

**NOTICE OF PROPOSED ACTION  
AMENDMENT AND ADOPTION OF REGULATIONS OF THE  
BOARD OF STATE AND COMMUNITY CORRECTIONS**

**REGARDING CONSTRUCTION FINANCING PROGRAMS  
CALIFORNIA CODE OF REGULATIONS  
TITLE 15, DIVISION 1, CHAPTER 1, SUBCHAPTER 6**

Pursuant to the authority granted by Government Code Sections 15820.925, 15820.935 and 15820.945, the Board of State and Community Corrections (BSCC) hereby gives notice of the proposed regulatory action(s) described in this public notice. It is the intent of the BSCC to amend and adopt the regulations contained in Title 15, Division 1, Chapter 1, Subchapter 6, California Code of Regulations (known as the Local Jail Construction Financing Program), after considering all comments, objections, and recommendations regarding these regulations.

**PUBLIC HEARING**

BSCC has not scheduled a public hearing on this proposed action. However, as per Government Code Section 11346.5(a)(17), the BSCC will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her duly authorized representative, no later than 15 days before the close of the written comment period. Requests should be addressed to the below-noted staff member.

**MODIFICATIONS TO THE PROPOSED TEXT OF THE REGULATIONS**

Proposed text in this rulemaking file contains some additional non-substantive changes compared to the originally proposed text (express term) last posted to the public.

**WRITTEN COMMENT PERIOD**

Any interested person, or his or her duly authorized representative, may submit written comments relevant to the proposed regulatory action to the BSCC. The written comment period commences on **April 21, 2017** and closes at 5:00 pm on **June 5, 2017**. The BSCC will consider only comments received at BSCC offices by close of the written comment period. Submit comments to:

Lindsay Tu, Associate Capital Outlay Analyst  
2590 Venture Oaks Way, Suite 200  
Sacramento, CA 95833  
[Lindsay.Tu@bscc.ca.gov](mailto:Lindsay.Tu@bscc.ca.gov)  
Phone: (916) 324-1959  
Fax: (916) 327-3317

**POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS**

Following the public comment period, the BSCC may adopt the proposed regulations substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the BSCC adopts, amends, or repeals the regulation(s). The BSCC will accept written comments on the modified regulation text

during the 15-day period. Comments should be addressed to the above-noted staff member.

NOTE: To be notified of any modifications, you must submit written/oral comments at the public hearing, if a hearing is held; submit comments to the office during the written public comment period; or specifically request to be notified of any modifications.

## **AUTHORITY AND REFERENCE**

Pursuant to the authority granted by Government Code 15820.935 and 15820.945, the BSCC proposes regulatory action to amend and adopt the regulations contained in Title 15, Division 1, Chapter 1, Subchapter 6, California Code of Regulations (known as the Local Jail Construction Financing Program), after considering all comments, objections, and recommendations regarding these regulations.

The Board of State and Community Corrections (BSCC) proposes to adopt Sections 1712.4, 1714.4, 1730.4, 1740.4, and amend the Sections 1700, 1706, 1731, 1747, 1747.1, 1748, 1748.5, 1749, 1749.1, 1750, 1750.1, 1751, 1752, 1753, 1754, 1756, 1760, 1766, 1767, 1768, 1770, 1772, 1776, 1778, 1788, 1790, 1792 of Title 15 of the California Code of Regulations (CCR).

The following sections will be implemented, interpreted and/or made specific by this proposed rulemaking:

Authority: Sections 15820.935, 15820.945 Government Code; and Section 6030, Penal Code.

Reference: Sections 15820.93 - 15820.936, and 15820.94-15820.946 Government Code; and Section 3073, Penal Code.

## **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

### **Summary of Existing Laws**

Title 15 regulations discuss and define the requirements, responsibilities, and processes set forth in previous Sections 15820.90-15820.907, 15820.91-15820.917, 15820.92-15820.926, and 15820.93-15820.935 of the Government Code for AB 900 Phase I and II of the Local Jail Construction Financing Programs, and the SB 1022 and SB 863 Adult Local Criminal Justice Facilities Construction Financing Programs. While current regulations address the AB 900 Phase I and II, SB 1022 and SB 863 programs, they do not address the newly created SB 844 program and the specific programmatic requirements of that legislation.

Section 6030 of the Penal Code requires that the BSCC establish minimum standards for local correctional facilities. These minimum standards include the review and approval of proposed jail and criminal justice facility construction documents and materials for compliance with existing safety and security regulations.

### **Summary of Existing Regulations**

Existing standards that prescribe requirements for the local jail construction financing program are promulgated by the BSCC. These regulations are contained in Title 15, Local Jail Construction Financing Program, Division 1, Chapters 1, Subchapter 6 of the CCR.

### **Summary of Effect of Proposed Action**

The proposed action would update Title 15, Division 1, Chapter 1, Subchapter 6 CCR, adopting and amending language to implement statute requiring the BSCC to award up to \$270 million in construction financing to acquire, design, and construct SB 844 adult local criminal justice facilities. The proposed action also adds and defines specified statutory requirements found in Government Code Sections 15820.94 et seq., as they pertain to the financing of adult local criminal justice facilities as proposed under SB 844. Counties across the state are facing overcrowding in existing and outdated custodial facilities. Lack of program space, mental health and treatment space, and reentry facilities give counties little option for non-custodial sentencing. The proposed action will allow for the award of \$270 million in adult criminal justice facilities construction financing to relieve counties of crowding, unsafe facilities, and insufficient programming and mental health treatment space. Of the \$270 million allocated, \$20 million has been set aside specifically to address the emergency and damage caused by the 2014 earthquake in Napa County.

### **Policy Statement Overview**

The broad objective of the proposed action is to update regulations for the Adult Local Criminal Justice Facilities Construction Financing Program in conformance with statutory changes.

### **Benefits anticipated from Proposed Regulations**

The anticipated benefits to this regulation are increased protection of welfare of California residents, and worker safety. The welfare of California residents and worker safety will be affected positively by construction and/or renovation of new and existing adult jail and criminal justice facilities. The newly renovated or constructed facilities will eliminate many of the dangers of working in an outdated facility with the use of better space planning and technology that is up-to-date. A greater focus has been placed on programming space and making community and inmate programs available in-custody and as an alternative to incarceration. In some instances participants of programs will receive support and learn necessary social and employment skills to better assimilate back into the community. New and renovated facilities will offer more space, technology, and other much needed tools to create a safe environment for workers, inmates, visitors, and the community. The BSCC has determined that the state's environment will not be affected by the adoption of these regulations because the regulations are the subject of criminal justice facility construction financing. The BSCC has determined that there will be a positive impact on the health and welfare of California residents and worker's safety.

### **Determination of Inconsistency/Incompatibility with Existing State Regulations**

The Board has determined that this proposed regulation is not inconsistent or incompatible with existing regulations. After conducting a review for any regulations

that would relate to or affect this area, the Board has concluded that these are the only regulations that concern the Senate Bill 863 and Senate Bill 844 programs.

### **Comparable Federal Statute or Regulations**

There are no comparable federal regulations or statutes.

### **Documents Incorporated by Reference**

None.

## **DISCLOSURE REGARDING THE PROPOSED ACTION**

The BSCC has made the following initial determinations:

Mandate on local agencies and school districts: As required by Government Code Section 11346.5(a)(5), the BSCC has determined that there will be no mandates imposed on local agencies or school districts through the adoption of these Title 15 regulations as proposed. Local agencies participate in the Adult Local Criminal Justice Facilities Construction Financing Program by request for proposal. Participation in these programs is on a voluntary basis only. No local agency or school district is required to participate.

Cost or savings to any state agency: There were no additional positions or staff time received for this program, costs will be absorbed by current budget. There will be a cost of debt service paid on lease revenue bonds. However, the BSCC does not anticipate any payments during the current or subsequent two fiscal years.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: None.

Other nondiscretionary costs or savings imposed on local agencies: None

Costs or savings in federal funding to the state: None.

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

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

Significant effect on housing costs: None.

## **RESULTS OF THE ECONOMIC IMPACT ASSESSMENT**

BSCC concludes that the adoption of the proposed regulation (1) will not affect the elimination of jobs within the State of California, (2) will have a positive impact on the creation of jobs within the State of California, (3) will not have an effect on the creation of new businesses or the elimination of existing businesses within the State of California, (4) will not have an effect on the expansion of businesses currently doing business within the State of California.

## **BENEFITS OF THE PROPOSED REGULATION**

The anticipated benefits to this regulation are increased protection of welfare of California residents, and worker safety. The welfare of California residents and worker safety will be affected positively by construction and/or renovation of new and existing adult jail and criminal justice facilities. The newly renovated or constructed facilities will eliminate many of the dangers of working in an outdated facility with the use of better space planning and technology that is up-to-date. A greater focus has been placed on programming space and making community and inmate programs available in-custody and as an alternative to incarceration. In some instances participants of programs will receive support and learn necessary social and employment skills to better assimilate back into the community. New and renovated facilities will offer more space, technology, and other much needed tools to create a safe environment for workers, inmates, visitors, and the community. The BSCC has determined that the state's environment will not be affected by the adoption of these regulations because the regulation is the subject of criminal justice facility construction financing. The BSCC has determined that there will be a positive impact on the health and welfare of California residents and worker's safety.

## **CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code Section 11346.5, subdivision (a)(13), the BSCC has determined that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed; would be as effective and less burdensome to affected private persons than the proposed action; or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

## **AVAILABILITY OF RULEMAKING DOCUMENTS**

The Rulemaking File, which includes all the information on which this proposal is based, is available for viewing at the BSCC's office at the above address and may also be accessed through the BSCC's website at [http://www.bscc.ca.gov/m\\_construction.php](http://www.bscc.ca.gov/m_construction.php).

## **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After considering all timely and relevant comments received, the BSCC may adopt the proposed regulations if they remain substantially as described in this notice. If the BSCC makes modifications that are sufficiently related to the originally proposed text, BSCC will make the modified text (with the changes clearly indicated) available to the public for at least 15 days and accept written comments, before the BSCC adopts the regulations as revised. The modified text may be accessed through the BSCC website at:

[http://www.bscc.ca.gov/m\\_construction.php](http://www.bscc.ca.gov/m_construction.php). Those persons who do not have access to the Internet may submit a written request to Lindsay Tu at the above address.

### **AVAILABILITY OF INITIAL STATEMENT OF REASONS AND FINAL STATEMENT OF REASONS**

The Initial and Final Statement of Reasons may be accessed through the BSCC website at: [http://www.bscc.ca.gov/m\\_construction.php](http://www.bscc.ca.gov/m_construction.php). Those persons who do not have access to the Internet may submit a written request to Lindsay Tu at the above address.

### **AVAILABILITY OF DOCUMENTS; INTERNET ACCESS**

The Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in ~~strikeout~~ and underline can be accessed through our website at: [http://www.bscc.ca.gov/m\\_construction.php](http://www.bscc.ca.gov/m_construction.php). Those persons who do not have access to the Internet may submit a written request to Lindsay Tu at the above address.

## **CONTACT PERSON FOR SUBSTANTIVE AND/OR TECHNICAL QUESTIONS**

Inquiries concerning the proposed action may be directed to:

Lindsay Tu, Associate Capital Outlay Analyst  
2590 Venture Oaks Way, Suite 200  
Sacramento, CA 95833  
Phone: (916) 324-1959  
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[Lindsay.Tu@bscc.ca.gov](mailto:Lindsay.Tu@bscc.ca.gov)

The backup contact person for these inquiries is:

John Prince, Deputy Director  
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