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AB-1232 Administrative Procedure Act: proposed regulations: cost of living impact on residents of the state. (2025-2026)

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CALIFORNIA LEGISLATURE— 2025–2026 REGULAR SESSION

ASSEMBLY BILL

NO. 1232

Introduced by Assembly Member Ávila Farías
(Principal coauthor: Assembly Member Solache)

February 21, 2025

An act to amend ~~Section 11346.3~~ *Sections 11346.3, 11349, 11349.1, and 11349.3* of the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

AB 1232, as amended, Ávila Farías. Administrative Procedure Act: ~~adverse economic impact assessment~~; *proposed regulations: cost of living impact on residents of the state.*

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. ~~The act requires every agency subject to its provisions to prepare, submit to the office with the notice of proposed action, as specified, and make available to the public upon request, among other things, an initial statement of reasons for proposing the adoption, amendment, or repeal of a regulation.~~ The act ~~also~~ requires a state agency proposing to adopt, amend, or repeal any administrative regulation to assess the potential for adverse economic ~~impact, as specified. The act requires an economic assessment prepared under these provisions for a major regulation proposed on or after November 1, 2013, to be prepared as provided and to be included in the above-described initial statement of reasons.~~ *impact on California business enterprises and individuals and requires the state agency to adhere to specified requirements in making that assessment.*

~~This bill would make a nonsubstantive change the above-described provisions.~~

This bill would include among those requirements for assessing the potential for adverse economic impact the consideration of the proposal's cost of living impacts on residents of the state, as defined.

Existing law requires a state agency proposing to adopt, amend, or repeal a regulation that is not a major regulation to prepare an economic impact assessment that includes to what extent the regulation will affects specified factors, including the creation or elimination of jobs within the state. Existing law requires a state agency proposing to adopt, amend, or repeal a major regulation

to prepare a standardized regulatory impact analysis that addresses specified factors, including the creation or elimination of jobs within the state.

This bill would also require the assessment for nonmajor regulations to include to what extent it will affect the cost of living impacts on residents of the state, and would require the standardized regulatory impact analysis for major regulations to address the cost of living impacts on residents of the state. The bill would require an agency to notify the office when the agency determines it needs to contract for outside services to perform the analyses and would require the office to select the contractor and oversee its work. The bill would require the office to adopt a standardized cost of living methodology for use by all agencies.

Existing law requires the office to review regulations and make determinations using specified standards, including, necessity, authority, and clarity.

This bill would add to those standards the cost of living impacts on residents of the state. The bill would require the office, in reviewing proposed regulations for that criteria, to conduct an independent analysis into the adequacy of an agency's economic analyses, to conduct its own analysis into the cost of living impacts on residents in the state, and, if the office finds those costs of living impacts are significant, to identify means by which the costs of the proposed regulation could be reduced.

Existing law requires the office to return any regulation to the adopting agency upon the occurrence of specified events.

This bill would require the office to return a regulation to the adopting agency if the office has independently evaluated the cost of living impacts on residents of the state and found that the impacts are significant, and would require the office to establish a methodology and threshold to determine when a cost of living impact becomes significant.

Existing law requires the office to either approve a regulation or disapprove it within 30 working days after a regulation has been submitted to the office for review. Existing law requires the office, if it disapproves a regulation, to provide the adopting agency with a written notice detailing the reasons for disapproval.

This bill would, for major regulations, increase the period of time for approval or disapproval to 60 working days. If one of the reasons for disapproval includes a significant cost of living impact, the bill would require the written decision to specify the means by which the costs of the proposed regulation could be reduced and would require the agency to pursue a less costly alternative or explain why a less costly alternative is infeasible.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 11346.3 of the Government Code is amended to read:

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

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

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

(3) The state agency, before submitting a proposal to adopt, amend, or repeal a regulation to the office, shall consider the proposal's cost of living impacts on residents of the state.

~~(3)~~

(4) An economic impact assessment prepared pursuant to this subdivision for a proposed regulation that is not a major regulation or that is a major regulation proposed before November 1, 2013, shall be prepared in accordance with subdivision (b), and shall be included in the initial statement of reasons as required by Section 11346.2. An economic assessment prepared pursuant to this subdivision for a major regulation proposed on or after November 1, 2013, shall be prepared in accordance with subdivision (c) and shall be included in the initial statement of reasons as required by Section 11346.2.

(b) (1) A state agency proposing to adopt, amend, or repeal a regulation that is not a major regulation or that is a major regulation proposed before November 1, 2013, shall prepare an economic impact assessment that assesses whether and to what extent it will affect the following:

(A) The creation or elimination of jobs within the state.

(B) The cost of living impacts on residents of the state.

~~(B)~~

(C) The creation of new businesses or the elimination of existing businesses within the state.

~~(C)~~

(D) The expansion of businesses currently doing business within the state.

~~(D)~~

(E) The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.

(2) This subdivision does not apply to the University of California, the college named in Section 92200 of the Education Code, or the Fair Political Practices Commission.

(3) Information required from a state agency for the purpose of completing the assessment may come from existing state publications.

(4) (A) For purposes of conducting the economic impact assessment pursuant to this subdivision, a state agency may use the consolidated definition of small business in subparagraph (B) in order to determine the number of small businesses within the economy, a specific industry sector, or geographic region. The state agency shall clearly identify the use of the consolidated small business definition in its rulemaking package.

(B) For the exclusive purpose of undertaking the economic impact assessment, a "small business" means a business that is all of the following:

(i) Independently owned and operated.

(ii) Not dominant in its field of operation.

(iii) Has fewer than 100 employees.

(C) Subparagraph (A) shall not apply to a regulation adopted by the Department of Insurance that applies to an insurance company.

(c) (1) Each state agency proposing to adopt, amend, or repeal a major regulation on or after November 1, 2013, shall prepare a standardized regulatory impact analysis in the manner prescribed by the Department of Finance pursuant to Section 11346.36. The standardized regulatory impact analysis shall address all of the following:

(A) The creation or elimination of jobs within the state.

(B) The cost of living impacts on residents of the state.

~~(B)~~

(C) The creation of new businesses or the elimination of existing businesses within the state.

~~(C)~~

(D) The competitive advantages or disadvantages for businesses currently doing business within the state.

~~(D)~~

(E) The increase or decrease of investment in the state.

~~(E)~~

(F) The incentives for innovation in products, materials, or processes.

(F)

(G) The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency.

(2) This subdivision shall not apply to the University of California, the college named in Section 92200 of the Education Code, or the Fair Political Practices Commission.

(3) Information required from state agencies for the purpose of completing the analysis may be derived from existing state, federal, or academic publications.

(d) Any administrative regulation adopted on or after January 1, 1993, that requires a report shall not apply to businesses, unless the state agency adopting the regulation makes a finding that it is necessary for the health, safety, or welfare of the people of the state that the regulation apply to businesses.

(e) Analyses conducted pursuant to this section are intended to provide agencies and the public with tools to determine whether the regulatory proposal is an efficient and effective means of implementing the policy decisions enacted in statute or by other provisions of law in the least burdensome manner. Regulatory impact analyses shall inform the agencies and the public of the economic consequences of regulatory choices, not reassess statutory policy. The baseline for the regulatory analysis shall be the most cost-effective set of regulatory measures that are equally effective in achieving the purpose of the regulation in a manner that ensures full compliance with the authorizing statute or other law being implemented or made specific by the proposed regulation.

(f) When a state agency determines that it needs to contract for outside services in order to perform the analyses in this section, the agency shall notify the office and the office shall select the contractor and oversee its work.

(g) The office shall adopt a standardized cost of living methodology for use by all agencies.

(F)

(h) Each state agency proposing to adopt, amend, or repeal a major regulation on or after November 1, 2013, and that has prepared a standardized regulatory impact analysis pursuant to subdivision (c), shall submit that analysis to the Department of Finance upon completion. The department shall comment, within 30 days of receiving that analysis, on the extent to which the analysis adheres to the regulations adopted pursuant to Section 11346.36. Upon receiving the comments from the department, the agency may update its analysis to reflect any comments received from the department and shall summarize the comments and the response of the agency along with a statement of the results of the updated analysis for the statement required by paragraph (10) of subdivision (a) of Section 11346.5.

SEC. 2. *Section 11349 of the Government Code is amended to read:*

11349. The following definitions govern the interpretation of this chapter:

(a) "Necessity" means the record of the rulemaking proceeding demonstrates by substantial evidence the need for a regulation to effectuate the purpose of the statute, court decision, or other provision of law that the regulation implements, interprets, or makes specific, taking into account the totality of the record. For purposes of this standard, evidence includes, but is not limited to, facts, studies, and expert opinion.

(b) "Authority" means the provision of law which permits or obligates the agency to adopt, amend, or repeal a regulation.

(c) "Clarity" means written or displayed so that the meaning of regulations will be easily understood by those persons directly affected by them.

(d) "Consistency" means being in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, or other provisions of law.

(e) "Reference" means the statute, court decision, or other provision of law which the agency implements, interprets, or makes specific by adopting, amending, or repealing a regulation.

(f) "Nonduplication" means that a regulation does not serve the same purpose as a state or federal statute or another regulation. This standard requires that an agency proposing to amend or adopt a regulation must identify any state or federal statute or regulation which is overlapped or duplicated by the proposed regulation and justify any overlap or duplication. This standard is not intended to prohibit state agencies from printing relevant portions of enabling legislation in regulations when the duplication is

necessary to satisfy the clarity standard in paragraph (3) of subdivision (a) of Section 11349.1. This standard is intended to prevent the indiscriminate incorporation of statutory language in a regulation.

(g) "Cost of living impacts on residents of the state" means the cost of essentials and consumer staples, including, but not limited to, housing, transportation, food, taxes, and health care and the increase or decrease in these costs as a result of a proposed regulation in California both at the time of consideration and the foreseeable future.

SEC. 3. *Section 11349.1 of the Government Code is amended to read:*

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

- (1) Necessity.
- (2) Authority.
- (3) Clarity.
- (4) Consistency.
- (5) Reference.
- (6) Nonduplication.

(7) Cost of living impacts on residents of the state.

In reviewing regulations pursuant to this section, the office shall restrict its review to the regulation and the record of the rulemaking proceeding. The office shall approve the regulation or order of repeal if it complies with the standards set forth in this section and with this chapter.

(b) In reviewing proposed regulations for the criteria in subdivision (a), the office may consider the clarity of the proposed regulation in the context of related regulations already in existence.

(c) In reviewing proposed regulations for the criteria in subdivision (a), the office shall conduct an independent analysis of the adequacy of an agency's economic analyses prepared pursuant to Section 11346.3. The office shall also conduct its own analysis of the cost of living impacts on residents of the state of a proposed regulation. If the office finds that the cost of living impacts of a proposed regulation are significant, the office shall identify means by which the cost of the proposed regulation could be reduced.

~~(e)~~

(d) The office shall adopt regulations governing the procedures it uses in reviewing regulations submitted to it. The regulations shall provide for an orderly review and shall specify the methods, standards, presumptions, and principles the office uses, and the limitations it observes, in reviewing regulations to establish compliance with the standards specified in subdivision (a). The regulations adopted by the office shall ensure that it does not substitute its judgment for that of the rulemaking agency as expressed in the substantive content of adopted regulations.

~~(e)~~

(e) The office shall return any regulation subject to this chapter to the adopting agency if any of the following occur:

(1) The adopting agency has not prepared the estimate required by paragraph (6) of subdivision (a) of Section 11346.5 and has not included the data used and calculations made and the summary report of the estimate in the file of the rulemaking.

(2) The agency has not complied with Section 11346.3. "Noncompliance" means that the agency failed to complete the economic impact assessment or standardized regulatory impact analysis required by Section 11346.3 or failed to include the assessment or analysis in the file of the rulemaking proceeding as required by Section 11347.3.

(3) The adopting agency has prepared the estimate required by paragraph (6) of subdivision (a) of Section 11346.5, the estimate indicates that the regulation will result in a cost to local agencies or school districts that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4, and the adopting agency fails to do any of the following:

(A) Cite an item in the Budget Act for the fiscal year in which the regulation will go into effect as the source from which the Controller may pay the claims of local agencies or school districts.

(B) Cite an accompanying bill appropriating funds as the source from which the Controller may pay the claims of local agencies or school districts.

(C) Attach a letter or other documentation from the Department of Finance which states that the Department of Finance has approved a request by the agency that funds be included in the Budget Bill for the next following fiscal year to reimburse local agencies or school districts for the costs mandated by the regulation.

(D) Attach a letter or other documentation from the Department of Finance which states that the Department of Finance has authorized the augmentation of the amount available for expenditure under the agency's appropriation in the Budget Act which is for reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 to local agencies or school districts from the unencumbered balances of other appropriations in the Budget Act and that this augmentation is sufficient to reimburse local agencies or school districts for their costs mandated by the regulation.

(4) The proposed regulation conflicts with an existing state regulation and the agency has not identified the manner in which the conflict may be resolved.

(5) The agency did not make the alternatives determination as required by paragraph (4) of subdivision (a) of Section 11346.9.

(6) The office has independently evaluated the cost of living impacts on residents of the state of the proposed regulation and found that the impacts are significant. For purposes of this paragraph, the office shall establish a methodology and threshold for use in determining when a cost of living impact becomes significant.

~~(e)~~

~~(f)~~ The office shall notify the Department of Finance of all regulations returned pursuant to subdivision ~~(d)~~: (e).

~~(f)~~

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

~~(g)~~

(h) Notwithstanding any other law, return of the regulation to the adopting agency by the office pursuant to this section is the exclusive remedy for a failure to comply with subdivision (c) of Section 11346.3 or paragraph (10) of subdivision (a) of Section 11346.5.

SEC. 4. Section 11349.3 of the Government Code is amended to read:

11349.3. (a) The office shall either approve a regulation submitted to it for review and transmit it to the Secretary of State for filing or disapprove it within 30 working days after the regulation has been submitted to the office for ~~review~~: *review or 60 working days for major regulations*. If the office fails to act within ~~30 days, the specified time~~, the regulation shall be deemed to have been approved and the office shall transmit it to the Secretary of State for filing.

(b) If the office disapproves a regulation, it shall return it to the adopting agency within the ~~30-day period~~ *time* specified in subdivision (a) accompanied by a notice specifying the reasons for disapproval. Within seven calendar days of the issuance of the notice, the office shall provide the adopting agency with a written decision detailing the reasons for disapproval. *If one of the reasons for disapproval includes a significant cost of living impact, the office shall specify the means by which the costs of the proposed regulation could be reduced. The office shall then require the agency to pursue a less costly alternative or explain in detail why a less costly alternative is infeasible.* No regulation shall be disapproved except for failure to comply with the standards set forth in Section 11349.1 or for failure to comply with this chapter.

(c) If an agency determines, on its own initiative, that a regulation submitted pursuant to subdivision (a) should be returned by the office prior to completion of the office's review, it may request the return of the regulation. All requests for the return of a regulation shall be memorialized in writing by the submitting agency no later than one week following the request. Any regulation returned pursuant to this subdivision shall be resubmitted to the office for review within the one-year period specified in subdivision (b) of Section 11346.4 or shall comply with Article 5 (commencing with Section 11346) prior to resubmission.

(d) The office shall not initiate the return of a regulation pursuant to subdivision (c) as an alternative to disapproval pursuant to subdivision (b).