

DATE: November 17, 2016

**AGENDA ITEM: I**

TO: BSCC Chair and Members

FROM: Magi Work, Deputy Director, [magi.work@bscc.ca.gov](mailto:magi.work@bscc.ca.gov)

SUBJECT: Senate Bill 844, The Financing of Adult Local Criminal Justice Facilities Construction Financing Program, Promulgation of Regulations:  
**Requesting Approval.**

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## Summary

On June 27, 2016, Senate Bill 844 (SB 844) (Statutes of 2016, Chapter 34) became law, authorizing state lease-revenue bond financing for the acquisition, design, and construction of adult local criminal justice facilities. The Board of State and Community Corrections (BSCC) staff worked with the SB 844 Executive Steering Committee (ESC) to make the necessary revisions to Title 15 of the California Code of Regulations to implement SB 844.

This agenda item requests approval of the draft revisions to the regulations (Attachment I-1) and to begin the rulemaking process with the Office of Administrative Law. In addition, this item requests approval to engage in the emergency rulemaking process to expedite the regulatory process and to request staff file a Certificate of Compliance to make permanent the regulations enacted during the time period the emergency regulations are in effect.

## Background

On June 27, 2016, SB 844, became law authorizing \$270 million in state lease-revenue bond financing for the acquisition, design and construction of adult local criminal justice facilities. Of the \$270 million, \$20 million was specifically set aside for the County of Napa to address the damage sustained to the Napa County Jail in 2014. (See Sen. Rules Com., Off. of Sen. Floor Analyses, unfinished business analysis of Sen. Bill No. 844 (2015-2016 Reg. Sess.) as amended June 12, 2016.)

At the September 22, 2015 Board meeting, the Board approved the establishment of an Executive Steering Committee (ESC) for the SB 844 Adult Local Criminal Justice Facilities Construction Program. The Board appointed its member Sheriff Geoff Dean of Ventura County as ESC chair. The Board approved a membership roster for the ESC to develop recommendations for the Request for Proposals and proposal evaluation criteria, to review and rate proposals, make recommendations on regulations revisions, and to make conditional award recommendations to the Board.

SB 844 requires the BSCC to develop regulations that explain the requirements of the legislation, including BSCC's role in administering the \$270 million in construction financing. The SB 844 ESC made recommendations to amend Title 15 of the California Code of Regulations to implement SB 844.

In order to expedite the regulatory process, the BSCC will submit an emergency rulemaking filing with OAL to address the ongoing needs of county jails as well as specifically to address the ongoing, emergency conditions in the Napa County jail caused by the 2014 earthquake.

On August 24, 2014, the largest earthquake since the 1989 Loma Prieta earthquake occurred in the southern Napa Valley. Total damage was estimated up to \$1 billion dollars and the Napa County Jail was severely damaged. The program areas in the jail were severely impacted, public restrooms were closed (and remain closed on several floors), in-person visiting remains unavailable, and 41 inmates continue to reside in Solano County due to the damage at the Napa Jail.

Upon OAL approval of the Emergency Rulemaking, the regulations will be published and temporarily effective for 180 days, during which time the Certificate of Compliance Rulemaking will be filed. During that time, the regular rulemaking process will commence, with the maximum time for review by the OAL set at 30 working days. Following the public comment period, a public hearing may be held in Sacramento. If substantive edits to the regulations are necessary, staff will seek approval of the edited text at the next available Board meeting.

### Recommendation/Action Needed

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1. The Board determine that the proposed regulations are necessary to address an emergency as defined in Government Code section 11342.545.<sup>1</sup>
2. The Board approve the draft regulations and direct staff to begin the adoption of emergency regulations.
3. The Board approve the filing of a Certificate of Compliance with the Office of Administrative Law subsequent to the emergency process, contingent on there being no further substantial edits.

### Attachments

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I-1: Draft of Title 15, Division 1, Chapter 1, Subchapter 6, Construction Financing Program

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<sup>1</sup> Gov. Code, § 11342.545 provides: "Emergency" means a situation that calls for immediate action to avoid serious harm to the public peace, health, safety, or general welfare.