
THIRD READING

Bill No: AB 1195
Author: Cristina Garcia (D)
Amended: 8/17/22 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 5-0, 6/29/22
AYES: Cortese, Ochoa Bogh, Durazo, Newman, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 56-19, 5/27/21 - See last page for vote

SUBJECT: Limited Eligibility and Appointment Program: lists

SOURCE: Association of California State Employees with Disabilities
Disability Rights California

DIGEST: This bill requires the California Department of Human Resources (CalHR) to provide a LEAP (Limited Examination and Appointment Program) / SROA (State Restriction of Appointment) / Priority employment referral list to a state agency (the “appointing power”) upon the agency’s request without combining the LEAP list with a general employment list. This bill also authorizes the state agency to select and hire any individual from the LEAP / SROA/ Priority list, as specified, to fill any vacancy.

Senate Floor Amendments of 8/17/22 (1) make findings and declarations that prior legislation requiring CalHR to combine general exam employment eligibility lists and LEAP lists did not mean that state departments could no longer hire from separate LEAP lists; and (2) clarify that, when a department requests a separate LEAP list from which it may appoint an eligible candidate, CalHR shall include in the list eligible candidates from SROA lists and other applicable reemployment lists, as required by law.

ANALYSIS:

Existing law:

- 1) Creates the state civil service that includes every officer and employee of the State except a limited number of specified, exempted officers and employees. Existing law also requires that the state make “permanent appointment and promotion in the civil service under a general system based on merit ascertained by competitive examination.” Case law and custom refer to this provision as the merit principle and it governs the administration of the state’s civil service system. (California Constitution, Art. VII, §1 and §4)
- 2) Creates the State Personnel Board (SPB) to enforce the civil service statutes and prescribe probationary periods and classifications, adopt other rules authorized by statute, and review disciplinary actions. (California Constitution, Art. VII, §2 and §3)
- 3) Establishes the State Civil Service Act to facilitate the operation of the Constitution’s merit principle for the state civil service. (Government Code (GC) §18500).
- 4) Creates CalHR and vests it with the powers, duties, and authorities necessary to operate the state civil service system pursuant to Article VII of the California Constitution, the Government Code, the merit principle, and applicable rules duly adopted by the SPB. (GC §18502)
- 5) Authorizes CalHR to designate an appointing power to design, announce, or administer examinations for the establishment of employment lists as specified. Existing law also permits a designated appointing power to contract with CalHR or another designated appointing power for the purpose of designing, publicizing, or administering an examination. (GC §18930.5)
- 6) Requires SPB to prescribe rules consistent with a merit based civil service system to govern appointments classifications, examinations, probationary periods, disciplinary actions, and other matters related to SPB’s authority under Article VII of the California Constitution. Existing law also authorizes SPB to conduct audits and investigations of the personnel practices of CalHR and appointing authorities to ensure compliance with civil service policies, procedures, and statutes. (GC §18502 (b))
- 7) Permits CalHR and SPB to delegate, share, or transfer between them responsibilities for programs within their respective jurisdictions pursuant to an agreement. (GC §18502 (c))

- 8) Requires SPB to establish minimum qualifications for determining the fitness and qualifications of employees for each class of position. Existing law also authorizes CalHR to require applicants for examination or appointment to provide documentation as it deems necessary to establish the applicants' qualifications. (GC §18931)
- 9) Declares that it is the state's policy:
 - a) To encourage and enable individuals with disabilities (IWDs) to participate fully in the social and economic life of the state and to engage in remunerative employment. (GC §19230 (a))
 - b) That public employers, including employers supported in whole or in part by public funds, shall employ qualified IWDs on the same terms and conditions as the nondisabled, consistent with applicable state or federal law. (GC §19230 (b))
 - c) That a department, agency, or commission shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified applicant or employee who is an IWD, unless the hiring authority can demonstrate that the accommodation would impose an undue hardship on the operation of its program. A department shall not deny any employment opportunity to a qualified applicant or employee who is an IWD if the basis for the denial is the need to make reasonable accommodation to the physical or mental limitations of the applicant or employee. (GC §19230 (c))
- 10) Requires each state agency to be responsible for establishing an effective affirmative action program to ensure IWDs, who are capable of remunerative employment, access to positions in state service on an equal and competitive basis with the general population. (GC §19232)
- 11) Requires each state agency to develop and implement an affirmative action employment plan for IWDs, which shall include goals and timetables. The agency shall set these goals and timetables annually for disabilities identified pursuant to guidelines established by CalHR, and shall submit them to CalHR no later than June 1 of each year for review and approval or modification. The agency shall make goals and timetables available to the public upon request. (GC §19232)
- 12) Requires CalHR to do the following:

- a) Outline specific actions to improve the representation of IWDs in the state workforce and to ensure equal and fair employment practices for employees who are IWDs. (GC §19233 (a))
 - b) Survey the number of IWDs in each department by at least job category and salary range for the purpose of developing goals and timetables, as specified, and compare those numbers with the number of IWDs in the workforce. (GC §19233 (b))
 - c) Establish guidelines for state agencies and departments to set goals and timetables to improve the representation of IWDs in the state workforce. Agencies and departments shall set goals and timetables by at least job category. (GC §19233 (c))
- 13) Establishes the Limited Examination and Appointment Program (LEAP) in the state civil service, which provides an alternative to the civil service general exam and appointment process. LEAP allows IWDs to compete for a position in state service by proving eligibility and meeting other specified criteria. (GC §19240 et seq.)
- 14) Requires CalHR to permit a person with a developmental disability the option of completing a written examination or readiness evaluation or completing an internship as specified to qualify for service in a position under the LEAP program (GC § 19242 (b)).
- 15) Requires the CalHR to combine respective civil service general exam employment lists and LEAP lists into one list of candidates for state agencies to consider when filling employment positions. (GC §19057.1)
- 16) Establishes the State Civil Service Equal Employment Opportunity Program and requires each state agency to be responsible for an effective equal employment opportunity program. Existing law also requires CalHR to be responsible for statewide advocacy, coordination, enforcement, monitoring of these programs, and for the development of model policies, including a model policy on reasonable accommodation. (GC §19790)
- 17) Clarifies that each state agency is responsible for developing its own reasonable accommodation policy, consistent with state and federal law, to address requests for reasonable accommodations. (GC §19790)
- 18) Requires CalHR to review by December 31 of each year agencies' affirmative action employment plans for IWDs, as specified, and to approve the plan or require appropriate modifications as necessary to set forth goals that will result

in a significant increase in hiring of IWDs and effective strategies to achieve those goals. (GC §19233 (d) (1))

- 19) Requires CalHR to identify agencies and departments that have consistently failed to make progress in increasing their representation of IWDs and work with those agencies or departments to develop, within 180 days, action plans to address the deficiencies. (GC §19233 (d) (2))
- 20) Requires CalHR to report by December 31, 2025, to the Legislature on all of the following:
 - a) The number of IWDs hired by each appointing power during the three-year period ending June 30, 2025, and a comparison to the hiring of IWDs in the three-year period ending June 30, 2022.
 - b) The names of departments or agencies required to submit corrected affirmative action plans and a summary of these plans and an analysis of their effectiveness.
 - c) A description of recommendations from the Governor's Diversity Task Force related to employment of IWDs that departments and agencies have implemented.
 - d) Recommendations for future efforts to improve the hiring of IWDs for all state agencies. In formulating recommendations for future action, the department shall consult with the Department of Rehabilitation, the State Council on Developmental Disabilities, and organizations representing IWDs. (GC § 19238)
- 21) Requires CalHR to submit the report's information in conjunction with information reportable under existing required information on the state's efforts to address employment of IWDs and in an existing report. (GC §19238 (c))
- 22) Provides that the provision requiring the CalHR report sunsets on December 31, 2029. (GC § 19238 (d))

This bill:

- 1) Makes technical conforming changes to applicable code by changing the term "eligible candidates" to "eligibles".

- 2) Requires CalHR, upon request by the appointing power, to provide as an alternative to receiving a combined list of LEAP eligible and general employment list eligibles, a list that includes only LEAP eligibles and eligibles on an SROA list or other priority list as required by law.
- 3) Authorizes the appointing power to use a LEAP/ SROA/ Priority list to notify individuals listed of the opportunity to apply for the vacant position, to screen applications for candidates' eligibility, and to hire from among those applicants whose names appear on the list.
- 4) Authorizes SPB to adopt or amend regulations, if necessary, to ensure that CalHR and the appointing power implement the bill's procedures in a manner consistent with merit principles and Article VII of the California Constitution.
- 5) Authorizes CalHR to identify the LEAP eligibles when providing a LEAP/SROA/Priority list instead of the combined LEAP/ general employment list.
- 6) Make findings and declarations that prior legislation requiring CalHR to combine general exam employment eligibility lists and LEAP lists did not mean that state departments could no longer hire from separate LEAP lists as specified.

Comments

Need for this bill? According to the author, "In 2015 CalHR, the State Personnel Board (SPB) and the Department of Rehabilitation (DOR), as a joint project, issued a report and set of recommendations to increase the employment of persons with disabilities in state government. Despite the recommendations of the joint report, reform has come too slowly. Last year the legislature passed AB 313 which implements some reforms, however due to a simple drafting error in AB 313 this bill is needed as clean-up language."

Related/Prior Legislation

AB 313 (C. Garcia, Chapter 515, Statutes of 2021) required each state agency to develop a reasonable accommodation policy for individuals with disabilities to address requests for reasonable accommodation, and among other things, modified and added legislative findings and declarations for these purposes. It included at one point similar language to this bill requiring CalHR to provide an appointing

power a LEAP referral list without combining it with any parallel employment list, as described, if requested by an appointing power.

AB 2328 (C. Garcia, 2020) was substantially similar to AB 313. The Assembly Committee on Public Employment and Retirement held the bill at the request of the author following disruption to the legislative calendar resulting from the COVID-19 pandemic.

AB 3069 (Lackey, 2020) would have established a LEAP pilot project relating to state internship and employment opportunities for homeless and former foster youth, among other provisions. The Assembly Appropriations Committee held this bill on the Suspense File.

AB 365 (C. Garcia, 2019) was substantially similar to AB 313 (2021) and AB 2328 (2020) above. The Governor vetoed the bill.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

SUPPORT: (Verified 8/19/22)

Association of California State Employees with Disabilities (co-source)
Disability Rights California (co-source)

OPPOSITION: (Verified 8/19/22)

None received

ARGUMENTS IN SUPPORT: The sponsors state that AB 1195 simply restores a provision erroneously left out in drafting last year's AB 313 on the same subject matter. The provision clarifies that appointing authorities can ask for and use a LEAP list separate from the standard employment eligibility list when hiring.

According to the sponsors, "In 2016, Government Code § 19057.1 was amended to require that when there exists a LEAP eligibility list which is parallel to a standard civil service classification, CalHR should merge the two lists when providing an eligibility list to an appointing power. This was not intended to prevent a department wishing to proactively hire persons with disabilities from obtaining just the LEAP eligibility list, but some state departments have reported being told that this is no longer possible."

ASSEMBLY FLOOR: 56-19, 5/27/21

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Cooley, Cooper,

Daly, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon

NOES: Bigelow, Chen, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Gray, Kiley, Lackey, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron

NO VOTE RECORDED: Maienschein, Mathis, Mayes

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