

AMENDED IN ASSEMBLY APRIL 14, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2529

Introduced by Assembly Member Fuentes

February 19, 2010

~~An act to add Article 5.5 (commencing with Section 11348.5) to Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code; An act to amend Sections 11343.4 and 11346.5 of, and to add Sections 11346.35 and 11349.35 to, the Government Code, relating to regulations.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2529, as amended, Fuentes. State agencies: regulations: review.

Existing law, the Administrative Procedure Act, governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law. *Under existing law, a regulation that is approved, or deemed approved, by the office shall be filed with the Secretary of State and shall take effect on the 30th day after that filing, except as specified.*

~~This bill would adopt the regulatory philosophy and the principles of regulation, as outlined in Presidential Executive Order 12866, in order to achieve the same regulatory benefits within the state. This bill would require the Department of Finance to assist state agencies with the review of new and existing regulations for compliance and consistency with these requirements, and to review analyses performed by agencies in promulgating new regulations or in reviewing existing regulations.~~

~~This bill would require an agency to annually provide to the department a list of its planned regulatory actions for that year, as specified, and indicate the actions which the agency believes are~~

~~significant regulatory actions, as defined. This bill would require an agency, for each significant regulatory action, to submit prescribed information to the director at least 30 days prior to issuing a notice of proposed action, as specified. The bill would require the director to review the submitted information, as specified. This bill would require the department, in order to establish a baseline for the determination of the costs and benefits of significant regulatory actions that it reviews, to complete a review of all significant regulatory actions completed by state agencies since January 1, 2004, and summarize the costs and benefits of those actions in a report to be completed prior to July 1, 2011.~~

~~This bill would require the Governor to convene an interagency group with specified duties for the purpose of formulating an effective methodology for performance of the analysis and cost-benefit studies by state agencies, as specified.~~

Existing law establishes the Bureau of State Audits, which is headed by the State Auditor and has specified statutory duties. Existing law establishes the State Audit Fund, which is continuously appropriated for the expenses of the State Auditor.

This bill would require the State Auditor, using information submitted by an agency proposing a regulation, to conduct a cost benefit analysis of the regulation that includes certain determinations, as specified. This bill would require the agency to include this cost benefit analysis in its notice of proposed action for the proposed regulation. To the extent that this bill imposes additional duties on the State Auditor that are funded through a continuously appropriated fund, this bill would make an appropriation.

This bill would require the office, if a proposed regulation is approved or deemed approved, to provide a prescribed notification to specified committees in the Legislature if the State Auditor's cost benefit analysis determines that the regulation has an annual statewide economic cost of more than \$10,000,000 or that the benefits of the regulation do not equal or exceed the costs of the regulation.

This bill would require the specified legislative committees to conduct a public hearing to review each regulation for which it receives a notification from the office and to issue a recommendation as to whether the regulation should be invalidated by statute.

This bill would extend the effective date of a regulation that the office has submitted to the Secretary of State until the 60th day after the filing.

Vote: ~~majority~~^{2/3}. Appropriation: ~~no~~^{yes}. Fiscal committee: yes.
State-mandated local program: no.

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

1 *SECTION 1. Section 11343.4 of the Government Code is*
2 *amended to read:*

3 11343.4. A regulation or an order of repeal required to be filed
4 with the Secretary of State shall become effective on the ~~30th~~ *60th*
5 day after the date of filing unless:

6 (a) Otherwise specifically provided by the statute pursuant to
7 which the regulation or order of repeal was adopted, in which event
8 it becomes effective on the day prescribed by the statute.

9 (b) A later date is prescribed by the state agency in a written
10 instrument filed with, or as part of, the regulation or order of repeal.

11 (c) The agency makes a written request to the office
12 demonstrating good cause for an earlier effective date, in which
13 case the office may prescribe an earlier date.

14 *SEC. 2. Section 11346.35 is added to the Government Code,*
15 *to read:*

16 11346.35. (a) *The State Auditor shall, within a reasonable*
17 *time, conduct a cost benefit analysis of any proposed regulation*
18 *before the agency issues a notice of proposed action pursuant to*
19 *Section 11346.4. Based on the results of the cost benefit analysis,*
20 *the State Auditor shall make a determination, to be included in the*
21 *cost benefit analysis, as to both of the following:*

22 (1) *Whether the proposed regulation will have an annual*
23 *statewide economic cost of at least ten million dollars*
24 *(\$10,000,000).*

25 (2) *Whether the proposed regulation, considered in its totality,*
26 *has regulatory benefits that equal or exceed the overall economic*
27 *costs.*

28 (b) *The agency proposing the regulation shall provide the State*
29 *Auditor with any information that the State Auditor deems*
30 *necessary to conduct the cost benefit analysis, including, but not*
31 *limited to, any information that the agency is required to include*
32 *in the notice of proposed action pursuant to Section 11346.5.*

33 (c) *The agency shall not issue the notice of proposed action*
34 *pursuant to Section 11346.4 until the State Auditor completes the*
35 *cost benefit analysis.*

1 SEC. 3. Section 11346.5 of the Government Code is amended
2 to read:

3 11346.5. (a) The notice of proposed adoption, amendment, or
4 repeal of a regulation shall include the following:

5 (1) A statement of the time, place, and nature of proceedings
6 for adoption, amendment, or repeal of the regulation.

7 (2) Reference to the authority under which the regulation is
8 proposed and a reference to the particular code sections or other
9 provisions of law that are being implemented, interpreted, or made
10 specific.

11 (3) An informative digest drafted in plain English in a format
12 similar to the Legislative Counsel’s digest on legislative bills. The
13 informative digest shall include the following:

14 (A) A concise and clear summary of existing laws and
15 regulations, if any, related directly to the proposed action and of
16 the effect of the proposed action.

17 (B) If the proposed action differs substantially from an existing
18 comparable federal regulation or statute, a brief description of the
19 significant differences and the full citation of the federal regulations
20 or statutes.

21 (C) A policy statement overview explaining the broad objectives
22 of the regulation and, if appropriate, the specific objectives.

23 (4) Any other matters as are prescribed by statute applicable to
24 the specific state agency or to any specific regulation or class of
25 regulations.

26 (5) A determination as to whether the regulation imposes a
27 mandate on local agencies or school districts and, if so, whether
28 the mandate requires state reimbursement pursuant to Part 7
29 (commencing with Section 17500) of Division 4.

30 (6) An estimate, prepared in accordance with instructions
31 adopted by the Department of Finance, of the cost or savings to
32 any state agency, the cost to any local agency or school district
33 that is required to be reimbursed under Part 7 (commencing with
34 Section 17500) of Division 4, other nondiscretionary cost or
35 savings imposed on local agencies, and the cost or savings in
36 federal funding to the state.

37 For purposes of this paragraph, “cost or savings” means
38 additional costs or savings, both direct and indirect, that a public
39 agency necessarily incurs in reasonable compliance with
40 regulations.

1 (7) If a state agency, in proposing to adopt, amend, or repeal
2 any administrative regulation, makes an initial determination that
3 the action may have a significant, statewide adverse economic
4 impact directly affecting business, including the ability of
5 California businesses to compete with businesses in other states,
6 it shall include the following information in the notice of proposed
7 action:

8 (A) Identification of the types of businesses that would be
9 affected.

10 (B) A description of the projected reporting, recordkeeping, and
11 other compliance requirements that would result from the proposed
12 action.

13 (C) The following statement: “The (name of agency) has made
14 an initial determination that the (adoption/amendment/peal) of
15 this regulation may have a significant, statewide adverse economic
16 impact directly affecting business, including the ability of
17 California businesses to compete with businesses in other states.
18 The (name of agency) (has/has not) considered proposed
19 alternatives that would lessen any adverse economic impact on
20 business and invites you to submit proposals. Submissions may
21 include the following considerations:

22 (i) The establishment of differing compliance or reporting
23 requirements or timetables that take into account the resources
24 available to businesses.

25 (ii) Consolidation or simplification of compliance and reporting
26 requirements for businesses.

27 (iii) The use of performance standards rather than prescriptive
28 standards.

29 (iv) Exemption or partial exemption from the regulatory
30 requirements for businesses.”

31 (8) If a state agency, in adopting, amending, or repealing any
32 administrative regulation, makes an initial determination that the
33 action will not have a significant, statewide adverse economic
34 impact directly affecting business, including the ability of
35 California businesses to compete with businesses in other states,
36 it shall make a declaration to that effect in the notice of proposed
37 action. In making this declaration, the agency shall provide in the
38 record facts, evidence, documents, testimony, or other evidence
39 upon which the agency relies to support its initial determination.

1 An agency's initial determination and declaration that a proposed
2 adoption, amendment, or repeal of a regulation may have or will
3 not have a significant, adverse impact on businesses, including the
4 ability of California businesses to compete with businesses in other
5 states, shall not be grounds for the office to refuse to publish the
6 notice of proposed action.

7 (9) A description of all cost impacts, known to the agency at
8 the time the notice of proposed action is submitted to the office,
9 that a representative private person or business would necessarily
10 incur in reasonable compliance with the proposed action.

11 If no cost impacts are known to the agency, it shall state the
12 following:

13
14 "The agency is not aware of any cost impacts that a
15 representative private person or business would necessarily incur
16 in reasonable compliance with the proposed action."
17

18 (10) A statement of the results of the assessment required by
19 subdivision (b) of Section 11346.3.

20 (11) The finding prescribed by subdivision (c) of Section
21 11346.3, if required.

22 (12) A statement that the action would have a significant effect
23 on housing costs, if a state agency, in adopting, amending, or
24 repealing any administrative regulation, makes an initial
25 determination that the action would have that effect. In addition,
26 the agency officer designated in paragraph (14), shall make
27 available to the public, upon request, the agency's evaluation, if
28 any, of the effect of the proposed regulatory action on housing
29 costs.

30 (13) A statement that the adopting agency must determine that
31 no reasonable alternative considered by the agency or that has
32 otherwise been identified and brought to the attention of the agency
33 would be more effective in carrying out the purpose for which the
34 action is proposed or would be as effective and less burdensome
35 to affected private persons than the proposed action.

36 (14) The name and telephone number of the agency
37 representative and designated backup contact person to whom
38 inquiries concerning the proposed administrative action may be
39 directed.

1 (15) The date by which comments submitted in writing must
2 be received to present statements, arguments, or contentions in
3 writing relating to the proposed action in order for them to be
4 considered by the state agency before it adopts, amends, or repeals
5 a regulation.

6 (16) Reference to the fact that the agency proposing the action
7 has prepared a statement of the reasons for the proposed action,
8 has available all the information upon which its proposal is based,
9 and has available the express terms of the proposed action, pursuant
10 to subdivision (b).

11 (17) A statement that if a public hearing is not scheduled, any
12 interested person or his or her duly authorized representative may
13 request, no later than 15 days prior to the close of the written
14 comment period, a public hearing pursuant to Section 11346.8.

15 (18) A statement indicating that the full text of a regulation
16 changed pursuant to Section 11346.8 will be available for at least
17 15 days prior to the date on which the agency adopts, amends, or
18 repeals the resulting regulation.

19 (19) A statement explaining how to obtain a copy of the final
20 statement of reasons once it has been prepared pursuant to
21 subdivision (a) of Section 11346.9.

22 (20) If the agency maintains an Internet Web site or other similar
23 forum for the electronic publication or distribution of written
24 material, a statement explaining how materials published or
25 distributed through that forum can be accessed.

26 (21) *The results of the cost benefit analysis issued by the State*
27 *Auditor pursuant to Section 11346.35.*

28 (b) The agency representative designated in paragraph (14) of
29 subdivision (a) shall make available to the public upon request the
30 express terms of the proposed action. The representative shall also
31 make available to the public upon request the location of public
32 records, including reports, documentation, and other materials,
33 related to the proposed action. If the representative receives an
34 inquiry regarding the proposed action that the representative cannot
35 answer, the representative shall refer the inquiry to another person
36 in the agency for a prompt response.

37 (c) This section shall not be construed in any manner that results
38 in the invalidation of a regulation because of the alleged inadequacy
39 of the notice content or the summary or cost estimates, or the

1 alleged inadequacy or inaccuracy of the housing cost estimates, if
 2 there has been substantial compliance with those requirements.

3 *SEC. 4. Section 11349.35 is added to the Government Code,*
 4 *to read:*

5 *11349.35. (a) The office shall identify, for each proposed*
 6 *regulation that is approved or deemed approved by the office*
 7 *pursuant to Section 11349.3, the determinations made by the State*
 8 *Auditor in the cost benefit analysis conducted pursuant to Section*
 9 *11346.35. The office shall notify the Committee on Appropriations*
 10 *of each house of the Legislature of each regulation for which the*
 11 *State Auditor determined that the regulation will have an annual*
 12 *statewide economic cost of at least ten million dollars*
 13 *(\$10,000,000) or that the regulation's benefits do not equal or*
 14 *exceed the overall economic costs. The notification shall include,*
 15 *but not be limited to, the text of the regulation and the cost benefit*
 16 *analysis conducted by the State Auditor.*

17 *(b) The Committee on Appropriations of each house of the*
 18 *Legislature shall conduct a public hearing to review each*
 19 *regulation for which it receives a notification from the office and*
 20 *shall issue a recommendation as to whether the regulation should*
 21 *be invalidated by statute.*

22 ~~SECTION 1. Article 5.5 (commencing with Section 11348.5)~~
 23 ~~is added to Chapter 3.5 of Part 1 of Division 3 of Title 2 of the~~
 24 ~~Government Code, to read:~~

25

26 ~~Article 5.5. Regulatory Planning and Review~~

27

28 ~~11348.5. For purposes of this article, the following terms shall~~
 29 ~~have the following meanings:~~

30 ~~(a) "Department of Finance" or "department" shall have the~~
 31 ~~same meaning as Section 13000.~~

32 ~~(b) "Director of Finance" or "director" shall have the same~~
 33 ~~meaning as Section 13001.~~

34 ~~(c) "Significant regulatory action" means a regulatory action~~
 35 ~~that is likely to result in a regulation that may result in any one of~~
 36 ~~the following:~~

37 ~~(1) Have an annual cost to the state's economy of ten million~~
 38 ~~dollars (\$10,000,000) or more or have a material adverse effect~~
 39 ~~on the economy, productivity, competition, public health or safety,~~
 40 ~~local governments, or tribal communities.~~

1 ~~(2) Create a serious inconsistency with, or otherwise interfere~~
2 ~~with, an action taken or planned by another agency.~~

3 ~~(3) Materially alter the budgetary impact of entitlements, grants,~~
4 ~~user fees, or loan programs, or the rights and obligations of its~~
5 ~~recipients.~~

6 ~~(4) Raise novel legal or policy issues arising out of legal~~
7 ~~mandates or involving the regulatory philosophies and principles~~
8 ~~expressed in Section 11348.6.~~

9 ~~11348.6. (a) The Legislature finds and declares all of the~~
10 ~~following:~~

11 ~~(1) An efficient regulatory planning and review process is vital~~
12 ~~to ensure that the state's regulatory system best serves the people~~
13 ~~of this state.~~

14 ~~(2) There is a need for adequate information indicating the need~~
15 ~~for and consequences of proposed regulatory actions, and that state~~
16 ~~agencies should establish that potential benefits to the state justify~~
17 ~~any potential costs of regulatory actions.~~

18 ~~(3) In 1993, President Clinton reviewed and revised the federal~~
19 ~~government's program for regulatory review and issued Executive~~
20 ~~Order 12866, titled "Regulatory Planning and Review,"~~
21 ~~establishing the general principle that the benefits of intended~~
22 ~~regulations should justify the costs.~~

23 ~~(4) Executive Order 12866 focused on the most significant rules,~~
24 ~~established a 90-day period of review of proposed rules, and~~
25 ~~increased the openness and accountability of the federal process~~
26 ~~for reviewing regulations.~~

27 ~~(5) The federal Office of Management and Budget monitored~~
28 ~~and assessed the implementation of Executive Order 12866,~~
29 ~~concluding that significant improvements were made in all of the~~
30 ~~following six broad areas of federal regulation:~~

31 ~~(A) Properly identifying problems and risks to be addressed,~~
32 ~~and tailoring the regulatory approach narrowly to address them.~~

33 ~~(B) Developing alternative approaches to traditional command~~
34 ~~and control regulation, such as using performance standards that~~
35 ~~tell people what goals to meet instead of how to meet them, relying~~
36 ~~on market incentives, or issuing nonbinding guidance instead of~~
37 ~~rules and regulations.~~

38 ~~(C) Developing rules that, according to sound analysis, are~~
39 ~~cost-effective and have benefits that justify their cost.~~

1 ~~(D) Consulting with those affected by the regulation, particularly~~
2 ~~state, local, and tribal governments.~~

3 ~~(E) Ensuring that agency rules are well coordinated with rules~~
4 ~~and policies of other agencies.~~

5 ~~(b) In order to achieve the benefits associated with Executive~~
6 ~~Order 12866, this state adopts the following regulatory philosophy,~~
7 ~~as outlined in Section 1(a) of Executive Order 12866:~~

8 ~~(1) Agencies should promulgate only those regulations as are~~
9 ~~required by law, are necessary to interpret the law, or are made~~
10 ~~necessary by compelling public need, such as material failures of~~
11 ~~private markets to protect or improve the health and safety of the~~
12 ~~public, the environment, or the well-being of Californians.~~

13 ~~(2) In deciding whether and how to regulate, agencies should~~
14 ~~assess all costs and benefits of available regulatory alternatives;~~
15 ~~including the alternative of not regulating. Costs and benefits shall~~
16 ~~be understood to include both quantifiable measures, to the fullest~~
17 ~~extent that these can be usefully estimated, and qualitative measures~~
18 ~~of costs and benefits that are difficult to quantify, but nevertheless~~
19 ~~essential to consider. Further, in choosing among alternative~~
20 ~~regulatory approaches, agencies should select those approaches~~
21 ~~that maximize net benefits, including potential economic,~~
22 ~~environmental, public health and safety, and other advantages,~~
23 ~~distributive impacts, and equity, unless a statute requires another~~
24 ~~regulatory approach.~~

25 ~~(c) (1) In order to achieve the benefits associated with Executive~~
26 ~~Order 12866, this state adopts the principles of regulation contained~~
27 ~~in this subdivision, as outlined in Section 1(b) of Executive Order~~
28 ~~12866.~~

29 ~~(2) To ensure that the agencies' regulatory programs are~~
30 ~~consistent with the philosophy set forth above, agencies should~~
31 ~~adhere to the following principles to the extent permitted by law~~
32 ~~and where applicable:~~

33 ~~(A) Each agency shall identify the problem that it intends to~~
34 ~~address, including, where applicable, the failures of private markets~~
35 ~~or public institutions that warrant new agency action, as well as~~
36 ~~assess the significance of that problem.~~

37 ~~(B) Each agency shall examine whether existing regulations,~~
38 ~~or other law, have created, or contributed to, the problem that a~~
39 ~~new regulation is intended to correct and whether those regulations,~~

1 or other law, should be modified to achieve the intended goal of
2 regulation more effectively.

3 (C) Each agency shall identify and assess available alternatives
4 to direct regulation, including providing economic incentives to
5 encourage the desired behavior, such as user fees or marketable
6 permits, or providing information upon which choices can be made
7 by the public.

8 (D) In setting regulatory priorities, each agency shall consider,
9 to the extent reasonable, the degree and nature of the risks posed
10 by various substances or activities within its jurisdiction.

11 (E) When an agency determines that a regulation is the best
12 available method of achieving the regulatory objective, it shall
13 design its regulations in the most cost-effective manner to achieve
14 the regulatory objective. In doing so, each agency shall consider
15 incentives for innovation, consistency, predictability, the costs of
16 enforcement and compliance, to the government, regulated entities,
17 and the public, flexibility, distributive impacts, and equity.

18 (F) Each agency shall assess both the costs and the benefits of
19 the intended regulation and, recognizing that some costs and
20 benefits are difficult to quantify, propose or adopt a regulation
21 only upon a reasoned determination that the benefits of the intended
22 regulation justify its costs.

23 (G) Each agency shall base its decisions on the best reasonably
24 obtainable scientific, technical, economic, and other information
25 concerning the need for, and consequences of, the intended
26 regulation.

27 (H) Each agency shall identify and assess alternative forms of
28 regulation and shall, to the extent feasible, specify performance
29 objectives, rather than specifying the behavior or manner of
30 compliance that regulated entities must adopt.

31 (I) Wherever feasible, agencies shall seek views of appropriate
32 state, local, and tribal officials before imposing regulatory
33 requirements that might significantly or uniquely affect those
34 governmental entities. Each agency shall assess the effects of
35 federal regulations on state, local, and tribal governments, including
36 specifically the availability of resources to carry out those
37 mandates, and seek to minimize those burdens that uniquely or
38 significantly affect those governmental entities, consistent with
39 achieving regulatory objectives. In addition, as appropriate,
40 agencies shall seek to harmonize federal regulatory actions with

1 related state, local, and tribal regulatory and other governmental
2 functions:

3 (J) Each agency shall avoid regulations that are inconsistent,
4 incompatible, or duplicative with its other regulations or those of
5 other federal agencies.

6 (K) Each agency shall tailor its regulations to impose the least
7 burden on society, including individuals, businesses of differing
8 sizes, and other entities, including small communities and
9 governmental entities, consistent with obtaining the regulatory
10 objectives, taking into account, among other things, and to the
11 extent practicable, the costs of cumulative regulations.

12 (L) Each agency shall draft its regulations to be simple and easy
13 to understand, with the goal of minimizing the potential for
14 uncertainty and litigation arising from such uncertainty.

15 11348.7. (a) The department shall assist state agencies to
16 review new and existing regulations for compliance and
17 consistency with this article, and shall review analyses performed
18 by agencies in promulgating new regulations or in reviewing
19 existing regulations.

20 (b) Prior to January 1 of each year, a state agency shall provide
21 the department, at the time and in the manner specified by the
22 director, with a list of its planned regulatory actions for that year
23 and indicate the actions which the agency believes are significant
24 regulatory actions. A planned regulatory action that is not
25 designated as significant, absent a material change in the
26 development of that regulatory action, shall not be subject to review
27 under this section unless, within 10 days of receipt of the list, the
28 director notifies the agency that he or she has determined that a
29 planned regulation is a significant regulatory action.

30 (c) (1) For each significant regulatory action, the agency shall
31 submit to the director for review, at least 30 days prior to the
32 issuance of a notice of proposed action required pursuant to Section
33 11346.4, all of the following:

34 (A) The text of the draft regulatory language, together with a
35 reasonably detailed description of the need for the regulatory action
36 and an explanation of how the regulation will meet that need.

37 (B) An analysis of the potential costs and benefits of the
38 regulatory action, including an explanation of the manner in which
39 the regulatory action is consistent with the statutory mandate.

1 ~~(2) For each significant regulatory action that satisfies the~~
2 ~~criteria of paragraph (1) of subdivision (c) of Section 11348.5, the~~
3 ~~agency shall also submit to the director for review, at least 30 days~~
4 ~~prior to the issuance of a notice of proposed action required~~
5 ~~pursuant to Section 11346.4, all of the following:~~

6 ~~(A) An assessment, including the underlying analysis, of benefits~~
7 ~~anticipated from the regulatory action, including, but not limited~~
8 ~~to, the promotion of the efficient functioning of the economy and~~
9 ~~private markets, the enhancement of health and safety, the~~
10 ~~protection of the natural environment, and the elimination or~~
11 ~~reduction of discrimination or bias, together with, to the extent~~
12 ~~feasible, a quantification of those benefits.~~

13 ~~(B) An assessment, including the underlying analysis, of costs~~
14 ~~anticipated from the regulatory action, including, but not limited~~
15 ~~to, the direct cost to both the government in administering the~~
16 ~~regulation and to businesses and others in complying with the~~
17 ~~regulation, and any adverse effects on the efficient functioning of~~
18 ~~the economy, private markets, including productivity, employment,~~
19 ~~and competitiveness, health, safety, and the natural environment,~~
20 ~~together with, to the extent feasible, a quantification of those costs.~~

21 ~~(C) An assessment, including the underlying analysis, of costs~~
22 ~~and benefits of potentially effective and reasonably feasible~~
23 ~~alternatives to the planned regulation, identified by the agencies~~
24 ~~or the public, including improving the current regulation and~~
25 ~~reasonably viable nonregulatory actions, and an explanation why~~
26 ~~the planned regulatory action is preferable to the identified potential~~
27 ~~alternatives.~~

28 ~~(d) No agency considering a significant regulatory action shall~~
29 ~~issue a notice of proposed action pursuant to Section 11346.4 prior~~
30 ~~to the department's completion of the review of the proposed~~
31 ~~regulation and the agency's compliance with the requirements of~~
32 ~~this article.~~

33 ~~(e) The director shall review the agency's submitted analysis~~
34 ~~of new, amended, or existing regulations for consistency with the~~
35 ~~regulatory philosophy and principles of regulation enumerated in~~
36 ~~Section 11348.6. If the director determines that a planned~~
37 ~~regulatory action may be inconsistent with the regulatory~~
38 ~~philosophy and principles of regulation enumerated in Section~~
39 ~~11348.6, the director shall notify the agency in writing.~~

1 ~~(f) The agency shall include in its initial statement of reasons,~~
2 ~~required pursuant to Section 11346.2, the director’s analysis of~~
3 ~~new, amended, or existing regulations, and the agency’s responses~~
4 ~~to any determinations made by the director.~~
5 ~~(g) The agency shall reimburse the department for the cost to~~
6 ~~the department of the analysis, not to exceed 5 percent of the total~~
7 ~~cost of developing the regulation. The agency shall build the cost~~
8 ~~of reimbursement into the cost of developing the regulation.~~
9 ~~(h) In order to establish a baseline for the determination of the~~
10 ~~costs and benefits of significant regulatory actions reviewed~~
11 ~~pursuant to this article, the department shall complete a review of~~
12 ~~all significant regulatory actions completed by state agencies since~~
13 ~~January 1, 2004, and summarize the costs and benefits of those~~
14 ~~actions. This review shall be completed prior to July 1, 2011.~~
15 ~~11348.8. (a) In order to formulate an effective methodology~~
16 ~~for performance of the analysis and cost-benefit studies by state~~
17 ~~agencies pursuant to this article, by January 31, 2011, the Governor~~
18 ~~shall convene an interagency group, to be chaired by the director,~~
19 ~~to review the state of the art for analysis of regulatory action in~~
20 ~~California at the state, regional, and local levels.~~
21 ~~(b) Prior to July 1, 2011, the director shall issue a “best~~
22 ~~practices” report to the Legislature, detailing the findings of the~~
23 ~~interagency group regarding the state of the art for regulatory action~~
24 ~~analyses and proposing standard methods of regulatory analysis~~
25 ~~for use by state agencies.~~
26 ~~11348.9. Nothing in this article affects the current requirement~~
27 ~~of state agencies to prepare an economic analysis of a proposed~~
28 ~~regulation’s potential for adverse economic impact on businesses~~
29 ~~and individuals pursuant to Section 11346.3, or to make those~~
30 ~~economic impact analyses available for public comment in the~~
31 ~~initial state of reasons for the proposed regulation pursuant to~~
32 ~~Section 11346.2.~~