

SB 688 (Wright) – Regulations: Legislative Approval

Introduced February 18, 2011, Amended March 29, 2011

Requires a state agency to notify the fiscal and appropriate policy committees of the Legislature if the estimated cumulative statewide cost impacts of a regulation exceed \$10 million for affected businesses, and delays the effective date for such a regulation.

Specifically, this bill:

- 1) States that the economic impact assessment required in connection with the adoption of a regulation shall include a detailed estimate of the cumulative statewide cost impacts for affected businesses and individuals.
- 2) Requires the agency to notify the fiscal and appropriate policy committees of the Legislature if the estimated cumulative statewide cost impacts for affected businesses exceed \$10 million.
- 3) Specifies that a regulation that has cumulative statewide cost impact in excess of \$10 million shall not take effect until January 1, next, one year following the date that the regulation is filed with the Secretary of State.

The author states that California's burdensome regulatory climate is driving California businesses – and jobs - to other states. The non-partisan Southern California Leadership Council reports that over 2,562 companies with 3 or more employees relocated out of the state since January 2007, taking over 100,000 jobs with them. The author notes that a 2010 Kosmont-Rose Institute survey on the cost of doing business, based on a variety of fees and taxes, found that California is home to one third of the 40 most expensive cities.

AMENDED IN SENATE MARCH 29, 2011

SENATE BILL

No. 688

Introduced by Senator Wright

February 18, 2011

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.