



Summary Analysis of Amended Bill

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Sponsor:

Bill Number: AB 1007

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Amended: June 25, 2019

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Related Bills: See Prior Analysis

Subject: State Employment/Adverse Actions Against Employees

Summary

This bill would, under the Government Code (GC), modify the statute of limitations for serving adverse actions against state employees.

Recommendation – No position.

Summary of Amendments

The June 25, 2019, amendments modified provisions of the bill related to the GC, specifically with respect to adverse actions against state employees.

Except for the “This Bill” and “Fiscal Impact” sections, the remainder of the department’s analysis of the bill as amended on March 25, 2019, and May 16, 2019, still applies. The “Effective/Operative Date,” “Implementation Considerations,” and “Economic Impact” sections have been restated below for convenience.

Effective/Operative Date

This bill would be effective and operative January 1, 2020.

This Bill

This bill would, under the Government Code, modify the statute of limitations for an adverse action against a state employee. Except as provided in this bill, adverse actions against a state employee would not be valid for any cause for discipline based on any civil service law of this state unless notice of adverse action is served within three years after the cause for discipline first arose.

The bill provides exceptions to this requirement if:

1. The cause for discipline was discovered on or after January 1, 2020, the adverse action is not valid against any state employee for any cause for discipline based on any civil service law of this state unless notice of the action is served within one year after the discovery of the cause for discipline.
2. The adverse action against state employees is based on any of the following causes for discipline, then the adverse action would not be valid unless notice of the adverse action is served within three years after the discovery of the cause for discipline:
 - Fraud,
 - Embezzlement,
 - Falsification of records,
 - Harassment, as specified,¹
 - Sexual assault, or
 - A cause for discipline that is the subject of a criminal investigation or criminal prosecution for a felony.

Implementation Considerations

Department staff has identified the following implementation considerations for purposes of a high-level discussion; additional concerns may be identified as the bill moves through the legislative process. Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

A one-year statute of limitations to serve an adverse action could weaken the department's ability to use disciplinary action as a deterrent for violating the department's unauthorized access policies. Although the majority of the department's investigations currently meet the timeframes provided for in this bill, there are times when the department must work with external agencies such as the Treasury Inspector General for Tax Administration, the California Highway Patrol, the Employment Development Department, and the District Attorney's Office to complete the investigation.

¹ Harassment on the basis of race, color, religion, sex, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, or genetic information.

In addition, a one year statute of limitations can negatively impact the department's efforts in progressive discipline.

Fiscal Impact

Staff estimates a cost of approximately \$627,000 for fiscal year 2019/2020 and \$1,080,000 for fiscal years 2020/2021 and thereafter for resources required to review performance and behavioral actions for adverse actions. To ensure timely completion of cases, the division expects the workload to double, or triple.

Economic Impact

Revenue Estimate

This bill as amended on June 25, 2019, would not impact the state's income or franchise tax revenue.

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill or for the net final payment method of accrual.

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