

HB 7001

2014

1 A bill to be entitled

2 An act relating to administrative procedures; amending  
3 s. 120.54, F.S.; revising the deadline to propose  
4 rules implementing new laws; amending s. 120.74, F.S.;  
5 revising requirements for the periodic review of  
6 agency rules; requiring agencies to annually review  
7 rulemaking and prepare and publish regulatory plans;  
8 specifying requirements for such plans; requiring  
9 publication by specified dates of notices of rule  
10 development and of proposed rules necessary to  
11 implement new laws; providing for applicability;  
12 providing for suspension of an agency's rulemaking  
13 authority for failure to comply with specified  
14 provisions; repealing ss. 120.745 and 120.7455, F.S.,  
15 relating to legislative review of agency rules in  
16 effect on or before a specified date and an Internet-  
17 based public survey of regulatory impacts,  
18 respectively; providing for rescission of the suspension  
19 of rulemaking authority under such repealed  
20 provisions; providing effective dates.

21  
22 Be It Enacted by the Legislature of the State of Florida:

23  
24 Section 1. Paragraph (b) of subsection (1) of section  
25 120.54, Florida Statutes, is amended to read:

26 120.54 Rulemaking.—

27 (1) GENERAL PROVISIONS APPLICABLE TO ALL RULES OTHER THAN  
 28 EMERGENCY RULES.—

29 (b) Whenever an act of the Legislature is enacted which  
 30 requires implementation of the act by rules of an agency within  
 31 the executive branch of state government, such rules shall be  
 32 drafted and formally proposed as provided in this section within  
 33 the times provided in s. 120.74(5)-(7) ~~180 days after the~~  
 34 ~~effective date of the act, unless the act provides otherwise.~~

35 Section 2. Section 120.74, Florida Statutes, is amended to  
 36 read:

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

39 120.74 Agency annual rulemaking and regulatory plans;  
 40 reports.—

41 (1) REGULATORY PLAN.—By October 1 of each fiscal year,  
 42 each agency shall prepare a regulatory plan identifying each law  
 43 enacted or amended during the previous 12 months that created or  
 44 modified the duties or authority of the agency and each law that  
 45 the agency expects to implement by rulemaking before the end of  
 46 that fiscal year, the reasons for the rulemaking, and whether  
 47 the rulemaking is intended to simplify, clarify, increase  
 48 efficiency, improve coordination with other agencies, reduce  
 49 regulatory costs, or delete obsolete, unnecessary, or redundant  
 50 rules.

51 (a) The plan may exclude emergency rules.

52 (b) The plan may exclude a law that creates or modifies

53 the duties or authority of all or most state agencies, if the  
54 laws is identified as such by letter to the committee from the  
55 Governor, the Attorney General, the President of the Senate, or  
56 the Speaker of the House of Representatives.

57 (c) For each law identified in the plan as enacted or  
58 amended during the previous 12 months, the plan must state:

59 1. Whether the agency must adopt rules to implement the  
60 law.

61 2. If rulemaking is necessary to implement the law,  
62 whether a notice of rule development has been published, and the  
63 date by which the agency expects to publish the notice of  
64 proposed rule under s. 120.54(3) (a).

65 3. If rulemaking is not necessary to implement the law, a  
66 concise written explanation of the reasons that the law may be  
67 implemented without rulemaking.

68 (d) The plan shall also include a list of all rules  
69 adopted, repealed, or amended by the agency during the previous  
70 fiscal year, identifying which rule changes were itemized in a  
71 prior year's regulatory plan.

72 (e) The plan shall include the following certification  
73 executed on behalf of the agency by both the agency head or, if  
74 the agency head is a collegial body, the chair or equivalent  
75 presiding officer, and the agency general counsel or, if the  
76 agency does not have a general counsel, the individual acting as  
77 principal legal advisor to the agency head:

78 1. Verifying that the plan is accurate.

79        2. Verifying that the agency regularly reviews all of its  
80 rules and the period during which all rules have most recently  
81 been reviewed to determine if they remain consistent with the  
82 agency's rulemaking authority and the law implemented.

83        (2) PUBLICATION AND DELIVERY TO THE COMMITTEE.—

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

85        1. Publish its regulatory plan on its website. A clearly  
86 labeled hyperlink to the plan must be included on the agency's  
87 primary website homepage.

88        2. Deliver by electronic communication to the committee a  
89 copy of the certification required in paragraph (1)(e).

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

94        (b) To satisfy the requirements of paragraph (a), each  
95 board established by s. 20.165(4) may coordinate with the  
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 plan and  
99 notice of publication in the coordinating department's plan and  
100 notice and for the delivery of the required documentation to the  
101 committee.

102        (3) INCLUSION IN LEGISLATIVE BUDGET REQUEST.—In addition  
103 to the requirements of s. 216.023 and pursuant to s. 216.351, a  
104 copy of the most recent certification executed under paragraph

105 (1)(e), clearly designated as such, shall be included as part of  
 106 the agency's legislative budget request.

107 (4) AGENCY CONCURRENCE WITH BOARD PLAN.—By October 15 of  
 108 each year:

109 (a) For each board established under s. 20.165(4), the  
 110 Department of Business and Professional Regulation shall publish  
 111 on its website and file with the committee a statement of  
 112 whether the department concurs with each rulemaking action  
 113 identified by the board's regulatory plan.

114 (b) For each board established under s. 20.43(3), the  
 115 Department of Health shall publish on its website and file with  
 116 the committee a statement of whether the department concurs with  
 117 each rulemaking action identified by the board's regulatory  
 118 plan.

119 (5) DEADLINE FOR RULE DEVELOPMENT.—By November 1 of each  
 120 year, each agency shall publish a notice of rule development  
 121 under s. 120.54(2) for each law identified in the agency's plan  
 122 pursuant to subparagraph(1)(c)1. for which rulemaking is  
 123 necessary to implement but for which the agency did not report  
 124 the publication of a notice of rule development under  
 125 subparagraph (1)(c)2.

126 (6) DEADLINE TO PUBLISH PROPOSED RULE.—The agency shall  
 127 publish a notice of proposed rule pursuant to s. 120.54(3)(a)  
 128 for each rule implementing a law identified in the agency's plan  
 129 pursuant to subparagraph(1)(c)1. for which rulemaking is  
 130 necessary by January 1 of the year after the deadline for the

131 plan or a later date specified pursuant to subparagraph  
132 (1)(c)2., which must be no later than April 1 after the deadline  
133 for the plan. If the agency is unable to publish the notice of  
134 proposed rule by that date, the agency may extend the deadline  
135 by no more than 180 days by publishing a notice of extension in  
136 the Florida Administrative Register. The notice shall set forth  
137 the revised deadline and the reason for the extension and shall  
138 cite the applicable notice of rule development by rule number  
139 and title, publication date, volume, and number of the Florida  
140 Administrative Register.

141 (7) SUPPLEMENTING THE REGULATORY PLAN.—After the  
142 preparation of the plan, the agency shall supplement the plan  
143 within 30 days after enactment of a law that is enacted before  
144 the next regular session of the Legislature if the law  
145 substantively modifies the agency's specifically delegated legal  
146 duties. The supplement shall include the information required in  
147 paragraphs (1)(b) and (1)(c) and shall be published, with  
148 documentation delivered to the committee, as required in  
149 subsection (2). The agency shall publish in the Florida  
150 Administrative Register notice of publishing the supplement, and  
151 include a hyperlink for direct access to the published  
152 supplement. For each law reported in the supplement, if  
153 rulemaking is necessary to implement the law, the agency shall  
154 publish a notice of rule development by the later of the date  
155 provided in subsection (5) or 60 days after the effective date  
156 of the law, and a notice of proposed rule shall be published by

157 the later of the date provided in subsection (6) or 120 days  
158 after the effective date of the law.

159 (8) FAILURE TO COMPLY.—Each agency shall file a  
160 certification with the committee upon compliance with subsection  
161 (5) and a separate certification of compliance with subsection  
162 (6) for each date upon which compliance is required by  
163 subsection (6). The date of compliance shall be noted in each  
164 certification. If an agency fails to comply with a requirement  
165 of subsections (1)-(7), the entire rulemaking authority  
166 delegated to the agency by the Legislature under any statute or  
167 law shall be suspended automatically as of the due date of the  
168 required action and shall remain suspended until the date the  
169 agency completes the required action, as noted in a  
170 certification of compliance, or until the end of the next  
171 regular session of the Legislature, whichever occurs first.

172 (a) During a period of suspension under this subsection,  
173 the agency has no authority to file rules for adoption under s.  
174 120.54, but may complete any action required by this section.

175 (b) A suspension under this subsection does not authorize  
176 an agency to promulgate or apply a statement defined as a rule  
177 under s. 120.52(16).

178 (c) A suspension under this subsection shall toll the time  
179 requirements under s. 120.54 for filing any rule for adoption in  
180 a rulemaking proceeding the agency initiated before the date of  
181 the suspension, which time requirements shall resume on the date  
182 the suspension ends.

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

186        (9) EDUCATIONAL UNITS.—This section does not apply to  
187 educational units.

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

189        (1) Sections 120.745 and 120.7455, Florida Statutes, are  
190 repealed.

191        (2) Any suspension of rulemaking authority under s.  
192 120.745, Florida Statutes, or s. 120.7455, Florida Statutes, is  
193 rescinded. This subsection does not affect any restriction,  
194 suspension, or prohibition of rulemaking authority under any  
195 other provision of law.

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

198        Section 4. Except as otherwise expressly provided in this  
199 act and except for this section, which shall take effect upon  
200 this act becoming a law, this act shall take effect July 1,  
201 2014.