

Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author: Logue Analyst: Janet Jennings Bill Number: ABX1 3

Related Bills: See Legislative History Telephone: 845-3495 Introduced Date: December 6, 2010

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: State Agency Regulations/5 Year Review & Report

SUMMARY

This bill would require a state agency to review and report on all regulations that it adopts or amends on and after January 1, 2012, as specified.

RECOMMENDATION AND SUPPORTING ARGUMENTS

No position.

PURPOSE OF THE BILL

It appears that the purpose of this bill is to provide follow up information on adopted or amended regulations.

EFFECTIVE/OPERATIVE DATE

This bill would become effective on the 91st day following adjournment of the special session, and specifically operative for regulations adopted or amended on or after January 1, 2012.

ANALYSIS

STATE LAW

Current state law allows a state agency to adopt, amend, or repeal regulations and provides a procedure by which the agency may adopt, amend, or repeal a regulation, including the Office of Administrative Law (OAL) review. State agencies are required to provide an initial statement of reasons for proposing the adoption, amendment, or repeal of each regulation. Among other requirements, the statement of reasons may include facts, evidence, documents, testimony, or other evidence on which the state agency relies to support the regulatory action. In addition, all state agencies are required to assess the impact of the proposed action on business in this state.

Board Position:	Department Director	Date
_____ S		
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_____ NAR	Selvi Stanislaus	03/22/11

THIS BILL

This bill would require state agencies, including the Franchise Tax Board (FTB), to review and report on all regulations that it adopts or amends on and after January 1, 2012. The report is required to be submitted to the OAL on or before May 1 immediately following five years after the date the regulation was adopted or amended.

The review and report must include the following:

- The general and specific statutes authorizing the regulation.
- The objective of the regulation.
- The effectiveness of the regulation in achieving the objective.
- The consistency of the regulation with state and federal statutes and regulations and a listing of the statutes or regulations used in determining the consistency.
- The agency enforcement policy, including if the regulation is being enforced and any issues with enforcement.
- The agency view regarding current wisdom of the regulation.
- The clarity, conciseness, and understanding of the regulation.
- A summary of the written criticisms of the regulation received by the agency within the five years preceding the report.
- The estimated economic, small business, and consumer impact statement of the regulation compared to the statement used in drafting the regulation.
- Course of action the agency proposes to take regarding each regulation and when this action is anticipated to occur.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would not impact the department's programs and operations.

LEGISLATIVE HISTORY

ABX1 4 (Logue 2011/12) would change the date a regulation is effective. This bill is currently in the Assembly.

ABX1 5 (Logue, 2011/2012) would require that notice of proposed action be submitted to the Legislature as specified. This bill is currently in the Assembly.

ABX1 6 (Logue, 2011/2012) would mandate the Department Of Finance to update instruction for inclusion in the State Administrative Manual the methods used for determination, estimates, statements and findings. This bill is currently in the Assembly.

AB 1822 (Stats. 2000, Ch. 1060) made various changes to the laws governing regulatory procedures.

FISCAL IMPACT

This bill would require the department to compile additional data and issue reports. As a result, this bill would impact the department's staff resources. The additional costs have not been determined at this time. As the bill continues to move through the legislative process, costs will be identified and an appropriation will be requested, if necessary.

ECONOMIC IMPACT

This proposal would not impact the state's income tax revenue or the Franchise Tax Board's administration of state income tax.

SUPPORT/OPPOSITION

Support: None provided

Opposition: None provided

ARGUMENTS

Pro: This bill would add transparency and tools to evaluate the effectiveness of a given regulation.

Con: The bill does not require any action to be taken in response to the report.

POLICY CONCERNS

While this bill would require the FTB to report to the OAL on adopted and amended regulations, the bill lacks any penalty for failure to do so. In addition, while the bill requires OAL to post the report on its Web site, it fails to require the OAL to take any other action regarding the information provided in these reports.

LEGISLATIVE STAFF CONTACT

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