

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 to include specified information on a website;
61 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; providing that failure of an agency to meet
70 certain deadlines applicable to a rule required to be
71 repromulgated constitutes the repeal of the rule;
72 requiring an agency to publish a notice of
73 repromulgation in the Florida Administrative Register
74 and file a rule for promulgation with the department
75 within a specified timeframe; requiring an agency to

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

101 the forthcoming year in the agency's annual regulatory
102 plan; requiring that an agency's annual regulatory
103 plan identify any rules that are required to be
104 repromulgated during the forthcoming year; requiring
105 the agency to make certain declarations concerning the
106 annual regulatory plan; amending ss. 120.80, 120.81,
107 420.9072, 420.9075, and 443.091, F.S.; conforming
108 cross-references; providing 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, 2021, 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)(c). 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. The
511 committee shall notify the agency that it has exceeded the
512 timeframe to adopt the proposed rule. If, 30 days after notice
513 by the committee, the agency has not given notice of the
514 withdrawal of the rule, the committee shall notify the
515 Department of State that the date for adoption of the rule has
516 expired, and the Department of State shall publish a notice of
517 withdrawal of the 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, 2021, if the rule was adopted before January
874 1, 2013, or 10 years after the rule was adopted, if the rule was
875 adopted on or after January 1, 2013. 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, 2021.

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. 120.52
1178 ~~s. 120.52(19)~~, and among counties and municipalities is
1179 specifically encouraged. Local governments are also intended to
1180 establish an affordable housing advisory committee to recommend
1181 monetary and nonmonetary incentives for affordable housing as
1182 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 ~~s. 120.52(19)~~, and
1200 eligible municipalities receiving a local housing distribution

1201 of up to \$350,000 may use up to 10 percent of program income for
 1202 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 ~~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, 2021.