

1 A bill to be entitled
 2 An act relating to the Department of Management Services;
 3 amending s. 287.042, F.S.; providing that fees collected
 4 by the department for the use of its electronic
 5 information services in excess of the obligations and
 6 encumbrances to cover the department's costs of providing
 7 the services shall be calculated annually and transferred
 8 to the General Revenue Fund; amending s. 287.057, F.S.;;
 9 providing that fees collected by the department for the
 10 use of the services of its online procurement systems in
 11 excess of the obligations and encumbrances to cover the
 12 department's costs of providing the services shall be
 13 calculated annually and transferred to the General Revenue
 14 Fund; amending s. 287.05721, F.S.; repealing the
 15 definition of "council" as it relates to the Council on
 16 Efficient Government; repealing s. 287.0573, F.S.,
 17 relating to creation of the Council on Efficient
 18 Government within the department; amending s. 287.0574,
 19 F.S.; conforming provisions to the elimination of the
 20 Council on Efficient Government; requiring that a business
 21 case be submitted in the form and manner required by the
 22 budget instructions; providing an effective date.

23
 24 Be It Enacted by the Legislature of the State of Florida:

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 26 Section 1. Paragraph (h) of subsection (1) of section
 27 287.042, Florida Statutes, is amended to read:
 28 287.042 Powers, duties, and functions.—The department

29 shall have the following powers, duties, and functions:

30 (1)

31 (h)1. The department may collect fees for the use of its
 32 electronic information services. The fees may be imposed on an
 33 individual transaction basis or as a fixed subscription for a
 34 designated period of time. At a minimum, the fees shall be
 35 determined in an amount sufficient to cover the department's
 36 projected costs of the services, including overhead in
 37 accordance with the policies of the Department of Management
 38 Services for computing its administrative assessment. All fees
 39 collected under this paragraph shall be deposited in the
 40 Operating Trust Fund for disbursement as provided by law.

41 2. Effective July 1, 2010, any fees collected pursuant to
 42 subparagraph 1. and remaining in the Operating Trust Fund in
 43 excess of the obligations and encumbrances to cover the
 44 department's costs of providing services pursuant to
 45 subparagraph 1. shall be calculated as of June 5 each year and
 46 transferred to the General Revenue Fund before June 30 of each
 47 year.

48 Section 2. Paragraph (c) of subsection (23) of section
 49 287.057, Florida Statutes, is amended to read:

50 287.057 Procurement of commodities or contractual
 51 services.—

52 (23) The department, in consultation with the Agency for
 53 Enterprise Information Technology and the Comptroller, shall
 54 develop a program for online procurement of commodities and
 55 contractual services. To enable the state to promote open
 56 competition and to leverage its buying power, agencies shall

57 participate in the online procurement program, and eligible
58 users may participate in the program. Only vendors prequalified
59 as meeting mandatory requirements and qualifications criteria
60 may participate in online procurement.

61 (c) The department may impose and shall collect all fees
62 for the use of the online procurement systems.

63 1. The fees may be imposed on an individual transaction
64 basis or as a fixed percentage of the cost savings generated. At
65 a minimum, the fees must be set in an amount sufficient to cover
66 the projected costs of the services, including administrative
67 and project service costs in accordance with the policies of the
68 department.

69 2. If the department contracts with a provider for online
70 procurement, the department, pursuant to appropriation, shall
71 compensate the provider from the fees after the department has
72 satisfied all ongoing costs. The provider shall report
73 transaction data to the department each month so that the
74 department may determine the amount due and payable to the
75 department from each vendor.

76 3. All fees that are due and payable to the state on a
77 transactional basis or as a fixed percentage of the cost savings
78 generated are subject to s. 215.31 and must be remitted within
79 40 days after receipt of payment for which the fees are due. For
80 fees that are not remitted within 40 days, the vendor shall pay
81 interest at the rate established under s. 55.03(1) on the unpaid
82 balance from the expiration of the 40-day period until the fees
83 are remitted.

84 4. All fees and surcharges collected under this paragraph

85 shall be deposited in the Operating Trust Fund for disbursement
 86 as provided by law.

87 5. Effective July 1, 2010, any fees collected pursuant to
 88 subparagraph 1. and remaining in the Operating Trust Fund in
 89 excess of the obligations and encumbrances to cover the
 90 department's costs of providing services pursuant to
 91 subparagraph 1. shall be calculated as of June 5 each year and
 92 transferred to the General Revenue Fund before June 30 of each
 93 year.

94 Section 3. Section 287.05721, Florida Statutes, is amended
 95 to read:

96 287.05721 Definitions.—As used in ss. 287.0571-287.0574,
 97 the term:

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

99 ~~(2) "outsource" means the process of contracting with a~~
 100 vendor to provide a service as defined in s. 216.011(1)(f), in
 101 whole or in part, or an activity as defined in s.
 102 216.011(1)(rr), while a state agency retains the responsibility
 103 and accountability for the service or activity and there is a
 104 transfer of management responsibility for the delivery of
 105 resources and the performance of those resources.

106 Section 4. Section 287.0573, Florida Statutes, is
 107 repealed.

108 Section 5. Subsections (1) through (4) of section
 109 287.0574, Florida Statutes, are amended to read:

110 287.0574 Business cases to outsource; review and analysis;
 111 requirements.—

112 (1) A business case to outsource having a projected cost

113 | exceeding \$10 million in any fiscal year shall require:

114 | (a) An initial business case analysis conducted by the
 115 | state agency and submitted to ~~the council,~~ the Governor, the
 116 | President of the Senate, and the Speaker of the House of
 117 | Representatives at least 60 days before a solicitation is
 118 | issued. ~~The council shall evaluate the business case analysis~~
 119 | ~~and submit an advisory report to the state agency, the Governor,~~
 120 | ~~the President of the Senate, and the Speaker of the House of~~
 121 | ~~Representatives when the advisory report is completed, but at~~
 122 | ~~least 30 days before the agency issues the solicitation.~~

123 | (b) A final business case analysis conducted by the state
 124 | agency and submitted after the conclusion of any negotiations,
 125 | at least 30 days before execution of a contract, to ~~the council,~~
 126 | the Governor, the President of the Senate, and the Speaker of
 127 | the House of Representatives.

128 | (2) A proposal to outsource having a projected cost that
 129 | ranges from \$1 million to \$10 million in any fiscal year shall
 130 | require:

131 | (a) An initial business case analysis conducted by the
 132 | state agency and submission of the business case, at least 30
 133 | days before issuing a solicitation, to ~~the council,~~ the
 134 | Governor, the President of the Senate, and the Speaker of the
 135 | House of Representatives.

136 | (b) A final business case analysis conducted by the state
 137 | agency and submitted after the conclusion of any negotiations,
 138 | at least 30 days before execution of a contract, to ~~the council,~~
 139 | the Governor, the President of the Senate, and the Speaker of
 140 | the House of Representatives.

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

148 (4) For any proposed outsourcing, the state agency shall
149 develop a business case that justifies the proposal to
150 outsource. In order to reduce any administrative burden, the
151 ~~council may allow a~~ state agency shall ~~to~~ submit the business
152 case in the form and manner required by the budget instructions
153 issued pursuant to s. 216.023(1), (2), and (4)(a)7., augmented
154 with additional information if necessary, to ensure that the
155 requirements of this section are met. The business case is not
156 subject to challenge or protest pursuant to chapter 120. The
157 business case must include, but need not be limited to:

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

160 (b) A description and analysis of the state agency's
161 current performance, based on existing performance metrics if
162 the state agency is currently performing the service or
163 activity.

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

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

168 (e) A description of available options for achieving the

169 | goals. If state employees are currently performing the service
170 | or activity, at least one option involving maintaining state
171 | provision of the service or activity shall be included.

172 | (f) An analysis of the advantages and disadvantages of
173 | each option, including, at a minimum, potential performance
174 | improvements and risks.

175 | (g) A description of the current market for the
176 | contractual services that are under consideration for
177 | outsourcing.

178 | (h) A cost-benefit analysis documenting the direct and
179 | indirect specific baseline costs, savings, and qualitative and
180 | quantitative benefits involved in or resulting from the
181 | implementation of the recommended option or options. Such
182 | analysis must specify the schedule that, at a minimum, must be
183 | adhered to in order to achieve the estimated savings. All
184 | elements of cost must be clearly identified in the cost-benefit
185 | analysis, described in the business case, and supported by
186 | applicable records and reports. The state agency head shall
187 | attest that, based on the data and information underlying the
188 | business case, to the best of his or her knowledge, all
189 | projected costs, savings, and benefits are valid and achievable.
190 | As used in this section, the term "cost" means the reasonable,
191 | relevant, and verifiable cost, which may include, but is not
192 | limited to, elements such as personnel, materials and supplies,
193 | services, equipment, capital depreciation, rent, maintenance and
194 | repairs, utilities, insurance, personnel travel, overhead, and
195 | interim and final payments. The appropriate elements shall
196 | depend on the nature of the specific initiative. As used in this

197 section, the term "savings" means the difference between the
198 direct and indirect actual annual baseline costs compared to the
199 projected annual cost for the contracted functions or
200 responsibilities in any succeeding state fiscal year during the
201 term of the contract.

202 (i) A description of differences among current state
203 agency policies and processes and, as appropriate, a discussion
204 of options for or a plan to standardize, consolidate, or revise
205 current policies and processes, if any, to reduce the
206 customization of any proposed solution that would otherwise be
207 required.

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

210 (k) The projected timeframe for key events from the
211 beginning of the procurement process through the expiration of a
212 contract.

213 (l) A plan to ensure compliance with the public records
214 law.

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

218 (n) A state agency's transition plan for addressing
219 changes in the number of agency personnel, affected business
220 processes, employee transition issues, and communication with
221 affected stakeholders, such as agency clients and the public.
222 The transition plan must contain a reemployment and retraining
223 assistance plan for employees who are not retained by the state
224 agency or employed by the contractor.

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225 | (o) A plan for ensuring access by persons with
226 | disabilities in compliance with applicable state and federal
227 | law.

228 | (p) A description of legislative and budgetary actions
229 | necessary to accomplish the proposed outsourcing.

230 | Section 6. This act shall take effect July 1, 2010.