Amendment No. 05

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WITHDRAWN	__ (Y/N)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	____

Committee/Subcommittee hearing bill: Rulemaking & Regulation Subcommittee

Representative(s) Dorworth offered the following:

Amendment (with title amendment)

Remove line 162 and insert:

Section 3. Section 120.547 is created to read:

Section 120.547. Summary procedure for rule repeal during inaugural period. -

(1) The Legislature finds the formal process for repealing rules as required under s. 120.54(3)(d)5 may unnecessarily delay efforts for statewide elected executive officers to review and revise the programs and policies within their respective individual or collective jurisdiction at the commencement of their elective terms. Accordingly, the Legislature finds a prudent, expedited process providing for the summary repeal of existing rules within the initial period of an elected Cabinet officer's term best assists those officers in the articulation and implementation of public policy.

(2) Definitions. As used in this section:

(a) "Statewide elected executive officer" shall mean the Governor, Chief Financial Officer, Attorney General, or Commissioner of Agriculture.

(b) "Inaugural period" shall mean the time from the first date of an elective term of the Governor, Chief Financial Officer, Attorney General, and Commissioner of Agriculture, as provided in article IV, section 5(a) of the Florida Constitution, through the last day of the month of June next following the beginning of the term.

(3) Exclusively during the inaugural period the statewide elected executive officers are authorized to direct the repeal of rules using the summary procedure provided in this section for the following agencies:

(a) Each agency under the exclusive authority of the individual statewide elected executive officer;

(b) Each agency under the collective authority of two or more statewide elected executive officers but not the entire Cabinet;

(c) Each agency under the exclusive authority of the Cabinet.

(4) Notice of repeal. The statewide elected executive officer, statewide elected executive officers acting collectively, or Cabinet, shall direct the repeal of rules pursuant to this section by each agency under their exclusive authority as follows:

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(a) For each rule or part of a rule to be repealed under this section, the statewide elected executive officer, statewide elected executive officers acting collectively, or Cabinet, shall make a written finding containing the following:

1. The number, title, and each specific subdivision of the rule to be repealed entirely or in part;

2. The agency which adopted the subject rule;

3. The basis for repeal, examples of which include but are not limited to the following:

a. The rule is obsolete or no longer necessary;

b. Change in the substantive law which the rule implemented or interpreted in compliance with s. 120.536(1); and

c. The rule conflicts with programs or policies which the elected officer, elected officers, or Cabinet have implemented or are in the process of implementing.

4. The name, title, address, and electronic mail address of the person designated by the elected officer, elected officers, or Cabinet solely to receive inquiries, correspondence, petitions, or notices in response to the proposed repeal; and

5. The date as of which the rule or part of the rule is repealed and of no further force or effect.

(b) The adopting agency shall publish notice of the written finding directing repeal of the rule or part of the rule on the agency's internet web site, including in such notice the date of first publication, and shall also publish the notice and

written finding, including the web address where the notice has been first published, in the Florida Administrative Weekly first available after the date the written finding is executed by the statewide elected executive officer, statewide elected executive officers acting collectively, or Cabinet.

(c) Repeal of a rule or part of a rule under this section shall be effective no earlier than 15 days from the date the notice of repeal is published on the agency's internet web site.

(5) Objection to repeal. Any substantially affected person may object to the repeal of a rule or part of a rule under this section, as follows:

(a) No later than 14 days from the date the notice of repeal is published on the agency's internet web site, a substantially affected person shall file with the individual designated in sub-paragraph (4)(a)4 a written objection to repeal stating:

1. The name, address, telephone number, and electronic mail address of the person opposing the repeal; and

2. The facts and law on which the person objects to the noticed repeal.

(b) Failure to file an objection in the time and manner provided in this subsection constitutes a full and complete waiver of the objection, an affirmative assent to the proposed repeal, and a full and complete waiver of judicial review under s. 120.68.

(c) If an objection is timely filed the repeal shall not be effective until the elected official, elected officials acting collectively, or the Cabinet, as may be applicable, overrules the objection in a writing and notice of that disposition is published in the manner provided in paragraph (4)(b).

(6) Sections 120.54, 120.541, 120.56, 120.569, 120.57, 120.573, 120.547, and 120.69 are not applicable to the repeal of rules under this section.

(7) Judicial review. A substantially interested party whose timely written objection to the proposed repeal is overruled by the elected officer, elected officers acting collectively, or the Cabinet, may seek judicial review of that decision under s. 120.68, as modified by the following:

(a) Notwithstanding any other statute, the First District Court of Appeal shall have exclusive jurisdiction of any petition for judicial review of the repeal of rules under this section.

(b) A petition for judicial review shall be brought solely against the agency which adopted the rule and not the statewide elected executive officer, statewide elected executive officers acting collectively, or Cabinet.

(c) The record for review shall be comprised solely of the written finding of repeal, the written objection, and the written disposition of the objection.

(8) Authority non-delegable. The authority to determine

and direct the repeal of agency rules under this section, other than the receipt of inquiries, correspondence, petitions, or notices in response to a proposed repeal, shall be exercised exclusively by the elected officer, elected officers acting collectively, or the Cabinet, having sole authority over the subject agency and may not be delegated to any other person.

Section 4. Paragraph (a) of subsection (2) of section

Remove line 192 and insert:

Section 5. This act shall take effect July 1, 2011.

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

Remove line 11 and insert:

Committee; creating s. 120.547, F.S.; providing for summary repeal of rules by elected cabinet officers within the first six months of their respective terms; amending s. 120.56, F.S.; reducing the time in