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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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PROPOSED ACTION ON REGULATIONS

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TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission (the Commission), under the authority vested in it by the Political Reform Act (the Act)¹ by Section 83112 of the Government Code proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Commission will consider the proposed regulation at a public hearing on or after **December 17, 2020** at the offices of the Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California, commencing at approximately **10:00 a.m.** Written comments should be received at the Commission offices no later than **5:00 p.m.** on **December 15, 2020**.

NOTICE OF INTENTION TO AMEND EXISTING CONFLICT-OF-INTEREST CODE

The Commission is providing notice of its intention to review and amend 2 Cal. Code Reg. Section 18351, the Commission’s conflict-of-interest code. Authority for this action is based on Government Code Section 87306. A written comment period has been established commencing on **October 16, 2020**. Written comments concerning the proposed amendments should be directed to the Fair Political Practices Commission, Attention: Toren Lewis, 1102 Q Street, Suite 3000, Sacramento, California 95811. For inquiries, call (916) 322-5660. Any written comments relating to the proposed action should be received no later than **December 15, 2020**, in order for them to be considered by the agency before it amends its code.

The Commission has prepared an Initial Statement of Reasons as a written explanation of the reasons for the amendments. This Initial Statement of Reasons, the regulatory language of the proposed amendment, and

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All further statutory references are to the Government Code. The regulations of the Fair Political Practices Commission are contained in sections 18110 through 18997 of Title 2 of the California Code of Regulations (hereafter Regulation).

other information upon which the proposed amendment is based are available to interested persons at the Commission’s address listed above.

After the Commission’s public hearing, the agency’s proposed conflict-of-interest code will be submitted to the agency’s Code Reviewing Body (i.e., the Attorney General’s Office) for its review.

REGULATORY ACTION

Amend 2 Cal. Cod Regs. Section 18351: Pursuant to Government Code Section 87306 and 2 Cal. Code Regs. Section 18750, the Commission will amend its conflict-of-interest code due to changed circumstances, including the creation of new positions which must be designated pursuant to Government Code Section 87306 and relevant changes in the duties assigned to existing positions.

Cover Page

- No changes to any cover pages.

Executive Office

- The position of Information Officer has moved to the Executive Office from the abolished External Affairs and Education Division. The Legislative and External Affairs Coordinator position has been abolished. Legislative Counsel has been added. These positions are added to this part of the code to reflect the Commission’s current organization. The positions are now assigned to category one due to the positions’ ability to influence agency policy and actions in the Executive Office.

Former External Affairs and Education Division

- The Commission has abolished this division. Positions that were formerly in this division are now in the Legal Division.

Legal Division

- The Staff Services Manager II position has been removed because the position was abolished.
- The Staff Services Manager I position has been added to reflect the Commission’s current organization and is assigned to category three, which is the category assigned to Legal staff that are not Counsel. This disclosure category is narrowly tailored to economic interests relating to candidates, campaign committees, lobbyists and other persons regulated by the Commission.
- Staff Services Analyst/Assistant Political Reform Consultant has been added to reflect the Commission’s current organization and is assigned to category three.

Enforcement Division

- The position of Supervising Management Auditor is added to this part of the code. This

position is assigned disclosure category two, which is the disclosure category assigned to Enforcement staff, other than category one filers. This disclosure category is narrowly tailored to real property and economic interests relating to candidates, campaign committees, lobbyists and other persons regulated by the Commission.

- The position of Associate Government Program Analyst has been added. This position is added to the code to reflect the Commission's current organization. This position is assigned to disclosure category two, which is the disclosure category assigned to Enforcement staff, other than category one filers. This disclosure category is narrowly tailored to real property and economic interests relating to candidates, campaign committees, lobbyists and other persons regulated by the Commission.
- The position of Staff Services Analyst (subpoena services) was renamed Management Services Technician (subpoena services). The job duties of this position have not changed.

Administration and Technology Division

- No changes have been made.

Disclosure Categories

- Paragraph (D) of Category 3 was removed because the positions this disclosure category are assigned to no longer write formal advice letters.

SCOPE

The Commission may adopt the language noticed herein, or it may choose new language to implement its decisions concerning the issues identified above or related issues. The Commission must determine that no alternative considered by the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

FISCAL IMPACT

Fiscal Impact on Local Government. This regulation will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. This regulation will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulation will have no fiscal impact on the federal funding of any state program or entity.

The adoption of the proposed amendments: (1) will not impose a cost or savings on any state agency, local agency or school district that is required to be reim-

bursed under Part 7 (commencing with section 17500) of Division 4 of Government Code; (2) will not result in any nondiscretionary cost or savings to local agencies; (3) will not result in any cost or savings in federal funding to the state; (4) will not impose a mandate on local agencies or school districts; and (5) will not have any potential cost impact on private persons or business including small businesses.

AUTHORITY

Government Code Section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposed and provisions of the Political Reform Act.

REFERENCE

The purpose of this regulation is to implement, interpret, and make specific Government Code Section 87300, 87302, 87303, 87306 and 87311.

CONTACT

Any inquiries concerning this proposal should be made to Toren Lewis, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone: (916) 322-5660. Proposed regulatory language can be accessed at <http://www.fppc.ca.gov/>.

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission (the Commission), under the authority vested in it by the Political Reform Act (the Act)¹ by Section 83112 of the Government Code proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Commission will consider the proposed regulations at a public hearing on or after **November 19, 2020**, at the offices of the Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California, commencing at approximately **10:00 a.m.** Written comments should be received at the Commission offices no later than **5:00 p.m.** on **November 17, 2020**.

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All further statutory references are to the Government Code. The regulations of the Fair Political Practices Commission are contained in sections 18110 through 18997 of Title 2 of the California Code of Regulations (hereafter Regulation).

BACKGROUND/OVERVIEW

- (1) *Biennial Cost of Living Adjustment for Campaign Contribution Limits, Voluntary Expenditure Ceilings, and State Officeholder Contribution Limits*: Adoption of Amendments to Regulation 18545.

Regulation 18545 contains the current campaign contribution limit, voluntary expenditure ceiling amounts, and state officeholder account limits. Sections 83124, 85316(b)(4), and 89503(f) of the Act, charge the Commission with making a biennial cost of living adjustment to limit amounts in order to reflect changes in the Consumer Price Index (“CPI”). The California Department of Finance (“DOF”) provides the forecast and actual annual California CPI for All Urban Consumers, which is based upon U.S. Bureau of Labor Statistics. (Section 82001, Regulation 18544(c).)

This amendment makes the cost of living adjustments for the period of January 1, 2021 through December 31, 2022. The adjustments are based on the California CPI for 2020 as the “calendar year immediately preceding the year in which the adjustment is to take effect.” (Regulation 18544(c).) The DOF CPI Forecast, May Revise, prepared in April 2020, lists the 2020 annual forecast California CPI as “283.4.”²

- (2) *Biennial Gift Limit Adjustments*: Adoption of Amendments to Regulations 18700, 18730, and 18940.2.

The gift limit must also be adjusted biennially by the Commission to reflect changes to the California CPI. (Sections 87103(e) and 89503(f).)

REGULATORY ACTION

Amend 2 Cal. Code Regs. Section 18545: The proposed amendments to Regulation 18545 reflect the adjusted contribution limits and voluntary expenditure ceilings for state candidates for the period of January 1, 2021 through December 31, 2022.

Amend 2 Cal. Code Regs. Sections 18700, 18730, 18940.2. The proposed amendments reflect the adjustment of the gift limit from \$500 to \$520 for the period of January 1, 2021 through December 31, 2022.

SCOPE

The Commission may adopt the language noticed herein, or it may choose new language to implement

² A forecast annual CPI is used due to the fact that the actual CPI for a given year is not available until mid-January of the following year. See http://www.dof.ca.gov/Forecasting/Economics/Eco_Forecasts_US_Ca/index.html, CPI-U all items for 2020, for the relevant CPI figure.

its decisions concerning the issues identified above or related issues. The Commission may delete provisions, adopt the language noticed herein, or choose new language to implement its policy regarding implementation of the CPI adjustments.

FISCAL IMPACT STATEMENT

Fiscal Impact on Local Government. This regulation will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. This regulation will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulation will have no fiscal impact on the federal funding of any state program or entity.

AUTHORITY

Government Code Section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Political Reform Act.

REFERENCE

The purpose of this regulation is to implement, interpret, and make specific Government Code Sections 82028, 83124, 85301, 85302, 85303, 85316, 85400, 87100, 87103, 87300–87302, 89502, 89503 and 89506.

CONTACT

Any inquiries should be made to Amanda Apostol, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, CA 95811; telephone (916) 322–5660 or 1–866–ASK–FPPC. Proposed regulatory language can be accessed at <http://www.fppc.ca.gov/the-law/fppc-regulations/proposed-regulations-and-notices.html>.

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission (the “Commission”), under the authority vested in it under the Political Reform Act (the “Act”)¹ by Section 83112 of the Government

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The Commission’s regulations are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Commission will consider the proposed changes to its regulations at a public hearing on or after **November 19, 2020**, at the offices of the Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California, commencing at approximately **10:00 a.m.** Written comments should be received at the Commission offices no later than **5:00 p.m.** on **November 17, 2020**.

BACKGROUND/OVERVIEW

The primary purposes of this proposed update of the Commission’s regulations governing the filing of statements of economic interests are to: (1) provide greater clarity and guidance with respect to processes associated with electronic filing; (2) ameliorate duplicative filing obligations which do not provide additional disclosure; and (3) revise processes for the filing of certain specified public officials’ statements to better accord with the capabilities of approved electronic filing systems.

Facilitation of Electronic Filing

Section 81010 of the Act sets forth a filing officer’s duties with respect to required reports and statements, including public officials’ statements of economic interests. Regulation 18115 sets forth the specific duties of filing officers and filing officials in regard to those statements. Regulation 18115, however, only addresses filing officer and filing official duties with respect to statements filed in paper format and does not expressly address their duties with respect to statements filed electronically.

In order to provide greater clarity as to the distinct duties of filing officers and filing officials applicable to a statement of economic interests submitted in paper format and those submitted electronically, the proposed update would:

- Repeal existing Regulation 18115 and add new Regulation 18115, which would set forth filing officer and filing official duties applicable to both statements filed in paper format and those filed electronically;
- Add new Regulation 18115.1, which would consolidate filing officer and filing official duties with respect to each statement submitted in paper format; and
- Add new Regulation 18115.2, which would consolidate filing officer and filing official duties with respect to each statement submitted electronically, and expressly provide that a statement filed electronically through an approved electronic filing system is an “original statement.”

Reduction of Duplicative Filings

Section 87200 identifies the public officials subject to reporting requirements of Article 2 of the Act (Sections 87200–87210). By virtue of holding their primary positions identified in Section 87200, certain Section 87200 filers are required by law to serve in an additional position identified in Section 87200.²

The proposed update would expressly provide that an official that holds a Section 87200 position and is required by law to serve in an additional Section 87200 position due to holding the primary Section 87200 position is only required to file a single statement for the primary position if that statement contains all required disclosure for all jurisdictions. (New Regulation 18723.1(a).)

A local official specified in Section 87200 is required to file statements of economic interests for each additional designated position the official holds with another agency that has a broader jurisdiction than the agency in which the official holds the position specified in Section 87200.³

The proposed update would authorize a county supervisor, city councilmember, planning commissioner or mayor (each of which is specified in Section 87200) who also holds a designated position with another agency, with broader jurisdiction than the agency in which the official holds the Section 87200 position, to file an expanded statement for each position containing all reportable interests for all jurisdictions. (New Regulation 18723.1(e).) The proposed update would also expressly provide that if the expanded statement is filed with another agency, other than the agency in which the official holds the Section 87200 position, that duplicative statement would not be required to be forwarded to the Commission. (New Regulation 18723.1(g).)

Accommodation of Approved Electronic Filing System Limitations

Regulation 18735(b) specifies the manner in which a designated employee who transfers within the same agency to the position of board member, commissioner, head of an agency, executive director, or other chief executive officer must file statements of economic interests after assuming office. That provision requires that designated employee to amend his or her prior statement, as specified, rather than file a leaving office statement for the former position and an assuming office for the new position.

² See, e.g., Section 20090(d) which requires the state Treasurer to also serve as a member of the Board of Administration of the California Public Employees’ Retirement System (“CalPERS”).

³ For example, a city councilmember that also serves in a designated position with the county is required to file a statement for each position due to the county having a broader jurisdiction than the city.

Likewise, Regulation 18735(e) specifies the manner in which a designated employee of the Legislature who holds a position with the same disclosure requirements as a member of the Legislature and leaves that designated position to become a member of the Legislature, and authorizes that former designated employee to file an annual statement, as specified, in lieu of filing leaving or assuming office statements.

Approved electronic filing systems, however, are currently incapable of administering the filing processes set forth in existing Regulation 18735(b) and (e). To accommodate the current technological capabilities of those systems, the proposed update would:

- Overhaul Regulation 18735(b) to instead require an official who transfers from a designated position to a specified executive position within the same agency to file leaving and assuming office statements under Section 87202(a) or Section 87302(b) as applicable.
- Revise Regulation 18735(e) to instead require an official who leaves a designated position with the legislature that has the same disclosure requirements as a member of the Legislature to become a member of the Legislature to file leaving and assuming office statements under Section 87202 or 87302(b) as applicable.

Section 87302.6 requires a member of a board or commission of a newly created agency to file an initial statement of economic interests at the same time and manner as a public official specified in Section 87200, and to file subsequent statements pursuant to Section 87302 once the member is subject to an approved conflict of interest code. Regulation 18754 governs the filing of statements by such a member under Section 87302.6, and Regulation 18754(b)(3)(B) authorizes such a member's leaving office statement to serve as the member's annual statement in certain circumstances.

Approved electronic filing systems, however, are currently incapable of administering the filing process set forth in Regulation 18754(b)(3)(B). To align this process with the current technological capabilities of those systems, the proposed update would amend Regulation 18754 by instead requiring such a member to file a leaving office statement under Section 87302(b). The proposed update would also update a cross reference in Regulation 18732.5 and make other technical nonsubstantive changes.

REGULATORY ACTIONS

Add: 2 Cal. Code Regs. Sections 18115, 18115.1, 18115.2, and 18723.1.

Amend: 2 Cal. Code Regs. Sections 18732.5, 18735, and 18754.

Repeal: 2 Cal. Code Regs. Section 18115.

SCOPE

The Commission may adopt the language noticed herein, or it may choose new language to implement its decisions concerning the issues identified above or any related issues.

FISCAL IMPACT STATEMENT

Fiscal Impact on Local Government. This regulation will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. This regulation will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulation will have no fiscal impact on the federal funding of any state entity or program.

AUTHORITY

Government Code Section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Act.

REFERENCE

Government Code Sections 81004, 81010, 81010.5, 82003, 82019, 82041, 82049, 87200–87210, 87300–87302.6, 87500, 87500.2, 87500.4, and 87505.

CONTACT

Any inquiries should be made to Matthew F. Christy, Fair Political Practices Commission, 1102 Q St., Suite 3000, Sacramento, CA 95811; email mchristy@fppc.ca.gov; telephone (916) 322–5660 or 1–866–ASK–FPPC. Proposed regulatory language can be accessed at <http://www.fppc.ca.gov/the-law/fppc-regulations/proposed-regulations-and-notices.html>.

TITLE 8. LABOR AND WORKFORCE DEVELOPMENT AGENCY

The Public Employment Relations Board (PERB or Board) proposes to adopt and amend the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to adopt proposed new sections 32092, 32093, 32094 [Chapter 1, Subchapter 2, Article 1] 32110, 32111, 32115, 32125, and 32143 [Article 2], and amend sections 32090, 32091, 32122, 32123,

32124, 32130, 32132, 32135, 32136, 32140, 32142, 32166, 32212, 32360, 32375, 32410, 32450, 32455, 32500, 32605, 32635, 32700, 33002, 61020, 61080, 61210, 61215, 61350, 61450, 81020, 81080, 81210, 81350, 81450, 91020, 91210, 91350, 91450, 93010, 93030, and 93070.

Section 32090 provides for filing through PERB's electronic filing system. Section 32091 defines the term "electronic filing". Proposed section 32092 defines the term "electronic signature". Proposed section 32093 defines the term "electronic service". Proposed section 32094 defines the term "Filed". Proposed section 32110 provides the requirements when filing electronically with PERB. Proposed section 32111 authorizes the Board to direct electronic posting of representation notices for remote workers. Proposed section 32115 specifies in which "regional office" the parties must file representation petitions. Section 32122 specifies in which "regional office" representation petitions should be filed, except for filings under the Dills Act and HEERA. Section 32123 specifies in which "regional office" representation petitions should be filed under HEERA. Section 32124 specifies in which "regional office" representation petitions should be filed under the Dills Act. Proposed section 32125 addresses the filing of confidential documents with PERB. Section 32130 addresses the computation of time for filings with PERB. Section 32132 concerns the requirements for an extension of time in which to file documents with the Board. Section 32135 concerns non-electronic filing requirements. Section 32136 concerns late filing requirements. Section 32140 concerns service. Section 32145 concerns waiver of time period requirements for filing, requirements. Proposed section 32143 concerns placing cases in abeyance. Section 32166 concerns an application to join a representation hearing as a full party. Section 32212 concerns briefs and oral argument. Section 32215 concerns issuance of proposed decisions. Section 32360 concerns requirements for appeals of administrative decisions. Section 32375 provides for responses to administrative appeals. Section 32410 provides for the filing of requests for reconsideration. Section 32450 concerns the filing of requests for injunctive relief. Section 32455 concerns the investigation of requests for injunctive relief. Section 32500 concerns procedures for requesting judicial review of a decision in a representation case. Section 32605 concerns the number of copies of unfair practice charges required for filing. Section 32635 provides for the appeal of dismissals of unfair practice charges. Section 32700 concerns the requirements for valid proof of employee support in representation proceedings. Section 33002 concerns the stay of an SMCS conducted election. Section 61020 concerns the submission of proof of support for representation petitions under the MMBA. Section 61080 concerns

the conduct of elections and eligibility to appear on a ballot in matters arising under the MMBA. Section 61210 provides for the filing of a petition for certification under the MMBA. Section 61215 provides for the filing of a petition for recognition under the MMBA. Section 61350 provides for the filing of a decertification petition under the MMBA. Section 61450 provides for the filing of a unit modification petition under the MMBA. Section 81020 concerns the submission of proof of support for representation petitions under the Trial Court Act. Section 81080 concerns the conduct of elections and eligibility to appear on a ballot in matters arising under the Trial Court Act. Section 81210 provides for the filing of a petition for certification under the Trial Court Act. Section 81350 provides for the filing of a decertification petition under the Trial Court Act. Section 81450 provides for the filing of a unit modification petition under the Trial Court Act. Section 91020 concerns the submission of proof of support for representation petitions under the Trial Court Interpreters Act. Section 91080 concerns the conduct of elections and eligibility to appear on a ballot in matters arising under the Trial Court Interpreters Act. Section 91210 provides for the filing of a petition for certification under the Trial Court Interpreters Act. Section 91350 provides for the filing of a decertification petition under the Trial Court Interpreters Act. Section 91450 provides for the filing of a unit modification petition under the Trial Court Interpreters Act. Section 93010 identifies the form of a petition for certification under the Los Angeles County Metropolitan Transportation Authority Transit Employer-Employee Relations Act (TEERA). Section 93030 concerns the conduct of hearings concerning a petition for certification under TEERA. Section 93070 identifies the procedures for conducting an election under TEERA.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. Comments may also be submitted by facsimile (FAX) at (916) 327-6377 or by e-mail at felix.delatorre@perb.ca.gov. The written comment period closes on **November 30, 2020**, which is 45 days after the pub-

lication of this notice. The Board will only consider comments received at the Board offices by that time. Submit written comments to:

J. Felix De La Torre, General Counsel
Public Employment Relations Board
1031 18th Street
Sacramento, CA 95811

AUTHORITY AND REFERENCE

Pursuant to Government Code section 3541.3(g), the Board is authorized to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Educational Employment Relations Act (EERA). Pursuant to Government Code sections 3509(a) and 3541.3(g), the Board is authorized to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Meyers–Milius–Brown Act (MMBA). Government Code section 3513(h) authorizes the Board to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Ralph C. Dills Act (Dills Act). Government Code section 3563(f) authorizes the Board to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Higher Education Employer–Employee Relations Act (HEERA). Pursuant to Public Utilities Code section 99561(f), the Board is authorized to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Los Angeles County Metropolitan Transportation Authority Transit Employer–Employee Relations Act (TEERA). Pursuant to Government Code sections 3541.3(g) and 71639.1(b), the Board is authorized to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Trial Court Employment Protection and Governance Act (Trial Court Act). Pursuant to Government Code sections 3541.3(g) and 71825(b), the Board is authorized to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Trial Court Interpreter Employment and Labor Relations Act (Court Interpreter Act). Pursuant to Government Code sections 3541.3(g) and 3524.52(a), the Board is authorized to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Judicial Council Employer–Employee Relations Act (JCEERA). Pursuant to Government Code sections 3541.3(g) and 3555(c), the Board is authorized to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Public Employee

Communication Chapter (PECC). Pursuant to the Government Code sections 3541.3(g) and 3551(a), the Board is authorized to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Prohibition on Public Employers Deterring or Discouraging Union Membership chapter (PEDD). Pursuant to Education Code sections 8431(e), the Board is authorized to adopt, amend and repeal rules and regulations to carry out the provisions and effectuate the purposes and policies of the Child Care and Development Act (Childcare Provider Act).

General reference for **section 32090** of the Board’s regulations: Sections 3509, 3513, 3514.5, 3541.3, 3541.5, 3551(a), 3555.5(c), 3563, 3563.2, 71639.1 and 71825, Government Code; and Sections 99561 and 99561.2, Public Utilities Code. General reference for **section 32091** of the Board’s regulations: Sections 3509, 3513, 3514.5, 3541.3, 3541.5, 3551(a), 3555.5(c), 3563, 3563.2, 71639.1 and 71825, Government Code; and Sections 99561 and 99561.2, Public Utilities Code. General reference for **proposed section 32092** of the Board’s regulations: Sections 3509, 3513, 3514.5, 3541.3, 3541.5, 3551(a), 3555.5(c), 3563, 3563.2, 71639.1 and 71825, Government Code; and Sections 99561 and 99561.2, Public Utilities Code. General reference for **proposed section 32093** of the Board’s regulations: Sections 3509, 3513, 3514.5, 3541.3, 3541.5, 3551(a), 3555.5(c), 3563, 3563.2, 71639.1 and 71825, Government Code; and Sections 99561 and 99561.2, Public Utilities Code. General reference for **proposed section 32094** of the Board’s regulations: Sections 3509, 3513, 3514.5, 3541.3, 3541.5, 3551(a), 3555.5(c), 3563, 3563.2, 71639.1 and 71825, Government Code; and Sections 99561 and 99561.2, Public Utilities Code. General reference for **proposed section 32110** of the Board’s regulations: Sections 3509, 3513(h), 3541.3(n), 3551(a), 3555.5(c), 3563(m), 71639.1 and 71825, Government Code; and Section 99561(m), Public Utilities Code. General reference for **proposed section 32111** of the Board’s regulations: Sections 3509, 3513(h), 3541.3, 3551(a), 3555.5(c), 3563, 71639.1 and 71825, Government Code; and Section 99561, Public Utilities Code. General reference for **proposed section 32115** of the Board’s regulations: Sections 3509, 3513(h), 3541.3, 3551(a), 3555.5(c), 3563, 71639.1 and 71825, Government Code; and Section 99561, Public Utilities Code. General reference for **section 32122** of the Board’s regulations: Sections 3509, 3541.3(n), 71639.1, 71807 and 71825, Government Code; and Section 99561(m), Public Utilities Code. General reference for **section 32123** of the Board’s regulations: Section 3563(m), Government Code. General reference for **section 32124** of the Board’s regulations: Sections 3524 and 3541.3(n), Government Code. General reference for **proposed section 32125** of the Board’s regulations: Sections

3509, 3513(h), 3541.3, 3544.7(b), 3551(a), 3555.5(c), 3563, 3577(b), 71639.1 and 71825, Government Code; and Sections 99561 and 99564.4(b), Public Utilities Code. General reference for **section 32130** of the Board's regulations: Sections 3509, 3513(h), 3541.3, 3544.7(b), 3551(a), 3555.5(c), 3563, 3577(b), 71639.1 and 71825, Government Code; and Sections 99561 and 99564.4(b), Public Utilities Code. General reference for **section 32132** of the Board's regulations: Sections 3509, 3509.3, 3513(h), 3520.8, 3541.3(n), 3541.35, 3551(a), 3555.5(c), 3563(m), 3563.5, 71639.1, 71639.15, 71825 and 71825.05, Government Code; and Sections 99561(m) and 99561.4, Public Utilities Code. General reference for **section 32135** of the Board's regulations: Sections 3509, 3513(h), 3541.3(n), 3551(a), 3555.5(c), 3563(m), 71639.1 and 71825, Government Code; and Section 99561(m), Public Utilities Code. General reference for **section 32136** of the Board's regulations: Sections 3509, 3513(h), 3541.3(n), 3551(a), 3555.5(c), 3563(m), 71639.1 and 71825, Government Code; and Sections 12, 12(a) and 1013, Code of Civil Procedure; and Section 99561(m), Public Utilities Code. General reference for **section 32140** of the Board's regulations: Sections 3509, 3513(h), 3541.3(n), 3551(a), 3555.5(c), 3563(m), 71639.1 and 71825, Government Code; and Section 99561(m), Public Utilities Code. General reference for **section 32142** of the Board's regulations: Sections 3501(c), 3518(j), 3541.3(n), 3551(a), 3555.5(c), 3563(m), 71601(k), 71639.1, 71801(h), 71807 and 71825, Government Code; and Sections 99560.1(g) and 99560.1(h), Public Utilities Code. General reference for **proposed section 32143** of the Board's regulations: Sections 3509, 3509.3, 3513(h), 3520.8, 3541.3(n), 3541.35, 3551(a), 3555.5(c), 3563(m), 3563.5, 71639.1, 71639.15, 71825 and 71825.05, Government Code; and Sections 99561(m) and 99561.4, Public Utilities Code. General reference for **section 32166** of the Board's regulations: Sections 3509, 3513(h), 3541.3(a), 3541.3(b), 3541.3(h), 3541.3(j), 3541.3(m), 3541.3(n), 3563(a), 3563(c), 3563(g), 3563(k), 3563(l), 71639.1 and 71825, Government Code; and Sections 99561(a), 99561(c), 99561(g), 99561(k) and 99561(l), Public Utilities Code. General reference for **section 32212** of the Board's regulations: Sections 3509, 3513(h), 3541.3(h), 3551(a), 3555.5(c), 3563(g), 71639.1 and 71825, Government Code; and Section 99561(g), Public Utilities Code. General reference for **section 32360** of the Board's regulations: Sections 3509, 3513(h), 3541.3(k), 3541.3(n), 3563(j), 3563(m), 71639.1 and 71825, Government Code; and Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300, 95651, 98162.5, 99561(j), 99561(m), 100301, 101344, 102403, 103401, 120505 and 125521, Public Utilities Code. General reference for **section 32375** of the Board's regulations: Sections 3509, 3513(h), 3541.3(k), 3541.3(n), 3563(j), 3563(m), 71639.1 and 71825,

Government Code; and Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300, 95651, 98162.5, 99561(j), 99561(m), 100301, 101344, 102403, 103401, 120505 and 125521, Public Utilities Code. General reference for **section 32410** of the Board's regulations: Sections 3509, 3513(h), 3541.3(k), 3541.3(n), 3551(a), 3555.5(c), 3563(j), 3563(m), 71639.1 and 71825, Government Code; and Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300, 95651, 98162.5, 99561(j), 99561(m), 100301, 101344, 102403, 103401, 120505 and 125521, Public Utilities Code. General reference for **section 32450** of the Board's regulations: Sections 3509, 3513(h), 3551(a), 3555.5(c), 3541.3(j), 3541.3(n), 3563(i), 71639.1 and 71825, Government Code; and Section 99561(i), Public Utilities Code. General reference for **section 32455** of the Board's regulations: Sections 3509, 3513(h), 3541.3(j), 3551(a), 3555.5(c), 3563(i), 71639.1 and 71825, Government Code; and Section 99561(i), Public Utilities Code. General reference for **section 32500** of the Board's regulations: Sections 3509, 3509.5, 3520, 3542, 3564, 71639.4 and 71825.1, Government Code; and Section 9956, Public Utilities Code. General reference for **section 32605** of the Board's regulations: Sections 3502.5, 3509, 3513(h), 3514.5, 3515.7, 3523, 3541.3(i), 3541.3(n), 3541.5, 3546.5, 3547, 3547.5, 3551(a), 3555.5(c), 3563(h), 3563(m), 3563.2, 3584, 3587, 3595, 71632.5, 71636, 71636.3, 71637.1, 71639.1, 71814, 71823 and 71825, Government Code; and Sections 99561(h), 99561.2, 99566.3 and 99569, Public Utilities Code. General reference for **section 32605** of the Board's regulations: Sections 3502.5, 3509, 3513(h), 3514.5, 3515.7, 3523, 3541.3(i), 3541.3(n), 3541.5, 3546.5, 3547, 3547.5, 3551(a), 3555.5(c), 3563(h), 3563(m), 3563.2, 3584, 3587, 3595, 71632.5, 71636, 71636.3, 71637.1, 71639.1, 71814, 71823 and 71825, Government Code; and Sections 99561(h), 99561.2, 99566.3 and 99569, Public Utilities Code. General reference for **section 33002** of the Board's regulations: Sections 3502.5(b), 3502.5(d), 3507.1(c), 71632.5(c), 71636.3 and 71814(c), Government Code. General reference for section 61020 of the Board's regulations: Sections 3502.5, 3507, 3507.1, 3509 and 3541.3, Government Code. General reference for **section 61080** of the Board's regulations: Reference: Sections 3502.5, 3507, 3507.1, 3507.3, 3507.5, 3508, 3509 and 3541.3, Government Code. General reference for **section 61210** of the Board's regulations: Sections 3507, 3507.1, 3507.3, 3507.5, 3508, 3509 and 3541.3(l), Government Code. General reference for **section 61350** of the Board's regulations: Sections 3507, 3507.1, 3509 and 3541.3(c) and (l), Government Code. General reference for **section 61450** of the Board's regulations: Sections 3507, 3507.1, 3507.3, 3507.5, 3508, 3509 and 3541.3(a) and (e), Government Code. General reference for **section 81020** of the Board's regulations: Sections 3541.3, 71632.5, 71636, 71636.3, 71637, 71637.1 and 71639.1, Government

Code. General reference for **section 81080** of the Board's regulations: Sections 3541.3, 71632.5, 71636, 71636.3, 71637, 71637.1 and 71639.1, Government Code. General reference for **section 81210** of the Board's regulations: Sections 3541.3, 71632.5, 71636, 71636.3, 71637, 71637.1 and 71639.1, Government Code. General reference for **section 81350** of the Board's regulations: Sections 3541.3, 71636, 71636.3, 71637, 71637.1 and 71639.1, Government Code. General reference for **section 81450** of the Board's regulations: Sections 3541.3, 71636, 71636.3, 71637, 71637.1 and 71639.1, Government Code. General reference for section 91020 of the Board's regulations: Sections 3541.3, 71814, 71823 and 71825, Government Code. General reference for **section 91210** of the Board's regulations: Sections 3541.3, 71823 and 71825, Government Code. General reference for **section 91350** of the Board's regulations: Sections 3541.3, 71823 and 71825, Government Code. General reference for section 91450 of the Board's regulations: Sections 3541.3, 71823 and 71825, Government Code. General reference for **section 93010** of the Board's regulations: Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300, 95651, 98162.5, 100301, 101344, 102403, 103401, 120505 and 125521, Public Utilities Code. Additional reference: Labor Management Relations Act, 1947, Section 9, 29 USC Section 159; 29 CFR Section 102.60–102.72. General reference for **section 93030** of the Board's regulations: Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300, 95651, 98162.5, 100301, 101344, 102403, 103401, 120505 and 125521, Public Utilities Code. Additional reference: Labor Management Relations Act, 1947, Section 9, 29 USC Section 159; 29 CFR Sections 102.60–102.72. General reference for **section 93070** of the Board's regulations: Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300, 95651, 98162.5, 100301, 101344, 102403, 103401, 120505 and 125521, Public Utilities Code. Additional reference: Labor Management Relations Act, 1947, Section 9, 29 USC Section 159; 29 CFR Sections 102.60–102.72.

POLICY STATEMENT OVERVIEW

PERB is a quasi-judicial agency which oversees public sector collective bargaining in California. PERB presently administers nine collective bargaining statutes, ensures their consistent implementation and application, and adjudicates disputes between the parties subject to them. The statutes administered by PERB are: the Meyers–Milius–Brown Act (MMBA) of 1968, which established collective bargaining for California's city, county, and local special district employers and employees; the Educational Employment Relations Act (EERA) of 1976 establishing collective bargaining in California's public schools (K–12) and

community colleges; the State Employer–Employee Relations Act of 1978, known as the Ralph C. Dills Act (Dills Act), establishing collective bargaining for state government employees; the Higher Education Employer–Employee Relations Act (HEERA) of 1979 extending the same coverage to the California State University System, the University of California System and Hastings College of Law; the Los Angeles County Metropolitan Transportation Authority Transit Employer–Employee Relations Act (TEERA) of 2003, which covers supervisory employees of the Los Angeles County Metropolitan Transportation Authority; the Trial Court Employment Protection and Governance Act (Trial Court Act) of 2000 and the Trial Court Interpreter Employment and Labor Relations Act (Court Interpreter Act) of 2002, which together provide for collective bargaining rights for most trial court employees; and the Judicial Council Employer–Employee Relations Act (JCEERA) of 2018, which establishes collective bargaining for Judicial Council employees. As of June 27, 2019, the Building a Better Early Care and Education System Act of 2019, known as the Childcare Provider Act (CCPA), establishes collective bargaining for family childcare providers who participate in a state-funded early care and education program.

The proposed regulations update the Board's rules that govern filing requirements, case processing, service of process, as well as access and storage of case materials. In large part, these updates are intended to bring PERB in step with new case processing technologies, consolidate duplicative rules, fill procedural gaps, and simplify the Board's procedures and processes for case adjudication in a way that make them more understandable to our non-attorney constituents.

In addition, PERB's jurisdiction has grown since the Board last updated its case processing and filing requirements. As the Legislature has added new labor relations acts to PERB's jurisdiction, the corresponding regulations often duplicated provisions from earlier labor relations acts. As one example, the current regulations that identifies the PERB office where constituents are required to file representation cases is found in four different regulations. The proposed regulations would consolidate the four regulations into one regulation. Similarly, a party is required to consult two different regulations to learn how and who to serve with case documents. This has resulted in confusion and errors, which delays the adjudication of cases. By consolidating repetitive and associated rules, the proposed regulations will be easier understood and followed by constituents.

When an agency consolidates and adds regulations, those changes often affect other regulations that incorporated by reference the consolidated or new regulations. Therefore, PERB must also update the

non-affected regulations to delete regulations that no longer apply or add new regulations that replace the delete regulations.

INFORMATIVE DIGEST

A. *Adoption of New Sections*

Proposed Section 32092 adopts a definition of “electronic signature” where expressly permitted by statute or within PERB’s regulations.

Proposed Section 32093 adopts a definition of “electronic service” where authorized or required by statute or within PERB’s regulations.

Proposed Section 32094 adopts a definition of “filed” as the term is used for the formal submission of documents with PERB.

Proposed Section 32110 sets forth the requirements that govern the way parties electronically file documents with PERB through ePERB, as that term is defined by amended section 32090. The proposed section is necessary both for the filer and PERB. Without this information, a filer would have no guidance about the size limitations on electronic documents, the use of electronic signatures, after hours filings, and how to upload the documents for filing (e.g., the rule requires that parties file each document separately). The proposed section also makes electronic filing mandatory for all parties except for unrepresented individuals.

Proposed Section 32111 authorizes the Board to direct parties to use electronic means to post and thereby notify remote workers that a representation petition has been filed.

Proposed Section 32115 consolidates into one section the three sections (section 32122, 32123, and 32124) that informed parties at which PERB office to file a matter.

Proposed Section 32125 describes the filing requirements for documents with confidential information. At present, PERB does not have a rule to address and guide parties on this issue. This proposed section therefore addresses the filing of documents with social security numbers, taxpayer-identification numbers, birth dates, the names of minors, or account numbers related to financial institutions. Given the rise in identity theft, this proposed section is necessary to protect PERB’s constituents while simultaneously providing guidance to the parties and PERB when confidential information is required for the adjudication of a matter.

Proposed Section 32143 concerns the placement of PERB cases in abeyance. At present, PERB does not have a rule that addresses when cases may be placed in abeyance or for the length of time a case is in abeyance. The proposed section is needed to ensure that abeyances are granted in a uniform and consistent manner, and that moves cases to a final resolution in a timely manner.

B. *Amendment to the Text of Existing Sections*

Section 32090 provides definitions for service and filing by facsimile transmission. The amendment replaces the definition of “Fax Filing” with the definition of “e-PERB”. This amendment eliminates the use of fax filing and instead establishes ePERB as the means to file electronically file documents with PERB.

Section 32091 provides the definition and means of “Electronic Filing” and “filing by electronic mail”. The amendment removes filing by electronic mail as a means of electronic filing, and instead adds filing through ePERB as the sole means of electronic filing with PERB.

Section 32122 describes the appropriate location for filing documents in representation matters under the Educational Employment Relations Act. The proposed changes would delete the entire section because its requirements have been consolidated under proposed section 32115.

Section 32123 describes the appropriate location for filing documents in representation matters under the Higher Education Employer-Employee Relations Act. The proposed changes would delete the entire section because its requirements have been consolidated under proposed section 32115.

Section 32124 describes the appropriate location for filing of representation matters under the Ralph C. Dills Act. The proposed changes would delete the entire section because its requirements have been consolidated under proposed section 32115.

Section 32130 provides for the computation of time in which to file documents with PERB, which incorporates the language of California Code of Civil Procedure section 1013. The proposed change replaces the authorization to use a facsimile for service with the use of electronic service. The proposed change also provides a two-day extension of time to filings in response to documents served by overnight delivery.

Section 32132 concerns the requirements for an extension of time in which to file documents with the Board. The proposed change permits a Board agent to excuse a late-filed request for an extension of time for good cause as provided by proposed amended section 32136.

Section 32135 defines when a document is considered filed with PERB and requires that parties attach a proof of service with all filed documents. The proposed change would require that documents filed with PERB by mail, overnight delivery or in person must be scan ready to facilitate uploading into ePERB. The proposed change also removes all facsimile filing requirements because PERB will no longer accept such facsimile filings.

Section 32136 concerns late filing requirements. The proposed change establishes good cause to file a

document late if the late filing is caused by a malfunction or error with ePERB.

Section 32140 concerns service requirements. The proposed change removes facsimile service as an option to serve parties. The change also incorporates the entirety of section 32142, which concerns the proper recipients for service of process under the various labor-relations acts under PERB's jurisdiction. The proposed change also describes the rules for service of process via e-PERB.

Section 32142 concerns designation of recipients for service and filing. The proposed change deletes the entire section since it is being incorporated into section 32140, above.

Section 32166 concerns an application to join a representation hearing as a full party. The proposed change deletes references to three regulations concerning proof of support that will be deleted and consolidated with section 32700 through this rulemaking.

Section 32212 concerns briefs and oral argument. The proposed changes remove the requirement that a party file a copy of the brief with PERB.

Section 32360 concerns requirements for appeals of administrative decisions. The proposed change removes the requirement that a party file five copies of its appeal with PERB.

Section 32375 provides for responses to administrative appeals. The proposed change removes the requirement that a party file five copies of its response to an appeal with PERB.

Section 32410 provides for the filing of requests for reconsideration. The proposed change removes the requirement that a party file five copies of its request for reconsideration, or that the responding party file five copies of its opposition with PERB.

Section 32450 concerns the filing of requests for injunctive relief. The proposed change removes the requirement that a party file six copies of its request for injunctive relief with the General Counsel, or that the filing party concurrently serve a copy of its request on the appropriate regional office. In addition, the proposed change provides that requests filed after business hours are deemed filed the next business day.

Section 32455 concerns the investigation of requests for injunctive relief. The proposed change removes the requirement that a responding party file six copies of its response with the General Counsel, or that the responding party concurrently serve a copy of its response on the appropriate regional office. In addition, the proposed change provides that the assigned Board agent will establish and inform the parties of all filing deadlines. The proposed change removes the requirement that the responding party file by personal delivery, express mail, or by some other means intended to overnight delivery, since the Board agent's deadlines will control and the parties will be responsible

for meeting the filing deadlines regardless the means of delivery.

Section 32500 concerns procedures for requesting judicial review of a decision in a representation case. The proposed change removes the requirement that a party file five copies of its request for judicial review, or that the responding party file five copies of its response with PERB.

Section 32605 concerns the number of copies of unfair practice charges required for filing. The proposed change completely deletes section 32605 since the Board will no longer require the filing of additional copies of unfair practice charges.

Section 32635 provides for the appeal of dismissals of unfair practice charges. The proposed change removes the requirement that a party file five copies of its appeal of a dismissal, or that the responding party file five copies of its opposition with PERB.

Section 32700 concerns the requirements for valid proof of employee support in representation proceedings. The proposed changes consolidate with 32700 the several other regulations (i.e., sections 61020, 81020, and 91020) that concern proof of support for the various labor-relations acts under PERB's jurisdiction, and includes rules for submitting proof of support under the Child Care Provider Act. In addition, the proposed changes clarify that, where authorized by law, reasonable local rules that govern proof of support control. The proposed change further deletes text that is either repetitive or has been moved to a more appropriate place within proposed section 32700. The proposed change provides that the party filing proof of support bears the burden to show that it was obtained within one year of the petition file date where the proof of support is undated. The proposed change clarifies that proof of support must be the original document and signed by employees, while removing the option of filing a notarized membership list to show proof of support. Finally, the proposed changes provide for the use and rules of electronic signatures to show proof of support.

Section 33002 provides the means for a party to seek a stay of an SMCS election. The proposed change removes a citation to a regulation that has been stricken and replaces it with a new regulation added to replace the deleted regulation.

Section 61020 describes requirements for proof of support under the MMBA. The proposed change strikes the entirety of section 61020. Section 61020 is repealed because this rulemaking package consolidates the proof of support requirements under section 32700 for all Acts within PERB's jurisdiction.

Section 61080 concerns the conduct of elections and eligibility to appear on ballot under the MMBA. The proposed change removes a citation to repealed sec-

tion 61020 and replaces it with section 32700, which contains all rules regarding proof of support.

Section 61210 provides for the filing of a petition for certification under the MMBA. The proposed change removes a citation to repealed section 61020 and replaces it with section 32700, which contains all rules regarding proof of support.

Section 61215 provides for the filing of a petition for recognition under the MMBA. The proposed change removes a citation to repealed section 61020 and replaces it with section 32700, which contains all rules regarding proof of support.

Section 61350 provides for the filing of a decertification petition under the MMBA. The proposed change removes a citation to repealed section 61020 and replaces it with section 32700, which contains all rules regarding proof of support.

Section 61450 provides for the filing of a unit modification petition under the MMBA. The proposed change removes a citation to repealed section 61020 and replaces it with section 32700, which contains all rules regarding proof of support.

Section 81020 describes requirements for proof of support under the Trial Court Act. The proposed change strikes the entirety of section 81020. Section 81020 is repealed because this rulemaking package consolidates the proof of support requirements under section 32700 for all Acts within PERB's jurisdiction.

Section 81080 concerns the conduct of elections and eligibility to appear on ballot under the Trial Court Act. The proposed change removes a citation to repealed section 81020 and replaces it with section 32700, which contains all rules regarding proof of support.

Section 81210 provides for the filing of a petition for certification under the Trial Court Act. The proposed change removes a citation to repealed section 81020 and replaces it with section 32700, which contains all rules regarding proof of support.

Section 81350 provides for the filing of a decertification petition under the Trial Court Act. The proposed change removes a citation to repealed section 81020 and replaces it with section 32700, which contains all rules regarding proof of support.

Section 81450 provides for the filing of a unit modification petition under the Trial Court Act. The proposed change removes a citation to repealed section 81020 and replaces it with section 32700, which contains all rules regarding proof of support.

Section 91020 describes requirements for proof of support under the Trial Court Interpreter Act. The proposed change strikes the entirety of section 91020. Section 91020 is repealed because this rulemaking package consolidates the proof of support requirements under section 32700 for all Acts within PERB's jurisdiction.

Section 91080 concerns the conduct of elections and eligibility to appear on ballot under the Trial Court Interpreter Act. The proposed change removes a citation to repealed section 91020 and replaces it with section 32700, which contains all rules regarding proof of support.

Section 91210 provides for the filing of a petition for certification under the Trial Court Interpreter Act. The proposed change removes a citation to repealed section 91020 and replaces it with section 32700, which contains all rules regarding proof of support.

Section 91350 provides for the filing of a decertification petition under the Trial Court Interpreter Act. The proposed change removes a citation to repealed section 91020 and replaces it with section 32700, which contains all rules regarding proof of support.

Section 91450 provides for the filing of a unit modification petition under the Trial Court Interpreter Act. The proposed change removes a citation to repealed section 91020 and replaces it with section 32700, which contains all rules regarding proof of support.

Section 93010 identifies the form of a petition for certification under the Transit District Act. The proposed changes would eliminate the need for a party to file one copy of a petition. The proposed change is necessary to provide more clarity and efficiency in the Board's processes.

Section 93030 concerns SMCS's investigation of disputes concerning a petition for certification. The proposed changes would eliminate the need for a party to file one copy of a motion for intervention. The proposed change is necessary to provide more clarity and efficiency in the Board's processes.

Section 93070 identifies the procedures for conducting an election. The proposed changes would eliminate the need for a party to file five copies of exceptions to the report on challenged ballots or objections. The proposed change is necessary to provide more clarity and efficiency in the Board's processes.

C. Amendments Only to the Authority and Reference Citations of Existing Regulations

None.

For more information regarding specific proposed regulations or amendments to the existing regulations, please refer to the proposed regulatory language.

CONSISTENT AND COMPATIBLE WITH EXISTING STATE REGULATIONS

The Board has determined that the proposed regulatory adoptions and amendments are not inconsistent or incompatible with existing regulations. After conducting a review of all regulations that would relate to or affect this area of California law, the Board has determined that due to PERB's exclusive jurisdiction to implement and enforce the labor relations acts with-

in its jurisdiction, the proposed regulations are the only regulations concerning the implementation and enforcement of these laws. Therefore, the Board has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATION

In 2017, PERB undertook the task of modernizing its case management system (CMS) with the goal of moving toward a CMS that, for the most part, relies on electronically filed documents (e-filing), electronic service of process (e-service), and electronically maintained case records. The availability and advancement of case management software has led most judicial systems to adopt e-filing processes and promote them as the preferred method of filing. Case management software automates processes and workflow, reducing errors in case processing and creating audit trails. For these case-handling processes, PERB has been developing ePERB. This new software provides a means to e-file and e-serve case documents through a public portal, while it digitalizes records and allows PERB to better manage information. Cloud storage enables secure and easy access for all. Once documents are filed electronically and scanned into the system, PERB staff may access them from any location 24/7 via ePERB. Therefore, parties no longer need to file multiple photocopies of the same document. Data is stored securely in the cloud and this reduces the need for paper storage, document retrieval, and photocopying costs. Moreover, ePERB reduces the time spent by PERB responding to requests under the California Public Records Act. The proposed regulations also move PERB from a hard-copy system that relies on e-mail, fax, and in person filings, to one that utilizes ePERB, e-signatures, and a digital records, which allow for 24-hour accessibility to case materials for both constituents and PERB employees.

In addition, as part of PERB's case processing initiative, the Board seeks to make the agency's legal processes easier to understand and, therefore, more accessible to non-attorney parties. In this, PERB determined that several of its regulations needed amendments to eliminate ambiguities and consolidate redundant rules. When a party must consult two or more rules to perform a single task, it is inefficient and often results in filing errors. As one example, PERB presently has one rule for effectuating service of a document, and a different rule identifying the party who must be served with the document. The proposed regulations combine both regulations into one that provides all the information needed for serving case materials.

The same problem occurs with PERB's rule for the filing proof of support in representation cases. Under the current regulations, the rule for filing proof of support is repeated under each chapter for each of PERB's labor relations acts — even though it is the same rule for all acts. The proposed regulations consolidate the rules to one rule.

Finally, several of the proposed regulations either add clarity to existing rules. For example, PERB has a distinct process and set of rules that govern how parties may seek injunctive relief from PERB. Unlike the normal case filing procedures, the injunctive relief rules do not describe whether parties may file documents during non-business hours or their deadlines for filing documents during a request for injunctive relief. The proposed rules clarify that filings related to injunctive relief cases must occur during business hours, otherwise the document is deemed to have been filed the next business day. The rules also authorize the assigned Board agent to set filing deadlines based on the circumstances of each request.

The proposed regulations also add new rules that close gaps in case processing rules. For instance, PERB's regulations do not presently address the way PERB accepts and maintains confidential or private information filed by parties. The proposed regulations provide a uniform and comprehensive process for safeguarding confidential information and protecting the privacy and financial interests of constituents. The newly added regulations also addresses abeyances. While PERB often permits parties to place cases in abeyance, it has no rules that govern the length of time that a case may be in abeyance. The proposed regulation fills this gap by providing the parties with a limited time that a case may be in abeyance while the parties address related matters.

NO EXISTING AND COMPARABLE FEDERAL REGULATION OR STATUTE

During the process of developing these proposed regulatory adoptions and amendments, the Board has conducted a search for any similar federal regulations and statutes on this topic and has determined that there are no existing, comparable federal regulations or statutes or Board precedent, as these proposed regulatory changes apply solely to public employers and employee organizations under the jurisdiction of the California public sector labor relations statutes set forth above.

Therefore, the Board has concluded that these regulations are neither inconsistent nor incompatible with existing Federal regulations or statutes.

DISCLOSURES REGARDING THE
PROPOSED ACTION

The Board has made the following initial determinations:

Mandate on local agencies and school districts: The proposed action would not impose any new mandate.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code section 17500 et seq.: The proposed action would not impose any new costs which must be reimbursed.

Other non-discretionary cost or savings imposed upon local agencies: The proposed action would not result in any new costs which must be reimbursed, or savings imposed upon local agencies.

Cost or savings to state agency: The proposed action would not result in any new costs or savings.

Cost or savings in federal funding to the state: The proposed action would not result in any new costs or savings.

Cost impact on private persons or directly affected businesses: The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant adverse economic impact on business including the ability of California businesses to compete with businesses in other states: The proposed action will have no impact.

Significant effect on housing costs: There will be no effect on housing costs.

Business Reporting Requirement: The proposed action will not require a report to be made.

The Board has determined that the proposed regulations will not affect small business because the proposed regulations will only affect public employers, public employees, and public employee organizations.

RESULTS OF THE ECONOMIC
IMPACT ASSESSMENT

The Board concludes that the adoption of the proposed regulations and amendments will neither create nor eliminate jobs in the State of California, nor result in the elimination of existing businesses or create or expand businesses in the State of California.

BENEFIT ANALYSIS

By updating the electronic filing system and related regulations, as well as the benefits from the efficiencies from consolidation of duplicative rules, PERB will improve public sector labor relations by providing necessary information and clarity to parties about PERB's standards and processes. This will improve efficiencies in PERB's resolution of labor disputes,

which will promote full communication between public employers and their employees in resolving disputes over wages, hours and other terms and conditions of employment. The proposed regulatory action will not adversely affect the health and welfare of California residents, worker safety, or the State's environment. The proposed regulatory action will further the policies underlying prompt resolution of labor disputes by providing a process to expediently resolve alleged violations of California's labor relations laws. California residents' general welfare will be benefitted by stable collective bargaining and dispute resolution, which translates to continuous delivery of the essential services that California's public agencies and employees provide to California's communities.

In addition, a CMS system, such as ePERB, that permits PERB employees and its constituents to issue, file and access case documents through a web-based system provides a safe means for telework during a public health crisis, as experienced in 2020 during the COVID-19 crisis. Despite the closure of PERB's offices and subsequent telework requirements, PERB has continued its full range of services to the public. The proposed regulations allow PERB and its constituents to experience the full range of ePERB, which adds to their ability to telework.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), a rulemaking agency must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Any questions or suggestions regarding the proposed action should be directed to:

J. Felix De La Torre
General Counsel
Public Employment Relations Board
1031 18th Street
Sacramento, CA 95811
E-mail: felix.delatorre@perb.ca.gov

The backup person for these inquiries is:

Ronald Pearson, Supervising Regional Attorney
Public Employment Relations Board
1031 18th Street
Sacramento, CA 95811
(916) 322-3198
E-mail: ronald.pearson@perb.ca.gov

Please direct requests for copies of the proposed text (the “express terms”) of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based, to J. Felix De La Torre at the above address.

PRELIMINARY ACTIVITIES

PERB held a public meeting on October 10, 2019, wherein the public was given the opportunity to provide comments regarding implementation of these filing regulations. During the public meeting, several constituents provided comments as well as recommendations to the Board. In response, the Board agreed to amend several of the proposed regulations for approval at the next public meeting scheduled for December 12, 2019. During the December public meeting, the Board itself approved the publication of the proposed regulatory text and the commencement of the formal rulemaking process. PERB has also relied upon the Economic Impact Assessment identified in this notice in proposing regulatory action.

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the California Regulatory Notice Register, the rulemaking file consists of this notice, the express terms of the proposed regulations and the initial statement of reasons. Copies of these documents may be obtained by contacting Felix De La Torre at the above address and are also available on the Board’s website at www.perb.ca.gov.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding a hearing, if one is requested, and considering all timely and relevant comments, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications that are sufficiently related to the originally proposed text, the modified text with changes clear-

ly indicated shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulations as revised. Requests for copies of any modified regulations and/or the final statement of reasons should be sent to the attention of J. Felix De La Torre at the above address. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the final statement of reasons may be obtained by contacting J. Felix De La Torre at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of this notice of proposed action, the initial statement of reasons, and the text of the proposed regulations in underline and strikeout, can be accessed through PERB’s website located at www.perb.ca.gov throughout the rulemaking process. Written comments received during the written comment period will also be posted on PERB’s website. The final statement of reasons or, if applicable, notice of a decision not to proceed will be posted on PERB’s website following the Board’s action.

TITLE 16. BUREAU OF CANNABIS CONTROL

DIVISION 42 MEDICINAL AND ADULT-USE CANNABIS REGULATION

SUBJECT MATTER OF PROPOSED REGULATIONS: Medicinal and Adult-Use Cannabis Regulation Application Process Requirements.

SECTIONS AFFECTED: Title 16, California Code of Regulations, sections 5002, 5017, 5021 and 5600.

Notice is hereby given that the Bureau of Cannabis Control (Bureau) proposes to adopt the proposed amended regulations, described below, after considering all comments, objections, and recommendations regarding the proposed action. The Bureau, upon its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described below, or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be

available for inspection and copying 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

All of the proposed text sections and documents incorporated by reference are proposed to be added to the California Code of Regulations (CCR), under Division 42 of Title 16.

PUBLIC HEARING

The Bureau has not scheduled a public hearing on this proposed action. However, the Bureau will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Bureau. Written comments, including those sent by mail or e-mail to the addresses listed below. **Comments submitted by email must be received by the Bureau at its office by 5:00 p.m. on December 1, 2020.**

Submit comments to:

Kaila Fayne
Bureau of Cannabis Control
2920 Kilgore Road
Rancho Cordova, CA 95670
E-mail: BCC.comments@dca.ca.gov

AUTHORITY AND REFERENCE

Business and Professions Code (BPC) section 26013 authorizes the Bureau to adopt regulations for the licensing of commercial cannabis activity. Assembly Bill 2138 (Chiu, Chapter 995, Statutes of 2018) (AB 2138) added, repealed or amended BPC sections 7.5, 480, 480.2, 481, 482, 488, 493, and 11345.2. These amendments to the statutory sections altered the license application requirements for bureaus under the Department of Consumer Affairs (DCA).

The proposed regulations implement the statutory changes from AB 2138 into the Bureau's license application and renewal processes; specifically amending 16 CCR sections 5002, 5017, 5021, and 5600. The provisions within AB 2138 become operative on July 1, 2020.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Bureau is a regulatory agency under the DCA and is charged with licensing certain types of commercial cannabis businesses. On September 30, 2018, AB 2138 was signed by the Governor, with the intent of removing some of the licensing and employment barriers that those with prior criminal convictions or disciplinary actions often encounter if they can demonstrate rehabilitation. AB 2138 amended the language of sections of the BPC relating to the license application process for bureaus within the DCA.

Most notably, the changes to the statutes prohibit bureaus from requiring applicants for licensure to disclose information or documentation regarding the applicant's criminal history. Additionally, if a bureau decides to deny an applicant for licensure, the bureau must provide the applicant with notice of the denial, including the reason for the denial, as well as instructions for appealing the decision and the process for receiving a copy of the applicant's conviction history.

AB 2138 also amends BPC section 480 to prohibit a bureau from denying a license to applicants based on a criminal conviction or the acts underlying a conviction if the applicant makes a showing of rehabilitation. The amendments to BPC section 482 require bureaus to consider, when determining whether to deny, suspend, or revoke a license, whether an applicant or licensee has made a showing of rehabilitation, if the person has either completed the criminal sentence without a parole or probation violation, or if the person is rehabilitated based on the bureau's rehabilitation criteria. BPC section 480 has also been amended to allow a bureau to deny a license, in relevant part, on the grounds the applicant was convicted of a crime or has been subject to formal discipline if:

1. The conviction was in the past seven years and is substantially related to the qualifications, functions, or duties of the business or profession; or
2. The conviction is substantially related to the qualifications, functions, or duties of the business or profession and was for a serious felony, as defined in Penal Code section 1192.7, and certain specified sex offenses, even if the conviction occurred more than seven years ago; or
3. The applicant is presently incarcerated or was released from incarceration within the last seven years for a crime that is substantially related to the qualifications, functions, or duties of the business or profession; or
4. The applicant was released from incarceration more than seven years ago for a crime that is substantially related to the qualifications,

functions, or duties of the business or profession and the conviction was for a serious felony, as defined in Penal Code section 1192.7, and certain specified sex offenses; or

5. The applicant has been subject to formal discipline by a licensing board or bureau in or outside of California within the preceding seven years based on substantially related professional misconduct.

Further, AB 2138 amended BPC section 481 to include more specific criteria that bureaus must use to determine whether a crime is substantially related to the qualifications, functions, or duties of the profession.

The Bureau's current substantial relationship criteria, as well as its criteria for determining rehabilitation when considering denying, suspending, or revoking a license, are already in section 5017 of the Bureau's regulations (see 16 CCR 5017). This section needs to be amended to meet the requirements of AB 2138, as well as any other sections set forth in this Notice. In addition, necessary technical amendments are included in these regulations to ensure consistency with the statute.

The proposed regulations implement new requirements imposed by AB 2138 to the Bureau's license application process. The Bureau has determined that amending the regulations is required to ensure compliance with the statutory changes.

Incorporated by Reference:

There are no documents incorporated by reference.

Anticipated Benefit of the Proposed Regulations:

AB 2138 was enacted to reduce licensing and employment barriers for people who are rehabilitated. These proposed amendments further that goal by adopting criteria that emphasize an applicant's or licensee's rehabilitative efforts and what is needed to make a showing of rehabilitation.

The proposed regulations will amend the Bureau's license application process to comply with changes to the BPC. The proposed amendments will also place applicants and licensees on notice that the Bureau is statutorily authorized to deny, suspend, or revoke a license because of professional misconduct and discipline taken by another licensing board, bureau, or jurisdiction. The proposal also makes relevant parties (e.g., Deputy Attorneys General, Administrative Law Judges, respondents, and respondents' legal counsel) aware that, when considering denial or discipline of applicants or licensees, the Bureau uses the listed criteria to determine whether the crime, act, or professional misconduct is substantially related to the California cannabis industry.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations:

After conducting an evaluation, the Bureau has determined that the Bureau's regulations are the only regulations concerning the application requirements for commercial cannabis licenses issued by the Bureau. Therefore, the Bureau has determined that these proposed regulations are not inconsistent or incompatible with existing state regulations.

Evaluation of Inconsistency/Incompatibility with Existing Federal Regulations:

There are currently no federal regulations regarding the licensing process for commercial cannabis businesses within California.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Bureau has made the following initial determinations:

Mandate on local agencies and school district: None.

Cost or savings to any state agency: The Bureau anticipates increased costs to the state as a result of adopting and amending the sections identified in the regulatory proposal. Any workload and costs are anticipated to be minor and absorbable within existing resources.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500, *et seq.*: None.

Other non-discretionary cost or savings imposed on local agencies: None.

Cost or savings in federal funding to the state: None.

Cost impacts on a representative private person or business: The Bureau is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: None.

Small Business Determination: The Bureau has determined that the proposed regulations will have no effect on small businesses. A significant number of Bureau licensees are small businesses. The proposed regulations result in minor changes to the Bureau's license application process. However, the proposed regulations are unlikely to affect the determination of which applicants qualify for a license from the Bureau.

Significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states:

The proposed regulation will not have a significant adverse economic impact on businesses or individuals as the regulations do not adversely impact all cannabis

businesses. This initial determination is because this regulation is based on the requirements of AB 2138. The purpose of AB 2138 is to reduce barriers for licensure for applicants and licensees with criminal histories or license discipline if they can demonstrate evidence of rehabilitation; it does not impose more rigorous requirements on the licensure process. The bill and corresponding regulations will not eliminate businesses and could possibly lead to individuals being qualified to become owners of a license.

Results of the Economic Impact Assessment

The Bureau does not anticipate the creation or elimination of jobs or businesses, or the expansion of existing businesses, as a result of the proposal. The Bureau will continue to receive criminal history information regarding convictions as provided for by statute. The Bureau anticipates that applicants and licensees with convictions will voluntarily provide rehabilitation information to the Bureau to ensure all aspects of the person's rehabilitation can be properly considered by the Bureau in its evaluation. Currently, the Bureau can only issue or discipline a license if an applicant owner or licensee's conviction is substantially related to the qualifications, functions, and duties of the license. Additionally, the law for cannabis licenses only requires persons with a certain level of ownership or operational responsibility to be subject to evaluation of criminal history information. Thus, the Bureau does not anticipate the proposal will lead to an overall increase in the creation of jobs or licensed businesses, or the expansion of businesses currently doing business in California.

This regulatory proposal benefits the health and welfare of California residents because it will not eliminate businesses and the Bureau will be able to continue to consider factors of rehabilitation in evaluating suitability for licensure.

This regulatory proposal does not affect worker safety because it seeks to increase the ability of some individuals to obtain a Bureau license with past convictions or discipline if they meet certain criteria and show evidence of rehabilitation. It does not require the Bureau to issue a license to those with recent substantially related convictions or serious felony convictions.

This regulatory proposal does not benefit or negatively impact the State's environment because the proposed regulatory action does not involve any topic that induces harm or benefit to the environment in the State.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Bureau must deter-

mine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Set forth below are the alternatives which were considered and the reasons each alternative was rejected:

1. Option 1: Pursue a regulatory change that requires the Bureau to find rehabilitation if the applicant or licensee completed the terms of their criminal probation or parole. This alternative was rejected because the Bureau believes that reviewing each individual's conviction and rehabilitation information utilizing multiple criteria better indicates rehabilitation and ensures no danger to the public's health, safety, and welfare.
2. Option 2: Not adopt the regulations. This alternative was rejected because AB 2138 requires the Bureau to make amendments to its regulations to implement its provisions for its implementation.

CONTACT PERSON

Inquiries concerning the proposed administrative action may be directed to:

Kaila Fayne
Bureau of Cannabis Control
2920 Kilgore Road
Rancho Cordova, CA 95670
916-465-9025
BCC.comments@dca.ca.gov

The backup contact person for these inquiries is:

Paul Atienza
Bureau of Cannabis Control
2920 Kilgore Road
Rancho Cordova, CA 95670
916-465-9029
Paul.Atienza@dca.ca.gov

Please direct requests for copies of the proposed text (the "express terms") of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to the contact persons listed above.

AVAILABILITY OF STATEMENT
OF REASONS, TEXT OF PROPOSED
REGULATIONS, AND RULEMAKING FILE

The Bureau will have the entire rulemaking file available for inspection and copying, throughout the rulemaking process, at its office at the address above. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the Initial Statement of Reasons. Copies of materials may be obtained by contacting Kaila Fayne at the address or phone number listed above.

AVAILABILITY OF CHANGED OR
MODIFIED TEXT

After considering all timely and relevant comments received, the Bureau may adopt the proposed regulations substantially as described in this notice. If the Bureau makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Bureau adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Kaila Fayne at the address or phone number indicated above.

The Bureau will accept written comments on the modified regulations for at least 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL
STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Kaila Fayne at the above address.

AVAILABILITY OF
DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement or Reasons, and the text of the regulations can be accessed through the Bureau's website at: https://bcc.ca.gov/law_regs/cannabis_regs.html.

GENERAL PUBLIC INTEREST

**DEPARTMENT OF
FISH AND WILDLIFE**

**CALIFORNIA ENDANGERED SPECIES ACT
CONSISTENCY DETERMINATION NO.
2080-2020-005-05**

Project: Laguna County Sanitation District Facilities Construction, Operation, and Maintenance of a 1.19-mile Pipeline segment, Phase 3 Recycled Water Project

Location: Western Santa Maria Valley, Santa Barbara County, California

Applicant: Laguna County Sanitation District

Notifier: Marty Wilder, P.E. Utilities Manager

Background

The Laguna County Sanitation District (Applicant) proposes to construct a 1.19-mile segment of recycled water pipeline (Project) that would connect, at both ends, to existing and planned pipeline segments. The Project is a portion of a larger, 8-mile project known as Phase 3, that was authorized under California Endangered Species Act (CESA) Incidental Take Permit 2081-2012-021-05. However, that permit expired, and no work was completed. The entire 8-mile segment of Phase 3 is no longer proposed for construction, and instead the Applicant requested this consistency determination (CD) for only the 1.19-mile segment. The Project would connect, at both ends, to pipeline segments known as Phase 1 and Phase 4. (See Attachment 1 — Existing and Proposed Recycled Water Pipelines). The following background information describes the status of the phases, for additional context.

Phase 1 — This existing pipeline segment extends from Laguna County Sanitation District's treatment plant, due east to the intersection of Dutard Road and E Street.

Phase 2 — This pipeline segment extends from the existing Phase 1 pipeline at the intersection of Black Road/Dutard Road due south to Highway 1, then east on Highway 1 to the Rancho Maria Golf Course

Construction is not yet complete. Its CESA authorization is through existing CD 2080–2018–009–05.

Phase 3 — The Project extends east along Dutard Road from E Street to Blosser Road. This segment connects Phase 1 and Phase 4 and is the only pipeline segment authorized in this CD.

Phase 4 — This pipeline segment, planned for construction in 2021, extends from Blosser Road to Waller Park. Its CESA authorization is through existing CD No. 2080–2018–009–5.

The Project consists of the installation of 1.19 miles of buried 16–inch purple recycled water pipeline (C905 Class 305 PVC) with one blow–off valve and two air release/vacuum valves and includes periodic maintenance (flushing) and spot repair and replacement as needed.

The Project activities described above are expected to incidentally take¹ California tiger salamander (*Ambystoma californiense*) (Covered Species) within the West Santa Maria/Orcutt Distinct Population Segment of Santa Barbara County. The Covered Species is designated as an endangered species pursuant to the Federal Endangered Species Act (ESA) (16 U.S.C. § 1531 et seq.) and a threatened species pursuant to CESA (Fish & G. Code, § 2050 et seq.; see also Cal. Code Regs., tit. 14, § 670.5, subd. (b)(3)(G)).

The incidental take would occur as a result of the Applicant’s proposed construction of new 1.19–mile pipeline, as well as ongoing operation and maintenance activities. The operation and maintenance activities would occur on the Applicant’s property and within established rights–of–way. The construction, operation, and maintenance activities (Covered Activities) that are the subject of this CD involve the following:

- Construction of a tertiary–treated water pipeline along Dutard Road from the intersection of E Street to Blosser Road; and,
- Operation and maintenance activities, such as repair/replacement of the existing piping and pump facilities, repair and maintenance of roads, vegetation maintenance, and erosion control.

The Applicant has prepared a Habitat Conservation Plan (HCP) and received an incidental take permit (ITP) from the United States Fish and Wildlife Service (USFWS) on August 22, 2017 (TE16913C) through Section 10 of the ESA. The Applicant’s *Facilities Construction, Operation, and Maintenance Habitat Conservation Plan* and related ITP address

all Laguna County Sanitation District planned activities for a 30–year period. In 2018, CDFW issued CD No. 2080–2018–009–05, determining that the ITP and HCP were consistent with CESA. USFWS has stated that because the Project is within the HCP Plan Area, and compensatory mitigation has been provided as part of the HCP and through purchase of mitigation bank credits, that the Project has incidental take authorization under the still–valid USFWS ITP No. TE169123C.

The HCP Plan Area lies within the historic range and federal critical habitat of the Covered Species and the ESA–listed California red–legged frog (CRLF) (*Rana draytonii*).

The HCP included with the CD request provides an assessment of the existing habitat in the Plan Area (including the Project site and other proposed facilities to be built on and off of the Applicant’s property), evaluates the effects of the proposed construction and operation and maintenance activities (Covered Activities) for this Project on Covered Species and presents a mitigation plan to offset habitat loss and/or incidental take of the Covered Species that could result from the Covered Activities.

CTS are distributed in six metapopulations in Santa Barbara County:

- southwestern Santa Maria Valley (West Orcutt), which includes the Plan Area;
- southeastern Santa Maria Valley (Bradley–Dominion);
- west Solomon Hills/north Los Alamos Valley;
- east Los Alamos Valley;
- Purisima Hills; and,
- Santa Rita Valley.

There are five known Covered Species breeding ponds in and near the Plan Area. These are: (1) GUAD–3, also known as the Reservoir Pool; (2) SAMA–3, also known as the Black Road Pool; (3) SAMA–2, also known as the Mahoney Pools, east of the Plan Area; (4) GUAD–2, south of the Plan Area; and, (5) GUAD–1, south of the Plan Area.

The known Covered Species breeding ponds that lie in proximity to the proposed recycled water pipeline alignments addressed in the HCP include: SAMA–4; SAMA–6; SAMA–7; SAMA–10; and SAMA–21. The Plan Area is within the southwestern West Orcutt subpopulation of the Covered Species. This subpopulation is part of the Southwestern Santa Maria Valley metapopulation and encompasses known Covered Species breeding sites extending from the Casmalia Hills on the south to the Santa Maria Airport on the north and from west of Black Road eastward to SR 135. There are 12 known Covered Species breeding sites and several potential breeding sites within this area. Four of these known ponds occur along the base

¹ Pursuant to Fish and Game Code section 86, “‘Take’ means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill.” See also *Environmental Protection Center v. California Department of Forestry and Fire Protection* (2008) 44 Cal.4th 459, 507 (for purposes of incidental take permitting under Fish and Game Code section 2081, subdivision (b), “‘take’ . . . means to catch, capture or kill”).

of the Casmalia Hills, just off the southwestern edge of the Orcutt Dune Sheet. The other eight ponds occur on the Orcutt Dune Sheet.

Larval Covered Species have been found at three locations during field surveys on and adjacent to the Project site: 1) a seasonal pool, the majority of which lies on Applicant-owned property (Reservoir Pool = GUAD-3); 2) a seasonal pool adjacent to Black Road (Black Road Pool = SAMA-3); and 3) a complex of seasonal pools on private property north of Dutard Road east of Black Road (Mahoney Pools = SAMA-2). These locations are among the westernmost documented occurrences of Covered Species in the Santa Maria Valley. There are also anecdotal accounts of adult Covered Species reported at three other locations within and adjacent to the Applicant's property.

The Reservoir Pool covers approximately 2–3 acres at capacity. It is bisected by Pacific Gas and Electric's transmission line corridor (a legal parcel). During the spring seasons of 2005, 2006, and 2008, the Reservoir Pool was surveyed by USFWS and local biologists. Covered Species larvae were observed in each year (2005, 2006, 2008). Additionally, the Applicant's operations and maintenance personnel have found adult Covered Species above-ground on foggy mornings in grassland several hundred feet north of Reservoir Pool. An adult male Covered Species was captured during the course of upland drift fence surveys in February of 2014, near the western boundary of APN 113-240-014.

Based on the HCP, the Applicant obtained an ITP and is authorized to incidentally take the Covered Species for a period of 30 years commencing on August 22, 2017, the date of approval by the USFWS. Biological goals and objectives in the HCP were developed to ensure that the operating conservation program in the HCP is consistent with the conservation and recovery goals for these species.

The Project will require heavy equipment (e.g., water truck, excavator, backhoe, loader, flatbed trailer), and all necessary equipment needed to complete construction.

Anticipated incidental take associated with the proposed construction, operation and maintenance, or repair of new facilities for the Project could potentially include mortality to, or injury of, terrestrial adult or juvenile Covered Species associated with the removal of upland habitat. Covered Species could be crushed while harboring in burrows. Vehicle traffic has some potential to result in mortality of Covered Species, however vehicle use associated with facility operations is generally limited to daytime hours. Finally, harassment from relocating encountered Covered Species may significantly disrupt normal behavioral patterns, including breeding, feeding, or sheltering. Take resulting from the construction and operations

authorized under this CD/HCP will be incidental to the otherwise lawful and permitted activities conducted by the Applicant.

Quantification of potential impact to Covered Species habitat from each Project component is based on best available information. Some individuals could be injured or killed if they are not detected during pre-activity capture and relocation surveys. The number of individuals that would be harassed, harmed, injured, or killed is undetermined but would likely be proportional to habitat quantity and quality (e.g., rodent burrow density). In addition, populations of Covered Species are likely to vary substantially from year to year. Because of this uncertainty and difficulty of estimating the actual number of Covered Species that might be taken by proposed activities, the Applicant will rely primarily on habitat acreage as a proxy to measure impacts to the Covered Species. In addition, both annual and cumulative (30-year term of permit) take limits for individuals will be set. In any one year, for the HCP, the annual take limits will be two Covered Species dead or injured, and five Covered Species harassed. During the life of the ITP for the HCP, the cumulative take limits will be twenty Covered Species found dead or injured, or forty Covered Species captured and relocated (i.e. "harassed"). If either annual or cumulative take limits are exceeded, the Applicant will immediately contact the USFWS Ventura Field Office to discuss the need for a permit amendment. Project activities that are likely to cause additional take will be suspended until the review is completed.

Under the HCP, impacts requiring compensatory mitigation were offset through establishment of a conservation easement on 133.7 acres owned by the Applicant. An evaluation of habitat value for Covered Species within the completed conservation easement area is provided in the HCP. The assessment concluded that the acreage supports high quality Covered Species aquatic breeding and upland refuge habitat. A management plan for the conservation easement is also included in the HCP. Additionally, 2.71 acre-credits at the La Purisima Conservation Bank have been purchased as mitigation of offset Project impacts to Covered Species from this Project.

The Project could realize beneficial impacts in addition to the preservation, management, and protection of aquatic breeding and upland refuge habitat for Covered Species afforded by the conservation easement.

Loss of habitat is the primary factor that led to the listing of the Covered Species. The preservation of 133.7 acres of aquatic and upland habitat associated with the Reservoir Pool and maintaining the land in its current use as irrigated livestock pasture will help to ensure the viability of local Covered Species popula-

tions by preventing conversion to more intensive land uses, such as irrigated cropland. Therefore, protection and management of the conservation easement acreage effectively mitigates for the Project's impacts to the Covered Species and its habitat.

Adaptive management is a component of HCPs required by the Five-point Policy developed by the USFWS and the National Marine Fisheries Service in 2000. This process will allow the Applicant's management activities to be adjusted during the life of the ITP and HCP through periodic assessment. Adaptive management provides a means for ensuring that the biological goals and objectives of the HCP are being met. It employs feedback loops to incorporate results of surveys and monitoring into decision-making regarding future management techniques. Periodic assessment may also indicate the need to revise management strategies that could require amending the HCP. The process of adaptive management is integral to ensuring that the biological goals and objectives will be achieved.

The Project activities described above have the potential to incidentally take the Covered Species where those activities take place within development and farming areas. The Covered Species could be incidentally taken as a result of crushing or entombment by equipment or personnel (from collapsing of burrows), or entrapment in trenches during trench excavation.

As discussed above, because the Project is expected to result in take of a species designated as endangered under the ESA, the Applicant prepared a HCP in support of an application for an ITP pursuant to section 10(a)(1)(B) of the ESA. On August 22, 2017, the USFWS issued an ITP (USFWS file No. TE16913C) to the Applicant. The HCP describes the Project along with other pipeline activities planned over a 30-year period, and specifies measures the Applicant will take to minimize and mitigate impacts to species resulting from the taking that will likely result from the Project. The ITP requires the Applicant to comply with terms of the HCP and its related ITP and incorporates additional conditions.

According to the USFWS, the Project will result in the temporary loss of 2.29 acres of aquatic/upland Covered Species habitat.

The Applicant obtained a permit pursuant to Section 10(a)(1)(B) of the federal Endangered Species Act of 1973 (16 U.S.C. 1531–1544, 87 Stat. 884) as amended, from the USFWS for incidental take of the federally endangered California tiger salamander.

On September 4, 2020, the Director of the Department of Fish and Wildlife (CDFW) received a notice from Mr. Marty Wilder, on behalf of the Applicant, requesting a determination pursuant to Fish and Game Code section 2080.1 that the ITP and related HCP are consistent with CESA for purposes

of the Project and the Covered Species. (Cal. Reg. Notice Register 2020, No. 38–Z, p. 1262.)

Determination

CDFW has determined that the ITP, and associated HCP, is consistent with CESA as to the Project and the Covered Species because the mitigation measures contained in the ITP and HCP as well as the conditions in the *Final Mitigated Negative Declaration for the Wastewater Reclamation Plant Facilities Master Plan and Habitat Conservation Plan* (State Clearinghouse No. 2106121020) (MND), meet the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c), for authorizing incidental take of CESA-listed species. Specifically, CDFW finds that: (1) take of the Covered Species will be incidental to an otherwise lawful activity; (2) the mitigation measures identified in the ITP, HCP, and MND will minimize and fully mitigate the impacts of the authorized take; (3) adequate funding is ensured to implement the required avoidance minimization and mitigation measures and to monitor compliance with, and effectiveness of those measures; and (4) the Project will not jeopardize the continued existence of the Covered Species. The mitigation measures in the ITP and HCP and MND include, but are not limited to, the following:

Avoidance, Minimization, and Mitigation Measures

- The Applicant has preserved and endowed a conservation easement of 133.7 acres to be held by the Applicant as mitigation for the conservation of the Covered Species
- The Applicant will ensure field crews participate in training prior to the initiation of activities. Trainings will emphasize Project-specific information on the Covered Species, avoidance and minimization measures, roles and responsibilities, and communication protocols.
- Project workers shall limit their vehicle use to existing routes of travel. The Applicant will prohibit cross-country travel unless access is determined critical for a particular activity and the route has been flagged to avoid or minimize adverse effects.
- The Applicant will ensure Project-related vehicle speeds will not exceed 10 miles-per-hour within Covered Species upland habitat.
- Prior to moving vehicles or equipment, employees shall look under the vehicles or equipment for Covered Species individuals. If an individual is observed, the vehicle shall not be moved until the animal has vacated the area on its own accord or has been relocated out of harm's way by the USFWS-approved biologist.
- A USFWS-approved biologist shall be present daily during the pre-initial ground disturbance

period surveys, as well as during initial grading and excavation activities. Upon completion of initial ground disturbance, the biologist will periodically (minimum twice per week) visit the Project site throughout the construction period. During periods of rain or heavy fog/dew, the biologist will conduct daily pre-activity surveys to ensure that no Covered Species individuals have migrated into the work area. No construction work will be initiated until the USFWS-approved biologist determines that the work area is clear of Covered Species individuals.

- The Applicant shall implement The Declining Amphibian Task Force Fieldwork Code of Practice for all amphibian relocation activities. The USFWS-approved biologist shall relocate any Covered Species found within the Project footprint to an active rodent burrow system located no more than 300 feet outside of the Project area unless otherwise approved by CDFW and the USFWS. Relocation areas shall be identified by the USFWS-approved biologist based upon best suitable habitat available. Covered Species shall only be relocated by a USFWS-approved biologist. The USFWS-approved biologist shall document both locations by photographs and GPS positions. Covered Species shall be photographed and measured (snout-vent) for identification purposes prior to relocation. The Applicant will provide all documentation to the USFWS and CDFW within 24 hours of relocation.
- The Applicant will avoid rodent burrows to the extent possible. If burrows cannot be avoided, burrow excavation may be performed using hand tools or via gentle excavation using construction equipment, under the direct supervision of the USFWS-approved biologist. In lieu of burrow excavation, steel plates or plywood may be used to protect small mammal burrows from ground disturbance. The Applicant will remove plates and plywood nightly when a significant rain event is forecasted within 48 hours and if work is scheduled to cease for consecutive days.
- The Applicant will install exclusionary barriers at the discretion of the USFWS-approved biologist to minimize the potential for Covered Species to enter the worksite.
- The USFWS-approved biologist will inspect steep-walled excavations (e.g., trenches) that may act as pitfall traps for wildlife at least once per day and immediately before backfilling. In lieu of daily inspections (e.g., weekends), the Applicant will install exclusionary fencing, covers, ramps, or similar mechanisms to prevent wildlife entrapment.

- The Applicant will cap or seal with tape (or equivalent material) open pipe segments each night, or otherwise will store open pipe segments at least three feet above ground.
- If Covered Activities must occur during the rainy season, the Applicant will not work during rain events (greater than 0.5 inches of rainfall), 48 hours prior to rain events, or during the 48 hours after these events.

Monitoring and Reporting Measures

- If a dead or injured Covered Species is found, the Applicant shall notify the USFWS Ventura Field Office at (805) 644-1766 within 72 hours. In addition, CDFW shall be notified immediately at (626) 335-9092.
- The Applicant will conduct onsite construction monitoring, maintain daily monitoring logs, and prepare a post-construction compliance report.
- By January 31 following each year of permit issuance and Project implementation, the Applicant shall submit a report to the Ventura USFWS Office to document the status of the Project. Although not a condition of the HCP, CDFW requests a copy of the report as well.

Financial Assurances

- The Applicant has provided financial assurances consistent with CESA, in the form of a completed purchase of 2.71 acre of conservation credits from the La Purisima Conservation Bank as documented by a June 13, 2014 Bill of Sale provided to CDFW.
- The Applicant has recorded a conservation easement over 133.7 acres of Covered Species occupied habitat, recorded on May 23, 2019.

Pursuant to Fish and Game Code section 2080.1, take authorization under CESA is not required for the Project for incidental take of Covered Species, provided the Applicant implements the Project as described in the HCP, including adherence to all measures contained therein, and complies with the mitigation measures and other conditions described in the ITP and HCP and the MND. If there are any substantive changes to the Project, including changes to the mitigation measures, or if the USFWS amends or replaces the ITP, HCP, or there are modifications to the MND, the Applicant shall be required to obtain a new CD or a CESA incidental take permit for the Project from CDFW. (See generally Fish & G. Code, §§ 2080.1, 2081, subs. (b) and (c).)

**DEPARTMENT OF
FISH AND WILDLIFE**

**CESA CONSISTENCY
DETERMINATION REQUEST FOR
Sutter Collecting Canals and
Culvert Maintenance Project
2080-2020-007-02
Sutter County**

The California Department of Fish and Wildlife (CDFW) received a notice on September 30, 2020 that the Department of Water Resources proposes to rely on a consultation between federal agencies to carry out a project that may adversely affect a species protected by the California Endangered Species Act (CESA). The proposed project involves 32 miles of deferred canal sediment removal, 44 miles of routine sediment removal, the replacement and six undersized culverts, and the installation of two new box culverts. Proposed activities will include, but are not limited to, excavation of accumulated sediment and placement of sediment into spoils piles, grading of spoils plies, excavation of culvert locations, placement of new culverts, compaction and grading of culvert crossings and canal banks, and reseeded of the culvert areas. The proposed project will occur in the 44 miles of canals east of Sutter Bypass maintained by the Department of Water Resources.

The U.S. Fish and Wildlife Service (Service) issued a federal biological opinion (BO)(Service Ref. No. 08ESMF00-2020-F-1907) in a memorandum to the U.S. Army Corps of Engineers on August 24, 2020, which considered the effects of the proposed project on state and federally threatened species giant garter snake (*Thamnophis gigas*).

Pursuant to California Fish and Game Code section 2080.1, the Department of Water Resources is requesting a determination that the BO and its associated Incidental Take Statement (ITS) are consistent with CESA for purposes of the proposed project. If CDFW determines the BO and its associated ITS are consistent with CESA for the proposed project, the Department of Water Resources will not be required to obtain an incidental take permit under Fish and Game Code section 2081 subdivision (b) for the proposed project.

DEPARTMENT OF PUBLIC HEALTH

**NOTICE OF PETITION
HEARING REGARDING
DEFINITION OF HEALTH EDUCATOR
P-20-003**

Pursuant to Governor Gavin Newsom's Executive Order N-29-20, issued on March 17, 2020, this meeting will be held by teleconference with no physical public locations.

Notice to the Public

The California Department of Public Health (Department) will hold a hearing in response to a petition via WebEx Events. Instructions to connect to the meeting can be found at the end of this notice. To view and download the meeting materials, please visit the following link: <https://www.cdph.ca.gov/Programs/OLS/Pages/Office-of-Regulations.aspx> and click on Petitions for Regulatory Actions.

All times are approximate and subject to change. The hearing may end early without notice. This hearing is open to the public and is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Linda M. Cortez at Linda.Cortez@cdph.ca.gov or (916) 440-7807. Providing your request at least five business days before the meeting will help to ensure availability of the requested accommodation.

Due to potential technical difficulties, please consider submitting written public comments by November 18, 2020, to Linda.Cortez@cdph.ca.gov for consideration. The public will still be able to provide public comment when prompted during the meeting.

The Department plans to webcast this meeting online. Webcast availability cannot, however, be guaranteed due to limitations on resources or technical difficulties that may arise. To participate in the WebEx Events meeting on November 18, 2020 at 10:30 a.m., please log on to the following website on the day of the meeting: <https://cdph-conf.webex.com/cdph-conf/j.php?MTID=ma2ac4d3b11458e8a56c35c88551e762d>.

Use meeting number: 145 026 3766 and meeting password: bFqGSeN7n23.

To join by phone, call [US Toll] (415) 655-0001 and use access code: 145 026 3766.

Requests for further information should be directed to Linda Cortez at (916) 440-7807 or Linda.Cortez@cdph.ca.gov.

**RULEMAKING PETITION
DECISION**

**DIVISION OF WORKERS’
COMPENSATION**

**DEPARTMENT OF
INDUSTRIAL RELATIONS**

(Government Code section 11340.7)

**SECTION 10782(b), ARTICLE 13 OF
CHAPTER 4.5, SUBCHAPTER 2**

PETITIONER: Joseph V. Capurro, California Applicants’ Attorneys Association

By letter dated September 4, 2020, Joseph V. Capurro (Petitioner), President of the California Applicants’ Attorneys Association, petitioned the Division of Workers’ Compensation (DWC) in accordance with Government Code section 11340.6. The DWC received Petitioner’s letter by email on the evening of September 4, 2020 and by mail on September 10, 2020. The Petitioner requests that the DWC amend California Code of Regulations, title 8, section 10782(b) to include the issue of applicant’s entitlement to a supplemental job displacement benefit as grounds for filing for an expedited hearing before the Workers’ Compensation Appeals Board.

AUTHORITY

Labor Code section 133 gives the Administrative Director the power and jurisdiction to do all things necessary or convenient in the exercise of any power or jurisdiction conferred upon the Administrative Director under the Labor Code.

Labor Code section 5307.3 authorizes the Administrative Director of the DWC to adopt, amend, or repeal any rule or regulation that is reasonably necessary to enforce Division 4 of the Labor Code, except where that power is specifically given to the Workers’ Compensation Appeals Board.

Labor Code section 5502 sets forth the disputed issues that are eligible for an expedited hearing before the Workers’ Compensation Appeals Board. Section

5502, subdivision (b)(6), provides that these issues include “[a]ny other issues requiring an expedited hearing and determination as prescribed in rules and regulations of the administrative director.”

CONTACT PERSON

Please direct any inquiries regarding this action to Yvonne Hauscarriague, Industrial Relations Counsel, Division of Workers’ Compensation — Legal Unit, P.O. Box 70823, Oakland, CA 94612.

AVAILABILITY OF PETITION

The petition to amend title 8, California Code of Regulations section 10782(b) is available upon request directed to the Division’s contact person.

SUMMARY OF THE PETITION

Petitioner requests that the DWC amend California Code of Regulations, title 8 (“8 CCR”), section 10782(b) to include the adjudication of disputes addressing the entitlement to the supplemental job displacement benefit as a basis for an expedited hearing before the Workers’ Compensation Appeals Board.

Petitioner proposes the following amendment to section 10782(b):

§ 10782. Expedited Hearings.

(b) An expedited hearing may be set upon request where injury to any part or parts of the body is accepted as compensable by the employer and the issues include medical treatment, *the supplemental job displacement benefit*, or temporary disability for a disputed body part or parts.

Petitioner contends that amending section 10782(b) will provide clear direction to parties “on how to proceed with supplemental job displacement benefit disputes, consistent with the Workers’ Compensation Appeals Board’s (WCAB) *en banc* decision in *Dennis v. State of California—Department of Corrections and Rehabilitation* (ADJ9346293) (April 13, 2020).” In that case, the WCAB found that it is “the exclusive adjudicatory power of the WCAB to adjudicate compensation claims, including disputes over supplemental job displacement benefits.”

The petition also requests that the Declaration of Readiness to Proceed to Expedited Hearing (Trial) form (DWC-WCAB Form 10208.3), which is the WCAB form used to request an expedited hearing and can be found at section 10208.3, be amended to include a checkbox for the issue of “Entitlement to supplemental job displacement benefit”.

DEPARTMENT DECISION

DWC denies the petition.

Labor Code section 5307.3 authorizes the Administrative Director to amend any rules or regulations that are reasonably necessary to enforce the workers' compensation laws, "except where this power is specifically reserved to the [Workers' Compensation Appeals Board]." This petition seeks to amend a regulation and related form that were adopted by the Workers' Compensation Appeals Board under its exclusive authority. Therefore, the Administrative Director lacks the authority and jurisdiction to amend the regulation as requested by Petitioner.

The Workers' Compensation Appeals Board (WCAB) is granted rulemaking power pursuant to Labor Code sections 5307 and 133. Labor Code section 5307(a) expressly grants the WCAB the authority to "adopt reasonable and proper rules of practice and procedure." Pursuant to its separate and exclusive rulemaking authority, the WCAB has adopted its Rules of Practice and Procedure, which can be found in Title 8, Division 1, Chapter 4.5, Subchapter 2 of the California Code of Regulations, sections 10300 through 10999.

Section 10782, which Petitioner seeks to amend, is a regulation adopted by the WCAB as part of its Rules of Practice and Procedure. In 2019, the WCAB conducted a rulemaking to update, renumber, and reorganize its Rules of Practice and Procedure. As part of the rulemaking, the WCAB noted in its Initial Statement of Reasons¹ that among the other proposed changes, it would be renumbering former section 10552 relating to expedited hearings to section 10782, and outlined the changes it proposed to make to that section. After consideration of public hearing testimony and written comments on the proposed changes to the rules, the WCAB modified and adopted its rules, including section 10782. The WCAB's rules were filed with the Secretary of State on December 17, and went into effect on January 1, 2020.

The Administrative Director lacks jurisdiction to take any action to amend regulations adopted by the WCAB under its exclusive power. Since Petitioner is seeking to amend a regulation adopted by the WCAB, their petition should be directed to the WCAB as it

has the sole authority to make such changes. Thus, the petition is denied.

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH THE SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

Board of Forestry and Fire Protection
File # 2020-0420-05
Appeal Amendments, 2020

Public Resources Code section 765 permits an applicant for a license to become a registered professional forester who contends that they have "been aggrieved by any action taken by the examining committee with respect to [their] qualifications [to] appeal to the [Board of Forestry and Fire Protection (the "Board")] in accordance with rules or regulations prescribed by the [B]oard." In this regular rulemaking, the Board is amending regulations pertaining to the Board's review of an appeal made pursuant to Public Resources Code section 765, including adopting a non-refundable \$100 fee that must be paid by an applicant submitting an appeal.

Title 14
Amend: 1647
Filed 09/30/2020
Effective 11/01/2020
Agency Contact: Eric Hedge (916) 653-9633

Department of Corrections and Rehabilitation
File # 2020-0914-01
Recommendation to Recall Sentence and Resentence

The Department of Corrections and Rehabilitation filed this emergency operational necessity readopt action, pursuant to Penal Code section 5058.3, to keep in effect amendments made to regulations governing the recall of inmate commitments and resentencing of inmates pursuant to Penal Code section 1170(d).

¹ Initial Statement of Reasons, Workers' Compensation Appeals Board, Rules of Practice and Procedure of the Workers' Compensation Appeals Board, posted August 16, 2019 <https://www.dir.ca.gov/wcab/WCABProposedRegulations/Rulemaking-August-2019/Rulemaking-August-2019.htm>

Title 15
Adopt: 3076, 3076.1, 3076.2, 3076.5
Amend: 3076.3, 3076.4
Repeal: 3076, 3076.1, 3076.2, 3076.5
Filed 10/05/2020
Effective 10/10/2020
Agency Contact: Josh Jugum (916) 798-1484

Department of Food and Agriculture
File # 2020-0819-04
Standardization Program — Citrus Assessment Rates

This file and print action by the California Department of Food and Agriculture amends the citrus assessment rates to fund a navel and Valencia orange, lemon, and mandarin citrus inspection program, a crop estimating service, and a statewide acreage survey. This action is exempt from the Administrative Procedure Act pursuant to Food and Agricultural Code section 48002(e).

Title 03
Amend: 1430.142
Filed 10/01/2020
Effective 10/01/2020
Agency Contact: Marcee Yount (916) 900-5030

Department of Justice
File # 2020-0820-03
Repeal of Title 11, Division 1, Chapter 6

In these changes without regulatory effect, the Department repeals its regulations related to gaming registration.

Title 11
Repeal: 600, 601, 602, 603, 604
Filed 10/06/2020
Agency Contact:
Zachary Hoffman (916) 210-3633

Secretary of State
File # 2020-0925-03
Statewide Voter Registration System; Conditional
Voter Registration

This emergency rulemaking action by the California Secretary of State makes changes to the reason codes for vote-by-mail ballots, provisional ballots, and conditional voter registration provisional ballots.

Title 02
Amend: 19092, 19094, 20026
Filed 10/05/2020
Effective 10/05/2020
Agency Contact: Raj Bathla (916) 695-1597

**PRIOR REGULATORY
DECISIONS AND CCR
CHANGES FILED WITH THE
SECRETARY OF STATE**

A quarterly index of regulatory decisions by the Office of Administrative Law (OAL) is provided in the California Regulatory Notice Register in the volume published by the second Friday in January, April, July, and October following the end of the preceding quarter. For additional information on actions taken by OAL, please visit www.oal.ca.gov.