ASSEMBLY BILL No. 1219

Introduced by Assembly Member Morrell

February 22, 2013

An act to amend Section 11346.3 of the Government Code, relating to regulations.

LEGISLATIVE COUNSEL’S DIGEST

AB 1219, as introduced, Morrell. Administrative Procedure Act: adverse economic impact.

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.

This bill would make technical, nonsubstantive changes to this provision.


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

SECTION 1. Section 11346.3 of the Government Code is amended to read:

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

1. The proposed adoption, amendment, or repeal of a regulation shall be based on adequate information concerning the need for, and consequences of, proposed governmental action.
2. The state agency, prior to submitting a proposal to adopt, amend, or repeal a regulation to the office, shall consider the proposal’s impact on business, with consideration of industries affected including the ability of California businesses to compete with businesses in other states. For purposes of evaluating the impact on the ability of California businesses to compete with businesses in other states, an agency shall consider, but not be limited to, information supplied by interested parties.
3. An economic assessment prepared pursuant to this subdivision for a proposed regulation that is not a major regulation or that is a major regulation proposed prior to November 1, 2013, shall be prepared in accordance with subdivision (b). An economic assessment prepared pursuant to this subdivision for a major regulation proposed on or after November 1, 2013, shall be prepared in accordance with subdivision (c), and shall be included in the initial statement of reasons as required by Section 11346.2.

(b) (1) All state agencies proposing to adopt, amend, or repeal a regulation that is not a major regulation or that is a major regulation proposed prior to November 1, 2013, shall prepare an economic impact assessment that assesses whether and to what extent it will affect the following:
   (A) The creation or elimination of jobs within the state.
   (B) The creation of new businesses or the elimination of existing businesses within the state.
   (C) The expansion of businesses currently doing business within the state.
   (D) The benefits of the regulation to the health and welfare of California residents, worker safety, and the state’s environment.

(2) This subdivision does not apply to the University of California, the Hastings College of the Law, or the Fair Political Practices Commission.
(3) Information required from state agencies for the purpose of completing the assessment may come from existing state publications.

(c) (1) Each state agency proposing to adopt, amend, or repeal a major regulation on or after November 1, 2013, shall prepare a standardized regulatory impact analysis in the manner prescribed by the Department of Finance pursuant to Section 11346.36. The standardized regulatory impact analysis shall address all of the following:

(A) The creation or elimination of jobs within the state.
(B) The creation of new businesses or the elimination of existing businesses within the state.
(C) The competitive advantages or disadvantages for businesses currently doing business within the state.
(D) The increase or decrease of investment in the state.
(E) The incentives for innovation in products, materials, or processes.
(F) The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state’s environment and quality of life, among any other benefits identified by the agency.

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

(3) Information required from state agencies for the purpose of completing the analysis may be derived from existing state, federal, or academic publications.

(d) Any administrative regulation adopted on or after January 1, 1993, that requires a report shall not apply to businesses, unless the state agency adopting the regulation makes a finding that it is necessary for the health, safety, or welfare of the people of the state that the regulation apply to businesses.

(e) Analyses conducted pursuant to this section are intended to provide agencies and the public with tools to determine whether the regulatory proposal is an efficient and effective means of implementing the policy decisions enacted by statute or by other provisions of law in the least burdensome manner. Regulatory impact analyses shall inform the agencies and the public of the economic consequences of regulatory choices, not reassess statutory policy. The baseline for the regulatory analysis shall be
the most cost-effective set of regulatory measures that are equally
effective in achieving the purpose of the regulation in a manner
that ensures full compliance with the authorizing statute or other
law being implemented or made specific by the proposed
regulation.

(f) Each state agency proposing to adopt, amend, or repeal a
major regulation on or after November 1, 2013, and that has
prepared a standardized regulatory impact analysis pursuant to
subdivision (c), shall submit that analysis to the Department of
Finance upon completion. The department shall comment, within
30 days of receiving that analysis, on the extent to which the
analysis adheres to the regulations adopted pursuant to Section
11346.36. Upon receiving the comments from the department, the
agency may update its analysis to reflect any comments received
from the department and shall summarize the comments and the
response of the agency along with a statement of the results of the
updated analysis for the statement required by paragraph (10) of
subdivision (a) of Section 11346.5.