

**FINAL TEXT**

**REGULATION AMENDMENTS RELATED TO TRANSFER OF STATE MEDIATION AND CONCILIATION SERVICE FROM DEPARTMENT OF INDUSTRIAL RELATIONS TO THE PUBLIC EMPLOYMENT RELATIONS BOARD**

(Pursuant to Senate Bill 1038; Statutes of 2012, Chapter 46, Government Code section 3603(c) states, “The regulations of the Director of Industrial Relations at Subchapter 2.2 (Sections 15800 to 15875.1, inclusive) and Subchapter 7 (Section 17300) of Chapter 8 of Division 1 of Title 8 of the California Code of Regulations shall remain in effect and shall be deemed to be regulations of the Public Employment Relations Board.”)

**1. Add new sections 32056 and 32121 to Title 8, Division 3, Chapter 1, Subchapter 2, Article 1, as follows:**

32056. State Mediation and Conciliation Service.

(a) “Service,” “SMCS” or “Division of Mediation” means the California State Mediation and Conciliation Service, as described in Government Code section 3600.

(b) “Supervisor” means the officer of that title within the Division of Mediation designated by the Board.

Authority cited: Sections 3541.3(g) and 3603, Government Code. Reference: Section 3600, Government Code.

32121. Place to File Matters with the SMCS.

The San Francisco Regional Office shall be the appropriate location for filing documents in all matters relating to functions of the Division of Mediation.

Authority cited: Sections 3541.3(g) and 3603, Government Code; and Sections 30751, 40122, 70122, 90300, 98162.5, 100301, 101344, 102403, 103401, and 125521, Appendix 1, Section 4.4, and Appendix 2, Section 13.91, Public Utilities Code. Reference: Sections 3600, 3601, 3603, and 3611, Government Code; and Sections 25051, 25052, 28850, 28851, 30750, 30751, 30754, 30756, 40120, 40122, 50120, 50121, 70120, 70122, 90300, 95650, 95651, 98162.5, 100301, 100305, 100306, 101341, 101342, 101344, 102401, 102403, 103401, 103404, 103405, 103406, 125521, 125526, Appendix 1, Sections 4.2 and 4.4, and Appendix 2, Sections 13.90, 13.91, and 13.96, Public Utilities Code.

**2. Amend existing sections 32100, 32150, 32155, 32300, 32305, 32310, 32315, 32320, 32350, 32360, 32370, 32375, 32380, and 32410 of PERB's Regulations (except for sections 32100, 32150 and 32155, only authority and reference citations are affected):**

32100. Application of Regulations.

(a) All rules and regulations within this Chapter shall apply to proceedings conducted under EERA, Ralph C. Dills Act, and HEERA and to Chapters 2, 3 and 4 within this Division.

(b) All rules and regulations within this Chapter, except for Subchapter 6, shall apply to proceedings conducted under MMBA and to Chapter 5 within this Division.

(c) All rules and regulations within this Chapter, except for Article 6 of Subchapter 6, shall apply to proceedings conducted under TEERA and to Chapter 6 within this Division.

(d) All rules and regulations within this Chapter, except for Subchapter 6, shall apply to proceedings conducted under the Trial Court Act and to Chapter 7 within this Division.

(e) All rules and regulations within this Chapter, except for Subchapter 6, shall apply to proceedings conducted under the Court Interpreter Act and to Chapter 8 within this Division.

(f) Except as expressly provided otherwise, the rules and regulations within this Chapter, and Chapters 2 through 8, do not apply to mediation, election or other services provided by mediators or conciliators pursuant to Government Code sections 3600 and 3601.

Authority cited: Sections 3509(a), 3513(h), 3541.3(g), 3563(f), 71639.1(b) and 71825(b), Government Code; and Section 99561(f), Public Utilities Code. Reference: Section 19604, Business and Professions Code; Section 57031, Food and Agricultural Code; Sections 3502.5, 3507, 3507.1, 3507.3, 3507.5, 3508, 3509, 3513(h), 3541.3, 3563, 3600, 3601, 3602, 3603, 3611, 71632.5, 71636, 71636.1, 71636.3, 71637, 71637.1, 71639.1, 71823 and 71825, Government Code; Section 2686, Labor Code; and Sections 25051, 25052, 28850, 28851, 30750, 30751, 30754, 30756, 40120, 40122, 50120, 50121, 70120, 70122, 90300, 95650, 95651, 98162.5, 99561, 100301, 100305, 100306, 101341, 101342, 101344, 102401, 102403, 103401, 103404, 103405, 103406, 125521, 125526, Appendix 1, Sections 4.2 and 4.4, and Appendix 2, Sections 13.90, 13.91, and 13.96, Public Utilities Code.

32150. Subpoenas.

(a) Before the hearing has commenced, the Board shall issue subpoenas at the request of any party for attendance of witnesses or production of documents at the hearing. Compliance with the provisions of Section 1985 of the Code of Civil Procedure shall be a condition precedent to the issuance of a subpoena for production of documents. After the hearing has commenced the Board may issue subpoenas.

(b) Any subpoenas issued pursuant to subdivision (a) shall be extended to all parts of the State and shall be served in accordance with the provisions of sections 1987 and 1988 of the Code of Civil Procedure.

(c) All witnesses appearing pursuant to subpoena, other than the parties, shall receive fees and mileage in the amount as prescribed by law for civil actions in a superior court. Fees, mileage and expenses of subsistence shall be paid by the party at whose request the witness is subpoenaed.

(d) A written motion to revoke a subpoena may be filed prior to the proceeding or made by an oral motion at the commencement of the proceeding. The Board shall revoke the subpoena if the evidence requested to be produced is not relevant to any matter under consideration in the proceeding or the subpoena is otherwise invalid.

(e) Upon a finding of the Board itself that a Board agent is essential to the resolution of a case and that no rational decision of the Board can be reached without such agent, the Board itself shall produce the agent if subpoenaed to do so by any party to the dispute. For purposes of this subdivision, the term "Board agent" includes a mediator or conciliator employed within the State Mediation and Conciliation Service. This subdivision shall not apply when the mediator or conciliator is performing services pursuant to Government Code section 3601 to which the confidentiality provisions of that section or section 703.5 and Chapter 2, commencing with section 1115, of Division 9 of the Evidence Code apply.

(f) Upon the failure of any person to comply with a subpoena, the Board may apply to an appropriate superior court for an order requiring such person to appear and produce evidence and give testimony regarding the matter under investigation or in question. Requests for compliance with a subpoena shall be made to the Board agent assigned the case. If the Board agent deems it appropriate, he or she shall promptly recommend to the General Counsel that the Board seek enforcement of the subpoena. A request that the Board apply for an order may be made by the General Counsel at any stage of the proceedings. The Board shall seek enforcement on recommendation of the General Counsel unless in the judgment of the Board the enforcement of such subpoena or notice would be inconsistent with law or the policies of the applicable Act. If the request is granted, the record will remain open in the matter until the Board determines that the court order will not be forthcoming, or that further delay would frustrate the policies of the applicable Act, or until the testimony sought is included in the record.

Authority cited: Sections 3509(a), 3513(h), 3541.3(g), 3563(f), 71639.1(b) and 71825(b), Government Code; and Section 99561(f), Public Utilities Code. Reference: Sections 3509, 3513(h), 3541.3(h), 3563(g), 3601, 71639.1 and 71825, Government Code; and Section 99561(g), Public Utilities Code.

32155. Disqualification of Board Agent or Board Members.

(a) No Board member, and no Board agent performing an adjudicatory function, and no mediator or conciliator employed within the State Mediation and Conciliation Service, shall decide or otherwise participate in any case or proceeding:

(1) In which he or she has a financial interest in the outcome.

(2) When he or she is related to any party or to an agent or officer of any party, or to an attorney or counsel of any party by consanguinity or affinity within the third degree computed according to the rules of law, or when he or she is indebted, through money borrowed as a loan, to any party or to an attorney or counsel of any party.

(3) When, in the case or proceeding, he or she has been attorney or counsel for any party; or when he or she has given advice to any party upon any matter involved in the proceeding before the Board; or when he or she has been retained or employed as attorney or counsel for any party within one year prior to the commencement of the case at the Board level.

(4) When it is made to appear probable that, by reason of prejudice of such Board member or Board agent, a fair and impartial consideration of the case cannot be had before him or her.

(b) Whenever such a Board agent shall have knowledge of any facts, which under the provisions of this rule disqualify him or her from presiding over any aspect of a hearing or investigation, it shall be his or her duty immediately to notify the General Counsel or the Chief Administrative Law Judge, as appropriate, setting forth all reasons for his or her belief.

(c) Any party may request the Board agent to disqualify himself or herself whenever it appears that it is probable that a fair and impartial hearing or investigation cannot be held by the Board agent to whom the matter is assigned. Such request shall be written, or if oral, reduced to writing within 24 hours of the request. The request shall be under oath and shall specifically set forth all facts supporting it. The request must be made prior to the taking of any evidence in an evidentiary hearing or the actual commencement of any other proceeding.

If such Board agent admits his or her disqualification, such admission shall be immediately communicated to the General Counsel or the Chief Administrative Law Judge, as appropriate, who shall designate another Board agent to hear the matter.

Notwithstanding his or her disqualification, a Board agent who is disqualified may request another Board agent who has been agreed upon by all parties to conduct the hearing or investigation.

(d) If the Board agent does not disqualify himself or herself and withdraw from the proceeding, he or she shall so rule on the record, state the grounds for the ruling, and proceed with the hearing or investigation and the issuance of the decision. The party requesting the disqualification may, within ten days, file with the Board itself a request for special permission to appeal the ruling of the Board agent. If permission is not granted, the party requesting

disqualification may file an appeal, after hearing or investigation and issuance of the decision, setting forth the grounds of the alleged disqualification along with any other exceptions to the decision on its merits.

(e) Whenever a Board member shall have knowledge of any facts which, under the provisions of this rule, disqualify him or her to consider any case before the Board, it shall be his or her duty to declare the disqualification to the Board immediately upon learning of such facts. This declaration shall be made part of the official record of the Board. The Board member shall then refrain from participating and shall attempt in no way to influence any other person with respect to the matter.

(f) Any party to a case before the Board may file directly with the Board member a motion for his or her recusal from the case when exceptions are filed with the Board or within ten days of discovering a disqualifying interest provided that such facts were not available at the time exceptions were filed. The motion shall be supported by sworn affidavits stating the facts constituting the ground for disqualification of the Board member. Copies of the motion and supporting affidavits shall be served on all parties to the case.

(g) Within ten days after the filing of a motion for recusal, the Board member alleged to be disqualified shall render a decision stating the reasons therefore. If the Board member is not on the panel assigned to hear the case, he or she shall so inform the parties and indicate that he or she does not intend to participate in the case. In the event that the Board member decides to participate, he or she shall render a decision on the motion for recusal before doing so.

(h) Any party aggrieved by a determination made pursuant to subsections (d) or (g) of this rule may include the matter of claimed disqualification in a writ of extraordinary relief filed pursuant to Government Code Section 3509.5, 3520, 3542, 3564, 71639.4 or 71825.1 or Public Utilities Code section 99562 seeking judicial review of the Board's decision on the merits.

Authority cited: Sections 3509(a), 3513(h), 3541.3(g), 3563, ~~3603~~, 71639.1(b) and 71825(b), Government Code; and ~~Section~~ Sections 30751, 40122, 70122, 90300, 98162.5, 99561(f), 100301, 101344, 102403, 103401, 120505, and 125521, Appendix 1, Section 4.4, and Appendix 2, Section 13.91, Public Utilities Code. Reference: Sections 3509, 3509.5, 3513, 3520, 3541.3, 3542, 3563, 3564, 71639.1, 71639.4, 71825 and 71825.1, Government Code; and Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300, 95651, 98162.5, 99561, and 99562, 100301, 101344 102403, 103401, 120505, and 125521, Public Utilities Code.

### 32300. Exceptions to Board Agent Decision.

(a) A party may file with the Board itself an original and five copies of a statement of exceptions to a Board agent's proposed decision issued pursuant to Section 32215, and supporting brief, within 20 days following the date of service of the decision or as provided in Section 32310. The statement of exceptions and briefs shall be filed with the Board itself in the headquarters office. Service and proof of service of the statement and brief pursuant to Section 32140 are required. The statement of exceptions or brief shall:

- (1) State the specific issues of procedure, fact, law or rationale to which each exception is taken;
  - (2) Identify the page or part of the decision to which each exception is taken;
  - (3) Designate by page citation or exhibit number the portions of the record, if any, relied upon for each exception;
  - (4) State the grounds for each exception.
- (b) Reference shall be made in the statement of exceptions only to matters contained in the record of the case.
- (c) An exception not specifically urged shall be waived.

Authority cited: Sections 3509(a), 3513(h), 3541.3(g), 3563(f), 3603, 71639.1(b) and 71825(b), Government Code; and Sections 30751, 40122, 70122, 90300, 98162.5, 99561(f), 100301, 101344, 102403, 103401, 120505, and 125521, Appendix 1, Section 4.4, and Appendix 2, Section 13.91, Public Utilities Code. Reference: Sections 3509, 3513(h), 3541.3(k), 3541.3(n), 3563(j), 3563(m), 71639.1 and 71825, Government Code; and Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300, 95651, 98162.5, 99561(j), 99561(m), 100301, 101344 102403, 103401, 120505, and 125521, Public Utilities Code.

32305. Failure to File Exceptions.

Unless a party files a timely statement of exceptions to the proposed decision, the decision shall become final on the date specified therein.

Authority cited: Sections 3509(a), 3513(h), 3541.3(g), 3563(f), 3603, 71639.1(b) and 71825(b), Government Code; and Sections 30751, 40122, 70122, 90300, 98162.5, 99561(f), 100301, 101344, 102403, 103401, 120505, and 125521, Appendix 1, Section 4.4, and Appendix 2, Section 13.91, Public Utilities Code. Reference: Sections 3509, 3513(h), 3541.3(k), 3541.3(n), 3563(j), 3563(m), 71639.1 and 71825, Government Code; and Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300, 95651, 98162.5, 99561(j), 99561(m), 100301, 101344 102403, 103401, 120505, and 125521, Public Utilities Code.

32310. Response to Exceptions.

Within 20 days following the date of service of the statement of exceptions, any party may file with the Board itself an original and five copies of a response to the statement of exceptions and a supporting brief. The response shall be filed with the Board itself in the headquarters office. The response may contain a statement of any exceptions the responding party wishes to take to the recommended decision. Any such statement of exceptions shall comply in form with the requirements of Section 32300. A response to such exceptions may be filed within 20

days. Such response shall comply in form with the provisions of this Section. Service and proof of service of these documents pursuant to Section 32140 are required.

Authority cited: Sections 3509(a), 3513(h), 3541.3(g), 3563(f), 3603, 71639.1(b) and 71825(b), Government Code; and Sections 30751, 40122, 70122, 90300, 98162.5, 99561(f), 100301, 101344, 102403, 103401, 120505, and 125521, Appendix 1, Section 4.4, and Appendix 2, Section 13.91, Public Utilities Code. Reference: Sections 3509, 3513(h), 3541.3(k), 3541.3(n), 3563(j), 3563(m), 71639.1 and 71825, Government Code; and Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300, 95651, 98162.5, 99561(j), 99561(m), 100301, 101344 102403, 103401, 120505, and 125521, Public Utilities Code.

32315. Oral Argument on Exceptions.

A party desiring to argue orally before the Board itself regarding the exceptions to the proposed decision shall file with the statement of exceptions or the response to the statement of exceptions a written request stating the reasons for the request. Upon such request or its own motion the Board itself may direct oral argument.

Authority cited: Sections 3509(a), 3513(h), 3541.3(g), 3563(f), 3603, 71639.1(b) and 71825(b), Government Code; and Sections 30751, 40122, 70122, 90300, 98162.5, 99561(f), 100301, 101344, 102403, 103401, 120505, and 125521, Appendix 1, Section 4.4, and Appendix 2, Section 13.91, Public Utilities Code. Reference: Sections 3509, 3513(h), 3541.3(k), 3541.3(n), 3563(j), 3563(m), 71639.1 and 71825, Government Code; and Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300, 95651, 98162.5, 99561(j), 99561(m), 100301, 101344 102403, 103401, 120505, and 125521, Public Utilities Code.

32320. Decision of the Board Itself.

(a) The Board itself may:

- (1) Issue a decision based upon the record of hearing, or
- (2) Affirm, modify or reverse the proposed decision, order the record re-opened for the taking of further evidence, or take such other action as it considers proper.

(b) The Board shall serve a copy of the decision on each party.

(c) All decisions and orders issued by the Board itself are precedential and may be cited in any matter pending before a Board agent or the Board itself. The precedential status of decisions issued by the Board itself includes decisions issued prior to July 1, 1997.

Authority cited: Sections 3509(a), 3513(h), 3541.3(g), 3563(f), 3603, 71639.1(b) and 71825(b), Government Code; and Sections 30751, 40122, 70122, 90300, 98162.5, 99561(f), 100301, 101344, 102403, 103401, 120505, and 125521, Appendix 1, Section 4.4, and Appendix 2, Section 13.91, Public Utilities Code. Reference: Sections 3509, 3513(h), 3514.5, 3541.3(k), 3541.3(n), 3563(j), 3563(m), 3563.2, 11425.60, 71639.1 and 71825, Government Code; and

Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300, 95651, 98162.5, 99561(j), 99561(m), and 99561.2, 100301, 101344 102403, 103401, 120505, and 125521, Public Utilities Code.

32350. Definition of Administrative Decision.

(a) An administrative decision is any determination made by a Board agent other than:

(1) a refusal to issue a complaint in an unfair practice case pursuant to Section 32630,

(2) a dismissal of an unfair practice charge, or

(3) a decision which results from the conduct of a formal hearing or from an investigation which results in the submission of a stipulated record and a proposed decision written pursuant to Section 32215.

(b) An administrative decision shall contain a statement of the issues, fact, law and rationale used in reaching the determination.

Authority cited: Sections 3509(a), 3513(h), 3541.3(g), 3563(f), 3603, 71639.1(b) and 71825(b), Government Code; and Sections 30751, 40122, 70122, 90300, 98162.5, 99561(f), 100301, 101344, 102403, 103401, 120505, and 125521, Appendix 1, Section 4.4, and Appendix 2, Section 13.91, Public Utilities Code. Reference: Sections 3509, 3513(h), 3541.3(k), 3541.3(n), 3563(j), 3563(m), 71639.1 and 71825, Government Code; and Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300, 95651, 98162.5, 99561(j), 99561(m), 100301, 101344 102403, 103401, 120505, and 125521, Public Utilities Code.

32360. Appeal Requirements.

(a) An appeal may be filed with the Board itself from any administrative decision, except as noted in Section 32380.

(b) An original and five copies of the appeal shall be filed with the Board itself in the headquarters office within 10 days following the date of service of the decision or letter of determination.

(c) The appeal must be in writing and must state the specific issue(s) of procedure, fact, law or rationale that is appealed and state the grounds for the appeal.

(d) Service and proof of service of the appeal pursuant to Section 32140 are required.

Authority cited: Sections 3509(a), 3513(h), 3541.3(g), 3563(f), 3603, 71639.1(b) and 71825(b), Government Code; and Sections 30751, 40122, 70122, 90300, 98162.5, 99561(f), 100301, 101344, 102403, 103401, 120505, and 125521, Appendix 1, Section 4.4, and Appendix 2, Section 13.91, Public Utilities Code. Reference: Sections 3509, 3513(h), 3541.3(k), 3541.3(n), 3563(j), 3563(m), 71639.1 and 71825, Government Code; and Sections 4.4, 13.91, 25052,

28851, 30751, 40122, 50121, 70122, 90300, 95651, 98162.5, 99561(j), 99561(m), 100301, 101344 102403, 103401, 120505, and 125521, Public Utilities Code.

32370. Request for Stay of Activity.

An appeal will not automatically prevent the Board from proceeding in a case. Parties seeking a stay of any activity may file a request for a stay with the administrative appeal which shall include all pertinent facts and justification for the request. The Board may stay the matter, except as is otherwise provided in these regulations.

Authority cited: Sections 3509(a), 3513(h), 3541.3(g), 3563(f), 3603, 71639.1(b) and 71825(b), Government Code; and Sections 30751, 40122, 70122, 90300, 98162.5, 99561(f), 100301, 101344, 102403, 103401, 120505, and 125521, Appendix 1, Section 4.4, and Appendix 2, Section 13.91, Public Utilities Code. Reference: Sections 3509, 3513(h), 3541.3(k), 3541.3(n), 3563(j), 3563(m), 71639.1 and 71825, Government Code; and Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300, 95651, 98162.5, 99561(j), 99561(m), 100301, 101344 102403, 103401, 120505, and 125521, Public Utilities Code.

32375. Response to the Administrative Appeal.

Within 10 days following the date of service of the appeal, any party may file a response to the appeal. An original and five copies of the response shall be filed with the Board itself in the headquarters office. Service and proof of service of the response pursuant to Section 32140 are required.

Authority cited: Sections 3509(a), 3513(h), 3541.3(g), 3563(f), 3603, 71639.1(b) and 71825(b), Government Code; and Sections 30751, 40122, 70122, 90300, 98162.5, 99561(f), 100301, 101344, 102403, 103401, 120505, and 125521, Appendix 1, Section 4.4, and Appendix 2, Section 13.91, Public Utilities Code. Reference: Sections 3509, 3513(h), 3541.3(k), 3541.3(n), 3563(j), 3563(m), 71639.1 and 71825, Government Code; and Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300, 95651, 98162.5, 99561(j), 99561(m), 100301, 101344 102403, 103401, 120505, and 125521, Public Utilities Code.

32380. Limitation of Appeals.

The following administrative decisions shall not be appealable:

- (a) A decision by a Board agent regarding the mechanics of an election provided the decision does not affect standing of a party to appear on a ballot;
- (b) Except as provided in Section 32200, any interlocutory order or ruling on a motion.
- (c) A decision by a Board agent pursuant to Section 32793 regarding the existence of an impasse.

(d) A decision by a Board agent pursuant to Section 32802 regarding the sufficiency of a request for factfinding under the MMBA.

Authority cited: Sections 3509(a), 3513(h), 3541.3(g), 3563(f), 3603, 71639.1(b) and 71825(b), Government Code; and Sections 30751, 40122, 70122, 90300, 98162.5, 99561(f), 100301, 101344, 102403, 103401, 120505, and 125521, Appendix 1, Section 4.4, and Appendix 2, Section 13.91, Public Utilities Code. Reference: Sections 3505.4, 3509, 3513(h), 3541.3(k), 3541.3(n), 3563(j), 3563(m), 71639.1 and 71825, Government Code; and Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300, 95651, 98162.5, 99561(j), and 99561(m), 100301, 101344, 102403, 103401, 120505, and 125521, Public Utilities Code.

#### 32410. Request for Reconsideration.

(a) Any party to a decision of the Board itself may, because of extraordinary circumstances, file a request to reconsider the decision within 20 days following the date of service of the decision. An original and five copies of the request for reconsideration shall be filed with the Board itself in the headquarters office and shall state with specificity the grounds claimed and, where applicable, shall specify the page of the record relied on. Service and proof of service of the request pursuant to Section 32140 are required. The grounds for requesting reconsideration are limited to claims that: (1) the decision of the Board itself contains prejudicial errors of fact, or (2) the party has newly discovered evidence which was not previously available and could not have been discovered with the exercise of reasonable diligence. A request for reconsideration based upon the discovery of new evidence must be supported by a declaration under the penalty of perjury which establishes that the evidence: (1) was not previously available; (2) could not have been discovered prior to the hearing with the exercise of reasonable diligence; (3) was submitted within a reasonable time of its discovery; (4) is relevant to the issues sought to be reconsidered; and (5) impacts or alters the decision of the previously decided case.

(b) Any party shall have 20 days from service to file a response to the request for reconsideration. An original and five copies of the response shall be filed with the Board itself in the headquarters office. Service and proof of service of the response pursuant to Section 32140 are required.

(c) Unless otherwise ordered by the Board, the filing of a Request for Reconsideration shall not stay the effectiveness of a decision of the Board itself except that the Board's order in an unfair practice case shall automatically be stayed upon filing of a Request for Reconsideration.

Authority cited: Sections 3509(a), 3513(h), 3541.3(g), 3563(f), 3603, 71639.1(b) and 71825(b), Government Code; and Sections 30751, 40122, 70122, 90300, 98162.5, 99561(f), 100301, 101344, 102403, 103401, 120505, and 125521, Appendix 1, Section 4.4, and Appendix 2, Section 13.91, Public Utilities Code. Reference: Sections 3509, 3513(h), 3541.3(k), 3541.3(n), 3563(j), 3563(m), 71639.1 and 71825, Government Code; and Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300, 95651, 98162.5, 99561(j), 99561(m), 100301, 101344, 102403, 103401, 120505, and 125521, Public Utilities Code.

**3. Move Section 17300 from Title 8, Division 1, Chapter 8, Subchapter 7, Article 1, and renumber and amend the section in Title 8, Division 3, Chapter 1, new Subchapter 9, as follows:**

Subchapter 9. State Mediation and Conciliation Service

17300 32998. Reimbursement for Services.

(a) Beginning July 1, 2010, training and facilitation services provided by the ~~State Mediation and Conciliation Service (SMCS)~~ pursuant to ~~Section 65 of the Labor Code~~ Section 3602 of the Government Code and representation services, other than election services, relating to public transit labor relations pursuant to the Public Utilities Code shall be reimbursed at the rate of one hundred and fifteen dollars (\$115.00) per hour, prorated for each quarter hour of work that is less than a full hour. The actual time charged shall begin when a mediator commences providing such services, shall include travel time and time spent with the parties to determine the content of the training and goals for the facilitation, and shall continue until the services are completed.

(1) Facilitation services include facilitation of collective bargaining prior to impasse, facilitation of labor-management processes such as labor-management committees, and facilitation of workplace dispute resolution processes. Facilitation services do not include mediation services resulting from certification of impasse by the ~~Public Employees Relations Board (PERB)~~, mediation under ~~Labor Code 1137.1~~ Government Code section 3611, mediation of collective bargaining disputes in which the parties have bargained to impasse and have requested mediation, or mediation of grievances arising under a collective bargaining agreement or memorandum of understanding.

(2) Representation services shall include all services related to the investigation and resolution of questions concerning representation of transit district employees other than election services.

(3) Hearing officer services related to representation services provided under the Public Utilities Code, unless provided by a Board agent, shall be ~~reimbursed at cost and~~ divided equally between or among the parties to the hearing.

(4) SMCS shall bill the parties for training, facilitation and representation services after completion of the work. The matter of which party or parties will be responsible for reimbursement of SMCS will be determined between or among the parties and will be recorded in a memorandum of agreement signed by all parties. The cost of representation services shall be split equally between or among the parties unless otherwise agreed to by the parties as permitted by law.

(b) Beginning July 1, 2010, election services provided by SMCS shall be reimbursed at a flat rate depending upon the size of the bargaining unit. Election services covered by this regulation do not include ~~but are not limited to~~ representation elections (certification, decertification and unit clarification), agency shop elections, and card and petition checks

relating to a petition for recognition or certification, but will include the conduct of other elections, including but not limited to contract ratification votes.

~~(1) When elections are held, election~~ Election services shall be reimbursed as follows:

- (A) Bargaining units of 1 to 49 employees: \$1,000.00;
- (B) Bargaining units of 50 to 199 employees: \$1,250.00;
- (C) Bargaining units of 200 to 999 employees: \$2,000.00;
- (D) Bargaining units of 1000 or more employees: \$4,000.00.

~~(2) When questions of representation are determined from card and/or petition checks, such services shall be reimbursed as follows:~~

- ~~(A) Bargaining units of 1 to 49 employees: \$200.00;~~
- ~~(B) Bargaining units of 50 to 199 employees: \$300.00;~~
- ~~(C) Bargaining units of 200 to 999 employees: \$750.00;~~
- ~~(D) Bargaining units of 1000 or more employees: \$1,000.00.~~

~~(3)~~ The cost of election services shall be split equally between or among the parties unless otherwise specified in local rules or agreed to by the parties. Which party or parties shall be responsible for reimbursement of SMCS, and in what amount, shall be determined at the initial set up meeting and will be recorded in the memorandum of election agreement.

(c) Beginning July 1, 2010, each arbitrator shall pay one hundred and fifty dollars (\$150.00) per fiscal year (July 1 to June 30) to join and to remain listed on SMCS's statewide panel of private arbitrators. An arbitrator shall be removed from the panel if payment of the annual fee is not made within thirty (30) days of notice that it is past due.

(1) A party requesting a list of arbitrators shall pay fifty dollars (\$50.00) for each list of arbitrators requested. Payment for a list of arbitrators must be made at the time each list is requested. There will be no charge for substitute lists for the same case.

Note: Authority cited: ~~Sections 55 and 67, Labor Code~~ Sections 3541.3(g), 3602 and 3603, Government Code. Reference: ~~Sections 65, 66, and 67~~ 3600, 3601, 3602, 3603, and 3611, Labor Government Code; Sections 25051, 25052, 28850, 28852, 30750, 30751, 30756, 40120, 40122, 50120, 50121, 70120, 70121, 95650, 95651, 98162.5, 100301, 100304, 100305, 100306, 101341, 101342, 101344, 102401, 102403, 103401, 103404, 103405, 103406, 120502, 120503, 120505, 125521, 125524, 125525 and 125526; Appendix 1, Section 4.1 and Appendix 2, Section 13.90, Public Utilities Code; Section 11010, Government Code; and Sections 8740 and 8752, State Administrative Manual.

**4. Move Sections 15800 through 15875.1, from Title 8, Division 1, Chapter 8, Subchapter 2.2, and renumber and amend the regulations in Title 8, Division 3, new Chapter 9, as follows:**

Chapter 9. Procedures Under Specified Transit District Acts and Laws

15800 93000. Definitions.

(a) ~~“Director” means Director of the Department of Industrial Relations.~~

(b) ~~“Service” means the State Conciliation Service of the Department of Industrial Relations.~~

(c) ~~“District” means the Alameda-Contra Costa Transit District, the Fresno Metropolitan Transit District, the Greater Bakersfield Metropolitan Golden Empire Transit District, the Marin County Transit District, the North San Diego County Transit District Development Board, the Orange County Transit District, the Sacramento Regional Transit District, the San Diego County Transit District, the San Diego Metropolitan Transit Development Board, the San Francisco Bay Area Rapid Transit District, the San Mateo County Transit District, the Santa Barbara Metropolitan Transit District, the Santa Clara Valley Transportation Authority County Transit District, the Santa Cruz Metropolitan Transit District, the So. Southern California Rapid Transit District, the Stockton Metropolitan San Joaquin Regional Transit District, and the West Bay Rapid Transit Authority, as the case may be.~~

(d) (b) ~~“Law” means the Transit District Law, Public Utilities Code, Section 24501 et seq. Alameda Contra Costa “Transit District Law” of 1955, Part I, Division 10, Public Utilities Code Original Act, Chapter 1936, Stats. 1955, as amended; Fresno Metropolitan Transit District Act of 1961, Stats. 1975, Chapter 1335 Public Utilities Code, Appendix 1, Section 1.1 et seq.; Greater Bakersfield Metropolitan Golden Empire Transit District Act, Stats. 1971, Chapter 1161 Public Utilities Code, Section 101000 et seq.; Marin County Transit District Act of 1964, Stats. 1964, Chapter 92 Public Utilities Code, Section 70000 et seq.; North San Diego County Transit Development Board District Act, Stats. 1975, Chapter 1188 Public Utilities Code, Section 125000 et seq.; Orange County Transit District Act of 1965, Stats. 1965, Chapter 1899, as amended Public Utilities Code, Section 40000 et seq.; Sacramento Regional Transit District Act, Public Utilities Code, Section 102000 et seq. Stats. 1971, Chapter 1374, as amended; San Diego County Transit District Act of 1965, Stats. 1965, Chapter 2039 Public Utilities Code, Section 90000 et seq.; San Diego Metropolitan Transit Development Act, Stats. 1975, Chapter 294, as amended Mills-Deddeh Transit Development Act, Public Utilities Code, Section 120000 et seq.; San Francisco Bay Area Rapid Transit District Act, Stats. 1957, Chapter 1056 Public Utilities Code, Section 28500 et seq.; San Mateo County Transit District Act, Stats. 1974, Chapter 502 Public Utilities Code, Section 103000 et seq.; Santa Barbara Metropolitan Transit District Act of 1965, Stats. 1965, Chapter 1835 Public Utilities Code, Section 95000 et seq.; Santa Clara Valley Transportation Authority County Transit District Act, Stats. 1969, Chapter 180, as amended Public Utilities Code, Section 100000 et seq.; Santa Cruz Metropolitan Transit District Act of 1967, Public Utilities Code, Section 98000 et seq.; So. Southern California Rapid Transit District Law, Stats. 1964, Chapter 62 Public Utilities Code, Section 30000 et seq.; Stockton Metropolitan San Joaquin Regional Transit District Act~~

of 1963, ~~Stats 1963, Chapter 839~~ Public Utilities Code, Section 50000 et seq.; and West Bay Rapid Transit Authority Act, ~~Stats. 1964, Chapter 104~~ Public Utilities Code, Appendix 2, Section 1.1 et seq.

~~(e)~~ (c) “Hearing officer” as used in this Chapter means a hearing officer appointed by the ~~Director of the Department of Industrial Relations~~ Supervisor.

Note: Authority ~~and reference~~ cited: ~~Section 54, Labor Code~~ Sections 3541.3(g) and 3603, Government Code; and Sections 30751, 40122, 70122, 90300, 98162.5, 100301, 101344, 102403, 103401, 120505, and 125521, Appendix 1, Section 4.4, and Appendix 2, Section 13.91, Public Utilities Code. Reference: Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300b, 95651, 98162.5, 100301, 101344, 102403, 103401, 120505 and 125521, Public Utilities Code. Additional reference: Labor-Management Relations Act, 1947, Section 9, 29 USC Section 159; 29 CFR Sections 102.60-102.72.

~~45805~~ 93005.            Petition for Certification.

(a) The investigation of a question concerning representation of employees shall be initiated by the filing of a petition with ~~the service~~ SMCS ~~at the nearest office of the service~~. ~~The service presently maintains offices in San Francisco, Los Angeles, Fresno and San Diego~~. Such petition shall be called a petition for certification and is a petition which would arise under paragraph (1)(A)(i) and (1)(B) of Section 9C of the Labor-Management Relations Act. It may be filed by any employee or group of employees or any individual or labor organization acting on their behalf and claiming to represent a majority of the employees in an appropriate unit or by a district.

In the event any petition seeks to include employees covered in whole or in part by an existing collective bargaining agreement between the district and any labor organization, such petition in order to be considered timely must be filed within the period 120 to 90 days, inclusive, prior to the date such collective bargaining agreement is subject to termination, amendment or modification.

(b) ~~Petition for~~ Decertification. The investigation of a question concerning representation, alleging an individual or labor organization which has been certified or is being currently recognized as the bargaining representative is no longer such representative shall be called a petition for decertification and is one of the type which would arise under paragraph (1)(A)(ii) of Section 9(c) of the Labor-Management Relations Act. It may be filed by any employee or group of employees or any individual or labor organization acting on their behalf and shall be filed ~~with the service~~ as set forth in (a).

(c) Petition for clarification of an existing bargaining unit or petition for amendment of certification. A petition for clarification of an existing bargaining unit or a petition for amendment of certification, in the absence of a question concerning representation, is a petition which would arise under Section 9(b) of the Labor-Management Relations Act. It may be filed by a labor organization or by a district and shall be filed ~~with the service~~ as set forth in (a).

Note: Authority ~~and reference~~ cited: ~~Section 54, Labor Code~~ Sections 3541.3(g) and 3603, Government Code; and Sections 30751, 40122, 70122, 90300, 98162.5, 100301, 101344, 102403, 103401, 120505, and 125521, Appendix 1, Section 4.4, and Appendix 2, Section 13.91, Public Utilities Code. Reference: Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300~~b~~, 95651, 98162.5, 100301, 101344, 102403, 103401, 120505 ~~102505~~, and 125521, Public Utilities Code. Additional reference: Labor-Management Relations Act, 1947, Section 9, 29 USC Section 159; 29 CFR Section 102.60-102.72.

~~15810~~ 93010. Form of Petition.

(a) Petitions shall be in writing and signed, and shall be sworn to before a notary public or other person duly authorized by law to administer oaths and take acknowledgements. ~~Five copies~~ An original and one copy shall be filed.

(b) A petition shall contain the following:

(1) The name and address of the district, of responsible members, and of the establishments involved.

(2) The general nature of the district's business.

(3) A description of the bargaining unit which the petitioner claims to be appropriate.

(4) The names and addresses of any other labor organization which claims to represent any employees in the alleged or the certified appropriate unit, and brief descriptions of the contract or contracts, if any, covering the employees in such unit and the expiration date of such contract(s).

(5) The number of employees in the alleged appropriate unit.

(6) The name, affiliation (if any), and address of the petitioner (state if petitioner is the district).

(7) Any other relevant facts.

(c) In addition, a petition for certification, when filed by an employee or group of employees or an individual or labor organization acting in their behalf, shall also contain:

(1) A statement that the district declines to recognize the petitioner as the representative within the meaning of Section 9(a) of the Labor-Management Relations Act or that the labor organization is currently recognized but desires certification.

(2) Whether a strike or picketing is in progress at the establishment involved, and if so, the approximate number of employees participating, and the date such strike or picketing commenced.

(d) In addition, a petition for certification, when filed by a district, shall also contain:

(1) A brief statement setting forth that one or more individuals or labor organizations have presented to the petitioner a claim to be recognized as the exclusive representative of all employees in the unit claimed to be appropriate; a description of such unit; and the number of employees in the unit (if different from (b)(3) or (b)(4)).

(2) The name or names, affiliation if any, and addresses of the individuals or labor organizations making such claim for recognition (if different from (b)(4)).

(3) A statement whether the petitioner has contracts with any labor organization or other representatives of employees and if so, their expiration date.

(4) Whether a strike or picketing is in progress at the establishment involved and, if so, the approximate number of employees participating, and the date such strike or picketing commenced.

(e) In addition, a petition for decertification shall also contain:

(1) Name or names of the individuals or labor organizations who have been certified or are being currently recognized by the district and who claim to represent any employees in the unit involved, and the expiration date of any contracts covering such employees (if different from (b)(4)).

(2) An allegation that the individuals or labor organizations who have been certified or are currently recognized by the employer are no longer the representative in the appropriate unit as defined in Section 9(a) of the Labor Management Relations Act.

(3) Whether a strike or picketing is in progress at the establishment involved, and, if so, the approximate number of employees participating, and the date such strike or picketing commenced.

(f) In addition, a petition for clarification shall also contain:

(1) The name of the recognized or certified bargaining representative (if different from (b)(4)).

(2) If the bargaining unit is certified, an identification of the existing certification.

(3) A description of the proposed clarification.

(4) The number of employees in the unit as proposed under the clarification.

(5) The job classifications of employees as to whom the issue is raised, and the number of employees in each classification.

(6) A statement by petitioner setting forth reasons why petitioner desires clarification of unit.

(g) In addition, a petition for amendment of certification shall also contain:

(1) The name of the certified union involved.

(2) Identification and description of the existing certification.

(3) A statement by petitioner setting forth the details of the desired amendment and reasons therefor.

(h) ~~Immediately~~ Concurrently upon filing, a copy of said petition shall be served by the ~~service petitioner~~ upon the district and upon any known labor organization purporting to act as representative of any employee directly affected by such petition, in accordance with Section 32140.

Note: Authority ~~and reference~~ cited: ~~Section 54, Labor Code~~ Sections 3541.3(g) and 3603, Government Code; and Sections 30751, 40122, 70122, 90300, 98162.5, 100301, 101344, 102403, 103401, 120505, and 125521, Appendix 1, Section 4.4, and Appendix 2, Section 13.91, Public Utilities Code. Reference: Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300b, 95651, 98162.5, 100301, 101344, 102403, 103401, 120505 and 125521, Public Utilities Code. Additional reference: Labor Management Relations Act, 1947, Section 9, 29 USC Section 159; 29 CFR Section 102.60-102.72.

~~15815~~ 93015. Percentage of Valid Authorizations Required to Determine Existence of a Representation Dispute.

(a) No question concerning representation shall be deemed to exist unless the labor organization raising such question by petition shall make a showing of proved authorizations or membership of at least 30 percent of the employees in the proposed unit. Authorization must be signed and dated ~~in the employees' own handwriting or witnessed mark~~ by the individual employee. No authorizations will be accepted which bear a date more than six months before the date of the petition ~~for investigation~~.

(b) In lieu of the submission of signed authorization or membership applications, an adequate showing of interest may be demonstrated by submission of proof satisfactory to ~~the service~~ SMCS that

(1) The petitioner held a contract covering employees in a utility or facility at the time of its acquisition by the district;

(2) And the district assumed such collective bargaining agreement pursuant to the provisions of any contract of acquisition or the terms of the act;

(3) And the proposed unit is identical with the unit established in such collective bargaining agreement.

(c) In the event a petition seeks to add a group of employees not covered by an existing ~~service~~ SMCS-certification, it shall be necessary to submit authorization or membership applications only for that portion of the proposed unit attributable to such accretion.

Note: Authority ~~and reference~~ cited: ~~Section 54, Labor Code~~ Sections 3541.3(g) and 3603, Government Code; and Sections 30751, 40122, 70122, 90300, 98162.5, 100301, 101344, 102403, 103401, 120505, and 125521, Appendix 1, Section 4.4, and Appendix 2, Section 13.91, Public Utilities Code. Reference: Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300b, 95651, 98162.5, 100301, 101344, 102403, 103401, 102505, 120505, and 125521, Public Utilities Code. Additional reference: Labor Management Relations Act, 1947, Section 9, 29 USC Section 159; 29 CFR Section 102.60-102.72.

~~15820~~ 93020. Consent Election Agreements.

Where a petition has been duly filed, the district and any individuals or labor organization ~~representing a substantial number of employees involved~~ may, with the approval of the ~~service~~ SMCS, enter into a consent election agreement ~~leading to a determination by the Director of facts ascertained after such consent election or may enter into an agreement providing for a waiver of hearing and a consent election leading to a determination by the facts ascertained after such consent election, if such a determination is necessary~~. Such agreement shall include a description of the appropriate unit, the time and place of ~~holding~~ the election, and the payroll ~~period~~ to be used in determining what employees within the appropriate unit shall be eligible to vote. Such consent election shall be conducted under the direction and supervision of the ~~service~~ SMCS and in accordance with Sections ~~15870~~ 93070 and ~~15875~~ 93075 below. ~~The service~~ SMCS shall issue to the parties a certification of the results of the election, including a certification of ~~representatives~~ representative where appropriate.

Note: Authority ~~and reference~~ cited: ~~Section 54, Labor Code~~ Sections 3541.3(g) and 3603, Government Code; and Sections 30751, 40122, 70122, 90300, 98162.5, 100301, 101344, 102403, 103401, 120505, and 125521, Appendix 1, Section 4.4, and Appendix 2, Section 13.91, Public Utilities Code. Reference: Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300b, 95651, 98162.5, 100301, 101344, 102403, 103401, 120505 and 125521, Public Utilities Code. Additional reference: Labor Management Relations Act, 1947, Section 9, 29 USC Section 159; 29 CFR Sections 102.60-102.72.

~~15825~~ 93025. Investigation of Petition by Service.

(a) After a petition has been filed under Section ~~15805~~ 93005(a) or (b), if no agreement for a consent election is entered into and if it appears to ~~be service~~ SMCS that there is reasonable cause to believe that a question of representation exists, that the policies of the act will be effectuated, and that an election will reflect the free choice of the employees ~~on~~ in the appropriate unit, the ~~service~~ Supervisor shall serve upon the petitioner, the district, any known individuals or labor organizations purporting to act as the representative of any employees directly affected by such investigation and any other parties a notice of hearing before a hearing officer at a time and place fixed therein, which notice shall be given at least 10 days in advance of the date specified for the hearing. ~~A copy of the petition shall be served with such~~

~~notice of hearing.~~ Any such notice of hearing may be amended or withdrawn by the ~~service~~ Supervisor at any time ~~prior to the close of the hearing~~ prior to the commencement of the hearing and by the hearing officer after commencement and prior to the close of the hearing. When more than one petition has been filed involving all or part of the same group of employees, or otherwise raising common issues, ~~the service~~ SMCS may, on the motion of any of the parties, or on its own motion, order that said petitions be consolidated for the purpose of hearing and decision.

(b) After a petition has been filed under Section ~~15805(e)~~ 93005(c), the ~~service~~ Supervisor shall conduct an investigation and, as appropriate, may issue a decision ~~with the approval of the Director~~ without a hearing; or prepare and ~~cause to be served upon~~ serve on the petitioner, the district, any known individuals or labor organizations purporting to act as representatives of any employees directly affected by such an investigation and any other parties, a notice of hearing before a hearing officer at a time and place fixed or take other appropriate action. ~~A copy of the petition shall be served with such notice of hearing.~~ Any such notice of hearing may be amended or withdrawn by the ~~service~~ Supervisor at any time prior to the commencement of the hearing and by the hearing officer after commencement and prior to the close of the hearing. ~~The decision of the Director shall be final.~~

(c) If after investigation of the petition it appears to the ~~service~~ Supervisor that there is no reasonable cause to believe that there exists a question whether a labor organization represents a majority of employees of the district in an appropriate unit, or if the ~~service~~ Supervisor determines that the petition has not been filed in accordance with these regulations, ~~it the~~ Supervisor shall have the power ~~with the approval of the Director~~ to dismiss the petition without a hearing or approve the withdrawal of the petition.

(d) Any determination made by the Supervisor pursuant to this Section may be appealed to the Board itself in accordance with Sections 32350 through 32380 or, if applicable, in accordance with and subject to the limitations provided in Section 32200.

Note: Authority ~~and reference~~ cited: ~~Section 54, Labor Code Sections 3541.3(g) and 3603, Government Code; and Sections 30751, 40122, 70122, 90300, 98162.5, 100301, 101344, 102403, 103401, 120505, and 125521, Appendix 1, Section 4.4, and Appendix 2, Section 13.91, Public Utilities Code. Reference: Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300, 95651, 98162.5, 100301, 101344, 102403, 103401, 120505 and 125521, Public Utilities Code. Additional reference: Labor Management Relations Act, 1947, Section 9, 29 USC Section 159; 29 CFR Sections 102.60-102.72.~~

~~15830~~ 93030. Conduct of Hearings.

(a) Hearings shall be conducted by a hearing officer appointed by the ~~Director~~ Supervisor and shall be open to the public unless otherwise ordered by the hearing officer. It shall be the duty of the hearing officer to inquire fully into all matters in issue and necessary to obtain a full and complete record upon which ~~the service~~ SMCS, the Supervisor, the hearing officer, or the ~~Director~~ Board may discharge their duties under the Laws described in Section 93000 ~~Section 25052 of the Public Utilities Code with respect to the Alameda Contra Costa Transit District.~~

~~Section 4.4 of the Public Utilities Code with respect to the Fresno Metropolitan Transit District, Section 101344 of the Public Utilities Code with respect to the Greater Bakersfield Metropolitan Transit District, Section 70122 of the Public Utilities Code with respect to the Marin County Transit District, Section 125521 with respect to the North San Diego County Transit Development Board, Section 40122 of the Public Utilities Code with respect to the Orange County Transit District, Section 102403 of the Public Utilities Code with respect to the Sacramento Regional Transit District, Section 90300(b) of the Public Utilities Code with respect to the San Diego County Transit District, Section 120505 of the Public Utilities Code with respect to the San Diego Metropolitan Development Board, Section 28851 of the Public Utilities Code with respect to the San Francisco Bay Area Transit District, Section 103401 with respect to the San Mateo County Transit District, Section 95651 of the Public Utilities Code with respect to the Santa Barbara Metropolitan Transit District, Section 100301 of the Public Utilities Code with respect to the Santa Clara County Transit District, Section 30751 of the Public Utilities Code with respect to the Southern California Rapid Transit District, Section 50121 of the Public Utilities Code with respect to the Stockton Metropolitan Transit District, and Section 13.91 of the Public Utilities Code with respect to the West Bay Rapid Transit Company. At any time a A hearing officer may be substituted by the ~~Director~~ Supervisor for a hearing officer previously presiding at any time.~~

(b) The hearing officer may, in his or her discretion, continue the hearing from day to day, or adjourn it to a later date or to a different place, by announcement thereof at a hearing or by other appropriate notice.

(c) All motions, including motions for intervention pursuant to Section ~~15835~~ 93035 below, shall be in writing, or if made at the hearing may be stated orally on the record, and ~~all~~ shall briefly state the action or relief sought and the grounds for such motion. An original and one copy of written motions shall be filed with the hearing officer, and a copy thereof shall immediately be served by the moving party upon each of the other parties to the proceeding. ~~Motions made prior to the hearing shall be filed with the service, and written motions made during the hearing shall be filed with the hearing officer. After the close of the hearing all motions shall be filed with the service. The director may rule upon all motions filed with the service, causing a copy of his ruling to be served upon each of the parties, or in the case of motions filed prior to the hearing he may refer the motion to the hearing officer. The hearing officer shall rule either orally on the record or in writing upon all motions filed at the hearing or referred to him as above provided, except that he shall refer to the director for appropriate action, at such time as the director considers the entire record, including all motions to dismiss a petition.~~

Note: Authority ~~and reference~~ cited: ~~Section 54, Labor Code~~ Sections 3541.3(g) and 3603, Government Code; and Sections 30751, 40122, 70122, 90300, 98162.5, 100301, 101344, 102403, 103401, 120505, and 125521, Appendix 1, Section 4.4, and Appendix 2, Section 13.91, Public Utilities Code. Reference: Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300b, 95651, 98162.5, 100301, 101344, 102403, 103401, 120505 and 125521, Public Utilities Code. Additional reference: Labor Management Relations Act, 1947, Section 9, 29 USC Section 159; 29 CFR Sections 102.60-102.72.

~~15835~~ 93035. Intervention.

Any labor organization or other person desiring to intervene in any hearing shall make a motion for intervention stating the grounds upon which such labor organization or other person claims to have an interest in the proceeding. The hearing officer ~~or the service, as the case may be,~~ may by order in writing or on the record permit intervention to such extent and upon such terms as ~~he may be deemed~~ deemed proper, and such ~~intervener~~ intervenor shall thereupon become a party to the proceeding; provided, however, that (1) no labor organization which is a party to a contract covering employees in the alleged appropriate unit shall be denied the right to intervene as a party in such proceeding, and (2) no labor organization which makes a showing of proved authorizations or membership of at least 10 percent of the employees in the unit claimed to be appropriate by the petitioner shall be denied the right to intervene as a party in such proceedings. Any labor organization desiring to intervene for the purpose of seeking an election in a unit different from that claimed to be appropriate by the petitioner shall be required to make a showing of proved authorizations or membership of a least 30 percent of the employees in the unit claimed to be appropriate by the organization seeking intervention. The district shall be deemed a party to each proceeding hereunder without the necessity of intervening therein.

Note: Authority ~~and reference~~ cited: ~~Section 54, Labor Code~~ Sections 3541.3(g) and 3603, Government Code; and Sections 30751, 40122, 70122, 90300, 98162.5, 100301, 101344, 102403, 103401, 120505, and 125521, Appendix 1, Section 4.4, and Appendix 2, Section 13.91, Public Utilities Code. Reference: Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300~~s~~, 95651, 98162.5, 100301, 101344, 102403, 103401, 120505 and 125521, Public Utilities Code. Additional reference: Labor Management Relations Act, 1947, Section 9, 29 USC Section 159; 29 CFR Sections 102.60-102.72.

~~15840~~ 93040. Rights and Duties of Parties at Hearing.

(a) Any party shall have the right to appear at any hearing in person, by counsel, or by other representative, and any party and the hearing officer shall have power to call, examine and cross-examine witnesses and to introduce into the record documentary and other evidence. Witnesses shall be examined orally under oath. The rules of evidence prevailing in courts of law or equity shall not be controlling. Stipulations of fact may be introduced in evidence with respect to any issue.

(b) Any objection with respect to the conduct of the hearing, including any objection to the introduction of evidence, may be stated orally or in writing, accompanied by a short statement of the grounds of such objection and included in the record. No such objection shall be deemed waived by further participation in the hearing.

(c) All motions, rulings and orders shall become a part of the record. ~~Rulings~~ Interlocutory rulings by the hearing officer shall not be directly appealable ~~to the director but shall be considered and may be affirmed, modified or reversed by the director when he reviews the entire record.~~

(d) Any party shall be entitled, upon request, to a reasonable period at the close of the hearing for oral argument, which shall be included in the ~~stenographic report~~ transcript of the hearing.

(e) Misconduct at any hearing shall be grounds for summary exclusion by the hearing officer from further participation in such hearing.

(f) The refusal of a witness at a hearing to answer any question which has been ruled to be proper shall in the discretion of the hearing officer be ~~ground~~ grounds for striking all testimony previously given by such witness on related matters.

Note: Authority ~~and reference~~ cited: Section 54, Labor Code Sections 3541.3(g) and 3603, Government Code; and Sections 30751, 40122, 70122, 90300, 98162.5, 100301, 101344, 102403, 103401, 120505, and 125521, Appendix 1, Section 4.4, and Appendix 2, Section 13.91, Public Utilities Code. Reference: Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300, 95651, 98162.5, 100301, 101344, 102403, 103401, 120505 and 125521, Public Utilities Code. Additional reference: Labor Management Relations Act, 1947, Section 9, 29 USC Section 159; 29 CFR Sections 102.60-102.72.

~~15845~~ 93045. Subpoenas.

(a) Application for subpoenas may be filed in writing by any party with the ~~service~~ Supervisor if made prior to the hearing, and with the hearing officer if made at the hearing. The ~~service~~ Supervisor or the hearing officer, ~~as the case may be~~, shall forthwith cause the subpoenas to be issued. Applications for subpoenas may be made ex parte. Any person served with a subpoena, whether ad testificandum or duces tecum, who does not intend to comply therewith shall within five days after the date of service file with ~~the service~~ the hearing officer a petition to revoke the subpoena. ~~The service may rule upon said petition or refer it for ruling to the hearing officer; provided that if the hearing at which the subpoenaed evidence is to be produced has opened, the petition to revoke shall be filed with and ruled upon by the hearing officer.~~ Notice of the filing of a petition to revoke shall be promptly given by ~~the service or~~ the hearing officer, ~~as the case may be~~, to the party at whose request the subpoena was issued. ~~The service or the hearing officer, as the case may be~~, shall revoke a subpoena if in ~~their~~ his or her opinion the evidence sought does not relate to any matter under investigation or in question in the proceedings, is not relevant, or the subpoena does not describe with sufficient particularity the evidence ~~the production of which is required~~ requested, or if for any other reason ~~sufficient in law~~ the subpoena is otherwise invalid. ~~The service or hearing officer, as the case may be~~, shall make a ~~simple~~ statement in writing or on the record of the procedural or other grounds for this ruling. Filing with reference to the revocation of a subpoena shall not become part of the record except upon the request of the party aggrieved by the ruling on the petition. Persons compelled to produce written evidence are entitled to retain the same, but the party compelling its production may pay the cost of procuring a copy thereof to be submitted in evidence in lieu of the original.

(b) Witnesses summoned before the hearing officer shall be paid by the party ~~at whose instance~~ for whom the witness appears.

Note: Authority ~~and reference~~ cited: ~~Section 54, Labor Code Sections 3541.3(g) and 3603, Government Code; and Sections 30751, 40122, 70122, 90300, 98162.5, 100301, 101344, 102403, 103401, 120505, and 125521, Appendix 1, Section 4.4, and Appendix 2, Section 13.91, Public Utilities Code. Reference: Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300~~b~~, 95651, 98162.5, 100301, 101344, 102403, 103401, 120505 and 125521, Public Utilities Code. Additional reference: Labor Management Relations Act, 1947, Section 9, 29 USC Section 159; 29 CFR Sections 102.60-102.72.~~

~~15850~~ 93050. Briefs.

The hearing officer shall upon request allow parties to file briefs following the completion of the hearing. Copies of such briefs shall be concurrently served upon all parties.

Note: Authority ~~and reference~~ cited: ~~Section 54, Labor Code Sections 3541.3(g) and 3603, Government Code; and Sections 30751, 40122, 70122, 90300, 98162.5, 100301, 101344, 102403, 103401, 120505, and 125521, Appendix 1, Section 4.4, and Appendix 2, Section 13.91, Public Utilities Code. Reference: Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300~~b~~, 95651, 98162.5, 100301, 101344, 102403, 103401, 120505 and 125521, Public Utilities Code. Additional reference: Labor Management Relations Act, 1947, Section 9, 29 USC Section 159; 29 CFR Sections 102.60-102.72.~~

~~15855~~ 93055. Duties of Hearing Officer Following Hearing.

Upon the close of a hearing, the hearing officer shall as expeditiously as possible prepare a proposed decision and order which shall include a written analysis of the record and of the arguments of the parties, ~~his~~ findings of fact and ~~his~~ a determination upon the issues submitted to ~~him~~the hearing officer. If ~~he~~ the hearing officer ~~shall determine~~ determines that an election is to be held, ~~he~~ the hearing officer shall set forth the appropriate unit or units within which such ~~election~~ election(s) shall be held and the categories of employees who shall be eligible to vote in such unit or units. The original of such proposed decision and order, ~~together with the petition or petitions, notices of hearing, written motions, rulings or orders, the stenographic report transcript of the hearing, stipulations, exhibits and documentary evidence, affidavits of service, depositions, and briefs or other legal memoranda submitted by the parties~~ shall constitute the record in the proceedings and shall promptly be forwarded to the ~~director~~ Supervisor by the hearing officer. ~~The Director shall review the hearing record and proposed order and decision.~~ The decision of the ~~Director~~ hearing officer shall be final ~~pending any review if not appealed as set forth in Section 15860 93060.~~ A copy of the proposed decision and order shall ~~immediately~~ concurrently be served upon each of the parties by the hearing officer.

Note: Authority ~~and reference~~ cited: ~~Section 54, Labor Code Sections 3541.3(g) and 3603, Government Code; and Sections 30751, 40122, 70122, 90300, 98162.5, 100301, 101344, 102403, 103401, 120505, and 125521, Appendix 1, Section 4.4, and Appendix 2, Section 13.91, Public Utilities Code. Reference: Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300~~b~~, 95651, 98162.5, 100301, 101344, 102403, 103401, 120505 and~~

125521, Public Utilities Code. Additional reference: Labor Management Relations Act, 1947, Section 9, 29 USC Section 159; 29 CFR Sections 102.60-102.72.

15860 93060. Exceptions.

~~Within twenty (20) days from the date of service of the proposed decision and order, any party may file with the service Board itself exceptions to the proposed decision in accordance with Section 32300. two copies of a statement in writing setting forth exceptions or newly discovered evidence, (evidence which has become available only since the close of the hearing), to the proposed decision and order, or to any other part of the record or proceedings (including rulings upon all motions or objections), together with two copies of a brief in support of said exceptions. Any party may within seven additional days from the time the exceptions were filed or within 20 days from the date of service of the proposed decision and order, whichever is longer, file a brief in support of the proposed decision and order and in opposition to the review. Copies of such exceptions and briefs shall immediately be served on each of the other parties and proof thereof shall be promptly filed with the service.~~

Note: Authority and reference cited: ~~Section 54, Labor Code Sections 3541.3(g) and 3603, Government Code; and Sections 30751, 40122, 70122, 90300, 98162.5, 100301, 101344, 102403, 103401, 120505, and 125521, Appendix 1, Section 4.4, and Appendix 2, Section 13.91, Public Utilities Code. Reference: Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300b, 95651, 98162.5, 100301, 101344, 102403, 103401, 120505 and 125521, Public Utilities Code. Additional reference: Labor Management Relations Act, 1947, Section 9, 29 USC Section 159; 29 CFR Sections 102.60-102.72.~~

15865 93065. Determination.

~~The provisions of Sections 32300 through 32320, and Sections 32400 and 32410, shall be applicable to disputes arising under this Chapter. After the period for the filing of such exception has expired, the Director may deny the request for review without waiting for a statement in opposition to review and in support of the proposed decision, or, the director may await a statement in opposition to review and in support of the proposed decision and then shall promptly decide the matter upon the record, and shall issue his decision and order, which shall include a written analysis of the record and of the arguments of the parties, his findings of fact and his determination upon the issues submitted to him. The Director may adopt the proposed decision and order of the hearing officer as his own. The granting of a review may stay the Director's decision if he so directs. The Director shall grant review only where compelling reasons exist therefor. The Director may, as he determines, accept additional evidence or hold hearings. If he the Board shall determine determines that an election is to be held, the Board he shall order such election within such unit or units as he shall have been found to be appropriate, and shall determine the categories of employees who shall be eligible to vote in such unit or units. A copy of the decision and order of the ~~Director~~ Board shall be served upon each of the parties.~~

Note: Authority and reference cited: ~~Section 54, Labor Code Sections 3541.3(g) and 3603, Government Code; and Sections 30751, 40122, 70122, 90300, 98162.5, 100301, 101344,~~

102403, 103401, 120505, and 125521, Appendix 1, Section 4.4, and Appendix 2, Section 13.91, Public Utilities Code. Reference: Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300b, 95651, 98162.5, 100301, 101344, 102403, 103401, 120505 and 125521, Public Utilities Code. Additional reference: Labor Management Relations Act, 1947, Section 9, 29 USC Section 159; 29 CFR Sections 102.60-102.72.

~~15870~~ 93070. Election Procedures.

(a) All elections shall be conducted by ~~the service~~ SMCS and shall be by secret ballot. Whenever two or more labor organizations are included as choices in an election, any participant, upon its prompt request to and approval thereof by the ~~director~~ Supervisor, whose decision shall be final, may have its name removed from the ballot. Provided, however, that in a proceeding involving a district-filed petition or a petition for decertification, the labor organization certified, currently recognized or found to be seeking recognition may not have its name removed from the ballot without timely notice in writing to all parties and to ~~the service~~ SMCS disclaiming any representation interest among the employees in the unit.

Any party may be represented by observers of its own selection, subject to such limitations as ~~the service~~ SMCS may prescribe. Any party and any agent or representative of ~~the service~~ SMCS may challenge for good cause the eligibility of any person to ~~participate~~ vote in the election. Each challenged ballot shall be impounded. Upon the conclusion of the election ~~the service~~ SMCS shall ~~cause~~ issue a tally of the ballots ~~to be furnished~~ to each party. Within five days thereafter any party may file with ~~the service~~ SMCS two copies of objections to the conduct of the election or conduct affecting the results of the election, which shall contain a short statement of the reasons for the objections. The objecting party shall immediately serve a copy of such objections upon each other party and file with ~~the service~~ SMCS proof of service and shall, upon request, promptly furnish evidence ~~available to it~~ to support the objections.

(b) If (1) no objections are filed within the time specified in subsection (a) above, and (2) any challenged ballots are insufficient in number to affect the results of the election, and (3) no runoff election is to be held pursuant to Section ~~15875~~ 93075 below, ~~the service~~ SMCS shall forthwith issue to the parties a certification of the results of the election, including certification of representatives where appropriate; and the ~~proceeding~~ case will ~~thereupon~~ be closed.

(c) If objections are filed to the conduct of the election or conduct affecting the results of the election, or if the challenged ballots are sufficient in number to affect the results of the election, ~~the service or Director~~ the Supervisor shall investigate such objections or challenges, or both, and shall prepare and ~~cause to be served~~ serve upon the parties a report on such objections or challenged ballots, or both. ~~If a consent election has been held where a hearing was waived and a consent election leading to a determination by the Director of the facts ascertained after such consent election, the service or Director shall prepare and cause to be served on the parties a report on challenged ballots or objections or both.~~ Within 10 days from the date of issuance of the report on such objections or challenged ballots, or within such additional period as ~~the service~~ the Supervisor may allow upon written application for extension made within such 10-day period, any party may file with ~~the service~~ Supervisor an original two copies of exceptions to such report. ~~Immediately~~ Concurrently upon the filing of

such exceptions, the filing party shall ~~cause~~ serve a copy thereof ~~to be served~~ upon each of the other parties, and proof thereof shall be promptly filed with ~~the service~~ Supervisor. If no exceptions are filed to such report within the time permitted, the ~~Director~~ Supervisor may issue ~~his~~ a written decision in conformity with such report, as to the validity of such objections or challenges or may make other disposition of the case based on an administrative investigation or in the exercise of ~~his~~ reasonable discretion, and ~~the service~~ SMCS shall thereupon promptly act to close the ~~proceeding~~ case in accordance with such decision.

(d) If exceptions are filed, either to the report ~~or on~~ challenged ballots or objections, or both if it ~~be is~~ a consolidated report, the ~~director~~ Supervisor shall appoint a hearing officer to examine the exceptions and make recommendations. If it appears to the hearing officer that such exceptions do not raise substantial and material factual issues with respect to the conduct of the election or conduct affecting the results of the elections, ~~he~~ the hearing officer may make ~~his~~ written recommendations to the ~~director~~ Supervisor forthwith, and shall ~~immediately~~ concurrently serve copies of said recommendations upon the parties. Within 10 days from the date of issuance of the aforesaid recommendations, or within such additional period as the ~~director~~ Supervisor may allow upon written application for extension made within the 10-day period, any party may file with the ~~director~~ Board itself an original and five two copies of exceptions to the hearing officer's recommendations, in accordance with the provisions of Section 93065. ~~Immediately~~ Concurrently upon the filing of such exceptions, the filing party shall ~~cause~~ serve a copy ~~to be served~~ upon each of the other parties and proof thereof shall be promptly filed with the ~~director~~ Board.

(e) If it appears to the hearing officer that any exceptions filed to the report of the ~~service~~ Supervisor on challenged ballots or objections raise substantial and material factual issues, ~~he~~ the hearing officer shall cause to be served upon the parties a notice of hearing on said exceptions, which notice shall be given at least 10 days in advance of the date specified for the hearing. The hearing shall be conducted by the hearing officer in accordance with the provisions of Sections ~~15830, 15840, 15845, and 15850~~ 93030, 93040, 93045, and 93050 insofar as applicable. Upon the close of the hearing, the hearing officer shall prepare and deliver to the ~~director~~ Supervisor a ~~written report~~ proposed decision resolving questions of credibility and containing findings of fact and recommendations ~~to the director~~ as to the disposition of the challenges or objections, or both if it be a consolidated ~~matter report~~ report. Said ~~report decision~~, ~~—~~together with (1) the notice of hearing, (2) motions, (3) rulings, (4) orders, (5) ~~stenographic report~~ transcript of the hearing, (6) stipulations, (7) exceptions, (8) documentary evidence and briefs, (9) objections to the conduct of the election or conduct affecting the results of the election, (10) the report of ~~the service~~ Supervisor on such objections, (11) the report of ~~the service~~ Supervisor on challenged ballots, (12) exceptions to the report of the ~~service~~ Supervisor on objections or to the report on challenged ballots, and (13) the record previously made, ~~—~~shall constitute the record in the case. A copy of the hearing officer's ~~report~~ proposed decision shall immediately be served upon each of the parties, whereupon any of the parties may file exceptions to said report within the same time limitations and requirements as to service, and proof thereof, as are provided for in the case of exceptions filed under subsection (d) of this section.

(f) After the period for the filing of exceptions under subsection (d) or (e), ~~as the case may be,~~ has expired the ~~director~~ Board shall issue ~~his~~ a written decision and ~~cause~~ serve copies thereof ~~to be served~~ upon the parties. If the hearing officer has issued recommendations under subsection (d), finding that the exceptions to the report of the ~~service~~ Supervisor do not raise substantial and material factual issues, and exceptions to such recommendations have been filed, and after consideration of such exceptions the ~~director~~ Board ~~shall decide~~ decides that the exceptions to the report of the ~~service~~ Supervisor do raise substantial and material factual issues, ~~he~~ the Board shall direct the hearing officer to issue a notice of hearing, whereupon the procedures for a hearing and the issuance of the hearing officer's report provided for in subsection (e) of this section (including the provision for filing exceptions to the hearing officer's report) shall be followed. The ~~director~~ Board may adopt the recommendations of the hearing officer issued under subsection (d) or the ~~report~~ proposed decision of the hearing officer issued under subsection (e) as ~~his~~ its own. ~~The service~~ SMCS shall thereafter promptly proceed to take such action as may be called for by the decision of the ~~director~~ Board, after which the ~~proceedings~~ case will be closed.

Note: Authority ~~and reference~~ cited: ~~Section 54, Labor Code Sections 3541.3(g) and 3603, Government Code; and Sections 30751, 40122, 70122, 90300, 98162.5, 100301, 101344, 102403, 103401, 120505, and 125521, Appendix 1, Section 4.4, and Appendix 2, Section 13.91, Public Utilities Code. Reference: Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300, 95651, 98162.5, 100301, 101344, 102403, 103401, 120505 and 125521, Public Utilities Code. Additional reference: Labor Management Relations Act, 1947, Section 9, 29 USC Section 159; 29 CFR Sections 102.60-102.72.~~

~~15875~~ 93075. Runoff Elections.

(a) ~~The service~~ SMCS shall conduct a runoff election, ~~without further order of the director,~~ when an election in which a ballot providing for not less than three choices (i.e., at least two representatives and "neither" or "none") results in no choice receiving a majority of the valid ballots cast, ~~which~~ The runoff election shall be held promptly following final disposition of any challenges, objections or exceptions which followed the prior election as provided in Section ~~15870~~ 93070. Only one runoff election shall be held pursuant to this section.

(b) Employees who were eligible to vote in the original election and who are employed in an eligible category on the date of the runoff election shall be the only employees eligible to vote ~~in the runoff election.~~

(c) The ballot in the runoff election shall provide for a selection between the two choices receiving the ~~largest~~ highest and second ~~largest~~ highest number of votes.

(d) In the event the number of votes cast in an inconclusive election in which the ballot provided for a choice among two or more representatives and "neither" or "none" is equally divided among the several choices, or in the event the number of ballots cast for one choice in such election is equal to the number cast for another of the choices but less than the number cast for the third choice, the ~~director~~ Supervisor shall declare the first election a nullity and shall conduct another election among the three choices which received the greatest number of

ballots in the original election; provided that in the event there was a tie in the original election between the third and fourth choices or among the third, fourth and other choices, the ~~director~~ Supervisor shall in the runoff election include on the ballot all such tied choices. In the event two or more choices receive the same number of ballots, and if either (1) there are no challenged ballots which would affect the results of the election, or (2) after all challenges have been disposed of it is found that all eligible voters have cast valid ballots, there shall be no runoff election and the petition shall be dismissed. Only one such further election pursuant to this subsection (d) may be held.

(e) The provisions of Section ~~15870~~ 93070 above shall be applicable to a runoff election.

Note: Authority ~~and reference~~ cited: ~~Section 54, Labor Code~~ Sections 3541.3(g) and 3603, Government Code; and Sections 30751, 40122, 70122, 90300, 98162.5, 100301, 101344, 102403, 103401, 120505, and 125521, Appendix 1, Section 4.4, and Appendix 2, Section 13.91, Public Utilities Code. Reference: Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300~~b~~, 95651, 98162.5, 100301, 101344, 102403, 103401, 120505 and 125521, Public Utilities Code. Additional reference: Labor Management Relations Act, 1947, Section 9, 29 USC Section 159; 29 CFR Sections 102.60-102.72.

~~15875.1~~ 93080. Relevant Federal Law.

In resolving questions of representation, the ~~Director~~ Board shall apply the relevant federal law and administrative practice developed under the Labor Management Relations Act, 1947, as amended.

Note: Authority ~~and reference~~ cited: ~~Section 54, Labor Code~~ Sections 3541.3(g) and 3603, Government Code; and Sections 30751, 40122, 70122, 90300, 98162.5, 100301, 101344, 102403, 103401, 120505, and 125521, Appendix 1, Section 4.4, and Appendix 2, Section 13.91, Public Utilities Code. Reference: Sections 4.4, 13.91, 25052, 28851, 30751, 40122, 50121, 70122, 90300~~b~~, 95651, 98162.5, 100301, 101344, 102403, 103401, 120505 and 125521, Public Utilities Code. Additional reference: Labor Management Relations Act, 1947, Section 9, 29 USC Section 159; 29 CFR Sections 102.60-102.72.