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LEGISLATIVE ACTION

Senate

House

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03/08/2012 06:50 PM

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Senator Joyner moved the following:

**Senate Amendment (with title amendment)**

Delete lines 173 - 569

and insert:

Section 1. Section 120.515, Florida Statutes, is created to read:

120.515 Declaration of policy and requirement for public notice, input, and deliberation by appointing authorities.-

(1) This section provides uniform procedures for the exercise of authority by an executive branch appointing authority over the rulemaking and decisionmaking authority of its appointees. All such authority must be exercised in an open and fair manner so that the public and affected persons are



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14 provided adequate notice, the opportunity for input, and the  
15 opportunity for hearing on matters affecting their interests.

16 (2) The exercise of decisionmaking and rulemaking-related  
17 authority by an appointing authority over an appointee must be  
18 authorized by law and be consistent with all rulemaking  
19 requirements set forth in this chapter, including, but not  
20 limited to, timeline parameters and the rulemaking standards and  
21 criteria in ss. 120.52(8), (9), and (17), 120.535, and 120.54.  
22 If permitted by law, the exercise of decisionmaking and  
23 rulemaking authority by an appointing authority includes  
24 approving, disapproving, directing, or prohibiting an agency's  
25 proposed rulemaking or decisionmaking.

26 (3) Prior to the exercise of decisionmaking or rulemaking  
27 authority, an appointing authority must give advance notice of  
28 its consideration of the proposed rulemaking or intent to make a  
29 decision to affected persons and persons who request notice.  
30 Further notice shall thereafter be published in the first  
31 available Florida Administrative Weekly, allowing the public the  
32 opportunity for input into the deliberations. An appointing  
33 authority must complete its deliberations and provide a written  
34 decision of its recommendation, approval, disapproval,  
35 direction, or prohibition within 14 days after the date of  
36 publication of such notice.

37 (4) Each appointing authority must adopt rules pursuant to  
38 this chapter to implement this section, including, but not  
39 limited to, rules providing for public input into the  
40 deliberations at a reasonable time and in a reasonable manner  
41 and rules providing time limitations upon the exercise of such  
42 decisionmaking.



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43           (5) A decision by an appointing authority that disapproves,  
44 modifies, prohibits, or otherwise disagrees with the action  
45 proposed, suggested, recommended, or requested by the agency  
46 constitutes agency action under s. 120.569 and is subject to a  
47 hearing under s. 120.57 and appellate review under s. 120.68.  
48 The appointing authority is a necessary party in the proceeding.

49           (6) An appointing authority exercising decisionmaking or  
50 rulemaking-related authority over a state agency must maintain a  
51 record of its exercise of that authority, including, but not  
52 limited to, the law granting the authority; a transcript of all  
53 oral communications to and from the appointing authority, the  
54 agency, and the public concerning the matter; a copy or  
55 transcript of all information received, reviewed, considered, or  
56 rejected; and information and documentation supporting the  
57 exercise of this authority. The record must be made available  
58 free of cost to the public, if requested.

59           (7) All decisions by the appointing authority concerning  
60 proposed rulemaking or decisionmaking under this section must be  
61 in writing and must contain reasons supporting the decision, an  
62 explanation of any administrative hearing or judicial review  
63 available to substantially affected persons under s. 120.57, and  
64 be provided electronically or by United States mail to all  
65 persons who provided input into the deliberation. The decision  
66 must also be published in the first available Florida  
67 Administrative Weekly following the issuance of the written  
68 decision.

69           Section 2. Paragraph (a) of subsection (1) of section  
70 120.52, Florida Statutes, is amended to read:

71           120.52 Definitions.—As used in this act:



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72 (1) "Agency" means the following officers or governmental  
73 entities if acting pursuant to powers other than those derived  
74 from the constitution:

75 (a) The Governor, including the Governor's Office of  
76 Financial Accountability and Regulatory Reform, its successor,  
77 and any other office exercising oversight of an executive agency  
78 on behalf of its appointing authority; each state officer and  
79 state department, and each departmental unit described in s.  
80 20.04; the Board of Governors of the State University System;  
81 the Commission on Ethics; the Fish and Wildlife Conservation  
82 Commission; a regional water supply authority; a regional  
83 planning agency; a multicounty special district, but only when a  
84 majority of its governing board is comprised of nonelected  
85 persons; educational units; and each entity described in  
86 chapters 163, 373, 380, and 582 and s. 186.504.

87  
88 This definition does not include any municipality or legal  
89 entity created solely by a municipality; any legal entity or  
90 agency created in whole or in part pursuant to part II of  
91 chapter 361; any metropolitan planning organization created  
92 pursuant to s. 339.175; any separate legal or administrative  
93 entity created pursuant to s. 339.175 of which a metropolitan  
94 planning organization is a member; an expressway authority  
95 pursuant to chapter 348 or any transportation authority under  
96 chapter 343 or chapter 349; or any legal or administrative  
97 entity created by an interlocal agreement pursuant to s.  
98 163.01(7), unless any party to such agreement is otherwise an  
99 agency as defined in this subsection.

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

102 And the title is amended as follows:

103       Delete lines 2 - 30

104 and insert:

105       An act relating to administrative authority; creating  
106       s. 120.515, F.S.; providing a declaration of policy  
107       and requirements for public notice, input, and  
108       deliberation when an appointing authority exercises  
109       authority in the rulemaking and decisionmaking  
110       jurisdiction of an officer appointed by the appointing  
111       authority; amending s. 120.52, F.S.; revising the  
112       definition of the term "agency"; repealing s.