

By Senator Bennett

21-309-06

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, an employee of a

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

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

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

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

17 120.54 Rulemaking.--

18 (3) ADOPTION PROCEDURES.--

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

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

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

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

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

22         4. The agency shall give notice of its decision to  
23 withdraw or modify a rule in the first available issue of the  
24 publication in which the original notice of rulemaking was  
25 published, shall notify those persons described in  
26 subparagraph (a)3. in accordance with the requirements of that  
27 subparagraph, and shall notify the Department of State if the  
28 rule is required to be filed with the Department of State.

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

1           (e) Filing for final adoption; effective date.--  
2           1. If the adopting agency is required to publish its  
3 rules in the Florida Administrative Code, it shall file with  
4 the Department of State three certified copies of the rule it  
5 proposes to adopt, a summary of the rule, a summary of any  
6 hearings held on the rule, and a detailed written statement of  
7 the facts and circumstances justifying the rule. Agencies not  
8 required to publish their rules in the Florida Administrative  
9 Code shall file one certified copy of the proposed rule, and  
10 the other material required by this subparagraph, in the  
11 office of the agency head, and such rules shall be open to the  
12 public.  
13           2. A rule may not be filed for adoption less than 28  
14 days or more than 90 days after the notice required by  
15 paragraph (a), until 21 days after the notice required by  
16 paragraph (d), until 14 days after the final public hearing,  
17 until 21 days after preparation of a statement of estimated  
18 regulatory costs required under s. 120.541, or until the  
19 administrative law judge has rendered a decision under s.  
20 120.56(2), whichever applies. Filings shall be made no less  
21 than 28 days nor more than 90 days after the notice required  
22 by paragraph (a). When a required notice of change is  
23 published prior to the expiration of the time to file the rule  
24 for adoption, the period during which a rule must be filed for  
25 adoption is extended to 45 days after the date of publication.  
26 If notice of a public hearing is published prior to the  
27 expiration of the time to file the rule for adoption, the  
28 period during which a rule must be filed for adoption is  
29 extended to 45 days after adjournment of the final hearing on  
30 the rule, 21 days after receipt of all material authorized to  
31 be submitted at the hearing, or 21 days after receipt of the

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

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

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

28           5. If a rule has not been adopted within the time  
29 limits imposed by this paragraph or has not been adopted in  
30 compliance with all statutory rulemaking requirements, the  
31 agency proposing the rule shall withdraw the rule and give

1 notice of its action in the next available issue of the  
2 Florida Administrative Weekly.

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

16           (5) UNIFORM RULES.--

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

20           1. Uniform rules for the scheduling of public  
21 meetings, hearings, and workshops.

22           2. Uniform rules for use by each state agency that  
23 provide procedures for conducting public meetings, hearings,  
24 and workshops, and for taking evidence, testimony, and  
25 argument at such public meetings, hearings, and workshops, in  
26 person and by means of communications media technology. The  
27 rules shall provide that all evidence, testimony, and argument  
28 presented shall be afforded equal consideration, regardless of  
29 the method of communication. If a public meeting, hearing, or  
30 workshop is to be conducted by means of communications media  
31 technology, or if attendance may be provided by such means,



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

22         3. Uniform rules of procedure for the filing of notice  
23 of protests and formal written protests. The Administration  
24 Commission may prescribe the form and substantive provisions  
25 of a required bond.

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

31             a. The identification of the petitioner.

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

3           c. An explanation of how the petitioner's substantial  
4 interests are or will be affected by the action or proposed  
5 action.

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

8           e. A statement of the ultimate facts alleged,  
9 including a statement of the specific facts the petitioner  
10 contends warrant reversal or modification of the agency's  
11 proposed action.

12           f. A statement of the specific rules or statutes that  
13 the petitioner contends require reversal or modification of  
14 the agency's proposed action, including an explanation of how  
15 the alleged facts relate to the specific rules or statutes.

16           g. A statement of the relief sought by the petitioner,  
17 stating precisely the action petitioner wishes the agency to  
18 take with respect to the proposed action.

19           5. Uniform rules of procedure for the filing and  
20 prompt disposition of petitions for declaratory statements.  
21 The rules shall also describe the contents of the notices that  
22 must be published in the Florida Administrative Weekly under  
23 s. 120.565, including any applicable time limit for the filing  
24 of petitions to intervene or petitions for administrative  
25 hearing by persons whose substantial interests may be  
26 affected.

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.

30  
31

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, 2007, 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, 2007, 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)(a)(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 2007 ~~July 1, 2006, 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, 2007, 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, 2006.  
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SENATE SUMMARY

Revises various provisions governing administrative procedures. Revises requirements for filing rules for adoption. Provides requirements for publishing notice. Revises and creates various duties of the Administrative Procedures Committee, the Department of State, the Administration Commission, and administrative agencies with respect to rules. Prescribes circumstances under which the time for filing a petition for a hearing must be extended. (See bill for details.)