

AMENDED IN SENATE MARCH 29, 2011

**SENATE BILL**

**No. 688**

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**Introduced by Senator Wright**

February 18, 2011

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An act to amend Sections 11343.4 and 11346.3 of the Government Code, relating to regulations.

LEGISLATIVE COUNSEL'S DIGEST

SB 688, as amended, Wright. Regulations: legislative approval.

Existing law, 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. Existing law requires the agency to assess the potential for adverse economic impact on California business enterprises and individuals, as specified. Existing law provides that a regulation shall become effective 30 days after the date it is filed with the Secretary of State, as specified.

This bill would also require an agency to produce, as part of the required impact assessment, a detailed estimate of the ~~total actual costs of compliance~~ *cumulative statewide cost impacts* for affected businesses and individuals. This bill would require the agency to notify specified committees of the Legislature if the estimated ~~total costs of compliance exceed an unspecified amount~~ *cumulative statewide cost impacts for affected businesses exceed \$10,000,000*, as specified.

This bill would require that a regulation that has an estimated ~~total cost of compliance in excess of an unspecified amount~~ *cumulative statewide cost impact for affected businesses that exceed \$10,000,000* not take effect until January 1, next, one year following the date that the regulation is filed with the Secretary of State.

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) Except as provided in subdivision (b), a regulation  
 4 or an order of repeal required to be filed with the Secretary of State  
 5 shall become effective on the 30th day after the date of filing  
 6 unless:

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

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

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

15 (b) A regulation that has ~~an individual~~ *a cumulative statewide*  
 16 *cost impact in excess of \_\_\_\_\_ dollars (\$\_\_\_\_\_); ten million dollars*  
 17 *(\$10,000,000) for affected businesses*, as determined by the  
 18 assessment conducted pursuant to Section 11346.3, shall not take  
 19 effect until January 1, next, one year following the date that the  
 20 regulation is filed with the Secretary of State.

21 SEC. 2. Section 11346.3 of the Government Code is amended  
 22 to read:

23 11346.3. (a) State agencies proposing to adopt, amend, or  
 24 repeal any administrative regulation shall assess the potential for  
 25 adverse economic impact on California business enterprises and  
 26 individuals, avoiding the imposition of unnecessary or unreasonable  
 27 regulations or reporting, recordkeeping, or compliance  
 28 requirements. For purposes of this subdivision, assessing the  
 29 potential for adverse economic impact shall require agencies, when  
 30 proposing to adopt, amend, or repeal a regulation, to adhere to the  
 31 following requirements, to the extent that these requirements do  
 32 not conflict with other state or federal laws:

33 (1) The proposed adoption, amendment, or repeal of a regulation  
 34 shall be based on adequate information concerning the need for,  
 35 and consequences of, proposed governmental action.

1 (2) The state agency, prior to submitting a proposal to adopt,  
2 amend, or repeal a regulation to the office, shall consider the  
3 proposal's impact on business, with consideration of industries  
4 affected including the ability of California businesses to compete  
5 with businesses in other states. For purposes of evaluating the  
6 impact on the ability of California businesses to compete with  
7 businesses in other states, an agency shall consider, but not be  
8 limited to, information supplied by interested parties.

9 It is not the intent of this section to impose additional criteria on  
10 agencies, above that which exists in current law, in assessing  
11 adverse economic impact on California business enterprises, but  
12 only to assure that the assessment is made early in the process of  
13 initiation and development of a proposed adoption, amendment,  
14 or repeal of a regulation.

15 (b) (1) All state agencies proposing to adopt, amend, or repeal  
16 any administrative regulations shall assess whether and to what  
17 extent it will affect the following:

18 (A) The creation or elimination of jobs within the State of  
19 California.

20 (B) The creation of new businesses or the elimination of existing  
21 businesses within the State of California.

22 (C) The expansion of businesses currently doing business within  
23 the State of California.

24 (2) (A) All state agencies proposing to adopt, amend, or repeal  
25 any administrative regulations shall also prepare, as part of the  
26 assessment required by this section, a detailed estimate of the ~~total~~  
27 ~~actual costs of compliance for affected businesses and individuals.~~  
28 ~~The cost impacts shall, at a minimum, estimate costs of individual~~  
29 ~~compliance as well as the aggregate statewide cost of compliance.~~  
30 *cumulative statewide cost impacts for affected businesses.*

31 (B) The agency shall notify the fiscal committee in each house  
32 of the Legislature and the appropriate policy committee in each  
33 house of the Legislature if the estimated ~~actual costs of compliance~~  
34 ~~for affected businesses or individuals, at the individual level,~~  
35 ~~exceeds \_\_\_\_\_ dollars (\$\_\_\_\_\_)~~ *cumulative statewide cost impact*  
36 *for affected businesses exceeds ten million dollars (\$10,000,000).*  
37 This notification is intended to provide the Legislature sufficient  
38 time, to the extent the Legislature may disapprove of the regulation,  
39 to enact a statute that restricts the statutory authority of the agency  
40 to enact the regulation.

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

4 (4) Information required from state agencies for the purpose of  
5 completing the assessment may come from existing state  
6 publications.

7 (c) No administrative regulation adopted on or after January 1,  
8 1993, that requires a report shall apply to businesses, unless the  
9 state agency adopting the regulation makes a finding that it is  
10 necessary for the health, safety, or welfare of the people of the  
11 state that the regulation apply to businesses.