

Introduced by Senator WrightFebruary 18, 2011

An act to amend Sections 11343.4 and 11346.3 of the Government Code, relating to regulations.

LEGISLATIVE COUNSEL'S DIGEST

SB 688, as introduced, Wright. Regulations: legislative approval.

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. Existing law requires the agency to assess the potential for adverse economic impact on California business enterprises and individuals, as specified. Existing law provides that a regulation shall become effective 30 days after the date it is filed with the Secretary of State, as specified.

This bill would also require an agency to produce, as part of the required impact assessment, a detailed estimate of the total actual costs of compliance for affected businesses and individuals. This bill would require the agency to notify specified committees of the Legislature if the estimated total costs of compliance exceed an unspecified amount, as specified.

This bill would require that a regulation that has an estimated total cost of compliance in excess of an unspecified amount not take effect until January 1, next, one year following the date that the regulation is filed with the Secretary of State.

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 11343.4 of the Government Code is
2 amended to read:

3 11343.4. ~~A~~*(a) Except as provided in subdivision (b), a*
4 *regulation or an order of repeal required to be filed with the*
5 *Secretary of State shall become effective on the 30th day after the*
6 *date of filing unless:*

7 ~~(a)~~

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

11 ~~(b)~~

12 *(2) A later date is prescribed by the state agency in a written*
13 *instrument filed with, or as part of, the regulation or order of repeal.*

14 ~~(c)~~

15 *(3) The agency makes a written request to the office*
16 *demonstrating good cause for an earlier effective date, in which*
17 *case the office may prescribe an earlier date.*

18 *(b) A regulation that has an individual cost impact in excess of*
19 *_____ dollars (\$_____), as determined by the assessment conducted*
20 *pursuant to Section 11346.3, shall not take effect until January 1,*
21 *next, one year following the date that the regulation is filed with*
22 *the Secretary of State.*

23 SEC. 2. Section 11346.3 of the Government Code is amended
24 to read:

25 11346.3. (a) State agencies proposing to adopt, amend, or
26 repeal any administrative regulation shall assess the potential for
27 adverse economic impact on California business enterprises and
28 individuals, avoiding the imposition of unnecessary or unreasonable
29 regulations or reporting, recordkeeping, or compliance
30 requirements. For purposes of this subdivision, assessing the
31 potential for adverse economic impact shall require agencies, when
32 proposing to adopt, amend, or repeal a regulation, to adhere to the
33 following requirements, to the extent that these requirements do
34 not conflict with other state or federal laws:

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

1 (2) The state agency, prior to submitting a proposal to adopt,
 2 amend, or repeal a regulation to the office, shall consider the
 3 proposal’s impact on business, with consideration of industries
 4 affected including the ability of California businesses to compete
 5 with businesses in other states. For purposes of evaluating the
 6 impact on the ability of California businesses to compete with
 7 businesses in other states, an agency shall consider, but not be
 8 limited to, information supplied by interested parties.

9 It is not the intent of this section to impose additional criteria on
 10 agencies, above that which exists in current law, in assessing
 11 adverse economic impact on California business enterprises, but
 12 only to assure that the assessment is made early in the process of
 13 initiation and development of a proposed adoption, amendment,
 14 or repeal of a regulation.

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

18 (A) The creation or elimination of jobs within the State of
 19 California.

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

22 (C) The expansion of businesses currently doing business within
 23 the State of California.

24 (2) (A) *All state agencies proposing to adopt, amend, or repeal*
 25 *any administrative regulations shall also prepare, as part of the*
 26 *assessment required by this section, a detailed estimate of the total*
 27 *actual costs of compliance for affected businesses and individuals.*
 28 *The cost impacts shall, at a minimum, estimate costs of individual*
 29 *compliance as well as the aggregate statewide cost of compliance.*

30 (B) *The agency shall notify the fiscal committee in each house*
 31 *of the Legislature and the appropriate policy committee in each*
 32 *house of the Legislature if the estimated actual costs of compliance*
 33 *for affected businesses or individuals, at the individual level,*
 34 *exceeds ____ dollars (\$____). This notification is intended to*
 35 *provide the Legislature sufficient time, to the extent the Legislature*
 36 *may disapprove of the regulation, to enact a statute that restricts*
 37 *the statutory authority of the agency to enact the regulation.*

38 (2)

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

4 ~~(3)~~

5 (4) Information required from state agencies for the purpose of
6 completing the assessment may come from existing state
7 publications.

8 (c) No administrative regulation adopted on or after January 1,
9 1993, that requires a report shall apply to businesses, unless the
10 state agency adopting the regulation makes a finding that it is
11 necessary for the health, safety, or welfare of the people of the
12 state that the regulation apply to businesses.

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