

AMENDED IN ASSEMBLY AUGUST 8, 2016

AMENDED IN ASSEMBLY JUNE 29, 2016

AMENDED IN ASSEMBLY JUNE 21, 2016

AMENDED IN SENATE APRIL 26, 2016

SENATE BILL

No. 1442

Introduced by Senator Liu

February 19, 2016

An act to repeal Section 261 of the Education Code, and to amend Sections 11135, 11136, 11137, 11139, 12930, and 12935 of, to add Section 12957 to, to add Chapter 18 (commencing with Section 7400) and Chapter 18.1 (commencing with Section 7405) to Division 7 of Title 1 of, and to repeal Sections 11138, 11139.3, 11139.5, 11139.6, and 11139.7 of, the Government Code, relating to discrimination.

LEGISLATIVE COUNSEL'S DIGEST

SB 1442, as amended, Liu. Discrimination: regulations and enforcement.

Existing law prohibits discrimination in employment, housing, and eligibility for government programs and benefits based upon specified personal characteristics. Under existing law, the Department of Fair Employment and Housing within the Business, Consumer Services, and Housing Agency is charged with enforcement of civil rights violations, including discrimination. Existing law requires the department and other state agencies that administer programs or activities funded by the state or that receive financial assistance from the state and that enter into contracts for services to be provided to the public, as specified, to promulgate regulations to prohibit discrimination.

This bill would reorganize various statutes regarding discrimination. The bill would also remove the requirement that those state agencies promulgate regulations to prohibit discrimination under these provisions and would require the investigation and enforcement of the above-described antidiscrimination provisions to be performed by the department. The bill would require that specified regulations implementing these provisions be transferred to the portion of the California Code of Regulations that is under the authority of the department and would authorize the department to add to, amend, or repeal the regulations, as necessary.

Existing law authorizes the provision of housing for homeless youth, as defined, and occupies the field of regulation of housing for homeless youth.

This bill would reorganize these provisions by making them part of the California Fair Employment and Housing Act. The bill would also make conforming changes.

This bill would incorporate additional changes to Section 12930 of the Government Code, proposed by AB 2707, to be operative only if AB 2707 and this bill are both chaptered and become effective on or before January 1, 2017, and this bill is chaptered last.

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 261 of the Education Code is repealed.
 2 SEC. 2. Chapter 18 (commencing with Section 7400) is added
 3 to Division 7 of Title 1 of the Government Code, to read:
 4
 5 CHAPTER 18. BIDDING AND OUTREACH PROGRAMS
 6
 7 7400. (a) (1) The Legislature finds and declares that
 8 subdivision (a) of Section 31 of Article I of the California
 9 Constitution prohibits state and local government agencies from
 10 discriminating against or granting preferential treatment to any
 11 individual or group on the basis of race, sex, color, ethnicity, or
 12 national origin in the operation of public employment, public
 13 education, and public contracting. The Legislature finds that this
 14 prohibition does not prevent governmental agencies from engaging
 15 in inclusive public sector outreach and recruitment programs that,

1 as a component of general recruitment, may include, but not be
2 limited to, focused outreach and recruitment of minority groups
3 and women if any group is underrepresented in entry level positions
4 of a public sector employer.

5 (2) The Legislature also finds and declares that increasing the
6 number of businesses that participate in the bidding process in
7 public contracting results in more vigorous competition, and thus
8 assists state and local agencies in obtaining the desired quality of
9 work at a lower cost.

10 (3) It is the intent of this section that all governmental agencies
11 shall engage in general recruitment and outreach programs to all
12 individuals, including persons who are economically
13 disadvantaged.

14 (b) For purposes of this section, underrepresentation shall be
15 determined by comparing the minority group or the number of
16 women at the governmental agency with that group's representation
17 in the current civilian labor force in the jurisdiction of the
18 governmental agency.

19 (c) State government employment shall use current state civilian
20 labor force data to implement this section.

21 (d) It is the intent of this section to allow public sector employers
22 to conduct outreach efforts with a goal of supplementing
23 word-of-mouth recruitment that should result in increasing diversity
24 of the public sector workforce.

25 (e) The type of recruitment activities allowed would include,
26 but not be limited to, placement of job announcements in the
27 following media instruments:

28 (1) General circulation newspapers, general circulation
29 publications, and general market radio and television stations,
30 including electronic media.

31 (2) Local and regional community newspapers.

32 (3) Newspapers, publications, and radio and television stations
33 that provide information in languages other than English and whose
34 primary audience is residents of minority and low-income
35 communities.

36 (4) Publications, including electronic media, that are distributed
37 to the general market and to newspapers, publications, and radio
38 and television stations whose primary audience is comprised of
39 minority groups or women.

1 (5) Recruitment booths at job fairs or conferences oriented to
2 both the general market and the economically disadvantaged as
3 well as those events drawing a significant participation by
4 minorities or women.

5 7401. (a) The Governor's Task Force on Diversity and
6 Outreach, in its August 1, 2000, report, concluded that data on
7 minority business participation is not currently available, and that
8 lack of useful data on minority business participation in state
9 contracting is an overarching issue to be addressed.

10 (b) In contracting for and procuring goods, services, information
11 technology, construction, architecture, and engineering consulting,
12 and other consulting services, state and local departments and
13 agencies are authorized to engage in focused outreach activities
14 in addition to general outreach, for purposes of increasing
15 participation by California's small business sector and increasing
16 diversity in the state's contracting and procurement activities.

17 (c) Outreach activities may include, but are not limited to, the
18 following:

19 (1) Invitations to bid distributed by state and local departments
20 and agencies to state and local small business and trade associations
21 and chambers of commerce, including ethnic chambers of
22 commerce, and other business and professional associations,
23 including professional minority, women, and disabled
24 veteran-owned businesses and professional groups and associations,
25 as appropriate.

26 (2) Publication of advertising concerning state and local
27 contracting and procurement opportunities in trade papers and
28 other publications focusing on small business enterprises, including
29 publications and newspapers in languages other than English and
30 those whose primary readership is minority, women, or disabled
31 veteran-owned businesses.

32 (3) Outreach by small business advocates in each state or local
33 government department or agency to state and local small business
34 and trade associations and chambers of commerce, including ethnic
35 chambers of commerce, and other business and professional
36 associations, including professional minority, women, and disabled
37 veteran-owned businesses and professional groups and associations,
38 as appropriate.

39 SEC. 3. Chapter 18.1 (commencing with Section 7405) is added
40 to Division 7 of Title 1 of the Government Code, to read:

1 CHAPTER 18.1. ELECTRONIC AND INFORMATION TECHNOLOGY

2
3 7405. The Legislature finds and declares that the ability to
4 utilize electronic or information technology is often an essential
5 function for successful employment in the current work world.

6 (a) In order to improve accessibility of existing technology, and
7 therefore increase the successful employment of individuals with
8 disabilities, particularly blind and visually impaired and deaf and
9 hard-of-hearing persons, state governmental entities, in developing,
10 procuring, maintaining, or using electronic or information
11 technology, either indirectly or through the use of state funds by
12 other entities, shall comply with the accessibility requirements of
13 Section 508 of the federal Rehabilitation Act of 1973, as amended
14 (29 U.S.C. Sec. 794d), and regulations implementing that act as
15 set forth in Part 1194 of Title 36 of the Federal Code of
16 Regulations.

17 (b) Any entity that contracts with a state or local entity subject
18 to Section 11135 for the provision of electronic or information
19 technology or for the provision of related services shall agree to
20 respond to, and resolve any complaint regarding accessibility of,
21 its products or services that is brought to the attention of the entity.

22 SEC. 4. Section 11135 of the Government Code is amended
23 to read:

24 11135. (a) No person in the State of California shall, on the
25 basis of sex, race, color, religion, ancestry, national origin, *ethnic*
26 *group identification*, age, mental disability, physical disability,
27 medical condition, genetic information, marital status, or sexual
28 orientation, be unlawfully denied full and equal access to the
29 benefits of, or be unlawfully subjected to discrimination under,
30 any program or activity that is conducted, operated, or administered
31 by the state or by any state agency, is funded directly by the state,
32 or receives any financial assistance from the state. Notwithstanding
33 Section 11000, this section applies to the California State
34 University.

35 (b) With respect to discrimination on the basis of disability,
36 programs and activities subject to subdivision (a) shall meet the
37 protections and prohibitions contained in Section 202 of the federal
38 Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132),
39 and the federal rules and regulations adopted in implementation
40 thereof, except that if the laws of this state prescribe stronger

1 protections and prohibitions, the programs and activities subject
2 to subdivision (a) shall be subject to the stronger protections and
3 prohibitions.

4 (c) The protected bases referenced in this section have the same
5 meanings as those terms are defined in Section 12926.

6 (d) The protected bases used in this section include a perception
7 that a person has any of those characteristics or that the person is
8 associated with a person who has, or is perceived to have, any of
9 those characteristics.

10 SEC. 5. Section 11136 of the Government Code is amended
11 to read:

12 11136. Whenever a state agency that administers a program
13 or activity that is funded directly by the state or receives any
14 financial assistance from the state has reasonable cause to believe
15 that a contractor, grantee, or local agency has violated the
16 provisions of Section 11135, Part 2.8 (commencing with Section
17 12900) of this code, Section 51, 51.5, 51.7, 54, 54.1, or 54.2 of
18 the Civil Code, or any regulation adopted to implement these
19 sections or Article 1 (commencing with Section 12960) of Chapter
20 7 of this code, the head of the state agency, or his or her designee,
21 shall notify the contractor, grantee, or local agency of such
22 violation and shall submit a complaint detailing the alleged
23 violations to the Department of Fair Employment and Housing for
24 investigation and determination pursuant to Article 1 (commencing
25 with Section 12960) of Chapter 7 of this code.

26 SEC. 6. Section 11137 of the Government Code is amended
27 to read:

28 11137. If it is determined that a contractor, grantee, or local
29 agency has violated the provisions of this article, pursuant to the
30 process described in Section 11136, the state agency that
31 administers the program or activity involved shall take action to
32 curtail state funding in whole or in part to such contractor, grantee,
33 or local agency.

34 SEC. 7. Section 11138 of the Government Code is repealed.

35 SEC. 8. Section 11139 of the Government Code is amended
36 to read:

37 11139. The prohibitions and sanctions imposed by this article
38 are in addition to any other prohibitions and sanctions imposed by
39 law.

1 This article shall not be interpreted in a manner that would
2 frustrate its purpose.

3 This article shall not be interpreted in a manner that would
4 undermine lawful programs which benefit members of the protected
5 bases described in Section 11135.

6 This article and regulations adopted pursuant to this article may
7 be enforced by a civil action for equitable relief, which shall be
8 independent of any other rights and remedies.

9 SEC. 9. Section 11139.3 of the Government Code is repealed.

10 SEC. 10. Section 11139.5 of the Government Code is repealed.

11 SEC. 11. Section 11139.6 of the Government Code is repealed.

12 SEC. 12. Section 11139.7 of the Government Code is repealed.

13 ~~SEC. 13. Section 12930 of the Government Code is amended~~
14 ~~to read:~~

15 ~~12930. The department shall have the following functions,~~
16 ~~powers, and duties:~~

17 ~~(a) To establish and maintain a principal office and any other~~
18 ~~offices within the state as are necessary to carry out the purposes~~
19 ~~of this part.~~

20 ~~(b) To meet and function at any place within the state.~~

21 ~~(c) To appoint attorneys, investigators, conciliators, mediators,~~
22 ~~and other employees as it may deem necessary, fix their~~
23 ~~compensation within the limitations provided by law, and prescribe~~
24 ~~their duties.~~

25 ~~(d) To obtain upon request and utilize the services of all~~
26 ~~governmental departments and agencies and, in addition, with~~
27 ~~respect to housing discrimination, of conciliation councils.~~

28 ~~(e) To adopt, promulgate, amend, and rescind suitable procedural~~
29 ~~rules and regulations to carry out the investigation, prosecution,~~
30 ~~and dispute resolution functions and duties of the department~~
31 ~~pursuant to this part.~~

32 ~~(f) (1) To receive, investigate, conciliate, mediate, and prosecute~~
33 ~~complaints alleging practices made unlawful pursuant to Chapter~~
34 ~~6 (commencing with Section 12940):~~

35 ~~(2) To receive, investigate, conciliate, mediate, and prosecute~~
36 ~~complaints alleging a violation of Section 51, 51.5, 51.7, 54, 54.1,~~
37 ~~or 54.2 of the Civil Code. The remedies and procedures of this~~
38 ~~part shall be independent of any other remedy or procedure that~~
39 ~~might apply.~~

1 ~~(3) To receive, investigate, conciliate, mediate, and prosecute~~
2 ~~complaints alleging practices made unlawful pursuant to Article~~
3 ~~9.5 (commencing with Section 11135) of Chapter 1 of Part 1,~~
4 ~~except for complaints relating to educational equity brought under~~
5 ~~Chapter 2 (commencing with Section 200) of Part 1 of Division 1~~
6 ~~of Title 1 of the Education Code and investigated pursuant to the~~
7 ~~procedures set forth in Subchapter 5.1 of Title 5 of the California~~
8 ~~Code of Regulations, and not otherwise within the jurisdiction of~~
9 ~~the department.~~

10 ~~(A) Nothing in this part prevents the director or his or her~~
11 ~~authorized representative, in his or her discretion, from making,~~
12 ~~signing, and filing a complaint pursuant to Section 12960 or 12961~~
13 ~~alleging practices made unlawful under Section 11135.~~

14 ~~(B) Remedies available to the department in conciliating,~~
15 ~~mediating, and prosecuting complaints alleging these practices are~~
16 ~~the same as those available to the department in conciliating,~~
17 ~~mediating, and prosecuting complaints alleging violations of Article~~
18 ~~1 (commencing with Section 12940) of Chapter 6.~~

19 ~~(g) In connection with any matter under investigation or in~~
20 ~~question before the department pursuant to a complaint filed under~~
21 ~~Section 12960, 12961, or 12980:~~

22 ~~(1) To issue subpoenas to require the attendance and testimony~~
23 ~~of witnesses and the production of books, records, documents, and~~
24 ~~physical materials.~~

25 ~~(2) To administer oaths, examine witnesses under oath and take~~
26 ~~evidence, and take depositions and affidavits.~~

27 ~~(3) To issue written interrogatories.~~

28 ~~(4) To request the production for inspection and copying of~~
29 ~~books, records, documents, and physical materials.~~

30 ~~(5) To petition the superior courts to compel the appearance~~
31 ~~and testimony of witnesses, the production of books, records,~~
32 ~~documents, and physical materials, and the answering of~~
33 ~~interrogatories.~~

34 ~~(h) To bring civil actions pursuant to Section 12965 or 12981~~
35 ~~and to prosecute those civil actions before state and federal trial~~
36 ~~courts.~~

37 ~~(i) To issue those publications and those results of investigations~~
38 ~~and research as in its judgment will tend to promote good will and~~
39 ~~minimize or eliminate discrimination in employment on the bases~~
40 ~~enumerated in this part and discrimination in housing because of~~

1 race, religious creed, color, sex, gender, gender identity, gender
2 expression, marital status, national origin, ancestry, familial status,
3 disability, genetic information, or sexual orientation.

4 (j) To investigate, approve, certify, decertify, monitor, and
5 enforce nondiscrimination programs proposed by a contractor to
6 be engaged in pursuant to Section 12990.

7 (k) To render annually to the Governor and to the Legislature
8 a written report of its activities and of its recommendations.

9 (l) To conduct mediations at any time after a complaint is filed
10 pursuant to Section 12960, 12961, or 12980. The department may
11 end mediation at any time.

12 (m) The following shall apply with respect to any accusation
13 pending before the former Fair Employment and Housing
14 Commission on or after January 1, 2013:

15 (1) If an accusation issued under former Section 12965 includes
16 a prayer either for damages for emotional injuries as a component
17 of actual damages, or for administrative fines, or both, or if an
18 accusation is amended for the purpose of adding a prayer either
19 for damages for emotional injuries as a component of actual
20 damages, or for administrative fines, or both, with the consent of
21 the party accused of engaging in unlawful practices, the department
22 may withdraw an accusation and bring a civil action in superior
23 court.

24 (2) If an accusation was issued under former Section 12981,
25 with the consent of the aggrieved party filing the complaint an
26 aggrieved person on whose behalf a complaint is filed, or the party
27 accused of engaging in unlawful practices, the department may
28 withdraw the accusation and bring a civil action in superior court.

29 (3) Where removal to court is not feasible, the department shall
30 retain the services of the Office of Administrative Hearings to
31 adjudicate the administrative action pursuant to Sections 11370.3
32 and 11502.

33 (n) On any Section 1094.5 Code of Civil Procedure challenge
34 to a decision of the former Fair Employment and Housing
35 Commission pending on or after January 1, 2013, the director or
36 his or her designee shall consult with the Attorney General
37 regarding the defense of that writ petition.

38 *SEC. 13. Section 12930 of the Government Code, as amended*
39 *by Chapter 63 of the Statutes of 2016, is amended to read:*

1 12930. The department shall have the following functions,
2 powers, and duties:

3 (a) To establish and maintain a principal office and any other
4 offices within the state as are necessary to carry out the purposes
5 of this part.

6 (b) To meet and function at any place within the state.

7 (c) To appoint attorneys, investigators, conciliators, mediators,
8 and other employees as it may deem necessary, fix their
9 compensation within the limitations provided by law, and prescribe
10 their duties.

11 (d) To obtain upon request and utilize the services of all
12 governmental departments and agencies and, in addition, with
13 respect to housing discrimination, of conciliation councils.

14 (e) To adopt, promulgate, amend, and rescind suitable procedural
15 rules and regulations to carry out the investigation, prosecution,
16 and dispute resolution functions and duties of the department
17 pursuant to this part.

18 (f) (1) To receive, investigate, conciliate, mediate, and prosecute
19 complaints alleging practices made unlawful pursuant to Chapter
20 6 (commencing with Section 12940).

21 (2) To receive, investigate, conciliate, mediate, and prosecute
22 complaints alleging a violation of Section 51, 51.5, 51.7, 54, 54.1,
23 or 54.2 of the Civil Code. The remedies and procedures of this
24 part shall be independent of any other remedy or procedure that
25 might apply.

26 (3) To receive, investigate, conciliate, mediate, and prosecute
27 complaints alleging, and to bring civil actions pursuant to Section
28 52.5 of the Civil Code for, a violation of Section 236.1 of the Penal
29 Code. Damages awarded in any action brought by the department
30 pursuant to Section 52.5 of the Civil Code shall be awarded to the
31 person harmed by the violation of Section 236.1 of the Penal Code.
32 Costs and attorney's fees awarded in any action brought by the
33 department pursuant to Section 52.5 of the Civil Code shall be
34 awarded to the department. The remedies and procedures of this
35 part shall be independent of any other remedy or procedure that
36 might apply.

37 (4) *To receive, investigate, conciliate, mediate, and prosecute*
38 *complaints alleging practices made unlawful pursuant to Article*
39 *9.5 (commencing with Section 11135) of Chapter 1 of Part 1,*
40 *except for complaints relating to educational equity brought under*

1 *Chapter 2 (commencing with Section 200) of Part 1 of Division 1*
2 *of Title 1 of the Education Code and investigated pursuant to the*
3 *procedures set forth in Subchapter 5.1 of Title 5 of the California*
4 *Code of Regulations, and not otherwise within the jurisdiction of*
5 *the department.*

6 (A) *Nothing in this part prevents the director or his or her*
7 *authorized representative, in his or her discretion, from making,*
8 *signing, and filing a complaint pursuant to Section 12960 or 12961*
9 *alleging practices made unlawful under Section 11135.*

10 (B) *Remedies available to the department in conciliating,*
11 *mediating, and prosecuting complaints alleging these practices*
12 *are the same as those available to the department in conciliating,*
13 *mediating, and prosecuting complaints alleging violations of*
14 *Article 1 (commencing with Section 12940) of Chapter 6.*

15 (g) In connection with any matter under investigation or in
16 question before the department pursuant to a complaint filed under
17 Section 12960, 12961, or 12980:

18 (1) To issue subpoenas to require the attendance and testimony
19 of witnesses and the production of books, records, documents, and
20 physical materials.

21 (2) To administer oaths, examine witnesses under oath and take
22 evidence, and take depositions and affidavits.

23 (3) To issue written interrogatories.

24 (4) To request the production for inspection and copying of
25 books, records, documents, and physical materials.

26 (5) To petition the superior courts to compel the appearance
27 and testimony of witnesses, the production of books, records,
28 documents, and physical materials, and the answering of
29 interrogatories.

30 (h) To bring civil actions pursuant to Section 12965 or 12981
31 and to prosecute those civil actions before state and federal trial
32 courts.

33 (i) To issue those publications and those results of investigations
34 and research as in its judgment will tend to promote good will and
35 minimize or eliminate discrimination in employment on the bases
36 enumerated in this part and discrimination in housing because of
37 race, religious creed, color, sex, gender, gender identity, gender
38 expression, marital status, national origin, ancestry, familial status,
39 disability, genetic information, or sexual orientation.

1 (j) To investigate, approve, certify, decertify, monitor, and
2 enforce nondiscrimination programs proposed by a contractor to
3 be engaged in pursuant to Section 12990.

4 (k) To render annually to the Governor and to the Legislature
5 a written report of its activities and of its recommendations.

6 (l) To conduct mediations at any time after a complaint is filed
7 pursuant to Section 12960, 12961, or 12980. The department may
8 end mediation at any time.

9 (m) The following shall apply with respect to any accusation
10 pending before the former Fair Employment and Housing
11 Commission on or after January 1, 2013:

12 (1) If an accusation issued under former Section 12965 includes
13 a prayer either for damages for emotional injuries as a component
14 of actual damages, or for administrative fines, or both, or if an
15 accusation is amended for the purpose of adding a prayer either
16 for damages for emotional injuries as a component of actual
17 damages, or for administrative fines, or both, with the consent of
18 the party accused of engaging in unlawful practices, the department
19 may withdraw an accusation and bring a civil action in superior
20 court.

21 (2) If an accusation was issued under former Section 12981,
22 with the consent of the aggrieved party filing the complaint an
23 aggrieved person on whose behalf a complaint is filed, or the party
24 accused of engaging in unlawful practices, the department may
25 withdraw the accusation and bring a civil action in superior court.

26 (3) Where removal to court is not feasible, the department shall
27 retain the services of the Office of Administrative Hearings to
28 adjudicate the administrative action pursuant to Sections 11370.3
29 and 11502.

30 (n) On any Section 1094.5 Code of Civil Procedure challenge
31 to a decision of the former Fair Employment and Housing
32 Commission pending on or after January 1, 2013, the director or
33 his or her designee shall consult with the Attorney General
34 regarding the defense of that writ petition.

35 *SEC. 13.5. Section 12930 of the Government Code, as amended*
36 *by Chapter 63 of the Statutes of 2016, is amended to read:*

37 12930. The department shall have the following functions,
38 powers, and duties:

1 (a) To establish and maintain a principal office and any other
2 offices within the state as are necessary to carry out the purposes
3 of this part.

4 (b) To meet and function at any place within the state.

5 (c) To appoint attorneys, investigators, conciliators, mediators,
6 and other employees as it may deem necessary, fix their
7 compensation within the limitations provided by law, and prescribe
8 their duties.

9 (d) To obtain upon request and utilize the services of all
10 governmental departments and agencies and, in addition, with
11 respect to housing discrimination, of conciliation councils.

12 (e) To adopt, promulgate, amend, and rescind suitable procedural
13 rules and regulations to carry out the investigation, prosecution,
14 and dispute resolution functions and duties of the department
15 pursuant to this part.

16 (f) (1) To receive, investigate, conciliate, mediate, and prosecute
17 complaints alleging practices made unlawful pursuant to Chapter
18 6 (commencing with Section 12940).

19 (2) To receive, investigate, conciliate, mediate, and prosecute
20 complaints alleging a violation of Section 51, 51.5, 51.7, 51.14,
21 54, 54.1, or 54.2 of the Civil Code. The remedies and procedures
22 of this part shall be independent of any other remedy or procedure
23 that might apply.

24 (3) To receive, investigate, conciliate, mediate, and prosecute
25 complaints alleging, and to bring civil actions pursuant to Section
26 52.5 of the Civil Code for, a violation of Section 236.1 of the Penal
27 Code. Damages awarded in any action brought by the department
28 pursuant to Section 52.5 of the Civil Code shall be awarded to the
29 person harmed by the violation of Section 236.1 of the Penal Code.
30 Costs and attorney's fees awarded in any action brought by the
31 department pursuant to Section 52.5 of the Civil Code shall be
32 awarded to the department. The remedies and procedures of this
33 part shall be independent of any other remedy or procedure that
34 might apply.

35 (4) *To receive, investigate, conciliate, mediate, and prosecute*
36 *complaints alleging practices made unlawful pursuant to Article*
37 *9.5 (commencing with Section 11135) of Chapter 1 of Part 1,*
38 *except for complaints relating to educational equity brought under*
39 *Chapter 2 (commencing with Section 200) of Part 1 of Division 1*
40 *of Title 1 of the Education Code and investigated pursuant to the*

1 *procedures set forth in Subchapter 5.1 of Title 5 of the California*
2 *Code of Regulations, and not otherwise within the jurisdiction of*
3 *the department.*

4 (A) *Nothing in this part prevents the director or his or her*
5 *authorized representative, in his or her discretion, from making,*
6 *signing, and filing a complaint pursuant to Section 12960 or 12961*
7 *alleging practices made unlawful under Section 11135.*

8 (B) *Remedies available to the department in conciliating,*
9 *mediating, and prosecuting complaints alleging these practices*
10 *are the same as those available to the department in conciliating,*
11 *mediating, and prosecuting complaints alleging violations of*
12 *Article 1 (commencing with Section 12940) of Chapter 6.*

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14 question before the department pursuant to a complaint filed under
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16 (1) To issue subpoenas to require the attendance and testimony
17 of witnesses and the production of books, records, documents, and
18 physical materials.

19 (2) To administer oaths, examine witnesses under oath and take
20 evidence, and take depositions and affidavits.

21 (3) To issue written interrogatories.

22 (4) To request the production for inspection and copying of
23 books, records, documents, and physical materials.

24 (5) To petition the superior courts to compel the appearance
25 and testimony of witnesses, the production of books, records,
26 documents, and physical materials, and the answering of
27 interrogatories.

28 (h) To bring civil actions pursuant to Section 12965 or 12981
29 and to prosecute those civil actions before state and federal trial
30 courts.

31 (i) To issue those publications and those results of investigations
32 and research as in its judgment will tend to promote good will and
33 minimize or eliminate discrimination in employment on the bases
34 enumerated in this part and discrimination in housing because of
35 race, religious creed, color, sex, gender, gender identity, gender
36 expression, marital status, national origin, ancestry, familial status,
37 disability, genetic information, or sexual orientation.

38 (j) To investigate, approve, certify, decertify, monitor, and
39 enforce nondiscrimination programs proposed by a contractor to
40 be engaged in pursuant to Section 12990.

1 (k) To render annually to the Governor and to the Legislature
2 a written report of its activities and of its recommendations.

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4 pursuant to Section 12960, 12961, or 12980. The department may
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12 accusation is amended for the purpose of adding a prayer either
13 for damages for emotional injuries as a component of actual
14 damages, or for administrative fines, or both, with the consent of
15 the party accused of engaging in unlawful practices, the department
16 may withdraw an accusation and bring a civil action in superior
17 court.

18 (2) If an accusation was issued under former Section 12981,
19 with the consent of the aggrieved party filing the complaint an
20 aggrieved person on whose behalf a complaint is filed, or the party
21 accused of engaging in unlawful practices, the department may
22 withdraw the accusation and bring a civil action in superior court.

23 (3) Where removal to court is not feasible, the department shall
24 retain the services of the Office of Administrative Hearings to
25 adjudicate the administrative action pursuant to Sections 11370.3
26 and 11502.

27 (n) On any Section 1094.5 Code of Civil Procedure challenge
28 to a decision of the former Fair Employment and Housing
29 Commission pending on or after January 1, 2013, the director or
30 his or her designee shall consult with the Attorney General
31 regarding the defense of that writ petition.

32 SEC. 14. Section 12935 of the Government Code is amended
33 to read:

34 12935. The council shall have the following functions, powers,
35 and duties:

36 (a) To adopt, promulgate, amend, and rescind suitable rules,
37 regulations, and standards that do either of the following:

38 (1) Interpret, implement, and apply all provisions of this part,
39 Article 9.5 (commencing with Section 11135) of Chapter 1 of Part

1 1 of Division 3 of Title 2 of this code, and Sections 51, 51.5, 51.7,
2 54, 54.1, and 54.2 of the Civil Code.

3 (A) As of January 1, 2017, Chapter 1 (commencing with Section
4 98000), Chapter 2 (commencing with Section 98100), and Chapter
5 3 (commencing with Section 98200) of Division 8 of Title 22 of
6 the California Code of Regulations shall be transferred from the
7 portion of the California Code of Regulations that is under the
8 authority of the California Health and Human Services Agency to
9 the portion of the California Code of Regulations that is under the
10 authority of the department, and upon transfer shall be deemed
11 adopted by the council.

12 (B) The council shall, within existing resources and pursuant
13 to Chapter 3.5 (commencing with Section 11340), adopt additional
14 regulations, as necessary, and amend or repeal, as necessary,
15 regulations transferred to the department from the California Health
16 and Human Services Agency relating to Article 9.5 (commencing
17 with Section 11135) of Chapter 1 of Part 1.

18 (2) Carry out all other functions and duties of the council
19 pursuant to this part.

20 (b) To meet at any place within the state and function in any
21 office of the department.

22 (c) To create or provide technical assistance to any advisory
23 agencies and conciliation councils, local or otherwise, as in its
24 judgment will aid in effectuating the purposes of this part, and to
25 empower them to study the problems of discrimination in all or
26 specific fields of human relationships or in particular instances of
27 employment discrimination on the bases enumerated in this part
28 or in specific instances of housing discrimination on the bases
29 enumerated in this part and to foster, through community effort or
30 otherwise, good will, cooperation, and conciliation among the
31 groups and elements of the population of the state and to make
32 recommendations to the Fair Employment and Housing Council
33 for the development of policies and procedures in general except
34 for procedural rules and regulations that carry out the investigation,
35 prosecution, and dispute resolution functions and duties of the
36 department. These advisory agencies and conciliation councils
37 shall be composed of representative citizens, serving without pay.

38 (d) To hold hearings, issue publications, results of inquiries and
39 research, and reports to the Governor and the Legislature that, in
40 its judgment, will tend to aid in effectuating the purpose of this

1 part, promote good will, cooperation and conciliation, and
2 minimize or eliminate unlawful discrimination, or advance civil
3 rights in the State of California.

4 SEC. 15. Section 12957 is added to the Government Code, to
5 read:

6 12957. (a) It is the policy of this state and the purpose of this
7 section to facilitate and support the development and operation of
8 housing for homeless youth.

9 (b) The provision of housing for homeless youth is hereby
10 authorized and shall not be considered unlawful age discrimination,
11 notwithstanding any other provision of law, including, but not
12 limited to, Sections 51, 51.2, and 51.10 of the Civil Code, Sections
13 11135, 12920, and 12955 of this code, Chapter 11.5 (commencing
14 with Section 50800) of Part 2 of Division 31 of the Health and
15 Safety Code, and local housing or age discrimination ordinances.

16 (c) This section shall not be construed to permit discrimination
17 against families with children.

18 (d) This section shall occupy the field of regulation of housing
19 for homeless youth by any local public entity, including, but not
20 limited to, a city, county, and city and county.

21 (e) For purposes of this section, the following definitions shall
22 apply:

23 (1) “At risk of becoming homeless” means facing eviction or
24 termination of one’s current housing situation.

25 (2) “Homeless youth” means either of the following:

26 (A) A person who is not older than 24 years of age, and meets
27 one of the following conditions:

28 (i) Is homeless or at risk of becoming homeless.

29 (ii) Is no longer eligible for foster care on the basis of age.

30 (iii) Has run away from home.

31 (B) A person who is younger than 18 years of age, who is
32 emancipated pursuant to Part 6 (commencing with Section 7000)
33 of Division 11 of the Family Code, and who is homeless or at risk
34 of becoming homeless.

35 (3) “Housing for homeless youth” means emergency,
36 transitional, or permanent housing tied to supportive services that
37 assist homeless youth in stabilizing their lives and developing the
38 skills and resources they need to make a successful transition to
39 independent, self-sufficient adulthood.

1 *SEC. 16. Section 13.5 of this bill incorporates amendments to*
2 *Section 12930 of the Government Code proposed by both this bill*
3 *and AB 2707. It shall only become operative if (1) both bills are*
4 *enacted and become effective on or before January 1, 2017, (2)*
5 *each bill amends Section 12930 of the Government Code, and (3)*
6 *this bill is enacted after AB 2707, in which case Section 13 of this*
7 *bill shall not become operative.*

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