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LEGISLATIVE ACTION

Senate

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House

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Floor: 1/AD/2R

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03/01/2012 11:41 AM

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Senator Garcia moved the following:

**Senate Amendment (with title amendment)**

Between lines 25 and 26

insert:

Section 1. Paragraph (b) of subsection (3) of section 120.54, Florida Statutes, is amended to read:

120.54 Rulemaking.—

(3) ADOPTION PROCEDURES.—

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

1. Statement of estimated regulatory costs.—Before the adoption, amendment, or repeal of any rule other than an emergency rule, an agency is encouraged to prepare a statement of estimated regulatory costs of the proposed rule, as provided



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14 by s. 120.541. However, an agency must prepare a statement of  
15 estimated regulatory costs of the proposed rule, as provided by  
16 s. 120.541, if:

17 a. The proposed rule will have an adverse impact on small  
18 business; or

19 b. The proposed rule is likely to directly or indirectly  
20 increase regulatory costs in excess of \$200,000 in the aggregate  
21 in this state within 1 year after the implementation of the  
22 rule.

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

24 a. Each agency, before the adoption, amendment, or repeal  
25 of a rule, shall consider the impact of the rule on small  
26 businesses as defined by s. 288.703 and the impact of the rule  
27 on small counties or small cities as defined by s. 120.52.  
28 Whenever practicable, an agency shall tier its rules to reduce  
29 disproportionate impacts on small businesses, small counties, or  
30 small cities to avoid regulating small businesses, small  
31 counties, or small cities that do not contribute significantly  
32 to the problem the rule is designed to address. An agency may  
33 define "small business" to include businesses employing more  
34 than 200 persons, may define "small county" to include those  
35 with populations of more than 75,000, and may define "small  
36 city" to include those with populations of more than 10,000, if  
37 it finds that such a definition is necessary to adapt a rule to  
38 the needs and problems of small businesses, small counties, or  
39 small cities. The agency shall consider each of the following  
40 methods for reducing the impact of the proposed rule on small  
41 businesses, small counties, and small cities, or any combination  
42 of these entities:



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43 (I) Establishing less stringent compliance or reporting  
44 requirements in the rule.

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

47 (III) Consolidating or simplifying the rule's compliance or  
48 reporting requirements.

49 (IV) Establishing performance standards or best management  
50 practices to replace design or operational standards in the  
51 rule.

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

54 b.(I) If the agency determines that the proposed action  
55 will affect small businesses as defined by the agency as  
56 provided in sub-subparagraph a., the agency shall send written  
57 notice of the rule to the Small Business Regulatory Advisory  
58 Council and the rules ombudsman in the Executive Office of the  
59 Governor ~~Department of Economic Opportunity~~ at least 28 days  
60 before the intended action.

61 (II) Each agency shall adopt those regulatory alternatives  
62 offered by the Small Business Regulatory Advisory Council and  
63 provided to the agency no later than 21 days after the council's  
64 receipt of the written notice of the rule which it finds are  
65 feasible and consistent with the stated objectives of the  
66 proposed rule and which would reduce the impact on small  
67 businesses. When regulatory alternatives are offered by the  
68 Small Business Regulatory Advisory Council, the 90-day period  
69 for filing the rule in subparagraph (e)2. is extended for a  
70 period of 21 days.

71 (III) If an agency does not adopt all alternatives offered



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72 pursuant to this sub-subparagraph, it shall, before rule  
73 adoption or amendment and pursuant to subparagraph (d)1., file a  
74 detailed written statement with the committee explaining the  
75 reasons for failure to adopt such alternatives. Within 3 working  
76 days after the filing of such notice, the agency shall send a  
77 copy of such notice to the Small Business Regulatory Advisory  
78 Council. The Small Business Regulatory Advisory Council may make  
79 a request of the President of the Senate and the Speaker of the  
80 House of Representatives that the presiding officers direct the  
81 Office of Program Policy Analysis and Government Accountability  
82 to determine whether the rejected alternatives reduce the impact  
83 on small business while meeting the stated objectives of the  
84 proposed rule. Within 60 days after the date of the directive  
85 from the presiding officers, the Office of Program Policy  
86 Analysis and Government Accountability shall report to the  
87 Administrative Procedures Committee its findings as to whether  
88 an alternative reduces the impact on small business while  
89 meeting the stated objectives of the proposed rule. The Office  
90 of Program Policy Analysis and Government Accountability shall  
91 consider the proposed rule, the economic impact statement, the  
92 written statement of the agency, the proposed alternatives, and  
93 any comment submitted during the comment period on the proposed  
94 rule. The Office of Program Policy Analysis and Government  
95 Accountability shall submit a report of its findings and  
96 recommendations to the Governor, the President of the Senate,  
97 and the Speaker of the House of Representatives. The  
98 Administrative Procedures Committee shall report such findings  
99 to the agency, and the agency shall respond in writing to the  
100 Administrative Procedures Committee if the Office of Program



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101 Policy Analysis and Government Accountability found that the  
102 alternative reduced the impact on small business while meeting  
103 the stated objectives of the proposed rule. If the agency will  
104 not adopt the alternative, it must also provide a detailed  
105 written statement to the committee as to why it will not adopt  
106 the alternative.

107  
108 ===== T I T L E A M E N D M E N T =====

109 And the title is amended as follows:

110 Delete line 2

111 and insert:

112 An act relating to administrative procedures; amending  
113 s. 120.54, F.S.; directing an agency under the  
114 Administrative Procedure Act to send written notice of  
115 certain rules affecting small businesses to the rules  
116 ombudsman in the Executive Office of the Governor  
117 rather than to the Department of Economic Opportunity;  
118 amending