

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Transportation & Tourism
 2 Appropriations Subcommittee
 3 Representative Spano offered the following:

Amendment (with title amendment)

6 Remove everything after the enacting clause and insert:
 7 Section 1. Paragraphs (a) and (b) of subsection (3) of
 8 section 120.54, Florida Statutes, are amended to read:

9 120.54 Rulemaking.—

10 (3) ADOPTION PROCEDURES.—

11 (a) Notices.—

12 1. Prior to the adoption, amendment, or repeal of any rule
 13 other than an emergency rule, an agency, ~~upon approval of the~~
 14 ~~agency head,~~ shall give notice of its intended action, setting
 15 forth a short, plain explanation of the purpose and effect of
 16 the proposed action; the full text of the proposed rule or

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17 amendment and a summary thereof; a reference to the grant of
18 rulemaking authority pursuant to which the rule is adopted; and
19 a reference to the section or subsection of the Florida Statutes
20 or the Laws of Florida being implemented or interpreted. The
21 notice must include a summary of the agency's statement of the
22 estimated regulatory costs, if one has been prepared, based on
23 the factors set forth in s. 120.541(2); a web address where the
24 statement of estimated regulatory cost can be viewed in its
25 entirety on each agency's website; a statement that any person
26 who wishes to provide the agency with information regarding the
27 statement of estimated regulatory costs, or to provide a
28 proposal for a lower cost regulatory alternative as provided by
29 s. 120.541(1), must do so in writing within 21 days after
30 publication of the notice; and a statement as to whether, based
31 on the statement of the estimated regulatory costs or other
32 information expressly relied upon and described by the agency if
33 no statement of regulatory costs is required, the proposed rule
34 is expected to require legislative ratification pursuant to s.
35 120.541(3). The notice must state the procedure for requesting a
36 public hearing on the proposed rule. Except when the intended
37 action is the repeal of a rule, the notice must include a
38 reference both to the date on which and to the place where the
39 notice of rule development that is required by subsection (2)
40 appeared.

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41 2. The notice shall be published in the Florida
42 Administrative Register not less than 28 days prior to the
43 intended action. The proposed rule shall be available for
44 inspection and copying by the public at the time of the
45 publication of notice.

46 3. The notice shall be mailed to all persons named in the
47 proposed rule and to all persons who, at least 14 days prior to
48 such mailing, have made requests of the agency for advance
49 notice of its proceedings. The agency shall also give such
50 notice as is prescribed by rule to those particular classes of
51 persons to whom the intended action is directed.

52 4. The adopting agency shall file with the committee, at
53 least 21 days prior to the proposed adoption date, a copy of
54 each rule it proposes to adopt; a copy of any material
55 incorporated by reference in the rule; a detailed written
56 statement of the facts and circumstances justifying the proposed
57 rule; a copy of any statement of estimated regulatory costs that
58 has been prepared pursuant to s. 120.541; a statement of the
59 extent to which the proposed rule relates to federal standards
60 or rules on the same subject; and the notice required by
61 subparagraph 1.

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

63 1. Statement of estimated regulatory costs.—Before the
64 adoption, or amendment, ~~or repeal~~ of any rule other than an
65 emergency rule, an agency must ~~is encouraged to~~ prepare a

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66 statement of estimated regulatory costs of the proposed rule, as
67 provided by s. 120.541. However, an agency need not prepare a
68 statement of estimated regulatory cost for rule repeals unless
69 such repeal would impose any regulatory cost. In any challenge
70 to a rule repeal, such rule repeal must be considered
71 presumptively correct by the Joint Administrative Procedures
72 Committee, in any proceeding before the Division of
73 Administrative Hearings, or in any proceeding before a court of
74 competent jurisdiction. ~~However, an agency must prepare a~~
75 ~~statement of estimated regulatory costs of the proposed rule, as~~
76 ~~provided by s. 120.541, if:~~

77 a. ~~The proposed rule will have an adverse impact on small~~
78 ~~business; or~~

79 b. ~~The proposed rule is likely to directly or indirectly~~
80 ~~increase regulatory costs in excess of \$200,000 in the aggregate~~
81 ~~in this state within 1 year after the implementation of the~~
82 ~~rule.~~

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

84 a. Each agency, before the adoption, amendment, or repeal
85 of a rule, shall consider the impact of the rule on small
86 businesses as defined by s. 288.703 and the impact of the rule
87 on small counties or small cities as defined by s. 120.52.
88 Whenever practicable, an agency shall tier its rules to reduce
89 disproportionate impacts on small businesses, small counties, or
90 small cities to avoid regulating small businesses, small

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91 counties, or small cities that do not contribute significantly
92 to the problem the rule is designed to address. An agency may
93 define "small business" to include businesses employing more
94 than 200 persons, may define "small county" to include those
95 with populations of more than 75,000, and may define "small
96 city" to include those with populations of more than 10,000, if
97 it finds that such a definition is necessary to adapt a rule to
98 the needs and problems of small businesses, small counties, or
99 small cities. The agency shall consider each of the following
100 methods for reducing the impact of the proposed rule on small
101 businesses, small counties, and small cities, or any combination
102 of these entities:

103 (I) Establishing less stringent compliance or reporting
104 requirements in the rule.

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

107 (III) Consolidating or simplifying the rule's compliance
108 or reporting requirements.

109 (IV) Establishing performance standards or best management
110 practices to replace design or operational standards in the
111 rule.

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

114 b.(I) If the agency determines that the proposed action
115 will affect small businesses as defined by the agency as

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116 provided in sub-subparagraph a., the agency shall send written
117 notice of the rule to the rules ombudsman in the Executive
118 Office of the Governor at least 28 days before the intended
119 action.

120 (II) Each agency shall adopt those regulatory alternatives
121 offered by the rules ombudsman in the Executive Office of the
122 Governor and provided to the agency no later than 21 days after
123 the rules ombudsman's receipt of the written notice of the rule
124 which it finds are feasible and consistent with the stated
125 objectives of the proposed rule and which would reduce the
126 impact on small businesses. When regulatory alternatives are
127 offered by the rules ombudsman in the Executive Office of the
128 Governor, the 90-day period for filing the rule in subparagraph
129 (e)2. is extended for a period of 21 days.

130 (III) If an agency does not adopt all alternatives offered
131 pursuant to this sub-subparagraph, it shall, before rule
132 adoption or amendment and pursuant to subparagraph (d)1., file a
133 detailed written statement with the committee explaining the
134 reasons for failure to adopt such alternatives. Within 3 working
135 days after the filing of such notice, the agency shall send a
136 copy of such notice to the rules ombudsman in the Executive
137 Office of the Governor.

138 Section 2. Paragraphs (a) and (b) of subsection (1) of
139 section 120.541, Florida Statutes, are amended, and subsection
140 (6) is added to that section, to read:

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141 120.541 Statement of estimated regulatory costs.—

142 (1) (a) Within 21 days after publication of the notice
143 required under s. 120.54(3) (a), a substantially affected person
144 may submit to an agency a good faith written proposal for a
145 lower cost regulatory alternative to a proposed rule which
146 substantially accomplishes the objectives of the law being
147 implemented. The proposal may include the alternative of not
148 adopting any rule if the proposal explains how the lower costs
149 and objectives of the law will be achieved by not adopting any
150 rule. If such a proposal is submitted, the 90-day period for
151 filing the rule is extended 21 days. Upon the submission of the
152 lower cost regulatory alternative, the agency shall prepare a
153 statement of estimated regulatory costs as provided in
154 subsection (2), or shall revise its prior statement of estimated
155 regulatory costs, and either adopt the alternative or provide a
156 statement of the reasons for rejecting the alternative in favor
157 of the proposed rule.

158 (b) If a proposed rule will have an adverse impact on
159 small business or if the proposed rule is likely to directly or
160 indirectly increase regulatory costs, ~~in excess of \$200,000 in~~
161 ~~the aggregate within 1 year after the implementation of the~~
162 ~~rule,~~ the agency shall prepare a statement of estimated
163 regulatory costs as required by s. 120.54(3) (b).

164 (6) The Department of State shall maintain the Florida
165 Administrative Register that includes web addresses where

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166 statements of estimated regulatory costs can be viewed in their
167 entirety on agency websites.

168 (a) An agency that prepares a statement of estimated
169 regulatory costs must provide, as part of the notice required
170 under s. 120.54(3)(a), the web address on the agency website
171 where the statement of estimated regulatory cost can be read in
172 its entirety, to the Department for publication in the Florida
173 Administrative Register.

174 (b) An agency that revises a statement of estimated
175 regulatory costs must provide a notice that a revision has been
176 made and a web address where the revision can be viewed for
177 publication in the Florida Administrative Register.

178
179 Section 3. This act shall take effect on July 1, 2017.
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182 **T I T L E A M E N D M E N T**

183 Remove everything before the enacting clause and insert:
184 An act relating to agency rulemaking; amending s. 120.54,
185 F.S.; requiring an agency to prepare a statement of
186 estimated regulatory costs before adopting or amending any
187 rule other than an emergency rule; providing exceptions for
188 rule repeals; amending s. 120.541, F.S.; requiring the
189 Department of State to include on the Florida
190 Administrative Register website web addresses where

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191 statements of estimated regulatory costs can be viewed in
192 their entirety; requiring an agency to include in its
193 notice of intended action the web address on the agency
194 website where the statement of estimated regulatory cost
195 can be read in its entirety; requiring that when an agency
196 revises a statement of estimated regulatory cost that the
197 agency must provide a notice of revision; providing an
198 effective date.