

1                   A bill to be entitled  
2           An act relating to administrative procedures and  
3           permitting process review; amending s. 120.52, F.S.;  
4           defining the terms "repromulgation" and "technical  
5           change"; amending s. 120.54, F.S.; applying certain  
6           provisions applicable to all rules other than  
7           emergency rules to repromulgated rules; requiring that  
8           a notice of rule development cite the grant of  
9           rulemaking authority; requiring a notice of rule  
10          development to contain a proposed rule number and  
11          specified statements; requiring that a notice of  
12          withdrawal be published in the next available issue of  
13          the Florida Administrative Register if a notice of  
14          proposed rule is not filed within a certain timeframe;  
15          revising the scope of public workshops to include  
16          information gathered for the preparation of statements  
17          of estimated regulatory costs; requiring that a notice  
18          of proposed rule include a website address where a  
19          statement of regulatory costs can be viewed; requiring  
20          that a notice of proposed rule include a request for  
21          the submission of any helpful information regarding  
22          the statement of estimated regulatory costs; revising  
23          the timeframe the notice must be published in the  
24          Florida Administrative Register; requiring that  
25          material proposed to be incorporated by reference and

26 | the statement of estimated regulatory costs be  
27 | available to the public; requiring that material  
28 | proposed to be incorporated by reference be made  
29 | available in a specified manner; authorizing  
30 | electronic delivery of notices to persons who have  
31 | requested advance notice of agency rulemaking  
32 | proceedings; requiring an agency to prepare a  
33 | statement of estimated regulatory costs before  
34 | adopting or amending any rule other than an emergency  
35 | rule; providing that an agency is not required to  
36 | prepare a statement of estimated regulatory costs  
37 | before repealing a rule; providing an exception;  
38 | requiring that certain rule repeals be considered  
39 | presumptively correct in a proceeding before the  
40 | Division of Administrative Hearings or a court of  
41 | competent jurisdiction; revising the criteria under  
42 | which a proposed rule's adverse impact on small  
43 | businesses is deemed to exist; requiring an agency to  
44 | provide notice of a regulatory alternative to the  
45 | Administrative Procedures Committee within a certain  
46 | timeframe; requiring certain agency personnel to  
47 | attend public hearings on proposed rules; requiring an  
48 | agency to publish a notice of convening a separate  
49 | proceeding in certain circumstances; providing that  
50 | rulemaking deadlines are tolled during such separate

51 proceedings; revising the requirements for the  
52 contents of a notice of change; requiring the  
53 committee to notify the Department of State that the  
54 date for an agency to adopt a rule has expired under  
55 certain circumstances; requiring the department to  
56 publish a notice of withdrawal under certain  
57 circumstances; requiring emergency rules to be  
58 published in the Florida Administrative Register;  
59 prohibiting agencies from making changes to emergency  
60 rules by superseding the rule; authorizing an agency  
61 to make technical changes to an emergency rule during  
62 a specified timeframe; requiring an agency to file a  
63 copy of a certain petition with the committee; making  
64 technical changes; amending s. 120.541, F.S.;  
65 requiring an agency to provide a copy of a proposal  
66 for a lower cost regulatory alternative to the  
67 committee within a certain timeframe; specifying the  
68 circumstances under which such proposal is deemed to  
69 be made in good faith; revising requirements for an  
70 agency's consideration of a lower cost regulatory  
71 alternative; providing for an agency's revision and  
72 publication of a revised statement of estimated  
73 regulatory costs in response to such alternatives;  
74 requiring that the revised statement of estimated  
75 regulatory costs be made available in the same manner

76 as the original; deleting the definition of the term  
77 "transactional costs"; revising the applicability of  
78 specified provisions; providing additional  
79 requirements for the calculation of estimated  
80 regulatory costs; making technical changes; conforming  
81 provisions to changes made by the act; conforming a  
82 cross-reference; creating s. 120.5435, F.S.; providing  
83 legislative intent; requiring agency review of rules  
84 and repromulgation of rules that do not require  
85 substantive changes within a specified timeframe;  
86 providing the effect of a failure to adhere to certain  
87 deadlines; requiring an agency to publish a notice of  
88 repromulgation in the Florida Administrative Register  
89 and file a rule for promulgation with the department  
90 within a specified timeframe; requiring an agency to  
91 file a notice of repromulgation with the committee  
92 within a specified timeframe; requiring the committee  
93 to provide the department a certain notice; requiring  
94 the department to publish the notice in the Florida  
95 Administrative Register; providing that a notice of  
96 repromulgation is not required to include the text of  
97 the rule being repromulgated; requiring the committee  
98 to certify if the agency has provided certain  
99 responses to the committee; providing that a  
100 repromulgated rule is not subject to challenge as a

101 proposed rule and that certain hearing requirements do  
102 not apply; requiring an agency to file a specified  
103 number of certified copies of a proposed repromulgated  
104 rule and any material incorporated by reference;  
105 providing that a repromulgated rule is adopted upon  
106 filing with the department and becomes effective after  
107 a specified time; requiring the department to update  
108 certain information in the Florida Administrative  
109 Code; requiring the submission of certain rules to the  
110 Legislature within a certain period; requiring the  
111 department to adopt rules by a certain date; creating  
112 s. 120.5436, F.S.; providing legislative intent;  
113 requiring the Department of Environmental Protection  
114 and water management districts to conduct a review of  
115 certain permitting processes and permit programs;  
116 requiring the review to consider certain factors;  
117 requiring the department and water management  
118 districts to provide a report to the Governor and  
119 Legislature by a certain date; amending s. 120.545,  
120 F.S.; requiring the committee to examine certain  
121 existing rules; amending s. 120.55, F.S.; requiring  
122 the Department of State to publish the Florida  
123 Administrative Code daily at a specified time;  
124 requiring the department to indicate a rule was  
125 corrected or replaced by republishing the code and

126 | noting the rule was corrected; requiring materials  
127 | incorporated by reference to be filed in a specified  
128 | manner; requiring the department to include the date  
129 | of a technical rule change in the Florida  
130 | Administrative Code; providing that a technical change  
131 | does not affect the effective date of a rule;  
132 | requiring publication in the Florida Administrative  
133 | Register of the full text of emergency rules in effect  
134 | on a certain date; requiring the department to adopt  
135 | specified rules; amending s. 120.56, F.S.; conforming  
136 | a cross-reference; amending s. 120.74, F.S.; requiring  
137 | an agency to list each rule it plans to develop,  
138 | adopt, or repeal during the forthcoming year in the  
139 | agency's annual regulatory plan; requiring that an  
140 | agency's annual regulatory plan identify any rules  
141 | that are required to be repromulgated during the  
142 | forthcoming year; requiring the agency to make certain  
143 | declarations concerning the annual regulatory plan;  
144 | amending ss. 120.80, 120.81, 420.9072, 420.9075, and  
145 | 443.091, F.S.; conforming cross-references; providing  
146 | an effective date.

147

148 | Be It Enacted by the Legislature of the State of Florida:

149

150 | Section 1. Subsections (16) through (19) and subsections

151 (20), (21), and (22) of section 120.52, Florida Statutes, are  
 152 redesignated as subsections (17) through (20) and subsections  
 153 (22), (23), and (24), respectively, and new subsections (16) and  
 154 (21) are added to that section, to read:

155 120.52 Definitions.—As used in this act:

156 (16) "Repromulgation" means the publication and adoption  
 157 of an existing rule following an agency's review of the rule for  
 158 consistency with the powers and duties granted by its enabling  
 159 statute.

160 (21) "Technical change" means a change limited to  
 161 correcting grammatical, typographical, and similar errors not  
 162 affecting the substance of a rule.

163 Section 2. Paragraph (i) of subsection (1), subsections  
 164 (2) and (3), and paragraph (a) of subsection (7) of section  
 165 120.54, Florida Statutes, are amended, and paragraphs (e) and  
 166 (f) are added to subsection (4) of that section, to read:

167 120.54 Rulemaking.—

168 (1) GENERAL PROVISIONS APPLICABLE TO ALL RULES OTHER THAN  
 169 EMERGENCY RULES.—

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

174 2. An agency rule that incorporates by specific reference  
 175 another rule of that agency automatically incorporates

176 subsequent amendments to the referenced rule unless a contrary  
177 intent is clearly indicated in the referencing rule. A notice of  
178 amendments to a rule that has been incorporated by specific  
179 reference in other rules of that agency must explain the effect  
180 of those amendments on the referencing rules.

181 3. In rules adopted after December 31, 2010, and rules  
182 repromulgated on or after July 1, 2023, material may not be  
183 incorporated by reference unless:

184 a. The material has been submitted in the prescribed  
185 electronic format to the Department of State and the full text  
186 of the material can be made available for free public access  
187 through an electronic hyperlink from the rule making the  
188 reference in the Florida Administrative Code; or

189 b. The agency has determined that posting the material on  
190 the Internet for purposes of public examination and inspection  
191 would constitute a violation of federal copyright law, in which  
192 case a statement to that effect, along with the address of  
193 locations at the Department of State and the agency at which the  
194 material is available for public inspection and examination,  
195 must be included in the notice required by subparagraph (3)(a)1.

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

199 5. Notwithstanding any contrary provision in this section,  
200 when an adopted rule of the Department of Environmental



201 Protection or a water management district is incorporated by  
202 reference in the other agency's rule to implement a provision of  
203 part IV of chapter 373, subsequent amendments to the rule are  
204 not effective as to the incorporating rule unless the agency  
205 incorporating by reference notifies the committee and the  
206 Department of State of its intent to adopt the subsequent  
207 amendment, publishes notice of such intent in the Florida  
208 Administrative Register, and files with the Department of State  
209 a copy of the amended rule incorporated by reference. Changes in  
210 the rule incorporated by reference are effective as to the other  
211 agency 20 days after the date of the published notice and filing  
212 with the Department of State. The Department of State shall  
213 amend the history note of the incorporating rule to show the  
214 effective date of such change. Any substantially affected person  
215 may, within 14 days after the date of publication of the notice  
216 of intent in the Florida Administrative Register, file an  
217 objection to rulemaking with the agency. The objection must  
218 ~~shall~~ specify the portions of the rule incorporated by reference  
219 to which the person objects and the reasons for the objection.  
220 The agency does ~~shall~~ not have the authority under this  
221 subparagraph to adopt those portions of the rule specified in  
222 such objection. The agency shall publish notice of the objection  
223 and of its action in response in the next available issue of the  
224 Florida Administrative Register.

225 6. The Department of State may adopt by rule requirements

226 for incorporating materials pursuant to this paragraph.

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

228 (a)1. Except when the intended action is the repeal of a  
229 rule, agencies shall provide notice of the development of  
230 proposed rules by publication of a notice of rule development in  
231 the Florida Administrative Register before providing notice of a  
232 proposed rule as required by paragraph (3) (a). The notice of  
233 rule development must ~~shall~~ indicate the subject area to be  
234 addressed by rule development, provide a short, plain  
235 explanation of the purpose and effect of the proposed rule, cite  
236 the grant of rulemaking authority for the proposed rule and the  
237 law being implemented ~~specific legal authority for the proposed~~  
238 ~~rule~~, and include the proposed rule number and the preliminary  
239 text of the proposed rules, if available, or a statement of how  
240 a person may promptly obtain, without cost, a copy of any  
241 preliminary draft, when if available. The notice must also  
242 include a request for the submission of any information that  
243 would be helpful to the agency in preparing the statement of  
244 estimated regulatory costs required pursuant to paragraph (3) (b)  
245 and a statement of how a person may submit comments to the  
246 proposal and how a person may provide information regarding the  
247 potential regulatory costs.

248 2. If a notice of a proposed rule is not filed within 12  
249 months after the most recent notice of rule development, the  
250 agency must withdraw the notice of rule development and publish

251 notice of the withdrawal in the next available issue of the  
252 Florida Administrative Register.

253 (b) All rules should be drafted in readable language. The  
254 language is readable if it:

255 1. ~~It~~ Avoids the use of obscure words and unnecessarily  
256 long or complicated constructions; and

257 2. ~~It~~ Avoids the use of unnecessary technical or  
258 specialized language that is understood only by members of  
259 particular trades or professions.

260 (c) An agency may hold public workshops for purposes of  
261 rule development and information gathering for the preparation  
262 of the statement of estimated regulatory costs. If requested in  
263 writing by any affected person, an agency must hold public  
264 workshops, including workshops in various regions of the state  
265 or the agency's service area, for purposes of rule development  
266 and information gathering for the preparation of the statement  
267 of estimated regulatory costs ~~if requested in writing by any~~  
268 ~~affected person,~~ unless the agency head explains in writing why  
269 a workshop is unnecessary. The explanation is not final agency  
270 action subject to review pursuant to ss. 120.569 and 120.57. The  
271 failure to provide the explanation when required may be a  
272 material error in procedure pursuant to s. 120.56(1)(c). When a  
273 workshop or public hearing is held, the agency must ensure that  
274 the persons responsible for preparing the proposed rule and the  
275 statement of estimated regulatory costs are available to receive

276 public input, to explain the agency's proposal, and to respond  
277 to questions or comments regarding the rule being developed and  
278 the statement of estimated regulatory costs. The workshop may be  
279 facilitated or mediated by a neutral third person, or the agency  
280 may employ other types of dispute resolution alternatives for  
281 the workshop that are appropriate for rule development and for  
282 preparation of the statement of estimated regulatory costs.  
283 Notice of a workshop for rule development and for preparation of  
284 the statement of estimated regulatory costs must ~~workshop shall~~  
285 be by publication in the Florida Administrative Register not  
286 less than 14 days before ~~prior to~~ the date on which the workshop  
287 is scheduled to be held and must ~~shall~~ indicate the subject area  
288 that ~~which~~ will be addressed; the agency contact person; and the  
289 place, date, and time of the workshop.

290 (d)1. An agency may use negotiated rulemaking in  
291 developing and adopting rules. The agency should consider the  
292 use of negotiated rulemaking when complex rules are being  
293 drafted or strong opposition to the rules is anticipated. The  
294 agency should consider, but is not limited to considering,  
295 whether a balanced committee of interested persons who will  
296 negotiate in good faith can be assembled, whether the agency is  
297 willing to support the work of the negotiating committee, and  
298 whether the agency can use the group consensus as the basis for  
299 its proposed rule. Negotiated rulemaking uses a committee of  
300 designated representatives to draft a mutually acceptable

301 proposed rule and to develop information necessary to prepare a  
302 statement of estimated regulatory costs, when applicable.

303 2. An agency that chooses to use the negotiated rulemaking  
304 process described in this paragraph shall publish in the Florida  
305 Administrative Register a notice of negotiated rulemaking that  
306 includes a listing of the representative groups that will be  
307 invited to participate in the negotiated rulemaking process. Any  
308 person who believes that his or her interest is not adequately  
309 represented may apply to participate within 30 days after  
310 publication of the notice. All meetings of the negotiating  
311 committee shall be noticed and open to the public pursuant to  
312 ~~the provisions of~~ this chapter. The negotiating committee shall  
313 be chaired by a neutral facilitator or mediator.

314 3. The agency's decision to use negotiated rulemaking, its  
315 selection of the representative groups, and approval or denial  
316 of an application to participate in the negotiated rulemaking  
317 process are not agency action. ~~Nothing in~~ This subparagraph is  
318 not intended to affect the rights of a substantially an affected  
319 person to challenge a proposed rule developed under this  
320 paragraph in accordance with s. 120.56(2).

321 (3) ADOPTION PROCEDURES.—

322 (a) *Notices.*—

323 1. Before ~~Prior to~~ the adoption, amendment, or repeal of  
324 any rule other than an emergency rule, an agency, upon approval  
325 of the agency head, shall give notice of its intended action,

326 setting forth a short, plain explanation of the purpose and  
327 effect of the proposed action; the rule number and full text of  
328 the proposed rule or amendment and a summary thereof; a  
329 reference to the grant of rulemaking authority pursuant to which  
330 the rule is adopted; and a reference to the section or  
331 subsection of the Florida Statutes or the Laws of Florida being  
332 implemented or interpreted. The notice must include a concise  
333 summary of the agency's statement of the estimated regulatory  
334 costs, ~~if one has been prepared,~~ based on the factors set forth  
335 in s. 120.541(2), which describes the regulatory impact of the  
336 rule in readable language; an agency website address where the  
337 statement of estimated regulatory costs can be viewed in its  
338 entirety; a statement that any person who wishes to provide the  
339 agency with information regarding the statement of estimated  
340 regulatory costs, or to provide a proposal for a lower cost  
341 regulatory alternative as provided by s. 120.541(1), must do so  
342 in writing within 21 days after publication of the notice; a  
343 request for the submission of any information that could be  
344 helpful to the agency regarding the statement of estimated  
345 regulatory costs; and a statement as to whether, based on the  
346 statement of the estimated regulatory costs ~~or other information~~  
347 ~~expressly relied upon and described by the agency if no~~  
348 ~~statement of regulatory costs is required,~~ the proposed rule is  
349 expected to require legislative ratification pursuant to s.  
350 120.541(3). The notice must state the procedure for requesting a

351 public hearing on the proposed rule. Except when the intended  
352 action is the repeal of a rule, the notice must include a  
353 reference both to the date on which and to the place where the  
354 notice of rule development that is required by subsection (2)  
355 appeared.

356 2. The notice must ~~shall~~ be published in the Florida  
357 Administrative Register at least 7 days after the publication of  
358 the notice of rule development and at least not less than 28  
359 days before ~~prior to~~ the intended action. The proposed rule,  
360 including all materials proposed to be incorporated by reference  
361 and the statement of estimated regulatory costs, must ~~shall~~ be  
362 available for inspection and copying by the public at the time  
363 of the publication of notice. Material proposed to be  
364 incorporated by reference in the notice must be made available  
365 in the manner prescribed by sub-subparagraph (1)(i)3.a. or sub-  
366 subparagraph (1)(i)3.b.

367 3. The notice must ~~shall~~ be mailed to all persons named in  
368 the proposed rule and mailed or delivered electronically to all  
369 persons who, at least 14 days before publication of the notice  
370 ~~prior to such mailing~~, have made requests of the agency for  
371 advance notice of its proceedings. The agency shall also give  
372 such notice as is prescribed by rule to those particular classes  
373 of persons to whom the intended action is directed.

374 4. The adopting agency shall file with the committee, at  
375 least 21 days before ~~prior to~~ the proposed adoption date, a copy

376 of each rule it proposes to adopt; a copy of any material  
377 incorporated by reference in the rule; a detailed written  
378 statement of the facts and circumstances justifying the proposed  
379 rule; a copy of the ~~any~~ statement of estimated regulatory costs  
380 ~~that has been~~ prepared pursuant to s. 120.541; a statement of  
381 the extent to which the proposed rule relates to federal  
382 standards or rules on the same subject; and the notice required  
383 by subparagraph 1.

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

385 1. Statement of estimated regulatory costs.—Before the  
386 adoption ~~or~~, amendment, ~~or~~ repeal of any rule, other than an  
387 emergency rule, an agency must ~~is encouraged to~~ prepare a  
388 statement of estimated regulatory costs of the proposed rule, as  
389 provided by s. 120.541. However, an agency is not required to  
390 prepare a statement of estimated regulatory costs for a rule  
391 repeal unless such repeal would impose a regulatory cost. In any  
392 challenge to a rule repeal, a rule repeal that only reduces or  
393 eliminates regulations on those individuals or entities  
394 presently regulated by the rule must be considered presumptively  
395 correct in any proceeding before the division or in any  
396 proceeding before a court of competent jurisdiction ~~However, an~~  
397 ~~agency must prepare a statement of estimated regulatory costs of~~  
398 ~~the proposed rule, as provided by s. 120.541, if:~~

399 a. ~~The proposed rule will have an adverse impact on small~~  
400 ~~business; or~~



401 ~~b. The proposed rule is likely to directly or indirectly~~  
402 ~~increase regulatory costs in excess of \$200,000 in the aggregate~~  
403 ~~in this state within 1 year after the implementation of the~~  
404 ~~rule.~~

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

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

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

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

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

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

419 (V) Operating costs are expected to increase by at least  
420 \$1,000 annually because of the rule; or

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

423 b. Each agency, before the adoption, amendment, or repeal  
424 of a rule, shall consider the impact of the rule on small  
425 businesses as defined in ~~by~~ s. 288.703 and the impact of the

426 rule on small counties or small cities as defined in ~~by~~ s.  
427 120.52. Whenever practicable, an agency shall tier its rules to  
428 reduce disproportionate impacts on small businesses, small  
429 counties, or small cities to avoid regulating small businesses,  
430 small counties, or small cities that do not contribute  
431 significantly to the problem the rule is designed to address. An  
432 agency may define "small business" to include businesses  
433 employing more than 200 persons, may define "small county" to  
434 include those with populations of more than 75,000, and may  
435 define "small city" to include those with populations of more  
436 than 10,000, if it finds that such a definition is necessary to  
437 adapt a rule to the needs and problems of small businesses,  
438 small counties, or small cities. The agency shall consider each  
439 of the following methods for reducing the impact of the proposed  
440 rule on small businesses, small counties, and small cities, or  
441 any combination of these entities:

442 (I) Establishing less stringent compliance or reporting  
443 requirements in the rule.

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

446 (III) Consolidating or simplifying the rule's compliance  
447 or reporting requirements.

448 (IV) Establishing performance standards or best management  
449 practices to replace design or operational standards in the  
450 rule.

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

453 ~~c.b.~~(I) If the agency determines that the proposed action  
454 will affect small businesses as defined by the agency as  
455 provided in sub-subparagraph ~~b. a.~~, the agency must ~~shall~~ send  
456 written notice of the rule to the rules ombudsman in the  
457 Executive Office of the Governor at least 28 days before the  
458 intended action.

459 (II) Each agency shall adopt those regulatory alternatives  
460 offered by the rules ombudsman in the Executive Office of the  
461 Governor and provided to the agency no later than 21 days after  
462 the rules ombudsman's receipt of the written notice of the rule  
463 which it finds are feasible and consistent with the stated  
464 objectives of the proposed rule and which would reduce the  
465 impact on small businesses. When regulatory alternatives are  
466 offered by the rules ombudsman in the Executive Office of the  
467 Governor, the 90-day period for filing the rule in subparagraph  
468 (e)2. is extended for a period of 21 days. The agency shall  
469 provide notice to the committee of any regulatory alternative  
470 offered to the agency pursuant to this sub-subparagraph at least  
471 21 days before filing the rule for adoption.

472 (III) If an agency does not adopt all alternatives offered  
473 pursuant to this sub-subparagraph, it must ~~shall~~, before rule  
474 adoption or amendment and pursuant to subparagraph (d)1., file a  
475 detailed written statement with the committee explaining the

476 reasons for failure to adopt such alternatives. Within 3 working  
 477 days after the filing of such notice, the agency shall send a  
 478 copy of such notice to the rules ombudsman in the Executive  
 479 Office of the Governor.

480 (c) *Hearings.*—

481 1. If the intended action concerns any rule other than one  
 482 relating exclusively to procedure or practice, the agency must  
 483 ~~shall~~, on the request of any affected person received within 21  
 484 days after the date of publication of the notice of intended  
 485 agency action, give affected persons an opportunity to present  
 486 evidence and argument on all issues under consideration. The  
 487 agency may schedule a public hearing on the proposed rule and,  
 488 if requested by any affected person, must ~~shall~~ schedule a  
 489 public hearing on the proposed rule. When a public hearing is  
 490 held, the agency must ensure that the persons responsible for  
 491 preparing the proposed rule and the statement of estimated  
 492 regulatory costs ~~staff~~ are in attendance ~~available~~ to explain  
 493 the agency's proposal and to respond to questions or comments  
 494 regarding the proposed rule, the statement of estimated  
 495 regulatory costs, and the agency's decision on whether to adopt  
 496 a lower cost regulatory alternative submitted pursuant to s.  
 497 120.541(1)(a). If the agency head is a board or other collegial  
 498 body created under s. 20.165(4) or s. 20.43(3)(g), and one or  
 499 more requested public hearings is scheduled, the board or other  
 500 collegial body must ~~shall~~ conduct at least one of the public

501 hearings itself and may not delegate this responsibility without  
502 the consent of those persons requesting the public hearing. Any  
503 material pertinent to the issues under consideration submitted  
504 to the agency within 21 days after the date of publication of  
505 the notice or submitted to the agency between the date of  
506 publication of the notice and the end of the final public  
507 hearing must ~~shall~~ be considered by the agency and made a part  
508 of the record of the rulemaking proceeding.

509         2. Rulemaking proceedings are ~~shall be~~ governed solely by  
510 the provisions of this section unless a person timely asserts  
511 that the person's substantial interests will be affected in the  
512 proceeding and affirmatively demonstrates to the agency that the  
513 proceeding does not provide adequate opportunity to protect  
514 those interests. If the agency determines that the rulemaking  
515 proceeding is not adequate to protect the person's interests, it  
516 must ~~shall~~ suspend the rulemaking proceeding and convene a  
517 separate proceeding under ~~the provisions of~~ ss. 120.569 and  
518 120.57. The agency shall publish notice of convening a separate  
519 proceeding in the Florida Administrative Register. Similarly  
520 situated persons may be requested to join and participate in the  
521 separate proceeding. Upon conclusion of the separate proceeding,  
522 the rulemaking proceeding shall be resumed. All timelines in  
523 this section are tolled during any suspension of the rulemaking  
524 proceeding under this subparagraph, beginning on the date the  
525 notice of convening a separate proceeding is published and

526 resuming on the day after conclusion of the separate proceeding.  
 527 (d) *Modification or withdrawal of proposed rules.*—  
 528 1. After the final public hearing on the proposed rule, or  
 529 after the time for requesting a hearing has expired, if the  
 530 proposed rule has not been changed from the proposed rule as  
 531 previously filed with the committee, or contains only technical  
 532 changes, the adopting agency shall file a notice to that effect  
 533 with the committee at least 7 days before ~~prior to~~ filing the  
 534 proposed rule for adoption. Any change, other than a technical  
 535 change ~~that does not affect the substance of the rule,~~ must be  
 536 supported by the record of public hearings held on the proposed  
 537 rule, must be in response to written material submitted to the  
 538 agency within 21 days after the date of publication of the  
 539 notice of intended agency action or submitted to the agency  
 540 between the date of publication of the notice and the end of the  
 541 final public hearing, or must be in response to a proposed  
 542 objection by the committee. Any change, other than a technical  
 543 change, to a statement of estimated regulatory costs requires a  
 544 notice of change. In addition, ~~when~~ any change, other than a  
 545 technical change, to is made in a proposed rule text or any  
 546 material incorporated by reference requires, ~~other than a~~  
 547 ~~technical change,~~ the adopting agency to shall provide a copy of  
 548 a notice of change by certified mail or actual delivery to any  
 549 person who requests it in writing no later than 21 days after  
 550 the notice required in paragraph (a). The agency shall file the

551 notice of change with the committee, along with the reasons for  
552 the change, and provide the notice of change to persons  
553 requesting it, at least 21 days before ~~prior to~~ filing the  
554 proposed rule for adoption. The notice of change must ~~shall~~ be  
555 published in the Florida Administrative Register at least 21  
556 days before ~~prior to~~ filing the proposed rule for adoption. The  
557 notice of change must include a summary of any revision of the  
558 statement of estimated regulatory costs required by s.

559 120.541(1)(c). This subparagraph does not apply to emergency  
560 rules adopted pursuant to subsection (4). Material proposed to  
561 be incorporated by reference in the notice required by this  
562 subparagraph must be made available in the manner prescribed by  
563 sub-subparagraph (1)(i)3.a. or sub-subparagraph (1)(i)3.b.

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

567 3. After the notice required by paragraph (a), the agency  
568 must withdraw the proposed rule if the agency has failed to  
569 adopt it within the prescribed timeframes in this chapter. If  
570 the agency, 30 days after notice by the committee that the  
571 agency has failed to adopt the proposed rule within the  
572 prescribed timeframes in this chapter, has not given notice of  
573 the withdrawal of the rule, the committee must notify the  
574 Department of State that the date for adoption of the rule has  
575 expired, and the Department of State must publish a notice of

576 withdrawal of the proposed rule.

577 4. After adoption and before the rule becomes effective, a  
578 rule may be modified or withdrawn only in the following  
579 circumstances:

580 a. When the committee objects to the rule;

581 b. When a final order, which is not subject to further  
582 appeal, is entered in a rule challenge brought pursuant to s.  
583 120.56 after the date of adoption but before the rule becomes  
584 effective pursuant to subparagraph (e)6.;

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

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

593 ~~5.4.~~ The agency shall give notice of its decision to  
594 withdraw or modify a rule in the first available issue of the  
595 publication in which the original notice of rulemaking was  
596 published, shall notify those persons described in subparagraph  
597 (a)3. in accordance with the requirements of that subparagraph,  
598 and shall notify the Department of State if the rule is required  
599 to be filed with the Department of State.

600 ~~6.5.~~ After a rule has become effective, it may be repealed



601 or amended only through the rulemaking procedures specified in  
602 this chapter.

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

604 1. If the adopting agency is required to publish its rules  
605 in the Florida Administrative Code, the agency, upon approval of  
606 the agency head, must ~~shall~~ file with the Department of State  
607 three certified copies of the rule it proposes to adopt; one  
608 copy of any material incorporated by reference in the rule,  
609 certified by the agency; a summary of the rule; a summary of any  
610 hearings held on the rule; and a detailed written statement of  
611 the facts and circumstances justifying the rule. Agencies not  
612 required to publish their rules in the Florida Administrative  
613 Code shall file one certified copy of the proposed rule, and the  
614 other material required by this subparagraph, in the office of  
615 the agency head, and such rules must ~~shall~~ be open to the  
616 public.

617 2. A rule may not be filed for adoption less than 28 days  
618 or more than 90 days after the notice required by paragraph (a),  
619 until 21 days after the notice of change required by paragraph  
620 (d), until 14 days after the final public hearing, until 21 days  
621 after a statement of estimated regulatory costs required under  
622 s. 120.541 has been provided to all persons who submitted a  
623 lower cost regulatory alternative and made available to the  
624 public at a readily accessible page on the agency's website, or  
625 until the administrative law judge has rendered a decision under

626 s. 120.56(2), whichever applies. When a required notice of  
627 change is published before ~~prior to~~ the expiration of the time  
628 to file the rule for adoption, the period during which a rule  
629 must be filed for adoption is extended to 45 days after the date  
630 of publication. If notice of a public hearing is published  
631 before ~~prior to~~ the expiration of the time to file the rule for  
632 adoption, the period during which a rule must be filed for  
633 adoption is extended to 45 days after adjournment of the final  
634 hearing on the rule, 21 days after receipt of all material  
635 authorized to be submitted at the hearing, or 21 days after  
636 receipt of the transcript, if one is made, whichever is latest.  
637 The term "public hearing" includes any public meeting held by  
638 any agency at which the rule is considered. If a petition for an  
639 administrative determination under s. 120.56(2) is filed, the  
640 period during which a rule must be filed for adoption is  
641 extended to 60 days after the administrative law judge files the  
642 final order with the clerk or until 60 days after subsequent  
643 judicial review is complete.

644 3. At the time a rule is filed, the agency shall certify  
645 that the time limitations prescribed by this paragraph have been  
646 complied with, that all statutory rulemaking requirements have  
647 been met, and that there is no administrative determination  
648 pending on the rule.

649 4. At the time a rule is filed, the committee shall  
650 certify whether the agency has responded in writing to all

651 material and timely written comments or written inquiries made  
652 on behalf of the committee. The Department of State shall reject  
653 any rule that is not filed within the prescribed time limits;  
654 that does not comply with all statutory rulemaking requirements  
655 and rules of the Department of State; upon which an agency has  
656 not responded in writing to all material and timely written  
657 inquiries or written comments; upon which an administrative  
658 determination is pending; or which does not include a statement  
659 of estimated regulatory costs, if required.

660 5. If a rule has not been adopted within the time limits  
661 imposed by this paragraph or has not been adopted in compliance  
662 with all statutory rulemaking requirements, the agency proposing  
663 the rule must ~~shall~~ withdraw the proposed rule and give notice  
664 of its action in the next available issue of the Florida  
665 Administrative Register.

666 6. The proposed rule shall be adopted on being filed with  
667 the Department of State and becomes ~~become~~ effective 20 days  
668 after being filed, on a later date specified in the notice  
669 required by subparagraph (a)1., on a date required by statute,  
670 or upon ratification by the Legislature pursuant to s.  
671 120.541(3). Rules not required to be filed with the Department  
672 of State ~~shall~~ become effective when adopted by the agency head,  
673 on a later date specified by rule or statute, or upon  
674 ratification by the Legislature pursuant to s. 120.541(3). If  
675 the committee notifies an agency that an objection to a rule is

676 | being considered, the agency may postpone the adoption of the  
677 | rule to accommodate review of the rule by the committee. When an  
678 | agency postpones adoption of a rule to accommodate review by the  
679 | committee, the 90-day period for filing the rule is tolled until  
680 | the committee notifies the agency that it has completed its  
681 | review of the rule.

682 |  
683 | For the purposes of this paragraph, the term "administrative  
684 | determination" does not include subsequent judicial review.

685 | (4) EMERGENCY RULES.—

686 | (e) Emergency rules must be published in the Florida  
687 | Administrative Register.

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

691 | (7) PETITION TO INITIATE RULEMAKING.—

692 | (a) Any person regulated by an agency or having  
693 | substantial interest in an agency rule may petition an agency to  
694 | adopt, amend, or repeal a rule or to provide the minimum public  
695 | information required by this chapter. The petition must ~~shall~~  
696 | specify the proposed rule and action requested. The agency shall  
697 | file a copy of the petition with the committee. No ~~Not~~ later  
698 | than 30 calendar days after ~~following the date of~~ filing a  
699 | petition, the agency shall initiate rulemaking proceedings under  
700 | this chapter, otherwise comply with the requested action, or

701 deny the petition with a written statement of its reasons for  
702 the denial.

703 Section 3. Section 120.541, Florida Statutes, is amended  
704 to read:

705 120.541 Statement of estimated regulatory costs.—

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

708 ~~120.54(3)(a)~~, a substantially affected person may submit to an  
709 agency a good faith written proposal for a lower cost regulatory  
710 alternative to a proposed rule which substantially accomplishes  
711 the objectives of the law being implemented. The agency shall  
712 provide a copy of any proposal for a lower cost regulatory  
713 alternative to the committee at least 21 days before filing the  
714 rule for adoption. The proposal may include the alternative of  
715 not adopting any rule if the proposal explains how the lower  
716 costs and objectives of the law will be achieved by not adopting  
717 any rule. If submitted after a notice of change, a proposal for  
718 a lower cost regulatory alternative is deemed to be made in good  
719 faith only if the person reasonably believes, and the proposal  
720 states, the person's reasons for believing that the proposed  
721 rule as changed by the notice of change increases the regulatory  
722 costs or creates an adverse impact on small businesses that was  
723 not created by the previous proposed rule. If such a proposal is  
724 submitted, the 90-day period for filing the rule is extended 21  
725 days. Upon the submission of the lower cost regulatory

726 alternative, the agency shall ~~prepare a statement of estimated~~  
727 ~~regulatory costs as provided in subsection (2), or shall revise~~  
728 its prior statement of estimated regulatory costs, and either  
729 adopt the alternative proposal, reject the alternative proposal,  
730 or modify the proposed rule to reduce the regulatory costs. If  
731 the agency rejects the alternative proposal or modifies the  
732 proposed rule, the agency shall ~~or~~ provide a statement of the  
733 reasons for rejecting the alternative in favor of the proposed  
734 rule.

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

741 ~~(b)(e)~~ The agency must ~~shall~~ revise a statement of  
742 estimated regulatory costs if any change to the rule made under  
743 s. 120.54(3)(d) increases the regulatory costs of the rule or if  
744 the rule is modified in response to the submission of a lower  
745 cost regulatory alternative. A summary of the revised statement  
746 must be included with any subsequent notice published under s.  
747 120.54(3).

748 ~~(c)(d)~~ At least 21 days before filing the proposed rule  
749 for adoption, an agency that is required to revise a statement  
750 of estimated regulatory costs shall provide the statement to the

751 person who submitted the lower cost regulatory alternative, to  
752 the rules ombudsman in the Executive Office of the Governor, and  
753 to the committee. The revised statement must be published and  
754 made available in the same manner as the original statement of  
755 estimated regulatory costs and shall provide notice on the  
756 agency's website that it is available to the public.

757 (d)-(e) Notwithstanding s. 120.56(1)(c), the failure of the  
758 agency to prepare and publish a statement of estimated  
759 regulatory costs or to respond to a written lower cost  
760 regulatory alternative as provided in this subsection is a  
761 material failure to follow the applicable rulemaking procedures  
762 or requirements set forth in this chapter.

763 (e)-(f) An agency's failure to prepare a statement of  
764 estimated regulatory costs or to respond to a written lower cost  
765 regulatory alternative may not be raised in a proceeding  
766 challenging the validity of a rule pursuant to s. 120.52(8)(a)  
767 unless:

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

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

772 (f)-(g) A rule that is challenged pursuant to s.  
773 120.52(8)(f) may not be declared invalid unless:

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

776           2. The challenge is to the agency's rejection of a lower  
 777 cost regulatory alternative offered under paragraph (a) or s.  
 778 120.54(3)(b)2.c. ~~s. 120.54(3)(b)2.b.~~; and

779           3. The substantial interests of the person challenging the  
 780 rule are materially affected by the rejection.

781           (2) A statement of estimated regulatory costs must ~~shall~~  
 782 include:

783           (a) An economic analysis showing whether the rule directly  
 784 or indirectly:

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

789           2. Is likely to have an adverse impact on business  
 790 competitiveness, including the ability of persons doing business  
 791 in the state to compete with persons doing business in other  
 792 states or domestic markets, productivity, or innovation in  
 793 excess of \$1 million in the aggregate within 5 years after the  
 794 implementation of the rule; or

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

799           (b) A good faith estimate of the number of individuals,  
 800 small businesses, and other entities likely to be required to



801 comply with the rule, together with a general description of the  
802 types of individuals likely to be affected by the rule.

803 (c) A good faith estimate of the cost to the agency, and  
804 to any other state and local government entities, of  
805 implementing and enforcing the proposed rule, and any  
806 anticipated effect on state or local revenues.

807 (d) A good faith estimate of the compliance ~~transactional~~  
808 costs likely to be incurred by individuals and entities,  
809 including local government entities, required to comply with the  
810 requirements of the rule. ~~As used in this section,~~  
811 ~~"transactional costs" are direct costs that are readily~~  
812 ~~ascertainable based upon standard business practices, and~~  
813 ~~include filing fees, the cost of obtaining a license, the cost~~  
814 ~~of equipment required to be installed or used or procedures~~  
815 ~~required to be employed in complying with the rule, additional~~  
816 ~~operating costs incurred, the cost of monitoring and reporting,~~  
817 ~~and any other costs necessary to comply with the rule.~~

818 (e) An analysis of the impact on small businesses as  
819 defined by s. 288.703, and an analysis of the impact on small  
820 counties and small cities as defined in s. 120.52. The impact  
821 analysis for small businesses must include the basis for the  
822 agency's decision not to implement alternatives that would  
823 reduce adverse impacts on small businesses.

824 (f) Any additional information that the agency determines  
825 may be useful.

826 (g) In the ~~statement or~~ revised statement, ~~whichever~~  
827 ~~applies,~~ a description of any regulatory alternatives submitted  
828 under paragraph (1)(a) and a statement adopting the alternative  
829 or a statement of the reasons for rejecting the alternative in  
830 favor of the proposed rule.

831 (3) If the adverse impact or regulatory costs of the rule  
832 exceed any of the criteria established in paragraph (2)(a), the  
833 rule must ~~shall~~ be submitted to the President of the Senate and  
834 Speaker of the House of Representatives no later than 30 days  
835 before ~~prior to~~ the next regular legislative session, and the  
836 rule may not take effect until it is ratified by the  
837 Legislature.

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

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

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

842 (c) Triennial updates of and amendments to the Florida  
843 Fire Prevention Code which are expressly authorized by s.  
844 633.202.

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

846 (5) For purposes of subsections (2) and (3), adverse  
847 impacts and regulatory costs likely to occur within 5 years  
848 after implementation of the rule include adverse impacts and  
849 regulatory costs estimated to occur within 5 years after the  
850 effective date of the rule. However, if any provision of the

851 rule is not fully implemented upon the effective date of the  
852 rule, the adverse impacts and regulatory costs associated with  
853 such provision must be adjusted to include any additional  
854 adverse impacts and regulatory costs estimated to occur within 5  
855 years after implementation of such provision.

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

860 1. Increased customer charges for goods or services.

861 2. Decreased market value of goods or services produced,  
862 provided, or sold.

863 3. Increased costs resulting from the purchase of  
864 substitute or alternative goods or services.

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

869 5. Capital costs.

870 6. Any other impacts suggested by the rules ombudsman in  
871 the Executive Office of the Governor or by any interested  
872 persons.

873 (b) In estimating the information required in paragraphs  
874 (2) (b)-(e), the agency may use surveys of individuals,  
875 businesses, business organizations, counties, and municipalities

876 | to collect data helpful to estimate the costs and impacts.

877 |     (c) In estimating compliance costs under paragraph (2) (d),

878 | the agency shall consider, among other matters, all direct and

879 | indirect costs necessary to comply with the proposed rule which

880 | are readily ascertainable based upon standard business

881 | practices, including, but not limited to, costs related to:

882 |         1. Filing fees.

883 |         2. Expenses to obtain a license.

884 |         3. Necessary equipment.

885 |         4. Installation, utilities, and maintenance of necessary

886 | equipment.

887 |         5. Necessary operations and procedures.

888 |         6. Accounting, financial, information management, and

889 | other administrative processes.

890 |         7. Other processes.

891 |         8. Labor based on relevant rates of wages, salaries, and

892 | benefits.

893 |         9. Materials and supplies.

894 |         10. Capital expenditures, including financing costs.

895 |         11. Professional and technical services, including

896 | contracted services necessary to implement and maintain

897 | compliance.

898 |         12. Monitoring and reporting.

899 |         13. Qualifying and recurring education, training, and

900 | testing.

901       14. Travel.

902       15. Insurance and surety requirements.

903       16. A fair and reasonable allocation of administrative  
 904 costs and other overhead.

905       17. Reduced sales or other revenues.

906       18. Other items suggested by the rules ombudsman in the  
 907 Executive Office of the Governor or by any interested person,  
 908 business organization, or business representative.

909       (7)(a) The Department of State shall include on the  
 910 Florida Administrative Register website the agency website  
 911 addresses where statements of estimated regulatory costs can be  
 912 viewed in their entirety.

913       (b) An agency that prepares a statement of estimated  
 914 regulatory costs must provide, as part of the notice required  
 915 under s. 120.54(3)(a), the agency website address where the  
 916 statement of estimated regulatory costs can be read in its  
 917 entirety to the Department of State for publication in the  
 918 Florida Administrative Register.

919       (c) If an agency revises its statement of estimated  
 920 regulatory costs, the agency must provide notice that a revision  
 921 has been made. Such notice must include the agency website  
 922 address where the revision can be viewed in its entirety.

923       Section 4. Section 120.5435, Florida Statutes, is created  
 924 to read:

925       120.5435 Repromulgation of rules.—

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

929        (2) If an agency determines after review that substantive  
930 changes to update a rule are not required, such agency must  
931 repromulgate the rule to reflect the date of the review. Each  
932 agency shall review its rules pursuant to this section either 5  
933 years after July 1, 2023, if the rule was adopted before January  
934 1, 2010, or 10 years after the rule is adopted, if the rule was  
935 adopted on or after January 1, 2010. Failure of an agency to  
936 adhere to the deadlines imposed in this section shall be a basis  
937 for any person regulated by the agency or having substantial  
938 interest in the agency rule to petition the agency requesting  
939 the agency to review the rule in accordance with this section.  
940 Upon receipt of such a petition, the agency shall have 30 days  
941 to either comply with the requirements of this section or, if  
942 the agency determines that the duties imposed on the agency are  
943 inapplicable at that time to the specified rule, deny the  
944 petition with a statement explaining the basis for the denial.

945        (3) Before repromulgation of a rule, the agency must, upon  
946 approval by the agency head or the agency head's designee:

947        (a) Publish a notice of repromulgation in the Florida  
948 Administrative Register. A notice of repromulgation is not  
949 required to include the text of the rule being repromulgated.

950        (b) File the rule for repromulgation with the Department

951 of State. A rule may not be filed for repromulgation less than  
952 28 days, and not more than 90 days, after the date of  
953 publication of the notice required by paragraph (a).

954 (4) The agency must file a notice of repromulgation with  
955 the committee at least 14 days before filing the rule for  
956 repromulgation. At the time the rule is filed for  
957 repromulgation, the committee shall certify whether the agency  
958 has responded in writing to all material and timely written  
959 comments or written inquiries made on behalf of the committee.

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

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

964 (7)(a) The agency, upon approval of the agency head or the  
965 agency head's designee, shall file with the Department of State  
966 three certified copies of the repromulgated rule it proposes to  
967 adopt and one certified copy of any material incorporated by  
968 reference in the rule.

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

972 (c) The Department of State shall update the history note  
973 of the rule in the Florida Administrative Code to reflect the  
974 effective date of the repromulgated rule.

975 (8) Any rule that is not repromulgated in accordance with

976 this section must be submitted to the President of the Senate  
977 and the Speaker of the House of Representatives within 7 days  
978 after the decision to not repromulgate the rule. The decision to  
979 not repromulgate shall not become effective until the conclusion  
980 of the next regular session of the Legislature following the  
981 decision.

982 (9) The Department of State shall adopt rules to implement  
983 this section by December 31, 2023.

984 Section 5. Section 120.5436, Florida Statutes, is created  
985 to read:

986 120.5436 Infrastructure permitting review.—

987 (1)(a) It is the intent of the Legislature to build a more  
988 resilient and responsive government infrastructure to allow  
989 quick recovery after natural disasters including hurricanes and  
990 tropical storms without negatively impacting coastal ecosystems  
991 or increasing future community vulnerability.

992 (b) It is the intent of the Legislature to promote  
993 efficiency in the state's government across branches, agencies,  
994 and other governmental entities and to identify areas of  
995 improvement within each that allows for quick, effective  
996 delivery of services.

997 (c) Further, the Legislature intends for the state to seek  
998 out ways to improve its administrative procedures in relevant  
999 fields to build a streamlined permitting process that withstands  
1000 disruptions caused by natural disasters, including hurricanes



1001 and tropical storms, while maintaining the integrity of natural  
 1002 coastal ecosystems.

1003 (2) (a) The Department of Environmental Protection and  
 1004 water management districts shall conduct a holistic review of  
 1005 their current coastal permitting processes and other permit  
 1006 programs, excluding coastal high-hazard areas as described in s.  
 1007 163.3178(2) (h). These permitting processes shall include, but  
 1008 not be limited to, coastal construction control line permits,  
 1009 joint coastal permits, environmental resource permits, permits  
 1010 relating to nature-based infrastructure, and, consistent with  
 1011 the terms of the Endangered Species Act and the United States  
 1012 Environmental Protection Agency's approval, state-administered  
 1013 404 permits.

1014 (b) The scope and purpose of the review shall be to  
 1015 identify areas of improvement to increase efficiency within each  
 1016 process. Factors that must be considered in the review include  
 1017 the following:

- 1018 1. The requirements to obtain a permit.
- 1019 2. Areas for improved efficiency and decision-point  
 1020 consolidation within a single project's process.
- 1021 3. Areas of duplication across one or more permit  
 1022 programs.
- 1023 4. The methods of requesting permits.
- 1024 5. Any other factors that may increase the efficiency of  
 1025 permitting processes and may allow improved storm recovery.

1026           6. Adequate staffing levels necessary for complete and  
 1027 efficient review.

1028           (c) By December 31, 2023, the department and water  
 1029 management districts shall provide their findings and proposed  
 1030 solutions in a report to the Governor, the President of the  
 1031 Senate, and the Speaker of the House of Representatives.

1032           Section 6. Subsection (1) of section 120.545, Florida  
 1033 Statutes, is amended to read:

1034           120.545 Committee review of agency rules.—

1035           (1) As a legislative check on legislatively created  
 1036 authority, the committee shall examine each existing rule and  
 1037 proposed rule, except for those proposed rules exempted by s.  
 1038 120.81(1)(e) and (2), and its accompanying material, and each  
 1039 emergency rule, ~~and may examine any existing rule,~~ for the  
 1040 purpose of determining whether:

1041           (a) The rule is an invalid exercise of delegated  
 1042 legislative authority.

1043           (b) The statutory authority for the rule has been  
 1044 repealed.

1045           (c) The rule reiterates or paraphrases statutory material.

1046           (d) The rule is in proper form.

1047           (e) The notice given before ~~prior to~~ its adoption was  
 1048 sufficient to give adequate notice of the purpose and effect of  
 1049 the rule.

1050           (f) The rule is consistent with expressed legislative

1051 intent pertaining to the specific provisions of law which the  
1052 rule implements.

1053 (g) The rule is necessary to accomplish the apparent or  
1054 expressed objectives of the specific provision of law which the  
1055 rule implements.

1056 (h) The rule is a reasonable implementation of the law as  
1057 it affects the convenience of the general public or persons  
1058 particularly affected by the rule.

1059 (i) The rule could be made less complex or more easily  
1060 comprehensible to the general public.

1061 (j) The rule's statement of estimated regulatory costs  
1062 complies with the requirements of s. 120.541 and whether the  
1063 rule does not impose regulatory costs on the regulated person,  
1064 county, or city which could be reduced by the adoption of less  
1065 costly alternatives that substantially accomplish the statutory  
1066 objectives.

1067 (k) The rule will require additional appropriations.

1068 (l) If the rule is an emergency rule, there exists an  
1069 emergency justifying the adoption of such rule, the agency is  
1070 within its statutory authority, and the rule was adopted in  
1071 compliance with the requirements and limitations of s.  
1072 120.54(4).

1073 Section 7. Paragraphs (a), (b), and (c) of subsection (1)  
1074 of section 120.55, Florida Statutes, are amended to read:

1075 120.55 Publication.—

1076 (1) The Department of State shall:  
 1077 (a)1. Through a continuous revision and publication  
 1078 system, compile and publish electronically, on a website managed  
 1079 by the department, the "Florida Administrative Code." The  
 1080 Florida Administrative Code must ~~shall~~ contain all rules adopted  
 1081 by each agency, citing the grant of rulemaking authority and the  
 1082 specific law implemented pursuant to which each rule was  
 1083 adopted, all history notes as authorized in s. 120.545(7),  
 1084 complete indexes to all rules contained in the code, and any  
 1085 other material required or authorized by law or deemed useful by  
 1086 the department. The electronic code must ~~shall~~ display each rule  
 1087 chapter currently in effect in browse mode and allow full text  
 1088 search of the code and each rule chapter. The department may  
 1089 contract with a publishing firm for a printed publication;  
 1090 however, the department shall retain responsibility for the code  
 1091 as provided in this section. The electronic publication is ~~shall~~  
 1092 ~~be~~ the official compilation of the administrative rules of this  
 1093 state. The Florida Administrative Code must be published daily  
 1094 by 8 a.m. If a rule, after publication, is corrected and  
 1095 replaced, the Florida Administrative Code must indicate:  
 1096 a. That the Florida Administrative Code has been  
 1097 republished; and  
 1098 b. That the rule that has been corrected by the Department  
 1099 of State.

1100

1101 The Department of State retains ~~shall retain~~ the copyright over  
1102 the Florida Administrative Code.

1103 2. Not publish rules in the Florida Administrative Code  
1104 which are general in form but applicable to only one school  
1105 district, community college district, or county, or a part  
1106 thereof, or state university rules relating to internal  
1107 personnel or business and finance ~~shall not be published in the~~  
1108 ~~Florida Administrative Code~~. Exclusion from publication in the  
1109 Florida Administrative Code does ~~shall~~ not affect the validity  
1110 or effectiveness of such rules.

1111 3. At the beginning of the section of the code dealing  
1112 with an agency that files copies of its rules with the  
1113 department, ~~the department shall~~ publish the address and  
1114 telephone number of the executive offices of each agency, the  
1115 manner by which the agency indexes its rules, a listing of all  
1116 rules of that agency excluded from publication in the code, and  
1117 a statement as to where those rules may be inspected.

1118 4. Not publish forms ~~shall not be published~~ in the Florida  
1119 Administrative Code; but any form which an agency uses in its  
1120 dealings with the public, along with any accompanying  
1121 instructions, shall be filed with the committee before it is  
1122 used. Any form or instruction which meets the definition of  
1123 "rule" provided in s. 120.52 must ~~shall~~ be incorporated by  
1124 reference into the appropriate rule. The reference must ~~shall~~  
1125 specifically state that the form is being incorporated by

1126 reference and must ~~shall~~ include the number, title, and  
1127 effective date of the form and an explanation of how the form  
1128 may be obtained. Each form created by an agency which is  
1129 incorporated by reference in a rule notice of which is given  
1130 under s. 120.54(3)(a) after December 31, 2007, must clearly  
1131 display the number, title, and effective date of the form and  
1132 the number of the rule in which the form is incorporated.

1133 5. Require all materials incorporated by reference in any  
1134 part of an adopted rule and in any part of a repromulgated rule  
1135 ~~The department shall allow adopted rules and material~~  
1136 ~~incorporated by reference to be filed in the manner prescribed~~  
1137 ~~by s. 120.54(1)(i)3.a. or b. electronic form as prescribed by~~  
1138 ~~department rule.~~ When a rule is filed for adoption or  
1139 repromulgation with incorporated material in electronic form,  
1140 the department's publication of the Florida Administrative Code  
1141 on its website must contain a hyperlink from the incorporating  
1142 reference in the rule directly to that material. The department  
1143 may not allow hyperlinks from rules in the Florida  
1144 Administrative Code to any material other than that filed with  
1145 and maintained by the department, but may allow hyperlinks to  
1146 incorporated material maintained by the department from the  
1147 adopting agency's website or other sites.

1148 6. Include the date of any technical changes to a rule in  
1149 the history note of the rule in the Florida Administrative Code.  
1150 A technical change does not affect the effective date of the

1151 rule.

1152 (b) Electronically publish on a website managed by the  
 1153 department a continuous revision and publication entitled the  
 1154 "Florida Administrative Register," which shall serve as the  
 1155 official publication and must contain:

1156 1. All notices required by s. 120.54(2) and (3)(a),  
 1157 showing the text of all rules proposed for consideration.

1158 2. All notices of public meetings, hearings, and workshops  
 1159 conducted in accordance with s. 120.525, including a statement  
 1160 of the manner in which a copy of the agenda may be obtained.

1161 3. A notice of each request for authorization to amend or  
 1162 repeal an existing uniform rule or for the adoption of new  
 1163 uniform rules.

1164 4. Notice of petitions for declaratory statements or  
 1165 administrative determinations.

1166 5. A summary of each objection to any rule filed by the  
 1167 Administrative Procedures Committee.

1168 6. A list of rules filed for adoption in the previous 7  
 1169 days.

1170 7. A list of all rules filed for adoption pending  
 1171 legislative ratification under s. 120.541(3). A rule shall be  
 1172 removed from the list once notice of ratification or withdrawal  
 1173 of the rule is received.

1174 8. The full text of each emergency rule in effect on the  
 1175 date of publication.

1176 ~~9.8.~~ Any other material required or authorized by law or  
 1177 deemed useful by the department.

1178  
 1179 The department may contract with a publishing firm for a printed  
 1180 publication of the Florida Administrative Register and make  
 1181 copies available on an annual subscription basis.

1182 (c) Prescribe by rule the style and form required for  
 1183 rules, notices, and other materials submitted for filing,  
 1184 including a rule requiring documents created by an agency that  
 1185 are proposed to be incorporated by reference in notices  
 1186 published pursuant to s. 120.54(3)(a) and (d) to be coded in the  
 1187 same manner as notices published pursuant to s. 120.54(3)(a)1.

1188 Section 8. Paragraph (a) of subsection (2) of section  
 1189 120.56, Florida Statutes, is amended to read:

1190 120.56 Challenges to rules.—

1191 (2) CHALLENGING PROPOSED RULES; SPECIAL PROVISIONS.—

1192 (a) A petition alleging the invalidity of a proposed rule  
 1193 shall be filed within 21 days after the date of publication of  
 1194 the notice required by s. 120.54(3)(a); within 10 days after the  
 1195 final public hearing is held on the proposed rule as provided by  
 1196 s. 120.54(3)(e)2.; within 20 days after the statement of  
 1197 estimated regulatory costs or revised statement of estimated  
 1198 regulatory costs, if applicable, has been prepared and made  
 1199 available as provided in s. 120.541(1)(c) ~~s. 120.541(1)(d)~~; or  
 1200 within 20 days after the date of publication of the notice



1201 required by s. 120.54(3)(d). The petitioner has the burden to  
1202 prove by a preponderance of the evidence that the petitioner  
1203 would be substantially affected by the proposed rule. The agency  
1204 then has the burden to prove by a preponderance of the evidence  
1205 that the proposed rule is not an invalid exercise of delegated  
1206 legislative authority as to the objections raised. A person who  
1207 is not substantially affected by the proposed rule as initially  
1208 noticed, but who is substantially affected by the rule as a  
1209 result of a change, may challenge any provision of the resulting  
1210 proposed rule.

1211 Section 9. Subsection (1) and paragraph (a) of subsection  
1212 (2) of section 120.74, Florida Statutes, are amended to read:

1213 120.74 Agency annual rulemaking and regulatory plans;  
1214 reports.—

1215 (1) REGULATORY PLAN.—By October 1 of each year, each  
1216 agency shall prepare a regulatory plan.

1217 (a) The plan must include a listing of each law enacted or  
1218 amended during the previous 12 months which creates or modifies  
1219 the duties or authority of the agency. If the Governor or the  
1220 Attorney General provides a letter to the committee stating that  
1221 a law affects all or most agencies, the agency may exclude the  
1222 law from its plan. For each law listed by an agency under this  
1223 paragraph, the plan must state:

1224 1. Whether the agency must adopt rules to implement the  
1225 law.

1226           2. If rulemaking is necessary to implement the law:  
 1227           a. Whether a notice of rule development has been published  
 1228 and, if so, the citation to such notice in the Florida  
 1229 Administrative Register.  
 1230           b. The date by which the agency expects to publish the  
 1231 notice of proposed rule under s. 120.54(3) (a).  
 1232           3. If rulemaking is not necessary to implement the law, a  
 1233 concise written explanation of the reasons why the law may be  
 1234 implemented without rulemaking.  
 1235           (b) The plan must also identify and describe each rule,  
 1236 including each rule number or proposed rule number, that include  
 1237 a listing of each law not otherwise listed pursuant to paragraph  
 1238 (a) which the agency expects to develop, adopt, or repeal for  
 1239 the 12-month period beginning on October 1 and ending on  
 1240 September 30 implement by rulemaking before the following July  
 1241 1, excluding emergency rules except emergency rulemaking. For  
 1242 each rule law listed under this paragraph, the plan must state  
 1243 whether the rulemaking is intended to simplify, clarify,  
 1244 increase efficiency, improve coordination with other agencies,  
 1245 reduce regulatory costs, or delete obsolete, unnecessary, or  
 1246 redundant rules.  
 1247           (c) The plan must include any desired update to the prior  
 1248 year's regulatory plan or supplement published pursuant to  
 1249 subsection (7). If, in a prior year, a law was identified under  
 1250 this paragraph or under subparagraph (a)1. as a law requiring

1251 rulemaking to implement but a notice of proposed rule has not  
1252 been published:

1253 1. The agency must ~~shall~~ identify and again list such law,  
1254 noting the applicable notice of rule development by citation to  
1255 the Florida Administrative Register; or

1256 2. If the agency has subsequently determined that  
1257 rulemaking is not necessary to implement the law, the agency  
1258 must ~~shall~~ identify such law, reference the citation to the  
1259 applicable notice of rule development in the Florida  
1260 Administrative Register, and provide a concise written  
1261 explanation of the reason why the law may be implemented without  
1262 rulemaking.

1263 (d) The plan must identify any rules that are required to  
1264 be repromulgated pursuant to s. 120.5435 for the 12-month period  
1265 beginning on October 1 and ending on September 30.

1266 (e) The plan must include a certification executed on  
1267 behalf of the agency by both the agency head, or, if the agency  
1268 head is a collegial body, the presiding officer; and the  
1269 individual acting as principal legal advisor to the agency head.  
1270 The certification must declare:

1271 1. ~~Verify~~ That the persons executing the certification  
1272 have reviewed the plan.

1273 2. ~~Verify~~ That the agency regularly reviews all of its  
1274 rules and identify the period during which all rules have most  
1275 recently been reviewed to determine if the rules remain

1276 consistent with the agency's rulemaking authority and the laws  
 1277 implemented.

1278 3. That the agency understands that regulatory  
 1279 accountability is necessary to ensure public confidence in the  
 1280 integrity of state government and, to that end, the agency is  
 1281 diligently working toward lowering the total number of rules  
 1282 adopted.

1283 4. The total number of rules adopted and repealed during  
 1284 the previous 12 months.

1285 (2) PUBLICATION AND DELIVERY TO THE COMMITTEE.—

1286 (a) By October 1 of each year, each agency shall:

1287 1. Publish its regulatory plan on its website or on  
 1288 another state website established for publication of  
 1289 administrative law records. A clearly labeled hyperlink to the  
 1290 current plan must be included on the agency's primary website  
 1291 homepage.

1292 2. Electronically deliver to the committee a copy of the  
 1293 certification required in paragraph (1)(e) ~~(1)(d)~~.

1294 3. Publish in the Florida Administrative Register a notice  
 1295 identifying the date of publication of the agency's regulatory  
 1296 plan. The notice must include a hyperlink or website address  
 1297 providing direct access to the published plan.

1298 Section 10. Subsection (11) of section 120.80, Florida  
 1299 Statutes, is amended to read:

1300 120.80 Exceptions and special requirements; agencies.—

1301 (11) NATIONAL GUARD.—Notwithstanding s. 120.52(17) ~~s.~~  
 1302 ~~120.52(16)~~, the enlistment, organization, administration,  
 1303 equipment, maintenance, training, and discipline of the militia,  
 1304 National Guard, organized militia, and unorganized militia, as  
 1305 provided by s. 2, Art. X of the State Constitution, are not  
 1306 rules as defined by this chapter.

1307 Section 11. Paragraph (c) of subsection (1) of section  
 1308 120.81, Florida Statutes, is amended to read:

1309 120.81 Exceptions and special requirements; general  
 1310 areas.—

1311 (1) EDUCATIONAL UNITS.—

1312 (c) Notwithstanding s. 120.52(17) ~~s. 120.52(16)~~, any  
 1313 tests, test scoring criteria, or testing procedures relating to  
 1314 student assessment which are developed or administered by the  
 1315 Department of Education pursuant to s. 1003.4282, s. 1008.22, or  
 1316 s. 1008.25, or any other statewide educational tests required by  
 1317 law, are not rules.

1318 Section 12. Paragraph (a) of subsection (1) of section  
 1319 420.9072, Florida Statutes, is amended to read:

1320 420.9072 State Housing Initiatives Partnership Program.—  
 1321 The State Housing Initiatives Partnership Program is created for  
 1322 the purpose of providing funds to counties and eligible  
 1323 municipalities as an incentive for the creation of local housing  
 1324 partnerships, to expand production of and preserve affordable  
 1325 housing, to further the housing element of the local government

1326 comprehensive plan specific to affordable housing, and to  
 1327 increase housing-related employment.

1328 (1)(a) In addition to the legislative findings set forth  
 1329 in s. 420.6015, the Legislature finds that affordable housing is  
 1330 most effectively provided by combining available public and  
 1331 private resources to conserve and improve existing housing and  
 1332 provide new housing for very-low-income households, low-income  
 1333 households, and moderate-income households. The Legislature  
 1334 intends to encourage partnerships in order to secure the  
 1335 benefits of cooperation by the public and private sectors and to  
 1336 reduce the cost of housing for the target group by effectively  
 1337 combining all available resources and cost-saving measures. The  
 1338 Legislature further intends that local governments achieve this  
 1339 combination of resources by encouraging active partnerships  
 1340 between government, lenders, builders and developers, real  
 1341 estate professionals, advocates for low-income persons, and  
 1342 community groups to produce affordable housing and provide  
 1343 related services. Extending the partnership concept to encompass  
 1344 cooperative efforts among small counties as defined in s.  
 1345 120.52(20) ~~s. 120.52(19)~~, and among counties and municipalities  
 1346 is specifically encouraged. Local governments are also intended  
 1347 to establish an affordable housing advisory committee to  
 1348 recommend monetary and nonmonetary incentives for affordable  
 1349 housing as provided in s. 420.9076.

1350 Section 13. Subsection (7) of section 420.9075, Florida

1351 Statutes, is amended to read:

1352 420.9075 Local housing assistance plans; partnerships.—

1353 (7) The moneys deposited in the local housing assistance  
 1354 trust fund shall be used to administer and implement the local  
 1355 housing assistance plan. The cost of administering the plan may  
 1356 not exceed 5 percent of the local housing distribution moneys  
 1357 and program income deposited into the trust fund. A county or an  
 1358 eligible municipality may not exceed the 5-percent limitation on  
 1359 administrative costs, unless its governing body finds, by  
 1360 resolution, that 5 percent of the local housing distribution  
 1361 plus 5 percent of program income is insufficient to adequately  
 1362 pay the necessary costs of administering the local housing  
 1363 assistance plan. The cost of administering the program may not  
 1364 exceed 10 percent of the local housing distribution plus 5  
 1365 percent of program income deposited into the trust fund, except  
 1366 that small counties, as defined in s. 120.52(20) ~~s. 120.52(19)~~,  
 1367 and eligible municipalities receiving a local housing  
 1368 distribution of up to \$350,000 may use up to 10 percent of  
 1369 program income for administrative costs.

1370 Section 14. Paragraph (d) of subsection (1) of section  
 1371 443.091, Florida Statutes, is amended to read:

1372 443.091 Benefit eligibility conditions.—

1373 (1) An unemployed individual is eligible to receive  
 1374 benefits for any week only if the Department of Economic  
 1375 Opportunity finds that:

1376 (d) She or he is able to work and is available for work.  
1377 In order to assess eligibility for a claimed week of  
1378 unemployment, the department shall develop criteria to determine  
1379 a claimant's ability to work and availability for work. A  
1380 claimant must be actively seeking work in order to be considered  
1381 available for work. This means engaging in systematic and  
1382 sustained efforts to find work, including contacting at least  
1383 five prospective employers for each week of unemployment  
1384 claimed. The department may require the claimant to provide  
1385 proof of such efforts to the one-stop career center as part of  
1386 reemployment services. A claimant's proof of work search efforts  
1387 may not include the same prospective employer at the same  
1388 location in 3 consecutive weeks, unless the employer has  
1389 indicated since the time of the initial contact that the  
1390 employer is hiring. The department shall conduct random reviews  
1391 of work search information provided by claimants. As an  
1392 alternative to contacting at least five prospective employers  
1393 for any week of unemployment claimed, a claimant may, for that  
1394 same week, report in person to a one-stop career center to meet  
1395 with a representative of the center and access reemployment  
1396 services of the center. The center shall keep a record of the  
1397 services or information provided to the claimant and shall  
1398 provide the records to the department upon request by the  
1399 department. However:  
1400 1. Notwithstanding any other provision of this paragraph



1401 or paragraphs (b) and (e), an otherwise eligible individual may  
 1402 not be denied benefits for any week because she or he is in  
 1403 training with the approval of the department, or by reason of s.  
 1404 443.101(2) relating to failure to apply for, or refusal to  
 1405 accept, suitable work. Training may be approved by the  
 1406 department in accordance with criteria prescribed by rule. A  
 1407 claimant's eligibility during approved training is contingent  
 1408 upon satisfying eligibility conditions prescribed by rule.

1409 2. Notwithstanding any other provision of this chapter, an  
 1410 otherwise eligible individual who is in training approved under  
 1411 s. 236(a)(1) of the Trade Act of 1974, as amended, may not be  
 1412 determined ineligible or disqualified for benefits due to  
 1413 enrollment in such training or because of leaving work that is  
 1414 not suitable employment to enter such training. As used in this  
 1415 subparagraph, the term "suitable employment" means work of a  
 1416 substantially equal or higher skill level than the worker's past  
 1417 adversely affected employment, as defined for purposes of the  
 1418 Trade Act of 1974, as amended, the wages for which are at least  
 1419 80 percent of the worker's average weekly wage as determined for  
 1420 purposes of the Trade Act of 1974, as amended.

1421 3. Notwithstanding any other provision of this section, an  
 1422 otherwise eligible individual may not be denied benefits for any  
 1423 week because she or he is before any state or federal court  
 1424 pursuant to a lawfully issued summons to appear for jury duty.

1425 4. Union members who customarily obtain employment through

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2023

1426 a union hiring hall may satisfy the work search requirements of  
1427 this paragraph by reporting daily to their union hall.

1428 5. The work search requirements of this paragraph do not  
1429 apply to persons who are unemployed as a result of a temporary  
1430 layoff or who are claiming benefits under an approved short-time  
1431 compensation plan as provided in s. 443.1116.

1432 6. In small counties as defined in s. 120.52(20) ~~s.~~  
1433 ~~120.52(19)~~, a claimant engaging in systematic and sustained  
1434 efforts to find work must contact at least three prospective  
1435 employers for each week of unemployment claimed.

1436 7. The work search requirements of this paragraph do not  
1437 apply to persons required to participate in reemployment  
1438 services under paragraph (e).

1439 Section 15. This act shall take effect July 1, 2023.