

By Senator Albritton

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1                   A bill to be entitled  
2           An act relating to administrative procedures; amending  
3           s. 120.52, F.S.; defining terms; amending s. 120.54,  
4           F.S.; applying certain provisions applicable to all  
5           rules other than emergency rules to repromulgated  
6           rules; requiring a notice of proposed rule to include  
7           certain information; requiring such notices to be  
8           published within a specified timeframe; requiring that  
9           material proposed to be incorporated by reference be  
10          made available in a specified manner; providing for,  
11          and in certain instances, requiring agencies to  
12          publish a notice of correction; requiring an agency to  
13          provide a copy of a regulatory alternative to the  
14          Administrative Procedures Committee; requiring the  
15          committee, under certain circumstances, to notify the  
16          Department of State that the date for an agency to  
17          adopt a rule has expired; requiring the department to  
18          publish a notice of withdrawal under certain  
19          circumstances; requiring notice of renewal in the  
20          Florida Administrative Register; requiring a note in  
21          the history note for certain emergency rules;  
22          requiring emergency rules to be published in the  
23          Florida Administrative Code; authorizing agencies to  
24          supersede emergency rules with another emergency rule;  
25          authorizing an agency to make technical changes to an  
26          emergency rule within a specified timeframe; requiring  
27          technical changes to be published in the Florida  
28          Administrative Register; requiring an agency to file a  
29          copy of a certain petition with the committee;

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30 amending s. 120.541, F.S.; requiring an agency to  
31 provide a copy of any proposal for a lower cost  
32 regulatory alternative to the committee within a  
33 certain timeframe; creating s. 120.5435, F.S.;  
34 providing legislative intent; requiring agency review  
35 of rules and repromulgation of rules that do not  
36 require substantive changes within a specified  
37 timeframe; requiring an agency to publish a notice of  
38 repromulgation in the Florida Administrative Register  
39 and file a rule for promulgation with the department  
40 within a specified timeframe; requiring an agency to  
41 file a notice of repromulgation with the committee  
42 within a specified timeframe; providing a requirement  
43 for the notice of repromulgation; requiring the  
44 committee to certify if the agency responded to all  
45 materials and written inquiries; requiring withdrawal  
46 of a rule proposed for repromulgation if the rule is  
47 not filed within a specified timeframe; providing that  
48 a repromulgated rule is not subject to challenge as a  
49 proposed rule and that certain hearing requirements do  
50 not apply; requiring an agency to file a specified  
51 number of certified copies of a proposed repromulgated  
52 rule and any material incorporated by reference;  
53 providing that a rule is a repromulgated rule upon  
54 filing with the department; requiring the department  
55 to update certain information in the Florida  
56 Administrative Code; requiring the department to adopt  
57 rules by a certain date; amending s. 120.55, F.S.;  
58 requiring materials incorporated by reference to be

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59 filed and published in a specified manner; amending s.  
60 120.74, F.S.; adding components to be included in an  
61 agency's annual regulatory plan; amending ss. 120.80,  
62 120.81, 420.9072, 420.9075, and 443.091, F.S.;  
63 conforming cross-references; providing an effective  
64 date.

65

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

67

68 Section 1. Present subsections (16) through (19) and  
69 subsections (20) through (22) of section 120.52, Florida  
70 Statutes, are redesignated as subsections (17) through (20) and  
71 subsections (22) through (24), respectively, and new subsections  
72 (16) and (21) are added to that section, to read:

73 120.52 Definitions.—As used in this act:

74 (16) "Repromulgation" means the notice and adoption of an  
75 existing rule following an agency's review of the rule for  
76 consistency with the powers and duties granted by its enabling  
77 statute.

78 (21) "Technical change" means a change limited to  
79 correcting grammatical, typographical, or similar errors not  
80 affecting the substance of the rule.

81 Section 2. Paragraphs (b) and (i) of subsection (1),  
82 paragraphs (a), (b), (d), and (e) of subsection (3), subsection  
83 (4), and paragraph (a) of subsection (7) of section 120.54,  
84 Florida Statutes, are amended to read:

85 120.54 Rulemaking.—

86 (1) GENERAL PROVISIONS APPLICABLE TO ALL RULES OTHER THAN  
87 EMERGENCY RULES.—

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88 (b) Notwithstanding any other provision of law, whenever an  
89 act of the Legislature is enacted which requires implementation  
90 of the act by rules of an agency within the executive branch of  
91 state government, such rules shall be drafted and formally  
92 proposed as provided in this section within the times provided  
93 in s. 120.74(4) and (5), or within 180 days after the effective  
94 date of the act granting rulemaking authority.

95 (i)1. A rule may incorporate material by reference but only  
96 as the material exists on the date the rule is adopted. For  
97 purposes of the rule, changes in the material are not effective  
98 unless the rule is amended to incorporate the changes.

99 2. An agency rule that incorporates by specific reference  
100 another rule of that agency automatically incorporates  
101 subsequent amendments to the referenced rule unless a contrary  
102 intent is clearly indicated in the referencing rule. A notice of  
103 amendments to a rule that has been incorporated by specific  
104 reference in other rules of that agency must explain the effect  
105 of those amendments on the referencing rules.

106 3. In rules adopted after December 31, 2010, and rules  
107 repromulgated after December 31, 2021, material may not be  
108 incorporated by reference unless:

109 a. The material has been submitted in the prescribed  
110 electronic format to the Department of State and the full text  
111 of the material can be made available for free public access  
112 through an electronic hyperlink from the rule making the  
113 reference in the Florida Administrative Code; or

114 b. The agency has determined that posting the material on  
115 the Internet for purposes of public examination and inspection  
116 would constitute a violation of federal copyright law, in which

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117 case a statement to that effect, along with the address of  
118 locations at the Department of State and the agency at which the  
119 material is available for public inspection and examination,  
120 must be included in the notice required by subparagraph (3)(a)1.

121 4. A rule may not be amended by reference only. Amendments  
122 must set out the amended rule in full in the same manner as  
123 required by the State Constitution for laws.

124 5. Notwithstanding any contrary provision in this section,  
125 when an adopted rule of the Department of Environmental  
126 Protection or a water management district is incorporated by  
127 reference in the other agency's rule to implement a provision of  
128 part IV of chapter 373, subsequent amendments to the rule are  
129 not effective as to the incorporating rule unless the agency  
130 incorporating by reference notifies the committee and the  
131 Department of State of its intent to adopt the subsequent  
132 amendment, publishes notice of such intent in the Florida  
133 Administrative Register, and files with the Department of State  
134 a copy of the amended rule incorporated by reference. Changes in  
135 the rule incorporated by reference are effective as to the other  
136 agency 20 days after the date of the published notice and filing  
137 with the Department of State. The Department of State shall  
138 amend the history note of the incorporating rule to show the  
139 effective date of such change. Any substantially affected person  
140 may, within 14 days after the date of publication of the notice  
141 of intent in the Florida Administrative Register, file an  
142 objection to rulemaking with the agency. The objection shall  
143 specify the portions of the rule incorporated by reference to  
144 which the person objects and the reasons for the objection. The  
145 agency shall not have the authority under this subparagraph to

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146 adopt those portions of the rule specified in such objection.  
147 The agency shall publish notice of the objection and of its  
148 action in response in the next available issue of the Florida  
149 Administrative Register.

150 6. The Department of State may adopt by rule requirements  
151 for incorporating materials pursuant to this paragraph.

152 (3) ADOPTION PROCEDURES.—

153 (a) *Notices.*—

154 1. Before ~~Prior to~~ the adoption, amendment, or repeal of  
155 any rule other than an emergency rule, an agency, upon approval  
156 of the agency head, shall give notice of its intended action,  
157 setting forth a short, plain explanation of the purpose and  
158 effect of the proposed action; the rule number and the full text  
159 of the proposed rule or amendment and a summary thereof; a  
160 reference to the grant of rulemaking authority pursuant to which  
161 the rule is adopted; and a reference to the section or  
162 subsection of the Florida Statutes or the Laws of Florida being  
163 implemented or interpreted. The notice must include a summary of  
164 the agency's statement of the estimated regulatory costs, if one  
165 has been prepared, based on the factors set forth in s.  
166 120.541(2); a statement that any person who wishes to provide  
167 the agency with information regarding the statement of estimated  
168 regulatory costs, or to provide a proposal for a lower cost  
169 regulatory alternative as provided by s. 120.541(1), must do so  
170 in writing within 21 days after publication of the notice; and a  
171 statement as to whether, based on the statement of the estimated  
172 regulatory costs or other information expressly relied upon and  
173 described by the agency if no statement of regulatory costs is  
174 required, the proposed rule is expected to require legislative

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175 ratification pursuant to s. 120.541(3). The notice must state  
176 the procedure for requesting a public hearing on the proposed  
177 rule. Except when the intended action is the repeal of a rule,  
178 the notice must include a reference both to the date on which  
179 and to the place where the notice of rule development that is  
180 required by subsection (2) appeared.

181 2. The notice must ~~shall~~ be published in the Florida  
182 Administrative Register for at least 7 days after the  
183 publication of the notice of rule development and at least not  
184 less than 28 days before ~~prior to~~ the intended action. The  
185 proposed rule, including all material proposed to be  
186 incorporated by reference, must ~~shall~~ be available for  
187 inspection and copying by the public at the time of the  
188 publication of notice. After December 31, 2021, material  
189 proposed to be incorporated by reference in the notice required  
190 by this paragraph must be made available in the manner  
191 prescribed by sub-subparagraph (1)(i)3.a. or sub-subparagraph  
192 (1)(i)3.b.

193 3. The notice must ~~shall~~ be mailed to all persons named in  
194 the proposed rule and to all persons who have made, at least 14  
195 days before ~~prior to~~ such mailing, ~~have made~~ requests of the  
196 agency for advance notice of its proceedings. The agency shall  
197 also give such notice as is prescribed by rule to those  
198 particular classes of persons to whom the intended action is  
199 directed.

200 4. The adopting agency shall file with the committee, at  
201 least 21 days prior to the proposed adoption date, a copy of  
202 each rule it proposes to adopt; a copy of any material  
203 incorporated by reference in the rule; a detailed written

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204 statement of the facts and circumstances justifying the proposed  
205 rule; a copy of any statement of estimated regulatory costs that  
206 has been prepared pursuant to s. 120.541; a statement of the  
207 extent to which the proposed rule relates to federal standards  
208 or rules on the same subject; and the notice required by  
209 subparagraph 1.

210 5. If any of the information, other than substantive  
211 changes to the rule text, which is required to be included in  
212 the notice required by subparagraph 1. is omitted or is  
213 incorrect, the agency must publish a notice of correction. A  
214 notice of correction does not affect the timeframes for filing  
215 the rule for adoption as set forth in paragraph (e). Technical  
216 changes are not required to be published as a notice of  
217 correction.

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

219 1. Statement of estimated regulatory costs.—Before the  
220 adoption, amendment, or repeal of any rule other than an  
221 emergency rule, an agency is encouraged to prepare a statement  
222 of estimated regulatory costs of the proposed rule, as provided  
223 by s. 120.541. However, an agency must prepare a statement of  
224 estimated regulatory costs of the proposed rule, as provided by  
225 s. 120.541, if:

226 a. The proposed rule will have an adverse impact on small  
227 business; or

228 b. The proposed rule is likely to directly or indirectly  
229 increase regulatory costs in excess of \$200,000 in the aggregate  
230 in this state within 1 year after the implementation of the  
231 rule.

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



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

252 (I) Establishing less stringent compliance or reporting  
253 requirements in the rule.

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

256 (III) Consolidating or simplifying the rule's compliance or  
257 reporting requirements.

258 (IV) Establishing performance standards or best management  
259 practices to replace design or operational standards in the  
260 rule.

261 (V) Exempting small businesses, small counties, or small

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262 cities from any or all requirements of the rule.

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

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

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

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

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291 after the time for requesting a hearing has expired, if the rule  
292 has not been changed from the rule as previously filed with the  
293 committee, or contains only technical changes, the adopting  
294 agency shall file a notice to that effect with the committee at  
295 least 7 days prior to filing the rule for adoption. Any change,  
296 other than a technical change that does not affect the substance  
297 of the rule, must be supported by the record of public hearings  
298 held on the rule, must be in response to written material  
299 submitted to the agency within 21 days after the date of  
300 publication of the notice of intended agency action or submitted  
301 to the agency between the date of publication of the notice and  
302 the end of the final public hearing, or must be in response to a  
303 proposed objection by the committee. In addition, when any  
304 change is made in the a proposed rule, other than a technical  
305 change, the adopting agency must ~~shall~~ provide a copy of a  
306 notice of change by certified mail or actual delivery to any  
307 person who requests it in writing no later than 21 days after  
308 the notice required in paragraph (a). The agency shall file the  
309 notice of change with the committee, along with the reasons for  
310 the change, and provide the notice of change to persons  
311 requesting it, at least 21 days before ~~prior to~~ filing the rule  
312 for adoption. The notice of change must ~~shall~~ be published in  
313 the Florida Administrative Register at least 21 days prior to  
314 filing the rule for adoption. This subparagraph does not apply  
315 to emergency rules adopted pursuant to subsection (4). After  
316 December 31, 2021, material proposed to be incorporated by  
317 reference in the notice required by this paragraph must be made  
318 available in the manner prescribed by sub-subparagraph  
319 (1)(i)3.a. or sub-subparagraph (1)(i)3.b.

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320           2. After the notice required by paragraph (a) and before  
321 ~~prior to~~ adoption, the agency may withdraw the rule in whole or  
322 in part.

323           3. After adoption and before the rule becomes effective, a  
324 rule may be modified or withdrawn only in the following  
325 circumstances:

326           a. When the committee objects to the rule;

327           b. When a final order, which is not subject to further  
328 appeal, is entered in a rule challenge brought pursuant to s.  
329 120.56 after the date of adoption but before the rule becomes  
330 effective pursuant to subparagraph (e)6.;

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

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

338           4. The agency shall give notice of its decision to withdraw  
339 or modify a rule in the first available issue of the publication  
340 in which the original notice of rulemaking was published, shall  
341 notify those persons described in subparagraph (a)3. in  
342 accordance with the requirements of that subparagraph, and shall  
343 notify the Department of State if the rule is required to be  
344 filed with the Department of State.

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

348           (e) *Filing for final adoption; effective date.*-

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349           1. If the adopting agency is required to publish its rules  
350 in the Florida Administrative Code, the agency, upon approval of  
351 the agency head, shall file with the Department of State three  
352 certified copies of the rule it proposes to adopt; one copy of  
353 any material incorporated by reference in the rule, certified by  
354 the agency; a summary of the rule; a summary of any hearings  
355 held on the rule; and a detailed written statement of the facts  
356 and circumstances justifying the rule. Agencies not required to  
357 publish their rules in the Florida Administrative Code shall  
358 file one certified copy of the proposed rule, and the other  
359 material required by this subparagraph, in the office of the  
360 agency head, and such rules shall be open to the public.

361           2. A rule may not be filed for adoption less than 28 days  
362 or more than 90 days after the notice required by paragraph (a),  
363 until 21 days after the notice of change required by paragraph  
364 (d), until 14 days after the final public hearing, until 21 days  
365 after a statement of estimated regulatory costs required under  
366 s. 120.541 has been provided to all persons who submitted a  
367 lower cost regulatory alternative and made available to the  
368 public, or until the administrative law judge has rendered a  
369 decision under s. 120.56(2), whichever applies. When a required  
370 notice of change is published prior to the expiration of the  
371 time to file the rule for adoption, the period during which a  
372 rule must be filed for adoption is extended to 45 days after the  
373 date of publication. If notice of a public hearing is published  
374 prior to the expiration of the time to file the rule for  
375 adoption, the period during which a rule must be filed for  
376 adoption is extended to 45 days after adjournment of the final  
377 hearing on the rule, 21 days after receipt of all material

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378 authorized to be submitted at the hearing, or 21 days after  
379 receipt of the transcript, if one is made, whichever is latest.  
380 The term "public hearing" includes any public meeting held by  
381 any agency at which the rule is considered. If a petition for an  
382 administrative determination under s. 120.56(2) is filed, the  
383 period during which a rule must be filed for adoption is  
384 extended to 60 days after the administrative law judge files the  
385 final order with the clerk or until 60 days after subsequent  
386 judicial review is complete.

387         3. At the time a rule is filed, the agency shall certify  
388 that the time limitations prescribed by this paragraph have been  
389 complied with, that all statutory rulemaking requirements have  
390 been met, and that there is no administrative determination  
391 pending on the rule.

392         4. At the time a rule is filed, the committee shall certify  
393 whether the agency has responded in writing to all material and  
394 timely written comments or written inquiries made on behalf of  
395 the committee. The department shall reject any rule that is not  
396 filed within the prescribed time limits; that does not comply  
397 with all statutory rulemaking requirements and rules of the  
398 department; upon which an agency has not responded in writing to  
399 all material and timely written inquiries or written comments;  
400 upon which an administrative determination is pending; or which  
401 does not include a statement of estimated regulatory costs, if  
402 required.

403         5. If a rule has not been adopted within the time limits  
404 imposed by this paragraph or has not been adopted in compliance  
405 with all statutory rulemaking requirements, the agency proposing  
406 the rule shall withdraw the rule and give notice of its action

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407 in the next available issue of the Florida Administrative  
408 Register. If an agency has not withdrawn the rule within 30 days  
409 after notice by the committee, the committee must notify the  
410 Department of State that the date for adoption of the rule has  
411 expired, and the department must publish a notice of withdrawal  
412 of the proposed rule.

413 6. The proposed rule shall be adopted on being filed with  
414 the Department of State and become effective 20 days after being  
415 filed, on a later date specified in the notice required by  
416 subparagraph (a)1., on a date required by statute, or upon  
417 ratification by the Legislature pursuant to s. 120.541(3). Rules  
418 not required to be filed with the Department of State shall  
419 become effective when adopted by the agency head, on a later  
420 date specified by rule or statute, or upon ratification by the  
421 Legislature pursuant to s. 120.541(3). If the committee notifies  
422 an agency that an objection to a rule is being considered, the  
423 agency may postpone the adoption of the rule to accommodate  
424 review of the rule by the committee. When an agency postpones  
425 adoption of a rule to accommodate review by the committee, the  
426 90-day period for filing the rule is tolled until the committee  
427 notifies the agency that it has completed its review of the  
428 rule.

429  
430 For the purposes of this paragraph, the term "administrative  
431 determination" does not include subsequent judicial review.

432 (4) EMERGENCY RULES.—

433 (a) If an agency finds that an immediate danger to the  
434 public health, safety, or welfare requires emergency action, the  
435 agency may adopt any rule necessitated by the immediate danger.

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436 The agency may adopt a rule by any procedure which is fair under  
437 the circumstances if:

438 1. The procedure provides at least the procedural  
439 protection given by other statutes, the State Constitution, or  
440 the United States Constitution.

441 2. The agency takes only that action necessary to protect  
442 the public interest under the emergency procedure.

443 3. The agency publishes in writing at the time of, or prior  
444 to, its action the specific facts and reasons for finding an  
445 immediate danger to the public health, safety, or welfare and  
446 its reasons for concluding that the procedure used is fair under  
447 the circumstances. In any event, notice of emergency rules,  
448 other than those of educational units or units of government  
449 with jurisdiction in only one or a part of one county, including  
450 the full text of the rules, shall be published in the first  
451 available issue of the Florida Administrative Register and  
452 provided to the committee along with any material incorporated  
453 by reference in the rules. The agency's findings of immediate  
454 danger, necessity, and procedural fairness shall be judicially  
455 reviewable.

456 (b) Rules pertaining to the public health, safety, or  
457 welfare shall include rules pertaining to perishable  
458 agricultural commodities or rules pertaining to the  
459 interpretation and implementation of the requirements of  
460 chapters 97-102 and chapter 105 of the Election Code.

461 (c) Unless otherwise provided by law, an emergency rule  
462 adopted under this subsection may ~~shall~~ not be effective for a  
463 period longer than 90 days and is ~~shall~~ not ~~be~~ renewable, except  
464 when the agency has initiated rulemaking to adopt rules



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465 addressing the subject of the emergency rule and either:

466 1. A challenge to the proposed rules has been filed and  
467 remains pending; or

468 2. The proposed rules are awaiting ratification by the  
469 Legislature pursuant to s. 120.541(3).

470

471 This paragraph does not prohibit ~~Nothing in this paragraph~~  
472 ~~prohibits~~ the agency from adopting a rule or rules identical to  
473 the emergency rule through the rulemaking procedures specified  
474 in subsection (3).

475 (d) Notice of the renewal of an emergency rule must be  
476 published in the Florida Administrative Register before the  
477 expiration of the existing emergency rule. The notice of renewal  
478 must state the specific facts and reasons for such renewal.

479 (e) For emergency rules with an effective period greater  
480 than 90 days which are intended to replace existing rules, a  
481 note must be added to the history note of the existing rule  
482 which specifically identifies the emergency rule that is  
483 intended to supersede the existing rule and includes the date  
484 that the emergency rule was filed with the Department of State.

485 (f) Emergency rules must be published in the Florida  
486 Administrative Code.

487 (g) An agency may supersede an emergency rule in effect  
488 through adoption of another emergency rule. The reason for  
489 adopting the new rule must be stated in accordance with the  
490 procedures set forth in paragraph (a), and the new rule is in  
491 effect during the effective period of the superseded rule.

492 (h) An agency may make technical changes to an emergency  
493 rule within the first 7 days after the rule is adopted and must

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494 be published in the Florida Administrative Register.

495 (i) Subject to applicable constitutional and statutory  
496 provisions, an emergency rule becomes effective immediately on  
497 filing, or on a date less than 20 days thereafter if specified  
498 in the rule, if the adopting agency finds that such effective  
499 date is necessary because of immediate danger to the public  
500 health, safety, or welfare.

501 (7) PETITION TO INITIATE RULEMAKING.—

502 (a) Any person regulated by an agency or having substantial  
503 interest in an agency rule may petition an agency to adopt,  
504 amend, or repeal a rule or to provide the minimum public  
505 information required by this chapter. The petition must ~~shall~~  
506 specify the proposed rule and action requested. The agency shall  
507 provide a copy of the petition to the committee. No ~~Not~~ later  
508 than 30 calendar days following the date of filing a petition,  
509 the agency shall initiate rulemaking proceedings under this  
510 chapter, otherwise comply with the requested action, or deny the  
511 petition with a written statement of its reasons for the denial.

512 Section 3. Paragraph (a) of subsection (1) of section  
513 120.541, Florida Statutes, is amended to read:

514 120.541 Statement of estimated regulatory costs.—

515 (1) (a) Within 21 days after publication of the notice  
516 required under s. 120.54(3) (a), a substantially affected person  
517 may submit to an agency a good faith written proposal for a  
518 lower cost regulatory alternative to a proposed rule which  
519 substantially accomplishes the objectives of the law being  
520 implemented. The agency shall provide to the committee a copy of  
521 any proposal for a lower cost regulatory alternative before  
522 filing the rule for adoption. The proposal may include the

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523 alternative of not adopting any rule if the proposal explains  
524 how the lower costs and objectives of the law will be achieved  
525 by not adopting any rule. If such a proposal is submitted, the  
526 90-day period for filing the rule is extended 21 days. Upon the  
527 submission of the lower cost regulatory alternative, the agency  
528 shall prepare a statement of estimated regulatory costs as  
529 provided in subsection (2), or shall revise its prior statement  
530 of estimated regulatory costs, and either adopt the alternative  
531 or provide a statement of the reasons for rejecting the  
532 alternative in favor of the proposed rule.

533 Section 4. Section 120.5435, Florida Statutes, is created  
534 to read:

535 120.5435 Repromulgation of rules.—

536 (1) It is the intent of the Legislature that each agency  
537 periodically review its rules for consistency with the powers  
538 and duties granted by its enabling statutes. If an agency  
539 determines after review that substantive changes to update a  
540 rule are not required, such agency must repromulgate the rule to  
541 reflect the date of the review. All rules adopted or  
542 repromulgated on or after July 1, 2021, must be reviewed within  
543 5 years after their respective dates of adoption or  
544 repromulgation. Each agency must review its existing rules in  
545 accordance with this section by July 1, 2026.

546 (2) Before repromulgating a rule, the agency shall, upon  
547 approval by the agency head:

548 (a) Publish a notice of repromulgation in the Florida  
549 Administrative Register. A notice of repromulgation is not  
550 required to include the text of the rule being repromulgated.

551 (b) File the rule for repromulgation with the Department of

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552 State. A rule may not be filed for repromulgation fewer than 28  
553 days, nor more than 90 days, after the date of publication of  
554 the notice required by paragraph (a).

555 (3) (a) The agency shall file a notice of repromulgation  
556 with the committee at least 14 days before filing the rule for  
557 repromulgation.

558 (b) The committee shall certify whether the agency has  
559 responded in writing to all material and timely written comments  
560 or written inquiries made on behalf of the committee.

561 (4) If a rule is not filed for repromulgation within the  
562 timeframe prescribed in paragraph (2) (b), the agency must  
563 withdraw the rule for repromulgation and give notice of its  
564 withdrawal in the next available issue of the Florida  
565 Administrative Register.

566 (5) A repromulgated rule is not subject to challenge as a  
567 proposed rule pursuant to s. 120.56(2).

568 (6) The hearing requirements of s. 120.54 do not apply to  
569 repromulgation of a rule.

570 (7) The agency, upon approval of the agency head or his or  
571 her designee, shall file with the Department of State three  
572 certified copies of the repromulgated rule it proposes to adopt  
573 and one certified copy of any material incorporated by reference  
574 in the rule.

575 (8) The rule is repromulgated upon its filing with the  
576 Department of State.

577 (9) The Department of State shall update the history note  
578 of the rule in the Florida Administrative Code to reflect the  
579 effective date of the repromulgated rule.

580 (10) The Department of State shall adopt rules to implement

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581 this section by December 31, 2021.

582 Section 5. Paragraphs (a), (b), and (c) of subsection (1)  
583 of section 120.55, Florida Statutes, are amended to read:

584 120.55 Publication.—

585 (1) The Department of State shall:

586 (a)1. Through a continuous revision and publication system,  
587 compile and publish electronically, on a website managed by the  
588 department, the "Florida Administrative Code." The Florida  
589 Administrative Code shall contain all rules adopted by each  
590 agency, citing the grant of rulemaking authority and the  
591 specific law implemented pursuant to which each rule was  
592 adopted, all history notes as authorized in s. 120.545(7),  
593 complete indexes to all rules and any material incorporated by  
594 reference contained in the code, and any other material required  
595 or authorized by law or deemed useful by the department. The  
596 electronic code shall display each rule chapter currently in  
597 effect in browse mode and allow full text search of the code and  
598 each rule chapter. The department may contract with a publishing  
599 firm for a printed publication; however, the department shall  
600 retain responsibility for the code as provided in this section.  
601 The electronic publication shall be the official compilation of  
602 the administrative rules of this state. The Department of State  
603 shall retain the copyright over the Florida Administrative Code.

604 2. Rules general in form but applicable to only one school  
605 district, community college district, or county, or a part  
606 thereof, or state university rules relating to internal  
607 personnel or business and finance shall not be published in the  
608 Florida Administrative Code. Exclusion from publication in the  
609 Florida Administrative Code does ~~shall~~ not affect the validity

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610 or effectiveness of such rules.

611 3. At the beginning of the section of the code dealing with  
612 an agency that files copies of its rules with the department,  
613 the department shall publish the address and telephone number of  
614 the executive offices of the each agency, the manner by which  
615 the agency indexes its rules, a listing of all rules of that  
616 agency excluded from publication in the code, a listing of all  
617 forms and material incorporated by reference adopted by rule  
618 which are used by the agency, and a statement as to where those  
619 rules may be inspected.

620 4. Forms may ~~shall~~ not be published in the Florida  
621 Administrative Code; but any form which an agency uses in its  
622 dealings with the public, along with any accompanying  
623 instructions, must ~~shall~~ be filed with the committee before it  
624 is used. Any form or instruction that ~~which~~ meets the definition  
625 of the term "rule" provided in s. 120.52 must ~~shall~~ be  
626 incorporated by reference into the appropriate rule. The  
627 reference must ~~shall~~ specifically state that the form is being  
628 incorporated by reference and ~~shall~~ include the number, title,  
629 and effective date of the form and an explanation of how the  
630 form may be obtained. Each form created by an agency which is  
631 incorporated by reference in a rule notice of which is given  
632 under s. 120.54(3)(a) after December 31, 2007, must clearly  
633 display the number, title, and effective date of the form and  
634 the number of the rule in which the form is incorporated.

635 5. After December 31, 2021, the department shall require  
636 any material incorporated by reference in adopted and  
637 repromulgated rules ~~allow adopted rules and material~~  
638 ~~incorporated by reference~~ to be filed in electronic form as

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639 prescribed by department rule. When a rule is filed for adoption  
640 with incorporated material in electronic form, the department's  
641 publication of the Florida Administrative Code on its website  
642 must contain a hyperlink from the incorporating reference in the  
643 rule directly to that material. The department may not allow  
644 hyperlinks from rules in the Florida Administrative Code to any  
645 material other than that filed with and maintained by the  
646 department, but may allow hyperlinks to incorporated material  
647 maintained by the department from the adopting agency's website  
648 or other sites.

649 6. The department shall include the date of any technical  
650 changes in the history note of the rule in the Florida  
651 Administrative Code. A technical change does not affect the  
652 effective date of the rule. A technical change made after the  
653 adoption of a rule must be published as a notice of correction.

654 (b) Electronically publish on a website managed by the  
655 department a continuous revision and publication entitled the  
656 "Florida Administrative Register," which shall serve as the  
657 official publication and must contain:

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

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

663 3. A notice of each request for authorization to amend or  
664 repeal an existing uniform rule or for the adoption of new  
665 uniform rules.

666 4. Notice of petitions for declaratory statements or  
667 administrative determinations.

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

670 6. A list of rules filed for adoption in the previous 7  
671 days.

672 7. A list of all rules filed for adoption pending  
673 legislative ratification under s. 120.541(3). A rule shall be  
674 removed from the list once notice of ratification or withdrawal  
675 of the rule is received.

676 8. Any other material required or authorized by law or  
677 deemed useful by the department.

678  
679 The department may contract with a publishing firm for a printed  
680 publication of the Florida Administrative Register and make  
681 copies available on an annual subscription basis.

682 (c) Prescribe by rule the style and form required for  
683 rules, notices, and other materials submitted for filing,  
684 including any rule requiring that documents created by an agency  
685 which are proposed to be incorporated by reference in notices  
686 published pursuant to s. 120.54(3)(a) and (d) be coded in the  
687 same manner as notices published pursuant to s. 120.54(3)(a)1.

688 Section 6. Paragraphs (e), (f), and (g) are added to  
689 subsection (1) of section 120.74, Florida Statutes, to read:

690 120.74 Agency annual rulemaking and regulatory plans;  
691 reports.—

692 (1) REGULATORY PLAN.—By October 1 of each year, each agency  
693 shall prepare a regulatory plan.

694 (e) The plan must include:

695 1. A list of rules scheduled for review and repromulgation  
696 pursuant to s. 120.5435.



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697 2. A 5-year schedule for the review and repromulgation of  
698 all rules existing as of July 1, 2021.

699 (f) The plan must include any desired update to the prior  
700 year's regulatory plan, or a supplement thereof, published  
701 pursuant to subsection (7). If, in a prior year, a law was  
702 identified under this paragraph or subparagraph (a)1. as a law  
703 requiring rulemaking to implement, but a notice of proposed rule  
704 was not published:

705 1. The agency must identify and again list such law, noting  
706 the applicable notice of rule development by citation to the  
707 Florida Administrative Register; or

708 2. If the agency has subsequently determined that  
709 rulemaking is not necessary to implement the law, the agency  
710 must identify the law, reference the citation to the applicable  
711 notice of rule development in the Florida Administrative  
712 Register, and provide a concise written explanation of the  
713 reason why the law may be implemented without rulemaking.

714 (g) The plan must include a list of all statutes and laws,  
715 or parts thereof, which grant duplicative, redundant, or unused  
716 rulemaking authority, as set out in s. 11.242(5)(j), and a  
717 recommendation as to what statutes, laws, or parts thereof,  
718 should be repealed. The agency must also provide the list to the  
719 Division of Law Revision.

720 Section 7. Subsection (11) of section 120.80, Florida  
721 Statutes, is amended to read:

722 120.80 Exceptions and special requirements; agencies.—

723 (11) NATIONAL GUARD.—Notwithstanding s. 120.52(17) ~~s.~~  
724 ~~120.52(16)~~, the enlistment, organization, administration,  
725 equipment, maintenance, training, and discipline of the militia,

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726 National Guard, organized militia, and unorganized militia, as  
727 provided by s. 2, Art. X of the State Constitution, are not  
728 rules as defined by this chapter.

729 Section 8. Paragraph (c) of subsection (1) of section  
730 120.81, Florida Statutes, is amended to read:

731 120.81 Exceptions and special requirements; general areas.—

732 (1) EDUCATIONAL UNITS.—

733 (c) Notwithstanding s. 120.52(17) ~~s. 120.52(16)~~, any tests,  
734 test scoring criteria, or testing procedures relating to student  
735 assessment which are developed or administered by the Department  
736 of Education pursuant to s. 1003.4282, s. 1008.22, or s.  
737 1008.25, or any other statewide educational tests required by  
738 law, are not rules.

739 Section 9. Paragraph (a) of subsection (1) of section  
740 420.9072, Florida Statutes, is amended to read:

741 420.9072 State Housing Initiatives Partnership Program.—The  
742 State Housing Initiatives Partnership Program is created for the  
743 purpose of providing funds to counties and eligible  
744 municipalities as an incentive for the creation of local housing  
745 partnerships, to expand production of and preserve affordable  
746 housing, to further the housing element of the local government  
747 comprehensive plan specific to affordable housing, and to  
748 increase housing-related employment.

749 (1) (a) In addition to the legislative findings set forth in  
750 s. 420.6015, the Legislature finds that affordable housing is  
751 most effectively provided by combining available public and  
752 private resources to conserve and improve existing housing and  
753 provide new housing for very-low-income households, low-income  
754 households, and moderate-income households. The Legislature

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755 intends to encourage partnerships in order to secure the  
756 benefits of cooperation by the public and private sectors and to  
757 reduce the cost of housing for the target group by effectively  
758 combining all available resources and cost-saving measures. The  
759 Legislature further intends that local governments achieve this  
760 combination of resources by encouraging active partnerships  
761 between government, lenders, builders and developers, real  
762 estate professionals, advocates for low-income persons, and  
763 community groups to produce affordable housing and provide  
764 related services. Extending the partnership concept to encompass  
765 cooperative efforts among small counties as defined in s. 120.52  
766 ~~s. 120.52(19)~~, and among counties and municipalities is  
767 specifically encouraged. Local governments are also intended to  
768 establish an affordable housing advisory committee to recommend  
769 monetary and nonmonetary incentives for affordable housing as  
770 provided in s. 420.9076.

771 Section 10. Subsection (7) of section 420.9075, Florida  
772 Statutes, is amended to read:

773 420.9075 Local housing assistance plans; partnerships.—

774 (7) The moneys deposited in the local housing assistance  
775 trust fund shall be used to administer and implement the local  
776 housing assistance plan. The cost of administering the plan may  
777 not exceed 5 percent of the local housing distribution moneys  
778 and program income deposited into the trust fund. A county or an  
779 eligible municipality may not exceed the 5-percent limitation on  
780 administrative costs, unless its governing body finds, by  
781 resolution, that 5 percent of the local housing distribution  
782 plus 5 percent of program income is insufficient to adequately  
783 pay the necessary costs of administering the local housing

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784 assistance plan. The cost of administering the program may not  
785 exceed 10 percent of the local housing distribution plus 5  
786 percent of program income deposited into the trust fund, except  
787 that small counties, as defined in s. 120.52 ~~s. 120.52(19)~~, and  
788 eligible municipalities receiving a local housing distribution  
789 of up to \$350,000 may use up to 10 percent of program income for  
790 administrative costs.

791 Section 11. Paragraph (d) of subsection (1) of section  
792 443.091, Florida Statutes, is amended to read:

793 443.091 Benefit eligibility conditions.—

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

797 (d) She or he is able to work and is available for work. In  
798 order to assess eligibility for a claimed week of unemployment,  
799 the department shall develop criteria to determine a claimant's  
800 ability to work and availability for work. A claimant must be  
801 actively seeking work in order to be considered available for  
802 work. This means engaging in systematic and sustained efforts to  
803 find work, including contacting at least five prospective  
804 employers for each week of unemployment claimed. The department  
805 may require the claimant to provide proof of such efforts to the  
806 one-stop career center as part of reemployment services. A  
807 claimant's proof of work search efforts may not include the same  
808 prospective employer at the same location in 3 consecutive  
809 weeks, unless the employer has indicated since the time of the  
810 initial contact that the employer is hiring. The department  
811 shall conduct random reviews of work search information provided  
812 by claimants. As an alternative to contacting at least five

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813 prospective employers for any week of unemployment claimed, a  
814 claimant may, for that same week, report in person to a one-stop  
815 career center to meet with a representative of the center and  
816 access reemployment services of the center. The center shall  
817 keep a record of the services or information provided to the  
818 claimant and shall provide the records to the department upon  
819 request by the department. However:

820 1. Notwithstanding any other provision of this paragraph or  
821 paragraphs (b) and (e), an otherwise eligible individual may not  
822 be denied benefits for any week because she or he is in training  
823 with the approval of the department, or by reason of s.  
824 443.101(2) relating to failure to apply for, or refusal to  
825 accept, suitable work. Training may be approved by the  
826 department in accordance with criteria prescribed by rule. A  
827 claimant's eligibility during approved training is contingent  
828 upon satisfying eligibility conditions prescribed by rule.

829 2. Notwithstanding any other provision of this chapter, an  
830 otherwise eligible individual who is in training approved under  
831 s. 236(a)(1) of the Trade Act of 1974, as amended, may not be  
832 determined ineligible or disqualified for benefits due to  
833 enrollment in such training or because of leaving work that is  
834 not suitable employment to enter such training. As used in this  
835 subparagraph, the term "suitable employment" means work of a  
836 substantially equal or higher skill level than the worker's past  
837 adversely affected employment, as defined for purposes of the  
838 Trade Act of 1974, as amended, the wages for which are at least  
839 80 percent of the worker's average weekly wage as determined for  
840 purposes of the Trade Act of 1974, as amended.

841 3. Notwithstanding any other provision of this section, an

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842 otherwise eligible individual may not be denied benefits for any  
843 week because she or he is before any state or federal court  
844 pursuant to a lawfully issued summons to appear for jury duty.

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

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

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

856 7. The work search requirements of this paragraph do not  
857 apply to persons required to participate in reemployment  
858 services under paragraph (e).

859 Section 12. This act shall take effect July 1, 2021.