

## CONCURRENCE IN SENATE AMENDMENTS

AB 313 (Cristina Garcia)

As Amended September 3, 2021

Majority vote

**SUMMARY**

Requires each state agency to develop a reasonable accommodation policy for individuals with disabilities to address requests for reasonable accommodation, and among other things, modifies and adds legislative findings and declarations for these purposes.

**Senate Amendments**

- 1) Remove all prescriptive provisions regarding the Limited Exam and Appointment Program (LEAP) administered by the California Department of Human Resources (CalHR) that were included in this bill as previously passed by the Assembly, and instead, do the following relating to the state's employment of individuals who have a disability:
  - a) Require that the reasonable accommodation policy for individuals with disabilities be consistent with state and federal law, and relating to each agency's equal opportunity program, the equal opportunity program to include a reasonable accommodation policy.
  - b) Require the CalHR to, by December 31 each year, review, approve, or seek modifications to plans submitted by state agencies relating to the establishment of an effective affirmative action program for individuals with disabilities who are capable of remunerative employment towards achieving certain goals regarding their representation in state government.
  - c) Require the CalHR to identify agencies and departments that have consistently failed to make progress in increasing the representation of individuals who have disability, and to work with those agencies and departments to develop, within 180 days, action plans to address the deficiencies.
  - d) Require the CalHR to, by December 31, 2025, report to the Legislature certain information, as prescribed, regarding the hiring of persons with disabilities and repeals this reporting requirement on December 31, 2029. The information to be reported, as prescribed, must be submitted in an existing report and in conjunction with information reportable pursuant to existing law relating to an annual report on the hiring of disabled persons.
- 2) Make, for these purposes, conforming changes to existing law regarding the responsibilities of the CalHR.
- 3) Make conforming changes to a legislative declaration under existing law and add legislative findings and declarations regarding the state's employment of individuals with a disability for these purposes.

**COMMENTS**

- 1) Background. Existing Law:

- a) Establishes the CalHR as the state department with the authority, power, and responsibility to operate the state civil service in accordance with Article VII of the California Constitution, the Government Code, the merit principle, and applicable rules adopted by the State Personnel Board. The CalHR succeeds to, and is vested with, all of the powers and duties exercised and performed by the former Department of Personnel Administration.
- b) Declares, among other things, that it is the policy of this state to encourage and enable individuals with a disability to participate fully in the social and economic life of the state and to engage in remunerative employment.
- c) Establishes the LEAP in the state civil service, which provides an alternative to the traditional civil service exam and appointment process to permit a disabled individual to compete for a position in state service by proving eligibility and meeting other specified criteria; establishes the CalHR as the state department with responsibility over administration of the LEAP; and, gives the CalHR discretion in creating eligibility criteria for participation in the program, examination techniques, and appointment and appeal procedures.
- d) Requires, in the state civil service, that applicants meet minimum qualifications and undergo a competitive process before being appointed to a position and, in general, creates ranked hiring lists based on the competitive application process from which state employers may choose eligible candidates.
- e) Requires that the state make available the expertise of state employees and programs to support the employment-related needs of individuals with disabilities, including ensuring that state government is a model employer of individuals with disabilities.
- f) Require the CalHR to, among other things regarding the employment of persons with a disability, outline specific actions to improve the representation these individuals in the state workforce and ensure equal and fair employment practices for employees who are disabled.
- g) Provides that each state agency is responsible for an effective equal opportunity program and tasks the CalHR with the responsibility for statewide advocacy, coordination, enforcement, and monitoring these programs.
- h) Require, regarding the hiring of disabled persons, on or before November 15 each year, the CalHR to report to the Governor and the Legislature certain activity, plans, and accomplishments of the overall employment program for individuals with a disability in state government, including an evaluation of the achievement of annual objectives and reasonable accommodation policies and practices.

**According to the Author**

"Historically, working age people with disabilities are among the most unemployed and underemployed members of society. Even though there have been major civil rights advancements like the federal Americans with Disabilities Act and the state Disabled Persons Act, people with disabilities are underrepresented in state civil service. Without equal employment opportunities, many persons with disabilities are forced to rely on public benefits and services."

**Arguments in Support**

Disability Rights California (DRC) and several other supporters of this bill offer statements similar to those of author and express that, notwithstanding the federal Americans with Disabilities Act, the state Disabled Persons Act, and the state's policy regarding the state's employment of individuals who have a disability, more needs to be done to ensure equal employment opportunity for them to obtain remunerative employment in state government; that historically, state agencies have failed in these efforts, and that this bill addresses those historic barriers to the state civil service for these individuals.

**Arguments in Opposition**

None.

**FISCAL COMMENTS**

According to the Senate Appropriations Committee, "[The] CalHR indicates that it would incur ongoing General Fund [costs] of an unknown magnitude to implement the provisions of the bill. The department would require additional staff to, among other things, develop new policies, procedures, and training for departments. A precise estimate of the additional costs has yet to be determined.

**VOTES:****ASM PUBLIC EMPLOYMENT AND RETIREMENT: 7-0-0**

**YES:** Cooper, Voepel, Calderon, Cervantes, Cooley, O'Donnell, Seyarto

**ASM APPROPRIATIONS: 16-0-0**

**YES:** Lorena Gonzalez, Bigelow, Calderon, Carrillo, Chau, Megan Dahle, Davies, Fong, Gabriel, Eduardo Garcia, Levine, Quirk, Robert Rivas, Akilah Weber, Holden, Luz Rivas

**ASSEMBLY FLOOR: 78-0-0**

**YES:** Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

**SENATE FLOOR: 38-0-2**

**YES:** Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Glazer, Gonzalez, Grove, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Umberg, Wieckowski, Wiener, Wilk

**ABS, ABST OR NV:** Eggman, Stern

**UPDATED**

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CONSULTANT: Michael Bolden / P. E. & R. / (916) 319-3957

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