

## CHAPTER 2012-116

### Committee Substitute for House Bill No. 7055

An act relating to administrative authority; providing legislative findings; providing legislative intent; amending s. 20.02, F.S.; clarifying the authority of the Governor; amending s. 20.03, F.S.; revising the definition of the terms “head of the department” and “secretary”; defining the term “to serve at the pleasure”; clarifying supervisory powers of appointing authority; amending s. 20.05, F.S., relating to powers and duties of department heads; incorporating constitutional allocation of executive authority; creating s. 120.515, F.S.; declaring policy regarding executive authority with respect to the Administrative Procedure Act; amending s. 120.52, F.S.; revising the term “agency head” to clarify supervisory powers of the appointing authority; amending s. 11.242, F.S.; providing for removal of duplicative, redundant, or unused rulemaking authority as part of the reviser’s bill process; repealing s. 14.34(3), F.S., relating to the Governor’s Medal of Merit; repealing rulemaking authority; amending s. 15.16, F.S.; deleting authority of the Department of State to adopt rules relating to the issuance of apostilles; repealing s. 15.18(7), F.S., relating to international and cultural relations; repealing rulemaking authority of the Secretary of State with respect to entering into contracts that are primarily for promotional services and events; amending s. 16.60, F.S.; deleting authority of the Attorney General to adopt rules relating to mediation proceedings; repealing s. 17.0416(2), F.S., relating to the authority to provide services on a fee basis; repealing rulemaking authority of the Department of Financial Services with respect thereto; repealing s. 17.59(3), F.S., relating to safekeeping services; repealing rulemaking authority of the Chief Financial Officer for the proper management and maintenance of the collateral management service; repealing s. 25.371, F.S., relating to the effect of rules adopted by the Supreme Court on statutory provisions; repealing s. 28.43, F.S., relating to the adoption of rules in relation to ss. 28.35, 28.36, and 28.37, relating to duties of the Florida Clerks of Court Operations Corporation and clerks of the court; repealing s. 35.07, F.S., relating to power of the district courts of appeal to make rules and regulations; repealing s. 39.001(11), F.S., relating to rulemaking authority of Executive Office of the Governor with respect to the protection of children under chapter 39; amending s. 39.0137, F.S.; deleting rulemaking authority of the Department of Children and Family Services with respect to enforcement of the federal Indian Child Welfare Act and federal Multi-Ethnic Placement Act of 1994; repealing s. 39.824(1), F.S.; repealing a provision requesting the Supreme Court to adopt rules of juvenile procedure for purposes of pt. XI, ch. 39, relating to guardians ad litem and guardian advocates; amending s. 63.167, F.S.; repealing rulemaking authority of the Department of Children and Family Services relating to the establishment and operation of the state adoption information center; repealing s. 88.9051, F.S., relating to authority of the Department of Revenue to adopt rules to

implement the Uniform Interstate Family Support Act; amending ss. 97.026, 97.0555, and 97.061, F.S.; repealing rulemaking authority of the Department of State under the Election Code; repealing s. 101.56062(3), F.S.; repealing rulemaking authority of the department relating to standards for accessible voting systems; amending ss. 103.101 and 106.165, F.S.; repealing rulemaking authority of the department relating to conduct of the presidential preference primary and use of closed captioning and descriptive narrative in television broadcasts; amending s. 110.1055, F.S., relating to rulemaking authority of the Department of Management Services with respect to chapter 110, relating to state employment; deleting obsolete language; repealing s. 110.1099(5), F.S.; repealing rulemaking authority of the department relating to education and training opportunities for state employees; repealing s. 110.1228(7), F.S.; repealing rulemaking authority of the department relating to participation in the state group health insurance and prescription drug coverage programs by small counties, small municipalities, and district school boards located in small counties; amending s. 110.12301, F.S.; repealing rulemaking authority of the department relating to dependent eligibility verification services for the state group insurance program; repealing s. 112.1915(4), F.S.; repealing rulemaking authority of the State Board of Education relating to death benefits for teachers and school administrators; amending s. 118.12, F.S.; repealing rulemaking authority of the Department of Revenue relating to certification of a civil-law notary's authority; repealing s. 121.085(1), F.S.; repealing authority of the Department of Management Services relating to submission of information necessary to establish a member's claim of creditable service under the Florida Retirement System; repealing s. 121.1001(4)(b), F.S.; repealing rulemaking authority of the Division of Retirement relating to administration of the Florida Retirement System Preservation of Benefits Plan; repealing s. 121.4503(3), F.S.; repealing rulemaking authority of the Department of Management Services relating to the Florida Retirement System Contributions Clearing Trust Fund; amending s. 121.5911, F.S.; deleting rulemaking authority of the department relating to maintaining the qualified status of the disability retirement program and the Florida Retirement System Pension Plan; repealing s. 125.902(4), F.S.; repealing rulemaking authority of the Department of Children and Family Services relating to children's services council or juvenile welfare board incentive grants; repealing s. 154.503(4), F.S.; repealing rulemaking authority of the Department of Health relating to the Primary Care for Children and Families Challenge Grant Program; amending s. 159.8081, F.S.; repealing rulemaking authority of the Department of Economic Opportunity relating to the manufacturing facility bond pool; amending s. 159.8083, F.S.; repealing rulemaking authority of the department relating to the Florida First Business allocation pool; repealing s. 159.825(3), F.S.; repealing rulemaking authority of the State Board of Administration relating to terms of bonds; repealing s. 161.75, F.S.; repealing rulemaking authority of the Department of Environmental Regulation and the Fish and Wildlife Conservation Commission relating to the Oceans and Coastal Resources Act; repealing s. 163.462, F.S.; repealing rulemaking authority of the

Department of Community Affairs relating to the Community Redevelopment Act of 1969; repealing s. 163.517(6), F.S.; repealing rulemaking authority of the Department of Legal Affairs relating to the Safe Neighborhoods Program; repealing s. 175.341(2), F.S.; repealing rulemaking authority of the Division of Retirement relating to firefighter pensions; repealing s. 177.504(2)(e), F.S.; repealing rulemaking authority of the Department of Environmental Protection relating to the Florida Public Land Survey Restoration and Perpetuation Act; repealing s. 185.23(2), F.S.; repealing rulemaking authority of the Division of Retirement relating to municipal police pensions; repealing s. 255.25001(2), F.S.; repealing rulemaking authority of the Department of Management Services relating to determining whether a lease-purchase of a state-owned office building is in the best interests of the state; repealing s. 257.34(7), F.S.; repealing rulemaking authority of the Division of Library and Information Services of the Department of State relating to the Florida International Archive and Repository; repealing s. 364.0135(6), F.S.; repealing rulemaking authority of the Department of Management Services relating to the promotion of broadband adoption; amending s. 366.85, F.S.; repealing rulemaking authority of the Division of Consumer Services of the Department of Agriculture and Consumer Services relating to the Florida Energy Efficiency and Conservation Act; repealing s. 409.5092, F.S.; repealing rulemaking authority of the Department of Children and Family Services relating to permission for weatherization; amending s. 501.142, F.S.; repealing rulemaking authority of the Department of Agriculture and Consumer Services relating to retail sales establishments and authority to sanction violations of such rules; amending s. 985.682, F.S.; conforming a cross-reference; providing an effective date.

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

Section 1. Legislative findings.—The Legislature finds that:

(1) For the preservation of liberty and the protection of individual rights, the people of the State of Florida adopted a republican form of government delegating and limiting sovereign power to be exercised by their representatives in three separate, but equal, branches: the legislative branch, the executive branch, and the judicial branch.

(2) By Article IV of the State Constitution the people vested supreme executive power in the Governor and apportioned specific substantive powers among the other elected officers designated in that Article, including the Lieutenant Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture.

(3) As noted by Alexander Hamilton: “Energy in the executive is a leading character in the definition of good government .... A feeble executive implies a feeble execution of the government. A feeble execution is but another phrase for a bad execution: And a government ill executed, whatever it may be in theory, must be in practice a bad government.”

(4) Since the framing of Florida's first constitution in 1838, the people have adhered to the principles expressed by Mr. Hamilton in the vesting of supreme executive power directly in the Governor but choosing to vest other specific executive powers directly in other denominated officials or entities.

(5) In uninterrupted consistency with their longstanding vesting of the supreme executive power in the Governor, the people in 1968 adopted s. 6, Art. IV of the State Constitution, generally directing and limiting the Legislature to allot the functions of the executive branch among not more than 25 departments and to place the administration of each department under the direct supervision of the Governor, the Lieutenant Governor, the Governor and Cabinet, a Cabinet member, or an officer or board appointed by and serving at the pleasure of the Governor.

(6) Each officer of state government is obligated to construe the language of the State Constitution consistent with its express and clearly implied intent, must give words their ordinary and customary meaning unless the context indicates otherwise, must construe all parts together to give them their full effect, and must not construe the terms of the State Constitution to yield an absurd result.

(7) Under the authority of s. 6, Art. IV of the State Constitution, the Legislature adopted and the Governor signed into law chapter 69-106, Laws of Florida, which restructured the executive branch into not more than 25 departments and designated their direct administration.

(8) At the time of adopting chapter 69-106, Laws of Florida, the Legislature was informed by the debate in the 41st Legislature (under the Constitution of 1885) about the text for s. 6, Art. IV for the proposed State Constitution, that the 41st Legislature expressly considered and expressly rejected alternative proposals which would have required general law to provide supervisory authority to elected constitutional officers over the policies of executive departments, and that in submitting the 1968 State Constitution to the people, their Legislature intended the proposal to ensure that the administration and policies of each executive branch department would be under the final authority and control either of the Governor or one or more elected constitutional officers.

(9) Construing together ss. 1(a) and 6, Art. IV of the State Constitution, the Legislature at all times understood that these sections create a general legal presumption against the creation of a class of unelected, subordinate officers exercising executive power independent of the direction and supervision of the Governor or one or more specified elected constitutional officers.

(10) Section 6, Art. IV of the State Constitution has not been amended since its ratification by the people on November 5, 1968.

(11) An officer appointed by and serving at the pleasure of the Governor to administer a department exercises a portion of the sovereign power assigned under the State Constitution to the executive branch. Such

appointees remain subject to the direction and supervision of one or more elected constitutional officers who have the ultimate accountability to the people for the faithful discharge of such responsibility.

(12) Regarding the Governor’s accountability for the supervision and direction of those appointed officers serving at the pleasure of the Governor, the Legislature is informed by the following analysis:

(a) As opined by Justice Polston: “(T)he Governor has the constitutional authority to act as this State’s chief administrative officer as well as the constitutional duty to faithfully execute this State’s laws and to manage and hold agencies under his charge accountable to State laws, including the APA. (The Supreme) Court has explained that ‘[t]he Governor is given broad authority to fulfill his duty in taking “care that the laws be faithfully executed.” ’ ”

(b) As opined by Chief Justice Canady: “(I)f ‘supreme executive power’ means anything, it must mean that the Governor can supervise and direct the policymaking choices—within the range of choices permitted by law—of the subordinate executive branch officers who serve at his pleasure.”

(13) The Legislature has not expressly insulated discretionary executive policy decisions from the constitutional structure of accountability to elected officials established in Article IV of the State Constitution.

(14) Pertaining to the exercise of delegated rulemaking authority, the Legislature is informed by the following:

(a) The exercise of delegated quasi-legislative power within the parameters of Florida’s Administrative Procedure Act and related statutes involves certain discretionary policy choices by executive branch officers. In authorizing the exercise of this power, the Legislature has imposed no restriction on the authority of the Governor or any other constitutional officer or collegial body to supervise and direct such policy choices made by subordinate executive branch officials in rulemaking.

(b) Florida law provides no specific process for carrying out the Governor’s executive duties with respect to holding his executive agencies accountable in their rulemaking functions.

(c) As correctly opined by Chief Justice Canady: “Given the constitutional structure establishing the power and responsibilities of the Governor, it is unjustified to conclude ... that by assigning rulemaking power to agency heads, the Legislature implicitly divested the Governor of the supervisory power with respect to executive officials who serve at his pleasure.”

(d) A Governor’s actions are presumed to be in accord with the duties of that office.

(15) A statutory definition of “agency head” is neither intended nor effective to change the fundamental general principles of Article IV of the State Constitution:

(a) That executive branch power may only be exercised under the direct or indirect supervision of one or more elected constitutional officers; and

(b) That the supervision of any executive agency not expressly allocated to one or more particular constitutional officers remains under the Governor’s supreme executive power.

(16) The Administrative Procedure Act is a uniform procedural statute ensuring full public access and participation in any exercise of delegated legislative authority by executive branch entities.

(17) The delegation of rulemaking authority by substantive statute and establishment of uniform procedures under the Administrative Procedure Act were intended and made by the Legislature to conform and comply with the separation of powers required under s. 3, Art. II of the State Constitution, with no general intrusion into the role and authority of the elected executive branch officers as established in Article IV of the State Constitution.

(18) Continual review and assessment of existing and proposed regulations is reasonably necessary to ensure that the laws of the state are faithfully executed without unduly burdening the state’s economy and imposing needless costs and requirements on citizens, businesses, and local governments.

(19) Fiscal accountability by all agencies is reasonably necessary to ensure integrity in state government.

(20) While agency heads and personnel bring expertise to a particular subject matter, they are not directly accountable to the electorate and do not necessarily have an incentive to take a systemic approach to regulatory problems, to budget constraints, or to the overall regulatory burden imposed by the state on citizens and businesses.

(21) The elected constitutional officers have a democratic mandate, are directly accountable to the people, and have the duty and power to assess the overall legality, efficiency, and operation of government within their constitutional and statutory jurisdictions.

(22) Review and oversight of agency rulemaking is encompassed by the Governor’s powers and duties under the State Constitution to “take care that the laws be faithfully executed” and to serve as “the chief administrative officer of the state responsible for the planning and budgeting for the state.”

(23) The State Constitution and the Florida Statutes establish that many agencies of state government are administered by an officer “appointed by and serving at the pleasure of the governor,” and in order to determine whether an officer shall continue to serve at the Governor’s pleasure, it is

necessary for the Governor to set expectations and standards for that officer and to measure agency performance against those expectations and standards.

(24) Executive Orders 11-01 and 11-72 established the Office of Fiscal Accountability and Regulatory Reform (OFARR) to ensure that agency rules (proposed and existing) are efficient, are not overly burdensome, and faithfully adhere to statutes as enacted by the Legislature.

(25) Upon establishment of OFARR, all agencies under the direction of the Governor were required to obtain OFARR review and approval before developing new rules or amending or repealing existing rules.

(a) OFARR's review process has facilitated the Governor's exercise of the power and duty to serve as the chief executive and administrative officer of the state.

(b) OFARR's review process has facilitated the Governor's planning and budgeting for the state.

(c) OFARR has reviewed thousands of rules and regulations and helped agencies identify over 1,000 unnecessary and unauthorized rules and regulations for repeal.

(d) Since January 4, 2011, OFARR has reviewed hundreds of proposed agency rulemaking actions.

(e) OFARR's review process has thus far been successful in helping to ensure efficient and effective performance by state government.

(26) The Supreme Court of Florida, in the case of *Whiley v. Scott*, No. SC11-592, issued an unsigned opinion joined by five Justices, which held that Executive Orders 11-01 and 11-72 "impermissibly suspended agency rulemaking to the extent that [they] included a requirement that [OFARR] must first permit an agency to engage in the rulemaking which has been delegated by the Florida Legislature."

(a) The majority opinion in *Whiley*:

1. Failed to address and apply the plain meaning of ss. 1 and 6 of Art. IV of the State Constitution, and thereby may be read to restrain the power of the Governor under general law with respect to the supervision of agency heads;

2. Failed to address the implications of the court's precedent in *Jones v. Chiles*, 638 So. 2d 48 (Fla. 1994), which recognized the proper scope of executive power under the State Constitution;

3. Failed to address the precedent set by dozens of executive orders issued by prior governors of Florida;

4. Failed to address the court's holding that "[t]he principles underlying the governmental separation of powers antedate our Florida Constitution and were collectively adopted by the union of states in our federal constitution," *Chiles v. Children A, B, C, D, E, & F*, 589 So. 2d 260 (Fla. 1991), and in light of that precedent, failed to consider that Executive Orders 11-01 and 11-72 cannot be meaningfully distinguished from similar executive orders issued by the last four presidents of the United States and the governors of at least 29 other states; and

5. Unreasonably relied on a 1983 Attorney General Opinion, which the Attorney General distinguished and limited to its facts in an *amicus* brief in *Whiley*.

(b) The dissenting opinions of two justices in the *Whiley* case state the correct interpretation of the State Constitution and present persuasive reasoning and arguments in support of that interpretation.

(c) The Supreme Court withheld the writ sought by *Whiley*.

(d) Notwithstanding the above, the majority opinion in *Whiley* is to be afforded the deference due an advisory opinion of the Supreme Court of Florida because no writ or other final order was entered beyond a mere declaration of law.

Section 2. Executive Orders 11-72 and 11-211 are affirmed to be consistent with state law and the public policy of the state.

Section 3. The Legislature intends that the amendments made by this act to ss. 20.02, 20.03, and 20.05, Florida Statutes, which apply to the organizational structure of the executive branch, and the creation of s. 120.515, Florida Statutes, which applies to administrative procedure, are to clarify that the placement of an executive department under the direct administration of an officer or board appointed by and serving at the pleasure of the Governor does not implicitly limit or restrict the Governor's prerogative, legal authority, and constitutional responsibility to direct and supervise the execution of the law and the exercise of lawful discretion.

Section 4. Subsections (3) through (7) of section 20.02, Florida Statutes, are renumbered as subsections (4) through (8), respectively, and a new subsection (3) is added to that section to read:

20.02 Declaration of policy.—

(3) The administration of any executive branch department or entity placed under the direct supervision of an officer or board appointed by and serving at the pleasure of the Governor shall remain at all times under the constitutional executive authority of the Governor, in accordance with ss. 1(a) and 6, Art. IV of the State Constitution and such officer or board generally remains subject to oversight, direction, and supervision by the Governor.



Section 5. Subsections (4) and (5) of section 20.03, Florida Statutes, are amended, and subsection (13) is added to that section, to read:

20.03 Definitions.—To provide uniform nomenclature throughout the structure of the executive branch, the following definitions apply:

(4) “Head of the department” means the individual under whom or the board under which direct administration in charge of the department is placed by statute. Where direct administration of a department is placed under an officer or board appointed by and serving at the pleasure of the Governor, that officer or board remains subject to the Governor’s supervision and direction.

(5) “Secretary” means an individual who is appointed by the Governor to head a department and who is not otherwise named in the State Constitution.

(13) “To serve at the pleasure” means the appointee serves in the office until removed by the appointing authority. Consistent with the allotment of executive authority under ss. 1 and 6, Art. IV of the State Constitution, an appointee serving at the pleasure of the appointing authority generally remains subject to the direction and supervision of the appointing authority.

Section 6. Subsection (1) of section 20.05, Florida Statutes, is amended to read:

20.05 Heads of departments; powers and duties.—

(1) Each head of a department, subject to the allotment of executive power under Article IV of the State Constitution, and except as otherwise provided by law, must:

(a) Plan, direct, coordinate, and execute the powers, duties, and functions vested in that department or vested in a division, bureau, or section of that department; powers and duties assigned or transferred to a division, bureau, or section of the department must not be construed to limit this authority and this responsibility;

(b) Have authority, without being relieved of responsibility, to execute any of the powers, duties, and functions vested in the department or in any administrative unit thereof through administrative units and through assistants and deputies designated by the head of the department from time to time, unless the head of the department is explicitly required by law to perform the same without delegation;

(c) Compile annually a comprehensive program budget reporting all program and fiscal matters related to the operation of his or her department, including each program, subprogram, and activity, and other matters as required by law;

(d) Reimburse the members of advisory bodies, commissions, and boards of trustees for their actual and necessary expenses incurred in the performance of their duties in accordance with s. 112.061;

(e) Subject to the requirements of chapter 120, exercise existing authority to adopt rules pursuant and limited to the powers, duties, and functions transferred to the department;

(f) Exercise authority on behalf of the department to accept gifts, grants, bequests, loans, and endowments for purposes consistent with the powers, duties, and functions of the department. All such funds must be deposited in the State Treasury and appropriated by the Legislature for the purposes for which they were received by the department;

(g) If a department is under the direct supervision of a board, including a board consisting of the Governor and Cabinet, however designated, employ an executive director to serve at its pleasure; and

(h) Make recommendations concerning more effective internal structuring of the department to the Legislature. Unless otherwise required by law, such recommendations must be provided to the Legislature at least 30 days before the first day of the regular session at which they are to be considered, when practicable.

Section 7. Section 120.515, Florida Statutes, is created to read:

120.515 Declaration of policy.—This chapter provides uniform procedures for the exercise of specified authority. This chapter does not limit or impinge upon the assignment of executive power under Article IV of the State Constitution or the legal authority of an appointing authority to direct and supervise those appointees serving at the pleasure of the appointing authority. For purposes of this chapter, adherence to the direction and supervision of an appointing authority does not constitute delegation or transfer of statutory authority assigned to the appointee.

Section 8. Subsection (3) of section 120.52, Florida Statutes, is amended to read:

120.52 Definitions.—As used in this act:

(3) “Agency head” means the person or collegial body in a department or other governmental unit statutorily responsible for final agency action. An agency head appointed by and serving at the pleasure of an appointing authority remains subject to the direction and supervision of the appointing authority but actions taken by the agency head as authorized by statute are official acts.

Section 9. Paragraphs (j) and (k) of subsection (5) of section 11.242, Florida Statutes, are redesignated as paragraphs (k) and (l), respectively, and a new paragraph (j) is added to that subsection to read:

11.242 Powers, duties, and functions as to statutory revision.—The powers, duties, and functions of the Office of Legislative Services in the operation and maintenance of a statutory revision program shall be as follows:

(5) In carrying on the work of statutory revision and in preparing the Florida Statutes for publication:

(j) All statutes and laws, or parts thereof, which grant duplicative, redundant, or unused rulemaking authority, shall be omitted through the process of reviser’s bills duly enacted by the Legislature. Rulemaking authority shall be deemed unused if the provision has been in effect for more than 5 years and no rule has been promulgated in reliance thereon.

Section 10. Subsection (3) of section 14.34, Florida Statutes, is repealed.

Section 11. Subsection (7) of section 15.16, Florida Statutes, is amended to read:

15.16 Reproduction of records; admissibility in evidence; electronic receipt and transmission of records; certification; acknowledgment.—

(7) The Secretary of State may issue apostilles conforming to the requirements of the international treaty known as the Hague Convention of 1961 and may charge a fee for the issuance of apostilles not to exceed \$10 per apostille. The Secretary of State has the sole authority in this state to establish, in accordance with the laws of the United States, the requirements and procedures for the issuance of apostilles. ~~The Department of State may adopt rules to implement this subsection.~~

Section 12. Subsection (7) of section 15.18, Florida Statutes, is repealed.

Section 13. Paragraph (a) of subsection (3) of section 16.60, Florida Statutes, is amended to read:

16.60 Public records mediation program within the Office of the Attorney General; creation; duties.—

(3) The Office of the Attorney General shall:

(a) Employ one or more mediators to mediate disputes involving access to public records. A person may not be employed by the department as a mediator unless that person is a member in good standing of The Florida Bar. ~~The Office of the Attorney General may adopt rules of procedure to govern its mediation proceedings.~~

Section 14. Subsection (2) of section 17.0416, Florida Statutes, is repealed.

Section 15. Subsection (3) of section 17.59, Florida Statutes, is repealed.

Section 16. Section 25.371, Florida Statutes, is repealed.

Section 17. Section 28.43, Florida Statutes, is repealed.

Section 18. Section 35.07, Florida Statutes, is repealed.

Section 19. Subsection (11) of section 39.001, Florida Statutes, is repealed.

Section 20. Subsection (2) of section 39.0137, Florida Statutes, is amended to read:

39.0137 Federal law; rulemaking authority.—

~~(2) The department shall adopt rules no later than July 1, 2007, to ensure that the provisions of these federal laws are enforced in this state. The department is encouraged to enter into agreements with recognized American Indian tribes in order to facilitate the implementation of the Indian Child Welfare Act.~~

Section 21. Subsection (1) of section 39.824, Florida Statutes, is repealed.

Section 22. Subsection (3) of section 63.167, Florida Statutes, is amended to read:

63.167 State adoption information center.—

~~(3) The department shall ensure equitable distribution of referrals to licensed child-placing agencies, and may promulgate rules as necessary for the establishment and operation of the state adoption information center.~~

Section 23. Section 88.9051, Florida Statutes, is repealed.

Section 24. Section 97.026, Florida Statutes, is amended to read:

97.026 Forms to be available in alternative formats and via the Internet. It is the intent of the Legislature that all forms required to be used in chapters 97-106 shall be made available upon request, in alternative formats. Such forms shall include absentee ballots as alternative formats for such ballots become available and the Division of Elections is able to certify systems that provide them. ~~The department may, pursuant to ss. 120.536(1) and 120.54, adopt rules to administer this section.~~ Whenever possible, such forms, with the exception of absentee ballots, shall be made available by the Department of State via the Internet. Sections that contain such forms include, but are not limited to, ss. 97.051, 97.052, 97.053, 97.057, 97.058, 97.0583, 97.071, 97.073, 97.1031, 98.075, 99.021, 100.361, 100.371, 101.045, 101.171, 101.20, 101.6103, 101.62, 101.64, 101.65, 101.657, 105.031, 106.023, and 106.087.

Section 25. Section 97.0555, Florida Statutes, is amended to read:

97.0555 Late registration.—An individual or accompanying family member who has been discharged or separated from the uniformed services or the Merchant Marine, or from employment outside the territorial limits of

the United States, after the book-closing date for an election pursuant to s. 97.055 and who is otherwise qualified may register to vote in such election until 5 p.m. on the Friday before that election in the office of the supervisor of elections. Such persons must produce sufficient documentation showing evidence of qualifying for late registration pursuant to this section. ~~The Department of State shall adopt rules specifying documentation that is sufficient to determine eligibility.~~

Section 26. Subsection (1) of section 97.061, Florida Statutes, is amended to read:

97.061 Special registration for electors requiring assistance.—

(1) Any person who is eligible to register and who is unable to read or write or who, because of some disability, needs assistance in voting shall upon that person's request be registered under the procedure prescribed by this section and shall be entitled to receive assistance at the polls under the conditions prescribed by this section. ~~The department may adopt rules to administer this section.~~

Section 27. Subsection (3) of section 101.56062, Florida Statutes, is repealed.

Section 28. Subsection (5) of section 103.101, Florida Statutes, is amended to read:

103.101 Presidential preference primary.—

(5) The state executive committee of each party, by rule adopted at least 60 days prior to the presidential preference primary election, shall determine the number, and establish procedures to be followed in the selection, of delegates and delegate alternates from among each candidate's supporters. A copy of any rule adopted by the executive committee shall be filed with the Department of State within 7 days after its adoption and shall become a public record. The Department of State shall review the procedures and shall notify the state executive committee of each political party of any ballot limitations. ~~The Department of State may promulgate rules for the orderly conduct of the presidential preference primary ballot.~~

Section 29. Section 106.165, Florida Statutes, is amended to read:

106.165 Use of closed captioning and descriptive narrative in all television broadcasts.—Each candidate, political party, affiliated party committee, and political committee must use closed captioning and descriptive narrative in all television broadcasts regulated by the Federal Communications Commission that are on behalf of, or sponsored by, a candidate, political party, affiliated party committee, or political committee or must file a written statement with the qualifying officer setting forth the reasons for not doing so. Failure to file this statement with the appropriate qualifying officer constitutes a violation of the Florida Election Code and is under the jurisdiction of the Florida Elections Commission. ~~The Department of State~~

~~may adopt rules in accordance with s. 120.54 which are necessary to administer this section.~~

Section 30. Section 110.1055, Florida Statutes, is amended to read:

110.1055 Rules and rulemaking authority.—The Department of Management Services shall have authority to adopt rules as necessary to effectuate the provisions of this chapter, as amended by this act, and in accordance with the authority granted to the department in this chapter. ~~All existing rules relating to this chapter are statutorily repealed January 1, 2002, unless otherwise readopted.~~

Section 31. Subsection (5) of section 110.1099, Florida Statutes, is repealed.

Section 32. Subsection (7) of section 110.1228, Florida Statutes, is repealed.

Section 33. Subsection (2) of section 110.12301, Florida Statutes, is amended to read:

110.12301 Competitive procurement of postpayment claims review services.—The Division of State Group Insurance is directed to competitively procure:

(2) A contingency-based contract for dependent eligibility verification services for the state group insurance program; however, compensation under the contract may not exceed historical claim costs for the prior 12 months for the dependent populations disenrolled as a result of the vendor's services. The division may establish a 3-month grace period and hold subscribers harmless for past claims of ineligible dependents. The Department of Management Services shall submit budget amendments pursuant to chapter 216 in order to obtain budget authority necessary to expend funds from the State Employees' Group Health Self-Insurance Trust Fund for payments to the vendor as provided in the contract. ~~The Department of Management Services shall adopt rules providing a process for verifying dependent eligibility.~~

Section 34. Subsection (4) of section 112.1915, Florida Statutes, is repealed.

Section 35. Section 118.12, Florida Statutes, is amended to read:

118.12 Certification of civil-law notary's authority; apostilles.—If certification of a civil-law notary's authority is necessary for a particular document or transaction, it must be obtained from the Secretary of State. Upon the receipt of a written request from a civil-law notary and the fee prescribed by the Secretary of State, the Secretary of State shall issue a certification of the civil-law notary's authority, in a form prescribed by the Secretary of State, which shall include a statement explaining the legal qualifications and authority of a civil-law notary in this state. The fee

prescribed for the issuance of the certification under this section or an apostille under s. 15.16 may not exceed \$10 per document. ~~The Department of State may adopt rules to implement this section.~~

Section 36. Subsection (1) of section 121.085, Florida Statutes, is repealed.

Section 37. Paragraph (b) of subsection (4) of section 121.1001, Florida Statutes, is repealed.

Section 38. Subsection (3) of section 121.4503, Florida Statutes, is repealed.

Section 39. Section 121.5911, Florida Statutes, is amended to read:

121.5911 Disability retirement program; qualified status; rulemaking authority.—It is the intent of the Legislature that the disability retirement program for members of the Florida Retirement System Investment Plan meet all applicable requirements of federal law for a qualified plan. The department shall seek a private letter ruling from the Internal Revenue Service on the disability retirement program. ~~Consistent with the private letter ruling, the department shall adopt rules necessary to maintain the qualified status of the disability retirement program and the Florida Retirement System Pension Plan.~~

Section 40. Subsection (4) of section 125.902, Florida Statutes, is repealed.

Section 41. Subsection (4) of section 154.503, Florida Statutes, is repealed.

Section 42. Paragraph (a) of subsection (2) of section 159.8081, Florida Statutes, is amended to read:

159.8081 Manufacturing facility bond pool.—

(2)(a) The first 75 percent of this pool shall be available on a first come, first served basis, except that 15 percent of the state volume limitation allocated to this pool shall be available as provided in paragraph (b). Before issuing any written confirmations for the remaining 25 percent of this pool, the executive director shall forward all notices of intent to issue which are received by the division for manufacturing facility projects to the Department of Economic Opportunity. The Department of Economic Opportunity shall decide, after receipt of the notices of intent to issue, which notices will receive written confirmations. Such decision shall be communicated in writing by the Department of Economic Opportunity to the executive director within 10 days of receipt of such notices of intent to issue. ~~The Department of Economic Opportunity may develop rules to ensure that allocation of the remaining 25 percent is consistent with the state's economic development policy.~~

Section 43. Section 159.8083, Florida Statutes, is amended to read:

159.8083 Florida First Business allocation pool.—The Florida First Business allocation pool is hereby established. The Florida First Business allocation pool shall be available solely to provide written confirmation for private activity bonds to finance Florida First Business projects certified by the Department of Economic Opportunity as eligible to receive a written confirmation. Allocations from such pool shall be awarded statewide pursuant to procedures specified in s. 159.805, except that the provisions of s. 159.805(2), (3), and (6) do not apply. Florida First Business projects that are eligible for a carryforward do not lose their allocation pursuant to s. 159.809(3) on October 1, or pursuant to s. 159.809(4) on November 16, if they have applied for and have been granted a carryforward by the division pursuant to s. 159.81(1). In issuing written confirmations of allocations for Florida First Business projects, the division shall use the Florida First Business allocation pool. If allocation is not available from the Florida First Business allocation pool, the division shall issue written confirmations of allocations for Florida First Business projects pursuant to s. 159.806 or s. 159.807, in such order. For the purpose of determining priority within a regional allocation pool or the state allocation pool, notices of intent to issue bonds for Florida First Business projects to be issued from a regional allocation pool or the state allocation pool shall be considered to have been received by the division at the time it is determined by the division that the Florida First Business allocation pool is unavailable to issue confirmation for such Florida First Business project. If the total amount requested in notices of intent to issue private activity bonds for Florida First Business projects exceeds the total amount of the Florida First Business allocation pool, the director shall forward all timely notices of intent to issue, which are received by the division for such projects, to the Department of Economic Opportunity, which shall render a decision as to which notices of intent to issue are to receive written confirmations. ~~The Department of Economic Opportunity, in consultation with the division, shall develop rules to ensure that the allocation provided in such pool is available solely to provide written confirmations for private activity bonds to finance Florida First Business projects and that such projects are feasible and financially solvent.~~

Section 44. Subsection (3) of section 159.825, Florida Statutes, is repealed.

Section 45. Section 161.75, Florida Statutes, is repealed.

Section 46. Section 163.462, Florida Statutes, is repealed.

Section 47. Subsection (6) of section 163.517, Florida Statutes, is repealed.

Section 48. Subsection (2) of section 175.341, Florida Statutes, is repealed.



Section 49. Paragraph (e) of subsection (2) of section 177.504, Florida Statutes, is repealed.

Section 50. Subsection (2) of section 185.23, Florida Statutes, is repealed.

Section 51. Subsection (2) of section 255.25001, Florida Statutes, is repealed.

Section 52. Subsection (7) of section 257.34, Florida Statutes, is repealed.

Section 53. Subsection (6) of section 364.0135, Florida Statutes, is repealed.

Section 54. Section 366.85, Florida Statutes, is amended to read:

366.85 Responsibilities of Division of Consumer Services.—The Division of Consumer Services of the Department of Agriculture and Consumer Services shall be the agency responsible for consumer conciliatory conferences, if such conferences are required pursuant to federal law. The division shall also be the agency responsible for preparing lists of sources for energy conservation products or services and of financial institutions offering energy conservation loans, if such lists are required pursuant to federal law. Notwithstanding any provision of federal law to the contrary, the division shall not require any manufacturer's warranty exceeding 1 year in order for a source of conservation products or services to be included on the appropriate list. The lists shall be prepared for the service area of each utility and shall be furnished to each utility for distribution to its customers. The division shall update the lists on a systematic basis and shall remove from any list any person who has been disciplined by any state agency or who has otherwise exhibited a pattern of unsatisfactory work and any person who requests removal from such lists. ~~The division is authorized to adopt rules to implement the provisions of this section.~~

Section 55. Section 409.5092, Florida Statutes, is repealed.

Section 56. Subsections (1) and (3) of section 501.142, Florida Statutes, are amended to read:

501.142 Retail sales establishments; preemption; notice of refund policy; exceptions; penalty.—

(1) The regulation of refunds is preempted to the Department of Agriculture and Consumer Services notwithstanding any other law or local ordinance to the contrary. Every retail sales establishment offering goods for sale to the general public that offers no cash refund, credit refund, or exchange of merchandise must post a sign so stating at the point of sale. Failure of a retail sales establishment to exhibit a "no refund" sign under such circumstances at the point of sale shall mean that a refund or exchange policy exists, and the policy shall be presented in writing to the consumer upon request. Any retail establishment failing to comply with the provisions of this section shall grant to the consumer, upon request and proof of

purchase, a refund on the merchandise, within 7 days of the date of purchase, provided the merchandise is unused and in the original carton, if one was furnished. Nothing herein shall prohibit a retail sales establishment from having a refund policy which exceeds the number of days specified herein. ~~The department may adopt rules pursuant to ss. 120.536(1) and 120.54 to enforce the provisions of this section.~~ However, this subsection does not prohibit a local government from enforcing the provisions established by this section ~~or department rule.~~

(3) The department may enter an order doing one or more of the following if the department finds that a person has violated or is operating in violation of any of the provisions of this section or the ~~rules or~~ orders issued under this section:

~~(a) Issue a notice of noncompliance pursuant to s. 120.695.~~

~~(a)(b)~~ Impose an administrative fine not to exceed \$100 for each violation.

~~(b)(e)~~ Direct the person to cease and desist specified activities.

Section 57. Paragraph (b) of subsection (15) of section 985.682, Florida Statutes, is amended to read:

985.682 Siting of facilities; study; criteria.—

(15)

(b) Notwithstanding ~~s. ss. 255.25(1)(b) and 255.25001(2)~~, the department may enter into lease-purchase agreements to provide juvenile justice facilities for the housing of committed youths contingent upon available funds. The facilities provided through such agreements shall meet the program plan and specifications of the department. The department may enter into such lease agreements with private corporations and other governmental entities. However, notwithstanding the provisions of s. 255.25(3)(a), no such lease agreement may be entered into except upon advertisement for the receipt of competitive bids and award to the lowest and best bidder except when contracting with other governmental entities.

Section 58. This act shall take effect July 1, 2012.

Approved by the Governor April 13, 2012.

Filed in Office Secretary of State April 13, 2012.