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Testimony to the Little Hoover Commission

By: **Robert E. Raymer, PE; Senior Engineer/Technical Director
California Building Industry Association**

Issue: Economic Analysis in Regulatory Decision-Making

General Concerns

Economic analysis?: The fact is, state agencies rarely do a detailed, item-by-item economic impact analysis of their proposed regulation(s). The vast majority of regulatory submittals are usually accompanied by "boiler plate" language indicating that "*the agency has determined that there will be no significant economic impact*".

To be fair, it is safe to assume that most of the agencies involved in the development and adoption of building codes, with the exception of the California Energy Commission, have little or no budget resources allocated for the development of economic impact analysis. However, if an agency is adopting regulations, that agency should be preparing an economic analysis that provides an overview of anticipated compliance cost and the impact that cost will have on small business, local government and housing. And just as important, that economic impact should be made readily available to the public.

Conflict of Interest: In most instances, the agency that is developing the regulation is also charged with determining whether or not there is an adverse economic impact on small business, local government and/or housing. There is an inherent conflict of interest here. An analysis that indicates a "negative impact" on one or more entities will immediately create cause for alarm among those entities. Although it is frustrating to the business community, it is no surprise that the vast majority of state agency analysis indicates that there will be "*no significant economic impact*."

Reality vs. "test tube": State agencies should use "real world application" of their regulations when determining cost of compliance. For example: The CEC does not use a "standard, marketable home" when estimating the cost of complying with changes to their energy efficiency standards....they never have. Consequently, what the CEC estimates as a \$300-\$400 cost of compliance may well cost the consumer \$2,000. Generically, an agency should be identifying the differential cost of complying with the new regulation versus that associated with compliance with the existing regulation and then determining if that differential cost will indeed have a some manner of economic impact on one or more of the statutorily identified entities (business, small business, local government, and housing).

Suggested Enhancements to Existing Statute

Require Actual Cost Breakdown of Regulatory Proposal: It would be very helpful to see an actual economic analysis wherein the agency specifies the "**estimated cost of compliance**" with each regulatory proposal. If the cost of compliance is \$0, they should say so.

The agency should also be providing (without being asked) the analysis for which they used in arriving at their estimated cost of compliance. In almost 30 years of representing the homebuilding industry in front of numerous state agencies (ie: CEC, PUC, ARB, DWR, BSC, SFM, DSA, HCD, etc), it is extremely rare to actually see a "\$" sign in their economic analysis.

Agencies should be required to produce an economic analysis that includes as its basis the "estimated cost of compliance" of the proposed regulation and this should be accompanied by the related economic assumptions that were used in the development of that analysis.

All of this should be made readily available to the public.

Allow for non-biased, "third party analysis": In the mid-1990's, we were able to get a law passed that allowed the economic analysis of a state agency to be challenged and for that analysis to be sent to the Trade & Commerce Agency for a non-biased, third-party critique. Trade & Commerce Agency (and this related statute) has been eliminated. Until there is the ability to go to a non-biased and qualified third-party, the developing agency will always have an inherent conflict of interest that strongly encourages them to grossly low-ball the economic impact of their proposal.