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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/09/2013	.	
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The Committee on Governmental Oversight and Accountability
(Hays) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraphs (d) and (e) of subsection (3) of
section 57.111, Florida Statutes, are 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:

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

1.a. A sole proprietor of an unincorporated business,



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13 including a professional practice, whose principal office is in
14 this state, who is domiciled in this state, and whose business
15 or professional practice has, at the time the action is
16 initiated by a state agency, not more than 25 full-time
17 employees or a net worth of not more than \$2 million, including
18 both personal and business investments;

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

24 c. An individual whose net worth did not exceed \$2 million
25 at the time the action is initiated by a state agency when the
26 action is brought against that individual's license to engage in
27 the practice or operation of a business, profession, or trade;
28 or

29 2. Any small business party as defined in subparagraph 1.,
30 without regard to the number of its employees or its net worth,
31 in any action under s. 72.011 or in any administrative
32 proceeding under that section to contest the legality of any
33 assessment of tax imposed for the sale or use of services as
34 provided in chapter 212, or interest thereon, or penalty
35 therefor; or

36 3. Any small business as defined in s. 288.703 in any
37 administrative proceeding pursuant to chapter 120 and any appeal
38 thereof.

39 (e) A proceeding is "substantially justified" if it had a
40 reasonable basis in law and fact at the time it was initiated by
41 a state agency. A proceeding is not substantially justified if



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42 the agency action involves identical or substantially similar
43 facts and circumstances and the specified law, rule, or order on
44 which the party substantially affected by the agency action
45 petitioned for a declaratory statement under s. 120.565, and:

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

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

51 Section 2. Present subsections (18) through (22) of section
52 120.52, Florida Statutes, are renumbered as subsections (19)
53 through (23), respectively, and a new subsection (18) is added
54 to that section, to read:

55 120.52 Definitions.—As used in this act:

56 (18) "Small business" has the same meaning as provided in
57 s. 288.703.

58 Section 3. Section 120.55, Florida Statutes, is amended to
59 read:

60 120.55 Publication.—

61 (1) The Department of State shall:

62 (a)1. Through a continuous revision and publication system,
63 compile and publish electronically, on an Internet website
64 managed by the department, the "Florida Administrative Code."
65 The Florida Administrative Code shall contain all rules adopted
66 by each agency, citing the grant of rulemaking authority and the
67 specific law implemented pursuant to which each rule was
68 adopted, all history notes as authorized in s. 120.545(7),
69 complete indexes to all rules contained in the code, and any
70 other material required or authorized by law or deemed useful by



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71 the department. The electronic code shall display each rule
72 chapter currently in effect in browse mode and allow full text
73 search of the code and each rule chapter. The department may
74 contract with a publishing firm for a printed publication;
75 however, the department shall retain responsibility for the code
76 as provided in this section. The electronic publication shall be
77 the official compilation of the administrative rules of this
78 state. The Department of State shall retain the copyright over
79 the Florida Administrative Code.

80 2. Rules general in form but applicable to only one school
81 district, community college district, or county, or a part
82 thereof, or state university rules relating to internal
83 personnel or business and finance shall not be published in the
84 Florida Administrative Code. Exclusion from publication in the
85 Florida Administrative Code shall not affect the validity or
86 effectiveness of such rules.

87 3. At the beginning of the section of the code dealing with
88 an agency that files copies of its rules with the department,
89 the department shall publish the address and telephone number of
90 the executive offices of each agency, the manner by which the
91 agency indexes its rules, a listing of all rules of that agency
92 excluded from publication in the code, and a statement as to
93 where those rules may be inspected.

94 4. Forms shall not be published in the Florida
95 Administrative Code; but any form which an agency uses in its
96 dealings with the public, along with any accompanying
97 instructions, shall be filed with the committee before it is
98 used. Any form or instruction which meets the definition of
99 "rule" provided in s. 120.52 shall be incorporated by reference



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100 into the appropriate rule. The reference shall specifically
101 state that the form is being incorporated by reference and shall
102 include the number, title, and effective date of the form and an
103 explanation of how the form may be obtained. Each form created
104 by an agency which is incorporated by reference in a rule notice
105 of which is given under s. 120.54(3)(a) after December 31, 2007,
106 must clearly display the number, title, and effective date of
107 the form and the number of the rule in which the form is
108 incorporated.

109 5. The department shall allow adopted rules and material
110 incorporated by reference to be filed in electronic form as
111 prescribed by department rule. When a rule is filed for adoption
112 with incorporated material in electronic form, the department's
113 publication of the Florida Administrative Code on its Internet
114 website must contain a hyperlink from the incorporating
115 reference in the rule directly to that material. The department
116 may not allow hyperlinks from rules in the Florida
117 Administrative Code to any material other than that filed with
118 and maintained by the department, but may allow hyperlinks to
119 incorporated material maintained by the department from the
120 adopting agency's website or other sites.

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

125 1. All notices required under s. 120.54(2) and (3)(a) ~~by s.~~
126 ~~120.54(3)(a)~~, showing the text of all rules proposed for
127 consideration.

128 2. All notices of public meetings, hearings, and workshops



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129 conducted in accordance with s. 120.525, including a statement
130 of the manner in which a copy of the agenda may be obtained.

131 3. A notice of each request for authorization to amend or
132 repeal an existing uniform rule or for the adoption of new
133 uniform rules.

134 4. Notice of petitions for declaratory statements or
135 administrative determinations.

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

138 6. A listing of rules filed for adoption in the previous 7
139 calendar days.

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

143 ~~8.6.~~ Any other material required or authorized by law or
144 deemed useful by the department.

145

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

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

151 (d) Charge each agency using the Florida Administrative
152 Register a space rate to cover the costs related to the Florida
153 Administrative Register and the Florida Administrative Code.

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

156 (2) The Florida Administrative Register Internet website
157 must allow users to:



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

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

162 (c) Subscribe to an automated e-mail notification of
163 selected notices to be sent out before or concurrently with
164 publication of the electronic Florida Administrative Register.
165 Such notification must include in the text of the e-mail a
166 summary of the content of each notice.

167 (d) View agency forms and other materials submitted to the
168 department in electronic form and incorporated by reference in
169 proposed rules.

170 (e) Comment on proposed rules.

171 (3) Publication of material required by paragraph (1)(b) on
172 the Florida Administrative Register Internet website does not
173 preclude publication of such material on an agency's website or
174 by other means.

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

178 (5) Each agency that provides an e-mail alert service to
179 inform licensees or other registered recipients of important
180 notices shall use such service to notify recipients of each
181 notice required under s. 120.54(2) and (3)(a), including, but
182 not limited to, notice of rule development, notice of proposed
183 rules, and notice of filing rules for adoption, and provide
184 Internet links to the appropriate rule page on the Secretary of
185 State's website, or Internet links to an agency website that
186 contains the proposed rule or final rule.



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187 (6)~~(5)~~ Any publication of a proposed rule promulgated by an
188 agency, whether published in the Florida Administrative Register
189 or elsewhere, shall include, along with the rule, the name of
190 the person or persons originating such rule, the name of the
191 agency head who approved the rule, and the date upon which the
192 rule was approved.

193 (7)~~(6)~~ Access to the Florida Administrative Register
194 Internet website and its contents, including the e-mail
195 notification service, shall be free for the public.

196 (8)~~(7)~~(a) All fees and moneys collected by the Department
197 of State under this chapter shall be deposited in the Records
198 Management Trust Fund for the purpose of paying for costs
199 incurred by the department in carrying out this chapter.

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

204 Section 4. Paragraph (b) of subsection (1), paragraph (a)
205 of subsection (2), and subsection (4) of section 120.56, Florida
206 Statutes, are amended to read:

207 120.56 Challenges to rules.—

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

210 (b) The petition challenging the validity of a proposed or
211 adopted rule or an agency statement defined as a rule under this
212 section seeking an administrative determination must state with
213 particularity:

214 1. The provisions alleged to be invalid and a statement
215 with sufficient explanation of the facts establishing a prima



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216 facie case of ~~or grounds for the alleged~~ invalidity; and

217 2. Facts sufficient to show that the petitioner ~~person~~
218 ~~challenging a rule~~ is substantially affected by the challenged
219 adopted rule or agency statement defined as a rule ~~it,~~ or ~~that~~
220 ~~the person challenging a proposed rule~~ would be substantially
221 affected by the proposed rule ~~it.~~

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

223 (a) A substantially affected person may seek an
224 administrative determination of the invalidity of a proposed
225 rule by filing a petition seeking such a determination with the
226 division within 21 days after the date of publication of the
227 notice required by s. 120.54(3) (a); within 10 days after the
228 final public hearing is held on the proposed rule as provided by
229 s. 120.54(3) (e)2.; within 20 days after the statement of
230 estimated regulatory costs or revised statement of estimated
231 regulatory costs, if applicable, has been prepared and made
232 available as provided in s. 120.541(1) (d); or within 20 days
233 after the date of publication of the notice required by s.
234 120.54(3) (d). The petition must state with particularity the
235 objections to the proposed rule and the reasons that the
236 proposed rule is an invalid exercise of delegated legislative
237 authority. The petitioner has the burden of presenting a prima
238 facie case demonstrating the invalidity of the proposed rule
239 ~~going forward~~. The agency then has the burden to prove by a
240 preponderance of the evidence that the proposed rule is not an
241 invalid exercise of delegated legislative authority as to the
242 objections raised. ~~A person who is substantially affected by a~~
243 ~~change in the proposed rule may seek a determination of the~~
244 ~~validity of such change.~~ A person who is not substantially



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245 affected by the proposed rule as initially noticed, but who is
246 substantially affected by the rule as a result of a change, may
247 challenge any provision of the resulting rule ~~and is not limited~~
248 ~~to challenging the change to the proposed rule.~~

249 (4) CHALLENGING AGENCY STATEMENTS DEFINED AS UNADOPTED
250 RULES; SPECIAL PROVISIONS.—

251 (a) Any person substantially affected by an agency
252 statement that is an unadopted rule may seek an administrative
253 determination that the statement violates s. 120.54(1)(a). The
254 petition shall include the text of the statement or a
255 description of the statement and shall state with particularity
256 facts sufficient to show that the statement constitutes an a
257 unadopted rule ~~under s. 120.52 and that the agency has not~~
258 ~~adopted the statement by the rulemaking procedure provided by s.~~
259 120.54.

260 (b) The administrative law judge may extend the hearing
261 date beyond 30 days after assignment of the case for good cause.
262 Upon notification to the administrative law judge provided
263 before the final hearing that the agency has published a notice
264 of rulemaking under s. 120.54(3), such notice shall
265 automatically operate as a stay of proceedings pending adoption
266 of the statement as a rule. The administrative law judge may
267 vacate the stay for good cause shown. A stay of proceedings
268 pending rulemaking shall remain in effect so long as the agency
269 is proceeding expeditiously and in good faith to adopt the
270 statement as a rule. ~~If a hearing is held and the petitioner~~
271 ~~proves the allegations of the petition, the agency shall have~~
272 ~~the burden of proving~~

273 (c) The petitioner has the burden of presenting a prima



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274 facie case demonstrating that the agency statement constitutes
275 an unadopted rule. The agency then has the burden to prove by a
276 preponderance of the evidence that the statement does not meet
277 the definition of an unadopted rule, that the statement was
278 adopted as a rule in compliance with s. 120.54, or that
279 rulemaking is not feasible or not practicable under s.
280 120.54(1) (a).

281 (d)~~(e)~~ The administrative law judge may determine whether
282 all or part of a statement violates s. 120.54(1) (a). The
283 decision of the administrative law judge shall constitute a
284 final order. The division shall transmit a copy of the final
285 order to the Department of State and the committee. The
286 Department of State shall publish notice of the final order in
287 the first available issue of the Florida Administrative Weekly.

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

293 (f)~~(e)~~ If proposed rules addressing the challenged
294 unadopted rule ~~statement~~ are determined to be an invalid
295 exercise of delegated legislative authority as defined in s.
296 120.52(8) (b)-(f), the agency must immediately discontinue
297 reliance on the unadopted rule ~~statement~~ and any substantially
298 similar statement until rules addressing the subject are
299 properly adopted, and the administrative law judge shall enter a
300 final order to that effect.

301 (g)~~(f)~~ All proceedings to determine a violation of s.
302 120.54(1) (a) shall be brought pursuant to this subsection. A



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303 proceeding pursuant to this subsection may be consolidated with
304 a proceeding under subsection (3) or under any other section of
305 this chapter. This paragraph does not prevent a party whose
306 substantial interests have been determined by an agency action
307 from bringing a proceeding pursuant to s. 120.57(1)(e).

308 Section 5. Paragraph (1) of subsection (2) of section
309 120.569, Florida Statutes, is amended to read:

310 120.569 Decisions which affect substantial interests.—

311 (2)

312 (1) Unless the time period is waived or extended with the
313 consent of all parties, the final order in a proceeding which
314 affects substantial interests must be in writing and include
315 findings of fact, if any, and conclusions of law separately
316 stated, and it must be rendered within 90 days:

317 1. After the hearing is concluded, if conducted by the
318 agency;

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

325 3. After the agency has received the written and oral
326 material it has authorized to be submitted, if there has been no
327 hearing.

328 Section 6. Paragraphs (e) and (h) of subsection (1) and
329 subsection (2) of section 120.57, Florida Statutes, are amended
330 to read:

331 120.57 Additional procedures for particular cases.—



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

334 (e)1. An agency or an administrative law judge may not base
335 agency action that determines the substantial interests of a
336 party on an unadopted rule or a rule that is an invalid exercise
337 of delegated legislative authority. ~~The administrative law judge~~
338 ~~shall determine whether an agency statement constitutes an~~
339 ~~unadopted rule.~~ This subparagraph does not preclude application
340 of valid adopted rules and applicable provisions of law to the
341 facts.

342 2. In a matter initiated by agency action proposing to
343 determine the substantive interests of a party, the party's
344 timely petition for hearing may challenge the proposed agency
345 action as based on a rule that is an invalid exercise of
346 delegated legislative authority or based on an unadopted rule.
347 For challenges brought under this subsection:

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

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

352 c. Section 120.56(4)(c) applies to a challenge alleging an
353 unadopted rule.

354 d. The agency shall have 15 days from the date of receiving
355 a challenge under this paragraph to serve the challenging party
356 with a notice that the agency will continue to rely upon the
357 rule or the alleged unadopted rule as a basis for the action
358 determining the party's substantive interests. Failure to timely
359 serve the notice shall constitute a binding stipulation that the
360 agency shall not rely upon the rule or unadopted rule further in



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361 the proceeding. The agency shall include a copy of this notice
362 with the referral of the matter to the division under s.
363 120.569(2) (a).

364 e. This subparagraph does not preclude the consolidation of
365 any proceeding under s. 120.56 with any proceeding under this
366 paragraph.

367 3.2- Notwithstanding subparagraph 1., if an agency
368 demonstrates that the statute being implemented directs it to
369 adopt rules, that the agency has not had time to adopt those
370 rules because the requirement was so recently enacted, and that
371 the agency has initiated rulemaking and is proceeding
372 expeditiously and in good faith to adopt the required rules,
373 then the agency's action may be based upon those unadopted rules
374 if, subject to de novo review by the administrative law judge
375 determines rulemaking is neither feasible nor practicable and
376 the unadopted rules would not constitute an invalid exercise of
377 delegated legislative authority if adopted as rules. An

378 unadopted rule ~~The agency action~~ shall not be presumed valid ~~or~~
379 ~~invalid~~. The agency must demonstrate that the unadopted rule:

380 a. Is within the powers, functions, and duties delegated by
381 the Legislature or, if the agency is operating pursuant to
382 authority vested in the agency by ~~derived from~~ the State
383 Constitution, is within that authority;

384 b. Does not enlarge, modify, or contravene the specific
385 provisions of law implemented;

386 c. Is not vague, establishes adequate standards for agency
387 decisions, or does not vest unbridled discretion in the agency;

388 d. Is not arbitrary or capricious. A rule is arbitrary if
389 it is not supported by logic or the necessary facts; a rule is



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390 capricious if it is adopted without thought or reason or is
391 irrational;

392 e. Is not being applied to the substantially affected party
393 without due notice; and

394 f. Does not impose excessive regulatory costs on the
395 regulated person, county, or city.

396 4. The administrative law judge shall determine under
397 subparagraph 2. whether a rule is an invalid exercise of
398 delegated legislative authority or an agency statement
399 constitutes an unadopted rule and shall determine whether an
400 unadopted rule meets the requirements of subparagraph 3. The
401 determination shall be rendered as a separate final order no
402 earlier than the date on which the administrative law judge
403 serves the recommended order.

404 ~~5.3-~~ The recommended and final orders in any proceeding
405 shall be governed by the provisions of paragraphs (k) and (l),
406 except that the administrative law judge's determination
407 ~~regarding an unadopted rule under subparagraph 4. 1. or~~
408 ~~subparagraph 2. shall be included as a conclusion of law that~~
409 ~~the agency may not reject not be rejected by the agency unless~~
410 ~~the agency first determines from a review of the complete~~
411 ~~record, and states with particularity in the order, that such~~
412 ~~determination is clearly erroneous or does not comply with~~
413 ~~essential requirements of law. In any proceeding for review~~
414 ~~under s. 120.68, if the court finds that the agency's rejection~~
415 ~~of the determination regarding the unadopted rule does not~~
416 ~~comport with the provisions of this subparagraph, the agency~~
417 ~~action shall be set aside and the court shall award to the~~
418 ~~prevailing party the reasonable costs and a reasonable~~



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419 ~~attorney's fee for the initial proceeding and the proceeding for~~
420 ~~review.~~

421 (h) Any party to a proceeding in which an administrative
422 law judge of the Division of Administrative Hearings has final
423 order authority may move for a summary final order when there is
424 no genuine issue as to any material fact. A summary final order
425 shall be rendered if the administrative law judge determines
426 from the pleadings, depositions, answers to interrogatories, and
427 admissions on file, together with affidavits, if any, that no
428 genuine issue as to any material fact exists and that the moving
429 party is entitled as a matter of law to the entry of a final
430 order. A summary final order shall consist of findings of fact,
431 if any, conclusions of law, a disposition or penalty, if
432 applicable, and any other information required by law to be
433 contained in the final order. This paragraph does not apply to
434 proceedings authorized under paragraph (e).

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

438 (a) The agency shall:

439 1. Give reasonable notice to affected persons of the action
440 of the agency, whether proposed or already taken, or of its
441 decision to refuse action, together with a summary of the
442 factual, legal, and policy grounds therefor.

443 2. Give parties or their counsel the option, at a
444 convenient time and place, to present to the agency or hearing
445 officer written or oral evidence in opposition to the action of
446 the agency or to its refusal to act, or a written statement
447 challenging the grounds upon which the agency has chosen to



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448 justify its action or inaction.

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

451 (b) An agency may not base agency action that determines
452 the substantial interests of a party on an unadopted rule or a
453 rule that is an invalid exercise of delegated legislative
454 authority. No later than the date provided by the agency under
455 subparagraph (a)2. for presenting material in opposition to the
456 agency's proposed action or refusal to act, the party may file a
457 petition under s. 120.56 challenging the rule, portion of rule,
458 or unadopted rule on which the agency bases its proposed action
459 or refusal to act. The filing of a challenge under s. 120.56
460 pursuant to this paragraph shall stay all proceedings on the
461 agency's proposed action or refusal to act until entry of the
462 final order by the administrative law judge, which shall provide
463 additional notice that the stay of the pending agency action is
464 terminated and any further stay pending appeal of the final
465 order must be sought from the appellate court.

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

467 1. The notice and summary of grounds.

468 2. Evidence received.

469 3. All written statements submitted.

470 4. Any decision overruling objections.

471 5. All matters placed on the record after an ex parte
472 communication.

473 6. The official transcript.

474 7. Any decision, opinion, order, or report by the presiding
475 officer.

476 Section 7. Section 120.573, Florida Statutes, is amended to



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477 read:

478 120.573 Mediation of disputes.—

479 (1) Each announcement of an agency action that affects
480 substantial interests shall advise whether mediation of the
481 administrative dispute for the type of agency action announced
482 is available and that choosing mediation does not affect the
483 right to an administrative hearing. If the agency and all
484 parties to the administrative action agree to mediation, in
485 writing, within 10 days after the time period stated in the
486 announcement for election of an administrative remedy under ss.
487 120.569 and 120.57, the time limitations imposed by ss. 120.569
488 and 120.57 shall be tolled to allow the agency and parties to
489 mediate the administrative dispute. The mediation shall be
490 concluded within 60 days of such agreement unless otherwise
491 agreed by the parties. The mediation agreement shall include
492 provisions for mediator selection, the allocation of costs and
493 fees associated with mediation, and the mediating parties'
494 understanding regarding the confidentiality of discussions and
495 documents introduced during mediation. If mediation results in
496 settlement of the administrative dispute, the agency shall enter
497 a final order incorporating the agreement of the parties. If
498 mediation terminates without settlement of the dispute, the
499 agency shall notify the parties in writing that the
500 administrative hearing processes under ss. 120.569 and 120.57
501 are resumed.

502 (2) Any party to a proceeding conducted pursuant to a
503 petition seeking an administrative determination of the
504 invalidity of an existing rule, proposed rule, or unadopted
505 agency statement under s. 120.56 or a proceeding conducted



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506 pursuant to a petition seeking a declaratory statement under s.
507 120.565 may request mediation of the dispute under this section.

508 Section 8. Section 120.595, Florida Statutes, is amended to
509 read:

510 120.595 Attorney ~~Attorney's~~ fees.—

511 (1) CHALLENGES TO AGENCY ACTION PURSUANT TO SECTION
512 120.57(1).—

513 (a) The provisions of this subsection are supplemental to,
514 and do not abrogate, other provisions allowing the award of fees
515 or costs in administrative proceedings.

516 (b) The final order in a proceeding pursuant to s.
517 120.57(1) shall award reasonable costs and ~~a~~ reasonable attorney
518 fees ~~attorney's fee~~ to the prevailing party if the
519 administrative law judge determines only where the nonprevailing
520 adverse party ~~has been determined by the administrative law~~
521 ~~judge to have~~ participated in the proceeding for an improper
522 purpose.

523 1.(e) Other than as provided in paragraph (d), in
524 proceedings pursuant to s. 120.57(1), and upon motion, the
525 administrative law judge shall determine whether any party
526 participated in the proceeding for an improper purpose as
527 defined by this subsection. ~~In making such determination, the~~
528 ~~administrative law judge shall consider whether~~ The
529 nonprevailing adverse party shall be presumed to have
530 participated in the pending proceeding for an improper purpose
531 if:

532 a. Such party was an adverse party ~~has participated~~ in two
533 or more other such proceedings involving the same prevailing
534 party and the same subject; ~~project as an adverse party and in~~



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

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

543 d. The nonprevailing adverse party has not rebutted the
544 presumption of participating in the pending proceeding for an
545 improper purpose.

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

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

553 1. "Improper purpose" means participation in a proceeding
554 pursuant to s. 120.57(1) primarily to harass or to cause
555 unnecessary delay or for frivolous purpose or to needlessly
556 increase the cost of litigation, licensing, or securing the
557 approval of an activity.

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

560 3. "Nonprevailing adverse party" means a party that has
561 failed to have substantially changed the outcome of the proposed
562 or final agency action which is the subject of a proceeding. In
563 the event that a proceeding results in any substantial



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564 modification or condition intended to resolve the matters raised
565 in a party's petition, it shall be determined that the party
566 having raised the issue addressed is not a nonprevailing adverse
567 party. The recommended order shall state whether the change is
568 substantial for purposes of this subsection. In no event shall
569 the term "nonprevailing party" or "prevailing party" be deemed
570 to include any party that has intervened in a previously
571 existing proceeding to support the position of an agency.

572 (d) For challenges brought under s. 120.57(1)(e), if the
573 appellate court or the administrative law judge declares a rule
574 or portion of a rule to be invalid or that the agency statement
575 is an unadopted rule which does not meet the requirements of s.
576 120.57(1)(e)4., a judgment or order shall be rendered against
577 the agency for reasonable costs and reasonable attorney fees,
578 unless the agency demonstrates that special circumstances exist
579 which would make the award unjust. Reasonable costs and
580 reasonable attorney fees shall be awarded only for the period
581 beginning 15 days after the receipt of the petition for hearing
582 challenging the rule or unadopted rule. If the agency prevails
583 in the proceedings, the appellate court or administrative law
584 judge shall award reasonable costs and reasonable attorney fees
585 against a party if the appellate court or administrative law
586 judge determines that a party participated in the proceedings
587 for an improper purpose as defined by paragraph (c). An award of
588 attorney fees as provided by this subsection may not exceed
589 \$50,000.

590 (2) CHALLENGES TO PROPOSED AGENCY RULES PURSUANT TO SECTION
591 120.56(2).—If the appellate court or administrative law judge
592 declares a proposed rule or portion of a proposed rule invalid



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593 pursuant to s. 120.56(2), a judgment or order shall be rendered
594 against the agency for reasonable costs and reasonable attorney
595 attorney's fees, unless the agency demonstrates ~~that its actions~~
596 ~~were substantially justified or~~ special circumstances exist
597 which would make the award unjust. ~~An agency's actions are~~
598 ~~"substantially justified" if there was a reasonable basis in law~~
599 ~~and fact at the time the actions were taken by the agency.~~ If
600 the agency prevails in the proceedings, the appellate court or
601 administrative law judge shall award reasonable costs and
602 reasonable attorney attorney's fees against a party if the
603 appellate court or administrative law judge determines that a
604 party participated in the proceedings for an improper purpose as
605 defined by paragraph (1)(c) ~~(1)(e)~~. An ~~No~~ award of attorney
606 attorney's fees as provided by this subsection may not ~~shall~~
607 exceed \$50,000.

608 (3) CHALLENGES TO EXISTING AGENCY RULES PURSUANT TO SECTION
609 120.56(3) AND (5).-If the appellate court or administrative law
610 judge declares a rule or portion of a rule invalid pursuant to
611 s. 120.56(3) or (5), a judgment or order shall be rendered
612 against the agency for reasonable costs and reasonable attorney
613 attorney's fees, unless the agency demonstrates that ~~its actions~~
614 ~~were substantially justified or~~ special circumstances exist
615 which would make the award unjust. ~~An agency's actions are~~
616 ~~"substantially justified" if there was a reasonable basis in law~~
617 ~~and fact at the time the actions were taken by the agency.~~ If
618 the agency prevails in the proceedings, the appellate court or
619 administrative law judge shall award reasonable costs and
620 reasonable attorney attorney's fees against a party if the
621 appellate court or administrative law judge determines that a



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622 party participated in the proceedings for an improper purpose as
623 defined by paragraph (1)(c) ~~(1)(e)~~. An ~~No~~ award of attorney
624 ~~attorney's~~ fees as provided by this subsection may not ~~shall~~
625 exceed \$50,000.

626 (4) CHALLENGES TO UNADOPTED RULES ~~AGENCY ACTION~~ PURSUANT TO
627 SECTION 120.56(4).—

628 (a) If the appellate court or administrative law judge
629 determines that all or part of an unadopted rule ~~agency~~
630 ~~statement~~ violates s. 120.54(1)(a), or that the agency must
631 immediately discontinue reliance on the unadopted rule ~~statement~~
632 and any substantially similar statement pursuant to s.
633 120.56(4)(e), a judgment or order shall be entered against the
634 agency for reasonable costs and reasonable attorney ~~attorney's~~
635 fees, unless the agency demonstrates that the statement is
636 required by the Federal Government to implement or retain a
637 delegated or approved program or to meet a condition to receipt
638 of federal funds.

639 (b) Upon notification to the administrative law judge
640 provided before the final hearing that the agency has published
641 a notice of rulemaking under s. 120.54(3)(a), such notice shall
642 automatically operate as a stay of proceedings pending
643 rulemaking. The administrative law judge may vacate the stay for
644 good cause shown. A stay of proceedings under this paragraph
645 remains in effect so long as the agency is proceeding
646 expeditiously and in good faith to adopt the statement as a
647 rule. The administrative law judge shall award reasonable costs
648 and reasonable attorney ~~attorney's~~ fees incurred ~~accrued~~ by the
649 petitioner before ~~prior to~~ the date the notice was published,
650 ~~unless the agency proves to the administrative law judge that it~~



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651 ~~did not know and should not have known that the statement was an~~
652 ~~unadopted rule. Attorneys' fees and costs under this paragraph~~
653 ~~and paragraph (a) shall be awarded only upon a finding that the~~
654 ~~agency received notice that the statement may constitute an~~
655 ~~unadopted rule at least 30 days before a petition under s.~~
656 ~~120.56(4) was filed and that the agency failed to publish the~~
657 ~~required notice of rulemaking pursuant to s. 120.54(3) that~~
658 ~~addresses the statement within that 30-day period. Notice to the~~
659 ~~agency may be satisfied by its receipt of a copy of the s.~~
660 ~~120.56(4) petition, a notice or other paper containing~~
661 ~~substantially the same information, or a petition filed pursuant~~
662 ~~to s. 120.54(7). An award of attorney ~~attorney's~~ fees as~~
663 ~~provided by this paragraph may not exceed \$50,000.~~

664 (c) Notwithstanding the provisions of chapter 284, an award
665 shall be paid from the budget entity of the secretary, executive
666 director, or equivalent administrative officer of the agency,
667 and the agency is ~~shall~~ not be entitled to payment of an award
668 or reimbursement for payment of an award under any provision of
669 law.

670 (d) If the agency prevails in the proceedings, the
671 appellate court or administrative law judge shall award
672 reasonable costs and attorney ~~attorney's~~ fees against a party if
673 the appellate court or administrative law judge determines that
674 the party participated in the proceedings for an improper
675 purpose as defined in paragraph (1) (c) ~~(e)~~ or that the party or
676 the party's attorney knew or should have known that a claim was
677 not supported by the material facts necessary to establish the
678 claim or would not be supported by the application of then-
679 existing law to those material facts.



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680 (5) APPEALS.—When there is an appeal, the court in its
681 discretion may award reasonable attorney ~~attorney's~~ fees and
682 reasonable costs to the prevailing party if the court finds that
683 the appeal was frivolous, meritless, or an abuse of the
684 appellate process, or that the agency action which precipitated
685 the appeal was a gross abuse of the agency's discretion. Upon
686 review of agency action that precipitates an appeal, if the
687 court finds that the agency improperly rejected or modified
688 findings of fact in a recommended order, the court shall award
689 reasonable attorney ~~attorney's~~ fees and reasonable costs to a
690 prevailing appellant for the administrative proceeding and the
691 appellate proceeding.

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

696 (a) Before filing a petition challenging the validity of a
697 proposed rule under s. 120.56(2), an adopted rule under s.
698 120.56(3), or an agency statement defined as an unadopted rule
699 under s. 120.56(4), the substantially affected person shall
700 serve the agency head with notice of the proposed challenge. The
701 notice shall identify the proposed or adopted rule or the
702 unadopted rule the person proposes to challenge and a brief
703 explanation of the basis for that challenge. The notice must be
704 received by the agency head at least 5 days before the filing of
705 a petition under s. 120.56(2), and at least 30 days before the
706 filing of a petition under s. 120.56(3) or s. 120.56(4).

707 (b) Reasonable costs and reasonable attorney fees shall be
708 awarded only for the period beginning after the date on which



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709 the agency head receives the notice of invalidity under
710 paragraph (a).

711 (c) Within the time limits specified in paragraph (a), if
712 the agency provides the substantially affected person with
713 written notice that the agency will not adopt the proposed rule
714 or will not rely upon the adopted rule or the agency statement
715 defined as an unadopted rule until after the agency has complied
716 with the requirements of s. 120.54 to amend the proposed rule or
717 the adopted rule or adopt the unadopted rule, such written
718 notice shall constitute a special circumstance under this
719 section.

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

722 (7) DETERMINATION OF RECOVERABLE FEES AND COSTS.—For
723 purposes of this chapter, s. 57.105(5), and s. 57.111, in
724 addition to an award of attorney fees and costs, the prevailing
725 party shall also recover attorney fees and costs incurred in
726 litigating entitlement to, and the determination or
727 quantification of, attorney fees and costs for the underlying
728 matter. Attorney fees and costs awarded for litigating
729 entitlement to, and the determination or quantification of,
730 attorney fees and costs for the underlying matter are not
731 subject to the limitations on amounts provided in this chapter
732 or s. 57.111.

733 (8) ~~(6)~~ OTHER SECTIONS NOT AFFECTED.—Other provisions,
734 including ss. 57.105 and 57.111, authorize the award of attorney
735 ~~attorney's~~ fees and costs in administrative proceedings. Nothing
736 in this section shall affect the availability of attorney
737 ~~attorney's~~ fees and costs as provided in those sections.



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

740 120.68 Judicial review.—

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

743 (b) A preliminary, procedural, or intermediate order of the
744 agency or of an administrative law judge of the Division of
745 Administrative Hearings, or a final order under s.

746 120.57(1)(e)4., is immediately reviewable if review of the final
747 agency decision would not provide an adequate remedy.

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

751 (b) All proceedings shall be instituted by filing a notice
752 of appeal or petition for review in accordance with the Florida
753 Rules of Appellate Procedure within 30 days after the date that
754 rendition of the order being appealed was filed with the agency
755 clerk. Such time is hereby extended for any party 10 days from
756 receipt by such party of the notice of the order, if such notice
757 is received after the 25th day from the filing of the order. If
758 the appeal is of an order rendered in a proceeding initiated
759 under s. 120.56, or a final order under s. 120.57(1)(e)4., the
760 agency whose rule is being challenged shall transmit a copy of
761 the notice of appeal to the committee.

762 (c) ~~(b)~~ When proceedings under this chapter are consolidated
763 for final hearing and the parties to the consolidated proceeding
764 seek review of final or interlocutory orders in more than one
765 district court of appeal, the courts of appeal are authorized to
766 transfer and consolidate the review proceedings. The court may



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767 transfer such appellate proceedings on its own motion, upon
768 motion of a party to one of the appellate proceedings, or by
769 stipulation of the parties to the appellate proceedings. In
770 determining whether to transfer a proceeding, the court may
771 consider such factors as the interrelationship of the parties
772 and the proceedings, the desirability of avoiding inconsistent
773 results in related matters, judicial economy, and the burden on
774 the parties of reproducing the record for use in multiple
775 appellate courts.

776 (9) No petition challenging an agency rule as an invalid
777 exercise of delegated legislative authority shall be instituted
778 pursuant to this section, except to review an order entered
779 pursuant to a proceeding under s. 120.56, under s.
780 120.57(1)(e)5., or under s. 120.57(2)(b), or an agency's
781 findings of immediate danger, necessity, and procedural fairness
782 prerequisite to the adoption of an emergency rule pursuant to s.
783 120.54(4), unless the sole issue presented by the petition is
784 the constitutionality of a rule and there are no disputed issues
785 of fact.

786 Section 10. Subsection (2) of section 120.695, Florida
787 Statutes, is amended to read:

788 120.695 Notice of noncompliance.—

789 (2)(a) Each agency shall issue a notice of noncompliance as
790 a first response to a minor violation of a rule. A "notice of
791 noncompliance" is a notification by the agency charged with
792 enforcing the rule issued to the person or business subject to
793 the rule. A notice of noncompliance may not be accompanied with
794 a fine or other disciplinary penalty. It must identify the
795 specific rule that is being violated, provide information on how



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796 to comply with the rule, and specify a reasonable time for the
797 violator to comply with the rule. A rule is agency action that
798 regulates a business, occupation, or profession, or regulates a
799 person operating a business, occupation, or profession, and
800 that, if not complied with, may result in a disciplinary
801 penalty.

802 ~~(b) Each agency shall review all of its rules and designate~~
803 ~~those for which~~ A violation would be a minor violation and for
804 which a notice of noncompliance must be the first enforcement
805 action taken against a person or business subject to regulation.
806 ~~A violation of a rule is a minor violation~~ if it does not result
807 in economic or physical harm to a person or adversely affect the
808 public health, safety, or welfare or create a significant threat
809 of such harm. ~~If an agency under the direction of a cabinet~~
810 ~~officer mails to each licensee a notice of the designated rules~~
811 ~~at the time of licensure and at least annually thereafter, the~~
812 ~~provisions of paragraph (a) may be exercised at the discretion~~
813 ~~of the agency. Such notice shall include a subject-matter index~~
814 ~~of the rules and information on how the rules may be obtained.~~

815 ~~(c) The agency's review and designation must be completed~~
816 ~~by December 1, 1995; each agency under the direction of the~~
817 ~~Governor shall make a report to the Governor, and each agency~~
818 ~~under the joint direction of the Governor and Cabinet shall~~
819 ~~report to the Governor and Cabinet by January 1, 1996, on which~~
820 ~~of its rules have been designated as rules the violation of~~
821 ~~which would be a minor violation.~~

822 ~~(d) The Governor or the Governor and Cabinet, as~~
823 ~~appropriate pursuant to paragraph (c), may evaluate the review~~
824 ~~and designation effects of each agency and may apply a different~~



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825 ~~designation than that applied by the agency.~~

826 ~~(c)(e)~~ This section does not apply to the regulation of law
827 enforcement personnel or teachers.

828 ~~(f) Designation pursuant to this section is not subject to~~
829 ~~challenge under this chapter.~~

830 Section 11. Paragraph (a) of subsection (1) of section
831 420.9072, Florida Statutes, is amended to read:

832 420.9072 State Housing Initiatives Partnership Program.—The
833 State Housing Initiatives Partnership Program is created for the
834 purpose of providing funds to counties and eligible
835 municipalities as an incentive for the creation of local housing
836 partnerships, to expand production of and preserve affordable
837 housing, to further the housing element of the local government
838 comprehensive plan specific to affordable housing, and to
839 increase housing-related employment.

840 (1)(a) In addition to the legislative findings set forth in
841 s. 420.6015, the Legislature finds that affordable housing is
842 most effectively provided by combining available public and
843 private resources to conserve and improve existing housing and
844 provide new housing for very-low-income households, low-income
845 households, and moderate-income households. The Legislature
846 intends to encourage partnerships in order to secure the
847 benefits of cooperation by the public and private sectors and to
848 reduce the cost of housing for the target group by effectively
849 combining all available resources and cost-saving measures. The
850 Legislature further intends that local governments achieve this
851 combination of resources by encouraging active partnerships
852 between government, lenders, builders and developers, real
853 estate professionals, advocates for low-income persons, and



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854 community groups to produce affordable housing and provide
855 related services. Extending the partnership concept to encompass
856 cooperative efforts among small counties as defined in s. 120.52
857 ~~120.52(19)~~, and among counties and municipalities is
858 specifically encouraged. Local governments are also intended to
859 establish an affordable housing advisory committee to recommend
860 monetary and nonmonetary incentives for affordable housing as
861 provided in s. 420.9076.

862 Section 12. Subsection (7) of section 420.9075, Florida
863 Statutes, is amended to read:

864 420.9075 Local housing assistance plans; partnerships.—

865 (7) The moneys deposited in the local housing assistance
866 trust fund shall be used to administer and implement the local
867 housing assistance plan. The cost of administering the plan may
868 not exceed 5 percent of the local housing distribution moneys
869 and program income deposited into the trust fund. A county or an
870 eligible municipality may not exceed the 5-percent limitation on
871 administrative costs, unless its governing body finds, by
872 resolution, that 5 percent of the local housing distribution
873 plus 5 percent of program income is insufficient to adequately
874 pay the necessary costs of administering the local housing
875 assistance plan. The cost of administering the program may not
876 exceed 10 percent of the local housing distribution plus 5
877 percent of program income deposited into the trust fund, except
878 that small counties, as defined in s. 120.52 ~~120.52(19)~~, and
879 eligible municipalities receiving a local housing distribution
880 of up to \$350,000 may use up to 10 percent of program income for
881 administrative costs.

882 Section 13. Paragraph (d) of subsection (1) of section



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883 443.091, Florida Statutes, is amended to read:

884 443.091 Benefit eligibility conditions.—

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

888 (d) She or he is able to work and is available for work. In
889 order to assess eligibility for a claimed week of unemployment,
890 the department shall develop criteria to determine a claimant's
891 ability to work and availability for work. A claimant must be
892 actively seeking work in order to be considered available for
893 work. This means engaging in systematic and sustained efforts to
894 find work, including contacting at least five prospective
895 employers for each week of unemployment claimed. The department
896 may require the claimant to provide proof of such efforts to the
897 one-stop career center as part of reemployment services. The
898 department shall conduct random reviews of work search
899 information provided by claimants. As an alternative to
900 contacting at least five prospective employers for any week of
901 unemployment claimed, a claimant may, for that same week, report
902 in person to a one-stop career center to meet with a
903 representative of the center and access reemployment services of
904 the center. The center shall keep a record of the services or
905 information provided to the claimant and shall provide the
906 records to the department upon request by the department.

907 However:

908 1. Notwithstanding any other provision of this paragraph or
909 paragraphs (b) and (e), an otherwise eligible individual may not
910 be denied benefits for any week because she or he is in training
911 with the approval of the department, or by reason of s.



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912 443.101(2) relating to failure to apply for, or refusal to
913 accept, suitable work. Training may be approved by the
914 department in accordance with criteria prescribed by rule. A
915 claimant's eligibility during approved training is contingent
916 upon satisfying eligibility conditions prescribed by rule.

917 2. Notwithstanding any other provision of this chapter, an
918 otherwise eligible individual who is in training approved under
919 s. 236(a)(1) of the Trade Act of 1974, as amended, may not be
920 determined ineligible or disqualified for benefits due to
921 enrollment in such training or because of leaving work that is
922 not suitable employment to enter such training. As used in this
923 subparagraph, the term "suitable employment" means work of a
924 substantially equal or higher skill level than the worker's past
925 adversely affected employment, as defined for purposes of the
926 Trade Act of 1974, as amended, the wages for which are at least
927 80 percent of the worker's average weekly wage as determined for
928 purposes of the Trade Act of 1974, as amended.

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

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

936 5. The work search requirements of this paragraph do not
937 apply to persons who are unemployed as a result of a temporary
938 layoff or who are claiming benefits under an approved short-time
939 compensation plan as provided in s. 443.1116.

940 6. In small counties as defined in s. 120.52 ~~120.52(19)~~, a



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941 claimant engaging in systematic and sustained efforts to find
942 work must contact at least three prospective employers for each
943 week of unemployment claimed.

944 Section 14. This act shall take effect July 1, 2013.

945

946 ===== T I T L E A M E N D M E N T =====

947 And the title is amended as follows:

948 Delete everything before the enacting clause
949 and insert:

950 A bill to be entitled
951 An act relating to administrative procedures; amending
952 s. 57.111, F.S.; revising the definition of the term
953 "small business party"; providing conditions under
954 which a proceeding is not substantially justified for
955 purposes of an award under the Florida Equal Access to
956 Justice Act; amending s. 120.52, F.S.; defining the
957 term "small business" as used in the Administrative
958 Procedure Act; amending s. 120.55, F.S.; providing for
959 publication of notices of rule development and of
960 rules filed for adoption; providing additional notice
961 of rule development, proposals, and adoptions;
962 amending s. 120.56, F.S.; providing that the
963 petitioner challenging a proposed rule or unadopted
964 agency statement has the burden of establishing a
965 prima facie case; amending s. 120.569, F.S.; providing
966 for extension of time to render final agency action in
967 certain circumstances; amending s. 120.57, F.S.;
968 conforming proceedings opposing agency action based on
969 an invalid rule or unadopted rule to proceedings for



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970 challenging rules; requiring notice of whether the
971 agency will rely on the challenged rule or unadopted
972 rule; providing for the administrative law judge to
973 make certain findings and enter a final order on the
974 validity of the rule or the use of an unadopted rule;
975 providing for stay of proceedings not involving
976 disputed issues of fact upon timely filing of rule
977 challenge; amending s. 120.573, F.S.; authorizing any
978 party to request mediation of rule challenge and
979 declaratory statement proceedings; amending s.
980 120.595, F.S.; providing for an award of attorney fees
981 and costs in specified challenges to agency action;
982 removing certain exceptions from requirements that
983 attorney fees and costs be rendered against the agency
984 in proceedings in which the petitioner prevails in a
985 rule challenge; requiring service of notice of
986 invalidity to an agency before bringing a rule
987 challenge as a condition precedent to award of
988 attorney fees and costs; providing for award of
989 additional attorney fees and costs for litigating
990 entitlement to and amount of attorney fees and costs
991 in administrative actions; providing that such awards
992 of additional attorney fees and costs are not subject
993 to certain statutory limits; amending s. 120.68, F.S.;
994 providing for appellate review of orders rendered in
995 challenges to specified rules or unadopted rules;
996 amending s. 120.695, F.S.; removing obsolete
997 provisions with respect to required agency review and
998 designation of minor violations; amending ss.



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420.9072, 420.9075, and 443.091, F.S.; conforming
cross-references; providing an effective date.