

A bill to be entitled

An act relating to administrative procedures; amending s. 120.54, F.S.; revising the deadline to propose rules implementing new laws; amending s. 120.74, F.S.; revising requirements for the annual review of agency rules; providing procedures for preparing and publishing regulatory plans; specifying requirements for such plans; requiring publication by specified dates of notices of rule development and of proposed rules necessary to implement new laws; providing for applicability; providing for suspension of an agency's rulemaking authority under certain circumstances; repealing s. 120.745 F.S., relating to legislative review of agency rules in effect on or before a specified date; repealing s. 120.7455, F.S., relating to an Internet-based public survey of regulatory impacts; providing for rescission of the suspension of rulemaking authority under such repealed provisions; providing effective dates.

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

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

27 EMERGENCY RULES.—

28 (b) Whenever an act of the Legislature is enacted which  
 29 requires implementation of the act by rules of an agency within  
 30 the executive branch of state government, such rules shall be  
 31 drafted and formally proposed as provided in this section within  
 32 the times provided in s. 120.74(5) and (6) ~~180 days after the~~  
 33 ~~effective date of the act, unless the act provides otherwise.~~

34 Section 2. Section 120.74, Florida Statutes, is amended to  
 35 read:

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

38 120.74 Agency annual rulemaking and regulatory plans;  
 39 reports.—

40 (1) REGULATORY PLAN.—By October 1 of each year, each  
 41 agency shall prepare an implementation and rulemaking plan.

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

49 1. Whether the agency must adopt rules to implement the  
 50 law.

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

52 a. Whether a notice of rule development has been

53 published, and if so, the citation to such notice in the Florida  
54 Administrative Register.

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

57 3. If rulemaking is not necessary to implement the law, a  
58 concise written explanation of the reasons why the law may be  
59 implemented without rulemaking.

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

68 (c) The plan must include any desired update to the prior  
69 year's regulatory plan or supplement published pursuant to  
70 subsection (8). If in a prior year a law was identified under  
71 this paragraph or under subparagraph (1)(a)1. as a law requiring  
72 rulemaking to implement but a notice of proposed rule has not  
73 been published:

74 1. The agency may identify and again list such law, noting  
75 the applicable notice of rule development by citation to the  
76 Florida Administrative Register; or

77 2. If the agency has subsequently determined that  
78 rulemaking is not necessary to implement the law, the agency may

79 identify such law, reference the citation to the applicable  
80 notice of rule development in the Florida Administrative  
81 Register, and provide a concise written explanation of the  
82 reason why the law may be implemented without rulemaking.

83 (d) The plan shall include a certification executed on  
84 behalf of the agency by both the agency head or, if the agency  
85 head is a collegial body, the chair or equivalent presiding  
86 officer, and the agency general counsel or, if the agency does  
87 not have a general counsel, the individual acting as principal  
88 legal advisor to the agency head. The certification must:

89 1. Verify that the persons executing the certification  
90 have reviewed the plan.

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

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

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

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

103 2. Deliver by electronic communication to the committee a  
104 copy of the certification required in paragraph (1) (d).

105 3. Publish in the Florida Administrative Register a notice  
106 identifying the date of publication of the agency's regulatory  
107 plan. The notice shall include a hyperlink or website address  
108 providing direct access to the published plan.

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

119 (c) A regulatory plan prepared under subsection (1) and  
120 any regulatory plan published under this chapter before July 1,  
121 2014, shall be maintained at an active website for 10 years  
122 after the date of initial publication on the agency's website or  
123 another state website.

124 (3) INCLUSION IN LEGISLATIVE BUDGET REQUEST.—In addition  
125 to the requirements of s. 216.023 and pursuant to s. 216.351, a  
126 copy of the most recent certification executed under paragraph  
127 (1)(d), clearly designated as such, shall be included as part of  
128 the agency's legislative budget request.

129 (4) DEPARTMENT REVIEW OF BOARD PLAN.—By October 15 of each  
130 year:

131        (a) For each board established under s. 20.165(4) and any  
132 other board or commission receiving administrative support from  
133 the Department of Business and Professional Regulation, the  
134 Department of Business and Professional Regulation shall file  
135 with the committee a certification that the department has  
136 reviewed each board's regulatory plan. A certification may  
137 relate to more than one board.

138        (b) For each board established under s. 20.43(3), the  
139 Department of Health shall file with the committee a  
140 certification that the department has reviewed the board's  
141 regulatory plan. A certification may relate to more than one  
142 board.

143        (5) DEADLINE FOR RULE DEVELOPMENT.—By November 1 of each  
144 year, each agency shall publish a notice of rule development  
145 under s. 120.54(2) for each law identified in the agency's  
146 regulatory plan pursuant to subparagraph (1)(a)1. for which  
147 rulemaking is necessary to implement but for which the agency  
148 did not report the publication of a notice of rule development  
149 under subparagraph (1)(a)2.

150        (6) DEADLINE TO PUBLISH PROPOSED RULE.—For each law for  
151 which implementing rulemaking is necessary as identified in the  
152 agency's plan pursuant to subparagraph (1)(a)1. or subparagraph  
153 (1)(c)1., the agency shall publish a notice of proposed rule  
154 pursuant to s. 120.54(3)(a) by April 1 of the year following the  
155 deadline for the regulatory plan. This deadline may be extended  
156 if the agency publishes a notice of extension in the Florida

157 Administrative Register identifying each rulemaking proceeding  
158 for which an extension is being noticed by citation to the  
159 applicable notice of rule development as published in the  
160 Florida Administrative Register. An extension shall expire on  
161 October 1 after the April 1 deadline, provided that the  
162 regulatory plan due on October 1 may further extend the  
163 rulemaking proceeding by identification pursuant to subparagraph  
164 (1)(c)1. or conclude the rulemaking proceeding by identification  
165 pursuant to subparagraph (1)(c)2. A published regulatory plan  
166 may be corrected at any time to accomplish the purpose of  
167 extending or concluding an affected rulemaking proceeding and is  
168 deemed corrected as of the October 1 due date. Upon publication  
169 of a correction, the agency shall publish in the Florida  
170 Administrative Register a notice of the date of the correction  
171 identifying the affected rulemaking proceeding by applicable  
172 citation to the Florida Administrative Register.

173 (7) CERTIFICATIONS.—Each agency shall file a certification  
174 with the committee upon compliance with subsection (5), upon  
175 filing a notice under subsection (6) of either a deadline  
176 extension or a regulatory plan correction, and upon the  
177 completion of an act that terminates a suspension under  
178 subsection (9). A certification may relate to more than one  
179 notice or contemporaneous act. The date or dates of compliance  
180 shall be noted in each certification.

181 (8) SUPPLEMENTING THE REGULATORY PLAN.—After publication  
182 of the regulatory plan, the agency shall supplement the plan

183 within 30 days after a bill becomes a law, if the law is enacted  
184 before the next regular session of the Legislature and the law  
185 substantively modifies the agency's specifically delegated legal  
186 duties, unless the law affects all or most state agencies as  
187 identified by letter to the committee from the Governor or the  
188 Attorney General. The supplement shall include the information  
189 required in paragraph (1) (a) and shall be published as required  
190 in subsection (2), but no certification or delivery to the  
191 committee is required. The agency shall publish in the Florida  
192 Administrative Register notice of publication of the supplement,  
193 and include a hyperlink or web address for direct access to the  
194 published supplement. For each law reported in the supplement,  
195 if rulemaking is necessary to implement the law, the agency  
196 shall publish a notice of rule development by the later of the  
197 date provided in subsection (5) or 60 days after the bill  
198 becomes a law, and a notice of proposed rule shall be published  
199 by the later of the date provided in subsection (6) or 120 days  
200 after the bill becomes a law. The proposed rule deadline may be  
201 extended to the following October 1 by notice as provided in  
202 subsection (6). If such proposed rule has not been filed by  
203 October 1, a law included in a supplement shall also be included  
204 in the next annual plan pursuant to subsection (1).

205 (9) FAILURE TO COMPLY.—If an agency fails to comply with a  
206 requirement of paragraph (2) (a) or subsection (6), the entire  
207 rulemaking authority delegated to the agency by the Legislature  
208 under any statute or law shall be suspended automatically as of

209 the due date of the required action and shall remain suspended  
210 until the date the agency completes the required act or until  
211 the end of the next regular session of the Legislature,  
212 whichever occurs first.

213 (a) During a period of suspension under this subsection,  
214 the agency has no authority to file rules for adoption under s.  
215 120.54, but may complete any action required by this section and  
216 may conduct public hearings that were noticed before the period  
217 of suspension.

218 (b) A suspension under this subsection does not authorize  
219 an agency to promulgate or apply a statement defined as a rule  
220 under s. 120.52(16) unless the statement was filed for adoption  
221 under s. 120.54(3) before the suspension.

222 (c) A suspension under this subsection tolls the time  
223 requirements under s. 120.54 for filing a rule for adoption in a  
224 rulemaking proceeding initiated by the agency before the date of  
225 the suspension. The time requirements shall resume on the date  
226 the suspension ends.

227 (d) This subsection does not suspend the adoption of  
228 emergency rules under s. 120.54(4) or rulemaking necessary to  
229 ensure the state's compliance with federal law.

230 (10) EDUCATIONAL UNITS.—This section does not apply to  
231 educational units.

232 Section 3. Effective upon this act becoming a law:

233 (1) Sections 120.745 and 120.7455, Florida Statutes, are  
234 repealed.

CS/CS/HB 7001

2014

235        (2) Any suspension of rulemaking authority under s.  
236 120.745, Florida Statutes, or s. 120.7455, Florida Statutes, is  
237 rescinded. This subsection does not affect any restriction,  
238 suspension, or prohibition of rulemaking authority under any  
239 other provision of law.

240        (3) This section serves no other purpose and shall not be  
241 codified in the Florida Statutes.

242        Section 4. Except as otherwise expressly provided in this  
243 act and except for this section, which shall take effect upon  
244 this act becoming a law, this act shall take effect July 1,  
245 2014.