

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 annual review of agency
 6 rules; providing procedures for preparing and
 7 publishing regulatory plans; specifying requirements
 8 for such plans; requiring publication by specified
 9 dates of notices of rule development and of proposed
 10 rules necessary to implement new laws; providing for
 11 applicability; providing for suspension of an agency's
 12 rulemaking authority under certain circumstances;
 13 repealing s. 120.745 F.S., relating to legislative
 14 review of agency rules in effect on or before a
 15 specified date; repealing s. 120.7455, F.S., relating
 16 to an Internet-based public survey of regulatory
 17 impacts; providing for rescission of the suspension of
 18 rulemaking authority under such repealed provisions;
 19 providing effective dates.

20
 21 Be It Enacted by the Legislature of the State of Florida:

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

25 120.54 Rulemaking.—

26 (1) GENERAL PROVISIONS APPLICABLE TO ALL RULES OTHER THAN

27 EMERGENCY RULES.—

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

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

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

38 120.74 Agency annual rulemaking and regulatory plans;
 39 reports.—

40 (1) REGULATORY PLAN.—By October 1 of each year, each
 41 agency shall prepare an implementation and rulemaking plan.

42 (a) The plan must include a listing of each law enacted or
 43 amended during the previous 12 months that creates or modifies
 44 the duties or authority of the agency. If the Governor or the
 45 Attorney General provides a letter to the committee stating that
 46 a law affects all or most agencies, the agency may exclude the
 47 law from its plan. For each law listed by an agency under this
 48 paragraph, the plan must state:

49 1. Whether the agency must adopt rules to implement the
 50 law.

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

52 a. Whether a notice of rule development has been published

53 and, if so, the citation to such notice in the Florida
54 Administrative Register.

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

57 3. If rulemaking is not necessary to implement the law, a
58 concise written explanation of the reasons why the law may be
59 implemented without rulemaking.

60 (b) The plan must also include a listing of each law not
61 otherwise listed pursuant to paragraph (a) that the agency
62 expects to implement by rulemaking before the following July 1,
63 except emergency rulemaking. For each law listed under this
64 paragraph, the plan must state whether the rulemaking is
65 intended to simplify, clarify, increase efficiency, improve
66 coordination with other agencies, reduce regulatory costs, or
67 delete obsolete, unnecessary, or redundant rules.

68 (c) The plan must include any desired update to the prior
69 year's regulatory plan or supplement published pursuant to
70 subsection (8). If in a prior year a law was identified under
71 this paragraph or under subparagraph (1)(a)1. as a law requiring
72 rulemaking to implement but a notice of proposed rule has not
73 been published:

74 1. The agency may identify and again list such law, noting
75 the applicable notice of rule development by citation to the
76 Florida Administrative Register; or

77 2. If the agency has subsequently determined that
78 rulemaking is not necessary to implement the law, the agency may

79 identify such law, reference the citation to the applicable
80 notice of rule development in the Florida Administrative
81 Register, and provide a concise written explanation of the
82 reason why the law may be implemented without rulemaking.

83 (d) The plan shall include a certification executed on
84 behalf of the agency by both the agency head or, if the agency
85 head is a collegial body, the chair or equivalent presiding
86 officer, and the agency general counsel or, if the agency does
87 not have a general counsel, the individual acting as principal
88 legal advisor to the agency head. The certification must:

89 1. Verify that the persons executing the certification
90 have reviewed the plan.

91 2. Verify that the agency regularly reviews all of its
92 rules and identify the period during which all rules have most
93 recently been reviewed to determine if the rules remain
94 consistent with the agency's rulemaking authority and the laws
95 implemented.

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

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

98 1. Publish its regulatory plan on its website or on
99 another state website established for publication of
100 administrative law records. A clearly labeled hyperlink to the
101 current plan must be included on the agency's primary website
102 homepage.

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

105 3. Publish in the Florida Administrative Register a notice
106 identifying the date of publication of the agency's regulatory
107 plan. The notice shall include a hyperlink or website address
108 providing direct access to the published plan.

109 (b) To satisfy the requirements of paragraph (a), each
110 board established by s. 20.165(4), and any other board or
111 commission receiving administrative support from the Department
112 of Business and Professional Regulation, may coordinate with the
113 Department of Business and Professional Regulation, and each
114 board established by s. 20.43(3)(g) may coordinate with the
115 Department of Health, for inclusion of the board's or
116 commission's plan and notice of publication in the coordinating
117 department's plan and notice and for the delivery of the
118 required documentation to the committee.

119 (c) A regulatory plan prepared under subsection (1) and
120 any regulatory plan published under this chapter before July 1,
121 2014, shall be maintained at an active website for 10 years
122 after the date of initial publication on the agency's website or
123 another state website.

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

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

131 (a) For each board established under s. 20.165(4) and any
132 other board or commission receiving administrative support from
133 the Department of Business and Professional Regulation, the
134 Department of Business and Professional Regulation shall file
135 with the committee a certification that the department has
136 reviewed each board's regulatory plan. A certification may
137 relate to more than one board.

138 (b) For each board established under s. 20.43(3), the
139 Department of Health shall file with the committee a
140 certification that the department has reviewed the board's
141 regulatory plan. A certification may relate to more than one
142 board.

143 (5) DEADLINE FOR RULE DEVELOPMENT.—By November 1 of each
144 year, each agency shall publish a notice of rule development
145 under s. 120.54(2) for each law identified in the agency's
146 regulatory plan pursuant to subparagraph (1)(a)1. for which
147 rulemaking is necessary to implement but for which the agency
148 did not report the publication of a notice of rule development
149 under subparagraph (1)(a)2.

150 (6) DEADLINE TO PUBLISH PROPOSED RULE.—For each law for
151 which implementing rulemaking is necessary as identified in the
152 agency's plan pursuant to subparagraph (1)(a)1. or subparagraph
153 (1)(c)1., the agency shall publish a notice of proposed rule
154 pursuant to s. 120.54(3)(a) by April 1 of the year following the
155 deadline for the regulatory plan. This deadline may be extended
156 if the agency publishes a notice of extension in the Florida

157 Administrative Register identifying each rulemaking proceeding
158 for which an extension is being noticed by citation to the
159 applicable notice of rule development as published in the
160 Florida Administrative Register. An extension shall expire on
161 October 1 after the April 1 deadline, provided that the
162 regulatory plan due on October 1 may further extend the
163 rulemaking proceeding by identification pursuant to subparagraph
164 (1) (c)1. or conclude the rulemaking proceeding by identification
165 pursuant to subparagraph (1) (c)2. A published regulatory plan
166 may be corrected at any time to accomplish the purpose of
167 extending or concluding an affected rulemaking proceeding and is
168 deemed corrected as of the October 1 due date. Upon publication
169 of a correction, the agency shall publish in the Florida
170 Administrative Register a notice of the date of the correction
171 identifying the affected rulemaking proceeding by applicable
172 citation to the Florida Administrative Register.

173 (7) CERTIFICATIONS.—Each agency shall file a certification
174 with the committee upon compliance with subsection (5), upon
175 filing a notice under subsection (6) of either a deadline
176 extension or a regulatory plan correction, and upon the
177 completion of an act that terminates a suspension under
178 subsection (9). A certification may relate to more than one
179 notice or contemporaneous act. The date or dates of compliance
180 shall be noted in each certification.

181 (8) SUPPLEMENTING THE REGULATORY PLAN.—After publication
182 of the regulatory plan, the agency shall supplement the plan

183 within 30 days after a bill becomes a law, if the law is enacted
184 before the next regular session of the Legislature and the law
185 substantively modifies the agency's specifically delegated legal
186 duties, unless the law affects all or most state agencies as
187 identified by letter to the committee from the Governor or the
188 Attorney General. The supplement shall include the information
189 required in paragraph (1) (a) and shall be published as required
190 in subsection (2), but no certification or delivery to the
191 committee is required. The agency shall publish in the Florida
192 Administrative Register notice of publication of the supplement,
193 and include a hyperlink or web address for direct access to the
194 published supplement. For each law reported in the supplement,
195 if rulemaking is necessary to implement the law, the agency
196 shall publish a notice of rule development by the later of the
197 date provided in subsection (5) or 60 days after the bill
198 becomes a law, and a notice of proposed rule shall be published
199 by the later of the date provided in subsection (6) or 120 days
200 after the bill becomes a law. The proposed rule deadline may be
201 extended to the following October 1 by notice as provided in
202 subsection (6). If such proposed rule has not been filed by
203 October 1, a law included in a supplement shall also be included
204 in the next annual plan pursuant to subsection (1).

205 (9) FAILURE TO COMPLY.—If an agency fails to comply with a
206 requirement of paragraph (2) (a) or subsection (6), the entire
207 rulemaking authority delegated to the agency by the Legislature
208 under any statute or law shall be suspended automatically as of

209 the due date of the required action and shall remain suspended
 210 until the date the agency completes the required act or until
 211 the end of the next regular session of the Legislature,
 212 whichever occurs first.

213 (a) During a period of suspension under this subsection,
 214 the agency has no authority to file rules for adoption under s.
 215 120.54, but may complete any action required by this section and
 216 may conduct public hearings that were noticed before the period
 217 of suspension.

218 (b) A suspension under this subsection does not authorize
 219 an agency to promulgate or apply a statement defined as a rule
 220 under s. 120.52(16) unless the statement was filed for adoption
 221 under s. 120.54(3) before the suspension.

222 (c) A suspension under this subsection tolls the time
 223 requirements under s. 120.54 for filing a rule for adoption in a
 224 rulemaking proceeding initiated by the agency before the date of
 225 the suspension. The time requirements shall resume on the date
 226 the suspension ends.

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

230 (10) EDUCATIONAL UNITS.—This section does not apply to
 231 educational units.

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

233 (1) Sections 120.745 and 120.7455, Florida Statutes, are
 234 repealed.

235 (2) Any suspension of rulemaking authority under s.
236 120.745, Florida Statutes, or s. 120.7455, Florida Statutes, is
237 rescinded. This subsection does not affect any restriction,
238 suspension, or prohibition of rulemaking authority under any
239 other provision of law.

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

242 Section 4. Except as otherwise expressly provided in this
243 act and except for this section, which shall take effect upon
244 this act becoming a law, this act shall take effect July 1,
245 2015.