

1 A bill to be entitled
2 An act relating to administrative procedures; amending
3 s. 120.52, F.S.; defining the terms "repromulgation"
4 and "technical change"; amending s. 120.54, F.S.;
5 applying certain provisions applicable to all rules
6 other than emergency rules to repromulgated rules;
7 requiring a notice of rule development to cite the
8 grant of rulemaking authority; requiring a notice of
9 rule development to contain a proposed rule number and
10 certain statements; requiring a notice of withdrawal
11 if a notice of proposed rule is not filed within a
12 certain timeframe; revising the scope of public
13 workshops to include information gathered for the
14 preparation of statements of estimated regulatory
15 costs; requiring a notice of proposed rule to include
16 a website address where a statement of regulatory
17 costs may be viewed; requiring that material proposed
18 to be incorporated by reference and the statement of
19 estimated regulatory costs be available to the public;
20 requiring that material proposed to be incorporated by
21 reference be made available in a specified manner;
22 authorizing electronic delivery of notices to persons
23 who have requested advance notice of agency rulemaking
24 proceedings; requiring an agency to prepare a
25 statement of estimated regulatory costs before

26 | adopting or amending any rule other than an emergency
27 | rule; providing that an agency is not required to
28 | prepare a statement of estimated regulatory costs
29 | before repealing a rule; providing an exception;
30 | requiring that certain rule repeals be considered
31 | presumptively correct in a proceeding before the
32 | Division of Administrative Hearings or a court of
33 | competent jurisdiction; revising the circumstances
34 | under which a proposed rule's adverse impact on small
35 | businesses is considered to exist; requiring an agency
36 | to provide notice of a regulatory alternative to the
37 | Administrative Procedures Committee within a certain
38 | timeframe; requiring certain agency personnel to
39 | attend public hearings on proposed rules; requiring an
40 | agency to publish a notice of convening a separate
41 | proceeding in certain circumstances; providing that
42 | rulemaking deadlines are tolled during such separate
43 | proceedings; revising the requirements for the
44 | contents of a notice of change; requiring the
45 | committee to notify the Department of State that the
46 | date for an agency to adopt a rule has expired under
47 | certain circumstances; requiring the department to
48 | publish a notice of withdrawal under certain
49 | circumstances; requiring emergency rules to be
50 | published in the Florida Administrative Code;

51 prohibiting agencies from making changes to emergency
52 rules by superseding the rule; authorizing an agency
53 to make technical changes to an emergency rule during
54 a specified timeframe; requiring an agency to file a
55 copy of a certain petition with the committee;
56 amending s. 120.541, F.S.; conforming provisions to
57 changes made by the act; requiring an agency to
58 provide a copy of any proposal for a lower cost
59 regulatory alternative to the committee within a
60 certain timeframe; specifying the circumstances under
61 which such a proposal is made in good faith; revising
62 requirements for an agency's consideration of a lower
63 cost regulatory alternative; providing for an agency's
64 revision and publication of a revised statement of
65 estimated regulatory costs in response to such lower
66 cost regulatory alternatives; conforming a cross-
67 reference; revising the statement of estimated
68 regulatory costs; deleting the definition of the term
69 "transactional costs"; revising the applicability of
70 specified provisions; providing additional
71 requirements for the calculation of estimated
72 regulatory costs; creating s. 120.5435, F.S.;
73 providing legislative intent; requiring agency review
74 of rules and repromulgation of rules that do not
75 require substantive changes within a specified

76 | timeframe; requiring an agency to publish a notice of
77 | repromulgation in the Florida Administrative Register
78 | and file a rule for promulgation with the Department
79 | of State within a specified timeframe; requiring an
80 | agency to file a notice of repromulgation with the
81 | committee within a specified timeframe; requiring
82 | withdrawal of a rule proposed for repromulgation if
83 | the rule is not filed within a specified timeframe;
84 | providing that a repromulgated rule is not subject to
85 | challenge as a proposed rule and that certain hearing
86 | requirements do not apply; requiring an agency to file
87 | a specified number of certified copies of a proposed
88 | repromulgated rule and any material incorporated by
89 | reference; providing that a repromulgated rule is
90 | adopted upon filing with the department and becomes
91 | effective after a specified time; requiring the
92 | department to update certain information in the
93 | Florida Administrative Code; requiring the department
94 | to adopt rules by a certain date; amending s. 120.545,
95 | F.S.; requiring the committee to examine existing
96 | rules; amending s. 120.55, F.S.; requiring the Florida
97 | Administrative Code to be published once daily;
98 | requiring materials incorporated by reference to be
99 | filed in a specified manner; requiring the department
100 | to include the date of a technical rule change in the

101 Florida Administrative Code; providing that a
 102 technical change does not affect the effective date of
 103 a rule; requiring specified rules; amending s. 120.56,
 104 F.S.; conforming a cross-reference; amending s.
 105 120.74, F.S.; requiring an agency to list each rule it
 106 plans to develop, adopt, or repeal during the
 107 forthcoming year in the agency's annual regulatory
 108 plan; requiring that an agency's annual regulatory
 109 plan identify any rules that are required to be
 110 repromulgated during the forthcoming year; requiring
 111 the agency to make certain declarations concerning the
 112 annual regulatory plan; amending ss. 120.80, 120.81,
 113 420.9072, 420.9075, 443.091, F.S.; conforming cross-
 114 references; providing an effective date.

115

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

117

118 Section 1. Subsections (16) through (19) and subsections
 119 (20) through (22) of section 120.52, Florida Statutes, are
 120 renumbered as subsections (17) through (20) and subsections (22)
 121 through (24), respectively, and new subsections (16) and (21)
 122 are added to that section, to read:

123 120.52 Definitions.—As used in this act:

124 (16) "Repromulgation" means the publication and adoption
 125 of an existing rule following an agency's review of the rule for

126 | consistency with the powers and duties granted by its enabling
 127 | statute.

128 | (21) "Technical change" means a change limited to
 129 | correcting grammatical, typographical, and similar errors not
 130 | affecting the substance of the rule.

131 | Section 2. Paragraph (i) of subsection (1), subsections
 132 | (2) and (3), and paragraph (a) of subsection (7) of section
 133 | 120.54, Florida Statutes, are amended, and paragraphs (e) and
 134 | (f) are added to subsection (4) of that section, to read:

135 | 120.54 Rulemaking.—

136 | (1) GENERAL PROVISIONS APPLICABLE TO ALL RULES OTHER THAN
 137 | EMERGENCY RULES.—

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

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

149 | 3. In rules adopted after December 31, 2010, and rules
 150 | repromulgated on or after July 1, 2019, material may not be

151 incorporated by reference unless:

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

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

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

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

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

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

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

196 (a)1. Except when the intended action is the repeal of a
197 rule, agencies shall provide notice of the development of
198 proposed rules by publication of a notice of rule development in
199 the Florida Administrative Register before providing notice of a
200 proposed rule as required by paragraph (3)(a). The notice of

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

215 2. If a notice of a proposed rule is not filed within 12
216 months after the notice of rule development, the agency shall
217 withdraw the rule and give notice of the withdrawal in the next
218 available issue of the Florida Administrative Register.

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

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

223 2. It avoids the use of unnecessary technical or
224 specialized language that is understood only by members of
225 particular trades or professions.

226 (c) An agency may hold public workshops for purposes of
227 rule development and information gathering for the preparation
228 of the statement of estimated regulatory costs. If requested in
229 writing by any affected person, an agency must hold public
230 workshops, including workshops in various regions of the state
231 or the agency's service area, for purposes of rule development
232 and information gathering for the preparation of the statement
233 of estimated regulatory costs ~~if requested in writing by any~~
234 ~~affected person,~~ unless the agency head explains in writing why
235 a workshop is unnecessary. The explanation is not final agency
236 action subject to review pursuant to ss. 120.569 and 120.57. The
237 failure to provide the explanation when required may be a
238 material error in procedure pursuant to s. 120.56(1)(c). When a
239 workshop or public hearing is held, the agency must ensure that
240 the persons responsible for preparing the proposed rule and the
241 statement of estimated regulatory costs are available to receive
242 public input, to explain the agency's proposal, and to respond
243 to questions or comments regarding the rule being developed and
244 the statement of estimated regulatory costs. The workshop may be
245 facilitated or mediated by a neutral third person, or the agency
246 may employ other types of dispute resolution alternatives for
247 the workshop that are appropriate for rule development and for
248 preparation of the statement of estimated regulatory costs.
249 Notice of a workshop for rule development and for preparation of
250 the statement of estimated regulatory costs must ~~workshop shall~~

251 be by publication in the Florida Administrative Register not
252 less than 14 days before ~~prior to~~ the date on which the workshop
253 is scheduled to be held and must ~~shall~~ indicate the subject area
254 that ~~which~~ will be addressed; the agency contact person; and the
255 place, date, and time of the workshop.

256 (d)1. An agency may use negotiated rulemaking in
257 developing and adopting rules. The agency should consider the
258 use of negotiated rulemaking when complex rules are being
259 drafted or strong opposition to the rules is anticipated. The
260 agency should consider, but is not limited to considering,
261 whether a balanced committee of interested persons who will
262 negotiate in good faith can be assembled, whether the agency is
263 willing to support the work of the negotiating committee, and
264 whether the agency can use the group consensus as the basis for
265 its proposed rule. Negotiated rulemaking uses a committee of
266 designated representatives to draft a mutually acceptable
267 proposed rule and to develop information necessary to prepare a
268 statement of estimated regulatory costs, when applicable.

269 2. An agency that chooses to use the negotiated rulemaking
270 process described in this paragraph shall publish in the Florida
271 Administrative Register a notice of negotiated rulemaking that
272 includes a listing of the representative groups that will be
273 invited to participate in the negotiated rulemaking process. Any
274 person who believes that his or her interest is not adequately
275 represented may apply to participate within 30 days after

276 publication of the notice. All meetings of the negotiating
277 committee shall be noticed and open to the public pursuant to
278 ~~the provisions of~~ this chapter. The negotiating committee shall
279 be chaired by a neutral facilitator or mediator.

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

287 (3) ADOPTION PROCEDURES.—

288 (a) Notices.—

289 1. Before ~~Prior to~~ the adoption, amendment, or repeal of
290 any rule other than an emergency rule, an agency, upon approval
291 of the agency head, shall give notice of its intended action,
292 setting forth a short, plain explanation of the purpose and
293 effect of the proposed action; the rule number and full text of
294 the proposed rule or amendment and a summary thereof; a
295 reference to the grant of rulemaking authority pursuant to which
296 the rule is adopted; and a reference to the section or
297 subsection of the Florida Statutes or the Laws of Florida being
298 implemented or interpreted. The notice must include a concise
299 summary of the agency's statement of the estimated regulatory
300 costs, ~~if one has been prepared,~~ based on the factors set forth

301 in s. 120.541(2), which describes the regulatory impact of the
302 rule in readable language; an agency website address where the
303 statement of estimated regulatory costs can be viewed in its
304 entirety; a statement that any person who wishes to provide the
305 agency with information regarding the statement of estimated
306 regulatory costs, or to provide a proposal for a lower cost
307 regulatory alternative as provided by s. 120.541(1), must do so
308 in writing within 21 days after publication of the notice; a
309 request for the submission of any information that could be
310 helpful to the agency regarding the statement of estimated
311 regulatory costs; and a statement as to whether, based on the
312 statement of the estimated regulatory costs ~~or other information~~
313 ~~expressly relied upon and described by the agency if no~~
314 ~~statement of regulatory costs is required~~, the proposed rule is
315 expected to require legislative ratification pursuant to s.
316 120.541(3). The notice must state the procedure for requesting a
317 public hearing on the proposed rule. Except when the intended
318 action is the repeal of a rule, the notice must include a
319 reference both to the date on which and to the place where the
320 notice of rule development that is required by subsection (2)
321 appeared.

322 2. The notice shall be published in the Florida
323 Administrative Register at least 7 days after the publication of
324 the notice of rule development and at least ~~not less than~~ 28
325 days ~~prior to~~ before the intended action. The proposed rule,

326 including all materials proposed to be incorporated by reference
327 and the statement of estimated regulatory costs, must ~~shall~~ be
328 available for inspection and copying by the public at the time
329 of the publication of notice. Material proposed to be
330 incorporated by reference in the notice must be made available
331 in the manner prescribed by sub-subparagraph (1)(i)3.a. or sub-
332 subparagraph (1)(i)3.b.

333 3. The notice shall be mailed to all persons named in the
334 proposed rule and mailed or delivered electronically to all
335 persons who, at least 14 days before publication of the notice
336 ~~prior to such mailing~~, have made requests of the agency for
337 advance notice of its proceedings. The agency shall also give
338 such notice as is prescribed by rule to those particular classes
339 of persons to whom the intended action is directed.

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

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

351 1. Statement of estimated regulatory costs.—Before the
352 adoption ~~or~~, amendment, ~~or repeal~~ of any rule, other than an
353 emergency rule, an agency must ~~is encouraged to~~ prepare a
354 statement of estimated regulatory costs of the proposed rule, as
355 provided by s. 120.541. However, an agency is not required to
356 prepare a statement of estimated regulatory costs for a rule
357 repeal unless such repeal would impose a regulatory cost. In any
358 challenge to a rule repeal, a rule repeal that reduces or
359 eliminates regulations on those presently regulated by the rule
360 must be considered presumptively correct in any proceeding
361 before the division or in any proceeding before a court of
362 competent jurisdiction. However, an agency must prepare a
363 ~~statement of estimated regulatory costs of the proposed rule, as~~
364 ~~provided by s. 120.541, if:~~

365 a. ~~The proposed rule will have an adverse impact on small~~
366 ~~business; or~~

367 b. ~~The proposed rule is likely to directly or indirectly~~
368 ~~increase regulatory costs in excess of \$200,000 in the aggregate~~
369 ~~in this state within 1 year after the implementation of the~~
370 ~~rule.~~

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

372 a. For purposes of this subsection and s. 120.541(2), an
373 adverse impact on small businesses, as defined in s. 288.703 or
374 sub-subparagraph b., exists if, for any small business:

375 (I) An owner, officer, operator, or manager must complete

376 any education, training, or testing to comply, or is likely to
 377 spend at least 10 hours or purchase professional advice to
 378 understand and comply, with the rule in the first year;

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

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

383 (IV) Specially trained, licensed, or tested employees will
 384 be required because of the rule;

385 (V) Operating costs are expected to increase by at least
 386 \$1,000 annually because of the rule; or

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

389 b. Each agency, before the adoption, amendment, or repeal
 390 of a rule, shall consider the impact of the rule on small
 391 businesses as defined in ~~by~~ s. 288.703 and the impact of the
 392 rule on small counties or small cities as defined in ~~by~~ s.
 393 120.52. Whenever practicable, an agency shall tier its rules to
 394 reduce disproportionate impacts on small businesses, small
 395 counties, or small cities to avoid regulating small businesses,
 396 small counties, or small cities that do not contribute
 397 significantly to the problem the rule is designed to address. An
 398 agency may define "small business" to include businesses
 399 employing more than 200 persons, may define "small county" to
 400 include those with populations of more than 75,000, and may

401 define "small city" to include those with populations of more
402 than 10,000, if it finds that such a definition is necessary to
403 adapt a rule to the needs and problems of small businesses,
404 small counties, or small cities. The agency shall consider each
405 of the following methods for reducing the impact of the proposed
406 rule on small businesses, small counties, and small cities, or
407 any combination of these entities:

408 (I) Establishing less stringent compliance or reporting
409 requirements in the rule.

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

412 (III) Consolidating or simplifying the rule's compliance
413 or reporting requirements.

414 (IV) Establishing performance standards or best management
415 practices to replace design or operational standards in the
416 rule.

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

419 ~~c.b.~~ (I) If the agency determines that the proposed action
420 will affect small businesses as defined by the agency as
421 provided in sub-subparagraph b. a., the agency shall send
422 written notice of the rule to the rules ombudsman in the
423 Executive Office of the Governor at least 28 days before the
424 intended action.

425 (II) Each agency shall adopt those regulatory alternatives

426 | offered by the rules ombudsman in the Executive Office of the
427 | Governor and provided to the agency no later than 21 days after
428 | the rules ombudsman's receipt of the written notice of the rule
429 | which it finds are feasible and consistent with the stated
430 | objectives of the proposed rule and which would reduce the
431 | impact on small businesses. When regulatory alternatives are
432 | offered by the rules ombudsman in the Executive Office of the
433 | Governor, the 90-day period for filing the rule in subparagraph
434 | (e)2. is extended for a period of 21 days. The agency shall
435 | provide notice to the committee of any regulatory alternative
436 | offered to the agency pursuant to this sub-subparagraph at least
437 | 21 days before filing the rule for adoption.

438 | (III) If an agency does not adopt all alternatives offered
439 | pursuant to this sub-subparagraph, it shall, before rule
440 | adoption or amendment and pursuant to subparagraph (d)1., file a
441 | detailed written statement with the committee explaining the
442 | reasons for failure to adopt such alternatives. Within 3 working
443 | days after the filing of such notice, the agency shall send a
444 | copy of such notice to the rules ombudsman in the Executive
445 | Office of the Governor.

446 | (c) Hearings.—

447 | 1. If the intended action concerns any rule other than one
448 | relating exclusively to procedure or practice, the agency shall,
449 | on the request of any affected person received within 21 days
450 | after the date of publication of the notice of intended agency

451 action, give affected persons an opportunity to present evidence
452 and argument on all issues under consideration. The agency may
453 schedule a public hearing on the proposed rule and, if requested
454 by any affected person, shall schedule a public hearing on the
455 proposed rule. When a public hearing is held, the agency must
456 ensure that the persons responsible for preparing the proposed
457 rule and the statement of estimated regulatory costs ~~staff~~ are
458 available to explain the agency's proposal and to respond to
459 questions or comments regarding the proposed rule, the statement
460 of estimated regulatory costs, and the agency's decision whether
461 to adopt a lower cost regulatory alternative submitted pursuant
462 to s. 120.541(1)(a). If the agency head is a board or other
463 collegial body created under s. 20.165(4) or s. 20.43(3)(g), and
464 one or more requested public hearings is scheduled, the board or
465 other collegial body shall conduct at least one of the public
466 hearings itself and may not delegate this responsibility without
467 the consent of those persons requesting the public hearing. Any
468 material pertinent to the issues under consideration submitted
469 to the agency within 21 days after the date of publication of
470 the notice or submitted to the agency between the date of
471 publication of the notice and the end of the final public
472 hearing shall be considered by the agency and made a part of the
473 record of the rulemaking proceeding.

474 2. Rulemaking proceedings shall be governed solely by the
475 provisions of this section unless a person timely asserts that

476 the person's substantial interests will be affected in the
477 proceeding and affirmatively demonstrates to the agency that the
478 proceeding does not provide adequate opportunity to protect
479 those interests. If the agency determines that the rulemaking
480 proceeding is not adequate to protect the person's interests, it
481 shall suspend the rulemaking proceeding and convene a separate
482 proceeding under ~~the provisions of~~ ss. 120.569 and 120.57. The
483 agency shall publish notice of convening a separate proceeding
484 in the Florida Administrative Register. Similarly situated
485 persons may be requested to join and participate in the separate
486 proceeding. Upon conclusion of the separate proceeding, the
487 rulemaking proceeding shall be resumed. All timelines in this
488 section are tolled during any suspension of the rulemaking
489 proceeding under this subparagraph, beginning on the date the
490 notice of convening a separate proceeding is published and
491 resuming on the day after conclusion of the separate proceeding.

492 (d) Modification or withdrawal of proposed rules.—

493 1. After the final public hearing on the proposed rule, or
494 after the time for requesting a hearing has expired, if the
495 proposed rule has not been changed from the proposed rule as
496 previously filed with the committee, or contains only technical
497 changes, the adopting agency shall file a notice to that effect
498 with the committee at least 7 days before ~~prior to~~ filing the
499 proposed rule for adoption. Any change, other than a technical
500 change ~~that does not affect the substance of the rule~~, must be

501 supported by the record of public hearings held on the proposed
502 rule, must be in response to written material submitted to the
503 agency within 21 days after the date of publication of the
504 notice of intended agency action or submitted to the agency
505 between the date of publication of the notice and the end of the
506 final public hearing, or must be in response to a proposed
507 objection by the committee. Any change, other than a technical
508 change, to a statement of estimated regulatory costs requires a
509 notice of change. In addition, ~~when~~ any change, other than a
510 technical change, to is made in a proposed rule text or any
511 material incorporated by reference requires, ~~other than a~~
512 ~~technical change,~~ the adopting agency to shall provide a copy of
513 a notice of change by certified mail or actual delivery to any
514 person who requests it in writing no later than 21 days after
515 the notice required in paragraph (a). The agency shall file the
516 notice of change with the committee, along with the reasons for
517 the change, and provide the notice of change to persons
518 requesting it, at least 21 days before ~~prior to~~ filing the
519 proposed rule for adoption. The notice of change shall be
520 published in the Florida Administrative Register at least 21
521 days before ~~prior to~~ filing the proposed rule for adoption. The
522 notice of change must include a summary of any revision of the
523 statement of estimated regulatory costs required by s.
524 120.541(1)(c). This subparagraph does not apply to emergency
525 rules adopted pursuant to subsection (4). Material proposed to

526 be incorporated by reference in the notice required by this
527 subparagraph must be made available in the manner prescribed by
528 sub-subparagraph (1)(i)3.a. or sub-subparagraph (1)(i)3.b.

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

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

542 ~~4.3.~~ After adoption and before the rule becomes effective,
543 a rule may be modified or withdrawn only in the following
544 circumstances:

545 a. When the committee objects to the rule;

546 b. When a final order, which is not subject to further
547 appeal, is entered in a rule challenge brought pursuant to s.
548 120.56 after the date of adoption but before the rule becomes
549 effective pursuant to subparagraph (e)6.;

550 c. If the rule requires ratification, when more than 90

551 days have passed since the rule was filed for adoption without
552 the Legislature ratifying the rule, in which case the rule may
553 be withdrawn but may not be modified; or

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

558 ~~5.4.~~ The agency shall give notice of its decision to
559 withdraw or modify a rule in the first available issue of the
560 publication in which the original notice of rulemaking was
561 published, shall notify those persons described in subparagraph
562 (a)3. in accordance with the requirements of that subparagraph,
563 and shall notify the Department of State if the rule is required
564 to be filed with the Department of State.

565 ~~6.5.~~ After a rule has become effective, it may be repealed
566 or amended only through the rulemaking procedures specified in
567 this chapter.

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

569 1. If the adopting agency is required to publish its rules
570 in the Florida Administrative Code, the agency, upon approval of
571 the agency head, shall file with the Department of State three
572 certified copies of the rule it proposes to adopt; one copy of
573 any material incorporated by reference in the rule, certified by
574 the agency; a summary of the rule; a summary of any hearings
575 held on the rule; and a detailed written statement of the facts

576 and circumstances justifying the rule. Agencies not required to
577 publish their rules in the Florida Administrative Code shall
578 file one certified copy of the proposed rule, and the other
579 material required by this subparagraph, in the office of the
580 agency head, and such rules shall be open to the public.

581 2. A rule may not be filed for adoption less than 28 days
582 or more than 90 days after the notice required by paragraph (a),
583 until 21 days after the notice of change required by paragraph
584 (d), until 14 days after the final public hearing, until 21 days
585 after a statement of estimated regulatory costs required under
586 s. 120.541 has been provided to all persons who submitted a
587 lower cost regulatory alternative and made available to the
588 public at a readily accessible page on the agency's website, or
589 until the administrative law judge has rendered a decision under
590 s. 120.56(2), whichever applies. When a required notice of
591 change is published before ~~prior to~~ the expiration of the time
592 to file the rule for adoption, the period during which a rule
593 must be filed for adoption is extended to 45 days after the date
594 of publication. If notice of a public hearing is published
595 before ~~prior to~~ the expiration of the time to file the rule for
596 adoption, the period during which a rule must be filed for
597 adoption is extended to 45 days after adjournment of the final
598 hearing on the rule, 21 days after receipt of all material
599 authorized to be submitted at the hearing, or 21 days after
600 receipt of the transcript, if one is made, whichever is latest.

601 The term "public hearing" includes any public meeting held by
602 any agency at which the rule is considered. If a petition for an
603 administrative determination under s. 120.56(2) is filed, the
604 period during which a rule must be filed for adoption is
605 extended to 60 days after the administrative law judge files the
606 final order with the clerk or until 60 days after subsequent
607 judicial review is complete.

608 3. At the time a rule is filed, the agency shall certify
609 that the time limitations prescribed by this paragraph have been
610 complied with, that all statutory rulemaking requirements have
611 been met, and that there is no administrative determination
612 pending on the rule.

613 4. At the time a rule is filed, the committee shall
614 certify whether the agency has responded in writing to all
615 material and timely written comments or written inquiries made
616 on behalf of the committee. The Department of State shall reject
617 any rule that is not filed within the prescribed time limits;
618 that does not comply with all statutory rulemaking requirements
619 and rules of the Department of State; upon which an agency has
620 not responded in writing to all material and timely written
621 inquiries or written comments; upon which an administrative
622 determination is pending; or which does not include a statement
623 of estimated regulatory costs, if required.

624 5. If a rule has not been adopted within the time limits
625 imposed by this paragraph or has not been adopted in compliance

626 with all statutory rulemaking requirements, the agency proposing
627 the rule shall withdraw the proposed rule and give notice of its
628 action in the next available issue of the Florida Administrative
629 Register.

630 6. The proposed rule shall be adopted on being filed with
631 the Department of State and become effective 20 days after being
632 filed, on a later date specified in the notice required by
633 subparagraph (a)1., on a date required by statute, or upon
634 ratification by the Legislature pursuant to s. 120.541(3). Rules
635 not required to be filed with the Department of State shall
636 become effective when adopted by the agency head, on a later
637 date specified by rule or statute, or upon ratification by the
638 Legislature pursuant to s. 120.541(3). If the committee notifies
639 an agency that an objection to a rule is being considered, the
640 agency may postpone the adoption of the rule to accommodate
641 review of the rule by the committee. When an agency postpones
642 adoption of a rule to accommodate review by the committee, the
643 90-day period for filing the rule is tolled until the committee
644 notifies the agency that it has completed its review of the
645 rule.

646
647 For the purposes of this paragraph, the term "administrative
648 determination" does not include subsequent judicial review.

649 (4) EMERGENCY RULES.—

650 (e) Emergency rules shall be published in the Florida

651 Administrative Code.

652 (f) An agency may not supersede an emergency rule
 653 currently in effect. Technical changes to an emergency rule may
 654 be made within the first 7 days after adoption of the rule.

655 (7) PETITION TO INITIATE RULEMAKING.—

656 (a) Any person regulated by an agency or having
 657 substantial interest in an agency rule may petition an agency to
 658 adopt, amend, or repeal a rule or to provide the minimum public
 659 information required by this chapter. The petition shall specify
 660 the proposed rule and action requested. The agency shall file a
 661 copy of the petition with the committee. Not later than 30
 662 calendar days following the date of filing a petition, the
 663 agency shall initiate rulemaking proceedings under this chapter,
 664 otherwise comply with the requested action, or deny the petition
 665 with a written statement of its reasons for the denial.

666 Section 3. Section 120.541, Florida Statutes, is amended
 667 to read:

668 120.541 Statement of estimated regulatory costs.—

669 (1)(a) Within 21 days after publication of the notice of a
 670 proposed rule or notice of change ~~required under s.~~

671 ~~120.54(3)(a)~~, a substantially affected person may submit to an
 672 agency a good faith written proposal for a lower cost regulatory
 673 alternative to a proposed rule which substantially accomplishes
 674 the objectives of the law being implemented. The agency shall
 675 provide a copy of any proposal for a lower cost regulatory

676 alternative to the committee at least 21 days before filing the
677 rule for adoption. The proposal may include the alternative of
678 not adopting any rule if the proposal explains how the lower
679 costs and objectives of the law will be achieved by not adopting
680 any rule. If submitted after a notice of change, a proposal for
681 a lower cost regulatory alternative is deemed to be made in good
682 faith only if the person reasonably believes, and the proposal
683 states, the person's reasons for believing that the proposed
684 rule as changed by the notice of change increases the regulatory
685 costs or creates an adverse impact on small businesses that was
686 not created by the previous proposed rule. If such a proposal is
687 submitted, the 90-day period for filing the rule is extended 21
688 days. Upon the submission of the lower cost regulatory
689 alternative, the agency shall ~~prepare a statement of estimated~~
690 ~~regulatory costs as provided in subsection (2), or shall revise~~
691 its prior statement of estimated regulatory costs, and either
692 adopt the alternative proposal, reject the alternative proposal,
693 or modify the proposed rule to reduce the regulatory costs. If
694 the agency rejects the alternative proposal or modifies the
695 proposed rule, the agency shall ~~or~~ provide a statement of the
696 reasons for rejecting the alternative in favor of the proposed
697 rule.

698 ~~(b) If a proposed rule will have an adverse impact on~~
699 ~~small business or if the proposed rule is likely to directly or~~
700 ~~indirectly increase regulatory costs in excess of \$200,000 in~~

701 ~~the aggregate within 1 year after the implementation of the~~
702 ~~rule, the agency shall prepare a statement of estimated~~
703 ~~regulatory costs as required by s. 120.54(3)(b).~~

704 (b)(e) The agency shall revise a statement of estimated
705 regulatory costs if any change to the rule made under s.
706 120.54(3)(d) increases the regulatory costs of the rule or if
707 the rule is modified in response to the submission of a lower
708 cost regulatory alternative. A summary of the revised statement
709 must be included with any subsequent notice published under s.
710 120.54(3).

711 (c)(d) At least 21 days before filing the proposed rule
712 for adoption, an agency that is required to revise a statement
713 of estimated regulatory costs shall provide the statement to the
714 person who submitted the lower cost regulatory alternative, to
715 the rules ombudsman in the Executive Office of the Governor, and
716 to the committee. The revised statement shall be published and
717 made available in the same manner as the original statement of
718 estimated regulatory costs and shall provide notice on the
719 agency's website that it is available to the public.

720 (d)(e) Notwithstanding s. 120.56(1)(c), the failure of the
721 agency to prepare and publish a statement of estimated
722 regulatory costs or to respond to a written lower cost
723 regulatory alternative as provided in this subsection is a
724 material failure to follow the applicable rulemaking procedures
725 or requirements set forth in this chapter.

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

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

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

735 (f)~~(g)~~ A rule that is challenged pursuant to s.
 736 120.52(8)(f) may not be declared invalid unless:

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

739 2. The challenge is to the agency's rejection of a lower
 740 cost regulatory alternative offered under paragraph (a) or s.
 741 120.54(3)(b)2.c. ~~s. 120.54(3)(b)2.b.~~; and

742 3. The substantial interests of the person challenging the
 743 rule are materially affected by the rejection.

744 (2) A statement of estimated regulatory costs must ~~shall~~
 745 include:

746 (a) An economic analysis showing whether the rule directly
 747 or indirectly:

748 1. Is likely to have an adverse impact on economic growth,
 749 private sector job creation or employment, or private sector
 750 investment in excess of \$1 million in the aggregate within 5

751 years after the implementation of the rule;

752 2. Is likely to have an adverse impact on business
753 competitiveness, including the ability of persons doing business
754 in the state to compete with persons doing business in other
755 states or domestic markets, productivity, or innovation in
756 excess of \$1 million in the aggregate within 5 years after the
757 implementation of the rule; or

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

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

766 (c) A good faith estimate of the cost to the agency, and
767 to any other state and local government entities, of
768 implementing and enforcing the proposed rule, and any
769 anticipated effect on state or local revenues.

770 (d) A good faith estimate of the compliance ~~transactional~~
771 costs likely to be incurred by individuals and entities,
772 including local government entities, required to comply with the
773 requirements of the rule. ~~As used in this section,~~
774 ~~"transactional costs" are direct costs that are readily~~
775 ~~ascertainable based upon standard business practices, and~~

776 ~~include filing fees, the cost of obtaining a license, the cost~~
777 ~~of equipment required to be installed or used or procedures~~
778 ~~required to be employed in complying with the rule, additional~~
779 ~~operating costs incurred, the cost of monitoring and reporting,~~
780 ~~and any other costs necessary to comply with the rule.~~

781 (e) An analysis of the impact on small businesses as
782 defined by s. 288.703, and an analysis of the impact on small
783 counties and small cities as defined in s. 120.52. The impact
784 analysis for small businesses must include the basis for the
785 agency's decision not to implement alternatives that would
786 reduce adverse impacts on small businesses.

787 (f) Any additional information that the agency determines
788 may be useful.

789 (g) In the ~~statement or~~ revised statement, ~~whichever~~
790 ~~applies,~~ a description of any regulatory alternatives submitted
791 under paragraph (1) (a) and a statement adopting the alternative
792 or a statement of the reasons for rejecting the alternative in
793 favor of the proposed rule.

794 (3) If the adverse impact or regulatory costs of the rule
795 exceed any of the criteria established in paragraph (2) (a), the
796 rule shall be submitted to the President of the Senate and
797 Speaker of the House of Representatives no later than 30 days
798 before ~~prior to~~ the next regular legislative session, and the
799 rule may not take effect until it is ratified by the
800 Legislature.

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

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

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

805 (c) Triennial updates of and amendments to the Florida
806 Fire Prevention Code which are expressly authorized by s.
807 633.202.

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

809 (5) For purposes of subsections (2) and (3), adverse
810 impacts and regulatory costs likely to occur within 5 years
811 after implementation of the rule include adverse impacts and
812 regulatory costs estimated to occur within 5 years after the
813 effective date of the rule. However, if any provision of the
814 rule is not fully implemented upon the effective date of the
815 rule, the adverse impacts and regulatory costs associated with
816 such provision must be adjusted to include any additional
817 adverse impacts and regulatory costs estimated to occur within 5
818 years after implementation of such provision.

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

823 1. Increased customer charges for goods or services.

824 2. Decreased market value of goods or services produced,
825 provided, or sold.

826 3. Increased costs resulting from the purchase of
827 substitute or alternative goods or services.

828 4. The reasonable value of time to be spent by owners,
829 officers, operators, and managers to understand and comply with
830 the proposed rule, including, but not limited to, time to be
831 spent to complete required education, training, or testing.

832 5. Capital costs.

833 6. Any other impacts suggested by the rules ombudsman in
834 the Executive Office of the Governor or interested persons.

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

839 (c) In estimating compliance costs under paragraph (2) (d),
840 the agency shall consider, among other matters, all direct and
841 indirect costs necessary to comply with the proposed rule that
842 are readily ascertainable based upon standard business
843 practices, including, but not limited to, costs related to:

844 1. Filing fees.

845 2. Expenses to obtain a license.

846 3. Necessary equipment.

847 4. Installation, utilities, and maintenance of necessary
848 equipment.

849 5. Necessary operations and procedures.

850 6. Accounting, financial, information management, and

- 851 other administrative processes.
- 852 7. Other processes.
- 853 8. Labor based on relevant rates of wages, salaries, and
854 benefits.
- 855 9. Materials and supplies.
- 856 10. Capital expenditures, including financing costs.
- 857 11. Professional and technical services, including
858 contracted services necessary to implement and maintain
859 compliance.
- 860 12. Monitoring and reporting.
- 861 13. Qualifying and recurring education, training, and
862 testing.
- 863 14. Travel.
- 864 15. Insurance and surety requirements.
- 865 16. A fair and reasonable allocation of administrative
866 costs and other overhead.
- 867 17. Reduced sales or other revenues.
- 868 18. Other items suggested by the rules ombudsman in the
869 Executive Office of the Governor or any interested person,
870 business organization, or business representative.
- 871 (7) (a) The Department of State shall include on the
872 Florida Administrative Register website the agency website
873 addresses where statements of estimated regulatory costs can be
874 viewed in their entirety.
- 875 (b) An agency that prepares a statement of estimated

876 regulatory costs must provide, as part of the notice required
877 under s. 120.54(3)(a), the agency website address where the
878 statement of estimated regulatory costs can be read in its
879 entirety to the Department of State for publication in the
880 Florida Administrative Register.

881 (c) If an agency revises its statement of estimated
882 regulatory costs, the agency must provide notice that a revision
883 has been made. Such notice must include the agency website
884 address where the revision can be viewed in its entirety.

885 Section 4. Section 120.5435, Florida Statutes, is created
886 to read:

887 120.5435 Repromulgation of rules.—

888 (1) It is the intent of the Legislature that each agency
889 periodically review its rules for consistency with the powers
890 and duties granted by its enabling statutes.

891 (2) If an agency determines after review that substantive
892 changes to update a rule are not required, such agency shall
893 repromulgate the rule to reflect the date of the review. Each
894 agency shall review its rules pursuant to this section either 5
895 years after July 1, 2019, if the rule was adopted before January
896 1, 2010, or 10 years after the rule is adopted, if the rule was
897 adopted on or after January 1, 2010. Failure of an agency to
898 adhere to the deadlines imposed in this section constitutes
899 repeal of any affected rule. In the event of such a failure, the
900 committee shall notify the Department of State that the agency,

901 by its failure to repromulgate the affected rule, has elected to
902 repeal the rule. Upon receipt of the committee's notice, the
903 Department of State shall publish a notice to that effect in the
904 next available issue of the Florida Administrative Register.
905 Upon publication of the notice, the rule shall be stricken from
906 the files of the Department of State and the files of the
907 agency.

908 (3) Before repromulgation of a rule, the agency must, upon
909 approval by the agency head or his or her designee:

910 (a) Publish a notice of repromulgation in the Florida
911 Administrative Register. A notice of repromulgation is not
912 required to include the text of the rule being repromulgated.

913 (b) File the rule for repromulgation with the Department
914 of State. A rule may not be filed for repromulgation less than
915 28 days, and not more than 90 days, after the date of
916 publication of the notice required by paragraph (a).

917 (4) The agency must file a notice of repromulgation with
918 the committee at least 14 days before filing the rule for
919 repromulgation. At the time the rule is filed for
920 repromulgation, the committee shall certify whether the agency
921 has responded in writing to all material and timely written
922 comments or written inquiries made on behalf of the committee.

923 (5) A repromulgated rule is not subject to challenge as a
924 proposed rule pursuant to s. 120.56(2).

925 (6) The hearing requirements of s. 120.54 do not apply to

926 repromulgation of a rule.

927 (7) (a) The agency, upon approval of the agency head or his
928 or her designee, shall file with the Department of State three
929 certified copies of the repromulgated rule it proposes to adopt
930 and one certified copy of any material incorporated by reference
931 in the rule.

932 (b) The repromulgated rule shall be adopted upon filing
933 with the Department of State and becomes effective 20 days after
934 the date it is filed.

935 (c) The Department of State shall update the history note
936 of the rule in the Florida Administrative Code to reflect the
937 effective date of the repromulgated rule.

938 (8) The Department of State shall adopt rules to implement
939 this section by December 31, 2019.

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

942 120.545 Committee review of agency rules.—

943 (1) As a legislative check on legislatively created
944 authority, the committee shall examine each existing rule and
945 proposed rule, except for those proposed rules exempted by s.
946 120.81(1)(e) and (2), and its accompanying material, and each
947 emergency rule, and may examine any existing rule, for the
948 purpose of determining whether:

949 (a) The rule is an invalid exercise of delegated
950 legislative authority.

- 951 (b) The statutory authority for the rule has been
 952 repealed.
- 953 (c) The rule reiterates or paraphrases statutory material.
- 954 (d) The rule is in proper form.
- 955 (e) The notice given prior to its adoption was sufficient
 956 to give adequate notice of the purpose and effect of the rule.
- 957 (f) The rule is consistent with expressed legislative
 958 intent pertaining to the specific provisions of law which the
 959 rule implements.
- 960 (g) The rule is necessary to accomplish the apparent or
 961 expressed objectives of the specific provision of law which the
 962 rule implements.
- 963 (h) The rule is a reasonable implementation of the law as
 964 it affects the convenience of the general public or persons
 965 particularly affected by the rule.
- 966 (i) The rule could be made less complex or more easily
 967 comprehensible to the general public.
- 968 (j) The rule's statement of estimated regulatory costs
 969 complies with the requirements of s. 120.541 and whether the
 970 rule does not impose regulatory costs on the regulated person,
 971 county, or city which could be reduced by the adoption of less
 972 costly alternatives that substantially accomplish the statutory
 973 objectives.
- 974 (k) The rule will require additional appropriations.
- 975 (l) If the rule is an emergency rule, there exists an

976 emergency justifying the adoption of such rule, the agency is
977 within its statutory authority, and the rule was adopted in
978 compliance with the requirements and limitations of s.
979 120.54(4).

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

982 120.55 Publication.—

983 (1) The Department of State shall:

984 (a)1. Through a continuous revision and publication
985 system, compile and publish electronically, on a website managed
986 by the department, the "Florida Administrative Code." The
987 Florida Administrative Code shall contain all rules adopted by
988 each agency, citing the grant of rulemaking authority and the
989 specific law implemented pursuant to which each rule was
990 adopted, all history notes as authorized in s. 120.545(7),
991 complete indexes to all rules contained in the code, and any
992 other material required or authorized by law or deemed useful by
993 the department. The electronic code shall display each rule
994 chapter currently in effect in browse mode and allow full text
995 search of the code and each rule chapter. The department may
996 contract with a publishing firm for a printed publication;
997 however, the department shall retain responsibility for the code
998 as provided in this section. The electronic publication shall be
999 the official compilation of the administrative rules of this
1000 state. The Florida Administrative Code shall be published once

1001 daily by 8 a.m. If, after publication, a rule is corrected and
 1002 replaced, the Florida Administrative Code shall indicate:

1003 a. That the Florida Administrative Code has been
 1004 republished.

1005 b. The rule that has been corrected by the Department of
 1006 State.

1007
 1008 The Department of State shall retain the copyright over the
 1009 Florida Administrative Code.

1010 2. Not publish in the Florida Administrative Code rules
 1011 general in form but applicable to only one school district,
 1012 community college district, or county, or a part thereof, or
 1013 state university rules relating to internal personnel or
 1014 business and finance ~~shall not be published in the Florida~~
 1015 ~~Administrative Code~~. Exclusion from publication in the Florida
 1016 Administrative Code does ~~shall~~ not affect the validity or
 1017 effectiveness of such rules.

1018 3. At the beginning of the section of the code dealing
 1019 with an agency that files copies of its rules with the
 1020 department, ~~the department shall~~ publish the address and
 1021 telephone number of the executive offices of each agency, the
 1022 manner by which the agency indexes its rules, a listing of all
 1023 rules of that agency excluded from publication in the code, and
 1024 a statement as to where those rules may be inspected.

1025 4. Not publish forms ~~shall not be published~~ in the Florida

1026 Administrative Code; but any form which an agency uses in its
1027 dealings with the public, along with any accompanying
1028 instructions, shall be filed with the committee before it is
1029 used. Any form or instruction which meets the definition of
1030 "rule" provided in s. 120.52 shall be incorporated by reference
1031 into the appropriate rule. The reference shall specifically
1032 state that the form is being incorporated by reference and shall
1033 include the number, title, and effective date of the form and an
1034 explanation of how the form may be obtained. Each form created
1035 by an agency which is incorporated by reference in a rule notice
1036 of which is given under s. 120.54(3)(a) after December 31, 2007,
1037 must clearly display the number, title, and effective date of
1038 the form and the number of the rule in which the form is
1039 incorporated.

1040 5. Require all materials incorporated by reference in any
1041 part of an adopted rule and in any part of a repromulgated rule
1042 ~~The department shall allow adopted rules and material~~
1043 ~~incorporated by reference to be filed in the manner prescribed~~
1044 by s. 120.54(1)(i)3.a. or s. 120.54(1)(i)3.b. electronic form as
1045 ~~prescribed by department rule.~~ When a rule is filed for adoption
1046 or repromulgation with incorporated material in electronic form,
1047 the department's publication of the Florida Administrative Code
1048 on its website must contain a hyperlink from the incorporating
1049 reference in the rule directly to that material. The department
1050 may not allow hyperlinks from rules in the Florida

1051 Administrative Code to any material other than that filed with
1052 and maintained by the department, but may allow hyperlinks to
1053 incorporated material maintained by the department from the
1054 adopting agency's website or other sites.

1055 6. Include the date of any technical changes to a rule in
1056 the history note of the rule in the Florida Administrative Code.
1057 A technical change does not affect the effective date of the
1058 rule.

1059 (c) Prescribe by rule the style and form required for
1060 rules, notices, and other materials submitted for filing,
1061 including a rule requiring documents created by an agency that
1062 are proposed to be incorporated by reference in notices
1063 published pursuant to s. 120.54(3)(a) and (d) to be coded in the
1064 same manner as notices published pursuant to s. 120.54(3)(a)1.

1065 Section 7. Paragraph (a) of subsection (2) of section
1066 120.56, Florida Statutes, is amended to read:

1067 120.56 Challenges to rules.—

1068 (2) CHALLENGING PROPOSED RULES; SPECIAL PROVISIONS.—

1069 (a) A petition alleging the invalidity of a proposed rule
1070 shall be filed within 21 days after the date of publication of
1071 the notice required by s. 120.54(3)(a); within 10 days after the
1072 final public hearing is held on the proposed rule as provided by
1073 s. 120.54(3)(e)2.; within 20 days after the statement of
1074 estimated regulatory costs or revised statement of estimated
1075 regulatory costs, if applicable, has been prepared and made

1076 available as provided in s. 120.541(1)(c) ~~s. 120.541(1)(d)~~; or
1077 within 20 days after the date of publication of the notice
1078 required by s. 120.54(3)(d). The petitioner has the burden to
1079 prove by a preponderance of the evidence that the petitioner
1080 would be substantially affected by the proposed rule. The agency
1081 then has the burden to prove by a preponderance of the evidence
1082 that the proposed rule is not an invalid exercise of delegated
1083 legislative authority as to the objections raised. A person who
1084 is not substantially affected by the proposed rule as initially
1085 noticed, but who is substantially affected by the rule as a
1086 result of a change, may challenge any provision of the resulting
1087 proposed rule.

1088 Section 8. Subsection (1) and paragraph (a) of subsection
1089 (2) of section 120.74, Florida Statutes, are amended to read:

1090 120.74 Agency annual rulemaking and regulatory plans;
1091 reports.—

1092 (1) REGULATORY PLAN.—By October 1 of each year, each
1093 agency shall prepare a regulatory plan.

1094 (a) The plan must include a listing of each law enacted or
1095 amended during the previous 12 months which creates or modifies
1096 the duties or authority of the agency. If the Governor or the
1097 Attorney General provides a letter to the committee stating that
1098 a law affects all or most agencies, the agency may exclude the
1099 law from its plan. For each law listed by an agency under this
1100 paragraph, the plan must state:

1101 1. Whether the agency must adopt rules to implement the
 1102 law.

1103 2. If rulemaking is necessary to implement the law:

1104 a. Whether a notice of rule development has been published
 1105 and, if so, the citation to such notice in the Florida
 1106 Administrative Register.

1107 b. The date by which the agency expects to publish the
 1108 notice of proposed rule under s. 120.54(3)(a).

1109 3. If rulemaking is not necessary to implement the law, a
 1110 concise written explanation of the reasons why the law may be
 1111 implemented without rulemaking.

1112 (b) The plan must also identify and describe each rule,
 1113 including each rule number or proposed rule number, ~~include a~~
 1114 ~~listing of each law not otherwise listed pursuant to paragraph~~
 1115 ~~(a) which the agency expects to~~ develop, adopt, or repeal for
 1116 the 12-month period beginning on October 1 and ending on
 1117 September 30 ~~implement by rulemaking before the following July~~
 1118 ~~1, excluding emergency rules except emergency rulemaking.~~ For
 1119 each rule ~~law~~ listed under this paragraph, the plan must state
 1120 whether the rulemaking is intended to simplify, clarify,
 1121 increase efficiency, improve coordination with other agencies,
 1122 reduce regulatory costs, or delete obsolete, unnecessary, or
 1123 redundant rules.

1124 (c) The plan must include any desired update to the prior
 1125 year's regulatory plan or supplement published pursuant to

1126 subsection (7). If, in a prior year, a law was identified under
 1127 this paragraph or under subparagraph (a)1. as a law requiring
 1128 rulemaking to implement but a notice of proposed rule has not
 1129 been published:

1130 1. The agency shall identify and again list such law,
 1131 noting the applicable notice of rule development by citation to
 1132 the Florida Administrative Register; or

1133 2. If the agency has subsequently determined that
 1134 rulemaking is not necessary to implement the law, the agency
 1135 shall identify such law, reference the citation to the
 1136 applicable notice of rule development in the Florida
 1137 Administrative Register, and provide a concise written
 1138 explanation of the reason why the law may be implemented without
 1139 rulemaking.

1140 (d) The plan must identify any rules that are required to
 1141 be repromulgated pursuant to s. 120.5435 for the 12-month period
 1142 beginning on October 1 and ending on September 30.

1143 (e)~~(d)~~ The plan must include a certification executed on
 1144 behalf of the agency by both the agency head, or, if the agency
 1145 head is a collegial body, the presiding officer; and the
 1146 individual acting as principal legal advisor to the agency head.
 1147 The certification must declare:

1148 1. ~~Verify~~ That the persons executing the certification
 1149 have reviewed the plan.

1150 2. ~~Verify~~ That the agency regularly reviews all of its

1151 rules and identify the period during which all rules have most
1152 recently been reviewed to determine if the rules remain
1153 consistent with the agency's rulemaking authority and the laws
1154 implemented.

1155 3. That the agency understands that regulatory
1156 accountability is necessary to ensure public confidence in the
1157 integrity of state government and, to that end, the agency is
1158 diligently working toward lowering the total number of rules
1159 adopted.

1160 4. The total number of rules adopted and repealed during
1161 the previous 12 months.

1162 (2) PUBLICATION AND DELIVERY TO THE COMMITTEE.—

1163 (a) By October 1 of each year, each agency shall:

1164 1. Publish its regulatory plan on its website or on
1165 another state website established for publication of
1166 administrative law records. A clearly labeled hyperlink to the
1167 current plan must be included on the agency's primary website
1168 homepage.

1169 2. Electronically deliver to the committee a copy of the
1170 certification required in paragraph (1)(e) ~~(1)(d)~~.

1171 3. Publish in the Florida Administrative Register a notice
1172 identifying the date of publication of the agency's regulatory
1173 plan. The notice must include a hyperlink or website address
1174 providing direct access to the published plan.

1175 Section 9. Subsection (11) of section 120.80, Florida

1176 Statutes, is amended to read:

1177 120.80 Exceptions and special requirements; agencies.—

1178 (11) NATIONAL GUARD.—Notwithstanding s. 120.52(17) ~~s.~~
 1179 ~~120.52(16)~~, the enlistment, organization, administration,
 1180 equipment, maintenance, training, and discipline of the militia,
 1181 National Guard, organized militia, and unorganized militia, as
 1182 provided by s. 2, Art. X of the State Constitution, are not
 1183 rules as defined by this chapter.

1184 Section 10. Paragraph (c) of subsection (1) of section
 1185 120.81, Florida Statutes, is amended to read:

1186 120.81 Exceptions and special requirements; general
 1187 areas.—

1188 (1) EDUCATIONAL UNITS.—

1189 (c) Notwithstanding s. 120.52(17) ~~s. 120.52(16)~~, any
 1190 tests, test scoring criteria, or testing procedures relating to
 1191 student assessment which are developed or administered by the
 1192 Department of Education pursuant to s. 1003.4282, s. 1008.22, or
 1193 s. 1008.25, or any other statewide educational tests required by
 1194 law, are not rules.

1195 Section 11. Paragraph (a) of subsection (1) of section
 1196 420.9072, Florida Statutes, is amended to read:

1197 420.9072 State Housing Initiatives Partnership Program.—

1198 The State Housing Initiatives Partnership Program is created for
 1199 the purpose of providing funds to counties and eligible
 1200 municipalities as an incentive for the creation of local housing

1201 partnerships, to expand production of and preserve affordable
1202 housing, to further the housing element of the local government
1203 comprehensive plan specific to affordable housing, and to
1204 increase housing-related employment.

1205 (1) (a) In addition to the legislative findings set forth
1206 in s. 420.6015, the Legislature finds that affordable housing is
1207 most effectively provided by combining available public and
1208 private resources to conserve and improve existing housing and
1209 provide new housing for very-low-income households, low-income
1210 households, and moderate-income households. The Legislature
1211 intends to encourage partnerships in order to secure the
1212 benefits of cooperation by the public and private sectors and to
1213 reduce the cost of housing for the target group by effectively
1214 combining all available resources and cost-saving measures. The
1215 Legislature further intends that local governments achieve this
1216 combination of resources by encouraging active partnerships
1217 between government, lenders, builders and developers, real
1218 estate professionals, advocates for low-income persons, and
1219 community groups to produce affordable housing and provide
1220 related services. Extending the partnership concept to encompass
1221 cooperative efforts among small counties as defined in s.
1222 120.52(20) ~~s. 120.52(19)~~, and among counties and municipalities
1223 is specifically encouraged. Local governments are also intended
1224 to establish an affordable housing advisory committee to
1225 recommend monetary and nonmonetary incentives for affordable

1226 housing as provided in s. 420.9076.

1227 Section 12. Subsection (7) of section 420.9075, Florida
 1228 Statutes, is amended to read:

1229 420.9075 Local housing assistance plans; partnerships.—

1230 (7) The moneys deposited in the local housing assistance
 1231 trust fund shall be used to administer and implement the local
 1232 housing assistance plan. The cost of administering the plan may
 1233 not exceed 5 percent of the local housing distribution moneys
 1234 and program income deposited into the trust fund. A county or an
 1235 eligible municipality may not exceed the 5-percent limitation on
 1236 administrative costs, unless its governing body finds, by
 1237 resolution, that 5 percent of the local housing distribution
 1238 plus 5 percent of program income is insufficient to adequately
 1239 pay the necessary costs of administering the local housing
 1240 assistance plan. The cost of administering the program may not
 1241 exceed 10 percent of the local housing distribution plus 5
 1242 percent of program income deposited into the trust fund, except
 1243 that small counties, as defined in s. 120.52(20) ~~s. 120.52(19)~~,
 1244 and eligible municipalities receiving a local housing
 1245 distribution of up to \$350,000 may use up to 10 percent of
 1246 program income for administrative costs.

1247 Section 13. Paragraph (d) of subsection (1) of section
 1248 443.091, Florida Statutes, is amended to read:

1249 443.091 Benefit eligibility conditions.—

1250 (1) An unemployed individual is eligible to receive

1251 benefits for any week only if the Department of Economic
1252 Opportunity finds that:

1253 (d) She or he is able to work and is available for work.
1254 In order to assess eligibility for a claimed week of
1255 unemployment, the department shall develop criteria to determine
1256 a claimant's ability to work and availability for work. A
1257 claimant must be actively seeking work in order to be considered
1258 available for work. This means engaging in systematic and
1259 sustained efforts to find work, including contacting at least
1260 five prospective employers for each week of unemployment
1261 claimed. The department may require the claimant to provide
1262 proof of such efforts to the one-stop career center as part of
1263 reemployment services. A claimant's proof of work search efforts
1264 may not include the same prospective employer at the same
1265 location in 3 consecutive weeks, unless the employer has
1266 indicated since the time of the initial contact that the
1267 employer is hiring. The department shall conduct random reviews
1268 of work search information provided by claimants. As an
1269 alternative to contacting at least five prospective employers
1270 for any week of unemployment claimed, a claimant may, for that
1271 same week, report in person to a one-stop career center to meet
1272 with a representative of the center and access reemployment
1273 services of the center. The center shall keep a record of the
1274 services or information provided to the claimant and shall
1275 provide the records to the department upon request by the

1276 department. However:

1277 1. Notwithstanding any other provision of this paragraph
1278 or paragraphs (b) and (e), an otherwise eligible individual may
1279 not be denied benefits for any week because she or he is in
1280 training with the approval of the department, or by reason of s.
1281 443.101(2) relating to failure to apply for, or refusal to
1282 accept, suitable work. Training may be approved by the
1283 department in accordance with criteria prescribed by rule. A
1284 claimant's eligibility during approved training is contingent
1285 upon satisfying eligibility conditions prescribed by rule.

1286 2. Notwithstanding any other provision of this chapter, an
1287 otherwise eligible individual who is in training approved under
1288 s. 236(a)(1) of the Trade Act of 1974, as amended, may not be
1289 determined ineligible or disqualified for benefits due to
1290 enrollment in such training or because of leaving work that is
1291 not suitable employment to enter such training. As used in this
1292 subparagraph, the term "suitable employment" means work of a
1293 substantially equal or higher skill level than the worker's past
1294 adversely affected employment, as defined for purposes of the
1295 Trade Act of 1974, as amended, the wages for which are at least
1296 80 percent of the worker's average weekly wage as determined for
1297 purposes of the Trade Act of 1974, as amended.

1298 3. Notwithstanding any other provision of this section, an
1299 otherwise eligible individual may not be denied benefits for any
1300 week because she or he is before any state or federal court

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1301 pursuant to a lawfully issued summons to appear for jury duty.

1302 4. Union members who customarily obtain employment through
1303 a union hiring hall may satisfy the work search requirements of
1304 this paragraph by reporting daily to their union hall.

1305 5. The work search requirements of this paragraph do not
1306 apply to persons who are unemployed as a result of a temporary
1307 layoff or who are claiming benefits under an approved short-time
1308 compensation plan as provided in s. 443.1116.

1309 6. In small counties as defined in s. 120.52(20) ~~s.~~
1310 ~~120.52(19)~~, a claimant engaging in systematic and sustained
1311 efforts to find work must contact at least three prospective
1312 employers for each week of unemployment claimed.

1313 7. The work search requirements of this paragraph do not
1314 apply to persons required to participate in reemployment
1315 services under paragraph (e).

1316 Section 14. This act shall take effect July 1, 2019.