

Introduced by Senator Runner

February 18, 2011

An act to add Chapter 5.2 (commencing with Section 11530) to Part 1 of Division 3 of Title 2 of the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

SB 828, as introduced, Runner. Small Business Appeals Board.

Existing law sets forth procedures generally for the administrative review of the regulatory activities of state agencies.

This bill would establish the Small Business Appeals Board in state government, to consist of a specified membership. It would authorize the board to grant a hearing and review the order, ruling, action, or failure to act of any state agency, except a state taxing agency, upon the petition of any small business affected by the order, ruling, action, or failure to act. It would authorize the board to grant any remedy and impose any penalty authorized under existing law governing administrative procedures.

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. Chapter 5.2 (commencing with Section 11530)
- 2 is added to Part 1 of Division 3 of Title 2 of the Government Code,
- 3 to read:

CHAPTER 5.2. SMALL BUSINESS APPEALS BOARD

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3 11530. (a) The Legislature finds and declares that small
4 businesses form the backbone of the California economy and are
5 essential to the state's prospective vitality. Moreover, an often
6 complicated and sometimes arbitrary state regulatory system has
7 impeded the growth of some enterprises and has caused a
8 perception that California is a hard place to do business. Often,
9 small businesses are overwhelmed with red tape and agencies that
10 stress formalities over substance.

11 (b) Therefore, in order that California's small businesses may
12 have a forum for appeal of what may appear to be a slow or
13 overzealous bureaucracy, the Small Business Appeals Board is
14 hereby established in state government.

15 (c) For purposes of this chapter, "small business" means an
16 entity that meets either of the following criteria:

17 (1) Its gross receipts are less than ten million dollars
18 (\$10,000,000) annually.

19 (2) It has fewer than 100 employees.

20 11530.5. (a) The Small Business Appeals Board shall consist
21 of five members, as follows:

22 (1) An individual appointed by the Governor, who shall serve
23 as chair.

24 (2) A retired judge appointed by the Chief Justice of the
25 California Supreme Court.

26 (3) A representative of the office of the Attorney General.

27 (4) Two public members with extensive experience in the
28 operation of small businesses, one to be appointed by the President
29 pro Tempore of the Senate and one to be appointed by the Speaker
30 of the Assembly.

31 (b) The board shall meet at least once per month. It shall
32 commence operations beginning the January after the appointment
33 of its members and the appropriation of funds for its support. It
34 may employ legal and administrative staff for the purposes of this
35 section.

36 (c) Board members shall not receive compensation, but members
37 not serving in their official capacity may receive per diem and
38 actual expenses.

39 (d) (1) Except as provided in paragraph (3), the board may, at
40 its discretion, grant a hearing and review the order, ruling, action,

1 or failure to act of any state agency, upon the petition of any small
2 business affected by the order, ruling, action, or failure to act. The
3 board may grant any remedy and impose any penalty authorized
4 under existing law governing administrative procedures. Any other
5 administrative body with jurisdiction over the matter may take the
6 board's disposition into account in making its own determination
7 on the matter.

8 (2) A small business may petition the board pursuant to this
9 subdivision regardless of whether it has exhausted its other
10 administrative remedies. A decision of the board to grant or deny
11 a hearing under this subdivision shall not be subject to
12 administrative review.

13 (3) This subdivision shall not apply to any taxing agency of the
14 state.

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