INITIAL STATEMENT OF REASONS

PROBLEM STATEMENT

The Public Employment Relations Board (PERB or Board) is responsible for maintaining labor harmony between the state's public employers, certain private employers, and their approximately 2.5 million employees. It does this by administering and enforcing the state's eighteen labor relations acts. By enacting these statutes, the Legislature seeks "to promote full communication between public employers and their employees by providing reasonable methods of resolving disputes regarding wages, hours, and other terms and conditions of employment between public employers and public employee organizations." (See, e.g., Gov. Code, §§ 3500, 3512, 3540.)

In performing its mission, PERB functions as an administrative, quasi-judicial body. One duty PERB is tasked with overseeing across various labor relations acts is processing representation petitions, which may take several forms. For instance, request for recognition or certification petitions involve one or more employee organizations seeking to become the exclusive representative for a unit of employees. These petitions provide the mechanism for an employee organization which is chosen by a majority of employees in an appropriate bargaining unit to become the exclusive representative, and at times, these petitions require PERB to conduct an election. In addition, PERB processes decertification petitions, which involve a group of employees or an employee organization seeking to remove a union as the exclusive representative for a unit of employees. PERB also processes severance petitions, where an employee organization seeks to sever a group of employees from an existing unit and become the exclusive representative for a new unit comprised of the group of employees. Similarly to recognition/certification petitions and decertification petitions, PERB may, at times, be required to conduct an election when processing a severance petition. In addition, an election may be necessary when a union seeks to add unrepresented employees to an existing unit via a unit modification petition.

The State Mediation and Conciliation Service (SMCS) is a division of PERB that provides mediation of public sector contract disputes and grievance disputes. SMCS also conducts representation elections and card check elections. Typically, SMCS conducts representation and card check elections when a city, county, or trial court's local rules provide for SMCS to conduct the election. SMCS also conducts such elections in Public Utilities Code-established transit districts.

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.

ANTICIPATED BENEFITS OF THE PROPOSED AND AMENDED REGULATIONS

The proposed regulations and amendments seek to provide Board agents with clear procedures for conducting representation elections using electronic means. At times, Board agents are assigned to conduct representation elections that involve thousands of eligible voters, which involve significant costs and staff resources. Providing Board agents with clear procedures for an electronic ballot election would assist Board agents in processing large representation elections, as well as benefit employees, by making it easier to cast their ballots, as they would not be reliant on U.S. Mail or be required to travel to one of PERB's offices for an on-site election. Further, even if the Board agent determines an on-site and/or mailed ballot election would be reasonable, the parties could still agree in a Consent Election Agreement to have the election conducted electronically with costs split between the parties.

Additionally, the proposed changes will clarify procedures for the employer production of the voter eligibility list, challenges to voter eligibility, ballot tally procedures, and objections to the tally of ballot procedures that apply to each type of election.

SECTION BY SECTION EXPLANATION FOR ADOPTION

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 mailed ballot election would be unreasonable based on the nature of the employee group (e.g., the election involves thousands of eligible voters and conducting an on-site election or mailed ballot election would be a significant cost to the agency and use a large amount of administrative resources including staff time in preparing, mailing, opening and counting ballots). 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 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 applies to elections 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 mailed ballot election would be unreasonable based on the nature of the employee group (e.g., the election involves thousands of eligible voters and conducting an on-site election or mailed ballot election would be a significant cost to the agency and use a large amount of administrative resources including staff time in preparing, mailing, opening and counting ballots). 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 mailed ballot election would be unreasonable based on the nature of the employee group (e.g., the

election involves thousands of eligible voters and conducting an on-site election or mailed ballot election would be a significant cost to the agency and use a large amount of administrative resources including staff time in preparing, mailing, opening and counting ballots). 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 SMCS uses to assist with the election. Unless agreed to otherwise, the parties would split the costs of the election.

Proposed section 88110 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 mailed ballot election would be unreasonable based on the nature of the employee group (e.g., the election involves thousands of eligible voters and conducting an on-site election or mailed ballot election would be a significant cost to the agency and use a large amount of administrative resources including staff time in preparing, mailing, opening and counting ballots). 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 mailed ballot election would be unreasonable based on the nature of the employee group (e.g., the

election involves thousands of eligible voters and conducting an on-site election or mailed ballot election would be a significant cost to the agency and use a large amount of administrative resources including staff time in preparing, mailing, opening and counting ballots). 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 of 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 that the posting of the notice should be done by the date specified in 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 to 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, meaning the Directed Election Order defines voter eligibility or if the definition is agreed upon by the parties in an approved Consent Election Agreement. 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. PERB is no longer enforcing this requirement.

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. The information requested is job title, home address and e-mail address of each eligible voter, and if available, employee identification number. PERB utilizes this information to verify whether potential eligible voters that contact PERB to receive a ballot are on the voter list.

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 may 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 filings with the regional office. Also, the amendment corrects a grammatical error by adding a dash to “10 day.”

Section 32746 provides that a party may 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 by making “objection” plural.

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 a fee 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, such as when several thousand employees are eligible to vote and conducting an on-site election or mailed ballot election would result in significant costs to the agency and use a large amount of administrative resources including staff time in preparing, mailing, opening and counting ballots. In all other elections involving electronic ballots, SMCS will charge the amount billed by the vendor PERB uses to assist with the election and the parties shall split the costs 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, meaning the definition of voter eligibility is agreed upon by the parties in an approved Consent Election Agreement. 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. The information requested is job title, home address and e-mail address of each eligible voter, and if available, employee identification number. SMCS will utilize this information to verify whether potential eligible voters that contact SMCS to receive a ballot are on the voter list.

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 for 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 may 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 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 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 fillings 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, meaning the Directed Election Order defines voter eligibility or if the definition is agreed upon by the parties in an approved Consent Election Agreement. 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. The information requested is job title, home address and e-mail address of each eligible voter, and if available, employee identification number. PERB utilizes this information to verify whether potential eligible voters that contact PERB to receive a ballot are on the voter list.

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 may 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 by adding a dash to "10 day."

Section 61175 applies to elections under the MMBA and provides that a party may 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 need may filed. The proposed deletion removes the outdated references 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 amendment 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 for 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. The information requested is job title, home address and e-mail address of each eligible voter, and if available, employee identification number. PERB utilizes this information to verify whether potential eligible voters that contact PERB to receive a ballot are on the voter list.

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 may 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 needs to be approved.

Section 72205 applies to representation elections conducted under Public Utilities Code Transit Labor Relations Acts other than TEERA and provides that a party may 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 in 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 fillings 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, meaning the Directed Election Order defines voter eligibility or if the definition is agreed upon by the parties in an approved Consent Election Agreement. 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. The information requested is job title, home address and e-mail address of each eligible voter, and if available, employee identification number. PERB utilizes this information to verify whether potential eligible voters that contact PERB to receive a ballot are on the voter list.

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 may 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 filings with the regional office. Also, the amendment corrects a grammatical error by adding a dash to "10 day."

Section 81175 applies to elections under the Trial Court Act and provides that a party may 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 filings 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, meaning the Directed Election Order defines voter eligibility or if the definition is agreed upon by the parties in an approved Consent Election Agreement. 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. The information requested is job title, home address and e-mail address of each eligible voter, and if available, employee identification number. PERB utilizes this information to verify whether potential eligible voters that contact PERB to receive a ballot are on the voter list.

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 may 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 by adding a dash to “10 day.”

Section 91175 applies to elections under the Court Interpreter Act and provides that a party may 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 filings with the regional office.

ECONOMIC IMPACT ASSESSMENT (Government Code section 11346.3(b))

The proposed regulations and amendments aim to increase the availability of electronic representational elections and clarify the processes for such elections. In accordance with Government Code section 11346.3, subdivision (b), PERB has made the following assessments regarding the proposed and amended regulations:

A. Creation or Elimination of Jobs Within the State of California

PERB has determined that the proposed and amended regulations will have no impact on the creation or elimination of jobs in the State of California. These regulations increase the availability of electronic voting as an option to conduct representation elections and streamline procedures for the various election methods to assist Board agents in processing representation petitions that require an election. The scope of these regulations is limited to procedural matters and will not result in the creation or elimination of any job within the state.

B. Creation of New Business or Elimination of Existing Businesses Within the State of California

The proposed regulations and amendments aim to increase the availability of electronic voting as an option to conduct representational elections. The proposed and amended regulations also clarify procedures for conducting all elections. The nature of these regulations involves procedural rights in the conduct of representation elections by PERB, and will not result in the creation of new businesses, eliminate existing businesses, or affect the ability of California businesses to compete with businesses in other states.

C. Expansion of Businesses Within the State of California

The proposed regulations and amendments aim to increase the availability of electronic voting as an option to conduct representation elections. The proposed regulations and amendments also clarify procedures for conducting all elections. PERB has determined that neither the proposed nor amended regulations will lead to the expansion or elimination of existing businesses within the State of California.

D. Benefits of the Regulations to the Health and Welfare of California Residents, Worker Safety, and the State's Environment

The proposed regulations and amendments aim to increase the availability of electronic voting as an option to conduct representational elections. The proposed and amended regulations also clarify procedures for conducting all elections. 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 California's public sector labor relations statutes by providing processes to safely and efficiently resolve representation matters under the statutes, and will provide bargaining unit members a convenient way to cast their ballots. California residents' general welfare will be benefitted by stable collective bargaining and dispute resolution, which translates to continuous delivery of the essential services that public employers and its employees provide to California's communities.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS RELIED UPON

PERB did not rely upon any technical, theoretical, or empirical studies, or other documents in proposing the adoption of these regulations.

INFORMATION RELIED UPON TO SUPPORT PERB'S INITIAL DETERMINATION THAT THE PROPOSED REGULATORY ACTION WILL NOT HAVE A SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

PERB's primary purpose is to administer public sector labor relation statutes, which set forth the rights and obligations of public sector employers and employees. Because the scope of PERB's jurisdiction is limited primarily to the public sector, PERB has initially determined that the proposed regulatory actions will not have a significant adverse economic impact on business as they involve procedural issues associated with PERB-conducted elections.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS

PERB has not identified any adverse impact on small businesses because of these proposed regulations and has not identified any alternatives that would lessen any adverse impact on small business. Thus, no such alternative has been proposed.

MANDATED USE OF SPECIFIC TECHNOLOGIES OR EQUIPMENT

PERB's proposed and amended regulations would allow Board agents to conduct elections electronically but they do not mandate the use of specific technologies or equipment. If an election is conducted electronically with the assistance of a vendor,

the proposed regulations do not require PERB to use specific technologies or equipment.