

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

1 Committee/Subcommittee hearing bill: Government Operations
 2 Subcommittee

3 Representative McClain offered the following:

4
 5 **Amendment (with title amendment)**
 6 Remove everything after the enacting clause and insert:
 7 Section 1. Subsections (16) through (19) and subsections
 8 (20) through (22) of section 120.52, Florida Statutes, are
 9 renumbered as subsections (17) through (20) and subsections (22)
 10 through (24), respectively, and new subsections (16) and (21)
 11 are added to that section to read:
 12 120.52 Definitions.—As used in this act:
 13 (16) "Repromulgation" means the notice and adoption of an
 14 existing rule following an agency's review of the rule for
 15 consistency with the powers and duties granted by its enabling
 16 statute.

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

20 Section 2. Paragraph (i) of subsection (1), subsections (2)
21 and (3), and paragraph (a) of subsection (7) of section 120.54,
22 Florida Statutes, are amended, and paragraphs (e) and (f) are
23 added to subsection (4) of that section, to read:

24 120.54 Rulemaking.—

25 (1) GENERAL PROVISIONS APPLICABLE TO ALL RULES OTHER THAN
26 EMERGENCY RULES.—

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

31 2. An agency rule that incorporates by specific reference
32 another rule of that agency automatically incorporates
33 subsequent amendments to the referenced rule unless a contrary
34 intent is clearly indicated in the referencing rule. A notice of
35 amendments to a rule that has been incorporated by specific
36 reference in other rules of that agency must explain the effect
37 of those amendments on the referencing rules.

38 3. In rules adopted after December 31, 2010, and rules
39 repromulgated after December 31, 2022, material may not be
40 incorporated by reference unless:

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41 a. The material has been submitted in the prescribed
42 electronic format to the Department of State and the full text
43 of the material can be made available for free public access
44 through an electronic hyperlink from the rule making the
45 reference in the Florida Administrative Code; or

46 b. The agency has determined that posting the material on
47 the Internet for purposes of public examination and inspection
48 would constitute a violation of federal copyright law, in which
49 case a statement to that effect, along with the address of
50 locations at the Department of State and the agency at which the
51 material is available for public inspection and examination,
52 must be included in the notice required by subparagraph (3)(a)1.

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

56 5. Notwithstanding any contrary provision in this section,
57 when an adopted rule of the Department of Environmental
58 Protection or a water management district is incorporated by
59 reference in the other agency's rule to implement a provision of
60 part IV of chapter 373, subsequent amendments to the rule are
61 not effective as to the incorporating rule unless the agency
62 incorporating by reference notifies the committee and the
63 Department of State of its intent to adopt the subsequent
64 amendment, publishes notice of such intent in the Florida
65 Administrative Register, and files with the Department of State

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66 a copy of the amended rule incorporated by reference. Changes in
67 the rule incorporated by reference are effective as to the other
68 agency 20 days after the date of the published notice and filing
69 with the Department of State. The Department of State shall
70 amend the history note of the incorporating rule to show the
71 effective date of such change. Any substantially affected person
72 may, within 14 days after the date of publication of the notice
73 of intent in the Florida Administrative Register, file an
74 objection to rulemaking with the agency. The objection shall
75 specify the portions of the rule incorporated by reference to
76 which the person objects and the reasons for the objection. The
77 agency shall not have the authority under this subparagraph to
78 adopt those portions of the rule specified in such objection.
79 The agency shall publish notice of the objection and of its
80 action in response in the next available issue of the Florida
81 Administrative Register.

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

84 (2) RULE DEVELOPMENT; WORKSHOPS; NEGOTIATED RULEMAKING.

85 (a)1. Except when the intended action is the repeal of a
86 rule, agencies shall provide notice of the development of
87 proposed rules by publication of a notice of rule development in
88 the Florida Administrative Register before providing notice of a
89 proposed rule as required by paragraph (3) (a). The notice of
90 rule development must ~~shall~~ indicate the subject area to be

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91 addressed by rule development, provide a short, plain
92 explanation of the purpose and effect of the proposed rule, cite
93 the grant of rulemaking authority for the proposed rule and the
94 law being implemented ~~specific legal authority for the proposed~~
95 ~~rule~~, and include the proposed rule number and the preliminary
96 text of the proposed rule ~~rules~~, if available, or a statement of
97 how a person may promptly obtain, without cost, a copy of any
98 preliminary draft, when ~~if~~ available.

99 2. If a notice of a proposed rule is not filed within 12
100 months after the notice of rule development, the agency shall
101 withdraw the rule and give notice of the withdrawal in the next
102 available issue of the Florida Administrative Register.

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

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

107 2. It avoids the use of unnecessary technical or
108 specialized language that is understood only by members of
109 particular trades or professions.

110 (c) An agency may hold public workshops for purposes of
111 rule development. If requested in writing by any affected
112 person, an agency must hold public workshops, including
113 workshops in various regions of the state or the agency's
114 service area, for purposes of rule development ~~if requested in~~
115 ~~writing by any affected person~~, unless the agency head explains

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116 in writing why a workshop is unnecessary. The explanation is not
117 final agency action subject to review pursuant to ss. 120.569
118 and 120.57. The failure to provide the explanation when required
119 may be a material error in procedure pursuant to s.
120 120.56(1)(c). When a workshop or public hearing is held, the
121 agency must ensure that the persons responsible for preparing
122 the proposed rule are available to explain the agency's proposal
123 and to respond to questions or comments regarding the rule being
124 developed. The workshop may be facilitated or mediated by a
125 neutral third person, or the agency may employ other types of
126 dispute resolution alternatives for the workshop that are
127 appropriate for rule development. Notice of a workshop for rule
128 development must ~~workshop shall~~ be by publication in the Florida
129 Administrative Register not fewer ~~less~~ than 14 days before ~~prior~~
130 ~~to~~ the date on which the workshop is scheduled to be held and
131 must ~~shall~~ indicate the subject area that ~~which~~ will be
132 addressed; the agency contact person; and the place, date, and
133 time of the workshop.

134 (d)1. An agency may use negotiated rulemaking in developing
135 and adopting rules. The agency should consider the use of
136 negotiated rulemaking when complex rules are being drafted or
137 strong opposition to the rules is anticipated. The agency should
138 consider, but is not limited to considering, whether a balanced
139 committee of interested persons who will negotiate in good faith
140 can be assembled, whether the agency is willing to support the

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141 work of the negotiating committee, and whether the agency can
142 use the group consensus as the basis for its proposed rule.
143 Negotiated rulemaking uses a committee of designated
144 representatives to draft a mutually acceptable proposed rule.

145 2. An agency that chooses to use the negotiated rulemaking
146 process described in this paragraph shall publish in the Florida
147 Administrative Register a notice of negotiated rulemaking that
148 includes a listing of the representative groups that will be
149 invited to participate in the negotiated rulemaking process. Any
150 person who believes that his or her interest is not adequately
151 represented may apply to participate within 30 days after
152 publication of the notice. All meetings of the negotiating
153 committee shall be noticed and open to the public pursuant to
154 ~~the provisions of~~ this chapter. The negotiating committee shall
155 be chaired by a neutral facilitator or mediator.

156 3. The agency's decision to use negotiated rulemaking, its
157 selection of the representative groups, and approval or denial
158 of an application to participate in the negotiated rulemaking
159 process are not agency action. ~~Nothing in~~ This subparagraph is
160 not intended to affect the rights of a substantially ~~an~~ affected
161 person to challenge a proposed rule developed under this
162 paragraph in accordance with s. 120.56(2).

163 (3) ADOPTION PROCEDURES.—

164 (a) Notices.—

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165 1. ~~Before~~ Prior to the adoption, amendment, or repeal of
166 any rule other than an emergency rule, an agency, upon approval
167 of the agency head, shall give notice of its intended action,
168 setting forth a short, plain explanation of the purpose and
169 effect of the proposed action; the proposed rule number and the
170 full text of the proposed rule or amendment and a summary
171 thereof; a reference to the grant of rulemaking authority
172 pursuant to which the rule is adopted; and a reference to the
173 section or subsection of the Florida Statutes or the Laws of
174 Florida being implemented or interpreted. The notice must
175 include a summary of the agency's statement of the estimated
176 regulatory costs, if one has been prepared, based on the factors
177 set forth in s. 120.541(2), which describes the regulatory
178 impact of the proposed rule in readable language; an agency
179 website address where the statement of estimated regulatory
180 costs can be viewed in its entirety, if one has been prepared; a
181 statement that any person who wishes to provide the agency with
182 information regarding the statement of estimated regulatory
183 costs, or to provide a proposal for a lower cost regulatory
184 alternative as provided by s. 120.541(1), must do so in writing
185 within 21 days after publication of the notice; and a statement
186 as to whether, based on the statement of the estimated
187 regulatory costs or other information expressly relied upon and
188 described by the agency if no statement of regulatory costs is
189 required, the proposed rule is expected to require legislative

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190 ratification pursuant to s. 120.541(3). The notice must state
191 the procedure for requesting a public hearing on the proposed
192 rule. Except when the intended action is the repeal of a rule,
193 the notice must include a reference both to the date on which
194 and to the place where the notice of rule development that is
195 required by subsection (2) appeared.

196 2. The notice shall be published in the Florida
197 Administrative Register for at least 7 days after the
198 publication of the notice of rule development and at least ~~not~~
199 ~~less than~~ 28 days before ~~prior to~~ the intended action. The
200 proposed rule, including all materials proposed to be
201 incorporated by reference and the statement of estimated
202 regulatory costs, if one has been prepared, must ~~shall~~ be
203 available for inspection and copying by the public at the time
204 of the publication of notice. After December 31, 2022, material
205 proposed to be incorporated by reference in the notice required
206 by this paragraph must be made available in the manner
207 prescribed by sub-subparagraph (1)(i)3.a. or sub-subparagraph
208 (1)(i)3.b.

209 3. The notice shall be mailed to all persons named in the
210 proposed rule and mailed or delivered electronically to all
211 persons who, at least 14 days before publication of the notice
212 prior to such mailing, have made requests of the agency for
213 advance notice of its proceedings. The agency shall also give

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214 such notice as is prescribed by rule to those particular classes
215 of persons to whom the intended action is directed.

216 4. The adopting agency shall file with the committee, at
217 least 21 days before ~~prior to~~ the proposed adoption date, a copy
218 of each rule it proposes to adopt; a copy of any material
219 incorporated by reference in the rule; a detailed written
220 statement of the facts and circumstances justifying the proposed
221 rule; a copy of any statement of estimated regulatory costs that
222 has been prepared pursuant to s. 120.541; a statement of the
223 extent to which the proposed rule relates to federal standards
224 or rules on the same subject; and the notice required by
225 subparagraph 1.

226 5. If any of the information, other than substantive
227 changes to the rule text, which is required to be included in
228 the notice required by subparagraph 1., is omitted or is
229 incorrect, the agency must publish a notice of correction. A
230 notice of correction does not affect the timeframes for filing
231 the rule for adoption as set forth in paragraph (e). Technical
232 changes are not required to be published as a notice of
233 correction.

234 (b) Special matters to be considered in rule adoption.-

235 1. Statement of estimated regulatory costs.-Before the
236 adoption , amendment, or repeal of any rule other than an
237 emergency rule, an agency is encouraged to prepare a statement
238 of estimated regulatory costs of the proposed rule, as provided

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239 by s. 120.541. However, an agency must prepare a statement of
240 estimated regulatory costs of the proposed rule, as provided by
241 s. 120.541, if:

242 a. The proposed rule will have an adverse impact on small
243 business; or

244 b. The proposed rule is likely to directly or indirectly
245 increase regulatory costs in excess of \$200,000 in the aggregate
246 in this state within 1 year after the implementation of the
247 rule.

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

249 a. For purposes of this subsection and s. 120.541(2), an
250 adverse impact on small businesses, as defined in s. 288.703 or
251 sub-subparagraph b., exists if, for any small business:

252 (I) An owner, officer, operator, or manager must complete
253 any education, training, or testing to comply with the rule in
254 the first year or is likely to spend at least 10 hours or
255 purchase professional advice to understand and comply with the
256 rule in the first year;

257 (II) Taxes or fees assessed on transactions are likely to
258 increase by \$500 or more in the aggregate in 1 year because of
259 the rule;

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

262 (IV) Specially trained, licensed, or tested employees will
263 be required because of the rule;

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264 (V) Operating costs are expected to increase by at least
265 \$1,000 annually because of the rule; or

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

268 b. Each agency, before the adoption, amendment, or repeal
269 of a rule, shall consider the impact of the rule on small
270 businesses as defined in ~~by~~ s. 288.703 and the impact of the
271 rule on small counties or small cities as defined in ~~by~~ s.
272 120.52. Whenever practicable, an agency shall tier its rules to
273 reduce disproportionate impacts on small businesses, small
274 counties, or small cities to avoid regulating small businesses,
275 small counties, or small cities that do not contribute
276 significantly to the problem the rule is designed to address. An
277 agency may define "small business" to include businesses
278 employing more than 200 persons, may define "small county" to
279 include those with populations of more than 75,000, and may
280 define "small city" to include those with populations of more
281 than 10,000, if it finds that such a definition is necessary to
282 adapt a rule to the needs and problems of small businesses,
283 small counties, or small cities. The agency shall consider each
284 of the following methods for reducing the impact of the proposed
285 rule on small businesses, small counties, and small cities, or
286 any combination of these entities:

287 (I) Establishing less stringent compliance or reporting
288 requirements in the rule.

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

291 (III) Consolidating or simplifying the rule's compliance
292 or reporting requirements.

293 (IV) Establishing performance standards or best management
294 practices to replace design or operational standards in the
295 rule.

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

298 c.(I)~~b.(I)~~ If the agency determines that the proposed
299 action will affect small businesses as defined by the agency as
300 provided in sub-subparagraph b. a., the agency shall send
301 written notice of the rule to the rules ombudsman in the
302 Executive Office of the Governor at least 28 days before the
303 intended action.

304 (II) Each agency shall adopt those regulatory alternatives
305 offered by the rules ombudsman in the Executive Office of the
306 Governor and provided to the agency no later than 21 days after
307 the rules ombudsman's receipt of the written notice of the rule
308 which it finds are feasible and consistent with the stated
309 objectives of the proposed rule and which would reduce the
310 impact on small businesses. When regulatory alternatives are
311 offered by the rules ombudsman in the Executive Office of the
312 Governor, the 90-day period for filing the rule in subparagraph
313 (e)2. is extended for a period of 21 days. Before filing the

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314 rule for adoption, the agency shall provide a copy of any
315 regulatory alternative offered to the agency to the committee.

316 (III) If an agency does not adopt all alternatives offered
317 pursuant to this sub-subparagraph, it shall, before rule
318 adoption or amendment and pursuant to subparagraph (d)1., file a
319 detailed written statement with the committee explaining the
320 reasons for failure to adopt such alternatives. Within 3 working
321 days after the filing of such notice, the agency shall send a
322 copy of such notice to the rules ombudsman in the Executive
323 Office of the Governor.

324 (c) Hearings.—

325 1. If the intended action concerns any rule other than one
326 relating exclusively to procedure or practice, the agency shall,
327 on the request of any affected person received within 21 days
328 after the date of publication of the notice of intended agency
329 action, give affected persons an opportunity to present evidence
330 and argument on all issues under consideration. The agency may
331 schedule a public hearing on the proposed rule and, if requested
332 by any affected person, shall schedule a public hearing on the
333 proposed rule. When a public hearing is held, the agency must
334 ensure that staff are available to explain the agency's proposal
335 and to respond to questions or comments regarding the proposed
336 rule. If the agency head is a board or other collegial body
337 created under s. 20.165(4) or s. 20.43(3)(g), and one or more
338 requested public hearings is scheduled, the board or other

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339 collegial body shall conduct at least one of the public hearings
340 itself and may not delegate this responsibility without the
341 consent of those persons requesting the public hearing. Any
342 material pertinent to the issues under consideration submitted
343 to the agency within 21 days after the date of publication of
344 the notice or submitted to the agency between the date of
345 publication of the notice and the end of the final public
346 hearing shall be considered by the agency and made a part of the
347 record of the rulemaking proceeding.

348 2. Rulemaking proceedings shall be governed solely by the
349 provisions of this section unless a person timely asserts that
350 the person's substantial interests will be affected in the
351 proceeding and affirmatively demonstrates to the agency that the
352 proceeding does not provide adequate opportunity to protect
353 those interests. If the agency determines that the rulemaking
354 proceeding is not adequate to protect the person's interests, it
355 shall suspend the rulemaking proceeding and convene a separate
356 proceeding under the provisions of ss. 120.569 and 120.57. The
357 agency shall publish notice of convening a separate proceeding
358 in the Florida Administrative Register. Similarly situated
359 persons may be requested to join and participate in the separate
360 proceeding. Upon conclusion of the separate proceeding, the
361 rulemaking proceeding shall be resumed. All timelines in this
362 section are tolled during any suspension of the rulemaking
363 proceeding under this subparagraph, beginning on the date the

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364 notice of convening a separate proceeding is published and
365 resuming on the day after the conclusion of the separate
366 proceeding.

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

368 1. After the final public hearing on the proposed rule, or
369 after the time for requesting a hearing has expired, if the
370 proposed rule has not been changed from the proposed rule as
371 previously filed with the committee, or contains only technical
372 changes, the adopting agency shall file a notice to that effect
373 with the committee at least 7 days before ~~prior to~~ filing the
374 proposed rule for adoption. Any change, other than a technical
375 change ~~that does not affect the substance of the rule~~, must be
376 supported by the record of public hearings held on the proposed
377 rule, must be in response to written material submitted to the
378 agency within 21 days after the date of publication of the
379 notice of intended agency action or submitted to the agency
380 between the date of publication of the notice and the end of the
381 final public hearing, or must be in response to a proposed
382 objection by the committee. Any change, other than a technical
383 change, to a statement of estimated regulatory costs requires a
384 notice of change. In addition, ~~when~~ any change, other than a
385 technical change, to the text of is made in a proposed rule or
386 any material incorporated by reference requires, ~~other than a~~
387 ~~technical change,~~ the adopting agency to ~~shall~~ provide a copy of
388 a notice of change by certified mail or actual delivery to any

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389 person who requests it in writing no later than 21 days after
390 the notice required in paragraph (a). The agency shall file the
391 notice of change with the committee, along with the reasons for
392 the change, and provide the notice of change to persons
393 requesting it, at least 21 days before ~~prior to~~ filing the
394 proposed rule for adoption. The notice of change shall be
395 published in the Florida Administrative Register at least 21
396 days before ~~prior to~~ filing the proposed rule for adoption. The
397 notice of change must include a summary of any revision to a
398 statement of estimated regulatory costs required by s.
399 120.541(1)(c). This subparagraph does not apply to emergency
400 rules adopted pursuant to subsection (4). After December 31,
401 2022, material proposed to be incorporated by reference in the
402 notice required by this paragraph must be made available in the
403 manner prescribed by sub-subparagraph (1)(i)3.a. or sub-
404 subparagraph (1)(i)3.b.

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

408 3. After the notice required by paragraph (a), the agency
409 shall withdraw the proposed rule if the agency has failed to
410 adopt it within the prescribed timeframes in this chapter. The
411 committee shall notify the agency that it has exceeded the
412 timeframe to adopt the proposed rule. If, 30 days after notice
413 by the committee, the agency has not given notice of the

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414 withdrawal of the rule, the committee shall notify the
415 Department of State that the date for adoption of the rule has
416 expired, and the Department of State shall publish a notice of
417 withdrawal of the proposed rule.

418 ~~4.3.~~ After adoption and before the rule becomes effective,
419 a rule may be modified or withdrawn only in the following
420 circumstances:

421 a. When the committee objects to the rule;

422 b. When a final order, which is not subject to further
423 appeal, is entered in a rule challenge brought pursuant to s.
424 120.56 after the date of adoption but before the rule becomes
425 effective pursuant to subparagraph (e)6.;

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

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

434 ~~5.4.~~ The agency shall give notice of its decision to
435 withdraw or modify a rule in the first available issue of the
436 publication in which the original notice of rulemaking was
437 published, shall notify those persons described in subparagraph
438 (a)3. in accordance with the requirements of that subparagraph,

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439 and shall notify the Department of State if the rule is required
440 to be filed with the Department of State.

441 ~~6.5.~~ After a rule has become effective, it may be repealed
442 or amended only through the rulemaking procedures specified in
443 this chapter.

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

445 1. If the adopting agency is required to publish its rules
446 in the Florida Administrative Code, the agency, upon approval of
447 the agency head, shall file with the Department of State three
448 certified copies of the rule it proposes to adopt; one copy of
449 any material incorporated by reference in the rule, certified by
450 the agency; a summary of the rule; a summary of any hearings
451 held on the rule; and a detailed written statement of the facts
452 and circumstances justifying the rule. Agencies not required to
453 publish their rules in the Florida Administrative Code shall
454 file one certified copy of the proposed rule, and the other
455 material required by this subparagraph, in the office of the
456 agency head, and such rules shall be open to the public.

457 2. A rule may not be filed for adoption less than 28 days
458 or more than 90 days after the notice required by paragraph (a),
459 until 21 days after the notice of change required by paragraph
460 (d), until 14 days after the final public hearing, until 21 days
461 after a statement of estimated regulatory costs required under
462 s. 120.541 has been provided to all persons who submitted a
463 lower cost regulatory alternative and made available to the

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464 public at a readily accessible page on the agency's website, or
465 until the administrative law judge has rendered a decision under
466 s. 120.56(2), whichever applies. When a required notice of
467 change is published before ~~prior to~~ the expiration of the time
468 to file the rule for adoption, the period during which a rule
469 must be filed for adoption is extended to 45 days after the date
470 of publication. If notice of a public hearing is published
471 before ~~prior to~~ the expiration of the time to file the rule for
472 adoption, the period during which a rule must be filed for
473 adoption is extended to 45 days after adjournment of the final
474 hearing on the rule, 21 days after receipt of all material
475 authorized to be submitted at the hearing, or 21 days after
476 receipt of the transcript, if one is made, whichever is latest.
477 The term "public hearing" includes any public meeting held by
478 any agency at which the rule is considered. If a petition for an
479 administrative determination under s. 120.56(2) is filed, the
480 period during which a rule must be filed for adoption is
481 extended to 60 days after the administrative law judge files the
482 final order with the clerk or until 60 days after subsequent
483 judicial review is complete.

484 3. At the time a rule is filed, the agency shall certify
485 that the time limitations prescribed by this paragraph have been
486 complied with, that all statutory rulemaking requirements have
487 been met, and that there is no administrative determination
488 pending on the rule.

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489 4. At the time a rule is filed, the committee shall
490 certify whether the agency has responded in writing to all
491 material and timely written comments or written inquiries made
492 on behalf of the committee. The Department of State shall reject
493 any rule that is not filed within the prescribed time limits;
494 that does not comply with all statutory rulemaking requirements
495 and rules of the Department of State; upon which an agency has
496 not responded in writing to all material and timely written
497 inquiries or written comments; upon which an administrative
498 determination is pending; or which does not include a statement
499 of estimated regulatory costs, if required.

500 5. If a rule has not been adopted within the time limits
501 imposed by this paragraph or has not been adopted in compliance
502 with all statutory rulemaking requirements, the agency proposing
503 the rule shall withdraw the proposed rule and give notice of its
504 action in the next available issue of the Florida Administrative
505 Register.

506 6. The proposed rule shall be adopted on being filed with
507 the Department of State and become effective 20 days after being
508 filed, on a later date specified in the notice required by
509 subparagraph (a)1., on a date required by statute, or upon
510 ratification by the Legislature pursuant to s. 120.541(3). Rules
511 not required to be filed with the Department of State shall
512 become effective when adopted by the agency head, on a later
513 date specified by rule or statute, or upon ratification by the

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514 Legislature pursuant to s. 120.541(3). If the committee notifies
515 an agency that an objection to a rule is being considered, the
516 agency may postpone the adoption of the rule to accommodate
517 review of the rule by the committee. When an agency postpones
518 adoption of a rule to accommodate review by the committee, the
519 90-day period for filing the rule is tolled until the committee
520 notifies the agency that it has completed its review of the
521 rule.

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

524 (4) EMERGENCY RULES.—

525 (e) Emergency rules shall be published in the Florida
526 Administrative Code.

527 (f) An agency may not supersede an emergency rule
528 currently in effect.

529 (g) An agency may make technical changes to an emergency
530 rule within the first 7 days after the rule is adopted and a
531 notice of the technical change must be published in the Florida
532 Administrative Register.

533 (7) PETITION TO INITIATE RULEMAKING.—

534 (a) Any person regulated by an agency or having
535 substantial interest in an agency rule may petition an agency to
536 adopt, amend, or repeal a rule or to provide the minimum public
537 information required by this chapter. The petition shall specify
538 the proposed rule and action requested. The agency shall file a

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539 copy of the petition with the committee. Not later than 30
540 calendar days following the date of filing a petition, the
541 agency shall initiate rulemaking proceedings under this chapter,
542 otherwise comply with the requested action, or deny the petition
543 with a written statement of its reasons for the denial.

544 Section 3. Section 120.541, Florida Statutes, is amended
545 to read:

546 120.541 Statement of estimated regulatory costs.—

547 (1)(a) Within 21 days after publication of the notice of a
548 proposed rule or notice of change ~~required under s.~~

549 ~~120.54(3)(a)~~, a substantially affected person may submit to an
550 agency a good faith written proposal for a lower cost regulatory
551 alternative to a proposed rule which substantially accomplishes
552 the objectives of the law being implemented. The agency shall
553 provide a copy of any proposal for a lower cost regulatory
554 alternative to the committee at least 21 days before filing the
555 rule for adoption. The proposal may include the alternative of
556 not adopting any rule if the proposal explains how the lower
557 costs and objectives of the law will be achieved by not adopting
558 any rule. If submitted after a notice of change, a proposal for
559 a lower cost regulatory alternative is deemed to be made in good
560 faith only if the person reasonably believes, and the proposal
561 states the person's reasons for believing, that the proposed
562 rule as changed by the notice of change increases the regulatory
563 costs or creates an adverse impact on small businesses that was

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564 not created by the previous proposed rule. If such a proposal is
565 submitted, the 90-day period for filing the rule is extended 21
566 days. Upon the submission of the lower cost regulatory
567 alternative, the agency shall prepare a statement of estimated
568 regulatory costs as provided in subsection (2), or shall revise
569 its prior statement of estimated regulatory costs, and ~~either~~
570 adopt the alternative proposal, reject the alternative proposal,
571 or modify the proposed rule to reduce the regulatory costs. If
572 the agency rejects the alternative proposal or modifies the
573 proposed rule, the agency shall ~~or~~ provide a statement of the
574 reasons for rejecting the alternative in favor of the proposed
575 rule.

576 (b) If a proposed rule will have an adverse impact on
577 small business or if the proposed rule is likely to directly or
578 indirectly increase regulatory costs in excess of \$200,000 in
579 the aggregate within 1 year after the implementation of the
580 rule, the agency shall prepare a statement of estimated
581 regulatory costs as required by s. 120.54(3)(b).

582 (c) The agency shall revise a statement of estimated
583 regulatory costs if any change to the rule made under s.
584 120.54(3)(d) increases the regulatory costs of the rule or if
585 the rule is modified in response to the submission of a lower
586 cost regulatory alternative. A summary of the revised statement
587 must be included with any subsequent notice published under s.
588 120.54(3).

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589 (d) At least 21 days before filing the proposed rule for
590 adoption, an agency that is required to revise a statement of
591 estimated regulatory costs shall provide the statement to the
592 person who submitted the lower cost regulatory alternative, to
593 the rules ombudsman in the Executive Office of the Governor, and
594 to the committee. The revised statement shall be published and
595 made available in the same manner as the original statement of
596 estimated regulatory costs and shall provide notice on the
597 agency's website that it is available to the public.

598 (e) Notwithstanding s. 120.56(1)(c), the failure of the
599 agency to prepare and publish a statement of estimated
600 regulatory costs or to respond to a written lower cost
601 regulatory alternative as provided in this subsection is a
602 material failure to follow the applicable rulemaking procedures
603 or requirements set forth in this chapter.

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

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

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

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

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

617 2. The challenge is to the agency's rejection of a lower
618 cost regulatory alternative offered under paragraph (a) or s.
619 120.54(3)(b)2.c. ~~s. 120.54(3)(b)2.b.~~; and

620 3. The substantial interests of the person challenging the
621 rule are materially affected by the rejection.

622 (2) A statement of estimated regulatory costs must ~~shall~~
623 include:

624 (a) An economic analysis showing whether the rule directly
625 or indirectly:

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

630 2. Is likely to have an adverse impact on business
631 competitiveness, including the ability of persons doing business
632 in the state to compete with persons doing business in other
633 states or domestic markets, productivity, or innovation in
634 excess of \$1 million in the aggregate within 5 years after the
635 implementation of the rule; or

636 3. Is likely to increase regulatory costs, including all
637 any ~~transactional~~ costs and impacts estimated in the statement

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638 of estimated regulatory costs, in excess of \$1 million in the
639 aggregate within 5 years after the implementation of the rule.

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

644 (c) A good faith estimate of the cost to the agency, and
645 to any other state and local government entities, of
646 implementing and enforcing the proposed rule, and any
647 anticipated effect on state or local revenues.

648 (d) A good faith estimate of the compliance ~~transactional~~
649 costs likely to be incurred by individuals and entities,
650 including local government entities, required to comply with the
651 requirements of the rule. ~~As used in this section,~~
652 ~~"transactional costs" are direct costs that are readily~~
653 ~~ascertainable based upon standard business practices, and~~
654 ~~include filing fees, the cost of obtaining a license, the cost~~
655 ~~of equipment required to be installed or used or procedures~~
656 ~~required to be employed in complying with the rule, additional~~
657 ~~operating costs incurred, the cost of monitoring and reporting,~~
658 ~~and any other costs necessary to comply with the rule.~~

659 (e) An analysis of the impact on small businesses as
660 defined ~~in~~ by s. 288.703, and an analysis of the impact on small
661 counties and small cities as defined in s. 120.52. The impact
662 analysis for small businesses must include the basis for the

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663 agency's decision not to implement alternatives that would
664 reduce adverse impacts on small businesses.

665 (f) Any additional information that the agency determines
666 may be useful.

667 (g) In the statement or revised statement, whichever
668 applies, a description of any regulatory alternatives submitted
669 under paragraph (1)(a) and a statement adopting the alternative
670 or a statement of the reasons for rejecting the alternative in
671 favor of the proposed rule.

672 (3) If the adverse impact or regulatory costs of the rule
673 exceed any of the criteria established in paragraph (2)(a), the
674 rule shall be submitted to the President of the Senate and
675 Speaker of the House of Representatives no later than 30 days
676 before ~~prior to~~ the next regular legislative session, and the
677 rule may not take effect until it is ratified by the
678 Legislature.

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

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

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

683 (c) Triennial updates of and amendments to the Florida
684 Fire Prevention Code which are expressly authorized by s.
685 633.202.

686 (d) Emergency rules adopted pursuant to s. 120.54(4).

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687 (5) For purposes of subsections (2) and (3), adverse
688 impacts and regulatory costs likely to occur within 5 years
689 after implementation of the rule include adverse impacts and
690 regulatory costs estimated to occur within 5 years after the
691 effective date of the rule. However, if any provision of the
692 rule is not fully implemented upon the effective date of the
693 rule, the adverse impacts and regulatory costs associated with
694 such provision must be adjusted to include any additional
695 adverse impacts and regulatory costs estimated to occur within 5
696 years after implementation of such provision.

697 (6) (a) In evaluating the impacts described in paragraphs
698 (2) (a) and (2) (e), an agency shall include good faith estimates
699 of market impacts likely to result from compliance with the
700 proposed rule, including:

701 1. Increased customer charges for goods or services.

702 2. Decreased market value of goods or services produced,
703 provided, or sold.

704 3. Increased costs resulting from the purchase of
705 substitute or alternative goods or services.

706 4. The reasonable value of time to be spent by owners,
707 officers, operators, and managers to understand and comply with
708 the proposed rule, including, but not limited to, time to be
709 spent to complete required education, training, or testing.

710 5. Capital costs.

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711 6. Any other impacts suggested by the rules ombudsman in
712 the Executive Office of the Governor or interested persons.

713 (b) In estimating and analyzing the information required
714 in paragraphs (2) (b)-(e), the agency may use surveys of
715 individuals, businesses, business organizations, counties, and
716 municipalities to collect data helpful to estimate and analyze
717 the costs and impacts.

718 (c) In estimating compliance costs under paragraph (2) (d),
719 the agency shall consider, among other matters, all direct and
720 indirect costs necessary to comply with the proposed rule that
721 are readily ascertainable based upon standard business
722 practices, including, but not limited to, costs related to:

723 1. Filing fees.

724 2. Expenses to obtain a license.

725 3. Necessary equipment.

726 4. Installation, utilities, and maintenance of necessary
727 equipment.

728 5. Necessary operations and procedures.

729 6. Accounting, financial, information management, and
730 other administrative processes.

731 7. Other processes.

732 8. Labor based on relevant rates of wages, salaries, and
733 benefits.

734 9. Materials and supplies.

735 10. Capital expenditures, including financing costs.

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- 736 11. Professional and technical services, including
737 contracted services necessary to implement and maintain
738 compliance.
- 739 12. Monitoring and reporting.
- 740 13. Qualifying and recurring education, training, and
741 testing.
- 742 14. Travel.
- 743 15. Insurance and surety requirements.
- 744 16. A fair and reasonable allocation of administrative
745 costs and other overhead.
- 746 17. Reduced sales or other revenues.
- 747 18. Other items suggested by the rules ombudsman in the
748 Executive Office of the Governor or any interested person,
749 business organization, or business representative.
- 750 (7) (a) The Department of State shall include on the
751 Florida Administrative Register website the agency website
752 addresses where statements of estimated regulatory costs may be
753 viewed in their entirety.
- 754 (b) An agency that prepares a statement of estimated
755 regulatory costs must provide, as part of the notice required
756 under s. 120.54(3) (a), the agency website address where the
757 statement of estimated regulatory costs can be read in its
758 entirety to the Department of State for publication in the
759 Florida Administrative Register.

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760 (c) If an agency revises its statement of estimated
761 regulatory costs, the agency must provide notice that a revision
762 has been made as provided in s. 120.54(3)(d). Such notice must
763 include the agency website address where the revision can be
764 viewed in its entirety.

765 Section 4. Section 120.5435, Florida Statutes, is created
766 to read:

767 120.5435 Repromulgation of rules.—

768 (1) It is the intent of the Legislature that each agency
769 periodically review its rules for consistency with the powers
770 and duties granted by its enabling statutes.

771 (2) If an agency determines after review that substantive
772 changes to update a rule are not required, such agency must
773 repromulgate the rule to reflect the date of the review. All
774 rules adopted or repromulgated on or after July 1, 2022, must be
775 reviewed within 5 years after their respective dates of adoption
776 or repromulgation. Each agency must review its existing rules in
777 accordance with this section by July 1, 2027. Failure of an
778 agency to adhere to the deadlines imposed in this section
779 constitutes repeal of any affected rule. In the event of such a
780 failure, the committee shall notify the Department of State that
781 the agency, by its failure to repromulgate the affected rule,
782 has elected to repeal the rule. Upon receipt of the committee's
783 notice, the Department of State shall publish a notice to that
784 effect in the next available issue of the Florida Administrative

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785 Register. Upon publication of the notice, the rule shall be
786 stricken from the files of the Department of State and the files
787 of the agency.

788 (3) Before repromulgation of a rule, the agency must, upon
789 approval by the agency head:

790 (a) Publish a notice of repromulgation in the Florida
791 Administrative Register. A notice of repromulgation is not
792 required to include the text of the rule being repromulgated.

793 (b) File the rule for repromulgation with the Department
794 of State. A rule may not be filed for repromulgation fewer than
795 28 days, nor more than 90 days, after the date of publication of
796 the notice required by paragraph (a).

797 (4) The agency must file a notice of repromulgation with
798 the committee at least 14 days before filing the rule for
799 repromulgation. At the time the rule is filed for
800 repromulgation, the committee shall certify whether the agency
801 has responded in writing to all material and timely written
802 comments or written inquiries made on behalf of the committee.

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

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

807 (7)(a) The agency, upon approval of the agency head or his
808 or her designee, shall file with the Department of State three
809 certified copies of the repromulgated rule it proposes to adopt

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810 and one certified copy of any material incorporated by reference
811 in the rule.

812 (b) The rule is repromulgated upon its filing with the
813 Department of State.

814 (c) The Department of State shall update the history note
815 of the rule in the Florida Administrative Code to reflect the
816 effective date of the repromulgated rule.

817 (8) The Department of State shall adopt rules to implement
818 this section by December 31, 2022.

819 Section 5. Subsection (1) of section 120.545, Florida
820 Statutes, is amended to read:

821 120.545 Committee review of agency rules.—

822 (1) As a legislative check on legislatively created
823 authority, the committee shall examine each existing rule and
824 proposed rule, except for those proposed rules exempted by s.
825 120.81(1)(e) and (2), and its accompanying material, and each
826 emergency rule, and may examine any existing rule, for the
827 purpose of determining whether:

828 (a) The rule is an invalid exercise of delegated
829 legislative authority.

830 (b) The statutory authority for the rule has been
831 repealed.

832 (c) The rule reiterates or paraphrases statutory material.

833 (d) The rule is in proper form.

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834 (e) The notice given before ~~prior to~~ its adoption was
835 sufficient to give adequate notice of the purpose and effect of
836 the rule.

837 (f) The rule is consistent with expressed legislative
838 intent pertaining to the specific provisions of law which the
839 rule implements.

840 (g) The rule is necessary to accomplish the apparent or
841 expressed objectives of the specific provision of law which the
842 rule implements.

843 (h) The rule is a reasonable implementation of the law as
844 it affects the convenience of the general public or persons
845 particularly affected by the rule.

846 (i) The rule could be made less complex or more easily
847 comprehensible to the general public.

848 (j) The rule's statement of estimated regulatory costs
849 complies with the requirements of s. 120.541 and whether the
850 rule does not impose regulatory costs on the regulated person,
851 county, or city which could be reduced by the adoption of less
852 costly alternatives that substantially accomplish the statutory
853 objectives.

854 (k) The rule will require additional appropriations.

855 (l) If the rule is an emergency rule, there exists an
856 emergency justifying the adoption of such rule, the agency is
857 within its statutory authority, and the rule was adopted in

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858 compliance with the requirements and limitations of s.
859 120.54(4).

860 Section 6. Paragraphs (a) and (c) of subsection (1) of
861 section 120.55, Florida Statutes, are amended to read:

862 120.55 Publication.—

863 (1) The Department of State shall:

864 (a)1. Through a continuous revision and publication
865 system, compile and publish electronically, on a website managed
866 by the department, the "Florida Administrative Code." The
867 Florida Administrative Code shall contain all rules adopted by
868 each agency, citing the grant of rulemaking authority and the
869 specific law implemented pursuant to which each rule was
870 adopted, all history notes as authorized in s. 120.545(7),
871 complete indexes to all rules and any material incorporated by
872 reference contained in the code, and any other material required
873 or authorized by law or deemed useful by the department. The
874 electronic code shall display each rule chapter currently in
875 effect in browse mode and allow full text search of the code and
876 each rule chapter. The department may contract with a publishing
877 firm for a printed publication; however, the department shall
878 retain responsibility for the code as provided in this section.
879 The electronic publication shall be the official compilation of
880 the administrative rules of this state. The Florida
881 Administrative Code shall be published once daily by 8 a.m. If,

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882 after publication, a rule is corrected and replaced, the Florida
883 Administrative Code shall indicate:

884 a. That the Florida Administrative Code has been
885 republished.

886 b. The rule that has been corrected by the Department of
887 State.

888

889 The Department of State shall retain the copyright over the
890 Florida Administrative Code.

891 2. Not publish in the Florida Administrative Code rules
892 general in form but applicable to only one school district,
893 community college district, or county, or a part thereof, or
894 state university rules relating to internal personnel or
895 business and finance ~~shall not be published in the Florida~~
896 ~~Administrative Code~~. Exclusion from publication in the Florida
897 Administrative Code does ~~shall~~ not affect the validity or
898 effectiveness of such rules.

899 3. At the beginning of the section of the code dealing
900 with an agency that files copies of its rules with the
901 department, ~~the department shall~~ publish the address and
902 telephone number of the executive offices of each agency, the
903 manner by which the agency indexes its rules, a listing of all
904 rules of that agency excluded from publication in the code, a
905 listing of all forms and material incorporated by reference

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906 adopted by rule which are used by the agency, and a statement as
907 to where those rules may be inspected.

908 4. Not publish forms ~~shall not be published~~ in the Florida
909 Administrative Code. ~~However, but~~ any form that ~~which~~ an agency
910 uses in its dealings with the public, along with any
911 accompanying instructions, shall be filed with the committee
912 before it is used. Any form or instruction which meets the
913 definition of the term "rule" as defined ~~provided~~ in s. 120.52
914 shall be incorporated by reference into the appropriate rule.
915 The reference shall specifically state that the form is being
916 incorporated by reference and shall include the number, title,
917 and effective date of the form and an explanation of how the
918 form may be obtained. Each form created by an agency which is
919 incorporated by reference in a rule notice of which is given
920 under s. 120.54(3)(a) after December 31, 2007, must clearly
921 display the number, title, and effective date of the form and
922 the number of the rule in which the form is incorporated.

923 5. Require all materials incorporated by reference in any
924 part of an adopted rule and in any part of a repromulgated rule,
925 after December 31, 2022, ~~The department shall allow adopted~~
926 ~~rules and material incorporated by reference to be filed in the~~
927 manner prescribed by s. 120.54(1)(i)3.a. or s. 120.54(1)(i)3.b.
928 ~~electronic form as prescribed by department rule.~~ When a rule is
929 filed for adoption or repromulgation with incorporated material
930 in electronic form, the department's publication of the Florida

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931 Administrative Code on its website must contain a hyperlink from
932 the incorporating reference in the rule directly to that
933 material. The department may not allow hyperlinks from rules in
934 the Florida Administrative Code to any material other than that
935 filed with and maintained by the department, but may allow
936 hyperlinks to incorporated material maintained by the department
937 from the adopting agency's website or other sites.

938 6. Include the date of any technical changes to a rule in
939 the history note of the rule in the Florida Administrative Code.
940 A technical change does not affect the effective date of the
941 rule. A technical change made after the adoption of a rule must
942 be published as a notice of correction.

943 (c) Prescribe by rule the style and form required for
944 rules, notices, and other materials submitted for filing,
945 including a rule requiring documents created by an agency that
946 are proposed to be incorporated by reference in notices
947 published pursuant to s. 120.54(3)(a) and (d) to be coded in the
948 same manner as notices published pursuant to s. 120.54(3)(a)1.

949 Section 7. Subsection (1) and paragraph (a) of subsection
950 (2) of section 120.74, Florida Statutes, are amended to read:

951 120.74 Agency annual rulemaking and regulatory plans;
952 reports.—

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

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955 (a) The plan must include a listing of each law enacted or
956 amended during the previous 12 months which creates or modifies
957 the duties or authority of the agency. If the Governor or the
958 Attorney General provides a letter to the committee stating that
959 a law affects all or most agencies, the agency may exclude the
960 law from its plan. For each law listed by an agency under this
961 paragraph, the plan must state:

962 1. Whether the agency must adopt rules to implement the
963 law.

964 2. If rulemaking is necessary to implement the law:

965 a. Whether a notice of rule development has been published
966 and, if so, the citation to such notice in the Florida
967 Administrative Register.

968 b. The date by which the agency expects to publish the
969 notice of proposed rule under s. 120.54(3)(a).

970 3. If rulemaking is not necessary to implement the law, a
971 concise written explanation of the reasons why the law may be
972 implemented without rulemaking.

973 (b) The plan must also identify and describe each rule,
974 including each rule number or proposed rule number, that include
975 a listing of each law not otherwise listed pursuant to paragraph
976 (a) which the agency expects to develop, adopt, or repeal for
977 the 12-month period beginning on October 1 and ending on
978 September 30 implement by rulemaking before the following July
979 1, excluding emergency rules except emergency rulemaking. For

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980 each rule identified and described ~~law listed~~ under this
981 paragraph, the plan must state whether the rulemaking is
982 intended to simplify, clarify, increase efficiency, improve
983 coordination with other agencies, reduce regulatory costs, or
984 delete obsolete, unnecessary, or redundant rules.

985 (c) The plan must include any desired update to the prior
986 year's regulatory plan or supplement published pursuant to
987 subsection (7). If, in a prior year, a law was identified under
988 this paragraph or under subparagraph (a)1. as a law requiring
989 rulemaking to implement but a notice of proposed rule has not
990 been published:

991 1. The agency shall identify and again list such law,
992 noting the applicable notice of rule development by citation to
993 the Florida Administrative Register; or

994 2. If the agency has subsequently determined that
995 rulemaking is not necessary to implement the law, the agency
996 shall identify such law, reference the citation to the
997 applicable notice of rule development in the Florida
998 Administrative Register, and provide a concise written
999 explanation of the reason why the law may be implemented without
1000 rulemaking.

1001 (d) The plan must identify any rules that are required to
1002 be repromulgated pursuant to s. 120.5435 for the 12-month period
1003 beginning on October 1 and ending on September 30.

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1004 (e) The plan must include a 5-year schedule for the review
1005 and repromulgation of all rules existing as of July 1, 2022.

1006 (f) The plan must include a list of all statutes and laws,
1007 or parts thereof, which grant duplicative, redundant, or unused
1008 rulemaking authority, as set out in s. 11.242(5)(j), and a
1009 recommendation as to what statutes, laws, or parts thereof,
1010 should be repealed. The agency must also provide the list to the
1011 Division of Law Revision.

1012 (g)-(d) The plan must include a certification executed on
1013 behalf of the agency by both the agency head, or, if the agency
1014 head is a collegial body, the presiding officer; and the
1015 individual acting as principal legal advisor to the agency head.
1016 The certification must declare:

1017 1. ~~Verify~~ That the persons executing the certification
1018 have reviewed the plan.

1019 2. ~~Verify~~ That the agency regularly reviews all of its
1020 rules and identify the period during which all rules have most
1021 recently been reviewed to determine if the rules remain
1022 consistent with the agency's rulemaking authority and the laws
1023 implemented.

1024 3. That the agency understands that regulatory
1025 accountability is necessary to ensure public confidence in the
1026 integrity of state government and, to that end, the agency is
1027 diligently working toward lowering the total number of rules
1028 adopted.

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1029 4. The total number of rules adopted and repealed during
1030 the previous 12 months.

1031 (2) PUBLICATION AND DELIVERY TO THE COMMITTEE.—

1032 (a) By October 1 of each year, each agency shall:

1033 1. Publish its regulatory plan on its website or on
1034 another state website established for publication of
1035 administrative law records. A clearly labeled hyperlink to the
1036 current plan must be included on the agency's primary website
1037 homepage.

1038 2. Electronically deliver to the committee a copy of the
1039 certification required in paragraph (1)(g) ~~(1)(d)~~.

1040 3. Publish in the Florida Administrative Register a notice
1041 identifying the date of publication of the agency's regulatory
1042 plan. The notice must include a hyperlink or website address
1043 providing direct access to the published plan.

1044 Section 8. Subsection (11) of section 120.80, Florida
1045 Statutes, is amended to read:

1046 120.80 Exceptions and special requirements; agencies.—

1047 (11) NATIONAL GUARD.—Notwithstanding s. 120.52(17) ~~s.~~
1048 ~~120.52(16)~~, the enlistment, organization, administration,
1049 equipment, maintenance, training, and discipline of the militia,
1050 National Guard, organized militia, and unorganized militia, as
1051 provided by s. 2, Art. X of the State Constitution, are not
1052 rules as defined by this chapter.

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1053 Section 9. Paragraph (c) of subsection (1) of section
1054 120.81, Florida Statutes, is amended to read:

1055 120.81 Exceptions and special requirements; general
1056 areas.—

1057 (1) EDUCATIONAL UNITS.—

1058 (c) Notwithstanding s. 120.52(17) ~~s. 120.52(16)~~, any
1059 tests, test scoring criteria, or testing procedures relating to
1060 student assessment which are developed or administered by the
1061 Department of Education pursuant to s. 1003.4282, s. 1008.22, or
1062 s. 1008.25, or any other statewide educational tests required by
1063 law, are not rules.

1064 Section 10. Paragraph (a) of subsection (1) of section
1065 420.9072, Florida Statutes, is amended to read:

1066 420.9072 State Housing Initiatives Partnership Program.—

1067 The State Housing Initiatives Partnership Program is created for
1068 the purpose of providing funds to counties and eligible
1069 municipalities as an incentive for the creation of local housing
1070 partnerships, to expand production of and preserve affordable
1071 housing, to further the housing element of the local government
1072 comprehensive plan specific to affordable housing, and to
1073 increase housing-related employment.

1074 (1)(a) In addition to the legislative findings set forth
1075 in s. 420.6015, the Legislature finds that affordable housing is
1076 most effectively provided by combining available public and
1077 private resources to conserve and improve existing housing and

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1078 provide new housing for very-low-income households, low-income
1079 households, and moderate-income households. The Legislature
1080 intends to encourage partnerships in order to secure the
1081 benefits of cooperation by the public and private sectors and to
1082 reduce the cost of housing for the target group by effectively
1083 combining all available resources and cost-saving measures. The
1084 Legislature further intends that local governments achieve this
1085 combination of resources by encouraging active partnerships
1086 between government, lenders, builders and developers, real
1087 estate professionals, advocates for low-income persons, and
1088 community groups to produce affordable housing and provide
1089 related services. Extending the partnership concept to encompass
1090 cooperative efforts among small counties as defined in s. 120.52
1091 ~~s. 120.52(19)~~, and among counties and municipalities is
1092 specifically encouraged. Local governments are also intended to
1093 establish an affordable housing advisory committee to recommend
1094 monetary and nonmonetary incentives for affordable housing as
1095 provided in s. 420.9076.

1096 Section 11. Subsection (7) of section 420.9075, Florida
1097 Statutes, is amended to read:

1098 420.9075 Local housing assistance plans; partnerships.—

1099 (7) The moneys deposited in the local housing assistance
1100 trust fund shall be used to administer and implement the local
1101 housing assistance plan. The cost of administering the plan may
1102 not exceed 5 percent of the local housing distribution moneys

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1103 and program income deposited into the trust fund. A county or an
1104 eligible municipality may not exceed the 5-percent limitation on
1105 administrative costs, unless its governing body finds, by
1106 resolution, that 5 percent of the local housing distribution
1107 plus 5 percent of program income is insufficient to adequately
1108 pay the necessary costs of administering the local housing
1109 assistance plan. The cost of administering the program may not
1110 exceed 10 percent of the local housing distribution plus 5
1111 percent of program income deposited into the trust fund, except
1112 that small counties, as defined in s. 120.52 ~~s. 120.52(19)~~, and
1113 eligible municipalities receiving a local housing distribution
1114 of up to \$350,000 may use up to 10 percent of program income for
1115 administrative costs.

1116 Section 12. Paragraph (d) of subsection (1) of section
1117 443.091, Florida Statutes, is amended to read:

1118 443.091 Benefit eligibility conditions.—

1119 (1) An unemployed individual is eligible to receive
1120 benefits for any week only if the Department of Economic
1121 Opportunity finds that:

1122 (d) She or he is able to work and is available for work.
1123 In order to assess eligibility for a claimed week of
1124 unemployment, the department shall develop criteria to determine
1125 a claimant's ability to work and availability for work. A
1126 claimant must be actively seeking work in order to be considered
1127 available for work. This means engaging in systematic and

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1128 | sustained efforts to find work, including contacting at least
1129 | five prospective employers for each week of unemployment
1130 | claimed. The department may require the claimant to provide
1131 | proof of such efforts to the one-stop career center as part of
1132 | reemployment services. A claimant's proof of work search efforts
1133 | may not include the same prospective employer at the same
1134 | location in 3 consecutive weeks, unless the employer has
1135 | indicated since the time of the initial contact that the
1136 | employer is hiring. The department shall conduct random reviews
1137 | of work search information provided by claimants. As an
1138 | alternative to contacting at least five prospective employers
1139 | for any week of unemployment claimed, a claimant may, for that
1140 | same week, report in person to a one-stop career center to meet
1141 | with a representative of the center and access reemployment
1142 | services of the center. The center shall keep a record of the
1143 | services or information provided to the claimant and shall
1144 | provide the records to the department upon request by the
1145 | department. However:

1146 | 1. Notwithstanding any other provision of this paragraph
1147 | or paragraphs (b) and (e), an otherwise eligible individual may
1148 | not be denied benefits for any week because she or he is in
1149 | training with the approval of the department, or by reason of s.
1150 | 443.101(2) relating to failure to apply for, or refusal to
1151 | accept, suitable work. Training may be approved by the
1152 | department in accordance with criteria prescribed by rule. A

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1153 claimant's eligibility during approved training is contingent
1154 upon satisfying eligibility conditions prescribed by rule.

1155 2. Notwithstanding any other provision of this chapter, an
1156 otherwise eligible individual who is in training approved under
1157 s. 236(a) (1) of the Trade Act of 1974, as amended, may not be
1158 determined ineligible or disqualified for benefits due to
1159 enrollment in such training or because of leaving work that is
1160 not suitable employment to enter such training. As used in this
1161 subparagraph, the term "suitable employment" means work of a
1162 substantially equal or higher skill level than the worker's past
1163 adversely affected employment, as defined for purposes of the
1164 Trade Act of 1974, as amended, the wages for which are at least
1165 80 percent of the worker's average weekly wage as determined for
1166 purposes of the Trade Act of 1974, as amended.

1167 3. Notwithstanding any other provision of this section,
1168 an otherwise eligible individual may not be denied benefits for
1169 any week because she or he is before any state or federal court
1170 pursuant to a lawfully issued summons to appear for jury duty.

1171 4. Union members who customarily obtain employment through
1172 a union hiring hall may satisfy the work search requirements of
1173 this paragraph by reporting daily to their union hall.

1174 5. The work search requirements of this paragraph do not
1175 apply to persons who are unemployed as a result of a temporary
1176 layoff or who are claiming benefits under an approved short-time
1177 compensation plan as provided in s. 443.1116.

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1178 6. In small counties as defined in s. 120.52 ~~s.~~
1179 ~~120.52(19)~~, a claimant engaging in systematic and sustained
1180 efforts to find work must contact at least three prospective
1181 employers for each week of unemployment claimed.

1182 7. The work search requirements of this paragraph do not
1183 apply to persons required to participate in reemployment
1184 services under paragraph (e).

1185 Section 13. This act shall take effect July 1, 2022.

1186 -----

1187 **T I T L E A M E N D M E N T**

1188 Remove everything before the enacting clause and insert:
1189 An act relating to administrative procedures; amending s.
1190 120.52, F.S.; defining terms; amending s. 120.54, F.S.;
1191 applying certain provisions applicable to all rules other
1192 than emergency rules to repromulgated rules; requiring a
1193 notice of rule development to include certain information;
1194 requiring a notice of withdrawal if a notice of proposed
1195 rule is not filed within a certain timeframe; requiring a
1196 notice of proposed rule to include certain information;
1197 requiring certain notices to be published within a
1198 specified timeframe; requiring that material proposed to be
1199 incorporated by reference be made available in a specified
1200 manner; authorizing electronic delivery of notices to
1201 persons who have requested advance notice of agency
1202 rulemaking proceedings; requires a notice of correction in

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1203 certain circumstances; provides notice of correction does
1204 not affect adopting filing timeframes; revising the
1205 circumstances under which a proposed rule's adverse impact
1206 on small businesses is considered to exist; requiring an
1207 agency to provide notice of a regulatory alternative to the
1208 Administrative Procedures Committee prior to filing rule
1209 for adoption; requiring an agency to publish a notice of
1210 convening a separate proceeding in certain circumstances;
1211 providing that rulemaking timelines are tolled during such
1212 separate proceedings; requiring a notice of change for
1213 certain changes to a statement of estimated regulatory
1214 costs; revising the requirements for the contents of a
1215 notice of change; requiring the committee to notify the
1216 Department of State that the date for an agency to adopt a
1217 rule has expired under certain circumstances; requiring the
1218 department to publish a notice of withdrawal under certain
1219 circumstances; requiring that certain information be
1220 available on the agency's website; requiring emergency
1221 rules to be published in the Florida Administrative Code;
1222 prohibiting agencies from making changes to emergency rules
1223 by superseding the rule; authorizing an agency to make
1224 technical changes to an emergency rule during a specified
1225 timeframe and requiring publication in the Florida
1226 Administrative Register; requiring an agency to file a copy
1227 of a certain petition with the committee; amending s.

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1228 120.541, F.S.; requiring an agency to provide a copy of any
1229 proposal for a lower cost regulatory alternative to the
1230 committee within a certain timeframe; specifying the
1231 circumstances under which such a proposal is made in good
1232 faith; revising requirements for an agency's consideration
1233 of a lower cost regulatory alternative; providing for an
1234 agency's revision and publication of a revised statement of
1235 estimated regulatory costs in response to certain
1236 circumstances; requiring that a revised statement of lower
1237 cost regulatory alternative be submitted to the rules
1238 ombudsman in the Executive Office of the Governor and
1239 published in a specified manner; revising the information
1240 required in a statement of estimated regulatory cost;
1241 deleting the definition of the term "transactional costs";
1242 revising the applicability of specified provisions;
1243 providing additional requirements for the calculation of
1244 estimated regulatory costs; requiring the department to
1245 include specified information on a website; requiring
1246 certain agencies to include certain information in a
1247 statement of estimated regulatory costs and on their
1248 websites; providing certain requirements for an agency that
1249 revises a statement of estimated regulatory costs; creating
1250 s. 120.5435, F.S.; providing legislative intent; requiring
1251 agency review of rules and repromulgation of rules that do
1252 not require substantive changes within a specified

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1253 | timeframe; providing that failure of an agency to meet
1254 | certain deadlines applicable to a rule required to be
1255 | repromulgated constitutes the repeal of the rule; requiring
1256 | an agency to publish a notice of repromulgation in the
1257 | Florida Administrative Register and file a rule for
1258 | promulgation with the department within a specified
1259 | timeframe; requiring an agency to file a notice of
1260 | repromulgation with the committee within a specified
1261 | timeframe; providing requirements for the notice of
1262 | repromulgation; providing that a repromulgated rule is not
1263 | subject to challenge as a proposed rule and that certain
1264 | hearing requirements do not apply; requiring an agency to
1265 | file a specified number of certified copies of a proposed
1266 | repromulgated rule and any material incorporated by
1267 | reference; providing that a repromulgated rule is
1268 | repromulgated upon filing with the department; requiring
1269 | the department to update certain information in the Florida
1270 | Administrative Code; requiring the department to adopt
1271 | rules by a certain date; amending s. 120.545, F.S.;
1272 | requiring the committee to examine existing rules; amending
1273 | s. 120.55, F.S.; requiring the Florida Administrative Code
1274 | to be published once daily and indicate certain
1275 | information; requiring materials incorporated by reference
1276 | to be filed in a specified manner; requiring the department
1277 | to include the date of a technical change in the Florida

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1278 Administrative Code; providing that a technical change does
1279 not affect the effective date of a rule; requiring a
1280 technical change after rule adoption to be published as a
1281 notice of correction; requiring specified rulemaking;
1282 amending s. 120.74, F.S.; requiring an agency to identify
1283 and describe each rule it plans to develop, adopt, or
1284 repeal during the forthcoming year in the agency's annual
1285 regulatory plan; requiring that an agency's annual
1286 regulatory plan identify any rules that are required to be
1287 repromulgated during the forthcoming year and provide a 5
1288 year schedule; requires plan to include a list of
1289 duplicative, redundant, or unused rulemaking authority
1290 which is provided to Division of Law Revision; requiring
1291 the agency to make certain declarations concerning the
1292 annual regulatory plan; amending ss. 120.80, 120.81,
1293 420.9072, 420.9075, and 443.091, F.S.; conforming cross-
1294 references; providing an effective date.
1295