

Commission on Ethics Regulatory Plan for July 1, 2024-June 30, 2025

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. 2024-040, Laws of Florida, removes Section 112.31446(6)(c), Florida Statutes, from Section 112.31446, Florida Statutes. This subsection stated the statute would stand repealed on October 2, 2024, pursuant to Section 119.15, Florida Statutes (the Open Government Sunset Review Act), unless the Legislature reviewed and saved it from repeal through reenactment. By removing this

language from the statute, the Legislature has made permanent the exemption in Section 112.31446, which deals with an electronic filing system for financial disclosure. Because the Commission has already adopted rules implementing the process of electronically filing financial disclosure, no rulemaking is needed to implement this change.

Ch. 2024-253, Laws of Florida, modifies several duties and authorities of the Commission, although rulemaking is already underway concerning the majority of its modifications. The modifications are discussed below:

- First, Chapter 2024-253 modifies Section 112.317(7), Florida Statutes, to indicate that candidates for public office who are the subject of ethics complaints may petition for an award of costs and reasonable attorney's fees. The Commission is currently engaged in rulemaking to implement this change, which became effective when the underlying bill was signed into law. A Notice of Rule Development was published in the Florida Administrative Register on August 14, 2024 (Vol. 50/159), and a Notice of Proposed Rulemaking was published in the Florida Administrative Register on August 15, 2024 (Vol. 50/160). A public hearing concerning this rulemaking is scheduled for September 13, 2024.
- Second, Chapter 2024-253 modifies Section 112.324(1), Florida Statutes, to require that an allegation in an ethics complaint may be found legally sufficient for investigation only if it is based upon personal knowledge or information other than hearsay. The Commission is currently engaged in rulemaking to implement this change, which became effective when the underlying bill was signed into law. A Notice of Rule Development was published in the Florida Administrative Register on August 14, 2024 (Vol. 50/159), and a Notice of Proposed Rulemaking was published in the Florida Administrative Register on August 15, 2024 (Vol. 50/160). A public hearing concerning this rulemaking is scheduled for September 13, 2024.
- Third, Chapter 2024-253 modifies a portion Section 112.324(1), Florida Statutes, regarding ethics referrals to require that the Commission send a copy of the referral to the alleged violator within five days after receiving it. Chapter 2024-253 also removes from Section 112.324(1) the requirement that at least six members of the Commission determine the allegations in the referral are legally sufficient for investigation. These changes are scheduled to become effective on October 1, 2024. The Commission is currently engaged in rulemaking to implement these changes. A Notice of Rule Development was published in the Florida Administrative Register on August 14, 2024 (Vol. 50/159), and a Notice of Proposed Rulemaking was published in the Florida Administrative Register on August 15, 2024 (Vol. 50/160). A public hearing concerning this rulemaking is scheduled for September 13, 2024.
- Fourth, Chapter 2024-253 modifies Section 112.324(3), Florida Statutes, to impose deadlines and new requirements for the processing of ethics complaints and referrals. Rulemaking is needed to implement these changes, which are scheduled to become effective on October 1, 2024. A Notice of Rule Development has not yet been published regarding these changes. It is anticipated that a Notice of Rule Development will be

published by November 1, 2024, and that a Notice of Proposed Rulemaking will be published by December 1, 2024.

Subsection (1)(b): Laws not listed pursuant to paragraph (a) which the Commission expects to implement by rulemaking before July 1, 2025

Sections 16.715(1)(d) and 350.043, F.S.

Rulemaking is needed to update the list of laws on which the Commission may render advisory opinions. That list is found in Rule 34-6.003 of the Florida Administrative Code. Section 16.715(1)(d), Florida Statutes, allows the Commission to render advisory opinions concerning the standards of conduct in Sections 16.71 and 16.715, Florida Statutes. Section 350.043, Florida Statutes, allows the Commission to render advisory opinions concerning the standards of conduct in Section 350.0605, Florida Statutes. These statutes need to be added to the list found in Rule 34-6.003. Also, Section 16.715(1)(d) needs to be added to the list of laws being implemented in Rule 34-6.006 of the Florida Administrative Code, which concerns how advisory opinions are issued by the Commission.

Section 112.3147, F.S.

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

Section 112.322(9), F.S.

Rulemaking is needed to remove a reference to Rule 34-6.008 of the Florida Administrative Code. This rule has been repealed, although it is still cited in Rule 34-6.006(7) of the Florida Administrative Code.

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

None.

CERTIFICATION

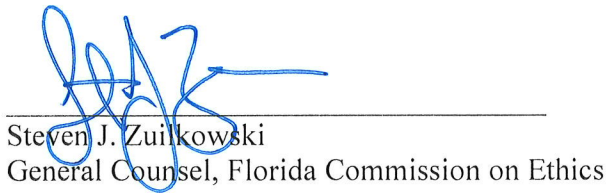
I verify that I have reviewed the Commission on Ethics Regulatory Plan for July 1, 2024-June 30, 2025, and that the Commission regularly reviews all of its rules to determine if the rules remain consistent with the agency's rulemaking authority and the laws implemented. The period during which all rules have most recently been reviewed is July 31, 2023, through July 31, 2024.



Ashley Lukis
Chair, Florida Commission on Ethics

9/9/24

Date



Steven J. Zuilkowski
General Counsel, Florida Commission on Ethics

9/10/24

Date