

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 periodic review of
 6 agency rules; requiring agencies to annually review
 7 rulemaking and prepare and publish regulatory plans;
 8 specifying requirements for such plans; requiring
 9 publication by specified dates of notices of rule
 10 development and of proposed rules necessary to
 11 implement new laws; providing for applicability;
 12 providing for suspension of an agency's rulemaking
 13 authority for failure to comply with specified
 14 provisions; repealing ss. 120.745 and 120.7455, F.S.,
 15 relating to legislative review of agency rules in
 16 effect on or before a specified date and an Internet-
 17 based public survey of regulatory impacts,
 18 respectively; providing for rescission of the suspension
 19 of rulemaking authority under such repealed
 20 provisions; providing effective dates.

21
 22 Be It Enacted by the Legislature of the State of Florida:

23
 24 Section 1. Paragraph (b) of subsection (1) of section
 25 120.54, Florida Statutes, is amended to read:

26 120.54 Rulemaking.—

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

29 (b) Whenever an act of the Legislature is enacted which
 30 requires implementation of the act by rules of an agency within
 31 the executive branch of state government, such rules shall be
 32 drafted and formally proposed as provided in this section within
 33 the times provided in s. 120.74(5)-(7) ~~180 days after the~~
 34 ~~effective date of the act, unless the act provides otherwise.~~

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

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

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

41 (1) REGULATORY PLAN.—By October 1 of each fiscal year,
 42 each agency shall prepare a regulatory plan identifying each law
 43 enacted or amended during the previous 12 months that created or
 44 modified the duties or authority of the agency and each law that
 45 the agency expects to implement by rulemaking before the end of
 46 that fiscal year, the reasons for the rulemaking, and whether
 47 the rulemaking is intended to simplify, clarify, increase
 48 efficiency, improve coordination with other agencies, reduce
 49 regulatory costs, or delete obsolete, unnecessary, or redundant
 50 rules.

51 (a) The plan may exclude emergency rules.

52 (b) The plan may exclude a law that creates or modifies

53 the duties or authority of all or most state agencies, if the
 54 laws is identified as such by letter to the committee from the
 55 Governor, the Attorney General, the President of the Senate, or
 56 the Speaker of the House of Representatives.

57 (c) For each law identified in the plan as enacted or
 58 amended during the previous 12 months, the plan must state:

59 1. Whether the agency must adopt rules to implement the
 60 law.

61 2. If rulemaking is necessary to implement the law,
 62 whether a notice of rule development has been published, and the
 63 date by which the agency expects to publish the notice of
 64 proposed rule under s. 120.54(3) (a).

65 3. If rulemaking is not necessary to implement the law, a
 66 concise written explanation of the reasons that the law may be
 67 implemented without rulemaking.

68 (d) The plan shall also include a list of all rules
 69 adopted, repealed, or amended by the agency during the previous
 70 fiscal year, identifying which rule changes were itemized in a
 71 prior year's regulatory plan.

72 (e) The plan shall include the following certification
 73 executed on behalf of the agency by both the agency head or, if
 74 the agency head is a collegial body, the chair or equivalent
 75 presiding officer, and the agency general counsel or, if the
 76 agency does not have a general counsel, the individual acting as
 77 principal legal advisor to the agency head:

78 1. Verifying that the plan is accurate.

79 2. Verifying that the agency regularly reviews all of its
 80 rules and the period during which all rules have most recently
 81 been reviewed to determine if they remain consistent with the
 82 agency's rulemaking authority and the law implemented.

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

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

85 1. Publish its regulatory plan on its website. A clearly
 86 labeled hyperlink to the plan must be included on the agency's
 87 primary website homepage.

88 2. Deliver by electronic communication to the committee a
 89 copy of the certification required in paragraph (1)(e).

90 3. Publish in the Florida Administrative Register a notice
 91 of publishing the agency's regulatory plan, which notice shall
 92 include a hyperlink or website address providing direct access
 93 to the published plan.

94 (b) To satisfy the requirements of paragraph (a), each
 95 board established by s. 20.165(4) may coordinate with the
 96 Department of Business and Professional Regulation, and each
 97 board established by s. 20.43(3) may coordinate with the
 98 Department of Health, for inclusion of the board's plan and
 99 notice of publication in the coordinating department's plan and
 100 notice and for the delivery of the required documentation to the
 101 committee.

102 (3) INCLUSION IN LEGISLATIVE BUDGET REQUEST.—In addition
 103 to the requirements of s. 216.023 and pursuant to s. 216.351, a
 104 copy of the most recent certification executed under paragraph

105 (1)(e), clearly designated as such, shall be included as part of
 106 the agency's legislative budget request.

107 (4) AGENCY CONCURRENCE WITH BOARD PLAN.—By October 15 of
 108 each year:

109 (a) For each board established under s. 20.165(4), the
 110 Department of Business and Professional Regulation shall publish
 111 on its website and file with the committee a statement of
 112 whether the department concurs with each rulemaking action
 113 identified by the board's regulatory plan.

114 (b) For each board established under s. 20.43(3), the
 115 Department of Health shall publish on its website and file with
 116 the committee a statement of whether the department concurs with
 117 each rulemaking action identified by the board's regulatory
 118 plan.

119 (5) 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 plan
 122 pursuant to subparagraph(1)(c)1. for which rulemaking is
 123 necessary to implement but for which the agency did not report
 124 the publication of a notice of rule development under
 125 subparagraph (1)(c)2.

126 (6) DEADLINE TO PUBLISH PROPOSED RULE.—The agency shall
 127 publish a notice of proposed rule pursuant to s. 120.54(3)(a)
 128 for each rule implementing a law identified in the agency's plan
 129 pursuant to subparagraph(1)(c)1. for which rulemaking is
 130 necessary by January 1 of the year after the deadline for the

131 plan or a later date specified pursuant to subparagraph
 132 (1)(c)2., which must be no later than April 1 after the deadline
 133 for the plan. If the agency is unable to publish the notice of
 134 proposed rule by that date, the agency may extend the deadline
 135 by no more than 180 days by publishing a notice of extension in
 136 the Florida Administrative Register. The notice shall set forth
 137 the revised deadline and the reason for the extension and shall
 138 cite the applicable notice of rule development by rule number
 139 and title, publication date, volume, and number of the Florida
 140 Administrative Register.

141 (7) SUPPLEMENTING THE REGULATORY PLAN.—After the
 142 preparation of the plan, the agency shall supplement the plan
 143 within 30 days after enactment of a law that is enacted before
 144 the next regular session of the Legislature if the law
 145 substantively modifies the agency's specifically delegated legal
 146 duties. The supplement shall include the information required in
 147 paragraphs (1)(b) and (1)(c) and shall be published, with
 148 documentation delivered to the committee, as required in
 149 subsection (2). The agency shall publish in the Florida
 150 Administrative Register notice of publishing the supplement, and
 151 include a hyperlink for direct access to the published
 152 supplement. For each law reported in the supplement, if
 153 rulemaking is necessary to implement the law, the agency shall
 154 publish a notice of rule development by the later of the date
 155 provided in subsection (5) or 60 days after the effective date
 156 of the law, and a notice of proposed rule shall be published by

157 the later of the date provided in subsection (6) or 120 days
 158 after the effective date of the law.

159 (8) FAILURE TO COMPLY.—Each agency shall file a
 160 certification with the committee upon compliance with subsection
 161 (5) and a separate certification of compliance with subsection
 162 (6) for each date upon which compliance is required by
 163 subsection (6). The date of compliance shall be noted in each
 164 certification. If an agency fails to comply with a requirement
 165 of subsections (1)-(7), the entire rulemaking authority
 166 delegated to the agency by the Legislature under any statute or
 167 law shall be suspended automatically as of the due date of the
 168 required action and shall remain suspended until the date the
 169 agency completes the required action, as noted in a
 170 certification of compliance, or until the end of the next
 171 regular session of the Legislature, whichever occurs first.

172 (a) During a period of suspension under this subsection,
 173 the agency has no authority to file rules for adoption under s.
 174 120.54, but may complete any action required by this section.

175 (b) A suspension under this subsection does not authorize
 176 an agency to promulgate or apply a statement defined as a rule
 177 under s. 120.52(16).

178 (c) A suspension under this subsection shall toll the time
 179 requirements under s. 120.54 for filing any rule for adoption in
 180 a rulemaking proceeding the agency initiated before the date of
 181 the suspension, which time requirements shall resume on the date
 182 the suspension ends.

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

186 (9) EDUCATIONAL UNITS.—This section does not apply to
 187 educational units.

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

189 (1) Sections 120.745 and 120.7455, Florida Statutes, are
 190 repealed.

191 (2) Any suspension of rulemaking authority under s.
 192 120.745, Florida Statutes, or s. 120.7455, Florida Statutes, is
 193 rescinded. This subsection does not affect any restriction,
 194 suspension, or prohibition of rulemaking authority under any
 195 other provision of law.

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

198 Section 4. Except as otherwise expressly provided in this
 199 act and except for this section, which shall take effect upon
 200 this act becoming a law, this act shall take effect July 1,
 201 2014.