

By the Committee on Governmental Oversight and Productivity;  
and Senator Argenziano

585-1988-06

1   A bill to be entitled  
2           An act relating to procurement of contractual  
3           services by a state agency; amending s.  
4           287.057, F.S.; prohibiting a state agency from  
5           renewing or amending a contract for outsourcing  
6           under certain conditions; requiring certain  
7           qualifications for persons chosen to conduct  
8           negotiations during specified procurements;  
9           requiring the department to adopt rules  
10          governing those qualifications; requiring that  
11          a specified statement be included in  
12          procurements of commodities and services which  
13          prohibits contact between respondents and  
14          specified employees of the executive and  
15          legislative branches; creating s. 287.0571,  
16          F.S.; creating the Florida Efficient Government  
17          Act; providing legislative intent; providing  
18          that procurements of specified commodities and  
19          services are not subject to the act; creating  
20          s. 287.05721, F.S.; providing definitions;  
21          creating s. 287.0573, F.S.; creating the  
22          Council on Efficient Government; providing the  
23          purpose and membership of the council;  
24          providing duties and responsibilities of the  
25          council; requiring the council to review and  
26          issue advisory reports on certain state agency  
27          procurements; requiring the department to  
28          employ adequate number of staff; requiring the  
29          council to be headed by a director appointed by  
30          the Secretary of Management Services; requiring  
31          state agencies to submit materials required by

1 the council; creating s. 287.0574, F.S.;  
2 providing requirements for certain business  
3 cases to outsource by a state agency; requiring  
4 a state agency to develop a business case that  
5 describes and analyzes a contractual services  
6 procurement under consideration; providing that  
7 the business case is not subject to challenge  
8 or protest under the Administrative Procedure  
9 Act; providing required components of a  
10 business case; providing contract requirements  
11 for an outsourcing procurement; amending s.  
12 287.058, F.S.; providing that a contract may  
13 not prohibit a contractor from lobbying the  
14 executive or legislative branches concerning  
15 specified contract issues, within specified  
16 time lines; creating s. 287.074, F.S.;  
17 requiring that only public officers or  
18 employees perform certain functions;  
19 prohibiting a contractor from participating in  
20 the procurement of contractual services by a  
21 state agency; repealing s. 14.203, F.S.,  
22 relating to the State Council on Competitive  
23 Government; providing appropriations; providing  
24 that certain state agencies are subject to the  
25 act; providing an effective date.

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27 Be It Enacted by the Legislature of the State of Florida:  
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29 Section 1. Paragraph (a) of subsection (14) and  
30 paragraph (b) of subsection (17) of section 287.057, Florida  
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1 Statutes, are amended, and subsection (26) is added to that  
2 section, to read:

3           287.057 Procurement of commodities or contractual  
4 services.--

5           (14)(a) Contracts for commodities or contractual  
6 services may be renewed for a period that may not exceed 3  
7 years or the term of the original contract, whichever period  
8 is longer. Renewal of a contract for commodities or  
9 contractual services shall be in writing and shall be subject  
10 to the same terms and conditions set forth in the initial  
11 contract. If the commodity or contractual service is purchased  
12 as a result of the solicitation of bids, proposals, or  
13 replies, the price of the commodity or contractual service to  
14 be renewed shall be specified in the bid, proposal, or reply.  
15 A renewal contract may not include any compensation for costs  
16 associated with the renewal. Renewals shall be contingent upon  
17 satisfactory performance evaluations by the agency and subject  
18 to the availability of funds. Exceptional purchase contracts  
19 pursuant to paragraphs (5)(a) and (c) may not be renewed. With  
20 the exception of s. 287.057(13), if a contract amendment  
21 results in a longer contract term or increased payments, a  
22 state agency may not renew or amend a contract for the  
23 outsourcing of a service or activity that has an original term  
24 value exceeding the sum of \$10 million before submitting a  
25 written report concerning contract performance to the  
26 Governor, the President of the Senate, and the Speaker of the  
27 House of Representatives at least 90 days before execution of  
28 the renewal or amendment.

29           (17) For a contract in excess of the threshold amount  
30 provided in s. 287.017 for CATEGORY FOUR, the agency head  
31 shall appoint:

1           (b) At least three persons to conduct negotiations  
2 during a competitive sealed reply procurement who collectively  
3 have experience and knowledge in negotiating contracts,  
4 contract procurement, and the program areas and service  
5 requirements for which commodities or contractual services are  
6 sought. When the value of a contract is in excess of \$1  
7 million in any fiscal year, at least one of the persons  
8 conducting negotiations must be certified as a contract  
9 negotiator based upon rules adopted by the Department of  
10 Management Services in order to ensure that certified contract  
11 negotiators are knowledgeable about effective negotiation  
12 strategies, capable of successfully implementing those  
13 strategies, and involved appropriately in the procurement  
14 process. At a minimum, the rules must address the  
15 qualifications required for certification, the method of  
16 certification, and the procedure for involving the certified  
17 negotiator. If the value of a contract is in excess of \$10  
18 million in any fiscal year, at least one of the persons  
19 conducting negotiations must be a Project Management  
20 Professional, as certified by the Project Management  
21 Institute.

22           (26) Each solicitation for the procurement of  
23 commodities or contractual services shall include the  
24 following provision: "Respondents to this solicitation or  
25 persons acting on their behalf may not contact, between the  
26 release of the solicitation and the execution of the resulting  
27 contract, any employee or officer of the executive or  
28 legislative branch concerning any aspect of this solicitation,  
29 except in writing to the procurement officer or as provided in  
30 the solicitation documents. Violation of this provision may be  
31 grounds for rejecting a response."

1           Section 2. Section 287.0571, Florida Statutes, is  
2 created to read:

3           287.0571 Applicability of ss. 287.0571-287.0574.--

4           (1) Sections 287.0571-287.0574 may be cited as the  
5 "Florida Efficient Government Act."

6           (2) It is the intent of the Legislature that each  
7 state agency focus on its core mission and deliver services  
8 effectively and efficiently by leveraging resources and  
9 contracting with private-sector vendors whenever vendors can  
10 more effectively and efficiently provide services and reduce  
11 the cost of government.

12           (3) It is further the intent of the Legislature that  
13 business cases to outsource be evaluated for feasibility,  
14 cost-effectiveness, and efficiency before a state agency  
15 proceeds with any outsourcing of services.

16           (4) Sections 287.0571-287.0574 do not apply to:

17           (a) A procurement of commodities and contractual  
18 services listed in s. 287.057(5)(e), (f), and (g) and (22).

19           (b) A procurement of contractual services subject to  
20 s. 287.055.

21           (c) A contract in support of the planning,  
22 development, implementation, operation, or maintenance of the  
23 road, bridge, and public transportation construction program  
24 of the Department of Transportation.

25           (d) A procurement of commodities or contractual  
26 services which does not constitute an outsourcing of services  
27 or activities.

28           Section 3. Section 287.05721, Florida Statutes, is  
29 created to read:

30           287.05721 Definitions.--As used in ss.

31 287.0571-287.0574, the term:

1           (1) "Council" means the Council on Efficient  
2 Government.

3           (2) "Outsource" means the process of contracting with  
4 a vendor to provide a service as defined in s. 216.011(1)(f),  
5 in whole or in part, or an activity as defined in s.  
6 216.011(1)(rr), while a state agency retains the  
7 responsibility and accountability for the service or activity  
8 and there is a transfer of management responsibility for the  
9 delivery of resources and the performance of those resources.

10           Section 4. Section 287.0573, Florida Statutes, is  
11 created to read:

12           287.0573 Council on Efficient Government; membership;  
13 duties.--

14           (1) There is created a Council on Efficient Government  
15 within the Department of Management Services to review,  
16 evaluate, and issue advisory reports on business cases  
17 submitted to the council as specified in this section.

18           (2) The council shall consist of seven members  
19 appointed by the Governor pursuant to s. 20.052:

20           (a) The Secretary of Management Services, who shall  
21 serve as chair.

22           (b) A cabinet member other than the Governor, or his  
23 or her senior management or executive staff designee.

24           (c) Two heads of executive branch agencies.

25           (d) Three members from the private sector who are  
26 subject to confirmation by the Senate and who, collectively,  
27 have experience with procurement, successfully increasing  
28 operational efficiency, and implementing complex projects in  
29 the private-sector business environment. A private-sector  
30 member of the council may not at any time during his or her  
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1 appointment to the council be registered to lobby the  
2 executive or legislative branch.

3 (3) Within 45 days after the effective date of this  
4 section, the Governor shall appoint two private-sector members  
5 and one state agency head for terms of 1 year and one  
6 private-sector member and one agency head for terms of 2  
7 years. Thereafter, each member shall be appointed for a term  
8 of 2 years. The private-sector members shall serve without  
9 compensation, but are entitled to reimbursement for per diem  
10 and travel expenses pursuant to s. 112.061.

11 (4) A member of the council may not participate in a  
12 council review of a business case to outsource if his or her  
13 state agency is conducting the proposed outsourcing or, in the  
14 case of a private-sector member, if he or she has a business  
15 relationship with an entity that is involved or could  
16 potentially be involved in the proposed outsourcing.

17 (5) A member of the council, except the cabinet  
18 member, may not delegate his or her membership to a designee.

19 (6) A quorum shall consist of at least four members,  
20 including at least two private-sector members.

21 (7) Any vacancy on the council shall be filled in the  
22 same manner as the original appointment, and any member  
23 appointed to fill a vacancy occurring for a reason other than  
24 the expiration of a term shall serve only for the unexpired  
25 term of the member's predecessor.

26 (8) The council shall:

27 (a) Employ a standard process for reviewing business  
28 cases to outsource.

29 (b) Review and evaluate business cases to outsource as  
30 requested by the Governor or the state agency head whose

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1 agency is proposing to outsource or as required by ss.  
2 287.0571-287.0574 or by law.

3 (c) No later than 30 days before a state agency's  
4 issuance of a solicitation of \$10 million or more, provide to  
5 the agency conducting the procurement, the Governor, the  
6 President of the Senate, and the Speaker of the House of  
7 Representatives an advisory report for each business case  
8 reviewed and evaluated by the council. The report must contain  
9 all versions of the business case, an evaluation of the  
10 business case, any relevant recommendations, and sufficient  
11 information to assist the state agency proposing to outsource  
12 in determining whether the business case to outsource should  
13 be included with the legislative budget request.

14 (d) Recommend and implement standard processes for  
15 state agency and council review and evaluate state agency  
16 business cases to outsource, including templates for use by  
17 state agencies in submitting business cases to the council.

18 (e) Develop standards and best-practice procedures for  
19 use by state agencies in evaluating business cases to  
20 outsource.

21 (f) Recommend standards, processes, and guidelines for  
22 use by state agencies in developing business cases to  
23 outsource.

24 (g) Incorporate any lessons learned from outsourcing  
25 services and activities into council standards, procedures,  
26 and guidelines, as appropriate, and identify and disseminate  
27 to agencies information regarding best practices in  
28 outsourcing efforts.

29 (h) Develop, in consultation with the Agency for  
30 Workforce Innovation, guidelines for assisting state employees  
31 whose jobs are eliminated as a result of outsourcing.



1       (9) The council shall identify and report yearly to  
2 the Legislature on:

3           (a) Innovative methods of delivering government  
4 services which would improve the efficiency, effectiveness, or  
5 competition in the delivery of government services, including,  
6 but not limited to, enterprise-wide proposals.

7           (b) Outsourcing efforts of each state agency which  
8 shall include, but not be limited to, the number of  
9 outsourcing business cases and solicitations, the number and  
10 dollar value of outsourcing contracts, an explanation of  
11 agency progress on achieving the cost-benefit analysis  
12 schedule as required by s. 287.0574(4)(h), and the status of  
13 extensions, renewals, and amendments of outsourcing contracts.

14       (10) The department shall employ an adequate number of  
15 staff who collectively possess significant expertise and  
16 experience as required to carry out the responsibilities of  
17 this act.

18       (11) The council shall be headed by a director  
19 appointed by the secretary.

20       (12) Each state agency shall submit to the council all  
21 information, documents, or other materials required by the  
22 council or this chapter.

23       Section 5. Section 287.0574, Florida Statutes, is  
24 created to read:

25       287.0574 Business cases to outsource; review and  
26 analysis; requirements.--

27       (1) A business case to outsource having a projected  
28 cost exceeding \$10 million in any fiscal year shall require:

29           (a) An initial business case analysis conducted by the  
30 state agency and submitted to the council, the Governor, the  
31 President of the Senate, and the Speaker of the House of

1 Representatives at least 60 days before a solicitation is  
2 issued. The council shall evaluate the business case analysis  
3 and submit an advisory report to the state agency, the  
4 Governor, the President of the Senate, and the Speaker of the  
5 House of Representatives when the advisory report is  
6 completed, but at least 30 days before the agency issues the  
7 solicitation.

8 (b) A final business case analysis conducted by the  
9 state agency and submitted after the conclusion of any  
10 negotiations, at least 30 days before execution of a contract,  
11 to the council, the Governor, the President of the Senate, and  
12 the Speaker of the House of Representatives.

13 (2) A proposal to outsource having a projected cost  
14 that ranges from \$1 million to \$10 million in any fiscal year  
15 shall require:

16 (a) An initial business case analysis conducted by the  
17 state agency and submission of the business case, at least 30  
18 days before issuing a solicitation, to the council, the  
19 Governor, the President of the Senate, and the Speaker of the  
20 House of Representatives.

21 (b) A final business case analysis conducted by the  
22 state agency and submitted after the conclusion of any  
23 negotiations, at least 30 days before execution of a contract,  
24 to the center, the council, the Governor, the President of the  
25 Senate, and the Speaker of the House of Representatives.

26 (3) A business case to outsource having a projected  
27 cost that is less than \$1 million in any fiscal year shall  
28 require a final business case analysis conducted by the state  
29 agency after the conclusion of any negotiations and provided  
30 at least 30 days before execution of a contract to the  
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1 council. The council shall provide such business cases in its  
2 annual report to the Legislature.

3 (4) For any proposed outsourcing, the state agency  
4 shall develop a business case that justifies the proposal to  
5 outsource. In order to reduce any administrative burden, the  
6 council may allow a state agency to submit the business case  
7 in the form required by the budget instructions issued  
8 pursuant to s. 216.023(4)(a)11., augmented with additional  
9 information if necessary, to ensure that the requirements of  
10 this section are met. The business case is not subject to  
11 challenge or protest pursuant to chapter 120. The business  
12 case must include, but need not be limited to:

13 (a) A detailed description of the service or activity  
14 for which the outsourcing is proposed.

15 (b) A description and analysis of the state agency's  
16 current performance, based on existing performance metrics if  
17 the state agency is currently performing the service or  
18 activity.

19 (c) The goals desired to be achieved through the  
20 proposed outsourcing and the rationale for such goals.

21 (d) A citation to the existing or proposed legal  
22 authority for outsourcing the service or activity.

23 (e) A description of available options for achieving  
24 the goals. If state employees are currently performing the  
25 service or activity, at least one option involving maintaining  
26 state provision of the service or activity shall be included.

27 (f) An analysis of the advantages and disadvantages of  
28 each option, including, at a minimum, potential performance  
29 improvements and risks.

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1           (g) A description of the current market for the  
2 contractual services that are under consideration for  
3 outsourcing.

4           (h) A cost-benefit analysis documenting the direct and  
5 indirect specific baseline costs, savings, and qualitative and  
6 quantitative benefits involved in or resulting from the  
7 implementation of the recommended option or options. Such  
8 analysis must specify the schedule that, at a minimum, must be  
9 adhered to in order to achieve the estimated savings. All  
10 elements of cost must be clearly identified in the  
11 cost-benefit analysis, described in the business case, and  
12 supported by applicable records and reports. The state agency  
13 head shall attest that, based on the data and information  
14 underlying the business case, to the best of his or her  
15 knowledge, all projected costs, savings, and benefits are  
16 valid and achievable. As used in this section, the term "cost"  
17 means the reasonable, relevant, and verifiable cost, which may  
18 include, but is not limited to, elements such as personnel,  
19 materials and supplies, services, equipment, capital  
20 depreciation, rent, maintenance and repairs, utilities,  
21 insurance, personnel travel, overhead, and interim and final  
22 payments. The appropriate elements shall depend on the nature  
23 of the specific initiative. As used in this section, the term  
24 "savings" means the difference between the direct and indirect  
25 actual annual baseline costs compared to the projected annual  
26 cost for the contracted functions or responsibilities in any  
27 succeeding state fiscal year during the term of the contract.

28           (i) A description of differences among current state  
29 agency policies and processes and, as appropriate, a  
30 discussion of options for or a plan to standardize,  
31 consolidate, or revise current policies and processes, if any,

1 to reduce the customization of any proposed solution that  
2 would otherwise be required.

3 (j) A description of the specific performance  
4 standards that must, at a minimum, be met to ensure adequate  
5 performance.

6 (k) The projected timeframe for key events from the  
7 beginning of the procurement process through the expiration of  
8 a contract.

9 (l) A plan to ensure compliance with the  
10 public-records law.

11 (m) A specific and feasible contingency plan  
12 addressing contractor nonperformance and a description of the  
13 tasks involved in and costs required for its implementation.

14 (n) A state agency's transition plan for addressing  
15 changes in the number of agency personnel, affected business  
16 processes, employee transition issues, and communication with  
17 affected stakeholders, such as agency clients and the public.  
18 The transition plan must contain a reemployment and retraining  
19 assistance plan for employees who are not retained by the  
20 state agency or employed by the contractor.

21 (o) A plan for ensuring access by persons with  
22 disabilities in compliance with applicable state and federal  
23 law.

24 (p) A description of legislative and budgetary actions  
25 necessary to accomplish the proposed outsourcing.

26 (5) In addition to the contract requirements provided  
27 in s. 287.058, each contract for a proposed outsourcing,  
28 pursuant to s. 287.0574, must include, but need not be limited  
29 to, the following contractual provisions:

30 (a) A scope-of-work provision that clearly specifies  
31 each service or deliverable to be provided, including a

1 description of each deliverable or activity that is  
2 quantifiable, measurable, and verifiable. This provision must  
3 include a clause that states if a particular service or  
4 deliverable is inadvertently omitted or not clearly specified  
5 but determined to be operationally necessary and verified to  
6 have been performed by the agency within the 12 months before  
7 the execution of the contract, such service or deliverable  
8 will be provided by the contractor through the identified  
9 contract-amendment process.

10 (b) A service-level-agreement provision describing all  
11 services to be provided under the terms of the agreement, the  
12 state agency's service requirements and performance  
13 objectives, specific responsibilities of the state agency and  
14 the contractor, and the process for amending any portion of  
15 the service-level agreement. Each service-level agreement must  
16 contain an exclusivity clause that allows the state agency to  
17 retain the right to perform the service or activity, directly  
18 or with another contractor, if service levels are not being  
19 achieved.

20 (c) A provision that identifies all associated costs,  
21 specific payment terms, and payment schedules, including  
22 provisions governing incentives and financial disincentives  
23 and criteria governing payment.

24 (d) A provision that identifies a clear and specific  
25 transition plan that will be implemented in order to complete  
26 all required activities needed to transfer the service or  
27 activity from the state agency to the contractor and operate  
28 the service or activity successfully.

29 (e) A performance-standards provision that identifies  
30 all required performance standards, which must include, at a  
31 minimum:

1           1. Detailed and measurable acceptance criteria for  
2 each deliverable and service to be provided to the state  
3 agency under the terms of the contract which document the  
4 required performance level.

5           2. A method for monitoring and reporting progress in  
6 achieving specified performance standards and levels.

7           3. The sanctions or disincentives that shall be  
8 imposed for nonperformance by the contractor or state agency.

9           (f) A provision that requires the contractor and its  
10 subcontractors to maintain adequate accounting records that  
11 comply with all applicable federal and state laws and  
12 generally accepted accounting principles.

13           (g) A provision that authorizes the state agency to  
14 have access to and to audit all records related to the  
15 contract and subcontracts, or any responsibilities or  
16 functions under the contract and subcontracts, for purposes of  
17 legislative oversight, and a requirement for audits by a  
18 service organization in accordance with professional auditing  
19 standards, if appropriate.

20           (h) A provision that requires the contractor to  
21 interview and consider for employment with the contractor each  
22 displaced state employee who is interested in such employment.

23           (i) A contingency-plan provision that describes the  
24 mechanism for continuing the operation of the service or  
25 activity, including transferring the service or activity back  
26 to the state agency or successor contractor if the contractor  
27 fails to perform and comply with the performance standards and  
28 levels of the contract and the contract is terminated.

29           (j) A provision that requires the contractor and its  
30 subcontractors to comply with public-records laws,  
31 specifically to:

1           1. Keep and maintain the public records that  
2 ordinarily and necessarily would be required by the state  
3 agency in order to perform the service or activity.

4           2. Provide the public with access to such public  
5 records on the same terms and conditions that the state agency  
6 would provide the records and at a cost that does not exceed  
7 that provided in chapter 119 or as otherwise provided by law.

8           3. Ensure that records that are exempt or records that  
9 are confidential and exempt are not disclosed except as  
10 authorized by law.

11           4. Meet all requirements for retaining records and  
12 transfer to the state agency, at no cost, all public records  
13 in possession of the contractor upon termination of the  
14 contract and destroy any duplicate public records that are  
15 exempt or confidential and exempt. All records stored  
16 electronically must be provided to the state agency in a  
17 format that is compatible with the information technology  
18 systems of the state agency.

19           (k) A provision that specifies the ownership of  
20 intellectual property and any rights of the state agency to  
21 use, modify, reproduce, or disseminate the intellectual  
22 property if the contract involves the development or creation  
23 of such intellectual property. This paragraph does not provide  
24 the specific authority needed by an agency to obtain a  
25 copyright or trademark.

26           (l) A provision that states that the agency retains  
27 the right, in its sole discretion, to co-negotiate any  
28 third-party or subcontractor contracts, excluding any terms  
29 relating to financial compensation.

30           (m) If applicable, a provision that allows the agency  
31 to purchase from the contractor, at its depreciated value,



1 assets used by the contractor in the performance of the  
2 contract. If assets have not depreciated, the agency shall  
3 retain the right to negotiate to purchase at an agreed-upon  
4 cost.

5 Section 6. Subsection (6) is added to section 287.058,  
6 Florida Statutes, to read:

7 287.058 Contract document.--

8 (6) A contract may not prohibit a contractor from  
9 lobbying the executive or legislative branch concerning the  
10 scope of services, performance, term, or compensation  
11 regarding any contract to which the contractor and a state  
12 agency are parties, after contract execution and during the  
13 contract term. The provisions of this subsection are  
14 supplemental to the provisions of ss. 11.062 and 216.347 and  
15 any other law prohibiting the use of state funds for lobbying  
16 purposes.

17 Section 7. Section 287.074, Florida Statutes, is  
18 created to read:

19 287.074 Prohibited actions by contractor personnel.--

20 (1) Only a public officer or a public employee upon  
21 whom the public officer has delegated authority shall,  
22 consistent with law, take actions, including, but not limited  
23 to:

24 (a) Selecting state employees;

25 (b) Approving position descriptions, performance  
26 standards, or salary adjustments for state employees; and

27 (c) Hiring, promoting, disciplining, demoting, and  
28 dismissing a state employee.

29 (2) Only a public officer shall, consistent with law,  
30 commission and appoint state officers.

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1           Section 8. A contractor, as defined in chapter 287,  
2 Florida Statutes, or its employees, agents, or subcontractors,  
3 may not knowingly participate, through decision, approval,  
4 disapproval, or preparation of any part of a purchase request,  
5 investigation, or audit, in the procurement of commodities or  
6 contractual services by a state agency from an entity in which  
7 the contractor, or its employees, agents, or subcontractors,  
8 has a material interest.

9           Section 9. Section 14.203, Florida Statutes, is  
10 repealed.

11           Section 10. For the 2006-2007 fiscal year, the sum of  
12 \$1.25 million in recurring funds from the General Revenue Fund  
13 in a qualified expenditure category is appropriated and 10  
14 full-time equivalent positions are authorized to the  
15 Department of Management Services to carry out the activities  
16 of the Council on Efficient Government as provided in this  
17 act.

18           Section 11. The Department of Management Services may  
19 implement a program to train state agency employees who are  
20 involved in managing outsourcings as Project Management  
21 Professionals, as certified by the Project Management  
22 Institute. For the 2006-2007 fiscal year, the sum of \$500,000  
23 in recurring funds from the General Revenue Fund is  
24 appropriated to the Department of Management Services to  
25 implement this program. The Department of Management Services,  
26 in consultation with entities subject to this act, shall  
27 identify personnel to participate in this training based on  
28 requested need and ensure that each agency is represented. The  
29 Department of Management Services may remit payment for this  
30 training on behalf of all participating personnel.

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1           Section 12. Notwithstanding any law to the contrary, a  
2 state agency under the individual control of the Attorney  
3 General, the Chief Financial Officer, or the Commissioner of  
4 Agriculture is subject to this act.

5           Section 13. This act shall take effect upon becoming a  
6 law.

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1                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
2                                   COMMITTEE SUBSTITUTE FOR  
3   SB 2518  
4 Provides that only the private sector members of the Council  
5 on Efficient Government need be confirmed by the Senate.  
6 Requires that the Center report yearly to the Legislature on  
7 agency progress in achieving the cost benefit projections in  
8 agency business cases to outsource.  
9 Provides that the Governor will receive Council advisory  
10 reports on business cases to outsource, and business cases to  
11 outsource produced by agencies.  
12 Provides that in a business case to outsource, an agency must  
13 include in its consideration of available options an option to  
14 maintain state provision of the service or activity.  
15 Adds the following additional terms to those required in all  
16 outsourcing contracts:  
17 - A clause providing that if an agency requirement was  
18 inadvertently omitted from the contract, that the service  
19 will be provided by the contractor through the contract  
20 amendment process.  
21 - The service level agreement provision must include the  
22 process for amending the service level agreement, and  
23 provide that the agency retains the right to perform the  
24 service if service levels are not achieved.  
25 - The contingency provision must contain a plan for  
26 transferring the service back to the agency if the  
27 contract is terminated.  
28 - A requirement that the contractor and its subcontractor  
29 comply with public records laws.  
30 - A provision addressing ownership of intellectual  
31 property.  
32 - A provision that the state has the right to co-negotiate  
33 third party or subcontractor contracts, exclusive of  
34 financial terms.  
35 - A provision that the state can buy assets used by the  
36 contractor in performance of the contract.  
37 Provides that contractors cannot participate in a procurement  
38 of commodities or services from an entity in which the  
39 contractor has an interest.  
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