

1                   A bill to be entitled  
2           An act relating to agency rulemaking; amending s.  
3           120.54, F.S.; requiring certain notices to include an  
4           agency website address for a specified purpose;  
5           requiring an agency to prepare a statement of  
6           estimated regulatory costs before adopting or amending  
7           any rule other than an emergency rule; requiring an  
8           agency to prepare a statement of estimated regulatory  
9           costs before repealing a rule in certain  
10          circumstances; amending s. 120.541, F.S.; requiring  
11          the Department of State to include on the Florida  
12          Administrative Register website the agency website  
13          addresses where statements of estimated regulatory  
14          costs can be viewed in their entirety; requiring an  
15          agency to include in its notice of intended action the  
16          agency website address where the statement of  
17          estimated regulatory cost can be read in its entirety;  
18          requiring an agency to provide a notice of revision  
19          when an agency revises a statement of estimated  
20          regulatory cost; providing an effective date.

21  
22   Be It Enacted by the Legislature of the State of Florida:

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24           Section 1. Paragraphs (a) and (b) of subsection (3) of  
25          section 120.54, Florida Statutes, are amended to read:

26 120.54 Rulemaking.—

27 (3) ADOPTION PROCEDURES.—

28 (a) Notices.—

29 1. Prior to the adoption, amendment, or repeal of any rule  
30 other than an emergency rule, an agency, ~~upon approval of the~~  
31 ~~agency head,~~ shall give notice of its intended action, setting  
32 forth a short, plain explanation of the purpose and effect of  
33 the proposed action; the full text of the proposed rule or  
34 amendment and a summary thereof; a reference to the grant of  
35 rulemaking authority pursuant to which the rule is adopted; and  
36 a reference to the section or subsection of the Florida Statutes  
37 or the Laws of Florida being implemented or interpreted. The  
38 notice must include a summary of the agency's statement of the  
39 estimated regulatory costs, if one has been prepared, based on  
40 the factors set forth in s. 120.541(2); an agency website  
41 address where the statement of estimated regulatory cost can be  
42 viewed in its entirety; a statement that any person who wishes  
43 to provide the agency with information regarding the statement  
44 of estimated regulatory costs, or to provide a proposal for a  
45 lower cost regulatory alternative as provided by s. 120.541(1),  
46 must do so in writing within 21 days after publication of the  
47 notice; and a statement as to whether, based on the statement of  
48 the estimated regulatory costs or other information expressly  
49 relied upon and described by the agency if no statement of  
50 regulatory costs is required, the proposed rule is expected to

51 require legislative ratification pursuant to s. 120.541(3). The  
52 notice must state the procedure for requesting a public hearing  
53 on the proposed rule. Except when the intended action is the  
54 repeal of a rule, the notice must include a reference both to  
55 the date on which and to the place where the notice of rule  
56 development that is required by subsection (2) appeared.

57 2. The notice shall be published in the Florida  
58 Administrative Register not less than 28 days prior to the  
59 intended action. The proposed rule shall be available for  
60 inspection and copying by the public at the time of the  
61 publication of notice.

62 3. The notice shall be mailed to all persons named in the  
63 proposed rule and to all persons who, at least 14 days prior to  
64 such mailing, have made requests of the agency for advance  
65 notice of its proceedings. The agency shall also give such  
66 notice as is prescribed by rule to those particular classes of  
67 persons to whom the intended action is directed.

68 4. The adopting agency shall file with the committee, at  
69 least 21 days prior to the proposed adoption date, a copy of  
70 each rule it proposes to adopt; a copy of any material  
71 incorporated by reference in the rule; a detailed written  
72 statement of the facts and circumstances justifying the proposed  
73 rule; a copy of any statement of estimated regulatory costs that  
74 has been prepared pursuant to s. 120.541; a statement of the  
75 extent to which the proposed rule relates to federal standards

76 or rules on the same subject; and the notice required by  
 77 subparagraph 1.

78 (b) Special matters to be considered in rule adoption.—

79 1. Statement of estimated regulatory costs.—Before the  
 80 adoption or, ~~amendment, or repeal~~ of any rule other than an  
 81 emergency rule, an agency must ~~is encouraged to~~ prepare a  
 82 statement of estimated regulatory costs of the proposed rule, as  
 83 provided by s. 120.541. However, an agency is not required to  
 84 prepare a statement of estimated regulatory cost for a rule  
 85 repeal unless such repeal would impose a regulatory cost. In any  
 86 challenge to a rule repeal, such rule repeal must be considered  
 87 presumptively correct by the Joint Administrative Procedures  
 88 Committee, in any proceeding before the Division of  
 89 Administrative Hearings, or in any proceeding before a court of  
 90 competent jurisdiction. However, an agency must prepare a  
 91 ~~statement of estimated regulatory costs of the proposed rule, as~~  
 92 ~~provided by s. 120.541, if:~~

93 a. ~~The proposed rule will have an adverse impact on small~~  
 94 ~~business; or~~

95 b. ~~The proposed rule is likely to directly or indirectly~~  
 96 ~~increase regulatory costs in excess of \$200,000 in the aggregate~~  
 97 ~~in this state within 1 year after the implementation of the~~  
 98 ~~rule.~~

99 2. Small businesses, small counties, and small cities.—

100 a. Each agency, before the adoption, amendment, or repeal

101 of a rule, shall consider the impact of the rule on small  
102 businesses as defined by s. 288.703 and the impact of the rule  
103 on small counties or small cities as defined by s. 120.52.  
104 Whenever practicable, an agency shall tier its rules to reduce  
105 disproportionate impacts on small businesses, small counties, or  
106 small cities to avoid regulating small businesses, small  
107 counties, or small cities that do not contribute significantly  
108 to the problem the rule is designed to address. An agency may  
109 define "small business" to include businesses employing more  
110 than 200 persons, may define "small county" to include those  
111 with populations of more than 75,000, and may define "small  
112 city" to include those with populations of more than 10,000, if  
113 it finds that such a definition is necessary to adapt a rule to  
114 the needs and problems of small businesses, small counties, or  
115 small cities. The agency shall consider each of the following  
116 methods for reducing the impact of the proposed rule on small  
117 businesses, small counties, and small cities, or any combination  
118 of these entities:

119 (I) Establishing less stringent compliance or reporting  
120 requirements in the rule.

121 (II) Establishing less stringent schedules or deadlines in  
122 the rule for compliance or reporting requirements.

123 (III) Consolidating or simplifying the rule's compliance  
124 or reporting requirements.

125 (IV) Establishing performance standards or best management

126 | practices to replace design or operational standards in the  
127 | rule.

128 | (V) Exempting small businesses, small counties, or small  
129 | cities from any or all requirements of the rule.

130 | b.(I) If the agency determines that the proposed action  
131 | will affect small businesses as defined by the agency as  
132 | provided in sub-subparagraph a., the agency shall send written  
133 | notice of the rule to the rules ombudsman in the Executive  
134 | Office of the Governor at least 28 days before the intended  
135 | action.

136 | (II) Each agency shall adopt those regulatory alternatives  
137 | offered by the rules ombudsman in the Executive Office of the  
138 | Governor and provided to the agency no later than 21 days after  
139 | the rules ombudsman's receipt of the written notice of the rule  
140 | which it finds are feasible and consistent with the stated  
141 | objectives of the proposed rule and which would reduce the  
142 | impact on small businesses. When regulatory alternatives are  
143 | offered by the rules ombudsman in the Executive Office of the  
144 | Governor, the 90-day period for filing the rule in subparagraph  
145 | (e)2. is extended for a period of 21 days.

146 | (III) If an agency does not adopt all alternatives offered  
147 | pursuant to this sub-subparagraph, it shall, before rule  
148 | adoption or amendment and pursuant to subparagraph (d)1., file a  
149 | detailed written statement with the committee explaining the  
150 | reasons for failure to adopt such alternatives. Within 3 working

151 days after the filing of such notice, the agency shall send a  
 152 copy of such notice to the rules ombudsman in the Executive  
 153 Office of the Governor.

154 Section 2. Paragraph (b) of subsection (1) of section  
 155 120.541, Florida Statutes, is amended, and subsection (6) is  
 156 added to that section, to read:

157 120.541 Statement of estimated regulatory costs.—

158 (1)

159 (b) If a proposed rule will have an adverse impact on  
 160 small business or if the proposed rule is likely to directly or  
 161 indirectly increase regulatory costs ~~in excess of \$200,000 in~~  
 162 ~~the aggregate within 1 year after the implementation of the~~  
 163 ~~rule~~, the agency shall prepare a statement of estimated  
 164 regulatory costs as required by s. 120.54(3)(b).

165 (6) The Department of State shall include on the Florida  
 166 Administrative Register website the agency website addresses  
 167 where statements of estimated regulatory costs can be viewed in  
 168 their entirety.

169 (a) An agency that prepares a statement of estimated  
 170 regulatory costs must provide, as part of the notice required  
 171 under s. 120.54(3)(a), the agency website address where the  
 172 statement of estimated regulatory cost can be read in its  
 173 entirety to the Department for publication in the Florida  
 174 Administrative Register.

175 (b) An agency that revises a statement of estimated

176 | regulatory costs must provide a notice that a revision has been  
177 | made and an agency website address where the revision can be  
178 | viewed for publication in the Florida Administrative Register.

179 | Section 3. This act shall take effect July 1, 2018.