

Bill No. CS for CS for SB 206

Amendment No. ____

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11	Senator Laurent moved the following amendment:		
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13	Senate Amendment (with title amendment)		
14	On page 5, lines 4-25, delete those lines		
15			
16	and insert:		
17	Section 3. Section 120.536, Florida Statutes, is		
18	amended to read:		
19	120.536 Rulemaking authority; listing of rules		
20	exceeding authority; repeal; challenge.--		
21	(1) A grant of rulemaking authority is necessary but		
22	not sufficient to allow an agency to adopt a rule; a specific		
23	law to be implemented is also required. An agency may adopt		
24	only rules that implement <u>or</u> , interpret <u>the</u> , or make specific		
25	the particular powers and duties granted by the enabling		
26	statute. No agency shall have authority to adopt a rule only		
27	because it is reasonably related to the purpose of the		
28	enabling legislation and is not arbitrary and capricious <u>or is</u>		
29	<u>within the agency's class of powers and duties</u> , nor shall an		
30	agency have the authority to implement statutory provisions		
31	setting forth general legislative intent or policy. Statutory		

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1 language granting rulemaking authority or generally describing
2 the powers and functions of an agency shall be construed to
3 extend no further than implementing or interpreting the
4 specific ~~the particular~~ powers and duties conferred by the
5 same statute.

6 (2)(a) By October 1, 1997, each agency shall provide
7 to the Administrative Procedures Committee a listing of each
8 rule, or portion thereof, adopted by that agency before
9 October 1, 1996, which exceeds the rulemaking authority
10 permitted by this section. For those rules of which only a
11 portion exceeds the rulemaking authority permitted by this
12 section, the agency shall also identify the language of the
13 rule which exceeds this authority. The Administrative
14 Procedures Committee shall combine the lists and provide the
15 cumulative listing to the President of the Senate and the
16 Speaker of the House of Representatives. The Legislature
17 shall, at the 1998 Regular Session, consider whether specific
18 legislation authorizing the identified rules, or portions
19 thereof, should be enacted. By January 1, 1999, each agency
20 shall initiate proceedings pursuant to s. 120.54 to repeal
21 each rule, or portion thereof, identified as exceeding the
22 rulemaking authority permitted by this section for which
23 authorizing legislation does not exist. By February 1, 1999,
24 the Administrative Procedures Committee shall submit to the
25 President of the Senate and the Speaker of the House of
26 Representatives a report identifying those rules that an
27 agency had previously identified as exceeding the rulemaking
28 authority permitted by this section for which proceedings to
29 repeal the rule have not been initiated. As of July 1, 1999,
30 the Administrative Procedures Committee or any substantially
31 affected person may petition an agency to repeal any rule, or

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1 portion thereof, because it exceeds the rulemaking authority
2 permitted by this section. Not later than 30 days after the
3 date of filing the petition if the agency is headed by an
4 individual, or not later than 45 days if the agency is headed
5 by a collegial body, the agency shall initiate rulemaking
6 proceedings to repeal the rule, or portion thereof, or deny
7 the petition, giving a written statement of its reasons for
8 the denial.

9 (b) By October 1, 1999, each agency shall provide to
10 the Administrative Procedures Committee a listing of each
11 rule, or portion thereof, adopted by that agency before the
12 effective date of the bill, which exceeds the rulemaking
13 authority permitted by this section. For those rules of which
14 only a portion exceeds the rulemaking authority permitted by
15 this section, the agency shall also identify the language of
16 the rule which exceeds this authority. The Administrative
17 Procedures Committee shall combine the lists and provide the
18 cumulative listing to the President of the Senate and the
19 Speaker of the House of Representatives. The Legislature
20 shall, at the 2000 Regular Session, consider whether specific
21 legislation authorizing the identified rules, or portions
22 thereof, should be enacted. By January 1, 2001, each agency
23 shall initiate proceedings pursuant to s. 120.54 to repeal
24 each rule, or portion thereof, identified as exceeding the
25 rulemaking authority permitted by this section for which
26 authorizing legislation does not exist. By February 1, 2001,
27 the Administrative Procedures Committee shall submit to the
28 President of the Senate and the Speaker of the House of
29 Representatives a report identifying those rules that an
30 agency had previously identified as exceeding the rulemaking
31 authority permitted by this section for which proceedings to

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1 repeal the rule have not been initiated. As of July 1, 2001,
2 the Administrative Procedures Committee or any substantially
3 affected person may petition an agency to repeal any rule, or
4 portion thereof, because it exceeds the rulemaking authority
5 permitted by this section. Not later than 30 days after the
6 date of filing the petition if the agency is headed by an
7 individual, or not later than 45 days if the agency is headed
8 by a collegial body, the agency shall initiate rulemaking
9 proceedings to repeal the rule, or portion thereof, or deny
10 the petition, giving a written statement of its reasons for
11 the denial.

12 (3) All proposed rules or amendments to existing rules
13 filed with the Department of State on or after October 1,
14 1996, shall be based on rulemaking authority no broader than
15 that permitted by this section. A rule adopted before October
16 1, 1996, and not included on a list submitted by an agency in
17 accordance with subsection (2) may not be challenged before
18 November 1, 1997, on the grounds that it exceeds the
19 rulemaking authority or law implemented as described by this
20 section. A rule adopted before October 1, 1996, and included
21 on a list submitted by an agency in accordance with subsection
22 (2) may not be challenged before July 1, 1999, on the grounds
23 that it exceeds the rulemaking authority or law implemented as
24 described by this section. A rule adopted before the effective
25 date of the bill, and included on a list submitted by an
26 agency in accordance with subsection (2)(b) may not be
27 challenged before July 1, 2001, on the grounds that it exceeds
28 the rulemaking authority or law implemented as described by
29 this section.

30 (4) Nothing in this section shall be construed to
31 change the legal status of a rule that has otherwise been

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1 judicially or administratively determined to be invalid.

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4 ===== T I T L E A M E N D M E N T =====

5 And the title is amended as follows:

6 On page 1, lines 12 and 13, delete those lines

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8 and insert:

9 rulemaking authority; requiring agencies to
10 provide the Administrative Procedures Committee
11 with a list of existing rules which exceed such
12 rulemaking authority and providing for
13 legislative consideration of such rules;
14 requiring agencies to initiate proceedings to
15 repeal such rules for which authorizing
16 legislation is not adopted; requiring a report
17 to the Legislature; providing that the
18 committee or a substantially affected person
19 may petition for repeal of such rules after a
20 specified date; restricting challenge of such
21 rules before that date; amending 120.54, F.S.;

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