

By Senator Grall

29-00665B-23

2023742__

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

29-00665B-23

2023742__

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

29-00665B-23

2023742__

59 rules by superseding the rule; authorizing an agency
60 to make technical changes to an emergency rule during
61 a specified timeframe; requiring an agency to file a
62 copy of a certain petition with the committee; making
63 technical changes; amending s. 120.541, F.S.;
64 requiring an agency to provide a copy of a proposal
65 for a lower cost regulatory alternative to the
66 committee within a certain timeframe; specifying the
67 circumstances under which such proposal is deemed to
68 be made in good faith; revising requirements for an
69 agency's consideration of a lower cost regulatory
70 alternative; providing for an agency's revision and
71 publication of a revised statement of estimated
72 regulatory costs in response to such alternatives;
73 requiring that the revised statement of estimated
74 regulatory costs be made available in the same manner
75 as the original; deleting the definition of the term
76 "transactional costs"; revising the applicability of
77 specified provisions; providing additional
78 requirements for the calculation of estimated
79 regulatory costs; making technical changes; conforming
80 provisions to changes made by the act; conforming a
81 cross-reference; creating s. 120.5435, F.S.; providing
82 legislative intent; requiring agency review of rules
83 and repromulgation of rules that do not require
84 substantive changes within a specified timeframe;
85 providing that the failure of an agency to adhere to
86 specified deadlines is a basis for certain persons to
87 petition the agency for review of the rule; requiring

29-00665B-23

2023742__

88 the agency to act within a specified timeframe upon
89 receiving such petition; requiring a denial to include
90 a specified statement; requiring an agency to publish
91 a notice of repromulgation in the Florida
92 Administrative Register and file a rule for
93 promulgation with the department within a specified
94 timeframe; requiring an agency to file a notice of
95 repromulgation with the committee within a specified
96 timeframe; providing that an agency's failure to
97 repromulgate a rule within a specified timeframe
98 constitutes repeal of the rule; requiring the
99 committee to provide the department a certain notice;
100 requiring the department to publish the notice in the
101 Florida Administrative Register; providing that a
102 notice of repromulgation is not required to include
103 the text of the rule being repromulgated; requiring
104 the committee to certify if the agency has provided
105 certain responses to the committee; providing that a
106 repromulgated rule is not subject to challenge as a
107 proposed rule and that certain hearing requirements do
108 not apply; requiring an agency to file a specified
109 number of certified copies of a proposed repromulgated
110 rule and any material incorporated by reference;
111 providing that a repromulgated rule is adopted upon
112 filing with the department and becomes effective after
113 a specified time; requiring the department to update
114 certain information in the Florida Administrative
115 Code; requiring any rule that is not repromulgated to
116 be submitted to the Legislature within a specified

29-00665B-23

2023742__

117 timeframe after the decision to not repromulgate is
118 made; providing that such decision is not effective
119 until the conclusion of the next legislative session
120 following the decision; requiring the department to
121 adopt rules by a certain date; creating s. 120.5436,
122 F.S.; providing legislative intent; requiring the
123 Department of Environmental Protection and water
124 management districts to conduct a holistic review of
125 certain permitting processes; providing the scope and
126 purpose of the review; providing the factors the
127 department and districts must consider when conducting
128 the review; requiring the department and districts to
129 submit a specified report to the Governor and
130 Legislature by a specified date; amending s. 120.545,
131 F.S.; requiring the committee to examine certain
132 existing rules; amending s. 120.55, F.S.; requiring
133 the Department of State to publish the Florida
134 Administrative Code daily at a specified time;
135 requiring the department to indicate a rule was
136 corrected or replaced by republishing the code and
137 noting the rule was corrected; requiring materials
138 incorporated by reference to be filed in a specified
139 manner; requiring the department to include the date
140 of a technical rule change in the Florida
141 Administrative Code; providing that a technical change
142 does not affect the effective date of a rule;
143 requiring the department to adopt specified rules;
144 amending s. 120.56, F.S.; conforming a cross-
145 reference; amending s. 120.74, F.S.; requiring an

29-00665B-23

2023742__

146 agency to list each rule it plans to develop, adopt,
147 or repeal during the forthcoming year in the agency's
148 annual regulatory plan; requiring that an agency's
149 annual regulatory plan identify any rules that are
150 required to be repromulgated during the forthcoming
151 year; requiring the agency to make certain
152 declarations concerning the annual regulatory plan;
153 amending ss. 120.80, 120.81, 420.9072, 420.9075, and
154 443.091, F.S.; conforming cross-references; providing
155 an effective date.

156
157 Be It Enacted by the Legislature of the State of Florida:

158
159 Section 1. Present subsections (16) through (19) and
160 subsections (20), (21), and (22) of section 120.52, Florida
161 Statutes, are redesignated as subsections (17) through (20) and
162 (22), (23), and (24), respectively, and new subsections (16) and
163 (21) are added to that section, to read:

164 120.52 Definitions.—As used in this act:

165 (16) "Repromulgation" means the publication and adoption of
166 an existing rule following an agency's review of the rule for
167 consistency with the powers and duties granted by its enabling
168 statute.

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

172 Section 2. Paragraph (i) of subsection (1), subsections (2)
173 and (3), and paragraph (a) of subsection (7) of section 120.54,
174 Florida Statutes, are amended, and paragraphs (e) and (f) are

29-00665B-23

2023742__

175 added to subsection (4) of that section, to read:

176 120.54 Rulemaking.—

177 (1) GENERAL PROVISIONS APPLICABLE TO ALL RULES OTHER THAN
178 EMERGENCY RULES.—

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

183 2. An agency rule that incorporates by specific reference
184 another rule of that agency automatically incorporates
185 subsequent amendments to the referenced rule unless a contrary
186 intent is clearly indicated in the referencing rule. A notice of
187 amendments to a rule that has been incorporated by specific
188 reference in other rules of that agency must explain the effect
189 of those amendments on the referencing rules.

190 3. In rules adopted after December 31, 2010, and rules
191 repromulgated on or after July 1, 2023, material may not be
192 incorporated by reference unless:

193 a. The material has been submitted in the prescribed
194 electronic format to the Department of State and the full text
195 of the material can be made available for free public access
196 through an electronic hyperlink from the rule making the
197 reference in the Florida Administrative Code; or

198 b. The agency has determined that posting the material on
199 the Internet for purposes of public examination and inspection
200 would constitute a violation of federal copyright law, in which
201 case a statement to that effect, along with the address of
202 locations at the Department of State and the agency at which the
203 material is available for public inspection and examination,

29-00665B-23

2023742__

204 must be included in the notice required by subparagraph (3)(a)1.

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

208 5. Notwithstanding any contrary provision in this section,
209 when an adopted rule of the Department of Environmental
210 Protection or a water management district is incorporated by
211 reference in the other agency's rule to implement a provision of
212 part IV of chapter 373, subsequent amendments to the rule are
213 not effective as to the incorporating rule unless the agency
214 incorporating by reference notifies the committee and the
215 Department of State of its intent to adopt the subsequent
216 amendment, publishes notice of such intent in the Florida
217 Administrative Register, and files with the Department of State
218 a copy of the amended rule incorporated by reference. Changes in
219 the rule incorporated by reference are effective as to the other
220 agency 20 days after the date of the published notice and filing
221 with the Department of State. The Department of State shall
222 amend the history note of the incorporating rule to show the
223 effective date of such change. Any substantially affected person
224 may, within 14 days after the date of publication of the notice
225 of intent in the Florida Administrative Register, file an
226 objection to rulemaking with the agency. The objection must
227 ~~shall~~ specify the portions of the rule incorporated by reference
228 to which the person objects and the reasons for the objection.
229 The agency does ~~shall~~ not have the authority under this
230 subparagraph to adopt those portions of the rule specified in
231 such objection. The agency shall publish notice of the objection
232 and of its action in response in the next available issue of the

29-00665B-23

2023742__

233 Florida Administrative Register.

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

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

237 (a) 1. Except when the intended action is the repeal of a
238 rule, agencies shall provide notice of the development of
239 proposed rules by publication of a notice of rule development in
240 the Florida Administrative Register before providing notice of a
241 proposed rule as required by paragraph (3) (a). The notice of
242 rule development must ~~shall~~ indicate the subject area to be
243 addressed by rule development, provide a short, plain
244 explanation of the purpose and effect of the proposed rule, cite
245 the grant of rulemaking authority for the proposed rule and the
246 law being implemented ~~specific legal authority for the proposed~~
247 ~~rule~~, and include the proposed rule number and the preliminary
248 text of the proposed rules, if available, or a statement of how
249 a person may promptly obtain, without cost, a copy of any
250 preliminary draft, when if available. The notice must also
251 include a request for the submission of any information that
252 would be helpful to the agency in preparing the statement of
253 estimated regulatory costs required pursuant to paragraph (3) (b)
254 and a statement of how a person may submit comments to the
255 proposal and how a person may provide information regarding the
256 potential regulatory costs.

257 2. If a notice of a proposed rule is not filed within 12
258 months after the most recent notice of rule development, the
259 agency must withdraw the rule and publish notice of the
260 withdrawal in the next available issue of the Florida
261 Administrative Register.

29-00665B-23

2023742__

262 (b) All rules should be drafted in readable language. The
263 language is readable if it:

264 1. ~~It~~ Avoids the use of obscure words and unnecessarily
265 long or complicated constructions; and

266 2. ~~It~~ Avoids the use of unnecessary technical or
267 specialized language that is understood only by members of
268 particular trades or professions.

269 (c) An agency may hold public workshops for purposes of
270 rule development and information gathering for the preparation
271 of the statement of estimated regulatory costs. If requested in
272 writing by any affected person, an agency must hold public
273 workshops, including workshops in various regions of the state
274 or the agency's service area, for purposes of rule development
275 and information gathering for the preparation of the statement
276 of estimated regulatory costs if requested in writing by any
277 ~~affected person,~~ unless the agency head explains in writing why
278 a workshop is unnecessary. The explanation is not final agency
279 action subject to review pursuant to ss. 120.569 and 120.57. The
280 failure to provide the explanation when required may be a
281 material error in procedure pursuant to s. 120.56(1)(c). When a
282 workshop or public hearing is held, the agency must ensure that
283 the persons responsible for preparing the proposed rule and the
284 statement of estimated regulatory costs are available to receive
285 public input, to explain the agency's proposal, and to respond
286 to questions or comments regarding the rule being developed and
287 the statement of estimated regulatory costs. The workshop may be
288 facilitated or mediated by a neutral third person, or the agency
289 may employ other types of dispute resolution alternatives for
290 the workshop that are appropriate for rule development and for

29-00665B-23

2023742__

291 preparation of the statement of estimated regulatory costs.
292 Notice of a workshop for rule development and for preparation of
293 the statement of estimated regulatory costs must ~~workshop shall~~
294 be by publication in the Florida Administrative Register not
295 less than 14 days before ~~prior to~~ the date on which the workshop
296 is scheduled to be held and must ~~shall~~ indicate the subject area
297 that ~~which~~ will be addressed; the agency contact person; and the
298 place, date, and time of the workshop.

299 (d)1. An agency may use negotiated rulemaking in developing
300 and adopting rules. The agency should consider the use of
301 negotiated rulemaking when complex rules are being drafted or
302 strong opposition to the rules is anticipated. The agency should
303 consider, but is not limited to considering, whether a balanced
304 committee of interested persons who will negotiate in good faith
305 can be assembled, whether the agency is willing to support the
306 work of the negotiating committee, and whether the agency can
307 use the group consensus as the basis for its proposed rule.
308 Negotiated rulemaking uses a committee of designated
309 representatives to draft a mutually acceptable proposed rule and
310 to develop information necessary to prepare a statement of
311 estimated regulatory costs, when applicable.

312 2. An agency that chooses to use the negotiated rulemaking
313 process described in this paragraph shall publish in the Florida
314 Administrative Register a notice of negotiated rulemaking that
315 includes a listing of the representative groups that will be
316 invited to participate in the negotiated rulemaking process. Any
317 person who believes that his or her interest is not adequately
318 represented may apply to participate within 30 days after
319 publication of the notice. All meetings of the negotiating

29-00665B-23

2023742__

320 committee shall be noticed and open to the public pursuant to
321 ~~the provisions of~~ this chapter. The negotiating committee shall
322 be chaired by a neutral facilitator or mediator.

323 3. The agency's decision to use negotiated rulemaking, its
324 selection of the representative groups, and approval or denial
325 of an application to participate in the negotiated rulemaking
326 process are not agency action. ~~Nothing in~~ This subparagraph is
327 not intended to affect the rights of a substantially an affected
328 person to challenge a proposed rule developed under this
329 paragraph in accordance with s. 120.56(2).

330 (3) ADOPTION PROCEDURES.—

331 (a) *Notices.*—

332 1. Before ~~Prior to~~ the adoption, amendment, or repeal of
333 any rule other than an emergency rule, an agency, upon approval
334 of the agency head, shall give notice of its intended action,
335 setting forth a short, plain explanation of the purpose and
336 effect of the proposed action; the rule number and full text of
337 the proposed rule or amendment and a summary thereof; a
338 reference to the grant of rulemaking authority pursuant to which
339 the rule is adopted; and a reference to the section or
340 subsection of the Florida Statutes or the Laws of Florida being
341 implemented or interpreted. The notice must include a concise
342 summary of the agency's statement of the estimated regulatory
343 costs, ~~if one has been prepared,~~ based on the factors set forth
344 in s. 120.541(2), which describes the regulatory impact of the
345 rule in readable language; an agency website address where the
346 statement of estimated regulatory costs can be viewed in its
347 entirety; a statement that any person who wishes to provide the
348 agency with information regarding the statement of estimated

29-00665B-23

2023742__

349 regulatory costs, or to provide a proposal for a lower cost
350 regulatory alternative as provided by s. 120.541(1), must do so
351 in writing within 21 days after publication of the notice; a
352 request for the submission of any information that could be
353 helpful to the agency regarding the statement of estimated
354 regulatory costs; and a statement as to whether, based on the
355 statement of the estimated regulatory costs ~~or other information~~
356 ~~expressly relied upon and described by the agency if no~~
357 ~~statement of regulatory costs is required,~~ the proposed rule is
358 expected to require legislative ratification pursuant to s.
359 120.541(3). The notice must state the procedure for requesting a
360 public hearing on the proposed rule. Except when the intended
361 action is the repeal of a rule, the notice must include a
362 reference both to the date on which and to the place where the
363 notice of rule development that is required by subsection (2)
364 appeared.

365 2. The notice must ~~shall~~ be published in the Florida
366 Administrative Register at least 7 days after the publication of
367 the notice of rule development and at least not less than 28
368 days before ~~prior to~~ the intended action. The proposed rule,
369 including all materials proposed to be incorporated by reference
370 and the statement of estimated regulatory costs, must ~~shall~~ be
371 available for inspection and copying by the public at the time
372 of the publication of notice. Material proposed to be
373 incorporated by reference in the notice must be made available
374 in the manner prescribed by sub-subparagraph (1)(i)3.a. or sub-
375 subparagraph (1)(i)3.b.

376 3. The notice must ~~shall~~ be mailed to all persons named in
377 the proposed rule and mailed or delivered electronically to all

29-00665B-23

2023742__

378 persons who, at least 14 days before publication of the notice
379 ~~prior to such mailing~~, have made requests of the agency for
380 advance notice of its proceedings. The agency shall also give
381 such notice as is prescribed by rule to those particular classes
382 of persons to whom the intended action is directed.

383 4. The adopting agency shall file with the committee, at
384 least 21 days before ~~prior to~~ the proposed adoption date, a copy
385 of each rule it proposes to adopt; a copy of any material
386 incorporated by reference in the rule; a detailed written
387 statement of the facts and circumstances justifying the proposed
388 rule; a copy of the ~~any~~ statement of estimated regulatory costs
389 ~~that has been~~ prepared pursuant to s. 120.541; a statement of
390 the extent to which the proposed rule relates to federal
391 standards or rules on the same subject; and the notice required
392 by subparagraph 1.

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

394 1. Statement of estimated regulatory costs.—Before the
395 adoption or, ~~amendment, or repeal~~ of any rule, other than an
396 emergency rule, an agency must ~~is encouraged to~~ prepare a
397 statement of estimated regulatory costs of the proposed rule, as
398 provided by s. 120.541. However, an agency is not required to
399 prepare a statement of estimated regulatory costs for a rule
400 repeal unless such repeal would impose a regulatory cost. In any
401 challenge to a rule repeal, a rule repeal that only reduces or
402 eliminates regulations on those individuals or entities
403 presently regulated by the rule must be considered presumptively
404 correct in any proceeding before the division or in any
405 proceeding before a court of competent jurisdiction ~~However, an~~
406 ~~agency must prepare a statement of estimated regulatory costs of~~

29-00665B-23

2023742__

407 ~~the proposed rule, as provided by s. 120.541, if:~~

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

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

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

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

418 (I) An owner, officer, operator, or manager must complete
419 any education, training, or testing to comply, or is likely to
420 spend at least 10 hours or purchase professional advice to
421 understand and comply, with the rule in the first year;

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

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

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

428 (V) Operating costs are expected to increase by at least
429 \$1,000 annually because of the rule; or

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

432 b. Each agency, before the adoption, amendment, or repeal
433 of a rule, shall consider the impact of the rule on small
434 businesses as defined in ~~by~~ s. 288.703 and the impact of the
435 rule on small counties or small cities as defined in ~~by~~ s.

29-00665B-23

2023742__

436 120.52. Whenever practicable, an agency shall tier its rules to
437 reduce disproportionate impacts on small businesses, small
438 counties, or small cities to avoid regulating small businesses,
439 small counties, or small cities that do not contribute
440 significantly to the problem the rule is designed to address. An
441 agency may define "small business" to include businesses
442 employing more than 200 persons, may define "small county" to
443 include those with populations of more than 75,000, and may
444 define "small city" to include those with populations of more
445 than 10,000, if it finds that such a definition is necessary to
446 adapt a rule to the needs and problems of small businesses,
447 small counties, or small cities. The agency shall consider each
448 of the following methods for reducing the impact of the proposed
449 rule on small businesses, small counties, and small cities, or
450 any combination of these entities:

451 (I) Establishing less stringent compliance or reporting
452 requirements in the rule.

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

455 (III) Consolidating or simplifying the rule's compliance or
456 reporting requirements.

457 (IV) Establishing performance standards or best management
458 practices to replace design or operational standards in the
459 rule.

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

462 ~~c.b.~~(I) If the agency determines that the proposed action
463 will affect small businesses as defined by the agency as
464 provided in sub-subparagraph b. a., the agency must ~~shall~~ send

29-00665B-23

2023742__

465 written notice of the rule to the rules ombudsman in the
466 Executive Office of the Governor at least 28 days before the
467 intended action.

468 (II) Each agency shall adopt those regulatory alternatives
469 offered by the rules ombudsman in the Executive Office of the
470 Governor and provided to the agency no later than 21 days after
471 the rules ombudsman's receipt of the written notice of the rule
472 which it finds are feasible and consistent with the stated
473 objectives of the proposed rule and which would reduce the
474 impact on small businesses. When regulatory alternatives are
475 offered by the rules ombudsman in the Executive Office of the
476 Governor, the 90-day period for filing the rule in subparagraph
477 (e)2. is extended for a period of 21 days. The agency shall
478 provide notice to the committee of any regulatory alternative
479 offered to the agency pursuant to this sub-subparagraph at least
480 21 days before filing the rule for adoption.

481 (III) If an agency does not adopt all alternatives offered
482 pursuant to this sub-subparagraph, it must ~~shall~~, before rule
483 adoption or amendment and pursuant to subparagraph (d)1., file a
484 detailed written statement with the committee explaining the
485 reasons for failure to adopt such alternatives. Within 3 working
486 days after the filing of such notice, the agency shall send a
487 copy of such notice to the rules ombudsman in the Executive
488 Office of the Governor.

489 (c) *Hearings.*—

490 1. If the intended action concerns any rule other than one
491 relating exclusively to procedure or practice, the agency must
492 ~~shall~~, on the request of any affected person received within 21
493 days after the date of publication of the notice of intended

29-00665B-23

2023742__

494 agency action, give affected persons an opportunity to present
495 evidence and argument on all issues under consideration. The
496 agency may schedule a public hearing on the proposed rule and,
497 if requested by any affected person, must ~~shall~~ schedule a
498 public hearing on the proposed rule. When a public hearing is
499 held, the agency must ensure that the persons responsible for
500 preparing the proposed rule and the statement of estimated
501 regulatory costs ~~staff~~ are in attendance available to explain
502 the agency's proposal and to respond to questions or comments
503 regarding the proposed rule, the statement of estimated
504 regulatory costs, and the agency's decision on whether to adopt
505 a lower cost regulatory alternative submitted pursuant to s.
506 120.541(1)(a). If the agency head is a board or other collegial
507 body created under s. 20.165(4) or s. 20.43(3)(g), and one or
508 more requested public hearings is scheduled, the board or other
509 collegial body must ~~shall~~ conduct at least one of the public
510 hearings itself and may not delegate this responsibility without
511 the consent of those persons requesting the public hearing. Any
512 material pertinent to the issues under consideration submitted
513 to the agency within 21 days after the date of publication of
514 the notice or submitted to the agency between the date of
515 publication of the notice and the end of the final public
516 hearing must ~~shall~~ be considered by the agency and made a part
517 of the record of the rulemaking proceeding.

518 2. Rulemaking proceedings are ~~shall be~~ governed solely by
519 the provisions of this section unless a person timely asserts
520 that the person's substantial interests will be affected in the
521 proceeding and affirmatively demonstrates to the agency that the
522 proceeding does not provide adequate opportunity to protect

29-00665B-23

2023742__

523 those interests. If the agency determines that the rulemaking
524 proceeding is not adequate to protect the person's interests, it
525 must ~~shall~~ suspend the rulemaking proceeding and convene a
526 separate proceeding under ~~the provisions of~~ ss. 120.569 and
527 120.57. The agency shall publish notice of convening a separate
528 proceeding in the Florida Administrative Register. Similarly
529 situated persons may be requested to join and participate in the
530 separate proceeding. Upon conclusion of the separate proceeding,
531 the rulemaking proceeding shall be resumed. All timelines in
532 this section are tolled during any suspension of the rulemaking
533 proceeding under this subparagraph, beginning on the date the
534 notice of convening a separate proceeding is published and
535 resuming on the day after conclusion of the separate proceeding.

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

537 1. After the final public hearing on the proposed rule, or
538 after the time for requesting a hearing has expired, if the
539 proposed rule has not been changed from the proposed rule as
540 previously filed with the committee, or contains only technical
541 changes, the adopting agency shall file a notice to that effect
542 with the committee at least 7 days before ~~prior to~~ filing the
543 proposed rule for adoption. Any change, other than a technical
544 change ~~that does not affect the substance of the rule~~, must be
545 supported by the record of public hearings held on the proposed
546 rule, must be in response to written material submitted to the
547 agency within 21 days after the date of publication of the
548 notice of intended agency action or submitted to the agency
549 between the date of publication of the notice and the end of the
550 final public hearing, or must be in response to a proposed
551 objection by the committee. Any change, other than a technical

29-00665B-23

2023742__

552 change, to a statement of estimated regulatory costs requires a
553 notice of change. In addition, ~~when~~ any change, other than a
554 technical change, to is made in a proposed rule text or any
555 material incorporated by reference requires, ~~other than a~~
556 ~~technical change,~~ the adopting agency to shall provide a copy of
557 a notice of change by certified mail or actual delivery to any
558 person who requests it in writing no later than 21 days after
559 the notice required in paragraph (a). The agency shall file the
560 notice of change with the committee, along with the reasons for
561 the change, and provide the notice of change to persons
562 requesting it, at least 21 days before ~~prior to~~ filing the
563 proposed rule for adoption. The notice of change must shall be
564 published in the Florida Administrative Register at least 21
565 days before ~~prior to~~ filing the proposed rule for adoption. The
566 notice of change must include a summary of any revision of the
567 statement of estimated regulatory costs required by s.
568 120.541(1)(c). This subparagraph does not apply to emergency
569 rules adopted pursuant to subsection (4). Material proposed to
570 be incorporated by reference in the notice required by this
571 subparagraph must be made available in the manner prescribed by
572 sub-subparagraph (1)(i)3.a. or sub-subparagraph (1)(i)3.b.

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

576 3. After the notice required by paragraph (a), the agency
577 must withdraw the proposed rule if the agency has failed to
578 adopt it within the prescribed timeframes in this chapter. If
579 the agency, 30 days after notice by the committee that the
580 agency has failed to adopt the proposed rule within the

29-00665B-23

2023742__

581 prescribed timeframes in this chapter, has not given notice of
582 the withdrawal of the rule, the committee must notify the
583 Department of State that the date for adoption of the rule has
584 expired, and the Department of State must publish a notice of
585 withdrawal of the proposed rule.

586 4. After adoption and before the rule becomes effective, a
587 rule may be modified or withdrawn only in the following
588 circumstances:

589 a. When the committee objects to the rule;

590 b. When a final order, which is not subject to further
591 appeal, is entered in a rule challenge brought pursuant to s.
592 120.56 after the date of adoption but before the rule becomes
593 effective pursuant to subparagraph (e)6.;

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

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

601 ~~5.4.~~ The agency shall give notice of its decision to
602 withdraw or modify a rule in the first available issue of the
603 publication in which the original notice of rulemaking was
604 published, shall notify those persons described in subparagraph
605 (a)3. in accordance with the requirements of that subparagraph,
606 and shall notify the Department of State if the rule is required
607 to be filed with the Department of State.

608 ~~6.5.~~ After a rule has become effective, it may be repealed
609 or amended only through the rulemaking procedures specified in

29-00665B-23

2023742__

610 this chapter.

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

612 1. If the adopting agency is required to publish its rules
613 in the Florida Administrative Code, the agency, upon approval of
614 the agency head, must ~~shall~~ file with the Department of State
615 three certified copies of the rule it proposes to adopt; one
616 copy of any material incorporated by reference in the rule,
617 certified by the agency; a summary of the rule; a summary of any
618 hearings held on the rule; and a detailed written statement of
619 the facts and circumstances justifying the rule. Agencies not
620 required to publish their rules in the Florida Administrative
621 Code shall file one certified copy of the proposed rule, and the
622 other material required by this subparagraph, in the office of
623 the agency head, and such rules must ~~shall~~ be open to the
624 public.

625 2. A rule may not be filed for adoption less than 28 days
626 or more than 90 days after the notice required by paragraph (a),
627 until 21 days after the notice of change required by paragraph
628 (d), until 14 days after the final public hearing, until 21 days
629 after a statement of estimated regulatory costs required under
630 s. 120.541 has been provided to all persons who submitted a
631 lower cost regulatory alternative and made available to the
632 public at a readily accessible page on the agency's website, or
633 until the administrative law judge has rendered a decision under
634 s. 120.56(2), whichever applies. When a required notice of
635 change is published before ~~prior to~~ the expiration of the time
636 to file the rule for adoption, the period during which a rule
637 must be filed for adoption is extended to 45 days after the date
638 of publication. If notice of a public hearing is published

29-00665B-23

2023742__

639 before ~~prior to~~ the expiration of the time to file the rule for
640 adoption, the period during which a rule must be filed for
641 adoption is extended to 45 days after adjournment of the final
642 hearing on the rule, 21 days after receipt of all material
643 authorized to be submitted at the hearing, or 21 days after
644 receipt of the transcript, if one is made, whichever is latest.
645 The term "public hearing" includes any public meeting held by
646 any agency at which the rule is considered. If a petition for an
647 administrative determination under s. 120.56(2) is filed, the
648 period during which a rule must be filed for adoption is
649 extended to 60 days after the administrative law judge files the
650 final order with the clerk or until 60 days after subsequent
651 judicial review is complete.

652 3. At the time a rule is filed, the agency shall certify
653 that the time limitations prescribed by this paragraph have been
654 complied with, that all statutory rulemaking requirements have
655 been met, and that there is no administrative determination
656 pending on the rule.

657 4. At the time a rule is filed, the committee shall certify
658 whether the agency has responded in writing to all material and
659 timely written comments or written inquiries made on behalf of
660 the committee. The Department of State shall reject any rule
661 that is not filed within the prescribed time limits; that does
662 not comply with all statutory rulemaking requirements and rules
663 of the Department of State; upon which an agency has not
664 responded in writing to all material and timely written
665 inquiries or written comments; upon which an administrative
666 determination is pending; or which does not include a statement
667 of estimated regulatory costs, if required.

29-00665B-23

2023742__

668 5. If a rule has not been adopted within the time limits
669 imposed by this paragraph or has not been adopted in compliance
670 with all statutory rulemaking requirements, the agency proposing
671 the rule must ~~shall~~ withdraw the proposed rule and give notice
672 of its action in the next available issue of the Florida
673 Administrative Register.

674 6. The proposed rule shall be adopted on being filed with
675 the Department of State and becomes ~~become~~ effective 20 days
676 after being filed, on a later date specified in the notice
677 required by subparagraph (a)1., on a date required by statute,
678 or upon ratification by the Legislature pursuant to s.
679 120.541(3). Rules not required to be filed with the Department
680 of State ~~shall~~ become effective when adopted by the agency head,
681 on a later date specified by rule or statute, or upon
682 ratification by the Legislature pursuant to s. 120.541(3). If
683 the committee notifies an agency that an objection to a rule is
684 being considered, the agency may postpone the adoption of the
685 rule to accommodate review of the rule by the committee. When an
686 agency postpones adoption of a rule to accommodate review by the
687 committee, the 90-day period for filing the rule is tolled until
688 the committee notifies the agency that it has completed its
689 review of the rule.

690
691 For the purposes of this paragraph, the term "administrative
692 determination" does not include subsequent judicial review.

693 (4) EMERGENCY RULES.—

694 (e) Emergency rules must be published in the Florida
695 Administrative Code.

696 (f) An agency may not supersede an emergency rule currently

29-00665B-23

2023742__

697 in effect. Technical changes to an emergency rule may be made
698 within the first 7 days after adoption of the rule.

699 (7) PETITION TO INITIATE RULEMAKING.—

700 (a) Any person regulated by an agency or having substantial
701 interest in an agency rule may petition an agency to adopt,
702 amend, or repeal a rule or to provide the minimum public
703 information required by this chapter. The petition must ~~shall~~
704 specify the proposed rule and action requested. The agency shall
705 file a copy of the petition with the committee. No ~~Not~~ later
706 than 30 calendar days after ~~following the date of~~ filing a
707 petition, the agency shall initiate rulemaking proceedings under
708 this chapter, otherwise comply with the requested action, or
709 deny the petition with a written statement of its reasons for
710 the denial.

711 Section 3. Section 120.541, Florida Statutes, is amended to
712 read:

713 120.541 Statement of estimated regulatory costs.—

714 (1) (a) Within 21 days after publication of the notice of a
715 proposed rule or notice of change ~~required under s.~~
716 ~~120.54(3)(a)~~, a substantially affected person may submit to an
717 agency a good faith written proposal for a lower cost regulatory
718 alternative to a proposed rule which substantially accomplishes
719 the objectives of the law being implemented. The agency shall
720 provide a copy of any proposal for a lower cost regulatory
721 alternative to the committee at least 21 days before filing the
722 rule for adoption. The proposal may include the alternative of
723 not adopting any rule if the proposal explains how the lower
724 costs and objectives of the law will be achieved by not adopting
725 any rule. If submitted after a notice of change, a proposal for

29-00665B-23

2023742__

726 a lower cost regulatory alternative is deemed to be made in good
727 faith only if the person reasonably believes, and the proposal
728 states the person's reasons for believing, that the proposed
729 rule as changed by the notice of change increases the regulatory
730 costs or creates an adverse impact on small businesses that was
731 not created by the previous proposed rule. If such a proposal is
732 submitted, the 90-day period for filing the rule is extended 21
733 days. Upon the submission of the lower cost regulatory
734 alternative, the agency shall ~~prepare a statement of estimated~~
735 ~~regulatory costs as provided in subsection (2), or shall~~ revise
736 its prior statement of estimated regulatory costs, and either
737 adopt the alternative proposal, reject the alternative proposal,
738 or modify the proposed rule to reduce the regulatory costs. If
739 the agency rejects the alternative proposal or modifies the
740 proposed rule, the agency shall ~~or~~ provide a statement of the
741 reasons for rejecting the alternative in favor of the proposed
742 rule.

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

749 ~~(b)(e)~~ The agency must shall revise a statement of
750 estimated regulatory costs if any change to the rule made under
751 s. 120.54(3)(d) increases the regulatory costs of the rule or if
752 the rule is modified in response to the submission of a lower
753 cost regulatory alternative. A summary of the revised statement
754 must be included with any subsequent notice published under s.

29-00665B-23

2023742__

755 120.54(3).

756 (c)~~(d)~~ At least 21 days before filing the proposed rule for
757 adoption, an agency that is required to revise a statement of
758 estimated regulatory costs shall provide the statement to the
759 person who submitted the lower cost regulatory alternative, to
760 the rules ombudsman in the Executive Office of the Governor, and
761 to the committee. The revised statement must be published and
762 made available in the same manner as the original statement of
763 estimated regulatory costs ~~and shall provide notice on the~~
764 ~~agency's website that it is available to the public.~~

765 (d)~~(e)~~ Notwithstanding s. 120.56(1)(c), the failure of the
766 agency to prepare and publish a statement of estimated
767 regulatory costs or to respond to a written lower cost
768 regulatory alternative as provided in this subsection is a
769 material failure to follow the applicable rulemaking procedures
770 or requirements set forth in this chapter.

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

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

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

780 (f)~~(g)~~ A rule that is challenged pursuant to s.
781 120.52(8)(f) may not be declared invalid unless:

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

29-00665B-23

2023742__

784 2. The challenge is to the agency's rejection of a lower
785 cost regulatory alternative offered under paragraph (a) or s.
786 120.54(3)(b)2.c. ~~s. 120.54(3)(b)2.b.~~; and

787 3. The substantial interests of the person challenging the
788 rule are materially affected by the rejection.

789 (2) A statement of estimated regulatory costs must ~~shall~~
790 include:

791 (a) An economic analysis showing whether the rule directly
792 or indirectly:

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

797 2. Is likely to have an adverse impact on business
798 competitiveness, including the ability of persons doing business
799 in the state to compete with persons doing business in other
800 states or domestic markets, productivity, or innovation in
801 excess of \$1 million in the aggregate within 5 years after the
802 implementation of the rule; or

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

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

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

29-00665B-23

2023742__

813 and enforcing the proposed rule, and any anticipated effect on
814 state or local revenues.

815 (d) A good faith estimate of the compliance ~~transactional~~
816 costs likely to be incurred by individuals and entities,
817 including local government entities, required to comply with the
818 requirements of the rule. ~~As used in this section,~~
819 ~~"transactional costs" are direct costs that are readily~~
820 ~~ascertainable based upon standard business practices, and~~
821 ~~include filing fees, the cost of obtaining a license, the cost~~
822 ~~of equipment required to be installed or used or procedures~~
823 ~~required to be employed in complying with the rule, additional~~
824 ~~operating costs incurred, the cost of monitoring and reporting,~~
825 ~~and any other costs necessary to comply with the rule.~~

826 (e) An analysis of the impact on small businesses as
827 defined by s. 288.703, and an analysis of the impact on small
828 counties and small cities as defined in s. 120.52. The impact
829 analysis for small businesses must include the basis for the
830 agency's decision not to implement alternatives that would
831 reduce adverse impacts on small businesses.

832 (f) Any additional information that the agency determines
833 may be useful.

834 (g) In the ~~statement or~~ revised statement, ~~whichever~~
835 ~~applies,~~ a description of any regulatory alternatives submitted
836 under paragraph (1) (a) and a statement adopting the alternative
837 or a statement of the reasons for rejecting the alternative in
838 favor of the proposed rule.

839 (3) If the adverse impact or regulatory costs of the rule
840 exceed any of the criteria established in paragraph (2) (a), the
841 rule must ~~shall~~ be submitted to the President of the Senate and

29-00665B-23

2023742__

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

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

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

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

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

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

853 (5) For purposes of subsections (2) and (3), adverse
854 impacts and regulatory costs likely to occur within 5 years
855 after implementation of the rule include adverse impacts and
856 regulatory costs estimated to occur within 5 years after the
857 effective date of the rule. However, if any provision of the
858 rule is not fully implemented upon the effective date of the
859 rule, the adverse impacts and regulatory costs associated with
860 such provision must be adjusted to include any additional
861 adverse impacts and regulatory costs estimated to occur within 5
862 years after implementation of such provision.

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

867 1. Increased customer charges for goods or services.

868 2. Decreased market value of goods or services produced,
869 provided, or sold.

870 3. Increased costs resulting from the purchase of

29-00665B-23

2023742__

871 substitute or alternative goods or services.

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

876 5. Capital costs.

877 6. Any other impacts suggested by the rules ombudsman in
878 the Executive Office of the Governor or by any interested
879 persons.

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

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

889 1. Filing fees.

890 2. Expenses to obtain a license.

891 3. Necessary equipment.

892 4. Installation, utilities, and maintenance of necessary
893 equipment.

894 5. Necessary operations and procedures.

895 6. Accounting, financial, information management, and other
896 administrative processes.

897 7. Other processes.

898 8. Labor based on relevant rates of wages, salaries, and
899 benefits.

29-00665B-23

2023742__

- 900 9. Materials and supplies.
- 901 10. Capital expenditures, including financing costs.
- 902 11. Professional and technical services, including
- 903 contracted services necessary to implement and maintain
- 904 compliance.
- 905 12. Monitoring and reporting.
- 906 13. Qualifying and recurring education, training, and
- 907 testing.
- 908 14. Travel.
- 909 15. Insurance and surety requirements.
- 910 16. A fair and reasonable allocation of administrative
- 911 costs and other overhead.
- 912 17. Reduced sales or other revenues.
- 913 18. Other items suggested by the rules ombudsman in the
- 914 Executive Office of the Governor or by any interested person,
- 915 business organization, or business representative.
- 916 (7) (a) The Department of State shall include on the Florida
- 917 Administrative Register website the agency website addresses
- 918 where statements of estimated regulatory costs can be viewed in
- 919 their entirety.
- 920 (b) An agency that prepares a statement of estimated
- 921 regulatory costs must provide, as part of the notice required
- 922 under s. 120.54(3) (a), the agency website address where the
- 923 statement of estimated regulatory costs can be read in its
- 924 entirety to the Department of State for publication in the
- 925 Florida Administrative Register.
- 926 (c) If an agency revises its statement of estimated
- 927 regulatory costs, the agency must provide notice that a revision
- 928 has been made. Such notice must include the agency website

29-00665B-23

2023742__

929 address where the revision can be viewed in its entirety.

930 Section 4. Section 120.5435, Florida Statutes, is created
931 to read:

932 120.5435 Repromulgation of rules.—

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

936 (2) If an agency determines after review that substantive
937 changes to update a rule are not required, such agency must
938 repromulgate the rule to reflect the date of the review. Each
939 agency shall review its rules pursuant to this section either 5
940 years after July 1, 2023, if the rule was adopted before January
941 1, 2010, or 10 years after the rule is adopted, if the rule was
942 adopted on or after January 1, 2010. Failure of an agency to
943 adhere to the deadlines imposed in this section shall be a basis
944 for any person regulated by the agency or having substantial
945 interest in the agency rule to petition the agency requesting a
946 review of the rule in accordance with this section. Upon receipt
947 of the petition, the agency shall have 30 days to either comply
948 with the requirements of this section or, if the agency
949 determines that the duties imposed on the agency are not
950 applicable to the specified rule at that time, deny the petition
951 with a statement explaining the basis for the denial.

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

954 (a) Publish a notice of repromulgation in the Florida
955 Administrative Register. A notice of repromulgation is not
956 required to include the text of the rule being repromulgated.

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

29-00665B-23

2023742__

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

961 (4) The agency must file a notice of repromulgation with
962 the committee at least 14 days before filing the rule for
963 repromulgation. At the time the rule is filed for
964 repromulgation, the committee shall certify whether the agency
965 has responded in writing to all material and timely written
966 comments or written inquiries made on behalf of the committee.

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

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

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

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

979 (c) The Department of State shall update the history note
980 of the rule in the Florida Administrative Code to reflect the
981 effective date of the repromulgated rule.

982 (8) Any rule that is not repromulgated in accordance with
983 this section must be submitted to the President of the Senate
984 and the Speaker of the House of Representatives within 7 days
985 after the decision to not repromulgate the rule. The decision to
986 not repromulgate may not become effective until adjournment sine

29-00665B-23

2023742__

987 die of the next regular session of the Legislature following
988 such decision.

989 (9) The Department of State shall adopt rules to implement
990 this section by December 31, 2023.

991 Section 5. Section 120.5436, Florida Statutes, is created
992 to read:

993 120.5436 Infrastructure and environmental permitting
994 review.-

995 (1) (a) It is the intent of the Legislature to build a more
996 resilient and responsive government infrastructure to allow for
997 quick recovery after natural disasters, including hurricanes and
998 tropical storms.

999 (b) It is further the intent of the Legislature to promote
1000 efficiency in state government across all branches, agencies,
1001 and other governmental entities and to identify any areas of
1002 improvement that would allow for the quick and effective
1003 delivery of services.

1004 (c) Further, it is intended that the state seek out ways to
1005 improve its administrative procedures in relevant fields to
1006 build a streamlined permitting process that withstands
1007 disruptions caused by natural disasters, including hurricanes
1008 and tropical storms.

1009 (2) (a) The Department of Environmental Protection and each
1010 water management district shall conduct a holistic review of the
1011 current coastal permitting processes and other permit programs.
1012 These permitting processes must include, but need not be limited
1013 to, the coastal construction control line permits, joint coastal
1014 permits, environmental resource permits, and, consistent with
1015 the terms of the Environmental Protection Agency's approval,

29-00665B-23

2023742__

1016 state administered section 404 permits.

1017 (b) The scope and purpose of the review must be to identify
1018 areas of improvement and to increase efficiency within each
1019 process. The review must consider the following factors:

- 1020 1. The requirements to obtain a permit;
- 1021 2. Time periods for review, including review by commenting
1022 agencies, and the approval process of the permit application;
- 1023 3. Areas for improved efficiency and decision-point
1024 consolidation within a single project's process;
- 1025 4. Areas of duplication across one or more permit programs;
- 1026 5. The methods of requesting permits; and
- 1027 6. Any other factors that can increase the efficiency of
1028 the permit processes to allow for improved storm recovery.

1029 (c) By December 31, 2023, the department and each water
1030 management district shall provide their findings and proposed
1031 solutions in a report to the Governor, the President of the
1032 Senate, and the Speaker of the House of Representatives.

1033 Section 6. Subsection (1) of section 120.545, Florida
1034 Statutes, is amended to read:

1035 120.545 Committee review of agency rules.—

1036 (1) As a legislative check on legislatively created
1037 authority, the committee shall examine each existing rule and
1038 proposed rule, except for those proposed rules exempted by s.
1039 120.81(1)(e) and (2), and its accompanying material, and each
1040 emergency rule, ~~and may examine any existing rule,~~ for the
1041 purpose of determining whether:

1042 (a) The rule is an invalid exercise of delegated
1043 legislative authority.

1044 (b) The statutory authority for the rule has been repealed.

29-00665B-23

2023742__

1045 (c) The rule reiterates or paraphrases statutory material.

1046 (d) The rule is in proper form.

1047 (e) The notice given before ~~prior to~~ its adoption was
1048 sufficient to give adequate notice of the purpose and effect of
1049 the rule.

1050 (f) The rule is consistent with expressed legislative
1051 intent pertaining to the specific provisions of law which the
1052 rule implements.

1053 (g) The rule is necessary to accomplish the apparent or
1054 expressed objectives of the specific provision of law which the
1055 rule implements.

1056 (h) The rule is a reasonable implementation of the law as
1057 it affects the convenience of the general public or persons
1058 particularly affected by the rule.

1059 (i) The rule could be made less complex or more easily
1060 comprehensible to the general public.

1061 (j) The rule's statement of estimated regulatory costs
1062 complies with the requirements of s. 120.541 and whether the
1063 rule does not impose regulatory costs on the regulated person,
1064 county, or city which could be reduced by the adoption of less
1065 costly alternatives that substantially accomplish the statutory
1066 objectives.

1067 (k) The rule will require additional appropriations.

1068 (l) If the rule is an emergency rule, there exists an
1069 emergency justifying the adoption of such rule, the agency is
1070 within its statutory authority, and the rule was adopted in
1071 compliance with the requirements and limitations of s.
1072 120.54(4).

1073 Section 7. Paragraphs (a) and (c) of subsection (1) of

29-00665B-23

2023742__

1074 section 120.55, Florida Statutes, are amended to read:

1075 120.55 Publication.—

1076 (1) The Department of State shall:

1077 (a)1. Through a continuous revision and publication system,
1078 compile and publish electronically, on a website managed by the
1079 department, the "Florida Administrative Code." The Florida
1080 Administrative Code must ~~shall~~ contain all rules adopted by each
1081 agency, citing the grant of rulemaking authority and the
1082 specific law implemented pursuant to which each rule was
1083 adopted, all history notes as authorized in s. 120.545(7),
1084 complete indexes to all rules contained in the code, and any
1085 other material required or authorized by law or deemed useful by
1086 the department. The electronic code must ~~shall~~ display each rule
1087 chapter currently in effect in browse mode and allow full text
1088 search of the code and each rule chapter. The department may
1089 contract with a publishing firm for a printed publication;
1090 however, the department shall retain responsibility for the code
1091 as provided in this section. The electronic publication is ~~shall~~
1092 ~~be~~ the official compilation of the administrative rules of this
1093 state. The Florida Administrative Code must be published daily
1094 by 8 a.m. If a rule, after publication, is corrected and
1095 replaced, the Florida Administrative Code must indicate:

1096 a. That the Florida Administrative Code has been
1097 republished; and

1098 b. That the rule that has been corrected by the Department
1099 of State.

1100
1101 The Department of State retains ~~shall retain~~ the copyright over
1102 the Florida Administrative Code.

29-00665B-23

2023742__

1103 2. Not publish rules in the Florida Administrative Code
1104 which are general in form but applicable to only one school
1105 district, community college district, or county, or a part
1106 thereof, or state university rules relating to internal
1107 personnel or business and finance ~~shall not be published in the~~
1108 ~~Florida Administrative Code~~. Exclusion from publication in the
1109 Florida Administrative Code does ~~shall~~ not affect the validity
1110 or effectiveness of such rules.

1111 3. At the beginning of the section of the code dealing with
1112 an agency that files copies of its rules with the department,
1113 ~~the department shall~~ publish the address and telephone number of
1114 the executive offices of each agency, the manner by which the
1115 agency indexes its rules, a listing of all rules of that agency
1116 excluded from publication in the code, and a statement as to
1117 where those rules may be inspected.

1118 4. Not publish forms ~~shall not be published~~ in the Florida
1119 Administrative Code; but any form which an agency uses in its
1120 dealings with the public, along with any accompanying
1121 instructions, shall be filed with the committee before it is
1122 used. Any form or instruction which meets the definition of
1123 "rule" provided in s. 120.52 must ~~shall~~ be incorporated by
1124 reference into the appropriate rule. The reference must ~~shall~~
1125 specifically state that the form is being incorporated by
1126 reference and must ~~shall~~ include the number, title, and
1127 effective date of the form and an explanation of how the form
1128 may be obtained. Each form created by an agency which is
1129 incorporated by reference in a rule notice of which is given
1130 under s. 120.54(3)(a) after December 31, 2007, must clearly
1131 display the number, title, and effective date of the form and

29-00665B-23

2023742__

1132 the number of the rule in which the form is incorporated.

1133 5. Require all materials incorporated by reference in any
1134 part of an adopted rule and in any part of a repromulgated rule

1135 ~~The department shall allow adopted rules and material~~
1136 ~~incorporated by reference to be filed in the manner prescribed~~
1137 ~~by s. 120.54(1)(i)3.a. or b. electronic form as prescribed by~~
1138 ~~department rule.~~ When a rule is filed for adoption or
1139 repromulgation with incorporated material in electronic form,
1140 the department's publication of the Florida Administrative Code
1141 on its website must contain a hyperlink from the incorporating
1142 reference in the rule directly to that material. The department
1143 may not allow hyperlinks from rules in the Florida
1144 Administrative Code to any material other than that filed with
1145 and maintained by the department, but may allow hyperlinks to
1146 incorporated material maintained by the department from the
1147 adopting agency's website or other sites.

1148 6. Include the date of any technical changes to a rule in
1149 the history note of the rule in the Florida Administrative Code.
1150 A technical change does not affect the effective date of the
1151 rule.

1152 (c) Prescribe by rule the style and form required for
1153 rules, notices, and other materials submitted for filing,
1154 including a rule requiring documents created by an agency that
1155 are proposed to be incorporated by reference in notices
1156 published pursuant to s. 120.54(3)(a) and (d) to be coded in the
1157 same manner as notices published pursuant to s. 120.54(3)(a)1.

1158 Section 8. Paragraph (a) of subsection (2) of section
1159 120.56, Florida Statutes, is amended to read:

1160 120.56 Challenges to rules.-

29-00665B-23

2023742__

1161 (2) CHALLENGING PROPOSED RULES; SPECIAL PROVISIONS.—

1162 (a) A petition alleging the invalidity of a proposed rule
1163 shall be filed within 21 days after the date of publication of
1164 the notice required by s. 120.54(3)(a); within 10 days after the
1165 final public hearing is held on the proposed rule as provided by
1166 s. 120.54(3)(e)2.; within 20 days after the statement of
1167 estimated regulatory costs or revised statement of estimated
1168 regulatory costs, if applicable, has been prepared and made
1169 available as provided in s. 120.541(1)(c) ~~s. 120.541(1)(d)~~; or
1170 within 20 days after the date of publication of the notice
1171 required by s. 120.54(3)(d). The petitioner has the burden to
1172 prove by a preponderance of the evidence that the petitioner
1173 would be substantially affected by the proposed rule. The agency
1174 then has the burden to prove by a preponderance of the evidence
1175 that the proposed rule is not an invalid exercise of delegated
1176 legislative authority as to the objections raised. A person who
1177 is not substantially affected by the proposed rule as initially
1178 noticed, but who is substantially affected by the rule as a
1179 result of a change, may challenge any provision of the resulting
1180 proposed rule.

1181 Section 9. Subsection (1) and paragraph (a) of subsection
1182 (2) of section 120.74, Florida Statutes, are amended to read:

1183 120.74 Agency annual rulemaking and regulatory plans;
1184 reports.—

1185 (1) REGULATORY PLAN.—By October 1 of each year, each agency
1186 shall prepare a regulatory plan.

1187 (a) The plan must include a listing of each law enacted or
1188 amended during the previous 12 months which creates or modifies
1189 the duties or authority of the agency. If the Governor or the

29-00665B-23

2023742__

1190 Attorney General provides a letter to the committee stating that
1191 a law affects all or most agencies, the agency may exclude the
1192 law from its plan. For each law listed by an agency under this
1193 paragraph, the plan must state:

1194 1. Whether the agency must adopt rules to implement the
1195 law.

1196 2. If rulemaking is necessary to implement the law:

1197 a. Whether a notice of rule development has been published
1198 and, if so, the citation to such notice in the Florida
1199 Administrative Register.

1200 b. The date by which the agency expects to publish the
1201 notice of proposed rule under s. 120.54(3)(a).

1202 3. If rulemaking is not necessary to implement the law, a
1203 concise written explanation of the reasons why the law may be
1204 implemented without rulemaking.

1205 (b) The plan must also identify and describe each rule,
1206 including each rule number or proposed rule number, that include
1207 a listing of each law not otherwise listed pursuant to paragraph
1208 (a) which the agency expects to develop, adopt, or repeal for
1209 the 12-month period beginning on October 1 and ending on
1210 September 30 implement by rulemaking before the following July
1211 1, excluding emergency rules except emergency rulemaking. For
1212 each rule law listed under this paragraph, the plan must state
1213 whether the rulemaking is intended to simplify, clarify,
1214 increase efficiency, improve coordination with other agencies,
1215 reduce regulatory costs, or delete obsolete, unnecessary, or
1216 redundant rules.

1217 (c) The plan must include any desired update to the prior
1218 year's regulatory plan or supplement published pursuant to

29-00665B-23

2023742__

1219 subsection (7). If, in a prior year, a law was identified under
1220 this paragraph or under subparagraph (a)1. as a law requiring
1221 rulemaking to implement but a notice of proposed rule has not
1222 been published:

1223 1. The agency must ~~shall~~ identify and again list such law,
1224 noting the applicable notice of rule development by citation to
1225 the Florida Administrative Register; or

1226 2. If the agency has subsequently determined that
1227 rulemaking is not necessary to implement the law, the agency
1228 must ~~shall~~ identify such law, reference the citation to the
1229 applicable notice of rule development in the Florida
1230 Administrative Register, and provide a concise written
1231 explanation of the reason why the law may be implemented without
1232 rulemaking.

1233 (d) The plan must identify any rules that are required to
1234 be repromulgated pursuant to s. 120.5435 for the 12-month period
1235 beginning on October 1 and ending on September 30.

1236 (e) The plan must include a certification executed on
1237 behalf of the agency by both the agency head, or, if the agency
1238 head is a collegial body, the presiding officer; and the
1239 individual acting as principal legal advisor to the agency head.
1240 The certification must declare:

1241 1. ~~Verify~~ That the persons executing the certification have
1242 reviewed the plan.

1243 2. ~~Verify~~ That the agency regularly reviews all of its
1244 rules and identify the period during which all rules have most
1245 recently been reviewed to determine if the rules remain
1246 consistent with the agency's rulemaking authority and the laws
1247 implemented.

29-00665B-23

2023742__

1248 3. That the agency understands that regulatory
1249 accountability is necessary to ensure public confidence in the
1250 integrity of state government and, to that end, the agency is
1251 diligently working toward lowering the total number of rules
1252 adopted.

1253 4. The total number of rules adopted and repealed during
1254 the previous 12 months.

1255 (2) PUBLICATION AND DELIVERY TO THE COMMITTEE.—

1256 (a) By October 1 of each year, each agency shall:

1257 1. Publish its regulatory plan on its website or on another
1258 state website established for publication of administrative law
1259 records. A clearly labeled hyperlink to the current plan must be
1260 included on the agency's primary website homepage.

1261 2. Electronically deliver to the committee a copy of the
1262 certification required in paragraph (1)(e) ~~(1)(d)~~.

1263 3. Publish in the Florida Administrative Register a notice
1264 identifying the date of publication of the agency's regulatory
1265 plan. The notice must include a hyperlink or website address
1266 providing direct access to the published plan.

1267 Section 10. Subsection (11) of section 120.80, Florida
1268 Statutes, is amended to read:

1269 120.80 Exceptions and special requirements; agencies.—

1270 (11) NATIONAL GUARD.—Notwithstanding s. 120.52(17) ~~s.~~
1271 ~~120.52(16)~~, the enlistment, organization, administration,
1272 equipment, maintenance, training, and discipline of the militia,
1273 National Guard, organized militia, and unorganized militia, as
1274 provided by s. 2, Art. X of the State Constitution, are not
1275 rules as defined by this chapter.

1276 Section 11. Paragraph (c) of subsection (1) of section

29-00665B-23

2023742__

1277 120.81, Florida Statutes, is amended to read:

1278 120.81 Exceptions and special requirements; general areas.—

1279 (1) EDUCATIONAL UNITS.—

1280 (c) Notwithstanding s. 120.52(17) ~~s. 120.52(16)~~, any tests,
1281 test scoring criteria, or testing procedures relating to student
1282 assessment which are developed or administered by the Department
1283 of Education pursuant to s. 1003.4282, s. 1008.22, or s.
1284 1008.25, or any other statewide educational tests required by
1285 law, are not rules.

1286 Section 12. Paragraph (a) of subsection (1) of section
1287 420.9072, Florida Statutes, is amended to read:

1288 420.9072 State Housing Initiatives Partnership Program.—The
1289 State Housing Initiatives Partnership Program is created for the
1290 purpose of providing funds to counties and eligible
1291 municipalities as an incentive for the creation of local housing
1292 partnerships, to expand production of and preserve affordable
1293 housing, to further the housing element of the local government
1294 comprehensive plan specific to affordable housing, and to
1295 increase housing-related employment.

1296 (1) (a) In addition to the legislative findings set forth in
1297 s. 420.6015, the Legislature finds that affordable housing is
1298 most effectively provided by combining available public and
1299 private resources to conserve and improve existing housing and
1300 provide new housing for very-low-income households, low-income
1301 households, and moderate-income households. The Legislature
1302 intends to encourage partnerships in order to secure the
1303 benefits of cooperation by the public and private sectors and to
1304 reduce the cost of housing for the target group by effectively
1305 combining all available resources and cost-saving measures. The

29-00665B-23

2023742__

1306 Legislature further intends that local governments achieve this
1307 combination of resources by encouraging active partnerships
1308 between government, lenders, builders and developers, real
1309 estate professionals, advocates for low-income persons, and
1310 community groups to produce affordable housing and provide
1311 related services. Extending the partnership concept to encompass
1312 cooperative efforts among small counties as defined in s.
1313 120.52(20) ~~s. 120.52(19)~~, and among counties and municipalities
1314 is specifically encouraged. Local governments are also intended
1315 to establish an affordable housing advisory committee to
1316 recommend monetary and nonmonetary incentives for affordable
1317 housing as provided in s. 420.9076.

1318 Section 13. Subsection (7) of section 420.9075, Florida
1319 Statutes, is amended to read:

1320 420.9075 Local housing assistance plans; partnerships.—

1321 (7) The moneys deposited in the local housing assistance
1322 trust fund shall be used to administer and implement the local
1323 housing assistance plan. The cost of administering the plan may
1324 not exceed 5 percent of the local housing distribution moneys
1325 and program income deposited into the trust fund. A county or an
1326 eligible municipality may not exceed the 5-percent limitation on
1327 administrative costs, unless its governing body finds, by
1328 resolution, that 5 percent of the local housing distribution
1329 plus 5 percent of program income is insufficient to adequately
1330 pay the necessary costs of administering the local housing
1331 assistance plan. The cost of administering the program may not
1332 exceed 10 percent of the local housing distribution plus 5
1333 percent of program income deposited into the trust fund, except
1334 that small counties, as defined in s. 120.52(20) ~~s. 120.52(19)~~,

29-00665B-23

2023742__

1335 and eligible municipalities receiving a local housing
1336 distribution of up to \$350,000 may use up to 10 percent of
1337 program income for administrative costs.

1338 Section 14. Paragraph (d) of subsection (1) of section
1339 443.091, Florida Statutes, is amended to read:

1340 443.091 Benefit eligibility conditions.—

1341 (1) An unemployed individual is eligible to receive
1342 benefits for any week only if the Department of Economic
1343 Opportunity finds that:

1344 (d) She or he is able to work and is available for work. In
1345 order to assess eligibility for a claimed week of unemployment,
1346 the department shall develop criteria to determine a claimant's
1347 ability to work and availability for work. A claimant must be
1348 actively seeking work in order to be considered available for
1349 work. This means engaging in systematic and sustained efforts to
1350 find work, including contacting at least five prospective
1351 employers for each week of unemployment claimed. The department
1352 may require the claimant to provide proof of such efforts to the
1353 one-stop career center as part of reemployment services. A
1354 claimant's proof of work search efforts may not include the same
1355 prospective employer at the same location in 3 consecutive
1356 weeks, unless the employer has indicated since the time of the
1357 initial contact that the employer is hiring. The department
1358 shall conduct random reviews of work search information provided
1359 by claimants. As an alternative to contacting at least five
1360 prospective employers for any week of unemployment claimed, a
1361 claimant may, for that same week, report in person to a one-stop
1362 career center to meet with a representative of the center and
1363 access reemployment services of the center. The center shall

29-00665B-23

2023742__

1364 keep a record of the services or information provided to the
1365 claimant and shall provide the records to the department upon
1366 request by the department. However:

1367 1. Notwithstanding any other provision of this paragraph or
1368 paragraphs (b) and (e), an otherwise eligible individual may not
1369 be denied benefits for any week because she or he is in training
1370 with the approval of the department, or by reason of s.

1371 443.101(2) relating to failure to apply for, or refusal to
1372 accept, suitable work. Training may be approved by the
1373 department in accordance with criteria prescribed by rule. A
1374 claimant's eligibility during approved training is contingent
1375 upon satisfying eligibility conditions prescribed by rule.

1376 2. Notwithstanding any other provision of this chapter, an
1377 otherwise eligible individual who is in training approved under
1378 s. 236(a)(1) of the Trade Act of 1974, as amended, may not be
1379 determined ineligible or disqualified for benefits due to
1380 enrollment in such training or because of leaving work that is
1381 not suitable employment to enter such training. As used in this
1382 subparagraph, the term "suitable employment" means work of a
1383 substantially equal or higher skill level than the worker's past
1384 adversely affected employment, as defined for purposes of the
1385 Trade Act of 1974, as amended, the wages for which are at least
1386 80 percent of the worker's average weekly wage as determined for
1387 purposes of the Trade Act of 1974, as amended.

1388 3. Notwithstanding any other provision of this section, an
1389 otherwise eligible individual may not be denied benefits for any
1390 week because she or he is before any state or federal court
1391 pursuant to a lawfully issued summons to appear for jury duty.

1392 4. Union members who customarily obtain employment through

29-00665B-23

2023742__

1393 a union hiring hall may satisfy the work search requirements of
1394 this paragraph by reporting daily to their union hall.

1395 5. The work search requirements of this paragraph do not
1396 apply to persons who are unemployed as a result of a temporary
1397 layoff or who are claiming benefits under an approved short-time
1398 compensation plan as provided in s. 443.1116.

1399 6. In small counties as defined in s. 120.52(20) ~~s.~~
1400 ~~120.52(19)~~, a claimant engaging in systematic and sustained
1401 efforts to find work must contact at least three prospective
1402 employers for each week of unemployment claimed.

1403 7. The work search requirements of this paragraph do not
1404 apply to persons required to participate in reemployment
1405 services under paragraph (e).

1406 Section 15. This act shall take effect July 1, 2023.