

By Senator Altman

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1                   A bill to be entitled  
2           An act relating to rulemaking; creating s. 120.82,  
3           F.S.; providing rulemaking exceptions and special  
4           requirements for small businesses; defining the term  
5           "small business"; requiring state agencies to provide  
6           notification of any proposed agency action or  
7           implementation of any agency action affecting small  
8           businesses; providing notification requirements;  
9           providing for small-business owners to petition a  
10          state agency for a hearing under certain conditions;  
11          requiring state agencies to expedite such petitions;  
12          providing for the submission of certain evidence by  
13          small-business owners; requiring administrative  
14          hearing officers to consider certain information when  
15          making determinations; providing dispute remedies and  
16          relief; providing an effective date.

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

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20           Section 1. Section 120.82, Florida Statutes, is created to  
21 read:

22           120.82 Exceptions and special requirements; small  
23 businesses.—Notwithstanding any other provision of law:

24           (1) As used in this section, the term "small business"  
25 means a company with no more than 100 employees.

26           (2) (a) Each state agency must publish any proposed agency  
27 action or implementation of any agency action that affects small  
28 businesses in the Florida Administrative Weekly. Such action  
29 must also be prominently posted on the homepage of the agency's

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30 website and must include information regarding a small-business  
31 owner's right to appeal such action without legal representation  
32 and instructions for the fair-hearing process.

33 (b) A small-business owner may petition the state agency  
34 for a hearing if the proposed agency action or implementation of  
35 the agency action significantly alters, affects, or interferes  
36 with the ability of the small business to compete or continue  
37 operations without a substantial change to employment or  
38 operations.

39 (c) Any petition filed pursuant to this subsection must be  
40 processed in an expeditious manner.

41 (3) (a) During hearing proceedings, a small-business owner  
42 may submit sworn testimony from employees, customers,  
43 consultants, business owners, and small-business advocates  
44 documenting the economic impact of a state agency decision,  
45 rule, or policy on the small business. Such testimony must be  
46 accepted as prima facie evidence by an administrative hearing  
47 officer.

48 (b) A small-business owner may submit evidence after the  
49 hearing if such evidence or testimony supports the basis for an  
50 economic hardship or documents how the small business is  
51 affected by a loss of income, loss of employment, or loss of  
52 market share.

53 (4) (a) In making a determination, the administrative  
54 hearing officer must consider the impact of the imposition of an  
55 agency action, policy, or rule on the ability of the small  
56 business to continue operations, avoid layoffs, and otherwise  
57 continue operations.

58 (b) An administrative hearing officer may:

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59       1. Require the parties to enter into a mediated agreement  
60 or agree to certain stipulations as a means to resolving the  
61 dispute.

62       2. Grant relief that includes, but is not limited to:

63       a. Waiver of the rule that is cited as a cause of economic  
64 hardship or that creates an undue burden upon the small business  
65 to operate in a competitive manner.

66       b. Modification of the rule in order to eliminate or reduce  
67 the economic hardship for the small business so long as such  
68 modification does not reduce public safety.

69       c. Referral of the rule, policy, or decision to the  
70 Administrative Procedures Committee and the Small Business  
71 Regulatory Advisory Council for review and comment.

72       Section 2. This act shall take effect July 1, 2010.