

**ASSEMBLY BILL**

**No. 3368**

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**Introduced by Committee on Jobs, Economic Development, and the Economy (Assembly Members Cervantes (Chair), Cunningham (Vice Chair), Chau, Chen, Quirk-Silva, Ramos, and Luz Rivas)**

March 5, 2020

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An act to amend Sections 11148.5, 11340.6, 11340.7, 12098.3, and 12098.4 of the Government Code, relating to business.

LEGISLATIVE COUNSEL'S DIGEST

AB 3368, as introduced, Committee on Jobs, Economic Development, and the Economy. 2020 Small Business Reform Act: petitions to adopt, amend, or repeal regulations.

Existing law requires the Governor to appoint the Small Business Advocate and establishes the duties and functions of the Small Business Advocate to include, among others, representing the views and interests of small businesses before other state agencies whose policies and activities may affect small businesses. Existing law requires each state agency that significantly regulates small business or that significantly impacts small business to designate at least one person who is required to serve as a small business liaison.

Under existing law, any interested person may petition a state agency requesting the adoption, amendment, or repeal of a regulation. Existing law requires the state agency to either deny the petition, as prescribed, or schedule the matter for a public hearing, as prescribed.

This bill would require the Small Business Advocate and each small business liaison to provide technical advice and assist small businesses in filing petitions to request the adoption, amendment, or repeal of a

regulation. The bill would also require the Small Businesses Advocate to provide counsel and offer recommendations to state agencies who receive those petitions from small businesses. The bill would require each state agency to include on its internet website information regarding the submission of a petition, as specified.

Existing law requires a state agency that receives a petition to notify the petitioner in writing of the receipt of the petition and, within 30 days, either deny the petition in writing indicating why the agency has reached its decision on the merits of the petition or schedule the matter for public hearing in accordance with specified notice and hearing requirements.

This bill would require a state agency that receives a petition from a small business to forward a copy of the petition to the Small Business Advocate and the related agency liaison. The bill would authorize the advocate and the agency liaison to issue written comments as to the validity of the petition, and would require the advocate and the agency liaison to offer a petitioner at least one meeting to discuss the contents of a petition. The bill would also require the state agency to notify the petitioner of receipt of the petition within 30 days.

Existing law requires the Small Business Advocate to submit a written annual report to the Governor and to the Legislature that, among other things, describes the activities and recommendations of the Office of the Small Business Advocate.

This bill would require the annual report to additionally include the number and the nature of complaints filed with or referred to the office, small business liaison, and the small business advocate, the number and nature of petitions referred to the office, and recommendations on new state activities or modifications on current state activities that may be appropriate to assist in the development and strengthening of minority and other small business enterprises.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. This act shall be known, and may be cited, as the
- 2 2020 Small Business Reform Act.
- 3 SEC. 2. The Legislature finds and declares all of the following:

1 (a) California’s dominance in many economic areas is based,  
2 in part, on the significant role small businesses play in the state’s  
3 \$2.9 trillion economy.

4 (b) Two separate studies, one by the United States Census  
5 Bureau and another by the Kaufman Foundation, found that net  
6 job growth was strongest among business with less than 20  
7 employees.

8 (c) Supporting small business development has shown to be a  
9 successful inclusive economic growth strategy advantaging  
10 business throughout the state, including historically underserved  
11 business groups, including minority-, women-, and veteran-owned  
12 businesses, and hard to serve areas of the state, including  
13 low-wealth, rural, and disaster-impacted communities.

14 (d) In order for the state to fully leverage the economic  
15 opportunities represented by supporting small businesses, it is the  
16 intent of the Legislature that the Department of General Services,  
17 the Office of the Small Business Advocate, and the Small Business  
18 Advocate actively promote small business certification, help small  
19 businesses market their products, goods, and services to the state,  
20 and promote the use of technologies and other innovative solutions  
21 for notifying small businesses of state contracting opportunities.

22 SEC. 3. Section 11148.5 of the Government Code is amended  
23 to read:

24 11148.5. (a) A state agency that significantly regulates small  
25 business or that significantly impacts small business shall designate  
26 at least one person who shall serve as a small business liaison. The  
27 agency shall utilize existing personnel and resources to perform  
28 the duties of small business liaison.

29 (b) A state agency that significantly regulates small business or  
30 that significantly impacts small business shall widely publicize  
31 the position of small business liaison in appropriate agency  
32 publications and by prominently displaying the name and contact  
33 information of the small business liaison on the agency’s ~~Web site~~  
34 *internet website* if the agency has a ~~Web site~~; *an internet website*.

35 (c) The small business liaison shall be responsible for all of the  
36 following:

37 (1) Receiving and responding to complaints received by the  
38 agency from small businesses.

1 (2) Providing technical advice and assisting small businesses  
2 in resolving problems and questions regarding compliance with  
3 the agency’s regulations and relevant statutes.

4 (3) (A) Reporting small business concerns and, if appropriate,  
5 reporting recommendations to the agency secretary or to the agency  
6 head, as defined in Section 11405.40.

7 (B) *Providing technical advice and assisting small businesses*  
8 *in filing petitions pursuant to Section 11340.6.*

9 (4) Reviewing and updating, on a semiannual basis, content on  
10 ~~the agency Web site~~ *agency’s internet website* that is accessible  
11 through the small business link provided on the State of California  
12 Internet portal pursuant to Section 11541.5.

13 (5) Assisting the agency secretary, department director, or  
14 executive officer, as applicable, in ensuring that the procurement  
15 and contracting processes of the applicable entity are administered  
16 in order to meet or exceed the 25 percent small business  
17 participation goal, and developing and sharing innovative  
18 procurement and contracting practices from the public and private  
19 sectors to increase opportunities for small businesses.

20 (d) The small business liaison shall not advocate for or against  
21 the adoption, amendment, or repeal of any regulation or intervene  
22 in any pending investigation or enforcement action.

23 (e) A state agency that significantly regulates small business or  
24 that significantly impacts small business shall notify the Office of  
25 Small Business Advocate within the Governor’s Office of Business  
26 and Economic Development and the Department of General  
27 Services of each of the following:

28 (1) The name and contact information of the person or persons  
29 who have been designated as the agency’s small business liaison,  
30 on or before March 1, 2018.

31 (2) An occurrence of a vacancy in the position of small business  
32 liaison, within 15 working days of the occurrence of the vacancy.  
33 The state agency shall designate a small business liaison within  
34 three months after providing notice of the vacancy.

35 (f) For purposes of this section, “small business” has the same  
36 meaning as set forth in Section 11342.610.

37 SEC. 4. Section 11340.6 of the Government Code is amended  
38 to read:

39 11340.6. (a) Except where the right to petition for adoption  
40 of a regulation is restricted by statute to a designated group or

1 where the form of procedure for such a petition is otherwise  
2 prescribed by statute, any interested person may petition a state  
3 agency requesting the adoption, amendment, or repeal of a  
4 regulation as provided in Article 5 (commencing with Section  
5 11346). This petition shall state the following clearly and concisely:

6 (a)

7 (1) The substance or nature of the regulation, amendment, or  
8 repeal requested.

9 (b)

10 (2) The reason for the request.

11 (c)

12 (3) Reference to the authority of the state agency to take the  
13 action requested.

14 (b) *Information regarding the submission of a petition shall be*  
15 *included on the state agency's internet website, and, at a minimum,*  
16 *be located in the same location as the information required by*  
17 *subdivision (b) of Section 11148.5 regarding how to contact the*  
18 *small business liaison.*

19 SEC. 5. Section 11340.7 of the Government Code is amended  
20 to read:

21 11340.7. (a) Upon receipt of a petition requesting the adoption,  
22 amendment, or repeal of a regulation pursuant to Article 5  
23 (commencing with Section 11346), a state agency ~~shall notify the~~  
24 ~~petitioner in writing of the receipt and shall within 30 days deny~~  
25 ~~the petition indicating why the agency has reached its decision on~~  
26 ~~the merits of the petition in writing or schedule the matter for~~  
27 ~~public hearing in accordance with the notice and hearing~~  
28 ~~requirements of that article. shall do both of the following:~~

29 (1) (A) *Forward a copy of the petition to the Small Business*  
30 *Advocate, appointed pursuant to Section 12098.3, and the related*  
31 *agency liaison, appointed pursuant to Section 11148.5 within 30*  
32 *days.*

33 (B) *For each petition submitted by a small business, the*  
34 *advocate and the agency liaison may issue written comments as*  
35 *to the validity of the petition, or recommend alternative actions to*  
36 *resolve or mitigate issues identified in the petition.*

37 (C) *The advocate and the agency liaison shall offer to have at*  
38 *least one meeting with the petitioner to discuss the content of the*  
39 *petition.*

1 (2) *Notify the petitioner in writing of the receipt of the petition*  
2 *within 30 days.*

3 (b) *Within 30 days of providing notice pursuant to paragraph*  
4 *(2) of subdivision (a), the state agency shall take one of the*  
5 *following actions:*

6 (1) *Schedule the matter for public hearing in accordance with*  
7 *the notice and hearing requirements of Article 5 (commencing*  
8 *with Section 11346).*

9 (2) *Deny the petition indicating why the agency has reached its*  
10 *decision on the merits of the petition in writing.*

11 ~~(b)~~

12 (c) *A state agency may grant or deny the petition in whole or*  
13 *in part, and may grant any other relief or take any other action as*  
14 *it may determine to be warranted by the petition and shall notify*  
15 *the petitioner in writing of this action.*

16 ~~(e)~~

17 (d) *Any interested person may request a reconsideration of any*  
18 *part or all of a decision of any agency on any petition submitted.*  
19 *The request shall be submitted in accordance with Section 11340.6*  
20 *and include the reason or reasons why an agency should reconsider*  
21 *its previous decision no later than 60 days after the date of the*  
22 *decision involved. The agency’s reconsideration of any matter*  
23 *relating to a petition shall be subject to subdivision (a).*

24 ~~(d)~~

25 (e) *Any decision of a state agency denying in whole or in part*  
26 *or granting in whole or in part a petition requesting the adoption,*  
27 *amendment, or repeal of a regulation pursuant to Article 5*  
28 *(commencing with Section 11346) shall be in writing and shall be*  
29 *transmitted to the Office of Administrative Law for publication in*  
30 *the California Regulatory Notice Register at the earliest practicable*  
31 *date. The decision shall identify the agency, the party submitting*  
32 *the petition, the provisions of the California Code of Regulations*  
33 *requested to be affected, reference to authority to take the action*  
34 *requested, the reasons supporting the agency determination, an*  
35 *agency contact person, and the right of interested persons to obtain*  
36 *a copy of the petition from the agency.*

37 SEC. 6. Section 12098.3 of the Government Code is amended  
38 to read:

39 12098.3. (a) The Small Business Advocate shall be appointed  
40 by, and shall serve at the pleasure of, the Governor.

1 (b) The Governor shall appoint the employees who are needed  
2 to accomplish the purposes of this article.

3 (c) The duties and functions of the advocate shall include all of  
4 the following:

5 (1) Serve as the principal advocate in the state on behalf of small  
6 businesses, including, but not limited to, advisory participation in  
7 the consideration of all legislation and administrative regulations  
8 that affect small businesses, and advocacy on state policy and  
9 programs related to small businesses.

10 (2) Represent the views and interests of small businesses before  
11 other state agencies whose policies and activities may affect small  
12 business.

13 (3) Enlist the cooperation and assistance of public and private  
14 agencies, businesses, and other organizations in disseminating  
15 information about the programs and services provided by state  
16 government that are of benefit to small businesses, and information  
17 on how small businesses can participate in, or make use of, those  
18 programs and services.

19 (4) Consult with experts and authorities in the fields of small  
20 business investment, venture capital investment, and commercial  
21 banking and other comparable financial institutions involved in  
22 the financing of business, and with individuals with regulatory,  
23 legal, economic, or financial expertise, including members of the  
24 academic community, and individuals who generally represent the  
25 public interest.

26 (5) Seek the assistance and cooperation of all state agencies and  
27 departments providing services to, or affecting, small business,  
28 including the small business liaison designated pursuant to Section  
29 ~~14846~~, 11148.5, to ensure coordination of state efforts.

30 (6) Receive and respond to complaints from small businesses  
31 concerning the actions of state agencies and the operative effects  
32 of state laws and regulations adversely affecting those businesses.

33 (7) Counsel small businesses on how to resolve questions and  
34 problems concerning the relationship of small business to state  
35 government.

36 (8) Collaborate with the Office of Small Business and Disabled  
37 Veteran Business Enterprise Services in their activities under the  
38 Small Business Procurement and Contract Act (Chapter 6.5  
39 (commencing with Section 14835) of Part 5.5), including, but not  
40 limited to, promoting small business certification and undertaking

1 reasonable means to assist state agencies in improving small  
 2 business participation. ~~Among other activities, the advocate shall~~  
 3 ~~maintain;~~

4 (9) *Maintain*, publicize, and distribute an annual list of persons  
 5 serving as small business ~~ombuds~~~~person~~ *advocate* throughout state  
 6 government.

7 (10) (A) *Provide technical advice and assist small businesses*  
 8 *in filing petitions pursuant to Section 11340.6.*

9 (B) *Counsel and offer recommendations to state agencies who*  
 10 *receive petitions from small businesses.*

11 SEC. 7. Section 12098.4 of the Government Code is amended  
 12 to read:

13 12098.4. (a) Each agency of the state shall furnish to the  
 14 advocate the reports, documents, and information that are public  
 15 records and that the advocate deems necessary to carry out ~~his or~~  
 16 ~~her~~ *the advocate's* functions under this chapter.

17 (b) (1) The advocate shall prepare and submit a written annual  
 18 report to the Governor and to the Legislature that describes the  
 19 activities and recommendations of the ~~office, including an~~  
 20 ~~evaluation of the office.~~

21 (2) *The report shall, at a minimum, include an identification of*  
 22 *all of the following:*

23 (A) *The number and the nature of complaints filed with or*  
 24 *referred to the office, small business liaison designated pursuant*  
 25 *to Section 11148.5, and the small business advocate designated*  
 26 *pursuant to Section 14846.*

27 (B) *The number and nature of outreach efforts of state agencies*  
 28 *and, where appropriate, specific departments, that significantly*  
 29 *regulate small businesses to assist minority and other small*  
 30 *business enterprises, and making recommendations enterprises.*

31 (C) *The number and nature of petitions referred to the office*  
 32 *pursuant to Section 11340.6.*

33 (3) *The report shall make recommendations on new state*  
 34 *activities or modifications on current state activities that may be*  
 35 *appropriate to assist the development and strengthening of minority*  
 36 *and other small business enterprises.*

37 (c) (1) The advocate may establish a centralized interactive  
 38 telephone referral system and ~~Internet Web site~~ *internet website*  
 39 to assist small and minority businesses in their operations, including  
 40 governmental requirements, such as taxation, accounting, and

1 pollution control, and to provide information concerning the agency  
2 from which more specialized assistance may be obtained.

3 (2) The advocate shall post on the GO-Biz-~~Internet Web site~~  
4 *internet website* or the advocate's ~~Internet Web site~~: *internet*  
5 *website*:

6 (A) Information on how to receive assistance in identifying and  
7 understanding the state's regulatory requirements. This information  
8 shall include:

9 (i) The name, telephone number, ~~Internet Web site~~, *internet*  
10 *website*, and email of the small business liaison designated pursuant  
11 to Section 11148.5 to assist small businesses with understanding  
12 and adhering to the regulatory requirements of the state entities in  
13 which they serve.

14 (ii) The ~~Internet Web site~~ *internet website* developed and  
15 maintained by GO-Biz to identify licensing, permitting, and  
16 registration requirements of state agencies, pursuant to the  
17 requirements of Section 12097.1

18 (B) Information on how to receive assistance in certifying as a  
19 small business and identifying and participating in state  
20 procurement opportunities. This information shall include:

21 (i) The name, telephone number, ~~Internet Web site~~, *internet*  
22 *website*, and email of the small business advocate designated  
23 pursuant to Section 14846 to assist small businesses in contracting  
24 with the state entities in which they serve.

25 (ii) Contact information for the Office of Small Business and  
26 Disabled Veteran Business Enterprise Services established pursuant  
27 to Section 14839.

28 (C) Information about emergency preparedness, responses to  
29 emergencies, and recovery strategies for small businesses. This  
30 information shall be developed and updated in consultation with  
31 relevant state agencies and emergency responders.

32 (D) A link to the Energy Upgrade California ~~Internet Web site~~  
33 *internet website* to assist small business owners in accessing  
34 information on the availability of various programs promoting the  
35 efficient use of energy.

36 (E) Information on programs administered through the statewide  
37 network of small business financial development corporations.  
38 Programs covered shall include loan guarantees, direct lending,  
39 surety bond guarantees, and disaster loans. Information shall be  
40 presented in a manner appropriate to address the needs of both

1 small businesses and existing and potential financial institutions  
2 and financial companies.  
3 (F) Information on how to identify and access services provided  
4 through the statewide network of small business technical  
5 assistance centers, including, but not limited to, small business  
6 development centers, women business centers, veteran business  
7 outreach centers, procurement technical assistance centers, and  
8 the Manufacturing Extension Partnership.