

## INITIAL STATEMENT OF REASONS

**HEARING DATE(S):**

September 29, 2020  
Room 150, 801 Capitol Mall,  
Sacramento, California

**SUBJECT MATTER OF THE  
PROPOSED REGULATIONS:**

Promotions in Place

**SECTIONS AFFECTED:**

Title 2, Chapter 1, California Code of  
Regulations Adopt Section 242

In this rulemaking action, the State Personnel Board (Board) proposes to amend Board rules of Title 2, Chapter 1, of the California Code of Regulations (CCR).

### **SPECIFIC PURPOSE OF EACH REGULATORY ACTION**

#### **Amend § 242. Promotions In Place.**

The purpose of this regulatory action is to update the Board's regulations to clarify that it is not the Board's intent that an employee in a limited-term position promote in place. As required by the California Constitution, article VII, section 1, and section 86, a permanent appointment or promotion into the civil service must be made under a general system based on merit ascertained by a competitive examination and selection process (Cal. Code Regs., tit. 2, § 86.) Limited-term employees do not acquire civil service status in the position. To allow limited-term employees to promote in place into a promotional, permanent civil service position without a competitive selection process would violate Article VII and section 86. Therefore, proposed subdivision (a) requires that only an employee with permanent civil service status in their current position may receive a promotion in place.

Additionally, the Board's current regulations do not include rules specifically prohibiting promotions in place from rank-and-file to supervisory and supervisory to management classifications. Given the progression of the level of duties and responsibilities of these classes and competencies required, a promotion in place would not be appropriate without a competitive selection process to assess and compare the competencies of applicants. Accordingly, the purpose of proposed subdivisions (a)(3) and (a)(4) is to make this clear.

Also, given that exams, both open and promotional, are now generally provided on a continuous and online basis, proposed subdivision (b) requires that those employees

## Initial Statement of Reasons Amendments to Section 242

currently not on an employment list, but otherwise eligible to examine for promotional opportunities, must be informed verbally as to the reasons the employee was not selected for promotion.

Last, section 242's requirement that written notification be provided to those employees not selected for promotion in place may be viewed by some employees to be documentation of poor performance. As such, proposed subdivision (b) requires appointing authorities to provide the reasons an employee is not selected for a promotion in place to the employee verbally, unless the employee requests that the reasons be put in writing.

### **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.