

SUMMARY ANALYSIS OF AMENDED BILL

Author: Horton Analyst: Darrine Distefano Bill Number: AB 1302
 Related Bills: See Prior Analysis Telephone: 845-4142 Amended Date: June 27, 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 May 22, 2006.
- FURTHER AMENDMENTS NECESSARY.
- DEPARTMENT POSITION CHANGED TO _____.
- REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED May 22, 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 June 27, 2006, amendments make the following changes:

- Remove the provisions repealing the requirement for agencies to prepare and submit an annual rulemaking calendar.
- Allows the Office of Administrative Law (OAL) to approve only two re-adoptions, each for a period of only 90 days, of an emergency regulation that is the same or substantially equivalent to an emergency regulation previously adopted by the agency.

The June 15, 2006, amendments make the following changes:

Board Position:	Legislative Director	Date
<input type="checkbox"/> S	Brian Putler	7/13/06
<input type="checkbox"/> NA		
<input type="checkbox"/> SA		
<input type="checkbox"/> N		
<input type="checkbox"/> NP		
<input type="checkbox"/> O		
<input type="checkbox"/> NAR		
<input checked="" type="checkbox"/> PENDING		

- Deletes the requirement for a notice to be sent via e-mail to a person that has provided an e-mail address to an agency or to be delivered by postal mail, if the agency is notified that the e-mail address is invalid.
- Redefines an “emergency” as a situation that calls for immediate action to avoid serious harm to the public peace, health, safety, or general welfare.
- Requires an emergency regulation to be subject to the following requirements:
 - A notification of the proposed emergency action must be sent to every person that has filed a request for notice of regulatory action with the agency (Section 11346.1),
 - The agency must file a written Request for Review with the Governor's Legal Affairs Secretary within 10 days of receipt of the written opinion provided by OAL (Section 11349.5).
 - OAL must approve or disapprove the regulation in accordance with the rules and procedures established by law (Section 11349.6).
- Deletes the requirement for OAL to disapprove an emergency regulation if it is substantially the same as an emergency regulation previously adopted by the agency unless OAL specifically approves the re-adoption.

The June 15th and 27th amendments do not resolve the department’s implementation consideration of the bill as amended May 22, 2006 and February 15, 2006, which is repeated below for convenience. The remaining June 15th and June 27th 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

Franchise Tax Board 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 issue an urgently needed regulation, FTB might need to seek legislation specifically authorizing emergency regulations due to the legal standards set within the bill.

LEGISLATIVE STAFF CONTACT

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