

SB 176 (Galgiani) – Administrative Procedures

Introduced February 6, 2013, Amended May 28, 2013

This bill would require a state agency proposing to adopt regulations to involve parties that would be subject to those regulations in public discussions prior to publishing the notice without regard to the complexity or number of proposals.

Existing law:

1. Governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by Office of Administrative Law (OAL).
2. Specifies that, in order to increase public participation and improve the quality of regulations, state agencies proposing to adopt complex or numerous regulations shall involve parties who would be subject to the proposed regulations in public discussions prior to publishing the official notice of proposed regulations.

Background:

In a comprehensive review of the state's rulemaking process, the Little Hoover Commission recently noted that "California's process lacks any requirement to bring in the affected public before a rule is released for public comment. This prevents parties who stand to be impacted by the regulation, regulated and unregulated, from offering their expertise about real world conditions or suggesting better approaches before a proposed regulation is released for public comment."

The Commission also noted that no section of the Administrative Procedure Act specifically requires a department or agency to consult with parties who may be affected by a proposed regulation prior to issuing the official public notice, which is published in the Register.

California Regulatory Notice Register (Register)

The OAL maintains and publishes the Register. It is published every Friday in PDF format. The Register contains all notices of proposed regulatory actions by state regulatory agencies to adopt, amend, or repeal regulations. In addition, OAL publishes an index to the Register that covers all state agency regulatory actions taken over the past 12 months, sorted according to agency name.

The author's office notes that, although state agencies must publish notices of proposed adoption of regulations in the Register, they are not required to publish notices of informational hearings, workshops, reports and the like in the Register. Consequently, the affected public is not typically involved in the regulatory process until the rule is released for public comment. The author's office suggests that California should adopt

practices that more closely approximate the federal rulemaking process, which requires federal agencies to additionally publish all public notices of hearings, workshops and the like in the Federal Register, not just notices of proposed regulations.

Fiscal Effect:

According to the Senate Appropriations Committee, likely minor ongoing costs to over 200 state agencies to involve interested parties in discussions prior to proposing regulations. (General Fund and Various Special Funds).

AMENDED IN SENATE APRIL 24, 2013

SENATE BILL

No. 176

Introduced by Senator Galgiani
(Coauthors: Senators Cannella and Correa)

February 6, 2013

An act to add ~~Section~~ *Sections 11346.46 and 11346.47* to the Government Code, relating to administrative procedures.

LEGISLATIVE COUNSEL'S DIGEST

SB 176, as amended, Galgiani. Administrative procedures.

Existing law 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, including procedures relating to increased public participation in the adoption, amendment, and repeal of these regulations.

This bill would, in order to increase public participation and improve the quality of regulations, require state agencies, boards, and commissions to ~~publish~~ *submit* a notice prior to any meeting date or report, provided the meeting or report is seeking public input, as described. *The bill would additionally require state agencies, boards, and commissions to submit specified notices to the Office of Administrative Law, for publication in the California Regulatory Notice Register.*

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 11346.46 is added to the Government
2 Code, to read:

3 11346.46. (a) In order to increase public participation in the
4 regulation development process and improve the quality of
5 regulations, state agencies, boards, and commissions shall ~~publish~~
6 *submit* a notice in the California Regulatory Notice Register, as
7 ~~prepared by the Office of Administrative Law, Register. The notice~~
8 *shall appear in the California Regulatory Notice Register* at least
9 15 days prior to any meeting date or report, provided the meeting
10 or report is seeking public input.

11 (b) For purposes of this section, meetings and reports seeking
12 public input include, but are not limited to, the following *formal,*
13 *official, or organized:*

- 14 (1) Informational hearings.
- 15 (2) Workshops.
- 16 (3) Scoping hearings.
- 17 (4) Preliminary meetings.
- 18 (5) Public and stakeholder outreach meetings.
- 19 ~~(6) Fifteen-day comment period notices.~~
- 20 ~~(7) The posting of Internet Web site links to informational and~~
21 ~~state reports prepared for public review and comment.~~

22 SEC. 2. Section 11346.47 is added to the Government Code,
23 to read:

24 11346.47. *State agencies, boards, and commissions shall submit*
25 *a notice to the Office of Administrative Law for publication in the*
26 *California Regulatory Notice Register, upon issuance or*
27 *publication of the following:*

28 (a) *Any notice required by either subdivision (c) of Section*
29 *11346.8, commonly known as 15-day comment period notice, or*
30 *subdivision (b) of Section 11347.1.*

31 (b) *Any Internet Web site link to informational reports prepared*
32 *for public review that have been posted on the agency, board, or*
33 *commission Internet Web site in connection with proposed*
34 *regulations.*