

**TO: BSCC Chair and Members**

**DATE: April 9, 2015**

**SUBJECT: Senate Bill 863:  
Adult Local Criminal Justice Facilities  
Construction Financing Program  
Emergency Regulations – Amendment to Title 15 Regulations:  
Requesting Approval.**

**AGENDA ITEM: F**

**RESOURCE PERSON: Ginger Wolfe**

**ACTION: X**

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**Summary:**

On June 20, 2014, Senate Bill 863 (SB 863) (Chapter 37, Statutes of 2014) became law, authorizing state lease-revenue bond financing for the acquisition, design, and construction of adult local criminal justice facilities. The Board of State and Community Corrections (BSCC) staff worked with the SB 863 Executive Steering Committee (ESC) and revised the Title 15, Construction Financing Program regulations.

This agenda item requests approval of the draft proposed text of the regulations (Attachment F-1), and authorization to submit an Emergency Rulemaking package with the Office of additional substantive edits to the text. If substantive edits are necessary following the Emergency package filing, BSCC staff will seek approval of the edited text from the Board at the next available Board meeting.

**Background:**

SB 863 authorizes \$500 million in state lease-revenue bond financing for the acquisition, design and construction of adult local criminal justice facilities.

The BSCC assembled an ESC, as provided in CA Penal Code section 6024(c). In compliance with CA Penal Code section 6025.1 and Government Code Section 1090<sup>1</sup>, the ESC is comprised of individuals without any relevant prohibited financial interest. On January 21, 2015 the ESC held its initial meeting to discuss elements of the RFP and regulations. The ESC also met on February 26, 2015 and March 26, 2015.

SB 863 allows BSCC to draft regulations that explain the requirements of legislation, including BSCC's role in administering the \$500 million in construction financing. SB 863 contains an urgency clause that emphasizes the critical need for public safety, making it necessary to expedite this regulation development process. This accelerated process will be accomplished through submitting an Emergency Rulemaking filing with OAL. A Certificate of Compliance Rulemaking is required following the Emergency filing in order to make permanent the Emergency regulations.

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<sup>1</sup> Section 6025.1 of the Penal Code states: For purposes of Section 1090 of the Government Code, members of a committee created by the board, including a member of the board in his or her capacity as a member of a committee created by the board, have no financial interest in any contract made by the board, including a grant or bond financing transaction, based upon the receipt of compensation for holding public office or public employment.

Upon OAL approval of the Emergency Rulemaking package, the regulations will be published and temporarily effective for 180 days, during which time the Certificate of Compliance Rulemaking will be filed. During the Certificate of Compliance, BSCC staff will send the regulations out for a 45-day public comment period. Following the public comment period, a public hearing may be held in Sacramento. (If an additional public comment period is needed, it will be scheduled.) If substantive edits to the regulations are necessary, staff will seek approval of the edited text at the next available Board meeting.

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**Recommendation/Action Needed:**

Staff recommends:

1. The Board determine that the proposed regulations are necessary to address an emergency as defined in Government Code section 11342.545<sup>2</sup>.
2. The Board approve the draft emergency adoptions and amendments to the regulations.
3. The Board approve the publishing of the emergency adoptions and amendments to the regulations by the Office of Administrative Law.
4. The Board approve the Certificate of Compliance Rulemaking with the Office of Administrative Law subsequent to the emergency process, contingent on there being no further substantial edits.

**Attachment:**

F-1 DRAFT of Title 15, Division 1, Chapter 1, Subchapter 6, Construction Financing Program

<sup>2</sup> Section 11342.545 of the Government Code states: “Emergency” means a situation that calls for immediate action to avoid serious harm to the public peace, health, safety, or general welfare.”