

CHAPTER 76-276

Committee Substitute for Senate Bill No 949

AN ACT relating to state agencies: amending s. 120.54 (1) and (10), Florida Statutes, and adding new subsections (2) and (3) to said section: requiring agencies to estimate the economic impact of proposed rules and to set forth the estimate in the notice of intended action with respect to each such rule; requiring every agency, prior to the adoption, amendment, or repeal of any rule, to prepare an economic impact statement along specified lines; authorizing specified elected officials to request economic impact statements from agencies; repealing chapter 76-1, Laws of Florida, the – “Florida Economic Impact Disclosure Act of 1975”; requiring the Legislature to consider the economic impact of proposed legislation prior to enactment: providing a severability clause; providing an effective date.

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

Section 1. Subsection (1) of section 120.54, Florida Statutes, is amended, subsections (2), (3), (4), (5), (6), (7),(8), (9), (10), (11), (12), (13), and (14) of said section are renumbered as subsections (4), (5),(6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), respectively, and new subsections (2) and (3) are added to said section, to read:

120.54 Rulemaking; adoption procedures.--

(1) Prior to the adoption, amendment, or repeal of any rule not described in subsection (8), and agency shall give notice of its intended action, setting forth a short and plain explanation of the purpose and effect of the proposed rule, a summary of the proposed rule, and the specific legal authority under which its adoption is authorized, and a summary of the estimate of the economic impact of the proposed rule on all persons affected by it. ~~If the agency determines that this is not possible, the reasons why the costs of the proposed rule cannot be estimated shall be stated in the notice.~~ The notice shall contain the location where the text of the proposed rule or economic impact statement can be obtained if such text is not included in the notice.

(a) Except as otherwise provided in this paragraph, the notice shall be mailed to the committee, to all persons named in the proposed rule, and to all persons who have made requests of the agency for advance notice of its proceedings at least 14 days prior to such mailing. The agency shall also give such notice as is prescribed by rule to those particular classes of persons to whom the intended action is directed. Notice of intent by an educational unit to adopt, amend, or repeal any rule not described in subsection (8) shall be made:

1. By publication in a newspaper of general circulation in the affected area;

2. By mail to all persons who have made requests of the educational unit for advance notice of its proceedings and to organizations representing persons affected by the proposed rule; and

3. By posting in appropriate places so that those particular classes of persons to whom the intended action is directed may be duly notified. Such publication, mailing, and posting of notice shall occur at least 14 days prior to the intended action.

(b) The notice shall be published in the Florida Administrative Weekly not less than 21 days prior to the intended action, except that notice of actions proposed by educational units or units of government with jurisdiction in only one county or a part thereof need not be published in the Florida Administrative Weekly or transmitted to the committee.

(2) (a) Every agency, prior to the adoption, amendment, or repeal of any rule, shall prepare information on its proposed action by preparing an economic impact statement using professionally accepted methodology, with quantification of data to the extent practicable, giving effect to both short-term and long-term consequences. The economic impact statement shall include the following information:

1. A description of the action proposed, the purpose for taking the action, the legal authority for the action and the plan for implementing such action.

2. A determination of the least-cost method for achieving the stated purpose.

3. A comparison of the cost-benefit relation of the action to nonaction

4. A determination whether the action represents the most efficient allocation of public and private resources.

5. A determination of the effect of the action on competition.

6. A conclusion as to the economic impact of the proposed agency action on preserving an open market for employment.

7. A conclusion as to the economic impact upon all persons directly affected by the action, including an analysis containing a description as to which persons will bear the costs of the action and which persons will benefit directly and indirectly from the action.

(b) If an economic impact statement is required before an agency takes action on an application or petition by any person, the statement shall be prepared within a reasonable time after the application is made or the petition is filed.

Section 2. Paragraph (a) of subsection (10) of section 120.54, Florida Statutes, is amended to read:

120.54 Rulemaking; adoption procedures.--

(10) (a) The adopting agency shall file with the committee a copy of each rule it proposes to adopt, a detailed written statement of the facts and circumstances justifying the proposed rule, a copy of the estimate of economic impact required by subsection (1), and the notice required by subsection (1) at least 21 days prior to the proposed adoption date. After the final public hearing

on the proposed rule, or after the time for requesting a hearing has expired, the adopting agency shall file any changes in the proposed rule and the reasons therefor with the committee or advise the committee that there are no changes. As a legislative check on legislatively created authority, the committee shall examine the proposed rule and its accompanying material for the purpose of determining whether the proposed rule is within the statutory authority on which it is based, whether the rule is in proper form, and whether the notice issued pursuant to subsection (1) is sufficient to give adequate notice of the effect of the rule. After examining the proposed rule, the chairman of the committee may notify the agency and the Department of State that the committee is considering an objection to the rule. If it disapproves the rule, the committee shall, prior to the time the rule becomes effective, certify the fact to the agency proposing the rule, together with a statement detailing with particularity its objections to the proposed rule. The agency submitting the rule shall, within 30 days of the committee's objection, either modify the proposed rule in its entirety, or refuse to modify the rule. Failure of the agency to act within 30 days shall constitute withdrawal of the rule in its entirety. Proposed rules modified to meet committee objections shall give propriety to modified rules when setting it agenda. This paragraph shall not apply to educational units other than units of the State University System, to local units of government with jurisdiction in only one county or part thereof, or to emergency rules adopted pursuant to subsection (8). However, agencies adopting emergency rules shall file a copy of each emergency rule with the committee.

Section 3. Estimate of economic impact.—Prior to the enactment of any general or special law, each house of the Legislature shall consider the economic impact such legislation will have upon the public and upon the agencies of government assigned to implement or enforce such legislation. For purposes of this section, economic impact shall be defined as in section 120.54 (1) (a). No general or special law shall be declared invalid for failure to comply with the provisions of this act.

Section 4. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 5. Chapter 76-1, Laws of Florida, is hereby repealed.

Section 6. This act shall take effect July 1, 1976.

Approved by the Governor June 28, 1976.

Filed in Office Secretary of State June 29, 1976.