

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Brandes offered the following:

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3 **Amendment (with title amendment)**

4 Between lines 25 and 26, insert:

5 Section 1. Paragraph (b) of subsection (3) of section
6 120.54, Florida Statutes, is amended to read:

7 120.54 Rulemaking.—

8 (3) ADOPTION PROCEDURES.—

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

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

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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:

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

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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
48 or 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
72 pursuant to this sub-subparagraph, it shall, before rule
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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.

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T I T L E A M E N D M E N T

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Remove line 2 and insert:

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An act relating to administrative procedures; amending

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s. 120.54, F.S.; directing an agency under the

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Administrative Procedure Act to send written notice of

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certain rules affecting small businesses to the rules

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ombudsman in the Executive Office of the Governor

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rather than to the Department of Economic Opportunity;

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amending

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