
Introduced by Senator Morrow

February 22, 2001

An act to amend Sections 11340.85 and 11342.595 of, and to repeal Section 11340.8 of, the Government Code, relating to administrative procedures.

LEGISLATIVE COUNSEL'S DIGEST

SB 561, as introduced, Morrow. Administrative Procedure Act.

(1) Existing law requires each state agency that proposes regulations pursuant to the administrative rulemaking provisions of the Administrative Procedure Act to post specified information regarding the proposed regulation on its website. Existing law also requires an agency that maintains an Internet website or other similar forum to publish specified materials on the website or other forum.

This bill would consolidate these provisions and make technical changes.

(2) Existing law defines the term "proposed action" for the purposes of the administrative rulemaking provisions of the act.

This bill would make a technical change to that definition.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 11340.8 of the Government Code is
2 repealed.
3 ~~11340.8. In order to make the regulatory process more user~~
4 ~~friendly and to improve communication between affected~~
5 ~~businesses and the regulatory agencies, each state agency that~~

~~proposes regulations pursuant to this chapter shall do all of the following:~~

~~(a) Accept comments from interested parties by facsimile and electronic mail.~~

~~(b) Post on its Internet website, if the agency has an Internet website, information regarding the proposed regulation or proposed regulatory repeal or amendment that includes, but is not limited to, all of the following:~~

~~(1) Notice of the proposed action.~~

~~(2) Initial statement of reasons for the regulation or proposed repeal or amendment.~~

~~(3) Text of the proposed regulation or proposed amendment to the regulation or instructions on how to obtain the text.~~

~~(4) Final statement of reasons.~~

~~(5) If applicable, a dated notice of the intent of the agency to discontinue the proposed action.~~

~~(6) The office's decisions on the regulation, proposed regulation, or proposed amendment or repeal of a regulation.~~

~~(7) The date the regulation was filed with the Secretary of State.~~

~~(8) The effective date of the regulation.~~

~~(9) A statement to the effect that a business or person submitting a comment to a proposed regulation or proposed amendment or repeal of a regulation has the right to request a copy of the final statement of reasons.~~

~~(c) Publication under subdivision (b) supplements any other required form of publication or distribution. The failure to comply with this section is not grounds for disapproval of a proposed regulation. Subdivision (b) does not require an agency to establish or maintain a website or other forum for the electronic publication or distribution of written material.~~

SEC. 2. Section 11340.85 of the Government Code is amended to read:

11340.85. (a) As used in this section, "electronic communication" includes electronic transmission of written or graphical material by electronic mail, facsimile, or other means, but does not include voice communication.

(b) Notwithstanding any other provision of this chapter that refers to mailing or to oral or written communication:

1 (1) An agency may permit and encourage use of electronic
2 communication, but may not require use of electronic
3 communication.

4 (2) An agency may publish or distribute a document required
5 by this chapter or by a regulation implementing this chapter by
6 means of electronic communication, but shall not make that the
7 exclusive means by which the document is published or
8 distributed.

9 (3) A notice required or authorized by this chapter or by a
10 regulation implementing this chapter may be delivered to a person
11 by means of electronic communication if the person has expressly
12 indicated a willingness to receive the notice by means of electronic
13 communication.

14 (4) A comment ~~or petition~~ regarding a regulation may be
15 delivered to an agency by means of electronic communication.

16 (5) *A petition regarding a regulation may be delivered to an*
17 *agency by means of electronic communication* if the agency has
18 expressly indicated a willingness to receive a ~~comment or~~ petition
19 by means of electronic communication.

20 (c) An agency that maintains an Internet website or other
21 similar forum for the electronic publication or distribution of
22 written material shall publish the following materials on that
23 website or other forum:

24 (1) Any public notice required by this chapter or by a regulation
25 implementing this chapter. For the purposes of this paragraph,
26 “public notice” means a notice that is required to be given by an
27 agency to persons who have requested notice of the agency’s
28 regulatory actions.

29 (2) The initial statement of reasons prepared pursuant to
30 subdivision (b) of Section 11346.2.

31 (3) The final statement of reasons prepared pursuant to
32 subdivision (a) of Section 11346.9.

33 (4) Notice of a decision not to proceed prepared pursuant to
34 Section 11347.

35 (5) The text of a proposed regulation or instructions on how to
36 obtain a copy of the text.

37 (6) *A statement of any decision made by the office regarding a*
38 *proposed action.*

39 (7) *The date a rulemaking action is filed with the Secretary of*
40 *State.*

1 (8) *The effective date of a rulemaking action.*

2 (9) *A statement to the effect that a business or person*
3 *submitting a comment regarding a proposed action has the right*
4 *to request a copy of the final statement of reasons.*

5 (d) Publication under subdivision (c) supplements any other
6 required form of publication or distribution. Failure to comply
7 with ~~subdivision (c)~~ *this section* is not grounds for disapproval of
8 a proposed regulation. Subdivision (c) does not require an agency
9 to establish or maintain a website or other forum for the electronic
10 publication or distribution of written material.

11 (e) Nothing in this section precludes the office from requiring
12 that the material submitted to the office for publication in the
13 California Code of Regulations or the California Regulatory
14 Notice Register be submitted in electronic form.

15 (f) *This section is intended to make the regulatory process more*
16 *user-friendly and to improve communication between interested*
17 *parties and the regulatory agencies.*

18 SEC. 3. Section 11342.595 of the Government Code is
19 amended to read:

20 11342.595. “Proposed action” means the regulatory action,
21 *notice of which is* submitted to the office for publication in the
22 California Regulatory Notice Register.

