

Creative Counting: How The State of California Claims An Increasing Percentage of Workers With Disabilities While at the Same Time Severely Decreasing It's Hiring of People With Disabilities

by

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What is a shell game? Essentially, a "magician" makes a green pea show up in places where it shouldn't be. The state of California appears to be playing a shell game with its yearly count of workers with disabilities. Like the real game, the state's shell game involves slight of hand and seeming deception.

Consider the facts:

- The state's hiring of people with disabilities has gone down 59% in the last five years.
- The state's count of workers with disabilities is steadily increasing each year.



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How is this possible?

This edition of the blog reveals the procedural magic that is swelling the ranks of "disabled" in state service, without actually hiring PWD's.

In the Wizard of Oz, Toto [pulled back the curtain](#), revealing how the Wizard's deception was run.

The purpose of this blog is to show how the state's disability employment deception is run.

What is it Like to be a Person with a Disability Trying to Find a Job For Which You are Capable?



billsoPHOTO, Flickr Commons

Nationally the unemployment rate for workers with disabilities is 86% higher compared to non-disabled workers.¹

- In other words, as a person with a disability (PWD) you don't stand much of a chance being hired, even if you are the best qualified and most skilled applicant.

California has the highest number of people with disabilities in the U.S.² and one of the lowest rates of employment for those who are disabled.³

- The Great State of California is not an easy place to get a job if you have a disability.

In California people with disabilities face severe discrimination when seeking work---essentially, they face compulsory unemployment.⁴

- No one says it, they just don't act on your application or resume. Able bodied friends get hired, but for you--not so much.

¹ As of June 11, 2014 the unemployment rate of non-disabled people is 7.1%, and for disabled it is 13.2%. Therefore, $((13.2 / 7.1) - 1) * 10^2 = 86\%$. Data from: U.S. Bureau of Labor Statistics, News Release June 21, 2014, USDL-14-1076.

² United States Census Bureau (2010). Disability among the working age population: 2008 and 2009. Washington, D.C.: USCB.

³ Erickson, W., Lee, C., & von Schrader, S. (2014). 2012 Disability Status Report: California. Ithaca, NY: Cornell University Employment and Disability Institute(EDI). See table "Employment: Ages 21-64", p. 8. There are only 13 states with higher rates of unemployment, for people with disabilities.

⁴ Russell, Marta (2002). What disability civil rights cannot do: Employment and political economy. Disability & Society 17(2):117-135. See p. 21.

What Does the Law Say?

- Qualified individuals with a disability shall be employed in state service (CGC 19230(b)).
- Each state organization must establish an effective program to hire PWD's (CGC 19232) with goals and timetables (CGC 19233(c)) to increase their hiring (CGC 19234).
- These shall be reported to the Governor and Legislature each year (CGC 19234), and shall be monitored by CalHR (CGC 19236), ([click here to view these laws](#)).



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Good Intentions

In 1989 the State of California developed an alternative hiring process for workers with disabilities, called the [Limited Examination and Appointment Program \(LEAP\)](#). LEAP can be used in place of the civil-service appointment process, when hiring workers with disabilities.⁵



arvind grover, Flickr Commons

In 2000 the State Personnel Board established a minimum rate of employment for workers with disabilities, at 16.6%. This so-called "parity number" applies both to the state workforce as a whole, as well as to each of its individual organizations.⁶

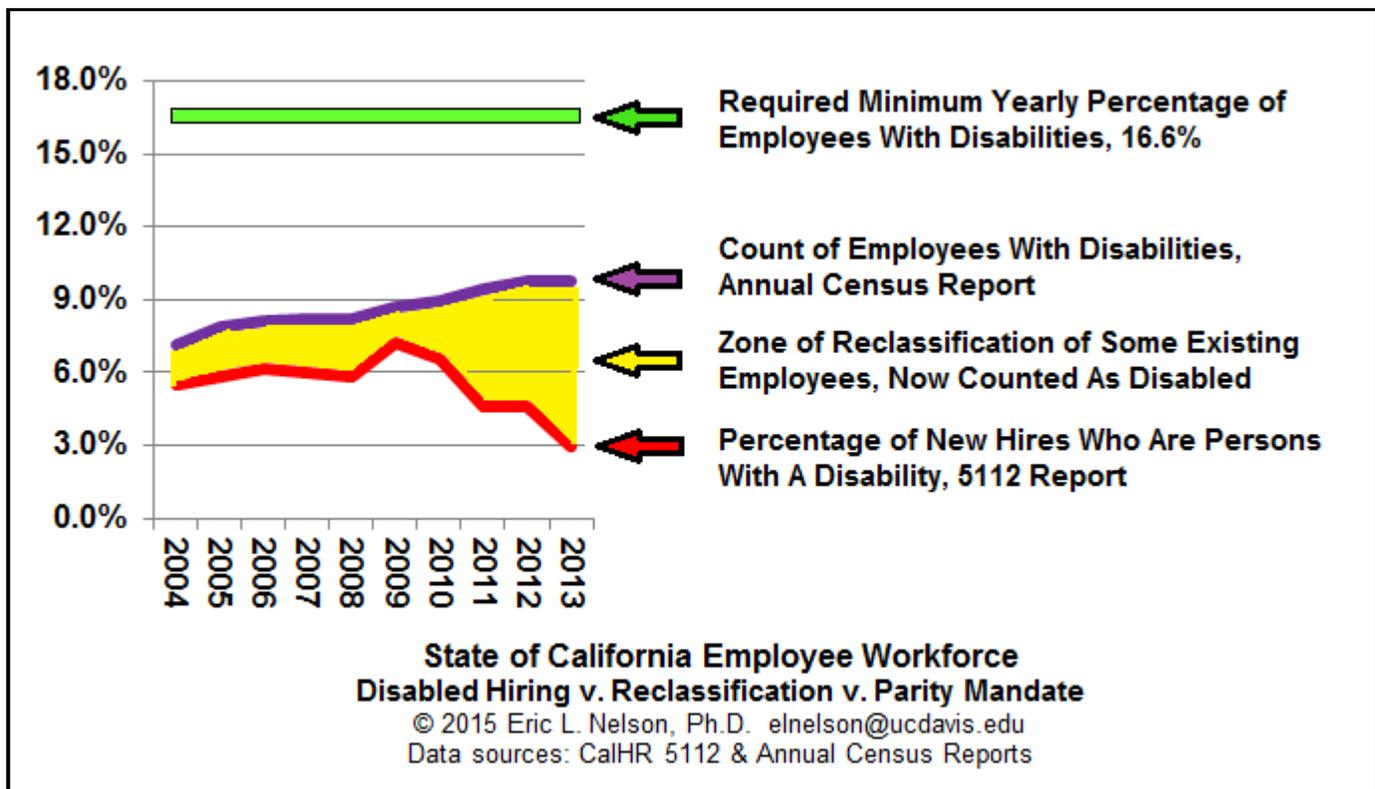
Bad Outcomes

Unfortunately, the state is doing just the opposite of what it's own laws and employment goals require:

- **The state's hiring rates of people with disabilities has plummeted 59% in the last five years, from 7.2% in 2009 to 3.0% in 2013.** This severe negative trend is seen in the chart below.
- **In all of the last 10 years the state reported more workers with disabilities than they hired.** The question is, how did they come up with more PWD's than they hired? Herein lies the shell game.

⁵ LEAP manual, section 1.1.

⁶ 2012 Annual Census, p. 15.



The data table for this figure can be [downloaded here](#).

How the State's Shell Game Works

The California definition of disability is more liberal than the definition contained in the Americans with Disabilities Act of 1990, which requires a person's disability to cause a "substantial limitation" to one or more major life activities ([Public Law 101-336](#), see also [here](#), and also www.ada.gov). California only requires a physical or mental condition cause a "limitation" to one or more major life activities ([CGC §12926.1\(c\)](#)).

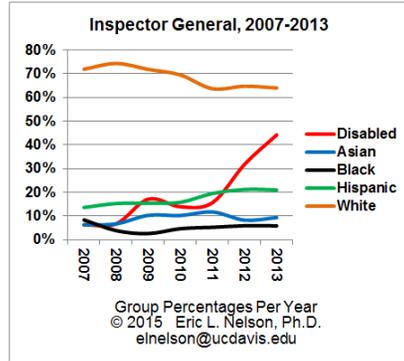
As people grow older, they acquire disabilities merely as a function of aging. These can include developing the need for insulin, starting to wear glasses, or perhaps they experience the onset of arthritis. Conditions such as these can be a limitation to one or more major life activities, and thus they are rightfully seen as a disability. This fact presents a tempting opportunity for individual state organizations to "cheat" with regard to workers with disabilities.

Rather than hiring people with a disability, who want to work for the state; instead, state organizations can merely--and legally--reclassify some of their existing workers as now being "disabled", because perhaps the started to wear glasses. So long as no one snoops to closely, this shell game creates the appearance of having hired PWD's, and thus fulfilling the mandate of the state to hire people with disabilities, when actually all you did was relabel some current employees, now calling them "disabled."

Look at the examples below. Notice the spikes in certain years, for PWD's, and notice these spikes don't occur in any of the four race groups---ever. The yellow boxes reveal percentage increases of 30% or more in a given year. The spreadsheet that aggregates 11 years of Annual Census data (Table B), used to create these figures, and also dozens more, can be [downloaded here](#).

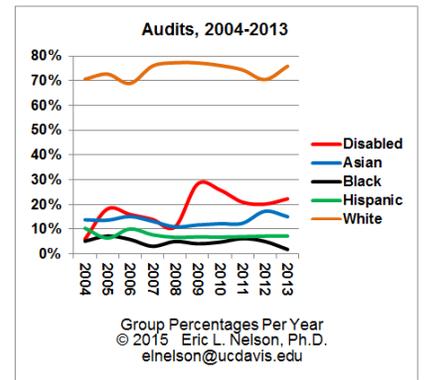
Year	Disabled	Asian	Black	Hispanic	White
2007	6.3%	6.3%	8.3%	13.5%	71.9%
2008	6.7%	6.7%	3.8%	15.2%	74.3%
2009	17.1%	10.3%	2.6%	15.4%	71.8%
2010	13.9%	10.2%	4.6%	15.7%	69.4%
2011	15.6%	11.7%	5.2%	19.5%	63.6%
2012	31.8%	8.2%	5.9%	21.2%	64.7%
2013	44.2%	9.3%	5.8%	20.9%	64.0%

Disabled Pct Chg
6.7%
156.4%
-18.8%
12.2%
103.8%
39.1%



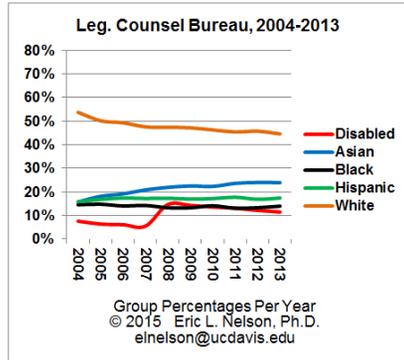
Year	Disabled	Asian	Black	Hispanic	White
2003	7.7%	14.5%	5.1%	9.4%	70.9%
2004	6.0%	13.8%	5.1%	10.4%	70.7%
2005	18.2%	13.6%	7.2%	6.4%	72.7%
2006	15.9%	15.1%	5.9%	10.1%	68.9%
2007	14.0%	13.2%	3.1%	7.8%	76.0%
2008	10.9%	10.9%	5.0%	6.7%	77.3%
2009	28.3%	11.7%	4.1%	6.9%	77.2%
2010	25.9%	12.2%	4.8%	6.8%	76.2%
2011	20.9%	12.4%	6.2%	7.0%	74.4%
2012	20.1%	17.3%	5.0%	7.2%	70.5%
2013	22.3%	15.1%	1.8%	7.2%	75.9%

Disabled Pct Chg
-21.1%
201.4%
-12.5%
-12.5%
158.8%
-8.6%
-19.0%
-3.8%
10.6%



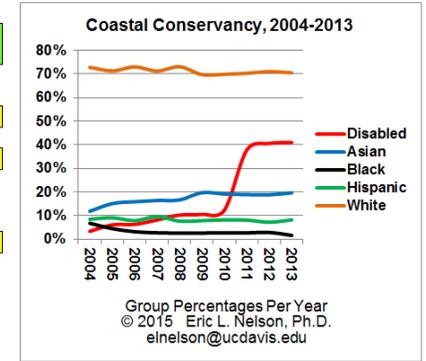
Year	Disabled	Asian	Black	Hispanic	White
2003	8.1%	15.6%	14.3%	16.0%	54.0%
2004	7.6%	15.8%	14.6%	15.9%	53.8%
2005	6.4%	18.2%	14.8%	16.8%	50.2%
2006	6.1%	19.2%	14.1%	17.4%	49.3%
2007	5.5%	20.9%	14.3%	17.2%	47.6%
2008	14.7%	21.9%	13.3%	17.3%	47.4%
2009	14.3%	22.6%	13.3%	17.0%	47.2%
2010	13.6%	22.4%	14.1%	17.2%	46.3%
2011	13.1%	23.7%	13.1%	17.7%	45.5%
2012	12.2%	24.0%	13.3%	16.9%	45.8%
2013	11.5%	23.9%	14.0%	17.4%	44.6%

Disabled Pct Chg
-6.0%
-16.3%
-4.3%
-10.2%
167.4%
-2.4%
-5.2%
-3.5%
-7.1%
-5.7%



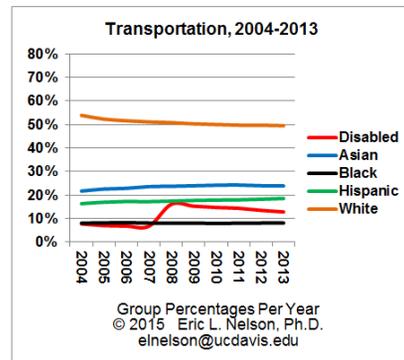
Year	Disabled	Asian	Black	Hispanic	White
2003	3.4%	11.9%	6.8%	8.5%	72.8%
2004	3.4%	11.9%	6.8%	8.5%	72.8%
2005	6.1%	15.1%	4.5%	9.1%	71.3%
2006	6.3%	15.9%	3.2%	7.9%	73.0%
2007	8.2%	16.4%	2.7%	9.6%	71.2%
2008	10.3%	16.7%	2.6%	7.7%	73.1%
2009	10.5%	19.7%	2.6%	7.9%	69.7%
2010	12.3%	19.2%	2.7%	8.2%	69.9%
2011	37.8%	18.9%	2.7%	8.1%	70.3%
2012	40.6%	18.8%	2.9%	7.2%	71.0%
2013	41.0%	19.7%	1.6%	8.2%	70.5%

Disabled Pct Chg
0.0%
79.8%
3.2%
30.5%
24.8%
2.6%
17.1%
206.9%
7.2%
1.0%



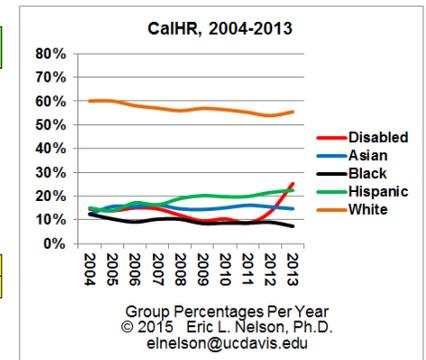
Year	Disabled	Asian	Black	Hispanic	White
2003	8.1%	21.3%	8.1%	16.2%	54.4%
2004	7.8%	21.7%	8.1%	16.3%	53.9%
2005	7.0%	22.6%	8.2%	17.0%	52.3%
2006	6.8%	22.9%	8.3%	17.3%	51.6%
2007	6.8%	23.6%	8.1%	17.2%	51.1%
2008	16.1%	23.7%	8.0%	17.5%	50.8%
2009	15.3%	24.0%	8.1%	17.7%	50.3%
2010	14.7%	24.2%	8.0%	17.9%	50.0%
2011	14.4%	24.3%	8.0%	18.0%	49.7%
2012	13.5%	24.0%	8.1%	18.2%	49.7%
2013	12.8%	23.9%	8.1%	18.5%	49.5%

Disabled Pct Chg
-3.7%
-9.2%
-3.0%
-0.9%
138.0%
-5.1%
-3.6%
-2.4%
-6.1%
-4.8%



Year	Disabled	Asian	Black	Hispanic	White
2003	13.3%	11.4%	12.3%	14.8%	61.6%
2004	14.6%	12.4%	12.4%	15.1%	60.1%
2005	13.9%	15.7%	10.4%	13.9%	60.1%
2006	15.1%	15.6%	9.1%	17.2%	58.1%
2007	14.7%	16.3%	10.3%	16.3%	57.1%
2008	12.0%	14.7%	10.3%	19.0%	56.0%
2009	9.6%	14.4%	8.5%	20.2%	56.9%
2010	10.5%	15.1%	8.7%	19.8%	56.4%
2011	8.7%	16.1%	8.7%	19.9%	55.3%
2012	13.4%	15.5%	9.1%	21.6%	53.9%
2013	25.3%	14.7%	7.3%	22.4%	55.5%

Disabled Pct Chg
9.6%
-4.9%
8.9%
-2.7%
-18.5%
-19.9%
9.3%
-16.9%
53.7%
89.4%



- Did the Inspector General really have two years of amazing hiring of PWD's, when most years there is a little growth? (2009, 2012)
- Did Audits really more than triple their number of PWD's in a single year (2005), and double them in another? (2009)
- Look at the Legislative Counsel. Nine of ten years the PWD percentage goes down. Yet in one amazing year it increased 167%. (2008)
- CalTrans shows a negative trend nine out of ten years, and then had an amazing year with an almost 140% increase in the rate of PWD employment.
- The watch dog of disability hiring, CalHR, eight bad years, and then two years of amazing growth. Did they hire, or did they reclassify?



George Hodan, public domain

To summarize:

- Currently the state's rate of hiring of PWD's is rapidly declining.
- Currently the number of PWD's reported by the state is increasing. Mathematically, this is impossible, unless reclassification is going on.

Thus, the state's message to its citizens who have disabilities, and who can work, and who want to work, seems to be this:

**If you have a disability we will not include you in state service;
however, we will create an appearance of doing so by by
reclassifying some of our employees as disabled and then we will
report a steadily increasing rate of PWD employment.**

How the State Could Achieve A 52% PWD Employment Rate

About 52% of the U.S. population age three and older use corrective lenses, either glasses or contacts.⁷ Thus, under California's definition of disability the state could quickly exceed its own goal of employing at least 16.6% PWD's in the state workforce. All that needs to be done is a quick count of state workers who wear glasses or contact lenses. This should produce at least a 50% rate of PWD employment.

⁷ Vital & Health Statistics Series 10, No. 145 (1984, February). Washington, D.C.: United States Department of Human and Health Services. <http://stacks.cdc.gov/view/cdc/12584>



Do the Right Thing

The alternative is to do the right, honest, and virtuous thing:

- Make the directors of state departments ramp up hiring of people with disabilities, and hold them personally accountable for doing so.
- Give CalHR's enforcement unit some power and a clear mandate to investigate state organizations whose disability hiring rate is low.

I would argue it is the state's affirmative duty to correct for the discrimination PWD's face in private industry, by preferentially hiring people with disabilities. Doing so would help to erase the unlawful rejection workers with disabilities face when they seek work.

This is where you take action by emailing the governor and the secretary of GovOPs (who oversees CalHR and SPB), asking them to read this blog and then take corrective action.

Contact Governor Brown: <https://govnews.ca.gov/gov39mail/mail.php>

Contact Secretary Batjer: AskGovOps@govops.ca.gov

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