

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 is
5 expected to require legislative ratification; clarifying
6 that a statement of estimated regulatory costs is not
7 required for emergency rulemaking; providing for
8 modification or withdrawal of an adopted rule that is not
9 ratified by the Legislature; clarifying that certain
10 proposed rules are effective only when ratified by the
11 Legislature; amending s. 120.541, F.S.; reducing the time
12 before an agency files a rule for adoption when the agency
13 must notify the person who submitted a lower cost
14 alternative and the Administrative Procedures Committee;
15 exempting rules adopting certain federal standards,
16 triennial updates to the Florida Building Code, and
17 triennial updates to the Florida Fire Prevention Code from
18 required legislative ratification; deleting an exemption
19 for rules that adopt federal standards from a requirement
20 that an agency's statement of a rule's estimated
21 regulatory costs include an economic analysis of the
22 rule's adverse impacts and regulatory costs; exempting
23 emergency rulemaking from application of the section;
24 creating s. 120.547, F.S.; providing legislative findings
25 and definitions; providing for the review of rulemaking
26 and the summary repeal of rules by statewide elected
27 executive officers, the Governor and Cabinet, and the
28 State Board of Administration within the first 6 months of

29 an elective term; specifying agencies and rules subject to
 30 summary repeal; providing procedures for notice of the
 31 repeal; providing for objection to the repeal; providing
 32 nonapplicability of other provisions of law to the summary
 33 repeal process; providing requirements for judicial review
 34 of the repeal; providing for exclusive and nondelegable
 35 authority; amending s. 120.56, F.S.; reducing the time in
 36 which a substantially affected person may seek an
 37 administrative determination of the invalidity of a rule
 38 after the statement or revised statement of estimated
 39 regulatory costs is available; providing an effective
 40 date.

41

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

43

44 Section 1. Paragraphs (a), (b), (d), and (e) of subsection
 45 (3) of section 120.54, Florida Statutes, as amended by chapter
 46 2010-279, Laws of Florida, are amended to read:

47 120.54 Rulemaking.—

48 (3) ADOPTION PROCEDURES.—

49 (a) Notices.—

50 1. Prior to the adoption, amendment, or repeal of any rule
 51 other than an emergency rule, an agency, upon approval of the
 52 agency head, shall give notice of its intended action, setting
 53 forth a short, plain explanation of the purpose and effect of
 54 the proposed action; the full text of the proposed rule or
 55 amendment and a summary thereof; a reference to the grant of
 56 rulemaking authority pursuant to which the rule is adopted; and

57 | a reference to the section or subsection of the Florida Statutes
58 | or the Laws of Florida being implemented or interpreted. The
59 | notice must include a summary of the agency's statement of the
60 | estimated regulatory costs, if one has been prepared, based on
61 | the factors set forth in s. 120.541(2); ~~and~~ and a statement that
62 | any person who wishes to provide the agency with information
63 | regarding the statement of estimated regulatory costs, or to
64 | provide a proposal for a lower cost regulatory alternative as
65 | provided by s. 120.541(1), must do so in writing within 21 days
66 | after publication of the notice; and a statement as to whether,
67 | based on the statement of estimated regulatory costs, the
68 | proposed rule is expected to require legislative ratification
69 | pursuant to s. 120.541(3). The notice must state the procedure
70 | for requesting a public hearing on the proposed rule. Except
71 | when the intended action is the repeal of a rule, the notice
72 | must include a reference both to the date on which and to the
73 | place where the notice of rule development that is required by
74 | subsection (2) appeared.

75 | 2. The notice shall be published in the Florida
76 | Administrative Weekly not less than 28 days prior to the
77 | intended action. The proposed rule shall be available for
78 | inspection and copying by the public at the time of the
79 | publication of notice.

80 | 3. The notice shall be mailed to all persons named in the
81 | proposed rule and to all persons who, at least 14 days prior to
82 | such mailing, have made requests of the agency for advance
83 | notice of its proceedings. The agency shall also give such
84 | notice as is prescribed by rule to those particular classes of

85 persons to whom the intended action is directed.

86 4. The adopting agency shall file with the committee, at
87 least 21 days prior to the proposed adoption date, a copy of
88 each rule it proposes to adopt; a copy of any material
89 incorporated by reference in the rule; a detailed written
90 statement of the facts and circumstances justifying the proposed
91 rule; a copy of any statement of estimated regulatory costs that
92 has been prepared pursuant to s. 120.541; a statement of the
93 extent to which the proposed rule relates to federal standards
94 or rules on the same subject; and the notice required by
95 subparagraph 1.

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

97 1. Statement of estimated regulatory costs.—Prior to the
98 adoption, amendment, or repeal of any rule ~~other than an~~
99 ~~emergency rule~~, an agency is encouraged to prepare a statement
100 of estimated regulatory costs of the proposed rule, as provided
101 by s. 120.541. However, an agency must prepare a statement of
102 estimated regulatory costs of the proposed rule, as provided by
103 s. 120.541, if:

104 a. The proposed rule will have an adverse impact on small
105 business; or

106 b. The proposed rule is likely to directly or indirectly
107 increase regulatory costs in excess of \$200,000 in the aggregate
108 in this state within 1 year after the implementation of the
109 rule.

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

111 a. Each agency, before the adoption, amendment, or repeal
112 of a rule, shall consider the impact of the rule on small

113 businesses as defined by s. 288.703 and the impact of the rule
114 on small counties or small cities as defined by s. 120.52.
115 Whenever practicable, an agency shall tier its rules to reduce
116 disproportionate impacts on small businesses, small counties, or
117 small cities to avoid regulating small businesses, small
118 counties, or small cities that do not contribute significantly
119 to the problem the rule is designed to address. An agency may
120 define "small business" to include businesses employing more
121 than 200 persons, may define "small county" to include those
122 with populations of more than 75,000, and may define "small
123 city" to include those with populations of more than 10,000, if
124 it finds that such a definition is necessary to adapt a rule to
125 the needs and problems of small businesses, small counties, or
126 small cities. The agency shall consider each of the following
127 methods for reducing the impact of the proposed rule on small
128 businesses, small counties, and small cities, or any combination
129 of these entities:

130 (I) Establishing less stringent compliance or reporting
131 requirements in the rule.

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

134 (III) Consolidating or simplifying the rule's compliance
135 or reporting requirements.

136 (IV) Establishing performance standards or best management
137 practices to replace design or operational standards in the
138 rule.

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

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

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

157 (III) If an agency does not adopt all alternatives offered
158 pursuant to this sub-subparagraph, it shall, prior to rule
159 adoption or amendment and pursuant to subparagraph (d)1., file a
160 detailed written statement with the committee explaining the
161 reasons for failure to adopt such alternatives. Within 3 working
162 days of the filing of such notice, the agency shall send a copy
163 of such notice to the Small Business Regulatory Advisory
164 Council. The Small Business Regulatory Advisory Council may make
165 a request of the President of the Senate and the Speaker of the
166 House of Representatives that the presiding officers direct the
167 Office of Program Policy Analysis and Government Accountability
168 to determine whether the rejected alternatives reduce the impact

169 on small business while meeting the stated objectives of the
 170 proposed rule. Within 60 days after the date of the directive
 171 from the presiding officers, the Office of Program Policy
 172 Analysis and Government Accountability shall report to the
 173 Administrative Procedures Committee its findings as to whether
 174 an alternative reduces the impact on small business while
 175 meeting the stated objectives of the proposed rule. The Office
 176 of Program Policy Analysis and Government Accountability shall
 177 consider the proposed rule, the economic impact statement, the
 178 written statement of the agency, the proposed alternatives, and
 179 any comment submitted during the comment period on the proposed
 180 rule. The Office of Program Policy Analysis and Government
 181 Accountability shall submit a report of its findings and
 182 recommendations to the Governor, the President of the Senate,
 183 and the Speaker of the House of Representatives. The
 184 Administrative Procedures Committee shall report such findings
 185 to the agency, and the agency shall respond in writing to the
 186 Administrative Procedures Committee if the Office of Program
 187 Policy Analysis and Government Accountability found that the
 188 alternative reduced the impact on small business while meeting
 189 the stated objectives of the proposed rule. If the agency will
 190 not adopt the alternative, it must also provide a detailed
 191 written statement to the committee as to why it will not adopt
 192 the alternative.

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

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

196 1. After the final public hearing on the proposed rule, or

197 after the time for requesting a hearing has expired, if the rule
198 has not been changed from the rule as previously filed with the
199 committee, or contains only technical changes, the adopting
200 agency shall file a notice to that effect with the committee at
201 least 7 days prior to filing the rule for adoption. Any change,
202 other than a technical change that does not affect the substance
203 of the rule, must be supported by the record of public hearings
204 held on the rule, must be in response to written material
205 submitted to the agency within 21 days after the date of
206 publication of the notice of intended agency action or submitted
207 to the agency between the date of publication of the notice and
208 the end of the final public hearing, or must be in response to a
209 proposed objection by the committee. In addition, when any
210 change is made in a proposed rule, other than a technical
211 change, the adopting agency shall provide a copy of a notice of
212 change by certified mail or actual delivery to any person who
213 requests it in writing no later than 21 days after the notice
214 required in paragraph (a). The agency shall file the notice of
215 change with the committee, along with the reasons for the
216 change, and provide the notice of change to persons requesting
217 it, at least 21 days prior to filing the rule for adoption. The
218 notice of change shall be published in the Florida
219 Administrative Weekly at least 21 days prior to filing the rule
220 for adoption. This subparagraph does not apply to emergency
221 rules adopted pursuant to subsection (4).

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

224 3. After adoption and before the rule becomes effective

225 ~~date~~, a rule may be modified or withdrawn only in the following
 226 circumstances:

227 a. When the committee objects to the rule;

228 b. When a final order, not subject to further appeal, is
 229 entered in a rule challenge brought pursuant to s. 120.56 after
 230 the date of adoption but before the rule becomes effective
 231 pursuant to subparagraph (e)6.;

232 c. When the rule requires ratification and more than 90
 233 days have passed since the rule was filed for adoption without
 234 the Legislature ratifying the rule; or

235 ~~d. response to an objection by the committee or may be~~
 236 ~~modified to extend the effective date by not more than 60 days~~
 237 When the committee notifies has notified the agency that an
 238 objection to the rule is being considered, in which case the
 239 rule may be modified to extend the effective date by not more
 240 than 60 days.

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

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

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

252 1. If the adopting agency is required to publish its rules

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

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

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

290 3. At the time a rule is filed, the agency shall certify
291 that the time limitations prescribed by this paragraph have been
292 complied with, that all statutory rulemaking requirements have
293 been met, and that there is no administrative determination
294 pending on the rule.

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

306 5. If a rule has not been adopted within the time limits
307 imposed by this paragraph or has not been adopted in compliance
308 with all statutory rulemaking requirements, the agency proposing

309 the rule shall withdraw the rule and give notice of its action
 310 in the next available issue of the Florida Administrative
 311 Weekly.

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

328
 329 For the purposes of this paragraph, the term "administrative
 330 determination" does not include subsequent judicial review.

331 Section 2. Paragraph (d) of subsection (1) and subsection
 332 (4) of section 120.541, Florida Statutes, as amended by chapter
 333 2010-279, Laws of Florida, are amended, and subsection (5) is
 334 added to that section, to read:

335 120.541 Statement of estimated regulatory costs.—
 336 (1)

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

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

349 (4) Subsection (3) Paragraph (2) (a) does not apply to the
 350 adoption of:

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

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

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

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

359 Section 3. Section 120.547, Florida Statutes, is created
 360 to read:

361 120.547 Summary procedure for rule review and repeal
 362 during inaugural period.-

363 (1) LEGISLATIVE FINDINGS.-The Legislature finds that newly
 364 elected statewide executive officers should have full authority

365 to initiate oversight of all rulemaking of agencies under their
 366 supervision or control. The Legislature further finds that the
 367 formal process for repealing rules as required under s.
 368 120.54(3)(d)5. may unnecessarily delay efforts for statewide
 369 elected executive officers to review and revise the programs and
 370 policies within their respective individual or collective
 371 jurisdiction at the commencement of their elective terms.
 372 Accordingly, the Legislature finds a prudent, expedited process
 373 providing for the review of rulemaking and the summary repeal of
 374 existing rules within the beginning months of a statewide
 375 executive officer's elective term may assist those officers in
 376 the articulation and implementation of public policy.

377 (2) DEFINITIONS.—As used in this section, the term:

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

384 (b) "Repealing authority" means a statewide elected
 385 executive officer, the Governor and Cabinet, or the State Board
 386 of Administration exercising jurisdiction to repeal a rule.

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

390 (3) AGENCIES AND RULES AFFECTED.—Exclusively during the
 391 inaugural period, each repealing authority is authorized to
 392 direct the repeal of rules using the summary procedure provided

393 in this section with respect to rules of any agency under the
394 direct supervision of the repealing authority or under the
395 supervision of an agency head appointed by and serving at the
396 pleasure of the repealing authority.

397 (4) NOTICE OF REPEAL.—The repealing authority shall direct
398 the repeal of rules as follows:

399 (a) On or before March 1 during the inaugural period, or,
400 during the year 2011, within 30 days after the effective date of
401 this act, the repealing authority shall provide notice to the
402 public, on an Internet website, or to the Legislature, by a
403 letter to the President of the Senate, the Speaker of the House
404 of Representatives, and the committee, the Florida
405 Administrative Code citation of each rule under review for
406 possible repeal under this section.

407 (b) For each rule to be repealed under this section, the
408 repealing authority shall make a written finding containing the
409 following:

410 1. The number and title of the rule to be repealed.
411 2. The agency that adopted the rule.
412 3. The conclusion that the law implemented by the rule
413 does not require the continued existence of the rule or any
414 modification thereof.

415 4. The basis for repeal, which includes, but is not
416 limited to, the following:

417 a. The rule is obsolete or no longer necessary;
418 b. The substantive law that the rule implements or
419 interprets in compliance with s. 120.536(1) was amended or
420 repealed; or

421 c. The rule conflicts with programs or policies that the
422 repealing authority has implemented or intends to implement.

423 5. The name, title, address, and e-mail address of the
424 person designated by the repealing authority to receive
425 inquiries, correspondence, objections, or notices in response to
426 the proposed repeal.

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

429 (c) The adopting agency shall publish notice of the
430 written finding directing repeal of the rule on the agency's
431 Internet website, including in such notice the date of first
432 publication, and shall also publish the notice and written
433 finding, including the Internet website on which the notice was
434 first published, in the Florida Administrative Weekly that is
435 first available after the date the written finding is executed
436 by the repealing authority.

437 (d) Repeal of a rule under this section may be effective
438 no earlier than 15 days after the date the notice of repeal is
439 published on the agency's Internet website, but may not be
440 effective earlier than March 31 in the inaugural period.

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

443 (a) An objection may be made only on the basis that:

444 1. The repealing authority failed to provide the notices
445 required under this section;

446 2. The repealing authority made an erroneous conclusion of
447 law under subparagraph (4) (b) 3.; or

448 3. The repeal constitutes an invalid exercise of delegated

449 legislative authority.

450 (b) No later than 14 days after the date the notice of
451 repeal is published on the agency's Internet website, the person
452 must file with the individual designated in subparagraph
453 (4) (b) 5. a written objection to repeal stating:

454 1. The name, address, telephone number, and e-mail address
455 of the person opposing the repeal.

456 2. A concise statement of the facts and law on which the
457 objection relies.

458 (c) Failure to file an objection in the time and manner
459 provided in this subsection constitutes a full and complete
460 waiver of the objection, an affirmative assent to the proposed
461 repeal, and a full and complete waiver of judicial review under
462 s. 120.68.

463 (d) If an objection is timely filed, the repeal is not
464 effective until the repealing authority overrules the objection
465 in writing and notice of that disposition is published in the
466 manner provided in paragraph (4) (c).

467 (6) NONAPPLICABLE SECTIONS.—Sections 120.54, 120.541,
468 120.56, 120.569, 120.57, 120.573, 120.574, and 120.69 are not
469 applicable to the repeal of rules under this section.

470 (7) JUDICIAL REVIEW.—A substantially affected party whose
471 timely written objection to the proposed repeal is overruled by
472 the repealing authority may seek judicial review of that
473 decision under s. 120.68, as modified by the following:

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

477 (b) A petition for judicial review may be brought only
478 against the agency that adopted the rule and not against the
479 repealing authority.

480 (c) The record for review shall be comprised solely of the
481 written finding of repeal, the written objection, the written
482 disposition of the objection, and, if the objection raised the
483 failure to provide notices required under this section, the
484 record shall include a verified statement of the repealing
485 authority, if an individual elected officer, or of the Governor
486 with respect to any other repealing authority, setting forth the
487 facts relied upon in overruling the objection.

488 (8) NONDELEGABLE AUTHORITY.—The authority to determine and
489 direct the repeal of agency rules under this section, other than
490 the receipt of inquiries, correspondence, petitions, or notices
491 in response to a proposed repeal, shall be exercised exclusively
492 by the repealing authority having supervisory or appointive
493 authority with respect to the affected agency and may not be
494 delegated to any other person.

495 Section 4. Paragraph (a) of subsection (2) of section
496 120.56, Florida Statutes, as amended by chapter 2010-279, Laws
497 of Florida, is amended to read:

498 120.56 Challenges to rules.—

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

500 (a) A substantially affected person may seek an
501 administrative determination of the invalidity of a proposed
502 rule by filing a petition seeking such a determination with the
503 division within 21 days after the date of publication of the
504 notice required by s. 120.54(3)(a); within 10 days after the

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2011

505 final public hearing is held on the proposed rule as provided by
506 s. 120.54(3)(e)2.; within 20 ~~44~~ days after the statement of
507 estimated regulatory costs or revised statement of estimated
508 regulatory costs, if applicable, has been prepared and made
509 available as provided in s. 120.541(1)(d); or within 20 days
510 after the date of publication of the notice required by s.
511 120.54(3)(d). The petition must state with particularity the
512 objections to the proposed rule and the reasons that the
513 proposed rule is an invalid exercise of delegated legislative
514 authority. The petitioner has the burden of going forward. The
515 agency then has the burden to prove by a preponderance of the
516 evidence that the proposed rule is not an invalid exercise of
517 delegated legislative authority as to the objections raised. A
518 person who is substantially affected by a change in the proposed
519 rule may seek a determination of the validity of such change. A
520 person who is not substantially affected by the proposed rule as
521 initially noticed, but who is substantially affected by the rule
522 as a result of a change, may challenge any provision of the rule
523 and is not limited to challenging the change to the proposed
524 rule.

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