

Memorandum 99-52

Administrative Rulemaking: Exemptions from Administrative Procedure Act

In May, 1999, the staff prepared a list of approximately 250 specific exemptions from the rulemaking requirements of the Administrative Procedure Act. The list was circulated as part of a request for public comment on the listed exemptions. The stated purpose was to solicit input on whether any of the exemptions is “questionable as a matter of policy, or ... obsolete or otherwise defective technically.” The request for public comment was also published in the California Regulatory Notice Register.

We did not receive any comments criticizing any of the listed exemptions. However, we did receive one comment expressing support for a listed exemption See Pub. Cont. Code § 10302.5 (exemption for product specifications in public contracting). We also received three comments pointing out exemptions that were inadvertently omitted from the list. See Gov’t Code §§ 11357(b) (exemption for Department of Finance instructions regarding fiscal analysis of proposed regulations), 14615.1 (exemption for State Administrative Manual provisions), 19582.5 (authority for designation of precedent decisions by State Personnel Board, which are in turn exempt from APA pursuant to Government Code Section 11425.60).

The staff does not believe that any further inquiry is necessary. However, we should perhaps include some mention of the results of the inquiry in our final report on administrative rulemaking. **The staff proposes the following language, with a footnote, as indicated:**

The Commission prepared a list of specific exemptions from the rulemaking requirements of the Administrative Procedure Act and solicited input from interested parties as to whether any of the listed exemptions were problematic.¹ No problems were identified.

1. The list was distributed to the Commission’s mailing list and published in the California Regulatory Notice Register. See 99 Cal. Regulatory Notice Reg. 1236 (June 18, 1999). In addition, the Commission has learned of three exemption provisions that were

not included in the distributed list. See Gov't Code §§ 11357(b) (exemption for Department of Finance instructions regarding fiscal analysis of proposed regulations), 14615.1 (exemption for State Administrative Manual provisions), 19582.5 (authority for designation of precedent decisions by State Personnel Board, which are in turn exempt from rulemaking requirements pursuant to Government Code Section 11425.60).

Respectfully submitted,

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