STANDARDIZED REGULATORY IMPACT ASSESSMENT FOR MAJOR REGULATIONS 6600

(New 6/2014)

Pursuant to Government Code section 11346.36(f), Finance's regulations regarding major regulations and Standardized Regulatory Impact Assessments are published below.

A state agency promulgating a major regulation is required to send a completed Standardized Regulatory Impact Assessments and the form required by California Code of Regulations, title 1, section 2002 to the Department of Finance for review and comment. Please send these documents electronically to majorregulations@dof.ca.gov or send three copies to:

Economic Research Unit
Department of Finance
915 L Street
Sacramento, CA 95814
Fax No.: (916) 449-5253

Title 1, California Code of Regulations
Division 3. Department of Finance
Chapter 1. Standardized Regulatory Impact Assessment for Major Regulations.

2000. Definitions.
For purposes of this chapter:

(a) "Agency" has the meaning given to that term in Section 11342.520 of the code.
(b) "As estimated by the agency" means the agency has estimated the economic impact of a proposed action in the manner prescribed by section 2003.
(c) "Code" means the Government Code.
(d) "Department" means the Department of Finance.
(e) "Economic impact" means all costs or all benefits (direct, indirect and induced) of the proposed major regulation on business enterprises and individuals located in or doing business in California.
(f) "GO-Biz" means the Governor's Office of Business and Economic Development.

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STANDARDIZED REGULATORY IMPACT ASSESSMENT FOR MAJOR REGULATIONS **6600** (Cont. 1)

(New 6/2014)

(g) "Major regulation" means any proposed rulemaking action adopting, amending or repealing a regulation subject to review by OAL that will have an economic impact on California business enterprises and individuals in an amount exceeding fifty million dollars ($50,000,000) in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented (as estimated by the agency), computed without regard to any offsetting benefits or costs that might result directly or indirectly from that adoption, amendment or repeal.

(h) "Notice of proposed action" means the notice required by Section 11346.5 of the code.

(i) "OAL" means the Office of Administrative Law.

(j) "SRIA" means the standardized regulatory impact assessment required by Section 11346.3(c) of the code.

NOTE: Authority cited: Section 11346.36, Government Code. Reference: Sections 11342.548 and 11346.36, Government Code. 2001. Notification; Public Input.

(a) (1) An agency that anticipates promulgating a major regulation shall provide the department, not later than February 1 of each calendar year, with a list of all major regulations that it anticipates proposing during that entire calendar year. The information shall be provided on a form prescribed by the department. The list shall specifically identify the following for each major regulation that the agency proposes to adopt, amend or repeal: subject matter, title and section of the California Code of Regulations that will be affected, statute or court decision being implemented, interpreted or made specific and the anticipated date on which the agency proposes to publish the notice of proposed action for each major regulation. The list shall also contain the name of the agency, the responsible unit within the agency, and the name, telephone number, email, and mailing address of a contact person.

(2) In the event an agency determines after February 1 that it anticipates promulgating a major regulation, the agency shall submit to the department the information required in subdivision (a)(1) as soon as possible but in no event later than 60 days prior to filing a notice of proposed action with OAL.

(b) Within 15 days of receipt of a list of proposed major regulations, the department shall provide a copy of that list to GO-Biz and to any other agency that has requested a copy.

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STANDARDIZED REGULATORY IMPACT ASSESSMENT FOR MAJOR REGULATIONS **6600** (Cont. 2)

(New 6/2014)

(c) Within 15 days of receipt of a list of proposed major regulations, the department shall post that list on its Internet web site.

(d) The agency shall also seek public input regarding alternatives from those who would be subject to or affected by the regulations (including other state agencies and local agencies, where appropriate) prior to filing a notice of proposed action with OAL unless the agency is required to implement federal law and regulations which the agency has little or no discretion to vary. An agency shall document and include in the SRIA the methods by which it sought public input.

NOTE: Authority cited: Sections 11346.3 and 11346.36, Government Code. Reference: Sections 11342.548, 11346.3 and 11346.36, Government Code.

2002. Standardized Regulatory Impact Assessment.

(a) An agency that anticipates promulgating a major regulation as defined in section 2000 shall, pursuant to Section 11346.3(f) of the code, submit its completed SRIA to the department within the following time frame:

(1) Not less than 60 days prior to filing a notice of proposed action with OAL if the agency has notified the department of the proposed regulation within the time prescribed by 2001(a); or

(2) Not less than 90 days prior to filing a notice of proposed action with OAL if the agency has not notified the department of the proposed major regulation within the time prescribed by section 2001(a);

(b) (1) The SRIA shall contain all of the information required by Section 11346.3(c) of the code, which shall have been prepared in compliance with section 2003.

(2) The SRIA shall also include a description and explanation of each of the following:

(A) The economic impact method and approach, including the underlying assumptions the agency used and the rationale and basis for those assumptions;

(B) The specific categories of individuals and business enterprises who would be affected by the proposed major regulation;

(C) The inputs into the assessment of the economic impact;

(D) The outputs from the assessment of the economic impact;

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STANDARDIZED REGULATORY IMPACT ASSESSMENT FOR MAJOR REGULATIONS **6600** (Cont. 3)

(New 6/2014)

(E) The agency's interpretation of the results of the assessment of the Economic impact.

(3) The SRIA shall also include documentation sufficient to substantiate compliance with the requirements of this section and section 2003.

(c) The SRIA shall be accompanied by a form prescribed by the department that includes all of the following:

(1) Name of the agency.

(2) The name, telephone number, email and mailing address of the contact person.

(3) Statement of the need for the proposed major regulation.

(4) A summary of the categories of individuals and business enterprises who will be impacted by the proposed major regulation and the amount of the economic impact on each such category.

(5) An identification and description of all costs and all benefits due to the proposed regulatory change, calculated on an annual basis from estimated date of filing with the Secretary of State through 12 months after the estimated date the proposed major regulation will be fully implemented as estimated by the agency.

(6) Description of the 12-month period in which the agency estimates the economic impact of the proposed major regulation will exceed $50 million.

(7) Description of the baseline that the agency used to compare proposed regulatory alternatives.

(8) Identification of each regulatory alternative for addressing the stated need for the proposed major regulation, including each alternative that was provided by the public or another governmental agency and each alternative that the agency considered; all costs and all benefits of each regulatory alternative considered; and the reasons for rejecting each alternative.

(9) Description of the methods by which the agency sought public input as required by section 2001, accompanied by documentation of that public outreach.

(10) A description of the economic impact method and approach, including the underlying assumptions the agency used and the rationale and basis for those assumptions.

(11) Date, printed name, and signature of the head of the agency.

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STANDARDIZED REGULATORY IMPACT ASSESSMENT FOR MAJOR REGULATIONS **6600** (Cont. 4)
(New 6/2014)

(d) Within 10 days of receiving an SRIA, the department shall post a copy of the form required by subdivision (c) on its Internet web site.
(e) Within 10 days of receiving an SRIA, the department shall provide a copy of the form required by subdivision (c) to Go-Biz and any other agency that requests it. GO-Biz and any other agency may provide comment to the department within 10 days thereafter.

NOTE: Authority cited: Section 11346.36, Government Code. Reference: Sections 11342.548, 11346.3 and 11346.36, Government Code.

2003. Methodology for Making Estimates.
(a) In conducting the SRIA required by Section 11346.3(c) of the code, an agency shall use an economic impact method and approach that has all of the following capabilities:
(1) Can estimate the total economic effects of changes due to regulatory policies
over a multi-year time period.
(2) Can generate California economic variable estimates such as personal income, employment by economic sector, exports and imports, and gross state product, based on inter-industry relationships that are equivalent in structure to the Regional Industry Modeling System published by the Bureau of Economic Analysis.
(3) Can produce (to the extent possible) quantitative estimates of economic variables that address or facilitate the quantitative or qualitative estimation of the following:
(A) The creation or elimination of jobs within the state;
(B) The creation of new businesses or the elimination of existing businesses within the state;
(C) The competitive advantages or disadvantages for businesses currently
doing business within the state;
(D) The increase or decrease of investment in the state;
(E) The incentives for innovation in products, materials, or processes; and
(F) The benefits of the regulations, including but not limited to benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency.

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STANDARDIZED REGULATORY IMPACT ASSESSMENT FOR MAJOR REGULATIONS **6600** (Cont. 5)
(New 6/2014)

(b) The department's most current publicly available economic and demographic projections, which may be found on the department's website, shall be used unless the department approves the agency's written request to use a different projection for a specific proposed major regulation. Such approval shall be made on a case-by-case basis. An agency that anticipates that it will take more than one year to develop a major regulation is encouraged to work with the department in determining the most appropriate projections to use.
(c) Costs and benefits shall be separately identified for different groups of agencies, businesses and individuals if the impact of the regulation will differ significantly among identifiable groups.
(d) The agency shall compare regulatory alternatives with a baseline that reflects the anticipated behavior of individuals and businesses in the absence of the proposed major regulation and shall identify the baseline it used.

(e) In comparing proposed regulatory alternatives with an established baseline, an agency should consider including the following in its analysis:
(1) A description of feasible alternatives to the proposed major regulation and the rationale for choosing the proposed major regulation over the other alternatives considered. This description should also include:
(A) An explanation of how the need for the proposed major regulation affects the selection of regulatory alternatives;
(B) An evaluation of the legal and statutory constraints that limit the selection of regulatory alternatives.
(2) Whenever possible, at least two alternatives should be compared to the proposed major regulation, including:
(A) An alternative that could achieve additional benefits beyond those associated with the proposed major regulation; and
(B) A next-best alternative that would not yield the same level of benefits associated with the proposed major regulation, or is less likely to yield the same level of benefits.
(3) A comparison of the cost-effectiveness of different alternatives.
(A) Both total and incremental benefits and costs should be estimated. Incremental benefits and costs are the differences between the estimates associated with the alternatives considered.
(B) Whenever possible, final rather than intermediate outcomes should be used as measures of effectiveness.
(C) In cases where the proposed major regulation addresses more than one measure of effectiveness, weights should be applied to different categories of effects.
(D) The uncertainties associated with the estimates should be discussed.

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STANDARDIZED REGULATORY IMPACT ASSESSMENT FOR MAJOR REGULATIONS **6600** (Cont. 6)
(New 6/2014)

(4) If there are significant differences between the incidence or timing of costs and benefits of a regulation, distributional effects should be addressed, including how the effects of the regulation are distributed, for example, by industry, income, race, sex, or geography, and how the effects are distributed over time.
(5) The assumptions, analytical methods, and data used in the analysis should be documented.

(A) To the extent possible, the analysis should rely on peer-reviewed literature.
(B) The source for all original information should be documented.

(f) An analysis of estimated changes in behavior by businesses and/or individuals in response to
the proposed major regulation shall be conducted and, if feasible, an estimate made of the extent to which costs or benefits are retained within the business and/or by individuals or passed on to others, including customers, employees, suppliers and owners.
(g) For each assessment of the value of benefits of the proposed major regulation required by section 11346.3(c)(1)(F) of the code, the agency shall describe the applied analytical methods and data sources used and the results of that analysis.

(1) The agency's assessment may rely on current and (if applicable) projected market transaction data where a market exists that can directly reveal the quantity or monetary value of a projected benefit of the proposed major regulation.
(2) The agency may use an indirect approach (e.g., use values derived from related markets) in cases where the value of the benefits can be inferred from actual choices made by individuals in related markets. The assessment should rely on current and (if applicable) projected market transaction data.
(3) The agency may use a direct approach (e.g. use values from surveys), estimating the value of the benefits based on hypothetical choices made by individuals responding to a survey.

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STANDARDIZED REGULATORY IMPACT ASSESSMENT FOR MAJOR REGULATIONS **6600** (Cont. 7)
(New 6/2014)

(4) The agency may estimate the value of the benefits based upon an existing study of another regulatory policy with similar subject or physical characteristics. This estimate should describe how the agency took into account the differences in the characteristics (such as time span, specific benefits to value, population, and other socio-economic factors) between the study and the proposed major regulation.

(h) In assessing the effects of a regulatory proposal on the General Fund and special funds of the state and affected local government agencies attributable to the proposed major regulation, including the cost of enforcement and compliance to the agency, an agency shall follow the Department of Finance instructions in the State Administrative Manual sections 6601, 6602, and 6604 through 6616.

NOTE: Authority cited: Section 11346.36, Government Code. Reference: Sections 11342.548, 11346.3 and 11346.36, Government Code.

2004. Failure to Comply with Requirements of this Chapter.
When an agency fails to comply in whole or in part with this chapter, the department shall identify in its comments the area(s) where the agency is out of compliance.

NOTE: Authority cited: Section 11346.36, Government Code. Reference: Sections 11342.548, 11346.3, 11346.36 and 11349.1.5, Government Code.

PREPARATION OF LOCAL MANDATE DETERMINATIONS AND COST ESTIMATES FOR EXECUTIVE REGULATIONS AND ORDERS

GENERAL 6601

(New 6/2014)

This and the following sections set forth the guidelines to complete the Economic and Fiscal Impact Statement (STD. 399). Pursuant to Government Code Section 11346.5, a rulemaking agency is required, prior to the issuance of an executive regulation, to include in the notice of proposed adoption, amendment, or repeal of a regulation the following:

1. A determination as to whether the regulation imposes a mandate on local agencies or school districts and, if so, whether the mandate requires state reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

2. An estimate, prepared in accordance with instructions adopted by the Department of Finance (DOF), of the cost or savings to any state agency or local government; the cost to any local government that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code; any other nondiscretionary costs or savings including revenue changes imposed on state and local governments; and the cost or savings in federal funding to the state.

3. A statement of the results of the assessment of the economic impacts of a proposed regulation pursuant to Government Code sections 11346.2 and 11346.3.

DEFINITION **6602**
(Revised 6/2014)

For the purposes of implementing these guidelines, the following definitions apply:

Agency, Local. Any city, county, special district, authority, or other political subdivision of the state.

Agency, State. Every office, officer, department, division, bureau, board, council, or commission in state government. A "state agency" does not include an agency in the judicial or legislative branches of state government.

Direct Fiscal Costs

1. Personnel needed to perform a line function or activity prescribed (expressed or implied) in the regulation.
2. Fringe benefits associated with those personnel, e.g., retirement, OASDI, workers' compensation.
3. Operating expenses associated with those personnel, e.g., if compliance is achieved by contracting with a private vendor.
4. Any additional equipment which will have to be purchased or leased in order to comply with the regulation.
5. Allocation of other personnel-related costs if not otherwise allocated through an indirect cost system. Some agencies may allocate the costs of rent, space, utilities, etc., directly to the personnel involved.

Economic Impact. All costs or all benefits, (direct, indirect and induced) of the proposed major regulation on business enterprises and individuals located in or doing business in California. All costs or all benefits, (direct, indirect and induced) of the proposed major regulation on business enterprises and individuals located in or doing business in California.

A direct economic impact is the first-round impact of the policy change from the proposed regulation, e.g., a cost to a business of investing in new required equipment or a benefit to consumers of having additional health coverage. There are two additional types of economic impacts – indirect and induced – which are the reactions to the direct economic impact. An indirect economic impact is the secondary economic impact resulting from the direct economic impact, e.g., the extra sales of equipment to the regulated businesses, or the additional supply or demand for health care from expanded coverage. An induced economic impact is any other economic impact of the policy change from the proposed regulation not accounted for by the direct or indirect economic impacts, e.g., the additional household spending by employees of firms selling extra equipment or in the health care industry, or the additional tax burden on businesses and individuals from fiscal costs associated with enforcing the regulation.

Calculating an economic impact for a major regulation includes all costs or all benefits, computed without regard to any offsetting benefits or costs that might result directly or indirectly, to business enterprises and individuals directly affected by the regulation. (Continued)

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DEFINITION **6602** (Cont. 1)
(Revised 6/2014)

Fiscal Costs. All additional expenses for which either supplemental financing or the redirection of existing staff and/or resources (with or without the need for supplemental funding) is required. Costs include those which can be absorbed in an agency's existing budget.

Indirect Fiscal Costs. Any costs related to the additional personnel or operating expenses described in the preceding which are not directly allocated or assigned to those personnel. They do not include a pro rata share of the costs of any manager or supervisor above the first line supervisors since it is assumed that any such supervisors would be in place whether or not the personnel hired to comply with the regulations were there. For example, if a regulation necessitated the hiring of additional staff in a county welfare department, it would not be appropriate to assign, through an indirect cost system, a portion of the costs of the county welfare director to those new personnel since the director would exist to perform his/her functions even if the new personnel were not hired.

Major Regulation. Any proposed rulemaking action adopting, amending or repealing a regulation subject to review by OAL that will have an economic impact on California business enterprises and individuals in an amount exceeding fifty million dollars ($50,000,000) in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented (as estimated by the agency), computed without regard to any offsetting benefits or costs that might result directly or indirectly from that adoption, amendment or repeal.

Mandate. A requirement with a consequence of noncompliance of either (1) a criminal penalty, (2) a civil liability, or (3) an administrative penalty.

Public Agency. Any state agency, city, county, special district, school district, community college district, county superintendent of schools, or federal agency.

Reasonable Compliance. No universal definition is available. However, the "prudent person" test can be utilized to arrive at an appropriate definition of the term. For example, if an agency is required by regulation to provide transportation for certain persons, it clearly would not be appropriate to purchase limousine-type luxury automobiles to do so. On the other hand, it would not be appropriate to provide the service by purchasing tandem bicycles. Reasonable compliance can be achieved with some mode of transportation between the two extremes cited. The issuing agency must evaluate each instance separately and determine what "reasonable compliance" would be. The estimate developed must clearly indicate the mode or level of activity it has assumed would achieve such compliance.

Since compliance connotes that the regulation involves a requirement, costs incurred by state or local agencies in exercising any authority granted by a regulation which is permissive or optional are not germane and need not be estimated.

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DEFINITION **6602** (Cont. 2)
(Revised 6/2014)

Regulation. Every rule, order, or standard of general application or the amendment, supplement, or revision of any rule, order or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.

The term "emergency" means a situation that calls for immediate action to avoid serious harm to the public peace, health, safety, or general welfare. An emergency regulation is adopted pursuant to Government Code Section 11346.1.

Revenues. Any changes in the amounts of operating income received by state and local agencies as the result of an executive regulation must also be identified. In this context, "revenue" includes taxes, state and/or federal assistance, fees, licenses, and so forth.

Savings. Both actual budget reductions and the "freeing up" of staff and/or resources for reassignment to other areas of legitimate concern of the agency.

School District. Any school district, community college district, or county superintendent of schools.

Special District. Any agency of the state which performs governmental or proprietary functions within limited boundaries. Special district includes a redevelopment agency, a joint powers agency or entity, a county service area, a maintenance district or area, an improvement district or improvement zone, or any other zone or area. Special district does not include a city, a county, a school district, or a community college district.

County free libraries established pursuant to Chapter 6 (commencing with Section 19100) of Part II of the Education Code, areas receiving county fire protection services pursuant to Government Code Section 25643, and county road districts established pursuant to Chapter 7 (commencing with Section 1550) of Division 2 of the Streets and Highways Code shall be considered special districts for all purposes of this section.

Standardized Regulatory Impact Assessment. An analysis of the economic impacts of proposed major regulations which is required for any proposed regulation that has an estimated economic impact to business enterprises and individuals located in or doing business in California exceeding $50 million in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented.

ECONOMIC IMPACT STATEMENT 6603

(Revised 6/2014)

A state agency that proposes to promulgate a regulation must include a completed STD. 399 with each proposed regulation that is submitted to OAL for publication in the California Regulatory Notice Register. Government Code sections 11346.2, 11346.3, 11346.5 and Health and Safety Code section 57005 establish requirements for assessing a proposed regulation's estimated economic impact. This SAM section will relate each section of the Economic Impact Statement of the STD. 399 to the corresponding statutory requirements specified in the codes referenced.

A. Estimated Private Sector Cost

1. This section references the specific economic impacts of a proposed regulation. If the proposed regulation fits any of the a-g criteria, then the appropriate section of the economic impact statement must be completed.
2. This section references the estimated economic impact of the proposed regulation which an agency must compute to determine if the proposed regulation is a Major Regulation in accordance with California Code of Regulations, title 1, section 2000.
3. Total businesses impacted
   Government Code section 11346.5(a)(7)(A) requires agencies to identify the types of businesses affected by the proposed regulation.
4. Businesses created or eliminated
   Government Code section 11346.3(b)(1)(B) requires agencies to assess the proposed regulation's impact on the creation or elimination of businesses within the state, including regional impacts.
5. Geographic extent of regulation
   Government Code section 11346.3(b)(1)(C) requires agencies to assess the proposed regulation's impact on the expansion of businesses within the state.
6. Employment factors
   Government Code section 11346.3(b)(1)(A) requires agencies to assess the proposed regulation's impact on the creation or elimination of jobs in California.
7. Competition
   Government Code section 11346.3(a)(2) requires agencies to evaluate the impact on the ability of California businesses to compete with businesses in other states.

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ECONOMIC IMPACT STATEMENT **6603** (Cont. 1)
(Revised 6/2014)

B. Estimated Costs

1. Initial and ongoing costs to business and individuals
   Government Code section 11346.3(a) requires agencies to evaluate the potential cost of compliance of the proposed regulation for businesses and individuals.
2. Share of total costs
   Government Code section 11346.5(a)(7)(A) requires agencies to describe the types of businesses affected by the proposed regulation and their share of the total cost of the proposed regulation if the proposed regulation has a significant statewide adverse economic impact.
3. Reporting requirements
   Government Code section 11346.5(a)(7)(B), requires agencies to identify reporting requirements for businesses if the proposed regulation has a significant statewide adverse economic impact.
4. Housing
   Government Code section 11346.5(a)(12) requires agencies to determine if the regulation will directly impact housing costs.
5. Federal regulations
   Government Code section 11346.5(a)(3)(B) requires the agency to determine if the regulation differs from an existing comparable federal regulation.

C. Estimated Benefits

Parts 1-3 of this sections are required by Government Code section 11346.3(b)(1)(D) which requires agencies to discuss the benefits of the regulation, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency.

4. Expansion of businesses
Government Code section 11346.3(b)(1)(C) requires agencies to assess the proposed regulation's impact on the expansion of businesses within the state.

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ECONOMIC IMPACT STATEMENT **6603** (Cont. 2)
(Revised 6/2014)

D. Alternatives to the Regulation

Parts 1 and 2 of this section are required by Government Code section 11346.2(b), which requires agencies to discuss alternatives to the proposed regulation.

3. This section supplements the comparisons of the proposed alternatives and the proposed regulation in parts 1 and 2 of this section to allow for a standardized comparison.

4. Consideration of performance standards
   Government Code section 11346.2(b) requires agencies, when mandating the use of specific technology or equipment, to consider performance standards to help lower compliance costs

E. Major Regulations

Parts 1 through 3 of this section apply only to boards, offices and departments within the California Environmental Protection Agency. Health and Safety Code section 57005 requires each board, office and department to follow internal guidelines for regulations with an estimated economic impact on the state's business enterprises in an amount exceeding ten million dollars.

Parts 4 and 5 of this section apply to a proposed regulation that is a major regulation. Government Code section 11346.3(c)(1) requires all state agencies proposing to adopt, amend, or repeal a regulation which is subject to review by OAL and not specifically exempted from the Administrative Procedure Act to conduct a Standard Regulatory Impact Assessment (SRIA) for a major regulation. Three copies of the SRIA and the form required by California Code of regulations, title 1, section 2002 should be submitted to the Department of Finance.

Questions concerning the Economic Impact Statement may be directed to:

California Department of Finance
915 L Street
Sacramento, California
Telephone Number: (916) 322-2263

CONTENTS OF FISCAL IMPACT STATEMENT (FIS) 6604

(Revised and renumbered from 6610 on 3/2009)

A state agency that adopts, amends, or repeals a routine regulation or emergency regulation must make a local mandate determination and an estimate of fiscal impact resulting from the "regulation" on the following:

Local Government

1. Any costs which must be reimbursed pursuant to Section 6 of Article XIII B of the California Constitution and Part 7 (commencing with Section 17500) of Division 4 of the Government Code. See Government Code Section 17514 and SAM Section 6620.
2. Any costs which are not reimbursable under that provision of the Constitution but which will necessarily be incurred in reasonable compliance with the regulations.
3. Any savings.
4. Any other impacts such as revenue changes.

State Agencies

1. Any costs that necessarily will be incurred in reasonable compliance, administration, implementation, and/or enforcement by the issuing state agency and/or any other state agency.
2. Any savings.
3. Any other impacts such as revenue changes.

Federal Funding to the State

1. Any additional funding required.
2. Any reduction in such funding.

The required estimate must include a definitive statement on each of these items. For example, even if there are no resultant reductions in or savings of federal funds, that fact must be so stated and reported. Each of the items is further defined and explained along with suggested methodologies for developing estimates of "costs" and "savings," in the succeeding sections.

FISCAL IMPACT ON LOCAL GOVERNMENT 6605

(Revised and renumbered from 6620 on 3/2009)

Subdivision (a) of Article XIII B provides that whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service, except that the Legislature may, but need not, provide a subvention of funds for the following mandates:

1. Legislative mandates requested by the local agency affected.
2. Legislation defining a new crime or changing an existing definition of a crime.
3. Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975.

Subdivision (c) of Article XIII B provides that a mandated new program or higher level of service includes a transfer by the Legislature from the state to cities, counties, cities and counties, or special districts of complete or partial financial responsibility for a required program for which the state previously had complete or partial financial responsibility.

Government Code Sections 17500 et seq. require the state to reimburse local agencies and school districts for any costs that they are required to incur after July 1, 1980, as a result of a statute enacted or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program.

Government Code Section 17516 defines "executive order" as:

Any order, plan, requirement, rule, or regulation issued by any of the following: (1) the Governor, (2) any officer or official serving at the pleasure of the Governor, or (3) any agency, department, board, or commission of state government.

It is important to note that only those executive orders which implement state statutes that impose a mandate on local governments fall within the purview of Section 6 of Article XIII B of the California Constitution, and that any regulation listed as a statutory exception under subdivisions (a) through (g) of Government Code Section 17556 may have a fiscal impact, but is not a state reimbursable mandate. Specifically, any costs which local governments incur as the result of a regulation which implements a ballot measure approved by the voters, a court order, or a federal directive would not be reimbursable by the state; however, as described in the following sections, the issuing state agency is nevertheless required to include an estimate of these non-reimbursable costs.

FUNDING FOR REIMBURSABLE LOCAL COSTS 6606

(Revised and renumbered from 6621 on 3/2009)

Pursuant to Government Code Section 17561(b)(1) (B), when a regulation involves reimbursable costs, it "...shall be accompanied by a bill appropriating the funds therefore, or alternatively, an appropriation for these costs shall be included in the Budget Bill for the next succeeding fiscal year." Use of the second alternative must receive prior approval of DOF. If the state agency fails to provide appropriate funding, then affected local agencies are authorized to file claims for reimbursement with the Commission on State Mandates.

In order to prepare the local mandate determination required by Government Code Section 11346.5; i.e., a determination as to whether the proposed regulation imposes a mandate on local agencies or school districts, it is necessary to first answer the following question:

> Will the regulation require local entities to undertake a new program or to provide an increased level of service in an existing program?

If the answer to this question is "No," then check box 4, 5, or 6 in Section A of STD. 399. If the answer is "Yes," it is then necessary to determine if the costs resulting from the mandate are not state reimbursable based one or more of the statutory exceptions in subdivisions (a) through (g) of the Government Code Section 17556 as follows:

1. Implements a federal mandate.
2. Implements a court mandate.
3. Implements a mandate in a ballot measure approved by the voters.
4. Results from a documented request from the only local governments affected.
5. Provides (or fall within the purview of existing) revenue sources or other financing mechanisms.
6. Results in savings that are equal to or exceed any costs.
7. Creates, eliminates, or changes the penalty for a new crime or infraction.

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FUNDING FOR REIMBURSABLE LOCAL COSTS **6606** (Cont. 1)
(Revised and renumbered from 6621 on 3/2009)

In addition to these statutory exclusions, the courts have held that costs of statutes and regulations are not reimbursable if they:

1. Result from an action undertaken at the option of a local government (County of Contra Costa vs. State of California, 177 Cal App 3d 62.79 (1986).

2. Are not unique to local government, e.g., affect both the private sector and the public sector (County of Los Angeles vs. State of California et al, 43 Cal App 3d 46 (1987)).

If it is determined that the regulation does not impose a reimbursable mandate on local government, it is still necessary to include a specific statement reflecting that determination in the notice and to develop estimates of any non-reimbursable local costs. If it is determined that the regulation does impose a reimbursable mandate on local government, then it is important to state the mandate precisely. This is normally best accomplished by employing a statement, expressed in mandatory terms, which identifies both the affected local governments by group and the activity that will be required of them, e.g., "county clerks shall provide each polling precinct worker with an American flag," "school districts shall provide each student with a lunch box at no cost to the student," "all local governments shall record on videotape all meetings of their governing bodies." With the mandate so stated, it is then possible to proceed to develop an estimate of its cost to local government.

COST ESTIMATING METHODOLOGY 6607

(Revised and renumbered from 6622 on 3/2009)

A standard methodology has been developed for use in estimating costs in regulations. The main components of that methodology are (1) statement of the mandate, (2) background or introductory material, (3) working data, (4) assumptions, (5) calculations, and (6) conclusion.

Descriptions of these components are as follows:

Statement of the Mandate

This is described in SAM Section 6606.

Background or Introductory Material

This component must include the following:

1. A legal description of the legislation which is the basis for the regulation, e.g., Chapter 1234, Statutes of 1996 (SB 123, Smith).
2. Any other pertinent historical data.

Working Data

Working data are any available statistical data and their sources which would identify the affected universe. (For example: Secretary of State data on the number of registered voters and/or polling places, State Department of Education data on school enrollees, or State Controller's reports for the number of local governments.) Also, any "market place" information or standard costs of items needed to comply with the mandate, e.g., quoted process for forms, lunch boxes, video cameras (sales, rentals, or contract services). In addition, it is very useful and, in some instances essential, that a representative sampling of the affected local governments be contacted and queried as to the impact of the mandate on them. Very often organizations representing the affected local governments such as the California State Association of Counties (CSAC) and the League of California Cities can either provide such information directly or identify those local governments most likely to be most affected by and/or able to provide information regarding the mandate's impact on them. Each county has designated a person, usually in the County Executive's Office, as a "local mandate coordinator" for purposes of providing information, upon request, on pending legislation and handling Commission on State Mandates claims. Those coordinators should also be able to assist in developing fiscal estimates for regulations.

Assumptions

On occasion, data regarding the affected universe and/or the price of the mandated item are not readily obtainable. In these instances, it may be necessary to make some reasonable assumptions about the impact. These assumptions must be clearly stated and kept separate from the "hard" data used in developing the estimate.

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COST ESTIMATING METHODOLOGY **6607** (Cont. 1)
(Revised and renumbered from 6622 on 3/2009)

Calculations

Any mathematical computations using working data and/or assumptions necessary to arrive at a resultant cost figure must be displayed. Costs for both the balance of the current fiscal year and for the subsequent two fiscal years must be developed. Separate calculations must be provided for local, state, and federal costs, as appropriate, as described in the succeeding sections. Any savings to each level of government must be similarly identified.

Conclusion

Determinations made by the issuing state agency regarding the applicability of the California Constitution to any resultant costs and/or the need to provide additional funding of any state costs. See SAM Section 6606 for the required information.

NONREIMBURSABLE LOCAL COSTS 6608

(Revised and renumbered from 6623 on 3/2009)

Local governments may incur costs as the result of the issuance of executive regulations. These costs must be identified and estimated by the issuing state agencies even when they are not reimbursable state mandated costs. These costs will generally result from regulations which fall under one of the statutory exceptions listed in Section 6606.

The basic estimating methodology is the same as that set forth in SAM Section 6607; however, it is important to clearly indicate that these are not constitutionally reimbursable mandates and to develop estimates of offsetting savings and costs. For these regulations no estimate of costs is required since only "other nondiscretionary costs" are specified in law; however, there may be occasions where it would be desirable to have an estimate of the costs that would be incurred if all eligible local governments took advantage of the authority conferred by the regulation.

SAVINGS TO LOCAL GOVERNMENTS 6609

(Revised and renumbered from 6624 on 3/2009)

In a sense, savings result from what might be called "negative mandates", since local governments are relieved from doing something they were previously required to do. The same basic estimating methodology as set forth in SAM Section 6607 can be employed to determine local savings in state regulations. In fact, it should be relatively simple to derive estimates of savings since affected local governments must be able to identify what they are doing and what the associated costs are. The discretionary savings must also be identified since the state would be providing local governments with the option, if they choose to take it, to reduce the cost of government.

INCREASES OR REDUCTIONS IN LOCAL REVENUES 6610

(Revised and renumbered from 6625 on 3/2009)

The state agency must prepare an estimate of any revenue changes at the local level as the result of a state executive regulation, any such impact must be included in the estimate prepared by the issuing agency. Any local revenue losses resulting from state executive regulations are not reimbursable under the l mandate law.

COSTS TO STATE AGENCIES 6611

(Revised and renumbered from 6631 on 3/2009)

The issuing state agency must accurately identify costs that other state agencies incur as a result of its regulation. The identification will allow the other affected state agencies to take the appropriate action to secure any needed funding. The basic methodology for estimating costs is set forth in SAM Section 6607. The primary difference, of course, is that the governments contacted for cost data would be state, rather than local agencies or school districts.

Each state agency must carefully review the weekly "California Regulatory Notice Register" published by the Office of Administrative Law (OAL) in order to determine whether any proposed regulation therein would impact that department. The state agency proposing to issue the regulation must notify any affected state agency of any potential impact. Each state agency will have to determine for itself whether it needs to obtain additional funding.

SAVINGS TO STATE AGENCIES 6612

(Revised and renumbered from 6632 on 3/2009)

It is especially important to identify savings to a state agency or agencies when there may be corresponding costs to another state agency, e.g., a transfer of responsibility. Any savings must also be identified so that the total potential magnitude of such savings can be known.

FISCAL IMPACT ON FEDERAL FUNDING OF STATE PROGRAMS 6613

(Revised and renumbered from 6640 on 3/2009)

Increase in Federal Funding

Federal funding of state programs could increase as the result of state regulations if the state acts to exercise authority granted by the federal government. Most likely, this would involve programs which have established sharing ratios and the state acts to increase the size of either the client group or the payments themselves. In this context, it is important to distinguish between regulations which implement federal mandates and those which are issued under authority granted by the federal government.

It must be noted that recent court cases have held that the threatened loss of federal funds is not equivalent to a federal mandate.

Rather than sampling any affected state and/or local entities, it would be appropriate and acceptable for the issuing state agency to either calculate the increased federal fund (based on an established sharing ratio) or to contact the federal agencies involved for their estimates of any fiscal impact.

Reductions in Federal Funds

As with increased federal funds decreases would most likely result for programs involving sharing ratios. The same methodology suggested for estimating federal fund increases may be used for federal fund reductions.

SIGNATURE REQUIRED FOR FISCAL IMPACT STATEMENT (FIS) 6614

(Revised 6/2014)

A state agency adopting, amending, or repealing a routine or emergency regulation shall use the STD. 399 to make a determination and develop an estimate of that proposed regulation's fiscal impact on local governments. The Fiscal Impact Statement section of the STD. 399 must be completed and signed by the agency when a notice of proposed action is submitted for publication in the California Regulatory Notice Register. If the proposed regulation is modified and this modification would cause a change to the fiscal impact of the proposed regulation after the STD. 399 was submitted to Finance and signed, an updated STD. 399 must be submitted to Finance. The STD. 399 and related documents must be submitted in the agency's rulemaking file for the proposed action.

The STD. 399 must be approved and signed by (1) the Agency fiscal officer and (2) the Agency Secretary; the highest ranking official in the state agency, if it is not under an Agency Secretary; or a designee having a written delegation from the Agency Secretary or the highest ranking official before it is submitted to OAL. Prior to submitting an emergency regulation to OAL, a Finance signature on the STD. 399 is not required. In accordance with Government Code section 11346.1, a Finance signature is required when the agency submits to OAL the rulemaking file and certification stating compliance with Government Code sections 11346.2 to 11347.3.

A Finance Program Budget Manager (PBM) or designee signature is required when the Fiscal Impact Statement on the STD. 399 reflects either costs or savings, whether budgeted or not. The estimate in a STD. 399 that is signed by the agency must reflect the actual language of the proposed regulation adopted by the agency. A PBM signature reflects a concurrence that the estimates provided on the STD. 399 are an accurate estimation of the fiscal impact of the proposed regulation. A PBM signature does not reflect a policy endorsement of the regulation itself, a concurrence that the proposed regulation is the most cost-effective option, or an approval to submit a Budget Change Proposal (BCP) to address any identified fiscal impact. Any estimated budget costs or savings must be addressed through the annual budget development and BCP process.

If a proposed regulation is determined to be a major regulation, comments submitted by Finance relating to the required Standardized Regulatory Impact Assessment (SRIA) and a PBM's signature on the STD. 399 do not reflect an endorsement of the SRIA or of the proposed major regulation.

ESTIMATES WHICH REQUIRE DEPARTMENT OF FINANCE ACTION 6615

(Revised and renumbered from 6660 on 3/2009)

Subdivision (c) of Government Code Section 11357 specifically authorizes the DOF to "...review any estimate...for content including, but not limited to, the data and assumptions used in its preparation."

A state agency is not required in all instances to obtain the concurrence of the DOF in its estimate of the fiscal impact of its proposed regulation on governmental agencies. Such concurrence is required when the adoption, amendment, or repeal of a regulation results in local agency costs or savings, in state agency costs or savings, or in other nondiscretionary instances such as local/state revenue increases or decreases which must be depicted on the STD. 399 as follows:

A.1 - Reimbursable Local Costs	B.1 - State Costs
A.2 - Non-Reimbursable Local Costs	B.2 - State Savings
A.3 - Local Savings	B.4 - Other
A.6 - Other	

In addition, the DOF's approval is required for the inclusion in any such estimate of any statement to the effect that reimbursement of local costs will be requested in a subsequent Governor's Budget, Section A.1 (b) on the STD. 399.

Requests for the DOF's concurrence in or approval of a cost estimate for a proposed regulation must be forwarded to the DOF Principal Program Budget Analyst assigned to the issuing state agency at least 30 days prior to the date on which the "notice of proposed adoption" is to be issued. The completed STD. 399 must be submitted to the DOF along with copies of the calculations and assumptions leading to dollar estimates. Those calculations and assumptions must address the proposed regulation's fiscal impact in the current fiscal year and in the two subsequent fiscal years. A copy of the local mandate determination and any attachments thereto must be retained by the issuing state agency in the rulemaking file required by Government Code Section 11347.3. Questions regarding any technical aspects of the state mandate law should be directed to that DOF analyst or other governmental agencies that may be affected by the proposed regulation.

INPUT FROM OTHER GOVERNMENTAL AGENCIES IN THE DEVELOPMENT OF FISCAL ESTIMATES 6616

(Revised and renumbered from 6670 on 3/2009)

State agencies that propose to issue regulations must allow for input from any and all other governmental agencies which express concern about the potential fiscal impact of the regulation on them. Such input must be solicited by the issuing state agency by practical means such as holding public hearings, publishing a notice in the California Regulatory Notice Register, and offering any other appropriate means.

Although the DOF's concurrence is required only for those circumstances set forth in SAM Section 6615, such concurrence may be requested for any other circumstances as well. When the DOF has concurred in the fiscal estimate, the DOF will, if requested, be primarily responsible for providing evidence and testimony to the Commission on State Mandates on any claim from a local government that the regulation results in increased costs. Conversely, the issuing state agency will be primarily responsible in instances where the DOF's concurrence was not obtained.