Title 8. PUBLIC EMPLOYMENT RELATIONS BOARD

NOTICE OF PROPOSED RULEMAKING

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

PROPOSED REGULATORY ACTION

The Board proposes to adopt new sections 32721, 32999.1, 61101, 72136, 81101, and 91101, and amend sections 32722, 32724, 32726, 32728, 32732, 32734, 32738, 32746, 32748, 32998, 32999, 33000, 33003, 33004, 33005, 33006, 33007, 33008, 33009, 61105, 61110, 61115, 61120, 61130, 61135, 61150, 61175, 61180, 72135, 72140, 72147, 72150, 72155, 72165, 72170, 72175, 72205, 81105, 81110, 81115, 81120, 81130, 81135, 81150, 81175, 81180, 91105, 91110, 91115, 91120, 91130, 91135, 91150, 91175, and 91180.

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 their 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 james.coffey@perb.ca.gov. The written comment period closes on October 21, 2026, which is 47 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:

James E. Coffey, Principal Attorney Supervisor
Public Employment Relations Board
1031 18th Street
Sacramento, CA 95811

AUTHORITY AND REFERENCE

A. Authority

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; Government Code section 3540 et seq.). 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 3500 et seq.). Pursuant to Government Code sections 3513(h) 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 Ralph C. Dills Act (Dills Act; Government Code section 3512 et seq.). Pursuant to Government Code section 3563(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 Higher Education Employer-Employee Relations Act (HEERA; Government Code section 3560 et seq.). 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; Public Utilities Code section 99560 et seq.). 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; Government Code section 71600 et seq.). 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; Government Code section 71800 et seq.). Pursuant to Government Code sections 3524.52(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 Judicial Council Employer-Employee Relations Act (JCEERA; Government Code section 3524.50 et seq.). Pursuant to Government Code sections 3541.3(g) and 3555.5(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; Government Code section 3555 et seq.). Pursuant to 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; Government Code section 3550 et seq.). Pursuant to Welfare and Institutions Code section 10421(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 Building a Better Early Care and Education System Act (Childcare Provider Act; Welfare and Institutions Code section 10420 et seq.). Pursuant to Public Utilities Code section 40122.1(a) and 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 Orange County Transit District Act (OCTDA; Public Utilities Code section 40120 et seq.). Pursuant to Public Utilities Code section 28849(b) and 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 San Francisco Bay Area Rapid Transit District Act (BART Act; Public Utilities Code section 28848 et seq.). Pursuant to Public Utilities Code section 102399(b) and 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 Sacramento Regional Transit District Act (SacRTD Act; Public Utilities Code section 102398 et seq.). Pursuant to Public Utilities Code section 98160.5 and 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 Santa Cruz Metropolitan Transit District Act (SC Metro Act; Public Utilities Code section 98160 et seq.). Pursuant to Public Utilities Code section 100309(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 Santa Clara Valley Transportation Authority Act (VTA; Public Utilities Code section 100300 et seq.). Pursuant to Government Code section 7470.21, 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 Transportation Network Company Drivers Labor Relations Act (TNC Act; Government Code section 7470 et seq.). Pursuant to Government Code section 3599.52(a) and 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 the policies of the Legislature Employer-Employee Relations Act (LEERA); Government Code section 3599.50 et seq.).

B. References

The proposed new and amended regulations below reference the following:

General reference: Sections 3502.5, 3507, 3507.1, 3509, 3513(h), 3520.5(b), 3524.52(a), 3524.74(a), 3524.74(b), 3524.74(d), 3541.3, 3544.1(a), 3544.3, 3544.7(a),

3546, 3563(c), 3563(f), 3574(a), 3577, 3579(e), 3583.5, 3600, 3603(a), 71632.5, 71636, 71636.3, 71637, 71637.1, 71639.1, 71814, 71823 and 71825, Government Code. Sections 25052, 28851, 30751, 40122, 50121, 70122, 90300, 95651, 98162.5, 99561(c), 99561(e), 99561(f), 99561(k), 99561(l), 99564, 99564.1, 99564.2, 99564.3, 99564.4, 99566.1, 100301, 101344, 102403, 103401, 120505, 125521 and Appendix 1, Section 4.4 and Appendix 2, Section 13.91, Public Utilities Code.

POLICY STATEMENT OVERVIEW

PERB is a quasi-judicial agency which oversees public sector collective bargaining in California, and collective bargaining for a limited number of private transit network companies. PERB presently administers eighteen 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, establishing 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, establishing collective bargaining rights for 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, together establishing collective bargaining rights for most trial court employees; the Public Employee Communication Chapter (PECC) of 2017, granting PERB jurisdiction over violations of the PECC; the Prohibition on Public Employers Deterring or Discouraging Union Membership (PEDD) of 2018, granting PERB jurisdiction over violations of the PEDD; and the Building a Better Early Care and Education System Act of 2019, known as the Childcare Provider Act (CCPA), establishing collective bargaining for family childcare providers who participate in a state-funded early care and education program.

In 2019, the Legislature amended the Orange County Transit District Act (OCTDA), granting PERB jurisdiction over unfair practice charges at the Orange County Transportation Authority. In 2020, the Legislature amended the San Francisco Bay Area Rapid Transit District Act (BART Act), granting PERB jurisdiction over disputes relating

to employer-employee relations at the Bay Area Rapid Transit District. In 2021, the Legislature granted PERB jurisdiction over disputes relating to employer-employee relations at the Sacramento Regional Transit District (SacRTD) for those exclusive representatives that have elected to move one or more of its bargaining units to PERB's jurisdiction for unfair practice charges. In 2022, the Legislature amended the Santa Cruz Metropolitan Transit District Act (SC Metro Act), granting PERB jurisdiction over unfair practice charges at the Santa Cruz Metropolitan Transit District. In 2022, the Legislature granted PERB jurisdiction over disputes relating to employer-employee relations at the Santa Clara Valley Transportation Authority (VTA) for those exclusive representatives that have elected to move one or more of its bargaining units to PERB's jurisdiction for unfair practice charges. Starting January 1, 2026, PERB acquired jurisdiction over a limited number of transit network companies under the Transportation Network Company Drivers Labor Relations Act (TNC Act; Government Code section 7470 et seq.). On July 1, 2026, the Legislature tasked PERB with jurisdiction over certain employees of the California Legislature—the state's bicameral lawmaking body consisting of the Assembly and the Senate.

Many of these statutes charge PERB, or the State Mediation and Conciliation Service (SMCS), a division of PERB, with processing representation petitions. Representation petitions are filed in several circumstances, including where an employee organization seeks to become a bargaining unit's exclusive representation, employees seek to decertify the incumbent exclusive representative, and where the exclusive representative or employer seeks to modify an existing bargaining unit. PERB may be required to conduct a representation election under several scenarios, including most commonly: (a) to determine if a majority of the employees vote to recognize an employee organization as their exclusive representative or to choose between two competing employee organizations; or (b) to remove or decertify a union as the exclusive representative of a unit of employees.

PERB currently conducts virtually all elections by mail. In some circumstances, electronic voting is preferable to mail voting, based on the nature of the employee group, or the parties prefer an electronic election. These proposed regulations and amendments aim to increase the availability of electronic voting and clarify the procedures for such elections. Further, the proposed new and amended regulations clarify existing election procedures for all elections.

INFORMATIVE DIGEST

A. Adoption of New Sections

Proposed section 32721, subdivision (a), establishes the election methods available for representation proceedings. The methods available are on-site election, mailed ballot election, electronic ballot election, or any combination of these methods. Depending on the issuance of either a Directed Election Order (an order issued by a Board agent providing specific instructions regarding the conduct of the election) or a Consent Election Agreement (an agreement by the parties regarding the conduct of an election approved by the Board agent), an election may be conducted by one method or a combination of methods, unless otherwise required by statute to utilize a specific method.

Proposed subdivision (b) provides that PERB will not charge the parties for elections conducted on-site or via mailed ballots. As for electronic ballot elections, PERB would be required to cover election costs if it has determined that on-site and/or mail ballots would be unreasonable based on the nature of the employee group. If it is reasonable to conduct an on-site election and/or mailed ballot election but the parties agree to a Consent Election Agreement approved by PERB that involves electronic ballots, the parties would be billed for the amount charged by the third-party vendor PERB uses to assist with the election. Unless agreed to otherwise, the parties would split the costs of the election.

Proposed section 32999.1 establishes the election methods available for representation proceedings facilitated by California State Mediation and Conciliation Service (SMCS). Proposed subdivision (a) provides the methods available are on-site election, mailed ballot election, electronic ballot election, or any combination of these methods. As set forth in a parties' Consent Election Agreement, an election may be conducted by one method or a combination of methods, unless otherwise required by statute.

Proposed section 61101 establishes the election methods available for representation proceedings under the Meyers-Milias-Brown Act (MMBA). Proposed subdivision (a) establishes the election methods available for representation proceedings. The methods available are on-site election, mailed ballot election, electronic ballot election, or any combination of these methods. Depending on the issuance of either a Directed Election Order or a Consent Election Agreement, an election may be conducted by one method or a combination of methods.

Proposed subdivision (b) provides that PERB will not charge the parties for elections conducted on-site or via mailed ballots. As for electronic ballot elections, PERB would be required to cover election costs if it has determined that on-site and/or mail ballots would be unreasonable based on the nature of the employee group. If it is reasonable

to conduct an on-site election and/or mailed ballot election but the parties agree to a Consent Election Agreement approved by PERB that involves electronic ballots, the parties would be billed for the amount charged by the third-party vendor PERB uses to assist with the election. Unless agreed to otherwise, the parties would split the costs of the election.

Proposed section 72136 applies to representation elections under the Public Utilities Code Transit Labor Relations Act other than the Los Angeles County Metropolitan Transportation Authority Transit Employer-Employee Relations Act (TEERA). Proposed subdivision (a) establishes the election methods available for representation proceedings. The methods available are on-site election, mailed ballot election, electronic ballot election, or any combination of these methods. Depending on the issuance of either a Directed Election Order or a Consent Election Agreement, an election may be conducted by one method or a combination of methods.

Proposed subdivision (b) provides that SMCS will not charge the parties for elections conducted on-site or via mailed ballots. As for electronic ballot elections, SMCS would be required to cover election costs if it has determined that on-site and/or mail ballots would be unreasonable based on the nature of the employee group. If it is reasonable to conduct an on-site election and/or mailed ballot election but the parties agree to a Consent Election Agreement approved by SMCS that involves electronic ballots, the parties would be billed for the amount charged by the third-party vendor PERB uses to assist with the election. Unless agreed to otherwise, the parties would split the costs of the election.

Proposed section 81101 applies to elections under the Trial Court Employment Protection and Governance Act (Trial Court Act). Proposed subdivision (a) establishes the election methods available for representation proceedings. The methods available are on-site election, mailed ballot election, electronic ballot election, or any combination of these methods. Depending on the issuance of either a Directed Election Order or a Consent Election Agreement, an election may be conducted by one method or a combination of methods.

Proposed subdivision (b) provides that PERB will not charge the parties for elections conducted on-site or via mailed ballots. As for electronic ballot elections, PERB would be required to cover election costs if it has determined that on-site and/or mail ballots would be unreasonable based on the nature of the employee group. If it is reasonable to conduct an on-site election and/or mailed ballot election but the parties agree to a Consent Election Agreement approved by PERB that involves electronic ballots, the parties would be billed for the amount charged by the third-party vendor PERB uses to

assist with the election. Unless agreed to otherwise, the parties would split the costs of the election.

Proposed section 91101 applies to elections under the Trial Court Interpreter Employment and Labor Relations Act (Court Interpreter Act). Proposed subdivision (a) establishes the election methods available for representation proceedings. The methods available are on-site election, mailed ballot election, electronic ballot election, or any combination of these methods. Depending on the issuance of either a Directed Election Order or a Consent Election Agreement, an election may be conducted by one method or a combination of methods.

Proposed subdivision (b) provides that PERB will not charge the parties for elections conducted on-site or via mailed ballots. As for electronic ballot elections, PERB would be required to cover election costs if it has determined that on-site and/or mail ballots would be unreasonable based on the nature of the employee group. If it is reasonable to conduct an on-site election and/or mailed ballot election but the parties agree to a Consent Election Agreement approved by PERB that involves electronic ballots, the parties would be billed for the amount charged by the third-party vendor PERB uses to assist with the election. Unless agreed to otherwise, the parties would split the costs of the election.

B. Amendment to the Text of Existing Sections

Section 32722, subdivision (b) provides that if the Board engages a vendor to assist with an election, the Board will supervise the vendor's performance and ensure that the vendor is complying with applicable legal requirements when conducting elections.

Section 32724, subdivision (b) currently provides for the Board to serve a notice of election on the parties. The proposed amendment additionally requires the Board to provide instructions to the parties on posting and circulating the notice of election. Because of this addition, subdivision (b)(1) is deleted.

Subdivision (c) requires the Board to supply the employer with sufficient copies of the notice for posting and specifies that the notice should be posted by the date specified on the Consent Election Agreement or the Directed Election Order. The proposed amendment clarifies that the Consent Election Agreement needs to be approved (as stated in proposed section 32721).

Section 32726, subdivision (a) provides that the employer must file the list of voters for an election by a date established by the Board. The proposed amendment adds that

the date can be established in an approved Consent Election Agreement. The proposed amendment also deletes the outdated requirement to file "with the regional office" as the electronic filing portal (ePERB) does not require fillings by region.

The proposed amendment also clarifies that the list of voters is based on the Directed Election Order or approved Consent Election agreement, as supplemented by any further eligibility determinations. Because of this addition the proposed amendment deletes the reference to "of the cutoff date for voter eligibility."

Another proposed amendment deletes the outdated requirement that the employer provide PERB with two sets of mailing labels for each eligible voter.

Lastly, a proposed amendment details the information that must be provided in the voter list for an electronic election, as the section already details the information that must be provided for on-site and mailed ballot elections.

Section 32728 concerns voter eligibility in elections. The proposed amendment states voter eligibility is subject to the Directed Election Order or approved Consent Election Agreement.

Section 32732, subdivision (a) concerns challenges to voter eligibility. The proposed amendment clarifies that in addition to a Board agent, an authorized agent of any party may challenge, for good cause, the eligibility of a voter in all types of elections. A challenged ballot may be cast.

Subdivision (b) of the proposed amendment clarifies that in all types of elections a Directed Election Order or approved Consent Election Agreement will specify the procedures for employees who are not on the voter list to vote by challenged ballot based on a colorable claim of eligibility.

Subdivision (c) is a proposed addition to set a deadline for when challenges to voter eligibility must be filed with PERB. For elections that do not include electronic ballots, challenges must be filed before the tally of ballots. For elections that include electronic ballots, the Directed Election Order or approved Consent Election Agreement sets the date when challenges must be filed.

Section 32734, subdivision (a) provides that a party can station an agent at the ballot count. The proposed amendment clarifies that in an election that does not include electronic ballots, an agent can appear in-person or remotely to verify the tally. For an

election that includes electronic ballots, each party is allowed to station an agent in-person or remotely to observe the announcement of the tally.

Section 32738, subdivision (a) specifies the period in which objections may be filed. The proposed deletion removes "with the regional office" as PERB's electronic filing portal does not require filing with the regional office. Also, the amendment corrects a grammatical error.

Section 32746 provides that a party can station an agent at a revised ballot count. The proposed amendment clarifies that in an election that does not include electronic ballots, an agent can appear in-person or remotely to verify the tally. For an election that includes electronic ballots, each party is allowed to station an agent in-person or remotely to observe the announcement of the tally.

Section 32748, subdivision (a) specifies the period in which objections to the revised tally of ballots may be filed. The proposed deletion removes "with the regional office" as PERB's electronic filing portal does not require documents to be filed with the regional office. The amendment also corrects a grammatical error.

Section 32998, subdivision (b) applies to services under SMCS's purview. This subdivision concerns reimbursement of services. The proposed amendment clarifies that for representation elections pursuant to a Consent Election Agreement, SMCS will not charge for on-site or mailed ballot elections. For representation elections involving electronic ballots, SMCS will not charge for an election in which SMCS has determined that on-site and/or mail ballots would be unreasonable based on the nature of the employee group. In all other elections involving electronic ballots, SMCS will charge the amount billed by a vendor and the parties shall split it equally unless agreed otherwise. For all other election services, SMCS charges a specified amount based on the size of the bargaining unit.

Section 32999, subdivision (a) applies whenever SMCS conducts representation elections pursuant to the local rules of an MMBA, Trial Court or Court Interpreter Act employer. This subdivision currently also applies whenever SMCS conducts agency shop elections. The proposed deletion removes the reference to "agency shop," as SMCS no longer conducts such elections.

Subdivision (b) defines "Consent Election Agreement" and the proposed amendment clarifies that such agreements are between the parties "and SMCS."

Section 33000, subdivision (b) provides that if SMCS engages a vendor to assist with an election, SMCS will supervise the vendor's performance and ensure that the vendor is complying with applicable legal requirements when conducting elections.

Section 33003 requires SMCS to serve a notice of election on the parties. The proposed amendment requires SMCS also to provide instructions to the parties on posting and circulating the notice of election. Because of this addition, the last three sentences of the section are deleted.

Section 33004, subdivision (a) requires the employer to provide SMCS with the voter eligibility list by a date established by a Consent Election Agreement. The proposed amendment adds that the voter eligibility list is based on an approved Consent Election Agreement, and any supplemental agreements. Because of this addition, the proposed amendment deletes "of the cutoff date for voter eligibility."

Another proposed amendment deletes the outdated requirement that the employer provide SMCS with two sets of mailing labels for each eligible voter.

Lastly, a proposed amendment directs that the voter list for an electronic election is to be in alphabetical order and details the required voter information, as the section already provides instructions on the voter information that must be provided for on-site and mailed ballot elections.

Section 33005 concerns voter eligibility in all types of elections. The proposed amendment states voter eligibility is subject to an approved Consent Election Agreement.

Section 33006, subdivision (a) concerns challenges to voter eligibility. The proposed amendment clarifies that an authorized agent of any party may challenge, for good cause, the eligibility of a voter in all types of elections. A ballot designated as challenged may be cast.

Subdivision (b) of the proposed amendment clarifies that in all types of elections, an approved Consent Election Agreement will specify the procedures for employees who are not on the voter list to vote by challenged ballot based on a colorable claim of eligibility.

Subdivision (c) is a proposed addition setting a deadline when ballot challenges must be filed with SMCS. For an election that does not include electronic ballots, challenges

must be filed before the tally of ballots. For an election that includes electronic ballots, an approved Consent Election Agreement sets the date when challenges must be filed.

Section 33007, subdivision (a) provides that a party can station an agent at the ballot count. The proposed amendment clarifies that in an election that does not include electronic ballots, an agent can appear in-person or remotely to verify the tally. For an election that includes electronic ballots, each party is allowed to station an agent in-person or remotely to observe the announcement of the tally.

Section 33008 concerns resolution of challenges. The proposed amendments correct that SMCS, and not the Board, determines the eligibility of challenged voters.

Section 33009, subdivision (a) concerns when and where objections to the tally of ballots may be filed. The proposed amendment corrects that the objections are filed with SMCS, and not with the Board.

Subdivision (c) corrects that objections are considered by SMCS, and not by the Board.

Subdivision (f) corrects that SMCS can direct the parties to provide certain information regarding their objections.

Subdivision (g) corrects that SMCS can dismiss objections that fail to satisfy certain requirements.

Section 61105, subdivision (b) applies to elections under the MMBA and provides that if the Board engages a vendor to assist with an election, the Board will supervise the vendor's performance and ensure that the vendor is complying with applicable legal requirements when conducting elections.

Section 61110, subdivision (b) applies to elections under the MMBA and currently provides for the Board to serve a notice of election on the parties. The proposed amendment requires the Board also to provide instructions to the parties on posting and circulating the notice of election. Because of this addition, the last sentence is deleted.

Subdivision (c) requires the Board to supply the employer with sufficient copies of the notice for posting and specifies that the notice should be posted by the date specified on the Consent Election Agreement or the Directed Election Order. The proposed amendment clarifies that the Consent Election Agreement must be approved (as stated in proposed section 61101.)

Section 61115, subdivision (a) applies to elections under the MMBA and provides that the employer must provide the Board with a voter eligibility list by a date established by the Board. The proposed amendment adds that the date can be established in an approved Consent Election Agreement. The proposed amendment also deletes the outdated requirement that the employer file the eligibility list "with the regional office," as the electronic filing portal (ePERB) does not require filling by region.

The proposed amendment also clarifies that the eligibility list is based on the Directed Election Order or approved Consent Election Agreement, as supplemented by any further eligibility determinations. Because of this addition, the proposed amendment deletes "of the cutoff date for voter eligibility."

Another proposed amendment deletes the outdated requirement to provide PERB with two sets of mailing labels for each eligible voter.

Lastly, a proposed amendment directs that the employer should provide the voter list in an electronic election in alphabetical order and specifies the information to be provided for each voter, as the section already specifies the information which the employer must provide for on-site and mailed ballot elections.

Section 61120 applies to elections under the MMBA and concerns voter eligibility in elections. The proposed amendment states voter eligibility is subject to the Directed Election Order or approved Consent Election Agreement.

Section 61130, subdivision (a) applies to elections under the MMBA and concerns challenges to voter eligibility. The proposed amendment clarifies that an authorized agent of any party may challenge, for good cause, the eligibility of a voter in all types of elections. A challenged ballot may be cast.

Subdivision (b) proposes to clarify that in all types of elections a Directed Election Order or approved Consent Election Agreement will specify the procedures for employees who are not on the voter list to vote by challenged ballot based on a colorable claim of eligibility.

Subdivision (c) is a proposed addition to set a deadline for filing ballot challenges with PERB. For elections that do not include electronic ballots, challenges must be filed before the tally of ballots. For elections that include electronic ballots, the Directed Election Order or approved Consent Election Agreement sets the date when challenges must be filed.

Section 61135, subdivision (a) applies to elections under the MMBA and provides that a party can station an agent at the ballot count. The proposed amendment clarifies that in an election that does not include electronic ballots, an agent can appear in-person or remotely to verify the tally. For an election that includes electronic ballots, each party is allowed to station an agent in-person or remotely to observe the announcement of the tally.

Section 61150, subdivision (a) applies to elections under the MMBA and specifies the period in which objections may be filed. The proposed deletion removes "with the regional office," as PERB's electronic filing portal does not require filing with the regional office. Also, the amendment corrects a grammatical error.

Section 61175 applies to elections under the MMBA and provides that a party can station an agent at the revised ballot count. The proposed amendment clarifies that in an election that does not include electronic ballots, an agent can appear in-person or remotely to verify the tally. For an election that includes electronic ballots, each party is allowed to station an agent in-person or remotely to observe the announcement of the tally.

Section 61180, subdivision (a) applies to elections under the MMBA and specifies the period in which objections to the revised tally of ballots may be filed. The proposed deletion removes the outdated reference to "with the regional office" as PERB's electronic filing portal does not require filing with the regional office.

Section 72135 applies to representation elections conducted under Public Utilities Code Transit Labor Relations Acts other than TEERA and concerns Consent Election Agreements. The proposed amendment clarifies that the agreement will include a description of the method(s) of an election.

Section 72140, subdivision (b) applies to representation elections conducted under Public Utilities Code Transit Labor Relations Acts other than TEERA and provides that if SMCS engages a vendor to assist with an election, SMCS will supervise the vendor's performance and ensure that the vendor is complying with applicable legal requirements when conducting elections.

Section 72147 applies to representation elections conducted under Public Utilities Code Transit Labor Relations Acts other than TEERA. In addition to serving a notice of election on the parties, the proposed amendment requires SMCS to provide instructions to the parties on posting and circulating the notice of election. Because of this addition, the last sentence of the section is deleted.

Section 72150, subdivision (a) applies to representation elections conducted under Public Utilities Code Transit Labor Relations Acts other than TEERA and specifies that the employer must file the eligibility list by a date established by SMCS. The proposed amendment adds that the eligibility list filing date may be contained in an approved Consent Election Agreement. The amendments also propose that the voting unit is established by the Directed Election Order or an approved Consent Election Agreement, as supplemented by any further voter eligibility determinations or agreements. Because of this addition, the proposed amendment deletes "of the cutoff date for voter eligibility."

Another proposed amendment deletes subdivision (a)'s outdated requirement that the employer provide SMCS with two sets of mailing labels each eligible voter.

Lastly, a proposed amendment details the voter information that must be contained in the eligibility list for an electronic election, as the section already specifies the information to be provided for on-site and mailed ballot elections.

Section 72155 applies to representation elections conducted under Public Utilities Code Transit Labor Relations Acts other than TEERA and concerns voter eligibility in elections. The proposed amendment states voter eligibility is subject to the Directed Election Order or approved Consent Election Agreement.

Section 72165, subdivision (a) applies to representation elections conducted under Public Utilities Code Transit Labor Relations Acts other than TEERA and concerns challenges to voter eligibility. The proposed amendment clarifies that an authorized agent of any party may challenge, for good cause, the eligibility of a voter in all types of elections. A challenged ballot may be cast.

Subdivision (b) proposes to clarify that in all types of elections the Directed Election order or an approved Consent Election Agreement will contain procedures for employees who are not on the voter list to vote by challenged ballot based on a colorable claim of eligibility.

Subdivision (c) is a proposed addition to set a deadline for filing challenges with SMCS. For elections that do not include electronic ballots, challenges must be filed before the tally of ballots. For elections that include electronic ballots, the Directed Election Order or an approved Consent Election Agreement sets the deadline to file challenges.

Section 72170, subdivision (a) applies to representation elections conducted under Public Utilities Code Transit Labor Relations Acts other than TEERA and provides that a

party can station an agent at the ballot count. The proposed amendment clarifies that in an election that does not include electronic ballots, an agent can appear in-person or remotely to verify the tally. For an election that includes electronic ballots, each party is allowed to station an agent in-person or remotely to observe the announcement of the tally.

Section 72175 applies to representation elections conducted under Public Utilities Code Transit Labor Relations Acts other than TEERA and concerns resolution of challenges. The proposed amendment clarifies that SMCS resolves ballot challenges, unless otherwise provided by a consent election agreement that is approved.

Section 72205 applies to representation elections conducted under Public Utilities Code Transit Labor Relations Acts other than TEERA and provides that a party can station an agent at a revised ballot count. The proposed amendment clarifies that in an election that does not include electronic ballots, an agent can appear in-person or remotely to verify the tally. For an election that includes electronic ballots, each party is allowed to station an agent in-person or remotely to observe the announcement of the tally.

Section 81105, subdivision (b) applies to elections under the Trial Court Act and provides that if the Board engages a vendor to assist with an election, the Board will supervise the vendor's performance and ensure that the vendor is complying with applicable legal requirements when conducting elections.

Section 81110, subdivision (b) applies to elections under the Trial Court Act. In addition to requiring the Board to serve a notice of election on the parties, the proposed amendment requires the Board to provide instructions to the parties on posting and circulating the notice of election. Because of this addition, the last sentence of the section is deleted.

Subdivision (c) requires the Board to supply the employer with sufficient copies of the notice for posting and specifies that the notice should be posted by the date specified on the Consent Election Agreement or the Directed Election Order. The proposed amendment clarifies that the Consent Election Agreement needs to be approved (as stated in proposed section 81101).

Section 81115, subdivision (a) applies to elections under the Trial Court Act and provides that the employer must file the voter eligibility list by a date established by the Board. The proposed amendment adds the alternative that the date can be established by an approved Consent Election Agreement. The proposed amendment also deletes

the outdated requirement that the employer file “with the regional office,” as the electronic filing portal (ePERB) does not require filling by region.

The proposed amendment also clarifies that the voter eligibility list is established by the Directed Election Order or approved Consent Election agreement, as supplemented by any further eligibility determinations. Because of this addition, the proposed amendment deletes “of the cutoff date for voter eligibility.”

Another proposed amendment deletes the outdated requirement that the employer provide PERB with two sets of mailing labels for each eligible voter.

Lastly, a proposed amendment details the voter information that must be contained in the voter list for an electronic election, as the section already specifies the information to be provided for on-site and mailed ballot elections.

Section 81120 applies to elections under the Trial Court Act and concerns voter eligibility. The proposed amendment states voter eligibility is subject to the Directed Election Order or approved Consent Election Agreement.

Section 81130, subdivision (a) applies to elections under the Trial Court Act and concerns challenges to voter eligibility. The proposed amendment clarifies that an authorized agent of any party may challenge, for good cause, the eligibility of a voter in all types of elections. A challenged ballot may be cast.

Subdivision (b) proposes to clarify that in all types of elections a Directed Election Order or approved Consent Election Agreement will contain procedures for employees who are not on the voter list to vote by challenged ballot based on a colorable claim of eligibility.

Subdivision (c) is a proposed addition to set a deadline for filing challenges with PERB. For elections that do not include electronic ballots, challenges must be filed before the tally of ballots. For elections that include electronic ballots, the Directed Election Order or approved Consent Election Agreement specifies the deadline for filing challenges.

Section 81135, subdivision (a) applies to elections under the Trial Court Act and provides that a party can station an agent at the ballot count. The proposed amendment clarifies that in an election that does not include electronic ballots, an agent can appear in-person or remotely to verify the tally. For an election that includes electronic ballots, each party is allowed to station an agent in-person or remotely to observe the announcement of the tally.

Section 81150, subdivision (a) applies to elections under the Trial Court Act and specifies the period in which objections may be filed. The proposed deletion removes the outdated reference to "with the regional office," as PERB's electronic filing portal does not require filing with the regional office. Also, the amendment corrects a grammatical error.

Section 81175 applies to elections under the Trial Court Act and provides that a party can station an agent at the ballot count. The proposed amendment clarifies that in an election that does not include electronic ballots, an agent can appear in-person or remotely to verify the tally. For an election that includes electronic ballots, each party is allowed to station an agent in-person or remotely to observe the announcement of the tally.

Section 81180, subdivision (a) applies to elections under the Trial Court Act and specifies the period during which objections to the revised tally of ballots may be filed. The proposed deletion removes the outdated reference to "with the regional office," as PERB's electronic filing portal does not require filing with the regional office.

Section 91105, subdivision (b) applies to elections under the Court Interpreter Act and provides that if the Board engages a vendor to assist with an election, the Board will supervise the vendor's performance and ensure that the vendor is complying with applicable legal requirements when conducting elections.

Section 91110, subdivision (b) applies to elections under the Court Interpreter Act. In addition to serving a notice of election on the parties, the proposed amendment requires the Board to instruct the parties on posting and circulating the notice of election. Because of this addition, the section's last sentence is deleted.

Subdivision (c) requires the Board to supply the employer with sufficient copies of the notice for posting and specifies that the date by which the notice must be posted is contained in the Consent Election Agreement or the Directed Election Order. The proposed amendment clarifies that the Consent Election Agreement must be approved (as stated in proposed section 91101).

Section 91115, subdivision (a) applies to elections under the Court Interpreter Act and provides that the employer must file the voter eligibility list by a date established by the Board. The proposed amendment adds the alternative that the date can be established in an approved Consent Election Agreement. The proposed amendment also deletes

the requirement that the employer file the eligibility list “with the regional office,” as the electronic filing portal (ePERB) does not require filling by region.

The proposed amendment also clarifies that the eligibility list is established by the Directed Election Order or approved Consent Election agreement, as supplemented by any further eligibility determinations. Because of this addition, the proposed amendment deletes “of the cutoff date for voter eligibility.”

Another proposed amendment deletes the outdated requirement that the employer provide PERB with two sets of mailing labels for each eligible voter.

Lastly, a proposed amendment details the information that must be contained in the voter list for an electronic election, as the section already specifies the information that must be included for on-site and mailed ballot elections.

Section 91120 applies to elections under the Court Interpreter Act and concerns voter eligibility. The proposed amendment states voter eligibility is subject to the Directed Election Order or approved Consent Election Agreement.

Section 91130, subdivision (a) applies to elections under the Court Interpreter Act and concerns challenges to voter eligibility. The proposed amendment clarifies that an authorized agent of any party may challenge, for good cause, the eligibility of a voter in all types of elections. A challenged ballot may be cast.

Subdivision (b) proposes to clarify that in all types of elections a Directed Election Order or approved Consent Election Agreement will specify the procedures for employees who are not on the voter list to vote by challenged ballot based on a colorable claim of eligibility.

Subdivision (c) is a proposed addition to set a deadline for filing challenges with PERB. For elections that do not include electronic ballots, challenges must be filed before the tally of ballots. For elections that include electronic ballots, the Directed Election Order or approved Consent Election Agreement sets the deadline for filing challenges.

Section 91135, subdivision (a) applies to elections under the Court Interpreter Act and provides that a party can station an agent at the ballot count. The proposed amendment clarifies that in an election that does not include electronic ballots, an agent can appear in-person or remotely to verify the tally. For an election that includes electronic ballots, each party is allowed to station an agent in-person or remotely to observe the announcement of the tally.

Section 91150, subdivision (a) applies to elections under the Court Interpreter Act and specifies the period in which objections may be filed. The proposed deletion removes the outdated reference to "with the regional office," as PERB's electronic filing portal does not require filing with the regional office. Also, the proposal notes a grammatical correction.

Section 91175 applies to elections under the Court Interpreter Act and provides that a party can station an agent at the revised ballot count. The proposed amendment clarifies that in an election that does not include electronic ballots, an agent can appear in-person or remotely to verify the tally. For an election that includes electronic ballots, each party is allowed to station an agent in-person or remotely to observe the announcement of the tally.

Section 91180, subdivision (a) applies to elections under the Court Interpreter Act and specifies the period during which objections to the revised tally of ballots may be filed. The proposed deletion removes the outdated reference to "with the regional office," as PERB's electronic filing portal does not require filing with the regional office.

CONSISTENT AND COMPATIBLE WITH EXISTING STATE REGULATIONS

The Board has determined that the proposed new regulations and amendments to existing regulations 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

The proposed regulations and amendments aim to increase the availability of electronic voting as an option to conduct representation elections and clarify the applicable procedures for both electronic and non-electronic elections. For certain employee groups, electronic voting is likely to increase voter turnout. Moreover, when Board agents are assigned representation matters that involve thousands of eligible voters, the costs to conduct the election and time spent by PERB staff are significant and can be reduced through electronic voting.

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 but would save PERB the high costs and significant personnel resources that mailed ballot and/or on-site elections incur for elections involving thousands of eligible voters.

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 statewide adverse economic impact directly affecting 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 to existing regulations 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

The proposed regulations and amendments aim to increase the availability of electronic voting as an option to conduct representation elections and clarify the applicable procedures for both electronic and non-electronic elections. For certain employee groups, electronic voting is likely to increase voter turnout. Moreover, when Board agents are assigned representation matters that involve thousands of eligible voters, the costs to conduct the election and time spent by PERB staff are significant and can be reduced through electronic voting.

The proposed regulations also ensure that when an electronic election is conducted, a Board agent will supervise all steps of the election. And the proposed regulations provide that a Directed Election Order or Consent Election Agreement shall address procedures for challenging voter eligibility in electronic elections, because such elections feature fundamental differences that typically require a different approach to challenges. If adopted, the proposed regulations and amended regulations will ensure procedural mechanisms for employee organizations, employees, or employers to utilize a new election method for representation elections and procedures for Board agents to follow on any type of election method being used. The general welfare of California residents will be benefitted by efficient processing of representation petitions that result in elections, which translates to continuous delivery of the essential services that California’s public agencies and employees provide to California’s communities.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board 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:

James E. Coffey, Principal Attorney Supervisor
Public Employment Relations Board
Sacramento Regional Office
1031 18th Street
Sacramento, CA 95811
E-mail: james.coffey@perb.ca.gov

The backup person for these inquiries is:

Joseph W. Eckhart, Interim General Counsel
Public Employment Relations Board
San Francisco Regional Office
1515 Clay Street, Suite 802
Oakland, CA 94612

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 James E. Coffey at the above address.

PRELIMINARY ACTIVITIES

PERB held a public meeting on October 9, 2025, wherein the public was given the opportunity to provide comments regarding implementation of these electronic election

regulations. On October 9, 2025, the Board itself approved the proposed regulatory text and the commencement of the formal rulemaking process.

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 amended regulations, the initial statement of reasons, and documents relied on promulgating the rulemaking package. The regulations as well as all related documents upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative listed above. Copies of these documents may be obtained by contacting James E. Coffey at the above address, and the express terms of the proposed regulations and the initial statement of reasons are also available on the Board's website at www.perb.ca.gov/laws-and-regulations/rulemaking.

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 regulation and amended 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 regulation and amendments to existing regulations as revised. Requests for copies of any modified regulations and/or the final statement of reasons should be sent to the attention of James E. Coffey 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 FINAL STATEMENT OF REASONS

Upon its completion, copies of the final statement of reasons may be obtained by contacting James E. Coffey 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 and amendments to existing regulations in underline and

strikeout can be accessed through PERB's website located at www.perb.ca.gov/laws-and-regulations/rulemaking 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.