



**NOTICE OF PROPOSED REVISION OF REGULATIONS
AND STATEMENT OF REASONS**

**California Code of Regulations
Title 2. Administration
Division 1. Administrative Personnel
Chapter 1. State Personnel Board
Article 10. Appointments**

DATE: February 17, 2009

TO: ALL INTERESTED PARTIES

FROM: SUZANNE M. AMBROSE
Executive Officer

SUBJECT: PROPOSED AMENDMENT TO TITLE 2, CALIFORNIA CODE OF
REGULATIONS § 250.1 – SKILLS-BASED CERTIFICATION

AUTHORITY:

Under the authority established in Government Code (GC) §§ 18701 and 18900.6, the State Personnel Board (SPB or Board) proposes to add § 250.1 to Title 2 of the California Code of Regulations (2CCR) relating to skills-based certification lists. Pursuant to GC §§ 18211 and 18213, the proposed regulation is exempt from the Administrative Procedures Act (Chapter 3.5, commencing with § 11340, of Part 1 of Division 3).

REFERENCE:

The regulation implements, interprets, and/or makes specific GC § 18900.6.

PUBLIC HEARING:

Date and Time: May 14, 2009, Tuesday
9:15 a.m.

Place: 801 Capitol Mall, Auditorium
Sacramento, CA 95814

Purpose: To receive written and/or oral comments about this action.

WRITTEN PUBLIC COMMENT PERIOD:

The written public comment period will close Monday, April 13, 2009, at 5:00 p.m. Any person may submit written comments about the proposed amendments. To be considered by the Board, the appropriate person identified below must receive written comments before the close of the written public comment period.

Written comments may be submitted to:

Dorothy Egel, Staff Counsel IV
State Personnel Board
801 Capitol Mall, MS 53
Sacramento, CA 95814

or to: degel@spb.ca.gov or fax comments to her attention at (916) 653-4256.

AVAILABILITY OF PROPOSED TEXT AND STATEMENT OF REASONS/ CONTACT PERSONS:

Copies of the express terms of the proposed action, Statement of Reasons, and all of the information upon which the proposal is based are available for review upon request to Dorothy Egel. The rulemaking file is available for review during normal business hours at SPB, 801 Capitol Mall, Sacramento, CA 95814. Additional information or questions regarding the substance of the proposed action should be directed to Dorothy Egel, as specified above.

Questions regarding the regulatory process in conjunction with this regulation should be directed to Dorothy Egel or, in the alternative, Bruce Monfross at SPB, 801 Capitol Mall, MS 53, Sacramento, CA 95814, or by telephone at (916) 653-1403 or TDD (916) 653-1498.

AVAILABILITY OF CHANGES TO PROPOSED TEXT:

If any substantial and sufficiently related changes are made to the text as a result of comments received during the public comment period, SPB will make the full text of the changed regulation available for at least 15 days before the date the regulation is permanently amended.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW:

GC § 18211 specifies that regulations promulgated by the SPB are exempt from the Administrative Procedures Act (GC § 11340 et seq.), except as provided in GC §§ 18215 and 18216. The exceptions in GC §§ 18215 and 18216 do not apply to civil

service selection, examination, or classification procedures.

GC § 18213 specifies that regulations concerning civil service selection, examination and classification procedures may be adopted by the SPB without public notice or comment.

GC § 18701 authorizes the Board to prescribe, amend, and repeal regulations for the administration and enforcement of the Civil Service Act (GC §§ 18500 et.seq.).

GC § 18900.6 requires the Board to provide by rule how skills-based certification shall be implemented.

The purpose of the proposed regulation is to clarify the manner in which skills-based certification shall be implemented for Information Technology classifications.

IMPACT ON SMALL BUSINESSES:

It is anticipated that the proposed amendments will have no impact on small businesses.

LOCAL MANDATE:

SPB has determined that the proposed action imposes no additional mandate on local agencies or school districts and, therefore, requires no reimbursement pursuant to GC § 17561.

COST ESTIMATES OF PROPOSED ACTION:

Costs or Savings to State Agencies:

The proposed regulation will involve no additional costs to any state agency.

Impact on Housing Costs:

No impact.

Costs or Savings in Federal Funding to the State:

No impact.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed:

No impact.

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

No impact.

Cost Impact on Private Persons or Businesses

No impact.

ASSESSMENT OF POTENTIAL ADVERSE ECONOMIC IMPACT ON BUSINESSES:

No impact.

ASSESSMENT REGARDING THE EFFECT ON JOBS/BUSINESSES:

The adoption of the proposed action should neither create nor eliminate jobs in the state, nor result in the elimination of expansion of existing businesses in the state, nor create or expand businesses in the state.

ALTERNATIVES STATEMENT:

SPB has determined that no reasonable alternative considered by SPB, or that has otherwise been identified and brought to the attention of SPB, would be more effective in carrying out the purpose for which this action is proposed, or would be as effective as and less burdensome to affected persons than the proposed action.

FINAL STATEMENT OF REASONS:

It is anticipated that the proposed regulation will be filed with the Office of Administrative Law and shall include a Final Statement of Reasons for the amendments. Copies of the Final Statement of Reasons may be obtained from the contact person when it becomes available.

ACCESSING INFORMATION REGARDING THIS RULEMAKING FILE ON THE STATE PERSONNEL BOARD WEBSITE:

The text of the proposed amendments, the Notice of Proposed Amendment of Regulations and Statement of Reasons can be viewed at www.spb.ca.gov.

STATEMENT OF REASONS:

The proposed new regulation is to make specific the requirements pursuant to GC § 18900.6. It allows the Board to authorize the use of a new type of certification list for hiring--*skills-based certification for information technology classifications*--under certain conditions. It also requires the Board to establish regulations specifying how skills-based certification shall be implemented.

The main elements of the proposed regulation are:

- (1) It requires competitive, fair, and objective selection procedures for Information Technology classifications.
- (2) Traditional eligible lists will not be created; instead, skills-based lists will be created on a position-by-position testing basis.
- (3) Successful candidates are assigned a score relative to their job-related qualifications. The results yield a new type of certification list of those candidates who passed the test for each of the skills-sets needed for the job and are ranked in descending order.
- (4) SPB is requiring that detailed duty statements be maintained to justify the use of a skills-based certification list used to fill the position.
- (5) If it is found there are inappropriate Information Technology appointments made that are not consistent with the regulation, SPB plans to void those illegal appointments.

Attachment: Text of Proposed Regulation

Title 2. ADMINISTRATION
Division 1. Administrative Personnel
Chapter 1. State Personnel Board
Subchapter 1. General Civil Service Regulations
Article 10. Appointments

§250.1. Skills-Based Certification.

- (a) *Notwithstanding Section 250(a) and (b) as they pertain to eligible lists, appointments to positions in the State civil service for information technology classifications may utilize skills-based certification, as defined by Government Code section 18900.6(a). All such appointments shall be made on the basis of merit and fitness pursuant to all other provisions of Section 250.*
- (b) *Examinations may be administered on an open basis, promotional basis, or open non-promotional basis.*
- (c) *Selection procedures shall be competitive in nature, and designed and administered to fairly and objectively identify those candidates who meet the selection need for the position, and result in the certified ranking of candidates based on their job-related qualifications.*
- (d) *Individuals who are successful in examinations for these classes shall be assigned a score relative to their job-related qualifications and placed in a pool for the respective class and skills set(s) tested for. For purposes of scoring, raw scores will be assigned.*
- (e) *Whenever a vacancy is to be filled, the appointing power shall prepare a detailed statement of the duties and requirements of the position, which shall be maintained by the appointing power for audit purposes by the SPB. Such statement of duties and requirements of the position shall constitute the justification for creating a skills-based certification list for the position.*
- (f) *Traditional eligible lists will not be created as a result of testing. Skills-based certification lists shall be created on a position-by-position basis, and shall replace the traditional eligible lists. A skills-based certification list shall be created by weighting the final score(s) of eligible competitors attained in the core examination, if applicable, and functional skills set(s). No more than four (4) skills sets, equaling a combined total of 100%, may be used when creating a certification list. A core examination component, if utilized in the testing process, may be used for purposes of creating a skills-based certification list. Its weighting shall be determined by a job analysis. Eligibles will be ranked on the*

certification list according to their test scores and the percentage weightings utilized to create the certification list.

For example, a skills-based certification list created utilizing two functional skills-sets, each weighted 50%, would yield a list of only those eligibles who successfully passed the test for each of the skills-sets and ranked in descending order based on their respective weight and functional skill set test scores.

- (g) If it is found that the statement of duties and requirements of the position is inconsistent with the skills-sets utilized to create the certification list, the appointment shall be deemed illegal and voided.*
- (h) Hiring departments shall utilize a job-related structured interview process for purposes of conducting hiring interviews, and shall verify minimum qualifications and perform reference checks for all prospective hires. In order to ensure that the hiring process is fair and competitive, the hiring interviews shall use a job-related structured interview process that shall conform to the following minimum standards: (1) relevant criteria shall be developed for determining which candidates shall be selected to interview; (2) a series of job-related questions shall be developed to assess the fitness and qualifications of each candidate to perform the duties of the position in question; (3) valid criteria shall be developed for scoring the candidates' responses to the interview questions; and (4) each candidate shall be required to respond to the same interview questions. The appointing authority shall also develop a summary of the hiring process which shall include a discussion of the job-relatedness and structure of the interview process.*