

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

51 revision and publication of a revised statement of
52 estimated regulatory costs in response to such lower
53 cost regulatory alternatives; conforming a cross-
54 reference; revising the statement of estimated
55 regulatory costs; deleting the definition of the term
56 "transactional costs"; revising the applicability of
57 specified provisions; providing additional
58 requirements for the calculation of estimated
59 regulatory costs; creating s. 120.5435, F.S.;
60 providing legislative intent; requiring agency review
61 of rules and repromulgation of rules that do not
62 require substantive changes within a specified
63 timeframe; requiring an agency to publish a notice of
64 repromulgation in the Florida Administrative Register
65 and file a rule for promulgation with the Department
66 of State within a specified timeframe; requiring an
67 agency to file a notice of repromulgation with the
68 committee within a specified timeframe; requiring
69 withdrawal of a rule proposed for repromulgation if
70 the rule is not filed within a specified timeframe;
71 providing that a repromulgated rule is not subject to
72 challenge as a proposed rule and that certain hearing
73 requirements do not apply; requiring an agency to file
74 a specified number of certified copies of a proposed
75 repromulgated rule and any material incorporated by

76 | reference; providing that a repromulgated rule is
77 | adopted upon filing with the department and becomes
78 | effective after a specified time; requiring the
79 | department to update certain information in the
80 | Florida Administrative Code; requiring the department
81 | to adopt rules by a certain date; amending s. 120.545,
82 | F.S.; requiring the committee to examine existing
83 | rules; amending s. 120.55, F.S.; requiring the Florida
84 | Administrative Code to be published once daily;
85 | requiring materials incorporated by reference to be
86 | filed in a specified manner; requiring the department
87 | to include the date of a technical rule change in the
88 | Florida Administrative Code; providing that a
89 | technical change does not affect the effective date of
90 | a rule; requiring specified rules; amending s. 120.74,
91 | F.S.; requiring an agency to list each rule it plans
92 | to develop, adopt, or repeal during the forthcoming
93 | year in the agency's annual regulatory plan; requiring
94 | that an agency's annual regulatory plan identify any
95 | rules that are required to be repromulgated during the
96 | forthcoming year; requiring the agency to make certain
97 | declarations concerning the annual regulatory plan;
98 | amending ss. 120.80, 120.81, 420.9072, 420.9075,
99 | 443.091, F.S.; conforming cross-references; providing
100 | an effective date.

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

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

120.52 Definitions.—As used in this act:

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

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

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

120.54 Rulemaking.—

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

(i)1. A rule may incorporate material by reference but only as the material exists on the date the rule is adopted. For

126 | purposes of the rule, changes in the material are not effective
 127 | unless the rule is amended to incorporate the changes.

128 | 2. An agency rule that incorporates by specific reference
 129 | another rule of that agency automatically incorporates
 130 | subsequent amendments to the referenced rule unless a contrary
 131 | intent is clearly indicated in the referencing rule. A notice of
 132 | amendments to a rule that has been incorporated by specific
 133 | reference in other rules of that agency must explain the effect
 134 | of those amendments on the referencing rules.

135 | 3. In rules adopted after December 31, 2010, and rules
 136 | repromulgated on or after July 1, 2020, material may not be
 137 | incorporated by reference unless:

138 | a. The material has been submitted in the prescribed
 139 | electronic format to the Department of State and the full text
 140 | of the material can be made available for free public access
 141 | through an electronic hyperlink from the rule making the
 142 | reference in the Florida Administrative Code; or

143 | b. The agency has determined that posting the material on
 144 | the Internet for purposes of public examination and inspection
 145 | would constitute a violation of federal copyright law, in which
 146 | case a statement to that effect, along with the address of
 147 | locations at the Department of State and the agency at which the
 148 | material is available for public inspection and examination,
 149 | must be included in the notice required by subparagraph (3)(a)1.

150 | 4. A rule may not be amended by reference only. Amendments

151 must set out the amended rule in full in the same manner as
152 required by the State Constitution for laws.

153 5. Notwithstanding any contrary provision in this section,
154 when an adopted rule of the Department of Environmental
155 Protection or a water management district is incorporated by
156 reference in the other agency's rule to implement a provision of
157 part IV of chapter 373, subsequent amendments to the rule are
158 not effective as to the incorporating rule unless the agency
159 incorporating by reference notifies the committee and the
160 Department of State of its intent to adopt the subsequent
161 amendment, publishes notice of such intent in the Florida
162 Administrative Register, and files with the Department of State
163 a copy of the amended rule incorporated by reference. Changes in
164 the rule incorporated by reference are effective as to the other
165 agency 20 days after the date of the published notice and filing
166 with the Department of State. The Department of State shall
167 amend the history note of the incorporating rule to show the
168 effective date of such change. Any substantially affected person
169 may, within 14 days after the date of publication of the notice
170 of intent in the Florida Administrative Register, file an
171 objection to rulemaking with the agency. The objection shall
172 specify the portions of the rule incorporated by reference to
173 which the person objects and the reasons for the objection. The
174 agency shall not have the authority under this subparagraph to
175 adopt those portions of the rule specified in such objection.

176 The agency shall publish notice of the objection and of its
 177 action in response in the next available issue of the Florida
 178 Administrative Register.

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

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

182 (a)1. Except when the intended action is the repeal of a
 183 rule, agencies shall provide notice of the development of
 184 proposed rules by publication of a notice of rule development in
 185 the Florida Administrative Register before providing notice of a
 186 proposed rule as required by paragraph (3) (a). The notice of
 187 rule development must ~~shall~~ indicate the subject area to be
 188 addressed by rule development, provide a short, plain
 189 explanation of the purpose and effect of the proposed rule, cite
 190 the grant of rulemaking authority for the proposed rule and the
 191 law being implemented ~~specific legal authority for the proposed~~
 192 ~~rule~~, and include the proposed rule number and the preliminary
 193 text of the proposed rules, if available, or a statement of how
 194 a person may promptly obtain, without cost, a copy of any
 195 preliminary draft, when ~~if~~ available.

196 2. If a notice of a proposed rule is not filed within 12
 197 months after the notice of rule development, the agency shall
 198 withdraw the rule and give notice of the withdrawal in the next
 199 available issue of the Florida Administrative Register.

200 (b) All rules should be drafted in readable language. The

201 language is readable if:

202 1. It avoids the use of obscure words and unnecessarily

203 long or complicated constructions; and

204 2. It avoids the use of unnecessary technical or

205 specialized language that is understood only by members of

206 particular trades or professions.

207 (c) An agency may hold public workshops for purposes of

208 rule development. If requested in writing by any affected

209 person, an agency must hold public workshops, including

210 workshops in various regions of the state or the agency's

211 service area, for purposes of rule development ~~if requested in~~

212 ~~writing by any affected person,~~ unless the agency head explains

213 in writing why a workshop is unnecessary. The explanation is not

214 final agency action subject to review pursuant to ss. 120.569

215 and 120.57. The failure to provide the explanation when required

216 may be a material error in procedure pursuant to s.

217 120.56(1)(c). When a workshop or public hearing is held, the

218 agency must ensure that the persons responsible for preparing

219 the proposed rule are available to receive public input, to

220 explain the agency's proposal, and to respond to questions or

221 comments regarding the rule being developed. The workshop may be

222 facilitated or mediated by a neutral third person, or the agency

223 may employ other types of dispute resolution alternatives for

224 the workshop that are appropriate for rule development. Notice

225 of a workshop for rule development must ~~workshop shall~~ be by

226 publication in the Florida Administrative Register not less than
227 14 days before ~~prior to~~ the date on which the workshop is
228 scheduled to be held and must ~~shall~~ indicate the subject area
229 that ~~which~~ will be addressed; the agency contact person; and the
230 place, date, and time of the workshop.

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

243 2. An agency that chooses to use the negotiated rulemaking
244 process described in this paragraph shall publish in the Florida
245 Administrative Register a notice of negotiated rulemaking that
246 includes a listing of the representative groups that will be
247 invited to participate in the negotiated rulemaking process. Any
248 person who believes that his or her interest is not adequately
249 represented may apply to participate within 30 days after
250 publication of the notice. All meetings of the negotiating

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

254 3. The agency's decision to use negotiated rulemaking, its
255 selection of the representative groups, and approval or denial
256 of an application to participate in the negotiated rulemaking
257 process are not agency action. ~~Nothing in~~ This subparagraph is
258 not intended to affect the rights of a substantially an affected
259 person to challenge a proposed rule developed under this
260 paragraph in accordance with s. 120.56(2).

261 (3) ADOPTION PROCEDURES.—

262 (a) Notices.—

263 1. Before ~~Prior to~~ the adoption, amendment, or repeal of
264 any rule other than an emergency rule, an agency, upon approval
265 of the agency head, shall give notice of its intended action,
266 setting forth a short, plain explanation of the purpose and
267 effect of the proposed action; the rule number and full text of
268 the proposed rule or amendment and a summary thereof; a
269 reference to the grant of rulemaking authority pursuant to which
270 the rule is adopted; and a reference to the section or
271 subsection of the Florida Statutes or the Laws of Florida being
272 implemented or interpreted. The notice must include a concise
273 summary of the agency's statement of the estimated regulatory
274 costs, if one has been prepared, based on the factors set forth
275 in s. 120.541(2), which describes the regulatory impact of the

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

294 2. The notice shall be published in the Florida
 295 Administrative Register at least 7 days after the publication of
 296 the notice of rule development and at least ~~not less than~~ 28
 297 days before ~~prior to~~ the intended action. The proposed rule,
 298 including all materials proposed to be incorporated by reference
 299 and the statement of estimated regulatory costs, if one has been
 300 prepared, must ~~shall~~ be available for inspection and copying by

301 the public at the time of the publication of notice. Material
302 proposed to be incorporated by reference in the notice must be
303 made available in the manner prescribed by sub-subparagraph
304 (1)(i)3.a. or sub-subparagraph (1)(i)3.b.

305 3. The notice shall be mailed to all persons named in the
306 proposed rule and mailed or delivered electronically to all
307 persons who, at least 14 days before publication of the notice
308 ~~prior to such mailing~~, have made requests of the agency for
309 advance notice of its proceedings. The agency shall also give
310 such notice as is prescribed by rule to those particular classes
311 of persons to whom the intended action is directed.

312 4. The adopting agency shall file with the committee, at
313 least 21 days before ~~prior to~~ the proposed adoption date, a copy
314 of each rule it proposes to adopt; a copy of any material
315 incorporated by reference in the rule; a detailed written
316 statement of the facts and circumstances justifying the proposed
317 rule; a copy of any statement of estimated regulatory costs that
318 has been prepared pursuant to s. 120.541; a statement of the
319 extent to which the proposed rule relates to federal standards
320 or rules on the same subject; and the notice required by
321 subparagraph 1.

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

323 1. Statement of estimated regulatory costs.—Before the
324 adoption , amendment, or repeal of any rule other than an
325 emergency rule, an agency is encouraged to prepare a statement

326 of estimated regulatory costs of the proposed rule, as provided
 327 by s. 120.541. However, an agency must prepare a statement of
 328 estimated regulatory costs of the proposed rule, as provided by
 329 s. 120.541, if:

330 a. The proposed rule will have an adverse impact on small
 331 business; or

332 b. The proposed rule is likely to directly or indirectly
 333 increase regulatory costs in excess of \$200,000 in the aggregate
 334 in this state within 1 year after the implementation of the
 335 rule.

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

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

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

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

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

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

350 (V) Operating costs are expected to increase by at least

351 \$1,000 annually because of the rule; or

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

354 b. Each agency, before the adoption, amendment, or repeal
355 of a rule, shall consider the impact of the rule on small
356 businesses as defined in ~~by~~ s. 288.703 and the impact of the
357 rule on small counties or small cities as defined in ~~by~~ s.
358 120.52. Whenever practicable, an agency shall tier its rules to
359 reduce disproportionate impacts on small businesses, small
360 counties, or small cities to avoid regulating small businesses,
361 small counties, or small cities that do not contribute
362 significantly to the problem the rule is designed to address. An
363 agency may define "small business" to include businesses
364 employing more than 200 persons, may define "small county" to
365 include those with populations of more than 75,000, and may
366 define "small city" to include those with populations of more
367 than 10,000, if it finds that such a definition is necessary to
368 adapt a rule to the needs and problems of small businesses,
369 small counties, or small cities. The agency shall consider each
370 of the following methods for reducing the impact of the proposed
371 rule on small businesses, small counties, and small cities, or
372 any combination of these entities:

373 (I) Establishing less stringent compliance or reporting
374 requirements in the rule.

375 (II) Establishing less stringent schedules or deadlines in

376 | the rule for compliance or reporting requirements.

377 | (III) Consolidating or simplifying the rule's compliance
378 | or reporting requirements.

379 | (IV) Establishing performance standards or best management
380 | practices to replace design or operational standards in the
381 | rule.

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

384 | ~~c.b.~~(I) If the agency determines that the proposed action
385 | will affect small businesses as defined by the agency as
386 | provided in sub-subparagraph b. a., the agency shall send
387 | written notice of the rule to the rules ombudsman in the
388 | Executive Office of the Governor at least 28 days before the
389 | intended action.

390 | (II) Each agency shall adopt those regulatory alternatives
391 | offered by the rules ombudsman in the Executive Office of the
392 | Governor and provided to the agency no later than 21 days after
393 | the rules ombudsman's receipt of the written notice of the rule
394 | which it finds are feasible and consistent with the stated
395 | objectives of the proposed rule and which would reduce the
396 | impact on small businesses. When regulatory alternatives are
397 | offered by the rules ombudsman in the Executive Office of the
398 | Governor, the 90-day period for filing the rule in subparagraph
399 | (e)2. is extended for a period of 21 days. The agency shall
400 | provide notice to the committee of any regulatory alternative

401 offered to the agency pursuant to this sub-subparagraph at least
402 21 days before filing the rule for adoption.

403 (III) If an agency does not adopt all alternatives offered
404 pursuant to this sub-subparagraph, it shall, before rule
405 adoption or amendment and pursuant to subparagraph (d)1., file a
406 detailed written statement with the committee explaining the
407 reasons for failure to adopt such alternatives. Within 3 working
408 days after the filing of such notice, the agency shall send a
409 copy of such notice to the rules ombudsman in the Executive
410 Office of the Governor.

411 (c) Hearings.—

412 1. If the intended action concerns any rule other than one
413 relating exclusively to procedure or practice, the agency shall,
414 on the request of any affected person received within 21 days
415 after the date of publication of the notice of intended agency
416 action, give affected persons an opportunity to present evidence
417 and argument on all issues under consideration. The agency may
418 schedule a public hearing on the proposed rule and, if requested
419 by any affected person, shall schedule a public hearing on the
420 proposed rule. When a public hearing is held, the agency must
421 ensure that the persons responsible for preparing the proposed
422 rule and the statement of estimated regulatory costs, if one has
423 been prepared, staff are available to explain the agency's
424 proposal and to respond to questions or comments regarding the
425 proposed rule, the statement of estimated regulatory costs, if

426 one has been prepared, and the agency's decision whether to
427 adopt a lower cost regulatory alternative submitted pursuant to
428 s. 120.541(1)(a). If the agency head is a board or other
429 collegial body created under s. 20.165(4) or s. 20.43(3)(g), and
430 one or more requested public hearings is scheduled, the board or
431 other collegial body shall conduct at least one of the public
432 hearings itself and may not delegate this responsibility without
433 the consent of those persons requesting the public hearing. Any
434 material pertinent to the issues under consideration submitted
435 to the agency within 21 days after the date of publication of
436 the notice or submitted to the agency between the date of
437 publication of the notice and the end of the final public
438 hearing shall be considered by the agency and made a part of the
439 record of the rulemaking proceeding.

440 2. Rulemaking proceedings shall be governed solely by the
441 provisions of this section unless a person timely asserts that
442 the person's substantial interests will be affected in the
443 proceeding and affirmatively demonstrates to the agency that the
444 proceeding does not provide adequate opportunity to protect
445 those interests. If the agency determines that the rulemaking
446 proceeding is not adequate to protect the person's interests, it
447 shall suspend the rulemaking proceeding and convene a separate
448 proceeding under the provisions of ss. 120.569 and 120.57. The
449 agency shall publish notice of convening a separate proceeding
450 in the Florida Administrative Register. Similarly situated

451 persons may be requested to join and participate in the separate
452 proceeding. Upon conclusion of the separate proceeding, the
453 rulemaking proceeding shall be resumed. All timelines in this
454 section are tolled during any suspension of the rulemaking
455 proceeding under this subparagraph, beginning on the date the
456 notice of convening a separate proceeding is published and
457 resuming on the day after conclusion of the separate proceeding.

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

459 1. After the final public hearing on the proposed rule, or
460 after the time for requesting a hearing has expired, if the
461 proposed rule has not been changed from the proposed rule as
462 previously filed with the committee, or contains only technical
463 changes, the adopting agency shall file a notice to that effect
464 with the committee at least 7 days before ~~prior to~~ filing the
465 proposed rule for adoption. Any change, other than a technical
466 change ~~that does not affect the substance of the rule~~, must be
467 supported by the record of public hearings held on the proposed
468 rule, must be in response to written material submitted to the
469 agency within 21 days after the date of publication of the
470 notice of intended agency action or submitted to the agency
471 between the date of publication of the notice and the end of the
472 final public hearing, or must be in response to a proposed
473 objection by the committee. Any change, other than a technical
474 change, to a statement of estimated regulatory costs requires a
475 notice of change. In addition, ~~when~~ any change, other than a

476 technical change, to is made in a proposed rule text or any
477 material incorporated by reference requires, other than a
478 ~~technical change,~~ the adopting agency to ~~shall~~ provide a copy of
479 a notice of change by certified mail or actual delivery to any
480 person who requests it in writing no later than 21 days after
481 the notice required in paragraph (a). The agency shall file the
482 notice of change with the committee, along with the reasons for
483 the change, and provide the notice of change to persons
484 requesting it, at least 21 days before ~~prior to~~ filing the
485 proposed rule for adoption. The notice of change shall be
486 published in the Florida Administrative Register at least 21
487 days before ~~prior to~~ filing the proposed rule for adoption. The
488 notice of change must include a summary of any revision to a
489 statement of estimated regulatory costs required by s.
490 120.541(1)(d). This subparagraph does not apply to emergency
491 rules adopted pursuant to subsection (4). Material proposed to
492 be incorporated by reference in the notice required by this
493 subparagraph must be made available in the manner prescribed by
494 sub-subparagraph (1)(i)3.a. or sub-subparagraph (1)(i)3.b.
495 2. After the notice required by paragraph (a) and before
496 ~~prior to~~ adoption, the agency may withdraw the proposed rule in
497 whole or in part.
498 3. After the notice required by paragraph (a), the agency
499 shall withdraw the proposed rule if the agency has failed to
500 adopt it within the prescribed timeframes in this chapter. If,

501 30 days after notice by the committee that the agency has failed
502 to adopt the proposed rule within the prescribed timeframes in
503 this chapter, the agency has not given notice of the withdrawal
504 of the rule, the committee shall notify the Department of State
505 that the date for adoption of the rule has expired, and the
506 Department of State shall publish a notice of withdrawal of the
507 proposed rule.

508 ~~4.3.~~ After adoption and before the rule becomes effective,
509 a rule may be modified or withdrawn only in the following
510 circumstances:

511 a. When the committee objects to the rule;

512 b. When a final order, which is not subject to further
513 appeal, is entered in a rule challenge brought pursuant to s.
514 120.56 after the date of adoption but before the rule becomes
515 effective pursuant to subparagraph (e)6.;

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

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

524 ~~5.4.~~ The agency shall give notice of its decision to
525 withdraw or modify a rule in the first available issue of the

526 publication in which the original notice of rulemaking was
527 published, shall notify those persons described in subparagraph
528 (a)3. in accordance with the requirements of that subparagraph,
529 and shall notify the Department of State if the rule is required
530 to be filed with the Department of State.

531 ~~6.5.~~ After a rule has become effective, it may be repealed
532 or amended only through the rulemaking procedures specified in
533 this chapter.

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

535 1. If the adopting agency is required to publish its rules
536 in the Florida Administrative Code, the agency, upon approval of
537 the agency head, shall file with the Department of State three
538 certified copies of the rule it proposes to adopt; one copy of
539 any material incorporated by reference in the rule, certified by
540 the agency; a summary of the rule; a summary of any hearings
541 held on the rule; and a detailed written statement of the facts
542 and circumstances justifying the rule. Agencies not required to
543 publish their rules in the Florida Administrative Code shall
544 file one certified copy of the proposed rule, and the other
545 material required by this subparagraph, in the office of the
546 agency head, and such rules shall be open to the public.

547 2. A rule may not be filed for adoption less than 28 days
548 or more than 90 days after the notice required by paragraph (a),
549 until 21 days after the notice of change required by paragraph
550 (d), until 14 days after the final public hearing, until 21 days

551 after a statement of estimated regulatory costs required under
552 s. 120.541 has been provided to all persons who submitted a
553 lower cost regulatory alternative and made available to the
554 public at a readily accessible page on the agency's website, or
555 until the administrative law judge has rendered a decision under
556 s. 120.56(2), whichever applies. When a required notice of
557 change is published before prior to the expiration of the time
558 to file the rule for adoption, the period during which a rule
559 must be filed for adoption is extended to 45 days after the date
560 of publication. If notice of a public hearing is published
561 before ~~prior to~~ the expiration of the time to file the rule for
562 adoption, the period during which a rule must be filed for
563 adoption is extended to 45 days after adjournment of the final
564 hearing on the rule, 21 days after receipt of all material
565 authorized to be submitted at the hearing, or 21 days after
566 receipt of the transcript, if one is made, whichever is latest.
567 The term "public hearing" includes any public meeting held by
568 any agency at which the rule is considered. If a petition for an
569 administrative determination under s. 120.56(2) is filed, the
570 period during which a rule must be filed for adoption is
571 extended to 60 days after the administrative law judge files the
572 final order with the clerk or until 60 days after subsequent
573 judicial review is complete.

574 3. At the time a rule is filed, the agency shall certify
575 that the time limitations prescribed by this paragraph have been

576 | complied with, that all statutory rulemaking requirements have
 577 | been met, and that there is no administrative determination
 578 | pending on the rule.

579 | 4. At the time a rule is filed, the committee shall
 580 | certify whether the agency has responded in writing to all
 581 | material and timely written comments or written inquiries made
 582 | on behalf of the committee. The Department of State shall reject
 583 | any rule that is not filed within the prescribed time limits;
 584 | that does not comply with all statutory rulemaking requirements
 585 | and rules of the Department of State; upon which an agency has
 586 | not responded in writing to all material and timely written
 587 | inquiries or written comments; upon which an administrative
 588 | determination is pending; or which does not include a statement
 589 | of estimated regulatory costs, if required.

590 | 5. If a rule has not been adopted within the time limits
 591 | imposed by this paragraph or has not been adopted in compliance
 592 | with all statutory rulemaking requirements, the agency proposing
 593 | the rule shall withdraw the proposed rule and give notice of its
 594 | action in the next available issue of the Florida Administrative
 595 | Register.

596 | 6. The proposed rule shall be adopted on being filed with
 597 | the Department of State and become effective 20 days after being
 598 | filed, on a later date specified in the notice required by
 599 | subparagraph (a)1., on a date required by statute, or upon
 600 | ratification by the Legislature pursuant to s. 120.541(3). Rules

601 not required to be filed with the Department of State shall
 602 become effective when adopted by the agency head, on a later
 603 date specified by rule or statute, or upon ratification by the
 604 Legislature pursuant to s. 120.541(3). If the committee notifies
 605 an agency that an objection to a rule is being considered, the
 606 agency may postpone the adoption of the rule to accommodate
 607 review of the rule by the committee. When an agency postpones
 608 adoption of a rule to accommodate review by the committee, the
 609 90-day period for filing the rule is tolled until the committee
 610 notifies the agency that it has completed its review of the
 611 rule.

612
 613 For the purposes of this paragraph, the term "administrative
 614 determination" does not include subsequent judicial review.

615 (4) EMERGENCY RULES.—

616 (e) Emergency rules shall be published in the Florida
 617 Administrative Code.

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

621 (7) PETITION TO INITIATE RULEMAKING.—

622 (a) Any person regulated by an agency or having
 623 substantial interest in an agency rule may petition an agency to
 624 adopt, amend, or repeal a rule or to provide the minimum public
 625 information required by this chapter. The petition shall specify

626 the proposed rule and action requested. The agency shall file a
627 copy of the petition with the committee. Not later than 30
628 calendar days following the date of filing a petition, the
629 agency shall initiate rulemaking proceedings under this chapter,
630 otherwise comply with the requested action, or deny the petition
631 with a written statement of its reasons for the denial.

632 Section 3. Section 120.541, Florida Statutes, is amended
633 to read:

634 120.541 Statement of estimated regulatory costs.—

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

637 ~~120.54(3)(a)~~, a substantially affected person may submit to an
638 agency a good faith written proposal for a lower cost regulatory
639 alternative to a proposed rule which substantially accomplishes
640 the objectives of the law being implemented. The agency shall
641 provide a copy of any proposal for a lower cost regulatory
642 alternative to the committee at least 21 days before filing the
643 rule for adoption. The proposal may include the alternative of
644 not adopting any rule if the proposal explains how the lower
645 costs and objectives of the law will be achieved by not adopting
646 any rule. If submitted after a notice of change, a proposal for
647 a lower cost regulatory alternative is deemed to be made in good
648 faith only if the person reasonably believes, and the proposal
649 states, the person's reasons for believing that the proposed
650 rule as changed by the notice of change increases the regulatory

651 costs or creates an adverse impact on small businesses that was
652 not created by the previous proposed rule. If such a proposal is
653 submitted, the 90-day period for filing the rule is extended 21
654 days. Upon the submission of the lower cost regulatory
655 alternative, the agency shall prepare a statement of estimated
656 regulatory costs as provided in subsection (2), or shall revise
657 its prior statement of estimated regulatory costs, and either
658 adopt the alternative proposal, reject the alternative proposal,
659 or modify the proposed rule to reduce the regulatory costs. If
660 the agency rejects the alternative proposal or modifies the
661 proposed rule, the agency shall or provide a statement of the
662 reasons for rejecting the alternative in favor of the proposed
663 rule.

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

670 (c) The agency shall revise a statement of estimated
671 regulatory costs if any change to the rule made under s.
672 120.54(3)(d) increases the regulatory costs of the rule or if
673 the rule is modified in response to the submission of a lower
674 cost regulatory alternative. A summary of the revised statement
675 must be included with any subsequent notice published under s.

676 | 120.54(3).

677 | (d) At least 21 days before filing the proposed rule for
 678 | adoption, an agency that is required to revise a statement of
 679 | estimated regulatory costs shall provide the statement to the
 680 | person who submitted the lower cost regulatory alternative, to
 681 | the rules ombudsman in the Executive Office of the Governor, and
 682 | to the committee. The revised statement shall be published and
 683 | made available in the same manner as the original statement of
 684 | estimated regulatory costs ~~and shall provide notice on the~~
 685 | ~~agency's website that it is available to the public.~~

686 | (e) Notwithstanding s. 120.56(1)(c), the failure of the
 687 | agency to prepare and publish a statement of estimated
 688 | regulatory costs or to respond to a written lower cost
 689 | regulatory alternative as provided in this subsection is a
 690 | material failure to follow the applicable rulemaking procedures
 691 | or requirements set forth in this chapter.

692 | (f) An agency's failure to prepare a statement of
 693 | estimated regulatory costs or to respond to a written lower cost
 694 | regulatory alternative may not be raised in a proceeding
 695 | challenging the validity of a rule pursuant to s. 120.52(8)(a)
 696 | unless:

697 | 1. Raised in a petition filed no later than 1 year after
 698 | the effective date of the rule; and

699 | 2. Raised by a person whose substantial interests are
 700 | affected by the rule's regulatory costs.

701 (g) A rule that is challenged pursuant to s. 120.52(8)(f)
 702 may not be declared invalid unless:
 703 1. The issue is raised in an administrative proceeding
 704 within 1 year after the effective date of the rule;
 705 2. The challenge is to the agency's rejection of a lower
 706 cost regulatory alternative offered under paragraph (a) or s.
 707 120.54(3)(b)2.c. ~~s. 120.54(3)(b)2.b.~~; and
 708 3. The substantial interests of the person challenging the
 709 rule are materially affected by the rejection.
 710 (2) A statement of estimated regulatory costs must ~~shall~~
 711 include:
 712 (a) An economic analysis showing whether the rule directly
 713 or indirectly:
 714 1. Is likely to have an adverse impact on economic growth,
 715 private sector job creation or employment, or private sector
 716 investment in excess of \$1 million in the aggregate within 5
 717 years after the implementation of the rule;
 718 2. Is likely to have an adverse impact on business
 719 competitiveness, including the ability of persons doing business
 720 in the state to compete with persons doing business in other
 721 states or domestic markets, productivity, or innovation in
 722 excess of \$1 million in the aggregate within 5 years after the
 723 implementation of the rule; or
 724 3. Is likely to increase regulatory costs, including all
 725 any transactional costs and impacts estimated in the statement,

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

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

732 (c) A good faith estimate of the cost to the agency, and
733 to any other state and local government entities, of
734 implementing and enforcing the proposed rule, and any
735 anticipated effect on state or local revenues.

736 (d) A good faith estimate of the compliance ~~transactional~~
737 costs likely to be incurred by individuals and entities,
738 including local government entities, required to comply with the
739 requirements of the rule. ~~As used in this section,~~
740 ~~"transactional costs" are direct costs that are readily~~
741 ~~ascertainable based upon standard business practices, and~~
742 ~~include filing fees, the cost of obtaining a license, the cost~~
743 ~~of equipment required to be installed or used or procedures~~
744 ~~required to be employed in complying with the rule, additional~~
745 ~~operating costs incurred, the cost of monitoring and reporting,~~
746 ~~and any other costs necessary to comply with the rule.~~

747 (e) An analysis of the impact on small businesses as
748 defined by s. 288.703, and an analysis of the impact on small
749 counties and small cities as defined in s. 120.52. The impact
750 analysis for small businesses must include the basis for the

751 agency's decision not to implement alternatives that would
 752 reduce adverse impacts on small businesses.

753 (f) Any additional information that the agency determines
 754 may be useful.

755 (g) In the statement or revised statement, whichever
 756 applies, a description of any regulatory alternatives submitted
 757 under paragraph (1) (a) and a statement adopting the alternative
 758 or a statement of the reasons for rejecting the alternative in
 759 favor of the proposed rule.

760 (3) If the adverse impact or regulatory costs of the rule
 761 exceed any of the criteria established in paragraph (2) (a), the
 762 rule shall be submitted to the President of the Senate and
 763 Speaker of the House of Representatives no later than 30 days
 764 before ~~prior to~~ the next regular legislative session, and the
 765 rule may not take effect until it is ratified by the
 766 Legislature.

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

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

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

771 (c) Triennial updates of and amendments to the Florida
 772 Fire Prevention Code which are expressly authorized by s.
 773 633.202.

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

775 (5) For purposes of subsections (2) and (3), adverse

776 impacts and regulatory costs likely to occur within 5 years
 777 after implementation of the rule include adverse impacts and
 778 regulatory costs estimated to occur within 5 years after the
 779 effective date of the rule. However, if any provision of the
 780 rule is not fully implemented upon the effective date of the
 781 rule, the adverse impacts and regulatory costs associated with
 782 such provision must be adjusted to include any additional
 783 adverse impacts and regulatory costs estimated to occur within 5
 784 years after implementation of such provision.

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

789 1. Increased customer charges for goods or services.

790 2. Decreased market value of goods or services produced,
 791 provided, or sold.

792 3. Increased costs resulting from the purchase of
 793 substitute or alternative goods or services.

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

798 5. Capital costs.

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

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

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

- 810 1. Filing fees.
- 811 2. Expenses to obtain a license.
- 812 3. Necessary equipment.
- 813 4. Installation, utilities, and maintenance of necessary
 814 equipment.
- 815 5. Necessary operations and procedures.
- 816 6. Accounting, financial, information management, and
 817 other administrative processes.
- 818 7. Other processes.
- 819 8. Labor based on relevant rates of wages, salaries, and
 820 benefits.
- 821 9. Materials and supplies.
- 822 10. Capital expenditures, including financing costs.
- 823 11. Professional and technical services, including
 824 contracted services necessary to implement and maintain
 825 compliance.

- 826 12. Monitoring and reporting.
- 827 13. Qualifying and recurring education, training, and
 828 testing.
- 829 14. Travel.
- 830 15. Insurance and surety requirements.
- 831 16. A fair and reasonable allocation of administrative
 832 costs and other overhead.
- 833 17. Reduced sales or other revenues.
- 834 18. Other items suggested by the rules ombudsman in the
 835 Executive Office of the Governor or any interested person,
 836 business organization, or business representative.
- 837 (7) (a) The Department of State shall include on the
 838 Florida Administrative Register website the agency website
 839 addresses where statements of estimated regulatory costs can be
 840 viewed in their entirety.
- 841 (b) An agency that prepares a statement of estimated
 842 regulatory costs must provide, as part of the notice required
 843 under s. 120.54(3) (a), the agency website address where the
 844 statement of estimated regulatory costs can be read in its
 845 entirety to the Department of State for publication in the
 846 Florida Administrative Register.
- 847 (c) If an agency revises its statement of estimated
 848 regulatory costs, the agency must provide notice that a revision
 849 has been made. Such notice must include the agency website
 850 address where the revision can be viewed in its entirety.

851 Section 4. Section 120.5435, Florida Statutes, is created
852 to read:

853 120.5435 Repromulgation of rules.—

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

857 (2) If an agency determines after review that substantive
858 changes to update a rule are not required, such agency shall
859 repromulgate the rule to reflect the date of the review. Each
860 agency shall review its rules pursuant to this section either 5
861 years after July 1, 2020, if the rule was adopted before January
862 1, 2012, or 10 years after the rule is adopted, if the rule was
863 adopted on or after January 1, 2012. Failure of an agency to
864 adhere to the deadlines imposed in this section constitutes
865 repeal of any affected rule. In the event of such a failure, the
866 committee shall notify the Department of State that the agency,
867 by its failure to repromulgate the affected rule, has elected to
868 repeal the rule. Upon receipt of the committee's notice, the
869 Department of State shall publish a notice to that effect in the
870 next available issue of the Florida Administrative Register.
871 Upon publication of the notice, the rule shall be stricken from
872 the files of the Department of State and the files of the
873 agency.

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

876 (a) Publish a notice of repromulgation in the Florida
877 Administrative Register. A notice of repromulgation is not
878 required to include the text of the rule being repromulgated.

879 (b) File the rule for repromulgation with the Department
880 of State. A rule may not be filed for repromulgation less than
881 28 days, and not more than 90 days, after the date of
882 publication of the notice required by paragraph (a).

883 (4) The agency must file a notice of repromulgation with
884 the committee at least 14 days before filing the rule for
885 repromulgation. At the time the rule is filed for
886 repromulgation, the committee shall certify whether the agency
887 has responded in writing to all material and timely written
888 comments or written inquiries made on behalf of the committee.

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

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

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

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

901 (c) The Department of State shall update the history note
 902 of the rule in the Florida Administrative Code to reflect the
 903 effective date of the repromulgated rule.

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

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

908 120.545 Committee review of agency rules.—

909 (1) As a legislative check on legislatively created
 910 authority, the committee shall examine each existing rule and
 911 proposed rule, except for those proposed rules exempted by s.
 912 120.81(1)(e) and (2), and its accompanying material, and each
 913 emergency rule, and may examine any existing rule, for the
 914 purpose of determining whether:

915 (a) The rule is an invalid exercise of delegated
 916 legislative authority.

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

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

920 (d) The rule is in proper form.

921 (e) The notice given prior to its adoption was sufficient
 922 to give adequate notice of the purpose and effect of the rule.

923 (f) The rule is consistent with expressed legislative
 924 intent pertaining to the specific provisions of law which the
 925 rule implements.

926 (g) The rule is necessary to accomplish the apparent or
 927 expressed objectives of the specific provision of law which the
 928 rule implements.

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

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

934 (j) The rule's statement of estimated regulatory costs
 935 complies with the requirements of s. 120.541 and whether the
 936 rule does not impose regulatory costs on the regulated person,
 937 county, or city which could be reduced by the adoption of less
 938 costly alternatives that substantially accomplish the statutory
 939 objectives.

940 (k) The rule will require additional appropriations.

941 (l) If the rule is an emergency rule, there exists an
 942 emergency justifying the adoption of such rule, the agency is
 943 within its statutory authority, and the rule was adopted in
 944 compliance with the requirements and limitations of s.
 945 120.54(4).

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

948 120.55 Publication.—

949 (1) The Department of State shall:

950 (a)1. Through a continuous revision and publication

951 system, compile and publish electronically, on a website managed
952 by the department, the "Florida Administrative Code." The
953 Florida Administrative Code shall contain all rules adopted by
954 each agency, citing the grant of rulemaking authority and the
955 specific law implemented pursuant to which each rule was
956 adopted, all history notes as authorized in s. 120.545(7),
957 complete indexes to all rules contained in the code, and any
958 other material required or authorized by law or deemed useful by
959 the department. The electronic code shall display each rule
960 chapter currently in effect in browse mode and allow full text
961 search of the code and each rule chapter. The department may
962 contract with a publishing firm for a printed publication;
963 however, the department shall retain responsibility for the code
964 as provided in this section. The electronic publication shall be
965 the official compilation of the administrative rules of this
966 state. The Florida Administrative Code shall be published once
967 daily by 8 a.m. If, after publication, a rule is corrected and
968 replaced, the Florida Administrative Code shall indicate:

969 a. That the Florida Administrative Code has been
970 republished.

971 b. The rule that has been corrected by the Department of
972 State.

973
974 The Department of State shall retain the copyright over the
975 Florida Administrative Code.

976 2. Not publish in the Florida Administrative Code rules
977 general in form but applicable to only one school district,
978 community college district, or county, or a part thereof, or
979 state university rules relating to internal personnel or
980 business and finance ~~shall not be published in the Florida~~
981 ~~Administrative Code~~. Exclusion from publication in the Florida
982 Administrative Code does ~~shall~~ not affect the validity or
983 effectiveness of such rules.

984 3. At the beginning of the section of the code dealing
985 with an agency that files copies of its rules with the
986 department, ~~the department shall~~ publish the address and
987 telephone number of the executive offices of each agency, the
988 manner by which the agency indexes its rules, a listing of all
989 rules of that agency excluded from publication in the code, and
990 a statement as to where those rules may be inspected.

991 4. Not publish forms ~~shall not be published~~ in the Florida
992 Administrative Code; but any form which an agency uses in its
993 dealings with the public, along with any accompanying
994 instructions, shall be filed with the committee before it is
995 used. Any form or instruction which meets the definition of
996 "rule" provided in s. 120.52 shall be incorporated by reference
997 into the appropriate rule. The reference shall specifically
998 state that the form is being incorporated by reference and shall
999 include the number, title, and effective date of the form and an
1000 explanation of how the form may be obtained. Each form created

1001 by an agency which is incorporated by reference in a rule notice
 1002 of which is given under s. 120.54(3)(a) after December 31, 2007,
 1003 must clearly display the number, title, and effective date of
 1004 the form and the number of the rule in which the form is
 1005 incorporated.

1006 5. Require all materials incorporated by reference in any
 1007 part of an adopted rule and in any part of a repromulgated rule
 1008 ~~The department shall allow adopted rules and material~~
 1009 ~~incorporated by reference to be filed in the manner prescribed~~
 1010 ~~by s. 120.54(1)(i)3.a. or s. 120.54(1)(i)3.b. electronic form as~~
 1011 ~~prescribed by department rule.~~ When a rule is filed for adoption
 1012 or repromulgation with incorporated material in electronic form,
 1013 the department's publication of the Florida Administrative Code
 1014 on its website must contain a hyperlink from the incorporating
 1015 reference in the rule directly to that material. The department
 1016 may not allow hyperlinks from rules in the Florida
 1017 Administrative Code to any material other than that filed with
 1018 and maintained by the department, but may allow hyperlinks to
 1019 incorporated material maintained by the department from the
 1020 adopting agency's website or other sites.

1021 6. Include the date of any technical changes to a rule in
 1022 the history note of the rule in the Florida Administrative Code.
 1023 A technical change does not affect the effective date of the
 1024 rule.

1025 (c) Prescribe by rule the style and form required for

1026 | rules, notices, and other materials submitted for filing,
 1027 | including a rule requiring documents created by an agency that
 1028 | are proposed to be incorporated by reference in notices
 1029 | published pursuant to s. 120.54(3)(a) and (d) to be coded in the
 1030 | same manner as notices published pursuant to s. 120.54(3)(a)1.

1031 | Section 7. Subsection (1) and paragraph (a) of subsection
 1032 | (2) of section 120.74, Florida Statutes, are amended to read:

1033 | 120.74 Agency annual rulemaking and regulatory plans;
 1034 | reports.—

1035 | (1) REGULATORY PLAN.—By October 1 of each year, each
 1036 | agency shall prepare a regulatory plan.

1037 | (a) The plan must include a listing of each law enacted or
 1038 | amended during the previous 12 months which creates or modifies
 1039 | the duties or authority of the agency. If the Governor or the
 1040 | Attorney General provides a letter to the committee stating that
 1041 | a law affects all or most agencies, the agency may exclude the
 1042 | law from its plan. For each law listed by an agency under this
 1043 | paragraph, the plan must state:

1044 | 1. Whether the agency must adopt rules to implement the
 1045 | law.

1046 | 2. If rulemaking is necessary to implement the law:

1047 | a. Whether a notice of rule development has been published
 1048 | and, if so, the citation to such notice in the Florida
 1049 | Administrative Register.

1050 | b. The date by which the agency expects to publish the

1051 notice of proposed rule under s. 120.54(3)(a).

1052 3. If rulemaking is not necessary to implement the law, a
 1053 concise written explanation of the reasons why the law may be
 1054 implemented without rulemaking.

1055 (b) The plan must also identify and describe each rule,
 1056 including each rule number or proposed rule number, ~~include a~~
 1057 ~~listing of each law not otherwise listed pursuant to paragraph~~
 1058 ~~(a) which the agency expects to~~ develop, adopt, or repeal for
 1059 the 12-month period beginning on October 1 and ending on
 1060 September 30 ~~implement by rulemaking before the following July~~
 1061 ~~1, excluding emergency rules~~ except emergency rulemaking. For
 1062 each rule ~~law~~ listed under this paragraph, the plan must state
 1063 whether the rulemaking is intended to simplify, clarify,
 1064 increase efficiency, improve coordination with other agencies,
 1065 reduce regulatory costs, or delete obsolete, unnecessary, or
 1066 redundant rules.

1067 (c) The plan must include any desired update to the prior
 1068 year's regulatory plan or supplement published pursuant to
 1069 subsection (7). If, in a prior year, a law was identified under
 1070 this paragraph or under subparagraph (a)1. as a law requiring
 1071 rulemaking to implement but a notice of proposed rule has not
 1072 been published:

1073 1. The agency shall identify and again list such law,
 1074 noting the applicable notice of rule development by citation to
 1075 the Florida Administrative Register; or

1076 2. If the agency has subsequently determined that
 1077 rulemaking is not necessary to implement the law, the agency
 1078 shall identify such law, reference the citation to the
 1079 applicable notice of rule development in the Florida
 1080 Administrative Register, and provide a concise written
 1081 explanation of the reason why the law may be implemented without
 1082 rulemaking.

1083 (d) The plan must identify any rules that are required to
 1084 be repromulgated pursuant to s. 120.5435 for the 12-month period
 1085 beginning on October 1 and ending on September 30.

1086 (e)~~(d)~~ The plan must include a certification executed on
 1087 behalf of the agency by both the agency head, or, if the agency
 1088 head is a collegial body, the presiding officer; and the
 1089 individual acting as principal legal advisor to the agency head.
 1090 The certification must declare:

1091 1. ~~Verify~~ That the persons executing the certification
 1092 have reviewed the plan.

1093 2. ~~Verify~~ That the agency regularly reviews all of its
 1094 rules and identify the period during which all rules have most
 1095 recently been reviewed to determine if the rules remain
 1096 consistent with the agency's rulemaking authority and the laws
 1097 implemented.

1098 3. That the agency understands that regulatory
 1099 accountability is necessary to ensure public confidence in the
 1100 integrity of state government and, to that end, the agency is

1101 diligently working toward lowering the total number of rules
 1102 adopted.

1103 4. The total number of rules adopted and repealed during
 1104 the previous 12 months.

1105 (2) PUBLICATION AND DELIVERY TO THE COMMITTEE.—

1106 (a) By October 1 of each year, each agency shall:

1107 1. Publish its regulatory plan on its website or on
 1108 another state website established for publication of
 1109 administrative law records. A clearly labeled hyperlink to the
 1110 current plan must be included on the agency's primary website
 1111 homepage.

1112 2. Electronically deliver to the committee a copy of the
 1113 certification required in paragraph (1)(e) ~~(1)(d)~~.

1114 3. Publish in the Florida Administrative Register a notice
 1115 identifying the date of publication of the agency's regulatory
 1116 plan. The notice must include a hyperlink or website address
 1117 providing direct access to the published plan.

1118 Section 8. Subsection (11) of section 120.80, Florida
 1119 Statutes, is amended to read:

1120 120.80 Exceptions and special requirements; agencies.—

1121 (11) NATIONAL GUARD.—Notwithstanding s. 120.52(17) ~~s.~~
 1122 ~~120.52(16)~~, the enlistment, organization, administration,
 1123 equipment, maintenance, training, and discipline of the militia,
 1124 National Guard, organized militia, and unorganized militia, as
 1125 provided by s. 2, Art. X of the State Constitution, are not

1126 rules as defined by this chapter.

1127 Section 9. Paragraph (c) of subsection (1) of section
1128 120.81, Florida Statutes, is amended to read:

1129 120.81 Exceptions and special requirements; general
1130 areas.—

1131 (1) EDUCATIONAL UNITS.—

1132 (c) Notwithstanding s. 120.52(17) ~~s. 120.52(16)~~, any
1133 tests, test scoring criteria, or testing procedures relating to
1134 student assessment which are developed or administered by the
1135 Department of Education pursuant to s. 1003.4282, s. 1008.22, or
1136 s. 1008.25, or any other statewide educational tests required by
1137 law, are not rules.

1138 Section 10. Paragraph (a) of subsection (1) of section
1139 420.9072, Florida Statutes, is amended to read:

1140 420.9072 State Housing Initiatives Partnership Program.—

1141 The State Housing Initiatives Partnership Program is created for
1142 the purpose of providing funds to counties and eligible
1143 municipalities as an incentive for the creation of local housing
1144 partnerships, to expand production of and preserve affordable
1145 housing, to further the housing element of the local government
1146 comprehensive plan specific to affordable housing, and to
1147 increase housing-related employment.

1148 (1) (a) In addition to the legislative findings set forth
1149 in s. 420.6015, the Legislature finds that affordable housing is
1150 most effectively provided by combining available public and

1151 private resources to conserve and improve existing housing and
 1152 provide new housing for very-low-income households, low-income
 1153 households, and moderate-income households. The Legislature
 1154 intends to encourage partnerships in order to secure the
 1155 benefits of cooperation by the public and private sectors and to
 1156 reduce the cost of housing for the target group by effectively
 1157 combining all available resources and cost-saving measures. The
 1158 Legislature further intends that local governments achieve this
 1159 combination of resources by encouraging active partnerships
 1160 between government, lenders, builders and developers, real
 1161 estate professionals, advocates for low-income persons, and
 1162 community groups to produce affordable housing and provide
 1163 related services. Extending the partnership concept to encompass
 1164 cooperative efforts among small counties as defined in s.
 1165 120.52(20) ~~s. 120.52(19)~~, and among counties and municipalities
 1166 is specifically encouraged. Local governments are also intended
 1167 to establish an affordable housing advisory committee to
 1168 recommend monetary and nonmonetary incentives for affordable
 1169 housing as provided in s. 420.9076.

1170 Section 11. Subsection (7) of section 420.9075, Florida
 1171 Statutes, is amended to read:

1172 420.9075 Local housing assistance plans; partnerships.—

1173 (7) The moneys deposited in the local housing assistance
 1174 trust fund shall be used to administer and implement the local
 1175 housing assistance plan. The cost of administering the plan may

1176 not exceed 5 percent of the local housing distribution moneys
 1177 and program income deposited into the trust fund. A county or an
 1178 eligible municipality may not exceed the 5-percent limitation on
 1179 administrative costs, unless its governing body finds, by
 1180 resolution, that 5 percent of the local housing distribution
 1181 plus 5 percent of program income is insufficient to adequately
 1182 pay the necessary costs of administering the local housing
 1183 assistance plan. The cost of administering the program may not
 1184 exceed 10 percent of the local housing distribution plus 5
 1185 percent of program income deposited into the trust fund, except
 1186 that small counties, as defined in s. 120.52(20) ~~s. 120.52(19)~~,
 1187 and eligible municipalities receiving a local housing
 1188 distribution of up to \$350,000 may use up to 10 percent of
 1189 program income for administrative costs.

1190 Section 12. Paragraph (d) of subsection (1) of section
 1191 443.091, Florida Statutes, is amended to read:

1192 443.091 Benefit eligibility conditions.—

1193 (1) An unemployed individual is eligible to receive
 1194 benefits for any week only if the Department of Economic
 1195 Opportunity finds that:

1196 (d) She or he is able to work and is available for work.
 1197 In order to assess eligibility for a claimed week of
 1198 unemployment, the department shall develop criteria to determine
 1199 a claimant's ability to work and availability for work. A
 1200 claimant must be actively seeking work in order to be considered

1201 available for work. This means engaging in systematic and
 1202 sustained efforts to find work, including contacting at least
 1203 five prospective employers for each week of unemployment
 1204 claimed. The department may require the claimant to provide
 1205 proof of such efforts to the one-stop career center as part of
 1206 reemployment services. A claimant's proof of work search efforts
 1207 may not include the same prospective employer at the same
 1208 location in 3 consecutive weeks, unless the employer has
 1209 indicated since the time of the initial contact that the
 1210 employer is hiring. The department shall conduct random reviews
 1211 of work search information provided by claimants. As an
 1212 alternative to contacting at least five prospective employers
 1213 for any week of unemployment claimed, a claimant may, for that
 1214 same week, report in person to a one-stop career center to meet
 1215 with a representative of the center and access reemployment
 1216 services of the center. The center shall keep a record of the
 1217 services or information provided to the claimant and shall
 1218 provide the records to the department upon request by the
 1219 department. However:

1220 1. Notwithstanding any other provision of this paragraph
 1221 or paragraphs (b) and (e), an otherwise eligible individual may
 1222 not be denied benefits for any week because she or he is in
 1223 training with the approval of the department, or by reason of s.
 1224 443.101(2) relating to failure to apply for, or refusal to
 1225 accept, suitable work. Training may be approved by the

1226 department in accordance with criteria prescribed by rule. A
 1227 claimant's eligibility during approved training is contingent
 1228 upon satisfying eligibility conditions prescribed by rule.

1229 2. Notwithstanding any other provision of this chapter, an
 1230 otherwise eligible individual who is in training approved under
 1231 s. 236(a)(1) of the Trade Act of 1974, as amended, may not be
 1232 determined ineligible or disqualified for benefits due to
 1233 enrollment in such training or because of leaving work that is
 1234 not suitable employment to enter such training. As used in this
 1235 subparagraph, the term "suitable employment" means work of a
 1236 substantially equal or higher skill level than the worker's past
 1237 adversely affected employment, as defined for purposes of the
 1238 Trade Act of 1974, as amended, the wages for which are at least
 1239 80 percent of the worker's average weekly wage as determined for
 1240 purposes of the Trade Act of 1974, as amended.

1241 3. Notwithstanding any other provision of this section, an
 1242 otherwise eligible individual may not be denied benefits for any
 1243 week because she or he is before any state or federal court
 1244 pursuant to a lawfully issued summons to appear for jury duty.

1245 4. Union members who customarily obtain employment through
 1246 a union hiring hall may satisfy the work search requirements of
 1247 this paragraph by reporting daily to their union hall.

1248 5. The work search requirements of this paragraph do not
 1249 apply to persons who are unemployed as a result of a temporary
 1250 layoff or who are claiming benefits under an approved short-time

1251 compensation plan as provided in s. 443.1116.

1252 6. In small counties as defined in s. 120.52(20) ~~s.~~
 1253 ~~120.52(19)~~, a claimant engaging in systematic and sustained
 1254 efforts to find work must contact at least three prospective
 1255 employers for each week of unemployment claimed.

1256 7. The work search requirements of this paragraph do not
 1257 apply to persons required to participate in reemployment
 1258 services under paragraph (e).

1259 Section 13. This act shall take effect July 1, 2020.