

SUMMARY ANALYSIS OF AMENDED BILL

Author: V. Manuel Pérez Analyst: Brian Werking Bill Number: AB 1409
 Related Bills: See Prior Analysis Telephone: 845-5103 Amended Date: June 19, 2012
 Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: State Agency Regulations/Impact On Small Business

SUMMARY

This bill would require each state agency¹ to include additional information with their initial statement of reasons during the rulemaking process as required under the Administrative Procedures Act² (APA).

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The June 19, 2012, amendments removed language containing legislative findings related to the Milton Marks “Little Hoover” Commission on California State Government Organization and Economy. The amendments further specify the requirements for reasonable alternatives that would need to be included in the initial statement of reasons and would require state agencies to include an additional criterion in the determination of whether there are opportunities to coordinate compliance with another state agency. As a result of the amendments, the “This Bill” section of the department’s previous analysis³ has been revised. The remainder of previous analysis still applies. The “Fiscal Impact” and “Economic Impact” sections have been restated for convenience.

This analysis only addresses the provisions of the bill that impact the department’s programs and operations.

¹ This bill applies to state agency rulemaking that is subject to the Administrative Procedures Act.

² Government Code Sections 11340, et seq.

³ The bill as introduced March 10, 2011, and amended April 25, 2011, March 21 and March 22, 2012.

Board Position:	Legislative Director	Date
_____ S		
_____ SA		
_____ N		
_____ NA		
_____ O		
_____ OUA		
_____ X NP		
_____ NAR	Gail Hall	7/2/12

ANALYSIS

THIS BILL

This bill would add the following provisions to current law:

Require the Franchise Tax Board (FTB) to include in its initial statement of reasons for any proposed rulemaking action, a list of any alternatives submitted by the public or the Office of the Small Business Advocate that were determined to be unreasonable.

Provide examples of acceptable reasonable alternatives that would lessen any adverse impact on small business, while meeting the same regulatory objectives. These examples include:

- phasing of implementation to take into account the compliance capacity and resources of small business,
- performance standards to provide compliance flexibility for small business,
- simplification of reporting and compliance standards,
- differing requirements for small and large business, and
- partial or total exemptions based on the firm's actual degree of activity within the regulated activity.

Require the FTB to include within the initial statement of reasons an assessment of whether there has been an adoption of a similar or related regulation by another state regulatory entity and include a determination whether there are opportunities to coordinate compliance activities in order to reduce regulatory burdens on businesses and individuals. In assessing and potentially developing coordinated and harmonized approaches to regulatory compliance, the FTB would be required to ensure that the compliance method can result in full compliance with the authorizing statute or other law being implemented or made specific by the proposed regulation.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT

Revenue Estimate

This provision would not impact the state's income tax revenues.

SUPPORT/OPPOSITION⁴

Support: Coachella Valley Enterprise Zone, Calexico County Enterprise Zone, California Asian Pacific Chamber of Commerce, California Association of Micro Enterprise Opportunity, California Association for Local Economic Development, National Federation of Independent Business – California, Regional Council of Rural Counties, Sacramento Black Chamber of Commerce

Opposition: California Labor Federation, California Nurses Association, State Building and Construction Trades Council of California

LEGISLATIVE STAFF CONTACT

Brian Werking

Legislative Analyst, FTB

(916) 845-5103

brian.werking@ftb.ca.gov

Gail Hall

Legislative Director, FTB

(916) 845-6333

gail.hall@ftb.ca.gov

⁴ As provided in the Senate Committee on Business, Professions and Economic Development's analysis of the bill as amended June 19, 2012, at <http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_1401-1450/ab_1409_cfa_20120622_131244_sen_comm.html> [as of June 25, 2012].