

1                   A bill to be entitled  
2           An act relating to administrative procedures; amending  
3           s. 120.52, F.S.; defining terms; amending s. 120.54,  
4           F.S.; applying certain provisions applicable to all  
5           rules other than emergency rules to repromulgated  
6           rules; requiring a notice of rule development to  
7           include certain information; requiring a notice of  
8           withdrawal if a notice of proposed rule is not filed  
9           within a certain timeframe; requiring that certain  
10          persons be available at a workshop or public hearing  
11          to receive public input; requiring a notice of  
12          proposed rule to include certain information;  
13          requiring certain notices to be published within a  
14          specified timeframe; requiring that material proposed  
15          to be incorporated by reference be made available in a  
16          specified manner; authorizing electronic delivery of  
17          notices to persons who have requested advance notice  
18          of agency rulemaking proceedings; revising the  
19          circumstances under which a proposed rule's adverse  
20          impact on small businesses is considered to exist;  
21          requiring an agency to provide notice of a regulatory  
22          alternative to the Administrative Procedures Committee  
23          within a certain timeframe; requiring an agency to  
24          publish a notice of convening a separate proceeding in  
25          certain circumstances; providing that rulemaking

26 | timelines are tolled during such separate proceedings;  
27 | requiring a notice of change for certain changes to a  
28 | statement of estimated regulatory costs; revising the  
29 | requirements for the contents of a notice of change;  
30 | requiring the committee to notify the Department of  
31 | State that the date for an agency to adopt a rule has  
32 | expired under certain circumstances; requiring the  
33 | department to publish a notice of withdrawal under  
34 | certain circumstances; requiring that certain  
35 | information be available on the agency's website;  
36 | requiring emergency rules to be published in the  
37 | Florida Administrative Code; prohibiting agencies from  
38 | making changes to emergency rules by superseding the  
39 | rule; authorizing an agency to make technical changes  
40 | to an emergency rule during a specified timeframe;  
41 | requiring an agency to file a copy of a certain  
42 | petition with the committee; amending s. 120.541,  
43 | F.S.; requiring an agency to provide a copy of any  
44 | proposal for a lower cost regulatory alternative to  
45 | the committee within a certain timeframe; specifying  
46 | the circumstances under which such a proposal is made  
47 | in good faith; revising requirements for an agency's  
48 | consideration of a lower cost regulatory alternative;  
49 | providing for an agency's revision and publication of  
50 | a revised statement of estimated regulatory costs in

51 response to certain circumstances; requiring that a  
52 revised statement of lower cost regulatory alternative  
53 be submitted to the rules ombudsman and published in a  
54 specified manner; revising the information required in  
55 a statement of estimated regulatory cost; deleting the  
56 definition of the term "transactional costs"; revising  
57 the applicability of specified provisions; providing  
58 additional requirements for the calculation of  
59 estimated regulatory costs; requiring the Department  
60 of State to include specified information on a  
61 website; requiring certain agencies to include certain  
62 information in a statement of estimated regulatory  
63 costs and on their websites; providing certain  
64 requirements for an agency that revises a statement of  
65 estimated regulatory costs; creating s. 120.5435,  
66 F.S.; providing legislative intent; requiring agency  
67 review of rules and repromulgation of rules that do  
68 not require substantive changes within a specified  
69 timeframe; requiring an agency to publish a notice of  
70 repromulgation in the Florida Administrative Register  
71 and file a rule for promulgation with the Department  
72 of State within a specified timeframe; requiring an  
73 agency to file a notice of repromulgation with the  
74 committee within a specified timeframe; providing  
75 requirements for the notice of repromulgation;

76 requiring withdrawal of a rule proposed for  
77 repromulgation if the rule is not filed within a  
78 specified timeframe; providing that a repromulgated  
79 rule is not subject to challenge as a proposed rule  
80 and that certain hearing requirements do not apply;  
81 requiring an agency to file a specified number of  
82 certified copies of a proposed repromulgated rule and  
83 any material incorporated by reference; providing that  
84 a repromulgated rule is adopted upon filing with the  
85 department and becomes effective after a specified  
86 time; requiring the department to update certain  
87 information in the Florida Administrative Code;  
88 requiring the department to adopt rules by a certain  
89 date; amending s. 120.545, F.S.; requiring the  
90 committee to examine existing rules; amending s.  
91 120.55, F.S.; requiring the Florida Administrative  
92 Code to be published once daily; requiring materials  
93 incorporated by reference to be filed in a specified  
94 manner; requiring the department to include the date  
95 of a technical rule change in the Florida  
96 Administrative Code; providing that a technical change  
97 does not affect the effective date of a rule;  
98 requiring specified rulemaking; amending s. 120.74,  
99 F.S.; requiring an agency to list each rule it plans  
100 to develop, adopt, or repeal during the forthcoming

101 year in the agency's annual regulatory plan; requiring  
102 that an agency's annual regulatory plan identify any  
103 rules that are required to be repromulgated during the  
104 forthcoming year; requiring the agency to make certain  
105 declarations concerning the annual regulatory plan;  
106 amending ss. 120.80, 120.81, 420.9072, 420.9075,  
107 443.091, F.S.; conforming cross-references; providing  
108 an effective date.  
109

110 Be It Enacted by the Legislature of the State of Florida:  
111

112 Section 1. Subsections (16) through (19) and subsections  
113 (20) through (22) of section 120.52, Florida Statutes, are  
114 renumbered as subsections (17) through (20) and subsections (22)  
115 through (24), respectively, and new subsections (16) and (21)  
116 are added to that section, to read:

117 120.52 Definitions.—As used in this act:

118 (16) "Repromulgation" means the publication and adoption  
119 of an existing rule following an agency's review of the rule for  
120 consistency with the powers and duties granted by its enabling  
121 statute.

122 (21) "Technical change" means a change limited to  
123 correcting grammatical, typographical, and similar errors not  
124 affecting the substance of the rule.

125 Section 2. Paragraph (i) of subsection (1), subsections

126 (2) and (3), and paragraph (a) of subsection (7) of section  
 127 120.54, Florida Statutes, are amended, and paragraphs (e) and  
 128 (f) are added to subsection (4) of that section, to read:

129 120.54 Rulemaking.—

130 (1) GENERAL PROVISIONS APPLICABLE TO ALL RULES OTHER THAN  
 131 EMERGENCY RULES.—

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

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

143 3. In rules adopted after December 31, 2010, and rules  
 144 repromulgated on or after July 1, 2020, material may not be  
 145 incorporated by reference unless:

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

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

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

161           5. Notwithstanding any contrary provision in this section,  
162 when an adopted rule of the Department of Environmental  
163 Protection or a water management district is incorporated by  
164 reference in the other agency's rule to implement a provision of  
165 part IV of chapter 373, subsequent amendments to the rule are  
166 not effective as to the incorporating rule unless the agency  
167 incorporating by reference notifies the committee and the  
168 Department of State of its intent to adopt the subsequent  
169 amendment, publishes notice of such intent in the Florida  
170 Administrative Register, and files with the Department of State  
171 a copy of the amended rule incorporated by reference. Changes in  
172 the rule incorporated by reference are effective as to the other  
173 agency 20 days after the date of the published notice and filing  
174 with the Department of State. The Department of State shall  
175 amend the history note of the incorporating rule to show the

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

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

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

190 (a) 1. Except when the intended action is the repeal of a  
 191 rule, agencies shall provide notice of the development of  
 192 proposed rules by publication of a notice of rule development in  
 193 the Florida Administrative Register before providing notice of a  
 194 proposed rule as required by paragraph (3) (a). The notice of  
 195 rule development must ~~shall~~ indicate the subject area to be  
 196 addressed by rule development, provide a short, plain  
 197 explanation of the purpose and effect of the proposed rule, cite  
 198 the grant of rulemaking authority for the proposed rule and the  
 199 law being implemented ~~specific legal authority for the proposed~~  
 200 ~~rule,~~ and include the proposed rule number and the preliminary



201 text of the proposed rules, if available, or a statement of how  
202 a person may promptly obtain, without cost, a copy of any  
203 preliminary draft, when ~~if~~ available.

204 2. If a notice of a proposed rule is not filed within 12  
205 months after the notice of rule development, the agency shall  
206 withdraw the rule and give notice of the withdrawal in the next  
207 available issue of the Florida Administrative Register.

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

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

212 2. It avoids the use of unnecessary technical or  
213 specialized language that is understood only by members of  
214 particular trades or professions.

215 (c) An agency may hold public workshops for purposes of  
216 rule development. If requested in writing by any affected  
217 person, an agency must hold public workshops, including  
218 workshops in various regions of the state or the agency's  
219 service area, for purposes of rule development ~~if requested in~~  
220 ~~writing by any affected person,~~ unless the agency head explains  
221 in writing why a workshop is unnecessary. The explanation is not  
222 final agency action subject to review pursuant to ss. 120.569  
223 and 120.57. The failure to provide the explanation when required  
224 may be a material error in procedure pursuant to s.  
225 120.56(1)(c). When a workshop or public hearing is held, the

226 agency must ensure that the persons responsible for preparing  
227 the proposed rule are available to receive public input, to  
228 explain the agency's proposal, and to respond to questions or  
229 comments regarding the rule being developed. The workshop may be  
230 facilitated or mediated by a neutral third person, or the agency  
231 may employ other types of dispute resolution alternatives for  
232 the workshop that are appropriate for rule development. Notice  
233 of a workshop for rule development must ~~workshop shall~~ be by  
234 publication in the Florida Administrative Register not less than  
235 14 days before ~~prior to~~ the date on which the workshop is  
236 scheduled to be held and must ~~shall~~ indicate the subject area  
237 that ~~which~~ will be addressed; the agency contact person; and the  
238 place, date, and time of the workshop.

239 (d)1. An agency may use negotiated rulemaking in  
240 developing and adopting rules. The agency should consider the  
241 use of negotiated rulemaking when complex rules are being  
242 drafted or strong opposition to the rules is anticipated. The  
243 agency should consider, but is not limited to considering,  
244 whether a balanced committee of interested persons who will  
245 negotiate in good faith can be assembled, whether the agency is  
246 willing to support the work of the negotiating committee, and  
247 whether the agency can use the group consensus as the basis for  
248 its proposed rule. Negotiated rulemaking uses a committee of  
249 designated representatives to draft a mutually acceptable  
250 proposed rule.

251           2. An agency that chooses to use the negotiated rulemaking  
 252 process described in this paragraph shall publish in the Florida  
 253 Administrative Register a notice of negotiated rulemaking that  
 254 includes a listing of the representative groups that will be  
 255 invited to participate in the negotiated rulemaking process. Any  
 256 person who believes that his or her interest is not adequately  
 257 represented may apply to participate within 30 days after  
 258 publication of the notice. All meetings of the negotiating  
 259 committee shall be noticed and open to the public pursuant to  
 260 ~~the provisions of~~ this chapter. The negotiating committee shall  
 261 be chaired by a neutral facilitator or mediator.

262           3. The agency's decision to use negotiated rulemaking, its  
 263 selection of the representative groups, and approval or denial  
 264 of an application to participate in the negotiated rulemaking  
 265 process are not agency action. ~~Nothing in~~ This subparagraph is  
 266 not intended to affect the rights of a substantially ~~an~~ affected  
 267 person to challenge a proposed rule developed under this  
 268 paragraph in accordance with s. 120.56(2).

269           (3) ADOPTION PROCEDURES.—

270           (a) Notices.—

271           1. Before ~~Prior to~~ the adoption, amendment, or repeal of  
 272 any rule other than an emergency rule, an agency, upon approval  
 273 of the agency head, shall give notice of its intended action,  
 274 setting forth a short, plain explanation of the purpose and  
 275 effect of the proposed action; the rule number and full text of

276 | the proposed rule or amendment and a summary thereof; a  
277 | reference to the grant of rulemaking authority pursuant to which  
278 | the rule is adopted; and a reference to the section or  
279 | subsection of the Florida Statutes or the Laws of Florida being  
280 | implemented or interpreted. The notice must include a concise  
281 | summary of the agency's statement of the estimated regulatory  
282 | costs, if one has been prepared, based on the factors set forth  
283 | in s. 120.541(2), which describes the regulatory impact of the  
284 | rule in readable language; an agency website address where the  
285 | statement of estimated regulatory costs can be viewed in its  
286 | entirety, if one has been prepared; a statement that any person  
287 | who wishes to provide the agency with information regarding the  
288 | statement of estimated regulatory costs, or to provide a  
289 | proposal for a lower cost regulatory alternative as provided by  
290 | s. 120.541(1), must do so in writing within 21 days after  
291 | publication of the notice; and a statement as to whether, based  
292 | on the statement of the estimated regulatory costs or other  
293 | information expressly relied upon and described by the agency if  
294 | no statement of regulatory costs is required, the proposed rule  
295 | is expected to require legislative ratification pursuant to s.  
296 | 120.541(3). The notice must state the procedure for requesting a  
297 | public hearing on the proposed rule. Except when the intended  
298 | action is the repeal of a rule, the notice must include a  
299 | reference both to the date on which and to the place where the  
300 | notice of rule development that is required by subsection (2)

301 appeared.

302       2. The notice shall be published in the Florida  
303 Administrative Register at least 7 days after the publication of  
304 the notice of rule development and at least ~~not less than~~ 28  
305 days ~~prior to~~ before the intended action. The proposed rule,  
306 including all materials proposed to be incorporated by reference  
307 and the statement of estimated regulatory costs, if one has been  
308 prepared, must ~~shall~~ be available for inspection and copying by  
309 the public at the time of the publication of notice. Material  
310 proposed to be incorporated by reference in the notice must be  
311 made available in the manner prescribed by sub-subparagraph  
312 (1)(i)3.a. or sub-subparagraph (1)(i)3.b.

313       3. The notice shall be mailed to all persons named in the  
314 proposed rule and mailed or delivered electronically to all  
315 persons who, at least 14 days before publication of the notice  
316 ~~prior to such mailing~~, have made requests of the agency for  
317 advance notice of its proceedings. The agency shall also give  
318 such notice as is prescribed by rule to those particular classes  
319 of persons to whom the intended action is directed.

320       4. The adopting agency shall file with the committee, at  
321 least 21 days before ~~prior to~~ the proposed adoption date, a copy  
322 of each rule it proposes to adopt; a copy of any material  
323 incorporated by reference in the rule; a detailed written  
324 statement of the facts and circumstances justifying the proposed  
325 rule; a copy of any statement of estimated regulatory costs that

326 has been prepared pursuant to s. 120.541; a statement of the  
327 extent to which the proposed rule relates to federal standards  
328 or rules on the same subject; and the notice required by  
329 subparagraph 1.

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

331 1. Statement of estimated regulatory costs.—Before the  
332 adoption , amendment, or repeal of any rule other than an  
333 emergency rule, an agency is encouraged to prepare a statement  
334 of estimated regulatory costs of the proposed rule, as provided  
335 by s. 120.541. However, an agency must prepare a statement of  
336 estimated regulatory costs of the proposed rule, as provided by  
337 s. 120.541, if:

338 a. The proposed rule will have an adverse impact on small  
339 business; or

340 b. The proposed rule is likely to directly or indirectly  
341 increase regulatory costs in excess of \$200,000 in the aggregate  
342 in this state within 1 year after the implementation of the  
343 rule.

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

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

348 (I) An owner, officer, operator, or manager must complete  
349 any education, training, or testing to comply with the rule in  
350 the first year or is likely to spend at least 10 hours or

351 purchase professional advice to understand and comply with the  
352 rule in the first year;

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

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

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

359 (V) Operating costs are expected to increase by at least  
360 \$1,000 annually because of the rule; or

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

363 b. Each agency, before the adoption, amendment, or repeal  
364 of a rule, shall consider the impact of the rule on small  
365 businesses as defined in ~~by~~ s. 288.703 and the impact of the  
366 rule on small counties or small cities as defined in ~~by~~ s.  
367 120.52. Whenever practicable, an agency shall tier its rules to  
368 reduce disproportionate impacts on small businesses, small  
369 counties, or small cities to avoid regulating small businesses,  
370 small counties, or small cities that do not contribute  
371 significantly to the problem the rule is designed to address. An  
372 agency may define "small business" to include businesses  
373 employing more than 200 persons, may define "small county" to  
374 include those with populations of more than 75,000, and may  
375 define "small city" to include those with populations of more

376 | than 10,000, if it finds that such a definition is necessary to  
 377 | adapt a rule to the needs and problems of small businesses,  
 378 | small counties, or small cities. The agency shall consider each  
 379 | of the following methods for reducing the impact of the proposed  
 380 | rule on small businesses, small counties, and small cities, or  
 381 | any combination of these entities:

382 |       (I) Establishing less stringent compliance or reporting  
 383 | requirements in the rule.

384 |       (II) Establishing less stringent schedules or deadlines in  
 385 | the rule for compliance or reporting requirements.

386 |       (III) Consolidating or simplifying the rule's compliance  
 387 | or reporting requirements.

388 |       (IV) Establishing performance standards or best management  
 389 | practices to replace design or operational standards in the  
 390 | rule.

391 |       (V) Exempting small businesses, small counties, or small  
 392 | cities from any or all requirements of the rule.

393 |       c.(I)~~b.(I)~~ If the agency determines that the proposed  
 394 | action will affect small businesses as defined by the agency as  
 395 | provided in sub-subparagraph b. ~~a.~~, the agency shall send  
 396 | written notice of the rule to the rules ombudsman in the  
 397 | Executive Office of the Governor at least 28 days before the  
 398 | intended action.

399 |       (II) Each agency shall adopt those regulatory alternatives  
 400 | offered by the rules ombudsman in the Executive Office of the



401 Governor and provided to the agency no later than 21 days after  
402 the rules ombudsman's receipt of the written notice of the rule  
403 which it finds are feasible and consistent with the stated  
404 objectives of the proposed rule and which would reduce the  
405 impact on small businesses. When regulatory alternatives are  
406 offered by the rules ombudsman in the Executive Office of the  
407 Governor, the 90-day period for filing the rule in subparagraph  
408 (e)2. is extended for a period of 21 days. The agency shall  
409 provide notice to the committee of any regulatory alternative  
410 offered to the agency pursuant to this sub-subparagraph at least  
411 21 days before filing the rule for adoption.

412 (III) If an agency does not adopt all alternatives offered  
413 pursuant to this sub-subparagraph, it shall, before rule  
414 adoption or amendment and pursuant to subparagraph (d)1., file a  
415 detailed written statement with the committee explaining the  
416 reasons for failure to adopt such alternatives. Within 3 working  
417 days after the filing of such notice, the agency shall send a  
418 copy of such notice to the rules ombudsman in the Executive  
419 Office of the Governor.

420 (c) Hearings.—

421 1. If the intended action concerns any rule other than one  
422 relating exclusively to procedure or practice, the agency shall,  
423 on the request of any affected person received within 21 days  
424 after the date of publication of the notice of intended agency  
425 action, give affected persons an opportunity to present evidence

426 and argument on all issues under consideration. The agency may  
427 schedule a public hearing on the proposed rule and, if requested  
428 by any affected person, shall schedule a public hearing on the  
429 proposed rule. When a public hearing is held, the agency must  
430 ensure that the persons responsible for preparing the proposed  
431 rule and the statement of estimated regulatory costs, if one has  
432 been prepared, ~~staff~~ are available to explain the agency's  
433 proposal and to respond to questions or comments regarding the  
434 proposed rule, the statement of estimated regulatory costs, if  
435 one has been prepared, and the agency's decision whether to  
436 adopt a lower cost regulatory alternative submitted pursuant to  
437 s. 120.541(1)(a). If the agency head is a board or other  
438 collegial body created under s. 20.165(4) or s. 20.43(3)(g), and  
439 one or more requested public hearings is scheduled, the board or  
440 other collegial body shall conduct at least one of the public  
441 hearings itself and may not delegate this responsibility without  
442 the consent of those persons requesting the public hearing. Any  
443 material pertinent to the issues under consideration submitted  
444 to the agency within 21 days after the date of publication of  
445 the notice or submitted to the agency between the date of  
446 publication of the notice and the end of the final public  
447 hearing shall be considered by the agency and made a part of the  
448 record of the rulemaking proceeding.

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

451 the person's substantial interests will be affected in the  
452 proceeding and affirmatively demonstrates to the agency that the  
453 proceeding does not provide adequate opportunity to protect  
454 those interests. If the agency determines that the rulemaking  
455 proceeding is not adequate to protect the person's interests, it  
456 shall suspend the rulemaking proceeding and convene a separate  
457 proceeding under the provisions of ss. 120.569 and 120.57. The  
458 agency shall publish notice of convening a separate proceeding  
459 in the Florida Administrative Register. Similarly situated  
460 persons may be requested to join and participate in the separate  
461 proceeding. Upon conclusion of the separate proceeding, the  
462 rulemaking proceeding shall be resumed. All timelines in this  
463 section are tolled during any suspension of the rulemaking  
464 proceeding under this subparagraph, beginning on the date the  
465 notice of convening a separate proceeding is published and  
466 resuming on the day after the conclusion of the separate  
467 proceeding.

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

469 1. After the final public hearing on the proposed rule, or  
470 after the time for requesting a hearing has expired, if the  
471 proposed rule has not been changed from the proposed rule as  
472 previously filed with the committee, or contains only technical  
473 changes, the adopting agency shall file a notice to that effect  
474 with the committee at least 7 days before ~~prior to~~ filing the  
475 proposed rule for adoption. Any change, other than a technical

476 | ~~change that does not affect the substance of the rule,~~ must be  
477 | supported by the record of public hearings held on the proposed  
478 | rule, must be in response to written material submitted to the  
479 | agency within 21 days after the date of publication of the  
480 | notice of intended agency action or submitted to the agency  
481 | between the date of publication of the notice and the end of the  
482 | final public hearing, or must be in response to a proposed  
483 | objection by the committee. Any change, other than a technical  
484 | change, to a statement of estimated regulatory costs requires a  
485 | notice of change. In addition, ~~when~~ any change, other than a  
486 | technical change, to the text of is made in a proposed rule or  
487 | any material incorporated by reference requires, ~~other than a~~  
488 | ~~technical change,~~ the adopting agency to ~~shall~~ provide a copy of  
489 | a notice of change by certified mail or actual delivery to any  
490 | person who requests it in writing no later than 21 days after  
491 | the notice required in paragraph (a). The agency shall file the  
492 | notice of change with the committee, along with the reasons for  
493 | the change, and provide the notice of change to persons  
494 | requesting it, at least 21 days before ~~prior to~~ filing the  
495 | proposed rule for adoption. The notice of change shall be  
496 | published in the Florida Administrative Register at least 21  
497 | days before ~~prior to~~ filing the proposed rule for adoption. The  
498 | notice of change must include a summary of any revision to a  
499 | statement of estimated regulatory costs required by s.  
500 | 120.541(1)(d). This subparagraph does not apply to emergency

501 rules adopted pursuant to subsection (4). Material proposed to  
502 be incorporated by reference in the notice required by this  
503 subparagraph must be made available in the manner prescribed by  
504 sub-subparagraph (1)(i)3.a. or sub-subparagraph (1)(i)3.b.

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

508 3. After the notice required by paragraph (a), the agency  
509 shall withdraw the proposed rule if the agency has failed to  
510 adopt it within the prescribed timeframes in this chapter. If,  
511 30 days after notice by the committee that the agency has failed  
512 to adopt the proposed rule within the prescribed timeframes in  
513 this chapter, the agency has not given notice of the withdrawal  
514 of the rule, the committee shall notify the Department of State  
515 that the date for adoption of the rule has expired, and the  
516 Department of State shall publish a notice of withdrawal of the  
517 proposed rule.

518 ~~4.3.~~ After adoption and before the rule becomes effective,  
519 a rule may be modified or withdrawn only in the following  
520 circumstances:

- 521 a. When the committee objects to the rule;
- 522 b. When a final order, which is not subject to further  
523 appeal, is entered in a rule challenge brought pursuant to s.  
524 120.56 after the date of adoption but before the rule becomes  
525 effective pursuant to subparagraph (e)6.;

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

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

534 5.4. The agency shall give notice of its decision to  
535 withdraw or modify a rule in the first available issue of the  
536 publication in which the original notice of rulemaking was  
537 published, shall notify those persons described in subparagraph  
538 (a)3. in accordance with the requirements of that subparagraph,  
539 and shall notify the Department of State if the rule is required  
540 to be filed with the Department of State.

541 ~~6.5.~~ After a rule has become effective, it may be repealed  
542 or amended only through the rulemaking procedures specified in  
543 this chapter.

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

545 1. If the adopting agency is required to publish its rules  
546 in the Florida Administrative Code, the agency, upon approval of  
547 the agency head, shall file with the Department of State three  
548 certified copies of the rule it proposes to adopt; one copy of  
549 any material incorporated by reference in the rule, certified by  
550 the agency; a summary of the rule; a summary of any hearings

551 held on the rule; and a detailed written statement of the facts  
552 and circumstances justifying the rule. Agencies not required to  
553 publish their rules in the Florida Administrative Code shall  
554 file one certified copy of the proposed rule, and the other  
555 material required by this subparagraph, in the office of the  
556 agency head, and such rules shall be open to the public.

557 2. A rule may not be filed for adoption less than 28 days  
558 or more than 90 days after the notice required by paragraph (a),  
559 until 21 days after the notice of change required by paragraph  
560 (d), until 14 days after the final public hearing, until 21 days  
561 after a statement of estimated regulatory costs required under  
562 s. 120.541 has been provided to all persons who submitted a  
563 lower cost regulatory alternative and made available to the  
564 public at a readily accessible page on the agency's website, or  
565 until the administrative law judge has rendered a decision under  
566 s. 120.56(2), whichever applies. When a required notice of  
567 change is published before ~~prior to~~ the expiration of the time  
568 to file the rule for adoption, the period during which a rule  
569 must be filed for adoption is extended to 45 days after the date  
570 of publication. If notice of a public hearing is published  
571 before ~~prior to~~ the expiration of the time to file the rule for  
572 adoption, the period during which a rule must be filed for  
573 adoption is extended to 45 days after adjournment of the final  
574 hearing on the rule, 21 days after receipt of all material  
575 authorized to be submitted at the hearing, or 21 days after

576 receipt of the transcript, if one is made, whichever is latest.  
577 The term "public hearing" includes any public meeting held by  
578 any agency at which the rule is considered. If a petition for an  
579 administrative determination under s. 120.56(2) is filed, the  
580 period during which a rule must be filed for adoption is  
581 extended to 60 days after the administrative law judge files the  
582 final order with the clerk or until 60 days after subsequent  
583 judicial review is complete.

584 3. At the time a rule is filed, the agency shall certify  
585 that the time limitations prescribed by this paragraph have been  
586 complied with, that all statutory rulemaking requirements have  
587 been met, and that there is no administrative determination  
588 pending on the rule.

589 4. At the time a rule is filed, the committee shall  
590 certify whether the agency has responded in writing to all  
591 material and timely written comments or written inquiries made  
592 on behalf of the committee. The Department of State shall reject  
593 any rule that is not filed within the prescribed time limits;  
594 that does not comply with all statutory rulemaking requirements  
595 and rules of the Department of State; upon which an agency has  
596 not responded in writing to all material and timely written  
597 inquiries or written comments; upon which an administrative  
598 determination is pending; or which does not include a statement  
599 of estimated regulatory costs, if required.

600 5. If a rule has not been adopted within the time limits



601 imposed by this paragraph or has not been adopted in compliance  
602 with all statutory rulemaking requirements, the agency proposing  
603 the rule shall withdraw the proposed rule and give notice of its  
604 action in the next available issue of the Florida Administrative  
605 Register.

606         6. The proposed rule shall be adopted on being filed with  
607 the Department of State and become effective 20 days after being  
608 filed, on a later date specified in the notice required by  
609 subparagraph (a)1., on a date required by statute, or upon  
610 ratification by the Legislature pursuant to s. 120.541(3). Rules  
611 not required to be filed with the Department of State shall  
612 become effective when adopted by the agency head, on a later  
613 date specified by rule or statute, or upon ratification by the  
614 Legislature pursuant to s. 120.541(3). If the committee notifies  
615 an agency that an objection to a rule is being considered, the  
616 agency may postpone the adoption of the rule to accommodate  
617 review of the rule by the committee. When an agency postpones  
618 adoption of a rule to accommodate review by the committee, the  
619 90-day period for filing the rule is tolled until the committee  
620 notifies the agency that it has completed its review of the  
621 rule.

622  
623 For the purposes of this paragraph, the term "administrative  
624 determination" does not include subsequent judicial review.

625         (4) EMERGENCY RULES.—

626        (e) Emergency rules shall be published in the Florida  
 627 Administrative Code.

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

631        (7) PETITION TO INITIATE RULEMAKING.—

632        (a) Any person regulated by an agency or having  
 633 substantial interest in an agency rule may petition an agency to  
 634 adopt, amend, or repeal a rule or to provide the minimum public  
 635 information required by this chapter. The petition shall specify  
 636 the proposed rule and action requested. The agency shall file a  
 637 copy of the petition with the committee. Not later than 30  
 638 calendar days following the date of filing a petition, the  
 639 agency shall initiate rulemaking proceedings under this chapter,  
 640 otherwise comply with the requested action, or deny the petition  
 641 with a written statement of its reasons for the denial.

642        Section 3. Section 120.541, Florida Statutes, is amended  
 643 to read:

644        120.541 Statement of estimated regulatory costs.—

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

647 ~~120.54(3)(a)~~, a substantially affected person may submit to an  
 648 agency a good faith written proposal for a lower cost regulatory  
 649 alternative to a proposed rule which substantially accomplishes  
 650 the objectives of the law being implemented. The agency shall

651 provide a copy of any proposal for a lower cost regulatory  
652 alternative to the committee at least 21 days before filing the  
653 rule for adoption. The proposal may include the alternative of  
654 not adopting any rule if the proposal explains how the lower  
655 costs and objectives of the law will be achieved by not adopting  
656 any rule. If submitted after a notice of change, a proposal for  
657 a lower cost regulatory alternative is deemed to be made in good  
658 faith only if the person reasonably believes, and the proposal  
659 states the person's reasons for believing, that the proposed  
660 rule as changed by the notice of change increases the regulatory  
661 costs or creates an adverse impact on small businesses that was  
662 not created by the previous proposed rule. If such a proposal is  
663 submitted, the 90-day period for filing the rule is extended 21  
664 days. Upon the submission of the lower cost regulatory  
665 alternative, the agency shall prepare a statement of estimated  
666 regulatory costs as provided in subsection (2), or shall revise  
667 its prior statement of estimated regulatory costs, and either  
668 adopt the alternative proposal, reject the alternative proposal,  
669 or modify the proposed rule to reduce the regulatory costs. If  
670 the agency rejects the alternative proposal or modifies the  
671 proposed rule, the agency shall ~~or~~ provide a statement of the  
672 reasons for rejecting the alternative in favor of the proposed  
673 rule.

674 (b) If a proposed rule will have an adverse impact on  
675 small business or if the proposed rule is likely to directly or

676 indirectly increase regulatory costs in excess of \$200,000 in  
677 the aggregate within 1 year after the implementation of the  
678 rule, the agency shall prepare a statement of estimated  
679 regulatory costs as required by s. 120.54(3)(b).

680 (c) The agency shall revise a statement of estimated  
681 regulatory costs if any change to the rule made under s.  
682 120.54(3)(d) increases the regulatory costs of the rule or if  
683 the rule is modified in response to the submission of a lower  
684 cost regulatory alternative. A summary of the revised statement  
685 must be included with any subsequent notice published under s.  
686 120.54(3).

687 (d) At least 21 days before filing the proposed rule for  
688 adoption, an agency that is required to revise a statement of  
689 estimated regulatory costs shall provide the statement to the  
690 person who submitted the lower cost regulatory alternative, to  
691 the rules ombudsman in the Executive Office of the Governor, and  
692 to the committee. The revised statement shall be published and  
693 made available in the same manner as the original statement of  
694 estimated regulatory costs and shall provide notice on the  
695 agency's website that it is available to the public.

696 (e) Notwithstanding s. 120.56(1)(c), the failure of the  
697 agency to prepare and publish a statement of estimated  
698 regulatory costs or to respond to a written lower cost  
699 regulatory alternative as provided in this subsection is a  
700 material failure to follow the applicable rulemaking procedures

701 or requirements set forth in this chapter.

702 (f) An agency's failure to prepare a statement of  
703 estimated regulatory costs or to respond to a written lower cost  
704 regulatory alternative may not be raised in a proceeding  
705 challenging the validity of a rule pursuant to s. 120.52(8)(a)  
706 unless:

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

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

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

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

715 2. The challenge is to the agency's rejection of a lower  
716 cost regulatory alternative offered under paragraph (a) or s.  
717 120.54(3)(b)2.c. ~~s. 120.54(3)(b)2.b.~~; and

718 3. The substantial interests of the person challenging the  
719 rule are materially affected by the rejection.

720 (2) A statement of estimated regulatory costs must ~~shall~~  
721 include:

722 (a) An economic analysis showing whether the rule directly  
723 or indirectly:

724 1. Is likely to have an adverse impact on economic growth,  
725 private sector job creation or employment, or private sector

726 investment in excess of \$1 million in the aggregate within 5  
727 years after the implementation of the rule;

728 2. Is likely to have an adverse impact on business  
729 competitiveness, including the ability of persons doing business  
730 in the state to compete with persons doing business in other  
731 states or domestic markets, productivity, or innovation in  
732 excess of \$1 million in the aggregate within 5 years after the  
733 implementation of the rule; or

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

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

742 (c) A good faith estimate of the cost to the agency, and  
743 to any other state and local government entities, of  
744 implementing and enforcing the proposed rule, and any  
745 anticipated effect on state or local revenues.

746 (d) A good faith estimate of the compliance ~~transactional~~  
747 costs likely to be incurred by individuals and entities,  
748 including local government entities, required to comply with the  
749 requirements of the rule. ~~As used in this section,~~  
750 ~~"transactional costs" are direct costs that are readily~~

751 ~~ascertainable based upon standard business practices, and~~  
752 ~~include filing fees, the cost of obtaining a license, the cost~~  
753 ~~of equipment required to be installed or used or procedures~~  
754 ~~required to be employed in complying with the rule, additional~~  
755 ~~operating costs incurred, the cost of monitoring and reporting,~~  
756 ~~and any other costs necessary to comply with the rule.~~

757 (e) An analysis of the impact on small businesses as  
758 defined by s. 288.703, and an analysis of the impact on small  
759 counties and small cities as defined in s. 120.52. The impact  
760 analysis for small businesses must include the basis for the  
761 agency's decision not to implement alternatives that would  
762 reduce adverse impacts on small businesses.

763 (f) Any additional information that the agency determines  
764 may be useful.

765 (g) In the statement or revised statement, whichever  
766 applies, a description of any regulatory alternatives submitted  
767 under paragraph (1) (a) and a statement adopting the alternative  
768 or a statement of the reasons for rejecting the alternative in  
769 favor of the proposed rule.

770 (3) If the adverse impact or regulatory costs of the rule  
771 exceed any of the criteria established in paragraph (2) (a), the  
772 rule shall be submitted to the President of the Senate and  
773 Speaker of the House of Representatives no later than 30 days  
774 before ~~prior to~~ the next regular legislative session, and the  
775 rule may not take effect until it is ratified by the

776 Legislature.

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

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

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

781 (c) Triennial updates of and amendments to the Florida  
782 Fire Prevention Code which are expressly authorized by s.  
783 633.202.

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

785 (5) For purposes of subsections (2) and (3), adverse  
786 impacts and regulatory costs likely to occur within 5 years  
787 after implementation of the rule include adverse impacts and  
788 regulatory costs estimated to occur within 5 years after the  
789 effective date of the rule. However, if any provision of the  
790 rule is not fully implemented upon the effective date of the  
791 rule, the adverse impacts and regulatory costs associated with  
792 such provision must be adjusted to include any additional  
793 adverse impacts and regulatory costs estimated to occur within 5  
794 years after implementation of such provision.

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

799 1. Increased customer charges for goods or services.

800 2. Decreased market value of goods or services produced,



801 provided, or sold.

802 3. Increased costs resulting from the purchase of  
803 substitute or alternative goods or services.

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

808 5. Capital costs.

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

811 (b) In estimating and analyzing the information required  
812 in paragraphs (2) (b)-(e), the agency may use surveys of  
813 individuals, businesses, business organizations, counties, and  
814 municipalities to collect data helpful to estimate and analyze  
815 the costs and impacts.

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

821 1. Filing fees.

822 2. Expenses to obtain a license.

823 3. Necessary equipment.

824 4. Installation, utilities, and maintenance of necessary  
825 equipment.

- 826        5. Necessary operations and procedures.
- 827        6. Accounting, financial, information management, and  
 828 other administrative processes.
- 829        7. Other processes.
- 830        8. Labor based on relevant rates of wages, salaries, and  
 831 benefits.
- 832        9. Materials and supplies.
- 833        10. Capital expenditures, including financing costs.
- 834        11. Professional and technical services, including  
 835 contracted services necessary to implement and maintain  
 836 compliance.
- 837        12. Monitoring and reporting.
- 838        13. Qualifying and recurring education, training, and  
 839 testing.
- 840        14. Travel.
- 841        15. Insurance and surety requirements.
- 842        16. A fair and reasonable allocation of administrative  
 843 costs and other overhead.
- 844        17. Reduced sales or other revenues.
- 845        18. Other items suggested by the rules ombudsman in the  
 846 Executive Office of the Governor or any interested person,  
 847 business organization, or business representative.
- 848        (7) (a) The Department of State shall include on the  
 849 Florida Administrative Register website the agency website  
 850 addresses where statements of estimated regulatory costs can be

851 viewed in their entirety.

852 (b) An agency that prepares a statement of estimated  
853 regulatory costs must provide, as part of the notice required  
854 under s. 120.54(3) (a), the agency website address where the  
855 statement of estimated regulatory costs can be read in its  
856 entirety to the Department of State for publication in the  
857 Florida Administrative Register.

858 (c) If an agency revises its statement of estimated  
859 regulatory costs, the agency must provide notice that a revision  
860 has been made as provided in s. 120.54(3) (d). Such notice must  
861 include the agency website address where the revision can be  
862 viewed in its entirety.

863 Section 4. Section 120.5435, Florida Statutes, is created  
864 to read:

865 120.5435 Repromulgation of rules.—

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

869 (2) If an agency determines after review that substantive  
870 changes to update a rule are not required, such agency shall  
871 repromulgate the rule to reflect the date of the review. Each  
872 agency shall review its rules pursuant to this section either 5  
873 years after July 1, 2020, if the rule was adopted before January  
874 1, 2012, or 10 years after the rule was adopted, if the rule was  
875 adopted on or after January 1, 2012. Failure of an agency to

876 adhere to the deadlines imposed in this section constitutes  
877 repeal of any affected rule. In the event of such a failure, the  
878 committee shall notify the Department of State that the agency,  
879 by its failure to repromulgate the affected rule, has elected to  
880 repeal the rule. Upon receipt of the committee's notice, the  
881 Department of State shall publish a notice to that effect in the  
882 next available issue of the Florida Administrative Register.  
883 Upon publication of the notice, the rule shall be stricken from  
884 the files of the Department of State and the files of the  
885 agency.

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

888 (a) Publish a notice of repromulgation in the Florida  
889 Administrative Register. A notice of repromulgation is not  
890 required to include the text of the rule being repromulgated.

891 (b) File the rule for repromulgation with the Department  
892 of State. A rule may not be filed for repromulgation fewer than  
893 28 days, nor more than 90 days, after the date of publication of  
894 the notice required by paragraph (a).

895 (4) The agency must file a notice of repromulgation with  
896 the committee at least 14 days before filing the rule for  
897 repromulgation. At the time the rule is filed for  
898 repromulgation, the committee shall certify whether the agency  
899 has responded in writing to all material and timely written  
900 comments or written inquiries made on behalf of the committee.

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

903        (6) The hearing requirements of s. 120.54 do not apply to  
904 repromulgation of a rule.

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

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

913        (c) The Department of State shall update the history note  
914 of the rule in the Florida Administrative Code to reflect the  
915 effective date of the repromulgated rule.

916        (8) The Department of State shall adopt rules to implement  
917 this section by December 31, 2020.

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

920        120.545 Committee review of agency rules.—

921        (1) As a legislative check on legislatively created  
922 authority, the committee shall examine each existing rule and  
923 proposed rule, except for those proposed rules exempted by s.  
924 120.81(1)(e) and (2), and its accompanying material, and each  
925 emergency rule, and may examine any existing rule, for the

926 | purpose of determining whether:

927 |       (a) The rule is an invalid exercise of delegated  
928 | legislative authority.

929 |       (b) The statutory authority for the rule has been  
930 | repealed.

931 |       (c) The rule reiterates or paraphrases statutory material.

932 |       (d) The rule is in proper form.

933 |       (e) The notice given before ~~prior to~~ its adoption was  
934 | sufficient to give adequate notice of the purpose and effect of  
935 | the rule.

936 |       (f) The rule is consistent with expressed legislative  
937 | intent pertaining to the specific provisions of law which the  
938 | rule implements.

939 |       (g) The rule is necessary to accomplish the apparent or  
940 | expressed objectives of the specific provision of law which the  
941 | rule implements.

942 |       (h) The rule is a reasonable implementation of the law as  
943 | it affects the convenience of the general public or persons  
944 | particularly affected by the rule.

945 |       (i) The rule could be made less complex or more easily  
946 | comprehensible to the general public.

947 |       (j) The rule's statement of estimated regulatory costs  
948 | complies with the requirements of s. 120.541 and whether the  
949 | rule does not impose regulatory costs on the regulated person,  
950 | county, or city which could be reduced by the adoption of less

951 costly alternatives that substantially accomplish the statutory  
952 objectives.

953 (k) The rule will require additional appropriations.

954 (l) If the rule is an emergency rule, there exists an  
955 emergency justifying the adoption of such rule, the agency is  
956 within its statutory authority, and the rule was adopted in  
957 compliance with the requirements and limitations of s.  
958 120.54(4).

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

961 120.55 Publication.—

962 (1) The Department of State shall:

963 (a)1. Through a continuous revision and publication  
964 system, compile and publish electronically, on a website managed  
965 by the department, the "Florida Administrative Code." The  
966 Florida Administrative Code shall contain all rules adopted by  
967 each agency, citing the grant of rulemaking authority and the  
968 specific law implemented pursuant to which each rule was  
969 adopted, all history notes as authorized in s. 120.545(7),  
970 complete indexes to all rules contained in the code, and any  
971 other material required or authorized by law or deemed useful by  
972 the department. The electronic code shall display each rule  
973 chapter currently in effect in browse mode and allow full text  
974 search of the code and each rule chapter. The department may  
975 contract with a publishing firm for a printed publication;

976 however, the department shall retain responsibility for the code  
977 as provided in this section. The electronic publication shall be  
978 the official compilation of the administrative rules of this  
979 state. The Florida Administrative Code shall be published once  
980 daily by 8 a.m. If, after publication, a rule is corrected and  
981 replaced, the Florida Administrative Code shall indicate:

982 a. That the Florida Administrative Code has been  
983 republished.

984 b. The rule that has been corrected by the Department of  
985 State.

986

987 The Department of State shall retain the copyright over the  
988 Florida Administrative Code.

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

997 3. At the beginning of the section of the code dealing  
998 with an agency that files copies of its rules with the  
999 department, ~~the department shall~~ publish the address and  
1000 telephone number of the executive offices of each agency, the



1001 manner by which the agency indexes its rules, a listing of all  
1002 rules of that agency excluded from publication in the code, and  
1003 a statement as to where those rules may be inspected.

1004 4. Not publish forms ~~shall not be published~~ in the Florida  
1005 Administrative Code; but any form which an agency uses in its  
1006 dealings with the public, along with any accompanying  
1007 instructions, shall be filed with the committee before it is  
1008 used. Any form or instruction which meets the definition of  
1009 "rule" provided in s. 120.52 shall be incorporated by reference  
1010 into the appropriate rule. The reference shall specifically  
1011 state that the form is being incorporated by reference and shall  
1012 include the number, title, and effective date of the form and an  
1013 explanation of how the form may be obtained. Each form created  
1014 by an agency which is incorporated by reference in a rule notice  
1015 of which is given under s. 120.54(3)(a) after December 31, 2007,  
1016 must clearly display the number, title, and effective date of  
1017 the form and the number of the rule in which the form is  
1018 incorporated.

1019 5. Require all materials incorporated by reference in any  
1020 part of an adopted rule and in any part of a repromulgated rule  
1021 ~~The department shall allow adopted rules and material~~  
1022 ~~incorporated by reference to be filed in~~ the manner prescribed  
1023 by s. 120.54(1)(i)3.a. or s. 120.54(1)(i)3.b. ~~electronic form as~~  
1024 ~~prescribed by department rule.~~ When a rule is filed for adoption  
1025 or repromulgation with incorporated material in electronic form,

1026 the department's publication of the Florida Administrative Code  
1027 on its website must contain a hyperlink from the incorporating  
1028 reference in the rule directly to that material. The department  
1029 may not allow hyperlinks from rules in the Florida  
1030 Administrative Code to any material other than that filed with  
1031 and maintained by the department, but may allow hyperlinks to  
1032 incorporated material maintained by the department from the  
1033 adopting agency's website or other sites.

1034 6. Include the date of any technical changes to a rule in  
1035 the history note of the rule in the Florida Administrative Code.  
1036 A technical change does not affect the effective date of the  
1037 rule.

1038 (c) Prescribe by rule the style and form required for  
1039 rules, notices, and other materials submitted for filing,  
1040 including a rule requiring documents created by an agency that  
1041 are proposed to be incorporated by reference in notices  
1042 published pursuant to s. 120.54(3)(a) and (d) to be coded in the  
1043 same manner as notices published pursuant to s. 120.54(3)(a)1.

1044 Section 7. Subsection (1) and paragraph (a) of subsection  
1045 (2) of section 120.74, Florida Statutes, are amended to read:

1046 120.74 Agency annual rulemaking and regulatory plans;  
1047 reports.—

1048 (1) REGULATORY PLAN.—By October 1 of each year, each  
1049 agency shall prepare a regulatory plan.

1050 (a) The plan must include a listing of each law enacted or

1051 amended during the previous 12 months which creates or modifies  
 1052 the duties or authority of the agency. If the Governor or the  
 1053 Attorney General provides a letter to the committee stating that  
 1054 a law affects all or most agencies, the agency may exclude the  
 1055 law from its plan. For each law listed by an agency under this  
 1056 paragraph, the plan must state:

1057 1. Whether the agency must adopt rules to implement the  
 1058 law.

1059 2. If rulemaking is necessary to implement the law:

1060 a. Whether a notice of rule development has been published  
 1061 and, if so, the citation to such notice in the Florida  
 1062 Administrative Register.

1063 b. The date by which the agency expects to publish the  
 1064 notice of proposed rule under s. 120.54(3)(a).

1065 3. If rulemaking is not necessary to implement the law, a  
 1066 concise written explanation of the reasons why the law may be  
 1067 implemented without rulemaking.

1068 (b) The plan must also identify and describe each rule,  
 1069 including each rule number or proposed rule number, ~~include a~~  
 1070 ~~listing of each law not otherwise listed pursuant to paragraph~~  
 1071 ~~(a) which the agency expects to develop, adopt, or repeal for~~  
 1072 the 12-month period beginning on October 1 and ending on  
 1073 September 30 ~~implement by rulemaking before the following July~~  
 1074 ~~1, excluding emergency rules except emergency rulemaking.~~ For  
 1075 each rule ~~law~~ listed under this paragraph, the plan must state

1076 whether the rulemaking is intended to simplify, clarify,  
1077 increase efficiency, improve coordination with other agencies,  
1078 reduce regulatory costs, or delete obsolete, unnecessary, or  
1079 redundant rules.

1080 (c) The plan must include any desired update to the prior  
1081 year's regulatory plan or supplement published pursuant to  
1082 subsection (7). If, in a prior year, a law was identified under  
1083 this paragraph or under subparagraph (a)1. as a law requiring  
1084 rulemaking to implement but a notice of proposed rule has not  
1085 been published:

1086 1. The agency shall identify and again list such law,  
1087 noting the applicable notice of rule development by citation to  
1088 the Florida Administrative Register; or

1089 2. If the agency has subsequently determined that  
1090 rulemaking is not necessary to implement the law, the agency  
1091 shall identify such law, reference the citation to the  
1092 applicable notice of rule development in the Florida  
1093 Administrative Register, and provide a concise written  
1094 explanation of the reason why the law may be implemented without  
1095 rulemaking.

1096 (d) The plan must identify any rules that are required to  
1097 be repromulgated pursuant to s. 120.5435 for the 12-month period  
1098 beginning on October 1 and ending on September 30.

1099 (e)~~(d)~~ The plan must include a certification executed on  
1100 behalf of the agency by both the agency head, or, if the agency

1101 head is a collegial body, the presiding officer; and the  
 1102 individual acting as principal legal advisor to the agency head.  
 1103 The certification must declare:

1104 1. ~~Verify~~ That the persons executing the certification  
 1105 have reviewed the plan.

1106 2. ~~Verify~~ That the agency regularly reviews all of its  
 1107 rules and identify the period during which all rules have most  
 1108 recently been reviewed to determine if the rules remain  
 1109 consistent with the agency's rulemaking authority and the laws  
 1110 implemented.

1111 3. That the agency understands that regulatory  
 1112 accountability is necessary to ensure public confidence in the  
 1113 integrity of state government and, to that end, the agency is  
 1114 diligently working toward lowering the total number of rules  
 1115 adopted.

1116 4. The total number of rules adopted and repealed during  
 1117 the previous 12 months.

1118 (2) PUBLICATION AND DELIVERY TO THE COMMITTEE.—

1119 (a) By October 1 of each year, each agency shall:

1120 1. Publish its regulatory plan on its website or on  
 1121 another state website established for publication of  
 1122 administrative law records. A clearly labeled hyperlink to the  
 1123 current plan must be included on the agency's primary website  
 1124 homepage.

1125 2. Electronically deliver to the committee a copy of the

1126 certification required in paragraph (1) (e) ~~(1) (d)~~.

1127         3. Publish in the Florida Administrative Register a notice  
1128 identifying the date of publication of the agency's regulatory  
1129 plan. The notice must include a hyperlink or website address  
1130 providing direct access to the published plan.

1131         Section 8. Subsection (11) of section 120.80, Florida  
1132 Statutes, is amended to read:

1133         120.80 Exceptions and special requirements; agencies.—

1134         (11) NATIONAL GUARD.—Notwithstanding s. 120.52(17) ~~s.~~  
1135 ~~120.52(16)~~, the enlistment, organization, administration,  
1136 equipment, maintenance, training, and discipline of the militia,  
1137 National Guard, organized militia, and unorganized militia, as  
1138 provided by s. 2, Art. X of the State Constitution, are not  
1139 rules as defined by this chapter.

1140         Section 9. Paragraph (c) of subsection (1) of section  
1141 120.81, Florida Statutes, is amended to read:

1142         120.81 Exceptions and special requirements; general  
1143 areas.—

1144         (1) EDUCATIONAL UNITS.—

1145         (c) Notwithstanding s. 120.52(17) ~~s. 120.52(16)~~, any  
1146 tests, test scoring criteria, or testing procedures relating to  
1147 student assessment which are developed or administered by the  
1148 Department of Education pursuant to s. 1003.4282, s. 1008.22, or  
1149 s. 1008.25, or any other statewide educational tests required by  
1150 law, are not rules.

1151 Section 10. Paragraph (a) of subsection (1) of section  
 1152 420.9072, Florida Statutes, is amended to read:

1153 420.9072 State Housing Initiatives Partnership Program.—  
 1154 The State Housing Initiatives Partnership Program is created for  
 1155 the purpose of providing funds to counties and eligible  
 1156 municipalities as an incentive for the creation of local housing  
 1157 partnerships, to expand production of and preserve affordable  
 1158 housing, to further the housing element of the local government  
 1159 comprehensive plan specific to affordable housing, and to  
 1160 increase housing-related employment.

1161 (1) (a) In addition to the legislative findings set forth  
 1162 in s. 420.6015, the Legislature finds that affordable housing is  
 1163 most effectively provided by combining available public and  
 1164 private resources to conserve and improve existing housing and  
 1165 provide new housing for very-low-income households, low-income  
 1166 households, and moderate-income households. The Legislature  
 1167 intends to encourage partnerships in order to secure the  
 1168 benefits of cooperation by the public and private sectors and to  
 1169 reduce the cost of housing for the target group by effectively  
 1170 combining all available resources and cost-saving measures. The  
 1171 Legislature further intends that local governments achieve this  
 1172 combination of resources by encouraging active partnerships  
 1173 between government, lenders, builders and developers, real  
 1174 estate professionals, advocates for low-income persons, and  
 1175 community groups to produce affordable housing and provide

1176 related services. Extending the partnership concept to encompass  
1177 cooperative efforts among small counties as defined in s.  
1178 120.52(20) ~~s. 120.52(19)~~, and among counties and municipalities  
1179 is specifically encouraged. Local governments are also intended  
1180 to establish an affordable housing advisory committee to  
1181 recommend monetary and nonmonetary incentives for affordable  
1182 housing as provided in s. 420.9076.

1183 Section 11. Subsection (7) of section 420.9075, Florida  
1184 Statutes, is amended to read:

1185 420.9075 Local housing assistance plans; partnerships.—

1186 (7) The moneys deposited in the local housing assistance  
1187 trust fund shall be used to administer and implement the local  
1188 housing assistance plan. The cost of administering the plan may  
1189 not exceed 5 percent of the local housing distribution moneys  
1190 and program income deposited into the trust fund. A county or an  
1191 eligible municipality may not exceed the 5-percent limitation on  
1192 administrative costs, unless its governing body finds, by  
1193 resolution, that 5 percent of the local housing distribution  
1194 plus 5 percent of program income is insufficient to adequately  
1195 pay the necessary costs of administering the local housing  
1196 assistance plan. The cost of administering the program may not  
1197 exceed 10 percent of the local housing distribution plus 5  
1198 percent of program income deposited into the trust fund, except  
1199 that small counties, as defined in s. 120.52(20) ~~s. 120.52(19)~~,  
1200 and eligible municipalities receiving a local housing



1201 distribution of up to \$350,000 may use up to 10 percent of  
1202 program income for administrative costs.

1203 Section 12. Paragraph (d) of subsection (1) of section  
1204 443.091, Florida Statutes, is amended to read:

1205 443.091 Benefit eligibility conditions.—

1206 (1) An unemployed individual is eligible to receive  
1207 benefits for any week only if the Department of Economic  
1208 Opportunity finds that:

1209 (d) She or he is able to work and is available for work.  
1210 In order to assess eligibility for a claimed week of  
1211 unemployment, the department shall develop criteria to determine  
1212 a claimant's ability to work and availability for work. A  
1213 claimant must be actively seeking work in order to be considered  
1214 available for work. This means engaging in systematic and  
1215 sustained efforts to find work, including contacting at least  
1216 five prospective employers for each week of unemployment  
1217 claimed. The department may require the claimant to provide  
1218 proof of such efforts to the one-stop career center as part of  
1219 reemployment services. A claimant's proof of work search efforts  
1220 may not include the same prospective employer at the same  
1221 location in 3 consecutive weeks, unless the employer has  
1222 indicated since the time of the initial contact that the  
1223 employer is hiring. The department shall conduct random reviews  
1224 of work search information provided by claimants. As an  
1225 alternative to contacting at least five prospective employers

1226 for any week of unemployment claimed, a claimant may, for that  
1227 same week, report in person to a one-stop career center to meet  
1228 with a representative of the center and access reemployment  
1229 services of the center. The center shall keep a record of the  
1230 services or information provided to the claimant and shall  
1231 provide the records to the department upon request by the  
1232 department. However:

1233 1. Notwithstanding any other provision of this paragraph  
1234 or paragraphs (b) and (e), an otherwise eligible individual may  
1235 not be denied benefits for any week because she or he is in  
1236 training with the approval of the department, or by reason of s.  
1237 443.101(2) relating to failure to apply for, or refusal to  
1238 accept, suitable work. Training may be approved by the  
1239 department in accordance with criteria prescribed by rule. A  
1240 claimant's eligibility during approved training is contingent  
1241 upon satisfying eligibility conditions prescribed by rule.

1242 2. Notwithstanding any other provision of this chapter, an  
1243 otherwise eligible individual who is in training approved under  
1244 s. 236(a)(1) of the Trade Act of 1974, as amended, may not be  
1245 determined ineligible or disqualified for benefits due to  
1246 enrollment in such training or because of leaving work that is  
1247 not suitable employment to enter such training. As used in this  
1248 subparagraph, the term "suitable employment" means work of a  
1249 substantially equal or higher skill level than the worker's past  
1250 adversely affected employment, as defined for purposes of the

1251 Trade Act of 1974, as amended, the wages for which are at least  
 1252 80 percent of the worker's average weekly wage as determined for  
 1253 purposes of the Trade Act of 1974, as amended.

1254 3. Notwithstanding any other provision of this section, an  
 1255 otherwise eligible individual may not be denied benefits for any  
 1256 week because she or he is before any state or federal court  
 1257 pursuant to a lawfully issued summons to appear for jury duty.

1258 4. Union members who customarily obtain employment through  
 1259 a union hiring hall may satisfy the work search requirements of  
 1260 this paragraph by reporting daily to their union hall.

1261 5. The work search requirements of this paragraph do not  
 1262 apply to persons who are unemployed as a result of a temporary  
 1263 layoff or who are claiming benefits under an approved short-time  
 1264 compensation plan as provided in s. 443.1116.

1265 6. In small counties as defined in s. 120.52(20) ~~s.~~  
 1266 ~~120.52(19)~~, a claimant engaging in systematic and sustained  
 1267 efforts to find work must contact at least three prospective  
 1268 employers for each week of unemployment claimed.

1269 7. The work search requirements of this paragraph do not  
 1270 apply to persons required to participate in reemployment  
 1271 services under paragraph (e).

1272 Section 13. This act shall take effect July 1, 2020.