

1 A bill to be entitled
2 An act relating to administrative procedures;
3 amending s. 57.111, F.S.; increasing the
4 limitation on attorney's fees and costs;
5 amending s. 120.569, F.S.; revising
6 requirements for pleadings, motions, and other
7 papers filed under the Administrative Procedure
8 Act; providing for sanctions; amending s.
9 120.595, F.S.; redefining the term "improper
10 purpose" for determining an award of attorney's
11 fees; amending s. 373.114, F.S.; providing that
12 water management district orders resulting from
13 certain evidentiary hearings are not subject to
14 specified review; amending s. 403.412, F.S.;
15 revising requirements for initiating specified
16 proceedings under the Environmental Protection
17 Act; creating s. 120.551, F.S.; directing the
18 Department of Environmental Protection and the
19 State Technology Office to establish a pilot
20 project to test the cost-effectiveness of
21 publication of notices on the Internet in lieu
22 of publication in the Florida Administrative
23 Weekly; directing the Department of State to
24 publish notice of the pilot project; requiring
25 the Department of Environmental Protection, the
26 State Technology Office, and the Department of
27 State to submit a joint report on the
28 cost-effectiveness of publication of such
29 notices on the Internet; defining the term
30 "information technology"; amending s. 287.012,
31 F.S.; defining "invitation to negotiate" and

1 "request for a quote"; amending s. 287.042,
2 F.S.; providing challenge procedure; adding
3 responses and quotes to category of items to
4 which procedures are developed; tasking
5 Department of Management Services with
6 developing procedures to be used by agencies
7 for issuing invitations and requests;
8 identifying methods for securing bids,
9 responses, quotes and proposals revising
10 language with respect to the Department of
11 Management Services; providing that the
12 department, in consultation with the State
13 Technology Office, shall prescribe procedures
14 for procuring information technology; directing
15 the office to assess the technological needs of
16 certain agencies; amending s. 287.057, F.S.;
17 providing for the role of the State Technology
18 Office in developing a program for on-line
19 procurement of commodities and contractual
20 services; authorizing the office to collect
21 certain fees; providing for the deposit of such
22 fees; directing the office to establish state
23 strategic information technology alliances for
24 the acquisition and use of information
25 technology; providing for the duties of such
26 alliances; providing for rules; providing for
27 agency use of invitations to negotiate;
28 amending s. 287.0731, F.S.; conforming
29 provisions to changes made by the act; amending
30 s. 288.109, F.S.; substituting State Technology
31 Office for Department of Management Services;

1 providing for establishment and maintenance of
2 a One-Stop Permitting System; amending ss.
3 288.1092 and 288.1093, F.S.; establishing the
4 One-Stop Permitting System Grant Program and
5 the Quick Permitting County Designation Program
6 within the State Technology Office; amending s.
7 455.213, F.S.; providing for the content of
8 licensure and renewal documents; providing for
9 the electronic submission of information to the
10 department; providing that all legal
11 obligations must be met before the issuance or
12 renewal of a license; amending ss. 61.1826,
13 287.022, 287.058, 394.457, 394.47865, 402.73,
14 445.024, and 455.2177, F.S.; correcting
15 cross-references; providing an effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Paragraph (d) of subsection (4) of section
20 57.111, Florida Statutes, is amended to read:

21 57.111 Civil actions and administrative proceedings
22 initiated by state agencies; attorneys' fees and costs.--

23 (4)

24 (d) The court, or the administrative law judge in the
25 case of a proceeding under chapter 120, shall promptly conduct
26 an evidentiary hearing on the application for an award of
27 attorney's fees and shall issue a judgment, or a final order
28 in the case of an administrative law judge. The final order
29 of an administrative law judge is reviewable in accordance
30 with the provisions of s. 120.68. If the court affirms the
31 award of attorney's fees and costs in whole or in part, it

1 may, in its discretion, award additional attorney's fees and
2 costs for the appeal.

3 1. No award of attorney's fees and costs shall be made
4 in any case in which the state agency was a nominal party.

5 2. No award of attorney's fees and costs for an action
6 initiated by a state agency shall exceed ~~\$50,000~~\$15,000.

7 Section 2. Paragraph (e) of subsection (2) of section
8 120.569, Florida Statutes, is amended to read:

9 120.569 Decisions which affect substantial
10 interests.--

11 (2)

12 (e) 1. Every pleading, written motion, and other paper
13 filed in a proceeding must be signed by at least one attorney
14 or qualified representative of record in the attorney's or
15 qualified representative's individual name, or, if the party
16 is not represented by an attorney or qualified representative,
17 the pleading, written motion, or other paper must be signed by
18 the party. An unsigned paper shall be stricken unless omission
19 of the signature is corrected promptly after being called to
20 the attention of the attorney, qualified representative, or
21 party.

22 2. By presenting a pleading, written motion, or other
23 paper, whether by signing, filing, submitting, or later
24 advocating, an attorney, qualified representative, or
25 unrepresented party is certifying that, to the best of the
26 person's knowledge, information, and belief, formed after an
27 inquiry reasonable under the circumstances:

28 a. The pleading, written motion, or other paper is not
29 being presented for any improper purpose, such as to harass or
30 to cause unnecessary delay or needless increase in the cost of
31 litigation;

1 b. The claims, defenses, and other legal contentions
2 contained in the pleading, written motion, or other paper are
3 warranted by existing law or by a nonfrivolous argument for
4 the extension, modification, or reversal of existing law or
5 the establishment of new law;

6 c. The allegations and other factual contentions have
7 evidentiary support or, if specifically identified, are likely
8 to have evidentiary support after a reasonable opportunity for
9 further investigation or discovery; and

10 d. The denials of factual contentions are warranted on
11 the evidence or, if specifically identified, are reasonably
12 based on a lack of information or belief.

13 3. If, after notice and a reasonable opportunity to
14 respond, the presiding officer determines that subparagraph 2.
15 has been violated, the presiding officer may impose an
16 appropriate sanction against the person who signed it, the
17 represented party, or both, which may include an order to pay
18 the other party or parties the amount of reasonable expenses
19 incurred because of the filing of the pleading, motion, or
20 other paper, including reasonable attorney's fees. However:

21 a. Monetary sanctions may not be awarded against a
22 represented party for a violation of sub-subparagraph 2.b.

23 b. Monetary sanctions may not be awarded under this
24 paragraph based on a violation of discovery rules.

25 c. This paragraph does not authorize the award of
26 sanctions against any person who comments on or objects to a
27 draft permit during an authorized period for public comment or
28 at a public hearing.

29 4. Sanctions under this paragraph may be initiated at
30 any time after the initiation of a proceeding either by motion
31 or on the presiding officer's own initiative. A motion shall

1 describe the specific conduct alleged to violate subparagraph
2 2. The motion shall be served upon the attorney or qualified
3 representative of a party or an unrepresented party against
4 whom such sanctions are sought and shall be filed with the
5 presiding officer. However, such motion shall not be acted
6 upon by the presiding officer or called up for hearing by the
7 movant unless, within 14 days after service of the motion or
8 such other period as the presiding officer may prescribe, the
9 challenged paper, claim, defense, contention, allegation, or
10 denial is not withdrawn or appropriately corrected. A
11 presiding officer's own initiative to impose sanctions may be
12 undertaken only after entering an order describing the
13 specific conduct that appears to violate subparagraph 2. and
14 directing the attorney or qualified representative of a party
15 or the unrepresented party to show cause why subparagraph 2.
16 has not been violated. When imposing sanctions, the presiding
17 officer shall describe the conduct determined to constitute a
18 violation of subparagraph 2. and explain the basis for the
19 sanction imposed.~~All pleadings, motions, or other papers~~
20 ~~filed in the proceeding must be signed by the party, the~~
21 ~~party's attorney, or the party's qualified representative. The~~
22 ~~signature constitutes a certificate that the person has read~~
23 ~~the pleading, motion, or other paper and that, based upon~~
24 ~~reasonable inquiry, it is not interposed for any improper~~
25 ~~purposes, such as to harass or to cause unnecessary delay, or~~
26 ~~for frivolous purpose or needless increase in the cost of~~
27 ~~litigation. If a pleading, motion, or other paper is signed in~~
28 ~~violation of these requirements, the presiding officer shall~~
29 ~~impose upon the person who signed it, the represented party,~~
30 ~~or both, an appropriate sanction, which may include an order~~
31 ~~to pay the other party or parties the amount of reasonable~~

1 ~~expenses incurred because of the filing of the pleading,~~
2 ~~motion, or other paper, including a reasonable attorney's fee.~~

3 Section 3. Paragraphs (c) and (e) of subsection (1) of
4 section 120.595, Florida Statutes, are amended to read:

5 120.595 Attorney's fees.--

6 (1) CHALLENGES TO AGENCY ACTION PURSUANT TO SECTION
7 120.57(1).--

8 (c) In proceedings pursuant to s. 120.57(1), and upon
9 motion, the administrative law judge shall determine whether
10 any party participated in the proceeding for an improper
11 purpose as defined by this subsection ~~and s. 120.569(2)(e)~~. In
12 making such determination, the administrative law judge shall
13 consider whether the nonprevailing adverse party has
14 participated in two or more other such proceedings involving
15 the same prevailing party and the same project as an adverse
16 party and in which such two or more proceedings the
17 nonprevailing adverse party did not establish either the
18 factual or legal merits of its position, and shall consider
19 whether the factual or legal position asserted in the instant
20 proceeding would have been cognizable in the previous
21 proceedings. In such event, it shall be rebuttably presumed
22 that the nonprevailing adverse party participated in the
23 pending proceeding for an improper purpose.

24 (e) For the purpose of this subsection:

25 1. "Improper purpose" means participation in a
26 proceeding pursuant to s. 120.57(1) primarily to harass or to
27 cause unnecessary delay or for frivolous purpose or to
28 needlessly increase the cost of litigation,licensing,or
29 securing the approval of an activity.

30 2. "Costs" has the same meaning as the costs allowed
31 in civil actions in this state as provided in chapter 57.

1 3. "Nonprevailing adverse party" means a party that
2 has failed to have substantially changed the outcome of the
3 proposed or final agency action which is the subject of a
4 proceeding. In the event that a proceeding results in any
5 substantial modification or condition intended to resolve the
6 matters raised in a party's petition, it shall be determined
7 that the party having raised the issue addressed is not a
8 nonprevailing adverse party. The recommended order shall
9 state whether the change is substantial for purposes of this
10 subsection. In no event shall the term "nonprevailing party"
11 or "prevailing party" be deemed to include any party that has
12 intervened in a previously existing proceeding to support the
13 position of an agency.

14 Section 4. Subsection (1) of section 373.114, Florida
15 Statutes, is amended to read:

16 373.114 Land and Water Adjudicatory Commission; review
17 of district rules and orders; department review of district
18 rules.--

19 (1) Except as provided in subsection (2), the Governor
20 and Cabinet, sitting as the Land and Water Adjudicatory
21 Commission, have the exclusive authority to review any order
22 or rule of a water management district, other than a rule
23 relating to an internal procedure of the district, an order
24 resulting from an evidentiary hearing held under s. 120.569 or
25 s. 120.57, or a rule that has been adopted after issuance of
26 an order resulting from an evidentiary hearing held under s.
27 120.56, to ensure consistency with the provisions and purposes
28 of this chapter. Subsequent to the legislative ratification of
29 the delineation methodology pursuant to s. 373.421(1), this
30 subsection also shall apply to an order of the department, or
31 a local government exercising delegated authority, pursuant to

1 ss. 373.403-373.443, except an order pertaining to activities
2 or operations subject to conceptual plan approval pursuant to
3 chapter 378 or an order resulting from an evidentiary hearing
4 held under s. 120.569 or s. 120.57.

5 (a) Such review may be initiated by the department or
6 by a party to the proceeding below by filing a request for
7 review with the Land and Water Adjudicatory Commission and
8 serving a copy on the department and on any person named in
9 the rule or order within 20 days after adoption of the rule or
10 the rendering of the order. For the purposes of this section,
11 the term "party" means any affected person who submitted oral
12 or written testimony, sworn or unsworn, of a substantive
13 nature which stated with particularity objections to or
14 support for the rule or order that are cognizable within the
15 scope of the provisions and purposes of this chapter, ~~or any~~
16 ~~person who participated as a party in a proceeding instituted~~
17 ~~pursuant to chapter 120.~~ In order for the commission to accept
18 a request for review initiated by a party below, with regard
19 to a specific order, four members of the commission must
20 determine on the basis of the record below that the activity
21 authorized by the order would substantially affect natural
22 resources of statewide or regional significance. Review of an
23 order may also be accepted if four members of the commission
24 determine that the order raises issues of policy, statutory
25 interpretation, or rule interpretation that have regional or
26 statewide significance from the standpoint of agency
27 precedent. The party requesting the commission to review an
28 order must allege with particularity, and the commission must
29 find, that:

30 1. The order is in conflict with statutory
31 requirements; or

1 2. The order is in conflict with the requirements of a
2 duly adopted rule.

3 (b) Review by the Land and Water Adjudicatory
4 Commission is appellate in nature and shall be based solely on
5 the record below. If there was no evidentiary administrative
6 proceeding below, the facts contained in the proposed agency
7 action, including any technical staff report, shall be deemed
8 undisputed. The matter shall be heard by the commission not
9 more than 60 days after receipt of the request for review,
10 unless waived by the parties.

11 (c) If the Land and Water Adjudicatory Commission
12 determines that a rule of a water management district is not
13 consistent with the provisions and purposes of this chapter,
14 it may require the water management district to initiate
15 rulemaking proceedings to amend or repeal the rule. If the
16 commission determines that an order is not consistent with the
17 provisions and purposes of this chapter, the commission may
18 rescind or modify the order or remand the proceeding for
19 further action consistent with the order of the Land and Water
20 Adjudicatory Commission only if the commission determines that
21 the activity authorized by the order would substantially
22 affect natural resources of statewide or regional
23 significance. In the case of an order which does not itself
24 substantially affect natural resources of statewide or
25 regional significance, but which raises issues of policy that
26 have regional or statewide significance from the standpoint of
27 agency precedent, the commission may direct the district to
28 initiate rulemaking to amend its rules to assure that future
29 actions are consistent with the provisions and purposes of
30 this chapter without modifying the order.

31

1 (d) In a review under this section of a construction
2 permit issued pursuant to a conceptual permit under part IV,
3 which conceptual permit is issued after July 1, 1993, a party
4 to the review may not raise an issue which was or could have
5 been raised in a review of the conceptual permit under this
6 section.

7 (e) A request for review under this section shall not
8 be a precondition to the seeking of judicial review pursuant
9 to s. 120.68 or the seeking of an administrative determination
10 of rule validity pursuant to s. 120.56.

11 (f) The Florida Land and Water Adjudicatory Commission
12 may adopt rules to set forth its procedures for reviewing an
13 order or rule of a water management district consistent with
14 the provisions of this section.

15 (g) For the purpose of this section, it shall be
16 presumed that activity authorized by an order will not affect
17 resources of statewide or regional significance if the
18 proposed activity:

- 19 1. Occupies an area less than 10 acres in size, and
- 20 2. Does not create impervious surfaces greater than 2
21 acres in size, and
- 22 3. Is not located within 550 feet of the shoreline of
23 a named body of water designated as Outstanding Florida
24 Waters, and
- 25 4. Does not adversely affect threatened or endangered
26 species.

27
28 This paragraph shall not operate to hold that any activity
29 that exceeds these limits is presumed to affect resources of
30 statewide or regional significance. The determination of
31 whether an activity will substantially affect resources of

1 statewide or regional significance shall be made on a
2 case-by-case basis, based upon facts contained in the record
3 below.

4 Section 5. Subsection (5)(a) of section 403.412,
5 Florida Statutes, is amended to read:

6 403.412 Environmental Protection Act.--

7 (5)(a) In any administrative, licensing, or other
8 proceedings authorized by law for the protection of the air,
9 water, or other natural resources of the state from pollution,
10 impairment, or destruction, the Department of Legal Affairs, a
11 political subdivision or municipality of the state, or a
12 citizen of the state shall have standing to intervene as a
13 party on the filing of a verified pleading asserting that the
14 activity, conduct, or product to be licensed or permitted has
15 or will have the effect of impairing, polluting, or otherwise
16 injuring the air, water, or other natural resources of the
17 state.

18 (b) Citizen initiation of a proceeding under s.
19 120.569 or s. 120.57 shall not be authorized by paragraph (a),
20 but shall be governed by the provisions of chapter 120.

21 (c) However, a nonprofit corporation or association
22 organized in whole or in part to promote conservation, to
23 protect the environment or other biological values, or to
24 preserve historical sites may petition to initiate a
25 proceeding under s. 120.569 or s. 120.57 with regard to an
26 agency action or a proposed agency action in any
27 administrative, licensing, or other proceedings described in
28 paragraph (a) without demonstrating that its substantial
29 interests have been or will be determined, if:

30 1. Such corporation or association was in existence at
31 least 1 year before the filing of the application to license

1 or permit an activity, conduct, or product which resulted in
2 the agency action or proposed agency action that is the
3 subject of the petition;

4 2.a. Such corporation or association has an office for
5 the transaction of its customary business or owns real
6 property, within the same county where the activity, conduct,
7 or product to be permitted or licensed is located, or

8 b. At least 25 members of the corporation or
9 association reside or own real property within the same county
10 where the activity, conduct, or product to be permitted or
11 licensed is located; and

12 3. Such corporation or association files a verified
13 pleading asserting that the activity, conduct, or product to
14 be licensed or permitted has or will have the effect of
15 impairing, polluting, or otherwise injuring the air, water, or
16 other natural resources of the state.

17 Section 6. Section 120.551, Florida Statutes, is
18 created to read:

19 120.551 Internet publication pilot project.--

20 (1) On or before December 31, 2001, the Department of
21 Environmental Protection and the State Technology Office shall
22 establish and commence a pilot project to determine the
23 cost-effectiveness of publication of notices on the Internet
24 in lieu of complete publication in the Florida Administrative
25 Weekly. The pilot project shall end on July 1, 2003. Under
26 this pilot project, notwithstanding any other provision of
27 law, whenever the Department of Environmental Protection is
28 required to publish notices in the Florida Administrative
29 Weekly, the Department of Environmental Protection instead may
30 publish a summary of such notice in the Florida Administrative
31 Weekly along with the specific URL or Internet address where

1 the complete notice required by law shall be published. The
2 Department of Environmental Protection shall publish all other
3 notices in the manner prescribed by law. Notices published on
4 the Internet under this section shall clearly state the date
5 the notice was first posted on the Internet and shall be
6 initially posted only on the same days the Florida
7 Administrative Weekly is published. Notices related to
8 rulemaking published on the Internet under this provision
9 shall be maintained on the Internet for a period of at least
10 12 months after the effective date of the rule or at least 3
11 months after the publication of a notice of withdrawal of the
12 proposed rule. All other notices published on the Internet
13 under this provision shall be maintained on the Internet for a
14 period of at least 3 months after the date first posted. A
15 searchable database or other electronic system to be
16 permanently maintained on the Internet for the purpose of
17 archiving all notices published on the Internet and allowing
18 citizens permanent electronic access to such archived records
19 shall also be established by the pilot project. No notice
20 posted on the Internet shall be removed until the searchable
21 database is implemented.

22 (2) The Department of State shall publish notice of
23 this pilot project in each weekly publication of the Florida
24 Administrative Weekly. The notice shall state: "Under a
25 temporary pilot project, in conjunction with the State
26 Technology Office, to determine the cost-effectiveness of
27 Internet publication of notices in lieu of complete
28 publication in the Florida Administrative Weekly, summaries of
29 notices of the Department of Environmental Protection are
30 being published in the Florida Administrative Weekly along
31

1 with a reference to the specific Internet URL or address where
2 the complete notice required by law shall be published."

3 (3) No later than January 31, 2003, the Department of
4 Environmental Protection, the State Technology Office, and the
5 Department of State shall submit a report to the Governor, the
6 President of the Senate, and the Speaker of the House of
7 Representatives containing findings on the cost-effectiveness
8 of publication of notices on the Internet in lieu of
9 publication in the Florida Administrative Weekly, and
10 recommendations, including legislative or rule changes, for
11 modifications to the process necessary to effectuate
12 publication of notices on the Internet.

13 Section 7. Subsections (20), (21) and (22) of section
14 287.012, Florida Statutes, are created to read:

15 287.012 Definitions.--The following definitions shall
16 apply in this part:

17 (20) "Invitation to negotiate" means a written
18 solicitation that calls for responses to select one or more
19 persons or business entities with which to commence
20 negotiations for the procurement of commodities or contractual
21 services.

22 (21) "Request for a quote" means a solicitation that
23 calls for pricing information for purposes of competitively
24 selecting and procuring commodities and contractual services
25 from qualified or registered vendors.

26 (22) "Information Technology" means equipment,
27 hardware, software, firmware, programs, systems, networks,
28 infrastructure, media, and related material used to
29 automatically, electronically, and wirelessly collect,
30 receive, access, transmit, display, store, record, retrieve,
31 analyze, evaluate, process, classify, manipulate, manage,

1 assimilate, control, communicate, exchange, convert, converge,
2 interface, switch, or disseminate information of any kind or
3 form.

4 Section 8. Paragraph (d) of subsection (2) is created;
5 paragraphs (b) and (c) of subsection (4), paragraphs (a) and
6 (b) of subsection (5), paragraph (a) of subsection (16) and
7 subsection (17) of section 287.042, Florida Statutes, are
8 amended, and a new paragraph (f) of subsection (4) is created
9 to read:

10 287.042 Powers, duties, and functions.--The department
11 shall have the following powers, duties, and functions:

12 (2)

13 (d) The terms, conditions, and specifications of a
14 request for proposal, request for quote, invitation to bid, or
15 invitation to negotiate, including any provisions governing
16 the methods for ranking proposals, awarding contracts,
17 reserving rights of further negotiation, or the modification
18 of amendment of any contract, are subject to challenge only by
19 filing a protest within 72 hours after the notice of the
20 terms, conditions, or specifications as provided in s.
21 120.57(3)(b).

22 (4)

23 (b) Development of procedures for the releasing of
24 requests for proposals, requests for quotes, invitations to
25 bid, invitations to negotiate, and other competitive
26 acquisitions which procedures shall include, but are not
27 limited to, notice by publication in the Florida
28 Administrative Weekly, on Government Services Direct, or by
29 mail at least 10 days before the date set for submittal of
30 proposals or bids. The Office of Supplier Diversity may
31 consult with agencies regarding the development of bid

1 distribution procedures to ensure that maximum distribution is
2 afforded to certified minority business enterprises as defined
3 in s. 288.703.

4 (c) Development of procedures for the receipt and
5 opening of bids, responses, quotes, or proposals by an agency.
6 Such procedures shall provide the Office of Supplier Diversity
7 an opportunity to monitor and ensure that the contract award
8 is consistent with the requirements of s. 287.09451 ~~original~~
9 ~~request for proposal or invitation to bid, in accordance with~~
10 ~~s. 287.0945(6), and subject to the review of bid responses~~
11 ~~within standard timelines.~~

12 (f) Development of procedures to be used by an agency
13 for issuing invitations to bid, invitations to negotiate,
14 requests for proposal, requests for quote, or other
15 competitive procurement processes.

16 (5)(a) To prescribe the methods of securing
17 competitive sealed bids, responses, quotes, and
18 proposals. Such methods may include, but are not limited to,
19 procedures for identifying vendors; setting qualifications;
20 evaluating responses, bids, and proposals; ranking respondents
21 and proposers; selecting invitees and proposers; and
22 conducting negotiations, or negotiating and awarding commodity
23 and contractual services contracts, unless otherwise provided
24 by law.

25 (b) To prescribe, in consultation with the State
26 Technology Office by September 1, 1995, procedures for
27 procuring information technology and information technology
28 consultant services which provide for public announcement and
29 qualification, competitive selection, competitive negotiation,
30 contract award, and prohibition against contingent fees. Such
31 procedures shall be limited to information technology

1 consultant contracts for which the total project costs, or
2 planning or study activities, are estimated to exceed the
3 threshold amount provided for in s. 287.017, for CATEGORY TWO.

4 (16)(a) To enter into joint agreements with
5 governmental agencies, as defined in s. 163.3164(10), for the
6 purpose of pooling funds for the purchase of commodities or,
7 information technology ~~resources, or services~~ that can be used
8 by multiple agencies. However, the department shall consult
9 with the State Technology Office on joint agreements that
10 involve the purchase of information technology ~~resources~~.
11 Agencies entering into joint purchasing agreements with the
12 department or the State Technology Office shall authorize the
13 department or the State Technology Office to contract for such
14 purchases on their behalf.

15 (17)(a) To evaluate contracts let by the Federal
16 Government, another state, or a political subdivision for the
17 provision of commodities and contract services, and, when it
18 is determined to be cost-effective and in the best interest of
19 the state, to enter into a written agreement authorizing a
20 state agency to make purchases under a contract approved by
21 the department and let by the Federal Government, another
22 state, or a political subdivision.

23 (b) For contracts pertaining to the provision of
24 information technology, the State Technology Office, in
25 consultation with the department, shall assess the
26 technological needs of a particular agency, evaluate the
27 contracts, and determine whether to enter into a written
28 agreement with the letting federal, state, or political
29 subdivision body to provide information technology for a
30 particular agency.

31

1 Section 9. A new subsection (3) is created and
2 subsequent subsections are renumbered, present subsections (3)
3 and (22) are amended and subsection (23) of section 287.057,
4 Florida Statutes, is created:

5 287.057 Procurement of commodities or contractual
6 services.--

7 (3) If an agency determines that the use of an
8 invitation to bid or a request for a proposal will not result
9 in the best value to the state, based on factors, including,
10 but not limited to, price, quality, design, and workmanship,
11 the agency may procure commodities and contractual services by
12 an invitation to negotiate. An agency may procure commodities
13 and contractual services by a request for a quote from vendors
14 under contract with the department.

15 ~~(4)~~(3) When the purchase price of commodities or
16 contractual services exceeds the threshold amount provided in
17 s. 287.017 for CATEGORY TWO, no purchase of commodities or
18 contractual services may be made without receiving competitive
19 sealed bids,~~or~~ competitive sealed proposals, or responses to
20 an invitation to negotiate or a request for a quote unless:

21 (a) The agency head determines in writing that an
22 immediate danger to the public health, safety, or welfare or
23 other substantial loss to the state requires emergency action.
24 After the agency head makes such a written determination, the
25 agency may proceed with the procurement of commodities or
26 contractual services necessitated by the immediate danger,
27 without competition. However, such emergency procurement shall
28 be made with such competition as is practicable under the
29 circumstances. The agency shall furnish copies of the written
30 determination certified under oath and any other documents
31 relating to the emergency action to the department. A copy of

1 the statement shall be furnished to the Comptroller with the
2 voucher authorizing payment. The individual purchase of
3 personal clothing, shelter, or supplies which are needed on an
4 emergency basis to avoid institutionalization or placement in
5 a more restrictive setting is an emergency for the purposes of
6 this paragraph, and the filing with the department of such
7 statement is not required in such circumstances. In the case
8 of the emergency purchase of insurance, the period of coverage
9 of such insurance shall not exceed a period of 30 days, and
10 all such emergency purchases shall be reported to the
11 department.

12 (b) Purchasing agreements and contracts executed by
13 the department or by agencies under authority delegated by the
14 department in writing are excepted from bid requirements.

15 (c) Commodities or contractual services available only
16 from a single source may be excepted from the bid requirements
17 if it is determined that such commodities or services are
18 available only from a single source and such determination is
19 documented. However, if such contract is for an amount greater
20 than the threshold amount provided in s. 287.017 for CATEGORY
21 FOUR, the agency head shall file a certification of conditions
22 and circumstances with the department and shall obtain the
23 prior approval of the department. The failure of the
24 department to approve or disapprove the request of an agency
25 for prior approval within 21 days after receiving such request
26 or within 14 days after receiving from the agency additional
27 materials requested by the department shall constitute prior
28 approval of the department. To the greatest extent
29 practicable, but no later than 45 days after authorizing the
30 exception in writing, the department shall combine
31 single-source procurement authorizations for identical

1 information technology resources for which the purchase price
2 exceeds the threshold amount provided in s. 287.017 for
3 CATEGORY FOUR, and shall negotiate and execute volume
4 purchasing agreements for such procurements on behalf of the
5 agencies.

6 (d) When it is in the best interest of the state, the
7 Secretary of Management Services or his or her designee may
8 authorize the Support Program to purchase insurance by
9 negotiation, but such purchase shall be made only under
10 conditions most favorable to the public interest.

11 (e) Prescriptive assistive devices for the purpose of
12 medical, developmental, or vocational rehabilitation of
13 clients are excepted from competitive sealed bid and
14 competitive sealed proposal requirements and shall be procured
15 pursuant to an established fee schedule or by any other method
16 which ensures the best price for the state, taking into
17 consideration the needs of the client. Prescriptive assistive
18 devices include, but are not limited to, prosthetics,
19 orthotics, and wheelchairs. For purchases made pursuant to
20 this paragraph, state agencies shall annually file with the
21 department a description of the purchases and methods of
22 procurement.

23 (f) The following contractual services and commodities
24 are not subject to the competitive sealed bid requirements of
25 this section:

- 26 1. Artistic services.
- 27 2. Academic program reviews.
- 28 3. Lectures by individuals.
- 29 4. Auditing services.
- 30 5. Legal services, including attorney, paralegal,
31 expert witness, appraisal, or mediator services.

1 6. Health services involving examination, diagnosis,
2 treatment, prevention, medical consultation, or
3 administration.

4 7. Services provided to persons with mental or
5 physical disabilities by not-for-profit corporations which
6 have obtained exemptions under the provisions of s. 501(c)(3)
7 of the United States Internal Revenue Code or when such
8 services are governed by the provisions of Office of
9 Management and Budget Circular A-122. However, in acquiring
10 such services, the agency shall consider the ability of the
11 contractor, past performance, willingness to meet time
12 requirements, and price.

13 8. Medicaid services delivered to an eligible Medicaid
14 recipient by a health care provider who has not previously
15 applied for and received a Medicaid provider number from the
16 Agency for Health Care Administration. However, this exception
17 shall be valid for a period not to exceed 90 days after the
18 date of delivery to the Medicaid recipient and shall not be
19 renewed by the agency.

20 9. Family placement services.

21 10. Prevention services related to mental health,
22 including drug abuse prevention programs, child abuse
23 prevention programs, and shelters for runaways, operated by
24 not-for-profit corporations. However, in acquiring such
25 services, the agency shall consider the ability of the
26 contractor, past performance, willingness to meet time
27 requirements, and price.

28 11. Training and education services provided to
29 injured employees pursuant to s. 440.49(1).

30 12. Contracts entered into pursuant to s. 337.11.

31

1 13. Services or commodities provided by governmental
2 agencies.

3 (g) Continuing education events or programs that are
4 offered to the general public and for which fees have been
5 collected that pay all expenses associated with the event or
6 program are exempt from competitive sealed bidding.

7 (22)(a) The State Technology Office ~~of the department~~
8 shall develop a program for on-line procurement of commodities
9 and contractual services. To enable the state to promote open
10 competition and to leverage its buying power, executive state
11 agencies shall participate in the on-line procurement program,
12 and other agencies may participate in the program. Only
13 bidders prequalified as meeting mandatory requirements and
14 qualifications criteria shall be permitted to participate in
15 on-line procurement. The State Technology Office may contract
16 for equipment and services necessary to develop and implement
17 on-line procurement.

18 (b) The State Technology Office, in consultation with
19 the department, shall ~~may~~ adopt rules, pursuant to ss.
20 120.536(1) and 120.54, to implement the program for on-line
21 procurement. The rules shall include, but not be limited to:

22 1. Determining the requirements and qualification
23 criteria for prequalifying bidders.

24 2. Establishing the procedures for conducting on-line
25 procurement.

26 3. Establishing the criteria for eligible commodities
27 and contractual services.

28 4. Establishing the procedures for providing access to
29 on-line procurement.

30 5. Determining the criteria warranting any exceptions
31 to participation in the on-line procurement program.

1 (c) The Department of Management Services and the
2 State Technology Office may collect fees for the use of the
3 on-line procurement systems. The fees may be imposed on an
4 individual transaction basis or as a fixed percentage of the
5 cost savings generated. At a minimum, the fees must be set in
6 an amount sufficient to cover the projected costs of such
7 services, including administrative and project service costs
8 in accordance with the policies of the Department of
9 Management Services and the State Technology Office. For the
10 purposes of compensating the provider, the department may
11 authorize the provider to collect and retain a portion of the
12 fees. The providers may withhold the portion retained from
13 the amount of fees to be remitted to the department. The
14 department may negotiate the retainage as a percentage of such
15 fees charged to users, as a flat amount, or as any other
16 method the department deems feasible. All fees and surcharges
17 collected under this paragraph shall be deposited in the
18 Grants and Donation Trust Fund as provided by law.

19 (23)(a) The State Technology Office shall establish,
20 in consultation with the department, state strategic
21 information technology alliances for the acquisition and use
22 of information technology and related material with
23 prequalified contractors or partners to provide the state with
24 efficient, cost-effective, and advanced information
25 technology.

26 (b) In consultation with and under contract to the
27 State Technology Office, the state strategic information
28 technology alliances shall design, develop, and deploy
29 projects providing the information technology needed to
30 collect, store, and process the state's data and information,

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1 provide connectivity, and integrate and standardize computer
2 networks and information systems of the state.

3 (c) The partners in the state strategic information
4 technology alliances shall be industry leaders with
5 demonstrated experience in the public and private sectors.

6 (d) The State Technology Office, in consultation with
7 the Department of Management Services, shall adopt rules,
8 pursuant to ss. 120.536(1) and 120.54, to implement the state
9 strategic information technology alliances.

10 Section 10. Section 287.0731, Florida Statutes, is
11 amended to read:

12 287.0731 Team for contract negotiations.--Contingent
13 upon funding in the General Appropriations Act, the Department
14 of Management Services, in consultation with the State
15 Technology Office, shall establish a permanent team for
16 contract negotiations including a chief negotiator, to
17 specialize in the procurement of information technology
18 ~~resources~~.

19 Section 11. Subsections (1), (2), (6), and (8) of
20 section 288.109, Florida Statutes, are amended, subsection
21 (10) is deleted and subsequent subsections are renumbered to
22 read:

23 288.109 One-Stop Permitting System.--

24 (1) By January 1, 2001 ~~2000~~, the State Technology
25 Office ~~Department of Management Services~~ must establish and
26 implement an Internet site for the One-Stop Permitting System.
27 The One-Stop Permitting System Internet site shall provide
28 individuals and businesses with information concerning
29 development permits; guidance on what development permits are
30 needed for particular projects; permit requirements; and who
31 may be contacted for more information concerning a particular

1 development permit for a specific location. The office
2 ~~department~~ shall design and construct the Internet site and
3 may competitively procure and contract for services to develop
4 the site. In designing and constructing the Internet site, the
5 office ~~department~~ must solicit input from potential users of
6 the site.

7 (2) The office ~~department~~ shall develop the One-Stop
8 Permitting System Internet site to allow an applicant to
9 complete and submit application forms for development permits
10 to agencies and counties. The Internet site must be capable of
11 allowing an applicant to submit payment for permit fees and
12 must provide payment options. After initially establishing the
13 Internet site, the office ~~department~~ shall implement, in the
14 most timely manner possible, the capabilities described in
15 this subsection. The office ~~department~~ shall also develop a
16 protocol for adding to the One-Stop Permitting System
17 additional state agencies and counties that agree to
18 participate. The office ~~department~~ may competitively procure
19 and contract for services to develop such capabilities.

20 (6) The office ~~department~~ may add counties and
21 municipalities to the One-Stop Permitting System as such local
22 governments agree to participate and develop the technical
23 capability of joining the system.

24 (8) Section 120.60(1) shall apply to any development
25 permit or license filed under the One-Stop Permitting System,
26 except the 90-day time period for approving or denying a
27 completed application shall be 60 days. In the case of permits
28 issued by the water management districts, each completed
29 application that does not require governing board approval
30 must be approved or denied within 60 days after receipt.
31 However, completed permit applications which must be

1 considered by a water management district governing board
2 shall be approved or denied at the next regularly scheduled
3 meeting after the 60-day period has expired. The 60-day
4 period for approving or denying a complete application does
5 not apply in the case of a development permit application
6 evaluated under a federally delegated or approved permitting
7 program. However, the reviewing agency shall make a
8 good-faith effort to act on such permit applications within 60
9 days.

10 ~~(10) Notwithstanding any other provision of law or~~
11 ~~administrative rule to the contrary, the fee imposed by a~~
12 ~~state agency or water management district for issuing a~~
13 ~~development permit shall be waived for a 6-month period~~
14 ~~beginning on the date the state agency or water management~~
15 ~~district begins accepting development permit applications over~~
16 ~~the Internet and the applicant submits the development permit~~
17 ~~to the agency or district using the One-Stop Permitting~~
18 ~~System. The 6-month fee waiver shall not apply to development~~
19 ~~permit fees assessed by the Electrical Power Plant Siting Act,~~
20 ~~ss. 403.501-403.519; the Transmission Line Siting Act, ss.~~
21 ~~403.52-403.5365; the statewide Multi-purpose Hazardous Waste~~
22 ~~Facility Siting Act, ss. 403.78-403.7893; the Natural Gas~~
23 ~~Pipeline Siting Act, ss. 403.9401-403.9425; and the High Speed~~
24 ~~Rail Transportation Siting Act, ss. 341.3201-341.386.~~

25 Section 12. Section 288.1092, Florida Statutes, is
26 amended to read:

27 288.1092 One-Stop Permitting System Grant
28 Program.--There is created within the State Technology Office
29 ~~Department of Management Services~~ the One-Stop Permitting
30 System Grant Program. The purpose of the grant program is to
31 encourage counties to coordinate and integrate the development

1 of the county's permitting process with the One-Stop
2 Permitting System. The office ~~department~~ shall review grant
3 applications and, subject to available funds, if a county is
4 certified as a Quick Permitting County under s. 288.1093,
5 shall award a grant of up to \$50,000 to provide for such
6 integration. The office ~~department~~ must review a grant
7 application for consistency with the purpose of the One-Stop
8 Permitting System to provide access to development permit
9 information and application forms. Grants shall be issued on a
10 first-come, first-served basis to qualified Quick Permitting
11 Counties. The grant moneys may be used to purchase software,
12 hardware, or consulting services necessary for the county to
13 create an interface with the One-Stop Permitting System. Grant
14 moneys may not be used to pay administrative costs. The grant
15 application must specify what items or services the county
16 intends to purchase using the grant moneys, the amount of each
17 of the items or services to be purchased, and how the items or
18 services are necessary for the county to create an interface
19 with the One-Stop Permitting System.

20 Section 13. Section 288.1093, Florida Statutes, is
21 amended to read:

22 288.1093 Quick Permitting County Designation
23 Program.--

24 (1) There is established within the State Technology
25 ~~Office Department of Management Services~~ the Quick Permitting
26 County Designation Program. To be designated as a Quick
27 Permitting County, the chair of the board of county
28 commissioners of the applying county must certify to the
29 office ~~Department of Management Services~~ that the county meets
30 the criteria specified in subsection (3).

31

1 (2) As used in this section, the term "development
2 permitting" includes permits and approvals necessary for the
3 physical location of a business, including, but not limited
4 to:

5 (a) Wetland or environmental resource permits.

6 (b) Surface water management permits.

7 (c) Stormwater permits.

8 (d) Site plan approvals.

9 (e) Zoning and comprehensive plan amendments.

10 (f) Building permits.

11 (g) Transportation concurrency approvals.

12 (h) Wastewater permits.

13 (3) In order to qualify for a Quick Permitting County
14 designation, a county must certify to the office ~~department~~
15 that the county has implemented the following best-management
16 practices:

17 (a) The establishment of a single point of contact for
18 a business seeking assistance in obtaining a permit;

19 (b) The selection of high-priority projects for
20 accelerated permit review;

21 (c) The use of documented preapplication meetings
22 following standard procedures;

23 (d) The maintenance of an inventory of sites suitable
24 for high-priority projects;

25 (e) The development of a list of consultants who
26 conduct business in the county;

27 (f) The evaluation and elimination of duplicative
28 approval and permitting requirements within the county;

29 (g) The commitment to participate, through the entry
30 of an interlocal agreement for individual projects, in the
31 expedited permit process set forth in s. 403.973;

1 (h) The development of a timetable for processing
2 development permits and approvals; and

3 (i) The use of interagency coordination to facilitate
4 permit processing.

5 Section 14. Effective July 1, 2001, subsection (1) of
6 section 455.213, Florida Statutes, is amended, and subsection
7 (11) is added to that section, to read:

8 455.213 General licensing provisions.--

9 (1) Any person desiring to be licensed shall apply to
10 the department in writing. The application for licensure shall
11 be made on a form prepared and furnished by the department and
12 include the applicant's social security number.

13 Notwithstanding any other provision of law, the department is
14 the sole authority for determining the contents of any
15 documents to be submitted for initial licensure and licensure
16 renewal. Such documents may contain information including, as
17 appropriate: demographics, education, work history, personal
18 background, criminal history, finances, business information,
19 complaints, inspections, investigations, discipline, bonding,
20 signature notarization, photographs, performance periods,
21 reciprocity, local government approvals, supporting
22 documentation, periodic reporting requirements, fingerprint
23 requirements, continuing education requirements, and ongoing
24 education monitoring.The application shall be supplemented as

25 needed to reflect any material change in any circumstance or
26 condition stated in the application which takes place between
27 the initial filing of the application and the final grant or
28 denial of the license and which might affect the decision of
29 the department. In order to further the economic development
30 goals of the state, and notwithstanding any law to the
31 contrary, the department may enter into an agreement with the

1 county tax collector for the purpose of appointing the county
2 tax collector as the department's agent to accept applications
3 for licenses and applications for renewals of licenses. The
4 agreement must specify the time within which the tax collector
5 must forward any applications and accompanying application
6 fees to the department. In cases where a person applies or
7 schedules directly with a national examination organization or
8 examination vendor to take an examination required for
9 licensure, any organization- or vendor-related fees associated
10 with the examination may be paid directly to the organization
11 or vendor.

12 (11) Any submission required to be in writing may be
13 made by electronic means.

14 Section 15. Paragraph (e) of subsection (1) of section
15 61.1826, Florida Statutes, is amended to read:

16 61.1826 Procurement of services for State Disbursement
17 Unit and the non-Title IV-D component of the State Case
18 Registry; contracts and cooperative agreements; penalties;
19 withholding payment.--

20 (1) LEGISLATIVE FINDINGS.--The Legislature finds that
21 the clerks of court play a vital role, as essential
22 participants in the establishment, modification, collection,
23 and enforcement of child support, in securing the health,
24 safety, and welfare of the children of this state. The
25 Legislature further finds and declares that:

26 (e) The potential loss of substantial federal funds
27 poses a direct and immediate threat to the health, safety, and
28 welfare of the children and citizens of the state and
29 constitutes an emergency for purposes of s. 287.057(4)(~~3~~)(a).
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1 For these reasons, the Legislature hereby directs the
2 Department of Revenue, subject to the provisions of subsection
3 (6), to contract with the Florida Association of Court Clerks
4 and each depository to perform duties with respect to the
5 operation and maintenance of a State Disbursement Unit and the
6 non-Title IV-D component of the State Case Registry as further
7 provided by this section.

8 Section 16. Subsection (1) of section 287.022, Florida
9 Statutes, is amended to read:

10 287.022 Purchase of insurance.--

11 (1) Insurance, while not a commodity, nevertheless
12 shall be purchased for all agencies by the department, except
13 that agencies may purchase title insurance for land
14 acquisition and may make emergency purchases of insurance
15 pursuant to s. 287.057(4)(~~3~~)(a). The procedures for purchasing
16 insurance, whether the purchase is made by the department or
17 by the agencies, shall be the same as those set forth herein
18 for the purchase of commodities.

19 Section 17. Subsection (5) of section 287.058, Florida
20 Statutes, is amended to read:

21 287.058 Contract document.--

22 (5) Unless otherwise provided in the General
23 Appropriations Act or the substantive bill implementing the
24 General Appropriations Act, the Comptroller may waive the
25 requirements of this section for services which are included
26 in s. 287.057(4)(~~3~~)(f).

27 Section 18. Subsection (3) of section 394.457, Florida
28 Statutes, is amended to read:

29 394.457 Operation and administration.--

30 (3) POWER TO CONTRACT.--The department may contract to
31 provide, and be provided with, services and facilities in

1 order to carry out its responsibilities under this part with
2 the following agencies: public and private hospitals;
3 receiving and treatment facilities; clinics; laboratories;
4 departments, divisions, and other units of state government;
5 the state colleges and universities; the community colleges;
6 private colleges and universities; counties, municipalities,
7 and any other governmental unit, including facilities of the
8 United States Government; and any other public or private
9 entity which provides or needs facilities or services. Baker
10 Act funds for community inpatient, crisis stabilization,
11 short-term residential treatment, and screening services must
12 be allocated to each county pursuant to the department's
13 funding allocation methodology. Notwithstanding the provisions
14 of s. 287.057(4)~~(3)~~(f), contracts for community-based Baker
15 Act services for inpatient, crisis stabilization, short-term
16 residential treatment, and screening provided under this part,
17 other than those with other units of government, to be
18 provided for the department must be awarded using competitive
19 sealed bids when the county commission of the county receiving
20 the services makes a request to the department's district
21 office by January 15 of the contracting year. The district
22 shall not enter into a competitively bid contract under this
23 provision if such action will result in increases of state or
24 local expenditures for Baker Act services within the district.
25 Contracts for these Baker Act services using competitive
26 sealed bids will be effective for 3 years. Services contracted
27 for by the department may be reimbursed by the state at a rate
28 up to 100 percent. The department shall adopt rules
29 establishing minimum standards for such contracted services
30 and facilities and shall make periodic audits and inspections
31

1 to assure that the contracted services are provided and meet
2 the standards of the department.

3 Section 19. Paragraph (a) of subsection (1) of section
4 394.47865, Florida Statutes, is amended to read:

5 394.47865 South Florida State Hospital;
6 privatization.--

7 (1) The Department of Children and Family Services
8 shall, through a request for proposals, privatize South
9 Florida State Hospital. The department shall plan to begin
10 implementation of this privatization initiative by July 1,
11 1998.

12 (a) Notwithstanding s. 287.057(13)(~~12~~), the department
13 may enter into agreements, not to exceed 20 years, with a
14 private provider, a coalition of providers, or another agency
15 to finance, design, and construct a treatment facility having
16 up to 350 beds and to operate all aspects of daily operations
17 within the facility. The department may subcontract any or all
18 components of this procurement to a statutorily established
19 state governmental entity that has successfully contracted
20 with private companies for designing, financing, acquiring,
21 leasing, constructing, and operating major privatized state
22 facilities.

23 Section 20. Subsections (1) and (5) of section 402.73,
24 Florida Statutes, are amended to read:

25 402.73 Contracting and performance standards.--

26 (1) The Department of Children and Family Services
27 shall establish performance standards for all contracted
28 client services. Notwithstanding s. 287.057(4)(~~3~~)(f), the
29 department must competitively procure any contract for client
30 services when any of the following occurs:

31

1 (a) The provider fails to meet appropriate performance
2 standards established by the department after the provider has
3 been given a reasonable opportunity to achieve the established
4 standards.

5 (b) A new program or service has been authorized and
6 funded by the Legislature and the annual value of the contract
7 for such program or service is \$300,000 or more.

8 (c) The department has concluded, after reviewing
9 market prices and available treatment options, that there is
10 evidence that the department can improve the performance
11 outcomes produced by its contract resources. At a minimum, the
12 department shall review market prices and available treatment
13 options biennially. The department shall compile the results
14 of the biennial review and include the results in its annual
15 performance report to the Legislature pursuant to chapter
16 94-249, Laws of Florida. The department shall provide notice
17 and an opportunity for public comment on its review of market
18 prices and available treatment options.

19 Section 21. Paragraph (c) of subsection (5) of section
20 445.024, Florida Statutes, is amended to read:

21 445.024 Work requirements.--

22 (5) USE OF CONTRACTS.--Regional workforce boards shall
23 provide work activities, training, and other services, as
24 appropriate, through contracts. In contracting for work
25 activities, training, or services, the following applies:

26 (c) Notwithstanding the exemption from the competitive
27 sealed bid requirements provided in s. 287.057(4)~~(3)~~(f) for
28 certain contractual services, each contract awarded under this
29 chapter must be awarded on the basis of a competitive sealed
30 bid, except for a contract with a governmental entity as
31 determined by the regional workforce board.

1 Section 22. Paragraph (d) of subsection (2) of section
2 455.2177, Florida Statutes, is amended to read:

3 455.2177 Monitoring of compliance with continuing
4 education requirements.--

5 (2) If the compliance monitoring system required under
6 this section is privatized, the following provisions apply:

7 (d) Upon the failure of a vendor to meet its
8 obligations under a contract as provided in paragraph (a), the
9 department may suspend the contract and enter into an
10 emergency contract under s. 287.057(4)~~(3)~~.

11 Section 23. This act shall take effect upon becoming a
12 law.

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