

AMENDED IN SENATE AUGUST 31, 2015

AMENDED IN SENATE AUGUST 24, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 129**

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**Introduced by Committee on Budget (Weber (Chair), Bloom, Bonta, Campos, Chiu, Cooper, Gordon, Jones-Sawyer, McCarty, Mullin, Nazarian, O'Donnell, Rodriguez, Thurmond, Ting, and Williams)**

January 9, 2015

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An act to amend Sections 18546, 18990, 18991, 18992, 18993, 19057.1, 19057.3, 19889, 19889.2, and 19889.3 of, to add Section 19889.4 to, and to repeal Sections 19057, 19057.2, and 19057.4 of, the Government Code, relating to state civil service, and making an appropriation therefor, to take effect immediately, bill related to the budget.

LEGISLATIVE COUNSEL'S DIGEST

AB 129, as amended, Committee on Budget. State civil service.

(1) The California Constitution provides that the civil service includes every officer and employee in the state except as otherwise provided in the Constitution, and existing statutory law, the State Civil Service Act, prescribes a comprehensive civil service personnel system for the state. The act grants eligibility for promotional civil service examinations and career executive assignment examinations to persons who meet certain requirements and minimum qualifications and who are employed by the Legislature, persons who are retired from the United States armed forces, honorably discharged from active military duty with a service-connected disability, or honorably discharged from active duty,

or persons who were employees of the executive branch in exempt positions.

This bill would revise eligibility standards applicable to people who were employed by the Legislature, people who retired or were discharged from the armed forces, and people who were formerly employed in exempt, executive branch positions, as described above, to permit them, upon request, to obtain civil service appointment list eligibility by taking promotional exams or career executive exams for which they meet minimum qualifications, as specified. The bill would eliminate the requirement that an employee or veteran, in this context, select only one promotional examination in which to compete when multiple examinations are given. Among other things, the bill would also remove a time limit on this eligibility granted to specified former employees of the Legislature and employees of the executive branch in exempt positions.

(2) Existing law generally requires that appointments to vacant positions be made by lists. Existing law requires, with specified exceptions, that an appointing power receive the names and addresses of the three persons highest on a promotional employment list for the class in which a position belongs, and if there are fewer than three names, as specified, additional names are provided from the various lists next lower in order of preference. Existing law prescribes requirements for providing names to an appointing power for positions designated as management and specifies a method of ranking eligible candidates in this context. Existing law prescribes requirements for providing names to an appointing power for positions designated as supervisory and not professional, scientific, or administrative, and that are not examined for on an open basis, and specifies a method of ranking eligible candidates in this context. Existing law requires an appointing power to fill a position from the names of the persons provided.

This bill would repeal these provisions and make conforming changes.

(3) Existing law provides for career executive assignments to encourage the development for well-qualified executives and requires the State Personnel Board to establish, by a rule, a system of merit personnel administration specifically suited to the selection and placement of executive personnel. The State Civil Service Act defines career executive. Existing law requires the State Personnel Board, by rule, to provide that employees whose appointments to career executive assignments are terminated to be reinstated to civil service positions, as specified, at their option.

This bill would revise the definition of career executive to eliminate the requirement that the person have permanent status in the civil service. This bill would provide that various provisions relating to personnel examinations don't apply to career executive assignments unless provided for by rule, as specified. The bill would grant reinstatement rights to employees who at the time of appointment to a career executive assignment were not employed by the state but who had previously worked for it and had gained permanent civil service status. The bill would grant an employee who at the time of his or her appointment to a career executive assignment ~~did not have~~ *was from outside* civil service status eligibility to compete in any promotional examination for which he or she meets the minimum qualifications as prescribed by the class specification, except as specified, and would provide these employees other rights in this context, including the right to defer examinations and to transfer list eligibility in the same manner as civil service employees: *examination for any open eligible list, as specified, in existence at the time of the termination of the career executive assignment for which he or she meets the minimum qualifications of the class to which appointment is sought. The bill would require, in this regard, that related experience gained in a career executive assignment be considered state civil service experience in a comparable class, as specified.*

The bill would make an appropriation from the General Fund of \$300,000 to the Department of Finance for the purpose of funding the posting on the department's Internet Web site of all budget requests included as part of the Governor's Budget.

This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Vote: majority. Appropriation: yes. 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. "Career executive" means an employee appointed from  
 4 an employment list established for the express purpose of providing  
 5 a list of persons who are eligible for career executive assignments,  
 6 as specified in Article 5 (commencing with Section 18990) of  
 7 Chapter 4 and Article 9 (commencing with Section 19889) of

1 Chapter 2.5 of Part 2.6, in which examination, selection,  
2 classification, salary, tenure, and other conditions of employment  
3 may be varied from those prevailing under Chapter 3 (commencing  
4 with Section 18800) to Chapter 7 (commencing with Section  
5 19570), inclusive, for other employees in the state civil service.

6 SEC. 2. Section 18990 of the Government Code is amended  
7 to read:

8 18990. (a) Notwithstanding any other provision of law or rule,  
9 persons employed by the Legislature for two or more consecutive  
10 years shall be given an opportunity, upon request, to obtain civil  
11 service appointment list eligibility by taking any promotional civil  
12 service examination or career executive assignment examinations  
13 for which they meet the minimum qualifications of the class for  
14 which they seek appointment. Persons receiving passing scores  
15 shall gain list eligibility or appointment. In evaluating minimum  
16 qualifications, a person's legislative experience shall be considered  
17 state civil service experience in a comparable class that has the  
18 same or substantially similar duties and responsibilities as the  
19 person's legislative position.

20 (b) Persons who meet the requirements of this section, but who  
21 resigned or were released from service with the Legislature, shall  
22 be eligible to take promotional civil service examinations and  
23 career executive assignment examinations in accordance with  
24 subdivision (a).

25 SEC. 3. Section 18991 of the Government Code is amended  
26 to read:

27 18991. Notwithstanding any other provision of law, persons  
28 retired from the United States military, honorably discharged from  
29 active military duty with a service-connected disability, or  
30 honorably discharged from active duty, shall be eligible to apply  
31 for promotional civil service examinations and career executive  
32 assignment examinations for which they meet the minimum  
33 qualifications of the class to which they seek appointment. Persons  
34 receiving passing scores shall gain list eligibility for appointment.  
35 In evaluating minimum qualifications, the person's military  
36 experience shall be considered state civil service experience in a  
37 comparable class that has the same or substantially similar duties  
38 and responsibilities as the person's position in the military.

39 SEC. 4. Section 18992 of the Government Code is amended  
40 to read:

1 18992. (a) Notwithstanding any other provision of law or rule,  
2 persons holding, for two or more consecutive years, nonelected  
3 exempt positions in the executive branch of government as defined  
4 in subdivisions (c), (e), (f), (g), (i), and (m) of Section 4 of Article  
5 VII of the Constitution and excluding those positions for which  
6 the salaries are set by statute, shall be given the opportunity, upon  
7 request, to obtain civil service appointment list eligibility by taking  
8 any promotional civil service examination or career executive  
9 assignment examination for which they meet the minimum  
10 qualifications of the class to which they seek appointment. Persons  
11 receiving passing scores shall gain list eligibility for appointment.  
12 In evaluating minimum qualifications, the person's experience in  
13 the exempt position shall be considered state civil service  
14 experience in a comparable class that has the same or substantially  
15 similar duties and responsibilities as the person's exempt position.

16 (b) Persons who meet the requirements of this section, but who  
17 resigned or were released from exempt employment of the  
18 executive branch of government, shall be eligible to take  
19 promotional civil service examinations and career executive  
20 assignment examinations in accordance with subdivision (a).

21 SEC. 5. Section 18993 of the Government Code is amended  
22 to read:

23 18993. (a) Notwithstanding any other provision of law, a  
24 legislative or nonelected exempt executive branch employee who  
25 is appointed to a career executive assignment pursuant to Section  
26 18990 or 18992, shall be eligible to compete in his or her  
27 appointing power's promotional examinations for which he or she  
28 meets the minimum qualifications of the class to which he or she  
29 seeks appointment. When such an employee's career executive  
30 assignment is terminated by the appointing power, he or she shall  
31 have the right to request a deferred examination for any  
32 promotional eligible list that his or her appointing power has in  
33 existence at the time of the termination of the career executive  
34 assignment and for which he or she meets the minimum  
35 qualifications of the class to which he or she seeks appointment.

36 (b) A request for a deferred examination pursuant to subdivision  
37 (a) shall be made no later than 10 days after the effective date of  
38 the termination of the career executive assignment. The department  
39 shall administer the deferred examination within 30 days of the  
40 date of the request.

1 SEC. 6. Section 19057 of the Government Code is repealed.

2 SEC. 7. Section 19057.1 of the Government Code is amended  
3 to read:

4 19057.1. Except for reemployment lists, State Restriction of  
5 Appointment lists, and Limited Examination and Appointment  
6 Program referral lists, there shall be certified to the appointing  
7 power the names and addresses of all those eligibles whose scores,  
8 at the time of certification, represent the three highest ranks on the  
9 employment list for the class, and who have indicated their  
10 willingness to accept appointment under the conditions of  
11 employment specified.

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

16 If the names on the list from which certification is being made  
17 represent fewer than three ranks, then, consistent with board rules,  
18 additional eligibles may be certified from the various lists next  
19 lower in order of preference until names from three ranks appear.  
20 If there are fewer than three names available for certification, and  
21 the appointing authority does not choose to appoint from among  
22 these, the appointing authority may demand certification of three  
23 names. In that case, examinations shall be conducted until at least  
24 three names may be certified by the procedure described in this  
25 section, and the appointing authority shall fill the position by  
26 appointment of one of the persons certified.

27 Fractional examination scores shall be provided to, and used by,  
28 the Department of the California Highway Patrol for its peace  
29 officer classes.

30 The department may, consistent with board rules, provide for  
31 certifying less than three ranks where the size of the certified group  
32 is disproportionate to the number of vacancies.

33 SEC. 8. Section 19057.2 of the Government Code is repealed.

34 SEC. 9. Section 19057.3 of the Government Code is amended  
35 to read:

36 19057.3. (a) For a position in the Department of Corrections  
37 and Rehabilitation, there shall be certified to the appointing power  
38 the names and addresses of all those eligibles for peace officer and  
39 closely allied classes whose scores, at the time of certification,  
40 represent the three highest ranks on the employment list for the

1 class in which the position belongs and who have indicated their  
2 willingness to accept appointment under the conditions of  
3 employment specified.

4 (b) For purposes of ranking, scores of eligibles on employment  
5 lists for the classes shall be rounded to the nearest whole percent.  
6 A rank consists of one or more eligibles with the same whole  
7 percentage score.

8 (c) If fewer than three ranks of persons willing to accept  
9 appointment are on the list from which certification is to be made,  
10 then additional eligibles shall be certified from the various lists  
11 next lower in order of preference until names from three ranks are  
12 certified. If there are fewer than three names on those lists, and  
13 the appointing power does not choose to appoint from among these,  
14 the appointing power may demand certification of three names  
15 and examinations shall be conducted until at least three names  
16 may be certified. The appointing power shall fill the position by  
17 the appointment of one of the persons certified.

18 (d) The department may, consistent with board rules, provide  
19 for certifying less than three ranks where the size of the certified  
20 group is disproportionate to the number of vacancies.

21 (e) The department may, consistent with board rules, allow for  
22 the names of eligibles to be transferred from lists for the same  
23 class or comparable classes where names from one list were  
24 certified under the rule of three ranks, and names from the other  
25 list were certified under the rule of three names.

26 SEC. 10. Section 19057.4 of the Government Code is repealed.

27 SEC. 11. Section 19889 of the Government Code is amended  
28 to read:

29 19889. It is the purpose of this article to encourage the  
30 development and effective use of well-qualified and carefully  
31 selected executives. In order to carry out this purpose, the State  
32 Personnel Board shall establish by rule a merit system specifically  
33 suited to the selection and placement of executive personnel. The  
34 department shall be responsible for salary administration, position  
35 classification, and for the motivation and training of executive  
36 personnel. For the purpose of administering this system there is  
37 established herewith a category of civil service appointment called  
38 "career executive assignments." The department shall designate  
39 positions of a high administrative and policy influencing character  
40 for inclusion in or removal from this category subject to review

1 by the State Personnel Board, except that the department shall not  
2 so designate a position in which there is an incumbent already  
3 appointed under the provisions of this part governing employees  
4 other than career executives.

5 SEC. 12. Section 19889.2 of the Government Code is amended  
6 to read:

7 19889.2. The provisions of this part governing the examination,  
8 selection, classification, and tenure of employees in the regular  
9 civil service shall not apply to “career executive assignments”  
10 unless provided for by State Personnel Board rule. The provisions  
11 of this part relating to punitive actions shall apply to all employees  
12 serving in career executive assignments, except that termination  
13 of a career executive assignment as provided for in Section 19889.3  
14 is not a punitive action. State Personnel Board rules shall, at a  
15 minimum, afford all employees whose career executive  
16 assignments are terminated by the appointing power a right of  
17 appeal to the State Personnel Board for restoration of his or her  
18 assignment when he or she alleges that the termination was for  
19 reasons prohibited in Chapter 10 (commencing with Section 19680)  
20 of Part 2.

21 SEC. 13. Section 19889.3 of the Government Code is amended  
22 to read:

23 19889.3. (a) Eligibility for appointment to positions in the  
24 career executive assignment category shall be established as a  
25 result of competitive examinations. All candidates shall meet such  
26 minimum qualifications as the State Personnel Board may  
27 determine are requisite to the performance of high administrative  
28 and policy influencing functions.

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

34 SEC. 14. Section 19889.4 is added to the Government Code,  
35 to read:

36 19889.4. In accordance with State Personnel Board rules, the  
37 following shall apply when an appointing power terminates a career  
38 executive assignment:

39 (a) An employee who at the time of his or her appointment to  
40 a career executive assignment was employed by the state and had

1 permanent civil service status shall, if he or she so desires, be  
2 reinstated to a civil service position that is (1) not a career executive  
3 assignment and (2) that is at least at the same salary level as the  
4 last position that he or she held as a permanent or probationary  
5 employee. If the employee had completed a minimum of five years  
6 of state service, he or she may return to a position that is (1) at  
7 substantially the same salary level as the last position in which he  
8 or she had permanent or probationary status or (2) at a salary level  
9 that is at least two steps lower than that of the career executive  
10 position from which the employee is being terminated.

11 (b) Article 5 (commencing with Section 19140) of Chapter 5  
12 of Part 2 shall apply to an employee who at the time of his or her  
13 appointment to a career executive assignment was not employed  
14 by the state but who had previously worked for the state and gained  
15 permanent civil service status.

16 (c) (1) ~~Unless otherwise provided in Article 5 (commencing~~  
17 ~~with Section 18990) of Chapter 4 of Part 2, an~~ An employee who  
18 at the time of his or her appointment to a career executive  
19 assignment was from outside civil service shall ~~be eligible to~~  
20 ~~compete in any promotional examination for which he or she meets~~  
21 ~~the minimum qualifications as prescribed by the class specification.~~  
22 An employee receiving a passing score shall have his or her name  
23 placed on the promotional list resulting from the examination or  
24 ~~otherwise gain eligibility for appointment. He or she shall~~ have  
25 the right to request a deferred examination for any ~~promotional~~  
26 ~~open~~ eligible list that ~~is his or her appointing power or the~~  
27 ~~department has~~ in existence at the time of ~~the termination of the~~  
28 ~~career executive assignment is terminated~~ and for which he or she  
29 meets the minimum qualifications ~~as prescribed by the class~~  
30 ~~specification. For~~ *of the class to which he or she seeks appointment.*  
31 *Whether the employee takes a deferred examination or other open*  
32 *civil service examination, for purposes of evaluating whether he*  
33 *or she meets the* ~~minimum qualifications,~~ *qualifications of the*  
34 *class to which he or she seeks appointment,* related experience  
35 gained in a career executive assignment shall be considered as  
36 state civil service experience in a comparable class. ~~Employees~~  
37 ~~may transfer list eligibility between appointing powers in the same~~  
38 ~~manner as provided for civil service employees.~~

39 (2) A request for a deferred examination pursuant to paragraph  
40 (1) shall not be made later than 10 days after the effective date of

1 the termination of the career executive assignment. The department  
2 or its designee shall administer the deferred examination within  
3 30 days of the date of the request.

4 SEC. 15. The sum of three hundred thousand dollars (\$300,000)  
5 is hereby appropriated from the General Fund to the Department  
6 of Finance for the purpose of funding the posting on the  
7 department's Internet Web site of all budget requests included as  
8 part of the Governor's Budget.

9 SEC. 16. This act is a bill providing for appropriations related  
10 to the Budget Bill within the meaning of subdivision (e) of Section  
11 12 of Article IV of the California Constitution, has been identified  
12 as related to the budget in the Budget Bill, and shall take effect  
13 immediately.