

By Senator Wise

5-01685-09

20091538__

1 A bill to be entitled
2 An act relating to administrative procedures; amending
3 s. 11.60, F.S.; requiring the Administrative
4 Procedures Committee to provide certain assistance
5 with a review of rules and nonrule policy; amending
6 ss. 11.908, 11.911, and 11.919, F.S.; conforming
7 terminology; amending s. 120.52, F.S.; defining the
8 term "nonrule policy"; amending s. 120.54, F.S.;
9 conforming terminology; amending s. 120.545, F.S.;
10 requiring the committee to establish a system for
11 persons to submit proposals for the repeal of certain
12 rules and nonrule policy; directing the committee to
13 provide certain information to the Small Employer
14 Regulatory Advisory Council and applicable agencies;
15 requiring agencies to display a poster containing
16 specified information; amending ss. 120.80 and 120.81,
17 F.S.; conforming cross-references; amending s.
18 288.7001, F.S.; defining the terms "nonrule policy"
19 and "small employer" and conforming other definitions
20 to changes made by the act; renaming the Small
21 Business Regulatory Advisory Council as the Small
22 Employer Regulatory Advisory Council; revising
23 qualifications of council members; revising powers and
24 duties of the council; revising authority of the
25 council to review rules; providing for the council's
26 review of nonrule policy; amending s. 288.7002, F.S.;
27 requiring the Florida Small Business Advocate to
28 provide certain assistance with the council's review
29 of rules and nonrule policy; conforming terminology

5-01685-09

20091538__

30 and other provisions to changes made by the act;
31 amending ss. 420.9072 and 420.9075, F.S.; conforming
32 cross-references; directing agencies to establish
33 workgroups to identify rules and nonrule policy that
34 impact small employers; requiring agencies to review
35 and repeal certain rules and nonrule policy by a
36 specified date; authorizing the director of the
37 Florida Small Business Development Center Network to
38 extend the deadline under certain circumstances;
39 directing agencies to submit specified information to
40 the council; directing the Florida Small Business
41 Advocate and Administrative Procedures Committee to
42 assist agencies in reviewing rules and nonrule policy;
43 requiring the council and the Office of Program Policy
44 Analysis and Government Accountability to submit
45 reports to the Governor and Legislature; requiring an
46 agency head to appear before the committee and submit
47 an explanation of the agency's failure to comply with
48 the act under certain circumstances; requiring the
49 committee's review of the agency's explanation;
50 providing for future repeal; providing an effective
51 date.

52
53 Be It Enacted by the Legislature of the State of Florida:
54

55 Section 1. Paragraph (n) is added to subsection (2) of
56 section 11.60, Florida Statutes, to read:

57 11.60 Administrative Procedures Committee; creation;
58 membership; powers; duties.-

5-01685-09

20091538__

59 (2) The committee shall:

60 (n) Assist the Small Employer Regulatory Advisory Council
61 with the council's periodic review of rules and nonrule policy
62 under s. 288.7001.

63 Section 2. Subsection (2) of section 11.908, Florida
64 Statutes, is amended to read:

65 11.908 Committee duties.—No later than March 1 of the year
66 in which a state agency or its advisory committees are scheduled
67 to be reviewed, the committee shall and the joint committee may:

68 (2) Consult with the Legislative Budget Commission, the
69 Small Employer ~~Business~~ Regulatory Advisory Council, relevant
70 substantive and appropriations committees of the Senate and the
71 House of Representatives, the Governor's Office of Policy and
72 Budgeting, the Auditor General, and the Chief Financial Officer,
73 or their successors, relating to the review of the agency and
74 its advisory committees.

75 Section 3. Paragraph (a) of subsection (2) of section
76 11.911, Florida Statutes, is amended to read:

77 11.911 Committee recommendations.—

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

80 (a) Make recommendations on the abolition, continuation, or
81 reorganization of each state agency and its advisory committees
82 and on the need for the performance of the functions of the
83 agency and its advisory committees. If the committee recommends
84 continuation or reorganization, the committee shall include in
85 its recommendations the report of the Small Employer ~~Business~~
86 Regulatory Advisory Council, as provided in s. 288.7001,
87 regarding the rules of each agency.

5-01685-09

20091538__

88 Section 4. Subsection (1) of section 11.919, Florida
89 Statutes, is amended to read:

90 11.919 Assistance of and access to state agencies.—

91 (1) The committee and the Small Employer Business
92 Regulatory Advisory Council may access or request information
93 and request the assistance of state agencies and officers. When
94 assistance is requested, a state agency or officer shall assist
95 the committee and the Small Employer Business Regulatory
96 Advisory Council.

97 Section 5. Subsections (12) through (22) of section 120.52,
98 Florida Statutes, are renumbered as subsections (13) through
99 (23), respectively, and a new subsection (12) is added to that
100 section to read:

101 120.52 Definitions.—As used in this act:

102 (12) “Nonrule policy” means each agency statement of
103 general applicability that implements, interprets, or prescribes
104 law or policy or describes the procedure or practice
105 requirements of an agency, and includes any form that imposes
106 any requirement or solicits any information not specifically
107 required by statute or by an existing rule, but that is not a
108 rule. The term includes an unadopted rule.

109 Section 6. Paragraph (b) of subsection (3) of section
110 120.54, Florida Statutes, is amended to read:

111 120.54 Rulemaking.—

112 (3) ADOPTION PROCEDURES.—

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

114 1. Statement of estimated regulatory costs.—Prior to the
115 adoption, amendment, or repeal of any rule other than an
116 emergency rule, an agency is encouraged to prepare a statement

5-01685-09

20091538__

117 of estimated regulatory costs of the proposed rule, as provided
118 by s. 120.541. However, an agency shall prepare a statement of
119 estimated regulatory costs of the proposed rule, as provided by
120 s. 120.541, if the proposed rule will have an impact on small
121 business.

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

123 a. Each agency, before the adoption, amendment, or repeal
124 of a rule, shall consider the impact of the rule on small
125 businesses as defined by s. 288.703 and the impact of the rule
126 on small counties or small cities as defined by s. 120.52.
127 Whenever practicable, an agency shall tier its rules to reduce
128 disproportionate impacts on small businesses, small counties, or
129 small cities to avoid regulating small businesses, small
130 counties, or small cities that do not contribute significantly
131 to the problem the rule is designed to address. An agency may
132 define "small business" to include businesses employing more
133 than 100 persons, may define "small county" to include those
134 with populations of more than 75,000, and may define "small
135 city" to include those with populations of more than 10,000, if
136 it finds that such a definition is necessary to adapt a rule to
137 the needs and problems of small businesses, small counties, or
138 small cities. The agency shall consider each of the following
139 methods for reducing the impact of the proposed rule on small
140 businesses, small counties, and small cities, or any combination
141 of these entities:

142 (I) Establishing less stringent compliance or reporting
143 requirements in the rule.

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

5-01685-09

20091538__

146 (III) Consolidating or simplifying the rule's compliance or
147 reporting requirements.

148 (IV) Establishing performance standards or best-management
149 practices to replace design or operational standards in the
150 rule.

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

153 b.(I) If the agency determines that the proposed action
154 will affect small businesses as defined by the agency as
155 provided in sub-subparagraph a., the agency shall send written
156 notice of the rule to the Small Employer ~~Business~~ Regulatory
157 Advisory Council and the Office of Tourism, Trade, and Economic
158 Development not less than 28 days prior to the intended action.

159 (II) Each agency shall adopt those regulatory alternatives
160 offered by the Small Employer ~~Business~~ Regulatory Advisory
161 Council and provided to the agency no later than 21 days after
162 the council's receipt of the written notice of the rule which it
163 finds are feasible and consistent with the stated objectives of
164 the proposed rule and which would reduce the impact on small
165 businesses. When regulatory alternatives are offered by the
166 Small Employer ~~Business~~ Regulatory Advisory Council, the 90-day
167 period for filing the rule in subparagraph (e)2. is extended for
168 a period of 21 days.

169 (III) If an agency does not adopt all alternatives offered
170 pursuant to this sub-subparagraph, it shall, prior to rule
171 adoption or amendment and pursuant to subparagraph (d)1., file a
172 detailed written statement with the committee explaining the
173 reasons for failure to adopt such alternatives. Within 3 working
174 days of the filing of such notice, the agency shall send a copy

5-01685-09

20091538__

175 of such notice to the Small Employer ~~Business~~ Regulatory
176 Advisory Council. The Small Employer ~~Business~~ Regulatory
177 Advisory Council may make a request of the President of the
178 Senate and the Speaker of the House of Representatives that the
179 presiding officers direct the Office of Program Policy Analysis
180 and Government Accountability to determine whether the rejected
181 alternatives reduce the impact on small business while meeting
182 the stated objectives of the proposed rule. Within 60 days after
183 the date of the directive from the presiding officers, the
184 Office of Program Policy Analysis and Government Accountability
185 shall report to the Administrative Procedures Committee its
186 findings as to whether an alternative reduces the impact on
187 small business while meeting the stated objectives of the
188 proposed rule. The Office of Program Policy Analysis and
189 Government Accountability shall consider the proposed rule, the
190 economic impact statement, the written statement of the agency,
191 the proposed alternatives, and any comment submitted during the
192 comment period on the proposed rule. The Office of Program
193 Policy Analysis and Government Accountability shall submit a
194 report of its findings and recommendations to the Governor, the
195 President of the Senate, and the Speaker of the House of
196 Representatives. The Administrative Procedures Committee shall
197 report such findings to the agency, and the agency shall respond
198 in writing to the Administrative Procedures Committee if the
199 Office of Program Policy Analysis and Government Accountability
200 found that the alternative reduced the impact on small business
201 while meeting the stated objectives of the proposed rule. If the
202 agency will not adopt the alternative, it must also provide a
203 detailed written statement to the committee as to why it will

5-01685-09

20091538__

204 not adopt the alternative.

205 Section 7. Subsection (9) is added to section 120.545,
206 Florida Statutes, to read:

207 120.545 Committee review of agency rules.—

208 (9) (a) The committee shall establish a system that permits
209 a person to identify provisions of an agency's rule or nonrule
210 policy that the person suggests have an impact on small
211 employers as defined in s. 288.7001 and propose that the agency
212 repeal the rule or discontinue all reliance upon the nonrule
213 policy. The system must allow a person to submit his or her
214 proposal through a statewide toll-free telephone number or
215 Internet website and give the person the option to submit the
216 proposal without disclosing the person's name or personal
217 identifying information. The committee shall forward a copy of
218 each proposal to the Small Employer Regulatory Advisory Council
219 and to the applicable agency.

220 (b) The committee shall create and make available to each
221 agency a poster in English and in Spanish that notifies the
222 public of this subsection. The poster must include the statewide
223 toll-free telephone number and Internet website. Each agency
224 shall prominently display the poster at each location at which
225 it displays the Florida minimum wage poster required under s.
226 448.109.

227 Section 8. Subsection (11) of section 120.80, Florida
228 Statutes, is amended to read:

229 120.80 Exceptions and special requirements; agencies.—

230 (11) NATIONAL GUARD.—Notwithstanding s. 120.52 ~~(17)~~ ~~(16)~~, the
231 enlistment, organization, administration, equipment,
232 maintenance, training, and discipline of the militia, National

5-01685-09

20091538__

233 Guard, organized militia, and unorganized militia, as provided
234 by s. 2, Art. X of the State Constitution, are not rules as
235 defined by this chapter.

236 Section 9. Paragraph (c) of subsection (1) and paragraph
237 (a) of subsection (3) of section 120.81, Florida Statutes, are
238 amended to read:

239 120.81 Exceptions and special requirements; general areas.-

240 (1) EDUCATIONAL UNITS.-

241 (c) Notwithstanding s. 120.52 (17) ~~(16)~~, any tests, test
242 scoring criteria, or testing procedures relating to student
243 assessment which are developed or administered by the Department
244 of Education pursuant to s. 1003.43, s. 1003.438, s. 1008.22, or
245 s. 1008.25, or any other statewide educational tests required by
246 law, are not rules.

247 (3) PRISONERS AND PAROLEES.-

248 (a) Notwithstanding s. 120.52 (14) ~~(13)~~, prisoners, as
249 defined by s. 944.02, shall not be considered parties in any
250 proceedings other than those under s. 120.54(3)(c) or (7), and
251 may not seek judicial review under s. 120.68 of any other agency
252 action. Prisoners are not eligible to seek an administrative
253 determination of an agency statement under s. 120.56(4).
254 Parolees shall not be considered parties for purposes of agency
255 action or judicial review when the proceedings relate to the
256 rescission or revocation of parole.

257 Section 10. Section 288.7001, Florida Statutes, is amended
258 to read:

259 288.7001 Small Employer ~~Business~~ Regulatory Advisory
260 Council.-

261 (1) SHORT TITLE.-This section may be cited as the "Small

5-01685-09

20091538__

262 Employer Business Regulatory Relief Act."

263 (2) DEFINITIONS.—As used in this section, the term:

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

265 (b) "Council" means the Small Employer Business Regulatory
266 Advisory Council.

267 (c) "Nonrule policy" means nonrule policy as defined in s.
268 120.52.

269 (d)~~(e)~~ "Rule" means a rule as defined in s. 120.52.

270 (e)~~(d)~~ "Small employer business" means a person who employs
271 250 or fewer employees in this state or a political subdivision
272 as defined in s. 1.01 ~~small business as defined in s. 288.703.~~

273 (3) CREATION OF SMALL EMPLOYER BUSINESS REGULATORY ADVISORY
274 COUNCIL; MEMBERSHIP; POWERS AND DUTIES.—

275 (a) The Small Employer Business Regulatory Advisory Council
276 is created. The council shall consist of nine members who are
277 current or former small employers business owners, three
278 appointed by the Governor, three appointed by the President of
279 the Senate, and three appointed by the Speaker of the House of
280 Representatives. The initial appointments to the council must be
281 made within 60 days after the effective date of this act. The
282 members shall be from different geographic regions of the state.
283 Members shall serve 4-year terms; however, in order to establish
284 staggered terms, for the initial appointments, each appointing
285 official shall appoint one member to a 2-year term and two
286 members to a 4-year term. A member shall not serve more than
287 three consecutive terms. Members shall select the chairperson
288 from among the members of the council. The council shall meet
289 quarterly or upon the call of the chairperson. A majority of the
290 members constitutes a quorum for the conduct of business.

5-01685-09

20091538__

291 Members of the council shall serve without compensation. The
292 appointing official may remove his or her appointee without
293 cause at any time. A member whose term has expired shall
294 continue to serve on the council until such time as a
295 replacement is appointed. Vacancies shall be filled for the
296 remainder of the term and by the original appointing official.

297 (b) The council is established, assigned to, and
298 administratively housed within the Florida Small Business
299 Development Center Network, which shall provide staff support to
300 the council.

301 (c) The council may:

302 1. Provide agencies with recommendations regarding proposed
303 rules, nonrule policy, or programs that may adversely affect
304 small employers ~~business~~;

305 2. Consider requests from small employers ~~business owners~~
306 to review rules, nonrule policy, or programs adopted by an
307 agency;

308 3. Consider requests from small employers ~~business owners~~
309 to review their ~~small business owners'~~ private property rights
310 related to rules, nonrule policy, or programs adopted or
311 implemented by an agency; and

312 4. Review rules and nonrule policy adopted ~~promulgated~~ by
313 an agency to determine whether a rule or nonrule policy places
314 an unnecessary burden on small employers ~~business~~ and make
315 recommendations to the agency to mitigate the adverse effects.

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

317 1. Initiate or intervene in any administrative or judicial
318 proceeding; or

319 2. Issue subpoenas.

5-01685-09

20091538__

320 (e) The council shall prepare and submit a written annual
321 report to the Governor, the President of the Senate, and the
322 Speaker of the House of Representatives that describes the
323 activities and recommendations of the council.

324 (4) PERIODIC REVIEW OF RULES AND NONRULE POLICY.—

325 (a) In coordination with the sunset review schedule
326 provided in s. 11.905, the council may review rules and nonrule
327 policy of agencies subject to sunset review to determine whether
328 the rules or nonrule policy should be continued without change
329 or should be amended or repealed to reduce the impact of the
330 rules and nonrule policy on small employers ~~businesses~~, subject
331 to the requirement that the recommendations of the council must
332 be feasible and consistent with the stated objectives of the
333 rules or nonrule policy.

334 (b) In reviewing agency rules and nonrule policy to reduce
335 the impact on small employers ~~businesses~~, the council, in
336 coordination with the agency, shall consider the following
337 factors:

- 338 1. Continued need for the rule or nonrule policy;
- 339 2. The nature of complaints or comments received from the
340 public concerning the rule or nonrule policy;
- 341 3. The complexity of the rule or nonrule policy;
- 342 4. The extent to which the rule or nonrule policy overlaps,
343 duplicates, or conflicts with other federal, state, and local
344 government rules; and
- 345 5. The length of time since the rule or nonrule policy was
346 ~~has been~~ evaluated or the degree to which technology, economic
347 conditions, or other factors have changed in the topical area
348 affected by the rule or nonrule policy.

5-01685-09

20091538__

349 (c) Within 6 months after the agency report is submitted to
350 the Joint Legislative Sunset Committee pursuant to s. 11.907,
351 the council shall provide a report to the Governor, the
352 President of the Senate, the Speaker of the House of
353 Representatives, and the Joint Legislative Sunset Committee that
354 includes recommendations and evaluations of agency rules,
355 nonrule policy, and programs regarding regulatory fairness for
356 small employers ~~businesses~~. A component of the report shall be a
357 rating system, developed by the council, entitled "Small
358 Employer ~~Business~~ Friendliness and Development Scorecard."

359 Section 11. Paragraph (b) of subsection (3) of section
360 288.7002, Florida Statutes, is amended to read:

361 288.7002 Small business advocate.—

362 (3) DIRECTOR OF THE OFFICE OF SMALL BUSINESS ADVOCATE;
363 APPOINTMENT; DUTIES.—

364 (b) The duties and functions of the advocate shall include
365 the following:

366 1. Act as staff for the Small Employer ~~Business~~ Regulatory
367 Advisory Council.

368 2. Serve as principal advocate in the state on behalf of
369 small businesses, including, but not limited to, advisory
370 participation in the consideration of all legislation and
371 administrative rules that affect small businesses and advocacy
372 on state policy and programs related to small businesses on
373 disaster preparedness and recovery, including providing
374 technical assistance.

375 3. Represent the views and interests of small businesses
376 before agencies whose policies and activities may affect small
377 businesses. Among other activities, the advocate may encourage

5-01685-09

20091538__

378 standardized applications and information packages that would
379 include all the information needed by each agency that a
380 business has to deal with to prevent an applicant from having to
381 fill out duplicative information on forms from various agencies.

382 4. Enlist the cooperation and assistance of public and
383 private agencies, businesses, and other organizations in
384 disseminating information about the programs and services
385 provided by all levels of government that are of benefit to
386 small businesses and information on how small businesses can
387 participate in, or make use of, those programs and services.

388 5. Issue a report every 2 years evaluating the efforts of
389 agencies that significantly regulate small businesses, to assist
390 minority and other small business enterprises and to make
391 recommendations that may be appropriate to assist the
392 development and strengthening of minority and other small
393 business enterprises.

394 6. Consult with experts and authorities in the fields of
395 small business investment, venture capital investment, and
396 commercial banking and other comparable financial institutions
397 involved in the financing of business; with individuals with
398 regulatory, legal, economic, or financial expertise, including
399 members of the academic community; and with individuals who
400 generally represent the public interest.

401 7. Seek the assistance and cooperation of all agencies and
402 departments providing services to, or affecting, small business,
403 to ensure coordination of state efforts.

404 8. Receive and respond to complaints from small businesses
405 concerning the actions of agencies and the operative effects of
406 state laws and regulations adversely affecting those businesses.

5-01685-09

20091538__

407 The advocate shall establish an annual process for small
408 businesses, and for small employers as defined in s. 288.7001,
409 to nominate agency rules, nonrule policy, or programs for
410 reform. The advocate shall publish those nominations online and
411 update the status of agency action on the proposed reforms twice
412 yearly.

413 9. Counsel small businesses on how to resolve questions and
414 problems concerning the relationship of small business to state
415 government.

416 10. Maintain, publicize, and distribute an annual list of
417 persons serving as small business ombudsmen throughout state
418 government.

419 11. Coordinate a statewide conference on small business
420 with public and private organizations and entities impacting
421 small business in the state.

422 12. Coordinate annual public meetings to share best
423 practices for small business disaster preparedness. The meetings
424 shall be held in consultation with regional and statewide small
425 business organizations and shall take place in different
426 locations throughout the state.

427 13. Assist the Small Employer Regulatory Advisory Council
428 with the council's periodic review of rules and nonrule policy
429 under s. 288.7001.

430 Section 12. Paragraph (a) of subsection (1) of section
431 420.9072, Florida Statutes, is amended to read:

432 420.9072 State Housing Initiatives Partnership Program.—The
433 State Housing Initiatives Partnership Program is created for the
434 purpose of providing funds to counties and eligible
435 municipalities as an incentive for the creation of local housing

5-01685-09

20091538__

436 partnerships, to expand production of and preserve affordable
437 housing, to further the housing element of the local government
438 comprehensive plan specific to affordable housing, and to
439 increase housing-related employment.

440 (1) (a) In addition to the legislative findings set forth in
441 s. 420.6015, the Legislature finds that affordable housing is
442 most effectively provided by combining available public and
443 private resources to conserve and improve existing housing and
444 provide new housing for very-low-income households, low-income
445 households, and moderate-income households. The Legislature
446 intends to encourage partnerships in order to secure the
447 benefits of cooperation by the public and private sectors and to
448 reduce the cost of housing for the target group by effectively
449 combining all available resources and cost-saving measures. The
450 Legislature further intends that local governments achieve this
451 combination of resources by encouraging active partnerships
452 between government, lenders, builders and developers, real
453 estate professionals, advocates for low-income persons, and
454 community groups to produce affordable housing and provide
455 related services. Extending the partnership concept to encompass
456 cooperative efforts among small counties as defined in s.
457 120.52(20) ~~(19)~~, and among counties and municipalities is
458 specifically encouraged. Local governments are also intended to
459 establish an affordable housing advisory committee to recommend
460 monetary and nonmonetary incentives for affordable housing as
461 provided in s. 420.9076.

462 Section 13. Subsection (7) of section 420.9075, Florida
463 Statutes, is amended to read:

464 420.9075 Local housing assistance plans; partnerships.—

5-01685-09

20091538__

465 (7) The moneys deposited in the local housing assistance
466 trust fund shall be used to administer and implement the local
467 housing assistance plan. The cost of administering the plan may
468 not exceed 5 percent of the local housing distribution moneys
469 and program income deposited into the trust fund. A county or an
470 eligible municipality may not exceed the 5-percent limitation on
471 administrative costs, unless its governing body finds, by
472 resolution, that 5 percent of the local housing distribution
473 plus 5 percent of program income is insufficient to adequately
474 pay the necessary costs of administering the local housing
475 assistance plan. The cost of administering the program may not
476 exceed 10 percent of the local housing distribution plus 5
477 percent of program income deposited into the trust fund, except
478 that small counties, as defined in s. 120.52(20)~~(19)~~, and
479 eligible municipalities receiving a local housing distribution
480 of up to \$350,000 may use up to 10 percent of program income for
481 administrative costs.

482 Section 14. (1) Each agency as defined in s. 120.52,
483 Florida Statutes, within existing appropriations, shall:

484 (a) Establish one or more workgroups to review the impact
485 of the agency's rules and nonrule policy on small employers as
486 defined in s. 288.7001, Florida Statutes. A workgroup must
487 include representatives of stakeholder groups and trade
488 associations affected by the agency's rules or nonrule policy
489 and individual citizens. Members of a workgroup shall serve at
490 their own expense and may not receive compensation, per diem, or
491 reimbursement for travel expenses related to their membership on
492 the workgroup.

493 (b) Compile a list of the provisions of the agency's rules

5-01685-09

20091538__

494 and nonrule policy determined by the workgroups to have an
495 impact on small employers. The workgroups may consider, but are
496 not limited by, the factors described in s. 288.7001(4)(b),
497 Florida Statutes.

498 (c) Submit to the Small Employer Regulatory Advisory
499 Council by September 15, 2009, the list of provisions of rule
500 and nonrule policy identified by the workgroups. The list must
501 specify the provisions of rule that the agency proposes to
502 repeal and the provisions of nonrule policy upon which the
503 agency proposes to discontinue all reliance. If the agency has
504 initiated rulemaking proceedings to repeal an identified
505 provision of rule, the list must be accompanied by a copy of the
506 notice of the proposed repeal as published in the Florida
507 Administrative Weekly.

508 (d) Repeal or discontinue all reliance upon at least 25
509 percent of the provisions of the agency's rules and nonrule
510 policy that have an impact on small employers by December 1,
511 2009. The director of the Florida Small Business Development
512 Center Network may extend the deadline by up to 180 days for an
513 agency that submits a written request to the director describing
514 the reasons that an extension is needed and demonstrating that
515 the agency, despite a diligent effort to comply with this
516 section, is not able to complete its repeal of rules or
517 discontinuation of reliance upon nonrule policy by the deadline.

518 (e) Notify the Small Employer Regulatory Advisory Council
519 of the agency's rulemaking proceedings to repeal the identified
520 provisions of rule by January 15, 2010, or, if the deadline is
521 extended, within 45 days after the extended deadline. The notice
522 shall also specify the provisions of nonrule policy upon which

5-01685-09

20091538__

523 the agency has discontinued all reliance.

524 (2) The Florida Small Business Advocate and the
525 Administrative Procedures Committee shall assist each agency
526 with its identification and review of rules and nonrule policy
527 that have an impact on small employers.

528 (3) By March 1, 2010, the Small Employer Regulatory
529 Advisory Council shall submit a written report to the Governor,
530 the President of the Senate, and the Speaker of the House of
531 Representatives. The report must describe each agency's
532 compliance with this section. By August 1, 2010, the council
533 shall submit an updated report that describes each agency's
534 compliance as of June 30, 2010. The council shall also report an
535 agency's compliance with this section as part of the agency's
536 Small Employer Friendliness and Development Scorecard under s.
537 288.7001(4)(c), Florida Statutes.

538 (4) (a) By November 1, 2010, the Office of Program Policy
539 Analysis and Government Accountability, in consultation with the
540 Small Employer Regulatory Advisory Council and the
541 Administrative Procedures Committee, shall submit a report to
542 the Governor, the President of the Senate, and the Speaker of
543 the House of Representatives. The report must identify each
544 state agency that is subject to this section and evaluate the
545 extent to which the agency has repealed or discontinued all
546 reliance upon at least 25 percent of the provisions of rule and
547 nonrule policy that have an impact on small employers.

548 (b) If the Office of Program Policy Analysis and Government
549 Accountability finds in its report than an agency has failed to
550 repeal or discontinue all reliance upon at least 25 percent of
551 the provisions of the agency's rules and nonrule policy that

5-01685-09

20091538__

552 have an impact on small employers, the agency head must submit
553 to the Administrative Procedures Committee a written explanation
554 of the agency's failure to comply with this section. The
555 committee, upon receiving an agency's explanation, shall review
556 the explanation as soon as practicable but before adjournment
557 sine die of the 2011 Regular Session of the Legislature. The
558 agency head or his or her designee shall appear before the
559 committee at the meeting at which the committee reviews the
560 agency's explanation.

561 (5) This section is repealed July 1, 2011.

562 Section 15. This act shall take effect July 1, 2009.