

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u>    </u>	(Y/N)
ADOPTED AS AMENDED	<u>    </u>	(Y/N)
ADOPTED W/O OBJECTION	<u>    </u>	(Y/N)
FAILED TO ADOPT	<u>    </u>	(Y/N)
WITHDRAWN	<u>    </u>	(Y/N)
OTHER	<u>    </u>	

1 Committee/Subcommittee hearing bill: Government Operations  
 2 Subcommittee

3 Representative Santiago offered the following:

4  
 5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Paragraph (b) of subsection (1) of section  
 8 120.54, Florida Statutes, is amended to read:

9 120.54 Rulemaking.—

10 (1) GENERAL PROVISIONS APPLICABLE TO ALL RULES OTHER THAN  
 11 EMERGENCY RULES.—

12 (b) Whenever an act of the Legislature is enacted which  
 13 requires implementation of the act by rules of an agency within  
 14 the executive branch of state government, such rules shall be  
 15 drafted and formally proposed as provided in this section within  
 16 the times provided in s. 120.74(5)-(6) ~~180 days after the~~  
 17 ~~effective date of the act, unless the act provides otherwise.~~

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18 Section 2. Section 120.74, Florida Statutes, is amended to  
19 read:

20 (Substantial rewording of section. See  
21 s. 120.74, F.S., for present text.)

22 120.74 Agency annual rulemaking and regulatory plans;  
23 reports.-

24 (1) REGULATORY PLAN.-By October 1 of each fiscal year,  
25 each agency shall prepare an implementation and rulemaking plan.

26 (a) The plan shall include a listing of each law enacted  
27 or amended during the previous 12 months that created or  
28 modified the duties or authority of the agency. The plan may  
29 exclude any law affecting all or most state agencies, if the law  
30 is identified as such by letter to the committee from the  
31 Governor or the Attorney General. For each law listed under this  
32 paragraph the plan must state:

33 1. Whether the agency must adopt rules to implement the  
34 law.

35 2. If rulemaking is necessary to implement the law:

36 a. Whether a notice of rule development has been  
37 published, and if so, the Florida Administrative Register  
38 citation for such notice; and

39 b. The date by which the agency expects to publish the  
40 notice of proposed rule under s. 120.54(3) (a).

41 3. If rulemaking is not necessary to implement the law, a  
42 concise written explanation of the reasons that the law may be  
43 implemented without rulemaking.

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44 (b) The plan shall include a listing of every other law  
45 that the agency expects to implement by rulemaking, except  
46 emergency rulemaking, before the end of that fiscal year. For  
47 each law listed under this paragraph, the plan must state  
48 whether the rulemaking is intended to simplify, clarify,  
49 increase efficiency, improve coordination with other agencies,  
50 reduce regulatory costs, or delete obsolete, unnecessary, or  
51 redundant rules.

52 (c) The plan shall include any desired update to the prior  
53 year's regulatory plan or supplement published pursuant to  
54 subsection (8). If in a prior year a law was identified under  
55 this paragraph or under subparagraph (1)(a)1. as a law requiring  
56 rulemaking to implement but a notice of proposed rule has not  
57 been published:

58 1. The agency may identify and re-list such law noting the  
59 applicable notice of rule development by citation to the Florida  
60 Administrative Register; or

61 2. If the agency has subsequently determined that  
62 rulemaking is not necessary to implement the law, the agency may  
63 identify such law, note the applicable notice of rule  
64 development by citation to the Florida Administrative Register,  
65 and state a concise written explanation of the reason that the  
66 law may be implemented without rulemaking.

67 (d) The plan shall include the following certification  
68 executed on behalf of the agency by both the agency head or, if  
69 the agency head is a collegial body, the chair or equivalent

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70 presiding officer, and the agency general counsel or, if the  
71 agency does not have a general counsel, the individual acting as  
72 principal legal advisor to the agency head:

73 1. Verifying that the persons certifying have reviewed the  
74 plan.

75 2. Verifying that the agency regularly reviews all of its  
76 rules and noting the period during which all rules have most  
77 recently been reviewed to determine if they remain consistent  
78 with the agency's rulemaking authority and the law implemented.

79 (2) PUBLICATION AND DELIVERY TO THE COMMITTEE.-

80 (a) By October 1 of each year, each agency shall:

81 1. Publish its regulatory plan on its website or on  
82 another state website established for publication of  
83 administrative law records. A clearly labeled hyperlink to the  
84 current plan must be included on the agency's primary website  
85 homepage.

86 2. Deliver by electronic communication to the committee a  
87 copy of the certification required in paragraph (1)(d).

88 3. Publish in the Florida Administrative Register a notice  
89 of the date of publication of the agency's regulatory plan,  
90 which notice shall include a hyperlink or website address  
91 providing direct access to the published plan.

92 (b) To satisfy the requirements of paragraph (a), each  
93 board established by s. 20.165(4), and any other board or  
94 commission receiving administrative support from the Department  
95 of Business and Professional Regulation, may coordinate with the

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96 Department of Business and Professional Regulation, and each  
97 board established by s. 20.43(3) may coordinate with the  
98 Department of Health, for inclusion of the board's or  
99 commission's plan and notice of publication in the coordinating  
100 department's plan and notice and for the delivery of the  
101 required documentation to the committee.

102 (c) A regulatory plan, including any regulatory plan  
103 published under s. 120.74(3), F.S. (2011), shall be maintained  
104 at an active website address for 10 years from the date of  
105 initial publication.

106 (3) INCLUSION IN LEGISLATIVE BUDGET REQUEST.—In addition  
107 to the requirements of s. 216.023 and pursuant to s. 216.351, a  
108 copy of the most recent certification executed under paragraph  
109 (1)(d), clearly designated as such, shall be included as part of  
110 the agency's legislative budget request.

111 (4) DEPARTMENT REVIEW OF BOARD PLAN.—By October 15 of each  
112 year:

113 (a) For each board established under s. 20.165(4), and any  
114 other board or commission receiving administrative support from  
115 the Department of Business and Professional Regulation, the  
116 Department of Business and Professional Regulation shall file  
117 with the committee a certification that the department has  
118 reviewed the board's regulatory plan. A certification may relate  
119 to more than one board.

120 (b) For each board established under s. 20.43(3), the  
121 Department of Health shall file with the committee a

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122 certification that the department has reviewed the board's  
123 regulatory plan. A certification may relate to more than one  
124 board.

125 (5) DEADLINE FOR RULE DEVELOPMENT.—By November 1 of each  
126 year, each agency shall publish a notice of rule development  
127 under s. 120.54(2) for each law identified in the agency's plan  
128 pursuant to subparagraph (1)(a)1. for which rulemaking is  
129 necessary to implement but for which the agency did not report  
130 the publication of a notice of rule development under  
131 subparagraph (1)(a)2.

132 (6) DEADLINE TO PUBLISH PROPOSED RULE.—For each law for  
133 which implementing rulemaking is necessary as identified in the  
134 agency's plan pursuant to subparagraph(1)(a)1. or paragraph  
135 (1)(c)1., the agency shall publish a notice of proposed rule  
136 pursuant to s. 120.54(3)(a) by April 1 of the year after the  
137 deadline for the plan. This deadline may be extended if the  
138 agency publishes a notice of extension in the Florida  
139 Administrative Register identifying each rulemaking proceeding  
140 for which an extension is being noticed by citation to the  
141 applicable notice of rule development as published in the  
142 Florida Administrative Register. An extension shall expire on  
143 the October 1 following the April 1 deadline, provided that the  
144 regulatory plan due on such date may further extend the  
145 rulemaking proceeding by identification pursuant to paragraph  
146 (1)(c)1. or conclude the rulemaking proceeding by identification  
147 pursuant to paragraph (1)(c)2. A published regulatory plan may

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148 be corrected at any time to accomplish the purpose of extending  
149 or concluding an affected rulemaking proceeding and shall be  
150 deemed corrected as of the October 1 due date. Upon publication  
151 of any such correction, the agency shall publish in the Florida  
152 Administrative Register a notice of the date of the correction  
153 identifying any affected rulemaking proceeding by applicable  
154 citation to the Florida Administrative Register.

155 (7) CERTIFICATIONS.—Each agency shall file a certification  
156 with the committee upon compliance with subsection (5), upon  
157 filing a notice under subsection (6) of a deadline extension or  
158 a regulatory plan correction and upon the completion of any act  
159 that terminates a suspension under subsection (9). A  
160 certification may relate to more than one notice or  
161 contemporaneous act. The date or dates of compliance shall be  
162 noted in each certification.

163 (8) SUPPLEMENTING THE REGULATORY PLAN.—After the  
164 preparation of the plan, the agency shall supplement the plan  
165 within 30 days after enactment of a law that is enacted before  
166 the next regular session of the Legislature if the law  
167 substantively modifies the agency's specifically delegated legal  
168 duties, unless the law affects all or most state agencies as  
169 identified by letter to the committee from the Governor or the  
170 Attorney General. The supplement shall include the information  
171 required in paragraph (1) (a) and shall be published as required  
172 in subsection (2), but no certification or delivery to the  
173 committee is required. The agency shall publish in the Florida

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174 Administrative Register notice of publishing the supplement, and  
175 include a hyperlink or web address for direct access to the  
176 published supplement. For each law reported in the supplement,  
177 if rulemaking is necessary to implement the law, the agency  
178 shall publish a notice of rule development by the later of the  
179 date provided in subsection (5) or 60 days after the effective  
180 date of the law, and a notice of proposed rule shall be  
181 published by the later of the date provided in subsection (6) or  
182 120 days after the effective date of the law. The proposed rule  
183 deadline may be extended to the following October 1 by notice as  
184 provided in subsection (6). If such proposed rule has not been  
185 filed by October 1, a law included in a supplement shall also be  
186 included in the next annual plan pursuant to subsection (1).

187 (9) FAILURE TO COMPLY.—If an agency fails to comply with a  
188 requirement of paragraph (2) (a) or subsection (6), the entire  
189 rulemaking authority delegated to the agency by the Legislature  
190 under any statute or law shall be suspended automatically as of  
191 the due date of the required action and shall remain suspended  
192 until the date the agency completes the required act or until  
193 the end of the next regular session of the Legislature,  
194 whichever occurs first.

195 (a) During a period of suspension under this subsection,  
196 the agency has no authority to file rules for adoption under s.  
197 120.54, but may complete any action required by this section and  
198 may conduct any public hearings that were noticed prior to the  
199 period of suspension.



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200       (b) A suspension under this subsection does not authorize  
201 an agency to promulgate or apply a statement defined as a rule  
202 under s. 120.52(16) unless the statement was filed for adoption  
203 under s. 120.54(3) prior to the suspension.

204       (c) A suspension under this subsection shall toll the time  
205 requirements under s. 120.54 for filing any rule for adoption in  
206 a rulemaking proceeding initiated by the agency before the date  
207 of the suspension, which time requirements shall resume on the  
208 date the suspension ends.

209       (d) This subsection does not suspend the adoption of  
210 emergency rules under s. 120.54(4) or rulemaking necessary to  
211 ensure the state's compliance with federal law.

212       (10) EDUCATIONAL UNITS.—This section does not apply to  
213 educational units.

214       Section 3. Effective upon this act becoming a law:

215       (1) Sections 120.745 and 120.7455, Florida Statutes, are  
216 repealed.

217       (2) Any suspension of rulemaking authority under s.  
218 120.745, Florida Statutes, or s. 120.7455, Florida Statutes, is  
219 rescinded. This subsection does not affect any restriction,  
220 suspension, or prohibition of rulemaking authority under any  
221 other provision of law.

222       (3) This section serves no other purpose and shall not be  
223 codified in the Florida Statutes.

224       Section 4. Except as otherwise expressly provided in this  
225 act and except for this section, which shall take effect upon

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226 this act becoming a law, this act shall take effect July 1,  
227 2014.

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**T I T L E   A M E N D M E N T**

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Remove everything before the enacting clause and insert:

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An act relating to administrative procedures; amending s.

234

120.54, F.S.; revising the deadline to propose rules

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implementing new laws; amending s. 120.74, F.S.; revising

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requirements for the periodic review of agency rules; requiring

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agencies to annually review rulemaking and prepare and publish

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regulatory plans; specifying requirements for such plans;

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requiring publication by specified dates of notices of rule

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development and of proposed rules necessary to implement new

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laws; providing for applicability; providing for suspension of

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an agency's rulemaking authority for failure to comply with

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specified provisions; repealing ss. 120.745 and 120.7455, F.S.,

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relating to legislative review of agency rules in effect on or

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before a specified date and an Internet-based public survey of

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regulatory impacts, respectively; providing for rescission of

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the suspension of rulemaking authority under such repealed

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provisions; providing effective dates.