

Date of Hearing: April 29, 2021

ASSEMBLY COMMITTEE ON PUBLIC EMPLOYMENT AND RETIREMENT

Jim Cooper, Chair

AB 105 (Holden) – As Amended April 21, 2021

**SUBJECT:** The Upward Mobility Act of 2021: boards and commissions: civil service: examinations: classifications

**SUMMARY:** Establishes the Upward Mobility Act of 2021 relating to state boards and commissions, state civil service, examinations, and classifications involving the California Human Resources Department (CalHR), the State Personnel Board (SPB), and appointing authorities. Specifically, **this bill:**

- 1) Establishes that it is the policy of the state that the composition of state boards and commissions be broadly reflective of the general public.
- 2) Requires, on or after January 1, 2022, all state boards and commissions consisting of one or more volunteer members or commissioners to have at least one volunteer board member or commissioner from an underrepresented community.
- 3) Defines for these purposes, “board member or commissioner from an underrepresented community” to mean an individual who self-identifies as Black, African American, Hispanic, Latino, Asian, Pacific Islander, Native American, Native Hawaiian, or Alaska Native, or who self-identifies as gay, lesbian, bisexual, or transgender.
- 4) Establishes that the aforementioned requirements only apply as vacancies on state boards and commissions occur, and vacancy appointments made by the Governor or its designees, the chair of a board or commission or its designees, the Speaker of the Assembly, and the President pro Tempore of the Senate or Senate Rules Committee, or any combination thereof.
- 5) Requires the SPB to ensure that all changes to regulations regarding the state civil service process, as specified, are circulated for public comment.
- 6) Removes the mandated authority from the SPB to conduct audits and investigations of personnel practices of the CalHR and appointing authority to ensure compliance with civil service policies, procedures and statutes, to instead, authorize the CalHR to conduct these activities.
- 7) Requires the CalHR to oversee compliance of rules prescribed by the SPB consistent with a merit-based civil service system to govern appointments, classification, examinations, probationary periods, disciplinary actions, and other matters related to the SPB’s constitutional authority, as specified.

- 8) Requires the CalHR to investigate complaints filed by employees in a state department's equal opportunity program and personnel office, other civil service employees, applicants, and members of the public alleging violations of civil service laws and to report findings to the SPB for adjudication.
- 9) Adds among the existing enumerated items of information required in advertisements for examinations that establish eligibility lists, "the standard statement of qualifications (if applicable)," and changes one information element from "the nature of the minimum qualifications," to instead be "the functional core competencies."
- 10) Defines "core competencies" to mean the particular education, experience, knowledge, and abilities that each applicant is required to have in order to be considered eligible for a particular group of classifications.
- 11) Requires the SPB to establish a process that includes diversity and best practices in each aspect of the design, announcement, and administration of examinations for the establishment of employment lists.
- 12) Amends existing law that requires the SPB to establish minimum qualifications for determining the fitness and qualifications of employees for each class of position, to instead, require the SPB, *in conjunction with the CalHR*, to create standards for statements of qualifications used as examination criteria for the State in determining the desired attributes of employees for each class of position.
- 13) Modifies existing law relating to oral examinations and video or otherwise electronic recording of the examinations and all other examination materials, as provided.
- 14) Relating to upward mobility programs, requires the CalHR to, by July 1, 2022, develop upward mobility goals based on department workforce analysis and post the model goals on its internet website; that the model goals *may* include race, gender, LGBTQ as factors to the extent permissible under state and federal equal protection laws, and that on or before July 1, 2022, the CalHR provide a copy of the model upward mobility goals and corresponding report outlining the workforce analysis used to develop such goals to each member of the Legislature, as specified.
- 15) Modifies existing law relating to an appointing authority's inability to achieve the upward mobility goals and its request to ask the CalHR for a reduction in the goals, to instead, require that if an appointing authority is unable to meet its annual goals and timetables for two consecutive years, the CalHR must oversee the hiring process for that appointing authority for two consecutive years, unless prohibited by law, and the appointing authority must reimburse the CalHR for costs associated with overseeing the hiring process.

- 16) Relating to adverse action against an employee, no later than April 1 of each year, each appointing power is required to provide the CalHR a report detailing certain information, as specified, and that the CalHR, by June 1 of each year, include this data and information in its existing annual workforce analysis and census report, also as specified, and submit the report to the Legislature. However, data or information elements regarding race, ethnicity, gender identity or sexual orientation that are required for inclusion in the report are subject to the discretion of the employee, and an appointing power must not require the employee to disclose this information.
- 17) Amends existing law relating to the state's Personnel Classification Plan where the allocation of a position to a class must derive from and be determined by the ascertainment of the "duties and responsibilities of the position," *to instead*, must derive from and be determined by the ascertainment of the "type of work, level of difficulty and responsibility, and qualifications requirements."

In addition, all positions must currently be included in the same class if, among others, a) the positions are sufficiently similar in respect to duties and responsibilities that the same descriptive title may be used, and b) substantially the same requirements as to education, experience, knowledge, and ability are demanded of incumbents, the bill modifies these specific attributes, *and instead*, replaces them with the following attributes that are among others which are maintained: a) the positions share a similar objective, scope of job responsibility, and work conditions, and b) substantially the same core competencies are demanded of incumbents.

#### **EXISTING LAW:**

##### 1) Federal

- a) Known as the Equal Protection Clause, the Fourteenth Amendment to the United States (U.S.) Constitution states in part that, "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the U.S..., nor deny to any person within its jurisdiction the equal protection of the laws."
- b) Established the Civil Rights Act of 1964 that, among other things, prohibited discrimination on the basis of race, sex, religion, color, or national origin.

##### 2) State

- a) Expressly prohibits, pursuant to Section 31 of Article I of the California Constitution, the state from discriminating against, or granting preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.

- b) Establishes, pursuant to Section 3 of Article VII of the California Constitution, the SPB which must enforce civil service statutes, and by majority vote of all its members, prescribe probationary periods and classifications, adopt other rules authorized by statute, and review disciplinary actions. In addition, the Executive Officer of the SPB is required to administer civil service statutes under the rules of the SPB.
- c) Establishes, pursuant to the California Constitution, that the Governor is the “supreme executive power of this State,” and must see that the law is faithfully executed. In addition, the Governor “may require executive officers and state agencies and their employees to furnish information relating to their duties,” and “authority may be provided by statute for the Governor to assign and reorganize functions among executive officers and agencies and their employees, other than elective officers and agencies administered by elective officers.”<sup>1</sup>
- d) Establishes, pursuant to the implementation of Governor Reorganization Plan Number 1 (2011) as adopted by the Legislature, the CalHR, which succeeds to, and is vested with, all powers and duties previously exercised and performed by the former Department of Personnel Administration (DPA), and the powers, duties, and authorities necessary to operate the civil services system pursuant to the California Constitution, as provided.

The reorganization plan consolidated the state’s two personnel departments (DPA and SPB) by combining the DPA with certain programs of the SPB. Today, the CalHR also is responsible for matters relating to state employee salaries, benefits, job classifications, civil rights, training, exams, recruitment, and retention. This includes matters through the collective bargaining process for each of the state’s 21 collective bargaining units.

- e) Establishes by statute, that the SPB is authorized to conduct audits and investigations of personnel practices of the CalHR and appointing authorities to ensure compliance with civil service policies, procedures, and statutes.
- f) Provides that the authority of the CalHR and the SPB to delegate, share, or transfer responsibilities for programs within their respective jurisdictions between them pursuant to an agreement must not be statutorily limited, as provided.
- g) Provides that the rules and regulations of the SPB and the former DPA must remain in effect unless and until contradicted by statute, or amended or repealed by the SPB or CalHR.

---

<sup>1</sup> See Sections 1, 4, and 6, respectively, of Article V of the California Constitution.

- h) Establishes, pursuant to Section 1 of Article VII of the Constitution of California, that the civil service includes every officer and employee of the state, except as otherwise provided.
- i) Requires, pursuant to the Civil Service Act, that state employment to be based on the merit principle; appointments are based upon merit and fitness ascertained through practical and competitive examination; tenure of civil service employment is subject to good behavior, and among other provisions, applicants and employees are treated in an equitable manner without regard to political affiliation, race, color, sex, religious creed, national origin, ancestry, marital status, age, sexual orientation, disability, political or religious opinions or non-job related factors.
- j) Requires that lists of eligible applicants for civil service positions be established as a result of free competitive examinations, and authorizes the CalHR to designate an appointing power to design, announce, or administer examinations, and the SPB to establish minimum qualifications for determining the fitness and qualifications of employees for each class of position.
- k) Defines “appointing authority” or “appointing power” to mean a person or group having authority to make appointments to positions in the state civil service. In addition, existing law defines “appointment” to mean the offer to, and acceptance by, a person of a position in the state civil service, as provided.
- l) Requires all appointing authorities of state government to establish an effective program of upward mobility for employees in low-paying occupational groups; each upward mobility program to include annual goals for upward mobility and a timetable for when progress will occur, and that the CalHR approve the goals and timetables; however, an appointing authority is authorized to request the CalHR for a reduction in the goals, as specified, if the appointing authority determines that it will not be able to achieve the goals.

Commensurate with the legislative intent expressed regarding upward mobility in state civil service, an upward mobility program is statutorily described as one in which career opportunities are developed and published, and assistance is provided which will allow employees in low-paying occupations to develop and advance to their highest potential. The CalHR is required to annually submit a report to the Legislature on the performance of each appointing authority and agency in state government in meeting its obligations relating to upward mobility.

- m) Defines “promotion” to mean the appointment of an employee to a position in a different class with a higher salary range, unless the appointment is by transfer, as defined, and “demotion” to mean the appointment of an employee to a position in a different class with a lower salary range, as provided.

- n) Authorizes a state appointing power to take adverse action against a state civil service employee for specified causes for discipline, and provides the procedures for state civil service disciplinary proceedings.
- o) Establishes, subject to Article VII of the California Constitution, that the CalHR succeeds to, and is vested with, the duties, purposes, responsibilities, and jurisdiction exercised by the SPB with respect to the administration of the Personnel Classification.
- p) Requires the CalHR to administer the state's Personnel Classification Plan which includes the allocation of every position to the appropriate class in the classification plan derived from, and determined by, the ascertainment of duties and responsibilities of the position, and based on the principle that all positions be included in the same class conditioned upon certain statutorily prescribed attributes, as provided.
- q) Requires the SPB to establish by rule, a merit system specifically suited to the selection and placement of executive personnel; that eligibility for appointments to positions in the career executive assignment category are established as a result of competitive examination, and that all candidates are required to meet minimum qualifications that the SPB determines are requisite to the job performance of high administrative and policy influencing functions.
- r) Requires the CalHR and the Department of Fair Employment and Housing to work cooperatively to develop uniform employment forms where possible pursuant to the provisions of the Civil Service Act and coordinate their enforcement of the Civil Service Act.

**FISCAL EFFECT:** Unknown. This bill is flagged as fiscal by Legislative Counsel.

**COMMENTS:** According to the author, “Upward mobility is integral to achieving racial justice and we should be setting the example. The existing systems in place at our own state agencies fail to create inclusive workplace environments and hinder qualified individuals to move up within their department simply based on the color of their skin.

“In September 2020, California took a bold step to address racial inequity in the private sector when [the Governor] signed my bill, Assembly Bill 979 that requires diversity on corporate boards of corporations based in California – a policy that will help drive upward mobility for people of color. We already mandated the private sector to do their part. It’s high time for the state to step up and do theirs.”

1) Brief History of the SPB and the CalHR

Established in 1934 by the California Constitution, the SPB was created to administer the civil service system and ensure that state employment is based on merit and free from political patronage.

Since that time, as the state's population increased and its economy expanded, so too have the demands for services, including the variety thereof provided by the state, as well as the growth of the state's civil service workforce. This is evidenced by the number of agencies, departments, boards, and commissions that have been established since that time to provide respective, specialized services to the public.

Today, the SPB's roles and responsibilities continue with respect to the civil service system, and the SPB oversees the merit-based, job-related recruitment and selection process for the hiring of state employees, reviews disciplinary and merit related appeals, establishes civil service laws, rules and policies, conducts departmental audits to ensure compliance with the merit system, and investigates and adjudicates alleged violations of civil service laws filed by employees, applicants, and members of the public.

As of July 1, 2012, all nonmerit functions of the SPB moved to the CalHR pursuant to Governor Reorganization Plan 1, previously discussed under "Existing Law." Among other responsibilities, and for those most relevant to the purposes of this measure, the CalHR is responsible for:

- a) Labor relations, and represents the Governor as the employer, in employer-employee relations pursuant to the Dills Act, including collective bargaining with the state's twenty-one collective bargaining units.
- b) Personnel management, which the CalHR administers the state's classification plan, salaries, and manager and supervisor program, among other programs related to personnel.
- c) Civil rights, where the CalHR provides leadership and guidance to departments to protect the civil rights of all state employees, and
- d) Creating and administering the state's civil service exam to provide a fair and open process to hire qualified candidates to serve the state.

## 2) General Overview of the State Civil Service Examination Process<sup>2</sup>

Generally, the initial hire or promotional candidacy for state civil service positions begins with a job announcement or advertisement by the employing state entity, commonly referred to as the “appointing authority.” The announcement or advertisement is specifically related to a position (also commonly referred to as a “classification”) that may be available at a specific state employer or more than one state employer. In the instance of a position and classification that is available for more than one state entity employer, the examination typically is announced as a “general examination.”

An individual who is interested in applying must search for the job and the applicable examination, prepare for, and take the examination, and after taking the examination, receive their results of the exam. If the examination was taken in person, results are sent via regular mail. If the examination was completed online, the results are generally available immediately upon completion of the examination. Applicants may begin to apply for job openings after they have received notice of passing the examination.

Historically, a component of the employment eligibility process utilized a ranking structure of examination scores for purposes of establishing eligibility lists for employment. For example: Individuals who performed well and ranked very high (e.g., a score of 90 or more) may have been placed in rank number one. Those who received a score lower than 90 were placed in corresponding lower ranks based on their score. For example, a score of 80-89 may have placed the individual in rank number two. For those who received a score of 70-79, they may have been placed in a rank number three, and so forth.

In general, those who were within rank number one were granted the first opportunity for further consideration in terms of additional examination components (i.e., in person and/or oral examination) towards competing for the vacant position. As the number of individuals within rank one competed for the position(s) and positions were filled; thereby, depleting the number of available qualified candidates within rank one, individuals who were within rank two would succeed to rank one, and so forth, until all applicable positions ultimately were filled. However, those who were not granted further consideration for hire would remain on an employment eligibility list for a period of time, and could be given additional opportunities to compete for employment as the need arose. Those who were not considered due to a sufficiently lower score achieved on the examination, and therefore, placement in a lower rank, may retake the eligibility examination after a period of time, if interested.

---

<sup>2</sup> The purpose of this discussion is to provide a brief and generalized overview of the examination process relating to state civil service employment. For further details, please visit the [CalHR](#) internet website, or visit the internet website of any state government agency of interest.

If the applicant/candidate receives a job offer, the newly appointed state employee must complete a probationary period, and upon successful completion of the probationary period, the employee is granted permanent civil status.

This method and structure of examination, selection, and hire affords the state a broad and diverse pool of potentially qualified candidates for a position in a classification to assist the state overall, and the employing state agency, to meet the needs of the public. It also helps to enforce unbiased adherence to the express provisions clearly articulated in the Civil Service Act.

### 3) General Overview of Promoting Personnel in State Civil Service<sup>3</sup>

The process and opportunities for promotion for existing state civil service employees are relatively similar to those for individuals seeking employment by the state.

In terms of the classification structure for promotion, generally, a common level of entry for many, but not all, state employers begins at, for example, the “Staff Services Analyst” (SSA) level. In this example, within the SSA classification, ranks also exist (i.e., I through III, with III being the highest). As the employee demonstrates successful aptitude and job performance required by the employer over a period of time, the employee may be promoted to the next highest rank within that classification, until the highest level is achieved for that classification and career track. Thereafter, the SSA III could be promoted to “Associate Government Program Analyst (AGPA),” which also includes ranks (i.e., I through III, with III being the highest level). Further, after achieving the AGPA III classification, the next promotion along this classification career track is the “Staff Services Manager (SSM)” level. Similarly to the intra-SSA and intra-AGPA promotional tier structure, the SSM classification also includes levels I through III, with “III” being the highest. An increase in rank within a classification, and promotion from one classification to the next offers additional standardized job duties, responsibilities, and increase in salary based on a standard salary scale.

While the aforementioned general description relates to the particular classification and career track discussed, many other different classifications follow a substantially similar model throughout state government.

This structure of state civil service career track and promotion supports long-term, merit-based, and continuous employment by the state to meet the needs of the public, as clearly expressed in the Civil Service Act, and over time, merit-based advancement opportunities to career civil servants.

---

<sup>3</sup> Similar to the prior discussion under “*General Overview of the State Civil Service Examination Process*,” the purpose of this discussion is to provide a brief and generalized overview of a relatively common promotional process for a common, but not exclusive, classification career track within state government and employment. For further details, please visit the [CalHR](#) internet website, or visit the internet website of any state government agency of interest.

In addition, the same classification in one state agency affords the employee the opportunity to laterally move, or promote, to the corresponding or higher classification that exists in another state agency, if eligible. Thus, for example, a state civil service employee who is an SSA III may transfer from the Department of Fair Employment and Housing to the Department of Consumer Affairs or Department of Toxic Substance Control as an SSA III, or promote to an AGPA I, for a variety of reasons, if eligible. Nevertheless, the civil service employee remains a civil service employee of the state regardless of the employing state agency, unless the employee desires and is successful to become an exempt employee, or altogether leaves the employ of the state.

#### 4) Census of the State Workforce, 2018

The CalHR's *Annual Census of Employees in State Civil Service (2018)* report states in part that, "As California continues to become increasingly diverse, CalHR strives to make employment with the State of California match its diverse population."<sup>4</sup>

In regard to state employment practices, the report also notes that, "To fully achieve the goal of Equal Employment Opportunity and non-discriminatory employment practices within civil service, CalHR provides statewide leadership, coordination, and technical guidance to state agencies." In addition, "While delegation of authority to agencies has occurred, oversight of the above stated goals and other critical functions are lacking."

The author states that, "In reviewing the annual census data provided by the CalHR from 2014–2018, a troubling pattern emerges; a glass ceiling limiting upward mobility for people of color has developed, which limits career advancement." The author further notes that, "Data for the 2014-2018 period shows the same pattern, which is that: 1) The majority of Non-White civil service personnel are paid a salary in the '\$40,000 and Below' range, and 2) as progression into the next salary range occurs, the percentage of Non-White civil servants moving into management positions decreased concurrently; however, the exact opposite takes place for White civil servants. Whites (2018) accounted for 36.9% of the '\$40,000 and Below' salary range; however, this demographic steadily climbed as a percentage of the civil service workforce as they moved towards upper management. The fact that this pattern has been consistent for a five-year period demonstrates that there is a system in place that hinders Non-White civil service personnel from moving into upper management positions."

#### 5) Suggestion and Advice to the Author for Consideration in the Future

Among the numerous changes proposed by this bill, one change is of particular note.

Generally, within state government, there are numerous systems of checks and balances for a variety of reasons. However, this bill would remove audit and investigatory functions from the SPB relating to certain matters involving the CalHR, and instead, would grant such functions to

---

<sup>4</sup> For additional information, see <https://www.calhr.ca.gov/Documents/ocr-census-of-employees-2018.pdf>.

the CalHR to essentially police itself on those matters; thereby, removing a check and balance by the SPB over the CalHR.

Although existing law permits the SPB and CalHR to, by contract, perform certain duties of the other, generally, state governmental entities have specific statutory jurisdictions of authority, powers and responsibility and naturally are territorial as to the jurisdiction, also for a variety of reasons. While existing law permits contracting of certain limited functions or duties between the CalHR and SPB, it is unlikely that an agency would cede its jurisdictional authority, powers or responsibility over to another, willingly. If this bill were to become law today, it is unlikely that the CalHR would cede this new authority back to the SPB via contract between the two entities, especially if the CalHR would be granted authority to police itself on certain matters.

Understanding and recognizing these inherent attributes of state government, it is highly suggested and advised that the author consider addressing this particular item in the future.

#### 6) Other Important Items for Consideration

As noted under “Prior or Related Legislation” below, numerous legislative proposals over the years have been heard and advanced by this committee involving matters relating to inequities in salary, race, gender and other aspects of equal opportunity within the state’s civil service process and workforce, and the frequency and number of such proposed policies are increasing.

One may reasonably contemplate that among the numerous agencies, departments, boards, commissions, and other state governmental entities, and when considering the number of state civil service employees and exempt employees, there exists at least one, if not more, breaches of the “spirit” and clear articulation of the Civil Service Act, equal opportunity and civil service laws, respectively, that have infringed upon, or otherwise violate, certain legal rights.

While a number of executive administrations have worked, and continue to work, to address the recruitment and retention of a diverse civil service and exempt employee workforce that broadly reflects the public in California, such efforts may be construed by some, with particular regard to race, ethnicity, gender, other class, and salary, that the state – as an employer – is not doing enough to address these matters, and if it is, the “enough” is severely lacking in efficiency, effectiveness, or both in addressing these matters sooner, rather than later, even when such actions can or may be taken without violating the constitution or other applicable laws. This bill may be viewed as an attempt to hasten the state’s seemingly inefficient and perhaps ineffective efforts with regard to the subject matter of this bill.

In addition, this bill represents another attempt, among several current attempts and numerous prior attempts within the past several years, to increase awareness and seek implementation of effective practices within the state government regarding employment diversity in all of its forms.

7) Comments by Supporters

The National Assembly of American Slavery Descendants (Los Angeles), and the Coalition for a Just and Equitable California state in part that, "... diversity in our state workforce means more than just increasing access to positions on boards and commissions for African Americans, particularly those who descend from U.S. Slavery and the employment discrimination of the Jim Crow era. Workforce diversity means our state takes an active, not passive, role in ensuring access, enforcement, and ultimately outcomes. We know our state has more work to do to fully achieve the kind of workforce diversity it both desires and deserves. [This bill] is a big step in the right direction.

- a) Committee Staff Comment: The committee is informed that written correspondence separately received from each of the supporters pre-date the version of this bill currently pending before the committee which no longer includes provisions that would require diversity on *all* state boards and commissions.

8) Comments by Others (Support, If Amended)

The Association of California State Employees with Disabilities (ACSED) supports the intent of this bill; however, the ACSED conditions its support of the bill if, "... several amendments are made that recognize that individuals with disabilities are an under-represented community, and which will improve the representation of individuals with disabilities on state boards and commissions and in the state civil service."

- a) Committee Staff Comment: The ACSED raises points relating to the inclusion of individuals with a disability for purposes of diversity, among others, that could be considered by the author in the future. Should the author consider changes to this bill in the future that would include any amendments requested by the ACSED, the author is advised to ensure that inclusion of amendments do not conflict with other legislative proposals currently pending with regard to those involving the state civil service examination process for individuals with a disability.

Here, the committee is informed and reminded that a legislative proposal relating to the immediately aforementioned subject was recently heard and passed by this committee, as in the past (see "Prior or Related Legislation" below). This bill addresses "appointment" on a volunteer basis to state boards and commissions, as specified, and among other things, the upward mobility goals of state agencies.

9) Comments by Opponents

Californians for Equal Rights makes arguments against the bill citing state constitutional prohibitions on preferential treatment to members of a protected class for purposes of state employment.

- a) Committee Staff Comment: The committee is informed that the written correspondence received from this opponent expresses concerns that pre-date the version of this bill currently pending before the committee.

#### 10) Prior or Related Legislation

Assembly Bill 316 (Cooper) is similar to Assembly Bill 271 (Cooper) discussed below. Assembly Bill 316 was recently passed by the Assembly committee on Public Employment and Retirement.

Assembly Bill 313 (C. Garcia) is substantially similar Assembly Bill 2328 (C. Garcia) discussed below. Assembly Bill 313 was recently passed by the Assembly Committee on Public Employment and Retirement.

Resolution Chapter 23, Statutes of 2020 (Assembly Constitutional Amendment 5, Weber) proposed to amend the California Constitution by repealing Section 31 of Article I relating to the prohibition against discrimination or preferential treatment, among other provisions. This measure appeared on the November 2020 General Election ballot, but failed passage by California voters.

Assembly Bill 2328 (C. Garcia, 2020) proposed to make changes relating to the Limited Examination and Appointment Program (LEAP) administered by the CalHR, and to establish the LEAP Expansion Plan. This bill was held in the Assembly Committee on Public Employment and Retirement at the request of the author following disruption to the legislative calendar as a result of the COVID-19 healthcare pandemic.

Assembly Bill 271 (Cooper, 2019) required an evaluation and report by the CalHR on gender and ethnicity pay equity for all civil service classifications where there is an underrepresentation of women and minorities, among other provisions. This bill died on the Senate Inactive File.

Assembly Bill 365 (C. Garcia, 2019) was substantially similar to AB 2328 (C. Garcia, 2020). This bill was vetoed by the Governor who stated that:

*“Being inclusive and accommodating of people with disabilities is critical to creating a diverse workforce. [This bill], however, would make permanent, at a significant cost, a pilot program that is still in need of improvement. Furthermore, this effort can be addressed administratively. As a result, I am directing the Government Operations Agency, in collaboration with CalHR, to ensure that disability policies are included in the newly established Diversity Taskforce. This Taskforce has been created in order to ensure we achieve a state workforce that reflects the Californians we serve. The Taskforce will bring together civil and public servants to improve the State’s hiring and retention of persons with disabilities, among other diversity issues.”*

Assembly Bill 1007 (Jones-Sawyer, 2019) proposed to make changes to causes for discipline and notice requirements relating to adverse actions as applied to state employees. Subsequently, this bill was substantially amended to address a different subject matter.

Assembly Bill 1916 (Cooper, 2018) was substantially similar to AB 271 (Cooper, 2019). This bill was vetoed by the Governor who stated that:

*“The information called for by this bill is currently provided by the CalHR and the State Controller’s Office. I think it is reasonably complete and provides a basis for sound legislative review.”*

Chapter 53, Statutes of 2018 (Senate Bill 866, Committee on Budget and Fiscal Review) relating to employment.

Chapter 776, Statutes of 2016 (Assembly Bill 46, Cooper) expands the California Equal Pay Equity Act to public sector employers.

Chapter 866, Statutes of 2016 (Senate Bill 1063, Hall) amends the Equal Pay Act to prohibit employers from paying employees a wage rate less than the rate paid to employees of a different race or ethnicity for substantially similar work.

Chapter 856, Statutes of 2016 (Assembly Bill 1676, Campos and Gonzalez) provides that prior salary cannot, by itself, justify any disparity in compensation.

Assembly Bill 811 (Salas, 2015) was substantially similar to Assembly Bill 769 (Jones-Sawyer), *infra*. This bill was held in the Assembly Appropriations Committee.

Assembly Bill 769 (Jones-Sawyer, 2015) required that any adverse action taken against a state employee for any cause for discipline, other than for fraud, embezzlement, or the falsification of records, or the unauthorized accessing or disclosure of confidential tax information be served, and the investigation completed, within one year after the cause of discipline arose. This bill was vetoed by the Governor who stated that:

*“This bill reduces the time frame in which the state can take an adverse personnel action against an employee from three years to one year, except in cases of fraud, embezzlement, the falsification of records or the unauthorized access or disclosure of confidential tax information.*

*“I am unwilling to reduce longstanding civil service adverse action timeframes because it may take state agencies longer than a year to investigate and serve adverse actions in complex cases involving employee misconduct or unsatisfactory work performance. Further, this bill hinders the progressive discipline process which is intended to give employees a reasonable amount of time to correct problems at an early stage. As such, this bill makes it more difficult for the state to manage and ensure the integrity of its workforce.”*

Chapter 546, Statutes 2015 (Senate Bill 358, Jackson) also known as the “California Equal Pay Act,” prohibits public and private employers from paying any employee at wage rates less than the rates paid to employees of the opposite sex, race or ethnicity in the same establishment for equal work on jobs the performance of which requires equal skill, effort and responsibility, and which are performed under similar working conditions.

Chapter 427, Statutes of 2013 (Assembly Bill 1062, Jones-Sawyer) transferred certain functions and duties of the SPB to the CalHR, and designated CalHR to share certain functions and duties with the SPB and makes other related changes. This bill modifies the civil service process by deleting certain requirements related to notice of certain actions.

Chapter 360, Statutes of 2012 (Senate Bill 1301, Negrete McLeod) made statutory changes necessary to implement the Governor's Reorganization Plan 1 (2011) with respect to the consolidation of the Department of Personnel Administration (DPA) and the SPB into a single agency to be known as the CalHR, and retained the constitutional autonomy of the governing body of the SPB with regard to oversight of the merit principal and state civil service.

Governor's Reorganization Plan 1 (2011), as adopted by the Legislature, established the CalHR, which succeeds to, and is vested with, all powers and duties previously exercised and performed by the former Department of Personnel Administration (DPA), and the powers, duties, and authorities necessary to operate the civil services system pursuant to the California Constitution.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

Association of California State Employees with Disabilities (*Support, if amended*)  
Coalition for a Just and Equitable California (*Prior version*)  
National Assembly of American Slavery Descendants, Los Angeles (*Prior version*)

**Opposition**

Californians for Equal Rights (*Prior version*)

**Analysis Prepared by:** Michael Bolden / P. E. & R. / (916) 319-3957