

**INITIAL STATEMENT OF REASONS  
CALIFORNIA CODE OF REGULATIONS**

**TITLE 2. ADMINISTRATION  
DIVISION 2. FINANCIAL OPERATIONS  
CHAPTER 2.5. COMMISSION ON STATE MANDATES**

**GENERAL CLEANUP PROVISIONS, AUTHORITY AND REFERENCE**

**ARTICLES 1, 2, 3, 4, 5, 6, 7, 8, AND 10,**

SECTIONS 1181.2 THROUGH 1181.3; 1182.2; 1182.7; 1182.9; 1182.10; 1182.15;  
1183.1 THROUGH 1183.4; 1183.6; 1183.8 THROUGH 1183.13; 1183.15 THROUGH 1183.17;  
1184.1; 1185.1 THROUGH 1185.3; 1185.7; 1185.8; 1186.2; 1186.4; 1187.5; 1187.8; 1187.9;  
1187.12; 1187.14; 1187.15; 1190.1 THROUGH 1190.3; 1190.5

**SPECIFIC PURPOSE OF THE REGULATIONS**

The Commission on State Mandates (Commission) is a seven-member quasi-judicial body authorized to resolve disputes regarding the existence of state-mandated local programs (Gov. Code, § 17500 et seq.) and to hear matters involving applications for a finding of significant financial distress (Welf. & Inst. Code, § 17000.6).

The purpose of this rulemaking is to: (1) clarify and streamline Commission regulations; (2) update language for consistency; (3) clarify the definition of interested person; (4) clarify the certification and signature requirements for documents filed with the Commission; (5) clarify the requirements to e-file documents in a searchable PDF format and include an original signature; (6) clarify the period of limitation for filing a test claim consistent with the statutory scheme; (7) clarify the requirement for a single claimant representative for joint test claim filings; (8) clarify the requirements for filing a proposed amendment to parameters and guidelines consistent with changes to the Government Code; (9) clarify evidence submission requirements; (10) clarify that the same certification and filing requirements apply to all new filings and written materials; (11) update authority and reference citations; and (12) update punctuation for consistency throughout the regulations.

**I. Clarification of the Definition of Interested Person**

Section 1181.2. Definitions.

*Specific Purpose of the Regulation*

The purpose is to clarify the definition of an “interested person” who may participate in Commission proceedings to mean any individual, local agency, school district, state agency, corporation, partnership, association, or other type of entity, who has an interest in a matter before the Commission, but is not a party or interested party with respect to that matter.

*Proposed Change*

Language is proposed in section 1181.2(j) as follows:

(j) "Interested person" means any individual, local agency, school district, state agency, corporation, partnership, association, or other type of entity, who has~~ing~~ an interest ~~in the activities of the Commission~~ a matter before the Commission, but is not a party or interested party with respect to that matter.

### *Necessity and Anticipated Benefit*

This proposed change makes clear that an “interested person” is a distinct entity with respect to participating in a matter before the Commission, and is not a party or interested party with respect to that matter.

## **II. Clarification of Certification Requirement for New Filings and Written Materials and Submission Requirement that PDFs Include an Original Signature and Remain Searchable**

### Section 1181.3. Filing and Service of Written Materials and New Filings.

#### *Specific Purpose of the Regulation*

The regulation provides for the filing and service of new filings and written materials. The regulation provides for both paper and e-filing of documents for all Commission matters. The regulation requires that documents e-filed with the Commission must be in a legible and searchable format, but section 1187.5 also requires all written representations of fact to be signed under penalty of perjury by persons authorized and competent to do so. The regulation is amended to clarify that all new filings and all other written materials must be signed under penalty of perjury, with a declaration that the filing is true and correct to the best of the declarant’s personal knowledge, information or belief. The regulation is also amended to specify how e-filed documents should be signed in order to best preserve legibility and searchability.

#### *Proposed Changes*

New section 1181.3(a) is added as follows:

(a) Certification. All new filings and written materials filed with the Commission shall be signed at the end of the document, under penalty of perjury, with the declaration that the filing is true and correct to the best of the declarant’s personal knowledge, information, or belief. The date of signing, the declarant’s title, address, telephone number, and email address, if applicable, shall be included.

Language is proposed in section 1181.3(b)(1) as follows:

(1) E-Filing. ~~Submit File~~ the original to the Commission by saving the signed original in a PDF file and submitting it via the Commission’s e-filing system, available on the Commission’s website. Documents e-filed with the Commission must be in a legible and searchable format that allows Commission staff to electronically date stamp the document to verify date of filing, and to append additional pages for posting on the Commission’s website with proof of service, in lieu of the filer serving the document to the entire mail list for the matter. E-filed documents should be filed in their original, searchable form, but the signature page shall be replaced with a scanned copy, rather than digitally signed. The filer is responsible for maintaining the signed original for the duration of the process for the matter, including any period of appeal. Notwithstanding any other provision in these regulations, if a new filing or written material is e-filed, no additional copies shall be submitted to Commission staff. The following shall apply to e-filing:

Renumbering and renaming:

Section 1181.3 is renamed “Certification, Filing and Service of Written Materials and New Filings” and the addition of new subdivision (a) requires renumbering subdivisions (a) and (b) as (b) and (c).

### *Necessity and Anticipated Benefit*

The proposed amendment makes clear what is already stated throughout the Commission's regulations: that all new filings or other written materials must be signed, under penalty of perjury, and with a declaration that the filing is true and correct to the best of the declarant's personal knowledge, information, or belief. The proposed amendment also requires the filing to include the date, the declarant's title, address, telephone number, and email address.

In addition, the proposed amendment clarifies how to submit electronic documents with a signature while maintaining the searchability of the document. Electronic signatures interfere with date stamping and do not allow for addition of proofs of service or mailing lists, which Commission staff appends before electronically serving the document. The proposed amendment requires an electronic filer to submit a searchable original PDF document (not a scanned document), along with a scanned signature page (rather than an electronically signed signature page).

### **III. Filing Period Requirements for Test Claims**

#### Section 1183.1 Test Claim Filing.

##### *Specific Purpose of the Regulation*

The regulation provides the requirements for test claim filing, including the period of limitation within which a successful test claim must be filed in accordance with Government Code section 17551(c). Government Code section 17551(c) states that "Local agency or school district test claims shall be filed not later than 12 months following the effective date of a statute or executive order, or within 12 months of incurring increased costs as a result of a statute or executive order, whichever is later." The existing regulation, however, confuses the period of limitation for filing test claims with the period of reimbursement identified in parameters and guidelines for approved test claims by stating that "For purposes of claiming based on the date of first incurring costs, 'within 12 months' means by June 30 of the fiscal year following the fiscal year in which increased costs were first incurred by the test claimant."

##### *Proposed Change*

Language is proposed in 1183.1(c) as follows:

Except as provided in Government Code sections 17573 and 17574, any test claim or amendment filed with the Commission must be filed not later than 12 months (365 days) following the effective date of a statute or executive order, or within 12 months (365 days) of first incurring increased costs as a result of a statute or executive order, whichever is later. ~~For purposes of claiming based on the date of first incurring costs, "within 12 months" means by June 30 of the fiscal year following the fiscal year in which increased costs were first incurred by the test claimant.~~

##### *Necessity and Anticipated Benefit*

The proposed amendment applies a clear, predictable, and precise one year period of limitation to the filing of all test claims, whether based on the effective date of the test claim statute or executive order or the date that costs were first incurred under the test claim statute or executive order, consistent with Government Code section 17551(c).

#### **IV. Joint Test Claim Single Representative Requirement**

##### Section 1183.1. Test Claim Filing.

###### *Specific Purpose of the Regulation*

The regulation provides the requirements for test claim filing, including the provision that a test claim may be prepared jointly by two or more claimants, under specified circumstances.

###### *Proposed Change*

Language is proposed in 1183.1(g)(3) as follows:

(3) The claimants have designated one ~~contact~~ person to act as the ~~resource~~ sole representative for all claimants ~~for information regarding the test claim.~~

###### *Necessity and Anticipated Benefit*

The proposed amendment clarifies the third requirement that joint claimants must designate one person to act as the sole representative for all claimants on the test claim.

#### **V. Requirement to Use Audited Claim Data in Amending Parameters and Guidelines to Include Reasonable Reimbursement Methodology (RRM)**

##### Section 1183.17. Amendments to Parameters and Guidelines.

###### *Specific Purpose of the Regulation*

The purpose of section 1183.17 is to provide for amendments to existing parameters and guidelines. The section states that an amendment may be filed to make specified changes to parameters and guidelines, including deleting any activity repealed by statute or executive order; updating offsetting revenue and savings as necessary; clarifying reimbursable activities consistent with the test claim decision, or to include a reasonable reimbursement methodology for all or some of the reimbursable activities.

###### *Proposed Changes*

Language is proposed in 1183.17(a)(3) as follows:

(3) Include a reasonable reimbursement methodology for all or some of the reimbursable activities in accordance with Government Code section 17518.5. Any request to include a reasonable reimbursement methodology based on, in whole or in part, costs that have been included in claims submitted to the Controller, shall include a statement to this effect on the cover or first page of the request.

Update to Reference in 1183.17 as follows:

Note: Authority Cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections 17518.5, 17530, 17553 and 17557, Government Code.

###### *Necessity and Anticipated Benefit*

The proposed amendment harmonizes the regulation with changes made to Government Code section 17518.5, which defines “reasonable reimbursement methodology.” As amended by Statutes 2016, chapter 31, section 17518.5 provides that where a reasonable reimbursement methodology is, in whole or in part, based on costs included in claims submitted to the Controller, only those cost claims that have been audited may be relied upon. The proposed

amendment recognizes that these provisions would only arise in the case of an *amendment* to parameters and guidelines, because initial parameters and guidelines proposals including a reasonable reimbursement methodology could not be based on cost claims submitted to the Controller; cost claims cannot be submitted until after the adoption of initial parameters and guidelines and the issuance of claiming instructions by the Controller. The regulations therefore include the new requirements of section 17518.5 only in section 1183.17 of the regulations dealing with amendments to parameters and guidelines, and not in section 1183.12, addressing the adoption of new parameters and guidelines following a test claim decision. Additionally, the provision requiring a statement that the proposal is based on cost claims submitted to the Controller for reimbursement is necessary to effectuate the requirement in section 17518.5(e)(2-3) that the Commission notify the Controller within 30 days of an amendment request that relies on cost claims, so that the Controller, in turn, may select and audit a representative sample of the claimed costs within 360 days.

## **VI. Filing and Service of All Documents, and Signature and Certification of Evidence Requirements; Elimination of Duplicative Language**

Sections affected: 1182.2; 1182.7; 1182.9; 1182.10; 1183.1; 1183.2; 1183.3; 1183.4; 1183.6; 1183.8; 1183.9; 1183.10; 1183.11; 1183.12; 1183.13; 1183.15; 1183.16; 1183.17; 1184.1; 1185.1; 1185.2; 1185.3; 1185.7; 1185.8; 1186.2; 1186.4; 1187.8; 1187.9; 1187.12; 1187.14; 1187.15; 1190.1; 1190.2; 1190.3; 1190.5.

### *Specific Purpose of the Regulation*

The above-described regulations address and provide for the filing of findings of significant financial distress, test claims, proposed parameters and guidelines, jointly proposed parameters and guidelines, requests to amend parameters and guidelines, jointly proposed requests for early termination of a reasonable reimbursement methodology, review of the State Controller's claiming instructions, incorrect reduction claims, requests for inclusion of a reimbursable program in the state mandates apportionment system (SMAS) (all of which are defined as "matters"), requests for extensions of time or postponements of hearings, substitutions of parties, requests for reconsideration, and requests for mandate redeterminations, and all comments, rebuttals, and supporting documentation associated with such matters. All such filings are subject to the requirements of section 1181.3 (filing and service, including e-filing), and most are also subject to section 1187.5 (evidentiary requirements for article 7 quasi-judicial matters). However, portions of the language from either section 1181.3 or section 1187.5, or both, are repeated throughout the above-described regulations, with varying degrees of consistency and detail.

### *Proposed Changes*

The proposed amendments provide uniformity to those varied references, and ensure that the requirements of section 1181.3 are applied to all documents filed with the Commission, and the provisions of section 1187.5 are followed where applicable. Each of the sections listed above is either added to or reordered to include language requiring all filings, comments, rebuttals, requests, applications, or other written materials to be "certified, filed, and served" in accordance with section 1181.3 of these regulations, and, where required and not already present, stating that if representations of fact are made, they must be supported by documentary or testimonial evidence submitted in accordance with section 1187.5. The proposed amendments are identified below:

Section 1182.2 Filing of an Application for a Finding of Significant Financial Distress.

(b) The applicant shall certify, file, and serve an original application, including supporting documents, with the Commission in accordance with section 1181.3 of these regulations.

(d) The written narrative shall be submitted under penalty of perjury. ~~In addition, the financial and other budgetary documents shall be certified under penalty of perjury.~~ If representations of fact are made, they shall be supported by documentary or testimonial evidence, submitted in accordance with section 1187.5 of these regulations.

Section 1182.7 Request for Supplemental Information.

(b) The supplemental information and any attached financial or other budgetary documents shall be ~~submitted under penalty of perjury~~ certified, filed, and served in accordance with section 1181.3 of these regulations. ~~Any attached financial or other budgetary documents shall be certified under penalty of perjury.~~ If representations of fact are made, they shall be supported by documentary or testimonial evidence, submitted in accordance with section 1187.5 of these regulations.

Section 1182.9. Written Comments.

The applicant and any interested persons may file written comments concerning the staff analysis with the Commission. Written comments shall be certified, filed, and served with the Commission in accordance with section 1181.3 of these regulations. If representations of fact are made, they shall be supported by documentary or testimonial evidence, submitted in accordance with section 1187.5 of these regulations. The written comments shall be reviewed by Commission staff and may be incorporated into any revised or supplemental staff analysis of the application.

Section 1182.10. Conduct of Hearing.

~~(b) The hearings will not be conducted according to technical rules relating to evidence and witnesses. Any relevant non-repetitive evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. Irrelevant and unduly repetitious evidence shall be excluded. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.~~

~~(e)~~ The Commission, hearing panel, or hearing officer may question any party or witness, may admit any relevant and material evidence, and may limit the length of testimony to a specific amount of time for any party or witness.

~~(d)~~ The taking of evidence and testimony in a hearing shall be controlled by the Commission, hearing panel, or hearing officer in the manner best suited to ascertain the facts.

~~(e)~~ Oral or written representations of fact offered by any person shall be ~~under oath or affirmation.~~ supported by documentary or testimonial evidence, submitted in accordance with section 1187.5 of these regulations. ~~Written representations of fact must be signed under penalty of perjury by persons who are authorized and competent to do so and must be based upon the declarant's personal knowledge or information or belief.~~

~~(f)~~ Public hearings, pursuant to this article, shall be recorded by stenographic reporter or electronic recording or both. The transcript or recordings shall be kept for the period of time

required by applicable law governing the retention of records of state agency public proceedings, or until conclusion of administrative or judicial proceedings, whichever is later.

#### Section 1183.1. Test Claim Filing.

(e) ~~The claimant shall file the~~A test claim, or amendment thereto, and accompanying documents ~~with the Commission shall be certified, filed, and served~~ in accordance with section 1181.3 of these regulations. All representations of fact shall be supported by documentary or testimonial evidence, submitted in accordance with section 1187.5 of these regulations.

#### Section 1183.2. Review of Test Claim.

(b) Written comments concerning the test claim shall be certified, filed, and served within 30 days from the date the test claim or amendment is issued for comment and in accordance with ~~the provisions of~~ section 1181.3 of these regulations.

(1) If representations of fact are made, they ~~must~~shall be supported by documentary or testimonial evidence, ~~submitted with the comments~~ in accordance with section 1187.5 of these regulations.

~~(d) The written comments and supporting documentation shall be signed at the end of the document by an authorized representative, with the declaration that it is true and complete to the best of the representative's personal knowledge or information or belief. The date of signing, the representative's title, address, and telephone number shall be included. If the authorized representative can be reached via e-mail, the e-mail address shall also be included.~~

#### Section 1183.3. Claimant's Rebuttal.

(a) Written rebuttals to written comments concerning a test claim may be filed, and shall be certified, filed, and served in accordance with section 1181.3 of these regulations within 30 days of service of the written comments.

(b) Content and Form. ~~A written rebuttal shall contain the following documentary evidence, if applicable:~~

(1) If ~~new~~ representations of fact are made, they ~~must~~shall be supported by documentary or testimonial evidence, ~~submitted with the rebuttal~~ in accordance with section 1187.5 of these regulations. ~~All documentary evidence shall be in accordance with section 1187.5 of these regulations.~~

(2) ~~Include a~~A copy of relevant portions of state constitutional provisions, federal statutes, and executive orders, and a copy of administrative decisions and court decisions that are cited in the rebuttal, unless the authorities are also cited in the test claim or any opposition thereto. Published court decisions arising from state mandate determinations by the Board of Control and the Commission on State Mandates, article XIII B, section 6 of the California Constitution, and Government Code sections 17500 et seq., are exempt from the requirement to submit a copy. The specific statutes and chapters, articles, sections, regulatory registers, and page numbers of the authorities shall be identified in the written rebuttal. ~~Published court decisions arising from state mandate determinations by the Board of Control and the Commission on State Mandates, article XIII B, section 6 of the California Constitution, and Government Code sections 17500 et seq., are exempt from the requirements of this subsection.~~

~~(e) The rebuttal shall be signed at the end of the document by the claimant or its authorized representative, with the declaration that the rebuttal is true and complete to the best of the declarant's personal knowledge or information or belief. The date of signing, and the declarant's title, address, and telephone number shall be included. If the declarant can be reached by e-mail, the declarant's e-mail address shall also be included.~~

#### Section 1183.4. Claimant's Motion to Consolidate or Sever Test Claims.

(a) Any motion to consolidate or to sever shall be certified, filed, and served in accordance with section 1181.3 of these regulations. If written representations of fact are made, they shall be supported by documentary or testimonial evidence, submitted in accordance with section 1187.5 of these regulations.

#### Section 1183.6. Review of Completed Test Claim and Preparation of Proposed Decision.

(c) Anyone may file written comments concerning the draft proposed decision. If representations of fact are made, they ~~must~~ shall be supported by documentary or testimonial evidence, submitted with the comments in accordance with section 1187.5 of these regulations. Written comments shall be certified, filed, and served as described in accordance with section 1181.3 of these regulations, by the date determined and publicized by the executive director. A three-week period for comments shall be given, subject to the executive director's authority to expedite all matters pursuant to Government Code section 17530. All written comments timely filed shall be reviewed by Commission staff and may be incorporated into the proposed decision for the test claim.

#### Section 1183.8. Submission and Review of Proposed Parameters and Guidelines; Submission of Comments.

(a) Within 30 days of adoption of the decision on a test claim, or the early termination or expiration of a reasonable reimbursement methodology, the successful test claimant shall submit, to the Commission, proposed parameters and guidelines, pursuant to Government Code section 17557(a). Proposed parameters and guidelines shall be certified, filed, and served in accordance with section 1181.3 of these regulations. If representations of fact are made, they shall be supported by documentary or testimonial evidence, submitted in accordance with section 1187.5 of these regulations.

(e) Written comments shall be certified, filed, and served in accordance with section 1181.3 of these regulations. If representations of fact are made, they shall be supported by documentary or testimonial evidence, submitted in accordance with section 1187.5 of these regulations.

(f) Within 15 days of service of the comments, parties, interested parties, and interested persons may submit written rebuttals to the Commission, ~~and shall file and serve their rebuttals~~ Rebuttals shall be certified, filed, and served in accordance with section 1181.3 of these regulations. If representations of fact are made, they shall be supported by documentary or testimonial evidence, submitted in accordance with section 1187.5 of these regulations.

#### Section 1183.9. Expedited Process for Proposed Parameters and Guidelines.

(a) After adoption of a decision on a test claim, but before claimant submits proposed parameters and guidelines, Commission staff may expedite the parameters and guidelines process by preparing and issuing draft expedited parameters and guidelines to assist the claimant. The draft



expedited parameters and guidelines shall be served to everyone on the mailing list described in section 1181.4 of these regulations, and shall be posted on the Commission's website.

In lieu of filing an original proposal pursuant to Government Code section 17557(a), the successful test claimant may file comments on the draft expedited parameters and guidelines with the Commission which may include proposed modifications. Such comments shall be certified, filed, and served in accordance with section 1181.3 of these regulations. If representations of fact are made, they shall be supported by documentary or testimonial evidence, submitted in accordance with section 1187.5 of these regulations.

(b) Parties, interested parties, and interested persons may file comments on the draft expedited parameters and guidelines within 21 days of service of Commission staff's draft proposal. Such comments shall be certified, filed, and served in accordance with section 1181.3 of these regulations. If representations of fact are made, they shall be supported by documentary or testimonial evidence, submitted in accordance with section 1187.5 of these regulations.

(c) Within 15 days of service of the comments submitted pursuant to subdivision (b) of this section, parties, interested parties, and interested persons may file and serve rebuttals. Such rebuttals shall be certified, filed, and served in accordance with section 1181.3 of these regulations. If representations of fact are made, they shall be supported by documentary or testimonial evidence, submitted in accordance with section 1187.5 of these regulations.

#### Section 1183.10. Reasonable Reimbursement Methodology.

(c) An interested party may submit cost information or other cost projections that can be the basis of a reasonable reimbursement methodology, and letters in support of a draft reasonable reimbursement methodology submitted pursuant to Government Code section 17557.1. Such information shall be certified, filed, and served in accordance with section 1181.3 of these regulations. All representations of fact shall be supported by documentary or testimonial evidence, submitted in accordance with section 1187.5 of these regulations.

#### Section 1183.11. Joint Reasonable Reimbursement Methodology and Statewide Estimate of Costs.

(b) The written notification shall provide all information and filing dates, as specified in Government Code section 17557.1(a), and shall be certified, filed, and served in accordance with section 1181.3 of these regulations.

(d) The test claimant and Department of Finance shall certify, file, and serve any filings made pursuant to Government Code section 17557.1 in accordance with section 1181.3 of these regulations.

(f) Written comments ~~may be~~ shall be certified, filed, and served in accordance with section 1181.3 of these regulations.

(g) Within seven days of service of the written comments, the test claimant and Department of Finance may submit written rebuttals which shall be certified, filed, and served in accordance with section 1181.3 of these regulations.

Section 1183.12. Reasonable Reimbursement Methodology, Included in Parameters and Guidelines.

(d) Proposed reasonable reimbursement methodologies and comments regarding those proposals shall be certified, filed, and served in accordance with section 1181.3 of these regulations. If representations of fact are made, they shall be supported by documentary or testimonial evidence, submitted in accordance with section 1187.5 of these regulations.

(e) Within 15 days of service of the written comments prepared by other parties and interested parties, the party that proposed the reasonable reimbursement methodology may submit a written rebuttal to the Commission, and shall certify, file, and serve the rebuttal in accordance with section 1181.3 of these regulations. If representations of fact are made, they shall be supported by documentary or testimonial evidence, submitted in accordance with section 1187.5 of these regulations.

Section 1183.13. Adoption of Parameters and Guidelines.

(b) Written comments on the draft proposed decision and parameters and guidelines shall be certified, filed, and served in accordance with section 1181.3 of these regulations, by the date noticed by the executive director. A three-week period for comments shall be given, subject to the executive director's authority to expedite all matters pursuant to Government Code section 17530. If representations of fact are made, they shall be supported by documentary or testimonial evidence, submitted in accordance with section 1187.5 of these regulations. All written comments timely filed shall be reviewed by Commission staff and may be incorporated into the proposed decision and parameters and guidelines.

Section 1183.15. Jointly Proposed Request for Early Termination of Reasonable Reimbursement Methodology.

(a) The test claimant and the Department of Finance may file a joint request for early termination of a reasonable reimbursement methodology with the Commission by submitting a request made pursuant to Government Code section 17557.2(e) which shall be certified, filed, and served in accordance with section 1181.3 of these regulations.

(c) Written comments ~~may be~~ shall be certified, filed, and served in accordance with section 1181.3 of these regulations.

(d) Within seven days of service of the written comments, the test claimant and Department of Finance may submit written rebuttals which shall be certified, filed, and served in accordance with section 1181.3 of these regulations.

Section 1183.16. Expiration of Reasonable Reimbursement Methodology.

(c) The test claimant and the Department of Finance may jointly propose amendments to the reasonable reimbursement methodology or the continuation of a reasonable reimbursement methodology by submitting a request made pursuant to Government Code section 17557.2(f), which shall be certified, filed, and served in accordance with section 1181.3 of these regulations.

(e) Written comments shall be certified, filed, and served in accordance with section 1181.3 of these regulations.

(f) Within 15 days of service of the written comments prepared by other parties and interested parties, the test claimant and Department of Finance may submit written rebuttals which shall be certified, filed, and served in accordance with section 1181.3 of these regulations.

#### Section 1183.17. Amendments to Parameters and Guidelines.

(d) A claimant or state agency requesting an amendment to existing parameters and guidelines shall certify, file, and serve the request in accordance with section 1181.3 of these regulations. If representations of fact are made, they shall be supported by documentary or testimonial evidence, submitted in accordance with section 1187.5 of these regulations.

(g) Written comments on the request to amend the parameters and guidelines shall be certified, filed, and served in accordance with section 1181.3 of these regulations. If representations of fact are made, they shall be supported by documentary or testimonial evidence, submitted in accordance with section 1187.5 of these regulations.

(h) Written rebuttals to the comments may be filed within 21 days of service of the comments. Written rebuttals shall be certified, filed, and served in accordance with section 1181.3 of these regulations. If representations of fact are made, they shall be supported by documentary or testimonial evidence, submitted in accordance with section 1187.5 of these regulations.

(j) Written comments on the draft proposed decision and recommendation on the proposed amendment to the parameters and guidelines shall be certified, filed, and served with the Commission in accordance with section 1181.3 of these regulations, by the date noticed by the executive director. A three-week period for comments shall be given, subject to the executive director's authority to expedite all matters pursuant to Government Code section 17530. If representations of fact are made, they shall be supported by documentary or testimonial evidence, submitted in accordance with section 1187.5 of these regulations. All written comments timely filed shall be reviewed by Commission staff and may be incorporated into the proposed decision and recommendation on the proposed amendment to the parameters and guidelines.

#### Section 1184.1. Review of Office of State Controller's Claiming Instructions.

(c) An original request to review claiming instructions shall be ~~submitted to the Commission by the local agency or school district~~ certified, filed, and served in accordance with section 1181.3 of these regulations. If representations of fact are made, they shall be supported by documentary or testimonial evidence, submitted in accordance with section 1187.5 of these regulations.

(f) Written comments shall be certified, filed, and served in accordance with section 1181.3 of these regulations. If representations of fact are made, they shall be supported by documentary or testimonial evidence, submitted in accordance with section 1187.5 of these regulations.

(g) Within 30 days of service of the written comments, the requester may submit a written rebuttal to the Commission which shall be certified, filed, and served in accordance with section 1181.3 of these regulations. If representations of fact are made, they shall be supported by documentary or testimonial evidence, submitted in accordance with section 1187.5 of these regulations.

(i) The requester and any state agency or interested party may file written comments on the draft proposed decision. Written comments shall be certified, filed, and served as described in accordance with section 1181.3 of these regulations, by the date determined and publicized by

the executive director. If representations of fact are made, they ~~must~~shall be supported by documentary ~~or testimonial~~ evidence submitted ~~with the comments~~ in accordance with section 1187.5 of these regulations. A three-week period for comments shall be given, subject to the executive director's authority to expedite all matters pursuant to Government Code section 17530. All written comments timely filed shall be reviewed by Commission staff and may be incorporated into the proposed decision on the request to review and modify the claiming instructions.

#### Section 1185.1. Incorrect Reduction Claim Filing.

(3) All representations of fact shall be supported by testimonial or documentary evidence, ~~and shall be submitted with the claim~~ in accordance with section 1187.5 of these regulations.

(g) An incorrect reduction claim, or amendment thereto, shall be certified, filed, and served in accordance with section 1181.3 of these regulations~~shall be signed at the end of the document, under penalty of perjury by the claimant or its authorized representative, with the declaration that the incorrect reduction claim is true and complete to the best of the declarant's personal knowledge or information or belief. The date signed, the declarant's title, address, telephone number, and e-mail address shall be included.~~

#### Section 1185.2. Review of Incorrect Reduction Claims.

(d) Commission staff shall notify the Office of State Controller that written comments and supporting documentation in connection with an incorrect reduction claim shall be filed no more than 90 days from the date the copy of the claim is provided to the Office of State Controller. Written comments and supporting documentation ~~may~~shall be certified, filed, and served in accordance with section 1181.3 of these regulations. If ~~the written comments make~~ representations of fact ~~are made~~, they ~~representations~~ shall be supported by documentary ~~or testimonial~~ evidence ~~and shall be submitted with the comments~~ in accordance with section 1187.5 of these regulations.

(e) The claimant and interested parties may submit written rebuttals to the Office of State Controller's comments within 30 days of service of the Office of State Controller's comments. Written rebuttals and supporting documentation shall be certified, filed, and served pursuant to in accordance with section 1181.3. If ~~the written rebuttal involves~~ representations of fact ~~are made~~, they ~~representations~~ shall be supported by documentary ~~or testimonial~~ evidence ~~and shall be submitted with the rebuttal~~ in accordance with section 1187.5 of these regulations.

#### Section 1185.3. Consolidation of Claims Initiated by an Individual Claimant.

(b) A claimant that seeks to file a consolidated incorrect reduction claim shall notify the Commission of its intent at the time of filing on a form provided by the Commission. The consolidated incorrect reduction claim shall be filed in accordance with section 1185.1 of these regulations and contain a narrative that explains the elements in subdivision (a) of this section. All representations of fact shall be supported by documentary or testimonial evidence, submitted in accordance with section 1187.5 of these regulations.

#### Section 1185.7. Review of Completed Incorrect Reduction Claims and Preparation of Proposed Decision.

(d) A three-week period for comments shall be given, subject to the executive director's authority to expedite all matters pursuant to Government Code section 17530. Written comments

may be filed and shall be certified, filed, and served as described in accordance with section 1181.3 of these regulations, by the date determined and publicized by the executive director.~~A three week period for comments shall be given, subject to the executive director's authority to expedite all matters pursuant to Government Code section 17530. If representations of fact are made, they shall be supported by documentary or testimonial evidence, submitted in accordance with section 1187.5 of these regulations.~~ All written comments timely filed shall be reviewed by Commission staff and may be incorporated into the proposed decision for the incorrect reduction claim.

#### Section 1185.8. Withdrawal of Incorrect Reduction Claims.

(b) An incorrect reduction claim, by the original claimant in a consolidated incorrect reduction claim, may be withdrawn by written application any time before a decision is adopted or by oral application at the time of hearing. The original claimant shall certify, file, and serve the written application in accordance with section 1181.3 of these regulations and Commission staff shall post a copy of the notice on the Commission's website for 60 days prior to dismissal of the incorrect reduction claim. If one of the joint claimants takes over the claim, it shall, within 60 days of providing notice of its intent to take over the claim, perfect the filing by submitting the written narrative as required by section 1185.1. If none of the joint claimants takes over the claim by substitution of parties within 60 days of service and posting of the application to withdraw, the executive director shall issue a letter to everyone on the mailing list described in section 1181.4 of these regulations dismissing the claim and providing the joint claimants with an opportunity to perfect their individual claims within 60 days of service by submitting the written narrative as required by section 1185.1. The letter shall be posted on the Commission's website.

#### Section 1186.2. Request for Inclusion.

(b) In order to obtain a review and determination regarding inclusion in the system, a local agency, school district or state agency must certify, file, and serve a "Request for Inclusion" ~~with the Commission~~ in accordance with section 1181.3 of these regulations.

(f) Requests for inclusion filings and any state agency recommendations shall be subject to the requirements of article 7 of these regulations beginning at section 1187.1. If representations of fact are made, they shall be supported by documentary or testimonial evidence, submitted in accordance with section 1187.5 of these regulations.

#### Section 1186.4. Request for Removal.

(b) In order to obtain a review and determination regarding removal of a program from the system, a local agency, school district, or state agency must certify, file, and serve a "Request for Removal" ~~with the Commission~~ in accordance with section 1181.3 of these regulations.

(e) Request for removal filings and any state agency recommendations shall be subject to the requirements of article 7 of these regulations beginning at section 1187. If representations of fact are made, they shall be supported by documentary or testimonial evidence, submitted in accordance with section 1187.5 of these regulations.

#### Section 1187.8. Representation at Hearing.

(a) A party may appear in person or through an authorized representative. When using an authorized representative, a party shall designate in writing the authorized representative to act as

its sole representative and shall certify, file, and serve written notice identifying the authorized representative in accordance with section 1181.3 of these regulations.

Section 1187.9. Extensions of Time to File Comments or Rebuttals and Postponements and Continuances of Hearings.

(a) Requests for Extensions of Time

Any party or interested party to a matter may request an extension of time by filing a request with the executive director before the date set for filing of comments or rebuttals with Commission staff on that matter. The request shall fully explain the reasons for the extension, propose a new date for filing, and be simultaneously-certified, filed, and served in accordance with section 1181.3 of these regulations. If representations of fact are made, they shall be supported by documentary or testimonial evidence, submitted in accordance with section 1187.5 of these regulations. So long as a postponement of a hearing would not be required, there is no prejudice to any party or interested party, and there is no other good reason for denial, the request shall be approved. A party to a matter may request an extension of time that would necessitate rescheduling a hearing, but shall also include a request for postponement of the hearing, pursuant to section 1187.9(b). Within two business days of receipt of the request, the executive director shall determine whether the extension will be granted and notify all persons on the mailing list prepared pursuant to section 1181.4 of these regulations.

(b) Requests for Postponement of Hearing

A party to an article 7 matter may request a postponement of a hearing on that matter, until the next regularly scheduled hearing. Although postponements of hearings are disfavored, each request for a postponement must be considered on its own merits. The request shall fully explain the reasons for the postponement, and be certified, filed, and served in accordance with section 1181.3 of these regulations. If representations of fact are made, they shall be supported by documentary or testimonial evidence, submitted in accordance with section 1187.5 of these regulations. Within two business days of receipt of the request, the executive director shall determine whether the postponement will be granted and notify all persons on the mailing list prepared pursuant to section 1181.4 of these regulations. The executive director may postpone the matter only on an affirmative showing of good cause.

Section 1187.12. Withdrawal of a Matter.

A matter, or any portion of a matter, other than a test claim, may be withdrawn by written application of the claimant or requester any time before a decision is adopted, or by oral application at the time of hearing. A test claim, or portion thereof, may be withdrawn by the claimant upon written application to the executive director any time before a decision is adopted or after enactment of a legislatively determined mandate on the same statute or executive order pursuant to Government Code section 17574. The claimant or requester shall certify, file, and serve the written application in accordance with section 1181.3 of these regulations. Dismissal of items withdrawn pursuant to this section shall be in accordance with the procedures described in section 1187.15 of these regulations.

Section 1187.14. Substitution of Parties and Dismissal of a Matter.

(2) Written comments shall be certified, filed, and served in accordance with section 1181.3 of these regulations. If representations of fact are made, they shall be supported by documentary or testimonial evidence, submitted in accordance with section 1187.5 of these regulations.

Section 1187.15. Reconsideration of an Adopted Decision.

(c) All requests for reconsideration shall be certified, filed, and served~~submitted to the Commission~~ in accordance with section 1181.3 of these regulations and shall contain the following:

(5) If representations of fact are made, they shall be supported by documentary or testimonial evidence, submitted in accordance with section 1187.5 of these regulations.

(B) Written comments may be filed with Commission staff concerning the draft proposed decision. All representations of fact shall be supported by documentary or testimonial evidence, submitted in accordance with section 1187.5 of these regulations. Written comments shall be certified, filed, and served in accordance with section 1181.3 of these regulations. A three-week period for comments shall be given, subject to the executive director's authority to expedite all matters pursuant to Government Code section 17530. All written comments timely filed shall be reviewed by Commission staff and may be incorporated into the proposed decision regarding whether the adopted decision is contrary to law and presented to the Commission before the scheduled meeting.

Section 1190.1 Filing a Request to Adopt a New Test Claim Decision.

(b) All requests for mandate redetermination shall be filed on a form developed by the executive director and shall contain a detailed analysis of how and why the state's liability for mandate reimbursement has been modified pursuant to article XIII B, section 6(a) of the California Constitution and all of the elements and accompanying documents required by the form and Government Code section 17570(d). If representations of fact are made, they shall be supported by documentary or testimonial evidence, submitted in accordance with section 1187.5 of these regulations.

(d) ~~The requester shall file a~~ request for mandate redetermination and accompanying documents ~~with the Commission~~ shall be certified, filed, and served in accordance with section 1181.3 of these regulations.

Section 1190.2. Review and Response.

(1) If representations of fact are made, they must be supported by documentary or testimonial evidence, which shall be submitted in accordance with section 1187.5 of these regulations~~with the response. All documentary evidence shall be authenticated by declarations under penalty of perjury signed by persons who are authorized and competent to do so and must be based on the declarant's personal knowledge or information or belief.~~

~~(e) The written comments and supporting documentation shall be signed at the end of the document, under penalty of perjury by an authorized representative, with the declaration that it is true and complete to the best of the representative's personal knowledge or information or belief. The date of signing, the representative's title, address, telephone number, and e-mail address shall be included.~~

~~(d) Filing. Written comments and supporting documentation concerning a request for mandate redetermination shall be certified, filed, and served in accordance with Section 1181.3 of these regulations. Any representations of fact shall be supported by documentary evidence, submitted with the comments, in accordance with section 1187.5 of these regulations.~~

### Section 1190.3. Rebuttal.

(1) If ~~new~~ representations of fact are made, they must be supported by documentary or testimonial evidence, ~~which shall be submitted with the rebuttal~~ in accordance with section 1187.5 of these regulations.

(c) The rebuttal to a comment concerning a request for mandate redetermination shall be certified, filed, ~~with Commission staff~~ and served in accordance with section 1181.3 of these regulations.

~~(d) The rebuttal shall be signed at the end of the document, under penalty of perjury, with the declaration that the rebuttal is true and complete to the best of the declarant's personal knowledge or information or belief. The date of signing, the declarant's title, address, telephone number, and e-mail address shall be included.~~

### Section 1190.5. Hearing Process and Form of Decision.

(3) Written comments concerning the draft proposed decision may submitted to Commission staff. Written comments shall be certified, filed, and served as described in accordance with section 1181.3 of these regulations, by the date determined and publicized by the executive director. A three-week period for comments shall be given, subject to the executive director's authority to expedite all matters pursuant to Government Code section 17530. If representations of fact are made, they shall be supported by documentary or testimonial evidence, submitted in accordance with section 1187.5 of these regulations. All written comments timely filed shall be reviewed by Commission staff and may be incorporated into the proposed decision of the request to adopt a new test claim decision.

(3) Any party or interested party may file written comments concerning the draft proposed decision with Commission staff. Written comments shall be certified, filed, and served as described in accordance with Section 1181.3 of these regulations, by the date determined and publicized by the executive director. A three-week period for comments shall be given, subject to the executive director's authority to expedite all matters pursuant to Government Code section 17530. If representations of fact are made, they shall be supported by documentary or testimonial evidence, submitted in accordance with section 1187.5 of these regulations. All written comments timely filed shall be reviewed by Commission staff and may be incorporated into the proposed decision.

### *Necessity and Anticipated Benefit*

Section 1183.1 of the Commission's regulations instructs claimants, state agencies, parties, interested parties, and interested persons, regarding the options for either paper or electronic filing and service of documents with the Commission. These filing and service provisions apply to virtually all documents submitted to the Commission on any matter, but they are either referred to or stated slightly differently throughout the Commission's regulations. Similarly, section 1187.5 requires that "All written representations of fact submitted to the Commission must be signed under penalty of perjury by persons who are authorized and competent to do so and must be based upon the declarant's personal knowledge or information and belief." This requirement applies generally to any document filed with the Commission that makes an assertion of fact, but the requirement is stated or referred to slightly differently throughout the Commission's regulations.



In some of the above regulations, the specific provisions pertaining to comments, rebuttals, or other filings, refer to the more general provisions; and in some cases they state some or all of the requirements of sections 1183.1 and 1187.5 independently. However, the language used, and the references to these requirements, are not uniform throughout, and may cause confusion, especially where certain requirements are stated, and others are not. The proposed amendment language in reference to all claims, requests, amendments, comments, rebuttals, or any other document to be filed with the Commission, with as little variation as practicable, will ensure that the evidentiary standard and the filing requirements are clear and consistently applied.

## **VII. Elimination of Duplicative Language; Consistency; Punctuation and Style**

### **Section 1187.5 Evidence Submitted to the Commission.**

#### *Specific Purpose of the Regulation*

The regulation provides standards for evidence submitted to the Commission.

#### *Proposed Changes*

The following amendments are proposed:

(b) Oral or written representations of fact offered by any person at an article 7 hearing shall be under oath or affirmation. All written representations of fact submitted to the Commission must be signed under penalty of perjury by persons who are authorized and competent to do so and must be based upon the declarant's personal knowledge, ~~or~~ information, or belief.

Note: Authority cited: Sections 17527(e), 17527(g), 17553, 17557, 17610, 17621 and 17622, Government Code. Reference: Sections 11514, 11515, 17527(e), 17551, 17553, ~~and~~ 17557, 17559, and 17570, Government Code.

#### *Necessity and Anticipated Benefit*

The proposed amendment is a minor, technical change and is consistent with evidentiary standards and the penalty of perjury standard stated in the Government Code, including section 17553 pertaining to test claim filings and section 17570 pertaining to mandate redetermination requests and the substantial evidence requirement applicable to Commission decisions.

### **Section 1185.4. Joining a Consolidated Incorrect Reduction Claim.**

#### *Specific Purpose of the Regulation*

The regulation provides for the filing of a notice of intent to join a consolidated incorrect reduction claim.

#### *Proposed Change*

The following amendment is proposed:

(3) A notice of intent to join a consolidated incorrect reduction claim shall include a certification by the joining claimant authorizing the original claimant to act as its representative in the consolidated incorrect reduction claim, and a declaration under penalty of perjury that the filing is true and complete to the best of the declarant's personal knowledge, ~~or~~ information, or belief. The date signed, the declarant's title, address, telephone number, and e-mail address shall be included. All representations of fact shall be supported by testimonial or documentary evidence and shall be submitted in accordance with section 1187.5 of these regulations.

*Necessity and Anticipated Benefit*

The proposed amendment is a minor, technical change and is consistent with evidentiary standards and the penalty of perjury standard stated in the Government Code, and with section 1187.5 of these regulations.

Section 1187.7. Witnesses and Subpoenas.

*Specific Purpose of the Regulation*

The regulation provides for the presentation of witnesses at a hearing on a claim and the ability of the Commission to subpoena witnesses and documentation.

*Proposed Change*

The following amendment is proposed:

(c) An application for a subpoena to compel the attendance of a witness shall be made by affidavit and shall give the name and address of the person to be subpoenaed, shall describe the matters to be testified on, shall set forth in detail the relevance to the issues involved in the claim, shall specify the date, time, and place of the hearing on the claim and that, to the best of the applicant's personal knowledge, ~~or~~ information, or belief, the person to be subpoenaed has knowledge of the matters. If the applicant is unable to obtain the name of the person who has knowledge of the matters, the name of the director of the state or local agency or superintendent of a school district may be used for the application.

(d) An application for subpoena duces tecum for the production by a witness of books, papers, correspondence, memoranda, or other records, including records of the claimant, shall be made by affidavit and shall give the name and address of the person to be subpoenaed, shall describe the matters or things desired to be produced, shall set forth in detail the relevance to the issues involved in the claim, shall specify the date on which the matters shall be produced, and that, to the best of the applicant's personal knowledge, ~~or~~ information, or belief, the witness has the matters or things in his or her possession or under his or her control and that none of the matters or things desired to be produced are public records accessible to the public pursuant to Section 6250 et seq., of the Government Code. If the applicant is unable to obtain the name of the person who has possession or control of the matters or things desired to be produced, the name of the director or superintendent or custodian of records of the state or local agency or school district may be used for the application.

*Necessity and Anticipated Benefit*

The proposed amendment is a minor, technical change and is consistent with evidentiary standards and the penalty of perjury standard stated in the Government Code, and with section 1187.5 of these regulations.

Sections 1182.15; 1183.1; 1185.2; 1187.15.

*Specific Purpose of Regulation*

Section 1182.15 provides for reapplications for a finding of significant financial distress. Section 1183.1 provides for test claim filing. Section 1185.2 provides for review of incorrect reduction claims. Section 1187.15 provides for a request to reconsider a test claim.

### *Proposed Change*

The words “and hearing procedures” are replaced with “requirements and procedures relating to applications” in section 1182.15(b). The word “of” is changed to “on” in section 1183.1(a)(1). A space is inserted after “(c)” and before “Within” in section 1185.2(c). The period is replaced with a comma after “and” in section 1187.15(c)(4), because the new section 1187.15(c)(5) is now the last of the list of requirements.

### *Necessity and Anticipated Benefit*

These changes are clerical or stylistic in nature and are necessary to correct minor errors.

## **ECONOMIC IMPACT ASSESSMENT/ANALYSIS**

### Creation or Elimination of Jobs within the State of California

The regulations are designed to increase clarity for local governments, school districts, state agencies, and other interested parties/persons who participate in the Commission's processes and to make minor technical corrections. No jobs in California will be created or eliminated as a result of these regulations.

### Creation of New or Elimination of Existing Businesses within the State of California

The Commission has no jurisdiction over small or any other businesses and businesses are not parties before the Commission. Therefore, no new businesses in California will be created or existing businesses eliminated.

### Expansion of Businesses or Elimination of Existing Businesses within the State of California

The Commission has no jurisdiction over small or any other businesses and businesses are not parties before the Commission. Additionally, the proposed regulations merely clarify Commission processes and make technical corrections. Therefore, no existing businesses in California will be expanded or eliminated.

### Benefits of the Regulations

The regulations are designed to increase clarity for local governments, school districts, state agencies, and other interested parties/persons who participate in the Commission's processes and to make minor technical corrections. These regulations may indirectly benefit the health and welfare of California residents by clarifying participation in the Commission's processes and by preventing the inclusion of personal identifying information in written material filed with the Commission.

## **MATERIAL RELIED UPON TO DEVELOP REGULATIONS**

Commission staff did not rely on any technical, theoretical, or empirical studies or reports in proposing the adoption of these regulations. The Commission relied upon the statutes and cases cited in the authority and reference sections for the regulations.

## **REASONABLE ALTERNATIVES TO THE REGULATIONS AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES**

No other alternatives have been presented to or considered by the Commission.

**REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION  
THAT WOULD LESSEN ANY ADVERSE ECONOMIC IMPACT ON SMALL OR  
OTHER BUSINESSES**

The Commission has no jurisdiction over small or any other businesses and businesses are not parties before the Commission. Therefore there is no adverse impact on small or other businesses.

**EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC  
IMPACT ON ANY BUSINESS**

There are no businesses that are parties or interested parties in matters before the Commission.