

ENROLLED
CS/HB 7043

2012 Legislature

1
2 An act relating to obsolete or outdated programs and
3 requirements; amending s. 110.123, F.S.; repealing
4 provisions relating to the creation and duties of the
5 Florida State Employee Wellness Council; amending ss.
6 120.54 and 120.745, F.S.; revising provisions relating
7 to rule adoption by state agencies; requiring the
8 rules ombudsman in the Executive Office of the
9 Governor to assume certain duties formerly performed
10 by the Small Business Regulatory Advisory Council;
11 deleting provisions that require the Office of Program
12 Policy Analysis and Government Accountability, upon
13 request, to conduct a study and issue a report to the
14 Governor, the President of the Senate, and the Speaker
15 of the House of Representatives regarding the impact
16 on small business of certain proposed agency rules
17 that have been rejected; repealing s. 258.155, F.S.,
18 relating to the Judah P. Benjamin Memorial at Gamble
19 Plantation Historical Site Advisory Council; repealing
20 s. 288.7001, F.S., relating to the Small Business
21 Regulatory Advisory Council; repealing s. 288.7002,
22 F.S., relating to the small business advocate;
23 amending s. 316.2065, F.S.; removing a requirement to
24 keep one hand on the handlebars while operating a
25 bicycle; amending s. 339.64, F.S.; repealing
26 provisions relating to the creation and duties of the
27 Statewide Intermodal Transportation Advisory Council;
28 repealing s. 381.90, F.S., relating to the creation,

ENROLLED
CS/HB 7043

2012 Legislature

29 appointment, and duties of the Health Information
30 Systems Council; repealing s. 624.916, F.S., relating
31 to the developmental disabilities compact; repealing
32 s. 1004.63, F.S., relating to the Florida Institute
33 for Nuclear Detection and Security; amending ss.
34 322.27, 627.6686, and 641.31098, F.S.; correcting
35 cross-references and conforming provisions to changes
36 made by the act; providing an effective date.

37
38 Be It Enacted by the Legislature of the State of Florida:

39
40 Section 1. Subsection (13) of section 110.123, Florida
41 Statutes, is amended to read:

42 110.123 State group insurance program.—

43 ~~(13) FLORIDA STATE EMPLOYEE WELLNESS COUNCIL.—~~

44 ~~(a) There is created within the department the Florida
45 State Employee Wellness Council.~~

46 ~~(b) The council shall be an advisory body to the
47 department to provide health education information to employees
48 and to assist the department in developing minimum benefits for
49 all health care providers when providing age-based and gender-
50 based wellness benefits.~~

51 ~~(c) The council shall be composed of nine members
52 appointed by the Governor. When making appointments to the
53 council, the Governor shall appoint persons who are residents of
54 the state and who are highly knowledgeable concerning, active
55 in, and recognized leaders in the health and medical field, at
56 least one of whom must be an employee of the state. Council~~

ENROLLED

CS/HB 7043

2012 Legislature

57 ~~members shall equitably represent the broadest spectrum of the~~
58 ~~health industry and the geographic areas of the state. Not more~~
59 ~~than one member of the council may be from any one company,~~
60 ~~organization, or association.~~

61 ~~(d)1. Council members shall be appointed to 4-year terms,~~
62 ~~except that the initial terms shall be staggered. The Governor~~
63 ~~shall appoint three members to 2-year terms, three members to 3-~~
64 ~~year terms, and three members to 4-year terms.~~

65 ~~2. A member's absence from three consecutive meetings~~
66 ~~shall result in his or her automatic removal from the council. A~~
67 ~~vacancy on the council shall be filled for the remainder of the~~
68 ~~unexpired term.~~

69 ~~(e) The council shall annually elect from its membership~~
70 ~~one member to serve as chair of the council and one member to~~
71 ~~serve as vice chair.~~

72 ~~(f) The first meeting of the council shall be called by~~
73 ~~the chair not more than 60 days after the council members are~~
74 ~~appointed by the Governor. The council shall thereafter meet at~~
75 ~~least once quarterly and may meet more often as necessary. The~~
76 ~~department shall provide staff assistance to the council which~~
77 ~~shall include, but not be limited to, keeping records of the~~
78 ~~proceedings of the council and serving as custodian of all~~
79 ~~books, documents, and papers filed with the council.~~

80 ~~(g) A majority of the members of the council constitutes a~~
81 ~~quorum.~~

82 ~~(h) Members of the council shall serve without~~
83 ~~compensation, but are entitled to reimbursement for per diem and~~
84 ~~travel expenses as provided in s. 112.061 while performing their~~

ENROLLED
CS/HB 7043

2012 Legislature

85 ~~duties.~~

86 ~~(i) The council shall:~~

87 ~~1. Work to encourage participation in wellness programs by~~
88 ~~state employees. The council may prepare informational programs~~
89 ~~and brochures for state agencies and employees.~~

90 ~~2. In consultation with the department, develop standards~~
91 ~~and criteria for age-based and gender-based wellness programs.~~

92 Section 2. Paragraph (b) of subsection (3) of section
93 120.54, Florida Statutes, is amended to read:

94 120.54 Rulemaking.—

95 (3) ADOPTION PROCEDURES.—

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

97 1. Statement of estimated regulatory costs.—Before the
98 adoption, amendment, or repeal of any rule other than an
99 emergency rule, an agency is encouraged to prepare a statement
100 of estimated regulatory costs of the proposed rule, as provided
101 by s. 120.541. However, an agency must prepare a statement of
102 estimated regulatory costs of the proposed rule, as provided by
103 s. 120.541, if:

104 a. The proposed rule will have an adverse impact on small
105 business; or

106 b. The proposed rule is likely to directly or indirectly
107 increase regulatory costs in excess of \$200,000 in the aggregate
108 in this state within 1 year after the implementation of the
109 rule.

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

111 a. Each agency, before the adoption, amendment, or repeal
112 of a rule, shall consider the impact of the rule on small

ENROLLED
CS/HB 7043

2012 Legislature

113 businesses as defined by s. 288.703 and the impact of the rule
114 on small counties or small cities as defined by s. 120.52.
115 Whenever practicable, an agency shall tier its rules to reduce
116 disproportionate impacts on small businesses, small counties, or
117 small cities to avoid regulating small businesses, small
118 counties, or small cities that do not contribute significantly
119 to the problem the rule is designed to address. An agency may
120 define "small business" to include businesses employing more
121 than 200 persons, may define "small county" to include those
122 with populations of more than 75,000, and may define "small
123 city" to include those with populations of more than 10,000, if
124 it finds that such a definition is necessary to adapt a rule to
125 the needs and problems of small businesses, small counties, or
126 small cities. The agency shall consider each of the following
127 methods for reducing the impact of the proposed rule on small
128 businesses, small counties, and small cities, or any combination
129 of these entities:

130 (I) Establishing less stringent compliance or reporting
131 requirements in the rule.

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

134 (III) Consolidating or simplifying the rule's compliance
135 or reporting requirements.

136 (IV) Establishing performance standards or best management
137 practices to replace design or operational standards in the
138 rule.

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

ENROLLED
CS/HB 7043

2012 Legislature

141 b.(I) If the agency determines that the proposed action
142 will affect small businesses as defined by the agency as
143 provided in sub-subparagraph a., the agency shall send written
144 notice of the rule to the rules ombudsman in the Executive
145 Office of the Governor ~~Small Business Regulatory Advisory~~
146 ~~Council and the Department of Economic Opportunity~~ at least 28
147 days before the intended action.

148 (II) Each agency shall adopt those regulatory alternatives
149 offered by the rules ombudsman in the Executive Office of the
150 Governor ~~Small Business Regulatory Advisory Council~~ and provided
151 to the agency no later than 21 days after the council's receipt
152 of the written notice of the rule which it finds are feasible
153 and consistent with the stated objectives of the proposed rule
154 and which would reduce the impact on small businesses. When
155 regulatory alternatives are offered by the rules ombudsman in
156 the Executive Office of the Governor ~~Small Business Regulatory~~
157 ~~Advisory Council~~, the 90-day period for filing the rule in
158 subparagraph (e)2. is extended for a period of 21 days.

159 (III) If an agency does not adopt all alternatives offered
160 pursuant to this sub-subparagraph, it shall, before rule
161 adoption or amendment and pursuant to subparagraph (d)1., file a
162 detailed written statement with the committee explaining the
163 reasons for failure to adopt such alternatives. Within 3 working
164 days after the filing of such notice, the agency shall send a
165 copy of such notice to the rules ombudsman in the Executive
166 Office of the Governor ~~Small Business Regulatory Advisory~~
167 ~~Council~~. ~~The Small Business Regulatory Advisory Council may make~~
168 ~~a request of the President of the Senate and the Speaker of the~~

ENROLLED

CS/HB 7043

2012 Legislature

169 ~~House of Representatives that the presiding officers direct the~~
170 ~~Office of Program Policy Analysis and Government Accountability~~
171 ~~to determine whether the rejected alternatives reduce the impact~~
172 ~~on small business while meeting the stated objectives of the~~
173 ~~proposed rule. Within 60 days after the date of the directive~~
174 ~~from the presiding officers, the Office of Program Policy~~
175 ~~Analysis and Government Accountability shall report to the~~
176 ~~Administrative Procedures Committee its findings as to whether~~
177 ~~an alternative reduces the impact on small business while~~
178 ~~meeting the stated objectives of the proposed rule. The Office~~
179 ~~of Program Policy Analysis and Government Accountability shall~~
180 ~~consider the proposed rule, the economic impact statement, the~~
181 ~~written statement of the agency, the proposed alternatives, and~~
182 ~~any comment submitted during the comment period on the proposed~~
183 ~~rule. The Office of Program Policy Analysis and Government~~
184 ~~Accountability shall submit a report of its findings and~~
185 ~~recommendations to the Governor, the President of the Senate,~~
186 ~~and the Speaker of the House of Representatives. The~~
187 ~~Administrative Procedures Committee shall report such findings~~
188 ~~to the agency, and the agency shall respond in writing to the~~
189 ~~Administrative Procedures Committee if the Office of Program~~
190 ~~Policy Analysis and Government Accountability found that the~~
191 ~~alternative reduced the impact on small business while meeting~~
192 ~~the stated objectives of the proposed rule. If the agency will~~
193 ~~not adopt the alternative, it must also provide a detailed~~
194 ~~written statement to the committee as to why it will not adopt~~
195 ~~the alternative.~~

196 Section 3. Paragraphs (a) and (c) of subsection (5) of

ENROLLED
CS/HB 7043

2012 Legislature

197 section 120.745, Florida Statutes, are amended to read:
198 120.745 Legislative review of agency rules in effect on or
199 before November 16, 2010.—

200 (5) COMPLIANCE ECONOMIC REVIEW OF RULES AND REQUIRED
201 REPORT.—Each agency shall perform a compliance economic review
202 and report for all rules, including separate reviews of
203 subparts, listed under Group 1 "Group 1 rules" or Group 2 "Group
204 2 rules" pursuant to subparagraph (2)(g)3. Group 1 rules shall
205 be reviewed and reported on in 2012, and Group 2 rules shall be
206 reviewed and reported on in 2013.

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

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

210 2. File the written certification of the agency head with
211 the committee verifying the completion of each compliance
212 economic review required for the respective year. The
213 certification shall be dated and published as an addendum to the
214 report required in subsection (3). The duty to certify
215 completion of the required compliance economic reviews is the
216 responsibility solely of the agency head as defined in s.
217 120.52(3) and may not be delegated to any other person. If the
218 defined agency head is a collegial body, the written
219 certification must be prepared by the chair or equivalent
220 presiding officer of that body.

221 3. Publish a copy of the compliance economic review,
222 directions on how and when interested parties may submit lower
223 cost regulatory alternatives to the agency, and the date the
224 notice is published in the manner provided in subsection (7).

ENROLLED
CS/HB 7043

2012 Legislature

225 4. Publish notice of the publications required in
226 subparagraphs 2. and 3. in the manner provided in subsection
227 (7).

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

231 (c) No later than August 1, the rules ombudsman in the
232 Executive Office of the Governor ~~Small Business Regulatory~~
233 ~~Advisory Council~~ may submit lower cost regulatory alternatives
234 to any rule to the agency that adopted the rule. No later than
235 June 15, other interested parties may submit lower cost
236 regulatory alternatives to any rule.

237 Section 4. Section 258.155, Florida Statutes, is repealed.

238 Section 5. Section 288.7001, Florida Statutes, is
239 repealed.

240 Section 6. Section 288.7002, Florida Statutes, is
241 repealed.

242 Section 7. Subsections (8) through (20) of section
243 316.2065, Florida Statutes, are renumbered as subsections (7)
244 through (19), respectively, and present subsections (7), (17),
245 (18), and (20) of that section are amended to read:

246 316.2065 Bicycle regulations.—

247 ~~(7) Any person operating a bicycle shall keep at least one~~
248 ~~hand upon the handlebars.~~

249 (16) ~~(17)~~ The court may waive, reduce, or suspend payment
250 of any fine imposed under subsection (3) or subsection (15) ~~(16)~~
251 and may impose any other conditions on the waiver, reduction, or
252 suspension. If the court finds that a person does not have

ENROLLED
CS/HB 7043

2012 Legislature

253 sufficient funds to pay the fine, the court may require the
254 performance of a specified number of hours of community service
255 or attendance at a safety seminar.

256 (17)~~(18)~~ Notwithstanding s. 318.21, all proceeds collected
257 pursuant to s. 318.18 for violations under paragraphs (3) (e) and
258 (15) (b) ~~(16) (b)~~ shall be deposited into the State Transportation
259 Trust Fund.

260 (19)~~(20)~~ Except as otherwise provided in this section, a
261 violation of this section is a noncriminal traffic infraction,
262 punishable as a pedestrian violation as provided in chapter 318.
263 A law enforcement officer may issue traffic citations for a
264 violation of subsection (3) or subsection (15) ~~(16)~~ only if the
265 violation occurs on a bicycle path or road, as defined in s.
266 334.03. However, a law enforcement officer may not issue
267 citations to persons on private property, except any part
268 thereof which is open to the use of the public for purposes of
269 vehicular traffic.

270 Section 8. Subsections (1), (2), and (5) of section
271 339.64, Florida Statutes, are amended to read:

272 339.64 Strategic Intermodal System Plan.—

273 (1) The department shall develop, in cooperation with
274 metropolitan planning organizations, regional planning councils,
275 local governments, ~~the Statewide Intermodal Transportation~~
276 ~~Advisory Council~~ and other transportation providers, a Strategic
277 Intermodal System Plan. The plan shall be consistent with the
278 Florida Transportation Plan developed pursuant to s. 339.155 and
279 shall be updated at least once every 5 years, subsequent to
280 updates of the Florida Transportation Plan.

ENROLLED
CS/HB 7043

2012 Legislature

281 (2) In association with the continued development of the
282 Strategic Intermodal System Plan, the Florida Transportation
283 Commission, as part of its work program review process, shall
284 conduct an annual assessment of the progress that the department
285 and its transportation partners have made in realizing the goals
286 of economic development, improved mobility, and increased
287 intermodal connectivity of the Strategic Intermodal System. The
288 Florida Transportation Commission shall coordinate with the
289 department, ~~the Statewide Intermodal Transportation Advisory~~
290 ~~Council,~~ and other appropriate entities when developing this
291 assessment. The Florida Transportation Commission shall deliver
292 a report to the Governor and Legislature no later than 14 days
293 after the regular session begins, with recommendations as
294 necessary to fully implement the Strategic Intermodal System.

295 ~~(5) STATEWIDE INTERMODAL TRANSPORTATION ADVISORY COUNCIL.~~

296 ~~(a) The Statewide Intermodal Transportation Advisory~~
297 ~~Council is created to advise and make recommendations to the~~
298 ~~Legislature and the department on policies, planning, and~~
299 ~~funding of intermodal transportation projects. The council's~~
300 ~~responsibilities shall include:~~

301 ~~1. Advising the department on the policies, planning, and~~
302 ~~implementation of strategies related to intermodal~~
303 ~~transportation.~~

304 ~~2. Providing advice and recommendations to the Legislature~~
305 ~~on funding for projects to move goods and people in the most~~
306 ~~efficient and effective manner for the State of Florida.~~

307 ~~(b) MEMBERSHIP. Members of the Statewide Intermodal~~
308 ~~Transportation Advisory Council shall consist of the following:~~

ENROLLED
CS/HB 7043

2012 Legislature

309 ~~1. Six intermodal industry representatives selected by the~~
310 ~~Governor as follows:~~

311 ~~a. One representative from an airport involved in the~~
312 ~~movement of freight and people from their airport facility to~~
313 ~~another transportation mode.~~

314 ~~b. One individual representing a fixed route, local-~~
315 ~~government transit system.~~

316 ~~e. One representative from an intercity bus company~~
317 ~~providing regularly scheduled bus travel as determined by~~
318 ~~federal regulations.~~

319 ~~d. One representative from a spaceport.~~

320 ~~e. One representative from intermodal trucking companies.~~

321 ~~f. One representative having command responsibilities of a~~
322 ~~major military installation.~~

323 ~~2. Three intermodal industry representatives selected by~~
324 ~~the President of the Senate as follows:~~

325 ~~a. One representative from major line railroads.~~

326 ~~b. One representative from seaports listed in s. 311.09(1)~~
327 ~~from the Atlantic Coast.~~

328 ~~e. One representative from an airport involved in the~~
329 ~~movement of freight and people from their airport facility to~~
330 ~~another transportation mode.~~

331 ~~3. Three intermodal industry representatives selected by~~
332 ~~the Speaker of the House of Representatives as follows:~~

333 ~~a. One representative from short line railroads.~~

334 ~~b. One representative from seaports listed in s. 311.09(1)~~
335 ~~from the Gulf Coast.~~

336 ~~e. One representative from intermodal trucking companies.~~

ENROLLED
CS/HB 7043

2012 Legislature

337 ~~In no event may this representative be employed by the same~~
338 ~~company that employs the intermodal trucking company~~
339 ~~representative selected by the Governor.~~

340 ~~(c) Initial appointments to the council must be made no~~
341 ~~later than 30 days after the effective date of this section.~~

342 ~~1. The initial appointments made by the President of the~~
343 ~~Senate and the Speaker of the House of Representatives shall~~
344 ~~serve terms concurrent with those of the respective appointing~~
345 ~~officer. Beginning January 15, 2005, and for all subsequent~~
346 ~~appointments, council members appointed by the President of the~~
347 ~~Senate and the Speaker of the House of Representatives shall~~
348 ~~serve 2-year terms, concurrent with the term of the respective~~
349 ~~appointing officer.~~

350 ~~2. The initial appointees, and all subsequent appointees,~~
351 ~~made by the Governor shall serve 2-year terms.~~

352 ~~3. Vacancies on the council shall be filled in the same~~
353 ~~manner as the initial appointments.~~

354 ~~(d) Each member of the council shall be allowed one vote.~~
355 ~~The council shall select a chair from among its membership.~~
356 ~~Meetings shall be held at the call of the chair, but not less~~
357 ~~frequently than quarterly. The members of the council shall be~~
358 ~~reimbursed for per diem and travel expenses as provided in s.~~
359 ~~112.061.~~

360 ~~(e) The department shall provide administrative staff~~
361 ~~support and shall ensure that council meetings are~~
362 ~~electronically recorded. Such recordings and all documents~~
363 ~~received, prepared for, or used by the council in conducting its~~
364 ~~business shall be preserved pursuant to chapters 119 and 257.~~

ENROLLED
CS/HB 7043

2012 Legislature

365 Section 9. Section 381.90, Florida Statutes, is repealed.

366 Section 10. Section 624.916, Florida Statutes, is
367 repealed.

368 Section 11. Section 1004.63, Florida Statutes, is
369 repealed.

370 Section 12. Paragraph (d) of subsection (3) of section
371 322.27, Florida Statutes, is amended to read:

372 322.27 Authority of department to suspend or revoke
373 license.—

374 (3) There is established a point system for evaluation of
375 convictions of violations of motor vehicle laws or ordinances,
376 and violations of applicable provisions of s. 403.413(6) (b) when
377 such violations involve the use of motor vehicles, for the
378 determination of the continuing qualification of any person to
379 operate a motor vehicle. The department is authorized to suspend
380 the license of any person upon showing of its records or other
381 good and sufficient evidence that the licensee has been
382 convicted of violation of motor vehicle laws or ordinances, or
383 applicable provisions of s. 403.413(6) (b), amounting to 12 or
384 more points as determined by the point system. The suspension
385 shall be for a period of not more than 1 year.

386 (d) The point system shall have as its basic element a
387 graduated scale of points assigning relative values to
388 convictions of the following violations:

- 389 1. Reckless driving, willful and wanton—4 points.
- 390 2. Leaving the scene of a crash resulting in property
391 damage of more than \$50—6 points.
- 392 3. Unlawful speed resulting in a crash—6 points.

ENROLLED
CS/HB 7043

2012 Legislature

- 393 4. Passing a stopped school bus—4 points.
- 394 5. Unlawful speed:
- 395 a. Not in excess of 15 miles per hour of lawful or posted
- 396 speed—3 points.
- 397 b. In excess of 15 miles per hour of lawful or posted
- 398 speed—4 points.
- 399 6. A violation of a traffic control signal device as
- 400 provided in s. 316.074(1) or s. 316.075(1)(c)1.—4 points.
- 401 However, no points shall be imposed for a violation of s.
- 402 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to
- 403 stop at a traffic signal and when enforced by a traffic
- 404 infraction enforcement officer. In addition, a violation of s.
- 405 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to
- 406 stop at a traffic signal and when enforced by a traffic
- 407 infraction enforcement officer may not be used for purposes of
- 408 setting motor vehicle insurance rates.
- 409 7. All other moving violations (including parking on a
- 410 highway outside the limits of a municipality)—3 points. However,
- 411 no points shall be imposed for a violation of s. 316.0741 or s.
- 412 316.2065(11) ~~316.2065(12)~~; and points shall be imposed for a
- 413 violation of s. 316.1001 only when imposed by the court after a
- 414 hearing pursuant to s. 318.14(5).
- 415 8. Any moving violation covered above, excluding unlawful
- 416 speed, resulting in a crash—4 points.
- 417 9. Any conviction under s. 403.413(6)(b)—3 points.
- 418 10. Any conviction under s. 316.0775(2)—4 points.
- 419 Section 13. Subsection (10) of section 627.6686, Florida
- 420 Statutes, is amended to read:

ENROLLED
CS/HB 7043

2012 Legislature

421 627.6686 Coverage for individuals with autism spectrum
422 disorder required; exception.—

423 ~~(10) The Office of Insurance Regulation may not enforce~~
424 ~~this section against an insurer that is a signatory no later~~
425 ~~than April 1, 2009, to the developmental disabilities compact~~
426 ~~established under s. 624.916. The Office of Insurance Regulation~~
427 ~~shall enforce this section against an insurer that is a~~
428 ~~signatory to the compact established under s. 624.916 if the~~
429 ~~insurer has not complied with the terms of the compact for all~~
430 ~~health insurance plans by April 1, 2010.~~

431 Section 14. Subsection (9) of section 641.31098, Florida
432 Statutes, is amended to read:

433 641.31098 Coverage for individuals with developmental
434 disabilities.—

435 ~~(9) The Office of Insurance Regulation may not enforce~~
436 ~~this section against a health maintenance organization that is a~~
437 ~~signatory no later than April 1, 2009, to the developmental~~
438 ~~disabilities compact established under s. 624.916. The Office of~~
439 ~~Insurance Regulation shall enforce this section against a health~~
440 ~~maintenance organization that is a signatory to the compact~~
441 ~~established under s. 624.916 if the health maintenance~~
442 ~~organization has not complied with the terms of the compact for~~
443 ~~all health maintenance contracts by April 1, 2010.~~

444 Section 15. This act shall take effect July 1, 2012.