

M E M O R A N D U M

To: AGENCY SECRETARIES AND DEPARTMENT HEADS Date: November 15, 1989
PERSONNEL MANAGEMENT LIAISONS Reference Code: 89-68
ALL PERSONNEL OFFICERS
ALL DEPARTMENTAL EMPLOYEE RELATIONS OFFICERS
ALL DEPARTMENTAL ACCOUNTING OFFICERS
EXCLUSIVE REPRESENTATIVES
BONA FIDE ASSOCIATIONS

From: Department of Personnel Administration

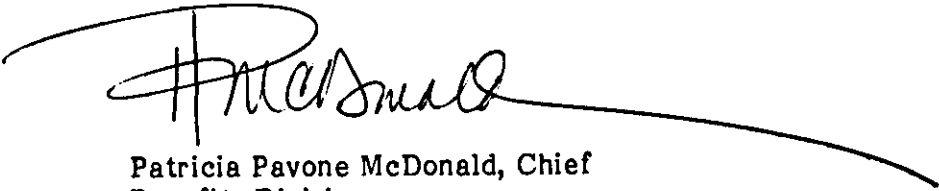
Subject: Revisions to Regulations to be Adopted by the Department of Personnel Administration

The Department of Personnel Administration (DPA) has made the following revision to the proposed changes in the DPA regulations submitted to the Office of Administrative Law.

o Section 599.628. Transportation by Aircraft

One of the original intents of the amendment to this regulation was to change the qualifications for pilots who carry passengers. However, because of departmental objections we are withdrawing this change.

If you have any questions regarding the process of regulation adoption by the DPA, please contact Diane Hachey of my staff at (916) 324-9377, ATSS 454-9377. Any comments regarding the proposed DPA regulations, the attached Public Notice, Amended Statement of Reasons or Proposed Regulations, should be submitted in writing to Ms. Hachey. Copies of the proposed DPA regulations, Public Notice and Statement of Reasons are attached.



Patricia Pavone McDonald, Chief
Benefits Division

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Attachments



PUBLIC NOTICE
THE DEPARTMENT OF PERSONNEL ADMINISTRATION
PROPOSES THE AMENDMENT OF A REGULATION
GOVERNING TRANSPORTATION BY AIRCRAFT
SECTION 599.628 OF THE
DEPARTMENT OF PERSONNEL ADMINISTRATION REGULATIONS

NOTICE OF PUBLIC COMMENT PERIOD

The Department of Personnel Administration (DPA) invites all persons interested in the amendment of Section 599.628 of the DPA Regulations which governs the reimbursement of mileage expenses for privately-owned aircraft and the verification of insurance coverage or to submit written comments related to the proposed regulation. In order for such comments to be considered by the DPA, prior to its amendment of this regulation, must be received no later than December 15, 1989. All written arguments, contentions, statements or other comments on the proposed regulation should be addressed to: Diane Hachey, Department of Personnel Administration, 1515 - "S" Street, North Building, Suite 400, P.O. Box 944234, Sacramento, CA 944234-2340, (916) 324-9377, ATSS 454-9377.

PUBLIC HEARING

On February 7, 1989, the DPA held a public hearing on the proposed regulations, pursuant to the Administrative Procedures Act (California Government Code Section 11346.5). This hearing was held at the request of the California State Employees Association (CSEA).

INFORMATIVE DIGEST

Section 599.628 provides for reimbursement of aircraft mileage expenses, the verification of insurance coverage and details pilot qualification requirements. The proposed amendments would eliminate the requirement that the Insurance Officer, Department of General Services, review proof of liability insurance for licensed private pilots and file the approved authorizations with the State Controller. The proposed amendment delegates the verification of insurance coverage to the appointing powers. The appointing powers will furnish verification of insurance coverage to the State Controller. Originally, it was our intent to eliminate the requirement that licensed private pilots, who carry passengers on official State business, must have logged 250 hours of actual flight time. DPA is withdrawing this change because of departmental opposition.

AUTHORITY TO AMEND REGULATIONS

The DPA proposes to amend this regulation under the authority granted by California Government Code Section 19815.4(d), 19816 and 19820. The purpose of this regulation is to implement, interpret and make specific California Government Code Sections 11030, 11030.5 and 11343.8.

AMENDED STATEMENT OF REASONS AND TEXT OF THE REVISED PROPOSED REGULATIONS

The amended statement of reasons for adopting these regulations has been prepared by the DPA. This statement includes the specific purpose of the regulatory interpretation, requirement or prohibition is necessary. This amended statement of reasons and the revised proposed regulations are attached.

ADOPTION OF PROPOSED REGULATIONS

The text of these regulations, as modified, is being made available to the public at least 15 days prior to the date upon which the agency adopts these regulations. The DPA will accept written comments on these regulations, as modified, for 15 days after the date on which it is made available.

SUBSTANTIAL CHANGES WILL REQUIRE NEW NOTICE AND HEARING

If, after the public comment period DPA intends to adopt this regulation with modifications not sufficiently related to the original text so as to place the public on notice that such modification could result from the originally proposed regulatory action, the modified text will not be adopted without complying anew with the notice and hearing requirements of the Administrative Procedure Act.

REGULATION MAKING FILE

Pursuant to California Government Code Section 11347.3, the DPA is maintaining a regulation making file. The file currently contains:

1. A copy of the proposed regulation;
2. A copy of this notice;
3. A copy of the initial statement of reasons for the proposed regulation;
4. A copy of the Federal Aviation Administration Regulations; and
5. A copy of Merit Award Suggestion #100049;
6. A copy of the Office of Insurance and Risk Management's request for the change to Section 599.628;
7. A copy of the original Public Notice;
8. A copy of the revised proposed regulations;
9. A copy of the Request for Public Hearing;
10. A copy of the comments CSEA presented at the public hearing;
11. A copy of the amended Statement of Reasons.
12. Copies of objections from the Department of Forestry and Fire Protection and Department of Fish and Game.
13. A copy of the Department of Rehabilitation's (DR) objection to delegating the responsibility of verification of aircraft insurance to each individual department.
14. A rebuttal letter from the Office of Insurance and Risk Management to DR's objection.

As data and other factual information, studies, reports or written comments are received, they will be added to the regulation making file. The file is available for inspection at the DPA during normal business hours.

SUBMISSION OF COMMENTS: RECEIPT OF DOCUMENTS AND ADDITIONAL INFORMATION

Requests for the initial statement of reasons, written comments and questions concerning the proposed amendment of this regulation should be addressed to: Diane Hachey, Department of Personnel Administration, 1515 S Street, North Building, Suite 400, P.O. Box 944234 Sacramento, CA 94244-2340, (916) 324-9377, ATSS 454-9377.

LOCAL MANDATE

The proposed regulation does not impose any mandate on local agencies or school districts.

FISCAL IMPACT

The proposed regulations impose no new cost or savings to any State agency, no cost to any local agency or school district requiring reimbursement under Part 7 (commencing with Section 17500) of Division 4 of the Government Code, no other nondiscretionary cost or savings to local agencies, and no cost or savings in Federal funding to the State.

The Administrative Procedure Act requires DPA to determine that no alternative considered by DPA would be more effective in carrying out the purpose of the proposed regulatory action or would be as effective and less burdensome to affected private persons than this proposed regulatory action.

SMALL BUSINESS IMPACT

The proposed regulation has no significant adverse economic impact on small business.

PRIVATE PERSONS/BUSINESS IMPACT

The proposed regulation creates no significant cost impact on private persons or business as there are no such persons or businesses directly affected.

HOUSING COSTS

The proposed regulation has no effect on housing costs.

DEPARTMENT OF PERSONNEL ADMINISTRATION
INITIAL STATEMENT OF REASONS
AMENDMENT OF SECTION 599.628 OF THE
DEPARTMENT OF PERSONNEL ADMINISTRATION REGULATIONS
TITLE 2, DIVISION 1, CHAPTER 3

Government Code Section 19820 authorizes the Department of Personnel Administration (DPA) to adopt regulations limiting the amount, time and place expenses and allowances may be paid to officers and employees of the state while traveling on state business. Under this authority, Section 599.628 of the DPA Regulations was adopted to govern the reimbursement of mileage for privately-owned aircraft and to define private employee pilot qualifications and insurance requirements.

At the request of the Office of Insurance and Risk Management, Department of General Services, the DPA proposes to amend Section 599.628 to delegate the verification of liability insurance to the appropriate appointing powers because it is not cost effective to continue to have that office review insurance certificates. Under this regulation, verification of liability insurance coverage would be delegated to the appointing powers. The verification procedure will be consistent with the certification process required for all employees who are allowed to use personal vehicles on state business. The Office of Insurance and Risk Management believes that the delegation will adequately meet their risk management needs for the operation of privately-owned aircraft on State business.

The contents of subsection (e) have been moved to subsection (b) (1) for uniformity. This is an editorial change.

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599.628. Transportation by Aircraft

(a) **Scheduled Airline.** Claims for transportation by scheduled airline shall be allowed at the lowest fare available in conformity with the regular published tariffs for scheduled airlines in effect on the date the flight originated. Claims for reimbursement of higher fares or extra charges for transportation by scheduled airline may be allowed if accompanied by a full explanation stating the facts constituting the official necessity.

(b) **Privately-Owned Aircraft.** A claim of an employee for transportation by privately-owned aircraft shall be allowed where he/she has obtained prior approval of the use of this form of transportation from his/her department. If an employee is to act as pilot, he/she must ~~satisfy the requirements of the Insurance Officer, Department of General Services, as to liability insurance coverage. The Insurance Officer shall file approved authorizations for such allowance with the State Controller,~~ possess a valid private pilot's license issued by the U. S. Department of Transportation, Federal Aviation Administration. The employee pilot must certify to the appointing power that he/she has insurance with the following minimum limits: \$100,000 bodily injury liability for each person, \$500,000 for each occurrence and \$100,000 for property damage for each occurrence, or \$500,000 combined single unit. If the employee pilot is approved to carry passengers, he/she must provide evidence of \$100,000 passenger bodily injury liability insurance for each person. The appointing power shall file approved authorizations with the State Controller.

(1) ~~Except as provided in subsection (c),~~ Reimbursement for use of the a represented employee's privately-owned aircraft shall be made at the rate of 28 cents per statute mile, or in accordance with the applicable provisions of a Memorandum of Understanding. Reimbursement for the use of a nonrepresented employee's privately-owned aircraft shall be made at the rate of 50¢ per statute mile.

(A) Distance shall be computed on the basis of shortest air route from origin to destination, using airways whenever possible. Distance shown on claim shall be clearly marked "Air Distance".

(B) When the trip is limited solely to state business and the "Air Distance" cannot accurately be computed from origin to destination, the department director may authorize reimbursement for the actual cost of renting a plane.

(2) Reimbursement for use of a rented aircraft will be for actual and necessary costs of such rental when substantiated by voucher.

(A) Reimbursement will be authorized only for the size and type aircraft necessary to complete the assignment.

(3) When substantiated by a voucher, reimbursement will be made for actual and necessary expenses for landing and parking fees in connection with the use of the aircraft. Reimbursement will not be allowed for storage or parking fees at the location where the privately-owned aircraft is normally stored.

(4) If an employee is to act as pilot and carry passengers he/she must, in addition to Federal Aviation Administration Regulations, have previously logged as a licensed private pilot in command of an aircraft at least 250 hours of actual flight. In addition, the employee pilot must have logged, as a pilot in command of an aircraft, at least 40 hours of actual flight within the preceding 12 months. Any employee pilot who has carried or intends to carry passengers may be required to present his/her log book substantiating that he/she meets the requirements. Passenger shall be defined as any person other than the pilot traveling in the aircraft. An employee pilot who carries a passenger but fails to meet the above qualifications shall not be reimbursed for transportation expense.

(c) Payment of Fare. Payment for transportation by aircraft may be made by (1) cash, (2) credit card, or (3) ticket order. When payment is made by cash, the travel expense claim must be accompanied by the traveler's flight coupon, in accordance with Section 599.625(a) (1). If no flight coupon was issued, as may be the case with chartered or private aircraft, a formal receipt must be submitted. If payment was made by credit card or by ticket order, this should be noted on the travel expense claim.

(d) Air Travel Insurance. Any state agency may insure its officers and employees against injury or death arising from aircraft accidents incurred while flying on state business in other than regularly scheduled passenger aircraft, subject to the following conditions:

(1) Insurance shall be provided only to those employees who are directed to fly to fulfill their work requirements. Insurance coverage shall not be provided when the use of a privately-owned aircraft is for point-to-point transportation and is a voluntary response from the employee, even though such use may be advantageous to the State.

(2) Application for insurance shall be submitted to, and the insurance procured by, the Department of General Services.

(3) Except as provided in subsection (4) below, the maximum limit of such insurance shall be \$15,000 in the case of death or dismemberment for each officer and employee.

(4) For nonrepresented employees, as defined in Section 599.619, the maximum limit for air travel insurance shall be \$50,000 in the case of death or dismemberment for each officer and employee.

(e) For nonrepresented employees reimbursement for use of the employee's privately-owned aircraft shall be made at the rate of 50 cents per statute mile.

NOTE: Authority cited: Sections 3517.8, 19815.4(d), 19816 and 19820, Government Code. Reference: Sections 11030, 11030.5 and 11343.8 Government Code.

HISTORY:

1. New section filed 2-9-84 (corrected copy refiled 2-27-84); effective thirtieth day thereafter (Register 84, No. 8).

2. Editorial correction of HISTORY NOTES printed in error in Register 84, Nos. 8 and 12 (Register 84, No. 15).

3. Amendment filed by the Department of Personnel Administration with the Secretary of State on 8-20-84; effective upon filing. Submitted to OAL for printing only pursuant to Government Code Section 11343.8 (Register 85, No. 18).

4. Amendment of subsection (e) filed by the Department of Personnel Administration with the Secretary of State on 7-8-87; operative on 7-8-87. Submitted to OAL for printing only pursuant to Government Code Section 11343.8 (Register 87, No. 32).