

Commission on Ethics Regulatory Plan for July 1, 2020-June 30, 2021

Section 120.74, Florida Statutes, requires:

(1) REGULATORY PLAN.—By October 1 of each year, each agency shall prepare a regulatory plan.

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

1. Whether the agency must adopt rules to implement the law.
2. If rulemaking is necessary to implement the law:
 - a. Whether a notice of rule development has been published and, if so, the citation to such notice in the Florida Administrative Register.
 - b. The date by which the agency expects to publish the notice of proposed rule under s. 120.54(3)(a).

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

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

(c) The plan must include any desired update to the prior year's regulatory plan or supplement published pursuant to subsection (7). If, in a prior year, a law was identified under this paragraph or under subparagraph (a)1. as a law requiring rulemaking to implement but a notice of proposed rule has not been published:

1. The agency shall identify and again list such law, noting the applicable notice of rule development by citation to the Florida Administrative Register; or
2. If the agency has subsequently determined that rulemaking is not necessary to implement the law, the agency shall identify such law, reference the citation to the applicable notice of rule development in the Florida Administrative Register, and provide a concise written explanation of the reason why the law may be implemented without rulemaking.

Subsection (1)(a): New laws

Ch. 2020-77 provides that a board member or public employee of a special district will not abuse his or her public position—for purposes of Article II, Section 8(h)(2), Florida Constitution—if he or she commits an act or omission that is authorized under Sections 112.313(7), (12), (15), or

(16), Florida Statutes, or Section 112.3143(3)(b), Florida Statutes. The law also provides that an abuse of a special district board member's public position will not include any act or omission in connection with a vote as long as the board member has followed the procedures required by Section 112.3143. It is not necessary for the agency to adopt rules to implement this law because the law itself is clear and precise as to what it will affect and what it provides for.

Ch. 2020-167 provides that a member of the governing body of a large-hub commercial service airport must comply with the financial disclosure requirements of Section 112.3145(3), Florida Statutes, unless the member already is required to comply with the financial disclosure requirements found in Article II, Section 8 of the Florida Constitution. It also states the governing board members of large-hub commercial service airports are subject to the ethics laws found in Part III, Chapter 112 of the Florida Statutes, and must receive four hours of training each year on the Code of Ethics, as well as on Article II, Section 8 of the Florida Constitution, and the public records and public meetings laws. This law will require rulemaking. In particular, the members of the governing boards of large-hub commercial service airports will need to be added to the list of required filers of the CE Form 1 ("Statement of Financial Interests") and the CE Form 1F ("Final Statement of Financial Interests"). In addition, the training sections of the CE Form 1 and the CE Form 1X ("Amendment to Statement of Financial Interests") will need to reflect that they apply to members of the governing boards of large-hub commercial service airports, and the training sections of the CE Form 6 ("Full and Public Disclosure of Financial Interests") and CE Form 6X ("Amendment to Full and Public Disclosure of Financial Interests") will need to reflect that they apply to any filer who also serves as a member of the governing board of a large-hub commercial service airport. Finally, Rule 34-7.025(1), F.A.C. will need to reflect that members of these boards must receive four hours of training annually. A notice of rule development has not yet been published. The date by which the agency expects to publish the notice of proposed rule under Section 120.54(3)(a), Florida Statutes, is April 1, 2021.

House Bill 7009 has not yet been presented to the Governor. However, it passed the House and Senate unanimously, and is expected to become law in the near future. It specifies the applicable penalties for violating the prohibition against abuse of public position—a prohibition found in Article II, Section 8(h)(2), Florida Constitution—by reenacting the existing penalty provision in Section 112.317, Florida Statutes. If passed into law, it may be implemented without rulemaking because it is clear and precise as to which statutory provision will apply.

Subsection (1)(b): Laws not listed pursuant to paragraph (a) which the Commission expects to implement by rulemaking before July 1, 2021

Section 112.3147, F.S.

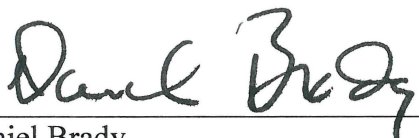
Rulemaking is intended to simplify, clarify, and update forms.

Subsection (1)(c): Updates to prior year's plan

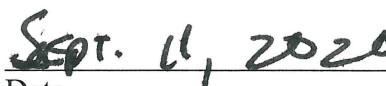
As reflected on the agency's regulatory plan for July 1, 2019-June 30, 2020, Chapter 2019-097 (now Section 112.31446, Florida Statutes), provides for an electronic filing system for financial disclosure, affecting portions of the financial disclosure statutes (Sections 112.3144 and 112.3145, Florida Statutes). Inasmuch as Chapter 2019-097 provides that the agency has until January 1, 2022, to procure and test the electronic filing system, no rulemaking is necessary at this time to implement the electronic filing portions of this law.

CERTIFICATION

I verify that I have reviewed the Commission on Ethics Regulatory Plan for July 1, 2020-June 30, 2021, and that the Commission regularly reviews all of its rules to determine if the rules remain consistent with the agency's rulemaking authority and the laws implemented. The period during which all rules have most recently been reviewed is July 31, 2019 through July 31, 2020.




Daniel Brady
Chair, Florida Commission on Ethics



Date



C. Christopher Anderson, III
General Counsel, Florida Commission on Ethics



Date