

AMENDED IN ASSEMBLY APRIL 22, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 12

Introduced by Assembly Member Cooley
(Coauthors: Assembly Members Chang, Daly, and Wilk)

December 1, 2014

An act to amend Section 11349.1.5 of, and to add and repeal Chapter 3.6 (commencing with Section 11366) of Part 1 of Division 3 of Title 2 of, of the Government Code, relating to state agency regulations.

LEGISLATIVE COUNSEL'S DIGEST

AB 12, as amended, Cooley. State government: administrative regulations: review.

~~(1) Existing~~

Existing law authorizes various state entities to adopt, amend, or repeal regulations for various specified purposes. The Administrative Procedure Act requires the Office of Administrative Law and a state agency proposing to adopt, amend, or repeal a regulation to review the proposed changes for, among other things, consistency with existing state regulations.

This bill would, until January 1, 2019, require each state agency to, on or before January 1, 2018, ~~and after a noticed public hearing, review and revise that agency's regulations to eliminate any inconsistencies, overlaps, or outdated provisions in the regulations, adopt the revisions as emergency regulations, review that agency's regulations, identify any regulations that are duplicative, overlapping, inconsistent, or out of date, to revise those identified regulations, as provided,~~ and report to the Legislature and Governor, as specified. ~~The bill would further~~

~~require each agency to, on or before January 1, 2017, compile an overview of the statutory law that agency administers.~~

~~(2) The act requires a state agency proposing to adopt, amend, or repeal a major regulation, as defined, to prepare a standardized regulatory impact analysis of the proposed change. The act requires the office and the Department of Finance to, from time to time, review the analyses for compliance with specific department regulations. The act further requires the office to, on or before November 1, 2015, submit a report on the analyses to the Senate and Assembly Committees on Governmental Organization, as specified.~~

~~This bill would instead require the office and department to annually review the analyses. The bill would also require the office to annually submit a report on the analyses to the Senate Committee on Governmental Organization and the Assembly Committee on Accountability and Administrative Review.~~

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 11349.1.5 of the Government Code is~~
2 ~~amended to read:~~

3 11349.1.5. (a) ~~The Department of Finance and the office shall~~
4 ~~annually review the standardized regulatory impact analyses~~
5 ~~required by subdivision (c) of Section 11346.3 and submitted to~~
6 ~~the office pursuant to Section 11347.3, for adherence to the~~
7 ~~regulations adopted by the department pursuant to Section~~
8 ~~11346.36.~~

9 (b) (1) ~~On or before November 1, 2015, and annually thereafter,~~
10 ~~the office shall submit to the Senate Committee on Governmental~~
11 ~~Organization and the Assembly Committee on Accountability and~~
12 ~~Administrative Review a report describing the extent to which~~
13 ~~submitted standardized regulatory impact analyses for proposed~~
14 ~~major regulations for the fiscal year ending in June 30, of that year~~
15 ~~adhere to the regulations adopted pursuant to Section 11346.36.~~
16 ~~The report shall include a discussion of agency adherence to the~~
17 ~~regulations as well as a comparison between various state agencies~~
18 ~~on the question of adherence. The report shall also include any~~
19 ~~recommendations from the office for actions the Legislature might~~
20 ~~consider for improving state agency performance and compliance~~

1 in the creation of the standardized regulatory impact analyses as
2 described in Section 11346.3.

3 ~~(2) The report shall be submitted in compliance with Section~~
4 ~~9795 of the Government Code.~~

5 ~~(e) In addition to the annual report required by subdivision (b),~~
6 ~~the office shall notify the Legislature of noncompliance by a state~~
7 ~~agency with the regulations adopted pursuant to Section 11346.36,~~
8 ~~in any manner or form determined by the office and shall post the~~
9 ~~report and notice of noncompliance on the office's Internet Web~~
10 ~~site.~~

11 ~~SEC. 2.~~

12 *SECTION 1.* Chapter 3.6 (commencing with Section 11366)
13 is added to Part 1 of Division 3 of Title 2 of the Government Code,
14 to read:

15
16 CHAPTER 3.6. REGULATORY REFORM

17
18 Article 1. Findings and Declarations

19
20 11366. The Legislature finds and declares all of the following:

21 (a) The Administrative Procedure Act (Chapter 3.5 (commencing
22 with Section 11340), Chapter 4 (commencing with Section 11370),
23 Chapter 4.5 (commencing with Section 11400), and Chapter 5
24 (commencing with Section 11500)) requires agencies and the
25 Office of Administrative Law to review regulations to ensure their
26 consistency with law and to consider impacts on the state's
27 economy and businesses, including small businesses.

28 (b) However, the act does not require agencies to individually
29 review their regulations to identify overlapping, inconsistent,
30 duplicative, or out-of-date regulations that may exist.

31 (c) At a time when the state's economy is slowly recovering,
32 unemployment and underemployment continue to affect all
33 Californians, especially older workers and younger workers who
34 received college degrees in the last seven years but are still awaiting
35 their first great job, and with state government improving but in
36 need of continued fiscal discipline, it is important that state
37 agencies systematically undertake to identify, publicly review, and
38 eliminate overlapping, inconsistent, duplicative, or out-of-date
39 regulations, both to ensure they more efficiently implement and

1 enforce laws and to reduce unnecessary and outdated rules and
2 regulations.

3 ~~(d) The purpose of this chapter is to require each agency to~~
4 ~~compile an overview of the statutory law that agency oversees or~~
5 ~~administers in its regulatory activity that includes a synopsis of~~
6 ~~key programs, when each key program was authorized or instituted,~~
7 ~~and any emerging challenges the agency is encountering with~~
8 ~~respect to those programs.~~

10 Article 2. Definitions

11
12 11366.1. For the ~~purpose~~ *purposes* of this chapter, the following
13 definitions shall apply:

14 (a) “State agency” means a state agency, as defined in Section
15 11000, except those state agencies or activities described in Section
16 11340.9.

17 (b) “Regulation” has the same meaning as provided in Section
18 11342.600.

19
20 Article 3. State Agency Duties

21
22 11366.2. On or before January 1, 2018, each state agency shall
23 do all of the following:

24 (a) Review all provisions of the California Code of Regulations
25 applicable to, or adopted by, that state agency.

26 (b) Identify any regulations that are duplicative, overlapping,
27 inconsistent, or out of date.

28 (c) Adopt, amend, or repeal regulations to reconcile or eliminate
29 any duplication, overlap, inconsistencies, or out-of-date ~~provisions.~~
30 *provisions, and shall comply with the process specified in Article*
31 *5 (commencing with Section 11346) of Chapter 3.5, unless the*
32 *addition, revision, or deletion is without regulatory effect and may*
33 *be done pursuant to Section 100 of Title 1 of the California Code*
34 *of Regulations.*

35 (d) Hold at least one noticed public hearing, that shall be noticed
36 on the Internet Web site of the state agency, for the purposes of
37 accepting public comment on proposed revisions to its regulations.

38 (e) Notify the appropriate policy and fiscal committees of each
39 house of the Legislature of the revisions to regulations that the
40 state agency proposes to make at least ~~90 days prior to a noticed~~

1 public hearing pursuant to subdivision (d) and at least 90 days
2 prior to the proposed adoption, amendment, or repeal of the
3 regulations pursuant to subdivision (f), for the purpose of allowing
4 those committees to review, and hold hearings on, the proposed
5 revisions to the regulations.

6 ~~(f) Adopt as emergency regulations, consistent with Section~~
7 ~~11346.1, those changes, as provided for in subdivision (e), to a~~
8 ~~regulation identified by the state agency as duplicative,~~
9 ~~overlapping, inconsistent, or out of date. *least 30 days prior to*~~
10 ~~*initiating the process under Article 5 (commencing with Section*~~
11 ~~*11346) of Chapter 3.5 or Section 100 of Title 1 of the California*~~
12 ~~*Code of Regulations.*~~

13 (g) (1) Report to the Governor and the Legislature on the state
14 agency's compliance with this chapter, including the number and
15 content of regulations the state agency identifies as duplicative,
16 overlapping, inconsistent, or out of date, and the state agency's
17 actions to address those regulations.

18 (2) The report shall be submitted in compliance with Section
19 9795 of the Government Code.

20 11366.3. (a) On or before January 1, 2018, each agency listed
21 in Section 12800 shall notify a department, board, or other unit
22 within that agency of any existing regulations adopted by that
23 department, board, or other unit that the agency has determined
24 may be duplicative, overlapping, or inconsistent with a regulation
25 adopted by another department, board, or other unit within that
26 agency.

27 (b) A department, board, or other unit within an agency shall
28 notify that agency of revisions to regulations that it proposes to
29 make at least 90 days prior to a noticed public hearing pursuant to
30 subdivision (d) of Section 11366.2 and at least 90 days prior to
31 adoption, amendment, or repeal of the regulations pursuant to
32 ~~subdivision (f) of subdivision (c) of Section 11366.2.~~ The agency
33 shall review the proposed regulations and make recommendations
34 to the department, board, or other unit within 30 days of receiving
35 the notification regarding any duplicative, overlapping, or
36 inconsistent regulation of another department, board, or other unit
37 within the agency.

38 11366.4. An agency listed in Section 12800 shall notify a state
39 agency of any existing regulations adopted by that agency that

1 may duplicate, overlap, or be inconsistent with the state agency’s
2 regulations.

3 ~~11366.43. On or before January 1, 2017, each state agency
4 shall compile an overview of the statutory law that state agency
5 oversees or administers. The overview shall include a synopsis of
6 the state agency’s key programs, when each program was
7 authorized or instituted, when any statute authorizing a program
8 was significantly revised to alter, redirect, or extend the original
9 program and the reason for the revision, if known, and an
10 identification of any emerging challenges the state agency is
11 encountering with respect to the programs.~~

12 11366.45. This chapter shall not be construed to weaken or
13 undermine in any manner any human health, public or worker
14 rights, public welfare, environmental, or other protection
15 established under statute. This chapter shall not be construed to
16 affect the authority or requirement for an agency to adopt
17 regulations as provided by statute. Rather, it is the intent of the
18 Legislature to ensure that state agencies focus more efficiently and
19 directly on their duties as prescribed by law so as to use scarce
20 public dollars more efficiently to implement the law, while
21 achieving equal or improved economic and public benefits.

22

23 Article 4. Chapter Repeal

24

25 11366.5. This chapter shall remain in effect only until January
26 1, 2019, and as of that date is repealed, unless a later enacted
27 statute, that is enacted before January 1, 2019, deletes or extends
28 that date.