

AMENDED IN SENATE JULY 11, 2013

AMENDED IN SENATE JUNE 26, 2013

AMENDED IN ASSEMBLY APRIL 15, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1062

Introduced by Assembly Member Jones-Sawyer

February 22, 2013

An act to amend Section 17604 of the Family Code, to amend Sections 7299.4, 7299.5, ~~18210, 18211, 18212, 18214~~, 18502, 18525.3, 18527, 18528, 18532.1, 18533, 18540, 18544, 18575, ~~18577~~, 18654, 18654.5, 18655, 18661, 18670, 18671.1, 18672, 18674, 18676, 18681, 18682, 18804, 18900, 18900.5, 18900.6, 18903, ~~18930.5~~, 18931, 18933, 18934, 18936, 18937, 18938.6, 18950, 18950.1, 18951, ~~18972~~, 18975, 18976, 19050.4, 19057.1, 19057.2, 19058, 19059, 19062.5, 19082, 19101, 19140, 19140.5, 19141.1, 19143, 19170, 19200, 19253, 19253.5, 19257.5, 19400, 19401, 19402, 19403, 19405, 19574.2, 19582, 19586, ~~19600, 19600.1~~, 19630, 19680, 19682, 19703, 19763, 19764, 19770, 19775, 19775.1, 19775.8, 19775.9, 19776, 19786, ~~19793~~, 19798, 19800, 19801, 19802, 19802.5, 19803, 19804, 19805, 19806, 19807, 19808, 19809, 19815, ~~19815.4~~, 19815.6, 19816.6, 19816.12, 19818.14, 19822.5, ~~19822.7, 19889, 19889.2, and 19889.3~~ and 19822.7 of, to add Section 19811 to, to repeal Sections 18538.1, 18807, ~~19406, 18972~~, 19583.51, 19816, 19818.2, 19818.4, and 19889.4 of, and to repeal and add Sections ~~18547~~, 18935, 18940, 18941, and 19052 of, the Government Code, and to amend Section 13601 of the Penal Code, to amend Sections 10605 and 10801 of the Welfare and Institutions Code, relating to human resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 1062, as amended, Jones-Sawyer. Human resources.

Existing law provides that the Department of Human Resources succeeds to and is vested with all of the powers and duties exercised and performed by the Department of Personnel Administration and powers, duties, and authorities necessary to operate the state civil service system in accordance with Article VII of the California Constitution, the Government Code, the merit principle, and applicable rules duly adopted by the State Personnel Board.

This bill would transfer certain functions and duties of the board to the department. The bill would also designate the department to share certain functions and duties with the board. The bill would make other related changes.

~~Existing law exempts State Personnel Board regulations, as defined, from the Administrative Procedure Act, except as specified.~~

~~This bill would also exempt a rule, regulation, standard, or procedure of the department that implements or makes specific a provision of a memorandum of understanding, as specified, and instructions, guidelines, manuals, and forms that implement board or department rules.~~

Existing law, with regard to the civil service, requires the appointing power to provide service of notice of certain actions, including a disciplinary action, a rejection during probation, a medical action, and various termination actions, by personal service or by mail or express service carrier, pursuant to a specified process.

The bill would modify the above-mentioned process by deleting certain requirements and would instead require service to be conducted in the manner provided in specified provisions of the Code of Civil Procedure that relate to service of process.

Existing law authorizes the State Personnel Board to hold hearings and make investigations concerning all matters relating to the enforcement and effect of the State Civil Service Act, as specified. Existing law prohibits the board from holding hearings and making investigations on certain disciplinary matters relating to state employees in State Bargaining Unit 5.

This bill would delete the above-mentioned prohibition.

Existing law requires, among other things, the board to render its decision within a reasonable time after the conclusion of a hearing or investigation, except that the period from the filing of the petition to

the decision of the board cannot exceed 6 months or 90 days from the time of the submission, whichever time period is less, and except that the board may extend the 6-month period up to 45 additional days.

This bill would instead require the board to reach a decision within 6 months and would delete the board's authorization to extend the 6-month period by 45 additional days.

Existing law requires the State Personnel Board, by resolution, to define the term "salary step" for the purpose of administering civil service laws and rules that control movement of employees between classifications subject to specified requirements.

This bill would repeal these provisions.

Existing law authorizes the State Personnel Board to require various types of documentary evidence in establishing minimum qualifications for determining the identity, fitness, and qualifications of employees for each class of position in the state civil service, for temporary appointments, and for applicants for examination.

This bill would revise these provisions and would additionally require, whenever the law requires that an applicant for a position as a peace officer be screened to ensure that the applicant is free from emotional and mental impairment, that the department or the designated appointing authority undertake the screening subject to the applicant's right to appeal to the board.

Existing law authorizes the department to refuse to examine or, after examination, to refuse to declare as eligible, or to withhold or withdraw from certification, prior to appointment, anyone who, among other things, is physically or mentally so disabled as to be rendered unfit to perform the duties of the position to which he or she seeks appointment or who is addicted to the use of controlled substances.

This bill would instead authorize the department or a designated appointing power to refuse to examine, or after examination to refuse to declare as eligible, or to withhold or withdraw from an eligible list, before the appointment, anyone who, among other things, was found to be unsuited or not qualified for employment pursuant to rule.

Existing law authorizes an applicant for state employment to elect to avail himself or herself of a specified procedure to take an examination on a different date when the examination is scheduled to be given during the period from sundown on a Friday until sundown on the following day, and it is the practice of an applicant, based upon his religious convictions, to observe the Sabbath during that period.

This bill would repeal these provisions and would instead authorize any applicant for examination to request reasonable accommodation for a disability or sincerely held religious belief pursuant to the Fair Employment and Housing Act or any other applicable law.

Existing law requires the board to provide, by rule, for grant of a blanket waiver of a requirement that would allow a dismissed employee who meets standards to be determined by the board to apply for any civil service examination so that he or she would not need a separate waiver for each examination.

This bill would repeal these provisions. The bill would authorize any former state employee who was dismissed from state service, as specified, to petition the department to be permitted to take a civil service examination in order to establish eligibility for appointment to state service, as specified.

Existing law requires the appointing power to submit to the department, in accordance with board rules, a statement of the duties of the position, the necessary and desired qualifications of the person to be appointed, and a request that the names of persons eligible for appointment to the position be certified whenever a vacancy in any position is to be filled and not by transfer, demotion, or reinstatement.

This bill would instead require the appointing power to provide any information the department requests including the classification of the position, the number of vacancies to be filled, the tenure and time base of the position, the location of the position, and any other information as the department may require.

Existing law permits any person, except for a current ward of the Division of Juvenile Facilities, a current inmate of the Department of Corrections, or a current patient of a facility operated by the State Department of State Hospitals, with the consent of the State Personnel Board of the appointing power, to file charges against a state employee in State Bargaining Unit 5 requesting that adverse action be taken for one or more causes for discipline, as specified.

This bill would repeal these provisions.

Existing law requires the board to either grant or deny a petition for rehearing a decision within 60 days after service of notice of filing the petition for rehearing.

This bill would instead require the board to either grant or deny a petition within 90 days.

Existing law prohibits a person from bringing a cause of action of any type, as specified, based on or related to any civil service law in

this state, or the administration thereof, unless that action is commenced and served within one year after the cause of action first arose. Existing law also provides that where an appeal is taken from a decision of the board, the cause of action does not arise until the final decision of the board has been issued.

This bill would instead require any petition for a writ challenging a decision of the board to be filed within 6 months of the date of the final decision of the board.

Existing law establishes certain rights and benefits that accrue to civil service employees during and after leave for military service, including, but not limited to, appointment and reinstatement rights. Existing law requires that both the State Personnel Board and the Department of Human Resources be responsible for carrying out certain provisions related to leave for military service.

This bill would delete the provisions that require both the State Personnel Board and the Department of Human Resources to be responsible for carrying out certain provisions related to leave for military service.

Existing law authorizes the board, for specific state services or employments, in examination allow general or individual preference in ratings to veterans who have suffered permanent disability in the line of duty, if the disability will not prevent the proper performance of the duties required under the service or employment, and if the disability is of record in the files of the United States Veterans' Administration.

This bill would repeal those provisions.

Existing law requires the State Personal Board to submit a census report to the Governor, the Legislature, and the Department of Finance that includes, among other things, demographic information on employees in the state civil service, as specified, and information to the Legislature on laws that discriminate or have the effect of discriminating on the basis of race, ethnicity, gender, and disability.

This bill would instead require the department to either submit the report to the Governor, the Legislature, and the Department of Finance or to post the data on its Internet Web site. The bill would also delete the requirement that the report include, among other things, identified underutilizations, steps taken to ensure equal employment opportunity in the state civil service, and information to the Legislature on laws that discriminate or have the effect of discriminating on the basis of race, ethnicity, gender, and disability.

Existing law provides that the department succeeds to and is vested with the duties, purposes, responsibilities, and jurisdiction exercised by the California Victim Compensation and Government Claims Board, the Department of General Services, and the Department of Finance, as specified.

This bill would repeal those provisions.

Existing law authorizes the department to designate an appointing power to allocate positions to the Personal Classification Plan, as specified. Existing law authorizes the department to audit any position allocations and to order corrective action.

This bill would instead authorize the department to order corrective action, as specified, only if it finds that an appointing power has allocated positions inappropriately. The bill would also authorize the Department of Finance to transfer a sufficient number of personnel from the appointing power to the department, as specified, if an appointing power's allocation authority is revoked.

~~Under existing law, eligibility for appointment to a position in the career executive category of the civil service is required to be established as a result of competitive examination of persons in civil service who meet the minimum qualifications as the State Personnel Board may determine are requisite to the performance of high administrative and policy influencing functions.~~

~~This bill would instead require that eligibility for appointment in the class of the career executive category be limited to persons in the civil service who meet the minimum qualifications established for the class.~~

Existing law requires every state agency, as specified, to employ a sufficient number of qualified bilingual persons in public contact positions to ensure provision of information and services to the public, in the language of the non-English-speaking person. Existing law requires each agency to conduct a survey, related to its bilingual services, of each of its local offices every two years to determine among other things, the number of qualified bilingual employees in public contact positions, as specified. Existing law requires, beginning in 2009 and in every odd-numbered year thereafter, that each state agency develop an implementation plan that, at a minimum, addresses, among other things, the name, position, and contact information of the employee designated by the agency to be responsible for overseeing implementation of the plan.

This bill would require the language survey to also include, among other things, a detailed description of the agency's procedures for

identifying written materials that are required to be translated, a detailed description of the agency’s procedures for identifying language needs at local offices and assigning qualified bilingual staff to those offices, and a detailed description of how the agency complies with any federal or other state laws that require the provision of linguistically accessible services to the public. The bill would instead only require each agency that serves a substantial number of non-English-speaking people who comprise 5 percent or more of the people served to develop an implementation plan, as specified, in every odd-numbered year.

This bill would also make technical, nonsubstantive changes to these provisions.

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 17604 of the Family Code is amended to
2 read:

3 17604. (a) (1) If at any time the director considers any public
4 agency, that is required by law, by delegation of the department,
5 or by cooperative agreement to perform functions relating to the
6 state plan for securing child and spousal support and determining
7 paternity, to be failing in a substantial manner to comply with any
8 provision of the state plan, the director shall put that agency on
9 written notice to that effect.

10 (2) The state plan concerning spousal support shall apply only
11 to spousal support included in a child support order.

12 (3) In this chapter the term spousal support shall include support
13 for a former spouse.

14 (b) After receiving notice, the public agency shall have 45 days
15 to make a showing to the director of full compliance or set forth
16 a compliance plan that the director finds to be satisfactory.

17 (c) If the director determines that there is a failure on the part
18 of that public agency to comply with the provisions of the state
19 plan, or to set forth a compliance plan that the director finds to be
20 satisfactory, or if the ~~State Personnel Board~~ state certifies to the
21 director that the public agency is not in conformity with applicable
22 merit system standards under Part 2.5 (commencing with Section
23 19800) of Division 5 of Title 2 of the Government Code, and that
24 sanctions are necessary to secure compliance, the director shall

1 withhold part or all of state and federal funds, including incentive
2 funds, from that public agency until the public agency shall make
3 a showing to the director of full compliance.

4 (d) After sanctions have been invoked pursuant to subdivision
5 (c), if the director determines that there remains a failure on the
6 part of the public agency to comply with the provisions of the state
7 plan, the director may remove that public agency from performing
8 any part or all of the functions relating to the state plan.

9 (e) In the event of any other audit or review that results in the
10 reduction or modification of federal funding for the program under
11 Part D (commencing with Section 652) of Subchapter IV of Title
12 42 of the United States Code, the sanction shall be assessed against
13 those counties specifically cited in the federal findings in the
14 amount cited in those findings.

15 (f) The department shall establish a process whereby any county
16 assessed a portion of any sanction may appeal the department's
17 decision.

18 (g) Nothing in this section shall be construed as relieving the
19 board of supervisors of the responsibility to provide funds
20 necessary for the continued operation of the state plan as required
21 by law.

22 **SECTION 1.**

23 *SEC. 2.* Section 7299.4 of the Government Code is amended
24 to read:

25 7299.4. (a) Notwithstanding any other provision in this chapter,
26 each state agency shall conduct a language survey and develop
27 and update an implementation plan that complies with the
28 requirements of this chapter.

29 (b) Each agency shall conduct a language survey of each of its
30 local offices every two years to determine and provide all of the
31 following:

32 (1) The name, position, and contact information of the employee
33 designated by the agency responsible for complying with this
34 chapter.

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

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

39 (4) The number and percentage of non-English-speaking people
40 served by each local office, broken down by native language.

1 (5) The number of anticipated vacancies in public contact
2 positions.

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

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

10 (8) A list of materials identified in paragraph (7) that have been
11 translated and languages into which they have been translated.

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

14 (10) A detailed description of the agency's procedures for
15 identifying written materials that are required to be translated.

16 (11) Each agency shall calculate the percentage of
17 non-English-speaking people served by each local office by
18 rounding the percentage arrived at to the nearest whole percentage
19 point.

20 (12) A detailed description of the agency's procedures for
21 identifying language needs at local offices and assigning qualified
22 bilingual staff to those offices.

23 (13) A detailed description of how the agency recruits qualified
24 bilingual staff in local offices.

25 (14) A detailed description of any training the agency provides
26 to its staff on the provision of services to non- or
27 limited-English-speaking individuals, frequency of training, and
28 date of most recent training.

29 (15) A detailed description of the agency's procedures for
30 accepting and resolving complaints of an alleged violation due to
31 failure to make available translated documents or provide
32 interpreter service through bilingual staff or contract services.

33 (16) A detailed description of how the agency complies with
34 any federal or other state laws that require the provision of
35 linguistically accessible services to the public.

36 (17) Any other relevant information requested by the Department
37 of Human Resources.

38 (c) The language survey results and any additional information
39 requested shall be reported in the form and at the time required by

1 the Department of Human Resources, and delivered to the
 2 department not later than October 1 of every even-numbered year.

3 (d) Every odd-numbered year, each agency that served a
 4 substantial number of non-English-speaking people who comprise
 5 5 percent or more of the people served shall develop an
 6 implementation plan that provides a detailed description of how
 7 the agency plans to address any deficiencies in meeting the
 8 requirements of this chapter, including, but not limited to, the
 9 failure to translate written materials or employ sufficient numbers
 10 of qualified bilingual employees in public contact positions at local
 11 offices, the proposed actions to be taken to address the deficiencies,
 12 and the proposed dates by when the deficiencies will be remedied.

13 (e) In developing its implementation plan, each state agency
 14 may rely upon data gathered from its most recent language survey.

15 (f) Each state agency shall submit its implementation plan to
 16 the Department of Human Resources no later than October 1 of
 17 each applicable year. The Department of Human Resources shall
 18 review each implementation plan, and, if it determines that the
 19 implementation plan fails to address the identified deficiencies,
 20 shall order the agency to supplement or make changes to its plan.
 21 A state agency that has been determined to be deficient shall report
 22 to the Department of Human Resources every six months on its
 23 progress in addressing the identified deficiencies.

24 (g) If the Department of Human Resources determines that a
 25 state agency has not made reasonable progress toward complying
 26 with this chapter, the department may issue orders that it deems
 27 appropriate to effectuate the purposes of this chapter.

28 ~~SEC. 2.~~

29 *SEC. 3.* Section 7299.5 of the Government Code is amended
 30 to read:

31 7299.5. The Department of Human Resources may exempt
 32 state agencies from the requirements of Section 7299.4, where it
 33 determines that any of the following conditions apply:

34 (a) The agency’s primary mission does not include responsibility
 35 for furnishing information or rendering services to the public.

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

1 In order to receive an exemption, each state agency shall petition
2 the Department of Human Resources for the exemption and receive
3 approval in writing by the date established by the department. An
4 agency may receive an exemption for up to five survey cycles, if
5 it demonstrates that it meets the requirements of subdivision (a)
6 or (b), and provides all required documentation to the Department
7 of Human Resources.

8 ~~SEC. 3. Section 18210 of the Government Code is amended~~
9 ~~to read:~~

10 ~~18210. The Legislature finds and declares that the purpose of~~
11 ~~this chapter is to establish procedural requirements for the adoption,~~
12 ~~amendment, or repeal of regulations of the State Personnel Board~~
13 ~~and the Department of Human Resources. Nothing in this chapter~~
14 ~~repeals or diminishes additional requirements imposed by statute.~~

15 ~~SEC. 4. Section 18211 of the Government Code is amended~~
16 ~~to read:~~

17 ~~18211. Regulations adopted by the State Personnel Board and~~
18 ~~the Department of Human Resources are exempt from the~~
19 ~~Administrative Procedure Act (Chapter 3.5 (commencing with~~
20 ~~Section 11340) of Part 1 of Division 3), except as provided in~~
21 ~~Sections 18215 and 18216.~~

22 ~~SEC. 5. Section 18212 of the Government Code is amended~~
23 ~~to read:~~

24 ~~18212. For the purposes of this chapter, “regulation” means~~
25 ~~every rule, regulation, order, or standard of general application~~
26 ~~adopted or amended by the board or the department to implement,~~
27 ~~interpret, or make specific the law enforced or administered by it,~~
28 ~~except that the following are not regulations:~~

29 ~~(a) A rule that constitutes the only legally tenable interpretation~~
30 ~~of existing law.~~

31 ~~(b) A decision that does no more than apply a duly adopted law~~
32 ~~to a particular set of facts.~~

33 ~~(c) A rule relating only to the internal management of the board~~
34 ~~or the department that does not in itself significantly affect the~~
35 ~~rights, privileges, or duties of state employees or other persons.~~

36 ~~(d) A routine, technical, or procedural instruction or criterion~~
37 ~~that does not in itself significantly affect the rights, privileges, or~~
38 ~~duties of state agencies, employees, or other persons.~~

1 (e) A rule, regulation, standard, or procedure of the department
2 that implements or makes specific a provision of a memorandum
3 of understanding reached pursuant to Section 3517.5.

4 (f) Instructions, guidelines, manuals, and forms that implement
5 board or department rules.

6 SEC. 6. Section 18214 of the Government Code is amended
7 to read:

8 18214. (a) The procedures set forth in subdivisions (b), (c),
9 and (d) shall apply to the adoption of a regulation by either the
10 board or the department concerning all matters not specified in
11 Section 18213, 18215, or 18216.

12 (b) The board or the department shall prepare and submit to the
13 Office of Administrative Law for publication in the California
14 Regulatory Notice Register, 30 days before taking action, a notice
15 of the proposed action.

16 (c) The board or the department shall distribute a notice of the
17 proposed action, 30 days before taking action, to members of the
18 Governor’s cabinet, department heads, employee associations, and
19 persons requesting this notice, and shall make available to the
20 public upon request, all of the following:

- 21 (1) The notice of proposed action.
- 22 (2) A copy of the express terms of the proposed regulation,
23 using underline or italics to indicate additions to, and ~~strikeout to~~
24 ~~indicate deletions from,~~ the California Code of Regulations,
25 followed by a note containing authority and reference citations.
- 26 (3) A brief statement of reasons for the proposed regulation.

27 (d) The board or the department shall do all of the following:

- 28 (1) Provide opportunity for written comment to the board or the
29 department, and oral comment at a duly noticed public meeting or
30 hearing.
- 31 (2) Submit adopted regulations to the Office of Administrative
32 Law for filing with the Secretary of State and publication in the
33 California Code of Regulations.

34 SEC. 7.

35 SEC. 4. Section 18502 of the Government Code is amended
36 to read:

37 18502. (a) There is hereby created in state government the
38 Department of Human Resources. The department succeeds to and
39 is vested with the following:

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

3 (2) Those powers, duties, and authorities necessary to operate
4 the state civil service system pursuant to Article VII of the
5 California Constitution, this code, the merit principle, and
6 applicable rules duly adopted by the State Personnel Board.

7 (b) The State Personnel Board shall prescribe rules consistent
8 with a merit based civil service system to govern classification,
9 examinations, probationary periods, disciplinary actions, and other
10 matters related to the board's authority under Article VII of the
11 California Constitution. The State Personnel Board may conduct
12 audits and investigations of personnel practices of the department
13 and appointing authorities to ensure compliance with civil service
14 policies, procedures, and statutes.

15 (c) This section shall not limit the authority of the Department
16 of Human Resources and the State Personnel Board to delegate,
17 share, or transfer between them responsibilities for programs within
18 their respective jurisdictions pursuant to an agreement.

19 (d) The rules and regulations of the State Personnel Board and
20 of the Department of Personnel Administration shall remain in
21 effect unless and until contradicted by the terms of this chapter or
22 amended or repealed by the board or the Department of Human
23 Resources.

24 ~~SEC. 8.~~

25 *SEC. 5.* Section 18525.3 of the Government Code is amended
26 to read:

27 18525.3. "Transfer" means both of the following:

28 (a) The appointment of an employee to another position in the
29 same class but under another appointing power.

30 (b) The appointment of an employee to a different class that has
31 substantially the same level of duties, responsibility, and salary as
32 the employee's current class under the same or another appointing
33 authority.

34 ~~SEC. 9.~~

35 *SEC. 6.* Section 18527 of the Government Code is amended
36 to read:

37 18527. "Probationer" means an employee who has probationary
38 status. "Probationary status" means the status of an employee who
39 has been certified and appointed from an employment list, or has

1 been reinstated after resignation, or has been transferred or demoted
2 but who has not completed the probationary period.

3 ~~SEC. 10.~~

4 *SEC. 7.* Section 18528 of the Government Code is amended
5 to read:

6 18528. “Permanent employee” means an employee who has
7 permanent status. “Permanent status” means the status of an
8 employee who is lawfully retained in his position after the
9 completion of the probationary period.

10 ~~SEC. 11.~~

11 *SEC. 8.* Section 18532.1 of the Government Code is amended
12 to read:

13 18532.1. “Preferred limited term list” means a list of persons
14 who have served under limited-term appointment and who, in
15 accordance with rule, are granted eligibility for additional
16 limited-term appointments.

17 ~~SEC. 12.~~

18 *SEC. 9.* Section 18533 of the Government Code is amended
19 to read:

20 18533. (a) “Subdivisional promotional list” means a list of
21 persons eligible for certification for a specific class resulting from
22 a promotional examination for a particular subdivision of a state
23 agency.

24 (b) “Departmental promotional list” means a list of persons
25 eligible for certification for a specific class resulting from a
26 promotional examination for a particular state agency.

27 (c) “Multidepartmental promotional list” means a list of persons
28 eligible for certification for a specific class resulting from a
29 promotional examination for a group of state departments.

30 (d) “Servicewide promotional list” means a list of persons
31 eligible for certification for a specific class resulting from a
32 promotional examination for the entire state service.

33 ~~SEC. 13.~~

34 *SEC. 10.* Section 18538.1 of the Government Code is repealed.

35 ~~SEC. 14.~~

36 *SEC. 11.* Section 18540 of the Government Code is amended
37 to read:

38 18540. “Armed forces” means the United States Air Force,
39 Army, Navy, Marine Corps, and Coast Guard.

1 ~~SEC. 15.~~

2 *SEC. 12.* Section 18544 of the Government Code is amended
3 to read:

4 18544. “Duration employment” means an employment during
5 time of war or during an emergency in connection with the national
6 defense, which employment is subject to termination and other
7 conditions as prescribed by Section 19200 and by rules.

8 ~~SEC. 16.~~ Section 18547 of the Government Code is repealed.

9 ~~SEC. 17.~~ Section 18547 is added to the Government Code, to
10 read:

11 18547. “Career executive assignment” means a classification
12 characterized by high-level administrative and policy-influencing
13 duties. The career executive assignment may be used for the top
14 managerial positions of state civil service.

15 ~~SEC. 18.~~

16 *SEC. 13.* Section 18575 of the Government Code is amended
17 to read:

18 18575. (a) (1) The appointing power shall provide service of
19 the following actions by personal service or by certified mail with
20 return receipt requested or express service carrier as provided in
21 this subdivision:

- 22 (A) Notice of disciplinary action.
- 23 (B) Notice of rejection during probationary period.
- 24 (C) Notice of medical action.
- 25 (D) Notice of nonpunitive action.
- 26 (E) Notice of career executive assignment termination.
- 27 (F) Notice of termination with fault of a limited term, seasonal,
28 or temporary authorization appointment.
- 29 (G) Notice of termination of an appointment under the Limited
30 Examination and Appointment Program.
- 31 (H) Notice of termination or automatic resignation of a
32 permanent intermittent employee.
- 33 (I) Notice of absence without leave resignation or separation
34 pursuant to Section 89541 of the Education Code.

35 (2) (A) Personal service shall be made in the manner, and is
36 deemed complete, as provided for in Section 415.10 of the Code
37 of Civil Procedure.

38 (B) Service by certified mail with return receipt requested shall
39 be made in the manner provided for in Section 1020 of the Code

1 of Civil Procedure and is deemed complete as provided for in
2 subdivision (a) of Section 1013 of the Code of Civil Procedure.

3 (C) Service by express service carrier shall be in the manner,
4 and is deemed complete, as provided for in subdivision (c) of
5 Section 1013 of the Code of Civil Procedure.

6 (D) The period to respond to any notice of action provided in
7 paragraph (1) shall be extended as provided in Section 1013 of the
8 Code of Civil Procedure.

9 (b) Service of subpoenas and subpoenas duces tecum shall be
10 made by personal service or by registered mail with return receipt
11 requested as provided in subdivision (a).

12 (c) Service of all other documents shall be made as prescribed
13 by rule.

14 (d) Proof of service shall be by affidavit as provided for in
15 Sections 417.10 and 417.40 of, and subdivision (a) of Section 1013
16 of, the Code of Civil Procedure.

17 ~~SEC. 19. Section 18577 of the Government Code is amended~~
18 ~~to read:~~

19 ~~18577. Whenever this part refers to “rule,” “rules,” or makes~~
20 ~~similar reference, such reference authorizes the board or the~~
21 ~~department to make rules concerning the subject matter concerning~~
22 ~~which such reference is made.~~

23 ~~SEC. 20.~~

24 ~~SEC. 14.~~ Section 18654 of the Government Code is amended
25 to read:

26 18654. The intention of the Legislature is hereby declared to
27 be that the executive officer shall perform and discharge under the
28 direction and control of the board the powers, duties, purposes,
29 functions, and jurisdiction vested in the board and delegated to
30 him or her by it.

31 Any power, duty, purpose, function, or jurisdiction that the board
32 may lawfully delegate shall be conclusively presumed to have
33 been delegated to the executive officer unless it is shown that the
34 board by affirmative vote recorded in its minutes specifically has
35 reserved the same for its own action. The executive officer may
36 redelegate to his or her subordinates or to an appointing power he
37 or she designates, unless by board rule or express provision of law
38 he or she is specifically required to act personally.

1 ~~SEC. 21.~~

2 *SEC. 15.* Section 18654.5 of the Government Code is amended
3 to read:

4 18654.5. The executive officer shall administer the civil service
5 statutes and rules, subject to the right of appeal to the board.

6 ~~SEC. 22.~~

7 *SEC. 16.* Section 18655 of the Government Code is amended
8 to read:

9 18655. When any person selected to assist in examinations or
10 to serve as an authorized representative or referee of the board or
11 the department is employed by the State in some other capacity,
12 it is a part of his or her official duties to serve without additional
13 compensation other than his or her actual and necessary traveling
14 expenses.

15 ~~SEC. 23.~~

16 *SEC. 17.* Section 18661 of the Government Code is amended
17 to read:

18 18661. (a) The board may conduct an audit of any appointing
19 authority's personnel practices to ensure compliance with the civil
20 service laws and board regulations. The board may audit selection
21 and examination procedures, appointments, promotions, the
22 management of probationary periods, personal services contracts,
23 discipline and adverse actions, or any other area related to the
24 operation of merit principle in state civil service.

25 (b) When conducting an audit, the board may inspect documents,
26 policies, practices, and procedures of the appointing authority
27 relating to its personnel practices and interview appointing
28 authority staff and witnesses regarding the subject of the audit.
29 Failure by an appointing authority to cooperate with an audit may
30 result in corrective action.

31 (c) Upon completion of the audit, the board may provide a report
32 to the appointing authority and the department, identifying any
33 deficiencies in the appointing authority's personnel practices,
34 policies, and procedures.

35 (d) If the board finds an appointing authority deficient in
36 personnel practices, policies, and procedures, the appointing
37 authority shall be subject to corrective action. The board may order
38 remedies including, but not limited to, any or all of the following:

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

1 (2) That the appointing authority compensate the department
2 for the actual and necessary cost of any and all of the personnel
3 functions the department performs and training and supervision
4 the department provides on behalf of the appointing authority,
5 either permanently or for a specified term.

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

8 (4) Seek approval from the Department of Finance for
9 redirection to the department of a sufficient number of the
10 appointing authority’s positions to perform all personnel related
11 functions formerly performed by the appointing authority.

12 ~~SEC. 24.~~

13 *SEC. 18.* Section 18670 of the Government Code is amended
14 to read:

15 18670. The board may hold hearings and make investigations
16 concerning all matters relating to the enforcement and effect of
17 this part and rules prescribed under this part. It may inspect any
18 state institution, office, or other place of employment affected by
19 this part to ascertain whether this part and the board rules are
20 obeyed.

21 The board shall make investigations and hold hearings at the
22 direction of the Governor or the Legislature or upon the petition
23 of an employee or a citizen concerning the enforcement and effect
24 of this part and to enforce the observance of Article VII of the
25 Constitution and of this part and the rules made under this part.

26 ~~SEC. 25.~~

27 *SEC. 19.* Section 18671.1 of the Government Code is amended
28 to read:

29 18671.1. (a) If a hearing or investigation is conducted by the
30 board or its authorized representative in regard to an appeal by an
31 employee, the hearing or investigation shall be commenced within
32 a reasonable time after the filing of the appeal. For appeals from
33 actions resulting in the termination of an employee, if an
34 evidentiary hearing has not commenced within six months of the
35 filing of the appeal, the employee may make a written request for
36 a priority hearing by the board. Upon receipt of the written request,
37 the board shall schedule an evidentiary hearing within 60 days of
38 the request at a hearing location designated by the board.

39 (b) The board shall render its decision within a reasonable time
40 after the conclusion of the hearing or investigation, except that the

1 period from the filing of the appeal to the decision of the board
2 shall not exceed six months.

3 (c) The provisions described in subdivision (b) relating to the
4 six-month period for a decision may be waived by the employee
5 but if not so waived, a failure to render a timely decision is an
6 exhaustion of all available administrative remedies.

7 (d) The board may order all of, or a portion of, any hearing to
8 be conducted using electronic media pursuant to board rules.

9 ~~SEC. 26.~~

10 *SEC. 20.* Section 18672 of the Government Code is amended
11 to read:

12 18672. (a) Subpoenas and subpoenas duces tecum may be
13 issued for attendance at a hearing and for production of documents
14 at any reasonable time and place. However, a subpoena shall not
15 be issued to compel attendance of any witness who does not reside
16 within 100 miles of the place where the hearing or investigation
17 is held unless it is shown to the satisfaction of a member of the
18 board, the executive officer, or the person authorized to conduct
19 the investigation or hearing, by affidavit stating the facts, that the
20 witness is a material witness. That statewide subpoena shall be
21 served at least five days prior to the date of hearing.

22 (b) Subpoenas and subpoenas duces tecum shall be issued by
23 the board or its authorized representative at the request of a party.

24 (c) The process extends to all parts of the state and shall be
25 served in accordance with Sections 1987 and 1988 of the Code of
26 Civil Procedure and the service provisions of subdivisions (a) and
27 (b) of Section 68097.1 of the Government Code. A subpoena or
28 subpoena duces tecum may also be delivered by certified mail
29 return receipt requested or by messenger. Service by messenger
30 shall be effected when the witness acknowledges receipt of the
31 subpoena to the sender, by telephone, by mail, or in person, and
32 identifies himself or herself either by reference to date of birth and
33 driver's license number or Department of Motor Vehicles
34 identification number, or the sender may verify receipt of the
35 subpoena by obtaining other identifying information from the
36 recipient. The sender shall make a written notation of the
37 acknowledgment. A subpoena issued and acknowledged pursuant
38 to this section has the same force and effect as a subpoena
39 personally served. Failure to comply with a subpoena issued and

1 acknowledged pursuant to this section may be punished as a
2 contempt and the subpoena may so state.

3 (d) No witness is obliged to attend unless the witness is a
4 resident of the state at the time of service.

5 (e) The custodian of documents that are the subject of a
6 subpoena duces tecum may satisfy the subpoena by delivery of
7 the documents or a copy of the documents, or by making the
8 documents available for inspection or copying, together with an
9 affidavit in compliance with Section 1561 of the Evidence Code.

10 ~~SEC. 27.~~

11 *SEC. 21.* Section 18674 of the Government Code is amended
12 to read:

13 18674. Witnesses at a hearing or investigation are entitled to
14 the same fees as are allowed witnesses in civil cases in courts of
15 record.

16 An officer serving a subpoena to secure the attendance of those
17 witnesses shall receive the same mileage as for the service by him
18 or her of a writ or paper for the state. The fees and mileage, except
19 in dismissal or other punitive proceedings where the service is
20 requested by the accused, need not be prepaid.

21 If a witness is subpoenaed by a state agency or its representative,
22 the Controller shall draw his or her warrant for payment of fees
23 and mileage when the amount is duly proved by affidavit or
24 otherwise to the satisfaction of the Controller. The Controller may
25 charge such warrant against any proper fund of that state agency.
26 If a witness is subpoenaed by the accused or any person other than
27 a state agency, his or her fees and mileage shall be paid by that
28 person and are not proper charges against any state fund.

29 ~~SEC. 28.~~

30 *SEC. 22.* Section 18676 of the Government Code is amended
31 to read:

32 18676. When ordered to do so, a witness shall not be excused
33 from testifying or from producing any documentary evidence in
34 that investigation or hearing upon the ground that the testimony
35 or documentary evidence required of the witness may tend to
36 incriminate or subject the witness to penalty or forfeiture, provided
37 the witness has been granted use and derivative use, or transactional
38 immunity by the appropriate law enforcement authority.

1 ~~SEC. 29.~~

2 *SEC. 23.* Section 18681 of the Government Code is amended
3 to read:

4 18681. Whenever any matter is pending before the board
5 involving a dispute between one or more employees and an
6 appointing power and the parties to such dispute agree upon a
7 settlement or adjustment thereof, the terms of such settlement or
8 adjustment may be submitted to the board, and if approved by the
9 board, the disposition of the matter in accordance with the terms
10 of such adjustment or settlement shall become final and binding
11 upon the parties.

12 ~~SEC. 30.~~

13 *SEC. 24.* Section 18682 of the Government Code is amended
14 to read:

15 18682. Whenever any employee, department, or other person,
16 actively interested in a matter before the board and in connection
17 with which it is holding a hearing, requests that the board make
18 findings, then the board shall make findings if the request is made
19 at any time prior to the time the board takes the matter under
20 submission.

21 ~~SEC. 31.~~

22 *SEC. 25.* Section 18804 of the Government Code is amended
23 to read:

24 18804. Upon the reallocation of a position, other than by action
25 of the board under Section 18802, the incumbent of the position
26 shall not thereby gain status in the new class. Change in status of
27 the incumbent may be accomplished only in accordance with the
28 appropriate sections of this part and rules relating to transfer,
29 demotion, or promotion.

30 ~~SEC. 32.~~

31 *SEC. 26.* Section 18807 of the Government Code is repealed.

32 ~~SEC. 33.~~

33 *SEC. 27.* Section 18900 of the Government Code is amended
34 to read:

35 18900. (a) Eligible lists shall be established as a result of free
36 competitive examinations open to persons who lawfully may be
37 appointed to any position within the class for which these
38 examinations are held and who meet the minimum qualifications
39 requisite to the performance of the duties of that position as
40 prescribed by the specifications for the class or by rule.

1 (b) The department may limit the size of candidate groups in
2 entry-level and nonpromotional examinations when doing so would
3 be in the best interest of the state and effective competition can
4 occur among a smaller number of applicants.

5 ~~SEC. 34.~~

6 *SEC. 28.* Section 18900.5 of the Government Code is amended
7 to read:

8 18900.5. For purposes of this part, “designated appointing
9 power” means an appointing power designated by the department
10 under Section 18930.5.

11 ~~SEC. 35.~~

12 *SEC. 29.* Section 18900.6 of the Government Code is amended
13 to read:

14 18900.6. (a) The department may authorize the use of
15 skills-based certification for information technology classifications
16 if all of the following conditions are satisfied:

- 17 (1) There is a job analysis that meets legal standards.
- 18 (2) The class is used on a servicewide basis.
- 19 (3) The class is broad and includes a number of distinct
20 assignments.
- 21 (4) It is in the best interest of the state to use skills-based
22 certification.

23 (b) For purposes of this section, “skills-based certification”
24 means the creation of a unique certification list for each vacancy
25 within a class. Skills-based certification is created by weighting
26 the scores attained by competitors of all measured knowledge,
27 skills, and abilities to reflect their relative importance to the job,
28 as identified by a job analysis for each vacancy. Skills-based
29 certification shall replace the single eligible list for a classification
30 with a unique list of eligible individuals for each vacancy.
31 Skills-based certification shall determine the order of individuals
32 on a certification list; it shall not affect the rules for using
33 certification lists.

34 (c) The department shall also promulgate regulations specifying
35 how skills-based certification shall be implemented. Among other
36 things, these regulations shall include provisions to ensure fairness
37 to all candidates and prevent improper manipulation.

38 ~~SEC. 36.~~

39 *SEC. 30.* Section 18903 of the Government Code is amended
40 to read:

1 18903. (a) For each class there shall be maintained a general
2 reemployment list consisting of the names of all persons who have
3 occupied positions with probationary or permanent status in the
4 class and who have been legally laid off or demoted in lieu of
5 layoff.

6 (b) Within one year from the date of his or her resignation in
7 good standing, or his or her voluntary demotion, the name of an
8 employee who had probationary or permanent status may be placed
9 on the general reemployment list with the consent of the appointing
10 power and the department. The general reemployment list may
11 also contain the names of persons placed thereon by the department
12 in accordance with other provisions of this part.

13 ~~SEC. 37. Section 18930.5 of the Government Code is amended~~
14 ~~to read:~~

15 ~~18930.5. The department may designate an appointing power~~
16 ~~to design, announce, or administer examinations for the~~
17 ~~establishment of employment lists in accordance with Section~~
18 ~~18654 and board rule. The department may audit examinations~~
19 ~~and order corrective action, including withdrawing or limiting the~~
20 ~~authority previously exercised by the designated appointing~~
21 ~~authority, or nullify any examination or parts thereof which have~~
22 ~~been conducted improperly.~~

23 ~~A designated appointing power may contract with the department~~
24 ~~or another designated appointing power for the purpose of~~
25 ~~designing, publicizing, or administering an examination.~~

26 ~~SEC. 38.~~

27 ~~SEC. 31. Section 18931 of the Government Code is amended~~
28 ~~to read:~~

29 18931. (a) The board shall establish minimum qualifications
30 for determining the fitness and qualifications of employees for
31 each class of position. The department may require applicants for
32 examination or appointment to provide documentation as it deems
33 necessary to establish the applicants' qualifications.

34 (b) Whenever the law requires that an applicant for a position
35 as a peace officer be screened to ensure that the applicant is free
36 from emotional and mental impairment, the department or the
37 designated appointing authority shall undertake such screening
38 subject to the applicant's right to appeal to the board.

1 ~~SEC. 39.~~

2 *SEC. 32.* Section 18933 of the Government Code is amended
3 to read:

4 18933. (a) Within a reasonable time before the scheduled date,
5 the department or a designated appointing power shall announce
6 or advertise examinations for the establishment of eligible lists.

7 The announcement shall include the following:

8 (1) The date and place of the examination.

9 (2) The nature of the minimum qualifications.

10 (3) The general scope of the examination.

11 (4) The relative weight of its several parts if more than one type
12 of test is to be utilized.

13 (5) Any other information the department deems proper.

14 (b) The department shall notify the Department of Veterans
15 Affairs when any promotional examination for the establishment
16 of an eligible list is announced or advertised to eligible candidates.

17 The notification shall state the job position and include all of the
18 information listed in paragraphs (1) to (5), inclusive, of subdivision
19 (a).

20 ~~SEC. 40.~~

21 *SEC. 33.* Section 18934 of the Government Code is amended
22 to read:

23 18934. Every applicant for examination shall file an application
24 with the department or a designated appointing power as directed
25 in the examination announcement. Applications shall be accepted
26 free of any charge to the applicant. Such applications when filed
27 and all other examination materials, including examination
28 questions and any written material, are the property of the
29 department and are confidential records not open to inspection
30 except as provided by law.

31 The application shall include a place for listing volunteer
32 experience and such experience shall be considered if it is relevant
33 to the position being applied for and shall state that relevant
34 volunteer experience will be given consideration as qualifying
35 experience for state employment.

36 ~~SEC. 41.~~

37 *SEC. 34.* Section 18935 of the Government Code is repealed.

38 ~~SEC. 42.~~

39 *SEC. 35.* Section 18935 is added to the Government Code, to
40 read:

1 18935. (a) The department or a designated appointing power
2 may refuse to examine, or after examination may refuse to declare
3 as eligible, or may withhold or withdraw from an eligible list,
4 before the appointment, anyone who meets any of the following
5 criteria:

6 (1) Lacks any of the requirements for the examination or position
7 for which he or she applied.

8 (2) Has been dismissed from any position for any cause that
9 would be a cause for dismissal from state service.

10 (3) Has resigned from any position not in good standing in order
11 to avoid dismissal.

12 (4) Has misrepresented himself or herself in the application or
13 examination process, including permitting another person to
14 complete or attempt to complete a portion of the examination on
15 his or her behalf.

16 (5) Has been found to be unsuited or not qualified for
17 employment pursuant to rule.

18 (b) The remedies provided in this section are not exclusive and
19 shall not prevent the board, department, or appointing power from
20 taking additional actions pursuant to Chapter 10 (commencing
21 with Section 19680).

22 ~~SEC. 43.~~

23 *SEC. 36.* Section 18936 of the Government Code is amended
24 to read:

25 18936. The final earned rating of each person competing in
26 any examination shall be determined by the weighted average of
27 the earned ratings on all phases of the examination, according to
28 the weights for each phase established by the department or a
29 designated appointing power in advance of the giving of the
30 examination and published as a part of the announcement of the
31 examination.

32 The department or a designated appointing power may set
33 minimum qualifying ratings for each phase of an examination and
34 may provide that competitors failing to achieve such ratings in any
35 phase shall be disqualified from any further participation in the
36 examination.

37 ~~SEC. 44.~~

38 *SEC. 37.* Section 18937 of the Government Code is amended
39 to read:

1 18937. The passing mark for an examination may be other than
 2 the true percentage or average published as a part of the
 3 announcement of the examination, if deemed by the department
 4 or a designated appointing power to be justified in order to provide
 5 an adequate eligible list or to adjust for the apparent difficulty of
 6 an examination. In establishing any eligible list or promotional list
 7 following an examination, the names of the persons who have
 8 attained the passing mark in such examination shall be placed on
 9 the list in the order of final earned ratings, except as such order
 10 may be modified by the application of veterans' preferences. When
 11 the order of names has been determined after applying the
 12 appropriate veterans' preference credits, the department may
 13 thereafter limit to suit the needs of the service the number of names
 14 to be placed on the employment list.

15 ~~SEC. 45.~~

16 *SEC. 38.* Section 18938.6 of the Government Code is amended
 17 to read:

18 18938.6. The department or designated appointing power shall
 19 provide for the inspection of examination papers for all written
 20 test competitors.

21 ~~SEC. 46.~~

22 *SEC. 39.* Section 18940 of the Government Code is repealed.

23 ~~SEC. 47.~~

24 *SEC. 40.* Section 18940 is added to the Government Code, to
 25 read:

26 18940. Any applicant for examination may request reasonable
 27 accommodation for a disability or sincerely held religious belief
 28 pursuant to the Fair Employment and Housing Act or any other
 29 applicable law. The department may prescribe rules governing
 30 those requests.

31 ~~SEC. 48.~~

32 *SEC. 41.* Section 18941 of the Government Code is repealed.

33 ~~SEC. 49.~~

34 *SEC. 42.* Section 18941 is added to the Government Code, to
 35 read:

36 18941. Any former state employee who was dismissed from
 37 state service pursuant to Chapter 7 (commencing with Section
 38 19500) of Division 5 of this part may petition the department to
 39 be permitted to take a civil service examination in order to establish
 40 eligibility for appointment to state service. The department may

1 grant such a petition for a particular examination or may grant the
2 petition for any or all future examinations. If the department denies
3 the petition, the former state employee may appeal that decision
4 to the board.

5 ~~SEC. 50.~~

6 *SEC. 43.* Section 18950 of the Government Code is amended
7 to read:

8 18950. Vacancies in positions shall be filled insofar as
9 consistent with the best interests of the state from among employees
10 holding positions in appropriate classes, and appropriate
11 promotional lists shall be established to facilitate this purpose,
12 except as provided in Section 18930. Examinations shall be held
13 on an open, nonpromotional basis when, in the judgment of the
14 department or designated appointing power, open competition will
15 produce eligible lists with more highly skilled qualified candidates
16 and is consistent with the best interests of the state.

17 The department may prescribe conditions under which state
18 employees, persons on leave of absence, and persons whose names
19 are on appropriate reemployment lists, may be permitted to
20 compete in promotional examination and to attain eligibility for
21 appointment.

22 The department may further prescribe conditions under which
23 eligibility may be transferred from one promotional list to another
24 promotional list when such lists are for the same class and have
25 been established as a result of the same or a similar examination.

26 ~~SEC. 51.~~

27 *SEC. 44.* Section 18950.1 of the Government Code is amended
28 to read:

29 18950.1. Notwithstanding any other law, full-time employees
30 of the state who are exempt from state civil service pursuant to the
31 provisions of Section 4 of Article VII of the California
32 Constitution, shall be eligible to receive three career credits, except
33 when competing for managerial positions, as defined in Section
34 3513, under conditions prescribed by the department.

35 Such credits shall be granted only for open nonpromotional
36 examinations. In order to be eligible to receive credits, such
37 employees must meet all qualification requirements specified and
38 must have 12 consecutive months of service in an exempt position.

1 ~~SEC. 52.~~

2 *SEC. 45.* Section 18951 of the Government Code is amended
3 to read:

4 18951. The board, department, and each state agency and
5 employee shall encourage economy and efficiency in and devotion
6 to state service by encouraging promotional advancement of
7 employees showing willingness and ability to perform efficiently
8 services assigned them, and every person in state service shall be
9 permitted to advance according to merit and ability.

10 In an examination held on an open, nonpromotional basis under
11 the provisions of Section 18950, a competitor, who has permanent
12 civil service status, or who has a mandatory right of reinstatement
13 to a position with permanent civil service status, and who attains
14 the passing mark established for an examination which is not for
15 a managerial position as defined in Section 3513, shall have three
16 credits added to his or her earned score. Such credits shall be
17 known as career credits.

18 ~~SEC. 53. Section 18972 of the Government Code is amended~~
19 ~~to read:~~

20 ~~18972. For specific state services or employments as~~
21 ~~determined by the department, it may in examination allow general~~
22 ~~or individual preference in ratings to veterans who have suffered~~
23 ~~permanent disability in the line of duty, if such disability will not~~
24 ~~prevent the proper performance of the duties required under such~~
25 ~~service or employment, and if such disability is of record in the~~
26 ~~files of the United States Veterans' Administration.~~

27 *SEC. 46. Section 18972 of the Government Code is repealed.*

28 ~~18972. For specific State services or employments as~~
29 ~~determined by the board, it may in examination allow general or~~
30 ~~individual preference in ratings to veterans who have suffered~~
31 ~~permanent disability in line of duty, if such disability will not~~
32 ~~prevent the proper performance of the duties required under such~~
33 ~~service or employment, and if such disability is of record in the~~
34 ~~files of the United States Veterans' Administration.~~

35 ~~SEC. 54.~~

36 *SEC. 47.* Section 18975 of the Government Code is amended
37 to read:

38 18975. ~~In any examinations to establish employment lists in~~
39 ~~which credits are allowed for experience, periods~~*Periods* of service
40 in the recognized military service shall be counted by the

1 department and designated appointing authority as *qualifying*
2 experience upon a showing by the veteran that ~~such~~ *the veteran's*
3 service involved duties and responsibilities of the kind for which
4 credit for experience is being allowed.

5 ~~SEC. 55.~~

6 *SEC. 48.* Section 18976 of the Government Code is amended
7 to read:

8 18976. Request for and proof of eligibility for veterans'
9 preference ~~credits~~ shall be submitted by the veteran to the
10 department or designated appointing ~~power~~ *authority* conducting
11 the employment examination. The procedures and time of filing
12 the request shall be subject to rules promulgated by the department,
13 in consultation with the Department of Veterans Affairs.

14 ~~SEC. 56.~~

15 *SEC. 49.* Section 19050.4 of the Government Code is amended
16 to read:

17 19050.4. A transfer may be accomplished without examination
18 pursuant to rule. The department or appointing authority may
19 require an employee to demonstrate in an examination that he or
20 she possesses any additional or different requirements that are
21 included in the minimum qualifications of the class to which the
22 employee is transferring.

23 ~~SEC. 57.~~

24 *SEC. 50.* Section 19052 of the Government Code is repealed.

25 ~~SEC. 58.~~

26 *SEC. 51.* Section 19052 is added to the Government Code, to
27 read:

28 19052. Whenever a vacancy in any position is to be filled and
29 not by transfer, demotion, or reinstatement, the appointing power
30 shall provide any information the department requests, including
31 the classification of the position, the number of vacancies to be
32 filled, the tenure and time base of the position, the location of the
33 position, and any other information as the department may require.

34 ~~SEC. 59.~~

35 *SEC. 52.* Section 19057.1 of the Government Code is amended
36 to read:

37 19057.1. Notwithstanding Section 19057, for positions in
38 classes designated as professional, scientific, or administrative, or
39 for any open employment list, there shall be certified to the
40 appointing power the names and addresses of all those eligibles

1 whose scores, at time of certification, represent the three highest
2 ranks on the employment list for the class, and who have indicated
3 their willingness to accept appointment under the conditions of
4 employment specified.

5 For purposes of ranking, scores of eligibles on employment lists
6 for these classes shall be rounded to the nearest whole percent. A
7 rank shall consist of one or more eligibles with the same whole
8 percentage score.

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

19 Fractional examination scores shall be provided to, and used by,
20 the Department of the California Highway Patrol for its peace
21 officer classes.

22 The department may provide for certifying less than three ranks
23 where the size of the certified group is disproportionate to the
24 number of vacancies.

25 ~~SEC. 60.~~

26 *SEC. 53.* Section 19057.2 of the Government Code is amended
27 to read:

28 19057.2. Notwithstanding the provisions of Section 19057, for
29 positions in classes designated as management, there shall be
30 certified to the appointing power the names and addresses of all
31 those applicants whose scores, at the time of certification, represent
32 the three highest ranks on the employment list for the class, and
33 who have indicated their willingness to accept appointment under
34 the conditions of employment specified.

35 For purposes of ranking, scores of eligibles on employment lists
36 for such classes shall be divided into six ranks. The first rank shall
37 consist of eligibles who receive a score of 95 percent or higher.
38 The second rank shall consist of eligibles who receive a score of
39 90 to 94 percent, inclusive. The third rank shall consist of eligibles
40 who receive a score of 85 to 89 percent, inclusive. The fourth rank

1 shall consist of eligibles who receive a score of 80 to 84 percent,
2 inclusive. The fifth rank shall consist of eligibles who receive a
3 score of 75 to 79 percent, inclusive. The sixth rank shall consist
4 of eligibles who receive a score of 70 to 74 percent, inclusive. All
5 examination scores for positions in these classes shall be rounded
6 to the nearest whole percent.

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

18 The department may certify less than three ranks where the size
19 of the certified group is disproportionate to the number of
20 vacancies.

21 ~~SEC. 61.~~

22 *SEC. 54.* Section 19058 of the Government Code is amended
23 to read:

24 19058. When there is no employment list from which a position
25 may be filled, the appointing power, with the consent of the
26 department, may fill the position by temporary appointment. The
27 temporary appointment to a permanent position shall continue only
28 until eligibles are available from an appropriate employment list
29 and shall not exceed the period prescribed by Section 5 of Article
30 VII of the Constitution. Within the limits of the period prescribed
31 therein, any temporary appointment to a limited-term position
32 may, in the discretion of the appointing power and with the
33 approval of the department, be continued for the life of such
34 position. When temporary appointments are made to permanent
35 positions, an appropriate employment list shall be established for
36 each class to which a temporary appointment is made before the
37 expiration of the appointment.

38 ~~SEC. 62.~~

39 *SEC. 55.* Section 19059 of the Government Code is amended
40 to read:

1 19059. A person who does not possess the minimum
2 qualifications for the class to which the position belongs shall not
3 be appointed under a temporary appointment. A temporary
4 appointee shall not acquire any probationary or permanent status
5 or rights, and time spent under temporary appointment shall not
6 contribute to the probationary period if the appointee is
7 subsequently successful in an examination and is certified and
8 appointed to the position.

9 ~~SEC. 63.~~

10 *SEC. 56.* Section 19062.5 of the Government Code is amended
11 to read:

12 19062.5. The department may establish eligibility requirements
13 governing movement of employees between full-time, part-time,
14 and intermittent positions.

15 ~~SEC. 64.~~

16 *SEC. 57.* Section 19082 of the Government Code is amended
17 to read:

18 19082. The department may provide for the establishment,
19 maintenance, and use of preferred limited-term lists.

20 ~~SEC. 65.~~

21 *SEC. 58.* Section 19101 of the Government Code is amended
22 to read:

23 19101. The department or a designated appointing authority
24 may establish employment lists from which intermittent
25 appointments may be made. Eligibles shall be certified in
26 accordance with their position on the appropriate employment list
27 and their willingness to accept appointment to such position as
28 “intermittent employees.”

29 ~~SEC. 66.~~

30 *SEC. 59.* Section 19140 of the Government Code is amended
31 to read:

32 19140. (a) In addition to reinstatement required under any
33 other section, an appointing power may, in his or her discretion,
34 reinstate any person having probationary or permanent status who
35 was separated from his or her position (1) by resignation, (2) by
36 service retirement, (3) by termination from limited-term, temporary,
37 career executive assignment, or exempt appointment, (4) under
38 Section 19996.2, or (5) without a break in continuity of state
39 service to accept another civil service or exempt appointment. In
40 addition, an employee who was separated from his or her position

1 under Section 19585 shall have permissive reinstatement eligibility
2 to that position when he or she again meets the requirements for
3 continuing employment in that position, and shall have permissive
4 reinstatement eligibility for any other position as provided by this
5 section.

6 (b) Reinstatement shall be undertaken subject to rule.

7 (c) Reinstatement shall be undertaken within three years if the
8 employee, at the time of separation, was a member of the California
9 Highway Patrol.

10 (d) For reinstatement after separation, for members of the
11 California Highway Patrol, the time spent in any of the following
12 positions shall not be considered in computing the three-year
13 period:

14 (1) In a position which is exempt from civil service.

15 (2) As a temporary employee in another governmental agency
16 engaged in a technical cooperation program under an agreement
17 approved by the state.

18 (3) In a recognized military service.

19 (e) A member of the California Highway Patrol separated from
20 state service may be reinstated to an otherwise appropriate
21 nonmember class even if the separation exceeds three years.

22 (f) Reinstatement shall be made to any of the following vacant
23 positions:

24 (1) The class vacated or from which separated.

25 (2) A lower class in the same series.

26 (3) Another class to which the employee could transfer or
27 demote pursuant to rule.

28 An employee, including a member of the California Highway
29 Patrol, separated from his or her former position in state service
30 by layoff, or by resignation or demotion in lieu of layoff, may be
31 reinstated at the discretion of the appointing power. However, the
32 reinstatement is subject to the requirements of this section and
33 shall not be to a position that is specifically subject to the
34 employee's reemployment list eligibility.

35 ~~SEC. 67.~~

36 *SEC. 60.* Section 19140.5 of the Government Code is amended
37 to read:

38 19140.5. This section applies only to a permanent employee,
39 or an employee who previously had permanent status and who,

1 since receiving permanent status, has had no break in the continuity
2 of state service due to a permanent separation.

3 An employee who is (a) terminated from a temporary or
4 limited-term appointment by either the employee or the appointing
5 power; or (b) rejected during probation; or (c) demoted from a
6 managerial position pursuant to Section 19590; shall be reinstated
7 to his or her former position provided all of the following
8 conditions occur:

9 (1) The employee accepted the appointment without a break in
10 the continuity of state service.

11 (2) The reinstatement is requested in the manner provided by
12 rule within 10 working days after the effective date of the
13 termination.

14 ~~SEC. 68:~~

15 *SEC. 61.* Section 19141.1 of the Government Code is amended
16 to read:

17 19141.1. (a) This section applies only to a permanent
18 employee, or an employee who previously had permanent status,
19 and who has a reinstatement right pursuant to Section 19141.

20 (b) Within four years of the termination of an appointment in
21 an exempt position, either by the employee or the appointing
22 power, an employee who has completed a minimum of five years
23 of state service experience and at least one year but less than three
24 years of exempt service shall be given an opportunity upon request
25 to obtain civil service appointment eligibility, through a deferred
26 examination, for any position offered by any appointing power in
27 any class for which a current eligible list exists and which has a
28 salary range up to two steps higher than the employee’s former
29 position. If the employee has three or more years of exempt service,
30 the opportunity shall be provided for any class at least two salary
31 steps below the employee’s exempt salary level.

32 (c) At the termination of an exempt appointment, either by the
33 employee or the appointing power, on or after January 1, 1987, an
34 employee who has at least 10 years of state service including five
35 years of civil service experience and at least three consecutive
36 years of exempt service under a single appointing power and who
37 requests reinstatement in writing within 10 days of the termination,
38 shall be reinstated upon request to (1) his or her former position
39 or (2) any vacant position for which the employee has civil service
40 eligibility under the appointing power where the three years of

1 service were completed and which is at least two salary steps below
2 the employee's exempt salary level. In the absence of current list
3 eligibility, an employee shall be entitled to a deferred examination
4 for placement on a current eligible list for classes meeting the
5 mandatory reinstatement criteria. If the employee obtains civil
6 service appointment eligibility at any time within two years of the
7 termination of the exempt appointment, and a vacant position in
8 the appropriate class is not available, the employee's name shall
9 be placed on the appointing power's departmental or subdivisional
10 reemployment for any classes and locations which would satisfy
11 the employee's reinstatement request. Departmental or
12 subdivisional reemployment list eligibility granted under this
13 section shall not result in placement on any general reemployment
14 list.

15 If an employee cannot be placed in a vacant position pursuant
16 to this section, the employee shall be reinstated to his or her former
17 position.

18 ~~SEC. 69.~~

19 *SEC. 62.* Section 19143 of the Government Code is amended
20 to read:

21 19143. At the termination of any temporary separation, except
22 termination of a permanent or probationary employee by layoff
23 and termination by displacement, as defined in regulation, the
24 employee shall be reinstated to his or her former position, as
25 defined in Section 18522, unless some other reinstatement right
26 is specified for the particular temporary separation in the Civil
27 Service Act or regulation.

28 ~~SEC. 70.~~

29 *SEC. 63.* Section 19170 of the Government Code is amended
30 to read:

31 19170. (a) The board shall establish for each class the length
32 of the probationary period. The probationary period that shall be
33 served upon appointment shall be six months unless the board
34 establishes a longer period of not more than one year.

35 (b) By rule, the board may:

36 (1) Increase the length of individual probationary periods by
37 adding periods of time to any periods of time an employee, while
38 serving as a probationer, is absent from his or her position.

39 (2) Require an additional probationary period not to exceed the
40 length of the probationary period of the class in which the

1 probationer was appointed when the probationary employee returns
2 after an extended period of absence and the remainder of the
3 probationary period is insufficient to evaluate his or her current
4 performance.

5 (c) Upon written agreement between an appointing power and
6 an employee who alleges that he or she has a disability, as defined
7 in Section 12926, subject to approval of the agreement by the
8 board, the employee's probationary period may be extended for a
9 period, not to exceed six months, to allow the appointing power
10 to provide a reasonable accommodation to the employee and the
11 employee to demonstrate, before the probationary period ends, the
12 ability to perform satisfactorily the essential functions of the
13 position with reasonable accommodation. Nothing in this
14 subdivision may relieve an appointing power from complying with
15 applicable law requiring reasonable accommodation or prohibiting
16 discrimination based on disability, and no employee, as a condition
17 of an agreement to extend the probationary period, may be required
18 to waive or release any rights he or she may have under applicable
19 law requiring reasonable accommodation or prohibiting
20 discrimination based on disability.

21 ~~SEC. 71.~~

22 *SEC. 64.* Section 19200 of the Government Code is amended
23 to read:

24 19200. Whenever the United States is engaged in war or
25 whenever the department finds that an emergency exists in
26 connection with the national defense, the department may authorize
27 duration examinations and employments in those classes in which
28 the best interests of the state would be served during such war or
29 emergency. Within not less than three months, or more than one
30 year, after the department finds that there is no longer an
31 emergency, all duration employments shall be terminated in such
32 order as the department deems appropriate.

33 ~~SEC. 72.~~

34 *SEC. 65.* Section 19253 of the Government Code is amended
35 to read:

36 19253. Subject to approval by the department, an appointing
37 power with the concurrence or at the request of an employee may
38 request the voluntary demotion of such employee to a vacant
39 position.

1 If the class to which the demotion is proposed requires
2 qualifications, knowledges, or abilities not measured by the
3 examination for the class from which demotion is proposed, the
4 department may examine the employee for the possession of those
5 additional qualifications, knowledges, and abilities.

6 ~~SEC. 73.~~

7 *SEC. 66.* Section 19253.5 of the Government Code is amended
8 to read:

9 19253.5. (a) An appointing power may require an employee
10 to submit to a medical examination by a physician or physicians
11 designated by the appointing power to evaluate the capacity of the
12 employee to perform the work of his or her position.

13 (b) Fees for the examination and for the services of medical
14 specialists or technicians, if necessary, shall be paid by the state
15 agency. The employee may submit medical or other evidence to
16 the examining physician or to the appointing power. The examining
17 physician shall make a written report of the examination to the
18 appointing power. The appointing power shall provide a copy to
19 the physician designated by the employee.

20 (c) When the appointing power, after considering the
21 conclusions of the medical examination and other pertinent
22 information, concludes that the employee is unable to perform the
23 work of his or her present position, but is able to perform the work
24 of another position including one of less than full time, the
25 appointing power may demote or transfer the employee to such a
26 position.

27 Except as authorized by the Department of Human Resources
28 under Section 19837, the employee demoted or transferred pursuant
29 to this section shall receive the maximum of the salary range of
30 the class to which he or she is demoted or transferred, provided
31 that the salary is not greater than the salary he or she received at
32 the time of his or her demotion or transfer.

33 (d) When the appointing power after considering the conclusions
34 of the medical examination provided for by this section or medical
35 reports from the employee's physician, and other pertinent
36 information, concludes that the employee is unable to perform the
37 work of his or her present position, or any other position in the
38 agency, and the employee is not eligible or waives the right to
39 retire for disability and elects to withdraw his or her retirement
40 contributions or to permit his or her contributions to remain in the

1 retirement fund with rights to service retirement, the appointing
2 power may terminate the appointment of the employee.

3 (e) The appointing power may demote, transfer, or terminate
4 an employee under this section without requiring the employee to
5 submit to a medical examination when the appointing power relies
6 upon a written statement submitted to the appointing power by the
7 employee as to the employee’s condition or upon medical reports
8 submitted to the appointing power by the employee.

9 (f) The employee shall be given written notice of any demotion,
10 transfer, or termination under this section at least 15 days prior to
11 the effective date thereof. No later than 15 days after service of
12 the notice, the employee may appeal the action of the appointing
13 power to the board. The board, in accordance with its rules, shall
14 hold a hearing. The board may sustain, disapprove, or modify the
15 demotion, transfer, or termination.

16 (g) Whenever the board revokes or modifies a demotion,
17 transfer, or termination, the board shall direct the payment of salary
18 to the employee calculated on the same basis and using the same
19 standards as provided in Section 19584.

20 (h) Upon the request of an appointing authority or the petition
21 of the employee who was terminated, demoted, or transferred in
22 accordance with this section, the employee shall be reinstated to
23 an appropriate vacant position in the same class, in a comparable
24 class or in a lower related class if it is determined by the board
25 that the employee is no longer incapacitated for duty. Such a
26 reinstatement to a position in a different agency may be made only
27 with the concurrence of that agency. In approving or ordering the
28 reinstatements, the board may require the satisfactory completion
29 of a new probationary period. When the board finds the employee
30 who was terminated, demoted, or transferred is no longer
31 incapacitated for duty but there is no vacant position to which the
32 employee appropriately can be appointed, the name of the
33 employee shall be placed upon those reemployment lists that are
34 determined to be appropriate by the board.

35 (i) (1) If the appointing power, after considering the conclusions
36 of the medical examination provided for by this section or medical
37 reports from the employee’s physician and other pertinent
38 information, concludes that the employee is unable to perform the
39 work of his or her present position or any other position in the
40 agency and the employee is eligible and does not waive the right

1 to retire for disability, the appointing power shall file an application
2 for disability retirement on the employee's behalf. The appointing
3 power shall give the employee 15 days written notice of its
4 intention to file such an application and a reasonable opportunity
5 to respond to the appointing power prior to the appointing power's
6 filing of the application. However, the appointing power's decision
7 to file the application is final and is not appealable to the State
8 Personnel Board.

9 (2) Notwithstanding Section 21153, upon filing the application
10 for disability retirement, the appointing power may remove the
11 employee from the job and place the employee on involuntary
12 leave status. The employee may use any accrued leave eligible
13 during the period of the involuntary leave. If the employee's leave
14 credits and programs are exhausted or if they do not provide
15 benefits at least equal to the estimated retirement allowance, the
16 appointing power shall pay the employee an additional temporary
17 disability allowance so that the employee receives payment equal
18 to the retirement allowance. The appointing power shall continue
19 to make all employer contributions to the employee's health plans
20 during the period of the involuntary leave.

21 (3) If the application for disability retirement is subsequently
22 granted, the retirement system shall reimburse the appointing power
23 for the temporary disability allowance which shall be deducted
24 from any back disability retirement benefits otherwise payable to
25 the employee. If the application is denied, the appointing power
26 shall reinstate the employee to his or her position with back salary
27 and benefits pursuant to subdivision (g), less any temporary
28 disability allowance paid by the appointing power. The appointing
29 power shall also restore any leave credits the employee used during
30 the period of the involuntary leave.

31 ~~SEC. 74.~~

32 *SEC. 67.* Section 19257.5 of the Government Code is amended
33 to read:

34 19257.5. Where the appointment of an employee has been
35 made and accepted in good faith, but where the appointment would
36 not have been made but for some mistake of law or fact that if
37 known to the parties would have rendered the appointment
38 unlawful when made, the department may declare the appointment
39 void from the beginning if the action is taken within one year after
40 the appointment.

1 ~~SEC. 75.~~

2 *SEC. 68.* Section 19400 of the Government Code is amended
3 to read:

4 19400. It is the intent of this article to establish and maintain
5 an effective upward mobility program for state employees in
6 low-paying occupations. An upward mobility program is one in
7 which career opportunities are developed and published and
8 assistance is provided which will allow employees in low-paying
9 occupations to develop and advance to their highest potential.

10 ~~SEC. 76.~~

11 *SEC. 69.* Section 19401 of the Government Code is amended
12 to read:

13 19401. All appointing authorities of state government shall
14 establish an effective program of upward mobility for employees
15 in low-paying occupational groups. In developing their upward
16 mobility programs, appointing authorities shall endeavor to
17 provide, to the greatest extent possible, the following opportunities
18 for employees who meet criteria established by the appointing
19 authority, demonstrate the aptitude or potential for advancement,
20 and wish to participate in:

21 (a) Career counseling using individual professional,
22 administrative, and technical employees who can serve as career
23 models, and a course in group career counseling. Each employee
24 who wishes to participate in an upward mobility program should
25 be required to develop a career development plan.

26 (b) Appropriate academic counseling.

27 (c) Training opportunities such as college programs related to
28 special training programs. This training may include release time
29 at reduced cost or no cost to the employee and may be offered in
30 geographically remote areas through cooperative arrangements
31 with other departments and colleges.

32 (d) Training and development assignments.

33 (e) On-the-job training.

34 (f) Job restructuring, including the development of career ladders
35 and lattices, and modifications of requirements where employment
36 barriers exist.

37 ~~SEC. 77.~~

38 *SEC. 70.* Section 19402 of the Government Code is amended
39 to read:

1 19402. All upward mobility programs shall include annual
2 goals that include the number of employees expected to progress
3 from positions in low-paying occupational groups to entry-level
4 technical, professional, and administrative positions, and the
5 timeframe within which this progress shall occur. The Department
6 of Human Resources shall be responsible for approving each
7 department's annual upward mobility goals and timetables.

8 Any appointing authority that determines that it will be unable
9 to achieve the goals may ask the department for a reduction in the
10 goals. If the department determines that the appointing authority
11 has not made a good faith effort to achieve the goals, the
12 department shall hold public hearings to determine the reasons for
13 the deficiencies and to establish a program to overcome these
14 deficiencies.

15 ~~SEC. 78.~~

16 *SEC. 71.* Section 19403 of the Government Code is amended
17 to read:

18 19403. The department shall, in cooperation with appointing
19 authorities, establish bridging classifications and career ladders to
20 provide upward mobility from jobs in low-paying occupations to
21 technical, professional, and administrative jobs on an ongoing
22 basis.

23 ~~SEC. 79.~~

24 *SEC. 72.* Section 19405 of the Government Code is amended
25 to read:

26 19405. The department shall annually submit a report to the
27 Legislature on the performance of each appointing authority and
28 agency in state government in meeting its obligations under this
29 article.

30 ~~SEC. 80. Section 19406 of the Government Code is repealed.~~

31 ~~SEC. 81.~~

32 *SEC. 73.* Section 19574.2 of the Government Code is amended
33 to read:

34 19574.2. (a) Any party claiming that his or her request for
35 discovery pursuant to Section 19574.1 has not been complied with
36 may serve and file a petition to compel discovery with the Hearing
37 Office of the State Personnel Board, naming as respondent the
38 party refusing or failing to comply with Section 19574.1. The
39 petition shall state facts showing that the respondent party failed
40 or refused to comply with Section 19574.1, a description of the

1 matters sought to be discovered, the reason or reasons why the
2 matter is discoverable under Section 19574.1, and the ground or
3 grounds of the respondent's refusal so far as known to the
4 petitioner.

5 (b) The petition shall be served upon the respondent party and
6 filed within 14 days after the respondent party first evidenced his
7 or her failure or refusal to comply with Section 19574.1 or within
8 30 days after the request was made and the party has failed to reply
9 to the request, whichever period is longer. However, no petition
10 may be filed within 90 days of the date set for commencement of
11 the administrative hearing, except upon a petition and a
12 determination by the administrative law judge of good cause. In
13 determining good cause, the administrative law judge shall consider
14 the necessity and reasons for the discovery, the diligence or lack
15 of diligence of the moving party, whether the granting of the
16 petition will delay the commencement of the administrative hearing
17 on the date set, and the possible prejudice of the action to any
18 party. The respondent shall have a right to file a written answer to
19 the petition. Any answer shall be filed with the Hearing Office of
20 the State Personnel Board and the petitioner within 15 days of
21 service of the petition.

22 Unless otherwise stipulated by the parties and as provided by
23 this section, the administrative law judge shall review the petition
24 and any response filed by the respondent and issue a decision
25 granting or denying the petition within 20 days after the filing of
26 the petition. Nothing in this section shall preclude the
27 administrative law judge from determining that an evidentiary
28 hearing shall be conducted prior to the issuance of a decision on
29 the petition. In the event that a hearing is ordered, the decision of
30 the administrative law judge shall be issued within 20 days of the
31 closing of the hearing.

32 A party aggrieved by the decision of the administrative law judge
33 may, within 30 days of service of the decision, file a petition to
34 compel discovery in the superior court for the county in which the
35 administrative hearing will be held or in the county in which the
36 headquarters of the appointing power is located. The petition shall
37 be served on the respondent party.

38 (c) If from a reading of the petition the court is satisfied that the
39 petition sets forth good cause for relief, the court shall issue an
40 order to show cause directed to the respondent party; otherwise

1 the court shall enter an order denying the petition. The order to
2 show cause shall be served upon the respondent and his or her
3 attorney of record in the administrative proceeding by personal
4 delivery or certified mail and shall be returnable no earlier than
5 10 days from its issuance nor later than 30 days after the filing of
6 the petition. The respondent party shall have the right to serve and
7 file a written answer or other response to the petition and order to
8 show cause.

9 (d) The court may, in its discretion, order the administrative
10 proceeding stayed during the pendency of the proceeding, and, if
11 necessary, for a reasonable time thereafter to afford the parties
12 time to comply with the court order.

13 (e) Where the matter sought to be discovered is under the
14 custody or control of the respondent party and the respondent party
15 asserts that the matter is not a discoverable matter under Section
16 19574.1, or is privileged against disclosure under Section 19574.1,
17 the court may order lodged with it matters which are provided in
18 subdivision (b) of Section 915 of the Evidence Code and shall
19 examine the matters in accordance with the provisions thereof.

20 (f) The court shall decide the case on the matters examined by
21 the court in camera, the papers filed by the parties, and any oral
22 argument and additional evidence as the court may allow.

23 (g) Unless otherwise stipulated by the parties, the court shall
24 no later than 45 days after the filing of the petition file its order
25 denying or granting the petition; provided, however, that the court
26 may on its own motion for good cause extend the time an additional
27 45 days. The order of the court shall be in writing setting forth the
28 matters or parts the petitioner is entitled to discover under Section
29 19574.1. A copy of the order shall forthwith be served by mail by
30 the clerk upon the parties. Where the order grants the petition in
31 whole or in part, the order shall not become effective until 10 days
32 after the date the order is served by the clerk. Where the order
33 denies relief to the petitioning party, the order shall be effective
34 on the date it is served by the clerk.

35 (h) The order of the superior court shall be final and, except for
36 this subdivision, shall not be subject to review by appeal. A party
37 aggrieved by the order, or any part thereof, may within 30 days
38 after the service of the superior court's order serve and file in the
39 district court of appeal for the district in which the superior court
40 is located, a petition for a writ of mandamus to compel the superior

1 court to set aside, or otherwise modify, its order. Where a review
 2 is sought from an order granting discovery, the order of the trial
 3 court and the administrative proceeding shall be stayed upon the
 4 filing of the petition for writ of mandamus; provided, however,
 5 that the court of appeal may dissolve or modify the stay thereafter,
 6 if it is in the public interest to do so. Where the review is sought
 7 from a denial of discovery, neither the trial court’s order nor the
 8 administrative proceeding shall be stayed by the court of appeal
 9 except upon a clear showing of probable error.

10 (i) Where the superior court finds that a party or his or her
 11 attorney, without substantial justification, failed or refused to
 12 comply with Section 19574.1, or, without substantial justification,
 13 filed a petition to compel discovery pursuant to this section, or,
 14 without substantial justification, failed to comply with any order
 15 of court made pursuant to this section, the court may award court
 16 costs and reasonable attorney fees to the opposing party. Nothing
 17 in this subdivision shall limit the power of the superior court to
 18 compel obedience to its orders by contempt proceedings.

19 ~~SEC. 82.~~

20 *SEC. 74.* Section 19582 of the Government Code is amended
 21 to read:

22 19582. (a) Hearings may be held by the board, or by any
 23 authorized representative, but the board shall render the decision
 24 that in its judgment is just and proper.

25 During a hearing, after the appointing authority has completed
 26 the opening statement or the presentation of evidence, the
 27 employee, without waiving his or her right to offer evidence in the
 28 event the motion is not granted, may move for a dismissal of the
 29 charges.

30 If it appears that the evidence presented supports the granting
 31 of the motion as to some but not all of the issues involved in the
 32 action, the board or the authorized representative shall grant the
 33 motion as to those issues and the action shall proceed as to the
 34 issues remaining. Despite the granting of the motion, no judgment
 35 shall be entered prior to a final determination of the action on the
 36 remaining issues, and shall be subject to final review and approval
 37 by the board.

38 (b) If a contested case is heard by an authorized representative,
 39 he or she shall prepare a proposed decision in a form that may be
 40 adopted as the decision in the case. A copy of the proposed decision

1 shall be furnished by the board to each party within 10 days after
2 the board has adopted, modified, rejected, or remanded the
3 proposed decision. The board itself may adopt the proposed
4 decision in its entirety, may remand the proposed decision, or may
5 reduce the adverse action set forth therein and adopt the balance
6 of the proposed decision.

7 (c) If the proposed decision is not remanded or adopted as
8 provided in subdivision (b), each party shall be notified of the
9 action, and the board itself may decide the case upon the record,
10 including the transcript, with or without taking any additional
11 evidence, or may refer the case to the same or another authorized
12 representative to take additional evidence. If the case is so assigned
13 to an authorized representative, he or she shall prepare a proposed
14 decision as provided in subdivision (b) upon the additional
15 evidence and the transcript and other papers that are part of the
16 record of the prior hearing. A copy of the proposed decision shall
17 be furnished to each party. The board itself shall decide no case
18 provided for in this subdivision without affording the parties the
19 opportunity to present oral and written argument before the board
20 itself. If additional oral evidence is introduced before the board
21 itself, no board member may vote unless he or she heard the
22 additional oral evidence.

23 (d) In arriving at a decision or a proposed decision, the board
24 or its authorized representative may consider any prior suspension
25 or suspensions of the appellant by authority of any appointing
26 power, or any prior proceedings under this article.

27 (e) In arriving at a decision or a proposed decision, the board,
28 in exercising its discretion consistent with its authority under
29 Section 3 of Article VII of the California Constitution, shall give
30 consideration and respect to any applicable disciplinary criteria
31 established pursuant to Section 19573, and the extent to which the
32 employee's conduct resulted in, or if repeated is likely to result
33 in, harm to the public service, the circumstances surrounding the
34 offense or misconduct, and the likelihood of recurrence.

35 (f) The decision shall be in writing and contain findings of fact
36 and the adverse action, if any. The findings may be stated in the
37 language of the pleadings or by reference thereto. Copies of the
38 decision shall be served on the parties personally or by mail.

39 ~~SEC. 83.~~

40 *SEC. 75.* Section 19583.51 of the Government Code is repealed.

1 ~~SEC. 84.~~

2 ~~SEC. 76.~~ Section 19586 of the Government Code is amended
3 to read:

4 19586. Within 30 days after the day a copy of the decision
5 rendered by the board in a proceeding under this article is served
6 by the board upon the parties to the decision, either party may
7 petition the board for rehearing of the decision. The petition for
8 rehearing shall be in writing and shall contain all of the grounds
9 upon which a rehearing should be granted.

10 Within 30 days after the filing of a petition for rehearing with
11 the board, the board shall cause notice thereof to be served upon
12 the other parties to the proceeding by mailing to each a copy of
13 the petition for rehearing. The other parties to the proceeding shall
14 have 20 calendar days from the date of service of a copy of the
15 petition for rehearing to file with the board and serve upon the
16 petitioner a response to the petition for rehearing.

17 Within 90 days after service of notice of filing of a petition for
18 rehearing, the board shall either grant or deny the petition in whole
19 or in part. Failure to act upon a petition for rehearing within this
20 90-day period is a denial of the petition.

21 ~~SEC. 85.~~ Section 19600 of the Government Code is amended
22 to read:

23 ~~19600.~~ ~~The department may, directly or through agreement or~~
24 ~~contract with one or more appointing authorities and other public~~
25 ~~and private organizations, conduct and evaluate demonstration~~
26 ~~projects.~~

27 ~~Nothing in this section shall infringe upon or conflict with the~~
28 ~~merit principle as embodied in Article VII of the California~~
29 ~~Constitution, nor shall any project undertaken pursuant to this act~~
30 ~~conflict with, or infringe upon the merit principles of the civil~~
31 ~~service system.~~

32 ~~Subject to the provisions of this section, the conducting of~~
33 ~~demonstration projects shall not be limited by any lack of specific~~
34 ~~authority under this code to take the action contemplated, or by~~
35 ~~any provision of this code or any rule or regulation prescribed~~
36 ~~under this code which is inconsistent with the action, including~~
37 ~~any law or regulation relating to any of the following:~~

38 ~~(a) The methods of establishing qualification requirements for,~~
39 ~~recruitment for, and appointment to positions.~~

1 ~~(b) The methods of classifying positions and compensating~~
2 ~~employees.~~

3 ~~(c) The methods of assigning, reassigning, or promoting~~
4 ~~employees.~~

5 ~~(d) The methods of disciplining employees.~~

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

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

9 ~~(g) The methods of involving employees, labor organizations,~~
10 ~~and employee organizations in personnel decisions.~~

11 ~~(h) The methods of reducing overall agency staff and grade~~
12 ~~levels.~~

13 ~~SEC. 86. Section 19600.1 of the Government Code is amended~~
14 ~~to read:~~

15 ~~19600.1. "Demonstration project" means a project conducted~~
16 ~~by the department, or under its supervision, to determine whether~~
17 ~~a specified change in personnel management policies or procedures~~
18 ~~would result in improved state personnel management.~~

19 ~~SEC. 87.~~

20 ~~SEC. 77. Section 19630 of the Government Code is amended~~
21 ~~to read:~~

22 ~~19630. An action or proceeding shall not be brought by any~~
23 ~~person having or claiming to have a cause of action or complaint~~
24 ~~or ground for issuance of any complaint or legal remedy for wrongs~~
25 ~~or grievances based on or related to any civil service law in this~~
26 ~~state, unless that action or proceeding is commenced and served~~
27 ~~within one year after the cause of action or complaint or ground~~
28 ~~for issuance of any writ or legal remedy first arose. The person~~
29 ~~shall not be compensated for the time subsequent to the date when~~
30 ~~the cause or ground arose unless that action or proceeding is filed~~
31 ~~and served within 90 days after the cause or ground first arose.~~
32 ~~Any petition for a writ challenging a decision of the board shall~~
33 ~~be filed within six months of the date of the final decision of the~~
34 ~~board.~~

35 ~~This section shall not be applicable to any action or proceeding~~
36 ~~for the collection of salary or wage, the amount of which is not~~
37 ~~disputed by the state agency owing that salary or wage.~~

38 ~~SEC. 88.~~

39 ~~SEC. 78. Section 19680 of the Government Code is amended~~
40 ~~to read:~~

1 19680. It is unlawful for any person:

2 (a) Willfully by himself or herself, or in cooperation with
3 another person to defeat, deceive, or obstruct any person with
4 respect to his or her right of examination, application, or
5 employment under this part or rule.

6 (b) Willfully and falsely to mark, grade, estimate, or report upon
7 the examination or proper standing of any person examined or
8 certified under this part or rule, or to aid in so doing, or make any
9 false representation concerning the same or the person examined.

10 (c) Willfully to furnish to any person any special or secret
11 information for the purpose of either improving or injuring the
12 prospects or chances of any person examined, certified, or to be
13 examined or certified under this part or rule.

14 ~~SEC. 89.~~

15 *SEC. 79.* Section 19682 of the Government Code is amended
16 to read:

17 19682. Every person who violates any provision of this chapter
18 is guilty of a misdemeanor. In accordance with Section 19683,
19 action may be taken by the appointing power, the department, or
20 the executive officer of the board may file charges, against a state
21 employee who violates any provisions of this chapter.

22 ~~SEC. 90.~~

23 *SEC. 80.* Section 19703 of the Government Code is amended
24 to read:

25 19703. A recommendation, question, or inquiry under this part
26 shall not relate to the political or religious opinions or affiliations
27 of any person, and an appointment to, change in, or removal from
28 any position under this part or by rule shall not be in any manner
29 affected or influenced by such opinions or affiliations.

30 ~~SEC. 91.~~

31 *SEC. 81.* Section 19763 of the Government Code is amended
32 to read:

33 19763. If the department notifies an officer or employee that
34 any position has been filled in violation of this part or rule,
35 demands for the salary or compensation or other emolument of
36 the position shall not be approved or paid by such officer or
37 employee except upon the order of a court of competent
38 jurisdiction.

1 ~~SEC. 92.~~

2 *SEC. 82.* Section 19764 of the Government Code is amended
3 to read:

4 19764. Every person who makes a payment of salary,
5 compensation, or other emolument to any person holding a position
6 in the state civil service in violation of this part or rule and any
7 officer or employee who signs, countersigns, or authorizes the
8 signing or countersigning of any warrant for such a payment and
9 the sureties on their official bonds is liable to the State of California
10 therefor. An action to recover such a payment may be maintained
11 in any court of competent jurisdiction of this state, in the name of
12 the people of the state by the Attorney General or by a resident
13 citizen, who is assessed for and is liable to pay, or, within one year
14 before the commencement of such action, has paid a tax in this
15 state.

16 ~~SEC. 93.~~

17 *SEC. 83.* Section 19770 of the Government Code is amended
18 to read:

19 19770. (a) With the exception of Chapter 7.5 (commencing
20 with Section 400) of Part 1 of Division 2 of the Military and
21 Veterans Code, this part, rather than provisions of the Military and
22 Veterans Code, governs leave for military service, rights and
23 benefits accrued during that service, and reinstatement after that
24 service, for executive branch employees.

25 (b) For the purposes of this chapter:

26 (1) “Employee” means that term as defined by subdivision (d)
27 of Section 19815.

28 (2) “Civil service employee” means an employee legally holding
29 a position in the state civil service.

30 (3) “Exempt employee” means an employee who is exempt
31 from the state civil service by Section 4 of Article VII of the
32 California Constitution.

33 ~~SEC. 94.~~

34 *SEC. 84.* Section 19775 of the Government Code is amended
35 to read:

36 19775. An employee who is granted a long-term military leave
37 of absence and who for a period of not less than one year
38 immediately prior to the effective date active duty begins has had
39 continuous state service as defined by rule which is not broken by
40 a permanent separation shall be entitled to receive his or her salary

1 or compensation for the first 30 calendar days of active duty served
2 during the absence.

3 ~~SEC. 95.~~

4 *SEC. 85.* Section 19775.1 of the Government Code is amended
5 to read:

6 19775.1. An employee who is granted a short-term military
7 leave of absence for active military duty, but not for inactive duty,
8 including, but not limited to, scheduled reserve drill periods, and
9 who for a period of not less than one year immediately prior to the
10 effective date of active duty has had continuous state service as
11 defined by rule that is not broken by a permanent separation, or
12 who has had continuous state service immediately prior to the
13 effective date of active duty not broken by a permanent separation
14 and sufficient recognized military service that need not be
15 contiguous to equal one year shall be entitled to receive his or her
16 salary or compensation for the first 30 calendar days of active duty
17 served during the absence.

18 An employee who is granted emergency military leave under
19 Section 19773, shall receive his or her salary or compensation as
20 a state employee while going to, engaging in, and returning from
21 the duty. The employee shall not receive his or her salary or
22 compensation for more than 30 days each time he or she is granted
23 the emergency military leave.

24 ~~SEC. 96.~~

25 *SEC. 86.* Section 19775.8 of the Government Code is amended
26 to read:

27 19775.8. Except as provided in Section 19781, when any person
28 successfully completes part of an open or promotional examination
29 but is unable to complete all portions thereof because of entry into
30 recognized military service, the department or designated
31 appointing authority shall arrange for him or her to take such
32 uncompleted portion of the examination, providing application is
33 made not later than six months after his or her release from military
34 service. Such right to complete an examination shall not continue
35 for longer than five years after the date of the examination.

36 If the applicant passes the examination, his or her name shall be
37 placed on the eligible list that resulted from the original
38 examination as the list stands at the time his or her name is placed
39 thereon, provided if his or her rating is sufficiently high for his or
40 her name to have been included on a certification to a permanent

1 position while he or she was in the military service had his or her
2 name been on the list when originally established, his or her
3 eligibility shall be established, notwithstanding the removal of
4 names from the original list, pursuant to Section 18901. He or she
5 shall retain his or her place on such list for three years from the
6 termination of his or her service with the Armed Forces. A name
7 thus retained on a list beyond the time other names are removed
8 from the list, pursuant to Section 18901, shall be removed if the
9 person refuses to accept appointment to a permanent position after
10 certification thereto subsequent to his or her discharge from the
11 Armed Forces.

12 ~~SEC. 97.~~

13 *SEC. 87.* Section 19775.9 of the Government Code is amended
14 to read:

15 19775.9. An individual on military leave from either a state
16 civil service position held under duration appointment, a position
17 held under an exempt appointment but included in the state civil
18 service prior to his or her release from military service, or a
19 position in any federal or other public agency, the functions of
20 which were transferred to the state prior to his or her release from
21 military service, who would be eligible for reinstatement or
22 restoration to his or her position pursuant to Sections 19780 and
23 19782, shall be permitted to take any regular examination held
24 while he or she was in the military service, or on military leave,
25 for the class in which he or she had such appointment and for
26 which he or she had the minimum qualifications required of
27 applicants when the examination originally was given, within five
28 years of the date of the original examination. The department or
29 designated appointing authority shall arrange for him or her to take
30 the identical examination if application is made not later than six
31 months after his or her release from military service or six months
32 after the effective date thereof, whichever is later. If the applicant
33 passes the examination, his or her name shall be placed on the
34 eligible list that resulted from the original examination as the list
35 stands at the time his or her name is placed thereon. If his or her
36 rating is sufficiently high for his or her name to have been included
37 on a certification to a permanent position while he or she was in
38 the military service had his or her name been on the list when
39 originally established, his or her eligibility shall be established,
40 notwithstanding the removal of names from the original list

1 pursuant to Section 18901. He or she shall retain his or her place
2 on such list for three years from the termination of his or her
3 service with the Armed Forces or one year from the date such
4 eligibility is established, whichever is later, if his or her rating is
5 sufficiently high for his or her name to have been included on a
6 certification to a permanent position while he or she was in
7 recognized military service had his or her name been on the list
8 when originally established. A name thus retained on a list, beyond
9 the time other names are removed from the list pursuant to the
10 provisions of Section 18901, shall be removed if the person refuses
11 to accept appointment to a permanent position after certification
12 thereto subsequent to his or her discharge from the Armed Forces.

13 ~~SEC. 98.~~

14 *SEC. 88.* Section 19776 of the Government Code is amended
15 to read:

16 19776. If a promotional examination was held while an
17 employee was on military leave that he or she would otherwise
18 have been entitled to take, the employee shall be eligible to take
19 the identical promotional examination within five years of the date
20 of the original examination. The department or designated
21 appointing authority shall arrange for him or her to take the
22 examination within a reasonable time, provided application is made
23 not later than six months after his or her reinstatement from military
24 leave. If the employee qualifies in the examination, his or her name
25 shall be placed on the open and promotional list that resulted from
26 the original examination, as the list stands at the time his or her
27 name is placed thereon. If his or her rating is sufficiently high for
28 his or her name to have been included on a certification to a
29 permanent position while he or she was in the military service had
30 his or her name been on the list when originally established, his
31 or her eligibility shall be established, notwithstanding the removal
32 of names from the original list pursuant to Section 18901. He or
33 she shall retain his or her place on the list for three years from the
34 termination of his or her service with the Armed Forces or one
35 year from the date the eligibility is established, whichever is later.
36 A name thus retained on a list, beyond the time other names are
37 removed from the list pursuant to Section 18901, shall be removed
38 if the person refuses to accept appointment to a permanent position
39 after certification thereto subsequent to his or her discharge from
40 the Armed Forces, or if he or she resigns from state service.

1 ~~SEC. 99.~~

2 *SEC. 89.* Section 19786 of the Government Code is amended
3 to read:

4 19786. (a) When a civil service employee has been reinstated
5 after military service in accordance with Section 19780, and any
6 question arises relative to his or her ability or inability for any
7 reason arising out of the military service to perform the duties of
8 the position to which he or she has been reinstated, the board shall,
9 upon the request of the appointing power or of the employee, hear
10 the matter and may on its own motion or at the request of either
11 party take any and all necessary testimony of every nature
12 necessary to a decision on the question.

13 (b) If the board finds that the employee is not able for any reason
14 arising out of the military service to carry out the usual duties of
15 the position he or she then holds, it shall order the employee placed
16 in a position in which the board finds he or she is capable of
17 performing the duties in the same class or a comparable class in
18 the same or any other state department, bureau, board, commission,
19 or office under this part and the rules covering transfer of an
20 employee from a position under the jurisdiction of one appointing
21 power to a position under the jurisdiction of another appointing
22 power, without the consent of the appointing powers, where a
23 vacancy may be made available to him or her under this part and
24 the rules, but in no event shall the transfer constitute a promotion
25 within the meaning of this part and the rules.

26 (c) If a layoff is made necessary to place a civil service employee
27 in a position in the same class or a comparable class in accordance
28 with this section, the layoff shall be made under Section 19997.3,
29 provided that no civil service employee who was employed prior
30 to September 16, 1940, shall be laid off as a result of the placing
31 of an employee in the same class or a comparable class under this
32 section.

33 (d) The board may order the civil service employee reinstated
34 to the department, bureau, board, commission, or office from which
35 he or she was transferred either upon request of the employee or
36 the appointing power from which transferred. The reinstatement
37 may be made after a hearing as provided in this section if the board
38 finds that the employee is at the time of the hearing able to perform
39 the duties of the position.

1 ~~SEC. 100.~~ Section 19793 of the Government Code is amended
2 to read:

3 ~~19793.~~ By November 15 of each year, the department shall
4 either submit to the Governor, the Legislature, and the Department
5 of Finance a census report that shall include demographic
6 information on employees in the state civil service collected
7 pursuant to Section 19792 or post the data on its public Internet
8 Web site. The Legislature shall evaluate the equal employment
9 opportunity efforts of state agencies during its evaluation of the
10 Budget Bill.

11 ~~SEC. 101.~~

12 ~~SEC. 90.~~ Section 19798 of the Government Code is amended
13 to read:

14 19798. In establishing order and subdivisions of layoff and
15 reemployment, the department, when it finds past discriminatory
16 hiring practices, may authorize modification of the order of layoff
17 only if failure to do so would result in ineligibility for a federal
18 program with a loss of federal funds or if required by federal law
19 or the United States Constitution.

20 ~~SEC. 102.~~

21 ~~SEC. 91.~~ Section 19800 of the Government Code is amended
22 to read:

23 19800. The Department of Human Resources is hereby vested
24 with the jurisdiction and responsibility of establishing and
25 maintaining personnel standards on a merit basis and administering
26 merit systems for local government agencies where such merit
27 systems of employment are required by statute or regulation as a
28 condition of a state-funded program or a federal grant-in-aid
29 program established under federal laws, including, but not limited
30 to: the Social Security Act, as amended; the Public Health Service
31 Act; and the Federal Civil Defense Act, as amended.

32 ~~SEC. 103.~~

33 ~~SEC. 92.~~ Section 19801 of the Government Code is amended
34 to read:

35 19801. For the purposes of administration of state or federally
36 supported programs under Section 19800, the department shall,
37 by regulation, establish and maintain personnel standards on a
38 merit basis for local agencies (including standards of qualifications,
39 competency, education, experience, tenure, and compensation)

1 necessary for proper and efficient administration, and to ensure
2 state conformity with applicable federal requirements.

3 ~~SEC. 104.~~

4 *SEC. 93.* Section 19802 of the Government Code is amended
5 to read:

6 19802. Nothing in this chapter shall prevent any local agency
7 from establishing its own merit system and determining thereunder
8 the personnel standards to be applicable to its employees, but as
9 to employees engaged in administering state and federally
10 supported programs under Section 19800, such local systems and
11 standards shall be subject to approval and review by the department
12 to the extent necessary to qualify for federal funds.

13 ~~SEC. 105.~~

14 *SEC. 94.* Section 19802.5 of the Government Code is amended
15 to read:

16 19802.5. Notwithstanding Sections 19801 and 19803, and after
17 the department approves the memorandum of understanding
18 standards, the department may waive administration of all or part
19 of a local agency merit system where administration of merit
20 system standards, including, but not limited to, certification,
21 appointment and other transactions, layoff and reinstatement,
22 position classifications, compensation standards, and disciplinary
23 action are established pursuant to a legally binding memorandum
24 of understanding negotiated between the local agency governing
25 board and an employee organization recognized pursuant to
26 applicable law representing employees engaged in federally
27 supported programs under Section 19800. Upon request of the
28 local agency governing board and the recognized employee
29 organization, such waivers shall be granted on any or all standards
30 following determination by the department that the provisions of
31 the memorandum of understanding maintain merit system standards
32 to the extent necessary to qualify for federal funds. All merit system
33 standards waivers shall be subject to periodic audit, approval, or
34 revocation by the department. Upon revocation of a waiver, the
35 department may require any additional information as a condition
36 of waiver reinstatement.

37 ~~SEC. 106.~~

38 *SEC. 95.* Section 19803 of the Government Code is amended
39 to read:

1 19803. The merit system for employees engaged in
2 administering programs under Section 19800 in a local agency not
3 administering its own merit system approved under this chapter
4 shall be administered by the department. The department may
5 delegate any of its duties under this article to a state department
6 or agency. This may include, but is not limited to, recruitment,
7 examination, certification, appointment and other transactions,
8 position classification, compensation standards, and disciplinary
9 actions. As part of such administration, the department shall hear
10 and decide appeals of any applicant for employment or officer or
11 employee from the decision of a local agency affecting the
12 employment rights of such persons. Any decision rendered in such
13 an appeal shall be binding upon the local agency.

14 The department may bill the state departments having
15 responsibility for the overall administration of grant-in-aid
16 programs for the costs incurred in conducting hearings involving
17 employees of local agencies not administering their own merit
18 systems pursuant to this chapter.

19 ~~SEC. 107.~~

20 *SEC. 96.* Section 19804 of the Government Code is amended
21 to read:

22 19804. In the exercise of functions under this chapter, the
23 department shall exercise no authority with respect to the selection,
24 tenure of office, and compensation of any individual employed in
25 accordance with established standards.

26 ~~SEC. 108.~~

27 *SEC. 97.* Section 19805 of the Government Code is amended
28 to read:

29 19805. The department shall establish and administer
30 procedures, including provisions for investigations and hearings,
31 to determine whether a particular merit system is in conformity
32 with the standards established or approved by the department
33 pursuant to Section 19801. In conducting any hearing provided by
34 such procedures, or in conducting an appeal hearing under Section
35 19803, the department shall have the same authority as it does in
36 conducting hearings pursuant to Section 19815.

37 ~~SEC. 109.~~

38 *SEC. 98.* Section 19806 of the Government Code is amended
39 to read:

1 19806. When the department, after hearing, determines that a
2 local merit system is not in conformity with the established
3 standards, it shall notify such local agency and appropriate state
4 officer in writing of its decision. If the governing body of the local
5 agency does not bring the system into conformity within 60 days
6 of notification of the department's decision, or within such longer
7 period as the department determines, the department shall certify
8 to the state officer having responsibility for the overall
9 administration of the program, pursuant to which the grant-in-aid
10 requiring such merit system was made, that the particular merit
11 system is not in conformity with established standards.

12 ~~SEC. 110.~~

13 *SEC. 99.* Section 19807 of the Government Code is amended
14 to read:

15 19807. Notwithstanding any other law, upon receiving
16 certification of the department, pursuant to Section 19806, the
17 appropriate state officer shall take such action against the local
18 agency as permitted by law or as necessary to obtain compliance
19 without an additional administrative hearing being held by such
20 officer.

21 ~~SEC. 111.~~

22 *SEC. 100.* Section 19808 of the Government Code is amended
23 to read:

24 19808. Local agencies shall provide such information and
25 reports relating to merit system administration as are required by
26 the department.

27 ~~SEC. 112.~~

28 *SEC. 101.* Section 19809 of the Government Code is amended
29 to read:

30 19809. State departments having responsibility for the overall
31 administration of grant-in-aid programs under Section 19800 shall
32 reimburse the department for all costs incurred by the department
33 in administering this chapter. The department may equitably prorate
34 such costs among such departments.

35 ~~SEC. 113.~~

36 *SEC. 102.* Section 19811 is added to the Government Code,
37 to read:

38 19811. (a) To the extent that any regulations adopted to make
39 specific or to carry out the provisions of this article are in conflict
40 with the amendments made to this article or become outdated at

1 any time due to a change in federal or state program requirements,
2 the regulations shall be repealed.

3 (b) The Legislature further finds and declares that regulations
4 interpreting and making specific this article are only necessary if
5 the regulations are required by federal law.

6 (c) Requirements imposed on local agencies pursuant to this
7 article shall not be considered regulations or standards of general
8 application and shall not impose any duty on the department to
9 adopt regulations.

10 ~~SEC. 114.~~

11 ~~SEC. 103.~~ Section 19815 of the Government Code is amended
12 to read:

13 19815. As used in this part:

14 (a) "Department" means the Department of Human Resources.

15 (b) "Director" means the Director of the Department of Human
16 Resources.

17 (c) "Division" means the Division of Labor Relations.

18 (d) "Employee" or "state employee," except where otherwise
19 indicated, means employees subject to the Ralph C. Dills Act
20 (Chapter 10.3 (commencing with Section 3512), Division 4, Title
21 1), supervisory employees as defined in subdivision (g) of Section
22 3513, managerial employees as defined in subdivision (e) of
23 Section 3513, confidential employees as defined in subdivision
24 (f) of Section 3513, employees of the Legislative Counsel Bureau,
25 employees of the Bureau of State Audits, employees of the office
26 of the Inspector General, employees of the Public Employment
27 Relations Board, conciliators employed by the California State
28 Mediation and Conciliation Service, employees of the Department
29 of Human Resources, professional employees of the Department
30 of Finance engaged in technical or analytical state budget
31 preparation other than audit staff, intermittent athletic inspectors
32 who are employees of the State Athletic Commission, professional
33 employees in the Personnel/Payroll Services Division of the
34 Controller's office, and all employees of the executive branch of
35 government who are not elected to office.

36 ~~SEC. 115.~~ ~~Section 19815.4 of the Government Code is amended~~
37 ~~to read:~~

38 ~~19815.4. The director shall do all of the following:~~

39 ~~(a) Be responsible for the management of the department.~~

40 ~~(b) Administer and enforce the laws pertaining to personnel.~~

1 ~~(e) Observe and report to the Governor on the conditions of all~~
2 ~~matters in the jurisdiction of the department.~~

3 ~~(d) Formulate, adopt, amend, or repeal rules, regulations, and~~
4 ~~general policies affecting the purposes, responsibilities, and~~
5 ~~jurisdiction of the department pursuant to procedures established~~
6 ~~by Chapter 4 (commencing with Section 18210) of Part 1.~~

7 ~~All regulations relating to personnel administration heretofore~~
8 ~~adopted pursuant to this part, and in effect on the operative date~~
9 ~~of this part, shall remain in effect and shall be fully enforceable~~
10 ~~unless and until readopted, amended, or repealed by the director.~~

11 ~~(e) Hold hearings, subpoena witnesses, administer oaths, and~~
12 ~~conduct investigations concerning all matters relating to the~~
13 ~~department's jurisdiction.~~

14 ~~(f) Act on behalf of the department and delegate powers to any~~
15 ~~authorized representative.~~

16 ~~(g) Serve as the Governor's designated representative pursuant~~
17 ~~to Section 3517.~~

18 ~~(h) Perform any other duties that may be prescribed by law, and~~
19 ~~any other administrative and executive duties that have by other~~
20 ~~law been previously imposed.~~

21 ~~SEC. 116.~~

22 ~~SEC. 104.~~ Section 19815.6 of the Government Code is amended
23 to read:

24 19815.6. (a) Notwithstanding the provisions of Sections 11042
25 and 11043, the chief counsel shall represent the department in all
26 legal matters in which the department is interested, before any
27 administrative agency or court of law.

28 (b) The department may charge state agencies and departments
29 for the actual and necessary costs of legal services rendered by the
30 legal division in unfair practice cases, representation cases, and
31 requests for injunctive relief arising pursuant to Chapter 10.3
32 (commencing with Section 3512) of Division 4 of Title 1, in
33 grievance arbitration cases arising under negotiated memoranda
34 of understanding, and in all labor law and personnel matters.

35 (c) In grievance arbitration cases arising pursuant to memoranda
36 of understanding negotiated pursuant to Sections 3517 and 3517.5,
37 the department may charge state agencies involved for the actual
38 and necessary costs of arbitration, including the state's share of
39 the arbitrator's fees, transcription fees, and other related costs.

1 (d) The department may charge state agencies for their pro rata
2 share of the actual and necessary costs of negotiating and
3 administering memoranda of understanding pursuant to Sections
4 3517 and 3517.5.

5 ~~SEC. 117.~~

6 *SEC. 105.* Section 19816 of the Government Code is repealed.

7 ~~SEC. 118.~~

8 *SEC. 106.* Section 19816.6 of the Government Code is amended
9 to read:

10 19816.6. All officers and employees of the State Personnel
11 Board and the Department of Personnel Administration, who, on
12 the operative date of this part, are serving in the state civil service,
13 other than as temporary employees, and engaged in the
14 performance of a function vested in the department shall be
15 transferred to the department. The status, positions, and rights of
16 these persons shall not be affected by the transfer and shall be
17 retained by them as officers and employees of the department
18 pursuant to the State Civil Service Act, except as to positions
19 exempt from civil service.

20 ~~SEC. 119.~~

21 *SEC. 107.* Section 19816.12 of the Government Code is
22 amended to read:

23 19816.12. The department shall establish and maintain in
24 suitable form an official roster of all persons holding positions
25 under this part and enter thereupon their names, complete record
26 of state employment, and other facts prescribed by rule.

27 ~~SEC. 120.~~

28 *SEC. 108.* Section 19818.2 of the Government Code is repealed.

29 ~~SEC. 121.~~

30 *SEC. 109.* Section 19818.4 of the Government Code is repealed.

31 ~~SEC. 122.~~

32 *SEC. 110.* Section 19818.14 of the Government Code is
33 amended to read:

34 19818.14. The department may designate an appointing power
35 to allocate positions to the Personnel Classification Plan in
36 accordance with Section 19818.6 and department rule. The
37 department may audit position allocations. If the department finds
38 that an appointing power has allocated positions inappropriately,
39 the department may order corrective action, including, but not
40 limited to, reallocating positions, voiding lawful personal

1 transactions, and revoking or restricting the appointing power's
2 ability to allocate positions. If an appointing power's allocation
3 authority is revoked, the Department of Finance may transfer a
4 sufficient number of personnel from the appointing power to the
5 department to perform the previously delegated work.

6 ~~SEC. 123.~~

7 *SEC. 111.* Section 19822.5 of the Government Code is amended
8 to read:

9 19822.5. The department shall by rule authorize such
10 expenditures as are reasonably necessary for the meals, lodging,
11 or travel of persons who provide nonsalaried assistance to the
12 department or a designated appointing power in the preparation
13 or conduct of written or oral examinations.

14 ~~SEC. 124.~~

15 *SEC. 112.* Section 19822.7 of the Government Code is amended
16 to read:

17 19822.7. (a) There is hereby created in the State Treasury the
18 Work and Family Fund to which funds shall be allocated from the
19 amount negotiated in memoranda of understanding between the
20 state and the recognized employee organization, as defined in
21 Section 3513, and appropriated by the Legislature, for the 2000–01
22 fiscal year and subsequent fiscal years.

23 (b) The fund shall be used to establish and maintain work and
24 family programs for state employees. These programs may include,
25 but are not limited to, financial assistance to aid in the development
26 of child care centers administered by either nonprofit corporations
27 formed by state employees or child care providers, or to provide
28 grants, subsidies, or both grants and subsidies for child care and
29 elder care. Other programs may include enhancement or
30 supplementation of existing employee assistance program services
31 and other work and family programs.

32 (c) The fund shall be administered by the Department of Human
33 Resources. The amounts to be allocated and expended from funds
34 available for compensation shall be determined by the department.

35 (d) Notwithstanding Section 13340, the fund shall be available
36 for expenditure without regard to fiscal years through June 30,
37 2005. As of June 30, 2005, the fund shall cease to exist and any
38 balance in the fund shall revert to the General Fund, unless the
39 existence of the fund is extended by statute and that statute is
40 enacted and becomes effective prior to June 30, 2005.

1 ~~SEC. 125. Section 19889 of the Government Code is amended~~
2 ~~to read:~~

3 ~~19889. It is the purpose of this article to encourage the~~
4 ~~development and effective use in the civil service of well-qualified~~
5 ~~and carefully selected executives. In order to carry out this purpose~~
6 ~~the State Personnel Board shall establish rules for competitive~~
7 ~~examinations of candidates for the classification of career executive~~
8 ~~assignment. The department or a designated appointing authority~~
9 ~~shall be responsible for conducting examinations, salary~~
10 ~~administration, position classification, and for the motivation and~~
11 ~~training of executive personnel.~~

12 ~~SEC. 126. Section 19889.2 of the Government Code is amended~~
13 ~~to read:~~

14 ~~19889.2. The provisions of this part governing the selection,~~
15 ~~classification, and tenure of employees in the regular civil service~~
16 ~~shall not apply to employees in the case of career executive~~
17 ~~assignment except as provided by this article. The provisions of~~
18 ~~Chapter 7 (commencing with Section 19570) of Part 2 relating to~~
19 ~~adverse actions shall apply to employees serving in career executive~~
20 ~~assignments, except that termination of a career executive~~
21 ~~assignment as provided for in Section 19889.3 is not an adverse~~
22 ~~action. With reference to termination of career executive~~
23 ~~assignments, the State Personnel Board rules shall, as a minimum,~~
24 ~~afford an employee a right of appeal to the State Personnel Board~~
25 ~~for restoration of his or her assignment when he or she alleges that~~
26 ~~his or her termination was for reasons prohibited in Chapter 10~~
27 ~~(commencing with Section 19680) of Part 2.~~

28 ~~SEC. 127. Section 19889.3 of the Government Code is amended~~
29 ~~to read:~~

30 ~~19889.3. (a) Eligibility for appointment the class of career~~
31 ~~executive category shall be limited to persons with permanent~~
32 ~~status in the civil service who meet the minimum qualifications~~
33 ~~established for the class.~~

34 ~~(b) No person employed in a career executive assignment shall~~
35 ~~be deemed to acquire as a result of that service any rights to or~~
36 ~~status in positions governed by the provisions of this part relating~~
37 ~~to the civil service other than the category of career executive~~
38 ~~assignment, except as provided by rule.~~

39 ~~(c) Anyone appointed to the classification of career executive~~
40 ~~assignment shall, at the termination of his or her appointment to~~

1 a career executive assignment, be reinstated to a civil service
2 position that is (1) not a career executive assignment and (2) that
3 is at least at the same salary level as the last position that he or she
4 held as a permanent or probationary employee. If the employee
5 has completed a minimum of five years of state service, he or she
6 may return to a position that is (1) at substantially the same salary
7 level as the last position in which he or she had permanent or
8 probationary status or (2) at a salary level that is at least two steps
9 lower than that of the career executive position from which the
10 employee is being terminated.

11 (d) For the purpose of this section “employee” means a
12 permanent employee, or an employee serving under another
13 appointment who previously had permanent status and who, since
14 such permanent status, has had no break in the continuity of his
15 or her state service.

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

17 ~~SEC. 128.~~

18 *SEC. 113.* Section 19889.4 of the Government Code is repealed.

19 ~~SEC. 129.~~

20 *SEC. 114.* Section 13601 of the Penal Code is amended to read:

21 13601. (a) The CPOST shall develop, approve, and monitor
22 standards for the selection and training of state correctional peace
23 officer apprentices. Any standard for selection established under
24 this subdivision shall be subject to approval by the Department of
25 Human Resources. Using the psychological and screening standards
26 approved by the Department of Human Resources, the Department
27 of Human Resources or the Department of Corrections and
28 Rehabilitation shall ensure that, prior to training, each applicant
29 who has otherwise qualified in all physical and other testing
30 requirements to be a peace officer in either a youth or adult
31 correctional facility, is determined to be free from emotional or
32 mental conditions that might adversely affect the exercise of his
33 or her duties and powers as a peace officer pursuant to the standards
34 developed by CPOST.

35 (b) The CPOST may approve standards for a course in the
36 carrying and use of firearms for correctional peace officers that is
37 different from that prescribed pursuant to Section 832. The
38 standards shall take into consideration the different circumstances
39 presented within the institutional setting from that presented to
40 other law enforcement agencies outside the correctional setting.

1 (c) Notwithstanding Section 3078 of the Labor Code, the length
 2 of the probationary period for correctional peace officer apprentices
 3 shall be determined by the CPOST subject to approval by the State
 4 Personnel Board, pursuant to Section 19170 of the Government
 5 Code.

6 (d) The CPOST shall develop, approve, and monitor standards
 7 for advanced rank-and-file and supervisory state correctional peace
 8 officer and training programs for the Department of Corrections
 9 and Rehabilitation. When a correctional peace officer is promoted
 10 within the department, he or she shall be provided with and be
 11 required to complete these secondary training experiences.

12 (e) The CPOST shall develop, approve, and monitor standards
 13 for the training of state correctional peace officers in the department
 14 in the handling of stress associated with their duties.

15 (f) Toward the accomplishment of the objectives of this act, the
 16 CPOST may confer with, and may avail itself of the assistance
 17 and recommendations of, other state and local agencies, boards,
 18 or commissions.

19 (g) Notwithstanding the authority of the CPOST, the department
 20 shall design and deliver training programs, shall conduct validation
 21 studies, and shall provide program support. The CPOST shall
 22 monitor program compliance by the department.

23 (h) The CPOST may disapprove any training courses created
 24 by the department pursuant to the standards developed by CPOST
 25 if it determines that the courses do not meet the prescribed
 26 standards.

27 (i) The CPOST shall annually submit an estimate of costs to
 28 conduct those inquiries and audits as may be necessary to determine
 29 whether the department and each of its institutions and parole
 30 regions are adhering to the standards developed by the CPOST,
 31 and shall conduct those inquiries and audits consistent with the
 32 annual Budget Act.

33 (j) The CPOST shall establish and implement procedures for
 34 reviewing and issuing decisions concerning complaints or
 35 recommendations from interested parties regarding the CPOST
 36 rules, regulations, standards, or decisions.

37 (k) This section shall become operative July 1, 2012.

38 *SEC. 115. Section 10605 of the Welfare and Institutions Code*
 39 *is amended to read:*

1 10605. (a) If the director believes that a county is substantially
2 failing to comply with any provision of this code or any regulation
3 pertaining to any program administered by the department, and
4 the director determines that formal action may be necessary to
5 secure compliance, he or she shall inform the county welfare
6 director and the board of supervisors of that failure. The notice to
7 the county welfare director and board of supervisors shall be in
8 writing and shall allow the county a specified period of time, not
9 less than 30 days, to correct its failure to comply with the law or
10 regulations. If within the specified period the county does not
11 comply or provide reasonable assurances in writing that it will
12 comply within the additional time as the director may allow, the
13 director may take one or both of the following actions:

14 (1) Bring an action for injunctive relief to secure immediate
15 compliance.

16 Any county that is found to be failing to substantially comply
17 with the law or regulations pertaining to any program administered
18 by the department may be enjoined by any court of competent
19 jurisdiction. The court may make orders or judgments as may be
20 necessary to secure county compliance.

21 (2) Order the county to appear at a hearing before the director
22 to show cause why the director should not take administrative
23 action to secure compliance. The county shall be given at least 30
24 days' notice of the hearing. The director shall consider the case
25 on the record established at the hearing and, within 30 days, shall
26 render proposed findings and a proposed decision on the issues.
27 The proposed findings and decisions shall be submitted to the
28 county, and the county shall have the opportunity to appear within
29 10 days, at a time and place as may be determined by the director,
30 for the purpose of presenting oral arguments respecting the
31 proposed findings and decisions. Thereupon, the director shall
32 make final findings and issue a final administrative decision.

33 (b) If the director determines, based on the record established
34 at the hearing pursuant to paragraph (2) of subdivision (a), that the
35 county is failing to comply with laws or regulations pertaining to
36 any program administered by the department, or if the ~~State~~
37 ~~Personnel Board~~ *Department of Human Resources* certifies to the
38 director that a county is not in conformity with established merit
39 system standards under Part 2.5 (commencing with Section 19800)
40 of Division 5 of Title 2 of the Government Code, and that

1 administrative sanctions are necessary to secure compliance, the
2 director may invoke either of the following sanctions, except that
3 the sanctions shall not be invoked concurrently:

4 (1) Except for child welfare services programs, withhold all or
5 part of state and federal funds from the county until the county
6 demonstrates to the director that it has complied.

7 (2) (A) Assume, temporarily, direct responsibility for the
8 administration of all or part of any or all programs administered
9 by the department in the county until the time as the county
10 provides reasonable written assurances to the director of its
11 intention and ability to comply. During the period of direct state
12 administrative responsibility, the director or his or her authorized
13 representative shall have all of the powers and responsibilities of
14 the county director, except that he or she shall not be subject to
15 the authority of the board of supervisors.

16 (B) (i) In the event that the director invokes sanctions pursuant
17 to this section, the county shall be responsible for providing any
18 funds as may be necessary for the continued operation of all
19 programs administered by the department in the county. If a county
20 fails or refuses to provide these funds, including a sufficient amount
21 to reimburse any and all costs incurred by the department in
22 directly administering any program in the county, the Controller
23 may deduct an amount certified by the director as necessary for
24 the continued operation of these programs by the department from
25 any state or federal funds payable to the county for any purpose.

26 (ii) In the event of a state-imposed sanction, the amount of the
27 sanction shall be no greater than the amount of county funds that
28 the county would be required to contribute to fully match the state
29 General Fund allocation for the particular program or programs
30 for which the county is being sanctioned for those programs that
31 are not Public Safety Programs realigned pursuant to 2011
32 realignment legislation.

33 (iii) In the event of a state-imposed sanction pursuant to this
34 paragraph for the Public Safety Programs realigned pursuant to
35 2011 realignment legislation that are administered by the
36 Department of Social Services, the amount of the sanction shall
37 be no greater than the amount of funding originally provided to
38 the county in the 2011–12 fiscal year for the particular program
39 from the Protective Services Subaccount within the Support
40 Services Account of the Local Revenue Fund 2011, as adjusted

1 by the county's share of the additional incremental funding
2 provided pursuant to paragraph (2) of subdivision (f) of Section
3 30027.5 of, paragraph (2) of subdivision (f) of Section 30027.6
4 of, paragraph (2) of subdivision (f) of Section 30027.7 of, and
5 paragraph (2) of subdivision (f) of Section 30027.8 of, the
6 Government Code, the estimated growth funding for the program
7 from the Support Services Growth Subaccount within the Sales
8 and Use Tax Growth Account, and any adjustment to the county
9 allocation pursuant to subdivisions (a) and (b) of Section 30029.5
10 of the Government Code.

11 (c) (1) The department is authorized to conduct or have
12 conducted audits and reviews in order to meet its obligations for
13 child welfare programs and to ensure the protection of children
14 and families.

15 (2) Except for cases in which there is a risk of immediate harm
16 to a minor, the department shall provide the county with at least
17 30-calendar days' notice of the department's intent to perform an
18 audit or review. This notice shall include the intended purpose,
19 scope, and timing of the audit or review.

20 (3) The county shall have an opportunity to respond to the audit
21 or review and may request an extension of up to 30 calendar days,
22 that shall be granted by the director if there is good cause and
23 unless there is a risk of immediate harm to a minor. The request
24 for extension shall be submitted to the department within 10
25 business days of receipt of the audit or review notice. The
26 department, in consultation with the California State Association
27 of Counties, shall develop a definition of good cause for the
28 purposes of this section.

29 (4) Nothing in the notice required by paragraph (2) shall be
30 construed to limit the authority of the department under federal or
31 state law to examine other information or records should that
32 become prudent or necessary during the course of the audit or
33 review.

34 (5) The county shall be presented with the audit or review
35 findings at the conclusion of the audit or review. The county shall
36 have 10 business days to provide a written response to the audit
37 or review findings. The department shall have 10 business days
38 thereafter to issue a final response to the county's written response.
39 Both the county response and the department's written response
40 shall be published as part of the audit or review and made final.

1 (6) The audit or review shall not result in a fiscal sanction to
2 the county, as defined in subdivision (b).

3 (7) The department may impose a fiscal disallowance if there
4 is a finding of misappropriation of funding, and the county shall
5 be afforded due process as specified in subdivision (d).

6 (d) (1) If the audit or review specified in subdivision (c) results
7 in a fiscal disallowance, the county may request a hearing within
8 30 calendar days of the notice of sanction or finalized audit or
9 review. The hearing request shall be in writing and shall be known
10 as the Statement of Disputed Issues, which shall set forth the issues
11 in dispute, and the county's contentions as to those issues, including
12 any documentation to support the county's contentions. The hearing
13 shall take place before a hearing officer designated by the director
14 to examine any disputed audit or review finding.

15 (A) Following the hearing, the hearing officer shall submit the
16 proposed final audit or review of the findings to the director. The
17 director may take any of the following actions:

18 (i) Adopt the proposed findings with or without reading the
19 record. The findings shall be final upon adoption by the director.

20 (ii) Reject the proposed findings and have findings prepared
21 based upon the documentation presented at the hearing.

22 (iii) Refer the matter back to the hearing officer to receive
23 additional information and prepare new findings.

24 (B) The final audit or review of the findings shall include the
25 county's Statement of Disputed Issues, including its accompanying
26 documentation. The final audit or review of the findings shall be
27 subject to judicial review.

28 (e) Nothing in this section shall be construed as preventing the
29 department from bringing an action for writ of mandamus or any
30 other action in court as may be appropriate to ensure no interruption
31 in the provision of benefits to any person eligible therefore under
32 federal law, the provisions of this code or the regulations of the
33 department.

34 (f) (1) Nothing in this section shall be construed as relieving
35 the board of supervisors of the responsibility to provide funds
36 necessary for the continued services required by law.

37 (2) Nothing contained in this section shall be construed as
38 preventing a county from seeking judicial review of action taken
39 by the director pursuant to this section under Section 1094.5 of
40 the Code of Civil Procedure or, except in cases arising under

1 Sections 10962 and 10963, from seeking injunctive relief when
2 deemed appropriate.

3 *SEC. 116. Section 10801 of the Welfare and Institutions Code*
4 *is amended to read:*

5 10801. A county director shall be appointed in each county by
6 the board of supervisors or other agency designated by county
7 charter, subject to either local merit system standards or to
8 standards prescribed under the merit system ~~administered by the~~
9 ~~State Personnel Board~~ *required by state law.*

10 The county director shall at all times be under the general
11 direction and supervision of the board of supervisors, unless
12 otherwise provided by county charter.

O