

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Governmental Oversight and Accountability Committee

BILL: SB 1084

INTRODUCER: Senator Garcia

SUBJECT: Administrative Procedures

DATE: January 24, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Seay	Roberts	GO	Favorable
2.			BC	
3.				
4.				
5.				
6.				

I. Summary:

This bill revises statutory provisions relating to the Florida Administrative Code and the Florida Administrative Weekly. The bill removes the requirement that the Department of State must publish a printed version of the Florida Administrative Code. The bill also provides that the electronic version of the Florida Administrative Code is the official version for the state.

Additionally, the bill changes the name of the Florida Administrative Weekly to the Florida Administrative Register. The bill provides that the electronic version of the Florida Administrative Register is the official version for the state. The bill removes the requirement that the Department of State provide free print copies of the Florida Administrative Register to various federal and state government entities. The bill also provides that the Department of State is no longer responsible for reviewing agency submissions to the Florida Administrative Register for various errors. The bill also includes a directive to the Division of Statutory Revision to prepare a reviser’s bill for the 2013 Regular Session to substitute the term Florida Administrative Register for the term Florida Administrative Weekly throughout the Florida Statutes.

This bill substantially amends section 120.55 of the Florida Statutes.

II. Present Situation:

The *Florida Administrative Code* (FAC) is the official compilation of administrative rules for the State of Florida. The Department of State (DOS) oversees the publishing of the FAC and the monthly supplements. The online, unofficial version of the FAC is updated weekly on the department’s rulemaking website.

DOS is required to publish the FAC, which contains all rules adopted by agencies, together with references to rulemaking authority and history notes.¹ The FAC must be supplemented at least monthly.² DOS currently contracts with LexisNexis for the printing of the FAC.³ Current law provides that the printed version of the FAC is the official version.⁴

Under current law, DOS is required to publish notices and various other materials filed by the state's administrative agencies in the *Florida Administrative Weekly* (FAW).^{5,6} The FAW must contain:

- Notice of adoption of, and an index to, all rules filed during the preceding week;
- All notices required by s. 120.54(3)(a), F.S., concerning agency rulemaking, showing the text of all rules proposed for consideration or a reference to the location in the FAW where the text of the proposed rules is published;
- All notices of public meetings, hearings, and workshops, including a statement of the manner in which a copy of the agenda may be obtained;
- A notice of each request for authorization to amend or repeal an existing uniform rule or for the adoption of new uniform rules;
- Notice of petitions for declaratory statements or administrative determinations;
- A summary of each objection to any rule filed by the Administrative Procedures Committee during the preceding week; and
- Any other material required or authorized by law or deemed useful by the department.⁷

Responsibility for the grammatical editing of the FAW is statutorily assigned to DOS.⁸ Additionally, DOS is required to adopt rules prescribing the style and form required for rules submitted for filing and establishing the form for rule certification.⁹

DOS contracts with LexisNexis for publication of the FAW in a printed format.¹⁰ The FAW is published on Fridays and distributed for free to administrative agencies, courts, libraries, law schools, and legislative offices.¹¹ According to DOS, the FAW has approximately 191 paid

¹ Section 120.55(1)(a)1., F.S.

² *Id.*

³ E-mail from Pierce Schuessler, Legislative Affairs Director, Department of State (Jan. 11, 2012) (on file with the Committee on Governmental Oversight and Accountability).

⁴ Section 120.55(1)(a)1., F.S.

⁵ Section 120.55(1)(b), F.S.

⁶ According to DOS, approximately 300 entities in the state publish notices in the Florida Administrative Weekly. These entities include state agencies, other units of state and local government, and nongovernmental entities.

⁷ Section 120.55(1)(b), F.S.

⁸ Section 120.55(1)(e), F.S.

⁹ Section 120.55(1)(d), F.S.

¹⁰ E-mail from Pierce Schuessler, Legislative Affairs Director, Department of State (Jan. 11, 2012) (on file with the Committee on Governmental Oversight and Accountability).

¹¹ Section 120.55(7)(a)1., F.S., requires the department to furnish the FAW, without charge and upon request, as follows:

- One subscription to each federal and state court having jurisdiction over the residents of the state, the Legislative Library, each state university library, the State Library, each depository library designated pursuant to s. 257.05, F.S., and each standing committee of the Senate and House of Representatives and each state legislator;
- Two subscriptions to each state department;
- Three subscriptions to the library of the Supreme Court of Florida, the library of each state district court of appeal, the division, the library of the Attorney General, each law school library in Florida, the Secretary of the Senate, and the Clerk of the House of Representatives; and

subscribers, who pay an annual subscription fee of \$307 per year.¹² In addition to producing the paper version of the FAW, DOS posts copies of the FAW at www.flrules.org, which may be accessed by the public for free.¹³

Current law requires all fees and moneys collected by DOS under the Administrative Procedure Act (APA)¹⁴ to be deposited in the Records Management Trust Fund for the purpose of paying for the publication of the FAC and FAW, and for associated costs incurred by the department in administering the APA's requirements.¹⁵ The unencumbered balance at the beginning of each fiscal year, which exceeds \$300,000, must be transferred to the General Revenue Fund.¹⁶

The following fees and moneys were collected by DOS under the APA in FY 2010-11:

- DOS collected \$552,563 for the space rate, also known as the line charge. The current charge is \$1.24 per line.
- DOS collected \$51,238 for royalties from the sale of the FAC. Currently, copies of the FAC are sold by LexisNexis. The majority of revenues from the sale of the FAC are retained by the company as compensation for printing the code. DOS receives a small amount in royalties.¹⁷

Subscription fees charged to FAW subscribers are retained by the publisher as compensation for printing the FAW.¹⁸

III. Effect of Proposed Changes:

Section 1 amends s. 120.55, F.S., deleting requirement that the Department of State (DOS) must publish a printed version of the Florida Administrative Code (FAC); providing that the electronic version of the FAC is the official version for the state; allowing DOS to contract with a publisher to provide a printed publication of the FAC; requiring that adopted rules and material incorporated by reference be filed in an electronic format; changing the name of the Florida Administrative Weekly (FAW) to the Florida Administrative Register (FAR); providing that the electronic version of the FAR is the official version for the state; requiring DOS to continually revise the FAR; deleting requirement that the FAR must contain notices of adoption of, and an index to, all rules filed during the preceding week; deleting requirement that the FAR must contain a cumulative list of all rules that have been proposed but not filed for adoption; allowing DOS to contract with a publisher to provide a printed publication of the FAR; providing that a printed copy of the FAR may be made available on an annual subscription basis; providing that DOS is not responsible for reviewing agency submissions to the FAR for various errors; deleting

- Ten subscriptions to the committee.

¹² E-mail from Pierce Schuessler, Legislative Affairs Director, Department of State (Jan. 11, 2012) (on file with the Committee on Governmental Oversight and Accountability).

¹³ Section 120.55(2), F.S.

¹⁴ Chapter 120, F.S.

¹⁵ Section 120.55(8)(a), F.S.

¹⁶ Section 120.55(8)(b), F.S.

¹⁷ E-mail from Pierce Schuessler, Legislative Affairs Director, Department of State (Jan. 11, 2012) (on file with the Committee on Governmental Oversight and Accountability).

¹⁸ *Id.*

requirement that DOS furnish free print copies of the FAR to federal and state government entities; and replacing references to the FAW to FAR.

Section 2 directs the Division of Statutory Revision to prepare a reviser's bill for the 2013 Regular Session to substitute the term Florida Administrative Register for the term Florida Administrative Weekly throughout the Florida Statutes.

Section 3 provides an effective date of October 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
