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HB 541, Engrossed 1

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2 An act relating to administrative procedures; amending
3 s. 120.54, F.S.; directing an agency under the
4 Administrative Procedure Act to send written notice of
5 certain rules affecting small businesses to the rules
6 ombudsman in the Executive Office of the Governor
7 rather than to the Department of Economic Opportunity;
8 amending s. 120.55, F.S.; revising provisions with
9 respect to the revision and publication of the Florida
10 Administrative Code to provide that the Department of
11 State is not required to publish a printed version of
12 the code but may contract with a publishing firm for a
13 printed publication; providing that the electronic
14 version of the code is the official compilation of the
15 administrative rules of the state; providing for
16 adopted rules and material incorporated by reference
17 to be filed in electronic forms; renaming the "Florida
18 Administrative Weekly" as the "Florida Administrative
19 Register"; requiring a continuous revision and
20 publication of the Florida Administrative Register on
21 an Internet website managed by the Department of
22 State; revising content and website search
23 requirements; deleting a requirement to provide
24 printed copies of the Florida Administrative Register
25 to certain federal and state entities; providing a
26 directive to the Division of Statutory Revision;
27 providing an effective date.
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29 Be It Enacted by the Legislature of the State of Florida:

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31 Section 1. Paragraph (b) of subsection (3) of section
32 120.54, Florida Statutes, is amended to read:

33 120.54 Rulemaking.—

34 (3) ADOPTION PROCEDURES.—

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

36 1. Statement of estimated regulatory costs.—Before the
37 adoption, amendment, or repeal of any rule other than an
38 emergency rule, an agency is encouraged to prepare a statement
39 of estimated regulatory costs of the proposed rule, as provided
40 by s. 120.541. However, an agency must prepare a statement of
41 estimated regulatory costs of the proposed rule, as provided by
42 s. 120.541, if:

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

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

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

50 a. Each agency, before the adoption, amendment, or repeal
51 of a rule, shall consider the impact of the rule on small
52 businesses as defined by s. 288.703 and the impact of the rule
53 on small counties or small cities as defined by s. 120.52.
54 Whenever practicable, an agency shall tier its rules to reduce
55 disproportionate impacts on small businesses, small counties, or
56 small cities to avoid regulating small businesses, small

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57 | counties, or small cities that do not contribute significantly
58 | to the problem the rule is designed to address. An agency may
59 | define "small business" to include businesses employing more
60 | than 200 persons, may define "small county" to include those
61 | with populations of more than 75,000, and may define "small
62 | city" to include those with populations of more than 10,000, if
63 | it finds that such a definition is necessary to adapt a rule to
64 | the needs and problems of small businesses, small counties, or
65 | small cities. The agency shall consider each of the following
66 | methods for reducing the impact of the proposed rule on small
67 | businesses, small counties, and small cities, or any combination
68 | of these entities:

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

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

73 | (III) Consolidating or simplifying the rule's compliance
74 | or reporting requirements.

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

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

80 | b.(I) If the agency determines that the proposed action
81 | will affect small businesses as defined by the agency as
82 | provided in sub-subparagraph a., the agency shall send written
83 | notice of the rule to the Small Business Regulatory Advisory
84 | Council and the rules ombudsman in the Executive Office of the

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85 Governor ~~Department of Economic Opportunity~~ at least 28 days
86 before the intended action.

87 (II) Each agency shall adopt those regulatory alternatives
88 offered by the Small Business Regulatory Advisory Council and
89 provided to the agency no later than 21 days after the council's
90 receipt of the written notice of the rule which it finds are
91 feasible and consistent with the stated objectives of the
92 proposed rule and which would reduce the impact on small
93 businesses. When regulatory alternatives are offered by the
94 Small Business Regulatory Advisory Council, the 90-day period
95 for filing the rule in subparagraph (e)2. is extended for a
96 period of 21 days.

97 (III) If an agency does not adopt all alternatives offered
98 pursuant to this sub-subparagraph, it shall, before rule
99 adoption or amendment and pursuant to subparagraph (d)1., file a
100 detailed written statement with the committee explaining the
101 reasons for failure to adopt such alternatives. Within 3 working
102 days after the filing of such notice, the agency shall send a
103 copy of such notice to the Small Business Regulatory Advisory
104 Council. The Small Business Regulatory Advisory Council may make
105 a request of the President of the Senate and the Speaker of the
106 House of Representatives that the presiding officers direct the
107 Office of Program Policy Analysis and Government Accountability
108 to determine whether the rejected alternatives reduce the impact
109 on small business while meeting the stated objectives of the
110 proposed rule. Within 60 days after the date of the directive
111 from the presiding officers, the Office of Program Policy
112 Analysis and Government Accountability shall report to the

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113 Administrative Procedures Committee its findings as to whether
 114 an alternative reduces the impact on small business while
 115 meeting the stated objectives of the proposed rule. The Office
 116 of Program Policy Analysis and Government Accountability shall
 117 consider the proposed rule, the economic impact statement, the
 118 written statement of the agency, the proposed alternatives, and
 119 any comment submitted during the comment period on the proposed
 120 rule. The Office of Program Policy Analysis and Government
 121 Accountability shall submit a report of its findings and
 122 recommendations to the Governor, the President of the Senate,
 123 and the Speaker of the House of Representatives. The
 124 Administrative Procedures Committee shall report such findings
 125 to the agency, and the agency shall respond in writing to the
 126 Administrative Procedures Committee if the Office of Program
 127 Policy Analysis and Government Accountability found that the
 128 alternative reduced the impact on small business while meeting
 129 the stated objectives of the proposed rule. If the agency will
 130 not adopt the alternative, it must also provide a detailed
 131 written statement to the committee as to why it will not adopt
 132 the alternative.

133 Section 2. Section 120.55, Florida Statutes, is amended to
 134 read:

135 120.55 Publication.—

136 (1) The Department of State shall:

137 (a)1. Through a continuous revision and publication
 138 system, compile and publish electronically, on an Internet
 139 website managed by the department, the "Florida Administrative
 140 Code." The Florida Administrative Code shall contain all rules

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141 adopted by each agency, citing the grant of rulemaking authority
142 and the specific law implemented pursuant to which each rule was
143 adopted, all history notes as authorized in s. 120.545(7),
144 complete indexes to all rules contained in the code, and any
145 other material required or authorized by law or deemed useful by
146 the department. The electronic code shall display each rule
147 chapter currently in effect in browse mode and allow full text
148 search of the code and each rule chapter. The department ~~shall~~
149 ~~publish a printed version of the Florida Administrative Code and~~
150 may contract with a publishing firm for a such printed
151 publication; however, the department shall retain responsibility
152 for the code as provided in this section. ~~Supplementation of the~~
153 ~~printed code shall be made as often as practicable, but at least~~
154 ~~monthly.~~ The electronic ~~printed~~ publication shall be the
155 official compilation of the administrative rules of this state.
156 The Department of State shall retain the copyright over the
157 Florida Administrative Code.

158 2. Rules general in form but applicable to only one school
159 district, community college district, or county, or a part
160 thereof, or state university rules relating to internal
161 personnel or business and finance shall not be published in the
162 Florida Administrative Code. Exclusion from publication in the
163 Florida Administrative Code shall not affect the validity or
164 effectiveness of such rules.

165 3. At the beginning of the section of the code dealing
166 with an agency that files copies of its rules with the
167 department, the department shall publish the address and
168 telephone number of the executive offices of each agency, the

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169 manner by which the agency indexes its rules, a listing of all
170 rules of that agency excluded from publication in the code, and
171 a statement as to where those rules may be inspected.

172 4. Forms shall not be published in the Florida
173 Administrative Code; but any form which an agency uses in its
174 dealings with the public, along with any accompanying
175 instructions, shall be filed with the committee before it is
176 used. Any form or instruction which meets the definition of
177 "rule" provided in s. 120.52 shall be incorporated by reference
178 into the appropriate rule. The reference shall specifically
179 state that the form is being incorporated by reference and shall
180 include the number, title, and effective date of the form and an
181 explanation of how the form may be obtained. Each form created
182 by an agency which is incorporated by reference in a rule notice
183 of which is given under s. 120.54(3)(a) after December 31, 2007,
184 must clearly display the number, title, and effective date of
185 the form and the number of the rule in which the form is
186 incorporated.

187 5. The department shall allow adopted rules and material
188 incorporated by reference to be filed in electronic form as
189 prescribed by department rule. When a rule is filed for adoption
190 with incorporated material in electronic form, the department's
191 publication of the Florida Administrative Code on its Internet
192 website must contain a hyperlink from the incorporating
193 reference in the rule directly to that material. The department
194 may not allow hyperlinks from rules in the Florida
195 Administrative Code to any material other than that filed with
196 and maintained by the department, but may allow hyperlinks to

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197 incorporated material maintained by the department from the
 198 adopting agency's website or other sites.

199 (b) Electronically publish on an Internet website managed
 200 by the department a continuous revision and weekly publication
 201 entitled the "Florida Administrative Register Weekly," which
 202 shall serve as the official ~~Internet website for such~~
 203 publication and must contain:

204 ~~1. Notice of adoption of, and an index to, all rules filed~~
 205 ~~during the preceding week.~~

206 ~~1.2.~~ All notices required by s. 120.54(3)(a), showing the
 207 text of all rules proposed for consideration.

208 ~~2.3.~~ All notices of public meetings, hearings, and
 209 workshops conducted in accordance with ~~the provisions of s.~~
 210 120.525, including a statement of the manner in which a copy of
 211 the agenda may be obtained.

212 ~~3.4.~~ A notice of each request for authorization to amend
 213 or repeal an existing uniform rule or for the adoption of new
 214 uniform rules.

215 ~~4.5.~~ Notice of petitions for declaratory statements or
 216 administrative determinations.

217 ~~5.6.~~ A summary of each objection to any rule filed by the
 218 Administrative Procedures Committee ~~during the preceding week.~~

219 ~~7. A cumulative list of all rules that have been proposed~~
 220 ~~but not filed for adoption.~~

221 ~~6.8.~~ Any other material required or authorized by law or
 222 deemed useful by the department.

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224 The department may contract with a publishing firm for a printed

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225 ~~publication shall publish a printed version~~ of the Florida
 226 Administrative Register Weekly and make copies available on an
 227 annual subscription basis. ~~The department may contract with a~~
 228 ~~publishing firm for printed publication of the Florida~~
 229 ~~Administrative Weekly.~~

230 ~~(e) Review notices for compliance with format and~~
 231 ~~numbering requirements before publishing them on the Florida~~
 232 ~~Administrative Weekly Internet website.~~

233 ~~(c)~~ (d) Prescribe by rule the style and form required for
 234 rules, notices, and other materials submitted for filing.

235 ~~(e) Correct grammatical, typographical, and like errors~~
 236 ~~not affecting the construction or meaning of the rules, after~~
 237 ~~having obtained the advice and consent of the appropriate~~
 238 ~~agency, and insert history notes.~~

239 ~~(d)~~ (f) Charge each agency using the Florida Administrative
 240 Register Weekly a space rate to cover the costs related to the
 241 Florida Administrative Register Weekly and the Florida
 242 Administrative Code.

243 ~~(e)~~ (g) Maintain a permanent record of all notices
 244 published in the Florida Administrative Register Weekly.

245 (2) The Florida Administrative Register Weekly Internet
 246 website must allow users to:

247 (a) Search for notices by type, publication date, rule
 248 number, word, subject, and agency. ~~†~~

249 (b) Search a database that makes available all notices
 250 published on the website for a period of at least 5 years. ~~†~~

251 (c) Subscribe to an automated e-mail notification of
 252 selected notices to be sent out before or concurrently with

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253 ~~weekly~~ publication of the ~~printed and~~ electronic Florida
 254 Administrative Register Weekly. Such notification must include
 255 in the text of the e-mail a summary of the content of each
 256 notice.~~;~~

257 (d) View agency forms and other materials submitted to the
 258 department in electronic form and incorporated by reference in
 259 proposed rules.~~;~~ ~~and~~

260 (e) Comment on proposed rules.

261 (3) Publication of material required by paragraph (1) (b)
 262 on the Florida Administrative Register Weekly Internet website
 263 does not preclude publication of such material on an agency's
 264 website or by other means.

265 (4) Each agency shall provide copies of its rules upon
 266 request, with citations to the grant of rulemaking authority and
 267 the specific law implemented for each rule.

268 (5) Any publication of a proposed rule promulgated by an
 269 agency, whether published in the Florida Administrative Register
 270 ~~Code~~ or elsewhere, shall include, along with the rule, the name
 271 of the person or persons originating such rule, the name of the
 272 agency head who approved the rule, and the date upon which the
 273 rule was approved.

274 (6) Access to the Florida Administrative Register Weekly
 275 Internet website and its contents, including the e-mail
 276 notification service, shall be free for the public.

277 ~~(7) (a) Each year the Department of State shall furnish the~~
 278 ~~Florida Administrative Weekly, without charge and upon request,~~
 279 ~~as follows:~~

280 ~~1. One subscription to each federal and state court having~~

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281 ~~jurisdiction over the residents of the state; the Legislative~~
 282 ~~Library; each state university library; the State Library; each~~
 283 ~~depository library designated pursuant to s. 257.05; and each~~
 284 ~~standing committee of the Senate and House of Representatives~~
 285 ~~and each state legislator.~~

286 ~~2. Two subscriptions to each state department.~~

287 ~~3. Three subscriptions to the library of the Supreme Court~~
 288 ~~of Florida, the library of each state district court of appeal,~~
 289 ~~the division, the library of the Attorney General, each law~~
 290 ~~school library in Florida, the Secretary of the Senate, and the~~
 291 ~~Clerk of the House of Representatives.~~

292 ~~4. Ten subscriptions to the committee.~~

293 ~~(b) The Department of State shall furnish one copy of the~~
 294 ~~Florida Administrative Weekly, at no cost, to each clerk of the~~
 295 ~~circuit court and each state department, for posting for public~~
 296 ~~inspection.~~

297 ~~(7)(8)~~(a) All fees and moneys collected by the Department
 298 of State under this chapter shall be deposited in the Records
 299 Management Trust Fund for the purpose of paying for costs
 300 incurred by the department in carrying out this chapter.

301 (b) The unencumbered balance in the Records Management
 302 Trust Fund for fees collected pursuant to this chapter may not
 303 exceed \$300,000 at the beginning of each fiscal year, and any
 304 excess shall be transferred to the General Revenue Fund.

305 Section 3. The Division of Statutory Revision of the
 306 Office of Legislative Services is requested to prepare a
 307 reviser's bill for the 2013 Regular Session of the Legislature
 308 to substitute the term "Florida Administrative Register" for the

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309 | term "Florida Administrative Weekly" throughout the Florida
310 | Statutes."

311 | Section 4. This act shall take effect October 1, 2012.