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AB-1195 Limited Eligibility and Appointment Program: lists. (2021-2022)

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Assembly Bill No. 1195

CHAPTER 892

An act to amend Sections 19057.1 and 19242.2 of the Government Code, relating to employment.

[Approved by Governor September 30, 2022. Filed with Secretary of State September 30, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1195, Cristina Garcia. Limited Eligibility and Appointment Program: lists.

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 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 requires the Department of Human Resources, when an appointing power seeks to fill a vacant position by using an employment list, to provide the appointing power with a certified list of the names and addresses of all eligible candidates, as specified. Existing law requires the department to provide a single certified list of eligible candidates if more than one employment list or LEAP referral list exists, and the department is required to combine the names and addresses of all eligible candidates.

This bill, as an alternative to receiving a combined list of eligible candidates, would require the department, upon request of an appointing power, to provide a list of eligibles that includes only the names and addresses of candidates, if any, on a LEAP referral list and the names and addresses of candidates, if any, on any applicable reemployment or State Restriction of Appointment list. The bill would authorize the appointing power to notify individuals listed of the opportunity to apply for a vacant position, to screen applications for candidates' eligibility, and to hire from among those eligible applicants whose names appear on the list. The bill would authorize the board to adopt or amend regulations, if necessary, to ensure these procedures are implemented in a manner consistent with merit principles and the California Constitution.

Existing law requires the department or its designee to refer the names of persons with disabilities who meet eligibility criteria for participation and the minimum qualifications of the job classification and other requirements deemed appropriate by the board to appointing powers for examination appointments. Existing law authorizes the department to prescribe the method for referring names to appointing powers.

This bill would instead require the department or its designee to create a referral list of names of persons with disabilities who meet eligibility criteria for participation and the minimum qualifications of the job classification, as specified. The bill would require such a referral list to be combined with other employment lists for the same classification using the procedure described above, unless the appointing power requests use of the alternative procedure, as described above. If the eligibility list is obtained through

this alternative procedure, the bill would authorize the list provided to the hiring manager to identify those who are qualified through LEAP. The bill would also include related legislative findings.

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) It is the policy of this state that state government should serve as a model employer of persons with disabilities.
- (b) While Section 31 of Article I of the California Constitution prohibits preferential treatment on the basis of race and sex, it does not bar programs designed to benefit individuals with disabilities and existing law requires state agencies to develop and implement affirmative action employment plans for individuals with disabilities.
- (c) The Limited Examination and Appointment Program (LEAP) was designed to facilitate hiring of individuals with disabilities by creating separate employment lists containing the names of candidates with disabilities who have been determined to meet the minimum qualifications for the classification.
- (d) Until 2018, a department that was committed to improving the representation of individuals with disabilities in its workforce could request that the Department of Human Resources provide it with a LEAP eligibility list and use that list to select and hire a qualified candidate.
- (e) However, if a department did not specifically request the LEAP eligibility list, it would receive only the standard eligibility list for a particular civil service classification.
- (f) Senate Bill 866 (hereafter SB 866; Chapter 53 of the Statutes of 2018) sought to ensure that qualified individuals with disabilities on a LEAP eligibility list would not be inadvertently excluded from consideration if a department did not specifically request the LEAP eligibility list.
- (g) SB 866 was never intended to preclude a department that wished to hire individuals with disabilities from being able to obtain a separate LEAP eligibility list and use it to select and hire a qualified candidate.
- (h) The purpose of this bill is to take another step toward rectifying the continuing underrepresentation of individuals with disabilities in the state workforce by clarifying the law so that both:
 - (1) Departments are again able, as was the case prior to 2018, to obtain and use a LEAP eligibility list to select and hire qualified individuals with disabilities.
 - (2) If a department does not specifically request a LEAP eligibility list, it will receive a list that combines the names of candidates on all eligibility lists for a classification, including those on a LEAP list if one exists.

SEC. 2. Section 19057.1 of the Government Code is amended to read:

19057.1. (a) Except for reemployment lists and State Restriction of Appointment lists, when an appointing power seeks to fill a vacant position by using an employment list, the department shall provide the appointing power with a certified list of the names and addresses of all eligibles whose scores at the time of certification represent the three highest ranks on the list and who have indicated a willingness to accept appointment under the conditions of employment specified. When there is more than one employment list or Limited Examination and Appointment Program referral list, the department shall, pursuant to applicable law and board rules, provide a single certified list of eligibles that combines the names and addresses of all eligibles.

(b) As an alternative to receiving a combined list of eligibles pursuant to subdivision (a), if requested by an appointing power, the department shall provide a list of eligibles that includes only the names and addresses of candidates, if any, on a Limited Examination and Appointment Program referral list and the names and addresses of candidates, if any, on any applicable reemployment or State Restriction of Appointment list or other priority list as required by law. The appointing power may use a list created pursuant to this subdivision to notify individuals listed of the opportunity to apply for the vacant position, to screen applications for candidates' eligibility, and to hire from among those applicants whose names appear on the list. The board may adopt or amend regulations, if necessary, to ensure that the procedures described in this subdivision are implemented in a manner consistent with merit principles and Article VII of the California Constitution.

(c) For purposes of ranking, scores of eligibles on employment lists covered by this section shall be rounded to the nearest whole percent. A rank shall consist of one or more eligibles with the same whole percentage score.

If the names on the list from which certification is being made represent fewer than three ranks, then, consistent with board rules, additional eligibles may be certified from the various lists next lower in order of preference until names from three ranks appear. If

there are fewer than three names available for certification, and the appointing authority does not choose to appoint from among these, the appointing authority may demand certification of three names. In that case, examinations shall be conducted until at least three names may be certified by the procedure described in this section, and the appointing authority shall fill the position by appointment of one of the persons certified.

(d) Fractional examination scores shall be provided to, and used by, the Department of the California Highway Patrol for its peace officer classes.

(e) The department may, consistent with board rules, provide for certifying more or less than three ranks when the size of the certified group is disproportionate to the number of vacancies.

SEC. 3. Section 19242.2 of the Government Code is amended to read:

19242.2. The department or its designee shall create a referral list containing the names of persons with disabilities who meet eligibility criteria for participation and the minimum qualifications of the job classification and any other requirements deemed appropriate by the board to be used by appointing powers for examination appointments. Such a referral list shall be combined with other employment lists for the same classification using the procedure described in subdivision (a) of Section 19057.1, unless the appointing power requests use of the alternative procedure set forth in subdivision (b) of that section. Notwithstanding any other law, if the eligibility list is obtained pursuant to subdivision (b) of Section 19057.1, the list of candidates provided to the hiring manager may identify those who are qualified through the Limited Examination and Appointment Program. Notwithstanding any other law, and to provide for appropriate job-person placement, all candidates meeting referral requirements shall be eligible for examination appointment.