

AMENDED IN SENATE AUGUST 21, 2012

AMENDED IN SENATE JULY 5, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1612

Introduced by Assembly Member Lara

February 7, 2012

An act to amend Sections 11346.2 and 11346.5 of the Government Code, relating to administrative regulations.

LEGISLATIVE COUNSEL'S DIGEST

AB 1612, as amended, Lara. Administrative practices.

(1) Existing law requires every state agency subject to the Administrative Procedure Act to provide an initial statement of reasons for proposing the adoption, amendment, or repeal of a regulation. Existing law requires that the initial statement of reasons include, among other things, facts, evidence, documents, testimony, or other evidence on which the agency relies to support a specified determination.

This bill would additionally require that if a regulation that is a building standard impacts housing, the initial statement of reasons include the estimated cost of compliance and the potential benefits of the regulation and the related assumptions used in determining that estimate, except as specified.

(2) Existing law requires every state agency to provide notice of the proposed adoption, amendment, or repeal of a regulation and requires a designated agency officer to make publicly available the agency's evaluation, if any, of the effect of the proposed regulatory action on housing costs.

This bill would require that in making the evaluation available to the public, the agency officer include the estimated costs of compliance and the potential benefits of the regulation, except as specified.

(3) This bill would express the intent of the Legislature that the requirements of the bill would only apply to those state agencies that have statutory authority to propose or adopt residential building standards, and not to the ~~California State~~ Air Resources Board, air pollution control districts, or air quality management districts.

This bill would incorporate additional changes in Section 11346.2 of the Government Code, proposed by SB 1520 to be operative only if SB 1520, and this bill are both chaptered and become effective on or before January 1, 2013, and this bill is chaptered last.

This bill would incorporate additional changes in Section 11346.5 of the Government Code, proposed by AB 2041 to be operative only if AB 2041, and this bill are both chaptered and become effective on or before January 1, 2013, and this bill is chaptered last.

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 11346.2 of the Government Code, as
2 amended by Section 2 of Chapter 496 of the Statutes of 2011, 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.

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

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

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

7 (1) A statement of the specific purpose of each adoption,
8 amendment, or repeal, the problem the agency intends to address,
9 and the rationale for the determination by the agency that each
10 adoption, amendment, or repeal is reasonably necessary to carry
11 out the purpose and address the problem for which it is proposed.
12 The statement shall enumerate the benefits anticipated from the
13 regulatory action, including the benefits or goals provided in the
14 authorizing statute. The benefits may include, to the extent
15 applicable, nonmonetary benefits such as the protection of public
16 health and safety, worker safety, or the environment, the prevention
17 of discrimination, the promotion of fairness or social equity, and
18 the increase in openness and transparency in business and
19 government, among other things.

20 (2) For a major regulation proposed on or after January 1, 2013,
21 the standardized regulatory impact analysis required by Section
22 11346.3.

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

27 (4) Where the adoption or amendment of a regulation would
28 mandate the use of specific technologies or equipment, a statement
29 of the reasons why the agency believes these mandates or
30 prescriptive standards are required.

31 (5) (A) A description of reasonable alternatives to the regulation
32 and the agency's reasons for rejecting those alternatives.
33 Reasonable alternatives to be considered include, but are not
34 limited to, alternatives that are proposed as less burdensome and
35 equally effective in achieving the purposes of the regulation in a
36 manner that ensures full compliance with the authorizing statute
37 or other law being implemented or made specific by the proposed
38 regulation. In the case of a regulation that would mandate the use
39 of specific technologies or equipment or prescribe specific actions

1 or procedures, the imposition of performance standards shall be
2 considered as an alternative.

3 (B) A description of reasonable alternatives to the regulation
4 that would lessen any adverse impact on small business and the
5 agency’s reasons for rejecting those alternatives.

6 (C) Notwithstanding subparagraph (A) or (B), an agency is not
7 required to artificially construct alternatives or describe
8 unreasonable alternatives.

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

13 (B) (i) If a proposed regulation that is a building standard
14 impacts housing, the initial statement of reasons shall include the
15 estimated cost of compliance, the estimated potential benefits, and
16 the related assumptions used to determine the estimates.

17 (ii) The model codes adopted pursuant to Section 18928 of the
18 Health and Safety Code shall be exempt from the requirements of
19 this subparagraph. However, if an interested party has made a
20 request in writing to the agency, at least 30 days before the
21 submittal of the initial statement of reasons, to examine a specific
22 section for purposes of estimating the cost of compliance and the
23 potential benefits for that section, and including the related
24 assumptions used to determine the estimates, then the agency shall
25 comply with the requirements of this subparagraph with regard to
26 that requested section.

27 (7) A department, board, or commission within the
28 Environmental Protection Agency, the Natural Resources Agency,
29 or the Office of the State Fire Marshal shall describe its efforts, in
30 connection with a proposed rulemaking action, to avoid
31 unnecessary duplication or conflicts with federal regulations
32 contained in the Code of Federal Regulations addressing the same
33 issues. These agencies may adopt regulations different from federal
34 regulations contained in the Code of Federal Regulations
35 addressing the same issues upon a finding of one or more of the
36 following justifications:

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

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

1 (c) A state agency that adopts or amends a regulation mandated
2 by federal law or regulations, the provisions of which are identical
3 to a previously adopted or amended federal regulation, shall be
4 deemed to have complied with subdivision (b) if a statement to
5 the effect that a federally mandated regulation or amendment to a
6 regulation is being proposed, together with a citation to where an
7 explanation of the provisions of the regulation can be found, is
8 included in the notice of proposed adoption or amendment prepared
9 pursuant to Section 11346.5. However, the agency shall comply
10 fully with this chapter with respect to any provisions in the
11 regulation that the agency proposes to adopt or amend that are
12 different from the corresponding provisions of the federal
13 regulation.

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

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

18 *SEC. 1.5. Section 11346.2 of the Government Code, as amended*
19 *by Section 2 of Chapter 496 of the Statutes of 2011, is amended*
20 *to read:*

21 11346.2. Every agency subject to this chapter shall prepare,
22 submit to the office with the notice of the proposed action as
23 described in Section 11346.5, and make available to the public
24 upon request, all of the following:

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

26 (1) The agency shall draft the regulation in plain, straightforward
27 language, avoiding technical terms as much as possible, and using
28 a coherent and easily readable style. The agency shall draft the
29 regulation in plain English.

30 (2) The agency shall include a notation following the express
31 terms of each California Code of Regulations section, listing the
32 specific statutes or other provisions of law authorizing the adoption
33 of the regulation and listing the specific statutes or other provisions
34 of law being implemented, interpreted, or made specific by that
35 section in the California Code of Regulations.

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

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

4 (1) A statement of the specific purpose of each adoption,
5 amendment, or repeal, the problem the agency intends to address,
6 and the rationale for the determination by the agency that each
7 adoption, amendment, or repeal is reasonably necessary to carry
8 out the purpose and address the problem for which it is proposed.
9 The statement shall enumerate the benefits anticipated from the
10 regulatory action, including the benefits or goals provided in the
11 authorizing statute. The benefits may include, to the extent
12 applicable, nonmonetary benefits such as the protection of public
13 health and safety, worker safety, or the environment, the prevention
14 of discrimination, the promotion of fairness or social equity, and
15 the increase in openness and transparency in business and
16 government, among other things.

17 (2) For a major regulation proposed on or after ~~January~~
18 *November* 1, 2013, the standardized regulatory impact analysis
19 required by Section 11346.3.

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

24 (4) Where the adoption or amendment of a regulation would
25 mandate the use of specific technologies or equipment, a statement
26 of the reasons why the agency believes these mandates or
27 prescriptive standards are required.

28 (5) (A) A description of reasonable alternatives to the regulation
29 and the agency's reasons for rejecting those alternatives.
30 Reasonable alternatives to be considered include, but are not
31 limited to, alternatives that are proposed as less burdensome and
32 equally effective in achieving the purposes of the regulation in a
33 manner that ensures full compliance with the authorizing statute
34 or other law being implemented or made specific by the proposed
35 regulation. In the case of a regulation that would mandate the use
36 of specific technologies or equipment or prescribe specific actions
37 or procedures, the imposition of performance standards shall be
38 considered as an alternative.

1 (B) 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 (C) Notwithstanding subparagraph (A) or (B), an agency is not
5 required to artificially construct alternatives or describe
6 unreasonable alternatives.

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

11 (B) (i) *If a proposed regulation that is a building standard*
12 *impacts housing, the initial statement of reasons shall include the*
13 *estimated cost of compliance, the estimated potential benefits, and*
14 *the related assumptions used to determine the estimates.*

15 (ii) *The model codes adopted pursuant to Section 18928 of the*
16 *Health and Safety Code shall be exempt from the requirements of*
17 *this subparagraph. However, if an interested party has made a*
18 *request in writing to the agency, at least 30 days before the*
19 *submission of the initial statement of reasons, to examine a specific*
20 *section for purposes of estimating the cost of compliance and the*
21 *potential benefits for that section, and including the related*
22 *assumptions used to determine the estimates, then the agency shall*
23 *comply with the requirements of this subparagraph with regard*
24 *to that requested section.*

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

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

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

39 (c) A state agency that adopts or amends a regulation mandated
40 by federal law or regulations, the provisions of which are identical

1 to a previously adopted or amended federal regulation, shall be
2 deemed to have complied with subdivision (b) if a statement to
3 the effect that a federally mandated regulation or amendment to a
4 regulation is being proposed, together with a citation to where an
5 explanation of the provisions of the regulation can be found, is
6 included in the notice of proposed adoption or amendment prepared
7 pursuant to Section 11346.5. However, the agency shall comply
8 fully with this chapter with respect to any provisions in the
9 regulation that the agency proposes to adopt or amend that are
10 different from the corresponding provisions of the federal
11 regulation.

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

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

16 SEC. 2. Section 11346.2 of the Government Code, as amended
17 by Section 3 of Chapter 496 of the Statutes of 2011, is amended
18 to read:

19 11346.2. Every agency subject to this chapter shall prepare,
20 submit to the office with the notice of the proposed action as
21 described in Section 11346.5, and make available to the public
22 upon request, all of the following:

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

24 (1) The agency shall draft the regulation in plain, straightforward
25 language, avoiding technical terms as much as possible, and using
26 a coherent and easily readable style. The agency shall draft the
27 regulation in plain English.

28 (2) The agency shall include a notation following the express
29 terms of each California Code of Regulations section, listing the
30 specific statutes or other provisions of law authorizing the adoption
31 of the regulation and listing the specific statutes or other provisions
32 of law being implemented, interpreted, or made specific by that
33 section in the California Code of Regulations.

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

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

1 (1) A statement of the specific purpose of each adoption,
2 amendment, or repeal, the problem the agency intends to address,
3 and the rationale for the determination by the agency that each
4 adoption, amendment, or repeal is reasonably necessary to carry
5 out the purpose and address the problem for which it is proposed.
6 The statement shall enumerate the benefits anticipated from the
7 regulatory action, including the benefits or goals provided in the
8 authorizing statute. These benefits may include, to the extent
9 applicable, nonmonetary benefits such as the protection of public
10 health and safety, worker safety, or the environment, the prevention
11 of discrimination, the promotion of fairness or social equity, and
12 the increase in openness and transparency in business and
13 government, among other things. Where the adoption or
14 amendment of a regulation would mandate the use of specific
15 technologies or equipment, a statement of the reasons why the
16 agency believes these mandates or prescriptive standards are
17 required.

18 (2) For a major regulation proposed on or after November 1,
19 2013, the standardized regulatory impact analysis required by
20 Section 11346.3.

21 (3) 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 (4) (A) A description of reasonable alternatives to the regulation
26 and the agency's reasons for rejecting those alternatives.
27 Reasonable alternatives to be considered include, but are not
28 limited to, alternatives that are proposed as less burdensome and
29 equally effective in achieving the purposes of the regulation in a
30 manner that ensures full compliance with the authorizing statute
31 or other law being implemented or made specific by the proposed
32 regulation. In the case of a regulation that would mandate the use
33 of specific technologies or equipment or prescribe specific actions
34 or procedures, the imposition of performance standards shall be
35 considered as an alternative.

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

1 (C) Notwithstanding subparagraph (A) or (B), an agency is not
2 required to artificially construct alternatives or describe
3 unreasonable alternatives.

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

8 (B) (i) If a proposed regulation that is a building standard
9 impacts housing, the initial statement of reasons shall include the
10 estimated cost of compliance, the estimated potential benefits, and
11 the related assumptions used to determine the estimates.

12 (ii) The model codes adopted pursuant to Section 18928 of the
13 Health and Safety Code shall be exempt from the requirements of
14 this subparagraph. However, if an interested party has made a
15 request in writing to the agency, at least 30 days before the
16 submittal of the initial statement of reasons, to examine a specific
17 section for purposes of estimating the cost of compliance and the
18 potential benefits for that section, and including the related
19 assumptions used to determine the estimates, then the agency shall
20 comply with the requirements of this subparagraph with regard to
21 that requested section.

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

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

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

36 (c) A state agency that adopts or amends a regulation mandated
37 by federal law or regulations, the provisions of which are identical
38 to a previously adopted or amended federal regulation, shall be
39 deemed to have complied with subdivision (b) if a statement to
40 the effect that a federally mandated regulation or amendment to a

1 regulation is being proposed, together with a citation to where an
2 explanation of the provisions of the regulation can be found, is
3 included in the notice of proposed adoption or amendment prepared
4 pursuant to Section 11346.5. However, the agency shall comply
5 fully with this chapter with respect to any provisions in the
6 regulation that the agency proposes to adopt or amend that are
7 different from the corresponding provisions of the federal
8 regulation.

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

11 SEC. 3. Section 11346.5 of the Government Code is amended
12 to read:

13 11346.5. (a) The notice of proposed adoption, amendment, or
14 repeal of a regulation shall include the following:

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

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

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

24 (A) A concise and clear summary of existing laws and
25 regulations, if any, related directly to the proposed action and of
26 the effect of the proposed action.

27 (B) If the proposed action differs substantially from an existing
28 comparable federal regulation or statute, a brief description of the
29 significant differences and the full citation of the federal regulations
30 or statutes.

31 (C) A policy statement overview explaining the broad objectives
32 of the regulation and the specific benefits anticipated by the
33 proposed adoption, amendment, or repeal of a regulation, including,
34 to the extent applicable, nonmonetary benefits such as the
35 protection of public health and safety, worker safety, or the
36 environment, the prevention of discrimination, the promotion of
37 fairness or social equity, and the increase in openness and
38 transparency in business and government, among other things.

39 (D) An evaluation of whether the proposed regulation is
40 inconsistent or incompatible with existing state regulations.

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

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

8 (6) An estimate, prepared in accordance with instructions
9 adopted by the Department of Finance, of the cost or savings to
10 any state agency, the cost to any local agency or school district
11 that is required to be reimbursed under Part 7 (commencing with
12 Section 17500) of Division 4, other nondiscretionary cost or
13 savings imposed on local agencies, and the cost or savings in
14 federal funding to the state.

15 For purposes of this paragraph, “cost or savings” means
16 additional costs or savings, both direct and indirect, that a public
17 agency necessarily incurs in reasonable compliance with
18 regulations.

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

26 (A) Identification of the types of businesses that would be
27 affected.

28 (B) A description of the projected reporting, recordkeeping, and
29 other compliance requirements that would result from the proposed
30 action.

31 (C) The following statement: “The (name of agency) has made
32 an initial determination that the (adoption/amendment/repeal) of
33 this regulation may 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 The (name of agency) (has/has not) considered proposed
37 alternatives that would lessen any adverse economic impact on
38 business and invites you to submit proposals. Submissions may
39 include the following considerations:

1 (i) The establishment of differing compliance or reporting
2 requirements or timetables that take into account the resources
3 available to businesses.

4 (ii) Consolidation or simplification of compliance and reporting
5 requirements for businesses.

6 (iii) The use of performance standards rather than prescriptive
7 standards.

8 (iv) Exemption or partial exemption from the regulatory
9 requirements for businesses.”

10 (8) If a state agency, in adopting, amending, or repealing any
11 administrative regulation, makes an initial determination that the
12 action will not have a significant, statewide adverse economic
13 impact directly affecting business, including the ability of
14 California businesses to compete with businesses in other states,
15 it shall make a declaration to that effect in the notice of proposed
16 action. In making this declaration, the agency shall provide in the
17 record facts, evidence, documents, testimony, or other evidence
18 upon which the agency relies to support its initial determination.

19 An agency’s initial determination and declaration that a proposed
20 adoption, amendment, or repeal of a regulation may have or will
21 not have a significant, adverse impact on businesses, including the
22 ability of California businesses to compete with businesses in other
23 states, shall not be grounds for the office to refuse to publish the
24 notice of proposed action.

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

29 If no cost impacts are known to the agency, it shall state the
30 following:

31
32 “The agency is not aware of any cost impacts that a
33 representative private person or business would necessarily incur
34 in reasonable compliance with the proposed action.”

35
36 (10) A statement of the results of the economic impact
37 assessment required by subdivision (b) of Section 11346.3 or the
38 standardized regulatory impact analysis if required by subdivision
39 (c) of Section 11346.3, a summary of any comments submitted to

1 the agency pursuant to subdivision (f) of Section 11346.3 and the
2 agency's response to those comments.

3 (11) The finding prescribed by subdivision (d) of Section
4 11346.3, if required.

5 (12) (A) A statement that the action would have a significant
6 effect on housing costs, if a state agency, in adopting, amending,
7 or repealing any administrative regulation, makes an initial
8 determination that the action would have that effect.

9 (B) The agency officer designated in paragraph (14) shall make
10 available to the public, upon request, the agency's evaluation, if
11 any, of the effect of the proposed regulatory action on housing
12 costs.

13 (C) The statement described in subparagraph (A) shall also
14 include the estimated costs of compliance and potential benefits
15 of a building standard, if any, that were included in the initial
16 statement of reasons.

17 (D) For purposes of model codes adopted pursuant to Section
18 18928 of the Health and Safety Code, the agency shall comply
19 with the requirements of this paragraph only if an interested party
20 has made a request to the agency to examine a specific section for
21 purposes of estimating the costs of compliance and potential
22 benefits for that section, as described in Section 11346.2.

23 (13) A statement that the adopting agency must determine that
24 no reasonable alternative considered by the agency or that has
25 otherwise been identified and brought to the attention of the agency
26 would be more effective in carrying out the purpose for which the
27 action is proposed, would be as effective and less burdensome to
28 affected private persons than the proposed action, or would be
29 more cost effective to affected private persons and equally effective
30 in implementing the statutory policy or other provision of law. For
31 a major regulation, as defined by Section 11342.548, proposed on
32 or after November 1, 2013, the statement shall be based, in part,
33 upon the standardized regulatory impact analysis of the proposed
34 regulation, as required by Section 11346.3, as well as upon the
35 benefits of the proposed regulation identified pursuant to
36 subparagraph (C) of paragraph (3).

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 *SEC. 3.5. 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 the specific benefits anticipated by the
23 proposed adoption, amendment, or repeal of a regulation, including,
24 to the extent applicable, nonmonetary benefits such as the
25 protection of public health and safety, worker safety, or the
26 environment, the prevention of discrimination, the promotion of
27 fairness or social equity, and the increase in openness and
28 transparency in business and government, among other things.

29 (D) An evaluation of whether the proposed regulation is
30 inconsistent or incompatible with existing state regulations.

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

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

38 (6) An estimate, prepared in accordance with instructions
39 adopted by the Department of Finance, of the cost or savings to
40 any state agency, the cost to any local agency or school district

1 that is required to be reimbursed under Part 7 (commencing with
2 Section 17500) of Division 4, other nondiscretionary cost or
3 savings imposed on local agencies, and the cost or savings in
4 federal funding to the state.

5 For purposes of this paragraph, “cost or savings” means
6 additional costs or savings, both direct and indirect, that a public
7 agency necessarily incurs in reasonable compliance with
8 regulations.

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

16 (A) Identification of the types of businesses that would be
17 affected.

18 (B) A description of the projected reporting, recordkeeping, and
19 other compliance requirements that would result from the proposed
20 action.

21 (C) The following statement: “The (name of agency) has made
22 an initial determination that the (adoption/amendment/repeal) of
23 this regulation may have a significant, statewide adverse economic
24 impact directly affecting business, including the ability of
25 California businesses to compete with businesses in other states.
26 The (name of agency) (has/has not) considered proposed
27 alternatives that would lessen any adverse economic impact on
28 business and invites you to submit proposals. Submissions may
29 include the following considerations:

30 (i) The establishment of differing compliance or reporting
31 requirements or timetables that take into account the resources
32 available to businesses.

33 (ii) Consolidation or simplification of compliance and reporting
34 requirements for businesses.

35 (iii) The use of performance standards rather than prescriptive
36 standards.

37 (iv) Exemption or partial exemption from the regulatory
38 requirements for businesses.”

39 (8) If a state agency, in adopting, amending, or repealing any
40 administrative regulation, makes an initial determination that the

1 action will not have a significant, statewide adverse economic
2 impact directly affecting business, including the ability of
3 California businesses to compete with businesses in other states,
4 it shall make a declaration to that effect in the notice of proposed
5 action. In making this declaration, the agency shall provide in the
6 record facts, evidence, documents, testimony, or other evidence
7 upon which the agency relies to support its initial determination.

8 An agency's initial determination and declaration that a proposed
9 adoption, amendment, or repeal of a regulation may have or will
10 not have a significant, adverse impact on businesses, including the
11 ability of California businesses to compete with businesses in other
12 states, shall not be grounds for the office to refuse to publish the
13 notice of proposed action.

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

18 If no cost impacts are known to the agency, it shall state the
19 following:

20 "The agency is not aware of any cost impacts that a
21 representative private person or business would necessarily incur
22 in reasonable compliance with the proposed action."

23 (10) A statement of the results of the economic impact
24 assessment required by subdivision (b) of Section 11346.3 or the
25 standardized regulatory impact analysis if required by subdivision
26 (c) of Section 11346.3, a summary of any comments submitted to
27 the agency pursuant to subdivision (f) of Section 11346.3 and the
28 agency's response to those comments.

29 (11) The finding prescribed by subdivision (d) of Section
30 11346.3, if required.

31 (12) (A) A statement that the action would have a significant
32 effect on housing costs, if a state agency, in adopting, amending,
33 or repealing any administrative regulation, makes an initial
34 determination that the action would have that effect. ~~In addition,
35 the agency officer designated in paragraph (14), shall make
36 available to the public, upon request, the agency's evaluation, if
37 any, of the effect of the proposed regulatory action on housing
38 costs.~~

39 (B) *The agency officer designated in paragraph (14) shall make*
40 *available to the public, upon request, the agency's evaluation, if*

1 any, of the effect of the proposed regulatory action on housing
2 costs.

3 (C) The statement described in subparagraph (A) shall also
4 include the estimated costs of compliance and potential benefits
5 of a building standard, if any, that were included in the initial
6 statement of reasons.

7 (D) For purposes of model codes adopted pursuant to Section
8 18928 of the Health and Safety Code, the agency shall comply
9 with the requirements of this paragraph only if an interested party
10 has made a request to the agency to examine a specific section for
11 purposes of estimating the costs of compliance and potential
12 benefits for that section, as described in Section 11346.2.

13 (13) A statement that the adopting agency must determine that
14 no reasonable alternative considered by the agency or that has
15 otherwise been identified and brought to the attention of the agency
16 would be more effective in carrying out the purpose for which the
17 action is proposed, would be as effective and less burdensome to
18 affected private persons than the proposed action, or would be
19 more ~~cost-effective~~ *cost effective* to affected private persons and
20 equally effective in implementing the statutory policy or other
21 provision of law. For a major regulation, as defined by Section
22 11342.548, proposed on or after November 1, 2013, the statement
23 shall be based, in part, upon the standardized regulatory impact
24 analysis of the proposed regulation, as required by Section 11346.3,
25 as well as upon the benefits of the proposed regulation identified
26 pursuant to subparagraph (C) of paragraph (3).

27 (14) The name and telephone number of the agency
28 representative and designated backup contact person to whom
29 inquiries concerning the proposed administrative action may be
30 directed.

31 (15) The date by which comments submitted in writing must
32 be received to present statements, arguments, or contentions in
33 writing relating to the proposed action in order for them to be
34 considered by the state agency before it adopts, amends, or repeals
35 a regulation.

36 (16) Reference to the fact that the agency proposing the action
37 has prepared a statement of the reasons for the proposed action,
38 has available all the information upon which its proposal is based,
39 and has available the express terms of the proposed action, pursuant
40 to subdivision (b).

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

5 (18) A statement indicating that the full text of a regulation
6 changed pursuant to Section 11346.8 will be available for at least
7 15 days prior to the date on which the agency adopts, amends, or
8 repeals the resulting regulation.

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

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

16 (21) *If the proposed regulation is subject to Section 11346.6, a*
17 *statement that the agency shall provide, upon request, a description*
18 *of the proposed changes included in the proposed action, in the*
19 *manner provided by Section 11346.6, to accommodate a person*
20 *with a visual or other disability for which effective communication*
21 *is required under state or federal law and that providing the*
22 *description of proposed changes may require extending the period*
23 *of public comment for the proposed action.*

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

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

38 SEC. 4. (a) It is the intent of the Legislature that the
39 requirements of this act only apply to state agencies that have

1 statutory authority to propose or adopt residential building
2 standards.

3 (b) It is the intent of the Legislature that this act not apply to
4 standards developed and adopted by the ~~California~~ State Air
5 Resources Board, air pollution control districts, or air quality
6 management districts.

7 *SEC. 5. Section 1.5 of this bill incorporates amendments to*
8 *Section 11346.2 of the Government Code, as amended by Section*
9 *2 of Chapter 496 of the Statutes of 2011, proposed by both this*
10 *bill and Senate Bill 1520. It shall become operative only if (1) both*
11 *bills are enacted and become effective on or before January 1,*
12 *2013, (2) each bill amends Section 11346.2 of the Government*
13 *Code, as amended by Section 2 of Chapter 496 of the Statutes of*
14 *2011, and (3) this bill is enacted after Senate Bill 1520, in which*
15 *case Section 1 of this bill shall not become operative.*

16 *SEC. 6. Section 3.5 of this bill incorporates amendments to*
17 *Section 11346.5 of the Government Code proposed by both this*
18 *bill and Assembly Bill 2041. It shall become operative only if (1)*
19 *both bills are enacted and become effective on or before January*
20 *1, 2013, (2) each bill amends Section 11346.5 of the Government*
21 *Code, and (3) this bill is enacted after Assembly Bill 2041, in which*
22 *case Section 3 of this bill shall not become operative.*