



# **COMPLIANCE REVIEW REPORT**

## **FRANCHISE TAX BOARD**

Compliance Review Division  
State Personnel Board  
March 27, 2026

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## INTRODUCTION

Established by the California Constitution, the State Personnel Board (the SPB or Board) is charged with enforcing and administering the civil service statutes, prescribing probationary periods and classifications, adopting regulations, and reviewing disciplinary actions and merit-related appeals. The SPB oversees the merit-based recruitment and selection process for the hiring of over 200,000 state employees. These employees provide critical services to the people of California, including but not limited to, protecting life and property, managing emergency operations, providing education, promoting the public health, and preserving the environment. The SPB provides direction to departments through the Board's decisions, rules, policies, and consultation.

Pursuant to Government Code section 18661, the SPB's Compliance Review Division (CRD) conducts compliance reviews of appointing authorities' personnel practices in five areas: examinations, appointments, equal employment opportunity (EEO), personal services contracts (PSC's), and mandated training, to ensure compliance with civil service laws and Board regulations. The purpose of these reviews is to ensure state agencies are in compliance with merit related laws, rules, and policies and to identify and share best practices identified during the reviews.

Pursuant to Government Code section 18502, subdivision (c), the SPB and the California Department of Human Resources (CalHR) may "delegate, share, or transfer between them responsibilities for programs within their respective jurisdictions pursuant to an agreement." SPB and CalHR, by mutual agreement, expanded the scope of program areas to be audited to include more operational practices that have been delegated to departments and for which CalHR provides policy direction. Many of these delegated practices are cost drivers to the state and were not being monitored on a statewide basis.

As such, SPB also conducts compliance reviews of appointing authorities' personnel practices to ensure that state departments are appropriately managing the following non-merit-related personnel functions: compensation and pay, leave, and policy and processes. These reviews will help to avoid and prevent potential costly litigation related to improper personnel practices, and deter waste, fraud, and abuse.

The SPB conducts these reviews on a three-year cycle.

The CRD may also conduct special investigations in response to a specific request or when the SPB obtains information suggesting a potential merit-related violation.

It should be noted that this report only contains findings from this hiring authority's compliance review. Other issues found in SPB appeals and special investigations as well as audit and review findings by other agencies such as the CalHR and the California State Auditor are reported elsewhere.

### **EXECUTIVE SUMMARY**

The CRD conducted a routine compliance review of the Franchise Tax Board (FTB) personnel practices in the areas of examinations, appointments, EEO, PSC's, mandated training, compensation and pay, leave, and policy and processes. The following table summarizes the compliance review findings.

Area	Compliance	Finding
Examinations	In Compliance	Examinations Complied with Civil Service Laws and Board Rules
Examinations	In Compliance	Permanent Withhold Actions Complied with Civil Service Laws and Board Rules
Appointments	Out of Compliance	Probationary Evaluations Were Not Provided for All Appointments Reviewed and Some That Were Provided Were Untimely
Appointments	In Compliance	Unlawful Appointment Investigations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Equal Employment Opportunity	Out of Compliance	Complainants Were Not Notified of the Reasons for Delays in Decisions Within the Prescribed Time Period
Personal Services Contracts	Substantial Compliance <sup>1</sup>	Unions Were Not Notified of Personal Services Contracts
Mandated Training	Out of Compliance	Supervisory Training Was Not Provided for All Supervisors, Managers, and CEAs
Compensation and Pay	Substantial Compliance	Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

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<sup>1</sup> The department has achieved 90% or more compliance in this area and has provided a response sufficient to address full compliance in the future; therefore, no corrective action is required.

Area	Compliance	Finding
Compensation and Pay	Out of Compliance	Alternate Range Movements Did Not Comply with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	Out of Compliance	Incorrect Authorization of Bilingual Pay
Compensation and Pay	In Compliance	Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	Out of Compliance	Incorrect Authorization of Out-of-Class Pay
Leave	Out of Compliance	Positive Paid Temporary Employees' Work Exceeded Time Limitations
Leave	Out of Compliance	Administrative Time Off Was Not Properly Documented
Leave	In Compliance	Leave Auditing and Timekeeping Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	In Compliance	Service and Leave Transactions Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	In Compliance	Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	In Compliance	Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Out of Compliance	Performance Appraisals Were Not Provided to All Employees

### **BACKGROUND**

The mission of the FTB is to assist taxpayers in filing timely and accurate tax returns and paying the correct amount to fund services that are vital to Californians. The FTB administers California's personal income tax and corporate tax programs, ensuring compliance and providing education and assistance to taxpayers. The FTB employs approximately 6,500 staff across offices in California, Texas, New York, and Illinois. The

organization operates within seven primary divisions: Administrative Services, Accounts Receivable Management, Audit, Filing, Finance and Executive Services, Legal, and Technology Services. These divisions work collaboratively to support tax administration, customer service, and enforcement activities.

## **SCOPE AND METHODOLOGY**

The scope of the compliance review was limited to reviewing the FTB's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes<sup>2</sup>. The primary objective of the review was to determine if the FTB's personnel practices, policies, and procedures complied with state civil service laws and Board regulations, Bargaining Unit Agreements, CalHR policies and guidelines, CalHR Delegation Agreements, and to recommend corrective actions where deficiencies were identified.

A cross-section of the FTB's examinations was selected for review to ensure that samples of various examination types, classifications, and levels were reviewed. The CRD examined the documentation that the FTB provided, which included examination plans, examination bulletins, job analyses, and scoring results. The CRD also reviewed the FTB's permanent withhold actions documentation, including Withhold Determination Worksheets, State applications (STD 678), class specifications, and withhold letters.

A cross-section of the FTB's appointments was selected for review to ensure that samples of various appointment types, classifications, and levels were reviewed. The CRD examined the documentation that the FTB provided, which included Notice of Personnel Action forms, Request for Personnel Actions, vacancy postings, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports. The CRD also reviewed the FTB's policies and procedures concerning unlawful appointments to ensure departmental practices conform to state civil service laws and Board regulations.

The FTB's appointments were also selected for review to ensure the FTB applied salary regulations accurately and correctly processed employees' compensation and pay. The CRD examined the documentation that the FTB provided, which included employees' employment and pay history and any other relevant documentation such as certifications, degrees, and/or the appointee's application. Additionally, the CRD reviewed specific documentation for the following personnel functions related to compensation and pay:

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<sup>2</sup> Timeframes of the compliance review varied depending on the area of review. Please refer to each section for specific compliance review timeframes.

bilingual pay, monthly pay differentials, alternate range movements, and out-of-class assignments. During the compliance review period, the FTB did not issue or authorize red circle rate requests or arduous pay.

The review of the FTB's EEO program included examining written EEO policies and procedures; the EEO Officer's role, duties, and reporting relationship; the internal discrimination complaint process; the reasonable accommodation program; the discrimination complaint process; and the Disability Advisory Committee.

The FTB's PSC's were also reviewed.<sup>3</sup> It was beyond the scope of the compliance review to make conclusions as to whether the FTB's justifications for the contracts were legally sufficient. The review was limited to whether the FTB's practices, policies, and procedures relative to PSC's complied with procedural requirements.

The FTB's mandated training program was reviewed to ensure all employees required to file statements of economic interest were provided ethics training, that all supervisors, managers, and those serving in Career Executive Assignments (CEA) were provided leadership and development training, that all employees were provided sexual harassment prevention training, and that all officials with authority to represent the state in a tribal government-to-government consultation were provided tribal consultations training within statutory timelines.

The CRD reviewed the FTB's monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely and ensure the department certified that all leave records have been reviewed and corrected if necessary. The CRD selected a small cross-section of the FTB's units in order to ensure they maintained accurate and timely leave accounting records. Part of this review also examined a cross-section of the FTB's employees' employment and pay history, state service records, and leave accrual histories to ensure employees with non-qualifying pay periods did not receive vacation/sick leave and/or annual leave accruals or state service credit. Additionally, the CRD reviewed a selection of the FTB employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. Further, the CRD reviewed a selection of FTB positive paid employees whose hours are tracked during the compliance review period in order to ensure that they adhered to procedural requirements.

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<sup>3</sup>If an employee organization requests the SPB to review any personal services contract during the SPB compliance review period or prior to the completion of the final compliance review report, the SPB will not audit the contract. Instead, the SPB will review the contract pursuant to its statutory and regulatory process. In this instance, none of the reviewed PSC's were challenged.

Moreover, the CRD reviewed the FTB's policies and processes concerning nepotism, workers' compensation, and performance appraisals. The review was limited to whether the FTB's policies and processes adhered to procedural requirements.

The CRD received and carefully reviewed the FTB's written response on March 17, 2026, which is attached to this final compliance review report.

## **FINDINGS AND RECOMMENDATIONS**

### **Examinations**

Examinations to establish an eligible list must be competitive and of such character as fairly to test and determine the qualifications, fitness, and ability of competitors to perform the duties of the class of position for which he or she seeks appointment. (Gov. Code, § 18930.) Examinations may be assembled or unassembled, written or oral, or in the form of a demonstration of skills, or any combination of those tests. (*Ibid.*) The Board establishes minimum qualifications for determining the fitness and qualifications of employees for each class of position and for applicants for examinations. (Gov. Code, § 18931, subd. (a).) Within a reasonable time before the scheduled date for the examination, the designated appointing power shall announce or advertise the examination for the establishment of eligible lists. (Gov. Code, § 18933, subd. (a).) The advertisement shall contain such information as the date and place of the examination and the nature of the minimum qualifications. (*Ibid.*) Every applicant for examination shall file an application with the department or a designated appointing power as directed by the examination announcement. (Gov. Code, § 18934, subd. (a)(1).) The final earned rating of each person competing in any examination is to be determined by the weighted average of the earned ratings on all phases of the examination. (Gov. Code, § 18936.) Each competitor shall be notified in writing of the results of the examination when the employment list resulting from the examination is established. (Gov. Code, § 18938.5.)

During the period under review, March 1, 2025, through August 31, 2025, the FTB conducted 28 examinations. The CRD reviewed 14 of these examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Administrator I	Departmental Promotional	Training and Experience (T&E) <sup>4</sup>	2/25/25	408
Associate Tax Auditor	Departmental Promotional	T&E	2/7/25	118
CEA B, Legislative Services Bureau Director	CEA	Statement of Qualifications (SOQ) <sup>5</sup>	5/1/25	11
CEA B, Statewide Collections Bureau Director	CEA	SOQ	5/29/25	6
CEA C, Chief Counsel	CEA	SOQ	2/28/25	4
Customer Service Specialist	Departmental Promotional	T&E	Continuous	97
Investigation Specialist I	Open	Performance <sup>6</sup>	Continuous	34
Investigation Specialist II (Supervisor)	Departmental Promotional	T&E	Continuous	5
Principal Compliance Representative	Departmental Promotional	T&E	5/7/25	115
Program Specialist III	Departmental Promotional	T&E	4/15/25	128
Senior Compliance Representative	Departmental Promotional	T&E	3/13/25	162
Staff Operations Specialist	Departmental Promotional	T&E	3/4/25	126
Tax Program Supervisor	Departmental Promotional	T&E	1/21/25	137
Tax Program Technician II	Departmental Promotional	T&E	1/29/25	243

<sup>4</sup> The Training and Experience examination is administered either online or in writing, and asks the applicant to answer multiple-choice questions about his or her level of training and/or experience performing certain tasks typically performed by those in this classification. Responses yield point values.

<sup>5</sup> In a Statement of Qualifications examination, applicants submit a written summary of their qualifications and experience related to a published list of desired qualifications. Raters, typically subject matter experts, evaluate the responses according to a predetermined rating scale designed to assess their ability to perform in a job classification, assign scores and rank the competitors in a list.

<sup>6</sup> A Performance examination requires applicants to replicate/simulate job related tasks or duties.

The CRD reviewed three CEA, one open, and ten departmental promotional examinations which the FTB administered in order to create eligible lists from which to make appointments. The FTB published and distributed examination bulletins containing the required information for all examinations. Applications received by the FTB were accepted prior to the final filing date. Applicants were notified about the next phase of the examination process. After all phases of the examination process were completed, the score of each competitor was computed, and a list of eligible candidates was established. The examination results listed the names of all successful competitors arranged in order of the score received by rank. The CRD found no deficiencies in the examinations that the FTB conducted during the compliance review period.

#### Permanent Withhold Actions

Departments are granted statutory authority to permit withhold of eligibles from lists based on specified criteria. (Gov. Code, § 18935.) Permanent appointments and promotions within the state civil service system shall be merit-based, ascertained by a competitive examination process. (Cal. Const., art. VII, § 1, subd. (b).) If a candidate for appointment is found not to satisfy the minimum qualifications, the appointing power shall provide written notice to the candidate, specifying which qualification(s) are not satisfied and the reason(s) why. The candidate shall have an opportunity to establish that s/he meets the qualifications. (Cal. Code Regs., tit. 2, § 249.4, subd. (b).) If the candidate fails to respond or fails to establish that s/he meets the minimum qualification(s), the candidate's name shall be removed from the eligibility list. (Cal. Code Regs., tit. 2, § 249.4, subd. (b)(1), (2)), (HR Manual, section 1105.) The appointing authority shall promptly notify the candidate in writing and shall notify the candidate of his or her appeal rights. (*Ibid.*) A permanent withhold does not necessarily permanently restrict a candidate from retaking the examination for the same classification in the future; however, the appointing authority may place a withhold on the candidate's subsequent eligibility record if the candidate still does not meet the minimum qualifications or continues to be unsuitable. (HR Manual, Section 1105). State agency human resources offices are required to maintain specific withhold documentation for a period of five years. (*Ibid.*)

During the period under review, March 1, 2025, through August 31, 2025, the FTB conducted eight permanent withhold actions. The CRD reviewed six of these permanent withhold actions, which are listed below:

Exam Title	Reason Candidate Placed on Withhold	No. of Withholds
Accountant Trainee	Failed to Meet Minimum Qualifications	2
Associate Governmental Program Analyst	Failed to Meet Minimum Qualifications	1
Business Services Officer I (Specialist)	Failed to Meet Minimum Qualifications	1
Senior Accounting Officer (Specialist)	Failed to Meet Minimum Qualifications	1
Tax Technician	For Cause	1

<b>FINDING NO. 2</b>	<b>PERMANENT WITHHOLD ACTIONS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES</b>
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The CRD found no deficiencies in the permanent withhold actions undertaken by the department during the compliance review period.

### **Appointments**

In all cases not excepted or exempted by Article VII of the California Constitution, the appointing power must fill positions by appointment, including cases of transfers, reinstatements, promotions, and demotions in strict accordance with the Civil Service Act and Board rules. (Gov. Code, § 19050.) The hiring process for eligible candidates chosen for job interviews shall be competitive and be designed and administered to hire candidates who will be successful. (Cal. Code Regs., tit. 2, § 250, subd. (b).) Interviews shall be conducted using job-related criteria. (*Ibid.*) Persons selected for appointment shall satisfy the minimum qualifications of the classification to which he or she is appointed or have previously passed probation and achieved permanent status in that same classification. (Cal. Code Regs., tit. 2, § 250, subd. (d).) While persons selected for appointment may meet some or most of the preferred or desirable qualifications, they are not required to meet all the preferred or desirable qualifications. (*Ibid.*) This section does not apply to intra-agency job reassignments. (Cal. Code Regs., tit. 2, § 250, subd. (e).)

During the period under review, August 1, 2024, through January 31, 2025, the FTB made 418 appointments. The CRD reviewed 63 of these appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
CEA B, Director, Special Programs Bureau	CEA	Permanent	Full Time	1
Accountant Trainee	Certification List	Permanent	Full Time	1
Accounting Administrator I (Specialist)	Certification List	Permanent	Full Time	1
Accounting Officer (Specialist)	Certification List	Permanent	Full Time	1
Administrator I, FTB	Certification List	Permanent	Full Time	1
Administrator II, FTB	Certification List	Permanent	Full Time	1
Administrator III, FTB	Certification List	Permanent	Full Time	1
Administrator IV, FTB	Certification List	Permanent	Full Time	1
Assistant Administrative Analyst (Accounting Systems)	Certification List	Permanent	Full Time	1
Associate Business Management Analyst	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	1
Associate Operations Specialist, FTB	Certification List	Permanent	Full Time	1
Associate Personnel Analyst	Certification List	Limited Term	Full Time	1
Associate Tax Auditor, FTB	Certification List	Permanent	Full Time	1
Attorney	Certification List	Permanent	Full Time	1
Attorney III	Certification List	Permanent	Full Time	1
Attorney, Assistant Chief Counsel	Certification List	Permanent	Full Time	1
Audio-Visual Specialist (Technical)	Certification List	Permanent	Full Time	1
Business Service Officer I (Supervisor)	Certification List	Permanent	Full Time	1
Compliance Representative, FTB	Certification List	Permanent	Full Time	2
Customer Service Specialist, FTB	Certification List	Permanent	Full Time	1
Customer Service Supervisor, FTB	Certification List	Limited Term	Full Time	1
Digital Composition Specialist II	Certification List	Permanent	Full Time	1
Information Technology Associate	Certification List	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Information Technology Manager I	Certification List	Permanent	Full Time	1
Information Technology Specialist I	Certification List	Permanent	Full Time	1
Information Technology Specialist II	Certification List	Permanent	Full Time	1
Information Technology Specialist III	Certification List	Permanent	Full Time	1
Information Technology Supervisor II	Certification List	Permanent	Full Time	1
Information Technology Technician	Certification List	Permanent	Full Time	1
Investigation Specialist II (Supervisor), FTB	Certification List	Permanent	Full Time	1
Key Data Supervisor I	Certification List	Permanent	Full Time	1
Mailing Machines Operator II	Certification List	Permanent	Full Time	1
Materials and Stores Specialist	Certification List	Permanent	Full Time	1
Office Assistant (General)	Certification List	Permanent	Full Time	1
Office Services Manager I	Certification List	Permanent	Full Time	1
Office Technician (General)	Certification List	Permanent	Intermittent	1
Office Technician (Typing)	Certification List	Permanent	Part Time	1
Personnel Specialist	Certification List	Permanent	Full Time	1
Principal Compliance Representative, FTB	Certification List	Permanent	Full Time	1
Program Specialist III, FTB	Certification List	Permanent	Full Time	1
Research Data Analyst II	Certification List	Permanent	Full Time	1
Research Data Specialist III	Certification List	Permanent	Full Time	1
Senior Accounting Officer (Specialist)	Certification List	Permanent	Full Time	1
Senior Compliance Representative, FTB	Certification List	Permanent	Full Time	2
Senior Personnel Specialist	Certification List	Permanent	Full Time	1
Sheetfed Offset Press Operator II	Certification List	Permanent	Full Time	1
Staff Operations Specialist, FTB	Certification List	Permanent	Full Time	1
Staff Services Analyst	Certification List	Permanent	Full Time	1
Staff Services Manager I	Certification List	Permanent	Full Time	1
Tax Program Assistant	Certification List	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Tax Program Supervisor, FTB	Certification List	Permanent	Full Time	1
Tax Program Technician II, FTB	Certification List	Limited Term	Full Time	1
Tax Technician, FTB	Certification List	Permanent	Full Time	1
Associate Tax Auditor, FTB	Permissive Reinstatement	Permanent	Full Time	1
Program Specialist II, FTB	Permissive Reinstatement	Permanent	Full Time	1
Administrator II, FTB	Training & Development	Permanent	Full Time	1
Staff Operations Specialist, FTB	Training & Development	Permanent	Full Time	1
Tax Program Supervisor, FTB	Training & Development	Permanent	Full Time	1
Customer Service Specialist, FTB	Transfer	Permanent	Full Time	1
Senior Operations Specialist, FTB	Transfer	Permanent	Full Time	1

<b>FINDING NO. 3</b>	<b>PROBATIONARY EVALUATIONS WERE NOT PROVIDED FOR ALL APPOINTMENTS REVIEWED AND SOME THAT WERE PROVIDED WERE UNTIMELY <sup>7</sup></b>
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**Summary:** The FTB did not provide 8 of the 147 probationary reports of performance reviewed by the CRD. In addition, the FTB did not provide 38 probationary reports of performance in a timely manner.

**Criteria:** The service of a probationary period is required when an employee enters or is promoted in the state civil service by permanent appointment from an employment list; upon reinstatement after a break in continuity of service resulting from a permanent separation; or after any other type of appointment situation not specifically excepted from the probationary period. (Gov. Code, § 19171.) During the probationary period, the appointing power shall evaluate the work and efficiency of a probationer in the manner and at such periods as the department rules may require. (Gov. Code, § 19172.) A report of

<sup>7</sup> Repeat finding; see report dated October 9, 2023.

the probationer’s performance shall be made to the employee at sufficiently frequent intervals to keep the employee adequately informed of progress on the job. (Cal. Code Regs., tit. 2, § 599.795.) A written appraisal of performance shall be made to the Department within 10 days after the end of each one-third portion of the probationary period. (*Ibid.*) The Board’s record retention rules require that appointing powers retain all probationary reports for five years from the date the record is created. (Cal. Code Regs., tit. 2, § 26, subd. (a)(3).)

Unlawful Appointment Investigations

Departments that entered into an Unlawful Appointment Investigation Delegation Agreement between their executive management and the CalHR have the authority to manage their own unlawful appointment investigations. The Delegation Agreement defines the reporting requirements, responsibilities, obligations, and expectations of the department in this process. The delegation agreement mandates that departments maintain up-to-date records on each unlawful appointment investigation including, at a minimum: the specific facts surrounding the appointment in question, a description of the circumstances which may have resulted in the unlawful appointment, copies of relevant appointment documents, and any documentation which may demonstrate that the agency and employee acted in good faith when the appointment was offered and accepted. Departments must also maintain a tracking system to monitor its unlawful appointments.

During the period under review, March 1, 2025, through August 31, 2025, the FTB conducted one unlawful appointment investigation. The CRD reviewed the unlawful appointment investigation, which is listed below:

Classification	Date Investigation Initiated	Date Investigation Concluded
Senior Compliance Representative	3/27/25	4/18/25

<b>FINDING NO. 4</b>	<b>UNLAWFUL APPOINTMENT INVESTIGATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES</b>
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The FTB’s unlawful appointment investigation was found to comply with the rules set forth in the signed Delegation Agreement with the CalHR.

## **Equal Employment Opportunity**

Each state agency is responsible for an effective EEO program. (Gov. Code, § 19790.) The appointing power for each state agency has the major responsibility for monitoring the effectiveness of its EEO program. (Gov. Code, § 19794.) To that end, the appointing power must issue a policy statement committed to EEO; issue procedures for filing, processing, and resolving discrimination complaints; and cooperate with the CalHR, in accordance with Civil Code section 1798.24, subdivisions (o) and (p), by providing access to all required files, documents and data necessary to carry out these mandates. (*Ibid.*) In addition, the appointing power must appoint, at the managerial level, an EEO Officer, who shall report directly to, and be under the supervision of, the director of the department to develop, implement, coordinate, and monitor the department's EEO program. (Gov. Code, § 19795, subd. (a).)

Each state agency must establish a separate committee of employees who are individuals with a disability, or who have an interest in disability issues, to advise the head of the agency on issues of concern to employees with disabilities. (Gov. Code, § 19795, subd. (b)(1).) The department must invite all employees to serve on the committee and take appropriate steps to ensure that the final committee is comprised of members who have disabilities or who have an interest in disability issues. (Gov. Code, § 19795, subd. (b)(2).)

<b>FINDING NO. 5</b>	<b>COMPLAINANTS WERE NOT NOTIFIED OF THE REASONS FOR DELAYS IN DECISIONS WITHIN THE PRESCRIBED TIME PERIOD</b>
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**Summary:** The FTB provided evidence that one discrimination complaint related to a disability, medical condition, or denial of reasonable accommodation was filed during the compliance review period. The complaint investigation exceeded 90 days and the FTB failed to provide written communication to the complainant regarding the status of the complaint.

**Criteria:** The appointing power must issue a written decision to the complainant within 90 days of the complaint being filed. (Cal. Code Regs., tit. 2, § 64.4, subd. (a).) If the appointing power is unable to issue its decision within the prescribed time period, the appointing power must inform the complainant in writing of the reasons for the delay. (*Ibid.*)

## **Personal Services Contracts**

A PSC includes any contract, requisition, or purchase order under which labor or personal services is a significant, separately identifiable element, and the business or person performing the services is an independent contractor that does not have status as an employee of the state. (Cal. Code Regs., tit. 2, § 547.59.) The California Constitution has an implied civil service mandate limiting the state's authority to contract with private entities to perform services the state has historically or customarily performed. Government Code section 19130, subdivision (a), however, codifies exceptions to the civil service mandate where PSC's achieve cost savings for the state. PSC's that are of a type enumerated in subdivision (b) of Government Code section 19130 are also permissible. Subdivision (b) contracts include, but are not limited to, private contracts for a new state function, services that are not available within state service, services that are incidental to a contract for the purchase or lease of real or personal property, and services that are of an urgent, temporary, or occasional nature.

For cost-savings PSC's, a state agency is required to notify SPB of its intent to execute such a contract. (Gov. Code, § 19131.) For subdivision (b) contracts, the SPB reviews the adequacy of the proposed or executed contract at the request of an employee organization representing state employees. (Gov. Code, § 19132.)

During the period under review, March 1, 2025, through August 31, 2025, the FTB had 60 PSC's that were in effect. The CRD reviewed 25 of these, which are listed below:

Vendor	Services	Contract Amount	Justification Identified?	Union Notification?
ABC Mobile Truck Repair	Truck Maintenance and Repair	\$225,000	Yes	Yes
Anvaya Solutions, Inc.	Independent Security Assessment	\$800,000	Yes	Yes
Barak Richman	Expert Witness and Consulting Services	\$90,000	Yes	Yes
Bluecrest	Criterion Sorter HW Maintenance	\$223,354	Yes	No
Canon USA, Inc.- Amendment 2	Replacement and Maintenance of Tecna Pre-Post Printer Components	\$481,413	Yes	Yes

Vendor	Services	Contract Amount	Justification Identified?	Union Notification?
Canon Usa, Inc.- Amendment 3	Replacement and Maintenance of Tecnaue Pre-Post Printer Components	\$481,413	Yes	Yes
Diltex, Inc.	Training - Introduction to Python and PySpark	\$24,436	Yes	Yes
Diltex, Inc.	Training - Red Hat OpenShift I Containers & Kubernetes	\$35,352	Yes	Yes
Eide Bailly, LLP	Expert Accounting Services	\$252,031	Yes	Yes
Elite Cable Systems, Inc.	Low Voltage Wiring Pull Services	\$249,984	Yes	Yes
Employers Choice Online, Inc.	Credit Bureau Report Services	\$53,000	Yes	Yes
Greenway Solid Waste & Recycling, Inc. DBA Greenway Demolition	Removal and Disposal of Modular Furniture	\$17,200	Yes	Yes
Inter-Con Security Systems	Santa Ana Field Office Security Guards	\$715,000	Yes	Yes
IS, Inc.	Training - Tableau Prep Introduction	\$31,020	Yes	Yes
Lemons, Grundy, Eisenberg	Legal Support Services	\$25,000	Yes	Yes
Marshall & Stevens, Inc.	Expert Witness Testimony	\$65,000	Yes	Yes
Marshall & Stevens, Inc.	Expert Witness Testimony	\$132,000	Yes	Yes
McDonald Carano, LLP	Legal Services	\$32,422,000	Yes	Yes
Mentis Solutions, LLC	eTime Professional Services	\$134,400	Yes	Yes
Mother Lode Van & Storage, Inc	Reasonable Accommodation Equipment Home Delivery Services	\$100,000	Yes	Yes

Vendor	Services	Contract Amount	Justification Identified?	Union Notification?
Preferred Suppliers, LLC	Training for Employee Relations and Investigations Cornell Certificate Program	\$30,010	Yes	Yes
Radiowave Mktg and Promo, LLC	Advertising of CalEITC	\$176,063	Yes	Yes
Radiowave Mktg and Promo, LLC	Advertising of CalEITC	\$176,104	Yes	Yes
Viking Shred, LLC	Central Campus Media Destruction Services	\$57,801	Yes	Yes
Viking Shred, LLC	On-Site, Mobile, NAID Certified Paper Shred Services for Central Campus	\$50,000	Yes	Yes

<b>FINDING NO. 6</b>	<b>UNIONS WERE NOTIFIED OF PERSONAL SERVICES CONTRACTS WITH ONE EXCEPTION</b>
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**Summary:** The FTB did not notify unions prior to entering into 1 of the 25 PSC's reviewed.

**Criteria:** Before a state agency executes a contract or amendment to a contract for personal services conditions specified within Government Code section 19130, subdivision (b), the agency shall notify all organizations that represent state employees who perform or could perform the type of work that is called for within the contract, unless exempted under Government Code section 19132, subdivision (b)(1). (Cal. Code Regs., tit. 2, § 547.60.2.)

**Mandated Training**

Each member, officer, or designated employee of a state agency who is required to file a statement of economic interest (referred to as "filers") because of the position he or she holds with the agency is required to take an orientation course on the relevant ethics statutes and regulations that govern the official conduct of state officials. (Gov. Code, §§ 11146 & 11146.1.) State agencies are required to offer filers the orientation course on a

semi-annual basis. (Gov. Code, § 11146.1.) New filers must be trained within six months of appointment and at least once during each consecutive period of two calendar years, commencing on the first odd-numbered year thereafter. (Gov. Code, § 11146.3.)

Upon the initial appointment of any employee designated in a supervisory position, the employee shall be provided a minimum of 80 hours of training, as prescribed by the CalHR. (Gov. Code, § 19995.4, subd. (b).) The training addresses such topics as the role of the supervisor, techniques of supervision, performance standards, and sexual harassment and abusive conduct prevention. (Gov. Code, §§ 12950.1, subds. (a) and (b), & 19995.4, subd. (b).) Additionally, the training must be successfully completed within the term of the employee's probationary period or within six months of the initial appointment, unless it is demonstrated that to do so creates additional costs or that the training cannot be completed during this time period due to limited availability of supervisory training courses. (Gov. Code, § 19995.4, subd. (c).)

Within 12 months of the initial appointment of an employee to a management or CEA position, the employee shall be provided leadership training and development, as prescribed by CalHR. (Gov. Code, § 19995.4, subds. (d) & (e).) For management employees the training must be a minimum of 40 hours and for CEAs the training must be a minimum of 20 hours. (*Ibid.*)

New employees must be provided sexual harassment prevention training within six months of appointment. Thereafter, each department must provide its supervisors two hours of sexual harassment prevention training and non-supervisors one hour of sexual harassment prevention training every two years. (Gov. Code, § 12950.1, subds. (a) and (b); Gov. Code, § 19995.4.)

The Legislature encourages the state and its agencies to consult on a government-to-government basis with federally recognized tribes and with nonfederally recognized tribes and tribal organizations in order to allow tribal officials the opportunity to provide meaningful and timely input in the development of policies, programs, and projects that have tribal implications. (Gov. Code, § 11019.81, sub. (c).) Each official specified in Government Code section 11019.81 subdivision (f)<sup>8</sup> shall complete tribal consultations

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<sup>8</sup> Within the executive branch, the following officials have authority to represent the state in a tribal government-to-government consultation: the governor, the attorney general, each constitutional officer and statewide elected official, the director of each state agency and department, the chair and executive officer of each state commission and task force, and the chief counsel of any state agency. (Gov. Code, § 11019.81, sub. (f) (1).) Each authorized official may formally designate another agency official to conduct preliminary tribal consultations, and each designated official may have the authority to act on behalf of the state during a government-to-government consultation. (Gov. Code, § 11019.81, sub. (f) (2).)

training by January 1, 2025, or, for officials appointed after that date, within six months of their appointment or confirmation of appointment, whichever is later. (Gov. Code, § 11019.81, sub. (h).) Each official shall retake the training annually. (*Ibid.*)

The Board may conduct reviews of any appointing power's personnel practices to ensure compliance with civil service laws and Board regulations. (Gov. Code, § 18661, subd. (a).) In particular, the Board may audit personnel practices related to such matters as selection and examination procedures, appointments, promotions, the management of probationary periods, and any other area related to the operation of the merit principle in state civil service. (*Ibid.*) Accordingly, the CRD reviews documents and records related to training that appointing powers are required by the afore-cited laws to provide its employees.

The CRD reviewed the FTB's mandated training program that was in effect during the compliance review period, September 1, 2023, through August 31, 2025. The FTB's ethics training, tribal consultations training, and sexual harassment prevention training were found to be in compliance, while the FTB's supervisory training was found to be out of compliance.

<b>FINDING NO. 7</b>	<b>SUPERVISORY TRAINING WAS NOT PROVIDED FOR ALL SUPERVISORS, MANAGERS, AND CEAs</b>
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**Summary:** The FTB did not provide basic supervisory training to 6 of 67 new supervisors within 12 months of appointment; and did not provide CEA training to 1 of 6 new CEAs within 12 months of appointment.

**Criteria:** Each department must provide its new supervisors a minimum of 80 hours of supervisory training within the probationary period. (Gov. Code, § 19995.4, subd. (b).)

Upon initial appointment of an employee to a Career Executive Assignment position, each employee must receive 20 hours of leadership training within 12 months of appointment. (Gov. Code, § 19995.4, subd. (e).)

**Compensation and Pay**

## Salary Determination

The pay plan for state civil service consists of salary ranges and steps established by CalHR. (Cal. Code Regs., tit. 2, § 599.666.) Several salary rules dictate how departments calculate and determine an employee's salary rate<sup>9</sup> upon appointment depending on the appointment type, the employee's state employment and pay history, and tenure.

Typically, agencies appoint employees to the minimum rate of the salary range for the class. Special provisions for appointments above the minimum exist to meet special recruitment needs and to accommodate employees who transfer into a class from another civil service class and are already receiving salaries above the minimum.

During the period under review, August 1, 204, through January 31, 2025, the FTB made 418 appointments. The CRD reviewed 28 of these appointments to determine if the FTB applied salary regulations accurately and correctly processed employees' compensation.

<b>FINDING NO. 8</b>	<b>SALARY DETERMINATIONS COMPLIED WITH CIVIL SERVICE LAWS, RULES, AND CALHR POLICIES AND GUIDELINES WITH TWO EXCEPTIONS</b>
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**Summary:** The CRD found 2 errors in the 28 salary determinations reviewed:

Classification	Description of Findings	Criteria
Investigation Specialist II (Supervisor), FTB	Incorrect salary determination resulting in the employee being overcompensated.	Cal. Code Regs, tit. 2 section 599.675
Mailing Machines Operator II		

**Criteria:** Departments are required to calculate and apply salary rules for each appointed employee accurately based on the pay plan for the state civil service. All civil service classes have salary ranges with minimum and maximum rates. (Cal. Code Regs., tit. 2, § 599.666.)

### Alternate Range Movement Salary Determination (within same classification)

If an employee qualifies under established criteria and moves from one alternate range to another alternate range of a class, the employee shall receive an increase or a

<sup>9</sup> "Rate" is any one of the salary rates in the resolution by CalHR which establishes the salary ranges and steps of the Pay Plan (Cal. Code Regs., tit. 2, section 599.666).

decrease equivalent to the total of the range differential between the maximum salary rates of the alternate ranges. (Cal. Code Regs., tit. 2, § 599.681.) However, in many instances, the CalHR provides salary rules departments must use when employees move between alternate ranges. These rules are described in the alternate range criteria. (CalHR Pay Scales). When no salary rule or method is cited in the alternate range criteria, departments must default to Rule 599.681.

During the period under review, August 1, 2024, through January 31, 2025, the FTB employees made 199 alternate range movements within a classification. The CRD reviewed 29 of these alternate range movements to determine if the FTB applied salary regulations accurately and correctly processed each employee's compensation, which are listed below:

Classification	Prior Range	Current Range	Salary (Monthly Rate)
Attorney	A	B	\$8,708
Compliance Representative, FTB	A	B	\$4,978
Compliance Representative, FTB (2 positions)	B	C	\$5,367
Customer Service Specialist, FTB	B	C	\$4,868
Information Technology Associate	C	D	\$6,347
Information Technology Associate (2 positions)	A	B	\$5,283
Information Technology Specialist I	B	C	\$9,785
Information Technology Specialist I	A	B	\$7,320
Key Data Operator (2 positions)	A	B	\$3,498
Personnel Specialist	C	D	\$5,424
Personnel Specialist	A	B	\$4,497
Staff Services Analyst	B	C	\$4,978
Student Assistant	B	C	\$3,517
Student Assistant	C	D	\$3,878
Tax Auditor, FTB (3 positions)	A	B	\$5,636
Tax Program Assistant	B	C	\$3,948
Tax Program Assistant (2 positions)	B	C	\$3,796
Tax Program Assistant	A	B	\$3,443
Tax Technician, FTB (2 positions)	A	B	\$3,900
Tax Technician, FTB	A	B	\$3,923
Tax Technician, FTB (2 positions)	A	B	\$4,543

<b>FINDING NO. 9</b>	<b>ALTERNATE RANGE MOVEMENTS DID NOT COMPLY WITH CIVIL SERVICE LAWS, RULES, AND CALHR POLICIES AND GUIDELINES</b>
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**Summary:** The CRD found 4 errors in the 30 alternate range movements reviewed:

Classification	Description of Findings	Criteria
Attorney	Employee met the criteria for Range B in November 2024, but was not moved until January 2025, resulting in the employee being undercompensated.	Cal. Code Regs., tit. 2, § 599.676 & Alternate Range Criteria 217
Compliance Representative, FTB	Employee met the criteria for Range B in August 2024, but was not moved until September 2024, resulting in the employee being undercompensated.	Cal. Code Regs., tit. 2, § 599.676 & Alternate Range Criteria 288
Information Technology Associate	Incorrect anniversary date determined resulting in the employee being undercompensated.	Cal. Code Regs., tit. 2, § 599.675
Tax Program Assistant	Employee met the criteria for Range B in December 2024, but was not moved until January 2025, resulting in the employee being undercompensated.	Cal. Code Regs., tit. 2, § 599.676 & Alternate Range Criteria 221

**Criteria:** Alternate ranges are designed to recognize increased competence in the performance of class duties based upon experience obtained while in the class. The employee gains status in the alternate range as though each range were a separate classification. (Classification and Pay Guide Section 220.)

Departments are required to calculate and apply salary rules for each appointed employee accurately based on the pay plan for the state civil service. All civil service classes have salary ranges with minimum and maximum rates. (Cal. Code Regs., tit. 2, § 599.666.)

## Bilingual Pay

A certified bilingual position is a position where the incumbent uses bilingual skills on a continuous basis and averages 10 percent or more of the total time worked. According to the Pay Differential 14, the 10 percent time standard is calculated based on the time spent conversing, interpreting, or transcribing in a second language and time spent on closely related activities performed directly in conjunction with the specific bilingual transactions.

Typically, the department must review the position duty statement to confirm the percentage of time performing bilingual skills and verify the monthly pay differential is granted to a certified bilingual employee in a designated bilingual position. The position, not the employee, receives the bilingual designation and the department must verify that the incumbent successfully participated in an Oral Fluency Examination prior to issuing the additional pay.

During the period under review, August 1, 2024, through January 31, 2025, the FTB issued bilingual pay to 59 employees. The CRD reviewed 24 of these bilingual pay authorizations to ensure compliance with applicable CalHR policies and guidelines, which are listed below:

Classification	No. of Appts.
Associate Operations Specialist, FTB	1
Compliance Representative, FTB	6
Customer Service Specialist, FTB	3
Information Technology Specialist I	1
Investigation Specialist II (Supervisor), FTB	1
Senior Compliance Representative, FTB	4
Tax Program Technician II, FTB	1
Tax Technician, FTB	7

### **FINDING NO. 10 | INCORRECT AUTHORIZATION OF BILINGUAL PAY**

**Summary:** The CRD found 7 errors in the 24 bilingual pay authorizations reviewed:

Classification	Description of Findings	Criteria
Customer Service Specialist, FTB	Department failed to provide certification that the employee's duties required use of bilingual skills for at least 10% of their time.	Pay Differential 14

Classification	Description of Findings	Criteria
Customer Service Specialist, FTB	Department failed to provide certification that the employee's duties required use of bilingual skills for at least 10% of their time.	Pay Differential 14
Customer Service Specialist, FTB	Department failed to provide certification that the employee's duties required use of bilingual skills for at least 10% of their time.	Pay Differential 14
Information Technology Specialist I	Department failed to provide certification that the employee's duties required use of bilingual skills for at least 10% of their time.	Pay Differential 14
Senior Compliance Representative, FTB	Department failed to provide certification that the employee's duties required use of bilingual skills for at least 10% of their time.	Pay Differential 14
Tax Program Technician II, FTB	Department failed to provide certification that the employee's duties required use of bilingual skills for at least 10% of their time.	Pay Differential 14
Tax Technician, FTB	Employee met criteria for bilingual pay but did not receive the pay differential, resulting in employee being undercompensated.	Pay Differential 14

**Criteria:** For any state agency, a “qualified” bilingual employee, person, or interpreter is someone who CalHR has tested and certified, someone who was tested and certified by a state agency or other approved testing authority, and/or someone who has met the testing or certification standards for outside or contract interpreters as proficient in both the English language and the non-English language to be used. (Gov. Code, § 7296, subd. (a)(3).)

An individual must be in a position that has been certified by the department as a position which requires the use of bilingual skills on a continuing basis averaging 10 percent of the time spent either conversing, interpreting or transcribing in a second language and time spent on closely related activities performed directly in conjunction with specific bilingual transactions. (Pay Differential 14.)

## Pay Differentials

A pay differential is special additional pay recognizing unusual competencies, circumstances, or working conditions applying to some or all incumbents in select classes. A pay differential may be appropriate in those instances when a subgroup of positions within the overall job class might have unusual circumstances, competencies, or working conditions that distinguish these positions from other positions in the same class. Typically, pay differentials are based on qualifying pay criteria such as: work locations or shift assignments; professional or educational certification; temporary responsibilities; special licenses, skills or training; performance-based pay; incentive-based pay; or, recruitment and retention. (Classification and Pay Manual Section 230.)

California State Civil Service Pay Scales Section 14 describes the qualifying pay criteria for the majority of pay differentials. However, some of the alternate range criteria in the pay scales function as pay differentials. Generally, departments issuing pay differentials should, in order to justify the additional pay, document the following: the effective date of the pay differential, the collective bargaining unit identifier, the classification applicable to the salary rate and conditions along with the specific criteria, and any relevant documentation to verify the employee meets the criteria.

During the period under review, August 1, 2024, through January 31, 2025, the FTB authorized 107 pay differentials<sup>10</sup>. The CRD reviewed 25 of these pay differentials to ensure compliance with applicable CalHR policies and guidelines, which are listed below:

Classification	Pay Differential	Monthly Amount
Administrator II, FTB	102	\$419
Administrator III, FTB	102	\$419
Associate Tax Auditor, FTB	441	\$250
Associate Tax Auditor, FTB	102	\$346
CEA	71	5%
Compliance Representative, FTB	441	\$250
Deputy Chief, Investigations and Enforcement, Department of Consumer Affairs	245	7%
Investigation Specialist I, FTB	244	5%
Investigation Specialist II (Supervisor), FTB	245	2%

<sup>10</sup> For the purposes of CRD's review, only monthly pay differentials were selected for review at this time.

Classification	Pay Differential	Monthly Amount
Investigation Specialist II (Technical), FTB (2 positions)	244	5%
Investigation Specialist II (Technical), FTB	245	4%
Investigation Specialist II (Technical), FTB	245	7%
Program Specialist I, FTB	441	\$250
Program Specialist I, FTB	102	\$346
Program Specialist II, FTB (2 positions)	102	\$346
Program Specialist III, FTB	102	\$346
Sheetfed Offset Press Operator	201	\$250
Tax Auditor, FTB (2 positions)	441	\$250
Tax Auditor, FTB (4 positions)	102	\$346

<b>FINDING NO. 11</b>	<b>PAY DIFFERENTIAL AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES</b>
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The CRD found no deficiencies in the pay differentials that the FTB authorized during the compliance review period. Pay differentials were issued correctly in recognition of unusual competencies, circumstances, or working conditions in accordance with applicable rules and guidelines.

#### Out-of-Class Assignments and Pay

For excluded<sup>11</sup> and most rank-and-file employees, out-of-class (OOC) work is defined as performing, more than 50 percent of the time, the full range of duties and responsibilities allocated to an existing class and not allocated to the class in which the person has a current, legal appointment. (Cal. Code Regs., tit. 2, § 599.810, subd. (a)(2).) A higher classification is one with a salary range maximum that is any amount higher than the salary range maximum of the classification to which the employee is appointed. (Cal. Code Regs., tit. 2, § 599.810, subd. (a)(3).)

According to the Classification and Pay Guide, OOC assignments should only be used as a last resort to accommodate temporary staffing needs. All civil service alternatives should be explored first before using OOC assignments. However, certain MOU provisions and the California Code of Regulations, title 2, section 599.810, allow for short-term OOC assignments to meet temporary staffing needs. Should OOC work become

<sup>11</sup> "Excluded employee" means an employee as defined in Government Code section 3527, subdivision (b) (Ralph C. Dills Act) except those excluded employees who are designated managerial pursuant to Government Code section 18801.1.

necessary, the assignment would be made pursuant to the applicable MOU provisions or salary regulations. Before assigning the OOC work, the department should have a plan to correct the situation before the time period outlined in applicable law, policy or MOU expires. (Classification and Pay Guide Section 375.)

During the period under review, August 1, 2024, through January 31, 2025, the FTB issued OOC pay to 14 employees. The CRD reviewed 11 of these OOC assignments to ensure compliance with applicable MOU provisions, salary regulations, and CalHR policies and guidelines, which are listed below:

Classification	Bargaining Unit	Out-of-Class Classification	Time Frame
Administrator I, FTB	S01	Administrator III FTB	12/2/24-9/30/25
Investigation Specialist II (Technical), FTB	R07	Investigation Specialist II (Supervisor)	6/1/24-10/30/24
Investigation Specialist (Technical) FTB	R07	Investigation Specialist II (Supervisor)	6/1/24-10/30/24
Program Specialist I, FTB	R01	Administrator II, FTB	10/1/24-1/17/25
Senior Operations Specialist, FTB	R01	Administrator I, FTB	12/2/24-3/31/25
Staff Operations Specialist, FTB	R01	Senior Operations Specialist	12/2/24-3/31/25
Staff Operations Specialist, FTB	R01	Senior Operations Specialist	12/2/24-3/31/25
Staff Services Analyst	R01	Associate Business Management Analyst	8/2/24-11/29/24
Tax Technician, FTB	R01	Compliance Representative	9/16/24-1/13/25
Tax Technician, FTB	R01	Compliance Representative	9/16/24-1/10/25
Tax Technician, FTB	R01	Compliance Representative	9/16/24-1/13/25

<b>FINDING NO. 12</b>	<b>INCORRECT AUTHORIZATION OF OUT-OF-CLASS PAY</b>
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**Summary:** The CRD found 2 errors in the 11 OOC pay assignments reviewed:

Classification	Out-of-Class Classification	Description of Findings	Criteria
Tax Technician, FTB	Compliance Representative	Incorrect OOC pay determined resulting in the employee being undercompensated.	Pay Differential 91
Tax Technician, FTB	Compliance Representative	Incorrect OOC pay determined resulting in the employee being undercompensated.	Pay Differential 91

**Criteria:** An employee may be temporarily required to perform out-of-class work by his/her department for up to one hundred twenty (120) calendar days in any twelve (12) consecutive calendar months when it determines that such an assignment is of unusual urgency, nature, volume, location, duration, or other special characteristics; and, cannot feasibly be met through use of other civil service or administrative alternatives. Departments may not use out-of-class assignments to avoid giving civil service examinations or to avoid using existing eligibility lists created as the result of a civil service examination.

**Criteria:** An employee may be temporarily required to perform out-of-class work by his/her department for up to one hundred twenty (120) calendar days in any twelve (12) consecutive calendar months when it determines that such an assignment is of unusual urgency, nature, volume, location, duration, or other special characteristics; and, cannot feasibly be met through use of other civil service or administrative alternatives. Departments may not use out-of-class assignments to avoid giving civil service examinations or to avoid using existing eligibility lists created as the result of a civil service examination.

## Leave

### Positive Paid Employees

Actual Time Worked (ATW) is a method that can be used to keep track of a Temporary Authorization Utilization (TAU) employee's time to ensure that the Constitutional limit of 9 months in any 12 consecutive months is not exceeded. The ATW method of counting

time is used to continue the employment status for an employee until the completion of an examination, for seasonal type work, while attending school, or for consulting services.

An employee is appointed TAU-ATW when he/she is not expected to work all the working days of a month. When counting 189 days, every day worked, including partial days<sup>12</sup> worked and paid absences<sup>13</sup>, are counted. (Cal. Code Regs., tit. 2, § 265.1, subd. (b).) The hours worked in one day are not limited by this rule. (*Ibid.*) The 12-consecutive month timeframe begins by counting the first pay period worked as the first month of the 12-consecutive month timeframe. (*Ibid.*) The employee shall serve no longer than 189 days in a 12 consecutive month period. (*Ibid.*) A new 189-days working limit in a 12-consecutive month timeframe may begin in the month immediately following the month that marks the end of the previous 12-consecutive month timeframe. (*Ibid.*)

It is an ATW appointment because the employee does not work each workday of the month, and it might become desirable or necessary for the employee to work beyond nine calendar months. The appointing power shall monitor and control the days worked to ensure the limitations set forth are not exceeded. (Cal. Code Regs., tit. 2, § 265.1, subd. (f).)

For student assistants, graduate student assistants, youth aides, and seasonal classifications a maximum work-time limit of 1,500 hours within 12 consecutive months may be used rather than the 189-day calculation. (Cal. Code Regs., tit. 2, § 265.1, subd. (d).)

Additionally, according to Government Code section 21224, retired annuitant appointments shall not exceed a maximum of 960 hours in any fiscal year (July-June), regardless of the number of state employers, without reinstatement, loss or interruption of benefits.

At the time of the review, the FTB had 209 positive paid employees whose hours were tracked. The CRD reviewed 25 of these positive paid appointments to ensure compliance with applicable laws, regulations, policies and guidelines, which are listed below:

Classification	Tenure	Time Frame	Time Worked (Hours)
Attorney IV	Retired Annuitant	7/1/24-6/30/25	712.6
Attorney IV	Retired Annuitant	7/1/24-6/30/25	423

<sup>12</sup> For example, two hours or ten hours count as one day.

<sup>13</sup> For example, vacation, sick leave, compensating time off, etc.

Classification	Tenure	Time Frame	Time Worked (Hours)
Investigation Specialist II (Technical)	Retired Annuitant	7/1/24-6/30/25	376
Investigation Specialist II (Technical)	Retired Annuitant	7/1/24-6/30/25	257
IT Specialist I	Retired Annuitant	7/1/24-6/30/25	960
IT Specialist I	Retired Annuitant	7/1/24-6/30/25	353
IT Specialist II	Retired Annuitant	7/1/24-6/30/25	953
Program Specialist III	Retired Annuitant	7/1/24-6/30/25	586
Program Specialist III	Retired Annuitant	7/1/24-6/30/25	237
Seasonal Clerk	Temporary	3/1/24-2/28/25	1,465
Seasonal Clerk	Temporary	1/31/24-1/30/25	1,421
Seasonal Clerk	Temporary	3/1/24-2/28/25	1,550.5
Seasonal Clerk	Temporary	12/1/23-11/30/24	1,563.5
Seasonal Clerk	Temporary	3/1/23-2/28/24	1,278.15
Staff Operations Specialist	Retired Annuitant	7/1/24-6/30/25	567.5
Student Assistant	Temporary	9/1/23-8/29/24	1,529.75
Student Assistant	Temporary	1/31/24-1/30/25	1,636.5
Student Assistant	Temporary	1/31/24-1/30/25	1,534.5
Student Assistant	Temporary	3/1/24-2/28/25	1,515
Student Assistant	Temporary	8/30/24-8/31/25	1,488
Student Assistant	Temporary	1/31/24-1/30/25	1,500
Student Assistant	Temporary	1/31/24-1/30/25	1,484
Student Assistant	Temporary	5/1/24-4/30/25	1,443
Student Assistant	Temporary	5/1/24-4/30/25	1,431
Tax Technician	Retired Annuitant	7/1/24-6/30/25	640.25

<b>FINDING NO. 13</b>	<b>POSITIVE PAID TEMPORARY EMPLOYEES' WORK EXCEEDED TIME LIMITATIONS</b>
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**Summary:** The FTB did not consistently monitor the actual number of days and/or hours worked to ensure that 6 of the 25 positive paid

employees reviewed did not exceed the 189-day or 1,500-hour limitation in any 12-consecutive month period.

**Criteria:** If any employee is appointed to an intermittent time base position on a TAU basis, there are two controlling time limitations that must be considered. The first controlling factor is the constitutional limit of nine months in any 12 consecutive months for temporary appointments that cannot be extended for any reason. (Cal Const., art. VII, § 5.) Time worked shall be counted on a daily basis with every 21 days worked counting as one month or 189 days equaling nine months. (Cal. Code Regs., tit. 2, § 265.1, subd. (b).) Another controlling factor limits the maximum work time for student, youth, and seasonal classifications to 1,500 hours. (Cal. Code Regs., tit. 2, § 265.1, subd. (d).)

#### Administrative Time Off

ATO is a form of paid administrative leave status initiated by appointing authorities for a variety of reasons. (Human Resources Manual Section 2121.) Most often, ATO is used when an employee cannot come to work because of a pending investigation, fitness for duty evaluation, or when work facilities are unavailable. (*Ibid.*) ATO can also be granted when employees need time off for reasons such as blood or organ donation, extreme weather preventing safe travel to work, states of emergency, voting, and when employees need time off to attend special events. (*Ibid.*)

During the period under review, June 1, 2024, through May 31, 2025, the FTB authorized 83 ATO transactions. The CRD reviewed 25 of these ATO transactions to ensure compliance with applicable laws, regulations, and CalHR policy and guidelines.

<b>FINDING NO. 14</b>	<b>ADMINISTRATIVE TIME OFF WAS NOT PROPERLY DOCUMENTED</b>
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**Summary:** The FTB did not key 23 employees' ATO hours into the Leave Accounting System.

**Criteria:** Regardless of the length of ATO, appointing authorities must maintain thorough documentation demonstrating the justification for the ATO, the length of the ATO, and the approval of the ATO. (Human Resources Manual Section 2121.) Each appointing power shall keep complete and accurate time and attendance records for

each employee and officer employed within the agency over which it has jurisdiction. (Cal. Code Regs., tit. 2, § 599.665.

### Leave Accounting

Departments are directed to create a monthly internal audit process to verify all leave input into any leave accounting system is keyed accurately and timely. (Human Resources Manual Section 2101.) Departments shall create an audit process to review and correct leave input errors on a monthly basis. The review of leave accounting records shall be completed by the pay period following the pay period in which the leave was keyed into the leave accounting system. (*Ibid.*) If an employee's attendance record is determined to have errors or it is determined that the employee has insufficient balances for a leave type used, the attendance record must be amended. (*Ibid.*) Attendance records shall be corrected by the pay period following the pay period in which the error occurred. (*Ibid.*) Accurate and timely attendance reporting is required of all departments and is subject to audit. (*Ibid.*)

During the period under review, March 1, 2025, through May 31, 2025, the FTB reported 54 units. The CRD reviewed 14 units within 3 pay periods to ensure compliance with applicable laws, regulations and CalHR policy and guidelines.

<b>FINDING NO. 15</b>	<b>LEAVE ACCOUNTING COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES</b>
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The CRD reviewed leave records from three different leave periods to ensure compliance with applicable laws, regulations and CalHR policy and guidelines. Based on our review, the CRD found no deficiencies. The FTB utilized a monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely.

### State Service

The state recognizes two different types of absences while an employee is on pay status, paid or unpaid. The unpaid absences can affect whether a pay period is a qualifying or non-qualifying pay period for state service and leave accruals.

Generally, an employee who has 11 or more working days of service in a monthly pay period shall be considered to have a complete month, a month of service, or continuous

service.<sup>14</sup> (Cal. Code Regs., tit. 2, § 599.608.) Full-time and fractional employees who work less than 11 working days in a pay period will have a non-qualifying month and will not receive state service or leave accruals for that month.

Hourly or daily rate employees working at a department in which the full-time workweek is 40 hours who earn the equivalent of 160 hours of service in a monthly pay period or accumulated pay periods shall be considered to have a complete month, a month of service, or continuous service. (Cal. Code Regs., tit. 2, § 599.609.)

For each qualifying monthly pay period, the employee shall be allowed credit for vacation with pay on the first day of the following monthly pay period. (Cal. Code Regs., tit. 2, § 599.608.) When computing months of total state service to determine a change in the monthly credit for vacation with pay, only qualifying monthly pay periods of service before and after breaks in service shall be counted. (Cal. Code Regs., tit. 2, § 599.739.) Portions of non-qualifying monthly pay periods of service shall not be counted nor accumulated. (*Ibid.*) On the first day following a qualifying monthly pay period, excluded employees<sup>15</sup> shall be allowed credit for annual leave with pay. (Cal. Code Regs., tit. 2, § 599.752.)

Permanent intermittent employees also earn leave credits on the pay period following the accumulated accrual of 160 hours worked. Hours worked in excess of 160 hours in a monthly pay period, are not counted or accumulated towards leave credits.

During the period under review, February 1, 2025, through July 31, 2025, the FTB had 75 employees with qualifying and non-qualifying pay period transactions. The CRD reviewed 30 transactions to ensure compliance with applicable laws, regulations and CalHR policy and guidelines.

<b>FINDING NO. 16</b>	<b>SERVICE AND LEAVE TRANSACTIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES</b>
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<sup>14</sup> Government Code sections 19143, 19849.9, 19856.1, 19858.1, 19859, 19861, 19863.1, and 19997.4 and California Code of Regulations, title 2, sections 599.609, 599.682, 599.683, 599.685, 599.687, 599.737, 599.738, 599.739, 599.740, 599.746, 599.747, 599.776.1, 599.787, 599.791, 599.840 and 599.843 provide further clarification for calculating state time.

<sup>15</sup> As identified in Government Code sections 19858.3, subdivisions (a), (b), or (c), or as it applies to employees excluded from the definition of state employee under Government Code section 3513, subdivision (c), or California Code of Regulations, title 2, section 599.752, subdivision (a), and appointees of the Governor as designated by the Department and not subject to section 599.752.1.

The CRD determined that the FTB ensured employees with non-qualifying pay periods did not receive vacation/sick leave, annual leave, and/or state service accruals. The CRD found no deficiencies in this area.

## **Policy and Processes**

### **Nepotism**

It is the policy of the State of California to hire, transfer, and promote all employees on the basis of merit and fitness in accordance with civil service statutes, rules and regulations. Nepotism is expressly prohibited in the state workplace because it is antithetical to California's merit based civil service. (Cal. Code Regs., tit. 2, § 87.) (*Ibid.*) All appointing powers shall adopt an anti-nepotism policy that includes the following components: (1) a statement that the appointing power is committed to merit-based hiring and that nepotism is antithetical to a merit-based civil service system; (2) a definition of "nepotism" as an employee's use of influence or power to hire, transfer, or promote an applicant or employee because of a personal relationship; (3) a definition of "personal relationship" as persons related by blood, adoption, current or former marriage, domestic partnership or cohabitation; (4) a statement that prohibits participation in the selection of an applicant for employment by anyone who has a personal relationship with the applicant, as defined in section 83.6; (5) a statement that prohibits the direct or first-line supervision of an employee with whom the supervisor has a personal relationship, as defined in section 83.6; (6) a process for addressing issues of direct supervision when personal relationships between employees exist. (*Ibid.*)

<b>FINDING NO. 17</b>	<b>NEPOTISM POLICY COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES</b>
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The CRD verified that the policy was disseminated to all staff and emphasized the FTB's commitment to the state policy of hiring, transferring, and promoting employees on the basis of merit. Additionally, the FTB's nepotism policy was comprised of specific and sufficient components intended to prevent favoritism, or bias, based on a personal relationship from unduly influencing employment decisions.

### **Workers' Compensation**

Employers shall provide to every new employee, either at the time of hire or by the end of the first pay period, written notice concerning the rights, benefits, and obligations under workers' compensation law. (Cal. Code Regs., tit. 8, § 9880, subd. (a).) This notice shall

include the right to predesignate their personal physician or medical group; a form that the employee may use as an optional method for notifying the employer of the name of employee's "personal physician," as defined by Labor Code section 4600. (Cal. Code Regs., tit. 8, § 9880, subd. (c)(7) & (8).) Additionally, within one working day of receiving notice or knowledge that the employee has suffered a work-related injury or illness, employers shall provide a claim form and notice of potential eligibility for benefits to the injured employee. (Labor Code, § 5401, subd. (a).)

Public employers may choose to extend workers' compensation coverage to volunteers that perform services for the organization. (Human Resources Manual Section 1415.) Workers' compensation coverage is not mandatory for volunteers as it is for employees. (*Ibid.*) This is specific to the legally uninsured state departments participating in the Master Agreement. (*Ibid.*) Departments with an insurance policy for workers' compensation coverage should contact their State Compensation Insurance Fund (State Fund) office to discuss the status of volunteers. (*Ibid.*)

<b>FINDING NO. 18</b>	<b>WORKERS' COMPENSATION PROCESS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES</b>
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The CRD verified that the FTB provides notice to their employees to inform them of their rights and responsibilities under California's Workers' Compensation Law. Furthermore, the CRD verified that when the FTB received workers' compensation claims, they properly provided claim forms within one working day of notice or knowledge of injury.

### Performance Appraisals

According to Government Code section 19992.2, subdivision (a), appointing powers must "prepare performance reports." Furthermore, California Code of Regulations, title 2, section 599.798, directs supervisors to conduct written performance appraisals and discuss overall work performance with permanent employees at least once in each twelve calendar months after the completion of the employee's probationary period.

The CRD selected 100 permanent FTB employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies and guidelines.

<b>FINDING NO. 19</b>	<b>PERFORMANCE APPRAISALS WERE NOT PROVIDED TO ALL EMPLOYEES<sup>16</sup></b>
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**Summary:** The FTB did not provide annual performance appraisals to 23 of 100 employees reviewed after the completion of the employee's probationary period.

**Criteria:** Appointing powers shall prepare performance reports and keep them on file as prescribed by department rule. (Gov. Code, § 19992.2, subd. (a).) Each supervisor, as designated by the appointing power, shall make an appraisal in writing and shall discuss with the employee overall work performance at least once in each twelve calendar months following the end of the employee's probationary period. (Cal. Code Regs., tit. 2, § 599.798.)

### **DEPARTMENTAL RESPONSE**

The FTB's response is attached as Attachment 1.

### **CORRECTIVE ACTIONS**

A written corrective action response addressing all areas identified as out of compliance, along with supporting documentation demonstrating the implementation of the specified corrective actions, must be submitted to the CRD within 90 days of the date of this report.

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<sup>16</sup> Repeat finding; see reports dated October 9, 2023, and November 18, 2019.



03.17.2026

To: State Personnel Board, Compliance Review Unit  
From: Candie Malone, Director, Business and Human Resources Bureau

## Memorandum

### **Subject: Response to Final SPB Compliance Review**

The following are the Franchise Tax Board's (FTB) responses to the findings in the recent State Personnel Board (SPB) Compliance Review.

#### **FINDING NO. 3: PROBATIONARY EVALUATIONS WERE NOT PROVIDED FOR ALL APPOINTMENTS REVIEWED AND SOME THAT WERE PROVIDED WERE UNTIMELY.**

**Cause:** Supervisors and Managers are provided with due dates for probation reports and are expected to complete them in time. There are times that multiple probation period are completed in one report instead of individually which may not be provided timely.

**FTB Response:** We agree with the assessment. HR will be implementing a compliance program similar to the one we use for annual evaluations. We will also provide training and communication to supervisors and managers on the requirements.

#### **FINDING NO. 5: COMPLAINANTS WERE NOT NOTIFIED OF THE REASONS FOR DELAYS IN DECISIONS WITHIN THE PRESCRIBED TIME PERIOD.**

**Cause:** Failure to provide written notice of the complaint status within the 90-day regulatory period resulted from employee oversight. Procedures and instructions were available, communicated, and accessible (e.g., posted in the unit shared drive, included in onboarding/training materials, reinforced in team meetings, and in supervisor/subordinate 1:1 meetings). The issue was not caused by gaps in procedures, training, or systems but by a lapse in task tracking and execution by the responsible employee.

**FTB Response:** We agree with the finding and assess this as an isolated event. The missed deadline occurred due to employee oversight, not a lack of procedures or instructions. The written notice was provided 27 days late, the supervisor verified completion, and expectations were reinforced via a remediation meeting. To prevent recurrence, procedures and instructions were redistributed to the employee along

with targeted coaching. The supervisor will monitor compliance every two weeks for 90 days, then monthly.

**FINDING NO. 7: SUPERVISORY TRAINING WAS NOT PROVIDED FOR ALL SUPERVISORS, MANAGERS, AND CEAS**

**Cause:** Four were due to a compliance gap and three were due to the employee not completing the training in initial course and having to make up the classes.

**FTB Response:** HR concurs with the assessment. The compliance gap has since been fixed. Our Talent Management group will continue to monitor to ensure compliance. In addition, HR will provide additional training and communication to supervisors and managers on the training requirements.

**FINDING NO. 9: ALTERNATE RANGE MOVEMENTS DID NOT COMPLY WITH CIVIL SERVICE LAWS, RULES, AND CALHR POLICIES AND GUIDELINES.**

**Cause:** Three salary determinations were keyed late due to employee error causing the employee to be underpaid. One was due to the employee providing additional documentation after the initial salary determination was determined and keyed. Once additional information was provided, another salary determination was keyed to update the new range. This was keyed once the new information became available. We believe this situation was handled timely and appropriately.

**FTB Response:** We concur with the assessment of the first three. These have been corrected and we have reviewed the procedures with staff and provided additional training.

**FINDING NO. 10: INCORRECT AUTHORIZATION OF BILINGUAL PAY**

**Cause:** When reviewing these findings, we identified process gaps that did not maintain the necessary documentation in the file.

**FTB Response:** HR concurs with the determination. HR is currently updating the process to ensure bilingual pay is applied correctly and documentation maintained correctly within the OPF. Once completed, all staff in HR will be trained and provided with updated procedures and communication.

## **FINDING NO. 12: INCORRECT AUTHORIZATION OF OUT-OF-CLASS PAY**

**Cause:** Reviewing the finding, it was identified that not all the correct information was input into the OOC calculator. In one situation, the partial month was missed, in another the VPL was not entered.

**FTB Response:** HR concurs with this determination. We have updated procedures and provided additional training for staff.

## **FINDING NO. 13: POSITIVE PAID TEMPORARY EMPLOYEES' WORK EXCEEDED TIME LIMITATIONS**

**Cause:** FTB's hours worked tracking process is manual and behind due to how hours are reported. This can lead to more errors when scheduling and tracking positive pay employees.

**FTB Response:** HR concurs with this determination. Our new timekeeping system being implemented in July 2026 will provide better reporting, allowing supervisors and managers to keep track of hours worked in real time. In the meantime, HR will provide additional communication and training on tracking of positive paid employees' hours worked.

## **FINDING NO. 14: ADMINISTRATIVE TIME OFF WAS NOT PROPERLY DOCUMENTED**

**Cause:** It was believed that our timekeeping system automatically sent ATO information to LAS however that is not correct. The time needs to be manually added each month.

**FTB Response:** HR concurs with this determination. This issue will be fixed as part of the implementation of our new timekeeping system in July 2026. In the meantime staff will be manually adding ATO as needed.

## **FINDING NO. 19: PERFORMANCE APPRAISALS WERE NOT PROVIDED TO ALL EMPLOYEES**

**Cause:** In the instances where a performance evaluation was not on file for the employees in question, it was either due to the supervisor not "launching/initiating" the report or not completing all steps once launched. FTB has consistently sent emails to supervisors and managers reminding them of the requirement.

**FTB Response:** FTB concurs with this finding and has improved this process by

incorporating a compliance report that shows who does not have a complete evaluation. While this has reduced the number of evaluations not provided or provided timely, we will be updating our communication to ensure clarity in the requirements and provide additional training. We will also be engaging senior management earlier in the process.

FTB appreciates the opportunity to respond to these findings and share our process improvements. If you have any questions, please contact Sara Bryant at [sara.bryant@ftb.ca.gov](mailto:sara.bryant@ftb.ca.gov) or 916-845-4766.

Sincerely,

*Sara Bryant*

Sara Bryant

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