

AMENDED IN SENATE FEBRUARY 8, 2016
AMENDED IN ASSEMBLY JANUARY 4, 2016
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1033

Introduced by Assembly Member Eduardo Garcia

February 26, 2015

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1033, as amended, Eduardo Garcia. Economic impact ~~analysis~~: *assessment*: small business definition.

Existing law, the Administrative Procedure Act, governs, among other things, the procedures 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 a state agency proposing to adopt, amend, or repeal specific administrative regulations to assess the potential for adverse economic impact on California business enterprises and individuals and to prepare an economic impact ~~analysis~~, *assessment*, as specified, that addresses, among other things, the creation or elimination of jobs within the state.

This bill would authorize a state agency, when preparing the economic impact ~~analysis~~, *assessment*, to use a consolidated definition of small business to determine the number of small businesses within the economy, a specific industry sector, or geographic region, and would define “small business” for that purpose as a business that is independently owned and operated, not dominant in its field of operation, and has fewer than 100 employees.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

1 SECTION 1. Section 11346.3 of the Government Code is
2 amended to read:
3 11346.3. (a) A state agency proposing to adopt, amend, or
4 repeal any administrative regulation shall assess the potential for
5 adverse economic impact on California business enterprises and
6 individuals, avoiding the imposition of unnecessary or unreasonable
7 regulations or reporting, recordkeeping, or compliance
8 requirements. For purposes of this subdivision, assessing the
9 potential for adverse economic impact shall require agencies, when
10 proposing to adopt, amend, or repeal a regulation, to adhere to the
11 following requirements, to the extent that these requirements do
12 not conflict with other state or federal laws:
13 (1) The proposed adoption, amendment, or repeal of a regulation
14 shall be based on adequate information concerning the need for,
15 and consequences of, proposed governmental action.
16 (2) The state agency, prior to submitting a proposal to adopt,
17 amend, or repeal a regulation to the office, shall consider the
18 proposal’s impact on business, with consideration of industries
19 affected including the ability of California businesses to compete
20 with businesses in other states. For purposes of evaluating the
21 impact on the ability of California businesses to compete with
22 businesses in other states, an agency shall consider, but not be
23 limited to, information supplied by interested parties.
24 (3) An economic impact assessment prepared pursuant to this
25 subdivision for a proposed regulation that is not a major regulation
26 or that is a major regulation proposed prior to November 1, 2013,
27 shall be prepared in accordance with subdivision (b), and shall be
28 included in the initial statement of reasons as required by Section
29 11346.2. An economic assessment prepared pursuant to this
30 subdivision for a major regulation proposed on or after November
31 1, 2013, shall be prepared in accordance with subdivision (c), and
32 shall be included in the initial statement of reasons as required by
33 Section 11346.2.
34 (b) (1) A state agency proposing to adopt, amend, or repeal a
35 regulation that is not a major regulation or that is a major regulation

1 proposed prior to November 1, 2013, shall prepare an economic
2 impact assessment that assesses whether and to what extent it will
3 affect the following:

4 (A) The creation or elimination of jobs within the state.

5 (B) The creation of new businesses or the elimination of existing
6 businesses within the state.

7 (C) The expansion of businesses currently doing business within
8 the state.

9 (D) The benefits of the regulation to the health and welfare of
10 California residents, worker safety, and the state’s environment.

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

14 (3) Information required from a state agency for the purpose of
15 completing the assessment may come from existing state
16 publications.

17 (4) (A) For purposes of conducting the economic impact
18 ~~analysis~~ *assessment* pursuant to this subdivision, a state agency
19 may use the consolidated definition of small business in
20 subparagraph (B) in order to determine the number of small
21 businesses within the economy, a specific industry sector, or
22 geographic region. The state agency shall clearly identify the use
23 of the consolidated small business definition in its rulemaking
24 package.

25 (B) For the exclusive purpose of undertaking the economic
26 ~~impact analysis in a manner described by the Department of~~
27 ~~Finance pursuant to Section 11346.36,~~ *assessment*, a “small
28 business” means a business that is all of the following:

29 (i) Independently owned and operated.

30 (ii) Not dominant in its field of operation.

31 (iii) Has fewer than 100 employees.

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

38 (A) The creation or elimination of jobs within the state.

39 (B) The creation of new businesses or the elimination of existing
40 businesses within the state.

1 (C) The competitive advantages or disadvantages for businesses
2 currently doing business within the state.

3 (D) The increase or decrease of investment in the state.

4 (E) The incentives for innovation in products, materials, or
5 processes.

6 (F) The benefits of the regulations, including, but not limited
7 to, benefits to the health, safety, and welfare of California residents,
8 worker safety, and the state's environment and quality of life,
9 among any other benefits identified by the agency.

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

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

16 (d) Any administrative regulation adopted on or after January
17 1, 1993, that requires a report shall not apply to businesses, unless
18 the state agency adopting the regulation makes a finding that it is
19 necessary for the health, safety, or welfare of the people of the
20 state that the regulation apply to businesses.

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

34 (f) Each state agency proposing to adopt, amend, or repeal a
35 major regulation on or after November 1, 2013, and that has
36 prepared a standardized regulatory impact analysis pursuant to
37 subdivision (c), shall submit that analysis to the Department of
38 Finance upon completion. The department shall comment, within
39 30 days of receiving that analysis, on the extent to which the
40 analysis adheres to the regulations adopted pursuant to Section

1 11346.36. Upon receiving the comments from the department, the
2 agency may update its analysis to reflect any comments received
3 from the department and shall summarize the comments and the
4 response of the agency along with a statement of the results of the
5 updated analysis for the statement required by paragraph (10) of
6 subdivision (a) of Section 11346.5.

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