

MINUTE ITEM

27. AMENDMENT TO SECTION 1903, TITLE 2, DIVISION 3, CALIFORNIA ADMINISTRATIVE CODE, RULES AND REGULATIONS OF THE STATE LANDS COMMISSION - W.O. 3284.

After consideration of Calendar Item 35 attached, and upon motion duly made and unanimously carried, the following resolution was adopted:

THE COMMISSION ADOPTS THE FOLLOWING:

IN ACCORDANCE WITH THE PROVISIONS OF THE ADMINISTRATIVE PROCEDURES ACT (GOVERNMENT CODE TITLE 2, DIVISION 3, PART I, CHAPTER 4) AND PURSUANT TO THE AUTHORITY VESTED BY SECTION 6108 OF THE PUBLIC RESOURCES CODE, THE STATE LANDS COMMISSION HEREBY AMENDS AND ADOPTS ITS REGULATIONS IN TITLE 2, CALIFORNIA ADMINISTRATIVE CODE, AS FOLLOWS:

AMENDS SECTION 1903 AS FOLLOWS:

1903. FEES AND EXPENSE DEPOSITS

- (a) EACH APPLICATION SHALL BE ACCOMPANIED BY A FILING FEE OF \$5 (EXCEPT IN THE CASE OF A POLITICAL SUBDIVISION OR GOVERNMENTAL AGENCY FROM WHICH NO FILING FEE IS REQUIRED). THIS FEE SHALL NOT BE REFUNDED IF THE APPLICATION IS ACCEPTED AND FILED.
- (b) IN ADDITION TO THIS FILING FEE, AN EXPENSE DEPOSIT SHALL BE MADE IN AN AMOUNT SUFFICIENT TO COVER THE COSTS OF THE COMMISSION IN PROCESSING THE APPLICATION. THIS DEPOSIT SHALL BE IN THE AMOUNTS SPECIFIED IN THE SEPARATE ARTICLES HEREOF. SHOULD SUCH INITIAL EXPENSE DEPOSIT BE INSUFFICIENT TO COVER SAID COSTS THE APPLICANT SHALL DEPOSIT WITH THE COMMISSION WITHIN 20 DAYS FOLLOWING RECEIPT OF WRITTEN NOTICE, SUCH ADDITIONAL SUM AS MAY BE SPECIFIED. FAILURE TO SO DEPOSIT SHALL BE CONSIDERED CAUSE FOR CANCELLATION OF THE APPLICATION.
- (c) ANY UNEXPENDED BALANCE OF THE EXPENSE DEPOSIT SHALL BE REFUNDED TO THE APPLICANT.
- (d) THE ENTIRE EXPENSE DEPOSIT OF THE ORIGINAL APPLICANT SHALL BE REFUNDED WHENEVER HE IS NOT THE SUCCESSFUL BIDDER PURSUANT TO ADVERTISING. COSTS OF PROCESSING THE APPLICATION SHALL BE BORNE BY THE SUCCESSFUL APPLICANT.
- (e) FEES FOR THE FOLLOWING SERVICES PERFORMED BY THE COMMISSION SHALL BE:
 - (a) CERTIFICATES OF PURCHASE OR DUPLICATES THEREOF - \$ 6.00
 - (b) PATENTS AND CERTIFIED COPIES OF RECORDS THEREOF - 10.00
 - (c) FOR CERTIFYING A CONTENTED CASE TO SUPERIOR COURT - 20.00
 - (d) FOR CERTIFYING COPIES OF PAPERS - 1.00
 - (e) FOR OTHER SERVICES PERFORMED, FEES SHALL BE CHARGED BASED ON THE COSTS OF THE SERVICES RENDERED.

THE COMMISSION FINDS THAT AN EMERGENCY EXISTS AND THAT THE FOREGOING REGULATION IS NECESSARY FOR THE IMMEDIATE PRESERVATION OF THE PEACE, HEALTH, SAFETY OR GENERAL WELFARE. A STATEMENT OF FACTS CONSTITUTING SUCH EMERGENCY IS:

ON SEPTEMBER 18, 1959, CHAPTER 1587/59 WILL BECOME EFFECTIVE; SAID CHAPTER AMENDS SECTION 6214 OF THE PUBLIC RESOURCES CODE DELETING THEREFROM THE RATES TO BE CHARGED FOR CERTAIN SERVICES RENDERED BY THE COMMISSION. SAID STATUTE ALSO PROVIDES THAT THE FEES TO BE CHARGED AND COLLECTED BY THE COMMISSION FOR SAID SERVICES SHALL BE ESTABLISHED BY THE COMMISSION'S RULES AND REGULATIONS. THE COMMISSION FINDS THAT THERE IS INSUFFICIENT TIME BETWEEN THE DATE OF THIS ACTION AND THE EFFECTIVE DATE OF THE STATUTE IN WHICH TO ADOPT RULES AND REGULATIONS IN ACCORDANCE WITH THE USUAL PROCEDURES PROVIDED FOR IN THE ADMINISTRATIVE PROCEDURES ACT; FURTHER, THAT UNLESS THE AFORE- STATED REGULATIONS ARE ADOPTED AS AN EMERGENCY MEASURE, THERE WILL BE NO PROVISION, STATUTORY OR BY RULE, FOR THE COLLECTION OF FEES AS IS SET FORTH IN CHAPTER 1587/59; THAT IT IS ESSENTIAL TO THE GENERAL WELFARE OF THE PEOPLE OF THIS STATE TO CONTINUE TO RECEIVE AND ENJOY THE SERVICES FOR WHICH THE COMMISSION IS REQUIRED TO CHARGE AND COLLECT FEES.

THE SAID REGULATION IS THEREFORE ADOPTED AS AN EMERGENCY REGULATION TO TAKE EFFECT UPON FILING WITH THE SECRETARY OF STATE AS OF SEPTEMBER 18, 1959, AS IS PROVIDED IN SECTION 11422(c) GOVERNMENT CODE.

THE STATUTORY AUTHORITY FOR THESE REGULATIONS IS DIVISION 6 OF THE PUBLIC RESOURCES CODE, INCLUDING THE FOLLOWING SECTIONS THEREOF: 6103, 6105, 6108 AND 6214.

THE EXECUTIVE OFFICER IS AUTHORIZED TO FILE THIS AMENDMENT OF TITLE 2, CALIFORNIA ADMINISTRATIVE CODE, WITH THE SECRETARY OF STATE.

Attachment

Calendar Item 35 (4 pages)

CALENDAR ITEM

35.

AMENDMENT TO SECTION 1903, TITLE 2, DIVISION 3, CALIFORNIA ADMINISTRATIVE CODE, RULES AND REGULATIONS OF THE STATE LANDS COMMISSION - W.O. 3284.

The Commission heretofore authorized the Executive Officer to initiate procedures under the provisions of Section 11420, et seq., Government Code, for the purpose of amending Section 1903 of the Rules and Regulations of the State Lands Commission to provide as set forth below:

"1903 Filing Fees and Expense Deposits

"1903(b) In addition to this filing fee, an expense deposit shall be made in an amount sufficient to cover the costs of the commission in processing the application. This deposit shall be in the amounts specified in the separate articles hereof. Should such initial expense deposit be insufficient to cover said costs, the applicant shall deposit with the commission, upon within 20 days following receipt of written notice, such additional sum as may be specified. Failure to so deposit shall be considered cause for cancellation of the application.

"1903(e) The commission shall establish by resolution, and may from time to time amend fees for the following:

- (a) Certificates of purchase or duplicates thereof,
- (b) Patents and certified copies of records thereof,
- (c) For certifying a contested case to superior court,
- (d) For certifying copies of papers,
- (e) For other services performed."

The purpose of the proposed amendments is:

1903(b) To provide a time limit in which additional sums to cover expenses in connection with land sale transactions shall be deposited.

1903(e) To provide by rule for the fixing of certain fees by Commission resolution.

Subsequent to submission of this latter proposal to the Commission, the office of the Attorney General has advised that a better procedure would be to set the fee rates by rule and regulation.

Chapter 1587/59 (S.B. 575) will become effective September 18, 1959. This statute eliminates the statutory fee rates for services as previously enumerated. Thus, as of September 18, 1959, there will be no provision, by statute or by rule, for the amounts of fees to be collected unless the Commission adopts rules for the interim period.

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The adoption of Rules and Regulations under the normal procedure set forth in Government Code Section 11420, et seq., requires from 100 to 120 days. However, Section 11421(b) provides for the adoption of Rules and Regulations on an emergency basis if such action is necessary for the "immediate preservation of the public peace, health and safety or general welfare".

The Commission will recall that Calendar Item No. 54, meeting of July 30, 1959, suggested the following adjustments should be made in fee rates:

<u>Service</u>	<u>Current Fee</u>	<u>Suggested Fee</u>
Certificates of purchase or duplicates thereof	\$ 3.00	\$ 6.00
Patents and certified copies of records thereof	5.00	10.00
For certifying a contested case to superior court	10.00	20.00
For certifying copies of papers	.50	1.00

Other services, such as the furnishing of status, the furnishing of copies of papers and maps, etc., will be charged for on a cost basis. Provision for the collection of such charges is contained in Section 6218 of the Public Resources Code.

In summary: (1) Chapter 1587/59 requires that "fees shall be charged and collected by the Commission pursuant to its rules and regulations. . ."
(2) the Rules and Regulations proposed for adoption must be adopted on an emergency basis pursuant to Section 11421(b) Government Code if they are to become effective as of the effective date of Chapter 1587/59.

IT IS RECOMMENDED THAT THE COMMISSION ADOPT THE FOLLOWING:

IN ACCORDANCE WITH THE PROVISIONS OF THE ADMINISTRATIVE PROCEDURES ACT (GOVERNMENT CODE TITLE 2, DIVISION 3, PART I, CHAPTER 4) AND PURSUANT TO THE AUTHORITY VESTED BY SECTION 6108 OF THE PUBLIC RESOURCES CODE, THE STATE LANDS COMMISSION HEREBY AMENDS AND ADOPTS ITS REGULATIONS IN TITLE 2, CALIFORNIA ADMINISTRATIVE CODE, AS FOLLOWS:

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SHALL DEPOSIT WITH THE COMMISSION WITHIN 20 DAYS FOLLOWING RECEIPT OF WRITTEN NOTICE, SUCH ADDITIONAL SUM AS MAY BE SPECIFIED. FAILURE TO SO DEPOSIT SHALL BE CONSIDERED CAUSE FOR CANCELLATION OF THE APPLICATION.

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