

1                   A bill to be entitled  
2           An act relating to rulemaking; amending s. 120.54, F.S.;  
3           requiring that an agency include in its notice of intended  
4           rulemaking a statement as to whether the proposed rule  
5           will require legislative ratification; clarifying that a  
6           statement of estimated regulatory costs is not required  
7           for emergency rulemaking; providing for modification or  
8           withdrawal of an adopted rule that is not ratified by the  
9           Legislature; providing for expedited repeal of rules  
10          determined to have required legislative ratification  
11          before going into effect; clarifying that certain proposed  
12          rules are effective only when ratified by the Legislature;  
13          amending s. 120.541, F.S.; reducing the time before an  
14          agency files a rule for adoption when the agency must  
15          notify the person who submitted a lower cost alternative  
16          and the Administrative Procedures Committee; excluding  
17          rules adopting federal standards, triennial updates to the  
18          Florida Building Code, or triennial updates to the Florida  
19          Fire Prevention Code from required legislative  
20          ratification; excluding emergency rulemaking from certain  
21          provisions; creating s. 120.547, F.S.; providing  
22          legislative findings and definitions; providing for  
23          summary repeal of rules by statewide elected executive  
24          officers within the first 6 months of their respective  
25          terms; specifying agencies affected by the repeal;  
26          providing procedures for notice of the repeal; providing  
27          for objection to the repeal; providing nonapplicability of  
28          other provisions of law to the summary repeal process;

29 providing requirements for judicial review of the repeal;  
 30 providing for exclusive and nondelegable authority;  
 31 amending s. 120.56, F.S.; reducing the time in which a  
 32 substantially affected person may seek an administrative  
 33 determination of the invalidity of a rule after the  
 34 statement or revised statement of estimated regulatory  
 35 costs is available; providing an effective date.

36

37 Be It Enacted by the Legislature of the State of Florida:

38

39 Section 1. Paragraphs (a), (b), (d), and (e) of subsection  
 40 (3) of section 120.54, Florida Statutes, as amended by chapter  
 41 2010-279, Laws of Florida, are amended to read:

42 120.54 Rulemaking.—

43 (3) ADOPTION PROCEDURES.—

44 (a) Notices.—

45 1. Prior to the adoption, amendment, or repeal of any rule  
 46 other than an emergency rule, an agency, upon approval of the  
 47 agency head, shall give notice of its intended action, setting  
 48 forth a short, plain explanation of the purpose and effect of  
 49 the proposed action; the full text of the proposed rule or  
 50 amendment and a summary thereof; a reference to the grant of  
 51 rulemaking authority pursuant to which the rule is adopted; and  
 52 a reference to the section or subsection of the Florida Statutes  
 53 or the Laws of Florida being implemented or interpreted. The  
 54 notice must include a summary of the agency's statement of the  
 55 estimated regulatory costs, if one has been prepared, based on  
 56 the factors set forth in s. 120.541(2) ; ~~and~~ a statement that

57 | any person who wishes to provide the agency with information  
58 | regarding the statement of estimated regulatory costs, or to  
59 | provide a proposal for a lower cost regulatory alternative as  
60 | provided by s. 120.541(1), must do so in writing within 21 days  
61 | after publication of the notice; and a statement as to whether  
62 | the proposed rule will require legislative ratification pursuant  
63 | to s. 120.541(3). The notice must state the procedure for  
64 | requesting a public hearing on the proposed rule. Except when  
65 | the intended action is the repeal of a rule, the notice must  
66 | include a reference both to the date on which and to the place  
67 | where the notice of rule development that is required by  
68 | subsection (2) appeared.

69 |         2. The notice shall be published in the Florida  
70 | Administrative Weekly not less than 28 days prior to the  
71 | intended action. The proposed rule shall be available for  
72 | inspection and copying by the public at the time of the  
73 | publication of notice.

74 |         3. The notice shall be mailed to all persons named in the  
75 | proposed rule and to all persons who, at least 14 days prior to  
76 | such mailing, have made requests of the agency for advance  
77 | notice of its proceedings. The agency shall also give such  
78 | notice as is prescribed by rule to those particular classes of  
79 | persons to whom the intended action is directed.

80 |         4. The adopting agency shall file with the committee, at  
81 | least 21 days prior to the proposed adoption date, a copy of  
82 | each rule it proposes to adopt; a copy of any material  
83 | incorporated by reference in the rule; a detailed written  
84 | statement of the facts and circumstances justifying the proposed

85 rule; a copy of any statement of estimated regulatory costs that  
 86 has been prepared pursuant to s. 120.541; a statement of the  
 87 extent to which the proposed rule relates to federal standards  
 88 or rules on the same subject; and the notice required by  
 89 subparagraph 1.

90 (b) Special matters to be considered in rule adoption.—

91 1. Statement of estimated regulatory costs.—Prior to the  
 92 adoption, amendment, or repeal of any rule ~~other than an~~  
 93 ~~emergency rule~~, an agency is encouraged to prepare a statement  
 94 of estimated regulatory costs of the proposed rule, as provided  
 95 by s. 120.541. However, an agency must prepare a statement of  
 96 estimated regulatory costs of the proposed rule, as provided by  
 97 s. 120.541, if:

98 a. The proposed rule will have an adverse impact on small  
 99 business; or

100 b. The proposed rule is likely to directly or indirectly  
 101 increase regulatory costs in excess of \$200,000 in the aggregate  
 102 in this state within 1 year after the implementation of the  
 103 rule.

104 2. Small businesses, small counties, and small cities.—

105 a. Each agency, before the adoption, amendment, or repeal  
 106 of a rule, shall consider the impact of the rule on small  
 107 businesses as defined by s. 288.703 and the impact of the rule  
 108 on small counties or small cities as defined by s. 120.52.  
 109 Whenever practicable, an agency shall tier its rules to reduce  
 110 disproportionate impacts on small businesses, small counties, or  
 111 small cities to avoid regulating small businesses, small  
 112 counties, or small cities that do not contribute significantly

113 to the problem the rule is designed to address. An agency may  
114 define "small business" to include businesses employing more  
115 than 200 persons, may define "small county" to include those  
116 with populations of more than 75,000, and may define "small  
117 city" to include those with populations of more than 10,000, if  
118 it finds that such a definition is necessary to adapt a rule to  
119 the needs and problems of small businesses, small counties, or  
120 small cities. The agency shall consider each of the following  
121 methods for reducing the impact of the proposed rule on small  
122 businesses, small counties, and small cities, or any combination  
123 of these entities:

124 (I) Establishing less stringent compliance or reporting  
125 requirements in the rule.

126 (II) Establishing less stringent schedules or deadlines in  
127 the rule for compliance or reporting requirements.

128 (III) Consolidating or simplifying the rule's compliance  
129 or reporting requirements.

130 (IV) Establishing performance standards or best management  
131 practices to replace design or operational standards in the  
132 rule.

133 (V) Exempting small businesses, small counties, or small  
134 cities from any or all requirements of the rule.

135 b.(I) If the agency determines that the proposed action  
136 will affect small businesses as defined by the agency as  
137 provided in sub-subparagraph a., the agency shall send written  
138 notice of the rule to the Small Business Regulatory Advisory  
139 Council and the Office of Tourism, Trade, and Economic  
140 Development not less than 28 days prior to the intended action.

141 (II) Each agency shall adopt those regulatory alternatives  
142 offered by the Small Business Regulatory Advisory Council and  
143 provided to the agency no later than 21 days after the council's  
144 receipt of the written notice of the rule which it finds are  
145 feasible and consistent with the stated objectives of the  
146 proposed rule and which would reduce the impact on small  
147 businesses. When regulatory alternatives are offered by the  
148 Small Business Regulatory Advisory Council, the 90-day period  
149 for filing the rule in subparagraph (e)2. is extended for a  
150 period of 21 days.

151 (III) If an agency does not adopt all alternatives offered  
152 pursuant to this sub-subparagraph, it shall, prior to rule  
153 adoption or amendment and pursuant to subparagraph (d)1., file a  
154 detailed written statement with the committee explaining the  
155 reasons for failure to adopt such alternatives. Within 3 working  
156 days of the filing of such notice, the agency shall send a copy  
157 of such notice to the Small Business Regulatory Advisory  
158 Council. The Small Business Regulatory Advisory Council may make  
159 a request of the President of the Senate and the Speaker of the  
160 House of Representatives that the presiding officers direct the  
161 Office of Program Policy Analysis and Government Accountability  
162 to determine whether the rejected alternatives reduce the impact  
163 on small business while meeting the stated objectives of the  
164 proposed rule. Within 60 days after the date of the directive  
165 from the presiding officers, the Office of Program Policy  
166 Analysis and Government Accountability shall report to the  
167 Administrative Procedures Committee its findings as to whether  
168 an alternative reduces the impact on small business while

169 meeting the stated objectives of the proposed rule. The Office  
170 of Program Policy Analysis and Government Accountability shall  
171 consider the proposed rule, the economic impact statement, the  
172 written statement of the agency, the proposed alternatives, and  
173 any comment submitted during the comment period on the proposed  
174 rule. The Office of Program Policy Analysis and Government  
175 Accountability shall submit a report of its findings and  
176 recommendations to the Governor, the President of the Senate,  
177 and the Speaker of the House of Representatives. The  
178 Administrative Procedures Committee shall report such findings  
179 to the agency, and the agency shall respond in writing to the  
180 Administrative Procedures Committee if the Office of Program  
181 Policy Analysis and Government Accountability found that the  
182 alternative reduced the impact on small business while meeting  
183 the stated objectives of the proposed rule. If the agency will  
184 not adopt the alternative, it must also provide a detailed  
185 written statement to the committee as to why it will not adopt  
186 the alternative.

187 3. This paragraph does not apply to the adoption of  
188 emergency rules pursuant to subsection (4).

189 (d) Modification or withdrawal of proposed rules.—

190 1. After the final public hearing on the proposed rule, or  
191 after the time for requesting a hearing has expired, if the rule  
192 has not been changed from the rule as previously filed with the  
193 committee, or contains only technical changes, the adopting  
194 agency shall file a notice to that effect with the committee at  
195 least 7 days prior to filing the rule for adoption. Any change,  
196 other than a technical change that does not affect the substance

197 of the rule, must be supported by the record of public hearings  
198 held on the rule, must be in response to written material  
199 submitted to the agency within 21 days after the date of  
200 publication of the notice of intended agency action or submitted  
201 to the agency between the date of publication of the notice and  
202 the end of the final public hearing, or must be in response to a  
203 proposed objection by the committee. In addition, when any  
204 change is made in a proposed rule, other than a technical  
205 change, the adopting agency shall provide a copy of a notice of  
206 change by certified mail or actual delivery to any person who  
207 requests it in writing no later than 21 days after the notice  
208 required in paragraph (a). The agency shall file the notice of  
209 change with the committee, along with the reasons for the  
210 change, and provide the notice of change to persons requesting  
211 it, at least 21 days prior to filing the rule for adoption. The  
212 notice of change shall be published in the Florida  
213 Administrative Weekly at least 21 days prior to filing the rule  
214 for adoption. This subparagraph does not apply to emergency  
215 rules adopted pursuant to subsection (4).

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

218 3. After adoption and before the rule becomes effective  
219 ~~date~~, a rule may be modified or withdrawn only in response to  
220 one of the following:

221 a. The committee objects to the rule;

222 b. A final order, not subject to further appeal, is  
223 entered in a rule challenge brought pursuant to s. 120.56 after  
224 the date of adoption but before the rule becomes effective



225 pursuant to subparagraph (e) 6.;

226 c. The rule is timely submitted for legislative  
227 ratification pursuant to s. 120.541(3) but the Legislature  
228 adjourns sine die from at least one regular session without  
229 ratifying the rule, in which case the rule may be withdrawn but  
230 not modified; or

231 d. ~~an objection by the committee or may be modified to~~  
232 ~~extend the effective date by not more than 60 days when~~ The  
233 committee notifies ~~has notified~~ the agency that an objection to  
234 the rule is being considered, in which case the rule may be  
235 modified to extend the effective date by not more than 60 days.

236 4. The agency shall give notice of its decision to  
237 withdraw or modify a rule in the first available issue of the  
238 publication in which the original notice of rulemaking was  
239 published, shall notify those persons described in subparagraph  
240 (a)3. in accordance with the requirements of that subparagraph,  
241 and shall notify the Department of State if the rule is required  
242 to be filed with the Department of State.

243 5. After a rule has become effective, it may be repealed  
244 or amended only through the rulemaking procedures specified in  
245 this chapter. However, a rule that was not submitted for  
246 ratification pursuant to s. 120.541(3), but that subsequently is  
247 determined by final order to require ratification as of the date  
248 of adoption, may be repealed if:

249 a. The adopting agency publishes notice of the final order  
250 finding that ratification pursuant to s. 120.541(3) was required  
251 as of the date of adoption and that the rule is being repealed  
252 as of the date of the final order; and

253           b. After the final order is rendered, the notice is  
 254 published in the first available Florida Administrative Weekly  
 255 and on the agency's Internet website.

256           (e) Filing for final adoption; effective date.—

257           1. If the adopting agency is required to publish its rules  
 258 in the Florida Administrative Code, the agency, upon approval of  
 259 the agency head, shall file with the Department of State three  
 260 certified copies of the rule it proposes to adopt; one copy of  
 261 any material incorporated by reference in the rule, certified by  
 262 the agency; a summary of the rule; a summary of any hearings  
 263 held on the rule; and a detailed written statement of the facts  
 264 and circumstances justifying the rule. Agencies not required to  
 265 publish their rules in the Florida Administrative Code shall  
 266 file one certified copy of the proposed rule, and the other  
 267 material required by this subparagraph, in the office of the  
 268 agency head, and such rules shall be open to the public.

269           2. A rule may not be filed for adoption less than 28 days  
 270 or more than 90 days after the notice required by paragraph (a),  
 271 until 21 days after the notice of change required by paragraph  
 272 (d), until 14 days after the final public hearing, until 21 days  
 273 after a statement of estimated regulatory costs required under  
 274 s. 120.541 has been provided to all persons who submitted a  
 275 lower cost regulatory alternative and made available to the  
 276 public, or until the administrative law judge has rendered a  
 277 decision under s. 120.56(2), whichever applies. When a required  
 278 notice of change is published prior to the expiration of the  
 279 time to file the rule for adoption, the period during which a  
 280 rule must be filed for adoption is extended to 45 days after the

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281 date of publication. If notice of a public hearing is published  
282 prior to the expiration of the time to file the rule for  
283 adoption, the period during which a rule must be filed for  
284 adoption is extended to 45 days after adjournment of the final  
285 hearing on the rule, 21 days after receipt of all material  
286 authorized to be submitted at the hearing, or 21 days after  
287 receipt of the transcript, if one is made, whichever is latest.  
288 The term "public hearing" includes any public meeting held by  
289 any agency at which the rule is considered. If a petition for an  
290 administrative determination under s. 120.56(2) is filed, the  
291 period during which a rule must be filed for adoption is  
292 extended to 60 days after the administrative law judge files the  
293 final order with the clerk or until 60 days after subsequent  
294 judicial review is complete.

295 3. At the time a rule is filed, the agency shall certify  
296 that the time limitations prescribed by this paragraph have been  
297 complied with, that all statutory rulemaking requirements have  
298 been met, and that there is no administrative determination  
299 pending on the rule.

300 4. At the time a rule is filed, the committee shall  
301 certify whether the agency has responded in writing to all  
302 material and timely written comments or written inquiries made  
303 on behalf of the committee. The department shall reject any rule  
304 that is not filed within the prescribed time limits; that does  
305 not comply with all statutory rulemaking requirements and rules  
306 of the department; upon which an agency has not responded in  
307 writing to all material and timely written inquiries or written  
308 comments; upon which an administrative determination is pending;

309 or which does not include a statement of estimated regulatory  
 310 costs, if required.

311 5. If a rule has not been adopted within the time limits  
 312 imposed by this paragraph or has not been adopted in compliance  
 313 with all statutory rulemaking requirements, the agency proposing  
 314 the rule shall withdraw the rule and give notice of its action  
 315 in the next available issue of the Florida Administrative  
 316 Weekly.

317 6. The proposed rule shall be adopted on being filed with  
 318 the Department of State and become effective 20 days after being  
 319 filed, on a later date specified in the notice required by  
 320 subparagraph (a)1., ~~or~~ on a date required by statute, or upon  
 321 ratification by the Legislature pursuant to s. 120.541(3). Rules  
 322 not required to be filed with the Department of State shall  
 323 become effective when adopted by the agency head, ~~or~~ on a later  
 324 date specified by rule or statute, or upon ratification by the  
 325 Legislature pursuant to s. 120.541(3). If the committee notifies  
 326 an agency that an objection to a rule is being considered, the  
 327 agency may postpone the adoption of the rule to accommodate  
 328 review of the rule by the committee. When an agency postpones  
 329 adoption of a rule to accommodate review by the committee, the  
 330 90-day period for filing the rule is tolled until the committee  
 331 notifies the agency that it has completed its review of the  
 332 rule.

333  
 334 For the purposes of this paragraph, the term "administrative  
 335 determination" does not include subsequent judicial review.

336 Section 2. Paragraph (d) of subsection (1) and subsection

337 (4) of section 120.541, Florida Statutes, as amended by chapter  
 338 2010-279, Laws of Florida, are amended, and subsection (5) is  
 339 added to that section, to read:

340 120.541 Statement of estimated regulatory costs.—

341 (1)

342 (d) At least 21 ~~45~~ days before filing the rule for  
 343 adoption, an agency that is required to revise a statement of  
 344 estimated regulatory costs shall provide the statement to the  
 345 person who submitted the lower cost regulatory alternative and  
 346 to the committee and shall provide notice on the agency's  
 347 website that it is available to the public.

348 (3) If the adverse impact or regulatory costs of the rule  
 349 exceed any of the criteria established in paragraph (2) (a), the  
 350 rule shall be submitted to the President of the Senate and  
 351 Speaker of the House of Representatives no later than 30 days  
 352 prior to the next regular legislative session, and the rule may  
 353 not take effect until it is ratified by the Legislature.

354 (4) Subsection (3) ~~Paragraph (2) (a)~~ does not apply to the  
 355 adoption of:

356 (a) emergency rules pursuant to s. 120.54(4) or the  
 357 ~~adoption of~~ Federal standards pursuant to s. 120.54(6).

358 (b) Triennial updates to the Florida Building Code  
 359 pursuant to s. 553.73(7) (a).

360 (c) Triennial updates to the Florida Fire Prevention Code  
 361 pursuant to s. 633.0215(1).

362 (5) This section does not apply to the adoption of  
 363 emergency rules pursuant to s. 120.54(4).

364 Section 3. Section 120.547, Florida Statutes, is created

365 to read:

366 120.547 Summary procedure for rule repeal during inaugural  
 367 period.-

368 (1) LEGISLATIVE FINDINGS.-The Legislature finds that the  
 369 formal process for repealing rules as required under s.  
 370 120.54(3)(d)5. may unnecessarily delay efforts for statewide  
 371 elected executive officers to review and revise the programs and  
 372 policies within their respective individual or collective  
 373 jurisdiction at the commencement of their elective terms.  
 374 Accordingly, the Legislature finds a prudent, expedited process  
 375 providing for the summary repeal of existing rules within the  
 376 initial period of a statewide elected executive officer's term  
 377 best assists those officers in the articulation and  
 378 implementation of public policy.

379 (2) DEFINITIONS.-As used in this section, the term:

380 (a) "Inaugural period" means the time from the first date  
 381 of an elective term of the Governor, the Chief Financial  
 382 Officer, the Attorney General, or the Commissioner of  
 383 Agriculture, as provided in s. 5(a), Art. IV of the State  
 384 Constitution, through the last day of the month of the June next  
 385 following the beginning of the term.

386 (b) "Statewide elected executive officer" means the  
 387 Governor, the Chief Financial Officer, the Attorney General, or  
 388 the Commissioner of Agriculture.

389 (3) AGENCIES AFFECTED.-Exclusively during the inaugural  
 390 period, the statewide elected executive officers are authorized  
 391 to direct the repeal of rules using the summary procedure  
 392 provided in this section for the following agencies:

393 (a) Each agency under the exclusive authority of the  
 394 individual statewide elected executive officer.

395 (b) Each agency under the collective authority of two or  
 396 more statewide elected executive officers but not the entire  
 397 Cabinet.

398 (c) Each agency under the exclusive authority of the  
 399 Cabinet.

400 (4) NOTICE OF REPEAL.—The statewide elected executive  
 401 officer, the statewide elected executive officers acting  
 402 collectively, or the Cabinet shall direct the repeal of rules  
 403 pursuant to this section by each agency under their exclusive  
 404 authority as follows:

405 (a) For each rule or part of a rule to be repealed under  
 406 this section, the statewide elected executive officer, the  
 407 statewide elected executive officers acting collectively, or the  
 408 Cabinet shall make a written finding containing the following:

409 1. The number, title, and each specific subdivision of the  
 410 rule to be repealed entirely or in part.

411 2. The agency that adopted the rule.

412 3. The basis for repeal, which includes, but is not  
 413 limited to, the following:

414 a. The rule is obsolete or no longer necessary;

415 b. The substantive law that the rule implements or  
 416 interprets in compliance with s. 120.536(1) was amended or  
 417 repealed; or

418 c. The rule conflicts with programs or policies that the  
 419 statewide elected executive officer, the statewide elected  
 420 executive officers acting collectively, or the Cabinet have

421 implemented or are in the process of implementing.

422 4. The name, title, address, and e-mail address of the  
 423 person designated by the statewide elected executive officer,  
 424 the statewide elected executive officers acting collectively, or  
 425 the Cabinet solely to receive inquiries, correspondence,  
 426 petitions, or notices in response to the proposed repeal.

427 5. The date on which the rule or part of the rule is  
 428 repealed and is no longer in force or effect.

429 (b) The adopting agency shall publish notice of the  
 430 written finding directing repeal of the rule or part of the rule  
 431 on the agency's Internet website, including in such notice the  
 432 date of first publication, and shall also publish the notice and  
 433 written finding, including the Internet website on which the  
 434 notice was first published, in the Florida Administrative Weekly  
 435 that is first available after the date the written finding is  
 436 executed by the statewide elected executive officer, statewide  
 437 elected executive officers acting collectively, or Cabinet.

438 (c) Repeal of a rule or part of a rule under this section  
 439 shall be effective no earlier than 15 days after the date the  
 440 notice of repeal is published on the agency's Internet website.

441 (5) OBJECTION TO REPEAL.—A substantially affected person  
 442 may object to the repeal of a rule or part of a rule under this  
 443 section as follows:

444 (a) No later than 14 days after the date the notice of  
 445 repeal is published on the agency's Internet website, the person  
 446 must file with the individual designated in subparagraph

447 (4) (a) 4. a written objection to repeal stating:

448 1. The name, address, telephone number, and e-mail address



449 of the person opposing the repeal.

450 2. The facts and law on which the person objects to the  
451 noticed repeal.

452 (b) Failure to file an objection in the time and manner  
453 provided in this subsection constitutes a full and complete  
454 waiver of the objection, an affirmative assent to the proposed  
455 repeal, and a full and complete waiver of judicial review under  
456 s. 120.68.

457 (c) If an objection is timely filed, the repeal is not  
458 effective until the statewide elected executive officer, the  
459 statewide elected executive officers acting collectively, or the  
460 Cabinet, as applicable, overrules the objection in writing and  
461 notice of that disposition is published in the manner provided  
462 in paragraph (4) (b).

463 (6) NONAPPLICABLE SECTIONS.—Sections 120.54, 120.541,  
464 120.56, 120.569, 120.57, 120.573, 120.574, and 120.69 are not  
465 applicable to the repeal of rules under this section.

466 (7) JUDICIAL REVIEW.—A substantially affected party whose  
467 timely written objection to the proposed repeal is overruled by  
468 the statewide elected executive officer, the statewide elected  
469 executive officers acting collectively, or the Cabinet may seek  
470 judicial review of that decision under s. 120.68, as modified by  
471 the following:

472 (a) Notwithstanding any other statute, the First District  
473 Court of Appeal has exclusive jurisdiction of any petition for  
474 judicial review of the repeal of rules under this section.

475 (b) A petition for judicial review may be brought only  
476 against the agency that adopted the rule and not against the

477 statewide elected executive officer, the statewide elected  
478 executive officers acting collectively, or the Cabinet.

479 (c) The record for review shall be comprised solely of the  
480 written finding of repeal, the written objection, and the  
481 written disposition of the objection.

482 (8) NONDELEGABLE AUTHORITY.—The authority to determine and  
483 direct the repeal of agency rules under this section, other than  
484 the receipt of inquiries, correspondence, petitions, or notices  
485 in response to a proposed repeal, shall be exercised exclusively  
486 by the statewide elected executive officer, the statewide  
487 elected executive officers acting collectively, or the Cabinet  
488 having exclusive authority over the subject agency and may not  
489 be delegated to any other person.

490 Section 4. Paragraph (a) of subsection (2) of section  
491 120.56, Florida Statutes, as amended by chapter 2010-279, Laws  
492 of Florida, is amended to read:

493 120.56 Challenges to rules.—

494 (2) CHALLENGING PROPOSED RULES; SPECIAL PROVISIONS.—

495 (a) A substantially affected person may seek an  
496 administrative determination of the invalidity of a proposed  
497 rule by filing a petition seeking such a determination with the  
498 division within 21 days after the date of publication of the  
499 notice required by s. 120.54(3)(a); within 10 days after the  
500 final public hearing is held on the proposed rule as provided by  
501 s. 120.54(3)(e)2.; within 20 ~~44~~ days after the statement of  
502 estimated regulatory costs or revised statement of estimated  
503 regulatory costs, if applicable, has been prepared and made  
504 available as provided in s. 120.541(1)(d); or within 20 days

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505 after the date of publication of the notice required by s.  
506 120.54(3)(d). The petition must state with particularity the  
507 objections to the proposed rule and the reasons that the  
508 proposed rule is an invalid exercise of delegated legislative  
509 authority. The petitioner has the burden of going forward. The  
510 agency then has the burden to prove by a preponderance of the  
511 evidence that the proposed rule is not an invalid exercise of  
512 delegated legislative authority as to the objections raised. A  
513 person who is substantially affected by a change in the proposed  
514 rule may seek a determination of the validity of such change. A  
515 person who is not substantially affected by the proposed rule as  
516 initially noticed, but who is substantially affected by the rule  
517 as a result of a change, may challenge any provision of the rule  
518 and is not limited to challenging the change to the proposed  
519 rule.

520 Section 5. This act shall take effect upon becoming a law.