



THE FLORIDA LEGISLATURE



# **JOINT ADMINISTRATIVE PROCEDURES COMMITTEE**

**2020 Annual Report**

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WILTON SIMPSON  
President



Representative Rick Roth, Chair  
Senator Ben Albritton, Vice Chair  
Senator Lorraine Ausley  
Senator Jason Brodeur  
Senator Danny Burgess  
Senator Shevrin D. "Shev" Jones  
Representative Demu Busatta Cabrera  
Representative Anna V. Eskamani  
Representative Sam Garrison  
Representative Thomas Patterson "Patt" Maney  
Representative Angela "Angie" Nixon

CHRIS SPROWLS  
Speaker



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THE FLORIDA LEGISLATURE  
JOINT ADMINISTRATIVE  
PROCEDURES COMMITTEE

March 4, 2021

Honorable Wilton Simpson  
President, Florida Senate  
The Capitol, Room 409  
Tallahassee, Florida 32399-1100

Honorable Chris Sprowls  
Speaker, House of Representatives  
The Capitol, Room 420  
Tallahassee, Florida 32399-1300

Mr. President and Mr. Speaker:

Pursuant to Rule 4.6(6) of the Joint Rules of the Florida Legislature, we are pleased to submit to the Legislature the Joint Administrative Procedures Committee annual report, covering January 1, 2020 through December 31, 2020.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Roth".

Rick Roth  
Representative, District 85  
Chair

A handwritten signature in black ink, appearing to read "Ben Albritton".

Ben Albritton  
Senator, District 26  
Vice-Chair

Enclosure

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# **JOINT ADMINISTRATIVE PROCEDURES COMMITTEE MEMBERS**

**Representative Rick Roth, Chair**  
**Representative Demi Busatta Cabrera**  
**Representative Anna V. Eskamani**  
**Representative Sam Garrison**  
**Representative Thomas Patterson “Patt” Maney**  
**Representative Angela “Angie” Nixon**



**Senator Ben Albritton, Vice Chair**  
**Senator Loranne Ausley**  
**Senator Jason Brodeur**  
**Senator Danny Burgess**  
**Senator Shevrin D. “Shev” Jones**

## THE JOINT ADMINISTRATIVE PROCEDURES COMMITTEE

The Joint Administrative Procedures Committee is a standing committee of the Legislature created by Joint Rule Four of the Florida Legislature.

***The committee is composed of eleven members, five from the Senate, appointed by the President of the Senate, and six from the House of Representatives, appointed by the Speaker of the House.***

The Chair of the committee is designated by the President of the Senate in odd-numbered years and by the Speaker of the House in even-numbered years. The committee staff is headed by a Coordinator, and includes reviewing attorneys and administrative support staff.

The committee is required to report annually to the Legislature. This report is published at the start of the regular session and covers the preceding calendar year. It contains statistical information regarding rulemaking in the various state agencies as well as summaries of all objections voted by the committee during the preceding year. The committee voted no formal objections during 2020.

The committee maintains a continuous review of the statutory authority upon which each administrative rule is based and notifies the agency if its authority is eliminated or significantly changed by repeal, amendment, or decision of a court of last resort. Following each session of the Legislature, the committee reviews each law signed by the Governor or

allowed to become law without his signature and determines whether the law will have a probable effect on an agency's rules. If so, the affected agency is notified.

If the reviewing attorneys have concerns that a proposed or existing rule may not be authorized or exceeds the delegated rulemaking authority, the agency is contacted. Often the agency agrees that there is no authority for the rule and withdraws or amends the rule to meet the staff concerns. If there is disagreement about whether or not there is authority for the rule, the rule is scheduled for consideration by the full committee. The agency may appear before the committee and present argument and evidence in support of its rule. If, after hearing the agency's argument, the committee does not find statutory authority for the rule, an objection is voted and the agency has a period defined by statute in which to respond. If the agency refuses to modify or withdraw a rule to which the committee has objected, public notice of the objection is given and a notation accompanies the rule when it is published in the Florida Administrative Code.

In the event that an agency fails to initiate administrative action to meet an objection voted by the committee, the committee is authorized to submit to the President of the Senate and Speaker of the House a recommendation that legislation be introduced to modify or suspend the adoption of a proposed rule, or amend or repeal an existing rule. If the committee



votes to recommend the introduction of legislation, the committee is required to notify the agency of its action, and may request that the agency temporarily suspend the rule or suspend the adoption of a proposed rule, pending consideration of proposed legislation during the next regular session of the Legislature. The agency must respond to the committee within a specified time either by temporarily suspending the rule or suspending the adoption of a proposed rule, or by notifying the committee that it refuses to suspend the rule or rule adoption. The committee is required to prepare bills to modify or suspend the adoption of a proposed rule, or to amend or repeal an existing rule, in accordance with rules of the Senate and the House of Representatives for introduction in the next regular legislative session. The proposed bill is then presented to the Senate President and House Speaker along with the committee recommendation.

***The committee constantly monitors judicial decisions in administrative law and advises the agency when either its statutory rulemaking authority or its rules are affected by these decisions.***

The committee has a duty to recommend needed changes in the Administrative Procedure Act (APA) to the Legislature. These recommendations may be based upon its review of judicial decisions as well as its daily interaction with executive agencies and with citizens as they participate in the administrative procedures of the state. In the 2020 legislative session, the committee made no recommendations relating to Chapter 120, F.S.

Joint Rule 4.6 directs the committee to undertake and maintain a systematic and continuous review of the Florida Statutes that authorize agencies to adopt rules, and to make recommendations to the appropriate standing committees of the Senate and the House of Representatives as to the advisability of considering changes to the delegated legislative authority to adopt rules in specific circumstances. Areas of concern brought to the attention of standing committees during the past year are detailed in this report.

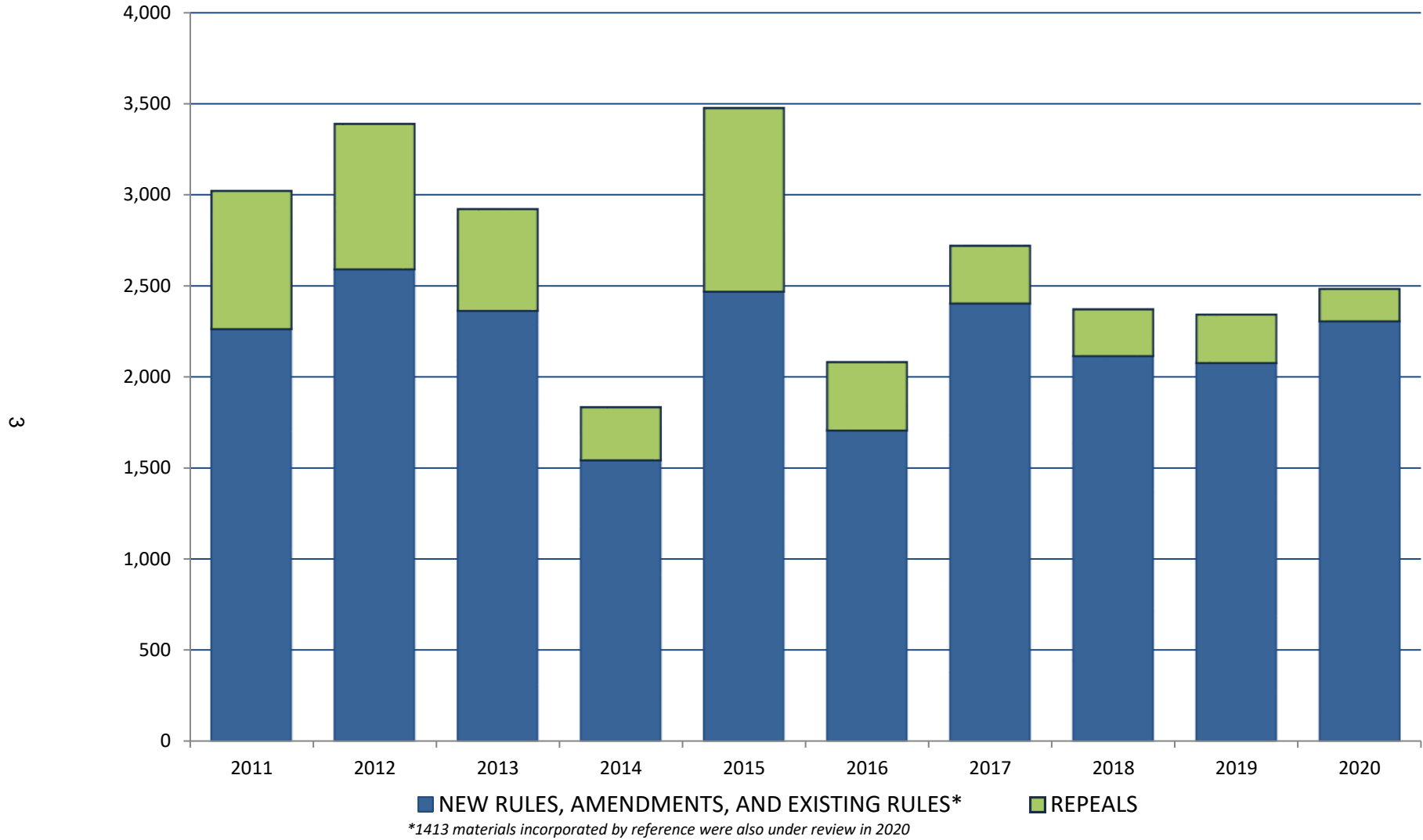
The committee has long had standing to seek judicial review of the validity of any rule to which it has objected and which has not been modified or repealed to meet the objection. To date, the committee has never found it necessary to exercise this power. Before judicial review, the committee must first notify the head of the agency involved and the Governor and provide an opportunity for consultation with the committee. If the issue cannot be resolved in this manner, the committee may bring an action in the appropriate court asking that the rule be declared invalid.

***Thus, the committee performs services for the Legislature, the administrative agencies of the state and the people whom they regulate.***



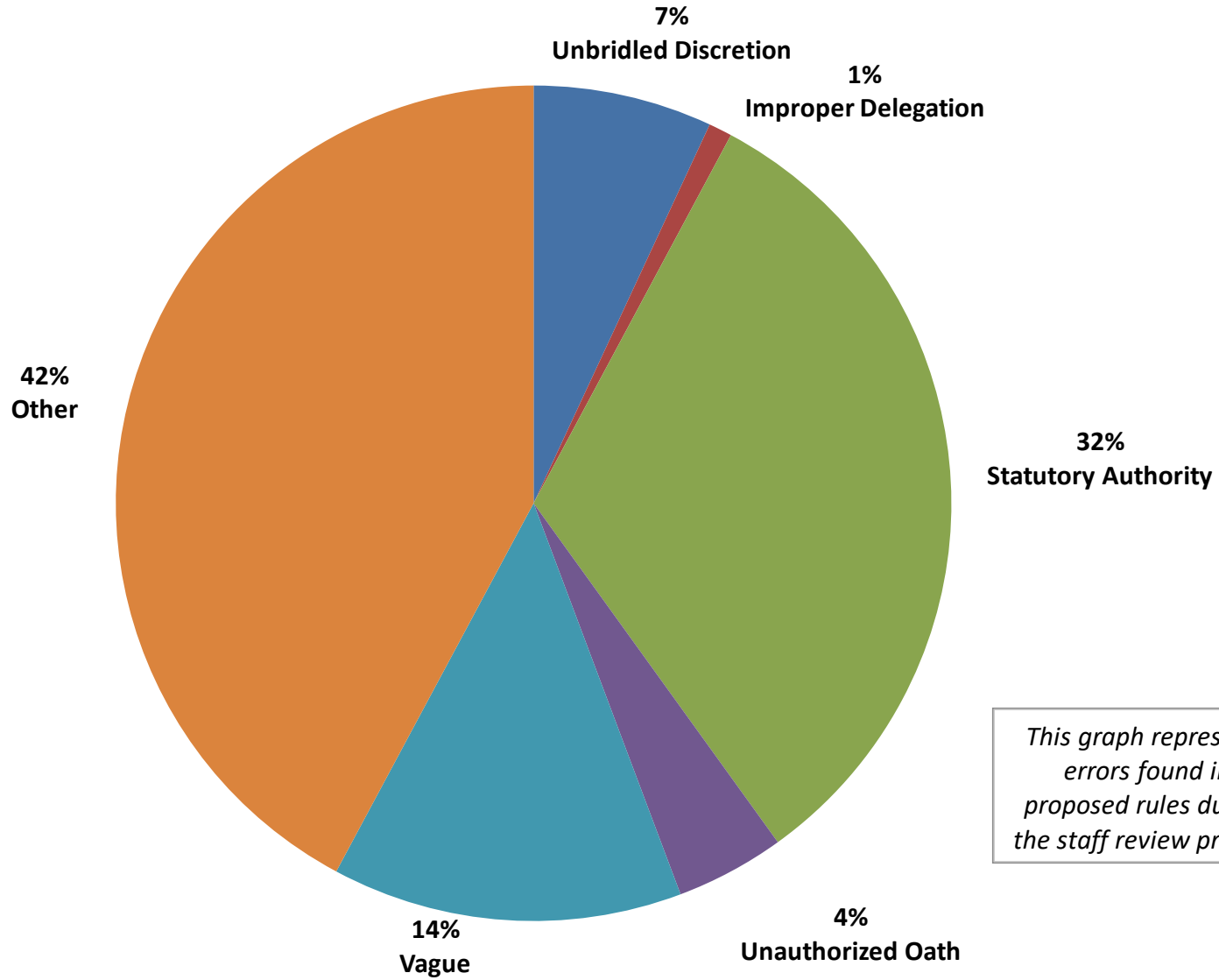
# **Statistical Information on Committee Review of Rules**

# NUMBER OF RULES UNDER REVIEW 2011 - 2020



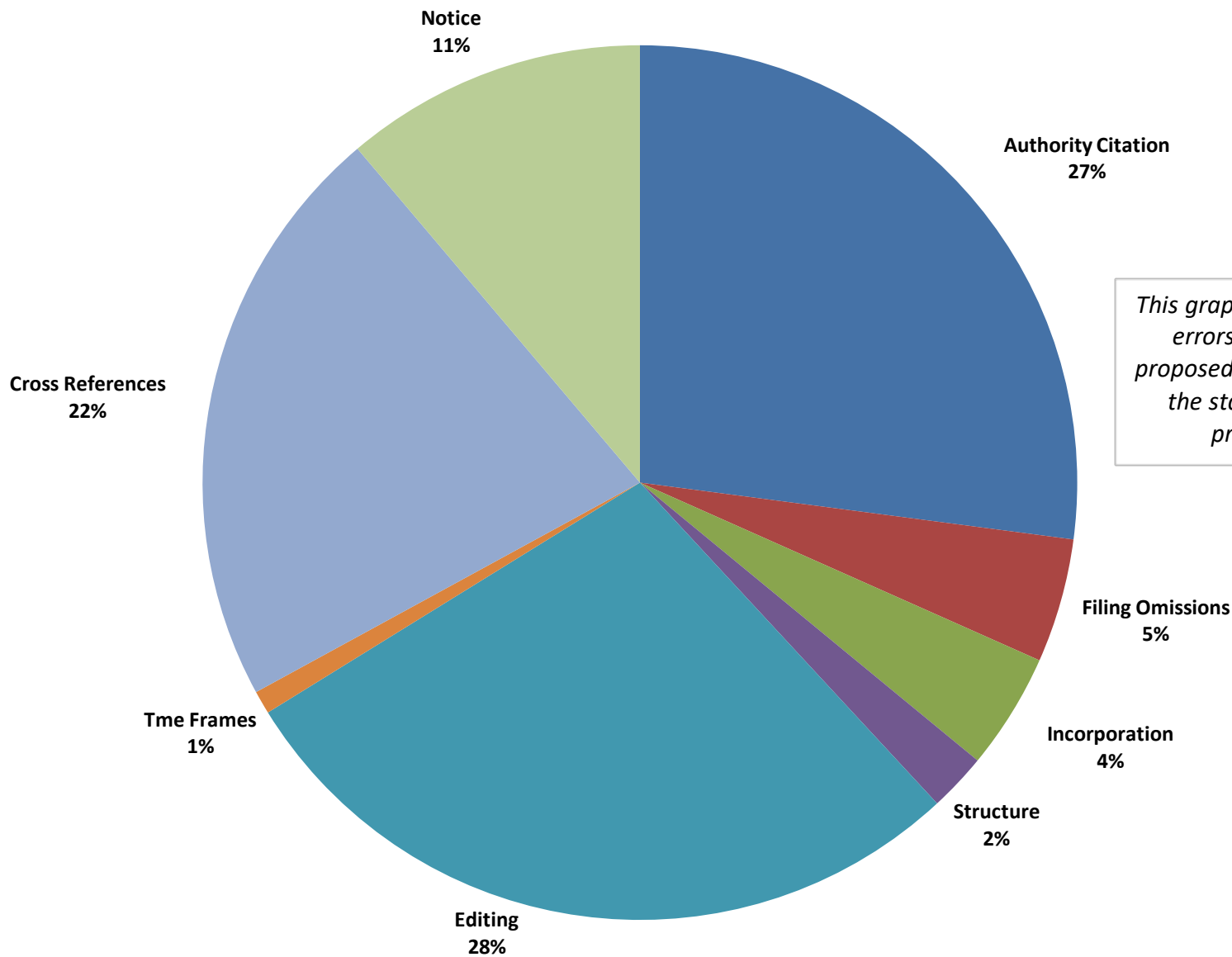


# TYPES OF SUBSTANTIVE ERRORS - 2020



*This graph represents errors found in proposed rules during the staff review process*

# TYPES OF TECHNICAL ERRORS - 2020



*This graph represents errors found in proposed rules during the staff review process*



# Proposed Rules (2011 - 2020)

## PROPOSED RULES 2011 THROUGH 2020

CHPT #	Agency	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	TOTAL
01	State	14	18	25	14	52	18	12	11	16	15	195
02	Legal Affairs	5	4	15	12	34	9	17	8	17	23	144
05	Agriculture and Consumer Services	49	46	99	147	54	92	167	107	147	81	989
06	Education	78	117	84	107	109	130	105	90	61	62	943
09	Community Affairs*	88	0	0	0	0	0	0	0	0	0	88
11	Law Enforcement	0	87	0	30	35	35	34	29	29	24	303
12	Revenue	69	50	160	29	129	29	67	52	56	66	707
14	Transportation	10	20	27	14	64	18	18	40	8	3	222
15	Highway Safety and Motor Vehicles	2	137	2	24	2	2	26	0	7	0	202
16	Natural Resources*	9	0	0	0	0	0	0	0	0	0	9
18	Board of Trustees of the Internal Improvement Trust Fund	8	3	4	0	10	2	0	20	6	0	53
19	State Board of Administration	29	52	47	51	28	39	18	13	10	23	310
20	Citrus	35	54	4	9	37	4	25	78	8	12	266
23	Florida Commission on Offender Review	0	25	14	6	2	0	20	2	0	0	69
25	Public Service Commission	67	67	14	19	25	13	9	12	16	27	269



## PROPOSED RULES 2011 THROUGH 2020

58	Elder Affairs	17	26	26	0	20	14	3	12	0	0	118
59	Agency for Health Care Administration	19	108	73	108	76	126	73	101	43	8	735
60	Management Services	97	88	42	42	125	68	134	18	16	3	633
61	Business and Professional Regulation	135	322	247	114	270	175	182	119	153	208	1,925
62	Environmental Protection	359	144	307	129	175	159	38	124	76	195	1,706
63	Juvenile Justice	7	1	131	4	57	4	16	15	15	67	317
64	Health	185	275	289	254	510	399	226	284	216	227	2,865
65	Children and Families	12	78	86	63	259	90	115	101	137	99	1,040
66	Navigation Districts	6	3	10	4	4	0	0	0	0	35	62
67	Florida Housing Finance Corporation	42	9	79	69	1	61	71	64	62	63	521
68	Fish and Wildlife Conservation Commission	70	81	238	62	80	88	58	96	138	76	987
69	Financial Services	97	185	83	222	260	144	192	150	196	104	1,633
70	Military Affairs	0	0	0	0	0	0	0	0	0	0	0
71	Agency for Enterprise Information Technology*	0	0	0	0	0	33	0	0	0	0	33
72	Board of Governors	1	0	0	0	1	1	0	0	0	0	3

## PROPOSED RULES 2011 THROUGH 2020

73	Economic Opportunity	0	29	25	35	24	38	59	32	16	11	269
74	Agency for State Technology*	0	0	0	0	15	11	3	6	0	0	35
	<b>TOTAL</b>	1,679	2,382	2,795	1,771	2,851	1,918	1,760	1,691	1,573	1,536	19,956

\*Repealed



# Emergency Rules (2011 - 2020)





CHPT #	Agency	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	TOTAL
29	Regional Planning Councils	0	0	0	0	0	0	0	0	0	0	0
32	Florida State Fair Authority	0	0	0	0	0	0	0	0	0	0	0
33	Corrections	0	0	0	0	0	0	0	0	0	0	0
34	Commission on Ethics	0	0	0	0	0	0	0	0	0	0	0
40	Water Management Districts	0	0	0	0	0	0	5	0	0	0	5
41	Commission for the Transportation Disadvantaged	0	0	0	0	0	0	0	0	0	0	0
42	Florida Land and Water Adjudicatory Commission	0	0	0	0	0	0	0	0	0	0	0
49	Regional Utility Authorities	0	0	0	0	0	0	0	0	0	0	0
53	Lottery	66	81	82	69	70	67	79	69	75	90	748
54	Interlocal Agencies	0	0	0	0	0	0	0	0	0	0	0
55	Veterans' Affairs	0	0	0	0	0	0	0	0	0	0	0
57	Space Florida	0	0	0	0	0	0	0	0	0	0	0
58	Elder Affairs	0	0	0	0	0	0	2	0	0	0	2
59	Agency for Health Care Administration	10	0	0	0	0	0	2	0	0	15	27
60	Management Services	0	0	0	0	0	1	2	2	2	0	7

CHPT #	Agency	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	TOTAL
61	Business and Professional Regulation	0	0	0	0	1	1	2	1	1	13	19
62	Environmental Protection	0	0	0	0	0	1	0	0	0	0	1
63	Juvenile Justice	0	0	0	0	0	0	0	0	0	0	0
64	Health	0	1	0	2	0	2	14	1	8	44	72
65	Children and Families	3	0	0	6	0	0	2	0	0	1	12
66	Navigation Districts	0	0	0	0	0	0	0	0	0	0	0
67	Florida Housing Finance Corporation	0	0	0	0	0	0	0	0	0	1	1
68	Fish and Wildlife Conservation Commission	0	0	0	0	0	0	0	0	0	0	0
69	Financial Services	0	1	0	0	0	0	0	0	0	1	2
70	Military Affairs	0	0	0	0	0	0	0	0	0	0	0
72	Board of Governors	0	0	0	0	0	0	0	0	0	0	0
73	Economic Opportunity	0	0	0	1	2	0	0	0	0	2	5
	<b>TOTAL</b>	106	96	92	85	79	79	122	82	94	191	1,026



# **Legislative Report:**

## **2020 Session**

### **Changes in**

#### **Chapter 120, F.S.**

## 2020 Summary of Amendments to Chapter 120

**Chapter 2020-122**, Laws of Florida, creates subsection 120.525(4) to establish quorum requirements for meetings of regional planning councils that cover three or more counties. The bill provides requirements for establishing a quorum for meetings when a voting member appears by telephone, real-time video conferencing, or similar real-time electronic or video communications.

Effective date: July 1, 2020

**Chapter 2020-125**, Laws of Florida, creates section 120.82, Florida Statutes, the Keep Our Graduates Working Act.

The Act prohibits any licensing department, board, or agency from denying a license, refusing to renew a license, or suspending or revoking a professional license based solely on an individual being delinquent on a payment or defaulting on his or her student loan.

Effective date: July 1, 2020



# **Staff Correspondence with Standing Committees**

## **STAFF CORRESPONDENCE WITH SUBSTANTIVE COMMITTEES**

The following areas of concern were brought to the attention of standing committees, pursuant to Joint Rule 4.6, in 2020:

**Sec. 220.194, F.S.** Section 220.194, F.S., “Florida Space Business Incentives Act”, provides corporate income tax credits for space flight programs. Section 220.194 (4)(a)1., F.S., prevents the Department of Economic Opportunity from approving credits after October 1, 2017. On November 19, 2020, the Department proposed to repeal the rules related to the program. Committee staff contacted the House Commerce Committee and the Senate Commerce and Tourism Committee in the event that the Legislature wishes to consider revising the statute.



# **Administrative Determinations and Petitions for Judicial Review**



**2020 ADMINISTRATIVE DETERMINATIONS AND  
PETITIONS FOR JUDICIAL REVIEW FILED ON THE  
INVALIDITY OF PROPOSED AND EXISTING RULES\***

**NUMBER OF CASES FILED AT DOAH IN 2020:**

	CLOSED CASES	ACTIVE CASES
<i>PROPOSED RULES</i>	7	0
<i>EXISTING RULES</i>	4	3

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**JUDICIAL REVIEW CASES:**

**CASE NUMBER:** 20-2933RX

**STYLE:** INTUITION COLLEGE SAVINGS SOLUTIONS, LLC vs. FLORIDA PREPAID COLLEGE BOARD

**RULE:** 19-14.001, 19B-14.002 and 19B-14.003

**DOAH FINAL ORDER DATE:** 9/25/2020

**CASE SUMMARY:** Petitioner demonstrated that Rules 19B-14.001, 19B-14.002 and 19B-14.003 were each an invalid exercise of delegated Legislative authority.

**DCA CASE:** 1D20-3081 filed 10/26/2020

\*Note: As of February 18, 2021. Data obtained from the [Division of Administrative Hearings \(DOAH\)](#).



**Joint Rule Four  
of the  
Florida Legislature:  
  
Joint  
Committees**

### Joint Rule Four—Joint Committees

#### 4.1—Standing Joint Committees

(1) The following standing joint committees are established:

- (a) Administrative Procedures Committee.
- (b) Committee on Public Counsel Oversight.
- (c) Legislative Auditing Committee.

(2) No other joint committee shall exist except as agreed to by the presiding officers or by concurrent resolution approved by the Senate and the House of Representatives.

(3) Appointments to each standing joint committee shall be made or altered and vacancies shall be filled by the Senate and the House of Representatives in accordance with their respective rules. There shall be appointed to each standing joint committee no fewer than five and no more than seven members from each house.

(4)(a) The President of the Senate shall appoint a member of the Senate to serve as the chair, and the Speaker of the House of Representatives shall appoint a member of the House of Representatives to serve as the vice chair, for:

1. The Legislative Auditing Committee and the Committee on Public Counsel Oversight, for the period from the Organization Session until noon on August 1 of the calendar year following the general election.

2. The Administrative Procedures Committee for the period from noon on August 1 of the calendar year following the general election until the next general election.

(b) The Speaker of the House of Representatives shall appoint a member of the House of Representatives to serve as the chair, and the President of the Senate shall appoint a member of the Senate to serve as the vice chair, for:

1. The Legislative Auditing Committee and the Committee on Public Counsel Oversight, for the period from noon on August 1 of the calendar year following the general election until the next general election.

2. The Administrative Procedures Committee for the period from the Organization Session until noon on August 1 of the calendar year following the general election.

(c) A vacancy in an appointed chair or vice chair shall be filled in the same manner as the original appointment.

#### 4.2—Procedures in Joint Committees

The following rules shall govern procedures in joint committees other than conference committees:

(1) A quorum for a joint committee shall be a majority of the appointees of each house. No business of any type may be conducted in the absence of a quorum.

(2)(a) Joint committees shall meet only within the dates, times, and locations authorized by both the President of the Senate and the Speaker of the House of Representatives.

(b) Joint committee meetings shall meet at the call of the chair. In the absence of the chair, the vice chair shall assume the duty to convene and preside over meetings and such other duties as provided by law or joint rule. During a meeting properly convened, the presiding chair may temporarily assign the duty to preside at that meeting to another joint committee member until the assignment is relinquished or revoked.

(c) Before any joint committee may hold a meeting, a notice of such meeting shall be provided to the Secretary of the Senate and the Clerk of the House of Representatives no later than 4:30 p.m. of the 7th day before the meeting. For purposes of effecting notice to members of the house to which the chair does not belong, notice to the Secretary of the Senate shall be deemed notice to members of the Senate and notice to the Clerk of the House shall be deemed notice to members of the House of Representatives. Noticed meetings may be canceled by the chair with the approval of at least one presiding officer.

(d) If a majority of its members from each house agree, a joint committee may continue a properly noticed meeting after the expiration of the time called for the meeting. However, a joint committee may not meet beyond the time authorized by the presiding officers without special leave granted by both presiding officers.

(3) The presiding officers shall interpret, apply, and enforce rules governing joint committees by agreement when the rule at issue is a joint rule. Unless otherwise determined or overruled by an agreement of the presiding officers, the chair shall determine all questions of order arising in joint committee meetings, but such determinations may be appealed to the committee during the meeting.

(4) Each question, including any appeal of a ruling of the chair, shall be decided by a majority vote of the members of the joint committee of each house present and voting.

#### **4.3—Powers of Joint Committees**

(1) A joint committee may exercise the subpoena powers vested by law in a standing committee of the Legislature. A subpoena issued under this rule must be approved and signed by the President of the Senate and the Speaker of the House of Representatives and attested by the Secretary of the Senate and the Clerk of the House.

(2) A joint committee may adopt rules of procedure that do not conflict with the Florida Constitution or any law or joint rule, subject to the joint approval of the President of the Senate and the Speaker of the House of Representatives.

(3) A joint committee may not create subcommittees or workgroups unless authorized by both presiding officers.

#### **4.4—Administration of Joint Committees**

(1) Within the monetary limitations of the approved operating budget, the expenses of the members and the salaries and expenses of the staff of each joint committee shall be governed by joint policies adopted under Joint Rule 3.2.

(2) Subject to joint policies adopted under Joint Rule 3.2, the presiding officers shall appoint and remove the staff director and, if needed, a general counsel and any other staff necessary to assist each joint committee. All joint committee staff shall serve at the pleasure of the presiding officers. Upon the initial adoption of these joint rules in a biennium, each joint committee staff director position shall be deemed vacant until an appointment is made.

\* \* \* \* \*

#### **4.6—Special Powers and Duties of the Administrative Procedures Committee**

The Administrative Procedures Committee shall:

(1) Maintain a continuous review of the statutory authority on which each administrative rule is based and, whenever such authority is eliminated or significantly changed by repeal, amendment, holding by a court of last resort, or other factor, advise the agency concerned of the fact.

(2) Maintain a continuous review of administrative rules and identify and request an agency to repeal any rule or any provision of any rule that reiterates or paraphrases any statute or for which the statutory authority has been repealed.

(3) Review administrative rules and advise the agencies concerned of its findings.

(4) Exercise the duties prescribed by chapter 120, Florida Statutes, concerning the adoption and promulgation of rules.

(5) Generally review agency action pursuant to the operation of chapter 120, Florida Statutes, the Administrative Procedure Act.

(6) Report to the President of the Senate and the Speaker of the House of Representatives at least annually, no later than the first week of the regular session, and recommend needed legislation or other

appropriate action. Such report shall include the number of objections voted by the committee, the number of suspensions recommended by the committee, the number of administrative determinations filed on the invalidity of a proposed or existing rule, the number of petitions for judicial review filed on the invalidity of a proposed or existing rule, and the outcomes of such actions. Such report shall also include any recommendations provided to the standing committees during the preceding year under subsection (11).

(7) Consult regularly with legislative standing committees that have jurisdiction over the subject areas addressed in agency proposed rules regarding legislative authority for the proposed rules and other matters relating to legislative authority for agency action.

(8) Subject to the approval of the President of the Senate and the Speaker of the House of Representatives, have standing to seek judicial review, on behalf of the Legislature or the citizens of this state, of the validity or invalidity of any administrative rule to which the committee has voted an objection and that has not been withdrawn, modified, repealed, or amended to meet the objection. Judicial review under this subsection may not be initiated until the Governor and the head of the agency making the rule to which the committee has objected have been notified of the committee's proposed action and have been given a reasonable opportunity, not to exceed 60 days, for consultation with the committee. The committee may expend public funds from its appropriation for the purpose of seeking judicial review.

(9) Maintain a continuous review of the administrative rulemaking process, including a review of agency procedure and of complaints based on such agency procedure.

(10) Establish measurement criteria to evaluate whether agencies are complying with the delegation of legislative authority in adopting and implementing rules.

(11) Maintain a continuous review of statutes that authorize agencies to adopt rules and shall make recommendations to the appropriate standing committees of the Senate and the House of Representatives as to the advisability of considering changes to the delegated legislative authority to adopt rules in specific circumstances.

\* \* \* \* \*

**Joint Administrative Procedures Committee  
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