

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

26 | the statement of estimated regulatory costs be  
27 | available to the public; requiring that material  
28 | proposed to be incorporated by reference be made  
29 | available in a specified manner; authorizing  
30 | electronic delivery of notices to persons who have  
31 | requested advance notice of agency rulemaking  
32 | proceedings; requiring an agency to prepare a  
33 | statement of estimated regulatory costs before  
34 | adopting or amending any rule other than an emergency  
35 | rule; providing that an agency is not required to  
36 | prepare a statement of estimated regulatory costs  
37 | before repealing a rule; providing an exception;  
38 | requiring that certain rule repeals be considered  
39 | presumptively correct in a proceeding before the  
40 | Division of Administrative Hearings or a court of  
41 | competent jurisdiction; revising the criteria under  
42 | which a proposed rule's adverse impact on small  
43 | businesses is deemed to exist; requiring an agency to  
44 | provide notice of a regulatory alternative to the  
45 | Administrative Procedures Committee within a certain  
46 | timeframe; requiring certain agency personnel to  
47 | attend public hearings on proposed rules; requiring an  
48 | agency to publish a notice of convening a separate  
49 | proceeding in certain circumstances; providing that  
50 | rulemaking deadlines are tolled during such separate

51 proceedings; revising the requirements for the  
52 contents of a notice of change; requiring the  
53 committee to notify the Department of State that the  
54 date for an agency to adopt a rule has expired under  
55 certain circumstances; requiring the department to  
56 publish a notice of withdrawal under certain  
57 circumstances; requiring emergency rules to be  
58 published in the Florida Administrative Code;  
59 prohibiting agencies from making changes to emergency  
60 rules by superseding the rule; authorizing an agency  
61 to make technical changes to an emergency rule during  
62 a specified timeframe; requiring an agency to file a  
63 copy of a certain petition with the committee; making  
64 technical changes; amending s. 120.541, F.S.;  
65 requiring an agency to provide a copy of a proposal  
66 for a lower cost regulatory alternative to the  
67 committee within a certain timeframe; specifying the  
68 circumstances under which such proposal is deemed to  
69 be made in good faith; revising requirements for an  
70 agency's consideration of a lower cost regulatory  
71 alternative; providing for an agency's revision and  
72 publication of a revised statement of estimated  
73 regulatory costs in response to such alternatives;  
74 requiring that the revised statement of estimated  
75 regulatory costs be made available in the same manner

76 as the original; deleting the definition of the term  
77 "transactional costs"; revising the applicability of  
78 specified provisions; providing additional  
79 requirements for the calculation of estimated  
80 regulatory costs; making technical changes; conforming  
81 provisions to changes made by the act; conforming a  
82 cross-reference; creating s. 120.5435, F.S.; providing  
83 legislative intent; requiring agency review of rules  
84 and repromulgation of rules that do not require  
85 substantive changes within a specified timeframe;  
86 providing the effect of a failure to adhere to certain  
87 deadlines; requiring an agency to publish a notice of  
88 repromulgation in the Florida Administrative Register  
89 and file a rule for promulgation with the department  
90 within a specified timeframe; requiring an agency to  
91 file a notice of repromulgation with the committee  
92 within a specified timeframe; requiring the committee  
93 to provide the department a certain notice; requiring  
94 the department to publish the notice in the Florida  
95 Administrative Register; providing that a notice of  
96 repromulgation is not required to include the text of  
97 the rule being repromulgated; requiring the committee  
98 to certify if the agency has provided certain  
99 responses to the committee; providing that a  
100 repromulgated rule is not subject to challenge as a

101 proposed rule and that certain hearing requirements do  
102 not apply; requiring an agency to file a specified  
103 number of certified copies of a proposed repromulgated  
104 rule and any material incorporated by reference;  
105 providing that a repromulgated rule is adopted upon  
106 filing with the department and becomes effective after  
107 a specified time; requiring the department to update  
108 certain information in the Florida Administrative  
109 Code; requiring the submission of certain rules to the  
110 Legislature within a certain period; requiring the  
111 department to adopt rules by a certain date; creating  
112 s. 120.5436, F.S.; providing legislative intent;  
113 requiring the Department of Environmental Protection  
114 and water management districts to conduct a review of  
115 certain permitting processes and permit programs;  
116 requiring the review to consider certain factors;  
117 requiring the department and water management  
118 districts to provide a report to the Governor and  
119 Legislature by a certain date; amending s. 120.545,  
120 F.S.; requiring the committee to examine certain  
121 existing rules; amending s. 120.55, F.S.; requiring  
122 the Department of State to publish the Florida  
123 Administrative Code daily at a specified time;  
124 requiring the department to indicate a rule was  
125 corrected or replaced by republishing the code and

126 |       noting the rule was corrected; requiring materials  
 127 |       incorporated by reference to be filed in a specified  
 128 |       manner; requiring the department to include the date  
 129 |       of a technical rule change in the Florida  
 130 |       Administrative Code; providing that a technical change  
 131 |       does not affect the effective date of a rule;  
 132 |       requiring the department to adopt specified rules;  
 133 |       amending s. 120.56, F.S.; conforming a cross-  
 134 |       reference; amending s. 120.74, F.S.; requiring an  
 135 |       agency to list each rule it plans to develop, adopt,  
 136 |       or repeal during the forthcoming year in the agency's  
 137 |       annual regulatory plan; requiring that an agency's  
 138 |       annual regulatory plan identify any rules that are  
 139 |       required to be repromulgated during the forthcoming  
 140 |       year; requiring the agency to make certain  
 141 |       declarations concerning the annual regulatory plan;  
 142 |       amending ss. 120.80, 120.81, 420.9072, 420.9075, and  
 143 |       443.091, F.S.; conforming cross-references; providing  
 144 |       an effective date.

145 |

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

147 |

148 |       Section 1. Subsections (16) through (19) and subsections  
 149 |       (20), (21), and (22) of section 120.52, Florida Statutes, are  
 150 |       redesignated as subsections (17) through (20) and subsections

151 (22), (23), and (24), respectively, and new subsections (16) and  
 152 (21) are added to that section, to read:

153 120.52 Definitions.—As used in this act:

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

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

161 Section 2. Paragraph (i) of subsection (1), subsections  
 162 (2) and (3), and paragraph (a) of subsection (7) of section  
 163 120.54, Florida Statutes, are amended, and paragraphs (e) and  
 164 (f) are added to subsection (4) of that section, to read:

165 120.54 Rulemaking.—

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

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

172 2. An agency rule that incorporates by specific reference  
 173 another rule of that agency automatically incorporates  
 174 subsequent amendments to the referenced rule unless a contrary  
 175 intent is clearly indicated in the referencing rule. A notice of

HB713

2023

176 amendments to a rule that has been incorporated by specific  
177 reference in other rules of that agency must explain the effect  
178 of those amendments on the referencing rules.

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

182 a. The material has been submitted in the prescribed  
183 electronic format to the Department of State and the full text  
184 of the material can be made available for free public access  
185 through an electronic hyperlink from the rule making the  
186 reference in the Florida Administrative Code; or

187 b. The agency has determined that posting the material on  
188 the Internet for purposes of public examination and inspection  
189 would constitute a violation of federal copyright law, in which  
190 case a statement to that effect, along with the address of  
191 locations at the Department of State and the agency at which the  
192 material is available for public inspection and examination,  
193 must be included in the notice required by subparagraph (3)(a)1.

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

197 5. Notwithstanding any contrary provision in this section,  
198 when an adopted rule of the Department of Environmental  
199 Protection or a water management district is incorporated by  
200 reference in the other agency's rule to implement a provision of



201 part IV of chapter 373, subsequent amendments to the rule are  
 202 not effective as to the incorporating rule unless the agency  
 203 incorporating by reference notifies the committee and the  
 204 Department of State of its intent to adopt the subsequent  
 205 amendment, publishes notice of such intent in the Florida  
 206 Administrative Register, and files with the Department of State  
 207 a copy of the amended rule incorporated by reference. Changes in  
 208 the rule incorporated by reference are effective as to the other  
 209 agency 20 days after the date of the published notice and filing  
 210 with the Department of State. The Department of State shall  
 211 amend the history note of the incorporating rule to show the  
 212 effective date of such change. Any substantially affected person  
 213 may, within 14 days after the date of publication of the notice  
 214 of intent in the Florida Administrative Register, file an  
 215 objection to rulemaking with the agency. The objection must  
 216 ~~shall~~ specify the portions of the rule incorporated by reference  
 217 to which the person objects and the reasons for the objection.  
 218 The agency does ~~shall~~ not have the authority under this  
 219 subparagraph to adopt those portions of the rule specified in  
 220 such objection. The agency shall publish notice of the objection  
 221 and of its action in response in the next available issue of the  
 222 Florida Administrative Register.

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

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

HB713

2023

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

246 2. If a notice of a proposed rule is not filed within 12  
247 months after the most recent notice of rule development, the  
248 agency must withdraw the rule and publish notice of the  
249 withdrawal in the next available issue of the Florida  
250 Administrative Register.

HB713

2023

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

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

255 2. ~~It~~ Avoids the use of unnecessary technical or  
256 specialized language that is understood only by members of  
257 particular trades or professions.

258 (c) An agency may hold public workshops for purposes of  
259 rule development and information gathering for the preparation  
260 of the statement of estimated regulatory costs. If requested in  
261 writing by any affected person, an agency must hold public  
262 workshops, including workshops in various regions of the state  
263 or the agency's service area, for purposes of rule development  
264 and information gathering for the preparation of the statement  
265 of estimated regulatory costs ~~if requested in writing by any~~  
266 ~~affected person,~~ unless the agency head explains in writing why  
267 a workshop is unnecessary. The explanation is not final agency  
268 action subject to review pursuant to ss. 120.569 and 120.57. The  
269 failure to provide the explanation when required may be a  
270 material error in procedure pursuant to s. 120.56(1)(c). When a  
271 workshop or public hearing is held, the agency must ensure that  
272 the persons responsible for preparing the proposed rule and the  
273 statement of estimated regulatory costs are available to receive  
274 public input, to explain the agency's proposal, and to respond  
275 to questions or comments regarding the rule being developed and

HB713

2023

276 the statement of estimated regulatory costs. The workshop may be  
277 facilitated or mediated by a neutral third person, or the agency  
278 may employ other types of dispute resolution alternatives for  
279 the workshop that are appropriate for rule development and for  
280 preparation of the statement of estimated regulatory costs.

281 Notice of a workshop for rule development and for preparation of  
282 the statement of estimated regulatory costs must ~~workshop shall~~  
283 be by publication in the Florida Administrative Register not  
284 less than 14 days before ~~prior to~~ the date on which the workshop  
285 is scheduled to be held and must ~~shall~~ indicate the subject area  
286 that ~~which~~ will be addressed; the agency contact person; and the  
287 place, date, and time of the workshop.

288 (d)1. An agency may use negotiated rulemaking in  
289 developing and adopting rules. The agency should consider the  
290 use of negotiated rulemaking when complex rules are being  
291 drafted or strong opposition to the rules is anticipated. The  
292 agency should consider, but is not limited to considering,  
293 whether a balanced committee of interested persons who will  
294 negotiate in good faith can be assembled, whether the agency is  
295 willing to support the work of the negotiating committee, and  
296 whether the agency can use the group consensus as the basis for  
297 its proposed rule. Negotiated rulemaking uses a committee of  
298 designated representatives to draft a mutually acceptable  
299 proposed rule and to develop information necessary to prepare a  
300 statement of estimated regulatory costs, when applicable.

301           2. An agency that chooses to use the negotiated rulemaking  
 302 process described in this paragraph shall publish in the Florida  
 303 Administrative Register a notice of negotiated rulemaking that  
 304 includes a listing of the representative groups that will be  
 305 invited to participate in the negotiated rulemaking process. Any  
 306 person who believes that his or her interest is not adequately  
 307 represented may apply to participate within 30 days after  
 308 publication of the notice. All meetings of the negotiating  
 309 committee shall be noticed and open to the public pursuant to  
 310 ~~the provisions of~~ this chapter. The negotiating committee shall  
 311 be chaired by a neutral facilitator or mediator.

312           3. The agency's decision to use negotiated rulemaking, its  
 313 selection of the representative groups, and approval or denial  
 314 of an application to participate in the negotiated rulemaking  
 315 process are not agency action. ~~Nothing in~~ This subparagraph is  
 316 not intended to affect the rights of a substantially ~~an~~ affected  
 317 person to challenge a proposed rule developed under this  
 318 paragraph in accordance with s. 120.56(2).

319           (3) ADOPTION PROCEDURES.—

320           (a) *Notices.*—

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

HB713

2023

326 | the proposed rule or amendment and a summary thereof; a  
327 | reference to the grant of rulemaking authority pursuant to which  
328 | the rule is adopted; and a reference to the section or  
329 | subsection of the Florida Statutes or the Laws of Florida being  
330 | implemented or interpreted. The notice must include a concise  
331 | summary of the agency's statement of the estimated regulatory  
332 | costs, ~~if one has been prepared,~~ based on the factors set forth  
333 | in s. 120.541(2), which describes the regulatory impact of the  
334 | rule in readable language; an agency website address where the  
335 | statement of estimated regulatory costs can be viewed in its  
336 | entirety; a statement that any person who wishes to provide the  
337 | agency with information regarding the statement of estimated  
338 | regulatory costs, or to provide a proposal for a lower cost  
339 | regulatory alternative as provided by s. 120.541(1), must do so  
340 | in writing within 21 days after publication of the notice; a  
341 | request for the submission of any information that could be  
342 | helpful to the agency regarding the statement of estimated  
343 | regulatory costs; and a statement as to whether, based on the  
344 | statement of the estimated regulatory costs ~~or other information~~  
345 | ~~expressly relied upon and described by the agency if no~~  
346 | ~~statement of regulatory costs is required,~~ the proposed rule is  
347 | expected to require legislative ratification pursuant to s.  
348 | 120.541(3). The notice must state the procedure for requesting a  
349 | public hearing on the proposed rule. Except when the intended  
350 | action is the repeal of a rule, the notice must include a

HB713

2023

351 reference both to the date on which and to the place where the  
352 notice of rule development that is required by subsection (2)  
353 appeared.

354 2. The notice must ~~shall~~ be published in the Florida  
355 Administrative Register at least 7 days after the publication of  
356 the notice of rule development and at least not less than 28  
357 days before ~~prior to~~ the intended action. The proposed rule,  
358 including all materials proposed to be incorporated by reference  
359 and the statement of estimated regulatory costs, must ~~shall~~ be  
360 available for inspection and copying by the public at the time  
361 of the publication of notice. Material proposed to be  
362 incorporated by reference in the notice must be made available  
363 in the manner prescribed by sub-subparagraph (1)(i)3.a. or sub-  
364 subparagraph (1)(i)3.b.

365 3. The notice must ~~shall~~ be mailed to all persons named in  
366 the proposed rule and mailed or delivered electronically to all  
367 persons who, at least 14 days before publication of the notice  
368 ~~prior to such mailing~~, have made requests of the agency for  
369 advance notice of its proceedings. The agency shall also give  
370 such notice as is prescribed by rule to those particular classes  
371 of persons to whom the intended action is directed.

372 4. The adopting agency shall file with the committee, at  
373 least 21 days before ~~prior to~~ the proposed adoption date, a copy  
374 of each rule it proposes to adopt; a copy of any material  
375 incorporated by reference in the rule; a detailed written

376 statement of the facts and circumstances justifying the proposed  
 377 rule; a copy of the ~~any~~ statement of estimated regulatory costs  
 378 ~~that has been~~ prepared pursuant to s. 120.541; a statement of  
 379 the extent to which the proposed rule relates to federal  
 380 standards or rules on the same subject; and the notice required  
 381 by subparagraph 1.

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

383 1. Statement of estimated regulatory costs.—Before the  
 384 adoption or, ~~amendment, or repeal~~ of any rule, other than an  
 385 emergency rule, an agency must ~~is encouraged to~~ prepare a  
 386 statement of estimated regulatory costs of the proposed rule, as  
 387 provided by s. 120.541. However, an agency is not required to  
 388 prepare a statement of estimated regulatory costs for a rule  
 389 repeal unless such repeal would impose a regulatory cost. In any  
 390 challenge to a rule repeal, a rule repeal that only reduces or  
 391 eliminates regulations on those individuals or entities  
 392 presently regulated by the rule must be considered presumptively  
 393 correct in any proceeding before the division or in any  
 394 proceeding before a court of competent jurisdiction ~~However, an~~  
 395 ~~agency must prepare a statement of estimated regulatory costs of~~  
 396 ~~the proposed rule, as provided by s. 120.541, if:~~

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

399 b. ~~The proposed rule is likely to directly or indirectly~~  
 400 ~~increase regulatory costs in excess of \$200,000 in the aggregate~~



401 ~~in this state within 1 year after the implementation of the~~  
402 ~~rule.~~

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

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

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

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

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

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

417 (V) Operating costs are expected to increase by at least  
418 \$1,000 annually because of the rule; or

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

421 b. Each agency, before the adoption, amendment, or repeal  
422 of a rule, shall consider the impact of the rule on small  
423 businesses as defined in ~~by~~ s. 288.703 and the impact of the  
424 rule on small counties or small cities as defined in ~~by~~ s.  
425 120.52. Whenever practicable, an agency shall tier its rules to

HB713

2023

426 | reduce disproportionate impacts on small businesses, small  
427 | counties, or small cities to avoid regulating small businesses,  
428 | small counties, or small cities that do not contribute  
429 | significantly to the problem the rule is designed to address. An  
430 | agency may define "small business" to include businesses  
431 | employing more than 200 persons, may define "small county" to  
432 | include those with populations of more than 75,000, and may  
433 | define "small city" to include those with populations of more  
434 | than 10,000, if it finds that such a definition is necessary to  
435 | adapt a rule to the needs and problems of small businesses,  
436 | small counties, or small cities. The agency shall consider each  
437 | of the following methods for reducing the impact of the proposed  
438 | rule on small businesses, small counties, and small cities, or  
439 | any combination of these entities:

440 |       (I) Establishing less stringent compliance or reporting  
441 | requirements in the rule.

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

444 |       (III) Consolidating or simplifying the rule's compliance  
445 | or reporting requirements.

446 |       (IV) Establishing performance standards or best management  
447 | practices to replace design or operational standards in the  
448 | rule.

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

HB713

2023

451 ~~c.b.~~(I) If the agency determines that the proposed action  
452 will affect small businesses as defined by the agency as  
453 provided in sub-subparagraph ~~b. a.~~, the agency must ~~shall~~ send  
454 written notice of the rule to the rules ombudsman in the  
455 Executive Office of the Governor at least 28 days before the  
456 intended action.

457 (II) Each agency shall adopt those regulatory alternatives  
458 offered by the rules ombudsman in the Executive Office of the  
459 Governor and provided to the agency no later than 21 days after  
460 the rules ombudsman's receipt of the written notice of the rule  
461 which it finds are feasible and consistent with the stated  
462 objectives of the proposed rule and which would reduce the  
463 impact on small businesses. When regulatory alternatives are  
464 offered by the rules ombudsman in the Executive Office of the  
465 Governor, the 90-day period for filing the rule in subparagraph  
466 (e)2. is extended for a period of 21 days. The agency shall  
467 provide notice to the committee of any regulatory alternative  
468 offered to the agency pursuant to this sub-subparagraph at least  
469 21 days before filing the rule for adoption.

470 (III) If an agency does not adopt all alternatives offered  
471 pursuant to this sub-subparagraph, it must ~~shall~~, before rule  
472 adoption or amendment and pursuant to subparagraph (d)1., file a  
473 detailed written statement with the committee explaining the  
474 reasons for failure to adopt such alternatives. Within 3 working  
475 days after the filing of such notice, the agency shall send a

476 | copy of such notice to the rules ombudsman in the Executive  
 477 | Office of the Governor.

478 | (c) *Hearings.*—

479 | 1. If the intended action concerns any rule other than one  
 480 | relating exclusively to procedure or practice, the agency must  
 481 | ~~shall~~, on the request of any affected person received within 21  
 482 | days after the date of publication of the notice of intended  
 483 | agency action, give affected persons an opportunity to present  
 484 | evidence and argument on all issues under consideration. The  
 485 | agency may schedule a public hearing on the proposed rule and,  
 486 | if requested by any affected person, must ~~shall~~ schedule a  
 487 | public hearing on the proposed rule. When a public hearing is  
 488 | held, the agency must ensure that the persons responsible for  
 489 | preparing the proposed rule and the statement of estimated  
 490 | regulatory costs ~~staff~~ are in attendance ~~available~~ to explain  
 491 | the agency's proposal and to respond to questions or comments  
 492 | regarding the proposed rule, the statement of estimated  
 493 | regulatory costs, and the agency's decision on whether to adopt  
 494 | a lower cost regulatory alternative submitted pursuant to s.  
 495 | 120.541(1)(a). If the agency head is a board or other collegial  
 496 | body created under s. 20.165(4) or s. 20.43(3)(g), and one or  
 497 | more requested public hearings is scheduled, the board or other  
 498 | collegial body must ~~shall~~ conduct at least one of the public  
 499 | hearings itself and may not delegate this responsibility without  
 500 | the consent of those persons requesting the public hearing. Any

HB713

2023

501 material pertinent to the issues under consideration submitted  
502 to the agency within 21 days after the date of publication of  
503 the notice or submitted to the agency between the date of  
504 publication of the notice and the end of the final public  
505 hearing must ~~shall~~ be considered by the agency and made a part  
506 of the record of the rulemaking proceeding.

507 2. Rulemaking proceedings are ~~shall~~ be governed solely by  
508 the provisions of this section unless a person timely asserts  
509 that the person's substantial interests will be affected in the  
510 proceeding and affirmatively demonstrates to the agency that the  
511 proceeding does not provide adequate opportunity to protect  
512 those interests. If the agency determines that the rulemaking  
513 proceeding is not adequate to protect the person's interests, it  
514 must ~~shall~~ suspend the rulemaking proceeding and convene a  
515 separate proceeding under ~~the provisions of~~ ss. 120.569 and  
516 120.57. The agency shall publish notice of convening a separate  
517 proceeding in the Florida Administrative Register. Similarly  
518 situated persons may be requested to join and participate in the  
519 separate proceeding. Upon conclusion of the separate proceeding,  
520 the rulemaking proceeding shall be resumed. All timelines in  
521 this section are tolled during any suspension of the rulemaking  
522 proceeding under this subparagraph, beginning on the date the  
523 notice of convening a separate proceeding is published and  
524 resuming on the day after conclusion of the separate proceeding.

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

HB713

2023

526 1. After the final public hearing on the proposed rule, or  
527 after the time for requesting a hearing has expired, if the  
528 proposed rule has not been changed from the proposed rule as  
529 previously filed with the committee, or contains only technical  
530 changes, the adopting agency shall file a notice to that effect  
531 with the committee at least 7 days before ~~prior to~~ filing the  
532 proposed rule for adoption. Any change, other than a technical  
533 change ~~that does not affect the substance of the rule~~, must be  
534 supported by the record of public hearings held on the proposed  
535 rule, must be in response to written material submitted to the  
536 agency within 21 days after the date of publication of the  
537 notice of intended agency action or submitted to the agency  
538 between the date of publication of the notice and the end of the  
539 final public hearing, or must be in response to a proposed  
540 objection by the committee. Any change, other than a technical  
541 change, to a statement of estimated regulatory costs requires a  
542 notice of change. In addition, ~~when~~ any change, other than a  
543 technical change, to is made in a proposed rule text or any  
544 material incorporated by reference requires, ~~other than a~~  
545 ~~technical change,~~ the adopting agency to ~~shall~~ provide a copy of  
546 a notice of change by certified mail or actual delivery to any  
547 person who requests it in writing no later than 21 days after  
548 the notice required in paragraph (a). The agency shall file the  
549 notice of change with the committee, along with the reasons for  
550 the change, and provide the notice of change to persons

HB713

2023

551 requesting it, at least 21 days before ~~prior to~~ filing the  
552 proposed rule for adoption. The notice of change must ~~shall~~ be  
553 published in the Florida Administrative Register at least 21  
554 days before ~~prior to~~ filing the proposed rule for adoption. The  
555 notice of change must include a summary of any revision of the  
556 statement of estimated regulatory costs required by s.  
557 120.541(1)(c). This subparagraph does not apply to emergency  
558 rules adopted pursuant to subsection (4). Material proposed to  
559 be incorporated by reference in the notice required by this  
560 subparagraph must be made available in the manner prescribed by  
561 sub-subparagraph (1)(i)3.a. or sub-subparagraph (1)(i)3.b.

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

565 3. After the notice required by paragraph (a), the agency  
566 must withdraw the proposed rule if the agency has failed to  
567 adopt it within the prescribed timeframes in this chapter. If  
568 the agency, 30 days after notice by the committee that the  
569 agency has failed to adopt the proposed rule within the  
570 prescribed timeframes in this chapter, has not given notice of  
571 the withdrawal of the rule, the committee must notify the  
572 Department of State that the date for adoption of the rule has  
573 expired, and the Department of State must publish a notice of  
574 withdrawal of the proposed rule.

575 4. After adoption and before the rule becomes effective, a

576 rule may be modified or withdrawn only in the following  
577 circumstances:

578 a. When the committee objects to the rule;

579 b. When a final order, which is not subject to further  
580 appeal, is entered in a rule challenge brought pursuant to s.  
581 120.56 after the date of adoption but before the rule becomes  
582 effective pursuant to subparagraph (e)6.;

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

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

591 5.4. The agency shall give notice of its decision to  
592 withdraw or modify a rule in the first available issue of the  
593 publication in which the original notice of rulemaking was  
594 published, shall notify those persons described in subparagraph  
595 (a)3. in accordance with the requirements of that subparagraph,  
596 and shall notify the Department of State if the rule is required  
597 to be filed with the Department of State.

598 6.5. After a rule has become effective, it may be repealed  
599 or amended only through the rulemaking procedures specified in  
600 this chapter.



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

602 1. If the adopting agency is required to publish its rules  
 603 in the Florida Administrative Code, the agency, upon approval of  
 604 the agency head, must ~~shall~~ file with the Department of State  
 605 three certified copies of the rule it proposes to adopt; one  
 606 copy of any material incorporated by reference in the rule,  
 607 certified by the agency; a summary of the rule; a summary of any  
 608 hearings held on the rule; and a detailed written statement of  
 609 the facts and circumstances justifying the rule. Agencies not  
 610 required to publish their rules in the Florida Administrative  
 611 Code shall file one certified copy of the proposed rule, and the  
 612 other material required by this subparagraph, in the office of  
 613 the agency head, and such rules must ~~shall~~ be open to the  
 614 public.

615 2. A rule may not be filed for adoption less than 28 days  
 616 or more than 90 days after the notice required by paragraph (a),  
 617 until 21 days after the notice of change required by paragraph  
 618 (d), until 14 days after the final public hearing, until 21 days  
 619 after a statement of estimated regulatory costs required under  
 620 s. 120.541 has been provided to all persons who submitted a  
 621 lower cost regulatory alternative and made available to the  
 622 public at a readily accessible page on the agency's website, or  
 623 until the administrative law judge has rendered a decision under  
 624 s. 120.56(2), whichever applies. When a required notice of  
 625 change is published before ~~prior to~~ the expiration of the time

HB713

2023

626 to file the rule for adoption, the period during which a rule  
627 must be filed for adoption is extended to 45 days after the date  
628 of publication. If notice of a public hearing is published  
629 before ~~prior to~~ the expiration of the time to file the rule for  
630 adoption, the period during which a rule must be filed for  
631 adoption is extended to 45 days after adjournment of the final  
632 hearing on the rule, 21 days after receipt of all material  
633 authorized to be submitted at the hearing, or 21 days after  
634 receipt of the transcript, if one is made, whichever is latest.  
635 The term "public hearing" includes any public meeting held by  
636 any agency at which the rule is considered. If a petition for an  
637 administrative determination under s. 120.56(2) is filed, the  
638 period during which a rule must be filed for adoption is  
639 extended to 60 days after the administrative law judge files the  
640 final order with the clerk or until 60 days after subsequent  
641 judicial review is complete.

642 3. At the time a rule is filed, the agency shall certify  
643 that the time limitations prescribed by this paragraph have been  
644 complied with, that all statutory rulemaking requirements have  
645 been met, and that there is no administrative determination  
646 pending on the rule.

647 4. At the time a rule is filed, the committee shall  
648 certify whether the agency has responded in writing to all  
649 material and timely written comments or written inquiries made  
650 on behalf of the committee. The Department of State shall reject

HB713

2023

651 any rule that is not filed within the prescribed time limits;  
652 that does not comply with all statutory rulemaking requirements  
653 and rules of the Department of State; upon which an agency has  
654 not responded in writing to all material and timely written  
655 inquiries or written comments; upon which an administrative  
656 determination is pending; or which does not include a statement  
657 of estimated regulatory costs, if required.

658 5. If a rule has not been adopted within the time limits  
659 imposed by this paragraph or has not been adopted in compliance  
660 with all statutory rulemaking requirements, the agency proposing  
661 the rule must ~~shall~~ withdraw the proposed rule and give notice  
662 of its action in the next available issue of the Florida  
663 Administrative Register.

664 6. The proposed rule shall be adopted on being filed with  
665 the Department of State and becomes ~~become~~ effective 20 days  
666 after being filed, on a later date specified in the notice  
667 required by subparagraph (a)1., on a date required by statute,  
668 or upon ratification by the Legislature pursuant to s.  
669 120.541(3). Rules not required to be filed with the Department  
670 of State ~~shall~~ become effective when adopted by the agency head,  
671 on a later date specified by rule or statute, or upon  
672 ratification by the Legislature pursuant to s. 120.541(3). If  
673 the committee notifies an agency that an objection to a rule is  
674 being considered, the agency may postpone the adoption of the  
675 rule to accommodate review of the rule by the committee. When an

HB713

2023

676 agency postpones adoption of a rule to accommodate review by the  
677 committee, the 90-day period for filing the rule is tolled until  
678 the committee notifies the agency that it has completed its  
679 review of the rule.

680

681 For the purposes of this paragraph, the term "administrative  
682 determination" does not include subsequent judicial review.

683 (4) EMERGENCY RULES.—

684 (e) Emergency rules must be published in the Florida  
685 Administrative Code.

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

689 (7) PETITION TO INITIATE RULEMAKING.—

690 (a) Any person regulated by an agency or having  
691 substantial interest in an agency rule may petition an agency to  
692 adopt, amend, or repeal a rule or to provide the minimum public  
693 information required by this chapter. The petition must ~~shall~~  
694 specify the proposed rule and action requested. The agency shall  
695 file a copy of the petition with the committee. No ~~Not~~ later  
696 than 30 calendar days after ~~following the date of~~ filing a  
697 petition, the agency shall initiate rulemaking proceedings under  
698 this chapter, otherwise comply with the requested action, or  
699 deny the petition with a written statement of its reasons for  
700 the denial.

HB713

2023

701 Section 3. Section 120.541, Florida Statutes, is amended  
702 to read:

703 120.541 Statement of estimated regulatory costs.—

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

706 ~~120.54(3)(a)~~, a substantially affected person may submit to an  
707 agency a good faith written proposal for a lower cost regulatory  
708 alternative to a proposed rule which substantially accomplishes  
709 the objectives of the law being implemented. The agency shall  
710 provide a copy of any proposal for a lower cost regulatory  
711 alternative to the committee at least 21 days before filing the  
712 rule for adoption. The proposal may include the alternative of  
713 not adopting any rule if the proposal explains how the lower  
714 costs and objectives of the law will be achieved by not adopting  
715 any rule. If submitted after a notice of change, a proposal for  
716 a lower cost regulatory alternative is deemed to be made in good  
717 faith only if the person reasonably believes, and the proposal  
718 states, the person's reasons for believing that the proposed  
719 rule as changed by the notice of change increases the regulatory  
720 costs or creates an adverse impact on small businesses that was  
721 not created by the previous proposed rule. If such a proposal is  
722 submitted, the 90-day period for filing the rule is extended 21  
723 days. Upon the submission of the lower cost regulatory  
724 alternative, the agency shall ~~prepare a statement of estimated~~  
725 ~~regulatory costs as provided in subsection (2), or shall~~ revise

HB713

2023

726 its prior statement of estimated regulatory costs, and either  
727 adopt the alternative proposal, reject the alternative proposal,  
728 or modify the proposed rule to reduce the regulatory costs. If  
729 the agency rejects the alternative proposal or modifies the  
730 proposed rule, the agency shall ~~or~~ provide a statement of the  
731 reasons for rejecting the alternative in favor of the proposed  
732 rule.

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

739 ~~(b)(e)~~ The agency must ~~shall~~ revise a statement of  
740 estimated regulatory costs if any change to the rule made under  
741 s. 120.54(3)(d) increases the regulatory costs of the rule or if  
742 the rule is modified in response to the submission of a lower  
743 cost regulatory alternative. A summary of the revised statement  
744 must be included with any subsequent notice published under s.  
745 120.54(3).

746 ~~(c)(d)~~ At least 21 days before filing the proposed rule  
747 for adoption, an agency that is required to revise a statement  
748 of estimated regulatory costs shall provide the statement to the  
749 person who submitted the lower cost regulatory alternative, to  
750 the rules ombudsman in the Executive Office of the Governor, and

HB713

2023

751 to the committee. The revised statement must be published and  
752 made available in the same manner as the original statement of  
753 estimated regulatory costs ~~and shall provide notice on the~~  
754 ~~agency's website that it is available to the public.~~

755 (d)(e) Notwithstanding s. 120.56(1)(c), the failure of the  
756 agency to prepare and publish a statement of estimated  
757 regulatory costs or to respond to a written lower cost  
758 regulatory alternative as provided in this subsection is a  
759 material failure to follow the applicable rulemaking procedures  
760 or requirements set forth in this chapter.

761 (e)(f) An agency's failure to prepare a statement of  
762 estimated regulatory costs or to respond to a written lower cost  
763 regulatory alternative may not be raised in a proceeding  
764 challenging the validity of a rule pursuant to s. 120.52(8)(a)  
765 unless:

- 766 1. Raised in a petition filed no later than 1 year after  
767 the effective date of the rule; and  
768 2. Raised by a person whose substantial interests are  
769 affected by the rule's regulatory costs.

770 (f)(g) A rule that is challenged pursuant to s.  
771 120.52(8)(f) may not be declared invalid unless:

- 772 1. The issue is raised in an administrative proceeding  
773 within 1 year after the effective date of the rule;  
774 2. The challenge is to the agency's rejection of a lower  
775 cost regulatory alternative offered under paragraph (a) or s.

HB713

2023

776 120.54(3)(b)2.c. ~~s. 120.54(3)(b)2.b.~~; and

777 3. The substantial interests of the person challenging the  
778 rule are materially affected by the rejection.

779 (2) A statement of estimated regulatory costs must ~~shall~~  
780 include:

781 (a) An economic analysis showing whether the rule directly  
782 or indirectly:

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

787 2. Is likely to have an adverse impact on business  
788 competitiveness, including the ability of persons doing business  
789 in the state to compete with persons doing business in other  
790 states or domestic markets, productivity, or innovation in  
791 excess of \$1 million in the aggregate within 5 years after the  
792 implementation of the rule; or

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

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



HB713

2023

801 (c) A good faith estimate of the cost to the agency, and  
802 to any other state and local government entities, of  
803 implementing and enforcing the proposed rule, and any  
804 anticipated effect on state or local revenues.

805 (d) A good faith estimate of the compliance ~~transactional~~  
806 costs likely to be incurred by individuals and entities,  
807 including local government entities, required to comply with the  
808 requirements of the rule. ~~As used in this section,~~  
809 ~~"transactional costs" are direct costs that are readily~~  
810 ~~ascertainable based upon standard business practices, and~~  
811 ~~include filing fees, the cost of obtaining a license, the cost~~  
812 ~~of equipment required to be installed or used or procedures~~  
813 ~~required to be employed in complying with the rule, additional~~  
814 ~~operating costs incurred, the cost of monitoring and reporting,~~  
815 ~~and any other costs necessary to comply with the rule.~~

816 (e) An analysis of the impact on small businesses as  
817 defined by s. 288.703, and an analysis of the impact on small  
818 counties and small cities as defined in s. 120.52. The impact  
819 analysis for small businesses must include the basis for the  
820 agency's decision not to implement alternatives that would  
821 reduce adverse impacts on small businesses.

822 (f) Any additional information that the agency determines  
823 may be useful.

824 (g) In the ~~statement or~~ revised statement, ~~whichever~~  
825 ~~applies,~~ a description of any regulatory alternatives submitted

HB713

2023

826 under paragraph (1)(a) and a statement adopting the alternative  
827 or a statement of the reasons for rejecting the alternative in  
828 favor of the proposed rule.

829 (3) If the adverse impact or regulatory costs of the rule  
830 exceed any of the criteria established in paragraph (2)(a), the  
831 rule must ~~shall~~ be submitted to the President of the Senate and  
832 Speaker of the House of Representatives no later than 30 days  
833 before ~~prior to~~ the next regular legislative session, and the  
834 rule may not take effect until it is ratified by the  
835 Legislature.

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

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

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

840 (c) Triennial updates of and amendments to the Florida  
841 Fire Prevention Code which are expressly authorized by s.  
842 633.202.

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

844 (5) For purposes of subsections (2) and (3), adverse  
845 impacts and regulatory costs likely to occur within 5 years  
846 after implementation of the rule include adverse impacts and  
847 regulatory costs estimated to occur within 5 years after the  
848 effective date of the rule. However, if any provision of the  
849 rule is not fully implemented upon the effective date of the  
850 rule, the adverse impacts and regulatory costs associated with

HB713

2023

851 such provision must be adjusted to include any additional  
852 adverse impacts and regulatory costs estimated to occur within 5  
853 years after implementation of such provision.

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

858 1. Increased customer charges for goods or services.

859 2. Decreased market value of goods or services produced,  
860 provided, or sold.

861 3. Increased costs resulting from the purchase of  
862 substitute or alternative goods or services.

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

867 5. Capital costs.

868 6. Any other impacts suggested by the rules ombudsman in  
869 the Executive Office of the Governor or by any interested  
870 persons.

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

875 (c) In estimating compliance costs under paragraph (2)(d),

HB713

2023

876 | the agency shall consider, among other matters, all direct and  
877 | indirect costs necessary to comply with the proposed rule which  
878 | are readily ascertainable based upon standard business  
879 | practices, including, but not limited to, costs related to:

- 880 |     1. Filing fees.
- 881 |     2. Expenses to obtain a license.
- 882 |     3. Necessary equipment.
- 883 |     4. Installation, utilities, and maintenance of necessary  
884 | equipment.
- 885 |     5. Necessary operations and procedures.
- 886 |     6. Accounting, financial, information management, and  
887 | other administrative processes.
- 888 |     7. Other processes.
- 889 |     8. Labor based on relevant rates of wages, salaries, and  
890 | benefits.
- 891 |     9. Materials and supplies.
- 892 |     10. Capital expenditures, including financing costs.
- 893 |     11. Professional and technical services, including  
894 | contracted services necessary to implement and maintain  
895 | compliance.
- 896 |     12. Monitoring and reporting.
- 897 |     13. Qualifying and recurring education, training, and  
898 | testing.
- 899 |     14. Travel.
- 900 |     15. Insurance and surety requirements.

901       16. A fair and reasonable allocation of administrative  
 902 costs and other overhead.

903       17. Reduced sales or other revenues.

904       18. Other items suggested by the rules ombudsman in the  
 905 Executive Office of the Governor or by any interested person,  
 906 business organization, or business representative.

907       (7)(a) The Department of State shall include on the  
 908 Florida Administrative Register website the agency website  
 909 addresses where statements of estimated regulatory costs can be  
 910 viewed in their entirety.

911       (b) An agency that prepares a statement of estimated  
 912 regulatory costs must provide, as part of the notice required  
 913 under s. 120.54(3)(a), the agency website address where the  
 914 statement of estimated regulatory costs can be read in its  
 915 entirety to the Department of State for publication in the  
 916 Florida Administrative Register.

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

921       Section 4. Section 120.5435, Florida Statutes, is created  
 922 to read:

923       120.5435 Repromulgation of rules.—

924       (1) It is the intent of the Legislature that each agency  
 925 periodically review its rules for consistency with the powers

HB713

2023

926 and duties granted by its enabling statutes.

927 (2) If an agency determines after review that substantive  
928 changes to update a rule are not required, such agency must  
929 repromulgate the rule to reflect the date of the review. Each  
930 agency shall review its rules pursuant to this section either 5  
931 years after July 1, 2023, if the rule was adopted before January  
932 1, 2010, or 10 years after the rule is adopted, if the rule was  
933 adopted on or after January 1, 2010. Failure of an agency to  
934 adhere to the deadlines imposed in this section shall be a basis  
935 for any person regulated by the agency or having substantial  
936 interest in the agency rule to petition the agency requesting  
937 the agency to review the rule in accordance with this section.  
938 Upon receipt of such a petition, the agency shall have 30 days  
939 to either comply with the requirements of this section or, if  
940 the agency determines that the duties imposed on the agency are  
941 inapplicable at that time to the specified rule, deny the  
942 petition with a statement explaining the basis for the denial.

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

945 (a) Publish a notice of repromulgation in the Florida  
946 Administrative Register. A notice of repromulgation is not  
947 required to include the text of the rule being repromulgated.

948 (b) File the rule for repromulgation with the Department  
949 of State. A rule may not be filed for repromulgation less than  
950 28 days, and not more than 90 days, after the date of

HB713

2023

951 publication of the notice required by paragraph (a).

952 (4) The agency must file a notice of repromulgation with  
953 the committee at least 14 days before filing the rule for  
954 repromulgation. At the time the rule is filed for  
955 repromulgation, the committee shall certify whether the agency  
956 has responded in writing to all material and timely written  
957 comments or written inquiries made on behalf of the committee.

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

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

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

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

970 (c) The Department of State shall update the history note  
971 of the rule in the Florida Administrative Code to reflect the  
972 effective date of the repromulgated rule.

973 (8) Any rule that is not repromulgated in accordance with  
974 this section must be submitted to the President of the Senate  
975 and the Speaker of the House of Representatives within 7 days

HB713

2023

976 after the decision to not repromulgate the rule. The decision to  
 977 not repromulgate shall not become effective until the conclusion  
 978 of the next regular session of the Legislature following the  
 979 decision.

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

982 Section 5. Section 120.5436, Florida Statutes, is created  
 983 to read:

984 120.5436 Infrastructure permitting review.—

985 (1)(a) It is the intent of the Legislature to build a more  
 986 resilient and responsive government infrastructure to allow  
 987 quick recovery after natural disasters including hurricanes and  
 988 tropical storms.

989 (b) It is the intent of the Legislature to promote  
 990 efficiency in the state's government across branches, agencies,  
 991 and other governmental entities and to identify areas of  
 992 improvement within each that allows for quick, effective  
 993 delivery of services.

994 (c) Further, the Legislature intends for the state to seek  
 995 out ways to improve its administrative procedures in relevant  
 996 fields to build a streamlined permitting process that withstands  
 997 disruptions caused by natural disasters including hurricanes and  
 998 tropical storms.

999 (2)(a) The Department of Environmental Protection and  
 1000 water management districts shall conduct a holistic review of



HB713

2023

1001 their current coastal permitting processes and other permit  
1002 programs. These permitting processes shall include, but not be  
1003 limited to, coastal construction control line permits, joint  
1004 coastal permits, environmental resource permits, and, consistent  
1005 with the terms of the United States Environmental Protection  
1006 Agency's approval, state-administered 404 permits.

1007 (b) The scope and purpose of the review shall be to  
1008 identify areas of improvement to increase efficiency within each  
1009 process. Factors that must be considered in the review include  
1010 the following:

1011 1. The requirements to obtain a permit.

1012 2. Time periods for review, including by commenting  
1013 agencies, and approval of the permit application.

1014 3. Areas for improved efficiency and decision-point  
1015 consolidation within a single project's process.

1016 4. Areas of duplication across one or more permit  
1017 programs.

1018 5. The methods of requesting permits.

1019 6. Any other factors that may increase the efficiency of  
1020 permitting processes and may allow improved storm recovery.

1021 (c) By December 31, 2023, the department and water  
1022 management districts shall provide their findings and proposed  
1023 solutions in a report to the Governor, the President of the  
1024 Senate, and the Speaker of the House of Representatives.

1025 Section 6. Subsection (1) of section 120.545, Florida

HB713

2023

1026 Statutes, is amended to read:

1027 120.545 Committee review of agency rules.—

1028 (1) As a legislative check on legislatively created  
1029 authority, the committee shall examine each existing rule and  
1030 proposed rule, except for those proposed rules exempted by s.  
1031 120.81(1)(e) and (2), and its accompanying material, and each  
1032 emergency rule, ~~and may examine any existing rule,~~ for the  
1033 purpose of determining whether:

1034 (a) The rule is an invalid exercise of delegated  
1035 legislative authority.

1036 (b) The statutory authority for the rule has been  
1037 repealed.

1038 (c) The rule reiterates or paraphrases statutory material.

1039 (d) The rule is in proper form.

1040 (e) The notice given before ~~prior to~~ its adoption was  
1041 sufficient to give adequate notice of the purpose and effect of  
1042 the rule.

1043 (f) The rule is consistent with expressed legislative  
1044 intent pertaining to the specific provisions of law which the  
1045 rule implements.

1046 (g) The rule is necessary to accomplish the apparent or  
1047 expressed objectives of the specific provision of law which the  
1048 rule implements.

1049 (h) The rule is a reasonable implementation of the law as  
1050 it affects the convenience of the general public or persons

HB713

2023

1051 particularly affected by the rule.

1052 (i) The rule could be made less complex or more easily  
1053 comprehensible to the general public.

1054 (j) The rule's statement of estimated regulatory costs  
1055 complies with the requirements of s. 120.541 and whether the  
1056 rule does not impose regulatory costs on the regulated person,  
1057 county, or city which could be reduced by the adoption of less  
1058 costly alternatives that substantially accomplish the statutory  
1059 objectives.

1060 (k) The rule will require additional appropriations.

1061 (l) If the rule is an emergency rule, there exists an  
1062 emergency justifying the adoption of such rule, the agency is  
1063 within its statutory authority, and the rule was adopted in  
1064 compliance with the requirements and limitations of s.  
1065 120.54(4).

1066 Section 7. Paragraphs (a) and (c) of subsection (1) of  
1067 section 120.55, Florida Statutes, are amended to read:

1068 120.55 Publication.—

1069 (1) The Department of State shall:

1070 (a)1. Through a continuous revision and publication  
1071 system, compile and publish electronically, on a website managed  
1072 by the department, the "Florida Administrative Code." The  
1073 Florida Administrative Code must ~~shall~~ contain all rules adopted  
1074 by each agency, citing the grant of rulemaking authority and the  
1075 specific law implemented pursuant to which each rule was

HB713

2023

1076 adopted, all history notes as authorized in s. 120.545(7),  
 1077 complete indexes to all rules contained in the code, and any  
 1078 other material required or authorized by law or deemed useful by  
 1079 the department. The electronic code must ~~shall~~ display each rule  
 1080 chapter currently in effect in browse mode and allow full text  
 1081 search of the code and each rule chapter. The department may  
 1082 contract with a publishing firm for a printed publication;  
 1083 however, the department shall retain responsibility for the code  
 1084 as provided in this section. The electronic publication is ~~shall~~  
 1085 ~~be~~ the official compilation of the administrative rules of this  
 1086 state. The Florida Administrative Code must be published daily  
 1087 by 8 a.m. If a rule, after publication, is corrected and  
 1088 replaced, the Florida Administrative Code must indicate:

- 1089 a. That the Florida Administrative Code has been  
 1090 republished; and
- 1091 b. That the rule that has been corrected by the Department  
 1092 of State.

1093  
 1094 The Department of State retains ~~shall retain~~ the copyright over  
 1095 the Florida Administrative Code.

1096 2. Not publish rules in the Florida Administrative Code  
 1097 which are general in form but applicable to only one school  
 1098 district, community college district, or county, or a part  
 1099 thereof, or state university rules relating to internal  
 1100 personnel or business and finance ~~shall not be published in the~~

HB713

2023

1101 ~~Florida Administrative Code~~. Exclusion from publication in the  
1102 Florida Administrative Code does ~~shall~~ not affect the validity  
1103 or effectiveness of such rules.

1104 3. At the beginning of the section of the code dealing  
1105 with an agency that files copies of its rules with the  
1106 department, ~~the department shall~~ publish the address and  
1107 telephone number of the executive offices of each agency, the  
1108 manner by which the agency indexes its rules, a listing of all  
1109 rules of that agency excluded from publication in the code, and  
1110 a statement as to where those rules may be inspected.

1111 4. Not publish forms ~~shall not be published~~ in the Florida  
1112 Administrative Code; but any form which an agency uses in its  
1113 dealings with the public, along with any accompanying  
1114 instructions, shall be filed with the committee before it is  
1115 used. Any form or instruction which meets the definition of  
1116 "rule" provided in s. 120.52 must ~~shall~~ be incorporated by  
1117 reference into the appropriate rule. The reference must ~~shall~~  
1118 specifically state that the form is being incorporated by  
1119 reference and must ~~shall~~ include the number, title, and  
1120 effective date of the form and an explanation of how the form  
1121 may be obtained. Each form created by an agency which is  
1122 incorporated by reference in a rule notice of which is given  
1123 under s. 120.54(3)(a) after December 31, 2007, must clearly  
1124 display the number, title, and effective date of the form and  
1125 the number of the rule in which the form is incorporated.

HB713

2023

1126           5. Require all materials incorporated by reference in any  
1127 part of an adopted rule and in any part of a repromulgated rule  
1128 ~~The department shall allow adopted rules and material~~  
1129 ~~incorporated by reference to be filed in the manner prescribed~~  
1130 ~~by s. 120.54(1)(i)3.a. or b. electronic form as prescribed by~~  
1131 ~~department rule.~~ When a rule is filed for adoption or  
1132 repromulgation with incorporated material in electronic form,  
1133 the department's publication of the Florida Administrative Code  
1134 on its website must contain a hyperlink from the incorporating  
1135 reference in the rule directly to that material. The department  
1136 may not allow hyperlinks from rules in the Florida  
1137 Administrative Code to any material other than that filed with  
1138 and maintained by the department, but may allow hyperlinks to  
1139 incorporated material maintained by the department from the  
1140 adopting agency's website or other sites.

1141           6. Include the date of any technical changes to a rule in  
1142 the history note of the rule in the Florida Administrative Code.  
1143 A technical change does not affect the effective date of the  
1144 rule.

1145           (c) Prescribe by rule the style and form required for  
1146 rules, notices, and other materials submitted for filing,  
1147 including a rule requiring documents created by an agency that  
1148 are proposed to be incorporated by reference in notices  
1149 published pursuant to s. 120.54(3)(a) and (d) to be coded in the  
1150 same manner as notices published pursuant to s. 120.54(3)(a)1.

HB713

2023

1151 Section 8. Paragraph (a) of subsection (2) of section  
1152 120.56, Florida Statutes, is amended to read:

1153 120.56 Challenges to rules.—

1154 (2) CHALLENGING PROPOSED RULES; SPECIAL PROVISIONS.—

1155 (a) A petition alleging the invalidity of a proposed rule  
1156 shall be filed within 21 days after the date of publication of  
1157 the notice required by s. 120.54(3)(a); within 10 days after the  
1158 final public hearing is held on the proposed rule as provided by  
1159 s. 120.54(3)(e)2.; within 20 days after the statement of  
1160 estimated regulatory costs or revised statement of estimated  
1161 regulatory costs, if applicable, has been prepared and made  
1162 available as provided in s. 120.541(1)(c) ~~s. 120.541(1)(d)~~; or  
1163 within 20 days after the date of publication of the notice  
1164 required by s. 120.54(3)(d). The petitioner has the burden to  
1165 prove by a preponderance of the evidence that the petitioner  
1166 would be substantially affected by the proposed rule. The agency  
1167 then has the burden to prove by a preponderance of the evidence  
1168 that the proposed rule is not an invalid exercise of delegated  
1169 legislative authority as to the objections raised. A person who  
1170 is not substantially affected by the proposed rule as initially  
1171 noticed, but who is substantially affected by the rule as a  
1172 result of a change, may challenge any provision of the resulting  
1173 proposed rule.

1174 Section 9. Subsection (1) and paragraph (a) of subsection  
1175 (2) of section 120.74, Florida Statutes, are amended to read:

1176 120.74 Agency annual rulemaking and regulatory plans;  
 1177 reports.—

1178 (1) REGULATORY PLAN.—By October 1 of each year, each  
 1179 agency shall prepare a regulatory plan.

1180 (a) The plan must include a listing of each law enacted or  
 1181 amended during the previous 12 months which creates or modifies  
 1182 the duties or authority of the agency. If the Governor or the  
 1183 Attorney General provides a letter to the committee stating that  
 1184 a law affects all or most agencies, the agency may exclude the  
 1185 law from its plan. For each law listed by an agency under this  
 1186 paragraph, the plan must state:

1187 1. Whether the agency must adopt rules to implement the  
 1188 law.

1189 2. If rulemaking is necessary to implement the law:

1190 a. Whether a notice of rule development has been published  
 1191 and, if so, the citation to such notice in the Florida  
 1192 Administrative Register.

1193 b. The date by which the agency expects to publish the  
 1194 notice of proposed rule under s. 120.54(3) (a).

1195 3. If rulemaking is not necessary to implement the law, a  
 1196 concise written explanation of the reasons why the law may be  
 1197 implemented without rulemaking.

1198 (b) The plan must also identify and describe each rule,  
 1199 including each rule number or proposed rule number, that include  
 1200 ~~a listing of each law not otherwise listed pursuant to paragraph~~



1201 ~~(a) which~~ the agency expects to develop, adopt, or repeal for  
 1202 the 12-month period beginning on October 1 and ending on  
 1203 September 30 ~~implement by rulemaking before the following July~~  
 1204 ~~1, excluding emergency rules except emergency rulemaking.~~ For  
 1205 each rule law listed under this paragraph, the plan must state  
 1206 whether the rulemaking is intended to simplify, clarify,  
 1207 increase efficiency, improve coordination with other agencies,  
 1208 reduce regulatory costs, or delete obsolete, unnecessary, or  
 1209 redundant rules.

1210 (c) The plan must include any desired update to the prior  
 1211 year's regulatory plan or supplement published pursuant to  
 1212 subsection (7). If, in a prior year, a law was identified under  
 1213 this paragraph or under subparagraph (a)1. as a law requiring  
 1214 rulemaking to implement but a notice of proposed rule has not  
 1215 been published:

1216 1. The agency must ~~shall~~ identify and again list such law,  
 1217 noting the applicable notice of rule development by citation to  
 1218 the Florida Administrative Register; or

1219 2. If the agency has subsequently determined that  
 1220 rulemaking is not necessary to implement the law, the agency  
 1221 must ~~shall~~ identify such law, reference the citation to the  
 1222 applicable notice of rule development in the Florida  
 1223 Administrative Register, and provide a concise written  
 1224 explanation of the reason why the law may be implemented without  
 1225 rulemaking.

HB713

2023

1226           (d) The plan must identify any rules that are required to  
1227 be repromulgated pursuant to s. 120.5435 for the 12-month period  
1228 beginning on October 1 and ending on September 30.

1229           (e) The plan must include a certification executed on  
1230 behalf of the agency by both the agency head, or, if the agency  
1231 head is a collegial body, the presiding officer; and the  
1232 individual acting as principal legal advisor to the agency head.  
1233 The certification must declare:

1234           1. ~~Verify~~ That the persons executing the certification  
1235 have reviewed the plan.

1236           2. ~~Verify~~ That the agency regularly reviews all of its  
1237 rules and identify the period during which all rules have most  
1238 recently been reviewed to determine if the rules remain  
1239 consistent with the agency's rulemaking authority and the laws  
1240 implemented.

1241           3. That the agency understands that regulatory  
1242 accountability is necessary to ensure public confidence in the  
1243 integrity of state government and, to that end, the agency is  
1244 diligently working toward lowering the total number of rules  
1245 adopted.

1246           4. The total number of rules adopted and repealed during  
1247 the previous 12 months.

1248           (2) PUBLICATION AND DELIVERY TO THE COMMITTEE.—

1249           (a) By October 1 of each year, each agency shall:

1250           1. Publish its regulatory plan on its website or on

HB713

2023

1251 another state website established for publication of  
1252 administrative law records. A clearly labeled hyperlink to the  
1253 current plan must be included on the agency's primary website  
1254 homepage.

1255 2. Electronically deliver to the committee a copy of the  
1256 certification required in paragraph (1)(e) ~~(1)(d)~~.

1257 3. Publish in the Florida Administrative Register a notice  
1258 identifying the date of publication of the agency's regulatory  
1259 plan. The notice must include a hyperlink or website address  
1260 providing direct access to the published plan.

1261 Section 10. Subsection (11) of section 120.80, Florida  
1262 Statutes, is amended to read:

1263 120.80 Exceptions and special requirements; agencies.—

1264 (11) NATIONAL GUARD.—Notwithstanding s. 120.52(17) ~~s.~~  
1265 ~~120.52(16)~~, the enlistment, organization, administration,  
1266 equipment, maintenance, training, and discipline of the militia,  
1267 National Guard, organized militia, and unorganized militia, as  
1268 provided by s. 2, Art. X of the State Constitution, are not  
1269 rules as defined by this chapter.

1270 Section 11. Paragraph (c) of subsection (1) of section  
1271 120.81, Florida Statutes, is amended to read:

1272 120.81 Exceptions and special requirements; general  
1273 areas.—

1274 (1) EDUCATIONAL UNITS.—

1275 (c) Notwithstanding s. 120.52(17) ~~s. 120.52(16)~~, any

HB713

2023

1276 tests, test scoring criteria, or testing procedures relating to  
 1277 student assessment which are developed or administered by the  
 1278 Department of Education pursuant to s. 1003.4282, s. 1008.22, or  
 1279 s. 1008.25, or any other statewide educational tests required by  
 1280 law, are not rules.

1281 Section 12. Paragraph (a) of subsection (1) of section  
 1282 420.9072, Florida Statutes, is amended to read:

1283 420.9072 State Housing Initiatives Partnership Program.—  
 1284 The State Housing Initiatives Partnership Program is created for  
 1285 the purpose of providing funds to counties and eligible  
 1286 municipalities as an incentive for the creation of local housing  
 1287 partnerships, to expand production of and preserve affordable  
 1288 housing, to further the housing element of the local government  
 1289 comprehensive plan specific to affordable housing, and to  
 1290 increase housing-related employment.

1291 (1)(a) In addition to the legislative findings set forth  
 1292 in s. 420.6015, the Legislature finds that affordable housing is  
 1293 most effectively provided by combining available public and  
 1294 private resources to conserve and improve existing housing and  
 1295 provide new housing for very-low-income households, low-income  
 1296 households, and moderate-income households. The Legislature  
 1297 intends to encourage partnerships in order to secure the  
 1298 benefits of cooperation by the public and private sectors and to  
 1299 reduce the cost of housing for the target group by effectively  
 1300 combining all available resources and cost-saving measures. The

HB713

2023

1301 Legislature further intends that local governments achieve this  
 1302 combination of resources by encouraging active partnerships  
 1303 between government, lenders, builders and developers, real  
 1304 estate professionals, advocates for low-income persons, and  
 1305 community groups to produce affordable housing and provide  
 1306 related services. Extending the partnership concept to encompass  
 1307 cooperative efforts among small counties as defined in s.  
 1308 120.52(20) ~~s. 120.52(19)~~, and among counties and municipalities  
 1309 is specifically encouraged. Local governments are also intended  
 1310 to establish an affordable housing advisory committee to  
 1311 recommend monetary and nonmonetary incentives for affordable  
 1312 housing as provided in s. 420.9076.

1313 Section 13. Subsection (7) of section 420.9075, Florida  
 1314 Statutes, is amended to read:

1315 420.9075 Local housing assistance plans; partnerships.—

1316 (7) The moneys deposited in the local housing assistance  
 1317 trust fund shall be used to administer and implement the local  
 1318 housing assistance plan. The cost of administering the plan may  
 1319 not exceed 5 percent of the local housing distribution moneys  
 1320 and program income deposited into the trust fund. A county or an  
 1321 eligible municipality may not exceed the 5-percent limitation on  
 1322 administrative costs, unless its governing body finds, by  
 1323 resolution, that 5 percent of the local housing distribution  
 1324 plus 5 percent of program income is insufficient to adequately  
 1325 pay the necessary costs of administering the local housing

HB713

2023

1326 assistance plan. The cost of administering the program may not  
1327 exceed 10 percent of the local housing distribution plus 5  
1328 percent of program income deposited into the trust fund, except  
1329 that small counties, as defined in s. 120.52(20) ~~s. 120.52(19)~~,  
1330 and eligible municipalities receiving a local housing  
1331 distribution of up to \$350,000 may use up to 10 percent of  
1332 program income for administrative costs.

1333 Section 14. Paragraph (d) of subsection (1) of section  
1334 443.091, Florida Statutes, is amended to read:

1335 443.091 Benefit eligibility conditions.—

1336 (1) An unemployed individual is eligible to receive  
1337 benefits for any week only if the Department of Economic  
1338 Opportunity finds that:

1339 (d) She or he is able to work and is available for work.  
1340 In order to assess eligibility for a claimed week of  
1341 unemployment, the department shall develop criteria to determine  
1342 a claimant's ability to work and availability for work. A  
1343 claimant must be actively seeking work in order to be considered  
1344 available for work. This means engaging in systematic and  
1345 sustained efforts to find work, including contacting at least  
1346 five prospective employers for each week of unemployment  
1347 claimed. The department may require the claimant to provide  
1348 proof of such efforts to the one-stop career center as part of  
1349 reemployment services. A claimant's proof of work search efforts  
1350 may not include the same prospective employer at the same

HB713

2023

1351 location in 3 consecutive weeks, unless the employer has  
1352 indicated since the time of the initial contact that the  
1353 employer is hiring. The department shall conduct random reviews  
1354 of work search information provided by claimants. As an  
1355 alternative to contacting at least five prospective employers  
1356 for any week of unemployment claimed, a claimant may, for that  
1357 same week, report in person to a one-stop career center to meet  
1358 with a representative of the center and access reemployment  
1359 services of the center. The center shall keep a record of the  
1360 services or information provided to the claimant and shall  
1361 provide the records to the department upon request by the  
1362 department. However:

1363 1. Notwithstanding any other provision of this paragraph  
1364 or paragraphs (b) and (e), an otherwise eligible individual may  
1365 not be denied benefits for any week because she or he is in  
1366 training with the approval of the department, or by reason of s.  
1367 443.101(2) relating to failure to apply for, or refusal to  
1368 accept, suitable work. Training may be approved by the  
1369 department in accordance with criteria prescribed by rule. A  
1370 claimant's eligibility during approved training is contingent  
1371 upon satisfying eligibility conditions prescribed by rule.

1372 2. Notwithstanding any other provision of this chapter, an  
1373 otherwise eligible individual who is in training approved under  
1374 s. 236(a)(1) of the Trade Act of 1974, as amended, may not be  
1375 determined ineligible or disqualified for benefits due to

HB713

2023

1376 enrollment in such training or because of leaving work that is  
 1377 not suitable employment to enter such training. As used in this  
 1378 subparagraph, the term "suitable employment" means work of a  
 1379 substantially equal or higher skill level than the worker's past  
 1380 adversely affected employment, as defined for purposes of the  
 1381 Trade Act of 1974, as amended, the wages for which are at least  
 1382 80 percent of the worker's average weekly wage as determined for  
 1383 purposes of the Trade Act of 1974, as amended.

1384 3. Notwithstanding any other provision of this section, an  
 1385 otherwise eligible individual may not be denied benefits for any  
 1386 week because she or he is before any state or federal court  
 1387 pursuant to a lawfully issued summons to appear for jury duty.

1388 4. Union members who customarily obtain employment through  
 1389 a union hiring hall may satisfy the work search requirements of  
 1390 this paragraph by reporting daily to their union hall.

1391 5. The work search requirements of this paragraph do not  
 1392 apply to persons who are unemployed as a result of a temporary  
 1393 layoff or who are claiming benefits under an approved short-time  
 1394 compensation plan as provided in s. 443.1116.

1395 6. In small counties as defined in s. 120.52(20) ~~s.~~  
 1396 ~~120.52(19)~~, a claimant engaging in systematic and sustained  
 1397 efforts to find work must contact at least three prospective  
 1398 employers for each week of unemployment claimed.

1399 7. The work search requirements of this paragraph do not  
 1400 apply to persons required to participate in reemployment



HB713

2023

1401 | services under paragraph (e).

1402 |       Section 15. This act shall take effect July 1, 2023.