

Date of Hearing: May 12, 2021

ASSEMBLY COMMITTEE ON APPROPRIATIONS  
Lorena Gonzalez, Chair  
AB 105 (Holden) – As Amended April 21, 2021

Policy Committee: Public Employment and Retirement                      Vote: 5 - 1

Urgency: No                      State Mandated Local Program: No                      Reimbursable: No

**SUMMARY:**

This bill establishes the Upward Mobility Act of 2021 and makes various changes related to state boards and commissions, state civil service, examinations and classifications. Specifically, this bill:

- (a) Requires, by January 1, 2022, all state boards and commissions consisting of one or more volunteers to have at least one board member or commissioner from an underrepresented community. The bill applies this requirement only as vacancies on state boards and commissions occur.
- (b) Requires the State Personnel Board (SPB) to circulate any changes to merit-based civil service system regulation for public comment. It also requires the California Department of Human Resources (CalHR) to oversee compliance of rules prescribed by the SPB and requires CalHR to investigate complaints filed by employees in a state department equal employment opportunity (EEO) program and personnel office and other individuals.
- (c) Repeals a provision allowing for appointing powers to contract with CalHR to construct examinations and charge for services rendered.
- (d) Requires the SPB establish a process that includes diversity and best practices in the design announcement and administration of examinations for employment lists.
- (e) Requires examinations that have an oral examination component to be videotaped or otherwise electronically recorded and all other examination materials, including examination questions and any written materials, be maintained for each examination.
- (f) Requires CalHR, by July 1, 2022, to develop model upward mobility goals based on department workforce analysis and requires, by July 1, 2022, CalHR provide a copy of the model upward mobility goals and a corresponding report to the Legislature outlining the workforce analysis used to develop the goals. If an appointing authority is unable to meet its annual upward mobility goals and timetables for two consecutive fiscal years, CalHR is to oversee the hiring process for that appointing authority for two consecutive fiscal years. Appointing authorities are to reimburse CalHR for costs associated with overseeing the hiring process.
- (g) Requires, by April 1 of each year, each appointing power to provide to CalHR a report of information pertaining to adverse actions served on state employees in the preceding year,

including the magnitude, the ethnicity or race of each employee served, the gender identity or sexual orientation of each employee served, the statutory basis for the discipline, a summary of the basis for discipline, and the type of discipline imposed. The bill further requires Cal HR to include this information in its annual workforce analysis and census report.

#### **FISCAL EFFECT:**

- 1) One-time and ongoing GF costs, of an unknown but significant amount, to SPB and CalHR.

Costs to SPB to conduct additional reviews of examinations, appointments, EEO, personal services contracts and mandated trainings. Costs to CalHR to redesign and coding of relevant IT databases, evaluating each relevant classification, collaborating with departments and developing an upward mobility report. In addition, costs to CalHR to investigate complaints filed by employees in a state department's EEO and personnel offices and workload associated with other civil service employees, applicants and members of the public filing complaints to CalHR for investigation. Lastly, unknown losses to CalHR's operating budget resulting from this bill's repeal of a provision allowing an appointing power to contract with CalHR to construct examinations and charge for services rendered.

- 2) Ongoing costs to state agencies, of an unknown amount, to fulfill this bill's reporting requirements.

#### **COMMENTS:**

- 1) **Purpose.** 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."

- 2) **Background.** SPB administers the civil service system to ensure state employment is based on merit. SPB duties include the oversight of merit-based, job-related recruitment and selection processes for the hiring of state employees, review of disciplinary and merit related appeals, conducting of departmental audits to ensure compliance with the merit system and investigation and adjudication of alleged violations of civil service laws filed by employees, applicants and members of the public.

In 2012, all nonmerit functions of the SPB moved to CalHR. Among other responsibilities, CalHR is responsible for labor relations, including collective bargaining with the state's twenty-one collective bargaining units; personnel management, including the state's classification plan and salaries; civil rights of all state employees; and creating and administering the state's civil service exams.

This bill makes various changes to SPB and CalHR's activities related to oversight and guidance of state agency hiring and treatment of people from underrepresented communities.

- 3) **Previous Legislation.** AB 979 (Holden), Chapter 316, Statutes of 2020, requires each publicly held corporation whose principal executive offices are located in California to have

a minimum number of directors from underrepresented communities on its board of directors.

**Analysis Prepared by:** Natasha Collins / APPR. / (916) 319-2081