

NOTICE OF PROPOSED CHANGES

Fee Increase Court Reporters Board

NOTICE IS HEREBY GIVEN that the Court Reporters Board of California (Board) is proposing to take the action described in the Informative Digest.

Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at 2535 Capitol Oaks Drive, Third Floor Conference Room, Sacramento, California, at 1:00 p.m. on June 28, 2018. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on June 28, 2018, or must be received by the Board at the hearing.

The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference:

Pursuant to the authority vested by sections 8007 and 8008 of the Business and Professions Code (BPC), and to implement, interpret or make specific sections 163.5, 8008, and 8031 of said Code, the Board is considering amendments to section 2450 of Division 24 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST

A. Informative Digest

Amend Section 2450 – Fee Schedule

In accordance with the provisions of the Administrative Procedure Act, BPC section 8007 authorizes the Board to adopt, amend, or repeal rules and regulations which are reasonably necessary to carry out the provisions of Chapter 13 of said code, known as the Shorthand Reporters Act.

BPC section 8008 authorizes the Board to charge and collect fees. BPC section 8031 establishes the statutory limits for the fees that the Board may charge and collect. BPC section 163.5 sets the renewal delinquency fee at 50% of the renewal fee.

The existing regulation sets forth the fees that may be charged and collected by the Board for an examination, application, a duplicate certificate, and as a

penalty for failure to notify the Board of a name or address change. The fees for applications, duplicate certificates, and the penalty for failing to notify the Board of name or address changes are not changing.

This rulemaking action seeks to amend the regulations in order to:

- Amend subsection (a) to set the fee per section of examination or re-examination to \$50.
- Amend subsection (b) to set the fee for an initial certificate at \$225 and set the fee for an initial certificate that is issued less than 180 days before it will expire at 50 percent of the annual renewal fee.
- Amend subsection (c) to set the fee for an annual renewal of a certificate at \$225.
- Amend subsection (d) to set the delinquency fee for the renewal of a certificate at \$112.50.

The renewal fee was last increased November, 2011.

The necessity and need for this proposed regulatory action is to ensure future fiscal solvency for the Board. Analysis of the Board's fund balance measured by Months in Reserve projects that at the end of the current fiscal year, FY 2017-18, a 2.9-month reserve will exist. However, the reserve is projected to steadily decline in the following fiscal years to the point where there will be a negative .2-month deficit at the end of 2018-19. Currently the Board is unable to fund the operation of the Board and fund the Transcript Reimbursement Fund (TRF) as doing so would cause the Board to have less than six months' operating expenses in reserve. Existing statute precludes any transfer of funds to the TRF when the Board's reserve is below six months; however, BPC section 8030.2, subdivisions (a) and (b) require the Board to set fees in such a manner as to permit funding of the TRF at statutorily specified levels. The Board administers the TRF, established in 1981 to aid qualified indigent litigants in civil cases by providing transcript reimbursement funds. To date, the TRF has disbursed over \$8.5 million to California's indigent population. In 2010, SB 1181 (Cedillo) authorized a two-year pilot project, expanding the TRF to qualified pro per litigants, and the pilot project became a permanent part of the fund in 2013. There is great demand for this portion of the fund, which expands access to justice to those most in need.

Correcting the Board's structural imbalance will be unattainable without a fee increase.

The fund balance provides specific information on the Board's current fund as well as projections for future years. There are several factors that have contributed to the fund's imbalance, which include employee wages and benefits and increasing pro rata charges. Since 2012-13, the Board has paid a total of \$140,734 for the BreEZe system. In addition, renewal and delinquency fees have remained unchanged since 2011, while inflation has increased steadily over the years. According to the Consumer Price Index, the rate of inflation is calculated at 10.15 percent since 2012 and 30.46 percent since 2002. A review

of the Board's fund condition demonstrates a steady increase in expenses as noted above. Additionally, it demonstrates a slow decline in revenue due to fewer people seeking licensure leading to a limited licensee population. The fastest growing segment of court reporting is Computer Aided Realtime Translation (CART), which provides instantaneous translation for the deaf and hard of hearing as well as closed caption for broadcasting. CART providers do not need a license to practice in California.

B. Policy Statement Overview/Anticipated Benefits of Proposal

The Board regulates approximately 6,900 certified shorthand reporters, also known as licensed court reporters. Through this rulemaking, the Board proposes to amend section 2450 of the CCR to increase renewal and delinquent fees as well as examination fees. This proposal is necessary to ensure sufficient resources are available to maintain current Board operations to meet its consumer protection mandate and to carry out its mandate with regard to the TRF set out in BPC section 8030.2, subdivision (b) which requires the Board to maintain funding of the TRF at the levels set out in subdivision (a).

BPC section 8005.1 specifies: "Protection of the public shall be the highest priority for the Court Reporters Board of California in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount."

BPC section 8030.2, subdivision (b) provides in pertinent part "refunds and unexpended funds that are anticipated to remain in the Transcript Reimbursement Fund at the end of the fiscal year shall be considered by the board in establishing the fee assessment pursuant to Section 8031 shall be considered by the board in establishing the fee assessment pursuant to Section 8031 so that the assessment shall maintain the level of funding for the Transcript Reimbursement Fund, as specified in subdivision (a), in the following fiscal year."

Adoption and implementation of this proposed action would neutralize and correct the aforementioned fund balance decline and provide a modest reserve for economic uncertainties through 2022-23. Without sufficient funding levels, the Board will not be able to carry out its mandate to protect the health, safety, and welfare of the California consumers, nor would it be able to fund the TRF, which provides reimbursement of transcript costs to qualified indigent litigants.

The public will benefit from the board balancing the budget because the board will be able to carry out the oversight activities mandated by the legislature. Consumer protection is achieved when the board tests court reporting candidates for minimum skills and knowledge for entry into the workplace as well as issuing discipline against licensees who are not following the statutes that relate to court reporting. Additionally, a balanced budget will benefit those who qualify for the Transcript Reimbursement Fund.

C. Consistency and Compatibility with Existing State Regulations

During the process of developing these regulations and amendments, the Board has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

It is estimated that the proposed fee increases will result in an increase in Board revenues beginning 18-19 by approximately \$696,000.

The Board does not receive any federal funding.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Sections 17500 - 17630 Require Reimbursement: None.

Business Impact:

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Representative Private Person or Business:

The cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action and that are known to the Board are costs associated with the increased renewal fee for a certified shorthand certificate from \$125 to \$225 per year per licensee. Individuals with an active license as well as initial license applicants would pay an additional \$100 per year annually. Individuals with a license in delinquent status would incur an additional \$50 per delinquent period (up to three years).

Applicants for the license exam would incur a \$25 increase per portion (three portions). Unsuccessful applicants would incur an additional \$25 increase for each portion they need to re-take.

Effect on Housing Costs: None

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS:

Impact on Jobs/Businesses:

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the state of California.

Benefits of Regulation:

The Board has determined that this regulatory proposal will primarily benefit California consumers by ensuring sufficient revenue levels are maintained for the Board to administer and enforce the provisions of the Shorthand Reporters Act. Specifically, this proposal is designed to enable the Board to continue its licensing, disciplinary, and oversight operations in the interest of the health, safety, and welfare of California consumers by ensuring only actively licensed practitioners are providing court reporting services. Additionally, this regulatory proposal will provide statutorily required funding for the TRF, which provides reimbursement for transcript costs to qualified indigent litigants.

Business Report:

No reporting requirements are mandated by the proposed regulation.

Effect on Small Business

The Board has determined that the proposed regulations would not affect small businesses in the state of California as the proposed amendments affect only individual practitioners renewing their Board-issued certificate, individual applicants for licensure, and individual exam candidates.

Worker Safety:

This rulemaking will have no impact on or benefit to worker safety.

Environment:

This rulemaking will have no impact on or benefit to the state's environment.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention 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 proposal described in this Notice, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and of the initial statement of reasons, including any document incorporated by reference, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Board at 2535 Capitol Oaks Drive, Suite 230, Sacramento, CA 95833 or on the Board's website at www.courtreportersboard.ca.gov.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below. You may obtain a copy of the final statement of reasons, once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Paula Bruning
Address: 2535 Capitol Oaks Drive, Suite 230
Sacramento, CA 95833
Telephone No.: (916) 263-3660
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The backup contact person is:

Name: Yvonne Fenner
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Website Access: Materials regarding this proposal can be found at www.courtreportersboard.ca.gov.