

1 A bill to be entitled
2 An act relating to electronic filing and receipt of court
3 and other legal documents; creating ss. 27.341 and
4 27.5112, F.S.; requiring each state attorney and public
5 defender to electronically file court documents with the
6 clerk of the court and receive court documents from the
7 clerk of the court; defining the term "court documents";
8 providing legislative expectations that the state
9 attorneys and public defenders consult with specified
10 entities; requiring the Florida Prosecuting Attorneys
11 Association and the Florida Public Defender Association
12 report to the President of the Senate and the Speaker of
13 the House of Representatives by a specified date on the
14 progress made to use the Florida Courts E-Portal system or
15 the clerks' offices portals to electronically file and
16 receive court documents; amending ss. 440.192 and 440.25,
17 F.S.; providing for electronic procedures for filing
18 documents and resolving benefit disputes in workers'
19 compensation proceedings; requiring a response to a
20 petition for workers' compensation benefits to be filed by
21 approved electronic means; amending ss. 440.29 and 440.45,
22 F.S.; requiring that the practice and procedure before the
23 judges of compensation claims be governed by the Office of
24 the Judges of Compensation Claims instead of the Supreme
25 Court; authorizing the Office of the Judges of
26 Compensation Claims to adopt rules to implement electronic
27 procedures; amending s. 120.52, F.S.; requiring use of
28 electronic procedures by those represented by an attorney;

29 | amending s. 120.54, F.S.; requiring a petitioner
 30 | requesting an administrative hearing to include the
 31 | petitioner's e-mail address; amending ss. 57.111, 120.56,
 32 | 120.569, 120.57, 552.40, 553.73, and 961.03, F.S.;
 33 | providing for electronic procedures in administrative
 34 | proceedings; providing an effective date.

35 |
 36 | Be It Enacted by the Legislature of the State of Florida:

37 |
 38 | Section 1. Section 27.341, Florida Statutes, is created to
 39 | read:

40 | 27.341 Electronic filing and receipt of court documents.-

41 | (1) (a) Each office of the state attorney shall
 42 | electronically file court documents with the clerk of the court
 43 | and receive court documents from the clerk of the court. It is
 44 | the expectation of the Legislature that the electronic filing
 45 | and receipt of court documents will reduce costs for the office
 46 | of the state attorney, the clerk of the court, and the
 47 | judiciary; will increase timeliness in the processing of cases;
 48 | and will provide the judiciary and the clerk of the court with
 49 | case-related information to allow for improved judicial case
 50 | management.

51 | (b) As used in this section, the term "court documents"
 52 | includes, but is not limited to, pleadings, motions, briefs, and
 53 | their respective attachments, orders, judgments, opinions,
 54 | decrees, and transcripts.

55 | (2) It is further the expectation of the Legislature that
 56 | each office of the state attorney consult with the office of the

CS/CS/HB 443

2011

57 public defender for the same circuit served by the office of the
58 state attorney, the clerks of court for the circuit, the Florida
59 Court Technology Commission, and any authority that governs the
60 operation of a statewide portal for the electronic filing and
61 receipt of court documents.

62 (3) The Florida Prosecuting Attorneys Association shall
63 file a report with the President of the Senate and the Speaker
64 of the House of Representatives by March 1, 2012, describing the
65 progress that each office of the state attorney has made to use
66 the Florida Courts E-Portal or, if the case type is not approved
67 for the Florida Courts E-Portal, separate clerks' offices
68 portals for purposes of electronic filing and documenting
69 receipt of court documents. For any office of the state attorney
70 that has not fully implemented an electronic filing and receipt
71 system by March 1, 2012, the report must also include a
72 description of the additional activities that are needed to
73 complete the system for that office and the projected time
74 necessary to complete the additional activities.

75 Section 2. Section 27.5112, Florida Statutes, is created
76 to read:

77 27.5112 Electronic filing and receipt of court documents.—

78 (1) (a) Each office of the public defender shall
79 electronically file court documents with the clerk of the court
80 and receive court documents from the clerk of the court. It is
81 the expectation of the Legislature that the electronic filing
82 and receipt of court documents will reduce costs for the office
83 of the public defender, the clerk of the court, and the
84 judiciary; will increase timeliness in the processing of cases;

85 and will provide the judiciary and the clerk of the court with
86 case-related information to allow for improved judicial case
87 management.

88 (b) As used in this section, the term "court documents"
89 includes, but is not limited to, pleadings, motions, briefs, and
90 their respective attachments, orders, judgments, opinions,
91 decrees, and transcripts.

92 (2) It is further the expectation of the Legislature that,
93 in developing the capability and implementing the process, each
94 office of the public defender consult with the office of the
95 state attorney for the same circuit served by the office of the
96 public defender, the clerks of court for the circuit, the
97 Florida Court Technology Commission, and any authority that
98 governs the operation of a statewide portal for the electronic
99 filing and receipt of court documents.

100 (3) The Florida Public Defender Association shall file a
101 report with the President of the Senate and the Speaker of the
102 House of Representatives by March 1, 2012, describing the
103 progress that each office of the public defender has made to use
104 the Florida Courts E-Portal or, if the case type is not approved
105 for the Florida Courts E-Portal, separate clerks' offices
106 portals for purposes of electronic filing and documenting
107 receipt of court documents. For any office of the public
108 defender that has not fully implemented an electronic filing and
109 receipt system by March 1, 2012, the report must also include a
110 description of the additional activities that are needed to
111 complete the system for that office and the projected time
112 necessary to complete the additional activities.

113 Section 3. Subsections (1) and (8) of section 440.192,
114 Florida Statutes, are amended to read:

115 440.192 Procedure for resolving benefit disputes.—

116 (1) Any employee may, for any benefit that is ripe, due,
117 and owing, file ~~by certified mail, or by electronic means~~
118 ~~approved by the Deputy Chief Judge,~~ with the Office of the
119 Judges of Compensation Claims a petition for benefits which
120 meets the requirements of this section and the definition of
121 specificity in s. 440.02. An employee represented by an attorney
122 shall file by electronic means approved by the Deputy Chief
123 Judge. An employee not represented by an attorney may file by
124 certified mail or by electronic means approved by the Deputy
125 Chief Judge. The department shall inform employees of the
126 location of the Office of the Judges of Compensation Claims and
127 the office's website address for purposes of filing a petition
128 for benefits. The employee shall also serve copies of the
129 petition for benefits by certified mail, or by electronic means
130 approved by the Deputy Chief Judge, upon the employer and the
131 employer's carrier. The Deputy Chief Judge shall refer the
132 petitions to the judges of compensation claims.

133 (8) Within 14 days after receipt of a petition for
134 benefits by certified mail or by approved electronic means, the
135 carrier must either pay the requested benefits without prejudice
136 to its right to deny within 120 days from receipt of the
137 petition or file a response to petition with the Office of the
138 Judges of Compensation Claims. The response shall be filed by
139 electronic means approved by the Deputy Chief Judge. The carrier
140 must list all benefits requested but not paid and explain its

141 justification for nonpayment in the response to petition. A
142 carrier that does not deny compensability in accordance with s.
143 440.20(4) is deemed to have accepted the employee's injuries as
144 compensable, unless it can establish material facts relevant to
145 the issue of compensability that could not have been discovered
146 through reasonable investigation within the 120-day period. The
147 carrier shall provide copies of the response to the filing
148 party, employer, and claimant by certified mail or by electronic
149 means approved by the Deputy Chief Judge.

150 Section 4. Subsection (1) and paragraphs (a), (c), and (e)
151 of subsection (4) of section 440.25, Florida Statutes, are
152 amended to read:

153 440.25 Procedures for mediation and hearings.—

154 (1) Forty days after a petition for benefits is filed
155 under s. 440.192, the judge of compensation claims shall notify
156 the interested parties by order that a mediation conference
157 concerning such petition has been scheduled unless the parties
158 have notified the judge of compensation claims that a private
159 mediation has been held or is scheduled to be held. A mediation,
160 whether private or public, shall be held within 130 days after
161 the filing of the petition. Such order must give the date the
162 mediation conference is to be held. Such order may be served
163 personally upon the interested parties or may be sent to the
164 interested parties by mail or by electronic means approved by
165 the Deputy Chief Judge. If multiple petitions are pending, or if
166 additional petitions are filed after the scheduling of a
167 mediation, the judge of compensation claims shall consolidate
168 all petitions into one mediation. The claimant or the adjuster

169 of the employer or carrier may, at the mediator's discretion,
170 attend the mediation conference by telephone or, if agreed to by
171 the parties, other electronic means. A continuance may be
172 granted upon the agreement of the parties or if the requesting
173 party demonstrates to the judge of compensation claims that the
174 reason for requesting the continuance arises from circumstances
175 beyond the party's control. Any order granting a continuance
176 must set forth the date of the rescheduled mediation conference.
177 A mediation conference may not be used solely for the purpose of
178 mediating attorney's fees.

179 (4) (a) If the parties fail to agree to written submission
180 of pretrial stipulations, the judge of compensation claims shall
181 conduct a live pretrial hearing. The judge of compensation
182 claims shall give the interested parties at least 14 days'
183 advance notice of the pretrial hearing by mail or by electronic
184 means approved by the Deputy Chief Judge.

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

189 (e) The order making an award or rejecting the claim,
190 referred to in this chapter as a "compensation order," shall set
191 forth the findings of ultimate facts and the mandate; and the
192 order need not include any other reason or justification for
193 such mandate. The compensation order shall be filed in the
194 Office of the Judges of Compensation Claims at Tallahassee. A
195 copy of such compensation order shall be sent by mail or by
196 electronic means approved by the Deputy Chief Judge to the

197 ~~parties and~~ attorneys of record and any parties not represented
 198 by an attorney at the last known address of each, with the date
 199 of mailing noted thereon.

200 Section 5. Subsection (3) of section 440.29, Florida
 201 Statutes, is amended to read:

202 440.29 Procedure before the judge of compensation claims.—

203 (3) The practice and procedure before the judges of
 204 compensation claims shall be governed by rules adopted by the
 205 Office of the Judges of Compensation Claims ~~Supreme Court~~,
 206 except to the extent that such rules conflict with the
 207 provisions of this chapter.

208 Section 6. Subsection (4) of section 440.45, Florida
 209 Statutes, is amended to read:

210 440.45 Office of the Judges of Compensation Claims.—

211 (4) The Office of the Judges of Compensation Claims shall
 212 adopt rules to carry out ~~effect~~ the purposes of this section.
 213 Such rules must ~~shall~~ include procedural rules applicable to
 214 workers' compensation claim resolution, including rules
 215 requiring electronic filing and service where deemed appropriate
 216 by the Deputy Chief Judge, and uniform criteria for measuring
 217 the performance of the office, including, but not limited to,
 218 the number of cases assigned and resolved ~~disposed~~, the age of
 219 pending and resolved ~~disposed~~ cases, timeliness of decisions
 220 ~~decisionmaking~~, extraordinary fee awards, and other data
 221 necessary for the judicial nominating commission to review the
 222 performance of judges as required in paragraph (2) (c). ~~The~~
 223 ~~workers' compensation rules of procedure approved by the Supreme~~
 224 ~~Court apply until the rules adopted by the Office of the Judges~~

225 ~~of Compensation Claims pursuant to this section become~~
 226 ~~effective.~~

227 Section 7. Subsection (5) of section 120.52, Florida
 228 Statutes, is amended to read:

229 120.52 Definitions.—As used in this act:

230 (5) "Division" means the Division of Administrative
 231 Hearings. Any document filed with the division by a party
 232 represented by an attorney shall be filed by electronic means
 233 through the division's website. Any document filed with the
 234 division by a party not represented by an attorney shall,
 235 whenever possible, be filed by electronic means through the
 236 division's website.

237 Section 8. Paragraph (b) of subsection (5) of section
 238 120.54, Florida Statutes, is amended to read:

239 120.54 Rulemaking.—

240 (5) UNIFORM RULES.—

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

244 1. Uniform rules for the scheduling of public meetings,
 245 hearings, and workshops.

246 2. Uniform rules for use by each state agency that provide
 247 procedures for conducting public meetings, hearings, and
 248 workshops, and for taking evidence, testimony, and argument at
 249 such public meetings, hearings, and workshops, in person and by
 250 means of communications media technology. The rules shall
 251 provide that all evidence, testimony, and argument presented
 252 shall be afforded equal consideration, regardless of the method

253 of communication. If a public meeting, hearing, or workshop is
254 to be conducted by means of communications media technology, or
255 if attendance may be provided by such means, the notice shall so
256 state. The notice for public meetings, hearings, and workshops
257 utilizing communications media technology shall state how
258 persons interested in attending may do so and shall name
259 locations, if any, where communications media technology
260 facilities will be available. Nothing in this paragraph shall be
261 construed to diminish the right to inspect public records under
262 chapter 119. Limiting points of access to public meetings,
263 hearings, and workshops subject to the provisions of s. 286.011
264 to places not normally open to the public shall be presumed to
265 violate the right of access of the public, and any official
266 action taken under such circumstances is void and of no effect.
267 Other laws relating to public meetings, hearings, and workshops,
268 including penal and remedial provisions, shall apply to public
269 meetings, hearings, and workshops conducted by means of
270 communications media technology, and shall be liberally
271 construed in their application to such public meetings,
272 hearings, and workshops. As used in this subparagraph,
273 "communications media technology" means the electronic
274 transmission of printed matter, audio, full-motion video,
275 freeze-frame video, compressed video, and digital video by any
276 method available.

277 3. Uniform rules of procedure for the filing of notice of
278 protests and formal written protests. The Administration
279 Commission may prescribe the form and substantive provisions of
280 a required bond.

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

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

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

289 c. An explanation of how the petitioner's substantial
290 interests are or will be affected by the action or proposed
291 action.

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

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

297 f. A statement of the specific rules or statutes that the
298 petitioner contends require reversal or modification of the
299 agency's proposed action, including an explanation of how the
300 alleged facts relate to the specific rules or statutes.

301 g. A statement of the relief sought by the petitioner,
302 stating precisely the action petitioner wishes the agency to
303 take with respect to the proposed action.

304 5. Uniform rules for the filing of request for
305 administrative hearing by a respondent in agency enforcement and
306 disciplinary actions. Such rules shall require a request to
307 include:

308 a. The name, address, e-mail address, and telephone number
309 of the party making the request and the name, address, and
310 telephone number of the party's counsel or qualified
311 representative upon whom service of pleadings and other papers
312 shall be made;

313 b. A statement that the respondent is requesting an
314 administrative hearing and disputes the material facts alleged
315 by the petitioner, in which case the respondent shall identify
316 those material facts that are in dispute, or that the respondent
317 is requesting an administrative hearing and does not dispute the
318 material facts alleged by the petitioner; and

319 c. A reference by file number to the administrative
320 complaint that the party has received from the agency and the
321 date on which the agency pleading was received.

322
323 The agency may provide an election-of-rights form for the
324 respondent's use in requesting a hearing, so long as any form
325 provided by the agency calls for the information in sub-
326 subparagraphs a. through c. and does not impose any additional
327 requirements on a respondent in order to request a hearing,
328 unless such requirements are specifically authorized by law.

329 6. Uniform rules of procedure for the filing and prompt
330 disposition of petitions for declaratory statements. The rules
331 shall also describe the contents of the notices that must be
332 published in the Florida Administrative Weekly under s. 120.565,
333 including any applicable time limit for the filing of petitions
334 to intervene or petitions for administrative hearing by persons
335 whose substantial interests may be affected.

336 7. Provision of a method by which each agency head shall
337 provide a description of the agency's organization and general
338 course of its operations. The rules shall require that the
339 statement concerning the agency's organization and operations be
340 published on the agency's website.

341 8. Uniform rules establishing procedures for granting or
342 denying petitions for variances and waivers pursuant to s.
343 120.542.

344 Section 9. Paragraph (b) of subsection (4) of section
345 57.111, Florida Statutes, is amended to read:

346 57.111 Civil actions and administrative proceedings
347 initiated by state agencies; attorneys' fees and costs.—

348 (4)

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

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

363 Section 10. Paragraphs (c) and (d) of subsection (1) of
364 section 120.56, Florida Statutes, are amended to read:

365 120.56 Challenges to rules.—

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

368 (c) The petition shall be filed by electronic means with
369 the division which shall, immediately upon filing, forward by
370 electronic means copies to the agency whose rule is challenged,
371 the Department of State, and the committee. Within 10 days after
372 receiving the petition, the division director shall, if the
373 petition complies with the requirements of paragraph (b), assign
374 an administrative law judge who shall conduct a hearing within
375 30 days thereafter, unless the petition is withdrawn or a
376 continuance is granted by agreement of the parties or for good
377 cause shown. Evidence of good cause includes, but is not limited
378 to, written notice of an agency's decision to modify or withdraw
379 the proposed rule or a written notice from the chair of the
380 committee stating that the committee will consider an objection
381 to the rule at its next scheduled meeting. The failure of an
382 agency to follow the applicable rulemaking procedures or
383 requirements set forth in this chapter shall be presumed to be
384 material; however, the agency may rebut this presumption by
385 showing that the substantial interests of the petitioner and the
386 fairness of the proceedings have not been impaired.

387 (d) Within 30 days after the hearing, the administrative
388 law judge shall render a decision and state the reasons therefor
389 in writing. The division shall forthwith transmit by electronic

CS/CS/HB 443

2011

390 means copies of the administrative law judge's decision to the
391 agency, the Department of State, and the committee.

392 Section 11. Paragraph (a) of subsection (2) of section
393 120.569, Florida Statutes, is amended to read:

394 120.569 Decisions which affect substantial interests.—

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

401 A request for a hearing shall be granted or denied within 15
402 days after receipt. On the request of any agency, the division
403 shall assign an administrative law judge with due regard to the
404 expertise required for the particular matter. The referring
405 agency shall take no further action with respect to a proceeding
406 under s. 120.57(1), except as a party litigant, as long as the
407 division has jurisdiction over the proceeding under s.
408 120.57(1). Any party may request the disqualification of the
409 administrative law judge by filing an affidavit with the
410 division prior to the taking of evidence at a hearing, stating
411 the grounds with particularity.

412 Section 12. Paragraph (d) of subsection (3) of section
413 120.57, Florida Statutes, is amended to read:

414 120.57 Additional procedures for particular cases.—

415 (3) ADDITIONAL PROCEDURES APPLICABLE TO PROTESTS TO
416 CONTRACT SOLICITATION OR AWARD.—Agencies subject to this chapter
417 shall use the uniform rules of procedure, which provide

418 | procedures for the resolution of protests arising from the
 419 | contract solicitation or award process. Such rules shall at
 420 | least provide that:

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

425 | 2. If the subject of a protest is not resolved by mutual
 426 | agreement within 7 days, excluding Saturdays, Sundays, and state
 427 | holidays, after receipt of the formal written protest, and if
 428 | there is no disputed issue of material fact, an informal
 429 | proceeding shall be conducted pursuant to subsection (2) and
 430 | applicable agency rules before a person whose qualifications
 431 | have been prescribed by rules of the agency.

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

438 | Section 13. Subsection (1) of section 552.40, Florida
 439 | Statutes, is amended to read:

440 | 552.40 Administrative remedy for alleged damage due to the
 441 | use of explosives in connection with construction materials
 442 | mining activities.—

443 | (1) A person may initiate an administrative proceeding to
 444 | recover damages resulting from the use of explosives in
 445 | connection with construction materials mining activities by

446 filing a petition with the Division of Administrative Hearings
447 by electronic means through the division's website on a form
448 provided by it and accompanied by a filing fee of \$100 within
449 180 days after the occurrence of the alleged damage. If the
450 petitioner submits an affidavit stating that the petitioner's
451 annual income is less than 150 percent of the applicable federal
452 poverty guideline published in the Federal Register by the
453 United States Department of Health and Human Services, the \$100
454 filing fee must be waived.

455 Section 14. Paragraph (b) of subsection (4) of section
456 553.73, Florida Statutes, is amended to read:

457 553.73 Florida Building Code.—

458 (4)

459 (b) Local governments may, subject to the limitations of
460 this section, adopt amendments to the technical provisions of
461 the Florida Building Code which apply solely within the
462 jurisdiction of such government and which provide for more
463 stringent requirements than those specified in the Florida
464 Building Code, not more than once every 6 months. A local
465 government may adopt technical amendments that address local
466 needs if:

467 1. The local governing body determines, following a public
468 hearing which has been advertised in a newspaper of general
469 circulation at least 10 days before the hearing, that there is a
470 need to strengthen the requirements of the Florida Building
471 Code. The determination must be based upon a review of local
472 conditions by the local governing body, which review
473 demonstrates by evidence or data that the geographical

474 jurisdiction governed by the local governing body exhibits a
475 local need to strengthen the Florida Building Code beyond the
476 needs or regional variation addressed by the Florida Building
477 Code, that the local need is addressed by the proposed local
478 amendment, and that the amendment is no more stringent than
479 necessary to address the local need.

480 2. Such additional requirements are not discriminatory
481 against materials, products, or construction techniques of
482 demonstrated capabilities.

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

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

487 5. Any amendment to the Florida Building Code shall be
488 transmitted within 30 days by the adopting local government to
489 the commission. The commission shall maintain copies of all such
490 amendments in a format that is usable and obtainable by the
491 public. Local technical amendments shall not become effective
492 until 30 days after the amendment has been received and
493 published by the commission.

494 6. Any amendment to the Florida Building Code adopted by a
495 local government pursuant to this paragraph shall be effective
496 only until the adoption by the commission of the new edition of
497 the Florida Building Code every third year. At such time, the
498 commission shall review such amendment for consistency with the
499 criteria in paragraph (9) (a) and adopt such amendment as part of
500 the Florida Building Code or rescind the amendment. The
501 commission shall immediately notify the respective local

502 government of the rescission of any amendment. After receiving
503 such notice, the respective local government may readopt the
504 rescinded amendment pursuant to the provisions of this
505 paragraph.

506 7. Each county and municipality desiring to make local
507 technical amendments to the Florida Building Code shall by
508 interlocal agreement establish a countywide compliance review
509 board to review any amendment to the Florida Building Code,
510 adopted by a local government within the county pursuant to this
511 paragraph, that is challenged by any substantially affected
512 party for purposes of determining the amendment's compliance
513 with this paragraph. If challenged, the local technical
514 amendments shall not become effective until time for filing an
515 appeal pursuant to subparagraph 8. has expired or, if there is
516 an appeal, until the commission issues its final order
517 determining the adopted amendment is in compliance with this
518 subsection.

519 8. If the compliance review board determines such
520 amendment is not in compliance with this paragraph, the
521 compliance review board shall notify such local government of
522 the noncompliance and that the amendment is invalid and
523 unenforceable until the local government corrects the amendment
524 to bring it into compliance. The local government may appeal the
525 decision of the compliance review board to the commission. If
526 the compliance review board determines such amendment to be in
527 compliance with this paragraph, any substantially affected party
528 may appeal such determination to the commission. Any such appeal
529 shall be filed with the commission within 14 days of the board's

530 written determination. The commission shall promptly refer the
531 appeal to the Division of Administrative Hearings by electronic
532 means through the division's website for the assignment of an
533 administrative law judge. The administrative law judge shall
534 conduct the required hearing within 30 days, and shall enter a
535 recommended order within 30 days of the conclusion of such
536 hearing. The commission shall enter a final order within 30 days
537 thereafter. The provisions of chapter 120 and the uniform rules
538 of procedure shall apply to such proceedings. The local
539 government adopting the amendment that is subject to challenge
540 has the burden of proving that the amendment complies with this
541 paragraph in proceedings before the compliance review board and
542 the commission, as applicable. Actions of the commission are
543 subject to judicial review pursuant to s. 120.68. The compliance
544 review board shall determine whether its decisions apply to a
545 respective local jurisdiction or apply countywide.

546 9. An amendment adopted under this paragraph shall include
547 a fiscal impact statement which documents the costs and benefits
548 of the proposed amendment. Criteria for the fiscal impact
549 statement shall include the impact to local government relative
550 to enforcement, the impact to property and building owners, as
551 well as to industry, relative to the cost of compliance. The
552 fiscal impact statement may not be used as a basis for
553 challenging the amendment for compliance.

554 10. In addition to subparagraphs 7. and 9., the commission
555 may review any amendments adopted pursuant to this subsection
556 and make nonbinding recommendations related to compliance of
557 such amendments with this subsection.

CS/CS/HB 443

2011

558 Section 15. Paragraph (b) of subsection (4) of section
559 961.03, Florida Statutes, is amended to read:

560 961.03 Determination of status as a wrongfully
561 incarcerated person; determination of eligibility for
562 compensation.—

563 (4)

564 (b) If the prosecuting authority responds as set forth in
565 paragraph (2)(b), and the court determines that the petitioner
566 is eligible under the provisions of s. 961.04, but the
567 prosecuting authority contests the nature, significance or
568 effect of the evidence of actual innocence, or the facts related
569 to the petitioner's alleged wrongful incarceration, the court
570 shall set forth its findings and transfer the petition by
571 electronic means through the division's website to the division
572 for findings of fact and a recommended determination of whether
573 the petitioner has established that he or she is a wrongfully
574 incarcerated person who is eligible for compensation under this
575 act.

576 Section 16. This act shall take effect July 1, 2011.