

By Senator Mayfield

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1 A bill to be entitled
2 An act relating to administrative procedures; amending
3 s. 120.52, F.S.; revising and providing definitions;
4 amending s. 120.54, F.S.; applying certain provisions
5 regarding the incorporation by reference of material
6 to repromulgated rules; requiring a notice of
7 withdrawal if a notice of proposed rule is not filed
8 within a certain period of time; requiring a notice of
9 rule development to contain certain information and
10 statements; revising the scope of public workshops to
11 include information gathering for the preparation of
12 statements of estimated regulatory costs; requiring
13 that the agency make available at a public workshop
14 the person responsible for preparing the statement of
15 estimated regulatory costs; requiring a notice of
16 proposed rule to include a website address where a
17 statement of regulatory costs may be viewed; requiring
18 that a proposed rule and material proposed to be
19 incorporated by reference be made available to the
20 public; requiring that material proposed to be
21 incorporated by reference be made available in a
22 specified manner; authorizing electronic delivery of
23 notices to persons who have requested advance notice
24 of agency rulemaking proceedings; requiring an agency
25 to prepare a statement of estimated regulatory costs
26 before adopting or amending any rule other than an
27 emergency rule; requiring an agency to prepare a
28 statement of estimated regulatory costs before
29 repealing a rule under certain circumstances;

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30 requiring that certain rule repeals be considered
31 presumptively correct by the Division of
32 Administrative Hearings or in certain proceedings;
33 specifying circumstances under which an adverse impact
34 on small business exists; requiring an agency to
35 provide notice of a regulatory alternative to the
36 Administrative Procedures Committee by a certain date;
37 requiring certain agency personnel to attend public
38 hearings on proposed rules; requiring an agency to
39 publish a notice of convening a separate proceeding
40 under certain circumstances; tolling rulemaking
41 deadlines during such separate proceedings; revising
42 requirements for the contents of a notice of change;
43 requiring the committee to notify the Department of
44 State that an agency has elected to withdraw a rule if
45 an agency has failed to adopt a rule within the
46 specified timeframes; requiring an agency to file
47 petitions to initiate rulemaking with the committee;
48 amending s. 120.541, F.S.; requiring an agency to
49 provide a copy of any proposal for a lower cost
50 regulatory alternative to the committee by a certain
51 date; specifying the circumstances under which such a
52 proposal is made in good faith; revising requirements
53 for an agency's consideration of a lower cost
54 regulatory alternative; providing for an agency's
55 revision and the publication of a revised statement of
56 estimated regulatory costs in response to such lower
57 cost regulatory alternatives; deleting the definition
58 of the term "transactional costs"; providing

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59 additional requirements for the calculation of
60 estimated regulatory costs; specifying requirements
61 for the public postings of statements of estimated
62 regulatory costs; conforming provisions to changes
63 made by the act; creating s. 120.5435, F.S.; providing
64 legislative intent; requiring agency review of rules
65 and repromulgation of rules that do not require
66 substantive changes within a specified time period;
67 requiring an agency to publish a notice of
68 repromulgation in the Florida Administrative Register
69 and file a rule for repromulgation with the Department
70 of State within a specified time period; requiring an
71 agency to file a notice of repromulgation with the
72 committee within a specified time period; requiring
73 withdrawal of a rule proposed for repromulgation if
74 the rule is not filed within a specified time period;
75 providing that a repromulgated rule is not subject to
76 challenge as a proposed rule and that certain hearing
77 requirements do not apply; requiring an agency to file
78 a specified number of certified copies of a proposed
79 repromulgated rule and any material incorporated by
80 reference; providing that a repromulgated rule is
81 adopted upon filing with the department and becomes
82 effective after a specified time period; requiring the
83 department to update certain information in the
84 Florida Administrative Code; requiring the department
85 to adopt rules by a certain date; amending s. 120.545,
86 F.S.; requiring the committee to examine existing
87 rules; amending s. 120.55, F.S.; requiring the Florida

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88 Administrative Code be published once daily; requiring
89 the department to require material incorporated by
90 reference to be filed in a specified manner; requiring
91 the department to include the date of a technical rule
92 change in the Florida Administrative Code; providing
93 that a technical change does not affect the effective
94 date of a rule; requiring the department to adopt
95 specified rules; amending s. 120.569, F.S.; requiring
96 that documents filed with the Division of
97 Administrative Hearings be filed electronically;
98 amending s. 120.74, F.S.; requiring an agency to list
99 each rule it plans to develop, adopt, or repeal during
100 the forthcoming year in the agency's annual regulatory
101 plan; requiring that the agency's annual regulatory
102 plan identify any rules that are required to be
103 repromulgated during the forthcoming year; requiring
104 the agency head to make certain declarations
105 concerning the annual regulatory plan; amending ss.
106 120.56, 120.80, 120.81, 420.9072, 420.9075, and
107 443.091, F.S.; conforming cross-references to changes
108 made by the act; providing an effective date.

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

111
112 Section 1. Present subsections (16) through (22) of section
113 120.52, Florida Statutes, are renumbered as subsections (17)
114 through (23), respectively, a new subsection (16) is added to
115 that section, and subsection (5) of that section is amended, to
116 read:

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117 120.52 Definitions.—As used in this act:

118 (5) "Division" means the Division of Administrative
119 Hearings. ~~Any document filed with the division by a party~~
120 ~~represented by an attorney shall be filed by electronic means~~
121 ~~through the division's website. Any document filed with the~~
122 ~~division by a party not represented by an attorney shall,~~
123 ~~whenever possible, be filed by electronic means through the~~
124 ~~division's website.~~

125 (16) "Repromulgate" or "repromulgation" means the
126 publication and adoption of an existing rule following an
127 agency's review of the rule for consistency with the powers and
128 duties granted by its enabling statute.

129 Section 2. Paragraph (i) of subsection (1), subsections (2)
130 and (3), and paragraph (a) of subsection (7) of section 120.54,
131 Florida Statutes, are amended to read:

132 120.54 Rulemaking.—

133 (1) GENERAL PROVISIONS APPLICABLE TO ALL RULES OTHER THAN
134 EMERGENCY RULES.—

135 (i)1. A rule may incorporate material by reference but only
136 as the material exists on the date the rule is adopted. For
137 purposes of the rule, changes in the material are not effective
138 unless the rule is amended to incorporate the changes.

139 2. An agency rule that incorporates by specific reference
140 another rule of that agency automatically incorporates
141 subsequent amendments to the referenced rule unless a contrary
142 intent is clearly indicated in the referencing rule. A notice of
143 amendments to a rule that has been incorporated by specific
144 reference in other rules of that agency must explain the effect
145 of those amendments on the referencing rules.

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146 3. In rules adopted after December 31, 2010, and rules
147 repromulgated on or after July 1, 2019, material may not be
148 incorporated by reference unless:

149 a. The material has been submitted in the prescribed
150 electronic format to the Department of State and the full text
151 of the material can be made available for free public access
152 through an electronic hyperlink from the rule making the
153 reference in the Florida Administrative Code; or

154 b. The agency has determined that posting the material on
155 the Internet for purposes of public examination and inspection
156 would constitute a violation of federal copyright law, in which
157 case a statement to that effect, along with the address of
158 locations at the Department of State and the agency at which the
159 material is available for public inspection and examination,
160 must be included in the notice required by subparagraph (3)(a)1.

161 4. A rule may not be amended by reference only. Amendments
162 must set out the amended rule in full in the same manner as
163 required by the State Constitution for laws.

164 5. Notwithstanding any contrary provision in this section,
165 when an adopted rule of the Department of Environmental
166 Protection or a water management district is incorporated by
167 reference in the other agency's rule to implement a provision of
168 part IV of chapter 373, subsequent amendments to the rule are
169 not effective as to the incorporating rule unless the agency
170 incorporating by reference notifies the committee and the
171 Department of State of its intent to adopt the subsequent
172 amendment, publishes notice of such intent in the Florida
173 Administrative Register, and files with the Department of State
174 a copy of the amended rule incorporated by reference. Changes in

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175 the rule incorporated by reference are effective as to the other
176 agency 20 days after the date of the published notice and filing
177 with the Department of State. The Department of State shall
178 amend the history note of the incorporating rule to show the
179 effective date of such change. Any substantially affected person
180 may, within 14 days after the date of publication of the notice
181 of intent in the Florida Administrative Register, file an
182 objection to rulemaking with the agency. The objection shall
183 specify the portions of the rule incorporated by reference to
184 which the person objects and the reasons for the objection. The
185 agency shall not have the authority under this subparagraph to
186 adopt those portions of the rule specified in such objection.
187 The agency shall publish notice of the objection and of its
188 action in response in the next available issue of the Florida
189 Administrative Register.

190 6. The Department of State may adopt by rule requirements
191 for incorporating materials pursuant to this paragraph.

192 (2) RULE DEVELOPMENT; WORKSHOPS; NEGOTIATED RULEMAKING.—

193 (a) Except when the intended action is the repeal of a
194 rule, agencies shall provide notice of the development of
195 proposed rules by publication of a notice of rule development in
196 the Florida Administrative Register before providing notice of a
197 proposed rule as required by paragraph (3) (a). If a notice of a
198 proposed rule is not filed within 12 months after the notice of
199 rule development, the agency shall withdraw the rule and give
200 notice of the withdrawal in the next available issue of the
201 Florida Administrative Register. The notice of rule development
202 shall indicate the subject area to be addressed by rule
203 development, provide a short, plain explanation of the purpose

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204 and effect of the proposed rule, cite the grant of rulemaking
205 authority for the proposed rule and the law being implemented
206 ~~specific legal authority for the proposed rule~~, and include the
207 proposed rule number and the preliminary text of the proposed
208 rules, if available, or a statement of how a person may promptly
209 obtain, without cost, a copy of any preliminary draft, when ~~if~~
210 available. The notice also must include a request for the
211 submission of any information that would be helpful to the
212 agency in preparing its statement of estimated regulatory costs
213 and a statement of how a person may submit comments on the
214 proposal and provide information regarding the potential
215 regulatory costs.

216 (b) All rules should be drafted in readable language. The
217 language is readable if:

218 1. It avoids the use of obscure words and unnecessarily
219 long or complicated constructions; and

220 2. It avoids the use of unnecessary technical or
221 specialized language that is understood only by members of
222 particular trades or professions.

223 (c) An agency may hold public workshops for purposes of
224 rule development and information gathering for the preparation
225 of the statement of estimated regulatory costs. If requested in
226 writing by any affected person, an agency must hold public
227 workshops, including workshops in various regions of the state
228 or the agency's service area, for purposes of rule development
229 and information gathering for the preparation of the statement
230 of estimated regulatory costs ~~if requested in writing by any~~
231 ~~affected person~~, unless the agency head explains in writing why
232 a workshop is unnecessary. The explanation is not final agency

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233 action subject to review pursuant to ss. 120.569 and 120.57. The
234 failure to provide the explanation when required may be a
235 material error in procedure pursuant to s. 120.56(1)(c). When a
236 workshop or public hearing is held, the agency must ensure that
237 the persons responsible for preparing the proposed rule and the
238 statement of estimated regulatory costs are available to receive
239 public input, to explain the agency's proposal, and to respond
240 to questions or comments regarding the rule being developed and
241 the statement of estimated regulatory costs. The workshop may be
242 facilitated or mediated by a neutral third person, or the agency
243 may employ other types of dispute resolution alternatives for
244 the workshop that are appropriate for rule development and for
245 preparation of the statement of estimated regulatory costs.
246 Notice of a rule development workshop shall be by publication in
247 the Florida Administrative Register not less than 14 days before
248 ~~prior to~~ the date on which the workshop is scheduled to be held
249 and shall indicate the subject area which will be addressed; the
250 agency contact person; and the place, date, and time of the
251 workshop.

252 (d)1. An agency may use negotiated rulemaking in developing
253 and adopting rules. The agency should consider the use of
254 negotiated rulemaking when complex rules are being drafted or
255 strong opposition to the rules is anticipated. The agency should
256 consider, but is not limited to considering, whether a balanced
257 committee of interested persons who will negotiate in good faith
258 can be assembled, whether the agency is willing to support the
259 work of the negotiating committee, and whether the agency can
260 use the group consensus as the basis for its proposed rule.
261 Negotiated rulemaking uses a committee of designated

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262 representatives to draft a mutually acceptable proposed rule and
263 to develop information necessary to prepare a statement of
264 estimated regulatory costs, when applicable.

265 2. An agency that chooses to use the negotiated rulemaking
266 process described in this paragraph shall publish in the Florida
267 Administrative Register a notice of negotiated rulemaking that
268 includes a listing of the representative groups that will be
269 invited to participate in the negotiated rulemaking process. Any
270 person who believes that his or her interest is not adequately
271 represented may apply to participate within 30 days after
272 publication of the notice. All meetings of the negotiating
273 committee shall be noticed and open to the public pursuant to
274 the provisions of this chapter. The negotiating committee shall
275 be chaired by a neutral facilitator or mediator.

276 3. The agency's decision to use negotiated rulemaking, its
277 selection of the representative groups, and approval or denial
278 of an application to participate in the negotiated rulemaking
279 process are not agency action. Nothing in this subparagraph is
280 intended to affect the rights of a substantially ~~an~~ affected
281 person to challenge a proposed rule developed under this
282 paragraph in accordance with s. 120.56(2).

283 (3) ADOPTION PROCEDURES.—

284 (a) *Notices.*—

285 1. Before ~~Prior~~ to the adoption, amendment, or repeal of
286 any rule other than an emergency rule, an agency, upon approval
287 of the agency head, shall give notice of its intended action,
288 setting forth a short, plain explanation of the purpose and
289 effect of the proposed action; the full text of the proposed
290 rule or amendment and a summary thereof; a reference to the

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291 grant of rulemaking authority pursuant to which the rule is
292 adopted; and a reference to the section or subsection of the
293 Florida Statutes or the Laws of Florida being implemented or
294 interpreted. The notice must include a concise summary of the
295 agency's statement of the estimated regulatory costs, ~~if one has~~
296 ~~been prepared,~~ based on the factors set forth in s. 120.541(2),
297 which describes the regulatory impact of the rule in readable
298 language; an agency website address where the statement of
299 estimated regulatory costs can be viewed in its entirety; a
300 statement that any person who wishes to provide the agency with
301 information regarding the statement of estimated regulatory
302 costs, or to provide a proposal for a lower cost regulatory
303 alternative as provided by s. 120.541(1), must do so in writing
304 within 21 days after publication of the notice; a request for
305 the submission of any information that could be helpful to the
306 agency regarding its statement of estimated regulatory costs;
307 and a statement as to whether, based on the statement of the
308 estimated regulatory costs ~~or other information expressly relied~~
309 ~~upon and described by the agency if no statement of regulatory~~
310 ~~costs is required,~~ the proposed rule is expected to require
311 legislative ratification pursuant to s. 120.541(3). The notice
312 must state the procedure for requesting a public hearing on the
313 proposed rule. Except when the intended action is the repeal of
314 a rule, the notice must include a reference both to the date on
315 which and to the place where the notice of rule development that
316 is required by subsection (2) appeared.

317 2. The notice shall be published in the Florida
318 Administrative Register at least not less than 28 days before
319 ~~prior to~~ the intended action. The proposed rule, including all

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320 material proposed to be incorporated by reference and the
 321 statement of estimated regulatory costs, must ~~shall~~ be available
 322 for inspection and copying by the public at the time of the
 323 publication of notice. Material proposed to be incorporated by
 324 reference in the notice must be made available in the manner
 325 prescribed by sub-subparagraph (1)(i)3.a. or (1)(i)3.b.

326 3. The notice shall be mailed to all persons named in the
 327 proposed rule and mailed or delivered electronically to all
 328 persons who, at least 14 days before publication of the notice
 329 ~~prior to such mailing~~, have made requests of the agency for
 330 advance notice of its proceedings. The agency shall also give
 331 such notice as is prescribed by rule to those particular classes
 332 of persons to whom the intended action is directed.

333 4. The adopting agency shall file with the committee, at
 334 least 21 days before ~~prior to~~ the proposed adoption date, a copy
 335 of each rule it proposes to adopt; a copy of any material
 336 incorporated by reference in the rule; a detailed written
 337 statement of the facts and circumstances justifying the proposed
 338 rule; a copy of the ~~any~~ statement of estimated regulatory costs
 339 ~~that has been~~ prepared pursuant to s. 120.541; a statement of
 340 the extent to which the proposed rule relates to federal
 341 standards or rules on the same subject; and the notice required
 342 by subparagraph 1.

343 (b) *Special matters to be considered in rule adoption.*—

344 1. Statement of estimated regulatory costs.—Before the
 345 adoption or, ~~amendment, or repeal~~ of any rule, other than an
 346 emergency rule, an agency must ~~is encouraged to~~ prepare a
 347 statement of estimated regulatory costs of the proposed rule, as
 348 provided by s. 120.541. However, an agency is not required to

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349 prepare a statement of estimated regulatory costs for a rule
350 repeal unless such repeal would impose a regulatory cost. In any
351 challenge to a rule repeal, a rule repeal that reduces or
352 eliminates regulations on those presently regulated by the rule
353 must be considered presumptively correct in any proceeding
354 before the division or in any proceeding before a court of
355 competent jurisdiction. However, an agency must prepare a
356 statement of estimated regulatory costs of the proposed rule, as
357 provided by s. 120.541, if:

358 a. The proposed rule will have an adverse impact on small
359 business; or

360 b. The proposed rule is likely to directly or indirectly
361 increase regulatory costs in excess of \$200,000 in the aggregate
362 in this state within 1 year after the implementation of the
363 rule.

364 2. Small businesses, small counties, and small cities.—

365 a. For purposes of this subsection and s. 120.541(2), an
366 adverse impact on small business exists if, for any small
367 business:

368 (I) An owner, an officer, an operator, or a manager must
369 complete any education, training, or testing to comply, or is
370 likely to either expend 10 hours or purchase professional advice
371 to understand and comply with the rule in the first year;

372 (II) Taxes or fees assessed on transactions are likely to
373 increase by \$500 or more in the aggregate in 1 year;

374 (III) Prices charged for goods and services are restricted
375 or are likely to increase because of the rule;

376 (IV) Specially trained, licensed, or tested employees will
377 be required;

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378 (V) Operating costs are expected to increase by at least
379 \$1,000 annually; or

380 (VI) Capital expenditures in excess of \$1,000 are necessary
381 to comply with the rule.

382 b. Each agency, before the adoption, amendment, or repeal
383 of a rule, shall consider the impact of the rule on small
384 businesses as defined by s. 288.703 and the impact of the rule
385 on small counties or small cities as defined by s. 120.52.
386 Whenever practicable, an agency shall tier its rules to reduce
387 disproportionate impacts on small businesses, small counties, or
388 small cities to avoid regulating small businesses, small
389 counties, or small cities that do not contribute significantly
390 to the problem the rule is designed to address. An agency may
391 define "small business" to include businesses employing more
392 than 200 persons, may define "small county" to include those
393 with populations of more than 75,000, and may define "small
394 city" to include those with populations of more than 10,000, if
395 it finds that such a definition is necessary to adapt a rule to
396 the needs and problems of small businesses, small counties, or
397 small cities. The agency shall consider each of the following
398 methods for reducing the impact of the proposed rule on small
399 businesses, small counties, and small cities, or any combination
400 of these entities:

401 (I) Establishing less stringent compliance or reporting
402 requirements in the rule.

403 (II) Establishing less stringent schedules or deadlines in
404 the rule for compliance or reporting requirements.

405 (III) Consolidating or simplifying the rule's compliance or
406 reporting requirements.

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407 (IV) Establishing performance standards or best management
408 practices to replace design or operational standards in the
409 rule.

410 (V) Exempting small businesses, small counties, or small
411 cities from any or all requirements of the rule.

412 c.(I)~~b.(I)~~ If the agency determines that the proposed
413 action will affect small businesses as defined by the agency as
414 provided in sub-subparagraph b. a., the agency shall send
415 written notice of the rule to the rules ombudsman in the
416 Executive Office of the Governor at least 28 days before the
417 intended action.

418 (II) Each agency shall adopt those regulatory alternatives
419 offered by the rules ombudsman in the Executive Office of the
420 Governor and provided to the agency no later than 21 days after
421 the rules ombudsman's receipt of the written notice of the rule
422 which it finds are feasible and consistent with the stated
423 objectives of the proposed rule and which would reduce the
424 impact on small businesses. When regulatory alternatives are
425 offered by the rules ombudsman in the Executive Office of the
426 Governor, the 90-day period for filing the rule in subparagraph
427 (e)2. is extended for a period of 21 days. The agency shall
428 provide notice to the committee of any regulatory alternative
429 offered to the agency pursuant to this sub-subparagraph at least
430 21 days before filing the rule for adoption.

431 (III) If an agency does not adopt all alternatives offered
432 pursuant to this sub-subparagraph, it shall, before rule
433 adoption or amendment and pursuant to subparagraph (d)1., file a
434 detailed written statement with the committee explaining the
435 reasons for failure to adopt such alternatives. Within 3 working

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436 days after the filing of such notice, the agency shall send a
437 copy of such notice to the rules ombudsman in the Executive
438 Office of the Governor.

439 (c) *Hearings.*—

440 1. If the intended action concerns any rule other than one
441 relating exclusively to procedure or practice, the agency shall,
442 on the request of any affected person received within 21 days
443 after the date of publication of the notice of intended agency
444 action, give affected persons an opportunity to present evidence
445 and argument on all issues under consideration. The agency may
446 schedule a public hearing on the proposed rule and, if requested
447 by any affected person, shall schedule a public hearing on the
448 proposed rule. When a public hearing is held, the agency must
449 ensure that persons responsible for preparing the proposed rule
450 and the statement of estimated regulatory costs ~~staff~~ are
451 available to explain the agency's proposal and to respond to
452 questions or comments regarding the proposed rule, the statement
453 of estimated regulatory costs, and the agency's decision whether
454 to adopt a lower cost regulatory alternative submitted pursuant
455 to s. 120.541(1)(a). If the agency head is a board or other
456 collegial body created under s. 20.165(4) or s. 20.43(3)(g), and
457 one or more requested public hearings is scheduled, the board or
458 other collegial body shall conduct at least one of the public
459 hearings itself and may not delegate this responsibility without
460 the consent of those persons requesting the public hearing. Any
461 material pertinent to the issues under consideration submitted
462 to the agency within 21 days after the date of publication of
463 the notice or submitted to the agency between the date of
464 publication of the notice and the end of the final public

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465 hearing shall be considered by the agency and made a part of the
466 record of the rulemaking proceeding.

467 2. Rulemaking proceedings shall be governed solely by the
468 provisions of this section unless a person timely asserts that
469 the person's substantial interests will be affected in the
470 proceeding and affirmatively demonstrates to the agency that the
471 proceeding does not provide adequate opportunity to protect
472 those interests. If the agency determines that the rulemaking
473 proceeding is not adequate to protect the person's interests, it
474 shall suspend the rulemaking proceeding and convene a separate
475 proceeding under ~~the provisions of~~ ss. 120.569 and 120.57. The
476 agency shall publish notice of convening a separate proceeding
477 in the Florida Administrative Register. Similarly situated
478 persons may be requested to join and participate in the separate
479 proceeding. Upon conclusion of the separate proceeding, the
480 rulemaking proceeding shall be resumed. All timelines in this
481 section are tolled during any suspension of the rulemaking
482 proceeding under this subparagraph, beginning on the date the
483 notice of convening a separate proceeding is published and
484 resuming on the day after the conclusion of the separate
485 proceeding.

486 (d) *Modification or withdrawal of proposed rules.*—

487 1. After the final public hearing on the proposed rule, or
488 after the time for requesting a hearing has expired, if the
489 proposed rule has not been changed from the proposed rule as
490 previously filed with the committee, or contains only technical
491 changes that do not affect the substance of the rule, the
492 adopting agency shall file a notice to that effect with the
493 committee at least 7 days before ~~prior to~~ filing the proposed

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494 rule for adoption. Any change, other than a technical change
495 ~~that does not affect the substance of the rule,~~ must be
496 supported by the record of public hearings held on the proposed
497 rule, must be in response to written material submitted to the
498 agency within 21 days after the date of publication of the
499 notice of intended agency action or submitted to the agency
500 between the date of publication of the notice and the end of the
501 final public hearing, or must be in response to a proposed
502 objection by the committee. Any change, other than a technical
503 change, to a statement of estimated regulatory costs requires a
504 notice of change. In addition, when any change is made in a
505 proposed rule text or any material incorporated by reference,
506 other than a technical change, the adopting agency shall provide
507 a copy of a notice of change by certified mail or actual
508 delivery to any person who requests it in writing no later than
509 21 days after the notice required in paragraph (a). The agency
510 shall file the notice of change with the committee, along with
511 the reasons for the change, and provide the notice of change to
512 persons requesting it, at least 21 days before ~~prior to~~ filing
513 the proposed rule for adoption. The notice of change shall be
514 published in the Florida Administrative Register at least 21
515 days before ~~prior to~~ filing the proposed rule for adoption. The
516 notice of change must include a summary of any revision of the
517 statement of estimated regulatory costs required by s.
518 120.541(1)(c). This subparagraph does not apply to emergency
519 rules adopted pursuant to subsection (4). Material proposed to
520 be incorporated by reference in the notice required by this
521 subparagraph must be made available in the manner prescribed by
522 sub-subparagraph (1)(i)3.a. or (1)(i)3.b.

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523 2. After the notice required by paragraph (a) and before
524 ~~prior to~~ adoption, the agency may withdraw the proposed rule in
525 whole or in part.

526 3. After the notice required by paragraph (a), the agency
527 shall withdraw the proposed rule if the agency has failed to
528 adopt it within the prescribed timeframes in this chapter. If,
529 30 days after notice by the committee that the agency has failed
530 to adopt the proposed rule within the prescribed timeframes in
531 this chapter, the agency has not given notice of the withdrawal
532 of the rule, the committee shall notify the Department of State
533 that the date for adoption of the rule has expired and the
534 Department of State shall publish a notice of withdrawal of the
535 proposed rule.

536 ~~4.3.~~ After adoption and before the rule becomes effective,
537 a rule may be modified or withdrawn only in the following
538 circumstances:

539 a. When the committee objects to the rule;

540 b. When a final order, which is not subject to further
541 appeal, is entered in a rule challenge brought pursuant to s.
542 120.56 after the date of adoption but before the rule becomes
543 effective pursuant to subparagraph (e)6.;

544 c. If the rule requires ratification, when more than 90
545 days have passed since the rule was filed for adoption without
546 the Legislature ratifying the rule, in which case the rule may
547 be withdrawn but may not be modified; or

548 d. When the committee notifies the agency that an objection
549 to the rule is being considered, in which case the rule may be
550 modified to extend the effective date by not more than 60 days.

551 ~~5.4.~~ The agency shall give notice of its decision to

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552 withdraw or modify a rule in the first available issue of the
553 publication in which the original notice of rulemaking was
554 published, shall notify those persons described in subparagraph
555 (a)3. in accordance with the requirements of that subparagraph,
556 and shall notify the Department of State if the rule is required
557 to be filed with the Department of State.

558 ~~6.5.~~ After a rule has become effective, it may be repealed
559 or amended only through the rulemaking procedures specified in
560 this chapter.

561 (e) *Filing for final adoption; effective date.*—

562 1. If the adopting agency is required to publish its rules
563 in the Florida Administrative Code, the agency, upon approval of
564 the agency head, shall file with the Department of State three
565 certified copies of the rule it proposes to adopt; one copy of
566 any material incorporated by reference in the rule, certified by
567 the agency; a summary of the rule; a summary of any hearings
568 held on the rule; and a detailed written statement of the facts
569 and circumstances justifying the rule. Agencies not required to
570 publish their rules in the Florida Administrative Code shall
571 file one certified copy of the proposed rule, and the other
572 material required by this subparagraph, in the office of the
573 agency head, and such rules shall be open to the public.

574 2. A rule may not be filed for adoption less than 28 days
575 or more than 90 days after the notice required by paragraph (a),
576 until 21 days after the notice of change required by paragraph
577 (d), until 14 days after the final public hearing, until 21 days
578 after a statement of estimated regulatory costs required under
579 s. 120.541 has been provided to all persons who submitted a
580 lower cost regulatory alternative and made available to the

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581 public at a readily accessible page on the agency's website, or
582 until the administrative law judge has rendered a decision under
583 s. 120.56(2), whichever applies. When a required notice of
584 change is published before ~~prior to~~ the expiration of the time
585 to file the rule for adoption, the period during which a rule
586 must be filed for adoption is extended to 45 days after the date
587 of publication. If notice of a public hearing is published
588 before ~~prior to~~ the expiration of the time to file the rule for
589 adoption, the period during which a rule must be filed for
590 adoption is extended to 45 days after adjournment of the final
591 hearing on the rule, 21 days after receipt of all material
592 authorized to be submitted at the hearing, or 21 days after
593 receipt of the transcript, if one is made, whichever is latest.
594 The term "public hearing" includes any public meeting held by
595 any agency at which the rule is considered. If a petition for an
596 administrative determination under s. 120.56(2) is filed, the
597 period during which a rule must be filed for adoption is
598 extended to 60 days after the administrative law judge files the
599 final order with the clerk or until 60 days after subsequent
600 judicial review is complete.

601 3. At the time a rule is filed, the agency shall certify
602 that the time limitations prescribed by this paragraph have been
603 complied with, that all statutory rulemaking requirements have
604 been met, and that there is no administrative determination
605 pending on the rule.

606 4. At the time a rule is filed, the committee shall certify
607 whether the agency has responded in writing to all material and
608 timely written comments or written inquiries made on behalf of
609 the committee. The Department of State shall reject any rule

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610 that is not filed within the prescribed time limits; that does
611 not comply with all statutory rulemaking requirements and rules
612 of the Department of State; upon which an agency has not
613 responded in writing to all material and timely written
614 inquiries or written comments; upon which an administrative
615 determination is pending; or which does not include a statement
616 of estimated regulatory costs, if required.

617 5. If a rule has not been adopted within the time limits
618 imposed by this paragraph or has not been adopted in compliance
619 with all statutory rulemaking requirements, the agency proposing
620 the rule shall withdraw the proposed rule and give notice of its
621 action in the next available issue of the Florida Administrative
622 Register.

623 6. The proposed rule shall be adopted on being filed with
624 the Department of State and become effective 20 days after being
625 filed, on a later date specified in the notice required by
626 subparagraph (a)1., on a date required by statute, or upon
627 ratification by the Legislature pursuant to s. 120.541(3). Rules
628 not required to be filed with the Department of State shall
629 become effective when adopted by the agency head, on a later
630 date specified by rule or statute, or upon ratification by the
631 Legislature pursuant to s. 120.541(3). If the committee notifies
632 an agency that an objection to a rule is being considered, the
633 agency may postpone the adoption of the rule to accommodate
634 review of the rule by the committee. When an agency postpones
635 adoption of a rule to accommodate review by the committee, the
636 90-day period for filing the rule is tolled until the committee
637 notifies the agency that it has completed its review of the
638 rule.

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640 For the purposes of this paragraph, the term "administrative
641 determination" does not include subsequent judicial review.

642 (7) PETITION TO INITIATE RULEMAKING.—

643 (a) Any person regulated by an agency or having substantial
644 interest in an agency rule may petition an agency to adopt,
645 amend, or repeal a rule or to provide the minimum public
646 information required by this chapter. The petition shall specify
647 the proposed rule and action requested. The agency shall file a
648 copy of the petition with the committee. Not later than 30
649 calendar days following the date of filing a petition, the
650 agency shall initiate rulemaking proceedings under this chapter,
651 otherwise comply with the requested action, or deny the petition
652 with a written statement of its reasons for the denial.

653 Section 3. Section 120.541, Florida Statutes, is amended to
654 read:

655 120.541 Statement of estimated regulatory costs.—

656 (1) (a) Within 21 days after publication of the notice of
657 proposed rule or notice of change ~~required under s.~~
658 ~~120.54(3)(a)~~, a substantially affected person may submit to an
659 agency a good faith written proposal for a lower cost regulatory
660 alternative to a proposed rule which substantially accomplishes
661 the objectives of the law being implemented. The agency shall
662 provide a copy of any proposal for a lower cost regulatory
663 alternative to the committee at least 21 days before filing the
664 rule for adoption. The proposal may include the alternative of
665 not adopting any rule if the proposal explains how the lower
666 costs and objectives of the law will be achieved by not adopting
667 any rule. If submitted after a notice of change, a proposal for

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668 a lower cost regulatory alternative is deemed to be made in good
669 faith only if the person reasonably believes, and the proposal
670 states the person's reasons for believing, that the proposed
671 rule as changed by the notice of change increases the regulatory
672 costs or creates an adverse impact on small business that was
673 not created by the previous proposed rule. If such a proposal is
674 submitted, the 90-day period for filing the rule is extended 21
675 days. Upon the submission of the lower cost regulatory
676 alternative, the agency shall ~~prepare a statement of estimated~~
677 ~~regulatory costs as provided in subsection (2), or shall~~ revise
678 its prior statement of estimated regulatory costs, and either
679 adopt the alternative proposal, reject the alternative proposal,
680 or modify the proposed rule to reduce the regulatory costs. If
681 the agency rejects the alternative proposal or modifies the
682 proposed rule, the agency shall ~~or~~ provide a statement of the
683 reasons for rejecting the alternative in favor of the proposed
684 rule.

685 ~~(b) If a proposed rule will have an adverse impact on small~~
686 ~~business or if the proposed rule is likely to directly or~~
687 ~~indirectly increase regulatory costs in excess of \$200,000 in~~
688 ~~the aggregate within 1 year after the implementation of the~~
689 ~~rule, the agency shall prepare a statement of estimated~~
690 ~~regulatory costs as required by s. 120.54(3)(b).~~

691 ~~(c)~~ The agency shall revise a statement of estimated
692 regulatory costs if any change to the rule made under s.
693 120.54(3)(d) increases the regulatory costs of the rule or if
694 the rule is modified in response to the submission of a lower
695 cost regulatory alternative. A summary of the revised statement
696 must be included with any subsequent notice published under s.

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697 120.54(3).

698 (c)~~(d)~~ At least 21 days before filing the proposed rule for
699 adoption, an agency that is required to revise a statement of
700 estimated regulatory costs shall provide the statement to the
701 person who submitted the lower cost regulatory alternative, to
702 the rules ombudsman in the Executive Office of the Governor, and
703 to the committee. The revised statement shall be published and
704 made available in the same manner as the original statement of
705 estimated regulatory costs ~~and shall provide notice on the~~
706 ~~agency's website that it is available to the public.~~

707 (d)~~(e)~~ Notwithstanding s. 120.56(1)(c), the failure of the
708 agency to prepare and publish a statement of estimated
709 regulatory costs or to respond to a written lower cost
710 regulatory alternative as provided in this subsection is a
711 material failure to follow the applicable rulemaking procedures
712 or requirements set forth in this chapter.

713 (e)~~(f)~~ An agency's failure to prepare a statement of
714 estimated regulatory costs or to respond to a written lower cost
715 regulatory alternative may not be raised in a proceeding
716 challenging the validity of a rule pursuant to s. 120.52(8)(a)
717 unless:

718 1. Raised in a petition filed no later than 1 year after
719 the effective date of the rule; and

720 2. Raised by a person whose substantial interests are
721 affected by the rule's regulatory costs.

722 (f)~~(g)~~ A rule that is challenged pursuant to s.
723 120.52(8)(f) may not be declared invalid unless:

724 1. The issue is raised in an administrative proceeding
725 within 1 year after the effective date of the rule;

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726 2. The challenge is to the agency's rejection of a lower
727 cost regulatory alternative offered under paragraph (a) or s.
728 120.54(3)(b)2.c. ~~s. 120.54(3)(b)2.b.~~; and

729 3. The substantial interests of the person challenging the
730 rule are materially affected by the rejection.

731 (2) A statement of estimated regulatory costs shall
732 include:

733 (a) An economic analysis showing whether the rule directly
734 or indirectly:

735 1. Is likely to have an adverse impact on economic growth,
736 private sector job creation or employment, or private sector
737 investment in excess of \$1 million in the aggregate within 5
738 years after the implementation of the rule;

739 2. Is likely to have an adverse impact on business
740 competitiveness, including the ability of persons doing business
741 in the state to compete with persons doing business in other
742 states or domestic markets, productivity, or innovation in
743 excess of \$1 million in the aggregate within 5 years after the
744 implementation of the rule; or

745 3. Is likely to increase regulatory costs, including all
746 ~~any transactional~~ costs and impacts estimated in the statement,
747 in excess of \$1 million in the aggregate within 5 years after
748 the implementation of the rule.

749 (b) A good faith estimate of the number of individuals,
750 small businesses, and other entities likely to be required to
751 comply with the rule, together with a general description of the
752 types of individuals likely to be affected by the rule.

753 (c) A good faith estimate of the cost to the agency, and to
754 any other state and local government entities, of implementing

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755 and enforcing the proposed rule, and any anticipated effect on
756 state or local revenues.

757 (d) A good faith estimate of the compliance ~~transactional~~
758 costs likely to be incurred by individuals and entities,
759 including local government entities, required to comply with the
760 requirements of the rule. ~~As used in this section,~~
761 ~~"transactional costs" are direct costs that are readily~~
762 ~~ascertainable based upon standard business practices, and~~
763 ~~include filing fees, the cost of obtaining a license, the cost~~
764 ~~of equipment required to be installed or used or procedures~~
765 ~~required to be employed in complying with the rule, additional~~
766 ~~operating costs incurred, the cost of monitoring and reporting,~~
767 ~~and any other costs necessary to comply with the rule.~~

768 (e) An analysis of the impact on small businesses as
769 defined by s. 288.703, and an analysis of the impact on small
770 counties and small cities as defined in s. 120.52. The impact
771 analysis for small businesses must include the basis for the
772 agency's decision not to implement alternatives that would
773 reduce adverse impacts on small businesses.

774 (f) Any additional information that the agency determines
775 may be useful.

776 (g) In the ~~statement or~~ revised statement, ~~whichever~~
777 ~~applies,~~ a description of any regulatory alternatives submitted
778 under paragraph (1) (a) and a statement adopting the alternative
779 or a statement of the reasons for rejecting the alternative in
780 favor of the proposed rule.

781 (3) If the adverse impact or regulatory costs of the rule
782 exceed any of the criteria established in paragraph (2) (a), the
783 rule shall be submitted to the President of the Senate and

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784 Speaker of the House of Representatives no later than 30 days
785 before ~~prior to~~ the next regular legislative session, and the
786 rule may not take effect until it is ratified by the
787 Legislature.

788 (4) Subsection (3) does not apply to the adoption of:

789 (a) Federal standards pursuant to s. 120.54(6).

790 (b) Triennial updates of and amendments to the Florida
791 Building Code which are expressly authorized by s. 553.73.

792 (c) Triennial updates of and amendments to the Florida Fire
793 Prevention Code which are expressly authorized by s. 633.202.

794 (d) Emergency rules adopted pursuant to s. 120.54(4).

795 (5) For purposes of subsections (2) and (3), adverse
796 impacts and regulatory costs likely to occur within 5 years
797 after implementation of the rule include adverse impacts and
798 regulatory costs estimated to occur within 5 years after the
799 effective date of the rule. However, if any provision of the
800 rule is not fully implemented upon the effective date of the
801 rule, the adverse impacts and regulatory costs associated with
802 such provision must be adjusted to include any additional
803 adverse impacts and regulatory costs estimated to occur within 5
804 years after implementation of such provision.

805 (6) (a) In evaluating the impacts described in paragraphs
806 (2) (a) and (2) (e), an agency shall include good faith estimates
807 of market impacts likely to result from compliance with the
808 proposed rule, including:

809 1. Increased customer charges for goods or services.

810 2. Decreased market value of goods or services produced,
811 provided, or sold.

812 3. Increased costs resulting from the purchase of

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813 substitute or alternative goods or services.

814 4. The reasonable value of time to be expended by owners,
815 officers, operators, and managers to understand and comply with
816 the proposed rule, including, but not limited to, time expended
817 to complete required education, training, or testing.

818 5. Capital costs.

819 6. Any other impacts suggested by the rules ombudsman or
820 interested persons.

821 (b) In estimating the information required in paragraphs
822 (2)(b)-(e), the agency may use surveys of individuals,
823 businesses, business organizations, counties, and municipalities
824 to collect data helpful to estimate the costs and impacts.

825 (c) In estimating compliance costs under paragraph (2)(d),
826 the agency shall consider, among other matters, all direct and
827 indirect costs necessary to comply with the proposed rule which
828 are readily ascertainable based upon standard business
829 practices, including, but not limited to, costs related to:

830 1. Filing fees.

831 2. Obtaining a license.

832 3. Necessary equipment.

833 4. Installation, utilities, and maintenance of necessary
834 equipment.

835 5. Necessary operations and procedures.

836 6. Accounting, financial, information management, and other
837 administrative processes.

838 7. Other processes.

839 8. Labor based on relevant rates of wages, salaries, and
840 benefits.

841 9. Materials and supplies.

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- 842 10. Capital expenditures, including financing costs.
- 843 11. Professional and technical services, including
844 contracted services necessary to implement and maintain
845 compliance.
- 846 12. Monitoring and reporting.
- 847 13. Qualifying and recurring education, training, and
848 testing.
- 849 14. Travel.
- 850 15. Insurance and surety requirements.
- 851 16. A fair and reasonable allocation of administrative
852 costs or other overhead.
- 853 17. Reduced sales or other revenues.
- 854 18. Other items suggested by the rules ombudsman or any
855 interested person, business organization, or business
856 representative.
- 857 (7) (a) The Department of State shall include on the Florida
858 Administrative Register website the agency website addresses
859 where statements of estimated regulatory costs can be viewed in
860 their entirety.
- 861 (b) An agency that prepares a statement of estimated
862 regulatory costs must provide, as part of the notice required
863 under s. 120.54(3) (a), the agency website address where the
864 statement of estimated regulatory costs can be read in its
865 entirety to the Department of State for publication in the
866 Florida Administrative Register.
- 867 (c) If an agency revises its statement of estimated
868 regulatory costs, the agency must provide notice that a revision
869 has been made. Such notice must include the agency website
870 address where the revision can be viewed in its entirety.

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871 Section 4. Section 120.5435, Florida Statutes, is created
872 to read:

873 120.5435 Repromulgation of rules.-

874 (1) It is the intent of the Legislature that each agency
875 shall periodically review its rules for consistency with the
876 powers and duties granted by its enabling statutes. If an agency
877 determines after such review that substantive changes to update
878 a rule are not required, such agency shall repromulgate the rule
879 to reflect the date of the review. Each agency shall review its
880 rules pursuant to this section either 5 years after July 1,
881 2019, if the rule was adopted before January 1, 2010, or 10
882 years after the rule was adopted, if the rule was adopted on or
883 after January 1, 2010. Failure of an agency to adhere to the
884 deadlines imposed in this section constitutes repeal of any
885 affected rule. In the event of such a failure, the committee
886 shall notify the Department of State that the agency, by its
887 failure to repromulgate the affected rule, has elected to repeal
888 the rule. Upon receipt of the committee's notice, the Department
889 of State shall publish a notice to that effect in the next
890 available issue of the Florida Administrative Register. Upon
891 publication of the notice, the rule must be stricken from the
892 files of the Department of State and from the files of the
893 agency.

894 (2) Before repromulgation of a rule, the agency shall, upon
895 approval by the agency head or his or her designee:

896 (a) Publish a notice of repromulgation in the Florida
897 Administrative Register. A notice of repromulgation is not
898 required to include the text of the rule being repromulgated.

899 (b) File the rule for repromulgation with the Department of

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900 State. A rule may not be filed for repromulgation less than 28
901 days, and more than 90 days, after the date of publication of
902 the notice required by paragraph (a).

903 (3) The agency shall file a notice of repromulgation with
904 the committee at least 14 days before filing the rule for
905 repromulgation. At the time the rule is filed for
906 repromulgation, the committee shall certify whether the agency
907 has responded in writing to all material and timely written
908 comments or written inquiries made on behalf of the committee.

909 (4) A repromulgated rule is not subject to challenge as a
910 proposed rule pursuant to s. 120.56(2).

911 (5) The hearing requirements of s. 120.54 do not apply to
912 repromulgation of a rule.

913 (6) (a) The agency, upon approval of the agency head or his
914 or her designee, shall file with the Department of State three
915 certified copies of the repromulgated rule that it proposes to
916 adopt and one certified copy of any material incorporated by
917 reference in the rule.

918 (b) The repromulgated rule must be adopted upon filing with
919 the Department of State and becomes effective 20 days after the
920 date it is filed.

921 (c) The Department of State shall update the history note
922 of the rule in the Florida Administrative Code to reflect the
923 effective date of the repromulgated rule.

924 (7) The Department of State shall adopt rules to implement
925 this section by December 31, 2019.

926 Section 5. Subsection (1) of section 120.545, Florida
927 Statutes, is amended to read:

928 120.545 Committee review of agency rules.-

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- 929 (1) As a legislative check on legislatively created
930 authority, the committee shall examine each existing rule and
931 proposed rule, except for those proposed rules exempted by s.
932 120.81(1)(e) and (2), and its accompanying material, and each
933 emergency rule, ~~and may examine any existing rule,~~ for the
934 purpose of determining whether:
- 935 (a) The rule is an invalid exercise of delegated
936 legislative authority.
- 937 (b) The statutory authority for the rule has been repealed.
- 938 (c) The rule reiterates or paraphrases statutory material.
- 939 (d) The rule is in proper form.
- 940 (e) The notice given prior to its adoption was sufficient
941 to give adequate notice of the purpose and effect of the rule.
- 942 (f) The rule is consistent with expressed legislative
943 intent pertaining to the specific provisions of law which the
944 rule implements.
- 945 (g) The rule is necessary to accomplish the apparent or
946 expressed objectives of the specific provision of law which the
947 rule implements.
- 948 (h) The rule is a reasonable implementation of the law as
949 it affects the convenience of the general public or persons
950 particularly affected by the rule.
- 951 (i) The rule could be made less complex or more easily
952 comprehensible to the general public.
- 953 (j) The rule's statement of estimated regulatory costs
954 complies with the requirements of s. 120.541 and whether the
955 rule does not impose regulatory costs on the regulated person,
956 county, or city which could be reduced by the adoption of less
957 costly alternatives that substantially accomplish the statutory

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958 objectives.

959 (k) The rule will require additional appropriations.

960 (l) If the rule is an emergency rule, there exists an
961 emergency justifying the adoption of such rule, the agency is
962 within its statutory authority, and the rule was adopted in
963 compliance with the requirements and limitations of s.
964 120.54(4).

965 Section 6. Paragraphs (a) and (c) of subsection (1) and
966 subsection (6) of section 120.55, Florida Statutes, are amended
967 to read:

968 120.55 Publication.—

969 (1) The Department of State shall:

970 (a)1. Through a continuous revision and publication system,
971 compile and publish electronically, on a website managed by the
972 department, the "Florida Administrative Code." The Florida
973 Administrative Code shall contain all rules adopted by each
974 agency, citing the grant of rulemaking authority and the
975 specific law implemented pursuant to which each rule was
976 adopted, all history notes as authorized in s. 120.545(7),
977 complete indexes to all rules contained in the code, and any
978 other material required or authorized by law or deemed useful by
979 the department. The electronic code shall display each rule
980 chapter currently in effect in browse mode and allow full text
981 search of the code and each rule chapter. The department may
982 contract with a publishing firm for a printed publication;
983 however, the department shall retain responsibility for the code
984 as provided in this section. The electronic publication shall be
985 the official compilation of the administrative rules of this
986 state. The Florida Administrative Code must be published once

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987 daily by no later than 8 a.m. If, after publication, a rule is
988 corrected and replaced, the Florida Administrative Code must
989 indicate that it has been republished and must indicate the rule
990 that has been corrected by the Department of State. The
991 Department of State shall retain the copyright over the Florida
992 Administrative Code.

993 2. Not publish in the Florida Administrative Code, rules
994 general in form but applicable to only one school district,
995 community college district, or county, or a part thereof, or
996 state university rules relating to internal personnel or
997 business and finance ~~shall not be published in the Florida~~
998 ~~Administrative Code.~~ Exclusion from publication in the Florida
999 Administrative Code shall not affect the validity or
1000 effectiveness of such rules.

1001 3. At the beginning of the section of the code dealing with
1002 an agency that files copies of its rules with the department,
1003 ~~the department shall~~ publish the address and telephone number of
1004 the executive offices of each agency, the manner by which the
1005 agency indexes its rules, a listing of all rules of that agency
1006 excluded from publication in the code, and a statement as to
1007 where those rules may be inspected.

1008 4. Not publish forms ~~shall not be published~~ in the Florida
1009 Administrative Code; but any form which an agency uses in its
1010 dealings with the public, along with any accompanying
1011 instructions, shall be filed with the committee before it is
1012 used. Any form or instruction which meets the definition of
1013 "rule" provided in s. 120.52 shall be incorporated by reference
1014 into the appropriate rule. The reference shall specifically
1015 state that the form is being incorporated by reference and shall

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1016 include the number, title, and effective date of the form and an
1017 explanation of how the form may be obtained. Each form created
1018 by an agency which is incorporated by reference in a rule notice
1019 of which is given under s. 120.54(3)(a) after December 31, 2007,
1020 must clearly display the number, title, and effective date of
1021 the form and the number of the rule in which the form is
1022 incorporated.

1023 5. Require all material incorporated by reference in any
1024 part of an adopted rule and in any part of a repromulgated rule
1025 ~~The department shall allow adopted rules and material~~
1026 ~~incorporated by reference to be filed in the manner prescribed~~
1027 by s. 120.54(1)(i)3.a. or s. 120.54(1)(i)3.b. electronic form as
1028 ~~prescribed by department rule.~~ When a rule is filed for adoption
1029 or repromulgation with incorporated material in electronic form,
1030 the department's publication of the Florida Administrative Code
1031 on its website must contain a hyperlink from the incorporating
1032 reference in the rule directly to that material. The department
1033 may not allow hyperlinks from rules in the Florida
1034 Administrative Code to any material other than that filed with
1035 and maintained by the department, but may allow hyperlinks to
1036 incorporated material maintained by the department from the
1037 adopting agency's website or other sites.

1038 6. Include the date of any technical changes to a rule in
1039 the history note of the rule in the Florida Administrative Code.
1040 A technical change does not affect the effective date of the
1041 rule.

1042 (c) Prescribe by rule the style and form required for
1043 rules, notices, and other materials submitted for filing,
1044 including a rule requiring documents created by an agency which

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1045 are proposed to be incorporated by reference in notices
1046 published pursuant to s. 120.54(3)(a) and (d) to be coded in the
1047 same manner as notices published pursuant to s. 120.54(3)(a)1.

1048 (6) Any publication of a proposed rule promulgated by an
1049 agency, whether published in the Florida Administrative Register
1050 or elsewhere, shall include, along with the rule, the name of
1051 the person or persons originating such rule, ~~the name of the~~
1052 ~~agency head who approved the rule, and the date upon which the~~
1053 ~~rule was approved.~~

1054 Section 7. Subsection (1) of section 120.569, Florida
1055 Statutes, is amended to read:

1056 120.569 Decisions which affect substantial interests.—

1057 (1) (a) The provisions of this section apply in all
1058 proceedings in which the substantial interests of a party are
1059 determined by an agency, unless the parties are proceeding under
1060 s. 120.573 or s. 120.574. Unless waived by all parties, s.
1061 120.57(1) applies whenever the proceeding involves a disputed
1062 issue of material fact. Unless otherwise agreed, s. 120.57(2)
1063 applies in all other cases. If a disputed issue of material fact
1064 arises during a proceeding under s. 120.57(2), then, unless
1065 waived by all parties, the proceeding under s. 120.57(2) shall
1066 be terminated and a proceeding under s. 120.57(1) shall be
1067 conducted. Parties shall be notified of any order, including a
1068 final order. Unless waived, a copy of the order shall be
1069 delivered or mailed to each party or the party's attorney of
1070 record at the address of record. Each notice shall inform the
1071 recipient of any administrative hearing or judicial review that
1072 is available under this section, s. 120.57, or s. 120.68; shall
1073 indicate the procedure which must be followed to obtain the

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1074 hearing or judicial review; and shall state the time limits
1075 which apply.

1076 (b) For all proceedings conducted before the division, any
1077 document filed with the division by a party represented by an
1078 attorney must be filed electronically through the division's
1079 website. Any document filed with the division by a party not
1080 represented by an attorney must be filed, whenever possible,
1081 electronically through the division's website. The division
1082 shall serve all such documents on all parties of record
1083 electronically through the division's website. The parties are
1084 relieved of any requirement to serve other parties who are
1085 registered for electronic filing when they file documents
1086 electronically with the division.

1087 Section 8. Subsection (1) and paragraph (a) of subsection
1088 (2) of section 120.74, Florida Statutes, are amended to read:

1089 120.74 Agency annual rulemaking and regulatory plans;
1090 reports.—

1091 (1) REGULATORY PLAN.—By October 1 of each year, each agency
1092 shall prepare a regulatory plan.

1093 (a) The plan must include a listing of each law enacted or
1094 amended during the previous 12 months which creates or modifies
1095 the duties or authority of the agency. If the Governor or the
1096 Attorney General provides a letter to the committee stating that
1097 a law affects all or most agencies, the agency may exclude the
1098 law from its plan. For each law listed by an agency under this
1099 paragraph, the plan must state:

1100 1. Whether the agency must adopt rules to implement the
1101 law.

1102 2. If rulemaking is necessary to implement the law:

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1103 a. Whether a notice of rule development has been published
1104 and, if so, the citation to such notice in the Florida
1105 Administrative Register.

1106 b. The date by which the agency expects to publish the
1107 notice of proposed rule under s. 120.54(3)(a).

1108 3. If rulemaking is not necessary to implement the law, a
1109 concise written explanation of the reasons why the law may be
1110 implemented without rulemaking.

1111 (b) The plan must also identify and describe each rule,
1112 including each rule number or proposed rule number, include a
1113 listing of each law not otherwise listed pursuant to paragraph
1114 (a) which the agency expects to develop, adopt, or repeal for
1115 the 12-month period beginning on October 1 and ending on
1116 September 30 implement by rulemaking before the following July
1117 1, excluding emergency rules except emergency rulemaking. For
1118 each rule law listed under this paragraph, the plan must state
1119 whether the rulemaking is intended to simplify, clarify,
1120 increase efficiency, improve coordination with other agencies,
1121 reduce regulatory costs, or delete obsolete, unnecessary, or
1122 redundant rules.

1123 (c) The plan must include any desired update to the prior
1124 year's regulatory plan or supplement published pursuant to
1125 subsection (7). If, in a prior year, a law was identified under
1126 this paragraph or under subparagraph (a)1. as a law requiring
1127 rulemaking to implement but a notice of proposed rule has not
1128 been published:

1129 1. The agency shall identify and again list such law,
1130 noting the applicable notice of rule development by citation to
1131 the Florida Administrative Register; or

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1132 2. If the agency has subsequently determined that
1133 rulemaking is not necessary to implement the law, the agency
1134 shall identify such law, reference the citation to the
1135 applicable notice of rule development in the Florida
1136 Administrative Register, and provide a concise written
1137 explanation of the reason why the law may be implemented without
1138 rulemaking.

1139 (d) The plan must identify any rules that are required to
1140 be repromulgated pursuant to s. 120.5435 for the 12-month period
1141 beginning on October 1 and ending on September 30.

1142 (e)~~(d)~~ The plan must include a certification executed on
1143 behalf of the agency by both the agency head, or, if the agency
1144 head is a collegial body, the presiding officer; and the
1145 individual acting as principal legal advisor to the agency head.
1146 The certification must:

1147 1. Declare ~~Verify~~ that the persons executing the
1148 certification have reviewed the plan.

1149 2. Declare ~~Verify~~ that the agency regularly reviews all of
1150 its rules and identify the period during which all rules have
1151 most recently been reviewed to determine if the rules remain
1152 consistent with the agency's rulemaking authority and the laws
1153 implemented.

1154 3. Declare that the agency understands that regulatory
1155 accountability is necessary to ensure public confidence in the
1156 integrity of state government and that, to that end, the agency
1157 is diligently working toward lowering the total number of rules
1158 adopted.

1159 4. Declare the total number of rules adopted and repealed
1160 during the previous 12 months.

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1161 (2) PUBLICATION AND DELIVERY TO THE COMMITTEE.—

1162 (a) By October 1 of each year, each agency shall:

1163 1. Publish its regulatory plan on its website or on another
1164 state website established for publication of administrative law
1165 records. A clearly labeled hyperlink to the current plan must be
1166 included on the agency's primary website homepage.

1167 2. Electronically deliver to the committee a copy of the
1168 certification required in paragraph (1) (e) ~~(1) (d)~~.

1169 3. Publish in the Florida Administrative Register a notice
1170 identifying the date of publication of the agency's regulatory
1171 plan. The notice must include a hyperlink or website address
1172 providing direct access to the published plan.

1173 Section 9. Paragraph (a) of subsection (2) of section
1174 120.56, Florida Statutes, is amended to read:

1175 120.56 Challenges to rules.—

1176 (2) CHALLENGING PROPOSED RULES; SPECIAL PROVISIONS.—

1177 (a) A petition alleging the invalidity of a proposed rule
1178 shall be filed within 21 days after the date of publication of
1179 the notice required by s. 120.54(3) (a); within 10 days after the
1180 final public hearing is held on the proposed rule as provided by
1181 s. 120.54(3) (e)2.; within 20 days after the statement of
1182 estimated regulatory costs or revised statement of estimated
1183 regulatory costs, if applicable, has been prepared and made
1184 available as provided in s. 120.541(1) (c) ~~s. 120.541(1) (d)~~; or
1185 within 20 days after the date of publication of the notice
1186 required by s. 120.54(3) (d). The petitioner has the burden to
1187 prove by a preponderance of the evidence that the petitioner
1188 would be substantially affected by the proposed rule. The agency
1189 then has the burden to prove by a preponderance of the evidence

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1190 that the proposed rule is not an invalid exercise of delegated
1191 legislative authority as to the objections raised. A person who
1192 is not substantially affected by the proposed rule as initially
1193 noticed, but who is substantially affected by the rule as a
1194 result of a change, may challenge any provision of the resulting
1195 proposed rule.

1196 Section 10. Subsection (11) of section 120.80, Florida
1197 Statutes, is amended to read:

1198 120.80 Exceptions and special requirements; agencies.—

1199 (11) NATIONAL GUARD.—Notwithstanding s. 120.52(17) ~~s.~~
1200 ~~120.52(16)~~, the enlistment, organization, administration,
1201 equipment, maintenance, training, and discipline of the militia,
1202 National Guard, organized militia, and unorganized militia, as
1203 provided by s. 2, Art. X of the State Constitution, are not
1204 rules as defined by this chapter.

1205 Section 11. Paragraph (c) of subsection (1) of section
1206 120.81, Florida Statutes, is amended to read:

1207 120.81 Exceptions and special requirements; general areas.—

1208 (1) EDUCATIONAL UNITS.—

1209 (c) Notwithstanding s. 120.52(17) ~~s. 120.52(16)~~, any tests,
1210 test scoring criteria, or testing procedures relating to student
1211 assessment which are developed or administered by the Department
1212 of Education pursuant to s. 1003.4282, s. 1008.22, or s.
1213 1008.25, or any other statewide educational tests required by
1214 law, are not rules.

1215 Section 12. Paragraph (a) of subsection (1) of section
1216 420.9072, Florida Statutes, is amended to read:

1217 420.9072 State Housing Initiatives Partnership Program.—The
1218 State Housing Initiatives Partnership Program is created for the

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1219 purpose of providing funds to counties and eligible
1220 municipalities as an incentive for the creation of local housing
1221 partnerships, to expand production of and preserve affordable
1222 housing, to further the housing element of the local government
1223 comprehensive plan specific to affordable housing, and to
1224 increase housing-related employment.

1225 (1) (a) In addition to the legislative findings set forth in
1226 s. 420.6015, the Legislature finds that affordable housing is
1227 most effectively provided by combining available public and
1228 private resources to conserve and improve existing housing and
1229 provide new housing for very-low-income households, low-income
1230 households, and moderate-income households. The Legislature
1231 intends to encourage partnerships in order to secure the
1232 benefits of cooperation by the public and private sectors and to
1233 reduce the cost of housing for the target group by effectively
1234 combining all available resources and cost-saving measures. The
1235 Legislature further intends that local governments achieve this
1236 combination of resources by encouraging active partnerships
1237 between government, lenders, builders and developers, real
1238 estate professionals, advocates for low-income persons, and
1239 community groups to produce affordable housing and provide
1240 related services. Extending the partnership concept to encompass
1241 cooperative efforts among small counties as defined in s.
1242 120.52(20) ~~s. 120.52(19)~~, and among counties and municipalities
1243 is specifically encouraged. Local governments are also intended
1244 to establish an affordable housing advisory committee to
1245 recommend monetary and nonmonetary incentives for affordable
1246 housing as provided in s. 420.9076.

1247 Section 13. Subsection (7) of section 420.9075, Florida

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1248 Statutes, is amended to read:

1249 420.9075 Local housing assistance plans; partnerships.—

1250 (7) The moneys deposited in the local housing assistance
1251 trust fund shall be used to administer and implement the local
1252 housing assistance plan. The cost of administering the plan may
1253 not exceed 5 percent of the local housing distribution moneys
1254 and program income deposited into the trust fund. A county or an
1255 eligible municipality may not exceed the 5-percent limitation on
1256 administrative costs, unless its governing body finds, by
1257 resolution, that 5 percent of the local housing distribution
1258 plus 5 percent of program income is insufficient to adequately
1259 pay the necessary costs of administering the local housing
1260 assistance plan. The cost of administering the program may not
1261 exceed 10 percent of the local housing distribution plus 5
1262 percent of program income deposited into the trust fund, except
1263 that small counties, as defined in s. 120.52(20) ~~s. 120.52(19)~~,
1264 and eligible municipalities receiving a local housing
1265 distribution of up to \$350,000 may use up to 10 percent of
1266 program income for administrative costs.

1267 Section 14. Paragraph (d) of subsection (1) of section
1268 443.091, Florida Statutes, is amended to read:

1269 443.091 Benefit eligibility conditions.—

1270 (1) An unemployed individual is eligible to receive
1271 benefits for any week only if the Department of Economic
1272 Opportunity finds that:

1273 (d) She or he is able to work and is available for work. In
1274 order to assess eligibility for a claimed week of unemployment,
1275 the department shall develop criteria to determine a claimant's
1276 ability to work and availability for work. A claimant must be

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1277 actively seeking work in order to be considered available for
1278 work. This means engaging in systematic and sustained efforts to
1279 find work, including contacting at least five prospective
1280 employers for each week of unemployment claimed. The department
1281 may require the claimant to provide proof of such efforts to the
1282 one-stop career center as part of reemployment services. A
1283 claimant's proof of work search efforts may not include the same
1284 prospective employer at the same location in 3 consecutive
1285 weeks, unless the employer has indicated since the time of the
1286 initial contact that the employer is hiring. The department
1287 shall conduct random reviews of work search information provided
1288 by claimants. As an alternative to contacting at least five
1289 prospective employers for any week of unemployment claimed, a
1290 claimant may, for that same week, report in person to a one-stop
1291 career center to meet with a representative of the center and
1292 access reemployment services of the center. The center shall
1293 keep a record of the services or information provided to the
1294 claimant and shall provide the records to the department upon
1295 request by the department. However:

1296 1. Notwithstanding any other provision of this paragraph or
1297 paragraphs (b) and (e), an otherwise eligible individual may not
1298 be denied benefits for any week because she or he is in training
1299 with the approval of the department, or by reason of s.
1300 443.101(2) relating to failure to apply for, or refusal to
1301 accept, suitable work. Training may be approved by the
1302 department in accordance with criteria prescribed by rule. A
1303 claimant's eligibility during approved training is contingent
1304 upon satisfying eligibility conditions prescribed by rule.

1305 2. Notwithstanding any other provision of this chapter, an

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1306 otherwise eligible individual who is in training approved under
1307 s. 236(a)(1) of the Trade Act of 1974, as amended, may not be
1308 determined ineligible or disqualified for benefits due to
1309 enrollment in such training or because of leaving work that is
1310 not suitable employment to enter such training. As used in this
1311 subparagraph, the term "suitable employment" means work of a
1312 substantially equal or higher skill level than the worker's past
1313 adversely affected employment, as defined for purposes of the
1314 Trade Act of 1974, as amended, the wages for which are at least
1315 80 percent of the worker's average weekly wage as determined for
1316 purposes of the Trade Act of 1974, as amended.

1317 3. Notwithstanding any other provision of this section, an
1318 otherwise eligible individual may not be denied benefits for any
1319 week because she or he is before any state or federal court
1320 pursuant to a lawfully issued summons to appear for jury duty.

1321 4. Union members who customarily obtain employment through
1322 a union hiring hall may satisfy the work search requirements of
1323 this paragraph by reporting daily to their union hall.

1324 5. The work search requirements of this paragraph do not
1325 apply to persons who are unemployed as a result of a temporary
1326 layoff or who are claiming benefits under an approved short-time
1327 compensation plan as provided in s. 443.1116.

1328 6. In small counties as defined in s. 120.52(20) ~~s.~~
1329 ~~120.52(19)~~, a claimant engaging in systematic and sustained
1330 efforts to find work must contact at least three prospective
1331 employers for each week of unemployment claimed.

1332 7. The work search requirements of this paragraph do not
1333 apply to persons required to participate in reemployment
1334 services under paragraph (e).

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Section 15. This act shall take effect July 1, 2019.