

NOTICE OF PROPOSED REGULATORY ACTION

NOTICE IS HEREBY GIVEN that the California Public Employees' Retirement System (CalPERS) Board of Administration (Board) proposes to take the regulatory action described below in the Informative Digest after considering public comments, objections, or recommendations regarding the proposed regulatory action.

I. PROPOSED REGULATORY ACTION

In this filing, the Board proposes to amend sections 554.5, 554.6, 554.7, and 554.8 of Article 2 of Subchapter 1 of Chapter 2 of Division 1 of Title 2 of the California Code of Regulations (CCR). By proposing these regulatory amendments in this Article, CalPERS intends to make technical amendments to clarify the existing Board election procedures. In addition, the proposed regulatory amendments would add four additional optional questions that candidates are encouraged to answer in their candidate statements.

II. WRITTEN COMMENT PERIOD

Any interested person may submit written comments relevant to the proposed regulatory action. The written comment period has been established commencing on **June 12, 2020** and closing on **July 27, 2020**. The Regulation Coordinator must receive all written comments by the close of the comment period. Comments may be submitted via fax at (916) 795-4607; E-mail at Regulation_coordinator@calpers.ca.gov or mailed to the following address:

Anthony Martin, Regulation Coordinator
California Public Employees' Retirement System
P.O. Box 942702
Sacramento, CA 94229-2702
Phone: (916) 795-9347

III. PUBLIC HEARING

A public hearing will not be scheduled unless an interested person, or his or her duly authorized representative, submits a written request for a public hearing to CalPERS no later than 15 days prior to the close of the written comment period. Notice of the time, date, and place of the hearing will be provided to every person who has filed a request for notice with CalPERS.

IV. ACCESS TO HEARING ROOM

The hearing room will be accessible to persons with mobility impairment, and the room can be made accessible to persons with hearing or visual impairments upon advance request to the CalPERS Regulation Coordinator.

V. AUTHORITY AND REFERENCE

The Board has authority to take regulatory action under Government Code (GC) section 20121.

Reference citation: GC section 20096

VI. INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The CalPERS Board consists of 13 members; six of the members are elected by their represented membership. Elected members serve four-year terms and elections are conducted on a four-year cycle, with the fourth year being an off-year.

During the Board election off-year, regulatory amendments are submitted to improve the next Board election cycle. The regulatory provisions subject to the proposed amendments were identified during the 2017-2020 Board election cycle as ambiguous, vague or obsolete.

The proposed regulatory amendments are intended to clarify existing Board election procedures as detailed in the Initial Statement of Reasons. In addition, regulatory provisions are added to request that candidates voluntarily provide voters with additional relevant information in their candidate statements including information regarding financial solvency, sexual harassment, conflicts of interest, and protection of confidentiality.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATORY AMENDMENTS

CalPERS believes that the adoption of the proposed regulatory amendments will indirectly benefit the health and welfare of California residents because the proposed regulatory amendments modify the Board election procedures. The proposed regulatory amendments apply to CalPERS Board candidates and over 1.5 million voters. For further discussion of the anticipated benefit analysis, please see "Results of the Economic Impact Assessment" found below.

EVALUATION OF INCONSISTENCY/INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

CalPERS has evaluated and determined that the proposed regulatory amendments

are not inconsistent, nor incompatible with existing State regulations. There is no other comparable existing State regulation pursuant to GC section 11346.5, subsection (a), paragraphs (3)(D).

There is no existing, comparable federal regulation or statute.

PRENOTICE CONSULTATION WITH THE PUBLIC

The proposed regulatory amendments clarify the current CalPERS Board election procedures and add four optional questions that candidates may respond to in their candidate statements. No pre-notice consultation was done with the public because the proposed regulatory amendments do not involve complex proposals or a large number of proposals that cannot easily be reviewed during the comment period.

VII. EFFECT ON SMALL BUSINESS

The proposed regulatory action does not affect small business because it applies only to CalPERS Board candidates and voters.

VIII. DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

The Board has made the following initial determinations:

- A. **MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS:** The proposed regulatory action does not impose any mandates on local agencies or school districts.
- B. **COSTS OR SAVINGS TO ANY STATE AGENCY:** The proposed regulatory action will not result in any additional costs or savings to any State agency.
- C. **COSTS TO ANY LOCAL AGENCY OR SCHOOL DISTRICT:** The proposed regulatory action does not impose any costs on any local agency or school district.
- D. **NONDISCRETIONARY COSTS OR SAVINGS IMPOSED ON LOCAL AGENCIES:** The proposed regulatory action does not impose any nondiscretionary costs or savings on local agencies.
- E. **COSTS OR SAVINGS IN FEDERAL FUNDING TO THE STATE:** The proposed regulatory action will not result in additional costs or savings in federal funding to the State.
- F. **SIGNIFICANT, STATEWIDE ADVERSE ECONOMIC IMPACT:** The proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California

businesses to compete with businesses in other states.

- G. **COST IMPACT ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES:** CalPERS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- H. **RESULTS OF THE ECONOMIC IMPACT ANALYSIS:** The proposed regulatory action will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; (3) affect the expansion of businesses currently doing business within California; and (4) benefit the health and welfare of California residents, worker safety, or the State's environment.
- CalPERS believes that the proposed regulatory changes will clarify current CalPERS Board election procedures. Also, adding optional questions for candidates to respond to regarding financial solvency, sexual harassment, conflicts of interest, and protection of confidentiality on the Board's candidate statement will help voters make informed decisions when they vote.
- The proposed regulatory changes further the goals of the Board and indirectly benefit the health and welfare of California residents by clarifying the Board election procedures and encouraging candidates to provide voters with more information to help them make more informed decisions. CalPERS voting population cover over 1.5 million active and retired state, local government, and school employees.
- I. **EFFECT ON HOUSING COSTS:** The proposed regulatory action has no effect on housing costs.
- J. **COSTS TO ANY LOCAL AGENCY OR SCHOOL DISTRICT WHICH MUST BE REIMBURSED IN ACCORDANCE WITH GOVERNMENT CODE SECTIONS 17500 THROUGH 17630:** There are no costs to any local agency or school district, which must be reimbursed in accordance with GC sections 17500 through 17630.

IX. CONSIDERATION OF ALTERNATIVES

In accordance with GC section 11346.5, subsection (a)(13), the Board must determine that no reasonable alternative considered by the Board, or that has otherwise been identified and brought to the attention of the Board, would be:

- more effective in carrying out the purpose of the proposed action,
- as effective as, and less burdensome to affected private persons than the proposed action, or

- more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulatory amendments at the above-mentioned public hearing or during the written comment period.

X. CONTACT PERSON

Please direct inquiries concerning the proposed regulatory action to:

Anthony Martin, Regulation Coordinator
California Public Employees' Retirement System
P.O. Box 942702 Sacramento,
CA 94229-2702
Phone: (916) 795-9347

The backup contact for these inquiries is:

Raji Prasad, Board Election Coordinator
California Public Employees' Retirement System
P.O. Box 942702 Sacramento,
CA 94229-2702
Phone: (916) 795-0623

Please direct requests for copies of the proposed text of the regulations, the Initial Statement of Reasons (ISOR), the modified text of the regulations, if any, or other information upon which the rulemaking is based to Anthony Martin, Regulation Coordinator, at the address provided.

XI. AVAILABILITY OF THE INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

The entire rulemaking file is available for public inspection by contacting the Regulation Coordinator at the address shown in Section II. To date, the file consists of this notice, the ISOR and the proposed text of the regulations. A copy of the proposed text and the ISOR is available at no charge by written request to the CalPERS Regulation Coordinator, at the address and phone number listed in Section II. The Final Statement of Reasons can be obtained once it has been prepared.

For immediate access, the regulatory material regarding this action can be accessed on CalPERS' website at www.calpers.ca.gov.

XII. AVAILABILITY OF CHANGED OR MODIFIED TEXT

The Board may, on its own motion or at the recommendation of any interested person, amend the proposed text of the regulation after the public comment period ends.

If the Board amends its regulatory action, a comparison of the original proposed text and the amendments will be prepared for an additional public comment period of not less than 15 days prior to the date on which the Board adopts, amends, or repeals the resulting regulations. A copy of the comparison text will be mailed to all persons who submitted written comments or asked to be kept informed of the results of this regulatory action.

XIII. AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon completion, copies of the Final Statement of Reasons may be obtained by contacting the CalPERS Regulation Coordinator at the address shown in Section II.