

## **HJR 9-A — Rulemaking/H 1565 New Effective Date**

by Representative Dorworth (Identical to SJR 20-A by Senator Bennett)

This joint resolution establishes a new effective date of November 17, 2010, for CS/CS/HB 1565, which was passed by both chambers of the Legislature during the 2010 Regular Session.

Pursuant to Section 9, Article III of the State Constitution, the effective date of a law passed over the veto of the governor shall take effect either on the 60th day after adjournment sine die of the session in which the veto is overridden, on a later date fixed in the law, or on a date fixed by resolution passed by both houses of the Legislature. HJR 9-A accomplishes the third alternative expressed in the constitution.

CS/CS/HB 1565 made a number of changes to ch. 120, F.S., the Administrative Procedures Act, related to the timing of comments and challenges to agency rules, and to legislative ratification of rules that met certain conditions. Specifically, the legislation:

- Expands current law to require an agency to prepare a “statement of estimated regulatory costs” (SERC) prior to the adoption, amendment, or repeal of any rule that has an adverse impact on small business or is likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate.
- Requires an agency, when a substantially affected person or business submits a lower-cost alternative proposal to a proposed agency rule, to either revise its earlier SERC and either adopt the alternative or state the reasons for rejecting the alternative in favor of its proposed rule.
- Requires a SERC to include an economic analysis of whether the proposed rule directly or indirectly is likely to have an adverse impact in excess of \$1 million in the aggregate within 5 years after the rule’s implementation on:
  - Economic growth, private-sector job creation or employment, or private-sector investment;
  - Business competitiveness, private-sector investment, productivity, innovation, or the ability of persons doing business in Florida to compete with out-of-state businesses or domestic markets; or
  - Increased regulatory costs, including transactional costs.

If the SERC’s economic analysis indicates that the proposed rule or rule amendment creates any of the aforementioned adverse impact triggers, the rule must be submitted to the President of the Senate and the Speaker of the House of Representatives 30 days before the next regular legislative session. The rule may not take effect until ratified by the Legislature.

Exceptions to legislative ratification are emergency rules and rules adopted pursuant to federal standards.

These provisions became law without the Governor’s signature with an effective date of November 17, 2010.

*Vote: Senate 34-4; House 101-18*