

# Section 120.545

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## CHAPTER 76-131

Section 4. Section 120.545, Florida Statutes, is created to read:

### 120.545 Committee review of agency rules.--

(1) As a legislative check on legislatively created authority, the committee shall examine each proposed rule, except for those proposed rules exempted by s. 120.54(11)(a), and its accompanying material, and may examine any existing rule, for the purposes of determining whether the rule is within the statutory authority upon which it is based, whether the rule is in proper form, and whether the notice given prior to its adoption was sufficient to give adequate notice of the purpose and effect of the rule. If the committee objects to a proposed or existing rule, it shall, within 5 days of the objection, certify the fact to the agency whose rule has been examined and include with the certification a statement detailing its objections with particularity.

(2) Within 30 days of receipt of the objection, if the agency is headed by an individual, or within 45 days of receipt of the objection, if the agency is headed by collegial body, the agency shall:

(a) If the rule is a proposed rule:

1. Modify the rule to meet the committee's objection;
2. Withdraw the rule in its entirety; or
3. Refuse to modify or withdraw the rule.

(b) If the rule is an existing rule:

1. Notify the committee that it has elected to amend the rule to meet the committee's objection and initiate the amendment procedure;
2. Notify the committee that it has elected to repeal the rule and initiate the repeal procedure; or
3. Notify the committee that it refuses to amend or repeal the rule.

(3) If the agency elects to modify a proposed rule to meet the committee's objection, it shall make only such modifications as are necessary to meet the objection and shall resubmit the rule to the committee. The agency shall give notice of its election to modify a proposed rule to meet the committee's objection in the first available issue of the Florida Administrative Weekly, but shall not be required to conduct a public hearing. If the agency elects to amend an existing rule

to meet the committee's objection, it shall notify the committee in writing and shall initiate the amendment procedure by giving notice in the next available issue of the Florida Administrative Weekly. The committee shall give priority to rules so modified or amended when setting its agenda.

(4) If the agency elects to withdraw a proposed rule as a result of a committee objection, it shall notify the committee, in writing, of its election and shall give notice of the withdrawal in the next available issue of the Florida Administrative Weekly. The rule shall be withdrawn without a public hearing, effective upon publication of the notice in the Florida Administrative Weekly. If the agency elects to repeal an existing rule as a result of a committee objection, it shall notify the committee, in writing, of its election and shall initiate rulemaking procedures for that purpose by giving notice in the next available issue of the Florida Administrative Weekly.

(5) If an agency elects to amend or repeal an existing rule as a result of a committee objection, it shall complete the process within 90 days after giving notice in the Florida Administrative Weekly.

(6) Failure of the agency to respond to a committee objection to a proposed rule within the time prescribed in subsection (2) shall constitute withdrawal of the rule in its entirety. In this event, the committee shall notify the Department of State that the agency, by its failure to respond to a committee objection, has elected to withdraw the proposed rule. Upon receipt of the committee's notice, the Department of State shall publish a notice to that effect in the next available issue of the Florida Administrative Weekly. Upon publication of the notice, the proposed rule shall be stricken from the files of the Department of State and the files of the agency.

(7) Failure of the agency to respond to a committee objection to an existing rule within the time prescribed in subsection (2) shall constitute a refusal to repeal the rule.

(8) If the committee objects to a proposed or existing rule and the agency refuses to modify, amend, withdraw, or repeal the rule, the committee shall file with the Department of State a notice of the objection, detailing with particularity its objection to the rule. The Department of State shall publish this notice in the Florida Administrative Weekly and shall publish, as a history note to the rule in the Florida Administrative Code, a reference to the committee's objection and to the issue of the Weekly in which the full text thereof appears.

## **CHAPTER 77-174**

### 120.545 Committee review of agency rules.--

(1) As a legislative check on legislatively created authority, the committee shall examine each proposed rule, except for those proposed rules exempted by s. 120.54(11)(10)(a), and its accompanying material, and may examine any existing rule, for the purposes of determining whether the rule is within the statutory authority upon which it is based, whether the rule is in proper form, and whether the notice given prior to its adoption was sufficient to give adequate

notice of the purpose and effect of the rule. If the committee objects to a proposed or existing rule, it shall, within 5 days of the objection, certify the fact to the agency whose rule has been examined and include with the certification a statement detailing its objections with particularity.

(2) Within 30 days of receipt of the objection, if the agency is headed by an individual, or within 45 days of receipt of the objection, if the agency is headed by a collegial body, the agency shall:

(a) If the rule is a proposed rule:

1. Modify the rule to meet the committee's objection;
2. Withdraw the rule in its entirety; or
3. Refuse to modify or withdraw the rule.

(b) If the rule is an existing ~~effective~~ rule:

1. Notify the committee that it has elected to amend the rule to meet the committee's objection and initiate the amendment procedure;
2. Notify the committee that it has elected to repeal the rule and initiate the repeal procedure; or
3. Notify the committee that it refuses to amend or repeal the rule.

(3) If the agency elects to modify a proposed rule to meet the committee's objection, it shall make only such modifications as are necessary to meet the objection and shall resubmit the rule to the committee. The agency shall give notice of its election to modify a proposed rule to meet the committee's objection in the first available issue of the Florida Administrative Weekly, but shall not be required to conduct a public hearing. If the agency elects to amend an existing ~~effective~~ rule to meet the committee's objection, it shall notify the committee in writing and shall initiate the amendment procedure by giving notice in the next available issue of the Florida Administrative Weekly. The committee shall give priority to rules so modified or amended when setting its agenda.

(4) If the agency elects to withdraw a proposed rule as a result of a committee objection, it shall notify the committee, in writing, of its election and shall give notice of the withdrawal in the next available issue of the Florida Administrative Weekly. The rule shall be withdrawn without a public hearing, effective upon publication of the notice in the Florida Administrative Weekly. If the agency elects to repeal an existing rule as a result of a committee objection, it shall notify the committee, in writing, of its election and shall initiate rulemaking procedures for that purpose by giving notice in the next available issue of the Florida Administrative Weekly.

(5) If an agency elects to amend or repeal an existing rule as a rule of a committee objection, it shall complete the process within 90 days after giving notice in the Florida Administrative Weekly.

(7) Failure of the agency to respond to a committee objection to an existing effective rule within the time prescribed in subsection (2) shall constitute a refusal to repeal the rule.

(8) If the committee objects to a proposed or existing rule and the agency refuses to modify, amend, withdraw, or repeal the rule, the committee shall file with the Department of State a notice of the objection, detailing with particularity its objection to the rule. The Department of State shall publish this notice in the Florida Administrative Weekly and shall publish, as a history note to the rule in the Florida Administrative Code, a reference to the committee's objection and to the issue of the Weekly in which the full text thereof appears.

### **CHAPTER 80-391**

Section 6. Subsection (1) of section 120.545, Florida Statutes, is amended to read:

120.545 Committee review of agency rules.--

(1) As a legislative check on legislatively created authority, the committee shall examine each proposed rule, except for those proposed rules exempted by s. 120.54(11)(a), and its accompanying material, and may examine any existing rule, for the purposes of determining whether:

(a) The rule is within the statutory authority upon which it is based; ~~whether~~

(b) The statutory authority for the rule has been repealed;

(c) The rule reiterates or paraphrases statutory material;

(d) The rule is in proper form; and ~~whether~~

(e) The notice given prior to its adoption was sufficient to give adequate notice of the purpose and effect of the rule.

If the committee objects to a proposed or existing rule, it shall, within 5 days of the objection, certify the fact to the agency whose rule has been examined and include with the certification of a statement detailing its objections with particularity.

### **CHAPTER 81-309**

Section 3. Paragraph (f) is added to subsection (1) of section 120.545, Florida Statutes, 1980 Supplement, and paragraph (c) is added to subsection (2) of said section, to read:

120.545 Committee review of agency rules.--

(1) As a legislative check on legislatively created authority, the committee shall examine each proposed rule, except for those proposed rules exempted by s. 120.54(11)(a), and its accompanying material, and may examine any existing rule, for the purposes of determining whether:

(f) The economic impact statement accompanying the rule is adequate to accurately inform the public of the economic effect of the rule.

If the committee objects to a proposed or existing rule, it shall, within 5 days of the objection, certify that fact to the agency whose rule has been examined and include with the certification a statement detailing its objections with particularity.

(2) Within 30 days of receipt of the objection, if the agency is headed by an individual, or within 45 days of receipt of the objection, if the agency is headed by a collegial body, the agency shall:

(c) If the rule is either an existing or a proposed rule and the objection is to the economic impact statement:

1. Prepare a corrected economic impact statement, give notice of the availability of the corrected economic impact statement in the first available issue of the Florida Administrative Weekly, and file copies of the corrected statement with the committee and the Department of State; or

2. Notify the committee that it refuses to prepare a corrected economic impact statement.

**CHAPTER 87-385**

Section 4. Paragraph (a) of subsection (1) of section 120.545, Florida Statutes, is amended to read:

120.545 Committee review of agency rules.--

(1) As a legislative check on legislatively created authority, the committee shall examine each proposed rule, except for those proposed rules exempted by s. 120.54(11)(a), and its accompanying material, and may examine any existing rule, for the purpose of determining whether:

(a) The rule is an invalid exercise of delegated legislative authority ~~within the statutory authority upon which it is based;~~

## CHAPTER 92-166

Section 8. Effective upon becoming a law, subsection (1) of section 120.545, Florida Statutes, is amended to read:

120.545 Committee review of agency rules.--

(1) As a legislative check on legislatively created authority, the committee shall examine each proposed rule, except for those proposed rules exempted by s. 120.54(11)(a), and its accompanying material, each emergency rule, and may examine any existing rule, for the purpose of determining whether:

(a) The rule is an invalid exercise of delegated legislative authority;

(b) The statutory authority for the rule has been repealed;

(c) The rule reiterates or paraphrases statutory material;

(d) The rule is in proper form;

(e) The notice given prior to its adoption was sufficient to give adequate notice of the purpose and effect of the rule; and

(f) An ~~The~~ economic impact statement was prepared that informs ~~accompanying the rule~~ is adequate to accurately inform the public of the economic effect of the rule, if such statement is required pursuant to paragraph (2)(b) or is requested by the committee.

(g) The rule is consistent with expressed legislative intent pertaining to the specific provisions of law which the rule implements.

(h) The rule is necessary to accomplish the apparent or expressed objectives of the specific provision of law which the rule implements.

(i) The rule is a reasonable implementation of the law as it affects the convenience of the general public or persons particularly affected by the rule.

(j) The rule could be made less complex or more easily comprehensible to the general public.

(k) The rule reflects the approach to the regulatory objective involving the lowest net cost to society to the degree consistent with the provisions of law which the rule implements.

(l) The rule will require additional appropriations.

(m) If the rule is an emergency rule, there exists an emergency justifying the promulgation of such rule, whether the agency has exceeded the scope of its statutory authority, and whether the rule was promulgated in compliance with the requirements and limitations of s. 120.54(9).

The committee may request from an agency such information as is reasonably necessary for examination of a rule as required by this subsection. The committee shall consult with legislative standing committees with jurisdiction over the subject areas pertinent to any rule examined regarding legislative authority for the rule. If the committee objects to an emergency, a proposed or existing rule, it shall, within 5 days of the objection, certify that fact to the agency whose rule has been examined and include with the certification a statement detailing its objections with particularity. The committee shall notify the Speaker of the House of Representatives and the President of the Senate of any objection to an agency rule concurrent with certification of that fact to the agency. Such notice shall include a copy of the rule and the statement detailing the committee's objections to the rule.

### **CHAPTER 95-280**

Section 20. Subsection (1) of section 120.545, Florida Statutes, is amended to read:

#### 120.545 Committee review of agency rules

(1) As a legislative check on legislatively created authority, the committee shall examine each proposed rule, except for those proposed rules exempted by s. 120.54(11)(a), and its accompanying material, and each emergency rule, and may examine any existing rule, for the purpose of determining whether:

- (a) The rule is an invalid exercise of delegated legislative authority.
- (b) The statutory authority for the rule has been repealed.
- (c) The rule reiterates or paraphrases statutory material.
- (d) The rule is in proper form.
- (e) The notice given prior to its adoption was sufficient to give adequate notice of the purpose and effect of the rule.
- (f) An economic impact statement was prepared that informs the public of the economic effect of the rule, if such statement is required pursuant to paragraph (2)(b) or is requested by the committee.
- (g) The rule is consistent with expressed legislative intent pertaining to the specific provisions of law which the rule implements.
- (h) The rule is necessary to accomplish the apparent or expressed objectives of the specific provision of law which the rule implements.

(i) The rule is a reasonable implementation of the law as it affects the convenience of the general public or persons particularly affected the rule.

(j) The rule could be made less complex or more easily comprehensible to the general public.

(k) The rule reflects the approach to the regulatory objective involving the lowest net cost to society to the degree consistent with the provisions of law which the rule implements.

(l) The rule will require additional appropriations.

(m) If the rule is an emergency rule, there exists an emergency justifying the promulgation of such rule, whether the agency has exceeded the scope of its statutory authority, and whether the rule was promulgated in compliance with the requirements and limitations of s. 120.54(9).

The committee may request from an agency such information as is reasonably necessary for examination of a rule required by this subsection. The committee shall consult with legislative standing committees with jurisdiction over the subject areas pertinent to any rule examined regarding legislative authority for the rule. If the committee objects to an emergency rule or; a proposed or existing rule, it shall, within 5 days of the objection, certify that fact to the agency whose rule has been examined and include with the certification a statement detailing its objections with particularity. The committee shall notify the Speaker of the House of Representatives and the President of the Senate of any objection to an agency rule concurrent with the certification of that fact to the agency. Such notice shall include a copy of the rule and the statement detailing the committee's objections to the rule.

Reviser's Note: - Amended to improve clarity and facilitate interpretation.

## **CHAPTER 96-159**

Section 1. It is the intent of the Legislature to consider the impact of any agency rulemaking required by proposed legislation and to determine whether the proposed legislation provides adequate and appropriate standards and guidelines to direct the agency's implementation of the proposed legislation.

Section 14. Section 120.545, Florida Statutes, is amended to read:

120.545 Committee review of agency rules

(1) As a legislative check on legislatively created authority, the committee shall examine each proposed rule, except for those proposed rules exempted by s. 120.81(1)(d) and (2) 120.54(11)(a), and its accompanying material, and each emergency rule, and may examine any existing rule, for the purpose of determining whether:



(a) The rule is an invalid exercise of delegated legislative authority.

(b) The statutory authority for the rule has been repealed.

(c) The rule reiterates or paraphrases statutory material.

(d) The rule is in proper form.

(e) The notice given prior to its adoption was sufficient to give adequate notice of the purpose and effect of the rule.

~~(f) An economic impact statement was prepared that informs the public of the economic effect of the rule, if such statement is required pursuant to paragraph (2)(b) or is requested by the committee.~~

~~(f)(g)~~ The rule is consistent with expressed legislative intent pertaining to the specific provisions of law which the rule implements.

~~(g)(h)~~ The rule is necessary to accomplish the apparent or expressed objectives of the specific provision of law which the rule implements.

~~(h)(i)~~ The rule is a reasonable implementation of the law as it affects the convenience of the general public or persons particularly affected by the rule.

~~(i)(j)~~ The rule could be made less complex or more easily comprehensible to the general public.

~~(j)(k) The rule does not impose regulatory costs on the regulated person, county, or city which could be reduced by the adoption of less costly alternatives that substantially accomplish the statutory objectives reflects the approach to the regulatory objective involving the lowest net cost to society to the degree consistent with the provisions of law which the rule implements.~~

~~(k)(l)~~ The rule will require additional appropriations.

~~(l)(m)~~ If the rule is an emergency rule, there exists an emergency justifying the promulgation of such rule, ~~whether~~ the agency has exceeded the scope of its statutory authority, and ~~whether~~ the rule was promulgated in compliance with the requirements and limitations of s. 120.54(4) (9).

(2) The committee may request from an agency such information as is reasonably necessary for examination of a rule as required by ~~this~~ subsection (1). The committee shall consult with legislative standing committees with jurisdiction over the subject areas ~~pertinent to any rule examined regarding legislative authority for the rule~~. If the committee objects to an emergency rule or a proposed or existing rule, it shall, within 5 days of the objection, certify that fact to the agency whose rule has been examined and include with the certification a statement detailing its objections with particularity. The committee shall notify the Speaker of the House of Representatives and the President of the Senate of any objection to an agency rule concurrent

with certification of that fact to the agency. Such notice shall include a copy of the rule and the statement detailing the committee's objections to the rule.

~~(3)(2)~~ Within 30 days of receipt of the objection, if the agency is headed by an individual, or within 45 days of receipt of the objection, if the agency is headed by a collegial body, the agency shall:

(a) If the rule is a proposed rule:

1. Modify the rule to meet the committee's objection;
2. Withdraw the rule in its entirety; or
3. Refuse to modify or withdraw the rule.

(b) If the rule is an existing rule:

1. Notify the committee that it has elected to amend the rule to meet the committee's objection and initiate the amendment procedure;
2. Notify the committee that it has elected to repeal the rule and initiate the repeal procedure;  
or
3. Notify the committee that it refuses to amend or repeal the rule.

(c) If the rule is either an existing or a proposed rule and the objection is to the ~~economic impact~~ statement of estimated regulatory costs:

1. Prepare a corrected ~~economic impact~~ statement of estimated regulatory costs, give notice of the availability of the corrected ~~economic impact~~ statement in the first available issue of the Florida Administrative Weekly, and file a copy ~~copies~~ of the corrected statement with the committee ~~and the Department of State~~; or
2. Notify the committee that it refuses to prepare a corrected ~~economic impact~~ statement of estimated regulatory costs.

~~(4)(3)~~ If the agency elects to modify a proposed rule to meet the committee's objection, it shall make only such modifications as are necessary to meet the objection and shall resubmit the rule to the committee. The agency shall give notice of its election to modify a proposed rule to meet the committee's objection by publishing a notice of change in the first available issue of the Florida Administrative Weekly, but shall not be required to conduct a public hearing. If the agency elects to amend an existing rule to meet the committee's objection, it shall notify the committee in writing and shall initiate the amendment procedure by giving notice in the next available issue of the Florida Administrative Weekly. The committee shall give priority to rules so modified or amended when setting its agenda.

~~(5)~~(4) If the agency elects to withdraw a proposed rule as a result of a committee objection, it shall notify the committee, in writing, of its election and shall give notice of the withdrawal in the next available issue of the Florida Administrative Weekly. The rule shall be withdrawn without a public hearing, effective upon publication of the notice in the Florida Administrative Weekly. If the agency elects to repeal an existing rule as a result of a committee objection, it shall notify the committee, in writing, of its election and shall initiate rulemaking procedures for that purpose by giving notice in the next available issue of the Florida Administrative Weekly.

~~(6)~~(5) If an agency elects to amend or repeal an existing rule as a result of a committee objection, it shall complete the process within 90 days after giving notice in the Florida Administrative Weekly.

~~(7)~~(6) Failure of the agency to respond to a committee objection to a proposed rule within the time prescribed in subsection ~~(3)~~(2) shall constitute withdrawal of the rule in its entirety. In this event, the committee shall notify the Department of State that the agency, by its failure to respond to a committee objection, has elected to withdraw the proposed rule. Upon receipt of the committee's notice, the Department of State shall publish a notice to that effect in the next available issue of the Florida Administrative Weekly. Upon publication of the notice, the proposed rule shall be stricken from the files of the Department of State and the files of the agency.

~~(8)~~(7) Failure of the agency to respond to a committee objection to an existing rule within the time prescribed in subsection ~~(3)~~ (2) shall constitute a refusal to repeal the rule.

~~(9)~~(8) If the committee objects to a proposed or existing rule and the agency refuses to modify, amend, withdraw, or repeal the rule, the committee shall file with the Department of State a notice of the objection, detailing with particularity its objection to the rule. The Department of State shall publish this notice in the Florida Administrative Weekly and shall publish, as a history note to the rule in the Florida Administrative Code, a reference to the committee's objection and to the issue of the Weekly in which the full text thereof appears.

(10)(a) If the committee objects to a proposed or existing rule, or portion thereof, and the agency fails to initiate administrative action to modify, amend, withdraw, or repeal the rule consistent with the objection within 60 days after the objection, or thereafter fails to proceed in good faith to complete such action, the committee may submit to the President of the Senate and the Speaker of the House of Representatives a recommendation that legislation be introduced to modify or suspend the adoption of the proposed rule, or amend or repeal the rule, or portion thereof.

(b)1. If the committee votes to recommend the introduction of legislation to modify or suspend the adoption of a proposed rule, or amend or repeal a rule, the committee shall, within 5 days after this determination, certify that fact to the agency whose rule or proposed rule has been examined. The committee may request that the agency temporarily suspend the rule or suspend the adoption of the proposed rule, pending consideration of proposed legislation during the next regular session of the Legislature.

2. Within 30 days after receipt of the certification, if the agency is headed by an individual, or within 45 days after receipt of the certification, if the agency is headed by a collegial body, the agency shall either:

a. Temporarily suspend the rule or suspend the adoption of the proposed rule; or

b. Notify the committee in writing that it refuses to temporarily suspend the rule or suspend the adoption of the proposed rule.

3. If the agency elects to temporarily suspend the rule or suspend the adoption of the proposed rule, it shall give notice of the suspension in the Florida Administrative Weekly. The rule or the rule adoption process shall be suspended upon publication of the notice. An agency shall not base any agency action on a suspended rule or suspended proposed rule, or portion thereof, prior to expiration of the suspension. A suspended rule or suspended proposed rule, or portion thereof, continues to be subject to administrative determination and judicial review as provided by law.

4. Failure of an agency to respond to committee certification within the time prescribed by subparagraph 2. constitutes a refusal to suspend the rule or to suspend the adoption of the proposed rule.

(c) The committee shall prepare bills to modify or suspend the adoption of the proposed rule or amend or repeal the rule, or portion thereof, in accordance with the rules of the Senate and the House of Representatives for prefiling and introduction in the next regular session of the Legislature. The proposed bill shall be presented to the President of the Senate and the Speaker of the House of Representatives with the committee recommendation.

(d) If a bill to suspend the adoption of a proposed rule is enacted into law, the proposed rule is suspended until specific delegated legislative authority for the proposed rule has been enacted. If a bill to suspend the adoption of a proposed rule fails to become law, any temporary agency suspension of the rule shall expire. If a bill to modify a proposed rule or amend a rule is enacted into law, the suspension shall expire upon publication of notice of modification or amendment in the Florida Administrative Weekly. If a bill to repeal a rule is enacted into law, the suspension shall remain in effect until notification of repeal of the rule is published in the Florida Administrative Weekly.

(e) The Department of State shall publish in the next available issue of the Florida Administrative Weekly the final legislative action taken. If a bill to modify or suspend the adoption of the proposed rule or amend or repeal the rule, or portion thereof, is enacted into law, the Department of State shall conform the rule or portion of the rule to the provisions of the law in the Florida Administrative Code and publish a reference to the law as a history note to the rule.

## **CHAPTER 2000-151**

### **House Bill No. 1049**

Section 16. Subsection (1) of section 120.545, Florida Statutes, is amended to read:

120.545 Committee review of agency rules.—

(1) As a legislative check on legislatively created authority, the committee shall examine each proposed rule, except for those proposed rules exempted by s. 120.81(1)(e) and (2) ~~120.81(1)(d) and (2)~~, and its accompanying material, and each emergency rule, and may examine any existing rule, for the purpose of determining whether:

(a) The rule is an invalid exercise of delegated legislative authority.

(b) The statutory authority for the rule has been repealed.

(c) The rule reiterates or paraphrases statutory material.

(d) The rule is in proper form.

(e) The notice given prior to its adoption was sufficient to give adequate notice of the purpose and effect of the rule.

(f) The rule is consistent with expressed legislative intent pertaining to the specific provisions of law which the rule implements.

(g) The rule is necessary to accomplish the apparent or expressed objectives of the specific provision of law which the rule implements.

(h) The rule is a reasonable implementation of the law as it affects the convenience of the general public or persons particularly affected by the rule.

(i) The rule could be made less complex or more easily comprehensible to the general public.

(j) The rule does not impose regulatory costs on the regulated person, county, or city which could be reduced by the adoption of less costly alternatives that substantially accomplish the statutory objectives.

(k) The rule will require additional appropriations.

(l) If the rule is an emergency rule, there exists an emergency justifying the promulgation of such rule, the agency has exceeded the scope of its statutory authority, and the rule was promulgated in compliance with the requirements and limitations of s. 120.54(4).

Reviser's note.--Amended to conform to the redesignation of s. 120.81(1)(d) as s. 120.81(1)(e) by s. 7, ch. 99-379, Laws of Florida.

#### **CHAPTER 2008-4**

##### **Committee Substitute for Senate Bill No. 1678**

Section 18. Subsection (9) of section 120.545, Florida Statutes, is amended to read:

120.545 Committee review of agency rules.—

(9) If the committee objects to a proposed or existing rule and the agency refuses to modify, amend, withdraw, or repeal the rule, the committee shall file with the Department of State a notice of the objection, detailing with particularity its objection to the rule. The Department of State shall publish this notice in the Florida Administrative Weekly and shall publish, as a history note to the rule in the Florida Administrative Code, a reference to the committee's objection and to the issue of the Florida Administrative Weekly in which the full text thereof appears.

Reviser's note.—Amended to confirm the insertion of the words "Florida Administrative" by the editors to reference the complete name of the publication.

Approved by the Governor April 7, 2008.

Filed in Office Secretary of State April 7, 2008.

#### **CHAPTER 2008-104**

##### **Committee Substitute for Committee Substitute for Senate Bill No. 704**

Section 7. Section 120.545, Florida Statutes, is amended to read:

120.545 Committee review of agency rules.—

(1) As a legislative check on legislatively created authority, the committee shall examine each proposed rule, except for those proposed rules exempted by s. 120.81(1)(e) and (2), and its accompanying material, and each emergency rule, and may examine any existing rule, for the purpose of determining whether:

- (a) The rule is an invalid exercise of delegated legislative authority.
- (b) The statutory authority for the rule has been repealed.
- (c) The rule reiterates or paraphrases statutory material.

(d) The rule is in proper form.

(e) The notice given prior to its adoption was sufficient to give adequate notice of the purpose and effect of the rule.

(f) The rule is consistent with expressed legislative intent pertaining to the specific provisions of law which the rule implements.

(g) The rule is necessary to accomplish the apparent or expressed objectives of the specific provision of law which the rule implements.

(h) The rule is a reasonable implementation of the law as it affects the convenience of the general public or persons particularly affected by the rule.

(i) The rule could be made less complex or more easily comprehensible to the general public.

(j) The rule's statement of estimated regulatory costs complies with the requirements of s. 120.541 and whether the rule does not impose regulatory costs on the regulated person, county, or city which could be reduced by the adoption of less costly alternatives that substantially accomplish the statutory objectives.

(k) The rule will require additional appropriations.

(l) If the rule is an emergency rule, there exists an emergency justifying the adoption ~~promulgation~~ of such rule, the agency is within ~~has exceeded the scope of~~ its statutory authority, and the rule was adopted ~~promulgated~~ in compliance with the requirements and limitations of s. 120.54(4).

(2) The committee may request from an agency such information as is reasonably necessary for examination of a rule as required by subsection (1). The committee shall consult with legislative standing committees having ~~with~~ jurisdiction over the subject areas. If the committee objects to ~~an emergency rule or a proposed or existing rule,~~ the committee ~~it~~ shall, within 5 days ~~after~~ ~~of~~ the objection, certify that fact to the agency whose rule has been examined and include with the certification a statement detailing its objections with particularity. The committee shall notify the Speaker of the House of Representatives and the President of the Senate of any objection to an agency rule concurrent with certification of that fact to the agency. Such notice shall include a copy of the rule and the statement detailing the committee's objections to the rule.

(3) Within 30 days ~~after~~ ~~of~~ receipt of the objection, if the agency is headed by an individual, or within 45 days after ~~of~~ receipt of the objection, if the agency is headed by a collegial body, the agency shall:

(a) If the rule is not yet in effect ~~a proposed rule~~:

1. File notice pursuant to s. 120.54(3)(d) of only such modifications as are necessary to address ~~Modify the rule to meet~~ the committee's objection;

2. File notice pursuant to s. 120.54(3)(d) of withdrawal of ~~withdraw~~ the rule ~~in its entirety~~; or
3. Notify the committee in writing that it refuses ~~Refuse~~ to modify or withdraw the rule.

(b) If the rule is in effect ~~an existing rule~~:

1. File notice pursuant to s. 120.54(3)(a), without prior notice of rule development, Notify the committee that it has elected to amend the rule to address ~~meet~~ the committee's objection ~~and initiate the amendment procedure~~;

2. File notice pursuant to s. 120.54(3)(a) Notify the committee that it has elected to repeal the rule and initiate the repeal procedure; or

3. Notify the committee in writing that the agency ~~it~~ refuses to amend or repeal the rule.

(c) ~~the rule is either an existing or a proposed rule and~~ the objection is to the statement of estimated regulatory costs:

1. Prepare a corrected statement of estimated regulatory costs, give notice of the availability of the corrected statement in the first available issue of the Florida Administrative Weekly, and file a copy of the corrected statement with the committee; or

2. Notify the committee that it refuses to prepare a corrected statement of estimated regulatory costs.

~~(4) If the agency elects to modify a proposed rule to meet the committee's objection, it shall make only such modifications as are necessary to meet the objection and shall resubmit the rule to the committee. The agency shall give notice of its election to modify a proposed rule to meet the committee's objection by publishing a notice of change in the first available issue of the Florida Administrative Weekly, but shall not be required to conduct a public hearing. If the agency elects to amend an existing rule to meet the committee's objection, it shall notify the committee in writing and shall initiate the amendment procedure by giving notice in the next available issue of the Florida Administrative Weekly. The committee shall give priority to rules so modified or amended when setting its agenda.~~

~~(5) If the agency elects to withdraw a proposed rule as a result of a committee objection, it shall notify the committee, in writing, of its election and shall give notice of the withdrawal in the next available issue of the Florida Administrative Weekly. The rule shall be withdrawn without a public hearing, effective upon publication of the notice in the Florida Administrative Weekly. If the agency elects to repeal an existing rule as a result of a committee objection, it shall notify the committee, in writing, of its election and shall initiate rulemaking procedures for that purpose by giving notice in the next available issue of the Florida Administrative Weekly.~~



~~(6) If an agency elects to amend or repeal an existing rule as a result of a committee objection, it shall complete the process within 90 days after giving notice in the Florida Administrative Weekly.~~

~~(4)(7)~~ Failure of the agency to respond to a committee objection to a ~~proposed~~ rule that is not yet in effect within the time prescribed in subsection (3) constitutes ~~shall constitute~~ withdrawal of the rule in its entirety. In this event, the committee shall notify the Department of State that the agency, by its failure to respond to a committee objection, has elected to withdraw the ~~proposed~~ rule. Upon receipt of the committee's notice, the Department of State shall publish a notice to that effect in the next available issue of the Florida Administrative Weekly. Upon publication of the notice, the ~~proposed~~ rule shall be stricken from the files of the Department of State and the files of the agency.

~~(5)(8)~~ Failure of the agency to respond to a committee objection to a ~~an existing~~ rule that is in effect within the time prescribed in subsection (3) constitutes ~~shall constitute~~ a refusal to amend or repeal the rule.

~~(6)~~ Failure of the agency to respond to a committee objection to a statement of estimated regulatory costs within the time prescribed in subsection(3) constitutes a refusal to prepare a corrected statement of estimated regulatory costs.

~~(7)(9)~~ If the committee objects to a ~~proposed or existing~~ rule and the agency refuses to modify, amend, withdraw, or repeal the rule, the committee shall file with the Department of State a notice of the objection, detailing with particularity the committee's ~~its~~ objection to the rule. The Department of State shall publish this notice in the Florida Administrative Weekly. If the rule is published and shall publish, as a history note to the rule in the Florida Administrative Code, a reference to the committee's objection and to the issue of the Florida Administrative Weekly in which the full text thereof appears shall be recorded in a history note.

~~(8)(10)(a)~~ If the committee objects to a ~~proposed or existing~~ rule, or portion of a rule thereof, and the agency fails to initiate administrative action to modify, amend, withdraw, or repeal the rule consistent with the objection within 60 days after the objection, or thereafter fails to proceed in good faith to complete such action, the committee may submit to the President of the Senate and the Speaker of the House of Representatives a recommendation that legislation be introduced to address the committee's objection ~~modify or suspend the adoption of the proposed rule, or amend or repeal the rule, or portion thereof.~~

(b)1. If the committee votes to recommend the introduction of legislation to address the committee's objection ~~modify or suspend the adoption of a proposed rule, or amend or repeal a rule~~, the committee shall, within 5 days after this determination, certify that fact to the agency whose rule or proposed rule has been examined. The committee may request that the agency temporarily suspend the rule or suspend the adoption of the proposed rule, pending consideration of proposed legislation during the next regular session of the Legislature.

2. Within 30 days after receipt of the certification, if the agency is headed by an individual, or within 45 days after receipt of the certification, if the agency is headed by a collegial body, the agency shall ~~either~~:

a. Temporarily suspend the rule or suspend the adoption of the proposed rule; or

b. Notify the committee in writing that the agency ~~it~~ refuses to temporarily suspend the rule or suspend the adoption of the proposed rule.

3. If the agency elects to temporarily suspend the rule or suspend the adoption of the proposed rule, the agency ~~it~~ shall give notice of the suspension in the Florida Administrative Weekly. The rule or the rule adoption process shall be suspended upon publication of the notice. An agency ~~may~~ shall not base any agency action on a suspended rule or suspended proposed rule, or portion of such rule ~~thereof~~, prior to expiration of the suspension. A suspended rule or suspended proposed rule, or portion of such rule thereof, continues to be subject to administrative determination and judicial review as provided by law.

4. Failure of an agency to respond to committee certification within the time prescribed by subparagraph 2. constitutes a refusal to suspend the rule or to suspend the adoption of the proposed rule.

(c) The committee shall prepare proposed legislation bills to address the committee's objection ~~modify or suspend the adoption of the proposed rule or amend or repeal the rule, or portion thereof~~, in accordance with the rules of the Senate and the House of Representatives for prefiling and introduction in the next regular session of the Legislature. The proposed legislation bill shall be presented to the President of the Senate and the Speaker of the House of Representatives with the committee recommendation.

(d) If proposed legislation addressing the committee's objection ~~a bill to suspend the adoption of a proposed rule is enacted into law, the proposed rule is suspended until specific delegated legislative authority for the proposed rule has been enacted. If a bill to suspend the adoption of a proposed rule fails to become law, any temporary agency suspension of the rule shall expire. If a bill to modify a proposed rule or amend a rule is enacted into law, the suspension shall expire upon publication of notice of modification or amendment in the Florida Administrative Weekly. If a bill to repeal a rule is enacted into law, the suspension shall remain in effect until notification of repeal of the rule is published in the Florida Administrative Weekly.~~

(e) ~~The Department of State shall publish in the next available issue of the Florida Administrative Weekly the final legislative action taken. If a bill to modify or suspend the adoption of the proposed rule or amend or repeal the rule, or portion thereof, is enacted into law, the Department of State shall conform the rule or portion of the rule to the provisions of the law in the Florida Administrative Code and publish a reference to the law as a history note to the rule.~~

## **CHAPTER 2013-14**

### **Senate Bill No. 688**

Section 6. Paragraph (c) of subsection (3), subsections (4) and (7), and paragraph (b) of subsection (8) of section 120.545, Florida Statutes, are amended to read:

120.545 Committee review of agency rules.—

(3) Within 30 days after receipt of the objection, if the agency is headed by an individual, or within 45 days after receipt of the objection, if the agency is headed by a collegial body, the agency shall:

(c) If the objection is to the statement of estimated regulatory costs:

1. Prepare a corrected statement of estimated regulatory costs, give notice of the availability of the corrected statement in the first available issue of the Florida Administrative Register Weekly, and file a copy of the corrected statement with the committee; or

2. Notify the committee that it refuses to prepare a corrected statement of estimated regulatory costs.

(4) Failure of the agency to respond to a committee objection to a rule that is not yet in effect within the time prescribed in subsection (3) constitutes withdrawal of the rule in its entirety. In this event, the committee shall notify the Department of State that the agency, by its failure to respond to a committee objection, has elected to withdraw the rule. Upon receipt of the committee's notice, the Department of State shall publish a notice to that effect in the next available issue of the Florida Administrative Register Weekly. Upon publication of the notice, the rule shall be stricken from the files of the Department of State and the files of the agency.

(7) If the committee objects to a rule and the agency refuses to modify, amend, withdraw, or repeal the rule, the committee shall file with the Department of State a notice of the objection, detailing with particularity the committee's objection to the rule. The Department of State shall publish this notice in the Florida Administrative Register Weekly. If the rule is published in the Florida Administrative Code, a reference to the committee's objection and to the issue of the Florida Administrative Register Weekly in which the full text thereof appears shall be recorded in a history note.

(8)

(b)1. If the committee votes to recommend the introduction of legislation to address the committee's objection, the committee shall, within 5 days after this determination, certify that fact to the agency whose rule or proposed rule has been examined. The committee may request that the agency temporarily suspend the rule or suspend the adoption of the proposed rule, pending consideration of proposed legislation during the next regular session of the Legislature.

2. Within 30 days after receipt of the certification, if the agency is headed by an individual, or within 45 days after receipt of the certification, if the agency is headed by a collegial body, the agency shall:

a. Temporarily suspend the rule or suspend the adoption of the proposed rule; or

b. Notify the committee in writing that the agency refuses to temporarily suspend the rule or suspend the adoption of the proposed rule.

3. If the agency elects to temporarily suspend the rule or suspend the adoption of the proposed rule, the agency shall give notice of the suspension in the Florida Administrative Register ~~Weekly~~. The rule or the rule adoption process shall be suspended upon publication of the notice. An agency may not base any agency action on a suspended rule or suspended proposed rule, or portion of such rule, prior to expiration of the suspension. A suspended rule or suspended proposed rule, or portion of such rule, continues to be subject to administrative determination and judicial review as provided by law.

4. Failure of an agency to respond to committee certification within the time prescribed by subparagraph 2. constitutes a refusal to suspend the rule or to suspend the adoption of the proposed rule.