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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/14/2015	.	
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Appropriations Subcommittee on General Government (Dean)
recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

120.54 Rulemaking.—

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

(b) Whenever an act of the Legislature is enacted which



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11 requires implementation of the act by rules of an agency within
12 the executive branch of state government, such rules shall be
13 drafted and formally proposed as provided in this section within
14 the times provided in s. 120.74(4) and (5) 180 days after the
15 effective date of the act, unless the act provides otherwise.

16 Section 2. Section 120.74, Florida Statutes, is amended to
17 read:

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

20 120.74 Agency annual rulemaking and regulatory plans;
21 reports.-

22 (1) REGULATORY PLAN.-By October 1 of each year, each agency
23 shall prepare an implementation and rulemaking plan.

24 (a) The plan must include a listing of each law enacted or
25 amended during the previous 12 months which creates or modifies
26 the duties or authority of the agency. If the Governor or the
27 Attorney General provides a letter to the committee stating that
28 a law affects all or most agencies, the agency may exclude the
29 law from its plan. For each law listed by an agency under this
30 paragraph, the plan must state:

31 1. Whether the agency must adopt rules to implement the
32 law.

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

34 a. Whether a notice of rule development has been published
35 and, if so, the citation to such notice in the Florida
36 Administrative Register.

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

39 3. If rulemaking is not necessary to implement the law, a



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40 concise written explanation of the reasons why the law may be
41 implemented without rulemaking.

42 (b) The plan must also include a listing of each law not
43 otherwise listed pursuant to paragraph (a) which the agency
44 expects to implement by rulemaking before the following July 1,
45 except emergency rulemaking. For each law listed under this
46 paragraph, the plan must state whether the rulemaking is
47 intended to simplify, clarify, increase efficiency, improve
48 coordination with other agencies, reduce regulatory costs, or
49 delete obsolete, unnecessary, or redundant rules.

50 (c) The plan must include any desired update to the prior
51 year's regulatory plan or supplement published pursuant to
52 subsection (7). If, in a prior year, a law was identified under
53 this paragraph or under subparagraph (a)1. as a law requiring
54 rulemaking to implement but a notice of proposed rule has not
55 been published:

56 1. The agency shall identify and again list such law,
57 noting the applicable notice of rule development by citation to
58 the Florida Administrative Register; or

59 2. If the agency has subsequently determined that
60 rulemaking is not necessary to implement the law, the agency
61 shall identify such law, reference the citation to the
62 applicable notice of rule development in the Florida
63 Administrative Register, and provide a concise written
64 explanation of the reason why the law may be implemented without
65 rulemaking.

66 (d) The plan must include a certification executed on
67 behalf of the agency by both the agency head, or, if the agency
68 head is a collegial body, the presiding officer; and the



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69 individual acting as principal legal advisor to the agency head.

70 The certification must:

71 1. Verify that the persons executing the certification have
72 reviewed the plan.

73 2. Verify that the agency regularly reviews all of its
74 rules and identify the period during which all rules have most
75 recently been reviewed to determine if the rules remain
76 consistent with the agency's rulemaking authority and the laws
77 implemented.

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

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

80 1. Publish its regulatory plan on its website or on another
81 state website established for publication of administrative law
82 records. A clearly labeled hyperlink to the current plan must be
83 included on the agency's primary website homepage.

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

86 3. Publish in the Florida Administrative Register a notice
87 identifying the date of publication of the agency's regulatory
88 plan. The notice must include a hyperlink or website address
89 providing direct access to the published plan.

90 (b) To satisfy the requirements of paragraph (a), a board
91 established under s. 20.165(4), and any other board or
92 commission receiving administrative support from the Department
93 of Business and Professional Regulation, may coordinate with the
94 Department of Business and Professional Regulation, and a board
95 established under s. 20.43(3)(g) may coordinate with the
96 Department of Health, for inclusion of the board's or
97 commission's plan and notice of publication in the coordinating



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98 department's plan and notice and for the delivery of the
99 required documentation to the committee.

100 (c) A regulatory plan prepared under subsection (1) and any
101 regulatory plan published under this chapter before July 1,
102 2014, shall be maintained at an active website for 10 years
103 after the date of initial publication on the agency's website or
104 another state website.

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

107 (a) For each board established under s. 20.165(4) and any
108 other board or commission receiving administrative support from
109 the Department of Business and Professional Regulation, the
110 Department of Business and Professional Regulation shall file
111 with the committee a certification that the department has
112 reviewed each board's and commission's regulatory plan. A
113 certification may relate to more than one board or commission.

114 (b) For each board established under s. 20.43(3)(g), the
115 Department of Health shall file with the committee a
116 certification that the department has reviewed the board's
117 regulatory plan. A certification may relate to more than one
118 board.

119 (4) DEADLINE FOR RULE DEVELOPMENT.—By November 1 of each
120 year, each agency shall publish a notice of rule development
121 under s. 120.54(2) for each law identified in the agency's
122 regulatory plan pursuant to subparagraph (1)(a)1. for which
123 rulemaking is necessary to implement but for which the agency
124 did not report the publication of a notice of rule development
125 under subparagraph (1)(a)2.

126 (5) DEADLINE TO PUBLISH PROPOSED RULE.—For each law for



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127 which implementing rulemaking is necessary as identified in the
128 agency's plan pursuant to subparagraph (1) (a)1. or subparagraph
129 (1) (c)1., the agency shall publish a notice of proposed rule
130 pursuant to s. 120.54(3) (a) by April 1 of the year following the
131 deadline for the regulatory plan. This deadline may be extended
132 if the agency publishes a notice of extension in the Florida
133 Administrative Register identifying each rulemaking proceeding
134 for which an extension is being noticed by citation to the
135 applicable notice of rule development as published in the
136 Florida Administrative Register. The agency shall include a
137 concise statement in the notice of extension identifying any
138 issues that are causing the delay in rulemaking. An extension
139 shall expire on October 1 after the April 1 deadline, provided
140 that the regulatory plan due on October 1 may further extend the
141 rulemaking proceeding by identification pursuant to subparagraph
142 (1) (c)1. or conclude the rulemaking proceeding by identification
143 pursuant to subparagraph (1) (c)2. A published regulatory plan
144 may be corrected at any time to accomplish the purpose of
145 extending or concluding an affected rulemaking proceeding and is
146 deemed corrected as of the October 1 due date. Upon publication
147 of a correction, the agency shall publish in the Florida
148 Administrative Register a notice of the date of the correction
149 identifying the affected rulemaking proceeding by applicable
150 citation to the Florida Administrative Register.

151 (6) CERTIFICATIONS.—Each agency shall file a certification
152 with the committee upon compliance with subsection (4) and upon
153 filing a notice under subsection (5) of either a deadline
154 extension or a regulatory plan correction. A certification may
155 relate to more than one notice or contemporaneous act. The date



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156 or dates of compliance shall be noted in each certification.

157 (7) SUPPLEMENTING THE REGULATORY PLAN.—After publication of
158 the regulatory plan, the agency shall supplement the plan within
159 30 days after a bill becomes a law if the law is enacted before
160 the next regular session of the Legislature and the law
161 substantively modifies the agency's specifically delegated legal
162 duties, unless the law affects all or most state agencies as
163 identified by letter to the committee from the Governor or the
164 Attorney General. The supplement must include the information
165 required in paragraph (1) (a) and shall be published as required
166 in subsection (2), but no certification or delivery to the
167 committee is required. The agency shall publish in the Florida
168 Administrative Register notice of publication of the supplement,
169 and include a hyperlink on its website or web address for direct
170 access to the published supplement. For each law reported in the
171 supplement, if rulemaking is necessary to implement the law, the
172 agency shall publish a notice of rule development by the later
173 of the date provided in subsection (4) or 60 days after the bill
174 becomes a law, and a notice of proposed rule shall be published
175 by the later of the date provided in subsection (5) or 120 days
176 after the bill becomes a law. The proposed rule deadline may be
177 extended to the following October 1 by notice as provided in
178 subsection (5). If such proposed rule has not been filed by
179 October 1, a law included in a supplement shall also be included
180 in the next annual plan pursuant to subsection (1).

181 (8) FAILURE TO COMPLY.—If an agency fails to comply with a
182 requirement of paragraph (2) (a) or subsection (5), within 15
183 days after written demand from the committee or from the chair
184 of any other legislative committee, the agency shall deliver a



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185 written explanation of the reasons for noncompliance to the
186 committee, the President of the Senate, the Speaker of the House
187 of Representatives, and the chair of any legislative committee
188 requesting the explanation of the reasons for noncompliance.

189 (9) EDUCATIONAL UNITS.—This section does not apply to
190 educational units.

191 Section 3. Section 120.7455, Florida Statutes, is repealed.

192 Section 4. Effective upon this act becoming a law, any
193 suspension of rulemaking authority under s. 120.745, Florida
194 Statutes is rescinded. This section does not affect any
195 restriction, suspension, or prohibition of rulemaking authority
196 under any other provision of law.

197 Section 5. Except as otherwise expressly provided in this
198 act and except for this section, which shall take effect upon
199 this act becoming a law, this act shall take effect July 1,
200 2015.

201
202 ===== T I T L E A M E N D M E N T =====

203 And the title is amended as follows:

204 Delete everything before the enacting clause
205 and insert:

206 A bill to be entitled
207 An act relating to administrative procedures; amending
208 s. 120.54, F.S.; revising the deadline to propose
209 rules implementing new laws; amending s. 120.74, F.S.;
210 revising requirements for the annual review of agency
211 rules; providing procedures for preparing and
212 publishing regulatory plans; specifying requirements
213 for such plans; requiring publication by specified



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214 dates of notices of rule development and of proposed
215 rules necessary to implement new laws; prescribing
216 procedures in the event of noncompliance by an agency;
217 providing for applicability; repealing s. 120.7455,
218 F.S., relating to the legislative survey of regulatory
219 impacts; rescinding the suspension of rulemaking
220 authority made under s. 120.745, F.S.; providing
221 effective dates.