



552926

585-08013-08

Proposed Committee Substitute by the Committee on Governmental  
Operations

1                                   A bill to be entitled  
2           An act relating to economic development; amending ss.  
3           11.908 and 11.911, F.S.; requiring that the report of the  
4           Small Business Regulatory Advisory Council be included in  
5           recommendations of the Joint Legislative Sunset Committee;  
6           amending s. 11.919, F.S.; requiring agency assistance to  
7           the Small Business Regulatory Advisory Council;  
8           authorizing the council to inspect agency documents;  
9           amending s. 120.54, F.S.; requiring state agencies to  
10          prepare statements of estimated regulatory costs;  
11          requiring agency notification to the Small Business  
12          Regulatory Advisory Council relating to proposed agency  
13          action affecting small businesses; requiring the agency to  
14          adopt regulatory alternatives offered by the council under  
15          certain circumstances; providing for extending the period  
16          for filing a rule when regulatory alternatives are offered  
17          by the council; providing for outside review of regulatory  
18          alternatives that are not adopted by the agency and for  
19          the agency to respond; amending s. 120.74, F.S.; requiring  
20          biennial rule review by each agency to consider the impact  
21          of rules on small businesses; requiring that the results  
22          be included in a report to the Legislature; creating s.  
23          288.7001, F.S.; providing a short title; providing  
24          definitions; creating the Small Business Regulatory  
25          Advisory Council; providing for appointments, membership,  
26          and meetings; providing an administrative location for the  
27          council; providing powers and limitations of the council;



552926

585-08013-08

28 providing for coordinated review of agency rules by the  
29 council as part of agency sunset review; providing  
30 timelines for review; requiring that the council issue a  
31 business-friendly scorecard of agency rules; creating s.  
32 288.7002, F.S.; providing definitions; providing for the  
33 selection of a Small Business Advocate; providing for  
34 preferred qualifications of the advocate; providing duties  
35 of the advocate; providing for agency cooperation with the  
36 advocate; providing for an annual report by the advocate  
37 to the Governor and Legislature; providing an effective  
38 date.

39

40 Be It Enacted by the Legislature of the State of Florida:

41

42 Section 1. Subsection (2) of section 11.908, Florida  
43 Statutes, is amended to read:

44 11.908 Committee duties.--No later than March 1 of the year  
45 in which a state agency or its advisory committees are scheduled  
46 to be reviewed, the committee shall and the joint committee may:

47 (2) Consult with the Legislative Budget Commission, the  
48 Small Business Regulatory Advisory Council, relevant substantive  
49 and appropriations committees of the Senate and the House of  
50 Representatives, the Governor's Office of Policy and Budgeting,  
51 the Auditor General, and the Chief Financial Officer, or their  
52 successors, relating to the review of the agency and its advisory  
53 committees.

54 Section 2. Paragraph (a) of subsection (2) of section  
55 11.911, Florida Statutes, is amended to read:

56 11.911 Committee recommendations.--



552926

585-08013-08

57 (2) In its report on a state agency, the joint committee  
58 shall:

59 (a) Make recommendations on the abolition, continuation, or  
60 reorganization of each state agency and its advisory committees  
61 and on the need for the performance of the functions of the  
62 agency and its advisory committees. If the committee recommends  
63 continuation or reorganization, the committee shall include in  
64 its recommendations the report of the Small Business Regulatory  
65 Advisory Council, as provided in s. 288.7001, regarding the rules  
66 of each agency.

67 Section 3. Section 11.919, Florida Statutes, is amended to  
68 read:

69 11.919 Assistance of and access to state agencies.--

70 (1) The committee and the Small Business Regulatory  
71 Advisory Council may access or request information and request  
72 the assistance of state agencies and officers. When assistance is  
73 requested, a state agency or officer shall assist the committee  
74 and the Small Business Regulatory Advisory Council.

75 Section 4. Paragraph (b) of subsection (3) of section  
76 120.54, Florida Statutes, is amended to read:

77 120.54 Rulemaking.--

78 (3) ADOPTION PROCEDURES.--

79 (b) Special matters to be considered in rule adoption.--

80 1. Statement of estimated regulatory costs.--Prior to the  
81 adoption, amendment, or repeal of any rule other than an  
82 emergency rule, an agency is encouraged to prepare a statement of  
83 estimated regulatory costs of the proposed rule, as provided by  
84 s. 120.541. However, an agency shall prepare a statement of  
85 estimated regulatory costs of the proposed rule, as provided by



552926

585-08013-08

86 s. 120.541, if the proposed rule will have an impact on small  
87 businesses.

88 2. Small businesses, small counties, and small cities.--

89 a. Each agency, before the adoption, amendment, or repeal  
90 of a rule, shall consider the impact of the rule on small  
91 businesses as defined by s. 288.703 and the impact of the rule on  
92 small counties or small cities as defined by s. 120.52. Whenever  
93 practicable, an agency shall tier its rules to reduce  
94 disproportionate impacts on small businesses, small counties, or  
95 small cities to avoid regulating small businesses, small  
96 counties, or small cities that do not contribute significantly to  
97 the problem the rule is designed to address. An agency may define  
98 "small business" to include businesses employing more than 100  
99 persons, may define "small county" to include those with  
100 populations of more than 75,000, and may define "small city" to  
101 include those with populations of more than 10,000, if it finds  
102 that such a definition is necessary to adapt a rule to the needs  
103 and problems of small businesses, small counties, or small  
104 cities. The agency shall consider each of the following methods  
105 for reducing the impact of the proposed rule on small businesses,  
106 small counties, and small cities, or any combination of these  
107 entities:

108 (I) Establishing less stringent compliance or reporting  
109 requirements in the rule.

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

112 (III) Consolidating or simplifying the rule's compliance or  
113 reporting requirements.

114 (IV) Establishing performance standards or best-management  
115 practices to replace design or operational standards in the rule.



552926

585-08013-08

116 (V) Exempting small businesses, small counties, or small  
117 cities from any or all requirements of the rule.

118 b.(I) If the agency determines that the proposed action  
119 will affect small businesses as defined by the agency as provided  
120 in sub-subparagraph a., the agency shall send written notice of  
121 the rule to the Small Business Regulatory Advisory Council at  
122 least ~~ombudsman of the Office of Tourism, Trade, and Economic~~  
123 ~~Development not less than~~ 28 days prior to the intended action.

124 (II) Each agency shall adopt those regulatory alternatives  
125 offered by the Small Business Regulatory Advisory Council  
126 ~~ombudsman~~ and provided to the agency no later than 21 days after  
127 the council's ~~ombudsman's~~ receipt of the written notice of the  
128 rule which it finds are feasible and consistent with the stated  
129 objectives of the proposed rule and which would reduce the impact  
130 on small businesses. When regulatory alternatives are offered by  
131 the council ~~Small Business ombudsman~~, the 90-day period for  
132 filing the rule in subparagraph (e)2. is extended for a period of  
133 21 days.

134 (III) If an agency does not adopt all alternatives offered  
135 pursuant to this sub-subparagraph, it shall, prior to rule  
136 adoption or amendment and pursuant to subparagraph (d)1., file a  
137 detailed written statement with the committee explaining the  
138 reasons for failure to adopt such alternatives. Within 3 working  
139 days after ~~of~~ the filing of such notice, the agency shall send a  
140 copy of such notice to the Small Business Regulatory Advisory  
141 Council ~~ombudsman~~. The council may request that the President of  
142 the Senate and the Speaker of the House of Representatives direct  
143 the Office of Program Policy Analysis and Government  
144 Accountability to determine whether the rejected alternatives  
145 reduce the impact on small businesses while meeting the stated



552926

585-08013-08

146 objectives of the proposed rule. Within 60 days after the date of  
147 the directive from the presiding officers, the Office of Program  
148 Policy Analysis and Government Accountability shall report to the  
149 Administrative Procedures Committee its findings as to whether  
150 the rejected alternatives would reduce the impact on small  
151 businesses while meeting the stated objectives of the proposed  
152 rule. The Office of Program Policy Analysis and Government  
153 Accountability shall consider the proposed rule, the economic  
154 impact statement, the written statement of the agency, the  
155 proposed alternatives, and any comment submitted during the  
156 comment period on the proposed rule. The Office of Program Policy  
157 Analysis and Government Accountability shall submit a report of  
158 its findings and recommendations to the Governor, the President  
159 of the Senate, and the Speaker of the House of Representatives.  
160 The Administrative Procedures Committee shall report such  
161 findings to the agency and the agency shall respond in writing to  
162 the Administrative Procedures Committee if the Office of Program  
163 Policy Analysis and Government Accountability found that the  
164 regulatory alternatives would reduce the impact on small  
165 businesses while meeting the stated objectives of the proposed  
166 rule. If the agency does not adopt the regulatory alternatives,  
167 it must also provide a detailed written statement to the  
168 Administrative Procedures Committee as to why it will not adopt  
169 the alternatives.

170 Section 5. Subsection (1) of section 120.74, Florida  
171 Statutes, is amended to read:

172 120.74 Agency review, revision, and report.--

173 (1) Each agency shall review and revise its rules as often  
174 as necessary to ensure that its rules are correct and comply with  
175 statutory requirements. Additionally, each agency shall perform a



552926

585-08013-08

176 formal review of its rules every 2 years. In the review, each  
177 agency must:

- 178 (a) Identify and correct deficiencies in its rules;  
179 (b) Clarify and simplify its rules;  
180 (c) Delete obsolete or unnecessary rules;  
181 (d) Delete rules that are redundant of statutes;  
182 (e) Seek to improve efficiency, reduce paperwork, or  
183 decrease costs to government and the private sector; ~~and~~  
184 (f) Contact agencies that have concurrent or overlapping  
185 jurisdiction to determine whether their rules can be coordinated  
186 to promote efficiency, reduce paperwork, or decrease costs to  
187 government and the private sector; and-  
188 (g) Determine whether the rules should be continued without  
189 change or should be amended or repealed to reduce the impact on  
190 small businesses while meeting the stated objectives of the  
191 proposed rule.

192 (2) Beginning October 1, 1997, and by October 1 of every  
193 other year thereafter, the head of each agency shall file a  
194 report with the President of the Senate, the Speaker of the House  
195 of Representatives, and the committee, with a copy to each  
196 appropriate standing committee of the Legislature, which  
197 certifies that the agency has complied with the requirements of  
198 this subsection. The report must specify any changes made to its  
199 rules as a result of the review and, when appropriate, recommend  
200 statutory changes that will promote efficiency, reduce paperwork,  
201 or decrease costs to government and the private sector. The  
202 report must specifically address the economic impact of the rules  
203 on small businesses. The report must identify the types of cases  
204 or disputes in which the agency is involved which should be



552926

585-08013-08

205 | conducted under the summary hearing process described in s.  
206 | 120.574.

207 |       Section 6. Section 288.7001, Florida Statutes, is created  
208 | to read:

209 |       288.7001 Small Business Regulatory Advisory Council.--

210 |       (1) SHORT TITLE.--This section may be cited as the "Small  
211 | Business Regulatory Relief Act."

212 |       (2) DEFINITIONS.--As used in this section, the term:

213 |       (a) "Agency" has the same meaning as provided in s. 120.52.

214 |       (b) "Council" means the Small Business Regulatory Advisory  
215 | Council.

216 |       (c) "Rule" has the same meaning as provided in s. 120.52.

217 |       (d) "Small business" has the same meaning as provided in s.  
218 | 288.703.

219 |       (3) CREATION OF SMALL BUSINESS REGULATORY ADVISORY COUNCIL;  
220 | MEMBERSHIP; POWERS AND DUTIES.--

221 |       (a) The Small Business Regulatory Advisory Council is  
222 | created. The council shall consist of nine members who are  
223 | current or former small business owners, three appointed by the  
224 | Governor, three appointed by the President of the Senate, and  
225 | three appointed by the Speaker of the House of Representatives.  
226 | The initial appointments to the council must be made by September  
227 | 1, 2008. The members shall be from different geographic regions  
228 | of the state. Members shall be appointed to 4-year terms; however  
229 | in order to establish staggered terms, for the initial  
230 | appointments, each appointing official shall appoint one member  
231 | to a 2-year term and two members to a 4-year term. A member may  
232 | not serve more than three consecutive terms. Members shall select  
233 | the chairperson from among the members of the council. The  
234 | council shall meet quarterly or upon the call of the chairperson.





552926

585-08013-08

235 A majority of the members constitutes a quorum for the conduct of  
236 business. Members of the council shall serve without  
237 compensation. The appointing official may remove his or her  
238 appointee without cause at any time. A member whose term has  
239 expired shall continue to serve on the council until such time as  
240 a replacement is appointed. Vacancies shall be filled for the  
241 remainder of the term and by the original appointing official.

242 (b) The council is established, assigned to, and  
243 administratively housed within the Florida Small Business  
244 Development Center Network, which shall provide staff support to  
245 the council.

246 (c) The council may:

247 1. Provide agencies with recommendations regarding proposed  
248 rules or programs that may adversely affect small businesses;

249 2. Consider requests from small business owners to review  
250 rules or programs adopted by an agency;

251 3. Consider requests from small business owners to review  
252 small business owners' private property rights related to rules  
253 or programs adopted or implemented by an agency; and

254 4. Review rules adopted by an agency to determine whether a  
255 rule places an unnecessary burden on small businesses and make  
256 recommendations to the agency to mitigate the adverse effects.

257 (d) The council may not:

258 1. Initiate or intervene in any administrative or judicial  
259 proceeding; or

260 2. Issue subpoenas.

261 (e) The council shall prepare and submit a written annual  
262 report to the Governor, the President of the Senate, and the  
263 Speaker of the House of Representatives which describes the  
264 activities and recommendations of the council.



552926

585-08013-08

265        (4) PERIODIC REVIEW OF RULES.--  
266        (a) In coordination with the review schedule provided in s.  
267 11.905, the council may review rules of agencies subject to  
268 sunset review in order to determine whether the rules should be  
269 continued without change or should be amended or repealed to  
270 reduce the impact of the rules on small businesses, subject to  
271 the requirement that the recommendations of the council must be  
272 feasible and consistent with the stated objectives of the rules.  
273        (b) In reviewing agency rules to reduce the impact on small  
274 businesses, the council, in coordination with the agency, shall  
275 consider the following factors:  
276            1. Continued need for the rule;  
277            2. The nature of complaints or comments received from the  
278 public concerning the rule;  
279            3. The complexity of the rule;  
280            4. The extent to which the rule overlaps, duplicates, or  
281 conflicts with other federal, state, or local government rules;  
282 and  
283            5. The length of time since the rule has been evaluated or  
284 the degree to which technology, economic conditions, or other  
285 factors have changed in the topical area affected by the rule.  
286        (c) Within 6 months after the agency report is submitted to  
287 the Joint Legislative Sunset Committee pursuant to s. 11.907, the  
288 council shall provide a report to the Governor, the President of  
289 the Senate, the Speaker of the House of Representatives, and the  
290 Joint Legislative Sunset Committee which includes recommendations  
291 and evaluations of agency rules and programs regarding regulatory  
292 fairness for small businesses. A component of the report shall be  
293 a rating system, developed by the council, entitled "Small  
294 Business Friendliness and Development Scorecard."



552926

585-08013-08

295 Section 7. Section 288.7002, Florida Statutes, is created  
296 to read:

297 288.7002 Small Business Advocate.--

298 (1) DEFINITIONS.--As used in this section, the term:

299 (a) "Advocate" means the Florida Small Business Advocate  
300 who is also the director of the Office of Small Business  
301 Advocate.

302 (b) "Director" means the director of the Office of Small  
303 Business Advocate.

304 (c) "Office" means the Office of Small Business Advocate.

305 (2) ADMINISTRATION.--The Office of Small Business Advocate  
306 is established, assigned to, and administratively housed within  
307 the Florida Small Business Development Center Network. The  
308 director shall be the Florida Small Business Advocate.

309 (3) DIRECTOR OF THE OFFICE OF SMALL BUSINESS ADVOCATE;  
310 APPOINTMENT; DUTIES.--

311 (a) The advocate shall be selected by the director of the  
312 Florida Small Business Development Center Network, and shall be  
313 an employee of or under contract with the Florida Small Business  
314 Development Center Network. Preferred qualifications for the  
315 advocate include at least 5 years' experience in small  
316 businesses, extensive knowledge of the issues and challenges of  
317 importance to small businesses, and actual experience in advocacy  
318 for and assistance to small businesses.

319 (b) The duties and functions of the advocate include all of  
320 the following:

321 1. Act as staff for the Small Business Regulatory Advisory  
322 Council.

323 2. Serve as principal advocate in the state on behalf of  
324 small businesses, including, but not limited to, advisory



552926

585-08013-08

325 participation in the consideration of all legislation and  
326 administrative rules that affect small businesses, and advocacy  
327 concerning state policy and programs related to small businesses  
328 with respect to disaster preparedness and recovery, including the  
329 provision technical assistance.

330 3. Represent the views and interests of small businesses  
331 before agencies whose policies and activities may affect small  
332 businesses. Among other activities, the advocate may encourage  
333 standardized applications and information packages that would  
334 include all the information needed by each agency that a business  
335 has to deal with in order to prevent an applicant from having to  
336 fill out duplicative information on forms from various agencies.

337 4. Enlist the cooperation and assistance of public and  
338 private agencies, businesses, and other organizations in  
339 disseminating information about the programs and services  
340 provided by all levels of government which are of benefit to  
341 small businesses, and information on how small businesses can  
342 participate in, or make use of, those programs and services.

343 5. Issue a report every 2 years evaluating the efforts of  
344 agencies which significantly regulate small businesses, assist  
345 minority and other small business enterprises, and make  
346 recommendations that may be appropriate to assist the development  
347 and strengthening of minority and other small business  
348 enterprises.

349 6. Consult with experts and authorities in the fields of  
350 small business investment, venture capital investment, and  
351 commercial banking and other comparable finance institutions  
352 involved in the financing of business, and with individuals who  
353 have regulatory, legal, economic, or financial expertise,



552926

585-08013-08

354 including members of the academic community and individuals who  
355 generally represent the public interest.

356 7. Seek the assistance and cooperation of all agencies and  
357 departments providing services to, or affecting, small businesses  
358 in order to ensure the coordination of state efforts.

359 8. Receive and respond to complaints from small businesses  
360 concerning the actions of agencies and the operative effects of  
361 state laws and rules adversely affecting those businesses. The  
362 advocate shall establish an annual process for small businesses  
363 to nominate agency rules or programs for reform. The advocate  
364 shall publish those nominations online and update the status of  
365 agency action on the proposed reforms twice yearly.

366 9. Counsel small businesses on how to resolve questions and  
367 problems concerning the relationship of small business to state  
368 government.

369 10. Maintain, publicize, and distribute an annual list of  
370 any persons serving as small business ombudsmen throughout state  
371 government.

372 11. Coordinate a statewide conference on small businesses  
373 with public and private organizations and entities impacting  
374 small business in the state.

375 12. Coordinate annual public meetings to share best  
376 practices for small business disaster preparedness. The meetings  
377 shall be held in consultation with regional and statewide small  
378 business organizations and shall take place in different  
379 locations throughout the state.

380 (4) REPORTS AND DOCUMENTS FURNISHED TO SMALL BUSINESS  
381 ADVOCATE; ANNUAL REPORTS.--

382 (a) Each agency of the state shall furnish to the advocate  
383 the reports, documents, and information that are public records



552926

585-08013-08

384 and that the director deems necessary to carry out his or her  
385 functions under this chapter.

386 (b) The advocate shall prepare and submit a written annual  
387 report to the Governor, the President of the Senate, and the  
388 Speaker of the House of Representatives which describes the  
389 activities and recommendations of the office.

390 Section 8. This act shall take effect July 1, 2008.