

Date of Hearing: March 22, 2017

ASSEMBLY COMMITTEE ON ACCOUNTABILITY AND ADMINISTRATIVE REVIEW
Susan Talamantes Eggman, Chair
AB 12 (Cooley) – As Introduced December 5, 2016

SUBJECT: State government: administrative regulations: review

SUMMARY: Requires each state agency to conduct a one-time review of all of its regulations and make specified changes on or before January 1, 2020. Specifically, **this bill:**

- 1) Requires a state agency to identify regulations that are duplicative, overlapping, inconsistent, or out of date.
- 2) Requires a state agency to adopt, amend, or repeal regulations to reconcile or eliminate those that are duplicative, overlapping, inconsistent, or out of date.
- 3) Requires a state agency to hold at least one public hearing to accept public comment on revisions to regulations.
- 4) Requires a state agency to notify the appropriate policy and fiscal committees of each house of the Legislature of revisions to regulations prior to the start of the public participation procedure for adopting regulations.
- 5) Requires a state agency to report specified information to the Governor and the Legislature on its compliance with the requirements of this bill, including the number and content of regulations that the agency identifies as duplicative, overlapping, inconsistent or out of date, and its efforts to address those regulations.
 - a) Defines "state agency" above as every office, officer, department, division, bureau, board, and commission within the executive branch.
- 6) Requires the eight executive branch agencies that oversee other state entities to notify each department, board, or other unit within that agency of regulations the agency has determined may be duplicative, overlapping, or inconsistent.
 - a) Requires departments, boards, or other units to notify their overseeing agencies of potential revisions to regulations identified as duplicative, overlapping, or inconsistent by specified timelines.
 - b) Requires overseeing agencies to respond with recommendations to departments, boards or other units as specified.
- 7) States that the bill shall not be construed to weaken or undermine health, public or worker rights, public welfare, environmental, or other protections established by statute.

EXISTING LAW:

- 1) Authorizes, under the Administrative Procedure Act (APA), state entities to adopt, amend, or repeal regulations for various specified purposes.
- 2) Requires the state entity and Office of Administrative Law (OAL), when proposing to adopt, amend or repeal regulations, to review for consistency with existing state regulations.
- 3) Generally allows a person of interest to petition an agency to repeal or amend an existing regulation or to adopt a new one.

FISCAL EFFECT: Unknown

COMMENTS: This bill requires a state entity to conduct a one-time review of all of its regulations and to make changes if regulations are duplicative, overlapping or inconsistent. Changes could include repealing regulations, amending them, or adding new regulations.

While existing law allows state entities to adopt, amend, or repeal regulations when necessary, and a process exists for the public to petition entities for changes to individual regulations, this bill requires a more comprehensive evaluation.

The approach in this bill is in line with a recommendation from the 2011 Little Hoover Commission report *Better Regulation: Improving California's Rulemaking Process*, which stated that "The state should create a look-back mechanism to determine whether regulations are still needed and whether they work."

According to the author, a top-to-bottom review of state regulations is needed as such a review has not been conducted for more than 20 years. The author states, "Numerous economists and business leaders agree that one of the greatest obstacles to California job growth is the 'thicket' of government regulations that constrain business owners. Duplicative and inconsistent regulations leave business owners confused and often times out of compliance despite their best efforts. In addition, the burdensome regulatory scheme often discourages innovation and new business ventures."

This bill provides a two-year period for state entities to complete their review and make changes as needed. It requires a state entity to hold at least one public hearing to accept public comments on changes to regulations. Additionally, this bill establishes a process for state entities to work with their overseeing agencies. Such a process could help eliminate duplicative regulations under different entities within an agency.

This bill states that the Legislature's intent is to ensure agencies focus more efficiently and directly on their duties as proscribed by law. Additionally, it specifies that the bill shall not be construed to weaken or undermine health, public or worker rights, public welfare, environmental, or other protections established by statute.

The provisions in this bill sunset on January 1, 2021, which means that this bill requires a one-time review of regulations.

Supporters of this bill contend that it will improve the efficiency of regulations and encourage compliance. Opponents of this bill state it is unnecessary because of existing processes that allow for the review of regulations, and burdensome to state agencies because it will require them to spend time and resources on a bureaucratic process instead of their work.

PRIOR LEGISLATION:

AB 12 (Cooley) of 2015, which was nearly identical to this bill, was held on the Senate Appropriations Committee's Suspense File.

REGISTERED SUPPORT / OPPOSITION:

Support

Acclamation Insurance Management Services
Allied Managed Care
American Chemistry Council
American Federation of State, County And Municipal Employees, AFL-CIO
American Forest & Paper Association
Associated Builders and Contractors Of California
Building Owners And Managers Association Of California
California Asian Pacific Chamber of Commerce
California Association for Health Services At Home
California Association of Boutique And Breakfast Inns
California Association of Independent Business
California Association of Specialty Contractors
California Building Industry Association
California Business Properties Association
California Business Roundtable
California Cement Manufacturers Environmental Coalition
California Chamber of Commerce
California Construction & Industrial Materials Association
California Forestry Association
California Grocers Association
California Hotel & Lodging Association
California Independent Oil Marketers Association
California League of Food Processors
California Manufacturers And Technology Association
California Professional Association Of Specialty Contractors
California Retailers Association
Chemical Industry Council of California
Commercial Real Estate Development Association, NAIOP Of California
Consumer Specialty Products Association
Family Business Association
Flasher Barricade Association
Industrial Environmental Association
International Council of Shopping Centers
National Federation of Independent Business
National Shooting Sports Foundation, Inc.
Small Business California
Sporting Arms And Ammunition Manufacturers' Institute, Inc.

USANA Health Sciences Inc.
Western States Petroleum Association

Opposition

California Labor Federation
California Nurses Association
National Nurses United

Analysis Prepared by: Scott Herbstman / A. & A.R. /