

**ASSEMBLY BILL**

**No. 1213**

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**Introduced by Assembly Member Nielsen**

February 18, 2011

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An act to add Section 11340.15 to the Government Code, relating to regulations.

LEGISLATIVE COUNSEL'S DIGEST

AB 1213, as introduced, Nielsen. Regulations: philosophy and principles of regulation.

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.

This bill would adopt the regulatory philosophy and the principles of regulation, as outlined in Presidential Executive Order 12866 and Presidential Executive Order 13563, in order to achieve the same regulatory benefits within the state by directing agencies, among other things, to improve public participation in the rulemaking process, to reduce redundant, inconsistent, or overlapping regulations through increased agency coordination to improve flexibility, and to develop and submit to the office a preliminary plan under which the agency will periodically review its existing significant regulations to determine whether any regulations should be modified, streamlined, expanded, or repealed.

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

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

1 SECTION 1. Section 11340.15 is added to the Government  
2 Code, to read:

3 11340.15. (a) The Legislature finds and declares all of the  
4 following:

5 (1) An efficient regulatory planning and review process is vital  
6 to ensure that the state’s regulatory system best serves the people  
7 of this state.

8 (2) In 1993, President Clinton reviewed and revised the federal  
9 government’s program for regulatory review and issued Executive  
10 Order 12866, titled “Regulatory Planning and Review,”  
11 establishing the general principle that the benefits of intended  
12 regulations should justify the costs.

13 (3) In 2011, President Obama issued Executive Order 13563,  
14 titled “Improving Regulation and Regulatory Review,” to reaffirm  
15 and expand upon the principles and structures of regulatory review  
16 established in Executive Order 12866.

17 (b) In order to achieve the benefits associated with Executive  
18 Order 12866 and the anticipated benefits associated with Executive  
19 Order 13563, this state adopts the following regulatory philosophy,  
20 as outlined in Section 1 of Executive Order 13563:

21 (1) Our regulatory system must protect public health, welfare,  
22 safety, and our environment while promoting economic growth,  
23 innovation, competitiveness, and job creation. It must be based on  
24 the best available science. It must allow for public participation  
25 and an open exchange of ideas. It must promote predictability and  
26 reduce uncertainty. It must identify and use the best, most  
27 innovative, and least burdensome tools for achieving regulatory  
28 ends. It must take into account benefits and costs, both quantitative  
29 and qualitative. It must ensure that regulations are accessible,  
30 consistent, written in plain language, and easy to understand. It  
31 must measure, and seek to improve, the actual results of regulatory  
32 requirements.

33 (c) (1) In order to achieve the benefits associated with Executive  
34 Order 12866 and the anticipated benefits of Executive Order 13563,  
35 this state adopts the expanded principles of regulation contained  
36 in this subdivision, as reaffirmed in Section 1 of Executive Order  
37 13563. Specifically, each agency shall, to the extent not

1 inconsistent with the existing provisions of this chapter, do each  
2 of the following:

3 (A) Propose or adopt a regulation only upon a reasoned  
4 determination that its benefits justify its costs, recognizing that  
5 some benefits and costs are difficult to quantify.

6 (B) Tailor its regulations to impose the least burden on society,  
7 consistent with obtaining regulatory objectives, taking into account,  
8 among other things, and to the extent practicable, the costs of  
9 cumulative regulations.

10 (C) Select, in choosing among alternative regulatory approaches,  
11 those approaches that maximize net benefits, including but not  
12 limited to, potential economic, environmental, public health and  
13 safety, and other advantages.

14 (D) To the extent feasible, specify performance objectives,  
15 rather than specifying the behavior or manner of compliance that  
16 regulated entities must adopt.

17 (E) Identify and assess available alternatives to direct regulation,  
18 including providing economic incentives to encourage the desired  
19 behavior, such as user fees or marketable permits, or providing  
20 information upon which choices can be made by the public.

21 (2) In applying the principles of this subdivision, each agency  
22 should use the best available techniques to quantify anticipated  
23 present and future benefits and costs as accurately as possible.  
24 Where appropriate and permitted by law, each agency may consider  
25 values that are difficult or impossible to quantify, including equity,  
26 human dignity, fairness, and distributive impacts.

27 (d) (1) In order to achieve the benefits associated with Executive  
28 Order 12866 and the anticipated benefits associated with Executive  
29 Order 13563, this state adopts the expanded principles of regulation  
30 contained in this subdivision, as outlined in Sections 2 to 6,  
31 inclusive, of Executive Order 13563.

32 (2) (A) Regulations shall be adopted through a process that  
33 involves public participation. To that end, regulations shall be  
34 based, to the extent feasible and consistent with law, on the open  
35 exchange of information and perspectives among state, local, and  
36 tribal officials, experts in relevant disciplines, affected stakeholders  
37 in the private sector, and the public as a whole.

38 (B) To promote an open exchange, each agency, consistent with  
39 other applicable legal requirements, shall endeavor to provide the  
40 public with an opportunity to participate in the regulatory process.

1 To the extent feasible and permitted by law, each agency shall  
2 afford the public a meaningful opportunity to comment through  
3 the Internet on any proposed regulation, with a comment period  
4 that should generally be at least 60 days. To the extent feasible  
5 and permitted by law, each agency shall also provide, for both  
6 proposed and final rules, timely Internet access to the rulemaking  
7 record on the Internet Web site of the agency, including relevant  
8 scientific and technical findings, in an open format that can be  
9 easily searched and downloaded. For proposed rules, access shall  
10 include, to the extent feasible and permitted by law, an opportunity  
11 for public comment on all pertinent parts of the rulemaking record,  
12 including relevant scientific and technical findings.

13 (C) Before issuing a notice of proposed rulemaking, each  
14 agency, where feasible and appropriate, shall seek the views of  
15 those who are likely to be affected, including those who are likely  
16 to benefit from and those who are potentially subject to the  
17 rulemaking.

18 (3) Some sectors and industries face a significant number of  
19 regulatory requirements, some of which may be redundant,  
20 inconsistent, or overlapping. Greater coordination across agencies  
21 could reduce these requirements, thus reducing costs and  
22 simplifying and harmonizing rules. In developing regulatory actions  
23 and identifying appropriate approaches, each agency shall attempt  
24 to promote such coordination, simplification, and harmonization.  
25 Each agency shall also seek to identify, as appropriate, means to  
26 achieve regulatory goals that are designed to promote innovation.

27 (4) Where relevant, feasible, and consistent with regulatory  
28 objectives, and to the extent permitted by law, each agency shall  
29 identify and consider regulatory approaches that reduce burdens  
30 and maintain flexibility and freedom of choice for the public. These  
31 approaches include warnings, appropriate default rules, and  
32 disclosure requirements as well as provision of information to the  
33 public in a form that is clear and intelligible.

34 (5) Each agency shall ensure the objectivity of any scientific  
35 and technological information and processes used to support the  
36 agency's regulatory actions.

37 (6) (A) To facilitate the periodic review of existing significant  
38 regulations, agencies shall consider how best to promote  
39 retrospective analysis of rules that may be outmoded, ineffective,  
40 insufficient, or excessively burdensome, and to modify, streamline,

1 expand, or repeal them in accordance with what has been learned.  
2 Such retrospective analyses, including supporting data, should be  
3 released online whenever possible.

4 (B) Prior to July 1, 2012, each agency shall develop and submit  
5 to the office a preliminary plan, consistent with law and its  
6 resources and regulatory priorities, under which the agency will  
7 periodically review its existing significant regulations to determine  
8 whether any regulations should be modified, streamlined,  
9 expanded, or repealed so as to make the agency's regulatory  
10 program more effective or less burdensome in achieving the  
11 regulatory objectives.

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