

1 A bill to be entitled
2 An act relating to administrative procedures; amending
3 s. 57.111, F.S.; providing conditions under which a
4 proceeding is not substantially justified for purposes
5 of an award under the Florida Equal Access to Justice
6 Act; amending s. 120.55, F.S.; providing for
7 publication of notices of rule development and of
8 rules filed for adoption; providing additional notice
9 of rule development, proposals, and adoptions;
10 amending s. 120.56, F.S.; providing that the
11 petitioner challenging a proposed rule or unadopted
12 agency statement has the burden of establishing a
13 prima facie case; amending s. 120.569, F.S.; providing
14 for extension of time to render final agency action in
15 certain circumstances; amending s. 120.57, F.S.;
16 conforming proceedings opposing agency action based on
17 an invalid rule or unadopted rule to proceedings for
18 challenging rules; requiring notice of whether the
19 agency will rely on the challenged rule or unadopted
20 rule; providing for the administrative law judge to
21 make certain findings and enter a final order on the
22 validity of the rule or the use of an unadopted rule;
23 providing for stay of proceedings not involving
24 disputed issues of fact upon timely filing of rule
25 challenge; amending s. 120.573, F.S.; authorizing any
26 party to request mediation of rule challenge and
27 declaratory statement proceedings; amending s.
28 120.595, F.S.; providing for an award of attorney fees

29 and costs in specified challenges to agency action;
30 removing certain exceptions from requirements that
31 attorney fees and costs be rendered against the agency
32 in proceedings in which the petitioner prevails in a
33 rule challenge; requiring service of notice of
34 invalidity to an agency before bringing a rule
35 challenge as a condition precedent to award of
36 attorney fees and costs; providing for award of
37 additional attorney fees and costs for litigating
38 entitlement to and amount of attorney fees and costs
39 in administrative actions; providing that such awards
40 of additional attorney fees and costs are not subject
41 to certain statutory limits; amending s. 120.68, F.S.;
42 providing for appellate review of orders rendered in
43 challenges to specified rules or unadopted rules;
44 amending s. 120.695, F.S.; removing obsolete
45 provisions with respect to required agency review and
46 designation of minor violations; requiring agency
47 review and certification of minor violation rules by a
48 specified date; requiring reporting of agency failure
49 to complete review and file certification of such
50 rules; requiring minor violation certification for all
51 rules adopted after a specified date; requiring public
52 notice; providing for nonapplicability; amending ss.
53 420.9072, 420.9075, and 443.091, F.S.; conforming
54 cross-references; providing an effective date.

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

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Section 1. Paragraph (e) of subsection (3) of section 57.111, Florida Statutes, is amended to read:

57.111 Civil actions and administrative proceedings initiated by state agencies; attorney ~~attorneys'~~ fees and costs.—

(3) As used in this section:

(e) A proceeding is "substantially justified" if it had a reasonable basis in law and fact at the time it was initiated by a state agency. A proceeding is not substantially justified when the agency action involves identical or substantially similar facts and circumstances and the specified law, rule, or order on which the party substantially affected by the agency action petitioned for a declaratory statement under s. 120.565, and:

1. The agency action contradicts a declaratory statement issued under s. 120.565 to the substantially affected party; or

2. The agency denied the petition under s. 120.565 before initiating the agency action against the substantially affected party.

Section 2. Section 120.55, Florida Statutes, is amended to read:

120.55 Publication.—

(1) The Department of State shall:

(a)1. Through a continuous revision and publication system, compile and publish electronically, on an Internet website managed by the department, the "Florida Administrative Code." The Florida Administrative Code shall contain all rules adopted by each agency, citing the grant of rulemaking authority

85 and the specific law implemented pursuant to which each rule was
86 adopted, all history notes as authorized in s. 120.545(7),
87 complete indexes to all rules contained in the code, and any
88 other material required or authorized by law or deemed useful by
89 the department. The electronic code shall display each rule
90 chapter currently in effect in browse mode and allow full text
91 search of the code and each rule chapter. The department may
92 contract with a publishing firm for a printed publication;
93 however, the department shall retain responsibility for the code
94 as provided in this section. The electronic publication shall be
95 the official compilation of the administrative rules of this
96 state. The Department of State shall retain the copyright over
97 the Florida Administrative Code.

98 2. Rules general in form but applicable to only one school
99 district, community college district, or county, or a part
100 thereof, or state university rules relating to internal
101 personnel or business and finance shall not be published in the
102 Florida Administrative Code. Exclusion from publication in the
103 Florida Administrative Code shall not affect the validity or
104 effectiveness of such rules.

105 3. At the beginning of the section of the code dealing
106 with an agency that files copies of its rules with the
107 department, the department shall publish the address and
108 telephone number of the executive offices of each agency, the
109 manner by which the agency indexes its rules, a listing of all
110 rules of that agency excluded from publication in the code, and
111 a statement as to where those rules may be inspected.

112 4. Forms shall not be published in the Florida
113 Administrative Code; but any form which an agency uses in its
114 dealings with the public, along with any accompanying
115 instructions, shall be filed with the committee before it is
116 used. Any form or instruction which meets the definition of
117 "rule" provided in s. 120.52 shall be incorporated by reference
118 into the appropriate rule. The reference shall specifically
119 state that the form is being incorporated by reference and shall
120 include the number, title, and effective date of the form and an
121 explanation of how the form may be obtained. Each form created
122 by an agency which is incorporated by reference in a rule notice
123 of which is given under s. 120.54(3)(a) after December 31, 2007,
124 must clearly display the number, title, and effective date of
125 the form and the number of the rule in which the form is
126 incorporated.

127 5. The department shall allow adopted rules and material
128 incorporated by reference to be filed in electronic form as
129 prescribed by department rule. When a rule is filed for adoption
130 with incorporated material in electronic form, the department's
131 publication of the Florida Administrative Code on its Internet
132 website must contain a hyperlink from the incorporating
133 reference in the rule directly to that material. The department
134 may not allow hyperlinks from rules in the Florida
135 Administrative Code to any material other than that filed with
136 and maintained by the department, but may allow hyperlinks to
137 incorporated material maintained by the department from the
138 adopting agency's website or other sites.

139 (b) Electronically publish on an Internet website managed
140 by the department a continuous revision and publication entitled
141 the "Florida Administrative Register," which shall serve as the
142 official publication and must contain:

143 1. All notices required by s. 120.54(2) and (3)(a) ~~s.~~
144 ~~120.54(3)(a)~~, showing the text of all rules proposed for
145 consideration.

146 2. All notices of public meetings, hearings, and workshops
147 conducted in accordance with s. 120.525, including a statement
148 of the manner in which a copy of the agenda may be obtained.

149 3. A notice of each request for authorization to amend or
150 repeal an existing uniform rule or for the adoption of new
151 uniform rules.

152 4. Notice of petitions for declaratory statements or
153 administrative determinations.

154 5. A summary of each objection to any rule filed by the
155 Administrative Procedures Committee.

156 6. A listing of rules filed for adoption in the previous 7
157 calendar days.

158 7. A listing of all rules filed for adoption pending
159 legislative ratification under s. 120.541(3) until notice of
160 ratification or withdrawal of such rule is received.

161 ~~8.6.~~ Any other material required or authorized by law or
162 deemed useful by the department.

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164 The department may contract with a publishing firm for a printed
165 publication of the Florida Administrative Register and make
166 copies available on an annual subscription basis.

167 (c) Prescribe by rule the style and form required for
168 rules, notices, and other materials submitted for filing.

169 (d) Charge each agency using the Florida Administrative
170 Register a space rate to cover the costs related to the Florida
171 Administrative Register and the Florida Administrative Code.

172 (e) Maintain a permanent record of all notices published
173 in the Florida Administrative Register.

174 (2) The Florida Administrative Register Internet website
175 must allow users to:

176 (a) Search for notices by type, publication date, rule
177 number, word, subject, and agency.

178 (b) Search a database that makes available all notices
179 published on the website for a period of at least 5 years.

180 (c) Subscribe to an automated e-mail notification of
181 selected notices to be sent out before or concurrently with
182 publication of the electronic Florida Administrative Register.
183 Such notification must include in the text of the e-mail a
184 summary of the content of each notice.

185 (d) View agency forms and other materials submitted to the
186 department in electronic form and incorporated by reference in
187 proposed rules.

188 (e) Comment on proposed rules.

189 (3) Publication of material required by paragraph (1) (b)
190 on the Florida Administrative Register Internet website does not
191 preclude publication of such material on an agency's website or
192 by other means.

193 (4) Each agency shall provide copies of its rules upon
194 request, with citations to the grant of rulemaking authority and
195 the specific law implemented for each rule.

196 (5) Each agency that provides an e-mail alert service to
197 inform licensees or other registered recipients of important
198 notices shall use such service to notify recipients of each
199 notice required under s. 120.54(2) and (3)(a), including, but
200 not limited to, notice of rule development, notice of proposed
201 rules, and notice of filing rules for adoption, and provide
202 internet links to the appropriate rule page on the Secretary of
203 State's website, or Internet links to an agency website that
204 contains the proposed rule or final rule.

205 (6)~~(5)~~ Any publication of a proposed rule promulgated by
206 an agency, whether published in the Florida Administrative
207 Register or elsewhere, shall include, along with the rule, the
208 name of the person or persons originating such rule, the name of
209 the agency head who approved the rule, and the date upon which
210 the rule was approved.

211 (7)~~(6)~~ Access to the Florida Administrative Register
212 Internet website and its contents, including the e-mail
213 notification service, shall be free for the public.

214 (8)~~(7)~~(a) All fees and moneys collected by the Department
215 of State under this chapter shall be deposited in the Records
216 Management Trust Fund for the purpose of paying for costs
217 incurred by the department in carrying out this chapter.

218 (b) The unencumbered balance in the Records Management
219 Trust Fund for fees collected pursuant to this chapter may not

220 exceed \$300,000 at the beginning of each fiscal year, and any
 221 excess shall be transferred to the General Revenue Fund.

222 Section 3. Paragraph (b) of subsection (1), paragraph (a)
 223 of subsection (2), and subsection (4) of section 120.56, Florida
 224 Statutes, are amended to read:

225 120.56 Challenges to rules.—

226 (1) GENERAL PROCEDURES FOR CHALLENGING THE VALIDITY OF A
 227 RULE OR A PROPOSED RULE.—

228 (b) The petition challenging the validity of a proposed or
 229 adopted rule or an agency statement defined as a rule under this
 230 section seeking an administrative determination must state with
 231 particularity:

232 1. The provisions alleged to be invalid and a statement
 233 with sufficient explanation of the facts establishing a prima
 234 facie case of or grounds for the alleged invalidity; and

235 2. Facts sufficient to show that the petitioner person
 236 challenging a rule is substantially affected by the challenged
 237 adopted rule or agency statement defined as a rule it, or ~~that~~
 238 ~~the person challenging a proposed rule~~ would be substantially
 239 affected by the proposed rule it.

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

241 (a) A substantially affected person may seek an
 242 administrative determination of the invalidity of a proposed
 243 rule by filing a petition seeking such a determination with the
 244 division within 21 days after the date of publication of the
 245 notice required by s. 120.54(3)(a); within 10 days after the
 246 final public hearing is held on the proposed rule as provided by
 247 s. 120.54(3)(e)2.; within 20 days after the statement of

248 estimated regulatory costs or revised statement of estimated
249 regulatory costs, if applicable, has been prepared and made
250 available as provided in s. 120.541(1)(d); or within 20 days
251 after the date of publication of the notice required by s.
252 120.54(3)(d). The petition must state with particularity the
253 objections to the proposed rule and the reasons that the
254 proposed rule is an invalid exercise of delegated legislative
255 authority. The petitioner has the burden of presenting a prima
256 facie case demonstrating the invalidity of the proposed rule
257 ~~going forward~~. The agency then has the burden to prove by a
258 preponderance of the evidence that the proposed rule is not an
259 invalid exercise of delegated legislative authority as to the
260 objections raised. ~~A person who is substantially affected by a~~
261 ~~change in the proposed rule may seek a determination of the~~
262 ~~validity of such change~~. A person who is not substantially
263 affected by the proposed rule as initially noticed, but who is
264 substantially affected by the rule as a result of a change, may
265 challenge any provision of the resulting rule ~~and is not limited~~
266 ~~to challenging the change to the proposed rule~~.

267 (4) CHALLENGING AGENCY STATEMENTS DEFINED AS UNADOPTED
268 RULES; SPECIAL PROVISIONS.—

269 (a) Any person substantially affected by an agency
270 statement that is an unadopted rule may seek an administrative
271 determination that the statement violates s. 120.54(1)(a). The
272 petition shall include the text of the statement or a
273 description of the statement and shall state with particularity
274 facts sufficient to show that the statement constitutes an a
275 unadopted rule ~~under s. 120.52 and that the agency has not~~

276 | ~~adopted the statement by the rulemaking procedure provided by s.~~
277 | ~~120.54.~~

278 | (b) The administrative law judge may extend the hearing
279 | date beyond 30 days after assignment of the case for good cause.
280 | Upon notification to the administrative law judge provided
281 | before the final hearing that the agency has published a notice
282 | of rulemaking under s. 120.54(3), such notice shall
283 | automatically operate as a stay of proceedings pending adoption
284 | of the statement as a rule. The administrative law judge may
285 | vacate the stay for good cause shown. A stay of proceedings
286 | pending rulemaking shall remain in effect so long as the agency
287 | is proceeding expeditiously and in good faith to adopt the
288 | statement as a rule. ~~If a hearing is held and the petitioner~~
289 | ~~proves the allegations of the petition, the agency shall have~~
290 | ~~the burden of proving~~

291 | (c) The petitioner has the burden of presenting a prima
292 | facie case demonstrating that the agency statement constitutes
293 | an unadopted rule. The agency then has the burden to prove by a
294 | preponderance of the evidence that the statement does not meet
295 | the definition of an unadopted rule, the statement was adopted
296 | as a rule in compliance with s. 120.54, or that rulemaking is
297 | not feasible or not practicable under s. 120.54(1)(a).

298 | (d)~~(e)~~ The administrative law judge may determine whether
299 | all or part of a statement violates s. 120.54(1)(a). The
300 | decision of the administrative law judge shall constitute a
301 | final order. The division shall transmit a copy of the final
302 | order to the Department of State and the committee. The

303 Department of State shall publish notice of the final order in
304 the first available issue of the Florida Administrative Weekly.

305 (e)~~(d)~~ If an administrative law judge enters a final order
306 that all or part of an unadopted rule ~~agency statement~~ violates
307 s. 120.54(1)(a), the agency must immediately discontinue all
308 reliance upon the unadopted rule ~~statement~~ or any substantially
309 similar statement as a basis for agency action.

310 (f)~~(e)~~ If proposed rules addressing the challenged
311 unadopted rule ~~statement~~ are determined to be an invalid
312 exercise of delegated legislative authority as defined in s.
313 120.52(8)(b)-(f), the agency must immediately discontinue
314 reliance on the unadopted rule ~~statement~~ and any substantially
315 similar statement until rules addressing the subject are
316 properly adopted, and the administrative law judge shall enter a
317 final order to that effect.

318 (g)~~(f)~~ All proceedings to determine a violation of s.
319 120.54(1)(a) shall be brought pursuant to this subsection. A
320 proceeding pursuant to this subsection may be consolidated with
321 a proceeding under subsection (3) or under any other section of
322 this chapter. This paragraph does not prevent a party whose
323 substantial interests have been determined by an agency action
324 from bringing a proceeding pursuant to s. 120.57(1)(e).

325 Section 4. Paragraph (1) of subsection (2) of section
326 120.569, Florida Statutes, is amended to read:

327 120.569 Decisions which affect substantial interests.—

328 (2)

329 (1) Unless the time period is waived or extended with the
330 consent of all parties, the final order in a proceeding which

331 affects substantial interests must be in writing and include
332 findings of fact, if any, and conclusions of law separately
333 stated, and it must be rendered within 90 days:

334 1. After the hearing is concluded, if conducted by the
335 agency;

336 2. After a recommended order is submitted to the agency
337 and mailed to all parties, if the hearing is conducted by an
338 administrative law judge, provided that, at the election of the
339 agency, the time for rendering the final order may be extended
340 until 10 days after entry of final judgment on any appeal from a
341 final order under s. 120.57(1)(e)5.; or

342 3. After the agency has received the written and oral
343 material it has authorized to be submitted, if there has been no
344 hearing.

345 Section 5. Paragraphs (e) and (h) of subsection (1) and
346 subsection (2) of section 120.57, Florida Statutes, are amended
347 to read:

348 120.57 Additional procedures for particular cases.—

349 (1) ADDITIONAL PROCEDURES APPLICABLE TO HEARINGS INVOLVING
350 DISPUTED ISSUES OF MATERIAL FACT.—

351 (e)1. An agency or an administrative law judge may not
352 base agency action that determines the substantial interests of
353 a party on an unadopted rule or a rule that is an invalid
354 exercise of delegated legislative authority. ~~The administrative~~
355 ~~law judge shall determine whether an agency statement~~
356 ~~constitutes an unadopted rule.~~ This subparagraph does not
357 preclude application of valid ~~adopted~~ rules and applicable
358 provisions of law to the facts.

359 2. In a matter initiated by agency action proposing to
360 determine the substantive interests of a party, the party's
361 timely petition for hearing may challenge the proposed agency
362 action as based on a rule that is an invalid exercise of
363 delegated legislative authority or based on an unadopted rule.

364 For challenges brought under this subsection:

365 a. The challenge shall be pled as a defense with the
366 particularity required in s. 120.56(1)(b);

367 b. Section 120.56(3)(a) applies to a challenge alleging a
368 rule is an invalid exercise of delegated legislative authority;

369 c. Section 120.56(4)(c) applies to a challenge alleging an
370 unadopted rule.

371 d. The agency shall have 15 days from the date of
372 receiving a challenge under this paragraph to serve the
373 challenging party with a notice that the agency will continue to
374 rely upon the rule or the alleged unadopted rule as a basis for
375 the action determining the party's substantive interests.

376 Failure to timely serve the notice shall constitute a binding
377 stipulation that the agency shall not rely upon the rule or
378 unadopted rule further in the proceeding. The agency shall
379 include a copy of this notice with the referral of the matter to
380 the division under s. 120.569(2)(a).

381 e. This subparagraph does not preclude the consolidation
382 of any proceeding under s. 120.56 with any proceeding under this
383 paragraph.

384 3.2. Notwithstanding subparagraph 1., if an agency
385 demonstrates that the statute being implemented directs it to
386 adopt rules, that the agency has not had time to adopt those

387 rules because the requirement was so recently enacted, and that
388 the agency has initiated rulemaking and is proceeding
389 expeditiously and in good faith to adopt the required rules,
390 then the agency's action may be based upon those unadopted rules
391 if, subject to de novo review by the administrative law judge
392 determines rulemaking is neither feasible nor practicable and
393 the unadopted rules would not constitute an invalid exercise of
394 delegated legislative authority if adopted as rules. An
395 unadopted rule ~~The agency action~~ shall not be presumed valid ~~or~~
396 ~~invalid~~. The agency must demonstrate that the unadopted rule:
397 a. Is within the powers, functions, and duties delegated
398 by the Legislature or, if the agency is operating pursuant to
399 authority vested in the agency by ~~derived from~~ the State
400 Constitution, is within that authority;
401 b. Does not enlarge, modify, or contravene the specific
402 provisions of law implemented;
403 c. Is not vague, establishes adequate standards for agency
404 decisions, or does not vest unbridled discretion in the agency;
405 d. Is not arbitrary or capricious. A rule is arbitrary if
406 it is not supported by logic or the necessary facts; a rule is
407 capricious if it is adopted without thought or reason or is
408 irrational;
409 e. Is not being applied to the substantially affected
410 party without due notice; and
411 f. Does not impose excessive regulatory costs on the
412 regulated person, county, or city.
413 4. The administrative law judge shall determine under
414 subparagraph 2. whether a rule is an invalid exercise of

415 delegated legislative authority or an agency statement
416 constitutes an unadopted rule and shall determine whether an
417 unadopted rule meets the requirements of subparagraph 3. The
418 determination shall be rendered as a separate final order no
419 earlier than the date on which the administrative law judge
420 serves the recommended order.

421 ~~5.3-~~ The recommended and final orders in any proceeding
422 shall be governed by the provisions of paragraphs (k) and (l),
423 except that the administrative law judge's determination
424 ~~regarding an unadopted rule under subparagraph 4. 1. or~~
425 ~~subparagraph 2. shall be included as a conclusion of law that~~
426 ~~the agency may not reject not be rejected by the agency unless~~
427 ~~the agency first determines from a review of the complete~~
428 ~~record, and states with particularity in the order, that such~~
429 ~~determination is clearly erroneous or does not comply with~~
430 ~~essential requirements of law. In any proceeding for review~~
431 ~~under s. 120.68, if the court finds that the agency's rejection~~
432 ~~of the determination regarding the unadopted rule does not~~
433 ~~comport with the provisions of this subparagraph, the agency~~
434 ~~action shall be set aside and the court shall award to the~~
435 ~~prevailing party the reasonable costs and a reasonable~~
436 ~~attorney's fee for the initial proceeding and the proceeding for~~
437 ~~review.~~

438 (h) Any party to a proceeding in which an administrative
439 law judge of the Division of Administrative Hearings has final
440 order authority may move for a summary final order when there is
441 no genuine issue as to any material fact. A summary final order
442 shall be rendered if the administrative law judge determines

443 from the pleadings, depositions, answers to interrogatories, and
444 admissions on file, together with affidavits, if any, that no
445 genuine issue as to any material fact exists and that the moving
446 party is entitled as a matter of law to the entry of a final
447 order. A summary final order shall consist of findings of fact,
448 if any, conclusions of law, a disposition or penalty, if
449 applicable, and any other information required by law to be
450 contained in the final order. This paragraph does not apply to
451 proceedings authorized by paragraph (e).

452 (2) ADDITIONAL PROCEDURES APPLICABLE TO HEARINGS NOT
453 INVOLVING DISPUTED ISSUES OF MATERIAL FACT.—In any case to which
454 subsection (1) does not apply:

455 (a) The agency shall:

456 1. Give reasonable notice to affected persons of the
457 action of the agency, whether proposed or already taken, or of
458 its decision to refuse action, together with a summary of the
459 factual, legal, and policy grounds therefor.

460 2. Give parties or their counsel the option, at a
461 convenient time and place, to present to the agency or hearing
462 officer written or oral evidence in opposition to the action of
463 the agency or to its refusal to act, or a written statement
464 challenging the grounds upon which the agency has chosen to
465 justify its action or inaction.

466 3. If the objections of the parties are overruled, provide
467 a written explanation within 7 days.

468 (b) An agency may not base agency action that determines
469 the substantial interests of a party on an unadopted rule or a
470 rule that is an invalid exercise of delegated legislative

471 authority. No later than the date provided by the agency under
472 subparagraph (a)2. for presenting material in opposition to the
473 agency's proposed action or refusal to act, the party may file a
474 petition under s. 120.56 challenging the rule, portion of rule,
475 or unadopted rule on which the agency bases its proposed action
476 or refusal to act. The filing of a challenge under s. 120.56
477 pursuant to this paragraph shall stay all proceedings on the
478 agency's proposed action or refusal to act until entry of the
479 final order by the administrative law judge, which shall provide
480 additional notice that the stay of the pending agency action is
481 terminated and any further stay pending appeal of the final
482 order must be sought from the appellate court.

483 (c) ~~(b)~~ The record shall only consist of:

- 484 1. The notice and summary of grounds.
- 485 2. Evidence received.
- 486 3. All written statements submitted.
- 487 4. Any decision overruling objections.
- 488 5. All matters placed on the record after an ex parte
489 communication.
- 490 6. The official transcript.
- 491 7. Any decision, opinion, order, or report by the
492 presiding officer.

493 Section 6. Section 120.573, Florida Statutes, is amended
494 to read:

495 120.573 Mediation of disputes.—

496 (1) Each announcement of an agency action that affects
497 substantial interests shall advise whether mediation of the
498 administrative dispute for the type of agency action announced

499 is available and that choosing mediation does not affect the
500 right to an administrative hearing. If the agency and all
501 parties to the administrative action agree to mediation, in
502 writing, within 10 days after the time period stated in the
503 announcement for election of an administrative remedy under ss.
504 120.569 and 120.57, the time limitations imposed by ss. 120.569
505 and 120.57 shall be tolled to allow the agency and parties to
506 mediate the administrative dispute. The mediation shall be
507 concluded within 60 days of such agreement unless otherwise
508 agreed by the parties. The mediation agreement shall include
509 provisions for mediator selection, the allocation of costs and
510 fees associated with mediation, and the mediating parties'
511 understanding regarding the confidentiality of discussions and
512 documents introduced during mediation. If mediation results in
513 settlement of the administrative dispute, the agency shall enter
514 a final order incorporating the agreement of the parties. If
515 mediation terminates without settlement of the dispute, the
516 agency shall notify the parties in writing that the
517 administrative hearing processes under ss. 120.569 and 120.57
518 are resumed.

519 (2) Any party to a proceeding conducted pursuant to a
520 petition seeking an administrative determination of the
521 invalidity of an existing rule, proposed rule, or unadopted
522 agency statement under s. 120.56 or a proceeding conducted
523 pursuant to a petition seeking a declaratory statement under s.
524 120.565 may request mediation of the dispute under this section.

525 Section 7. Section 120.595, Florida Statutes, is amended
526 to read:

527 | 120.595 Attorney ~~Attorney's~~ fees.—

528 | (1) CHALLENGES TO AGENCY ACTION PURSUANT TO SECTION
529 | 120.57(1).—

530 | (a) The provisions of this subsection are supplemental to,
531 | and do not abrogate, other provisions allowing the award of fees
532 | or costs in administrative proceedings.

533 | (b) The final order in a proceeding pursuant to s.
534 | 120.57(1) shall award reasonable costs and ~~a~~ reasonable attorney
535 | fees ~~attorney's fee~~ to the prevailing party if the
536 | administrative law judge determines ~~only where~~ the nonprevailing
537 | adverse party ~~has been determined by the administrative law~~
538 | ~~judge to have~~ participated in the proceeding for an improper
539 | purpose.

540 | 1.(e) Other than as provided in paragraph (d), in
541 | proceedings pursuant to s. 120.57(1), and upon motion, the
542 | administrative law judge shall determine whether any party
543 | participated in the proceeding for an improper purpose as
544 | defined by this subsection. ~~In making such determination, the~~
545 | ~~administrative law judge shall consider whether~~ The
546 | nonprevailing adverse party shall be presumed to have
547 | participated in the pending proceeding for an improper purpose
548 | if:

549 | a. Such party was an adverse party ~~has participated~~ in two
550 | or more other such proceedings involving the same prevailing
551 | party and the same subject; project as an adverse party and in

552 | b. In those ~~which such two or more~~ proceedings the
553 | nonprevailing adverse party did not establish either the factual
554 | or legal merits of its position; ~~and shall consider~~

555 c. ~~Whether~~ The factual or legal position asserted in the
556 pending instant proceeding would have been cognizable in the
557 previous proceedings; ~~and. In such event, it shall be rebuttably~~
558 ~~presumed that the nonprevailing adverse party participated in~~
559 ~~the pending proceeding for an improper purpose~~

560 d. The nonprevailing adverse party has not rebutted the
561 presumption of participating in the pending proceeding for an
562 improper purpose.

563 2.(d) If ~~In any proceeding in which the administrative law~~
564 ~~judge determines that a party is determined to have~~ participated
565 in the proceeding for an improper purpose, the recommended order
566 shall include such findings of fact and conclusions of law to
567 establish the conclusion ~~so designate~~ and shall determine the
568 award of costs and attorney ~~attorney's~~ fees.

569 (c)(e) For the purpose of this subsection:

570 1. "Improper purpose" means participation in a proceeding
571 pursuant to s. 120.57(1) primarily to harass or to cause
572 unnecessary delay or for frivolous purpose or to needlessly
573 increase the cost of litigation, licensing, or securing the
574 approval of an activity.

575 2. "Costs" has the same meaning as the costs allowed in
576 civil actions in this state as provided in chapter 57.

577 3. "Nonprevailing adverse party" means a party that has
578 failed to have substantially changed the outcome of the proposed
579 or final agency action which is the subject of a proceeding. In
580 the event that a proceeding results in any substantial
581 modification or condition intended to resolve the matters raised
582 in a party's petition, it shall be determined that the party

583 having raised the issue addressed is not a nonprevailing adverse
584 party. The recommended order shall state whether the change is
585 substantial for purposes of this subsection. In no event shall
586 the term "nonprevailing party" or "prevailing party" be deemed
587 to include any party that has intervened in a previously
588 existing proceeding to support the position of an agency.

589 (d) For challenges brought under s. 120.57(1)(e), if the
590 appellate court or the administrative law judge declares a rule
591 or portion of a rule to be invalid or that the agency statement
592 is an unadopted rule which does not meet the requirements of s.
593 120.57(1)(e)4., a judgment or order shall be rendered against
594 the agency for reasonable costs and reasonable attorney fees,
595 unless the agency demonstrates that special circumstances exist
596 which would make the award unjust. Reasonable costs and
597 reasonable attorney fees shall be awarded only for the period
598 beginning 15 days after the receipt of the petition for hearing
599 challenging the rule or unadopted rule. If the agency prevails
600 in the proceedings, the appellate court or administrative law
601 judge shall award reasonable costs and reasonable attorney fees
602 against a party if the appellate court or administrative law
603 judge determines that a party participated in the proceedings
604 for an improper purpose as defined by paragraph (c). An award of
605 attorney fees as provided by this subsection may not exceed
606 \$50,000.

607 (2) CHALLENGES TO PROPOSED AGENCY RULES PURSUANT TO
608 SECTION 120.56(2).—If the appellate court or administrative law
609 judge declares a proposed rule or portion of a proposed rule
610 invalid pursuant to s. 120.56(2), a judgment or order shall be

611 rendered against the agency for reasonable costs and reasonable
 612 attorney ~~attorney's~~ fees, unless the agency demonstrates ~~that~~
 613 ~~its actions were substantially justified or~~ special
 614 circumstances exist which would make the award unjust. ~~An~~
 615 ~~agency's actions are "substantially justified" if there was a~~
 616 ~~reasonable basis in law and fact at the time the actions were~~
 617 ~~taken by the agency.~~ If the agency prevails in the proceedings,
 618 the appellate court or administrative law judge shall award
 619 reasonable costs and reasonable attorney ~~attorney's~~ fees against
 620 a party if the appellate court or administrative law judge
 621 determines that a party participated in the proceedings for an
 622 improper purpose as defined by paragraph (1)(c) ~~(1)(e)~~. ~~An~~ ~~No~~
 623 award of attorney ~~attorney's~~ fees as provided by this subsection
 624 may not ~~shall~~ exceed \$50,000.

625 (3) CHALLENGES TO EXISTING AGENCY RULES PURSUANT TO
 626 SECTION 120.56(3) AND (5).-If the appellate court or
 627 administrative law judge declares a rule or portion of a rule
 628 invalid pursuant to s. 120.56(3) or (5), a judgment or order
 629 shall be rendered against the agency for reasonable costs and
 630 reasonable attorney ~~attorney's~~ fees, unless the agency
 631 demonstrates that ~~its actions were substantially justified or~~
 632 special circumstances exist which would make the award unjust.
 633 ~~An agency's actions are "substantially justified" if there was a~~
 634 ~~reasonable basis in law and fact at the time the actions were~~
 635 ~~taken by the agency.~~ If the agency prevails in the proceedings,
 636 the appellate court or administrative law judge shall award
 637 reasonable costs and reasonable attorney ~~attorney's~~ fees against
 638 a party if the appellate court or administrative law judge

639 determines that a party participated in the proceedings for an
 640 improper purpose as defined by paragraph (1)(c) ~~(1)(e)~~. An ~~No~~
 641 award of attorney ~~attorney's~~ fees as provided by this subsection
 642 may not ~~shall~~ exceed \$50,000.

643 (4) CHALLENGES TO UNADOPTED RULES ~~AGENCY ACTION~~ PURSUANT
 644 TO SECTION 120.56(4).—

645 (a) If the appellate court or administrative law judge
 646 determines that all or part of an unadopted rule ~~agency~~
 647 ~~statement~~ violates s. 120.54(1)(a), or that the agency must
 648 immediately discontinue reliance on the unadopted rule ~~statement~~
 649 and any substantially similar statement pursuant to s.
 650 120.56(4)(e), a judgment or order shall be entered against the
 651 agency for reasonable costs and reasonable attorney ~~attorney's~~
 652 fees, unless the agency demonstrates that the statement is
 653 required by the Federal Government to implement or retain a
 654 delegated or approved program or to meet a condition to receipt
 655 of federal funds.

656 (b) Upon notification to the administrative law judge
 657 provided before the final hearing that the agency has published
 658 a notice of rulemaking under s. 120.54(3)(a), such notice shall
 659 automatically operate as a stay of proceedings pending
 660 rulemaking. The administrative law judge may vacate the stay for
 661 good cause shown. A stay of proceedings under this paragraph
 662 remains in effect so long as the agency is proceeding
 663 expeditiously and in good faith to adopt the statement as a
 664 rule. The administrative law judge shall award reasonable costs
 665 and reasonable attorney ~~attorney's~~ fees incurred ~~accrued~~ by the
 666 petitioner before ~~prior to~~ the date the notice was published.

667 | ~~unless the agency proves to the administrative law judge that it~~
668 | ~~did not know and should not have known that the statement was an~~
669 | ~~unadopted rule. Attorneys' fees and costs under this paragraph~~
670 | ~~and paragraph (a) shall be awarded only upon a finding that the~~
671 | ~~agency received notice that the statement may constitute an~~
672 | ~~unadopted rule at least 30 days before a petition under s.~~
673 | ~~120.56(4) was filed and that the agency failed to publish the~~
674 | ~~required notice of rulemaking pursuant to s. 120.54(3) that~~
675 | ~~addresses the statement within that 30-day period. Notice to the~~
676 | ~~agency may be satisfied by its receipt of a copy of the s.~~
677 | ~~120.56(4) petition, a notice or other paper containing~~
678 | ~~substantially the same information, or a petition filed pursuant~~
679 | ~~to s. 120.54(7). An award of attorney ~~attorney's~~ fees as~~
680 | ~~provided by this paragraph may not exceed \$50,000.~~

681 | (c) Notwithstanding the provisions of chapter 284, an
682 | award shall be paid from the budget entity of the secretary,
683 | executive director, or equivalent administrative officer of the
684 | agency, and the agency is ~~shall~~ not be entitled to payment of an
685 | award or reimbursement for payment of an award under any
686 | provision of law.

687 | (d) If the agency prevails in the proceedings, the
688 | appellate court or administrative law judge shall award
689 | reasonable costs and attorney ~~attorney's~~ fees against a party if
690 | the appellate court or administrative law judge determines that
691 | the party participated in the proceedings for an improper
692 | purpose as defined in paragraph (1) (c) ~~(e)~~ or that the party or
693 | the party's attorney knew or should have known that a claim was
694 | not supported by the material facts necessary to establish the

695 claim or would not be supported by the application of then-
696 existing law to those material facts.

697 (5) APPEALS.—When there is an appeal, the court in its
698 discretion may award reasonable attorney ~~attorney's~~ fees and
699 reasonable costs to the prevailing party if the court finds that
700 the appeal was frivolous, meritless, or an abuse of the
701 appellate process, or that the agency action which precipitated
702 the appeal was a gross abuse of the agency's discretion. Upon
703 review of agency action that precipitates an appeal, if the
704 court finds that the agency improperly rejected or modified
705 findings of fact in a recommended order, the court shall award
706 reasonable attorney ~~attorney's~~ fees and reasonable costs to a
707 prevailing appellant for the administrative proceeding and the
708 appellate proceeding.

709 (6) NOTICE OF INVALIDITY.—A party failing to serve a
710 notice of invalidity under this subsection is not entitled to an
711 award of reasonable costs and reasonable attorney fees under
712 this section except as provided in paragraph (d).

713 (a) Before filing a petition challenging the validity of a
714 proposed rule under s. 120.56(2), an adopted rule under s.
715 120.56(3), or an agency statement defined as an unadopted rule
716 under s. 120.56(4), the substantially affected person shall
717 serve the agency head with notice of the proposed challenge. The
718 notice shall identify the proposed or adopted rule or the
719 unadopted rule the person proposes to challenge and a brief
720 explanation of the basis for that challenge. The notice must be
721 received by the agency head at least 5 days before the filing of

722 a petition under s. 120.56(2), and at least 30 days before the
723 filing of a petition under s. 120.56(3) or s. 120.56(4).

724 (b) Reasonable costs and reasonable attorney fees shall be
725 awarded only for the period beginning after the date on which
726 the agency head receives the notice of invalidity under
727 paragraph (a).

728 (c) Within the time limits specified in paragraph (a), if
729 the agency provides the substantially affected person with
730 written notice that the agency will not adopt the proposed rule
731 or will not rely upon the adopted rule or the agency statement
732 defined as an unadopted rule until after the agency has complied
733 with the requirements of s. 120.54 to amend the proposed rule or
734 the adopted rule or adopt the unadopted rule, such written
735 notice shall constitute a special circumstance under this
736 section.

737 (d) This subsection does not apply to defenses raised and
738 challenges authorized by s. 120.57(1)(e) or s. 120.57(2)(b).

739 (7) DETERMINATION OF RECOVERABLE FEES AND COSTS.—For
740 purposes of this chapter, s. 57.105(5), and s. 57.111, in
741 addition to an award of reasonable attorney fees and reasonable
742 costs, the prevailing party shall also recover reasonable
743 attorney fees and reasonable costs incurred in litigating
744 entitlement to, and the determination or quantification of,
745 reasonable attorney fees and reasonable costs for the underlying
746 matter. Reasonable attorney fees and reasonable costs awarded
747 for litigating entitlement to, and the determination or
748 quantification of, reasonable attorney fees and reasonable costs

749 for the underlying matter are not subject to the limitations on
 750 amounts provided in this chapter or s. 57.111.

751 (8)~~(6)~~ OTHER SECTIONS NOT AFFECTED.—Other provisions,
 752 including ss. 57.105 and 57.111, authorize the award of attorney
 753 attorney's fees and costs in administrative proceedings. Nothing
 754 in this section shall affect the availability of attorney
 755 attorney's fees and costs as provided in those sections.

756 Section 8. Subsections (1), (2), and (9) of section
 757 120.68, Florida Statutes, are amended to read:

758 120.68 Judicial review.—

759 (1) (a) A party who is adversely affected by final agency
 760 action is entitled to judicial review.

761 (b) A preliminary, procedural, or intermediate order of
 762 the agency or of an administrative law judge of the Division of
 763 Administrative Hearings, or a final order under s.
 764 120.57(1)(e)4., is immediately reviewable if review of the final
 765 agency decision would not provide an adequate remedy.

766 (2) (a) Judicial review shall be sought in the appellate
 767 district where the agency maintains its headquarters or where a
 768 party resides or as otherwise provided by law.

769 (b) All proceedings shall be instituted by filing a notice
 770 of appeal or petition for review in accordance with the Florida
 771 Rules of Appellate Procedure within 30 days after the date that
 772 rendition of the order being appealed was filed with the agency
 773 clerk. Such time is hereby extended for any party 10 days from
 774 receipt by such party of the notice of the order, if such notice
 775 is received after the 25th day from the filing of the order. If
 776 the appeal is of an order rendered in a proceeding initiated

777 | under s. 120.56, or a final order under s. 120.57(1)(e)4., the
778 | agency whose rule is being challenged shall transmit a copy of
779 | the notice of appeal to the committee.

780 | ~~(c)(b)~~ When proceedings under this chapter are
781 | consolidated for final hearing and the parties to the
782 | consolidated proceeding seek review of final or interlocutory
783 | orders in more than one district court of appeal, the courts of
784 | appeal are authorized to transfer and consolidate the review
785 | proceedings. The court may transfer such appellate proceedings
786 | on its own motion, upon motion of a party to one of the
787 | appellate proceedings, or by stipulation of the parties to the
788 | appellate proceedings. In determining whether to transfer a
789 | proceeding, the court may consider such factors as the
790 | interrelationship of the parties and the proceedings, the
791 | desirability of avoiding inconsistent results in related
792 | matters, judicial economy, and the burden on the parties of
793 | reproducing the record for use in multiple appellate courts.

794 | (9) No petition challenging an agency rule as an invalid
795 | exercise of delegated legislative authority shall be instituted
796 | pursuant to this section, except to review an order entered
797 | pursuant to a proceeding under s. 120.56, under s.
798 | 120.57(1)(e)5., or under s. 120.57(2)(b), or an agency's
799 | findings of immediate danger, necessity, and procedural fairness
800 | prerequisite to the adoption of an emergency rule pursuant to s.
801 | 120.54(4), unless the sole issue presented by the petition is
802 | the constitutionality of a rule and there are no disputed issues
803 | of fact.

804 | Section 9. Section 120.695, Florida Statutes, is amended

805 to read:

806 120.695 Notice of noncompliance; designation of minor
807 violation rules.—

808 (1) It is the policy of the state that the purpose of
809 regulation is to protect the public by attaining compliance with
810 the policies established by the Legislature. Fines and other
811 penalties may be provided in order to assure compliance;
812 however, the collection of fines and the imposition of penalties
813 are intended to be secondary to the primary goal of attaining
814 compliance with an agency's rules. It is the intent of the
815 Legislature that an agency charged with enforcing rules shall
816 issue a notice of noncompliance as its first response to a minor
817 violation of a rule in any instance in which it is reasonable to
818 assume that the violator was unaware of the rule or unclear as
819 to how to comply with it.

820 (2) (a) Each agency shall issue a notice of noncompliance
821 as a first response to a minor violation of a rule. A "notice of
822 noncompliance" is a notification by the agency charged with
823 enforcing the rule issued to the person or business subject to
824 the rule. A notice of noncompliance may not be accompanied with
825 a fine or other disciplinary penalty. It must identify the
826 specific rule that is being violated, provide information on how
827 to comply with the rule, and specify a reasonable time for the
828 violator to comply with the rule. A rule is agency action that
829 regulates a business, occupation, or profession, or regulates a
830 person operating a business, occupation, or profession, and
831 that, if not complied with, may result in a disciplinary
832 penalty.

833 (b) Each agency shall review all of its rules and
834 designate those for which a violation would be a minor violation
835 and for which a notice of noncompliance must be the first
836 enforcement action taken against a person or business subject to
837 regulation. A violation of a rule is a minor violation if it
838 does not result in economic or physical harm to a person or
839 adversely affect the public health, safety, or welfare or create
840 a significant threat of such harm. ~~If an agency under the~~
841 ~~direction of a cabinet officer mails to each licensee a notice~~
842 ~~of the designated rules at the time of licensure and at least~~
843 ~~annually thereafter, the provisions of paragraph (a) may be~~
844 ~~exercised at the discretion of the agency. Such notice shall~~
845 ~~include a subject-matter index of the rules and information on~~
846 ~~how the rules may be obtained.~~

847 (c) ~~The agency's review and designation must be completed~~
848 ~~by December 1, 1995;~~

849 1. No later than June 30, 2014, and after such date within
850 3 months after any request of the rules ombudsman, each agency
851 shall review under the direction of the Governor shall make a
852 report to the Governor, and each agency under the joint
853 direction of the Governor and Cabinet shall report to the
854 Governor and Cabinet by January 1, 1996, on which of its rules
855 and certify to the President of the Senate, the Speaker of the
856 House of Representatives, the Administrative Procedures
857 Committee, and the rules ombudsman those rules that have been
858 designated as rules the violation of which would be a minor
859 violation under paragraph (b), consistent with the legislative
860 intent stated in subsection (1). For each agency failing to

861 timely complete the review and file the certification as
 862 required by this section, the rules ombudsman shall promptly
 863 report such failure to the Governor, the President of the
 864 Senate, the Speaker of the House of Representatives, and the
 865 Administrative Procedures Committee.

866 2. Beginning on July 1, 2014, each agency shall:

867 a. Publish all rules of that agency designated as rules
 868 the violation of which would be a minor violation, either as a
 869 complete list on the agency's Internet web page or by
 870 incorporation of the designations in the agency's disciplinary
 871 guidelines adopted as a rule.

872 b. Ensure that all investigative and enforcement personnel
 873 are knowledgeable of the agency's designations under this
 874 section.

875 c. For each rule filed for adoption the agency head shall
 876 certify whether any part of the rule is designated as one the
 877 violation of which would be a minor violation and shall update
 878 the listing required by sub-subparagraph a.

879 (d) The Governor or the Governor and Cabinet, as
 880 appropriate ~~pursuant to paragraph (c)~~, may evaluate the review
 881 and designation effects of each agency subject to the direction
 882 and supervision of such authority and may direct ~~apply~~ a
 883 different designation than that applied by such ~~the~~ agency.

884 (e) Notwithstanding s. 120.52(1)(a), this section does not
 885 apply to:

886 1. The Department of Corrections;

887 2. Educational units;

888 3. The regulation of law enforcement personnel; or

889 4. The regulation of teachers.

890 (f) Designation pursuant to this section is not subject to
891 challenge under this chapter.

892 Section 10. Paragraph (a) of subsection (1) of section
893 420.9072, Florida Statutes, is amended to read:

894 420.9072 State Housing Initiatives Partnership Program.—
895 The State Housing Initiatives Partnership Program is created for
896 the purpose of providing funds to counties and eligible
897 municipalities as an incentive for the creation of local housing
898 partnerships, to expand production of and preserve affordable
899 housing, to further the housing element of the local government
900 comprehensive plan specific to affordable housing, and to
901 increase housing-related employment.

902 (1) (a) In addition to the legislative findings set forth
903 in s. 420.6015, the Legislature finds that affordable housing is
904 most effectively provided by combining available public and
905 private resources to conserve and improve existing housing and
906 provide new housing for very-low-income households, low-income
907 households, and moderate-income households. The Legislature
908 intends to encourage partnerships in order to secure the
909 benefits of cooperation by the public and private sectors and to
910 reduce the cost of housing for the target group by effectively
911 combining all available resources and cost-saving measures. The
912 Legislature further intends that local governments achieve this
913 combination of resources by encouraging active partnerships
914 between government, lenders, builders and developers, real
915 estate professionals, advocates for low-income persons, and
916 community groups to produce affordable housing and provide

917 related services. Extending the partnership concept to encompass
 918 cooperative efforts among small counties as defined in s. 120.52
 919 ~~120.52(19)~~, and among counties and municipalities is
 920 specifically encouraged. Local governments are also intended to
 921 establish an affordable housing advisory committee to recommend
 922 monetary and nonmonetary incentives for affordable housing as
 923 provided in s. 420.9076.

924 Section 11. Subsection (7) of section 420.9075, Florida
 925 Statutes, is amended to read:

926 420.9075 Local housing assistance plans; partnerships.—

927 (7) The moneys deposited in the local housing assistance
 928 trust fund shall be used to administer and implement the local
 929 housing assistance plan. The cost of administering the plan may
 930 not exceed 5 percent of the local housing distribution moneys
 931 and program income deposited into the trust fund. A county or an
 932 eligible municipality may not exceed the 5-percent limitation on
 933 administrative costs, unless its governing body finds, by
 934 resolution, that 5 percent of the local housing distribution
 935 plus 5 percent of program income is insufficient to adequately
 936 pay the necessary costs of administering the local housing
 937 assistance plan. The cost of administering the program may not
 938 exceed 10 percent of the local housing distribution plus 5
 939 percent of program income deposited into the trust fund, except
 940 that small counties, as defined in s. 120.52 ~~120.52(19)~~, and
 941 eligible municipalities receiving a local housing distribution
 942 of up to \$350,000 may use up to 10 percent of program income for
 943 administrative costs.

944 Section 12. Paragraph (d) of subsection (1) of section

945 443.091, Florida Statutes, is amended to read:

946 443.091 Benefit eligibility conditions.—

947 (1) An unemployed individual is eligible to receive
948 benefits for any week only if the Department of Economic
949 Opportunity finds that:

950 (d) She or he is able to work and is available for work.
951 In order to assess eligibility for a claimed week of
952 unemployment, the department shall develop criteria to determine
953 a claimant's ability to work and availability for work. A
954 claimant must be actively seeking work in order to be considered
955 available for work. This means engaging in systematic and
956 sustained efforts to find work, including contacting at least
957 five prospective employers for each week of unemployment
958 claimed. The department may require the claimant to provide
959 proof of such efforts to the one-stop career center as part of
960 reemployment services. The department shall conduct random
961 reviews of work search information provided by claimants. As an
962 alternative to contacting at least five prospective employers
963 for any week of unemployment claimed, a claimant may, for that
964 same week, report in person to a one-stop career center to meet
965 with a representative of the center and access reemployment
966 services of the center. The center shall keep a record of the
967 services or information provided to the claimant and shall
968 provide the records to the department upon request by the
969 department. However:

970 1. Notwithstanding any other provision of this paragraph
971 or paragraphs (b) and (e), an otherwise eligible individual may
972 not be denied benefits for any week because she or he is in

973 training with the approval of the department, or by reason of s.
 974 443.101(2) relating to failure to apply for, or refusal to
 975 accept, suitable work. Training may be approved by the
 976 department in accordance with criteria prescribed by rule. A
 977 claimant's eligibility during approved training is contingent
 978 upon satisfying eligibility conditions prescribed by rule.

979 2. Notwithstanding any other provision of this chapter, an
 980 otherwise eligible individual who is in training approved under
 981 s. 236(a)(1) of the Trade Act of 1974, as amended, may not be
 982 determined ineligible or disqualified for benefits due to
 983 enrollment in such training or because of leaving work that is
 984 not suitable employment to enter such training. As used in this
 985 subparagraph, the term "suitable employment" means work of a
 986 substantially equal or higher skill level than the worker's past
 987 adversely affected employment, as defined for purposes of the
 988 Trade Act of 1974, as amended, the wages for which are at least
 989 80 percent of the worker's average weekly wage as determined for
 990 purposes of the Trade Act of 1974, as amended.

991 3. Notwithstanding any other provision of this section, an
 992 otherwise eligible individual may not be denied benefits for any
 993 week because she or he is before any state or federal court
 994 pursuant to a lawfully issued summons to appear for jury duty.

995 4. Union members who customarily obtain employment through
 996 a union hiring hall may satisfy the work search requirements of
 997 this paragraph by reporting daily to their union hall.

998 5. The work search requirements of this paragraph do not
 999 apply to persons who are unemployed as a result of a temporary
 1000 layoff or who are claiming benefits under an approved short-time

CS/CS/HB 1225

2013

1001 compensation plan as provided in s. 443.1116.

1002 6. In small counties as defined in s. 120.52 ~~120.52(19)~~, a
 1003 claimant engaging in systematic and sustained efforts to find
 1004 work must contact at least three prospective employers for each
 1005 week of unemployment claimed.

1006 Section 13. This act shall take effect July 1, 2013.