

AMENDED IN SENATE JUNE 1, 2015

AMENDED IN SENATE APRIL 7, 2015

SENATE BILL

No. 644

Introduced by Senator Hancock

February 27, 2015

An act to amend Sections 19240, *19241*, 19242, and 19242.2 of, and to add ~~Section~~ *Sections 19241.5, 19242.05, and 19242.3* to, the Government Code, relating to state employment.

LEGISLATIVE COUNSEL'S DIGEST

SB 644, as amended, Hancock. Limited Examination and Appointment Program: persons with developmental disabilities.

Existing law requires the Department of Human Resources to administer the Limited Examination and Appointment Program (LEAP) to provide an alternative to the traditional civil service examination and appointment process to facilitate the hiring of persons with disabilities in the state civil services. Existing law authorizes the department to conduct competitive examinations to determine eligibility for appointment under LEAP and requires the department to refer the names of eligible applicants who meet the minimum qualifications of a job classification to the appointing powers for examination appointments, as specified.

This bill would preclude an examination for a person with a developmental disability from including a written examination or readiness evaluation and would, instead, require that the competitive examination consist of an internship with a state agency that is not less than ~~1,024~~ *512* hours in duration and require the department to refer the names of eligible applicants who successfully complete the internship to the appointing powers for examination appointments. *The*

bill would require the department to create that internship program in coordination with the State Department of Developmental Services and the Department of Rehabilitation, as specified. The bill would ~~also~~ authorize a state agency that provides the internship or appoints a person with a developmental disability to a position under LEAP to allow that person to receive on-the-job support and finance the internship or position with personnel funds or other available funds assigned to a vacant or unfilled position, as ~~specified~~. specified, but would provide that on-the-job support services are not the financial or programmatic responsibility of any state agency engaged in establishing the LEAP internship process. The bill would specify that LEAP is not a mandate on any state agency employer or job applicant except to the extent specifically directed by the State Personnel Board.

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. The Legislature finds and declares all of the
- 2 following:
- 3 (a) ~~Individuals~~ *Persons* with developmental disabilities have to
- 4 struggle to find gainful employment. Statewide unemployment
- 5 among people with developmental disabilities of working age is
- 6 approximately 90 percent.
- 7 (b) According to ~~California's~~ *the* Employment Development
- 8 Department, the average annual earnings of employed ~~individuals~~
- 9 *persons* with developmental disabilities is approximately five
- 10 thousand five hundred dollars (\$5,500).
- 11 (c) Within the community of people with developmental
- 12 disabilities, people diagnosed with autism are the fastest growing
- 13 population, making up approximately 50 percent of the annual
- 14 new caseload of regional centers in some areas of the state.
- 15 (d) Seven years after exiting the K-12 school system, one in
- 16 three adults with autism still does not have paid work experience
- 17 or a college or technical education.
- 18 (e) Nationally recognized employment internship training
- 19 models like Project SEARCH have demonstrated that many people
- 20 with developmental disabilities can be successfully employed in
- 21 jobs that earn a living wage.

1 (f) The key elements of successful programs like Project
2 SEARCH are:

3 (1) The opportunity for people with developmental disabilities
4 to be exposed to real work through internships.

5 (2) The opportunity for people with developmental disabilities
6 to receive on-the-job customized training and support during
7 internships.

8 (3) The opportunity for employers, in an internship setting, to
9 experience firsthand the quality of work of ~~an individual~~ *a person*
10 with a developmental disability.

11 (g) The existing state hiring process for people with disabilities,
12 known as the Limited Examination and Appointment Program, or
13 LEAP, is not well suited to correctly assess the qualifications and
14 abilities of many people with developmental disabilities because
15 it relies on written testing as an assessment tool and is not
16 performance based. As a result, very few people with
17 developmental disabilities are represented in the state workforce.

18 (h) The Governor and the Legislature must address the lack of
19 access people with developmental disabilities have to employment
20 opportunities with the State of California and take steps to become
21 a “model employer” to demonstrate the potential of this untapped
22 workforce.

23 (i) In enacting this measure, the Legislature intends to create
24 more access to state employment for people with developmental
25 disabilities by allowing successful internship performance in a
26 state agency, in lieu of a written test, to serve as meeting the
27 minimum qualifications for consideration for hire into an
28 entry-level position with the State of California. The Legislature
29 further intends to grant flexibility to state agencies to hire persons
30 with developmental disabilities who meet specific needs of those
31 agencies into entry-level positions without requiring those persons
32 to be able to perform the full range of tasks typically required by
33 the entry-level job classification.

34 (j) The Legislature intends that these model employer practices
35 be targeted at people with developmental disabilities who are
36 between 18 and 30 years of age and are deemed eligible by the
37 Department of Rehabilitation to receive supported employment
38 services. If this population is left without purposefully designed
39 pathways to employment, these young adults will remain at a high
40 risk of public dependency throughout the course of their lives.

1 SEC. 2. Section 19240 of the Government Code is amended
2 to read:

3 19240. (a) The department, consistent with board rules, shall
4 be responsible for the administration of the Limited Examination
5 and Appointment Program. This program shall provide an
6 alternative to the traditional civil service examination and
7 appointment process to facilitate the hiring of persons with
8 disabilities in the state civil service.

9 (b) For purposes of this article, the following terms have the
10 following meanings:

11 ~~(1) “Disability” has the definition set forth in Section 12926,~~
12 ~~as that section presently reads or as it subsequently may be~~
13 ~~amended.~~

14 ~~(2)~~

15 (1) “Developmental disability” has the definition set forth in
16 Section 4512 of the Welfare and Institutions Code.

17 (2) “Disability” has the definition set forth in Section 12926,
18 as that section presently reads or as it subsequently may be
19 amended.

20 (3) “LEAP” means the Limited Examination and Appointment
21 Program implemented and administered by the department
22 pursuant to this chapter.

23 ~~(3)~~

24 (4) “Person with a developmental disability” means a person
25 who the State Department of Developmental Services deems
26 eligible for services pursuant to the Lanterman Developmental
27 Disabilities Services Act (Division 4.5 (commencing with Section
28 4500) of the Welfare and Institutions Code) and who is a consumer
29 of a regional center pursuant to Chapter 5 (commencing with
30 Section 4620) of the act.

31 (c) Notwithstanding subdivision (b), if the definition of
32 “disability” used in the federal Americans with Disabilities Act of
33 1990 (Public Law 101-336) would result in broader protection of
34 the civil rights of ~~individuals~~ persons with a mental or physical
35 disability, as defined in subdivision (b), then that broader protection
36 shall be deemed incorporated by reference into, and shall prevail
37 over conflicting provisions of, the definition in subdivision (b).
38 The definition of “disability” contained in subdivision (b) shall
39 not be deemed to refer to or include conditions excluded from the
40 federal definition of “disability” pursuant to Section 511 of the

1 federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec.
2 12211).

3 *SEC. 3. Section 19241 of the Government Code is amended to*
4 *read:*

5 19241. The department, consistent with board rules, shall be
6 responsible for the implementation of this chapter, which may
7 provide for the establishment of eligibility criteria for participation,
8 special job classifications, examination techniques, *the creation*
9 *of a LEAP internship program for persons with developmental*
10 *disabilities in coordination with the State Department of*
11 *Developmental Services and the Department of Rehabilitation,*
12 *and appointment and appeals procedures.*

13 *SEC. 4. Section 19241.5 is added to the Government Code, to*
14 *read:*

15 *19241.5. This chapter establishes the Limited Examination*
16 *and Appointment Program as a voluntary, additional method of*
17 *applying for state employment and is not a mandate on any state*
18 *agency employer or job applicant except to the extent specifically*
19 *directed by the board.*

20 ~~SEC. 3:~~

21 *SEC. 5. Section 19242 of the Government Code is amended*
22 *to read:*

23 19242. (a) The department or its designee shall conduct
24 competitive examinations to determine the qualifications and
25 readiness of persons with disabilities for state employment. The
26 examinations may include an on-the-job-performance evaluation
27 and any other selection techniques deemed appropriate.

28 (b) (1) The department or its designee shall not require a person
29 with a developmental disability to take or pass a written
30 examination or readiness evaluation in order to qualify for service
31 in a position under the Limited Examination and Appointment
32 Program. The competitive examination of a person with a
33 developmental disability shall consist of both of the following:

34 (A) Successful completion of an internship with a state agency
35 of at least ~~1,024~~ 512 hours in duration.

36 (B) Certification by the state agency that the employee has
37 completed the internship and has demonstrated the skills,
38 knowledge, and abilities necessary to successfully perform the
39 requirements of the position.

1 (2) A person with a developmental disability who successfully
2 completes the ~~examination~~ *internship* required by this subdivision
3 is deemed to meet the minimum qualifications, as determined by
4 the board, for the position in which the internship was performed.

5 (c) Examination results may be ranked or unranked.

6 *SEC. 6. Section 19242.05 is added to the Government Code,*
7 *immediately following Section 19242, to read:*

8 *19242.05. (a) The LEAP internship program created in*
9 *accordance with Section 19241 shall be designed to allow persons*
10 *with developmental disabilities to meet the minimum qualifications*
11 *of the LEAP classification to which he or she seeks an examination*
12 *appointment. The length of a LEAP internship shall be for a*
13 *minimum period of 512 working hours.*

14 *(b) A person with a developmental disability who successfully*
15 *completes a LEAP internship upon certification by the appointing*
16 *power shall be considered as meeting the referral requirements*
17 *necessary to be eligible for an examination appointment, as*
18 *specified in Section 19242.2, without being required to pass a*
19 *written examination or readiness evaluation.*

20 *(c) The LEAP internship program may be accessed as an unpaid*
21 *or paid internship if the state agency providing the internship has*
22 *available funding authority within its personnel budget.*

23 ~~SEC. 4.~~

24 *SEC. 7. Section 19242.2 of the Government Code is amended*
25 *to read:*

26 *19242.2. (a) The department or its designee shall refer the*
27 *names of persons with disabilities who meet eligibility criteria for*
28 *participation and the minimum qualifications of the job*
29 *classification and any other requirements deemed appropriate by*
30 *the board to appointing powers for examination appointments.*
31 *Notwithstanding any other provision of law, and to provide for*
32 *appropriate job-person placement, all candidates meeting referral*
33 *requirements shall be eligible for examination appointment. The*
34 *department may prescribe the method for referring names to*
35 *appointing powers.*

36 *(b) (1) The department or its designee shall refer the names of*
37 *persons with developmental disabilities to appointing powers for*
38 *selection for participation in an internship examination as set forth*
39 *in subdivision (b) of Section 19242.*

1 (2) The department or its designee may refer the names of
2 persons with developmental disabilities who have successfully
3 completed an internship examination to appointing powers for
4 consideration for appointment in the same job classification as the
5 position in which the applicant successfully completed his or her
6 internship.

7 (3) The department may prescribe the method for referring
8 names to appointing powers, including, but not limited to, working
9 with the appointing power to identify positions that could
10 successfully be filled by persons with developmental disabilities.

11 ~~SEC. 5.~~

12 *SEC. 8.* Section 19242.3 is added to the Government Code, to
13 read:

14 19242.3. (a) A state agency that provides an internship to a
15 person with a developmental disability or appoints a person with
16 a developmental disability to a position under the Limited
17 Examination and Appointment Program may finance the internship
18 or position with personnel *or any other funds available for this*
19 *purpose and* assigned to a vacant or unfilled position. A state
20 agency that transfers funds from a vacant or unfilled position
21 pursuant to this section does not eliminate the vacant or unfilled
22 position, and may return or assign funds to fill the position.

23 (b) (1) A state agency that provides an internship to a person
24 with a developmental disability or appoints a person with a
25 developmental disability to a position under the Limited
26 Examination and Appointment Program shall allow the person to
27 receive ~~on-the-job support~~ *support, as determined by the*
28 *Department of Rehabilitation or the State Department of*
29 *Developmental Services pursuant to existing rules and the service*
30 *authorization of those supported employment programs, as a*
31 reasonable accommodation for the person's disability.

32 (2) On-the-job supportive services, in addition to the services
33 set forth in subdivision (q) of Section 4851 of the Welfare and
34 Institutions Code, may consist of, but need not be limited to, time
35 spent with a job coach on any of the following:

36 (A) Conducting job analysis, specific training, and supervision
37 of the intern while the intern is engaged in his or her internship.

38 (B) Conducting skills building training, including, but not
39 limited to, adaptive functional and social skills training and support
40 as necessary to ensure internship adjustment.

1 (C) Working with families and other support networks to ensure
2 internship adjustment.

3 (D) Evaluation of performance of the intern, including, but not
4 limited to, communication with the internship supervisor.

5 (3) The services of the job coach are not the responsibility of
6 the state agency providing the internship, unless the agency is
7 otherwise the direct payor of those services.

8 (4) In order for the internship to meet the minimum
9 qualifications of the desired position, the internship shall be
10 successfully completed, as set forth in subdivision (b) of Section
11 19242, in the same job classification as the position the individual
12 is applying for.

13 (5) If a job examination period is required prior to the permanent
14 hiring of a qualified individual with a developmental disability,
15 the appointing authority may apply some or all of the internship
16 hours performed to meet some or all of the job examination period
17 requirement.

18 (6) *On-the-job supportive services are allowable to the extent*
19 *authorized by other state programs and are not the financial or*
20 *programmatic responsibility of any state agency engaged in*
21 *establishing the LEAP internship process.*