

By the Committees on Judiciary; Governmental Oversight and Productivity; and Senator Bennett

590-1729-06

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 an exception to the term  
14          "administrative determination" for purposes of  
15          rule adoption; providing for the form and  
16          provisions of bonds; revising applicability of  
17          certain uniform rules; providing additional  
18          content for uniform rules; amending s. 120.55,  
19          F.S.; requiring that certain information be  
20          included in forms incorporated by reference in  
21          rules; requiring information to be published  
22          electronically on an Internet website;  
23          providing that such publication does not  
24          preclude other publications; providing  
25          additional duties of the Department of State  
26          with respect to publications; providing  
27          requirements for the Internet website; amending  
28          s. 120.551, F.S.; postponing the repeal of this  
29          section, relating to Internet publication;  
30          amending s. 120.56, F.S.; revising provisions  
31          relating to withdrawal of challenged rules;

1 amending s. 120.569, F.S.; prescribing  
2 circumstances under which the time for filing a  
3 petition for hearing must be extended; amending  
4 s. 120.57, F.S.; requiring a final order to  
5 include an explicit ruling on each exception to  
6 the recommended order; requiring that  
7 additional information be included in notices  
8 relating to protests of contract solicitations  
9 or awards; amending s. 120.65, F.S.; requiring  
10 the Division of Administrative Hearings to  
11 include certain recommendations and information  
12 in its annual report to the Administrative  
13 Procedures Committee; amending s. 120.74, F.S.;  
14 requiring agency reports to be filed with the  
15 Administrative Procedures Committee; requiring  
16 that the annual report filed by an agency  
17 identify the types of cases or disputes in  
18 which it is involved which should be conducted  
19 under the summary hearing process; requiring  
20 the Department of State to provide certain  
21 assistance to agencies in their transition to  
22 publishing on the Florida Administrative Weekly  
23 Internet website; providing effective dates.

24  
25 Be It Enacted by the Legislature of the State of Florida:

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

29 11.60 Administrative Procedures Committee; creation;  
30 membership; powers; duties.--

31

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

12           Section 2. Paragraph (d) of subsection (3) of section  
13 57.111, Florida Statutes, is amended to read:

14           57.111 Civil actions and administrative proceedings  
15 initiated by state agencies; attorneys' fees and costs.--

16           (3) As used in this section:

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

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

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

30           c. An individual whose net worth did not exceed \$2  
31 million at the time the action is initiated by a state agency

1 when the action is brought against that individual's license  
2 to engage in the practice or operation of a business,  
3 profession, or trade; or

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

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

14             120.54 Rulemaking.--

15             (3) ADOPTION PROCEDURES.--

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

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

1 | it in writing no later than 21 days after the notice required  
2 | in paragraph (a). The agency shall file the notice of change  
3 | with the committee, along with the reasons for the ~~such~~  
4 | change, and provide the notice of change to persons requesting  
5 | it, at least 21 days prior to filing the rule for adoption.  
6 | The notice of change shall be published in the Florida  
7 | Administrative Weekly at least 21 days prior to filing the  
8 | rule for adoption. This subparagraph does not apply to  
9 | emergency rules adopted pursuant to subsection (4).

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

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

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

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

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

30 |         1. If the adopting agency is required to publish its  
31 | rules in the Florida Administrative Code, it shall file with

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

10 |       2. A rule may not be filed for adoption less than 28  
11 | days or more than 90 days after the notice required by  
12 | paragraph (a), until 21 days after the notice of change  
13 | required by paragraph (d), until 14 days after the final  
14 | public hearing, until 21 days after preparation of a statement  
15 | of estimated regulatory costs required under s. 120.541, or  
16 | until the administrative law judge has rendered a decision  
17 | under s. 120.56(2), whichever applies. Filings shall be made  
18 | no less than 28 days nor more than 90 days after the notice  
19 | required by paragraph (a). When a required notice of change is  
20 | published prior to the expiration of the time to file the rule  
21 | for adoption, the period during which a rule must be filed for  
22 | adoption is extended to 45 days after the date of publication.  
23 | If notice of a public hearing is published prior to the  
24 | expiration of the time to file the rule for adoption, the  
25 | period during which a rule must be filed for adoption is  
26 | extended to 45 days after adjournment of the final hearing on  
27 | the rule, 21 days after receipt of all material authorized to  
28 | be submitted at the hearing, or 21 days after receipt of the  
29 | transcript, if one is made, whichever is latest. The term  
30 | "public hearing" includes any public meeting held by any  
31 | agency at which the rule is considered. If a petition for an

1 administrative determination under s. 120.56(2) is filed, the  
2 period during which a rule must be filed for adoption is  
3 extended to 60 days after the administrative law judge files  
4 the final order with the clerk or until 60 days after  
5 subsequent judicial review is complete. The filing of a  
6 ~~petition for an administrative determination under the~~  
7 ~~provisions of s. 120.56(2) shall toll the 90 day period during~~  
8 ~~which a rule must be filed for adoption until the~~  
9 ~~administrative law judge has filed the final order with the~~  
10 ~~clerk.~~

11           3. At the time a rule is filed, the agency shall  
12 certify that the time limitations prescribed by this paragraph  
13 have been complied with, that all statutory rulemaking  
14 requirements have been met, and that there is no  
15 administrative determination pending on the rule.

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

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

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

19           (5) UNIFORM RULES.--

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

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

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



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

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

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

1 or s. 120.57. Such rules shall require the petition to  
2 include:

3 a. The identification of the petitioner.

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

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

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

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

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

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

22 5. Uniform rules for the filing of request for  
23 administrative hearing by a respondent in agency enforcement  
24 and disciplinary actions. Such rules shall require a request  
25 to include:

26 a. The name, address, and telephone number of the  
27 party making the request and the name, address, and telephone  
28 number of the party's counsel or qualified representative upon  
29 whom service of pleadings and other papers shall be made;

30 b. A statement that the respondent is requesting an  
31 administrative hearing and disputes the material facts alleged

1 by the petitioner, in which case the respondent shall identify  
2 those material facts that are in dispute, or that the  
3 respondent is requesting an administrative hearing and does  
4 not dispute the material facts alleged by the petitioner; and

5 c. A reference by file number to the administrative  
6 complaint that the party has received from the agency and the  
7 date on which the agency pleading was received.

8  
9 The agency may provide an election-of-rights form for the  
10 respondent's use in requesting a hearing, so long as any form  
11 provided by the agency calls for the information in  
12 sub-subparagraphs a. through c. and does not impose any  
13 additional requirements on a respondent in order to request a  
14 hearing, unless such requirements are specifically authorized  
15 by law.

16 ~~6.5.~~ Uniform rules of procedure for the filing and  
17 prompt disposition of petitions for declaratory statements.  
18 The rules shall also describe the contents of the notices that  
19 must be published in the Florida Administrative Weekly under  
20 s. 120.565, including any applicable time limit for the filing  
21 of petitions to intervene or petitions for administrative  
22 hearing by persons whose substantial interests may be  
23 affected.

24 ~~7.6.~~ Provision of a method by which each agency head  
25 shall provide a description of the agency's organization and  
26 general course of its operations.

27 ~~8.7.~~ Uniform rules establishing procedures for  
28 granting or denying petitions for variances and waivers  
29 pursuant to s. 120.542.

30 Section 4. Effective December 31, 2007, section  
31 120.55, Florida Statutes, is amended to read:

1           120.55 Publication.--

2           (1) The Department of State shall:

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

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

25           3. At the beginning of the section of the code dealing  
26 with an agency that files copies of its rules with the  
27 department, the department shall publish the address and  
28 telephone number of the executive offices of each agency, the  
29 manner by which the agency indexes its rules, a listing of all  
30 rules of that agency excluded from publication in the code,  
31 and a statement as to where those rules may be inspected.

1           4. Forms shall not be published in the Florida  
2 Administrative Code; but any form which an agency uses in its  
3 dealings with the public, along with any accompanying  
4 instructions, shall be filed with the committee before it is  
5 used. Any form or instruction which meets the definition of  
6 "rule" provided in s. 120.52 shall be incorporated by  
7 reference into the appropriate rule. The reference shall  
8 specifically state that the form is being incorporated by  
9 reference and shall include the number, title, and effective  
10 date of the form and an explanation of how the form may be  
11 obtained. Each form created by an agency which is incorporated  
12 by reference in a rule notice of which is given under s.  
13 120.54(3)(a) after December 31, 2007, must clearly display the  
14 number, title, and effective date of the form and the number  
15 of the rule in which the form is incorporated.

16           (b) Electronically publish on an Internet website  
17 managed by the department a weekly publication entitled the  
18 "Florida Administrative Weekly," which shall serve as the  
19 official Internet website for such publication and must  
20 contain:

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

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

27           3. All notices of public meetings, hearings, and  
28 workshops conducted in accordance with the provisions of s.  
29 120.525, including a statement of the manner in which a copy  
30 of the agenda may be obtained.

31

1           4. A notice of each request for authorization to amend  
2 or repeal an existing uniform rule or for the adoption of new  
3 uniform rules.

4           5. Notice of petitions for declaratory statements or  
5 administrative determinations.

6           6. A summary of each objection to any rule filed by  
7 the Administrative Procedures Committee during the preceding  
8 week.

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

11           ~~8.7.~~ Any other material required or authorized by law  
12 or deemed useful by the department.

13  
14 The department shall publish a printed version of the Florida  
15 Administrative Weekly and make copies available on an annual  
16 subscription basis. The department may contract with a  
17 publishing firm for printed publication of the Florida  
18 Administrative Weekly.

19           (c) Review notices for compliance with format and  
20 numbering requirements before publishing them on the Florida  
21 Administrative Weekly Internet website.

22           (d)(e) Prescribe by rule the style and form required  
23 for rules submitted for filing and establish the form for  
24 their certification.

25           (e)(d) Correct grammatical, typographical, and like  
26 errors not affecting the construction or meaning of the rules,  
27 after having obtained the advice and consent of the  
28 appropriate agency, and insert history notes.

29           ~~(e) Make copies of the Florida Administrative Weekly~~  
30 ~~available on an annual subscription basis computed to cover a~~  
31

1 ~~pro rata share of 50 percent of the costs related to the~~  
2 ~~publication of the Florida Administrative Weekly.~~

3 (f) Charge each agency using the Florida  
4 Administrative Weekly a space rate ~~computed~~ to cover a ~~pro~~  
5 ~~rata share of 50 percent of the costs related to the Florida~~  
6 ~~Administrative Weekly and the Florida Administrative Code.~~

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

9 (2) The Florida Administrative Weekly Internet website  
10 must allow users to:

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

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

15 (c) Subscribe to an automated e-mail notification of  
16 selected notices;

17 (d) View agency forms incorporated by reference in  
18 proposed rules; and

19 (e) Comment on proposed rules.

20 (3) Publication of material required by paragraph  
21 (1)(b) on the Florida Administrative Weekly Internet website  
22 does not preclude publication of such material on an agency's  
23 website or by other means.

24 ~~(4)(2)~~ Each agency shall provide copies of its rules  
25 upon request, with citations to the grant of rulemaking  
26 authority and the specific law implemented for each rule ~~print~~  
27 ~~or distribute copies of its rules, citing the specific~~  
28 ~~rulemaking authority pursuant to which each rule was adopted.~~

29 ~~(5)(3)~~ Any publication of a proposed rule promulgated  
30 by an agency, whether published in the Florida Administrative  
31 Code or elsewhere, shall include, along with the rule, the

1 name of the person or persons originating such rule, the name  
2 of the supervisor or person who approved the rule, and the  
3 date upon which the rule was approved.

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

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

10 1. One subscription to each federal and state court  
11 having jurisdiction over the residents of the state; the  
12 Legislative Library; each state university library; the State  
13 Library; each depository library designated pursuant to s.  
14 257.05; and each standing committee of the Senate and House of  
15 Representatives and each state legislator.

16 2. Two subscriptions to each state department.

17 3. Three subscriptions to the library of the Supreme  
18 Court of Florida, the library of each state district court of  
19 appeal, the division, the library of the Attorney General,  
20 each law school library in Florida, the Secretary of the  
21 Senate, and the Clerk of the House of Representatives.

22 4. Ten subscriptions to the committee.

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

27 ~~(8)(a)(5)(a)~~ All fees and moneys collected by the  
28 Department of State under this chapter shall be deposited in  
29 the Records Management Trust Fund for the purpose of paying  
30 for ~~the publication and distribution of the Florida~~  
31 ~~Administrative Code and the Florida Administrative Weekly and~~



1 ~~for associated~~ costs incurred by the department in carrying  
2 out this chapter.

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

8 ~~(c) It is the intent of the Legislature that the~~  
9 ~~Florida Administrative Weekly be supported entirely from funds~~  
10 ~~collected for subscriptions to and advertisements in the~~  
11 ~~Florida Administrative Weekly.~~

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

14 120.551 Internet publication.--

15 (3) This section is repealed effective December 31,  
16 ~~2007 July 1, 2006, unless reviewed and reenacted by the~~  
17 ~~Legislature before that date.~~

18 Section 6. Paragraph (b) of subsection (2) of section  
19 120.56, Florida Statutes, is amended to read:

20 120.56 Challenges to rules.--

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

22 (b) The administrative law judge may declare the  
23 proposed rule wholly or partly invalid. Unless the decision of  
24 the administrative law judge is reversed on appeal, the  
25 proposed rule or provision of a proposed rule declared invalid  
26 shall ~~be withdrawn by the adopting agency and shall not be~~  
27 ~~adopted. No rule shall be filed for adoption until 28 days~~  
28 ~~after the notice required by s. 120.54(3)(a), until 21 days~~  
29 ~~after the notice required by s. 120.54(3)(d), until 14 days~~  
30 ~~after the public hearing, until 21 days after preparation of a~~  
31 ~~statement of estimated regulatory costs required pursuant to~~

1 ~~s. 120.541, or until the administrative law judge has rendered~~  
2 ~~a decision, whichever applies.~~ However, the agency may proceed  
3 with all other steps in the rulemaking process, including the  
4 holding of a factfinding hearing. In the event part of a  
5 proposed rule is declared invalid, the adopting agency may, in  
6 its sole discretion, withdraw the proposed rule in its  
7 entirety. The agency whose proposed rule has been declared  
8 invalid in whole or part shall give notice of the decision in  
9 the first available issue of the Florida Administrative  
10 Weekly.

11 Section 7. Paragraph (c) of subsection (2) of section  
12 120.569, Florida Statutes, is amended to read:

13 120.569 Decisions which affect substantial  
14 interests.--

15 (2)

16 (c) Unless otherwise provided by law, a petition or  
17 request for hearing shall include those items required by the  
18 uniform rules adopted pursuant to s. 120.54(5)(b)4. Upon the  
19 receipt of a petition or request for hearing, the agency shall  
20 carefully review the petition to determine if it contains all  
21 of the required information. A petition shall be dismissed if  
22 it is not in substantial compliance with these requirements or  
23 it has been untimely filed. Dismissal of a petition shall, at  
24 least once, be without prejudice to petitioner's filing a  
25 timely amended petition curing the defect, unless it  
26 conclusively appears from the face of the petition that the  
27 defect cannot be cured. The agency shall promptly give  
28 written notice to all parties of the action taken on the  
29 petition, shall state with particularity its reasons if the  
30 petition is not granted, and shall state the deadline for  
31 filing an amended petition if applicable. The time for filing

1 a petition shall be extended for an appropriate time if the  
2 petitioner demonstrates that the petitioner has been misled or  
3 lulled into inaction by the agency or has in some  
4 extraordinary way been prevented from asserting his or her  
5 rights by the agency.

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

9 120.57 Additional procedures for particular cases.--

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

12 (k) The presiding officer shall complete and submit to  
13 the agency and all parties a recommended order consisting of  
14 findings of fact, conclusions of law, and recommended  
15 disposition or penalty, if applicable, and any other  
16 information required by law to be contained in the final  
17 order. All proceedings conducted under ~~pursuant to~~ this  
18 subsection shall be de novo. The agency shall allow each party  
19 15 days in which to submit written exceptions to the  
20 recommended order. The final order shall include an explicit  
21 ruling on each exception, but an agency need not rule on an  
22 exception that does not clearly identify the disputed portion  
23 of the recommended order by page number or paragraph, that  
24 does not identify the legal basis for the exception, or that  
25 does not include appropriate and specific citations to the  
26 record.

27 (m) If a recommended order is submitted to an agency,  
28 the agency shall provide a copy of its final order and any  
29 exceptions to the division within 15 days after the order is  
30 filed with the agency clerk.

31

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

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

16           Section 9. Paragraphs (c) and (d) are added to  
17 subsection (10) of section 120.65, Florida Statutes, to read:

18           120.65 Administrative law judges.--

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

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

26           (d) A report regarding each agency's compliance with  
27 the filing requirement in s. 120.57(1)(m).

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

30           120.74 Agency review, revision, and report.--

31

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

15           Section 11. The Department of State shall, before  
16 December 31, 2007, make available, to all agencies required on  
17 the effective date of this act to publish materials in the  
18 Florida Administrative Weekly, training courses for the  
19 purpose of assisting the agencies with their transition to  
20 publishing on the Florida Administrative Weekly Internet  
21 website. The training courses may be provided in the form of  
22 workshops or software packages that allow self-training by  
23 agency personnel.

24           Section 12. Except as otherwise expressly provided in  
25 this act, this act shall take effect July 1, 2006.  
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
CS/Senate Bill 262

- Clarifies that a rule may not be filed for adoption until 21 days after the notice of change (rather than a notice of no changes or technical changes) is filed with the Joint Administrative Procedures Committee.
- Moves proposed language regarding what is not included within the term "administrative determination" to a different placement in the Florida Statutes, thus making the qualifying language apply to all references to that term within a particular statutory paragraph on filing rules for adoption.