

By the Committee on Rules & Calendar and Representative
Sublette

1 A bill to be entitled
2 An act relating to the Florida Statutes;
3 repealing various statutory provisions that
4 have become obsolete, have had their effect,
5 have served their purpose, or have been
6 impliedly repealed or superseded; amending s.
7 120.536, F.S.; deleting obsolete provisions
8 relating to agency review of rules exceeding
9 rulemaking authority under law; correcting a
10 cross reference, to conform; repealing s.
11 120.574(2)(g), F.S., relating to the registry
12 of formal proceedings filed under summary
13 hearing provisions which the Division of
14 Administrative Hearings was required to
15 maintain for a specified period; repealing s.
16 120.695(2)(b)-(f), F.S., relating to the review
17 of agency rules for designation of those for
18 which violation would be considered minor and
19 subject to a notice of noncompliance as first
20 enforcement action; providing an effective
21 date.

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

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25 Section 1. Subsections (2) and (3) of section 120.536,
26 Florida Statutes, are amended to read:

27 120.536 Rulemaking authority; listing of rules
28 exceeding authority; repeal; challenge.--

29 ~~(2)(a) By October 1, 1997, each agency shall provide~~
30 ~~to the Administrative Procedures Committee a listing of each~~
31 ~~rule, or portion thereof, adopted by that agency before~~

1 ~~October 1, 1996, which exceeds the rulemaking authority~~
2 ~~permitted by this section. For those rules of which only a~~
3 ~~portion exceeds the rulemaking authority permitted by this~~
4 ~~section, the agency shall also identify the language of the~~
5 ~~rule which exceeds this authority. The Administrative~~
6 ~~Procedures Committee shall combine the lists and provide the~~
7 ~~cumulative listing to the President of the Senate and the~~
8 ~~Speaker of the House of Representatives. The Legislature~~
9 ~~shall, at the 1998 Regular Session, consider whether specific~~
10 ~~legislation authorizing the identified rules, or portions~~
11 ~~thereof, should be enacted. By January 1, 1999, each agency~~
12 ~~shall initiate proceedings pursuant to s. 120.54 to repeal~~
13 ~~each rule, or portion thereof, identified as exceeding the~~
14 ~~rulemaking authority permitted by this section for which~~
15 ~~authorizing legislation does not exist. By February 1, 1999,~~
16 ~~the Administrative Procedures Committee shall submit to the~~
17 ~~President of the Senate and the Speaker of the House of~~
18 ~~Representatives a report identifying those rules that an~~
19 ~~agency had previously identified as exceeding the rulemaking~~
20 ~~authority permitted by this section for which proceedings to~~
21 ~~repeal the rule have not been initiated. As of July 1, 1999,~~
22 ~~the Administrative Procedures Committee or any substantially~~
23 ~~affected person may petition an agency to repeal any rule, or~~
24 ~~portion thereof, because it exceeds the rulemaking authority~~
25 ~~permitted by this section. Not later than 30 days after the~~
26 ~~date of filing the petition if the agency is headed by an~~
27 ~~individual, or not later than 45 days if the agency is headed~~
28 ~~by a collegial body, the agency shall initiate rulemaking~~
29 ~~proceedings to repeal the rule, or portion thereof, or deny~~
30 ~~the petition, giving a written statement of its reasons for~~
31 ~~the denial.~~

1 ~~(b)~~ By October 1, 1999, each agency shall provide to
2 the Administrative Procedures Committee a listing of each
3 rule, or portion thereof, adopted by that agency before the
4 effective date of the bill, which exceeds the rulemaking
5 authority permitted by this section. For those rules of which
6 only a portion exceeds the rulemaking authority permitted by
7 this section, the agency shall also identify the language of
8 the rule which exceeds this authority. The Administrative
9 Procedures Committee shall combine the lists and provide the
10 cumulative listing to the President of the Senate and the
11 Speaker of the House of Representatives. The Legislature
12 shall, at the 2000 Regular Session, consider whether specific
13 legislation authorizing the identified rules, or portions
14 thereof, should be enacted. By January 1, 2001, each agency
15 shall initiate proceedings pursuant to s. 120.54 to repeal
16 each rule, or portion thereof, identified as exceeding the
17 rulemaking authority permitted by this section for which
18 authorizing legislation does not exist. By February 1, 2001,
19 the Administrative Procedures Committee shall submit to the
20 President of the Senate and the Speaker of the House of
21 Representatives a report identifying those rules that an
22 agency had previously identified as exceeding the rulemaking
23 authority permitted by this section for which proceedings to
24 repeal the rule have not been initiated. As of July 1, 2001,
25 the Administrative Procedures Committee or any substantially
26 affected person may petition an agency to repeal any rule, or
27 portion thereof, because it exceeds the rulemaking authority
28 permitted by this section. Not later than 30 days after the
29 date of filing the petition if the agency is headed by an
30 individual, or not later than 45 days if the agency is headed
31 by a collegial body, the agency shall initiate rulemaking

1 proceedings to repeal the rule, or portion thereof, or deny
2 the petition, giving a written statement of its reasons for
3 the denial.

4 (3) All proposed rules or amendments to existing rules
5 filed with the Department of State on or after October 1,
6 1996, shall be based on rulemaking authority no broader than
7 that permitted by this section. A rule adopted before October
8 1, 1996, and not included on a list submitted by an agency in
9 accordance with subsection (2) may not be challenged before
10 November 1, 1997, on the grounds that it exceeds the
11 rulemaking authority or law implemented as described by this
12 section. A rule adopted before October 1, 1996, and included
13 on a list submitted by an agency in accordance with subsection
14 (2) may not be challenged before July 1, 1999, on the grounds
15 that it exceeds the rulemaking authority or law implemented as
16 described by this section. A rule adopted before the effective
17 date of the bill, and included on a list submitted by an
18 agency in accordance with subsection (2)~~paragraph (2)(b)~~ may
19 not be challenged before July 1, 2001, on the grounds that it
20 exceeds the rulemaking authority or law implemented as
21 described by this section.

22 Section 2. Paragraph (g) of subsection (2) of section
23 120.574, Florida Statutes, is repealed.

24 Section 3. Paragraphs (b), (c), (d), (e), and (f) of
25 subsection (2) of section 120.695, Florida Statutes, are
26 repealed.

27 Section 4. This act shall take effect upon becoming a
28 law.

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HOUSE SUMMARY

Repeals various statutory provisions that have become
obsolete, have had their effect, have served their
purpose, or have been impliedly repealed or superseded.
Deletes obsolete provisions relating to agency review of
rules exceeding rulemaking authority under law. Repeals
provisions relating to the registry of formal proceedings
filed under summary hearing provisions which the Division
of Administrative Hearings was required to maintain for a
period of 2 years following October 1, 1996, and the
review of agency rules for designation of those for which
violation would be considered minor and subject to a
notice of noncompliance as first enforcement action.