

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

576-2111-05

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; amending s.
18 120.80, F.S.; requiring that the commission
19 refer certain matters affecting the substantial
20 interest of a utility to the Division of
21 Administrative Hearings so that an
22 administrative judge may be assigned to conduct
23 a hearing and enter a recommended order;
24 requiring the Department of State to provide
25 certain assistance to agencies in their
26 transition to publishing on the Florida
27 Administrative Weekly Internet website;
28 providing effective dates.

29
30 Be It Enacted by the Legislature of the State of Florida:
31

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

3 11.60 Administrative Procedures Committee; creation;
4 membership; powers; duties.--

5 (4) The committee shall ~~undertake and~~ maintain a
6 ~~systematic and~~ continuous review of statutes that authorize
7 agencies to adopt rules and shall make recommendations to the
8 appropriate standing committees of the Senate and the House of
9 Representatives as to the advisability of considering changes
10 to the delegated legislative authority to adopt rules in
11 specific circumstances. The annual report submitted pursuant
12 to paragraph (2)(f) shall include ~~a schedule for the required~~
13 ~~systematic review of existing statutes, a summary of the~~
14 ~~status of this review, and~~ any recommendations provided to the
15 standing committees during the preceding year.

16 Section 2. Paragraph (d) of subsection (3) of section
17 57.111, Florida Statutes, is amended to read:

18 57.111 Civil actions and administrative proceedings
19 initiated by state agencies; attorneys' fees and costs.--

20 (3) As used in this section:

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

22 1.a. A sole proprietor of an unincorporated business,
23 including a professional practice, whose principal office is
24 in this state, who is domiciled in this state, and whose
25 business or professional practice has, at the time the action
26 is initiated by a state agency, not more than 25 full-time
27 employees or a net worth of not more than \$2 million,
28 including both personal and business investments; ~~or~~

29 b. A partnership or corporation, including a
30 professional practice, which has its principal office in this
31 state and has at the time the action is initiated by a state

1 agency not more than 25 full-time employees or a net worth of
2 not more than \$2 million; ~~or~~

3 c. An individual whose net worth did not exceed \$2
4 million at the time the action is initiated by a state agency,
5 including a sole shareholder of a subchapter S corporation, an
6 individual working for a corporation when the individual and
7 the corporation are one and the same entity, an employee of a
8 private or governmental entity who is forced to litigate
9 against agency action, or an individual when an action is
10 brought against that individual's license to operate; or

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

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

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

24 120.54 Rulemaking.--

25 (3) ADOPTION PROCEDURES.--

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

27 1. After the final public hearing on the proposed
28 rule, or after the time for requesting a hearing has expired,
29 if the rule has not been changed from the rule as previously
30 filed with the committee, or contains only technical changes,
31 the adopting agency shall file a notice to that effect with

1 | the committee at least 7 days prior to filing the rule for
2 | adoption. Any change, other than a technical change that does
3 | not affect the substance of the rule, must be supported by the
4 | record of public hearings held on the rule, must be in
5 | response to written material received on or before the date of
6 | the final public hearing, or must be in response to a proposed
7 | objection by the committee. In addition, when any change is
8 | made in a proposed rule, other than a technical change, the
9 | adopting agency shall provide a copy of a notice of change by
10 | certified mail or actual delivery to any person who requests
11 | it in writing no later than 21 days after the notice required
12 | in paragraph (a). The agency shall file the notice of change
13 | with the committee, along with the reasons for the ~~such~~
14 | change, and provide the notice of change to persons requesting
15 | it, at least 21 days prior to filing the rule for adoption.
16 | The notice of change shall be published in the Florida
17 | Administrative Weekly at least 21 days prior to filing the
18 | rule for adoption. This subparagraph does not apply to
19 | emergency rules adopted pursuant to subsection (4).

20 | 2. After the notice required by paragraph (a) and
21 | prior to adoption, the agency may withdraw the rule in whole
22 | or in part.

23 | 3. After adoption and before the effective date, a
24 | rule may be modified or withdrawn only in response to an
25 | objection by the committee or may be modified to extend the
26 | effective date by not more than 60 days when the committee has
27 | notified the agency that an objection to the rule is being
28 | considered.

29 | 4. The agency shall give notice of its decision to
30 | withdraw or modify a rule in the first available issue of the
31 | publication in which the original notice of rulemaking was

1 published, shall notify those persons described in
2 subparagraph (a)3. in accordance with the requirements of that
3 subparagraph, and shall notify the Department of State if the
4 rule is required to be filed with the Department of State.

5 5. After a rule has become effective, it may be
6 repealed or amended only through the rulemaking procedures
7 specified in this chapter.

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

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

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

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

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

24 4. At the time a rule is filed, the committee shall
25 certify whether the agency has responded in writing to all
26 material and timely written comments or written inquiries made
27 on behalf of the committee. The department shall reject any
28 rule not filed within the prescribed time limits; that does
29 not satisfy all statutory rulemaking requirements; upon which
30 an agency has not responded in writing to all material and
31 timely written inquiries or written comments; upon which an

1 administrative determination is pending; or which does not
2 include a statement of estimated regulatory costs, if
3 required.

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

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

23 (5) UNIFORM RULES.--

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

27 1. Uniform rules for the scheduling of public
28 meetings, hearings, and workshops.

29 2. Uniform rules for use by each state agency that
30 provide procedures for conducting public meetings, hearings,
31 and workshops, and for taking evidence, testimony, and

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

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

3 4. Uniform rules of procedure for the filing of
4 petitions for administrative hearings pursuant to s. 120.569
5 or s. 120.57. For all actions other than agency enforcement
6 and disciplinary actions against a licensee or other person,
7 such rules shall require the petition to include:

8 a. The identification of the petitioner.

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

11 c. An explanation of how the petitioner's substantial
12 interests are or will be affected by the action or proposed
13 action.

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

16 e. A statement of the ultimate facts alleged,
17 including a statement of the specific facts the petitioner
18 contends warrant reversal or modification of the agency's
19 proposed action.

20 f. A statement of the specific rules or statutes that
21 the petitioner contends require reversal or modification of
22 the agency's proposed action, including an explanation of how
23 the alleged facts relate to the specific rules or statutes.

24 g. A statement of the relief sought by the petitioner,
25 stating precisely the action petitioner wishes the agency to
26 take with respect to the proposed action.

27 5. Uniform rules of procedure for the filing and
28 prompt disposition of petitions for declaratory statements.
29 The rules shall also describe the contents of the notices that
30 must be published in the Florida Administrative Weekly under
31 s. 120.565, including any applicable time limit for the filing

1 of petitions to intervene or petitions for administrative
2 hearing by persons whose substantial interests may be
3 affected.

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

7 7. Uniform rules establishing procedures for granting
8 or denying petitions for variances and waivers pursuant to s.
9 120.542.

10 Section 4. Effective December 31, 2006, section
11 120.55, Florida Statutes, is amended to read:

12 120.55 Publication.--

13 (1) The Department of State shall:

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

29 2. Rules general in form but applicable to only one
30 school district, community college district, or county, or a
31 part thereof, or state university rules relating to internal

1 personnel or business and finance shall not be published in
2 the Florida Administrative Code. Exclusion from publication in
3 the Florida Administrative Code shall not affect the validity
4 or effectiveness of such rules.

5 3. At the beginning of the section of the code dealing
6 with an agency that files copies of its rules with the
7 department, the department shall publish the address and
8 telephone number of the executive offices of each agency, the
9 manner by which the agency indexes its rules, a listing of all
10 rules of that agency excluded from publication in the code,
11 and a statement as to where those rules may be inspected.

12 4. Forms shall not be published in the Florida
13 Administrative Code; but any form which an agency uses in its
14 dealings with the public, along with any accompanying
15 instructions, shall be filed with the committee before it is
16 used. Any form or instruction which meets the definition of
17 "rule" provided in s. 120.52 shall be incorporated by
18 reference into the appropriate rule. The reference shall
19 specifically state that the form is being incorporated by
20 reference and shall include the number, title, and effective
21 date of the form and an explanation of how the form may be
22 obtained. Each form created by an agency which is incorporated
23 by reference in a rule notice of which is given under s.
24 120.54(3)(a) after December 31, 2006, must clearly display the
25 number, title, and effective date of the form and the number
26 of the rule in which the form is incorporated.

27 (b) Electronically publish on an Internet website
28 managed by the department a weekly publication entitled the
29 "Florida Administrative Weekly," which shall serve as the
30 official Internet website for such publication and must
31 contain:

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

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

7 3. All notices of public meetings, hearings, and
8 workshops conducted in accordance with the provisions of s.
9 120.525, including a statement of the manner in which a copy
10 of the agenda may be obtained.

11 4. A notice of each request for authorization to amend
12 or repeal an existing uniform rule or for the adoption of new
13 uniform rules.

14 5. Notice of petitions for declaratory statements or
15 administrative determinations.

16 6. A summary of each objection to any rule filed by
17 the Administrative Procedures Committee during the preceding
18 week.

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

21 ~~8.7.~~ Any other material required or authorized by law
22 or deemed useful by the department.

23
24 The department shall publish a printed version of the Florida
25 Administrative Weekly and make copies available on an annual
26 subscription basis. The department may contract with a
27 publishing firm for printed publication of the Florida
28 Administrative Weekly.

29 (c) Review notices for compliance with format and
30 numbering requirements before publishing them on the Florida
31 Administrative Weekly Internet website.

1 ~~(d)(e)~~ Prescribe by rule the style and form required
2 for rules submitted for filing and establish the form for
3 their certification.

4 ~~(e)(d)~~ Correct grammatical, typographical, and like
5 errors not affecting the construction or meaning of the rules,
6 after having obtained the advice and consent of the
7 appropriate agency, and insert history notes.

8 ~~(e)~~ ~~Make copies of the Florida Administrative Weekly~~
9 ~~available on an annual subscription basis computed to cover a~~
10 ~~pro rata share of 50 percent of the costs related to the~~
11 ~~publication of the Florida Administrative Weekly.~~

12 (f) Charge each agency using the Florida
13 Administrative Weekly a space rate ~~computed~~ to cover a ~~pro~~
14 ~~rata share of 50 percent of the costs related to the Florida~~
15 ~~Administrative Weekly and the Florida Administrative Code.~~

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

18 (2) The Florida Administrative Weekly Internet website
19 must allow users to:

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

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

24 (c) Subscribe to an automated e-mail notification of
25 selected notices;

26 (d) View agency forms incorporated by reference in
27 proposed rules; and

28 (e) Comment on proposed rules.

29 (3) Publication of material required by paragraph
30 (1)(b) on the Florida Administrative Weekly Internet website

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1 does not preclude publication of such material on an agency's
2 website or by other means.

3 ~~(4)(2)~~ Each agency shall provide copies of its rules
4 upon request, with citations to the grant of rulemaking
5 authority and the specific law implemented for each rule ~~print~~
6 ~~or distribute copies of its rules, citing the specific~~
7 ~~rulemaking authority pursuant to which each rule was adopted.~~

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

14 ~~(6)~~ Access to the Florida Administrative Weekly
15 Internet website and its contents, including the e-mail
16 notification service, shall be free for the public.

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

20 1. One subscription to each federal and state court
21 having jurisdiction over the residents of the state; the
22 Legislative Library; each state university library; the State
23 Library; each depository library designated pursuant to s.
24 257.05; and each standing committee of the Senate and House of
25 Representatives and each state legislator.

26 2. Two subscriptions to each state department.

27 3. Three subscriptions to the library of the Supreme
28 Court of Florida, the library of each state district court of
29 appeal, the division, the library of the Attorney General,
30 each law school library in Florida, the Secretary of the
31 Senate, and the Clerk of the House of Representatives.

1 4. Ten subscriptions to the committee.

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

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

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

18 ~~(c) It is the intent of the Legislature that the~~
19 ~~Florida Administrative Weekly be supported entirely from funds~~
20 ~~collected for subscriptions to and advertisements in the~~
21 ~~Florida Administrative Weekly.~~

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

24 120.551 Internet publication.--

25 (3) This section is repealed effective December 31,
26 ~~2006 July 1, 2005, unless reviewed and reenacted by the~~
27 ~~Legislature before that date.~~

28 Section 6. Paragraph (b) of subsection (2) of section
29 120.56, Florida Statutes, is amended to read:

30 120.56 Challenges to rules.--

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

1 (b) The administrative law judge may declare the
2 proposed rule wholly or partly invalid. Unless the decision of
3 the administrative law judge is reversed on appeal, the
4 proposed rule or provision of a proposed rule declared invalid
5 shall ~~be withdrawn by the adopting agency and shall not be~~
6 adopted. ~~No rule shall be filed for adoption until 28 days~~
7 ~~after the notice required by s. 120.54(3)(a), until 21 days~~
8 ~~after the notice required by s. 120.54(3)(d), until 14 days~~
9 ~~after the public hearing, until 21 days after preparation of a~~
10 ~~statement of estimated regulatory costs required pursuant to~~
11 ~~s. 120.541, or until the administrative law judge has rendered~~
12 ~~a decision, whichever applies.~~ However, the agency may proceed
13 with all other steps in the rulemaking process, including the
14 holding of a factfinding hearing. In the event part of a
15 proposed rule is declared invalid, the adopting agency may, in
16 its sole discretion, withdraw the proposed rule in its
17 entirety. The agency whose proposed rule has been declared
18 invalid in whole or part shall give notice of the decision in
19 the first available issue of the Florida Administrative
20 Weekly.

21 Section 7. Paragraph (c) of subsection (2) of section
22 120.569, Florida Statutes, is amended to read:

23 120.569 Decisions which affect substantial
24 interests.--

25 (2)

26 (c) Unless otherwise provided by law, a petition or
27 request for hearing shall include those items required by the
28 uniform rules adopted pursuant to s. 120.54(5)(b)4. Upon the
29 receipt of a petition or request for hearing, the agency shall
30 carefully review the petition to determine if it contains all
31 of the required information. A petition shall be dismissed if

1 | it is not in substantial compliance with these requirements or
2 | it has been untimely filed. Dismissal of a petition shall, at
3 | least once, be without prejudice to petitioner's filing a
4 | timely amended petition curing the defect, unless it
5 | conclusively appears from the face of the petition that the
6 | defect cannot be cured. The agency shall promptly give
7 | written notice to all parties of the action taken on the
8 | petition, shall state with particularity its reasons if the
9 | petition is not granted, and shall state the deadline for
10 | filing an amended petition if applicable. The time for filing
11 | a petition shall be extended if the petitioner has been misled
12 | or lulled into inaction, has in some extraordinary way been
13 | prevented from asserting his or her rights, or has timely
14 | asserted his or her rights mistakenly in the wrong forum.

15 | Section 8. Paragraphs (k) and (m) of subsection (1)
16 | and paragraph (a) of subsection (3) of section 120.57, Florida
17 | Statutes, are amended to read:

18 | 120.57 Additional procedures for particular cases.--

19 | (1) ADDITIONAL PROCEDURES APPLICABLE TO HEARINGS
20 | INVOLVING DISPUTED ISSUES OF MATERIAL FACT.--

21 | (k) The presiding officer shall complete and submit to
22 | the agency and all parties a recommended order consisting of
23 | findings of fact, conclusions of law, and recommended
24 | disposition or penalty, if applicable, and any other
25 | information required by law to be contained in the final
26 | order. All proceedings conducted under ~~pursuant to~~ this
27 | subsection shall be de novo. The agency shall allow each party
28 | 15 days in which to submit written exceptions to the
29 | recommended order. The final order shall include an explicit
30 | ruling on each exception, but an agency need not rule on an
31 | exception that does not clearly identify the disputed portion

1 of the recommended order by page number or paragraph, that
2 does not identify the legal basis for the exception, or that
3 does not include appropriate and specific citations to the
4 record.

5 (m) If a recommended order is submitted to an agency,
6 the agency shall provide a copy of its final order and any
7 exceptions to the division within 15 days after the order is
8 filed with the agency clerk. In these cases, the final order
9 does not become effective until it is provided to the
10 division.

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

17 (a) The agency shall provide notice of a decision or
18 intended decision concerning a solicitation, contract award,
19 or exceptional purchase by electronic posting. This notice
20 shall contain the following statement: "Failure to file a
21 protest within the time prescribed in section 120.57(3),
22 Florida Statutes, or failure to post the bond or other
23 security required by law within the time allowed for filing a
24 bond shall constitute a waiver of proceedings under chapter
25 120, Florida Statutes."

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

28 120.65 Administrative law judges.--

29 (10) Not later than February 1 of each year, the
30 division shall issue a written report to the Administrative
31

1 Procedures Committee and the Administration Commission,
2 including at least the following information:

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

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

8 120.74 Agency review, revision, and report.--

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

23 Section 11. Paragraph (g) is added to subsection (13)
24 of section 120.80, Florida Statutes, to read:

25 120.80 Exceptions and special requirements;
26 agencies.--

27 (13) FLORIDA PUBLIC SERVICE COMMISSION.--

28 (g) When the Public Service Commission initiates an
29 agency action affecting the substantial interest of a utility
30 regulated under chapter 367 concerning any matter pertaining
31 to s. 120.60(5) and a formal administrative hearing is

1 requested under s. 120.57, the commission shall refer the
2 matter to the division for the assignment of an administrative
3 law judge to conduct the hearing and enter a recommended
4 order.

5 Section 12. The Department of State shall, before
6 December 31, 2006, make available, to all agencies required on
7 the effective date of this act to publish materials in the
8 Florida Administrative Weekly, training courses for the
9 purpose of assisting the agencies with their transition to
10 publishing on the Florida Administrative Weekly Internet
11 website. The training courses may be provided in the form of
12 workshops or software packages that allow self-training by
13 agency personnel.

14 Section 13. Except as otherwise expressly provided in
15 this act, this act shall take effect July 1, 2005.

16
17 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
18 COMMITTEE SUBSTITUTE FOR
19 CS/CS/Senate Bill 1010

20 The Committee Substitute requires the uniform rules on
21 declaratory statements to be published in the Florida
22 Administrative Weekly and to include time limits for filing
23 petitions to intervene or for administrative hearing by
24 persons whose interests may be affected. The changes also
25 provide that an agency action affecting the substantial
26 interests of a water or wastewater utility will cause a
27 referral to the Division of Administrative Hearings for
28 assignment of an administrative law judge.
29
30
31