

INITIAL STATEMENT OF REASONS

Proposed Amendment to § 554, § 554.1, § 554.3, § 554.5, § 554.6, § 554.7, § 554.8, § 554.9, § 554.10, § 554.11, and the addition of § 554.2, to Chapter 2 of Division 1 of Title 2 of the California Code of Regulations (CCR).

The proposed regulations are necessary to assist with the implementation and administration of a new voting system for the CalPERS Board of Administration elections, while also streamlining the current process to better service voters, candidates, and employers.

PROBLEM THE PROPOSED REGULATIONS INTEND TO ADDRESS

The California Public Employees' Retirement System (CalPERS) Board of Administration consists of 13 members; 6 members must be elected by CalPERS members in a Board of Administration election. CalPERS has historically realized low voter participation for the Board of Administration elections. Over the last five years, CalPERS has expanded its various marketing resources in an effort to increase voter participation. Even with the expanded marketing resources, CalPERS voter participation continues to decline and the cost to conduct the elections continues to be significant.

The proposed regulations would change the current mail only voting method to a blended election method allowing voters the flexibility to vote by telephone, internet or by mail. Staff anticipates that allowing additional voting methods could result in higher voter participation, potential reduction in cost, and a more efficient process by procuring one vendor instead of two to administer an election. In addition, other technical changes have been included in these regulations that will provide more clarity to the law while creating a more efficient Board election process.

PURPOSE, BENEFITS, OR GOALS OF THE AUTHORIZING STATUTES

By allowing CalPERS members to vote for their representative through various voting methods, it could result in an increase in voter participation as it would allow a voter to cast their vote in a manner most convenient for them.

Staff researched similar pension systems, California State Teachers' Retirement System (CalSTRS), to better understand their Board election processes. The research revealed that CalSTRS offers a blended election method allowing voters the flexibility to vote by telephone, internet or by mail. Staff anticipates that allowing additional voting methods could result in higher voter turnout, potential reduction in cost, and a more efficient process.

In addition, processes will be updated such as removing the Agency Election Officer's role and responsibilities. Currently, CalPERS is required to mail large packages to employers to distribute the Notice of Election and undeliverable

ballots. These regulations will allow CalPERS to electronically distribute the Notice of Election to employers instead of printing and mailing physical copies. Voters that have an undeliverable address on file will be required to contact CalPERS directly to receive a replacement ballot instead of automatically mailing ballots to the employers.

RATIONALE FOR DETERMINATION THAT ADOPTION IS REASONABLY NECESSARY TO ADDRESS THE PROBLEM

The proposed regulations are necessary to implement and administer the new voting system. The new Board election process will be implemented for the 2017 CalPERS Board election period.

SPECIFIC PURPOSE FOR THE ADOPTION OF EACH PROPOSED REGULATION

Purpose of the Proposed Amendment of Section § 554

The proposed amendments to section § 554 will clarify current procedures. All CalPERS staff involved with the Board election process is required to sign a statement that they have complied with the election procedures and faithfully performed their assigned duties in the election. “Directly” was removed from the regulation in order to clarify that everyone involved in the election process will be required to sign the statement. The CalPERS Executive Office was also removed from the filing process since the Board Election Coordinator currently receives and files these statements.

Purpose of the Proposed Amendment of Section § 554.1

The proposed amendments to section § 554.1 will remove the role and previous responsibilities of each employers designated Agency Election Officer. The current process receives minimal participation from employers and is a costly process due to mailing large packages of the Notice of Elections and undeliverable ballots to employers. Coordination with employers will become more streamlined by utilizing the standard Employer Bulletin to distribute election information. In addition, employer’s will be responsible for ensuring their worksite is in compliance with the CalPERS Campaign Guidelines defined in section § 554.2.

Purpose of the Proposed Addition of Section § 554.2

The proposed addition of section § 554.2 will clarify the campaign guidelines that must be followed by candidates running for the Board of Administration elections. Currently, these guidelines are provided to each candidate and posted to the CalPERS website at the beginning of each election. Publishing the guidelines in regulation will provide additional clarity and transparency.

Purpose of the Proposed Amendment of Section § 554.3 [renumbered from § 554.2].

The proposed amendments to section § 554.3 will make minor technical updates in order to conform to the current Notice of Election process.

Purpose of the Proposed Amendment of Section § 554.4 [renumbered from § 554.10].

The proposed amendments to section § 554.4 will allow candidates greater flexibility in establishing their ballot designation. The current guidelines are very restrictive and these amendments will allow candidates to designate a previous position they held as long as they can verify the truthfulness of the designation.

Purpose of the Proposed Amendment of Section § 554.5 [renumbered from 554.3].

The proposed amendments to section § 554.5 will remove the pictures of the forms used for the nomination process. Previously, CalPERS was required to pursue regulatory changes when changing the layout of the form. These amendments will allow CalPERS to make minor changes to the forms without pursuing regulatory changes.

Purpose of the Proposed Amendment of Section § 554.6 [renumbered from § 554.4].

The proposed amendments to section § 554.6 added five predetermined optional questions to the candidate statement process. Adding these optional questions will provide uniformity to the statements and encourage candidates to provide more information about themselves in order to potentially motivate voters to cast their vote.

Purpose of the Proposed Amendment of Section § 554.7 [renumbered from § 554.5].

The proposed amendments to section § 554.7 will make changes to the ballot distribution process. First, CalPERS will no longer mail undeliverable ballots to employers to distribute. This is conforming language to the amendments in section § 554.1, which removed the Agency Election Officer responsibilities. Voters will instead contact CalPERS for a replacement ballot if they did not receive the original ballot. Second, these amendments will give CalPERS the authority to allow internet and telephone voting. Allowing additional voting options could potentially increase voter participation. Third, technical amendments were made for increased clarity and to conform with the current process.

Purpose of the Proposed Amendment of Section § 554.8 [renumbered from § 554.6].

The proposed amendments to section § 554.8 modifies the statement “majority of votes (i.e. 50% of votes cast plus one vote)” to “majority of all valid votes cast”. This will eliminate potential issues where the majority of votes does not equal 50% + 1. The regulation will also provide additional clarity regarding ballots that are deemed invalid. This will provide transparency regarding the guidelines CalPERS follows when ballots are processed. Technical amendments were also made.

Purpose of the Proposed Amendment of Section § 554.9 [renumbered from § 554.7].

The proposed amendments to section § 554.9 make technical amendments for improved clarity of the Board election process. Also, CalPERS will electronically transmit the election results to each candidate instead of utilizing express mail. This will reduce cost and provide quicker notification of the results to the candidates after the election.

Purpose of the Proposed Amendment of Section § 554.10 [renumbered from 554.8].

The proposed amendments to section § 554.10 are minor technical amendments that will result in improved clarity.

Purpose of the Proposed Amendment of Section § 554.11 [renumbered from § 554.9].

The proposed amendments to section § 554.11 will add the requirement that a person requesting a protest of an election must be a candidate in the election being protested. In addition, candidates will be responsible for any cost associated with a protest of an election. This will allow candidates directly impacted by the outcome of the election to request a protest, while also relieving CalPERS of any fiscal responsibilities that are incurred during the protest.

BENEFITS ANTICIPATED FROM THE REGULATORY ACTION

The proposed amendments will allow CalPERS the flexibility to add internet and telephone voting to the Board election process while procuring a single vendor that can administer the new process. This could potentially streamline the Board election process and reduce costs.

Without the adoption of the proposed regulations, CalPERS could continue to realize low voter participation. The voter will continue to be limited in voting options, and the cost to conduct a Board election will continue to be significant.

TECHNICAL, THEORETICAL AND/OR EMPIRICAL STUDIES, REPORTS, OR DOCUMENTS RELIED UPON BY THE AGENCY

Economic and Fiscal Impact Statement (STD. 399) was prepared and relied upon.

ECONOMIC IMPACT ASSESSMENT

In accordance with Government Code Section 11346.3(b), CalPERS has made the following assessments regarding the proposed regulation:

Creation or Elimination of Jobs within the State of California

The proposed regulation is intended to modify the CalPERS Board Election process. CalPERS currently contracts with two outside vendors to conduct the elections. Therefore, no jobs within the State of California will be created or eliminated by the proposed regulation.

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

The proposed regulation is intended to modify the CalPERS Board Election process. Since there are currently businesses that conduct these types of elections, we do not anticipate this regulation will create new or eliminate existing businesses within the State of California.

Expansion of Businesses within the State of California

The proposed regulation is intended to modify the CalPERS Board Election process. Since there are currently businesses that conduct these types of elections, there is a potential for these businesses to expand. However, businesses out of state will also have an opportunity to conduct the elections.

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

The proposed regulation is intended to modify the CalPERS Board Election process. This will not adversely impact the health and welfare of California residents, worker safety, or the State's environment.

ALTERNATIVES TO THE REGULATORY ACTION AND CALPERS REASON FOR REJECTING THOSE ALTERNATIVES

CalPERS considered the alternative of keeping the current Board election process. After review of the current process, CalPERS discovered that the current process would require the continued use of two separate vendors, it would not be possible to lower the cost to administer the election, and it would be difficult to create new marketing methods to increase voter participation. Due to

the goal to streamline the process, reduce costs, and increase voter participation, CalPERS has decided that the proposed regulations create the best path to meet these goals.

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

CalPERS has identified no adverse impact on small businesses caused by the proposed regulatory action, it has not identified any reasonable alternatives that were considered that would lessen the impact on small businesses.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY TO COMPETE

The proposed regulation will not have any significant statewide adverse economic impact directly affecting businesses since this regulation only changes the CalPERS Board election process.