

AMENDED IN ASSEMBLY JUNE 30, 2015

AMENDED IN SENATE JUNE 1, 2015

AMENDED IN SENATE APRIL 7, 2015

**SENATE BILL**

**No. 644**

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**Introduced by Senator Hancock**

February 27, 2015

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An act to amend Sections 19240, 19241, 19242, and 19242.2 of, and to add 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~~ *permit* a person with a developmental disability ~~from including~~ *to either complete* a written examination or readiness evaluation ~~and would, instead, require that the competitive examination consist of an~~ *or an internship, as specified,* ~~to qualify for service under LEAP. The bill would require that the use~~

*of an internship as a competitive examination in this context consist of a successful completion of an internship with a state agency that is of not less than 512 hours in duration and a specified certification by the agency. The bill would 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 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, 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) Persons with developmental disabilities have to struggle to
- 4 find gainful employment. Statewide unemployment among people
- 5 with developmental disabilities of working age is approximately
- 6 90 percent.
- 7 (b) According to the Employment Development Department,
- 8 the average annual earnings of employed persons with
- 9 developmental disabilities is approximately five thousand five
- 10 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.

1 (d) Seven years after exiting the K-12 school system, one in  
2 three adults with autism still does not have paid work experience  
3 or a college or technical education.

4 (e) Nationally recognized employment internship training  
5 models like Project SEARCH have demonstrated that many people  
6 with developmental disabilities can be successfully employed in  
7 jobs that earn a living wage.

8 (f) The key elements of successful programs like Project  
9 SEARCH are:

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

12 (2) The opportunity for people with developmental disabilities  
13 to receive on-the-job customized training and support during  
14 internships.

15 (3) The opportunity for employers, in an internship setting, to  
16 experience firsthand the quality of work of a person with a  
17 developmental disability.

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

25 (h) The Governor and the Legislature must address the lack of  
26 access people with developmental disabilities have to employment  
27 opportunities with the State of California and take steps to become  
28 a “model employer” to demonstrate the potential of this untapped  
29 workforce.

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

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

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

10 19240. (a) The department, consistent with board rules, shall  
11 be responsible for the administration of the Limited Examination  
12 and Appointment Program. This program shall provide an  
13 alternative to the traditional civil service examination and  
14 appointment process to facilitate the hiring of persons with  
15 disabilities in the state civil service.

16 (b) For purposes of this article, the following terms have the  
17 following meanings:

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

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

23 (3) “LEAP” means the Limited Examination and Appointment  
24 Program implemented and administered by the department pursuant  
25 to this chapter.

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

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

1 deemed to refer to or include conditions excluded from the federal  
2 definition of “disability” pursuant to Section 511 of the federal  
3 Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12211).

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

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

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

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

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~~ *permit*  
29 a person with a developmental disability to ~~take or pass~~ *chose to*  
30 ~~complete~~ a written examination or readiness ~~evaluation~~ *evaluation,*  
31 *or to complete an internship as described in subparagraphs (A)*  
32 *and (B), in order to qualify for service in a position under the*  
33 *Limited Examination and Appointment Program. The use of an*  
34 *internship as a competitive examination of a person with a*  
35 *developmental disability shall consist of both of the following:*

36 (A) Successful completion of an internship with a state agency  
37 of at least 512 hours in duration.

38 (B) Certification by the state agency that the employee has  
39 completed the internship and has demonstrated the skills,

1 knowledge, and abilities necessary to successfully perform the  
2 requirements of the position.

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

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

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

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

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

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

26 SEC. 7. Section 19242.2 of the Government Code is amended  
27 to read:

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

38 (b) (1) The department or its designee shall refer the names of  
39 persons with developmental disabilities to appointing powers for

1 selection for participation in an internship examination as set forth  
2 in subdivision (b) of Section 19242.

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

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

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

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

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

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

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

- 1 (B) Conducting ~~skills-building~~ *skills-building* training, including,  
2 but not limited to, adaptive functional and social skills training  
3 and support as necessary to ensure internship adjustment.
- 4 (C) Working with families and other support networks to ensure  
5 internship adjustment.
- 6 (D) Evaluation of performance of the intern, including, but not  
7 limited to, communication with the internship supervisor.
- 8 (3) The services of the job coach are not the responsibility of  
9 the state agency providing the internship, unless the agency is  
10 otherwise the direct payor of those services.
- 11 (4) In order for the internship to meet the minimum  
12 qualifications of the desired position, the internship shall be  
13 successfully completed, as set forth in subdivision (b) of Section  
14 19242, in the same job classification as the position the ~~individual~~  
15 *person* is applying for.
- 16 (5) If a job examination period is required prior to the permanent  
17 hiring of a qualified ~~individual~~ *person* with a developmental  
18 disability, the appointing authority may apply some or all of the  
19 internship hours performed to meet some or all of the job  
20 examination period requirement.
- 21 (6) On-the-job supportive services are allowable to the extent  
22 authorized by other state programs and are not the financial or  
23 programmatic responsibility of any state agency engaged in  
24 establishing the LEAP internship process.