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AB-1604 Civil service: the Upward Mobility Act of 2022. (2021-2022)

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Assembly Bill No. 1604

CHAPTER 313

An act to amend Sections 18502, 18931, 18933, and 19402 of, and to add Sections 18553 and 18930.1 to, the Government Code, relating to human resources.

[Approved by Governor September 13, 2022. Filed with Secretary of State September 13, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1604, Holden. Civil service: the Upward Mobility Act of 2022.

The California Constitution establishes the State Personnel Board (board) and requires the board to, among other things, enforce the civil service statutes, prescribe probationary periods and classifications, adopt rules authorized by statute, and review disciplinary actions. The Constitution also requires the executive officer of the board to administer the civil service statutes under the rules of the board. Under existing law, the board is authorized to conduct audits and investigations of the personnel practices of the Department of Human Resources and appointing authorities to ensure compliance with civil service policies, procedures, and statutes. Existing law exempts regulations of the board from the Administrative Procedure Act, except as specified. Existing law establishes the Department of Human Resources and provides that, subject to the requirements of the California Constitution, it succeeds to and is vested with the duties, purposes, responsibilities, and jurisdiction exercised by the board as its designee with respect to the board's administrative and ministerial functions.

This bill, among other things, would require the board to post notices of proposed changes to regulations for public comment. The bill would require the Department of Human Resources and the board to enter into a memorandum of understanding to determine areas of compliance for nonmerit-related audits and to train board staff on the areas of compliance.

Existing law requires that lists of eligible applicants for civil service positions be established as a result of free competitive examinations. Existing law, with regard to the requirements governing examinations for establishing employment lists, authorizes the Department of Human Resources to designate an appointing power to design, announce, or administer examinations and requires the board to establish minimum qualifications for determining the fitness and qualifications of employees for each class of position.

This bill would require instead that the Department of Human Resources establish best practices for each aspect of the design, announcement, and administration of the examinations for the purpose of increasing diversity of applicant pools on employment lists and develop standards for statements of qualifications used as the examination method in determining the fitness and qualifications of applicants for each class of position, when applicable. The bill would also require the announcement for an examination to include the core competencies, as defined, and the type of exam method, including the standard statement of qualifications, if applicable.

Existing law requires all appointing authorities of state government to establish an effective program of upward mobility for employees in low-paying occupational groups. Existing law requires each upward mobility program to include annual goals for

upward mobility and a timetable for when progress will occur, and requires the department to approve the goals and timetables. Existing law authorizes an appointing authority that determines that it will be unable to achieve the goals to ask the department for a reduction in the goals, as specified.

This bill would, no later than July 1 of each year, require each department to provide a report to the Department of Human Resources that demonstrates the department's progress made toward meeting its upward mobility goals. The bill would repeal the authorization for an appointing authority to ask the Department of Human Resources for a reduction in their annual upward mobility goals, and would instead require the appointing authority to include in the progress report an explanation for the failure to achieve the goals and what requirements are necessary to facilitate achieving the goals, as specified. The bill would, on or before July 1, 2024, require the Department of Human Resources to post each department's upward mobility goals on its internet website. The bill would, on or before January 1 of the following year after each department provides these reports, require the Department of Human Resources to provide a copy of the upward mobility goals and these progress reports to the Legislature.

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

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

SECTION 1. This act shall be known, and may be cited, as the Upward Mobility Act of 2022.

SEC. 2. Section 18502 of the Government Code is amended to read:

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

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

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

(b) (1) The State Personnel Board shall prescribe rules consistent with a merit based civil service system to govern appointments, classifications, examinations, probationary periods, disciplinary actions, and other matters related to the board's authority under Article VII of the California Constitution. The State Personnel Board may conduct audits and investigations of personnel practices of the department and appointing authorities to ensure compliance with civil service policies, procedures, and statutes, and shall post notices of proposed changes to regulations for public comment.

(2) The department and the State Personnel Board shall enter into a memorandum of understanding to determine areas of compliance for nonmerit-related audits and to train State Personnel Board staff on the areas of compliance.

(c) This section shall not limit the authority of the Department of Human Resources and the State Personnel Board to delegate, share, or transfer between them responsibilities for programs within their respective jurisdictions pursuant to an agreement.

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

SEC. 3. Section 18553 is added to the Government Code, to read:

18553. "Core competencies" mean the particular education, experience, knowledge, and abilities that each applicant is required to have in order to be considered eligible for a particular group of classifications.

SEC. 4. Section 18930.1 is added to the Government Code, to read:

18930.1. The department shall establish best practices for each aspect of the design, announcement, and administration of examinations for the purpose of increasing diversity of applicant pools on employment lists.

SEC. 5. Section 18931 of the Government Code is amended to read:

18931. (a) The board shall establish minimum qualifications for determining the fitness and qualifications of employees for each class of position, including education, experience, knowledge, and abilities that each applicant is required to have to be considered eligible for a classification. The department may require applicants for examination or appointment to provide documentation as it deems necessary to establish the applicants' qualifications.

(b) The department shall develop standards for statements of qualifications used as the examination method in determining the fitness and qualifications of applicants for each class of position, when applicable. The department may require applicants for examination or appointment to provide documentation as it deems necessary to establish the applicants' qualifications.

(c) 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, the department or the designated appointing authority shall undertake that screening subject to the applicant's right to appeal to the board.

SEC. 6. Section 18933 of the Government Code is amended to read:

18933. (a) Within a reasonable time before the scheduled date, the department or a designated appointing power shall announce or advertise examinations for the establishment of eligible lists. The announcement shall include the following:

- (1) The date and place of the examination.
- (2) The nature of the minimum qualifications and the functional core competencies.
- (3) The general scope of the examination.
- (4) The relative weight of its several parts if more than one type of test is to be utilized.
- (5) The type of exam method, including the standard statement of qualifications, if applicable.
- (6) Any other information the department deems proper.

(b) The department shall notify the Department of Veterans Affairs when any promotional examination for the establishment of an eligible list is announced or advertised to eligible candidates. The notification shall state the job position and include all of the information listed in paragraphs (1) to (6), inclusive, of subdivision (a).

SEC. 7. Section 19402 of the Government Code is amended to read:

19402. (a) (1) All upward mobility programs shall include annual goals that include the number of employees expected to progress from entry-level positions to higher level technical, professional, and administrative positions, and the timeframe within which this progress shall occur. For appointing powers that participate in apprenticeship programs, the upward mobility program shall also include annual goals that include the number of employees expected to progress from apprenticeship positions to permanent civil service positions.

(2) The upward mobility goals may include race, gender, LGBTQ, and disability status as factors to the extent permissible under state and federal equal protection and antidiscrimination laws.

(3) The Department of Human Resources shall be responsible for approving each department's annual upward mobility goals and timetables.

(b) (1) No later than July 1 of each year, each department shall provide a report to the Department of Human Services that demonstrates progress made toward meeting upward mobility goals. At a minimum, this report shall include the number of employees that have progressed from positions in entry-level occupational groups to technical, professional, and administrative positions in the last calendar year. If the appointing authority is unable to meet its annual upward mobility goals and timetables for two consecutive fiscal years, the appointing authority shall include in the report submitted pursuant to subdivision (b) an explanation for why it failed to achieve its goals and what requirements are necessary to facilitate achieving its goals in the subsequent two fiscal years.

(2) On or before January 1 of the following year after each department provides the report described in paragraph (1), the Department of Human Resources shall provide a copy of the upward mobility goals and the report described in paragraph (1) to the Legislature. The report shall be submitted in compliance with Section 9795.

(3) By July 1, 2024, the Department of Human Resources shall post each department's upward mobility goals on its internet website.

SEC. 8. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.