



RULEMAKING & REGULATION SUBCOMMITTEE COMMITTEE MEETING

Tuesday, April 5, 2011

3:00 P.M. – 6:00 P.M.

306 House Office Building

ACTION PACKET

Dean Cannon
Speaker

Chris Dorworth
Chair

COMMITTEE MEETING REPORT
Rulemaking & Regulation Subcommittee

4/5/2011 3:00:00PM

Location: 306 HOB

Summary:

Rulemaking & Regulation Subcommittee

Tuesday April 05, 2011 03:00 pm

HB 331	Favorable	Yeas: 14	Nays: 0
HB 553	Favorable	Yeas: 11	Nays: 3
CS/HB 707	Temporarily Deferred		
CS/HB 823	Favorable	Yeas: 14	Nays: 0
CS/HB 849	Favorable With Committee Substitute	Yeas: 14	Nays: 0
CS/HB 917	Favorable	Yeas: 12	Nays: 2
PCB RRS 11-02a	Favorable With Amendments (1)	Yeas: 12	Nays: 0

Rules of Concern:

The following rules in Chapter 64E-9 Public Swimming Pools and Bathing Places:

F.A.C. Rule 64E-9.005 Construction Plan or Modification Plan Approval

F.A.C. Rule 64E-9.007 Recirculation and Treatment System Requirement Workshopped

COMMITTEE MEETING REPORT
Rulemaking & Regulation Subcommittee

4/5/2011 3:00:00PM

Location: 306 HOB

Attendance:

	<i>Present</i>	<i>Absent</i>	<i>Excused</i>
Chris Dorworth (Chair)	X		
Janet Adkins	X		
Frank Artiles	X		
Jeffrey Brandes	X		
Douglas Broxson	X		
Richard Corcoran	X		
Matt Gaetz	X		
Joseph Gibbons			X
Tom Goodson	X		
Jimmy Patronis	X		
Scott Randolph	X		
Lake Ray	X		
Hazelle Rogers	X		
James Waldman	X		
Barbara Watson	X		
Totals:	14	0	1

Committee meeting was reported out: Tuesday, April 05, 2011 6:36:52PM

COMMITTEE MEETING REPORT
Rulemaking & Regulation Subcommittee

4/5/2011 3:00:00PM

Location: 306 HOB
HB 331 : Firesafety

Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Janet Adkins	X				
Frank Artiles	X				
Jeffrey Brandes	X				
Douglas Broxson	X				
Richard Corcoran	X				
Matt Gaetz	X				
Joseph Gibbons			X		
Tom Goodson	X				
Jimmy Patronis	X				
Scott Randolph	X				
Lake Ray	X				
Hazelle Rogers	X				
James Waldman	X				
Barbara Watson	X				
Chris Dorworth (Chair)	X				
Total Yeas: 14		Total Nays: 0			

Committee meeting was reported out: Tuesday, April 05, 2011 6:36:52PM

COMMITTEE MEETING REPORT
Rulemaking & Regulation Subcommittee

4/5/2011 3:00:00PM

Location: 306 HOB

HB 553 : Violations of the Florida Election Code

Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Janet Adkins	X				
Frank Artiles	X				
Jeffrey Brandes	X				
Douglas Broxson	X				
Richard Corcoran	X				
Matt Gaetz	X				
Joseph Gibbons			X		
Tom Goodson	X				
Jimmy Patronis	X				
Scott Randolph		X			
Lake Ray	X				
Hazelle Rogers	X				
James Waldman		X			
Barbara Watson		X			
Chris Dorworth (Chair)	X				
Total Yeas: 11		Total Nays: 3			

Committee meeting was reported out: Tuesday, April 05, 2011 6:36:52PM

COMMITTEE MEETING REPORT
Rulemaking & Regulation Subcommittee

4/5/2011 3:00:00PM

Location: 306 HOB

CS/HB 707 : Agriculture

Temporarily Deferred

Committee meeting was reported out: Tuesday, April 05, 2011 6:36:52PM

Print Date: 4/5/2011 6:37 pm

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COMMITTEE MEETING REPORT
Rulemaking & Regulation Subcommittee

4/5/2011 3:00:00PM

Location: 306 HOB
CS/HB 823 : Loan Processing

Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Janet Adkins	X				
Frank Artiles	X				
Jeffrey Brandes	X				
Douglas Broxson	X				
Richard Corcoran	X				
Matt Gaetz	X				
Joseph Gibbons			X		
Tom Goodson	X				
Jimmy Patronis	X				
Scott Randolph	X				
Lake Ray	X				
Hazelle Rogers	X				
James Waldman	X				
Barbara Watson	X				
Chris Dorworth (Chair)	X				
Total Yeas: 14		Total Nays: 0			

Appearances:

J. Terry Ryan - Opponent
 Self
 2580 Care Drive
 Tallahassee Florida 32308
 Phone: 850-562-6466

COMMITTEE MEETING REPORT
Rulemaking & Regulation Subcommittee

4/5/2011 3:00:00PM

Location: 306 HOB

CS/HB 849 : Building Construction and Inspection

Favorable With Committee Substitute

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Janet Adkins	X				
Frank Artiles	X				
Jeffrey Brandes	X				
Douglas Broxson	X				
Richard Corcoran	X				
Matt Gaetz	X				
Joseph Gibbons			X		
Tom Goodson	X				
Jimmy Patronis	X				
Scott Randolph	X				
Lake Ray	X				
Hazelle Rogers	X				
James Waldman	X				
Barbara Watson	X				
Chris Dorworth (Chair)	X				
Total Yeas: 14		Total Nays: 0			

Appearances:

Buck, Douglas (Lobbyist) - Waive In Support
 Florida Home Builders Association
 201 E Park Ave
 Tallahassee FL 32301
 Phone: (850)251-1836

Dudley, Fred (Lobbyist) - Waive In Support
 Verizon
 315 S. Calhoun #600
 Tallahassee Florida
 Phone: 850-425-5668

Ramba, David (Lobbyist) - Proponent
 Building Officials Association of Florida
 101 S. Monroe Street
 Tallahassee Florida 32301

COMMITTEE/SUBCOMMITTEE AMENDMENT

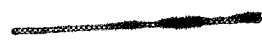
Bill No. CS/HB 849 (2011)

Amendment No. 01

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

ADOPTED



1 Committee/Subcommittee hearing bill: Rulemaking & Regulation
2 Subcommittee

3 Representative(s) Davis offered the following:

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5 **Amendment (with title amendment)**

6 Between lines 13 and 14, insert:

7 Section 1. Subsection (4) of section 120.541, Florida
8 Statutes, as amended by chapter 2010-279, Laws of Florida, is
9 amended to read:

10 120.541 Statement of estimated regulatory costs.—

11 (3) If the adverse impact or regulatory costs of the rule
12 exceed any of the criteria established in paragraph (2)(a), the
13 rule shall be submitted to the President of the Senate and
14 Speaker of the House of Representatives no later than 30 days
15 prior to the next regular legislative session, and the rule may
16 not take effect until it is ratified by the Legislature.

17 (4) Subsection (3) ~~Paragraph (2)(a)~~ does not apply to the
18 adoption of:

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 849 (2011)

Amendment No. 01

19 (a) emergency rules pursuant to s. 120.54(4) or the
20 adoption of Federal standards pursuant to s. 120.54(6).

21 (b) Triennial updates to the Florida Building Code
22 pursuant to s. 553.73(7)(a).

23 (c) Triennial updates to the Florida Fire Prevention Code
24 pursuant to s. 633.0215(1).

25 Section 2. Subsection (3) of section 527.06, Florida
26 Statutes, is amended to read:

27 527.06 Rules.—

28 (3)(a) Rules in substantial conformity with the published
29 standards of the National Fire Protection Association (NFPA) are
30 shall be deemed to be in substantial conformity with the
31 generally accepted standards of safety concerning the same
32 subject matter.

33 (b) Notwithstanding any other law, the department or other
34 state agency may not require compliance with the minimum
35 separation distances of NFPA 58 for separation between a
36 liquefied petroleum gas tank and a building, adjoining property
37 line, other liquefied petroleum gas tank, or any source of
38 ignition, except in compliance with the minimum separation
39 distances of the 2011 edition of NFPA 58. This subsection shall
40 be deemed repealed upon the last effective date of rules
41 adopted, directly or as incorporated by reference, by the
42 department, the Florida Building Commission as part of the
43 Florida Building Code, and the Office of State Fire Marshal as
44 part of the Florida Fire Prevention Code of these minimum
45 separation distances as contained in the 2011 edition of NFPA 58
46 promulgated by the National Fire Protection Association.

Amendment No. 01

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T I T L E A M E N D M E N T

Between lines 2 and 3, insert:

amending s. 120.541, F.S.; excluding rules adopting federal standards, triennial updates to the Florida Building Code, or triennial updates to the Florida Fire Prevention Code from required legislative ratification; excluding emergency rulemaking from certain provisions; amending s. 527.06, F.S.; prohibiting the Department of Agriculture and Consumer Services and other state agencies from requiring compliance with certain national standards for liquefied petroleum gas tanks unless the department or agencies require compliance with a specified edition of the national standards; providing for repeal under certain circumstances;

COMMITTEE MEETING REPORT
Rulemaking & Regulation Subcommittee

4/5/2011 3:00:00PM

Location: 306 HOB

CS/HB 917 : Sentencing of Inmates

Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Janet Adkins	X				
Frank Artiles		X			
Jeffrey Brandes	X				
Douglas Broxson	X				
Richard Corcoran	X				
Matt Gaetz		X			
Joseph Gibbons			X		
Tom Goodson	X				
Jimmy Patronis	X				
Scott Randolph	X				
Lake Ray	X				
Hazelle Rogers	X				
James Waldman	X				
Barbara Watson	X				
Chris Dorworth (Chair)	X				
Total Yeas: 12		Total Nays: 2			

Appearances:

Messersmith, Frank (Lobbyist) - Information Only

Florida Sheriffs Association

2901 Lake Bradford

Tallahassee FL 32317

Phone: (850)576-5858

Previtera, Jim (General Public) - Opponent

Colonel, Hillsborough County Sheriff's Association

2008 E. 8th Ave.

Tampa FL 32605

Phone: 813-247-8310

Coats, Jim (General Public) - Opponent

Florida Sheriff's Association

Pinellas Co. Sheriff's Office Post Office Box 2500

Largo FL 33779

Phone: 727-420-7280

Christine Franzetti (State Employee) - Waive In Support

Florida Alcohol & Drug Abuse Assoc.

2868 Mahan Drive, Suite 1

Tallahassee Florida 32308

Phone: 850-878-2196

Committee meeting was reported out: Tuesday, April 05, 2011 6:36:52PM

EAM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 917 (2011)

Amendment No. 01

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	___	

1 Committee/Subcommittee hearing bill: Rulemaking & Regulation
2 Subcommittee

3 Representative(s) Porth offered the following:

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5 **Amendment (with title amendment)**

6 Between lines 237 and 238, insert:

7 Section 2. Subsection (6) of section 893.135, Florida
8 Statutes, is amended to read:

9 893.135 Trafficking; mandatory sentences; suspension or
10 reduction of sentences; conspiracy to engage in trafficking.-

11 (6) A mixture, as defined in s. 893.02, containing any
 12 controlled substance described in this section includes, but is
 13 not limited to, a solution or a dosage unit, including but not
 14 limited to, a pill or tablet, containing a controlled substance.
 15 For the purpose of clarifying legislative intent regarding the
 16 weighing of a mixture containing a controlled substance
 17 described in this section, the weight of the controlled
 18 substance is the total weight of the mixture, including the
 19 controlled substance and any other substance in the mixture.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 917 (2011)

Amendment No. 01

20 However, if the mixture is a prescription drug as defined in s.
21 499.003(43) and the weight of the controlled substance can be
22 identified using the national drug code, the weight of the
23 controlled substance may not include any other substance in the
24 mixture. If there is more than one mixture containing the same
25 controlled substance, the weight of the controlled substance is
26 calculated by aggregating the total weight of each mixture.
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29 -----
30 **T I T L E A M E N D M E N T**

31 Remove lines 66-67 and insert:

32 directing the department to adopt rules; amending s. 893.135,
33 F.S.; providing that the weight of the controlled substance may
34 not include any other substance in the mixture if the mixture is
35 a prescription drug as defined in s. 499.003(43) and the weight
36 of the controlled substance can be identified using the national
37 drug code; providing an effective date.
38
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E/H/m

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 917 (2011)

Amendment No. 02

COMMITTEE/SUBCOMMITTEE ACTION

- ADOPTED _____ (Y/N)
- ADOPTED AS AMENDED _____ (Y/N)
- ADOPTED W/O OBJECTION _____ (Y/N)
- FAILED TO ADOPT _____ (Y/N)
- WITHDRAWN _____ (Y/N)
- OTHER _____

1 Committee/Subcommittee hearing bill: Rulemaking & Regulation
2 Subcommittee

3 Representative Porth offered the following:

Amendment (with title amendment)

5 Between lines 237 and 238, insert:

6 Section 2. Subsection (8) is added to section 893.135,
7 Florida Statutes, to read:

8 893.135 Trafficking; mandatory sentences; suspension or
9 reduction of sentences; conspiracy to engage in trafficking.-

10 (8) (a) Notwithstanding any other provision of law, the
11 court may depart from the prescribed mandatory minimum sentence
12 when sentencing a person convicted of a violation of any
13 provision of this chapter for which there is a mandatory minimum
14 sentence, if the violation did not involve:

15 1. The use, attempted use, or threatened use of physical
16 force against another person or result in the physical injury or
17 serious physical injury of another person;

18 2. The display, use, or threatened use of any firearm,
19 deadly weapon, or dangerous instrument; and

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 917 (2011)

Amendment No. 02

20 3. The representation by word or conduct that such person
21 possessed any firearm, deadly weapon, or dangerous instrument.

22 (b) The provisions of paragraph (a) must not have
23 previously been invoked on the defendant's behalf.

24 (c) At the time of sentencing, the court must state in open
25 court the reasons for imposing a particular sentence and the
26 specific reason for imposing any sentence that departs from the
27 prescribed mandatory minimum sentence.

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T I T L E A M E N D M E N T

32

Remove lines 66-67 and insert:

33

directing the department to adopt rules; amending s. 893.135,

34

F.S.; providing the court may depart from the prescribed

35

mandatory minimum sentence when sentencing a person convicted of

36

a violation of trafficking in a controlled substance if certain

37

conditions are met; providing an effective date.

COMMITTEE MEETING REPORT
Rulemaking & Regulation Subcommittee

4/5/2011 3:00:00PM

Location: 306 HOB

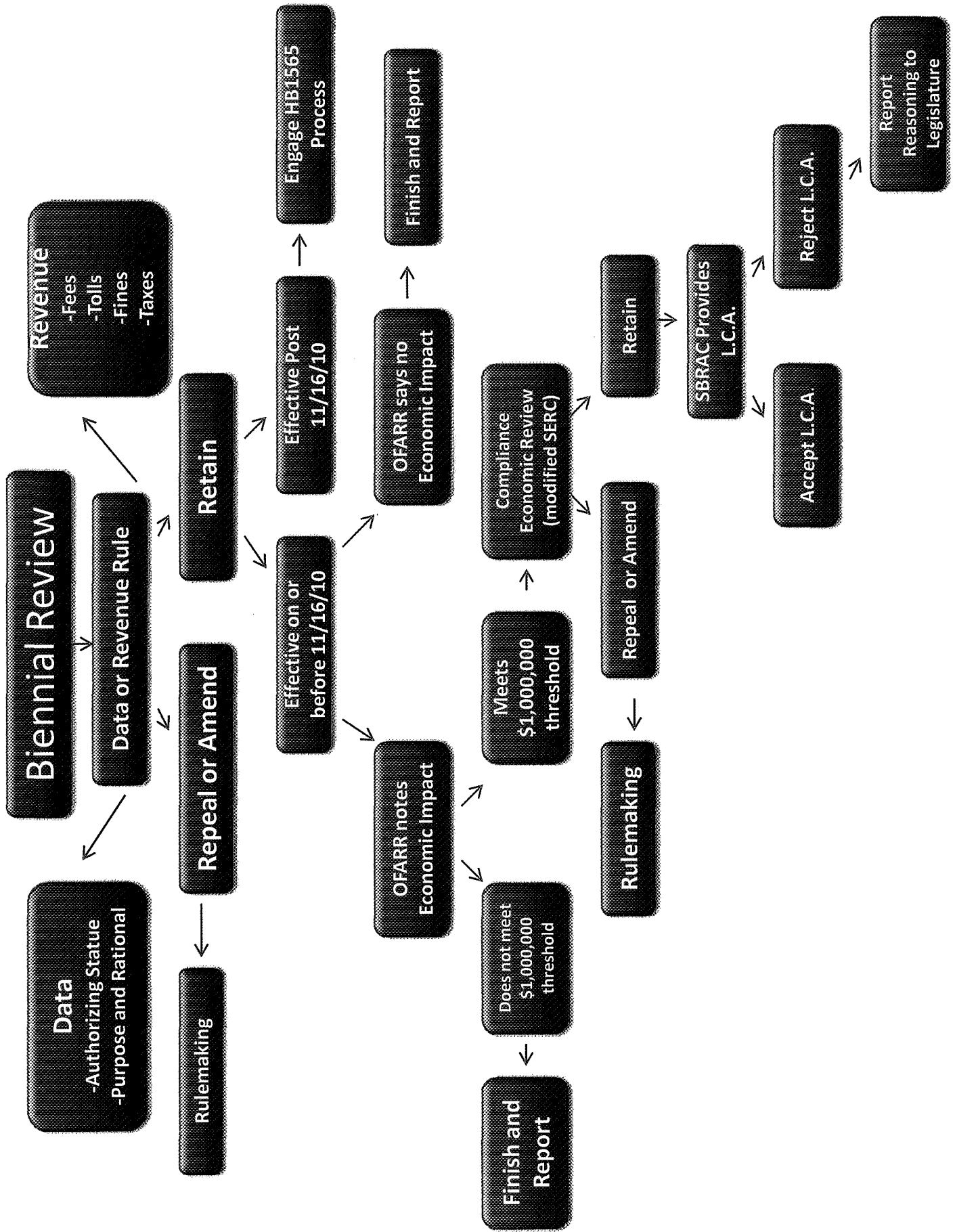
PCB RRS 11-02a : Administrative Procedure

Favorable With Amendments (1)

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Janet Adkins	X				
Frank Artiles	X				
Jeffrey Brandes	X				
Douglas Broxson	X				
Richard Corcoran	X				
Matt Gaetz	X				
Joseph Gibbons			X		
Tom Goodson	X				
Jimmy Patronis	X				
Scott Randolph			X		
Lake Ray	X				
Hazelle Rogers	X				
James Waldman			X		
Barbara Watson	X				
Chris Dorworth (Chair)	X				
Total Yeas: 12		Total Nays: 0			

Appearances:

Lewis Attaradd (State Employee) - Information Only
 Florida Small Business Regulatory Advisory Council (SBRAC)
 Pensacola Florida 32514
 Phone: 850-473-7817



COMMITTEE/SUBCOMMITTEE AMENDMENT

PCB Name: PCB RRS 11-02a (2011)

Amendment No.01

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

~~ADOPTED~~

1 Committee/Subcommittee hearing PCB: Rulemaking & Regulation
2 Subcommittee

3 Representative(s) Gaetz offered the following:

4
5 **Amendment**

6 Remove everything after the enacting clause and insert:

7 Section 1. Subsections (3) and (4) are added to section
8 120.74, Florida Statutes, to read:

9 120.74 Agency review, revision, and report.-

10 (3) Beginning in 2012, no later than July 1 of each year,
11 each agency shall file with the President of the Senate, the
12 Speaker of the House, and the committee a regulatory plan
13 identifying and describing each rule the agency proposes to
14 adopt for the 12 month period beginning on the July 1 reporting
15 date and ending on the subsequent June 30, excluding emergency
16 rules.

17 (4) For the year 2011, the certification required in
18 subsection (2) may omit any information included in the reports

Amendment No.01

19 provided under s. 120.745. Reporting under subsections (1) and
20 (2) shall be suspended for the year 2013, but required reporting
21 under those subsections shall resume in 2015 and biennially
22 thereafter.

23
24 Section 2. Section 120.745, Florida Statutes, is created
25 to read:

26 120.745 .- Legislative review of agency rules in effect on
27 or before November 16, 2010.

28 (1) DEFINITIONS. The following definitions shall apply
29 exclusively to this act:

30 (a) "Agency" shall have the same meaning and application as
31 provided in s. 120.52(1), F.S., but for purposes of this section
32 shall exclude each officer and governmental entity in the state
33 having jurisdiction in one county or less than one county, to
34 the extent they are expressly made subject to Ch. 120, F.S., by
35 special law.

36 (b) "Compliance economic review" shall mean a good faith
37 economic analysis which includes and presents the following
38 information pertaining to a particular rule:

39 1. A justification for the rule summarizing the benefits of
40 the rule; and

41 2. A statement of estimated regulatory costs as described
42 in s. 120.541(2), provided that:

43 a. the period for which impacts described in s.
44 120.541(2) (a) are estimated shall be 5 years from January 1,
45 2010, or a later effective date of the rule; and

Amendment No.01

46 b. for the analysis required in s. 120.541(2)(a)3., the
47 estimated regulatory costs over such five year period shall be
48 used instead of the likely increase in regulatory costs
49 following implementation.

50 (c) "Data Collection Rules" shall mean those rules
51 requiring the submission of data to the agency from external
52 sources, including but not limited to local governments, service
53 providers, clients, licensees, regulated entities, other
54 constituents and market participants.

55 (d) "Revenue Rules" shall mean those rules fixing amounts
56 or providing for the collection of money.

57 (2) ENHANCED BIENNIAL REVIEW. By December 1, 2011, each
58 agency shall complete an enhanced biennial review of the
59 agency's existing rules including:

60 (a) The review and report required by s. 120.74, F.S.,
61 including an explanation of how the agency has accomplished the
62 requirements of s. 120.74(1). This provision extends the October
63 1 deadline provided in s. 120.74(2) for the year 2011.

64 (b) Whether the rule is a Revenue Rule, identifying the
65 fund or account into which collections are deposited; and for
66 each Revenue Rule, whether the rule authorizes, imposes or
67 implements:

68 1. Registration, license, or inspection fees;

69 2. Transportation service tolls, whether for road, bridge,
70 rail, air, waterway, port;

71 3. Fees for a specific service or purpose not included in
72 1. or 2.;

Amendment No.01

73 4. Fines, penalties, costs, or attorneys fees;

74 5. Any tax;

75 6. Any other amounts collected which are not in the
76 foregoing categories.

77 (c) Whether the rule is a Data Collection Rule and include
78 the following information for each Data Collection Rule:

79 1. The statute(s) authorizing the collection of such data;

80 2. The purposes for which the agency uses the data and any
81 purpose for which the data is used by others;

82 3. The policies supporting reporting and retention of the
83 data; and

84 4. Whether and to what extent the data is exempt from
85 public inspection under ch. 119.

86 (d) Whether the agency plans to repeal the rule and the
87 estimated timetable for repeal, subject to subsection (8).

88 (e) Whether the agency plans to amend the rule and the
89 estimated timetable for amendment.

90 (f) A division and identification of certain rules for
91 further review, divided at the agency's discretion into two
92 approximately equal groups, identified as Group 1 and Group 2,
93 to include all rules that:

94 1. the agency does not plan to amend or repeal on or before
95 December 31, 2012, and

96 2. were effective on or before November 16, 2010, and

97 3. probably will have, for the five year period of time
98 beginning January 1, 2010, any of the economic impacts
99 described in s. 120.541(2)(a).

COMMITTEE/SUBCOMMITTEE AMENDMENT

PCB Name: PCB RRS 11-02a (2011)

Amendment No.01

100 (3) Upon completion of the enhanced biennial review
 101 pursuant to subsection(2), each agency shall publish, in the
 102 manner provided in subsection(7), a report of the entire
 103 enhanced biennial review including the results of the review; a
 104 complete list of all rules the agency has placed in Group 1 and
 105 Group 2; and the name, physical address, telefacsimile number,
 106 and email address for the person the agency has designated to
 107 receive all inquiries, public comments, and objections
 108 pertaining to the report. The report of results shall
 109 incorporate a table consistent with the following example:
 110

Agency	F.A.C. Rule Number		OFFAR Exempt ¹	REVENUE RULE/Fund or Account ⁴						Data Collection Rule ²	Repeal ³	Amend ³	Effective after 11/16/2010	Effective on or before 11/16/2010	
	Title	Number		Licensure fee	Transport. Tolls	Other Fees	Fines	Tax	Other Revenue					Probable 120.541 (2) (a) impact Group 1 or 2	Not probable impact
Possible answers			Exempt or blank	Y (G.R.) or N	Y or N	Y or N	Y or N	Y or N	Y or N	Y or N	Y or N	Y or N	Y or N	1 or 2 or blank	N

111

112 Footnotes:

113 1- If Exempt, use "Exempt" for the following columns: Repeal, Amend, and
 114 Effective after 11/16/2010.

115 2- Provide notes indicating the statutory authority for data collection,
 116 purpose for which agency uses data, purposes used by others, policies reporting
 117 data collection and retention.

118 3-Provide estimated timetable for repeal or amendment.

119 4-For Revenue Rules, include fund or account name in which collections are
 120 deposited. G.R. may be used for General Revenue
 121

Amendment No.01

122 (4) OBJECTION TO ENHANCED BIENNIAL REVIEW AND REPORT.

123 Public input on reports required in subsection (3) may be
124 provided by stating an objection to the information required in
125 Paragraphs (b), (c), and (f) of subsection (2), identifying the
126 rule or rules to which the objection relates, submitted in
127 writing or electronically to the person designated in the
128 report.

129 (a) An objection under this subsection to information
130 provided in response to subparagraph (2)(f)3. must include
131 allegations of fact upon which the objection is based.
132 Allegations of fact related to other objections may be included.

133 (b) Objections may be submitted by any interested person no
134 later than June 1, 2012.

135 (c) The agency shall determine whether or not to sustain an
136 objection based upon the information provided with the
137 objection, treating allegations of fact as if they are true, and
138 any further review of information available to the agency to
139 correct its report.

140 (d) No later than 20 days from the date an objection is
141 submitted the agency shall publish its determination of the
142 objection in the manner provided in subsection (7).

143 1. The agency's determination with respect to an objection
144 is final but not agency action subject to further proceedings,
145 hearing, or judicial review.

146 2. If the agency sustains an objection, it shall amend its
147 report within 10 days of such determination and shall publish
148 notice of the amendment in the manner provided in subsection

Amendment No.01

149 (7). The amended report shall indicate that changes have been
150 made, the date of last change, and identify amended portions.

151 (5) COMPLIANCE ECONOMIC REVIEW OF RULES AND REQUIRED
152 REPORT. Each agency shall perform a compliance economic review
153 and report with respect to all Group 1 and Group 2 rules, the
154 applicable year being 2012 for Group 1 Rules and 2013 for Group
155 2 rules.

156 (a) No later than May 1, each agency shall complete the
157 following:

158 1. For each rule the agency shall prepare a compliance
159 economic review.

160 2. The agency shall publish notice of completing the
161 compliance economic review for each rule in the manner provided
162 in subsection (7).

163 3. The agency shall publish a copy of the compliance
164 economic review, directions on how and when interested parties
165 may submit lower cost regulatory alternatives to the agency, and
166 the date the notice is published, in the manner provided in
167 subsection (7).

168 4. The agency shall submit each compliance economic review
169 to the Small Business Regulatory Advisory Council for their
170 review.

171 (b) Any agency rules reviewed pursuant to Executive Order
172 11-01, are exempt from the compliance economic review if the
173 review found that the rules do not:

174 a. Adversely affect the availability of business services,

175 b. Adversely affect job creation or retention,

Amendment No.01

176 c. Place unreasonable restrictions on access to employment,
177 or

178 d. Impose a significant regulatory related cost.

179 (c)The Small Business Regulatory Advisory Council may
180 submit lower cost regulatory alternatives to any rule no later
181 than August 1, to the agency that adopted the rule. Other lower
182 cost regulatory alternatives to any rule may be submitted to the
183 applicable agency no later than June 15.

184 (d) No later than December 1, each agency shall publish in
185 the manner provided in subsection (7), a final report of the
186 agency's review under this subsection. For each rule the report
187 shall include:

188 1. The text of the rule;

189 2. The compliance economic review for the rule;

190 3. All lower regulatory cost alternatives received by the
191 agency;

192 4. The agency's written explanation for rejecting submitted
193 lower regulatory cost alternatives;

194 5. The agency's justification to repeal, amend, or retain
195 without amendment the rule.

196 (e) Notice of the report shall be published the manner
197 provided in subsection (7).

198 (f) No later than December 1, each agency shall begin
199 proceedings under s. 120.54, F.S., to amend or repeal those
200 rules so designated in the report under this subsection.
201 Proceedings to repeal rules so designated are exempt from the
202 requirements for the preparation, consideration, or use of a

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203 statement of estimated regulatory costs under s. 120.54, F.S.,
204 and the provisions of s. 120.541, F.S.

205 (6) With respect to rules identified for retention without
206 amendment in the report under subsection (5), the Legislature
207 may consider specific legislation nullifying any such rule, or
208 altering the statutory authority for any such rule.

209 (7) PUBLICATION OF NOTICES, DETERMINATIONS AND REPORTS.

210 Agencies shall publish notices, determinations and reports
211 required under this section exclusively in the following manner:

212 (a) The agency shall publish each notice, determination and
213 complete report on its Internet website. (If the agency does not
214 have an Internet website, the information shall be published on
215 the committee's Internet website using
216 www.japc.state.fl.us/[agency name]/ in place of the address of
217 the agency's Internet website.) The following URL formats shall
218 be used:

219 1. Reports required under subsection (3), including any
220 reports amended as a result of a determination under subsection
221 (4):

222 [Address of agency's Internet website]/2011 Rule review/
223 [Florida Administrative Code (F.A.C.) title and subtitle
224 (if applicable) designation for the rules included].
225 (Example: <http://www.dos.state.fl.us/2011 Rule review/1S>).

226 2. The lists of Group 1 Rules and Group 2 Rules, required
227 under subsection (3):

228 [Address of agency's Internet website]/2011 Rule review/
229 Economic Review/Schedule.

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230 (Example: http://www.dos.state.fl.us/2011 Rule review/
231 Economic Review/Schedule)

232 3. Determinations under subsection (4):

233 [Address of agency's Internet website]/2011 Rule review/
234 Objection Determination/[F.A.C. Rule number].

235 (Example: http://www.dos.state.fl.us/2011 Rule review/
236 Objection Determination/1S-1.001).

237 4. Completed compliance economic reviews reported under
238 subsection (5):

239 [Address of agency's Internet website]/2011 Rule review/
240 Economic Review/[F.A.C.Rule number].

241 (Example: http://www.dos.state.fl.us/2011 Rule review/
242 Economic Review/1S-1.001).

243 5. Final reports under (5)(d), with the appropriate year:

244 [Address of agency's Internet website]/2011 Rule review/
245 Economic Review/[YYYY Final Report].

246 (Example: http://www.dos.state.fl.us/2011 Rule review/
247 Economic Review/2012 Final Report).

248 (b) 1. Each notice shall be published using the following

249 URL format:

250 [Address of agency's Internet website]/
251 2011 Rule review/Notices.

252 (Example:

253 http://www.dos.state.fl.us/2011 Rule review/Notices).

254 2. Once weekly, a copy of all notices published on the

255 Internet under this subparagraph in the previous week shall be

256 delivered to the Department of State for publication in the next

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257 available issue of the Florida Administrative Weekly. A copy
258 shall also be delivered by electronic mail to the committee.

259 3. Each notice shall identify the publication for which
260 notice is being given, and include:

261 a. The name of the agency;

262 b. The name, physical address, telefacsimile number, and
263 electronic mailing address for the person designated to receive
264 all inquiries, public comments, and objections pertaining to the
265 publication identified in the notice;

266 c. The particular Internet address through which the
267 publication may be accessed; and

268 d. The date the notice and publication is first published
269 on the agency's Internet website.

270 (c) Publication pursuant to this section is deemed to be
271 complete as of the date the notice, determination or report is
272 posted on the agency's internet website.

273
274 Section 3. Section 120.7455, Florida Statutes, is created
275 to read:

276 120.7455 .-Legislative survey of regulatory impacts.

277 (1) From the effective date of this act, until July 2,
278 2014, the Legislature may establish and maintain an internet-
279 based public survey of regulatory impact soliciting information
280 from Floridians and other persons regarding the kind and degree
281 of regulation affecting private activities in the state. Such
282 input may include, but need not be limited to:

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283 (a) The registered business name or other name of each
284 reporting person;

285 (b) The number and identity of agencies licensing,
286 registering or permitting lawful activities of the reporting
287 person;

288 (c) The types, numbers and nature of licenses, permits and
289 registrations required for various lawful activities of the
290 reporting person;

291 (d) The identity of local, state and federal agencies, and
292 other entities acting under color of law, regulating the lawful
293 activities of the reporting person or otherwise exercising power
294 to enforce laws applicable to such activities; and,

295 (e) The identification and nature of each ordinance, law
296 or administrative rule or regulation deemed unreasonably
297 burdensome by the reporting person.

298 (2) The President of the Senate and the Speaker of the
299 House may certify in writing to the chair of the committee and
300 to the Attorney General the establishment and identity of any
301 internet-based public survey established under this section.

302 (3) Any person reporting or otherwise providing information
303 solicited by the Legislature in conformity with this section
304 shall be immune from any enforcement action or prosecution that:

305 (a) Is instituted on account of, or in reliance upon the
306 fact of reporting or non-reporting of information, or

307 (b) Uses information provided,
308 in response to the Legislature's solicitation of information
309 pursuant to this section.

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310 (4) Any alleged violator against whom an enforcement
311 action is brought may object to any proposed penalty in excess
312 of the minimum provided by law or rule on the basis that the
313 action is in retaliation for providing or withholding
314 information in response to the Legislature's solicitation of
315 information pursuant to this section. If the presiding judge
316 determines the enforcement action was motivated in whole or in
317 part by such retaliation, any penalty imposed shall be limited
318 to the minimum penalties provided by law for each separate
319 violation adjudicated.

320

321 Section 4. Nothing in this act shall be construed to
322 change the legal status of a rule that has otherwise been
323 judicially or administratively determined to be invalid.

324

325 Section 5. Section 2 of this act shall stand repealed as
326 of July 2, 2014, unless amended or extended by subsequent act of
327 the Legislature.

328

329 Section 6. This act shall take effect July 1, 2011.

330

COMMITTEE MEETING REPORT
Rulemaking & Regulation Subcommittee

4/5/2011 3:00:00PM

Location: 306 HOB

Workshop

Rules of Concern:

The following rules in Chapter 64E-9 Public Swimming Pools and Bathing Places:

F.A.C. Rule 64E-9.005 Construction Plan or Modification Plan Approval

F.A.C. Rule 64E-9.007 Recirculation and Treatment System Requirement

Workshopped

Appearances:

Bob Vincent (State Employee) - Information Only

Florida Department of Health

4052 Bald Cypress Wy

Tallahassee Florida 32399-1742

Phone: 850-245-4578

Killinger, Lori (Lobbyist) - Information Only

Florida Manufactured Housing Association

2600 Centennial PL

Tallahassee FL 32309

Phone: (850)222-5702

Sutherland, Paul - Proponent

United Pool Spa Association

P.O. Box 17547

Jacksonville FL 32245

Phone: (904) 708-4644