

AMENDED IN SENATE APRIL 30, 2001

SENATE BILL

No. 561

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 amended, 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 *and revise* 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2 repealed.

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

3 11340.85. (a) As used in this section, “electronic
4 communication” includes electronic transmission of written or
5 graphical material by electronic mail, facsimile, or other means,
6 but does not include voice communication.

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

9 (1) An agency may permit and encourage use of electronic
10 communication, but may not require use of electronic
11 communication.

12 (2) An agency may publish or distribute a document required
13 by this chapter or by a regulation implementing this chapter by
14 means of electronic communication, but shall not make that the
15 exclusive means by which the document is published or
16 distributed.

17 (3) A notice required or authorized by this chapter or by a
18 regulation implementing this chapter may be delivered to a person
19 by means of electronic communication if the person has expressly
20 indicated a willingness to receive the notice by means of electronic
21 communication.

22 (4) A comment regarding a regulation may be delivered to an
23 agency by means of electronic communication.

24 (5) A petition regarding a regulation may be delivered to an
25 agency by means of electronic communication if the agency has
26 expressly indicated a willingness to receive a petition by means of
27 electronic communication.

28 (c) An agency that maintains an Internet website or other
29 similar forum for the electronic publication or distribution of
30 written material shall publish ~~the following materials~~ on that
31 website or other forum *information regarding a proposed*
32 *regulation or regulatory repeal or amendment, that includes, but*
33 *is not limited to, the following:*

34 (1) Any public notice required by this chapter or by a regulation
35 implementing this chapter. ~~For the purposes of this paragraph,~~
36 ~~“public notice” means a notice that is required to be given by an~~
37 ~~agency to persons who have requested notice of the agency’s~~
38 ~~regulatory actions.~~

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

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

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

5 (5) The text of a proposed ~~regulation~~ *action* or instructions on
6 how to obtain a copy of the text.

7 (6) A statement of any decision made by the office regarding
8 a proposed action.

9 (7) The date a rulemaking action is filed with the Secretary of
10 State.

11 (8) The effective date of a rulemaking action.

12 (9) A statement to the effect that a business or person
13 submitting a comment regarding a proposed action has the right to
14 request a copy of the final statement of reasons.

15 (d) Publication under subdivision (c) supplements any other
16 required form of publication or distribution. Failure to comply
17 with this section is not grounds for disapproval of a proposed
18 regulation. Subdivision (c) does not require an agency to establish
19 or maintain a website or other forum for the electronic publication
20 or distribution of written material.

21 (e) Nothing in this section precludes the office from requiring
22 that the material submitted to the office for publication in the
23 California Code of Regulations or the California Regulatory
24 Notice Register be submitted in electronic form.

25 (f) This section is intended to make the regulatory process more
26 user-friendly and to improve communication between interested
27 parties and the regulatory agencies.

28 SEC. 3. Section 11342.595 of the Government Code is
29 amended to read:

30 11342.595. “Proposed action” means the regulatory action,
31 notice of which is submitted to the office for publication in the
32 California Regulatory Notice Register.