



567702

CM.CM.06660

Proposed Committee Substitute by the Committee on Commerce

1 A bill to be entitled

2 An act relating to economic development; creating s.  
3 11.9006, F.S.; providing a short title; providing  
4 definitions; creating the Small Business Regulatory  
5 Advisory Council; providing for appointments, membership,  
6 and meetings; providing an administrative location for the  
7 council; providing powers and limitations of the council;  
8 providing for coordinated review of agency rules by the  
9 council with agency sunset review; providing timelines for  
10 review; providing for the council to issue a business-  
11 friendly scorecard of agency rules; creating s. 11.9007,  
12 F.S.; providing definitions; providing for selection of  
13 small business advocate; providing for preferred  
14 qualifications of advocate; providing duties of advocate;  
15 providing for agency cooperation with advocate; providing  
16 for annual report by advocate to Governor and Legislature;  
17 amending s. 11.908, F.S.; requiring report of the Small  
18 Business Regulatory Advisory Council to be included in  
19 recommendations of Joint Legislative Sunset Committee;  
20 amending s. 11.919; requiring agency assistance to the  
21 Small Business Regulatory Advisory Council; authorizing  
22 the council to inspect agency documents; amending s.  
23 120.54, F.S.; requiring agency to prepare statement of  
24 estimated regulatory costs; requiring agency notification  
25 to Small Business Regulatory Advisory Council relating to  
26 proposed agency action affecting small businesses;  
27 requiring the agency to adopt regulatory alternatives  
28 offered by the council under certain circumstances;  
29 providing for a rule-filing extension when regulatory



567702

CM.CM.06660

30 alternatives are offered by the council; providing for  
31 outside review of regulatory alternatives not adopted by  
32 the agency and for agency response; amending s. 120.74,  
33 F.S.; requiring biennial rule review by agency to consider  
34 impact of rules on small businesses and results to be  
35 included in report to Legislature; providing an effective  
36 date.

37  
38 Be It Enacted by the Legislature of the State of Florida:

39  
40 Section 1. Section 11.9006, Florida Statutes, is created to  
41 read:

42 11.9006 Small Business Regulatory Advisory Council.--

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

45 (2) DEFINITIONS.--As used in this section:

46 (a) "Agency" means an agency as defined in s. 120.52.

47 (b) "Council" means the Small Business Regulatory Advisory  
48 Council.

49 (c) "Rule" means a rule as defined by s. 120.52.

50 (d) "Small business" means a small business as defined in  
51 s. 288.703.

52 (3) CREATION OF SMALL BUSINESS REGULATORY ADVISORY COUNCIL;  
53 MEMBERSHIP; POWERS AND DUTIES.--

54 (a) The Small Business Regulatory Advisory Council is  
55 created. The council shall consist of nine members who are  
56 current or former small business owners, three appointed by the  
57 Governor and three each appointed by the President of the Senate  
58 and the Speaker of the House of Representatives. The initial  
59 appointments to the council must be made within 60 days from the



567702

CM.CM.06660

60 effective date of this act. The members shall be from different  
61 geographic regions of the state. Members shall serve 4-year  
62 terms; however in order to establish staggered terms, for the  
63 initial appointments, each appointing official shall appoint one  
64 member to a 2-year term and two members to a 4-year term. A  
65 member shall not serve more than three consecutive terms. Members  
66 shall select the chairperson from among the members of the  
67 council. The council shall meet quarterly or upon the call of the  
68 chairperson. A majority of the members constitutes a quorum for  
69 the conduct of business. Members of the council shall serve  
70 without compensation. The appointing official may remove his or  
71 her appointee without cause at any time. A member whose term has  
72 expired shall continue to serve on the council until such time as  
73 a replacement is appointed. Vacancies shall be filled for the  
74 remainder of the term and by the original appointing official.

75 (b) The council is established, assigned to, and  
76 administratively housed within the Florida Small Business  
77 Development Center Network, which shall provide staff support to  
78 the council.

79 (c) The council may:

80 1. Provide agencies with recommendations regarding proposed  
81 rules or programs that may adversely affect small business;

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

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

87 4. Review rules promulgated by an agency to determine  
88 whether a rule places an unnecessary burden on small business and



567702

CM.CM.06660

89 make recommendations to the agency to mitigate the adverse  
90 effects.

91 (d) The council does not have authority to:

92 1. Initiate or intervene in any administrative or judicial  
93 proceeding; or

94 2. Issue subpoenas.

95 (e) The council shall prepare and submit a written annual  
96 report to the Governor, the President of the Senate, and the  
97 Speaker of the House of Representatives that describes the  
98 activities and recommendations of the council.

99 (4) PERIODIC REVIEW OF RULES.--

100 (a) In coordination with the Sunset Review schedule provided  
101 in s. 11.905, the council may review rules of agencies subject to  
102 sunset review to determine whether the rules should be continued  
103 without change or should be amended or repealed to reduce the  
104 impact of the rules on small businesses, subject to the  
105 requirement that the recommendations of the council must be  
106 feasible and consistent with the stated objectives of the rules.

107 (b) In reviewing agency rules to reduce the impact on small  
108 businesses, the council, in coordination with the agency, shall  
109 consider the following factors:

110 1. Continued need for the rule;

111 2. The nature of complaints or comments received from the  
112 public concerning the rule;

113 3. The complexity of the rule;

114 4. The extent to which the rule overlaps, duplicates or  
115 conflicts with other federal, state and local government rules;

116 and



567702

CM.CM.06660

117 5. The length of time since the rule has been evaluated or  
118 the degree to which technology, economic conditions or other  
119 factors have changed in the topical area affected by the rule.

120 (c) Within 6 months after the agency report is submitted to  
121 the Joint Legislative Sunset Committee pursuant to s. 11.907, the  
122 council shall provide a report to the Governor, the President of  
123 the Senate, the Speaker of the House of Representatives, and the  
124 Joint Legislative Sunset Committee that includes recommendations  
125 and evaluations of agency rules and programs regarding regulatory  
126 fairness for small businesses. A component of the report shall be  
127 a rating system, developed by the council, entitled "Small  
128 Business Friendliness and Development Scorecard."

129 Section 2. Section 11.9007, Florida Statutes, is created to  
130 read:

131 11.9007 SMALL BUSINESS ADVOCATE.--

132 (1) DEFINITIONS.--

133 (a) "Advocate" means the Florida Small Business Advocate  
134 who is also the Director of the Office of Small Business  
135 Advocate.

136 (b) "Director" means the Director of the Office of Small  
137 Business Advocate.

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

139 (2) The Office of Small Business Advocate is established,  
140 assigned to, and administratively housed within the Florida Small  
141 Business Development Center Network. The director shall be the  
142 Florida Small Business Advocate.

143 (3) DIRECTOR OF THE OFFICE OF SMALL BUSINESS ADVOCATE;  
144 APPOINTMENT; DUTIES.--

145 (a) The advocate shall be selected by the director of the  
146 Florida Small Business Development Center Network, and shall be



567702

CM.CM.06660

147 an employee of or under contract with the Florida Small Business  
148 Development Center Network. Preferred qualifications for the  
149 advocate will include at least 5 years' experience in small  
150 business, extensive knowledge of the issues and challenges of  
151 importance to small business and actual experience in small  
152 business advocacy and assistance.

153 (b) The duties and functions of the advocate shall include  
154 all of the following:

155 1. Act as staff for the Small Business Regulatory Advisory  
156 Council.

157 2. Serve as principal advocate in the state on behalf of  
158 small businesses, including, but not limited to, advisory  
159 participation in the consideration of all legislation and  
160 administrative rules that affect small businesses, and advocacy  
161 on state policy and programs related to small businesses on  
162 disaster preparedness and recovery including providing technical  
163 assistance.

164 3. Represent the views and interests of small businesses  
165 before agencies whose policies and activities may affect small  
166 businesses. Among other activities, the advocate may encourage  
167 standardized applications and information packages that would  
168 include all the information needed by each agency that a business  
169 has to deal with to prevent an applicant from having to fill out  
170 duplicative information on forms from various agencies.

171 4. Enlist the cooperation and assistance of public and  
172 private agencies, businesses, and other organizations in  
173 disseminating information about the programs and services  
174 provided by all levels of government that are of benefit to small  
175 businesses, and information on how small businesses can  
176 participate in, or make use of, those programs and services.



567702

CM.CM.06660

177       5. Issue a report every 2 years evaluating the efforts of  
178 agencies that significantly regulate small businesses, assist  
179 minority and other small business enterprises, and make  
180 recommendations that may be appropriate to assist the development  
181 and strengthening of minority and other small business  
182 enterprises.

183       6. Consult with experts and authorities in the fields of  
184 small business investment, venture capital investment, and  
185 commercial banking and other comparable finance institutions  
186 involved in the financing of business, and with individuals with  
187 regulatory, legal, economic, or financial expertise, including  
188 members of the academic community, and individuals who generally  
189 represent the public interest.

190       7. Seek the assistance and cooperation of all agencies and  
191 departments providing services to, or affecting, small business,  
192 to ensure coordination of state efforts.

193       8. Receive and respond to complaints from small businesses  
194 concerning the actions of agencies and the operative effects of  
195 state laws and regulations adversely affecting those businesses.  
196 The advocate shall establish an annual process for small  
197 businesses to nominate agency rules or programs for reform. The  
198 advocate shall publish those nominations online and update the  
199 status of agency action on the proposed reforms twice yearly.

200       9. Counsel small businesses on how to resolve questions and  
201 problems concerning the relationship of small business to state  
202 government.

203       10. Maintain, publicize, and distribute an annual list of  
204 any persons serving as small business ombudsmen throughout state  
205 government.



567702

CM.CM.06660

206 11. Coordinate a statewide conference on small business  
207 with public and private organizations and entities impacting  
208 small business in the state.

209 12. Coordinate annual public meetings to share best  
210 practices for small business disaster preparedness. The meetings  
211 shall be held in consultation with regional and statewide small  
212 business organizations and shall take place in different  
213 locations throughout the state.

214 (4) REPORTS AND DOCUMENTS FURNISHED TO SMALL BUSINESS  
215 ADVOCATE; ANNUAL REPORTS.--

216 (a) Each agency of the state shall furnish to the advocate  
217 the reports, documents, and information that are public records  
218 and that the director deems necessary to carry out his or her  
219 functions under this chapter.

220 (b) The advocate shall prepare and submit a written annual  
221 report to the Governor, the President of the Senate, and the  
222 Speaker of the House of Representatives that describes the  
223 activities and recommendations of the office.

224 Section 3. Subsection (2) of section 11.908, Florida  
225 Statutes, is amended to read:

226 11.908 Committee duties.--No later than March 1 of the year  
227 in which a state agency or its advisory committees are scheduled  
228 to be reviewed, the committee shall and the joint committee may:

229 (2) Consult with the Legislative Budget Commission, the  
230 Small Business Regulatory Advisory Council, relevant substantive  
231 and appropriations committees of the Senate and the House of  
232 Representatives, the Governor's Office of Policy and Budgeting,  
233 the Auditor General, and the Chief Financial Officer, or their  
234 successors, relating to the review of the agency and its advisory  
235 committees.





567702

CM.CM.06660

236 Section 4. Paragraph (a) of subsection (2) of section  
237 11.911, Florida Statutes, is amended to read:

238 11.911 Committee recommendations.--

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

241 (a) Make recommendations on the abolition, continuation, or  
242 reorganization of each state agency and its advisory committees  
243 and on the need for the performance of the functions of the  
244 agency and its advisory committees. If the committee recommends  
245 continuation or reorganization, the committee shall include in  
246 its recommendations the report of the Small Business Regulatory  
247 Advisory Council as provided in s. 11.9006, regarding the rules  
248 of each agency.

249 Section 5. Section 11.919, Florida Statutes, is amended to  
250 read:

251 11.919 Assistance of and access to state agencies.--

252 (1) The committee and the Small Business Regulatory  
253 Advisory Council may access or request information and request  
254 the assistance of state agencies and officers. When assistance is  
255 requested, a state agency or officer shall assist the committee  
256 and the Small Business Regulatory Advisory Council.

257 Section 6. Paragraph (b) of subsection (3) of section  
258 120.54, Florida Statutes, is amended to read:

259 120.54 Rulemaking.--

260 (3) ADOPTION PROCEDURES.--

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

262 1. Statement of estimated regulatory costs.--Prior to the  
263 adoption, amendment, or repeal of any rule other than an  
264 emergency rule, an agency is encouraged to prepare a statement of  
265 estimated regulatory costs of the proposed rule, as provided by



567702

CM.CM.06660

266 | s. 120.541. However, an agency shall prepare a statement of  
267 | estimated regulatory costs of the proposed rule, as provided by  
268 | s. 120.541, if the proposed rule will have an impact on small  
269 | business.

270 | 2. Small businesses, small counties, and small cities.--

271 | a. Each agency, before the adoption, amendment, or repeal  
272 | of a rule, shall consider the impact of the rule on small  
273 | businesses as defined by s. 288.703 and the impact of the rule on  
274 | small counties or small cities as defined by s. 120.52. Whenever  
275 | practicable, an agency shall tier its rules to reduce  
276 | disproportionate impacts on small businesses, small counties, or  
277 | small cities to avoid regulating small businesses, small  
278 | counties, or small cities that do not contribute significantly to  
279 | the problem the rule is designed to address. An agency may define  
280 | "small business" to include businesses employing more than 100  
281 | persons, may define "small county" to include those with  
282 | populations of more than 75,000, and may define "small city" to  
283 | include those with populations of more than 10,000, if it finds  
284 | that such a definition is necessary to adapt a rule to the needs  
285 | and problems of small businesses, small counties, or small  
286 | cities. The agency shall consider each of the following methods  
287 | for reducing the impact of the proposed rule on small businesses,  
288 | small counties, and small cities, or any combination of these  
289 | entities:

290 | (I) Establishing less stringent compliance or reporting  
291 | requirements in the rule.

292 | (II) Establishing less stringent schedules or deadlines in  
293 | the rule for compliance or reporting requirements.

294 | (III) Consolidating or simplifying the rule's compliance or  
295 | reporting requirements.



567702

CM.CM.06660

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

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

300 b.(I) If the agency determines that the proposed action  
301 will affect small businesses as defined by the agency as provided  
302 in sub-subparagraph a., the agency shall send written notice of  
303 the rule to the Small Business Regulatory Advisory Council ~~small~~  
304 ~~business ombudsman of the Office of Tourism, Trade, and Economic~~  
305 ~~Development~~ not less than 28 days prior to the intended action.

306 (II) Each agency shall adopt those regulatory alternatives  
307 offered by the Small Business Regulatory Advisory Council  
308 ~~ombudsman~~ and provided to the agency no later than 21 days after  
309 the council's ~~ombudsman's~~ receipt of the written notice of the  
310 rule which it finds are feasible and consistent with the stated  
311 objectives of the proposed rule and which would reduce the impact  
312 on small businesses. When regulatory alternatives are offered by  
313 the Small Business Regulatory Advisory Council ~~ombudsman~~, the 90-  
314 day period for filing the rule in subparagraph (e)2. is extended  
315 for a period of 21 days.

316 (III) If an agency does not adopt all alternatives offered  
317 pursuant to this sub-subparagraph, it shall, prior to rule  
318 adoption or amendment and pursuant to subparagraph (d)1., file a  
319 detailed written statement with the committee explaining the  
320 reasons for failure to adopt such alternatives. Within 3 working  
321 days of the filing of such notice, the agency shall send a copy  
322 of such notice to the Small Business Regulatory Advisory Council  
323 ~~ombudsman~~. The Small Business Regulatory Advisory Council may  
324 make a request of the President of the Senate and the Speaker of  
325 the House of Representatives, that the presiding officers direct



567702

CM.CM.06660

326 the Office of Program Policy Analysis and Government  
327 Accountability to determine whether the rejected alternatives  
328 reduce the impact on small business while meeting the stated  
329 objectives of the proposed rule. Within 60 days after the date of  
330 the directive from the presiding officers, the Office of Program  
331 Policy Analysis and Government Accountability shall report to the  
332 Administrative Procedures Committee its findings as to whether an  
333 alternative reduces the impact on small business while meeting  
334 the stated objectives of the proposed rule. The Office of Program  
335 Policy Analysis and Government Accountability shall consider the  
336 proposed rule, the economic impact statement, the written  
337 statement of the agency, the proposed alternatives, and any  
338 comment submitted during the comment period on the proposed rule.  
339 The Administrative Procedures Committee shall report such  
340 findings to the agency and the agency shall respond in writing to  
341 the Administrative Procedures Committee if the Office of Program  
342 Policy Analysis and Government Accountability found that the  
343 alternative reduced the impact on small business while meeting  
344 the stated objectives of the proposed rule. If the agency will  
345 not adopt the alternative, it must also provide a detailed  
346 written statement to the Administrative Procedures Committee as  
347 to why it will not adopt the alternative.

348 Section 7. Subsection (1) of section 120.74, Florida  
349 Statutes, is amended to read:

350 120.74 Agency review, revision, and report.--

351 (1) Each agency shall review and revise its rules as often  
352 as necessary to ensure that its rules are correct and comply with  
353 statutory requirements. Additionally, each agency shall perform a  
354 formal review of its rules every 2 years. In the review, each  
355 agency must:



567702

CM.CM.06660

- 356 (a) Identify and correct deficiencies in its rules;  
357 (b) Clarify and simplify its rules;  
358 (c) Delete obsolete or unnecessary rules;  
359 (d) Delete rules that are redundant of statutes;  
360 (e) Seek to improve efficiency, reduce paperwork, or  
361 decrease costs to government and the private sector; and  
362 (f) Contact agencies that have concurrent or overlapping  
363 jurisdiction to determine whether their rules can be coordinated  
364 to promote efficiency, reduce paperwork, or decrease costs to  
365 government and the private sector.  
366 (g) Determine whether the rules should be continued without  
367 change or should be amended or repealed to reduce the impact on  
368 small business while meeting the stated objectives of the  
369 proposed rule.
- 370 (2) Beginning October 1, 1997, and by October 1 of every  
371 other year thereafter, the head of each agency shall file a  
372 report with the President of the Senate, the Speaker of the House  
373 of Representatives, and the committee, with a copy to each  
374 appropriate standing committee of the Legislature, which  
375 certifies that the agency has complied with the requirements of  
376 this subsection. The report must specify any changes made to its  
377 rules as a result of the review and, when appropriate, recommend  
378 statutory changes that will promote efficiency, reduce paperwork,  
379 or decrease costs to government and the private sector. The  
380 report must specifically address the economic impact of the rules  
381 on small business. The report must identify the types of cases  
382 or disputes in which the agency is involved which should be  
383 conducted under the summary hearing process described in s.  
384 120.574.
- 385 Section 8. This act shall take effect July 1, 2008.