

ASSEMBLY BILL

No. 749

Introduced by Assembly Member Fong

February 26, 2009

An act to amend Section 19574 of the Government Code, relating to public employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 749, as introduced, Fong. Public employment: adverse action.

The California Constitution establishes the civil service and creates the State Personnel Board to enforce the civil service statutes.

Existing law contains various provisions relating to civil service and employer-employee relations between the state and its employees, including provisions for disciplining state employees. Existing law authorizes the appointing power to take adverse action against an employee for one or more specified causes if written notice is served upon the employee prior to the effective date of the action. Existing law requires that the notice contain specified information and be filed with the board not later than 15 calendar days after the effective date of the adverse action.

This bill would prohibit disciplinary action from being imposed upon an employee until the State Personnel Board hearing has been completed and an administrative law judge has sustained the charges, except that an employee may be dismissed from state service prior to that time if the presence of the employee at the workplace presents a clear and present danger to the facility or the public. The bill would specify that the State Personnel Board determines the effective date of the adverse action. The bill would also require that the notice be filed with the board not later than 20 calendar days after the date the notice of the adverse

action was served on the employee, rather than 15 calendar days after the effective date of the action, and would provide that the disciplinary action shall commence on the 21st day after that date.

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 19574 of the Government Code is
2 amended to read:

3 19574. (a) The appointing power, or its authorized
4 representative, may take adverse action against an employee for
5 one or more of the causes for discipline specified in this article.
6 Adverse action is valid only if a written notice is served on the
7 employee prior to the effective date of the action. *Disciplinary*
8 *action shall not be imposed upon the employee until the State*
9 *Personnel Board hearing has been completed and an*
10 *administrative law judge has sustained the charges, except that*
11 *an employee may be dismissed from state service prior to that time*
12 *if the presence of the employee at the workplace presents a clear*
13 *and present danger to the facility or the public, as defined by board*
14 *rule. The notice shall be served upon the employee either*
15 *personally or by mail and shall include: (1) a statement of the*
16 *nature of the adverse action; (2) the effective date of the action,*
17 *as determined by the State Personnel Board; (3) a statement of*
18 *the reasons therefor in ordinary language; (4) a statement advising*
19 *the employee of the right to answer the notice orally or in writing;*
20 *and (5) a statement advising the employee of the time within which*
21 *an appeal must be filed. The notice shall be filed with the board*
22 *not later than 15 20 calendar days after the effective date of the*
23 *adverse action was served upon the employee. If the employee does*
24 *not file an appeal with the board within 20 calendar days from*
25 *the date the notice of the adverse action was served on the*
26 *employee, the disciplinary action shall commence on the 21st day*
27 *after that date.*

28 (b) Effective January 1, 1996, this subdivision shall apply only
29 to state employees in State Bargaining Unit 5. This section shall
30 not apply to discipline as defined by Section 19576.1.

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