

ASSEMBLY BILL

No. 1062

Introduced by Assembly Member Jones-Sawyer

February 22, 2013

An act to amend Sections 7299.4, 7299.5, 18210, 18211, 18212, 18214, 18502, 18525.3, 18527, 18528, 18532.1, 18533, 18540, 18544, 18575, 18577, 18654, 18654.5, 18655, 18661, 18670, 18671.1, 18672, 18674, 18676, 18681, 18682, 18804, 18900, 18900.5, 18900.6, 18903, 18930.5, 18931, 18933, 18934, 18936, 18937, 18938.6, 18950, 18950.1, 18951, 18972, 18975, 18976, 19050.4, 19057.1, 19057.2, 19058, 19059, 19062.5, 19082, 19101, 19140, 19140.5, 19141.1, 19143, 19170, 19200, 19253, 19253.5, 19257.5, 19400, 19401, 19402, 19403, 19405, 19574.2, 19582, 19586, 19600, 19600.1, 19630, 19680, 19682, 19703, 19763, 19764, 19770, 19775, 19775.1, 19775.8, 19775.9, 19776, 19786, 19793, 19798, 19800, 19801, 19802, 19802.5, 19803, 19804, 19805, 19806, 19807, 19808, 19809, 19815, 19815.4, 19815.6, 19816.6, 19816.12, 19818.14, 19822.5, 19822.7, 19889, 19889.2, and 19889.3 of, to add Section 19811 to, to repeal Sections 18538.1, 18652, 18807, 19406, 19583.51, 19816, 19818.2, 19818.4, and 19889.4 of, and to repeal and add Sections 18574, 18935, 18940, 18941, and 19052 of, the Government Code, and to amend Section 13601 of the Penal Code, relating to human resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 1062, as introduced, Jones-Sawyer. Human resources.

Existing law provides that the Department of Human Resources succeeds to and is vested with all of the powers and duties exercised and performed by the Department of Personnel Administration and powers, duties, and authorities necessary to operate the state civil service

system in accordance with Article VII of the California Constitution, the Government Code, the merit principle, and applicable rules duly adopted by the State Personnel Board.

This bill would transfer certain functions and duties of the board to the department. The bill would also designate the department to share certain functions and duties with the board. The bill would make other related changes.

Existing law exempts State Personnel Board regulations, as defined, from the Administrative Procedure Act, except as specified.

This bill would also exempt a rule, regulation, standard, or procedure of the department that implements or makes specific a provision of a memorandum of understanding, as specified, and instructions, guidelines, manuals, and forms that implement board or department rules.

Existing law, with regard to the civil service, requires the appointing power to provide service of notice of certain actions, including a disciplinary action, a rejection during probation, a medical action, and various termination actions, by personal service or by mail or express service carrier, pursuant to a specified process.

The bill would modify the above-mentioned process by deleting certain requirements and would instead require service to be conducted in the manner provided in specified provisions of the Code of Civil Procedure that relate to service of process.

Existing law authorizes the State Personnel Board to hold hearings and make investigations concerning all matters relating to the enforcement and effect of the State Civil Service Act, as specified. Existing law prohibits the board from holding hearings and making investigations on certain disciplinary matters relating to state employees in State Bargaining Unit 5.

This bill would delete the above-mentioned prohibition.

Existing law requires, among other things, the board to render its decision within a reasonable time after the conclusion of a hearing or investigation, except that the period from the filing of the petition to the decision of the board cannot exceed 6 months or 90 days from the time of the submission, whichever time period is less, and except that the board may extend the 6-month period up to 45 additional days.

This bill would instead require the board to reach a decision within 6 months and would delete the board's authorization to extend the 6-month period by 45 additional days.

Existing law requires the State Personnel Board, by resolution, to define the term “salary step” for the purpose of administering civil service laws and rules that control movement of employees between classifications subject to specified requirements.

This bill would repeal these provisions.

Existing law authorizes the State Personnel Board to require various types of documentary evidence in establishing minimum qualifications for determining the identity, fitness, and qualifications of employees for each class of position in the state civil service, for temporary appointments, and for applicants for examination.

This bill would revise these provisions and would additionally require, whenever the law requires that an applicant for a position as a peace officer be screened to ensure that the applicant is free from emotional and mental impairment, that the department or the designated appointing authority undertake the screening subject to the applicant’s right to appeal to the board.

Existing law authorizes the department to refuse to examine or, after examination, to refuse to declare as eligible, or to withhold or withdraw from certification, prior to appointment, anyone who, among other things, is physically or mentally so disabled as to be rendered unfit to perform the duties of the position to which he or she seeks appointment or who is addicted to the use of controlled substances.

This bill would instead authorize the department or a designated appointing power to refuse to examine, or after examination to refuse to declare as eligible, or to withhold or withdraw from an eligible list, before the appointment, anyone who, among other things, was found to be unsuited or not qualified for employment pursuant to rule.

Existing law authorizes an applicant for state employment to elect to avail himself or herself of a specified procedure to take an examination on a different date when the examination is scheduled to be given during the period from sundown on a Friday until sundown on the following day, and it is the practice of an applicant, based upon his religious convictions, to observe the Sabbath during that period.

This bill would repeal these provisions and would instead authorize any applicant for examination to request reasonable accommodation for a disability or sincerely held religious belief pursuant to the Fair Employment and Housing Act or any other applicable law.

Existing law requires the board to provide, by rule, for grant of a blanket waiver of a requirement that would allow a dismissed employee who meets standards to be determined by the board to apply for any

civil service examination so that he or she would not need a separate waiver for each examination.

This bill would repeal these provisions. The bill would authorize any former state employee who was dismissed from state service, as specified, to petition the department to be permitted to take a civil service examination in order to establish eligibility for appointment to state service, as specified.

Existing law requires the appointing power to submit to the department, in accordance with board rules, a statement of the duties of the position, the necessary and desired qualifications of the person to be appointed, and a request that the names of persons eligible for appointment to the position be certified whenever a vacancy in any position is to be filled and not by transfer, demotion, or reinstatement.

This bill would instead require the appointing power to provide any information the department requests including the classification of the position, the number of vacancies to be filled, the tenure and time base of the position, the location of the position, and any other information as the department may require.

Existing law permits any person, except for a current ward of the Division of Juvenile Facilities, a current inmate of the Department of Corrections, or a current patient of a facility operated by the State Department of State Hospitals, with the consent of the State Personnel Board of the appointing power, to file charges against a state employee in State Bargaining Unit 5 requesting that adverse action be taken for one or more causes for discipline, as specified.

This bill would repeal these provisions.

Existing law requires the board to either grant or deny a petition for rehearing a decision within 60 days after service of notice of filing the petition for rehearing.

This bill would instead require the board to either grant or deny a petition within 90 days.

Existing law prohibits a person from bringing a cause of action of any type, as specified, based on or related to any civil service law in this state, or the administration thereof, unless that action is commenced and served within one year after the cause of action first arose. Existing law also provides that where an appeal is taken from a decision of the board, the cause of action does not arise until the final decision of the board has been issued.

This bill would instead require any petition for a writ challenging a decision of the board to be filed within 6 months of the date of the final decision of the board.

Existing law establishes certain rights and benefits that accrue to civil service employees during and after leave for military service, including, but not limited to, appointment and reinstatement rights. Existing law requires that both the State Personnel Board and the Department of Human Resources be responsible for carrying out certain provisions related to leave for military service.

This bill would delete the provisions that require both the State Personnel Board and the Department of Human Resources to be responsible for carrying out certain provisions related to leave for military service.

Existing law requires the State Personal Board to submit a census report to the Governor, the Legislature, and the Department of Finance that includes, among other things, demographic information on employees in the state civil service, as specified, and information to the Legislature on laws that discriminate or have the effect of discriminating on the basis of race, ethnicity, gender, and disability.

This bill would instead require the department to either submit the report to the Governor, the Legislature, and the Department of Finance or to post the data on its Internet Web site. The bill would also delete the requirement that the report include, among other things, identified underutilizations, steps taken to ensure equal employment opportunity in the state civil service, and information to the Legislature on laws that discriminate or have the effect of discriminating on the basis of race, ethnicity, gender, and disability.

Existing law provides that the department succeeds to and is vested with the duties, purposes, responsibilities, and jurisdiction exercised by the California Victim Compensation and Government Claims Board, the Department of General Services, and the Department of Finance, as specified.

This bill would repeal those provisions.

Existing law authorizes the department to designate an appointing power to allocate positions to the Personal Classification Plan, as specified. Existing law authorizes the department to audit any position allocations and to order corrective action.

This bill would instead authorize the department to order corrective action, as specified, only if it finds that an appointing power has allocated positions inappropriately. The bill would also authorize the

Department of Finance to transfer a sufficient number of personnel from the appointing power to the department, as specified, if an appointing power's allocation authority is revoked.

Under existing law, eligibility for appointment to a position in the career executive category of the civil service is required to be established as a result of competitive examination of persons in civil service who meet the minimum qualifications as the State Personnel Board may determine are requisite to the performance of high administrative and policy influencing functions.

This bill would instead require that eligibility for appointment in the class of the career executive category be limited to persons in the civil service who meet the minimum qualifications established for the class.

Existing law requires every state agency, as specified, to employ a sufficient number of qualified bilingual persons in public contact positions to ensure provision of information and services to the public, in the language of the non-English-speaking person. Existing law requires each agency to conduct a survey, related to its bilingual services, of each of its local offices every two years to determine among other things, the number of qualified bilingual employees in public contact positions, as specified. Existing law requires, beginning in 2009 and in every odd-numbered year thereafter, that each state agency develop an implementation plan that, at a minimum, addresses, among other things, the name, position, and contact information of the employee designated by the agency to be responsible for overseeing implementation of the plan.

This bill would require the language survey to also include, among other things, a detailed description of the agency's procedures for identifying written materials that are required to be translated, a detailed description of the agency's procedures for identifying language needs at local offices and assigning qualified bilingual staff to those offices, and a detailed description of how the agency complies with any federal or other state laws that require the provision of linguistically accessible services to the public. The bill would instead only require each agency that serves a substantial number of non-English-speaking people who comprise 5 percent or more of the people served to develop an implementation plan, as specified, in every odd-numbered year.

This bill would also make technical, nonsubstantive changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7299.4 of the Government Code is
2 amended to read:

3 7299.4. (a) Notwithstanding any other provision in this chapter,
4 each state agency shall conduct ~~an assessment~~ *a language survey*
5 and develop and update an implementation plan that complies with
6 the requirements of this chapter.

7 (b) Each agency shall conduct a *language* survey of each of its
8 local offices every two years to determine *and provide* all of the
9 following:

10 (1) *The name, position, and contact information of the employee*
11 *designated by the agency responsible for complying with this*
12 *chapter.*

13 ~~(1)~~

14 (2) The number of public contact positions in each local office.

15 ~~(2)~~

16 (3) The number of qualified bilingual employees in public
17 contact positions in each local office, and the languages they speak,
18 other than English.

19 ~~(3)~~

20 (4) The number and percentage of non-English-speaking people
21 served by each local office, broken down by native language.

22 ~~(4)~~

23 (5) The number of anticipated vacancies in public contact
24 positions.

25 ~~(5)~~

26 (6) Whether the use of other available options, including
27 contracted telephone-based interpretation services, in addition to
28 qualified bilingual persons in public contact positions, is serving
29 the language needs of the people served by the agency.

30 ~~(6)~~

31 (7) A list of all written materials that are required to be translated
32 or otherwise made accessible to non- or limited-English-speaking
33 individuals by Sections 7295.2 and 7295.4.

34 ~~(7)~~

35 (8) A list of materials identified in paragraph ~~(6)~~ (7) that have
36 been translated and languages into which they have been translated.

37 ~~(8)~~

- 1 (9) The number of additional qualified bilingual public contact
- 2 staff, if any, needed at each local office to comply with this chapter.
- 3 ~~(9) Any other relevant information requested by the Department~~
- 4 ~~of Human Resources.~~
- 5 ~~(e) Each agency shall calculate the percentage of~~
- 6 ~~non-English-speaking people served by each local office by~~
- 7 ~~rounding the percentage arrived at to the nearest whole percentage~~
- 8 ~~point.~~
- 9 *(10) A detailed description of the agency’s procedures for*
- 10 *identifying written materials that are required to be translated.*
- 11 *(11) Each agency shall calculate the percentage of*
- 12 *non-English-speaking people served by each local office by*
- 13 *rounding the percentage arrived at to the nearest whole percentage*
- 14 *point.*
- 15 *(12) A detailed description of the agency’s procedures for*
- 16 *identifying language needs at local offices and assigning qualified*
- 17 *bilingual staff to those offices.*
- 18 *(13) A detailed description of how the agency recruits qualified*
- 19 *bilingual staff in local offices.*
- 20 *(14) A detailed description of any training the agency provides*
- 21 *to its staff on the provision of services to non- or*
- 22 *limited-English-speaking individuals, frequency of training, and*
- 23 *date of most recent training.*
- 24 *(15) A detailed description of the agency’s procedures for*
- 25 *accepting and resolving complaints of an alleged violation due to*
- 26 *failure to make available translated documents or provide*
- 27 *interpreter service through bilingual staff or contract services.*
- 28 *(16) A detailed description of how the agency complies with*
- 29 *any federal or other state laws that require the provision of*
- 30 *linguistically accessible services to the public.*
- 31 *(17) Any other relevant information requested by the Department*
- 32 *of Human Resources.*
- 33 ~~The~~
- 34 *(c) The language survey results and any additional information*
- 35 *requested shall be reported in the form and at the time required by*
- 36 *the Department of Human Resources, and delivered to the*
- 37 *department not later than October 1 of every even-numbered year*
- 38 *beginning with 2008.*

1 ~~(d) Beginning in 2009 and in every odd-numbered year~~
2 ~~thereafter, each state agency shall develop an implementation plan~~
3 ~~that, at a minimum, addresses all of the following:~~

4 ~~(1) The name, position, and contact information of the employee~~
5 ~~designated by the agency to be responsible for overseeing~~
6 ~~implementation of the plan.~~

7 ~~(2) A description of the agency's procedures for identifying~~
8 ~~written materials that need to be translated.~~

9 ~~(3) A description of the agency's procedures for identifying~~
10 ~~language needs at local offices and assigning qualified bilingual~~
11 ~~staff.~~

12 ~~(4) A description of how the agency recruits qualified bilingual~~
13 ~~staff.~~

14 ~~(5) A description of any training the agency provides to its staff~~
15 ~~on the provision of services to non- or limited-English-speaking~~
16 ~~individuals.~~

17 ~~(6) A detailed description of how the agency plans to address~~
18 ~~any deficiencies in meeting the requirements of this chapter,~~
19 ~~including, but not limited to, the failure to translate written~~
20 ~~materials or employ sufficient numbers of qualified bilingual~~
21 ~~employees in public contact positions at local offices, the proposed~~
22 ~~actions to be taken to address the deficiencies, and the proposed~~
23 ~~dates by when the deficiencies can be remedied.~~

24 ~~(7) A description of the agency's procedures for accepting and~~
25 ~~resolving complaints of an alleged violation of this chapter.~~

26 ~~(8) A description of how the agency complies with any federal~~
27 ~~or other state laws that require the provision of linguistically~~
28 ~~accessible services to the public.~~

29 ~~(9) Any other relevant information requested by the Department~~
30 ~~of Human Resources.~~

31 *(d) Every odd-numbered year, each agency that served a*
32 *substantial number of non-English-speaking people who comprise*
33 *5 percent or more of the people served shall develop an*
34 *implementation plan that provides a detailed description of how*
35 *the agency plans to address any deficiencies in meeting the*
36 *requirements of this chapter, including, but not limited to, the*
37 *failure to translate written materials or employ sufficient numbers*
38 *of qualified bilingual employees in public contact positions at local*
39 *offices, the proposed actions to be taken to address the deficiencies,*
40 *and the proposed dates by when the deficiencies will be remedied.*

1 (e) In developing its implementation plan ~~in 2003~~, each state
2 agency may rely upon data gathered from its ~~2002~~ *most recent*
3 *language* survey.

4 (f) Each state agency shall submit its implementation plan to
5 the Department of Human Resources no later than October 1 of
6 each applicable year. ~~The department~~ *Department of Human*
7 *Resources* shall review each *implementation* plan, and, if it
8 determines that the *implementation* plan fails to address the
9 identified deficiencies, shall order the agency to supplement or
10 make changes to its plan. A state agency that has been determined
11 to be deficient shall report to the Department of Human Resources
12 every six months on its progress in addressing the identified
13 deficiencies.

14 (g) If the Department of Human Resources determines that a
15 state agency has not made reasonable progress toward complying
16 with this chapter, the department may issue orders that it deems
17 appropriate to effectuate the purposes of this chapter.

18 SEC. 2. Section 7299.5 of the Government Code is amended
19 to read:

20 7299.5. The Department of Human Resources may exempt
21 state agencies from the requirements of Section 7299.4, where it
22 determines that any of the following conditions apply:

23 (a) The agency's primary mission does not include responsibility
24 for furnishing information or rendering services to the public.

25 (b) The agency has consistently received such limited public
26 contact with the non-English-speaking public that it has not been
27 required to employ bilingual staff under Section 7292 and the
28 agency employs fewer than the equivalent of 25 full-time
29 employees in public contact positions.

30 In order to receive an exemption, each state agency shall petition
31 the Department of Human Resources for the exemption and receive
32 approval in writing by the date established by the department. An
33 agency may receive an exemption for up to ~~five years~~ *survey cycles*,
34 if it demonstrates that it meets the requirements of subdivision (a)
35 or (b), and provides all required documentation to the Department
36 of Human Resources.

37 SEC. 3. Section 18210 of the Government Code is amended
38 to read:

39 18210. The Legislature finds and declares that the purpose of
40 this chapter is to establish ~~basic minimum~~ procedural requirements

1 for the adoption, amendment, or repeal of ~~board~~ regulations *of the*
2 *State Personnel Board and the Department of Human Resources.*
3 Nothing in this chapter repeals or diminishes additional
4 requirements imposed by statute.

5 SEC. 4. Section 18211 of the Government Code is amended
6 to read:

7 18211. Regulations adopted by the State Personnel Board *and*
8 *the Department of Human Resources* are exempt from the
9 Administrative Procedure Act (Chapter 3.5 (commencing with
10 Section 11340) of Part 1 of Division 3), except as provided in
11 Sections 18215 and 18216.

12 SEC. 5. Section 18212 of the Government Code is amended
13 to read:

14 18212. For the purposes of this chapter, “regulation” means
15 every rule, regulation, order, or standard of general application
16 adopted or amended by the board *or the department* to implement,
17 interpret, or make specific the law enforced or administered by it,
18 except that the following are not regulations:

19 (a) A rule that constitutes the only legally tenable interpretation
20 of existing law.

21 (b) A decision that does no more than apply a duly adopted
22 ~~provision of law~~ to a particular set of facts.

23 (c) A rule relating only to the internal management of the board
24 *or the department* that does not in itself significantly affect the
25 rights, privileges, or duties of ~~state agencies, state employees, state~~
26 ~~employees~~ or other persons.

27 (d) A routine, technical, or procedural instruction or criterion
28 that does not in itself significantly affect the rights, privileges, or
29 duties of state agencies, employees, or other persons.

30 (e) *A rule, regulation, standard, or procedure of the department*
31 *that implements or makes specific a provision of a memorandum*
32 *of understanding reached pursuant to Section 3517.5.*

33 (f) *Instructions, guidelines, manuals, and forms that implement*
34 *board or department rules.*

35 SEC. 6. Section 18214 of the Government Code is amended
36 to read:

37 18214. (a) The procedures set forth in subdivisions (b), (c),
38 and (d) shall apply to the adoption of a regulation *by either the*
39 *board or the department* concerning all matters not specified in
40 Section 18213, 18215, or 18216.

1 (b) The board *or the department* shall prepare and submit to the
 2 Office of Administrative Law for publication in the California
 3 Regulatory Notice Register, 30 days ~~prior to board~~ *before taking*
 4 action, a notice of the proposed action.

5 (c) The board *or the department* shall ~~mail~~ *distribute* a notice
 6 of the proposed action, 30 days ~~prior to board~~ *before taking* action,
 7 to members of the Governor’s cabinet, department heads, employee
 8 associations, and persons requesting this notice, and shall make
 9 available to the public upon request, all of the following:

- 10 (1) The notice of proposed action.
- 11 (2) A copy of the express terms of the proposed regulation,
 12 using underline or italics to indicate additions to, and ~~strikeout to~~
 13 indicate deletions from, the California Code of Regulations,
 14 followed by a note containing authority and reference citations.

15 (3) A brief statement of reasons for the proposed regulation.

16 (d) The board *or the department* shall do all of the following:

17 (1) Provide opportunity for written comment to the board *or*
 18 *the department*, and oral comment at ~~board meetings or hearings~~
 19 *a duly noticed public meeting or hearing*.

20 (2) Submit adopted regulations to the Office of Administrative
 21 Law for filing with the Secretary of State and publication in the
 22 California Code of Regulations.

23 SEC. 7. Section 18502 of the Government Code is amended
 24 to read:

25 18502. (a) There is hereby created in state government the
 26 Department of Human Resources. The department succeeds to and
 27 is vested with the following:

28 (1) All of the powers and duties exercised and performed by
 29 the Department of Personnel Administration.

30 (2) Those powers, duties, and authorities necessary to operate
 31 the state civil service system ~~in accordance with~~ *pursuant to* Article
 32 VII of the California Constitution, this code, the merit principle,
 33 and applicable rules duly adopted by the State Personnel Board.

34 (b) The State Personnel Board shall prescribe rules consistent
 35 with a merit based civil service system to govern classification,
 36 examinations, probationary periods, ~~and~~ disciplinary actions, *and*
 37 *other matters related to the board’s authority under Article VII of*
 38 *the California Constitution*. The State Personnel Board may
 39 conduct audits and investigations of personnel practices of the

1 department and appointing authorities to ensure compliance with
2 civil service policies, procedures, and statutes.

3 (c) ~~Nothing in this~~ *This section limits shall not limit* the authority
4 of the Department of Human Resources and the State Personnel
5 Board to delegate, share, or transfer between them responsibilities
6 for programs within their respective jurisdictions pursuant to an
7 agreement.

8 (d) The rules and regulations of the State Personnel Board and
9 of the Department of Personnel Administration shall remain in
10 effect unless and until contradicted by the terms of this chapter or
11 amended or repealed by the board or the Department of Human
12 Resources.

13 SEC. 8. Section 18525.3 of the Government Code is amended
14 to read:

15 18525.3. “Transfer” means both of the following:

16 (a) The appointment of an employee to another position in the
17 same class but under another appointing power.

18 (b) The appointment of an employee to ~~a position in~~ a different
19 class that has substantially the same level of duties, responsibility,
20 and salary, ~~as determined by board rule,~~ *as the employee’s current*
21 *class* under the same or another appointing authority.

22 SEC. 9. Section 18527 of the Government Code is amended
23 to read:

24 18527. “Probationer” means an employee who has probationary
25 status. “Probationary status” means the status of an employee who
26 has been certified and appointed from an employment list, or has
27 been reinstated after resignation, or has been transferred or demoted
28 but who has not completed the probationary period ~~provided in~~
29 ~~this part and by board rule.~~

30 SEC. 10. Section 18528 of the Government Code is amended
31 to read:

32 18528. “Permanent employee” means an employee who has
33 permanent status. “Permanent status” means the status of an
34 employee who is lawfully retained in his position after the
35 completion of the probationary period ~~provided in this part and by~~
36 ~~board rule.~~

37 SEC. 11. Section 18532.1 of the Government Code is amended
38 to read:

39 18532.1. “Preferred limited term list” means a list of persons
40 who have served under limited-term appointment and who, in

1 accordance with ~~board~~ rule, are granted ~~eligibility~~ *eligibility* for
2 additional limited-term appointments.

3 SEC. 12. Section 18533 of the Government Code is amended
4 to read:

5 18533. (a) “Subdivisional promotional list” means a list of
6 persons eligible for certification for a specific class resulting from
7 a promotional examination for a particular subdivision of a state
8 agency.

9 (b) “Departmental promotional list” means a list of persons
10 eligible for certification for a specific class resulting from a
11 promotional examination for a particular state agency.

12 (c) “Multidepartmental promotional list” means a list of persons
13 eligible for certification for a specific class resulting from a
14 promotional examination for a group of state departments ~~and~~
15 ~~other state governmental units designated by the board.~~

16 (d) “Servicewide promotional list” means a list of persons
17 eligible for certification for a specific class resulting from a
18 promotional examination for the entire state service.

19 SEC. 13. Section 18538.1 of the Government Code is repealed.

20 ~~18538.1. The board may provide by rule the instances in which~~
21 ~~“month” or “calendar month” as used in this part shall be construed~~
22 ~~as calendar month, monthly pay period, or both.~~

23 SEC. 14. Section 18540 of the Government Code is amended
24 to read:

25 18540. “Armed forces” means the United States Air Force,
26 Army, Navy, Marine Corps, ~~Coast Guard, Revenue Marine Service,~~
27 ~~and the Army and Navy Nurse Corps.~~ Active service as a nurse in
28 the American Red Cross during World War I shall be considered
29 service in the “armed forces.” *and Coast Guard.*

30 SEC. 15. Section 18544 of the Government Code is amended
31 to read:

32 18544. “Duration employment” means an employment during
33 time of war or during an emergency in connection with the national
34 defense, which employment is subject to termination and other
35 conditions as prescribed by Section 19200 and by ~~board~~ rules.

36 SEC. 16. Section 18547 of the Government Code is repealed.

37 ~~18547. “Career executive assignment” means an appointment~~
38 ~~to a high administrative and policy influencing position within the~~
39 ~~state civil service in which the incumbent’s primary responsibility~~
40 ~~is the managing of a major function or the rendering of~~

1 ~~management advice to top-level administrative authority. Such a~~
2 ~~position can be established only in the top managerial levels of~~
3 ~~state service and is typified by broad responsibility for policy~~
4 ~~implementation and extensive participation in policy evolution.~~
5 ~~Assignment by appointment to such a position does not confer any~~
6 ~~rights or status in the position other than provided in Article 9~~
7 ~~(commencing with Section 19889) of Chapter 2.5 of Part 2.6.~~

8 SEC. 17. Section 18547 is added to the Government Code, to
9 read:

10 18547. “Career executive assignment” means a classification
11 characterized by high-level administrative and policy-influencing
12 duties. The career executive assignment may be used for the top
13 managerial positions of state civil service.

14 SEC. 18. Section 18575 of the Government Code is amended
15 to read:

16 18575. ~~(a) Except as otherwise provided in subdivisions (b)~~
17 ~~and (c), service by mail of any notice, paper, or document to be~~
18 ~~served upon a person or appointing power shall be made in the~~
19 ~~manner provided by Sections 1012 and 1013 of the Code of Civil~~
20 ~~Procedure.~~

21 ~~(b)~~

22 (a) (1) The appointing power shall provide service of the
23 following actions by personal service or by *certified mail with*
24 *return receipt requested* or express service carrier as provided in
25 this subdivision:

26 (A) Notice of disciplinary action.

27 (B) Notice of rejection during probationary period.

28 (C) Notice of medical action.

29 (D) Notice of nonpunitive action.

30 (E) Notice of career executive assignment termination.

31 (F) Notice of termination with fault of a limited term, seasonal,
32 or temporary authorization appointment.

33 (G) Notice of termination of an appointment under the Limited
34 Examination and Appointment Program.

35 (H) Notice of termination or automatic resignation of a
36 permanent intermittent employee.

37 (I) Notice of absence without leave resignation or separation
38 pursuant to Section 89541 of the Education Code.

39 ~~(2) Service by mail of the notices listed in paragraph (1) shall~~
40 ~~be made by enclosing the notice in a sealed envelope, addressed~~

1 to the last known residence address of the employee, and doing
2 any of the following:

3 (A) Deposit in the United States mail with postage fully prepaid,
4 certified with return receipt requested. Service is complete at the
5 time of deposit, but any period of notice or any right or duty to do
6 any act or make any response within any period or on a date certain
7 after the service of the document served by United States mail
8 shall be extended in accordance with subdivision (a) of Section
9 1013 of the Code of Civil Procedure.

10 (B) Deposit in the United States mail with Express Mail postage
11 fully prepaid. Service is complete at the time of deposit, but any
12 period of notice or any right or duty to do any act or make any
13 response within any period or on a date certain after the service
14 of the document served by Express Mail shall be extended by two
15 business days.

16 (C) Providing for overnight delivery, by deposit of the notice
17 in a box or other facility regularly maintained by an express service
18 carrier, or delivery to a courier or driver authorized by an express
19 service carrier to receive documents, in an envelope or package
20 designated by the express service carrier with delivery fees paid
21 or provided for, and with the employee or his or her designated
22 representative required to acknowledge receipt of the notice at the
23 time of delivery. Service is complete at the time of the deposit,
24 but any period of notice or any right or duty to do any act or make
25 any response within any period or on a date certain after the service
26 of the document served by overnight delivery shall be extended
27 by two business days.

28 (e) (1) Service of an appeal or complaint filed with the board
29 shall be made by personal service or by mail or express service
30 carrier as provided in this subdivision.

31 (2) Service by mail of an appeal or complaint filed with the
32 board shall be made by enclosing the notice in a sealed envelope,
33 addressed to the Appeals Division of the State Personnel Board,
34 and doing any of the following:

35 (A) Deposit in the United States mail with first-class postage
36 fully prepaid. Service is complete at the time of deposit, but any
37 period of notice or any right or duty to do any act or make any
38 response within any period or on a date certain after the service
39 of the document served by United States mail shall be extended

1 in accordance with subdivision (a) of Section 1013 of the Code of
2 Civil Procedure.

3 (B) Deposit in the United States mail with Express Mail postage
4 fully prepaid. Service is complete at the time of deposit, but any
5 period of notice or any right or duty to do any act or make any
6 response within any period or on a date certain after the service
7 of the document served by Express Mail shall be extended by two
8 business days.

9 (C) Providing for overnight delivery, by deposit of the appeal
10 or complaint in a box or other facility regularly maintained by an
11 express service carrier, or delivery to a courier or driver authorized
12 by an express service carrier to receive documents, in an envelope
13 or package designated by the express service carrier with delivery
14 fees paid or provided for, and with the authorized representative
15 of the State Personnel Board required to acknowledge receipt of
16 the appeal or complaint at the time of delivery. Service is complete
17 at the time of the deposit, but any period of notice or any right or
18 duty to do any act or make any response within any period or on
19 a date certain after the service of the document served by overnight
20 delivery shall be extended by two business days.

21 (d) (1) Proof of service of all papers, excluding appeals and
22 complaints, shall be an affidavit stating the title of the papers served
23 or filed, the name and address of the person making the service,
24 and that he or she is over 18 years of age and not a party to the
25 action. The proof of service shall be signed by the person making
26 it and contain the following statement above the signature, below
27 which the declarant's name shall be typed and signed:

28 "I declare under penalty of perjury under the laws of the State
29 of California that the foregoing is true and correct, and this
30 declaration was executed at (city, state) on (date)."

31 (2) (A) If service is made by mail or express service carrier, in
32 addition to the information provided in paragraph (1), the proof
33 of service shall show the date and place of deposit, the name and
34 address of the person served as shown on the mailing envelope,
35 and that the envelope was sealed and deposited in the mail or
36 provided for overnight delivery, as appropriate.

37 (B) A proof of service made in accordance with Section 1013a
38 of the Code of Civil Procedure complies with this paragraph.

1 (2) (A) *Personal service shall be made in the manner, and is*
 2 *deemed complete, as provided for in Section 415.10 of the Code*
 3 *of Civil Procedure.*

4 (B) *Service by certified mail with return receipt requested shall*
 5 *be made in the manner provided for in Section 1020 of the Code*
 6 *of Civil Procedure and is deemed complete as provided for in*
 7 *subdivision (a) of Section 1013 of the Code of Civil Procedure.*

8 (C) *Service by express service carrier shall be in the manner,*
 9 *and is deemed complete, as provided for in subdivision (c) of*
 10 *Section 1013 of the Code of Civil Procedure.*

11 (D) *The period to respond to any notice of action provided in*
 12 *paragraph (1) shall be extended as provided in Section 1013 of*
 13 *the Code of Civil Procedure.*

14 (b) *Service of subpoenas and subpoenas duces tecum shall be*
 15 *made by personal service or by registered mail with return receipt*
 16 *requested as provided in subdivision (a).*

17 (c) *Service of all other documents shall be made as prescribed*
 18 *by rule.*

19 (d) *Proof of service shall be by affidavit as provided for in*
 20 *Sections 417.10 and 417.40 of, and subdivision (a) of Section 1013*
 21 *of, the Code of Civil Procedure.*

22 SEC. 19. Section 18577 of the Government Code is amended
 23 to read:

24 18577. Whenever this part refers to ~~“board”~~ “rule,” “rules of
 25 ~~the board,”~~ or makes similar reference, such reference authorizes
 26 the board *or the department* to make rules concerning the subject
 27 matter concerning which such reference is made.

28 SEC. 20. Section 18652 of the Government Code is repealed.

29 ~~18652. The board shall secure such suitable and convenient~~
 30 ~~offices, examination rooms and accommodations throughout the~~
 31 ~~State as may be required for the public convenience and furnish~~
 32 ~~heat, and light them for carrying on the work of the board. The~~
 33 ~~board shall acquire necessary supplies and order necessary printing~~
 34 ~~to be done for its official use. The headquarters of the board is the~~
 35 ~~City of Sacramento.~~

36 SEC. 21. Section 18654 of the Government Code is amended
 37 to read:

38 18654. The intention of the Legislature is hereby declared to
 39 be that the executive officer shall perform and discharge under the
 40 direction and control of the board the powers, duties, purposes,

1 functions, and jurisdiction vested in the board and delegated to
2 him *or her* by it.

3 Any power, duty, purpose, function, or jurisdiction ~~which~~ *that*
4 the board may lawfully delegate shall be conclusively presumed
5 to have been delegated to the executive officer unless it is shown
6 that the board by affirmative vote recorded in its minutes
7 specifically has reserved the same for its own action. The executive
8 officer may redelegate to his *or her* subordinates or to an
9 appointing power he *or she* designates, unless by board rule or
10 express provision of law he *or she* is specifically required to act
11 personally.

12 SEC. 22. Section 18654.5 of the Government Code is amended
13 to read:

14 18654.5. The executive officer shall administer the civil service
15 statutes ~~under rules of the board~~ *and rules*, subject to the right of
16 appeal to the board.

17 SEC. 23. Section 18655 of the Government Code is amended
18 to read:

19 18655. When any person selected to assist in examinations or
20 to serve as an authorized representative or referee of the board *or*
21 *the department* is employed by the State in some other capacity,
22 it is a part of his *or her* official duties to serve without additional
23 compensation other than his *or her* actual and necessary traveling
24 expenses.

25 SEC. 24. Section 18661 of the Government Code is amended
26 to read:

27 18661. (a) The board may conduct an audit of any appointing
28 authority's personnel practices to ensure compliance with the civil
29 service laws and board regulations. The board may audit selection
30 and examination procedures, appointments, promotions, the
31 management of probationary periods, personal services contracts,
32 discipline and adverse actions, or any other area related to the
33 operation of merit principle in state civil service.

34 (b) When conducting an audit, the board may inspect documents,
35 policies, practices, and procedures of the appointing authority
36 relating to its personnel practices and interview appointing
37 authority staff and witnesses regarding the subject of the audit.
38 Failure by an appointing authority to cooperate with an audit may
39 result in corrective action.

1 (c) Upon completion of the audit, the board may provide a report
 2 to the appointing authority and the department, identifying any
 3 deficiencies in the appointing authority’s personnel practices,
 4 policies, and procedures.

5 (d) If the board finds an appointing authority deficient in
 6 personnel practices, policies, and procedures, the appointing
 7 authority shall be subject to corrective action. The board may order
 8 *remedies including, but not limited to*, any or all of the following
 9 *remedies*:

10 (1) Revocation or modification of the terms of the delegation
 11 agreement between the appointing authority and the department.

12 (2) That the appointing authority compensate the department
 13 for the actual and necessary cost of any and all of the personnel
 14 functions the department performs and training and supervision
 15 the department provides on behalf of the appointing authority,
 16 either permanently or for a specified term.

17 (3) Void examinations administered by the appointing authority,
 18 abolish eligibility lists, and void appointments made therefrom.

19 (4) Seek approval from the Department of Finance for
 20 redirection to the department of a sufficient number of the
 21 appointing authority’s positions to perform all personnel related
 22 functions formerly performed by the appointing authority.

23 SEC. 25. Section 18670 of the Government Code is amended
 24 to read:

25 18670. ~~(a)~~—The board may hold hearings and make
 26 investigations concerning all matters relating to the enforcement
 27 and effect of this part and rules prescribed under this part. It may
 28 inspect any state institution, office, or other place of employment
 29 affected by this part to ascertain whether this part and the board
 30 rules are obeyed.

31 The board shall make investigations and hold hearings at the
 32 direction of the Governor or the Legislature or upon the petition
 33 of an employee or a citizen concerning the enforcement and effect
 34 of this part and to enforce the observance of Article VII of the
 35 Constitution and of this part and the rules made under this part.

36 ~~(b) Effective January 1, 1996, this subdivision shall apply only~~
 37 ~~to state employees in State Bargaining Unit 5. For purposes of~~
 38 ~~subdivision (a), any discipline, as defined by Section 19576.1, is~~
 39 ~~not subject to either a board investigation or hearing. Board review~~

1 shall be limited to acceptance or rejection of discipline imposed
2 pursuant to Section 19576.1.

3 SEC. 26. Section 18671.1 of the Government Code is amended
4 to read:

5 18671.1. (a) If a hearing or investigation is conducted by the
6 board or its authorized representative in regard to an appeal by an
7 employee, the hearing or investigation shall be commenced within
8 a reasonable time after the filing of the ~~petition~~ *appeal*. For appeals
9 from actions resulting in the termination of an employee, if an
10 evidentiary hearing has not commenced within six months of the
11 filing of the appeal, the employee may make a written request for
12 a priority hearing by the board. Upon receipt of the written request,
13 the board shall schedule an evidentiary hearing within 60 days of
14 the request at a hearing location designated by the board.

15 (b) The board shall render its decision within a reasonable time
16 after the conclusion of the hearing or investigation, except that the
17 period from the filing of the ~~petition~~ *appeal* to the decision of the
18 board shall not exceed six months ~~or 90 days from the time of the~~
19 ~~submission, whichever time period is less, and except that the~~
20 ~~board may extend the six-month period up to 45 additional days.~~

21 (c) ~~In the event of an extension, the board shall publish~~
22 ~~substantial reasons for the need for the extension in its calendar~~
23 ~~prior to the conclusion of the six-month period. Submission occurs~~
24 ~~on the last day of the hearing, if no other documents are to be filed,~~
25 ~~or on the last day designated for the filing of briefs or other~~
26 ~~evidence necessary to complete the record.~~

27 (d)

28 (e) The provisions described in subdivision (b) relating to the
29 six-month ~~or the 90-day periods~~ *period* for a decision may be
30 waived by the employee but if not so waived, a failure to render
31 a timely decision is an exhaustion of all available administrative
32 remedies.

33 (f)

34 (g) The board may order all of, or a portion of, any hearing to
35 be conducted using electronic media pursuant to board rules.

36 (h) ~~In cases involving complaints of discrimination, harassment,~~
37 ~~or retaliation, where the executive officer renders a decision, the~~
38 ~~decision shall be rendered within four months of the filing of the~~
39 ~~appeal.~~

1 SEC. 27. Section 18672 of the Government Code is amended
2 to read:

3 18672. (a) Subpoenas and subpoenas duces tecum may be
4 issued for attendance at a hearing and for production of documents
5 at any reasonable time and place. However, a subpoena shall not
6 be issued to compel attendance of any witness who does not reside
7 within 100 miles of the place where the hearing or investigation
8 is held unless it is shown to the satisfaction of a member of the
9 board, the executive officer, or the person authorized to conduct
10 the investigation or hearing, by affidavit stating the facts, that the
11 witness is a material witness. ~~Such a~~ *That* statewide subpoena shall
12 be served at least five days prior to the date of hearing.

13 (b) Subpoenas and subpoenas duces tecum shall be issued by
14 the board or its authorized representative at the request of a party.

15 (c) The process extends to all parts of the state and shall be
16 served in accordance with Sections 1987 and 1988 of the Code of
17 Civil Procedure *and the service provisions of subdivisions (a) and*
18 *(b) of Section 68097.1 of the Government Code.* A subpoena or
19 subpoena duces tecum may also be delivered by certified mail
20 return receipt requested or by messenger. Service by messenger
21 shall be effected when the witness acknowledges receipt of the
22 subpoena to the sender, by telephone, by mail, or in person, and
23 identifies himself or herself either by reference to date of birth and
24 driver's license number or Department of Motor Vehicles
25 identification number, or the sender may verify receipt of the
26 subpoena by obtaining other identifying information from the
27 recipient. The sender shall make a written notation of the
28 acknowledgment. A subpoena issued and acknowledged pursuant
29 to this section has the same force and effect as a subpoena
30 personally served. Failure to comply with a subpoena issued and
31 acknowledged pursuant to this section may be punished as a
32 contempt and the subpoena may so state. ~~A party requesting a~~
33 ~~continuance based upon the failure of a witness to appear at the~~
34 ~~time and place required for the appearance or testimony pursuant~~
35 ~~to a subpoena, shall prove that the party has complied with this~~
36 ~~section. The continuance shall only be granted for a period of time~~
37 ~~that would allow personal service of the subpoena and in no event~~
38 ~~longer than that allowed by law.~~

39 (d) No witness is obliged to attend unless the witness is a
40 resident of the state at the time of service.

1 (e) The custodian of documents that are the subject of a
2 subpoena duces tecum may satisfy the subpoena by delivery of
3 the documents or a copy of the documents, or by making the
4 documents available for inspection or copying, together with an
5 affidavit in compliance with Section 1561 of the Evidence Code.

6 SEC. 28. Section 18674 of the Government Code is amended
7 to read:

8 18674. Witnesses at a hearing or investigation are entitled to
9 the same fees as are allowed witnesses in civil cases in courts of
10 record.

11 An officer serving a ~~subpena~~ *subpoena* to secure the attendance
12 of ~~such a witness~~ *those witnesses* shall receive the same mileage
13 as for the service by him of a writ or paper for the ~~State~~ *state*. ~~Such~~
14 *The* fees and mileage, except in dismissal or other punitive
15 proceedings where the service is requested by the accused, need
16 not be prepaid.

17 If a witness is ~~subpenaed~~ *subpoenaed* by a ~~State~~ *state* agency or
18 its representative, the Controller shall draw his warrant for payment
19 of fees and mileage when the amount is ~~certified by the board or~~
20 ~~the person authorized to conduct the hearing or investigation and~~
21 duly proved by affidavit or otherwise to the satisfaction of the
22 Controller. The Controller may charge such warrant against any
23 proper fund of that ~~State~~ *state* agency. If a witness is ~~subpenaed~~
24 *subpoenaed* by the accused or any person other than a ~~State~~ *state*
25 agency, his fees and mileage shall be paid by that person and are
26 not proper charges against any ~~State~~ *state* fund.

27 SEC. 29. Section 18676 of the Government Code is amended
28 to read:

29 18676. When ordered to do so, a witness shall not be excused
30 from testifying or from producing any documentary evidence in
31 that investigation or hearing upon the ground that the testimony
32 or documentary evidence required of the witness may tend to
33 incriminate or subject the witness to penalty or forfeiture, provided
34 the witness ~~is~~ *has been* granted use and derivative use, or
35 transactional immunity *by the appropriate law enforcement*
36 *authority*.

37 SEC. 30. Section 18681 of the Government Code is amended
38 to read:

39 18681. Whenever any matter is pending before the ~~Personnel~~
40 ~~Board~~ *board* involving a dispute between one or more employees

1 and an appointing power and the parties to such dispute agree upon
2 a settlement or adjustment thereof, the terms of such settlement or
3 adjustment may be submitted to the board, and if approved by the
4 board, the disposition of the matter in accordance with the terms
5 of such adjustment or settlement shall become final and binding
6 upon the parties.

7 SEC. 31. Section 18682 of the Government Code is amended
8 to read:

9 18682. Whenever any employee, department, or other person,
10 actively interested in a matter before the ~~Personnel Board~~ *board*
11 and in connection with which it is holding a hearing, requests that
12 the board make findings, then the board shall make findings if
13 ~~such~~ *the* request is made at any time prior to the time the board
14 takes the matter under submission.

15 SEC. 32. Section 18804 of the Government Code is amended
16 to read:

17 18804. Upon the reallocation of a position, other than by action
18 of the board under Section 18802, the incumbent of the position
19 shall not thereby gain status in the new class. Change in status of
20 the incumbent may be accomplished only in accordance with the
21 appropriate sections of this part and ~~board~~ rules relating to transfer,
22 demotion, or promotion.

23 SEC. 33. Section 18807 of the Government Code is repealed.

24 ~~18807. (a) The board, by resolution, shall define the term~~
25 ~~“salary step” for the purpose of administering civil service laws~~
26 ~~and rules that control movement of employees between~~
27 ~~classifications.~~

28 ~~(b) Salary steps defined pursuant to this section shall be subject~~
29 ~~to the following requirements:~~

30 ~~(1) The steps shall be as close to 5 percent as the board~~
31 ~~determines to be practicable.~~

32 ~~(2) The steps shall logically reflect the pay relationships among~~
33 ~~each group of classifications.~~

34 ~~(3) The steps shall maintain servicewide consistency and~~
35 ~~continuity in the percentage of salary increase permitted when an~~
36 ~~appointment is made without a competitive examination.~~

37 ~~(e) A resolution adopted pursuant to this section shall be adopted~~
38 ~~at a public meeting and shall be made publicly available before~~
39 ~~and after its adoption.~~

1 SEC. 34. Section 18900 of the Government Code is amended
2 to read:

3 18900. (a) Eligible lists shall be established as a result of free
4 competitive examinations open to persons who lawfully may be
5 appointed to any position within the class for which these
6 examinations are held and who meet the minimum qualifications
7 requisite to the performance of the duties of that position as
8 prescribed by the specifications for the class or by ~~board~~ rule.

9 (b) ~~Notwithstanding subdivision (a), the board~~ *The department*
10 may limit the size of candidate groups in entry-level and
11 nonpromotional examinations when doing so would be in the best
12 interest of the state and effective competition can occur among a
13 smaller number of applicants.

14 SEC. 35. Section 18900.5 of the Government Code is amended
15 to read:

16 18900.5. For purposes of this ~~chapter part~~, “designated
17 appointing power” means an appointing power designated by the
18 ~~executive officer pursuant to Section 18654~~ *department under*
19 *Section 18930.5*.

20 SEC. 36. Section 18900.6 of the Government Code is amended
21 to read:

22 18900.6. (a) ~~The board~~ *department* may authorize the use of
23 skills-based certification for information technology classifications
24 if all of the following conditions are satisfied:

25 (1) There is a job analysis that meets ~~the legal standards outlined~~
26 ~~in the State Personnel Board selection manual~~.

27 (2) The class is used on a ~~service-wide~~ *servicewide* basis.

28 (3) The class is broad and includes a number of distinct
29 assignments.

30 (4) It is in the best interest of the state to use skills-based
31 certification.

32 (b) For purposes of this section, “skills-based certification”
33 means the creation of a unique certification list for each vacancy
34 within a class. Skills-based certification is created by weighting
35 the scores attained by competitors of all measured knowledge,
36 skills, and abilities to reflect their relative importance to the job,
37 as identified by a job analysis for each vacancy. Skills-based
38 certification shall replace the single eligible list for a classification
39 with an unique list of eligible individuals for each vacancy.
40 Skills-based certification shall determine the order of individuals

1 on a certification list; it shall not affect the rules for using
2 certification lists.

3 (c) The ~~board~~ department shall also promulgate regulations
4 specifying how skills-based certification shall be implemented.
5 Among other things, these regulations shall include provisions to
6 ensure fairness to all candidates and prevent improper
7 manipulation.

8 SEC. 37. Section 18903 of the Government Code is amended
9 to read:

10 18903. (a) For each class there shall be maintained a general
11 reemployment list consisting of the names of all persons who have
12 occupied positions with probationary or permanent status in the
13 class and who have been legally laid off or demoted in lieu of
14 layoff.

15 (b) Within one year from the date of his or her resignation in
16 good standing, or his or her voluntary demotion, the name of an
17 employee who had probationary or permanent status may be placed
18 on the general reemployment list with the consent of the appointing
19 power and the ~~board~~ department. The general reemployment list
20 may also contain the names of persons placed thereon by the ~~board~~
21 department in accordance with other provisions of this part.

22 SEC. 38. Section 18930.5 of the Government Code is amended
23 to read:

24 18930.5. The department may designate an appointing power
25 to design, announce, or administer examinations for the
26 establishment of employment lists in accordance with Section
27 18654 and board rule. ~~No later than January 1, 1987, the board~~
28 ~~shall authorize or assess the ability of appointing powers to design,~~
29 ~~announce, or administer designated examinations for the~~
30 ~~establishment of employment lists. The board~~ The department may
31 audit examinations and order corrective action, *including*
32 *withdrawing or limiting the authority previously exercised by the*
33 *designated appointing authority*, or nullify any examination or
34 parts thereof which have been conducted improperly.

35 A designated appointing power may contract with the department
36 or another designated appointing power for the purpose of
37 designing, publicizing, or administering an examination.

38 SEC. 39. Section 18931 of the Government Code is amended
39 to read:

1 18931. (a) The board shall establish minimum qualifications
2 for determining the fitness and qualifications of employees for
3 each class of position; ~~for temporary appointments, and for~~
4 ~~applicants for examinations, and for such purposes may require~~
5 ~~such certificates of citizens, physicians, public officers, or others~~
6 ~~having knowledge of the applicant, as the good of the service may~~
7 ~~require. It may require necessary documentary evidence of~~
8 ~~citizenship, honorable discharge from the armed forces of the~~
9 ~~United States, possession of valid licenses for various purposes,~~
10 ~~or other evidence of identification, fitness, and qualification. The~~
11 ~~department may require applicants for examination or appointment~~
12 ~~to provide documentation as it deems necessary to establish the~~
13 ~~applicants' qualifications.~~

14 (b) *Whenever the law requires that an applicant for a position*
15 *as a peace officer be screened to ensure that the applicant is free*
16 *from emotional and mental impairment, the department or the*
17 *designated appointing authority shall undertake such screening*
18 *subject to the applicant's right to appeal to the board.*

19 SEC. 40. Section 18933 of the Government Code is amended
20 to read:

21 18933. (a) Within a reasonable time before the scheduled date,
22 ~~the board~~ *department* or a designated appointing power shall
23 announce or advertise examinations for the establishment of
24 eligible lists. The announcement shall ~~contain information~~
25 ~~concerning~~ *include* the following:

- 26 (1) The date and place of the examination.
- 27 (2) The nature of the minimum qualifications.
- 28 (3) The general scope of the examination.
- 29 (4) The relative weight of its several parts if more than one type
30 of test is to be utilized.

31 (5) Any other information the ~~board~~ *department* deems proper.

32 (b) ~~The board~~ *department* shall notify the Department of
33 Veterans Affairs when any promotional examination for the
34 establishment of an eligible list is announced or advertised to
35 eligible candidates. The notification shall state the job position
36 and include all of the information listed in paragraphs (1) to (5),
37 inclusive, of subdivision (a).

38 SEC. 41. Section 18934 of the Government Code is amended
39 to read:

1 18934. Every applicant for examination shall file a formal
 2 signed *an* application in the office of *with* the department or a
 3 designated appointing power within a reasonable length of time
 4 before the date of examination. Blank application forms shall be
 5 furnished without charge to all persons requesting them. *as directed*
 6 *in the examination announcement. Applications shall be accepted*
 7 *free of any charge to the applicant.* Such applications when filed
 8 and all other examination materials, including examination
 9 questions and ~~booklets~~ *any written material*, are the property of
 10 the department and are confidential records *not* open to inspection
 11 *only if and as provided by rule except as provided by law.*

12 The application form shall include a place for listing volunteer
 13 experience and such experience shall be considered if it is relevant
 14 to the position being applied for. ~~Each form shall have prominently~~
 15 ~~displayed on its face the fact and shall state that relevant~~ volunteer
 16 experience will be given consideration as qualifying experience
 17 for state employment.

18 SEC. 42. Section 18935 of the Government Code is repealed.

19 18935. ~~The department may refuse to examine or, after~~
 20 ~~examination, may refuse to declare as eligible or may withhold or~~
 21 ~~withdraw from certification, prior to appointment, anyone who~~
 22 ~~comes under any of the following categories:~~

23 (a) ~~Lacks any of the requirements established by the board for~~
 24 ~~the examination or position for which he or she applies.~~

25 (b) ~~At the time of examination has permanent status in a position~~
 26 ~~of equal or higher class than the examination or position for which~~
 27 ~~he or she applies.~~

28 (c) ~~Is physically or mentally so disabled as to be rendered unfit~~
 29 ~~to perform the duties of the position to which he or she seeks~~
 30 ~~appointment.~~

31 (d) ~~Is addicted to the use of intoxicating beverages to excess.~~

32 (e) ~~Is addicted to the use of controlled substances.~~

33 (f) ~~Has been convicted of a felony, or convicted of a~~
 34 ~~misdemeanor involving moral turpitude.~~

35 (g) ~~Has been guilty of infamous or notoriously disgraceful~~
 36 ~~conduct.~~

37 (h) ~~Has been dismissed from any position for any cause which~~
 38 ~~would be a cause for dismissal from the state service.~~

39 (i) ~~Has resigned from any position not in good standing or in~~
 40 ~~order to avoid dismissal.~~

1 ~~(j) Has intentionally attempted to practice any deception or fraud~~
2 ~~in his or her application, in his or her examination, or in securing~~
3 ~~his or her eligibility.~~

4 ~~(k) Has waived appointment three times after certification from~~
5 ~~the same employment list.~~

6 ~~(l) Has failed to reply within a reasonable time to~~
7 ~~communications concerning his or her availability for employment.~~

8 ~~(m) Has made himself or herself unavailable for employment~~
9 ~~by requesting that his or her name be withheld from certification.~~

10 ~~(n) Is, in accordance with rule, found to be unsuited or not~~
11 ~~qualified for employment.~~

12 ~~(o) Has engaged in unlawful reprisal or retaliation in violation~~
13 ~~of Article 3 (commencing with Section 8547) of Chapter 6.5 of~~
14 ~~Division 1, as determined by the board or the court.~~

15 SEC. 43. Section 18935 is added to the Government Code, to
16 read:

17 18935. (a) The department or a designated appointing power
18 may refuse to examine, or after examination may refuse to declare
19 as eligible, or may withhold or withdraw from an eligible list,
20 before the appointment, anyone who meets any of the following
21 criteria:

22 (1) Lacks any of the requirements for the examination or position
23 for which he or she applied.

24 (2) Has been dismissed from any position for any cause that
25 would be a cause for dismissal from state service.

26 (3) Has resigned from any position not in good standing in order
27 to avoid dismissal.

28 (4) Has misrepresented himself or herself in the application or
29 examination process, including permitting another person to
30 complete or attempt to complete a portion of the examination on
31 his or her behalf.

32 (5) Has been found to be unsuited or not qualified for
33 employment pursuant to rule.

34 (b) The remedies provided in this section are not exclusive and
35 shall not prevent the board, department, or appointing power from
36 taking additional actions pursuant to Chapter 10 (commencing
37 with Section 19680).

38 SEC. 44. Section 18936 of the Government Code is amended
39 to read:

1 18936. The final earned rating of each person competing in
2 any examination shall be determined by the weighted average of
3 the earned ratings on all phases of the examination, according to
4 the weights for each phase established by the ~~board~~ *department*
5 or a designated appointing power in advance of the giving of the
6 examination and published as a part of the announcement of the
7 examination.

8 The ~~board~~ *department* or a designated appointing power may
9 set minimum qualifying ratings for each phase of an examination
10 and may provide that competitors failing to achieve such ratings
11 in any phase shall be disqualified from any further participation
12 in the examination.

13 SEC. 45. Section 18937 of the Government Code is amended
14 to read:

15 18937. The passing mark for an examination may be other than
16 the true percentage or average published as a part of the
17 announcement of the examination, if deemed by the ~~board~~
18 *department* or a designated appointing power to be justified in
19 order to provide an adequate eligible list or to adjust for the
20 apparent difficulty of an examination. In establishing any eligible
21 list or promotional list following an examination, the names of the
22 persons who have attained the passing mark in such examination
23 shall be placed on the list in the order of final earned ratings, except
24 as such order may be modified by the application of veterans'
25 preferences. When the order of names has been determined after
26 applying the appropriate veterans' preference credits, the ~~board~~
27 *department* may thereafter limit to suit the needs of the service the
28 number of names to be placed on the employment list.

29 SEC. 46. Section 18938.6 of the Government Code is amended
30 to read:

31 18938.6. The *department or designated appointing power* shall
32 provide for the inspection of examination papers for all written
33 test competitors.

34 SEC. 47. Section 18940 of the Government Code is repealed.

35 ~~18940. (a) When an examination is scheduled to be given~~
36 ~~during the period from sundown on a Friday until sundown on the~~
37 ~~following day, and it is the practice of an applicant, based upon~~
38 ~~his religious convictions, to observe the Sabbath during such~~
39 ~~period, and the applicant therefore objects to taking the examination~~

1 during such period, he may elect to avail himself of the procedure
2 provided for in subdivision (b):

3 ~~(b) On or before the final date for filing applications for an
4 examination the applicant shall advise the board or a designated
5 appointing power of his objections, his desire for the deferred
6 examination and for surveillance described in subdivision (c), and
7 his preference between individual and group surveillance. If, in
8 the opinion of the board or a designated appointing power, the
9 security of examination material does not require surveillance, the
10 applicant may be given a deferred examination without
11 surveillance.~~

12 ~~(c) An applicant who gives notice to the board or a designated
13 appointing power in accordance with subdivision (b) unless
14 surveillance is waived by the board or a designated appointing
15 power shall be entitled to receive such surveillance by a
16 representative of the board, either individually or as part of a group,
17 depending on the facilities of the board or a designated appointing
18 power and the preference of the applicant, as will render it
19 impossible for the candidate to learn of the contents of the
20 examination. The surveillance shall continue from the time of
21 commencement of the general examination until the
22 commencement of the deferred examination of the applicant, which
23 deferred examination shall be given promptly after the close of
24 the Sabbath observed by the applicant. During the period of
25 surveillance the board or a designated appointing power may
26 require the presence of the applicant at such place or places as it
27 deems appropriate, but the applicant shall be allowed the greatest
28 freedom of movement consistent with the purposes of this section.~~

29 SEC. 48. Section 18940 is added to the Government Code, to
30 read:

31 18940. Any applicant for examination may request reasonable
32 accommodation for a disability or sincerely held religious belief
33 pursuant to the Fair Employment and Housing Act or any other
34 applicable law. The department may prescribe rules governing
35 those requests.

36 SEC. 49. Section 18941 of the Government Code is repealed.

37 18941. ~~(a) For purposes of this section, "Section 211" means
38 the board regulation restricting a dismissed employee from taking
39 civil service examinations, provided for pursuant to Section 211
40 of Title 2 of the California Code of Regulations.~~

1 ~~(b) The board shall do both of the following:~~

2 ~~(1) Provide, by rule, for grant of a blanket waiver under Section~~
3 ~~211 that will allow a dismissed employee who meets standards to~~
4 ~~be determined by the board to apply for any civil service~~
5 ~~examination, so that he or she will not need a separate waiver for~~
6 ~~each examination.~~

7 ~~(2) Prepare a written notice that explains the effect of dismissal~~
8 ~~from state employment on eligibility to take civil service~~
9 ~~examinations, as stated in Section 211, and the process by which~~
10 ~~a dismissed employee can compete in a civil service examination,~~
11 ~~including any changes to that process required by this section.~~

12 SEC. 50. Section 18941 is added to the Government Code, to
13 read:

14 18941. Any former state employee who was dismissed from
15 state service pursuant to Chapter 7 (commencing with Section
16 19500) of Division 5 of this part may petition the department to
17 be permitted to take a civil service examination in order to establish
18 eligibility for appointment to state service. The department may
19 grant such a petition for a particular examination or may grant the
20 petition for any or all future examinations. If the department denies
21 the petition, the former state employee may appeal that decision
22 to the board.

23 SEC. 51. Section 18950 of the Government Code is amended
24 to read:

25 18950. Vacancies in positions shall be filled insofar as
26 consistent with the best interests of the state from among employees
27 holding positions in appropriate classes, and appropriate
28 promotional lists shall be established to facilitate this purpose,
29 except as provided in Section 18930. Examinations shall be held
30 on an open, nonpromotional basis when, in the judgment of the
31 ~~board~~ *department or designated appointing power*, open
32 competition will produce eligible lists with more highly skilled
33 qualified candidates and is consistent with the best interests of the
34 state.

35 The ~~board~~ *department* may prescribe conditions under which
36 state employees, persons on leave of absence, and persons whose
37 names are on appropriate reemployment lists, may be permitted
38 to compete in promotional examination and to attain eligibility for
39 appointment.

1 The ~~board~~ *department* may further prescribe conditions under
2 which eligibility may be transferred from one promotional list to
3 another promotional list when such lists are for the same class and
4 have been established as a result of the same or a similar
5 examination.

6 SEC. 52. Section 18950.1 of the Government Code is amended
7 to read:

8 18950.1. Notwithstanding any other ~~provision of the law,~~
9 full-time employees of the state who are exempt from state civil
10 service pursuant to the provisions of Section 4 of Article VII of
11 the California Constitution, shall be eligible to receive three career
12 credits, except when competing for managerial positions, as defined
13 in Section 3513, under conditions prescribed by the ~~State Personnel~~
14 ~~Board~~ *department*.

15 Such credits shall be granted only for open nonpromotional
16 examinations. In order to be eligible to receive credits, such
17 employees must meet all qualification requirements specified ~~by~~
18 ~~the board~~ and must have 12 consecutive months of service in an
19 exempt position.

20 SEC. 53. Section 18951 of the Government Code is amended
21 to read:

22 18951. The board, *department*, and each state agency and
23 employee shall encourage economy and efficiency in and devotion
24 to state service by encouraging promotional advancement of
25 employees showing willingness and ability to perform efficiently
26 services assigned them, and every person in state service shall be
27 permitted to advance according to merit and ability.

28 In an examination held on an open, nonpromotional basis under
29 the provisions of Section 18950, a competitor, who has permanent
30 civil service status, or who has a mandatory right of reinstatement
31 to a position with permanent civil service status, and who attains
32 the passing mark established for an examination which is not for
33 a managerial position as defined in Section 3513, shall have three
34 credits added to his or her earned score. Such credits shall be
35 known as career credits.

36 SEC. 54. Section 18972 of the Government Code is amended
37 to read:

38 18972. For specific ~~State~~ *state* services or employments as
39 determined by the ~~board~~ *department*, it may in examination allow
40 general or individual preference in ratings to veterans who have

1 suffered permanent disability in line of duty, if such disability will
 2 not prevent the proper performance of the duties required under
 3 such service or employment, and if such disability is of record in
 4 the files of the United States Veterans' Administration.

5 SEC. 55. Section 18975 of the Government Code is amended
 6 to read:

7 18975. In any examinations to establish employment lists in
 8 which credits are allowed for experience, periods of service in the
 9 recognized military service shall be counted by the ~~board~~
 10 *department and designated appointing authority* as experience
 11 upon a showing by the veteran that such service involved duties
 12 and responsibilities of the kind for which credit for experience is
 13 being allowed.

14 SEC. 56. Section 18976 of the Government Code is amended
 15 to read:

16 18976. Request for and proof of eligibility for veterans'
 17 preference credits shall be submitted by the veteran to the
 18 *department or designated appointing power* conducting the
 19 employment examination. The procedures and time of filing the
 20 request shall be subject to rules promulgated by the ~~State Personnel~~
 21 ~~Board~~ *department*, in consultation with the Department of Veterans
 22 Affairs.

23 SEC. 57. Section 19050.4 of the Government Code is amended
 24 to read:

25 19050.4. A transfer may be accomplished without examination
 26 pursuant to ~~board~~ rule. The department or appointing authority
 27 may require an employee to demonstrate in an examination that
 28 he or she possesses any additional or different requirements that
 29 are included in the minimum qualifications of the class to which
 30 the employee is transferring.

31 SEC. 58. Section 19052 of the Government Code is repealed.

32 ~~19052. Whenever a vacancy in any position is to be filled and~~
 33 ~~not by transfer, demotion, or reinstatement, the appointing power~~
 34 ~~shall submit to the department, in accordance with board rules, a~~
 35 ~~statement of the duties of the position, the necessary and desired~~
 36 ~~qualifications of the person to be appointed, and a request that the~~
 37 ~~names of persons eligible for appointment to the position be~~
 38 ~~certified. When the appointing power establishes to the satisfaction~~
 39 ~~of the department that the necessary qualifications for the vacant~~

1 position include fluency in a language in addition to English only
2 the names of persons possessing such fluency shall be certified.

3 SEC. 59. Section 19052 is added to the Government Code, to
4 read:

5 19052. Whenever a vacancy in any position is to be filled and
6 not by transfer, demotion, or reinstatement, the appointing power
7 shall provide any information the department requests, including
8 the classification of the position, the number of vacancies to be
9 filled, the tenure and time base of the position, the location of the
10 position, and any other information as the department may require.

11 SEC. 60. Section 19057.1 of the Government Code is amended
12 to read:

13 19057.1. Notwithstanding Section 19057, for positions in
14 classes designated ~~by the board~~ as professional, scientific, or
15 administrative, or for any open employment list, there shall be
16 certified to the appointing power the names and addresses of all
17 those eligibles whose scores, at time of certification, represent the
18 three highest ranks on the employment list for the class, and who
19 have indicated their willingness to accept appointment under the
20 conditions of employment specified.

21 For purposes of ranking, scores of eligibles on employment lists
22 for these classes shall be rounded to the nearest whole percent. A
23 rank shall consist of one or more eligibles with the same whole
24 percentage score.

25 If the names on the list from which certification is being made
26 represent fewer than three ranks, then additional eligibles shall be
27 certified from the various lists next lower in order of preference
28 until names from three ranks appear. If there are fewer than three
29 names available for certification, and the appointing authority does
30 not choose to appoint from among these, the appointing authority
31 may demand certification of three names. In that case, examinations
32 shall be conducted until at least three names may be certified by
33 the procedure described in this section, and the appointing authority
34 shall fill the position by appointment of one of the persons certified.

35 Fractional examination scores shall be provided to, and ~~utilized~~
36 *used* by, the Department of the California Highway Patrol for its
37 peace officer classes.

38 The department may, ~~consistent with board rules~~, provide for
39 certifying less than three ranks where the size of the certified group
40 is disproportionate to the number of vacancies.

1 SEC. 61. Section 19057.2 of the Government Code is amended
2 to read:

3 19057.2. Notwithstanding the provisions of Section 19057, for
4 positions in classes designated by the board as management, there
5 shall be certified to the appointing power the names and addresses
6 of all those applicants whose scores, at the time of certification,
7 represent the three highest ranks on the employment list for the
8 class, and who have indicated their willingness to accept
9 appointment under the conditions of employment specified.

10 For purposes of ranking, scores of eligibles on employment lists
11 for such classes shall be divided into six ranks. The first rank shall
12 consist of eligibles who receive a score of 95 percent or higher.
13 The second rank shall consist of eligibles who receive a score of
14 90 to 94 percent, *inclusive*. The third rank shall consist of eligibles
15 who receive a score of 85 to 89 percent, *inclusive*. The fourth rank
16 shall consist of eligibles who receive a score of 80 to 84 percent,
17 *inclusive*. The fifth rank shall consist of eligibles who receive a
18 score of 75 to 79 percent, *inclusive*. The sixth rank shall consist
19 of eligibles who receive a score of 70 to 74 percent, *inclusive*. All
20 examination scores for positions in these classes shall be rounded
21 to the nearest whole percent.

22 If the names on the list from which certification is being made
23 represent fewer than three ranks, then additional eligibles shall be
24 certified from the various lists next lower in order of preference
25 until names from three ranks appear. If there are fewer than three
26 names available for certification, and the appointing authority does
27 not choose to appoint from among these, the appointing authority
28 may demand certification of three names. In such case,
29 examinations shall be conducted until at least three names may be
30 certified by the procedure described in this section, and the
31 appointing authority shall fill the position by appointment of one
32 of the persons certified.

33 ~~In accordance with board rule, fractional examination scores~~
34 ~~shall be provided to the appointing power upon his or her request.~~

35 ~~The board department may by rule provide for certifying certify~~
36 ~~less than three ranks where the size of the certified group is~~
37 ~~disproportionate to the number of vacancies.~~

38 SEC. 62. Section 19058 of the Government Code is amended
39 to read:

1 19058. When there is no employment list from which a position
2 may be filled, the appointing power, with the consent of the
3 department, may fill the position by temporary appointment. The
4 temporary appointment to a permanent position shall continue only
5 until eligibles are available from an appropriate employment list
6 and shall not exceed the period prescribed by Section 5 of Article
7 VII of the Constitution. Within the limits of the period prescribed
8 therein, any temporary appointment to a limited term position may,
9 in the discretion of the appointing power and with the approval of
10 the ~~board~~ *department*, be continued for the life of such position.
11 When temporary appointments are made to permanent positions,
12 an appropriate employment list shall be established for each class
13 to which a temporary appointment is made before the expiration
14 of the appointment.

15 SEC. 63. Section 19059 of the Government Code is amended
16 to read:

17 19059. A person who does not possess the minimum
18 qualifications for the class to which the position belongs shall not
19 be appointed under a temporary appointment. A temporary
20 appointee, ~~as such~~, shall not acquire any probationary or permanent
21 status or rights, and time spent under temporary appointment shall
22 not contribute to the probationary period if the appointee is
23 subsequently successful in an examination and is certified and
24 appointed to the position.

25 SEC. 64. Section 19062.5 of the Government Code is amended
26 to read:

27 19062.5. The ~~board~~ *department* may establish ~~rules specifying~~
28 ~~minimum service and eligibility requirements governing movement~~
29 of employees between full-time, part-time, and intermittent
30 positions.

31 SEC. 65. Section 19082 of the Government Code is amended
32 to read:

33 19082. The ~~board by rule~~ *department* may provide for the
34 establishment, maintenance, and use of preferred limited-term
35 lists.

36 SEC. 66. Section 19101 of the Government Code is amended
37 to read:

38 19101. The ~~board may by rule provide for establishment of~~
39 ~~department or a designated appointing authority may establish~~
40 employment lists from which intermittent appointments may be

1 made. Eligibles shall be certified in accordance with their position
2 on the appropriate employment list and their willingness to accept
3 appointment to such position as “intermittent employees.”

4 SEC. 67. Section 19140 of the Government Code is amended
5 to read:

6 19140. (a) In addition to reinstatement required under any
7 other section, an appointing power may, in his or her discretion,
8 reinstate any person having probationary or permanent status who
9 was separated from his or her position (1) by resignation, (2) by
10 service retirement, (3) by termination from limited-term, temporary,
11 career executive assignment, or exempt appointment, (4) under
12 Section 19996.2, or (5) without a break in continuity of state
13 service to accept another civil service or exempt appointment. In
14 addition, an employee who was separated from his or her position
15 under Section 19585 shall have permissive reinstatement eligibility
16 to that position when he or she again meets the requirements for
17 continuing employment in that position, and shall have permissive
18 reinstatement eligibility for any other position as provided by this
19 section.

20 (b) Reinstatement shall be undertaken subject to ~~board~~ rule.

21 (c) Reinstatement shall be undertaken within three years if the
22 employee, at the time of separation, was a member of the California
23 Highway Patrol.

24 (d) For reinstatement after separation, for members of the
25 California Highway Patrol, the time spent in any of the following
26 positions shall not be considered in computing the three-year
27 period:

28 (1) In a position which is exempt from civil service.

29 (2) As a temporary employee in another governmental agency
30 engaged in a technical cooperation program under an agreement
31 approved by the state.

32 (3) In a recognized military service.

33 (e) A member of the California Highway Patrol separated from
34 state service may be reinstated to an otherwise appropriate
35 nonmember class even if the separation exceeds three years.

36 (f) Reinstatement shall be made to any of the following vacant
37 positions:

38 (1) The class vacated or from which separated.

39 (2) A lower class in the same series.

1 (3) Another class to which the employee could transfer or
2 demote ~~in accordance with board~~ *pursuant to* rule.

3 An employee, including a member of the California Highway
4 Patrol, separated from his or her former position in state service
5 by layoff, or by resignation or demotion in lieu of layoff, may be
6 reinstated at the discretion of the appointing power. However, the
7 reinstatement is subject to the requirements of this section and
8 shall not be to a position that is specifically subject to the
9 employee's reemployment list eligibility.

10 SEC. 68. Section 19140.5 of the Government Code is amended
11 to read:

12 19140.5. This section applies only to a permanent employee,
13 or an employee who previously had permanent status and who,
14 since receiving permanent status, has had no break in the continuity
15 of state service due to a permanent separation.

16 An employee who is (a) terminated from a temporary or
17 limited-term appointment by either the employee or the appointing
18 power; or (b) rejected during probation; or (c) demoted from a
19 managerial position pursuant to Section 19590; shall be reinstated
20 to his or her former position provided all of the following
21 conditions occur:

22 (1) The employee accepted the appointment without a break in
23 the continuity of state service.

24 (2) The reinstatement is requested in the manner provided by
25 ~~board~~ rule within 10 working days after the effective date of the
26 termination.

27 SEC. 69. Section 19141.1 of the Government Code is amended
28 to read:

29 19141.1. (a) This section applies only to a permanent
30 employee, or an employee who previously had permanent status,
31 and who has a reinstatement right pursuant to Section 19141. ~~The~~
32 ~~State Personnel Board may adopt rules to implement this section.~~

33 (b) Within four years of the termination of an appointment in
34 an exempt position, either by the employee or the appointing
35 power, an employee who has completed a minimum of five years
36 of state service experience and at least one year but less than three
37 years of exempt service shall be given an opportunity upon request
38 to obtain civil service appointment eligibility, through a deferred
39 examination, for any position offered by any appointing power in
40 any class for which a current eligible list exists and which has a

1 salary range up to two steps higher than the employee's former
2 position. If the employee has three or more years of exempt service,
3 the opportunity shall be provided for any class at least two salary
4 steps below the employee's exempt salary level.

5 (c) At the termination of an exempt appointment, either by the
6 employee or the appointing power, on or after January 1, 1987, an
7 employee who has at least 10 years of state service including five
8 years of civil service experience and at least three consecutive
9 years of exempt service under a single appointing power and who
10 requests reinstatement in writing within 10 days of the termination,
11 shall be reinstated upon request to (1) his or her former position
12 or (2) any vacant position for which the employee has civil service
13 eligibility under the appointing power where the three years of
14 service were completed and which is at least two salary steps below
15 the employee's exempt salary level. In the absence of current list
16 eligibility, an employee shall be entitled to a deferred examination
17 for placement on a current eligible list for classes meeting the
18 mandatory reinstatement criteria. If the employee obtains civil
19 service appointment eligibility at any time within two years of the
20 termination of the exempt appointment, and a vacant position in
21 the appropriate class is not available, the employee's name shall
22 be placed on the appointing power's departmental or subdivisional
23 reemployment for any classes and locations which would satisfy
24 the employee's reinstatement request. Departmental or
25 subdivisional reemployment list eligibility granted under this
26 section shall not result in placement on any general reemployment
27 list.

28 If an employee cannot be placed in a vacant position pursuant
29 to this section, the employee shall be reinstated to his or her former
30 position.

31 SEC. 70. Section 19143 of the Government Code is amended
32 to read:

33 19143. At the termination of any temporary separation, except
34 termination of a permanent or probationary employee by layoff
35 and termination by displacement, as defined in ~~board~~ regulation,
36 the employee shall be reinstated to his or her former position, as
37 defined in Section 18522, unless some other reinstatement right
38 is specified for the particular temporary separation in the Civil
39 Service Act or ~~board~~ regulation.

1 SEC. 71. Section 19170 of the Government Code is amended
2 to read:

3 19170. (a) The board shall establish for each class the length
4 of the probationary period. The probationary period that shall be
5 served upon appointment shall be six months unless the board
6 establishes a longer period of not more than one year.

7 (b) ~~The~~ *By rule, the board may provide by rule for either of the*
8 *following:*

9 (1) ~~Increasing~~ *Increase* the length of individual probationary
10 periods by adding ~~thereto~~ periods of time ~~during which to any~~
11 *periods of time* an employee, while serving as a probationer, is
12 absent from his or her position.

13 (2) ~~Requiring~~ *Require* an additional *probationary* period not to
14 exceed the length of the ~~original~~ probationary period *of the class*
15 *in which the probationer was appointed* when ~~a~~ *the* probationary
16 employee returns after an extended period of absence and the
17 remainder of the probationary period is insufficient to evaluate his
18 or her current performance.

19 (c) Upon written agreement between an appointing power and
20 an employee who alleges that he or she has a disability, as defined
21 in Section 12926, subject to approval of the agreement by the
22 board, the employee's probationary period may be extended for a
23 period, not to exceed six months, to allow the appointing power
24 to provide a reasonable accommodation to the employee and the
25 employee to demonstrate, before the probationary period ends, the
26 ability to perform satisfactorily the essential functions of the
27 position with reasonable accommodation. Nothing in this
28 subdivision may relieve an appointing power from complying with
29 applicable law requiring reasonable accommodation or prohibiting
30 discrimination based on disability, and no employee, as a condition
31 of an agreement to extend the probationary period, may be required
32 to waive or release any rights he or she may have under applicable
33 law requiring reasonable accommodation or prohibiting
34 discrimination based on disability.

35 SEC. 72. Section 19200 of the Government Code is amended
36 to read:

37 19200. Whenever the United States is engaged in war or
38 whenever the ~~board~~ *department* finds that an emergency exists in
39 connection with the national defense, the ~~board~~ *may provide by*
40 ~~rule for a system of~~ *department may authorize* duration

1 examinations and employments ~~and the conditions attached thereto,~~
 2 in those classes in which the best interests of the ~~State~~ *state* would
 3 be served during such war or emergency. Within not less than three
 4 months, or more than one year, after the ~~board~~ *department* finds
 5 that ~~for the purpose of this section~~ there is no longer an emergency,
 6 all duration employments shall be terminated in such order as the
 7 ~~board~~ *department* deems appropriate.

8 SEC. 73. Section 19253 of the Government Code is amended
 9 to read:

10 19253. Subject to approval by the ~~board~~ *department*, an
 11 appointing power with the concurrence or at the request of an
 12 employee may request the voluntary demotion of such employee
 13 to a vacant position.

14 If the class to which the demotion is proposed requires
 15 qualifications, knowledges, or abilities not measured by the
 16 examination for the class from which demotion is proposed, the
 17 ~~board~~ *department* may examine the employee for the possession
 18 of those additional qualifications, knowledges, and abilities.

19 SEC. 74. Section 19253.5 of the Government Code is amended
 20 to read:

21 19253.5. (a) ~~In accordance with board rule, the~~ An appointing
 22 power may require an employee to submit to a medical examination
 23 by a physician or physicians designated by the appointing power
 24 to evaluate the capacity of the employee to perform the work of
 25 his or her position.

26 (b) Fees for the examination and for the services of medical
 27 specialists or technicians, if necessary, shall be paid by the state
 28 agency. The employee may submit medical or other evidence to
 29 the examining physician or to the appointing power. The examining
 30 physician shall make a written report of the examination to the
 31 appointing power. The appointing power shall provide a copy to
 32 the physician designated by the employee.

33 (c) When the appointing power, after considering the
 34 conclusions of the medical examination and other pertinent
 35 information, concludes that the employee is unable to perform the
 36 work of his or her present position, but is able to perform the work
 37 of another position including one of less than full time, the
 38 appointing power may demote or transfer the employee to such a
 39 position.

1 Except as authorized by the Department of Human Resources
2 under Section 19837, the employee demoted or transferred pursuant
3 to this section shall receive the maximum of the salary range of
4 the class to which he or she is demoted or transferred, provided
5 that the salary is not greater than the salary he or she received at
6 the time of his or her demotion or transfer.

7 (d) When the appointing power after considering the conclusions
8 of the medical examination provided for by this section or medical
9 reports from the employee's physician, and other pertinent
10 information, concludes that the employee is unable to perform the
11 work of his or her present position, or any other position in the
12 agency, and the employee is not eligible or waives the right to
13 retire for disability and elects to withdraw his or her retirement
14 contributions or to permit his or her contributions to remain in the
15 retirement fund with rights to service retirement, the appointing
16 power may terminate the appointment of the employee.

17 (e) The appointing power may demote, transfer, or terminate
18 an employee under this section without requiring the employee to
19 submit to a medical examination when the appointing power relies
20 upon a written statement submitted to the appointing power by the
21 employee as to the employee's condition or upon medical reports
22 submitted to the appointing power by the employee.

23 (f) The employee shall be given written notice of any demotion,
24 transfer, or termination under this section at least 15 days prior to
25 the effective date thereof. No later than 15 days after service of
26 the notice, the employee may appeal the action of the appointing
27 power to the board. The board, in accordance with its rules, shall
28 hold a hearing. The board may sustain, disapprove, or modify the
29 demotion, transfer, or termination.

30 (g) Whenever the board revokes or modifies a demotion,
31 transfer, or termination, the board shall direct the payment of salary
32 to the employee calculated on the same basis and using the same
33 standards as provided in Section 19584.

34 (h) Upon the request of an appointing authority or the petition
35 of the employee who was terminated, demoted, or transferred in
36 accordance with this section, the employee shall be reinstated to
37 an appropriate vacant position in the same class, in a comparable
38 class or in a lower related class if it is determined by the board
39 that the employee is no longer incapacitated for duty. Such a
40 reinstatement to a position in a different agency may be made only

1 with the concurrence of that agency. In approving or ordering the
2 reinstatements, the board may require the satisfactory completion
3 of a new probationary period. When the board finds the employee
4 who was terminated, demoted, or transferred is no longer
5 incapacitated for duty but there is no vacant position to which the
6 employee appropriately can be appointed, the name of the
7 employee shall be placed upon those reemployment lists that are
8 determined to be appropriate by the board.

9 (i) (1) If the appointing power, after considering the conclusions
10 of the medical examination provided for by this section or medical
11 reports from the employee's physician and other pertinent
12 information, concludes that the employee is unable to perform the
13 work of his or her present position or any other position in the
14 agency and the employee is eligible and does not waive the right
15 to retire for disability, the appointing power shall file an application
16 for disability retirement on the employee's behalf. The appointing
17 power shall give the employee 15 days written notice of its
18 intention to file such an application and a reasonable opportunity
19 to respond to the appointing power prior to the appointing power's
20 filing of the application. However, the appointing power's decision
21 to file the application is final and is not appealable to the State
22 Personnel Board.

23 (2) Notwithstanding Section 21153, upon filing the application
24 for disability retirement, the appointing power may remove the
25 employee from the job and place the employee on involuntary
26 leave status. The employee may use any accrued leave eligible
27 during the period of the involuntary leave. If the employee's leave
28 credits and programs are exhausted or if they do not provide
29 benefits at least equal to the estimated retirement allowance, the
30 appointing power shall pay the employee an additional temporary
31 disability allowance so that the employee receives payment equal
32 to the retirement allowance. The appointing power shall continue
33 to make all employer contributions to the employee's health plans
34 during the period of the involuntary leave.

35 (3) If the application for disability retirement is subsequently
36 granted, the retirement system shall reimburse the appointing power
37 for the temporary disability allowance which shall be deducted
38 from any back disability retirement benefits otherwise payable to
39 the employee. If the application is denied, the appointing power
40 shall reinstate the employee to his or her position with back salary

1 and benefits pursuant to subdivision (g), less any temporary
2 disability allowance paid by the appointing power. The appointing
3 power shall also restore any leave credits the employee used during
4 the period of the involuntary leave.

5 SEC. 75. Section 19257.5 of the Government Code is amended
6 to read:

7 19257.5. Where the appointment of an employee has been
8 made and accepted in good faith, but where ~~such~~ *the* appointment
9 would not have been made but for some mistake of law or fact
10 ~~which~~ *that* if known to the parties would have rendered the
11 appointment unlawful when made, the ~~board~~ *department* may
12 declare the appointment void from the beginning if ~~such~~ *the* action
13 is taken within one year after the appointment.

14 SEC. 76. Section 19400 of the Government Code is amended
15 to read:

16 19400. It is the intent of this article to ~~aid the implementation~~
17 ~~of affirmative action programs in state agencies and departments~~
18 ~~by creating~~ *establish and maintain* an effective upward mobility
19 program for state employees ~~concentrated~~ in low-paying
20 occupations. An upward mobility program is one in which career
21 opportunities are developed; *and* published and assistance *is*
22 provided which will allow employees in low-paying occupations
23 to develop and advance to their highest potential. ~~Because of the~~
24 ~~large percentage of women and minorities concentrated in these~~
25 ~~occupations such a program will help the state meet its affirmative~~
26 ~~action goals.~~

27 SEC. 77. Section 19401 of the Government Code is amended
28 to read:

29 19401. All ~~departments and agencies~~ *appointing authorities*
30 of state government shall establish an effective program of upward
31 mobility for employees in ~~low-paying~~ *low-paying* occupational
32 groups, ~~as defined by the State Personnel Board~~. In developing
33 their upward mobility programs, ~~departments and agencies~~
34 *appointing authorities* shall endeavor to provide, to the greatest
35 extent possible, the following opportunities for employees who
36 meet criteria established by the ~~department or agency~~ *appointing*
37 *authority*, demonstrate the aptitude or potential for advancement,
38 and wish to participate in:

39 (a) Career counseling ~~utilizing~~ *using* individual professional,
40 administrative, and technical employees who can serve as career

1 models, and a course in group career counseling. Each employee
 2 who wishes to participate in an upward mobility program should
 3 be required to develop a career development plan.

4 (b) Appropriate academic counseling.

5 (c) Training opportunities such as college programs related to
 6 special training programs. This training may include release time
 7 at reduced cost or no cost to the employee and may be offered in
 8 geographically remote areas through cooperative arrangements
 9 with other departments and colleges.

10 (d) Training and development assignments.

11 (e) On-the-job training.

12 (f) Job restructuring, including the development of career ladders
 13 and lattices, and modifications of requirements where employment
 14 barriers exist.

15 SEC. 78. Section 19402 of the Government Code is amended
 16 to read:

17 19402. All upward mobility programs shall include annual
 18 goals that include the number of employees expected to progress
 19 from positions in ~~low-paying~~ *low-paying* occupational groups to
 20 entry-level technical, professional, and administrative positions,
 21 and the timeframe within which this progress shall occur. The
 22 ~~State Personnel Board~~ *Department of Human Resources* shall be
 23 responsible for approving each department's annual upward
 24 mobility goals and timetables.

25 ~~Any department or agency of state government appointing~~
 26 ~~authority~~ that determines that it will be unable to achieve the goals
 27 may ~~request the board~~ *ask the department* for a reduction in the
 28 goals. If the ~~board~~ *department* determines that the ~~department or~~
 29 ~~agency appointing authority~~ has not made a good faith effort to
 30 achieve the goals, the ~~board~~ *department* shall hold public hearings
 31 to determine the reasons for the deficiencies and to establish a
 32 program to overcome these deficiencies.

33 SEC. 79. Section 19403 of the Government Code is amended
 34 to read:

35 19403. The ~~State Personnel Board~~ *department* shall, in
 36 cooperation with ~~departments~~ *appointing authorities*, establish
 37 bridging classifications and career ladders to provide upward
 38 mobility from jobs in ~~low-paying~~ *low-paying* occupations to
 39 technical, professional, and administrative jobs on an ongoing
 40 basis.

1 SEC. 80. Section 19405 of the Government Code is amended
2 to read:

3 19405. ~~The State Personnel Board~~ *department* shall annually
4 submit a report to the Legislature on the performance of each
5 ~~department~~ *appointing authority* and agency in state government
6 in meeting its obligations under this article.

7 SEC. 81. Section 19406 of the Government Code is repealed.

8 ~~19406. The State Personnel Board shall prepare written~~
9 ~~guidelines for implementation of the upward mobility program~~
10 ~~described in this article within six months from the effective date~~
11 ~~of this article. The board shall involve representatives from a cross~~
12 ~~section of groups and organizations representing state employees,~~
13 ~~including target groups, both in the initial discussion and in the~~
14 ~~subsequent preparation of the guidelines.~~

15 SEC. 82. Section 19574.2 of the Government Code is amended
16 to read:

17 19574.2. (a) Any party claiming that his or her request for
18 discovery pursuant to Section 19574.1 has not been complied with
19 may serve and file a petition to compel discovery with the Hearing
20 Office of the State Personnel Board, naming as respondent the
21 party refusing or failing to comply with Section 19574.1. The
22 petition shall state facts showing that the respondent party failed
23 or refused to comply with Section 19574.1, a description of the
24 matters sought to be discovered, the reason or reasons why the
25 matter is discoverable under Section 19574.1, and the ground or
26 grounds of *the* respondent's refusal so far as known to *the*
27 petitioner.

28 (b) The petition shall be served upon *the* respondent party and
29 filed within 14 days after the respondent party first evidenced his
30 or her failure or refusal to comply with Section 19574.1 or within
31 30 days after the request was made and the party has failed to reply
32 to the request, whichever period is longer. However, no petition
33 may be filed within ~~15~~ 90 days of the date set for commencement
34 of the administrative hearing, except upon a petition and a
35 determination by the administrative law judge of good cause. In
36 determining good cause, the administrative law judge shall consider
37 the necessity and reasons for the discovery, the diligence or lack
38 of diligence of the moving party, whether the granting of the
39 petition will delay the commencement of the administrative hearing
40 on the date set, and the possible prejudice of the action to any

1 party. The respondent shall have a right to file a written answer to
2 the petition. Any answer shall be filed with the Hearing Office of
3 the State Personnel Board and the petitioner within 15 days of
4 service of the petition.

5 Unless otherwise stipulated by the parties and as provided by
6 this section, the administrative law judge shall review the petition
7 and any response filed by the respondent and issue a decision
8 granting or denying the petition within 20 days after the filing of
9 the petition. Nothing in this section shall preclude the
10 administrative law judge from determining that an evidentiary
11 hearing shall be conducted prior to the issuance of a decision on
12 the petition. In the event that a hearing is ordered, the decision of
13 the administrative law judge shall be issued within 20 days of the
14 closing of the hearing.

15 A party aggrieved by the decision of the administrative law judge
16 may, within 30 days of service of the decision, file a petition to
17 compel discovery in the superior court for the county in which the
18 administrative hearing will be held or in the county in which the
19 headquarters of the appointing power is located. The petition shall
20 be served on the respondent party.

21 (c) If from a reading of the petition the court is satisfied that the
22 petition sets forth good cause for relief, the court shall issue an
23 order to show cause directed to the respondent party; otherwise
24 the court shall enter an order denying the petition. The order to
25 show cause shall be served upon the respondent and his or her
26 attorney of record in the administrative proceeding by personal
27 delivery or certified mail and shall be returnable no earlier than
28 10 days from its issuance nor later than 30 days after the filing of
29 the petition. The respondent party shall have the right to serve and
30 file a written answer or other response to the petition and order to
31 show cause.

32 (d) The court may, in its discretion, order the administrative
33 proceeding stayed during the pendency of the proceeding, and, if
34 necessary, for a reasonable time thereafter to afford the parties
35 time to comply with the court order.

36 (e) Where the matter sought to be discovered is under the
37 custody or control of the respondent party and the respondent party
38 asserts that the matter is not a discoverable matter under Section
39 19574.1, or is privileged against disclosure under Section 19574.1,
40 the court may order lodged with it matters which are provided in

1 subdivision (b) of Section 915 of the Evidence Code and shall
2 examine the matters in accordance with the provisions thereof.

3 (f) The court shall decide the case on the matters examined by
4 the court in camera, the papers filed by the parties, and any oral
5 argument and additional evidence as the court may allow.

6 (g) Unless otherwise stipulated by the parties, the court shall
7 no later than 45 days after the filing of the petition file its order
8 denying or granting the petition; provided, however, that the court
9 may on its own motion for good cause extend the time an additional
10 45 days. The order of the court shall be in writing setting forth the
11 matters or parts the petitioner is entitled to discover under Section
12 19574.1. A copy of the order shall forthwith be served by mail by
13 the clerk upon the parties. Where the order grants the petition in
14 whole or in part, the order shall not become effective until 10 days
15 after the date the order is served by the clerk. Where the order
16 denies relief to the petitioning party, the order shall be effective
17 on the date it is served by the clerk.

18 (h) The order of the superior court shall be final and, except for
19 this subdivision, shall not be subject to review by appeal. A party
20 aggrieved by the order, or any part thereof, may within 30 days
21 after the service of the superior court's order serve and file in the
22 district court of appeal for the district in which the superior court
23 is located, a petition for a writ of mandamus to compel the superior
24 court to set aside, or otherwise modify, its order. Where a review
25 is sought from an order granting discovery, the order of the trial
26 court and the administrative proceeding shall be stayed upon the
27 filing of the petition for writ of mandamus; provided, however,
28 that the court of appeal may dissolve or modify the stay thereafter,
29 if it is in the public interest to do so. Where the review is sought
30 from a denial of discovery, neither the trial court's order nor the
31 administrative proceeding shall be stayed by the court of appeal
32 except upon a clear showing of probable error.

33 (i) Where the superior court finds that a party or his or her
34 attorney, without substantial justification, failed or refused to
35 comply with Section 19574.1, or, without substantial justification,
36 filed a petition to compel discovery pursuant to this section, or,
37 without substantial justification, failed to comply with any order
38 of court made pursuant to this section, the court may award court
39 costs and reasonable attorney fees to the opposing party. Nothing

1 in this subdivision shall limit the power of the superior court to
 2 compel obedience to its orders by contempt proceedings.

3 SEC. 83. Section 19582 of the Government Code is amended
 4 to read:

5 19582. (a) Hearings may be held by the board, or by any
 6 authorized representative, but the board shall render the decision
 7 that in its judgment is just and proper.

8 During a hearing, after the appointing authority has completed
 9 the opening statement or the presentation of evidence, the
 10 employee, without waiving his or her right to offer evidence in the
 11 event the motion is not granted, may move for a dismissal of the
 12 charges.

13 If it appears that the evidence presented supports the granting
 14 of the motion as to some but not all of the issues involved in the
 15 action, the board or the authorized representative shall grant the
 16 motion as to those issues and the action shall proceed as to the
 17 issues remaining. Despite the granting of the motion, no judgment
 18 shall be entered prior to a final determination of the action on the
 19 remaining issues, and shall be subject to final review and approval
 20 by the board.

21 (b) If a contested case is heard by an authorized representative,
 22 he or she shall prepare a proposed decision in a form that may be
 23 adopted as the decision in the case. A copy of the proposed decision
 24 shall be ~~filed by the board as a public record and~~ furnished *by the*
 25 *board* to each party within 10 days after the *board has adopted,*
 26 *modified, rejected, or remanded the* proposed decision ~~is filed with~~
 27 ~~the board~~. The board itself may adopt the proposed decision in its
 28 entirety, may remand the proposed decision, or may reduce the
 29 adverse action set forth therein and adopt the balance of the
 30 proposed decision.

31 (c) If the proposed decision is not remanded or adopted as
 32 provided in subdivision (b), each party shall be notified of the
 33 action, and the board itself may decide the case upon the record,
 34 including the transcript, with or without taking any additional
 35 evidence, or may refer the case to the same or another authorized
 36 representative to take additional evidence. If the case is so assigned
 37 to an authorized representative, he or she shall prepare a proposed
 38 decision as provided in subdivision (b) upon the additional
 39 evidence and the transcript and other papers that are part of the
 40 record of the prior hearing. A copy of the proposed decision shall

1 be furnished to each party. The board itself shall decide no case
2 provided for in this subdivision without affording the parties the
3 opportunity to present oral and written argument before the board
4 itself. If additional oral evidence is introduced before the board
5 itself, no board member may vote unless he or she heard the
6 additional oral evidence.

7 (d) In arriving at a decision or a proposed decision, the board
8 or its authorized representative may consider any prior suspension
9 or suspensions of the appellant by authority of any appointing
10 power, or any prior proceedings under this article.

11 (e) In arriving at a decision or a proposed decision, the board,
12 in exercising its discretion consistent with its authority under
13 Section 3 of Article VII of the California Constitution, shall give
14 consideration and respect to any applicable disciplinary criteria
15 established pursuant to Section 19573, and the extent to which the
16 employee's conduct resulted in, or if repeated is likely to result
17 in, harm to the public service, the circumstances surrounding the
18 offense or misconduct, and the likelihood of recurrence.

19 (f) The decision shall be in writing and contain findings of fact
20 and the adverse action, if any. The findings may be stated in the
21 language of the pleadings or by reference thereto. Copies of the
22 decision shall be served on the parties personally or by mail.

23 SEC. 84. Section 19583.51 of the Government Code is
24 repealed.

25 ~~19583.51. (a) Effective January 1, 1996, notwithstanding~~
26 ~~Section 19583.5, this section shall only apply to state employees~~
27 ~~in State Bargaining Unit 5. Any person, except for a current ward~~
28 ~~of the Division of Juvenile Facilities, a current inmate of the~~
29 ~~Department of Corrections and Rehabilitation, or a current patient~~
30 ~~of a facility operated by the State Department of State Hospitals,~~
31 ~~with the consent of the board or the appointing power may file~~
32 ~~charges against an employee requesting that adverse action be~~
33 ~~taken for one or more causes for discipline specified in this article.~~
34 ~~Any request of the board to file charges pursuant to this section~~
35 ~~shall be filed within one year of the event or events that led to the~~
36 ~~filing. The employee against whom the charges are filed shall have~~
37 ~~a right to answer as provided in this article. In all of these cases,~~
38 ~~a hearing shall be conducted in accordance with this article and if~~
39 ~~the board finds that the charges are true it shall have the power to~~
40 ~~take any adverse action as in its judgment is just and proper.~~

1 ~~(b) This section shall not be construed to supersede Section~~
2 ~~19682.~~

3 ~~(e) Any adverse action, as defined by Section 19576.1, that~~
4 ~~results from a request to file charges pursuant to this section, is~~
5 ~~subject to the appeal procedures in Section 19576.1.~~

6 SEC. 85. Section 19586 of the Government Code is amended
7 to read:

8 19586. Within 30 days after the day a copy of the decision
9 rendered by the board in a proceeding under this article is served
10 by the board upon the parties to the decision, either party may
11 petition the board for rehearing of the decision. The petition for
12 rehearing shall be in writing and shall contain all of the grounds
13 upon which a rehearing should be granted.

14 Within 30 days after the filing of a petition for rehearing with
15 the board, the board shall cause notice thereof to be served upon
16 the other parties to the proceeding by mailing to each a copy of
17 the petition for rehearing. The other parties to the proceeding shall
18 have 20 calendar days from the date of service of a copy of the
19 petition for rehearing to file with the board and serve upon the
20 petitioner a response to the petition for rehearing.

21 ~~Within 60~~ 90 days after service of notice of filing of a petition
22 for rehearing, the board shall either grant or deny the petition in
23 whole or in part. Failure to act upon a petition for rehearing within
24 ~~this 60-day~~ 90-day period is a denial of the petition.

25 SEC. 86. Section 19600 of the Government Code is amended
26 to read:

27 19600. The department may, directly or through agreement or
28 contract with one or more appointing authorities and other public
29 and private organizations, ~~with approval of the board,~~ conduct and
30 evaluate demonstration projects.

31 Nothing in this section shall infringe upon or conflict with the
32 merit principle as embodied in Article VII of the California
33 Constitution, nor shall any project undertaken pursuant to this act
34 conflict with, or infringe upon the merit principles of the civil
35 service system.

36 Subject to the provisions of this section, the conducting of
37 demonstration projects shall not be limited by any lack of specific
38 authority under this code to take the action contemplated, or by
39 any provision of this code or any rule or regulation prescribed

1 under this code which is inconsistent with the action, including
2 any law or regulation relating to any of the following:

3 (a) The methods of establishing qualification requirements for,
4 recruitment for, and appointment to positions.

5 (b) The methods of classifying positions and compensating
6 employees.

7 (c) The methods of assigning, reassigning, or promoting
8 employees.

9 (d) The methods of disciplining employees.

10 (e) The methods of providing incentives to employees, including
11 the provision of group or individual incentive bonuses or pay.

12 (f) The hours of work per day or per week.

13 (g) The methods of involving employees, labor organizations,
14 and employee organizations in personnel decisions.

15 (h) The methods of reducing overall agency staff and grade
16 levels.

17 SEC. 87. Section 19600.1 of the Government Code is amended
18 to read:

19 19600.1. “Demonstration project” means a project ~~approved~~
20 ~~by the board and~~ conducted by the department, or ~~another~~
21 ~~appointed authority~~ *under its supervision*, to determine whether a
22 specified change in personnel management policies or procedures
23 would result in improved state personnel management.

24 SEC. 88. Section 19630 of the Government Code is amended
25 to read:

26 19630. ~~No~~ An action or proceeding shall *not* be brought by any
27 person having or claiming to have a cause of action or complaint
28 or ground for issuance of any complaint or legal remedy for wrongs
29 or grievances based on or related to any civil service law in this
30 state, ~~or the administration thereof~~, unless that action or proceeding
31 is commenced and served within one year after the cause of action
32 or complaint or ground for issuance of any writ or legal remedy
33 first arose. The person shall not be compensated for the time
34 subsequent to the date when the cause or ground arose unless that
35 action or proceeding is filed and served within 90 days after the
36 cause or ground *first* arose. ~~Where an appeal is taken from Any~~
37 ~~petition for a writ challenging a decision of the board, the cause~~
38 ~~of action does not arise until~~ *board shall be filed within six months*
39 *of the date of the final decision of the board.*

1 This section shall not be applicable to any action or proceeding
2 for the collection of salary or wage, the amount of which is not
3 disputed by the state agency owing that salary or wage.

4 SEC. 89. Section 19680 of the Government Code is amended
5 to read:

6 19680. It is unlawful for any person:

7 (a) Wilfully by himself or in cooperation with another person
8 to defeat, deceive, or obstruct any person with respect to his right
9 of examination, application, or employment under this part or
10 ~~board~~ rule.

11 (b) Wilfully and falsely to mark, grade, estimate, or report upon
12 the examination or proper standing of any person examined or
13 certified under this part or ~~board~~ rule, or to aid in so doing, or make
14 any false representation concerning the same or the person
15 examined.

16 (c) Wilfully to furnish to any person any special or secret
17 information for the purpose of either improving or injuring the
18 prospects or chances of any person examined, certified, or to be
19 examined or certified under this part or ~~board~~ rule.

20 SEC. 90. Section 19682 of the Government Code is amended
21 to read:

22 19682. Every person who violates any provision of this chapter
23 is guilty of a misdemeanor. In accordance with Section 19683,
24 action may be taken by the appointing power, *the department*, or
25 the executive officer of the board may file charges, against a state
26 employee who violates any provisions of this chapter.

27 SEC. 91. Section 19703 of the Government Code is amended
28 to read:

29 19703. A recommendation, question, or inquiry under this part
30 shall not relate to the political or religious opinions or affiliations
31 of any person, and an appointment to, change in, or removal from
32 any position under this part or ~~board~~ by rule shall not be in any
33 manner affected or influenced by such opinions or affiliations.

34 SEC. 92. Section 19763 of the Government Code is amended
35 to read:

36 19763. If the ~~board~~ *department* notifies an officer or employee
37 that any position has been filled in violation of this part or ~~board~~
38 rule, demands for the salary or compensation or other emolument
39 of the position shall not be approved or paid by such officer or

1 employee except upon the order of a court of competent
2 jurisdiction.

3 SEC. 93. Section 19764 of the Government Code is amended
4 to read:

5 19764. Every person who makes a payment of salary,
6 compensation, or other emolument to any person holding a position
7 in the ~~State~~ *state* civil service in violation of this part or ~~board~~ rule
8 and any officer or employee who signs, countersigns, or authorizes
9 the signing or countersigning of any warrant for such a payment
10 and the sureties on their official bonds ~~are~~ *is* liable to the State of
11 California therefor. An action to recover such a payment may be
12 maintained in any court of competent jurisdiction of this ~~State~~
13 *state*, in the name of the people of the ~~State~~ *state* by the Attorney
14 General or by a resident citizen, who is assessed for and is liable
15 to pay, or, within one year before the commencement of such
16 action, has paid a tax in this ~~State~~ *state*.

17 SEC. 94. Section 19770 of the Government Code is amended
18 to read:

19 19770. (a) With the exception of Chapter 7.5 (commencing
20 with Section 400) of Part 1 of Division 2 of the Military and
21 Veterans Code, this part, rather than provisions of the Military and
22 Veterans Code, governs leave for military service, rights and
23 benefits accrued during that service, and reinstatement after that
24 service, for executive branch employees. ~~Both the State Personnel~~
25 ~~Board and the Department of Human Resources have~~
26 ~~responsibilities for carrying out certain provisions of this chapter~~
27 ~~as provided in subdivision (b).~~

28 (b) ~~The State Personnel Board is responsible for the provisions~~
29 ~~of this chapter pertaining to civil service examinations, list~~
30 ~~eligibility, appointments, reinstatements, probationary periods,~~
31 ~~and status. The Department of Human Resources is responsible~~
32 ~~for the provisions of this chapter on eligibility for military leave~~
33 ~~and the effect of these leaves on the employee's salary, vacation,~~
34 ~~sick leave, and seniority.~~

35 (c)

36 (b) For the purposes of this chapter:

37 (1) "Employee" means that term as defined by subdivision (d)
38 of Section 19815.

39 (2) "Civil service employee" means an employee legally holding
40 a position in the state civil service.

1 (3) “Exempt employee” means an employee who is exempt
2 from the state civil service by Section 4 of Article VII of the
3 California Constitution.

4 SEC. 95. Section 19775 of the Government Code is amended
5 to read:

6 19775. An employee who is granted a long-term military leave
7 of absence and who for a period of not less than one year
8 immediately prior to the effective date active duty begins has had
9 continuous state service as defined by ~~Department of Human~~
10 ~~Resources~~ rule which is not broken by a permanent separation
11 shall be entitled to receive his or her salary or compensation for
12 the first 30 calendar days of active duty served during the absence.

13 SEC. 96. Section 19775.1 of the Government Code is amended
14 to read:

15 19775.1. An employee who is granted a short-term military
16 leave of absence for active military duty, but not for inactive duty,
17 including, but not limited to, scheduled reserve drill periods, and
18 who for a period of not less than one year immediately prior to the
19 effective date of active duty has had continuous state service as
20 defined by ~~Department of Human Resources~~ rule that is not broken
21 by a permanent separation, or who has had continuous state service
22 immediately prior to the effective date of active duty not broken
23 by a permanent separation and sufficient recognized military
24 service that need not be contiguous to equal one year shall be
25 entitled to receive his or her salary or compensation for the first
26 30 calendar days of active duty served during the absence.

27 An employee who is granted emergency military leave under
28 Section 19773, shall receive his or her salary or compensation as
29 a state employee while going to, engaging in, and returning from
30 the duty. The employee shall not receive his or her salary or
31 compensation for more than 30 days each time he or she is granted
32 the emergency military leave.

33 SEC. 97. Section 19775.8 of the Government Code is amended
34 to read:

35 19775.8. Except as provided in Section 19781, when any person
36 successfully completes part of an open or promotional examination
37 but is unable to complete all portions thereof because of entry into
38 recognized military service, the ~~board~~ *department or designated*
39 *appointing authority* shall arrange for him or her to take such
40 uncompleted portion of the examination, providing application is

1 made not later than six months after his *or her* release from military
2 service. Such right to complete an examination shall not continue
3 for longer than five years after the date of the examination.

4 If the applicant passes the examination, his *or her* name shall
5 be placed on the eligible list that resulted from the original
6 examination as the list stands at the time his *or her* name is placed
7 thereon, provided if his *or her* rating is sufficiently high for his *or*
8 *her* name to have been included on a certification to a permanent
9 position while he *or she* was in the military service had his *or her*
10 name been on the list when originally established, his *or her*
11 eligibility shall be established, notwithstanding the removal of
12 names from the original list, pursuant to Section 18901. He *or she*
13 shall retain his *or her* place on such list for three years from the
14 termination of his *or her* service with the armed forces. A name
15 thus retained on a list beyond the time other names are removed
16 from the list, pursuant to Section 18901, shall be removed if the
17 person refuses to accept appointment to a permanent position after
18 certification thereto subsequent to his *or her* discharge from the
19 armed forces.

20 SEC. 98. Section 19775.9 of the Government Code is amended
21 to read:

22 19775.9. An individual on military leave from either a state
23 civil service position held under duration appointment, a position
24 held under an exempt appointment but included in the state civil
25 service prior to his *or her* release from military service, or a
26 position in any federal or other public agency, the functions of
27 which were transferred to the state prior to his *or her* release from
28 military service, who would be eligible for reinstatement or
29 restoration to his *or her* position pursuant to Sections 19780 and
30 19782, shall be permitted to take any regular examination held
31 while he *or she* was in the military service, or on military leave,
32 for the class in which he *or she* had such appointment and for
33 which he *or she* had the minimum qualifications required of
34 applicants when the examination originally was given, within five
35 years of the date of the original examination. The ~~board~~ *department*
36 *or designated appointing authority* shall arrange for him *or her* to
37 take the identical examination if application is made not later than
38 six months after his *or her* release from military service or six
39 months after the effective date thereof, whichever is later. If the
40 applicant passes the examination, his *or her* name shall be placed

1 on the eligible list that resulted from the original examination as
2 the list stands at the time his *or her* name is placed thereon. If his
3 *or her* rating is sufficiently high for his *or her* name to have been
4 included on a certification to a permanent position while he *or she*
5 was in the military service had his *or her* name been on the list
6 when originally established, his *or her* eligibility shall be
7 established, notwithstanding the removal of names from the
8 original list pursuant to Section 18901. He *or she* shall retain his
9 *or her* place on such list for three years from the termination of
10 his *or her* service with the armed forces or one year from the date
11 such eligibility is established, whichever is later, if his *or her* rating
12 is sufficiently high for his *or her* name to have been included on
13 a certification to a permanent position while he *or she* was in
14 recognized military service had his *or her* name been on the list
15 when originally established. A name thus retained on a list, beyond
16 the time other names are removed from the list pursuant to the
17 provisions of Section 18901, shall be removed if the person refuses
18 to accept appointment to a permanent position after certification
19 thereto subsequent to his *or her* discharge from the armed forces.

20 SEC. 99. Section 19776 of the Government Code is amended
21 to read:

22 19776. If a promotional examination was held while an
23 employee was on military leave that he or she would otherwise
24 have been entitled to take, the employee shall be eligible to take
25 the identical promotional examination within five years of the date
26 of the original examination. ~~The board~~ *department or designated*
27 *appointing authority* shall arrange for him or her to take the
28 examination within a reasonable time, provided application is made
29 not later than six months after his or her reinstatement from military
30 leave. If the employee qualifies in the examination, his or her name
31 shall be placed on the open and promotional list that resulted from
32 the original examination, as the list stands at the time his or her
33 name is placed thereon. If his or her rating is sufficiently high for
34 his or her name to have been included on a certification to a
35 permanent position while he or she was in the military service had
36 his or her name been on the list when originally established, his
37 or her eligibility shall be established, notwithstanding the removal
38 of names from the original list pursuant to Section 18901. He or
39 she shall retain his *or her* place on the list for three years from the
40 termination of his or her service with the armed forces or one year

1 from the date the eligibility is established, whichever is later. A
2 name thus retained on a list, beyond the time other names are
3 removed from the list pursuant to Section 18901, shall be removed
4 if the person refuses to accept appointment to a permanent position
5 after certification thereto subsequent to his or her discharge from
6 the armed forces, or if he or she resigns from state service.

7 SEC. 100. Section 19786 of the Government Code is amended
8 to read:

9 19786. (a) When a civil service employee has been reinstated
10 after military service in accordance with Section 19780, and any
11 question arises relative to his or her ability or inability for any
12 reason arising out of the military service to perform the duties of
13 the position to which he or she has been reinstated, the board shall,
14 upon the request of the appointing power or of the employee, hear
15 the matter and may on its own motion or at the request of either
16 party take any and all necessary testimony of every nature
17 necessary to a decision on the question.

18 (b) If the board finds that the employee is not able for any reason
19 arising out of the military service to carry out the usual duties of
20 the position he or she then holds, it shall order the employee placed
21 in a position in which the board finds he or she is capable of
22 performing the duties in the same class or a comparable class in
23 the same or any other state department, bureau, board, commission,
24 or office under this part and the rules ~~of the board~~ covering transfer
25 of an employee from a position under the jurisdiction of one
26 appointing power to a position under the jurisdiction of another
27 appointing power, without the consent of the appointing powers,
28 where a vacancy may be made available to him or her under this
29 part and the rules ~~of the board~~, but in no event shall the transfer
30 constitute a promotion within the meaning of this part and the rules
31 ~~of the board~~.

32 (c) If a layoff is made necessary to place a civil service employee
33 in a position in the same class or a comparable class in accordance
34 with this section, the layoff shall be made under Section 19997.3,
35 provided that no civil service employee who was employed prior
36 to September 16, 1940, shall be laid off as a result of the placing
37 of an employee in the same class or a comparable class under this
38 section.

39 (d) The board may order the civil service employee reinstated
40 to the department, bureau, board, commission, or office from which

1 he or she was transferred either upon request of the employee or
 2 the appointing power from which transferred. The reinstatement
 3 may be made after a hearing as provided in this section if the board
 4 finds that the employee is at the time of the hearing able to perform
 5 the duties of the position.

6 SEC. 101. Section 19793 of the Government Code is amended
 7 to read:

8 19793. By November 15 of each year, the ~~State Personnel~~
 9 ~~Board~~ *department* shall *either* submit to the Governor, the
 10 Legislature, and the Department of Finance a census report that
 11 shall include demographic information on employees in the state
 12 civil service, ~~based upon the analysis of the data collected pursuant~~
 13 ~~to Section 19792. The report shall specifically include, but not be~~
 14 ~~limited to, identified underutilizations and, where warranted by~~
 15 ~~analysis of the underutilizations, steps taken to ensure equal~~
 16 ~~employment opportunity in the state civil service. The report shall~~
 17 ~~also include information to the Legislature on laws that~~
 18 ~~discriminate or have the effect of discriminating on the basis of~~
 19 ~~race, ethnicity, gender, and disability collected pursuant to Section~~
 20 ~~19792 or post the data on its public Internet Web site .~~ The
 21 Legislature shall evaluate the equal employment opportunity efforts
 22 of state agencies during its evaluation of the Budget Bill.

23 SEC. 102. Section 19798 of the Government Code is amended
 24 to read:

25 19798. In establishing order and subdivisions of layoff and
 26 reemployment, the ~~board department~~, when it finds past
 27 discriminatory hiring practices, may authorize modification of the
 28 order of layoff, ~~in accordance with board rule~~, only if failure to do
 29 so ~~by a department~~ would result in ineligibility for a federal
 30 program with a loss of federal funds or if required by federal law
 31 or the United States Constitution.

32 SEC. 103. Section 19800 of the Government Code is amended
 33 to read:

34 19800. The ~~State Personnel Board~~ *Department of Human*
 35 *Resources* is hereby vested with the jurisdiction and responsibility
 36 of establishing and maintaining personnel standards on a merit
 37 basis and administering merit systems for local government
 38 agencies where such merit systems of employment are required
 39 by statute *or regulation* as a condition of a state-funded program
 40 or a federal grant-in-aid program established under ~~the following~~

1 federal laws *including, but not limited to*: Social Security Act, as
2 amended; the Public Health Service Act; and the Federal Civil
3 Defense Act, as amended.

4 SEC. 104. Section 19801 of the Government Code is amended
5 to read:

6 19801. For the purposes of administration of state or federally
7 supported programs under Section 19800, the ~~State Personnel~~
8 ~~Board~~ *department* shall, by regulation, establish and maintain
9 personnel standards on a merit basis for local agencies (including
10 ~~therein~~ standards of qualifications, competency, education,
11 experience, tenure, and compensation) necessary for proper and
12 efficient administration, and to assure state conformity with
13 applicable federal requirements.

14 SEC. 105. Section 19802 of the Government Code is amended
15 to read:

16 19802. Nothing in this chapter shall prevent any local agency
17 from establishing its own merit system and determining thereunder
18 the personnel standards to be applicable to its employees, but as
19 to employees engaged in administering state and federally
20 supported programs under Section 19800, such local systems and
21 standards shall be subject to approval and review by the ~~board~~
22 *department* to the extent necessary to qualify for federal funds.

23 SEC. 106. Section 19802.5 of the Government Code is amended
24 to read:

25 19802.5. Notwithstanding ~~the provisions of~~ Sections 19801
26 and 19803, and after the ~~State Personnel Board~~ *department*
27 approves the memorandum of understanding standards, the ~~State~~
28 ~~Personnel Board~~ *department* may waive administration of all or
29 part of a local agency merit system where administration of merit
30 system standards, including, but not limited to, certification,
31 appointment and other transactions, layoff and reinstatement,
32 position classifications, compensation standards, and disciplinary
33 action are established pursuant to a legally binding memorandum
34 of understanding negotiated between the local agency governing
35 board and an employee organization recognized pursuant to
36 applicable law representing employees engaged in federally
37 supported programs under Section 19800. Upon request of the
38 local agency governing board and the recognized employee
39 organization, such waivers shall be granted on any or all standards
40 following determination by the ~~State Personnel Board~~ *department*

1 that the provisions of the memorandum of understanding maintain
2 merit system standards to the extent necessary to qualify for federal
3 funds. All merit system standards waivers shall be subject to
4 periodic audit, approval, or revocation by the ~~State Personnel Board~~
5 *department*. Upon revocation of a waiver, the ~~State Personnel~~
6 ~~Board~~ *department* may require any additional information as a
7 condition of waiver reinstatement.

8 SEC. 107. Section 19803 of the Government Code is amended
9 to read:

10 19803. The merit system for employees engaged in
11 administering programs under Section 19800 in a local agency not
12 administering its own merit system approved under this chapter
13 shall be administered by the ~~board~~ *department*. *The department*
14 *may delegate any of its duties under this article to a state*
15 *department or agency*. This may include, but is not limited to,
16 recruitment, examination, certification, appointment and other
17 transactions, position classification, compensation standards, and
18 disciplinary actions. As part of such administration, the ~~board~~
19 *department* shall hear and decide appeals of any applicant for
20 employment or officer or employee from the decision of a local
21 agency ~~or the board's executive officer~~ affecting the employment
22 rights of such persons. Any decision rendered in such an appeal
23 shall be binding upon the local agency.

24 The ~~board~~ *department* may bill the state departments having
25 responsibility for the overall administration of grant-in-aid
26 programs for the costs incurred in conducting hearings involving
27 employees of local agencies not administering their own merit
28 systems pursuant to this chapter.

29 SEC. 108. Section 19804 of the Government Code is amended
30 to read:

31 19804. In the exercise of functions under this chapter, the ~~board~~
32 *department* shall exercise no authority with respect to the selection,
33 tenure of office, and compensation of any individual employed in
34 accordance with established standards.

35 SEC. 109. Section 19805 of the Government Code is amended
36 to read:

37 19805. The ~~board~~ *department* shall ~~by regulation~~, establish
38 and administer procedures, including provisions for investigations
39 and hearings, to determine whether a particular merit system is in
40 conformity with the standards established or approved by the ~~board~~

1 *department* pursuant to Section 19801. In conducting any hearing
2 provided by such procedures, or in conducting an appeal hearing
3 under Section 19803, the ~~board~~ *department* shall have the same
4 authority as it does in conducting hearings pursuant to ~~Sections~~
5 ~~18671 to 18680, inclusive, of this code~~ *Section 19815*.

6 SEC. 110. Section 19806 of the Government Code is amended
7 to read:

8 19806. When the ~~board~~ *department*, after hearing, determines
9 that a local merit system is not in conformity with the established
10 standards, it shall notify such local agency and appropriate state
11 officer in writing of its decision. If the governing body of the local
12 agency does not bring the system into conformity within 60 days
13 of notification of the ~~board's~~ *department's* decision, or within such
14 longer period as the ~~board~~ *department* determines, the ~~board~~
15 *department* shall certify to the state officer having responsibility
16 for the overall administration of the program, pursuant to which
17 the grant-in-aid requiring such merit system was made, that the
18 particular merit system is not in conformity with established
19 standards.

20 SEC. 111. Section 19807 of the Government Code is amended
21 to read:

22 19807. Notwithstanding any other ~~provisions~~ of law, upon
23 receiving certification of the ~~board~~ *department*, pursuant to Section
24 19806, the appropriate state officer shall take such action against
25 the local agency as permitted by law or as necessary to obtain
26 compliance without an additional administrative hearing being
27 held by such officer.

28 SEC. 112. Section 19808 of the Government Code is amended
29 to read:

30 19808. Local agencies shall provide such information and
31 reports relating to merit system administration as are required by
32 the ~~board~~ *department*.

33 SEC. 113. Section 19809 of the Government Code is amended
34 to read:

35 19809. State departments having responsibility for the overall
36 administration of grant-in-aid programs under Section 19800 shall
37 reimburse the ~~board~~ *department* for all costs incurred by the ~~board~~
38 *department* in administering this chapter. The ~~board~~ *department*
39 may equitably prorate such costs among such departments.

1 SEC. 114. Section 19811 is added to the Government Code,
 2 to read:

3 19811. (a) To the extent that any regulations adopted to make
 4 specific or to carry out the provisions of this article are in conflict
 5 with the amendments made to this article or become outdated at
 6 any time due to a change in federal or state program requirements,
 7 the regulations shall be repealed.

8 (b) The Legislature further finds and declares that regulations
 9 interpreting and making specific this article are only necessary if
 10 the regulations are required by federal law.

11 (c) Requirements imposed on local agencies pursuant to this
 12 article shall not be considered regulations or standards of general
 13 application and shall not impose any duty on the department to
 14 adopt regulations.

15 SEC. 115. Section 19815 of the Government Code is amended
 16 to read:

17 19815. As used in this part:

18 (a) “Department” means the Department of ~~Personnel~~
 19 ~~Administration~~ *Human Resources*.

20 (b) “Director” means the Director of the Department of
 21 ~~Personnel Administration~~ *Human Resources*.

22 (c) “Division” means the Division of Labor Relations.

23 (d) “Employee” or “state employee,” except where otherwise
 24 indicated, means employees subject to the Ralph C. Dills Act
 25 (Chapter 10.3 (commencing with Section 3512), Division 4, Title
 26 1), supervisory employees as defined in subdivision (g) of Section
 27 3513, managerial employees as defined in subdivision (e) of
 28 Section 3513, confidential employees as defined in subdivision
 29 (f) of Section 3513, employees of the Legislative Counsel Bureau,
 30 employees of the Bureau of State Audits, employees of the office
 31 of the Inspector General, employees of the Public Employment
 32 Relations Board, conciliators employed by the California State
 33 Mediation and Conciliation Service, employees of the Department
 34 of ~~Personnel Administration~~ *Human Resources*, professional
 35 employees of the Department of Finance engaged in technical or
 36 analytical state budget preparation other than audit staff,
 37 intermittent athletic inspectors who are employees of the State
 38 Athletic Commission, professional employees in the
 39 Personnel/Payroll Services Division of the Controller’s office, and

1 all employees of the executive branch of government who are not
2 elected to office.

3 SEC. 116. Section 19815.4 of the Government Code is amended
4 to read:

5 19815.4. The director shall do all of the following:

6 (a) Be responsible for the management of the department.

7 (b) Administer and enforce the laws pertaining to personnel.

8 (c) Observe and report to the Governor on the conditions of ~~the~~
9 ~~nonmerit aspects of personnel~~ *all matters in the jurisdiction of the*
10 *department.*

11 (d) Formulate, adopt, amend, or repeal rules, regulations, and
12 general policies affecting the purposes, responsibilities, and
13 jurisdiction of the department ~~and that are consistent with the law~~
14 ~~and necessary for personnel administration~~ *pursuant to procedures*
15 *established by Chapter 4 (commencing with section 18210) of Part*
16 *I.*

17 All regulations relating to personnel administration heretofore
18 adopted pursuant to this part ~~by the State Personnel Board,~~
19 ~~California Victim Compensation and Government Claims Board,~~
20 ~~Department of General Services, and the Department of Finance,~~
21 and in effect on the operative date of this part, shall remain in
22 effect and shall be fully enforceable unless and until readopted,
23 amended, or repealed by the director.

24 (e) Hold hearings, subpoena witnesses, administer oaths, and
25 conduct investigations concerning all matters relating to the
26 department's jurisdiction.

27 (f) Act on behalf of the department and delegate powers to any
28 authorized representative.

29 (g) Serve as the Governor's designated representative pursuant
30 to Section 3517.

31 (h) Perform any other duties that may be prescribed by law, and
32 any other administrative and executive duties that have by other
33 ~~provisions of law~~ been previously imposed.

34 SEC. 117. Section 19815.6 of the Government Code is amended
35 to read:

36 19815.6. (a) Notwithstanding the provisions of Sections 11042
37 and 11043, the chief counsel shall represent the department in all
38 legal matters in which the department is interested, before any
39 administrative agency or court of law.

1 (b) The department may charge state agencies and departments
 2 for the actual and necessary costs of legal services rendered by the
 3 legal division in unfair practice cases, representation cases, and
 4 requests for injunctive relief arising pursuant to Chapter 10.3
 5 (commencing with Section 3512) of Division 4 of Title 1, in
 6 grievance arbitration cases arising under negotiated memoranda
 7 of understanding, and in all labor law and ~~nonmerit~~ personnel
 8 matters ~~in state and federal courts.~~

9 (c) In grievance arbitration cases arising pursuant to memoranda
 10 of understanding negotiated pursuant to Sections 3517 and 3517.5,
 11 the department may charge state agencies involved for the actual
 12 and necessary costs of arbitration, including the state’s share of
 13 the arbitrator’s fees, transcription fees, and other related costs.

14 (d) The department may charge state agencies for their pro rata
 15 share of the actual and necessary costs of negotiating and
 16 administering memoranda of understanding pursuant to Sections
 17 3517 and 3517.5.

18 SEC. 118. Section 19816 of the Government Code is repealed.

19 ~~19816. (a) Except as provided by Section 19816.2, the~~
 20 ~~department succeeds to and is vested with the duties, purposes,~~
 21 ~~responsibilities, and jurisdiction exercised by the State Personnel~~
 22 ~~Board with respect to the administration of salaries, hours, and~~
 23 ~~other personnel-related matters, training, performance evaluations,~~
 24 ~~and layoffs and grievancees.~~

25 ~~(b) The department succeeds to and is vested with the duties,~~
 26 ~~purposes, responsibilities, and jurisdiction exercised by the~~
 27 ~~California Victim Compensation and Government Claims Board~~
 28 ~~and the Department of General Services with respect to the~~
 29 ~~administration of miscellaneous employee entitlements.~~

30 ~~(c) The department succeeds to and is vested with the duties,~~
 31 ~~purposes, responsibilities, and jurisdiction exercised by the~~
 32 ~~Department of Finance with respect to the administration of salaries~~
 33 ~~of employees exempt from civil service and within range salary~~
 34 ~~adjustments.~~

35 SEC. 119. Section 19816.6 of the Government Code is amended
 36 to read:

37 19816.6. All officers and employees of the State Personnel
 38 Board and the ~~department~~ *Department of Personnel Administration*,
 39 who, on the operative date of this part, are serving in the state civil
 40 service, other than as temporary employees, and engaged in the

1 performance of a function vested in the department by Section
2 19816 shall be transferred to the department. The status, positions,
3 and rights of these persons shall not be affected by the transfer and
4 shall be retained by them as officers and employees of the
5 department pursuant to the State Civil Service Act, except as to
6 positions exempt from civil service.

7 SEC. 120. Section 19816.12 of the Government Code is
8 amended to read:

9 19816.12. The department shall establish and maintain in
10 suitable form an official roster of all persons holding positions
11 under this part and enter thereupon their names, complete record
12 of state employment, and other facts prescribed by board rule.

13 SEC. 121. Section 19818.2 of the Government Code is
14 repealed.

15 ~~19818.2. The department shall have possession and control of~~
16 ~~all records, papers, offices, equipment, supplies, moneys, funds,~~
17 ~~appropriations, land, and other property, real or personal, held for~~
18 ~~the benefit or use by the State Personnel Board in the performance~~
19 ~~of the duties, powers, purposes, responsibilities, and jurisdictions~~
20 ~~that are vested in the department by Section 19818.~~

21 SEC. 122. Section 19818.4 of the Government Code is
22 repealed.

23 ~~19818.4. All officers and employees of the State Personnel~~
24 ~~Board, who, on the effective date of this article, are serving in the~~
25 ~~state civil service, other than as temporary employees, and engaged~~
26 ~~in the performance of a function vested in the department by~~
27 ~~Section 19818 shall be transferred to the department.~~

28 SEC. 123. Section 19818.14 of the Government Code is
29 amended to read:

30 19818.14. The department may designate an appointing power
31 to allocate positions to the Personnel Classification Plan in
32 accordance with Section 19818.6 and department rule. The
33 department may audit position allocations and order corrective
34 action. Any corrective action including the reallocation of a
35 position that impacts an incumbent shall be reported promptly to
36 the State Personnel Board which shall determine the status of the
37 probationary or permanent employee affected. *If the department*
38 *finds that an appointing power has allocated positions*
39 *inappropriately, the department may order corrective action,*
40 *including, but not limited to, reallocating positions, voiding lawful*

1 *personal transactions, and revoking or restricting the appointing*
2 *power's ability to allocate positions. If an appointing power's*
3 *allocation authority is revoked, the Department of Finance may*
4 *transfer a sufficient number of personnel from the appointing*
5 *power to the department to perform the previously delegated work.*

6 SEC. 124. Section 19822.5 of the Government Code is amended
7 to read:

8 19822.5. The department shall by rule authorize such
9 expenditures as are reasonably necessary for the meals, lodging,
10 or travel of persons who provide nonsalaried assistance to the ~~State~~
11 ~~Personnel Board~~ *department* or a designated appointing power in
12 the preparation or conduct of written or oral examinations.

13 SEC. 125. Section 19822.7 of the Government Code is amended
14 to read:

15 19822.7. (a) There is hereby created in the State Treasury the
16 Work and Family Fund to which funds shall be allocated from the
17 amount negotiated in memoranda of understanding between the
18 state and the recognized employee organization, as defined in
19 Section 3513, and appropriated by the Legislature, for the 2000–01
20 fiscal year and subsequent fiscal years.

21 (b) The fund shall be used to establish and maintain work and
22 family programs for state employees. These programs may include,
23 but are not limited to, financial assistance to aid in the development
24 of child care centers administered by either nonprofit corporations
25 formed by state employees or child care providers, or to provide
26 grants, subsidies, or both grants and subsidies for child care and
27 elder care. Other programs may include enhancement or
28 supplementation of existing employee assistance program services
29 and other work and family programs.

30 (c) The fund shall be administered by the Department of
31 ~~Personnel Administration~~ *Human Resources*. The amounts to be
32 allocated and expended from funds available for compensation
33 shall be determined by the department.

34 (d) Notwithstanding Section 13340, ~~funds in~~ the fund shall be
35 available for expenditure without regard to fiscal years through
36 June 30, 2005. As of June 30, 2005, the fund shall cease to exist
37 and any balance in the fund shall revert to the General Fund, unless
38 the existence of the fund is extended by statute and that statute is
39 enacted and becomes effective prior to June 30, 2005.

1 SEC. 126. Section 19889 of the Government Code is amended
2 to read:

3 19889. It is the purpose of this article to encourage the
4 development and effective use in the civil service of well-qualified
5 and carefully selected executives. In order to carry out this purpose
6 the State Personnel Board shall establish ~~by rule a system of merit~~
7 ~~personnel administration specifically suited to the selection and~~
8 ~~placement of executive personnel~~ *rules for competitive*
9 *examinations of candidates for the classification of career executive*
10 *assignment*. The department *or a designated appointing authority*
11 shall be responsible for *conducting examinations*, salary
12 administration, position classification, and for the motivation and
13 training of executive personnel. ~~For the purpose of administering~~
14 ~~this system there is established herewith a category of civil service~~
15 ~~appointment called "career executive assignments."~~ The department
16 shall designate positions of a high administrative and policy
17 influencing character for inclusion in or removal from this category
18 subject to review by the State Personnel Board, except that the
19 department shall not so designate a position in which there is an
20 incumbent already appointed under the provisions of this part
21 governing employees other than career executives.

22 SEC. 127. Section 19889.2 of the Government Code is amended
23 to read:

24 19889.2. The provisions of this part governing the selection,
25 classification, and tenure of employees in the regular civil service
26 shall not apply ~~in administering executive personnel through a~~
27 ~~merit system utilizing "career executive assignments" unless the~~
28 ~~application is provided by State Personnel Board rule~~ *to employees*
29 *in the case of career executive assignment except as provided by*
30 *this article*. The provisions of ~~this part~~ *Chapter 7 (commencing*
31 *with Section 19570) of Part 2* relating to ~~punitive~~ *adverse* actions
32 shall apply to employees serving in career executive assignments,
33 except that termination of a career executive assignment as
34 provided for in Section 19889.3 is not a ~~punitive~~ *an adverse* action.
35 With reference to termination of career executive assignments, the
36 State Personnel Board rules shall, as a minimum, afford an
37 employee a right of appeal to the State Personnel Board for
38 restoration of his or her assignment when he or she alleges that
39 his or her termination was for reasons prohibited in Chapter 10
40 (commencing with Section 19680) of Part 2.

1 SEC. 128. Section 19889.3 of the Government Code is amended
2 to read:

3 19889.3. (a) Eligibility for appointment to positions in the
4 *class of career executive assignment* category shall be established
5 as a result of competitive examination of *limited to* persons with
6 permanent status in the civil service who meet ~~such~~ *the* minimum
7 qualifications ~~as the State Personnel Board may determine are~~
8 ~~requisite to the performance of high administrative and policy~~
9 ~~influencing functions established for the class.~~

10 (b) No person employed in a career executive assignment shall
11 be deemed to acquire as a result of ~~such~~ *that* service any rights to
12 or status in positions governed by the provisions of this part relating
13 to the civil service other than the category of career executive
14 assignment, except as provided by ~~State Personnel Board~~ rule.

15 (c) ~~The State Personnel Board shall provide by rule that an~~
16 ~~employee shall, if he or she so desires, Anyone appointed to the~~
17 ~~classification of career executive assignment shall, at the~~
18 ~~termination of his or her appointment to a career executive~~
19 ~~assignment, be reinstated to a civil service position that is (1) not~~
20 ~~a career executive assignment and (2) that is at least at the same~~
21 ~~salary level as the last position that he or she held as a permanent~~
22 ~~or probationary employee. If the employee has completed a~~
23 ~~minimum of five years of state service, he or she may return to a~~
24 ~~position that is (1) at substantially the same salary level as the last~~
25 ~~position in which he or she had permanent or probationary status~~
26 ~~or (2) at a salary level that is at least two steps lower than that of~~
27 ~~the career executive position from which the employee is being~~
28 ~~terminated.~~

29 (d) For the purpose of this section “employee” means a
30 permanent employee, or an employee serving under another
31 appointment who previously had permanent status and who, since
32 such permanent status, has had no break in the continuity of his
33 or her state service.

34 (e) This section shall become operative on January 1, 2013.

35 SEC. 129. Section 19889.4 of the Government Code is
36 repealed.

37 ~~19889.4. Notwithstanding any other provision of law, any~~
38 ~~person who, prior to March 30, 1977, was reinstated to a career~~
39 ~~executive assignment position, or appointed to an exempt position,~~
40 ~~after a break in service, and who held such position on May 31,~~

1 1977, shall upon termination of such career executive assignment
2 or exempt position have the right to return to the last regular civil
3 service position in which the person had permanent status prior to
4 such a break in service.

5 SEC. 130. Section 13601 of the Penal Code is amended to read:

6 13601. (a) The CPOST shall develop, approve, and monitor
7 standards for the selection and training of state correctional peace
8 officer apprentices. ~~Any standard for selection established under~~
9 ~~this subdivision shall be subject to approval by the State Personnel~~
10 ~~Board. Using the psychological and screening standards established~~
11 ~~by the State Personnel Board, the State Personnel Board or *The*~~
12 ~~*Department of Human Resources* or the Department of Corrections~~
13 and Rehabilitation shall ensure that, prior to training, each applicant
14 who has otherwise qualified in all physical and other testing
15 requirements to be a peace officer in either a youth or adult
16 correctional facility, is determined to be free from emotional or
17 mental conditions that might adversely affect the exercise of his
18 or her duties and powers as a peace officer *pursuant to the*
19 *standards developed by CPOST.*

20 (b) The CPOST may approve standards for a course in the
21 carrying and use of firearms for correctional peace officers that is
22 different from that prescribed pursuant to Section 832. The
23 standards shall take into consideration the different circumstances
24 presented within the institutional setting from that presented to
25 other law enforcement agencies outside the correctional setting.

26 (c) Notwithstanding Section 3078 of the Labor Code, the length
27 of the probationary period for correctional peace officer apprentices
28 shall be determined by the CPOST subject to approval by the State
29 Personnel Board, pursuant to Section 19170 of the Government
30 Code.

31 (d) The CPOST shall develop, approve, and monitor standards
32 for advanced rank-and-file and supervisory state correctional peace
33 officer and training programs for the Department of Corrections
34 and Rehabilitation. When a correctional peace officer is promoted
35 within the department, he or she shall be provided with and be
36 required to complete these secondary training experiences.

37 (e) The CPOST shall develop, approve, and monitor standards
38 for the training of state correctional peace officers in the department
39 in the handling of stress associated with their duties.

- 1 (f) Toward the accomplishment of the objectives of this act, the
2 CPOST may confer with, and may avail itself of the assistance
3 and recommendations of, other state and local agencies, boards,
4 or commissions.
- 5 (g) Notwithstanding the authority of the CPOST, the department
6 shall design and deliver training programs, shall conduct validation
7 studies, and shall provide program support. The CPOST shall
8 monitor program compliance by the department.
- 9 (h) The CPOST may disapprove any training courses created
10 by the department pursuant to the standards developed by CPOST
11 if it determines that the courses do not meet the prescribed
12 standards.
- 13 (i) The CPOST shall annually submit an estimate of costs to
14 conduct those inquiries and audits as may be necessary to determine
15 whether the department and each of its institutions and parole
16 regions are adhering to the standards developed by the CPOST,
17 and shall conduct those inquiries and audits consistent with the
18 annual Budget Act.
- 19 (j) The CPOST shall establish and implement procedures for
20 reviewing and issuing decisions concerning complaints or
21 recommendations from interested parties regarding the CPOST
22 rules, regulations, standards, or decisions.
- 23 (k) This section shall become operative July 1, 2012.