

1 A bill to be entitled
2 An act relating to legislative reauthorization of
3 agency rulemaking authority; amending s. 120.536,
4 F.S.; providing for suspension of certain rulemaking
5 authority after a specified period until reauthorized
6 by general law; providing for expiration of such
7 reauthorization after a specified period; providing
8 for suspension of rulemaking authority upon expiration
9 of its reauthorization until reauthorized by general
10 law; requiring legislative ratification of rules
11 adopted while rulemaking authority is suspended;
12 authorizing the Governor to delay suspension of
13 rulemaking authority for a specified period upon
14 declaration of a public necessity; authorizing the
15 presiding officers of the Legislature to appoint a
16 joint committee to oversee the review of rulemaking
17 authority; requiring the committee to annually report
18 to the Legislature; authorizing an agency to provide
19 notice to the Legislature of any rulemaking authority
20 subject to suspension; prescribing notice
21 requirements; specifying that lawfully adopted rules
22 remain in effect during a suspension of rulemaking
23 authority; providing applicability; amending s.
24 120.54, F.S.; revising limitations with respect to the
25 timeframe in which an emergency rule may be effective;
26 providing an effective date.

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

Section 1. Subsections (2) through (4) of section 120.536, Florida Statutes, are renumbered as subsections (3) through (5), respectively, and a new subsection (2) is added to that section to read:

120.536 Rulemaking authority; reauthorization; repeal; challenge.—

(2) (a) Notwithstanding any other provision of law, and except as provided in paragraph (g), any new rulemaking authority is suspended 4 years after the effective date of the law authorizing rulemaking until reauthorized by general law. Any rulemaking authority effective on or before July 1, 2016, is suspended July 1, 2020, until reauthorized by general law.

(b) Unless another date is specified in the law reauthorizing rulemaking, a reauthorization of rulemaking authority remains in effect until July 1 of the 4th calendar year following the year in which the reauthorization occurs, after which the reauthorization expires and the rulemaking authority is suspended until again reauthorized by general law.

(c) During the suspension of any rulemaking authority under this subsection, a rule may be adopted pursuant to such rulemaking authority but does not take effect unless ratified by the Legislature. Upon written declaration by the Governor of a public necessity, suspension of any rulemaking authority may be

53 delayed for up to 90 days, allowing the Legislature an
54 opportunity to reauthorize the rulemaking authority. A
55 declaration of public necessity may be issued only once with
56 respect to any suspension of rulemaking authority.

57 (d) Subject to the rules of the Senate and the House of
58 Representatives, the President of the Senate and the Speaker of
59 the House of Representatives may appoint a joint committee for
60 the purpose of overseeing the review of rulemaking authority
61 pursuant to this subsection. The presiding officers may agree on
62 a 1-year work plan and a 4-year work plan for review of
63 rulemaking authority. The joint committee shall report its
64 recommendations regarding reauthorization of rulemaking
65 authority to the President of the Senate and the Speaker of the
66 House of Representatives each year on or before the convening of
67 the regular session of the Legislature.

68 (e) An agency may give notice by October 1 of each year to
69 the Legislature of any agency rulemaking authority that is
70 subject to suspension within the next 2 years. Such notice must
71 be in writing and delivered to the President of the Senate, the
72 Speaker of the House of Representatives, and the chair and vice
73 chair of any joint committee appointed pursuant to paragraph
74 (d). Such notice may include recommendations for reauthorizing,
75 repealing, or amending existing rulemaking authority. An agency
76 may combine multiple notices for administrative convenience.

77 (f) Rules lawfully adopted remain in effect during any
78 suspension of rulemaking authority under this subsection.

- 79 (g) This subsection does not apply to:
 80 1. Emergency rulemaking pursuant to s. 120.54(4).
 81 2. Rulemaking necessary to maintain the financial or legal
 82 integrity of any financial obligation of the state or its
 83 agencies or political subdivisions.

84 Section 2. Paragraph (c) of subsection (4) of section
 85 120.54, Florida Statutes, is amended to read:

86 120.54 Rulemaking.—

87 (4) EMERGENCY RULES.—

88 (c) An emergency rule adopted under this subsection shall
 89 not be effective for ~~a period~~ longer than 90 days and shall not
 90 be renewable, except when the agency finds that the immediate
 91 danger remains and continues to require emergency action, the
 92 agency has initiated rulemaking to adopt rules addressing the
 93 subject of the emergency rule, and one of the following
 94 conditions has delayed implementation of the rules either:

95 1. A challenge to the proposed rules has been filed and
 96 remains pending; or

97 2. The proposed rules have been filed for adoption and are
 98 awaiting ratification by the Legislature pursuant to any law
 99 requiring ratification for the rules to be effective ~~s.~~

100 ~~120.541(3).~~

101
 102 ~~Nothing in~~ This paragraph does not prohibit ~~prohibits~~ the agency
 103 from adopting a rule or rules identical to the emergency rule
 104 through the rulemaking procedures specified in subsection (3).

CS/CS/HB 953

2016

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Section 3. This act shall take effect July 1, 2016.