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CS/HB 5611, Engrossed 1

2010 Legislature

1 A bill to be entitled
2 An act relating to review of the Department of Management
3 Services under the Florida Government Accountability Act;
4 amending s. 20.22, F.S.; revising the governance of the
5 department; amending ss. 57.111, 120.56, 120.569, 120.57,
6 552.40, 553.73, and 961.03, F.S.; providing for electronic
7 filing and transmission procedures for certain actions,
8 proceedings, and petitions; conforming provisions to
9 changes made by the act; repealing s. 110.123(13), F.S.,
10 relating to creation and duties of the Florida State
11 Employee Wellness Council; amending s. 120.54, F.S.;
12 requiring a petitioner requesting an administrative
13 hearing to include the petitioner's e-mail address;
14 requiring the request for administrative hearing by a
15 respondent to include the e-mail address of the party's
16 counsel or qualified representative; creating s. 120.585,
17 F.S.; requiring an attorney to use electronic means when
18 filing a document with the Division of Administrative
19 Hearings; encouraging a party not represented by an
20 attorney to file documents whenever possible by electronic
21 means through the division's website; amending s. 216.023,
22 F.S.; requiring each agency head to provide an annual
23 inventory containing specified information of all wireless
24 devices and expenditures; creating s. 282.712, F.S.;
25 providing legislative intent; providing requirements for
26 the use of wireless communication devices by agency
27 employees; requiring the agency to conduct a review of
28 wireless communication device expenditures; requiring

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29 reimbursement of costs associated with certain personal
30 use of wireless communication devices by employees;
31 amending s. 287.05721, F.S.; repealing the definition of
32 the term "council" as it relates to the Council on
33 Efficient Government; repealing s. 287.0573, F.S.,
34 relating to creation of the Council on Efficient
35 Government within the department; amending s. 287.0574,
36 F.S.; conforming provisions to the elimination of the
37 Council on Efficient Government; requiring the department
38 to prepare a plan to centralize the fleet of state-owned
39 motor vehicles; requiring the department to submit the
40 plan to the Governor, Cabinet, and the Legislature by a
41 specified date; amending ss. 318.18 and 318.21, F.S.;
42 delaying the expiration of provisions imposing a surcharge
43 on certain offenses and traffic violations, the proceeds
44 of which are deposited into the State Agency Law
45 Enforcement Radio System Trust Fund of the department;
46 amending ss. 440.192 and 440.25, F.S.; providing and
47 revising procedures for filing petitions for benefits and
48 other documents in workers' compensation benefits
49 proceedings to provide for electronic filing and
50 transmission under certain circumstances; amending ss.
51 440.29 and 440.45, F.S.; authorizing the Office of the
52 Judges of Compensation Claims to adopt rules for certain
53 purposes; amending s. 440.33, F.S.; providing for the
54 application of an order issued by the chief circuit judge
55 to close the courts of the county or a tolling order
56 issued by the Supreme Court to any district office of the

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57 Office of the Judges of Compensation Claims which is
58 located within the same county in which the order of
59 closure or tolling order applies; providing for the time
60 limits applicable to the jurisdiction of the Office of the
61 Judges of Compensation Claims to apply following such
62 order; amending ss. 766.305, 766.309, and 766.31, F.S.;

63 authorizing the Division of Administrative Hearings to
64 furnish by electronic means copies of certain petitions
65 and orders relating to medical disciplinary reviews,
66 claims, and awards; requiring the department to identify
67 all resources relating to real estate leasing and
68 facilities operations and maintenance within each state
69 agency; requiring a report to the Governor, Cabinet, and
70 Legislature by a specified date; requiring that the
71 information be included within the agency's legislative
72 budget request for the 2011-2012 fiscal year; providing an
73 appropriation and authorizing positions within the
74 department; requiring approval of the Governor and Cabinet
75 and Senate confirmation for certain positions within the
76 department; providing for repeal of the provisions by a
77 date certain; authorizing the department to transfer
78 certain funds for the purpose of statewide purchasing
79 operations; authorizing the department to transfer certain
80 funds for the creation of a comprehensive database of
81 state-owned real property; providing a directive to the
82 Division of Statutory Revision; providing effective dates.

83
84 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Subsection (1) of section 20.22, Florida Statutes, is amended to read:

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

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

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

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

(4)

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

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

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

117 120.56 Challenges to rules.—

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

120 (c) The petition shall be filed by electronic means with
121 the division, which shall, immediately upon filing, forward by
122 electronic means copies to the agency whose rule is challenged,
123 the Department of State, and the committee. Within 10 days after
124 receiving the petition, the division director shall, if the
125 petition complies with the requirements of paragraph (b), assign
126 an administrative law judge who shall conduct a hearing within
127 30 days thereafter, unless the petition is withdrawn or a
128 continuance is granted by agreement of the parties or for good
129 cause shown. Evidence of good cause includes, but is not limited
130 to, written notice of an agency's decision to modify or withdraw
131 the proposed rule or a written notice from the chair of the
132 committee stating that the committee will consider an objection
133 to the rule at its next scheduled meeting. The failure of an
134 agency to follow the applicable rulemaking procedures or
135 requirements set forth in this chapter shall be presumed to be
136 material; however, the agency may rebut this presumption by
137 showing that the substantial interests of the petitioner and the
138 fairness of the proceedings have not been impaired.

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

144 Section 4. Paragraph (a) of subsection (2) of section
 145 120.569, Florida Statutes, is amended to read:

146 120.569 Decisions which affect substantial interests.—

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

153 A request for a hearing shall be granted or denied within 15
 154 days after receipt. On the request of any agency, the division
 155 shall assign an administrative law judge with due regard to the
 156 expertise required for the particular matter. The referring
 157 agency shall take no further action with respect to a proceeding
 158 under s. 120.57(1), except as a party litigant, as long as the
 159 division has jurisdiction over the proceeding under s.
 160 120.57(1). Any party may request the disqualification of the
 161 administrative law judge by filing an affidavit with the
 162 division prior to the taking of evidence at a hearing, stating
 163 the grounds with particularity.

164 Section 5. Paragraph (d) of subsection (3) of section
 165 120.57, Florida Statutes, is amended to read:

166 120.57 Additional procedures for particular cases.—

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167 (3) ADDITIONAL PROCEDURES APPLICABLE TO PROTESTS TO
 168 CONTRACT SOLICITATION OR AWARD.—Agencies subject to this chapter
 169 shall use the uniform rules of procedure, which provide
 170 procedures for the resolution of protests arising from the
 171 contract solicitation or award process. Such rules shall at
 172 least provide that:

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

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

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

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

192 552.40 Administrative remedy for alleged damage due to the
 193 use of explosives in connection with construction materials
 194 mining activities.—

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195 (1) A person may initiate an administrative proceeding to
 196 recover damages resulting from the use of explosives in
 197 connection with construction materials mining activities by
 198 filing a petition with the Division of Administrative Hearings
 199 by electronic means through the division's website on a form
 200 provided by it and accompanied by a filing fee of \$100 within
 201 180 days after the occurrence of the alleged damage. If the
 202 petitioner submits an affidavit stating that the petitioner's
 203 annual income is less than 150 percent of the applicable federal
 204 poverty guideline published in the Federal Register by the
 205 United States Department of Health and Human Services, the \$100
 206 filing fee must be waived.

207 Section 7. Paragraph (b) of subsection (4) of section
 208 553.73, Florida Statutes, is amended to read:

209 553.73 Florida Building Code.—

210 (4)

211 (b) Local governments may, subject to the limitations of
 212 this section, adopt amendments to the technical provisions of
 213 the Florida Building Code which apply solely within the
 214 jurisdiction of such government and which provide for more
 215 stringent requirements than those specified in the Florida
 216 Building Code, not more than once every 6 months. A local
 217 government may adopt technical amendments that address local
 218 needs if:

219 1. The local governing body determines, following a public
 220 hearing which has been advertised in a newspaper of general
 221 circulation at least 10 days before the hearing, that there is a
 222 need to strengthen the requirements of the Florida Building

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223 Code. The determination must be based upon a review of local
224 conditions by the local governing body, which review
225 demonstrates by evidence or data that the geographical
226 jurisdiction governed by the local governing body exhibits a
227 local need to strengthen the Florida Building Code beyond the
228 needs or regional variation addressed by the Florida Building
229 Code, that the local need is addressed by the proposed local
230 amendment, and that the amendment is no more stringent than
231 necessary to address the local need.

232 2. Such additional requirements are not discriminatory
233 against materials, products, or construction techniques of
234 demonstrated capabilities.

235 3. Such additional requirements may not introduce a new
236 subject not addressed in the Florida Building Code.

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

239 5. Any amendment to the Florida Building Code shall be
240 transmitted within 30 days by the adopting local government to
241 the commission. The commission shall maintain copies of all such
242 amendments in a format that is usable and obtainable by the
243 public. Local technical amendments shall not become effective
244 until 30 days after the amendment has been received and
245 published by the commission.

246 6. Any amendment to the Florida Building Code adopted by a
247 local government pursuant to this paragraph shall be effective
248 only until the adoption by the commission of the new edition of
249 the Florida Building Code every third year. At such time, the
250 commission shall review such amendment for consistency with the

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251 criteria in paragraph (8) (a) and adopt such amendment as part of
252 the Florida Building Code or rescind the amendment. The
253 commission shall immediately notify the respective local
254 government of the rescission of any amendment. After receiving
255 such notice, the respective local government may readopt the
256 rescinded amendment pursuant to the provisions of this
257 paragraph.

258 7. Each county and municipality desiring to make local
259 technical amendments to the Florida Building Code shall by
260 interlocal agreement establish a countywide compliance review
261 board to review any amendment to the Florida Building Code,
262 adopted by a local government within the county pursuant to this
263 paragraph, that is challenged by any substantially affected
264 party for purposes of determining the amendment's compliance
265 with this paragraph. If challenged, the local technical
266 amendments shall not become effective until time for filing an
267 appeal pursuant to subparagraph 8. has expired or, if there is
268 an appeal, until the commission issues its final order
269 determining the adopted amendment is in compliance with this
270 subsection.

271 8. If the compliance review board determines such
272 amendment is not in compliance with this paragraph, the
273 compliance review board shall notify such local government of
274 the noncompliance and that the amendment is invalid and
275 unenforceable until the local government corrects the amendment
276 to bring it into compliance. The local government may appeal the
277 decision of the compliance review board to the commission. If
278 the compliance review board determines such amendment to be in

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279 compliance with this paragraph, any substantially affected party
280 may appeal such determination to the commission. Any such appeal
281 shall be filed with the commission within 14 days of the board's
282 written determination. The commission shall promptly refer the
283 appeal to the Division of Administrative Hearings by electronic
284 means through the division's website for the assignment of an
285 administrative law judge. The administrative law judge shall
286 conduct the required hearing within 30 days, and shall enter a
287 recommended order within 30 days of the conclusion of such
288 hearing. The commission shall enter a final order within 30 days
289 thereafter. The provisions of chapter 120 and the uniform rules
290 of procedure shall apply to such proceedings. The local
291 government adopting the amendment that is subject to challenge
292 has the burden of proving that the amendment complies with this
293 paragraph in proceedings before the compliance review board and
294 the commission, as applicable. Actions of the commission are
295 subject to judicial review pursuant to s. 120.68. The compliance
296 review board shall determine whether its decisions apply to a
297 respective local jurisdiction or apply countywide.

298 9. An amendment adopted under this paragraph shall include
299 a fiscal impact statement which documents the costs and benefits
300 of the proposed amendment. Criteria for the fiscal impact
301 statement shall include the impact to local government relative
302 to enforcement, the impact to property and building owners, as
303 well as to industry, relative to the cost of compliance. The
304 fiscal impact statement may not be used as a basis for
305 challenging the amendment for compliance.

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306 10. In addition to subparagraphs 7. and 9., the commission
 307 may review any amendments adopted pursuant to this subsection
 308 and make nonbinding recommendations related to compliance of
 309 such amendments with this subsection.

310 Section 8. Paragraph (b) of subsection (4) of section
 311 961.03, Florida Statutes, is amended to read:

312 961.03 Determination of status as a wrongfully
 313 incarcerated person; determination of eligibility for
 314 compensation.—

315 (4)

316 (b) If the prosecuting authority responds as set forth in
 317 paragraph (2)(b), and the court determines that the petitioner
 318 is eligible under the provisions of s. 961.04, but the
 319 prosecuting authority contests the nature, significance or
 320 effect of the evidence of actual innocence, or the facts related
 321 to the petitioner's alleged wrongful incarceration, the court
 322 shall set forth its findings and transfer the petition by
 323 electronic means through the division's website to the division
 324 for findings of fact and a recommended determination of whether
 325 the petitioner has established that he or she is a wrongfully
 326 incarcerated person who is eligible for compensation under this
 327 act.

328 Section 9. Subsection (13) of section 110.123, Florida
 329 Statutes, is repealed.

330 Section 10. Paragraph (b) of subsection (5) of section
 331 120.54, Florida Statutes, is amended to read:

332 120.54 Rulemaking.—

333 (5) UNIFORM RULES.—

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

337 1. Uniform rules for the scheduling of public meetings,
338 hearings, and workshops.

339 2. Uniform rules for use by each state agency that provide
340 procedures for conducting public meetings, hearings, and
341 workshops, and for taking evidence, testimony, and argument at
342 such public meetings, hearings, and workshops, in person and by
343 means of communications media technology. The rules shall
344 provide that all evidence, testimony, and argument presented
345 shall be afforded equal consideration, regardless of the method
346 of communication. If a public meeting, hearing, or workshop is
347 to be conducted by means of communications media technology, or
348 if attendance may be provided by such means, the notice shall so
349 state. The notice for public meetings, hearings, and workshops
350 utilizing communications media technology shall state how
351 persons interested in attending may do so and shall name
352 locations, if any, where communications media technology
353 facilities will be available. Nothing in this paragraph shall be
354 construed to diminish the right to inspect public records under
355 chapter 119. Limiting points of access to public meetings,
356 hearings, and workshops subject to the provisions of s. 286.011
357 to places not normally open to the public shall be presumed to
358 violate the right of access of the public, and any official
359 action taken under such circumstances is void and of no effect.
360 Other laws relating to public meetings, hearings, and workshops,
361 including penal and remedial provisions, shall apply to public

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362 meetings, hearings, and workshops conducted by means of
363 communications media technology, and shall be liberally
364 construed in their application to such public meetings,
365 hearings, and workshops. As used in this subparagraph,
366 "communications media technology" means the electronic
367 transmission of printed matter, audio, full-motion video,
368 freeze-frame video, compressed video, and digital video by any
369 method available.

370 3. Uniform rules of procedure for the filing of notice of
371 protests and formal written protests. The Administration
372 Commission may prescribe the form and substantive provisions of
373 a required bond.

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

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

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

382 c. An explanation of how the petitioner's substantial
383 interests are or will be affected by the action or proposed
384 action.

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

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

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390 f. A statement of the specific rules or statutes that the
391 petitioner contends require reversal or modification of the
392 agency's proposed action, including an explanation of how the
393 alleged facts relate to the specific rules or statutes.

394 g. A statement of the relief sought by the petitioner,
395 stating precisely the action petitioner wishes the agency to
396 take with respect to the proposed action.

397 5. Uniform rules for the filing of request for
398 administrative hearing by a respondent in agency enforcement and
399 disciplinary actions. Such rules shall require a request to
400 include:

401 a. The name, address, e-mail address, and telephone number
402 of the party making the request and the name, address, e-mail
403 address, and telephone number of the party's counsel or
404 qualified representative upon whom service of pleadings and
405 other papers shall be made;

406 b. A statement that the respondent is requesting an
407 administrative hearing and disputes the material facts alleged
408 by the petitioner, in which case the respondent shall identify
409 those material facts that are in dispute, or that the respondent
410 is requesting an administrative hearing and does not dispute the
411 material facts alleged by the petitioner; and

412 c. A reference by file number to the administrative
413 complaint that the party has received from the agency and the
414 date on which the agency pleading was received.

415
416 The agency may provide an election-of-rights form for the
417 respondent's use in requesting a hearing, so long as any form

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418 provided by the agency calls for the information in sub-
419 subparagraphs a. through c. and does not impose any additional
420 requirements on a respondent in order to request a hearing,
421 unless such requirements are specifically authorized by law.

422 6. Uniform rules of procedure for the filing and prompt
423 disposition of petitions for declaratory statements. The rules
424 shall also describe the contents of the notices that must be
425 published in the Florida Administrative Weekly under s. 120.565,
426 including any applicable time limit for the filing of petitions
427 to intervene or petitions for administrative hearing by persons
428 whose substantial interests may be affected.

429 7. Provision of a method by which each agency head shall
430 provide a description of the agency's organization and general
431 course of its operations. The rules shall require that the
432 statement concerning the agency's organization and operations be
433 published on the agency's website.

434 8. Uniform rules establishing procedures for granting or
435 denying petitions for variances and waivers pursuant to s.
436 120.542.

437 Section 11. Section 120.585, Florida Statutes, is created
438 to read:

439 120.585 Electronic filing.—Any document filed with the
440 division by a party represented by an attorney must be filed by
441 electronic means through the division's website. Any document
442 filed with the division by a party who is not represented by an
443 attorney shall, whenever possible, be filed by electronic means
444 through the division's website.

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445 Section 12. Subsections (6) through (9) of section
 446 216.023, Florida Statutes, are renumbered as subsections (7)
 447 through (10), respectively, and a new subsection (6) is added to
 448 that section to read:

449 216.023 Legislative budget requests to be furnished to
 450 Legislature by agencies.—

451 (6) As part of the legislative budget request, the head of
 452 each agency shall include an annual inventory of all wireless
 453 devices and expenditures, including the number of wireless
 454 devices by type, expenditures by type of device, total
 455 expenditures, a list of job classifications assigned a wireless
 456 device, and the steps taken to promote productivity and contain
 457 costs.

458 Section 13. Section 282.712, Florida Statutes, is created
 459 to read:

460 282.712 Statewide wireless communication utilization.—

461 (1) It is the intent of the Legislature that the
 462 expenditure of public funds on wireless communication devices
 463 shall be used to increase efficiency, accessibility, and
 464 productivity.

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

470 (a) Be immediately available to citizens, supervisors, or
 471 subordinates;

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

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473 (c) Be available to receive calls outside of regular
 474 working hours;

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

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

479 (3) Agencies shall utilize wireless communication devices
 480 and services using SUNCOM Network Services unless otherwise
 481 approved by the department. Agencies shall obtain an exemption
 482 from the use of SUNCOM Network Services prior to seeking
 483 approval to use a state term contract, an alternate source
 484 contract, or other procurement method. In seeking approval for
 485 an exemption, agencies shall provide a comparison of costs and
 486 benefits and the reasons for deviating from SUNCOM Network
 487 Services. The department shall approve such requests only upon a
 488 finding that an exemption from the use of SUNCOM Network
 489 Services has been obtained pursuant to s. 282.703(3) and upon a
 490 finding that the cost-benefit analysis or agency justification
 491 supports the use of another procurement method.

492 (4) Agencies shall review wireless communication device
 493 expenditures to confirm that costs are associated with business
 494 purposes. Any costs associated with personal use of a wireless
 495 communication device by an employee shall be reimbursed to the
 496 agency by that employee.

497 Section 14. Section 287.05721, Florida Statutes, is
 498 amended to read:

499 287.05721 Definitions.—As used in ss. 287.0571-287.0574,
 500 the term:

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

502 ~~(2)~~ "outsource" means the process of contracting with a
 503 vendor to provide a service as defined in s. 216.011(1)(f), in
 504 whole or in part, or an activity as defined in s.
 505 216.011(1)(rr), while a state agency retains the responsibility
 506 and accountability for the service or activity and there is a
 507 transfer of management responsibility for the delivery of
 508 resources and the performance of those resources.

509 Section 15. Section 287.0573, Florida Statutes, is
 510 repealed.

511 Section 16. Subsections (1) through (4) of section
 512 287.0574, Florida Statutes, are amended to read:

513 287.0574 Business cases to outsource; review and analysis;
 514 requirements.—

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

517 (a) An initial business case analysis conducted by the
 518 state agency and submitted to ~~the council,~~ the Governor, the
 519 President of the Senate, and the Speaker of the House of
 520 Representatives at least 60 days before a solicitation is
 521 issued. ~~The council shall evaluate the business case analysis~~
 522 ~~and submit an advisory report to the state agency, the Governor,~~
 523 ~~the President of the Senate, and the Speaker of the House of~~
 524 ~~Representatives when the advisory report is completed, but at~~
 525 ~~least 30 days before the agency issues the solicitation.~~

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

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529 the Governor, the President of the Senate, and the Speaker of
 530 the House of Representatives.

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

534 (a) An initial business case analysis conducted by the
 535 state agency and submission of the business case, at least 30
 536 days before issuing a solicitation, to ~~the council,~~ the
 537 Governor, the President of the Senate, and the Speaker of the
 538 House of Representatives.

539 (b) A final business case analysis conducted by the state
 540 agency and submitted after the conclusion of any negotiations,
 541 at least 30 days before execution of a contract, to ~~the council,~~
 542 the Governor, the President of the Senate, and the Speaker of
 543 the House of Representatives.

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

551 (4) For any proposed outsourcing, the state agency shall
 552 develop a business case that justifies the proposal to
 553 outsource. In order to reduce any administrative burden, the
 554 ~~council may allow a~~ state agency shall ~~to~~ submit the business
 555 case in the form and manner required by the budget instructions
 556 issued pursuant to s. 216.023(1), (2), and (4)(a)7., augmented

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557 | with additional information if necessary, to ensure that the
558 | requirements of this section are met. The business case is not
559 | subject to challenge or protest pursuant to chapter 120. The
560 | business case must include, but need not be limited to:

561 | (a) A detailed description of the service or activity for
562 | which the outsourcing is proposed.

563 | (b) A description and analysis of the state agency's
564 | current performance, based on existing performance metrics if
565 | the state agency is currently performing the service or
566 | activity.

567 | (c) The goals desired to be achieved through the proposed
568 | outsourcing and the rationale for such goals.

569 | (d) A citation to the existing or proposed legal authority
570 | for outsourcing the service or activity.

571 | (e) A description of available options for achieving the
572 | goals. If state employees are currently performing the service
573 | or activity, at least one option involving maintaining state
574 | provision of the service or activity shall be included.

575 | (f) An analysis of the advantages and disadvantages of
576 | each option, including, at a minimum, potential performance
577 | improvements and risks.

578 | (g) A description of the current market for the
579 | contractual services that are under consideration for
580 | outsourcing.

581 | (h) A cost-benefit analysis documenting the direct and
582 | indirect specific baseline costs, savings, and qualitative and
583 | quantitative benefits involved in or resulting from the
584 | implementation of the recommended option or options. Such

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585 analysis must specify the schedule that, at a minimum, must be
586 adhered to in order to achieve the estimated savings. All
587 elements of cost must be clearly identified in the cost-benefit
588 analysis, described in the business case, and supported by
589 applicable records and reports. The state agency head shall
590 attest that, based on the data and information underlying the
591 business case, to the best of his or her knowledge, all
592 projected costs, savings, and benefits are valid and achievable.
593 As used in this section, the term "cost" means the reasonable,
594 relevant, and verifiable cost, which may include, but is not
595 limited to, elements such as personnel, materials and supplies,
596 services, equipment, capital depreciation, rent, maintenance and
597 repairs, utilities, insurance, personnel travel, overhead, and
598 interim and final payments. The appropriate elements shall
599 depend on the nature of the specific initiative. As used in this
600 section, the term "savings" means the difference between the
601 direct and indirect actual annual baseline costs compared to the
602 projected annual cost for the contracted functions or
603 responsibilities in any succeeding state fiscal year during the
604 term of the contract.

605 (i) A description of differences among current state
606 agency policies and processes and, as appropriate, a discussion
607 of options for or a plan to standardize, consolidate, or revise
608 current policies and processes, if any, to reduce the
609 customization of any proposed solution that would otherwise be
610 required.

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

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613 (k) The projected timeframe for key events from the
 614 beginning of the procurement process through the expiration of a
 615 contract.

616 (l) A plan to ensure compliance with the public records
 617 law.

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

621 (n) A state agency's transition plan for addressing
 622 changes in the number of agency personnel, affected business
 623 processes, employee transition issues, and communication with
 624 affected stakeholders, such as agency clients and the public.
 625 The transition plan must contain a reemployment and retraining
 626 assistance plan for employees who are not retained by the state
 627 agency or employed by the contractor.

628 (o) A plan for ensuring access by persons with
 629 disabilities in compliance with applicable state and federal
 630 law.

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

633 Section 17. Centralized fleet management.—

634 (1) The Department of Management Services shall prepare a
 635 plan to create, administer, and maintain a centralized fleet of
 636 state-owned motor vehicles. By November 1, 2010, the department
 637 shall submit the plan for centralizing all state-owned vehicles
 638 to the President of the Senate, the Speaker of the House of
 639 Representatives, and the Governor and Cabinet.

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- 640 (2) The plan for centralizing all state-owned motor
641 vehicles shall provide a method for:
- 642 (a) Assigning and administering motor vehicles to state
643 agencies and employees.
- 644 (b) Managing a fleet of motor vehicles for short-term use.
- 645 (c) Charging state agencies for the use of motor vehicles,
646 including costs associated with vehicle replacement and
647 operating costs.
- 648 (d) Purchasing motor vehicles necessary for the operation
649 of the centralized fleet.
- 650 (e) Repairing and maintaining motor vehicles.
- 651 (f) Monitoring the use of motor vehicles and enforcing
652 regulations regarding proper use.
- 653 (g) Maintaining records related to the operation and
654 maintenance of motor vehicles and the administration of the
655 fleet.
- 656 (h) Disposing of motor vehicles that are no longer
657 necessary to maintain the fleet or for motor vehicles that are
658 not used effectively enough to establish motor vehicle cost
659 savings.
- 660 (i) Determining when it would be cost-efficient to lease a
661 motor vehicle from a third-party vendor instead of using a
662 state-owned vehicle.
- 663 (3) In developing the plan, the department shall evaluate
664 the costs and benefits of operating a centralized motor vehicle
665 fleet compared to the costs and benefits of contracting with a
666 third-party vendor for the operation of a centralized motor
667 vehicle fleet.

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

670 318.18 Amount of penalties.—The penalties required for a
671 noncriminal disposition pursuant to s. 318.14 or a criminal
672 offense listed in s. 318.17 are as follows:

673 (17) In addition to any penalties imposed, a surcharge of
674 \$3 must be paid for all criminal offenses listed in s. 318.17
675 and for all noncriminal moving traffic violations under chapter
676 316. Revenue from the surcharge shall be remitted to the
677 Department of Revenue and deposited quarterly into the State
678 Agency Law Enforcement Radio System Trust Fund of the Department
679 of Management Services for the state agency law enforcement
680 radio system, as described in s. 282.709, and to provide
681 technical assistance to state agencies and local law enforcement
682 agencies with their statewide systems of regional law
683 enforcement communications, as described in s. 282.710. This
684 subsection expires July 1, 2017 ~~2012~~. The Department of
685 Management Services may retain funds sufficient to recover the
686 costs and expenses incurred for managing, administering, and
687 overseeing the Statewide Law Enforcement Radio System, and
688 providing technical assistance to state agencies and local law
689 enforcement agencies with their statewide systems of regional
690 law enforcement communications. The Department of Management
691 Services working in conjunction with the Joint Task Force on
692 State Agency Law Enforcement Communications shall determine and
693 direct the purposes for which these funds are used to enhance
694 and improve the radio system.

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

697 318.21 Disposition of civil penalties by county courts.—
 698 All civil penalties received by a county court pursuant to the
 699 provisions of this chapter shall be distributed and paid monthly
 700 as follows:

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

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

707 440.192 Procedure for resolving benefit disputes.—

708 (1) Any employee may, for any benefit that is ripe, due,
 709 and owing, ~~file by certified mail, or by electronic means~~
 710 ~~approved by the Deputy Chief Judge,~~ with the Office of the
 711 Judges of Compensation Claims a petition for benefits which
 712 meets the requirements of this section and the definition of
 713 specificity in s. 440.02. An employee represented by an attorney
 714 shall file by electronic means approved by the Deputy Chief
 715 Judge. An employee not represented by an attorney may file by
 716 certified mail or by electronic means approved by the Deputy
 717 Chief Judge. The department shall inform employees of the
 718 location of the Office of the Judges of Compensation Claims and
 719 the office's website address for purposes of filing a petition
 720 for benefits. The employee shall also serve copies of the
 721 petition for benefits by certified mail, or by electronic means
 722 approved by the Deputy Chief Judge, upon the employer and the

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723 employer's carrier. The Deputy Chief Judge shall refer the
724 petitions to the judges of compensation claims.

725 (8) Within 14 days after receipt of a petition for
726 benefits by certified mail or by approved electronic means, the
727 carrier must either pay the requested benefits without prejudice
728 to its right to deny within 120 days from receipt of the
729 petition or file a response to petition with the Office of the
730 Judges of Compensation Claims. The response shall be filed by
731 electronic means approved by the Deputy Chief Judge. The carrier
732 must list all benefits requested but not paid and explain its
733 justification for nonpayment in the response to petition. A
734 carrier that does not deny compensability in accordance with s.
735 440.20(4) is deemed to have accepted the employee's injuries as
736 compensable, unless it can establish material facts relevant to
737 the issue of compensability that could not have been discovered
738 through reasonable investigation within the 120-day period. The
739 carrier shall provide copies of the response to the filing
740 party, employer, and claimant by certified mail or by electronic
741 means approved by the Deputy Chief Judge.

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

745 440.25 Procedures for mediation and hearings.—

746 (1) Forty days after a petition for benefits is filed
747 under s. 440.192, the judge of compensation claims shall notify
748 the interested parties by order that a mediation conference
749 concerning such petition has been scheduled unless the parties
750 have notified the judge of compensation claims that a private

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751 mediation has been held or is scheduled to be held. A mediation,
752 whether private or public, shall be held within 130 days after
753 the filing of the petition. Such order must give the date the
754 mediation conference is to be held. Such order may be served
755 personally upon the interested parties or may be sent to the
756 interested parties by mail or by electronic means approved by
757 the Deputy Chief Judge. If multiple petitions are pending, or if
758 additional petitions are filed after the scheduling of a
759 mediation, the judge of compensation claims shall consolidate
760 all petitions into one mediation. The claimant or the adjuster
761 of the employer or carrier may, at the mediator's discretion,
762 attend the mediation conference by telephone or, if agreed to by
763 the parties, other electronic means. A continuance may be
764 granted upon the agreement of the parties or if the requesting
765 party demonstrates to the judge of compensation claims that the
766 reason for requesting the continuance arises from circumstances
767 beyond the party's control. Any order granting a continuance
768 must set forth the date of the rescheduled mediation conference.
769 A mediation conference may not be used solely for the purpose of
770 mediating attorney's fees.

771 (4) (a) If the parties fail to agree to written submission
772 of pretrial stipulations, the judge of compensation claims shall
773 conduct a live pretrial hearing. The judge of compensation
774 claims shall give the interested parties at least 14 days'
775 advance notice of the pretrial hearing by mail or by electronic
776 means approved by the Deputy Chief Judge.

777 (c) The judge of compensation claims shall give the
778 interested parties at least 14 days' advance notice of the final

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779 hearing, served upon the interested parties by mail or by
 780 electronic means approved by the Deputy Chief Judge.

781 (e) The order making an award or rejecting the claim,
 782 referred to in this chapter as a "compensation order," shall set
 783 forth the findings of ultimate facts and the mandate; and the
 784 order need not include any other reason or justification for
 785 such mandate. The compensation order shall be filed in the
 786 Office of the Judges of Compensation Claims at Tallahassee. A
 787 copy of such compensation order shall be sent by mail or by
 788 electronic means approved by the Deputy Chief Judge to the
 789 ~~parties and~~ attorneys of record and any parties not represented
 790 by an attorney at the last known address of each, with the date
 791 of mailing noted thereon.

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

794 440.29 Procedure before the judge of compensation claims.—

795 (3) The practice and procedure before the judges of
 796 compensation claims shall be governed by rules adopted by the
 797 Office of the Judges of Compensation Claims ~~Supreme Court~~,
 798 except to the extent that such rules conflict with the
 799 provisions of this chapter.

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

802 440.45 Office of the Judges of Compensation Claims.—

803 (4) The Office of the Judges of Compensation Claims shall
 804 adopt rules to effectuate ~~effect~~ the purposes of this section.
 805 Such rules shall include procedural rules applicable to workers'
 806 compensation claim resolution, including rules requiring

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807 electronic filing and service where deemed appropriate by the
808 Deputy Chief Judge, and uniform criteria for measuring the
809 performance of the office, including, but not limited to, the
810 number of cases assigned and resolved ~~disposed~~, the age of
811 pending and resolved ~~disposed~~ cases, timeliness of decisions
812 ~~decisionmaking~~, extraordinary fee awards, and other data
813 necessary for the judicial nominating commission to review the
814 performance of judges as required in paragraph (2)(c). ~~The~~
815 ~~workers' compensation rules of procedure approved by the Supreme~~
816 ~~Court apply until the rules adopted by the Office of the Judges~~
817 ~~of Compensation Claims pursuant to this section become~~
818 ~~effective.~~

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

821 440.33 Powers of judges of compensation claims.—

822 (4) (a) Whenever the circuit court in a county is closed by
823 official action of the chief circuit judge or a designated
824 official due to a weather or other disaster-related emergency,
825 any district office of the Office of the Judges of Compensation
826 Claims which is located within that county shall likewise close
827 for the duration of the emergency closure ordered for that
828 circuit court.

829 (b) Any tolling order issued by the Supreme Court
830 pertaining to matters pending before the circuit or county
831 courts shall apply with equal force to all proceedings pending
832 in any district office of the Office of the Judges of
833 Compensation Claims which is located within a county designated
834 by such tolling order in the same manner as if the compensation

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835 proceedings were civil proceedings pending in the courts of the
 836 county in which the district office is located. Following such a
 837 tolling order, all time limits for acts required by law and
 838 subject to the jurisdiction of the Office of the Judges of
 839 Compensation Claims shall be tolled as set forth in the order of
 840 the Supreme Court. A tolling order of the Supreme Court shall be
 841 considered authoritative upon the posting of the order to the
 842 court's website or other public dissemination, whichever occurs
 843 earlier.

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

846 766.305 Filing of claims and responses; medical
 847 disciplinary review.—

848 (2) The claimant shall furnish the division with as many
 849 copies of the petition as required for service upon the
 850 association, any physician and hospital named in the petition,
 851 and the Division of Medical Quality Assurance, along with a \$15
 852 filing fee payable to the Division of Administrative Hearings.
 853 Upon receipt of the petition, the division shall immediately
 854 ~~serve the association, by service upon the agent designated to~~
 855 ~~accept service on behalf of the association, by registered or~~
 856 ~~certified mail, and shall mail copies of the petition, by~~
 857 registered or certified mail, to any physician, health care
 858 provider, and hospital named in the petition, and shall furnish
 859 a copy by electronic means through the division's website or by
 860 regular mail to the Division of Medical Quality Assurance, ~~and~~
 861 the Agency for Health Care Administration, and the association,

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862 by service upon the agent designated to accept service on behalf
863 of the association.

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

866 766.309 Determination of claims; presumption; findings of
867 administrative law judge binding on participants.—

868 (2) If the administrative law judge determines that the
869 injury alleged is not a birth-related neurological injury or
870 that obstetrical services were not delivered by a participating
871 physician at the birth, she or he shall enter an order and shall
872 cause a copy of such order to be sent immediately to the parties
873 by electronic means through the division's website or by regular
874 ~~registered or certified~~ mail.

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

877 766.31 Administrative law judge awards for birth-related
878 neurological injuries; notice of award.—

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

883 Section 28. Effective upon this act becoming a law, the
884 Department of Management Services shall coordinate with all
885 state agencies to identify all existing resources within each
886 agency related to real estate leasing and facilities operations
887 and maintenance. Agencies must submit the information to the
888 Department of Management Services no later than August 1, 2010.
889 By September 1, 2010, the Department of Management Services

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890 shall submit a plan to the President of the Senate, the Speaker
 891 of the House of Representatives, and the Governor and Cabinet
 892 for centralizing within the department all real estate leasing
 893 and facilities operations and maintenance. Such information
 894 shall be included in each agency's legislative budget request
 895 for the 2011-2012 fiscal year as a transfer to the Department of
 896 Management Services. This section expires July 1, 2011.

897 Section 29. (1) The Department of Management Services is
 898 appropriated a lump sum of \$2,185,746 in recurring trust fund
 899 authority, 18 full-time positions, as listed below, and salary
 900 rate of 1,658,961 for the purpose of implementing the provisions
 901 of s. 20.22, Florida Statutes. No later than July 15, 2010, the
 902 department shall submit a budget amendment pursuant to the
 903 provisions of s. 216.181, Florida Statutes, specifying the
 904 allocation of positions by budget entity and trust fund.
 905 Positions authorized in this section shall be filled initially
 906 by majority approval of the Governor and Cabinet and shall be
 907 subject to Senate confirmation. Incumbents in positions
 908 authorized by this section on March 1, 2011, shall also be
 909 subject to Senate confirmation.

910 (2) Effective July 1, 2010, the following additional
 911 Senior Management Service positions are authorized in the
 912 Department of Management Services:

- 913 (a) The Executive Director.
- 914 (b) The Deputy Executive Director.
- 915 (c) The Chief of Staff.
- 916 (d) The General Counsel.
- 917 (e) The Legislative Affairs Director.

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- 918 (f) The Inspector General.
- 919 (g) The Director of the Division of Facilities Management
- 920 and Building Construction.
- 921 (h) The Director of the Division of State Purchasing.
- 922 (i) The Public Information Administrator.
- 923 (j) The Director of Specialized Services.
- 924 (3) Effective July 1, 2010, the following additional
- 925 Selected Exempt Service positions are authorized in the
- 926 Department of Management Services:
- 927 (a) The Deputy Director of Facilities Management and
- 928 Building Construction.
- 929 (b) The Chief of Operations and Maintenance - Facilities
- 930 Management.
- 931 (c) The Chief of Real Property - Facilities Management.
- 932 (d) The Projects Management Administrator - Facilities
- 933 Management.
- 934 (e) The Appraiser Administrator - Facilities Management.
- 935 (f) The Deputy Chief of Regional Facilities - Facilities
- 936 Management.
- 937 (g) The Deputy Chief of Tallahassee Facilities -
- 938 Facilities Management.
- 939 (h) The Systems Programming Administrator/Chief
- 940 Information Officer.
- 941 (4) This section expires June 30, 2012.
- 942 Section 30. The Department of Management Services is
- 943 authorized to transfer revenues from the Operating Trust Fund in
- 944 the purchasing oversight budget entity to the Administrative

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945 Trust Fund in the Department of Financial Services to support
946 statewide purchasing operations.

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

951 Section 32. Pursuant to s. 11.242, Florida Statutes, the
952 Division of Statutory Revision of the Office of Legislative
953 Services is directed to prepare a reviser's bill for
954 consideration by the 2011 Regular Session of the Legislature to
955 conform the Florida Statutes to the changes made by this act.

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