

1
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. 120.56, F.S.; revising provisions relating
29 to withdrawal of challenged rules; amending s.
30 120.569, F.S.; providing for equitable tolling
31 as a defense to the untimely filing of a

1 petition; amending s. 120.57, F.S.; requiring a
2 final order to include an explicit ruling on
3 each exception to the recommended order;
4 requiring that additional information be
5 included in notices relating to protests of
6 contract solicitations or awards; amending s.
7 120.65, F.S.; requiring the Division of
8 Administrative Hearings to include certain
9 recommendations and information 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 when the action is brought against that individual's license
30 to engage in the practice or operation of a business,
31 profession, or trade; or

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

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

11 120.54 Rulemaking.--

12 (3) ADOPTION PROCEDURES.--

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

14 1. After the final public hearing on the proposed
15 rule, or after the time for requesting a hearing has expired,
16 if the rule has not been changed from the rule as previously
17 filed with the committee, or contains only technical changes,
18 the adopting agency shall file a notice to that effect with
19 the committee at least 7 days prior to filing the rule for
20 adoption. Any change, other than a technical change that does
21 not affect the substance of the rule, must be supported by the
22 record of public hearings held on the rule, must be in
23 response to written material received on or before the date of
24 the final public hearing, or must be in response to a proposed
25 objection by the committee. In addition, when any change is
26 made in a proposed rule, other than a technical change, the
27 adopting agency shall provide a copy of a notice of change by
28 certified mail or actual delivery to any person who requests
29 it in writing no later than 21 days after the notice required
30 in paragraph (a). The agency shall file the notice of change
31 with the committee, along with the reasons for the ~~such~~

1 change, and provide the notice of change to persons requesting
2 it, at least 21 days prior to filing the rule for adoption.

3 The notice of change shall be published in the Florida
4 Administrative Weekly at least 21 days prior to filing the
5 rule for adoption. This subparagraph does not apply to
6 emergency rules adopted pursuant to subsection (4).

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

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

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

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

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

27 1. If the adopting agency is required to publish its
28 rules in the Florida Administrative Code, it shall file with
29 the Department of State three certified copies of the rule it
30 proposes to adopt, a summary of the rule, a summary of any
31 hearings held on the rule, and a detailed written statement of

1 the facts and circumstances justifying the rule. Agencies not
2 required to publish their rules in the Florida Administrative
3 Code shall file one certified copy of the proposed rule, and
4 the other material required by this subparagraph, in the
5 office of the agency head, and such rules shall be open to the
6 public.

7 2. A rule may not be filed for adoption less than 28
8 days or more than 90 days after the notice required by
9 paragraph (a), until 21 days after the notice of change
10 required by paragraph (d), until 14 days after the final
11 public hearing, until 21 days after preparation of a statement
12 of estimated regulatory costs required under s. 120.541, or
13 until the administrative law judge has rendered a decision
14 under s. 120.56(2), whichever applies. Filings shall be made
15 no less than 28 days nor more than 90 days after the notice
16 required by paragraph (a). When a required notice of change is
17 published prior to the expiration of the time to file the rule
18 for adoption, the period during which a rule must be filed for
19 adoption is extended to 45 days after the date of publication.
20 If notice of a public hearing is published prior to the
21 expiration of the time to file the rule for adoption, the
22 period during which a rule must be filed for adoption is
23 extended to 45 days after adjournment of the final hearing on
24 the rule, 21 days after receipt of all material authorized to
25 be submitted at the hearing, or 21 days after receipt of the
26 transcript, if one is made, whichever is latest. The term
27 "public hearing" includes any public meeting held by any
28 agency at which the rule is considered. If a petition for an
29 administrative determination under s. 120.56(2) is filed, the
30 period during which a rule must be filed for adoption is
31 extended to 60 days after the administrative law judge files

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

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

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

24 5. If a rule has not been adopted within the time
25 limits imposed by this paragraph or has not been adopted in
26 compliance with all statutory rulemaking requirements, the
27 agency proposing the rule shall withdraw the rule and give
28 notice of its action in the next available issue of the
29 Florida Administrative Weekly.

30 6. The proposed rule shall be adopted on being filed
31 with the Department of State and become effective 20 days

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

12
13 For the purposes of this paragraph, the term "administrative
14 determination" does not include subsequent judicial review.

15 (5) UNIFORM RULES.--

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

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

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

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

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

25 | 4. Uniform rules of procedure for the filing of
26 | petitions for administrative hearings pursuant to s. 120.569
27 | or s. 120.57. Such rules shall require the petition to
28 | include:

- 29 | a. The identification of the petitioner.
30 | b. A statement of when and how the petitioner received
31 | notice of the agency's action or proposed action.

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

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

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

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

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

17 5. Uniform rules for the filing of request for
18 administrative hearing by a respondent in agency enforcement
19 and disciplinary actions. Such rules shall require a request
20 to include:

21 a. The name, address, and telephone number of the
22 party making the request and the name, address, and telephone
23 number of the party's counsel or qualified representative upon
24 whom service of pleadings and other papers shall be made;

25 b. A statement that the respondent is requesting an
26 administrative hearing and disputes the material facts alleged
27 by the petitioner, in which case the respondent shall identify
28 those material facts that are in dispute, or that the
29 respondent is requesting an administrative hearing and does
30 not dispute the material facts alleged by the petitioner; and

31

1 c. A reference by file number to the administrative
2 complaint that the party has received from the agency and the
3 date on which the agency pleading was received.

4
5 The agency may provide an election-of-rights form for the
6 respondent's use in requesting a hearing, so long as any form
7 provided by the agency calls for the information in
8 sub-subparagraphs a. through c. and does not impose any
9 additional requirements on a respondent in order to request a
10 hearing, unless such requirements are specifically authorized
11 by law.

12 ~~6.5.~~ Uniform rules of procedure for the filing and
13 prompt disposition of petitions for declaratory statements.
14 The rules shall also describe the contents of the notices that
15 must be published in the Florida Administrative Weekly under
16 s. 120.565, including any applicable time limit for the filing
17 of petitions to intervene or petitions for administrative
18 hearing by persons whose substantial interests may be
19 affected.

20 ~~7.6.~~ Provision of a method by which each agency head
21 shall provide a description of the agency's organization and
22 general course of its operations.

23 ~~8.7.~~ Uniform rules establishing procedures for
24 granting or denying petitions for variances and waivers
25 pursuant to s. 120.542.

26 Section 4. Effective December 31, 2007, section
27 120.55, Florida Statutes, is amended to read:

28 120.55 Publication.--

29 (1) The Department of State shall:

30 (a)1. Through a continuous revision system, compile
31 and publish the "Florida Administrative Code." The Florida

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

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

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

28 4. Forms shall not be published in the Florida
29 Administrative Code; but any form which an agency uses in its
30 dealings with the public, along with any accompanying
31 instructions, shall be filed with the committee before it is

1 used. Any form or instruction which meets the definition of
2 "rule" provided in s. 120.52 shall be incorporated by
3 reference into the appropriate rule. The reference shall
4 specifically state that the form is being incorporated by
5 reference and shall include the number, title, and effective
6 date of the form and an explanation of how the form may be
7 obtained. Each form created by an agency which is incorporated
8 by reference in a rule notice of which is given under s.
9 120.54(3)(a) after December 31, 2007, must clearly display the
10 number, title, and effective date of the form and the number
11 of the rule in which the form is incorporated.

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

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

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

23 3. All notices of public meetings, hearings, and
24 workshops conducted in accordance with the provisions of s.
25 120.525, including a statement of the manner in which a copy
26 of the agenda may be obtained.

27 4. A notice of each request for authorization to amend
28 or repeal an existing uniform rule or for the adoption of new
29 uniform rules.

30 5. Notice of petitions for declaratory statements or
31 administrative determinations.

1 6. A summary of each objection to any rule filed by
2 the Administrative Procedures Committee during the preceding
3 week.

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

6 ~~8.7.~~ Any other material required or authorized by law
7 or deemed useful by the department.

8
9 The department shall publish a printed version of the Florida
10 Administrative Weekly and make copies available on an annual
11 subscription basis. The department may contract with a
12 publishing firm for printed publication of the Florida
13 Administrative Weekly.

14 (c) Review notices for compliance with format and
15 numbering requirements before publishing them on the Florida
16 Administrative Weekly Internet website.

17 ~~(d)(e)~~ Prescribe by rule the style and form required
18 for rules submitted for filing and establish the form for
19 their certification.

20 ~~(e)(d)~~ Correct grammatical, typographical, and like
21 errors not affecting the construction or meaning of the rules,
22 after having obtained the advice and consent of the
23 appropriate agency, and insert history notes.

24 ~~(e) Make copies of the Florida Administrative Weekly~~
25 ~~available on an annual subscription basis computed to cover a~~
26 ~~pro rata share of 50 percent of the costs related to the~~
27 ~~publication of the Florida Administrative Weekly.~~

28 (f) Charge each agency using the Florida
29 Administrative Weekly a space rate ~~computed~~ to cover a ~~pro~~
30 ~~rata share of 50 percent of the costs related to the Florida~~
31 Administrative Weekly and the Florida Administrative Code.

1 (g) Maintain a permanent record of all notices
2 published in the Florida Administrative Weekly.
3 (2) The Florida Administrative Weekly Internet website
4 must allow users to:
5 (a) Search for notices by type, publication date, rule
6 number, word, subject, and agency;
7 (b) Search a database that makes available all notices
8 published on the website for a period of at least 5 years;
9 (c) Subscribe to an automated e-mail notification of
10 selected notices;
11 (d) View agency forms incorporated by reference in
12 proposed rules; and
13 (e) Comment on proposed rules.
14 (3) Publication of material required by paragraph
15 (1)(b) on the Florida Administrative Weekly Internet website
16 does not preclude publication of such material on an agency's
17 website or by other means.
18 (4)(2) Each agency shall provide copies of its rules
19 upon request, with citations to the grant of rulemaking
20 authority and the specific law implemented for each rule print
21 or distribute copies of its rules, citing the specific
22 rulemaking authority pursuant to which each rule was adopted.
23 (5)(3) Any publication of a proposed rule promulgated
24 by an agency, whether published in the Florida Administrative
25 Code or elsewhere, shall include, along with the rule, the
26 name of the person or persons originating such rule, the name
27 of the supervisor or person who approved the rule, and the
28 date upon which the rule was approved.
29 (6) Access to the Florida Administrative Weekly
30 Internet website and its contents, including the e-mail
31 notification service, shall be free for the public.

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

4 1. One subscription to each federal and state court
5 having jurisdiction over the residents of the state; the
6 Legislative Library; each state university library; the State
7 Library; each depository library designated pursuant to s.
8 257.05; and each standing committee of the Senate and House of
9 Representatives and each state legislator.

10 2. Two subscriptions to each state department.

11 3. Three subscriptions to the library of the Supreme
12 Court of Florida, the library of each state district court of
13 appeal, the division, the library of the Attorney General,
14 each law school library in Florida, the Secretary of the
15 Senate, and the Clerk of the House of Representatives.

16 4. Ten subscriptions to the committee.

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

21 ~~(8)(a)(5)(a)~~ All fees and moneys collected by the
22 Department of State under this chapter shall be deposited in
23 the Records Management Trust Fund for the purpose of paying
24 for ~~the publication and distribution of the Florida~~
25 ~~Administrative Code and the Florida Administrative Weekly and~~
26 ~~for associated~~ costs incurred by the department in carrying
27 out this chapter.

28 (b) The unencumbered balance in the Records Management
29 Trust Fund for fees collected pursuant to this chapter may
30 ~~shall~~ not exceed \$300,000 at the beginning of each fiscal
31

1 year, and any excess shall be transferred to the General
2 Revenue Fund.

3 ~~(c) It is the intent of the Legislature that the~~
4 ~~Florida Administrative Weekly be supported entirely from funds~~
5 ~~collected for subscriptions to and advertisements in the~~
6 ~~Florida Administrative Weekly.~~

7 Section 5. Paragraph (b) of subsection (2) of section
8 120.56, Florida Statutes, is amended to read:

9 120.56 Challenges to rules.--

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

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

31

1 Section 6. Paragraph (c) of subsection (2) of section
2 120.569, Florida Statutes, is amended to read:

3 120.569 Decisions which affect substantial
4 interests.--

5 (2)

6 (c) Unless otherwise provided by law, a petition or
7 request for hearing shall include those items required by the
8 uniform rules adopted pursuant to s. 120.54(5)(b)4. Upon the
9 receipt of a petition or request for hearing, the agency shall
10 carefully review the petition to determine if it contains all
11 of the required information. A petition shall be dismissed if
12 it is not in substantial compliance with these requirements or
13 it has been untimely filed. Dismissal of a petition shall, at
14 least once, be without prejudice to petitioner's filing a
15 timely amended petition curing the defect, unless it
16 conclusively appears from the face of the petition that the
17 defect cannot be cured. The agency shall promptly give
18 written notice to all parties of the action taken on the
19 petition, shall state with particularity its reasons if the
20 petition is not granted, and shall state the deadline for
21 filing an amended petition if applicable. This paragraph does
22 not eliminate the availability of equitable tolling as a
23 defense to the untimely filing of a petition.

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

27 120.57 Additional procedures for particular cases.--

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

30 (k) The presiding officer shall complete and submit to
31 the agency and all parties a recommended order consisting of

1 findings of fact, conclusions of law, and recommended
2 disposition or penalty, if applicable, and any other
3 information required by law to be contained in the final
4 order. All proceedings conducted under ~~pursuant to~~ this
5 subsection shall be de novo. The agency shall allow each party
6 15 days in which to submit written exceptions to the
7 recommended order. The final order shall include an explicit
8 ruling on each exception, but an agency need not rule on an
9 exception that does not clearly identify the disputed portion
10 of the recommended order by page number or paragraph, that
11 does not identify the legal basis for the exception, or that
12 does not include appropriate and specific citations to the
13 record.

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

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

24 (a) The agency shall provide notice of a decision or
25 intended decision concerning a solicitation, contract award,
26 or exceptional purchase by electronic posting. This notice
27 shall contain the following statement: "Failure to file a
28 protest within the time prescribed in section 120.57(3),
29 Florida Statutes, or failure to post the bond or other
30 security required by law within the time allowed for filing a
31

1 bond shall constitute a waiver of proceedings under chapter
2 120, Florida Statutes."

3 Section 8. Paragraphs (c) and (d) are added to
4 subsection (10) of section 120.65, Florida Statutes, to read:

5 120.65 Administrative law judges.--

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

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

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

15 Section 9. Subsection (2) of section 120.74, Florida
16 Statutes, is amended to read:

17 120.74 Agency review, revision, and report.--

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

1 Section 10. The Department of State shall, before
2 December 31, 2007, make available, to all agencies required on
3 the effective date of this act to publish materials in the
4 Florida Administrative Weekly, training courses for the
5 purpose of assisting the agencies with their transition to
6 publishing on the Florida Administrative Weekly Internet
7 website. The training courses may be provided in the form of
8 workshops or software packages that allow self-training by
9 agency personnel.

10 Section 11. Except as otherwise expressly provided in
11 this act, this act shall take effect July 1, 2006.

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