

**FOR CONSIDERATION** By the Committee on Governmental Oversight and Accountability

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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 an  
9       agency to include a certification of the regulatory  
10      plan in a legislative budget request; requiring  
11      specified agencies to review the regulatory plans of  
12      certain boards; requiring publication by specified  
13      dates of notices of rule development and of proposed  
14      rules necessary to implement new laws; requiring an  
15      agency to file a certification with the Administrative  
16      Procedures Committee; requiring an agency to complete  
17      a supplement to the regulatory plan under certain  
18      circumstances; establishing requirements for the  
19      supplement; providing for suspension of an agency's  
20      rulemaking authority for failure to comply with  
21      specified provisions; providing for applicability;  
22      repealing ss. 120.745 and 120.7455, F.S., relating to  
23      legislative review of agency rules in effect on or  
24      before a specified date and an Internet-based public  
25      survey of regulatory impacts, respectively; providing  
26      for rescission of the suspension of rulemaking  
27      authority under such repealed provisions; providing  
28      effective dates.  
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30 Be It Enacted by the Legislature of the State of Florida:

31  
32 Section 1. Paragraph (b) of subsection (1) of section  
33 120.54, Florida Statutes, is amended to read:

34 120.54 Rulemaking.—

35 (1) GENERAL PROVISIONS APPLICABLE TO ALL RULES OTHER THAN  
36 EMERGENCY RULES.—

37 (b) Whenever an act of the Legislature is enacted which  
38 requires implementation of the act by rules of an agency within  
39 the executive branch of state government, such rules shall be  
40 drafted and formally proposed as provided in this section within  
41 the times provided in s. 120.74(5) and (6) ~~180 days after the~~  
42 ~~effective date of the act, unless the act provides otherwise.~~

43 Section 2. Section 120.74, Florida Statutes, is amended to  
44 read:

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

47 120.74 Agency annual rulemaking and regulatory plan;  
48 reports.—

49 (1) RULEMAKING AND REGULATORY PLAN.—By October 1 of each  
50 year, each agency shall prepare an implementation and rulemaking  
51 plan.

52 (a) The plan shall include a listing of each law enacted or  
53 amended during the previous 12 months which created or modified  
54 the duties or authority of the agency. The plan may exclude any  
55 law affecting all or most state agencies, if the law is  
56 identified as such by letter to the committee from the Governor  
57 or the Attorney General. For each law listed in the agency's  
58 plan, the plan must state:

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- 59       1. Whether the agency must adopt rules to implement the  
60 law.
- 61       2. If rulemaking is necessary to implement the law:
- 62       a. Whether a notice of rule development has been published,  
63 and if so, the citation for such notice in the Florida  
64 Administrative Register; and
- 65       b. The date by which the agency expects to publish the  
66 notice of proposed rule under s. 120.54(3)(a).
- 67       3. If rulemaking is not necessary to implement the law, a  
68 concise written explanation of the reasons that the law may be  
69 implemented without rulemaking.
- 70       (b) The plan shall include a listing of every other law  
71 that the agency expects to implement by rulemaking, excluding  
72 emergency rulemaking, before the following June 30. For each law  
73 listed pursuant to this paragraph, the plan must state whether  
74 the rulemaking is intended to simplify, clarify, increase  
75 efficiency, improve coordination with other agencies, reduce  
76 regulatory costs, or delete obsolete, unnecessary, or redundant  
77 rules.
- 78       (c) The plan shall include any desired update to the  
79 previous year's regulatory plan or supplement published pursuant  
80 to subsection (8). If a law was identified under this paragraph  
81 or under subparagraph (a)1. in a previous year's regulatory plan  
82 or supplement as a law requiring rulemaking for implementation  
83 but a notice of proposed rule has not been published:
- 84       1. The agency may identify and relist such law noting the  
85 applicable notice of rule development by citation to the Florida  
86 Administrative Register, or
- 87       2. If the agency has subsequently determined that

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88 rulemaking is not necessary to implement the law, the agency may  
89 identify such law, reference the citation of the applicable  
90 notice of rule development in the Florida Administrative  
91 Register, and state a concise written explanation of the reasons  
92 that the law may be implemented without rulemaking.

93 (d) The plan shall include the following certification  
94 executed on behalf of the agency by both the agency head, or if  
95 the agency head is a collegial body, the chair or equivalent  
96 presiding officer, and the agency general counsel, or if the  
97 agency does not have a general counsel, the individual acting as  
98 the principal legal advisor to the agency head:

99 1. Verifying that the persons authorized to certify have  
100 reviewed the plan.

101 2. Verifying that the agency regularly reviews all of its  
102 rules and identifying the period during which all rules have  
103 most recently been reviewed to determine if they remain  
104 consistent with the agency's rulemaking authority and the law  
105 implemented.

106 (2) PUBLICATION AND DELIVERY OF PLAN.-

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

108 1. Publish its regulatory plan on its website or another  
109 state website established for publication of administrative law  
110 records. A clearly labeled hyperlink to the plan must be  
111 included on the agency's primary website homepage.

112 2. Deliver by electronic means to the committee a copy of  
113 the certification required in paragraph (1) (d).

114 3. Publish in the Florida Administrative Register a notice  
115 of the date of publication of the agency's regulatory plan,  
116 which notice must include a hyperlink or website address

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117 providing direct access to the published plan.

118 (b) To satisfy the requirements of paragraph (a), each  
119 board established under s. 20.165(4), and any other board or  
120 commission receiving administrative support from the Department  
121 of Business and Professional Regulation, may coordinate with the  
122 department, and each board established under s. 20.43(3) may  
123 coordinate with the Department of Health, for inclusion of the  
124 board's or commission's plan and notice of publication in the  
125 coordinating department's plan and notice and delivery of the  
126 required documentation to the committee.

127 (c) A regulatory plan published pursuant to former s.  
128 120.74(3), Florida Statutes 2011, shall be maintained at an  
129 active website address for 10 years from the date of initial  
130 publication.

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

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

138 (a) For each board established under s. 20.165(4), and each  
139 other board or commission receiving administrative support from  
140 the Department of Business and Professional Regulation, the  
141 department shall file with the committee a certification that  
142 the department has reviewed the board's regulatory plan. A  
143 certification may apply to more than one board.

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

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146 certification that the department has reviewed the board's  
147 regulatory plan. A certification may apply to more than one  
148 board.

149 (5) DEADLINE FOR RULE DEVELOPMENT.—By November 1 of each  
150 year, each agency shall publish a notice of rule development  
151 under s. 120.54(2) for each law identified in the agency's plan  
152 pursuant to subparagraph (1)(a)1. for which rulemaking is  
153 necessary for implementation but for which the agency did not  
154 report the publication of a notice of rule development under  
155 subparagraph (1)(a)2.

156 (6) DEADLINE TO PUBLISH PROPOSED RULE.—For each law for  
157 which rulemaking is necessary for implementation, as identified  
158 in the agency's plan pursuant to subparagraph (1)(a)1. or  
159 subparagraph (1)(c)1., the agency shall publish a notice of  
160 proposed rule pursuant to s. 120.54(3)(a) by April 1 of the year  
161 after the deadline for the plan. The April 1 deadline may be  
162 extended if the agency publishes a notice of extension in the  
163 Florida Administrative Register identifying such rulemaking  
164 proceeding for which an extension is being noticed by citation  
165 to the applicable notice of rule development as published in the  
166 Florida Administrative Register. Such an extension shall expire  
167 on the October 1 following the April 1 deadline, provided that  
168 the regulatory plan due on October 1 may further extend the  
169 rulemaking proceeding by identification pursuant to subparagraph  
170 (1)(c)1. or conclude the rulemaking proceeding by identification  
171 pursuant to subparagraph (1)(c)2. A published regulatory plan  
172 may be corrected at any time to accomplish the purpose of  
173 extending or concluding an affected rulemaking proceeding and  
174 shall be deemed corrected as of the October 1 due date. Upon

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175 publication of any such correction, the agency shall publish a  
176 notice in the Florida Administrative Register stating the date  
177 of the correction and shall identify any affected rulemaking  
178 proceeding by applicable citation to the Florida Administrative  
179 Register.

180 (7) CERTIFICATION.—Each agency shall file a certification  
181 with the committee upon compliance with subsection (5), upon  
182 filing a notice for a deadline extension or a plan correction  
183 under subsection (6), and upon completion of any act that  
184 terminates a suspension under subsection (9). A certification  
185 may apply to more than one notice or contemporaneous act. The  
186 certification shall note the date or dates of compliance.

187 (8) SUPPLEMENTING THE REGULATORY PLAN.—After preparation of  
188 the regulatory plan, the agency shall supplement the plan within  
189 30 days after enactment of a law enacted before the next regular  
190 session of the Legislature if such law substantively modifies  
191 legal duties specifically delegated to the agency, unless the  
192 law affects all or most state agencies as identified by letter  
193 to the committee from the Governor or the Attorney General. The  
194 supplement shall include information required under paragraph  
195 (1) (a) and shall be published as required under subsection (2).  
196 An agency is not required to have the supplement delivered to or  
197 certified by the committee. The agency shall publish a notice of  
198 publication of the supplement, including a hyperlink or Internet  
199 address for direct access to the published supplement, in the  
200 Florida Administrative Register. If rulemaking is necessary for  
201 implementing a law reported in a supplement, the agency shall  
202 publish a notice of rule development as provided in subsection  
203 (5) or 60 days after the effective date of the law, whichever

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204 occurs last. The agency shall publish a notice of proposed rule  
205 as provided in subsection (6) or 120 days after the effective  
206 date of the law, whichever occurs last. The deadline for  
207 publishing a notice of proposed rule may be extended to the  
208 following October 1 if notice is provided in accordance with  
209 subsection (6). If such proposed rule has not been filed by  
210 October 1, a law included in a supplement shall also be included  
211 in the next annual regulatory plan issued pursuant to subsection  
212 (1).

213 (9) FAILURE TO COMPLY.—If an agency fails to comply with a  
214 requirement in paragraph (2) (a) or subsection (6), the entire  
215 rulemaking authority delegated to the agency by the Legislature  
216 under any statute or law shall be suspended automatically as of  
217 the due date of the required action and shall remain suspended  
218 until the date the agency completes the required action or until  
219 the end of the next regular session of the Legislature,  
220 whichever occurs first.

221 (a) During a period of suspension pursuant to this  
222 subsection, the agency has no authority to file rules for  
223 adoption under s. 120.54, but may complete any action required  
224 by this section and may conduct any public hearings that were  
225 noticed before the period of suspension began.

226 (b) A suspension under this subsection does not authorize  
227 an agency to promulgate or apply a statement defined as a rule  
228 under s. 120.52(16), unless the statement was filed for adoption  
229 under s. 120.54(3) before the period of suspension began.

230 (c) A suspension under this subsection shall toll the time  
231 requirements under s. 120.54 for filing any rule for adoption in  
232 a rulemaking proceeding initiated by the agency before the date



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233 of suspension, which time requirements shall resume on the date  
234 the suspension ends.

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

238 (10) EXCLUSION OF EDUCATIONAL UNITS.—This section does not  
239 apply to educational units.

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

241 (1) Sections 120.745 and 120.7455, Florida Statutes, are  
242 repealed.

243 (2) Any suspension of rulemaking authority under s.  
244 120.745, Florida Statutes, or s. 120.7455, Florida Statutes, is  
245 rescinded. This subsection does not affect any restriction,  
246 suspension, or prohibition of rulemaking authority under any  
247 other provision of law.

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

250 Section 4. Except as otherwise expressly provided in this  
251 act and except for this section, which shall take effect upon  
252 this act becoming a law, this act shall take effect July 1,  
253 2014.