

CHAPTER 2013-14

Senate Bill No. 688

An act relating to the Florida Statutes; amending ss. 106.25, 110.201, 120.525, 120.54, 120.542, 120.545, 120.555, 120.56, 120.565, 120.63, 120.745, 120.80, 120.81, 155.40, 159.703, 161.053, 202.22, 215.555, 252.62, 252.63, 255.0525, 280.11, 310.151, 320.642, 334.30, 339.135, 339.155, 343.875, 343.962, 348.0004, 349.22, 366.04, 373.036, 373.044, 373.103, 373.4131, 378.212, 379.2431, 380.05, 395.003, 403.201, 403.805, 403.8055, 403.9411, 403.9422, 408.039, 409.912, 493.6104, 553.775, 561.19, 570.247, 601.152, 627.091, 633.0215, 633.026, 658.26, 766.105, 791.013, 957.12, and 1006.33, F.S., to conform to the directive of the Legislature in section 3 of chapter 2012-63, Laws of Florida, to prepare a reviser's bill for the 2013 Regular Session of the Legislature to substitute the term "Florida Administrative Register" for the term "Florida Administrative Weekly" throughout the Florida Statutes; providing an effective date.

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

Section 1. Subsection (7) of section 106.25, Florida Statutes, is amended to read:

106.25 Reports of alleged violations to Florida Elections Commission; disposition of findings.—

(7) Every sworn complaint filed pursuant to this chapter with the commission, every investigation and investigative report or other paper of the commission with respect to a violation of this chapter or chapter 104, and every proceeding of the commission with respect to a violation of this chapter or chapter 104 is confidential, is exempt from the provisions of ss. 119.07(1) and 286.011, and is exempt from publication in the Florida Administrative Register Weekly of any notice or agenda with respect to any proceeding relating to such violation, except under the following circumstances:

- (a) As provided in subsection (6);
- (b) Upon a determination of probable cause or no probable cause by the commission; or
- (c) For proceedings conducted with respect to appeals of fines levied by filing officers for the late filing of reports required by this chapter.

However, a complainant is not bound by the confidentiality provisions of this section. In addition, confidentiality may be waived in writing by the person against whom the complaint has been filed or the investigation has been initiated. If a finding of probable cause in a case is entered within 30 days prior to the date of the election with respect to which the alleged violation occurred, such finding and the proceedings and records relating to such case

shall not become public until noon of the day following such election. When two or more persons are being investigated by the commission with respect to an alleged violation of this chapter or chapter 104, the commission may not publicly enter a finding of probable cause or no probable cause in the case until a finding of probable cause or no probable cause for the entire case has been determined. However, once the confidentiality of any case has been breached, the person or persons under investigation have the right to waive the confidentiality of the case, thereby opening up the proceedings and records to the public. Any person who discloses any information or matter made confidential by the provisions of this subsection commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 2. Paragraph (b) of subsection (1) of section 110.201, Florida Statutes, is amended to read:

110.201 Personnel rules, records, and reports.—

(1)

(b) An agency may request an exception to the uniform personnel rules by filing a petition with the Administration Commission. The Administration Commission shall approve an exception when the exception is necessary to conform to any requirement imposed as a condition precedent to receipt of federal funds or to permit persons in this state to receive tax benefits under federal law, or as required for the most efficient operation of the agency as determined by the Administration Commission. The reasons for the exception must be published in the Florida Administrative Register Weekly.

Section 3. Subsection (1) of section 120.525, Florida Statutes, is amended to read:

120.525 Meetings, hearings, and workshops.—

(1) Except in the case of emergency meetings, each agency shall give notice of public meetings, hearings, and workshops by publication in the Florida Administrative Register Weekly and on the agency's website not less than 7 days before the event. The notice shall include a statement of the general subject matter to be considered.

Section 4. Paragraph (i) of subsection (1), paragraphs (a), (c), and (d) of subsection (2), paragraphs (a), (d), and (e) of subsection (3), paragraph (a) of subsection (4), subsection (5), paragraphs (a) and (d) of subsection (6), and paragraphs (b) and (c) of subsection (7) of section 120.54, Florida Statutes, are amended to read:

120.54 Rulemaking.—

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

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

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

3. In rules adopted after December 31, 2010, material may not be incorporated by reference unless:

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

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

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

5. Notwithstanding any contrary provision in this section, when an adopted rule of the Department of Environmental Protection or a water management district is incorporated by reference in the other agency's rule to implement a provision of part IV of chapter 373, subsequent amendments to the rule are not effective as to the incorporating rule unless the agency incorporating by reference notifies the committee and the Department of State of its intent to adopt the subsequent amendment, publishes notice of such intent in the Florida Administrative Register Weekly, and files with the Department of State a copy of the amended rule incorporated by reference. Changes in the rule incorporated by reference are effective as to the other agency 20 days after the date of the published notice and filing with the Department of State. The Department of State shall amend the history note of the incorporating rule to show the effective date of such change. Any substantially affected person may, within 14 days after the date of publication of the notice of intent in the Florida Administrative Register Weekly, file an objection to rulemaking with the agency. The objection shall specify the portions of the rule incorporated by reference to which the person objects and the reasons for the objection. The agency shall not have the authority under this subparagraph to adopt those portions of the rule

specified in such objection. The agency shall publish notice of the objection and of its action in response in the next available issue of the Florida Administrative Register Weekly.

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

(2) RULE DEVELOPMENT; WORKSHOPS; NEGOTIATED RULE-MAKING.—

(a) Except when the intended action is the repeal of a rule, agencies shall provide notice of the development of proposed rules by publication of a notice of rule development in the Florida Administrative Register Weekly before providing notice of a proposed rule as required by paragraph (3)(a). The notice of rule development shall indicate the subject area to be addressed by rule development, provide a short, plain explanation of the purpose and effect of the proposed rule, cite the specific legal authority for the proposed rule, and include the preliminary text of the proposed rules, if available, or a statement of how a person may promptly obtain, without cost, a copy of any preliminary draft, if available.

(c) An agency may hold public workshops for purposes of rule development. An agency must hold public workshops, including workshops in various regions of the state or the agency's service area, for purposes of rule development if requested in writing by any affected person, unless the agency head explains in writing why a workshop is unnecessary. The explanation is not final agency action subject to review pursuant to ss. 120.569 and 120.57. The failure to provide the explanation when required may be a material error in procedure pursuant to s. 120.56(1)(c). When a workshop or public hearing is held, the agency must ensure that the persons responsible for preparing the proposed rule are available to explain the agency's proposal and to respond to questions or comments regarding the rule being developed. The workshop may be facilitated or mediated by a neutral third person, or the agency may employ other types of dispute resolution alternatives for the workshop that are appropriate for rule development. Notice of a rule development workshop shall be by publication in the Florida Administrative Register Weekly not less than 14 days prior to the date on which the workshop is scheduled to be held and shall indicate the subject area which will be addressed; the agency contact person; and the place, date, and time of the workshop.

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

committee of designated representatives to draft a mutually acceptable proposed rule.

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

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

(3) ADOPTION PROCEDURES.—

(a) *Notices.*—

1. Prior to the adoption, amendment, or repeal of any rule other than an emergency rule, an agency, upon approval of the agency head, shall give notice of its intended action, setting forth a short, plain explanation of the purpose and effect of the proposed action; the full text of the proposed rule or amendment and a summary thereof; a reference to the grant of rulemaking authority pursuant to which the rule is adopted; and a reference to the section or subsection of the Florida Statutes or the Laws of Florida being implemented or interpreted. The notice must include a summary of the agency's statement of the estimated regulatory costs, if one has been prepared, based on the factors set forth in s. 120.541(2); a statement that any person who wishes to provide the agency with information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative as provided by s. 120.541(1), must do so in writing within 21 days after publication of the notice; and a statement as to whether, based on the statement of the estimated regulatory costs or other information expressly relied upon and described by the agency if no statement of regulatory costs is required, the proposed rule is expected to require legislative ratification pursuant to s. 120.541(3). The notice must state the procedure for requesting a public hearing on the proposed rule. Except when the intended action is the repeal of a rule, the notice must include a reference both to the date on which and to the place where the notice of rule development that is required by subsection (2) appeared.

2. The notice shall be published in the Florida Administrative Register Weekly not less than 28 days prior to the intended action. The proposed rule

shall be available for inspection and copying by the public at the time of the publication of notice.

3. The notice shall be mailed to all persons named in the proposed rule and to all persons who, at least 14 days prior to such mailing, have made requests of the agency for advance notice of its proceedings. The agency shall also give such notice as is prescribed by rule to those particular classes of persons to whom the intended action is directed.

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

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

1. After the final public hearing on the proposed rule, or after the time for requesting a hearing has expired, if the rule has not been changed from the rule as previously filed with the committee, or contains only technical changes, the adopting agency shall file a notice to that effect with the committee at least 7 days prior to filing the rule for adoption. Any change, other than a technical change that does not affect the substance of the rule, must be supported by the record of public hearings held on the rule, must be in response to written material submitted to the agency within 21 days after the date of publication of the notice of intended agency action or submitted to the agency between the date of publication of the notice and the end of the final public hearing, or must be in response to a proposed objection by the committee. In addition, when any change is made in a proposed rule, other than a technical change, the adopting agency shall provide a copy of a notice of change by certified mail or actual delivery to any person who requests it in writing no later than 21 days after the notice required in paragraph (a). The agency shall file the notice of change with the committee, along with the reasons for the change, and provide the notice of change to persons requesting it, at least 21 days prior to filing the rule for adoption. The notice of change shall be published in the Florida Administrative Register ~~Weekly~~ at least 21 days prior to filing the rule for adoption. This subparagraph does not apply to emergency rules adopted pursuant to subsection (4).

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

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

a. When the committee objects to the rule;

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

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

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

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

5. After a rule has become effective, it may be repealed or amended only through the rulemaking procedures specified in this chapter.

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

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

2. A rule may not be filed for adoption less than 28 days or more than 90 days after the notice required by paragraph (a), until 21 days after the notice of change required by paragraph (d), until 14 days after the final public hearing, until 21 days after a statement of estimated regulatory costs required under s. 120.541 has been provided to all persons who submitted a lower cost regulatory alternative and made available to the public, or until the administrative law judge has rendered a decision under s. 120.56(2), whichever applies. When a required notice of change is published prior to the expiration of the time to file the rule for adoption, the period during which a rule must be filed for adoption is extended to 45 days after the date of publication. If notice of a public hearing is published prior to the expiration of the time to file the rule for adoption, the period during which a rule must be filed for adoption is extended to 45 days after adjournment of the final hearing on the rule, 21 days after receipt of all material authorized to be submitted at the hearing, or 21 days after receipt of the transcript, if one is

made, whichever is latest. The term “public hearing” includes any public meeting held by any agency at which the rule is considered. If a petition for an administrative determination under s. 120.56(2) is filed, the period during which a rule must be filed for adoption is extended to 60 days after the administrative law judge files the final order with the clerk or until 60 days after subsequent judicial review is complete.

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

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

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

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

For the purposes of this paragraph, the term “administrative determination” does not include subsequent judicial review.

(4) EMERGENCY RULES.—

(a) If an agency finds that an immediate danger to the public health, safety, or welfare requires emergency action, the agency may adopt any rule

necessitated by the immediate danger. The agency may adopt a rule by any procedure which is fair under the circumstances if:

1. The procedure provides at least the procedural protection given by other statutes, the State Constitution, or the United States Constitution.

2. The agency takes only that action necessary to protect the public interest under the emergency procedure.

3. The agency publishes in writing at the time of, or prior to, its action the specific facts and reasons for finding an immediate danger to the public health, safety, or welfare and its reasons for concluding that the procedure used is fair under the circumstances. In any event, notice of emergency rules, other than those of educational units or units of government with jurisdiction in only one or a part of one county, including the full text of the rules, shall be published in the first available issue of the Florida Administrative Register Weekly and provided to the committee along with any material incorporated by reference in the rules. The agency's findings of immediate danger, necessity, and procedural fairness shall be judicially reviewable.

(5) UNIFORM RULES.—

(a)1. By July 1, 1997, the Administration Commission shall adopt one or more sets of uniform rules of procedure which shall be reviewed by the committee and filed with the Department of State. Agencies must comply with the uniform rules by July 1, 1998. The uniform rules shall establish procedures that comply with the requirements of this chapter. On filing with the department, the uniform rules shall be the rules of procedure for each agency subject to this chapter unless the Administration Commission grants an exception to the agency under this subsection.

2. An agency may seek exceptions to the uniform rules of procedure by filing a petition with the Administration Commission. The Administration Commission shall approve exceptions to the extent necessary to implement other statutes, to the extent necessary to conform to any requirement imposed as a condition precedent to receipt of federal funds or to permit persons in this state to receive tax benefits under federal law, or as required for the most efficient operation of the agency as determined by the Administration Commission. The reasons for the exceptions shall be published in the Florida Administrative Register Weekly.

3. Agency rules that provide exceptions to the uniform rules shall not be filed with the department unless the Administration Commission has approved the exceptions. Each agency that adopts rules that provide exceptions to the uniform rules shall publish a separate chapter in the Florida Administrative Code that delineates clearly the provisions of the agency's rules that provide exceptions to the uniform rules and specifies each alternative chosen from among those authorized by the uniform rules. Each chapter shall be organized in the same manner as the uniform rules.

(b) The uniform rules of procedure adopted by the commission pursuant to this subsection shall include, but are not limited to:

1. Uniform rules for the scheduling of public meetings, hearings, and workshops.

2. Uniform rules for use by each state agency that provide procedures for conducting public meetings, hearings, and workshops, and for taking evidence, testimony, and argument at such public meetings, hearings, and workshops, in person and by means of communications media technology. The rules shall provide that all evidence, testimony, and argument presented shall be afforded equal consideration, regardless of the method of communication. If a public meeting, hearing, or workshop is to be conducted by means of communications media technology, or if attendance may be provided by such means, the notice shall so state. The notice for public meetings, hearings, and workshops utilizing communications media technology shall state how persons interested in attending may do so and shall name locations, if any, where communications media technology facilities will be available. Nothing in this paragraph shall be construed to diminish the right to inspect public records under chapter 119. Limiting points of access to public meetings, hearings, and workshops subject to the provisions of s. 286.011 to places not normally open to the public shall be presumed to violate the right of access of the public, and any official action taken under such circumstances is void and of no effect. Other laws relating to public meetings, hearings, and workshops, including penal and remedial provisions, shall apply to public meetings, hearings, and workshops conducted by means of communications media technology, and shall be liberally construed in their application to such public meetings, hearings, and workshops. As used in this subparagraph, "communications media technology" means the electronic transmission of printed matter, audio, full-motion video, freeze-frame video, compressed video, and digital video by any method available.

3. Uniform rules of procedure for the filing of notice of protests and formal written protests. The Administration Commission may prescribe the form and substantive provisions of a required bond.

4. Uniform rules of procedure for the filing of petitions for administrative hearings pursuant to s. 120.569 or s. 120.57. Such rules shall require the petition to include:

a. The identification of the petitioner, including the petitioner's e-mail address, if any, for the transmittal of subsequent documents by electronic means.

b. A statement of when and how the petitioner received notice of the agency's action or proposed action.

c. An explanation of how the petitioner's substantial interests are or will be affected by the action or proposed action.

d. A statement of all material facts disputed by the petitioner or a statement that there are no disputed facts.

e. A statement of the ultimate facts alleged, including a statement of the specific facts the petitioner contends warrant reversal or modification of the agency’s proposed action.

f. A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency’s proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes.

g. A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the proposed action.

5. Uniform rules for the filing of request for administrative hearing by a respondent in agency enforcement and disciplinary actions. Such rules shall require a request to include:

a. The name, address, e-mail address, and telephone number of the party making the request and the name, address, and telephone number of the party’s counsel or qualified representative upon whom service of pleadings and other papers shall be made;

b. A statement that the respondent is requesting an administrative hearing and disputes the material facts alleged by the petitioner, in which case the respondent shall identify those material facts that are in dispute, or that the respondent is requesting an administrative hearing and does not dispute the material facts alleged by the petitioner; and

c. A reference by file number to the administrative complaint that the party has received from the agency and the date on which the agency pleading was received.

The agency may provide an election-of-rights form for the respondent’s use in requesting a hearing, so long as any form provided by the agency calls for the information in sub-subparagraphs a. through c. and does not impose any additional requirements on a respondent in order to request a hearing, unless such requirements are specifically authorized by law.

6. Uniform rules of procedure for the filing and prompt disposition of petitions for declaratory statements. The rules shall also describe the contents of the notices that must be published in the Florida Administrative Register Weekly under s. 120.565, including any applicable time limit for the filing of petitions to intervene or petitions for administrative hearing by persons whose substantial interests may be affected.

7. Provision of a method by which each agency head shall provide a description of the agency’s organization and general course of its operations.

The rules shall require that the statement concerning the agency's organization and operations be published on the agency's website.

8. Uniform rules establishing procedures for granting or denying petitions for variances and waivers pursuant to s. 120.542.

(6) **ADOPTION OF FEDERAL STANDARDS.**—Notwithstanding any contrary provision of this section, in the pursuance of state implementation, operation, or enforcement of federal programs, an agency is empowered to adopt rules substantively identical to regulations adopted pursuant to federal law, in accordance with the following procedures:

(a) The agency shall publish notice of intent to adopt a rule pursuant to this subsection in the Florida Administrative Register Weekly at least 21 days prior to filing the rule with the Department of State. The agency shall provide a copy of the notice of intent to adopt a rule to the committee at least 21 days prior to the date of filing with the Department of State. Prior to filing the rule with the Department of State, the agency shall consider any written comments received within 14 days after the date of publication of the notice of intent to adopt a rule. The rule shall be adopted upon filing with the Department of State. Substantive changes from the rules as noticed shall require republishing of notice as required in this subsection.

(d) Whenever any federal regulation adopted as an agency rule pursuant to this subsection is declared invalid or is withdrawn, revoked, repealed, remanded, or suspended, the agency shall, within 60 days thereafter, publish a notice of repeal of the substantively identical agency rule in the Florida Administrative Register Weekly. Such repeal is effective upon publication of the notice. Whenever any federal regulation adopted as an agency rule pursuant to this subsection is substantially amended, the agency may adopt the amended regulation as a rule. If the amended regulation is not adopted as a rule within 180 days after the effective date of the amended regulation, the original rule is deemed repealed and the agency shall publish a notice of repeal of the original agency rule in the next available Florida Administrative Register Weekly.

(7) **PETITION TO INITIATE RULEMAKING.**—

(b) If the petition filed under this subsection is directed to an unadopted rule, the agency shall, not later than 30 days following the date of filing a petition, initiate rulemaking, or provide notice in the Florida Administrative Register Weekly that the agency will hold a public hearing on the petition within 30 days after publication of the notice. The purpose of the public hearing is to consider the comments of the public directed to the agency rule which has not been adopted by the rulemaking procedures or requirements of this chapter, its scope and application, and to consider whether the public interest is served adequately by the application of the rule on a case-by-case basis, as contrasted with its adoption by the rulemaking procedures or requirements set forth in this chapter.

(c) Within 30 days following the public hearing provided for by paragraph (b), if the agency does not initiate rulemaking or otherwise comply with the requested action, the agency shall publish in the Florida Administrative Register Weekly a statement of its reasons for not initiating rulemaking or otherwise complying with the requested action, and of any changes it will make in the scope or application of the unadopted rule. The agency shall file the statement with the committee. The committee shall forward a copy of the statement to the substantive committee with primary oversight jurisdiction of the agency in each house of the Legislature. The committee or the committee with primary oversight jurisdiction may hold a hearing directed to the statement of the agency. The committee holding the hearing may recommend to the Legislature the introduction of legislation making the rule a statutory standard or limiting or otherwise modifying the authority of the agency.

Section 5. Subsections (6) and (8) of section 120.542, Florida Statutes, are amended to read:

120.542 Variances and waivers.—

(6) Within 15 days after receipt of a petition for variance or waiver, an agency shall provide notice of the petition to the Department of State, which shall publish notice of the petition in the first available issue of the Florida Administrative Register Weekly. The notice shall contain the name of the petitioner, the date the petition was filed, the rule number and nature of the rule from which variance or waiver is sought, and an explanation of how a copy of the petition can be obtained. The uniform rules shall provide a means for interested persons to provide comments on the petition.

(8) An agency shall grant or deny a petition for variance or waiver within 90 days after receipt of the original petition, the last item of timely requested additional material, or the petitioner's written request to finish processing the petition. A petition not granted or denied within 90 days after receipt of a completed petition is deemed approved. A copy of the order granting or denying the petition shall be filed with the committee and shall contain a statement of the relevant facts and reasons supporting the agency's action. The agency shall provide notice of the disposition of the petition to the Department of State, which shall publish the notice in the next available issue of the Florida Administrative Register Weekly. The notice shall contain the name of the petitioner, the date the petition was filed, the rule number and nature of the rule from which the waiver or variance is sought, a reference to the place and date of publication of the notice of the petition, the date of the order denying or approving the variance or waiver, the general basis for the agency decision, and an explanation of how a copy of the order can be obtained. The agency's decision to grant or deny the petition shall be supported by competent substantial evidence and is subject to ss. 120.569 and 120.57. Any proceeding pursuant to ss. 120.569 and 120.57 in regard to a variance or waiver shall be limited to the agency action on the request for the variance or waiver, except that a proceeding in regard to a variance or waiver may be consolidated with any other proceeding authorized by this chapter.

Section 6. Paragraph (c) of subsection (3), subsections (4) and (7), and paragraph (b) of subsection (8) of section 120.545, Florida Statutes, are amended to read:

120.545 Committee review of agency rules.—

(3) Within 30 days after receipt of the objection, if the agency is headed by an individual, or within 45 days after receipt of the objection, if the agency is headed by a collegial body, the agency shall:

(c) If the objection is to the statement of estimated regulatory costs:

1. Prepare a corrected statement of estimated regulatory costs, give notice of the availability of the corrected statement in the first available issue of the Florida Administrative Register Weekly, and file a copy of the corrected statement with the committee; or

2. Notify the committee that it refuses to prepare a corrected statement of estimated regulatory costs.

(4) Failure of the agency to respond to a committee objection to a rule that is not yet in effect within the time prescribed in subsection (3) constitutes withdrawal of the rule in its entirety. In this event, the committee shall notify the Department of State that the agency, by its failure to respond to a committee objection, has elected to withdraw the rule. Upon receipt of the committee's notice, the Department of State shall publish a notice to that effect in the next available issue of the Florida Administrative Register Weekly. Upon publication of the notice, the rule shall be stricken from the files of the Department of State and the files of the agency.

(7) If the committee objects to a rule and the agency refuses to modify, amend, withdraw, or repeal the rule, the committee shall file with the Department of State a notice of the objection, detailing with particularity the committee's objection to the rule. The Department of State shall publish this notice in the Florida Administrative Register Weekly. If the rule is published in the Florida Administrative Code, a reference to the committee's objection and to the issue of the Florida Administrative Register Weekly in which the full text thereof appears shall be recorded in a history note.

(8)

(b)1. If the committee votes to recommend the introduction of legislation to address the committee's objection, the committee shall, within 5 days after this determination, certify that fact to the agency whose rule or proposed rule has been examined. The committee may request that the agency temporarily suspend the rule or suspend the adoption of the proposed rule, pending consideration of proposed legislation during the next regular session of the Legislature.

2. Within 30 days after receipt of the certification, if the agency is headed by an individual, or within 45 days after receipt of the certification, if the agency is headed by a collegial body, the agency shall:

a. Temporarily suspend the rule or suspend the adoption of the proposed rule; or

b. Notify the committee in writing that the agency refuses to temporarily suspend the rule or suspend the adoption of the proposed rule.

3. If the agency elects to temporarily suspend the rule or suspend the adoption of the proposed rule, the agency shall give notice of the suspension in the Florida Administrative ~~Register~~ Weekly. The rule or the rule adoption process shall be suspended upon publication of the notice. An agency may not base any agency action on a suspended rule or suspended proposed rule, or portion of such rule, prior to expiration of the suspension. A suspended rule or suspended proposed rule, or portion of such rule, continues to be subject to administrative determination and judicial review as provided by law.

4. Failure of an agency to respond to committee certification within the time prescribed by subparagraph 2. constitutes a refusal to suspend the rule or to suspend the adoption of the proposed rule.

Section 7. Subsections (1) and (3) and paragraph (b) of subsection (4) of section 120.555, Florida Statutes, are amended to read:

120.555 Summary removal of published rules no longer in force and effect.—When, as part of the continuous revision system authorized in s. 120.55(1)(a)1. or as otherwise provided by law, the Department of State is in doubt whether a rule published in the official version of the Florida Administrative Code is still in full force and effect, the procedure in this section shall be employed.

(1) The Department of State shall submit to the head of the agency with authority to repeal or amend the rule, if any, or if no such agency can be identified, to the Governor, a written request for a statement as to whether the rule is still in full force and effect. A copy of the request shall be promptly delivered to the committee and to the Attorney General. The Department of State shall publish a notice of the request together with a copy of the request in the Florida Administrative ~~Register~~ Weekly next available after delivery of the request to the head of the agency or the Governor.

(3) The Department of State shall publish a notice of the agency's or Governor's timely response or the acknowledgment determined under subsection (2) in the Florida Administrative ~~Register~~ Weekly next available after receipt of the response or the expiration of the response period, whichever occurs first.

(4) If the response states that the rule is no longer in effect, or if no response is filed timely with the Department of State, the notice required in subsection (3) shall also give notice of the following:

(b) Any objection to the summary repeal under this section must be filed as a petition challenging a proposed rule under s. 120.56 and must be filed no later than 21 days after the date the notice is published in the Florida Administrative Register Weekly.

Section 8. Paragraph (b) of subsection (2), paragraph (b) of subsection (3), and paragraph (c) of subsection (4) of section 120.56, Florida Statutes, are amended to read:

120.56 Challenges to rules.—

(2) CHALLENGING PROPOSED RULES; SPECIAL PROVISIONS.—

(b) The administrative law judge may declare the proposed rule wholly or partly invalid. Unless the decision of the administrative law judge is reversed on appeal, the proposed rule or provision of a proposed rule declared invalid shall not be adopted. After a petition for administrative determination has been filed, the agency may proceed with all other steps in the rulemaking process, including the holding of a factfinding hearing. In the event part of a proposed rule is declared invalid, the adopting agency may, in its sole discretion, withdraw the proposed rule in its entirety. The agency whose proposed rule has been declared invalid in whole or part shall give notice of the decision in the first available issue of the Florida Administrative Register Weekly.

(3) CHALLENGING EXISTING RULES; SPECIAL PROVISIONS.—

(b) The administrative law judge may declare all or part of a rule invalid. The rule or part thereof declared invalid shall become void when the time for filing an appeal expires. The agency whose rule has been declared invalid in whole or part shall give notice of the decision in the Florida Administrative Register Weekly in the first available issue after the rule has become void.

(4) CHALLENGING AGENCY STATEMENTS DEFINED AS RULES; SPECIAL PROVISIONS.—

(c) The administrative law judge may determine whether all or part of a statement violates s. 120.54(1)(a). The decision of the administrative law judge shall constitute a final order. The division shall transmit a copy of the final order to the Department of State and the committee. The Department of State shall publish notice of the final order in the first available issue of the Florida Administrative Register Weekly.

Section 9. Subsection (3) of section 120.565, Florida Statutes, is amended to read:

120.565 Declaratory statement by agencies.—

(3) The agency shall give notice of the filing of each petition in the next available issue of the Florida Administrative Register Weekly and transmit copies of each petition to the committee. The agency shall issue a declaratory

statement or deny the petition within 90 days after the filing of the petition. The declaratory statement or denial of the petition shall be noticed in the next available issue of the Florida Administrative Register Weekly. Agency disposition of petitions shall be final agency action.

Section 10. Paragraph (a) of subsection (2) of section 120.63, Florida Statutes, is amended to read:

120.63 Exemption from act.—

(2) The commission may not exempt an agency from any requirement of this act pursuant to this section until it establishes alternative procedures to achieve the agency's purpose which shall be consistent, insofar as possible, with the intent and purpose of the act.

(a) Prior to the granting of any exemption authorized by this section, the commission shall hold a public hearing after notice given as provided in s. 120.525. Upon the conclusion of the hearing, the commission, through the Executive Office of the Governor, shall issue an order specifically granting or denying the exemption and specifying any processes or proceedings exempted and the extent of the exemption; transmit to the committee and to the Department of State a copy of the petition, a certified copy of the order granting or denying the petition, and a copy of any alternative procedures prescribed; and give notice of the petition and the commission's response in the Florida Administrative Register Weekly.

Section 11. Paragraph (b) of subsection (7) of section 120.745, Florida Statutes, is amended to read:

120.745 Legislative review of agency rules in effect on or before November 16, 2010.—

(7) MANNER OF PUBLICATION OF NOTICES, DETERMINATIONS, AND REPORTS.—Agencies shall publish notices, determinations, and reports required under this section exclusively in the following manner:

(b)1. Each notice shall be published using the following URL format:
[Address of agency's Internet website]/
2011_Rule_review/Notices.
(Example: http://www.dos.state.fl.us/2011_Rule_review/Notices).

2. Once each week a copy of all notices published in the previous week on the Internet under this paragraph shall be delivered to the Department of State, for publication in the next available issue of the Florida Administrative Register Weekly, and a copy shall be delivered by electronic mail to the committee.

3. Each notice shall identify the publication for which notice is being given and include:

a. The name of the agency.

b. The name, physical address, fax number, and e-mail address for the person designated to receive all inquiries, public comments, and objections pertaining to the publication identified in the notice.

c. The particular Internet address through which the publication may be accessed.

d. The date the notice and publication is first published on the agency's Internet website.

Section 12. Paragraph (a) of subsection (3) of section 120.80, Florida Statutes, is amended to read:

120.80 Exceptions and special requirements; agencies.—

(3) OFFICE OF FINANCIAL REGULATION.—

(a) Notwithstanding s. 120.60(1), in proceedings for the issuance, denial, renewal, or amendment of a license or approval of a merger pursuant to title XXXVIII:

1.a. The Office of Financial Regulation of the Financial Services Commission shall have published in the Florida Administrative Register Weekly notice of the application within 21 days after receipt.

b. Within 21 days after publication of notice, any person may request a hearing. Failure to request a hearing within 21 days after notice constitutes a waiver of any right to a hearing. The Office of Financial Regulation or an applicant may request a hearing at any time prior to the issuance of a final order. Hearings shall be conducted pursuant to ss. 120.569 and 120.57, except that the Financial Services Commission shall by rule provide for participation by the general public.

2. Should a hearing be requested as provided by sub-subparagraph 1.b., the applicant or licensee shall publish at its own cost a notice of the hearing in a newspaper of general circulation in the area affected by the application. The Financial Services Commission may by rule specify the format and size of the notice.

3. Notwithstanding s. 120.60(1), and except as provided in subparagraph 4., every application for license for a new bank, new trust company, new credit union, or new savings and loan association shall be approved or denied within 180 days after receipt of the original application or receipt of the timely requested additional information or correction of errors or omissions. Any application for such a license or for acquisition of such control which is not approved or denied within the 180-day period or within 30 days after conclusion of a public hearing on the application, whichever is later, shall be deemed approved subject to the satisfactory completion of conditions required by statute as a prerequisite to license and approval of insurance of accounts for a new bank, a new savings and loan association, or a new credit union by the appropriate insurer.

4. In the case of every application for license to establish a new bank, trust company, or capital stock savings association in which a foreign national proposes to own or control 10 percent or more of any class of voting securities, and in the case of every application by a foreign national for approval to acquire control of a bank, trust company, or capital stock savings association, the Office of Financial Regulation shall request that a public hearing be conducted pursuant to ss. 120.569 and 120.57. Notice of such hearing shall be published by the applicant as provided in subparagraph 2. The failure of any such foreign national to appear personally at the hearing shall be grounds for denial of the application. Notwithstanding the provisions of s. 120.60(1) and subparagraph 3., every application involving a foreign national shall be approved or denied within 1 year after receipt of the original application or any timely requested additional information or the correction of any errors or omissions, or within 30 days after the conclusion of the public hearing on the application, whichever is later.

Section 13. Paragraph (d) of subsection (1) and paragraph (b) of subsection (2) of section 120.81, Florida Statutes, are amended to read:

120.81 Exceptions and special requirements; general areas.—

(1) EDUCATIONAL UNITS.—

(d) Notwithstanding any other provision of this chapter, educational units shall not be required to include the full text of the rule or rule amendment in notices relating to rules and need not publish these or other notices in the Florida Administrative Register Weekly, but notice shall be made:

1. By publication in a newspaper of general circulation in the affected area;
2. By mail to all persons who have made requests of the educational unit for advance notice of its proceedings and to organizations representing persons affected by the proposed rule; and
3. By posting in appropriate places so that those particular classes of persons to whom the intended action is directed may be duly notified.

(2) LOCAL UNITS OF GOVERNMENT.—

(b) Notwithstanding any other provision of this chapter, units of government with jurisdiction in only one county or part thereof need not publish required notices in the Florida Administrative Register Weekly, but shall publish these notices in the manner required by their enabling acts for notice of rulemaking or notice of meeting. Notices relating to rules are not required to include the full text of the rule or rule amendment.

Section 14. Paragraphs (b) and (e) of subsection (5) of section 155.40, Florida Statutes, are amended to read:

159.703 Sale or lease of county, district, or municipal hospital; effect of sale.—

(5) The governing board of a county, district, or municipal hospital or health care system shall commence an evaluation of the possible benefits to an affected community from the sale or lease of hospital facilities owned by the board to a not-for-profit or for-profit entity no later than December 31, 2012. In the course of evaluating the benefits of the sale or lease, the board shall:

(b) Publish notice of the public hearing in one or more newspapers of general circulation in the county in which the majority of the physical assets of the hospital or health care system are located and in the Florida Administrative Register Weekly at least 15 days before the hearing is scheduled to occur.

(e) Make publicly available all documents considered by the board in the course of such evaluation.

1. Within 160 days after the initiation of the process established in this subsection, the governing board shall publish notice of the board's findings in one or more newspapers of general circulation in the county in which the majority of the physical assets of the hospital are located and in the Florida Administrative Register Weekly.

2. This evaluation is not required if a district, county, or municipal hospital has issued a public request for proposals for the sale or lease of a hospital on or before February 1, 2012, for the purpose of receiving proposals from qualified purchasers or lessees, either not-for-profit or for-profit.

Section 15. Subsection (6) of section 159.703, Florida Statutes, is amended to read:

159.703 Creation of research and development authorities.—

(6) A majority of the members of the authority shall constitute a quorum, and the affirmative vote of a majority of the members present shall be necessary for any action taken by the authority, provided that the president of each affiliated institution of higher education or that president's designee shall be present and vote on any action taken by the authority involving the issuance of bonds or the transfer, development, lease or encumbrance of any lands owned by the Trustees of the Internal Improvement Trust Fund and leased to the authority; and provided, further, that the president of each affiliated institution of higher education or such president's designee shall be present and vote in the affirmative on any action taken by the authority involving the lease of any park lands to a state agency. No vacancy in the membership of the authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the authority. Any action taken by the authority under the provisions of ss. 159.701-159.7095 may be authorized by resolution at any regular or special meeting, and each such resolution shall

take effect immediately and need not be published or posted. Notice of meetings of the authority shall be published in the Florida Administrative Register Weekly.

Section 16. Paragraph (a) of subsection (2) of section 161.053, Florida Statutes, is amended to read:

161.053 Coastal construction and excavation; regulation on county basis.

(2)(a) Coastal construction control lines shall be established by the department only after it has been determined from a comprehensive engineering study and topographic survey that the establishment of such control lines is necessary for the protection of upland properties and the control of beach erosion. No such line shall be set until a public hearing has been held in each affected county. After the department has given consideration to the results of such public hearing, it shall, after considering ground elevations in relation to historical storm and hurricane tides, predicted maximum wave uprush, beach and offshore ground contours, the vegetation line, erosion trends, the dune or bluff line, if any exist, and existing upland development, set and establish a coastal construction control line and cause such line to be duly filed in the public records of any county affected and shall furnish the clerk of the circuit court in each county affected a survey of such line with references made to permanently installed monuments at such intervals and locations as may be considered necessary. However, no coastal construction control line shall be set until a public hearing has been held by the department and the affected persons have an opportunity to appear. The hearing shall constitute a public hearing and shall satisfy all requirements for a public hearing pursuant to s. 120.54(3). The hearing shall be noticed in the Florida Administrative Register Weekly in the same manner as a rule. Any coastal construction control line adopted pursuant to this section shall not be subject to a s. 120.56(2) rule challenge or a s. 120.54(3)(c)2. drawout proceeding, but, once adopted, shall be subject to a s. 120.56(3) invalidity challenge. The rule shall be adopted by the department and shall become effective upon filing with the Department of State, notwithstanding the provisions of s. 120.54(3)(e)6. Upon such filing with the Department of State, no person, firm, corporation, or governmental agency shall construct any structure whatsoever seaward thereof; make any excavation, remove any beach material, or otherwise alter existing ground elevations; drive any vehicle on, over, or across any sand dune; or damage or cause to be damaged such sand dune or the vegetation growing thereon seaward thereof, except as hereinafter provided. Control lines established under the provisions of this section shall be subject to review at the discretion of the department after consideration of hydrographic and topographic data that indicate shoreline changes that render established coastal construction control lines to be ineffective for the purposes of this act or at the written request of officials of affected counties or municipalities. Any riparian upland owner who feels that such line as established is unduly restrictive or prevents a legitimate use of the owner's property shall be granted a review of the line upon written request. After such review, the department shall decide if a change in the control line as established is justified and shall so notify the

person or persons making the request. The decision of the department shall be subject to judicial review as provided in chapter 120.

Section 17. Paragraph (a) of subsection (2) of section 202.22, Florida Statutes, is amended to read:

202.22 Determination of local tax situs.—

(2)(a) The department shall, subject to legislative appropriation, create as soon as practical and feasible, and thereafter maintain, an electronic database that gives due and proper regard to any format that is approved by the American National Standards Institute's Accredited Standards Committee X12 and that designates for each street address, address range, post office box, or post office box range in the state, including any multiple postal street addresses applicable to one street location, the local taxing jurisdiction in which the street address, address range, post office box, or post office box range is located and the appropriate code for each such local taxing jurisdiction, identified by one nationwide standard numeric code. The nationwide standard numeric code must contain the same number of numeric digits, and each digit, or combination of digits, must refer to the same level of taxing jurisdiction throughout the United States using a format similar to FIPS 55-3 or other appropriate standard approved by the Federation of Tax Administrators and the Multistate Tax Commission. Each address or address range or post office box or post office box range must be provided in standard postal format, including the street number, street number range, street name, post office box number, post office box range, and zip code. The department shall provide notice of the availability of the database, and any subsequent revision thereof, by publication in the Florida Administrative Register Weekly.

Section 18. Paragraph (c) of subsection (4) and paragraph (d) of subsection (18) of section 215.555, Florida Statutes, are amended to read:

215.555 Florida Hurricane Catastrophe Fund.—

(4) REIMBURSEMENT CONTRACTS.—

(c)1. The contract shall also provide that the obligation of the board with respect to all contracts covering a particular contract year shall not exceed the actual claims-paying capacity of the fund up to a limit of \$17 billion for that contract year, unless the board determines that there is sufficient estimated claims-paying capacity to provide \$17 billion of capacity for the current contract year and an additional \$17 billion of capacity for subsequent contract years. If the board makes such a determination, the estimated claims-paying capacity for the particular contract year shall be determined by adding to the \$17 billion limit one-half of the fund's estimated claims-paying capacity in excess of \$34 billion. However, the dollar growth in the limit may not increase in any year by an amount greater than the dollar growth of the balance of the fund as of December 31, less any premiums or

interest attributable to optional coverage, as defined by rule which occurred over the prior calendar year.

2. In May and October of the contract year, the board shall publish in the Florida Administrative Register Weekly a statement of the fund's estimated borrowing capacity, the fund's estimated claims-paying capacity, and the projected balance of the fund as of December 31. After the end of each calendar year, the board shall notify insurers of the estimated borrowing capacity, estimated claims-paying capacity, and the balance of the fund as of December 31 to provide insurers with data necessary to assist them in determining their retention and projected payout from the fund for loss reimbursement purposes. In conjunction with the development of the premium formula, as provided for in subsection (5), the board shall publish factors or multiples that assist insurers in determining their retention and projected payout for the next contract year. For all regulatory and reinsurance purposes, an insurer may calculate its projected payout from the fund as its share of the total fund premium for the current contract year multiplied by the sum of the projected balance of the fund as of December 31 and the estimated borrowing capacity for that contract year as reported under this subparagraph.

(18) FACILITATION OF INSURERS' PRIVATE CONTRACT NEGOTIATIONS BEFORE THE START OF THE HURRICANE SEASON.—

(d) The board shall publish in the Florida Administrative Register Weekly the maximum statutory adjusted capacity for the mandatory coverage for a particular contract year, the maximum statutory coverage for any optional coverage for the particular contract year, and the aggregate fund retention used to calculate individual insurer's retention multiples for the particular contract year no later than January 1 of the immediately preceding contract year.

Section 19. Subsection (3) of section 252.62, Florida Statutes, is amended to read:

252.62 Director of Office of Financial Regulation; powers in a state of emergency.—

(3) The director shall publish, in the next available publication of the Florida Administrative Register Weekly, a copy of the text of any order issued under this section, together with a statement describing the modification or suspension and explaining how the modification or suspension will facilitate recovery from the emergency and maintain the safety and soundness of financial institutions in this state.

Section 20. Subsection (3) of section 252.63, Florida Statutes, is amended to read:

252.63 Commissioner of Insurance Regulation; powers in a state of emergency.—

(3) The commissioner shall publish in the next available publication of the Florida Administrative Register Weekly a copy of the text of any order issued under this section, together with a statement describing the modification or suspension and explaining how the modification or suspension will facilitate recovery from the emergency.

Section 21. Subsection (1) of section 255.0525, Florida Statutes, is amended to read:

255.0525 Advertising for competitive bids or proposals.—

(1) The solicitation of competitive bids or proposals for any state construction project that is projected to cost more than \$200,000 shall be publicly advertised once in the Florida Administrative Register Weekly at least 21 days prior to the established bid opening. For state construction projects that are projected to cost more than \$500,000, the advertisement shall be published in the Florida Administrative Register Weekly at least 30 days prior to the established bid opening and at least once in a newspaper of general circulation in the county where the project is located at least 30 days prior to the established bid opening and at least 5 days prior to any scheduled prebid conference. The bids or proposals shall be received and opened publicly at the location, date, and time established in the bid or proposal advertisement. In cases of emergency, the Secretary of Management Services may alter the procedures required in this section in any manner that is reasonable under the emergency circumstances.

Section 22. Subsection (1) of section 280.11, Florida Statutes, is amended to read:

280.11 Withdrawal from public deposits program; return of pledged collateral.—

(1) A qualified public depository may withdraw from the public deposits program by giving written notice to the Chief Financial Officer. The contingent liability, required collateral, and reporting requirements of the depository withdrawing from the program shall continue for a period of 12 months after the effective date of the withdrawal, except that the filing of reports may no longer be required when the average monthly balance of public deposits is equal to zero. Notice of withdrawal shall be mailed or delivered in sufficient time to be received by the Chief Financial Officer at least 30 days before the effective date of withdrawal. The Chief Financial Officer shall timely publish the withdrawal notice in the Florida Administrative Register Weekly which shall constitute notice to all depositors. The withdrawing depository shall not receive or retain public deposits after the effective date of the withdrawal until such time as it again becomes a qualified public depository. The Chief Financial Officer shall, upon request, return to the depository that portion of the collateral pledged that is in excess of the required collateral as reported on the current public depository monthly report. Losses of interest or other accumulations, if any, because of

withdrawal under this section shall be assessed and paid as provided in s. 280.09.

Section 23. Paragraph (a) of subsection (4) of section 310.151, Florida Statutes, is amended to read:

310.151 Rates of pilotage; Pilotage Rate Review Committee.—

(4)(a) The applicant shall be given written notice, either in person or by certified mail, that the committee intends to modify the pilotage rates in that port and that the applicant may, within 21 days after receipt of the notice, request a hearing pursuant to the Administrative Procedure Act. Notice of the intent to modify the pilotage rates in that port shall also be published in the Florida Administrative Register Weekly and in a newspaper of general circulation in the affected port area and shall be mailed to any person who has formally requested notice of any rate change in the affected port area. Within 21 days after receipt or publication of notice, any person whose substantial interests will be affected by the intended committee action may request a hearing pursuant to the Administrative Procedure Act. If the committee concludes that the petitioner has raised a disputed issue of material fact, the committee shall designate a hearing, which shall be conducted by formal proceeding before an administrative law judge assigned by the Division of Administrative Hearings pursuant to ss. 120.569 and 120.57(1), unless waived by all parties. If the committee concludes that the petitioner has not raised a disputed issue of material fact and does not designate the petition for hearing, that decision shall be considered final agency action for purposes of s. 120.68. The failure to request a hearing within 21 days after receipt or publication of notice shall constitute a waiver of any right to an administrative hearing and shall cause the order modifying the pilotage rates in that port to be entered. If an administrative hearing is requested pursuant to this subsection, notice of the time, date, and location of the hearing shall be published in the Florida Administrative Register Weekly and in a newspaper of general circulation in the affected port area and shall be mailed to the applicant and to any person who has formally requested notice of any rate change for the affected port area.

Section 24. Subsection (1) of section 320.642, Florida Statutes, is amended to read:

320.642 Dealer licenses in areas previously served; procedure.—

(1) Any licensee who proposes to establish an additional motor vehicle dealership or permit the relocation of an existing dealer to a location within a community or territory where the same line-make vehicle is presently represented by a franchised motor vehicle dealer or dealers shall give written notice of its intention to the department. The notice must state:

(a) The specific location at which the additional or relocated motor vehicle dealership will be established.

(b) The date on or after which the licensee intends to be engaged in business with the additional or relocated motor vehicle dealer at the proposed location.

(c) The identity of all motor vehicle dealers who are franchised to sell the same line-make vehicle with licensed locations in the county and any contiguous county to the county where the additional or relocated motor vehicle dealer is proposed to be located.

(d) The names and addresses of the dealer-operator and principal investors in the proposed additional or relocated motor vehicle dealership.

Immediately upon receipt of the notice the department shall cause a notice to be published in the Florida Administrative ~~Register~~ Weekly. The published notice must state that a petition or complaint by any dealer with standing to protest pursuant to subsection (3) must be filed within 30 days following the date of publication of the notice in the Florida Administrative ~~Register~~ Weekly. The published notice must describe and identify the proposed dealership sought to be licensed, and the department shall cause a copy of the notice to be mailed to those dealers identified in the licensee's notice under paragraph (c). The licensee shall pay a fee of \$75 and a service charge of \$2.50 for each publication. Proceeds from the fee and service charge shall be deposited into the Highway Safety Operating Trust Fund.

Section 25. Paragraph (a) of subsection (6) of section 334.30, Florida Statutes, is amended to read:

334.30 Public-private transportation facilities.—The Legislature finds and declares that there is a public need for the rapid construction of safe and efficient transportation facilities for the purpose of traveling within the state, and that it is in the public's interest to provide for the construction of additional safe, convenient, and economical transportation facilities.

(6) The procurement of public-private partnerships by the department shall follow the provisions of this section. Sections 337.025, 337.11, 337.14, 337.141, 337.145, 337.175, 337.18, 337.185, 337.19, 337.221, and 337.251 shall not apply to procurements under this section unless a provision is included in the procurement documents. The department shall ensure that generally accepted business practices for exemptions provided by this subsection are part of the procurement process or are included in the public-private partnership agreement.

(a) The department may request proposals from private entities for public-private transportation projects or, if the department receives an unsolicited proposal, the department shall publish a notice in the Florida Administrative ~~Register~~ Weekly and a newspaper of general circulation at least once a week for 2 weeks stating that the department has received the proposal and will accept, for 120 days after the initial date of publication, other proposals for the same project purpose. A copy of the notice must be mailed to each local government in the affected area.

Section 26. Paragraph (g) of subsection (4) of section 339.135, Florida Statutes, is amended to read:

339.135 Work program; legislative budget request; definitions; preparation, adoption, execution, and amendment.—

(4) FUNDING AND DEVELOPING A TENTATIVE WORK PROGRAM.

(g)1. The Florida Transportation Commission shall conduct a statewide public hearing on the tentative work program and shall advertise the time, place, and purpose of the hearing in the Florida Administrative Register Weekly at least 7 days prior to the hearing. As part of the statewide public hearing, the commission shall, at a minimum:

a. Conduct an in-depth evaluation of the tentative work program for compliance with applicable laws and departmental policies; and

b. Hear all questions, suggestions, or other comments offered by the public.

2. By no later than 14 days after the regular legislative session begins, the commission shall submit to the Executive Office of the Governor and the legislative appropriations committees a report that evaluates the tentative work program for:

a. Financial soundness;

b. Stability;

c. Production capacity;

d. Accomplishments, including compliance with program objectives in s. 334.046;

e. Compliance with approved local government comprehensive plans;

f. Objections and requests by metropolitan planning organizations;

g. Policy changes and effects thereof;

h. Identification of statewide or regional projects; and

i. Compliance with all other applicable laws.

Section 27. Paragraph (a) of subsection (5) of section 339.155, Florida Statutes, is amended to read:

339.155 Transportation planning.—

(5) PROCEDURES FOR PUBLIC PARTICIPATION IN TRANSPORTATION PLANNING.—

(a) During the development of the Florida Transportation Plan and prior to substantive revisions, the department shall provide citizens, affected public agencies, representatives of transportation agency employees, other affected employee representatives, private providers of transportation, and other known interested parties with an opportunity to comment on the proposed plan or revisions. These opportunities shall include, at a minimum, publishing a notice in the Florida Administrative Register Weekly and within a newspaper of general circulation within the area of each department district office.

Section 28. Subsection (3) of section 343.875, Florida Statutes, is amended to read:

343.875 Public-private partnerships.—

(3) The authority may request proposals for public-private transportation projects or, if it receives an unsolicited proposal, it must publish a notice in the Florida Administrative Register Weekly and a newspaper of general circulation in the county in which it is located at least once a week for 2 weeks stating that it has received the proposal and will accept, for 60 days after the initial date of publication, other proposals for the same project purpose. A copy of the notice must be mailed to each local government in the affected areas. After the public notification period has expired, the authority shall rank the proposals in order of preference. In ranking the proposals, the authority shall consider professional qualifications, general business terms, innovative engineering or cost-reduction terms, finance plans, and the need for state funds to deliver the proposal. If the authority is not satisfied with the results of the negotiations, it may, at its sole discretion, terminate negotiations with the proposer. If these negotiations are unsuccessful, the authority may go to the second and lower-ranked firms, in order, using the same procedure. If only one proposal is received, the authority may negotiate in good faith and, if it is not satisfied with the results, it may, at its sole discretion, terminate negotiations with the proposer. Notwithstanding this subsection, the authority may, at its discretion, reject all proposals at any point in the process up to completion of a contract with the proposer.

Section 29. Subsection (3) of section 343.962, Florida Statutes, is amended to read:

343.962 Public-private partnerships.—

(3) The authority may request proposals and receive unsolicited proposals for public-private multimodal transportation projects, and, upon receipt of any unsolicited proposal or determination to issue a request for proposals, the authority must publish a notice in the Florida Administrative Register Weekly and a newspaper of general circulation in the county in which the proposed project is located at least once a week for 2 weeks requesting proposals or, if an unsolicited proposal was received, stating that it has received the proposal and will accept, for 60 days after the initial date of publication, other proposals for the same project purpose. A copy of the notice

must be mailed to each local government in the affected areas. After the public notification period has expired, the authority shall rank the proposals in order of preference. In ranking the proposals, the authority shall consider professional qualifications, general business terms, innovative engineering or cost-reduction terms, finance plans, and the need for state funds to deliver the proposal. If the authority is not satisfied with the results of the negotiations, it may, at its sole discretion, terminate negotiations with the proposer. If these negotiations are unsuccessful, the authority may go to the second and lower-ranked firms, in order, using the same procedure. If only one proposal is received, the authority may negotiate in good faith and, if it is not satisfied with the results, it may, at its sole discretion, terminate negotiations with the proposer. Notwithstanding this subsection, the authority may, at its discretion, reject all proposals at any point in the process up to completion of a contract with the proposer.

Section 30. Paragraph (c) of subsection (9) of section 348.0004, Florida Statutes, is amended to read:

348.0004 Purposes and powers.—

(9) The Legislature declares that there is a public need for the rapid construction of safe and efficient transportation facilities for traveling within the state and that it is in the public's interest to provide for public-private partnership agreements to effectuate the construction of additional safe, convenient, and economical transportation facilities.

(c) The authority may request proposals for public-private transportation projects or, if it receives an unsolicited proposal, it must publish a notice in the Florida Administrative Register Weekly and a newspaper of general circulation in the county in which it is located at least once a week for 2 weeks, stating that it has received the proposal and will accept, for 60 days after the initial date of publication, other proposals for the same project purpose. A copy of the notice must be mailed to each local government in the affected areas. After the public notification period has expired, the authority shall rank the proposals in order of preference. In ranking the proposals, the authority shall consider professional qualifications, general business terms, innovative engineering or cost-reduction terms, finance plans, and the need for state funds to deliver the proposal. If the authority is not satisfied with the results of the negotiations, it may, at its sole discretion, terminate negotiations with the proposer. If these negotiations are unsuccessful, the authority may go to the second and lower-ranked firms, in order, using the same procedure. If only one proposal is received, the authority may negotiate in good faith, and if it is not satisfied with the results, it may, at its sole discretion, terminate negotiations with the proposer. The authority may, at its discretion, reject all proposals at any point in the process up to completion of a contract with the proposer.

Section 31. Subsection (3) of section 349.22, Florida Statutes, is amended to read:

349.22 Public-private transportation facilities.—

(3) The authority may request proposals and receive unsolicited proposals for public-private transportation projects and, upon receipt of any unsolicited proposal or determination to issue a request for proposals, must publish a notice in the Florida Administrative Register Weekly and a newspaper of general circulation in the county in which the proposed project is located at least once a week for 2 weeks requesting proposals or, if an unsolicited proposal was received, stating that it has received the proposal and will accept, for 60 days after the initial date of publication, other proposals for the same project purpose. A copy of the notice must be mailed to each local government in the affected areas. After the public notification period has expired, the authority shall rank the proposals in order of preference. In ranking the proposals, the authority shall consider professional qualifications, general business terms, innovative engineering or cost-reduction terms, finance plans, and the need for state funds to deliver the proposal. If the authority is not satisfied with the results of the negotiations, it may, at its sole discretion, terminate negotiations with the proposer. If these negotiations are unsuccessful, the authority may go to the second and lower-ranked firms, in order, using the same procedure. If only one proposal is received, the authority may negotiate in good faith and, if it is not satisfied with the results, may, at its sole discretion, terminate negotiations with the proposer. Notwithstanding this subsection, the authority may, at its discretion, reject all proposals at any point in the process up to completion of a contract with the proposer. Any person submitting an unsolicited proposal shall submit with the proposal the sum of \$25,000 to the authority to be applied by the authority to its costs of review and analysis of the proposal, and such person shall remain liable for any additional costs and expenses of the authority incurred for the review and analysis.

Section 32. Subsection (1) of section 366.04, Florida Statutes, is amended to read:

366.04 Jurisdiction of commission.—

(1) In addition to its existing functions, the commission shall have jurisdiction to regulate and supervise each public utility with respect to its rates and service; assumption by it of liabilities or obligations as guarantor, endorser, or surety; and the issuance and sale of its securities, except a security which is a note or draft maturing not more than 1 year after the date of such issuance and sale and aggregating (together with all other then-outstanding notes and drafts of a maturity of 1 year or less on which such public utility is liable) not more than 5 percent of the par value of the other securities of the public utility then outstanding. In the case of securities having no par value, the par value for the purpose of this section shall be the fair market value as of the date of issue. The commission, upon application by a public utility, may authorize the utility to issue and sell securities of one or more offerings, or of one or more types, over a period of up to 12 months; or, if the securities are notes or drafts maturing not more than 1 year after the date of issuance and sale, the commission, upon such application, may

authorize the utility to issue and sell such securities over a period of up to 24 months. The commission may take final action to grant an application by a public utility to issue and sell securities or to assume liabilities or obligations after having given notice in the Florida Administrative Register Weekly published at least 7 days in advance of final agency action. In taking final action on such application, the commission may deny authorization for the issuance or sale of a security or assumption of a liability or obligation if the security, liability, or obligation is for nonutility purposes; and shall deny authorization for the issuance or sale of a security or assumption of a liability or obligation if the financial viability of the public utility is adversely affected such that the public utility's ability to provide reasonable service at reasonable rates is jeopardized. Securities issued by a public utility or liabilities or obligations assumed by a public utility as guarantor, endorser, or surety pursuant to an order of the commission, which order is certified by the clerk of the commission and which order approves or authorizes the issuance and sale of such securities or the assumption of such liabilities or obligations, shall not be invalidated by a modification, repeal, or amendment to that order or by a supplemental order; however, the commission's approval of the issuance of securities or the assumption of liabilities or obligations shall constitute approval only as to the legality of the issue or assumption, and in no way shall it be considered commission approval of the rates, service, accounts, valuation, estimates, or determinations of cost or any other such matter. The jurisdiction conferred upon the commission shall be exclusive and superior to that of all other boards, agencies, political subdivisions, municipalities, towns, villages, or counties, and, in case of conflict therewith, all lawful acts, orders, rules, and regulations of the commission shall in each instance prevail.

Section 33. Paragraph (d) of subsection (1) of section 373.036, Florida Statutes, is amended to read:

373.036 Florida water plan; district water management plans.—

(1) FLORIDA WATER PLAN.—In cooperation with the water management districts, regional water supply authorities, and others, the department shall develop the Florida water plan. The Florida water plan shall include, but not be limited to:

(d) Goals, objectives, and guidance for the development and review of programs, rules, and plans relating to water resources, based on statutory policies and directives. The state water policy rule, renamed the water resource implementation rule pursuant to s. 373.019(25), shall serve as this part of the plan. Amendments or additions to this part of the Florida water plan shall be adopted by the department as part of the water resource implementation rule. In accordance with s. 373.114, the department shall review rules of the water management districts for consistency with this rule. Amendments to the water resource implementation rule must be adopted by the secretary of the department and be submitted to the President of the Senate and the Speaker of the House of Representatives within 7 days after publication in the Florida Administrative Register Weekly. Amendments

shall not become effective until the conclusion of the next regular session of the Legislature following their adoption.

Section 34. Section 373.044, Florida Statutes, is amended to read:

373.044 Rules; enforcement; availability of personnel rules.—The governing board of the district is authorized to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter. Rules and orders may be enforced by mandatory injunction or other appropriate action in the courts of the state. Rules relating to personnel matters shall be made available to the public and affected persons at no more than cost but need not be published in the Florida Administrative Code or the Florida Administrative Register Weekly.

Section 35. Subsection (8) of section 373.103, Florida Statutes, is amended to read:

373.103 Powers which may be vested in the governing board at the department's discretion.—In addition to the other powers and duties allowed it by law, the governing board of a water management district may be specifically authorized by the department to:

(8) Delegate to a local government by rule or agreement the power and duty to administer and enforce any of the statutes, rules, or regulations relating to stormwater permitting or surface water management which the district is authorized or required to administer, including those delegated by a state agency to the district, if the governing board determines that such a delegation is necessary or desirable. Such a delegation shall be made only if the governing board determines that the local government's program for administering the delegated statute, rule, or regulation:

(a) Provides by ordinance, regulation, or local law for requirements compatible with or stricter or more extensive than those imposed by the statute or the rules and regulations adopted pursuant thereto;

(b) Provides for the enforcement of such requirements by appropriate administrative and judicial processes; and

(c) Provides for administrative organization, staff, and financial and other resources necessary to effectively and efficiently enforce such requirements.

The governing board shall give prior notice of its intention to enter into an agreement described in this subsection. At a minimum, such notice shall be published in the Florida Administrative Register Weekly at least 21 days in advance of the governing board's action. At least once every 6 months, the district shall update its rules to include a list of the agreements adopted pursuant to this subsection to which the district is a party. The list shall identify the parties to, and the date and location of each agreement, and shall specify the nature of the authority delegated by the agreement.

Section 36. Paragraph (c) of subsection (2) of section 373.4131, Florida Statutes, is amended to read:

373.4131 Statewide environmental resource permitting rules.—

(2)

(c) Until the rules adopted pursuant to this section become effective, existing rules adopted pursuant to this part remain in full force and effect. Existing rules that are superseded by the rules adopted pursuant to this section may be repealed without further rulemaking pursuant to s. 120.54 by publication of a notice of repeal in the Florida Administrative Register Weekly and subsequent filing of a list of the rules repealed with the Department of State.

Section 37. Subsection (3) of section 378.212, Florida Statutes, is amended to read:

378.212 Variances.—

(3) The department shall publish a notice of proposed agency action in the Florida Administrative Register Weekly and in a newspaper of general circulation in the area affected, and the department shall afford an opportunity for a hearing on each application for a variance, pursuant to the provisions of chapter 120. If no request for a hearing is filed with the department within 14 days of publication of the notice, the department may proceed to final agency action without a hearing.

Section 38. Paragraph (f) of subsection (2) of section 379.2431, Florida Statutes, is amended to read:

379.2431 Marine animals; regulation.—

(2) PROTECTION OF MANATEES OR SEA COWS.—

(f)1. Except for emergency rules adopted under s. 120.54, all proposed rules of the commission for which a notice of intended agency action is filed proposing to govern the speed and operation of motorboats for purposes of manatee protection shall be submitted to the counties in which the proposed rules will take effect for review by local rule review committees.

2. No less than 60 days prior to filing a notice of rule development in the Florida Administrative Register Weekly, as provided in s. 120.54(3)(a), the commission shall notify the counties for which a rule to regulate the speed and operation of motorboats for the protection of manatees is proposed. A county so notified shall establish a rule review committee or several counties may combine rule review committees.

3. The county commission of each county in which a rule to regulate the speed and operation of motorboats for the protection of manatees is proposed shall designate a rule review committee. The designated voting membership

of the rule review committee must be comprised of waterway users, such as fishers, boaters, water skiers, other waterway users, as compared to the number of manatee and other environmental advocates. A county commission may designate an existing advisory group as the rule review committee. With regard to each committee, fifty percent of the voting members shall be manatee advocates and other environmental advocates, and fifty percent of the voting members shall be waterway users.

4. The county shall invite other state, federal, county, municipal, or local agency representatives to participate as nonvoting members of the local rule review committee.

5. The county shall provide logistical and administrative staff support to the local rule review committee and may request technical assistance from commission staff.

6. Each local rule review committee shall elect a chair and recording secretary from among its voting members.

7. Commission staff shall submit the proposed rule and supporting data used to develop the rule to the local rule review committees.

8. The local rule review committees shall have 60 days from the date of receipt of the proposed rule to submit a written report to commission members and staff. The local rule review committees may use supporting data supplied by the commission, as well as public testimony which may be collected by the committee, to develop the written report. The report may contain recommended changes to proposed manatee protection zones or speed zones, including a recommendation that no rule be adopted, if that is the decision of the committee.

9. Prior to filing a notice of proposed rulemaking in the Florida Administrative Register Weekly as provided in s. 120.54(3)(a), the commission staff shall provide a written response to the local rule review committee reports to the appropriate counties, to the commission members, and to the public upon request.

10. In conducting a review of the proposed manatee protection rule, the local rule review committees may address such factors as whether the best available scientific information supports the proposed rule, whether seasonal zones are warranted, and such other factors as may be necessary to balance manatee protection and public access to and use of the waters being regulated under the proposed rule.

11. The written reports submitted by the local rule review committees shall contain a majority opinion. If the majority opinion is not unanimous, a minority opinion shall also be included.

12. The members of the commission shall fully consider any timely submitted written report submitted by a local rule review committee prior to authorizing commission staff to move forward with proposed rulemaking and

shall fully consider any timely submitted subsequent reports of the committee prior to adoption of a final rule. The written reports of the local rule review committees and the written responses of the commission staff shall be part of the rulemaking record and may be submitted as evidence regarding the committee's recommendations in any proceeding relating to a rule proposed or adopted pursuant to this subsection.

13. The commission is relieved of any obligations regarding the local rule review committee process created in this paragraph if a timely noticed county commission fails to timely designate the required rule review committee.

Section 39. Subsection (6) of section 380.05, Florida Statutes, is amended to read:

380.05 Areas of critical state concern.—

(6) Once the state land planning agency determines whether the land development regulations or local comprehensive plan or amendment submitted by a local government is consistent with the principles for guiding the development of the area specified under the rule designating the area, the state land planning agency shall approve or reject the land development regulations or portions thereof by final order, and shall determine compliance of the plan or amendment, or portions thereof, pursuant to s. 163.3184. The state land planning agency shall publish its final order to approve or reject land development regulations, which shall constitute final agency action, in the Florida Administrative ~~Register~~ Register Weekly. If the final order is challenged pursuant to s. 120.57, the state planning agency has the burden of proving the validity of the final order. Such approval or rejection of the land development regulations shall be no later than 60 days after submission of the land development regulations by the local government. No proposed land development regulation within an area of critical state concern becomes effective under this subsection until the state land planning agency issues its final order or, if the final order is challenged, until the challenge to the order is resolved pursuant to chapter 120.

Section 40. Subsection (10) of section 395.003, Florida Statutes, is amended to read:

395.003 Licensure; denial, suspension, and revocation.—

(10) The agency may adopt rules implementing the licensure requirements set forth in subsection (8). Within 14 days after rendering its decision on a license application or revocation, the agency shall publish its proposed decision in the Florida Administrative ~~Register~~ Register Weekly. Within 21 days after publication of the agency's decision, any authorized person may file a request for an administrative hearing. In administrative proceedings challenging the approval, denial, or revocation of a license pursuant to subsection (8), the hearing must be based on the facts and law existing at the time of the agency's proposed agency action. Existing hospitals may initiate or intervene

in an administrative hearing to approve, deny, or revoke licensure under subsection (8) based upon a showing that an established program will be substantially affected by the issuance or renewal of a license to a hospital within the same district or service area.

Section 41. Subsection (3) of section 403.201, Florida Statutes, is amended to read:

403.201 Variances.—

(3) The department shall publish notice, or shall require a petitioner for a variance to publish notice, in the Florida Administrative Register Weekly and in a newspaper of general circulation in the area affected, of proposed agency action; and the department shall afford interested persons an opportunity for a hearing on each application for a variance. If no request for hearing is filed with the department within 14 days of published notice, the department may proceed to final agency action without a hearing.

Section 42. Subsection (3) of section 403.805, Florida Statutes, is amended to read:

403.805 Secretary; powers and duties; review of specified rules.—

(3) After adoption of proposed rule 62-302.531(9), Florida Administrative Code, a nonseverability and effective date provision approved by the commission on December 8, 2011, in accordance with the commission's legislative authority under s. 403.804, notice of which was published by the department on December 22, 2011, in the Florida Administrative Register Weekly, Vol. 37, No. 51, page 4446, any subsequent rule or amendment altering the effect of such rule shall be submitted to the President of the Senate and the Speaker of the House of Representatives no later than 30 days before the next regular legislative session, and such amendment may not take effect until it is ratified by the Legislature.

Section 43. Subsection (1) of section 403.8055, Florida Statutes, is amended to read:

403.8055 Department adoption of federal standards.—Notwithstanding ss. 120.54 and 403.804, the secretary is empowered to adopt rules substantively identical to regulations adopted in the Federal Register by the United States Environmental Protection Agency pursuant to federal law, in accordance with the following procedures:

(1) The secretary shall publish notice of intent to adopt a rule pursuant to this section in the Florida Administrative Register Weekly at least 21 days prior to filing the rule with the Department of State. The secretary shall mail a copy of the notice of intent to adopt a rule to the Administrative Procedures Committee at least 21 days prior to the date of filing with the Department of State. Prior to filing the rule with the Department of State, the secretary shall consider any written comments received within 21 days after the date of publication of the notice of intent to adopt a rule. The rule shall be adopted

upon filing with the Department of State. Substantive changes from the rules as noticed shall require republishing of notice as required in this section.

Section 44. Paragraph (e) of subsection (1) of section 403.9411, Florida Statutes, is amended to read:

403.9411 Notice; proceedings; parties and participants.—

(1)

(e) The department shall publish in the Florida Administrative Register Weekly notices of the application; of the certification hearing; of the hearing before the board; and of stipulations, proposed agency action, or petitions for modification.

Section 45. Paragraph (a) of subsection (1) of section 403.9422, Florida Statutes, is amended to read:

403.9422 Determination of need for natural gas transmission pipeline; powers and duties.—

(1)(a) Upon request by an applicant or upon its own motion, the commission shall schedule a public hearing, after notice, to determine the need for a natural gas transmission pipeline regulated by ss. 403.9401-403.9425. Such notice shall be published at least 45 days before the date set for the hearing and shall be published in at least one-quarter page size in newspapers of general circulation and in the Florida Administrative Register Weekly, by giving notice to counties and regional planning councils in whose jurisdiction the natural gas transmission pipeline could be placed, and by giving notice to any persons who have requested to be placed on the mailing list of the commission for this purpose. Within 21 days after receipt of a request for determination by an applicant, the commission shall set a date for the hearing. The hearing shall be held pursuant to s. 350.01 within 75 days after the filing of the request, and a decision shall be rendered within 90 days after such filing.

Section 46. Paragraph (d) of subsection (2) and paragraph (c) of subsection (4) of section 408.039, Florida Statutes, are amended to read:

408.039 Review process.—The review process for certificates of need shall be as follows:

(2) LETTERS OF INTENT.—

(d) Within 21 days after filing a letter of intent, the agency shall publish notice of the filing of letters of intent in the Florida Administrative Register Weekly and notice that, if requested, a public hearing shall be held at the local level within 21 days after the application is deemed complete. Notices under this paragraph must contain due dates applicable to the cycle for filing applications and for requesting a hearing.

(4) STAFF RECOMMENDATIONS.—

(c) The agency shall publish its proposed decision set forth in the Notice of Intent in the Florida Administrative Register Weekly within 14 days after the Notice of Intent is issued.

Section 47. Subsection (10) of section 409.912, Florida Statutes, is amended to read:

409.912 Cost-effective purchasing of health care.—The agency shall purchase goods and services for Medicaid recipients in the most cost-effective manner consistent with the delivery of quality medical care. To ensure that medical services are effectively utilized, the agency may, in any case, require a confirmation or second physician's opinion of the correct diagnosis for purposes of authorizing future services under the Medicaid program. This section does not restrict access to emergency services or poststabilization care services as defined in 42 C.F.R. part 438.114. Such confirmation or second opinion shall be rendered in a manner approved by the agency. The agency shall maximize the use of prepaid per capita and prepaid aggregate fixed-sum basis services when appropriate and other alternative service delivery and reimbursement methodologies, including competitive bidding pursuant to s. 287.057, designed to facilitate the cost-effective purchase of a case-managed continuum of care. The agency shall also require providers to minimize the exposure of recipients to the need for acute inpatient, custodial, and other institutional care and the inappropriate or unnecessary use of high-cost services. The agency shall contract with a vendor to monitor and evaluate the clinical practice patterns of providers in order to identify trends that are outside the normal practice patterns of a provider's professional peers or the national guidelines of a provider's professional association. The vendor must be able to provide information and counseling to a provider whose practice patterns are outside the norms, in consultation with the agency, to improve patient care and reduce inappropriate utilization. The agency may mandate prior authorization, drug therapy management, or disease management participation for certain populations of Medicaid beneficiaries, certain drug classes, or particular drugs to prevent fraud, abuse, overuse, and possible dangerous drug interactions. The Pharmaceutical and Therapeutics Committee shall make recommendations to the agency on drugs for which prior authorization is required. The agency shall inform the Pharmaceutical and Therapeutics Committee of its decisions regarding drugs subject to prior authorization. The agency is authorized to limit the entities it contracts with or enrolls as Medicaid providers by developing a provider network through provider credentialing. The agency may competitively bid single-source-provider contracts if procurement of goods or services results in demonstrated cost savings to the state without limiting access to care. The agency may limit its network based on the assessment of beneficiary access to care, provider availability, provider quality standards, time and distance standards for access to care, the cultural competence of the provider network, demographic characteristics of Medicaid beneficiaries, practice and provider-to-beneficiary standards, appointment wait times, beneficiary use of services, provider turnover,

provider profiling, provider licensure history, previous program integrity investigations and findings, peer review, provider Medicaid policy and billing compliance records, clinical and medical record audits, and other factors. Providers are not entitled to enrollment in the Medicaid provider network. The agency shall determine instances in which allowing Medicaid beneficiaries to purchase durable medical equipment and other goods is less expensive to the Medicaid program than long-term rental of the equipment or goods. The agency may establish rules to facilitate purchases in lieu of long-term rentals in order to protect against fraud and abuse in the Medicaid program as defined in s. 409.913. The agency may seek federal waivers necessary to administer these policies.

(10) The agency, after notifying the Legislature, may apply for waivers of applicable federal laws and regulations as necessary to implement more appropriate systems of health care for Medicaid recipients and reduce the cost of the Medicaid program to the state and federal governments and shall implement such programs, after legislative approval, within a reasonable period of time after federal approval. These programs must be designed primarily to reduce the need for inpatient care, custodial care and other long-term or institutional care, and other high-cost services. Prior to seeking legislative approval of such a waiver as authorized by this subsection, the agency shall provide notice and an opportunity for public comment. Notice shall be provided to all persons who have made requests of the agency for advance notice and shall be published in the Florida Administrative Register Weekly not less than 28 days prior to the intended action. This subsection expires October 1, 2016.

Section 48. Subsection (4) of section 493.6104, Florida Statutes, is amended to read:

493.6104 Advisory council.—

(4) The council shall meet at least 4 times yearly upon the call of the chairperson, at the request of a majority of the membership, or at the request of the department. Notice of council meetings and the agenda shall be published in the Florida Administrative Register Weekly at least 14 days prior to such meeting.

Section 49. Paragraph (c) of subsection (3) of section 553.775, Florida Statutes, is amended to read:

553.775 Interpretations.—

(3) The following procedures may be invoked regarding interpretations of the Florida Building Code:

(c) The commission shall review decisions of local building officials and local enforcement agencies regarding interpretations of the Florida Building Code after the local board of appeals has considered the decision, if such

board exists, and if such appeals process is concluded within 25 business days.

1. The commission shall coordinate with the Building Officials Association of Florida, Inc., to designate panels composed of five members to hear requests to review decisions of local building officials. The members must be licensed as building code administrators under part XII of chapter 468 and must have experience interpreting and enforcing provisions of the Florida Building Code.

2. Requests to review a decision of a local building official interpreting provisions of the Florida Building Code may be initiated by any substantially affected person, including an owner or builder subject to a decision of a local building official or an association of owners or builders having members who are subject to a decision of a local building official. In order to initiate review, the substantially affected person must file a petition with the commission. The commission shall adopt a form for the petition, which shall be published on the Building Code Information System. The form shall, at a minimum, require the following:

a. The name and address of the county or municipality in which provisions of the Florida Building Code are being interpreted.

b. The name and address of the local building official who has made the interpretation being appealed.

c. The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any; and an explanation of how the petitioner's substantial interests are being affected by the local interpretation of the Florida Building Code.

d. A statement of the provisions of the Florida Building Code which are being interpreted by the local building official.

e. A statement of the interpretation given to provisions of the Florida Building Code by the local building official and the manner in which the interpretation was rendered.

f. A statement of the interpretation that the petitioner contends should be given to the provisions of the Florida Building Code and a statement supporting the petitioner's interpretation.

g. Space for the local building official to respond in writing. The space shall, at a minimum, require the local building official to respond by providing a statement admitting or denying the statements contained in the petition and a statement of the interpretation of the provisions of the Florida Building Code which the local jurisdiction or the local building official contends is correct, including the basis for the interpretation.

3. The petitioner shall submit the petition to the local building official, who shall place the date of receipt on the petition. The local building official

shall respond to the petition in accordance with the form and shall return the petition along with his or her response to the petitioner within 5 days after receipt, exclusive of Saturdays, Sundays, and legal holidays. The petitioner may file the petition with the commission at any time after the local building official provides a response. If no response is provided by the local building official, the petitioner may file the petition with the commission 10 days after submission of the petition to the local building official and shall note that the local building official did not respond.

4. Upon receipt of a petition that meets the requirements of subparagraph 2., the commission shall immediately provide copies of the petition to a panel, and the commission shall publish the petition, including any response submitted by the local building official, on the Building Code Information System in a manner that allows interested persons to address the issues by posting comments.

5. The panel shall conduct proceedings as necessary to resolve the issues; shall give due regard to the petitions, the response, and to comments posed on the Building Code Information System; and shall issue an interpretation regarding the provisions of the Florida Building Code within 21 days after the filing of the petition. The panel shall render a determination based upon the Florida Building Code or, if the code is ambiguous, the intent of the code. The panel's interpretation shall be provided to the commission, which shall publish the interpretation on the Building Code Information System and in the Florida Administrative Register Weekly. The interpretation shall be considered an interpretation entered by the commission, and shall be binding upon the parties and upon all jurisdictions subject to the Florida Building Code, unless it is superseded by a declaratory statement issued by the Florida Building Commission or by a final order entered after an appeal proceeding conducted in accordance with subparagraph 7.

6. It is the intent of the Legislature that review proceedings be completed within 21 days after the date that a petition seeking review is filed with the commission, and the time periods set forth in this paragraph may be waived only upon consent of all parties.

7. Any substantially affected person may appeal an interpretation rendered by a hearing officer panel by filing a petition with the commission. Such appeals shall be initiated in accordance with chapter 120 and the uniform rules of procedure and must be filed within 30 days after publication of the interpretation on the Building Code Information System or in the Florida Administrative Register Weekly. Hearings shall be conducted pursuant to chapter 120 and the uniform rules of procedure. Decisions of the commission are subject to judicial review pursuant to s. 120.68. The final order of the commission is binding upon the parties and upon all jurisdictions subject to the Florida Building Code.

8. The burden of proof in any proceeding initiated in accordance with subparagraph 7. is on the party who initiated the appeal.

9. In any review proceeding initiated in accordance with this paragraph, including any proceeding initiated in accordance with subparagraph 7., the fact that an owner or builder has proceeded with construction may not be grounds for determining an issue to be moot if the issue is one that is likely to arise in the future.

This paragraph provides the exclusive remedy for addressing requests to review local interpretations of the code and appeals from review proceedings.

Section 50. Subsection (4) of section 561.19, Florida Statutes, is amended to read:

561.19 License issuance upon approval of division.—

(4) The issuance of licenses pursuant to subsection (2) or subsection (3) shall not be governed by the provisions of s. 120.60. The issuance of any such license shall occur no later than 180 days after a drawing is held pursuant to notice published in the Florida Administrative Register Weekly or, in the event no drawing is held, within 180 days of the final date for filing applications. Any applicant who is not included in the pool for drawing to determine priority shall file, within 30 days of the date of mailing of notice to such applicant, a challenge to such action pursuant to ss. 120.569 and 120.57, or the right to file any action as to such matter shall be forever lost. Any applicant whose name is included in the pool for drawing to determine priority but who is not issued a license shall be entitled to request a hearing on the denial pursuant to ss. 120.569 and 120.57 only on the grounds that the selection process was not conducted in accordance with law or that the licensee selected does not possess the qualifications required by law.

Section 51. Subsection (1) of section 570.247, Florida Statutes, is amended to read:

570.247 Promulgation of rules.—In conjunction with funds specifically appropriated for the purposes specified in this act, the department shall begin to promulgate rules no later than January 1, 1992, pursuant to s. 120.54, pertaining to:

(1) Formal notification procedures for the availability of assistance, including publication in the Florida Administrative Register Weekly pursuant to s. 120.55.

Section 52. Paragraph (b) of subsection (1) of section 601.152, Florida Statutes, is amended to read:

601.152 Special marketing orders.—

(1)

(b) Notice of the time, place, and purpose of such public hearing shall be:

1. Mailed, at least 10 days before such hearing, to each handler who, during the 12 months immediately before such mailing, has first handled in the primary channel of trade in the state the type, variety, and form of citrus fruit or citrus product specified in the proposed marketing order, and to each handler who the department has good cause to believe will, during the period of time covered by the proposed marketing order, first handle in the primary channel of trade in the state the type, variety, and form of citrus fruit or processed citrus product specified in such proposed marketing order.

2. Published in the Florida Administrative Register Weekly at least 10 days before such hearing.

Section 53. Subsection (6) of section 627.091, Florida Statutes, is amended to read:

627.091 Rate filings; workers' compensation and employer's liability insurances.—

(6) Whenever the committee of a recognized rating organization with responsibility for workers' compensation and employer's liability insurance rates in this state meets to discuss the necessity for, or a request for, Florida rate increases or decreases, the determination of Florida rates, the rates to be requested, and any other matters pertaining specifically and directly to such Florida rates, such meetings shall be held in this state and shall be subject to s. 286.011. The committee of such a rating organization shall provide at least 3 weeks' prior notice of such meetings to the office and shall provide at least 14 days' prior notice of such meetings to the public by publication in the Florida Administrative Register Weekly.

Section 54. Paragraph (a) of subsection (13) of section 633.0215, Florida Statutes, is amended to read:

633.0215 Florida Fire Prevention Code.—

(13)(a) The State Fire Marshal shall issue an expedited declaratory statement relating to interpretations of provisions of the Florida Fire Prevention Code according to the following guidelines:

1. The declaratory statement shall be rendered in accordance with s. 120.565, except that a final decision must be issued by the State Fire Marshal within 45 days after the division's receipt of a petition seeking an expedited declaratory statement. The State Fire Marshal shall give notice of the petition and the expedited declaratory statement or the denial of the petition in the next available issue of the Florida Administrative Register Weekly after the petition is filed and after the statement or denial is rendered.

2. The petitioner must be the owner of the disputed project or the owner's representative.

3. The petition for an expedited declaratory statement must be:

- a. Related to an active project that is under construction or must have been submitted for a permit.
- b. The subject of a written notice citing a specific provision of the Florida Fire Prevention Code which is in dispute.
- c. Limited to a single question that is capable of being answered with a “yes” or “no” response.

Section 55. Subsection (8) of section 633.026, Florida Statutes, is amended to read:

633.026 Legislative intent; informal interpretations of the Florida Fire Prevention Code.—It is the intent of the Legislature that the Florida Fire Prevention Code be interpreted by fire officials and local enforcement agencies in a manner that reasonably and cost-effectively protects the public safety, health, and welfare; ensures uniform interpretations throughout this state; and provides just and expeditious processes for resolving disputes regarding such interpretations. It is the further intent of the Legislature that such processes provide for the expeditious resolution of the issues presented and that the resulting interpretation of such issues be published on the website of the Division of State Fire Marshal.

(8) The committee shall conduct proceedings as necessary to resolve the issues and give due regard to the petition, the facts of the matter at issue, specific code sections cited, and any statutory implications affecting the Florida Fire Prevention Code. The committee shall issue an interpretation regarding the provisions of the Florida Fire Prevention Code within 10 days after the filing of a petition. The committee shall issue an interpretation based upon the Florida Fire Prevention Code or, if the code is ambiguous, the intent of the code. The committee’s interpretation shall be provided to the petitioner and shall include a notice that if the petitioner disagrees with the interpretation, the petitioner may file a request for formal interpretation by the State Fire Marshal under s. 633.01(6). The committee’s interpretation shall be provided to the State Fire Marshal, and the division shall publish the interpretation on the State Fire Marshal’s website and in the Florida Administrative Register Weekly.

Section 56. Paragraph (c) of subsection (2) of section 658.26, Florida Statutes, is amended to read:

658.26 Places of transacting business; branches; facilities.—

(2)

(c) Applications filed pursuant to this subsection need not be published in the Florida Administrative Register Weekly, but shall otherwise be subject to chapter 120.

Section 57. Paragraph (d) of subsection (3) of section 766.105, Florida Statutes, is amended to read:

766.105 Florida Patient's Compensation Fund.—

(3) THE FUND.—

(d) *Fees and assessments.*—Each health care provider, as set forth in subsection (2), electing to comply with paragraph (2)(b) for a given fiscal year shall pay the fees and any assessments established under this section relative to such fiscal year, for deposit into the fund. Those entering the fund after the fiscal year has begun shall pay a prorated share of the yearly fees for a prorated membership. Actuarially sound membership fees payable annually, semiannually, or quarterly with appropriate service charges shall be established by the fund before January 1 of each fiscal year, based on the following considerations:

1. Past and prospective loss and expense experience in different types of practice and in different geographical areas within the state;
2. The prior claims experience of the members covered under the fund; and
3. Risk factors for persons who are retired, semiretired, or part-time professionals.

Such fees shall be based on not more than three geographical areas, not necessarily contiguous, with five categories of practice and with categories which contemplate separate risk ratings for hospitals, for health maintenance organizations, for ambulatory surgical facilities, and for other medical facilities. The fund is authorized to adjust the fees of an individual member to reflect the claims experience of such member. Each fiscal year of the fund shall operate independently of preceding fiscal years. Participants shall only be liable for assessments for claims from years during which they were members of the fund; in cases in which a participant is a member of the fund for less than the total fiscal year, a member shall be subject to assessments for that year on a pro rata basis determined by the percentage of participation for the year. The fund shall submit to the Office of Insurance Regulation the classifications and membership fees to be charged, and the Office of Insurance Regulation shall review such fees and shall approve them if they comply with all the requirements of this section and fairly reflect the considerations provided for in this section. If the classifications or membership fees do not comply with this section, the Office of Insurance Regulation shall set classifications or membership fees which do comply and which give due recognition to all considerations provided for in this section. Nothing contained herein shall be construed as imposing liability for payment of any part of a fund deficit on the Joint Underwriting Association authorized by s. 627.351(4) or its member insurers. If the fund determines that the amount of money in an account for a given fiscal year is in excess of or not sufficient to satisfy the claims made against the account, the fund shall certify the amount of the projected excess or insufficiency to the Office of Insurance Regulation and request the office to levy an assessment against or refund to all participants in the fund for that fiscal year, prorated, based on the

number of days of participation during the year in question. The Office of Insurance Regulation shall approve the request of the fund to refund to, or levy any assessment against, the participants, provided the refund or assessment fairly reflects the same considerations and classifications upon which the membership fees were based. The assessment shall be in an amount sufficient to satisfy reserve requirements for known claims, including expenses to satisfy the claims, made against the account for a given fiscal year. In any proceeding to challenge the amount of the refund or assessment requested by the fund is correct, if the fund demonstrates that it has used reasonable claims handling and reserving procedures. Additional assessments may be certified and levied in accordance with this paragraph as necessary for any fiscal year. If a fund member objects to his or her assessment, he or she shall, as a condition precedent to bringing legal action contesting the assessment, pay the assessment, under protest, to the fund. The fund may borrow money needed for current operations, if necessary to pay claims and related expenses, fees, and costs timely for a given fiscal year, from an account for another fiscal year until such time as sufficient funds have been obtained through the assessment process. Any such money, together with interest at the mean interest rate earned on the investment portfolio of the fund, shall be repaid from the next assessment for the given fiscal year. If any assessments are levied in accordance with this subsection as a result of claims in excess of \$500,000 per occurrence, and such assessments are a result of the liability of certain individuals and entities specified in paragraph (2)(e), only hospitals shall be subject to such assessments. Before approving the request of the fund to charge membership fees, issue refunds, or levy assessments, the Office of Insurance Regulation shall publish notice of the request in the Florida Administrative Register Weekly. Pursuant to chapter 120, any party substantially affected may request an appropriate proceeding. Any petition for such a proceeding shall be filed with the Office of Insurance Regulation within 21 days after the date of publication of the notice in the Florida Administrative Register Weekly.

Section 58. Subsection (1) of section 791.013, Florida Statutes, is amended to read:

791.013 Testing and approval of sparklers; penalties.—

(1) A person who wishes to sell sparklers must submit samples of his or her product to the division for testing to determine whether it is a sparkler as defined in s. 791.01. Such samples must be received by the division by September 1 to be considered for approval the following year. On February 1 of each year the division shall approve those products which it has tested and found to meet the requirements for sparklers. All approved sparkler products are legal for sale until January 31 of the following year. The list of approved sparkler products shall be published in the Florida Administrative Register Weekly and shall prominently state the dates between which the products may be sold. The division shall make copies of this list available to the public. A product must be tested and approved for sale in accordance with the rules adopted to implement this section. Beginning February 1, 1988, only those

products approved by the division may be sold in the state. The State Fire Marshal shall adopt rules describing the testing, approval, and listing procedures.

Section 59. Section 957.12, Florida Statutes, is amended to read:

957.12 Prohibition on contact.—A bidder or potential bidder is not permitted to have any contact with any member or employee of or consultant to the commission regarding a request for proposal, a proposal, or the evaluation or selection process from the time a request for proposals for a private correctional facility is issued until the time a notification of intent to award is announced, except if such contact is in writing or in a meeting for which notice was provided in the Florida Administrative Register Weekly.

Section 60. Paragraph (a) of subsection (1) of section 1006.33, Florida Statutes, is amended to read:

1006.33 Bids or proposals; advertisement and its contents.—

(1)(a) Beginning on or before May 15 of any year in which an instructional materials adoption is to be initiated, the department shall advertise in the Florida Administrative Register Weekly 4 weeks preceding the date on which the bids shall be received, that at a certain designated time, not later than June 15, sealed bids or proposals to be deposited with the department will be received from publishers or manufacturers for the furnishing of instructional materials proposed to be adopted as listed in the advertisement beginning April 1 following the adoption.

Reviser's note.—Amended pursuant to the directive of the Legislature in s. 3, ch. 2012-63, Laws of Florida, to prepare a reviser's bill for the 2013 Regular Session of the Legislature to substitute the term "Florida Administrative Register" for the term "Florida Administrative Weekly" throughout the Florida Statutes.

Section 61. This act shall take effect on the 60th day after adjournment sine die of the session of the Legislature in which enacted.

Approved by the Governor April 10, 2013.

Filed in Office Secretary of State April 10, 2013.