

Initial Statement of Reasons

PROBLEM STATEMENT

The Legislature adopted, as part of the 2016-17 fiscal year budget package, AB 1602 which amended the California Library Services Act (Education Code 18700-18767). The purpose of the California Library Services Act is to facilitate equal access to library resources regardless of location, income, or education level especially to underserved communities. In an effort to achieve this end funds are made available to libraries or localized library cooperative systems, under the Act, for various programs.

The Education Code sections 18700-18767 were originally enacted in 1977 and, due to the time period in which they were put in place; focus on creating equal access through the physical sharing of books and other physical resources. The amendments to Sections 18700-18767 removed references to obsolete programs which have not been funded by the legislature for several years. They also amended the statute to include modernizing language which references the sharing of electronic resources in addition to print materials.

While the new section 18700-18767 allow for the sharing of electronic resources there is no definition of sharing provided. There are also usually additional costs that coincide with electronic resources such as supporting technology or subscription fees but it is unclear in the statute whether these are acceptable costs for funding allocated under that section. Finally, electronic materials were included under the new language in the California Library Services Act as materials that can be shared. The reporting requirements that allow the California Library Services Act's governing body, the California Library Services Board, to assess if funds are being used effectively are contained in regulation so reporting on the use and sharing of electronic resources is not currently required. This limits the ability of the California Library Services Board to assess how these resources are being used.

BENEFITS

The impact of the amendments to regulatory sections 20100-20265 will be to clean-up the regulatory language and remove obsolete provisions that are no longer supported by state funds or statute. It will also allow for the amendment of procedural language relating to meeting notifications and meeting requirements. These regulatory sections were put in place prior to the enactment of the Bagley-Keene Open Meeting Act (Government Code sections 11120-11131) and while the Board does comply with newer open meeting requirements the language in the regulations does not and can be confusing to interested parties.

Electronic resources allow patrons easier, more convenient access to information and there is a demand, among library patrons for both print and digital materials. Allowing the funding of technology, digital products, equipment, and service fees to support digital resources will expand the number of products and programs the Cooperative Library Systems can provide to their member libraries as well as increasing the availability of the information and services provided by those products to a larger number of patrons both within the libraries' service area and beyond.

PURPOSE

Section 20101, subdivision (b) and Section 20105, subdivision (b): To regulate the basic requirements for participation and specify information that shall be provided by participating libraries and notification requirements.

Section 20107: To define terms not already defined in statute for the purposes of the regulatory section.

Sections 20116, 20118, 20119, 20122, 20123, 20124, 20125, 20127, 20130, 20134: To specify procedures for the governance and meetings of the California Library Services Board to ensure business is carried out in an organized, timely, transparent manner with ample opportunity for public participation.

Section 20135: To identify the requirements for public library cooperative system reports to the California Library Services Board to allow for the assessment of their use of funds and the collect information to assist in the allocation of funds.

Sections 20136, 20140: To provide guidelines for the governance of Cooperative Library Systems.

Section 20158: To identify how funding would be allocated under the now repealed system reference programs.

Sections 20180, and 20185: To provide defined procedures for consolidations of public library jurisdictions and Cooperative Library Systems that ensure each consolidation is reviewed and furthers the purpose of the California Library Services Act.

Section 20190: To provide defined procedures for the joining of a public library jurisdiction with a Cooperative Library System that ensures both participating parties are willing to affiliate and that the public library jurisdiction's affiliation with the Cooperative Library Systems furthers the purpose of the California Library Services Act.

Sections 20203 and 20205: To establish guidelines for residence and eligibility for library cards and services.

Sections 20215, 20216, 20217: To establish guidelines for reimbursement under the repealed direct loan program and requirements for reporting a libraries qualified loans.

Section 20235, subdivision (b) and subdivision (d): To define information the Cooperative Library Systems have to report in their annual reporting to the State Library.

Section 20236: To clarify how communication, delivery, and resource sharing money can be spent.

Sections 20251, 20252, 20255, 20257. 20260, 20265: To create guidelines and procedures for the governance and funding of the now repealed Interlibrary Loan program.

NECESSITY

Section 20101 and 20105: Amending these sections is necessary to reflect changes made to statute in 2016. These amendments will ensure that each regulatory section is referencing the intended statute section.

Section 20107, subdivision (a): Amending this section is necessary to ensure the section is referring to the most updated Statute rather than the original version since the statutory definitions have changed over time.

Section 20107, subdivision (b): Amending the definitions in this section is necessary to reflect current practices and removed obsolete language referencing definitions already present in statute, repealed programs, and removed positions.

In the 2016 amendment to Education Code section 18745 was amended to include “resource sharing” in the allowed items cooperative library systems can fund. The section also indicates that cooperative library systems base funding proposals on “the more cost-effective methods of exchanging print and digital materials and information...” Digital materials are not always owned outright like print materials. Instead a library might lease, or pay for access to digital materials. In addition to the variety of way libraries can obtain materials, the financial resources to support these communication, delivery and resource sharing activities are limited.

A definition new of “Resource sharing” is necessary to ensure that funds are used to further the statutory requirement of exchanging print and digital materials while ensure that libraries have the freedom to share those resources regardless of format or how the content was obtained by the library. The definition is also necessary to encourage libraries to spread the limited resources further ensuring that at least three libraries find value in and agree to share a resource before it can be funded.

Section 20116: The California Library Services Board, due to budget cuts and reductions in funding, meets twice each year to conduct its business. Due to the regulatory requirement that Board officers be elected every year time is spent at each meetings either electing a nominating committee or voting on Board officers. Amending this section to allow for biennial Board elections will save limited time that the Board has since elections would only be addressed every other year and allow that time to be allocated to the discussion of more pressing topics. Additionally, the Board officers would have more time to adjust to and become comfortable in their roll since they currently are only serving as officers for one meeting before new elections are held.

Section 20118: Amending the meeting notice requirements in this section is necessary because they no longer align with Bagley-Keene Open Meeting Act requirements with which California Library Services Board meetings are required to comply. Referencing the Bagley-Keene Open Meeting Act statutes will ensure that all meeting notices comply with the open meeting act regardless of changes made to open meeting rules in the future.

Additionally, these regulations were put in place prior to the prevalence of email in correspondence. Amending the language to allow notice requests to be submitted by email will align with current practices and allow notice requests to be made much closer to posting deadlines and meetings since those requesting notification will not have to account for physical mail timelines or the cost of placing such a request.

Finally, prior to 2010 it was necessary for the California Library Services Board to meet several times a year to effectively administrate the funds and programs that fell under the Board's purview. In 2010 the funding for the California Library services Act was zeroed out and only a small portion of those funds, allocated to a single program have been restored. The Board no longer needs to meet bi monthly. Amending the regulatory language to indicate that the Board should meet at least once year aligns more with the current practice of meeting twice yearly to address the business of the Board while still allowing leeway for the Board to meet more often if necessary.

Section 20119: This section is no longer necessary as meeting of the Board are governed by the Bagley-Keene Open Meeting Act (Government Code sections 11120-11131) which details the notice requirements and is referenced as the governing stature in Section 20118.

Sections 20122, 20123, 20124, 20125 and 20126, 20130, and 20134: Changes to these sections are necessary to conform language to recommendations for additional regulatory changes we are requesting at this time, update contact information and modernize practices by allowing email submissions and communication, and conform

timeframes for notifications and submissions to notice requirement timelines in the Bagley-Keene Open Meeting Act (Government Code sections 11120-11131).

Sections 20135: The funding the Cooperative Library Systems receive from through the California Library Services Act is allocated by formula that is based on library distances and service populations. In order to effectively allocate these funds the Board has to review and understand the population and system membership figures. The only mention of this requirement was contained in a regulatory article which was tied to a statutory program that has been repealed. It is necessary to retain the regulatory language regarding the review of population figures as well as the ability for the Board determine a uniform funding formula should the existing formula need to be revisited due to changes in populations or library services. Since the Cooperative Library Systems budget is based on funding it received through the formula the requirement for the California Library Services Board to review the population figures was placed in this section.

Additionally amendments to the section are necessary to reflect current practices based on the ability of the Cooperative library Systems to gather and provide information.

Sections 20136 and 20140: Minor amendments to these sections are necessary to ensure that the regulation language is reference current statutes.

Section 20158: This section references a program authorized under Education Code section 18741. This code section was repealed. Language contained in this section that is needed to regulate other, continuing programs under the California Library Services Act was moved to section 20135. This section is unnecessary and no longer has a statutory basis so it should be repealed to clean-up the regulations and prevent confusion for library jurisdictions or cooperative library systems reading the regulations.

Section 20180, 20185, 20190: The regulatory language removed in each of these sections references grant programs that are no longer funded and whose authorizing statutory language has been repealed. Removing the irrelevant language is necessary to clean-up the regulations and prevent confusion for library jurisdictions or cooperative library systems reading the regulations.

Sections 20203, 20205, 20215, 20216, 20217: The regulatory language removed in each of these sections references a reimbursement program that is no longer funded and whose authorizing statutory language has been repealed. Removing the irrelevant language is necessary to clean-up the regulations and prevent confusion for library jurisdictions or cooperative library systems reading the regulations.

Section 20235: Changes to this section are necessary to reflect changes to Education Code 18745 which modernized the language to reference the funding of resource

sharing and digital materials. Currently Cooperative Library Systems are required to report to the Board on programs and services they are funding under section 18745. This section defines items that are required to be reported and these changes would ensure that they are also reporting on digital materials and shared resources being funded. This kind of information is necessary for the Board to be able to assess if funds are being used in the most effective, beneficial manner.

Section 20236: Access to digital materials allows library patrons easier and more convenient access to information and resources. The cost of digital materials extends beyond the lease of, subscription to, or purchase of these materials. Libraries often have to purchase new technologies or servers to support these programs in addition to ongoing monthly, quarterly or yearly costs. Additionally, many libraries have unique physical collections that could be valuable to patrons in other areas but are not easily accessible. Libraries are contemplating ways to provide increased access to these kinds of materials and collections. Digitization is a good option for preserving and expanding access to these materials; however it is expensive due to the cost of scanning equipment, software, server space to store files, and platforms to share the materials

Amendments to Education Code section 18745 allows for the funding of resource sharing and digital materials but does not mention supporting technologies, service fees for digital materials, or technology or products for creating or accessing digital material to share. Providing language that clarifies that these expenses are acceptable as long as they comply with the statute will allow libraries to explore a larger variety of products and services that might expand access to information and benefit their patrons and the people of California.

Sections 20251, 20252, 20255, 20257, 20260, and 20265: Removing each of these sections will clean-up the regulations and prevent confusion for library jurisdictions or cooperative library systems reading the regulations. These sections reference a reimbursement program that is no longer funded and whose authorizing statutory language has been repealed.

BASIS FOR REGULATORY CHANGES AND ADDITIONS

Three major factors were considered in the recommended changes and additions to these regulation sections. The first was changes to statutes impacting these regulations including Education code sections governing the California Library Services Act as well as Government Code open meeting act requirements. The second was recommended changes put forward by members of the California Library Services Board that were felt to streamline processes and save on limited time and funds. Finally, input provided by the Cooperative Library Systems in the form of letters to the Board as well as conference calls between State Library staff and the Cooperative Library System

coordinators. The recommendations from the Cooperative Library Systems centered on seeking ability to more effectively serve library patrons using technology that has become prevalent since the regulations were enacted.

The formal recommendations from the Cooperative Library Systems and comments by Board members and members of the public on this issue can be found on the California State Library's website in the April 2017 Agenda Packet, agenda item D. (http://www.library.ca.gov/loc/docs/2017-04_Agenda_packet.pdf).

ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The proposed amendments to regulatory sections 20101-20265, which implement the California Library Services Act (Education Code 18700-18767), will remove obsolete references to unfunded programs no longer supported by statute, update California Library Services Board procedures to reflect current Bagley-Keene Open Meeting Act requirements and current Board procedures, and update remaining program language to mirror changes to statute and clarify allowable costs.

The changes to these regulations are technical and clarifying in nature. They have no impact on the amount of funding designated by the legislature or how those funds are distributed to public libraries.

Creation or Elimination of Jobs within the State of California

The proposed amendments to these regulations will update and clarify the existing regulations already in place governing the processes of the California Library Services Board and the implementation of the programs they oversee. The program related language that is being removed references programs that have not been funded since 2010 at the latest (some programs lacked designated funding almost since implementation). Since the programs have not had funding for the last seven years there are no staff members at the State Library, the Cooperative Library Systems, or public libraries working specifically with those programs so the changes will not result in any job loss.

The funding still received under the California Library Services Act is allocated to the Cooperative Library Systems in California to fund and create library services related to communication, delivery, and resource sharing of information, and print and digital materials. The proposed language changes related to this remaining program aligns with and clarifies the allowable program costs based on 2016 changes to statute. While this change does reflect a slight expansion of how program funds can be spent, the new program language does not coincide with any additional funding and so would not create new jobs. The updated language allows those already working on the services provided under this program more options for services and activities.

Additionally, the staff members assigned to the California Library Services Board already comply with the open meeting requirements and processes, since they are required by statute, so conforming the regulations to reflect those requirements will not result in any new Board staff.

Creation of new or elimination of existing business in the State of California

The California Library Services Act regulations govern the process of the California Library Services Board and the implementation of the programs they oversee. The funding provided for California Library Services Act programs are for the benefit of Public Libraries in California. While the services are beneficial, the funds received are a very small portion of a public library's budget and would not allow for the formation of a new library or library district, especially when it is considered that the funds are divided for the benefit of all 182 public library jurisdictions in California.

Funds allocated to the communication, delivery, and resource sharing program are sometimes used to contract with existing information resources related businesses and database providers. Based on the *Plans of Service* and *Annual Reports* from the Cooperative Library Systems detailing what services are being funded, libraries are contracting with the larger, well known information and database providers. The existence of such contracting opportunities would not inspire the creation of new businesses based on both the preference for known, tested products, and the limited amount of funding actually available once divided amongst the Cooperative Library Systems and allocated toward the variety of communication, delivery, and resource sharing services being provided.

There is some opportunity for Cooperative Library Systems to expand their service offerings based on the recent statute changes and proposed regulatory amendments. However, even if some Cooperative Library Systems choose to allocate funds to different services because of those changes, the amount of overall funding allocated to each service is not significant. Therefore no existing businesses in California would be materially hurt based on those changes.

The expansion of businesses currently doing business within the State of California

The California Library Services Act regulations govern the process of the California Library Services Board and the implementation of the programs they oversee. Funds allocated to the remaining library program (communication, delivery, and resource sharing) are used to contract with existing information resources related businesses and the changes to the regulations can allow for expanded program options. However, even if some Cooperative Library Systems choose to allocate funds to different services because of those changes, the amount of overall funding is so small that it would not allow for business expansion.

Benefits of the Regulations to the health and welfare of California residents, worker safety, and the State's environment

The California Library Services Act regulations govern the process of the California Library Services Board and the implementation of the programs they oversee. The proposed amendments simply clean-up the existing regulatory language, conform to changes in statute, and clarify allowable program costs. The amendments could have a slight benefit to the welfare of those California residents who use and benefit from expanded services but there is no guarantee that services will change or who and how many patrons will use the service if there is a change as the kinds of services that can be provided must still fit within "communication, delivery and resource sharing". These regulations are specific to certain library services and have no impact on California resident health, worker safety, or the environment.

EVIDENCE SUPPORTING NO ADVERSE ECONOMIC IMPACT

These regulatory changes are amendments to existing California Library Services Act regulations governing the process of the California Library Services Board and the implementation of the programs they oversee. During the process of drafting the amendments California State Library staff analyzing the current regulatory language as well as looking at the changes to the Education code sections 18700-18767 (enacted by AB 1602, 2016 Statutes), and the requirements of the Bagley-Keen Open Meeting statutes (Government Code sections 11120-11131).

The California State Library solicited input from the California Cooperative Library Systems (Systems) on how the changes were perceived and the potential impacts. The State Library held a stakeholder meeting with representatives from the Systems to discuss the language changes and provided advanced opportunities for members of the public and the library community to express their opinion of the perceived impact of the regulatory amendments on the Systems and the public library community.

These discussions did lead to one change within the State Library's original draft language being discarded due to a widespread belief by the library community that it would have an adverse economic impact on the Cooperative Library Systems and public libraries in California, specifically the smaller and more economically disadvantaged library districts. The library community in California saw no economic impacts from the rest of the language changes with a chance of positive programmatic impacts from the clarified requirements.

State Library staff also analyzed past *Plans of Service* and *Annual Reports* for the California Library Cooperative Systems which detail the over-all budgets, what programs are being provided, and how much is being spent on each program. This analysis was done to determine, realistically, how much was being allocated toward

contracts with individual companies and how likely it was that a change in contract would have an adverse impact on the companies involved.

The overall funding for the California Library Services Act is \$3.63 million allocated to the communication, delivery, and resource sharing program. These funds are divided up amongst the nine Cooperative Library Systems (Systems) based on the distances between the libraries in their service area and the populations they serve. The amounts received by the Systems range from around \$150,000 to almost \$820,000. On average 20% of the funds received by a system are used for internal administrative costs.

Most of the Systems use at least some of the money to finance the physical delivery of materials between System member libraries through the use of vans or payment for shipping costs. These delivery amounts can vary from 80% of the overall funding the System receives to 10%. An analysis of the services being provided shows that each System is providing between two and nine separate services based on the size of the System and how much money it receives, including internal library programs like digital labs being shared among the libraries belonging to that System or subscriptions for eBooks for all the libraries in the System.

The services that would require contracting with outside businesses are the provision of eBook collections. These collections are provided by contracting with eBook publishers and providers such as Overdrive, Zinio, and Hoopla. An analysis of the Cooperative Library Systems' reports showed that all of the providers they are contracting with are large, well established companies that provide services to libraries, schools, and other organizations around California and in some cases nation and worldwide. The companies that the Cooperative library systems are working with have enough business to make it unlikely that they are dependent on any of the Cooperative Library Systems contracts to maintain their business. Especially considering the small amount of funding the Cooperative Library Systems actually have available for these contracts based on overall allocations, subtraction of administrative costs, expenditure of funds on physical delivery, and the division of remaining funds over several services and programs.

Based on this information the California State Library determined that, even if expansion of program language in the regulations did lead to changes in the kinds of services libraries were contracting for, it would not have a significant adverse economic impact on businesses in California.