



DATE: January 4, 2010

TO: All Members of the Governor's Cabinet, State Agencies, and Employee Organizations

/s/ SUZANNE M. AMBROSE

FROM: Suzanne M. Ambrose
Executive Officer

SUBJECT: 2009 LEGISLATIVE SUMMARY

The following bills affecting California's state employment statutes were signed and chaptered into law by the Governor in 2009. The statutory changes become effective on January 1, 2010 (Article IV, Section 8(c) of the California Constitution).

Subject: California Whistleblower Protection Act

Applies to: All Departments

Bill Number: Assembly Bill 567 (Villines), Chapter 452, Statutes of 2009

Code Sections Amended: Government Code Sections 8545.1, 8545.2, 8545.4, 8546.2, 8547.2, 8547.4, 8547.5, 8547.6, 8547.7, and 8548.9

AB 567 makes changes to the California Whistleblower Protection Act (CWPA) as follows:

- Adds to the list of covered employees: 1) an individual appointed by the Legislature to a state board or commission and who is not a Member or employee of the Legislature and 2) any former employee who met the definition of employee under the CWPA while employed.
- Changes the definition of "improper governmental activity" under the CWPA to include any activity by a state agency or by an employee that is undertaken in the performance of the employee's duties, undertaken inside a state office, or, if undertaken outside a state office by the employee, directly relates to state government, whether or not that activity is within the scope of his or her employment.
- Clarifies the meaning of "protected disclosure" to specifically include any good faith communication to the Bureau of State Audits alleging an improper governmental activity and any evidence delivered to the Bureau of State Audits in support of the allegation of an improper governmental activity.

- ✦ Revises the authority of the Bureau of State Audits to specifically perform investigations, and deletes the reference to investigative audits.

Subject: Peace Officer Discipline Process

Applies to: Departments that Employ Peace Officers

Bill Number: Assembly Bill 955 (DeLeon), Chapter 494, Statutes of 2009

Code Sections Amended: Government Code Section 3304

The Public Safety Officer Procedural Bill of Rights Act (POBRA) prohibits any punitive action from being taken against a public safety officer for any act, omission, or misconduct if an investigation of the allegations is not completed within one year of a public agency's discovery by a person authorized to accept a complaint or initiate an investigation concerning the allegations of misconduct.

AB 955 amends POBRA to state that the one year period to conduct the investigation is initiated only upon the discovery by a person authorized to conduct an investigation and no longer begins upon the discovery by a person authorized to receive a complaint. Further, the bill abrogates the Supreme Court's holding in *Mays v. City of Los Angeles* (2008) 43 Cal.4th 313 which states that a public agency must only give notice of the intent to take adverse action within the one year period but need not specify the discipline sought. AB 955 amends POBRA to require a public agency to notify the public safety officer of its proposed discipline by a Letter of Intent or Notice of Adverse Action articulating the discipline within the one year period. However, the public agency is not required to impose the discipline within the one year period.

Subject: Veterans Preference Points

Applies to: All Departments

Bill Number: Senate Bill 644 (Strickland), Chapter 357, Statutes of 2009

Code Sections Amended: Government Code Section 18978

Current law allows for veterans to receive additional points in the state civil service examination process in order to enhance their employment opportunities with the State of California.

SB 644 amends Government Code section 18978 to allow disabled veterans to receive an additional 15 points and all other veterans to receive an additional 10 points when taking an open, non-promotional exam. This change will make the preference points awarded to veterans in open, non-promotional exams consistent with those awarded to

veterans in other civil service exams. The criteria for determining whether veteran's preference points are appropriate for a particular exam or whether an applicant is eligible for veteran's preference points remain unchanged. SPB will soon release implementation instructions to departments regarding this change.

Questions regarding this memorandum may be directed to Steve Caldwell, Director of Legislative and Public Affairs, at (916) 653-3675 or scaldwell@spb.ca.gov.