

FINDING OF EMERGENCY

As a result of the enactment of Senate Bill 1036 (Chapter 45, Statutes of 2012), effective June 27, 2012, as amended by Assembly Bill 1471 (Chapter 439, Statutes of 2012), effective September 22, 2012, the Public Employment Relations Board (PERB or Board) has responsibility for the administration and enforcement of the In-Home Supportive Services Employer-Employee Relations Act (IHSSEERA), which is codified at Title 23 of the Government Code, section 110000 et seq. This new legislation and the duties imposed on PERB under it require extensive amendments to existing regulations, as well as the adoption of a new Chapter 10 of the PERB regulations in order to fully implement the Board's jurisdiction.

The current PERB regulations do not provide for the filing and processing of unfair practice charges or representation petitions under IHSSEERA. The recent legislative changes affect thousands of public employees in California, the California In-Home Supportive Services Authority (Statewide Authority), and the employee organizations that represent employees under IHSSEERA. PERB has already received numerous inquiries from the Statewide Authority, employees, and employee organizations that are potentially affected by the new legislation.

Pursuant to Government Code section 110035.5, these regulations are deemed necessary to address an emergency. In addition, the Board independently finds that, in order that the procedural and substantive rights of the Statewide Authority, employees, and employee organizations are protected, that there exists an emergency need to adopt new regulations providing for the filing of representation petitions and unfair practice charges under IHSSEERA and to amend other existing regulations where necessary to conform to newly-adopted or amended regulations. The Board also finds that the new regulations are necessary for the public peace and the general welfare.

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. 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-Milias-Brown Act. 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. 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. 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. 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.

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. Pursuant to Government Code sections 3541.3(g) and 110015, 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 In-Home Supportive Services Employer-Employee Relations Act.

INFORMATIVE DIGEST

The proposed amendments to current sections 31001, 32020, 32030, 32040, 32050, 32055, 32060, 32075, 32080, 32085, 32090, 32091, 32100, 32105, 32120, 32122, 32130, 32132, 32135, 32136, 32140, 32142, 32145, 32147, 32149, 32150, 32155, 32162, 32164, 32165, 32166, 32168, 32169, 32170, 32175, 32176, 32178, 32180, 32185, 32190, 32200, 32205, 32206, 32207, 32209, 32210, 32212, 32215, 32220, 32230, 32295, 32300, 32305, 32310, 32315, 32320, 32325, 32350, 32360, 32370, 32375, 32380, 32400, 32410, 32450, 32455, 32460, 32465, 32470, 32500, 32602, 32605, 32612, 32615, 32620, 32621, 32625, 32630, 32635, 32640, 32644, 32645, 32647, 32648, 32649, 32650, 32661, 32680, 32690, 32700, 32720, 32721, 32722, 32724, 32726, 32728, 32730, 32732, 32734, 32735, 32736, 32738, 32739, 32740, 32742, 32744, 32746, 32748, 32750, 32752, 32754, 32761, 32762, 32763, 32770, 32772, 32774, 32776, 32980, 32990, 32992, 32993, 32994, 32995, 32996 and 32997 are necessary to conform the language and authority and reference citations to reflect the extension of Board responsibility to include the In-Home Supportive Services Employer-Employee Relations Act (Government Code section 110000 et seq.), pursuant to Senate Bill 1036 (Chapter 45, Statutes of 2012).

Proposed section 32036 adopts a definition of “IHSSEERA,” the In-Home Supportive Services Employer-Employee Relations Act (Government Code section 110000 et seq.).

Proposed section 32037 adopts definition of terms applicable for cases filed under the In-Home Supportive Services Employer-Employee Relations Act (Government Code section 110000 et seq.).

Proposed section 32610 describes unfair practices by the employer under the In-Home Supportive Services Employer-Employee Relations Act (Government Code section 110000 et seq.).

Proposed section 32611 describes unfair practices by employee organizations under the In-Home Supportive Services Employer-Employee Relations Act (Government Code section 110000 et seq.).

Proposed section 32806 describes the process by which the Board will appoint a mediator under the In-Home Supportive Services Employer-Employee Relations Act (Government Code section 110000 et seq.).

Proposed sections 32808 and 32810 describe the process by which the Board will convene a factfinding panel under the In-Home Supportive Service Employer-Employee Relations Act (Government Code section 110000 et seq.)

Proposed sections 95000, 95010, 95020, 95030, 95040, 95045, 95050, 95070, 95080, 95090, 95100, 95150, 95160, 95170, 95180, 95190, 95200, 95300, 95310, 95320 and 95330 adopt provisions relating to representation matters that are subject to the In-Home Supportive Services Employer-Employee Relations Act (Government Code section 110000 et seq.).

For more specific information regarding specific proposed regulations or amendments to existing regulations, please refer to the specific regulatory language of PERB's proposed emergency action.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code section 17561: None.

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

Costs or savings to state agencies: The obligation for the Statewide Authority to effect notice in representation matters may result in costs for mailing and/or in establishing a method to effect notice electronically.

Cost or savings on federal funding to the state: None

Cost impact on private persons or directly affected businesses: None

Significant adverse economic impact on business including the ability of California businesses to compete with businesses in other states: None

Significant effect on housing costs: None

The proposed regulations will not affect small business because they only affect public employers and public employees.