

ASSEMBLY BILL

No. 757

Introduced by Assembly Member Roger Hernández

February 21, 2013

An act to add and repeal Section 11016.7 of the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

AB 757, as introduced, Roger Hernández. Department of Parks and Recreation: regulations.

Existing law provides that state agencies, as defined, comply with statutes and regulations governing various aspects of their operation, including the adoption of policies and regulations, hiring, transactions, and compensation.

This bill would require the Department of Parks and Recreation to adopt regulations by July 31, 2014, that would address specified issues regarding the approval and tracking of employees working in out-of-class assignments as identified in an audit by the Controller, and report to the Legislature.

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 11016.7 is added to the Government
2 Code, to read:
3 11016.7. (a) (1) The Department of Parks and Recreation
4 shall, by July 1, 2014, adopt regulations implementing, to the
5 extent practicable, policy recommendations in subdivision (b) as

1 emergency regulations in accordance with the Administrative
2 Procedure Act (Chapter 3.5 (commencing with Section 11340) of
3 Part 1 of Division 3 of Title 2 of the Government Code). For the
4 purposes of the Administrative Procedure Act, the adoption of the
5 regulations shall be deemed an emergency and necessary for the
6 immediate preservation of the public peace, health and safety, or
7 general welfare. Notwithstanding Chapter 3.5 (commencing with
8 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
9 Code, these emergency regulations shall not be subject to the
10 review and approval of the Office of Administrative Law.

11 (2) Notwithstanding subdivision (h) of Section 11346.1 and
12 Section 11349.6 of the Government Code, the department shall
13 transmit these regulations directly to the Secretary of State for
14 filing. The regulations shall become effective immediately upon
15 filing by the Secretary of State.

16 (3) Except as otherwise provided for by Section 10554, the
17 Office of Administrative Law shall provide for the printing and
18 publication of these regulations in the California Code of
19 Regulations.

20 (b) The Controller listed the following policy suggestions
21 regarding compensation for employees working in out-of-class
22 assignments in its audit of the Department of Parks and Recreation
23 dated December 18, 2012:

24 (1) All of the out-of-class assignments should be forwarded to
25 the Classification and Pay Unit of the department for approval.
26 The Transactions Unit of the department should ensure that all of
27 the proper approvals are obtained before entering assignments into
28 the payroll system. Approvals should occur before the assignment
29 start date.

30 (2) The Classification and Pay Unit of the department should
31 review bargaining unit contracts before approval of the out-of-class
32 assignment to ensure that compensation is not paid beyond the end
33 of an assignment period or that compensation does not exceed 120
34 days within 12 consecutive months or 365 days, or both, depending
35 on the employee's classification.

36 (3) The justification documentation or approval sheet, or both,
37 should include language stating that approval for managers to
38 receive out-of-class assignments occurs only after the manager
39 already has worked out of class for 90 days.

1 (4) The Transactions Unit of the department should provide
2 training to staff to ensure that they are aware that out-of-class pay
3 should be adjusted for employees on nonindustrial disability
4 insurance.

5 (5) The Transactions Unit managers or supervisors of the
6 department should provide tools and training to staff to ensure that
7 payment calculations are calculated correctly. The calculation
8 should be adequately documented using a state form STD 671 and
9 a legible calculation sheet.

10 (6) The department's Internal Audit Unit should conduct regular
11 reviews of out-of-class assignments to determine whether the
12 assignments are in accordance with state law, bargaining unit
13 agreements, and department policies.

14 (7) The Department of Parks and Recreation should seek
15 reimbursement from employees who received out-of-class
16 payments to which they were not lawfully entitled.

17 (c) (1) The Department of Parks and Recreation shall report on
18 the regulations adopted pursuant to this section to the Legislature
19 on or before July 31, 2014.

20 (2) The report shall be submitted in compliance with Section
21 9795.

22 (d) This section shall remain in effect only until December 31,
23 2014, and as of that date is repealed, unless a later enacted statute,
24 that is enacted before December 31, 2014, deletes or extends that
25 date.