

NOTICE OF PROPOSED RULEMAKING

TITLE 2, DIVISION 10: CALIFORNIA CODE OF REGULATIONS ADOPT SECTIONS 60800-60828, 60830-60836 and 60840-60855 REGARDING THE VOTERS FIRST ACT

NATURE OF PROCEEDING

NOTICE IS HEREBY GIVEN that the Bureau of State Audits (bureau) is proposing to adopt the following sections in Title 2, Division 10 of the California Code of Regulations: 60800, 60801, 60802, 60803, 60804, 60805, 60806, 60807, 60808, 60809, 60810, 60811, 60812, 60813, 60814, 60815, 60816, 60817, 60818, 60819, 60820, 60821, 60822, 60823, 60824, 60825, 60826, 60827, 60828, 60830, 60831, 60832, 60833, 60834, 60835, 60836, 60840, 60841, 60842, 60843, 60844, 60845, 60846, 60847, 60848, 60849, 60850, 60851, 60852, 60853, 60854, and 60855.

A public hearing has been scheduled for Monday, September 14, 2009. The hearing will be held beginning at 10 a.m. at the Secretary of State's Office, Multipurpose Room, located at 1500 11th Street, Sacramento, CA 95814. Paid parking is available at this location.

Notice is also given that any interested person or his or her duly authorized representative, may submit written comments relevant to the proposed regulations to:

Daniel Claypool
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, CA 95814

All written comments must be received by the bureau no later than 5:00 P.M. on September 14, 2009, the final day of the written comment period, in order for the comments to be considered by the bureau.

Following the written comment period, the bureau may adopt the proposed regulations substantially as described in this notice. If modifications are made that are sufficiently related to the originally proposed text, the full modified text with changes clearly indicated shall be made available to the public for at least 15 days prior to the date on which the bureau adopts the resulting regulations. A request for copies of any modified regulations should be made to the contact person named below. The bureau will accept written comments on any modified regulations for 15 days after the date on which they are first made available to the public.

AUTHORITY AND REFERENCE

Pursuant to the authority vested in it by section 8546 of the Government Code, and to implement, interpret, or make more specific sections 8252 and 8252.5 of the Government Code and section 2, Article XXI of the California Constitution, the Bureau of State

Audits proposes to adopt the regulations identified under the heading Nature of Proceeding above.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Voters First Act

The Voters First Act, approved by the voters in the November 4, 2008 general election as Proposition 11 (the act), requires the State Auditor to initiate an application process for a Citizens Redistricting Commission (commission). The commission, composed of fourteen members, is responsible for redrawing district lines for the Senate, Assembly, and State Board of Equalization based on 2010 census information. To serve as a member of the commission, an applicant must be a registered California voter who has voted in two of the last three statewide general elections and has been continuously registered with the same political party, or no political party, for at least five years immediately prior to selection. Additionally, an applicant cannot have a conflict of interest as defined by the act.

The act requires the State Auditor to select an Applicant Review Panel (panel) that will review the applications of persons wishing to serve on the commission. The State Auditor selects the panel by randomly drawing the names of three auditors from a pool of qualified independent auditors who are licensed by the State Board of Accountancy and have 10 or more years of experience working as an independent auditor.

Under the act, the panel shall evaluate all of the applications submitted, and based on that evaluation, identify a pool of 60 of the most qualified applicants. This pool of 60 applicants must consist of three subpools of 20 applicants each, with one subpool comprised of applicants registered with the state's largest political party, another subpool comprised of applicants registered with the state's second largest political party, and a third subpool comprised of applicants not registered with either of the state's two largest political parties. The State Auditor sends a list of the names of the 60 applicants to specified leaders in the Legislature who may strike not more than 8 applicants from each of the subpools. The legislative leaders are then required to return the remaining names to the State Auditor, who randomly draws from the names of applicants not stricken in each of the subpools 3 applicants registered with the largest political party, 3 applicants registered with the second largest political party, and 2 applicants not registered with either of the two largest political parties. These applicants drawn by the State Auditor become the first eight members of the commission, and they select an additional six applicants to serve on the commission from those remaining in the three subpools.

Proposed Regulations

The act provides few specifics regarding the application process or the work of the panel. To implement the provisions of the act in a way that provides guidance and clarity to potential applicants and to the general public, the bureau proposes a set of regulations to guide the process. As an overview, the proposed regulations will implement provisions of the act related to the following subject areas:

- The creation and operation of the panel.

- The institution of a comprehensive outreach program designed to increase voter awareness of the opportunity to serve on the commission and to increase the likelihood that the pool of applicants will reflect the state's diversity.
- The establishment of an application process including application forms.
- The method for screening applicants to ascertain whether they meet the eligibility requirements for serving on the commission.
- The process for evaluating applicants in order to identify a pool of 60 of the most qualified applicants who will be finalists for selection to the commission.
- The procedure for transmitting a list of the names of the 60 finalists to specified legislative leaders, who may strike up to 24 names from the list.
- The process for randomly drawing eight applicants (3 Democrats, 3 Republicans, and 2 others) to serve as the first eight members of the commission.

LOCAL MANDATE

This proposal does not impose a mandate on local agencies or school districts.

FISCAL IMPACT ESTIMATES

This proposal does not impose costs on any local agency or school district for which reimbursement would be required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. This proposal does not impose other nondiscretionary cost or savings on local agencies. This proposal does not result in any cost or savings in federal funding to the state.

COST OR SAVINGS TO STATE AGENCIES

No additional costs or savings to state agencies are anticipated.

BUSINESS IMPACT/SMALL BUSINESSES

The bureau has made an initial determination that this proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The proposal does not affect small businesses as defined by section 11342.610 of the Government Code. The determination that this proposal would not affect small business is based upon the fact that the proposed regulations implement provisions of the act that address outreach for an application process, the application process itself, and the selection of commission members from those individuals who choose to submit an application. Based on the limited scope of these regulations, the bureau determined that none of the proposed regulations have a significant adverse economic impact on business.

ASSESSMENT REGARDING EFFECT ON JOBS/BUSINESS

The bureau has made an initial determination that this proposed regulatory action will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

The bureau is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

EFFECT ON HOUSING COSTS

None.

PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

The bureau held interested persons meetings in five California cities earlier this year.

ALTERNATIVES CONSIDERED

The bureau must determine that no reasonable alternative considered by the bureau or that has otherwise been identified and brought to the attention of the bureau 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.

CONTACT PERSON

Inquiries relating to this proposed action and written comments may be directed to:

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Sacramento, CA 95814
Telephone: (916) 445-0255
Fax: (916) 323-0913

or

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INITIAL STATEMENT OF REASONS AND INFORMATION

The bureau has prepared an initial statement of reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which this proposal is based, may be obtained by making a request to the contact person listed above. These documents may also be viewed and downloaded from the bureau's website at www.bsa.ca.gov.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file located at 555 Capitol Mall, Suite 300, Sacramento, CA 95814. The rulemaking file is available for public inspection by making a request to the contact person listed above.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person listed above.

WEBSITE ACCESS

Materials regarding this proposal can be found at www.bsa.ca.gov.