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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 Secretary of Management Services to appoint an  
30 executive director; requiring state agencies to  
31 submit materials required by the council;

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1 creating s. 287.0574, F.S.; providing  
2 requirements for certain business cases to  
3 outsource by a state agency; requiring a state  
4 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; amending s. 119.071, F.S.; deleting a  
26 cross-reference; defining the term "commerical  
27 activity" for purposes of a provision  
28 authorizing the release of social security  
29 numbers; providing an effective date.

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31 Be It Enacted by the Legislature of the State of Florida:

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2006 Legislature CS for CS for SB 2518, 1st Engrossed (ntc)

1 Section 1. Paragraph (a) of subsection (14) and  
2 paragraph (b) of subsection (17) of section 287.057, Florida  
3 Statutes, are amended, and subsection (26) is added to that  
4 section, to read:

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

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

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

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

25 (26) Each solicitation for the procurement of  
26 commodities or contractual services shall include the  
27 following provision: "Respondents to this solicitation or  
28 persons acting on their behalf may not contact, between the  
29 release of the solicitation and the end of the 72-hour period  
30 following the agency posting the notice of intended award,  
31 excluding Saturdays, Sundays, and state holidays, any employee

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2006 Legislature CS for CS for SB 2518, 1st Engrossed (ntc)

1 or officer of the executive or legislative branch concerning  
2 any aspect of this solicitation, except in writing to the  
3 procurement officer or as provided in the solicitation  
4 documents. Violation of this provision may be grounds for  
5 rejecting a response."

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

8 287.0571 Applicability of ss. 287.0571-287.0574.--

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

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

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

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

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

24 (b) A procurement of contractual services subject to  
25 s. 287.055.

26 (c) A contract in support of the planning,  
27 development, implementation, operation, or maintenance of the  
28 road, bridge, and public transportation construction program  
29 of the Department of Transportation.

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1 (d) A procurement of commodities or contractual  
2 services which does not constitute an outsourcing of services  
3 or activities.

4 Section 3. Section 287.05721, Florida Statutes, is  
5 created to read:

6 287.05721 Definitions.--As used in ss.

7 287.0571-287.0574, the term:

8 (1) "Council" means the Council on Efficient  
9 Government.

10 (2) "Outsource" means the process of contracting with  
11 a vendor to provide a service as defined in s. 216.011(1)(f),  
12 in whole or in part, or an activity as defined in s.  
13 216.011(1)(rr), while a state agency retains the  
14 responsibility and accountability for the service or activity  
15 and there is a transfer of management responsibility for the  
16 delivery of resources and the performance of those resources.

17 Section 4. Section 287.0573, Florida Statutes, is  
18 created to read:

19 287.0573 Council on Efficient Government; membership;  
20 duties.--

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

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

27 (a) The Secretary of Management Services, who shall  
28 serve as chair.

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

31 (c) Two heads of executive branch agencies.

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

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

17       (4) A member of the council may not participate in a  
18 council review of a business case to outsource if his or her  
19 state agency is conducting the proposed outsourcing or, in the  
20 case of a private-sector member, if he or she has a business  
21 relationship with an entity that is involved or could  
22 potentially be involved in the proposed outsourcing.

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

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

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

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- 1           (8) The council shall:
- 2           (a) Employ a standard process for reviewing business  
3 cases to outsource.
- 4           (b) Review and evaluate business cases to outsource as  
5 requested by the Governor or the state agency head whose  
6 agency is proposing to outsource or as required by ss.  
7 287.0571-287.0574 or by law.
- 8           (c) No later than 30 days before a state agency's  
9 issuance of a solicitation of \$10 million or more, provide to  
10 the agency conducting the procurement, the Governor, the  
11 President of the Senate, and the Speaker of the House of  
12 Representatives an advisory report for each business case  
13 reviewed and evaluated by the council. The report must contain  
14 all versions of the business case, an evaluation of the  
15 business case, any relevant recommendations, and sufficient  
16 information to assist the state agency proposing to outsource  
17 in determining whether the business case to outsource should  
18 be included with the legislative budget request.
- 19           (d) Recommend and implement standard processes for  
20 state agency and council review and evaluate state agency  
21 business cases to outsource, including templates for use by  
22 state agencies in submitting business cases to the council.
- 23           (e) Develop standards and best-practice procedures for  
24 use by state agencies in evaluating business cases to  
25 outsource.
- 26           (f) Recommend standards, processes, and guidelines for  
27 use by state agencies in developing business cases to  
28 outsource.
- 29           (g) Incorporate any lessons learned from outsourcing  
30 services and activities into council standards, procedures,  
31 and guidelines, as appropriate, and identify and disseminate



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2006 Legislature CS for CS for SB 2518, 1st Engrossed (ntc)

1 to agencies information regarding best practices in  
2 outsourcing efforts.

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

6 (9) The council shall identify and report yearly to  
7 the Legislature on:

8 (a) Innovative methods of delivering government  
9 services which would improve the efficiency, effectiveness, or  
10 competition in the delivery of government services, including,  
11 but not limited to, enterprise-wide proposals.

12 (b) Outsourcing efforts of each state agency which  
13 shall include, but not be limited to, the number of  
14 outsourcing business cases and solicitations, the number and  
15 dollar value of outsourcing contracts, an explanation of  
16 agency progress on achieving the cost-benefit analysis  
17 schedule as required by s. 287.0574(4)(h), descriptions of  
18 performance results as applicable, any contract violations or  
19 project slippages, and the status of extensions, renewals, and  
20 amendments of outsourcing contracts.

21 (10) The department shall employ an adequate number of  
22 staff who collectively possess significant expertise and  
23 experience as required to carry out the responsibilities of  
24 this act.

25 (11) The Secretary of Management Services shall  
26 appoint an executive director.

27 (12) Each state agency shall submit to the council all  
28 information, documents, or other materials required by the  
29 council or this chapter.

30 Section 5. Section 287.0574, Florida Statutes, is  
31 created to read:

1 287.0574 Business cases to outsource; review and  
2 analysis; requirements.--

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

5 (a) An initial business case analysis conducted by the  
6 state agency and submitted to the council, the Governor, the  
7 President of the Senate, and the Speaker of the House of  
8 Representatives at least 60 days before a solicitation is  
9 issued. The council shall evaluate the business case analysis  
10 and submit an advisory report to the state agency, the  
11 Governor, the President of the Senate, and the Speaker of the  
12 House of Representatives when the advisory report is  
13 completed, but at least 30 days before the agency issues the  
14 solicitation.

15 (b) A final business case analysis conducted by the  
16 state agency and submitted after the conclusion of any  
17 negotiations, at least 30 days before execution of a contract,  
18 to the council, the Governor, the President of the Senate, and  
19 the Speaker of the House of Representatives.

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

23 (a) An initial business case analysis conducted by the  
24 state agency and submission of the business case, at least 30  
25 days before issuing a solicitation, to the council, the  
26 Governor, the President of the Senate, and the Speaker of the  
27 House of Representatives.

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

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

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

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

22 (b) A description and analysis of the state agency's  
23 current performance, based on existing performance metrics if  
24 the state agency is currently performing the service or  
25 activity.

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

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

30 (e) A description of available options for achieving  
31 the goals. If state employees are currently performing the

1 service or activity, at least one option involving maintaining  
2 state provision of the service or activity shall be included.

3 (f) An analysis of the advantages and disadvantages of  
4 each option, including, at a minimum, potential performance  
5 improvements and risks.

6 (g) A description of the current market for the  
7 contractual services that are under consideration for  
8 outsourcing.

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

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1 cost for the contracted functions or responsibilities in any  
2 succeeding state fiscal year during the term of the contract.

3 (i) A description of differences among current state  
4 agency policies and processes and, as appropriate, a  
5 discussion of options for or a plan to standardize,  
6 consolidate, or revise current policies and processes, if any,  
7 to reduce the customization of any proposed solution that  
8 would otherwise be required.

9 (j) A description of the specific performance  
10 standards that must, at a minimum, be met to ensure adequate  
11 performance.

12 (k) The projected timeframe for key events from the  
13 beginning of the procurement process through the expiration of  
14 a contract.

15 (l) A plan to ensure compliance with the  
16 public-records law.

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

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

27 (o) A plan for ensuring access by persons with  
28 disabilities in compliance with applicable state and federal  
29 law.

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

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

5           (a) A scope-of-work provision that clearly specifies  
6 each service or deliverable to be provided, including a  
7 description of each deliverable or activity that is  
8 quantifiable, measurable, and verifiable. This provision must  
9 include a clause that states if a particular service or  
10 deliverable is inadvertently omitted or not clearly specified  
11 but determined to be operationally necessary and verified to  
12 have been performed by the agency within the 12 months before  
13 the execution of the contract, such service or deliverable  
14 will be provided by the contractor through the identified  
15 contract-amendment process.

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

26           (c) A provision that identifies all associated costs,  
27 specific payment terms, and payment schedules, including  
28 provisions governing incentives and financial disincentives  
29 and criteria governing payment.

30           (d) A provision that identifies a clear and specific  
31 transition plan that will be implemented in order to complete

1 all required activities needed to transfer the service or  
2 activity from the state agency to the contractor and operate  
3 the service or activity successfully.

4 (e) A performance-standards provision that identifies  
5 all required performance standards, which must include, at a  
6 minimum:

7 1. Detailed and measurable acceptance criteria for  
8 each deliverable and service to be provided to the state  
9 agency under the terms of the contract which document the  
10 required performance level.

11 2. A method for monitoring and reporting progress in  
12 achieving specified performance standards and levels.

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

15 (f) A provision that requires the contractor and its  
16 subcontractors to maintain adequate accounting records that  
17 comply with all applicable federal and state laws and  
18 generally accepted accounting principles.

19 (g) A provision that authorizes the state agency to  
20 have access to and to audit all records related to the  
21 contract and subcontracts, or any responsibilities or  
22 functions under the contract and subcontracts, for purposes of  
23 legislative oversight, and a requirement for audits by a  
24 service organization in accordance with professional auditing  
25 standards, if appropriate.

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

29 (i) A contingency-plan provision that describes the  
30 mechanism for continuing the operation of the service or  
31 activity, including transferring the service or activity back

1 to the state agency or successor contractor if the contractor  
2 fails to perform and comply with the performance standards and  
3 levels of the contract and the contract is terminated.

4 (j) A provision that requires the contractor and its  
5 subcontractors to comply with public-records laws,  
6 specifically to:

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

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

14 3. Ensure that records that are exempt or records that  
15 are confidential and exempt are not disclosed except as  
16 authorized by law.

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

25 (k) A provision that addresses ownership of  
26 intellectual property. This paragraph does not provide the  
27 specific authority needed by an agency to obtain a copyright  
28 or trademark.

29 (l) If applicable, a provision that allows the agency  
30 to purchase from the contractor, at its depreciated value,  
31 assets used by the contractor in the performance of the



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2006 Legislature CS for CS for SB 2518, 1st Engrossed (ntc)

1 contract. If assets have not depreciated, the agency shall  
2 retain the right to negotiate to purchase at an agreed-upon  
3 cost.

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

6 287.058 Contract document.--

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

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

18 287.074 Prohibited actions by contractor personnel.--

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

23 (a) Selecting state employees;

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

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

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

30 Section 8. A contractor, as defined in chapter 287,  
31 Florida Statutes, or its employees, agents, or subcontractors,

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2006 Legislature CS for CS for SB 2518, 1st Engrossed (ntc)

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

7 Section 9. Section 14.203, Florida Statutes, is  
8 repealed.

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

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

29 Section 12. Notwithstanding any law to the contrary, a  
30 state agency under the individual control of the Attorney  
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2006 Legislature CS for CS for SB 2518, 1st Engrossed (ntc)

1 General, the Chief Financial Officer, or the Commissioner of  
2 Agriculture is subject to this act.

3 Section 13. Paragraph (a) of subsection (5) of section  
4 119.071, Florida Statutes, is amended to read:

5 119.071 General exemptions from inspection or copying  
6 of public records.--

7 (5) OTHER PERSONAL INFORMATION.--

8 (a)1. The Legislature acknowledges that the social  
9 security number was never intended to be used for business  
10 purposes but was intended to be used solely for the  
11 administration of the federal Social Security System. The  
12 Legislature is further aware that over time this unique  
13 numeric identifier has been used extensively for identity  
14 verification purposes and other legitimate consensual  
15 purposes. The Legislature is also cognizant of the fact that  
16 the social security number can be used as a tool to perpetuate  
17 fraud against a person and to acquire sensitive personal,  
18 financial, medical, and familial information, the release of  
19 which could cause great financial or personal harm to an  
20 individual. The Legislature intends to monitor the commercial  
21 use of social security numbers held by state agencies in order  
22 to maintain a balanced public policy.

23 2. An agency shall not collect an individual's social  
24 security number unless authorized by law to do so or unless  
25 the collection of the social security number is otherwise  
26 imperative for the performance of that agency's duties and  
27 responsibilities as prescribed by law. Social security numbers  
28 collected by an agency must be relevant to the purpose for  
29 which collected and shall not be collected until and unless  
30 the need for social security numbers has been clearly  
31 documented. An agency that collects social security numbers

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2006 Legislature CS for CS for SB 2518, 1st Engrossed (ntc)

1 shall also segregate that number on a separate page from the  
2 rest of the record, or as otherwise appropriate, in order that  
3 the social security number be more easily redacted, if  
4 required, pursuant to a public records request. An agency  
5 collecting a person's social security number shall, upon that  
6 person's request, at the time of or prior to the actual  
7 collection of the social security number by that agency,  
8 provide that person with a statement of the purpose or  
9 purposes for which the social security number is being  
10 collected and used. Social security numbers collected by an  
11 agency shall not be used by that agency for any purpose other  
12 than the purpose stated. Social security numbers collected by  
13 an agency prior to May 13, 2002, shall be reviewed for  
14 compliance with this subparagraph. If the collection of a  
15 social security number prior to May 13, 2002, is found to be  
16 unwarranted, the agency shall immediately discontinue the  
17 collection of social security numbers for that purpose.

18 3. Effective October 1, 2002, all social security  
19 numbers held by an agency are confidential and exempt from s.  
20 119.07(1) and s. 24(a), Art. I of the State Constitution. This  
21 exemption applies to all social security numbers held by an  
22 agency before, on, or after the effective date of this  
23 exemption.

24 4. Social security numbers may be disclosed to another  
25 governmental entity or its agents, employees, or contractors  
26 if disclosure is necessary for the receiving entity to perform  
27 its duties and responsibilities. The receiving governmental  
28 entity and its agents, employees, and contractors shall  
29 maintain the confidential and exempt status of such numbers.

30 5. An agency shall not deny a commercial entity  
31 engaged in the performance of a commercial activity, which,

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2006 Legislature CS for CS for SB 2518, 1st Engrossed (ntc)

1 for purposes of this paragraph, means an activity that  
2 provides a product or service that is available from a private  
3 source, as defined in s. 14.203 or its agents, employees, or  
4 contractors access to social security numbers, provided the  
5 social security numbers will be used only in the normal course  
6 of business for legitimate business purposes, and provided the  
7 commercial entity makes a written request for social security  
8 numbers, verified as provided in s. 92.525, legibly signed by  
9 an authorized officer, employee, or agent of the commercial  
10 entity. The verified written request must contain the  
11 commercial entity's name, business mailing and location  
12 addresses, business telephone number, and a statement of the  
13 specific purposes for which it needs the social security  
14 numbers and how the social security numbers will be used in  
15 the normal course of business for legitimate business  
16 purposes. The aggregate of these requests shall serve as the  
17 basis for the agency report required in subparagraph 8. An  
18 agency may request any other information reasonably necessary  
19 to verify the identity of the entity requesting the social  
20 security numbers and the specific purposes for which such  
21 numbers will be used; however, an agency has no duty to  
22 inquire beyond the information contained in the verified  
23 written request. A legitimate business purpose includes  
24 verification of the accuracy of personal information received  
25 by a commercial entity in the normal course of its business;  
26 use in a civil, criminal, or administrative proceeding; use  
27 for insurance purposes; use in law enforcement and  
28 investigation of crimes; use in identifying and preventing  
29 fraud; use in matching, verifying, or retrieving information;  
30 and use in research activities. A legitimate business purpose  
31 does not include the display or bulk sale of social security

1 numbers to the general public or the distribution of such  
2 numbers to any customer that is not identifiable by the  
3 distributor.

4           6. Any person who makes a false representation in  
5 order to obtain a social security number pursuant to this  
6 paragraph, or any person who willfully and knowingly violates  
7 this paragraph, commits a felony of the third degree,  
8 punishable as provided in s. 775.082 or s. 775.083. Any public  
9 officer who violates this paragraph is guilty of a noncriminal  
10 infraction, punishable by a fine not exceeding \$500. A  
11 commercial entity that provides access to public records  
12 containing social security numbers in accordance with this  
13 paragraph is not subject to the penalty provisions of this  
14 subparagraph.

15           7.a. On or after October 1, 2002, a person preparing  
16 or filing a document to be recorded in the official records by  
17 the county recorder as provided for in chapter 28 may not  
18 include any person's social security number in that document,  
19 unless otherwise expressly required by law. If a social  
20 security number is or has been included in a document  
21 presented to the county recorder for recording in the official  
22 records of the county before, on, or after October 1, 2002, it  
23 may be made available as part of the official record available  
24 for public inspection and copying.

25           b. Any person, or his or her attorney or legal  
26 guardian, has the right to request that a county recorder  
27 remove, from an image or copy of an official record placed on  
28 a county recorder's publicly available Internet website or a  
29 publicly available Internet website used by a county recorder  
30 to display public records or otherwise made electronically  
31 available to the general public by such recorder, his or her

ENROLLED

2006 Legislature CS for CS for SB 2518, 1st Engrossed (ntc)

1 social security number contained in that official record. Such  
2 request must be made in writing, legibly signed by the  
3 requester and delivered by mail, facsimile, or electronic  
4 transmission, or delivered in person, to the county recorder.  
5 The request must specify the identification page number that  
6 contains the social security number to be redacted. The county  
7 recorder has no duty to inquire beyond the written request to  
8 verify the identity of a person requesting redaction. A fee  
9 shall not be charged for the redaction of a social security  
10 number pursuant to such request.

11 c. A county recorder shall immediately and  
12 conspicuously post signs throughout his or her offices for  
13 public viewing and shall immediately and conspicuously post,  
14 on any Internet website or remote electronic site made  
15 available by the county recorder and used for the ordering or  
16 display of official records or images or copies of official  
17 records, a notice stating, in substantially similar form, the  
18 following:

19 (I) On or after October 1, 2002, any person preparing  
20 or filing a document for recordation in the official records  
21 may not include a social security number in such document,  
22 unless required by law.

23 (II) Any person has a right to request a county  
24 recorder to remove, from an image or copy of an official  
25 record placed on a county recorder's publicly available  
26 Internet website or on a publicly available Internet website  
27 used by a county recorder to display public records or  
28 otherwise made electronically available to the general public,  
29 any social security number contained in an official record.  
30 Such request must be made in writing and delivered by mail,  
31 facsimile, or electronic transmission, or delivered in person,

1 to the county recorder. The request must specify the  
2 identification page number that contains the social security  
3 number to be redacted. No fee will be charged for the  
4 redaction of a social security number pursuant to such a  
5 request.

6 d. Until January 1, 2007, if a social security number,  
7 made confidential and exempt pursuant to this paragraph, or a  
8 complete bank account, debit, charge, or credit card number  
9 made exempt pursuant to paragraph (b) is or has been included  
10 in a court file, such number may be included as part of the  
11 court record available for public inspection and copying  
12 unless redaction is requested by the holder of such number, or  
13 by the holder's attorney or legal guardian, in a signed,  
14 legibly written request specifying the case name, case number,  
15 document heading, and page number. The request must be  
16 delivered by mail, facsimile, electronic transmission, or in  
17 person to the clerk of the circuit court. The clerk of the  
18 circuit court does not have a duty to inquire beyond the  
19 written request to verify the identity of a person requesting  
20 redaction. A fee may not be charged for the redaction of a  
21 social security number or a bank account, debit, charge, or  
22 credit card number pursuant to such request.

23 e. Any person who prepares or files a document to be  
24 recorded in the official records by the county recorder as  
25 provided in chapter 28 may not include a person's social  
26 security number or complete bank account, debit, charge, or  
27 credit card number in that document unless otherwise expressly  
28 required by law. Until January 1, 2007, if a social security  
29 number or a complete bank account, debit, charge, or credit  
30 card number is or has been included in a document presented to  
31 the county recorder for recording in the official records of



1 the county, such number may be made available as part of the  
2 official record available for public inspection and copying.  
3 Any person, or his or her attorney or legal guardian, may  
4 request that a county recorder remove from an image or copy of  
5 an official record placed on a county recorder's publicly  
6 available Internet website, or a publicly available Internet  
7 website used by a county recorder to display public records  
8 outside the office or otherwise made electronically available  
9 outside the county recorder's office to the general public,  
10 his or her social security number or complete account, debit,  
11 charge, or credit card number contained in that official  
12 record. Such request must be legibly written, signed by the  
13 requester, and delivered by mail, facsimile, electronic  
14 transmission, or in person to the county recorder. The request  
15 must specify the identification page number of the document  
16 that contains the number to be redacted. The county recorder  
17 does not have a duty to inquire beyond the written request to  
18 verify the identity of a person requesting redaction. A fee  
19 may not be charged for redacting such numbers.

20 f. Subparagraphs 2. and 3. do not apply to the clerks  
21 of the court or the county recorder with respect to circuit  
22 court records and official records.

23 g. On January 1, 2007, and thereafter, the clerk of  
24 the circuit court and the county recorder must keep complete  
25 bank account, debit, charge, and credit card numbers exempt as  
26 provided for in paragraph (b), and must keep social security  
27 numbers confidential and exempt as provided for in  
28 subparagraph 3., without any person having to request  
29 redaction.

30 8. Beginning January 31, 2004, and each January 31  
31 thereafter, every agency must file a report with the Secretary

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2006 Legislature CS for CS for SB 2518, 1st Engrossed (ntc)

1 of State, the President of the Senate, and the Speaker of the  
2 House of Representatives listing the identity of all  
3 commercial entities that have requested social security  
4 numbers during the preceding calendar year and the specific  
5 purpose or purposes stated by each commercial entity regarding  
6 its need for social security numbers. If no disclosure  
7 requests were made, the agency shall so indicate.

8 9. Any affected person may petition the circuit court  
9 for an order directing compliance with this paragraph.

10 10. This paragraph does not supersede any other  
11 applicable public records exemptions existing prior to May 13,  
12 2002, or created thereafter.

13 11. This paragraph is subject to the Open Government  
14 Sunset Review Act in accordance with s. 119.15 and shall stand  
15 repealed October 2, 2007, unless reviewed and saved from  
16 repeal through reenactment by the Legislature.

17 Section 14. This act shall take effect upon becoming a  
18 law.

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