

AMENDED IN ASSEMBLY AUGUST 15, 2008

AMENDED IN ASSEMBLY AUGUST 8, 2008

AMENDED IN ASSEMBLY JUNE 18, 2008

AMENDED IN SENATE APRIL 10, 2008

SENATE BILL

No. 1472

Introduced by Senator Ashburn

February 21, 2008

An act to amend, repeal, and add Sections 18546, 18990, 18992, and 19889.3 of, and to add Section 20037.13 to, the Government Code, relating to public employment.

LEGISLATIVE COUNSEL'S DIGEST

SB 1472, as amended, Ashburn. Public employment.

Existing law establishes a state civil service system that includes career executive assignments. Career executive assignments are appointments to a high administrative and policy influencing position within the state civil service in which the incumbent's primary responsibility is the managing of a major function or the rendering of management advice to top-level administrative authority.

This bill would, until January 1, 2013, expand the category of persons eligible for a career executive assignment to include those persons who previously had permanent status in the civil service and those who, for 2 or more consecutive years, were either employed by the Legislature or held nonelected exempt positions in the executive branch, as specified. The bill would require a state entity that employs a person in a career executive assignment to notify the Controller of this person's employment status and would require the Controller to forward this information to the State Personnel Board.

Existing law provides that those persons who, for 2 or more consecutive years, were either employed by the Legislature or held nonelected exempt positions in the executive branch, and who resigned or were released from service, are eligible to apply for promotional civil service examinations, including examinations for career executive assignments, for which they meet the minimum qualifications as prescribed by the class specification, for one year following their resignation or release, as specified.

This bill would, until January 1, 2013, eliminate that one year time limit for eligibility for examinations for career executive assignments for those persons.

The bill would provide the means for calculating the final compensation of ~~certain people affected by those provisions~~ *persons who are appointed to certain career executive assignments who previously had, but do not currently have, permanent civil service status, certain persons employed by the Legislature, and certain persons holding nonelected exempt positions in the executive branch* for the purposes of any pension or benefits with respect to benefits based on service with the state, as specified.

~~This bill would, until January 1, 2013, eliminate that one year time limit for eligibility for examinations for career executive assignments for those persons.~~

The bill would also require the State Personnel Board to report to the Legislature by January 1, 2012, *with a summary of specified career executive assignment hires made of those persons as well as persons who previously had permanent status in the civil service. The bill would require a state entity hiring specified persons in career executive assignments to provide information to the State Controller and would require the State Controller to forward information to the State Personnel Board and the Public Employees' Retirement System.*

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 18546 of the Government Code is
- 2 amended to read:
- 3 18546. (a) "Career executive" means an employee appointed
- 4 from an employment list established for the express purpose of
- 5 providing a list of persons with permanent status or who previously

1 had permanent status in the civil ~~service~~, *service*, or those persons
2 who either, for two or more consecutive years, have been employed
3 by the Legislature, as described in Section 18990, or have held
4 nonelected exempt positions in the executive branch, as described
5 in Section 18992, who are available for career executive
6 assignments, in which selection, classification, salary, tenure, and
7 other conditions of employment may be varied from those
8 prevailing under Chapters 3 (commencing with Section 18800)
9 through 7 (commencing with Section 19570) for other employees
10 in the state civil service.

11 (b) This section shall remain in effect only until January 1, 2013,
12 and as of that date is repealed, unless a later enacted statute, that
13 is enacted before January 1, 2013, deletes or extends that date.

14 SEC. 2. Section 18546 is added to the Government Code, to
15 read:

16 18546. (a) “Career executive” means an employee appointed
17 from an employment list established for the express purpose of
18 providing a list of persons with permanent status in the civil service
19 who are available for career executive assignments, in which
20 selection, classification, salary, tenure, and other conditions of
21 employment may be varied from those prevailing under Chapter
22 3 (commencing with Section 18800) to Chapter 7 (commencing
23 with Section 19570), inclusive, for other employees in the state
24 civil service.

25 (b) This section shall become operative on January 1, 2013.

26 SEC. 3. Section 18990 of the Government Code is amended
27 to read:

28 18990. (a) Notwithstanding any other provision of law or rule,
29 persons employed by the Legislature for two or more consecutive
30 years shall be eligible to apply for promotional civil service
31 examinations, including examinations for career executive
32 assignments, for which they meet the minimum qualifications as
33 prescribed by the class specification. Persons receiving passing
34 scores shall have their names placed on promotional lists resulting
35 from these examinations or otherwise gain eligibility for
36 appointment. In evaluating minimum qualifications, related
37 legislative experience shall be considered state civil service
38 experience in a class deemed comparable by the State Personnel
39 Board, based on the duties and responsibilities assigned.

1 (b) In cases where promotional examinations are given by more
2 than one department for the same classification, the employee shall
3 select one department in which to compete. Once this selection is
4 made, it cannot be changed for the duration of the promotional list
5 established from the examination in which the employee
6 participated. Employees may transfer list eligibility between
7 departments in the same manner as provided for civil service
8 employees.

9 (c) Employees who meet the requirements of this section, are
10 employed by the Legislature, and who resign or are released from
11 service, shall be eligible to take promotional civil service
12 examinations for one year following their resignation or release
13 in accordance with subdivisions (a) and (b).

14 (d) Employees who meet the requirements of this section, are
15 employed by the Legislature, and who resign or are released from
16 service, shall be eligible to take examinations for career executive
17 assignments indefinitely following their resignation or release in
18 accordance with subdivisions (a) and (b).

19 (e) Employees who meet the requirements of this section, are
20 employed by the office of the Auditor General or the office of the
21 Legislative Analyst as of January 1, 1992, and who resign or are
22 released from service due to a force reduction of the Legislature
23 before January 1, 1994, shall be eligible to take promotional civil
24 service examinations, including career executive assignments, for
25 three years following their resignation or release in accordance
26 with subdivisions (a) and (b).

27 (f) An employee who establishes eligibility on a promotional
28 civil service list, either pursuant to subdivision (c) or (e) or prior
29 to having resigned or having been released in a manner to which
30 subdivision (c) or (e) would apply, shall maintain that eligibility
31 for the duration of that particular list.

32 (g) This section shall remain in effect only until January 1, 2013,
33 and as of that date is repealed, unless a later enacted statute, that
34 is enacted before January 1, 2013, deletes or extends that date.

35 SEC. 4. Section 18990 is added to the Government Code, to
36 read:

37 18990. (a) Notwithstanding any other provision of law or rule,
38 persons employed by the Legislature for two or more consecutive
39 years shall be eligible to apply for promotional civil service
40 examinations, including examinations for career executive

1 assignments, for which they meet the minimum qualifications as
2 prescribed by the class specification. Persons receiving passing
3 scores shall have their names placed on promotional lists resulting
4 from these examinations or otherwise gain eligibility for
5 appointment. In evaluating minimum qualifications, related
6 legislative experience shall be considered state civil service
7 experience in a class deemed comparable by the State Personnel
8 Board, based on the duties and responsibilities assigned.

9 (b) In cases where promotional examinations are given by more
10 than one department for the same classification, the employee shall
11 select one department in which to compete. Once this selection is
12 made, it cannot be changed for the duration of the promotional list
13 established from the examination in which the employee
14 participated. Employees may transfer list eligibility between
15 departments in the same manner as provided for civil service
16 employees.

17 (c) Employees who meet the requirements of this section, are
18 employed by the Legislature, and who resign or are released from
19 service, shall be eligible to take promotional civil service
20 examinations, including examinations for career executive
21 assignments, for one year following their resignation or release in
22 accordance with subdivisions (a) and (b).

23 (d) Employees who meet the requirements of this section, are
24 employed by the office of the Auditor General or the office of the
25 Legislative Analyst as of January 1, 1992, and who resign or are
26 released from service due to a force reduction of the Legislature
27 before January 1, 1994, shall be eligible to take promotional civil
28 service examinations, including career executive assignments, for
29 three years following their resignation or release in accordance
30 with subdivisions (a) and (b).

31 (e) An employee who establishes eligibility on a promotional
32 civil service list, either pursuant to subdivision (c) or (d) or prior
33 to having resigned or having been released in a manner to which
34 subdivision (c) or (d) would apply, shall maintain that eligibility
35 for the duration of that particular list.

36 (f) This section shall become operative on January 1, 2013.

37 SEC. 5. Section 18992 of the Government Code is amended
38 to read:

39 18992. (a) Notwithstanding any other provision of law or rule,
40 persons holding, for two or more consecutive years, nonelected

1 exempt positions in the executive branch of government as defined
2 in subdivisions (c), (e), (f), (g), (i), and (m) of Section 4 of Article
3 VII of the Constitution and excluding those positions for which
4 the salaries are set by statute, shall be eligible to apply for
5 promotional civil service examinations, including, but not limited
6 to, examinations for career executive assignments for which they
7 meet the minimum qualifications as prescribed by the class
8 specification. Persons receiving passing scores shall have their
9 names placed on promotional lists resulting from these
10 examinations or otherwise gain eligibility for appointment. In
11 evaluating minimum qualifications, related exempt experience
12 shall be considered state civil service experience in a class deemed
13 comparable by the State Personnel Board, based on the duties and
14 responsibilities assigned.

15 (b) In cases where promotional examinations are given by more
16 than one department for the same classification, the employee shall
17 select one department in which to compete. Once this selection is
18 made, it cannot be changed for the duration of the promotional list
19 established from the examination in which the employee
20 participated. Employees may transfer list eligibility between
21 departments in the same manner as provided for civil service
22 employees.

23 (c) Employees who meet the requirements of this section and
24 who resign or are released from exempt employment of the
25 executive branch of government shall be eligible to take
26 promotional civil service examinations for one year following their
27 resignation or release in accordance with subdivisions (a) and (b).

28 (d) Employees who meet the requirements of this section and
29 who resign or are released from exempt employment of the
30 executive branch of government shall be eligible to take
31 examinations for career executive assignments indefinitely
32 following their resignation or release in accordance with
33 subdivisions (a) and (b).

34 (e) An employee who establishes eligibility on a promotional
35 civil service list, either pursuant to subdivision (c) or prior to
36 having resigned or having been released in a manner to which
37 subdivision (c) would apply, shall maintain that eligibility for the
38 duration of that particular list.

1 (f) This section shall remain in effect only until January 1, 2013,
2 and as of that date is repealed, unless a later enacted statute, that
3 is enacted before January 1, 2013, deletes or extends that date.

4 SEC. 6. Section 18992 is added to the Government Code, to
5 read:

6 18992. (a) Notwithstanding any other provision of law or rule,
7 persons holding, for two or more consecutive years, nonelected
8 exempt positions in the executive branch of government as defined
9 in subdivisions (c), (e), (f), (g), (i), and (m) of Section 4 of Article
10 VII of the Constitution and excluding those positions for which
11 the salaries are set by statute, shall be eligible to apply for
12 promotional civil service examinations, including, but not limited
13 to, examinations for career executive assignments for which they
14 meet the minimum qualifications as prescribed by the class
15 specification. Persons receiving passing scores shall have their
16 names placed on promotional lists resulting from these
17 examinations or otherwise gain eligibility for appointment. In
18 evaluating minimum qualifications, related exempt experience
19 shall be considered state civil service experience in a class deemed
20 comparable by the State Personnel Board, based on the duties and
21 responsibilities assigned.

22 (b) In cases where promotional examinations are given by more
23 than one department for the same classification, the employee shall
24 select one department in which to compete. Once this selection is
25 made, it cannot be changed for the duration of the promotional list
26 established from the examination in which the employee
27 participated. Employees may transfer list eligibility between
28 departments in the same manner as provided for civil service
29 employees.

30 (c) Employees who meet the requirements of this section and
31 who resign or are released from exempt employment of the
32 executive branch of government shall be eligible to take
33 promotional civil service examinations, including examinations
34 for career executive assignments, for one year following their
35 resignation or release in accordance with subdivisions (a) and (b).

36 (d) An employee who establishes eligibility on a promotional
37 civil service list, either pursuant to subdivision (c) or prior to
38 having resigned or having been released in a manner to which
39 subdivision (c) would apply, shall maintain that eligibility for the
40 duration of that particular list.

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

2 SEC. 7. Section 19889.3 of the Government Code is amended
3 to read:

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

10 (1) Persons with permanent status, or who previously had
11 permanent status, in the civil service.

12 (2) Persons employed by the Legislature for two or more
13 consecutive years, as described in Section 18990.

14 (3) Persons holding, for two or more consecutive years,
15 nonelected exempt positions in the executive branch, as described
16 in Section 18992.

17 (b) No person employed in a career executive assignment shall
18 be deemed to acquire as a result of such service any rights to or
19 status in positions governed by the provisions of this part relating
20 to the civil service other than the category of career executive
21 assignment, except as provided by State Personnel Board rule.

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

34 (d) A state entity that employs a person described in subdivision
35 (a) in a career executive assignment shall notify the Controller of
36 this person's employment status and the Controller shall forward
37 this information to the board.

38 (e) For the purpose of this section, "employee" means a
39 permanent employee, or an employee serving under another
40 appointment who previously had permanent status and who, since

1 such permanent status, has had no break in the continuity of his
2 or her state service.

3 (f) This section shall remain in effect only until January 1, 2013,
4 and as of that date is repealed, unless a later enacted statute, that
5 is enacted before January 1, 2013, deletes or extends that date.

6 SEC. 8. Section 19889.3 is added to the Government Code, to
7 read:

8 19889.3. (a) Eligibility for appointment to positions in the
9 career executive assignment category shall be established as a
10 result of competitive examination of persons with permanent status
11 in the civil service who meet such minimum qualifications as the
12 State Personnel Board may determine are requisite to the
13 performance of high administrative and policy influencing
14 functions.

15 (b) No person employed in a career executive assignment shall
16 be deemed to acquire as a result of such service any rights to or
17 status in positions governed by the provisions of this part relating
18 to the civil service other than the category of career executive
19 assignment, except as provided by State Personnel Board rule.

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

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

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

38 SEC. 9. Section 20037.13 is added to the Government Code,
39 to read:

1 20037.13. (a) Notwithstanding Sections 20035 and 20037, for
2 the purposes of determining any pension or benefit with respect
3 to benefits based on service with the state, “final compensation”
4 means the highest annual compensation that was earnable by the
5 state member during the consecutive 36-month period of
6 employment immediately preceding the effective date of his or
7 her retirement or the date of his or her last separation from state
8 service or during any other period of 36 consecutive months during
9 his or her membership in this system that the member designates
10 on the application for retirement.

11 (b) This section shall only apply to a member appointed to a
12 career executive assignment, as defined in Section 18546, who at
13 ~~the time of the appointment did not have permanent status in the~~
14 ~~civil service or was not eligible for a career executive assignment~~
15 ~~pursuant to Section 18990 or 18992.~~ *the time of appointment meets*
16 *one or more of the following criteria:*

17 (1) *He or she previously had, but does not currently have,*
18 *permanent status in the civil service.*

19 (2) *He or she is a person described in Section 18990 who was*
20 *not, within the past 12 months, employed by the Legislature for*
21 *two or more consecutive years.*

22 (3) *He or she is a person described in Sections 18992 who was*
23 *not, within the past 12 months, holding a nonelected exempt*
24 *position in the executive branch.*

25 (c) *A state entity that employs a person described in subdivision*
26 *(b) in a career executive assignment shall notify the Controller of*
27 *this person’s employment status and the Controller shall forward*
28 *this information to the system.*

29 SEC. 10. The State Personnel Board shall report to the
30 Legislature by January 1, 2012, a summary of career executive
31 assignment hires made of the following persons:

32 (a) Persons who previously had permanent status in the civil
33 service.

34 ~~(b) Persons employed by the Legislature for two or more~~
35 ~~consecutive years, as described in Section 18990.~~

36 ~~(c) Persons holding, for two or more consecutive years,~~
37 ~~nonelected exempt positions in the executive branch, as described~~
38 ~~in Section 18992.~~

- 1 ***(b) Persons described in Section 18990 of the Government Code***
2 ***who were not, within the past 12 months, employed by the***
3 ***Legislature for two or more consecutive years.***
4 ***(c) Persons described in Section 18992 of the Government Code***
5 ***who were not, within the past 12 months, holding a nonelected***
6 ***exempt position in the executive branch.***

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