



797194

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/17/2015	.	
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	.	
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The Committee on Governmental Oversight and Accountability
(Bullard) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (3) of section 119.021, Florida
Statutes, is amended to read:

119.021 Custodial requirements; maintenance, preservation,
and retention of public records.—

(3) Agency final orders rendered before July 1, 2015, which
were indexed or listed pursuant to s. 120.53, and agency final



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11 orders rendered on or after July 1, 2015, which must be listed
12 or copies of which must be transmitted to the Division of
13 Administrative Hearings orders that comprise final agency action
14 ~~and that must be indexed or listed pursuant to s. 120.53,~~ have
15 continuing legal significance; therefore, notwithstanding any
16 other provision of this chapter or any provision of chapter 257,
17 each agency shall permanently maintain records of such orders
18 pursuant to the applicable rules of the Department of State.

19 Section 2. Section 120.53, Florida Statutes, is amended to
20 read:

21 120.53 Maintenance of agency final orders; ~~indexing;~~
22 ~~listing; organizational information.-~~

23 (1) In addition to maintaining records contained in s.
24 119.021(3), each agency shall also electronically transmit a
25 certified text-searchable copy of each agency final order listed
26 in subsection (2) rendered on or after July 1, 2015, to a
27 centralized electronic database of agency final orders
28 maintained by the division. The database must allow users to
29 research and retrieve the full texts of agency final orders by:

30 (a) The name of the agency that issued the final order.

31 (b) The date the final order was issued.

32 (c) The type of final order.

33 (d) The subject of the final order.

34 (e) Terms contained in the text of the final order.

35 ~~(a) Each agency shall maintain:~~

36 ~~1. All agency final orders.~~

37 ~~2.a. A current hierarchical subject-matter index,~~
38 ~~identifying for the public any rule or order as specified in~~
39 ~~this subparagraph.~~



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40 ~~b. In lieu of the requirement for making available for~~
41 ~~public inspection and copying a hierarchical subject-matter~~
42 ~~index of its orders, an agency may maintain and make available~~
43 ~~for public use an electronic database of its orders that allows~~
44 ~~users to research and retrieve the full texts of agency orders~~
45 ~~by devising an ad hoc indexing system employing any logical~~
46 ~~search terms in common usage which are composed by the user and~~
47 ~~which are contained in the orders of the agency or by~~
48 ~~descriptive information about the order which may not be~~
49 ~~specifically contained in the order.~~

50 ~~(2)e.~~ The agency final orders that must be electronically
51 transmitted to the centralized electronic database indexed,
52 ~~unless excluded under paragraph (c) or paragraph (d),~~ include:

53 ~~(a)(I)~~ Each final agency order resulting from a proceeding
54 under s. 120.57 or s. 120.573.

55 ~~(b)(II)~~ Each final agency order rendered pursuant to s.
56 120.57(4) which contains a statement of agency policy that may
57 be the basis of future agency decisions or that may otherwise
58 contain a statement of precedential value.

59 ~~(c)(III)~~ Each declaratory statement issued by an agency.

60 ~~(d)(IV)~~ Each final order resulting from a proceeding under
61 s. 120.56 or s. 120.574.

62 ~~(3)3.~~ Each agency shall maintain a list of all final orders
63 rendered pursuant to s. 120.57(4) that are not required to be
64 electronically transmitted to the centralized electronic
65 database which have been excluded from the indexing requirement
66 of this section, with the approval of the Department of State,
67 because they do not contain statements of agency policy or
68 statements of precedential value. The list must include the name



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69 of the parties to the proceeding and the number assigned to the
70 final order.

71 ~~4. All final orders listed pursuant to subparagraph 3.~~

72 (4)(b) Each An agency final order, whether rendered by the
73 agency or the division, that must be electronically transmitted
74 to the centralized electronic database or maintained on a list
75 pursuant to subsection (3) must be electronically transmitted to
76 the database or added to the list within 90 days after the final
77 ~~indexed or listed pursuant to paragraph (a) must be indexed or~~
78 ~~listed within 120 days after the order is rendered. Each final~~
79 ~~order that must be electronically transmitted to the database or~~
80 ~~added to the list indexed or listed pursuant to paragraph (a)~~
81 ~~must have attached a copy of the complete text of any materials~~
82 ~~incorporated by reference; however, if the quantity of the~~
83 ~~materials incorporated makes attachment of the complete text of~~
84 ~~the materials impractical, the final order may contain a~~
85 ~~statement of the location of such materials and the manner in~~
86 ~~which the public may inspect or obtain copies of the materials~~
87 ~~incorporated by reference. The Department of State shall~~
88 ~~establish by rule procedures for indexing final orders, and~~
89 ~~procedures of agencies for indexing orders must be approved by~~
90 ~~the department.~~

91 (5) Nothing in this section relieves an agency from its
92 responsibility for maintaining a subject matter index of final
93 orders rendered before July 1, 2015, and identifying the
94 location of the subject matter index on the agency's website. In
95 addition, an agency may electronically transmit to the
96 centralized electronic database certified copies of all of the
97 final orders that were rendered before July 1, 2015, which were



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98 required to be in the subject matter index. The centralized
99 electronic database constitutes the official compilation of
100 administrative final orders rendered on or after July 1, 2015,
101 for each agency.

102 ~~(c) Each agency must receive approval in writing from the~~
103 ~~Department of State for:~~

104 ~~1. The specific types and categories of agency final orders~~
105 ~~that may be excluded from the indexing and public inspection~~
106 ~~requirements, as determined by the department pursuant to~~
107 ~~paragraph (d).~~

108 ~~2. The method for maintaining indexes, lists, and final~~
109 ~~orders that must be indexed or listed and made available to the~~
110 ~~public.~~

111 ~~3. The method by which the public may inspect or obtain~~
112 ~~copies of indexes, lists, and final orders.~~

113 ~~4. A sequential numbering system which numbers all final~~
114 ~~orders required to be indexed or listed pursuant to paragraph~~
115 ~~(a), in the order rendered.~~

116 ~~5. Proposed rules for implementing the requirements of this~~
117 ~~section for indexing and making final orders available for~~
118 ~~public inspection.~~

119 ~~(d) In determining which final orders may be excluded from~~
120 ~~the indexing and public inspection requirements, the Department~~
121 ~~of State may consider all factors specified by an agency,~~
122 ~~including precedential value, legal significance, and purpose.~~
123 ~~Only agency final orders that are of limited or no precedential~~
124 ~~value, that are of limited or no legal significance, or that are~~
125 ~~ministerial in nature may be excluded.~~

126 ~~(e) Each agency shall specify the specific types or~~



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127 ~~categories of agency final orders that are excluded from the~~
128 ~~indexing and public inspection requirements.~~

129 ~~(f) Each agency shall specify the location or locations~~
130 ~~where agency indexes, lists, and final orders that are required~~
131 ~~to be indexed or listed are maintained and shall specify the~~
132 ~~method or procedure by which the public may inspect or obtain~~
133 ~~copies of indexes, lists, and final orders.~~

134 ~~(g) Each agency shall specify all systems in use by the~~
135 ~~agency to search and locate agency final orders that are~~
136 ~~required to be indexed or listed, including, but not limited to,~~
137 ~~any automated system. An agency shall make the search~~
138 ~~capabilities employed by the agency available to the public~~
139 ~~subject to reasonable terms and conditions, including a~~
140 ~~reasonable charge, as provided by s. 119.07. The agency shall~~
141 ~~specify how assistance and information pertaining to final~~
142 ~~orders may be obtained.~~

143 ~~(h) Each agency shall specify the numbering system used to~~
144 ~~identify agency final orders.~~

145 ~~(2) (a) An agency may comply with subparagraphs (1) (a) 1. and~~
146 ~~2. by designating an official reporter to publish and index by~~
147 ~~subject matter each agency order that must be indexed and made~~
148 ~~available to the public, or by electronically transmitting to~~
149 ~~the division a copy of such orders for posting on the division's~~
150 ~~website. An agency is in compliance with subparagraph (1) (a) 3.~~
151 ~~if it publishes in its designated reporter a list of each agency~~
152 ~~final order that must be listed and preserves each listed order~~
153 ~~and makes it available for public inspection and copying.~~

154 ~~(b) An agency may publish its official reporter or may~~
155 ~~contract with a publishing firm to publish its official~~



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156 ~~reporter; however, if an agency contracts with a publishing firm~~
157 ~~to publish its reporter, the agency is responsible for the~~
158 ~~quality, timeliness, and usefulness of the reporter. The~~
159 ~~Department of State may publish an official reporter for an~~
160 ~~agency or may contract with a publishing firm to publish the~~
161 ~~reporter for the agency; however, if the department contracts~~
162 ~~for publication of the reporter, the department is responsible~~
163 ~~for the quality, timeliness, and usefulness of the reporter. A~~
164 ~~reporter that is designated by an agency as its official~~
165 ~~reporter and approved by the Department of State constitutes the~~
166 ~~official compilation of the administrative final orders for that~~
167 ~~agency.~~

168 ~~(c) A reporter that is published by the Department of State~~
169 ~~may be made available by annual subscription, and each agency~~
170 ~~that designates an official reporter published by the department~~
171 ~~may be charged a space rate payable to the department. The~~
172 ~~subscription rate and the space rate must be equitably~~
173 ~~apportioned to cover the costs of publishing the reporter.~~

174 ~~(d) An agency that designates an official reporter need not~~
175 ~~publish the full text of an agency final order that is rendered~~
176 ~~pursuant to s. 120.57(4) and that must be indexed pursuant to~~
177 ~~paragraph (1)(a), if the final order is preserved by the agency~~
178 ~~and made available for public inspection and copying and the~~
179 ~~official reporter indexes the final order and includes a~~
180 ~~synopsis of the order. A synopsis must include the names of the~~
181 ~~parties to the order; any rule, statute, or constitutional~~
182 ~~provision pertinent to the order; a summary of the facts, if~~
183 ~~included in the order, which are pertinent to the final~~
184 ~~disposition; and a summary of the final disposition.~~



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185 ~~(3) Agency orders that must be indexed or listed are~~
186 ~~documents of continuing legal value and must be permanently~~
187 ~~preserved and made available to the public. Each agency to which~~
188 ~~this chapter applies shall provide, under the direction of the~~
189 ~~Department of State, for the preservation of orders as required~~
190 ~~by this chapter and for maintaining an index to those orders.~~

191 ~~(4) Each agency must provide any person who makes a request~~
192 ~~with a written description of its organization and the general~~
193 ~~course of its operations.~~

194 Section 3. Section 120.533, Florida Statutes, is amended to
195 read:

196 120.533 Coordination of the transmittal, indexing, and
197 listing of agency final orders by Department of State.—The
198 Department of State shall:

199 (1) Coordinate ~~Administer the coordination of the~~
200 transmittal, indexing, management, preservation, and
201 availability of agency final orders that must be transmitted,
202 indexed, or listed pursuant to s. 120.53 ~~s. 120.53(1)~~.

203 (2) ~~Provide, by rule,~~ guidelines for ~~the~~ indexing ~~of~~ agency
204 final orders. More than one system for indexing may be approved
205 by the Department of State, including systems or methods in use,
206 or proposed for use, by an agency. More than one system may be
207 approved for use by a single agency as best serves the needs of
208 that agency and the public.

209 (3) ~~Provide, by rule,~~ for storage and retrieval systems to
210 be maintained by agencies pursuant to s. 120.53(5) for indexing,
211 and making available, ~~agency final~~ orders by subject matter. The
212 Department of State may authorize ~~approve~~ more than one system,
213 including systems in use, ~~or proposed for use,~~ by an agency.



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214 Storage and retrieval systems that may be used by an agency
215 include, without limitation, a designated reporter or reporters,
216 a microfilming system, an automated system, or any other system
217 considered appropriate by the Department of State.

218 (4) Provide standards and guidelines for the certification
219 and electronic transmittal of copies of agency final orders to
220 the division as required under s. 120.53, and, to protect the
221 integrity and authenticity of information publicly accessible
222 through the electronic database, coordinate and provide
223 standards and guidelines to ensure the security of copies of
224 agency final orders transmitted and maintained in the electronic
225 database by the division under s. 120.53(1).

226 (5)~~(4)~~ For each agency, determine which final orders must
227 be indexed or transmitted ~~for each agency.~~

228 (6)~~(5)~~ Require each agency to report to the department
229 concerning which types or categories of agency orders establish
230 precedent for each agency.

231 (7) Adopt rules as necessary to administer its
232 responsibilities under this section, which shall be binding on
233 all agencies, including the division acting in the capacity of
234 official compiler of administrative final orders under s.
235 120.53, notwithstanding s. 120.65. The Department of State may
236 provide for an alternative official compiler to manage and
237 operate the division's database and related services if the
238 Administration Commission determines that the performance of the
239 division as official compiler is unsatisfactory.

240 Section 4. Subsection (1) of section 213.22, Florida
241 Statutes, is amended to read:

242 213.22 Technical assistance advisements.—



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243 (1) The department may issue informal technical assistance
244 advisements to persons, upon written request, as to the position
245 of the department on the tax consequences of a stated
246 transaction or event, under existing statutes, rules, or
247 policies. After the issuance of an assessment, a technical
248 assistance advisement may not be issued to a taxpayer who
249 requests an advisement relating to the tax or liability for tax
250 in respect to which the assessment has been made, except that a
251 technical assistance advisement may be issued to a taxpayer who
252 requests an advisement relating to the exemptions in s.
253 212.08(1) or (2) at any time. Technical assistance advisements
254 shall have no precedential value except to the taxpayer who
255 requests the advisement and then only for the specific
256 transaction addressed in the technical assistance advisement,
257 unless specifically stated otherwise in the advisement. Any
258 modification of an advisement shall be prospective only. A
259 technical assistance advisement is not an order issued pursuant
260 to s. 120.565 or s. 120.569 or a rule or policy of general
261 applicability under s. 120.54. The provisions of s. 120.53 ~~s.~~
262 ~~120.53(1)~~ are not applicable to technical assistance
263 advisements.

264 Section 5. This act shall take effect July 1, 2015.

265
266 ===== T I T L E A M E N D M E N T =====

267 And the title is amended as follows:

268 Delete everything before the enacting clause
269 and insert:

270 A bill to be entitled

271 An act relating to the maintenance of agency final



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272 orders; amending s. 119.021, F.S.; conforming a
273 provision to changes made by the act; amending s.
274 120.53, F.S.; requiring agencies to electronically
275 transmit certain agency final orders to a centralized
276 electronic database maintained by the Division of
277 Administrative Hearings; providing the methods by
278 which such final orders can be searched; requiring
279 each agency to maintain a list of final orders that
280 are not required to be electronically transmitted to
281 the database; providing a timeframe for electronically
282 transmitting or listing the final orders; authorizing
283 agencies to maintain subject matter indexes of final
284 orders issued before a specified date or to
285 electronically transmit such orders to the database;
286 providing that the centralized electronic database is
287 the official compilation of administrative final
288 orders issued on or after a specified date for each
289 agency; deleting obsolete provisions regarding filing,
290 indexing, and publishing final orders; amending s.
291 120.533, F.S.; requiring the Department of State to
292 provide standards and guidelines for the certification
293 and electronic transmittal and the secure transmittal
294 and maintenance of agency final orders; authorizing
295 the department to adopt rules; authorizing the
296 department to provide for an alternative official
297 compiler of agency final orders under certain
298 circumstances; conforming provisions to changes made
299 by the act; amending s. 213.22, F.S.; conforming a
300 cross-reference; providing an effective date.