

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

NOTICE OF PROPOSED RULEMAKING

The Commission on State Mandates (Commission) proposes to adopt the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Commission has not scheduled a public hearing for this proposed action. However, if it receives a written request for a public hearing from any interested person or his or her authorized representative no later than 15 days before the close of the written comment period, the Commission will conduct a public hearing on this proposed action on September 27, 2019, and will notify all persons of the date, time, and location of the hearing pursuant to Government Code section 11346.8(a).

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Commission. The written comment period closes at **5:00 p.m. on September 23, 2019**. The Commission will consider only comments received at the Commission offices by that time. Submit comments to:

Jill Magee, Program Analyst
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Written comments may be submitted electronically via the Commission website "Drop Box" at <http://www.csm.ca.gov/dropbox.php>

AUTHORITY AND REFERENCE

Government Code section 17527(g), authorizes the Commission to adopt the proposed regulations. Reference citations: Government Code sections 11123, 11346.4, 11347, 11347.1, and 17500 et seq.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The 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 county applications for a finding of significant financial distress (Welf. & Inst. Code, § 17000.6).

The purpose of this rulemaking is to generally clean-up, clarify, and streamline Commission regulations and update language for consistency. Specifically, the proposed regulations: (1) clarify the definitions of "completed," "new filing," "party," "statewide cost estimate," "statewide estimate of costs," and "subsequent change in the law;" and clarify the types of matters for which the executive director issues sequential numbers for matters; (2) require electronic filing for all new filings and written materials except as specified, and add electronic

formatting requirements; (3) clarify that the tie vote procedures apply to all action items and that the option of assigning a matter to a hearing panel or hearing officer in the case of a tie vote applies to all quasi-judicial “matters” and not only to test claims and incorrect reduction claims; (4) streamline the process for adopting expedited parameters and guidelines; (5) clarify the joint reasonable reimbursement methodology (RRM) regulations, which implement Government Code sections 17557.1 and 17557.2, to make it clear that it is an alternative process and not the same as an RRM included in parameters and guidelines adopted by the Commission pursuant to Government Code section 17557; (6) clarify Commission and party actions in the timeline regulation; (7) clarify that the three-year limitation period that applies to filing incorrect reduction claims also applies to filing amendments to incorrect reduction claims; (8) add completeness language to a request to review the apportionment or base year entitlement of a program in the State Mandates Apportionment System (SMAS) consistent with the other SMAS requests for inclusion and removal; (9) clarify the definition of “matter” in article 7 to include joint reasonable reimbursement methodologies and statewide estimates of costs (joint RRMs and SECs), and joint requests for early termination of a joint RRM; (10) clarify that the informal conference regulation and witnesses/subpoena regulations apply to all quasi-judicial “matters” subject to the article 7 regulations; (11) authorize limits to the length of testimony in Commission hearings consistent with the Bagley-Keene Open Meeting Act; (12) clarify that the regulation for abandoning a matter applies to all quasi-judicial “matters” subject to the article 7 regulations; (13) clarify the regulation on dismissal of a test claim or other matter; (14) clarify the regulation governing the limited authority to reconsider a prior final decision on a test claim or incorrect reduction claim to make it consistent with Government Code section 17559(a), to clarify the standard of review to reconsider a prior final decision, and to make other clarifying amendments; (15) make minor, non-substantive consistency edits, corrections; and (16) update authority and reference citations.

Therefore, the Commission proposes revised language and citations in Articles 1, 3, 4, 5, 6, 7, 8 and 10 of the California Code of Regulations, Division 2, Title 2, Chapter 2.5 (Sections 1181.1; 1181.2; 1181.3; 1181.4; 1181.8; 1181.9; 1183.1; 1183.2; 1183.3; 1183.4; 1183.6; 1183.7; 1183.8; 1183.9; 1183.10; 1183.11; 1183.12; 1183.13; 1183.14; 1183.15; 1183.16; 1183.17; 1183.18; 1184.1; 1185.1; 1185.2; 1185.3; 1185.4; 1185.5; 1185.6; 1185.7; 1185.8; 1185.9; 1186.2; 1186.4; 1186.6; 1186.7; 1187.1; 1187.2; 1187.3; 1187.4; 1187.6; 1187.7; 1187.8, 1187.9, 1187.13; 1187.14; 1187.15; 1188.1, 1188.2, 1190.1, 1190.2, 1190.3, 1190.5) with a proposed effective date of April 1, 2020.

Anticipated Benefits of the Proposed Regulation

The specific benefits anticipated from the regulation are increased clarity for local agencies, school districts, state agencies, and interested parties/persons participating in the Commission's processes, consistency in the use of terms, adding requirements for electronic filing so the Commission can more easily manage its records, increasing the speed of hearing and deciding expedited parameters and guidelines, and clarifying the standard of review for requests for reconsideration of test claim and incorrect reduction claim decisions made pursuant to Government Code section 17559(a).

Consistency and Compatibility with Existing State Regulations

After conducting a review of existing regulations, the Commission has concluded that California Code of Regulations, title 2, sections 1181.1 et seq., are the only regulations concerning the

Commission's process. Therefore, the proposed regulations are consistent and compatible with existing state regulations.

DESCRIPTION OF PROPOSED REGULATIONS

I. Clarify the Definitions in Section 1181.2 and Clarify the Types of Matters for which the Executive Director Assigns Matter Numbers for New Filings in Section 1181.4.

The proposed amendments to the definitions in 1181.2(k) and (l) of “new filing” and “party” are to clarify that there are three types of new filings with respect to a program funded through SMAS, only two of which are identified in the current definitions. The three types of SMAS requests are a request for inclusion of a program in SMAS (§ 1186.2), a request for removal of a program from SMAS (§ 1186.4), and request for a review of the apportionment or base year entitlement of a program in SMAS (§ 1186.6).

The definition of “completed” in 1181.2(e), is amended to make clear that it applies to all types of new filings, consistent with Commission practice. There are general requirements for filing and service of all new filings (§ 1181.3), and to include documentary evidence to support an assertion of fact (§ 1187.5), and there are specific requirements for filing of new matters that are included in the specific sections of the Government Code and the Commission’s regulations that pertain to each type of matter.

Government Code citations are added to the definition of “Statewide Cost Estimate” in 1181.2(o) for clarity, and the factors the Commission may consider when adopting a statewide cost estimate are added.

Government Code citations are also added to the definition of “Statewide Estimate of Costs” in 1181.2(p), and clarification that the estimate is based on a “joint” RRM. And a Government Code citation is added to the definition of “subsequent change in the law” in 1181.2(q) for clarification.

In addition, language is proposed in section 1181.2(k) to clarify that a “joint request for an RRM” is actually by statute a “joint request for reasonable reimbursement methodology and statewide estimate of costs,” (Joint RRM and SEC) pursuant to Government Code sections 17557.1 and 17557.2, and section 1183.11 of the Commission’s regulations; and in section 1181.2(l)(4) to clarify the parties to a jointly proposed request to terminate a joint RRM filed pursuant to Government Code section 17557.2 and section 1183.15 of the Commission’s regulations. Similar clarifying changes to the types of new filings in section 1181.4(c)(4) and 1181.4(c)(6) are proposed.

II. Add Requirement to Electronically File All Documents in Specified Formats, and Limit Filing by Other Methods in Section 1181.3.

The proposed amendments require e-filing of all documents unless the executive director approves the filer’s written request that demonstrates e-filing legible and searchable PDF documents would cause undue hardship or significant prejudice.

The proposed amendment also requires that e-filed documents be unlocked, and the searchable format must use a “true PDF” (i.e., documents digitally created in PDF, converted to PDF, or printed to PDF) or optical character recognition (OCR) function, as necessary, that allows the text to be electronically searched. The proposed amendments further limit file size (500

megabytes), require specific organization and bookmarks, and discourage color documents unless necessary for readability or comprehension.

The proposed amendment prohibits filing scanned documents that are available or obtainable electronically, but provides that documents not available or obtainable in electronic form may be scanned and OCR'd and filed in a separate volume.

The remaining proposed amendments are necessary to clarify the filing and service requirements.

Redundant provisions are deleted, and service requirements for e-filing are clarified. In addition, the requirement that filings shall not contain personal identifying information that violates state or federal privacy laws has been moved for clarity to subdivision (b).

III. Clarify, in Section 1181.8, that the Tie Vote Procedures Apply to All Action Items and that the Option of Assigning a “Matter” to a Hearing Panel or Hearing Officer in the Case of Tie Vote Applies to All “Matters.”

The proposed amendment clarifies that the rules on tie votes apply to all agenda items and that the option of assigning a matter to a hearing panel or hearing officer in the case of a tie vote pursuant to section 1187.2 of the regulations applies to all quasi-judicial “matters,” as defined in section 1187.1.

In addition, the requirement that a majority of the votes cast by the members assigned to a hearing panel is required for the approval of a preliminary decision on matters and applications for a finding of significant financial distress is moved for clarity to proposed § 1181.8(c)(2)(A) [current § 1181.8(c)(1)(A)].

IV. Streamline the Process for Adopting Expedited Parameters and Guidelines in Sections 1183.9 and 1183.13.

A new subdivision (d) is proposed to be added to section 1183.9 to provide that if no substantive comments are filed on the draft expedited parameters and guidelines, a draft proposed decision need not be prepared.

Language is also proposed in section 1183.13(a) to clarify that a draft proposed decision is prepared for all proposed parameters and guidelines *except* as provided in section 1183.9(d) for draft expedited parameters and guidelines on which no substantive comments are filed.

V. Clarify the Joint Reasonable Reimbursement Methodology Regulations With Amendments to Sections 1183.11, 1183.15, 1183.16 and 1183.17.

Amendments are proposed to these regulations to clarify that the joint RRM and SEC authorized by Government Code sections 17557.1 and 17557.2 is an alternative process to the parameters and guidelines adopted by the Commission pursuant to Government Code section 17557. Thus, in section 1183.11, “Alternative Process” is added to the title. Language is proposed in section 1183.15(a) to clarify that the regulation addresses the early termination of *joint* RRMs and SECs adopted pursuant to Government Code sections 17557.1 and 17557.2 and section 1183.11 of the Commission’s regulations. In addition, proposed language is included in section 1183.15(f) to allow the test claimant to request that Commission staff prepare expedited parameters and guidelines when a joint RRM and SEC is terminated early, which is consistent with the process described in section 1183.16 when the term of a joint RRM and SEC expires. A sentence is added to section 1183.11(d), (f), and (g), and to section 1183.15(c) and (d) to remind the parties

that “if representations of facts are made” in submitted comments, “they shall be supported by documentary or testimonial evidence in accordance with section 1187.5 of these regulations.”

Clarifying language is also proposed in section 1183.16, which governs the expiration of a joint RRM and SEC, to make clear in the title that the regulation addresses *joint* RRMs and SECs, and clarify that this RRM and SEC is adopted pursuant to Government Code sections 17557.1 and 17557.2 (in contrast to RRMs proposed for inclusion in parameters and guidelines pursuant to Government Code sections 17518.5 and 17557(f)). Additional amendments clarify that Commission staff issues notices and draft proposed decisions regarding Joint RRMs and SECs to everyone on the mailing list and posts them on the Commission’s website. Language is proposed in section 1183.16(c), (e), and (f) to remind the parties that in submitting joint RRMs and SECs, and comments, “if representations of fact are made, they shall be supported by documentary or testimonial evidence in accordance with section 1187.5 of these regulations,” and that notices are issued to everyone on the mailing list, and notices and decisions are posted on the Commission’s website.

Sections 1183.16(a), (d), and (h) and 1183.17(f) are proposed to be amended to add that notices must include “everyone on the mailing list described in section 1183.14” to remind parties that the Commission follows section 1183.14 in notifying parties, and to add that the Commission “shall post a copy of the notice on the Commission’s website” to remind parties that this is also Commission procedure. Section 1183.17(i) is proposed to be amended to add that Commission staff issues draft proposed decisions regarding parameters and guidelines amendments for comment.

VI. Clarify Actions in the Timeline in Section 1183.18.

The proposed amendments clarify that “parties, interested parties, and interested persons,” in addition to state agencies, may file comments on the test claim and the draft proposed decision, and that in addition to parties, “interested parties and interested persons” may also file comments on proposed parameters and guidelines and the draft proposed decision on parameters and guidelines, as well as on statewide cost estimates (SCEs).

Another amendment clarifies that Commission staff issues the SCE within 375 days after the test claim is filed, and 10 days after the SCE is adopted. Adoption of the SCE within 365 days is already part of the regulation, and the addition of “issuing” the SCE by day 375 merely makes this provision consistent with the Commission’s practice to issue matters within 10 days of their adoption.

The proposed amendments also clarify that “parties, interested parties, and interested persons” in addition to state agencies may file comments on the test claim with joint RRM and SEC, as well as comment on the draft proposed decision. And amendments to the timelines for joint RRMs and SECs are proposed to clarify that “interested persons” may also file comments and to add “joint” to the title of RRM.

Finally, the section is proposed to be amended in several places to clarify that the Commission notifies or issues decisions to “those on the mailing list,” which is an existing practice.

VII. Clarify the Deadline for Filing Amendments to Incorrect Reduction Claims in Section 1185.1.

The proposed amendment clarifies that the three-year limitations period for filing IRCs also applies to filing amendments to IRCs.

VIII. Add Completeness Language and Clarify in the Title that It Is a “Request” to Review the Apportionment or Base Year Entitlement of a Program in SMAS in Section 1186.6.

The proposed amendments clarify the title of the regulation to indicate that it addresses a “request” for a review of an apportionment or base year entitlement, and to add a subdivision requiring that the request must conform to the filing requirements or be deemed incomplete and returned to the requester for completion. This proposed amendment makes this provision consistent with sections 1186.2 and 1186.4, which address requests for inclusion and removal of a program from SMAS and consistent with Commission requirements and practice for all new filings to be determined complete.

IX. Clarify the Definition of “Matters” that Are Subject to Article 7 in Section 1187.1.

The proposed amendment expands the definition of “matter” subject to hearings and decisions under article 7 to include requests to approve joint RRM and SECs and joint requests for early termination of a joint RRM and SEC in accordance with Government Code sections 17557.1 and 17557.2.

X. Clarify that the Informal Conference and Witnesses/Subpoena Regulations Apply to All “Matters” Subject to the Article 7 Regulations by Amending Sections 1187.4 and 1187.7.

The proposed amendment clarifies that 1187.4(e) applies to all “matters,” as defined, and is not limited to records on a test claim. Another proposed amendment changes “claimant rebuttal” to “rebuttal comments” because conferences may be held on any matter as defined in article 7 of the regulations, and for some matters a party other than a “claimant” has an opportunity to rebut.

The proposed amendments to section 1187.7 (regarding witnesses and issuing subpoenas) replace “claim” with “matters,” and makes other conforming changes consistent with the definition of “matters” in article 7 of the regulations. Conforming amendments are proposed to section 1187.7, to delete references to “matters” (replacing it with “documents”), to avoid confusion with the use of the term “matter” as defined in section 1187.1(a).

XI. Clarifies Procedures During Hearings in Section 1187.6.

The proposed amendment to section 1187.6(a) authorizes the Commission chair or a hearing officer to limit the length of testimony or the time allotted for each witness in accordance with the requirements of the Bagley-Keene Open Meeting Act, and consistent with section 1182.10 of the Commission’s regulations, which regulates Commission hearings on county applications for findings of significant financial distress.

Another proposed amendment to section 1187.6(d) clarifies the Commission’s existing hearing procedure that not only the claimant (adding “or requester” if the matter is not a claim) may present its case, but also “aligned parties or interested parties” to present their positions, and then for “opposing parties or interested parties” (rather than the more specific “Department of Finance or affected state agency”) to present their positions. This amendment conforms Commission hearing procedures to a wider variety of matters beyond test claims and IRCs.

XII. Clarify the Abandonment of a Matter in Section 1187.13.

The proposed amendment clarifies that the regulation authorizing matters to be deemed abandoned applies to all “matters” subject to article 7 of the regulations, and not just to test claims or IRCs, and makes the terms used consistent (e.g., “claim or request” is amended to “matter”). In addition, subdivision (a)(2), which addresses the withdrawal of a test claim, is deleted because it is redundant with section 1187.12 governing the withdrawal of matters, including test claims. Any matter that has been withdrawn or abandoned is subject to the dismissal procedures in section 1187.14 of the regulations.

XIII. Clarify the Dismissal of a Matter in 1187.14.

Language is proposed in section 1187.14 to clarify that a Commission hearing on a dismissal is only required for test claims, and not for other “matters” in accordance with subdivisions (a) and (b) of this regulation.

XIV. Clarify the Standard of Review for Reconsideration of an Adopted Decision on a Test Claim or Incorrect Reduction Claim in Section 1187.15.

The proposed amendment clarifies in the title and body of the regulation that only test claims and IRCs are subject to reconsideration by the Commission, as authorized by Government Code section 17559(a). This amendment also provides that the standard of review of a request for reconsideration, is consistent with the standard in Code of Procedure section 1008, which authorizes the courts to reconsider a decision only to consider new or different facts, circumstances, or law, as was established in a recent Commission Decision on Reconsideration. The proposed amendment includes language from Code of Civil Procedure section 1008(f), which clarifies that new or different law does “not include a later enacted statute without a retroactive application.” Additional language is proposed to authorize a reconsideration to consider a clerical error, and to clarify that the written analysis of a request for reconsideration shall address whether the request is timely, complete, diligent, and is based on new or different facts, circumstances, or law that is likely to support an amendment to the findings or conclusions in the adopted decision on the test claim or IRC, or is based on a clerical error. If the Commission grants the request for reconsideration, a second hearing shall be conducted to determine if the adopted decision must be amended based on a clerical error or new or different facts, circumstances, or law. Redundant language stating that the draft proposed decision shall be distributed to “any person who requests a copy” is proposed for deletion since any person may request to be placed on the mailing list and the draft proposed decision is issued to everyone on the mailing list. Additional language is proposed to clarify that the specified procedures that apply in the event of a “changed decision” apply exclusively to changed test claim decisions and that they also include amendments to parameters and guidelines.

XV. Minor, Nonsubstantive Consistency Edits and Corrections

The following proposed amendments make minor, nonsubstantive consistency edits or correct usage and errors in sections 1181.1, 1181.2, 1181.3, 1181.9, 1183.1, 1183.2; 1183.3; 1183.4; 1183.6; 1183.7; 1183.8, 1183.9, 1183.10, 1183.11, 1183.12, 1183.13, 1183.14, 1183.15, 1183.16, 1183.17, 1183.18, 1184.1, 1185.1, 1185.2, 1185.3, 1185.4, 1185.5, 1185.6, 1185.7, 1185.8, 1185.9, 1186.2, 1186.4, 1186.7, 1187.1, 1187.3, 1187.6, 1187.7, 1187.8, 1187.9, 1187.13, 1187.14, 1187.15, 1188.1, 1188.2, 1190.1, 1190.2, 1190.3, and 1190.5 of the regulations.

Update Usage and Increase Clarity

These amendments are proposed to update usage or improve style and readability, and for consistency with the existing regulations. The proposed amendments replace “web site” with “website” (proposed §§ 1181.3(c)(1) [current § 1181.3(b)(1)], 1183.2, 1187.1); replace “comments” with “may file rebuttals” (§ 1183.18); replace “which” with “that” (§§ 1186.2, 1186.4, 1190.5); replace “that” with “which” § 1190.5(a)(1)); replace “filing party,” “filing person,” and “person who e-files,” with “filer” (proposed § 1181.3(c)(1)(A)-(D) [current § 1181.3(b)(1)(A-E)]; replace “requesting party” with “requester” (proposed §§ 1187.13(a)(2)(B) & (a)(2)(C) [current § 1187.13(a)(3)(B) & (a)(3)(C)], 1187.15(a)(1) [current § 1187.15(b)(1)]); replace “requesting party” or “requesting parties” with “applicant” or “applicants” (§ 1187.7(f)); add “or requester” (§§ 1187.6, 1187.7, 1187.13, 1187.15); replace “publicized” with “noticed” (§§ 1183.6, 1184.1, 1185.7, 1190.5); replace “must” with “shall” (proposed §§ 1181.3(c)(1) [current § 1181.3(b)(1)], 1181.3(c)(2)(B) [current § 1181.3(c)], and 1183.2(c)(2)); replace “for the most reasonable methods of complying” with “of reasonably necessary activities to comply” (§ 1183.10(b)); replace “Commission Staff” with “Commission” or “the Commission” (proposed §§ 1181.3(c)(1) & (c)(2)(B) [current §§ 1181.3(b)(1) & (c)], 1187.15(f)(1)(B) [current § 1187.15(g)(1)(B)], 1190.5(a)(3)); replace “claimant’s or state agency” with “party” (proposed § 1187.15(h) [current § 1187.15(i)]); and replace “staff of the Commission” with “Commission staff” (§ 1187.6).

Additional proposed amendments replace the words “distribute,” “publish,” “provide,” “provided,” “send,” “sends,” “send copies,” “forward,” “forwarded,” “mail,” and “mailed,” with “issue,” “issue it,” “issue the decision,” “issues,” or “issued” (proposed §§ 1181.3(c)(1)(D) [current § 1181.3(b)(1)(E)], 1181.9, 1183.8, 1183.13, 1183.16, 1183.17, 1183.18, 1184.1, 1185.7, 1185.9, 1187.1, 1187.8, 1187.14, 1187.15(f)(1)(A) [current § 1187.15(g)(1)(A)], 1188.1, 1188.2, 1190.2, 1190.5); replace “review” with “comment” (§ 1183.18); replace “to” with “with” (§§ 1183.8, 1183.12, 1183.18, 1187.7); replace “submit,” “submits,” “submitted,” “submit to,” “submittal,” “submitting,” “for submittal,” “submittal of a,” “prepared,” “provide,” “review and provide,” and “received,” with “file,” “filed,” “filing,” “filed with,” “has been filed,” “to file,” or “may file,” as applicable (§§ 1181.1, proposed 1181.3(c)(1) [current § 1181.3(b)(1)], 1183.1, 1183.6, 1183.8, 1183.9, 1183.10, 1183.11, 1183.12, 1183.13, 1183.15, 1183.16, 1183.17, 1183.18, 1184.1, 1185.2, 1185.7, 1185.8, 1187.6, 1187.7, 1187.14, 1190.5); replace “submit” and “submitted” with “include” or “prepared” (§§ 1181.2, 1183.3); replace “submitted” and “submittal of” with “proposed” or “proposing” (§§ 1183.10, 1183.12, 1186.2); replace “claimed” with “alleged” (§ 1187.3); replace “accorded” with “provided” (§ 1187.3); replace “though” with “if” (§ 1187.6); replace “for the purpose of facilitating” with “to facilitate” (§ 1187.6); replace “all other matters” with “anything” (§ 1187.9); replace “made” with “provided” (§ 1187.14); replace “delivered” and “mailed” with “served on” (§ 1187.15); replace “required” with “determined” (proposed § 1187.15(f)(1)(A) [current § 1187.15(g)(1)(A)]); replace “change or changes” with “amend or amendments” (proposed §§ 1187.15(b)(4) [current § 1187.15(c)(4)], 1190.2, 1190.3); replace “and recommend” with “recommending” (§ 1183.17); and replace “institute” with “initiate” (§ 1188.2).

Additional proposed amendments delete unnecessary words including “as was” (proposed § 1181.3(c)(2)(B) [current § 1181.3(c)]), “staff” (§ 1183.16(g)), “in order” (§ 1184.1(m)(2)), “serve and” (§ 1185.6(b)), “for” (§ 1186.7(b)), “the” (§ 1183.16(h)), “submitted,” “and shall be submitted,” and “submitted from” (§§ 1183.1, 1183.2, 1183.3, 1183.4, 1183.6, 1183.7, 1183.8,

1183.9, 1183.10, 1183.12, 1183.13, 1183.17, 1184.1, 1185.1, 1185.2, 1185.3, 1185.4, 1185.7, 1186.2, 1186.4, 1187.9, 1187.14, proposed § 1187.15(b)(5) & (f)(1)(B) [current § 1187.15(c)(5) & (g)(1)(B)], 1190.1, 1190.2, 1190.3, 1190.5), “events” (§ 1187.13(a)), and “preceding” (§§ 1186.2, 1186.4).

Additional proposed amendments add internal citations to other regulations (proposed §§ 1181.3(c)(1)(C) [current § 1181.3(b)(1)(D)], 1183.16(i), 1185.6(b)); replace “section 1187.9” with “subdivision (b) of this section” (§ 1187.9(a)); add “(a)” and “of this section” to a citation (§ 1188.2(a)(2)); and add “of these regulations” to citations (§§ 1185.2(e), 1185.5(a) & (b), 1185.8(b)).

An additional proposed amendment adds that requests to sever an IRC from a proposed consolidation shall be “filed and served, in accordance with section 1181.3 of these regulations,” (§ 1185.6(b)) to remind parties and interested parties of the need to follow the Commission’s certification, filing, and service procedures.

Correct Minor Errors

These amendments are also proposed to correct errors in the current regulations, including to change “applicant” to “appellant” (§ 1181.1(c)(3)); replace “of” with “after” (§ 1183.13(e)); to correct erroneous citations (§§ 1183.10(b)(1), proposed 1187.15(i) [current § 1187.15(j)]); to add the word “section” (§ 1187.14(a)); to add the word “a” (§§ proposed 1181.3(c)(1) [current § 1181.3(b)(1)], 1183.15(e), 1187.14(a)); to add the word “and” (§ 1183.13(a)); to add the word “the” (§§ 1183.13(e), 1183.16(g), 1187.6(g), 1190.5(b)(3)); to replace “sections” with “section” (§ 1183.14(a)); to replace “fail” with “fails” (§ 1183.16(i)); to replace “on” with “by” (§ 1183.18(a)(5)); and to make capitalization consistent (§§ 1183.13(a), 1183.18(b)(1), 1186.4(d)).

XVI. Update to Authority and Reference Citations in Sections 1187.2 and 1187.6.

The authority statutes for section 1187.2, which addresses the assignment of a matter to a hearing panel or hearing officer, are proposed to be amended to add Government Code section 17532, which authorizes the Commission to designate any commissioner or commissioners for “any investigation, inquiry, or hearing which the commission has power to undertake or to hold.”

The reference statutes for section 1187.6, which governs the conduct of Commission hearings, are proposed to be amended to add Government Code section 11125.7, which authorizes state bodies to adopt “regulations limiting the total amount of time allocated for public comment on particular issues and for each individual speaker.”

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS RELIED ON TO DEVELOP REGULATIONS

The Commission relied on a guide prepared by the California Courts of Appeal titled *Guide to Creating Electronic Documents/Filings*, November 1, 2017 <https://www.courts.ca.gov/documents/DCA-Guide-To-Electronic-Appellate-Documents.pdf> (accessed on April 26, 2019); and on a guide prepared by the California Second District Court of Appeal titled *Electronic Formatting Requirements and Guidelines of the Second District Pursuant to California Rules of Court rules 8.72(a) and 8.74(b)*, effective October 2017, Revised June 18, 2018 <https://www.courts.ca.gov/documents/2DCA-Electronic-Formatting-Req-Guide.pdf> (accessed on April 26, 2019). The Commission also relied upon the statutes and cases cited in the authority and reference sections for the regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Commission has made the following initial determinations:

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| Mandate on local agencies and school district: | None |
| Cost or savings to any state agency: | None |
| Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: | None |
| Other non-discretionary cost or savings imposed on local agencies: | None |
| Cost or savings in federal funding to the state: | None |
| Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: | None |
| Significant effect on housing costs: | None |
| Cost impacts on a representative private person or business: The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. | |

Results of the Economic Impact Analysis/Assessment

The Commission concludes that the proposal will: (1) not create or eliminate jobs within California; (2) not create new businesses or eliminate existing businesses within California; and (3) not affect the expansion of businesses currently doing business within California.

Small Business Determination

Because the Commission has no jurisdiction over small businesses and small businesses are not parties before the Commission, the proposed regulatory action will have no impact on small businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Commission must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Commission would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Commission invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Jill Magee, Program Analyst
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Telephone: (916) 323-3562
(jill.magee@csm.ca.gov)

The backup contact person for these inquiries is:

Heidi Palchik, Assistant Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
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Please direct requests for copies of the proposed text (the “express terms”) of the regulations, the initial statement of reasons, the full text of documents relied on, the modified text of the regulations, if any, or other information on which the rulemaking is based to Ms. Jill Magee at the above address or download it from the Commission's website at <http://www.csm.ca.gov/rulemaking.php>.

**AVAILABILITY OF STATEMENT OF REASONS,
TEXT OF PROPOSED REGULATIONS, AND
FULL TEXT OF DOCUMENTS RELIED ON**

The Commission will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons, the full text of the documents relied on, and the Commission order to initiate rulemaking proceedings.

Copies may be obtained on the Commission's website (see below) or by contacting Ms. Jill Magee at the address or phone number listed above. All persons on the Commission’s interested persons mailing list will be provided a copy of the rulemaking file by making it available on the Commission’s website and providing notice of how to locate it.

**AVAILABILITY OF CHANGED OR MODIFIED TEXT AND
ADDITIONAL DOCUMENTS RELIED ON**

After considering all timely and relevant comments received, and holding a public hearing, if necessary, the Commission may adopt the proposed regulations substantially as described in this notice. If the Commission makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) and any additional documents relied on available to the public for at least 15 days before the Commission adopts the regulations as revised. Please send requests for copies of any modified regulations or additional documents relied on to the attention of Ms. Jill Magee at the address indicated above. The Commission will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons and any Additional Documents Relied on may be obtained by contacting Ms. Jill Magee at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, the Full Text of Documents Relied on and the text of the regulations in underline and strikeout can be accessed through the Commission's website at <http://www.csm.ca.gov/rulemaking.php>.