

By the Committees on Appropriations; and Governmental Oversight and Accountability

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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~~

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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 agency
38 shall prepare a rulemaking and 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

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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 have
87 reviewed the plan.

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

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

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

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

115 (c) A regulatory plan prepared under subsection (1) and any
116 regulatory plan published under this chapter before July 1,

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117 2014, shall be maintained at an active website for 10 years
118 after the date of initial publication on the agency's website or
119 another state website.

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

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

129 (b) For each board established under s. 20.43(3)(g), the
130 Department of Health shall file with the committee a
131 certification that the department has reviewed the board's
132 regulatory plan. A certification may relate to more than one
133 board.

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

141 (5) DEADLINE TO PUBLISH PROPOSED RULE.—For each law for
142 which implementing rulemaking is necessary as identified in the
143 agency's plan pursuant to subparagraph (1)(a)1. or subparagraph
144 (1)(c)1., the agency shall publish a notice of proposed rule
145 pursuant to s. 120.54(3)(a) by April 1 of the year following the

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146 deadline for the regulatory plan. This deadline may be extended
147 if the agency publishes a notice of extension in the Florida
148 Administrative Register identifying each rulemaking proceeding
149 for which an extension is being noticed by citation to the
150 applicable notice of rule development as published in the
151 Florida Administrative Register. The agency shall include a
152 concise statement in the notice of extension identifying any
153 issues that are causing the delay in rulemaking. An extension
154 shall expire on October 1 after the April 1 deadline, provided
155 that the regulatory plan due on October 1 may further extend the
156 rulemaking proceeding by identification pursuant to subparagraph
157 (1) (c)1. or conclude the rulemaking proceeding by identification
158 pursuant to subparagraph (1) (c)2. A published regulatory plan
159 may be corrected at any time to accomplish the purpose of
160 extending or concluding an affected rulemaking proceeding and is
161 deemed corrected as of the October 1 due date. Upon publication
162 of a correction, the agency shall publish in the Florida
163 Administrative Register a notice of the date of the correction
164 identifying the affected rulemaking proceeding by applicable
165 citation to the Florida Administrative Register.

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

172 (7) SUPPLEMENTING THE REGULATORY PLAN.—After publication of
173 the regulatory plan, the agency shall supplement the plan within
174 30 days after a bill becomes a law if the law is enacted before

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175 the next regular session of the Legislature and the law
176 substantively modifies the agency's specifically delegated legal
177 duties, unless the law affects all or most state agencies as
178 identified by letter to the committee from the Governor or the
179 Attorney General. The supplement must include the information
180 required in paragraph (1) (a) and shall be published as required
181 in subsection (2), but no certification or delivery to the
182 committee is required. The agency shall publish in the Florida
183 Administrative Register notice of publication of the supplement,
184 and include a hyperlink on its website or web address for direct
185 access to the published supplement. For each law reported in the
186 supplement, if rulemaking is necessary to implement the law, the
187 agency shall publish a notice of rule development by the later
188 of the date provided in subsection (4) or 60 days after the bill
189 becomes a law, and a notice of proposed rule shall be published
190 by the later of the date provided in subsection (5) or 120 days
191 after the bill becomes a law. The proposed rule deadline may be
192 extended to the following October 1 by notice as provided in
193 subsection (5). If such proposed rule has not been filed by
194 October 1, a law included in a supplement shall also be included
195 in the next annual plan pursuant to subsection (1).

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

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

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

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

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