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HB 7023, Engrossed 1

2015 Legislature

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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:

19
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



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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



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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



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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



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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



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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



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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.