

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

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29 communication devices and services by agencies; requiring
30 the agency to conduct an audit of wireless communication
31 device expenditures; requiring reimbursement of costs
32 associated with certain personal use of wireless
33 communication devices by employees; requiring the
34 department to create, administer, and maintain a
35 centralized fleet of state-owned motor vehicles; requiring
36 the department to prepare a plan to centralize the fleet;
37 requiring the department to submit the plan to the
38 Governor and the Legislature by a specified date; amending
39 ss. 440.192 and 440.25, F.S.; providing and revising
40 procedures for filing petitions for benefits and other
41 documents in workers' compensation benefits proceedings to
42 provide for electronic filing and transmission under
43 certain circumstances; amending ss. 440.29 and 440.45,
44 F.S.; authorizing the Office of the Judges of Compensation
45 Claims to adopt rules for certain purposes; providing an
46 effective date.

47
48 Be It Enacted by the Legislature of the State of Florida:

49
50 Section 1. Subsection (1) of section 20.22, Florida
51 Statutes, is amended to read:

52 20.22 Department of Management Services.—There is created
53 a Department of Management Services.

54 (1) The head of the Department of Management Services is
55 the Governor and Cabinet. The executive director of the
56 department ~~Secretary of Management Services, who~~ shall be

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57 | appointed by the Governor with the approval of each member of
 58 | the Cabinet and~~7~~ subject to confirmation by the Senate, and
 59 | shall serve at the pleasure of the Governor and Cabinet.

60 | Section 2. Paragraph (b) of subsection (4) of section
 61 | 57.111, Florida Statutes, is amended to read:

62 | 57.111 Civil actions and administrative proceedings
 63 | initiated by state agencies; attorneys' fees and costs.—

64 | (4)

65 | (b)1. To apply for an award under this section, the
 66 | attorney for the prevailing small business party must submit an
 67 | itemized affidavit to the court which first conducted the
 68 | adversarial proceeding in the underlying action, or by
 69 | electronic means through the division's website to the Division
 70 | of Administrative Hearings, which shall assign an administrative
 71 | law judge~~7~~ in the case of a proceeding pursuant to chapter 120,
 72 | which affidavit shall reveal the nature and extent of the
 73 | services rendered by the attorney as well as the costs incurred
 74 | in preparations, motions, hearings, and appeals in the
 75 | proceeding.

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

79 | Section 3. Subsection (13) of section 110.123, Florida
 80 | Statutes, is repealed.

81 | Section 4. Paragraph (b) of subsection (5) of section
 82 | 120.54, Florida Statutes, is amended to read:

83 | 120.54 Rulemaking.—

84 | (5) UNIFORM RULES.—

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

88 1. Uniform rules for the scheduling of public meetings,
89 hearings, and workshops.

90 2. Uniform rules for use by each state agency that provide
91 procedures for conducting public meetings, hearings, and
92 workshops, and for taking evidence, testimony, and argument at
93 such public meetings, hearings, and workshops, in person and by
94 means of communications media technology. The rules shall
95 provide that all evidence, testimony, and argument presented
96 shall be afforded equal consideration, regardless of the method
97 of communication. If a public meeting, hearing, or workshop is
98 to be conducted by means of communications media technology, or
99 if attendance may be provided by such means, the notice shall so
100 state. The notice for public meetings, hearings, and workshops
101 utilizing communications media technology shall state how
102 persons interested in attending may do so and shall name
103 locations, if any, where communications media technology
104 facilities will be available. Nothing in this paragraph shall be
105 construed to diminish the right to inspect public records under
106 chapter 119. Limiting points of access to public meetings,
107 hearings, and workshops subject to the provisions of s. 286.011
108 to places not normally open to the public shall be presumed to
109 violate the right of access of the public, and any official
110 action taken under such circumstances is void and of no effect.
111 Other laws relating to public meetings, hearings, and workshops,
112 including penal and remedial provisions, shall apply to public

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113 meetings, hearings, and workshops conducted by means of
114 communications media technology, and shall be liberally
115 construed in their application to such public meetings,
116 hearings, and workshops. As used in this subparagraph,
117 "communications media technology" means the electronic
118 transmission of printed matter, audio, full-motion video,
119 freeze-frame video, compressed video, and digital video by any
120 method available.

121 3. Uniform rules of procedure for the filing of notice of
122 protests and formal written protests. The Administration
123 Commission may prescribe the form and substantive provisions of
124 a required bond.

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

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

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

133 c. An explanation of how the petitioner's substantial
134 interests are or will be affected by the action or proposed
135 action.

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

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

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141 f. A statement of the specific rules or statutes that the
142 petitioner contends require reversal or modification of the
143 agency's proposed action, including an explanation of how the
144 alleged facts relate to the specific rules or statutes.

145 g. A statement of the relief sought by the petitioner,
146 stating precisely the action petitioner wishes the agency to
147 take with respect to the proposed action.

148 5. Uniform rules for the filing of request for
149 administrative hearing by a respondent in agency enforcement and
150 disciplinary actions. Such rules shall require a request to
151 include:

152 a. The name, address, e-mail address, and telephone number
153 of the party making the request and the name, address, e-mail
154 address, and telephone number of the party's counsel or
155 qualified representative upon whom service of pleadings and
156 other papers shall be made;

157 b. A statement that the respondent is requesting an
158 administrative hearing and disputes the material facts alleged
159 by the petitioner, in which case the respondent shall identify
160 those material facts that are in dispute, or that the respondent
161 is requesting an administrative hearing and does not dispute the
162 material facts alleged by the petitioner; and

163 c. A reference by file number to the administrative
164 complaint that the party has received from the agency and the
165 date on which the agency pleading was received.

166

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

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

173 6. Uniform rules of procedure for the filing and prompt
 174 disposition of petitions for declaratory statements. The rules
 175 shall also describe the contents of the notices that must be
 176 published in the Florida Administrative Weekly under s. 120.565,
 177 including any applicable time limit for the filing of petitions
 178 to intervene or petitions for administrative hearing by persons
 179 whose substantial interests may be affected.

180 7. Provision of a method by which each agency head shall
 181 provide a description of the agency's organization and general
 182 course of its operations. The rules shall require that the
 183 statement concerning the agency's organization and operations be
 184 published on the agency's website.

185 8. Uniform rules establishing procedures for granting or
 186 denying petitions for variances and waivers pursuant to s.
 187 120.542.

188 Section 5. Paragraphs (c) and (d) of subsection (1) of
 189 section 120.56, Florida Statutes, are amended to read:

190 120.56 Challenges to rules.—

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

193 (c) The petition shall be filed by electronic means with
 194 the division, which shall, immediately upon filing, forward by
 195 electronic means copies to the agency whose rule is challenged,
 196 the Department of State, and the committee. Within 10 days after

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197 receiving the petition, the division director shall, if the
198 petition complies with the requirements of paragraph (b), assign
199 an administrative law judge who shall conduct a hearing within
200 30 days thereafter, unless the petition is withdrawn or a
201 continuance is granted by agreement of the parties or for good
202 cause shown. Evidence of good cause includes, but is not limited
203 to, written notice of an agency's decision to modify or withdraw
204 the proposed rule or a written notice from the chair of the
205 committee stating that the committee will consider an objection
206 to the rule at its next scheduled meeting. The failure of an
207 agency to follow the applicable rulemaking procedures or
208 requirements set forth in this chapter shall be presumed to be
209 material; however, the agency may rebut this presumption by
210 showing that the substantial interests of the petitioner and the
211 fairness of the proceedings have not been impaired.

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

217 Section 6. Paragraph (a) of subsection (2) of section
218 120.569, Florida Statutes, is amended to read:

219 120.569 Decisions which affect substantial interests.—

220 (2) (a) Except for any proceeding conducted as prescribed
221 in s. 120.56, a petition or request for a hearing under this
222 section shall be filed with the agency. If the agency requests
223 an administrative law judge from the division, it shall so
224 notify the division by electronic means through the division's

225 website within 15 days after receipt of the petition or request.
 226 A request for a hearing shall be granted or denied within 15
 227 days after receipt. On the request of any agency, the division
 228 shall assign an administrative law judge with due regard to the
 229 expertise required for the particular matter. The referring
 230 agency shall take no further action with respect to a proceeding
 231 under s. 120.57(1), except as a party litigant, as long as the
 232 division has jurisdiction over the proceeding under s.
 233 120.57(1). Any party may request the disqualification of the
 234 administrative law judge by filing an affidavit with the
 235 division prior to the taking of evidence at a hearing, stating
 236 the grounds with particularity.

237 Section 7. Paragraph (d) of subsection (3) of section
 238 120.57, Florida Statutes, is amended to read:

239 120.57 Additional procedures for particular cases.—

240 (3) ADDITIONAL PROCEDURES APPLICABLE TO PROTESTS TO
 241 CONTRACT SOLICITATION OR AWARD.—Agencies subject to this chapter
 242 shall use the uniform rules of procedure, which provide
 243 procedures for the resolution of protests arising from the
 244 contract solicitation or award process. Such rules shall at
 245 least provide that:

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

250 2. If the subject of a protest is not resolved by mutual
 251 agreement within 7 days, excluding Saturdays, Sundays, and state
 252 holidays, after receipt of the formal written protest, and if

253 | there is no disputed issue of material fact, an informal
 254 | proceeding shall be conducted pursuant to subsection (2) and
 255 | applicable agency rules before a person whose qualifications
 256 | have been prescribed by rules of the agency.

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

263 | Section 8. Section 120.585, Florida Statutes, is created
 264 | to read:

265 | 120.585 Electronic filing.—Any document filed with the
 266 | division by a party represented by an attorney must be filed by
 267 | electronic means through the division's website. Any document
 268 | filed with the division by a party who is not represented by an
 269 | attorney shall, whenever possible, be filed by electronic means
 270 | through the division's website.

271 | Section 9. Subsections (6) through (9) of section 216.023,
 272 | Florida Statutes, are renumbered as subsections (7) through
 273 | (10), respectively, and a new subsection (6) is added to that
 274 | section to read:

275 | 216.023 Legislative budget requests to be furnished to
 276 | Legislature by agencies.—

277 | (6) As part of the legislative budget request, the head of
 278 | each agency shall include an annual inventory of all wireless
 279 | devices and expenditures, including the number of wireless
 280 | devices by type, expenditures by type of device, total

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281 expenditures, a list of job classifications assigned a wireless
282 device, and the steps taken to contain costs.

283 Section 10. Section 282.712, Florida Statutes, is created
284 to read:

285 282.712 Statewide wireless communication utilization.—

286 (1) It is the intent of the Legislature that the
287 expenditure of public funds on wireless communication devices
288 shall be prohibited except as provided in this section.

289 (2) Agencies shall limit assignment and use of cellular
290 telephones, personal digital assistants, and other wireless
291 communication devices to only those employees who, as part of
292 their official assigned duties, routinely must:

293 (a) Be immediately available to citizens, supervisors, or
294 subordinates;

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

296 (c) Be available to receive calls outside of regular
297 working hours;

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

300 (e) Have limited or no access to a standard phone, or have
301 no ability to use a personal cell phone, if needed.

302 (3) Agencies shall procure wireless communication devices
303 and services using a state term contract or Suncom services
304 unless otherwise approved by the Department of Management
305 Services. In seeking approval to use another procurement method,
306 agencies shall provide a side-by-side comparison of costs for
307 the state term contract, the mechanisms otherwise requested to
308 be used by the agency, and the reasons for deviating from the

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309 state term contract or Suncom services. The department shall
310 approve such requests only upon a finding that the cost-benefit
311 analysis supports the use of another procurement method.

312 (4) Agencies shall audit wireless communication device
313 expenditures to confirm that costs are associated with business
314 purposes. Any costs associated with personal use of a wireless
315 communication device by an employee shall be reimbursed to the
316 agency by that employee.

317 Section 11. Centralized fleet management.-

318 (1) The Department of Management Services is directed to
319 create, administer, and maintain a centralized fleet of state-
320 owned motor vehicles.

321 (2) The department shall prepare a plan to centralize all
322 state-owned motor vehicles that provides a method for:

323 (a) Assigning and administering motor vehicles to state
324 agencies and employees.

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

326 (c) Charging state agencies for the use of a motor
327 vehicle, including costs associated with vehicle replacement and
328 operating costs.

329 (d) Purchasing motor vehicles necessary for the operation
330 of the centralized fleet.

331 (e) Repairing and maintaining motor vehicles.

332 (f) Monitoring the use of motor vehicles and enforcing
333 regulations regarding proper use.

334 (g) Maintaining records related to the operation and
335 maintenance of motor vehicles and the administration of the
336 fleet.

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337 (h) Disposing of motor vehicles that are no longer
338 necessary to maintain the fleet or for vehicles that are not
339 used effectively as to establish motor cost savings.

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

343 (2) In developing the plan, the department shall evaluate
344 the costs and benefits of operating a centralized motor vehicle
345 fleet compared to the costs and benefits of contracting with a
346 third-party vendor for the operation of a centralized motor
347 vehicle fleet.

348 (3) By November 1, 2010, the department shall submit the
349 plan to the President of the Senate, the Speaker of the House of
350 Representatives, and the Governor and Cabinet.

351 Section 12. Subsections (1) and (8) of section 440.192,
352 Florida Statutes, are amended to read:

353 440.192 Procedure for resolving benefit disputes.—

354 (1) Any employee may, for any benefit that is ripe, due,
355 and owing, ~~file by certified mail, or by electronic means~~
356 ~~approved by the Deputy Chief Judge,~~ with the Office of the
357 Judges of Compensation Claims a petition for benefits which
358 meets the requirements of this section and the definition of
359 specificity in s. 440.02. An employee represented by an attorney
360 shall file by electronic means approved by the Deputy Chief
361 Judge. An employee not represented by an attorney may file by
362 certified mail or by electronic means approved by the Deputy
363 Chief Judge. The department shall inform employees of the
364 location of the Office of the Judges of Compensation Claims and

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365 the office's website address for purposes of filing a petition
366 for benefits. The employee shall also serve copies of the
367 petition for benefits by certified mail, or by electronic means
368 approved by the Deputy Chief Judge, upon the employer and the
369 employer's carrier. The Deputy Chief Judge shall refer the
370 petitions to the judges of compensation claims.

371 (8) Within 14 days after receipt of a petition for
372 benefits by certified mail or by approved electronic means, the
373 carrier must either pay the requested benefits without prejudice
374 to its right to deny within 120 days from receipt of the
375 petition or file a response to petition with the Office of the
376 Judges of Compensation Claims. The response shall be filed by
377 electronic means approved by the Deputy Chief Judge. The carrier
378 must list all benefits requested but not paid and explain its
379 justification for nonpayment in the response to petition. A
380 carrier that does not deny compensability in accordance with s.
381 440.20(4) is deemed to have accepted the employee's injuries as
382 compensable, unless it can establish material facts relevant to
383 the issue of compensability that could not have been discovered
384 through reasonable investigation within the 120-day period. The
385 carrier shall provide copies of the response to the filing
386 party, employer, and claimant by certified mail or by electronic
387 means approved by the Deputy Chief Judge.

388 Section 13. Subsection (1) and paragraphs (a), (c), and
389 (e) of subsection (4) of section 440.25, Florida Statutes, are
390 amended to read:

391 440.25 Procedures for mediation and hearings.—

392 (1) Forty days after a petition for benefits is filed

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393 | under s. 440.192, the judge of compensation claims shall notify
394 | the interested parties by order that a mediation conference
395 | concerning such petition has been scheduled unless the parties
396 | have notified the judge of compensation claims that a private
397 | mediation has been held or is scheduled to be held. A mediation,
398 | whether private or public, shall be held within 130 days after
399 | the filing of the petition. Such order must give the date the
400 | mediation conference is to be held. Such order may be served
401 | personally upon the interested parties or may be sent to the
402 | interested parties by mail or by electronic means approved by
403 | the Deputy Chief Judge. If multiple petitions are pending, or if
404 | additional petitions are filed after the scheduling of a
405 | mediation, the judge of compensation claims shall consolidate
406 | all petitions into one mediation. The claimant or the adjuster
407 | of the employer or carrier may, at the mediator's discretion,
408 | attend the mediation conference by telephone or, if agreed to by
409 | the parties, other electronic means. A continuance may be
410 | granted upon the agreement of the parties or if the requesting
411 | party demonstrates to the judge of compensation claims that the
412 | reason for requesting the continuance arises from circumstances
413 | beyond the party's control. Any order granting a continuance
414 | must set forth the date of the rescheduled mediation conference.
415 | A mediation conference may not be used solely for the purpose of
416 | mediating attorney's fees.

417 | (4) (a) If the parties fail to agree to written submission
418 | of pretrial stipulations, the judge of compensation claims shall
419 | conduct a live pretrial hearing. The judge of compensation
420 | claims shall give the interested parties at least 14 days'

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421 advance notice of the pretrial hearing by mail or by electronic
 422 means approved by the Deputy Chief Judge.

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

427 (e) The order making an award or rejecting the claim,
 428 referred to in this chapter as a "compensation order," shall set
 429 forth the findings of ultimate facts and the mandate; and the
 430 order need not include any other reason or justification for
 431 such mandate. The compensation order shall be filed in the
 432 Office of the Judges of Compensation Claims at Tallahassee. A
 433 copy of such compensation order shall be sent by mail or by
 434 electronic means approved by the Deputy Chief Judge to the
 435 ~~parties and~~ attorneys of record and any parties not represented
 436 by an attorney at the last known address of each, with the date
 437 of mailing noted thereon.

438 Section 14. Subsection (3) of section 440.29, Florida
 439 Statutes, is amended to read:

440 440.29 Procedure before the judge of compensation claims.—

441 (3) The practice and procedure before the judges of
 442 compensation claims shall be governed by rules adopted by the
 443 Office of the Judges of Compensation Claims ~~Supreme Court,~~
 444 except to the extent that such rules conflict with the
 445 provisions of this chapter.

446 Section 15. Subsection (4) of section 440.45, Florida
 447 Statutes, is amended to read:

448 440.45 Office of the Judges of Compensation Claims.—

449 (4) The Office of the Judges of Compensation Claims shall
 450 adopt rules to effectuate ~~effect~~ the purposes of this section.
 451 Such rules shall include procedural rules applicable to workers'
 452 compensation claim resolution, including rules requiring
 453 electronic filing and service where deemed appropriate by the
 454 Deputy Chief Judge, and uniform criteria for measuring the
 455 performance of the office, including, but not limited to, the
 456 number of cases assigned and resolved ~~disposed~~, the age of
 457 pending and resolved ~~disposed~~ cases, timeliness of decisions
 458 ~~decisionmaking~~, extraordinary fee awards, and other data
 459 necessary for the judicial nominating commission to review the
 460 performance of judges as required in paragraph (2) (c). ~~The~~
 461 ~~workers' compensation rules of procedure approved by the Supreme~~
 462 ~~Court apply until the rules adopted by the Office of the Judges~~
 463 ~~of Compensation Claims pursuant to this section become~~
 464 ~~effective.~~

465 Section 16. Subsection (1) of section 552.40, Florida
 466 Statutes, is amended to read:

467 552.40 Administrative remedy for alleged damage due to the
 468 use of explosives in connection with construction materials
 469 mining activities.—

470 (1) A person may initiate an administrative proceeding to
 471 recover damages resulting from the use of explosives in
 472 connection with construction materials mining activities by
 473 filing a petition with the Division of Administrative Hearings
 474 by electronic means through the division's website on a form
 475 provided by it and accompanied by a filing fee of \$100 within
 476 180 days after the occurrence of the alleged damage. If the

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477 petitioner submits an affidavit stating that the petitioner's
 478 annual income is less than 150 percent of the applicable federal
 479 poverty guideline published in the Federal Register by the
 480 United States Department of Health and Human Services, the \$100
 481 filing fee must be waived.

482 Section 17. Paragraph (b) of subsection (4) of section
 483 553.73, Florida Statutes, is amended to read:

484 553.73 Florida Building Code.—

485 (4)

486 (b) Local governments may, subject to the limitations of
 487 this section, adopt amendments to the technical provisions of
 488 the Florida Building Code which apply solely within the
 489 jurisdiction of such government and which provide for more
 490 stringent requirements than those specified in the Florida
 491 Building Code, not more than once every 6 months. A local
 492 government may adopt technical amendments that address local
 493 needs if:

494 1. The local governing body determines, following a public
 495 hearing which has been advertised in a newspaper of general
 496 circulation at least 10 days before the hearing, that there is a
 497 need to strengthen the requirements of the Florida Building
 498 Code. The determination must be based upon a review of local
 499 conditions by the local governing body, which review
 500 demonstrates by evidence or data that the geographical
 501 jurisdiction governed by the local governing body exhibits a
 502 local need to strengthen the Florida Building Code beyond the
 503 needs or regional variation addressed by the Florida Building
 504 Code, that the local need is addressed by the proposed local

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505 amendment, and that the amendment is no more stringent than
506 necessary to address the local need.

507 2. Such additional requirements are not discriminatory
508 against materials, products, or construction techniques of
509 demonstrated capabilities.

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

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

514 5. Any amendment to the Florida Building Code shall be
515 transmitted within 30 days by the adopting local government to
516 the commission. The commission shall maintain copies of all such
517 amendments in a format that is usable and obtainable by the
518 public. Local technical amendments shall not become effective
519 until 30 days after the amendment has been received and
520 published by the commission.

521 6. Any amendment to the Florida Building Code adopted by a
522 local government pursuant to this paragraph shall be effective
523 only until the adoption by the commission of the new edition of
524 the Florida Building Code every third year. At such time, the
525 commission shall review such amendment for consistency with the
526 criteria in paragraph (8) (a) and adopt such amendment as part of
527 the Florida Building Code or rescind the amendment. The
528 commission shall immediately notify the respective local
529 government of the rescission of any amendment. After receiving
530 such notice, the respective local government may readopt the
531 rescinded amendment pursuant to the provisions of this
532 paragraph.

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533 7. Each county and municipality desiring to make local
534 technical amendments to the Florida Building Code shall by
535 interlocal agreement establish a countywide compliance review
536 board to review any amendment to the Florida Building Code,
537 adopted by a local government within the county pursuant to this
538 paragraph, that is challenged by any substantially affected
539 party for purposes of determining the amendment's compliance
540 with this paragraph. If challenged, the local technical
541 amendments shall not become effective until time for filing an
542 appeal pursuant to subparagraph 8. has expired or, if there is
543 an appeal, until the commission issues its final order
544 determining the adopted amendment is in compliance with this
545 subsection.

546 8. If the compliance review board determines such
547 amendment is not in compliance with this paragraph, the
548 compliance review board shall notify such local government of
549 the noncompliance and that the amendment is invalid and
550 unenforceable until the local government corrects the amendment
551 to bring it into compliance. The local government may appeal the
552 decision of the compliance review board to the commission. If
553 the compliance review board determines such amendment to be in
554 compliance with this paragraph, any substantially affected party
555 may appeal such determination to the commission. Any such appeal
556 shall be filed with the commission within 14 days of the board's
557 written determination. The commission shall promptly refer the
558 appeal to the Division of Administrative Hearings by electronic
559 means through the division's website for the assignment of an
560 administrative law judge. The administrative law judge shall

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561 | conduct the required hearing within 30 days, and shall enter a
562 | recommended order within 30 days of the conclusion of such
563 | hearing. The commission shall enter a final order within 30 days
564 | thereafter. The provisions of chapter 120 and the uniform rules
565 | of procedure shall apply to such proceedings. The local
566 | government adopting the amendment that is subject to challenge
567 | has the burden of proving that the amendment complies with this
568 | paragraph in proceedings before the compliance review board and
569 | the commission, as applicable. Actions of the commission are
570 | subject to judicial review pursuant to s. 120.68. The compliance
571 | review board shall determine whether its decisions apply to a
572 | respective local jurisdiction or apply countywide.

573 | 9. An amendment adopted under this paragraph shall include
574 | a fiscal impact statement which documents the costs and benefits
575 | of the proposed amendment. Criteria for the fiscal impact
576 | statement shall include the impact to local government relative
577 | to enforcement, the impact to property and building owners, as
578 | well as to industry, relative to the cost of compliance. The
579 | fiscal impact statement may not be used as a basis for
580 | challenging the amendment for compliance.

581 | 10. In addition to subparagraphs 7. and 9., the commission
582 | may review any amendments adopted pursuant to this subsection
583 | and make nonbinding recommendations related to compliance of
584 | such amendments with this subsection.

585 | Section 18. Paragraph (b) of subsection (4) of section
586 | 961.03, Florida Statutes, is amended to read:

587 | 961.03 Determination of status as a wrongfully
588 | incarcerated person; determination of eligibility for

HB 7163

2010

589 compensation.—

590 (4)

591 (b) If the prosecuting authority responds as set forth in
592 paragraph (2)(b), and the court determines that the petitioner
593 is eligible under the provisions of s. 961.04, but the
594 prosecuting authority contests the nature, significance or
595 effect of the evidence of actual innocence, or the facts related
596 to the petitioner's alleged wrongful incarceration, the court
597 shall set forth its findings and transfer the petition by
598 electronic means through the division's website to the division
599 for findings of fact and a recommended determination of whether
600 the petitioner has established that he or she is a wrongfully
601 incarcerated person who is eligible for compensation under this
602 act.

603 Section 19. This act shall take effect July 1, 2010.