

1 A reviser's bill to be entitled
 2 An act relating to the Florida Statutes; amending ss.
 3 106.25, 110.201, 120.525, 120.54, 120.542, 120.545,
 4 120.555, 120.56, 120.565, 120.63, 120.745, 120.80,
 5 120.81, 155.40, 159.703, 161.053, 202.22, 215.555,
 6 252.62, 252.63, 255.0525, 280.11, 310.151, 320.642,
 7 334.30, 339.135, 339.155, 343.875, 343.962, 348.0004,
 8 349.22, 366.04, 373.036, 373.044, 373.103, 373.4131,
 9 378.212, 379.2431, 380.05, 395.003, 403.201, 403.805,
 10 403.8055, 403.9411, 403.9422, 408.039, 409.912,
 11 493.6104, 553.775, 561.19, 570.247, 601.152, 627.091,
 12 633.0215, 633.026, 658.26, 766.105, 791.013, 957.12,
 13 and 1006.33, F.S., to conform to the directive of the
 14 Legislature in section 3 of chapter 2012-63, Laws of
 15 Florida, to prepare a reviser's bill for the 2013
 16 Regular Session of the Legislature to substitute the
 17 term "Florida Administrative Register" for the term
 18 "Florida Administrative Weekly" throughout the Florida
 19 Statutes; providing an effective date.

20
 21 Be It Enacted by the Legislature of the State of Florida:

22
 23 Section 1. Subsection (7) of section 106.25, Florida
 24 Statutes, is amended to read:
 25 106.25 Reports of alleged violations to Florida Elections
 26 Commission; disposition of findings.—
 27 (7) Every sworn complaint filed pursuant to this chapter
 28 with the commission, every investigation and investigative

29 | report or other paper of the commission with respect to a
30 | violation of this chapter or chapter 104, and every proceeding
31 | of the commission with respect to a violation of this chapter or
32 | chapter 104 is confidential, is exempt from the provisions of
33 | ss. 119.07(1) and 286.011, and is exempt from publication in the
34 | Florida Administrative Register ~~Weekly~~ of any notice or agenda
35 | with respect to any proceeding relating to such violation,
36 | except under the following circumstances:

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

43 |
44 | However, a complainant is not bound by the confidentiality
45 | provisions of this section. In addition, confidentiality may be
46 | waived in writing by the person against whom the complaint has
47 | been filed or the investigation has been initiated. If a finding
48 | of probable cause in a case is entered within 30 days prior to
49 | the date of the election with respect to which the alleged
50 | violation occurred, such finding and the proceedings and records
51 | relating to such case shall not become public until noon of the
52 | day following such election. When two or more persons are being
53 | investigated by the commission with respect to an alleged
54 | violation of this chapter or chapter 104, the commission may not
55 | publicly enter a finding of probable cause or no probable cause
56 | in the case until a finding of probable cause or no probable

57 | cause for the entire case has been determined. However, once the
 58 | confidentiality of any case has been breached, the person or
 59 | persons under investigation have the right to waive the
 60 | confidentiality of the case, thereby opening up the proceedings
 61 | and records to the public. Any person who discloses any
 62 | information or matter made confidential by the provisions of
 63 | this subsection commits a misdemeanor of the first degree,
 64 | punishable as provided in s. 775.082 or s. 775.083.

65 | Section 2. Paragraph (b) of subsection (1) of section
 66 | 110.201, Florida Statutes, is amended to read:

67 | 110.201 Personnel rules, records, and reports.—

68 | (1)

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

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

81 | 120.525 Meetings, hearings, and workshops.—

82 | (1) Except in the case of emergency meetings, each agency
 83 | shall give notice of public meetings, hearings, and workshops by
 84 | publication in the Florida Administrative Register ~~Weekly~~ and on

85 the agency's website not less than 7 days before the event. The
 86 notice shall include a statement of the general subject matter
 87 to be considered.

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

94 120.54 Rulemaking.—

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

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

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

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

110 a. The material has been submitted in the prescribed
 111 electronic format to the Department of State and the full text
 112 of the material can be made available for free public access

113 through an electronic hyperlink from the rule making the
 114 reference in the Florida Administrative Code; or

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

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

125 5. Notwithstanding any contrary provision in this section,
 126 when an adopted rule of the Department of Environmental
 127 Protection or a water management district is incorporated by
 128 reference in the other agency's rule to implement a provision of
 129 part IV of chapter 373, subsequent amendments to the rule are
 130 not effective as to the incorporating rule unless the agency
 131 incorporating by reference notifies the committee and the
 132 Department of State of its intent to adopt the subsequent
 133 amendment, publishes notice of such intent in the Florida
 134 Administrative Register ~~Weekly~~, and files with the Department of
 135 State a copy of the amended rule incorporated by reference.
 136 Changes in the rule incorporated by reference are effective as
 137 to the other agency 20 days after the date of the published
 138 notice and filing with the Department of State. The Department
 139 of State shall amend the history note of the incorporating rule
 140 to show the effective date of such change. Any substantially

141 affected person may, within 14 days after the date of
 142 publication of the notice of intent in the Florida
 143 Administrative Register ~~Weekly~~, file an objection to rulemaking
 144 with the agency. The objection shall specify the portions of the
 145 rule incorporated by reference to which the person objects and
 146 the reasons for the objection. The agency shall not have the
 147 authority under this subparagraph to adopt those portions of the
 148 rule specified in such objection. The agency shall publish
 149 notice of the objection and of its action in response in the
 150 next available issue of the Florida Administrative Register
 151 ~~Weekly~~.

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

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

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

167 (c) An agency may hold public workshops for purposes of
 168 rule development. An agency must hold public workshops,

PCB RCC 13-04

ORIGINAL

2013

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

190 (d)1. An agency may use negotiated rulemaking in
191 developing and adopting rules. The agency should consider the
192 use of negotiated rulemaking when complex rules are being
193 drafted or strong opposition to the rules is anticipated. The
194 agency should consider, but is not limited to considering,
195 whether a balanced committee of interested persons who will
196 negotiate in good faith can be assembled, whether the agency is

197 willing to support the work of the negotiating committee, and
 198 whether the agency can use the group consensus as the basis for
 199 its proposed rule. Negotiated rulemaking uses a committee of
 200 designated representatives to draft a mutually acceptable
 201 proposed rule.

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

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

220 (3) ADOPTION PROCEDURES.—

221 (a) Notices.—

222 1. Prior to the adoption, amendment, or repeal of any rule
 223 other than an emergency rule, an agency, upon approval of the
 224 agency head, shall give notice of its intended action, setting

225 | forth a short, plain explanation of the purpose and effect of
 226 | the proposed action; the full text of the proposed rule or
 227 | amendment and a summary thereof; a reference to the grant of
 228 | rulemaking authority pursuant to which the rule is adopted; and
 229 | a reference to the section or subsection of the Florida Statutes
 230 | or the Laws of Florida being implemented or interpreted. The
 231 | notice must include a summary of the agency's statement of the
 232 | estimated regulatory costs, if one has been prepared, based on
 233 | the factors set forth in s. 120.541(2); a statement that any
 234 | person who wishes to provide the agency with information
 235 | regarding the statement of estimated regulatory costs, or to
 236 | provide a proposal for a lower cost regulatory alternative as
 237 | provided by s. 120.541(1), must do so in writing within 21 days
 238 | after publication of the notice; and a statement as to whether,
 239 | based on the statement of the estimated regulatory costs or
 240 | other information expressly relied upon and described by the
 241 | agency if no statement of regulatory costs is required, the
 242 | proposed rule is expected to require legislative ratification
 243 | pursuant to s. 120.541(3). The notice must state the procedure
 244 | for requesting a public hearing on the proposed rule. Except
 245 | when the intended action is the repeal of a rule, the notice
 246 | must include a reference both to the date on which and to the
 247 | place where the notice of rule development that is required by
 248 | subsection (2) appeared.

249 | 2. The notice shall be published in the Florida
 250 | Administrative Register ~~Weekly~~ not less than 28 days prior to
 251 | the intended action. The proposed rule shall be available for
 252 | inspection and copying by the public at the time of the

253 publication of notice.

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

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

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

271 1. After the final public hearing on the proposed rule, or
 272 after the time for requesting a hearing has expired, if the rule
 273 has not been changed from the rule as previously filed with the
 274 committee, or contains only technical changes, the adopting
 275 agency shall file a notice to that effect with the committee at
 276 least 7 days prior to filing the rule for adoption. Any change,
 277 other than a technical change that does not affect the substance
 278 of the rule, must be supported by the record of public hearings
 279 held on the rule, must be in response to written material
 280 submitted to the agency within 21 days after the date of

281 publication of the notice of intended agency action or submitted
 282 to the agency between the date of publication of the notice and
 283 the end of the final public hearing, or must be in response to a
 284 proposed objection by the committee. In addition, when any
 285 change is made in a proposed rule, other than a technical
 286 change, the adopting agency shall provide a copy of a notice of
 287 change by certified mail or actual delivery to any person who
 288 requests it in writing no later than 21 days after the notice
 289 required in paragraph (a). The agency shall file the notice of
 290 change with the committee, along with the reasons for the
 291 change, and provide the notice of change to persons requesting
 292 it, at least 21 days prior to filing the rule for adoption. The
 293 notice of change shall be published in the Florida
 294 Administrative Register ~~Weekly~~ at least 21 days prior to filing
 295 the rule for adoption. This subparagraph does not apply to
 296 emergency rules adopted pursuant to subsection (4).

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

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

- 302 a. When the committee objects to the rule;
- 303 b. When a final order, which is not subject to further
 304 appeal, is entered in a rule challenge brought pursuant to s.
 305 120.56 after the date of adoption but before the rule becomes
 306 effective pursuant to subparagraph (e)6.;
- 307 c. If the rule requires ratification, when more than 90
 308 days have passed since the rule was filed for adoption without

309 | the Legislature ratifying the rule, in which case the rule may
 310 | be withdrawn but may not be modified; or

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

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

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

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

326 | 1. If the adopting agency is required to publish its rules
 327 | in the Florida Administrative Code, the agency, upon approval of
 328 | the agency head, shall file with the Department of State three
 329 | certified copies of the rule it proposes to adopt; one copy of
 330 | any material incorporated by reference in the rule, certified by
 331 | the agency; a summary of the rule; a summary of any hearings
 332 | held on the rule; and a detailed written statement of the facts
 333 | and circumstances justifying the rule. Agencies not required to
 334 | publish their rules in the Florida Administrative Code shall
 335 | file one certified copy of the proposed rule, and the other
 336 | material required by this subparagraph, in the office of the

337 agency head, and such rules shall be open to the public.

338 2. A rule may not be filed for adoption less than 28 days

339 or more than 90 days after the notice required by paragraph (a),

340 until 21 days after the notice of change required by paragraph

341 (d), until 14 days after the final public hearing, until 21 days

342 after a statement of estimated regulatory costs required under

343 s. 120.541 has been provided to all persons who submitted a

344 lower cost regulatory alternative and made available to the

345 public, or until the administrative law judge has rendered a

346 decision under s. 120.56(2), whichever applies. When a required

347 notice of change is published prior to the expiration of the

348 time to file the rule for adoption, the period during which a

349 rule must be filed for adoption is extended to 45 days after the

350 date of publication. If notice of a public hearing is published

351 prior to the expiration of the time to file the rule for

352 adoption, the period during which a rule must be filed for

353 adoption is extended to 45 days after adjournment of the final

354 hearing on the rule, 21 days after receipt of all material

355 authorized to be submitted at the hearing, or 21 days after

356 receipt of the transcript, if one is made, whichever is latest.

357 The term "public hearing" includes any public meeting held by

358 any agency at which the rule is considered. If a petition for an

359 administrative determination under s. 120.56(2) is filed, the

360 period during which a rule must be filed for adoption is

361 extended to 60 days after the administrative law judge files the

362 final order with the clerk or until 60 days after subsequent

363 judicial review is complete.

364 3. At the time a rule is filed, the agency shall certify

365 that the time limitations prescribed by this paragraph have been
366 complied with, that all statutory rulemaking requirements have
367 been met, and that there is no administrative determination
368 pending on the rule.

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

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

386 6. The proposed rule shall be adopted on being filed with
387 the Department of State and become effective 20 days after being
388 filed, on a later date specified in the notice required by
389 subparagraph (a)1., on a date required by statute, or upon
390 ratification by the Legislature pursuant to s. 120.541(3). Rules
391 not required to be filed with the Department of State shall
392 become effective when adopted by the agency head, on a later

393 date specified by rule or statute, or upon ratification by the
 394 Legislature pursuant to s. 120.541(3). If the committee notifies
 395 an agency that an objection to a rule is being considered, the
 396 agency may postpone the adoption of the rule to accommodate
 397 review of the rule by the committee. When an agency postpones
 398 adoption of a rule to accommodate review by the committee, the
 399 90-day period for filing the rule is tolled until the committee
 400 notifies the agency that it has completed its review of the
 401 rule.

402
 403 For the purposes of this paragraph, the term "administrative
 404 determination" does not include subsequent judicial review.

405 (4) EMERGENCY RULES.—

406 (a) If an agency finds that an immediate danger to the
 407 public health, safety, or welfare requires emergency action, the
 408 agency may adopt any rule necessitated by the immediate danger.
 409 The agency may adopt a rule by any procedure which is fair under
 410 the circumstances if:

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

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

416 3. The agency publishes in writing at the time of, or
 417 prior to, its action the specific facts and reasons for finding
 418 an immediate danger to the public health, safety, or welfare and
 419 its reasons for concluding that the procedure used is fair under
 420 the circumstances. In any event, notice of emergency rules,

421 other than those of educational units or units of government
 422 with jurisdiction in only one or a part of one county, including
 423 the full text of the rules, shall be published in the first
 424 available issue of the Florida Administrative Register ~~Weekly~~
 425 and provided to the committee along with any material
 426 incorporated by reference in the rules. The agency's findings of
 427 immediate danger, necessity, and procedural fairness shall be
 428 judicially reviewable.

429 (5) UNIFORM RULES.—

430 (a)1. By July 1, 1997, the Administration Commission shall
 431 adopt one or more sets of uniform rules of procedure which shall
 432 be reviewed by the committee and filed with the Department of
 433 State. Agencies must comply with the uniform rules by July 1,
 434 1998. The uniform rules shall establish procedures that comply
 435 with the requirements of this chapter. On filing with the
 436 department, the uniform rules shall be the rules of procedure
 437 for each agency subject to this chapter unless the
 438 Administration Commission grants an exception to the agency
 439 under this subsection.

440 2. An agency may seek exceptions to the uniform rules of
 441 procedure by filing a petition with the Administration
 442 Commission. The Administration Commission shall approve
 443 exceptions to the extent necessary to implement other statutes,
 444 to the extent necessary to conform to any requirement imposed as
 445 a condition precedent to receipt of federal funds or to permit
 446 persons in this state to receive tax benefits under federal law,
 447 or as required for the most efficient operation of the agency as
 448 determined by the Administration Commission. The reasons for the

449 exceptions shall be published in the Florida Administrative
 450 Register ~~Weekly~~.

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

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

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

466 2. Uniform rules for use by each state agency that provide
 467 procedures for conducting public meetings, hearings, and
 468 workshops, and for taking evidence, testimony, and argument at
 469 such public meetings, hearings, and workshops, in person and by
 470 means of communications media technology. The rules shall
 471 provide that all evidence, testimony, and argument presented
 472 shall be afforded equal consideration, regardless of the method
 473 of communication. If a public meeting, hearing, or workshop is
 474 to be conducted by means of communications media technology, or
 475 if attendance may be provided by such means, the notice shall so
 476 state. The notice for public meetings, hearings, and workshops

477 utilizing communications media technology shall state how
 478 persons interested in attending may do so and shall name
 479 locations, if any, where communications media technology
 480 facilities will be available. Nothing in this paragraph shall be
 481 construed to diminish the right to inspect public records under
 482 chapter 119. Limiting points of access to public meetings,
 483 hearings, and workshops subject to the provisions of s. 286.011
 484 to places not normally open to the public shall be presumed to
 485 violate the right of access of the public, and any official
 486 action taken under such circumstances is void and of no effect.
 487 Other laws relating to public meetings, hearings, and workshops,
 488 including penal and remedial provisions, shall apply to public
 489 meetings, hearings, and workshops conducted by means of
 490 communications media technology, and shall be liberally
 491 construed in their application to such public meetings,
 492 hearings, and workshops. As used in this subparagraph,
 493 "communications media technology" means the electronic
 494 transmission of printed matter, audio, full-motion video,
 495 freeze-frame video, compressed video, and digital video by any
 496 method available.

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

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

504 a. The identification of the petitioner, including the

505 petitioner's e-mail address, if any, for the transmittal of
 506 subsequent documents by electronic means.

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

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

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

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

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

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

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

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

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

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

542
 543 The agency may provide an election-of-rights form for the
 544 respondent's use in requesting a hearing, so long as any form
 545 provided by the agency calls for the information in sub-
 546 subparagraphs a. through c. and does not impose any additional
 547 requirements on a respondent in order to request a hearing,
 548 unless such requirements are specifically authorized by law.

549 6. Uniform rules of procedure for the filing and prompt
 550 disposition of petitions for declaratory statements. The rules
 551 shall also describe the contents of the notices that must be
 552 published in the Florida Administrative Register ~~Weekly~~ under s.
 553 120.565, including any applicable time limit for the filing of
 554 petitions to intervene or petitions for administrative hearing
 555 by persons whose substantial interests may be affected.

556 7. Provision of a method by which each agency head shall
 557 provide a description of the agency's organization and general
 558 course of its operations. The rules shall require that the
 559 statement concerning the agency's organization and operations be
 560 published on the agency's website.

561 8. Uniform rules establishing procedures for granting or
 562 denying petitions for variances and waivers pursuant to s.
 563 120.542.

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

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

583 (d) Whenever any federal regulation adopted as an agency
 584 rule pursuant to this subsection is declared invalid or is
 585 withdrawn, revoked, repealed, remanded, or suspended, the agency
 586 shall, within 60 days thereafter, publish a notice of repeal of
 587 the substantively identical agency rule in the Florida
 588 Administrative Register ~~Weekly~~. Such repeal is effective upon

589 publication of the notice. Whenever any federal regulation
 590 adopted as an agency rule pursuant to this subsection is
 591 substantially amended, the agency may adopt the amended
 592 regulation as a rule. If the amended regulation is not adopted
 593 as a rule within 180 days after the effective date of the
 594 amended regulation, the original rule is deemed repealed and the
 595 agency shall publish a notice of repeal of the original agency
 596 rule in the next available Florida Administrative Register
 597 ~~Weekly~~.

598 (7) PETITION TO INITIATE RULEMAKING.—

599 (b) If the petition filed under this subsection is
 600 directed to an unadopted rule, the agency shall, not later than
 601 30 days following the date of filing a petition, initiate
 602 rulemaking, or provide notice in the Florida Administrative
 603 Register ~~Weekly~~ that the agency will hold a public hearing on
 604 the petition within 30 days after publication of the notice. The
 605 purpose of the public hearing is to consider the comments of the
 606 public directed to the agency rule which has not been adopted by
 607 the rulemaking procedures or requirements of this chapter, its
 608 scope and application, and to consider whether the public
 609 interest is served adequately by the application of the rule on
 610 a case-by-case basis, as contrasted with its adoption by the
 611 rulemaking procedures or requirements set forth in this chapter.

612 (c) Within 30 days following the public hearing provided
 613 for by paragraph (b), if the agency does not initiate rulemaking
 614 or otherwise comply with the requested action, the agency shall
 615 publish in the Florida Administrative Register ~~Weekly~~ a
 616 statement of its reasons for not initiating rulemaking or

617 otherwise complying with the requested action, and of any
 618 changes it will make in the scope or application of the
 619 unadopted rule. The agency shall file the statement with the
 620 committee. The committee shall forward a copy of the statement
 621 to the substantive committee with primary oversight jurisdiction
 622 of the agency in each house of the Legislature. The committee or
 623 the committee with primary oversight jurisdiction may hold a
 624 hearing directed to the statement of the agency. The committee
 625 holding the hearing may recommend to the Legislature the
 626 introduction of legislation making the rule a statutory standard
 627 or limiting or otherwise modifying the authority of the agency.

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

630 120.542 Variances and waivers.—

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

641 (8) An agency shall grant or deny a petition for variance
 642 or waiver within 90 days after receipt of the original petition,
 643 the last item of timely requested additional material, or the
 644 petitioner's written request to finish processing the petition.

645 A petition not granted or denied within 90 days after receipt of
 646 a completed petition is deemed approved. A copy of the order
 647 granting or denying the petition shall be filed with the
 648 committee and shall contain a statement of the relevant facts
 649 and reasons supporting the agency's action. The agency shall
 650 provide notice of the disposition of the petition to the
 651 Department of State, which shall publish the notice in the next
 652 available issue of the Florida Administrative Register Weekly.
 653 The notice shall contain the name of the petitioner, the date
 654 the petition was filed, the rule number and nature of the rule
 655 from which the waiver or variance is sought, a reference to the
 656 place and date of publication of the notice of the petition, the
 657 date of the order denying or approving the variance or waiver,
 658 the general basis for the agency decision, and an explanation of
 659 how a copy of the order can be obtained. The agency's decision
 660 to grant or deny the petition shall be supported by competent
 661 substantial evidence and is subject to ss. 120.569 and 120.57.
 662 Any proceeding pursuant to ss. 120.569 and 120.57 in regard to a
 663 variance or waiver shall be limited to the agency action on the
 664 request for the variance or waiver, except that a proceeding in
 665 regard to a variance or waiver may be consolidated with any
 666 other proceeding authorized by this chapter.

667 Section 6. Paragraph (c) of subsection (3), subsections
 668 (4) and (7), and paragraph (b) of subsection (8) of section
 669 120.545, Florida Statutes, are amended to read:

670 120.545 Committee review of agency rules.—

671 (3) Within 30 days after receipt of the objection, if the
 672 agency is headed by an individual, or within 45 days after

673 receipt of the objection, if the agency is headed by a collegial
 674 body, the agency shall:

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

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

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

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

695 (7) If the committee objects to a rule and the agency
 696 refuses to modify, amend, withdraw, or repeal the rule, the
 697 committee shall file with the Department of State a notice of
 698 the objection, detailing with particularity the committee's
 699 objection to the rule. The Department of State shall publish
 700 this notice in the Florida Administrative Register Weekly. If

701 the rule is published in the Florida Administrative Code, a
 702 reference to the committee's objection and to the issue of the
 703 Florida Administrative Register ~~Weekly~~ in which the full text
 704 thereof appears shall be recorded in a history note.

705 (8)

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

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

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

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

723 3. If the agency elects to temporarily suspend the rule or
 724 suspend the adoption of the proposed rule, the agency shall give
 725 notice of the suspension in the Florida Administrative Register
 726 ~~Weekly~~. The rule or the rule adoption process shall be suspended
 727 upon publication of the notice. An agency may not base any
 728 agency action on a suspended rule or suspended proposed rule, or

729 | portion of such rule, prior to expiration of the suspension. A
 730 | suspended rule or suspended proposed rule, or portion of such
 731 | rule, continues to be subject to administrative determination
 732 | and judicial review as provided by law.

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

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

740 | 120.555 Summary removal of published rules no longer in
 741 | force and effect.—When, as part of the continuous revision
 742 | system authorized in s. 120.55(1)(a)1. or as otherwise provided
 743 | by law, the Department of State is in doubt whether a rule
 744 | published in the official version of the Florida Administrative
 745 | Code is still in full force and effect, the procedure in this
 746 | section shall be employed.

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

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

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

766 (b) Any objection to the summary repeal under this section
 767 must be filed as a petition challenging a proposed rule under s.
 768 120.56 and must be filed no later than 21 days after the date
 769 the notice is published in the Florida Administrative Register
 770 ~~Weekly~~.

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

774 120.56 Challenges to rules.—

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

776 (b) The administrative law judge may declare the proposed
 777 rule wholly or partly invalid. Unless the decision of the
 778 administrative law judge is reversed on appeal, the proposed
 779 rule or provision of a proposed rule declared invalid shall not
 780 be adopted. After a petition for administrative determination
 781 has been filed, the agency may proceed with all other steps in
 782 the rulemaking process, including the holding of a factfinding
 783 hearing. In the event part of a proposed rule is declared
 784 invalid, the adopting agency may, in its sole discretion,

785 withdraw the proposed rule in its entirety. The agency whose
 786 proposed rule has been declared invalid in whole or part shall
 787 give notice of the decision in the first available issue of the
 788 Florida Administrative Register ~~Weekly~~.

789 (3) CHALLENGING EXISTING RULES; SPECIAL PROVISIONS.—

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

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

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

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

808 120.565 Declaratory statement by agencies.—

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

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

818 Section 10. Paragraph (a) of subsection (2) of section
 819 120.63, Florida Statutes, is amended to read:

820 120.63 Exemption from act.—

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

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

838 Section 11. Paragraph (b) of subsection (7) of section
 839 120.745, Florida Statutes, is amended to read:

840 120.745 Legislative review of agency rules in effect on or

841 before November 16, 2010.—

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

846 (b)1. Each notice shall be published using the following
 847 URL format:

848 [Address of agency's Internet website]/
 849 2011_Rule_review/Notices.

850 (Example:

851 http://www.dos.state.fl.us/2011_Rule_review/Notices).

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

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

860 a. The name of the agency.

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

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

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

869 Section 12. Paragraph (a) of subsection (3) of section
 870 120.80, Florida Statutes, is amended to read:
 871 120.80 Exceptions and special requirements; agencies.—
 872 (3) OFFICE OF FINANCIAL REGULATION.—
 873 (a) Notwithstanding s. 120.60(1), in proceedings for the
 874 issuance, denial, renewal, or amendment of a license or approval
 875 of a merger pursuant to title XXXVIII:
 876 1.a. The Office of Financial Regulation of the Financial
 877 Services Commission shall have published in the Florida
 878 Administrative Register ~~Weekly~~ notice of the application within
 879 21 days after receipt.
 880 b. Within 21 days after publication of notice, any person
 881 may request a hearing. Failure to request a hearing within 21
 882 days after notice constitutes a waiver of any right to a
 883 hearing. The Office of Financial Regulation or an applicant may
 884 request a hearing at any time prior to the issuance of a final
 885 order. Hearings shall be conducted pursuant to ss. 120.569 and
 886 120.57, except that the Financial Services Commission shall by
 887 rule provide for participation by the general public.
 888 2. Should a hearing be requested as provided by sub-
 889 subparagraph 1.b., the applicant or licensee shall publish at
 890 its own cost a notice of the hearing in a newspaper of general
 891 circulation in the area affected by the application. The
 892 Financial Services Commission may by rule specify the format and
 893 size of the notice.
 894 3. Notwithstanding s. 120.60(1), and except as provided in
 895 subparagraph 4., every application for license for a new bank,
 896 new trust company, new credit union, or new savings and loan

PCB RCC 13-04

ORIGINAL

2013

897 association shall be approved or denied within 180 days after
898 receipt of the original application or receipt of the timely
899 requested additional information or correction of errors or
900 omissions. Any application for such a license or for acquisition
901 of such control which is not approved or denied within the 180-
902 day period or within 30 days after conclusion of a public
903 hearing on the application, whichever is later, shall be deemed
904 approved subject to the satisfactory completion of conditions
905 required by statute as a prerequisite to license and approval of
906 insurance of accounts for a new bank, a new savings and loan
907 association, or a new credit union by the appropriate insurer.

908 4. In the case of every application for license to
909 establish a new bank, trust company, or capital stock savings
910 association in which a foreign national proposes to own or
911 control 10 percent or more of any class of voting securities,
912 and in the case of every application by a foreign national for
913 approval to acquire control of a bank, trust company, or capital
914 stock savings association, the Office of Financial Regulation
915 shall request that a public hearing be conducted pursuant to ss.
916 120.569 and 120.57. Notice of such hearing shall be published by
917 the applicant as provided in subparagraph 2. The failure of any
918 such foreign national to appear personally at the hearing shall
919 be grounds for denial of the application. Notwithstanding the
920 provisions of s. 120.60(1) and subparagraph 3., every
921 application involving a foreign national shall be approved or
922 denied within 1 year after receipt of the original application
923 or any timely requested additional information or the correction
924 of any errors or omissions, or within 30 days after the

925 conclusion of the public hearing on the application, whichever
 926 is later.

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

930 120.81 Exceptions and special requirements; general
 931 areas.—

932 (1) EDUCATIONAL UNITS.—

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

938 1. By publication in a newspaper of general circulation in
 939 the affected area;

940 2. By mail to all persons who have made requests of the
 941 educational unit for advance notice of its proceedings and to
 942 organizations representing persons affected by the proposed
 943 rule; and

944 3. By posting in appropriate places so that those
 945 particular classes of persons to whom the intended action is
 946 directed may be duly notified.

947 (2) LOCAL UNITS OF GOVERNMENT.—

948 (b) Notwithstanding any other provision of this chapter,
 949 units of government with jurisdiction in only one county or part
 950 thereof need not publish required notices in the Florida
 951 Administrative Register ~~Weekly~~, but shall publish these notices
 952 in the manner required by their enabling acts for notice of

953 rulemaking or notice of meeting. Notices relating to rules are
 954 not required to include the full text of the rule or rule
 955 amendment.

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

958 155.40 Sale or lease of county, district, or municipal
 959 hospital; effect of sale.—

960 (5) The governing board of a county, district, or
 961 municipal hospital or health care system shall commence an
 962 evaluation of the possible benefits to an affected community
 963 from the sale or lease of hospital facilities owned by the board
 964 to a not-for-profit or for-profit entity no later than December
 965 31, 2012. In the course of evaluating the benefits of the sale
 966 or lease, the board shall:

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

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

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

981 2. This evaluation is not required if a district, county,
 982 or municipal hospital has issued a public request for proposals
 983 for the sale or lease of a hospital on or before February 1,
 984 2012, for the purpose of receiving proposals from qualified
 985 purchasers or lessees, either not-for-profit or for-profit.

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

988 159.703 Creation of research and development authorities.—

989 (6) A majority of the members of the authority shall
 990 constitute a quorum, and the affirmative vote of a majority of
 991 the members present shall be necessary for any action taken by
 992 the authority, provided that the president of each affiliated
 993 institution of higher education or that president's designee
 994 shall be present and vote on any action taken by the authority
 995 involving the issuance of bonds or the transfer, development,
 996 lease or encumbrance of any lands owned by the Trustees of the
 997 Internal Improvement Trust Fund and leased to the authority; and
 998 provided, further, that the president of each affiliated
 999 institution of higher education or such president's designee
 1000 shall be present and vote in the affirmative on any action taken
 1001 by the authority involving the lease of any park lands to a
 1002 state agency. No vacancy in the membership of the authority
 1003 shall impair the right of a quorum to exercise all the rights
 1004 and perform all the duties of the authority. Any action taken by
 1005 the authority under the provisions of ss. 159.701-159.7095 may
 1006 be authorized by resolution at any regular or special meeting,
 1007 and each such resolution shall take effect immediately and need
 1008 not be published or posted. Notice of meetings of the authority

1009 shall be published in the Florida Administrative Register
 1010 ~~Weekly~~.

1011 Section 16. Paragraph (a) of subsection (2) of section
 1012 161.053, Florida Statutes, is amended to read:

1013 161.053 Coastal construction and excavation; regulation on
 1014 county basis.—

1015 (2)(a) Coastal construction control lines shall be
 1016 established by the department only after it has been determined
 1017 from a comprehensive engineering study and topographic survey
 1018 that the establishment of such control lines is necessary for
 1019 the protection of upland properties and the control of beach
 1020 erosion. No such line shall be set until a public hearing has
 1021 been held in each affected county. After the department has
 1022 given consideration to the results of such public hearing, it
 1023 shall, after considering ground elevations in relation to
 1024 historical storm and hurricane tides, predicted maximum wave
 1025 uprush, beach and offshore ground contours, the vegetation line,
 1026 erosion trends, the dune or bluff line, if any exist, and
 1027 existing upland development, set and establish a coastal
 1028 construction control line and cause such line to be duly filed
 1029 in the public records of any county affected and shall furnish
 1030 the clerk of the circuit court in each county affected a survey
 1031 of such line with references made to permanently installed
 1032 monuments at such intervals and locations as may be considered
 1033 necessary. However, no coastal construction control line shall
 1034 be set until a public hearing has been held by the department
 1035 and the affected persons have an opportunity to appear. The
 1036 hearing shall constitute a public hearing and shall satisfy all

PCB RCC 13-04

ORIGINAL

2013

1037 requirements for a public hearing pursuant to s. 120.54(3). The
 1038 hearing shall be noticed in the Florida Administrative Register
 1039 ~~Weekly~~ in the same manner as a rule. Any coastal construction
 1040 control line adopted pursuant to this section shall not be
 1041 subject to a s. 120.56(2) rule challenge or a s. 120.54(3)(c)2.
 1042 drawout proceeding, but, once adopted, shall be subject to a s.
 1043 120.56(3) invalidity challenge. The rule shall be adopted by the
 1044 department and shall become effective upon filing with the
 1045 Department of State, notwithstanding the provisions of s.
 1046 120.54(3)(e)6. Upon such filing with the Department of State, no
 1047 person, firm, corporation, or governmental agency shall
 1048 construct any structure whatsoever seaward thereof; make any
 1049 excavation, remove any beach material, or otherwise alter
 1050 existing ground elevations; drive any vehicle on, over, or
 1051 across any sand dune; or damage or cause to be damaged such sand
 1052 dune or the vegetation growing thereon seaward thereof, except
 1053 as hereinafter provided. Control lines established under the
 1054 provisions of this section shall be subject to review at the
 1055 discretion of the department after consideration of hydrographic
 1056 and topographic data that indicate shoreline changes that render
 1057 established coastal construction control lines to be ineffective
 1058 for the purposes of this act or at the written request of
 1059 officials of affected counties or municipalities. Any riparian
 1060 upland owner who feels that such line as established is unduly
 1061 restrictive or prevents a legitimate use of the owner's property
 1062 shall be granted a review of the line upon written request.
 1063 After such review, the department shall decide if a change in
 1064 the control line as established is justified and shall so notify

1065 the person or persons making the request. The decision of the
 1066 department shall be subject to judicial review as provided in
 1067 chapter 120.

1068 Section 17. Paragraph (a) of subsection (2) of section
 1069 202.22, Florida Statutes, is amended to read:

1070 202.22 Determination of local tax situs.—

1071 (2) (a) The department shall, subject to legislative
 1072 appropriation, create as soon as practical and feasible, and
 1073 thereafter maintain, an electronic database that gives due and
 1074 proper regard to any format that is approved by the American
 1075 National Standards Institute's Accredited Standards Committee
 1076 X12 and that designates for each street address, address range,
 1077 post office box, or post office box range in the state,
 1078 including any multiple postal street addresses applicable to one
 1079 street location, the local taxing jurisdiction in which the
 1080 street address, address range, post office box, or post office
 1081 box range is located and the appropriate code for each such
 1082 local taxing jurisdiction, identified by one nationwide standard
 1083 numeric code. The nationwide standard numeric code must contain
 1084 the same number of numeric digits, and each digit, or
 1085 combination of digits, must refer to the same level of taxing
 1086 jurisdiction throughout the United States using a format similar
 1087 to FIPS 55-3 or other appropriate standard approved by the
 1088 Federation of Tax Administrators and the Multistate Tax
 1089 Commission. Each address or address range or post office box or
 1090 post office box range must be provided in standard postal
 1091 format, including the street number, street number range, street
 1092 name, post office box number, post office box range, and zip

1093 code. The department shall provide notice of the availability of
 1094 the database, and any subsequent revision thereof, by
 1095 publication in the Florida Administrative Register ~~Weekly~~.

1096 Section 18. Paragraph (c) of subsection (4) and paragraph
 1097 (d) of subsection (18) of section 215.555, Florida Statutes, are
 1098 amended to read:

1099 215.555 Florida Hurricane Catastrophe Fund.—

1100 (4) REIMBURSEMENT CONTRACTS.—

1101 (c)1. The contract shall also provide that the obligation
 1102 of the board with respect to all contracts covering a particular
 1103 contract year shall not exceed the actual claims-paying capacity
 1104 of the fund up to a limit of \$17 billion for that contract year,
 1105 unless the board determines that there is sufficient estimated
 1106 claims-paying capacity to provide \$17 billion of capacity for
 1107 the current contract year and an additional \$17 billion of
 1108 capacity for subsequent contract years. If the board makes such
 1109 a determination, the estimated claims-paying capacity for the
 1110 particular contract year shall be determined by adding to the
 1111 \$17 billion limit one-half of the fund's estimated claims-paying
 1112 capacity in excess of \$34 billion. However, the dollar growth in
 1113 the limit may not increase in any year by an amount greater than
 1114 the dollar growth of the balance of the fund as of December 31,
 1115 less any premiums or interest attributable to optional coverage,
 1116 as defined by rule which occurred over the prior calendar year.

1117 2. In May and October of the contract year, the board
 1118 shall publish in the Florida Administrative Register ~~Weekly~~ a
 1119 statement of the fund's estimated borrowing capacity, the fund's
 1120 estimated claims-paying capacity, and the projected balance of

1121 the fund as of December 31. After the end of each calendar year,
 1122 the board shall notify insurers of the estimated borrowing
 1123 capacity, estimated claims-paying capacity, and the balance of
 1124 the fund as of December 31 to provide insurers with data
 1125 necessary to assist them in determining their retention and
 1126 projected payout from the fund for loss reimbursement purposes.
 1127 In conjunction with the development of the premium formula, as
 1128 provided for in subsection (5), the board shall publish factors
 1129 or multiples that assist insurers in determining their retention
 1130 and projected payout for the next contract year. For all
 1131 regulatory and reinsurance purposes, an insurer may calculate
 1132 its projected payout from the fund as its share of the total
 1133 fund premium for the current contract year multiplied by the sum
 1134 of the projected balance of the fund as of December 31 and the
 1135 estimated borrowing capacity for that contract year as reported
 1136 under this subparagraph.

1137 (18) FACILITATION OF INSURERS' PRIVATE CONTRACT
 1138 NEGOTIATIONS BEFORE THE START OF THE HURRICANE SEASON.—

1139 (d) The board shall publish in the Florida Administrative
 1140 Register ~~Weekly~~ the maximum statutory adjusted capacity for the
 1141 mandatory coverage for a particular contract year, the maximum
 1142 statutory coverage for any optional coverage for the particular
 1143 contract year, and the aggregate fund retention used to
 1144 calculate individual insurer's retention multiples for the
 1145 particular contract year no later than January 1 of the
 1146 immediately preceding contract year.

1147 Section 19. Subsection (3) of section 252.62, Florida
 1148 Statutes, is amended to read:

1149 252.62 Director of Office of Financial Regulation; powers
 1150 in a state of emergency.—

1151 (3) The director shall publish, in the next available
 1152 publication of the Florida Administrative Register Weekly, a
 1153 copy of the text of any order issued under this section,
 1154 together with a statement describing the modification or
 1155 suspension and explaining how the modification or suspension
 1156 will facilitate recovery from the emergency and maintain the
 1157 safety and soundness of financial institutions in this state.

1158 Section 20. Subsection (3) of section 252.63, Florida
 1159 Statutes, is amended to read:

1160 252.63 Commissioner of Insurance Regulation; powers in a
 1161 state of emergency.—

1162 (3) The commissioner shall publish in the next available
 1163 publication of the Florida Administrative Register Weekly a copy
 1164 of the text of any order issued under this section, together
 1165 with a statement describing the modification or suspension and
 1166 explaining how the modification or suspension will facilitate
 1167 recovery from the emergency.

1168 Section 21. Subsection (1) of section 255.0525, Florida
 1169 Statutes, is amended to read:

1170 255.0525 Advertising for competitive bids or proposals.—

1171 (1) The solicitation of competitive bids or proposals for
 1172 any state construction project that is projected to cost more
 1173 than \$200,000 shall be publicly advertised once in the Florida
 1174 Administrative Register Weekly at least 21 days prior to the
 1175 established bid opening. For state construction projects that
 1176 are projected to cost more than \$500,000, the advertisement

1177 shall be published in the Florida Administrative Register ~~Weekly~~
 1178 at least 30 days prior to the established bid opening and at
 1179 least once in a newspaper of general circulation in the county
 1180 where the project is located at least 30 days prior to the
 1181 established bid opening and at least 5 days prior to any
 1182 scheduled prebid conference. The bids or proposals shall be
 1183 received and opened publicly at the location, date, and time
 1184 established in the bid or proposal advertisement. In cases of
 1185 emergency, the Secretary of Management Services may alter the
 1186 procedures required in this section in any manner that is
 1187 reasonable under the emergency circumstances.

1188 Section 22. Subsection (1) of section 280.11, Florida
 1189 Statutes, is amended to read:

1190 280.11 Withdrawal from public deposits program; return of
 1191 pledged collateral.—

1192 (1) A qualified public depository may withdraw from the
 1193 public deposits program by giving written notice to the Chief
 1194 Financial Officer. The contingent liability, required
 1195 collateral, and reporting requirements of the depository
 1196 withdrawing from the program shall continue for a period of 12
 1197 months after the effective date of the withdrawal, except that
 1198 the filing of reports may no longer be required when the average
 1199 monthly balance of public deposits is equal to zero. Notice of
 1200 withdrawal shall be mailed or delivered in sufficient time to be
 1201 received by the Chief Financial Officer at least 30 days before
 1202 the effective date of withdrawal. The Chief Financial Officer
 1203 shall timely publish the withdrawal notice in the Florida
 1204 Administrative Register ~~Weekly~~ which shall constitute notice to

1205 | all depositors. The withdrawing depository shall not receive or
 1206 | retain public deposits after the effective date of the
 1207 | withdrawal until such time as it again becomes a qualified
 1208 | public depository. The Chief Financial Officer shall, upon
 1209 | request, return to the depository that portion of the collateral
 1210 | pledged that is in excess of the required collateral as reported
 1211 | on the current public depository monthly report. Losses of
 1212 | interest or other accumulations, if any, because of withdrawal
 1213 | under this section shall be assessed and paid as provided in s.
 1214 | 280.09.

1215 | Section 23. Paragraph (a) of subsection (4) of section
 1216 | 310.151, Florida Statutes, is amended to read:

1217 | 310.151 Rates of pilotage; Pilotage Rate Review
 1218 | Committee.—

1219 | (4) (a) The applicant shall be given written notice, either
 1220 | in person or by certified mail, that the committee intends to
 1221 | modify the pilotage rates in that port and that the applicant
 1222 | may, within 21 days after receipt of the notice, request a
 1223 | hearing pursuant to the Administrative Procedure Act. Notice of
 1224 | the intent to modify the pilotage rates in that port shall also
 1225 | be published in the Florida Administrative Register ~~Weekly~~ and
 1226 | in a newspaper of general circulation in the affected port area
 1227 | and shall be mailed to any person who has formally requested
 1228 | notice of any rate change in the affected port area. Within 21
 1229 | days after receipt or publication of notice, any person whose
 1230 | substantial interests will be affected by the intended committee
 1231 | action may request a hearing pursuant to the Administrative
 1232 | Procedure Act. If the committee concludes that the petitioner

1233 has raised a disputed issue of material fact, the committee
 1234 shall designate a hearing, which shall be conducted by formal
 1235 proceeding before an administrative law judge assigned by the
 1236 Division of Administrative Hearings pursuant to ss. 120.569 and
 1237 120.57(1), unless waived by all parties. If the committee
 1238 concludes that the petitioner has not raised a disputed issue of
 1239 material fact and does not designate the petition for hearing,
 1240 that decision shall be considered final agency action for
 1241 purposes of s. 120.68. The failure to request a hearing within
 1242 21 days after receipt or publication of notice shall constitute
 1243 a waiver of any right to an administrative hearing and shall
 1244 cause the order modifying the pilotage rates in that port to be
 1245 entered. If an administrative hearing is requested pursuant to
 1246 this subsection, notice of the time, date, and location of the
 1247 hearing shall be published in the Florida Administrative
 1248 Register ~~Weekly~~ and in a newspaper of general circulation in the
 1249 affected port area and shall be mailed to the applicant and to
 1250 any person who has formally requested notice of any rate change
 1251 for the affected port area.

1252 Section 24. Subsection (1) of section 320.642, Florida
 1253 Statutes, is amended to read:

1254 320.642 Dealer licenses in areas previously served;
 1255 procedure.—

1256 (1) Any licensee who proposes to establish an additional
 1257 motor vehicle dealership or permit the relocation of an existing
 1258 dealer to a location within a community or territory where the
 1259 same line-make vehicle is presently represented by a franchised
 1260 motor vehicle dealer or dealers shall give written notice of its

1261 intention to the department. The notice must state:

1262 (a) The specific location at which the additional or

1263 relocated motor vehicle dealership will be established.

1264 (b) The date on or after which the licensee intends to be

1265 engaged in business with the additional or relocated motor

1266 vehicle dealer at the proposed location.

1267 (c) The identity of all motor vehicle dealers who are

1268 franchised to sell the same line-make vehicle with licensed

1269 locations in the county and any contiguous county to the county

1270 where the additional or relocated motor vehicle dealer is

1271 proposed to be located.

1272 (d) The names and addresses of the dealer-operator and

1273 principal investors in the proposed additional or relocated

1274 motor vehicle dealership.

1275

1276 Immediately upon receipt of the notice the department shall

1277 cause a notice to be published in the Florida Administrative

1278 Register ~~Weekly~~. The published notice must state that a petition

1279 or complaint by any dealer with standing to protest pursuant to

1280 subsection (3) must be filed within 30 days following the date

1281 of publication of the notice in the Florida Administrative

1282 Register ~~Weekly~~. The published notice must describe and identify

1283 the proposed dealership sought to be licensed, and the

1284 department shall cause a copy of the notice to be mailed to

1285 those dealers identified in the licensee's notice under

1286 paragraph (c). The licensee shall pay a fee of \$75 and a service

1287 charge of \$2.50 for each publication. Proceeds from the fee and

1288 service charge shall be deposited into the Highway Safety

1289 Operating Trust Fund.

1290 Section 25. Paragraph (a) of subsection (6) of section
1291 334.30, Florida Statutes, is amended to read:

1292 334.30 Public-private transportation facilities.—The
1293 Legislature finds and declares that there is a public need for
1294 the rapid construction of safe and efficient transportation
1295 facilities for the purpose of traveling within the state, and
1296 that it is in the public's interest to provide for the
1297 construction of additional safe, convenient, and economical
1298 transportation facilities.

1299 (6) The procurement of public-private partnerships by the
1300 department shall follow the provisions of this section. Sections
1301 337.025, 337.11, 337.14, 337.141, 337.145, 337.175, 337.18,
1302 337.185, 337.19, 337.221, and 337.251 shall not apply to
1303 procurements under this section unless a provision is included
1304 in the procurement documents. The department shall ensure that
1305 generally accepted business practices for exemptions provided by
1306 this subsection are part of the procurement process or are
1307 included in the public-private partnership agreement.

1308 (a) The department may request proposals from private
1309 entities for public-private transportation projects or, if the
1310 department receives an unsolicited proposal, the department
1311 shall publish a notice in the Florida Administrative Register
1312 ~~Weekly~~ and a newspaper of general circulation at least once a
1313 week for 2 weeks stating that the department has received the
1314 proposal and will accept, for 120 days after the initial date of
1315 publication, other proposals for the same project purpose. A
1316 copy of the notice must be mailed to each local government in

1317 the affected area.

1318 Section 26. Paragraph (g) of subsection (4) of section

1319 339.135, Florida Statutes, is amended to read:

1320 339.135 Work program; legislative budget request;

1321 definitions; preparation, adoption, execution, and amendment.—

1322 (4) FUNDING AND DEVELOPING A TENTATIVE WORK PROGRAM.—

1323 (g)1. The Florida Transportation Commission shall conduct

1324 a statewide public hearing on the tentative work program and

1325 shall advertise the time, place, and purpose of the hearing in

1326 the Florida Administrative Register ~~Weekly~~ at least 7 days prior

1327 to the hearing. As part of the statewide public hearing, the

1328 commission shall, at a minimum:

1329 a. Conduct an in-depth evaluation of the tentative work

1330 program for compliance with applicable laws and departmental

1331 policies; and

1332 b. Hear all questions, suggestions, or other comments

1333 offered by the public.

1334 2. By no later than 14 days after the regular legislative

1335 session begins, the commission shall submit to the Executive

1336 Office of the Governor and the legislative appropriations

1337 committees a report that evaluates the tentative work program

1338 for:

1339 a. Financial soundness;

1340 b. Stability;

1341 c. Production capacity;

1342 d. Accomplishments, including compliance with program

1343 objectives in s. 334.046;

1344 e. Compliance with approved local government comprehensive

- 1345 plans;
- 1346 f. Objections and requests by metropolitan planning
- 1347 organizations;
- 1348 g. Policy changes and effects thereof;
- 1349 h. Identification of statewide or regional projects; and
- 1350 i. Compliance with all other applicable laws.

1351 Section 27. Paragraph (a) of subsection (5) of section
 1352 339.155, Florida Statutes, is amended to read:

1353 339.155 Transportation planning.—

1354 (5) PROCEDURES FOR PUBLIC PARTICIPATION IN TRANSPORTATION
 1355 PLANNING.—

1356 (a) During the development of the Florida Transportation
 1357 Plan and prior to substantive revisions, the department shall
 1358 provide citizens, affected public agencies, representatives of
 1359 transportation agency employees, other affected employee
 1360 representatives, private providers of transportation, and other
 1361 known interested parties with an opportunity to comment on the
 1362 proposed plan or revisions. These opportunities shall include,
 1363 at a minimum, publishing a notice in the Florida Administrative
 1364 Register Weekly and within a newspaper of general circulation
 1365 within the area of each department district office.

1366 Section 28. Subsection (3) of section 343.875, Florida
 1367 Statutes, is amended to read:

1368 343.875 Public-private partnerships.—

1369 (3) The authority may request proposals for public-private
 1370 transportation projects or, if it receives an unsolicited
 1371 proposal, it must publish a notice in the Florida Administrative
 1372 Register Weekly and a newspaper of general circulation in the

1373 county in which it is located at least once a week for 2 weeks
 1374 stating that it has received the proposal and will accept, for
 1375 60 days after the initial date of publication, other proposals
 1376 for the same project purpose. A copy of the notice must be
 1377 mailed to each local government in the affected areas. After the
 1378 public notification period has expired, the authority shall rank
 1379 the proposals in order of preference. In ranking the proposals,
 1380 the authority shall consider professional qualifications,
 1381 general business terms, innovative engineering or cost-reduction
 1382 terms, finance plans, and the need for state funds to deliver
 1383 the proposal. If the authority is not satisfied with the results
 1384 of the negotiations, it may, at its sole discretion, terminate
 1385 negotiations with the proposer. If these negotiations are
 1386 unsuccessful, the authority may go to the second and lower-
 1387 ranked firms, in order, using the same procedure. If only one
 1388 proposal is received, the authority may negotiate in good faith
 1389 and, if it is not satisfied with the results, it may, at its
 1390 sole discretion, terminate negotiations with the proposer.
 1391 Notwithstanding this subsection, the authority may, at its
 1392 discretion, reject all proposals at any point in the process up
 1393 to completion of a contract with the proposer.

1394 Section 29. Subsection (3) of section 343.962, Florida
 1395 Statutes, is amended to read:

1396 343.962 Public-private partnerships.-

1397 (3) The authority may request proposals and receive
 1398 unsolicited proposals for public-private multimodal
 1399 transportation projects, and, upon receipt of any unsolicited
 1400 proposal or determination to issue a request for proposals, the

1401 authority must publish a notice in the Florida Administrative
 1402 Register Weekly and a newspaper of general circulation in the
 1403 county in which the proposed project is located at least once a
 1404 week for 2 weeks requesting proposals or, if an unsolicited
 1405 proposal was received, stating that it has received the proposal
 1406 and will accept, for 60 days after the initial date of
 1407 publication, other proposals for the same project purpose. A
 1408 copy of the notice must be mailed to each local government in
 1409 the affected areas. After the public notification period has
 1410 expired, the authority shall rank the proposals in order of
 1411 preference. In ranking the proposals, the authority shall
 1412 consider professional qualifications, general business terms,
 1413 innovative engineering or cost-reduction terms, finance plans,
 1414 and the need for state funds to deliver the proposal. If the
 1415 authority is not satisfied with the results of the negotiations,
 1416 it may, at its sole discretion, terminate negotiations with the
 1417 proposer. If these negotiations are unsuccessful, the authority
 1418 may go to the second and lower-ranked firms, in order, using the
 1419 same procedure. If only one proposal is received, the authority
 1420 may negotiate in good faith and, if it is not satisfied with the
 1421 results, it may, at its sole discretion, terminate negotiations
 1422 with the proposer. Notwithstanding this subsection, the
 1423 authority may, at its discretion, reject all proposals at any
 1424 point in the process up to completion of a contract with the
 1425 proposer.

1426 Section 30. Paragraph (c) of subsection (9) of section
 1427 348.0004, Florida Statutes, is amended to read:

1428 348.0004 Purposes and powers.—

PCB RCC 13-04

ORIGINAL

2013

1429 (9) The Legislature declares that there is a public need
1430 for the rapid construction of safe and efficient transportation
1431 facilities for traveling within the state and that it is in the
1432 public's interest to provide for public-private partnership
1433 agreements to effectuate the construction of additional safe,
1434 convenient, and economical transportation facilities.

1435 (c) The authority may request proposals for public-private
1436 transportation projects or, if it receives an unsolicited
1437 proposal, it must publish a notice in the Florida Administrative
1438 Register ~~Weekly~~ and a newspaper of general circulation in the
1439 county in which it is located at least once a week for 2 weeks,
1440 stating that it has received the proposal and will accept, for
1441 60 days after the initial date of publication, other proposals
1442 for the same project purpose. A copy of the notice must be
1443 mailed to each local government in the affected areas. After the
1444 public notification period has expired, the authority shall rank
1445 the proposals in order of preference. In ranking the proposals,
1446 the authority shall consider professional qualifications,
1447 general business terms, innovative engineering or cost-reduction
1448 terms, finance plans, and the need for state funds to deliver
1449 the proposal. If the authority is not satisfied with the results
1450 of the negotiations, it may, at its sole discretion, terminate
1451 negotiations with the proposer. If these negotiations are
1452 unsuccessful, the authority may go to the second and lower-
1453 ranked firms, in order, using the same procedure. If only one
1454 proposal is received, the authority may negotiate in good faith,
1455 and if it is not satisfied with the results, it may, at its sole
1456 discretion, terminate negotiations with the proposer. The

1457 authority may, at its discretion, reject all proposals at any
 1458 point in the process up to completion of a contract with the
 1459 proposer.

1460 Section 31. Subsection (3) of section 349.22, Florida
 1461 Statutes, is amended to read:

1462 349.22 Public-private transportation facilities.—

1463 (3) The authority may request proposals and receive
 1464 unsolicited proposals for public-private transportation projects
 1465 and, upon receipt of any unsolicited proposal or determination
 1466 to issue a request for proposals, must publish a notice in the
 1467 Florida Administrative Register ~~Weekly~~ and a newspaper of
 1468 general circulation in the county in which the proposed project
 1469 is located at least once a week for 2 weeks requesting proposals
 1470 or, if an unsolicited proposal was received, stating that it has
 1471 received the proposal and will accept, for 60 days after the
 1472 initial date of publication, other proposals for the same
 1473 project purpose. A copy of the notice must be mailed to each
 1474 local government in the affected areas. After the public
 1475 notification period has expired, the authority shall rank the
 1476 proposals in order of preference. In ranking the proposals, the
 1477 authority shall consider professional qualifications, general
 1478 business terms, innovative engineering or cost-reduction terms,
 1479 finance plans, and the need for state funds to deliver the
 1480 proposal. If the authority is not satisfied with the results of
 1481 the negotiations, it may, at its sole discretion, terminate
 1482 negotiations with the proposer. If these negotiations are
 1483 unsuccessful, the authority may go to the second and lower-
 1484 ranked firms, in order, using the same procedure. If only one

1485 | proposal is received, the authority may negotiate in good faith
 1486 | and, if it is not satisfied with the results, may, at its sole
 1487 | discretion, terminate negotiations with the proposer.
 1488 | Notwithstanding this subsection, the authority may, at its
 1489 | discretion, reject all proposals at any point in the process up
 1490 | to completion of a contract with the proposer. Any person
 1491 | submitting an unsolicited proposal shall submit with the
 1492 | proposal the sum of \$25,000 to the authority to be applied by
 1493 | the authority to its costs of review and analysis of the
 1494 | proposal, and such person shall remain liable for any additional
 1495 | costs and expenses of the authority incurred for the review and
 1496 | analysis.

1497 | Section 32. Subsection (1) of section 366.04, Florida
 1498 | Statutes, is amended to read:

1499 | 366.04 Jurisdiction of commission.—

1500 | (1) In addition to its existing functions, the commission
 1501 | shall have jurisdiction to regulate and supervise each public
 1502 | utility with respect to its rates and service; assumption by it
 1503 | of liabilities or obligations as guarantor, endorser, or surety;
 1504 | and the issuance and sale of its securities, except a security
 1505 | which is a note or draft maturing not more than 1 year after the
 1506 | date of such issuance and sale and aggregating (together with
 1507 | all other then-outstanding notes and drafts of a maturity of 1
 1508 | year or less on which such public utility is liable) not more
 1509 | than 5 percent of the par value of the other securities of the
 1510 | public utility then outstanding. In the case of securities
 1511 | having no par value, the par value for the purpose of this
 1512 | section shall be the fair market value as of the date of issue.

PCB RCC 13-04

ORIGINAL

2013

1513 The commission, upon application by a public utility, may
 1514 authorize the utility to issue and sell securities of one or
 1515 more offerings, or of one or more types, over a period of up to
 1516 12 months; or, if the securities are notes or drafts maturing
 1517 not more than 1 year after the date of issuance and sale, the
 1518 commission, upon such application, may authorize the utility to
 1519 issue and sell such securities over a period of up to 24 months.
 1520 The commission may take final action to grant an application by
 1521 a public utility to issue and sell securities or to assume
 1522 liabilities or obligations after having given notice in the
 1523 Florida Administrative Register ~~Weekly~~ published at least 7 days
 1524 in advance of final agency action. In taking final action on
 1525 such application, the commission may deny authorization for the
 1526 issuance or sale of a security or assumption of a liability or
 1527 obligation if the security, liability, or obligation is for
 1528 nonutility purposes; and shall deny authorization for the
 1529 issuance or sale of a security or assumption of a liability or
 1530 obligation if the financial viability of the public utility is
 1531 adversely affected such that the public utility's ability to
 1532 provide reasonable service at reasonable rates is jeopardized.
 1533 Securities issued by a public utility or liabilities or
 1534 obligations assumed by a public utility as guarantor, endorser,
 1535 or surety pursuant to an order of the commission, which order is
 1536 certified by the clerk of the commission and which order
 1537 approves or authorizes the issuance and sale of such securities
 1538 or the assumption of such liabilities or obligations, shall not
 1539 be invalidated by a modification, repeal, or amendment to that
 1540 order or by a supplemental order; however, the commission's

1541 approval of the issuance of securities or the assumption of
 1542 liabilities or obligations shall constitute approval only as to
 1543 the legality of the issue or assumption, and in no way shall it
 1544 be considered commission approval of the rates, service,
 1545 accounts, valuation, estimates, or determinations of cost or any
 1546 other such matter. The jurisdiction conferred upon the
 1547 commission shall be exclusive and superior to that of all other
 1548 boards, agencies, political subdivisions, municipalities, towns,
 1549 villages, or counties, and, in case of conflict therewith, all
 1550 lawful acts, orders, rules, and regulations of the commission
 1551 shall in each instance prevail.

1552 Section 33. Paragraph (d) of subsection (1) of section
 1553 373.036, Florida Statutes, is amended to read:

1554 373.036 Florida water plan; district water management
 1555 plans.—

1556 (1) FLORIDA WATER PLAN.—In cooperation with the water
 1557 management districts, regional water supply authorities, and
 1558 others, the department shall develop the Florida water plan. The
 1559 Florida water plan shall include, but not be limited to:

1560 (d) Goals, objectives, and guidance for the development
 1561 and review of programs, rules, and plans relating to water
 1562 resources, based on statutory policies and directives. The state
 1563 water policy rule, renamed the water resource implementation
 1564 rule pursuant to s. 373.019(25), shall serve as this part of the
 1565 plan. Amendments or additions to this part of the Florida water
 1566 plan shall be adopted by the department as part of the water
 1567 resource implementation rule. In accordance with s. 373.114, the
 1568 department shall review rules of the water management districts

1569 for consistency with this rule. Amendments to the water resource
 1570 implementation rule must be adopted by the secretary of the
 1571 department and be submitted to the President of the Senate and
 1572 the Speaker of the House of Representatives within 7 days after
 1573 publication in the Florida Administrative Register ~~Weekly~~.
 1574 Amendments shall not become effective until the conclusion of
 1575 the next regular session of the Legislature following their
 1576 adoption.

1577 Section 34. Section 373.044, Florida Statutes, is amended
 1578 to read:

1579 373.044 Rules; enforcement; availability of personnel
 1580 rules.—The governing board of the district is authorized to
 1581 adopt rules pursuant to ss. 120.536(1) and 120.54 to implement
 1582 the provisions of this chapter. Rules and orders may be enforced
 1583 by mandatory injunction or other appropriate action in the
 1584 courts of the state. Rules relating to personnel matters shall
 1585 be made available to the public and affected persons at no more
 1586 than cost but need not be published in the Florida
 1587 Administrative Code or the Florida Administrative Register
 1588 ~~Weekly~~.

1589 Section 35. Subsection (8) of section 373.103, Florida
 1590 Statutes, is amended to read:

1591 373.103 Powers which may be vested in the governing board
 1592 at the department's discretion.—In addition to the other powers
 1593 and duties allowed it by law, the governing board of a water
 1594 management district may be specifically authorized by the
 1595 department to:

1596 (8) Delegate to a local government by rule or agreement

1597 the power and duty to administer and enforce any of the
 1598 statutes, rules, or regulations relating to stormwater
 1599 permitting or surface water management which the district is
 1600 authorized or required to administer, including those delegated
 1601 by a state agency to the district, if the governing board
 1602 determines that such a delegation is necessary or desirable.
 1603 Such a delegation shall be made only if the governing board
 1604 determines that the local government's program for administering
 1605 the delegated statute, rule, or regulation:

1606 (a) Provides by ordinance, regulation, or local law for
 1607 requirements compatible with or stricter or more extensive than
 1608 those imposed by the statute or the rules and regulations
 1609 adopted pursuant thereto;

1610 (b) Provides for the enforcement of such requirements by
 1611 appropriate administrative and judicial processes; and

1612 (c) Provides for administrative organization, staff, and
 1613 financial and other resources necessary to effectively and
 1614 efficiently enforce such requirements.

1615
 1616 The governing board shall give prior notice of its intention to
 1617 enter into an agreement described in this subsection. At a
 1618 minimum, such notice shall be published in the Florida
 1619 Administrative Register ~~Weekly~~ at least 21 days in advance of
 1620 the governing board's action. At least once every 6 months, the
 1621 district shall update its rules to include a list of the
 1622 agreements adopted pursuant to this subsection to which the
 1623 district is a party. The list shall identify the parties to, and
 1624 the date and location of each agreement, and shall specify the

1625 nature of the authority delegated by the agreement.

1626 Section 36. Paragraph (c) of subsection (2) of section
1627 373.4131, Florida Statutes, is amended to read:

1628 373.4131 Statewide environmental resource permitting
1629 rules.—

1630 (2)

1631 (c) Until the rules adopted pursuant to this section
1632 become effective, existing rules adopted pursuant to this part
1633 remain in full force and effect. Existing rules that are
1634 superseded by the rules adopted pursuant to this section may be
1635 repealed without further rulemaking pursuant to s. 120.54 by
1636 publication of a notice of repeal in the Florida Administrative
1637 Register ~~Weekly~~ and subsequent filing of a list of the rules
1638 repealed with the Department of State.

1639 Section 37. Subsection (3) of section 378.212, Florida
1640 Statutes, is amended to read:

1641 378.212 Variances.—

1642 (3) The department shall publish a notice of proposed
1643 agency action in the Florida Administrative Register ~~Weekly~~ and
1644 in a newspaper of general circulation in the area affected, and
1645 the department shall afford an opportunity for a hearing on each
1646 application for a variance, pursuant to the provisions of
1647 chapter 120. If no request for a hearing is filed with the
1648 department within 14 days of publication of the notice, the
1649 department may proceed to final agency action without a hearing.

1650 Section 38. Paragraph (f) of subsection (2) of section
1651 379.2431, Florida Statutes, is amended to read:

1652 379.2431 Marine animals; regulation.—

1653 (2) PROTECTION OF MANATEES OR SEA COWS.—
 1654 (f)1. Except for emergency rules adopted under s. 120.54,
 1655 all proposed rules of the commission for which a notice of
 1656 intended agency action is filed proposing to govern the speed
 1657 and operation of motorboats for purposes of manatee protection
 1658 shall be submitted to the counties in which the proposed rules
 1659 will take effect for review by local rule review committees.
 1660 2. No less than 60 days prior to filing a notice of rule
 1661 development in the Florida Administrative Register ~~Weekly~~, as
 1662 provided in s. 120.54(3)(a), the commission shall notify the
 1663 counties for which a rule to regulate the speed and operation of
 1664 motorboats for the protection of manatees is proposed. A county
 1665 so notified shall establish a rule review committee or several
 1666 counties may combine rule review committees.
 1667 3. The county commission of each county in which a rule to
 1668 regulate the speed and operation of motorboats for the
 1669 protection of manatees is proposed shall designate a rule review
 1670 committee. The designated voting membership of the rule review
 1671 committee must be comprised of waterway users, such as fishers,
 1672 boaters, water skiers, other waterway users, as compared to the
 1673 number of manatee and other environmental advocates. A county
 1674 commission may designate an existing advisory group as the rule
 1675 review committee. With regard to each committee, fifty percent
 1676 of the voting members shall be manatee advocates and other
 1677 environmental advocates, and fifty percent of the voting members
 1678 shall be waterway users.
 1679 4. The county shall invite other state, federal, county,
 1680 municipal, or local agency representatives to participate as

1681 nonvoting members of the local rule review committee.

1682 5. The county shall provide logistical and administrative
 1683 staff support to the local rule review committee and may request
 1684 technical assistance from commission staff.

1685 6. Each local rule review committee shall elect a chair
 1686 and recording secretary from among its voting members.

1687 7. Commission staff shall submit the proposed rule and
 1688 supporting data used to develop the rule to the local rule
 1689 review committees.

1690 8. The local rule review committees shall have 60 days
 1691 from the date of receipt of the proposed rule to submit a
 1692 written report to commission members and staff. The local rule
 1693 review committees may use supporting data supplied by the
 1694 commission, as well as public testimony which may be collected
 1695 by the committee, to develop the written report. The report may
 1696 contain recommended changes to proposed manatee protection zones
 1697 or speed zones, including a recommendation that no rule be
 1698 adopted, if that is the decision of the committee.

1699 9. Prior to filing a notice of proposed rulemaking in the
 1700 Florida Administrative Register ~~Weekly~~ as provided in s.
 1701 120.54(3)(a), the commission staff shall provide a written
 1702 response to the local rule review committee reports to the
 1703 appropriate counties, to the commission members, and to the
 1704 public upon request.

1705 10. In conducting a review of the proposed manatee
 1706 protection rule, the local rule review committees may address
 1707 such factors as whether the best available scientific
 1708 information supports the proposed rule, whether seasonal zones

1709 are warranted, and such other factors as may be necessary to
 1710 balance manatee protection and public access to and use of the
 1711 waters being regulated under the proposed rule.

1712 11. The written reports submitted by the local rule review
 1713 committees shall contain a majority opinion. If the majority
 1714 opinion is not unanimous, a minority opinion shall also be
 1715 included.

1716 12. The members of the commission shall fully consider any
 1717 timely submitted written report submitted by a local rule review
 1718 committee prior to authorizing commission staff to move forward
 1719 with proposed rulemaking and shall fully consider any timely
 1720 submitted subsequent reports of the committee prior to adoption
 1721 of a final rule. The written reports of the local rule review
 1722 committees and the written responses of the commission staff
 1723 shall be part of the rulemaking record and may be submitted as
 1724 evidence regarding the committee's recommendations in any
 1725 proceeding relating to a rule proposed or adopted pursuant to
 1726 this subsection.

1727 13. The commission is relieved of any obligations
 1728 regarding the local rule review committee process created in
 1729 this paragraph if a timely noticed county commission fails to
 1730 timely designate the required rule review committee.

1731 Section 39. Subsection (6) of section 380.05, Florida
 1732 Statutes, is amended to read:

1733 380.05 Areas of critical state concern.—

1734 (6) Once the state land planning agency determines whether
 1735 the land development regulations or local comprehensive plan or
 1736 amendment submitted by a local government is consistent with the

1737 principles for guiding the development of the area specified
 1738 under the rule designating the area, the state land planning
 1739 agency shall approve or reject the land development regulations
 1740 or portions thereof by final order, and shall determine
 1741 compliance of the plan or amendment, or portions thereof,
 1742 pursuant to s. 163.3184. The state land planning agency shall
 1743 publish its final order to approve or reject land development
 1744 regulations, which shall constitute final agency action, in the
 1745 Florida Administrative Register ~~Weekly~~. If the final order is
 1746 challenged pursuant to s. 120.57, the state planning agency has
 1747 the burden of proving the validity of the final order. Such
 1748 approval or rejection of the land development regulations shall
 1749 be no later than 60 days after submission of the land
 1750 development regulations by the local government. No proposed
 1751 land development regulation within an area of critical state
 1752 concern becomes effective under this subsection until the state
 1753 land planning agency issues its final order or, if the final
 1754 order is challenged, until the challenge to the order is
 1755 resolved pursuant to chapter 120.

1756 Section 40. Subsection (10) of section 395.003, Florida
 1757 Statutes, is amended to read:

1758 395.003 Licensure; denial, suspension, and revocation.—

1759 (10) The agency may adopt rules implementing the licensure
 1760 requirements set forth in subsection (8). Within 14 days after
 1761 rendering its decision on a license application or revocation,
 1762 the agency shall publish its proposed decision in the Florida
 1763 Administrative Register ~~Weekly~~. Within 21 days after publication
 1764 of the agency's decision, any authorized person may file a

1765 request for an administrative hearing. In administrative
 1766 proceedings challenging the approval, denial, or revocation of a
 1767 license pursuant to subsection (8), the hearing must be based on
 1768 the facts and law existing at the time of the agency's proposed
 1769 agency action. Existing hospitals may initiate or intervene in
 1770 an administrative hearing to approve, deny, or revoke licensure
 1771 under subsection (8) based upon a showing that an established
 1772 program will be substantially affected by the issuance or
 1773 renewal of a license to a hospital within the same district or
 1774 service area.

1775 Section 41. Subsection (3) of section 403.201, Florida
 1776 Statutes, is amended to read:

1777 403.201 Variances.—

1778 (3) The department shall publish notice, or shall require
 1779 a petitioner for a variance to publish notice, in the Florida
 1780 Administrative Register ~~Weekly~~ and in a newspaper of general
 1781 circulation in the area affected, of proposed agency action; and
 1782 the department shall afford interested persons an opportunity
 1783 for a hearing on each application for a variance. If no request
 1784 for hearing is filed with the department within 14 days of
 1785 published notice, the department may proceed to final agency
 1786 action without a hearing.

1787 Section 42. Subsection (3) of section 403.805, Florida
 1788 Statutes, is amended to read:

1789 403.805 Secretary; powers and duties; review of specified
 1790 rules.—

1791 (3) After adoption of proposed rule 62-302.531(9), Florida
 1792 Administrative Code, a nonseverability and effective date

1793 provision approved by the commission on December 8, 2011, in
 1794 accordance with the commission's legislative authority under s.
 1795 403.804, notice of which was published by the department on
 1796 December 22, 2011, in the Florida Administrative Register
 1797 ~~Weekly~~, Vol. 37, No. 51, page 4446, any subsequent rule or
 1798 amendment altering the effect of such rule shall be submitted to
 1799 the President of the Senate and the Speaker of the House of
 1800 Representatives no later than 30 days before the next regular
 1801 legislative session, and such amendment may not take effect
 1802 until it is ratified by the Legislature.

1803 Section 43. Subsection (1) of section 403.8055, Florida
 1804 Statutes, is amended to read:

1805 403.8055 Department adoption of federal standards.—
 1806 Notwithstanding ss. 120.54 and 403.804, the secretary is
 1807 empowered to adopt rules substantively identical to regulations
 1808 adopted in the Federal Register by the United States
 1809 Environmental Protection Agency pursuant to federal law, in
 1810 accordance with the following procedures:

1811 (1) The secretary shall publish notice of intent to adopt
 1812 a rule pursuant to this section in the Florida Administrative
 1813 Register ~~Weekly~~ at least 21 days prior to filing the rule with
 1814 the Department of State. The secretary shall mail a copy of the
 1815 notice of intent to adopt a rule to the Administrative
 1816 Procedures Committee at least 21 days prior to the date of
 1817 filing with the Department of State. Prior to filing the rule
 1818 with the Department of State, the secretary shall consider any
 1819 written comments received within 21 days after the date of
 1820 publication of the notice of intent to adopt a rule. The rule

1821 shall be adopted upon filing with the Department of State.

1822 Substantive changes from the rules as noticed shall require
1823 republishing of notice as required in this section.

1824 Section 44. Paragraph (e) of subsection (1) of section
1825 403.9411, Florida Statutes, is amended to read:

1826 403.9411 Notice; proceedings; parties and participants.—

1827 (1)

1828 (e) The department shall publish in the Florida
1829 Administrative Register ~~Weekly~~ notices of the application; of
1830 the certification hearing; of the hearing before the board; and
1831 of stipulations, proposed agency action, or petitions for
1832 modification.

1833 Section 45. Paragraph (a) of subsection (1) of section
1834 403.9422, Florida Statutes, is amended to read:

1835 403.9422 Determination of need for natural gas
1836 transmission pipeline; powers and duties.—

1837 (1)(a) Upon request by an applicant or upon its own
1838 motion, the commission shall schedule a public hearing, after
1839 notice, to determine the need for a natural gas transmission
1840 pipeline regulated by ss. 403.9401-403.9425. Such notice shall
1841 be published at least 45 days before the date set for the
1842 hearing and shall be published in at least one-quarter page size
1843 in newspapers of general circulation and in the Florida
1844 Administrative Register ~~Weekly~~, by giving notice to counties and
1845 regional planning councils in whose jurisdiction the natural gas
1846 transmission pipeline could be placed, and by giving notice to
1847 any persons who have requested to be placed on the mailing list
1848 of the commission for this purpose. Within 21 days after receipt

1849 of a request for determination by an applicant, the commission
 1850 shall set a date for the hearing. The hearing shall be held
 1851 pursuant to s. 350.01 within 75 days after the filing of the
 1852 request, and a decision shall be rendered within 90 days after
 1853 such filing.

1854 Section 46. Paragraph (d) of subsection (2) and paragraph
 1855 (c) of subsection (4) of section 408.039, Florida Statutes, are
 1856 amended to read:

1857 408.039 Review process.—The review process for
 1858 certificates of need shall be as follows:

1859 (2) LETTERS OF INTENT.—

1860 (d) Within 21 days after filing a letter of intent, the
 1861 agency shall publish notice of the filing of letters of intent
 1862 in the Florida Administrative Register ~~Weekly~~ and notice that,
 1863 if requested, a public hearing shall be held at the local level
 1864 within 21 days after the application is deemed complete. Notices
 1865 under this paragraph must contain due dates applicable to the
 1866 cycle for filing applications and for requesting a hearing.

1867 (4) STAFF RECOMMENDATIONS.—

1868 (c) The agency shall publish its proposed decision set
 1869 forth in the Notice of Intent in the Florida Administrative
 1870 Register ~~Weekly~~ within 14 days after the Notice of Intent is
 1871 issued.

1872 Section 47. Subsection (10) of section 409.912, Florida
 1873 Statutes, is amended to read:

1874 409.912 Cost-effective purchasing of health care.—The
 1875 agency shall purchase goods and services for Medicaid recipients
 1876 in the most cost-effective manner consistent with the delivery

1877 of quality medical care. To ensure that medical services are
 1878 effectively utilized, the agency may, in any case, require a
 1879 confirmation or second physician's opinion of the correct
 1880 diagnosis for purposes of authorizing future services under the
 1881 Medicaid program. This section does not restrict access to
 1882 emergency services or poststabilization care services as defined
 1883 in 42 C.F.R. part 438.114. Such confirmation or second opinion
 1884 shall be rendered in a manner approved by the agency. The agency
 1885 shall maximize the use of prepaid per capita and prepaid
 1886 aggregate fixed-sum basis services when appropriate and other
 1887 alternative service delivery and reimbursement methodologies,
 1888 including competitive bidding pursuant to s. 287.057, designed
 1889 to facilitate the cost-effective purchase of a case-managed
 1890 continuum of care. The agency shall also require providers to
 1891 minimize the exposure of recipients to the need for acute
 1892 inpatient, custodial, and other institutional care and the
 1893 inappropriate or unnecessary use of high-cost services. The
 1894 agency shall contract with a vendor to monitor and evaluate the
 1895 clinical practice patterns of providers in order to identify
 1896 trends that are outside the normal practice patterns of a
 1897 provider's professional peers or the national guidelines of a
 1898 provider's professional association. The vendor must be able to
 1899 provide information and counseling to a provider whose practice
 1900 patterns are outside the norms, in consultation with the agency,
 1901 to improve patient care and reduce inappropriate utilization.
 1902 The agency may mandate prior authorization, drug therapy
 1903 management, or disease management participation for certain
 1904 populations of Medicaid beneficiaries, certain drug classes, or

1905 particular drugs to prevent fraud, abuse, overuse, and possible
 1906 dangerous drug interactions. The Pharmaceutical and Therapeutics
 1907 Committee shall make recommendations to the agency on drugs for
 1908 which prior authorization is required. The agency shall inform
 1909 the Pharmaceutical and Therapeutics Committee of its decisions
 1910 regarding drugs subject to prior authorization. The agency is
 1911 authorized to limit the entities it contracts with or enrolls as
 1912 Medicaid providers by developing a provider network through
 1913 provider credentialing. The agency may competitively bid single-
 1914 source-provider contracts if procurement of goods or services
 1915 results in demonstrated cost savings to the state without
 1916 limiting access to care. The agency may limit its network based
 1917 on the assessment of beneficiary access to care, provider
 1918 availability, provider quality standards, time and distance
 1919 standards for access to care, the cultural competence of the
 1920 provider network, demographic characteristics of Medicaid
 1921 beneficiaries, practice and provider-to-beneficiary standards,
 1922 appointment wait times, beneficiary use of services, provider
 1923 turnover, provider profiling, provider licensure history,
 1924 previous program integrity investigations and findings, peer
 1925 review, provider Medicaid policy and billing compliance records,
 1926 clinical and medical record audits, and other factors. Providers
 1927 are not entitled to enrollment in the Medicaid provider network.
 1928 The agency shall determine instances in which allowing Medicaid
 1929 beneficiaries to purchase durable medical equipment and other
 1930 goods is less expensive to the Medicaid program than long-term
 1931 rental of the equipment or goods. The agency may establish rules
 1932 to facilitate purchases in lieu of long-term rentals in order to

1933 protect against fraud and abuse in the Medicaid program as
 1934 defined in s. 409.913. The agency may seek federal waivers
 1935 necessary to administer these policies.

1936 (10) The agency, after notifying the Legislature, may
 1937 apply for waivers of applicable federal laws and regulations as
 1938 necessary to implement more appropriate systems of health care
 1939 for Medicaid recipients and reduce the cost of the Medicaid
 1940 program to the state and federal governments and shall implement
 1941 such programs, after legislative approval, within a reasonable
 1942 period of time after federal approval. These programs must be
 1943 designed primarily to reduce the need for inpatient care,
 1944 custodial care and other long-term or institutional care, and
 1945 other high-cost services. Prior to seeking legislative approval
 1946 of such a waiver as authorized by this subsection, the agency
 1947 shall provide notice and an opportunity for public comment.
 1948 Notice shall be provided to all persons who have made requests
 1949 of the agency for advance notice and shall be published in the
 1950 Florida Administrative Register ~~Weekly~~ not less than 28 days
 1951 prior to the intended action. This subsection expires October 1,
 1952 2016.

1953 Section 48. Subsection (4) of section 493.6104, Florida
 1954 Statutes, is amended to read:

1955 493.6104 Advisory council.—

1956 (4) The council shall meet at least 4 times yearly upon
 1957 the call of the chairperson, at the request of a majority of the
 1958 membership, or at the request of the department. Notice of
 1959 council meetings and the agenda shall be published in the
 1960 Florida Administrative Register ~~Weekly~~ at least 14 days prior to

1961 such meeting.

1962 Section 49. Paragraph (c) of subsection (3) of section

1963 553.775, Florida Statutes, is amended to read:

1964 553.775 Interpretations.—

1965 (3) The following procedures may be invoked regarding

1966 interpretations of the Florida Building Code:

1967 (c) The commission shall review decisions of local

1968 building officials and local enforcement agencies regarding

1969 interpretations of the Florida Building Code after the local

1970 board of appeals has considered the decision, if such board

1971 exists, and if such appeals process is concluded within 25

1972 business days.

1973 1. The commission shall coordinate with the Building

1974 Officials Association of Florida, Inc., to designate panels

1975 composed of five members to hear requests to review decisions of

1976 local building officials. The members must be licensed as

1977 building code administrators under part XII of chapter 468 and

1978 must have experience interpreting and enforcing provisions of

1979 the Florida Building Code.

1980 2. Requests to review a decision of a local building

1981 official interpreting provisions of the Florida Building Code

1982 may be initiated by any substantially affected person, including

1983 an owner or builder subject to a decision of a local building

1984 official or an association of owners or builders having members

1985 who are subject to a decision of a local building official. In

1986 order to initiate review, the substantially affected person must

1987 file a petition with the commission. The commission shall adopt

1988 a form for the petition, which shall be published on the

1989 Building Code Information System. The form shall, at a minimum,
 1990 require the following:

1991 a. The name and address of the county or municipality in
 1992 which provisions of the Florida Building Code are being
 1993 interpreted.

1994 b. The name and address of the local building official who
 1995 has made the interpretation being appealed.

1996 c. The name, address, and telephone number of the
 1997 petitioner; the name, address, and telephone number of the
 1998 petitioner's representative, if any; and an explanation of how
 1999 the petitioner's substantial interests are being affected by the
 2000 local interpretation of the Florida Building Code.

2001 d. A statement of the provisions of the Florida Building
 2002 Code which are being interpreted by the local building official.

2003 e. A statement of the interpretation given to provisions
 2004 of the Florida Building Code by the local building official and
 2005 the manner in which the interpretation was rendered.

2006 f. A statement of the interpretation that the petitioner
 2007 contends should be given to the provisions of the Florida
 2008 Building Code and a statement supporting the petitioner's
 2009 interpretation.

2010 g. Space for the local building official to respond in
 2011 writing. The space shall, at a minimum, require the local
 2012 building official to respond by providing a statement admitting
 2013 or denying the statements contained in the petition and a
 2014 statement of the interpretation of the provisions of the Florida
 2015 Building Code which the local jurisdiction or the local building
 2016 official contends is correct, including the basis for the

2017 interpretation.

2018 3. The petitioner shall submit the petition to the local
 2019 building official, who shall place the date of receipt on the
 2020 petition. The local building official shall respond to the
 2021 petition in accordance with the form and shall return the
 2022 petition along with his or her response to the petitioner within
 2023 5 days after receipt, exclusive of Saturdays, Sundays, and legal
 2024 holidays. The petitioner may file the petition with the
 2025 commission at any time after the local building official
 2026 provides a response. If no response is provided by the local
 2027 building official, the petitioner may file the petition with the
 2028 commission 10 days after submission of the petition to the local
 2029 building official and shall note that the local building
 2030 official did not respond.

2031 4. Upon receipt of a petition that meets the requirements
 2032 of subparagraph 2., the commission shall immediately provide
 2033 copies of the petition to a panel, and the commission shall
 2034 publish the petition, including any response submitted by the
 2035 local building official, on the Building Code Information System
 2036 in a manner that allows interested persons to address the issues
 2037 by posting comments.

2038 5. The panel shall conduct proceedings as necessary to
 2039 resolve the issues; shall give due regard to the petitions, the
 2040 response, and to comments posed on the Building Code Information
 2041 System; and shall issue an interpretation regarding the
 2042 provisions of the Florida Building Code within 21 days after the
 2043 filing of the petition. The panel shall render a determination
 2044 based upon the Florida Building Code or, if the code is

2045 | ambiguous, the intent of the code. The panel's interpretation
 2046 | shall be provided to the commission, which shall publish the
 2047 | interpretation on the Building Code Information System and in
 2048 | the Florida Administrative Register ~~Weekly~~. The interpretation
 2049 | shall be considered an interpretation entered by the commission,
 2050 | and shall be binding upon the parties and upon all jurisdictions
 2051 | subject to the Florida Building Code, unless it is superseded by
 2052 | a declaratory statement issued by the Florida Building
 2053 | Commission or by a final order entered after an appeal
 2054 | proceeding conducted in accordance with subparagraph 7.

2055 | 6. It is the intent of the Legislature that review
 2056 | proceedings be completed within 21 days after the date that a
 2057 | petition seeking review is filed with the commission, and the
 2058 | time periods set forth in this paragraph may be waived only upon
 2059 | consent of all parties.

2060 | 7. Any substantially affected person may appeal an
 2061 | interpretation rendered by a hearing officer panel by filing a
 2062 | petition with the commission. Such appeals shall be initiated in
 2063 | accordance with chapter 120 and the uniform rules of procedure
 2064 | and must be filed within 30 days after publication of the
 2065 | interpretation on the Building Code Information System or in the
 2066 | Florida Administrative Register ~~Weekly~~. Hearings shall be
 2067 | conducted pursuant to chapter 120 and the uniform rules of
 2068 | procedure. Decisions of the commission are subject to judicial
 2069 | review pursuant to s. 120.68. The final order of the commission
 2070 | is binding upon the parties and upon all jurisdictions subject
 2071 | to the Florida Building Code.

2072 | 8. The burden of proof in any proceeding initiated in

2073 accordance with subparagraph 7. is on the party who initiated
 2074 the appeal.

2075 9. In any review proceeding initiated in accordance with
 2076 this paragraph, including any proceeding initiated in accordance
 2077 with subparagraph 7., the fact that an owner or builder has
 2078 proceeded with construction may not be grounds for determining
 2079 an issue to be moot if the issue is one that is likely to arise
 2080 in the future.

2081
 2082 This paragraph provides the exclusive remedy for addressing
 2083 requests to review local interpretations of the code and appeals
 2084 from review proceedings.

2085 Section 50. Subsection (4) of section 561.19, Florida
 2086 Statutes, is amended to read:

2087 561.19 License issuance upon approval of division.—

2088 (4) The issuance of licenses pursuant to subsection (2) or
 2089 subsection (3) shall not be governed by the provisions of s.
 2090 120.60. The issuance of any such license shall occur no later
 2091 than 180 days after a drawing is held pursuant to notice
 2092 published in the Florida Administrative Register ~~Weekly~~ or, in
 2093 the event no drawing is held, within 180 days of the final date
 2094 for filing applications. Any applicant who is not included in
 2095 the pool for drawing to determine priority shall file, within 30
 2096 days of the date of mailing of notice to such applicant, a
 2097 challenge to such action pursuant to ss. 120.569 and 120.57, or
 2098 the right to file any action as to such matter shall be forever
 2099 lost. Any applicant whose name is included in the pool for
 2100 drawing to determine priority but who is not issued a license

2101 shall be entitled to request a hearing on the denial pursuant to
 2102 ss. 120.569 and 120.57 only on the grounds that the selection
 2103 process was not conducted in accordance with law or that the
 2104 licensee selected does not possess the qualifications required
 2105 by law.

2106 Section 51. Subsection (1) of section 570.247, Florida
 2107 Statutes, is amended to read:

2108 570.247 Promulgation of rules.—In conjunction with funds
 2109 specifically appropriated for the purposes specified in this
 2110 act, the department shall begin to promulgate rules no later
 2111 than January 1, 1992, pursuant to s. 120.54, pertaining to:

2112 (1) Formal notification procedures for the availability of
 2113 assistance, including publication in the Florida Administrative
 2114 Register ~~Weekly~~ pursuant to s. 120.55.

2115 Section 52. Paragraph (b) of subsection (1) of section
 2116 601.152, Florida Statutes, is amended to read:

2117 601.152 Special marketing orders.—

2118 (1)

2119 (b) Notice of the time, place, and purpose of such public
 2120 hearing shall be:

2121 1. Mailed, at least 10 days before such hearing, to each
 2122 handler who, during the 12 months immediately before such
 2123 mailing, has first handled in the primary channel of trade in
 2124 the state the type, variety, and form of citrus fruit or citrus
 2125 product specified in the proposed marketing order, and to each
 2126 handler who the department has good cause to believe will,
 2127 during the period of time covered by the proposed marketing
 2128 order, first handle in the primary channel of trade in the state

2129 the type, variety, and form of citrus fruit or processed citrus
 2130 product specified in such proposed marketing order.

2131 2. Published in the Florida Administrative Register ~~Weekly~~
 2132 at least 10 days before such hearing.

2133 Section 53. Subsection (6) of section 627.091, Florida
 2134 Statutes, is amended to read:

2135 627.091 Rate filings; workers' compensation and employer's
 2136 liability insurances.—

2137 (6) Whenever the committee of a recognized rating
 2138 organization with responsibility for workers' compensation and
 2139 employer's liability insurance rates in this state meets to
 2140 discuss the necessity for, or a request for, Florida rate
 2141 increases or decreases, the determination of Florida rates, the
 2142 rates to be requested, and any other matters pertaining
 2143 specifically and directly to such Florida rates, such meetings
 2144 shall be held in this state and shall be subject to s. 286.011.
 2145 The committee of such a rating organization shall provide at
 2146 least 3 weeks' prior notice of such meetings to the office and
 2147 shall provide at least 14 days' prior notice of such meetings to
 2148 the public by publication in the Florida Administrative Register
 2149 ~~Weekly~~.

2150 Section 54. Paragraph (a) of subsection (13) of section
 2151 633.0215, Florida Statutes, is amended to read:

2152 633.0215 Florida Fire Prevention Code.—

2153 (13) (a) The State Fire Marshal shall issue an expedited
 2154 declaratory statement relating to interpretations of provisions
 2155 of the Florida Fire Prevention Code according to the following
 2156 guidelines:

2157 1. The declaratory statement shall be rendered in
 2158 accordance with s. 120.565, except that a final decision must be
 2159 issued by the State Fire Marshal within 45 days after the
 2160 division's receipt of a petition seeking an expedited
 2161 declaratory statement. The State Fire Marshal shall give notice
 2162 of the petition and the expedited declaratory statement or the
 2163 denial of the petition in the next available issue of the
 2164 Florida Administrative Register ~~Weekly~~ after the petition is
 2165 filed and after the statement or denial is rendered.

2166 2. The petitioner must be the owner of the disputed
 2167 project or the owner's representative.

2168 3. The petition for an expedited declaratory statement
 2169 must be:

2170 a. Related to an active project that is under construction
 2171 or must have been submitted for a permit.

2172 b. The subject of a written notice citing a specific
 2173 provision of the Florida Fire Prevention Code which is in
 2174 dispute.

2175 c. Limited to a single question that is capable of being
 2176 answered with a "yes" or "no" response.

2177 Section 55. Subsection (8) of section 633.026, Florida
 2178 Statutes, is amended to read:

2179 633.026 Legislative intent; informal interpretations of
 2180 the Florida Fire Prevention Code.—It is the intent of the
 2181 Legislature that the Florida Fire Prevention Code be interpreted
 2182 by fire officials and local enforcement agencies in a manner
 2183 that reasonably and cost-effectively protects the public safety,
 2184 health, and welfare; ensures uniform interpretations throughout

2185 | this state; and provides just and expeditious processes for
 2186 | resolving disputes regarding such interpretations. It is the
 2187 | further intent of the Legislature that such processes provide
 2188 | for the expeditious resolution of the issues presented and that
 2189 | the resulting interpretation of such issues be published on the
 2190 | website of the Division of State Fire Marshal.

2191 | (8) The committee shall conduct proceedings as necessary
 2192 | to resolve the issues and give due regard to the petition, the
 2193 | facts of the matter at issue, specific code sections cited, and
 2194 | any statutory implications affecting the Florida Fire Prevention
 2195 | Code. The committee shall issue an interpretation regarding the
 2196 | provisions of the Florida Fire Prevention Code within 10 days
 2197 | after the filing of a petition. The committee shall issue an
 2198 | interpretation based upon the Florida Fire Prevention Code or,
 2199 | if the code is ambiguous, the intent of the code. The
 2200 | committee's interpretation shall be provided to the petitioner
 2201 | and shall include a notice that if the petitioner disagrees with
 2202 | the interpretation, the petitioner may file a request for formal
 2203 | interpretation by the State Fire Marshal under s. 633.01(6). The
 2204 | committee's interpretation shall be provided to the State Fire
 2205 | Marshal, and the division shall publish the interpretation on
 2206 | the State Fire Marshal's website and in the Florida
 2207 | Administrative Register ~~Weekly~~.

2208 | Section 56. Paragraph (c) of subsection (2) of section
 2209 | 658.26, Florida Statutes, is amended to read:

2210 | 658.26 Places of transacting business; branches;
 2211 | facilities.—

2212 | (2)

2213 (c) Applications filed pursuant to this subsection need
 2214 not be published in the Florida Administrative Register ~~Weekly~~,
 2215 but shall otherwise be subject to chapter 120.

2216 Section 57. Paragraph (d) of subsection (3) of section
 2217 766.105, Florida Statutes, is amended to read:

2218 766.105 Florida Patient's Compensation Fund.—

2219 (3) THE FUND.—

2220 (d) Fees and assessments.—Each health care provider, as
 2221 set forth in subsection (2), electing to comply with paragraph
 2222 (2)(b) for a given fiscal year shall pay the fees and any
 2223 assessments established under this section relative to such
 2224 fiscal year, for deposit into the fund. Those entering the fund
 2225 after the fiscal year has begun shall pay a prorated share of
 2226 the yearly fees for a prorated membership. Actuarially sound
 2227 membership fees payable annually, semiannually, or quarterly
 2228 with appropriate service charges shall be established by the
 2229 fund before January 1 of each fiscal year, based on the
 2230 following considerations:

2231 1. Past and prospective loss and expense experience in
 2232 different types of practice and in different geographical areas
 2233 within the state;

2234 2. The prior claims experience of the members covered
 2235 under the fund; and

2236 3. Risk factors for persons who are retired, semiretired,
 2237 or part-time professionals.

2238

2239 Such fees shall be based on not more than three geographical
 2240 areas, not necessarily contiguous, with five categories of

2241 practice and with categories which contemplate separate risk
 2242 ratings for hospitals, for health maintenance organizations, for
 2243 ambulatory surgical facilities, and for other medical
 2244 facilities. The fund is authorized to adjust the fees of an
 2245 individual member to reflect the claims experience of such
 2246 member. Each fiscal year of the fund shall operate independently
 2247 of preceding fiscal years. Participants shall only be liable for
 2248 assessments for claims from years during which they were members
 2249 of the fund; in cases in which a participant is a member of the
 2250 fund for less than the total fiscal year, a member shall be
 2251 subject to assessments for that year on a pro rata basis
 2252 determined by the percentage of participation for the year. The
 2253 fund shall submit to the Office of Insurance Regulation the
 2254 classifications and membership fees to be charged, and the
 2255 Office of Insurance Regulation shall review such fees and shall
 2256 approve them if they comply with all the requirements of this
 2257 section and fairly reflect the considerations provided for in
 2258 this section. If the classifications or membership fees do not
 2259 comply with this section, the Office of Insurance Regulation
 2260 shall set classifications or membership fees which do comply and
 2261 which give due recognition to all considerations provided for in
 2262 this section. Nothing contained herein shall be construed as
 2263 imposing liability for payment of any part of a fund deficit on
 2264 the Joint Underwriting Association authorized by s. 627.351(4)
 2265 or its member insurers. If the fund determines that the amount
 2266 of money in an account for a given fiscal year is in excess of
 2267 or not sufficient to satisfy the claims made against the
 2268 account, the fund shall certify the amount of the projected

PCB RCC 13-04

ORIGINAL

2013

2269 excess or insufficiency to the Office of Insurance Regulation
 2270 and request the office to levy an assessment against or refund
 2271 to all participants in the fund for that fiscal year, prorated,
 2272 based on the number of days of participation during the year in
 2273 question. The Office of Insurance Regulation shall approve the
 2274 request of the fund to refund to, or levy any assessment
 2275 against, the participants, provided the refund or assessment
 2276 fairly reflects the same considerations and classifications upon
 2277 which the membership fees were based. The assessment shall be in
 2278 an amount sufficient to satisfy reserve requirements for known
 2279 claims, including expenses to satisfy the claims, made against
 2280 the account for a given fiscal year. In any proceeding to
 2281 challenge the amount of the refund or assessment, it is to be
 2282 presumed that the amount of refund or assessment requested by
 2283 the fund is correct, if the fund demonstrates that it has used
 2284 reasonable claims handling and reserving procedures. Additional
 2285 assessments may be certified and levied in accordance with this
 2286 paragraph as necessary for any fiscal year. If a fund member
 2287 objects to his or her assessment, he or she shall, as a
 2288 condition precedent to bringing legal action contesting the
 2289 assessment, pay the assessment, under protest, to the fund. The
 2290 fund may borrow money needed for current operations, if
 2291 necessary to pay claims and related expenses, fees, and costs
 2292 timely for a given fiscal year, from an account for another
 2293 fiscal year until such time as sufficient funds have been
 2294 obtained through the assessment process. Any such money,
 2295 together with interest at the mean interest rate earned on the
 2296 investment portfolio of the fund, shall be repaid from the next

2297 assessment for the given fiscal year. If any assessments are
 2298 levied in accordance with this subsection as a result of claims
 2299 in excess of \$500,000 per occurrence, and such assessments are a
 2300 result of the liability of certain individuals and entities
 2301 specified in paragraph (2)(e), only hospitals shall be subject
 2302 to such assessments. Before approving the request of the fund to
 2303 charge membership fees, issue refunds, or levy assessments, the
 2304 Office of Insurance Regulation shall publish notice of the
 2305 request in the Florida Administrative Register ~~Weekly~~. Pursuant
 2306 to chapter 120, any party substantially affected may request an
 2307 appropriate proceeding. Any petition for such a proceeding shall
 2308 be filed with the Office of Insurance Regulation within 21 days
 2309 after the date of publication of the notice in the Florida
 2310 Administrative Register ~~Weekly~~.

2311 Section 58. Subsection (1) of section 791.013, Florida
 2312 Statutes, is amended to read:

2313 791.013 Testing and approval of sparklers; penalties.—

2314 (1) A person who wishes to sell sparklers must submit
 2315 samples of his or her product to the division for testing to
 2316 determine whether it is a sparkler as defined in s. 791.01. Such
 2317 samples must be received by the division by September 1 to be
 2318 considered for approval the following year. On February 1 of
 2319 each year the division shall approve those products which it has
 2320 tested and found to meet the requirements for sparklers. All
 2321 approved sparkler products are legal for sale until January 31
 2322 of the following year. The list of approved sparkler products
 2323 shall be published in the Florida Administrative Register ~~Weekly~~
 2324 and shall prominently state the dates between which the products

2325 | may be sold. The division shall make copies of this list
 2326 | available to the public. A product must be tested and approved
 2327 | for sale in accordance with the rules adopted to implement this
 2328 | section. Beginning February 1, 1988, only those products
 2329 | approved by the division may be sold in the state. The State
 2330 | Fire Marshal shall adopt rules describing the testing, approval,
 2331 | and listing procedures.

2332 | Section 59. Section 957.12, Florida Statutes, is amended
 2333 | to read:

2334 | 957.12 Prohibition on contact.—A bidder or potential
 2335 | bidder is not permitted to have any contact with any member or
 2336 | employee of or consultant to the commission regarding a request
 2337 | for proposal, a proposal, or the evaluation or selection process
 2338 | from the time a request for proposals for a private correctional
 2339 | facility is issued until the time a notification of intent to
 2340 | award is announced, except if such contact is in writing or in a
 2341 | meeting for which notice was provided in the Florida
 2342 | Administrative Register Weekly.

2343 | Section 60. Paragraph (a) of subsection (1) of section
 2344 | 1006.33, Florida Statutes, is amended to read:

2345 | 1006.33 Bids or proposals; advertisement and its
 2346 | contents.—

2347 | (1) (a) Beginning on or before May 15 of any year in which
 2348 | an instructional materials adoption is to be initiated, the
 2349 | department shall advertise in the Florida Administrative
 2350 | Register Weekly 4 weeks preceding the date on which the bids
 2351 | shall be received, that at a certain designated time, not later
 2352 | than June 15, sealed bids or proposals to be deposited with the

PCB RCC 13-04

ORIGINAL

2013

2353 department will be received from publishers or manufacturers for
2354 the furnishing of instructional materials proposed to be adopted
2355 as listed in the advertisement beginning April 1 following the
2356 adoption.

2357 Reviser's note.—Amended pursuant to the directive of the
2358 Legislature in s. 3, ch. 2012-63, Laws of Florida, to
2359 prepare a reviser's bill for the 2013 Regular Session of
2360 the Legislature to substitute the term "Florida
2361 Administrative Register" for the term "Florida
2362 Administrative Weekly" throughout the Florida Statutes.
2363 Section 61. This act shall take effect on the 60th day
2364 after adjournment sine die of the session of the Legislature in
2365 which enacted.