

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 530

Introduced by Assembly Member Smyth

February 15, 2011

An act to amend ~~Section 9147.7~~ Sections 11346.2, 11346.3, and 11346.5 of the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

AB 530, as amended, Smyth. ~~Joint Sunset Review Committee: agency repeal.~~ *Regulations: economic and technical information.*

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. The act requires an agency, as part of the regulatory adoption process, to assess the potential for adverse economic impact on California business enterprises and individuals, as specified. The act requires an agency that seeks to adopt, amend, or repeal a regulation to release a notice of proposed action with prescribed information, including specified information regarding adverse economic impacts. The act requires an agency to file with the office, when it files the notice of proposed action, an initial statement of reasons that includes, among other things, a description of reasonable alternatives to the proposed regulation and the agency's reason for rejecting the alternatives, as specified.

This bill would require the initial statement of reasons to also identify each document, including, but not limited to, technical, theoretical, and empirical studies, reports, or similar documents, upon which the agency relied in rejecting each reasonable alternative. The bill would prohibit

an agency from rejecting a reasonable alternative unless the statement of reasons includes at least one of these documents. The bill would also repeal a provision that authorizes the agency to avoid having to artificially construct alternatives, describe unreasonable alternatives, or justify why it did not describe alternatives.

The bill would require an agency to determine whether a proposed regulation will have a significant adverse economic impact by completing an economic impact statement, using a form developed by the Department of Finance, as specified. The bill would require the agency to post the economic impact statement, including specified supporting information, on the agency’s Internet Web site and include it as part of the rulemaking file, as specified. The bill would require that the notice of proposed action include a notice that describes how the public may obtain access to the economic impact statement, including the supporting information, on the agency Internet Web site or in hard copy, as specified.

~~Existing law establishes the Joint Sunset Review Committee to identify and eliminate waste, duplication, and inefficiency in government agencies by conducting a comprehensive analysis of every “eligible agency,” as defined, to determine if an agency scheduled for repeal is still necessary and cost effective.~~

~~This bill would make a technical, nonsubstantive change to that provision.~~

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

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

- 1 SECTION 1. Section 11346.2 of the Government Code, as
- 2 amended by Section 1 of Chapter 398 of the Statutes of 2010, is
- 3 amended to read:
- 4 11346.2. Every agency subject to this chapter shall prepare,
- 5 submit to the office with the notice of the proposed action as
- 6 described in Section 11346.5, and make available to the public
- 7 upon request, all of the following:
- 8 (a) A copy of the express terms of the proposed regulation.
- 9 (1) The agency shall draft the regulation in plain, straightforward
- 10 language, avoiding technical terms as much as possible, and using
- 11 a coherent and easily readable style. The agency shall draft the
- 12 regulation in plain English.

1 (2) The agency shall include a notation following the express
2 terms of each California Code of Regulations section, listing the
3 specific statutes or other provisions of law authorizing the adoption
4 of the regulation and listing the specific statutes or other provisions
5 of law being implemented, interpreted, or made specific by that
6 section in the California Code of Regulations.

7 (3) The agency shall use underline or italics to indicate additions
8 to, and strikethrough to indicate deletions from, the California Code
9 of Regulations.

10 (b) An initial statement of reasons for proposing the adoption,
11 amendment, or repeal of a regulation. This statement of reasons
12 shall include, but not be limited to, all of the following:

13 (1) A statement of the specific purpose of each adoption,
14 amendment, or repeal and the rationale for the determination by
15 the agency that each adoption, amendment, or repeal is reasonably
16 necessary to carry out the purpose for which it is proposed. Where
17 the adoption or amendment of a regulation would mandate the use
18 of specific technologies or equipment, a statement of the reasons
19 why the agency believes these mandates or prescriptive standards
20 are required.

21 (2) An identification of each technical, theoretical, and empirical
22 study, report, or similar document, if any, upon which the agency
23 relies in proposing the adoption, amendment, or repeal of a
24 regulation.

25 (3) (A) A description of reasonable alternatives to the regulation
26 and the agency's reasons for rejecting those alternatives. In the
27 case of a regulation that would mandate the use of specific
28 technologies or equipment or prescribe specific actions or
29 procedures, the imposition of performance standards shall be
30 considered as an alternative.

31 (B) A description of reasonable alternatives to the regulation
32 that would lessen any adverse impact on small business and the
33 agency's reasons for rejecting those alternatives.

34 ~~(C) Notwithstanding subparagraph (A) or (B), an agency is not
35 required to artificially construct alternatives, describe unreasonable
36 alternatives, or justify why it has not described alternatives.~~

37 *(C) The identification of all documents, including, but not limited
38 to, technical, theoretical, and empirical studies, reports, or similar
39 documents, upon which the agency relied in rejecting each
40 reasonable alternative described in this paragraph. For purposes*

1 *of this paragraph, an agency shall not be permitted to reject a*
2 *reasonable alternative unless the statement of reasons includes at*
3 *least one document for each rejected reasonable alternative.*

4 (4) Facts, evidence, documents, testimony, or other evidence
5 on which the agency relies to support an initial determination that
6 the action will not have a significant adverse economic impact on
7 business.

8 (5) A department, board, or commission within the
9 Environmental Protection Agency, the Resources Agency, or the
10 Office of the State Fire Marshal shall describe its efforts, in
11 connection with a proposed rulemaking action, to avoid
12 unnecessary duplication or conflicts with federal regulations
13 contained in the Code of Federal Regulations addressing the same
14 issues. These agencies may adopt regulations different from federal
15 regulations contained in the Code of Federal Regulations
16 addressing the same issues upon a finding of one or more of the
17 following justifications:

18 (A) The differing state regulations are authorized by law.

19 (B) The cost of differing state regulations is justified by the
20 benefit to human health, public safety, public welfare, or the
21 environment.

22 (c) A state agency that adopts or amends a regulation mandated
23 by federal law or regulations, the provisions of which are identical
24 to a previously adopted or amended federal regulation, shall be
25 deemed to have complied with subdivision (b) if a statement to
26 the effect that a federally mandated regulation or amendment to a
27 regulation is being proposed, together with a citation to where an
28 explanation of the provisions of the regulation can be found, is
29 included in the notice of proposed adoption or amendment prepared
30 pursuant to Section 11346.5. However, the agency shall comply
31 fully with this chapter with respect to any provisions in the
32 regulation that the agency proposes to adopt or amend that are
33 different from the corresponding provisions of the federal
34 regulation.

35 (d) This section shall be inoperative from January 1, 2012, until
36 January 1, 2014.

37 *SEC. 2. Section 11346.2 of the Government Code, as added*
38 *by Section 2 of Chapter 398 of the Statutes of 2010, is amended*
39 *to read:*

1 11346.2. Every agency subject to this chapter shall prepare,
2 submit to the office with the notice of the proposed action as
3 described in Section 11346.5, and make available to the public
4 upon request, all of the following:

5 (a) A copy of the express terms of the proposed regulation.

6 (1) The agency shall draft the regulation in plain, straightforward
7 language, avoiding technical terms as much as possible, and using
8 a coherent and easily readable style. The agency shall draft the
9 regulation in plain English.

10 (2) The agency shall include a notation following the express
11 terms of each California Code of Regulations section, listing the
12 specific statutes or other provisions of law authorizing the adoption
13 of the regulation and listing the specific statutes or other provisions
14 of law being implemented, interpreted, or made specific by that
15 section in the California Code of Regulations.

16 (3) The agency shall use underline or italics to indicate additions
17 to, and strikeout to indicate deletions from, the California Code
18 of Regulations.

19 (b) An initial statement of reasons for proposing the adoption,
20 amendment, or repeal of a regulation. This statement of reasons
21 shall include, but not be limited to, all of the following:

22 (1) A statement of the specific purpose of each adoption,
23 amendment, or repeal and the rationale for the determination by
24 the agency that each adoption, amendment, or repeal is reasonably
25 necessary to carry out the purpose for which it is proposed.

26 (2) An identification of each technical, theoretical, and empirical
27 study, report, or similar document, if any, upon which the agency
28 relies in proposing the adoption, amendment, or repeal of a
29 regulation.

30 (3) Where the adoption or amendment of a regulation would
31 mandate the use of specific technologies or equipment, a statement
32 of the reasons why the agency believes these mandates or
33 prescriptive standards are required.

34 (4) (A) A description of reasonable alternatives to the regulation
35 and the agency's reasons for rejecting those alternatives.

36 (B) A description of any performance standard that was
37 considered as an alternative. In the case of a regulation that would
38 mandate the use of specific technologies or equipment or prescribe
39 specific actions or procedures, the imposition of performance
40 standards shall be considered as an alternative.

1 (C) A description of reasonable alternatives to the regulation
2 that would lessen any adverse impact on small business and the
3 agency's reasons for rejecting those alternatives.

4 ~~(D) Notwithstanding subparagraph (A), (B), or (C), an agency~~
5 ~~is not required to artificially construct alternatives, describe~~
6 ~~unreasonable alternatives, or justify why it has not described~~
7 ~~alternatives.~~

8 *(D) The identification of all documents, including, but not*
9 *limited to, technical, theoretical, and empirical studies, reports,*
10 *or similar documents, upon which the agency relied in rejecting*
11 *each reasonable alternative described in this paragraph. For*
12 *purposes of this paragraph, an agency shall not be permitted to*
13 *reject a reasonable alternative unless the statement of reasons*
14 *includes at least one document for each rejected reasonable*
15 *alternative.*

16 (5) Facts, evidence, documents, testimony, or other evidence
17 on which the agency relies to support an initial determination that
18 the action will not have a significant adverse economic impact on
19 business.

20 (6) A department, board, or commission within the
21 Environmental Protection Agency, the Resources Agency, or the
22 Office of the State Fire Marshal shall describe its efforts, in
23 connection with a proposed rulemaking action, to avoid
24 unnecessary duplication or conflicts with federal regulations
25 contained in the Code of Federal Regulations addressing the same
26 issues. These agencies may adopt regulations different from federal
27 regulations contained in the Code of Federal Regulations
28 addressing the same issues upon a finding of one or more of the
29 following justifications:

30 (A) The differing state regulations are authorized by law.

31 (B) The cost of differing state regulations is justified by the
32 benefit to human health, public safety, public welfare, or the
33 environment.

34 (c) A state agency that adopts or amends a regulation mandated
35 by federal law or regulations, the provisions of which are identical
36 to a previously adopted or amended federal regulation, shall be
37 deemed to have complied with subdivision (b) if a statement to
38 the effect that a federally mandated regulation or amendment to a
39 regulation is being proposed, together with a citation to where an
40 explanation of the provisions of the regulation can be found, is

1 included in the notice of proposed adoption or amendment prepared
2 pursuant to Section 11346.5. However, the agency shall comply
3 fully with this chapter with respect to any provisions in the
4 regulation that the agency proposes to adopt or amend that are
5 different from the corresponding provisions of the federal
6 regulation.

7 (d) This section shall become operative on January 1, 2012.

8 (e) This section shall remain in effect only until January 1, 2014,
9 and as of that date is repealed, unless a later enacted statute, that
10 is enacted before January 1, 2014, deletes or extends that date.

11 *SEC. 3. Section 11346.3 of the Government Code is amended*
12 *to read:*

13 11346.3. (a) State agencies proposing to adopt, amend, or
14 repeal any administrative regulation shall assess the potential for
15 adverse economic impact on California business enterprises and
16 individuals, avoiding the imposition of unnecessary or unreasonable
17 regulations or reporting, recordkeeping, or compliance
18 requirements. For purposes of this subdivision, assessing the
19 potential for adverse economic impact shall require agencies, when
20 proposing to adopt, amend, or repeal a regulation, to adhere to the
21 following requirements, to the extent that these requirements do
22 not conflict with other state or federal laws:

23 (1) The proposed adoption, amendment, or repeal of a regulation
24 shall be based on adequate information concerning the need for,
25 and consequences of, proposed governmental action.

26 (2) The state agency, prior to submitting a proposal to adopt,
27 amend, or repeal a regulation to the office, shall consider the
28 proposal's impact on business, with consideration of industries
29 affected including the ability of California businesses to compete
30 with businesses in other states. For purposes of evaluating the
31 impact on the ability of California businesses to compete with
32 businesses in other states, an agency shall consider, but not be
33 limited to, information supplied by interested parties.

34 ~~It is not the intent of this section to impose additional criteria on~~
35 ~~agencies, above that which exists in current law, in assessing~~
36 ~~adverse economic impact on California business enterprises, but~~
37 ~~only to assure that the assessment is made early in the process of~~
38 ~~initiation and development of a proposed adoption, amendment,~~
39 ~~or repeal of a regulation.~~

1 (b) (1) All state agencies proposing to adopt, amend, or repeal
 2 any administrative regulations shall assess whether and to what
 3 extent it will affect the following:

4 (A) The creation or elimination of jobs within the State of
 5 California.

6 (B) The creation of new businesses or the elimination of existing
 7 businesses within the State of California.

8 (C) The expansion of businesses currently doing business within
 9 the State of California.

10 (2) This subdivision does not apply to the University of
 11 California, the Hastings College of the Law, or the Fair Political
 12 Practices Commission.

13 (3) Information required from state agencies for the purpose of
 14 completing the assessment may come from existing state
 15 publications.

16 (c) No administrative regulation adopted on or after January 1,
 17 1993, that requires a report shall apply to businesses, unless the
 18 state agency adopting the regulation makes a finding that it is
 19 necessary for the health, safety, or welfare of the people of the
 20 state that the regulation apply to businesses.

21 *(d) (1) The agency shall determine whether the proposed*
 22 *regulation will have a significant adverse economic impact by*
 23 *completing an economic impact statement, using a form developed*
 24 *by the Department of Finance that is consistent with the*
 25 *requirements of this section.*

26 *(2) The economic impact statement shall identify, among other*
 27 *things, whether and to what extent the proposed regulation will*
 28 *do any the following:*

29 *(A) Adversely impact small businesses, businesses, employees*
 30 *of businesses, private individuals, jobs or occupations, or*
 31 *California competitiveness, which includes, but is not limited to,*
 32 *adversely impacting the ability of California businesses to compete*
 33 *with other states by making it more costly to produce goods or*
 34 *services in this state.*

35 *(B) Adversely impact the private sector by imposing reporting*
 36 *requirements or imposing prescriptive requirements instead of*
 37 *performance standards.*

38 *(3) Each response provided on the economic impact statement*
 39 *shall be supported by facts, evidence, documents, testimony, or*
 40 *other support, including assumptions and calculations, that a*

1 *reasonable person, in light of these items, would accept as*
2 *adequate to support the conclusions of the economic assessment.*

3 (4) (A) *If the economic impact statement identifies an adverse*
4 *impact to any of the areas described in subparagraph (A) or (B)*
5 *of paragraph (2), then the regulation shall be deemed to have a*
6 *significant statewide adverse economic impact for purposes of*
7 *paragraph (7) of subdivision (a) of Section 11346.5.*

8 (B) *If the economic impact statement does not identify an*
9 *adverse impact to any of the areas described in subparagraph (A)*
10 *or (B) of paragraph (2), then the regulation shall be deemed to*
11 *not have a significant statewide adverse economic impact for*
12 *purposes of paragraph (8) of subdivision (a) of Section 11346.5.*

13 (5) *The economic impact statement, including any supporting*
14 *facts, evidence, documents, testimony, or other support, including*
15 *assumptions and calculations, shall be posted on the Internet Web*
16 *site of the agency, in a format that can be downloaded*
17 *electronically, no later than the day on which the notice of*
18 *proposed action is released pursuant to Section 11346.4. The*
19 *economic impact statement and supporting information shall also*
20 *be included in the rulemaking record, which shall be publicly*
21 *available in the manner prescribed by Section 11347.3. If an*
22 *agency lacks the technological capacity to post the information*
23 *on its Internet Web site as required by this paragraph, then the*
24 *agency shall post a statement on the Internet Web site describing*
25 *how a person can obtain a copy of the economic impact statement*
26 *and supporting information pursuant to Section 11347.3.*

27 (6) *The Department of Finance shall not be required to revise*
28 *the economic impact statement included on Department of Finance*
29 *standard form 399, in existence on January 1, 2012, to comply*
30 *with requirements of this subdivision. The Legislature finds and*
31 *declares that the economic impact statement contained in standard*
32 *form 399 provides sufficient information for an agency to comply*
33 *with the requirements of this subdivision.*

34 SEC. 4. *Section 11346.5 of the Government Code is amended*
35 *to read:*

36 11346.5. (a) *The notice of proposed adoption, amendment, or*
37 *repeal of a regulation shall include the following:*

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

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

5 (3) An informative digest drafted in plain English in a format
6 similar to the Legislative Counsel's digest on legislative bills. The
7 informative digest shall include the following:

8 (A) A concise and clear summary of existing laws and
9 regulations, if any, related directly to the proposed action and of
10 the effect of the proposed action.

11 (B) If the proposed action differs substantially from an existing
12 comparable federal regulation or statute, a brief description of the
13 significant differences and the full citation of the federal regulations
14 or statutes.

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

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

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

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

31 For purposes of this paragraph, "cost or savings" means
32 additional costs or savings, both direct and indirect, that a public
33 agency necessarily incurs in reasonable compliance with
34 regulations.

35 (7) If a state agency, in proposing to adopt, amend, or repeal
36 any administrative regulation, makes an initial determination,
37 *pursuant to subdivision (d) of Section 11346.3*, that the action ~~may~~
38 ~~have~~ *has* a significant, statewide adverse economic impact directly
39 affecting business, including the ability of California businesses

1 to compete with businesses in other states, it shall include the
2 following information in the notice of proposed action:

3 (A) Identification of the types of businesses that would be
4 affected.

5 (B) A description of the projected reporting, recordkeeping, and
6 other compliance requirements that would result from the proposed
7 action.

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

17 (i) The establishment of differing compliance or reporting
18 requirements or timetables that take into account the resources
19 available to businesses.

20 (ii) Consolidation or simplification of compliance and reporting
21 requirements for businesses.

22 (iii) The use of performance standards rather than prescriptive
23 standards.

24 (iv) Exemption or partial exemption from the regulatory
25 requirements for businesses.”

26 (8) If a state agency, in adopting, amending, or repealing any
27 administrative regulation, makes an initial determination, *pursuant*
28 *to subdivision (d) of Section 11346.3*, that the action will not have
29 a significant, statewide adverse economic impact directly affecting
30 business, including the ability of California businesses to compete
31 with businesses in other states, it shall make a declaration to that
32 effect in the notice of proposed action. ~~In making this declaration,~~
33 ~~the agency shall provide in the record facts, evidence, documents,~~
34 ~~testimony, or other evidence upon which the agency relies to~~
35 ~~support its initial determination.~~

36 An agency’s initial determination and declaration that a proposed
37 adoption, amendment, or repeal of a regulation may have or will
38 not have a significant, adverse impact on businesses, including the
39 ability of California businesses to compete with businesses in other

1 states, shall not be grounds for the office to refuse to publish the
2 notice of proposed action.

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

7 If

8 (B) *If the economic impact statement described in subdivision*
9 *(d) of Section 11346.3 demonstrates that no cost impacts are known*
10 *to the agency, it shall state the following:*

11 “The agency is not aware of any cost impacts that a
12 representative private person or business would necessarily incur
13 in reasonable compliance with the proposed action.”

14 (C) *A statement describing how the public may obtain access*
15 *to the economic impact statement, including the supporting*
16 *information, on the agency Internet Web site or in hard copy, in*
17 *the manner prescribed in paragraph (5) of subdivision (d) of*
18 *Section 11346.3.*

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

21 (11) The finding prescribed by subdivision (c) of Section
22 11346.3, if required.

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

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

37 (14) The name and telephone number of the agency
38 representative and designated backup contact person to whom
39 inquiries concerning the proposed administrative action may be
40 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 (b) The agency representative designated in paragraph (14) of
27 subdivision (a) shall make available to the public upon request the
28 express terms of the proposed action. The representative shall also
29 make available to the public upon request the location of public
30 records, including reports, documentation, and other materials,
31 related to the proposed action. If the representative receives an
32 inquiry regarding the proposed action that the representative cannot
33 answer, the representative shall refer the inquiry to another person
34 in the agency for a prompt response.

35 (c) This section shall not be construed in any manner that results
36 in the invalidation of a regulation because of the alleged inadequacy
37 of the notice content or the summary or cost estimates, or the
38 alleged inadequacy or inaccuracy of the housing cost estimates, if
39 there has been substantial compliance with those requirements.

1 SECTION 1. ~~Section 9147.7 of the Government Code is~~
2 ~~amended to read:~~

3 ~~9147.7. (a) For the purpose of this section, “eligible agency”~~
4 ~~means an agency, authority, board, bureau, commission,~~
5 ~~conservancy, council, department, division, or office of state~~
6 ~~government, however denominated, excluding an agency that is~~
7 ~~constitutionally created or an agency related to postsecondary~~
8 ~~education, for which a date for repeal has been established by~~
9 ~~statute on or after January 1, 2011.~~

10 ~~(b) The Joint Sunset Review Committee is hereby created to~~
11 ~~identify and eliminate waste, duplication, and inefficiency in~~
12 ~~government agencies. The purpose of the committee is to conduct~~
13 ~~a comprehensive analysis over 15 years, and on a periodic basis~~
14 ~~thereafter, of every eligible agency to determine if the agency is~~
15 ~~still necessary and cost effective.~~

16 ~~(c) Each eligible agency scheduled for repeal shall submit to~~
17 ~~the committee, on or before December 1 prior to the year it is set~~
18 ~~to be repealed, a complete agency report covering the entire period~~
19 ~~since last reviewed, including, but not limited to, the following:~~

20 ~~(1) The purpose and necessity of the agency.~~

21 ~~(2) A description of the agency budget, priorities, and job~~
22 ~~descriptions of employees of the agency.~~

23 ~~(3) Any programs and projects under the direction of the agency.~~

24 ~~(4) Measures of the success or failures of the agency and~~
25 ~~justifications for the metrics used to evaluate successes and failures.~~

26 ~~(5) Any recommendations of the agency for changes or~~
27 ~~reorganization in order to better fulfill its purpose.~~

28 ~~(d) The committee shall take public testimony and evaluate the~~
29 ~~eligible agency prior to the date the agency is scheduled to be~~
30 ~~repealed. An eligible agency shall be eliminated unless the~~
31 ~~Legislature enacts a law to extend, consolidate, or reorganize the~~
32 ~~eligible agency. No eligible agency shall be extended in perpetuity~~
33 ~~unless specifically exempted from the provisions of this section.~~
34 ~~The committee may recommend that the Legislature extend the~~
35 ~~statutory sunset date for no more than one year to allow the~~
36 ~~committee more time to evaluate the eligible agency.~~

37 ~~(e) The committee shall be comprised of 10 members of the~~
38 ~~Legislature. The Senate Committee on Rules shall appoint five~~
39 ~~members of the Senate to the committee, not more than three of~~
40 ~~whom shall be members of the same political party. The Speaker~~

1 of the Assembly shall appoint five members of the Assembly to
2 the committee, not more than three of whom shall be members of
3 the same political party. Members shall be appointed within 15
4 days after the commencement of the regular session. Each member
5 of the committee who is appointed by the Senate Committee on
6 Rules or the Speaker of the Assembly shall serve during that
7 committee member's term of office or until that committee member
8 no longer is a Member of the Senate or the Assembly, whichever
9 is applicable. A vacancy on the committee shall be filled in the
10 same manner as the original appointment. Three Assembly
11 Members and three Senators who are members of the committee
12 shall constitute a quorum for the conduct of committee business.
13 Members of the committee shall receive no compensation for their
14 work with the committee.

15 (f) The committee shall meet not later than 30 days after the
16 first day of the regular session to choose a chairperson and to
17 establish the schedule for eligible agency review provided for in
18 the statutes governing the eligible agencies. The chairperson of
19 the committee shall alternate every two years between a Member
20 of the Senate and a Member of the Assembly, and the vice
21 chairperson of the committee shall be a member of the opposite
22 house as the chairperson.

23 (g) This section shall not be construed to change the existing
24 jurisdiction of the budget or policy committees of the Legislature.