April 30, 2021

TO: Members, Senate Appropriations Committee

SUBJECT: SB 410 (LEYVA) OCCUPATIONAL SAFETY AND HEALTH: REGULATIONS
OPPOSE – AS AMENDED MARCH 3, 2021
SCHEDULED FOR HEARING – MAY 3, 2021

The California Chamber of Commerce and the listed organizations respectfully **OPPOSE SB 410** (**Leyva**), as amended March 3, 2021 because it would deny policymakers, the regulated community, and the public critical economic data on the effects of regulations related to workplace safety.

Background on SRIA Analysis

The Standardized Regulatory Impact Analysis (or "SRIA") process was created by this legislature in 2011 in SB 617 (Calderon). SB 617 was passed by vast majorities in both houses[1] with the goal of ensuring that new regulations of a sufficiently large size (economic impact exceeding $50 million) should be thoroughly analyzed and that the Department of Finance (DOF) should review that estimated economic impact to confirm the methodology used in these estimates were suitable. As a result of the SRIA process, improved economic analysis has been available to members of the public and policy makers over the past decade.[2]

Functionally, **SB 410** would exempt just one agency (Cal/OSHA) from the SRIA requirements that would continue to be applied to all other state agencies. There is no logical justification for this specific exclusion; Cal/OSHA's regulations are no different in that respect than the California Air Resources Board, or the Department of Transportation, or any other agency. Notably, the SRIA process requires consideration of the creation or elimination of jobs within the state and the creation of new or existing businesses in the state, as well as the benefits of the regulation to the health and welfare or California residents, worker safety, and the state's environment. In short – SRIA analysis requires a broad, thorough economic analysis, considering both the benefits and costs of a regulation, and considering alternative measures. **SB 410** would deny California's policy makers and the public this important data for one of the most critical agencies in the state, Cal/OSHA.

SRIA Fills Analytic Gaps in Other Analysis and is Considerably More Thorough

Moreover, SRIA analysis fills a gap among the other related analysis of fiscal effect because it is not a "check-the-box" form, but a truly detailed analysis of the regulation, its benefits, its costs, and alternatives. For comparison, the "Economic Impact Statement" ("EIS" - a separate, cursory form that must be prepared for each regulation in the state) is 5 pages long and is essentially a "fill-in-the-blank" form with little actual analysis.[3] For comparison, the final SRIA related to Cal/OSHA's Revisions to Occupational Lead Standards[4] is 66 pages long and includes detailed consideration of the regulation, its health benefits, alternatives, and which industries will be effected, and the anticipated cost to each. There is simply no credible argument that the EIS fulfills the role of SRIA when the actual documents are examined.

Both the LAO and DOF Have Seen Benefits to the SRIA Process

In fact, the Legislative Analyst's Office reviewed the SRIA process in 2017,[5] acknowledging its value and urging it be *strengthened*, not removed. In the words of the LAO, "[SRIA has] increased the consistency of agencies' analyses and, as a result of the additional DOF oversight, agency analyses of proposed rules are often more robust and of higher quality."[6]

Similarly, the DOF acknowledged the value of SRIA analysis in identifying cross-jurisdictional issues. In response to the prior iteration of this bill (SB 772 (Leyva), 2017), saying "We know that major regulations implemented by one department may have unknown side effects on other state agencies or result in reimbursable state mandates. The SRIA process provides an opportunity to analyze these side effects . . ." Then, regarding whether removal of SRIA analysis for Cal/OSHA regulations was preferable, DOF

[1] Vote information available at: https://leginfo.legislature.ca.gov/faces/billVotesClient.xhtml?bill_id=201120120SB617
[2] The Dept. of Finance's website regarding SRIA analysis itself shows its value. There, reviewers will note that the Department of Finance commonly issues corrections because the economic estimates used by agencies are incorrect and requires agencies to revise their calculations as a result.
[3] Example Economic Impact Statement available here: https://oag.ca.gov/sites/all/files/agweb/pdfs/privacy/ccpa-std399.pdf
[4] Available here: https://www.dof.ca.gov/Forecasting/Economics/Major_Regulations/Major_Regulations_Table/documents/SRIA_DIR_Lead_Safety_Standards_Revised200830.pdf
[5] *See "Improving California's Regulatory Analysis*, Legislative Analyst's Office, Feb 2017 – available at: https://lao.ca.gov/reports/2017/3542/Improving-CA-Regulatory-Analysis-020317.pdf
[6] *Id.* at page 12.

commented: ". . . but exempting certain major regulations from this analysis risks creating costs on other state agencies or reimbursable state mandates."[7]

For True Emergencies, SRIA Does NOT Apply and Does NOT Slow Down Regulations

The SRIA process actually does not slow down any truly urgent regulations because it *does not apply* to most regulations,[8] and does not apply to *emergency regulations*. As a result, the vast majority of regulations (and all emergency regulations) are not affected by SRIA analysis. Recent emergency regulations provide a perfect example – such as 2019's Protection from Wildfire Smoke Emergency Temporary Standard, or 2020's COVID-19 Emergency Temporary Standard. Both of these emergency regulations moved quickly and were approved by the Standards Board promptly, without any requirement for SRIA.

Because non-emergency regulations can remain in effect for decades to come, we do not believe that delaying by months to allow expert analysis on their effects is unreasonable. To the contrary, minimal delays to allow expert analysis regarding the benefits, costs, and the effect such regulations may have on other state agencies is worthwhile.

Also, we would like to briefly identify why one regulation might take longer to analyze than another. Unsurprisingly, SRIA analysis may take longer when the regulation being analyzed is more complicated. For example, if a regulation covers a wider range of workplaces (meaning more factual scenarios must be considered) or has more complicated provisions, then its effects will take longer to analyze. Similarly, if the initial analysis is incomplete and the DOF identifies failures that must be corrected, that may also delay completion. But the issues above are not failures in the process – to the contrary, they are innate to good analysis. Complicated situations take time, and mistakes must be corrected. Those are not reasons to abandon SRIA – they are, in fact, its proper function.

Put simply: big decisions must be built on good data. As the COVID-19 pandemic has shown us, science and analysis takes time, and our policy actions must be shaped by that knowledge. The SRIA process ensures that high-quality, thorough analysis is available for California's regulations – and we believe its removal would only harm public policy outcomes at Cal/OSHA.

For these reasons, we **OPPOSE SB 410 (Leyva)**.

Sincerely,

Robert Moutrie
Policy Advocate
California Chamber of Commerce
on behalf of

Acclamation Insurance Management Services
Agricultural Council of California
Allied Managed Care
American Composites Manufacturers Association
Associated General Contractors
Association of California School Administrators
California Association of Joint Powers Authorities
California Association of Health Facilities
California Association of Winegrape Growers
California Beer and Beverage Distributors
California Business Properties Association
California Chamber of Commerce
California Farm Bureau
California Framing Contractors Association
California Grocers Association
California Hotel and Lodging Association

[7] Department of Finance (DOF) Comments on SB 772 (Leyva – 2017), Assembly Appropriations Committee Hearing, July 19, 2017.

[8] Notably, all SRIA's conducted on an annual basis are noted on the Department of Finance's website (https://www.dof.ca.gov/Forecasting/Economics/Major_Regulations/Major_Regulations_Table/). As a quick look will show, SRIA only covers a fraction of the regulations passed in the state. For 2020, only 9 regulations were classified as "major", and therefore required SRIA, across all agencies in California.

California League of Food Producers
California Manufacturers & Technology Association
California New Car Dealers Association
California Restaurant Association
California Retailers Association
California Special Districts Association
California State Association of Counties
Coalition of Small and Disabled Veteran Businesses
Family Business Association of California
Flasher Barricade Association
Housing Contractors of California
Long Beach Area Chamber of Commerce
National Electrical Contractors Association
National Elevator Industry, Inc.
Official Police Garages of Los Angeles
PCI West – Chapter of the Precast/Prestressed Concrete Institute
Public Risk Innovation, Solutions and Management
Residential Contractors Association
Southern California Contractors Association
Styrene Information & Research Center
Tri County Chamber Alliance
United Contractors
Western Growers Association
Western Steel Council
Wine Institute

cc: Legislative Affairs, Office of the Governor
Jessica Golly, Office of Senator Leyva
Robert Ingenito, Senate Appropriations Committee