SB 1099 (Wright) – Regulations

Introduced February 16, 2012, Chaptered September 11, 2012

This bill revises the dates that a regulation or order of repeal is effective; requires within 15 days of the Office of Administrative Law (OAL) filing a state agency's regulation with the Secretary of State (SOS) to post the regulation on the Internet Web Site in an easily marked and identifiable location. Requires the state agency to keep the regulation on its Internet Web site for at least six months from the date the regulation is filed with the SOS. Within five days of posting, the state agency will be required to send to the OAL the Internet Web site link of each regulation the agency posts on its Web site.

These provisions do not apply to a state agency that does not maintain an Internet Web site; requires the OAL to provide on its Web site a list of, and a link to the full text of each regulation filed with the SOS that is pending effectiveness, and; subjects regulations adopted by the Department of Health Services concerning public wading pools to the provisions of law concerning transmittal of certified copies of regulations to the SOS and the California Building Commission.

In pertinent part, this bill provides that unless the effective date is specifically provided, a regulation or an order of repeal shall become effective on a quarterly basis as follows:

- January 1 if the regulation or order of repeal is filed on September 1 to November 30, inclusive;
- April 1 if the regulation or order of repeal is filed on December 1 to February 29, inclusive;
- July 1 if the regulation or order of repeal is filed on March 1 to May 31, inclusive; and
- October 1 if the regulation or order of repeal is filed on June 1 to August 31, inclusive.

Senate Bill No. 1099

CHAPTER 295

An act to amend Sections 11343, 11343.4, and 11344 of the Government Code, and to amend Section 116064 of the Health and Safety Code, relating to regulations.

[Approved by Governor September 11, 2012. Filed with Secretary of State September 11, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1099, Wright. Regulations.

(1) The Administrative Procedure Act generally sets forth the requirements for the adoption, publication, review, and implementation of regulations by state agencies. The act specifically provides that a regulation or order of repeal required to be filed with the Secretary of State shall become effective on the 30th day after the date of filing, subject to certain exceptions.

This bill would instead provide that a regulation or order of repeal is effective on January 1, April 1, July 1, or October 1, as specified, subject to certain exceptions, including, but not limited to, specified regulations adopted by the Fish and Game Commission.

(2) The act requires the Office of Administrative Law to make a free copy of the full text of the California Code of Regulations available on its Internet Web site.

This bill would also require the office to provide on its Internet Web site a list of, and a link to the full text of, each regulation filed with the Secretary of State that is pending effectiveness, as specified.

(3) Existing law requires that every state agency subject to the act that maintains an Internet Web site or similar forum for the electronic publication or distribution of written material publish on that Internet Web site or other forum specified information regarding a proposed regulation or regulatory repeal or amendment.

This bill would also require a state agency to post on its Internet Web site each regulation that is filed with the Secretary of State, as specified, and to send to the office the Internet Web site link of the regulation. The bill would not apply to a state agency that does not maintain an Internet Web site.

This bill would also make a conforming change.

This bill would incorporate additional changes in Section 116064 of the Health and Safety Code, proposed by AB 2114, to be operative only if AB 2114 and this bill are both chaptered and become effective on or before January 1, 2013, and this bill is chaptered last.

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

SECTION 1. Section 11343 of the Government Code is amended to read:

11343. Every state agency shall:

(a) Transmit to the office for filing with the Secretary of State a certified copy of every regulation adopted or amended by it except one that is a building standard.

(b) Transmit to the office for filing with the Secretary of State a certified copy of every order of repeal of a regulation required to be filed under subdivision (a).

(c) (1) Within 15 days of the office filing a state agency's regulation with the Secretary of State, post the regulation on its Internet Web site in an easily marked and identifiable location. The state agency shall keep the regulation on its Internet Web site for at least six months from the date the regulation is filed with the Secretary of State.

(2) Within five days of posting, the state agency shall send to the office the Internet Web site link of each regulation that the agency posts on its Internet Web site pursuant to paragraph (1).

(3) This subdivision shall not apply to a state agency that does not maintain an Internet Web site.

(d) Deliver to the office, at the time of transmittal for filing a regulation or order of repeal, six duplicate copies of the regulation or order of repeal, together with a citation of the authority pursuant to which it or any part thereof was adopted.

(e) Deliver to the office a copy of the notice of proposed action required by Section 11346.4.

(f) Transmit to the California Building Standards Commission for approval a certified copy of every regulation, or order of repeal of a regulation, that is a building standard, together with a citation of authority pursuant to which it or any part thereof was adopted, a copy of the notice of proposed action required by Section 11346.4, and any other records prescribed by the State Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code).

(g) Whenever a certification is required by this section, it shall be made by the head of the state agency that is adopting, amending, or repealing the regulation, or by a designee of the agency head, and the certification and delegation shall be in writing.

SEC. 2. Section 11343.4 of the Government Code is amended to read:

11343.4. (a) Except as otherwise provided in subdivision (b), a regulation or an order of repeal required to be filed with the Secretary of State shall become effective on a quarterly basis as follows:

(1) January 1 if the regulation or order of repeal is filed on September 1 to November 30, inclusive.

(2) April 1 if the regulation or order of repeal is filed on December 1 to February 29, inclusive.

(3) July 1 if the regulation or order of repeal is filed on March 1 to May 31, inclusive.

(4) October 1 if the regulation or order of repeal is filed on June 1 to August 31, inclusive.

(b) The effective dates in subdivision (a) shall not apply in all of the following:

(1) The effective date is specifically provided by the statute pursuant to which the regulation or order of repeal was adopted, in which event it becomes effective on the day prescribed by the statute.

(2) A later date is prescribed by the state agency in a written instrument filed with, or as part of, the regulation or order of repeal.

(3) The agency makes a written request to the office demonstrating good cause for an earlier effective date, in which case the office may prescribe an earlier date.

(4) (A) A regulation adopted by the Fish and Game Commission pursuant to Article 1 (commencing with Section 200) of Chapter 2 of Division 1 of the Fish and Game Code.

(B) A regulation adopted by the Fish and Game Commission that requires a different effective date in order to conform to a federal regulation.

SEC. 3. Section 11344 of the Government Code is amended to read:

11344. The office shall do all of the following:

(a) Provide for the official compilation, printing, and publication of adoption, amendment, or repeal of regulations, which shall be known as the California Code of Regulations. On and after July 1, 1998, the office shall make available on the Internet, free of charge, the full text of the California Code of Regulations, and may contract with another state agency or a private entity in order to provide this service.

(b) Make available on its Internet Web site a list of, and a link to the full text of, each regulation filed with the Secretary of State that is pending effectiveness pursuant to Section 11343.4.

(c) Provide for the compilation, printing, and publication of weekly updates of the California Code of Regulations. This publication shall be known as the California Code of Regulations Supplement and shall contain amendments to the code.

(d) Provide for the publication dates and manner and form in which regulations shall be printed and distributed and ensure that regulations are available in printed form at the earliest practicable date after filing with the Secretary of State.

(e) Ensure that each regulation is printed together with a reference to the statutory authority pursuant to which it was enacted and the specific statute or other provision of law which the regulation is implementing, interpreting, or making specific.

SEC. 4. Section 116064 of the Health and Safety Code is amended to read:

116064. (a) As used in this section the following words have the following meanings:

(1) (A) "Public wading pool" means a pool that meets all of the following criteria:

(i) It has a maximum water depth not exceeding 18 inches.

(ii) It is a pool other than a pool that is located on the premises of a one-unit or two-unit residence, intended solely for the use of the residents or guests.

(B) "Public wading pool" includes, but is not limited to, a pool owned or operated by private persons or agencies, or by state or local governmental agencies.

(C) "Public wading pool" includes, but is not limited to, a pool located in an apartment house, hotel, or similar setting, that is intended for the use of residents or guests.

(2) "Alteration" means any of the following:

(A) To change, modify, or rearrange the structural parts or the design.

(B) To enlarge.

(C) To move the location of.

(D) To install a new water circulation system.

(E) To make any repairs costing fifty dollars ($50) or more to an existing circulation system.

(b) A public wading pool shall have at least two circulation drains per pump that are hydraulically balanced and symmetrically plumbed through one or more "T" fittings, and are separated by a distance of at least three feet in any dimension between the drains.

(c) All public wading pool main drain suction outlets that are under 12 inches across shall be covered with antivortex grates or similar protective devices. All main drain suction outlets shall be covered with grates or antivortex plates that cannot be removed except with the use of tools. Slots or openings in the grates or similar protective devices shall be of a shape, area, and arrangement that would prevent physical entrapment and would not pose any suction hazard to bathers.

(d) (1) The State Department of Health Services may adopt regulations pursuant to this section.

(2) The regulations may include, but not be limited to, standards permitting the use of alternative devices or safeguards, or incorporating new technologies, that produce, at a minimum, equivalent protection against entrapment and suction hazard, whenever these devices, safeguards, or technologies become available to the public.

(3) Regulations adopted pursuant to this section constitute building standards and shall be forwarded pursuant to Section 11343 of the Government Code to the California Building Standards Commission for approval as set forth in Section 18907 of the Health and Safety Code.

(e) The California Building Standards Commission shall approve the building standards as set forth in this section and publish them in the California Building Standards Code by November 1, 1999. The commission shall publish the text of this section in Title 24 of the California Code of Regulations, Part 2, Chapter 31B, requirements for public swimming pools, with the following note: "NOTE: These building standards are in statute

but have not been adopted through the regulatory process." Enforcement of the standards set forth in this section does not depend upon adoption of regulations, therefore, enforcement agencies shall enforce the standards pursuant to the timeline set forth in this section prior to adoption of related regulations.

(f) The maximum velocity in the pump suction hydraulic system shall not exceed six feet per second when 100 percent of the pump's flow comes from the main drain system and any main drain suction fitting in the system is completely blocked.

(g) On and after January 1, 1998, all newly constructed public wading pools shall be constructed in compliance with this section.

(h) Commencing January 1, 1998, whenever a construction permit is issued for alteration of an existing public wading pool, it shall be retrofitted so as to be in compliance with this section.

(i) By January 1, 2000, every public wading pool, regardless of the date of original construction, shall be retrofitted to comply with this section.

SEC. 4.5. Section 116064 of the Health and Safety Code is amended to read:

116064. (a) As used in this section the following words have the following meanings:

(1) (A) "Public wading pool" means a pool that meets all of the following criteria:

(i) It has a maximum water depth not exceeding 18 inches.

(ii) It is a pool other than a pool that is located on the premises of a one-unit or two-unit residence, intended solely for the use of the residents or guests.

(B) "Public wading pool" includes, but is not limited to, a pool owned or operated by private persons or agencies, or by state or local governmental agencies.

(C) "Public wading pool" includes, but is not limited to, a pool located in an apartment house, hotel, or similar setting, that is intended for the use of residents or guests.

(2) "Alteration" means any of the following:

(A) To change, modify, or rearrange the structural parts or the design.

(B) To enlarge.

(C) To move the location of.

(D) To install a new water circulation system.

(E) To make any repairs costing fifty dollars ($50) or more to an existing circulation system.

(3) "ANSI/APSP performance standard" means a standard that is accredited by the American National Standards Institute (ANSI) and published by the Association of Pool and Spa Professionals (APSP).

(4) "Suction outlet" means a fitting or fixture typically located at the bottom or on the sides of a swimming pool that conducts water to a recirculating pump.

(b) A public wading pool shall have at least two circulation suction outlets per pump that are hydraulically balanced and symmetrically plumbed

through one or more "T" fittings, and are separated by a distance of at least three feet in any dimension between the suction outlets.

(c) All public wading pool suction outlets shall be covered with antivortex grates or similar protective devices. All suction outlets shall be covered with grates or antivortex plates that cannot be removed except with the use of tools. Slots or openings in the grates or similar protective devices shall be of a shape, area, and arrangement that would prevent physical entrapment and would not pose any suction hazard to bathers.

(d) (1) The State Department of Health Services may adopt regulations pursuant to this section.

(2) The regulations may include, but not be limited to, standards permitting the use of alternative devices or safeguards, or incorporating new technologies, that produce, at a minimum, equivalent protection against entrapment and suction hazard, whenever these devices, safeguards, or technologies become available to the public.

(3) Regulations adopted pursuant to this section constitute building standards and shall be forwarded pursuant to Section 11343 of the Government Code to the California Building Standards Commission for approval as set forth in Section 18907 of the Health and Safety Code.

(e) The California Building Standards Commission shall approve the building standards as set forth in this section and publish them in the California Building Standards Code by November 1, 1999. The commission shall publish the text of this section in Title 24 of the California Code of Regulations, Part 2, Chapter 31B, requirements for public swimming pools, with the following note: "NOTE: These building standards are in statute but have not been adopted through the regulatory process." Enforcement of the standards set forth in this section does not depend upon adoption of regulations, therefore, enforcement agencies shall enforce the standards pursuant to the timeline set forth in this section prior to adoption of related regulations.

(f) The maximum velocity in the pump suction hydraulic system shall not exceed six feet per second when 100 percent of the pump's flow comes from the circulation system and any suction outlet in the system is completely blocked.

(g) On and after January 1, 1998, all newly constructed public wading pools shall be constructed in compliance with this section.

(h) Commencing January 1, 1998, whenever a construction permit is issued for alteration of an existing public wading pool, it shall be retrofitted so as to be in compliance with this section.

(i) By January 1, 2000, every public wading pool, regardless of the date of original construction, shall be retrofitted to comply with this section.

SEC. 5. Section 4.5 of this bill incorporates amendments to Section 116064 of the Health and Safety Code proposed by both this bill and Assembly Bill 2114. It shall become operative only if (1) both bills are enacted and become effective on or before January 1, 2013, (2) each bill amends Section 116064 of the Health and Safety Code, and (3) this bill is

enacted after Assembly Bill 2114, in which case Section 4 of this bill shall not become operative.

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