

Date of Hearing: August 31, 2022

ASSEMBLY COMMITTEE ON PUBLIC EMPLOYMENT AND RETIREMENT

Jim Cooper, Chair

AB 1195 (Cristina Garcia) – As Amended August 17, 2022

**SUBJECT:** Limited Eligibility and Appointment Program: lists

**SUMMARY:** Makes changes to existing law relating to the Limited Examination and Appointment Program (LEAP) and referral lists to a state appointing power. Specifically, **this bill:**

**1) Is referred to the committee pursuant to Assembly Rule 77.2 for concurrence in Senate amendments. Senate amendments removed all prior provisions that addressed an unrelated subject previously passed by the Assembly, and add the following:**

- a) Requires, as an alternative to receiving a combined list of eligible candidates, the California Department of Human Resources (CalHR) to provide a list of eligible individuals that includes information, as provided, on a LEAP referral list and any applicable reemployment or State Restriction of Appointment list.
- b) Authorizes an appointing power to notify individuals listed, of the opportunity to apply for a vacant position, screen for candidate eligibility, and hire from among the eligible candidates who are on the list.
- c) Authorizes the State Personnel Board (SPB) to, as necessary, adopt or amend regulations to ensure the aforementioned procedures are implemented in a manner consistent with the merit principles of the state civil service and the California Constitution.
- d) Requires the CalHR or its designee to create a referral list of names of individuals with disabilities who meet the eligibility for participation and the minimum qualifications of the classification, as specified.
- e) Requires the LEAP referral list to be combined with other employment lists for the same classification using the prescribed procedures, unless the appointing power requests use of the alternative procedure, also as prescribed.
- f) Provides that if the eligibility list is obtained through the alternative procedure, a hiring manager is authorized to identify those qualified through the LEAP.
- g) Includes legislative findings and declarations for these purposes.

**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.<sup>1</sup>
- 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.<sup>2</sup>
- 3) Establishes the State Civil Service Act to facilitate the operation of the Constitution’s merit principle for the state civil service.<sup>3</sup>
- 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 State Personnel Board.<sup>4</sup>
- 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.<sup>5</sup>
- 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.<sup>6</sup>
- 7) Permits CalHR and SPB to delegate, share, or transfer between them responsibilities for programs within their respective jurisdictions pursuant to an agreement.<sup>7</sup>

---

<sup>1</sup> Sections 1 and 4, Art. VII, Cal. Const.

<sup>2</sup> Sections 2 and 3, Art. VII, Cal. Const.

<sup>3</sup> Section 18500 of the Gov. Code.

<sup>4</sup> Section 18502, *ibid.*

<sup>5</sup> Section 18930.5 of the Gov. Code.

<sup>6</sup> Section 18502 (b) of the Gov. Code.

<sup>7</sup> Section 18502 (c), *ibid.*

- 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.<sup>8</sup>
- 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.<sup>9</sup>
  - 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.<sup>10</sup>
  - 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.<sup>11</sup>
- 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.<sup>12</sup>
- 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.<sup>13</sup>
- 12) Requires CalHR to do the following:

---

<sup>8</sup> Section 18931 of the Gov. Code.

<sup>9</sup> Section 19230 (a) of the Gov. Code.

<sup>10</sup> Section 19230 (b), *ibid.*

<sup>11</sup> Section 19230 (c), *ibid.*

<sup>12</sup> Section 19232 of the Gov. Code.

<sup>13</sup> *Ibid.*

- 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.<sup>14</sup>
  - 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.<sup>15</sup>
  - 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.<sup>16</sup>
- 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.<sup>17</sup>
- 14) 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.<sup>18</sup>
- 15) 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.<sup>19</sup>
- 16) 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.<sup>20</sup>
- 17) 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.<sup>21</sup>

---

<sup>14</sup> Section 19233 (a) of the Gov. Code.

<sup>15</sup> Section 19233 (b), *ibid.*

<sup>16</sup> Section 19233 (c), *ibid.*

<sup>17</sup> Sections 19240 et seq. of the Gov. Code.

<sup>18</sup> Section 19057.1 of the Gov. Code.

<sup>19</sup> Section 19790 of the Gov. Code.

<sup>20</sup> Section 19790 of the Gov. Code.

<sup>21</sup> Section 19233 (d) (1) of the Gov. Code.

- 18) 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.<sup>22</sup>
- 19) Requires CalHR to report by December 31, 2025, to the Legislature on all of the following:<sup>23</sup>
- 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.
- 20) 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.<sup>24</sup>
- 21) Provides that the provision requiring the CalHR report sunsets on December 31, 2029.<sup>25</sup>

**FISCAL EFFECT:** This bill was passed by the Senate Appropriations Committee pursuant to Senate Rule 28.8.

**COMMENTS:** According to the author, "[i]n 2015 CalHR, the 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 Assembly Bill 313 (C. Garcia) which implements some reforms; however, due to a simple drafting error in Assembly Bill 313, this bill is needed as clean-up language."

---

<sup>22</sup> Section 19233 (d) (2), *ibid.*

<sup>23</sup> Section 19238 of the Gov. Code.

<sup>24</sup> Section 19238 (c) of the Gov. Code.

<sup>25</sup> Section 19238 (d), *ibid.*

1) The LEAP, Simplified

The LEAP is an alternative examination program that offers a means of assessing the qualifications and skills of job applicants with disabilities for employment by the state. To be eligible for the LEAP, candidates must be certified by the DOR and have their LEAP certification information entered into CalHR's database.

Once a LEAP candidate is selected for a position, the candidate must complete an on-the-job testing phase, called the job examination period (JEP). After successful completion of the JEP, candidates may be appointed to the parallel civil service classification.

2) Comments by Supporters

The sponsors make statements similar to those of the author.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

Association of California State Employees with Disabilities (*Co-sponsor*)  
Disability Rights California (*Co-sponsor*)

**Opposition**

None on file.

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