

CHAMBER ACTION

1 The State Administration Council recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5
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; amending s. 287.058, F.S.; providing that a
42 contract may not prohibit a contractor from lobbying the
43 executive or legislative branches concerning specified
44 contract issues, within specified time lines; creating s.
45 287.074, F.S.; requiring that only public officers or
46 employees shall perform certain functions; prohibiting a
47 contractor from participating in the procurement of
48 contractual services by a state agency; repealing s.
49 14.203, F.S., which creates the State Council on
50 Competitive Government and provides duties and authority
51 of the council; providing appropriations; providing that

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52 certain state agencies are subject to the act; amending s.
53 119.071, F.S.; removing a cross-reference; clarifying the
54 meaning of "commercial activity" to conform to the removal
55 of the reference; providing an effective date.

56

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

58

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

62 287.057 Procurement of commodities or contractual
63 services.--

64 (14) (a) Contracts for commodities or contractual services
65 may be renewed for a period that may not exceed 3 years or the
66 term of the original contract, whichever period is longer.
67 Renewal of a contract for commodities or contractual services
68 shall be in writing and shall be subject to the same terms and
69 conditions set forth in the initial contract. If the commodity
70 or contractual service is purchased as a result of the
71 solicitation of bids, proposals, or replies, the price of the
72 commodity or contractual service to be renewed shall be
73 specified in the bid, proposal, or reply. A renewal contract may
74 not include any compensation for costs associated with the
75 renewal. Renewals shall be contingent upon satisfactory
76 performance evaluations by the agency and subject to the
77 availability of funds. Exceptional purchase contracts pursuant
78 to paragraphs (5) (a) and (c) may not be renewed. With the
79 exception of subsection (13), if a contract amendment results in

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80 a longer contract term or increased payments, a state agency may
81 not renew or amend a contract for the outsourcing of a service
82 or activity that has an original term value exceeding the sum of
83 \$10 million before submitting a written report concerning
84 contract performance to the Governor, the President of the
85 Senate, and the Speaker of the House of Representatives at least
86 90 days before execution of the renewal or amendment.

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

90 (b) At least three persons to conduct negotiations during
91 a competitive sealed reply procurement who collectively have
92 experience and knowledge in negotiating contracts, contract
93 procurement, and the program areas and service requirements for
94 which commodities or contractual services are sought. When the
95 value of a contract is in excess of \$1 million in any fiscal
96 year, at least one of the persons conducting negotiations must
97 be certified as a contract negotiator based upon rules adopted
98 by the Department of Management Services in order to ensure that
99 certified contract negotiators are knowledgeable about effective
100 negotiation strategies, capable of successfully implementing
101 those strategies, and involved appropriately in the procurement
102 process. At a minimum, the rules must address the qualifications
103 required for certification, the method of certification, and the
104 procedure for involving the certified negotiator. If the value
105 of a contract is in excess of \$10 million in any fiscal year, at
106 least one of the persons conducting negotiations must be a

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107 Project Management Professional, as certified by the Project
108 Management Institute.

109 (26) Each solicitation for the procurement of commodities
110 or contractual services shall include the following provision:
111 "Respondents to this solicitation or persons acting on their
112 behalf may not contact, between the release of the solicitation
113 and the end of the 72-hour period following the agency's posting
114 of the notice of intended award, excluding Saturdays, Sundays,
115 and state holidays, any employee or officer of the executive or
116 legislative branch concerning any aspect of this solicitation,
117 except in writing to the procurement officer or as provided in
118 the solicitation documents. Violation of this provision may be
119 grounds for rejecting a response."

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

122 287.0571 Applicability of ss. 287.0571-287.0574.--

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

125 (2) It is the intent of the Legislature that each state
126 agency focus on its core mission and deliver services
127 effectively and efficiently by leveraging resources and
128 contracting with private-sector vendors whenever vendors can
129 more effectively and efficiently provide services and reduce the
130 cost of government.

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

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- 135 (4) Sections 287.0571-287.0574 do not apply to:
 136 (a) A procurement of commodities and contractual services
 137 listed in s. 287.057(5)(e), (f), and (g) and (22).
 138 (b) A procurement of contractual services subject to s.
 139 287.055.
 140 (c) A contract in support of the planning, development,
 141 implementation, operation, or maintenance of the road, bridge,
 142 and public transportation construction program of the Department
 143 of Transportation.
 144 (d) A procurement of commodities or contractual services
 145 which does not constitute an outsourcing of services or
 146 activities.

147 Section 3. Section 287.05721, Florida Statutes, is created
 148 to read:

149 287.05721 Definitions.--As used in ss. 287.0571-287.0574,
 150 the term:

- 151 (1) "Council" means the Council on Efficient Government.
 152 (2) "Outsource" means the process of contracting with a
 153 vendor to provide a service as defined in s. 216.011(1)(f), in
 154 whole or in part, or an activity as defined in s.
 155 216.011(1)(rr), while a state agency retains the responsibility
 156 and accountability for the service or activity and there is a
 157 transfer of management responsibility for the delivery of
 158 resources and the performance of those resources.

159 Section 4. Section 287.0573, Florida Statutes, is created
 160 to read:

161 287.0573 Council on Efficient Government; membership;
 162 duties.--

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

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

169 (a) The secretary of the Department of Management
170 Services, who shall serve as chair.

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

173 (c) Two heads of executive branch agencies.

174 (d) Three members from the private sector who are subject
175 to confirmation by the Senate and who, collectively, have
176 experience with procurement, successfully increasing operational
177 efficiency, and implementing complex projects in the private-
178 sector business environment. A private-sector member of the
179 council may not at any time during his or her appointment to the
180 council be registered to lobby the executive or legislative
181 branch.

182 (3) Within 45 days after the effective date of this
183 section, the Governor shall appoint two private-sector members
184 and one state agency head for terms of 1 year and one private-
185 sector member and one agency head for terms of 2 years.
186 Thereafter, each member shall be appointed for a term of 2
187 years. The private-sector members shall serve without
188 compensation, but are entitled to reimbursement for per diem and
189 travel expenses pursuant to s. 112.061.

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190 (4) A member of the council may not participate in a
191 council review of a business case to outsource if his or her
192 state agency is conducting the proposed outsourcing or, in the
193 case of a private-sector member, if he or she has a business
194 relationship with an entity that is involved or could
195 potentially be involved in the proposed outsourcing.

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

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

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

205 (8) The council shall:

206 (a) Employ a standard process for reviewing business cases
207 to outsource.

208 (b) Review and evaluate business cases to outsource as
209 requested by the Governor or the state agency head whose agency
210 is proposing to outsource or as required by ss. 287.0571-
211 287.0574 or by law.

212 (c) No later than 30 days before a state agency's issuance
213 of a solicitation of \$10 million or more, provide to the agency
214 conducting the procurement, the Governor, the President of the
215 Senate, and the Speaker of the House of Representatives an
216 advisory report for each business case reviewed and evaluated by
217 the council. The report must contain all versions of the

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218 business case, an evaluation of the business case, any relevant
219 recommendations, and sufficient information to assist the state
220 agency proposing to outsource in determining whether the
221 business case to outsource should be included with the
222 legislative budget request.

223 (d) Recommend and implement standard processes for state
224 agency and council review and evaluate state agency business
225 cases to outsource, including templates for use by state
226 agencies in submitting business cases to the council.

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

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

231 (g) Incorporate any lessons learned from outsourcing
232 services and activities into council standards, procedures, and
233 guidelines, as appropriate, and identify and disseminate to
234 agencies information regarding best practices in outsourcing
235 efforts.

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

239 (9) The council shall identify and report yearly to the
240 Legislature on:

241 (a) Innovative methods of delivering government services
242 which would improve the efficiency, effectiveness, or
243 competition in the delivery of government services, including,
244 but not limited to, enterprise-wide proposals.

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245 (b) Outsourcing efforts of each state agency which shall
246 include, but not be limited to, the number of outsourcing
247 business cases and solicitations, the number and dollar value of
248 outsourcing contracts, an explanation of agency progress on
249 achieving the cost-benefit analysis schedule as required by s.
250 287.0574(4)(h), descriptions of performance results, as
251 applicable, any contract violations or project slippages, and
252 the status of extensions, renewals, and amendments of
253 outsourcing contracts.

254 (10) The department shall employ an adequate number of
255 staff who collectively possess significant expertise and
256 experience as required to carry out the responsibilities of this
257 act.

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

260 (12) Each state agency shall submit to the council all
261 information, documents, or other materials required by the
262 council or this chapter.

263 Section 5. Section 287.0574, Florida Statutes, is created
264 to read:

265 287.0574 Business cases to outsource; review and analysis;
266 requirements.--

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

269 (a) An initial business case analysis conducted by the
270 state agency and submitted to the council, the Governor, the
271 President of the Senate, and the Speaker of the House of
272 Representatives at least 60 days before a solicitation is

273 issued. The council shall evaluate the business case analysis
274 and submit an advisory report to the state agency, the Governor,
275 the President of the Senate, and the Speaker of the House of
276 Representatives when the advisory report is completed, but at
277 least 30 days before the agency issues the solicitation.

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

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

286 (a) An initial business case analysis conducted by the
287 state agency and submission of the business case at least 30
288 days before issuing a solicitation to the council, the Governor,
289 the President of the Senate, and the Speaker of the House of
290 Representatives.

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

296 (3) A business case to outsource having a projected cost
297 that is less than \$1 million in any fiscal year shall require a
298 final business case analysis conducted by the state agency after
299 the conclusion of any negotiations and provided at least 30 days
300 before execution of a contract to the council. The council shall

301 provide such business cases in its annual report to the
302 Legislature.

303 (4) For any proposed outsourcing, the state agency shall
304 develop a business case that justifies the proposal to
305 outsource. In order to reduce any administrative burden, the
306 council may allow a state agency to submit the business case in
307 the form required by the budget instructions issued pursuant to
308 s. 216.023(4)(a)11., augmented with additional information if
309 necessary, to ensure that the requirements of this section are
310 met. The business case is not subject to challenge or protest
311 pursuant to chapter 120. The business case must include, but
312 need not be limited to:

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

315 (b) A description and analysis of the state agency's
316 current performance, based on existing performance metrics if
317 the state agency is currently performing the service or
318 activity.

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

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

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

327 (f) An analysis of the advantages and disadvantages of
328 each option, including, at a minimum, potential performance
329 improvements and risks.

330 (g) A description of the current market for the
331 contractual services that are under consideration for
332 outsourcing.

333 (h) A cost-benefit analysis documenting the direct and
334 indirect specific baseline costs, savings, and qualitative and
335 quantitative benefits involved in or resulting from the
336 implementation of the recommended option or options. Such
337 analysis must specify the schedule that, at a minimum, must be
338 adhered to in order to achieve the estimated savings. All
339 elements of cost must be clearly identified in the cost-benefit
340 analysis, described in the business case, and supported by
341 applicable records and reports. The state agency head shall
342 attest that, based on the data and information underlying the
343 business case, to the best of his or her knowledge, all
344 projected costs, savings, and benefits are valid and achievable.
345 As used in this section, the term "cost" means the reasonable,
346 relevant, and verifiable cost, which may include, but is not
347 limited to, elements such as personnel, materials and supplies,
348 services, equipment, capital depreciation, rent, maintenance and
349 repairs, utilities, insurance, personnel travel, overhead, and
350 interim and final payments. The appropriate elements shall
351 depend on the nature of the specific initiative. As used in this
352 section, the term "savings" means the difference between the
353 direct and indirect actual annual baseline costs compared to the
354 projected annual cost for the contracted functions or

355 responsibilities in any succeeding state fiscal year during the
356 term of the contract.

357 (i) A description of differences among current state
358 agency policies and processes and, as appropriate, a discussion
359 of options for or a plan to standardize, consolidate, or revise
360 current policies and processes, if any, to reduce the
361 customization of any proposed solution that would otherwise be
362 required.

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

365 (k) The projected timeframe for key events from the
366 beginning of the procurement process through the expiration of a
367 contract.

368 (l) A plan to ensure compliance with the public records
369 law.

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

373 (n) A state agency's transition plan for addressing
374 changes in the number of agency personnel, affected business
375 processes, employee transition issues, and communication with
376 affected stakeholders, such as agency clients and the public.
377 The transition plan must contain a reemployment and retraining
378 assistance plan for employees who are not retained by the state
379 agency or employed by the contractor.

380 (o) A plan for ensuring access by persons with
381 disabilities in compliance with applicable state and federal
382 law.

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

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

389 (a) A scope-of-work provision that clearly specifies each
390 service or deliverable to be provided, including a description
391 of each deliverable or activity that is quantifiable,
392 measurable, and verifiable. This provision must include a clause
393 that states that if a particular service or deliverable is
394 inadvertently omitted or not clearly specified but determined to
395 be operationally necessary and verified to have been performed
396 by the agency within the 12 months before the execution of the
397 contract, such service or deliverable will be provided by the
398 contractor through the identified contract amendment process.

399 (b) A service-level agreement provision describing all
400 services to be provided under the terms of the agreement, the
401 state agency's service requirements and performance objectives,
402 specific responsibilities of the state agency and the
403 contractor, and the process for amending any portion of the
404 service-level agreement. Each service-level agreement must
405 contain an exclusivity clause that allows the state agency to
406 retain the right to perform the service or activity, directly or
407 with another contractor, if service levels are not being
408 achieved.

409 (c) A provision that identifies all associated costs,
410 specific payment terms, and payment schedules, including

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411 provisions governing incentives and financial disincentives and
412 criteria governing payment.

413 (d) A provision that identifies a clear and specific
414 transition plan that will be implemented in order to complete
415 all required activities needed to transfer the service or
416 activity from the state agency to the contractor and operate the
417 service or activity successfully.

418 (e) A performance standards provision that identifies all
419 required performance standards, which must include, at a
420 minimum:

421 1. Detailed and measurable acceptance criteria for each
422 deliverable and service to be provided to the state agency under
423 the terms of the contract which document the required
424 performance level.

425 2. A method for monitoring and reporting progress in
426 achieving specified performance standards and levels.

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

429 (f) A provision that requires the contractor and its
430 subcontractors to maintain adequate accounting records that
431 comply with all applicable federal and state laws and generally
432 accepted accounting principles.

433 (g) A provision that authorizes the state agency to have
434 access to and to audit all records related to the contract and
435 subcontracts, or any responsibilities or functions under the
436 contract or subcontracts, for purposes of legislative oversight.

437 (h) A requirement for audits by a service organization in
438 accordance with professional auditing standards, if appropriate.

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

442 (j) A contingency plan provision that describes the
 443 mechanism for continuing the operation of the service or
 444 activity, including transferring the service or activity back to
 445 the state agency or successor contractor if the contractor fails
 446 to perform and comply with the performance standards and levels
 447 of the contract and the contract is terminated.

448 (k) A provision that requires the contractor and its
 449 subcontractors to comply with public records laws, specifically
 450 to:

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

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

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

460 4. Meet all requirements for retaining records and
 461 transfer to the state agency, at no cost, all public records in
 462 possession of the contractor upon termination of the contract
 463 and destroy any duplicate public records that are exempt or
 464 confidential and exempt. All records stored electronically must
 465 be provided to the state agency in a format that is compatible
 466 with the information technology systems of the state agency.

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467 (1) A provision that addresses ownership of intellectual
 468 property. This paragraph does not provide the specific
 469 authority needed by an agency to obtain a copyright or
 470 trademark.

471 (m) If applicable, a provision that allows the agency to
 472 purchase from the contractor, at its depreciated value, assets
 473 used by the contractor in the performance of the contract. If
 474 assets have not depreciated, the agency shall retain the right
 475 to negotiate to purchase at an agreed-upon cost.

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

478 287.058 Contract document.--

479 (6) A contract may not prohibit a contractor from lobbying
 480 the executive or legislative branch concerning the scope of
 481 services, performance, term, or compensation regarding any
 482 contract to which the contractor and a state agency are parties,
 483 after contract execution and during the contract term. The
 484 provisions of this subsection are supplemental to the provisions
 485 of ss. 11.062 and 216.347 and any other law prohibiting the use
 486 of state funds for lobbying purposes.

487 Section 7. Section 287.074, Florida Statutes, is created
 488 to read:

489 287.074 Prohibited actions by contractor personnel.--

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

493 (a) Selecting state employees;

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

496 (c) Hiring, promoting, disciplining, demoting, and
497 dismissing a state employee.

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

500 Section 8. A contractor, as defined in chapter 287,
501 Florida Statutes, or its employees, agents, or subcontractors,
502 may not knowingly participate, through decision, approval,
503 disapproval, or preparation of any part of a purchase request,
504 investigation, or audit, in the procurement of commodities or
505 contractual services by a state agency from an entity in which
506 the contractor, or its employees, agents, or subcontractors, has
507 a material interest.

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

509 Section 10. For the 2006-2007 fiscal year, the sum of
510 \$750,000 in recurring funds from the General Revenue Fund in a
511 qualified expenditure category is appropriated and eight full-
512 time equivalent positions are authorized to the Department of
513 Management Services to carry out the activities of the Council
514 on Efficient Government as provided in this act.

515 Section 11. The Department of Management Services may
516 implement a program to train state agency employees who are
517 involved in managing outsourcings as Project Management
518 Professionals, as certified by the Project Management Institute.
519 For the 2006-2007 fiscal year, the sum of \$250,000 in recurring
520 funds from the General Revenue Fund in a qualified expenditure
521 category is appropriated to the Department of Management

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522 Services to implement this program. The Department of Management
523 Services, in consultation with agencies subject to this act,
524 shall identify personnel to participate in this training based
525 on requested need and shall ensure that each agency requesting
526 training is represented. The Department of Management Services
527 may remit payment for this training on behalf of all
528 participating personnel.

529 Section 12. Notwithstanding any law to the contrary, a
530 state agency under the individual control of the Attorney
531 General, the Chief Financial Officer, or the Commissioner of
532 Agriculture is subject to this act.

533 Section 13. Paragraph (a) of subsection (5) of section
534 119.071, Florida Statutes, is amended to read:

535 119.071 General exemptions from inspection or copying of
536 public records.--

537 (5) OTHER PERSONAL INFORMATION.--

538 (a)1. The Legislature acknowledges that the social
539 security number was never intended to be used for business
540 purposes but was intended to be used solely for the
541 administration of the federal Social Security System. The
542 Legislature is further aware that over time this unique numeric
543 identifier has been used extensively for identity verification
544 purposes and other legitimate consensual purposes. The
545 Legislature is also cognizant of the fact that the social
546 security number can be used as a tool to perpetuate fraud
547 against a person and to acquire sensitive personal, financial,
548 medical, and familial information, the release of which could
549 cause great financial or personal harm to an individual. The

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550 Legislature intends to monitor the commercial use of social
551 security numbers held by state agencies in order to maintain a
552 balanced public policy.

553 2. An agency shall not collect an individual's social
554 security number unless authorized by law to do so or unless the
555 collection of the social security number is otherwise imperative
556 for the performance of that agency's duties and responsibilities
557 as prescribed by law. Social security numbers collected by an
558 agency must be relevant to the purpose for which collected and
559 shall not be collected until and unless the need for social
560 security numbers has been clearly documented. An agency that
561 collects social security numbers shall also segregate that
562 number on a separate page from the rest of the record, or as
563 otherwise appropriate, in order that the social security number
564 be more easily redacted, if required, pursuant to a public
565 records request. An agency collecting a person's social security
566 number shall, upon that person's request, at the time of or
567 prior to the actual collection of the social security number by
568 that agency, provide that person with a statement of the purpose
569 or purposes for which the social security number is being
570 collected and used. Social security numbers collected by an
571 agency shall not be used by that agency for any purpose other
572 than the purpose stated. Social security numbers collected by an
573 agency prior to May 13, 2002, shall be reviewed for compliance
574 with this subparagraph. If the collection of a social security
575 number prior to May 13, 2002, is found to be unwarranted, the
576 agency shall immediately discontinue the collection of social
577 security numbers for that purpose.

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

583 4. Social security numbers may be disclosed to another
584 governmental entity or its agents, employees, or contractors if
585 disclosure is necessary for the receiving entity to perform its
586 duties and responsibilities. The receiving governmental entity
587 and its agents, employees, and contractors shall maintain the
588 confidential and exempt status of such numbers.

589 5. An agency shall not deny a commercial entity engaged in
590 the performance of a commercial activity, which, for purposes of
591 this paragraph, means an activity that provides a product or
592 service that is available from a private source, as defined in
593 ~~s. 14.203~~ or its agents, employees, or contractors access to
594 social security numbers, provided the social security numbers
595 will be used only in the normal course of business for
596 legitimate business purposes, and provided the commercial entity
597 makes a written request for social security numbers, verified as
598 provided in s. 92.525, legibly signed by an authorized officer,
599 employee, or agent of the commercial entity. The verified
600 written request must contain the commercial entity's name,
601 business mailing and location addresses, business telephone
602 number, and a statement of the specific purposes for which it
603 needs the social security numbers and how the social security
604 numbers will be used in the normal course of business for
605 legitimate business purposes. The aggregate of these requests

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606 shall serve as the basis for the agency report required in
607 subparagraph 8. An agency may request any other information
608 reasonably necessary to verify the identity of the entity
609 requesting the social security numbers and the specific purposes
610 for which such numbers will be used; however, an agency has no
611 duty to inquire beyond the information contained in the verified
612 written request. A legitimate business purpose includes
613 verification of the accuracy of personal information received by
614 a commercial entity in the normal course of its business; use in
615 a civil, criminal, or administrative proceeding; use for
616 insurance purposes; use in law enforcement and investigation of
617 crimes; use in identifying and preventing fraud; use in
618 matching, verifying, or retrieving information; and use in
619 research activities. A legitimate business purpose does not
620 include the display or bulk sale of social security numbers to
621 the general public or the distribution of such numbers to any
622 customer that is not identifiable by the distributor.

623 6. Any person who makes a false representation in order to
624 obtain a social security number pursuant to this paragraph, or
625 any person who willfully and knowingly violates this paragraph,
626 commits a felony of the third degree, punishable as provided in
627 s. 775.082 or s. 775.083. Any public officer who violates this
628 paragraph is guilty of a noncriminal infraction, punishable by a
629 fine not exceeding \$500. A commercial entity that provides
630 access to public records containing social security numbers in
631 accordance with this paragraph is not subject to the penalty
632 provisions of this subparagraph.

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633 7.a. On or after October 1, 2002, a person preparing or
634 filing a document to be recorded in the official records by the
635 county recorder as provided for in chapter 28 may not include
636 any person's social security number in that document, unless
637 otherwise expressly required by law. If a social security number
638 is or has been included in a document presented to the county
639 recorder for recording in the official records of the county
640 before, on, or after October 1, 2002, it may be made available
641 as part of the official record available for public inspection
642 and copying.

643 b. Any person, or his or her attorney or legal guardian,
644 has the right to request that a county recorder remove, from an
645 image or copy of an official record placed on a county
646 recorder's publicly available Internet website or a publicly
647 available Internet website used by a county recorder to display
648 public records or otherwise made electronically available to the
649 general public by such recorder, his or her social security
650 number contained in that official record. Such request must be
651 made in writing, legibly signed by the requester and delivered
652 by mail, facsimile, or electronic transmission, or delivered in
653 person, to the county recorder. The request must specify the
654 identification page number that contains the social security
655 number to be redacted. The county recorder has no duty to
656 inquire beyond the written request to verify the identity of a
657 person requesting redaction. A fee shall not be charged for the
658 redaction of a social security number pursuant to such request.

659 c. A county recorder shall immediately and conspicuously
660 post signs throughout his or her offices for public viewing and

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661 shall immediately and conspicuously post, on any Internet
662 website or remote electronic site made available by the county
663 recorder and used for the ordering or display of official
664 records or images or copies of official records, a notice
665 stating, in substantially similar form, the following:

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

670 (II) Any person has a right to request a county recorder
671 to remove, from an image or copy of an official record placed on
672 a county recorder's publicly available Internet website or on a
673 publicly available Internet website used by a county recorder to
674 display public records or otherwise made electronically
675 available to the general public, any social security number
676 contained in an official record. Such request must be made in
677 writing and delivered by mail, facsimile, or electronic
678 transmission, or delivered in person, to the county recorder.
679 The request must specify the identification page number that
680 contains the social security number to be redacted. No fee will
681 be charged for the redaction of a social security number
682 pursuant to such a request.

683 d. Until January 1, 2007, if a social security number,
684 made confidential and exempt pursuant to this paragraph, or a
685 complete bank account, debit, charge, or credit card number made
686 exempt pursuant to paragraph (b) is or has been included in a
687 court file, such number may be included as part of the court
688 record available for public inspection and copying unless

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689 redaction is requested by the holder of such number, or by the
690 holder's attorney or legal guardian, in a signed, legibly
691 written request specifying the case name, case number, document
692 heading, and page number. The request must be delivered by mail,
693 facsimile, electronic transmission, or in person to the clerk of
694 the circuit court. The clerk of the circuit court does not have
695 a duty to inquire beyond the written request to verify the
696 identity of a person requesting redaction. A fee may not be
697 charged for the redaction of a social security number or a bank
698 account, debit, charge, or credit card number pursuant to such
699 request.

700 e. Any person who prepares or files a document to be
701 recorded in the official records by the county recorder as
702 provided in chapter 28 may not include a person's social
703 security number or complete bank account, debit, charge, or
704 credit card number in that document unless otherwise expressly
705 required by law. Until January 1, 2007, if a social security
706 number or a complete bank account, debit, charge, or credit card
707 number is or has been included in a document presented to the
708 county recorder for recording in the official records of the
709 county, such number may be made available as part of the
710 official record available for public inspection and copying. Any
711 person, or his or her attorney or legal guardian, may request
712 that a county recorder remove from an image or copy of an
713 official record placed on a county recorder's publicly available
714 Internet website, or a publicly available Internet website used
715 by a county recorder to display public records outside the
716 office or otherwise made electronically available outside the

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717 county recorder's office to the general public, his or her
718 social security number or complete account, debit, charge, or
719 credit card number contained in that official record. Such
720 request must be legibly written, signed by the requester, and
721 delivered by mail, facsimile, electronic transmission, or in
722 person to the county recorder. The request must specify the
723 identification page number of the document that contains the
724 number to be redacted. The county recorder does not have a duty
725 to inquire beyond the written request to verify the identity of
726 a person requesting redaction. A fee may not be charged for
727 redacting such numbers.

728 f. Subparagraphs 2. and 3. do not apply to the clerks of
729 the court or the county recorder with respect to circuit court
730 records and official records.

731 g. On January 1, 2007, and thereafter, the clerk of the
732 circuit court and the county recorder must keep complete bank
733 account, debit, charge, and credit card numbers exempt as
734 provided for in paragraph (b), and must keep social security
735 numbers confidential and exempt as provided for in subparagraph
736 3., without any person having to request redaction.

737 8. Beginning January 31, 2004, and each January 31
738 thereafter, every agency must file a report with the Secretary
739 of State, the President of the Senate, and the Speaker of the
740 House of Representatives listing the identity of all commercial
741 entities that have requested social security numbers during the
742 preceding calendar year and the specific purpose or purposes
743 stated by each commercial entity regarding its need for social

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744 security numbers. If no disclosure requests were made, the
745 agency shall so indicate.

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

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

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

755 Section 14. This act shall take effect upon becoming a
756 law.