

SENATE GOVERNMENTAL ORGANIZATION

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SENATE PUBLIC EMPLOYMENT & RETIREMENT

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GRP 1 (Governor Jerry Brown) as submitted to the Legislature 6/09/11

BILL NO: GRP 1

Hearing date: August 23, 2011

**GOVERNOR'S REORGANIZATION PLAN TO CONSOLIDATE THE
DEPARTMENT OF PERSONNEL ADMINISTRATION AND THE STATE
PERSONNEL BOARD**

HISTORY:

Sponsor: Governor

Prior legislation: GRP 1, 1981: Established the Department of Personnel Administration
GRP 1, 1984: Transferred day-to-day administration of certain
functions from the State Personnel Board to the Department of
Personnel Administration

SUMMARY:

This is the Governor's plan to consolidate the Department of Personnel Administration (DPA) and the State Personnel Board (SPB) into a single agency: the California Department of Human Resources (CalHR).

BACKGROUND AND ANALYSIS:

a) Existing law:

- 1) charges DPA with representing the Governor in all matters pertaining to executive branch, state-employee labor relations and administering certain programs, terms, and conditions of state employment, including but not limited to the following:
 - salaries, wages, and other compensation.
 - employee leave programs.
 - dental, vision, and other benefit programs not administered by CalPERS.
 - the classification plan and allocation of positions.
 - employee training, performance, and development.
 - supervisory and managerial employer-employee relations.
 - the Savings Plus Program (457 and 401(k) programs).
 - the Alternate Retirement and Part-Time, Seasonal, and Temporary Retirement Programs.
 - administering and implementing labor contracts and overseeing the grievance process.

- providing consultation to departments regarding contract provisions and labor relations issues.
 - representing the state employer in legal matters regarding employee relations.
- 2) as set forth in statute and the Constitution, charges SPB with administering the state employee civil service system and ensuring that state employment is based on merit and free of political patronage. SPB functions and duties include, but are not limited to, the following:
- operating as an independent 5-member board to oversee the merit system and hear merit system and disciplinary appeals, approve new state classifications, and prescribe probationary periods.
 - determining minimum job qualifications.
 - ensuring that job selection is based on a competitive process.
 - overseeing the hiring and recruitment process and providing consultation to state departments on the merit system.
 - reviewing and whistleblower retaliation complaints.
 - hearing discrimination complaints that may or may not be similar to, or duplicative of, cases heard by the Department of Fair Employment and Housing (DFEH).
 - reviewing the necessity of personal services contracts.
 - administration of the Dymally-Allatorre bilingual services program, and the state interpreter program.
 - administering medical and psychological screening programs for new hires.
 - providing support and leadership to departments with regard to equal employment opportunity.
 - administering the merit system services program for counties receiving federal funding for health and human services.
- 3) grants the Governor authority to examine state agencies or organizations and to propose administrative reorganization plans under the following guidelines:
- A) The changes achieved by organization should promote better execution of the laws, reduce expenditures and promote economy, increase the efficiency of the operation of state government, and eliminate overlapping and duplication of effort.
- B) At least 30 days prior to submission to the Legislature, the plan must be submitted to the Little Hoover Commission for evaluation and recommendations to the Legislature and Governor.
- C) Upon submission to the Legislature, the plan is referred by the Senate Rules Committee to one or more standing committees for study and report as follows:
- The Legislature has 60 days to consider the plan (not including days in a recess with a date certain of more than 10 days).

- At least 10 days prior to the end of the 60 days, the standing committee(s) must provide its report, including recommendations, to Senate leadership.
- After the 60 days, the plan shall become effective unless the Senate adopts, by a majority vote, a resolution to disapprove the Governor's plan.

D) Conforming statutory changes may be enacted in the following year.

b) GRP 1:

- 1) combines the day-to-day staff operations of the DPA and SPB organizations into a new, consolidated agency: CalHR, and will result in relocating the two former departments into a single location (ideally by July 1, 2013.).
- 2) identifies a staff-reduction goal of 15-20% following consolidation, which will be achieved over approximately three years through attrition of existing staff in the two departments.
- 3) specifies that the authority of the DPA director is transferred to the CalHR director, who will be appointed by the Governor and approved by the Senate.
- 4) preserves the constitutionally created, 5-member State Personnel Board and its constitutional role as an independent and objective merit oversight organization, and retains staff dedicated to the specific work of the Board, including a board-appointed executive officer, an appeals division, and legal staff. The board will have its own budget, which will not require approval by CalHR.
- 5) transfers appeals of discrimination in state employment that *are not* based on violations of the merit principle to DFEH (for example, general complaints of discrimination would go to DFEH; appeals of state examination results based on gender, race, or other protected factors would continue to be heard by the Board). These types of cases comprise fewer than 100 of the 2,500-2,800 cases heard by the Board annually.
- 6) preserves intact some of the current operations and divisions within DPA—such as the labor-relations division and certain benefit programs—while combining other functions that overlap with current administration of SPB into two new divisions: the Personnel Management Division and the Statewide Services Division.
- 7) includes mostly technical statutory changes, but also includes provisions allowing CalHR to establish disciplinary criteria applicable to adverse actions taken by appointing bodies, and stating that the State Personnel Board, in arriving at a decision or proposed decision regarding an appeal on a disciplinary matter, shall give consideration and respect to the disciplinary criteria, as specified, consistent with its discretion and authority.

STATUTORY TIMEFRAMES:

GRP 1:

- submitted to the Little Hoover Commission: May 10, 2011
 - LHC public hearing: June 2, 2011
 - LHC report released: June 23, 2011
- submitted to the Legislature: June 9, 2011
 - 50 day deadline for committee hearing and recommendation: August 29, 2011
 - 60 day deadline for Legislative resolution to disapprove: September 8, 2011
 - Date GRP 1 becomes effective if Legislature takes no action: September 9, 2011.

FISCAL:

The Department of Finance has scored annual savings of \$5.5-\$5.8 million as a result of the reorganization, chiefly due to position reductions and fully effective when consolidation occurs and the two departments become co-located. Staff reductions are expected to be achieved through attrition over the next few years. In addition, it is expected that efficiencies will be achieved in the line agencies with regard to more effective human resources functions, resulting in additional unquantified savings.

COMMENTS:

1) Administration

According to the GRP 1 summary provided by the Governor:

“California state government could not operate without hard-working employees. Unfortunately, due to the bifurcated personnel system, our own bureaucracy makes it difficult to recruit, hire, promote, classify, discipline, train, and reward those employees. It is time to remedy the procedural and organizational problems that confound our system and create one unified state Department of Human Resources.”

“Study after study point out that the state’s personnel management system with its redundant responsibilities is outmoded, inefficient, unresponsive, and lacks the organizational focus necessary for the management of an effective public service. It wastes money and is a bureaucratic impediment to implementing reforms that would make all state agencies more effective in serving the public. The State of California can no longer afford disjointed, duplicative, and wasteful programs. It is in the public’s interest for economy and efficiency in government to consolidate the human resource management functions performed by SPB and DPA into one Department of Human Resources (CalHR).”

It is also in the public interest to accomplish this reorganization while preserving the merit principle in state government as required by Article VII of the State Constitution.”

2) The Little Hoover Commission

The Little Hoover Commission recommends that GRP 1 be allowed to move forward.

Reporting on stakeholder testimony and response from departments, the Commission stated the following:

“Even if changes are made at the margin, department-level personnel officers are welcoming the proposed alignment. These ‘consumers’ of DPA and SPB services need whatever tools the state can provide as they respond to a generational turnover in the workforce now underway. Their desire for clear, consistent and timely direction from a single personnel entity speaks to the poorly designed system they currently have to navigate, and for the need to make the sort of immediate adjustments called for in the reorganization plan.”

Some organizations representing employees stressed to the Commission that they would oppose removing any of the Personnel Board’s constitutional authority and independence to hear and rule on merit related issues. With regard to this concern, the report states:

“State workers who voiced concerns to the Commission about the grievance and appeals process staying within SPB should be assured that no changes have been proposed to SPB’s jurisdiction and independent review over disciplinary cases.”

4) Stakeholders

Two stakeholder meetings were held, the first on June 2, 2011 by the Little Hoover Commission, the second on August 9, 2011 by SPB, DPA, and members of the Governor’s reorganization project team.

At both meetings, individuals representing employees expressed significant concerns that the merit system and the constitutional autonomy of the State Personnel Board be retained. While there is generalized support for the reorganization as envisioned and recognition of the need for a more efficient and cost effective human resources program, stakeholders are adamant that these efficiencies not be achieved at the expense of the civil service mandate in the Constitution.

Board President Maeley Tom addressed this concern when she stated in the August 9 meeting that GRP 1 ensures that the 5-member Board shall remain a separate organization with its own budget that will not require CalHR approval. Moreover, the Board shall have its own dedicated staff and retain its constitutional mandate over the civil service system and merit issues. Ms. Tom and other panel members stressed that only the operational functions of SPB will be consolidated into CalHR; the 5-member Board will remain in existence with its duties essentially unchanged.

In addition, employee groups voiced concerns about statutory language that allows CalHR to develop system-wide disciplinary criteria—described as a matrix of types of misconducts and potential disciplinary actions. As stated by a panel member, currently employee discipline is not always performed equitably throughout the departments. Two employees may commit similar offences, for example, and one employee could be reprimanded and the other dismissed from service. The plan envisions guidelines that departments could use to provide more standardized and equitable disciplinary responses. However, the panel stressed that any guidelines would be developed over the next few years with the input of stakeholders.

Employee groups and others expressed concerns over standardized disciplinary responses, noting that a wide range of circumstances might impact employee behavior and influence appropriate disciplinary measures. A matrix or guidelines, it was argued, tends to lead to standardized—or “cookie-cutter”—disciplinary responses. Moreover, there was concern that language requiring the Board to give respect and consideration to the disciplinary guidelines, even acknowledging the Board’s independent authority to make determinations regardless of the guidelines, was inappropriate and a potential infringement on the Board’s independence.

4) Resources

More detailed information about the Governor’s Plan and CalHR may be found in the following publications:

Governor’s Reorganization Plan to Unify and Streamline the California State Personnel System: available at <http://www.dpa.ca.gov/news/news/2011/attachments/20110623-01-01.pdf>

Little Hoover Commission: A Review of the Governor’s Reorganization Plan to Unify and Streamline the California State Personnel System: Recommendation to the Legislature: available at <http://www.lhc.ca.gov/studies/206/Report206.pdf>

5) SUPPORT:

Governor Jerry Brown, sponsor

6) OPPOSITION:

None to date

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