

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

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

**FORMATTING REQUIREMENTS FOR ACCESSIBILITY, CLARIFICATION OF  
DESIGNATED REPRESENTATIVES, CLARIFICATION OF TELECONFERENCING  
REGULATION, WITHDRAWAL OF INCOMPLETE FILINGS, CORRECTION OF  
INCORRECT CITATIONS AND GENERAL CLEANUP**

**ARTICLES 1, 3, 4, 5, AND 7**

SECTIONS 1181.2, 1181.3, 1181.13, 1183.1, 1183.5, 1183.6, 1184.1, 1185.4, 1185.6,  
1187.5, 1187.7, AND 1187.8

**SPECIFIC PURPOSE OF THE REGULATIONS**

The Commission on State Mandates (Commission) is a seven-member quasi-judicial body created by the Legislature 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 impose formatting requirements for accessibility of documents filed with the Commission; clarify that firms or organizations may serve as a party's designated representative; clarify the Commission's regulation on holding teleconferenced meetings; delegate the authority to the executive director to deem incomplete requests to review claiming instructions and notices of intent to join a consolidated incorrect reduction claim, which have not been timely corrected, withdrawn; correct erroneous citations and make minor, non-substantive edits for clarity and conciseness. The proposed regulations: (1) add new formatting requirements for accessibility of new filings and written materials filed with the Commission; (2) clarify that firms or organizations may be a party's designated representative; (3) clarify the Commission's regulation on holding teleconferenced meetings; (4) delegate authority to the executive director to deem incomplete requests to review claiming instructions and notices of intent to join a consolidated incorrect reduction claim, withdrawn; (5) fix incorrect citations and add or remove authority and reference citations; and (6) make minor, non-substantive edits and corrections.

Therefore, the Commission proposes revised language and citations in Articles 1, 3, 4, 5, and 7 of the California Code of Regulations, Division 2, Title 2, Chapter 2.5, Sections 1181.2, 1181.3, 1181.13, 1183.1, 1183.5, 1183.6, 1184.1, 1185.4, 1185.6, 1187.5, 1187.7, and 1187.8 with a proposed effective date of July 1, 2024, if no public hearing is requested, or October 1, 2024, if a public hearing is requested.

**I. Add New Formatting Requirements for Accessibility of New Filings and Written Materials Filed with the Commission.**

Section 1181.3 Certification, Filing, and Service of Written Materials and New Filings.

### *Specific Purpose of the Regulation*

Existing section 1181.3 identifies the requirements for certifying, filing, and serving new filings and written materials for all Commission matters, both electronically (e-filing) and in hard copy.

The proposed regulations amend section 1181.3 to add a new subdivision (c)(1) that imposes formatting requirements for new filings and written materials filed with the Commission for purposes of accessibility; rename section 1181.3 to reflect the additional formatting regulations; reorder and amend the existing subdivisions (c)(1), (c)(2) and (c)(3) to reflect the addition of the new language in subdivision (c)(1); and add Government Code section 7504, which requires state entities to comply with the accessibility requirements of section 508 of the Rehabilitation Act of 1973 and part 1194 of Title 36 of the Federal Code of Regulations, as a reference to the proposed regulations.

### *Proposed Changes*

Section 1181.3 is renamed to:

Certification, Formatting, Filing, and Service of Written Materials and New Filings.

Section 1181.3(c) is amended as follows:

(c) Formatting, Filing, and Service. New filings and written materials ~~may~~shall be filed as described in this subdivision.

New section 1181.3(c)(1) is added as follows:

(1) Formatting. All new filings and written materials, except for supporting documents that were either not created by the party or were originally created by the party for a purpose other than providing evidence to the Commission, shall conform to all of the following document formatting requirements.

(A) All text shall be written in Arial font, minimum 12-point font size.

(B) Color is strongly discouraged, and shall not be used as the sole means to emphasize or convey information. If color is used to emphasize or convey information, there shall be additional distinguishing marks, such as underlining or asterisks, to differentiate areas where color is used.

(C) Lists shall use a formatting style such as bullet points, numbering, or an ordered list.

(D) Headings shall use heading styles to identify the headings' correct order of diminishing hierarchy.

(E) Hard returns shall not be used to break up lines of text. Instead, space between lines of text shall be made using paragraph spacing or the space after paragraph function.

(F) If columns are used, the columns shall be formatted using the word processing software's columns function.

(G) Tables shall use a simple table structure without split or merged cells, nested tables, or blank columns or rows. Rows shall not be broken across multiple pages. One table header row is allowed per table, which shall be repeated at the top of each page if the table spans multiple pages.

(H) Hyperlinks shall be named in a manner that is clear, concise and meaningful out of context. Bare URLs are not allowed, except as part of a formal citation to a web-based source.

(I) Images shall include alternative text that describes the image, unless the image has no informational value because it is purely decorative or the information it provides is redundant to the main body of text.

Renumbering:

The addition of a new subdivision 1181.3(c)(1) requires renumbering the existing subdivisions (c)(1), (c)(2) and (c)(3) as (c)(2), (c)(3) and (c)(4), respectively.

Section 1181.3(c)(2) is amended as follows:

(42) E-Filing. Except as provided in subdivision (c)(23) of this section, all new filings and written materials shall be electronically filed (or e-filed) with the Commission via the Commission's e-filing system, available on the Commission's website. Supporting documents that were not created by the party or were created for a different purpose shall still be required to follow the formatting requirements found in subdivisions (c)(2)(B)(i)-(iii) of this section.

~~(A) All new filings and written materials shall be filed via the Commission's e-filing system, available on the Commission's website. Documents e-filed with the Commission shall be in a legible and searchable format using 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.~~

~~(BA) Any new filing required to be filed on a form prescribed by the Commission shall be digitally signed, using the digital signature technology and authentication process contained within the Commission forms. The completed digital form shall not be converted to PDF and shall be e-filed separately from any accompanying documents. Accompanying documents shall be e-filed together in a single file in accordance with the requirements of subdivisions (c)(42)(CB) and (C) of this section, and shall not exceed 500 megabytes. Accompanying documents exceeding 500 megabytes shall also comply with subdivision (c)(1)(D) of this section.~~

~~(CB) Documents e-filed with the Commission. All e-filed documents, other than forms prescribed by the Commission, shall:~~

~~(i) be in unlocked PDF file format, to allow Commission staff to electronically date stamp the document and append additional pages for posting on the Commission's website with a proof of service for e-service~~

by the Commission, in lieu of the filer serving the document to the entire mailing list for the matter; and

(ii) include a scanned copy of the signed signature page, rather than a digitally signed document. The scanned copy shall be in black and white (not gray scale or color).

(iii) be in a legible and searchable format using 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.

(DC) E-filed documents larger than 500 megabytes shall be e-filed in multiple volumes and labeled as such (i.e., "Volume I, Volume II" etc.) and shall, in that case, include a table of contents with electronic bookmarks which at minimum link to each document within the exhibits, and for documents created for the purpose of filing with the Commission also link to each heading, subheading, and component (including but not limited to the table of contents, declarations, exhibits, proof of service) of the document. Filing of color documents is strongly discouraged. However, if a color image(s) is necessary for readability or comprehension, the color image(s) shall be e-filed in a separate and final volume of exhibits. ~~E-filed documents shall include electronic bookmarks to each heading, subheading, and component (including but not limited to the table of contents, declarations, exhibits, proof of service) of the document.~~ Documents not available or obtainable in electronic form may be scanned and OCRed and filed in a separate volume, however it is prohibited to e-file scanned documents that are available or obtainable electronically. E-filed documents that must be scanned, shall be scanned in black and white (not gray scale or color).

(ED) The filer is responsible for maintaining the signed original new filing or written material for the duration of the process for the matter, including any period of appeal (this may be an electronic document, depending on how the filer creates and maintains its records).

(FE) An automated notice that the document was successfully sent is immediately available to the filer using the Commission's e-filing system and should be saved or printed for the filer's records. Commission staff shall also reply by e-mail confirming actual receipt of the legible, searchable document by the Commission within two business days of receipt. In the absence of a confirmation e-mail from Commission staff, it is the responsibility of the filer to obtain confirmation that the Commission actually received the filing.

(GF) By using e-filing, the filer agrees, in the event of failure of e-filing, to re-file the document no later than the business day after the business day on which notice of the failure of e-filing is received by the filer. The filer may re-file by any means authorized by these rules, in order to maintain the original filing date. "Failure of e-filing" occurs when the filer receives notification, in any manner, of non-receipt of an e-filed document or of any

other inability of Commission staff to access the document, including the failure to meet the legible and searchable requirements of subdivision (c)(2)(B)(i)-(iii) of this section.

(~~H~~G) Documents e-filed with the Commission are served by Commission staff to persons who have provided an e-mail address for the mailing list for the matter in accordance with section 1181.4 of these regulations. E-filed documents do not need to be served by the filer and proof of service does not need to be provided by the filer for persons who have provided an e-mail address for the mailing list in accordance with section 1181.4. Nothing in this regulation excuses a filer from serving hard copies of written material on persons who appear on the mailing list and have not provided an e-mail address for the mailing list, or from providing a proof of service with the e-filing to the Commission for the service of the document on those persons.

(~~H~~) Upon confirmation of actual receipt of the e-filed document, Commission staff shall notify all persons on the mailing list for the matter that written material may be viewed on the Commission's website. For "new filings" as defined by section 1181.2(k) of these regulations, Commission staff shall notify all persons on the mailing list prepared pursuant to section 1181.4 of these regulations, of the availability of those filings on the Commission's website when Commission staff issues its notice of complete filing to the filer.

(~~J~~) The Commission may serve any document by e-mail service, or by making it available at a particular URL, unless doing so would be contrary to state or federal law.

(~~K~~J) The executive director may issue any order consistent with these rules to govern e-mail service for a particular matter.

Section 1181.3(c)(3) is amended as follows:

(~~2~~3) **Hard Copy Filing and Service in Cases of Undue Hardship or Significant Prejudice.** If e-filing legible and searchable PDF documents, as described in subdivision (c)(~~4~~2) of this section, would cause the filer undue hardship or significant prejudice, filing may occur by first class mail, overnight delivery or personal service only upon approval of a written request to the executive director.

(A) **Filing.** If the executive director authorizes filing by first class mail, overnight delivery, or personal service, the filer shall file the unbound original document with the Commission.

(B) **Service.** If written materials are filed in hard copy, the filing shall simultaneously be served on everyone on the mailing list using the same method used for the filing. Unless otherwise provided in this section, a proof of service shall be included with any written material filed with the Commission. Proof of personal service requires a declaration of the messenger of the time and place that the written material was served.

Service is not required for new filings because mailing lists for matters are only prepared, pursuant to section 1181.4 of these regulations, after a new filing is deemed complete. Completed new filings will be served on the mailing list by Commission staff with the Notice of Complete Filing.

Section 1181.3(c)(4) is amended as follows:

(34) Time of Filing. New filings or written materials filed with the Commission no later than 5 p.m. on a business day (i.e., Monday through Friday, except state holidays) are deemed filed on that business day. New filings or written materials filed with the Commission after 5 p.m. on a business day, or on a Saturday, Sunday, or state holiday, are deemed filed on the following business day.

Update to Reference in section 1181.3 as follows:

Note: Authority cited: Sections 16.5, 17527(g), 17553(a), 17570(d) and 11104.5, Government Code. Reference: Sections 1633.1 et seq., 1798 et seq., Civil Code; and Sections 7405, 11020(a), 17530, 17551, 17557(d), 17558.7, 17570, 17573(b), 17574(c) and 17573(g), Government Code.

#### *Necessity and Anticipated Benefit*

Government Code section 7405 requires state entities to comply with the accessibility requirements of section 508 of the Rehabilitation Act of 1973 and part 1194 of Title 36 of the Federal Code of Regulations, which includes a requirement for electronic content that is publicly accessible via the web, to meet Levels A and AA of the success criteria and conformance requirements in Web Content Accessibility Guidelines version 2.0 (WCAG 2.0), unless the agency determines that conformance to the accessibility requirements would impose an undue burden.<sup>1</sup>

Since 2010, the Commission has made all documents filed in matters pending with the Commission publicly available on the Commission's website. Making these documents available via the website has made it easier for parties and interested persons to access information regarding pending matters and research related or similar cases, providing greater transparency about the Commission's decisions. Given the large number of documents that have previously been filed with the Commission and the cost of making those documents compliant with the WCAG 2.0 Level AA standard, Commission staff has determined that converting all previously filed documents to meet the WCAG 2.0 Level AA standard to currently be an undue burden as provided in the law.<sup>2</sup> It is the Commission's intent, however, to continue making these documents available on its

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<sup>1</sup> Government Code section 7405; see also Code of Federal Regulations, title 36, part 1194 (2018), appendix A, E205.4. Part of the requirements to comply with WCAG 2.0 at Level AA is to be compliant with all requirements at Level A. This makes specifying compliance with both Levels A and AA redundant, so only Level AA will be referenced from here on.

<sup>2</sup> See Code of Federal Regulations, title 36, part 1194 (2018), appendix A, E202.6

website, and we are working towards meeting the WCAG 2.0 Level AA compliant requirements.

Currently, the Commission's regulations regarding document formatting can be found in section 1181.3(c)(1)(A), (c)(1)(C)(i-ii), and (c)(1)(D). As explained below, the proposed regulations would make it more feasible to ensure that new filings and written materials will be more accessible going forward.

Government Code section 7405 only applies to state agencies, not local agencies and school districts, and local agencies and school districts may lack capacity to ensure their documents are WCAG 2.0 Level AA compliant. Therefore, instead of simply requiring all documents filed with the Commission to be WCAG 2.0 Level AA compliant, the proposed regulations impose standardized formatting requirements on new filings and written materials (including standards for bookmarked headers, font, spacing, color, lists, tables, and hyperlinks) that will themselves make the documents more accessible.

Also, documents filed as supporting evidence are not always originally created by the party, or were not drafted with the intent of submitting the document as evidence in a matter before the Commission. In those instances, the party may not have control over the document's formatting, or the format would be difficult to change retroactively. For this reason, the proposed regulations carve out an exception to most of the formatting requirements for supporting documents that were either not created by the party or were originally drafted by the party for a different purpose. These supporting documents are still required to follow the existing requirements for new filings and written materials found in the existing sections that are being renumbered as sections 1181.3(c)(2)(i)-(iii).

WCAG 2.0 does not have any specific requirements about font size or style, and instead focuses on the text's contrast and overall legibility. To simplify this requirement, the proposed regulations standardize new filings and written materials by requiring the document be written in Arial font, minimum 12-point font size. Using a sans serif font, such as Arial, is known to make documents easier to read for screen readers, and a minimum 12-point font is recommended to ensure writing is legible to people with poor or limited vision. Arial font is also a widely available typeface found in most commercially available word processing software, so the requirement should not be overly burdensome on those filing with the Commission.

Building on the current regulatory language stating that "filing of color documents is strongly discouraged" and "if a color image(s) is necessary for readability or comprehension, the color image(s) shall be e-filed in a separate and final volume of exhibits" the proposed regulations add the requirement that color not be used as the sole means to convey information. This new requirement is based on WCAG 2.0 success criterion 1.4.1: Color is not used as the only visual means of conveying information, indicating an action, prompting a response, or distinguishing a visual element. Color is already generally disfavored under the Commission's existing regulations, but there may be instances where color is the best way of conveying information, such as with a chart or graph. Additional distinguishing marks provide an alternative way to differentiate important information so that people who cannot see color and computer reading programs for the sight impaired can also discern that information.

The requirement that lists use bulleted, ordered or numbered lists is based on WCAG 2.0 success criterion 1.3.1, requiring that “Information, structure, and relationships conveyed through presentation can be programmatically determined or are available in text.” Structuring lists using a format such as bullet points or numbering allows accessibility software to programmatically determine how to correctly read the items in the list.

Requiring heading styles be used to identify headings in diminishing hierarchal order is compliant with WCAG 2.0 success criterion 1.3.1, requiring that “Information, structure, and relationships conveyed through presentation can be programmatically determined or are available in text.” Headings that are ordered in diminishing hierarchal order provide structural context and make it easier to navigate and search through a document.

The requirement that hard returns shall not be used to break up lines of text is based on the fact that using a hard return in these instances can create issues for accessibility software to understand how lines and paragraphs are meant to be read.

The requirement about using a word processing software’s columns function if a document includes columns is to ensure that screen readers are able to understand the correct reading order of the columns, as per WCAG 2.0 success criterion 1.3.2, which requires that “When the sequence in which content is presented affects its meaning, a correct reading sequence can be programmatically determined.”

The requirements for table formatting are meant to ensure tables are compliant with WCAG 2.0 success criterion 1.3.1, requiring that “Information, structure, and relationships conveyed through presentation can be programmatically determined or are available in text.” Simple tables without split or merged cells where rows are not split across multiple pages are easier to navigate using keyboard shortcuts or assistive technology. Table header rows make it easier to navigate a table and for readers to understand what they are about to read.

The requirement that hyperlinks be descriptively named is to comply with WCAG 2.0 success criterion 2.4.4, which requires that “The purpose of each link can be determined from the link text alone or from the link text together with its programmatically determined link context, except where the purpose of the link would be ambiguous to users in general.” Bare URLs are discouraged because screen readers have difficulty reading out URLs, which can include strings of meaningless characters. However when the URL is part of a formal citation to a web-based source, the full citation would provide sufficient contextual information to satisfy the success criteria.

The requirement to provide alternative text for any images is based on WCAG 2.0 success criterion 1.1.1: All non-text content that is presented to the user has a text alternative that serves the equivalent purpose. Alternative text allows readers who cannot see the image to understand the purpose and meaning behind the image.

The proposed regulations also update the numbering for existing subsections (c)(1), (2) and (3) to (c)(2), (3) and (4), respectively; change subdivision (c) to use the word “shall” instead of “may, to properly reflect the filing requirements; rearrange the existing



requirements related to document formatting found in subsection (c)(2) so they are all located within the same subdivision; emphasize that supporting documents are not excluded from the requirements in subsections (c)(2)(B)(i)-(iii); restate the existing requirement that the Commission's forms shall not be converted to PDFs and must be submitted separately; and add Government Code section 7504 to the references cited for section 1181.3. These changes are necessary for clarity of section 1181.3 as a whole with the changes to subdivision (c)(1).

The anticipated benefit of imposing these regulations is to ensure that documents published on the Commission's website are reasonably accessible when filed and can eventually be made WCAG 2.0 Level AA compliant. Although the proposed regulations do not guarantee documents filed with the Commission will be fully WCAG 2.0 Level AA compliant, these formatting requirements address the most common or difficult to remedially correct accessibility issues for PDF documents, and will help with the future remediation of the documents filed with the Commission and uploaded to the Commission's website.

## **II. Allow Firms or Organizations to be a Party's Designated Representative**

### Sections 1181.2 Definitions and 1187.8 Representation at Hearing.

#### *Specific Purpose of the Regulations*

The proposed amendments add language to sections 1181.2(l) and 1187.8(a) and (b), clarifying that a party's designated representative can be a firm or organization, rather than just a single individual, and that when a firm or organization is the designated representative, any member of the firm or organization may act as the party's representative without requiring the party file a new authorization. This will help to streamline the process for the claimants.

Section 1181.2 gives the definitions of terms as used within these regulations. Subdivision (l) of the section defines "party."

Section 1187.8 states parties' ability to designate an authorized representative during hearings. Subdivision (a) grants a party the ability to designate an authorized representative and gives the procedure to do so, while subdivision (b) states that authorized representatives have the power to control all matters regarding the party's interest in a proceeding.

#### *Proposed Changes*

Section 1181.2(l) is proposed to be amended as below:

(l) "Party" includes a party's representative of record who is expressly authorized in writing to act on the party's behalf. A party's representative may be an individual, firm or organization. When a party authorizes a firm or organization to represent them in writing, any current member of the firm or organization may act on the party's behalf without requiring a separate authorization. Party means the following for each matter as specified below:

(1) "Party to a Test Claim" means the test claimant, the Department of Finance, and other affected state agencies.

- (2) "Party to an Incorrect Reduction Claim" means the claimant and the Office of State Controller.
- (3) "Party to a Request to Amend Parameters and Guidelines" means the requester, the Department of Finance, the Office of State Controller, affected state and local agencies, and affected school districts.
- (4) "Party to a Joint Request for Reasonable Reimbursement Methodology" and "Party to a Jointly Proposed Request for Early Termination of Reasonable Reimbursement Methodology" means the test claimant and the Department of Finance.
- (5) "Party to a Request for Review of Claiming Instructions" means the requester and the Office of State Controller.
- (6) "Party to a Request for Removal or Inclusion in State Mandates Apportionment System" and "Party to a Request for Review of the Apportionment or Base Year Entitlement of a Program in the State Mandates Apportionment System" means the requester, the Department of Finance, and the Office of State Controller.
- (7) "Party to a Request for Mandate Redetermination" means the requester, the Department of Finance, the Office of State Controller, affected state and local agencies, and affected school districts.

The following amendments are proposed for section 1187.8(a) and (b):

- (a) A party may appear in person or through an authorized representative. An authorized representative may be an individual, firm or organization. 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.
- (b) A representative of a party shall be deemed to control all matters respecting the interest of that party in the proceeding. All correspondence and communications shall be issued to the authorized representative. Any current member of a designated firm or organization may appear as the party's representative, without requiring the party withdraw the designation and designate a new representative.

#### *Necessity and Anticipated Benefits*

These amendments are necessary to allow appointing a firm or organization to represent a party in a matter, instead of just an individual. Under the current regulations, only individuals can be designated to serve as a party's representative. This results in parties needing to withdraw authorization and designate a new representative should the original representative need to end their representation on a matter. This is contrary to how firms and organizations are treated by courts, which recognize the purpose of creating a firm or organization is to more easily allow a group of individuals to work collaboratively to the benefit of their clients. If a party intends for only a specific individual to represent them, and not that individual's entire organization, the party may

still designate only the specific individual. The proposed amendments will benefit the public by making it easier for parties to work with a firm or organization to represent them in a matter without needing to file a change in representation each time a different member of a designated firm or organization appears on their behalf.

### **III. Clarification of Teleconferencing Regulation**

#### Section 1181.13 Commission Meeting by Teleconference.

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

Section 1181.13 states the Commission's ability to hold meetings via teleconference that are compliant with the Bagley-Keene Open Meeting Act if it is unable to achieve a quorum. The proposed amendment clarifies that the Commission may also hold a teleconference where some members participate remotely from remote locations if a quorum of its members are physically present at the same teleconference location, in compliance with a new law, Government Code section 11123.2, that is also added to the section's references.

##### *Proposed Changes*

Section 1181.13 is proposed to be amended as below:

The Commission may hold an open or closed meeting by teleconference if it is difficult or impossible for the Commission to achieve a quorum. A meeting held by teleconference shall comply with the Bagley-Keene Open Meeting Act, including the requirements to provide notice the teleconference locations and make them open to the public.

The Commission may also hold an open or closed meeting by teleconference under alternative provisions of the Act, with some members participating remotely from remote locations (which are not disclosable or open to the public) while a quorum of its members are physically present at the same teleconference location.

The authority and reference note for section 1181.13 is amended as follows:

Note: Authority cited: Sections 17527(g) and 17553(a), Government Code.  
Reference: Sections 11123, 11123.2, 17526, 17527(b) and 17527(c), Government Code.

##### *Necessity and Anticipated Benefits*

Government Code section 11123 authorizes state bodies to hold meetings via teleconference where all members participate from publicly accessible teleconference locations that are identified in the meeting's notice and agenda. Recently enacted Government Code section 11123.2, effective until January 1, 2026, authorizes state bodies to hold teleconferences where at least a quorum of the state body is physically present in the same publicly accessible teleconference location, but members in excess of a quorum may participate remotely from remote locations that do not need to be included in the notice and agenda or be made accessible to the public. It also permits members to participate remotely but be counted towards the quorum needed to hold a teleconference under the statute if the member has a need related to a mental or

physical disability that cannot otherwise be reasonably accommodated. This is in addition to and does not limit the ability to hold teleconferences under Government Code section 11123.

The proposed amendment updates section 1181.13 to clarify that besides holding teleconferences when the Commission is unable to have a quorum physically present in the same teleconference location, the Commission may also hold teleconferences where a quorum will meet in the same teleconference location but additional members participate remotely from remote locations not accessible to the public. The amendments also update section 1181.13's reference citations to include Government Code section 11123.2. The benefit of this amendment is that it clarifies the circumstances in which the Commission might hold its meetings via teleconference, and which laws allow the Commission to hold teleconferenced meetings.

**IV. Delegate Authority to the Executive Director to Deem Incomplete Requests to Review Claiming Instructions and Notices of Intent to Join a Consolidated Incorrect Reduction Claim, Which Have Not Been Timely Corrected, Withdrawn.**

Sections 1184.1 Review of Office of State Controller's Claiming Instructions; and 1185.4 Joining a Consolidated Incorrect Reduction Claim.

*Specific Purpose of the Regulations*

The proposed regulations amend sections 1184.1 and 1185.4 to delegate to the executive director the authority to deem an incomplete request to review claiming instructions or notice of intent to join a consolidated incorrect reduction claim withdrawn after the claimant fails to provide a corrected request or notice within 30 days of Commission staff notifying the claimant its request or notice did not provide all required information and is considered incomplete, instead of bringing the matter to the Commission to withdraw the claim or request. The proposed regulations make the process consistent with other regulations delegating the authority to the executive director to dismiss test claims and deem incorrect reductions claims withdrawn under the same circumstances.

Section 1184.1 gives instructions for a local agency or school district requesting the Commission review claiming instructions issued by the Office of the State Controller. Subdivision (d) explains the procedure if a request filed with the Commission does not include all required information, and requires the Commission to deem the request withdrawn if a completed request is not received within 30 days from the date the incomplete request was returned.

Section 1185.4 gives instructions for eligible claimants to join in a consolidated incorrect reductions claim. Subdivision (c) explains the procedure if a notice of intent to join a consolidated incorrect reduction claim does not include all required information, and requires the Commission to deem the request withdrawn if a completed request is not received within 30 days from the date the incomplete request was returned.

*Proposed Changes*

The following amendment is proposed for section 1184.1(d):

(d) Within 10 days of receipt of a request to review claiming instructions, Commission staff shall notify the local agency or school district that filed the request if the filing is complete or incomplete. A request to review the claiming instructions shall be considered incomplete if any of the elements required in subdivision (b) or (c) of this section are illegible or not included. Incomplete requests shall be returned to the local agency or school district. If a complete request is not received by the Commission within 30 days from the date the incomplete request was returned, the executive director may~~Commission shall~~ deem the request to be withdrawn.

The following amendment is also proposed for section 1185.4(c):

(c) Within 10 days of receipt of a notice of intent to join a consolidated incorrect reduction claim, Commission staff shall notify the joining claimant if the notice of intent to join is complete or incomplete. Notices of intent to join a consolidated incorrect reduction claim will be considered incomplete if any of the elements required in subdivision (b) of this section are illegible or not included. Incomplete notices of intent shall be returned to the joining claimant. If a complete notice of intent to join a consolidated incorrect reduction claim is not received by the Commission within 30 days from the date the incomplete notice of intent was returned to the joining claimant, the executive director may~~Commission shall~~ deem the filing to be withdrawn.

### *Necessity and Anticipated Benefits*

The proposed changes are necessary to clarify the procedure for deeming a request to review claiming instructions or notice of intent to join a consolidated incorrect reduction claim withdrawn when the party fails to timely submit a complete filing. The procedures for a request to review claiming instructions and for a notice of intent to join a consolidated incorrect reduction claim do not include any point where an incomplete filing is presented to the Commission. Delegating the authority to the executive director to withdraw these claims and requests when a party fails to timely submit a complete filing is consistent with other regulations where the executive director is authorized to dismiss a test claim (section 1183.1(f) and (g)) or withdraw an incorrect reduction claim (section 1185.2(a)) when a complete filing is not timely received.

## **V. Fix Incorrect Citations and Add or Remove Authority and Reference Citations.**

### Section 1183.1 Test Claim Filing.

#### *Specific Purpose of the Regulation*

The proposed regulations fix two erroneous references to repealed Government Code sections in section 1183.1's references note that were intended to be references to Education Code sections with the same numbering.

Section 1183.1 identifies who has authority to file a test claim on behalf of a local government or school district and gives the requirements and procedure for filing a test claim with the Commission.

### *Proposed Change*

The following amendments are proposed:

Note: Authority cited: Sections 17527(g) and 17553, Government Code.  
Reference: Sections 17521, 17530, 17551, 17553, 17557(e), 17573, 17574, 24000, 24300.5, 26881, 26900, 26970, 26972, 34852, ~~35034, 35035~~, 37209, 40805.5 and 56723, Government Code; and Sections 35034 and 35035, Education Code.

### *Necessity and Anticipated Benefit*

The proposed amendments are necessary to correct an error in the regulation's referenced statutes. Government Code sections 35034 and 35035 were repealed in 1986, and were not relevant to filing test claims. Education Code sections 35034 and 35035 state the powers of school district superintendents, who have authority to file a test claim on behalf of school districts under section 1183.1(a)(3). It is clear that the regulation intended to reference the powers of superintendents, and not these irrelevant and repealed Government Code sections. The benefit of correcting this error is that it provides a more accurate record of the statutes relied upon when preparing these regulations.

Section 1183.5 Executive Director's Authority to Consolidate or Sever Test Claims; and Section 1183.6 Review of Completed Test Claim and Preparation of Proposed Decision.

### *Specific Purpose of the Regulations*

The proposed regulations amend sections 1183.5 and 1183.6 to correct two references to mailing lists as described in these regulations that cite to the wrong regulation section.

Section 1183.5 addresses the executive director's ability to consolidate or sever test claims, while subdivision (b) requires the executive director serve a notice of proposed action to consolidate or sever a test claim on everyone on the test claims' mailing list and post the notice on the Commission's website.

Section 1183.6 discusses the procedure for Commission staff preparing a draft proposed decision on a test claim, while subdivision (b) requires Commission staff to distribute its draft proposed decision to those on the test claim's mailing list and post the draft proposed decision on the Commission's website at least eight weeks before the test claim is heard by the Commission.

### *Proposed Changes*

The following amendment is proposed for section 1183.5(b):

(b) At least 10 days before the action is taken, the executive director shall simultaneously serve on the parties and interested parties on the mailing list described in section 1181.24 of these regulations, and post on the Commission's website, a notice of any proposed action to consolidate or sever.

Additionally, the following amendment is proposed for section 1183.6(b):

(b) At least eight weeks before the hearing, or at a time required by the executive director or stipulated to by the parties, Commission staff shall prepare a draft proposed decision and distribute it to the parties, interested parties, and those on the mailing list described in section 1181.34 of these regulations, and shall post it on the Commission's website.

#### *Necessity and Anticipated Benefit*

The proposed amendments are necessary to correct an error in these regulations. Neither section 1181.2 nor 1181.3 of these regulations describe the mailing lists used by the Commission; that is discussed in section 1181.4. The proposed amendments correct the references to other sections within these regulations, which benefits the public by informing them of the correct regulation to refer to for more information about mailing lists.

#### Section 1187.7 Witnesses and Subpoenas.

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

The proposed regulations amend section 1187.7(d) to update a citation to the Public Records Act, which has been recently renumbered by the Legislature and is no longer found in the referenced sections.

Section 1187.7 states that parties are responsible for arranging their own witnesses, and that the Commission may issue subpoenas to compel testimony at the party's request. Subdivision (d) states the information that must be provided by affidavit when requesting the Commission issue a subpoena duces tecum.

##### *Proposed Changes*

The following amendment is proposed:

(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 or requester, shall be made by affidavit and shall give the name and address of the person to be subpoenaed, shall describe the documents or things desired to be produced, shall set forth in detail the relevance to the issues involved in the matter, shall specify the date on which the documents or things shall be produced, and that, to the best of the applicant's personal knowledge, information, or belief, the witness has the documents or things in his or her possession or under his or her control and that none of the documents or things desired to be produced are public records accessible to the public pursuant to Section ~~6250~~7920 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 documents 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 amendment is necessary to update a citation to recently renumbered Government Code sections. Former Government Code section 6250 et seq., also known as the Public Records Act, has been moved to Government Code section 7920 et seq. by Statutes 2021, chapter 614 (AB 473), section 2, effective date January 1, 2022, operative January 1, 2023. The proposed amendment updates the reference to the Public Records Act in section 1187.7(d) to its current numbering at 7920 et seq. Updating the citation will have the benefit of more accurately directing people to the correct Government Code section for the Public Records Act.

Section 1187.5 Evidence Submitted to the Commission; and Section 1187.8 Representation at Hearing.

*Specific Purpose of the Regulations*

The proposed regulations amend the authorities cited for sections 1187.5 and 1187.8 to remove repealed Government Code sections and those that do not apply to hearing and determining matters pending with the Commission, and to add citations to the authorities that govern the quasi-judicial matters the Commission is required to hear and determine and for which these regulations apply.

Section 1187.5 states the types of evidence that may be presented during a Commission hearing and the rules of evidence that apply to quasi-judicial matters.

Section 1187.8 notes the ability of a party to designate an authorized representative to speak on its behalf during a Commission hearing on a matter.

*Proposed Changes*

The following amendments are proposed for section 1187.5:

Note: Authority cited: Sections 17527(e), 17527(g), 17553, ~~17557, 17558.7, 17570, 17615.1 and 17615.8, 17610, 17621 and 17622,~~  
Government Code; and Section 17000.6, Welfare and Institutions Code.  
Reference: Sections 11514, 11515, ~~17518.5,~~ 17527(e), 17551, 17553, 17557, ~~17557.2, 17559, and 17570,~~ 17571 and 17615.7, Government Code.

The following amendments are also proposed for section 1187.8:

Note: Authority cited: 17527(c), 17527(g), ~~17554, 17553(a), 17555, 17558.7, 17570, 17615.1, and 17615.8,~~ ~~17620, 17621 and 17622,~~  
Government Code; and Section 17000.6, Welfare and Institutions Code.  
Reference: Sections 17527(c), 17551, ~~and 17553,~~ 17557, 17557.2, 17570, ~~17571 and 17615.7,~~ Government Code.

*Necessity and Anticipated Benefit*

Government Code section 11346.5 requires that proposed regulations identify the “[r]eference to the authority under which the regulation is proposed and a reference to the particular code sections or other provisions of law that are being implemented, interpreted, or made specific.” The proposed amendments are necessary to remove repealed code sections from the authorities the Commission relied upon when originally creating these regulations, and to add citations to the authorities and references that



govern all the quasi-judicial matters the Commission is required to hear and determine and for which these regulations apply.

Former Government Code sections 17621, and 17622 are currently cited as authorities for sections 1187.5 and 1187.8. Former Government Code section 17620 is also currently cited as a reference for section 1187.8. These former code sections discussed procedures for hearing and determining claims filed by “any state agency” for findings of cost savings authorized by the state, and were repealed by Statutes 1993, chapter 216 (AB 843). In addition, former Government Code section 17610, which is cited as authority for section 1187.5, related to reimbursement for statutes that the Legislature specifically identified as creating a new program or higher level of service, and was repealed by Statute 2004, chapter 890 (AB 2856) section 25. Since these code sections have been repealed, the proposed regulations remove these code sections from the authorities cited for sections 1187.5 and 1187.8.

In addition, the proposed regulations remove Government Code section 17555 as an authority for section 1187.8. Government Code section 17555 requires the Commission to notify the appropriate policy and fiscal committees, Legislative Analyst, Department of Finance and Controller 30 days after hearing and deciding a test claim and determining the amount to be subvended and does not have anything to do with the Commission hearings themselves.

The authorities currently cited for sections 1187.5 and 1187.8 correctly include Government Code sections 17527 and 17553, which govern the Commission’s authority to adopt regulations and require the Commission to adopt procedures to hear and decide test claims. This proposal deletes Government Code sections 17551 as an authority for section 1187.8 and 17557 as an authority for 1187.5 of the regulations because these code sections do not authorize the Commission to adopt regulations. However, these code sections require the Commission to hear and determine test claims, parameters and guidelines, amendments to parameters and guidelines, and incorrect reduction claims, all of which are quasi-judicial matters subject to the evidentiary and hearing procedures in sections 1187.5 and 1187.8 of the regulations and, thus, sections 1187.5 and 1187.8 implement, interpret, and make specific these code sections. Therefore, Government Code sections 17551 and 17557 are more appropriately cited as references to these regulations. Government Code section 17551 is already cited as a reference for both 1187.5 and 1187.8, but 17557 is only currently cited as a reference in 1187.5. The proposed amendments add Government Code section 17557 to the references for section 1187.8.

This proposal also adds Government Code sections 17558.7, 17570, 17615.1, and 17615.8, and Welfare and Institutions Code section 17000.6, to the authorities cited for sections 1187.5 and 1187.8 of the regulations because these code sections require the Commission to adopt hearing procedures for certain quasi-judicial matters. Government Code section 17558.7 authorizes a claimant to file an incorrect reduction claim with the Commission when the Controller reduces a claim for reimbursement and requires the Commission to establish procedures for consolidated incorrect reduction claims. Government Code section 17570 gives the Commission authority to adopt a new test claim decision to supersede a previously adopted test claim decision upon a showing that the state’s liability for that test claim decision pursuant to article XIII B, section 6(a)

of the California Constitution has been modified based on a subsequent change in law, and requires the Commission to adopt procedures for receiving requests to adopt a new test claim decision pursuant to this section and for providing notice and a hearing on those requests. Government Code sections 17615.1 and 17615.8 require the Commission to hear and determine requests for inclusion or removal of programs from the State Mandates Apportionment System and requests for review of apportionment or base year entitlement for programs included in the State Mandates Apportionment System, and to adopt procedures for hearing those matters. Welfare and Institutions Code section 17000.6 requires the Commission to hear and determine applications filed by counties for a finding of significant financial distress and authorizes the Commission to adopt regulations to implement that code section.

Finally, this proposal adds code sections that address other quasi-judicial matters decided by the Commission as references to sections 1187.5 and 1187.8 of the regulations. Government Code section 17518.5 governs the findings and evidence required to support a proposed reasonable reimbursement methodology (RRM) to be included in parameters and guidelines, and has been added as a reference for section 1187.5 of these regulations because section 1187.5 implements, interprets, and makes specific the kinds of evidence that may be presented to the Commission for the approval of RRM. Government Code section 17570, which addresses the Commission's ability to adopt a new test claim decision after a subsequent change in law, has also been added to the references for section 1187.8, as it both grants authority to create regulations and is implemented interpreted, and made specific by the regulation. Government Code sections 17557.2, 17571, and 17615.7 have also been added as references for both sections 1187.5 and 1187.8 of the Commission's regulations. Government Code section 17557.2 addresses the requirements for the approval and early termination of a *joint* RRM and statewide estimate of costs developed by a test claimant and the Department of Finance following the Commission's approval of a test claim, and establishes the findings the Commission is required to make to approve the *joint* RRM. Government Code section 17571 requires the Commission to review the Controller's claiming instructions upon request of a local agency or school district and requires the Commission to determine if the claiming instructions conform to the Commission's parameters and guidelines. Government Code section 17615.7 requires the Commission to determine if an amendment or modification to a mandated program in the State Mandates Apportionment System significantly affects the costs of the program. The evidentiary and hearing requirements in sections 1187.5 and 1187.8 implement, interpret, and make specific the requirements in Government Code sections 17557.2, 17571, and 17615.7.

The clean-up of the authorities cited for sections 1187.5 and 1187.8 has the benefit of providing a more accurate picture of the statutes that currently grant the Commission its legal authority to regulate hearings on quasi-judicial matters that are required to be heard by the Commission and whose requirements for evidence submitted to the Commission and representation at hearings were implemented, interpreted, and made specific by these regulations.

## **VI. Amend Regulations to Make Minor, Non-substantive Changes.**

Sections 1183.1 Test Claim Filing and 1185.6 Executive Director's Authority to Consolidate or Sever Incorrect Reduction Claims.

*Specific Purpose of the Regulation*

The proposed regulations make minor, non-substantive amendments to improve readability to sections 1183.1 and 1185.6.

Section 1183.1 provides who has authority to file test claims with the Commission and the requirements and procedure for filing a test claim. Subdivision (g) of that section specifically discusses the procedure for dismissing a test claim for which the Commission lacks jurisdiction.

Section 1185.6 grants the executive director authority to consolidate or sever incorrect reduction claims in part or whole, and states the procedure the executive director must follow when invoking this authority.

*Proposed Changes*

The following non-substantive amendment is proposed for section 1183.1(g):

(g) Any test claim, or portion of a test claim, that the Commission lacks jurisdiction to hear for any reason, including that the test claim was not filed within the period of limitation required by subdivision (c) of this section, may be rejected or dismissed by the executive director with a written notice stating the reason therefor. However, for an otherwise timely and complete test claim over which the Commission would have jurisdiction, except that it was filed by a local agency that is not eligible to seek reimbursement because it is not subject to the taxing and spending limitations of articles XIII A and B of the California Constitution, the Commission shall follow the process outlined in section 1187.14(b).

The following non-substantive amendment is proposed for section 1185.6:

The executive director may consolidate or sever ~~part or all of any incorrect reduction claim in part or whole, when with another incorrect reduction claim,~~ if necessary to ensure the complete, fair, or timely consideration of any incorrect reduction claim.

*Necessity and Anticipated Benefit*

The proposed change to section 1183.1(g) is a minor, non-substantive change to correct a grammatical error in the regulation. In context, the regulation discusses both article XIII A and article XIII B of the California Constitution, and therefore 'article' should be plural instead of singular. The proposed change is necessary to correct that error, with a benefit of improving the clarity of the regulation.

The proposed amendment to section 1185.6 is a non-substantive change to rephrase the existing regulation that makes the language more concise without changing the regulation's effect. The benefit of doing so is that clear and concise language is easier to read.

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

In developing the proposed changes, the Commission relied upon the following documents:

1. Web Content Accessibility Guidelines (WCAG) 2.0, World Wide Web Consortium (W3C), <https://www.w3.org/TR/WCAG20/> (accessed June 27, 2023).
2. PDF Techniques for WCAG 2.0, World Wide Web Consortium (W3C), <https://www.w3.org/TR/WCAG20-TECHS/pdf> (accessed July 5, 2023).
3. What Are Accessible Fonts?, Cam Weller, <https://www.accessibility.com/blog/what-are-accessible-fonts> November 2, 2021 (accessed July 5, 2023).

The Commission also relied upon the statutes and cases cited in the authority and reference sections for the regulations.

## **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 and 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 nor will existing businesses be 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. Therefore, no existing businesses in California will be expanded or eliminated.

### Benefits of the Regulations

The regulations are designed to increase clarity and accessibility for local governments, school districts, state agencies, and other interested parties and 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, which increases openness and transparency in government.

## **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.