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AB-313 Civil service: Limited Examination and Appointment Program. (2021-2022)

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Assembly Bill No. 313

CHAPTER 515

An act to amend Sections 19230, 19233, and 19790 of, and to add and repeal Section 19238 of, the Government Code, relating to state employment.

[Approved by Governor October 05, 2021. Filed with Secretary of State October 05, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 313, Cristina Garcia. Civil service: Limited Examination and Appointment Program.

Existing law creates the Department of Human Resources, which succeeds to and is vested with all of the powers and duties exercised and performed by the Department of Personnel Administration. Existing law specifically grants the department the powers, duties, and authority 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. Existing law declares the policies of this state with regard to hiring individuals with a disability and prescribes responsibilities of the Department of Human Resources that relate to the representation of individuals with a disability in the state workforce, which include outlining specific actions to improve the representation of individuals with a disability in the state workforce. Existing law creates the Limited Examination and Appointment Program (LEAP), which the Department of Human Resources administers, to provide an alternative to the traditional civil service examination and appointment process to facilitate the hiring of persons with disabilities. Existing law will repeal certain provisions of LEAP on January 1, 2022. Existing law provides that each state agency is responsible for an effective equal employment opportunity program and tasks the Department of Human Resources with the responsibility for the statewide advocacy, coordination, enforcement, and monitoring of these programs. Existing law requires each state agency to develop and implement an affirmative action employment plan for individuals with a disability, as specified, and requires that the plans be submitted to the Department of Human Resources each year.

The bill would require that each state agency develop its own reasonable accommodation policy for individuals with disabilities, consistent with state and federal law, to address requests for reasonable accommodations. The bill would require the Department of Human Resources, by December 31 of each year, to review affirmative action employment plans submitted by state agencies and to approve the plans or to require appropriate modifications, as specified. The bill would require each state agency's equal opportunity program to include a reasonable accommodation policy. The bill would require the department to develop model policies for equal opportunity employment programs, including a model policy on reasonable accommodation.

The bill would require the Department of Human Resources, by December 31, 2025, to report to the Legislature on specified subjects, including, among other things, the number of persons with disabilities hired by each appointing power, as specified, the names of departments or agencies required to submit corrected affirmative action plans, and recommendations for future efforts to improve the hiring of persons with disabilities.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) "California Leads" is a state-coordinated effort to identify improvements in state employment. These efforts include evaluating programs and policies that impact people with disabilities.

(b) The state is engaged in current and ongoing efforts to improve employment opportunities for people with disabilities and achieve the goal set forth in Section 12803.6 of the Government Code of making the state a model employer of persons with disabilities.

(c) The Legislature recognizes recent efforts to expand the number of classifications included in the Limited Examination and Appointment Program and encourages further expansion of that program.

(d) Despite current efforts, the representation of persons with disabilities in the state workforce has steadily declined in recent years and additional steps must be taken to increase the hiring and retention of persons with disabilities. These efforts should include the creation of a model reasonable accommodation policy and working with state departments that are deficient in achieving their workforce goals for representation of people with disabilities.

SEC. 2. Section 19230 of the Government Code is amended to read:

19230. The Legislature hereby declares that:

(a) It is the policy of this state to encourage and enable individuals with a disability to participate fully in the social and economic life of the state and to engage in remunerative employment.

(b) It is the policy of this state that qualified individuals with a disability shall be employed in the state service, the service of the political subdivisions of the state, in public schools, and in all other employment supported in whole or in part by public funds on the same terms and conditions as the nondisabled, consistent with applicable state or federal law.

(c) It is the policy of this state that a department, agency, or commission shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified applicant or employee who is an individual with a disability, unless the hiring authority can demonstrate that the accommodation would impose an undue hardship on the operation of its program. Each state agency is responsible for developing its own reasonable accommodation policy, consistent with state and federal law, to address requests for reasonable accommodations. A department shall not deny any employment opportunity to a qualified applicant or employee who is an individual with a disability if the basis for the denial is the need to make reasonable accommodation to the physical or mental limitations of the applicant or employee.

SEC. 3. Section 19233 of the Government Code is amended to read:

19233. The department shall be responsible for the following:

(a) Outline specific actions to improve the representation of individuals with a disability in the state workforce and to ensure equal and fair employment practices for employees who are individuals with a disability.

(b) Survey the number of individuals with a disability in each department by at least job category and salary range for the purpose of developing goals and timetables pursuant to Section 19232 and compare those numbers with the number of individuals with a disability in the workforce.

(c) Establish guidelines for state agencies and departments to set goals and timetables to improve the representation of individuals with a disability in the state workforce. Goals and timetables shall be set by at least job category.

(d) (1) By December 31 of each year, review plans submitted by state agencies pursuant to Section 19232 and approve the plan or require appropriate modifications as necessary to set forth goals that will result in a significant increase in hiring of persons with disabilities and effective strategies to achieve those goals.

(2) Identify agencies and departments that have consistently failed to make progress in increasing their representation of persons with disabilities and work with those agencies or departments to develop, within 180 days, action plans addressing the deficiencies.

SEC. 4. Section 19238 is added to the Government Code, to read:

19238. (a) By December 31, 2025, the department, shall report to the Legislature on all of the following:

(1) The number of persons with disabilities hired by each appointing power during the three-year period ending June 30, 2025, and a comparison to the hiring of persons with disabilities in the three-year period ending June 30, 2022.

(2) The names of departments or agencies required to submit corrected affirmative action plans pursuant to subdivision (d) of Section 19233 and a summary of these plans and an analysis of their effectiveness.

(3) A description of recommendations from the Governor's Diversity Task Force related to employment of persons with disabilities that have been implemented.

(4) Recommendations for future efforts to improve the hiring of persons with disabilities for all state agencies. In formulating recommendations for future action, the department shall consult with the Department of Rehabilitation, the State Council on Developmental Disabilities, and organizations representing persons with disabilities.

(b) The report required to be submitted under subdivision (a) shall be submitted in compliance with Section 9795.

(c) Information to be reported pursuant to subdivision (a) shall be submitted in conjunction with information reportable under Section 19237 and in an existing report.

(d) This section shall remain in effect only until December 31, 2029, and as of that date is repealed.

SEC. 5. Section 19790 of the Government Code is amended to read:

19790. (a) Each state agency is responsible for an effective equal employment opportunity program. The equal opportunity program shall include a reasonable accommodation policy.

(b) The department shall be responsible for statewide advocacy, coordination, enforcement, monitoring of the programs described in subdivision (a), and the development of model policies, including a model policy on reasonable accommodation.