

INITIAL STATEMENT OF REASONS

CONSTRUCTION FINANCING PROGRAM TITLE 15-CRIME PREVENTION AND CORRECTIONS DIVISION 1, CHAPTER 1, SUBCHAPTER 6

ARTICLE 1. GENERAL PROVISIONS

Section 1700. Purpose. This section specifies the purpose of the following regulations in implementing financing programs as described in the listed Government Code. Revisions reflect legislative action which has amended the existing statute of Chapter 3.13 of Title 2, Division 3, Part 10b of the Government Code, and adopted Chapter 3.131 of Title 2, Division 3, Part 10b of the Government Code. The citations in the note section were modified to align properly with the Board of State and Community Corrections' statutory authority. There is no operational or fiscal impact.

Section 1706. Definitions. This section defines terms used throughout these regulations. To provide clarity and consistency, several definitions have been modified or added as necessary to fully disclose the meaning of specific terms. The authority and reference citations have been modified to align properly with BSCC's statutory authority, including but not limited to, the addition of Government Codes related to Senate Bill (SB) 863, a new Adult Local Criminal Justice Facilities Construction Financing Program. There is no operational or fiscal impact.

The definition "Adult Local Criminal Justice Facilities Construction Financing Program" was modified to insert an "s" at the end of the word "Program", pluralizing the word; this insertion denotes that there is more than one program operating under the definition of Adult Local Criminal Justice Facilities Construction Financing Program. The language "and 3.131" and "awarded under SB 1022 and SB 863" were added to provide the new program's Government Code Chapter reference and to specify which specific programs (SB 1022 and SB 863) fall under the Adult Local Criminal Justice Facilities Construction Financing Program definition.

The definition "Adult local criminal justice facility" was modified to provide a more comprehensive explanation of what an adult local criminal justice facility consists of. The legislation of Senate Bill 1022 and Senate Bill 863 made clear the intent to emphasize the need for improved housing, program, and treatment space. To specify the legislative intent within this definition, the following language was inserted; "any improved housing with an emphasis on expanding program and treatment space, and which may include...consistent with the legislative intent described in Section 17.5 and 3450 of the Penal Code under the jurisdiction of the sheriff or county department of corrections". These changes were made in order to reduce confusion that an adult local criminal justice facility is the same as the definition of a local jail facility.

The definition "Applicant" was modified to add a "s" to the word "program" in the term "Adult Local Criminal Justice Facilities Construction Financing Program". This

grammatical modification was made to denote the fact that there is more than one Adult Local Criminal Justice Facility Construction Financing program.

The definition “Application” was modified to add a “s” “to the word “program” in the term “Adult Local Criminal Justice Facilities Construction Financing Program”. This grammatical modification was made to denote the fact that there is more than one Adult Local Criminal Justice Facility Construction Financing program.

The definition “Cash match” was modified by deleting “and”, and inserting “, and 1714.3” to provide clarity and consistency by including a reference to Section 1714.3, Matching Fund Requirements for SB 863, which is a newly proposed regulation.

The definition “Conditional award” was modified to add a “s” “to the word “program” in the term “Adult Local Criminal Justice Facilities Construction Financing Program”. This grammatical modification was made to denote the fact that there is more than one Adult Local Criminal Justice Facility Construction Financing program.

The definition “Evaluation and rating process” was modified to include references to newly proposed sections which were added as a result of the new Senate Bill 863 Adult Local Criminal Justice Facilities Construction Financing Program. The following references were inserted into this definition to provide clarity: “1712.3,” “1714.3,” “1730.3,” and “ , and 1740.3”. The word “and” was removed in the list of section references for accuracy of grammar.

The definition “Facility lease” was modified to simplify the definition and remove references to the program specifics. All participating county projects operating under these regulations are required to complete a Facility Lease. The definition was modified for clarity and to prevent the need for future regulation updates to program-specific information.

The definition of “Fixed equipment and fixed furnishings” was added to provide a definition of a term that is commonly used in the construction financing programs operating under these regulations. The term specifies and gives an example of what items may considered to be fixed equipment and furnishings.

The definition “Funding preference criteria” was removed due to its specificity to only the SB 1022 Adult Local Criminal Justice Construction Financing Program. There are two programs now that fall under the term “Adult Local Criminal Justice Construction Financing Program”, and this definitions list of criteria does not apply to both of those programs. Removing this definition will alleviate any confusion as to the program-specific preference criteria.

The definition “Hard match” was modified to provide clarity and consistency by removing the word “and”, and inserting “, and 1714.3” as a new reference for the SB 863 program.

The definition “In-kind match” was modified to provide clarity and consistency by removing the word “and”, and inserting “, and 1714.3” as a new reference for the SB 863 program.

The definition “Large county” was modified to provide clarity and consistency. There are now two programs operating under the definition of an Adult Local Criminal Justice Facility, which are SB 1022 and SB 863. The definition of “large county” is predicated upon the most recent data available at the time of Request for Proposals (RFP) creation. By removing the word “and” and “the Adult Local Criminal Justice Facilities Construction Financing Program”, and inserting “SB 1022 and July 1, 2014 for SB 863” we are specifying which dates define “large county” for each specific program.

The definition “Lease-revenue bonds” was modified to include a clarifying reference to Chapter 3.131 of Title 2, Division 3, Part 10b of the Government Code, the Chapter in which BSCC is given authority to promulgate regulations and oversee the SB 863 program.

The definition “Local jail” was modified to provide clarity and consistency by adding a reference to the newly proposed Section 1712.3, Eligibility Requirements for SB 863.

The definition “Match” was modified to ensure clarity and consistency by inserting a reference to Section 1714.3, Matching Fund Requirements for SB 863, a newly proposed section.

The definition “Medium county” was modified to provide clarity and consistency. There are now two programs operating under the definition of an Adult Local Criminal Justice Facility, which are SB 1022 and SB 863. The definition of “medium county” is predicated upon the most recent data available at the time of Request for Proposals (RFP) creation. By removing “the Adult Local Criminal Justice Facilities Construction Financing Program”, and inserting “SB 1022 and July 1, 2014 for SB 863” we are specifying which dates define “medium county” for each specific program.

The definition of “Moveable equipment and moveable furnishings” was added to provide a definition of a term that is commonly used in the construction financing programs operating under these regulations. The term specifies and gives an example of what items may be considered to be moveable equipment and furnishings.

The definition “Needs assessment study” was modified to remove the references to the programs operating under these regulations. The term “needs assessment study” applies to all participating county Construction Financing Program projects. This modification was made to reduce any confusion as to which specific program (Phase I, Phase II, SB 1022, SB 863) this terms applies to.

The definition “Operational program statement” was modified to remove the references to the programs operating under these regulations. The term “operational program statement” applies to all participating county Construction Financing Program projects. This modification was made to reduce any confusion as to which specific programs (Phase I, Phase II, SB 1022, SB 863) this terms applies to.

The definition “Participating county” was modified insert a reference to Chapter 3.131 of Title 2, Division 3, Part 10b of the Government Code, which applies to the newly proposed sections related to the SB 863 program.

The definition “Project” was modified to provide clarity by adding an “s” at the end of “Program” when speaking of the “Adult Local Criminal Justice Facilities Construction Financing Program”, there are now two programs operating under the definition of Adult Local Criminal Justice Facilities Construction Financing Programs, SB 1022 and the SB 863.

The definition “Project delivery and construction agreement” was modified to ensure clarity and reduce confusion by removing the text “For the Adult Local Criminal Justice Facilities Construction Financing Program the CDCR is not a party to the PDCA.” CDCR had not originally been a party to the SB 1022 program projects, however since adopting this language in the last regulation revision CDCR has been added as a party to the projects in the passing of Senate Bill 863.

The definition “Proposal” was modified to provide clarity by adding an “s” at the end of “Program” when speaking of the “Adult Local Criminal Justice Facilities Construction Financing Program”, there are now two programs operating under the definition of Adult Local Criminal Justice Facilities Construction Financing Programs, SB 1022 and the SB 863.

The definition “SB 863” was added to provide clarity in defining a new program under the Adult Local Criminal Justice Facilities Construction Financing Program. This new program is in response to the passing of Senate Bill 863 on June 20, 2014, the codified statute of which required BSCC to adopt regulations (Government Code Section 15820.93(b)(2)).

The definition of “SB 1022” was added to provide clarity in defining an existing Adult Local Criminal Justice Facilities Construction Financing Program. SB 1022, originally known as the “Adult Local Criminal Justice Facilities Construction Financing Program” needed to be differentiated from the new SB 863 program, which is also known as an Adult Local Criminal Justice Facilities Construction Financing Program. The two programs were renamed for their enabling legislation to ease any confusion as to which regulations apply to either of the two programs.

The definition “Small county” was modified to provide clarity and consistency. There are now two programs operating under the definition of an Adult Local Criminal Justice Facility, which are SB 1022 and SB 863. The definition of “small county” is predicated upon the most recent data available at the time of Request for Proposals (RFP) creation. By removing “the Adult Local Criminal Justice Facilities Construction Financing Program”, and inserting “SB 1022 and July 1, 2014 for SB 863” we are specifying which dates define “small county” for each specific program.

The definition “Soft match” was modified to provide clarity by including a reference to newly proposed Section 1714.3, Matching Fund Requirements for SB 863.

The definition “State bond financing” was modified for clarification by providing a reference to Chapter 3.131 of Title 2, Division 3, Part 10b of the Government Code.

The definition “State reimbursements” was modified to provide clarity and reduce confusion by simplifying the language and providing a reference to where “State reimbursements” are addressed in these regulations. The language “by CDCR for Phase I and Phase II project costs, and to the county by BSCC for the Adult Local Criminal Justice Facility project costs which were deemed eligible for state financing” was removed and replaced with “for costs deemed eligible for state financing as provided in Sections 1712 through 1712.3”.

ARTICLE 2. ELIGIBILITY REQUIREMENTS

Section 1712.2. Eligibility Requirements for Adult Local Criminal Justice Facilities.

This section has been modified to provide clarity and ease confusion as to which program this section applies to. With the passing of SB 863 there are now two programs operating under the definition of an Adult Local Criminal Justice Facilities Construction Financing Program. To address the new program addition and ease confusion, the section title has been renamed to “Eligibility Requirements for SB 1022.”. Section 1712.2(a) was also modified to provide clarifying language by inserting a reference to “SB 1022”. The Reference section has been modified to remove “s...and 6270” as Section 6270 of the Penal Code has been repealed. There is no operational or fiscal impact.

Section 1712.3. Eligibility Requirements for SB 863. This regulation provides an outline of program-specific requirements for the participation and reimbursement of SB 863 projects and state-reimbursable project costs. This section is proposed to provide clarity and an explanation of the items eligible for state reimbursement under the new SB 863 Adult Local Criminal Justice Facilities Construction Financing Program. For consistency, this regulation mirrors the language in Section 1712.2. Some differences in the eligibility of state reimbursable costs exist between 1712.3 and 1712.2, due to the enabling legislation and Executive Steering Committee decisions, which were later approved by the BSCC Board. These differences include referencing the SB 863 program-specific information and regulation sections that apply to the SB 863 process, for example 1712.3(a) references SB 863 rather than SB 1022, 1712.3(a)1 and (a)(3) reference 1730.3 and 1714.3 rather than 1730.2 and 1714.2 which apply to SB 1022. Clarifying information was added in sections 1712.3(b) and (b)(1) to better explain the process and reduce confusion as to how much money may be eligible for reimbursement and when in the process a county may seek reimbursement. More significant differences between Sections 1712.2 and 1712.3 include the requirement that counties provide documentation of the percentage of pretrial inmates (1712.3(a)(4)), this documentation is required by the enabling statute of SB 863 and was codified as Government Code Section 15820.936(b). The SB 863 Executive Steering Committee and BSCC Board discussed additional eligible costs in 1712.3 that were not eligible in 1712.2 (SB 1022), including real estate due diligence and environmental reports; these items were subsequently removed from 1712.3(c)(3) as ineligible items. The citations in the note section were inserted to align properly with BSCC’s statutory authority. There is no operational or fiscal impact.

Section 1714.2 Matching Fund Requirements for Adult Local Criminal Justice Facilities. This regulation outlines the program-specific requirements for the participation and use of SB 1022 match-eligible project costs. The section has been modified to provide

clarity and ease confusion as to which program this section applies to. With the passing of SB 863 there are now two programs operating under the definition of an Adult Local Criminal Justice Facilities Construction Financing Program. To address the new addition and ease confusion the section title has been renamed to “Matching Fund Requirements for SB 1022.”. There is no operational or fiscal impact.

Section 1714.3. Matching Fund Requirements for SB 863. This regulation provides an outline of program-specific requirements for the participation and use of SB 863 match-eligible project costs. This section is proposed to provide clarity and an explanation of the program-specific match cost items that are eligible for projects under the new SB 863 Adult Local Criminal Justice Facilities Construction Financing Program. The language of Section 1714.3 was determined both by the enabling statute (Government Code Section 15820.936), which states “county contribution...shall be a minimum of 10 percent...BSCC may reduce contribution requirements for participating counties with a general population below 200,000”. The SB 863 Executive Steering Committee specified the statute by proposing that counties with a population below 200,000 have a reduced match not less than the total non-state reimbursable project costs, which was later approved by the BSCC Board. Expenditures eligible for cash and in-kind match were determined by the lease-revenue bond process and the Executive Steering Committee, although the language mirrors that of the SB 1022 program (Section 1714.2) there are some slight differences due the Executive Steering Committee allowing some project costs (ex: environmental reports) to be eligible for state reimbursement. The citations in the note section were inserted to align properly with BSCC’s statutory authority. There is no operational or fiscal impact.

ARTICLE 3. APPLICATION TO PARTICIPATE IN THE LOCAL JAIL CONSTRUCTION FINANCING PROGRAM

The title of Article 3 has been modified to remove “THE LOCAL JAIL” and add an “S” to “PROGRAM”. These modifications were made to avoid confusion that Article 3 may only apply to the jail programs in this Subchapter when Article 3 actually applies to all programs, jail and adult local criminal justice financing. There is no operational or fiscal impact.

Section 1730.2. Proposal Process for Adult Local Criminal Justice Facilities. This section has been modified to provide clarity and ease confusion as to which program this section applies to. With the passing of SB 863 there are now two programs operating under the definition of an Adult Local Criminal Justice Facilities Construction Financing Program. To address the new addition and ease confusion the section title has been renamed to “Proposal Process for SB 1022.”. Section 1730.2(a) was also modified to provide clarifying language by inserting a reference to “SB 1022”. The Reference section has been modified to insert the word “Section” before “6030, Penal Code.” as it was needed to provide a full citation of the referenced code. There is no operational or fiscal impact.

Section 1730.3. Proposal Process for SB 863. This section is proposed to provide an outline of the proposal process for counties who wish to apply for financing through the SB 863 program. The steps and requirements of becoming a participating county is different for each program based on the enabling legislation and statute and the BSCC

Board-appointed Executive Steering Committee interpretations in specifying the legislation and statute. Information in this section outlines the process and requirements specific only to SB 863 financing program, without this information BSCC could not/cannot release an RFP and/or award applicants. The citations in the note section were inserted to align properly with BSCC's statutory authority. There is no operational or fiscal impact.

Section 1731. Needs Assessment Study. This regulation is provided for clarity, it explains which projects are required to submit a needs assessment study and how it shall be submitted. For consistency the language "the...Adult Local Criminal Justice Facilities Construction Financing Program" was replaced with "SB 1022" in order to explain the specific requirements that only apply to the SB 1022 program. The SB 863 program Executive Steering Committee, appointed by the BSCC to aid in creating the specific requirements of SB 863, chose a cutoff date for which Needs Assessment Studies could be estimated. To provide clarity on this program-specific requirement the following language was inserted "The needs assessment study for SB 863 must reflect current needs and needs through the year 2019; with an emphasis on expanded program and treatment space, and shall be submitted with the SB 863 proposal." The language "under Phase I and/or Phase II" was replaced with "by or through the BSCC" in order to make the description of conditional awards applicable to all the programs, not just Phase I and Phase II. The citations in the note section were modified to align properly with BSCC's statutory authority. There is no operational or fiscal impact.

Section 1740.2. Adult Local Criminal Justice Facilities Construction Financing Program Proposal Evaluation Criteria. This regulation outlines the evaluation criteria for SB 1022 project proposals. With the passing of SB 863 there are now two programs operating under the definition of an Adult Local Criminal Justice Facilities Construction Financing Program. The two programs, SB 1022 and SB 863, do not have the same evaluation criteria. To address the new addition and ease confusion the section title has been renamed to "SB 1022 Proposal Evaluation Criteria.". There is no operational or fiscal impact.

Section 1740.3 SB 863 Proposal Evaluation Criteria. This proposed regulation is to provide an outline of the criteria by which each submitted proposal will be evaluated for the SB 863 Adult Local Criminal Justice Facilities Construction Financing Program. The evaluation criteria that will be used for the SB 863 program differs from any other program operating under Subchapter 6 of these regulations.

The criteria was determined in part by Statute; Government Code Section 15820.935(c) required that BSCC take into consideration the documentation of need for expanded program and treatment space (evaluation criteria #1), replacement of compacted housing (evaluation criteria #2), Government Code Section 15820.936 required BSCC to take into account the percentage of pretrial inmates in the county jail and provide a description of the current risk-assessment-based pretrial release program (evaluation criteria #3), a Board of Supervisors' resolution authorizing adequate county funds and completion of CEQA documentation (evaluation criteria #6). Administrative Work Plan (evaluation criteria #4), Budget Narrative (evaluation criteria #5), and the criteria rating points were

determined by the Executive Steering Committee to evaluate the scope, schedule and cost of the project and set a rating scale. The criteria not determined by statute was discussed and approved by the Executive Steering Committee and BSCC Board, in an effort to best assess proposals the general merits of each aspect of proposed projects would be rated. To create a clear, fair, and defensible rating process the Executive Steering Committee assigned points to each criteria so that all proposals would be judged by the same criteria and scored on a pre-determined point scale. All decisions made by the Executive Steering Committee were presented to the BSCC Board for approval/denial at regularly scheduled Board meetings.

The citations in the note section were inserted to align properly with BSCC's statutory authority. There is no operational or fiscal impact.

Section 1747. Steps to Proceed with Construction for Design-Bid-Build Projects.

This regulation outlines the required steps that counties must take to move into the construction phase of their project when using the Design-Bid-Build construction delivery method. In Section 1747(a)(3), "or CDCR" has been added in reference to required confirmation for Adult Local Criminal Justice Facilities, which includes SB 1022 and SB 863. When these regulations were revised for the SB 1022 program CDCR had not originally been a party to the SB 1022 program projects, however since adopting that language, CDCR has been added back as a party to the projects. The citations in the note section were modified to align properly with BSCC's statutory authority. There is no operational or fiscal impact.

Section 1747.1. Steps to Proceed with Construction for Design-Build Projects.

This regulation outlines the required steps that counties must take to move into the construction phase of their project when using the Design-Build construction delivery method. In Section 1747(a)(3), "or CDCR" has been added in reference to required confirmation for Adult Local Criminal Justice Facilities, which includes SB 1022 and SB 863. When these regulations were revised for the SB 1022 program CDCR had not originally been a party to the SB 1022 program projects, however since adopting that language, CDCR has been added back as a party to the projects. The citations in the note section were modified to align properly with BSCC's statutory authority. There is no operational or fiscal impact.

Section 1748. Requirements for the Project Delivery and Construction Agreement.

This regulation outlines the program-specific requirements for entering into a Project Delivery and Construction Agreement. For clarity the text of this section has been simplified by removing the reference "for Phase I and Phase II" and inserting ", or" in reference to which State agency (CDCR, or BSCC) will be a party to the agreement. Section "(b)" became unnecessary with the edits to section (a) and was removed to reduce duplicative and possibly confusing information. With the removal of section 1748(b), the "(a)" was removed from section 1748(a). The citations in the note section were modified to align properly with BSCC's statutory authority. There is no operational or fiscal impact.

Section 1748.5 Requirements for the Board of State and Community Corrections Agreement.

This regulation clarifies the requirements of the agreement between the

BSCC and the participating county. For consistency and clarity, the “(a)” was removed, leaving just the text, because there are no further subsections below “(a)”. The citations in the note section were modified to align properly with BSCC’s statutory authority. There is no operational or fiscal impact.

Section 1749. Submittal of Architectural Drawings and Specifications for Design-Bid-Build Projects. This regulation outlines the requirements and specifications for submittal of architectural drawings, specifically for design-bid-build projects. Due to the passing of SB 863, a distinction was necessary between SB 1022 projects and SB 863 projects, as they both operate under the same program name of Adult Local Criminal Justice Facilities Construction Financing Program. In order to ease confusion clarifying language was inserted into 1749(b), “, SB 1022 and SB 863”, and a reference was added to 1749(c) for SB 863’s applicable statute “and 15820.935”. The citations in the note section were modified to align properly with BSCC’s statutory authority. There is no operational or fiscal impact.

Section 1749.1. Submittal of Performance Criteria and Concept Drawings for Design-Build Projects. This regulation outlines the requirements and specifications for submittal of specific criteria and concept drawings, specifically for design-build projects. Due to the passing of SB 863, a distinction was necessary between SB 1022 projects and SB 863 projects, as they both operate under the same program name of Adult Local Criminal Justice Facilities Construction Financing Program. In order to ease confusion clarifying language was inserted into 1749.1(c), “, SB 1022 and SB 863”, and a reference was added to 1749.1(d) for SB 863’s applicable statute “and 15820.935”. The citations in the note section were modified to align properly with BSCC’s statutory authority. There is no operational or fiscal impact.

Section 1750. Operation Program Statement/Staffing Plan/Operating Cost Analysis for Design-Bid-Build Projects. This regulation outlines the program, staffing plan, and operating cost analysis requirements specific to design-bid-build projects. The citations in the note section were modified to align properly with BSCC’s statutory authority. There is no operational or fiscal impact.

Section 1750.1. Operational Program Statement/Staffing Plan/Operating Cost Analysis for Design-Build Projects. This regulation outlines the program, staffing plan, and operating cost analysis requirements specific to design- build projects. The citations in the note section were modified to align properly with BSCC’s statutory authority. There is no operational or fiscal impact.

Section 1751. General County Requirements. This regulations outlines the more generalized requirements for participating counties and includes clarity and references to the authoritative Government Codes. For consistency and further clarity, reference to Government Code 15820.930 was added to sections 1751(b) and (c) for Adult Local Criminal Justice Facilities Construction Financing Program projects. In section (d) the following text was added to provide clarification and reference, “or CDCR...and 15820.934”. The citations in the note section were modified to align properly with BSCC’s statutory authority. There is no operational or fiscal impact.

Section 1752. Ground Lease. This regulation explains what the ground lease agreement is and what the requirements of said document are. To provide clarity and consistency in Section 1752(a) the language, “or” was replaced with “...and...or CDCR”, and the language “for Phase I, Government Code Section...for Phase II, and Government Code Section...for Adult Local Criminal Justice Facilities” was removed and replaced with the reference “, and 15820.930”. The Ground Lease is applicable to all of the programs, spelling each program out is unnecessary and duplicative of the references that refer directly to the statute that addresses the lease. The citations in the note section were modified to align properly with BSCC’s statutory authority. There is no operational or fiscal impact.

Section 1753. Right of Entry for Construction and Operation. This regulation outlines the agreement between state and county for right of entry for construction and operation. When these regulations were revised for the SB 1022 program CDCR had not originally been a party to the SB 1022 program projects, however since adopting that language, CDCR has been added back as a party to the projects. In order to correctly advise participating counties of the State parties Section 1753(a) was modified to remove “or...BSCC” and replace it with “and BSCC or CDCR”, in Section 1753(b) “or” was removed and replaced with “and...or CDCR”. The citations in the note section were modified to align properly with BSCC’s statutory authority. There is no operational or fiscal impact.

Section 1754. Facility Sublease. This regulation explains the relationship between the leasing agency and the participating county. When these regulations were revised for the SB 1022 program CDCR had not originally been a party to the SB 1022 program projects, however since adopting that language, CDCR has been added back as a party to the projects. In order to correctly advise participating counties of the State parties Section 1754(a) was modified to remove “or” and insert “and...or CDCR”. The citations in the note section were modified to align properly with BSCC’s statutory authority. There is no operational or fiscal impact.

ARTICLE 4. ADMINISTRATION OF REIMBURSEMENTS AND PROJECT MONITORING

Section 1756. Disbursement of State Reimbursements. This regulation explains the rules and requirements for reimbursement of state funds to participating counties of Phase I, Phase II and Adult Local Criminal Justice Facilities. The citations in the note section were modified to align properly with BSCC’s statutory authority. There is no operational or fiscal impact.

Section 1760. Record Keeping and Accounting. This regulation outlines the participating counties responsibility to establish and maintain a method of official record keeping and Accounting. When these regulations were revised for the SB 1022 program CDCR had not originally been a party to the SB 1022 program projects, however since adopting that language, CDCR has been added back as a party to the projects. In order to address CDCR as a participating party, Section 1760(a) was modified by inserting “or CDCR”. The citations in the note section were modified to align properly with BSCC’s statutory authority. There is no operational or fiscal impact.

Section 1766. Monitoring of Process. This regulation outlines the process of project monitoring performed by the BSCC and/or CDCR. When these regulations were revised for the SB 1022 program CDCR had not originally been a party to the SB 1022 program projects, however since adopting that language, CDCR has been added back as a party to the projects. In order to address CDCR as a participating party, Section 1766(a) was modified to remove “or” and replace it with “and...or CDCR”. The citations in the note section were modified to align properly with BSCC’s statutory authority. There is no operational or fiscal impact.

Section 1767. Completion of Project. This regulation explains the process of project completion as recognized by the BSCC. The citations in the note section were modified to align properly with BSCC’s statutory authority. There is no operational or fiscal impact.

Section 1768. Project Modifications. This regulation outlines the process of making modifications to a participating county’s project and what the parameters and reporting requirements are. The citations in the note section were modified to align properly with BSCC’s statutory authority. There is no operational or fiscal impact.

Section 1770. Audits. This regulation outlines the requirement for participating counties to complete and submit an audit according to specific auditing standards. When these regulations were revised for the SB 1022 program CDCR had not originally been a party to the SB 1022 program projects, however since adopting that language, CDCR has been added back as a party to the projects. In order to address CDCR as a participating party, Section 1770(e) was modified by inserting “or, the Board, CDCR and BSCC,...or CDCR”. The citations in the note section were modified to align properly with BSCC’s statutory authority. There is no operational or fiscal impact.

Section 1772. Unused Conditional Awards. This regulation outlines where and how unused conditional awards are to be used and or distributed. The citations in the note section were modified to align properly with BSCC’s statutory authority. There is no operational or fiscal impact.

ARTICLE 5. APPEAL PROCEDURES

Section 1776. Purpose. This regulation outlines the purpose for the appeal procedures for jail and Adult Local Criminal Justice Facilities Construction Financing Programs. The citations in the note section were modified to align properly with BSCC’s statutory authority. There is no operational or fiscal impact.

Section 1778. Definitions. This regulation defines terms used throughout Article 5 specifically. The citations in the note section were modified to align properly with BSCC’s statutory authority. There is no operational or fiscal impact for these changes.

Section 1788. Request for Board of State and Community Corrections Appeal Hearing. This regulation outlines how a county may request an appeal hearing. The citations in the note section were modified to align properly with BSCC’s statutory authority. There is no operational or fiscal impact.

Section 1790. Board of State and Community Corrections Hearing Procedures. This regulation outlines the procedures and steps of an appeals hearing with the BSCC. The citations in the note section were modified to align properly with BSCC's statutory authority. There is no operational or fiscal impact.

Section 1792. Board of State and Community Corrections Decision. This regulation explains the BSCC's decision making process for appeals. The citations in the note section were modified to align properly with BSCC's statutory authority. There is no operational or fiscal impact.

PURPOSE

These revisions were made to incorporate information for the Adult Local Criminal Justice Facilities Construction Financing Program as a result of the passing of Senate Bill 863 on June 20, 2014. The legislation and following statute of Senate Bill 863 created the new SB 863 financing program and modified the language of Senate Bill 1022 statute. By incorporating the new regulations we have complied with a portion of the statutory directive outlined in Section 15820.92, 15820.921, and 15820.924 of the Government Code for the SB 1022 program, and Section 15820.93-15820.936 of the Government Code for the SB 863 program. In addition to compliance, the BSCC set out to provide participating counties with a clear and concise guide to navigate the process and guidelines of their awarded financing program. Benefits of these revisions will include enhanced safety and security of local jail and criminal justice facilities and continued protection of residents, staff and the public.

PROBLEMS THIS PROPOSED REGULATION SEEKS TO ADDRESS

The proposed adoptions and amendments to Title 15, Subchapter 6 Construction Financing Program are to address two main issues; Senate Bill 863 legislation passed on June 20, 2014 creating a new construction financing program, and modifying the language of the existing Senate Bill 1022 program.

The Board of State and Community Corrections (BSCC) must adopt regulations (Section 15820.93 of the Government Code) for the new program, SB 863, in order to provide a guide of requirements and processes.

The BSCC previously adopted regulations for the SB 1022 program, which at the time, was known as the Adult Local Criminal Justice Facility Construction Financing Program. There are now two programs operating under the definition of an Adult Local Criminal Justice Facility Construction Financing Program (SB 1022 and SB 863), for which modifications to these regulations address. The modified statutory language of Senate Bill 1022 also added the California Department of Corrections and Rehabilitation (CDCR) as a participating agency, for which BSCC proposes modifications to these regulations.

BENEFITS ANTICIPATED FROM THE PROPOSED REGULATION

The BSCC anticipates several benefits from the proposed regulation adoption and amendment, including: Protection of public health and safety, worker safety, and the creation of jobs.

Once adopted these regulations will allow the BSCC to extend financing to conditionally awarded counties for the construction of adult local criminal justice facilities under the SB 863 program. Many counties in California are operating outdated, dilapidated, crowded facilities. With these regulations, awards can be made to improve the physical condition of those facilities, creating a safer environment for inmates, workers, and the community. SB 8632 focuses on programming space, which will allow for more counties to offer alternatives to detention and a wide array of in-custody programs that will improve public

health and safety. Counties who have proposed the construction of new facilities will create jobs within their communities.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS.

The BSCC did not rely upon any technical, theoretical, or empirical studies, reports or documents in proposing the adoption of these regulations.

REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES.

No other alternatives were presented to or considered by the BSCC.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS.

The BSCC has not identified any alternatives that would lessen any adverse impact on small businesses.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS.

The BSCC has determined that, the proposed regulations would not have a significant statewide adverse economic impact directly on businesses. The programs for which these regulations are proposed only apply to adult local criminal justice facilities, under the jurisdiction of the Sheriff's Department or County Department of Corrections. Businesses are not eligible to apply for the SB 1022 or SB 863 programs. The proposed regulations do not require businesses to participate or comply with any part of the SB 1022 or SB 863 programs.

ECONOMIC IMPACT ASSESSMENT

PURPOSE

The BSCC proposes to adopt Sections 1712.3, 1714.3, 1730.3, and 1740.3, and amend Sections 1700, 1706, 1712.2, 1714.2, 1730.2, 1731, 1740.2, 1747, 1747.1, 1748, 1748.5, 1749, 1749.1, 1750, 1750.1, 1751, 1752, 1753, 1754, 1756, 1760, 1766, 1767, 1768, 1770, 1772, 1776, 1778, 1788, 1790, and 1792 of Title 15 of the California Code of Regulations (CCR).

Through this adoption and amendment the following sections will be implemented, interpreted and/or made specific by this proposed rulemaking: Authority: Sections 15820.925, 15820.935, and 15820.936, Government Code; and Section 6030, Penal Code. Reference: Sections 15820.92 through 15820.926, and 15820.936, Government Code.

In proposing this adoption the BSCC seeks to improve public health and safety, and worker safety.

THE CREATION OR ELIMINATION OF JOBS WITHIN THE STATE OF CALIFORNIA

These regulations are proposed to distribute up to \$500 million in lease revenue bonds for the construction of adult local criminal justice facilities due to the passing of Senate Bill 863. Through the SB 863 Construction Financing Program, counties will have the opportunity to create jobs through the construction process by hiring consultants, contractors, and by creating new positions within their completed facility. These regulations will only affect counties who are offered, and accept, a conditional award for financing; the effects will last through the design and construction phases and continue for counties who choose to create new positions to staff their completed facilities. Therefore, BSCC has determined that this regulatory action will have a positive impact on the creation of jobs, but will not affect the elimination of jobs in the State of California.

THE CREATION OF NEW BUSINESSES OR THE ELIMINATION OF EXISTING BUSINESSES WITHIN THE STATE OF CALIFORNIA

These regulations are proposed to distribute up to \$500 million in lease revenue bonds for the construction of adult local criminal justice facilities due to the passing of Senate Bill 863. Through the SB 863 Construction Financing Program, counties will use the services of businesses through their construction phases but will not continue to rely on the services of these businesses to the extent of creating new or eliminating existing businesses within the state of California. Only Counties within the State of California may apply for financing and only under the jurisdiction of the County Sheriff or County Department of Corrections. No awards are given to businesses within the State of California. The BSCC has determined that these regulations will not have an effect on the creation of new businesses or the elimination of existing businesses within the State of California.

THE EXPANSION OF BUSINESSES CURRENTLY DOING BUSINESS WITHIN THE STATE OF CALIFORNIA

These regulations are proposed to distribute up to \$500 million in lease revenue bonds for the construction of adult local criminal justice facilities due to the passing of Senate Bill 863. Through the SB 863 Construction Financing Program, counties will use the services of businesses through their construction phases but will not continue to rely on the services of these businesses to the extent of expanding businesses within the state of California. Only Counties within the State of California may apply for financing and only under the jurisdiction of the County Sheriff or County Department of Corrections. No awards are given to businesses within the State of California. The BSCC has determined that these regulations will not have an effect on the expansion of businesses currently doing business within the State of California.

BENEFITS OF THE REGULATIONS TO THE HEALTH AND WELFARE OF CALIFORNIA RESIDENTS, WORKER SAFETY, AND THE STATE'S ENVIRONMENT

The anticipated benefits to this regulation are increased protection of welfare of California residents, and worker safety. The welfare of California residents and worker safety will be affected positively by construction and/or renovation of new and existing adult jail and

criminal justice facilities. The newly renovated or constructed facilities will eliminate many of the dangers of working in an outdated facility with the use of better space planning and technology that is up-to-date. A greater focus has been placed on programming space and making community and inmate programs available in-custody and as an alternative to incarceration. In some instances participants of programs will receive support and learn necessary social and employment skills to better assimilate back into the community. New and renovated facilities will offer more space, technology, and other much needed tools to create a safe environment for workers, inmates, visitors, and the community. The BSCC has determined that the state's environment will not be affected by the adoption of these regulations because the regulation is the subject of criminal justice facility construction financing. The BSCC has determined that there will be a positive impact on the health and welfare of California residents and worker's safety.