

## CHAPTER 2012-27

### Committee Substitute for House Bill No. 7043

An act relating to obsolete or outdated programs and requirements; amending s. 110.123, F.S.; repealing provisions relating to the creation and duties of the Florida State Employee Wellness Council; amending ss. 120.54 and 120.745, F.S.; revising provisions relating to rule adoption by state agencies; requiring the rules ombudsman in the Executive Office of the Governor to assume certain duties formerly performed by the Small Business Regulatory Advisory Council; deleting provisions that require the Office of Program Policy Analysis and Government Accountability, upon request, to conduct a study and issue a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives regarding the impact on small business of certain proposed agency rules that have been rejected; repealing s. 258.155, F.S., relating to the Judah P. Benjamin Memorial at Gamble Plantation Historical Site Advisory Council; repealing s. 288.7001, F.S., relating to the Small Business Regulatory Advisory Council; repealing s. 288.7002, F.S., relating to the small business advocate; amending s. 316.2065, F.S.; removing a requirement to keep one hand on the handlebars while operating a bicycle; amending s. 339.64, F.S.; repealing provisions relating to the creation and duties of the Statewide Intermodal Transportation Advisory Council; repealing s. 381.90, F.S., relating to the creation, appointment, and duties of the Health Information Systems Council; repealing s. 624.916, F.S., relating to the developmental disabilities compact; repealing s. 1004.63, F.S., relating to the Florida Institute for Nuclear Detection and Security; amending ss. 322.27, 627.6686, and 641.31098, F.S.; correcting cross-references and conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Subsection (13) of section 110.123, Florida Statutes, is amended to read:

110.123 State group insurance program.—

~~(13) FLORIDA STATE EMPLOYEE WELLNESS COUNCIL.—~~

~~(a) There is created within the department the Florida State Employee Wellness Council.~~

~~(b) The council shall be an advisory body to the department to provide health education information to employees and to assist the department in developing minimum benefits for all health care providers when providing age-based and gender-based wellness benefits.~~

~~(e) The council shall be composed of nine members appointed by the Governor. When making appointments to the council, the Governor shall appoint persons who are residents of the state and who are highly knowledgeable concerning, active in, and recognized leaders in the health and medical field, at least one of whom must be an employee of the state. Council members shall equitably represent the broadest spectrum of the health industry and the geographic areas of the state. Not more than one member of the council may be from any one company, organization, or association.~~

~~(d)1. Council members shall be appointed to 4-year terms, except that the initial terms shall be staggered. The Governor shall appoint three members to 2-year terms, three members to 3-year terms, and three members to 4-year terms.~~

~~2. A member's absence from three consecutive meetings shall result in his or her automatic removal from the council. A vacancy on the council shall be filled for the remainder of the unexpired term.~~

~~(e) The council shall annually elect from its membership one member to serve as chair of the council and one member to serve as vice chair.~~

~~(f) The first meeting of the council shall be called by the chair not more than 60 days after the council members are appointed by the Governor. The council shall thereafter meet at least once quarterly and may meet more often as necessary. The department shall provide staff assistance to the council which shall include, but not be limited to, keeping records of the proceedings of the council and serving as custodian of all books, documents, and papers filed with the council.~~

~~(g) A majority of the members of the council constitutes a quorum.~~

~~(h) Members of the council shall serve without compensation, but are entitled to reimbursement for per diem and travel expenses as provided in s. 112.061 while performing their duties.~~

~~(i) The council shall:~~

~~1. Work to encourage participation in wellness programs by state employees. The council may prepare informational programs and brochures for state agencies and employees.~~

~~2. In consultation with the department, develop standards and criteria for age-based and gender-based wellness programs.~~

Section 2. 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 Small Business Regulatory Advisory Council and the Department of Economic Opportunity 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 Small Business Regulatory Advisory Council and provided to the agency no later than 21 days after the 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 Small Business Regulatory Advisory Council, 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 Small Business Regulatory Advisory Council. ~~The Small Business Regulatory Advisory Council may make a request of the President of the Senate and the Speaker of the House of Representatives that the presiding officers direct the Office of Program Policy Analysis and Government Accountability to determine whether the rejected alternatives reduce the impact on small business while meeting the stated objectives of the proposed rule. Within 60 days after the date of the directive from the presiding officers, the Office of Program Policy Analysis and Government Accountability shall report to the Administrative Procedures Committee its findings as to whether an alternative reduces the impact on small business while meeting the stated objectives of the proposed rule. The Office of Program Policy Analysis and Government Accountability shall consider the proposed rule, the economic impact statement, the written statement of the agency, the proposed alternatives, and any comment submitted during the comment period on the proposed rule. The Office of Program Policy Analysis and Government Accountability shall submit a report of its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The Administrative Procedures Committee shall report such findings to the agency, and the agency shall respond in writing to the Administrative Procedures Committee if the Office of Program Policy Analysis and Government Accountability found that the alternative reduced the impact on small business while meeting the stated objectives of the proposed rule. If the agency will not adopt the alternative, it must also provide a detailed written statement to the committee as to why it will not adopt the alternative.~~

Section 3. Paragraphs (a) and (c) of subsection (5) of section 120.745, Florida Statutes, are 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 ~~Small Business Regulatory Advisory Council~~ for its review.

(c) No later than August 1, the rules ombudsman in the Executive Office of the Governor ~~Small Business Regulatory Advisory Council~~ may submit lower cost regulatory alternatives to any rule to the agency that adopted the rule. No later than June 15, other interested parties may submit lower cost regulatory alternatives to any rule.

Section 4. Section 258.155, Florida Statutes, is repealed.

Section 5. Section 288.7001, Florida Statutes, is repealed.

Section 6. Section 288.7002, Florida Statutes, is repealed.

Section 7. Subsections (8) through (20) of section 316.2065, Florida Statutes, are renumbered as subsections (7) through (19), respectively, and

present subsections (7), (17), (18), and (20) of that section are amended to read:

316.2065 Bicycle regulations.—

~~(7) Any person operating a bicycle shall keep at least one hand upon the handlebars.~~

~~(16)~~(17) The court may waive, reduce, or suspend payment of any fine imposed under subsection (3) or subsection ~~(15)~~ (16) and may impose any other conditions on the waiver, reduction, or suspension. If the court finds that a person does not have sufficient funds to pay the fine, the court may require the performance of a specified number of hours of community service or attendance at a safety seminar.

~~(17)~~(18) Notwithstanding s. 318.21, all proceeds collected pursuant to s. 318.18 for violations under paragraphs (3)(e) and ~~(15)(b)~~ (16)(b) shall be deposited into the State Transportation Trust Fund.

~~(19)~~(20) Except as otherwise provided in this section, a violation of this section is a noncriminal traffic infraction, punishable as a pedestrian violation as provided in chapter 318. A law enforcement officer may issue traffic citations for a violation of subsection (3) or subsection ~~(15)~~ (16) only if the violation occurs on a bicycle path or road, as defined in s. 334.03. However, a law enforcement officer may not issue citations to persons on private property, except any part thereof which is open to the use of the public for purposes of vehicular traffic.

Section 8. Subsections (1), (2), and (5) of section 339.64, Florida Statutes, are amended to read:

339.64 Strategic Intermodal System Plan.—

(1) The department shall develop, in cooperation with metropolitan planning organizations, regional planning councils, local governments, ~~the Statewide Intermodal Transportation Advisory Council~~ and other transportation providers, a Strategic Intermodal System Plan. The plan shall be consistent with the Florida Transportation Plan developed pursuant to s. 339.155 and shall be updated at least once every 5 years, subsequent to updates of the Florida Transportation Plan.

(2) In association with the continued development of the Strategic Intermodal System Plan, the Florida Transportation Commission, as part of its work program review process, shall conduct an annual assessment of the progress that the department and its transportation partners have made in realizing the goals of economic development, improved mobility, and increased intermodal connectivity of the Strategic Intermodal System. The Florida Transportation Commission shall coordinate with the department, ~~the Statewide Intermodal Transportation Advisory Council~~, and other appropriate entities when developing this assessment. The Florida Transportation Commission shall deliver a report to the Governor and Legislature

no later than 14 days after the regular session begins, with recommendations as necessary to fully implement the Strategic Intermodal System.

~~(5) STATEWIDE INTERMODAL TRANSPORTATION ADVISORY COUNCIL.—~~

~~(a) The Statewide Intermodal Transportation Advisory Council is created to advise and make recommendations to the Legislature and the department on policies, planning, and funding of intermodal transportation projects. The council's responsibilities shall include:~~

~~1. Advising the department on the policies, planning, and implementation of strategies related to intermodal transportation.~~

~~2. Providing advice and recommendations to the Legislature on funding for projects to move goods and people in the most efficient and effective manner for the State of Florida.~~

~~(b) MEMBERSHIP.—Members of the Statewide Intermodal Transportation Advisory Council shall consist of the following:~~

~~1. Six intermodal industry representatives selected by the Governor as follows:~~

~~a. One representative from an airport involved in the movement of freight and people from their airport facility to another transportation mode.~~

~~b. One individual representing a fixed-route, local government transit system.~~

~~c. One representative from an intercity bus company providing regularly scheduled bus travel as determined by federal regulations.~~

~~d. One representative from a spaceport.~~

~~e. One representative from intermodal trucking companies.~~

~~f. One representative having command responsibilities of a major military installation.~~

~~2. Three intermodal industry representatives selected by the President of the Senate as follows:~~

~~a. One representative from major-line railroads.~~

~~b. One representative from seaports listed in s. 311.09(1) from the Atlantic Coast.~~

~~c. One representative from an airport involved in the movement of freight and people from their airport facility to another transportation mode.~~

~~3.—Three intermodal industry representatives selected by the Speaker of the House of Representatives as follows:~~

~~a.—One representative from short-line railroads.~~

~~b.—One representative from seaports listed in s. 311.09(1) from the Gulf Coast.~~

~~c.—One representative from intermodal trucking companies. In no event may this representative be employed by the same company that employs the intermodal trucking company representative selected by the Governor.~~

~~(e) Initial appointments to the council must be made no later than 30 days after the effective date of this section.~~

~~1.—The initial appointments made by the President of the Senate and the Speaker of the House of Representatives shall serve terms concurrent with those of the respective appointing officer. Beginning January 15, 2005, and for all subsequent appointments, council members appointed by the President of the Senate and the Speaker of the House of Representatives shall serve 2-year terms, concurrent with the term of the respective appointing officer.~~

~~2.—The initial appointees, and all subsequent appointees, made by the Governor shall serve 2-year terms.~~

~~3.—Vacancies on the council shall be filled in the same manner as the initial appointments.~~

~~(d) Each member of the council shall be allowed one vote. The council shall select a chair from among its membership. Meetings shall be held at the call of the chair, but not less frequently than quarterly. The members of the council shall be reimbursed for per diem and travel expenses as provided in s. 112.061.~~

~~(e) The department shall provide administrative staff support and shall ensure that council meetings are electronically recorded. Such recordings and all documents received, prepared for, or used by the council in conducting its business shall be preserved pursuant to chapters 119 and 257.~~

Section 9. Section 381.90, Florida Statutes, is repealed.

Section 10. Section 624.916, Florida Statutes, is repealed.

Section 11. Section 1004.63, Florida Statutes, is repealed.

Section 12. Paragraph (d) of subsection (3) of section 322.27, Florida Statutes, is amended to read:

322.27 Authority of department to suspend or revoke license.—



(3) There is established a point system for evaluation of convictions of violations of motor vehicle laws or ordinances, and violations of applicable provisions of s. 403.413(6)(b) when such violations involve the use of motor vehicles, for the determination of the continuing qualification of any person to operate a motor vehicle. The department is authorized to suspend the license of any person upon showing of its records or other good and sufficient evidence that the licensee has been convicted of violation of motor vehicle laws or ordinances, or applicable provisions of s. 403.413(6)(b), amounting to 12 or more points as determined by the point system. The suspension shall be for a period of not more than 1 year.

(d) The point system shall have as its basic element a graduated scale of points assigning relative values to convictions of the following violations:

1. Reckless driving, willful and wanton—4 points.
2. Leaving the scene of a crash resulting in property damage of more than \$50—6 points.
3. Unlawful speed resulting in a crash—6 points.
4. Passing a stopped school bus—4 points.
5. Unlawful speed:
  - a. Not in excess of 15 miles per hour of lawful or posted speed—3 points.
  - b. In excess of 15 miles per hour of lawful or posted speed—4 points.
6. A violation of a traffic control signal device as provided in s. 316.074(1) or s. 316.075(1)(c)1.—4 points. However, no points shall be imposed for a violation of s. 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to stop at a traffic signal and when enforced by a traffic infraction enforcement officer. In addition, a violation of s. 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to stop at a traffic signal and when enforced by a traffic infraction enforcement officer may not be used for purposes of setting motor vehicle insurance rates.
7. All other moving violations (including parking on a highway outside the limits of a municipality)—3 points. However, no points shall be imposed for a violation of s. 316.0741 or s. ~~316.2065(11)~~ 316.2065(12); and points shall be imposed for a violation of s. 316.1001 only when imposed by the court after a hearing pursuant to s. 318.14(5).
8. Any moving violation covered above, excluding unlawful speed, resulting in a crash—4 points.
9. Any conviction under s. 403.413(6)(b)—3 points.
10. Any conviction under s. 316.0775(2)—4 points.

Section 13. Subsection (10) of section 627.6686, Florida Statutes, is amended to read:

627.6686 Coverage for individuals with autism spectrum disorder required; exception.—

~~(10) The Office of Insurance Regulation may not enforce this section against an insurer that is a signatory no later than April 1, 2009, to the developmental disabilities compact established under s. 624.916. The Office of Insurance Regulation shall enforce this section against an insurer that is a signatory to the compact established under s. 624.916 if the insurer has not complied with the terms of the compact for all health insurance plans by April 1, 2010.~~

Section 14. Subsection (9) of section 641.31098, Florida Statutes, is amended to read:

641.31098 Coverage for individuals with developmental disabilities.—

~~(9) The Office of Insurance Regulation may not enforce this section against a health maintenance organization that is a signatory no later than April 1, 2009, to the developmental disabilities compact established under s. 624.916. The Office of Insurance Regulation shall enforce this section against a health maintenance organization that is a signatory to the compact established under s. 624.916 if the health maintenance organization has not complied with the terms of the compact for all health maintenance contracts by April 1, 2010.~~

Section 15. This act shall take effect July 1, 2012.

Approved by the Governor March 23, 2012.

Filed in Office Secretary of State March 23, 2012.