

**SUMMARY ANALYSIS OF AMENDED BILL**

Author: Horton Analyst: Darrine Distefano Bill Number: AB 1302  
 Related Bills: See Prior Analysis Telephone: 845-4142 Amended Date: May 22, 2006  
 Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** State Agency Regulations/Emergency Regulations

- DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended \_\_\_\_\_.
- AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.
- AMENDMENTS DID NOT RESOLVE THE DEPARTMENTS CONCERNS stated in the previous analysis of bill as amended February 15, 2006.
- FURTHER AMENDMENTS NECESSARY.
- DEPARTMENT POSITION CHANGED TO \_\_\_\_\_.
- REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED February 15, 2006, STILL APPLIES.
- OTHER – See comments below.

**SUMMARY**

This bill would establish new procedures for state agencies regarding the adoption of “emergency regulations.”

**SUMMARY OF AMENDMENTS**

The May 22, 2006, amendments make the following changes:

- Repeals current law for agencies to prepare an annual rulemaking calendar.
- Allows a notice to be sent via e-mail to a person that has provided an e-mail address to an agency. If the agency is notified that the e-mail address is invalid, the notice would instead be delivered by postal mail.
- Removes the following definition from the term “emergency:” expediency, convenience, best interest, or general public need; in addition, the emergency cannot be based on speculation.
- Deletes the previous description requirements for a notice and instead requires the notice to include both of the following:
  - The specific language proposed to be adopted.

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- The finding of emergency as required under law.
- Allows an agency to adopt a regulation or order of repeal if it is necessary to address an emergency.
- Disallows a finding of emergency based only upon expediency, convenience, best interest, general public need, or speculation. If the situation identified in the finding was known by the agency when adopting the emergency regulation and the agency had sufficient time to address it through non-emergency regulations, the finding requires the facts explaining the failure to address the situation through non-emergency regulations.
- Allows the Office of Administrative Law (OAL) to approve only two re-adoptions of an emergency regulation for periods of only 90 days for each re-adoption.
- Allows OAL to disapprove the emergency regulation if it is determined that the situation addressed is not an emergency.
- States that this act is applicable to emergency regulations first submitted to OAL on or after January 1, 2007.

The May 22, 2006, amendments do not resolve the department's implementation consideration of the bill as amended February 15, 2006 and it is repeated below for convenience. The remaining May 22<sup>nd</sup> amendments do not impact the department.

The remainder of the department's analysis of the bill as amended February 15, 2006, still applies.

## **POSITION**

Pending.

## **IMPLEMENTATION CONSIDERATIONS**

FTB seldom issues emergency regulations because FTB is responsible for administering both the Personal Income Tax and the Corporation Income Tax programs that normally do not affect the public peace, health, safety, or general welfare of California citizens. However, FTB would likely never be able to issue an emergency regulation because this bill would disallow an emergency regulation if the basis is expediency, convenience, best interest, general public need, or speculation. If it became necessary to implement an emergency regulation, FTB would need a statute that expressly makes a finding for an emergency due to the legal standards set within the bill.

## **LEGISLATIVE STAFF CONTACT**

Darrine Distefano  
Franchise Tax Board  
(916) 845-4142  
[darrine.distefano@ftb.ca.gov](mailto:darrine.distefano@ftb.ca.gov)

Brian Putler  
Franchise Tax Board  
(916) 845-6333  
[brian.putler@ftb.ca.gov](mailto:brian.putler@ftb.ca.gov)