

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

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

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

21 120.82 Exceptions and special requirements; small
 22 businesses.—Notwithstanding any other provision of law:

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

25 (2) (a) Each state agency must provide written notification
 26 to small-business owners of any proposed agency action or
 27 implementation of any agency action that affects small
 28 businesses. Such notification must inform small-business owners

29 of their right to appeal such action without legal
30 representation and provide instructions for the fair-hearing
31 process. Such notice and information provided to small-business
32 owners must also be published in the Florida Administrative
33 Weekly and posted prominently on the homepage of the agency's
34 website.

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

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

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

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

55 (4) (a) In making a determination, the administrative
56 hearing officer must consider the impact of the imposition of an

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57 agency action, policy, or rule on the ability of the small
58 business to continue operations, avoid layoffs, and otherwise
59 continue operations.

60 (b) An administrative hearing officer may:

61 1. Require the parties to attend a mediation to attempt in
62 good faith to resolve the dispute, either in whole or in part,
63 in accordance with chapter 44. The mediation shall be
64 facilitated by a mediator agreed upon by the parties or a
65 certified circuit court mediator appointed by the administrative
66 hearing officer.

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

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

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

74 c. Referral of the rule, policy, or decision to the
75 Administrative Procedures Committee and the Small Business
76 Regulatory Advisory Council for review and comment.

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