

1 A bill to be entitled
2 An act relating to administrative procedures; amending
3 s. 120.54, F.S.; revising requirements for the content
4 of notices of rule development; revising the scope of
5 public workshops to include information gathering for
6 the preparation of statements of estimated regulatory
7 costs; revising requirements for notices of proposed
8 rules; authorizing electronic delivery of notices to
9 persons who have requested advance notice of agency
10 rulemaking proceedings; requiring certain materials
11 incorporated by reference to be accessible online at
12 time of notice of proposed rule; revising requirements
13 for an agency's filing of specified information with
14 the Administrative Procedures Committee; creating a
15 presumption of adverse impact on small business in
16 specified circumstances; requiring certain agency
17 personnel to attend public hearings on proposed rules;
18 requiring an agency to publish a notice of convening a
19 separate proceeding in certain circumstances; tolling
20 rulemaking deadlines during such separate proceedings;
21 revising requirements for the contents of a notice of
22 change; amending s. 120.541, F.S.; revising
23 requirements for substantially affected persons to
24 submit proposals for lower cost regulatory
25 alternatives to a proposed rule following a notice of
26 change; revising requirements for an agency's

27 | consideration of such lower cost regulatory
 28 | alternatives; providing for an agency's revision and
 29 | publication of a revised statement of estimated
 30 | regulatory costs in response to such lower cost
 31 | regulatory alternatives; requiring the agency to
 32 | provide specified documents on a website under
 33 | specific circumstances; deleting definition of
 34 | "transactional costs"; providing additional
 35 | requirements for the calculation of estimated
 36 | regulatory costs; amending s. 190.005, F.S., relating
 37 | to the establishment of community development
 38 | districts; requiring a petition to include a statement
 39 | explaining the prospective economic impact of the
 40 | establishment of a proposed district; providing an
 41 | effective date.

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

44 |
 45 | Section 1. Subsections (2) and (3) of section 120.54,
 46 | Florida Statutes, are amended to read:

47 | 120.54 Rulemaking.—

48 | (2) RULE DEVELOPMENT; WORKSHOPS; NEGOTIATED RULEMAKING.—

49 | (a) Except when the intended action is the repeal of a
 50 | rule, agencies shall provide notice of the development of
 51 | proposed rules by publication of a notice of rule development in
 52 | the Florida Administrative Register before providing notice of a

53 proposed rule as required by paragraph (3) (a). The notice of
54 rule development shall indicate the subject area to be addressed
55 by rule development, provide a short, plain explanation of the
56 purpose and effect of the proposed rule, cite the grant of
57 rulemaking authority pursuant to which the rule is proposed and
58 the section or subsection of the Florida Statutes or the Laws of
59 Florida being implemented or interpreted by the proposed rule
60 ~~specific legal authority for the proposed rule~~, and include the
61 preliminary text of the proposed rules, if available, or a
62 statement of how a person may promptly obtain, without cost, or
63 access online, a copy of any preliminary draft, when if
64 available. The notice shall also include a statement of how a
65 person may submit comments to the proposal and provide
66 information regarding the potential regulatory costs.

67 (b) All rules should be drafted in readable language. The
68 language is readable if:

69 1. It avoids the use of obscure words and unnecessarily
70 long or complicated constructions; and

71 2. It avoids the use of unnecessary technical or
72 specialized language that is understood only by members of
73 particular trades or professions.

74 (c) An agency may hold public workshops for purposes of
75 rule development and information gathering for the preparation
76 of the statement of estimated regulatory costs. If requested in
77 writing by an affected person, an agency must hold public
78 workshops, including workshops in various regions of the state

79 | or the agency's service area, for purposes of rule development
80 | and information gathering for the preparation of the statement
81 | of estimated regulatory cost ~~if requested in writing by any~~
82 | ~~affected person~~, unless the agency head explains in writing why
83 | a workshop is unnecessary. The explanation is not final agency
84 | action subject to review pursuant to ss. 120.569 and 120.57. ~~The~~
85 | ~~failure to provide the explanation when required may be a~~
86 | ~~material error in procedure pursuant to s. 120.56(1)(c).~~ When a
87 | workshop or public hearing is held, the agency must ensure that
88 | the persons responsible for preparing the proposed rule and the
89 | statement of estimated regulatory costs are available to receive
90 | public input, to explain the agency's proposal, and to respond
91 | to questions or comments regarding the rule being developed and
92 | the statement of estimated regulatory costs. The workshop may be
93 | facilitated or mediated by a neutral third person, or the agency
94 | may employ other types of dispute resolution alternatives for
95 | the workshop that are appropriate for rule development,
96 | including the preparation of any statement of estimated
97 | regulatory costs. Notice of a rule development workshop shall be
98 | by publication in the Florida Administrative Register not less
99 | than 14 days before ~~prior to~~ the date on which the workshop is
100 | scheduled to be held and shall indicate the subject area which
101 | will be addressed; the agency contact person; and the place,
102 | date, and time of the workshop.

103 | (d)1. An agency may use negotiated rulemaking in
104 | developing and adopting rules. The agency should consider the

105 use of negotiated rulemaking when complex rules are being
106 drafted or strong opposition to the rules is anticipated. The
107 agency should consider, but is not limited to considering,
108 whether a balanced committee of interested persons who will
109 negotiate in good faith can be assembled, whether the agency is
110 willing to support the work of the negotiating committee, and
111 whether the agency can use the group consensus as the basis for
112 its proposed rule. Negotiated rulemaking uses a committee of
113 designated representatives to draft a mutually acceptable
114 proposed rule and to develop information necessary to prepare a
115 statement of estimated regulatory costs, when applicable.

116 2. An agency that chooses to use the negotiated rulemaking
117 process described in this paragraph shall publish in the Florida
118 Administrative Register a notice of negotiated rulemaking that
119 includes a listing of the representative groups that will be
120 invited to participate in the negotiated rulemaking process. Any
121 person who believes that his or her interest is not adequately
122 represented may apply to participate within 30 days after
123 publication of the notice. All meetings of the negotiating
124 committee shall be noticed and open to the public pursuant to
125 the provisions of this chapter. The negotiating committee shall
126 be chaired by a neutral facilitator or mediator.

127 3. The agency's decision to use negotiated rulemaking, its
128 selection of the representative groups, and approval or denial
129 of an application to participate in the negotiated rulemaking
130 process are not agency action. Nothing in this subparagraph is

131 intended to affect the rights of a substantially ~~an~~ affected
132 person to challenge a proposed rule developed under this
133 paragraph in accordance with s. 120.56(2).

134 (3) ADOPTION PROCEDURES.—

135 (a) Notices.—

136 1. Before ~~Prior to~~ the adoption, amendment, or repeal of
137 any rule other than an emergency rule, an agency, upon approval
138 of the agency head, shall give notice of its intended action,
139 setting forth a short, plain explanation of the purpose and
140 effect of the proposed action; the full text of the proposed
141 rule or amendment and a summary thereof; a reference to the
142 grant of rulemaking authority pursuant to which the rule is
143 adopted; and a reference to the section or subsection of the
144 Florida Statutes or the Laws of Florida being implemented or
145 interpreted. The notice must include a statement as to whether
146 the agency held a public workshop for the purpose of development
147 of the proposed rule, and if not, whether a workshop was
148 requested in writing. If a rule development workshop was not
149 held, the notice must include a copy of the written explanation
150 from the agency head as to why a workshop was unnecessary. The
151 notice must include a summary of the agency's statement of the
152 estimated regulatory costs, including an electronic hyperlink to
153 a copy of the statement of estimated regulatory costs on the
154 agency's website, if a statement ~~one~~ has been prepared, based on
155 the factors set forth in s. 120.541(2); a statement that any
156 person who wishes to provide the agency with information

157 regarding the statement of estimated regulatory costs, or to
158 provide a proposal for a lower cost regulatory alternative as
159 provided by s. 120.541(1), must do so in writing within 21 days
160 after publication of the notice; and a statement as to whether,
161 based on the statement of the estimated regulatory costs or
162 other information expressly relied upon and described by the
163 agency if no statement of regulatory costs is required, the
164 proposed rule is expected to require legislative ratification
165 pursuant to s. 120.541(3). The notice must state the procedure
166 for requesting a public hearing on the proposed rule. Except
167 when the intended action is the repeal of a rule, the notice
168 must include a reference both to the date on which and to the
169 place where the notice of rule development that is required by
170 subsection (2) appeared.

171 2. The notice shall be published in the Florida
172 Administrative Register at least not less than 28 days before
173 ~~prior to~~ the intended action. The proposed rule shall be
174 available for inspection and copying by the public at the time
175 of the publication of notice. At the time of publication of the
176 notice, the agency must make available by electronic hyperlink
177 all materials incorporated by reference in the proposed rule.
178 The notice shall include the electronic hyperlink for access to
179 materials incorporated by reference. If the agency determines
180 that posting would constitute a violation of federal copyright
181 law, the notice must include the statement required in s.
182 120.54(1)(i)3.b.

183 3. The notice shall be mailed to all persons named in the
184 proposed rule and mailed or delivered electronically to all
185 persons who, at least 14 days before ~~prior to~~ such mailing, have
186 made requests of the agency for advance notice of its
187 proceedings. The agency shall also give such notice as is
188 prescribed by rule to those particular classes of persons to
189 whom the intended action is directed.

190 4. The adopting agency shall file with the committee, at
191 least 21 days before ~~prior to~~ the proposed adoption date, a copy
192 of each rule it proposes to adopt; a copy of any material
193 incorporated by reference in the rule; a detailed written
194 statement of the facts and circumstances justifying the proposed
195 rule; a copy of any statement of estimated regulatory costs that
196 has been prepared pursuant to s. 120.541; a statement of the
197 extent to which the proposed rule relates to federal standards
198 or rules on the same subject; and the notice required by
199 subparagraph 1. In lieu of filing a required statement or copy
200 with the committee for each such rule, the agency may file with
201 the committee information providing an electronic hyperlink to a
202 readily accessible copy of the required statement or copy.

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

204 1. Statement of estimated regulatory costs.—Before the
205 adoption, amendment, or repeal of any rule other than an
206 emergency rule, an agency is encouraged to prepare a statement
207 of estimated regulatory costs of the proposed rule, as provided
208 by s. 120.541. However, an agency must prepare a statement of

209 | estimated regulatory costs of the proposed rule, as provided by
 210 | s. 120.541, if:

211 | a. The proposed rule will have an adverse impact on small
 212 | business; or

213 | b. The proposed rule is likely to directly or indirectly
 214 | increase regulatory costs in excess of \$200,000 in the aggregate
 215 | in this state within 1 year after the implementation of the
 216 | rule.

217 | 2. Small businesses, small counties, and small cities.—

218 | a. For purposes of this subsection and s. 120.541(2), an
 219 | adverse impact on small business is presumed if, for any small
 220 | business:

221 | (I) An owner, officer, operator, or manager must complete
 222 | any education, training, or testing to comply, or is likely to
 223 | either expend 10 hours or purchase professional advice to
 224 | understand and comply with the rule in the first year;

225 | (II) Taxes or fees assessed on transactions are likely to
 226 | increase by \$500 or more in the aggregate in 1 year;

227 | (III) Prices charged for goods and services are restricted
 228 | or are likely to increase because of the rule;

229 | (IV) Specially trained, licensed, or tested employees will
 230 | be required;

231 | (V) Operating costs are expected to increase by at least
 232 | \$1,000 annually; or

233 | (VI) Capital expenditures in excess of \$1,000 are
 234 | necessary to comply with the rule.

235 b. Each agency, before the adoption, amendment, or repeal
236 of a rule, shall consider the impact of the rule on small
237 businesses as defined by s. 288.703 and the impact of the rule
238 on small counties or small cities as defined by s. 120.52.
239 Whenever practicable, an agency shall tier its rules to reduce
240 disproportionate impacts on small businesses, small counties, or
241 small cities to avoid regulating small businesses, small
242 counties, or small cities that do not contribute significantly
243 to the problem the rule is designed to address. An agency may
244 define "small business" to include businesses employing more
245 than 200 persons, may define "small county" to include those
246 with populations of more than 75,000, and may define "small
247 city" to include those with populations of more than 10,000, if
248 it finds that such a definition is necessary to adapt a rule to
249 the needs and problems of small businesses, small counties, or
250 small cities. The agency shall consider each of the following
251 methods for reducing the impact of the proposed rule on small
252 businesses, small counties, and small cities, or any combination
253 of these entities:

254 (I) Establishing less stringent compliance or reporting
255 requirements in the rule.

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

258 (III) Consolidating or simplifying the rule's compliance
259 or reporting requirements.

260 (IV) Establishing performance standards or best management

261 practices to replace design or operational standards in the
262 rule.

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

265 ~~c.b.~~(I) If the agency determines that the proposed action
266 will affect small businesses as defined by the agency as
267 provided in sub-subparagraph b. ~~a.~~, the agency shall send
268 written notice of the rule to the rules ombudsman in the
269 Executive Office of the Governor at least 28 days before the
270 intended action.

271 (II) Each agency shall adopt those regulatory alternatives
272 offered by the rules ombudsman in the Executive Office of the
273 Governor and provided to the agency no later than 21 days after
274 the rules ombudsman's receipt of the written notice of the rule
275 which it finds are feasible and consistent with the stated
276 objectives of the proposed rule and which would reduce the
277 impact on small businesses. When regulatory alternatives are
278 offered by the rules ombudsman in the Executive Office of the
279 Governor, the 90-day period for filing the rule in subparagraph
280 (e)2. is extended for a period of 21 days.

281 (III) If an agency does not adopt all alternatives offered
282 pursuant to this sub-subparagraph, it shall, before rule
283 adoption or amendment and pursuant to subparagraph (d)1., file a
284 detailed written statement with the committee explaining the
285 reasons for failure to adopt such alternatives. Within 3 working
286 days after the filing of such notice, the agency shall send a

287 copy of such notice to the rules ombudsman in the Executive
288 Office of the Governor.

289 (c) Hearings.—

290 1. If the intended action concerns any rule other than one
291 relating exclusively to procedure or practice, the agency shall,
292 on the request of any affected person received within 21 days
293 after the date of publication of the notice of intended agency
294 action, give affected persons an opportunity to present evidence
295 and argument on all issues under consideration. The agency may
296 schedule a public hearing on the proposed rule and, if requested
297 by any affected person, shall schedule a public hearing on the
298 proposed rule. When a public hearing is held, the agency must
299 ensure that the persons responsible for preparing the proposed
300 rule and the statement of estimated regulatory costs ~~staff~~ are
301 available to explain the agency's proposal and to respond to
302 questions or comments regarding the proposed rule, the statement
303 of estimated regulatory costs, and the agency's decision whether
304 to adopt a lower cost regulatory alternative submitted pursuant
305 to s. 120.541(1)(a). If the agency head is a board or other
306 collegial body created under s. 20.165(4) or s. 20.43(3)(g), and
307 one or more requested public hearings is scheduled, the board or
308 other collegial body shall conduct at least one of the public
309 hearings itself and may not delegate this responsibility without
310 the consent of those persons requesting the public hearing. Any
311 material pertinent to the issues under consideration submitted
312 to the agency within 21 days after the date of publication of

313 the notice or submitted to the agency between the date of
314 publication of the notice and the end of the final public
315 hearing shall be considered by the agency and made a part of the
316 record of the rulemaking proceeding.

317 2. Rulemaking proceedings shall be governed solely by the
318 provisions of this section unless a person timely asserts that
319 the person's substantial interests will be affected in the
320 proceeding and affirmatively demonstrates to the agency that the
321 proceeding does not provide adequate opportunity to protect
322 those interests. If the agency determines that the rulemaking
323 proceeding is not adequate to protect the person's interests, it
324 shall suspend the rulemaking proceeding and convene a separate
325 proceeding under ~~the provisions of~~ ss. 120.569 and 120.57. The
326 agency shall publish notice of convening a separate proceeding
327 in the Florida Administrative Register. Similarly situated
328 persons may be requested to join and participate in the separate
329 proceeding. Upon conclusion of the separate proceeding, the
330 rulemaking proceeding shall be resumed. All timelines in this
331 section are tolled during any suspension of the rulemaking
332 proceeding under this subparagraph, beginning on the date that
333 the notice of convening a separate proceeding is published and
334 resuming on the day immediately after conclusion of the separate
335 proceeding.

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

337 1. After the final public hearing on the proposed rule, or
338 after the time for requesting a hearing has expired, if the

339 proposed rule has not been changed from the proposed rule as
340 previously filed with the committee, or contains only technical
341 changes that do not affect the substance of the rule, the
342 adopting agency shall file a notice to that effect with the
343 committee at least 7 days before ~~prior to~~ filing the rule for
344 adoption. Any change, other than a technical change ~~that does~~
345 ~~not affect the substance of the rule~~, must be supported by the
346 record of public hearings held on the proposed rule, must be in
347 response to written material submitted to the agency within 21
348 days after the date of publication of the notice of intended
349 agency action or submitted to the agency between the date of
350 publication of the notice and the end of the final public
351 hearing, or must be in response to a proposed objection by the
352 committee. In addition, when any change is made in a proposed
353 rule, other than a technical change, the adopting agency shall
354 provide a copy of a notice of change by certified mail or actual
355 delivery to any person who requests it in writing no later than
356 21 days after the notice required in paragraph (a). The agency
357 shall file the notice of change with the committee, along with
358 the reasons for the change, and provide the notice of change to
359 persons requesting it, at least 21 days before ~~prior to~~ filing
360 the rule for adoption. The notice of change shall be published
361 in the Florida Administrative Register at least 21 days before
362 ~~prior to~~ filing the rule for adoption. The notice of change must
363 include either a summary of any statement of estimated
364 regulatory costs prepared as a consequence of the change, a

365 summary of any revision of the statement of estimated regulatory
366 costs required by s. 120.541(1)(c), or a statement that the
367 proposed rule as changed does not require preparation of a
368 statement of estimated regulatory costs under paragraph (b) and
369 s. 120.541(1)(b). This subparagraph does not apply to emergency
370 rules adopted pursuant to subsection (4).

371 2. After the notice required by paragraph (a) and before
372 ~~prior to~~ adoption, the agency may withdraw the proposed rule in
373 whole or in part.

374 3. After adoption and before the rule becomes effective, a
375 rule may be modified or withdrawn only in the following
376 circumstances:

377 a. When the committee objects to the rule;

378 b. When a final order, which is not subject to further
379 appeal, is entered in a rule challenge brought pursuant to s.
380 120.56 after the date of adoption but before the rule becomes
381 effective pursuant to subparagraph (e)6.;

382 c. If the rule requires ratification, when more than 90
383 days have passed since the rule was filed for adoption without
384 the Legislature ratifying the rule, in which case the rule may
385 be withdrawn but may not be modified; or

386 d. When the committee notifies the agency that an
387 objection to the rule is being considered, in which case the
388 rule may be modified to extend the effective date by not more
389 than 60 days.

390 4. The agency shall give notice of its decision to

391 withdraw or modify a rule in the first available issue of the
392 publication in which the original notice of rulemaking was
393 published, shall notify those persons described in subparagraph
394 (a)3. in accordance with the requirements of that subparagraph,
395 and shall notify the Department of State if the rule is required
396 to be filed with the Department of State.

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

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

401 1. If the adopting agency is required to publish its rules
402 in the Florida Administrative Code, the agency, upon approval of
403 the agency head, shall file with the Department of State three
404 certified copies of the rule it proposes to adopt; one copy of
405 any material incorporated by reference in the rule, certified by
406 the agency; a summary of the rule; a summary of any hearings
407 held on the rule; and a detailed written statement of the facts
408 and circumstances justifying the rule. Agencies not required to
409 publish their rules in the Florida Administrative Code shall
410 file one certified copy of the proposed rule, and the other
411 material required by this subparagraph, in the office of the
412 agency head, and such rules shall be open to the public.

413 2. A rule may not be filed for adoption less than 28 days
414 or more than 90 days after the notice required by paragraph (a),
415 until 21 days after the notice of change required by paragraph
416 (d), until 14 days after the final public hearing, until 21 days

417 after a statement of estimated regulatory costs required under
418 s. 120.541 has been provided to all persons who submitted a
419 lower cost regulatory alternative and made available to the
420 public at a readily accessible page on the agency's website, or
421 until the administrative law judge has rendered a decision under
422 s. 120.56(2), whichever applies. When a required notice of
423 change is published before ~~prior to~~ the expiration of the time
424 to file the rule for adoption, the period during which a rule
425 must be filed for adoption is extended to 45 days after the date
426 of publication. If notice of a public hearing is published
427 before ~~prior to~~ the expiration of the time to file the rule for
428 adoption, the period during which a rule must be filed for
429 adoption is extended to 45 days after adjournment of the final
430 hearing on the rule, 21 days after receipt of all material
431 authorized to be submitted at the hearing, or 21 days after
432 receipt of the transcript, if one is made, whichever is latest.
433 The term "public hearing" includes any public meeting held by
434 any agency at which the rule is considered. If a petition for an
435 administrative determination under s. 120.56(2) is filed, the
436 period during which a rule must be filed for adoption is
437 extended to 60 days after the administrative law judge files the
438 final order with the clerk or until 60 days after subsequent
439 judicial review is complete.

440 3. At the time a rule is filed, the agency shall certify
441 that the time limitations prescribed by this paragraph have been
442 complied with, that all statutory rulemaking requirements have

443 been met, and that there is no administrative determination
444 pending on the rule.

445 4. At the time a rule is filed, the committee shall
446 certify whether the agency has responded in writing to all
447 material and timely written comments or written inquiries made
448 on behalf of the committee. The Department of State shall reject
449 any rule that is not filed within the prescribed time limits;
450 that does not comply with all statutory rulemaking requirements
451 and rules of the Department of State; upon which an agency has
452 not responded in writing to all material and timely written
453 inquiries or written comments; upon which an administrative
454 determination is pending; or which does not include a statement
455 of estimated regulatory costs, if required.

456 5. If a rule has not been adopted within the time limits
457 imposed by this paragraph or has not been adopted in compliance
458 with all statutory rulemaking requirements, the agency proposing
459 the rule shall withdraw the proposed rule and give notice of its
460 action in the next available issue of the Florida Administrative
461 Register.

462 6. The proposed rule shall be adopted on being filed with
463 the Department of State and become effective 20 days after being
464 filed, on a later date specified in the notice required by
465 subparagraph (a)1., on a date required by statute, or upon
466 ratification by the Legislature pursuant to s. 120.541(3). Rules
467 not required to be filed with the Department of State shall
468 become effective when adopted by the agency head, on a later

469 date specified by rule or statute, or upon ratification by the
470 Legislature pursuant to s. 120.541(3). If the committee notifies
471 an agency that an objection to a rule is being considered, the
472 agency may postpone the adoption of the rule to accommodate
473 review of the rule by the committee. When an agency postpones
474 adoption of a rule to accommodate review by the committee, the
475 90-day period for filing the rule is tolled until the committee
476 notifies the agency that it has completed its review of the
477 rule.

478

479 For the purposes of this paragraph, the term "administrative
480 determination" does not include subsequent judicial review.

481 Section 2. Section 120.541, Florida Statutes, is amended
482 to read:

483 120.541 Statement of estimated regulatory costs.—

484 (1)(a) Within 21 days after publication of the notice of
485 proposed rule required under s. 120.54(3)(a), or of a notice of
486 change under s. 120.54(3)(d)1., a substantially affected person
487 may submit to an agency a good faith written proposal for a
488 lower cost regulatory alternative to a proposed rule which
489 substantially accomplishes the objectives of the law being
490 implemented. The proposal may include the alternative of not
491 adopting any rule if the proposal explains how the lower costs
492 and objectives of the law will be achieved by not adopting any
493 rule. If submitted after a notice of change, a proposal is
494 deemed to be made in good faith only if the person reasonably

495 believes and the proposal states the person's reasons for
496 believing that the proposed rule as changed by the notice of
497 change increases the regulatory costs or creates an adverse
498 impact on small business that was not created by the previous
499 proposal. If ~~such~~ a proposal is submitted, the 90-day period for
500 filing the rule is extended 21 days. Upon the submission of the
501 lower cost regulatory alternative, the agency shall prepare a
502 statement of estimated regulatory costs as provided in
503 subsection (2), or shall revise its prior statement of estimated
504 regulatory costs, and either adopt the alternative proposal,
505 reject the alternative proposal, or modify the proposed rule to
506 substantially reduce the regulatory costs. If the agency rejects
507 the alternative proposal or modifies the proposed rule, the
508 agency shall ~~or~~ provide a statement of the reasons for rejecting
509 the alternative proposal in favor of the proposed or modified
510 rule.

511 (b) If a proposed rule will have an adverse impact on
512 small business as set forth in s. 120.54(3)(b) or if the
513 proposed rule is likely to directly or indirectly increase
514 regulatory costs in excess of \$200,000 in the aggregate within 1
515 year after the implementation of the rule, the agency shall
516 prepare a statement of estimated regulatory costs as required by
517 s. 120.54(3)(b).

518 (c) The agency shall revise a statement of estimated
519 regulatory costs if any change to the rule made under s.
520 120.54(3)(d) increases the regulatory costs of the rule or if

521 the rule is modified in response to the submission of a lower
522 cost regulatory alternative. A summary of the revised statement
523 must be included with any subsequent notice published under s.
524 120.54(3).

525 (d) At least 21 days before filing the rule for adoption,
526 an agency that is required to revise a statement of estimated
527 regulatory costs shall provide the statement to the person who
528 submitted the lower cost regulatory alternative, to the rules
529 ombudsman in the Executive Office of the Governor, and to the
530 committee. The revised statement shall be published and made
531 available in the same manner as the original statement of
532 estimated regulatory costs ~~and shall provide notice on the~~
533 ~~agency's website that it is available to the public.~~

534 (e) Notwithstanding s. 120.56(1)(c), the failure of the
535 agency to prepare and publish a statement of estimated
536 regulatory costs or to respond to a written lower cost
537 regulatory alternative as provided in this subsection is a
538 material failure to follow the applicable rulemaking procedures
539 or requirements set forth in this chapter.

540 (f) An agency's failure to prepare and publish a statement
541 of estimated regulatory costs or to respond to a written lower
542 cost regulatory alternative may not be raised in a proceeding
543 challenging the validity of a rule pursuant to s. 120.52(8)(a)
544 unless:

545 1. Raised in a petition filed no later than 1 year after
546 the effective date of the rule; and

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547 2. Raised by a person whose substantial interests are
548 affected by the rule's regulatory costs.

549 (g) A rule that is challenged pursuant to s. 120.52(8)(f)
550 may not be declared invalid unless:

551 1. The issue is raised in an administrative proceeding
552 within 1 year after the effective date of the rule;

553 2. The challenge is to the agency's rejection of a lower
554 cost regulatory alternative offered under paragraph (a) or s.
555 120.54(3)(b)2.c. ~~120.54(3)(b)2.b.~~; and

556 3. The substantial interests of the person challenging the
557 rule are materially affected by the rejection.

558 (h) Any of the following documents prepared by or on
559 behalf of an agency shall be publicly available on the agency's
560 website, or on another state website established for publication
561 of administrative law records, until the rule to which the
562 document applies is withdrawn or repealed, or until the rule is
563 amended accompanied by the preparation of a new statement of
564 estimated regulatory costs:

565 1. A statement of estimated regulatory costs prepared with
566 respect to a rule proposed or filed for adoption after November
567 16, 2010;

568 2. A revision of a statement of estimated regulatory costs
569 prepared with respect to a rule proposed or filed for adoption
570 after November 16, 2010;

571 3. A compliance economic review published pursuant to s.
572 120.745(5); or

573 4. A report on an economic estimate of regulatory costs
574 and economic impact published pursuant to s. 120.745(9)(b).

575 (2) A statement of estimated regulatory costs shall
576 include:

577 (a) An economic analysis showing whether the rule directly
578 or indirectly:

579 1. Is likely to have an adverse impact on economic growth,
580 private sector job creation or employment, or private sector
581 investment in excess of \$1 million in the aggregate within 5
582 years after the implementation of the rule;

583 2. Is likely to have an adverse impact on business
584 competitiveness, including the ability of persons doing business
585 in the state to compete with persons doing business in other
586 states or domestic markets, productivity, or innovation in
587 excess of \$1 million in the aggregate within 5 years after the
588 implementation of the rule; or

589 3. Is likely to increase regulatory costs, including all
590 any ~~transactional~~ costs and impacts estimated in the statement,
591 in excess of \$1 million in the aggregate within 5 years after
592 the implementation of the rule.

593 (b) A good faith estimate of the number of individuals,
594 small businesses, and other entities likely to be required to
595 comply with the rule, together with a general description of the
596 types of individuals likely to be affected by the rule.

597 (c) A good faith estimate of the cost to the agency, and
598 to any other state and local government entities, of

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599 implementing and enforcing the proposed rule, and any
600 anticipated effect on state or local revenues.

601 (d) A good faith estimate of the compliance ~~transactional~~
602 costs likely to be incurred by individuals and entities,
603 including local government entities, required to comply with the
604 requirements of the rule. ~~As used in this section,~~
605 ~~"transactional costs" are direct costs that are readily~~
606 ~~ascertainable based upon standard business practices, and~~
607 ~~include filing fees, the cost of obtaining a license, the cost~~
608 ~~of equipment required to be installed or used or procedures~~
609 ~~required to be employed in complying with the rule, additional~~
610 ~~operating costs incurred, the cost of monitoring and reporting,~~
611 ~~and any other costs necessary to comply with the rule.~~

612 (e) An analysis of the impact on small businesses as
613 defined by s. 288.703, and an analysis of the impact on small
614 counties and small cities as defined in s. 120.52. The impact
615 analysis for small businesses must include the basis for the
616 agency's decision not to implement alternatives that would
617 reduce adverse impacts on small businesses.

618 (f) Any additional information that the agency determines
619 may be useful.

620 (g) ~~In the statement or revised statement, whichever~~
621 ~~applies,~~ A description of any regulatory alternatives submitted
622 under paragraph (1)(a) and a statement adopting the alternative
623 or a statement of the reasons for rejecting the alternative in
624 favor of the proposed rule.

625 (3) If the adverse impact or regulatory costs of the rule
 626 exceed any of the criteria established in paragraph (2) (a), the
 627 rule shall be submitted to the President of the Senate and
 628 Speaker of the House of Representatives no later than 30 days
 629 before ~~prior to~~ the next regular legislative session, and the
 630 rule may not take effect until it is ratified by the
 631 Legislature.

632 (4) Subsection (3) does not apply to the adoption of:

633 (a) Federal standards pursuant to s. 120.54(6).

634 (b) Triennial updates of and amendments to the Florida
 635 Building Code which are expressly authorized by s. 553.73.

636 (c) Triennial updates of and amendments to the Florida
 637 Fire Prevention Code which are expressly authorized by s.
 638 633.202.

639 (5) (a) For purposes of subsections (2) and (3), impacts
 640 and costs incurred within 5 years after implementation of the
 641 rule shall include the applicable costs and impacts estimated to
 642 be incurred within the first 5 years after the effective date of
 643 the rule. However, if any provisions of the rule are not fully
 644 implemented and enforceable upon the effective date of the rule,
 645 the impacts and costs must be adjusted to include any additional
 646 costs and impacts estimated to be incurred within 5 years after
 647 the implementation and enforcement of the provisions of the rule
 648 that were not fully implemented upon the effective date of the
 649 rule.

650 (b) In evaluating the impacts described in paragraphs

651 (2) (a) and (2) (e), an agency shall include good faith estimates
652 of market impacts likely to result from compliance with the
653 rule, including:

654 1. Increased customer charges for goods and services.

655 2. Decreased market value of goods and services produced,
656 provided, or sold.

657 3. Increased costs resulting from the purchase of
658 substitute or alternative products or services.

659 4. The reasonable value of time to be expended by owners,
660 officers, operators, and managers to understand and comply,
661 including, but not limited to, time expended to complete
662 required education, training, or testing.

663 5. Capital costs.

664 6. Any other impacts suggested by the rules ombudsman, the
665 agency head's appointing authority, or interested persons.

666 (c) In estimating the information required in paragraphs
667 (2) (b)-(e), the agency may use reasonably applicable surveys of
668 individuals, businesses, business organizations and
669 representatives, cities, and counties to collect data helpful to
670 estimate the costs and impacts. The agency shall also solicit
671 helpful information in each notice related to the proposed rule.
672 The rules ombudsman and the committee may recommend survey
673 instruments and methods to assist agencies in administering this
674 section. Such recommendations and agency decisions regarding
675 surveys and methods do not constitute rules or agency actions
676 under this chapter.

- 677 (d) In estimating compliance costs under paragraph (2)(d),
678 the agency shall consider, among other matters, all direct and
679 indirect costs necessary to comply with the rule that are
680 readily ascertainable based upon standard business practices,
681 including, but not limited to, costs related to:
- 682 1. Filing fees.
 - 683 2. Obtaining a license.
 - 684 3. Necessary equipment.
 - 685 4. Installation, utilities, and maintenance of necessary
686 equipment.
 - 687 5. Necessary operations and procedures.
 - 688 6. Accounting, financial, information and management
689 systems, and other administrative processes.
 - 690 7. Other processes.
 - 691 8. Labor based on relevant rates of wages, salaries and
692 benefits.
 - 693 9. Materials and supplies.
 - 694 10. Capital expenditures including financing costs.
 - 695 11. Professional and technical services, including
696 contracted services necessary to implement and maintain
697 compliance.
 - 698 12. Monitoring and reporting.
 - 699 13. Qualifying and recurring education, training, and
700 testing.
 - 701 14. Travel.
 - 702 15. Insurance and surety requirements.

703 16. A fair and reasonable allocation of administrative
 704 costs and other overhead.

705 17. Reduced sales or other revenues.

706 18. Other items suggested by the rules ombudsman, the
 707 committee, or any interested person, business organization, or
 708 business representative.

709 Section 3. Paragraph (a) of subsection (1) of section
 710 190.005, Florida Statutes, is amended to read:

711 190.005 Establishment of district.—

712 (1) The exclusive and uniform method for the establishment
 713 of a community development district with a size of 1,000 acres
 714 or more shall be pursuant to a rule, adopted under chapter 120
 715 by the Florida Land and Water Adjudicatory Commission, granting
 716 a petition for the establishment of a community development
 717 district.

718 (a) A petition for the establishment of a community
 719 development district shall be filed by the petitioner with the
 720 Florida Land and Water Adjudicatory Commission. The petition
 721 shall contain:

722 1. A metes and bounds description of the external
 723 boundaries of the district. Any real property within the
 724 external boundaries of the district which is to be excluded from
 725 the district shall be specifically described, and the last known
 726 address of all owners of such real property shall be listed. The
 727 petition shall also address the impact of the proposed district
 728 on any real property within the external boundaries of the

729 district which is to be excluded from the district.

730 2. The written consent to the establishment of the
731 district by all landowners whose real property is to be included
732 in the district or documentation demonstrating that the
733 petitioner has control by deed, trust agreement, contract, or
734 option of 100 percent of the real property to be included in the
735 district, and when real property to be included in the district
736 is owned by a governmental entity and subject to a ground lease
737 as described in s. 190.003(14), the written consent by such
738 governmental entity.

739 3. A designation of five persons to be the initial members
740 of the board of supervisors, who shall serve in that office
741 until replaced by elected members as provided in s. 190.006.

742 4. The proposed name of the district.

743 5. A map of the proposed district showing current major
744 trunk water mains and sewer interceptors and outfalls if in
745 existence.

746 6. Based upon available data, the proposed timetable for
747 construction of the district services and the estimated cost of
748 constructing the proposed services. These estimates shall be
749 submitted in good faith but are not binding and may be subject
750 to change.

751 7. A designation of the future general distribution,
752 location, and extent of public and private uses of land proposed
753 for the area within the district by the future land use plan
754 element of the effective local government comprehensive plan of

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755 | which all mandatory elements have been adopted by the applicable
756 | general-purpose local government in compliance with the
757 | Community Planning Act.

758 | 8. A statement explaining the prospective economic impact
759 | of establishment of the proposed district ~~of estimated~~
760 | ~~regulatory costs in accordance with the requirements of s.~~
761 | ~~120.541.~~

762 | Section 4. This act shall take effect July 1, 2015.