

By the Committee on Governmental Oversight and Accountability

585-02465-12

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1 A bill to be entitled
2 An act relating to state agencies; repealing s.
3 110.123(13), F.S., relating to the Florida State
4 Employee Wellness Council; repealing s. 258.155, F.S.,
5 relating to the Judah P. Benjamin Memorial at Gamble
6 Plantation Historical Site Advisory Council; repealing
7 s. 288.7001, F.S., relating to the Small Business
8 Regulatory Advisory Council; repealing s. 288.7002,
9 F.S., relating to the Office of Small Business
10 Advocate; repealing s. 339.64(5), F.S., relating to
11 the Statewide Intermodal Transportation Advisory
12 Council; repealing s. 381.90, F.S., relating to the
13 Health Information Systems Council; repealing s.
14 624.916, F.S., relating to the Developmental
15 Disabilities Compact Workgroup; repealing s. 1004.63,
16 F.S., relating to the Florida Institute for Nuclear
17 Detection and Security; amending ss. 120.54 and
18 120.745, F.S., relating to rule adoption by state
19 agencies; requiring the rules ombudsman in the
20 Executive Office of the Governor to assume certain
21 duties formerly performed by the Small Business
22 Regulatory Advisory Council; deleting provisions that
23 require the Office of Program Policy Analysis and
24 Government Accountability, upon request, to conduct a
25 study and issue a report to the Governor, the
26 President of the Senate, and the Speaker of the House
27 of Representatives regarding the impact on small
28 business of certain proposed agency rules that have
29 been rejected; providing an effective date.

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

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33 Section 1. Subsection (13) of section 110.123, Florida
34 Statutes, is repealed.

35 Section 2. Section 258.155, Florida Statutes, is repealed.

36 Section 3. Section 288.7001, Florida Statutes, is repealed.

37 Section 4. Section 288.7002, Florida Statutes, is repealed.

38 Section 5. Subsection (5) of section 339.64, Florida
39 Statutes, is repealed.

40 Section 6. Section 381.90, Florida Statutes, is repealed.

41 Section 7. Section 624.916, Florida Statutes, is repealed.

42 Section 8. Section 1004.63, Florida Statutes, is repealed.

43 Section 9. Paragraph (b) of subsection (3) of section
44 120.54, Florida Statutes, is amended to read:

45 120.54 Rulemaking.—

46 (3) ADOPTION PROCEDURES.—

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

48 1. Statement of estimated regulatory costs.—Before the
49 adoption, amendment, or repeal of any rule other than an
50 emergency rule, an agency is encouraged to prepare a statement
51 of estimated regulatory costs of the proposed rule, as provided
52 by s. 120.541. However, an agency must prepare a statement of
53 estimated regulatory costs of the proposed rule, as provided by
54 s. 120.541, if:

55 a. The proposed rule will have an adverse impact on small
56 business; or

57 b. The proposed rule is likely to directly or indirectly
58 increase regulatory costs in excess of \$200,000 in the aggregate

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59 in this state within 1 year after the implementation of the
60 rule.

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

62 a. Each agency, before the adoption, amendment, or repeal
63 of a rule, shall consider the impact of the rule on small
64 businesses as defined by s. 288.703 and the impact of the rule
65 on small counties or small cities as defined by s. 120.52.
66 Whenever practicable, an agency shall tier its rules to reduce
67 disproportionate impacts on small businesses, small counties, or
68 small cities to avoid regulating small businesses, small
69 counties, or small cities that do not contribute significantly
70 to the problem the rule is designed to address. An agency may
71 define "small business" to include businesses employing more
72 than 200 persons, may define "small county" to include those
73 with populations of more than 75,000, and may define "small
74 city" to include those with populations of more than 10,000, if
75 it finds that such a definition is necessary to adapt a rule to
76 the needs and problems of small businesses, small counties, or
77 small cities. The agency shall consider each of the following
78 methods for reducing the impact of the proposed rule on small
79 businesses, small counties, and small cities, or any combination
80 of these entities:

81 (I) Establishing less stringent compliance or reporting
82 requirements in the rule.

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

85 (III) Consolidating or simplifying the rule's compliance or
86 reporting requirements.

87 (IV) Establishing performance standards or best management

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88 practices to replace design or operational standards in the
89 rule.

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

92 b.(I) If the agency determines that the proposed action
93 will affect small businesses as defined by the agency as
94 provided in sub-subparagraph a., the agency shall send written
95 notice of the rule to the rules ombudsman in the Executive
96 Office of the Governor ~~Small Business Regulatory Advisory~~
97 ~~Council and the Department of Economic Opportunity~~ at least 28
98 days before the intended action.

99 (II) Each agency shall adopt those regulatory alternatives
100 offered by the rules ombudsman in the Executive Office of the
101 Governor ~~Small Business Regulatory Advisory Council~~ and provided
102 to the agency no later than 21 days after the council's receipt
103 of the written notice of the rule which it finds are feasible
104 and consistent with the stated objectives of the proposed rule
105 and which would reduce the impact on small businesses. When
106 regulatory alternatives are offered by the rules ombudsman in
107 the Executive Office of the Governor ~~Small Business Regulatory~~
108 ~~Advisory Council~~, the 90-day period for filing the rule in
109 subparagraph (e)2. is extended for a period of 21 days.

110 (III) If an agency does not adopt all alternatives offered
111 pursuant to this sub-subparagraph, it shall, before rule
112 adoption or amendment and pursuant to subparagraph (d)1., file a
113 detailed written statement with the committee explaining the
114 reasons for failure to adopt such alternatives. Within 3 working
115 days after the filing of such notice, the agency shall send a
116 copy of such notice to the rules ombudsman in the Executive

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117 Office of the Governor ~~Small Business Regulatory Advisory~~
118 ~~Council. The Small Business Regulatory Advisory Council may make~~
119 ~~a request of the President of the Senate and the Speaker of the~~
120 ~~House of Representatives that the presiding officers direct the~~
121 ~~Office of Program Policy Analysis and Government Accountability~~
122 ~~to determine whether the rejected alternatives reduce the impact~~
123 ~~on small business while meeting the stated objectives of the~~
124 ~~proposed rule. Within 60 days after the date of the directive~~
125 ~~from the presiding officers, the Office of Program Policy~~
126 ~~Analysis and Government Accountability shall report to the~~
127 ~~Administrative Procedures Committee its findings as to whether~~
128 ~~an alternative reduces the impact on small business while~~
129 ~~meeting the stated objectives of the proposed rule. The Office~~
130 ~~of Program Policy Analysis and Government Accountability shall~~
131 ~~consider the proposed rule, the economic impact statement, the~~
132 ~~written statement of the agency, the proposed alternatives, and~~
133 ~~any comment submitted during the comment period on the proposed~~
134 ~~rule. The Office of Program Policy Analysis and Government~~
135 ~~Accountability shall submit a report of its findings and~~
136 ~~recommendations to the Governor, the President of the Senate,~~
137 ~~and the Speaker of the House of Representatives. The~~
138 ~~Administrative Procedures Committee shall report such findings~~
139 ~~to the agency, and the agency shall respond in writing to the~~
140 ~~Administrative Procedures Committee if the Office of Program~~
141 ~~Policy Analysis and Government Accountability found that the~~
142 ~~alternative reduced the impact on small business while meeting~~
143 ~~the stated objectives of the proposed rule. If the agency will~~
144 ~~not adopt the alternative, it must also provide a detailed~~
145 ~~written statement to the committee as to why it will not adopt~~

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146 ~~the alternative.~~

147 Section 10. Paragraphs (a) and (c) of subsection (5) of
148 section 120.745, Florida Statutes, are amended to read:

149 120.745 Legislative review of agency rules in effect on or
150 before November 16, 2010.—

151 (5) COMPLIANCE ECONOMIC REVIEW OF RULES AND REQUIRED
152 REPORT.—Each agency shall perform a compliance economic review
153 and report for all rules, including separate reviews of
154 subparts, listed under Group 1 “Group 1 rules” or Group 2 “Group
155 2 rules” pursuant to subparagraph (2)(g)3. Group 1 rules shall
156 be reviewed and reported on in 2012, and Group 2 rules shall be
157 reviewed and reported on in 2013.

158 (a) No later than May 1, each agency shall:

159 1. Complete a compliance economic review for each entire
160 rule or subpart in the appropriate group.

161 2. File the written certification of the agency head with
162 the committee verifying the completion of each compliance
163 economic review required for the respective year. The
164 certification shall be dated and published as an addendum to the
165 report required in subsection (3). The duty to certify
166 completion of the required compliance economic reviews is the
167 responsibility solely of the agency head as defined in s.
168 120.52(3) and may not be delegated to any other person. If the
169 defined agency head is a collegial body, the written
170 certification must be prepared by the chair or equivalent
171 presiding officer of that body.

172 3. Publish a copy of the compliance economic review,
173 directions on how and when interested parties may submit lower
174 cost regulatory alternatives to the agency, and the date the

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175 notice is published in the manner provided in subsection (7).

176 4. Publish notice of the publications required in
177 subparagraphs 2. and 3. in the manner provided in subsection
178 (7).

179 5. Submit each compliance economic review to the rules
180 ombudsman in the Executive Office of the Governor ~~Small Business~~
181 ~~Regulatory Advisory Council~~ for its review.

182 (c) No later than August 1, the rules ombudsman in the
183 Executive Office of the Governor ~~Small Business Regulatory~~
184 ~~Advisory Council~~ may submit lower cost regulatory alternatives
185 to any rule to the agency that adopted the rule. No later than
186 June 15, other interested parties may submit lower cost
187 regulatory alternatives to any rule.

188 Section 11. This act shall take effect July 1, 2012.