

INITIAL STATEMENT OF REASONS:

The California Prison Industry Authority (CALPIA) and the California Prison Industry Board (PIB) propose to amend Section 8006 of Article 3, Chapter 1, of the California Code of Regulations (CCR), Title 15, Division 8, concerning CALPIA Inmate Pay. This action is necessary to implement, interpret and make specific Penal Code (PC) Section 2811 regarding the General Manager's authority to determine compensation schedule for inmate employees.

Penal Code (PC) Sections 2801 and 2808 provides the PIB with implied rulemaking authority to establish regulations for developing and operating enterprises to employ prisoners. PC Section 2811 provides CALPIA's General Manager with the authority to adopt and maintain a compensation schedule for inmate employees.

Pursuant to Government Code section 11342.2, this proposed regulation is consistent with, and not in conflict with, PC sections 2801, 2808 and 2811; this proposed regulation is reasonably necessary to effectuate the purpose of PC section 2811 and implement a pay raise for all inmates who are assigned to work at CALPIA.

Amendments to regulations are needed to increase the pay for CALPIA inmate workers. Pursuant to PC section 2811, the general manager shall adopt and maintain a compensation schedule for CALPIA inmate workers. The raises are expected to create incentives and motivation for inmates to seek employment with CALPIA which increases productivity. Increased productivity of goods and services also results in savings to taxpayers.

The proposed amendments will be vetted through the public process of the PIB, as required in PC Section 2808, subsections (h) and (i), and promulgated through the regulatory process as specified in the Administrative Procedure Act (APA). The PIB will review these regulations at the next board meeting held on December 15, 2016. Upon approval, the PIB's Record of Vote and the applicable portion of the meeting minutes will be included in the rulemaking file. These documents will be filed with the Office of Administrative Law (OAL).

Consideration of Alternatives:

CALPIA must determine that no reasonable alternatives considered, or that has otherwise been identified and brought to the attention of CALPIA, would be more effective in carrying out the purpose for which this action is proposed, would be as effective and less burdensome to affected private persons than the action proposed, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

CALPIA has made an initial determination that no reasonable alternatives to the regulation have been identified or brought to the attention of CALPIA that would lessen any adverse impact on small business.

Currently, no reasonable alternatives have been brought to the attention of CALPIA that would alter CALPIA's initial determination.

ECONOMIC IMPACT ASSESSMENT

As a result of the economic impact assessment and in accordance with Government Code Section 11346.3(b), the CALPIA has made the following assessments regarding the proposed regulation:

CALPIA is self-supporting from the sale of its products and services and operates from the Prison Industries Revolving Fund without any appropriation from the General Fund. Pursuant to Penal Code Section 2806¹, CALPIA's revolving fund is not subject to annual appropriation by the Legislature of Department of Finance's oversight. CALPIA recognizes the implementation of this regulation change will create a cost to its Revolving Fund. Any financial impact upon CALPIA will have no effect on any other state agency, the state budget, or General Fund.

¹ Penal Code - 2806.

' . . . Funds deposited in the revolving fund are not subject to annual appropriation by the Legislature and may be used without a time limit by the authority.

The Prison Industries Revolving Fund is not subject to the provisions of Articles 2 (commencing with Section 13320) and 3 (commencing with Section 13335) of Chapter 3 of Part 3 of Division 3 of Title 2 of the Government Code . . .'

Creation or Elimination of Jobs within the State of California

CALPIA has determined that pay increases for inmates will have no impact on the creation or elimination of existing jobs or businesses within California because those jobs or businesses are not affected by monetary compensation for inmates.

Creation of New Businesses or Elimination of Existing Businesses within the State of California

Pay increases for inmates will have no effect on the creation of new or elimination of existing businesses with the State of California because those businesses are not affected by monetary compensation for inmates.

Significant Statewide Adverse Economic Impact on Business:

The CALPIA has initially determined that the proposed amendments will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states because they are not affected by pay increases for inmates.

Expansion of Businesses Currently Doing Business within the State of California

Pay increases for inmates will have no effect on the expansion of businesses currently doing business within the State of California because they are not affected by the monetary compensation for inmates.

Local Mandates:

CALPIA has determined that this action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement pursuant to Part 7 (Section 17561) of Division 4.

Benefits of the Regulations

The proposed regulatory action will benefit CALPIA inmates by providing inmates with higher pay. The increased pay rates will create incentives and motivation for inmates to seek employment with CALPIA which increases productivity. Increased productivity of goods and services that are used by the California Department of Corrections and Rehabilitation (CDCR) reduce the cost of CDCR's operations which also results in savings to taxpayers.

Reports Relied Upon:

CALPIA, in proposing these regulations, has not identified nor relied upon any technical, theoretical, or empirical study, report, or similar document.

Specific Purpose and Rationale, Per Government Code 11346.2(b)(1)

Subsection 8006(d)(1) is amended to increase all CALPIA inmate pay rates by \$.05 (five cents) per hour because CALPIA inmates have not received a pay raise in over 25 years. CALPIA is committed to changing inmates' lives through job training; CALPIA's purpose as an agency is to create and maintain working conditions within the enterprises as much like those which prevail in private industry as possible, to assure inmate workers the opportunity to work productively, to earn funds, and to acquire or improve effective work habits and occupational skills. It is necessary to implement the pay raise to increase incentives for inmates to seek and maintain employment at CALPIA; the pay increase will attract more inmate workers and reduce job vacancies. CALPIA produces goods and services which are used by the CDCR, thereby reducing the cost of CDCR's operation, therefore, CALPIA has a responsibility to taxpayers to insure vacancies are filled and operations and production are running at full capacity.

CDCR provides for the basic needs of each inmate including clothing, linens, a balanced diet, health and hygiene care, and the means for inmates to keep themselves and their living quarters clean. Because all basic needs are met by the CDCR, the pay increase will benefit CALPIA inmates' when making their canteen² purchases. Canteen purchases can be made for various authorized items that inmates' want, and not need,

² 15 CCR § 3090 Inmate Canteen Establishment and Draw Limits

(a) Each facility shall establish an inmate canteen pursuant to penal code section 5005 enabling inmate purchases of approved merchandise. Facility staff shall consult with representatives of the inmate population when determining items to be stocked in the canteen for resale to the inmates.

to have. Without the pay raise, inmates will continue to lose their spending power at the canteen as the cost of canteen items rise with inflation.

The reference and authority Section 8006 is duplicated. Deleting repetitive, language is a non-substantial change because the deletions do not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.