



OLR RESEARCH REPORT

January 23, 2012

2012-R-0075

CIVIL SERVICE EXEMPTIONS FOR HIGHLY TECHNICAL OR SPECIALIZED POSITIONS

You asked whether any state exempts highly technical or specialized positions, such as those in information technology or science, from civil service requirements.

SUMMARY

We found examples of civil service exemptions for highly technical or specialized positions in three states.

1. California authorizes (a) skills-based certification for information technology (IT) classifications, which is used to create a list of applicants based on the relative importance of different qualifications for a particular vacancy instead of using the single eligibility list for a classification and (b) certain municipal utility district boards to exempt positions requiring “peculiar and exceptional qualifications” from the district’s civil service requirements.
2. Illinois exempts certain technical and engineering staff from its personnel code.

3. Pennsylvania authorizes its Department of Environmental Resources to hire special science and technology staff related to hazardous site cleanup regardless of civil service provisions.

In addition, a bill in Illinois would have exempted IT professionals with specialized and advanced training or experience or specially required certification from certain provisions on appointments based on merit and fitness.

CALIFORNIA

Skills-Based Certification for IT

California law authorizes skills-based certification for IT classifications, which are unique certification lists for each vacancy within a class. This replaces the single eligibility list for a classification.

The law authorizes a skills-based certification only if:

1. there is a job analysis, which is an analysis that describes worker behavior in performing the job and the job's essential requirements in great detail (see the *Job Analysis Manual*, available at: http://spb.ca.gov/programs/TVC/job_analysis_manual.htm);
2. the class is used service-wide;
3. the class is broad and includes a number of distinct assignments; and
4. it is in the state's best interest to use skills-based certification.

Certification is done by weighing applicants' scores on all measured knowledge, skills, and abilities to reflect their relative importance to the job as identified in the job analysis for the vacancy. The State Personnel Board must adopt regulations that implement these provisions and ensure fairness and prevent improper manipulation (Cal. Gov't Code § 18900.6).

Under the regulations, candidate selection must be based on merit and fitness, be competitive, and fairly and objectively identify candidates who meet the needs for the position. The appointing authority must prepare a detailed statement of the position's duties and requirements as the justification for creating a skills-based certification list for the position.

Under the regulations, individuals who are successful in examinations are assigned a score relative to their job-related qualifications and are placed in a pool. Lists are created on a position-by-position basis by weighing applicants' scores on a core examination and up to four functional skill sets. As an example, the regulations state that if a list is created using two functional skill sets, each weighted at 50%, the list would include those who successfully passed the test for each skill set, ranked based on their respective weight and skill set test scores.

The regulations also require hiring departments to verify minimum qualifications and check references for prospective hires. They must use a job-related structured interview process which, at a minimum, involves (1) relevant criteria to select candidates for interviews, (2) job-related questions to assess fitness and qualification for the position, (3) criteria to score responses to questions, and (4) all candidates answering the same questions (Cal. Regs: 2 CA ADC § 250.1).

Municipal Utility Districts

Certain municipal utility district boards can exempt a position from the district's civil service positions if it requires "peculiar and exceptional qualifications." This includes (1) scientific, professional, or expert positions; (2) positions involving special confidence; and (3) positions with significant managerial responsibilities. The law limits these exemptions to 5% of the district's civil service positions (Cal. Public Utilities Code § 11887.1).

ILLINOIS

Illinois exempts from its personnel code technical and engineering staff (1) at the Department of Transportation, Department of Nuclear Safety, Pollution Control Board, and Illinois Commerce Commission or (2) providing architectural and engineering services in the Department of Central Management Services (20 ILCS 415/4c(12)).

A bill during the 2011 session, SB 1917, would have exempted from the law on appointments based on merit and fitness (including the laws on open competitive exams and establishing and choosing appointments from eligible applicant lists) people with:

1. industry-recognized IT certification that is specifically required by the position description within the bureau of the Department of Central Management Services responsible for state IT and telecommunications systems or

2. specialized and advanced training and experience in IT deployment and support specifically required by the position description within the bureau (including those with specialized and advanced training and experience in design, operation, or management of computer hardware, software telecommunications, or wide-area networks).

PENNSYLVANIA

Pennsylvania authorizes its Department of Environmental Resources to hire special science and technology staff related to hazardous site cleanup, regardless of civil service provisions. These individuals must have expertise and advanced degrees in specialized fields of science and technology relevant to administering and enforcing the hazardous sites cleanup act. Their expertise can relate to identification, analysis, assessment, prevention, or abatement of hazards to public health or the environment due to release of hazardous substances or contaminants in the environment. Their training can be in fields including toxicology, hydrogeology, chemistry, biology, soil science, biochemistry, environmental engineering, epidemiology, value engineering, and risk assessment sciences.

These special staff members must:

1. review consultants' contracts, reports, and feasibility studies;
2. prepare and review environmental assessments;
3. serve as expert witnesses in the department's litigation;
4. provide scientific analysis or studies to support the department's rulemaking; and
5. perform other duties assigned by the department to further the hazardous site cleanup act or other environmental protection laws (35 Pa.Stat. § 6020.302).

CR:dy