



HB 7023, Engrossed 1

2015

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; prescribing  
11          procedures in the event of noncompliance by an agency;  
12          providing for applicability; repealing s. 120.7455,  
13          F.S., relating to the legislative survey of regulatory  
14          impacts; rescinding the suspension of rulemaking  
15          authority made under s. 120.745, F.S.; providing  
16          effective dates.

17  
18   Be It Enacted by the Legislature of the State of Florida:

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20           Section 1. Paragraph (b) of subsection (1) of section  
21   120.54, Florida Statutes, is amended to read:

22           120.54 Rulemaking.—

23           (1) GENERAL PROVISIONS APPLICABLE TO ALL RULES OTHER THAN  
24   EMERGENCY RULES.—

25           (b) Whenever an act of the Legislature is enacted which  
26   requires implementation of the act by rules of an agency within



27 | the executive branch of state government, such rules shall be  
 28 | drafted and formally proposed as provided in this section within  
 29 | the times provided in s. 120.74(4) and (5) ~~180 days after the~~  
 30 | ~~effective date of the act, unless the act provides otherwise.~~

31 | Section 2. Section 120.74, Florida Statutes, is amended to  
 32 | read:

33 | (Substantial rewording of section. See  
 34 | s. 120.74, F.S., for present text.)

35 | 120.74 Agency annual rulemaking and regulatory plans;  
 36 | reports.-

37 | (1) REGULATORY PLAN.-By October 1 of each year, each  
 38 | agency shall prepare a regulatory plan.

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

46 | 1. Whether the agency must adopt rules to implement the  
 47 | law.

48 | 2. If rulemaking is necessary to implement the law:

49 | a. Whether a notice of rule development has been published  
 50 | and, if so, the citation to such notice in the Florida  
 51 | Administrative Register.

52 | b. The date by which the agency expects to publish the



53 | notice of proposed rule under s. 120.54(3)(a).

54 | 3. If rulemaking is not necessary to implement the law, a  
55 | concise written explanation of the reasons why the law may be  
56 | implemented without rulemaking.

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

65 | (c) The plan must include any desired update to the prior  
66 | year's regulatory plan or supplement published pursuant to  
67 | subsection (7). If, in a prior year, a law was identified under  
68 | this paragraph or under subparagraph (a)1. as a law requiring  
69 | rulemaking to implement but a notice of proposed rule has not  
70 | been published:

71 | 1. The agency shall identify and again list such law,  
72 | noting the applicable notice of rule development by citation to  
73 | the Florida Administrative Register; or

74 | 2. If the agency has subsequently determined that  
75 | rulemaking is not necessary to implement the law, the agency  
76 | shall identify such law, reference the citation to the  
77 | applicable notice of rule development in the Florida  
78 | Administrative Register, and provide a concise written



79 explanation of the reason why the law may be implemented without  
80 rulemaking.

81 (d) The plan must include a certification executed on  
82 behalf of the agency by both the agency head, or, if the agency  
83 head is a collegial body, the presiding officer; and the  
84 individual acting as principal legal advisor to the agency head.  
85 The certification must:

86 1. Verify that the persons executing the certification  
87 have reviewed the plan.

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

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

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

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

100 2. Electronically deliver to the committee a copy of the  
101 certification required in paragraph (1) (d).

102 3. Publish in the Florida Administrative Register a notice  
103 identifying the date of publication of the agency's regulatory  
104 plan. The notice must include a hyperlink or website address



105 providing direct access to the published plan.

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

116 (c) A regulatory plan prepared under subsection (1) and  
117 any regulatory plan published under this chapter before July 1,  
118 2014, shall be maintained at an active website for 10 years  
119 after the date of initial publication on the agency's website or  
120 another state website.

121 (3) DEPARTMENT REVIEW OF BOARD PLAN.—By October 15 of each  
122 year:

123 (a) For each board established under s. 20.165(4) and any  
124 other board or commission receiving administrative support from  
125 the Department of Business and Professional Regulation, the  
126 Department of Business and Professional Regulation shall file  
127 with the committee a certification that the department has  
128 reviewed each board's and commission's regulatory plan. A  
129 certification may relate to more than one board or commission.

130 (b) For each board established under s. 20.43(3)(g), the



131 Department of Health shall file with the committee a  
132 certification that the department has reviewed the board's  
133 regulatory plan. A certification may relate to more than one  
134 board.

135 (4) DEADLINE FOR RULE DEVELOPMENT.—By November 1 of each  
136 year, each agency shall publish a notice of rule development  
137 under s. 120.54(2) for each law identified in the agency's  
138 regulatory plan pursuant to subparagraph (1)(a)1. for which  
139 rulemaking is necessary to implement but for which the agency  
140 did not report the publication of a notice of rule development  
141 under subparagraph (1)(a)2.

142 (5) DEADLINE TO PUBLISH PROPOSED RULE.—For each law for  
143 which implementing rulemaking is necessary as identified in the  
144 agency's plan pursuant to subparagraph (1)(a)1. or subparagraph  
145 (1)(c)1., the agency shall publish a notice of proposed rule  
146 pursuant to s. 120.54(3)(a) by April 1 of the year following the  
147 deadline for the regulatory plan. This deadline may be extended  
148 if the agency publishes a notice of extension in the Florida  
149 Administrative Register identifying each rulemaking proceeding  
150 for which an extension is being noticed by citation to the  
151 applicable notice of rule development as published in the  
152 Florida Administrative Register. The agency shall include a  
153 concise statement in the notice of extension identifying any  
154 issues that are causing the delay in rulemaking. An extension  
155 shall expire on October 1 after the April 1 deadline, provided  
156 that the regulatory plan due on October 1 may further extend the



157 rulemaking proceeding by identification pursuant to subparagraph  
158 (1)(c)1. or conclude the rulemaking proceeding by identification  
159 pursuant to subparagraph (1)(c)2. A published regulatory plan  
160 may be corrected at any time to accomplish the purpose of  
161 extending or concluding an affected rulemaking proceeding and is  
162 deemed corrected as of the October 1 due date. Upon publication  
163 of a correction, the agency shall publish in the Florida  
164 Administrative Register a notice of the date of the correction  
165 identifying the affected rulemaking proceeding by applicable  
166 citation to the Florida Administrative Register.

167 (6) CERTIFICATIONS.—Each agency shall file a certification  
168 with the committee upon compliance with subsection (4) and upon  
169 filing a notice under subsection (5) of either a deadline  
170 extension or a regulatory plan correction. A certification may  
171 relate to more than one notice or contemporaneous act. The date  
172 or dates of compliance shall be noted in each certification.

173 (7) SUPPLEMENTING THE REGULATORY PLAN.—After publication  
174 of the regulatory plan, the agency shall supplement the plan  
175 within 30 days after a bill becomes a law if the law is enacted  
176 before the next regular session of the Legislature and the law  
177 substantively modifies the agency's specifically delegated legal  
178 duties, unless the law affects all or most state agencies as  
179 identified by letter to the committee from the Governor or the  
180 Attorney General. The supplement must include the information  
181 required in paragraph (1)(a) and shall be published as required  
182 in subsection (2), but no certification or delivery to the



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183 committee is required. The agency shall publish in the Florida  
184 Administrative Register notice of publication of the supplement,  
185 and include a hyperlink on its website or web address for direct  
186 access to the published supplement. For each law reported in the  
187 supplement, if rulemaking is necessary to implement the law, the  
188 agency shall publish a notice of rule development by the later  
189 of the date provided in subsection (4) or 60 days after the bill  
190 becomes a law, and a notice of proposed rule shall be published  
191 by the later of the date provided in subsection (5) or 120 days  
192 after the bill becomes a law. The proposed rule deadline may be  
193 extended to the following October 1 by notice as provided in  
194 subsection (5). If such proposed rule has not been filed by  
195 October 1, a law included in a supplement shall also be included  
196 in the next annual plan pursuant to subsection (1).

197 (8) FAILURE TO COMPLY.—If an agency fails to comply with a  
198 requirement of paragraph (2)(a) or subsection (5), within 15  
199 days after written demand from the committee or from the chair  
200 of any other legislative committee, the agency shall deliver a  
201 written explanation of the reasons for noncompliance to the  
202 committee, the President of the Senate, the Speaker of the House  
203 of Representatives, and the chair of any legislative committee  
204 requesting the explanation of the reasons for noncompliance.

205 (9) EDUCATIONAL UNITS.—This section does not apply to  
206 educational units.

207 Section 3. Section 120.7455, Florida Statutes, is  
208 repealed.





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209           Section 4. Effective upon this act becoming a law, any  
210 suspension of rulemaking authority under s. 120.745, Florida  
211 Statutes, is rescinded. This section does not affect any  
212 restriction, suspension, or prohibition of rulemaking authority  
213 under any other provision of law.

214           Section 5. Except as otherwise expressly provided in this  
215 act and except for this section, which shall take effect upon  
216 this act becoming a law, this act shall take effect July 1,  
217 2015.