

AMENDED IN SENATE JUNE 1, 2016

AMENDED IN SENATE APRIL 6, 2016

**SENATE BILL**

**No. 1195**

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**Introduced by Senator Hill**

February 18, 2016

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An act to amend Sections 109, 116, 153, 307, 313.1, 2708, 4800, 4804.5, ~~4825.1~~, 4830, ~~and 4846.5~~ 4846.5, 4904, and 4905 of, and to add Sections ~~4826.3, 4826.5, 4826.7,~~ 109.5, 4826.5, 4848.1, and 4853.7 to, the Business and Professions Code, and to amend Sections ~~825, 11346.5, 11349, and 11349.1~~ 825 and 11346.5 of the Government Code, relating to professional regulation, and making an appropriation therefor: *regulations.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1195, as amended, Hill. Professions and vocations: board ~~actions:~~ ~~competitive impact.~~ *actions.*

(1) Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs, and authorizes those boards to adopt regulations to enforce the laws pertaining to the profession and vocation for which they have jurisdiction. Existing law makes decisions of any board within the department pertaining to setting standards, conducting examinations, passing candidates, and revoking licenses final, except as specified, and provides that those decisions are not subject to review by the Director of Consumer Affairs. Existing law authorizes the director to audit and review certain inquiries and complaints regarding licensees, including the dismissal of a disciplinary case. Existing law requires the director to annually report to the chairpersons of certain committees of the Legislature information regarding findings from any audit, review, or

monitoring and evaluation. Existing law authorizes the director to contract for services of experts and consultants where necessary. Existing law requires regulations, except those pertaining to examinations and qualifications for licensure and fee changes proposed or promulgated by a board within the department, to comply with certain requirements before the regulation or fee change can take effect, including that the director is required to be notified of the rule or regulation and given 30 days to disapprove the regulation. Existing law prohibits a rule or regulation that is disapproved by the director from having any force or effect, unless the director's disapproval is overridden by a unanimous vote of the members of the board, as specified.

This bill would instead authorize the director, upon his or her own initiative, and require the director, upon the request of ~~a consumer or licensee~~, *the board making the decision or the Legislature*, to review ~~a~~ *any nonministerial market-sensitive* decision or other action, except as specified, of a board within the department to determine whether it ~~unreasonably restrains trade furthers state law~~ and to approve, disapprove, *request further information*, or modify the board decision or action, as specified. The bill would require the director to *issue and* post on the department's Internet Web site his or her final written decision and the reasons for the decision within 90 days from receipt of the ~~request of a consumer or licensee~~ *request for review or the director's decision to review the board decision*. *The bill would prohibit the executive officer of any board, committee, or commission within the department from being an active licensee of any profession that board, committee, or commission regulates.* The bill would, commencing on March 1, 2017, require the director to annually report to the chairs of specified committees of the Legislature information regarding the director's disapprovals, modifications, or findings from any audit, review, or monitoring and evaluation. The bill would authorize the director to seek, designate, employ, or contract for the services of independent antitrust experts for purposes of reviewing board actions for unreasonable restraints on trade. The bill would also require the director to review and approve any regulation promulgated by a board within the department, as specified. ~~The bill would authorize the director to modify any regulation as a condition of approval, and to disapprove a regulation because it would have an impermissible anticompetitive effect.~~ *The bill would authorize the director, for a specified period of time, to approve, disapprove, or require modification of a proposed rule or regulation on the ground that it does not further state law.* The

bill would prohibit any rule or regulation from having any force or effect if the director does not approve the ~~regulation because it has an impermissible anticompetitive effect.~~ *rule or regulation and prohibits any rule or regulation that is not approved by the director from being submitted to the Office of Administrative Law.*

(2) Existing law, until January 1, 2018, provides for the licensure and regulation of registered nurses by the Board of Registered Nursing, which is within the Department of Consumer Affairs, and requires the board to appoint an executive officer who is a nurse currently licensed by the board.

This bill would instead prohibit the executive officer from being a licensee of the board.

(3) The Veterinary Medicine Practice Act provides for the licensure and registration of veterinarians and registered veterinary technicians and the regulation of the practice of veterinary medicine by the Veterinary Medical Board, which is within the Department of Consumer Affairs, and authorizes the board to appoint an executive officer, as specified. Existing law repeals the provisions establishing the board and authorizing the board to appoint an executive officer as of January 1, 2017. That act exempts certain persons from the requirements of the act, including a veterinarian employed by the University of California or the Western University of Health Sciences while engaged in the performance of specified duties. That act requires all premises where veterinary medicine, dentistry, and surgery is being practiced to register with the board. That act requires all fees collected on behalf of the board to be deposited into the Veterinary Medical Board Contingent Fund, which continuously appropriates fees deposited into the fund. That act makes a violation of any provision of the act punishable as a misdemeanor.

This bill would extend the operation of the board and the authorization of the board to appoint an executive officer to January 1, 2021. The bill would authorize a veterinarian ~~and or~~ registered veterinary technician who is under the direct supervision of a *licensed* veterinarian ~~with a current and active license~~ to compound a drug for ~~anesthesia, the prevention, cure, or relief of a wound, fracture, bodily injury, or disease of an animal in a premises currently and actively registered with the board, as specified.~~ *animal use pursuant to federal law and regulations promulgated by the board and would require those regulations to, at*

*a minimum, address the storage of drugs, the level and type of supervision required for compounding drugs by a registered veterinary technician, and the equipment necessary for safe compounding of drugs.* The bill would instead require veterinarians engaged in the practice of veterinary medicine employed by the University of California or by the Western University of Health Sciences—~~while and~~ engaged in the performance of specified duties to be licensed as a veterinarian in the state or ~~hold be issued a university license issued by the board. license,~~ *as specified.* The bill would ~~require an applicant~~ *authorize an individual to apply for and be issued a university license to meet if he or she meets* certain requirements, including ~~that the applicant passes a specified exam. paying an application and license fee.~~ *The bill would require a university license, among other things, to automatically cease to be valid upon termination or cessation of employment by the University of California or the Western University of Health Sciences.* The bill would also prohibit a premise registration that is not renewed within 5 years after its expiration from being renewed, restored, reissued, or reinstated; however, the bill would authorize a new premise registration to be issued to an applicant if no fact, circumstance, or condition exists that would justify the revocation or suspension of the registration if the registration was issued and if specified fees are paid. ~~By requiring additional persons to be licensed and pay certain fees that would go into a continuously appropriated fund, this bill would make an appropriation.~~ *This bill would provide that the Veterinary Medical Board Contingent Fund is available for expenditure only upon an appropriation by the Legislature.* By requiring additional persons to be licensed under the act that were previously exempt, this bill would expand the definition of an existing crime and would, therefore, result in a state-mandated local program.

(4) ~~Existing law,~~ *The Government Claims Act,* except as provided, requires a public entity to pay any judgment or any compromise or settlement of a claim or action against an employee or former employee of the public entity if the employee or former employee requests the public entity to defend him or her against any claim or action against him or her for an injury arising out of an act or omission occurring within the scope of his or her employment as an employee of the public entity, the request is made in writing not less than 10 days before the day of trial, and the employee or former employee reasonably cooperates in good faith in the defense of the claim or action. *That act prohibits*

*the payment of punitive or exemplary damages by a public entity, except as specified.*

This bill would require a public entity to pay a judgment or settlement for treble damage antitrust awards against a member of a regulatory board for an act or omission occurring within the scope of his or her employment as a member of a regulatory board. *The bill would specify that treble damages awarded pursuant to a specified federal law for violation of another federal law are not punitive or exemplary damages within the Government Claims Act.*

(5) 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. ~~That act requires the review by the office to follow certain standards, including, among others, necessity, as defined. That act requires an agency proposing to adopt, amend, or repeal a regulation to prepare a notice to the public that includes specified information, including reference to the authority under which the regulation is proposed.~~

~~This bill would add competitive impact, as defined, as an additional standard for the office to follow when reviewing regulatory actions of a state board on which a controlling number of decisionmakers are active market participants in the market that the board regulates, and requires the office to, among other things, consider whether the anticompetitive effects of the proposed regulation are clearly outweighed by the public policy merits. The bill would authorize the office to designate, employ, or contract for the services of independent antitrust or applicable economic experts when reviewing proposed regulations for competitive impact. The bill would require state boards on which a controlling number of decisionmakers are active market participants in the market that the board regulates, when preparing the public notice, to additionally include a statement that the agency has evaluated the impact of the regulation on competition and that the effect of the regulation is within a clearly articulated and affirmatively expressed state law or policy. also require a board within the Department of Consumer Affairs to submit a statement to the office that the Director of Consumer Affairs has reviewed the proposed regulation and determined that the proposed regulation furthers state law.~~

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 109 of the Business and Professions Code  
2 is amended to read:

3 109. (a) ~~The director~~ *decisions of any of the boards comprising*  
4 *the department with respect to passing candidates and revoking*  
5 *or otherwise imposing discipline on licenses shall not be subject*  
6 *to review by the director and are final within the limits provided*  
7 *by this code that are applicable to the particular board.*

8 (b) *The director may initiate an investigation of any allegations*  
9 *of misconduct in the preparation, administration, or scoring of an*  
10 *examination which is administered by a board, or in the review of*  
11 *qualifications which are a part of the licensing process of any*  
12 *board. A request for investigation shall be made by the director to*  
13 *the Division of Investigation through the chief of the division or*  
14 *to any law enforcement agency in the jurisdiction where the alleged*  
15 *misconduct occurred.*

16 ~~(b)-(1)-~~

17 (1) *The director may intervene in any matter of any board where*  
18 *an investigation by the Division of Investigation discloses probable*  
19 *cause to believe that the conduct or activity of a board, or its*  
20 *members or ~~employees~~ employees, constitutes a violation of*  
21 *criminal law.*

22 (2) *The term “intervene,” as used in paragraph (1) of this section*  
23 *may include, but is not limited to, an application for a restraining*  
24 *order or injunctive relief as specified in Section 123.5, or a referral*  
25 *or request for criminal prosecution. For purposes of this section,*  
26 *the director shall be deemed to have standing under Section 123.5*  
27 *and shall seek representation of the Attorney General, or other*  
28 *appropriate counsel in the event of a conflict in pursuing that*  
29 *action.*

30 (c) *The director may, upon his or her own initiative, and shall,*  
31 *upon request by ~~a consumer or licensee,~~ the board making the*  
32 *decision or the Legislature, review any nonministerial*  
33 *market-sensitive board action or decision ~~or other action to~~*

1 ~~determine whether it unreasonably restrains trade. Such a review~~  
2 ~~shall proceed as follows: by the board to determine whether it~~  
3 ~~further state law. Market-sensitive actions or decisions are those~~  
4 ~~that create barriers to market participation and restrict competition~~  
5 ~~including, but not limited to, examination passage scores,~~  
6 ~~advertising restrictions, price regulation, enlarging or restricting~~  
7 ~~scope of practice qualifications for licensure, and a pattern or~~  
8 ~~program of disciplinary actions affecting multiple individuals that~~  
9 ~~creates barriers to market participation. If the board action or~~  
10 ~~decision is determined to be a market-sensitive action or decision,~~  
11 ~~the director shall review the board action or decision to determine~~  
12 ~~whether that action or decision furthers a clearly articulated and~~  
13 ~~affirmatively expressed state policy. Review under this subdivision~~  
14 ~~shall serve to cease implementation of the market-sensitive action~~  
15 ~~or decision until the review is finalized and the action or decision~~  
16 ~~is found to further state law.~~

17 ~~(1) The director shall assess whether the action or decision~~  
18 ~~reflects a clearly articulated and affirmatively expressed state law.~~  
19 ~~If the director determines that the action or decision does not reflect~~  
20 ~~a clearly articulated and affirmatively expressed state law, the~~  
21 ~~director shall disapprove the board action or decision and it shall~~  
22 ~~not go into effect.~~

23 ~~(2) If the action or decision is a reflection of clearly articulated~~  
24 ~~and affirmatively expressed state law, the director shall assess~~  
25 ~~whether the action or decision was the result of the board's exercise~~  
26 ~~of ministerial or discretionary judgment. If the director finds no~~  
27 ~~exercise of discretionary judgment, but merely the direct~~  
28 ~~application of statutory or constitutional provisions, the director~~  
29 ~~shall close the investigation and review of the board action or~~  
30 ~~decision.~~

31 ~~(3) If the director concludes under paragraph (2) that the board~~  
32 ~~exercised discretionary judgment, the director shall review the~~  
33 ~~board action or decision as follows:~~

34 ~~(A) The~~

35 ~~(1) Any review by the director under this subdivision shall~~  
36 ~~conduct include a full substantive review of the board action or~~  
37 ~~decision using based upon all the relevant facts, data, market~~  
38 ~~conditions, facts in the record provided by the board and any~~  
39 ~~additional information provided by the director, which may include~~  
40 ~~data, public comment, studies, or other documentary evidence~~

1 pertaining to the market impacted by the board's action or decision  
2 and determine whether the anticompetitive effects of the action or  
3 decision are clearly outweighed by the benefit to the public. The  
4 director may seek, designate, employ, or contract for the services  
5 of independent antitrust or economic experts pursuant to Section  
6 307. These experts shall not be active participants in the market  
7 affected by the board action or decision. *decision.*

8 (B) If the board action or decision was not previously subject  
9 to a public comment period, the director shall release the subject  
10 matter of his or her investigation for a 30-day public comment  
11 period and shall consider all comments received.

12 (C) If the director determines that the action or decision furthers  
13 the public protection mission of the board and the impact on  
14 competition is justified, the director may approve the action or  
15 decision.

16 (D) If the director determines that the action furthers the public  
17 protection mission of the board and the impact on competition is  
18 justified, the director may approve the action or decision. If the  
19 director finds the action or decision does not further the public  
20 protection mission of the board or finds that the action or decision  
21 is not justified, the director shall either refuse to approve it or shall  
22 modify the action or decision to ensure that any restraints of trade  
23 are related to, and advance, clearly articulated state law or public  
24 policy.

25 (2) *The director shall take one of the following actions:*

26 (A) *Approve the action or decision upon determination that it*  
27 *further state law.*

28 (B) *Disapprove the action or decision if it does not further state*  
29 *law. If the director disapproves the board action or decision, the*  
30 *director may recommend modifications to the board action or*  
31 *decision, which, if adopted, shall not become effective until final*  
32 *approval by the director pursuant to this subdivision.*

33 (C) *Modify the action or decision to ensure that it furthers state*  
34 *law.*

35 (D) *Request further information from the board if the record*  
36 *provided is insufficient to make a determination that the action or*  
37 *decision furthers state law. Upon submission of further information*  
38 *from the board and any information provided by the director, the*  
39 *director shall make a final determination to approve, disapprove,*  
40 *or modify the board's action or decision.*

1     ~~(4)~~  
2     (d) The director shall issue, and post on the department’s Internet  
3 Web site, his or her final written decision ~~approving, modifying,~~  
4 ~~or disapproving~~ on the *board* action or decision with an explanation  
5 of the reasons *that action or decision does or does not further state*  
6 *law and the rationale behind the director’s decision within 90 days*  
7 ~~from receipt of the request from a consumer or licensee. *board’s*~~  
8 ~~or Legislature’s request for review or the director’s decision to~~  
9 ~~review the board action or decision.~~ Notwithstanding any other  
10 law, the decision of the director shall be final, except if the state  
11 or federal constitution requires an appeal of the director’s decision.

12     ~~(d)~~  
13     (e) The review set forth in ~~paragraph (3)~~ of subdivision (c) shall  
14 not apply ~~when an individual seeks to the~~ review of any  
15 disciplinary *action* or ~~other action pertaining solely to that~~  
16 ~~individual. any other sanction or citation imposed by a board upon~~  
17 *a licensee.*

18     ~~(e)~~  
19     (f) The director shall report to the Chairs of the Senate Business,  
20 Professions, and Economic Development Committee and the  
21 Assembly Business and Professions Committee annually,  
22 commencing March 1, 2017, regarding his or her disapprovals,  
23 modifications, or findings from any audit, review, or monitoring  
24 and evaluation conducted pursuant to this section. That report shall  
25 be submitted in compliance with Section 9795 of the Government  
26 Code.

27     ~~(f) If the director has already reviewed a board action or decision~~  
28 ~~pursuant to this section or Section 313.1, the director shall not~~  
29 ~~review that action or decision again.~~

30     (g) This section shall not be construed to affect, impede, or  
31 delay any disciplinary actions of any board.

32     SEC. 2. *Section 109.5 is added to the Business and Professions*  
33 *Code, to read:*

34     109.5. *The executive officer of any board, committee, or*  
35 *commission within the department shall not be an active licensee*  
36 *of any profession that board, committee, or commission regulates.*

37     ~~SEC. 2.~~

38     SEC. 3. Section 116 of the Business and Professions Code is  
39 amended to read:

1 116. (a) The director may audit and review, upon his or her  
2 own initiative, or upon the request of a consumer or licensee,  
3 inquiries and complaints regarding licensees, dismissals of  
4 disciplinary cases, the opening, conduct, or closure of  
5 investigations, informal conferences, and discipline short of formal  
6 accusation by any board or bureau within the department.

7 (b) The director shall report to the Chairs of the Senate Business,  
8 Professions, and Economic Development Committee and the  
9 Assembly Business and Professions Committee annually,  
10 commencing March 1, 2017, regarding his or her findings from  
11 any audit, review, or monitoring and evaluation conducted pursuant  
12 to this section. This report shall be submitted in compliance with  
13 Section 9795 of the Government Code.

14 ~~SEC. 3.~~

15 *SEC. 4.* Section 153 of the Business and Professions Code is  
16 amended to read:

17 153. The director may investigate the work of the several  
18 boards in his *or her* department and may obtain a copy of all  
19 records and full and complete data in all official matters in  
20 possession of the boards, their members, officers, or employees.

21 ~~SEC. 4.~~

22 *SEC. 5.* Section 307 of the Business and Professions Code is  
23 amended to read:

24 307. The director may contract for the services of experts and  
25 consultants where necessary to carry out this chapter and may  
26 provide compensation and reimbursement of expenses for those  
27 experts and consultants in accordance with state law.

28 ~~SEC. 5.~~

29 *SEC. 6.* Section 313.1 of the Business and Professions Code  
30 is amended to read:

31 313.1. (a) Notwithstanding any other law to the contrary, no  
32 rule or regulation and no fee change proposed or promulgated by  
33 any of the boards, commissions, or committees within the  
34 department, shall take effect pending compliance with this section.

35 (b) The director shall be formally notified of and shall review,  
36 in accordance with the requirements of Article 5 (commencing  
37 with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title  
38 2 of the Government Code, the requirements in subdivision (c) of  
39 Section 109, and this section, all of the following:

1 (1) All notices of proposed action, any modifications and  
2 supplements thereto, and the text of proposed regulations.

3 (2) Any notices of sufficiently related changes to regulations  
4 previously noticed to the public, and the text of proposed  
5 regulations showing modifications to the text.

6 (3) Final rulemaking records.

7 (4) All relevant ~~facts,~~ *facts in the rulemaking record, which may*  
8 *include* data, public comments, ~~market conditions, studies,~~ or other  
9 documentary evidence pertaining to the ~~market impacted by the~~  
10 ~~proposed regulation. This information shall be included in the~~  
11 ~~written decision of the director required under paragraph (4) of~~  
12 ~~subdivision (c) of Section 109. proposed regulation to determine~~  
13 *whether it furthers state law. If the regulation does not further*  
14 *state law, it shall not be approved.*

15 (c) The submission of all notices and final rulemaking records  
16 to the director and the director's approval, as authorized by this  
17 section, shall be a precondition to the filing of any rule or  
18 regulation with the Office of Administrative Law. The Office of  
19 Administrative Law shall have no jurisdiction to review a rule or  
20 regulation subject to this section until after the director's review  
21 and approval. The filing of any document with the Office of  
22 Administrative Law shall be accompanied by a certification that  
23 the board, commission, or committee has complied with the  
24 requirements of this section.

25 (d) Following the receipt of any final rulemaking record subject  
26 to subdivision (a), the director shall have the authority for a period  
27 of 30 days to ~~approve~~ *approve, disapprove, or require modification*  
28 *of* a proposed rule or regulation ~~or disapprove a proposed rule or~~  
29 ~~regulation~~ on the ground that it is injurious to the public health,  
30 safety, or ~~welfare,~~ *welfare* or ~~has an impermissible anticompetitive~~  
31 ~~effect. The director may modify a rule or regulation as a condition~~  
32 ~~of approval. Any modifications to regulations by the director shall~~  
33 ~~be subject to a 30-day public comment period before the director~~  
34 ~~issues a final decision regarding the modified regulation. If the~~  
35 ~~director does not approve the rule or regulation within the 30-day~~  
36 ~~period, the rule or regulation shall not be submitted to the Office~~  
37 ~~of Administrative Law and the rule or regulation shall have no~~  
38 ~~effect.~~ *does not further state law. If the director does not approve*  
39 *the rule or regulation within the 30-day period, the rule or*

1 *regulation shall not be submitted to the Office of Administrative*  
2 *Law and the rule or regulation shall have no effect.*

3 (e) Final rulemaking records shall be filed with the director  
4 within the one-year notice period specified in Section 11346.4 of  
5 the Government Code. If necessary for compliance with this  
6 section, the one-year notice period may be extended, as specified  
7 by this subdivision.

8 (1) In the event that the one-year notice period lapses during  
9 the director's 30-day review period, or within 60 days following  
10 the notice of the director's disapproval, it may be extended for a  
11 maximum of 90 days.

12 (2) If the director approves the final rulemaking record, the  
13 board, commission, or committee shall have five days from the  
14 receipt of the record from the director within which to file it with  
15 the Office of Administrative Law.

16 (3) If the director disapproves a rule or regulation, it shall have  
17 no force or effect unless, within 60 days of the notice of  
18 disapproval, (A) the disapproval is overridden by a unanimous  
19 vote of the members of the board, commission, or committee, and  
20 (B) the board, commission, or committee files the final rulemaking  
21 record with the Office of Administrative Law in compliance with  
22 this section and the procedures required by Chapter 3.5  
23 (commencing with Section 11340) of Part 1 of Division 3 of Title  
24 2 of the Government Code. This paragraph shall not apply to any  
25 decision disapproved by the director under subdivision (e) of  
26 Section 109: *effect.*

27 (f) This section shall not be construed to prohibit the director  
28 from affirmatively approving a proposed rule, regulation, or fee  
29 change at any time within the 30-day period after it has been  
30 submitted to him or her, in which event it shall become effective  
31 upon compliance with this section and the procedures required by  
32 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division  
33 3 of Title 2 of the Government Code.

34 ~~SEC. 6.~~

35 *SEC. 7.* Section 2708 of the Business and Professions Code is  
36 amended to read:

37 2708. (a) The board shall appoint an executive officer who  
38 shall perform the duties delegated by the board and who shall be  
39 responsible to it for the accomplishment of those duties.

1 (b) The executive officer shall not be a licensee under this  
2 chapter and shall possess other qualifications as determined by the  
3 board.

4 (c) The executive officer shall not be a member of the board.

5 (d) This section shall remain in effect only until January 1, 2018,  
6 and as of that date is repealed, unless a later enacted statute, that  
7 is enacted before January 1, 2018, deletes or extends that date.

8 ~~SEC. 7:~~

9 *SEC. 8.* Section 4800 of the Business and Professions Code is  
10 amended to read:

11 4800. (a) There is in the Department of Consumer Affairs a  
12 Veterinary Medical Board in which the administration of this  
13 chapter is vested. The board consists of the following members:

14 (1) Four licensed veterinarians.

15 (2) One registered veterinary technician.

16 (3) Three public members.

17 (b) This section shall remain in effect only until January 1, 2021,  
18 and as of that date is repealed.

19 (c) Notwithstanding any other law, the repeal of this section  
20 renders the board subject to review by the appropriate policy  
21 committees of the Legislature. However, the review of the board  
22 shall be limited to those issues identified by the appropriate policy  
23 committees of the Legislature and shall not involve the preparation  
24 or submission of a sunset review document or evaluative  
25 questionnaire.

26 ~~SEC. 8:~~

27 *SEC. 9.* Section 4804.5 of the Business and Professions Code  
28 is amended to read:

29 4804.5. (a) The board may appoint a person exempt from civil  
30 service who shall be designated as an executive officer and who  
31 shall exercise the powers and perform the duties delegated by the  
32 board and vested in him or her by this chapter.

33 (b) This section shall remain in effect only until January 1, 2021,  
34 and as of that date is repealed.

35 ~~SEC. 9. Section 4825.1 of the Business and Professions Code~~  
36 ~~is amended to read:~~

37 ~~4825.1. These definitions shall govern the construction of this~~  
38 ~~chapter as it applies to veterinary medicine.~~

1 (a) “Diagnosis” means the act or process of identifying or  
2 determining the health status of an animal through examination  
3 and the opinion derived from that examination.

4 (b) “Animal” means any member of the animal kingdom other  
5 than humans, and includes fowl, fish, and reptiles, wild or  
6 domestic, whether living or dead.

7 (c) “Food animal” means any animal that is raised for the  
8 production of an edible product intended for consumption by  
9 humans. The edible product includes, but is not limited to, milk,  
10 meat, and eggs. Food animal includes, but is not limited to, cattle  
11 (beef or dairy), swine, sheep, poultry, fish, and amphibian species.

12 (d) “Livestock” includes all animals, poultry, aquatic and  
13 amphibian species that are raised, kept, or used for profit. It does  
14 not include those species that are usually kept as pets such as dogs,  
15 cats, and pet birds, or companion animals, including equines.

16 (e) “Compounding,” for the purposes of veterinary medicine,  
17 shall have the same meaning given in Section 1735 of Title 16 of  
18 the California Code of Regulations, except that every reference  
19 therein to “pharmacy” and “pharmacist” shall be replaced with  
20 “veterinary premises” and “veterinarian,” and except that only a  
21 licensed veterinarian or a licensed registered veterinarian technician  
22 under direct supervision of a veterinarian may perform  
23 compounding and shall not delegate to or supervise any part of  
24 the performance of compounding by any other person.

25 SEC. 10. Section 4826.3 is added to the Business and  
26 Professions Code, to read:

27 4826.3. (a) Notwithstanding Section 4051, a veterinarian or  
28 registered veterinarian technician under the direct supervision of  
29 a veterinarian with a current and active license may compound a  
30 drug for anesthesia, the prevention, cure, or relief of a wound,  
31 fracture, bodily injury, or disease of an animal in a premises  
32 currently and actively registered with the board and only under  
33 the following conditions:

34 (1) Where there is no FDA-approved animal or human drug that  
35 can be used as labeled or in an appropriate extralabel manner to  
36 properly treat the disease, symptom, or condition for which the  
37 drug is being prescribed.

38 (2) Where the compounded drug is not available from a  
39 compounding pharmacy, outsourcing facility, or other  
40 compounding supplier in a dosage form and concentration to

1 appropriately treat the disease, symptom, or condition for which  
2 the drug is being prescribed.

3 ~~(3) Where the need and prescription for the compounded  
4 medication has arisen within an established  
5 veterinarian-client-patient relationship as a means to treat a specific  
6 occurrence of a disease, symptom, or condition observed and  
7 diagnosed by the veterinarian in a specific animal that threatens  
8 the health of the animal or will cause suffering or death if left  
9 untreated.~~

10 ~~(4) Where the quantity compounded does not exceed a quantity  
11 demonstrably needed to treat a patient with which the veterinarian  
12 has a current veterinarian-client-patient relationship.~~

13 ~~(5) Except as specified in subdivision (c), where the compound  
14 is prepared only with commercially available FDA-approved  
15 animal or human drugs as active ingredients.~~

16 ~~(b) A compounded veterinary drug may be prepared from an  
17 FDA-approved animal or human drug for extralabel use only when  
18 there is no approved animal or human drug that, when used as  
19 labeled or in an appropriate extralabel manner will, in the available  
20 dosage form and concentration, treat the disease, symptom, or  
21 condition. Compounding from an approved human drug for use  
22 in food-producing animals is not permitted if an approved animal  
23 drug can be used for compounding.~~

24 ~~(c) A compounded veterinary drug may be prepared from bulk  
25 drug substances only when:~~

26 ~~(1) The drug is compounded and dispensed by the veterinarian  
27 to treat an individually identified animal patient under his or her  
28 care.~~

29 ~~(2) The drug is not intended for use in food-producing animals.~~

30 ~~(3) If the drug contains a bulk drug substance that is a  
31 component of any marketed FDA-approved animal or human drug,  
32 there is a change between the compounded drug and the  
33 comparable marketed drug made for an individually identified  
34 animal patient that produces a clinical difference for that  
35 individually identified animal patient, as determined by the  
36 veterinarian prescribing the compounded drug for his or her patient.~~

37 ~~(4) There are no FDA-approved animal or human drugs that  
38 can be used as labeled or in an appropriate extralabel manner to  
39 properly treat the disease, symptom, or condition for which the  
40 drug is being prescribed.~~

1 ~~(5) All bulk drug substances used in compounding are~~  
2 ~~manufactured by an establishment registered under Section 360~~  
3 ~~of Title 21 of the United States Code and are accompanied by a~~  
4 ~~valid certificate of analysis.~~

5 ~~(6) The drug is not sold or transferred by the veterinarian~~  
6 ~~compounding the drug, except that the veterinarian shall be~~  
7 ~~permitted to administer the drug to a patient under his or her care~~  
8 ~~or dispense it to the owner or caretaker of an animal under his or~~  
9 ~~her care.~~

10 ~~(7) Within 15 days of becoming aware of any product defect or~~  
11 ~~serious adverse event associated with any drug compounded by~~  
12 ~~the veterinarian from bulk drug substances, the veterinarian shall~~  
13 ~~report it to the federal Food and Drug Administration on Form~~  
14 ~~FDA 1932a.~~

15 ~~(8) In addition to any other requirements, the label of any~~  
16 ~~veterinary drug compounded from bulk drug substances shall~~  
17 ~~indicate the species of the intended animal patient, the name of~~  
18 ~~the animal patient, and the name of the owner or caretaker of the~~  
19 ~~patient.~~

20 ~~(d) Each compounded veterinary drug preparation shall meet~~  
21 ~~the labeling requirements of Section 4076 and Sections 1707.5~~  
22 ~~and 1735.4 of Title 16 of the California Code of Regulations,~~  
23 ~~except that every reference therein to “pharmacy” and “pharmacist”~~  
24 ~~shall be replaced by “veterinary premises” and “veterinarian,” and~~  
25 ~~any reference to “patient” shall be understood to refer to the animal~~  
26 ~~patient. In addition, each label on a compounded veterinary drug~~  
27 ~~preparation shall include withdrawal and holding times, if needed,~~  
28 ~~and the disease, symptom, or condition for which the drug is being~~  
29 ~~prescribed. Any compounded veterinary drug preparation that is~~  
30 ~~intended to be sterile, including for injection, administration into~~  
31 ~~the eye, or inhalation, shall in addition meet the labeling~~  
32 ~~requirements of Section 1751.2 of Title 16 of the California Code~~  
33 ~~of Regulations, except that every reference therein to “pharmacy”~~  
34 ~~and “pharmacist” shall be replaced by “veterinary premises” and~~  
35 ~~“veterinarian,” and any reference to “patient” shall be understood~~  
36 ~~to refer to the animal patient.~~

37 ~~(e) Any veterinarian, registered veterinarian technician who is~~  
38 ~~under the direct supervision of a veterinarian, and veterinary~~  
39 ~~premises engaged in compounding shall meet the compounding~~  
40 ~~requirements for pharmacies and pharmacists stated by the~~

1 provisions of Article 4.5 (commencing with Section 1735) of Title  
2 16 of the California Code of Regulations, except that every  
3 reference therein to “pharmacy” and “pharmacist” shall be replaced  
4 by “veterinary premises” and “veterinarian,” and any reference to  
5 “patient” shall be understood to refer to the animal patient:

6 (1) Section 1735.1 of Title 16 of the California Code of  
7 Regulations.

8 (2) Subdivisions (d),(e), (f), (g), (h), (i), (j), (k), and (l) of  
9 Section 1735.2 of Title 16 of the California Code of Regulations.

10 (3) Section 1735.3 of Title 16 of the California Code of  
11 Regulations, except that only a licensed veterinarian or registered  
12 veterinarian technician may perform compounding and shall not  
13 delegate to or supervise any part of the performance of  
14 compounding by any other person.

15 (4) Section 1735.4 of Title 16 of the California Code of  
16 Regulations.

17 (5) Section 1735.5 of Title 16 of the California Code of  
18 Regulations.

19 (6) Section 1735.6 of Title 16 of the California Code of  
20 Regulations.

21 (7) Section 1735.7 of Title 16 of the California Code of  
22 Regulations.

23 (8) Section 1735.8 of Title 16 of the California Code of  
24 Regulations.

25 (f) Any veterinarian, registered veterinarian technician under  
26 the direct supervision of a veterinarian, and veterinary premises  
27 engaged in sterile compounding shall meet the sterile compounding  
28 requirements for pharmacies and pharmacists under Article 7  
29 (commencing with Section 1751) of Title 16 of the California Code  
30 of Regulations, except that every reference therein to “pharmacy”  
31 and “pharmacist” shall be replaced by “veterinary premises” and  
32 “veterinarian,” and any reference to “patient” shall be understood  
33 to refer to the animal patient.

34 (g) The California State Board of Pharmacy shall have authority  
35 with the board to ensure compliance with this section and shall  
36 have the right to inspect any veterinary premises engaged in  
37 compounding, along with or separate from the board, to ensure  
38 compliance with this section. The board is specifically charged  
39 with enforcing this section with regard to its licensees.

1 ~~SEC. 11. Section 4826.5 is added to the Business and~~  
2 ~~Professions Code, to read:~~

3 ~~4826.5. Failure by a licensed veterinarian, registered~~  
4 ~~veterinarian technician, or veterinary premises to comply with the~~  
5 ~~provisions of this article shall be deemed unprofessional conduct~~  
6 ~~and constitute grounds for discipline.~~

7 ~~SEC. 12. Section 4826.7 is added to the Business and~~  
8 ~~Professions Code, to read:~~

9 ~~4826.7. The board may adopt regulations to implement the~~  
10 ~~provisions of this article.~~

11 *SEC. 10. Section 4826.5 is added to the Business and*  
12 *Professions Code, to read:*

13 *4826.5. Notwithstanding any other law, a licensed veterinarian*  
14 *or a registered veterinary technician under the supervision of a*  
15 *licensed veterinarian may compound drugs for animal use pursuant*  
16 *to Section 530 of Title 21 of the Code of Federal Regulations and*  
17 *in accordance with regulations promulgated by the board. The*  
18 *regulations promulgated by the board shall, at a minimum, address*  
19 *the storage of drugs, the level and type of supervision required for*  
20 *compounding drugs by a registered veterinary technician, and the*  
21 *equipment necessary for the safe compounding of drugs. Any*  
22 *violation of the regulations adopted by the board pursuant to this*  
23 *section shall constitute grounds for an enforcement or disciplinary*  
24 *action.*

25 ~~SEC. 13.~~

26 *SEC. 11. Section 4830 of the Business and Professions Code*  
27 *is amended to read:*

28 4830. (a) This chapter does not apply to:

29 (1) Veterinarians while serving in any armed branch of the  
30 military service of the United States or the United States  
31 Department of Agriculture while actually engaged and employed  
32 in their official capacity.

33 (2) Regularly licensed veterinarians in actual consultation from  
34 other states.

35 (3) Regularly licensed veterinarians actually called from other  
36 states to attend cases in this state, but who do not open an office  
37 or appoint a place to do business within this state.

38 (4) Students in the School of Veterinary Medicine of the  
39 University of California or the College of Veterinary Medicine of  
40 the Western University of Health Sciences who participate in

1 diagnosis and treatment as part of their educational experience,  
2 including those in off-campus educational programs under the  
3 direct supervision of a licensed veterinarian in good standing, as  
4 defined in paragraph (1) of subdivision (b) of Section 4848,  
5 appointed by the University of California, Davis, or the Western  
6 University of Health Sciences.

7 (5) A veterinarian who is employed by the Meat and Poultry  
8 Inspection Branch of the California Department of Food and  
9 Agriculture while actually engaged and employed in his or her  
10 official capacity. A person exempt under this paragraph shall not  
11 otherwise engage in the practice of veterinary medicine unless he  
12 or she is issued a license by the board.

13 (6) Unlicensed personnel employed by the Department of Food  
14 and Agriculture or the United States Department of Agriculture  
15 when in the course of their duties they are directed by a veterinarian  
16 supervisor to conduct an examination, obtain biological specimens,  
17 apply biological tests, or administer medications or biological  
18 products as part of government disease or condition monitoring,  
19 investigation, control, or eradication activities.

20 (b) (1) For purposes of paragraph (3) of subdivision (a), a  
21 regularly licensed veterinarian in good standing who is called from  
22 another state by a law enforcement agency or animal control  
23 agency, as defined in Section 31606 of the Food and Agricultural  
24 Code, to attend to cases that are a part of an investigation of an  
25 alleged violation of federal or state animal fighting or animal  
26 cruelty laws within a single geographic location shall be exempt  
27 from the licensing requirements of this chapter if the law  
28 enforcement agency or animal control agency determines that it  
29 is necessary to call the veterinarian in order for the agency or  
30 officer to conduct the investigation in a timely, efficient, and  
31 effective manner. In determining whether it is necessary to call a  
32 veterinarian from another state, consideration shall be given to the  
33 availability of veterinarians in this state to attend to these cases.  
34 An agency, department, or officer that calls a veterinarian pursuant  
35 to this subdivision shall notify the board of the investigation.

36 (2) Notwithstanding any other provision of this chapter, a  
37 regularly licensed veterinarian in good standing who is called from  
38 another state to attend to cases that are a part of an investigation  
39 described in paragraph (1) may provide veterinary medical care  
40 for animals that are affected by the investigation with a temporary

1 shelter facility, and the temporary shelter facility shall be exempt  
2 from the registration requirement of Section 4853 if all of the  
3 following conditions are met:

4 (A) The temporary shelter facility is established only for the  
5 purpose of the investigation.

6 (B) The temporary shelter facility provides veterinary medical  
7 care, shelter, food, and water only to animals that are affected by  
8 the investigation.

9 (C) The temporary shelter facility complies with Section 4854.

10 (D) The temporary shelter facility exists for not more than 60  
11 days, unless the law enforcement agency or animal control agency  
12 determines that a longer period of time is necessary to complete  
13 the investigation.

14 (E) Within 30 calendar days upon completion of the provision  
15 of veterinary health care services at a temporary shelter facility  
16 established pursuant to this section, the veterinarian called from  
17 another state by a law enforcement agency or animal control agency  
18 to attend to a case shall file a report with the board. The report  
19 shall contain the date, place, type, and general description of the  
20 care provided, along with a listing of the veterinary health care  
21 practitioners who participated in providing that care.

22 (c) For purposes of paragraph (3) of subdivision (a), the board  
23 may inspect temporary facilities established pursuant to this  
24 section.

25 ~~SEC. 14.~~

26 *SEC. 12.* Section 4846.5 of the Business and Professions Code  
27 is amended to read:

28 4846.5. (a) Except as provided in this section, the board shall  
29 issue renewal licenses only to those applicants that have completed  
30 a minimum of 36 hours of continuing education in the preceding  
31 two years.

32 (b) (1) Notwithstanding any other law, continuing education  
33 hours shall be earned by attending courses relevant to veterinary  
34 medicine and sponsored or cosponsored by any of the following:

35 (A) American Veterinary Medical Association (AVMA)  
36 accredited veterinary medical colleges.

37 (B) Accredited colleges or universities offering programs  
38 relevant to veterinary medicine.

39 (C) The American Veterinary Medical Association.

1 (D) American Veterinary Medical Association recognized  
2 specialty or affiliated allied groups.

3 (E) American Veterinary Medical Association's affiliated state  
4 veterinary medical associations.

5 (F) Nonprofit annual conferences established in conjunction  
6 with state veterinary medical associations.

7 (G) Educational organizations affiliated with the American  
8 Veterinary Medical Association or its state affiliated veterinary  
9 medical associations.

10 (H) Local veterinary medical associations affiliated with the  
11 California Veterinary Medical Association.

12 (I) Federal, state, or local government agencies.

13 (J) Providers accredited by the Accreditation Council for  
14 Continuing Medical Education (ACCME) or approved by the  
15 American Medical Association (AMA), providers recognized by  
16 the American Dental Association Continuing Education  
17 Recognition Program (ADA CERP), and AMA or ADA affiliated  
18 state, local, and specialty organizations.

19 (2) Continuing education credits shall be granted to those  
20 veterinarians taking self-study courses, which may include, but  
21 are not limited to, reading journals, viewing video recordings, or  
22 listening to audio recordings. The taking of these courses shall be  
23 limited to no more than six hours biennially.

24 (3) The board may approve other continuing veterinary medical  
25 education providers not specified in paragraph (1).

26 (A) The board has the authority to recognize national continuing  
27 education approval bodies for the purpose of approving continuing  
28 education providers not specified in paragraph (1).

29 (B) Applicants seeking continuing education provider approval  
30 shall have the option of applying to the board or to a  
31 board-recognized national approval body.

32 (4) For good cause, the board may adopt an order specifying,  
33 on a prospective basis, that a provider of continuing veterinary  
34 medical education authorized pursuant to paragraph (1) or (3) is  
35 no longer an acceptable provider.

36 (5) Continuing education hours earned by attending courses  
37 sponsored or cosponsored by those entities listed in paragraph (1)  
38 between January 1, 2000, and January 1, 2001, shall be credited  
39 toward a veterinarian's continuing education requirement under  
40 this section.

1 (c) Every person renewing his or her license issued pursuant to  
2 Section 4846.4, or any person applying for relicensure or for  
3 reinstatement of his or her license to active status, shall submit  
4 proof of compliance with this section to the board certifying that  
5 he or she is in compliance with this section. Any false statement  
6 submitted pursuant to this section shall be a violation subject to  
7 Section 4831.

8 (d) This section shall not apply to a veterinarian's first license  
9 renewal. This section shall apply only to second and subsequent  
10 license renewals granted on or after January 1, 2002.

11 (e) The board shall have the right to audit the records of all  
12 applicants to verify the completion of the continuing education  
13 requirement. Applicants shall maintain records of completion of  
14 required continuing education coursework for a period of four  
15 years and shall make these records available to the board for  
16 auditing purposes upon request. If the board, during this audit,  
17 questions whether any course reported by the veterinarian satisfies  
18 the continuing education requirement, the veterinarian shall provide  
19 information to the board concerning the content of the course; the  
20 name of its sponsor and cosponsor, if any; and specify the specific  
21 curricula that was of benefit to the veterinarian.

22 (f) A veterinarian desiring an inactive license or to restore an  
23 inactive license under Section 701 shall submit an application on  
24 a form provided by the board. In order to restore an inactive license  
25 to active status, the veterinarian shall have completed a minimum  
26 of 36 hours of continuing education within the last two years  
27 preceding application. The inactive license status of a veterinarian  
28 shall not deprive the board of its authority to institute or continue  
29 a disciplinary action against a licensee.

30 (g) Knowing misrepresentation of compliance with this article  
31 by a veterinarian constitutes unprofessional conduct and grounds  
32 for disciplinary action or for the issuance of a citation and the  
33 imposition of a civil penalty pursuant to Section 4883.

34 (h) The board, in its discretion, may exempt from the continuing  
35 education requirement any veterinarian who for reasons of health,  
36 military service, or undue hardship cannot meet those requirements.  
37 Applications for waivers shall be submitted on a form provided  
38 by the board.

39 (i) The administration of this section may be funded through  
40 professional license and continuing education provider fees. The

1 fees related to the administration of this section shall not exceed  
2 the costs of administering the corresponding provisions of this  
3 section.

4 (j) For those continuing education providers not listed in  
5 paragraph (1) of subdivision (b), the board or its recognized  
6 national approval agent shall establish criteria by which a provider  
7 of continuing education shall be approved. The board shall initially  
8 review and approve these criteria and may review the criteria as  
9 needed. The board or its recognized agent shall monitor, maintain,  
10 and manage related records and data. The board may impose an  
11 application fee, not to exceed two hundred dollars (\$200)  
12 biennially, for continuing education providers not listed in  
13 paragraph (1) of subdivision (b).

14 (k) (1) Beginning January 1, 2018, a licensed veterinarian who  
15 renews his or her license shall complete a minimum of one credit  
16 hour of continuing education on the judicious use of medically  
17 important antimicrobial drugs every four years as part of his or  
18 her continuing education requirements.

19 (2) For purposes of this subdivision, “medically important  
20 antimicrobial drug” means an antimicrobial drug listed in Appendix  
21 A of the federal Food and Drug Administration’s Guidance for  
22 Industry #152, including critically important, highly important,  
23 and important antimicrobial drugs, as that appendix may be  
24 amended.

25 ~~SEC. 15.~~

26 *SEC. 13.* Section 4848.1 is added to the Business and  
27 Professions Code, to read:

28 4848.1. (a) A veterinarian engaged in the practice of veterinary  
29 medicine, as defined in Section 4826, employed by the University  
30 of California ~~while and~~ engaged in the performance of duties in  
31 connection with the School of Veterinary Medicine or employed  
32 by the Western University of Health Sciences ~~while and~~ engaged  
33 in the performance of duties in connection with the College of  
34 Veterinary Medicine shall be ~~licensed in California or shall hold~~  
35 *issued* a university license ~~issued by the board. pursuant to this~~  
36 *section or hold a license to practice veterinary medicine in this*  
37 *state.*

38 (b) ~~An applicant is eligible to hold~~ *individual may apply for and*  
39 *be issued* a university license if all of the following are satisfied:

1 (1) ~~The applicant~~ *He or she* is currently employed by the  
2 University of California or Western University of Health Sciences  
3 *Sciences*, as defined in subdivision (a).

4 (2) ~~Passes~~ *He or she passes* an examination concerning the  
5 statutes and regulations of the Veterinary Medicine Practice Act,  
6 administered by the board, pursuant to subparagraph (C) of  
7 paragraph (2) of subdivision (a) of Section 4848.

8 (3) ~~Successfully~~ *He or she successfully* completes the approved  
9 educational curriculum described in paragraph (5) of subdivision  
10 (b) of Section 4848 on regionally specific and important diseases  
11 and conditions.

12 (4) *He or she completes and submits the application specified*  
13 *by the board and pays the application fee, pursuant to subdivision*  
14 *(g) of Section 4905, and the initial license fee, pursuant to*  
15 *subdivision (h) of Section 4905.*

16 (c) A university license:

17 (1) Shall be numbered as described in Section 4847.

18 (2) Shall *automatically* cease to be valid upon termination *or*  
19 *cessation* of employment by the University of California or by the  
20 Western University of Health Sciences.

21 (3) Shall be subject to the license renewal provisions in Section  
22 ~~4846.4.~~ *4846.4 and the payment of the renewal fee pursuant to*  
23 *subdivision (i) of Section 4905.*

24 (4) Shall be subject to denial, revocation, or suspension pursuant  
25 to Sections ~~4875 and 4883.~~ *480, 4875, and 4883.*

26 (5) *Authorizes the holder to practice veterinary medicine only*  
27 *at the educational institution described in subdivision (a) and any*  
28 *locations formally affiliated with those institutions.*

29 (d) An individual who holds a university license is exempt from  
30 satisfying the license renewal requirements of Section 4846.5.

31 ~~SEC. 16.~~

32 *SEC. 14.* Section 4853.7 is added to the Business and  
33 Professions Code, to read:

34 4853.7. A premise registration that is not renewed within five  
35 years after its expiration may not be renewed and shall not be  
36 restored, reissued, or reinstated thereafter. However, an application  
37 for a new premise registration may be submitted and obtained if  
38 both of the following conditions are met:

39 (a) No fact, circumstance, or condition exists that, if the premise  
40 registration was issued, would justify its revocation or suspension.

1 (b) All of the fees that would be required for the initial premise  
2 registration are paid at the time of application.

3 *SEC. 15. Section 4904 of the Business and Professions Code*  
4 *is amended to read:*

5 4904. All fees collected on behalf of the board and all receipts  
6 of every kind and nature shall be reported each month for the month  
7 preceding to the State Controller and at the same time the entire  
8 amount shall be paid into the State Treasury and shall be credited  
9 to the Veterinary Medical Board Contingent Fund. This contingent  
10 fund shall be *available, upon appropriation by the Legislature,*  
11 *for the use of the Veterinary Medical Board and out of it and not*  
12 ~~otherwise shall be paid all expenses of the board.~~ *Board.*

13 *SEC. 16. Section 4905 of the Business and Professions Code*  
14 *is amended to read:*

15 4905. The following fees shall be collected by the board and  
16 shall be credited to the Veterinary Medical Board Contingent Fund:

17 (a) The fee for filing an application for examination shall be set  
18 by the board in an amount it determines is reasonably necessary  
19 to provide sufficient funds to carry out the purpose of this chapter,  
20 not to exceed three hundred fifty dollars (\$350).

21 (b) The fee for the California state board examination shall be  
22 set by the board in an amount it determines is reasonably necessary  
23 to provide sufficient funds to carry out the purpose of this chapter,  
24 not to exceed three hundred fifty dollars (\$350).

25 (c) The fee for the Veterinary Medicine Practice Act  
26 examination shall be set by the board in an amount it determines  
27 reasonably necessary to provide sufficient funds to carry out the  
28 purpose of this chapter, not to exceed one hundred dollars (\$100).

29 (d) The initial license fee shall be set by the board not to exceed  
30 five hundred dollars (\$500) except that, if the license is issued less  
31 than one year before the date on which it will expire, then the fee  
32 shall be set by the board at not to exceed two hundred fifty dollars  
33 (\$250). The board may, by appropriate regulation, provide for the  
34 waiver or refund of the initial license fee where the license is issued  
35 less than 45 days before the date on which it will expire.

36 (e) The renewal fee shall be set by the board for each biennial  
37 renewal period in an amount it determines is reasonably necessary  
38 to provide sufficient funds to carry out the purpose of this chapter,  
39 not to exceed five hundred dollars (\$500).

- 1 (f) The temporary license fee shall be set by the board in an
- 2 amount it determines is reasonably necessary to provide sufficient
- 3 funds to carry out the purpose of this chapter, not to exceed two
- 4 hundred fifty dollars (\$250).
- 5 (g) *The fee for filing an application for a university license shall*
- 6 *be one hundred twenty-five dollars (\$125), which may be revised*
- 7 *by the board in regulation but shall not exceed three hundred fifty*
- 8 *dollars (\$350).*
- 9 (h) *The initial license fee for a university license shall be two*
- 10 *hundred ninety dollars (\$290), which may be revised by the board*
- 11 *in regulation but shall not exceed five hundred dollars (\$500).*
- 12 (i) *The biennial renewal fee for a university license shall be two*
- 13 *hundred ninety dollars (\$290), which may be revised by the board*
- 14 *in regulation but shall not exceed five hundred dollars (\$500).*
- 15 ~~(g)~~
- 16 (j) The delinquency fee shall be set by the board, not to exceed
- 17 fifty dollars (\$50).
- 18 ~~(h)~~
- 19 (k) The fee for issuance of a duplicate license is twenty-five
- 20 dollars (\$25).
- 21 ~~(i)~~
- 22 (l) Any charge made for duplication or other services shall be
- 23 set at the cost of rendering the service, except as specified in
- 24 subdivision~~(h)~~: (k).
- 25 ~~(j)~~
- 26 (m) The fee for failure to report a change in the mailing address
- 27 is twenty-five dollars (\$25).
- 28 ~~(k)~~
- 29 (n) The initial and annual renewal fees for registration of
- 30 veterinary premises shall be set by the board in an amount not to
- 31 exceed four hundred dollars (\$400) annually.
- 32 ~~(l)~~
- 33 (o) If the money transferred from the Veterinary Medical Board
- 34 Contingent Fund to the General Fund pursuant to the Budget Act
- 35 of 1991 is redeposited into the Veterinary Medical Board
- 36 Contingent Fund, the fees assessed by the board shall be reduced
- 37 correspondingly. However, the reduction shall not be so great as
- 38 to cause the Veterinary Medical Board Contingent Fund to have
- 39 a reserve of less than three months of annual authorized board
- 40 expenditures. The fees set by the board shall not result in a

1 Veterinary Medical Board Contingent Fund reserve of more than  
2 10 months of annual authorized board expenditures.

3 SEC. 17. Section 825 of the Government Code is amended to  
4 read:

5 825. (a) Except as otherwise provided in this section, if an  
6 employee or former employee of a public entity requests the public  
7 entity to defend him or her against any claim or action against him  
8 or her for an injury arising out of an act or omission occurring  
9 within the scope of his or her employment as an employee of the  
10 public entity and the request is made in writing not less than 10  
11 days before the day of trial, and the employee or former employee  
12 reasonably cooperates in good faith in the defense of the claim or  
13 action, the public entity shall pay any judgment based thereon or  
14 any compromise or settlement of the claim or action to which the  
15 public entity has agreed.

16 If the public entity conducts the defense of an employee or  
17 former employee against any claim or action with his or her  
18 reasonable good-faith cooperation, the public entity shall pay any  
19 judgment based thereon or any compromise or settlement of the  
20 claim or action to which the public entity has agreed. However,  
21 where the public entity conducted the defense pursuant to an  
22 agreement with the employee or former employee reserving the  
23 rights of the public entity not to pay the judgment, compromise,  
24 or settlement until it is established that the injury arose out of an  
25 act or omission occurring within the scope of his or her  
26 employment as an employee of the public entity, the public entity  
27 is required to pay the judgment, compromise, or settlement only  
28 if it is established that the injury arose out of an act or omission  
29 occurring in the scope of his or her employment as an employee  
30 of the public entity.

31 Nothing in this section authorizes a public entity to pay that part  
32 of a claim or judgment that is for punitive or exemplary damages.

33 (b) Notwithstanding subdivision (a) or any other provision of  
34 law, a public entity is authorized to pay that part of a judgment  
35 that is for punitive or exemplary damages if the governing body  
36 of that public entity, acting in its sole discretion except in cases  
37 involving an entity of the state government, finds all of the  
38 following:

1 (1) The judgment is based on an act or omission of an employee  
2 or former employee acting within the course and scope of his or  
3 her employment as an employee of the public entity.

4 (2) At the time of the act giving rise to the liability, the employee  
5 or former employee acted, or failed to act, in good faith, without  
6 actual malice and in the apparent best interests of the public entity.

7 (3) Payment of the claim or judgment would be in the best  
8 interests of the public entity.

9 As used in this subdivision with respect to an entity of state  
10 government, “a decision of the governing body” means the  
11 approval of the Legislature for payment of that part of a judgment  
12 that is for punitive damages or exemplary damages, upon  
13 recommendation of the appointing power of the employee or  
14 former employee, based upon the finding by the Legislature and  
15 the appointing authority of the existence of the three conditions  
16 for payment of a punitive or exemplary damages claim. The  
17 provisions of subdivision (a) of Section 965.6 shall apply to the  
18 payment of any claim pursuant to this subdivision.

19 The discovery of the assets of a public entity and the introduction  
20 of evidence of the assets of a public entity shall not be permitted  
21 in an action in which it is alleged that a public employee is liable  
22 for punitive or exemplary damages.

23 The possibility that a public entity may pay that part of a  
24 judgment that is for punitive damages shall not be disclosed in any  
25 trial in which it is alleged that a public employee is liable for  
26 punitive or exemplary damages, and that disclosure shall be  
27 grounds for a mistrial.

28 (c) Except as provided in subdivision (d), if the provisions of  
29 this section are in conflict with the provisions of a memorandum  
30 of understanding reached pursuant to Chapter 10 (commencing  
31 with Section 3500) of Division 4 of Title 1, the memorandum of  
32 understanding shall be controlling without further legislative action,  
33 except that if those provisions of a memorandum of understanding  
34 require the expenditure of funds, the provisions shall not become  
35 effective unless approved by the Legislature in the annual Budget  
36 Act.

37 (d) The subject of payment of punitive damages pursuant to this  
38 section or any other provision of law shall not be a subject of meet  
39 and confer under the provisions of Chapter 10 (commencing with

1 Section 3500) of Division 4 of Title 1, or pursuant to any other  
2 law or authority.

3 (e) Nothing in this section shall affect the provisions of Section  
4 818 prohibiting the award of punitive damages against a public  
5 entity. This section shall not be construed as a waiver of a public  
6 entity's immunity from liability for punitive damages under Section  
7 1981, 1983, or 1985 of Title 42 of the United States Code.

8 (f) (1) Except as provided in paragraph (2), a public entity shall  
9 not pay a judgment, compromise, or settlement arising from a  
10 claim or action against an elected official, if the claim or action is  
11 based on conduct by the elected official by way of tortiously  
12 intervening or attempting to intervene in, or by way of tortiously  
13 influencing or attempting to influence the outcome of, any judicial  
14 action or proceeding for the benefit of a particular party by  
15 contacting the trial judge or any commissioner, court-appointed  
16 arbitrator, court-appointed mediator, or court-appointed special  
17 referee assigned to the matter, or the court clerk, bailiff, or marshal  
18 after an action has been filed, unless he or she was counsel of  
19 record acting lawfully within the scope of his or her employment  
20 on behalf of that party. Notwithstanding Section 825.6, if a public  
21 entity conducted the defense of an elected official against such a  
22 claim or action and the elected official is found liable by the trier  
23 of fact, the court shall order the elected official to pay to the public  
24 entity the cost of that defense.

25 (2) If an elected official is held liable for monetary damages in  
26 the action, the plaintiff shall first seek recovery of the judgment  
27 against the assets of the elected official. If the elected official's  
28 assets are insufficient to satisfy the total judgment, as determined  
29 by the court, the public entity may pay the deficiency if the public  
30 entity is authorized by law to pay that judgment.

31 (3) To the extent the public entity pays any portion of the  
32 judgment or is entitled to reimbursement of defense costs pursuant  
33 to paragraph (1), the public entity shall pursue all available  
34 creditor's remedies against the elected official, including  
35 garnishment, until that party has fully reimbursed the public entity.

36 (4) This subdivision shall not apply to any criminal or civil  
37 enforcement action brought in the name of the people of the State  
38 of California by an elected district attorney, city attorney, or  
39 attorney general.

1 (g) Notwithstanding subdivision (a), a public entity shall pay  
2 for a judgment or settlement for treble damage antitrust awards  
3 against a member of a regulatory board for an act or omission  
4 occurring within the scope of his or her employment as a member  
5 of a regulatory board.

6 (h) *Treble damages awarded pursuant to the federal Clayton*  
7 *Act (Sections 12 to 27 of Title 15 of, and Sections 52 to 53 of Title*  
8 *29 of, the United States Code) for a violation of the federal*  
9 *Sherman Act (Sections 1 to 6, 6a, and 7 of Title 15 of the United*  
10 *States Code) are not punitive or exemplary damages under the*  
11 *Government Claims Act (Division 3.6 (commencing with Section*  
12 *810) of Title 1 of the Government Code) for purposes of this*  
13 *section.*

14 SEC. 18. Section 11346.5 of the Government Code is amended  
15 to read:

16 11346.5. (a) The notice of proposed adoption, amendment, or  
17 repeal of a regulation shall include the following:

18 (1) A statement of the time, place, and nature of proceedings  
19 for adoption, amendment, or repeal of the regulation.

20 (2) Reference to the authority under which the regulation is  
21 proposed and a reference to the particular code sections or other  
22 provisions of law that are being implemented, interpreted, or made  
23 specific.

24 (3) An informative digest drafted in plain English in a format  
25 similar to the Legislative Counsel's digest on legislative bills. The  
26 informative digest shall include the following:

27 (A) A concise and clear summary of existing laws and  
28 regulations, if any, related directly to the proposed action and of  
29 the effect of the proposed action.

30 (B) If the proposed action differs substantially from an existing  
31 comparable federal regulation or statute, a brief description of the  
32 significant differences and the full citation of the federal regulations  
33 or statutes.

34 (C) A policy statement overview explaining the broad objectives  
35 of the regulation and the specific benefits anticipated by the  
36 proposed adoption, amendment, or repeal of a regulation, including,  
37 to the extent applicable, nonmonetary benefits such as the  
38 protection of public health and safety, worker safety, or the  
39 environment, the prevention of discrimination, the promotion of

1 fairness or social equity, and the increase in openness and  
2 transparency in business and government, among other things.

3 (D) An evaluation of whether the proposed regulation is  
4 inconsistent or incompatible with existing state regulations.

5 (4) Any other matters as are prescribed by statute applicable to  
6 the specific state agency or to any specific regulation or class of  
7 regulations.

8 (5) A determination as to whether the regulation imposes a  
9 mandate on local agencies or school districts and, if so, whether  
10 the mandate requires state reimbursement pursuant to Part 7  
11 (commencing with Section 17500) of Division 4.

12 (6) An estimate, prepared in accordance with instructions  
13 adopted by the Department of Finance, of the cost or savings to  
14 any state agency, the cost to any local agency or school district  
15 that is required to be reimbursed under Part 7 (commencing with  
16 Section 17500) of Division 4, other nondiscretionary cost or  
17 savings imposed on local agencies, and the cost or savings in  
18 federal funding to the state.

19 For purposes of this paragraph, “cost or savings” means  
20 additional costs or savings, both direct and indirect, that a public  
21 agency necessarily incurs in reasonable compliance with  
22 regulations.

23 (7) If a state agency, in proposing to adopt, amend, or repeal  
24 any administrative regulation, makes an initial determination that  
25 the action may have a significant, statewide adverse economic  
26 impact directly affecting business, including the ability of  
27 California businesses to compete with businesses in other states,  
28 it shall include the following information in the notice of proposed  
29 action:

30 (A) Identification of the types of businesses that would be  
31 affected.

32 (B) A description of the projected reporting, recordkeeping, and  
33 other compliance requirements that would result from the proposed  
34 action.

35 (C) The following statement: “The (name of agency) has made  
36 an initial determination that the (adoption/amendment/repeal) of  
37 this regulation may have a significant, statewide adverse economic  
38 impact directly affecting business, including the ability of  
39 California businesses to compete with businesses in other states.  
40 The (name of agency) (has/has not) considered proposed

1 alternatives that would lessen any adverse economic impact on  
2 business and invites you to submit proposals. Submissions may  
3 include the following considerations:

4 (i) The establishment of differing compliance or reporting  
5 requirements or timetables that take into account the resources  
6 available to businesses.

7 (ii) Consolidation or simplification of compliance and reporting  
8 requirements for businesses.

9 (iii) The use of performance standards rather than prescriptive  
10 standards.

11 (iv) Exemption or partial exemption from the regulatory  
12 requirements for businesses.”

13 (8) If a state agency, in adopting, amending, or repealing any  
14 administrative regulation, makes an initial determination that the  
15 action will not have a significant, statewide adverse economic  
16 impact directly affecting business, including the ability of  
17 California businesses to compete with businesses in other states,  
18 it shall make a declaration to that effect in the notice of proposed  
19 action. In making this declaration, the agency shall provide in the  
20 record facts, evidence, documents, testimony, or other evidence  
21 upon which the agency relies to support its initial determination.

22 An agency’s initial determination and declaration that a proposed  
23 adoption, amendment, or repeal of a regulation may have or will  
24 not have a significant, adverse impact on businesses, including the  
25 ability of California businesses to compete with businesses in other  
26 states, shall not be grounds for the office to refuse to publish the  
27 notice of proposed action.

28 (9) A description of all cost impacts, known to the agency at  
29 the time the notice of proposed action is submitted to the office,  
30 that a representative private person or business would necessarily  
31 incur in reasonable compliance with the proposed action.

32 If no cost impacts are known to the agency, it shall state the  
33 following:

34 “The agency is not aware of any cost impacts that a  
35 representative private person or business would necessarily incur  
36 in reasonable compliance with the proposed action.”

37 (10) A statement of the results of the economic impact  
38 assessment required by subdivision (b) of Section 11346.3 or the  
39 standardized regulatory impact analysis if required by subdivision  
40 (c) of Section 11346.3, a summary of any comments submitted to

1 the agency pursuant to subdivision (f) of Section 11346.3 and the  
2 agency's response to those comments.

3 (11) The finding prescribed by subdivision (d) of Section  
4 11346.3, if required.

5 (12) (A) A statement that the action would have a significant  
6 effect on housing costs, if a state agency, in adopting, amending,  
7 or repealing any administrative regulation, makes an initial  
8 determination that the action would have that effect.

9 (B) The agency officer designated in paragraph (15) shall make  
10 available to the public, upon request, the agency's evaluation, if  
11 any, of the effect of the proposed regulatory action on housing  
12 costs.

13 (C) The statement described in subparagraph (A) shall also  
14 include the estimated costs of compliance and potential benefits  
15 of a building standard, if any, that were included in the initial  
16 statement of reasons.

17 (D) For purposes of model codes adopted pursuant to Section  
18 18928 of the Health and Safety Code, the agency shall comply  
19 with the requirements of this paragraph only if an interested party  
20 has made a request to the agency to examine a specific section for  
21 purposes of estimating the costs of compliance and potential  
22 benefits for that section, as described in Section 11346.2.

23 (13) ~~If the regulatory action is submitted by a state board on~~  
24 ~~which a controlling number of decisionmakers are active market~~  
25 ~~participants in the market the board regulates, a statement that the~~  
26 ~~adopting agency has evaluated the impact of the proposed~~  
27 ~~regulation on competition, and that the proposed regulation furthers~~  
28 ~~a clearly articulated and affirmatively expressed state law to restrain~~  
29 ~~competition.~~ *board within the Department of Consumer Affairs,*  
30 *a statement that the Director of Consumer Affairs has reviewed*  
31 *the proposed regulation and determined that the proposed*  
32 *regulation furthers state law.*

33 (14) A statement that the adopting agency must determine that  
34 no reasonable alternative considered by the agency or that has  
35 otherwise been identified and brought to the attention of the agency  
36 would be more effective in carrying out the purpose for which the  
37 action is proposed, would be as effective and less burdensome to  
38 affected private persons than the proposed action, or would be  
39 more cost effective to affected private persons and equally effective  
40 in implementing the statutory policy or other provision of law. For

1 a major regulation, as defined by Section 11342.548, proposed on  
2 or after November 1, 2013, the statement shall be based, in part,  
3 upon the standardized regulatory impact analysis of the proposed  
4 regulation, as required by Section 11346.3, as well as upon the  
5 benefits of the proposed regulation identified pursuant to  
6 subparagraph (C) of paragraph (3).

7 (15) The name and telephone number of the agency  
8 representative and designated backup contact person to whom  
9 inquiries concerning the proposed administrative action may be  
10 directed.

11 (16) The date by which comments submitted in writing must  
12 be received to present statements, arguments, or contentions in  
13 writing relating to the proposed action in order for them to be  
14 considered by the state agency before it adopts, amends, or repeals  
15 a regulation.

16 (17) Reference to the fact that the agency proposing the action  
17 has prepared a statement of the reasons for the proposed action,  
18 has available all the information upon which its proposal is based,  
19 and has available the express terms of the proposed action, pursuant  
20 to subdivision (b).

21 (18) A statement that if a public hearing is not scheduled, any  
22 interested person or his or her duly authorized representative may  
23 request, no later than 15 days prior to the close of the written  
24 comment period, a public hearing pursuant to Section 11346.8.

25 (19) A statement indicating that the full text of a regulation  
26 changed pursuant to Section 11346.8 will be available for at least  
27 15 days prior to the date on which the agency adopts, amends, or  
28 repeals the resulting regulation.

29 (20) A statement explaining how to obtain a copy of the final  
30 statement of reasons once it has been prepared pursuant to  
31 subdivision (a) of Section 11346.9.

32 (21) If the agency maintains an Internet Web site or other similar  
33 forum for the electronic publication or distribution of written  
34 material, a statement explaining how materials published or  
35 distributed through that forum can be accessed.

36 (22) If the proposed regulation is subject to Section 11346.6, a  
37 statement that the agency shall provide, upon request, a description  
38 of the proposed changes included in the proposed action, in the  
39 manner provided by Section 11346.6, to accommodate a person  
40 with a visual or other disability for which effective communication

1 is required under state or federal law and that providing the  
2 description of proposed changes may require extending the period  
3 of public comment for the proposed action.

4 (b) The agency representative designated in paragraph (15) of  
5 subdivision (a) shall make available to the public upon request the  
6 express terms of the proposed action. The representative shall also  
7 make available to the public upon request the location of public  
8 records, including reports, documentation, and other materials,  
9 related to the proposed action. If the representative receives an  
10 inquiry regarding the proposed action that the representative cannot  
11 answer, the representative shall refer the inquiry to another person  
12 in the agency for a prompt response.

13 (c) This section shall not be construed in any manner that results  
14 in the invalidation of a regulation because of the alleged inadequacy  
15 of the notice content or the summary or cost estimates, or the  
16 alleged inadequacy or inaccuracy of the housing cost estimates, if  
17 there has been substantial compliance with those requirements.

18 ~~SEC. 19. Section 11349 of the Government Code is amended~~  
19 ~~to read:~~

20 ~~11349. The following definitions govern the interpretation of~~  
21 ~~this chapter:~~

22 (a) ~~“Necessity” means the record of the rulemaking proceeding~~  
23 ~~demonstrates by substantial evidence the need for a regulation to~~  
24 ~~effectuate the purpose of the statute, court decision, or other~~  
25 ~~provision of law that the regulation implements, interprets, or~~  
26 ~~makes specific, taking into account the totality of the record. For~~  
27 ~~purposes of this standard, evidence includes, but is not limited to,~~  
28 ~~facts, studies, and expert opinion.~~

29 (b) ~~“Authority” means the provision of law which permits or~~  
30 ~~obligates the agency to adopt, amend, or repeal a regulation.~~

31 (c) ~~“Clarity” means written or displayed so that the meaning of~~  
32 ~~regulations will be easily understood by those persons directly~~  
33 ~~affected by them.~~

34 (d) ~~“Consistency” means being in harmony with, and not in~~  
35 ~~conflict with or contradictory to, existing statutes, court decisions,~~  
36 ~~or other provisions of law.~~

37 (e) ~~“Reference” means the statute, court decision, or other~~  
38 ~~provision of law which the agency implements, interprets, or makes~~  
39 ~~specific by adopting, amending, or repealing a regulation.~~

1 (f) “Nonduplication” means that a regulation does not serve the  
2 same purpose as a state or federal statute or another regulation.  
3 This standard requires that an agency proposing to amend or adopt  
4 a regulation must identify any state or federal statute or regulation  
5 which is overlapped or duplicated by the proposed regulation and  
6 justify any overlap or duplication. This standard is not intended  
7 to prohibit state agencies from printing relevant portions of  
8 enabling legislation in regulations when the duplication is necessary  
9 to satisfy the clarity standard in paragraph (3) of subdivision (a)  
10 of Section 11349.1. This standard is intended to prevent the  
11 indiscriminate incorporation of statutory language in a regulation.

12 (g) “Competitive impact” means that the record of the  
13 rulemaking proceeding or other documentation demonstrates that  
14 the regulation is authorized by a clearly articulated and  
15 affirmatively expressed state law, that the regulation furthers the  
16 public protection mission of the state agency, and that the impact  
17 on competition is justified in light of the applicable regulatory  
18 rationale for the regulation.

19 SEC. 20. Section 11349.1 of the Government Code is amended  
20 to read:

21 11349.1. (a) The office shall review all regulations adopted,  
22 amended, or repealed pursuant to the procedure specified in Article  
23 5 (commencing with Section 11346) and submitted to it for  
24 publication in the California Code of Regulations Supplement and  
25 for transmittal to the Secretary of State and make determinations  
26 using all of the following standards:

27 (1) Necessity.

28 (2) Authority.

29 (3) Clarity.

30 (4) Consistency.

31 (5) Reference.

32 (6) Nonduplication.

33 (7) For those regulations submitted by a state board on which  
34 a controlling number of decisionmakers are active market  
35 participants in the market the board regulates, the office shall  
36 review for competitive impact.

37 In reviewing regulations pursuant to this section, the office shall  
38 restrict its review to the regulation and the record of the rulemaking  
39 except as directed in subdivision (h). The office shall approve the

1 regulation or order of repeal if it complies with the standards set  
2 forth in this section and with this chapter.

3 (b) In reviewing proposed regulations for the criteria in  
4 subdivision (a), the office may consider the clarity of the proposed  
5 regulation in the context of related regulations already in existence.

6 (c) The office shall adopt regulations governing the procedures  
7 it uses in reviewing regulations submitted to it. The regulations  
8 shall provide for an orderly review and shall specify the methods,  
9 standards, presumptions, and principles the office uses, and the  
10 limitations it observes, in reviewing regulations to establish  
11 compliance with the standards specified in subdivision (a). The  
12 regulations adopted by the office shall ensure that it does not  
13 substitute its judgment for that of the rulemaking agency as  
14 expressed in the substantive content of adopted regulations.

15 (d) The office shall return any regulation subject to this chapter  
16 to the adopting agency if any of the following occur:

17 (1) The adopting agency has not prepared the estimate required  
18 by paragraph (6) of subdivision (a) of Section 11346.5 and has not  
19 included the data used and calculations made and the summary  
20 report of the estimate in the file of the rulemaking.

21 (2) The agency has not complied with Section 11346.3.  
22 “Noncompliance” means that the agency failed to complete the  
23 economic impact assessment or standardized regulatory impact  
24 analysis required by Section 11346.3 or failed to include the  
25 assessment or analysis in the file of the rulemaking proceeding as  
26 required by Section 11347.3.

27 (3) The adopting agency has prepared the estimate required by  
28 paragraph (6) of subdivision (a) of Section 11346.5, the estimate  
29 indicates that the regulation will result in a cost to local agencies  
30 or school districts that is required to be reimbursed under Part 7  
31 (commencing with Section 17500) of Division 4, and the adopting  
32 agency fails to do any of the following:

33 (A) Cite an item in the Budget Act for the fiscal year in which  
34 the regulation will go into effect as the source from which the  
35 Controller may pay the claims of local agencies or school districts.

36 (B) Cite an accompanying bill appropriating funds as the source  
37 from which the Controller may pay the claims of local agencies  
38 or school districts.

39 (C) Attach a letter or other documentation from the Department  
40 of Finance which states that the Department of Finance has

1 approved a request by the agency that funds be included in the  
2 Budget Bill for the next following fiscal year to reimburse local  
3 agencies or school districts for the costs mandated by the  
4 regulation.

5 (D) Attach a letter or other documentation from the Department  
6 of Finance which states that the Department of Finance has  
7 authorized the augmentation of the amount available for  
8 expenditure under the agency's appropriation in the Budget Act  
9 which is for reimbursement pursuant to Part 7 (commencing with  
10 Section 17500) of Division 4 to local agencies or school districts  
11 from the unencumbered balances of other appropriations in the  
12 Budget Act and that this augmentation is sufficient to reimburse  
13 local agencies or school districts for their costs mandated by the  
14 regulation.

15 (4) The proposed regulation conflicts with an existing state  
16 regulation and the agency has not identified the manner in which  
17 the conflict may be resolved.

18 (5) The agency did not make the alternatives determination as  
19 required by paragraph (4) of subdivision (a) of Section 11346.9.

20 (6) The office decides that the record of the rulemaking  
21 proceeding or other documentation for the proposed regulation  
22 does not demonstrate that the regulation is authorized by a clearly  
23 articulated and affirmatively expressed state law, that the regulation  
24 does not further the public protection mission of the state agency,  
25 or that the impact on competition is not justified in light of the  
26 applicable regulatory rationale for the regulation.

27 (e) The office shall notify the Department of Finance of all  
28 regulations returned pursuant to subdivision (d).

29 (f) The office shall return a rulemaking file to the submitting  
30 agency if the file does not comply with subdivisions (a) and (b)  
31 of Section 11347.3. Within three state working days of the receipt  
32 of a rulemaking file, the office shall notify the submitting agency  
33 of any deficiency identified. If no notice of deficiency is mailed  
34 to the adopting agency within that time, a rulemaking file shall be  
35 deemed submitted as of the date of its original receipt by the office.  
36 A rulemaking file shall not be deemed submitted until each  
37 deficiency identified under this subdivision has been corrected.

38 (g) Notwithstanding any other law, return of the regulation to  
39 the adopting agency by the office pursuant to this section is the  
40 exclusive remedy for a failure to comply with subdivision (c) of

1 ~~Section 11346.3 or paragraph (10) of subdivision (a) of Section~~  
2 ~~11346.5.~~

3 ~~(h) The office may designate, employ, or contract for the~~  
4 ~~services of independent antitrust or applicable economic experts~~  
5 ~~when reviewing proposed regulations for competitive impact.~~  
6 ~~When reviewing a regulation for competitive impact, the office~~  
7 ~~shall do all of the following:~~

8 ~~(1) If the Director of Consumer Affairs issued a written decision~~  
9 ~~pursuant to subdivision (e) of Section 109 of the Business and~~  
10 ~~Professions Code, the office shall review and consider the decision~~  
11 ~~and all supporting documentation in the rulemaking file.~~

12 ~~(2) Consider whether the anticompetitive effects of the proposed~~  
13 ~~regulation are clearly outweighed by the public policy merits.~~

14 ~~(3) Provide a written opinion setting forth the office's findings~~  
15 ~~and substantive conclusions under paragraph (2), including, but~~  
16 ~~not limited to, whether rejection or modification of the proposed~~  
17 ~~regulation is necessary to ensure that restraints of trade are related~~  
18 ~~to and advance the public policy underlying the applicable~~  
19 ~~regulatory rationale.~~

20 ~~SEC. 21:~~

21 ~~SEC. 19.~~ No reimbursement is required by this act pursuant to  
22 Section 6 of Article XIII B of the California Constitution because  
23 the only costs that may be incurred by a local agency or school  
24 district will be incurred because this act creates a new crime or  
25 infraction, eliminates a crime or infraction, or changes the penalty  
26 for a crime or infraction, within the meaning of Section 17556 of  
27 the Government Code, or changes the definition of a crime within  
28 the meaning of Section 6 of Article XIII B of the California  
29 Constitution.