

# **Chapter 80-391**

## **Committee Substitute for House Bill No. 717**

An act relating to the Department of State and the Department of Revenue; amending s. 20.10(2), Florida Statutes, establishing the Division of Administration within the Department of State; transferring responsibilities within the Department of Revenue; relating to administrative procedures; amending s. 11.60(2), Florida Statutes; directing the Administrative Procedures Committee to review administrative rules and request the repeal of certain rules; amending s. 120.54(1), Florida Statutes; providing notice of rulemaking requirements; amending s. 120.545(1), Florida Statutes; specifying the purposes for which the committee is to examine proposed and existing rules; amending s. 120.55(1), (2), Florida Statutes, deleting provision which directs the Department of State to conduct a study of rules of the state; directing the department to contract for the publication of the Florida administrative Code; requiring that the Florida Administrative Weekly contain a notice of adoption of certain rules and the text of all proposed rules; providing that the department may contract for the publication of the Florida Administrative Weekly; deleting requirement that the department remove certain rules from the code; deleting requirement that the department make copies of the Florida Administrative Code available; deleting prescribed subscription rate for the Florida Administrative Weekly; deleting provision authorizing each agency to purchase copies of its rules from the department; providing an effective date.

Be It Enacted by the- Legislature of the State of Florida.

**11.60 Administrative Procedures Committee; creation; membership; powers; duties.--**

(2) The committee shall:

(a) Maintain continuous review of the statutory authority on which each administrative rule is based and, whenever such authority is eliminated or significantly changed by repeal, amendment, holding by a court of last resort, or other factor, advise the agency concerned of the fact.

(b) Maintain a continuous review of administrative rules and identify and request agency repeal of any rule or provision of any rule which reiterates or paraphrases any statute, or for which the statutory authority has been repealed.

(c) ~~(b)~~ Review administrative rules and advise the agencies concerned of its findings.

(d) ~~(e)~~ Have the duties prescribed by chapter .120 concerning the adoption and promulgation of rules.

(e) ~~(d)~~ Generally review agency action pursuant to the operation of the Administrative Procedure Act.

(f) ~~(e)~~ Report to the Legislature at least annually, no later than the first week of the regular session, and recommend needed legislation or other appropriate action.

(g) ~~(f)~~ Adopt rules and regulations necessary for its own organization and operation and for that of its staff, consistent with general law and the rules of each house.

(h) ~~(g)~~ Appoint an executive director and general counsel, by majority vote of the members of the committee, and fill any vacancy in that office in the same manner.

(i) ~~(h)~~ Have general administrative responsibility for the operations of its staff.

(j) ~~(i)~~ Have standing to seek review in the courts of the state, on behalf of the Legislature or the citizens of Florida, of the validity or invalidity of any administrative rule to which the committee has voted an objection and which has not been withdrawn, modified, repealed, or amended to meet the objection. Judicial review under this paragraph shall not be initiated until the Governor and the agency head of the agency making the rule to which the committee has objected have been notified of the committee's proposed action and have been given a reasonable opportunity for consultation with the committee. The committee is hereby authorized to expend public funds from its appropriation for the purpose of seeking judicial review.

Section 5. Subsection (1) of section 120.54, Florida Statutes, is amended to read:

120.54 Rulemaking; adoption procedures.—

(1) Prior to the adoption, amendment, or repeal of any rule not described in subsection (9), an agency shall give notice of its intended action, setting forth a short and plain explanation of the purpose and effect of the proposed rule, ~~a summary of the proposed rule~~, the specific legal

authority under which its adoption is authorized, and a summary of the estimate of the economic impact of the proposed rule on all persons affected by it. ~~The notice shall contain the location where the text of the proposed rule or economic impact statement can be obtained if such text is not included in the notice.~~

(a) Except as otherwise provided in this paragraph, the notice shall be mailed to the committee, to all persons named in the proposed rule, and to all persons who have made requests of the agency for advance notice of its proceedings at least 14 days prior to such mailing. The agency shall also give such notice as is prescribed by rule to those particular classes of persons to whom the intended action is directed. Notice of intent by an educational unit to adopt, amend, or repeal any rule not described in subsection (9) shall be made:

1. By publication in a newspaper of general circulation in the affected area;
2. By mail to all persons who have made requests of the educational unit for advance notice of its proceeding, and to organizations representing persons affected by the proposed rule; and
3. By posting in appropriate places so that those particular classes of persons to whom the intended action is directed may be duly notified.

Such publication, mailing, and posting of notice shall occur at least 14 days prior to the intended action.

(b) The notice shall be published in the Florida Administrative Weekly not less than 21 days prior to the intended action, except that notice of actions proposed by educational units or units of government with jurisdiction in only one county or a part thereof need not be published in the Florida Administrative Weekly or transmitted to the committee. The proposed rule shall be available for inspection and copying by the public at the time of the publication of notice.

Section 6. Subsection (1) of section 120.545. Florida Statutes, is amended to read:

#### 120.545 Committee review of agency rules.—

(1) As a legislative check on legislatively created authority, the committee shall examine each proposed rule, except for those proposed rules exempted by paragraph 120.54(11)(a), and its accompanying material, and may examine any existing rule, for the purpose of determining whether:

(a) The rule is within the statutory authority upon which it is based; ~~whether~~

(b) The statutory authority for the rule has been repealed;

(c) The rule reiterates or paraphrases statutory material;

(d) The rule is in proper form; ~~is~~ and ~~whether~~

(e) The notice given prior to its adoption, was sufficient to give adequate notice of the purpose and effect of the rule.

If the committee objects to a proposed or existing rule, it shall, within 5 days of the objection, certify the fact to the agency whose rule has been examined and include with the certification a statement detailing its objection with particularity.

Section 7. Subsections (1) and (2) of section 120.55, Florida Statutes, are amended to read:

120.55 Publication.—

(1) The Department of State shall:

(a) ~~Conduct a systematic and continuing study of the rules of this state for the purpose of reducing their number and bulk and removing redundancies and unnecessary repetitions and make such changes in style and form as are required by paragraph (d).~~

(b) Publish in a permanent compilation entitled "Florida Administrative Code" all rules adopted by each agency, citing the specific rulemaking authority pursuant to which each rule was adopted, all history notes as authorized in s. 120.545(8) and complete- indexes to all rules contained in the code. Supplementation shall be made as often as practicable, but at least monthly. Rules general in form but applicable to only one school district, community college district, or county, or a part thereof, or to the Florida School for the Deaf and the Blind and university rules relating to internal personnel or business and finance shall not be published in the Florida Administrative Code. Exclusion from publication in the Florida Administrative Code shall not affect their validity or effectiveness. The department shall publish, at the beginning of the section of the code dealing with an agency that files copies of its rules with the department, a summary or listing of all rules of said agency excluded from publication in the code and a statement as to where said rules may be inspected or examined. The department shall also publish, at the beginning of the section of the code dealing with an agency, any exemptions granted

that agency pursuant to s. 120.63, including the termination date of the exemption and a statement whether the exemption can be renewed pursuant to s. 120.63(2)(b). The department shall, by July 1, 1981, contract with a publishing firm for the publication, in a timely and useful form, of the Florida Administrative Code; however, the department shall retain responsibility for the code as provided in this section. This publication shall be the official compilation of the administrative rules of Florida.

(b)(e) Publish a weekly publication entitled the "Florida Administrative Weekly," which shall contain,

1. Notice of adoption A summary of, and an index to all rules filed during the preceding week.

2. All hearing notices required by subsection 120.54(1), showing the time, place, and date of the hearings and the text summaries of all rules proposed for consideration or a reference to the location in the Florida Administrative Weekly where the text of the proposed rules is published.

3. All notices of meetings, hearings, and workshops conducted in accordance with the provisions of paragraph 120.53(1) (d), including a statement of the manner in which a copy of the agenda may be obtained.

4. A notice of each request for authorization to amend or repeal an existing model rule or for the adoption of new model rules.

5. A notice of each request for exemption from any provision of this chapter.

6. Notice of petitions for declaratory statements or administrative determinations.

7. A summary of each objection to any rule filed by the Administrative Procedures Committee during the preceding week.

8. Any other material required or authorized by law or deemed useful by the department.

The department may contract with a publishing firm for publication of the Florida Administrative Weekly.

(c)(d) Prescribe by rule the style and form required for rules submitted for filing and establish the form for their certification

(d)(e) Correct grammatical, typographical, and like errors not affecting the construction or meaning of the rules; after having obtained the advice and consent of the appropriate agency, and insert history notes.

(f) Remove from the code any rules the authority for which has been repealed.

(g) Before making any change in any rules as provided in paragraph (a), (e), or paragraph (f), obtain the advice and consent of the affected agency.

(e)(h) Make copies of the Florida Administrative Code available for sale at no more than cost and copies of the Florida Administrative Weekly available on an annual subscription basis computed to cover a pro rata share of 50 percent of the costs related to the publication of the Florida Administrative Weekly for not more than \$25 per year.

(f)(i) Charge each agency using the Florida Administrative Weekly a space rate computed to cover a pro rata share of 50 percent of the all costs related to the Florida Administrative Weekly.

(2) Each agency shall print or distribute copies of its rules, citing the specific rulemaking authority pursuant to which each rule was adopted, at its own expense or purchase copies for distribution from the Department of State.

Section 8. This ac shall. take effect July 1, 1980, or upon becoming a law, whichever occurs later, except that the provisions of paragraphs (c), (h), and (i) of subsection (1) of section 120.55, Florida Statutes, as redesignated and amended by this act, and of subsection (2) of section 120.55. Florida Statutes, as amended by this act, shall take effect July 1, 1981