

By the Committee on Rules; and Senator Diaz

595-03652-22

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1 A bill to be entitled
2 An act relating to administrative procedures; amending
3 s. 120.52, F.S.; defining the term "technical change";
4 amending s. 120.54, F.S.; requiring a notice of rule
5 development to include certain information; requiring
6 a notice of withdrawal if a notice of proposed rule is
7 not filed within a certain timeframe; requiring a
8 notice of proposed rule to include certain
9 information; requiring certain notices to be published
10 within a specified timeframe; requiring that material
11 proposed to be incorporated by reference be made
12 available in a specified manner; authorizing
13 electronic delivery of notices to persons who have
14 requested advance notice of agency rulemaking
15 proceedings; requiring publication of a notice of
16 correction in certain circumstances; providing that a
17 notice of correction does not affect certain
18 timeframes; revising the circumstances under which a
19 proposed rule's adverse impact on small businesses is
20 considered to exist; requiring an agency to provide
21 notice of a regulatory alternative to the
22 Administrative Procedures Committee before filing the
23 rule for adoption; requiring an agency to publish a
24 notice of convening a separate proceeding in certain
25 circumstances; providing that rulemaking timelines are
26 tolled during such separate proceedings; requiring a
27 notice of change for certain changes to a statement of
28 estimated regulatory costs; revising the requirements
29 for the contents of a notice of change; requiring the

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

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59 providing certain requirements for an agency that
60 revises a statement of estimated regulatory costs;
61 amending s. 120.545, F.S.; requiring the committee to
62 examine existing rules; authorizing the committee to
63 file an objection in certain instances; amending s.
64 120.55, F.S.; requiring the Florida Administrative
65 Code to contain complete indexes to any material
66 incorporated by reference contained in the code;
67 requiring material incorporated by reference to be
68 filed in a specified manner after a certain date;
69 requiring the department to include the date of a
70 technical change in the Florida Administrative Code;
71 providing that a technical change does not affect the
72 effective date of a rule; requiring a technical change
73 made after rule adoption to be published as a notice
74 of correction; requiring the Florida Administrative
75 Register to be published once daily and indicate
76 certain information; requiring specified rulemaking;
77 amending s. 120.74, F.S.; requiring an agency's
78 regulatory plan to identify and describe each rule the
79 agency plans to develop, adopt, or repeal during a
80 specified 12-month period; requiring such plan to
81 include a schedule of rule review; providing indexes
82 of certain information to be included in such plan;
83 requiring such plan to include a list of certain
84 statutes and laws or parts thereof; requiring the
85 agency to provide such list to the Division of Law
86 Revision; requiring a certification in such plan to
87 make certain declarations; requiring an agency to

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88 deliver a written explanation upon request by
89 designated persons for failing to comply with the
90 regulatory plan requirements; providing an effective
91 date.

92

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

94

95 Section 1. Present subsections (20), (21), and (22) of
96 section 120.52, Florida Statutes, are redesignated as
97 subsections (21), (22), and (23), respectively, and a new
98 subsection (20) is added to that section, to read:

99 120.52 Definitions.—As used in this act:

100 (20) "Technical change" means a change limited to
101 correcting grammatical, typographical, or similar errors not
102 affecting the substance of the rule.

103 Section 2. Subsections (2) and (3) and paragraph (a) of
104 subsection (7) of section 120.54, Florida Statutes, are amended,
105 to read:

106 120.54 Rulemaking.—

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

108 (a)1. Except when the intended action is the repeal of a
109 rule, agencies shall provide notice of the development of
110 proposed rules by publication of a notice of rule development in
111 the Florida Administrative Register before providing notice of a
112 proposed rule as required by paragraph (3)(a). The notice of
113 rule development must ~~shall~~ indicate the subject area to be
114 addressed by rule development, provide a short, plain
115 explanation of the purpose and effect of the proposed rule, cite
116 the grant of rulemaking authority for the proposed rule and the

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117 law being implemented ~~specific legal authority for the proposed~~
118 ~~rule~~, and include the proposed rule number and the preliminary
119 text of the proposed rule ~~rules~~, if available, or a statement of
120 how a person may promptly obtain, without cost, a copy of any
121 preliminary draft, when ~~if~~ available.

122 2. If a notice of a proposed rule is not filed within 12
123 months after the notice of rule development, the agency shall
124 withdraw the rule and give notice of the withdrawal in the next
125 available issue of the Florida Administrative Register.

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

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

130 2. It avoids the use of unnecessary technical or
131 specialized language that is understood only by members of
132 particular trades or professions.

133 (c) An agency may hold public workshops for purposes of
134 rule development. If requested in writing by any affected
135 person, an agency must hold public workshops, including
136 workshops in various regions of the state or the agency's
137 service area, for purposes of rule development ~~if requested in~~
138 ~~writing by any affected person~~, unless the agency head explains
139 in writing why a workshop is unnecessary. The explanation is not
140 final agency action subject to review pursuant to ss. 120.569
141 and 120.57. The failure to provide the explanation when required
142 may be a material error in procedure pursuant to s.
143 120.56(1)(c). When a workshop or public hearing is held, the
144 agency must ensure that the persons responsible for preparing
145 the proposed rule are available to explain the agency's proposal

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146 and to respond to questions or comments regarding the rule being
147 developed. The workshop may be facilitated or mediated by a
148 neutral third person, or the agency may employ other types of
149 dispute resolution alternatives for the workshop that are
150 appropriate for rule development. Notice of a workshop for rule
151 development must ~~workshop shall~~ be by publication in the Florida
152 Administrative Register not fewer ~~less~~ than 14 days before ~~prior~~
153 ~~to~~ the date on which the workshop is scheduled to be held and
154 must ~~shall~~ indicate the subject area that ~~which~~ will be
155 addressed; the agency contact person; and the place, date, and
156 time of the workshop.

157 (d)1. An agency may use negotiated rulemaking in developing
158 and adopting rules. The agency should consider the use of
159 negotiated rulemaking when complex rules are being drafted or
160 strong opposition to the rules is anticipated. The agency should
161 consider, but is not limited to considering, whether a balanced
162 committee of interested persons who will negotiate in good faith
163 can be assembled, whether the agency is willing to support the
164 work of the negotiating committee, and whether the agency can
165 use the group consensus as the basis for its proposed rule.
166 Negotiated rulemaking uses a committee of designated
167 representatives to draft a mutually acceptable proposed rule.

168 2. An agency that chooses to use the negotiated rulemaking
169 process described in this paragraph shall publish in the Florida
170 Administrative Register a notice of negotiated rulemaking that
171 includes a listing of the representative groups that will be
172 invited to participate in the negotiated rulemaking process. Any
173 person who believes that his or her interest is not adequately
174 represented may apply to participate within 30 days after

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175 publication of the notice. All meetings of the negotiating
176 committee shall be noticed and open to the public pursuant to
177 ~~the provisions of~~ this chapter. The negotiating committee shall
178 be chaired by a neutral facilitator or mediator.

179 3. The agency's decision to use negotiated rulemaking, its
180 selection of the representative groups, and approval or denial
181 of an application to participate in the negotiated rulemaking
182 process are not agency action. ~~Nothing in~~ This subparagraph is
183 not intended to affect the rights of a substantially ~~an~~ affected
184 person to challenge a proposed rule developed under this
185 paragraph in accordance with s. 120.56(2).

186 (3) ADOPTION PROCEDURES.—

187 (a) *Notices.*—

188 1. Before ~~Prior to~~ the adoption, amendment, or repeal of
189 any rule other than an emergency rule, an agency, upon approval
190 of the agency head, shall give notice of its intended action,
191 setting forth a short, plain explanation of the purpose and
192 effect of the proposed action; the proposed rule number and the
193 full text of the proposed rule or amendment and a summary
194 thereof; a reference to the grant of rulemaking authority
195 pursuant to which the rule is adopted; and a reference to the
196 section or subsection of the Florida Statutes or the Laws of
197 Florida being implemented or interpreted. The notice must
198 include a summary of the agency's statement of the estimated
199 regulatory costs, if one has been prepared, based on the factors
200 set forth in s. 120.541(2), which describes the regulatory
201 impact of the proposed rule in readable language; an agency
202 website address where the statement of estimated regulatory
203 costs can be viewed in its entirety, if one has been prepared; a

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204 statement that any person who wishes to provide the agency with
205 information regarding the statement of estimated regulatory
206 costs, or to provide a proposal for a lower cost regulatory
207 alternative as provided by s. 120.541(1), must do so in writing
208 within 21 days after publication of the notice; and a statement
209 as to whether, based on the statement of the estimated
210 regulatory costs or other information expressly relied upon and
211 described by the agency if no statement of regulatory costs is
212 required, the proposed rule is expected to require legislative
213 ratification pursuant to s. 120.541(3). The notice must state
214 the procedure for requesting a public hearing on the proposed
215 rule. Except when the intended action is the repeal of a rule,
216 the notice must include a reference both to the date on which
217 and to the place where the notice of rule development that is
218 required by subsection (2) appeared.

219 2. The notice shall be published in the Florida
220 Administrative Register at least 7 days after the publication of
221 the notice of rule development and at least ~~not less than~~ 28
222 days before ~~prior to~~ the intended action. The proposed rule,
223 including all materials proposed to be incorporated by reference
224 and the statement of estimated regulatory costs, if one has been
225 prepared, must ~~shall~~ be available for inspection and copying by
226 the public at the time of the publication of notice. After
227 December 31, 2022, material proposed to be incorporated by
228 reference in the notice required by this paragraph must be made
229 available in the manner prescribed by sub-subparagraph
230 (1)(i)3.a. or sub-subparagraph (1)(i)3.b.

231 3. The notice shall be mailed to all persons named in the
232 proposed rule and mailed or delivered electronically to all

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233 persons who, at least 14 days before publication of the notice
234 ~~prior to such mailing~~, have made requests of the agency for
235 advance notice of its proceedings. The agency shall also give
236 such notice as is prescribed by rule to those particular classes
237 of persons to whom the intended action is directed.

238 4. The adopting agency shall file with the committee, at
239 least 21 days before ~~prior to~~ the proposed adoption date, a copy
240 of each rule it proposes to adopt; a copy of any material
241 incorporated by reference in the rule; a detailed written
242 statement of the facts and circumstances justifying the proposed
243 rule; a copy of any statement of estimated regulatory costs that
244 has been prepared pursuant to s. 120.541; a statement of the
245 extent to which the proposed rule relates to federal standards
246 or rules on the same subject; and the notice required by
247 subparagraph 1.

248 5. If any of the information, other than substantive
249 changes to the rule text, which is required to be included in
250 the notice required by subparagraph 1. is omitted or is
251 incorrect, the agency must publish a notice of correction. A
252 notice of correction does not affect the timeframes for filing
253 the rule for adoption as set forth in paragraph (e). Technical
254 changes are not required to be published as a notice of
255 correction.

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

257 1. Statement of estimated regulatory costs.—Before the
258 adoption, amendment, or repeal of any rule other than an
259 emergency rule, an agency is encouraged to prepare a statement
260 of estimated regulatory costs of the proposed rule, as provided
261 by s. 120.541. However, an agency must prepare a statement of

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262 estimated regulatory costs of the proposed rule, as provided by
263 s. 120.541, if:

264 a. The proposed rule will have an adverse impact on small
265 business; or

266 b. The proposed rule is likely to directly or indirectly
267 increase regulatory costs in excess of \$200,000 in the aggregate
268 in this state within 1 year after the implementation of the
269 rule.

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

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

274 (I) An owner, officer, operator, or manager must complete
275 any education, training, or testing to comply with the rule in
276 the first year or is likely to spend at least 10 hours or
277 purchase professional advice to understand and comply with the
278 rule in the first year;

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

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

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

286 (V) Operating costs are expected to increase by at least
287 \$1,000 annually because of the rule; or

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

290 b. Each agency, before the adoption, amendment, or repeal

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291 of a rule, shall consider the impact of the rule on small
292 businesses as defined in ~~by~~ s. 288.703 and the impact of the
293 rule on small counties or small cities as defined in ~~by~~ s.
294 120.52. Whenever practicable, an agency shall tier its rules to
295 reduce disproportionate impacts on small businesses, small
296 counties, or small cities to avoid regulating small businesses,
297 small counties, or small cities that do not contribute
298 significantly to the problem the rule is designed to address. An
299 agency may define "small business" to include businesses
300 employing more than 200 persons, may define "small county" to
301 include those with populations of more than 75,000, and may
302 define "small city" to include those with populations of more
303 than 10,000, if it finds that such a definition is necessary to
304 adapt a rule to the needs and problems of small businesses,
305 small counties, or small cities. The agency shall consider each
306 of the following methods for reducing the impact of the proposed
307 rule on small businesses, small counties, and small cities, or
308 any combination of these entities:

309 (I) Establishing less stringent compliance or reporting
310 requirements in the rule.

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

313 (III) Consolidating or simplifying the rule's compliance or
314 reporting requirements.

315 (IV) Establishing performance standards or best management
316 practices to replace design or operational standards in the
317 rule.

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

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320 c.(I)~~b.(I)~~ If the agency determines that the proposed
321 action will affect small businesses as defined by the agency as
322 provided in sub-subparagraph b. a., the agency shall send
323 written notice of the rule to the rules ombudsman in the
324 Executive Office of the Governor at least 28 days before the
325 intended action.

326 (II) Each agency shall adopt those regulatory alternatives
327 offered by the rules ombudsman in the Executive Office of the
328 Governor and provided to the agency no later than 21 days after
329 the rules ombudsman's receipt of the written notice of the rule
330 which it finds are feasible and consistent with the stated
331 objectives of the proposed rule and which would reduce the
332 impact on small businesses. When regulatory alternatives are
333 offered by the rules ombudsman in the Executive Office of the
334 Governor, the 90-day period for filing the rule in subparagraph
335 (e)2. is extended for a period of 21 days. At least 21 days
336 before filing the rule for adoption, the agency shall provide a
337 copy of any regulatory alternative offered to the agency to the
338 committee.

339 (III) If an agency does not adopt all alternatives offered
340 pursuant to this sub-subparagraph, it shall, before rule
341 adoption or amendment and pursuant to subparagraph (d)1., file a
342 detailed written statement with the committee explaining the
343 reasons for failure to adopt such alternatives. Within 3 working
344 days after the filing of such notice, the agency shall send a
345 copy of such notice to the rules ombudsman in the Executive
346 Office of the Governor.

347 (c) *Hearings.*—

348 1. If the intended action concerns any rule other than one

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349 relating exclusively to procedure or practice, the agency shall,
350 on the request of any affected person received within 21 days
351 after the date of publication of the notice of intended agency
352 action, give affected persons an opportunity to present evidence
353 and argument on all issues under consideration. The agency may
354 schedule a public hearing on the proposed rule and, if requested
355 by any affected person, shall schedule a public hearing on the
356 proposed rule. When a public hearing is held, the agency must
357 ensure that staff are available to explain the agency's proposal
358 and to respond to questions or comments regarding the proposed
359 rule. If the agency head is a board or other collegial body
360 created under s. 20.165(4) or s. 20.43(3)(g), and one or more
361 requested public hearings is scheduled, the board or other
362 collegial body shall conduct at least one of the public hearings
363 itself and may not delegate this responsibility without the
364 consent of those persons requesting the public hearing. Any
365 material pertinent to the issues under consideration submitted
366 to the agency within 21 days after the date of publication of
367 the notice or submitted to the agency between the date of
368 publication of the notice and the end of the final public
369 hearing shall be considered by the agency and made a part of the
370 record of the rulemaking proceeding.

371 2. Rulemaking proceedings shall be governed solely by the
372 provisions of this section unless a person timely asserts that
373 the person's substantial interests will be affected in the
374 proceeding and affirmatively demonstrates to the agency that the
375 proceeding does not provide adequate opportunity to protect
376 those interests. If the agency determines that the rulemaking
377 proceeding is not adequate to protect the person's interests, it

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378 shall suspend the rulemaking proceeding and convene a separate
379 proceeding under the provisions of ss. 120.569 and 120.57. The
380 agency shall publish notice of convening a separate proceeding
381 in the Florida Administrative Register. Similarly situated
382 persons may be requested to join and participate in the separate
383 proceeding. Upon conclusion of the separate proceeding, the
384 rulemaking proceeding shall be resumed. All timelines in this
385 section are tolled during any suspension of the rulemaking
386 proceeding under this subparagraph, beginning on the date the
387 notice of convening a separate proceeding is published and
388 resuming on the day after the conclusion of the separate
389 proceeding.

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

391 1. After the final public hearing on the proposed rule, or
392 after the time for requesting a hearing has expired, if the
393 proposed rule has not been changed from the proposed rule as
394 previously filed with the committee, or contains only technical
395 changes, the adopting agency shall file a notice to that effect
396 with the committee at least 7 days before ~~prior to~~ filing the
397 proposed rule for adoption. Any change, other than a technical
398 change ~~that does not affect the substance of the rule,~~ must be
399 supported by the record of public hearings held on the proposed
400 rule, must be in response to written material submitted to the
401 agency within 21 days after the date of publication of the
402 notice of intended agency action or submitted to the agency
403 between the date of publication of the notice and the end of the
404 final public hearing, or must be in response to a proposed
405 objection by the committee. Any change, other than a technical
406 change, to a statement of estimated regulatory costs requires a

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407 notice of change. In addition, ~~when~~ any change, other than a
408 technical change, to the text of is made in a proposed rule or
409 any material incorporated by reference requires, ~~other than a~~
410 ~~technical change,~~ the adopting agency to ~~shall~~ provide a copy of
411 a notice of change by certified mail or actual delivery to any
412 person who requests it in writing no later than 21 days after
413 the notice required in paragraph (a). The agency shall file the
414 notice of change with the committee, along with the reasons for
415 the change, and provide the notice of change to persons
416 requesting it, at least 21 days before ~~prior to~~ filing the
417 proposed rule for adoption. The notice of change shall be
418 published in the Florida Administrative Register at least 21
419 days before ~~prior to~~ filing the proposed rule for adoption. The
420 notice of change must include a summary of any revision to a
421 statement of estimated regulatory costs required by s.
422 120.541(1)(c). This subparagraph does not apply to emergency
423 rules adopted pursuant to subsection (4). After December 31,
424 2022, material proposed to be incorporated by reference in the
425 notice required by this paragraph must be made available in the
426 manner prescribed by sub-subparagraph (1)(i)3.a. or sub-
427 subparagraph (1)(i)3.b.

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

431 3. After the notice required by paragraph (a), the agency
432 shall withdraw the proposed rule if the agency has failed to
433 adopt it within the prescribed timeframes in this chapter. The
434 committee shall notify the agency that it has exceeded the
435 timeframe to adopt the proposed rule. If, 30 days after notice

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436 by the committee, the agency has not given notice of the
437 withdrawal of the rule, the committee shall notify the
438 Department of State that the date for adoption of the rule has
439 expired, and the Department of State shall publish a notice of
440 withdrawal of the proposed rule.

441 ~~4.3.~~ After adoption and before the rule becomes effective,
442 a rule may be modified or withdrawn only in the following
443 circumstances:

444 a. When the committee objects to the rule;

445 b. When a final order, which is not subject to further
446 appeal, is entered in a rule challenge brought pursuant to s.
447 120.56 after the date of adoption but before the rule becomes
448 effective pursuant to subparagraph (e)6.;

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

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

456 ~~5.4.~~ The agency shall give notice of its decision to
457 withdraw or modify a rule in the first available issue of the
458 publication in which the original notice of rulemaking was
459 published, shall notify those persons described in subparagraph
460 (a)3. in accordance with the requirements of that subparagraph,
461 and shall notify the Department of State if the rule is required
462 to be filed with the Department of State.

463 ~~6.5.~~ After a rule has become effective, it may be repealed
464 or amended only through the rulemaking procedures specified in

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465 this chapter.

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

467 1. If the adopting agency is required to publish its rules
468 in the Florida Administrative Code, the agency, upon approval of
469 the agency head, shall file with the Department of State three
470 certified copies of the rule it proposes to adopt; one copy of
471 any material incorporated by reference in the rule, certified by
472 the agency; a summary of the rule; a summary of any hearings
473 held on the rule; and a detailed written statement of the facts
474 and circumstances justifying the rule. Agencies not required to
475 publish their rules in the Florida Administrative Code shall
476 file one certified copy of the proposed rule, and the other
477 material required by this subparagraph, in the office of the
478 agency head, and such rules shall be open to the public.

479 2. A rule may not be filed for adoption less than 28 days
480 or more than 90 days after the notice required by paragraph (a),
481 until 21 days after the notice of change required by paragraph
482 (d), until 14 days after the final public hearing, until 21 days
483 after a statement of estimated regulatory costs required under
484 s. 120.541 has been provided to all persons who submitted a
485 lower cost regulatory alternative and made available to the
486 public at a readily accessible page on the agency's website, or
487 until the administrative law judge has rendered a decision under
488 s. 120.56(2), whichever applies. When a required notice of
489 change is published before ~~prior to~~ the expiration of the time
490 to file the rule for adoption, the period during which a rule
491 must be filed for adoption is extended to 45 days after the date
492 of publication. If notice of a public hearing is published
493 before ~~prior to~~ the expiration of the time to file the rule for

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494 adoption, the period during which a rule must be filed for
495 adoption is extended to 45 days after adjournment of the final
496 hearing on the rule, 21 days after receipt of all material
497 authorized to be submitted at the hearing, or 21 days after
498 receipt of the transcript, if one is made, whichever is latest.
499 The term "public hearing" includes any public meeting held by
500 any agency at which the rule is considered. If a petition for an
501 administrative determination under s. 120.56(2) is filed, the
502 period during which a rule must be filed for adoption is
503 extended to 60 days after the administrative law judge files the
504 final order with the clerk or until 60 days after subsequent
505 judicial review is complete.

506 3. At the time a rule is filed, the agency shall certify
507 that the time limitations prescribed by this paragraph have been
508 complied with, that all statutory rulemaking requirements have
509 been met, and that there is no administrative determination
510 pending on the rule.

511 4. At the time a rule is filed, the committee shall certify
512 whether the agency has responded in writing to all material and
513 timely written comments or written inquiries made on behalf of
514 the committee. The Department of State shall reject any rule
515 that is not filed within the prescribed time limits; that does
516 not comply with all statutory rulemaking requirements and rules
517 of the Department of State; upon which an agency has not
518 responded in writing to all material and timely written
519 inquiries or written comments; upon which an administrative
520 determination is pending; or which does not include a statement
521 of estimated regulatory costs, if required.

522 5. If a rule has not been adopted within the time limits

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523 imposed by this paragraph or has not been adopted in compliance
524 with all statutory rulemaking requirements, the agency proposing
525 the rule shall withdraw the proposed rule and give notice of its
526 action in the next available issue of the Florida Administrative
527 Register.

528 6. The proposed rule shall be adopted on being filed with
529 the Department of State and become effective 20 days after being
530 filed, on a later date specified in the notice required by
531 subparagraph (a)1., on a date required by statute, or upon
532 ratification by the Legislature pursuant to s. 120.541(3). Rules
533 not required to be filed with the Department of State shall
534 become effective when adopted by the agency head, on a later
535 date specified by rule or statute, or upon ratification by the
536 Legislature pursuant to s. 120.541(3). If the committee notifies
537 an agency that an objection to a rule is being considered, the
538 agency may postpone the adoption of the rule to accommodate
539 review of the rule by the committee. When an agency postpones
540 adoption of a rule to accommodate review by the committee, the
541 90-day period for filing the rule is tolled until the committee
542 notifies the agency that it has completed its review of the
543 rule.

544

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

547 (7) PETITION TO INITIATE RULEMAKING.—

548 (a) Any person regulated by an agency or having substantial
549 interest in an agency rule may petition an agency to adopt,
550 amend, or repeal a rule or to provide the minimum public
551 information required by this chapter. The petition shall specify

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552 the proposed rule and action requested. The agency shall file a
553 copy of the petition with the committee. Not later than 30
554 calendar days following the date of filing a petition, the
555 agency shall initiate rulemaking proceedings under this chapter,
556 otherwise comply with the requested action, or deny the petition
557 with a written statement of its reasons for the denial.

558 Section 3. Section 120.541, Florida Statutes, is amended to
559 read:

560 120.541 Statement of estimated regulatory costs.-

561 (1) (a) Within 21 days after publication of the notice of a
562 proposed rule or notice of change ~~required under s.~~
563 ~~120.54(3)(a)~~, a substantially affected person may submit to an
564 agency a good faith written proposal for a lower cost regulatory
565 alternative to a proposed rule which substantially accomplishes
566 the objectives of the law being implemented. The agency shall
567 provide a copy of any proposal for a lower cost regulatory
568 alternative to the committee at least 21 days before filing the
569 rule for adoption. The proposal may include the alternative of
570 not adopting any rule if the proposal explains how the lower
571 costs and objectives of the law will be achieved by not adopting
572 any rule. If submitted after a notice of change, a proposal for
573 a lower cost regulatory alternative is deemed to be made in good
574 faith only if the person reasonably believes, and the proposal
575 states the person's reasons for believing, that the proposed
576 rule as changed by the notice of change increases the regulatory
577 costs or creates an adverse impact on small businesses which was
578 not created by the previous proposed rule. If such a proposal is
579 submitted, the 90-day period for filing the rule is extended 21
580 days. Upon the submission of the lower cost regulatory

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581 alternative, the agency shall prepare a statement of estimated
582 regulatory costs as provided in subsection (2), or shall revise
583 its prior statement of estimated regulatory costs, and ~~either~~
584 adopt the alternative proposal, reject the alternative proposal,
585 or modify the proposed rule to reduce the regulatory costs. If
586 the agency rejects the alternative proposal or modifies the
587 proposed rule, the agency shall ~~or~~ provide a statement of the
588 reasons for rejecting the alternative in favor of the proposed
589 rule.

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

596 (c) The agency shall revise a statement of estimated
597 regulatory costs if any change to the rule made under s.
598 120.54(3)(d) increases the regulatory costs of the rule or if
599 the rule is modified in response to the submission of a lower
600 cost regulatory alternative. A summary of the revised statement
601 must be included with any subsequent notice published under s.
602 120.54(3).

603 (d) At least 21 days before filing the proposed rule for
604 adoption, an agency that is required to revise a statement of
605 estimated regulatory costs shall provide the statement to the
606 person who submitted the lower cost regulatory alternative, to
607 the rules ombudsman in the Executive Office of the Governor, and
608 to the committee. The revised statement shall be published and
609 made available in the same manner as the original statement of

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610 ~~estimated regulatory costs and shall provide notice on the~~
611 ~~agency's website that it is available to the public.~~

612 (e) Notwithstanding s. 120.56(1)(c), the failure of the
613 agency to prepare and publish a statement of estimated
614 regulatory costs or to respond to a written lower cost
615 regulatory alternative as provided in this subsection is a
616 material failure to follow the applicable rulemaking procedures
617 or requirements set forth in this chapter.

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

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

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

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

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

631 2. The challenge is to the agency's rejection of a lower
632 cost regulatory alternative offered under paragraph (a) or s.
633 120.54(3)(b)2.c. ~~s. 120.54(3)(b)2.b.~~; and

634 3. The substantial interests of the person challenging the
635 rule are materially affected by the rejection.

636 (2) A statement of estimated regulatory costs must ~~shall~~
637 include:

638 (a) An economic analysis showing whether the rule directly

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639 or indirectly:

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

644 2. Is likely to have an adverse impact on business
645 competitiveness, including the ability of persons doing business
646 in the state to compete with persons doing business in other
647 states or domestic markets, productivity, or innovation in
648 excess of \$1 million in the aggregate within 5 years after the
649 implementation of the rule; or

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

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

658 (c) A good faith estimate of the cost to the agency, and to
659 any other state and local government entities, of implementing
660 and enforcing the proposed rule, and any anticipated effect on
661 state or local revenues.

662 (d) A good faith estimate of the compliance ~~transactional~~
663 costs likely to be incurred by individuals and entities,
664 including local government entities, required to comply with the
665 requirements of the rule. ~~As used in this section,~~
666 ~~"transactional costs" are direct costs that are readily~~
667 ~~ascertainable based upon standard business practices, and~~

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668 ~~include filing fees, the cost of obtaining a license, the cost~~
669 ~~of equipment required to be installed or used or procedures~~
670 ~~required to be employed in complying with the rule, additional~~
671 ~~operating costs incurred, the cost of monitoring and reporting,~~
672 ~~and any other costs necessary to comply with the rule.~~

673 (e) An analysis of the impact on small businesses as
674 defined in ~~by~~ s. 288.703~~7~~, and an analysis of the impact on small
675 counties and small cities as defined in s. 120.52. The impact
676 analysis for small businesses must include the basis for the
677 agency's decision not to implement alternatives that would
678 reduce adverse impacts on small businesses.

679 (f) Any additional information that the agency determines
680 may be useful.

681 (g) In the statement or revised statement, whichever
682 applies, a description of any regulatory alternatives submitted
683 under paragraph (1)(a) and a statement adopting the alternative
684 or a statement of the reasons for rejecting the alternative in
685 favor of the proposed rule.

686 (3) If the adverse impact or regulatory costs of the rule
687 exceed any of the criteria established in paragraph (2)(a), the
688 rule shall be submitted to the President of the Senate and
689 Speaker of the House of Representatives no later than 30 days
690 before ~~prior to~~ the next regular legislative session, and the
691 rule may not take effect until it is ratified by the
692 Legislature.

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

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

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

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

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

700 (5) For purposes of subsections (2) and (3), adverse
701 impacts and regulatory costs likely to occur within 5 years
702 after implementation of the rule include adverse impacts and
703 regulatory costs estimated to occur within 5 years after the
704 effective date of the rule. However, if any provision of the
705 rule is not fully implemented upon the effective date of the
706 rule, the adverse impacts and regulatory costs associated with
707 such provision must be adjusted to include any additional
708 adverse impacts and regulatory costs estimated to occur within 5
709 years after implementation of such provision.

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

714 1. Increased customer charges for goods or services.

715 2. Decreased market value of goods or services produced,
716 provided, or sold.

717 3. Increased costs resulting from the purchase of
718 substitute or alternative goods or services.

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

723 5. Capital costs.

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

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726 (b) In estimating and analyzing the information required in
727 paragraphs (2)(b)-(e), the agency may use surveys of
728 individuals, businesses, business organizations, counties, and
729 municipalities to collect data helpful to estimate and analyze
730 the costs and impacts.

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

736 1. Filing fees.

737 2. Expenses to obtain a license.

738 3. Necessary equipment.

739 4. Installation, utilities, and maintenance of necessary
740 equipment.

741 5. Necessary operations and procedures.

742 6. Accounting, financial, information management, and other
743 administrative processes.

744 7. Other processes.

745 8. Labor based on relevant rates of wages, salaries, and
746 benefits.

747 9. Materials and supplies.

748 10. Capital expenditures, including financing costs.

749 11. Professional and technical services, including
750 contracted services necessary to implement and maintain
751 compliance.

752 12. Monitoring and reporting.

753 13. Qualifying and recurring education, training, and
754 testing.

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- 755 14. Travel.
- 756 15. Insurance and surety requirements.
- 757 16. A fair and reasonable allocation of administrative
758 costs and other overhead.
- 759 17. Reduced sales or other revenues.
- 760 18. Other items suggested by the rules ombudsman in the
761 Executive Office of the Governor or any interested person,
762 business organization, or business representative.
- 763 (7) (a) The Department of State shall include on the Florida
764 Administrative Register website the agency website addresses
765 where statements of estimated regulatory costs may be viewed in
766 their entirety.
- 767 (b) An agency that prepares a statement of estimated
768 regulatory costs must provide, as part of the notice required
769 under s. 120.54(3) (a), the agency website address where the
770 statement of estimated regulatory costs can be read in its
771 entirety to the Department of State for publication in the
772 Florida Administrative Register.
- 773 (c) If an agency revises its statement of estimated
774 regulatory costs, the agency must provide notice that a revision
775 has been made as provided in s. 120.54(3) (d). Such notice must
776 include the agency website address where the revision can be
777 viewed in its entirety.
- 778 Section 4. Subsections (1) and (2) of section 120.545,
779 Florida Statutes, are amended to read:
- 780 120.545 Committee review of agency rules.—
- 781 (1) As a legislative check on legislatively created
782 authority, the committee shall examine each existing rule and
783 proposed rule, except for those proposed rules exempted by s.

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784 120.81(1)(e) and (2), and its accompanying material, and each
785 emergency rule, ~~and may examine any existing rule,~~ for the
786 purpose of determining whether:

787 (a) The rule is an invalid exercise of delegated
788 legislative authority.

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

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

791 (d) The rule is in proper form.

792 (e) The notice given before ~~prior to~~ its adoption was
793 sufficient to give adequate notice of the purpose and effect of
794 the rule.

795 (f) The rule is consistent with expressed legislative
796 intent pertaining to the specific provisions of law which the
797 rule implements.

798 (g) The rule is necessary to accomplish the apparent or
799 expressed objectives of the specific provision of law which the
800 rule implements.

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

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

806 (j) The rule's statement of estimated regulatory costs
807 complies with the requirements of s. 120.541 and whether the
808 rule does not impose regulatory costs on the regulated person,
809 county, or city which could be reduced by the adoption of less
810 costly alternatives that substantially accomplish the statutory
811 objectives.

812 (k) The rule will require additional appropriations.

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813 (1) If the rule is an emergency rule, there exists an
814 emergency justifying the adoption of such rule, the agency is
815 within its statutory authority, and the rule was adopted in
816 compliance with the requirements and limitations of s.
817 120.54(4).

818 (2) The committee may request from an agency such
819 information as is reasonably necessary for examination of a rule
820 as required by subsection (1). The committee shall consult with
821 legislative standing committees having jurisdiction over the
822 subject areas. If the committee objects to a rule, the committee
823 shall, within 5 days after the objection, certify that fact to
824 the agency whose rule has been examined and include with the
825 certification a statement detailing its objections with
826 particularity. The committee may file an objection for the
827 failure of an agency to repeal or amend an existing rule which
828 the committee identifies as being inconsistent with the powers
829 and duties granted by its enabling statute or having no enabling
830 statute. The committee shall notify the Speaker of the House of
831 Representatives and the President of the Senate of any objection
832 to an agency rule concurrent with certification of that fact to
833 the agency. Such notice shall include a copy of the rule and the
834 statement detailing the committee's objections to the rule.

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

837 120.55 Publication.—

838 (1) The Department of State shall:

839 (a)1. Through a continuous revision and publication system,
840 compile and publish electronically, on a website managed by the
841 department, the "Florida Administrative Code." The Florida

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842 Administrative Code shall contain all rules adopted by each
843 agency, citing the grant of rulemaking authority and the
844 specific law implemented pursuant to which each rule was
845 adopted, all history notes as authorized in s. 120.545(7),
846 complete indexes to all rules and any material incorporated by
847 reference contained in the code, and any other material required
848 or authorized by law or deemed useful by the department. The
849 electronic code shall display each rule chapter currently in
850 effect in browse mode and allow full text search of the code and
851 each rule chapter. The department may contract with a publishing
852 firm for a printed publication; however, the department shall
853 retain responsibility for the code as provided in this section.
854 The electronic publication shall be the official compilation of
855 the administrative rules of this state. The Department of State
856 shall retain the copyright over the Florida Administrative Code.

857 2. Not publish in the Florida Administrative Code rules
858 general in form but applicable to only one school district,
859 community college district, or county, or a part thereof, or
860 state university rules relating to internal personnel or
861 business and finance ~~shall not be published in the Florida~~
862 ~~Administrative Code~~. Exclusion from publication in the Florida
863 Administrative Code does ~~shall~~ not affect the validity or
864 effectiveness of such rules.

865 3. At the beginning of the section of the code dealing with
866 an agency that files copies of its rules with the department,
867 ~~the department shall~~ publish the address and telephone number of
868 the executive offices of each agency, the manner by which the
869 agency indexes its rules, a listing of all rules of that agency
870 excluded from publication in the code, a listing of all forms

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871 and material incorporated by reference adopted by rule which are
872 used by the agency, and a statement as to where those rules may
873 be inspected.

874 4. Not publish forms ~~shall not be published~~ in the Florida
875 Administrative Code. However, ~~but~~ any form that ~~which~~ an agency
876 uses in its dealings with the public, along with any
877 accompanying instructions, shall be filed with the committee
878 before it is used. Any form or instruction which meets the
879 definition of the term "rule" as defined ~~provided~~ in s. 120.52
880 shall be incorporated by reference into the appropriate rule.
881 The reference shall specifically state that the form is being
882 incorporated by reference and shall include the number, title,
883 and effective date of the form and an explanation of how the
884 form may be obtained. Each form created by an agency which is
885 incorporated by reference in a rule notice of which is given
886 under s. 120.54(3)(a) after December 31, 2007, must clearly
887 display the number, title, and effective date of the form and
888 the number of the rule in which the form is incorporated.

889 5. Require all materials incorporated by reference in any
890 part of an adopted rule after December 31, 2022, ~~The department~~
891 ~~shall allow adopted rules and material incorporated by reference~~
892 ~~to be filed in the manner prescribed by s. 120.54(1)(i)3.a. or~~
893 ~~b. electronic form as prescribed by department rule.~~ When a rule
894 is filed for adoption with incorporated material in electronic
895 form, the department's publication of the Florida Administrative
896 Code on its website must contain a hyperlink from the
897 incorporating reference in the rule directly to that material.
898 The department may not allow hyperlinks from rules in the
899 Florida Administrative Code to any material other than that

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900 filed with and maintained by the department, but may allow
901 hyperlinks to incorporated material maintained by the department
902 from the adopting agency's website or other sites.

903 6. Include the date of any technical changes to a rule in
904 the history note of the rule in the Florida Administrative Code.
905 A technical change does not affect the effective date of the
906 rule. A technical change made after the adoption of a rule must
907 be published as a notice of correction.

908 (b)1. Electronically publish on a website managed by the
909 department a continuous revision and publication entitled the
910 "Florida Administrative Register," which shall serve as the
911 official publication. The Florida Administrative Register shall
912 be published once daily by 8 a.m. If after publication, a rule
913 is corrected and replaced, the Florida Administrative Register
914 shall indicate:

915 a. That the Florida Administrative Register has been
916 republished.

917 b. The rule that has been corrected by the Department of
918 State.

919 2. The Florida Administrative Register ~~and~~ must contain:

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

922 ~~b.2.~~ All notices of public meetings, hearings, and
923 workshops conducted in accordance with s. 120.525, including a
924 statement of the manner in which a copy of the agenda may be
925 obtained.

926 ~~c.3.~~ A notice of each request for authorization to amend or
927 repeal an existing uniform rule or for the adoption of new
928 uniform rules.

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929 ~~d.4.~~ Notice of petitions for declaratory statements or
930 administrative determinations.

931 ~~e.5.~~ A summary of each objection to any rule filed by the
932 Administrative Procedures Committee.

933 ~~f.6.~~ A list of rules filed for adoption in the previous 7
934 days.

935 ~~g.7.~~ A list of all rules filed for adoption pending
936 legislative ratification under s. 120.541(3). A rule shall be
937 removed from the list once notice of ratification or withdrawal
938 of the rule is received.

939 ~~h.8.~~ Any other material required or authorized by law or
940 deemed useful by the department.

941
942 The department may contract with a publishing firm for a printed
943 publication of the Florida Administrative Register and make
944 copies available on an annual subscription basis.

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

951 Section 6. Section 120.74, Florida Statutes, is amended to
952 read:

953 120.74 Agency annual rulemaking and regulatory plans;
954 reports.—

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

957 (a) The plan must include a listing of each law enacted or

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

964 1. Whether the agency must adopt rules to implement the
965 law.

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

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

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

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

975 (b) The plan must also identify and describe each rule,
976 including each rule number or proposed rule number, that include
977 a listing of each law not otherwise listed pursuant to paragraph
978 (a) which the agency expects to develop, adopt, or repeal for
979 the 12-month period beginning on October 1 and ending on
980 September 30 implement by rulemaking before the following July
981 1, excluding emergency rules except emergency rulemaking. For
982 each rule identified and described law listed under this
983 paragraph, the plan must state whether the rulemaking is
984 intended to simplify, clarify, increase efficiency, improve
985 coordination with other agencies, reduce regulatory costs, or
986 delete obsolete, unnecessary, or redundant rules.

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

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

996 2. If the agency has subsequently determined that
997 rulemaking is not necessary to implement the law, the agency
998 shall identify such law, reference the citation to the
999 applicable notice of rule development in the Florida
1000 Administrative Register, and provide a concise written
1001 explanation of the reason why the law may be implemented without
1002 rulemaking.

1003 (d)1. The plan must include a schedule for the agency to
1004 review its rules for consistency with the powers and duties
1005 granted by the enabling statutes in accordance with this
1006 paragraph. Each agency must review all of its rules existing
1007 before July 1, 2022, in accordance with this paragraph by July
1008 1, 2027. All rules adopted on or after July 1, 2022, and all
1009 existing rules reviewed initially by July 1, 2027, shall be
1010 reviewed every 10 years after their respective dates of adoption
1011 or review. This schedule shall be updated on an annual basis to
1012 ensure that all rules are reviewed every 10 years after their
1013 respective dates of adoption or review.

1014 2. The plan must include an index and summary of rules
1015 reviewed during the previous year listed by number and title.

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1016 The index must indicate:

1017 a. The rules reviewed pursuant to this paragraph that are
1018 consistent with the powers and duties granted by the enabling
1019 statutes.

1020 b. The rules reviewed pursuant to this paragraph that
1021 require amendments to remove portions of the rule that are
1022 inconsistent with the powers and duties granted by the enabling
1023 statute. A summary of the required amendments and a schedule for
1024 such rulemaking shall be provided.

1025 c. The rules reviewed pursuant to this paragraph that will
1026 be repealed in their entirety because there is no enabling
1027 statute. A schedule for the repeal of such rules shall be
1028 provided.

1029 d. A list of all statutes and laws, or parts thereof, that
1030 grant duplicative, redundant, or unused rulemaking authority, as
1031 set out in s. 11.242(5)(j), and a recommendation as to what
1032 statutes, laws, or parts thereof, should be repealed. The agency
1033 must also provide the list to the Division of Law Revision.

1034 (e) The plan must include a certification executed on
1035 behalf of the agency by both the agency head, or, if the agency
1036 head is a collegial body, the presiding officer; and the
1037 individual acting as principal legal advisor to the agency head.
1038 The certification must declare:

1039 1. Verify That the persons executing the certification have
1040 reviewed the plan.

1041 2. Verify That the agency regularly reviews all of its
1042 rules and identify the period during which all rules have most
1043 recently been reviewed to determine if the rules remain
1044 consistent with the agency's rulemaking authority and the laws

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1045 implemented.

1046 3. That the agency understands that regulatory
1047 accountability is necessary to ensure public confidence in the
1048 integrity of state government and, to that end, the agency is
1049 diligently working toward reducing the number of regulatory
1050 requirements consistent with the agency's rulemaking authority
1051 and the laws implemented.

1052 4. The total number of rules adopted and repealed during
1053 the previous 12 months.

1054 5. That all actions set forth in the prior annual
1055 regulatory plan have been completed or are on a schedule to be
1056 completed.

1057 6. That all materials incorporated by reference in the
1058 rules reviewed are available in the manner prescribed by s.
1059 120.54(1)(i)3.a. or b.

1060 (2) PUBLICATION AND DELIVERY TO THE COMMITTEE.—

1061 (a) By October 1 of each year, each agency shall:

1062 1. Publish its regulatory plan on its website or on another
1063 state website established for publication of administrative law
1064 records. A clearly labeled hyperlink to the current plan must be
1065 included on the agency's primary website homepage.

1066 2. Electronically deliver to the committee a copy of the
1067 certification required in paragraph (1)(e) ~~(1)(d)~~.

1068 3. Publish in the Florida Administrative Register a notice
1069 identifying the date of publication of the agency's regulatory
1070 plan. The notice must include a hyperlink or website address
1071 providing direct access to the published plan.

1072 (b) To satisfy the requirements of paragraph (a), a board
1073 established under s. 20.165(4), and any other board or

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1074 commission receiving administrative support from the Department
1075 of Business and Professional Regulation, may coordinate with the
1076 Department of Business and Professional Regulation, and a board
1077 established under s. 20.43(3)(g) may coordinate with the
1078 Department of Health, for inclusion of the board's or
1079 commission's plan and notice of publication in the coordinating
1080 department's plan and notice and for the delivery of the
1081 required documentation to the committee.

1082 (c) A regulatory plan prepared under subsection (1) and any
1083 regulatory plan published under this chapter before July 1,
1084 2014, shall be maintained at an active website for 10 years
1085 after the date of initial publication on the agency's website or
1086 another state website.

1087 (3) DEPARTMENT REVIEW OF BOARD PLAN.—By October 15 of each
1088 year:

1089 (a) For each board established under s. 20.165(4) and any
1090 other board or commission receiving administrative support from
1091 the Department of Business and Professional Regulation, the
1092 Department of Business and Professional Regulation shall file
1093 with the committee a certification that the department has
1094 reviewed each board's and commission's regulatory plan. A
1095 certification may relate to more than one board or commission.

1096 (b) For each board established under s. 20.43(3)(g), the
1097 Department of Health shall file with the committee a
1098 certification that the department has reviewed the board's
1099 regulatory plan. A certification may relate to more than one
1100 board.

1101 (4) DEADLINE FOR RULE DEVELOPMENT.—By November 1 of each
1102 year, each agency shall publish a notice of rule development

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1103 under s. 120.54(2) for each law identified in the agency's
1104 regulatory plan pursuant to subparagraph (1)(a)1. for which
1105 rulemaking is necessary to implement but for which the agency
1106 did not report the publication of a notice of rule development
1107 under subparagraph (1)(a)2.

1108 (5) DEADLINE TO PUBLISH PROPOSED RULE.—For each law for
1109 which implementing rulemaking is necessary as identified in the
1110 agency's plan pursuant to subparagraph (1)(a)1. or subparagraph
1111 (1)(c)1., the agency shall publish a notice of proposed rule
1112 pursuant to s. 120.54(3)(a) by April 1 of the year following the
1113 deadline for the regulatory plan. This deadline may be extended
1114 if the agency publishes a notice of extension in the Florida
1115 Administrative Register identifying each rulemaking proceeding
1116 for which an extension is being noticed by citation to the
1117 applicable notice of rule development as published in the
1118 Florida Administrative Register. The agency shall include a
1119 concise statement in the notice of extension identifying any
1120 issues that are causing the delay in rulemaking. An extension
1121 shall expire on October 1 after the April 1 deadline, provided
1122 that the regulatory plan due on October 1 may further extend the
1123 rulemaking proceeding by identification pursuant to subparagraph
1124 (1)(c)1. or conclude the rulemaking proceeding by identification
1125 pursuant to subparagraph (1)(c)2. A published regulatory plan
1126 may be corrected at any time to accomplish the purpose of
1127 extending or concluding an affected rulemaking proceeding and is
1128 deemed corrected as of the October 1 due date. Upon publication
1129 of a correction, the agency shall publish in the Florida
1130 Administrative Register a notice of the date of the correction
1131 identifying the affected rulemaking proceeding by applicable

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1132 citation to the Florida Administrative Register.

1133 (6) CERTIFICATIONS.—Each agency shall file a certification
1134 with the committee upon compliance with subsection (4) and upon
1135 filing a notice under subsection (5) of either a deadline
1136 extension or a regulatory plan correction. A certification may
1137 relate to more than one notice or contemporaneous act. The date
1138 or dates of compliance shall be noted in each certification.

1139 (7) SUPPLEMENTING THE REGULATORY PLAN.—After publication of
1140 the regulatory plan, the agency shall supplement the plan within
1141 30 days after a bill becomes a law if the law is enacted before
1142 the next regular session of the Legislature and the law
1143 substantively modifies the agency's specifically delegated legal
1144 duties, unless the law affects all or most state agencies as
1145 identified by letter to the committee from the Governor or the
1146 Attorney General. The supplement must include the information
1147 required in paragraph (1) (a) and shall be published as required
1148 in subsection (2), but no certification or delivery to the
1149 committee is required. The agency shall publish in the Florida
1150 Administrative Register notice of publication of the supplement,
1151 and include a hyperlink on its website or web address for direct
1152 access to the published supplement. For each law reported in the
1153 supplement, if rulemaking is necessary to implement the law, the
1154 agency shall publish a notice of rule development by the later
1155 of the date provided in subsection (4) or 60 days after the bill
1156 becomes a law, and a notice of proposed rule shall be published
1157 by the later of the date provided in subsection (5) or 120 days
1158 after the bill becomes a law. The proposed rule deadline may be
1159 extended to the following October 1 by notice as provided in
1160 subsection (5). If such proposed rule has not been filed by

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1161 October 1, a law included in a supplement shall also be included
1162 in the next annual plan pursuant to subsection (1).

1163 (8) FAILURE TO COMPLY.—If an agency fails to comply with a
1164 requirement of subsection (1), paragraph (2)(a), or subsection
1165 (5), within 15 days after written demand from the committee or
1166 from the chair of any other legislative committee, the agency
1167 shall deliver a written explanation of the reasons for
1168 noncompliance to the committee, the President of the Senate, the
1169 Speaker of the House of Representatives, and the chair of any
1170 legislative committee requesting the explanation of the reasons
1171 for noncompliance.

1172 (9) EDUCATIONAL UNITS.—This section does not apply to
1173 educational units.

1174 Section 7. This act shall take effect July 1, 2022.