

COMMITTEE/SUBCOMMITTEE AMENDMENT

PCB Name: PCB RRS 12-02 (2012)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED (Y/N)
ADOPTED AS AMENDED (Y/N)
ADOPTED W/O OBJECTION (Y/N)
FAILED TO ADOPT (Y/N)
WITHDRAWN (Y/N)
OTHER

1 Committee/Subcommittee hearing PCB: Rulemaking & Regulation
2 Subcommittee

3 Representative Randolph offered the following:

4
5 **Amendment (with title amendment)**

6 Remove lines 112-415 and insert:

7 Section 1. Section 120.515, Florida Statutes, is created
8 to read:

9 120.514 .-- Declaration of Policy and Requirement
10 for Public Notice, Input, and Deliberation by OFARR and
11 Appointing Authorities. - This chapter provides uniform
12 procedures for the exercise of delegated rulemaking and
13 decision-making authority by OFARR and appointing
14 authorities over executive agencies and requires that all
15 such authority be exercised in an open and fair manner so
16 that the public and affected persons have an opportunity
17 to know about, provide input, and have a hearing over
18 adverse action.

19 (1) The exercise of decision-making and rulemaking-

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20 related authority by appointing authorities over
21 appointees serving at their pleasure, or by OFARR
22 over appointees serving at the pleasure of the
23 Governor, must be authorized by law and consistent
24 with all rulemaking requirements set forth in
25 this chapter, including but not limited to
26 timeline parameters and rulemaking standards and
27 criteria set forth at s. 120.52 (8), (9), (17), s.
28 120.535, and s. 120.54. If permitted by law, the
29 exercise of decision-making and rulemaking
30 authority by OFARR or appointing authorities
31 includes approving, disapproving, directing or
32 prohibiting an agency's proposed rulemaking or
33 decision-making.

34 (2) Prior to the exercise of delegated decision-making
35 or rulemaking authority, OFARR and appointing
36 authorities shall give advance notice of their
37 consideration of the proposed rulemaking or intent
38 to make a decision to affected persons and persons
39 who request notice. Further notice shall
40 thereafter be published in the first available
41 Florida Administrative Weekly and allow the public
42 the opportunity for input into the deliberations.
43 OFARR and appointing authorities shall complete
44 their deliberations and render a written decision
45 of their recommendation, approval, disapproval,
46 direction or prohibition within 14 days of the
47 date of publication of such notice

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- 48 a. OFARR and all appointing authorities shall adopt
49 rules pursuant to Chapter 120 to carry out this
50 section, including but not limited to rules
51 providing for public input into their deliberations
52 at a reasonable time and in a reasonable manner and
53 rules providing for time limitations upon the
54 exercise of delegated decision-making.
- 55 b. Decisions by OFARR or appointing authorities that
56 disapprove, modify, prohibit, or otherwise disagree
57 with the action proposed, suggested, recommended or
58 requested by the agency shall constitute agency
59 action under s. 120.569 and be subject to a hearing
60 under s. 120.57 conducted by the Division of
61 Administrative Hearings if the decision affects
62 substantial interests of a person providing input,
63 as well as judicial review. In such proceeding,
64 OFARR or the appointing authority shall be a party.
- 65 c. OFARR and appointing authorities exercising
66 decision-making or rulemaking -related authority
67 over state agencies shall maintain a record of
68 their exercise of that authority, including but not
69 limited to the law granting them such authority; a
70 transcript of all oral communications to and from
71 OFARR, the appointing authority, the agency and the
72 public concerning the matter; a copy or transcript
73 of all information received, reviewed, considered or
74 rejected; and information and documentation
75 supporting the exercise of their authority. Such

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76 record shall be made available free-of-cost to the
77 public if requested.

78 All decisions by OFARR or the appointing authority concerning
79 proposed rulemaking or decision-making under this section shall
80 be rendered in writing, contain reasons supporting their
81 decision, set forth the appeal rights of substantially affected
82 persons under s 120.57, and be provided electronically or by
83 U.S mail to all persons who provided input into the deliberation
84 as well as be published in the first available Florida
85 Administrative Weekly following the issuance of the written
86 decision.

87 Section 2. Paragraph (a) of subsection (1) of section
88 120.52, Florida Statutes, is amended to read:

89 120.52 Definitions.—As used in this act:

90 (1) "Agency" means the following officers or governmental
91 entities if acting pursuant to powers other than those derived
92 from the constitution:

93 (a) The Governor; the Office of Financial Accountability
94 and Regulatory Reform and/or any other appointed authority over
95 executive agencies, each state officer and state department, and
96 each departmental unit described in s. 20.04; the Board of
97 Governors of the State University System; the Commission on
98 Ethics; the Fish and Wildlife Conservation Commission; a
99 regional water supply authority; a regional planning agency; a
100 multicounty special district, but only when a majority of its
101 governing board is comprised of nonelected persons; educational
102 units; and each entity described in chapters 163, 373, 380, and
103 582 and s. 186.504.

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This definition does not include any municipality or legal entity created solely by a municipality; any legal entity or agency created in whole or in part pursuant to part II of chapter 361; any metropolitan planning organization created pursuant to s. 339.175; any separate legal or administrative entity created pursuant to s. 339.175 of which a metropolitan planning organization is a member; an expressway authority pursuant to chapter 348 or any transportation authority under chapter 343 or chapter 349; or any legal or administrative entity created by an interlocal agreement pursuant to s. 163.01(7), unless any party to such agreement is otherwise an agency as defined in this subsection.

T I T L E A M E N D M E N T

Remove lines 2-3 and insert:

An act relating to administrative authority; creating s. 120.514, F.S., declaring policy and providing for notice and rulemaking; amending s. 120.52, F.S., including certain entities in the definition of "agency"; amending s.