
OLR Bill Analysis

sSB 439

AN ACT CONCERNING HUMAN RESOURCE ADMINISTRATION AND THE STATE PERSONNEL ACT.

SUMMARY

This bill generally gives state agencies greater discretion in hiring employees for the state employee classified service (i.e., positions subject to various civil service exams and other hiring and promotion procedures under the State Personnel Act). It does so primarily by (1) broadening the definition of the “examinations” that these employees must take to qualify for a position and (2) removing specific references to examination scores and ratings used to rank candidates on candidate lists.

The bill further broadens agency discretion by removing various details specified in current law about (1) the information that must be included in notices for examinations, (2) how examinations must be administered, (3) how to score examinations for veterans, and (4) the information available for review after an examination.

It also revises the procedure for classified state employees who are appointed to a new classified position but then dismissed because they did not successfully complete their working test period in the new position. It mainly does so by specifying that those who cannot be restored to their previous position must be placed on the re-employment list for laid-off state employees.

In addition, the bill:

1. exempts the Communications Manager position from the classified service (§ 2);
2. removes a provision that allows the Department of Administrative Services (DAS) commissioner to charge an

- examination fee to people who are not state employees (§ 6);
3. repeals a requirement for the DAS commissioner to develop a human resources strategic plan for anticipating and meeting the state service's personnel requirements (§ 17);
 4. specifies when certain positions, under certain circumstances, are considered "non-examined" or "non-competitive"; and
 5. makes various conforming, minor (§ 7), and technical changes (§§ 14-16).

EFFECTIVE DATE: July 1, 2022

§§ 1, 3-6, 9 & 17 — EXAMINATIONS & RATINGS

Definitions (§§ 1 & 17)

Existing law generally requires the DAS commissioner to hold examinations to make candidate lists for the various position classes in the classified service (CGS § 5-216). Under current law, these examinations are an assessment device or technique yielding scores or ratings designed to determine a candidate's fitness for a particular position. They may be written or oral tests, demonstrations of skill or physical ability, experience and training evaluations, evaluations of prior performance (for promotions), or any other assessment device or technique appropriate to measure the knowledge, skills, or abilities required to successfully perform the duties of the job.

The bill removes the specific references to scores or ratings and instead more broadly defines an examination as any act, event, process, or technique intended to measure an applicant's knowledge, skills, abilities, and fitness for employment. These may include experience and training requirements, interviews, assessment centers, performance exercises, background checks, and associated suitability determinations or working test periods.

Relatedly, the bill removes current law's definition of "minimum earned rating" (the lowest score or rating that allows a candidate to pass an examination) and repeals a statute that specifies how to determine

the “final earned rating” from the examination.

Candidate Lists (§§ 3 & 4)

By law, when an agency receives approval to hire for a position in the classified service, it must ask the DAS commissioner for a certified candidate list. Under current law, this list must contain each candidate’s final earned rating. The bill instead requires that it be comprised of candidates who meet the minimum qualifications for the position.

The bill also removes provisions in current law that generally:

1. require the commissioner to place candidates on the candidate list in order of their ratings;
2. allow examinations for continuous recruitment to be graded on a pass-fail basis; and
3. allow the commissioner, under certain circumstances, to apply a candidate’s score from one exam to the candidate list for a different exam or a later exam for the same position.

Examination Notices (§ 5)

Current law generally requires the DAS commissioner to, among other things, (1) prepare lists of preliminary requirements and subject for examinations, (2) post notices about exams in state agencies at least two weeks in advance, (3) hold exams at times and places that most nearly meet the convenience of applicants, and (4) provide public notice about exams and related information at least six days in advance. The bill removes these requirements and instead more broadly requires the commissioner to give initial notice of examination for positions in the classified service in the way that meets the state service’s needs.

Examination Administration (§ 6)

Generally, under current law:

1. examinations must (a) be formulated in cooperation with agencies appointing specific classes of employees, (b) be open to all people who may be lawfully appointed to a position in the

class covered by the exam, and (c) have no limitation on age or sex unless it is a bona fide occupational qualification or need;

2. all people competing for placement on a candidate list must be (a) administered the same or equivalent examination, unless an accommodation is needed to comply with the federal Americans with Disabilities Act, and (b) required to achieve passing scores; and
3. these provisions must be the only determinant for qualification, with no other examination allowed by an agency head to further qualify people without the DAS commissioner's authorization.

The bill removes these and other related provisions and instead broadly requires that the examination be job-related and administered consistently and fairly to determine the qualifications, fitness, and ability of those seeking an appointment.

Veterans Exam Scores (§ 8)

Current law generally requires that certain armed forces members and veterans or, under certain circumstances, their spouses, have extra points added to their earned ratings after they have passed an examination. The bill removes these provisions and instead broadly requires that (1) a person's military service be counted, if appropriate, on a prorated basis toward meeting a position's minimum qualifications and (2) an appointing authority give due consideration for original appointment to any veteran who the DAS commissioner places on a candidate list.

Post-Examination Document Review (§ 9)

Under current law, someone who takes an examination must be given written notice about their final earned rating and the minimum earned rating needed to pass the exam. If they do not pass the exam, they may inspect their papers, markings, background profiles, and other items used to determine their final earned ratings (other than the exam questions), and then appeal their rating to the DAS commissioner.

The bill specifies that this process applies to examinations for

placement on a candidate list and limits what they may inspect under these circumstances to only their examination results. It also replaces the various references to earned ratings with “examination results.”

§ 11 — FAILED WORKING TEST PERIODS

Current law specifies a process for handling state employees who are appointed to a new position, but do not successfully complete their working test period. In general, those who were promoted to the new position from within the same agency must be restored to a position in the same class they had before the promotion. Those who were appointed from a different agency must be (1) restored in their previous agency to a vacancy in the same or a comparable class, or any other position the employee is qualified to fill, or (2) placed on a reemployment list.

The bill instead requires that both types of employees be restored to a position in the same class and agency they had before their promotion or, if that is not possible, that they be placed on the reemployment list for laid-off state employees established by law. In doing so, it removes the requirement for employees who had been promoted from a different agency to be restored to a vacancy in a comparable class or any other position the employee is qualified to fill.

By law, employees on the reemployment list for laid-off state employees must be rehired in the classifications from which they were laid off or for which they are qualified, as vacancies occur, in the reverse order of layoff (CGS § 5-241).

The bill also removes provisions in current law that specify that (1) the law does not prevent unclassified employees from competing for classified positions if they have the minimum qualifications and (2) in certifying names of eligible candidates sex must be disregarded, unless it is otherwise required by statute or upon the appointing authority’s request, with the DAS commissioner’s approval.

§§ 10, 12 & 13 — NON-EXAMINED & NON-COMPETITIVE POSITIONS

Existing law, unchanged by the bill, allows the DAS commissioner to

waive examinations for positions under certain circumstances (e.g., when having a professional license is required for the position). The bill specifies that positions subject to these waivers are deemed non-examined.

Existing law also generally allows the commissioner to (1) allow examinations for certain positions involving unskilled and semi-skilled labor to occur without the otherwise required public notice and (2) provide for the appointment, with or without examination, of certain people who have served in an established training program. The bill specifies that these unskilled or semi-skilled positions, and the positions these trainees are promoted to after they finish the training, are deemed non-competitive.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 17 Nay 1 (03/29/2022)