

**NOTICE OF PROPOSED RULEMAKING  
TITLE 2, DIVISION 10: CALIFORNIA CODE OF REGULATIONS  
ADOPT SECTIONS 61100 TO 61140, INCLUSIVE,  
REGARDING HIGH RISK LOCAL GOVERNMENT AGENCY AUDIT PROGRAM**

**NATURE OF PROCEEDING**

NOTICE IS HEREBY GIVEN that the California State Auditor (State Auditor or office, as appropriate) is proposing to adopt the following sections in title 2, division 10 of the California Code of Regulations: 61100 to 61140.

A public hearing has been scheduled for April 13, 2015. The hearing will be held at the California State Auditor's Office located at 621 Capitol Mall, Suite 1200, Sacramento, California, beginning at 10 a.m. and ending at 12 noon.

Notice is also given that any interested person or his or her duly authorized representative may submit written comments relevant to the proposed regulations to:

Patti Alverson  
California State Auditor's Office  
Office of Legal Services  
621 Capitol Mall, Suite 1200  
Sacramento, CA 95814  
E-mail: PattiA@auditor.ca.gov

All written comments must be received by the office no later than April 13, 2015, the final day of the written comment period, in order for the comments to be considered by the State Auditor.

Following the written comment period, the State Auditor may adopt the proposed regulations substantially as described in this notice. If modifications are made that are sufficiently related to the originally proposed text, the full modified text with changes clearly indicated shall be made available to the public for at least 15 days prior to the date on which the State Auditor adopts the resulting regulations. A request for copies of any modified regulations should be made to the contact person named above. The State Auditor will accept written comments on any modified regulations for 15 days after the date on which they are first made available to the public.

**AUTHORITY AND REFERENCE**

Pursuant to the authority vested in it by Government Code section 8546, and to implement, interpret, or make more specific Government Code section 8546.10, the office proposes to adopt the regulations identified under the heading Nature of Proceeding above.

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Government Code section 8546.10 (as added by Assem. Bill No. 187 (2011-2012 Reg. Sess.), Stats. 2011, ch. 451, as subsequently amended by Stats. 2012, ch. 281) contains provisions that do the following:

- Authorize the State Auditor to establish a high risk local government agency audit program for the purpose of identifying, auditing, and issuing reports on any local government agency, including, but not limited to, any city, county, special district, or other publicly-created entity, whether created by the California Constitution or otherwise, that the State Auditor identifies as being at high risk for the potential of waste, fraud, abuse, or mismanagement or that has major challenges associated with its economy, efficiency, or effectiveness.
- Authorize the State Auditor, in addition to identifying a local government agency as high risk on the basis of weaknesses identified in audit or investigative reports produced by the State Auditor, to consult with the State Controller, Attorney General, and other state agencies that have oversight responsibilities over any local government agency for the purpose of identifying local governments that are at high risk.
- Require the office of the State Auditor to be responsible for the state costs associated with the high risk local government agency audit program, to conduct the program as funds permit, and to conduct the program only to the extent that doing so does not interfere with duties related to mandated audits and requests from the Joint Legislative Audit Committee.
- Require the State Auditor to notify the Joint Legislative Audit Committee whenever he or she identifies a local government as being at high risk.
- Require the State Auditor to provide the Joint Legislative Audit Committee, at a public hearing of the committee, an annual update of all audits in progress.
- Require the State Auditor, if a local government agency has taken significant corrective measures for deficiencies identified by the State Auditor, to be removed from the high risk local government agency program.
- Require the State Auditor, notwithstanding other general requirements in law regarding the frequency of issuing government reports if the State Auditor establishes the high risk local government agency audit program, to issue audit reports at least once every two years with recommendations for improvements in the local government(s) identified.
- Require that audits conducted under Government Code section 8546.10 be approved by the Joint Legislative Audit Committee.

### **Proposed Regulations**

Government Code section 8546.10 does not prescribe the specific criteria that will be used by the State Auditor to identify a local government as being at high risk. To implement Government Code section 8546.10 in a manner that furthers the intent of the California Legislature and that informs local governments and the general public regarding how a high risk local government agency audit program will operate, the proposed regulations will relate to the following subject areas:

- The definition of key terms, including the criteria and process that will be used to identify a local government agency as being at “high risk.”
- The manner in which the State Auditor will notify the Joint Legislative Audit Committee of a determination that a local government agency is at high risk.
- The requirements that will generally apply to all high risk local government audits, including how a local government may respond to audit recommendations made by the State Auditor.
- The manner in which a local government that has been designated as being at high risk will be removed from the high risk local government agency audit program.

### **LOCAL MANDATE**

This proposal does not impose a mandate on local agencies or school districts.

### **FISCAL IMPACT ESTIMATES**

This proposal does not impose costs on any local agency or school district for which reimbursement would be required pursuant to part 7 (commencing with § 17500) of division 4 of the Government Code. This proposal does not impose other nondiscretionary costs or savings on local agencies. This proposal does not result in any costs or savings in federal funding to the State.

### **EFFECT ON HOUSING COSTS**

None.

### **COST OR SAVINGS TO STATE AGENCIES**

No additional costs or savings to state agencies are anticipated.

### **ECONOMIC IMPACT AFFECTING BUSINESS**

The State Auditor has made an initial determination that this proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The proposal does not affect small businesses as defined by Government Code section 11342.610.

### **ECONOMIC IMPACT ASSESSMENT**

The State Auditor has made an initial determination that this proposed regulatory action 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.

### **COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS**

The State Auditor is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

## **IMPACT ON SMALL BUSINESS**

The determination that this proposal would not affect small business is based upon the fact that the proposed regulations implement provisions of Government Code section 8546.10 that addresses this issue of high-risk local government agencies. Based on the limited scope of these regulations, the State Auditor determined that none of the proposed regulations have a significant adverse economic impact on business.

## **PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS**

The State Auditor conducted pre-rulemaking meetings with interested persons at the following dates and locations:

- July 14, 2014 (1400 K Street, Sacramento, California)—Daniel Carrigg, Legislative Director, League of California Cities.
- July 23, 2014 (1112 I Street, Sacramento, California)—Kyle Packham, Advocacy and Public Affairs Director, and Dorothy Holzem, Legislative Representative, California Special Districts Association.
- July 24, 2014 (1100 K Street, Sacramento, California)—Matt Cate, Executive Director, and Jean Hurst, Legislative Representative, California State Association of Counties.
- August 18, 2014 (1112 I Street, Sacramento, California)—Kyle Packham, Advocacy and Public Affairs Director, and Dorothy Holzem, Legislative Representative, California Special Districts Association; and numerous other representatives from special districts.
- October 1, 2014 (621 Capitol Mall, Sacramento, California)—Jean Hurst, Legislative Representative, and Jennifer Henning, Executive Director of the Litigation Coordination Program, California State Association of Counties; and numerous representatives from California counties.
- December 18, 2014 (621 Capitol Mall, Sacramento, California)—Daniel Carrigg, Legislative Director, and Michael Coleman, Fiscal Policy Advisor, League of California Cities.

## **ALTERNATIVES CONSIDERED**

The State Auditor has determined that no reasonable alternative considered by the State Auditor or that has otherwise been identified and brought to the attention of the State Auditor 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 proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

**CONTACT PERSON**

Inquiries relating to this proposed action and written comments may be directed to:

Patti Alverson  
California State Auditor's Office  
621 Capitol Mall, Suite 1200  
Sacramento, CA 95814  
Telephone: (916) 445-0255  
Fax: (916) 323-0913  
E-mail: PattiA@auditor.ca.gov

**AVAILABILITY OF INITIAL STATEMENT OF REASONS AND INFORMATION**

The State Auditor has prepared an initial statement of reasons for the proposed action and has available all the information upon which the proposal is based, including the express terms. The rulemaking file is available for public inspection by making a request to the contact person listed above.

**TEXT OF PROPOSAL**

Copies of the exact language of the proposed regulations may be obtained by making a request to the contact person listed above. These proposed regulations may also be viewed and downloaded from the State Auditor's Web site at [www.auditor.ca.gov](http://www.auditor.ca.gov).

If there are substantial changes to the originally proposed regulations, these change(s) will be available for 15 days prior to adoption by the State Auditor. You will be able to obtain a copy of the change(s) by making a written request to the contact person listed above.

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

The express terms, the final statement of reasons, and all the information upon which the proposed regulations are based will be contained in the final rulemaking file located at 621 Capitol Mall, Suite 1200, Sacramento, California 95814. The final rulemaking file will be available for public inspection by making a request to the contact person listed above. 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 listed herein.

**WEB SITE ACCESS**

Materials regarding this proposal can be found at [www.auditor.ca.gov](http://www.auditor.ca.gov).