

TO: BSCC Chair and Members

DATE: September 11, 2014

SUBJECT: Senate Bill 1022 Title 15 Construction Financing Program – Section 1712.2 Regulation Text Amendment and Certificate of Compliance Rulemaking. Requesting Approval.

AGENDA ITEM: B

ACTION: X

INFORMATION:

RESOURCE

PERSON: Robert Oates
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Summary:

This agenda item is a request for the Board of State and Community Corrections (Board) to approve the submission of the final Certificate of Compliance Rulemaking and final regulation revisions for the Construction Financing Program, Title 15, California Code of Regulations (CCR). The aforementioned Certificate of Compliance is a means to proceed with the Administrative Procedure Act (APA) process for final regulation adoption of the Emergency Regulations, which the Board approved at its January 7, 2014, special session meeting.

Section 1712.2(b)(1) and 1712.2(c)(3) on page 11 of Attachment A have been amended to allow moveable furnishings and equipment as intended and published in the SB 1022 Request for Proposals (RFP) Background document that was released to the field on July 23, 2013.

Background:

The Board is authorized to develop regulations for the Construction of Adult Local Criminal Justice Facilities pursuant to Government Code Section 15820.925.

Proposed amendments to Title 15, Construction Financing Program, were submitted to the Office of Administrative Law (OAL) as an Emergency Adoption on December 30, 2013 and adopted by OAL on January 9, 2014.

To complete the rulemaking process and finalize the emergency status of the regulations a Notice was submitted to OAL on February 18, 2014 and published in the official Notice Register on February 28, 2014. The required Certificate of Compliance rulemaking package was submitted to OAL on May 20, 2014, and subsequently withdrawn. It was brought to staff's attention that inconsistencies existed between the RFP Background document and Section 1712.2(b)(1) and 1712.2(c)(3) of the regulations regarding the eligibility of moveable furnishings and equipment for state fund reimbursement.

The original intent of the RFP was to reimburse awarded counties for the cost of moveable furnishings and equipment. OAL staff informed BSCC staff that these changes must be noticed to the public during an additional 15-day public comment period in order to be granted final approval. Staff anticipates that the public comment period will conclude on approximately September 8, 2014.

BSCC staff is requesting that the Board approve the rulemaking package, contingent on there being no public comment requiring substantive changes offered during these 15 days. Upon approval by

the Board, if there is no public comment during the 15-day public comment period, staff will proceed with rulemaking activities.

If there are public comments received during the 15-day public comment period, BSCC staff will not proceed with rulemaking activities and will seek Board approval after further review.

Recommendation/Action Needed:

Staff recommends:

1. The Board approve the final rulemaking submission and the proposed text of the Construction Financing Program Title 15 Regulations, contingent upon no public comments received during the 15-day public comment period.
2. The Board direct staff to proceed with rulemaking activities pursuant to the APA.

Attachment:

- A. Proposed text of the Construction Financing Program Title 15 Regulations