

# State of California

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## Legislative Change No.

**00-41**

Bill Number: AB 505

Author: Wright

Chapter Number: 00-1059

Laws Affecting Franchise Tax Board:

Government Code Sections 8850, 8850.1, 8850.2, 8850.3, 8850.4, 8850.5, 8850.6 11340.8, 11341, 11342, 11342.535, 11342.595, 11345, 11346.4, 11346.45, 11347, 11347.6, 11348, 15379.50, 65054, 65054.3, 65054.4, and 65054.5

Date Filed with the Secretary of the State: September 30, 2000

## **SUBJECT: Administrative Procedures/Small Business Regulatory Reform Act of 2000/State Agencies Adopting Regulations**

**Assembly Bill 505 (Wright), as enacted on September 30, 2000, made the following changes to California law:**

This act generally makes revisions to existing law relating to 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 (OAL). This act establishes the Small Business Regulatory Reform Act of 2000. This act also recodifies and recasts provisions related to the California Small Business Advocate. This Legislative Change addresses only those provisions applicable to rulemaking procedures listed above that impact the department's programs and operations. This bill was joined with AB 1822, which was enacted after AB 505, and is effective January 1, 2001. Where a section of AB 1822 takes precedence over the same code section in AB 505, that section is discussed only in the Legislative Change for AB 1822.

### **Sections 8850, 8850.1, 8850.2, 8850.3, 8850.4, 8850.5, and 8850.6 of the Government Code are repealed.**

This act repeals the California Small Business Office of Advocacy, and recasts its provisions in Sections 65054, 65054.3, 65054.4, and 65054.5 of the Government Code, described below.

### **Section 11340.8 of the Government Code is added.**

This act requires each state agency that proposes regulatory actions to accept comments from interested parties by facsimile and electronic mail and to post on its Internet website, if available, information regarding the proposed regulatory action. The failure to comply with this section is not grounds for disapproval of a proposed regulatory action. A state agency is not required to establish or maintain a website or other electronic forum for electronic publication or distribution of written material to comply with this bill.

### **Section 11341 of the Government Code is added.**

This act requires OAL to establish a system giving a unique identification number to each regulatory action, to be used by OAL and the state agency taking the regulatory action, and published in the California Regulatory Notice Register. The identification number must be sufficient information for a member of the public to identify and track the regulatory action.

Bureau Director

Brian Putler

Date

2/6/01

**Section 11342 of the Government Code is repealed.**

This act repeals a variety of definitions regarding the regulatory process.

**Section 11342.535 of the Government Code is added.**

This act defines "cost impact" as the amount of estimated direct costs (within a reasonable range) or description of the type and extent of direct costs that a representative private person or business necessarily incurs in reasonable compliance with the proposed action.

**Section 11342.595 of the Government Code is added.**

This act defines "proposed action" as the regulatory action submitted to OAL for publication in the California Regulatory Notice Register.

**Section 11345 of the Government Code is added.**

This act specifies that OAL is not required to develop a unique identification number system for each regulatory action or make the California Regulatory Notice Register available on its website until January 1, 2002.

**Section 11346.4 of the Government Code is amended.**

This act requires a state agency to give a person requesting a notice of regulatory action the option of being notified of all regulatory actions regarding one or more of the agency's programs.

This act defines "representative," for the purpose of mailing the notice of proposed action, as including a trade association, industry association, professional association, or any other group or association of any kind representing a business enterprise or employees thereof.

This act requires a state agency to post on the agency's website, if it has a website, information regarding a proposed regulatory action as specified.

**Section 11346.45 of the Government Code is added.**

This act requires a state agency proposing regulations regarding complex proposals or involving a large number of proposals to involve parties subject to regulations in public discussions *prior* to the publication of the proposed regulatory action. This section does not apply if the state agency is required to implement federal law or regulations over which the state agency has little discretion.

**Section 11347 of the Government Code is added.**

This act requires a state agency to notify OAL if it decides not to proceed with a notice of proposed action.

**Section 11347.6 of the Government Code is added.**

This act requires a state agency to identify and respond separately to comments made by the Office of Small Business Advocate and the Trade and Commerce Agency. If any comments are rejected, the agency must provide the basis for the rejection.

**Section 11348 of the Government Code is amended.**

This act requires a state agency to keep current and in one central location its rulemaking records on all pending regulatory actions of which a notice is published in the California Regulatory Notice Register.

**Section 15379.50 of the Government Code is added.**

This act requires a state agency to designate at least one person to serve as a small business liaison utilizing the agency's existing personnel and resources. The agency would be required to widely publicize the position in appropriate agency publications and on the agency's website, if any. The liaison would be responsible for:

- 1) receiving and responding to complaints received by the agency from small business;
- 2) providing technical advice and assisting small businesses in resolving problems and questions; and
- 3) reporting small business concerns and, where appropriate, making recommendations to the agency secretary or agency head.

The liaison cannot advocate for or against a regulatory action or intervene in any pending investigation or enforcement action.

**Section 65054 of the Government Code is added.**

This act establishes the Office of Small Business Advocate within the Office of Planning and Research.

**Section 65054.3 of the Government Code is added.**

This act requires that the Director, or "Advocate," and the employees of the Small Business Advocate be appointed by the Governor. This act establishes the Director's duties and functions.

**Section 65054.4 of the Government Code is added.**

This act requires a state agency to furnish whatever public reports, documents, and information that the Director of the Small Business Advocate deems necessary.

**Section 65054.5 of the Government Code is added.**

This act establishes a Governor's Small Business Reform Task Force to be chaired by the Director of the Office of Small Business Advocate. The task force is required to include representatives appointed by the Governor from the California Small Business Association, other small business associations, and agency secretaries (or their designees) from state agencies that are heavily involved in small business regulation. This act establishes the task force's duties and functions.

This act requires the Secretary of Trade and Commerce to conduct a study to consider problems encountered by small businesses working with different levels of government, different governmental offices, and multiple jurisdictions. The report is required to be submitted to the Legislature and the appropriate budget and policy committees of each legislative house on or before May 1, 2002.

This act is effective and operative January 1, 2001.

This act will not require any reports by this department to the Legislature.