

1 A bill to be entitled
 2 An act relating to administrative authority; making
 3 findings; providing legislative intent; amending s.
 4 20.02, F.S., clarifying the authority of the governor;
 5 amending s. 20.03, F.S., clarifying supervisory powers
 6 of appointing authority; amending s. 20.05, F.S.,
 7 incorporating constitutional allocation of executive
 8 authority; creating s. 120.515, F.S., declaring policy
 9 regarding executive authority; amending s. 120.52,
 10 F.S., clarifying supervisory powers of appointing
 11 authority; amending s. 11.242, F.S., requiring
 12 revisers bills on rulemaking authority; repealing s.
 13 14.34(3), F.S., relating to Governor's Medal of Merit,
 14 repealing rulemaking authority; amending s. 15.16,
 15 F.S., repealing rulemaking authority; repealing s.
 16 15.18(7), F.S., relating to International and cultural
 17 relations, repealing rulemaking authority; amending s.
 18 16.60, F.S., repealing rulemaking authority; repealing
 19 s. 17.0416(2), F.S., relating to Authority to provide
 20 services on a fee basis, repealing rulemaking
 21 authority; repealing s. 17.59(3), F.S., relating to
 22 Safekeeping services, repealing rulemaking authority;
 23 repealing s. 25.371, F.S., relating to Effect of
 24 rules; repealing s. 28.43(1) and (2), F.S., relating
 25 to Adoption of rules relating to ss. 28.35, 28.36, and
 26 28.37; repealing s. 35.07, F.S., relating to power to
 27 make rules and regulations; repealing s. 39.001(11) ,
 28 F.S., relating to rulemaking authority of Executive

29 Office of the Governor; amending s. 39.0137, F.S.,
 30 repealing rulemaking authority; repealing s.
 31 39.824(1), F.S., relating to Procedures and
 32 jurisdiction, repealing rulemaking request; amending
 33 s. 63.167, F.S., repealing rulemaking authority;
 34 repealing s. 88.9051, F.S., relating to Authority to
 35 adopt rules; amending s. 97.026, F.S., repealing
 36 rulemaking authority; amending s. 97.0555, F.S.,
 37 repealing rulemaking authority; amending s. 97.061,
 38 F.S., repealing rulemaking authority; repealing s.
 39 101.56062(3), F.S., relating to Standards for
 40 accessible voting systems; amending s. 103.101, F.S.,
 41 repealing rulemaking authority; amending s. 106.165,
 42 F.S., repealing rulemaking authority; amending s.
 43 110.1055, F.S., revising to remove obsolete language;
 44 repealing s. 110.1099(5), F.S., relating to Education
 45 and training opportunities for state employees;
 46 repealing s. 110.1228(7), F.S., relating to
 47 Participation by small counties, small municipalities,
 48 and district school boards located in small counties;
 49 amending s. 110.12301, F.S., repealing rulemaking
 50 authority; repealing s. 112.1915(4), F.S., relating to
 51 Teachers and school administrators; death benefits;
 52 amending s. 118.12, F.S., repealing rulemaking
 53 authority; repealing s. 121.085(1), F.S., relating to
 54 Creditable service, deleting rulemaking authority;
 55 repealing s. 121.1001(4)(b), F.S., relating to Florida
 56 Retirement System Preservation of Benefits Plan.,

57 deleting rulemaking authority; repealing s.
 58 121.4503(3), F.S., relating to Florida Retirement
 59 System Contributions Clearing Trust Fund., deleting
 60 rulemaking authority; amending s. 121.5911, F.S.,
 61 deleting rulemaking authority; repealing s.
 62 125.902(4), F.S., relating to Children's services
 63 council or juvenile welfare board incentive grants,
 64 repealing rulemaking authority; repealing s.
 65 154.503(4), F.S., relating to Primary Care for
 66 Children and Families Challenge Grant Program;
 67 creation; administration, repealing rulemaking
 68 authority; amending s. 159.8081(2)(a), F.S., relating
 69 to Manufacturing facility bond pool, repealing
 70 rulemaking authority; amending s. 159.8083, F.S.,
 71 relating to Florida First Business allocation pool,
 72 repealing rulemaking authority; repealing s.
 73 159.825(3), F.S., relating to Terms of bonds,
 74 repealing rulemaking authority; repealing s. 161.75,
 75 F.S., relating to Rulemaking authority; repealing s.
 76 163.462, F.S., relating to Rulemaking authority;
 77 repealing s. 175.341, F.S., relating to Duties of
 78 Division of Retirement, repealing rulemaking
 79 authority; repealing s. 177.504(2)(e), F.S., relating
 80 to Powers and duties of the department, repealing
 81 rulemaking authority; repealing s. 185.23(2), F.S.,
 82 relating to Duties of Division of Retirement,
 83 repealing rulemaking authority; repealing s.
 84 255.25001(2), F.S., relating to Suspension or delay of

PCB RRS 12-02

ORIGINAL

2012

85 | specified functions, repealing rulemaking authority;
 86 | repealing s. 257.34(7), F.S., relating to Florida
 87 | International Archive and Repository, repealing
 88 | rulemaking authority; repealing s. 364.0135(6), F.S.,
 89 | relating to Promotion of broadband adoption, repealing
 90 | rulemaking authority; amending s. 366.85, F.S.,
 91 | relating to Responsibilities of Division of Consumer
 92 | Services, repealing rulemaking authority; repealing s.
 93 | 409.5092(1) and (2) , F.S., relating to Permission for
 94 | weatherization, repealing rulemaking authority;
 95 | amending s. 411.01, F.S., relating to School readiness
 96 | programs and early learning coalitions, limiting
 97 | rulemaking authority of the Office of Early Learning;
 98 | repealing s. 411.01013(7), F.S., relating to
 99 | Prevailing market rate schedule, repealing rulemaking
 100 | authority; repealing s. 411.0103(3), F.S., relating to
 101 | Teacher Education and Compensation Helps (TEACH)
 102 | scholarship program, repealing rulemaking authority;
 103 | repealing s. 411.0104(3) , F.S., relating to Early
 104 | Head Start collaboration grants, repealing rulemaking
 105 | authority; amending s. 501.142, F.S., relating to
 106 | Retail sales establishments, repealing rulemaking
 107 | authority and authority to sanction violations of
 108 | rules; providing an effective date.

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

111 |

112 | Section 1. The Legislature finds:

113 For the preservation of liberty and the protection of
 114 individual rights, the People of Florida adopted a republican
 115 form of government delegating and limiting sovereign power to be
 116 exercised by their representatives in three separate, but equal,
 117 branches: the Legislative, the Executive, and the Judicial.

118
 119 By Article IV of the State Constitution the People vested
 120 supreme executive power in the Governor and apportioned specific
 121 substantive powers among the other elected officers designated
 122 in that Article, including the Lieutenant Governor, the Attorney
 123 General, the Chief Financial Officer, and the Commissioner of
 124 Agriculture.

125
 126 As noted by Alexander Hamilton: "Energy in the executive is
 127 a leading character in the definition of good government... A
 128 feeble executive implies a feeble execution of the government.
 129 A feeble execution is but another phrase for a bad execution:
 130 And a government ill executed, whatever it may be in theory,
 131 must be in practice a bad government."

132
 133 Since the framing of Florida's first Constitution in 1838,
 134 the People have adhered to the principles expressed by Mr.
 135 Hamilton in the vesting of supreme executive power directly in
 136 the Governor but choosing to vest other specific executive
 137 powers directly in other denominated officials or entities.

138
 139 In uninterrupted consistency with their longstanding
 140 vesting of the supreme executive power in the Governor, the

141 People in 1968 adopted Article IV, section 6 of the State
 142 Constitution, generally directing and limiting the Legislature
 143 to allot the functions of the Executive Branch among not more
 144 than twenty-five departments and to place the administration of
 145 each department under the direct supervision of the governor,
 146 the lieutenant governor, the governor and cabinet, a cabinet
 147 member, or an officer or board appointed by and serving at the
 148 pleasure of the governor.

149
 150 Each officer of state government is obligated to construe
 151 the language of the Constitution consistent with its express and
 152 clearly implied intent, must give words their ordinary and
 153 customary meaning unless the context indicates otherwise, must
 154 construe all parts together to give them their full effect, and
 155 must not construe the terms of the Constitution to yield an
 156 absurd result.

157
 158 Under the authority of Article IV, section 6, of the State
 159 Constitution, the Legislature adopted and the Governor signed
 160 into law Chapter 69-106, Laws of Florida, which restructured the
 161 Executive Branch into not more than twenty-five departments and
 162 designated their direct administration.

163
 164 At the time of adopting Chapter 69-106, Laws of Florida,
 165 the Legislature was informed by the debate in the Forty-First
 166 Legislature (under the Constitution of 1885) about the text for
 167 Article IV, section 6, for the proposed Constitution, that the
 168 Forty-First Legislature expressly considered and expressly

169 rejected alternative proposals which would have required general
 170 law to provide supervisory authority to elected constitutional
 171 officers over the policies of executive departments, and that in
 172 submitting the 1968 Constitution to the People their Legislature
 173 intended the proposal to ensure that the administration and
 174 policies of each Executive Branch department would be under the
 175 final authority and control either of the Governor or one or
 176 more elected constitutional officers.

177
 178 Construing together Article IV, sections 1(a) and 6 of the
 179 State Constitution, the Legislature at all times understood
 180 these sections create a general legal presumption against the
 181 creation of a class of unelected, subordinate officers
 182 exercising executive power independent of the direction and
 183 supervision of the Governor or one or more specified elected
 184 constitutional officers.

185
 186 Article IV, section 6 of the State Constitution has not
 187 been amended since its ratification by the People on November 5,
 188 1968.

189
 190 An officer appointed by and serving at the pleasure of the
 191 Governor to administer a department exercises a portion of the
 192 sovereign power assigned under the State Constitution to the
 193 Executive Branch. Such appointees remain subject to the
 194 direction and supervision of one or more elected constitutional
 195 officers who have the ultimate accountability to the People for
 196 the faithful discharge of such responsibility.

PCB RRS 12-02

ORIGINAL

2012

197
198 Regarding the Governor's accountability for the supervision
199 and direction of those appointed officers serving at the
200 pleasure of the Governor, the Legislature is informed by the
201 following analysis:

202
203 As opined by Justice Polston: "(T)he Governor has the
204 constitutional authority to act as this State's chief
205 administrative officer as well as the constitutional duty
206 to faithfully execute this State's laws and to manage and
207 hold agencies under his charge accountable to State laws,
208 including the APA. (The Supreme) Court has explained that
209 '[t]he Governor is given broad authority to fulfill his
210 duty in taking "care that the laws be faithfully
211 executed."'"

212
213 As opined by Chief Justice Canady: "(I) f 'supreme
214 executive power' means anything, it must mean that the
215 Governor can supervise and direct the policy-making
216 choices—within the range of choices permitted by law—of
217 the subordinate executive branch officers who serve at
218 his pleasure."

219
220 The Legislature has not expressly insulated discretionary
221 executive policy decisions from the constitutional structure of
222 accountability to elected officials established in Article IV.

223
224 Pertaining to the exercise of delegated rulemaking

225 authority, the Legislature is informed by the following:

226

227 The exercise of delegated quasi-legislative power within
 228 the parameters of Florida's Administrative Procedure Act
 229 and related statutes involves certain discretionary
 230 policy choices by executive branch officers. In
 231 authorizing the exercise of this power the Legislature
 232 has imposed no restriction on the authority of the
 233 Governor or any other constitutional officer or collegial
 234 body to supervise and direct such policy choices made by
 235 subordinate executive branch officials in rulemaking.

236

237 Florida law provides no specific process for carrying out
 238 the Governor's executive duties with respect to holding
 239 his executive agencies accountable in their rulemaking
 240 functions.

241

242 As correctly opined by Chief Justice Canady: "Given the
 243 constitutional structure establishing the power and
 244 responsibilities of the Governor, it is unjustified to
 245 conclude ... that by assigning rulemaking power to agency
 246 heads, the Legislature implicitly divested the Governor
 247 of the supervisory power with respect to executive
 248 officials who serve at his pleasure."

249

250 A Governor's actions are presumed to be in accord with
 251 the duties of that office.

252

253 | A statutory definition of "agency head" is neither intended
 254 | nor effective to change the fundamental general principles of
 255 | Article IV of the State Constitution: 1) that executive branch
 256 | power may only be exercised under the direct or indirect
 257 | supervision of one or more elected constitutional officers; and
 258 | 2) that the supervision of any executive agency not expressly
 259 | allocated to one or more particular constitutional officers
 260 | remains under the governor's supreme executive power.

261 |
 262 | The Administrative Procedure Act is a uniform procedural
 263 | statute ensuring full public access and participation in any
 264 | exercise of delegated legislative authority by Executive Branch
 265 | entities.

266 |
 267 | The delegation of rulemaking authority by substantive
 268 | statute and establishment of uniform procedures under the
 269 | Administrative Procedure Act were intended and made by the
 270 | Legislature to conform and comply with the separation of power
 271 | required under Article II, section 3 of the State Constitution,
 272 | with no general intrusion into the role and authority of the
 273 | elected Executive Branch officers as established in Article IV
 274 | of the State Constitution.

275 |
 276 | Continual review and assessment of existing and proposed
 277 | regulations is reasonably necessary to ensure that the laws of
 278 | the State are faithfully executed without unduly burdening the
 279 | State's economy and imposing needless costs and requirements on
 280 | citizens, businesses, and local governments.

281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308

Fiscal accountability by all agencies is reasonably necessary to ensure integrity in State government.

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

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

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

The Constitution of the State of Florida and the Florida Statutes establish that many agencies of State government are administered by an officer "appointed by and serving at the pleasure of the governor," and in order to determine whether an

309 officer shall continue to serve at the Governor's pleasure, it
 310 is necessary for the Governor to set expectations and standards
 311 for that officer, and to measure agency performance against
 312 those expectations and standards.

313
 314 Executive Orders 11-01 and 11-72 established the Office of
 315 Fiscal Accountability and Regulatory Reform (OFARR) to ensure
 316 that agency rules (proposed and existing) are efficient, are not
 317 overly burdensome, and faithfully adhere to statutes as enacted
 318 by the Legislature.

319
 320 Upon establishment of OFARR, all agencies under the
 321 direction of the Governor were required to obtain OFARR review
 322 and approval before developing new rules or amending or
 323 repealing existing rules.

324
 325 OFARR's review process has facilitated the Governor's
 326 exercise of the power and duty to serve as the chief executive
 327 and administrative officer of the State.

328
 329 OFARR's review process has facilitated the Governor's
 330 planning and budgeting for the State.

331
 332 OFARR has reviewed thousands of rules and regulations and
 333 helped agencies identify over one thousand unnecessary and
 334 unauthorized rules and regulations for repeal.

335
 336 Since January 4, 2011, OFARR has reviewed hundreds of

337 | proposed agency rulemaking actions.

338 |

339 | OFARR's review process has thus far been successful in
 340 | helping to ensure efficient and effective performance by State
 341 | government.

342 |

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

350 |

351 | The majority opinion in *Whiley*:

352 |

353 | Failed to address and apply the plain meaning of the
 354 | first and sixth sections of Article IV of the
 355 | Constitution of the State of Florida, and thereby may
 356 | be read to restrain the power of the Governor under
 357 | general law with respect to the supervision of agency
 358 | heads;

359 |

360 | Failed to address the implications of the Court's
 361 | precedent in *Jones v. Chiles*, 638 So. 2d 48 (Fla.
 362 | 1994), which recognized the proper scope of executive
 363 | power under the Constitution of the State of Florida;

364 |

365 Failed to address the precedent set by dozens of
 366 executive orders issued by prior governors of Florida;
 367

368 Failed to address the Court's holding that "[t]he
 369 principles underlying the governmental separation of
 370 powers antedate our Florida Constitution and were
 371 collectively adopted by the union of states in our
 372 federal constitution," *Chiles v. Children A, B, C, D,*
 373 *E, & F*, 589 So. 2d 260, 263 (Fla. 1991), and in light
 374 of that precedent, failed to consider that Executive
 375 Orders 11-01 and 11-72 cannot be meaningfully
 376 distinguished from similar executive orders issued by
 377 the last four presidents of the United States and the
 378 governors of a least twenty-nine other states; and
 379

380 Unreasonably relied on a 1983 Opinion of the Attorney
 381 General Opinion, which the Attorney General
 382 distinguished and limited to its facts in an *amicus*
 383 brief in *Whiley*.
 384

385 The dissenting opinions of two justices in the *Whiley* case
 386 state the correct interpretation of the Constitution of the
 387 State of Florida and present persuasive reasoning and arguments
 388 in support of that interpretation.
 389

390 The Supreme Court withheld the Writ sought by *Whiley*.
 391

392 Notwithstanding the above the majority opinion in *Whiley* is

393 | to be afforded the deference due an advisory opinion of the
 394 | Supreme Court of the State of Florida because no writ or other
 395 | final order was entered beyond a mere declaration of law.

396 |
 397 | Section 2. Executive Orders 11-72 and 11-211 are affirmed
 398 | to be consistent with state law and the public policy of the
 399 | state.

400 | Section 3. The Legislature intends that the amendments to
 401 | ss. 20.02, 20.03, and 20.05, Florida Statutes, made by this act
 402 | which apply to the organizational structure of the executive
 403 | branch, and that the creation of s. 120.515, Florida Statutes,
 404 | and the amendment to s. 120.52, Florida Statutes, made by this
 405 | act which apply to administrative procedure, are to clarify that
 406 | the placement of an executive department under the direct
 407 | administration of an officer or board appointed by and serving
 408 | at the pleasure of the Governor does not implicitly limit or
 409 | restrict the Governor's prerogative, legal authority and
 410 | constitutional responsibility to direct and supervise the
 411 | execution of the law and the exercise of lawful discretion and
 412 | are intended to abolish any implication that unelected agency
 413 | heads have statutory authority independent from the direction
 414 | and supervision of the Governor, except as may be clearly,
 415 | expressly and specifically provided by general law.

416 | Section 4. Subsections (3), (4), (5), (6), and (7) of
 417 | section 20.02, Florida Statutes, are amended to read:

418 | 20.02 Declaration of policy.—

419 | (3) Unless otherwise expressly provided in this chapter,
 420 | the administration of any executive branch department or entity

421 placed under the direct supervision of an officer or board
 422 appointed by and serving at the pleasure of the governor shall
 423 remain at all times under the constitutional executive authority
 424 of the governor, in accordance with Article IV, sections 1(a)
 425 and 6, of the State Constitution, and, except as may be
 426 expressly and specifically provided by law, such officer or
 427 board is subject to oversight, direction and supervision by the
 428 Governor.

429 (4) Structural reorganization must be a continuing process
 430 through careful executive and legislative appraisal of the
 431 placement of proposed new programs and the coordination of
 432 existing programs in response to public needs.

433 ~~(4)~~(5) The responsibility within the executive branch of
 434 government for the implementation of programs and policies must
 435 be clearly fixed and ascertainable.

436 ~~(5)~~(6) Departments must be organized along functional or
 437 program lines.

438 ~~(6)~~(7) The management and coordination of state services
 439 must be improved and overlapping activities eliminated.

440 ~~(7)~~(8) When a reorganization of state government abolishes
 441 positions, the individuals affected, when otherwise qualified,
 442 must be given priority consideration for any new positions
 443 created by reorganization or for other vacant positions in state
 444 government.

445 Section 5. Subsections (4) and (5) of section 20.03,
 446 Florida Statutes, are amended, and subsection (13) is created to
 447 read:

448 20.03 Definitions.—To provide uniform nomenclature

449 throughout the structure of the executive branch, the following
 450 definitions apply:

451 (4) "Head of the department" means the individual under
 452 whom, or the board under which, ~~in charge~~ direct administration
 453 of the department is placed by statute. Where direct
 454 administration of a department is placed under an officer or
 455 board appointed by and serving at the pleasure of the Governor,
 456 that officer or board remains subject to the Governor's
 457 supervision and direction.

458 (5) "Secretary" means an individual who is appointed by
 459 the Governor to head a department and who is not otherwise named
 460 in the State Constitution~~constitution~~.

461 (13) "To serve at the pleasure" means the appointee serves
 462 in the office until removed by the appointing authority.
 463 Consistent with the allotment of executive authority under
 464 Article IV, ss. 1 and 6 of the State Constitution, an appointee
 465 serving at the pleasure of the appointing authority remains
 466 subject to the direction and supervision of the appointing
 467 authority and does not exercise any executive power independent
 468 therefrom, except as is clearly, expressly and specifically
 469 provided by law. Unless otherwise expressly provided by law, the
 470 exercise of statutory authority by such appointee does not
 471 require the approval of the appointing authority and may not be
 472 invalidated by a contrary directive from the appointing
 473 authority.

474 Section 6. Paragraph (a) of subsection (1) of section
 475 20.05, Florida Statutes, is amended to read:

476 20.05 Heads of departments; powers and duties.—

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

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

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

488 120.515 - Declaration of Policy. - This chapter provides
 489 uniform procedures for the exercise of specified authority.
 490 Nothing in this chapter limits or impinges upon the assignment
 491 of executive power under Article IV of the State Constitution or
 492 the legal authority of an appointing authority to direct and
 493 supervise those appointees serving at the pleasure of the
 494 appointing authority. For purposes of this chapter, adherence to
 495 the direction and supervision of an appointing authority shall
 496 not be construed to constitute delegation or transfer of
 497 statutory authority assigned to the appointee.

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

500 120.52 Definitions.—As used in this act:

501 (3) "Agency head" means the person or collegial body in a
 502 department or other governmental unit statutorily responsible
 503 for final agency action. While an agency head appointed by and
 504 serving at the pleasure of an appointing authority remains

505 subject to the direction and supervision of the appointing
 506 authority, actions taken by the agency head as authorized by
 507 statute are official acts.

508 Section 9. Paragraphs (j), and (k) of subsection (5) of
 509 section 11.242, Florida Statutes, are amended to read:

510 11.242 Powers, duties, and functions as to statutory
 511 revision.—The powers, duties, and functions of the Office of
 512 Legislative Services in the operation and maintenance of a
 513 statutory revision program shall be as follows:

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

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

522 (k) All statutes and laws general in form but of such
 523 local or limited application as to make their inclusion in the
 524 Florida Statutes or any revision or supplement thereof
 525 impracticable, undesirable, or unnecessary shall be omitted
 526 therefrom, without effecting a repeal thereof.

527 ~~(k)~~(l) All things relating to form, position, order, or
 528 arrangement of the revision, not inconsistent with the Florida
 529 Statutes system, which may be found desirable or necessary for
 530 the improvement, betterment, or perfection of same, may be done.

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

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

535 15.16 Reproduction of records; admissibility in evidence;
 536 electronic receipt and transmission of records; certification;
 537 acknowledgment.—

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

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

548 Section 13. Paragraph (a) of subsection (3) of section
 549 16.60, Florida Statutes, is amended to read:

550 16.60 Public records mediation program within the Office
 551 of the Attorney General; creation; duties.—

552 (3) The Office of the Attorney General shall:

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

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

PCB RRS 12-02

ORIGINAL

2012

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

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

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

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

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

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

570 39.0137 Federal law; rulemaking authority.—

571 (2) ~~The department shall adopt rules no later than July 1,~~
 572 ~~2007, to ensure that the provisions of these federal laws are~~
 573 ~~enforced in this state.~~ The department is encouraged to enter
 574 into agreements with recognized American Indian tribes in order
 575 to facilitate the implementation of the Indian Child Welfare
 576 Act.

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

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

581 63.167 State adoption information center.—

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

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

588 Section 24. Section 97.026, Florida Statutes, is amended

PCB RRS 12-02

ORIGINAL

2012

589 to read:

590 97.026 Forms to be available in alternative formats and
 591 via the Internet.—It is the intent of the Legislature that all
 592 forms required to be used in chapters 97-106 shall be made
 593 available upon request, in alternative formats. Such forms shall
 594 include absentee ballots as alternative formats for such ballots
 595 become available and the Division of Elections is able to
 596 certify systems that provide them. ~~The department may, pursuant~~
 597 ~~to ss. 120.536(1) and 120.54, adopt rules to administer this~~
 598 ~~section.~~ Whenever possible, such forms, with the exception of
 599 absentee ballots, shall be made available by the Department of
 600 State via the Internet. Sections that contain such forms
 601 include, but are not limited to, ss. 97.051, 97.052, 97.053,
 602 97.057, 97.058, 97.0583, 97.071, 97.073, 97.1031, 98.075,
 603 99.021, 100.361, 100.371, 101.045, 101.171, 101.20, 101.6103,
 604 101.62, 101.64, 101.65, 101.657, 105.031, 106.023, and 106.087.

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

607 97.0555 Late registration.—An individual or accompanying
 608 family member who has been discharged or separated from the
 609 uniformed services or the Merchant Marine, or from employment
 610 outside the territorial limits of the United States, after the
 611 book-closing date for an election pursuant to s. 97.055 and who
 612 is otherwise qualified may register to vote in such election
 613 until 5 p.m. on the Friday before that election in the office of
 614 the supervisor of elections. Such persons must produce
 615 sufficient documentation showing evidence of qualifying for late
 616 registration pursuant to this section. ~~The Department of State~~

617 ~~shall adopt rules specifying documentation that is sufficient to~~
 618 ~~determine eligibility.~~

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

621 97.061 Special registration for electors requiring
 622 assistance.—

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

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

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

634 103.101 Presidential preference primary.—

635 (5) The state executive committee of each party, by rule
 636 adopted at least 60 days prior to the presidential preference
 637 primary election, shall determine the number, and establish
 638 procedures to be followed in the selection, of delegates and
 639 delegate alternates from among each candidate's supporters. A
 640 copy of any rule adopted by the executive committee shall be
 641 filed with the Department of State within 7 days after its
 642 adoption and shall become a public record. The Department of
 643 State shall review the procedures and shall notify the state
 644 executive committee of each political party of any ballot

PCB RRS 12-02

ORIGINAL

2012

645 | ~~limitations. The Department of State may promulgate rules for~~
 646 | ~~the orderly conduct of the presidential preference primary~~
 647 | ~~ballet.~~

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

650 | 106.165 Use of closed captioning and descriptive narrative
 651 | in all television broadcasts.—Each candidate, political party,
 652 | affiliated party committee, and political committee must use
 653 | closed captioning and descriptive narrative in all television
 654 | broadcasts regulated by the Federal Communications Commission
 655 | that are on behalf of, or sponsored by, a candidate, political
 656 | party, affiliated party committee, or political committee or
 657 | must file a written statement with the qualifying officer
 658 | setting forth the reasons for not doing so. Failure to file this
 659 | statement with the appropriate qualifying officer constitutes a
 660 | violation of the Florida Election Code and is under the
 661 | jurisdiction of the Florida Elections Commission.—~~The Department~~
 662 | ~~of State may adopt rules in accordance with s. 120.54 which are~~
 663 | ~~necessary to administer this section.~~

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

666 | 110.1055 Rules and rulemaking authority.—The Department of
 667 | Management Services shall have authority to adopt rules as
 668 | necessary to effectuate the provisions of this chapter, ~~as~~
 669 | ~~amended by this act, and in accordance with the authority~~
 670 | ~~granted to the department in this chapter. All existing rules~~
 671 | ~~relating to this chapter are statutorily repealed January 1,~~
 672 | ~~2002, unless otherwise readopted.~~

PCB RRS 12-02

ORIGINAL

2012

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

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

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

679 110.12301 Competitive procurement of postpayment claims
 680 review services.—

681 The Division of State Group Insurance is directed to
 682 competitively procure:

683 (2) A contingency-based contract for dependent eligibility
 684 verification services for the state group insurance program;
 685 however, compensation under the contract may not exceed
 686 historical claim costs for the prior 12 months for the dependent
 687 populations disenrolled as a result of the vendor's services.

688 The division may establish a 3-month grace period and hold
 689 subscribers harmless for past claims of ineligible dependents.

690 The Department of Management Services shall submit budget
 691 amendments pursuant to chapter 216 in order to obtain budget
 692 authority necessary to expend funds from the State Employees'
 693 Group Health Self-Insurance Trust Fund for payments to the
 694 vendor as provided in the contract. ~~The Department of Management~~
 695 ~~Services shall adopt rules providing a process for verifying~~
 696 ~~dependent eligibility.~~

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

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

PCB RRS 12-02

ORIGINAL

2012

701 118.12 Certification of civil-law notary's authority;
 702 apostilles.—If certification of a civil-law notary's authority
 703 is necessary for a particular document or transaction, it must
 704 be obtained from the Secretary of State. Upon the receipt of a
 705 written request from a civil-law notary and the fee prescribed
 706 by the Secretary of State, the Secretary of State shall issue a
 707 certification of the civil-law notary's authority, in a form
 708 prescribed by the Secretary of State, which shall include a
 709 statement explaining the legal qualifications and authority of a
 710 civil-law notary in this state. The fee prescribed for the
 711 issuance of the certification under this section or an apostille
 712 under s. 15.16 may not exceed \$10 per document. ~~The Department~~
 713 ~~of State may adopt rules to implement this section.~~

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

716 Section 37. Paragraph (b) of subsection (4) of section
 717 121.1001, Florida Statutes, is repealed.

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

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

722 121.5911 Disability retirement program; qualified status;
 723 rulemaking authority.—It is the intent of the Legislature that
 724 the disability retirement program for members of the Florida
 725 Retirement System Investment Plan meet all applicable
 726 requirements of federal law for a qualified plan. The department
 727 shall seek a private letter ruling from the Internal Revenue
 728 Service on the disability retirement program. ~~Consistent with~~

729 ~~the private letter ruling, the department shall adopt rules~~
 730 ~~necessary to maintain the qualified status of the disability~~
 731 ~~retirement program and the Florida Retirement System Pension~~
 732 ~~Plan.~~

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

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

737 Section 42. Paragraph (a) of subsection (2) of section
 738 159.8081, Florida Statutes, is amended to read:

739 159.8081 Manufacturing facility bond pool.—

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

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

759 159.8083 Florida First Business allocation pool.—The
 760 Florida First Business allocation pool is hereby established.
 761 The Florida First Business allocation pool shall be available
 762 solely to provide written confirmation for private activity
 763 bonds to finance Florida First Business projects certified by
 764 the Department of Economic Opportunity as eligible to receive a
 765 written confirmation. Allocations from such pool shall be
 766 awarded statewide pursuant to procedures specified in s.
 767 159.805, except that the provisions of s. 159.805(2), (3), and
 768 (6) do not apply. Florida First Business projects that are
 769 eligible for a carryforward do not lose their allocation
 770 pursuant to s. 159.809(3) on October 1, or pursuant to s.
 771 159.809(4) on November 16, if they have applied for and have
 772 been granted a carryforward by the division pursuant to s.
 773 159.81(1). In issuing written confirmations of allocations for
 774 Florida First Business projects, the division shall use the
 775 Florida First Business allocation pool. If allocation is not
 776 available from the Florida First Business allocation pool, the
 777 division shall issue written confirmations of allocations for
 778 Florida First Business projects pursuant to s. 159.806 or s.
 779 159.807, in such order. For the purpose of determining priority
 780 within a regional allocation pool or the state allocation pool,
 781 notices of intent to issue bonds for Florida First Business
 782 projects to be issued from a regional allocation pool or the
 783 state allocation pool shall be considered to have been received
 784 by the division at the time it is determined by the division

785 that the Florida First Business allocation pool is unavailable
 786 to issue confirmation for such Florida First Business project.
 787 If the total amount requested in notices of intent to issue
 788 private activity bonds for Florida First Business projects
 789 exceeds the total amount of the Florida First Business
 790 allocation pool, the director shall forward all timely notices
 791 of intent to issue, which are received by the division for such
 792 projects, to the Department of Economic Opportunity, which shall
 793 render a decision as to which notices of intent to issue are to
 794 receive written confirmations. ~~The Department of Economic~~
 795 ~~Opportunity, in consultation with the division, shall develop~~
 796 ~~rules to ensure that the allocation provided in such pool is~~
 797 ~~available solely to provide written confirmations for private~~
 798 ~~activity bonds to finance Florida First Business projects and~~
 799 ~~that such projects are feasible and financially solvent.~~

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

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

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

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

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

809 Section 49. Paragraph (e) of subsection (2) of section
 810 177.504, Florida Statutes, is repealed.

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

PCB RRS 12-02

ORIGINAL

2012

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

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

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

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

821 366.85 Responsibilities of Division of Consumer Services.—
 822 The Division of Consumer Services of the Department of
 823 Agriculture and Consumer Services shall be the agency
 824 responsible for consumer conciliatory conferences, if such
 825 conferences are required pursuant to federal law. The division
 826 shall also be the agency responsible for preparing lists of
 827 sources for energy conservation products or services and of
 828 financial institutions offering energy conservation loans, if
 829 such lists are required pursuant to federal law. Notwithstanding
 830 any provision of federal law to the contrary, the division shall
 831 not require any manufacturer's warranty exceeding 1 year in
 832 order for a source of conservation products or services to be
 833 included on the appropriate list. The lists shall be prepared
 834 for the service area of each utility and shall be furnished to
 835 each utility for distribution to its customers. The division
 836 shall update the lists on a systematic basis and shall remove
 837 from any list any person who has been disciplined by any state
 838 agency or who has otherwise exhibited a pattern of
 839 unsatisfactory work and any person who requests removal from
 840 such lists. ~~The division is authorized to adopt rules to~~

PCB RRS 12-02

ORIGINAL

2012

841 ~~implement the provisions of this section.~~

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

844 Section 56. Paragraphs (d) and (e) of subsection (4) of
 845 section 411.01, Florida Statutes, are amended to read:

846 411.01 School readiness programs; early learning
 847 coalitions.—

848 (4) OFFICE OF EARLY LEARNING OF THE DEPARTMENT OF
 849 EDUCATION.—

850 (d) The Office of Early Learning shall:

851 1. Be responsible for the prudent use of all public and
 852 private funds in accordance with all legal and contractual
 853 requirements.

854 2. Provide final approval and every 2 years review early
 855 learning coalitions and school readiness plans.

856 3. Establish a unified approach to the state's efforts
 857 toward enhancement of school readiness. In support of this
 858 effort, the Office of Early Learning shall adopt specific system
 859 support services that address the state's school readiness
 860 programs. An early learning coalition shall amend its school
 861 readiness plan to conform to the specific system support
 862 services adopted by the Office of Early Learning. System support
 863 services shall include, ~~but are not limited to:~~

- 864 a. Child care resource and referral services;
- 865 b. Warm-Line services;
- 866 c. Eligibility determinations;
- 867 d. ~~Child performance standards;~~
- 868 e. ~~Child screening and assessment;~~

869 ~~f. Developmentally appropriate curricula;~~
 870 ~~g. Health and safety requirements~~ requiring compliance
 871 with applicable licensure requirements of the Department of
 872 Children and Families; and
 873 ~~h. e. Statewide data system requirements; and~~
 874 ~~i. Rating and improvement systems.~~
 875 4. Safeguard the effective use of federal, state, local,
 876 and private resources to achieve the highest possible level of
 877 school readiness for the children in this state.
 878 5. Adopt a rule establishing criteria for the expenditure
 879 of funds designated for the purpose of funding activities to
 880 improve the quality of child care within the state but only as
 881 necessary to comply in accordance with s. 658G of the federal
 882 Child Care and Development Block Grant Act.
 883 6. Provide technical assistance to early learning
 884 coalitions in a manner determined by the Office of Early
 885 Learning based upon information obtained by the office from
 886 various sources, including, but not limited to, public input,
 887 government reports, private interest group reports, office
 888 monitoring visits, and coalition requests for service.
 889 7. In cooperation with the early learning coalitions,
 890 coordinate with the Child Care Services Program Office of the
 891 Department of Children and Family Services to minimize
 892 duplicating interagency activities, health and safety
 893 monitoring, and acquiring and composing data pertaining to child
 894 care training and credentialing.
 895 8. Develop and adopt performance standards and outcome
 896 measures for school readiness programs. The performance

897 standards must address the age-appropriate progress of children
 898 in the development of school readiness skills. The performance
 899 standards for children from birth to 5 years of age in school
 900 readiness programs must be integrated with the performance
 901 standards adopted by the Department of Education for children in
 902 the Voluntary Prekindergarten Education Program under s.
 903 1002.67.

904 9. Adopt a standard contract that must be used by the
 905 coalitions when contracting with school readiness providers.

906 (e) The Office of Early Learning may adopt rules under ss.
 907 120.536(1) and 120.54 to administer the provisions of law
 908 conferring duties upon the office, including, but not limited
 909 to, rules governing the administration of system support
 910 services of school readiness programs, the collection of data,
 911 the approval of early learning coalitions and school readiness
 912 plans, the provision of a method whereby an early learning
 913 coalition may serve two or more counties, ~~the award of~~
 914 ~~incentives to early learning coalitions, child performance~~
 915 ~~standards, child outcome measures,~~ the issuance of waivers, and
 916 the implementation of the state's Child Care and Development
 917 Fund Plan as approved by the federal Administration for Children
 918 and Families.

919 Section 57. Subsection (7) of section 411.01013, Florida
 920 Statutes, is repealed.

921 Section 58. Subsection (3) of section 411.0103, Florida
 922 Statutes, is repealed.

923 Section 59. Subsection (3) of section 411.0104, Florida
 924 Statutes, is repealed.

PCB RRS 12-02

ORIGINAL

2012

925 Section 60. Subsections (1) and (3) of section 501.142,
 926 Florida Statutes, are amended to read:

927 501.142 Retail sales establishments; preemption; notice of
 928 refund policy; exceptions; penalty.—

929 (1) The regulation of refunds is preempted to the
 930 Department of Agriculture and Consumer Services notwithstanding
 931 any other law or local ordinance to the contrary. Every retail
 932 sales establishment offering goods for sale to the general
 933 public that offers no cash refund, credit refund, or exchange of
 934 merchandise must post a sign so stating at the point of sale.
 935 Failure of a retail sales establishment to exhibit a "no refund"
 936 sign under such circumstances at the point of sale shall mean
 937 that a refund or exchange policy exists, and the policy shall be
 938 presented in writing to the consumer upon request. Any retail
 939 establishment failing to comply with the provisions of this
 940 section shall grant to the consumer, upon request and proof of
 941 purchase, a refund on the merchandise, within 7 days of the date
 942 of purchase, provided the merchandise is unused and in the
 943 original carton, if one was furnished. Nothing herein shall
 944 prohibit a retail sales establishment from having a refund
 945 policy which exceeds the number of days specified herein. ~~The~~
 946 ~~department may adopt rules pursuant to ss. 120.536(1) and 120.54~~
 947 ~~to enforce the provisions of this section.~~ However, this
 948 subsection does not prohibit a local government from enforcing
 949 the provisions established by this section ~~or department rule.~~

950 (3) The department may enter an order doing one or more of
 951 the following if the department finds that a person has violated
 952 or is operating in violation of any of the provisions of this

PCB RRS 12-02

ORIGINAL

2012

953 section or the ~~rules or~~ orders issued under this section:
 954 ~~(a) Issue a notice of noncompliance pursuant to s.~~
 955 ~~120.695.~~
 956 (a) ~~(b)~~ Impose an administrative fine not to exceed \$100
 957 for each violation.
 958 (b) ~~(e)~~ Direct the person to cease and desist specified
 959 activities.
 960 Section 61. This act shall take effect July 1, 2012.