

Amendment No.

CHAMBER ACTION

Senate

House

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1 The Conference Committee on CS/HB 5611 offered the following:

2
3 **Conference Committee Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5 Section 1. Subsection (1) of section 20.22, Florida

6 Statutes, is amended to read:

7 20.22 Department of Management Services.—There is created
8 a Department of Management Services.

9 (1) The head of the Department of Management Services is
10 the Governor and Cabinet, who shall appoint an executive
11 director ~~Secretary of Management Services, who shall be~~
12 ~~appointed by the Governor,~~ subject to confirmation by the
13 Senate, and who shall serve at the pleasure of the Governor and
14 Cabinet.

15 Section 2. Paragraph (b) of subsection (4) of section
16 57.111, Florida Statutes, is amended to read:

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17 57.111 Civil actions and administrative proceedings
18 initiated by state agencies; attorneys' fees and costs.—

19 (4)

20 (b)1. To apply for an award under this section, the
21 attorney for the prevailing small business party must submit an
22 itemized affidavit to the court which first conducted the
23 adversarial proceeding in the underlying action, or by
24 electronic means through the division's website to the Division
25 of Administrative Hearings, which shall assign an administrative
26 law judge, in the case of a proceeding pursuant to chapter 120,
27 which affidavit shall reveal the nature and extent of the
28 services rendered by the attorney as well as the costs incurred
29 in preparations, motions, hearings, and appeals in the
30 proceeding.

31 2. The application for an award of attorney's fees must be
32 made within 60 days after the date that the small business party
33 becomes a prevailing small business party.

34 Section 3. Paragraphs (c) and (d) of subsection (1) of
35 section 120.56, Florida Statutes, are amended to read:

36 120.56 Challenges to rules.—

37 (1) GENERAL PROCEDURES FOR CHALLENGING THE VALIDITY OF A
38 RULE OR A PROPOSED RULE.—

39 (c) The petition shall be filed by electronic means with
40 the division, which shall, immediately upon filing, forward by
41 electronic means copies to the agency whose rule is challenged,
42 the Department of State, and the committee. Within 10 days after
43 receiving the petition, the division director shall, if the
44 petition complies with the requirements of paragraph (b), assign
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45 an administrative law judge who shall conduct a hearing within
46 30 days thereafter, unless the petition is withdrawn or a
47 continuance is granted by agreement of the parties or for good
48 cause shown. Evidence of good cause includes, but is not limited
49 to, written notice of an agency's decision to modify or withdraw
50 the proposed rule or a written notice from the chair of the
51 committee stating that the committee will consider an objection
52 to the rule at its next scheduled meeting. The failure of an
53 agency to follow the applicable rulemaking procedures or
54 requirements set forth in this chapter shall be presumed to be
55 material; however, the agency may rebut this presumption by
56 showing that the substantial interests of the petitioner and the
57 fairness of the proceedings have not been impaired.

58 (d) Within 30 days after the hearing, the administrative
59 law judge shall render a decision and state the reasons therefor
60 in writing. The division shall forthwith transmit by electronic
61 means copies of the administrative law judge's decision to the
62 agency, the Department of State, and the committee.

63 Section 4. Paragraph (a) of subsection (2) of section
64 120.569, Florida Statutes, is amended to read:

65 120.569 Decisions which affect substantial interests.—

66 (2) (a) Except for any proceeding conducted as prescribed
67 in s. 120.56, a petition or request for a hearing under this
68 section shall be filed with the agency. If the agency requests
69 an administrative law judge from the division, it shall so
70 notify the division by electronic means through the division's
71 website within 15 days after receipt of the petition or request.

72 A request for a hearing shall be granted or denied within 15
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73 days after receipt. On the request of any agency, the division
74 shall assign an administrative law judge with due regard to the
75 expertise required for the particular matter. The referring
76 agency shall take no further action with respect to a proceeding
77 under s. 120.57(1), except as a party litigant, as long as the
78 division has jurisdiction over the proceeding under s.
79 120.57(1). Any party may request the disqualification of the
80 administrative law judge by filing an affidavit with the
81 division prior to the taking of evidence at a hearing, stating
82 the grounds with particularity.

83 Section 5. Paragraph (d) of subsection (3) of section
84 120.57, Florida Statutes, is amended to read:

85 120.57 Additional procedures for particular cases.—

86 (3) ADDITIONAL PROCEDURES APPLICABLE TO PROTESTS TO
87 CONTRACT SOLICITATION OR AWARD.—Agencies subject to this chapter
88 shall use the uniform rules of procedure, which provide
89 procedures for the resolution of protests arising from the
90 contract solicitation or award process. Such rules shall at
91 least provide that:

92 (d)1. The agency shall provide an opportunity to resolve
93 the protest by mutual agreement between the parties within 7
94 days, excluding Saturdays, Sundays, and state holidays, after
95 receipt of a formal written protest.

96 2. If the subject of a protest is not resolved by mutual
97 agreement within 7 days, excluding Saturdays, Sundays, and state
98 holidays, after receipt of the formal written protest, and if
99 there is no disputed issue of material fact, an informal
100 proceeding shall be conducted pursuant to subsection (2) and
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101 applicable agency rules before a person whose qualifications
102 have been prescribed by rules of the agency.

103 3. If the subject of a protest is not resolved by mutual
104 agreement within 7 days, excluding Saturdays, Sundays, and state
105 holidays, after receipt of the formal written protest, and if
106 there is a disputed issue of material fact, the agency shall
107 refer the protest to the division by electronic means through
108 the division's website for proceedings under subsection (1).

109 Section 6. Subsection (1) of section 552.40, Florida
110 Statutes, is amended to read:

111 552.40 Administrative remedy for alleged damage due to the
112 use of explosives in connection with construction materials
113 mining activities.—

114 (1) A person may initiate an administrative proceeding to
115 recover damages resulting from the use of explosives in
116 connection with construction materials mining activities by
117 filing a petition with the Division of Administrative Hearings
118 by electronic means through the division's website on a form
119 provided by it and accompanied by a filing fee of \$100 within
120 180 days after the occurrence of the alleged damage. If the
121 petitioner submits an affidavit stating that the petitioner's
122 annual income is less than 150 percent of the applicable federal
123 poverty guideline published in the Federal Register by the
124 United States Department of Health and Human Services, the \$100
125 filing fee must be waived.

126 Section 7. Paragraph (b) of subsection (4) of section
127 553.73, Florida Statutes, is amended to read:

128 553.73 Florida Building Code.—

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- 129 (4)
- 130 (b) Local governments may, subject to the limitations of
131 this section, adopt amendments to the technical provisions of
132 the Florida Building Code which apply solely within the
133 jurisdiction of such government and which provide for more
134 stringent requirements than those specified in the Florida
135 Building Code, not more than once every 6 months. A local
136 government may adopt technical amendments that address local
137 needs if:
- 138 1. The local governing body determines, following a public
139 hearing which has been advertised in a newspaper of general
140 circulation at least 10 days before the hearing, that there is a
141 need to strengthen the requirements of the Florida Building
142 Code. The determination must be based upon a review of local
143 conditions by the local governing body, which review
144 demonstrates by evidence or data that the geographical
145 jurisdiction governed by the local governing body exhibits a
146 local need to strengthen the Florida Building Code beyond the
147 needs or regional variation addressed by the Florida Building
148 Code, that the local need is addressed by the proposed local
149 amendment, and that the amendment is no more stringent than
150 necessary to address the local need.
- 151 2. Such additional requirements are not discriminatory
152 against materials, products, or construction techniques of
153 demonstrated capabilities.
- 154 3. Such additional requirements may not introduce a new
155 subject not addressed in the Florida Building Code.

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156 4. The enforcing agency shall make readily available, in a
157 usable format, all amendments adopted pursuant to this section.

158 5. Any amendment to the Florida Building Code shall be
159 transmitted within 30 days by the adopting local government to
160 the commission. The commission shall maintain copies of all such
161 amendments in a format that is usable and obtainable by the
162 public. Local technical amendments shall not become effective
163 until 30 days after the amendment has been received and
164 published by the commission.

165 6. Any amendment to the Florida Building Code adopted by a
166 local government pursuant to this paragraph shall be effective
167 only until the adoption by the commission of the new edition of
168 the Florida Building Code every third year. At such time, the
169 commission shall review such amendment for consistency with the
170 criteria in paragraph (8) (a) and adopt such amendment as part of
171 the Florida Building Code or rescind the amendment. The
172 commission shall immediately notify the respective local
173 government of the rescission of any amendment. After receiving
174 such notice, the respective local government may readopt the
175 rescinded amendment pursuant to the provisions of this
176 paragraph.

177 7. Each county and municipality desiring to make local
178 technical amendments to the Florida Building Code shall by
179 interlocal agreement establish a countywide compliance review
180 board to review any amendment to the Florida Building Code,
181 adopted by a local government within the county pursuant to this
182 paragraph, that is challenged by any substantially affected
183 party for purposes of determining the amendment's compliance

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184 with this paragraph. If challenged, the local technical
185 amendments shall not become effective until time for filing an
186 appeal pursuant to subparagraph 8. has expired or, if there is
187 an appeal, until the commission issues its final order
188 determining the adopted amendment is in compliance with this
189 subsection.

190 8. If the compliance review board determines such
191 amendment is not in compliance with this paragraph, the
192 compliance review board shall notify such local government of
193 the noncompliance and that the amendment is invalid and
194 unenforceable until the local government corrects the amendment
195 to bring it into compliance. The local government may appeal the
196 decision of the compliance review board to the commission. If
197 the compliance review board determines such amendment to be in
198 compliance with this paragraph, any substantially affected party
199 may appeal such determination to the commission. Any such appeal
200 shall be filed with the commission within 14 days of the board's
201 written determination. The commission shall promptly refer the
202 appeal to the Division of Administrative Hearings by electronic
203 means through the division's website for the assignment of an
204 administrative law judge. The administrative law judge shall
205 conduct the required hearing within 30 days, and shall enter a
206 recommended order within 30 days of the conclusion of such
207 hearing. The commission shall enter a final order within 30 days
208 thereafter. The provisions of chapter 120 and the uniform rules
209 of procedure shall apply to such proceedings. The local
210 government adopting the amendment that is subject to challenge
211 has the burden of proving that the amendment complies with this
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212 paragraph in proceedings before the compliance review board and
213 the commission, as applicable. Actions of the commission are
214 subject to judicial review pursuant to s. 120.68. The compliance
215 review board shall determine whether its decisions apply to a
216 respective local jurisdiction or apply countywide.

217 9. An amendment adopted under this paragraph shall include
218 a fiscal impact statement which documents the costs and benefits
219 of the proposed amendment. Criteria for the fiscal impact
220 statement shall include the impact to local government relative
221 to enforcement, the impact to property and building owners, as
222 well as to industry, relative to the cost of compliance. The
223 fiscal impact statement may not be used as a basis for
224 challenging the amendment for compliance.

225 10. In addition to subparagraphs 7. and 9., the commission
226 may review any amendments adopted pursuant to this subsection
227 and make nonbinding recommendations related to compliance of
228 such amendments with this subsection.

229 Section 8. Paragraph (b) of subsection (4) of section
230 961.03, Florida Statutes, is amended to read:

231 961.03 Determination of status as a wrongfully
232 incarcerated person; determination of eligibility for
233 compensation.—

234 (4)

235 (b) If the prosecuting authority responds as set forth in
236 paragraph (2) (b), and the court determines that the petitioner
237 is eligible under the provisions of s. 961.04, but the
238 prosecuting authority contests the nature, significance or
239 effect of the evidence of actual innocence, or the facts related

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240 to the petitioner's alleged wrongful incarceration, the court
241 shall set forth its findings and transfer the petition by
242 electronic means through the division's website to the division
243 for findings of fact and a recommended determination of whether
244 the petitioner has established that he or she is a wrongfully
245 incarcerated person who is eligible for compensation under this
246 act.

247 Section 9. Subsection (13) of section 110.123, Florida
248 Statutes, is repealed.

249 Section 10. Paragraph (b) of subsection (5) of section
250 120.54, Florida Statutes, is amended to read:

251 120.54 Rulemaking.—

252 (5) UNIFORM RULES.—

253 (b) The uniform rules of procedure adopted by the
254 commission pursuant to this subsection shall include, but are
255 not limited to:

256 1. Uniform rules for the scheduling of public meetings,
257 hearings, and workshops.

258 2. Uniform rules for use by each state agency that provide
259 procedures for conducting public meetings, hearings, and
260 workshops, and for taking evidence, testimony, and argument at
261 such public meetings, hearings, and workshops, in person and by
262 means of communications media technology. The rules shall
263 provide that all evidence, testimony, and argument presented
264 shall be afforded equal consideration, regardless of the method
265 of communication. If a public meeting, hearing, or workshop is
266 to be conducted by means of communications media technology, or
267 if attendance may be provided by such means, the notice shall so
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268 state. The notice for public meetings, hearings, and workshops
269 utilizing communications media technology shall state how
270 persons interested in attending may do so and shall name
271 locations, if any, where communications media technology
272 facilities will be available. Nothing in this paragraph shall be
273 construed to diminish the right to inspect public records under
274 chapter 119. Limiting points of access to public meetings,
275 hearings, and workshops subject to the provisions of s. 286.011
276 to places not normally open to the public shall be presumed to
277 violate the right of access of the public, and any official
278 action taken under such circumstances is void and of no effect.
279 Other laws relating to public meetings, hearings, and workshops,
280 including penal and remedial provisions, shall apply to public
281 meetings, hearings, and workshops conducted by means of
282 communications media technology, and shall be liberally
283 construed in their application to such public meetings,
284 hearings, and workshops. As used in this subparagraph,
285 "communications media technology" means the electronic
286 transmission of printed matter, audio, full-motion video,
287 freeze-frame video, compressed video, and digital video by any
288 method available.

289 3. Uniform rules of procedure for the filing of notice of
290 protests and formal written protests. The Administration
291 Commission may prescribe the form and substantive provisions of
292 a required bond.

293 4. Uniform rules of procedure for the filing of petitions
294 for administrative hearings pursuant to s. 120.569 or s. 120.57.
295 Such rules shall require the petition to include:

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296 a. The identification of the petitioner, including the
297 petitioner's e-mail address, if any, for the transmittal of
298 subsequent documents by electronic means.

299 b. A statement of when and how the petitioner received
300 notice of the agency's action or proposed action.

301 c. An explanation of how the petitioner's substantial
302 interests are or will be affected by the action or proposed
303 action.

304 d. A statement of all material facts disputed by the
305 petitioner or a statement that there are no disputed facts.

306 e. A statement of the ultimate facts alleged, including a
307 statement of the specific facts the petitioner contends warrant
308 reversal or modification of the agency's proposed action.

309 f. A statement of the specific rules or statutes that the
310 petitioner contends require reversal or modification of the
311 agency's proposed action, including an explanation of how the
312 alleged facts relate to the specific rules or statutes.

313 g. A statement of the relief sought by the petitioner,
314 stating precisely the action petitioner wishes the agency to
315 take with respect to the proposed action.

316 5. Uniform rules for the filing of request for
317 administrative hearing by a respondent in agency enforcement and
318 disciplinary actions. Such rules shall require a request to
319 include:

320 a. The name, address, e-mail address, and telephone number
321 of the party making the request and the name, address, e-mail
322 address, and telephone number of the party's counsel or

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323 qualified representative upon whom service of pleadings and
324 other papers shall be made;

325 b. A statement that the respondent is requesting an
326 administrative hearing and disputes the material facts alleged
327 by the petitioner, in which case the respondent shall identify
328 those material facts that are in dispute, or that the respondent
329 is requesting an administrative hearing and does not dispute the
330 material facts alleged by the petitioner; and

331 c. A reference by file number to the administrative
332 complaint that the party has received from the agency and the
333 date on which the agency pleading was received.

334
335 The agency may provide an election-of-rights form for the
336 respondent's use in requesting a hearing, so long as any form
337 provided by the agency calls for the information in sub-
338 subparagraphs a. through c. and does not impose any additional
339 requirements on a respondent in order to request a hearing,
340 unless such requirements are specifically authorized by law.

341 6. Uniform rules of procedure for the filing and prompt
342 disposition of petitions for declaratory statements. The rules
343 shall also describe the contents of the notices that must be
344 published in the Florida Administrative Weekly under s. 120.565,
345 including any applicable time limit for the filing of petitions
346 to intervene or petitions for administrative hearing by persons
347 whose substantial interests may be affected.

348 7. Provision of a method by which each agency head shall
349 provide a description of the agency's organization and general
350 course of its operations. The rules shall require that the

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351 statement concerning the agency's organization and operations be
352 published on the agency's website.

353 8. Uniform rules establishing procedures for granting or
354 denying petitions for variances and waivers pursuant to s.
355 120.542.

356 Section 11. Section 120.585, Florida Statutes, is created
357 to read:

358 120.585 Electronic filing.—Any document filed with the
359 division by a party represented by an attorney must be filed by
360 electronic means through the division's website. Any document
361 filed with the division by a party who is not represented by an
362 attorney shall, whenever possible, be filed by electronic means
363 through the division's website.

364 Section 12. Subsections (6) through (9) of section
365 216.023, Florida Statutes, are renumbered as subsections (7)
366 through (10), respectively, and a new subsection (6) is added to
367 that section to read:

368 216.023 Legislative budget requests to be furnished to
369 Legislature by agencies.—

370 (6) As part of the legislative budget request, the head of
371 each agency shall include an annual inventory of all wireless
372 devices and expenditures, including the number of wireless
373 devices by type, expenditures by type of device, total
374 expenditures, a list of job classifications assigned a wireless
375 device, and the steps taken to promote productivity and contain
376 costs.

377 Section 13. Section 282.712, Florida Statutes, is created
378 to read:

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379 282.712 Statewide wireless communication utilization.-

380 (1) It is the intent of the Legislature that the
381 expenditure of public funds on wireless communication devices
382 shall be used to increase efficiency, accessibility, and
383 productivity.

384 (2) In furtherance of the goal of increasing efficiency,
385 accessibility, and productivity, agencies shall only assign
386 cellular telephones, personal digital assistants, and other
387 wireless communication devices to those employees who, as part
388 of their official assigned duties, routinely must:

389 (a) Be immediately available to citizens, supervisors, or
390 subordinates;

391 (b) Be available to respond to emergency situations;

392 (c) Be available to receive calls outside of regular
393 working hours;

394 (d) Have access to the technology in order to productively
395 perform job duties in the field; or

396 (e) Have limited or no access to a telephone, or have no
397 ability to use a cellular phone, if needed.

398 (3) Agencies shall utilize wireless communication devices
399 and services using SUNCOM Network Services unless otherwise
400 approved by the department. Agencies shall obtain an exemption
401 from the use of SUNCOM Network Services prior to seeking
402 approval to use a state term contract, an alternate source
403 contract, or other procurement method. In seeking approval for
404 an exemption, agencies shall provide a comparison of costs and
405 benefits and the reasons for deviating from SUNCOM Network
406 Services. The department shall approve such requests only upon a
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407 finding that an exemption from the use of SUNCOM Network
408 Services has been obtained pursuant to s. 282.703(3) and upon a
409 finding that the cost-benefit analysis or agency justification
410 supports the use of another procurement method.

411 (4) Agencies shall review wireless communication device
412 expenditures to confirm that costs are associated with business
413 purposes. Any costs associated with personal use of a wireless
414 communication device by an employee shall be reimbursed to the
415 agency by that employee.

416 Section 14. Section 287.05721, Florida Statutes, is
417 amended to read:

418 287.05721 Definitions.—As used in ss. 287.0571-287.0574,
419 the term:

420 ~~(1) "Council" means the Council on Efficient Government.~~

421 ~~(2) "outsource" means the process of contracting with a~~
422 ~~vendor to provide a service as defined in s. 216.011(1)(f), in~~
423 ~~whole or in part, or an activity as defined in s.~~
424 ~~216.011(1)(rr), while a state agency retains the responsibility~~
425 ~~and accountability for the service or activity and there is a~~
426 ~~transfer of management responsibility for the delivery of~~
427 ~~resources and the performance of those resources.~~

428 Section 15. Section 287.0573, Florida Statutes, is
429 repealed.

430 Section 16. Subsections (1) through (4) of section
431 287.0574, Florida Statutes, are amended to read:

432 287.0574 Business cases to outsource; review and analysis;
433 requirements.—

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

436 (a) An initial business case analysis conducted by the
437 state agency and submitted to ~~the council,~~ the Governor, the
438 President of the Senate, and the Speaker of the House of
439 Representatives at least 60 days before a solicitation is
440 issued. ~~The council shall evaluate the business case analysis~~
441 ~~and submit an advisory report to the state agency, the Governor,~~
442 ~~the President of the Senate, and the Speaker of the House of~~
443 ~~Representatives when the advisory report is completed, but at~~
444 ~~least 30 days before the agency issues the solicitation.~~

445 (b) A final business case analysis conducted by the state
446 agency and submitted after the conclusion of any negotiations,
447 at least 30 days before execution of a contract, to ~~the council,~~
448 the Governor, the President of the Senate, and the Speaker of
449 the House of Representatives.

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

453 (a) An initial business case analysis conducted by the
454 state agency and submission of the business case, at least 30
455 days before issuing a solicitation, to ~~the council,~~ the
456 Governor, the President of the Senate, and the Speaker of the
457 House of Representatives.

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

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461 the Governor, the President of the Senate, and the Speaker of
462 the House of Representatives.

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

470 (4) For any proposed outsourcing, the state agency shall
471 develop a business case that justifies the proposal to
472 outsource. In order to reduce any administrative burden, the
473 ~~council may allow a~~ state agency shall ~~to~~ submit the business
474 case in the form and manner required by the budget instructions
475 issued pursuant to s. 216.023(1), (2), and (4)(a)7., augmented
476 with additional information if necessary, to ensure that the
477 requirements of this section are met. The business case is not
478 subject to challenge or protest pursuant to chapter 120. The
479 business case must include, but need not be limited to:

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

482 (b) A description and analysis of the state agency's
483 current performance, based on existing performance metrics if
484 the state agency is currently performing the service or
485 activity.

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

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

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

494 (f) An analysis of the advantages and disadvantages of
495 each option, including, at a minimum, potential performance
496 improvements and risks.

497 (g) A description of the current market for the
498 contractual services that are under consideration for
499 outsourcing.

500 (h) A cost-benefit analysis documenting the direct and
501 indirect specific baseline costs, savings, and qualitative and
502 quantitative benefits involved in or resulting from the
503 implementation of the recommended option or options. Such
504 analysis must specify the schedule that, at a minimum, must be
505 adhered to in order to achieve the estimated savings. All
506 elements of cost must be clearly identified in the cost-benefit
507 analysis, described in the business case, and supported by
508 applicable records and reports. The state agency head shall
509 attest that, based on the data and information underlying the
510 business case, to the best of his or her knowledge, all
511 projected costs, savings, and benefits are valid and achievable.
512 As used in this section, the term "cost" means the reasonable,
513 relevant, and verifiable cost, which may include, but is not
514 limited to, elements such as personnel, materials and supplies,
515 services, equipment, capital depreciation, rent, maintenance and
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516 repairs, utilities, insurance, personnel travel, overhead, and
517 interim and final payments. The appropriate elements shall
518 depend on the nature of the specific initiative. As used in this
519 section, the term "savings" means the difference between the
520 direct and indirect actual annual baseline costs compared to the
521 projected annual cost for the contracted functions or
522 responsibilities in any succeeding state fiscal year during the
523 term of the contract.

524 (i) A description of differences among current state
525 agency policies and processes and, as appropriate, a discussion
526 of options for or a plan to standardize, consolidate, or revise
527 current policies and processes, if any, to reduce the
528 customization of any proposed solution that would otherwise be
529 required.

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

532 (k) The projected timeframe for key events from the
533 beginning of the procurement process through the expiration of a
534 contract.

535 (l) A plan to ensure compliance with the public records
536 law.

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

540 (n) A state agency's transition plan for addressing
541 changes in the number of agency personnel, affected business
542 processes, employee transition issues, and communication with
543 affected stakeholders, such as agency clients and the public.

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544 The transition plan must contain a reemployment and retraining
545 assistance plan for employees who are not retained by the state
546 agency or employed by the contractor.

547 (o) A plan for ensuring access by persons with
548 disabilities in compliance with applicable state and federal
549 law.

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

552 Section 17. Centralized fleet management.—

553 (1) The Department of Management Services shall prepare a
554 plan to create, administer, and maintain a centralized fleet of
555 state-owned motor vehicles. By November 1, 2010, the department
556 shall submit the plan for centralizing all state-owned vehicles
557 to the President of the Senate, the Speaker of the House of
558 Representatives, and the Governor and Cabinet.

559 (2) The plan for centralizing all state-owned motor
560 vehicles shall provide a method for:

561 (a) Assigning and administering motor vehicles to state
562 agencies and employees.

563 (b) Managing a fleet of motor vehicles for short-term use.

564 (c) Charging state agencies for the use of motor vehicles,
565 including costs associated with vehicle replacement and
566 operating costs.

567 (d) Purchasing motor vehicles necessary for the operation
568 of the centralized fleet.

569 (e) Repairing and maintaining motor vehicles.

570 (f) Monitoring the use of motor vehicles and enforcing
571 regulations regarding proper use.

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572 (g) Maintaining records related to the operation and
573 maintenance of motor vehicles and the administration of the
574 fleet.

575 (h) Disposing of motor vehicles that are no longer
576 necessary to maintain the fleet or for motor vehicles that are
577 not used effectively enough to establish motor vehicle cost
578 savings.

579 (i) Determining when it would be cost-efficient to lease a
580 motor vehicle from a third-party vendor instead of using a
581 state-owned vehicle.

582 (3) In developing the plan, the department shall evaluate
583 the costs and benefits of operating a centralized motor vehicle
584 fleet compared to the costs and benefits of contracting with a
585 third-party vendor for the operation of a centralized motor
586 vehicle fleet.

587 Section 18. Subsection (17) of section 318.18, Florida
588 Statutes, is amended to read:

589 318.18 Amount of penalties.—The penalties required for a
590 noncriminal disposition pursuant to s. 318.14 or a criminal
591 offense listed in s. 318.17 are as follows:

592 (17) In addition to any penalties imposed, a surcharge of
593 \$3 must be paid for all criminal offenses listed in s. 318.17
594 and for all noncriminal moving traffic violations under chapter
595 316. Revenue from the surcharge shall be remitted to the
596 Department of Revenue and deposited quarterly into the State
597 Agency Law Enforcement Radio System Trust Fund of the Department
598 of Management Services for the state agency law enforcement
599 radio system, as described in s. 282.709, and to provide
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600 technical assistance to state agencies and local law enforcement
601 agencies with their statewide systems of regional law
602 enforcement communications, as described in s. 282.710. This
603 subsection expires July 1, 2017 ~~2012~~. The Department of
604 Management Services may retain funds sufficient to recover the
605 costs and expenses incurred for managing, administering, and
606 overseeing the Statewide Law Enforcement Radio System, and
607 providing technical assistance to state agencies and local law
608 enforcement agencies with their statewide systems of regional
609 law enforcement communications. The Department of Management
610 Services working in conjunction with the Joint Task Force on
611 State Agency Law Enforcement Communications shall determine and
612 direct the purposes for which these funds are used to enhance
613 and improve the radio system.

614 Section 19. Subsection (17) of section 318.21, Florida
615 Statutes, is amended to read:

616 318.21 Disposition of civil penalties by county courts.—
617 All civil penalties received by a county court pursuant to the
618 provisions of this chapter shall be distributed and paid monthly
619 as follows:

620 (17) Notwithstanding subsections (1) and (2), the proceeds
621 from the surcharge imposed under s. 318.18(17) shall be
622 distributed as provided in that subsection. This subsection
623 expires July 1, 2017 ~~2012~~.

624 Section 20. Subsections (1) and (8) of section 440.192,
625 Florida Statutes, are amended to read:

626 440.192 Procedure for resolving benefit disputes.—

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627 (1) Any employee may, for any benefit that is ripe, due,
628 and owing, ~~file by certified mail, or by electronic means~~
629 ~~approved by the Deputy Chief Judge,~~ with the Office of the
630 Judges of Compensation Claims a petition for benefits which
631 meets the requirements of this section and the definition of
632 specificity in s. 440.02. An employee represented by an attorney
633 shall file by electronic means approved by the Deputy Chief
634 Judge. An employee not represented by an attorney may file by
635 certified mail or by electronic means approved by the Deputy
636 Chief Judge. The department shall inform employees of the
637 location of the Office of the Judges of Compensation Claims and
638 the office's website address for purposes of filing a petition
639 for benefits. The employee shall also serve copies of the
640 petition for benefits by certified mail, or by electronic means
641 approved by the Deputy Chief Judge, upon the employer and the
642 employer's carrier. The Deputy Chief Judge shall refer the
643 petitions to the judges of compensation claims.

644 (8) Within 14 days after receipt of a petition for
645 benefits by certified mail or by approved electronic means, the
646 carrier must either pay the requested benefits without prejudice
647 to its right to deny within 120 days from receipt of the
648 petition or file a response to petition with the Office of the
649 Judges of Compensation Claims. The response shall be filed by
650 electronic means approved by the Deputy Chief Judge. The carrier
651 must list all benefits requested but not paid and explain its
652 justification for nonpayment in the response to petition. A
653 carrier that does not deny compensability in accordance with s.
654 440.20(4) is deemed to have accepted the employee's injuries as
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655 compensable, unless it can establish material facts relevant to
656 the issue of compensability that could not have been discovered
657 through reasonable investigation within the 120-day period. The
658 carrier shall provide copies of the response to the filing
659 party, employer, and claimant by certified mail or by electronic
660 means approved by the Deputy Chief Judge.

661 Section 21. Subsection (1) and paragraphs (a), (c), and
662 (e) of subsection (4) of section 440.25, Florida Statutes, are
663 amended to read:

664 440.25 Procedures for mediation and hearings.—

665 (1) Forty days after a petition for benefits is filed
666 under s. 440.192, the judge of compensation claims shall notify
667 the interested parties by order that a mediation conference
668 concerning such petition has been scheduled unless the parties
669 have notified the judge of compensation claims that a private
670 mediation has been held or is scheduled to be held. A mediation,
671 whether private or public, shall be held within 130 days after
672 the filing of the petition. Such order must give the date the
673 mediation conference is to be held. Such order may be served
674 personally upon the interested parties or may be sent to the
675 interested parties by mail or by electronic means approved by
676 the Deputy Chief Judge. If multiple petitions are pending, or if
677 additional petitions are filed after the scheduling of a
678 mediation, the judge of compensation claims shall consolidate
679 all petitions into one mediation. The claimant or the adjuster
680 of the employer or carrier may, at the mediator's discretion,
681 attend the mediation conference by telephone or, if agreed to by
682 the parties, other electronic means. A continuance may be

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683 granted upon the agreement of the parties or if the requesting
684 party demonstrates to the judge of compensation claims that the
685 reason for requesting the continuance arises from circumstances
686 beyond the party's control. Any order granting a continuance
687 must set forth the date of the rescheduled mediation conference.
688 A mediation conference may not be used solely for the purpose of
689 mediating attorney's fees.

690 (4) (a) If the parties fail to agree to written submission
691 of pretrial stipulations, the judge of compensation claims shall
692 conduct a live pretrial hearing. The judge of compensation
693 claims shall give the interested parties at least 14 days'
694 advance notice of the pretrial hearing by mail or by electronic
695 means approved by the Deputy Chief Judge.

696 (c) The judge of compensation claims shall give the
697 interested parties at least 14 days' advance notice of the final
698 hearing, served upon the interested parties by mail or by
699 electronic means approved by the Deputy Chief Judge.

700 (e) The order making an award or rejecting the claim,
701 referred to in this chapter as a "compensation order," shall set
702 forth the findings of ultimate facts and the mandate; and the
703 order need not include any other reason or justification for
704 such mandate. The compensation order shall be filed in the
705 Office of the Judges of Compensation Claims at Tallahassee. A
706 copy of such compensation order shall be sent by mail or by
707 electronic means approved by the Deputy Chief Judge to the
708 parties and attorneys of record and any parties not represented
709 by an attorney at the last known address of each, with the date
710 of mailing noted thereon.

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711 Section 22. Subsection (3) of section 440.29, Florida
712 Statutes, is amended to read:

713 440.29 Procedure before the judge of compensation claims.—

714 (3) The practice and procedure before the judges of
715 compensation claims shall be governed by rules adopted by the
716 Office of the Judges of Compensation Claims ~~Supreme Court~~,
717 except to the extent that such rules conflict with the
718 provisions of this chapter.

719 Section 23. Subsection (4) of section 440.45, Florida
720 Statutes, is amended to read:

721 440.45 Office of the Judges of Compensation Claims.—

722 (4) The Office of the Judges of Compensation Claims shall
723 adopt rules to effectuate ~~effect~~ the purposes of this section.
724 Such rules shall include procedural rules applicable to workers'
725 compensation claim resolution, including rules requiring
726 electronic filing and service where deemed appropriate by the
727 Deputy Chief Judge, and uniform criteria for measuring the
728 performance of the office, including, but not limited to, the
729 number of cases assigned and resolved ~~disposed~~, the age of
730 pending and resolved ~~disposed~~ cases, timeliness of decisions
731 ~~decisionmaking~~, extraordinary fee awards, and other data
732 necessary for the judicial nominating commission to review the
733 performance of judges as required in paragraph (2) (c). ~~The~~
734 ~~workers' compensation rules of procedure approved by the Supreme~~
735 ~~Court apply until the rules adopted by the Office of the Judges~~
736 ~~of Compensation Claims pursuant to this section become~~
737 ~~effective.~~

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738 Section 24. Subsection (4) is added to section 440.33,
739 Florida Statutes, to read:

740 440.33 Powers of judges of compensation claims.—

741 (4) (a) Whenever the circuit court in a county is closed by
742 official action of the chief circuit judge or a designated
743 official due to a weather or other disaster-related emergency,
744 any district office of the Office of the Judges of Compensation
745 Claims which is located within that county shall likewise close
746 for the duration of the emergency closure ordered for that
747 circuit court.

748 (b) Any tolling order issued by the Supreme Court
749 pertaining to matters pending before the circuit or county
750 courts shall apply with equal force to all proceedings pending
751 in any district office of the Office of the Judges of
752 Compensation Claims which is located within a county designated
753 by such tolling order in the same manner as if the compensation
754 proceedings were civil proceedings pending in the courts of the
755 county in which the district office is located. Following such a
756 tolling order, all time limits for acts required by law and
757 subject to the jurisdiction of the Office of the Judges of
758 Compensation Claims shall be tolled as set forth in the order of
759 the Supreme Court. A tolling order of the Supreme Court shall be
760 considered authoritative upon the posting of the order to the
761 court's website or other public dissemination, whichever occurs
762 earlier.

763 Section 25. Subsection (2) of section 766.305, Florida
764 Statutes, is amended to read:

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765 766.305 Filing of claims and responses; medical
766 disciplinary review.—

767 (2) The claimant shall furnish the division with as many
768 copies of the petition as required for service upon the
769 association, any physician and hospital named in the petition,
770 and the Division of Medical Quality Assurance, along with a \$15
771 filing fee payable to the Division of Administrative Hearings.
772 Upon receipt of the petition, the division shall immediately
773 ~~serve the association, by service upon the agent designated to~~
774 ~~accept service on behalf of the association, by registered or~~
775 ~~certified mail, and shall mail copies of the petition, by~~
776 registered or certified mail, to any physician, health care
777 provider, and hospital named in the petition, and shall furnish
778 a copy by electronic means through the division's website or by
779 regular mail to the Division of Medical Quality Assurance, and
780 the Agency for Health Care Administration, and the association,
781 by service upon the agent designated to accept service on behalf
782 of the association.

783 Section 26. Subsection (2) of section 766.309, Florida
784 Statutes, is amended to read:

785 766.309 Determination of claims; presumption; findings of
786 administrative law judge binding on participants.—

787 (2) If the administrative law judge determines that the
788 injury alleged is not a birth-related neurological injury or
789 that obstetrical services were not delivered by a participating
790 physician at the birth, she or he shall enter an order and shall
791 cause a copy of such order to be sent immediately to the parties

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792 by electronic means through the division's website or by regular
793 registered or certified mail.

794 Section 27. Subsection (3) of section 766.31, Florida
795 Statutes, is amended to read:

796 766.31 Administrative law judge awards for birth-related
797 neurological injuries; notice of award.—

798 (3) A copy of the award shall be sent immediately by
799 electronic means through the division's website or by regular
800 registered or certified mail to each person served with a copy
801 of the petition under s. 766.305(2).

802 Section 28. Effective upon this act becoming a law, the
803 Department of Management Services shall coordinate with all
804 state agencies to identify all existing resources within each
805 agency related to real estate leasing and facilities operations
806 and maintenance. Agencies must submit the information to the
807 Department of Management Services no later than August 1, 2010.
808 By September 1, 2010, the Department of Management Services
809 shall submit a plan to the President of the Senate, the Speaker
810 of the House of Representatives, and the Governor and Cabinet
811 for centralizing within the department all real estate leasing
812 and facilities operations and maintenance. Such information
813 shall be included in each agency's legislative budget request
814 for the 2011-2012 fiscal year as a transfer to the Department of
815 Management Services. This section expires July 1, 2011.

816 Section 29. (1) The Department of Management Services is
817 appropriated a lump sum of \$2,185,746 in recurring trust fund
818 authority, 18 full-time positions, as listed below, and salary
819 rate of 1,658,961 for the purpose of implementing the provisions
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820 of s. 20.22, Florida Statutes. No later than July 15, 2010, the
821 department shall submit a budget amendment pursuant to the
822 provisions of s. 216.181, Florida Statutes, specifying the
823 allocation of positions by budget entity and trust fund.

824 Positions authorized in this section shall be filled initially
825 by majority approval of the Governor and Cabinet and shall be
826 subject to Senate confirmation. Incumbents in positions
827 authorized by this section on March 1, 2011, shall also be
828 subject to Senate confirmation.

829 (2) Effective July 1, 2010, the following additional
830 Senior Management Service positions are authorized in the
831 Department of Management Services:

832 (a) The Executive Director.

833 (b) The Deputy Executive Director.

834 (c) The Chief of Staff.

835 (d) The General Counsel.

836 (e) The Legislative Affairs Director.

837 (f) The Inspector General.

838 (g) The Director of the Division of Facilities Management
839 and Building Construction.

840 (h) The Director of the Division of State Purchasing.

841 (i) The Public Information Administrator.

842 (j) The Director of Specialized Services.

843 (3) Effective July 1, 2010, the following additional
844 Selected Exempt Service positions are authorized in the
845 Department of Management Services:

846 (a) The Deputy Director of Facilities Management and
847 Building Construction.

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848 (b) The Chief of Operations and Maintenance - Facilities
849 Management.

850 (c) The Chief of Real Property - Facilities Management.

851 (d) The Projects Management Administrator - Facilities
852 Management.

853 (e) The Appraiser Administrator - Facilities Management.

854 (f) The Deputy Chief of Regional Facilities - Facilities
855 Management.

856 (g) The Deputy Chief of Tallahassee Facilities -
857 Facilities Management.

858 (h) The Systems Programming Administrator/Chief
859 Information Officer.

860 (4) This section expires June 30, 2012.

861 Section 30. The Department of Management Services is
862 authorized to transfer revenues from the Operating Trust Fund in
863 the purchasing oversight budget entity to the Administrative
864 Trust Fund in the Department of Financial Services to support
865 statewide purchasing operations.

866 Section 31. The Department of Management Services is
867 authorized to transfer \$320,000 from the Supervision Trust Fund
868 to the Department of Environmental Protection for the creation
869 of a comprehensive database of state-owned real property.

870 Section 32. Pursuant to s. 11.242, Florida Statutes, the
871 Division of Statutory Revision of the Office of Legislative
872 Services is directed to prepare a reviser's bill for
873 consideration by the 2011 Regular Session of the Legislature to
874 conform the Florida Statutes to the changes made by this act.

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875 Section 33. Except as otherwise expressly provided in this
876 act, this act shall take effect July 1, 2010.

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879 **T I T L E A M E N D M E N T**

880 Remove the entire title and insert:

881 A bill to be entitled
882 An act relating to review of the Department of Management
883 Services under the Florida Government Accountability Act;
884 amending s. 20.22, F.S.; revising the governance of the
885 department; amending ss. 57.111, 120.56, 120.569, 120.57,
886 552.40, 553.73, and 961.03, F.S.; providing for electronic
887 filing and transmission procedures for certain actions,
888 proceedings, and petitions; conforming provisions to
889 changes made by the act; repealing s. 110.123(13), F.S.,
890 relating to creation and duties of the Florida State
891 Employee Wellness Council; amending s. 120.54, F.S.;
892 requiring a petitioner requesting an administrative
893 hearing to include the petitioner's e-mail address;
894 requiring the request for administrative hearing by a
895 respondent to include the e-mail address of the party's
896 counsel or qualified representative; creating s. 120.585,
897 F.S.; requiring an attorney to use electronic means when
898 filing a document with the Division of Administrative
899 Hearings; encouraging a party not represented by an
900 attorney to file documents whenever possible by electronic
901 means through the division's website; amending s. 216.023,
902 F.S.; requiring each agency head to provide an annual

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903 inventory containing specified information of all wireless
904 devices and expenditures; creating s. 282.712, F.S.;

905 providing legislative intent; providing requirements for
906 the use of wireless communication devices by agency
907 employees; requiring the agency to conduct a review of
908 wireless communication device expenditures; requiring
909 reimbursement of costs associated with certain personal
910 use of wireless communication devices by employees;

911 amending s. 287.05721, F.S.; repealing the definition of
912 the term "council" as it relates to the Council on
913 Efficient Government; repealing s. 287.0573, F.S.,
914 relating to creation of the Council on Efficient
915 Government within the department; amending s. 287.0574,
916 F.S.; conforming provisions to the elimination of the
917 Council on Efficient Government; requiring the department
918 to prepare a plan to centralize the fleet of state-owned
919 motor vehicles; requiring the department to submit the
920 plan to the Governor, Cabinet, and the Legislature by a
921 specified date; amending ss. 318.18 and 318.21, F.S.;

922 delaying the expiration of provisions imposing a surcharge
923 on certain offenses and traffic violations, the proceeds
924 of which are deposited into the State Agency Law
925 Enforcement Radio System Trust Fund of the department;

926 amending ss. 440.192 and 440.25, F.S.; providing and
927 revising procedures for filing petitions for benefits and
928 other documents in workers' compensation benefits
929 proceedings to provide for electronic filing and
930 transmission under certain circumstances; amending ss.

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931 440.29 and 440.45, F.S.; authorizing the Office of the
932 Judges of Compensation Claims to adopt rules for certain
933 purposes; amending s. 440.33, F.S.; providing for the
934 application of an order issued by the chief circuit judge
935 to close the courts of the county or a tolling order
936 issued by the Supreme Court to any district office of the
937 Office of the Judges of Compensation Claims which is
938 located within the same county in which the order of
939 closure or tolling order applies; providing for the time
940 limits applicable to the jurisdiction of the Office of the
941 Judges of Compensation Claims to apply following such
942 order; amending ss. 766.305, 766.309, and 766.31, F.S.;
943 authorizing the Division of Administrative Hearings to
944 furnish by electronic means copies of certain petitions
945 and orders relating to medical disciplinary reviews,
946 claims, and awards; requiring the department to identify
947 all resources relating to real estate leasing and
948 facilities operations and maintenance within each state
949 agency; requiring a report to the Governor, Cabinet, and
950 Legislature by a specified date; requiring that the
951 information be included within the agency's legislative
952 budget request for the 2011-2012 fiscal year; providing an
953 appropriation and authorizing positions within the
954 department; requiring approval of the Governor and Cabinet
955 and Senate confirmation for certain positions within the
956 department; providing for repeal of the provisions by a
957 date certain; authorizing the department to transfer
958 certain funds for the purpose of statewide purchasing

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959 operations; authorizing the department to transfer certain
960 funds for the creation of a comprehensive database of
961 state-owned real property; providing a directive to the
962 Division of Statutory Revision; providing effective dates.