

TITLE 8. PUBLIC EMPLOYMENT RELATIONS BOARD

NOTICE OF PROPOSED RULEMAKING

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 publication 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-Milias-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), 3513(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(l), 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** Sections 3513(h), 3515.7(d), 3520.5, 3544, 3544.1, 3544.3, 3544.5, 3544.7, 3546, 3573, 3574, 3575, 3576, 3577 and 3585.5, Government Code; and Sections 99561(c), 99561(e), 99561(k), 99561(l), 99564, 99564.1, 99564.2, 99564.3, 99564.4 and 99566.1, 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-Milias-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 section 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 within 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 web site 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 clearly 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 web site 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 web site. The final statement of reasons or, if applicable, notice of a decision not to proceed will be posted on PERB's web site following the Board's action.