

By the Committees on Judiciary; Governmental Oversight and Productivity; and Senators Bennett and Dockery

590-1865-05

1 A bill to be entitled
2 An act relating to administrative procedures;
3 amending s. 11.60, F.S.; revising duties of the
4 Administrative Procedures Committee with
5 respect to its review of statutes; amending s.
6 57.111, F.S.; redefining the term "small
7 business" to include certain specified
8 individuals whose net worth does not exceed a
9 specified amount; amending s. 120.54, F.S.;
10 requiring an agency to file a notice of change
11 with the Administrative Procedures Committee;
12 revising times for filing rules for adoption;
13 providing for the form and provisions of bonds;
14 revising applicability of certain uniform
15 rules; amending s. 120.55, F.S.; requiring that
16 certain information be included in forms
17 incorporated by reference in rules; requiring
18 information to be published electronically on
19 an Internet website; providing that such
20 publication does not preclude other
21 publications; providing additional duties of
22 the Department of State with respect to
23 publications; providing requirements for the
24 Internet website; amending s. 120.551, F.S.;
25 postponing the repeal of this section, relating
26 to Internet publication; amending s. 120.56,
27 F.S.; revising provisions relating to
28 withdrawal of challenged rules; amending s.
29 120.569, F.S.; prescribing circumstances under
30 which the time for filing a petition for
31 hearing must be extended; amending s. 120.57,

1 F.S.; requiring a final order to include an
2 explicit ruling on each exception to the
3 recommended order; providing when certain
4 orders become effective; requiring that
5 additional information be included in notices
6 relating to protests of contract solicitations
7 or awards; amending s. 120.65, F.S.; requiring
8 the Division of Administrative Hearings to
9 include certain recommendations in its annual
10 report to the Administrative Procedures
11 Committee; amending s. 120.74, F.S.; requiring
12 agency reports to be filed with the
13 Administrative Procedures Committee; requiring
14 that the annual report filed by an agency
15 identify the types of cases or disputes in
16 which it is involved which should be conducted
17 under the summary hearing process; requiring
18 the Department of State to provide certain
19 assistance to agencies in their transition to
20 publishing on the Florida Administrative Weekly
21 Internet website; providing effective dates.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Subsection (4) of section 11.60, Florida
26 Statutes, is amended to read:

27 11.60 Administrative Procedures Committee; creation;
28 membership; powers; duties.--

29 (4) The committee shall ~~undertake and~~ maintain a
30 ~~systematic and~~ continuous review of statutes that authorize
31 agencies to adopt rules and shall make recommendations to the

1 appropriate standing committees of the Senate and the House of
2 Representatives as to the advisability of considering changes
3 to the delegated legislative authority to adopt rules in
4 specific circumstances. The annual report submitted pursuant
5 to paragraph (2)(f) shall include ~~a schedule for the required~~
6 ~~systematic review of existing statutes, a summary of the~~
7 ~~status of this review, and~~ any recommendations provided to the
8 standing committees during the preceding year.

9 Section 2. Paragraph (d) of subsection (3) of section
10 57.111, Florida Statutes, is amended to read:

11 57.111 Civil actions and administrative proceedings
12 initiated by state agencies; attorneys' fees and costs.--

13 (3) As used in this section:

14 (d) The term "small business party" means:

15 1.a. A sole proprietor of an unincorporated business,
16 including a professional practice, whose principal office is
17 in this state, who is domiciled in this state, and whose
18 business or professional practice has, at the time the action
19 is initiated by a state agency, not more than 25 full-time
20 employees or a net worth of not more than \$2 million,
21 including both personal and business investments; ~~or~~

22 b. A partnership or corporation, including a
23 professional practice, which has its principal office in this
24 state and has at the time the action is initiated by a state
25 agency not more than 25 full-time employees or a net worth of
26 not more than \$2 million; ~~or~~

27 c. An individual whose net worth did not exceed \$2
28 million at the time the action is initiated by a state agency,
29 including a sole shareholder of a subchapter S corporation, an
30 individual working for a corporation when the individual and
31 the corporation are one and the same entity, employees of a

1 private or governmental entity who is forced to litigate
2 against state agency action taken against the entity, or an
3 individual when an action is brought against that individual's
4 license to operate; or

5 d. Any other person whose net worth did not exceed \$2
6 million at the time the action is initiated by a state agency;
7 or

8 2. Any ~~Either~~ small business party as defined in
9 subparagraph 1., without regard to the number of its employees
10 or its net worth, in any action under s. 72.011 or in any
11 administrative proceeding under that section to contest the
12 legality of any assessment of tax imposed for the sale or use
13 of services as provided in chapter 212, or interest thereon,
14 or penalty therefor.

15 Section 3. Paragraphs (d) and (e) of subsection (3)
16 and paragraph (b) of subsection (5) of section 120.54, Florida
17 Statutes, are amended to read:

18 120.54 Rulemaking.--

19 (3) ADOPTION PROCEDURES.--

20 (d) Modification or withdrawal of proposed rules.--

21 1. After the final public hearing on the proposed
22 rule, or after the time for requesting a hearing has expired,
23 if the rule has not been changed from the rule as previously
24 filed with the committee, or contains only technical changes,
25 the adopting agency shall file a notice to that effect with
26 the committee at least 7 days prior to filing the rule for
27 adoption. Any change, other than a technical change that does
28 not affect the substance of the rule, must be supported by the
29 record of public hearings held on the rule, must be in
30 response to written material received on or before the date of
31 the final public hearing, or must be in response to a proposed

1 objection by the committee. In addition, when any change is
2 made in a proposed rule, other than a technical change, the
3 adopting agency shall provide a copy of a notice of change by
4 certified mail or actual delivery to any person who requests
5 it in writing no later than 21 days after the notice required
6 in paragraph (a). The agency shall file the notice of change
7 with the committee, along with the reasons for ~~the such~~
8 change, and provide the notice of change to persons requesting
9 it, at least 21 days prior to filing the rule for adoption.
10 The notice of change shall be published in the Florida
11 Administrative Weekly at least 21 days prior to filing the
12 rule for adoption. This subparagraph does not apply to
13 emergency rules adopted pursuant to subsection (4).

14 2. After the notice required by paragraph (a) and
15 prior to adoption, the agency may withdraw the rule in whole
16 or in part.

17 3. After adoption and before the effective date, a
18 rule may be modified or withdrawn only in response to an
19 objection by the committee or may be modified to extend the
20 effective date by not more than 60 days when the committee has
21 notified the agency that an objection to the rule is being
22 considered.

23 4. The agency shall give notice of its decision to
24 withdraw or modify a rule in the first available issue of the
25 publication in which the original notice of rulemaking was
26 published, shall notify those persons described in
27 subparagraph (a)3. in accordance with the requirements of that
28 subparagraph, and shall notify the Department of State if the
29 rule is required to be filed with the Department of State.
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1 5. After a rule has become effective, it may be
2 repealed or amended only through the rulemaking procedures
3 specified in this chapter.

4 (e) Filing for final adoption; effective date.--

5 1. If the adopting agency is required to publish its
6 rules in the Florida Administrative Code, it shall file with
7 the Department of State three certified copies of the rule it
8 proposes to adopt, a summary of the rule, a summary of any
9 hearings held on the rule, and a detailed written statement of
10 the facts and circumstances justifying the rule. Agencies not
11 required to publish their rules in the Florida Administrative
12 Code shall file one certified copy of the proposed rule, and
13 the other material required by this subparagraph, in the
14 office of the agency head, and such rules shall be open to the
15 public.

16 2. A rule may not be filed for adoption less than 28
17 days or more than 90 days after the notice required by
18 paragraph (a), until 21 days after the notice required by
19 paragraph (d), until 14 days after the final public hearing,
20 until 21 days after preparation of a statement of estimated
21 regulatory costs required under s. 120.541, or until the
22 administrative law judge has rendered a decision under s.
23 120.56(2), whichever applies. Filings shall be made no less
24 than 28 days nor more than 90 days after the notice required
25 by paragraph (a). When a required notice of change is
26 published prior to the expiration of the time to file the rule
27 for adoption, the period during which a rule must be filed for
28 adoption is extended to 45 days after the date of publication.
29 If notice of a public hearing is published prior to the
30 expiration of the time to file the rule for adoption, the
31 period during which a rule must be filed for adoption is

1 extended to 45 days after adjournment of the final hearing on
2 the rule, 21 days after receipt of all material authorized to
3 be submitted at the hearing, or 21 days after receipt of the
4 transcript, if one is made, whichever is latest. The term
5 "public hearing" includes any public meeting held by any
6 agency at which the rule is considered. The filing of a
7 petition for an administrative determination under the
8 provisions of s. 120.56(2) shall toll the applicable 90-day
9 period during which a rule must be filed for adoption until 30
10 days after rendition of the final order or until judicial
11 review of the final order is complete. ~~the administrative law~~
12 ~~judge has filed the final order with the clerk.~~

13 3. At the time a rule is filed, the agency shall
14 certify that the time limitations prescribed by this paragraph
15 have been complied with, that all statutory rulemaking
16 requirements have been met, and that there is no
17 administrative determination pending on the rule. For the
18 purposes of this paragraph, the term "administrative
19 determination" does not include subsequent judicial review.

20 4. At the time a rule is filed, the committee shall
21 certify whether the agency has responded in writing to all
22 material and timely written comments or written inquiries made
23 on behalf of the committee. The department shall reject any
24 rule not filed within the prescribed time limits; that does
25 not satisfy all statutory rulemaking requirements; upon which
26 an agency has not responded in writing to all material and
27 timely written inquiries or written comments; upon which an
28 administrative determination is pending; or which does not
29 include a statement of estimated regulatory costs, if
30 required.

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1 5. If a rule has not been adopted within the time
2 limits imposed by this paragraph or has not been adopted in
3 compliance with all statutory rulemaking requirements, the
4 agency proposing the rule shall withdraw the rule and give
5 notice of its action in the next available issue of the
6 Florida Administrative Weekly.

7 6. The proposed rule shall be adopted on being filed
8 with the Department of State and become effective 20 days
9 after being filed, on a later date specified in the rule, or
10 on a date required by statute. Rules not required to be filed
11 with the Department of State shall become effective when
12 adopted by the agency head or on a later date specified by
13 rule or statute. If the committee notifies an agency that an
14 objection to a rule is being considered, the agency may
15 postpone the adoption of the rule to accommodate review of the
16 rule by the committee. When an agency postpones adoption of a
17 rule to accommodate review by the committee, the 90-day period
18 for filing the rule is tolled until the committee notifies the
19 agency that it has completed its review of the rule.

20 (5) UNIFORM RULES.--

21 (b) The uniform rules of procedure adopted by the
22 commission pursuant to this subsection shall include, but are
23 not limited to:

24 1. Uniform rules for the scheduling of public
25 meetings, hearings, and workshops.

26 2. Uniform rules for use by each state agency that
27 provide procedures for conducting public meetings, hearings,
28 and workshops, and for taking evidence, testimony, and
29 argument at such public meetings, hearings, and workshops, in
30 person and by means of communications media technology. The
31 rules shall provide that all evidence, testimony, and argument

1 presented shall be afforded equal consideration, regardless of
2 the method of communication. If a public meeting, hearing, or
3 workshop is to be conducted by means of communications media
4 technology, or if attendance may be provided by such means,
5 the notice shall so state. The notice for public meetings,
6 hearings, and workshops utilizing communications media
7 technology shall state how persons interested in attending may
8 do so and shall name locations, if any, where communications
9 media technology facilities will be available. Nothing in this
10 paragraph shall be construed to diminish the right to inspect
11 public records under chapter 119. Limiting points of access to
12 public meetings, hearings, and workshops subject to the
13 provisions of s. 286.011 to places not normally open to the
14 public shall be presumed to violate the right of access of the
15 public, and any official action taken under such circumstances
16 is void and of no effect. Other laws relating to public
17 meetings, hearings, and workshops, including penal and
18 remedial provisions, shall apply to public meetings, hearings,
19 and workshops conducted by means of communications media
20 technology, and shall be liberally construed in their
21 application to such public meetings, hearings, and workshops.
22 As used in this subparagraph, "communications media
23 technology" means the electronic transmission of printed
24 matter, audio, full-motion video, freeze-frame video,
25 compressed video, and digital video by any method available.

26 3. Uniform rules of procedure for the filing of notice
27 of protests and formal written protests. The Administration
28 Commission may prescribe the form and substantive provisions
29 of a required bond.

30 4. Uniform rules of procedure for the filing of
31 petitions for administrative hearings pursuant to s. 120.569

1 or s. 120.57. For all actions other than agency enforcement
2 and disciplinary actions against a licensee or other person,

3 such rules shall require the petition to include:

4 a. The identification of the petitioner.

5 b. A statement of when and how the petitioner received
6 notice of the agency's action or proposed action.

7 c. An explanation of how the petitioner's substantial
8 interests are or will be affected by the action or proposed
9 action.

10 d. A statement of all material facts disputed by the
11 petitioner or a statement that there are no disputed facts.

12 e. A statement of the ultimate facts alleged,
13 including a statement of the specific facts the petitioner
14 contends warrant reversal or modification of the agency's
15 proposed action.

16 f. A statement of the specific rules or statutes that
17 the petitioner contends require reversal or modification of
18 the agency's proposed action, including an explanation of how
19 the alleged facts relate to the specific rules or statutes.

20 g. A statement of the relief sought by the petitioner,
21 stating precisely the action petitioner wishes the agency to
22 take with respect to the proposed action.

23 5. Uniform rules of procedure for the filing and
24 prompt disposition of petitions for declaratory statements,
25 including the contents of the notices that must be published
26 in the Florida Administrative Weekly pursuant to s. 120.565.

27 6. Provision of a method by which each agency head
28 shall provide a description of the agency's organization and
29 general course of its operations.

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1 7. Uniform rules establishing procedures for granting
2 or denying petitions for variances and waivers pursuant to s.
3 120.542.

4 Section 4. Effective December 31, 2006, section
5 120.55, Florida Statutes, is amended to read:

6 120.55 Publication.--

7 (1) The Department of State shall:

8 (a)1. Through a continuous revision system, compile
9 and publish the "Florida Administrative Code." The Florida
10 Administrative Code shall contain all rules adopted by each
11 agency, citing the specific rulemaking authority pursuant to
12 which each rule was adopted, all history notes as authorized
13 in s. 120.545(9), and complete indexes to all rules contained
14 in the code. Supplementation shall be made as often as
15 practicable, but at least monthly. The department may
16 contract with a publishing firm for the publication, in a
17 timely and useful form, of the Florida Administrative Code;
18 however, the department shall retain responsibility for the
19 code as provided in this section. This publication shall be
20 the official compilation of the administrative rules of this
21 state. The Department of State shall retain the copyright over
22 the Florida Administrative Code.

23 2. Rules general in form but applicable to only one
24 school district, community college district, or county, or a
25 part thereof, or state university rules relating to internal
26 personnel or business and finance shall not be published in
27 the Florida Administrative Code. Exclusion from publication in
28 the Florida Administrative Code shall not affect the validity
29 or effectiveness of such rules.

30 3. At the beginning of the section of the code dealing
31 with an agency that files copies of its rules with the

1 department, the department shall publish the address and
2 telephone number of the executive offices of each agency, the
3 manner by which the agency indexes its rules, a listing of all
4 rules of that agency excluded from publication in the code,
5 and a statement as to where those rules may be inspected.

6 4. Forms shall not be published in the Florida
7 Administrative Code; but any form which an agency uses in its
8 dealings with the public, along with any accompanying
9 instructions, shall be filed with the committee before it is
10 used. Any form or instruction which meets the definition of
11 "rule" provided in s. 120.52 shall be incorporated by
12 reference into the appropriate rule. The reference shall
13 specifically state that the form is being incorporated by
14 reference and shall include the number, title, and effective
15 date of the form and an explanation of how the form may be
16 obtained. Each form created by an agency which is incorporated
17 by reference in a rule notice of which is given under s.
18 120.54(3)(a) after December 31, 2006, must clearly display the
19 number, title, and effective date of the form and the number
20 of the rule in which the form is incorporated.

21 (b) Electronically publish on an Internet website
22 managed by the department a weekly publication entitled the
23 "Florida Administrative Weekly," which shall serve as the
24 official Internet website for such publication and must
25 contain:

26 1. Notice of adoption of, and an index to, all rules
27 filed during the preceding week.

28 2. All notices required by s. 120.54(3)(a), showing
29 the text of all rules proposed for consideration ~~or a~~
30 ~~reference to the location in the Florida Administrative Weekly~~
31 ~~where the text of the proposed rules is published.~~

1 3. All notices of public meetings, hearings, and
2 workshops conducted in accordance with the provisions of s.
3 120.525, including a statement of the manner in which a copy
4 of the agenda may be obtained.

5 4. A notice of each request for authorization to amend
6 or repeal an existing uniform rule or for the adoption of new
7 uniform rules.

8 5. Notice of petitions for declaratory statements or
9 administrative determinations.

10 6. A summary of each objection to any rule filed by
11 the Administrative Procedures Committee during the preceding
12 week.

13 7. A cumulative list of all rules that have been
14 proposed but not filed for adoption.

15 ~~8.7.~~ Any other material required or authorized by law
16 or deemed useful by the department.

17
18 The department shall publish a printed version of the Florida
19 Administrative Weekly and make copies available on an annual
20 subscription basis. The department may contract with a
21 publishing firm for printed publication of the Florida
22 Administrative Weekly.

23 (c) Review notices for compliance with format and
24 numbering requirements before publishing them on the Florida
25 Administrative Weekly Internet website.

26 (d)(e) Prescribe by rule the style and form required
27 for rules submitted for filing and establish the form for
28 their certification.

29 (e)(d) Correct grammatical, typographical, and like
30 errors not affecting the construction or meaning of the rules,
31

1 after having obtained the advice and consent of the
2 appropriate agency, and insert history notes.

3 ~~(e) Make copies of the Florida Administrative Weekly~~
4 ~~available on an annual subscription basis computed to cover a~~
5 ~~pro rata share of 50 percent of the costs related to the~~
6 ~~publication of the Florida Administrative Weekly.~~

7 (f) Charge each agency using the Florida
8 Administrative Weekly a space rate ~~computed~~ to cover a ~~pro~~
9 ~~rata share of 50 percent of the costs related to the Florida~~
10 ~~Administrative Weekly and the Florida Administrative Code.~~

11 (g) Maintain a permanent record of all notices
12 published in the Florida Administrative Weekly.

13 (2) The Florida Administrative Weekly Internet website
14 must allow users to:

15 (a) Search for notices by type, publication date, rule
16 number, word, subject, and agency;

17 (b) Search a database that makes available all notices
18 published on the website for a period of at least 5 years;

19 (c) Subscribe to an automated e-mail notification of
20 selected notices;

21 (d) View agency forms incorporated by reference in
22 proposed rules; and

23 (e) Comment on proposed rules.

24 (3) Publication of material required by paragraph
25 (1)(b) on the Florida Administrative Weekly Internet website
26 does not preclude publication of such material on an agency's
27 website or by other means.

28 (4)(2) Each agency shall provide copies of its rules
29 upon request, with citations to the grant of rulemaking
30 authority and the specific law implemented for each rule print
31

1 ~~or distribute copies of its rules, citing the specific~~
2 ~~rulemaking authority pursuant to which each rule was adopted.~~

3 ~~(5)(3)~~ Any publication of a proposed rule promulgated
4 by an agency, whether published in the Florida Administrative
5 Code or elsewhere, shall include, along with the rule, the
6 name of the person or persons originating such rule, the name
7 of the supervisor or person who approved the rule, and the
8 date upon which the rule was approved.

9 (6) Access to the Florida Administrative Weekly
10 Internet website and its contents, including the e-mail
11 notification service, shall be free for the public.

12 ~~(7)(a)(4)(a)~~ Each year the Department of State shall
13 furnish the Florida Administrative Weekly, without charge and
14 upon request, as follows:

15 1. One subscription to each federal and state court
16 having jurisdiction over the residents of the state; the
17 Legislative Library; each state university library; the State
18 Library; each depository library designated pursuant to s.
19 257.05; and each standing committee of the Senate and House of
20 Representatives and each state legislator.

21 2. Two subscriptions to each state department.

22 3. Three subscriptions to the library of the Supreme
23 Court of Florida, the library of each state district court of
24 appeal, the division, the library of the Attorney General,
25 each law school library in Florida, the Secretary of the
26 Senate, and the Clerk of the House of Representatives.

27 4. Ten subscriptions to the committee.

28 (b) The Department of State shall furnish one copy of
29 the Florida Administrative Weekly, at no cost, to each clerk
30 of the circuit court and each state department, for posting
31 for public inspection.

1 ~~(8)(5)~~(a) All fees and moneys collected by the
2 Department of State under this chapter shall be deposited in
3 the Records Management Trust Fund for the purpose of paying
4 for ~~the publication and distribution of the Florida~~
5 ~~Administrative Code and the Florida Administrative Weekly and~~
6 ~~for associated~~ costs incurred by the department in carrying
7 out this chapter.

8 (b) The unencumbered balance in the Records Management
9 Trust Fund for fees collected pursuant to this chapter may
10 ~~shall~~ not exceed \$300,000 at the beginning of each fiscal
11 year, and any excess shall be transferred to the General
12 Revenue Fund.

13 ~~(c) It is the intent of the Legislature that the~~
14 ~~Florida Administrative Weekly be supported entirely from funds~~
15 ~~collected for subscriptions to and advertisements in the~~
16 ~~Florida Administrative Weekly.~~

17 Section 5. Subsection (3) of section 120.551, Florida
18 Statutes, is amended to read:

19 120.551 Internet publication.--

20 (3) This section is repealed effective December 31,
21 2006 July 1, 2005, unless reviewed and reenacted by the
22 ~~Legislature before that date.~~

23 Section 6. Paragraph (b) of subsection (2) of section
24 120.56, Florida Statutes, is amended to read:

25 120.56 Challenges to rules.--

26 (2) CHALLENGING PROPOSED RULES; SPECIAL PROVISIONS.--

27 (b) The administrative law judge may declare the
28 proposed rule wholly or partly invalid. Unless the decision of
29 the administrative law judge is reversed on appeal, the
30 proposed rule or provision of a proposed rule declared invalid
31 shall ~~be withdrawn by the adopting agency and shall not be~~

1 ~~adopted. No rule shall be filed for adoption until 28 days~~
2 ~~after the notice required by s. 120.54(3)(a), until 21 days~~
3 ~~after the notice required by s. 120.54(3)(d), until 14 days~~
4 ~~after the public hearing, until 21 days after preparation of a~~
5 ~~statement of estimated regulatory costs required pursuant to~~
6 ~~s. 120.541, or until the administrative law judge has rendered~~
7 ~~a decision, whichever applies.~~ However, the agency may proceed
8 with all other steps in the rulemaking process, including the
9 holding of a factfinding hearing. In the event part of a
10 proposed rule is declared invalid, the adopting agency may, in
11 its sole discretion, withdraw the proposed rule in its
12 entirety. The agency whose proposed rule has been declared
13 invalid in whole or part shall give notice of the decision in
14 the first available issue of the Florida Administrative
15 Weekly.

16 Section 7. Paragraph (c) of subsection (2) of section
17 120.569, Florida Statutes, is amended to read:

18 120.569 Decisions which affect substantial
19 interests.--

20 (2)

21 (c) Unless otherwise provided by law, a petition or
22 request for hearing shall include those items required by the
23 uniform rules adopted pursuant to s. 120.54(5)(b)4. Upon the
24 receipt of a petition or request for hearing, the agency shall
25 carefully review the petition to determine if it contains all
26 of the required information. A petition shall be dismissed if
27 it is not in substantial compliance with these requirements or
28 it has been untimely filed. Dismissal of a petition shall, at
29 least once, be without prejudice to petitioner's filing a
30 timely amended petition curing the defect, unless it
31 conclusively appears from the face of the petition that the

1 defect cannot be cured. The agency shall promptly give
2 written notice to all parties of the action taken on the
3 petition, shall state with particularity its reasons if the
4 petition is not granted, and shall state the deadline for
5 filing an amended petition if applicable. The time for filing
6 a petition shall be extended if the petitioner has been misled
7 or lulled into inaction, has in some extraordinary way been
8 prevented from asserting his or her rights, or has timely
9 asserted his or her rights mistakenly in the wrong forum.

10 Section 8. Paragraphs (k) and (m) of subsection (1)
11 and paragraph (a) of subsection (3) of section 120.57, Florida
12 Statutes, are amended to read:

13 120.57 Additional procedures for particular cases.--

14 (1) ADDITIONAL PROCEDURES APPLICABLE TO HEARINGS
15 INVOLVING DISPUTED ISSUES OF MATERIAL FACT.--

16 (k) The presiding officer shall complete and submit to
17 the agency and all parties a recommended order consisting of
18 findings of fact, conclusions of law, and recommended
19 disposition or penalty, if applicable, and any other
20 information required by law to be contained in the final
21 order. All proceedings conducted under ~~pursuant to~~ this
22 subsection shall be de novo. The agency shall allow each party
23 15 days in which to submit written exceptions to the
24 recommended order. The final order shall include an explicit
25 ruling on each exception, but an agency need not rule on an
26 exception that does not clearly identify the disputed portion
27 of the recommended order by page number or paragraph, that
28 does not identify the legal basis for the exception, or that
29 does not include appropriate and specific citations to the
30 record.
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1 (m) If a recommended order is submitted to an agency,
2 the agency shall provide a copy of its final order and any
3 exceptions to the division within 15 days after the order is
4 filed with the agency clerk. In these cases, the final order
5 does not become effective until it is provided to the
6 division.

7 (3) ADDITIONAL PROCEDURES APPLICABLE TO PROTESTS TO
8 CONTRACT SOLICITATION OR AWARD.--Agencies subject to this
9 chapter shall use the uniform rules of procedure, which
10 provide procedures for the resolution of protests arising from
11 the contract solicitation or award process. Such rules shall
12 at least provide that:

13 (a) The agency shall provide notice of a decision or
14 intended decision concerning a solicitation, contract award,
15 or exceptional purchase by electronic posting. This notice
16 shall contain the following statement: "Failure to file a
17 protest within the time prescribed in section 120.57(3),
18 Florida Statutes, or failure to post the bond or other
19 security required by law within the time allowed for filing a
20 bond shall constitute a waiver of proceedings under chapter
21 120, Florida Statutes."

22 Section 9. Paragraph (c) is added to subsection (10)
23 of section 120.65, Florida Statutes, to read:

24 120.65 Administrative law judges.--

25 (10) Not later than February 1 of each year, the
26 division shall issue a written report to the Administrative
27 Procedures Committee and the Administration Commission,
28 including at least the following information:

29 (c) Recommendations as to those types of cases or
30 disputes which should be conducted under the summary hearing
31 process described in s. 120.574.

1 Section 10. Subsection (2) of section 120.74, Florida
2 Statutes, is amended to read:

3 120.74 Agency review, revision, and report.--

4 (2) Beginning October 1, 1997, and by October 1 of
5 every other year thereafter, the head of each agency shall
6 file a report with the President of the Senate, ~~and~~ the
7 Speaker of the House of Representatives, and the committee,
8 with a copy to each appropriate standing committee of the
9 Legislature, which certifies that the agency has complied with
10 the requirements of this subsection. The report must specify
11 any changes made to its rules as a result of the review and,
12 when appropriate, recommend statutory changes that will
13 promote efficiency, reduce paperwork, or decrease costs to
14 government and the private sector. The report must identify
15 the types of cases or disputes in which the agency is involved
16 which should be conducted under the summary hearing process
17 described in s. 120.574.

18 Section 11. The Department of State shall, before
19 December 31, 2006, make available, to all agencies required on
20 the effective date of this act to publish materials in the
21 Florida Administrative Weekly, training courses for the
22 purpose of assisting the agencies with their transition to
23 publishing on the Florida Administrative Weekly Internet
24 website. The training courses may be provided in the form of
25 workshops or software packages that allow self-training by
26 agency personnel.

27 Section 12. Except as otherwise expressly provided in
28 this act, this act shall take effect July 1, 2005.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
CS/Senate Bill 1010

The committee substitute differs from the prior committee substitute by:

- Expanding eligibility under the Florida Equal Access to Justice Act, through which small business parties may receive attorney's fees and costs when they prevail in certain adjudicatory or administrative proceedings, to include an individual whose net worth did not exceed \$2 million at the time of the state agency action;
- Clarifying an agency's duty to report on changes made to proposed rules after a final public hearing;
- Requiring the Division of Administrative Hearings and agencies to recommend types of cases or disputes suitable for a statutory summary hearing process;
- Requiring an agency's final order in cases involving disputed issues of material fact to explicitly rule on the exceptions that parties raise to the recommended order; and
- Specifying that the Florida Administrative Weekly website, as prescribed by the legislation, must include the ability to comment on proposed rules.