

Amended Mock-up for 2019-2020 AB-3368 (Committee on Jobs, Economic Development, and the Economy (A) - (Assembly Members Cervantes (Chair), Cunningham (Vice Chair), Chau, Chen, Quirk-Silva, Ramos, and Luz Rivas))

**Mock-up based on Version Number 99 - Introduced 3/5/20
Submitted by: Staff Name, Office Name**

SECTION 1. This act shall be known, and may be cited, as the 2020 Small Business Reform Act.

SEC. 2. The Legislature finds and declares all of the following:

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

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

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

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

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

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

(b) A state agency that significantly regulates small business or that significantly impacts small business shall widely publicize the position of small business liaison in appropriate agency publications and by prominently displaying the name and contact information of the small business liaison on the agency's internet website if the agency has an internet website.

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

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

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

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

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

(4) Reviewing and updating, on a semiannual basis, content on the agency's internet website that is accessible through the small business link provided on the State of California Internet portal pursuant to Section 11541.5.

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

(d) (1) The small business liaison shall not advocate for or against the adoption, amendment, or repeal of any regulation or intervene in any pending investigation or enforcement action.

(2) The prohibition in subparagraph (1) does not apply to the adoption, amendment, or repeal of a regulation through petitions, pursuant to Section 11340.6 and 11340.7.

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

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

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

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

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

11340.6. (a) Except where the right to petition for adoption of a regulation is restricted by statute to a designated group or where the form of procedure for such a petition is otherwise prescribed by statute, any interested person may petition a state agency requesting the adoption, amendment, or repeal of a regulation as provided in Article 5 (commencing with Section 11346). This petition shall state the following clearly and concisely:

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

(2) The reason for the request.

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

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

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

11340.7. (a) Upon receipt of a petition requesting the adoption, amendment, or repeal of a regulation pursuant to Article 5 (commencing with Section 11346), a state agency shall do both of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) Collaborate with the Office of Small Business and Disabled Veteran Business Enterprise Services in their activities under the Small Business Procurement and Contract Act (Chapter 6.5 (commencing with Section 14835) of Part 5.5), including, but not limited to, promoting small business certification and undertaking reasonable means to assist state agencies in improving small business participation.

(9) Maintain, publicize, and distribute an annual list of persons serving as small business advocate throughout state government.

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

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

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

12098.4. (a) Each agency of the state shall furnish to the advocate the reports, documents, and information that are public records and that the advocate deems necessary to carry out the advocate's functions under this chapter.

(b) (1) The advocate shall prepare and submit a written annual report to the Governor and to the Legislature that describes the activities and recommendations of the office.

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

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

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

(C) The number and nature of petitions referred to the office pursuant to Section 11340.7 ~~11340.6~~.

- (3) The report shall make recommendations on new state activities or modifications on current state activities that may be appropriate to assist the development and strengthening of minority and other small business enterprises.
- (c) (1) The advocate may establish a centralized interactive telephone referral system and internet website to assist small and minority businesses in their operations, including governmental requirements, such as taxation, accounting, and pollution control, and to provide information concerning the agency from which more specialized assistance may be obtained.
- (2) The advocate shall post on the GO-Biz internet website or the advocate's internet website:
- (A) Information on how to receive assistance in identifying and understanding the state's regulatory requirements. This information shall include:
- (i) The name, telephone number, internet website, and email of the small business liaison designated pursuant to Section 11148.5 to assist small businesses with understanding and adhering to the regulatory requirements of the state entities in which they serve.
- (ii) The internet website developed and maintained by GO-Biz to identify licensing, permitting, and registration requirements of state agencies, pursuant to the requirements of Section 12097.1
- (B) Information on how to receive assistance in certifying as a small business and identifying and participating in state procurement opportunities. This information shall include:
- (i) The name, telephone number, internet website, and email of the small business advocate designated pursuant to Section 14846 to assist small businesses in contracting with the state entities in which they serve.
- (ii) Contact information for the Office of Small Business and Disabled Veteran Business Enterprise Services established pursuant to Section 14839.
- (C) Information about emergency preparedness, responses to emergencies, and recovery strategies for small businesses. This information shall be developed and updated in consultation with relevant state agencies and emergency responders.
- (D) A link to the Energy Upgrade California internet website to assist small business owners in accessing information on the availability of various programs promoting the efficient use of energy.
- (E) Information on programs administered through the statewide network of small business financial development corporations. Programs covered shall include loan guarantees, direct lending, surety bond guarantees, and disaster loans. Information shall be presented in a manner appropriate to address the needs of both small businesses and existing and potential financial institutions and financial companies.
- (F) Information on how to identify and access services provided through the statewide network of small business technical assistance centers, including, but not limited to, small business development centers, women business centers, veteran business outreach centers, procurement technical assistance centers, and the Manufacturing Extension Partnership.