

By Senator Diaz

36-00345-22

2022536__

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 rule development to
7 include certain information; requiring a notice of
8 withdrawal if a notice of proposed rule is not filed
9 within a certain timeframe; requiring that certain
10 persons be available at a workshop or public hearing
11 to receive public input; requiring a notice of
12 proposed rule to include certain information;
13 requiring certain notices to be published within a
14 specified timeframe; requiring that material proposed
15 to be incorporated by reference be made available in a
16 specified manner; authorizing electronic delivery of
17 notices to persons who have requested advance notice
18 of agency rulemaking proceedings; revising the
19 circumstances under which a proposed rule's adverse
20 impact on small businesses is considered to exist;
21 requiring an agency to provide notice of a regulatory
22 alternative to the Administrative Procedures Committee
23 within a certain timeframe; requiring an agency to
24 publish a notice of convening a separate proceeding in
25 certain circumstances; providing that rulemaking
26 timelines are tolled during such separate proceedings;
27 requiring a notice of change for certain changes to a
28 statement of estimated regulatory costs; revising the
29 requirements for the contents of a notice of change;

36-00345-22

2022536__

30 requiring the committee to notify the Department of
31 State that the date for an agency to adopt a rule has
32 expired under certain circumstances; requiring the
33 department to publish a notice of withdrawal under
34 certain circumstances; requiring that certain
35 information be available on the agency's website;
36 requiring emergency rules to be published in the
37 Florida Administrative Code; prohibiting agencies from
38 making changes to emergency rules by superseding the
39 rule; authorizing an agency to make technical changes
40 to an emergency rule during a specified timeframe;
41 requiring an agency to file a copy of a certain
42 petition with the committee; amending s. 120.541,
43 F.S.; requiring an agency to provide a copy of any
44 proposal for a lower cost regulatory alternative to
45 the committee within a certain timeframe; specifying
46 the circumstances under which such a proposal is made
47 in good faith; revising requirements for an agency's
48 consideration of a lower cost regulatory alternative;
49 providing for an agency's revision and publication of
50 a revised statement of estimated regulatory costs in
51 response to certain circumstances; requiring that a
52 revised statement of lower cost regulatory alternative
53 be submitted to the rules ombudsman and published in a
54 specified manner; revising the information required in
55 a statement of estimated regulatory costs; deleting
56 the definition of the term "transactional costs";
57 revising the applicability of specified provisions;
58 providing additional requirements for the calculation

36-00345-22

2022536__

59 of estimated regulatory costs; requiring the
60 department to include specified information on a
61 website; requiring certain agencies to include certain
62 information in a statement of estimated regulatory
63 costs and on their websites; providing certain
64 requirements for an agency that revises a statement of
65 estimated regulatory costs; conforming a cross-
66 reference; creating s. 120.5435, F.S.; providing
67 legislative intent; requiring agency review of rules
68 and repromulgation of rules that do not require
69 substantive changes within a specified timeframe;
70 providing that failure of an agency to meet certain
71 deadlines applicable to a rule required to be
72 repromulgated constitutes the repeal of the rule;
73 requiring an agency to publish a notice of
74 repromulgation in the Florida Administrative Register
75 and file a rule for promulgation with the department
76 within a specified timeframe; requiring an agency to
77 file a notice of repromulgation with the committee
78 within a specified timeframe; providing requirements
79 for the notice of repromulgation; providing that a
80 repromulgated rule is not subject to challenge as a
81 proposed rule and that certain hearing requirements do
82 not apply; requiring an agency to file a specified
83 number of certified copies of a proposed repromulgated
84 rule and any material incorporated by reference;
85 providing that a repromulgated rule is adopted upon
86 filing with the department and becomes effective after
87 a specified time; requiring the department to update

36-00345-22

2022536__

88 certain information in the Florida Administrative
89 Code; requiring the department to adopt rules by a
90 certain date; amending s. 120.545, F.S.; requiring,
91 rather than authorizing, the committee to examine
92 existing rules; amending s. 120.55, F.S.; requiring
93 the Florida Administrative Code to be published once
94 daily and indicate certain information; requiring
95 materials incorporated by reference to be filed in a
96 specified manner; requiring the department to include
97 the date of a technical change in the Florida
98 Administrative Code; providing that a technical change
99 does not affect the effective date of a rule;
100 requiring specified rulemaking; amending s. 120.74,
101 F.S.; requiring an agency to identify and describe
102 each rule it plans to develop, adopt, or repeal during
103 the forthcoming year in the agency's annual regulatory
104 plan; requiring that an agency's annual regulatory
105 plan identify any rules required to be repromulgated
106 during the forthcoming year; requiring the agency to
107 make certain declarations concerning the annual
108 regulatory plan; amending ss. 120.80, 120.81,
109 420.9072, 420.9075, and 443.091, F.S.; conforming
110 cross-references; providing an effective date.

111
112 Be It Enacted by the Legislature of the State of Florida:

113
114 Section 1. Present subsections (16) through (19) and (20)
115 through (22) of section 120.52, Florida Statutes, are
116 redesignated as subsections (17) through (20) and subsections

36-00345-22

2022536__

117 (22) through (24), respectively, and new subsections (16) and
118 (21) are added to that section, to read:

119 120.52 Definitions.—As used in this act:

120 (16) "Repromulgation" means the publication and adoption of
121 an existing rule following an agency's review of the rule for
122 consistency with the powers and duties granted by its enabling
123 statute.

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

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

131 120.54 Rulemaking.—

132 (1) GENERAL PROVISIONS APPLICABLE TO ALL RULES OTHER THAN
133 EMERGENCY RULES.—

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

138 2. An agency rule that incorporates by specific reference
139 another rule of that agency automatically incorporates
140 subsequent amendments to the referenced rule unless a contrary
141 intent is clearly indicated in the referencing rule. A notice of
142 amendments to a rule that has been incorporated by specific
143 reference in other rules of that agency must explain the effect
144 of those amendments on the referencing rules.

145 3. In rules adopted after December 31, 2010, and rules

36-00345-22

2022536__

146 repromulgated on or after July 1, 2022, material may not be
147 incorporated by reference unless:

148 a. The material has been submitted in the prescribed
149 electronic format to the Department of State and the full text
150 of the material can be made available for free public access
151 through an electronic hyperlink from the rule making the
152 reference in the Florida Administrative Code; or

153 b. The agency has determined that posting the material on
154 the Internet for purposes of public examination and inspection
155 would constitute a violation of federal copyright law, in which
156 case a statement to that effect, along with the address of
157 locations at the Department of State and the agency at which the
158 material is available for public inspection and examination,
159 must be included in the notice required by subparagraph (3)(a)1.

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

163 5. Notwithstanding any contrary provision in this section,
164 when an adopted rule of the Department of Environmental
165 Protection or a water management district is incorporated by
166 reference in the other agency's rule to implement a provision of
167 part IV of chapter 373, subsequent amendments to the rule are
168 not effective as to the incorporating rule unless the agency
169 incorporating by reference notifies the committee and the
170 Department of State of its intent to adopt the subsequent
171 amendment, publishes notice of such intent in the Florida
172 Administrative Register, and files with the Department of State
173 a copy of the amended rule incorporated by reference. Changes in
174 the rule incorporated by reference are effective as to the other

36-00345-22

2022536__

175 agency 20 days after the date of the published notice and filing
176 with the Department of State. The Department of State shall
177 amend the history note of the incorporating rule to show the
178 effective date of such change. Any substantially affected person
179 may, within 14 days after the date of publication of the notice
180 of intent in the Florida Administrative Register, file an
181 objection to rulemaking with the agency. The objection shall
182 specify the portions of the rule incorporated by reference to
183 which the person objects and the reasons for the objection. The
184 agency does ~~shall~~ not have the authority under this subparagraph
185 to adopt those portions of the rule specified in such objection.
186 The agency shall publish notice of the objection and of its
187 action in response in the next available issue of the Florida
188 Administrative Register.

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

191 (2) RULE DEVELOPMENT; WORKSHOPS; NEGOTIATED RULEMAKING.—

192 (a) 1. Except when the intended action is the repeal of a
193 rule, agencies shall provide notice of the development of
194 proposed rules by publication of a notice of rule development in
195 the Florida Administrative Register before providing notice of a
196 proposed rule as required by paragraph (3) (a). The notice of
197 rule development must ~~shall~~ indicate the subject area to be
198 addressed by rule development, provide a short, plain
199 explanation of the purpose and effect of the proposed rule, cite
200 the grant of rulemaking authority for the proposed rule and the
201 law being implemented ~~specific legal authority for the proposed~~
202 ~~rule~~, and include the proposed rule number and the preliminary
203 text of the proposed rules, if available, or a statement of how

36-00345-22

2022536__

204 a person may promptly obtain, without cost, a copy of any
205 preliminary draft, when ~~if~~ available.

206 2. If a notice of a proposed rule is not filed within 12
207 months after the notice of rule development, the agency must
208 withdraw the rule and give notice of the withdrawal in the next
209 available issue of the Florida Administrative Register.

210 (b) All rules must ~~should~~ be drafted in readable language.
211 The language is readable if:

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

214 2. It avoids the use of unnecessary technical or
215 specialized language that is understood only by members of
216 particular trades or professions.

217 (c) An agency may hold public workshops for purposes of
218 rule development. If requested in writing by any affected
219 person, an agency must hold public workshops, including
220 workshops in various regions of the state or the agency's
221 service area, for purposes of rule development ~~if requested in~~
222 ~~writing by any affected person,~~ unless the agency head explains
223 in writing why a workshop is unnecessary. The explanation is not
224 final agency action subject to review pursuant to ss. 120.569
225 and 120.57. The failure to provide the explanation when required
226 may be a material error in procedure pursuant to s.

227 120.56(1)(c). When a workshop or public hearing is held, the
228 agency must ensure that the persons responsible for preparing
229 the proposed rule are available to receive public input, to
230 explain the agency's proposal, and to respond to questions or
231 comments regarding the rule being developed. The workshop may be
232 facilitated or mediated by a neutral third person, or the agency

36-00345-22

2022536__

233 may employ other types of dispute resolution alternatives for
234 the workshop which ~~that~~ are appropriate for rule development.
235 Notice of a workshop for rule development must ~~workshop shall~~ be
236 by publication in the Florida Administrative Register not less
237 than 14 days before ~~prior to~~ the date on which the workshop is
238 scheduled to be held and must ~~shall~~ indicate the subject area
239 that ~~which~~ will be addressed; the agency contact person; and the
240 place, date, and time of the workshop.

241 (d)1. An agency may use negotiated rulemaking in developing
242 and adopting rules. The agency should consider the use of
243 negotiated rulemaking when complex rules are being drafted or
244 strong opposition to the rules is anticipated. The agency should
245 consider, but is not limited to considering, whether a balanced
246 committee of interested persons who will negotiate in good faith
247 can be assembled, whether the agency is willing to support the
248 work of the negotiating committee, and whether the agency can
249 use the group consensus as the basis for its proposed rule.
250 Negotiated rulemaking uses a committee of designated
251 representatives to draft a mutually acceptable proposed rule.

252 2. An agency that chooses to use the negotiated rulemaking
253 process described in this paragraph shall publish in the Florida
254 Administrative Register a notice of negotiated rulemaking which
255 ~~that~~ includes a listing of the representative groups that will
256 be invited to participate in the negotiated rulemaking process.
257 Any person who believes that his or her interest is not
258 adequately represented may apply to participate within 30 days
259 after publication of the notice. All meetings of the negotiating
260 committee shall be noticed and open to the public pursuant to
261 ~~the provisions of~~ this chapter. The negotiating committee shall

36-00345-22

2022536__

262 be chaired by a neutral facilitator or mediator.

263 3. The agency's decision to use negotiated rulemaking, its
264 selection of the representative groups, and approval or denial
265 of an application to participate in the negotiated rulemaking
266 process are not agency action. ~~Nothing in~~ This subparagraph is
267 not intended to affect the rights of a substantially an affected
268 person to challenge a proposed rule developed under this
269 paragraph in accordance with s. 120.56(2).

270 (3) ADOPTION PROCEDURES.—

271 (a) *Notices.*—

272 1. Before ~~Prior~~ to the adoption, amendment, or repeal of
273 any rule other than an emergency rule, an agency, upon approval
274 of the agency head, shall give notice of its intended action,
275 setting forth a short, plain explanation of the purpose and
276 effect of the proposed action; the rule number and full text of
277 the proposed rule or amendment and a summary thereof; a
278 reference to the grant of rulemaking authority pursuant to which
279 the rule is adopted; and a reference to the section or
280 subsection of the Florida Statutes or the Laws of Florida being
281 implemented or interpreted. The notice must include a concise
282 summary of the agency's statement of the estimated regulatory
283 costs, if one has been prepared, based on the factors set forth
284 in s. 120.541(2). The notice must describe the regulatory impact
285 of the rule in readable language; an agency website address
286 where the statement of estimated regulatory costs can be viewed
287 in its entirety, if one has been prepared; a statement that any
288 person who wishes to provide the agency with information
289 regarding the statement of estimated regulatory costs, or to
290 provide a proposal for a lower cost regulatory alternative as

36-00345-22

2022536__

291 provided by s. 120.541(1), must do so in writing within 21 days
292 after publication of the notice; and a statement as to whether,
293 based on the statement of the estimated regulatory costs or
294 other information expressly relied upon and described by the
295 agency if no statement of regulatory costs is required, the
296 proposed rule is expected to require legislative ratification
297 pursuant to s. 120.541(3). The notice must state the procedure
298 for requesting a public hearing on the proposed rule. Except
299 when the intended action is the repeal of a rule, the notice
300 must include a reference both to the date on which and to the
301 place where the notice of rule development that is required by
302 subsection (2) appeared.

303 2. The notice shall be published in the Florida
304 Administrative Register at least 7 days after the publication of
305 the notice of rule development and at least ~~not less than~~ 28
306 days before ~~prior to~~ the intended action. The proposed rule,
307 including all materials proposed to be incorporated by reference
308 and the statement of estimated regulatory costs, if one has been
309 prepared, must ~~shall~~ be available for inspection and copying by
310 the public at the time of the publication of notice. Material
311 proposed to be incorporated by reference in the notice must be
312 made available in the manner prescribed by sub-subparagraph
313 (1)(i)3.a. or sub-subparagraph (1)(i)3.b.

314 3. The notice shall be mailed to all persons named in the
315 proposed rule and mailed or delivered electronically to all
316 persons who, at least 14 days before publication of the notice
317 ~~prior to such mailing~~, have made requests of the agency for
318 advance notice of its proceedings. The agency shall also give
319 such notice as is prescribed by rule to those particular classes

36-00345-22

2022536__

320 of persons to whom the intended action is directed.

321 4. The adopting agency shall file with the committee, at
322 least 21 days before ~~prior to~~ the proposed adoption date, a copy
323 of each rule it proposes to adopt; a copy of any material
324 incorporated by reference in the rule; a detailed written
325 statement of the facts and circumstances justifying the proposed
326 rule; a copy of any statement of estimated regulatory costs that
327 has been prepared pursuant to s. 120.541; a statement of the
328 extent to which the proposed rule relates to federal standards
329 or rules on the same subject; and the notice required by
330 subparagraph 1.

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

332 1. Statement of estimated regulatory costs.—Before the
333 adoption , amendment, or repeal of any rule other than an
334 emergency rule, an agency is encouraged to prepare a statement
335 of estimated regulatory costs of the proposed rule, as provided
336 by s. 120.541. However, an agency must prepare a statement of
337 estimated regulatory costs of the proposed rule, as provided by
338 s. 120.541, if:

339 a. The proposed rule will have an adverse impact on small
340 business; or

341 b. The proposed rule is likely to directly or indirectly
342 increase regulatory costs in excess of \$200,000 in the aggregate
343 in this state within 1 year after the implementation of the
344 rule.

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

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

36-00345-22

2022536__

349 (I) An owner, an officer, an operator, or a manager must
350 complete any education, training, or testing to comply with the
351 rule in the first year or is likely to spend at least 10 hours
352 or to purchase professional advice to understand and comply with
353 the rule in the first year;

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

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

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

360 (V) Operating costs are expected to increase by at least
361 \$1,000 annually because of the rule; or

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

364 b. Each agency, before the adoption, amendment, or repeal
365 of a rule, shall consider the impact of the rule on small
366 businesses as defined in ~~by~~ s. 288.703 and the impact of the
367 rule on small counties or small cities as defined in ~~by~~ s.
368 120.52. Whenever practicable, an agency shall tier its rules to
369 reduce disproportionate impacts on small businesses, small
370 counties, or small cities to avoid regulating small businesses,
371 small counties, or small cities that do not contribute
372 significantly to the problem the rule is designed to address. An
373 agency may define "small business" to include businesses
374 employing more than 200 persons, may define "small county" to
375 include those with populations of more than 75,000, and may
376 define "small city" to include those with populations of more
377 than 10,000, if the agency ~~it~~ finds that such a definition is

36-00345-22

2022536__

378 necessary to adapt a rule to the needs and problems of small
379 businesses, small counties, or small cities. The agency shall
380 consider each of the following methods for reducing the impact
381 of the proposed rule on small businesses, small counties, and
382 small cities, or any combination of these entities:

383 (I) Establishing less stringent compliance or reporting
384 requirements in the rule.

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

387 (III) Consolidating or simplifying the rule's compliance or
388 reporting requirements.

389 (IV) Establishing performance standards or best management
390 practices to replace design or operational standards in the
391 rule.

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

394 c. (I) ~~b. (I)~~ If the agency determines that the proposed
395 action will affect small businesses as defined by the agency as
396 provided in sub-subparagraph b. a., the agency must ~~shall~~ send
397 written notice of the rule to the rules ombudsman in the
398 Executive Office of the Governor at least 28 days before the
399 intended action.

400 (II) Each agency shall adopt those regulatory alternatives
401 offered by the rules ombudsman in the Executive Office of the
402 Governor and provided to the agency no later than 21 days after
403 the rules ombudsman's receipt of the written notice of the rule
404 which it finds are feasible and consistent with the stated
405 objectives of the proposed rule and which would reduce the
406 impact on small businesses. When regulatory alternatives are

36-00345-22

2022536__

407 offered by the rules ombudsman in the Executive Office of the
408 Governor, the 90-day period for filing the rule in subparagraph
409 (e)2. is extended for a period of 21 days. The agency shall
410 provide notice to the committee of any regulatory alternative
411 offered to the agency pursuant to this sub-subparagraph at least
412 21 days before filing the rule for adoption.

413 (III) If an agency does not adopt all alternatives offered
414 pursuant to this sub-subparagraph, it shall, before rule
415 adoption or amendment and pursuant to subparagraph (d)1., file a
416 detailed written statement with the committee explaining the
417 reasons for failure to adopt such alternatives. Within 3 working
418 days after the filing of such notice, the agency shall send a
419 copy of such notice to the rules ombudsman in the Executive
420 Office of the Governor.

421 (c) *Hearings.*—

422 1. If the intended action concerns any rule other than one
423 relating exclusively to procedure or practice, the agency shall,
424 on the request of any affected person received within 21 days
425 after the date of publication of the notice of intended agency
426 action, give affected persons an opportunity to present evidence
427 and argument on all issues under consideration. The agency may
428 schedule a public hearing on the proposed rule and, if requested
429 by any affected person, shall schedule a public hearing on the
430 proposed rule. When a public hearing is held, the agency must
431 ensure that the persons responsible for preparing the proposed
432 rule and the statement of estimated regulatory costs, if one has
433 been prepared, ~~staff~~ are available to explain the agency's
434 proposal and to respond to questions or comments regarding the
435 proposed rule, the statement of estimated regulatory costs, if

36-00345-22

2022536__

436 one has been prepared, and the agency's decision whether to
437 adopt a lower cost regulatory alternative submitted pursuant to
438 s. 120.541(1)(a). If the agency head is a board or other
439 collegial body created under s. 20.165(4) or s. 20.43(3)(g), and
440 one or more requested public hearings is scheduled, the board or
441 other collegial body shall conduct at least one of the public
442 hearings itself and may not delegate this responsibility without
443 the consent of those persons requesting the public hearing. Any
444 material pertinent to the issues under consideration submitted
445 to the agency within 21 days after the date of publication of
446 the notice or submitted to the agency between the date of
447 publication of the notice and the end of the final public
448 hearing shall be considered by the agency and made a part of the
449 record of the rulemaking proceeding.

450 2. Rulemaking proceedings shall be governed solely by the
451 provisions of this section unless a person timely asserts that
452 the person's substantial interests will be affected in the
453 proceeding and affirmatively demonstrates to the agency that the
454 proceeding does not provide adequate opportunity to protect
455 those interests. If the agency determines that the rulemaking
456 proceeding is not adequate to protect the person's interests, it
457 shall suspend the rulemaking proceeding and convene a separate
458 proceeding under ~~the provisions of~~ ss. 120.569 and 120.57. The
459 agency shall publish notice of convening a separate proceeding
460 in the Florida Administrative Register. Similarly situated
461 persons may be requested to join and participate in the separate
462 proceeding. Upon conclusion of the separate proceeding, the
463 rulemaking proceeding shall be resumed. All timelines in this
464 section are tolled during any suspension of the rulemaking

36-00345-22

2022536__

465 proceeding under this subparagraph, beginning on the date the
466 notice of convening a separate proceeding is published and
467 resuming on the day after the conclusion of the separate
468 proceeding.

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

470 1. After the final public hearing on the proposed rule, or
471 after the time for requesting a hearing has expired, if the
472 proposed rule text has not been changed from that of the
473 proposed rule as previously filed with the committee, or
474 contains only technical changes, the adopting agency shall file
475 a notice to that effect with the committee at least 7 days
476 before ~~prior to~~ filing the proposed rule for adoption. Any
477 change, other than a technical change ~~that does not affect the~~
478 ~~substance of the rule~~, must be supported by the record of public
479 hearings held on the proposed rule, must be in response to
480 written material submitted to the agency within 21 days after
481 the date of publication of the notice of intended agency action
482 or submitted to the agency between the date of publication of
483 the notice and the end of the final public hearing, or must be
484 in response to a proposed objection by the committee. Any
485 change, other than a technical change, to a statement of
486 estimated regulatory costs requires a notice of change. In
487 addition, ~~when~~ any change, other than a technical change, to the
488 text of is made in a proposed rule or any material incorporated
489 by reference requires, ~~other than a technical change,~~ the
490 adopting agency to ~~shall~~ provide a copy of a notice of change by
491 certified mail or actual delivery to any person who requests it
492 in writing no later than 21 days after the notice required in
493 paragraph (a). The agency shall file the notice of change with

36-00345-22

2022536__

494 the committee, along with the reasons for the change, and
495 provide the notice of change to persons requesting it, at least
496 21 days before ~~prior to~~ filing the proposed rule for adoption.
497 The notice of change shall be published in the Florida
498 Administrative Register at least 21 days before ~~prior to~~ filing
499 the proposed rule for adoption. The notice of change must
500 include a summary of any revision to a statement of estimated
501 regulatory costs required by s. 120.541(1)(c). This subparagraph
502 does not apply to emergency rules adopted pursuant to subsection
503 (4). Material proposed to be incorporated by reference in the
504 notice required by this subparagraph must be made available in
505 the manner prescribed by sub-subparagraph (1)(i)3.a. or sub-
506 subparagraph (1)(i)3.b.

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

510 3. After the notice required by paragraph (a), the agency
511 must withdraw the proposed rule if the agency has failed to
512 adopt it within the prescribed timeframes in this chapter. The
513 committee shall notify the agency that it has exceeded the
514 timeframe to adopt the proposed rule. If, 30 days after notice
515 by the committee, the agency has not given notice of the
516 withdrawal of the rule, the committee must notify the Department
517 of State that the date for adoption of the rule has expired, and
518 the Department of State shall publish a notice of withdrawal of
519 the proposed rule.

520 ~~4.3.~~ After adoption and before the rule becomes effective,
521 a rule may be modified or withdrawn only in the following
522 circumstances:

36-00345-22

2022536__

- 523 a. When the committee objects to the rule;
- 524 b. When a final order, which is not subject to further
525 appeal, is entered in a rule challenge brought pursuant to s.
526 120.56 after the date of adoption but before the rule becomes
527 effective pursuant to subparagraph (e)6.;
- 528 c. If the rule requires ratification, when more than 90
529 days have passed since the rule was filed for adoption without
530 the Legislature ratifying the rule, in which case the rule may
531 be withdrawn but may not be modified; or
- 532 d. When the committee notifies the agency that an objection
533 to the rule is being considered, in which case the rule may be
534 modified to extend the effective date by not more than 60 days.
- 535 ~~5.4.~~ The agency shall give notice of its decision to
536 withdraw or modify a rule in the first available issue of the
537 publication in which the original notice of rulemaking was
538 published, shall notify those persons described in subparagraph
539 (a)3. in accordance with the requirements of that subparagraph,
540 and shall notify the Department of State if the rule is required
541 to be filed with the Department of State.
- 542 ~~6.5.~~ After a rule has become effective, it may be repealed
543 or amended only through the rulemaking procedures specified in
544 this chapter.
- 545 (e) *Filing for final adoption; effective date.*—
- 546 1. If the adopting agency is required to publish its rules
547 in the Florida Administrative Code, the agency, upon approval of
548 the agency head, must ~~shall~~ file with the Department of State
549 three certified copies of the rule it proposes to adopt; one
550 copy of any material incorporated by reference in the rule,
551 certified by the agency; a summary of the rule; a summary of any

36-00345-22

2022536__

552 hearings held on the rule; and a detailed written statement of
553 the facts and circumstances justifying the rule. Agencies not
554 required to publish their rules in the Florida Administrative
555 Code shall file one certified copy of the proposed rule, and the
556 other material required by this subparagraph, in the office of
557 the agency head, and such rules shall be open to the public.

558 2. A rule may not be filed for adoption less than 28 days
559 or more than 90 days after the notice required by paragraph (a),
560 until 21 days after the notice of change required by paragraph
561 (d), until 14 days after the final public hearing, until 21 days
562 after a statement of estimated regulatory costs required under
563 s. 120.541 has been provided to all persons who submitted a
564 lower cost regulatory alternative and made available to the
565 public at a readily accessible page on the agency's website, or
566 until the administrative law judge has rendered a decision under
567 s. 120.56(2), whichever applies. When a required notice of
568 change is published before ~~prior to~~ the expiration of the time
569 to file the rule for adoption, the period during which a rule
570 must be filed for adoption is extended to 45 days after the date
571 of publication. If notice of a public hearing is published
572 before ~~prior to~~ the expiration of the time to file the rule for
573 adoption, the period during which a rule must be filed for
574 adoption is extended to 45 days after adjournment of the final
575 hearing on the rule, 21 days after receipt of all material
576 authorized to be submitted at the hearing, or 21 days after
577 receipt of the transcript, if one is made, whichever is latest.
578 The term "public hearing" includes any public meeting held by
579 any agency at which the rule is considered. If a petition for an
580 administrative determination under s. 120.56(2) is filed, the

36-00345-22

2022536__

581 period during which a rule must be filed for adoption is
582 extended to 60 days after the administrative law judge files the
583 final order with the clerk or until 60 days after subsequent
584 judicial review is complete.

585 3. At the time a rule is filed, the agency shall certify
586 that the time limitations prescribed by this paragraph have been
587 complied with, that all statutory rulemaking requirements have
588 been met, and that there is no administrative determination
589 pending on the rule.

590 4. At the time a rule is filed, the committee shall certify
591 whether the agency has responded in writing to all material and
592 timely written comments or written inquiries made on behalf of
593 the committee. The Department of State shall reject any rule
594 that is not filed within the prescribed time limits; that does
595 not comply with all statutory rulemaking requirements and rules
596 of the Department of State; upon which an agency has not
597 responded in writing to all material and timely written
598 inquiries or written comments; upon which an administrative
599 determination is pending; or which does not include a statement
600 of estimated regulatory costs, if required.

601 5. If a rule has not been adopted within the time limits
602 imposed by this paragraph or has not been adopted in compliance
603 with all statutory rulemaking requirements, the agency proposing
604 the rule must ~~shall~~ withdraw the proposed rule and give notice
605 of its action in the next available issue of the Florida
606 Administrative Register.

607 6. The proposed rule shall be adopted upon ~~on~~ being filed
608 with the Department of State and become effective 20 days after
609 being filed, on a later date specified in the notice required by

36-00345-22

2022536__

610 subparagraph (a)1., on a date required by statute, or upon
611 ratification by the Legislature pursuant to s. 120.541(3). Rules
612 not required to be filed with the Department of State shall
613 become effective when adopted by the agency head, on a later
614 date specified by rule or statute, or upon ratification by the
615 Legislature pursuant to s. 120.541(3). If the committee notifies
616 an agency that an objection to a rule is being considered, the
617 agency may postpone the adoption of the rule to accommodate
618 review of the rule by the committee. When an agency postpones
619 adoption of a rule to accommodate review by the committee, the
620 90-day period for filing the rule is tolled until the committee
621 notifies the agency that it has completed its review of the
622 rule.

623
624 For the purposes of this paragraph, the term "administrative
625 determination" does not include subsequent judicial review.

626 (4) EMERGENCY RULES.—

627 (e) Emergency rules shall be published in the Florida
628 Administrative Code.

629 (f) An agency may not supersede an emergency rule currently
630 in effect. Technical changes to an emergency rule may be made
631 within the first 7 days after adoption of the rule.

632 (7) PETITION TO INITIATE RULEMAKING.—

633 (a) Any person regulated by an agency or having substantial
634 interest in an agency rule may petition an agency to adopt,
635 amend, or repeal a rule or to provide the minimum public
636 information required by this chapter. The petition shall specify
637 the proposed rule and action requested. The agency shall file a
638 copy of the petition with the committee. Not later than 30

36-00345-22

2022536__

639 calendar days following the date of filing a petition, the
640 agency shall initiate rulemaking proceedings under this chapter,
641 otherwise comply with the requested action, or deny the petition
642 with a written statement of its reasons for the denial.

643 Section 3. Section 120.541, Florida Statutes, is amended to
644 read:

645 120.541 Statement of estimated regulatory costs.—

646 (1) (a) Within 21 days after publication of the notice of a
647 proposed rule or notice of change ~~required under s.~~
648 ~~120.54(3)(a)~~, a substantially affected person may submit to an
649 agency a good faith written proposal for a lower cost regulatory
650 alternative to a proposed rule which substantially accomplishes
651 the objectives of the law being implemented. The agency shall
652 provide a copy of any proposal for a lower cost regulatory
653 alternative to the committee at least 21 days before filing the
654 rule for adoption. The proposal may include the alternative of
655 not adopting any rule if the proposal explains how the lower
656 costs and objectives of the law will be achieved by not adopting
657 any rule. If submitted after a notice of change, a proposal for
658 a lower cost regulatory alternative is deemed to be made in good
659 faith only if the person reasonably believes, and the proposal
660 states the person's reasons for believing, that the proposed
661 rule as changed by the notice of change increases the regulatory
662 costs or creates an adverse impact on small businesses which was
663 not created by the previous proposed rule. If such a proposal is
664 submitted, the 90-day period for filing the rule is extended 21
665 days. Upon the submission of the lower cost regulatory
666 alternative, the agency shall prepare a statement of estimated
667 regulatory costs as provided in subsection (2), or shall revise

36-00345-22

2022536__

668 its prior statement of estimated regulatory costs, and either
669 adopt the alternative proposal, reject the alternative proposal,
670 or modify the proposed rule to reduce the regulatory costs. If
671 the agency rejects the alternative proposal or modifies the
672 proposed rule, the agency must ~~or~~ provide a statement of the
673 reasons for rejecting the alternative in favor of the proposed
674 rule.

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

681 (c) The agency shall revise a statement of estimated
682 regulatory costs if any change to the rule made under s.
683 120.54(3) (d) increases the regulatory costs of the rule or if
684 the rule is modified in response to the submission of a lower
685 cost regulatory alternative. A summary of the revised statement
686 must be included with any subsequent notice published under s.
687 120.54(3).

688 (d) At least 21 days before filing the proposed rule for
689 adoption, an agency that is required to revise a statement of
690 estimated regulatory costs shall provide the statement to the
691 person who submitted the lower cost regulatory alternative, to
692 the rules ombudsman in the Executive Office of the Governor, and
693 to the committee. The revised statement shall be published and
694 made available in the same manner as the original statement of
695 estimated regulatory costs ~~and shall provide notice on the~~
696 ~~agency's website that it is available to the public.~~

36-00345-22

2022536__

697 (e) Notwithstanding s. 120.56(1)(c), the failure of the
698 agency to prepare and publish a statement of estimated
699 regulatory costs or to respond to a written lower cost
700 regulatory alternative as provided in this subsection is a
701 material failure to follow the applicable rulemaking procedures
702 or requirements set forth in this chapter.

703 (f) An agency's failure to prepare a statement of estimated
704 regulatory costs or to respond to a written lower cost
705 regulatory alternative may not be raised in a proceeding
706 challenging the validity of a rule pursuant to s. 120.52(8)(a)
707 unless:

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

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

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

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

716 2. The challenge is to the agency's rejection of a lower
717 cost regulatory alternative offered under paragraph (a) or s.
718 120.54(3)(b)2.c. ~~s. 120.54(3)(b)2.b.~~; and

719 3. The substantial interests of the person challenging the
720 rule are materially affected by the rejection.

721 (2) A statement of estimated regulatory costs must ~~shall~~
722 include:

723 (a) An economic analysis showing whether the rule directly
724 or indirectly:

725 1. Is likely to have an adverse impact on economic growth,

36-00345-22

2022536__

726 private sector job creation or employment, or private sector
727 investment in excess of \$1 million in the aggregate within 5
728 years after the implementation of the rule;

729 2. Is likely to have an adverse impact on business
730 competitiveness, including the ability of persons doing business
731 in the state to compete with persons doing business in other
732 states or domestic markets, productivity, or innovation in
733 excess of \$1 million in the aggregate within 5 years after the
734 implementation of the rule; or

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

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

743 (c) A good faith estimate of the cost to the agency, and to
744 any other state and local government entities, of implementing
745 and enforcing the proposed rule, and any anticipated effect on
746 state or local revenues.

747 (d) A good faith estimate of the compliance ~~transactional~~
748 costs likely to be incurred by individuals and entities,
749 including local government entities, required to comply with the
750 requirements of the rule. ~~As used in this section,~~
751 ~~"transactional costs" are direct costs that are readily~~
752 ~~ascertainable based upon standard business practices, and~~
753 ~~include filing fees, the cost of obtaining a license, the cost~~
754 ~~of equipment required to be installed or used or procedures~~

36-00345-22

2022536__

755 ~~required to be employed in complying with the rule, additional~~
756 ~~operating costs incurred, the cost of monitoring and reporting,~~
757 ~~and any other costs necessary to comply with the rule.~~

758 (e) An analysis of the impact on small businesses as
759 defined by s. 288.703, and an analysis of the impact on small
760 counties and small cities as defined in s. 120.52. The impact
761 analysis for small businesses must include the basis for the
762 agency's decision not to implement alternatives that would
763 reduce adverse impacts on small businesses.

764 (f) Any additional information that the agency determines
765 may be useful.

766 (g) In the statement or revised statement, whichever
767 applies, a description of any regulatory alternatives submitted
768 under paragraph (1) (a) and a statement adopting the alternative
769 or a statement of the reasons for rejecting the alternative in
770 favor of the proposed rule.

771 (3) If the adverse impact or regulatory costs of the rule
772 exceed any of the criteria established in paragraph (2) (a), the
773 rule shall be submitted to the President of the Senate and
774 Speaker of the House of Representatives no later than 30 days
775 before ~~prior to~~ the next regular legislative session, and the
776 rule may not take effect until it is ratified by the
777 Legislature.

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

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

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

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

36-00345-22

2022536__

784 (d) Emergency rules adopted pursuant to s. 120.54(4).
785 (5) For purposes of subsections (2) and (3), adverse
786 impacts and regulatory costs likely to occur within 5 years
787 after implementation of the rule include adverse impacts and
788 regulatory costs estimated to occur within 5 years after the
789 effective date of the rule. However, if any provision of the
790 rule is not fully implemented upon the effective date of the
791 rule, the adverse impacts and regulatory costs associated with
792 such provision must be adjusted to include any additional
793 adverse impacts and regulatory costs estimated to occur within 5
794 years after implementation of such provision.

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

- 799 1. Increased customer charges for goods or services.
- 800 2. Decreased market value of goods or services produced,
801 provided, or sold.
- 802 3. Increased costs resulting from the purchase of
803 substitute or alternative goods or services.
- 804 4. The reasonable value of time to be spent by owners,
805 officers, operators, and managers to understand and comply with
806 the proposed rule, including, but not limited to, time to be
807 spent to complete required education, training, or testing.
- 808 5. Capital costs.
- 809 6. Any other impacts suggested by the rules ombudsman in
810 the Executive Office of the Governor or interested persons.

811 (b) In estimating and analyzing the information required in
812 paragraphs (2) (b)-(e), the agency may use surveys of

36-00345-22

2022536__

813 individuals, businesses, business organizations, counties, or
814 municipalities to collect data useful to estimate and analyze
815 the costs and impacts.

816 (c) In estimating compliance costs under paragraph (2) (d),
817 the agency shall consider, among other matters, all direct and
818 indirect costs necessary to comply with the proposed rule which
819 are readily ascertainable based upon standard business
820 practices, including, but not limited to, costs related to:

821 1. Filing fees.

822 2. Expenses to obtain a license.

823 3. Necessary equipment.

824 4. Installation, utilities, and maintenance of necessary
825 equipment.

826 5. Necessary operations and procedures.

827 6. Accounting, financial, information management, and other
828 administrative processes.

829 7. Other processes.

830 8. Labor based on relevant rates of wages, salaries, and
831 benefits.

832 9. Materials and supplies.

833 10. Capital expenditures, including financing costs.

834 11. Professional and technical services, including
835 contracted services necessary to achieve and maintain
836 compliance.

837 12. Monitoring and reporting.

838 13. Qualifying and recurring education, training, and
839 testing.

840 14. Travel.

841 15. Insurance and surety requirements.

36-00345-22

2022536__

842 16. A fair and reasonable allocation of administrative
843 costs and other overhead.

844 17. Reduced sales or other revenues.

845 18. Other items suggested by the rules ombudsman in the
846 Executive Office of the Governor or any interested person,
847 business organization, or business representative.

848 (7) (a) The Department of State shall include on the Florida
849 Administrative Register website the agency website addresses
850 where statements of estimated regulatory costs can be viewed in
851 their entirety.

852 (b) As part of the notice required under s. 120.54(3) (a),
853 an agency that prepares a statement of estimated regulatory
854 costs must provide to the Department of State for publication in
855 the Florida Administrative Register the agency website address
856 where the statement of estimated regulatory costs can be read in
857 its entirety.

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

863 Section 4. Section 120.5435, Florida Statutes, is created
864 to read:

865 120.5435 Repromulgation of rules.—

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

869 (2) If an agency determines after review that substantive
870 changes to update a rule are not required, the agency must

36-00345-22

2022536__

871 repromulgate the rule to reflect the date of the review. Each
872 agency shall review its rules pursuant to this section either 5
873 years after July 1, 2022, if the rule was adopted before January
874 1, 2014, or 10 years after the rule was adopted, if the rule was
875 adopted on or after January 1, 2014. Failure of an agency to
876 adhere to the deadlines imposed in this section constitutes the
877 repeal of any affected rule. In the event of such a failure, the
878 committee shall notify the Department of State that the agency,
879 by its failure to repromulgate the affected rule, has elected to
880 repeal the rule. Upon receipt of the committee's notice, the
881 Department of State shall publish a notice to that effect in the
882 next available issue of the Florida Administrative Register.
883 Upon publication of the notice, the rule shall be stricken from
884 the files of the Department of State and the files of the
885 agency.

886 (3) Before repromulgation of a rule, the agency must, upon
887 approval by the agency head or his or her designee:

888 (a) Publish a notice of repromulgation in the Florida
889 Administrative Register. A notice of repromulgation is not
890 required to include the text of the rule being repromulgated.

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

895 (4) The agency shall file a notice of repromulgation with
896 the committee at least 14 days before filing the rule for
897 repromulgation. At the time the rule is filed for
898 repromulgation, the committee shall certify whether the agency
899 has responded in writing to all material and timely written

36-00345-22

2022536__

900 comments or written inquiries made on behalf of the committee.

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

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

905 (7) (a) The agency, upon approval of the agency head or his
906 or her designee, shall file with the Department of State three
907 certified copies of the repromulgated rule it proposes to adopt
908 and one certified copy of any material incorporated by reference
909 in the rule.

910 (b) The repromulgated rule shall be adopted upon filing
911 with the Department of State and becomes effective 20 days after
912 the date it is filed.

913 (c) The Department of State shall update the history note
914 of the rule in the Florida Administrative Code to reflect the
915 effective date of the repromulgated rule.

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

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

920 120.545 Committee review of agency rules.—

921 (1) As a legislative check on legislatively created
922 authority, the committee shall examine each existing rule and
923 proposed rule, except for those proposed rules exempted by s.
924 120.81(1)(e) and (2), and its accompanying material, and each
925 emergency rule, and may examine any existing rule, for the
926 purpose of determining whether:

927 (a) The rule is an invalid exercise of delegated
928 legislative authority.

36-00345-22

2022536__

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

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

931 (d) The rule is in proper form.

932 (e) The notice given before ~~prior to~~ its adoption was
933 sufficient to give adequate notice of the purpose and effect of
934 the rule.

935 (f) The rule is consistent with expressed legislative
936 intent pertaining to the specific provisions of law which the
937 rule implements.

938 (g) The rule is necessary to accomplish the apparent or
939 expressed objectives of the specific provision of law which the
940 rule implements.

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

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

946 (j) The rule's statement of estimated regulatory costs
947 complies with the requirements of s. 120.541 and whether the
948 rule does not impose regulatory costs on the regulated person,
949 county, or city which could be reduced by the adoption of less
950 costly alternatives that substantially accomplish the statutory
951 objectives.

952 (k) The rule will require additional appropriations.

953 (l) If the rule is an emergency rule, there exists an
954 emergency justifying the adoption of such rule, the agency is
955 within its statutory authority, and the rule was adopted in
956 compliance with the requirements and limitations of s.
957 120.54(4).

36-00345-22

2022536__

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

960 120.55 Publication.—

961 (1) The Department of State shall:

962 (a)1. Through a continuous revision and publication system,
963 compile and publish electronically, on a website managed by the
964 department, the "Florida Administrative Code." The Florida
965 Administrative Code shall contain all rules adopted by each
966 agency, citing the grant of rulemaking authority and the
967 specific law implemented pursuant to which each rule was
968 adopted, all history notes as authorized in s. 120.545(7),
969 complete indexes to all rules contained in the code, and any
970 other material required or authorized by law or deemed useful by
971 the department. The electronic code shall display each rule
972 chapter currently in effect in browse mode and allow full text
973 search of the code and each rule chapter. The department may
974 contract with a publishing firm for a printed publication;
975 however, the department shall retain responsibility for the code
976 as provided in this section. The electronic publication shall be
977 the official compilation of the administrative rules of this
978 state. The Florida Administrative Code shall be published once
979 daily by 8 a.m. If, after publication, a rule is corrected and
980 replaced, the Florida Administrative Code must indicate:

981 a. That the Florida Administrative Code has been
982 republished.

983 b. The rule that has been corrected by the Department of
984 State.

985
986 The Department of State shall retain the copyright over the

36-00345-22

2022536__

987 Florida Administrative Code.

988 2. Not publish in the Florida Administrative Code rules
989 general in form but applicable to only one school district,
990 community college district, or county, or a part thereof, or
991 state university rules relating to internal personnel or
992 business and finance ~~shall not be published in the Florida~~
993 ~~Administrative Code~~. Exclusion from publication in the Florida
994 Administrative Code does ~~shall~~ not affect the validity or
995 effectiveness of such rules.

996 3. At the beginning of the section of the code dealing with
997 an agency that files copies of its rules with the department,
998 ~~the department shall~~ publish the address and telephone number of
999 the executive offices of each agency, the manner by which the
1000 agency indexes its rules, a listing of all rules of that agency
1001 excluded from publication in the code, and a statement as to
1002 where those rules may be inspected.

1003 4. Not publish forms ~~shall not be published~~ in the Florida
1004 Administrative Code; but any form which an agency uses in its
1005 dealings with the public, along with any accompanying
1006 instructions, shall be filed with the committee before it is
1007 used. Any form or instruction which meets the definition of
1008 "rule" provided in s. 120.52 shall be incorporated by reference
1009 into the appropriate rule. The reference shall specifically
1010 state that the form is being incorporated by reference and shall
1011 include the number, title, and effective date of the form and an
1012 explanation of how the form may be obtained. Each form created
1013 by an agency which is incorporated by reference in a rule notice
1014 of which is given under s. 120.54(3)(a) after December 31, 2007,
1015 must clearly display the number, title, and effective date of

36-00345-22

2022536__

1016 the form and the number of the rule in which the form is
1017 incorporated.

1018 5. Require all materials incorporated by reference in any
1019 part of an adopted rule and in any part of a repromulgated rule
1020 ~~The department shall allow adopted rules and material~~
1021 ~~incorporated by reference to be filed in the manner prescribed~~
1022 by s. 120.54(1)(i)3.a. or s. 120.54(1)(i)3.b. electronic form as
1023 ~~prescribed by department rule.~~ When a rule is filed for adoption
1024 or repromulgation with incorporated material in electronic form,
1025 the department's publication of the Florida Administrative Code
1026 on its website must contain a hyperlink from the incorporating
1027 reference in the rule directly to that material. The department
1028 may not allow hyperlinks from rules in the Florida
1029 Administrative Code to any material other than that filed with
1030 and maintained by the department, but may allow hyperlinks to
1031 incorporated material maintained by the department from the
1032 adopting agency's website or other sites.

1033 6. Include the date of any technical changes to a rule in
1034 the history note of the rule in the Florida Administrative Code.
1035 A technical change does not affect the effective date of the
1036 rule.

1037 (c) Prescribe by rule the style and form required for
1038 rules, notices, and other materials submitted for filing,
1039 including a rule requiring documents created by an agency which
1040 are proposed to be incorporated by reference in notices
1041 published pursuant to s. 120.54(3)(a) and (d) to be coded in the
1042 same manner as notices published pursuant to s. 120.54(3)(a)1.

1043 Section 7. Subsection (1) and paragraph (a) of subsection
1044 (2) of section 120.74, Florida Statutes, are amended to read:

36-00345-22

2022536__

1045 120.74 Agency annual rulemaking and regulatory plans;
1046 reports.—

1047 (1) REGULATORY PLAN.—By October 1 of each year, each agency
1048 shall prepare a regulatory plan.

1049 (a) The plan must include a listing of each law enacted or
1050 amended during the previous 12 months which creates or modifies
1051 the duties or authority of the agency. If the Governor or the
1052 Attorney General provides a letter to the committee stating that
1053 a law affects all or most agencies, the agency may exclude the
1054 law from its plan. For each law listed by an agency under this
1055 paragraph, the plan must state:

1056 1. Whether the agency must adopt rules to implement the
1057 law.

1058 2. If rulemaking is necessary to implement the law:

1059 a. Whether a notice of rule development has been published
1060 and, if so, the citation to such notice in the Florida
1061 Administrative Register.

1062 b. The date by which the agency expects to publish the
1063 notice of proposed rule under s. 120.54(3)(a).

1064 3. If rulemaking is not necessary to implement the law, a
1065 concise written explanation of the reasons why the law may be
1066 implemented without rulemaking.

1067 (b) The plan must also identify and describe each rule,
1068 including each rule number or proposed rule number, ~~include a~~
1069 ~~listing of each law not otherwise listed pursuant to paragraph~~
1070 ~~(a) which the agency expects to~~ develop, adopt, or repeal for
1071 the 12-month period beginning on October 1 and ending on
1072 September 30 ~~implement by rulemaking before the following July~~
1073 ~~1,~~ excluding emergency rules ~~except emergency rulemaking.~~ For

36-00345-22

2022536__

1074 each rule ~~law~~ listed under this paragraph, the plan must state
1075 whether the rulemaking is intended to simplify, clarify,
1076 increase efficiency, improve coordination with other agencies,
1077 reduce regulatory costs, or delete obsolete, unnecessary, or
1078 redundant rules.

1079 (c) The plan must include any desired update to the prior
1080 year's regulatory plan or supplement published pursuant to
1081 subsection (7). If, in a prior year, a law was identified under
1082 this paragraph or under subparagraph (a)1. as a law requiring
1083 rulemaking to implement but a notice of proposed rule has not
1084 been published:

1085 1. The agency shall identify and again list such law,
1086 noting the applicable notice of rule development by citation to
1087 the Florida Administrative Register; or

1088 2. If the agency has subsequently determined that
1089 rulemaking is not necessary to implement the law, the agency
1090 shall identify such law, reference the citation to the
1091 applicable notice of rule development in the Florida
1092 Administrative Register, and provide a concise written
1093 explanation of the reason why the law may be implemented without
1094 rulemaking.

1095 (d) The plan must identify any rules required to be
1096 repromulgated pursuant to s. 120.5435 for the 12-month period
1097 beginning on October 1 and ending on September 30.

1098 (e) ~~(d)~~ The plan must include a certification executed on
1099 behalf of the agency by both the agency head, or, if the agency
1100 head is a collegial body, the presiding officer; and the
1101 individual acting as principal legal advisor to the agency head.
1102 The certification must declare:

36-00345-22

2022536__

1103 1. ~~Verify~~ That the persons executing the certification have
1104 reviewed the plan.

1105 2. ~~Verify~~ That the agency regularly reviews all of its
1106 rules and identify the period during which all rules have most
1107 recently been reviewed to determine if the rules remain
1108 consistent with the agency's rulemaking authority and the laws
1109 implemented.

1110 3. That the agency understands that regulatory
1111 accountability is necessary to ensure public confidence in the
1112 integrity of state government and, to that end, the agency is
1113 diligently working toward lowering the total number of rules
1114 adopted.

1115 4. The total number of rules adopted and repealed during
1116 the previous 12 months.

1117 (2) PUBLICATION AND DELIVERY TO THE COMMITTEE.—

1118 (a) By October 1 of each year, each agency shall:

1119 1. Publish its regulatory plan on its website or on another
1120 state website established for publication of administrative law
1121 records. A clearly labeled hyperlink to the current plan must be
1122 included on the agency's primary website homepage.

1123 2. Electronically deliver to the committee a copy of the
1124 certification required in paragraph (1) (e) ~~(1) (d)~~.

1125 3. Publish in the Florida Administrative Register a notice
1126 identifying the date of publication of the agency's regulatory
1127 plan. The notice must include a hyperlink or website address
1128 providing direct access to the published plan.

1129 Section 8. Subsection (11) of section 120.80, Florida
1130 Statutes, is amended to read:

1131 120.80 Exceptions and special requirements; agencies.—

36-00345-22

2022536__

1132 (11) NATIONAL GUARD.—Notwithstanding s. 120.52(17) ~~s.~~
 1133 ~~120.52(16)~~, the enlistment, organization, administration,
 1134 equipment, maintenance, training, and discipline of the militia,
 1135 National Guard, organized militia, and unorganized militia, as
 1136 provided by s. 2, Art. X of the State Constitution, are not
 1137 rules as defined by this chapter.

1138 Section 9. Paragraph (c) of subsection (1) of section
 1139 120.81, Florida Statutes, is amended to read:

1140 120.81 Exceptions and special requirements; general areas.—

1141 (1) EDUCATIONAL UNITS.—

1142 (c) Notwithstanding s. 120.52(17) ~~s. 120.52(16)~~, any tests,
 1143 test scoring criteria, or testing procedures relating to student
 1144 assessment which are developed or administered by the Department
 1145 of Education pursuant to s. 1003.4282, s. 1008.22, or s.
 1146 1008.25, or any other statewide educational tests required by
 1147 law, are not rules.

1148 Section 10. Paragraph (a) of subsection (1) of section
 1149 420.9072, Florida Statutes, is amended to read:

1150 420.9072 State Housing Initiatives Partnership Program.—The
 1151 State Housing Initiatives Partnership Program is created for the
 1152 purpose of providing funds to counties and eligible
 1153 municipalities as an incentive for the creation of local housing
 1154 partnerships, to expand production of and preserve affordable
 1155 housing, to further the housing element of the local government
 1156 comprehensive plan specific to affordable housing, and to
 1157 increase housing-related employment.

1158 (1) (a) In addition to the legislative findings set forth in
 1159 s. 420.6015, the Legislature finds that affordable housing is
 1160 most effectively provided by combining available public and

36-00345-22

2022536__

1161 private resources to conserve and improve existing housing and
1162 provide new housing for very-low-income households, low-income
1163 households, and moderate-income households. The Legislature
1164 intends to encourage partnerships in order to secure the
1165 benefits of cooperation by the public and private sectors and to
1166 reduce the cost of housing for the target group by effectively
1167 combining all available resources and cost-saving measures. The
1168 Legislature further intends that local governments achieve this
1169 combination of resources by encouraging active partnerships
1170 between government, lenders, builders and developers, real
1171 estate professionals, advocates for low-income persons, and
1172 community groups to produce affordable housing and provide
1173 related services. Extending the partnership concept to encompass
1174 cooperative efforts among small counties as defined in s. 120.52
1175 ~~s. 120.52(19)~~, and among counties and municipalities is
1176 specifically encouraged. Local governments are also intended to
1177 establish an affordable housing advisory committee to recommend
1178 monetary and nonmonetary incentives for affordable housing as
1179 provided in s. 420.9076.

1180 Section 11. Subsection (7) of section 420.9075, Florida
1181 Statutes, is amended to read:

1182 420.9075 Local housing assistance plans; partnerships.—

1183 (7) The moneys deposited in the local housing assistance
1184 trust fund shall be used to administer and implement the local
1185 housing assistance plan. The cost of administering the plan may
1186 not exceed 5 percent of the local housing distribution moneys
1187 and program income deposited into the trust fund. A county or an
1188 eligible municipality may not exceed the 5-percent limitation on
1189 administrative costs, unless its governing body finds, by

36-00345-22

2022536__

1190 resolution, that 5 percent of the local housing distribution
1191 plus 5 percent of program income is insufficient to adequately
1192 pay the necessary costs of administering the local housing
1193 assistance plan. The cost of administering the program may not
1194 exceed 10 percent of the local housing distribution plus 5
1195 percent of program income deposited into the trust fund, except
1196 that small counties, as defined in s. 120.52 ~~s. 120.52(19)~~, and
1197 eligible municipalities receiving a local housing distribution
1198 of up to \$350,000 may use up to 10 percent of program income for
1199 administrative costs.

1200 Section 12. Paragraph (d) of subsection (1) of section
1201 443.091, Florida Statutes, is amended to read:

1202 443.091 Benefit eligibility conditions.—

1203 (1) An unemployed individual is eligible to receive
1204 benefits for any week only if the Department of Economic
1205 Opportunity finds that:

1206 (d) She or he is able to work and is available for work. In
1207 order to assess eligibility for a claimed week of unemployment,
1208 the department shall develop criteria to determine a claimant's
1209 ability to work and availability for work. A claimant must be
1210 actively seeking work in order to be considered available for
1211 work. This means engaging in systematic and sustained efforts to
1212 find work, including contacting at least five prospective
1213 employers for each week of unemployment claimed. The department
1214 may require the claimant to provide proof of such efforts to the
1215 one-stop career center as part of reemployment services. A
1216 claimant's proof of work search efforts may not include the same
1217 prospective employer at the same location in 3 consecutive
1218 weeks, unless the employer has indicated since the time of the

36-00345-22

2022536__

1219 initial contact that the employer is hiring. The department
1220 shall conduct random reviews of work search information provided
1221 by claimants. As an alternative to contacting at least five
1222 prospective employers for any week of unemployment claimed, a
1223 claimant may, for that same week, report in person to a one-stop
1224 career center to meet with a representative of the center and
1225 access reemployment services of the center. The center shall
1226 keep a record of the services or information provided to the
1227 claimant and shall provide the records to the department upon
1228 request by the department. However:

1229 1. Notwithstanding any other provision of this paragraph or
1230 paragraphs (b) and (e), an otherwise eligible individual may not
1231 be denied benefits for any week because she or he is in training
1232 with the approval of the department, or by reason of s.
1233 443.101(2) relating to failure to apply for, or refusal to
1234 accept, suitable work. Training may be approved by the
1235 department in accordance with criteria prescribed by rule. A
1236 claimant's eligibility during approved training is contingent
1237 upon satisfying eligibility conditions prescribed by rule.

1238 2. Notwithstanding any other provision of this chapter, an
1239 otherwise eligible individual who is in training approved under
1240 s. 236(a)(1) of the Trade Act of 1974, as amended, may not be
1241 determined ineligible or disqualified for benefits due to
1242 enrollment in such training or because of leaving work that is
1243 not suitable employment to enter such training. As used in this
1244 subparagraph, the term "suitable employment" means work of a
1245 substantially equal or higher skill level than the worker's past
1246 adversely affected employment, as defined for purposes of the
1247 Trade Act of 1974, as amended, the wages for which are at least

36-00345-22

2022536__

1248 80 percent of the worker's average weekly wage as determined for
1249 purposes of the Trade Act of 1974, as amended.

1250 3. Notwithstanding any other provision of this section, an
1251 otherwise eligible individual may not be denied benefits for any
1252 week because she or he is before any state or federal court
1253 pursuant to a lawfully issued summons to appear for jury duty.

1254 4. Union members who customarily obtain employment through
1255 a union hiring hall may satisfy the work search requirements of
1256 this paragraph by reporting daily to their union hall.

1257 5. The work search requirements of this paragraph do not
1258 apply to persons who are unemployed as a result of a temporary
1259 layoff or who are claiming benefits under an approved short-time
1260 compensation plan as provided in s. 443.1116.

1261 6. In small counties as defined in s. 120.52 ~~s. 120.52(19)~~,
1262 a claimant engaging in systematic and sustained efforts to find
1263 work must contact at least three prospective employers for each
1264 week of unemployment claimed.

1265 7. The work search requirements of this paragraph do not
1266 apply to persons required to participate in reemployment
1267 services under paragraph (e).

1268 Section 13. This act shall take effect July 1, 2022.