

BILL

ORIGINAL

YEAR

1 A bill to be entitled
 2 An act relating to rules and rulemaking; amending s.
 3 120.52, F.S.; redefining the term "invalid exercise of
 4 delegated legislative authority"; defining the terms "law
 5 implemented" and "rulemaking authority"; amending s.
 6 120.536, F.S.; revising guidelines for the construction of
 7 statutory language granting rulemaking authority; amending
 8 s. 120.54, F.S.; prescribing limits and guidelines with
 9 respect to incorporation of material by reference;
 10 prescribing requirements for materials being incorporated
 11 by reference; providing for rules; revising information to
 12 be included in notices of proposed actions; amending s.
 13 120.545, F.S.; authorizing the Administrative Procedures
 14 Committee to request from agencies information to examine
 15 unadopted agency statements; amending s. 120.55, F.S.;
 16 requiring electronic publication of the Florida
 17 Administrative Code; prescribing requirements with respect
 18 to content of such electronic publication; providing for
 19 filing information incorporated by reference in electronic
 20 form; amending s. 120.569, F.S.; revising a cross-
 21 reference; amending s. 120.74, F.S.; revising reporting
 22 requirements for agency heads; providing effective dates.

23
 24
 25 Be It Enacted by the Legislature of the State of Florida:

26
 27 Section 1. Subsection (8) of section 120.52, Florida
 28 Statutes, is amended, present subsections (9) through (15) of
 29 that section are renumbered as subsections (10) through (16),

BILL

ORIGINAL

YEAR

30 | respectively, present subsections (16) through (19) of that
 31 | section are renumbered as subsections (18) through (21),
 32 | respectively, and new subsections (9) and (17) are added to that
 33 | section, to read:

34 | 120.52 Definitions.--As used in this act:

35 | (8) "Invalid exercise of delegated legislative authority"
 36 | means action that ~~which~~ goes beyond the powers, functions, and
 37 | duties delegated by the Legislature. A proposed or existing rule
 38 | is an invalid exercise of delegated legislative authority if any
 39 | one of the following applies:

40 | (a) The agency has materially failed to follow the
 41 | applicable rulemaking procedures or requirements set forth in
 42 | this chapter;

43 | (b) The agency has exceeded its grant of rulemaking
 44 | authority, citation to which is required by s. 120.54(3)(a)1.;

45 | (c) The rule enlarges, modifies, or contravenes the
 46 | specific provisions of law implemented, citation to which is
 47 | required by s. 120.54(3)(a)1.;

48 | (d) The rule is vague, fails to establish adequate
 49 | standards for agency decisions, or vests unbridled discretion in
 50 | the agency;

51 | (e) The rule is arbitrary or capricious. A rule is
 52 | arbitrary if it is not supported by logic or the necessary facts;
 53 | a rule is capricious if it is adopted without thought or reason
 54 | or is irrational; or

55 | (f) The rule imposes regulatory costs on the regulated
 56 | person, county, or city which could be reduced by the adoption of
 57 | less costly alternatives that substantially accomplish the
 58 | statutory objectives.

BILL

ORIGINAL

YEAR

59
 60 A grant of rulemaking authority is necessary but not sufficient
 61 to allow an agency to adopt a rule; a specific law to be
 62 implemented is also required. An agency may adopt only rules that
 63 implement or interpret the specific powers and duties granted by
 64 the enabling statute. No agency shall have authority to adopt a
 65 rule only because it is reasonably related to the purpose of the
 66 enabling legislation and is not arbitrary and capricious or is
 67 within the agency's class of powers and duties, nor shall an
 68 agency have the authority to implement statutory provisions
 69 setting forth general legislative intent or policy. Statutory
 70 language granting rulemaking authority or generally describing
 71 the powers and functions of an agency shall be construed to
 72 extend no further than implementing or interpreting the specific
 73 powers and duties conferred ~~by the same statute.~~

74 (9) "Law implemented" means the statutory language being
 75 carried out or interpreted by an agency through rulemaking.

76 (17) "Rulemaking authority" means statutory language that
 77 explicitly authorizes or requires an agency to adopt, develop,
 78 establish, or otherwise create any statement coming within the
 79 definition of "rule."

80 Section 2. Subsection (1) of section 120.536, Florida
 81 Statutes, is amended to read:

82 120.536 Rulemaking authority; repeal; challenge.--

83 (1) A grant of rulemaking authority is necessary but not
 84 sufficient to allow an agency to adopt a rule; a specific law to
 85 be implemented is also required. An agency may adopt only rules
 86 that implement or interpret the specific powers and duties
 87 granted by the enabling statute. No agency shall have authority

BILL

ORIGINAL

YEAR

88 | to adopt a rule only because it is reasonably related to the
 89 | purpose of the enabling legislation and is not arbitrary and
 90 | capricious or is within the agency's class of powers and duties,
 91 | nor shall an agency have the authority to implement statutory
 92 | provisions setting forth general legislative intent or policy.
 93 | Statutory language granting rulemaking authority or generally
 94 | describing the powers and functions of an agency shall be
 95 | construed to extend no further than implementing or interpreting
 96 | the specific powers and duties conferred ~~by the same statute.~~

97 | Section 3. Paragraph (k) of subsection (1) is created and
 98 | Paragraph (i) of subsection (1), paragraphs (a) and (e) of
 99 | subsection (3), and paragraph (a) of subsection (4) of section
 100 | 120.54, Florida Statutes, are amended to read:

101 | 120.54 Rulemaking.--

102 | (1) GENERAL PROVISIONS APPLICABLE TO ALL RULES OTHER THAN
 103 | EMERGENCY RULES.--

104 | (i)1. A rule may incorporate material by reference but only
 105 | as the material exists on the date the rule is adopted. For
 106 | purposes of the rule, changes in the material are not effective
 107 | unless the rule is amended to incorporate the changes. Material
 108 | incorporated by reference in a rule may not incorporate
 109 | additional material by reference unless the rule specifically
 110 | identifies the additional material.

111 | (k) Rulemaking responsibilities of an agency head under
 112 | subparagraph (3)(a)1., subparagraph (3)(e)1., or subparagraph
 113 | (3)(e)6., may not be delegated or transferred.

114 | 2. An agency rule that incorporates by specific reference
 115 | another rule of that agency automatically incorporates subsequent
 116 | amendments to the referenced rule, unless a contrary intent is

BILL

ORIGINAL

YEAR

117 clearly indicated in the referencing rule. Any notice of
 118 amendments to a rule that has been incorporated by specific
 119 reference in other rules of that agency must explain the effect
 120 of the amendments on the referencing rules.

121 3. In rules adopted after December 31, 2009, material may
 122 not be incorporated by reference unless:

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

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

135 4. A rule may not be amended by reference only. Amendments
 136 must set out the amended rule in full in the same manner as
 137 required by the State Constitution for laws. ~~The Department of~~
 138 ~~State may prescribe by rule requirements for incorporating~~
 139 ~~materials by reference pursuant to this paragraph.~~

140 5.2. Notwithstanding any contrary provision in this
 141 section, when an adopted rule of the Department of Environmental
 142 Protection or a water management district is incorporated by
 143 reference in the other agency's rule to implement a provision of
 144 part IV of chapter 373, subsequent amendments to the rule are not
 145 effective as to the incorporating rule unless the agency

BILL

ORIGINAL

YEAR

146 incorporating by reference notifies the committee and the
 147 Department of State of its intent to adopt the subsequent
 148 amendment, publishes notice of such intent in the Florida
 149 Administrative Weekly, and files with the Department of State a
 150 copy of the amended rule incorporated by reference. Changes in
 151 the rule incorporated by reference are effective as to the other
 152 agency 20 days after the date of the published notice and filing
 153 with the Department of State. The Department of State shall amend
 154 the history note of the incorporating rule to show the effective
 155 date of such change. Any substantially affected person may,
 156 within 14 days after the date of publication of the notice of
 157 intent in the Florida Administrative Weekly, file an objection to
 158 rulemaking with the agency. The objection shall specify the
 159 portions of the rule incorporated by reference to which the
 160 person objects and the reasons for the objection. The agency does
 161 ~~shall~~ not have the authority under this subparagraph to adopt
 162 those portions of the rule specified in such objection. The
 163 agency shall publish notice of the objection and of its action in
 164 response in the next available issue of the Florida
 165 Administrative Weekly.

166 6. The Department of State may prescribe by rule
 167 requirements for incorporating materials pursuant to this
 168 paragraph.

169 (3) ADOPTION PROCEDURES.--

170 (a) Notices.--

171 1. Prior to the adoption, amendment, or repeal of any rule
 172 other than an emergency rule, an agency, upon approval of the
 173 agency head, shall give notice of its intended action, setting
 174 forth a short, plain explanation of the purpose and effect of the

BILL

ORIGINAL

YEAR

175 | proposed action; the full text of the proposed rule or amendment
 176 | and a summary thereof; a reference to the grant of ~~specific~~
 177 | rulemaking authority pursuant to which the rule is adopted; and a
 178 | reference to the section or subsection of the Florida Statutes or
 179 | the Laws of Florida being implemented or, interpreted, ~~or made~~
 180 | ~~specific~~. The notice must ~~shall~~ include a summary of the agency's
 181 | statement of the estimated regulatory costs, if one has been
 182 | prepared, based on the factors set forth in s. 120.541(2), and a
 183 | statement that any person who wishes to provide the agency with
 184 | information regarding the statement of estimated regulatory
 185 | costs, or to provide a proposal for a lower cost regulatory
 186 | alternative as provided by s. 120.541(1), must do so in writing
 187 | within 21 days after publication of the notice. The notice must
 188 | state the procedure for requesting a public hearing on the
 189 | proposed rule. Except when the intended action is the repeal of a
 190 | rule, the notice must ~~shall~~ include a reference both to the date
 191 | on which and to the place where the notice of rule development
 192 | that is required by subsection (2) appeared.

193 | 2. The notice shall be published in the Florida
 194 | Administrative Weekly not less than 28 days prior to the intended
 195 | action. The proposed rule shall be available for inspection and
 196 | copying by the public at the time of the publication of notice.

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

203 | 4. The adopting agency shall file with the committee, at

BILL

ORIGINAL

YEAR

204 | least 21 days prior to the proposed adoption date, a copy of each
 205 | rule it proposes to adopt; a copy of any material incorporated by
 206 | reference in the rule; a detailed written statement of the facts
 207 | and circumstances justifying the proposed rule; a copy of any
 208 | statement of estimated regulatory costs that has been prepared
 209 | pursuant to s. 120.541; a statement of the extent to which the
 210 | proposed rule relates to federal standards or rules on the same
 211 | subject; and the notice required by subparagraph 1.

212 | (e) Filing for final adoption; effective date.--

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

225 | 2. A rule may not be filed for adoption less than 28 days
 226 | or more than 90 days after the notice required by paragraph (a),
 227 | until 21 days after the notice of change required by paragraph
 228 | (d), until 14 days after the final public hearing, until 21 days
 229 | after preparation of a statement of estimated regulatory costs
 230 | required under s. 120.541, or until the administrative law judge
 231 | has rendered a decision under s. 120.56(2), whichever applies.
 232 | When a required notice of change is published prior to the

BILL

ORIGINAL

YEAR

233 expiration of the time to file the rule for adoption, the period
 234 during which a rule must be filed for adoption is extended to 45
 235 days after the date of publication. If notice of a public hearing
 236 is published prior to the expiration of the time to file the rule
 237 for adoption, the period during which a rule must be filed for
 238 adoption is extended to 45 days after adjournment of the final
 239 hearing on the rule, 21 days after receipt of all material
 240 authorized to be submitted at the hearing, or 21 days after
 241 receipt of the transcript, if one is made, whichever is latest.
 242 The term "public hearing" includes any public meeting held by any
 243 agency at which the rule is considered. If a petition for an
 244 administrative determination under s. 120.56(2) is filed, the
 245 period during which a rule must be filed for adoption is extended
 246 to 60 days after the administrative law judge files the final
 247 order with the clerk or until 60 days after subsequent judicial
 248 review is complete.

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

254 4. At the time a rule is filed, the committee shall certify
 255 whether the agency has responded in writing to all material and
 256 timely written comments or written inquiries made on behalf of
 257 the committee. The department shall reject any rule not filed
 258 within the prescribed time limits; that does not comply with
 259 ~~satisfy~~ all statutory rulemaking requirements and rules of the
 260 department; upon which an agency has not responded in writing to
 261 all material and timely written inquiries or written comments;

BILL

ORIGINAL

YEAR

262 upon which an administrative determination is pending; or which
 263 does not include a statement of estimated regulatory costs, if
 264 required.

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

270 6. The proposed rule shall be adopted on being filed with
 271 the Department of State and become effective 20 days after being
 272 filed, on a later date specified in the rule, or on a date
 273 required by statute. Rules not required to be filed with the
 274 Department of State shall become effective when adopted by the
 275 agency head or on a later date specified by rule or statute. If
 276 the committee notifies an agency that an objection to a rule is
 277 being considered, the agency may postpone the adoption of the
 278 rule to accommodate review of the rule by the committee. When an
 279 agency postpones adoption of a rule to accommodate review by the
 280 committee, the 90-day period for filing the rule is tolled until
 281 the committee notifies the agency that it has completed its
 282 review of the rule.

283
 284 For the purposes of this paragraph, the term "administrative
 285 determination" does not include subsequent judicial review.

286 (4) EMERGENCY RULES.--

287 (a) If an agency finds that an immediate danger to the
 288 public health, safety, or welfare requires emergency action, the
 289 agency may adopt any rule necessitated by the immediate danger.
 290 The agency may adopt a rule by any procedure which is fair under

BILL

ORIGINAL

YEAR

291 | the circumstances if:

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

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

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

309 | Section 4. Subsection (2) of section 120.545, Florida
310 | Statutes, is amended to read:

311 | 120.545 Committee review of agency rules.--

312 | (2) The committee may request from an agency such
313 | information as is reasonably necessary for examination of a rule
314 | as required by subsection (1) or for examination of an unadopted
315 | agency statement. The committee shall consult with legislative
316 | standing committees having ~~with~~ jurisdiction over the subject
317 | areas. If the committee objects to an emergency rule or a
318 | proposed or existing rule, it shall, within 5 days after ~~of~~ the
319 | objection, certify that fact to the agency whose rule has been

BILL

ORIGINAL

YEAR

320 examined and include with the certification a statement detailing
 321 its objections with particularity. The committee shall notify the
 322 Speaker of the House of Representatives and the President of the
 323 Senate of any objection to an agency rule concurrent with
 324 certification of that fact to the agency. Such notice must ~~shall~~
 325 include a copy of the rule and the statement detailing the
 326 committee's objections to the rule.

327 Section 5. Paragraph (c) of subsection (1) and subsection
 328 (3) of section 120.55, Florida Statutes, are amended to read:

329 120.55 Publication.--

330 (1) The Department of State shall:

331 (c) Prescribe by rule the style, and form and content
 332 requirements required for rules, notices, and other materials
 333 submitted for filing and establish the form for their
 334 certification.

335 (3) Any publication of a proposed rule promulgated by an
 336 agency, whether published in the Florida Administrative Code or
 337 elsewhere, shall include, along with the rule, the name of the
 338 person or persons originating such rule, the name of the agency
 339 head supervisor or person who approved the rule, and the date
 340 upon which the rule was approved.

341 Section 6. Effective December 31, 2007, paragraph (d) of
 342 subsection (1) and subsections (2) and (5) of section 120.55,
 343 Florida Statutes, as amended by section 4 of chapter 2006-82,
 344 Laws of Florida, are amended to read:

345 120.55 Publication.--

346 (1) The Department of State shall:

347 (d) Prescribe by rule the style, and form, and content
 348 requirements required for rules, notices, and other materials

BILL

ORIGINAL

YEAR

349 | submitted for filing ~~and establish the form for their~~
 350 | ~~certification.~~

351 | (2) The Florida Administrative Weekly Internet website must
 352 | allow users to:

353 | (a) Search for notices by type, publication date, rule
 354 | number, word, subject, and agency;

355 | (b) Search a database that makes available all notices
 356 | published on the website for a period of at least 5 years;

357 | (c) Subscribe to an automated e-mail notification of
 358 | selected notices to be sent out prior to or concurrently with
 359 | weekly publication of the printed and electronic Florida
 360 | Administrative Weekly. Such notification must include in the text
 361 | of the e-mail a summary of the content of each notice;

362 | (d) View agency forms and other materials that have been
 363 | submitted to the department in electronic form and that are being
 364 | incorporated by reference in proposed rules; and

365 | (e) Comment on proposed rules.

366 | (5) Any publication of a proposed rule promulgated by an
 367 | agency, whether published in the Florida Administrative Code or
 368 | elsewhere, shall include, along with the rule, the name of the
 369 | person or persons originating such rule, the name of the agency
 370 | head supervisor or person who approved the rule, and the date
 371 | upon which the rule was approved.

372 | Section 7. Effective December 31, 2008, paragraph (a) of
 373 | subsection (1) of section 120.55, Florida Statutes, as amended by
 374 | section 4 of chapter 2006-82, Laws of Florida, and by this act,
 375 | is amended to read:

376 | 120.55 Publication.--

377 | (1) The Department of State shall:

BILL

ORIGINAL

YEAR

378 (a) 1. Through a continuous revision system, compile and
 379 publish electronically the "Florida Administrative Code-" on an
 380 Internet website managed by the department. The Florida
 381 Administrative Code shall contain all rules adopted by each
 382 agency, citing the grant of ~~specific~~ rulemaking authority and the
 383 specific law implemented pursuant to which each rule was adopted,
 384 all history notes as authorized in s. 120.545(9), ~~and~~ complete
 385 indexes to all rules contained in the code, and any other
 386 material required or authorized by law or deemed useful by the
 387 department. The electronic code shall display each rule chapter
 388 currently in effect in browse mode and allow full text search of
 389 the code and each rule chapter. ~~Supplementation shall be made as~~
 390 ~~often as practicable, but at least monthly.~~ The department shall
 391 publish a printed version of the Florida Administrative Code and
 392 may contract with a publishing firm for such printed the
 393 ~~publication, in a timely and useful form, of the Florida~~
 394 ~~Administrative Code;~~ however, the department shall retain
 395 responsibility for the code as provided in this section.
 396 Supplementation of the printed code shall be made as often as
 397 practicable, but at least monthly. The printed ~~This~~ publication
 398 shall be the official compilation of the administrative rules of
 399 this state. The Department of State shall retain the copyright
 400 over the Florida Administrative Code.

401 2. Rules general in form but applicable to only one school
 402 district, community college district, or county, or a part
 403 thereof, or state university rules relating to internal personnel
 404 or business and finance shall not be published in the Florida
 405 Administrative Code. Exclusion from publication in the Florida
 406 Administrative Code shall not affect the validity or

BILL

ORIGINAL

YEAR

407 effectiveness of such rules.

408 3. At the beginning of the section of the code dealing with
 409 an agency that files copies of its rules with the department, the
 410 department shall publish the address and telephone number of the
 411 executive offices of each agency, the manner by which the agency
 412 indexes its rules, a listing of all rules of that agency excluded
 413 from publication in the code, and a statement as to where those
 414 rules may be inspected.

415 4. Forms shall not be published in the Florida
 416 Administrative Code; but any form which an agency uses in its
 417 dealings with the public, along with any accompanying
 418 instructions, shall be filed with the committee before it is
 419 used. Any form or instruction which meets the definition of
 420 "rule" provided in s. 120.52 shall be incorporated by reference
 421 into the appropriate rule. The reference shall specifically
 422 state that the form is being incorporated by reference and shall
 423 include the number, title, and effective date of the form and an
 424 explanation of how the form may be obtained. Each form created by
 425 an agency which is incorporated by reference in a rule notice of
 426 which is given under s. 120.54(3)(a) after December 31, 2007,
 427 must clearly display the number, title, and effective date of the
 428 form and the number of the rule in which the form is
 429 incorporated.

430 5. The department shall allow material incorporated by
 431 reference to be filed in electronic form as prescribed by
 432 department rule. When a rule is filed for adoption with
 433 incorporated material in electronic form, the department's
 434 publication of the Florida Administrative Code on its Internet
 435 website must contain a hyperlink from the incorporating reference

BILL

ORIGINAL

YEAR

436 in the rule directly to that material. The department may not
 437 allow hyperlinks from rules in the Florida Administrative Code to
 438 any material other than that filed with and maintained by the
 439 department, but it may allow additional hyperlinks to
 440 incorporated material maintained by the department from the
 441 adopting agency's website or other sites.

442 Section 8. Paragraph (c) of subsection (2) of section
 443 120.569, Florida Statutes, is amended to read:

444 120.569 Decisions which affect substantial interests.--

445 Section 1. Subsection (1) of section 120.569, Florida
 446 Statutes, is amended to read:

447 120.569 Decisions which affect substantial interests.--

448 (1) The provisions of this section apply in all proceedings
 449 in which the substantial interests of a party are determined by
 450 an agency, unless the parties are proceeding under s. 120.573 or
 451 s. 120.574. Unless waived by all parties, s. 120.57(1) applies
 452 whenever the proceeding involves a disputed issue of material
 453 fact. Unless otherwise agreed, s. 120.57(2) applies in all other
 454 cases. If a disputed issue of material fact arises during a
 455 proceeding under s. 120.57(2), then, unless waived by all
 456 parties, the proceeding under s. 120.57(2) shall be terminated
 457 and a proceeding under s. 120.57(1) shall be conducted. Parties
 458 shall be notified of any order, including a final order. Unless
 459 waived, a copy of the order shall be delivered or mailed to each
 460 party or the party's attorney of record at the address of record.
 461 Each notice shall inform the recipient of any administrative
 462 hearing or judicial review that is available under this section,
 463 s. 120.57, or s. 120.68; shall indicate the procedure which must
 464 be followed to obtain the hearing or judicial review; and shall

BILL

ORIGINAL

YEAR

465 state the time limits which apply.

466 (2)

467 (c) Unless otherwise provided by law, a petition or request
 468 for hearing shall include those items required by the uniform
 469 rules adopted pursuant to s. 120.54(5)(b) ~~s. 120.54(5)(b)~~ 4. Upon
 470 the receipt of a petition or request for hearing, the agency
 471 shall carefully review the petition to determine if it contains
 472 all of the required information. A petition shall be dismissed if
 473 it is not in substantial compliance with these requirements or it
 474 has been untimely filed. Dismissal of a petition shall, at least
 475 once, be without prejudice to petitioner's filing a timely
 476 amended petition curing the defect, unless it conclusively
 477 appears from the face of the petition that the defect cannot be
 478 cured. The agency shall promptly give written notice to all
 479 parties of the action taken on the petition, shall state with
 480 particularity its reasons if the petition is not granted, and
 481 shall state the deadline for filing an amended petition if
 482 applicable. This paragraph does not eliminate the availability of
 483 equitable tolling as a defense to the untimely filing of a
 484 petition.

485 Section 9. Subsection (2) of section 120.74, Florida
 486 Statutes, is amended to read:

487 120.74 Agency review, revision, and report.--

488 (2) Beginning October 1, 1997, and by October 1 of every
 489 ~~other~~ year thereafter, the head of each agency shall file a
 490 report with the President of the Senate, the Speaker of the House
 491 of Representatives, and the committee, with a copy to each
 492 appropriate standing committee of the Legislature, which
 493 certifies that the agency has complied with the requirements of

BILL

ORIGINAL

YEAR

494 | this section ~~subsection~~. The report must specify any changes made
 495 | to its rules as a result of the review and, when appropriate,
 496 | recommend statutory changes that will promote efficiency, reduce
 497 | paperwork, or decrease costs to government and the private
 498 | sector. The report must identify the types of cases or disputes
 499 | in which the agency is involved which should be conducted under
 500 | the summary hearing process described in s. 120.574.

501 | Section 10. For Fiscal Year 2007-2008, the non-recurring
 502 | sum of \$345,000 is appropriated from the Records Management Trust
 503 | Fund to the Department of State for the purposes of carrying out
 504 | the provisions of this act.

505 | Section 11. Except as otherwise expressly provided in this
 506 | act, this act shall take effect July 1, 2007.

507