

## INITIAL STATEMENT OF REASONS

**HEARING DATE(S):**

June 11, 2024

WebEx/Teleconference

**SUBJECT MATTER OF THE  
PROPOSED REGULATIONS:**

Temporary Assignments or Loans,  
Interjurisdictional Employee Exchanges

**SECTIONS AFFECTED:**

Title 2, Chapter 1, California Code of  
Regulations, Amend Sections 438, 438.1,  
442, and 548.130

In this rulemaking action, the State Personnel Board (Board) proposes to amend sections 438, 438.1, 442, and 548.130 of Title 2, Chapter 1, of the California Code of Regulations.

**PURPOSE, NECESSITY, RATIONALE, AND BENEFITS OF REGULATORY ACTION:**

Introduction:

The jurisdiction and authority of the State Personnel Board (Board) to enforce civil service statutes and promulgate regulations is rooted in the California Constitution, article VII, section 3. Relative to this regulatory action, appointing powers shall fill positions by appointment, including cases of transfers, reinstatements, promotions, and demotions. (Gov. Code, § 19050.) The Board may also prescribe rules governing the temporary assignment or loan of employees within an agency or between agencies. (Gov. Code, § 19050.8.)

Purpose:

Several existing regulations in Title 2, Division 1, Chapter 1 of the California Code of Regulations concerning temporary assignments or loans, and interjurisdictional employee exchanges require updating in order to conform with Government Code.

Anticipated Benefits of the Regulatory Action:

The anticipated benefit of this regulatory action is to ensure that California Code of Regulations related to interjurisdictional employee exchanges are consistent with current Government Code.

Purpose of each Proposed Amendment:

**Amend § 438. Temporary Assignments or Loans In General.**

Current section 438 states that temporary assignments or loans of employees may be within an agency, between agencies, or between jurisdictions. “Between jurisdictions” is defined in section 438.1, subdivision (c). For organizational purposes, the proposed amendment will instead include the definition of “between jurisdictions” in section 438, thus removing it from section 438.1. Additionally, the definition will be expanded to include private colleges or universities, to conform with Government Code section 19050.8.

**Amend § 438.1. Period of Time for the Temporary Assignment or Loan.**

Section 438.1, subdivision (c), currently states that temporary assignments or loans of employees between jurisdictions shall be for an aggregate period not to exceed four years or 48 months. However, Government Code section 19050.8 permits interjurisdictional employee exchanges to exceed the four-year or 48-month time period when certain criteria are met. The proposed amendments clarify that when the criteria set forth in Government Code section 19050.8 are satisfied, an interjurisdictional employee exchange may exceed the four-year or 48-month time period. Additionally, the definition of “between jurisdictions” is moved to section 438.

**Amend § 442. Interjurisdictional Employee Exchange.**

Current section 442 is amended to conform with Government Code section 19050.8 which considers private colleges or universities as “jurisdictions” for the purpose of interjurisdictional employee exchanges. Therefore, the proposed amendments include private colleges and universities under the definition of jurisdictions.

Subdivision (e) currently provides that the termination of the interjurisdictional exchange shall be in accordance with section 430.5; a non-existent rule. It shall be corrected to state that the termination of the interjurisdictional exchange shall be in accordance with section 438.5 - Termination and Corrective Action by Executive Officer.

### **Amend § 548.130. Interjurisdictional Exchange.**

Current section 548.130 erroneously references section 427 – Salary Calculations and Comparisons, when it should reference section 442 – Interjurisdictional Employee Exchange. The proposed amendment will correct this error. Additionally, for clarity's sake, section 442 will be fully written out because it comes from a different subchapter within the regulations.

### **ECONOMIC IMPACT ASSESSMENT:**

The proposed regulations set standards related to the Board's selection process. Therefore, the adoption of these regulations will not:

1. Create or eliminate jobs within California.
2. Create new businesses or eliminate existing businesses within California.
3. Affect the expansion of businesses currently doing business within California.
4. Affect worker safety or the state's environment.

The adoption of these regulations, however, will have a positive impact on the general health and welfare of California residents in that the benefits of this regulatory action create a fair, equitable, and consistent process for the civil service hiring process.

### **TECHNICAL, THEORETICAL AND/OR EMPIRICAL STUDIES, REPORTS OR DOCUMENTS:**

None.

### **SPECIFIC TECHNOLOGIES OR EQUIPMENT:**

This regulation does not mandate the use of specific technologies or equipment.

### **EFFORTS TO AVOID CONFLICT WITH AND DUPLICATION OF FEDERAL REGULATIONS:**

Not applicable. The Board is not a department, board, or commission within the Environmental Protection Agency, the Resources Agency, or the Office of the State Fire Marshall.

### **SIGNIFICANT ECONOMIC IMPACT ON BUSINESS:**

The proposed regulations set a standard related to the Board's examinations, appointments, probationary periods, and temporary assignments or loans procedures. Accordingly, it has been determined that the adoption of the proposed regulations would not have a significant, statewide adverse economic impact affecting California

businesses, including the ability of California businesses to compete with businesses in other states.

### **CONSIDERATION OF ALTERNATIVES**

The Board has initially determined that no reasonable alternatives it has considered or that have been otherwise identified and brought to the attention of the Board would be more effective in carrying out the purposes for which the instant action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.