

## Senate Bill No. 1472

### CHAPTER 353

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.

[Approved by Governor September 26, 2008. Filed with Secretary of State September 26, 2008.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 1472, 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 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.

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. The bill would require a state entity hiring specified persons in career executive assignments to provide information to the Controller and would require the Controller to forward information to the State Personnel Board and the Public Employees' Retirement System.

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

SECTION 1. Section 18546 of the Government Code is amended to read:

18546. (a) "Career executive" means an employee appointed from an employment list established for the express purpose of providing a list of persons with permanent status or who previously had permanent status in the civil service, or those persons who either, for two or more consecutive years, have been employed by the Legislature, as described in Section 18990, or have held nonelected exempt positions in the executive branch, as described in Section 18992, who are available for career executive assignments, in which selection, classification, salary, tenure, and other conditions of employment may be varied from those prevailing under Chapters 3 (commencing with Section 18800) through 7 (commencing with Section 19570) for other employees in the state civil service.

(b) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

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

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

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

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

18990. (a) Notwithstanding any other provision of law or rule, persons employed by the Legislature for two or more consecutive years shall be 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. Persons receiving passing scores shall have their names placed on promotional lists resulting from these examinations or otherwise gain eligibility for appointment. In evaluating minimum qualifications, related legislative experience shall be considered state civil service experience in a class

deemed comparable by the State Personnel Board, based on the duties and responsibilities assigned.

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

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

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

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

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

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

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

18990. (a) Notwithstanding any other provision of law or rule, persons employed by the Legislature for two or more consecutive years shall be 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. Persons receiving passing scores shall have their names placed on promotional lists resulting from these examinations or otherwise gain eligibility for appointment. In evaluating minimum qualifications, related legislative experience shall be considered state civil service experience in a class deemed comparable by the State Personnel Board, based on the duties and responsibilities assigned.

(b) In cases where promotional examinations are given by more than one department for the same classification, the employee shall select one department in which to compete. Once this selection is made, it cannot be

changed for the duration of the promotional list established from the examination in which the employee participated. Employees may transfer list eligibility between departments in the same manner as provided for civil service employees.

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

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

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

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

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

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

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

(c) Employees who meet the requirements of this section and who resign or are released from exempt employment of the executive branch of government shall be eligible to take promotional civil service examinations

for one year following their resignation or release in accordance with subdivisions (a) and (b).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) For the purpose of this section, "employee" means a permanent employee, or an employee serving under another appointment who previously had permanent status and who, since such permanent status, has had no break in the continuity of his or her state service.

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

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

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

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

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

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

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

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

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

(b) This section shall only apply to a member appointed to a career executive assignment, as defined in Section 18546, who at the time of appointment meets one or more of the following criteria:

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

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

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

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

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

- (a) Persons who previously had permanent status in the civil service.
- (b) Persons described in Section 18990 of the Government Code who were not, within the past 12 months, employed by the Legislature for two or more consecutive years.
- (c) Persons described in Section 18992 of the Government Code who were not, within the past 12 months, holding a nonelected exempt position in the executive branch.