the requirements of this section, are
35 employed by the office of the Auditor General or the office of the
36 Legislative Analyst as of January 1, 1992, and who resign or are
37 released from service due to a force reduction of the Legislature
38 before January 1, 1994, shall be eligible to take promotional civil
39 service examinations, including career executive assignments, for

1 three years following their resignation or release in accordance
2 with subdivisions (a) and (b).

3 (e) An employee who establishes eligibility on a promotional
4 civil service list, either pursuant to subdivision (c) or (d) or prior
5 to having resigned or having been released in a manner to which
6 subdivision (c) or (d) would apply, shall maintain that eligibility
7 for the duration of that particular list.

8 (f) This section shall become operative on January 1, 2013.

9 SEC. 37. Section 18991 of the Government Code is amended
10 to read:

11 18991. (a) Notwithstanding any other provision of law, persons
12 retired from the United States military, honorably discharged from
13 active military duty with a service-connected disability, or
14 honorably discharged from active duty, shall be eligible to apply
15 for promotional civil service examinations, including examinations
16 for career executive assignments, for which they meet the minimum
17 qualifications as prescribed by the class specification. Persons
18 receiving passing scores shall have their names placed on
19 promotional lists resulting from these examinations or otherwise
20 gain eligibility for appointment. In evaluating minimum
21 qualifications, related military experience shall be considered state
22 civil service experience in a *comparable* class ~~deemed comparable~~
23 ~~by the State Personnel Board~~, based on the duties and
24 responsibilities assigned.

25 (b) In cases where promotional examinations are given by more
26 than one department for the same classification, the employee shall
27 select one department in which to compete. Once this selection is
28 made, it cannot be changed for the duration of the promotional list
29 established from the examination in which the employee
30 participated. Employees may transfer list eligibility between
31 departments in the same manner as provided for civil service
32 employees.

33 SEC. 38. Section 18992 of the Government Code, as added by
34 Section 6 of Chapter 353 of the Statutes of 2008, is amended to
35 read:

36 18992. (a) Notwithstanding any other provision of law or rule,
37 persons holding, for two or more consecutive years, nonelected
38 exempt positions in the executive branch of government as defined
39 in subdivisions (c), (e), (f), (g), (i), and (m) of Section 4 of Article
40 VII of the Constitution and excluding those positions for which

1 the salaries are set by statute, shall be eligible to apply for
2 promotional civil service examinations, including, but not limited
3 to, examinations for career executive assignments for which they
4 meet the minimum qualifications as prescribed by the class
5 specification. Persons receiving passing scores shall have their
6 names placed on promotional lists resulting from these
7 examinations or otherwise gain eligibility for appointment. In
8 evaluating minimum qualifications, related exempt experience
9 shall be considered state civil service experience in a *comparable*
10 ~~class deemed comparable by the State Personnel Board, based on~~
11 ~~the duties and responsibilities assigned.~~

12 (b) In cases where promotional examinations are given by more
13 than one ~~department appointing authority~~ for the same
14 classification, the employee shall select one ~~department appointing~~
15 *authority* in which to compete. Once this selection is made, it
16 cannot be changed for the duration of the promotional list
17 established from the examination in which the employee
18 participated. Employees may transfer list eligibility between
19 ~~departments appointing authorities~~ in the same manner as provided
20 for civil service employees.

21 (c) Employees who meet the requirements of this section and
22 who resign or are released from exempt employment of the
23 executive branch of government shall be eligible to take
24 promotional civil service examinations, including examinations
25 for career executive assignments, for one year following their
26 resignation or release in accordance with subdivisions (a) and (b).

27 (d) An employee who establishes eligibility on a promotional
28 civil service list, either pursuant to subdivision (c) or prior to
29 having resigned or having been released in a manner to which
30 subdivision (c) would apply, shall maintain that eligibility for the
31 duration of that particular list.

32 (e) This section shall become operative on January 1, 2013.

33 SEC. 39. Section 19050.4 of the Government Code is amended
34 to read:

35 19050.4. A transfer, ~~as defined in Section 18525.3,~~ may be
36 accomplished without examination *pursuant to board rule*. The
37 ~~board~~ *department or appointing authority* may require an employee
38 to demonstrate in an examination that he or she possesses any
39 additional or different requirements that are included in the

1 minimum qualifications of the class to which the employee is
2 transferring.

3 SEC. 40. Section 19050.5 of the Government Code is amended
4 to read:

5 19050.5. Notwithstanding Section 3517.6, an appointing power
6 may transfer any employee under his or her jurisdiction to a
7 *position in the same class or to another position in a different class*
8 ~~designated as appropriate by the board pursuant to board rule.~~

9 SEC. 41. Section 19052 of the Government Code is amended
10 to read:

11 19052. Whenever a vacancy in any position is to be filled and
12 not by transfer, demotion, or reinstatement, the appointing power
13 shall submit to the ~~board~~ *department*, in accordance with board
14 rules, a statement of the duties of the position, the necessary and
15 desired qualifications of the person to be appointed, and a request
16 that the names of persons eligible for appointment to the position
17 be certified. When the appointing power establishes to the
18 satisfaction of the ~~board~~ *department* that the necessary
19 qualifications for the vacant position include fluency in a language
20 in addition to English only the names of persons possessing such
21 fluency shall be certified.

22 SEC. 42. Section 19055 of the Government Code is amended
23 to read:

24 19055. The ~~board~~ *department* may ~~by rule~~, *consistent with*
25 *board rules*, provide for certification of names from appropriate
26 employment lists of the same or higher level in the event an
27 employment list is not available for the class to which a position
28 belongs.

29 SEC. 43. Section 19057.1 of the Government Code is amended
30 to read:

31 19057.1. Notwithstanding Section 19057, for positions in
32 classes designated by the board as professional, scientific, or
33 administrative, or for any open employment list, there shall be
34 certified to the appointing power the names and addresses of all
35 those eligibles whose scores, at time of certification, represent the
36 three highest ranks on the employment list for the class, and who
37 have indicated their willingness to accept appointment under the
38 conditions of employment specified.

39 For purposes of ranking, scores of eligibles on employment lists
40 for these classes shall be rounded to the nearest whole percent. A

1 rank shall consist of one or more eligibles with the same whole
2 percentage score.

3 If the names on the list from which certification is being made
4 represent fewer than three ranks, then additional eligibles shall be
5 certified from the various lists next lower in order of preference
6 until names from three ranks appear. If there are fewer than three
7 names available for certification, and the appointing authority does
8 not choose to appoint from among these, the appointing authority
9 may demand certification of three names. In that case, examinations
10 shall be conducted until at least three names may be certified by
11 the procedure described in this section, and the appointing authority
12 shall fill the position by appointment of one of the persons certified.

13 Fractional examination scores shall be provided to, and utilized
14 by, the California Highway Patrol for its peace officer classes.

15 ~~The board may by rule~~ *department may, consistent with board*
16 *rules*, provide for certifying less than three ranks where the size
17 of the certified group is disproportionate to the number of
18 vacancies.

19 SEC. 44. Section 19057.3 of the Government Code is amended
20 to read:

21 19057.3. (a) Notwithstanding Section 19057, for a position in
22 the Department of Corrections *and Rehabilitation*, there shall be
23 certified to the appointing power the names and addresses of all
24 those eligibles for peace officer and closely allied classes whose
25 scores, at the time of certification, represent the three highest ranks
26 on the employment list for the class in which the position belongs
27 and who have indicated their willingness to accept appointment
28 under the conditions of employment specified.

29 (b) For purposes of ranking, scores of eligibles on employment
30 lists for the classes shall be rounded to the nearest whole percent.
31 A rank consists of one or more eligibles with the same whole
32 percentage score.

33 (c) If fewer than three ranks of persons willing to accept
34 appointment are on the list from which certification is to be made,
35 then additional eligibles shall be certified from the various lists
36 next lower in order of preference until names from three ranks are
37 certified. If there are fewer than three names on those lists, and
38 the appointing power does not choose to appoint from among these,
39 the appointing power may demand certification of three names
40 and examinations shall be conducted until at least three names

1 may be certified. The appointing power shall fill the position by
2 the appointment of one of the persons certified.

3 (d) ~~The board may, by rule,~~ *department may, consistent with*
4 *board rules*, provide for certifying less than three ranks where the
5 size of the certified group is disproportionate to the number of
6 vacancies.

7 (e) ~~The board shall adopt rules to~~ *department may, consistent*
8 *with board rules*, allow for the names of eligibles to be transferred
9 from lists for the same class or comparable classes where names
10 from one list were certified under the rule of three ranks, and names
11 from the other list were certified under the rule of three names.

12 SEC. 45. Section 19058 of the Government Code is amended
13 to read:

14 19058. When there is no employment list from which a position
15 may be filled, the appointing power, with the consent of the ~~board~~
16 *department*, may fill the position by temporary appointment. The
17 temporary appointment to a permanent position shall continue only
18 until eligibles are available from an appropriate employment list
19 and shall not exceed the period prescribed by Section 5 of Article
20 VII of the Constitution. Within the limits of the period prescribed
21 therein, any temporary appointment to a limited term position may,
22 in the discretion of the appointing power and with the approval of
23 the board, be continued for the life of such position. When
24 temporary appointments are made to permanent positions, an
25 appropriate employment list shall be established for each class to
26 which a temporary appointment is made before the expiration of
27 the appointment.

28 SEC. 46. Section 19063 of the Government Code is amended
29 to read:

30 19063. (a) Any person receiving state public assistance under
31 the CalWORKs program (Article 3.2 (commencing with Section
32 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and
33 Institutions Code) who meets the minimum qualifications for any
34 civil service position ~~described by the State Personnel Board~~ as a
35 seasonal or an entry level nontesting class that does not require an
36 examination shall be given priority consideration. "Priority
37 consideration" means, for the purposes of this article, that after
38 consideration has been made for all conditions described in this
39 section, the state agency involved shall hire all qualified job
40 applicants who are receiving state public assistance before hiring

1 any other applicant. The ~~board~~ *department* shall review all
2 nontesting classes and determine those that are subject to this
3 article.

4 (b) Public assistance recipients who apply for openings under
5 this article shall be required to undergo the same employment
6 process used by state agencies to select any other person for
7 appointment to a position in such a class. If a state agency does
8 not select a public assistance recipient to fill an opening, it shall
9 document in its employment records the reasons why the public
10 assistance recipient was not selected and any other information
11 determined to be necessary by the ~~board~~ *department*.

12 (c) The employment of public assistance recipients shall be
13 consistent with the goals established by each agency under Section
14 19790.

15 (d) This section shall not preclude a state agency from hiring
16 any person appointed during the prior 12 months in the class for
17 which the vacancy exists.

18 SEC. 47. Section 19063.1 of the Government Code is amended
19 to read:

20 19063.1. Each state agency that intends to establish qualified
21 hiring pools, as defined by the ~~State Personnel Board~~ *department*,
22 for seasonal or entry level nontesting class employment shall notify
23 the Employment Development Department or its delegate in the
24 area where the openings are expected to occur at least 45 calendar
25 days prior to the establishment of the pool. The state agency shall
26 request referrals of public assistance recipients and at the same
27 time shall provide necessary job-related information.

28 SEC. 48. Section 19063.4 of the Government Code is amended
29 to read:

30 19063.4. If no public assistance recipient applies for a opening
31 within the time limits established by this article, the state agency
32 may fill the opening with a person not receiving public assistance.
33 In the event a person not receiving public assistance is hired, the
34 state agency shall place a certification in its employment records
35 stating the date it contacted the Employment Development
36 Department or its designate, the name of the person contacted, the
37 date the position was filled, and any other information determined
38 to be necessary by the ~~State Personnel Board~~ *department*.

39 SEC. 49. Section 19063.8 of the Government Code is amended
40 to read:

1 19063.8. Any seasonal or entry level nontesting classifications
2 specifically designed to support a program to train students, as
3 determined by the ~~board~~ *department*, to the extent that they are
4 authorized as of the effective date of this article, shall be exempt
5 from this article. However, state agencies shall be encouraged by
6 the ~~board~~ *department* to increase their efforts to recruit
7 disadvantaged youth or students for these jobs.

8 SEC. 50. Section 19172 of the Government Code is amended
9 to read:

10 19172. During the probationary period the appointing power
11 ~~or his or her officially delegated representative~~ shall evaluate the
12 work and efficiency of a probationer in the manner and at such
13 periods as the ~~Department of Personnel Administration~~ *department*
14 rules may require.

15 SEC. 51. Section 19180 of the Government Code is amended
16 to read:

17 19180. If the board restores a rejected probationer to his *or her*
18 position it shall direct the payment of salary to the employee for
19 such period of time as the rejection was improperly in effect.

20 Salary shall not be authorized or paid for any portion of a period
21 of rejection that the employee was not ready, able, and willing to
22 perform the duties of his *or her* position, whether such rejection
23 is valid or not.

24 There shall be deducted from any amount approved under this
25 section any compensation the employee earned or might reasonably
26 have earned in private or public employment during the period the
27 rejection was improperly in effect.

28 SEC. 52. Section 19232 of the Government Code is amended
29 to read:

30 19232. Each state agency shall be responsible for establishing
31 an effective affirmative action program to ensure individuals with
32 a disability, who are capable of remunerative employment, access
33 to positions in state service on an equal and competitive basis with
34 the general population.

35 Each state agency shall develop and implement an affirmative
36 action employment plan for individuals with a disability, which
37 shall include goals and timetables. These goals and timetables shall
38 be set annually for disabilities identified pursuant to guidelines
39 established by the ~~State Personnel Board~~ *Department of Human*
40 *Resources*, and shall be submitted to the ~~board~~ *department* no later

1 than June 1 of each year beginning in 1978, for review and approval
2 or modification. Goals and timetables shall be made available to
3 the public upon request.

4 SEC. 53. Section 19233 of the Government Code is amended
5 to read:

6 19233. ~~The State Personnel Board~~ *department* shall be
7 responsible for the following:

8 (a) Outline specific actions to improve the representation of
9 individuals with a disability in the state work force and to ensure
10 equal and fair employment practices for employees who are
11 individuals with a disability.

12 (b) Survey the number of individuals with a disability in each
13 department by at least job category and salary range for the purpose
14 of developing goals and timetables pursuant to Section 19232 and
15 compare those numbers with the number of individuals with a
16 disability in the work force.

17 (c) Establish guidelines for state agencies and departments to
18 set goals and timetables to improve the representation of
19 individuals with a disability in the state work force. Goals and
20 timetables shall be set by at least job category.

21 SEC. 54. Section 19236 of the Government Code is amended
22 to read:

23 19236. ~~The State Personnel Board~~ *Department of Human*
24 *Resources* shall provide technical assistance, statewide advocacy,
25 coordination, and monitoring of plans to overcome any
26 underrepresentation determined pursuant to Section 19234.

27 SEC. 55. Section 19237 of the Government Code is amended
28 to read:

29 19237. On or before November 15 of each year, ~~beginning in~~
30 ~~1978, the State Personnel Board~~ *the department* shall report to the
31 Governor and the Legislature on the current activity, future plans,
32 and past accomplishments of the overall employment program for
33 individuals with a disability in state government, including an
34 evaluation of the achievement of annual employment objectives.

35 SEC. 56. Section 19240 of the Government Code is amended
36 to read:

37 19240. (a) ~~The State Personnel Board~~ *department, consistent*
38 *with board rules,* shall be responsible for the *administration of the*
39 Limited Examination and Appointment Program. This program
40 shall provide an alternative to the traditional civil service

1 examination and appointment process to facilitate the hiring of
2 persons with disabilities in the state civil service—where
3 accommodation can be provided and where prohibitive physical
4 requirements are not mandated by the board.

5 (b) “Disability” for the purposes of this article has the definition
6 set forth in Section 12926, as that section presently reads or as it
7 subsequently may be amended.

8 (c) Notwithstanding subdivision (b), if the definition of
9 “disability” used in the federal Americans with Disabilities Act of
10 1990 (Public Law 101-336) would result in broader protection of
11 the civil rights of individuals with a mental or physical disability,
12 as defined in subdivision (b), then that broader protection shall be
13 deemed incorporated by reference into, and shall prevail over
14 conflicting provisions of, the definition in subdivision (b). The
15 definition of “disability” contained in subdivision (b) shall not be
16 deemed to refer to or include conditions excluded from the federal
17 definition of “disability” pursuant to Section 511 of the federal
18 Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12211).

19 SEC. 57. Section 19241 of the Government Code is amended
20 to read:

21 19241. The ~~board~~ *department*, consistent with board rules,
22 shall ~~establish rules and procedures~~ *be responsible* for the
23 implementation of this chapter, which may provide for the
24 establishment of eligibility criteria for participation, special job
25 classifications, examination techniques, and appointment and
26 appeals procedures.

27 SEC. 58. Section 19242 of the Government Code is amended
28 to read:

29 19242. The ~~board~~ *department* or its designee shall conduct
30 competitive examinations to determine the qualifications and
31 readiness of persons with disabilities for state employment. The
32 examinations may include an on the-job-performance evaluation
33 and any other selection techniques deemed appropriate ~~by the~~
34 ~~board~~. Examination results may be ranked or unranked.

35 SEC. 59. Section 19242.2 of the Government Code is amended
36 to read:

37 19242.2. The ~~board~~ *department* or its designee shall refer the
38 names of persons with disabilities who meet eligibility criteria for
39 participation and the minimum qualifications of the job
40 classification and any other requirements deemed appropriate by

1 the board to appointing powers for examination appointments.
2 Notwithstanding any other provision of law, and to provide for
3 appropriate job-person placement, all candidates meeting referral
4 requirements shall be eligible for examination appointment. The
5 ~~board shall~~ *department may* prescribe ~~by rule~~ the method for
6 referring names to appointing powers.

7 SEC. 60. Section 19242.8 of the Government Code is amended
8 to read:

9 19242.8. The ~~board~~ *department* or its designee shall develop
10 evaluation standards which are appropriate tests of fitness for the
11 job classification. During the job examination period, the
12 appointing power shall prepare written evaluations of the
13 candidate's performance ~~in accordance with board rule~~. The final
14 evaluation shall contain a recommendation as to whether or not to
15 appoint the candidate to an appropriate position where civil service
16 status may accumulate.

17 SEC. 61. Section 19243 of the Government Code is amended
18 to read:

19 19243. Upon successful completion of the job examination
20 period, the candidate shall have qualified in the examination. With
21 the approval of the ~~board~~ *department*, the appointing power may
22 appoint the candidate, without further examination, to an
23 appropriate position where civil service status may accumulate.

24 SEC. 62. Section 19243.2 of the Government Code is amended
25 to read:

26 19243.2. With the approval of the ~~board~~ *department*, the
27 appointing power may shorten or extend the duration of the job
28 examination period.

29 SEC. 63. Section 19600 of the Government Code is amended
30 to read:

31 19600. The ~~board~~ *department* may, directly or through
32 agreement or contract with one or more ~~agencies~~ *appointing*
33 *authorities* and other public and private organizations, *with*
34 *approval of the board*, conduct and evaluate demonstration
35 projects.

36 Nothing in this section shall infringe upon or conflict with the
37 merit principle as embodied in Article VII of the California
38 Constitution, nor shall any project undertaken pursuant to this act
39 conflict with, or infringe upon the merit principles of the civil
40 service system.

1 Subject to the provisions of this section, the conducting of
2 demonstration projects shall not be limited by any lack of specific
3 authority under this code to take the action contemplated, or by
4 any provision of this code or any rule or regulation prescribed
5 under this code which is inconsistent with the action, including
6 any law or regulation relating to any of the following:

7 (a) The methods of establishing qualification requirements for,
8 recruitment for, and appointment to positions.

9 (b) The methods of classifying positions and compensating
10 employees.

11 (c) The methods of assigning, reassigning, or promoting
12 employees.

13 (d) The methods of disciplining employees.

14 (e) The methods of providing incentives to employees, including
15 the provision of group or individual incentive bonuses or pay.

16 (f) The hours of work per day or per week.

17 (g) The methods of involving employees, labor organizations,
18 and employee organizations in personnel decisions.

19 (h) The methods of reducing overall agency staff and grade
20 levels.

21 SEC. 64. Section 19600.1 of the Government Code is amended
22 to read:

23 19600.1. “Demonstration project” means a project ~~conducted~~
24 *approved by the State Personnel Board, or under its supervision,*
25 *board and conducted by the department or another appointed*
26 *authority to determine whether a specified change in personnel*
27 *management policies or procedures would result in improved state*
28 *personnel management.*

29 SEC. 65. Section 19602 of the Government Code is amended
30 to read:

31 19602. (a) Before conducting or entering into any agreement
32 or contract to conduct a demonstration project, ~~the board shall do~~
33 ~~all of the following~~ *appointing authority proposing the project*
34 *shall describe its proposal to the department, and specifically*
35 *address the following factors:*

36 (a) ~~Develop a plan for the project that identifies all of the~~
37 ~~following:~~

38 (1) The purposes of the project.

39 (2) ~~The types of employees affected by the project~~ *categorized*
40 *by classification, occupational series, grade, or organizational unit.*

- 1 (3) The number of employees ~~to be included in the aggregate~~
 2 ~~and by category affected.~~
- 3 (4) The methodology.
- 4 (5) The duration.
- 5 (6) The training to be provided.
- 6 (7) The anticipated costs.
- 7 (8) The methodology and criteria ~~for evaluation~~ *evaluating the*
 8 *project during its term and at its conclusion.*
- 9 (9) A specific description of any aspect of the project for which
 10 there is a lack of specific authority.
- 11 (10) A specific citation to any provision of law, rule, or
 12 regulation that, if not waived under this section, would prohibit
 13 the conducting of the project, or any part of the project as proposed.
- 14 (11) A specific description of the potential impact of the plan
 15 on the rights and status of the employees included within the plan,
 16 including their right of appeal.
- 17 (12) Provisions for determining the status, rights, compensation,
 18 and benefits of affected employees upon the termination of the
 19 project.
- 20 (b) ~~Provide notification of the proposed project to~~ *The*
 21 *department shall notify* employees who are likely to be affected
 22 by the project and to each house of the Legislature, at least 180
 23 days in advance of the date any project proposed under this section
 24 is to take effect.
- 25 (c) ~~Publish~~ *After the department reviews the proposal, it shall*
 26 *transmit it to the board. The board shall publish notice of the*
 27 *project in the California Regulatory Notice Register; with notice*
 28 *of the board meeting or other public hearing at which the proposed*
 29 *adoption of the demonstration project will be considered and acted*
 30 *upon. The notice shall be published at least 30 days prior to the*
 31 *meeting or hearing.*
- 32 (d) ~~Provide~~ *The board shall provide an opportunity for written*
 33 *comment to the board, and oral comment at board meetings or*
 34 *hearings.*
- 35 (e) ~~Provide~~ *The appointing authority proposing the project shall*
 36 *provide to persons who have submitted comments written notice*
 37 *of substantive changes made to the project after the initial hearing*
 38 *board meeting, and provide an additional 15-day period for*
 39 *submission of comments prior to the final adoption of the*
 40 *demonstration project by the board.*

1 (f) ~~Submit any~~ Any regulations implementing the demonstration
2 project *shall be submitted* to the Office of Administrative Law for
3 filing with the Secretary of State and publication in the California
4 Code of Regulations. These regulations shall be exempt from the
5 Administrative Procedure Act (Chapter 3.5 (commencing with
6 Section 11340) of Part 1 of Division 3). However, no regulation
7 implementing a demonstration project shall be exempt from the
8 act if the project limits competition in particular examinations or
9 limits entry into particular classifications on the basis of sex, race,
10 religious creed, color, national origin, ancestry, marital status,
11 physical disability, mental disability, or other non-job-related
12 factors.

13 (g) Submit the proposed project to public hearings.

14 (h) Obtain approval from each agency involved in the final
15 version of the plan.

16 (i) Provide the Legislature with a report at least 90 days in
17 advance of the date the project is to take effect setting forth the
18 final version of the plan as so approved.

19 SEC. 66. Section 19603 of the Government Code is amended
20 to read:

21 19603. Each demonstration project shall terminate before the
22 end of the five-year period beginning on the date on which the
23 project takes effect, except that the project may continue beyond
24 the date to the extent necessary to validate the results of the project.

25 Subject to the terms of any written agreement or contract between
26 ~~the board and an agency~~ *department and an appointing authority*,
27 a demonstration project involving the ~~agency~~ *appointing authority*
28 may be terminated by the board or the ~~agency~~ *appointing authority*,
29 if either determines that the project creates a substantial hardship
30 on, or is not in the best interests of, the public, employees, or state
31 government.

32 SEC. 67. Section 19606 of the Government Code is amended
33 to read:

34 19606. ~~The board~~ *department* shall provide for an evaluation
35 of the results of each demonstration project and its impact on
36 improving public management.

37 All agencies shall cooperate with and assist the ~~board~~
38 *department*, to the extent practicable, in any evaluation and provide
39 the ~~board~~ *department* with requested information and reports
40 relating to demonstration projects in their respective agencies.

1 SEC. 68. Section 19609 of the Government Code is amended
 2 to read:

3 19609. (a) For a demonstration project made permanent
 4 pursuant to legislation operative on or after January 1, 2008, ~~a~~
 5 ~~department~~ *an appointing authority* participating in the
 6 demonstration project shall file a report on all aspects of the
 7 demonstration project with the State Personnel Board. The report
 8 shall include, but not be limited to, all of the following:

- 9 (1) The number of applicants.
- 10 (2) The number of applicants that were hired.
- 11 (3) The cost of the hiring process.
- 12 (4) The number and nature of examination appeals.
- 13 (5) The length of time to complete the hiring and testing process.

14 (b) For a three-year period from the date that the demonstration
 15 project becomes permanent, ~~the department~~ *the department appointing authority*
 16 shall file the report described in subdivision (a) on an annual basis.
 17 After the expiration of the three-year period, ~~the department~~
 18 *appointing authority* shall file a report if a report is requested by
 19 the State Personnel Board.

20 (c) When ~~the State Personnel Board~~ *board* receives a report
 21 described in this section, ~~the State Personnel Board~~ *board* may
 22 hold a public hearing to provide for the exchange of information
 23 and an opportunity for public comment about the demonstration
 24 project that is the subject of the report.

25 SEC. 69. Section 19701 of the Government Code is amended
 26 to read:

27 19701. A person shall not be discriminated against under this
 28 part because of total or partial blindness unless normal eyesight is
 29 absolutely indispensable to do the physical acts to be performed.

30 It shall be an unlawful employment practice, unless based upon
 31 a bona fide occupational qualification as determined by a validation
 32 study conducted by ~~the State Personnel Board~~ *Department of*
 33 *Human Resources*, for the state to refuse to hire, employ, promote,
 34 or select for a training program leading to employment, or to
 35 discriminate in compensation or in terms or privileges of
 36 employment because of color vision anomaly or defect, commonly
 37 known as color blindness or color weakness, in the vision of any
 38 person.

39 SEC. 70. Section 19702.5 of the Government Code is amended
 40 to read:

1 19702.5. (a) ~~The board~~ *Department of Human Resources* shall
2 provide to the Fair Employment and Housing Commission a copy
3 of each affirmative action plan, and all subsequent amendments
4 of such plans, adopted by each state agency, department, office or
5 commission.

6 (b) ~~The board~~ *department* shall annually, commencing January
7 1, 1975, submit to the Fair Employment and Housing Commission
8 a statistical survey of the employment of each state agency,
9 department, office or commission. The survey shall include, but
10 not be limited to: sex, age, ethnic origin, current employment
11 classification, salary, full-time or other employment status,
12 department and administrative unit, and county of employment of
13 employees.

14 ~~(c) The board shall provide annual reports to the Legislature~~
15 ~~concerning the number and types of formal discrimination~~
16 ~~complaints and appeals against each appointing authority, including~~
17 ~~the length of time required for resolution, and the complaint and~~
18 ~~appeal outcome. At least once every three years the board shall~~
19 ~~conduct hearings to assess the effectiveness, accessibility, and~~
20 ~~fairness of the state discrimination complaint process. The outcome~~
21 ~~of these hearings shall be reported to the Legislature within 90~~
22 ~~days of the hearing and shall include action plans for board~~
23 ~~resolution of deficiencies and any legislative recommendations.~~

24 ~~(d) These reports and information shall constitute public records.~~

25 SEC. 71. Section 19705 of the Government Code is amended
26 to read:

27 19705. Notwithstanding Section 19704, ~~the State Personnel~~
28 ~~Board~~ *Department of Human Resources* may, after public hearing,
29 adopt a system in which applicants for employment in the state
30 civil service shall be asked to provide, voluntarily, ethnic data
31 about themselves where such data is determined by ~~the board~~
32 *department* to be necessary to an assessment of the ethnic and sex
33 fairness of the selection process and to the planning and monitoring
34 of affirmative action efforts. ~~The board~~ *department* shall provide
35 by rule for safeguards to insure that such data shall not be used in
36 a discriminatory manner in the selection process. Ethnic data may
37 be compiled for women and minorities. Ethnic data information
38 gathered pursuant to this section on an individual applicant shall
39 not be available to any interviewer or any officer or employee
40 empowered to make or influence the civil service appointment of

1 such individual. The ~~board~~ *department* shall report annually to the
2 Governor and the Legislature on the results of the selection process
3 as determined by data gathered under this section.

4 SEC. 72. Section 19790 of the Government Code is amended
5 to read:

6 19790. Each state agency is responsible for ~~establishing~~ an
7 effective equal employment opportunity program. The ~~State~~
8 ~~Personnel Board~~ *department* shall be responsible for ~~taking all~~
9 ~~steps necessary to provide~~ statewide advocacy, coordination,
10 enforcement, and monitoring of these programs.

11 SEC. 73. Section 19792 of the Government Code is amended
12 to read:

13 19792. The ~~State Personnel Board~~ *department* shall do all of
14 the following:

15 (a) Provide statewide leadership, designed to achieve equal
16 employment opportunity in the state civil service.

17 (b) Develop, implement, and maintain equal employment
18 opportunity guidelines.

19 (c) Provide technical assistance to state agencies in the
20 development and implementation of their equal employment
21 opportunity programs.

22 (d) Review and evaluate departmental equal employment
23 opportunity programs to ensure that they comply with state and
24 federal statutes and regulations.

25 (e) Establish programs to ensure equal employment opportunity
26 for all state job applicants and employees through broad, inclusive
27 recruitment efforts and other measures as allowed by law.

28 (f) Provide statewide training to departmental equal employment
29 opportunity officers who will conduct training on equal
30 employment opportunity.

31 (g) Review, examine the validity of, and update qualifications
32 standards, selection devices, including oral appraisal panels and
33 career advancement programs.

34 (h) Maintain a statistical information system designed to yield
35 the data and the analysis necessary for the evaluation of equal
36 employment opportunity within the state civil service. The
37 statistical information shall include specific data to determine the
38 underutilization of groups based on race, ethnicity, gender, and
39 disability. The statistical information shall be made available during
40 normal working hours to all interested persons. Data generated on

1 a regular basis shall include, but not be limited to, all of the
2 following:

3 (1) Current state civil service workforce composition by race,
4 ethnicity, gender, age, department, salary level, occupation, and
5 attrition rates by occupation.

6 (2) Current local and regional workforce and population data
7 for groups based on race, ethnicity, gender, and age.

8 (i) The data analysis referred to in subdivision (h) above shall
9 include, but not be limited to, all of the following:

10 (1) Data relating to the utilization of groups based on race,
11 ethnicity, and gender compared to their availability in the relevant
12 labor force.

13 (2) Turnover data by department and occupation.

14 (3) Data relating to salary administration, including average
15 salaries for groups based on race, ethnicity, gender, and disability
16 and comparisons of salaries within state service and comparable
17 state employment.

18 (4) Data on employee age, and salary level compared among
19 groups based on race, ethnicity, gender, and disability.

20 (5) Data on the number of individuals of each race, ethnicity,
21 gender, and disability who are recruited for, participate in, and
22 pass state civil service examinations. This data shall be analyzed
23 pursuant to the provisions of Sections 19704 and 19705.

24 (6) Data on the job classifications, geographic locations,
25 separations, salaries, and other conditions of employment that
26 provide additional information about the composition of the state
27 civil service workforce.

28 SEC. 74. Section 19792.5 of the Government Code is amended
29 to read:

30 19792.5. (a) In order to permit the public to track upward
31 mobility and the impact of equal opportunities on persons,
32 categorized by race, ethnicity, gender, and disability in state civil
33 service, the ~~State Personnel Board~~ *department* shall annually track,
34 by incremental levels of ten thousand dollars (\$10,000), the salaries
35 of persons, categorized by race, ethnicity, gender, and disability,
36 in state civil service. For purposes of this subdivision, “upward
37 mobility” means the advancement of persons, categorized by race,
38 ethnicity, gender, and disability, to better paying and higher level
39 positions.

1 (b) The ~~board~~ *department* shall report salary data collected
2 pursuant to subdivision (a) to the Governor and the Legislature in
3 its Annual Census of State Employees and Equal Employment
4 Opportunity Report, as required in Section 19793, and shall include
5 in this report information regarding the progress of individuals by
6 race, ethnicity, gender, and disability in attaining high-level
7 positions in state employment. The salary data shall be reported
8 in annual increments of ten thousand dollars (\$10,000) by job
9 category, race, ethnicity, gender, and disability in a format easily
10 understandable by the public.

11 SEC. 75. Section 19794 of the Government Code is amended
12 to read:

13 19794. In cooperation with the ~~State Personnel Board~~
14 *department*, the appointing power of each state agency shall have
15 the major responsibility for monitoring the effectiveness of the
16 equal employment opportunity programs of the state agency. To
17 that end, the appointing power shall do all of the following:

18 (a) Issue a policy statement committing to equal employment
19 opportunity.

20 (b) Issue procedures for filing, processing, and resolving
21 discrimination complaints within the state agency, consistent with
22 state laws and rules, and for filing appeals from agency decisions
23 on these complaints.

24 (c) Issue procedures for providing equal upward mobility and
25 promotional opportunities to state employees.

26 (d) Cooperate with the ~~board~~ *department* by providing access,
27 in accordance with subdivisions (o) and (p) of Section 1798.24 of
28 the Civil Code, to all files, documents, and data necessary for the
29 ~~board~~ *department* to carry out its mandates under this chapter.

30 SEC. 76. Section 19795 of the Government Code is amended
31 to read:

32 19795. (a) The appointing power of each state agency and the
33 director of each state department shall appoint, at the managerial
34 level, an equal employment opportunity officer, who shall report
35 directly to, and be under the supervision of, the director of the
36 department, to develop, implement, coordinate, and monitor the
37 agency's equal employment opportunity program. In a state agency
38 with less than 500 employees, the equal employment opportunity
39 officer may be the personnel officer. The agency equal employment
40 opportunity officer shall, among other duties, analyze and report

1 on appointments of employees, bring issues of concern regarding
2 equal employment opportunity to the appointing power and
3 recommend appropriate action, submit an evaluation of the
4 effectiveness of the total equal employment opportunity program
5 to the ~~State Personnel Board~~ *department* annually *by July 1*,
6 monitor the composition of oral panels in departmental
7 examinations, and perform other duties necessary for the effective
8 implementation of the agency equal employment opportunity plans.

9 (b) (1) Each state agency shall establish a separate committee
10 of employees who are individuals with a disability, or who have
11 an interest in disability issues, to advise the head of the agency on
12 issues of concern to employees with disabilities, and matters
13 relating to the formulation and implementation of the plan to
14 overcome and correct any underrepresentation determined pursuant
15 to Section 19234.

16 (2) Departments shall invite all employees to serve on the
17 committee and shall take appropriate steps to ensure the final
18 committee is comprised of members who have disabilities or who
19 have an interest in disability issues. Each department shall ensure
20 that at least two-thirds of the members of the committee are
21 individuals with disabilities or retain documentation that
22 demonstrates that the number of employees invited to participate,
23 and willing and able to serve, was insufficient to meet this
24 requirement.

25 SEC. 77. Section 19798.5 of the Government Code is amended
26 to read:

27 19798.5. State departments, agencies, and the ~~State Personnel~~
28 ~~Board~~ *department* shall continue to carry out their respective duties
29 required by Sections 19230 to 19237, inclusive, with respect to
30 establishing, monitoring, and reporting on an affirmative action
31 plan, including goals and timetables, for ensuring individuals with
32 disabilities access to state employment. These activities shall be
33 coordinated with and integrated into the planning, reporting, and
34 monitoring activities required by this chapter.

35 SEC. 78. Section 19815.2 of the Government Code, as added
36 by GRP 1 of the 2011-12 Regular Session, is repealed.

37 ~~19815.2. (a) The Department of Human Resources (CalHR)~~
38 ~~is hereby created following reorganization of state department,~~
39 ~~agencies, and boards in an effort to better serve the human~~
40 ~~resources and personnel needs of the state.~~

1 ~~(b) Subject to Article VII of the California Constitution, the~~
2 ~~Department of Human Resources succeeds to and is vested with~~
3 ~~the duties, purposes, responsibilities, and jurisdiction exercised by~~
4 ~~the State Personnel Board as its designee with respect to the State~~
5 ~~Personnel Board's administrative and ministerial functions.~~

6 SEC. 79. Section 19816.4 of the Government Code is amended
7 to read:

8 19816.4. The department shall have possession and control of
9 all records, papers, offices, equipment, supplies, moneys, funds,
10 appropriations, land, and other property real or personal held for
11 the benefit or use by the State Personnel Board, ~~the California~~
12 ~~Victim Compensation and Government Claims Board, the~~
13 ~~Department of General Services, and the Department of Finance~~
14 ~~and the department~~ in the performance of the duties, powers,
15 purposes, responsibilities, and jurisdiction that are vested in the
16 department by Section 19816.

17 SEC. 80. Section 19816.6 of the Government Code is amended
18 to read:

19 19816.6. All officers and employees of the State Personnel
20 Board, ~~the California Victim Compensation and Government~~
21 ~~Claims Board, the Department of General Services, and the~~
22 ~~Department of Finance and the department~~, who, on the operative
23 date of this part, are serving in the state civil service, other than
24 as temporary employees, and engaged in the performance of a
25 function vested in the department by Section 19816 shall be
26 transferred to the department. The status, positions, and rights of
27 these persons shall not be affected by the transfer and shall be
28 retained by them as officers and employees of the department
29 pursuant to the State Civil Service Act, except as to positions
30 exempt from civil service.

31 SEC. 81. Section 19816.22 of the Government Code is
32 repealed.

33 ~~19816.22. (a) It is the intent of the Legislature in providing~~
34 ~~funds for the Human Resources Modernization Project, within the~~
35 ~~Department of Personnel Administration's budget, to provide every~~
36 ~~state agency with the tools necessary to recruit and retain its~~
37 ~~personnel. The Human Resources Modernization Project integrates~~
38 ~~the competencies, skills, and abilities of each employee across all~~
39 ~~human resource programs. State agencies will use the services~~
40 ~~developed by the Human Resources Modernization Project to~~

1 recruit, assess, select, and develop their personnel, as well as to
2 plan for the future, with performance management and succession
3 applications.

4 (b) Authority is hereby granted, to the extent otherwise permitted
5 by law, to the Department of Personnel Administration to assess
6 special funds, bond funds, and nongovernmental cost funds in
7 sufficient amounts to support the cost of the Human Resources
8 Modernization Project described in subdivision (a). The Director
9 of Finance shall determine the amount of the total assessment for
10 each fund periodically. Upon order of the Director of the
11 Department of Finance, the moneys authorized pursuant to this
12 act shall be transferred by the Controller, as needed, from each
13 fund for a total amount not to exceed the amounts authorized in
14 the annual Budget Act.

O