

1 A bill to be entitled
2 An act relating to small businesses; amending s. 287.012,
3 F.S.; defining the terms "bundled contract" and "small
4 business" for purposes of state procurement requirements;
5 amending s. 287.057, F.S.; authorizing small businesses to
6 submit bids, proposals, and replies for portions of
7 bundled contracts; authorizing agencies to award separate
8 contracts for portions of a bundled contract under certain
9 circumstances; authorizing agencies to award contracts to
10 small businesses that submit bids that exceed the lowest
11 responsive bid under certain circumstances; requiring
12 agencies to give preference to bids, proposals, and
13 replies submitted by small businesses under certain
14 circumstances; requiring agencies to award a specified
15 percentage of contracts to small businesses; directing
16 agencies to avoid contract bundling under certain
17 circumstances; requiring agencies to conduct market
18 research and include written summaries and analyses of
19 such research in solicitations for bundled contracts;
20 requiring contract vendors to use small businesses in the
21 state as subcontractors or subvendors; requiring the
22 timely payment of subcontractors; requiring the Florida
23 Small Business Advocate to submit an annual report on
24 small business participation in contracting; requiring
25 agencies to cooperate with such reporting; prohibiting
26 agencies from requiring certain bonds or other sureties
27 for certain contracts; amending s. 288.703, F.S.;
28 providing and revising definitions; specifying that

29 definitions apply to ch. 288, F.S.; amending s. 120.54,
 30 F.S.; deleting provisions authorizing an agency to use an
 31 alternative definition of the term "small business" for
 32 purposes of estimating the regulatory costs and impact on
 33 small businesses of proposed rules; amending ss. 24.113,
 34 212.08, 212.096, 220.181, 220.182, 283.33, 287.0931,
 35 287.0943, and 287.09451, F.S.; conforming cross-
 36 references; amending s. 287.0947, F.S.; authorizing the
 37 Secretary of Management Services to appoint the Florida
 38 Advisory Council on Small and Minority Business
 39 Development; deleting obsolete provisions; conforming a
 40 cross-reference; amending ss. 310.0015, 320.63, 376.3072,
 41 376.60, 440.45, 473.3065, 624.4072, 627.3511, 641.217, and
 42 1004.435, F.S.; conforming cross-references; reenacting
 43 ss. 120.541(2)(d), 288.7001(2)(d), 288.7031, and
 44 290.004(7), F.S., relating to agency statements of
 45 estimated regulatory costs for purposes of rulemaking, the
 46 Small Business Regulatory Advisory Council, the
 47 application of small and minority business definitions to
 48 the state and political subdivisions thereof, and the
 49 definition of small business for the Florida Enterprise
 50 Zone Act, respectively, to incorporate the amendment made
 51 by the act to s. 288.703, F.S., in references thereto;
 52 providing an effective date.

53
 54 Be It Enacted by the Legislature of the State of Florida:
 55

56 Section 1. Subsections (5) through (26) of section
 57 287.012, Florida Statutes, are renumbered as subsections (6)
 58 through (27), respectively, present subsections (27) and (28)
 59 are renumbered as subsections (29) and (30), respectively, and
 60 new subsections (5) and (28) are added to that section to read:

61 287.012 Definitions.—As used in this part, the term:

62 (5) "Bundled contract" means a contract for commodities or
 63 contractual services that may be provided or performed under two
 64 or more separate smaller contracts but that are consolidated
 65 into a single contract that is not appropriate for award to a
 66 small business as the prime contractor.

67 (28) "Small business" means a small business as defined in
 68 s. 288.703 that is, and for at least the previous 3 years has
 69 been, domiciled in this state.

70 Section 2. Subsections (1) through (3) of section 287.057,
 71 Florida Statutes, are amended, and subsections (26) through (30)
 72 are added to that section, to read:

73 287.057 Procurement of commodities or contractual
 74 services.—

75 (1) (a) Unless otherwise authorized by law, all contracts
 76 for the purchase of commodities or contractual services in
 77 excess of the threshold amount provided in s. 287.017 for
 78 CATEGORY TWO shall be awarded by competitive sealed bidding. An
 79 invitation to bid shall be made available simultaneously to all
 80 vendors and must include a detailed description of the
 81 commodities or contractual services sought; the time and date
 82 for the receipt of bids and of the public opening; and all
 83 contractual terms and conditions applicable to the procurement,

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84 including the criteria to be used in determining acceptability
85 of the bid. If the agency contemplates renewal of the contract,
86 that fact must be stated in the invitation to bid. The bid shall
87 include the price for each year for which the contract may be
88 renewed. Evaluation of bids shall include consideration of the
89 total cost for each year as submitted by the vendor. Criteria
90 that were not set forth in the invitation to bid may not be used
91 in determining acceptability of the bid.

92 (b) The criteria used in determining the acceptability of
93 bids must allow a small business to submit a bid for any portion
94 of a bundled contract. Upon receipt of such a bid, if the agency
95 determines that the small business is a responsible and
96 responsive vendor for that portion of the bundled contract, the
97 agency shall allow each responsible and responsive vendor to
98 submit a separate bid, and may award a separate contract, for
99 that portion of the bundled contract.

100 (c) ~~(b)~~ The contract shall be awarded with reasonable
101 promptness by written notice to the responsible and responsive
102 vendor that submits the lowest responsive bid. For any contract
103 or portion of a bundled contract, the agency may award the
104 contract and must give preference to a responsible and
105 responsive vendor that is a small business whose responsive bid
106 does not exceed the lowest responsive bid by more than 10
107 percent. This bid must be determined in writing to meet the
108 requirements and criteria set forth in the invitation to bid.

109 (2) (a) If an agency determines in writing that the use of
110 an invitation to bid is not practicable, commodities or
111 contractual services shall be procured by competitive sealed

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112 proposals. A request for proposals shall be made available
113 simultaneously to all vendors, and must include a statement of
114 the commodities or contractual services sought; the time and
115 date for the receipt of proposals and of the public opening; and
116 all contractual terms and conditions applicable to the
117 procurement, including the criteria, which shall include, but
118 need not be limited to, price, to be used in determining
119 acceptability of the proposal. The relative importance of price
120 and other evaluation criteria shall be indicated. If the agency
121 contemplates renewal of the commodities or contractual services
122 contract, that fact must be stated in the request for proposals.
123 The proposal shall include the price for each year for which the
124 contract may be renewed. Evaluation of proposals shall include
125 consideration of the total cost for each year as submitted by
126 the vendor.

127 (b) The criteria used in determining the acceptability of
128 proposals must allow a small business to submit a proposal for
129 any portion of a bundled contract. Upon receipt of such a
130 proposal, if the agency determines that the small business is a
131 responsible and responsive vendor for that portion of the
132 bundled contract, the agency shall allow each responsible and
133 responsive vendor to submit a separate proposal, and may award a
134 separate contract, for that portion of the bundled contract.

135 (c) ~~(b)~~ The contract shall be awarded to the responsible
136 and responsive vendor whose proposal is determined in writing to
137 be the most advantageous to the state, taking into consideration
138 the price and the other criteria set forth in the request for
139 proposals. For any contract or portion of a bundled contract,

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140 the criteria must give preference to a responsive proposal from
141 a responsible and responsive vendor that is a small business.

142 The contract file shall contain documentation supporting the
143 basis on which the award is made.

144 (3) (a) If the agency determines in writing that the use of
145 an invitation to bid or a request for proposals will not result
146 in the best value to the state, the agency may procure
147 commodities and contractual services by competitive sealed
148 replies. The agency's written determination must specify reasons
149 that explain why negotiation may be necessary in order for the
150 state to achieve the best value and must be approved in writing
151 by the agency head or his or her designee before ~~prior to~~ the
152 advertisement of an invitation to negotiate. An invitation to
153 negotiate shall be made available to all vendors simultaneously
154 and must include a statement of the commodities or contractual
155 services sought; the time and date for the receipt of replies
156 and of the public opening; and all terms and conditions
157 applicable to the procurement, including the criteria to be used
158 in determining the acceptability of the reply. If the agency
159 contemplates renewal of the contract, that fact must be stated
160 in the invitation to negotiate. The reply shall include the
161 price for each year for which the contract may be renewed.

162 (b) The criteria used in determining the acceptability of
163 replies must allow a small business to submit a reply for any
164 portion of a bundled contract. Upon receipt of such a reply, if
165 the agency determines that the small business is a responsible
166 and responsive vendor for that portion of the bundled contract,
167 the agency shall allow each responsible and responsive vendor to

168 submit a separate reply, and may award a separate contract, for
 169 that portion of the bundled contract.

170 (c)-(b) The agency shall evaluate and rank responsive
 171 replies against all evaluation criteria set forth in the
 172 invitation to negotiate and shall select, based on the ranking,
 173 one or more vendors with which to commence negotiations. For any
 174 contract or portion of a bundled contract, the criteria must
 175 give preference to a responsive reply from a responsible and
 176 responsive vendor that is a small business. After negotiations
 177 are conducted, the agency shall award the contract to the
 178 responsible and responsive vendor that the agency determines
 179 will provide the best value to the state. The contract file must
 180 contain a short plain statement that explains the basis for
 181 vendor selection and that sets forth the vendor's deliverables
 182 and price, pursuant to the contract, with an explanation of how
 183 these deliverables and price provide the best value to the
 184 state.

185 (26) An agency shall annually award to small businesses,
 186 either directly or indirectly as subcontractors, at least 25
 187 percent of the total dollar amount of contracts awarded.

188 (27) (a) An agency, to the maximum extent practicable,
 189 shall structure agency contracts to facilitate competition by
 190 and among small businesses in this state, taking all reasonable
 191 steps to eliminate obstacles to their participation and avoiding
 192 the unnecessary and unjustified bundling of contracts that may
 193 preclude small business participation as prime contractors.

194 (b) Before issuing a solicitation for a bundled contract,
 195 an agency must conduct market research to determine whether

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196 contract bundling is necessary and justified. If the agency
197 determines that contract bundling is necessary and justified,
198 the agency must include in the solicitation a written summary of
199 the agency's market research and a written analysis of the
200 research that explains why contract bundling is necessary and
201 justified.

202 (28) (a) Each contract awarded under this section must
203 require the vendor to use small businesses in this state as
204 subcontractors or subvendors. The percentage of funds, in terms
205 of gross contract amount and revenues, that must be expended
206 with small businesses in this state shall be determined by the
207 agency before the solicitation for the contract is issued;
208 however, the contract may not allow a vendor to expend less than
209 10 percent of the gross contract amount with small businesses in
210 this state.

211 (b) Each contract must also include specific requirements
212 for the timely payment of subcontractors by the prime contractor
213 and specific terms and conditions applicable if a prime
214 contractor breeches the payment timelines specified in the
215 contract.

216 (29) The Florida Small Business Advocate selected under s.
217 288.7002 shall:

218 (a) Establish a system to record and measure the use of
219 small businesses in state contracting. This system shall
220 maintain information and statistics on state business
221 participation, awards, dollar volume of expenditures, and other
222 appropriate types of information to analyze progress in the
223 access of small businesses to state contracts and to monitor

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224 agency compliance with this section. Such reporting must
225 include, but is not limited to, the identification of all
226 subcontracts in state contracting by dollar amount and by number
227 of subcontracts and identification of the use of small
228 businesses as prime contractors and subcontractors by dollar
229 amounts of contracts and subcontracts, number of contracts and
230 subcontracts, industry, and any conditions or circumstances that
231 significantly affected the performance of subcontractors. An
232 agency shall report its compliance with the requirements of this
233 reporting system at least annually and at the request of the
234 Florida Small Business Advocate. All agencies shall cooperate
235 with the Florida Small Business Advocate in establishing this
236 reporting system.

237 (b) Report agency compliance with paragraph (a) for the
238 preceding fiscal year to the Governor and Cabinet, the President
239 of the Senate, the Speaker of the House of Representatives, and
240 the Small Business Regulatory Advisory Council created under s.
241 288.7001 on or before February 1 of each year. The report must
242 contain, at a minimum, the following:

- 243 1. Total expenditures of each agency by industry.
- 244 2. The dollar amount and percentage of contracts awarded
245 to small businesses by each state agency.
- 246 3. The dollar amount and percentage of contracts awarded
247 indirectly to small businesses as subcontractors by each state
248 agency.
- 249 4. The total dollar amount and percentage of contracts
250 awarded to small businesses, whether directly or indirectly as
251 subcontractors.

252 (30) Notwithstanding any provision of law, an agency may
 253 not require a vendor to post a bid bond, performance bond, or
 254 other surety for a contract that does not exceed \$500,000. This
 255 subsection does not apply to any requirement for posting a bond
 256 pending the protest of a solicitation; the protest of a rejected
 257 bid, proposal, or reply; or the protest of a contract award.

258 Section 3. Section 288.703, Florida Statutes, is amended
 259 to read:

260 288.703 Definitions.—As used in this chapter ~~act~~, the term
 261 ~~following words and terms shall have the following meanings~~
 262 ~~unless the content shall indicate another meaning or intent:~~

263 (1) "Business concern" means a business entity organized
 264 for profit that has a place of business within the United
 265 States; operates primarily within the United States or makes a
 266 significant contribution to the United States economy through
 267 payment of taxes or use of American products, materials, or
 268 labor; is independently owned and operated; and is not dominant
 269 within the business entity's industry. The term includes any
 270 such business entity organized as any form of corporation,
 271 partnership, limited liability company, sole proprietorship,
 272 joint venture, association, trust, cooperative, or other legal
 273 entity.

274 (2)-(4) "Certified minority business enterprise" means a
 275 business that is ~~which has been~~ certified by the certifying
 276 organization or jurisdiction in accordance with s. 287.0943(1)
 277 and (2).

278 (3)-(5) "Department" means the Department of Management
 279 Services.

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280 (4)~~(7)~~ "Financial institution" means any bank, trust
281 company, insurance company, savings and loan association, credit
282 union, federal lending agency, or foundation.

283 (5)~~(2)~~ "Minority business enterprise" means any small
284 business that ~~concern as defined in subsection (1) which~~ is
285 organized to engage in commercial transactions, that ~~which~~ is
286 domiciled in Florida, and that ~~which~~ is at least 51-percent-
287 owned by minority persons who are members of an insular group
288 ~~that is~~ of a particular racial, ethnic, or gender makeup or
289 national origin, which has been subjected historically to
290 disparate treatment due to identification in and with that group
291 resulting in an underrepresentation of commercial enterprises
292 under the group's control, and whose management and daily
293 operations are controlled by such persons. A minority business
294 enterprise may primarily involve the practice of a profession.
295 Ownership by a minority person does not include ownership which
296 is the result of a transfer from a nonminority person to a
297 minority person within a related immediate family group if the
298 combined total net asset value of all members of such family
299 group exceeds \$1 million. For purposes of this subsection, the
300 term "related immediate family group" means one or more children
301 under 16 years of age and a parent of such children or the
302 spouse of such parent residing in the same house or living unit.

303 (6)~~(3)~~ "Minority person" means a lawful, permanent
304 resident of Florida who is:

305 (a) An African American, a person having origins in any of
306 the black racial groups of the African Diaspora, regardless of
307 cultural origin.

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308 (b) A Hispanic American, a person of Spanish or Portuguese
 309 culture with origins in Spain, Portugal, Mexico, South America,
 310 Central America, or the Caribbean, regardless of race.

311 (c) An Asian American, a person having origins in any of
 312 the original peoples of the Far East, Southeast Asia, the Indian
 313 Subcontinent, or the Pacific Islands, including the Hawaiian
 314 Islands before ~~prior to~~ 1778.

315 (d) A Native American, a person who has origins in any of
 316 the Indian Tribes of North America before ~~prior to~~ 1835, upon
 317 presentation of proper documentation thereof as established by
 318 rule of the Department of Management Services.

319 (e) An American woman.

320 (7)~~(6)~~ "Ombudsman" means an office or individual whose
 321 responsibilities include coordinating with the Office of
 322 Supplier Diversity for the interests of and providing assistance
 323 to small and minority business enterprises in dealing with
 324 governmental agencies and in developing proposals for changes in
 325 state agency rules.

326 (8) "Secretary" means the Secretary of ~~the Department of~~
 327 Management Services.

328 (9)~~(1)~~ "Small business" means a ~~an independently owned and~~
 329 ~~operated~~ business concern that has a workforce of 100 employs
 330 ~~200~~ or fewer permanent full-time positions, whether employees,
 331 independent contractors, or other contractual personnel, and
 332 that, together with its affiliates, has a net worth of not more
 333 than \$5 million or any firm based in this state which has a
 334 Small Business Administration 8(a) certification. As applicable
 335 to sole proprietorships, the \$5 million net worth requirement

336 shall include both personal and business investments.

337 Section 4. Paragraph (b) of subsection (3) of section
 338 120.54, Florida Statutes, is amended to read:

339 120.54 Rulemaking.—

340 (3) ADOPTION PROCEDURES.—

341 (b) Special matters to be considered in rule adoption.—

342 1. Statement of estimated regulatory costs.—Prior to the
 343 adoption, amendment, or repeal of any rule other than an
 344 emergency rule, an agency is encouraged to prepare a statement
 345 of estimated regulatory costs of the proposed rule, as provided
 346 by s. 120.541. However, an agency shall prepare a statement of
 347 estimated regulatory costs of the proposed rule, as provided by
 348 s. 120.541, if the proposed rule will have an impact on small
 349 business.

350 2. Small businesses, small counties, and small cities.—

351 a. Each agency, before the adoption, amendment, or repeal
 352 of a rule, shall consider the impact of the rule on small
 353 businesses as defined in ~~by~~ s. 288.703 and the impact of the
 354 rule on small counties or small cities as defined in ~~by~~ s.
 355 120.52. Whenever practicable, an agency shall tier its rules to
 356 reduce disproportionate impacts on small businesses, small
 357 counties, or small cities to avoid regulating small businesses,
 358 small counties, or small cities that do not contribute
 359 significantly to the problem the rule is designed to address. An
 360 agency may ~~define "small business" to include businesses~~
 361 ~~employing more than 200 persons,~~ may define "small county" to
 362 include those with populations of more than 75,000~~7~~ and may
 363 define "small city" to include those with populations of more

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364 than 10,000, if it finds that such a definition is necessary to
 365 adapt a rule to the needs and problems of ~~small businesses,~~
 366 small counties~~,~~ or small cities. The agency shall consider each
 367 of the following methods for reducing the impact of the proposed
 368 rule on small businesses, small counties, and small cities, or
 369 any combination of these entities:

370 (I) Establishing less stringent compliance or reporting
 371 requirements in the rule.

372 (II) Establishing less stringent schedules or deadlines in
 373 the rule for compliance or reporting requirements.

374 (III) Consolidating or simplifying the rule's compliance
 375 or reporting requirements.

376 (IV) Establishing performance standards or best management
 377 practices to replace design or operational standards in the
 378 rule.

379 (V) Exempting small businesses, small counties, or small
 380 cities from any or all requirements of the rule.

381 b.(I) If the agency determines that the proposed action
 382 will affect small businesses as defined in s. 288.703 ~~by the~~
 383 ~~agency as provided in sub-subparagraph a.,~~ the agency shall send
 384 written notice of the rule to the Small Business Regulatory
 385 Advisory Council and the Office of Tourism, Trade, and Economic
 386 Development not less than 28 days prior to the intended action.

387 (II) Each agency shall adopt those regulatory alternatives
 388 offered by the Small Business Regulatory Advisory Council and
 389 provided to the agency no later than 21 days after the council's
 390 receipt of the written notice of the rule which it finds are
 391 feasible and consistent with the stated objectives of the

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392 proposed rule and which would reduce the impact on small
393 businesses. When regulatory alternatives are offered by the
394 Small Business Regulatory Advisory Council, the 90-day period
395 for filing the rule in subparagraph (e)2. is extended for a
396 period of 21 days.

397 (III) If an agency does not adopt all alternatives offered
398 pursuant to this sub-subparagraph, it shall, prior to rule
399 adoption or amendment and pursuant to subparagraph (d)1., file a
400 detailed written statement with the committee explaining the
401 reasons for failure to adopt such alternatives. Within 3 working
402 days of the filing of such notice, the agency shall send a copy
403 of such notice to the Small Business Regulatory Advisory
404 Council. The Small Business Regulatory Advisory Council may make
405 a request of the President of the Senate and the Speaker of the
406 House of Representatives that the presiding officers direct the
407 Office of Program Policy Analysis and Government Accountability
408 to determine whether the rejected alternatives reduce the impact
409 on small business while meeting the stated objectives of the
410 proposed rule. Within 60 days after the date of the directive
411 from the presiding officers, the Office of Program Policy
412 Analysis and Government Accountability shall report to the
413 Administrative Procedures Committee its findings as to whether
414 an alternative reduces the impact on small business while
415 meeting the stated objectives of the proposed rule. The Office
416 of Program Policy Analysis and Government Accountability shall
417 consider the proposed rule, the economic impact statement, the
418 written statement of the agency, the proposed alternatives, and
419 any comment submitted during the comment period on the proposed

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420 rule. The Office of Program Policy Analysis and Government
 421 Accountability shall submit a report of its findings and
 422 recommendations to the Governor, the President of the Senate,
 423 and the Speaker of the House of Representatives. The
 424 Administrative Procedures Committee shall report such findings
 425 to the agency, and the agency shall respond in writing to the
 426 Administrative Procedures Committee if the Office of Program
 427 Policy Analysis and Government Accountability found that the
 428 alternative reduced the impact on small business while meeting
 429 the stated objectives of the proposed rule. If the agency will
 430 not adopt the alternative, it must also provide a detailed
 431 written statement to the committee as to why it will not adopt
 432 the alternative.

433 Section 5. Subsection (1) of section 24.113, Florida
 434 Statutes, is amended to read:

435 24.113 Minority participation.—

436 (1) It is the intent of the Legislature that the
 437 department encourage participation by minority business
 438 enterprises as defined in s. 288.703. Accordingly, 15 percent of
 439 the retailers shall be minority business enterprises as defined
 440 in s. 288.703~~(2)~~; however, no more than 35 percent of such
 441 retailers shall be owned by the same type of minority person, as
 442 defined in s. 288.703~~(3)~~. The department is encouraged to meet
 443 the minority business enterprise procurement goals set forth in
 444 s. 287.09451 in the procurement of commodities, contractual
 445 services, construction, and architectural and engineering
 446 services. This section shall not preclude or prohibit a minority
 447 person from competing for any other retailing or vending

448 | agreement awarded by the department.

449 | Section 6. Paragraphs (g) and (h) of subsection (5) and
 450 | paragraph (b) of subsection (15) of section 212.08, Florida
 451 | Statutes, are amended to read:

452 | 212.08 Sales, rental, use, consumption, distribution, and
 453 | storage tax; specified exemptions.—The sale at retail, the
 454 | rental, the use, the consumption, the distribution, and the
 455 | storage to be used or consumed in this state of the following
 456 | are hereby specifically exempt from the tax imposed by this
 457 | chapter.

458 | (5) EXEMPTIONS; ACCOUNT OF USE.—

459 | (g) Building materials used in the rehabilitation of real
 460 | property located in an enterprise zone.—

461 | 1. Building materials used in the rehabilitation of real
 462 | property located in an enterprise zone shall be exempt from the
 463 | tax imposed by this chapter upon an affirmative showing to the
 464 | satisfaction of the department that the items have been used for
 465 | the rehabilitation of real property located in an enterprise
 466 | zone. Except as provided in subparagraph 2., this exemption
 467 | inures to the owner, lessee, or lessor of the rehabilitated real
 468 | property located in an enterprise zone only through a refund of
 469 | previously paid taxes. To receive a refund pursuant to this
 470 | paragraph, the owner, lessee, or lessor of the rehabilitated
 471 | real property located in an enterprise zone must file an
 472 | application under oath with the governing body or enterprise
 473 | zone development agency having jurisdiction over the enterprise
 474 | zone where the business is located, as applicable, which
 475 | includes:

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- 476 | a. The name and address of the person claiming the refund.
- 477 | b. An address and assessment roll parcel number of the
- 478 | rehabilitated real property in an enterprise zone for which a
- 479 | refund of previously paid taxes is being sought.
- 480 | c. A description of the improvements made to accomplish
- 481 | the rehabilitation of the real property.
- 482 | d. A copy of the building permit issued for the
- 483 | rehabilitation of the real property.
- 484 | e. A sworn statement, under the penalty of perjury, from
- 485 | the general contractor licensed in this state with whom the
- 486 | applicant contracted to make the improvements necessary to
- 487 | accomplish the rehabilitation of the real property, which
- 488 | statement lists the building materials used in the
- 489 | rehabilitation of the real property, the actual cost of the
- 490 | building materials, and the amount of sales tax paid in this
- 491 | state on the building materials. In the event that a general
- 492 | contractor has not been used, the applicant shall provide this
- 493 | information in a sworn statement, under the penalty of perjury.
- 494 | Copies of the invoices which evidence the purchase of the
- 495 | building materials used in such rehabilitation and the payment
- 496 | of sales tax on the building materials shall be attached to the
- 497 | sworn statement provided by the general contractor or by the
- 498 | applicant. Unless the actual cost of building materials used in
- 499 | the rehabilitation of real property and the payment of sales
- 500 | taxes due thereon is documented by a general contractor or by
- 501 | the applicant in this manner, the cost of such building
- 502 | materials shall be an amount equal to 40 percent of the increase
- 503 | in assessed value for ad valorem tax purposes.

504 f. The identifying number assigned pursuant to s. 290.0065
 505 to the enterprise zone in which the rehabilitated real property
 506 is located.

507 g. A certification by the local building code inspector
 508 that the improvements necessary to accomplish the rehabilitation
 509 of the real property are substantially completed.

510 h. Whether the business is a small business as defined in
 511 ~~by~~ s. 288.703(1).

512 i. If applicable, the name and address of each permanent
 513 employee of the business, including, for each employee who is a
 514 resident of an enterprise zone, the identifying number assigned
 515 pursuant to s. 290.0065 to the enterprise zone in which the
 516 employee resides.

517 2. This exemption inures to a city, county, other
 518 governmental agency, or nonprofit community-based organization
 519 through a refund of previously paid taxes if the building
 520 materials used in the rehabilitation of real property located in
 521 an enterprise zone are paid for from the funds of a community
 522 development block grant, State Housing Initiatives Partnership
 523 Program, or similar grant or loan program. To receive a refund
 524 pursuant to this paragraph, a city, county, other governmental
 525 agency, or nonprofit community-based organization must file an
 526 application which includes the same information required to be
 527 provided in subparagraph 1. by an owner, lessee, or lessor of
 528 rehabilitated real property. In addition, the application must
 529 include a sworn statement signed by the chief executive officer
 530 of the city, county, other governmental agency, or nonprofit
 531 community-based organization seeking a refund which states that

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532 the building materials for which a refund is sought were paid
533 for from the funds of a community development block grant, State
534 Housing Initiatives Partnership Program, or similar grant or
535 loan program.

536 3. Within 10 working days after receipt of an application,
537 the governing body or enterprise zone development agency shall
538 review the application to determine if it contains all the
539 information required pursuant to subparagraph 1. or subparagraph
540 2. and meets the criteria set out in this paragraph. The
541 governing body or agency shall certify all applications that
542 contain the information required pursuant to subparagraph 1. or
543 subparagraph 2. and meet the criteria set out in this paragraph
544 as eligible to receive a refund. If applicable, the governing
545 body or agency shall also certify if 20 percent of the employees
546 of the business are residents of an enterprise zone, excluding
547 temporary and part-time employees. The certification shall be in
548 writing, and a copy of the certification shall be transmitted to
549 the executive director of the Department of Revenue. The
550 applicant shall be responsible for forwarding a certified
551 application to the department within the time specified in
552 subparagraph 4.

553 4. An application for a refund pursuant to this paragraph
554 must be submitted to the department within 6 months after the
555 rehabilitation of the property is deemed to be substantially
556 completed by the local building code inspector or by September 1
557 after the rehabilitated property is first subject to assessment.

558 5. Not more than one exemption through a refund of
559 previously paid taxes for the rehabilitation of real property

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560 shall be permitted for any single parcel of property unless
561 there is a change in ownership, a new lessor, or a new lessee of
562 the real property. No refund shall be granted pursuant to this
563 paragraph unless the amount to be refunded exceeds \$500. No
564 refund granted pursuant to this paragraph shall exceed the
565 lesser of 97 percent of the Florida sales or use tax paid on the
566 cost of the building materials used in the rehabilitation of the
567 real property as determined pursuant to sub-subparagraph 1.e. or
568 \$5,000, or, if no less than 20 percent of the employees of the
569 business are residents of an enterprise zone, excluding
570 temporary and part-time employees, the amount of refund granted
571 pursuant to this paragraph shall not exceed the lesser of 97
572 percent of the sales tax paid on the cost of such building
573 materials or \$10,000. A refund approved pursuant to this
574 paragraph shall be made within 30 days of formal approval by the
575 department of the application for the refund. This subparagraph
576 shall apply retroactively to July 1, 2005.

577 6. The department shall adopt rules governing the manner
578 and form of refund applications and may establish guidelines as
579 to the requisites for an affirmative showing of qualification
580 for exemption under this paragraph.

581 7. The department shall deduct an amount equal to 10
582 percent of each refund granted under the provisions of this
583 paragraph from the amount transferred into the Local Government
584 Half-cent Sales Tax Clearing Trust Fund pursuant to s. 212.20
585 for the county area in which the rehabilitated real property is
586 located and shall transfer that amount to the General Revenue
587 Fund.

588 8. For the purposes of the exemption provided in this
 589 paragraph:

590 a. "Building materials" means tangible personal property
 591 which becomes a component part of improvements to real property.

592 b. "Real property" has the same meaning as provided in s.
 593 192.001(12).

594 c. "Rehabilitation of real property" means the
 595 reconstruction, renovation, restoration, rehabilitation,
 596 construction, or expansion of improvements to real property.

597 d. "Substantially completed" has the same meaning as
 598 provided in s. 192.042(1).

599 9. This paragraph expires on the date specified in s.
 600 290.016 for the expiration of the Florida Enterprise Zone Act.

601 (h) Business property used in an enterprise zone.—

602 1. Business property purchased for use by businesses
 603 located in an enterprise zone which is subsequently used in an
 604 enterprise zone shall be exempt from the tax imposed by this
 605 chapter. This exemption inures to the business only through a
 606 refund of previously paid taxes. A refund shall be authorized
 607 upon an affirmative showing by the taxpayer to the satisfaction
 608 of the department that the requirements of this paragraph have
 609 been met.

610 2. To receive a refund, the business must file under oath
 611 with the governing body or enterprise zone development agency
 612 having jurisdiction over the enterprise zone where the business
 613 is located, as applicable, an application which includes:

614 a. The name and address of the business claiming the
 615 refund.

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616 b. The identifying number assigned pursuant to s. 290.0065
617 to the enterprise zone in which the business is located.

618 c. A specific description of the property for which a
619 refund is sought, including its serial number or other permanent
620 identification number.

621 d. The location of the property.

622 e. The sales invoice or other proof of purchase of the
623 property, showing the amount of sales tax paid, the date of
624 purchase, and the name and address of the sales tax dealer from
625 whom the property was purchased.

626 f. Whether the business is a small business as defined in
627 ~~by~~ s. 288.703~~(1)~~.

628 g. If applicable, the name and address of each permanent
629 employee of the business, including, for each employee who is a
630 resident of an enterprise zone, the identifying number assigned
631 pursuant to s. 290.0065 to the enterprise zone in which the
632 employee resides.

633 3. Within 10 working days after receipt of an application,
634 the governing body or enterprise zone development agency shall
635 review the application to determine if it contains all the
636 information required pursuant to subparagraph 2. and meets the
637 criteria set out in this paragraph. The governing body or agency
638 shall certify all applications that contain the information
639 required pursuant to subparagraph 2. and meet the criteria set
640 out in this paragraph as eligible to receive a refund. If
641 applicable, the governing body or agency shall also certify if
642 20 percent of the employees of the business are residents of an
643 enterprise zone, excluding temporary and part-time employees.

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644 The certification shall be in writing, and a copy of the
645 certification shall be transmitted to the executive director of
646 the Department of Revenue. The business shall be responsible for
647 forwarding a certified application to the department within the
648 time specified in subparagraph 4.

649 4. An application for a refund pursuant to this paragraph
650 must be submitted to the department within 6 months after the
651 tax is due on the business property that is purchased.

652 5. The amount refunded on purchases of business property
653 under this paragraph shall be the lesser of 97 percent of the
654 sales tax paid on such business property or \$5,000, or, if no
655 less than 20 percent of the employees of the business are
656 residents of an enterprise zone, excluding temporary and part-
657 time employees, the amount refunded on purchases of business
658 property under this paragraph shall be the lesser of 97 percent
659 of the sales tax paid on such business property or \$10,000. A
660 refund approved pursuant to this paragraph shall be made within
661 30 days of formal approval by the department of the application
662 for the refund. No refund shall be granted under this paragraph
663 unless the amount to be refunded exceeds \$100 in sales tax paid
664 on purchases made within a 60-day time period.

665 6. The department shall adopt rules governing the manner
666 and form of refund applications and may establish guidelines as
667 to the requisites for an affirmative showing of qualification
668 for exemption under this paragraph.

669 7. If the department determines that the business property
670 is used outside an enterprise zone within 3 years from the date
671 of purchase, the amount of taxes refunded to the business

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672 purchasing such business property shall immediately be due and
 673 payable to the department by the business, together with the
 674 appropriate interest and penalty, computed from the date of
 675 purchase, in the manner provided by this chapter.

676 Notwithstanding this subparagraph, business property used
 677 exclusively in:

- 678 a. Licensed commercial fishing vessels,
- 679 b. Fishing guide boats, or
- 680 c. Ecotourism guide boats

681
 682 that leave and return to a fixed location within an area
 683 designated under s. 379.2353 are eligible for the exemption
 684 provided under this paragraph if all requirements of this
 685 paragraph are met. Such vessels and boats must be owned by a
 686 business that is eligible to receive the exemption provided
 687 under this paragraph. This exemption does not apply to the
 688 purchase of a vessel or boat.

689 8. The department shall deduct an amount equal to 10
 690 percent of each refund granted under the provisions of this
 691 paragraph from the amount transferred into the Local Government
 692 Half-cent Sales Tax Clearing Trust Fund pursuant to s. 212.20
 693 for the county area in which the business property is located
 694 and shall transfer that amount to the General Revenue Fund.

695 9. For the purposes of this exemption, "business property"
 696 means new or used property defined as "recovery property" in s.
 697 168(c) of the Internal Revenue Code of 1954, as amended, except:

- 698 a. Property classified as 3-year property under s.
- 699 168(c)(2)(A) of the Internal Revenue Code of 1954, as amended;

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700 b. Industrial machinery and equipment as defined in sub-
701 subparagraph (b)6.a. and eligible for exemption under paragraph
702 (b);

703 c. Building materials as defined in sub-subparagraph
704 (g)8.a.; and

705 d. Business property having a sales price of under \$5,000
706 per unit.

707 10. This paragraph expires on the date specified in s.
708 290.016 for the expiration of the Florida Enterprise Zone Act.

709 (15) ELECTRICAL ENERGY USED IN AN ENTERPRISE ZONE.—

710 (b) To receive this exemption, a business must file an
711 application, with the enterprise zone development agency having
712 jurisdiction over the enterprise zone where the business is
713 located, on a form provided by the department for the purposes
714 of this subsection and s. 166.231(8). The application shall be
715 made under oath and shall include:

716 1. The name and location of the business.

717 2. The identifying number assigned pursuant to s. 290.0065
718 to the enterprise zone in which the business is located.

719 3. The date on which electrical service is to be first
720 initiated to the business.

721 4. The name and mailing address of the entity from which
722 electrical energy is to be purchased.

723 5. The date of the application.

724 6. The name of the city in which the business is located.

725 7. If applicable, the name and address of each permanent
726 employee of the business including, for each employee who is a
727 resident of an enterprise zone, the identifying number assigned

728 | pursuant to s. 290.0065 to the enterprise zone in which the
 729 | employee resides.

730 | 8. Whether the business is a small business as defined in
 731 | ~~by~~ s. 288.703(1).

732 | Section 7. Paragraph (g) of subsection (3) of section
 733 | 212.096, Florida Statutes, is amended to read:

734 | 212.096 Sales, rental, storage, use tax; enterprise zone
 735 | jobs credit against sales tax.—

736 | (3) In order to claim this credit, an eligible business
 737 | must file under oath with the governing body or enterprise zone
 738 | development agency having jurisdiction over the enterprise zone
 739 | where the business is located, as applicable, a statement which
 740 | includes:

741 | (g) Whether the business is a small business as defined in
 742 | ~~by~~ s. 288.703(1).

743 | Section 8. Paragraph (g) of subsection (2) of section
 744 | 220.181, Florida Statutes, is amended to read:

745 | 220.181 Enterprise zone jobs credit.—

746 | (2) When filing for an enterprise zone jobs credit, a
 747 | business must file under oath with the governing body or
 748 | enterprise zone development agency having jurisdiction over the
 749 | enterprise zone where the business is located, as applicable, a
 750 | statement which includes:

751 | (g) Whether the business is a small business as defined in
 752 | ~~by~~ s. 288.703(1).

753 | Section 9. Subsection (13) of section 220.182, Florida
 754 | Statutes, is amended to read:

755 | 220.182 Enterprise zone property tax credit.—

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756 (13) When filing for an enterprise zone property tax
 757 credit, a business shall indicate whether the business is a
 758 small business as defined in ~~by~~ s. 288.703~~(1)~~.

759 Section 10. Subsection (1) of section 283.33, Florida
 760 Statutes, is amended to read:

761 283.33 Printing of publications; lowest bidder awards.—

762 (1) Publications may be printed and prepared in-house, by
 763 another agency or the Legislature, or purchased on bid,
 764 whichever is more economical and practicable as determined by
 765 the agency. An agency may contract for binding separately when
 766 more economical or practicable, whether or not the remainder of
 767 the printing is done in-house. A vendor may subcontract for
 768 binding and still be considered a responsible vendor,
 769 notwithstanding s. 287.012 (25) ~~(24)~~.

770 Section 11. Subsection (2) of section 287.0931, Florida
 771 Statutes, is amended to read:

772 287.0931 Minority business enterprises; participation in
 773 bond underwriting.—

774 (2) To meet such participation requirement, the minority
 775 firm must have full-time employees located in this state, must
 776 have a permanent place of business located in this state, and
 777 must be a firm which is at least 51-percent-owned by minority
 778 persons as defined in s. 288.703~~(3)~~. However, for the purpose of
 779 bond underwriting only, the requirement that the minority person
 780 be a permanent resident of this state shall not apply.

781 Section 12. Paragraph (e) of subsection (2) of section
 782 287.0943, Florida Statutes, is amended to read:

783 287.0943 Certification of minority business enterprises.—

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784 (2)

785 (e) In assessing the status of ownership and control,
786 certification criteria shall, at a minimum:

787 1. Link ownership by a minority person, as defined in s.
788 288.703~~(3)~~, or as dictated by the legal obligations of a
789 certifying organization, to day-to-day control and financial
790 risk by the qualifying minority owner, and to demonstrated
791 expertise or licensure of a minority owner in any trade or
792 profession that the minority business enterprise will offer to
793 the state when certified. Businesses must comply with all state
794 licensing requirements prior to becoming certified as a minority
795 business enterprise.

796 2. If present ownership was obtained by transfer, require
797 the minority person on whom eligibility is based to have owned
798 at least 51 percent of the applicant firm for a minimum of 2
799 years, when any previous majority ownership interest in the firm
800 was by a nonminority who is or was a relative, former employer,
801 or current employer of the minority person on whom eligibility
802 is based. This requirement shall not apply to minority persons
803 who are otherwise eligible who take a 51-percent-or-greater
804 interest in a firm that requires professional licensure to
805 operate and who will be the qualifying licenseholder for the
806 firm when certified. A transfer made within a related immediate
807 family group from a nonminority person to a minority person in
808 order to establish ownership by a minority person shall be
809 deemed to have been made solely for purposes of satisfying
810 certification criteria and shall render such ownership invalid
811 for purposes of qualifying for such certification if the

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812 combined total net asset value of all members of such family
 813 group exceeds \$1 million. For purposes of this subparagraph, the
 814 term "related immediate family group" means one or more children
 815 under 16 years of age and a parent of such children or the
 816 spouse of such parent residing in the same house or living unit.

817 3. Require that prospective certified minority business
 818 enterprises be currently performing or seeking to perform a
 819 useful business function. A "useful business function" is
 820 defined as a business function which results in the provision of
 821 materials, supplies, equipment, or services to customers. Acting
 822 as a conduit to transfer funds to a nonminority business does
 823 not constitute a useful business function unless it is done so
 824 in a normal industry practice. As used in this section, the term
 825 "acting as a conduit" means, in part, not acting as a regular
 826 dealer by making sales of material, goods, or supplies from
 827 items bought, kept in stock, and regularly sold to the public in
 828 the usual course of business. Brokers, manufacturer's
 829 representatives, sales representatives, and nonstocking
 830 distributors are considered as conduits that do not perform a
 831 useful business function, unless normal industry practice
 832 dictates.

833 Section 13. Paragraph (n) of subsection (4) of section
 834 287.09451, Florida Statutes, is amended to read:

835 287.09451 Office of Supplier Diversity; powers, duties,
 836 and functions.—

837 (4) The Office of Supplier Diversity shall have the
 838 following powers, duties, and functions:

839 (n)1. To develop procedures to be used by an agency in

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840 identifying commodities, contractual services, architectural and
841 engineering services, and construction contracts, except those
842 architectural, engineering, construction, or other related
843 services or contracts subject to the provisions of chapter 339,
844 that could be provided by minority business enterprises. Each
845 agency is encouraged to spend 21 percent of the moneys actually
846 expended for construction contracts, 25 percent of the moneys
847 actually expended for architectural and engineering contracts,
848 24 percent of the moneys actually expended for commodities, and
849 50.5 percent of the moneys actually expended for contractual
850 services during the previous fiscal year, except for the state
851 university construction program which shall be based upon public
852 education capital outlay projections for the subsequent fiscal
853 year, and reported to the Legislature pursuant to s. 216.023,
854 for the purpose of entering into contracts with certified
855 minority business enterprises as defined in s. 288.703~~(2)~~, or
856 approved joint ventures. However, in the event of budget
857 reductions pursuant to s. 216.221, the base amounts may be
858 adjusted to reflect such reductions. The overall spending goal
859 for each industry category shall be subdivided as follows:

860 a. For construction contracts: 4 percent for black
861 Americans, 6 percent for Hispanic-Americans, and 11 percent for
862 American women.

863 b. For architectural and engineering contracts: 9 percent
864 for Hispanic-Americans, 1 percent for Asian-Americans, and 15
865 percent for American women.

866 c. For commodities: 2 percent for black Americans, 4
867 percent for Hispanic-Americans, 0.5 percent for Asian-Americans,

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868 0.5 percent for Native Americans, and 17 percent for American
869 women.

870 d. For contractual services: 6 percent for black
871 Americans, 7 percent for Hispanic-Americans, 1 percent for
872 Asian-Americans, 0.5 percent for Native Americans, and 36
873 percent for American women.

874 2. For the purposes of commodities contracts for the
875 purchase of equipment to be used in the construction and
876 maintenance of state transportation facilities involving the
877 Department of Transportation, "minority business enterprise" has
878 the same meaning as provided in s. 288.703. "Minority person"
879 has the same meaning as in s. 288.703~~(3)~~. In order to ensure
880 that the goals established under this paragraph for contracting
881 with certified minority business enterprises are met, the
882 department, with the assistance of the Office of Supplier
883 Diversity, shall make recommendations to the Legislature on
884 revisions to the goals, based on an updated statistical
885 analysis, at least once every 5 years. Such recommendations
886 shall be based on statistical data indicating the availability
887 of and disparity in the use of minority businesses contracting
888 with the state. The results of the first updated disparity study
889 must be presented to the Legislature no later than December 1,
890 1996.

891 3. In determining the base amounts for assessing
892 compliance with this paragraph, the Office of Supplier Diversity
893 may develop, by rule, guidelines for all agencies to use in
894 establishing such base amounts. These rules must include, but
895 are not limited to, guidelines for calculation of base amounts,

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896 a deadline for the agencies to submit base amounts, a deadline
897 for approval of the base amounts by the Office of Supplier
898 Diversity, and procedures for adjusting the base amounts as a
899 result of budget reductions made pursuant to s. 216.221.

900 4. To determine guidelines for the use of price
901 preferences, weighted preference formulas, or other preferences,
902 as appropriate to the particular industry or trade, to increase
903 the participation of minority businesses in state contracting.
904 These guidelines shall include consideration of:

905 a. Size and complexity of the project.

906 b. The concentration of transactions with minority
907 business enterprises for the commodity or contractual services
908 in question in prior agency contracting.

909 c. The specificity and definition of work allocated to
910 participating minority business enterprises.

911 d. The capacity of participating minority business
912 enterprises to complete the tasks identified in the project.

913 e. The available pool of minority business enterprises as
914 prime contractors, either alone or as partners in an approved
915 joint venture that serves as the prime contractor.

916 5. To determine guidelines for use of joint ventures to
917 meet minority business enterprises spending goals. For purposes
918 of this section, "joint venture" means any association of two or
919 more business concerns to carry out a single business enterprise
920 for profit, for which purpose they combine their property,
921 capital, efforts, skills, and knowledge. The guidelines shall
922 allow transactions with joint ventures to be eligible for credit
923 against the minority business enterprise goals of an agency when

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924 the contracting joint venture demonstrates that at least one
 925 partner to the joint venture is a certified minority business
 926 enterprise as defined in s. 288.703, and that such partner is
 927 responsible for a clearly defined portion of the work to be
 928 performed, and shares in the ownership, control, management,
 929 responsibilities, risks, and profits of the joint venture. Such
 930 demonstration shall be by verifiable documents and sworn
 931 statements and may be reviewed by the Office of Supplier
 932 Diversity at or before the time a contract bid, proposal, or
 933 reply is submitted. An agency may count toward its minority
 934 business enterprise goals a portion of the total dollar amount
 935 of a contract equal to the percentage of the ownership and
 936 control held by the qualifying certified minority business
 937 partners in the contracting joint venture, so long as the joint
 938 venture meets the guidelines adopted by the office.

939 Section 14. Subsection (1) of section 287.0947, Florida
 940 Statutes, is amended to read:

941 287.0947 Florida Advisory Council on Small and Minority
 942 Business Development; creation; membership; duties.—

943 (1) ~~On or after October 1, 1996,~~ The Secretary of
 944 Management Services ~~the Department of Labor and Employment~~
 945 ~~Security~~ may create the Florida Advisory Council on Small and
 946 Minority Business Development with the purpose of advising and
 947 assisting the secretary in carrying out the secretary's duties
 948 with respect to minority businesses and economic and business
 949 development. It is the intent of the Legislature that the
 950 membership of such council include practitioners, laypersons,
 951 financiers, and others with business development experience who

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952 | can provide invaluable insight and expertise for this state in
953 | the diversification of its markets and networking of business
954 | opportunities. The council shall initially consist of 19
955 | persons, each of whom is or has been actively engaged in small
956 | and minority business development, either in private industry,
957 | in governmental service, or as a scholar of recognized
958 | achievement in the study of such matters. Initially, the council
959 | shall consist of members representing all regions of the state
960 | and shall include at least one member from each group identified
961 | within the definition of "minority person" in s. 288.703~~(3)~~,
962 | considering also gender and nationality subgroups, and shall
963 | consist of the following:

964 | (a) Four members consisting of representatives of local
965 | and federal small and minority business assistance programs or
966 | community development programs.

967 | (b) Eight members composed of representatives of the
968 | minority private business sector, including certified minority
969 | business enterprises and minority supplier development councils,
970 | among whom at least two shall be women and at least four shall
971 | be minority persons.

972 | (c) Two representatives of local government, one of whom
973 | shall be a representative of a large local government, and one
974 | of whom shall be a representative of a small local government.

975 | (d) Two representatives from the banking and insurance
976 | industry.

977 | (e) Two members from the private business sector,
978 | representing the construction and commodities industries.

979 | (f) The chairperson of the Florida Black Business

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980 Investment Board or the chairperson's designee.

981
 982 A candidate for appointment may be considered if eligible to be
 983 certified as an owner of a minority business enterprise, or if
 984 otherwise qualified under the criteria above. Vacancies may be
 985 filled by appointment of the secretary, in the manner of the
 986 original appointment.

987 Section 15. Paragraph (d) of subsection (3) of section
 988 310.0015, Florida Statutes, is amended to read:

989 310.0015 Piloting regulation; general provisions.—

990 (3) The rate-setting process, the issuance of licenses
 991 only in numbers deemed necessary or prudent by the board, and
 992 other aspects of the economic regulation of piloting established
 993 in this chapter are intended to protect the public from the
 994 adverse effects of unrestricted competition which would result
 995 from an unlimited number of licensed pilots being allowed to
 996 market their services on the basis of lower prices rather than
 997 safety concerns. This system of regulation benefits and protects
 998 the public interest by maximizing safety, avoiding uneconomic
 999 duplication of capital expenses and facilities, and enhancing
 1000 state regulatory oversight. The system seeks to provide pilots
 1001 with reasonable revenues, taking into consideration the normal
 1002 uncertainties of vessel traffic and port usage, sufficient to
 1003 maintain reliable, stable piloting operations. Pilots have
 1004 certain restrictions and obligations under this system,
 1005 including, but not limited to, the following:

1006 (d)1. The pilot or pilots in a port shall train and
 1007 compensate all member deputy pilots in that port. Failure to

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1008 | train or compensate such deputy pilots shall constitute a ground
 1009 | for disciplinary action under s. 310.101. Nothing in this
 1010 | subsection shall be deemed to create an agency or employment
 1011 | relationship between a pilot or deputy pilot and the pilot or
 1012 | pilots in a port.

1013 | 2. The pilot or pilots in a port shall establish a
 1014 | competency-based mentor program by which minority persons, as
 1015 | defined in s. 288.703~~(3)~~, may acquire the skills for the
 1016 | professional preparation and education competency requirements
 1017 | of a licensed state pilot or certificated deputy pilot. The
 1018 | department shall provide the Governor, the President of the
 1019 | Senate, and the Speaker of the House of Representatives with a
 1020 | report each year on the number of minority persons, as defined
 1021 | in s. 288.703~~(3)~~, who have participated in each mentor program,
 1022 | who are licensed state pilots or certificated deputy pilots, and
 1023 | who have applied for state pilot licensure or deputy pilot
 1024 | certification.

1025 | Section 16. Subsection (3) of section 320.63, Florida
 1026 | Statutes, is amended to read:

1027 | 320.63 Application for license; contents.—Any person
 1028 | desiring to be licensed pursuant to ss. 320.60–320.70 shall make
 1029 | application therefor to the department upon a form containing
 1030 | such information as the department requires. The department
 1031 | shall require, with such application or otherwise and from time
 1032 | to time, all of the following, which information may be
 1033 | considered by the department in determining the fitness of the
 1034 | applicant or licensee to engage in the business for which the
 1035 | applicant or licensee desires to be licensed:

1036 (3) From each manufacturer, distributor, or importer which
 1037 utilizes an identical blanket basic agreement for its dealers or
 1038 distributors in this state, which agreement comprises all or any
 1039 part of the applicant's or licensee's agreements with motor
 1040 vehicle dealers in this state, a copy of the written agreement
 1041 and all supplements thereto, together with a list of the
 1042 applicant's or licensee's authorized dealers or distributors and
 1043 their addresses. The applicant or licensee shall further notify
 1044 the department immediately of the appointment of any additional
 1045 dealer or distributor. The applicant or licensee shall annually
 1046 report to the department on its efforts to add new minority
 1047 dealer points, including difficulties encountered under ss.
 1048 320.61-320.70. For purposes of this section "minority" shall
 1049 have the same meaning as that given it in the definition of
 1050 "minority person" in s. 288.703~~(3)~~. Not later than 60 days prior
 1051 to the date a revision or modification to a franchise agreement
 1052 is offered uniformly to a licensee's motor vehicle dealers in
 1053 this state, the licensee shall notify the department of such
 1054 revision, modification, or addition to the franchise agreement
 1055 on file with the department. In no event may a franchise
 1056 agreement, or any addendum or supplement thereto, be offered to
 1057 a motor vehicle dealer in this state until the applicant or
 1058 licensee files an affidavit with the department acknowledging
 1059 that the terms or provisions of the agreement, or any related
 1060 document, are not inconsistent with, prohibited by, or contrary
 1061 to the provisions contained in ss. 320.60-320.70. Any franchise
 1062 agreement offered to a motor vehicle dealer in this state shall
 1063 provide that all terms and conditions in such agreement

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1064 inconsistent with the law and rules of this state are of no
 1065 force and effect.

1066 Section 17. Paragraph (a) of subsection (2) of section
 1067 376.3072, Florida Statutes, is amended to read:

1068 376.3072 Florida Petroleum Liability and Restoration
 1069 Insurance Program.—

1070 (2) (a) Any owner or operator of a petroleum storage system
 1071 may become an insured in the restoration insurance program at a
 1072 facility provided:

1073 1. A site at which an incident has occurred shall be
 1074 eligible for restoration if the insured is a participant in the
 1075 third-party liability insurance program or otherwise meets
 1076 applicable financial responsibility requirements. After July 1,
 1077 1993, the insured must also provide the required excess
 1078 insurance coverage or self-insurance for restoration to achieve
 1079 the financial responsibility requirements of 40 C.F.R. s.
 1080 280.97, subpart H, not covered by paragraph (d).

1081 2. A site which had a discharge reported prior to January
 1082 1, 1989, for which notice was given pursuant to s. 376.3071(9)
 1083 or (12), and which is ineligible for the third-party liability
 1084 insurance program solely due to that discharge shall be eligible
 1085 for participation in the restoration program for any incident
 1086 occurring on or after January 1, 1989, in accordance with
 1087 subsection (3). Restoration funding for an eligible contaminated
 1088 site will be provided without participation in the third-party
 1089 liability insurance program until the site is restored as
 1090 required by the department or until the department determines
 1091 that the site does not require restoration.

1092 3. Notwithstanding paragraph (b), a site where an
 1093 application is filed with the department prior to January 1,
 1094 1995, where the owner is a small business under s. 288.703~~(1)~~, a
 1095 state community college with less than 2,500 FTE, a religious
 1096 institution as defined in ~~by~~ s. 212.08(7)(m), a charitable
 1097 institution as defined in ~~by~~ s. 212.08(7)(p), or a county or
 1098 municipality with a population of less than 50,000, shall be
 1099 eligible for up to \$400,000 of eligible restoration costs, less
 1100 a deductible of \$10,000 for small businesses, eligible community
 1101 colleges, and religious or charitable institutions, and \$30,000
 1102 for eligible counties and municipalities, provided that:

1103 a. Except as provided in sub-subparagraph e., the facility
 1104 was in compliance with department rules at the time of the
 1105 discharge.

1106 b. The owner or operator has, upon discovery of a
 1107 discharge, promptly reported the discharge to the department,
 1108 and drained and removed the system from service, if necessary.

1109 c. The owner or operator has not intentionally caused or
 1110 concealed a discharge or disabled leak detection equipment.

1111 d. The owner or operator proceeds to complete initial
 1112 remedial action as defined by department rules.

1113 e. The owner or operator, if required and if it has not
 1114 already done so, applies for third-party liability coverage for
 1115 the facility within 30 days of receipt of an eligibility order
 1116 issued by the department pursuant to this provision.

1117
 1118 However, the department may consider in-kind services from
 1119 eligible counties and municipalities in lieu of the \$30,000

1120 deductible. The cost of conducting initial remedial action as
 1121 defined by department rules shall be an eligible restoration
 1122 cost pursuant to this provision.

1123 4.a. By January 1, 1997, facilities at sites with existing
 1124 contamination shall be required to have methods of release
 1125 detection to be eligible for restoration insurance coverage for
 1126 new discharges subject to department rules for secondary
 1127 containment. Annual storage system testing, in conjunction with
 1128 inventory control, shall be considered to be a method of release
 1129 detection until the later of December 22, 1998, or 10 years
 1130 after the date of installation or the last upgrade. Other
 1131 methods of release detection for storage tanks which meet such
 1132 requirement are:

1133 (I) Interstitial monitoring of tank and integral piping
 1134 secondary containment systems;

1135 (II) Automatic tank gauging systems; or

1136 (III) A statistical inventory reconciliation system with a
 1137 tank test every 3 years.

1138 b. For pressurized integral piping systems, the owner or
 1139 operator must use:

1140 (I) An automatic in-line leak detector with flow
 1141 restriction meeting the requirements of department rules used in
 1142 conjunction with an annual tightness or pressure test; or

1143 (II) An automatic in-line leak detector with electronic
 1144 flow shut-off meeting the requirements of department rules.

1145 c. For suction integral piping systems, the owner or
 1146 operator must use:

1147 (I) A single check valve installed directly below the

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1148 suction pump, provided there are no other valves between the
 1149 dispenser and the tank; or

1150 (II) An annual tightness test or other approved test.

1151 d. Owners of facilities with existing contamination that
 1152 install internal release detection systems in accordance with
 1153 sub-subparagraph a. shall permanently close their external
 1154 groundwater and vapor monitoring wells in accordance with
 1155 department rules by December 31, 1998. Upon installation of the
 1156 internal release detection system, these wells shall be secured
 1157 and taken out of service until permanent closure.

1158 e. Facilities with vapor levels of contamination meeting
 1159 the requirements of or below the concentrations specified in the
 1160 performance standards for release detection methods specified in
 1161 department rules may continue to use vapor monitoring wells for
 1162 release detection.

1163 f. The department may approve other methods of release
 1164 detection for storage tanks and integral piping which have at
 1165 least the same capability to detect a new release as the methods
 1166 specified in this subparagraph.

1167 Section 18. Section 376.60, Florida Statutes, is amended
 1168 to read:

1169 376.60 Asbestos removal program inspection and
 1170 notification fee.—The Department of Environmental Protection
 1171 shall charge an inspection and notification fee, not to exceed
 1172 \$300 for a small business as defined in s. 288.703(1), or \$1,000
 1173 for any other project, for any asbestos removal project. The
 1174 department may establish a fee schedule by rule. Schools,
 1175 colleges, universities, residential dwellings, and those persons

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1176 otherwise exempted from licensure under s. 469.002(4) are exempt
 1177 from the fees. Any fee collected must be deposited in the
 1178 asbestos program account in the Air Pollution Control Trust Fund
 1179 to be used by the department to administer its asbestos removal
 1180 program.

1181 (1) In those counties with approved local air pollution
 1182 control programs, the department shall return 80 percent of the
 1183 asbestos removal program inspection and notification fees
 1184 collected in that county to the local government quarterly, if
 1185 the county requests it.

1186 (2) The fees returned to a county under subsection (1)
 1187 must be used only for asbestos-related program activities.

1188 (3) A county may not levy any additional fees for asbestos
 1189 removal activity while it receives fees under subsection (1).

1190 (4) If a county has requested reimbursement under
 1191 subsection (1), the department shall reimburse the approved
 1192 local air pollution control program with 80 percent of the fees
 1193 collected in the county retroactive to July 1, 1994, for
 1194 asbestos-related program activities.

1195 (5) If an approved local air pollution control program
 1196 that is providing asbestos notification and inspection services
 1197 according to 40 C.F.R. part 61, subpart M, and is collecting
 1198 fees sufficient to support the requirements of 40 C.F.R. part
 1199 61, subpart M, opts not to receive the state-generated asbestos
 1200 notification fees, the state may discontinue collection of the
 1201 state asbestos notification fees in that county.

1202 Section 19. Paragraph (b) of subsection (2) of section
 1203 440.45, Florida Statutes, is amended to read:

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1204 440.45 Office of the Judges of Compensation Claims.—

1205 (2)

1206 (b) Except as provided in paragraph (c), the Governor
 1207 shall appoint a judge of compensation claims from a list of
 1208 three persons nominated by a statewide nominating commission.
 1209 The statewide nominating commission shall be composed of the
 1210 following:

1211 1. Five members, at least one of whom must be a member of
 1212 a minority group as defined in s. 288.703~~(3)~~, one of each who
 1213 resides in each of the territorial jurisdictions of the district
 1214 courts of appeal, appointed by the Board of Governors of The
 1215 Florida Bar from among The Florida Bar members who are engaged
 1216 in the practice of law. On July 1, 1999, the term of office of
 1217 each person appointed by the Board of Governors of The Florida
 1218 Bar to the commission expires. The Board of Governors shall
 1219 appoint members who reside in the odd-numbered district court of
 1220 appeal jurisdictions to 4-year terms each, beginning July 1,
 1221 1999, and members who reside in the even-numbered district court
 1222 of appeal jurisdictions to 2-year terms each, beginning July 1,
 1223 1999. Thereafter, each member shall be appointed for a 4-year
 1224 term;

1225 2. Five electors, at least one of whom must be a member of
 1226 a minority group as defined in s. 288.703~~(3)~~, one of each who
 1227 resides in each of the territorial jurisdictions of the district
 1228 courts of appeal, appointed by the Governor. On July 1, 1999,
 1229 the term of office of each person appointed by the Governor to
 1230 the commission expires. The Governor shall appoint members who
 1231 reside in the odd-numbered district court of appeal

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1232 jurisdictions to 2-year terms each, beginning July 1, 1999, and
 1233 members who reside in the even-numbered district court of appeal
 1234 jurisdictions to 4-year terms each, beginning July 1, 1999.
 1235 Thereafter, each member shall be appointed for a 4-year term;
 1236 and

1237 3. Five electors, at least one of whom must be a member of
 1238 a minority group as defined in s. 288.703~~(3)~~, one of each who
 1239 resides in the territorial jurisdictions of the district courts
 1240 of appeal, selected and appointed by a majority vote of the
 1241 other 10 members of the commission. On October 1, 1999, the term
 1242 of office of each person appointed to the commission by its
 1243 other members expires. A majority of the other members of the
 1244 commission shall appoint members who reside in the odd-numbered
 1245 district court of appeal jurisdictions to 2-year terms each,
 1246 beginning October 1, 1999, and members who reside in the even-
 1247 numbered district court of appeal jurisdictions to 4-year terms
 1248 each, beginning October 1, 1999. Thereafter, each member shall
 1249 be appointed for a 4-year term.

1250
 1251 A vacancy occurring on the commission shall be filled by the
 1252 original appointing authority for the unexpired balance of the
 1253 term. No attorney who appears before any judge of compensation
 1254 claims more than four times a year is eligible to serve on the
 1255 statewide nominating commission. The meetings and determinations
 1256 of the nominating commission as to the judges of compensation
 1257 claims shall be open to the public.

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1258 Section 20. Subsection (1), paragraph (a) of subsection
 1259 (3), and subsection (6) of section 473.3065, Florida Statutes,
 1260 are amended to read:

1261 473.3065 Certified Public Accountant Education Minority
 1262 Assistance Program; advisory council.—

1263 (1) The Certified Public Accountant Education Minority
 1264 Assistance Program for Florida residents is hereby established
 1265 in the division for the purpose of providing scholarships to
 1266 minority persons, as defined in s. 288.703~~(3)~~, who are students
 1267 enrolled in their fifth year of an accounting education program
 1268 at an institution in this state approved by the board by rule. A
 1269 Certified Public Accountant Education Minority Assistance
 1270 Advisory Council shall assist the board in administering the
 1271 program.

1272 (3) The board shall adopt rules as necessary for
 1273 administration of the program, including rules relating to the
 1274 following:

1275 (a) Eligibility criteria for receipt of a scholarship,
 1276 which, at a minimum, shall include the following factors:

- 1277 1. Financial need.
- 1278 2. Ethnic, gender, or racial minority status pursuant to
 1279 s. 288.703~~(3)~~.
- 1280 3. Scholastic ability and performance.

1281 (6) There is hereby created the Certified Public
 1282 Accountant Education Minority Assistance Advisory Council to
 1283 assist the board in administering the program. The council shall
 1284 be diverse and representative of the gender, ethnic, and racial
 1285 categories set forth in s. 288.703~~(3)~~.

1286 (a) The council shall consist of five licensed Florida-
 1287 certified public accountants selected by the board, of whom one
 1288 shall be a board member who serves as chair of the council, one
 1289 shall be a representative of the National Association of Black
 1290 Accountants, one shall be a representative of the Cuban American
 1291 CPA Association, and two shall be selected at large. At least
 1292 one member of the council must be a woman.

1293 (b) The board shall determine the terms for initial
 1294 appointments and appointments thereafter.

1295 (c) Any vacancy on the council shall be filled in the
 1296 manner provided for the selection of the initial member. Any
 1297 member appointed to fill a vacancy of an unexpired term shall be
 1298 appointed for the remainder of that term.

1299 (d) Three consecutive absences or absences constituting 50
 1300 percent or more of the council's meetings within any 12-month
 1301 period shall cause the council membership of the member in
 1302 question to become void, and the position shall be considered
 1303 vacant.

1304 (e) The members of the council shall serve without
 1305 compensation, and any necessary and actual expenses incurred by
 1306 a member while engaged in the business of the council shall be
 1307 borne by such member or by the organization or agency such
 1308 member represents. However, the council member who is a member
 1309 of the board shall be compensated in accordance with the
 1310 provisions of ss. 455.207(4) and 112.061.

1311 Section 21. Subsections (1) and (3) of section 624.4072,
 1312 Florida Statutes, are amended to read:

1313 624.4072 Minority-owned property and casualty insurers;

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1314 limited exemption for taxation and assessments.-

1315 (1) A minority business that is at least 51 percent owned
 1316 by minority persons, as defined in s. 288.703~~(3)~~, initially
 1317 issued a certificate of authority in this state as an authorized
 1318 insurer after May 1, 1998, and before January 1, 2002, to write
 1319 property and casualty insurance shall be exempt, for a period
 1320 not to exceed 10 years from the date of receiving its
 1321 certificate of authority, from the following taxes and
 1322 assessments:

1323 (a) Taxes imposed under ss. 175.101, 185.08, and 624.509;

1324 (b) Assessments by the Citizens Property Insurance
 1325 Corporation, except for emergency assessments collected from
 1326 policyholders pursuant to s. 627.351(6)(b)3.d. Any such insurer
 1327 shall be a member insurer of the Citizens Property Insurance
 1328 Corporation. The premiums of such insurer shall be included in
 1329 determining, for the Citizens Property Insurance Corporation,
 1330 the aggregate statewide direct written premium for the subject
 1331 lines of business for all member insurers.

1332 (3) The provision of the definition of "minority person"
 1333 in s. 288.703~~(3)~~ that requires residency in Florida shall not
 1334 apply to the term "minority person" as used in this section or
 1335 s. 627.3511.

1336 Section 22. Subsection (7) of section 627.3511, Florida
 1337 Statutes, is amended to read:

1338 627.3511 Depopulation of Citizens Property Insurance
 1339 Corporation.-

1340 (7) A minority business, which is at least 51 percent
 1341 owned by minority persons as described in s. 288.703~~(3)~~,

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1342 | desiring to operate or become licensed as a property and
 1343 | casualty insurer may exempt up to \$50 of the escrow requirements
 1344 | of the take-out bonus, as described in this section. Such
 1345 | minority business, which has applied for a certificate of
 1346 | authority to engage in business as a property and casualty
 1347 | insurer, may simultaneously file the business' proposed take-out
 1348 | plan, as described in this section, with the corporation.

1349 | Section 23. Subsection (1) of section 641.217, Florida
 1350 | Statutes, is amended to read:

1351 | 641.217 Minority recruitment and retention plans
 1352 | required.—

1353 | (1) Any entity contracting with the Agency for Health Care
 1354 | Administration to provide health care services to Medicaid
 1355 | recipients or state employees on a prepaid or fixed-sum basis
 1356 | must submit to the Agency for Health Care Administration the
 1357 | entity's plan for recruitment and retention of health care
 1358 | practitioners who are minorities as defined in s. 288.703~~(3)~~.

1359 | The plan must demonstrate an ability to recruit and retain
 1360 | minorities which shall include, but is not limited to, the
 1361 | following efforts:

1362 | (a) Establishing and maintaining contacts with various
 1363 | organizations representing the interests and concerns of
 1364 | minority constituencies to seek advice and assistance.

1365 | (b) Identifying and recruiting at colleges and
 1366 | universities which primarily serve minority students.

1367 | (c) Reviewing and analyzing the organization's workforce
 1368 | as to minority representation.

1369 | (d) Other factors identified by the Agency for Health Care

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1370 Administration by rule.

1371 Section 24. Paragraph (a) of subsection (4) of section

1372 1004.435, Florida Statutes, is amended to read:

1373 1004.435 Cancer control and research.—

1374 (4) FLORIDA CANCER CONTROL AND RESEARCH ADVISORY COUNCIL;

1375 CREATION; COMPOSITION.—

1376 (a) There is created within the H. Lee Moffitt Cancer

1377 Center and Research Institute, Inc., the Florida Cancer Control

1378 and Research Advisory Council. The council shall consist of 34

1379 members, which includes the chairperson, all of whom must be

1380 residents of this state. All members, except those appointed by

1381 the Speaker of the House of Representatives and the President of

1382 the Senate, must be appointed by the Governor. At least one of

1383 the members appointed by the Governor must be 60 years of age or

1384 older. One member must be a representative of the American

1385 Cancer Society; one member must be a representative of the

1386 Florida Tumor Registrars Association; one member must be a

1387 representative of the Sylvester Comprehensive Cancer Center of

1388 the University of Miami; one member must be a representative of

1389 the Department of Health; one member must be a representative of

1390 the University of Florida Shands Cancer Center; one member must

1391 be a representative of the Agency for Health Care

1392 Administration; one member must be a representative of the

1393 Florida Nurses Association; one member must be a representative

1394 of the Florida Osteopathic Medical Association; one member must

1395 be a representative of the American College of Surgeons; one

1396 member must be a representative of the School of Medicine of the

1397 University of Miami; one member must be a representative of the

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1398 College of Medicine of the University of Florida; one member
 1399 must be a representative of NOVA Southeastern College of
 1400 Osteopathic Medicine; one member must be a representative of the
 1401 College of Medicine of the University of South Florida; one
 1402 member must be a representative of the College of Public Health
 1403 of the University of South Florida; one member must be a
 1404 representative of the Florida Society of Clinical Oncology; one
 1405 member must be a representative of the Florida Obstetric and
 1406 Gynecologic Society who has had training in the specialty of
 1407 gynecologic oncology; one member must be a representative of the
 1408 Florida Medical Association; one member must be a member of the
 1409 Florida Pediatric Society; one member must be a representative
 1410 of the Florida Radiological Society; one member must be a
 1411 representative of the Florida Society of Pathologists; one
 1412 member must be a representative of the H. Lee Moffitt Cancer
 1413 Center and Research Institute, Inc.; three members must be
 1414 representatives of the general public acting as consumer
 1415 advocates; one member must be a member of the House of
 1416 Representatives appointed by the Speaker of the House of
 1417 Representatives; one member must be a member of the Senate
 1418 appointed by the President of the Senate; one member must be a
 1419 representative of the Florida Dental Association; one member
 1420 must be a representative of the Florida Hospital Association;
 1421 one member must be a representative of the Association of
 1422 Community Cancer Centers; one member shall be a representative
 1423 from a statutory teaching hospital affiliated with a community-
 1424 based cancer center; one member must be a representative of the
 1425 Florida Association of Pediatric Tumor Programs, Inc.; one

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1426 member must be a representative of the Cancer Information
 1427 Service; one member must be a representative of the Florida
 1428 Agricultural and Mechanical University Institute of Public
 1429 Health; and one member must be a representative of the Florida
 1430 Society of Oncology Social Workers. Of the members of the
 1431 council appointed by the Governor, at least 10 must be
 1432 individuals who are minority persons as defined in ~~by~~ s.
 1433 288.703~~(3)~~.

1434 Section 25. For the purpose of incorporating the amendment
 1435 made by this act to section 288.703, Florida Statutes, in a
 1436 reference thereto, paragraph (d) of subsection (2) of section
 1437 120.541, Florida Statutes, is reenacted to read:

1438 120.541 Statement of estimated regulatory costs.—

1439 (2) A statement of estimated regulatory costs shall
 1440 include:

1441 (d) An analysis of the impact on small businesses as
 1442 defined by s. 288.703, and an analysis of the impact on small
 1443 counties and small cities as defined by s. 120.52.

1444 Section 26. For the purpose of incorporating the amendment
 1445 made by this act to section 288.703, Florida Statutes, in a
 1446 reference thereto, paragraph (d) of subsection (2) of section
 1447 288.7001, Florida Statutes, is reenacted to read:

1448 288.7001 Small Business Regulatory Advisory Council.—

1449 (2) DEFINITIONS.—As used in this section, the term:

1450 (d) "Small business" means a small business as defined in
 1451 s. 288.703.

1452 Section 27. For the purpose of incorporating the amendment
 1453 made by this act to section 288.703, Florida Statutes, in a

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1454 reference thereto, section 288.7031, Florida Statutes, is
 1455 reenacted to read:

1456 288.7031 Application of certain definitions.—The
 1457 definitions of "small business," "minority business enterprise,"
 1458 and "certified minority business enterprise" provided in s.
 1459 288.703 apply to the state and all political subdivisions of the
 1460 state.

1461 Section 28. For the purpose of incorporating the amendment
 1462 made by this act to section 288.703, Florida Statutes, in a
 1463 reference thereto, subsection (7) of section 290.004, Florida
 1464 Statutes, is reenacted to read:

1465 290.004 Definitions relating to Florida Enterprise Zone
 1466 Act.—As used in ss. 290.001–290.016:

1467 (7) "Small business" has the same meaning as in s.
 1468 288.703.

1469 Section 29. This act shall take effect July 1, 2010.