

CHAMBER ACTION

1 The State Administration Appropriations Committee recommends the  
2 following:

3  
4 **Council/Committee Substitute**

5 Remove the entire bill and insert:

6 A bill to be entitled

7 An act relating to procurement of contractual services by  
8 a state agency; amending s. 287.057, F.S.; prohibiting a  
9 state agency from renewing or amending a contract for  
10 outsourcing under certain conditions; requiring certain  
11 qualifications for persons chosen to conduct negotiations  
12 during specified procurements; requiring the Department of  
13 Management Services to adopt rules governing those  
14 qualifications; requiring that a specified statement be  
15 included in procurements of commodities and services which  
16 prohibits contact between respondents and specified  
17 employees of the executive and legislative branches;  
18 creating s. 287.0571, F.S.; creating the Florida Efficient  
19 Government Act; providing legislative intent; providing  
20 that procurements of specified commodities and services  
21 are not subject to the act; creating s. 287.05721, F.S.;  
22 providing definitions; creating s. 287.0573, F.S.;  
23 creating the Council on Efficient Government within the

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24 Department of Management Services; providing the purpose  
25 and membership of the council; providing duties and  
26 responsibilities of the council; requiring the council to  
27 review and issue advisory reports on certain state agency  
28 procurements; requiring the department to employ adequate  
29 number of staff; requiring the council to be headed by an  
30 executive director appointed by the Secretary of  
31 Management Services; requiring state agencies to submit  
32 materials required by the council; creating s. 287.0574,  
33 F.S.; providing requirements for certain business cases to  
34 outsource by a state agency; requiring a state agency to  
35 develop a business case that describes and analyzes a  
36 contractual services procurement under consideration;  
37 providing that the business case is not subject to  
38 challenge or protest under the Administrative Procedure  
39 Act; providing required components of a business case;  
40 providing contract requirements for a proposed  
41 outsourcing; requiring the posting of bond or other  
42 security by specified vendors; providing for payment of  
43 liquidated damages to the department for breach of  
44 contract; providing for nullification of executed  
45 contracts for procurement under specified circumstances;  
46 providing for legislative review of an agency's  
47 appropriations upon a determination that the agency has  
48 violated the provisions of the act; amending s. 287.058,  
49 F.S.; providing that a contract may not prohibit a  
50 contractor from lobbying the executive or legislative  
51 branches concerning specified contract issues, within

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52 | specified time lines; creating s. 287.074, F.S.; requiring  
53 | that only public officers or employees shall perform  
54 | certain functions; prohibiting a contractor from  
55 | participating in the procurement of contractual services  
56 | by a state agency; repealing s. 14.203, F.S., which  
57 | creates the State Council on Competitive Government and  
58 | provides duties and authority of the council; providing  
59 | appropriations; providing that certain state agencies are  
60 | subject to the act; amending s. 119.071, F.S.; removing a  
61 | cross-reference; clarifying the meaning of "commercial  
62 | activity" to conform to the removal of the reference;  
63 | providing an effective date.

64 |  
65 | Be It Enacted by the Legislature of the State of Florida:

66 |  
67 | Section 1. Paragraph (a) of subsection (14) and paragraph  
68 | (b) of subsection (17) of section 287.057, Florida Statutes, are  
69 | amended, and subsection (26) is added to that section, to read:

70 | 287.057 Procurement of commodities or contractual  
71 | services.--

72 | (14) (a) Contracts for commodities or contractual services  
73 | may be renewed for a period that may not exceed 3 years or the  
74 | term of the original contract, whichever period is longer.  
75 | Renewal of a contract for commodities or contractual services  
76 | shall be in writing and shall be subject to the same terms and  
77 | conditions set forth in the initial contract. If the commodity  
78 | or contractual service is purchased as a result of the  
79 | solicitation of bids, proposals, or replies, the price of the

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80 commodity or contractual service to be renewed shall be  
81 specified in the bid, proposal, or reply. A renewal contract may  
82 not include any compensation for costs associated with the  
83 renewal. Renewals shall be contingent upon satisfactory  
84 performance evaluations by the agency and subject to the  
85 availability of funds. Exceptional purchase contracts pursuant  
86 to paragraphs (5) (a) and (c) may not be renewed. With the  
87 exception of subsection (13), if a contract amendment results in  
88 a longer contract term or increased payments, a state agency may  
89 not renew or amend a contract for the outsourcing of a service  
90 or activity that has an original term value exceeding the sum of  
91 \$10 million before submitting a written report concerning  
92 contract performance to the Governor, the President of the  
93 Senate, and the Speaker of the House of Representatives at least  
94 90 days before execution of the renewal or amendment.

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

98 (b) At least three persons to conduct negotiations during  
99 a competitive sealed reply procurement who collectively have  
100 experience and knowledge in negotiating contracts, contract  
101 procurement, and the program areas and service requirements for  
102 which commodities or contractual services are sought. When the  
103 value of a contract is in excess of \$1 million in any fiscal  
104 year, at least one of the persons conducting negotiations must  
105 be certified as a contract negotiator based upon rules adopted  
106 by the Department of Management Services in order to ensure that  
107 certified contract negotiators are knowledgeable about effective

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108 negotiation strategies, capable of successfully implementing  
109 those strategies, and involved appropriately in the procurement  
110 process. At a minimum, the rules must address the qualifications  
111 required for certification, the method of certification, and the  
112 procedure for involving the certified negotiator. At a minimum,  
113 the qualifications for certification must include at least 3  
114 years of purchasing or contract negotiations experience, a  
115 bachelor's degree, successful completion of 48 hours of  
116 purchasing or contract negotiations classroom hours and  
117 successful completion of a written examination on contracting  
118 principles and practices. If the value of a contract is in  
119 excess of \$10 million in any fiscal year, at least one of the  
120 persons conducting negotiations must be a Project Management  
121 Professional, as certified by the Project Management Institute.

122 (26) Each solicitation for the procurement of commodities  
123 or contractual services shall include the following provision:  
124 "Respondents to this solicitation or persons acting on their  
125 behalf may not contact, between the release of the solicitation  
126 and the execution of the resulting contract, any employee or  
127 officer of the executive or legislative branch concerning any  
128 aspect of this solicitation, except in writing to the  
129 procurement officer or as provided in the solicitation  
130 documents. Violation of this provision may be grounds for  
131 rejecting a response."

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

134 287.0571 Applicability of ss. 287.0571-287.0574.--

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

137       (2) It is the intent of the Legislature that each state  
138       agency focus on its core mission and deliver services  
139       effectively and efficiently by leveraging resources and  
140       contracting with private-sector vendors whenever vendors can  
141       more effectively and efficiently provide services and reduce the  
142       cost of government.

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

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

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

150       (b) A procurement of contractual services subject to s.  
151       287.055.

152       (c) A contract in support of the planning, development,  
153       implementation, operation, or maintenance of the road, bridge,  
154       and public transportation construction program of the Department  
155       of Transportation.

156       (d) A procurement of commodities or contractual services  
157       which does not constitute an outsourcing of services or  
158       activities.

159       Section 3. Section 287.05721, Florida Statutes, is created  
160       to read:

161       287.05721 Definitions.--As used in ss. 287.0571-287.0574,  
162       the term:

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

164 (2) "Outsource" means the process of contracting with a  
165 vendor to provide a service as defined in s. 216.011(1)(f), in  
166 whole or in part, or an activity as defined in s.  
167 216.011(1)(rr), while a state agency retains the responsibility  
168 and accountability for the service or activity and there is a  
169 transfer of management responsibility for the delivery of  
170 resources and the performance of those resources.

171 Section 4. Section 287.0573, Florida Statutes, is created  
172 to read:

173 287.0573 Council on Efficient Government; membership;  
174 duties.--

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

179 (2) The council shall consist of seven members appointed  
180 by the Governor pursuant to s. 20.052 and confirmed by the  
181 Senate:

182 (a) The Secretary of Management Services, who shall serve  
183 as chair.

184 (b) A Cabinet member other than the Governor, or his or  
185 her senior management or executive staff designee.

186 (c) Two heads of executive branch agencies.

187 (d) Three members from the private sector who,  
188 collectively, have experience with procurement, successfully  
189 increasing operational efficiency, and implementing complex  
190 projects in the private-sector business environment. A private-

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191 sector member of the council may not at any time during his or  
192 her appointment to the council be registered to lobby the  
193 executive or legislative branch.

194 (3) Within 45 days after the effective date of this  
195 section, the Governor shall appoint two private-sector members  
196 and two state agency heads for terms of 1 year and one private-  
197 sector member and two agency heads for terms of 2 years.  
198 Thereafter, each member shall be appointed for a term of 2  
199 years. The private-sector members shall serve without  
200 compensation, but are entitled to reimbursement for per diem and  
201 travel expenses pursuant to s. 112.061.

202 (4) A state agency member of the council may not  
203 participate in a council review of a business case to outsource  
204 if his or her state agency is conducting the proposed  
205 outsourcing. A private-sector member of the council may not  
206 participate in a council review of a business case to outsource  
207 if he or she has a business relationship with an entity that is  
208 involved or could potentially be involved in the proposed  
209 outsourcing.

210 (5) A member of the council, except the Cabinet member,  
211 may not delegate his or her membership to a designee.

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

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



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219 (8) The council shall:

220 (a) Employ a standard process for reviewing business cases  
221 to outsource.

222 (b) Review and evaluate business cases to outsource as  
223 requested by the Governor or the state agency head whose agency  
224 is proposing to outsource or as required by ss. 287.0571-  
225 287.0574 or by law.

226 (c) No later than 30 days before a state agency's issuance  
227 of a solicitation of \$10 million or more, provide to the agency  
228 conducting the procurement, the Governor, the President of the  
229 Senate, and the Speaker of the House of Representatives an  
230 advisory report for each business case reviewed and evaluated by  
231 the council. The report must contain all versions of the  
232 business case, an evaluation of the business case, any relevant  
233 recommendations, and sufficient information to assist the state  
234 agency proposing to outsource in determining whether the  
235 business case to outsource should be included with the  
236 legislative budget request.

237 (d) Recommend and implement standard processes for state  
238 agency and council review, including the development of  
239 templates for use by state agencies in submitting business cases  
240 to the council, and evaluate state agency business cases to  
241 outsource.

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

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

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246 (g) Incorporate any lessons learned from outsourcing  
247 services and activities into council standards, procedures, and  
248 guidelines, as appropriate, and identify and disseminate to  
249 agencies information regarding best practices in outsourcing  
250 efforts.

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

254 (i) Identify and report yearly to the Legislature on  
255 innovative methods of delivering government services which would  
256 improve the efficiency, effectiveness, or competition in the  
257 delivery of government services, including, but not limited to,  
258 enterprise-wide proposals.

259 (j) Report to the Legislature, yearly, on the outsourcing  
260 efforts of each state agency. Such reporting shall include, but  
261 need not be limited to, the number of outsourcing business cases  
262 and solicitations generated by each state agency, the number and  
263 dollar value of outsourcing contracts by each state agency, the  
264 status of outsourcing contracts and agreements, including  
265 performance results and program effectiveness, and, as  
266 applicable, contract violations, project slippage, contract  
267 extensions, renewals, and amendments.

268 (9) The council shall make available to the Governor and  
269 the Legislature minutes of all meetings, a summary report on  
270 each proposal that describes funding options, including the need  
271 for any budget amendments or new appropriations, and an annual  
272 report of the activities and recommendations of the council.

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273       (10) The department shall employ an adequate number of  
274 staff who collectively possess significant expertise and  
275 experience as required to carry out the responsibilities of this  
276 act.

277       (11) The secretary of the Department of Management  
278 Services shall appoint an executive director.

279       (12) Each state agency shall submit to the council all  
280 information, documents, or other materials required by the  
281 council or this chapter.

282       Section 5. Section 287.0574, Florida Statutes, is created  
283 to read:

284       287.0574 Business cases to outsource; review and analysis;  
285 requirements.--

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

288       (a) An initial business case analysis conducted by the  
289 state agency and submitted to the council, the Governor, the  
290 President of the Senate, and the Speaker of the House of  
291 Representatives at least 60 days before a solicitation is  
292 issued. The council shall evaluate the business case analysis  
293 and submit the evaluation to the state agency, the Governor, the  
294 President of the Senate, and the Speaker of the House of  
295 Representatives when the business case evaluation is completed,  
296 but at least 30 days before issuing a solicitation.

297       (b) A final business case analysis conducted by the state  
298 agency and submitted after the conclusion of any negotiations,  
299 at least 30 days before execution of a contract, to the council,

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300 the Governor, the President of the Senate, and the Speaker of  
301 the House of Representatives.

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

305 (a) An initial business case analysis conducted by the  
306 state agency and submission of the business case at least 30  
307 days before issuing a solicitation to the council, the Governor,  
308 the President of the Senate, and the Speaker of the House of  
309 Representatives.

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

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

322 (4) For any proposed outsourcing, the state agency shall  
323 develop a business case that justifies the proposal to  
324 outsource. In order to reduce any administrative burden, the  
325 council may allow a state agency to submit the business case in  
326 the form required by the budget instructions issued pursuant to  
327 s. 216.023, augmented with additional information if necessary,

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328 to ensure that the requirements of this section are met. The  
329 business case is not subject to challenge or protest pursuant to  
330 chapter 120. The business case must include, but need not be  
331 limited to:

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

334 (b) A description and analysis of the state agency's  
335 current performance, based on existing performance metrics if  
336 the state agency is currently performing the service or  
337 activity.

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

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

342 (e) A description of available options for achieving the  
343 goals.

344 (f) An analysis of the advantages and disadvantages of  
345 each option, including, at a minimum, potential performance  
346 improvements and risks.

347 (g) A description of the current market for the  
348 contractual services that are under consideration for  
349 outsourcing.

350 (h) A cost-benefit analysis documenting the direct and  
351 indirect specific baseline costs, savings, and qualitative and  
352 quantitative benefits involved in or resulting from the  
353 implementation of the recommended option or options. Such  
354 analysis must specify the schedule that, at a minimum, must be  
355 adhered to in order to achieve the estimated savings. All

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356 elements of cost must be clearly identified in the cost-benefit  
357 analysis, described in the business case, and supported by  
358 applicable records and reports. The state agency head shall  
359 attest that, based on the data and information underlying the  
360 business case, to the best of his or her knowledge, all  
361 projected costs, savings, and benefits are valid and achievable.  
362 As used in this section, the term "cost" means the reasonable,  
363 relevant, and verifiable cost, which may include, but is not  
364 limited to, elements such as personnel, materials and supplies,  
365 services, equipment, capital depreciation, rent, maintenance and  
366 repairs, utilities, insurance, personnel travel, overhead, and  
367 interim and final payments. The appropriate elements shall  
368 depend on the nature of the specific initiative. As used in this  
369 section, the term "savings" means the difference between the  
370 direct and indirect actual annual baseline costs compared to the  
371 projected annual cost for the contracted functions or  
372 responsibilities in any succeeding state fiscal year during the  
373 term of the contract.

374 (i) A description of differences among current state  
375 agency policies and processes and, as appropriate, a discussion  
376 of options for or a plan to standardize, consolidate, or revise  
377 current policies and processes, if any, to reduce the  
378 customization of any proposed solution that would otherwise be  
379 required.

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

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382       (k) The projected timeframe for key events from the  
383 beginning of the procurement process through the expiration of a  
384 contract.

385       (l) A plan to ensure compliance with the public records  
386 law.

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

390       (n) A state agency's transition plan for addressing  
391 changes in the number of agency personnel, affected business  
392 processes, employee transition issues, and communication with  
393 affected stakeholders, such as agency clients and the public.  
394 The transition plan must contain a reemployment and retraining  
395 assistance plan for employees who are not retained by the state  
396 agency or employed by the contractor.

397       (o) A plan for ensuring access by persons with  
398 disabilities in compliance with applicable state and federal  
399 law.

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

402       (5) In addition to the contract requirements provided in  
403 s. 287.058, each contract for a proposed outsourcing must  
404 include, but need not be limited to, the following contractual  
405 provisions:

406       (a) A scope-of-work provision that clearly specifies each  
407 service or deliverable to be provided, including a description  
408 of each deliverable or activity that is quantifiable,  
409 measurable, and verifiable. This provision must include a clause

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410 that states that if a particular service or deliverable is  
411 inadvertently omitted or not clearly specified but determined to  
412 be operationally necessary and verified to have been performed  
413 by the agency within the 12 months before the execution of the  
414 contract, such service or deliverable will be provided by the  
415 contractor through the identified contract amendment process.

416 (b) A service-level agreement provision describing all  
417 services to be provided under the terms of the agreement, the  
418 state agency's service requirements and performance objectives,  
419 specific responsibilities of the state agency and the  
420 contractor, and the process for amending any portion of the  
421 service-level agreement. Each service-level agreement must  
422 contain an exclusivity clause that allows the state agency to  
423 retain the right to perform the service or activity, directly or  
424 with another contractor, if service levels are not being  
425 achieved.

426 (c) A provision that identifies all associated costs,  
427 specific payment terms, and payment schedules, including  
428 provisions governing incentives and financial disincentives and  
429 criteria governing payment.

430 (d) A provision that identifies a clear and specific  
431 transition plan that will be implemented in order to complete  
432 all required activities needed to transfer the service or  
433 activity from the state agency to the contractor and operate the  
434 service or activity successfully.

435 (e) A performance standards provision that identifies all  
436 required performance standards, which must include, at a  
437 minimum:



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438        1. Detailed and measurable acceptance criteria for each  
439 deliverable and service to be provided to the state agency under  
440 the terms of the contract which document the required  
441 performance level.

442        2. A method for monitoring and reporting progress in  
443 achieving specified performance standards and levels.

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

446        (f) A provision that requires the contractor and its  
447 subcontractors to maintain adequate accounting records that  
448 comply with all applicable federal and state laws and generally  
449 accepted accounting principles.

450        (g) A requirement authorizing state access to and audit of  
451 all records related to the contract or any responsibilities or  
452 functions under the contract for state audit and legislative  
453 oversight purposes.

454        (h) A requirement for service organization audits in  
455 accordance with professional auditing standards, if appropriate.

456        (i) A provision that requires the contractor to interview  
457 and consider for employment with the contractor each displaced  
458 state employee who is interested in such employment.

459        (j) A contingency plan provision that describes the  
460 mechanism for continuing the operation of the service or  
461 activity, including transferring the service or activity back to  
462 the state agency or successor contractor if the contractor fails  
463 to perform and comply with the performance standards and levels  
464 of the contract and the contract is terminated.

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465 (k) A provision that requires the contractor and its  
466 subcontractors to comply with public records laws, specifically  
467 to:

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

471 2. Provide the public with access to such public records  
472 on the same terms and conditions under which the state agency  
473 would provide the records and at a cost that does not exceed  
474 that provided in chapter 119 or as otherwise provided by law.

475 3. Ensure that records that are exempt or confidential and  
476 exempt are not disclosed except as authorized by law.

477 4. Meet all requirements for retaining records and  
478 transfer to the state agency, at no cost, all public records in  
479 possession of the contractor upon termination of the contract  
480 and destroy any duplicate public records that are exempt or  
481 confidential and exempt. All records stored electronically must  
482 be provided to the state agency in a format that is compatible  
483 with the information technology systems of the state agency.

484 (l) A provision that specifies the ownership of  
485 intellectual property and any rights of the state agency to use,  
486 modify, reproduce, or disseminate the intellectual property if  
487 the contract involves the development or creation of such  
488 intellectual property. This paragraph does not provide the  
489 specific authority needed by an agency to obtain a copyright or  
490 trademark.

491 (m) A provision that states that the agency retains the  
492 right, in its sole discretion, to co-negotiate any third-party

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493 or subcontractor contracts, excluding any terms relating to  
494 financial compensation.

495 (n) If applicable, a provision that allows the agency to  
496 purchase from the contractor, at its depreciated value, assets  
497 used by the contractor in the performance of the contract. If  
498 assets have not depreciated, the agency shall retain the right  
499 to negotiate to purchase at an agreed-upon cost.

500 (o) Each vendor in a major procurement in excess of  
501 \$25,000, and any other vendor if the department deems it  
502 necessary to protect the state's financial interest, shall, at  
503 the time of executing the contract with the department, post an  
504 appropriate bond with the department in an amount determined by  
505 the department to be adequate to protect the state's interests,  
506 but not higher than the full amount estimated to be paid  
507 annually to the vendor under the contract. In lieu of the bond,  
508 a vendor may, to assure the faithful performance of its  
509 obligations, file with the department an irrevocable letter of  
510 credit acceptable to the department in an amount determined by  
511 the department to be adequate to protect the state's interests  
512 or deposit and maintain with the Chief Financial Officer  
513 securities that are interest bearing or accruing and that, with  
514 the exception of those specified in subparagraphs 1. and 2., are  
515 rated in one of the four highest classifications by an  
516 established nationally recognized investment rating service.  
517 Securities eligible under this subsection shall be limited to:  
518 1. Certificates of deposit issued by solvent banks or  
519 savings associations organized and existing under the laws of

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520 this state or under the laws of the United States and having  
521 their principal place of business in this state.

522 2. United States bonds, notes, and bills for which the  
523 full faith and credit of the government of the United States is  
524 pledged for the payment of principal and interest.

525 3. General obligation bonds and notes of any political  
526 subdivision of the state.

527 4. Corporate bonds of any corporation that is not an  
528 affiliate or subsidiary of the depositor.

529  
530 Such securities shall be held in trust and shall have at all  
531 times a market value at least equal to an amount determined by  
532 the department to be adequate to protect the state's interests,  
533 which amount shall not be set higher than the full amount  
534 estimated to be paid annually to the vendor under contract.

535 (p) Every contract in excess of \$25,000 entered into by  
536 the department pursuant to this section shall contain a  
537 provision for payment of liquidated damages to the department  
538 for any breach of contract by the vendor. The department may  
539 require a liquidated damages provision in any contract if the  
540 department deems it necessary to protect the state's financial  
541 interest.

542 (q) Every contract entered into by the department pursuant  
543 to this section shall have as one of the department's  
544 signatories to the contract an attorney licensed by the Florida  
545 Bar Association.

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546       (6) Any contract resulting from an outsourcing which does  
547 not include the requirements set forth in subsection (5) shall  
548 be null and void.

549       (7) Unless otherwise exempted from the provisions of this  
550 act, no agency shall proceed with the solicitation of a  
551 procurement for outsourcing if the Governor, the President of  
552 the Senate, or the Speaker of the House of Representatives  
553 objects, for any reason, to the initial business case analysis  
554 provided by the agency for the outsourcing initiative.

555       (8) Unless otherwise exempted from the provisions of this  
556 act, no agency shall proceed with the execution of a contract  
557 for outsourcing if the Governor, the President of the Senate or  
558 the Speaker of the House of Representatives objects, for any  
559 reason, to the final business case analysis provided by the  
560 agency for the outsourcing initiative.

561       (9) Unless otherwise exempted from the provisions of this  
562 act, any agency that violates the provisions of this act shall  
563 be subject to a review by the Auditor General of actions taken  
564 by the agency. The Auditor General shall provide a report of  
565 findings to the Governor, the President of the Senate, and the  
566 Speaker of the House of Representatives. If the Auditor General  
567 finds that the agency has violated the provisions of this act,  
568 the Legislature shall conduct an immediate review of the  
569 agency's appropriations to determine the appropriate actions to  
570 be taken for placing the agency's funds in mandatory reserve.

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

573       287.058 Contract document.--

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574       (6) A contract may not prohibit a contractor from lobbying  
 575 the executive or legislative branch concerning the scope of  
 576 services, performance, term, or compensation regarding any  
 577 contract to which the contractor and a state agency are parties,  
 578 after contract execution and during the contract term. The  
 579 provisions of this subsection are supplemental to the provisions  
 580 of ss. 11.062 and 216.347 and any other law prohibiting the use  
 581 of state funds for lobbying purposes.

582       Section 7. Section 287.074, Florida Statutes, is created  
 583 to read:

584       287.074 Prohibited actions by contractor personnel.--

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

588       (a) Selecting state employees;

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

591       (c) Hiring, promoting, disciplining, demoting, and  
 592 dismissing a state employee.

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

595       Section 8. A contractor, as defined in chapter 287,  
 596 Florida Statutes, or its employees, agents, or subcontractors,  
 597 may not knowingly participate, through decision, approval,  
 598 disapproval, or preparation of any part of a purchase request,  
 599 investigation, or audit, in the procurement of commodities or  
 600 contractual services by a state agency from an entity in which

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601 the contractor, or its employees, agents, or subcontractors, has  
602 a material interest.

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

604 Section 10. For the 2006-2007 fiscal year, the sum of  
605 \$750,000 in recurring funds from the General Revenue Fund in a  
606 qualified expenditure category is appropriated and eight full-  
607 time equivalent positions are authorized to the Department of  
608 Management Services to carry out the activities of the Council  
609 on Efficient Government as provided in this act.

610 Section 11. The Department of Management Services may  
611 implement a program to train state agency employees who are  
612 involved in managing outsourcings as Project Management  
613 Professionals, as certified by the Project Management Institute.  
614 For the 2006-2007 fiscal year, the sum of \$250,000 in recurring  
615 funds from the General Revenue Fund in a qualified expenditure  
616 category is appropriated to the Department of Management  
617 Services to implement this program. The Department of Management  
618 Services, in consultation with agencies subject to this act,  
619 shall identify personnel to participate in this training based  
620 on requested need and shall ensure that each agency requesting  
621 training is represented. The Department of Management Services  
622 may remit payment for this training on behalf of all  
623 participating personnel.

624 Section 12. Notwithstanding any law to the contrary, a  
625 state agency under the individual control of the Attorney  
626 General, the Chief Financial Officer, or the Commissioner of  
627 Agriculture are subject to this act.

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628 Section 13. Paragraph (a) of subsection (5) of section  
629 119.071, Florida Statutes, is amended to read:

630 119.071 General exemptions from inspection or copying of  
631 public records.--

632 (5) OTHER PERSONAL INFORMATION.--

633 (a)1. The Legislature acknowledges that the social  
634 security number was never intended to be used for business  
635 purposes but was intended to be used solely for the  
636 administration of the federal Social Security System. The  
637 Legislature is further aware that over time this unique numeric  
638 identifier has been used extensively for identity verification  
639 purposes and other legitimate consensual purposes. The  
640 Legislature is also cognizant of the fact that the social  
641 security number can be used as a tool to perpetuate fraud  
642 against a person and to acquire sensitive personal, financial,  
643 medical, and familial information, the release of which could  
644 cause great financial or personal harm to an individual. The  
645 Legislature intends to monitor the commercial use of social  
646 security numbers held by state agencies in order to maintain a  
647 balanced public policy.

648 2. An agency shall not collect an individual's social  
649 security number unless authorized by law to do so or unless the  
650 collection of the social security number is otherwise imperative  
651 for the performance of that agency's duties and responsibilities  
652 as prescribed by law. Social security numbers collected by an  
653 agency must be relevant to the purpose for which collected and  
654 shall not be collected until and unless the need for social  
655 security numbers has been clearly documented. An agency that



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656 collects social security numbers shall also segregate that  
657 number on a separate page from the rest of the record, or as  
658 otherwise appropriate, in order that the social security number  
659 be more easily redacted, if required, pursuant to a public  
660 records request. An agency collecting a person's social security  
661 number shall, upon that person's request, at the time of or  
662 prior to the actual collection of the social security number by  
663 that agency, provide that person with a statement of the purpose  
664 or purposes for which the social security number is being  
665 collected and used. Social security numbers collected by an  
666 agency shall not be used by that agency for any purpose other  
667 than the purpose stated. Social security numbers collected by an  
668 agency prior to May 13, 2002, shall be reviewed for compliance  
669 with this subparagraph. If the collection of a social security  
670 number prior to May 13, 2002, is found to be unwarranted, the  
671 agency shall immediately discontinue the collection of social  
672 security numbers for that purpose.

673 3. Effective October 1, 2002, all social security numbers  
674 held by an agency are confidential and exempt from s. 119.07(1)  
675 and s. 24(a), Art. I of the State Constitution. This exemption  
676 applies to all social security numbers held by an agency before,  
677 on, or after the effective date of this exemption.

678 4. Social security numbers may be disclosed to another  
679 governmental entity or its agents, employees, or contractors if  
680 disclosure is necessary for the receiving entity to perform its  
681 duties and responsibilities. The receiving governmental entity  
682 and its agents, employees, and contractors shall maintain the  
683 confidential and exempt status of such numbers.

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684           5. An agency shall not deny a commercial entity engaged in  
685 the performance of a commercial activity, which, for purposes of  
686 this section, means an activity that provides a product or  
687 service that is available from a private source, ~~as defined in~~  
688 ~~s. 14.203~~ or its agents, employees, or contractors access to  
689 social security numbers, provided the social security numbers  
690 will be used only in the normal course of business for  
691 legitimate business purposes, and provided the commercial entity  
692 makes a written request for social security numbers, verified as  
693 provided in s. 92.525, legibly signed by an authorized officer,  
694 employee, or agent of the commercial entity. The verified  
695 written request must contain the commercial entity's name,  
696 business mailing and location addresses, business telephone  
697 number, and a statement of the specific purposes for which it  
698 needs the social security numbers and how the social security  
699 numbers will be used in the normal course of business for  
700 legitimate business purposes. The aggregate of these requests  
701 shall serve as the basis for the agency report required in  
702 subparagraph 8. An agency may request any other information  
703 reasonably necessary to verify the identity of the entity  
704 requesting the social security numbers and the specific purposes  
705 for which such numbers will be used; however, an agency has no  
706 duty to inquire beyond the information contained in the verified  
707 written request. A legitimate business purpose includes  
708 verification of the accuracy of personal information received by  
709 a commercial entity in the normal course of its business; use in  
710 a civil, criminal, or administrative proceeding; use for  
711 insurance purposes; use in law enforcement and investigation of

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712 crimes; use in identifying and preventing fraud; use in  
713 matching, verifying, or retrieving information; and use in  
714 research activities. A legitimate business purpose does not  
715 include the display or bulk sale of social security numbers to  
716 the general public or the distribution of such numbers to any  
717 customer that is not identifiable by the distributor.

718 6. Any person who makes a false representation in order to  
719 obtain a social security number pursuant to this paragraph, or  
720 any person who willfully and knowingly violates this paragraph,  
721 commits a felony of the third degree, punishable as provided in  
722 s. 775.082 or s. 775.083. Any public officer who violates this  
723 paragraph is guilty of a noncriminal infraction, punishable by a  
724 fine not exceeding \$500. A commercial entity that provides  
725 access to public records containing social security numbers in  
726 accordance with this paragraph is not subject to the penalty  
727 provisions of this subparagraph.

728 7.a. On or after October 1, 2002, a person preparing or  
729 filing a document to be recorded in the official records by the  
730 county recorder as provided for in chapter 28 may not include  
731 any person's social security number in that document, unless  
732 otherwise expressly required by law. If a social security number  
733 is or has been included in a document presented to the county  
734 recorder for recording in the official records of the county  
735 before, on, or after October 1, 2002, it may be made available  
736 as part of the official record available for public inspection  
737 and copying.

738 b. Any person, or his or her attorney or legal guardian,  
739 has the right to request that a county recorder remove, from an

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740 image or copy of an official record placed on a county  
741 recorder's publicly available Internet website or a publicly  
742 available Internet website used by a county recorder to display  
743 public records or otherwise made electronically available to the  
744 general public by such recorder, his or her social security  
745 number contained in that official record. Such request must be  
746 made in writing, legibly signed by the requester and delivered  
747 by mail, facsimile, or electronic transmission, or delivered in  
748 person, to the county recorder. The request must specify the  
749 identification page number that contains the social security  
750 number to be redacted. The county recorder has no duty to  
751 inquire beyond the written request to verify the identity of a  
752 person requesting redaction. A fee shall not be charged for the  
753 redaction of a social security number pursuant to such request.

754 c. A county recorder shall immediately and conspicuously  
755 post signs throughout his or her offices for public viewing and  
756 shall immediately and conspicuously post, on any Internet  
757 website or remote electronic site made available by the county  
758 recorder and used for the ordering or display of official  
759 records or images or copies of official records, a notice  
760 stating, in substantially similar form, the following:

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

765 (II) Any person has a right to request a county recorder  
766 to remove, from an image or copy of an official record placed on  
767 a county recorder's publicly available Internet website or on a

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768 publicly available Internet website used by a county recorder to  
769 display public records or otherwise made electronically  
770 available to the general public, any social security number  
771 contained in an official record. Such request must be made in  
772 writing and delivered by mail, facsimile, or electronic  
773 transmission, or delivered in person, to the county recorder.  
774 The request must specify the identification page number that  
775 contains the social security number to be redacted. No fee will  
776 be charged for the redaction of a social security number  
777 pursuant to such a request.

778 d. Until January 1, 2007, if a social security number,  
779 made confidential and exempt pursuant to this paragraph, or a  
780 complete bank account, debit, charge, or credit card number made  
781 exempt pursuant to paragraph (b) is or has been included in a  
782 court file, such number may be included as part of the court  
783 record available for public inspection and copying unless  
784 redaction is requested by the holder of such number, or by the  
785 holder's attorney or legal guardian, in a signed, legibly  
786 written request specifying the case name, case number, document  
787 heading, and page number. The request must be delivered by mail,  
788 facsimile, electronic transmission, or in person to the clerk of  
789 the circuit court. The clerk of the circuit court does not have  
790 a duty to inquire beyond the written request to verify the  
791 identity of a person requesting redaction. A fee may not be  
792 charged for the redaction of a social security number or a bank  
793 account, debit, charge, or credit card number pursuant to such  
794 request.

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795 e. Any person who prepares or files a document to be  
796 recorded in the official records by the county recorder as  
797 provided in chapter 28 may not include a person's social  
798 security number or complete bank account, debit, charge, or  
799 credit card number in that document unless otherwise expressly  
800 required by law. Until January 1, 2007, if a social security  
801 number or a complete bank account, debit, charge, or credit card  
802 number is or has been included in a document presented to the  
803 county recorder for recording in the official records of the  
804 county, such number may be made available as part of the  
805 official record available for public inspection and copying. Any  
806 person, or his or her attorney or legal guardian, may request  
807 that a county recorder remove from an image or copy of an  
808 official record placed on a county recorder's publicly available  
809 Internet website, or a publicly available Internet website used  
810 by a county recorder to display public records outside the  
811 office or otherwise made electronically available outside the  
812 county recorder's office to the general public, his or her  
813 social security number or complete account, debit, charge, or  
814 credit card number contained in that official record. Such  
815 request must be legibly written, signed by the requester, and  
816 delivered by mail, facsimile, electronic transmission, or in  
817 person to the county recorder. The request must specify the  
818 identification page number of the document that contains the  
819 number to be redacted. The county recorder does not have a duty  
820 to inquire beyond the written request to verify the identity of  
821 a person requesting redaction. A fee may not be charged for  
822 redacting such numbers.

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823 f. Subparagraphs 2. and 3. do not apply to the clerks of  
824 the court or the county recorder with respect to circuit court  
825 records and official records.

826 g. On January 1, 2007, and thereafter, the clerk of the  
827 circuit court and the county recorder must keep complete bank  
828 account, debit, charge, and credit card numbers exempt as  
829 provided for in paragraph (b), and must keep social security  
830 numbers confidential and exempt as provided for in subparagraph  
831 3., without any person having to request redaction.

832 8. Beginning January 31, 2004, and each January 31  
833 thereafter, every agency must file a report with the Secretary  
834 of State, the President of the Senate, and the Speaker of the  
835 House of Representatives listing the identity of all commercial  
836 entities that have requested social security numbers during the  
837 preceding calendar year and the specific purpose or purposes  
838 stated by each commercial entity regarding its need for social  
839 security numbers. If no disclosure requests were made, the  
840 agency shall so indicate.

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

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

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

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850 |           Section 14. This act shall take effect upon becoming a  
851 | law.