

MINUTE ITEM

This Calendar Item No. 42
was approved as Minute Item
No. 42 by the State Lands
Commission by a vote of 3
to 0 at its 12/17/81
meeting.

CALENDAR ITEM

42

12/17/81
W 22649.4
Horn
Blazak
Frey

REVIEW AND MODIFICATION OF
REGULATIONS IN TITLE 2, DIVISION 3,
CHAPTER 1, ARTICLE 1.5, 7 and 8

Pursuant to the Commission's authorization of January 25, 1981, (Minute Item 38) and in compliance with AB 1111 (Government Code Section 11340, et seq.) staff has conducted a review of the Commission's concerning meeting notice, cessions and retrocessions, Article 1.5, 7 and 8.

Notice of the proposed changes was published in the Notice Register on October 21, 1981 and the Sacramento Union at the same time. The notice was also mailed to persons who had expressed interest in these regulations. A public hearing was held in Sacramento on December 8, 1981.

The purpose of these hearings was to provide the public with ample opportunity to make statements or arguments, both oral and written, regarding the proposed changes. No persons appeared at the public hearings to offer comments on the proposed changes to the regulations.

Staff has prepared a Final Statement of Reasons supporting the regulations which statement will be submitted to the Office of Administrative Law along with orders modifying the regulations.

Based upon the materials contained in the rule making file, together with comments received during the review/hearing process, staff believes that the regulations proposed herein for adoption meet the statutory requirements of "necessity", "authority", "clarity", "consistency", and "reference".

AB 884: N/A.

EXHIBIT: A. Proposed changes to Title 2, Division 3, Chapter 1, Articles 1.5, 7 and 8.

IT IS RECOMMENDED THAT THE COMMISSION:

1. DETERMINE THAT THERE HAS BEEN COMPLIANCE WITH GOVERNMENT CODE SECTIONS 11346.4 (PUBLICATION AND NOTICE) AND 11349.7 (REVIEW) FOR THE PURPOSE OF MODIFYING ITS REGULATIONS IN TITLE 2, DIVISION 3, CHAPTER 1.

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2. DETERMINE THAT THERE ARE NO STATE-MANDATED COSTS OR SAVINGS TO ANY STATE AGENCIES OR LOCAL AGENCIES OR SCHOOL DISTRICTS IN THESE REGULATIONS THAT REQUIRES REIMBURSEMENT UNDER SECTION 2231 OF THE REVENUE AND TAXATION CODE IN THAT COMPLIANCE WITH THESE REGULATIONS BY THE UNITED STATES GOVERNMENT IS OPTIONAL.
3. APPROVE AND ADOPT FOR FILING WITH THE OFFICE OF ADMINISTRATIVE LAW THOSE CHANGES TO ITS ADMINISTRATIVE REGULATIONS SUBSTANTIALLY AS SET FORTH IN EXHIBIT "A" ATTACHED HERETO AND BY REFERENCE MADE A PART HEREOF.
4. DELEGATE AUTHORITY TO THE EXECUTIVE OFFICER TO MAKE MINOR NON-SUBSTANTIVE CHANGES TO THE PROPOSED REGULATIONS AS SUCH MAY BE REQUIRED BY THE OFFICE OF ADMINISTRATIVE LAW.
5. AUTHORIZE STAFF TO TAKE ALL OTHER STEPS AS MAY BE REQUIRED TO GIVE EFFECT TO THESE DETERMINATIONS AND APPROVALS.

EXHIBIT "A"

Repeal Article 7

W 22649

Adopt new Article to read:

Article 7. Procedures Under Section 126 Government Code

2600. COSTS: A contract to reimburse the Commission for costs associated with the cession shall be executed by the United States and the Commission prior to publication of notice of hearing.

Authority: Government Code 126

Reference: Government Code 126

2601 NOTICE: Not more than 30 and not less than 15 days before the hearing, a notice of hearing shall be published one time in a newspaper of general circulation in the area in which the subject land is located. Not less than 10 days before the hearing, personal service shall be made on the clerk of the county board of supervisors and the city council if appropriate. Affidavit of publication and return of service shall be filed with the Commission before the hearing.

The notice shall be entitled "Notice of Hearing to Determine Cession of Jurisdiction by the United States Over Land Known as _____," The notice shall contain a description of the lands and shall set forth the date, the time and place of the public hearing.

The notice shall recite that the hearing shall be had pursuant to Government Code Section 126, and amendments,

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if any, and shall advise that interested parties may appear personally or through counsel or by letter to present evidence on whether session of jurisdiction is in the best interests of the State.

Authority: Government Code 126

Reference: Government Code 6110

2602 TYPE OF HEARING: The hearing held pursuant to said published notice may be conducted by both oral and written presentations. The hearing may be before the Commission, or a staff member designated by the Commission to conduct the hearing.

Authority: Government Code 126

Reference: Public Resources Code 6110

2603 PROCEDURE ON HEARING ARGUMENT: Unless otherwise ordered by the Commission, the person requesting the hearing shall present material evidence in support of his application. After such person rests, any other interested person may present any material evidence in support of or in opposition to such application. The Commission may, in its discretion, limit cumulative evidence and may refuse or allow argument, and in case of allowance, may limit the same.

Authority: Government Code 126

Reference: Government Code 126

2604 EVIDENCE: Oral evidence shall be taken only on oath or

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affirmation. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. Hearsay evidence may be received upon a showing satisfactory to the Commission of the difficulty of obtaining direct evidence.

Authority: Government Code 126

Reference: Government Code 126

2605 DECISION: After all of the evidence has been received, the Commission shall make its decision at the next regularly scheduled public meeting.

Authority: Government Code 126

Reference: Public Resources Code 6110

2606 EXTENSION OF JURISDICTION: Where concurrent criminal jurisdiction has been granted under Government Code Section 126 for five years, any application for renewal and extension of such jurisdiction shall be considered as a new application.

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The above regulations governing cessions of jurisdiction shall apply in all case.

Authority: Government Code 126

Reference: Government Code 126

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EXHIBIT "A"

Repeal Article 1.5
Repeal Article 8.

W 22649

Adopt new Article to read:

Article 8. PROCEDURES UNDER GOVERNMENT CODE SECTION 113

2700 COSTS: A contract to reimburse the Commission for costs associated with the retrocession shall be executed by the United States and the Commission prior to publication of notice of hearing.

Authority: Government Code 113

Reference: Government Code 113

2701 NOTICE: Not more than thirty (30) and not less than fifteen (15) days before the hearing, a notice of hearing shall be published one time in a newspaper of general circulation in the area in which the subject land is located. Not less than ten (10) days before the hearing, personal service shall be made on the clerk of the county board of supervisors and the city council if appropriate. Affidavit of publication and return of service shall be filed with the Commission before the hearing.

The notice shall be entitled "Notice of Hearing to Determine Retrocession of Jurisdiction by the United States Over Land Known as _____" The notice shall contain a description of the land and shall set forth the date, time,

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and place of the public hearing.

The notice shall recite that the hearing shall be had pursuant to Government Code Section 113, and amendments, if any, and shall advise that interested parties may appear personally or through counsel or by letter to present evidence on whether retrocession of jurisdiction is in the best interest of the State

Authority: Government Code 113

Reference: Government Code 113

2702 TYPE OF HEARING: The hearing held pursuant to said published notice may be conducted by both oral and written presentations. The hearing may be before the Commission, or a staff member designated by the Commission to conduct the hearing.

Authority: Government Code 113

Reference: Public Resources Code 6110

2703. PROCEDURE ON HEARING ARGUMENT: Unless otherwise ordered by the Commission, the person requesting hearing shall present material evidence in support of his application. After such person rests, any other interested person may present any material evidence in support of or in opposition to such application. The Commission may, in its discretion, limit cumulative evidence and may refuse or allow argument, and in case of allowance, may limit the same.

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Authority: Government Code 113

Reference: Government Code 113

2704 EVIDENCE: Oral evidence shall be taken only on oath or affirmation. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. Hearsay evidence may be received upon a showing satisfactory to the Commission of the difficulty of obtaining direct evidence.

Authority: Government Code 112

Reference: Government Code 113

2605 DECISION: After all of the evidence has been received, the Commission shall make its decision at the next regularly scheduled public meeting.

Authority: Government Code 126

Reference: Public Resources Code 6110

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