

Bill No. SB 1594

Barcode 561466

CHAMBER ACTION

Senate

House

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Comm: FAV  
03/14/2007 04:21 PM

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The Committee on Governmental Operations (Posey) recommended  
the following amendment:

**Senate Amendment (with title amendment)**

On page 4, line 16, through  
page 6, line 16, delete those lines

and insert:

Section 3. Paragraph (i) of subsection (1), paragraphs  
(a) and (e) of subsection (3), and paragraph (a) of subsection  
(4) of section 120.54, Florida Statutes, are amended, and  
paragraph (k) is added to subsection (1) of that section, to  
read:

120.54 Rulemaking.--

(1) GENERAL PROVISIONS APPLICABLE TO ALL RULES OTHER  
THAN EMERGENCY RULES.--

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

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1 incorporate additional material by reference unless the rule  
2 specifically identifies the additional material.

3 2. An agency rule that incorporates by specific  
4 reference another rule of that agency automatically  
5 incorporates subsequent amendments to the referenced rule,  
6 unless a contrary intent is clearly indicated in the  
7 referencing rule. Any notice of amendments to a rule that has  
8 been incorporated by specific reference in other rules of that  
9 agency must explain the effect of the amendments on the  
10 referencing rules.

11 3. In rules adopted after December 31, 2009, material  
12 may not be incorporated by reference unless the material has  
13 been submitted in the prescribed electronic format to the  
14 Department of State and can be made available for free public  
15 access through an electronic hyperlink from the rule in the  
16 Florida Administrative Code making the reference.

17 4. A rule may not be amended by reference only.  
18 Amendments must set out the amended rule in full in the same  
19 manner as required by the State Constitution for laws. ~~The~~  
20 ~~Department of State may prescribe by rule requirements for~~  
21 ~~incorporating materials by reference pursuant to this~~  
22 ~~paragraph.~~

23 5.2. Notwithstanding any contrary provision in this  
24 section, when an adopted rule of the Department of  
25 Environmental Protection or a water management district is  
26 incorporated by reference in the other agency's rule to  
27 implement a provision of part IV of chapter 373, subsequent  
28 amendments to the rule are not effective as to the  
29 incorporating rule unless the agency incorporating by  
30 reference notifies the committee and the Department of State  
31 of its intent to adopt the subsequent amendment, publishes

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1 notice of such intent in the Florida Administrative Weekly,  
2 and files with the Department of State a copy of the amended  
3 rule incorporated by reference. Changes in the rule  
4 incorporated by reference are effective as to the other agency  
5 20 days after the date of the published notice and filing with  
6 the Department of State. The Department of State shall amend  
7 the history note of the incorporating rule to show the  
8 effective date of such change. Any substantially affected  
9 person may, within 14 days after the date of publication of  
10 the notice of intent in the Florida Administrative Weekly,  
11 file an objection to rulemaking with the agency. The objection  
12 shall specify the portions of the rule incorporated by  
13 reference to which the person objects and the reasons for the  
14 objection. The agency does ~~shall~~ not have the authority under  
15 this subparagraph to adopt those portions of the rule  
16 specified in such objection. The agency shall publish notice  
17 of the objection and of its action in response in the next  
18 available issue of the Florida Administrative Weekly.

19 6. The Department of State may prescribe by rule  
20 requirements for incorporating materials pursuant to this  
21 paragraph.

22 (k) Rulemaking authority delegated to an agency by the  
23 Legislature shall be exercised by the agency head and may not  
24 be transferred or redelegated.

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

28 And the title is amended as follows:

29 On page 1, line 15, after the semicolon,

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31 insert:

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requiring that the rulemaking authority  
delegated to an agency by the Legislature be  
exercised by the agency head; prohibiting the  
transfer or redelegation of such rulemaking  
authority;