

ASSEMBLY BILL

No. 12

Introduced by Assembly Member Cooley

December 1, 2014

An act to amend Section 11349.1.5 of, and to add and repeal Chapter 3.6 (commencing with Section 11366) of Part 1 of Division 3 of Title 2 of, the Government Code, relating to state agency regulations.

LEGISLATIVE COUNSEL'S DIGEST

AB 12, as introduced, Cooley. State government: administrative regulations: review.

(1) Existing law authorizes various state entities to adopt, amend, or repeal regulations for various specified purposes. The Administrative Procedure Act requires the Office of Administrative Law and a state agency proposing to adopt, amend, or repeal a regulation to review the proposed changes for, among other things, consistency with existing state regulations.

This bill would, until January 1, 2019, require each state agency to, on or before January 1, 2018, and after a noticed public hearing, review and revise that agency's regulations to eliminate any inconsistencies, overlaps, or outdated provisions in the regulations, adopt the revisions as emergency regulations, and report to the Legislature and Governor, as specified. The bill would further require each agency to, on or before January 1, 2017, compile an overview of the statutory law that agency administers.

(2) The act requires a state agency proposing to adopt, amend, or repeal a major regulation, as defined, to prepare a standardized regulatory impact analysis of the proposed change. The act requires the office and the Department of Finance to, from time to time, review the

analyses for compliance with specific department regulations. The act further requires the office to, on or before November 1, 2015, submit a report on the analyses to the Senate and Assembly Committees on Governmental Organization, as specified.

This bill would instead require the office and department to annually review the analyses. The bill would also require the office to annually submit a report on the analyses to the Senate Committee on Governmental Organization and the Assembly Committee on Accountability and Administrative Review.

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 11349.1.5 of the Government Code is
2 amended to read:

3 11349.1.5. (a) The Department of Finance and the office ~~shall,~~
4 ~~from time to time,~~ *shall annually* review the standardized
5 regulatory impact analyses required by subdivision (c) of Section
6 11346.3 and submitted to the office pursuant to Section 11347.3,
7 for adherence to the regulations adopted by the department pursuant
8 to Section 11346.36.

9 (b) *(1) On or before November 1, 2015, and annually thereafter,*
10 ~~the office shall submit to the Senate and Assembly Committees~~
11 *Committee on Governmental Organization and the Assembly*
12 *Committee on Accountability and Administrative Review* a report
13 describing the extent to which submitted standardized regulatory
14 impact analyses for proposed major regulations *for the fiscal year*
15 *ending in June 30, of that year* adhere to the regulations adopted
16 pursuant to Section 11346.36. The report shall include a discussion
17 of agency adherence to the regulations as well as a comparison
18 between various state agencies on the question of adherence. The
19 report ~~may~~ *shall* also include any recommendations from the office
20 for actions the Legislature might consider for improving state
21 agency ~~performance.~~ *performance and compliance in the creation*
22 *of the standardized regulatory impact analyses as described in*
23 *Section 11346.3.*

24 (2) *The report shall be submitted in compliance with Section*
25 *9795 of the Government Code.*

1 (c) In addition to the *annual* report required by subdivision (b),
2 the office ~~may~~ *shall* notify the Legislature of noncompliance by a
3 state agency with the regulations adopted pursuant to Section
4 11346.36, in any manner or form determined by the ~~office~~. *office*
5 *and shall post the report and notice of noncompliance on the*
6 *office's Internet Web site.*

7 SEC. 2. Chapter 3.6 (commencing with Section 11366) is added
8 to Part 1 of Division 3 of Title 2 of the Government Code, to read:

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10 CHAPTER 3.6. REGULATORY REFORM

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12 Article 1. Findings and Declarations

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14 11366. The Legislature finds and declares all of the following:

15 (a) The Administrative Procedure Act (Chapter 3.5 (commencing
16 with Section 11340), Chapter 4 (commencing with Section 11370),
17 Chapter 4.5 (commencing with Section 11400), and Chapter 5
18 (commencing with Section 11500)) requires agencies and the
19 Office of Administrative Law to review regulations to ensure their
20 consistency with law and to consider impacts on the state's
21 economy and businesses, including small businesses.

22 (b) However, the act does not require agencies to individually
23 review their regulations to identify overlapping, inconsistent,
24 duplicative, or out-of-date regulations that may exist.

25 (c) At a time when the state's economy is slowly recovering,
26 unemployment and underemployment continue to affect all
27 Californians, especially older workers and younger workers who
28 received college degrees in the last seven years but are still awaiting
29 their first great job, and with state government improving but in
30 need of continued fiscal discipline, it is important that state
31 agencies systematically undertake to identify, publicly review, and
32 eliminate overlapping, inconsistent, duplicative, or out-of-date
33 regulations, both to ensure they more efficiently implement and
34 enforce laws and to reduce unnecessary and outdated rules and
35 regulations.

36 (d) The purpose of this chapter is to require each agency to
37 compile an overview of the statutory law that agency oversees or
38 administers in its regulatory activity that includes a synopsis of
39 key programs, when each key program was authorized or instituted,

1 and any emerging challenges the agency is encountering with
2 respect to those programs.

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Article 2. Definitions

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6 11366.1. For the purpose of this chapter, the following
7 definitions shall apply:

8 (a) “State agency” means a state agency, as defined in Section
9 11000, except those state agencies or activities described in Section
10 11340.9.

11 (b) “Regulation” has the same meaning as provided in Section
12 11342.600.

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Article 3. State Agency Duties

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16 11366.2. On or before January 1, 2018, each state agency shall
17 do all of the following:

18 (a) Review all provisions of the California Code of Regulations
19 applicable to, or adopted by, that state agency.

20 (b) Identify any regulations that are duplicative, overlapping,
21 inconsistent, or out of date.

22 (c) Adopt, amend, or repeal regulations to reconcile or eliminate
23 any duplication, overlap, inconsistencies, or out-of-date provisions.

24 (d) Hold at least one noticed public hearing, that shall be noticed
25 on the Internet Web site of the state agency, for the purposes of
26 accepting public comment on proposed revisions to its regulations.

27 (e) Notify the appropriate policy and fiscal committees of each
28 house of the Legislature of the revisions to regulations that the
29 state agency proposes to make at least 90 days prior to a noticed
30 public hearing pursuant to subdivision (d) and at least 90 days
31 prior to the proposed adoption, amendment, or repeal of the
32 regulations pursuant to subdivision (f), for the purpose of allowing
33 those committees to review, and hold hearings on, the proposed
34 revisions to the regulations.

35 (f) Adopt as emergency regulations, consistent with Section
36 11346.1, those changes, as provided for in subdivision (c), to a
37 regulation identified by the state agency as duplicative,
38 overlapping, inconsistent, or out of date.

39 (g) (1) Report to the Governor and the Legislature on the state
40 agency’s compliance with this chapter, including the number and

1 content of regulations the state agency identifies as duplicative,
2 overlapping, inconsistent, or out of date, and the state agency's
3 actions to address those regulations.

4 (2) The report shall be submitted in compliance with Section
5 9795 of the Government Code.

6 11366.3. (a) On or before January 1, 2018, each agency listed
7 in Section 12800 shall notify a department, board, or other unit
8 within that agency of any existing regulations adopted by that
9 department, board, or other unit that the agency has determined
10 may be duplicative, overlapping, or inconsistent with a regulation
11 adopted by another department, board, or other unit within that
12 agency.

13 (b) A department, board, or other unit within an agency shall
14 notify that agency of revisions to regulations that it proposes to
15 make at least 90 days prior to a noticed public hearing pursuant to
16 subdivision (d) of Section 11366.2 and at least 90 days prior to
17 adoption, amendment, or repeal of the regulations pursuant to
18 subdivision (f) of Section 11366.2. The agency shall review the
19 proposed regulations and make recommendations to the
20 department, board, or other unit within 30 days of receiving the
21 notification regarding any duplicative, overlapping, or inconsistent
22 regulation of another department, board, or other unit within the
23 agency.

24 11366.4. An agency listed in Section 12800 shall notify a state
25 agency of any existing regulations adopted by that agency that
26 may duplicate, overlap, or be inconsistent with the state agency's
27 regulations.

28 11366.43. On or before January 1, 2017, each state agency
29 shall compile an overview of the statutory law that state agency
30 oversees or administers. The overview shall include a synopsis of
31 the state agency's key programs, when each program was
32 authorized or instituted, when any statute authorizing a program
33 was significantly revised to alter, redirect, or extend the original
34 program and the reason for the revision, if known, and an
35 identification of any emerging challenges the state agency is
36 encountering with respect to the programs.

37 11366.45. This chapter shall not be construed to weaken or
38 undermine in any manner any human health, public or worker
39 rights, public welfare, environmental, or other protection
40 established under statute. This chapter shall not be construed to

1 affect the authority or requirement for an agency to adopt
2 regulations as provided by statute. Rather, it is the intent of the
3 Legislature to ensure that state agencies focus more efficiently and
4 directly on their duties as prescribed by law so as to use scarce
5 public dollars more efficiently to implement the law, while
6 achieving equal or improved economic and public benefits.

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Article 4. Chapter Repeal

10 11366.5. This chapter shall remain in effect only until January
11 1, 2019, and as of that date is repealed, unless a later enacted
12 statute, that is enacted before January 1, 2019, deletes or extends
13 that date.