

AMENDED IN SENATE AUGUST 4, 2008

SENATE BILL

No. 1292

Introduced by Senator Dutton

February 19, 2008

~~An act to amend Section 79403.5 of the Water Code, relating to the San Francisco/Sacramento-San Joaquin Delta Estuary. An act to add Section 11346.6 to the Government Code, relating to administrative procedure, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1292, as amended, Dutton. ~~California Bay-Delta Program. Administrative procedure: State Air Resources Board.~~

The Administrative Procedure Act sets forth the procedures and requirements a state agency is required to follow when adopting, amending, or repealing an administrative regulation. The act generally requires a state agency proposing to adopt, amend, or repeal any administrative regulation to assess the potential for adverse economic impact on California business enterprises and individuals, avoiding the imposition of unnecessary or unreasonable regulations or reporting, recordkeeping, or compliance requirements.

Existing law requires the State Air Resources Board, among other things, to adopt rules and regulations in an open public process to achieve the maximum technologically feasible and cost-effective greenhouse gas emission reductions, and emission standards for motor vehicles.

This bill would require the Office of Administrative Law to analyze any major regulation, as defined, proposed by the board, to determine if the regulation is cost effective and technologically feasible.

This bill would declare that it is to take effect immediately as an urgency statute.

~~Existing law, the California Bay-Delta Authority Act, establishes in the Resources Agency the California Bay-Delta Authority, consisting of representatives from 6 state agencies and 6 federal agencies if those federal agencies are authorized to participate, 7 public members, one member of the Bay-Delta Public Advisory Committee, and 4 nonvoting, ex officio Members of the Legislature. The authority and the implementing agencies are required to carry out the programs, projects, and activities necessary to implement the California Bay-Delta Program, defined to mean those projects, programs, commitments and other actions that address the goals and objectives of the CALFED Bay-Delta Program Record of Decision, dated August 28, 2000, or as it may be amended.~~

~~This bill would make technical, nonsubstantive changes to the provision of law requiring the authority and implementing agencies to carry out necessary programs, projects, and activities.~~

~~Vote: majority^{2/3}. 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 11346.6 is added to the Government Code,
2 to read:

3 11346.6. (a) The office shall analyze any major regulation
4 proposed by the State Air Resources Board, to determine if the
5 regulation is cost effective and technologically feasible.

6 (b) (1) The State Air Resources Board shall submit the major
7 regulation to the office immediately upon the completion of its
8 final staff report on the proposal.

9 (2) The office shall prepare and submit its analysis pursuant to
10 this section to the State Air Resources Board within 60 days of the
11 date of receipt of the final staff report.

12 (c) The analysis shall include, but is not limited to, all of the
13 following:

14 (1) The estimated costs of compliance by the regulated
15 community with the standards in the proposed regulation, including
16 lost productivity and opportunity costs.

17 (2) A determination whether the pollution reduction assumptions
18 are accurate, feasible, and achievable.

1 (3) *The estimated costs of alternative technologies.*

2 (4) *A determination whether the proposed adoption, amendment,*
3 *or repeal is technologically feasible.*

4 (5) *A determination whether any identified alternative*
5 *technologies are technologically feasible.*

6 (d) *The State Air Resources Board shall reimburse the office*
7 *for the cost to the office of the analysis, not to exceed 10 percent*
8 *of the total cost of developing the regulation. The State Air*
9 *Resources Board shall include the cost of reimbursement in the*
10 *cost of developing the regulation.*

11 (e) *As used in this section, “major regulation” means any*
12 *proposed adoption, amendment, or repeal of a regulation that will*
13 *have an adverse economic impact of ten million dollars*
14 *(\$10,000,000) or more on the state’s business enterprises or*
15 *citizens, as estimated by the State Air Resources Board.*

16 SEC. 2. *This act is an urgency statute necessary for the*
17 *immediate preservation of the public peace, health, or safety within*
18 *the meaning of Article IV of the Constitution and shall go into*
19 *immediate effect. The facts constituting the necessity are:*

20 *In order to require that every major regulation proposed by the*
21 *State Air Resources Board be reviewed by the Office of*
22 *Administrative Law as soon as possible, thereby ensuring that*
23 *those regulations achieve established pollution goals, are cost*
24 *effective, and are technologically feasible, it is necessary that this*
25 *measure take effect immediately.*

26 SECTION 1. ~~Section 79403.5 of the Water Code is amended~~
27 ~~to read:~~

28 ~~79403.5. (a) The authority and the implementing agencies~~
29 ~~shall carry out the programs, projects, and activities necessary to~~
30 ~~implement the Bay-Delta Program in accordance with Section~~
31 ~~79441. The authority shall coordinate the activities of the~~
32 ~~implementing agencies to promote balanced implementation that~~
33 ~~meets the goals and objectives of the Bay-Delta Program.~~

34 ~~(b) State agencies, whenever feasible, shall carry out their~~
35 ~~authority and responsibilities in a manner that is consistent with~~
36 ~~the goals of the Bay-Delta Program to promote cooperative and~~
37 ~~coordinated actions and programs that result in balanced solutions~~
38 ~~to bay-delta problems.~~

39 ~~(c) Nothing in this division shall be construed to restrict or~~
40 ~~override constitutional, statutory, regulatory, or adjudicatory~~

1 authority or public trust responsibilities of any federally recognized
2 Indian tribe, or any local, state, or federal agency, or to restrict or
3 override authority or responsibility of state, federal, or local water
4 project operations under applicable law and contracts. This division
5 does not abrogate or modify state laws with respect to
6 responsibilities to the State Water Project bondholders and shall
7 be implemented in a manner that is consistent with Sections 10505
8 and 10505.5, Article 3 (commencing with Section 11460) of
9 Chapter 3 of Part 3 of Division 6, and Chapter 1 (commencing
10 with Section 12200) of Part 4.5 of Division 6.

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