

CHAPTER 2013-15

Committee Substitute for Senate Bill No. 690

An act relating to the Florida Statutes; amending ss. 11.45, 20.15, 20.28, 39.001, 39.0139, 39.201, 40.011, 61.1825, 63.082, 63.2325, 97.0585, 112.63, 120.54, 120.745, 121.055, 121.085, 121.091, 159.823, 163.3246, 163.340, 189.4042, 190.046, 211.02, 215.5601, 215.97, 218.32, 252.385, 252.939, 252.940, 252.941, 252.942, 253.034, 255.2575, 259.032, 282.201, 288.1254, 288.71025, 288.980, 295.07, 311.101, 316.0083, 316.640, 320.20, 322.142, 322.2615, 339.135, 339.2825, 341.840, 343.805, 343.91, 344.17, 348.752, 349.02, 373.227, 373.250, 373.536, 376.3071, 379.2433, 379.3581, 380.0662, 381.004, 381.00593, 381.0065, 381.0101, 391.026, 400.172, 400.915, 400.9905, 403.086, 403.511, 403.9416, 414.295, 420.503, 420.5087, 430.205, 430.80, 430.81, 443.091, 443.111, 443.171, 466.007, 475.6235, 489.118, 499.01, 500.09, 538.23, 553.98, 570.451, 580.036, 586.10, 601.03, 601.15, 601.61, 601.9910, 610.109, 624.402, 626.2815, 626.8734, 626.9362, 626.989, 626.9895, 627.3511, 641.312, 651.118, 817.234, 877.101, 921.0022, 945.355, 948.08, 948.16, 960.003, 985.03, 1003.43, 1003.52, 1006.062, 1006.20, 1006.282, 1009.67, 1009.971, and 1013.231, F.S.; reenacting and amending s. 339.0805, F.S.; reenacting s. 322.21, F.S.; and repealing ss. 202.38 and 252.945, F.S., deleting provisions that have expired, have become obsolete, have had their effect, have served their purpose, or have been impliedly repealed or superseded; replacing incorrect cross-references and citations; correcting grammatical, typographical, and like errors; removing inconsistencies, redundancies, and unnecessary repetition in the statutes; improving the clarity of the statutes and facilitating their correct interpretation; and confirming the restoration of provisions unintentionally omitted from republication in the acts of the Legislature during the amendatory process; providing an effective date.

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

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Section 13. 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 by s. 120.541. However, an agency must prepare a statement of estimated regulatory costs of the proposed rule, as provided by s. 120.541, if:

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

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

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

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

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

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

(III) Consolidating or simplifying the rule’s compliance or reporting requirements.

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

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

b.(I) If the agency determines that the proposed action will affect small businesses as defined by the agency as provided in sub-subparagraph a., the agency shall send written notice of the rule to the rules ombudsman in the Executive Office of the Governor at least 28 days before the intended action.

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

(III) If an agency does not adopt all alternatives offered pursuant to this sub-subparagraph, it shall, before rule adoption or amendment and pursuant to subparagraph (d)1., file a detailed written statement with the committee explaining the reasons for failure to adopt such alternatives. Within 3 working days

after the filing of such notice, the agency shall send a copy of such notice to the rules ombudsman in the Executive Office of the Governor.

Reviser's note.—Amended to conform to the reassignment by ch. 2012-27, Laws of Florida, of duties of the Small Business Regulatory Advisory Council to the rules ombudsman in the Executive Office of the Governor. Section 5, ch. 2012-27, repealed s. 288.7001, which created the council.

Section 14. Paragraph (a) of subsection (5) of section 120.745, Florida Statutes, is amended to read:

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

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

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

1. Complete a compliance economic review for each entire rule or subpart in the appropriate group.
2. File the written certification of the agency head with the committee verifying the completion of each compliance economic review required for the respective year. The certification shall be dated and published as an addendum to the report required in subsection (3). The duty to certify completion of the required compliance economic reviews is the responsibility solely of the agency head as defined in s. 120.52(3) and may not be delegated to any other person. If the defined agency head is a collegial body, the written certification must be prepared by the chair or equivalent presiding officer of that body.
3. Publish a copy of the compliance economic review, directions on how and when interested parties may submit lower cost regulatory alternatives to the agency, and the date the notice is published in the manner provided in subsection (7).
4. Publish notice of the publications required in subparagraphs 2. and 3. in the manner provided in subsection (7).
5. Submit each compliance economic review to the rules ombudsman in the Executive Office of the Governor for the rules ombudsman's ~~its~~ review.

Reviser's note.—Amended to confirm substitution of the words “the ombudsman's” for the word “its” by the editors. As created by s. 5, ch. 2011-225, Laws of Florida, s. 120.745(5)(a)5. referenced the Small Business Regulatory Advisory Council, and the word “its” referred back to that reference. Chapter 2012-27, Laws of Florida, reassigned duties of the Small Business Regulatory Advisory Council to the rules ombudsman in the Executive Office of the Governor. Section 3, ch. 2012-27,

substituted a reference to the rules ombudsman for a reference to the council but left the referencing word "its." Section 5, ch. 2012-27, repealed s. 288.7001, which created the council.

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Section 126. This act shall take effect on the 60th day after adjournment sine die of the session of the Legislature in which enacted.

Approved by the Governor April 10, 2013.

Filed in Office Secretary of State April 10, 2013.