STORAGE NAME: h0751.sgr
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HOUSE OF REPRESENTATIVES
COMMITTEE ON
STREAMLINING GOVERNMENTAL REGULATIONS
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: HB 751

RELATING TO: Administrative Procedures

SPONSOR(S): Representative Peaden

STATUTE(S) AFFECTED: s. 120.54

COMPANION BILL(S): SB 316 by Senator Thomas

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) Streamlining Governmental Regulations
(2)
(3)
(4)
(5)

I. SUMMARY:

This bill requires that when an agency proposes to adopt, amend, or repeal a rule, it must consider the impact on small counties in addition to the impact on small businesses currently required by s. 120.54(2), F.S. Small counties are defined as counties with populations of 50,000 or less. The bill provides that the agency shall consider the same methods for reducing the impact of the rule on small counties as it does under current law for small businesses. The bill would also allow agencies to define small counties as greater than 50,000, if that is necessary to adapt a rule to the needs and problems of small counties.

This is a substantial rewording of s. 120.54(2)(a), F.S. Small businesses are currently covered in s. 120.54(2)(a), F.S.

It appears that this bill would have an indeterminate fiscal impact on small counties and state agencies.

II. <u>SUBSTANTIVE ANALYSIS</u>:

A. PRESENT SITUATION:

When agencies adopt rules to implement legislation enacted by the Legislature, they must do so pursuant to chapter 120, Florida Statutes, the Administrative Procedure Act. The act provides procedures for adopting, amending, and repealing agency rules.

Agencies are required, under section 120.54(2)(a), Florida Statutes, to consider the impact on small businesses prior to the adoption, amendment, or repeal of any rule. A small business is defined in section 288.703(1), Florida Statutes, as:

> an independently owned and operated business concern that employs 100 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than $3 million and an average net income after federal income taxes, excluding any carryover losses, for the preceding 2 years of not more than $2 million. As applicable to sole proprietorships, the $3 million net worth requirement shall include both personal and business investments.

Whenever possible, agencies are required to "tier" a rule to reduce any disproportionate impact on small businesses and to avoid regulating businesses that do not contribute significantly to the problem the rule is designed to regulate. Section 120.54(2), Florida Statutes, allows agencies to define small businesses as more than 50 persons if the agency finds that such a definition is necessary to adapt any rule to the needs and problems of small business. The definition of small business in section 288.703(1), Florida Statutes, was amended by chapter 94-322, Laws of Florida to increase the number of persons employed to 100 or fewer. The cross reference was not changed in section 120.54(2), Florida Statutes.

The agency must consider the following methods to reduce the impact on small businesses:

1. Establishing less stringent compliance or reporting requirements in the rule for small business.
2. Establishing less stringent schedules or deadlines in the rule for compliance or reporting requirements for small business.
3. Consolidating or simplifying the rule's compliance or reporting requirements for small business.
4. Establishing performance standards to replace design or operational standards in the rule for small business.
5. Exempting small business from any or all requirements of the rule.

Currently, small counties are not included in the provisions authorizing agencies to be flexible in the implementation of their rules.

B. EFFECT OF PROPOSED CHANGES:

This bill requires that agencies must consider the impact on small counties as well as the impact on small businesses when they are adopting, amending, or repealing rules. Small counties are defined as those with populations of 50,000 or less. Whenever practicable, an agency is required to “tier” its rules to reduce the disproportionate impacts on small counties to avoid regulating the counties that do not contribute significantly to the problem the rule is designed to regulate. The bill also allows agencies to define a small county as larger than 50,000, if it is needed to adapt the rules to the needs and problems of small counties.

The provisions of the bill dealing with small businesses are current law.

According to the Economic and Demographic Research Division, Joint Legislative Management Committee, there are 30 counties with a population of 50,000 or less as of April 1, 1995. Forty-five percent of Florida's 67 counties would be covered by this bill. These counties include in order from largest to smallest: Nassau, Jackson, Gadsden, Flagler, Sumter, Walton, Okeechobee, Suwannee, Levy, Hendry, DeSoto, Bradford, Hardee, Baker, Washington, Madison, Taylor, Holmes, Wakulla, Jefferson, Gulf, Union, Hamilton, Dixie, Calhoun, Gilchrist, Franklin, Glades, Liberty, and Lafayette.

C. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends section 120.54(2)(a), Florida Statutes, to include small counties and small municipalities in the impact that agencies must consider when they are adopting, amending, or repealing rules.

Section 2. Provides an effective date upon becoming a law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

Agencies would be required to consider the impact on small counties under this bill. Additional staff time may be required to effectively "tier" rules to address the concerns of small counties.

2. Recurring Effects:

Same as above.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

Indeterminate.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

Reducing the impact of rules on small counties may have some positive fiscal impact by reducing the cost of complying with certain rules.

2. Recurring Effects:

Reducing the impact of rules on small counties may also continue to benefit those counties over time.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

The private sector in small counties may benefit from the reduction or modification of certain rules in those counties.

3. Effects on Competition, Private Enterprise and Employment Markets:

Markets may be affected by businesses who may re-locate to the small counties affected by this bill. Private enterprise may be affected in these localities by reducing the cost of starting a business due to the reduced cost of regulation.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

N/A

V. COMMENTS:

An identical bill, HB 1309 was introduced last session by Rep. Peaden and referred to the Select Committee on Streamlining Governmental Regulations, Finance & Taxation Committee, and Appropriations Committee. It was passed by the select committee as a committee substitute. The committee substitute died on the House Calendar.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

COMMITTEE ON Streamlining Governmental Regulations:

Prepared by:	Staff Director:
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