

AMENDED IN ASSEMBLY MARCH 28, 2012

AMENDED IN ASSEMBLY MARCH 19, 2012

AMENDED IN ASSEMBLY MARCH 13, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1537**

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**Introduced by Assembly Member Cook**

**(Coauthors: Assembly Members *Garrick*, *Miller*, *Nestande*, and  
*Olsen*)**

(Coauthors: Senators *Cannella*, *Dutton*, *Harman*, *Huff*, and *La Malfa*)

January 24, 2012

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An act to amend Section 11349.1 of, and to add Section 11346.15 to, the Government Code, relating to regulations.

LEGISLATIVE COUNSEL'S DIGEST

AB 1537, as amended, Cook. Government Accountability Act of 2012.

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.

This bill would enact the Government Accountability Act of 2012 and require that a major regulation, as defined, proposed on or after January 1, 2013, include a provision to repeal the regulation 2 years after the date that the regulation is approved by the office. The bill would require the office to return to an agency any proposed regulation that does not include the repeal provision. The bill would provide that the repeal date shall be void if the Legislature enacts a statute that

expressly validates and approves the content of the regulation, as specified.

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. This act shall be known as the Government  
2 Accountability Act of 2012.

3 SEC. 2. Section 11346.15 is added to the Government Code,  
4 to read:

5 11346.15. (a) This section shall apply to any major regulation,  
6 as defined in Section 11342.548, proposed on or after January 1,  
7 2013.

8 (b) Every regulation described in subdivision (a) shall include  
9 a provision that repeals the regulation two years after the date that  
10 the regulation is approved by the office.

11 (c) If the Legislature enacts a statute expressly validating and  
12 approving the content of a regulation, and the statute takes effect  
13 prior to the repeal date designated for the regulation, then the repeal  
14 date shall be void and the regulation shall continue in effect until  
15 any later time as may be provided by the validating statute.

16 SEC. 3. Section 11349.1 of the Government Code, ~~as amended~~  
17 ~~by Section 9 of Chapter 496 of the Statutes of 2011,~~ is amended  
18 to read:

19 11349.1. (a) The office shall review all regulations adopted,  
20 amended, or repealed pursuant to the procedure specified in Article  
21 5 (commencing with Section 11346) and submitted to it for  
22 publication in the California Code of Regulations Supplement and  
23 for transmittal to the Secretary of State and make determinations  
24 using all of the following standards:

- 25 (1) Necessity.
- 26 (2) Authority.
- 27 (3) Clarity.
- 28 (4) Consistency.
- 29 (5) Reference.
- 30 (6) Nonduplication.

31 In reviewing regulations pursuant to this section, the office shall  
32 restrict its review to the regulation and the record of the rulemaking  
33 proceeding. The office shall approve the regulation or order of

1 repeal if it complies with the standards set forth in this section and  
2 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 regulation does not include provisions for the repeal of  
21 the regulation, as required by Section 11346.15.

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

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

33 (g) Notwithstanding any ~~other~~ law, return of the regulation to  
34 the adopting agency by the office pursuant to this section ~~is~~ *shall*  
35 *be* the exclusive remedy for a failure to comply with subdivision  
36 (c) of Section 11346.3 or paragraph (10) of subdivision (a) of  
37 Section 11346.5.

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