

ASSEMBLY BILL

No. 1982

Introduced by Assembly Member Wagner

February 23, 2012

An act to amend Sections 11343.4 and 11349.3 of the Government Code, relating to regulations.

LEGISLATIVE COUNSEL'S DIGEST

AB 1982, as introduced, Wagner. Regulations: effective date: legislative review.

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 an agency, prior to submitting a proposal to adopt, amend, or repeal an administrative regulation, to determine the economic impact of that regulation, in accordance with certain procedures. That act defines a major regulation as a regulation that the agency determines has an expected economic impact on California business enterprises and individuals in an amount exceeding \$50,000,000. That act requires the office to transmit a copy of a regulation to the Secretary of State for filing if the office approves the regulation or fails to act on it within 30 days. That act provides that a regulation or an order of repeal of a regulation becomes effective on the 30th day after it is filed with the Secretary of State, unless prescribed conditions occur.

This bill would require the office to submit to the Legislature for review a copy of each major regulation that it submits to the Secretary of State. This bill would extend the time period that a regulation becomes effective after being filed with the Secretary of State from 30

days to 90 days. This bill would specify that the list of prescribed conditions that prevent a regulation from becoming effective include a statutory override of the regulation.

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

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

1 SECTION 1. Section 11343.4 of the Government Code is
2 amended to read:

3 11343.4. A regulation or an order of repeal required to be filed
4 with the Secretary of State shall become effective on the ~~30th~~ 90th
5 day after the date of filing unless:

6 (a) Otherwise specifically provided by the statute pursuant to
7 which the regulation or order of repeal was adopted, in which event
8 it becomes effective on the day prescribed by the statute.

9 (b) A later date is prescribed by the state agency in a written
10 instrument filed with, or as part of, the regulation or order of repeal.

11 (c) The agency makes a written request to the office
12 demonstrating good cause for an earlier effective date, in which
13 case the office may prescribe an earlier date.

14 (d) *The Legislature passes a statute to override the regulation.*

15 SEC. 2. Section 11349.3 of the Government Code is amended
16 to read:

17 11349.3. (a) (1) The office shall either approve a regulation
18 submitted to it for review and transmit it to the Secretary of State
19 for filing or disapprove it within 30 working days after the
20 regulation has been submitted to the office for review. If the office
21 fails to act within 30 days, the regulation shall be deemed to have
22 been approved and the office shall transmit it to the Secretary of
23 State for filing.

24 (2) *The office shall submit a copy of each major regulation*
25 *submitted to the Secretary of State pursuant to paragraph (1) to*
26 *each house of the Legislature for review.*

27 (b) If the office disapproves a regulation, it shall return it to the
28 adopting agency within the 30-day period specified in subdivision
29 (a) accompanied by a notice specifying the reasons for disapproval.
30 Within seven calendar days of the issuance of the notice, the office
31 shall provide the adopting agency with a written decision detailing
32 the reasons for disapproval. No regulation shall be disapproved

1 except for failure to comply with the standards set forth in Section
2 11349.1 or for failure to comply with this chapter.

3 (c) If an agency determines, on its own initiative, that a
4 regulation submitted pursuant to subdivision (a) should be returned
5 by the office prior to completion of the office's review, it may
6 request the return of the regulation. All requests for the return of
7 a regulation shall be memorialized in writing by the submitting
8 agency no later than one week following the request. Any
9 regulation returned pursuant to this subdivision shall be resubmitted
10 to the office for review within the one-year period specified in
11 subdivision (b) of Section 11346.4 or shall comply with Article 5
12 (commencing with Section 11346) prior to resubmission.

13 (d) The office shall not initiate the return of a regulation pursuant
14 to subdivision (c) as an alternative to disapproval pursuant to
15 subdivision (b).