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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.; changing the governance of the
 5 department; amending ss. 57.111, 120.56, 120.569, 120.57,
 6 553.73, and 961.03, F.S.; providing for electronic filing
 7 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 a wireless device report; creating s.
 23 282.712, F.S.; creating requirements for the use of
 24 wireless devices; requiring the Department of Management
 25 Services to prepare a plan to centralize the fleet of
 26 state-owned motor vehicles; requiring a report to the
 27 Governor and the Legislature; amending s. 440.192 and
 28 440.25, F.S.; providing procedures for filing petitions

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29 | for benefits and other documents in workers' compensation
 30 | benefits proceedings; amending s. 440.29 and 440.45, F.S.;
 31 | authorizing the Office of the Judges of Compensation
 32 | Claims to adopt rules for certain purposes; providing an
 33 | effective date.

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

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

39 | 20.22 Department of Management Services.—There is created
 40 | a Department of Management Services.

41 | (1) The head of the department is the Governor and
 42 | Cabinet. The executive director of the department shall be
 43 | appointed by the Governor with the approval of each member of
 44 | the Cabinet and subject to confirmation by the Senate. The
 45 | executive director shall serve at the pleasure of the Governor
 46 | and Cabinet. ~~The head of the Department of Management Services~~
 47 | ~~is the Secretary of Management Services, who shall be appointed~~
 48 | ~~by the Governor, subject to confirmation by the Senate, and~~
 49 | ~~shall serve at the pleasure of the Governor.~~

50 | Section 2. Paragraph (b) of subsection (4) of section
 51 | 57.111, Florida Statutes, is amended to read:

52 | 57.111 Civil actions and administrative proceedings
 53 | initiated by state agencies; attorneys' fees and costs.—

54 | (4)

55 | (b)1. To apply for an award under this section, the
 56 | attorney for the prevailing small business party must submit an

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57 | itemized affidavit to the court which first conducted the
 58 | adversarial proceeding in the underlying action, or by
 59 | electronic means through the division's website to the Division
 60 | of Administrative Hearings, which shall assign an administrative
 61 | law judge, in the case of a proceeding pursuant to chapter 120,
 62 | which affidavit shall reveal the nature and extent of the
 63 | services rendered by the attorney as well as the costs incurred
 64 | in preparations, motions, hearings, and appeals in the
 65 | proceeding.

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

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

71 | Section 4. Paragraph (b) of subsection (5) of section
 72 | 120.54, Florida Statutes, is amended to read:

73 | 120.54 Rulemaking.—

74 | (5) UNIFORM RULES.—

75 | (b) The uniform rules of procedure adopted by the
 76 | commission pursuant to this subsection shall include, but are
 77 | not limited to:

78 | 1. Uniform rules for the scheduling of public meetings,
 79 | hearings, and workshops.

80 | 2. Uniform rules for use by each state agency that provide
 81 | procedures for conducting public meetings, hearings, and
 82 | workshops, and for taking evidence, testimony, and argument at
 83 | such public meetings, hearings, and workshops, in person and by
 84 | means of communications media technology. The rules shall

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85 provide that all evidence, testimony, and argument presented
 86 shall be afforded equal consideration, regardless of the method
 87 of communication. If a public meeting, hearing, or workshop is
 88 to be conducted by means of communications media technology, or
 89 if attendance may be provided by such means, the notice shall so
 90 state. The notice for public meetings, hearings, and workshops
 91 utilizing communications media technology shall state how
 92 persons interested in attending may do so and shall name
 93 locations, if any, where communications media technology
 94 facilities will be available. Nothing in this paragraph shall be
 95 construed to diminish the right to inspect public records under
 96 chapter 119. Limiting points of access to public meetings,
 97 hearings, and workshops subject to the provisions of s. 286.011
 98 to places not normally open to the public shall be presumed to
 99 violate the right of access of the public, and any official
 100 action taken under such circumstances is void and of no effect.
 101 Other laws relating to public meetings, hearings, and workshops,
 102 including penal and remedial provisions, shall apply to public
 103 meetings, hearings, and workshops conducted by means of
 104 communications media technology, and shall be liberally
 105 construed in their application to such public meetings,
 106 hearings, and workshops. As used in this subparagraph,
 107 "communications media technology" means the electronic
 108 transmission of printed matter, audio, full-motion video,
 109 freeze-frame video, compressed video, and digital video by any
 110 method available.

111 3. Uniform rules of procedure for the filing of notice of
 112 protests and formal written protests. The Administration

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113 Commission may prescribe the form and substantive provisions of
 114 a required bond.

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

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

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

123 c. An explanation of how the petitioner's substantial
 124 interests are or will be affected by the action or proposed
 125 action.

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

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

131 f. A statement of the specific rules or statutes that the
 132 petitioner contends require reversal or modification of the
 133 agency's proposed action, including an explanation of how the
 134 alleged facts relate to the specific rules or statutes.

135 g. A statement of the relief sought by the petitioner,
 136 stating precisely the action petitioner wishes the agency to
 137 take with respect to the proposed action.

138 5. Uniform rules for the filing of request for
 139 administrative hearing by a respondent in agency enforcement and
 140 disciplinary actions. Such rules shall require a request to

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141 include:

142 a. The name, address, e-mail address, and telephone number
 143 of the party making the request and the name, address, e-mail
 144 address, and telephone number of the party's counsel or
 145 qualified representative upon whom service of pleadings and
 146 other papers shall be made;

147 b. A statement that the respondent is requesting an
 148 administrative hearing and disputes the material facts alleged
 149 by the petitioner, in which case the respondent shall identify
 150 those material facts that are in dispute, or that the respondent
 151 is requesting an administrative hearing and does not dispute the
 152 material facts alleged by the petitioner; and

153 c. A reference by file number to the administrative
 154 complaint that the party has received from the agency and the
 155 date on which the agency pleading was received.

156
 157 The agency may provide an election-of-rights form for the
 158 respondent's use in requesting a hearing, so long as any form
 159 provided by the agency calls for the information in sub-
 160 subparagraphs a. through c. and does not impose any additional
 161 requirements on a respondent in order to request a hearing,
 162 unless such requirements are specifically authorized by law.

163 6. Uniform rules of procedure for the filing and prompt
 164 disposition of petitions for declaratory statements. The rules
 165 shall also describe the contents of the notices that must be
 166 published in the Florida Administrative Weekly under s. 120.565,
 167 including any applicable time limit for the filing of petitions
 168 to intervene or petitions for administrative hearing by persons

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169 whose substantial interests may be affected.

170 7. Provision of a method by which each agency head shall
 171 provide a description of the agency's organization and general
 172 course of its operations. The rules shall require that the
 173 statement concerning the agency's organization and operations be
 174 published on the agency's website.

175 8. Uniform rules establishing procedures for granting or
 176 denying petitions for variances and waivers pursuant to s.
 177 120.542.

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

180 120.56 Challenges to rules.—

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

183 (c) The petition shall be filed by electronic means with
 184 the division, which shall, immediately upon filing, forward by
 185 electronic means copies to the agency whose rule is challenged,
 186 the Department of State, and the committee. Within 10 days after
 187 receiving the petition, the division director shall, if the
 188 petition complies with the requirements of paragraph (b), assign
 189 an administrative law judge who shall conduct a hearing within
 190 30 days thereafter, unless the petition is withdrawn or a
 191 continuance is granted by agreement of the parties or for good
 192 cause shown. Evidence of good cause includes, but is not limited
 193 to, written notice of an agency's decision to modify or withdraw
 194 the proposed rule or a written notice from the chair of the
 195 committee stating that the committee will consider an objection
 196 to the rule at its next scheduled meeting. The failure of an

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197 agency to follow the applicable rulemaking procedures or
 198 requirements set forth in this chapter shall be presumed to be
 199 material; however, the agency may rebut this presumption by
 200 showing that the substantial interests of the petitioner and the
 201 fairness of the proceedings have not been impaired.

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

207 Section 6. Paragraph (a) of subsection (2) of section
 208 120.569, Florida Statutes, is amended to read:

209 120.569 Decisions which affect substantial interests.—

210 (2) (a) Except for any proceeding conducted as prescribed
 211 in s. 120.56, a petition or request for a hearing under this
 212 section shall be filed with the agency. If the agency requests
 213 an administrative law judge from the division, it shall so
 214 notify the division by electronic means through the division's
 215 website within 15 days after receipt of the petition or request.
 216 A request for a hearing shall be granted or denied within 15
 217 days after receipt. On the request of any agency, the division
 218 shall assign an administrative law judge with due regard to the
 219 expertise required for the particular matter. The referring
 220 agency shall take no further action with respect to a proceeding
 221 under s. 120.57(1), except as a party litigant, as long as the
 222 division has jurisdiction over the proceeding under s.
 223 120.57(1). Any party may request the disqualification of the
 224 administrative law judge by filing an affidavit with the

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225 | division prior to the taking of evidence at a hearing, stating
 226 | the grounds with particularity.

227 | Section 7. Paragraph (d) of subsection (3) of section
 228 | 120.57, Florida Statutes, is amended to read:

229 | 120.57 Additional procedures for particular cases.—

230 | (3) ADDITIONAL PROCEDURES APPLICABLE TO PROTESTS TO
 231 | CONTRACT SOLICITATION OR AWARD.—Agencies subject to this chapter
 232 | shall use the uniform rules of procedure, which provide
 233 | procedures for the resolution of protests arising from the
 234 | contract solicitation or award process. Such rules shall at
 235 | least provide that:

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

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

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

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253 Section 8. Section 120.585, Florida Statutes, is created
 254 to read:

255 120.585 Electronic filing.—Any document filed with the
 256 division by a party represented by an attorney must be filed by
 257 electronic means through the division's website. Any document
 258 filed with the division by a party who is not represented by an
 259 attorney shall, whenever possible, be filed by electronic means
 260 through the division's website.

261 Section 9. Subsections (6) - (9) of section 216.023,
 262 Florida Statutes, are renumbered as subsections (7) - (10),
 263 respectively, and a new subsection (6) is added to that section
 264 to read:

265 216.023 Legislative budget requests to be furnished to
 266 Legislature by agencies.—

267 (6) As part of the legislative budget request, the head of
 268 each agency shall include an annual inventory of all wireless
 269 devices and expenditures, including the number of wireless
 270 devices by type, expenditures by type of device, total
 271 expenditures, a list of job classifications assigned a wireless
 272 device, and steps taken to contain costs.

273 Section 10. Section 282.712, Florida Statutes, is created
 274 to read:

275 282.712 Statewide Wireless Communication Utilization.—

276 (1) It is the intent of the Legislature that the
 277 expenditure of public funds on wireless communication devices
 278 shall be prohibited except as provided herein.

279 (2) Agencies shall limit assignment and use of cellular
 280 telephones, personal digital assistants, and other wireless

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281 communication devices to only those employees who, as part of
 282 their official assigned duties, routinely must:

283 (a) Be immediately available to citizens, supervisors, or
 284 subordinates;

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

286 (c) Be available to receive calls outside of regular
 287 working hours;

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

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

292 (3) Agencies shall procure wireless communication devices
 293 and services using a state term contract or Suncom services
 294 unless otherwise approved by the Department of Management
 295 Services. In seeking approval to use another procurement
 296 method, agencies shall provide a side by side comparison of
 297 costs for the state term contract and the mechanisms otherwise
 298 requested to be used by the agency, and the reasons for
 299 deviating from the state term contract or Suncom services. The
 300 department shall approve such requests only upon a finding that
 301 the cost benefit analysis supports the use of another
 302 procurement method.

303 (4) Agencies shall audit wireless communication device
 304 expenditures to confirm that costs are associated with business
 305 purposes. Any costs associated with personal use of a wireless
 306 communication device by an employee shall be reimbursed to the
 307 agency by that employee.

308 Section 11. Centralized Fleet Management.-

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

312 (2) The Department of Management Services shall prepare a
 313 plan to centralize all state-owned motor vehicles that addresses
 314 the following:

315 (a) A method for assigning and administering vehicles to
 316 state agencies and employees.

317 (b) A method for managing a pool of vehicles for short-
 318 term use.

319 (c) A method for charging state agencies for the use of a
 320 motor vehicle, including costs associated with vehicle
 321 replacement and operating costs.

322 (d) A method for purchasing vehicles necessary for the
 323 operation of the centralized fleet.

324 (e) A method for repairing and maintaining vehicles.

325 (f) A method for monitoring the use of vehicles and
 326 enforcing regulations regarding proper use.

327 (g) A method for maintaining records related to the
 328 operation and maintenance of vehicles and the administration of
 329 the fleet.

330 (h) A method to dispose of motor vehicles that are no
 331 longer necessary to maintain the fleet or for vehicles that are
 332 not used effectively as to establish cost savings.

333 (i) A method to determine when it would be cost-efficient
 334 to lease a vehicle from a third-party vendor instead of using a
 335 state-owned vehicle.

336 (2) In developing the plan, the Department of Management

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337 Services shall evaluate the costs and benefits of operating a
 338 centralized motor vehicle fleet compared to the costs and
 339 benefits of contracting with a third-party vendor for the
 340 operation of a centralized motor vehicle fleet.

341 (3) By November 1, 2010, the Department of Management
 342 Services shall submit the plan to the President of the Senate,
 343 the Speaker of the House of Representatives, and the Governor
 344 and Cabinet.

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

347 (1) Any employee may, for any benefit that is ripe, due,
 348 and owing, ~~file by certified mail, or by electronic means~~
 349 ~~approved by the Deputy Chief Judge,~~ with the Office of the
 350 Judges of Compensation Claims a petition for benefits which
 351 meets the requirements of this section and the definition of
 352 specificity in s. 440.02. An employee represented by an attorney
 353 shall file by electronic means approved by the Deputy Chief
 354 Judge. An employee not represented by an attorney may file by
 355 certified mail or by electronic means approved by the Deputy
 356 Chief Judge. The department shall inform employees of the
 357 location of the Office of the Judges of Compensation Claims and
 358 the office's website address for purposes of filing a petition
 359 for benefits. The employee shall also serve copies of the
 360 petition for benefits by certified mail, or by electronic means
 361 approved by the Deputy Chief Judge, upon the employer and the
 362 employer's carrier. The Deputy Chief Judge shall refer the
 363 petitions to the judges of compensation claims.

364 (8) Within 14 days after receipt of a petition for

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

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

384 440.25 Procedures for mediation and hearings.—

385 (1) Forty days after a petition for benefits is filed
 386 under s. 440.192, the judge of compensation claims shall notify
 387 the interested parties by order that a mediation conference
 388 concerning such petition has been scheduled unless the parties
 389 have notified the judge of compensation claims that a private
 390 mediation has been held or is scheduled to be held. A mediation,
 391 whether private or public, shall be held within 130 days after
 392 the filing of the petition. Such order must give the date the

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393 mediation conference is to be held. Such order may be served
 394 personally upon the interested parties or may be sent to the
 395 interested parties by mail or by electronic means approved by
 396 the Deputy Chief Judge. If multiple petitions are pending, or if
 397 additional petitions are filed after the scheduling of a
 398 mediation, the judge of compensation claims shall consolidate
 399 all petitions into one mediation. The claimant or the adjuster
 400 of the employer or carrier may, at the mediator's discretion,
 401 attend the mediation conference by telephone or, if agreed to by
 402 the parties, other electronic means. A continuance may be
 403 granted upon the agreement of the parties or if the requesting
 404 party demonstrates to the judge of compensation claims that the
 405 reason for requesting the continuance arises from circumstances
 406 beyond the party's control. Any order granting a continuance
 407 must set forth the date of the rescheduled mediation conference.
 408 A mediation conference may not be used solely for the purpose of
 409 mediating attorney's fees.

410 (4) (a) If the parties fail to agree to written submission
 411 of pretrial stipulations, the judge of compensation claims shall
 412 conduct a live pretrial hearing. The judge of compensation
 413 claims shall give the interested parties at least 14 days'
 414 advance notice of the pretrial hearing by mail or by electronic
 415 means approved by the Deputy Chief Judge.

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

420 (e) The order making an award or rejecting the claim,

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421 referred to in this chapter as a "compensation order," shall set
 422 forth the findings of ultimate facts and the mandate; and the
 423 order need not include any other reason or justification for
 424 such mandate. The compensation order shall be filed in the
 425 Office of the Judges of Compensation Claims at Tallahassee. A
 426 copy of such compensation order shall be sent by mail or by
 427 electronic means approved by the Deputy Chief Judge to the
 428 ~~parties and~~ attorneys of record and any parties not represented
 429 by an attorney at the last known address of each, with the date
 430 of mailing noted thereon.

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

433 440.29 Procedure before the judge of compensation claims.—

434 (3) The practice and procedure before the judges of
 435 compensation claims shall be governed by rules adopted by the
 436 Office of the Judges of Compensation Claims ~~Supreme Court~~,
 437 except to the extent that such rules conflict with the
 438 provisions of this chapter.

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

441 440.45 Office of the Judges of Compensation Claims.—

442 (4) The Office of the Judges of Compensation Claims shall
 443 adopt rules to effectuate ~~effect~~ the purposes of this section.
 444 Such rules shall include procedural rules applicable to workers'
 445 compensation claim resolution, including rules requiring
 446 electronic filing and service where deemed appropriate by the
 447 Deputy Chief Judge, and uniform criteria for measuring the
 448 performance of the office, including, but not limited to, the

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449 number of cases assigned and resolved ~~disposed~~, the age of
 450 pending and resolved ~~disposed~~ cases, timeliness of decisions
 451 ~~decisionmaking~~, extraordinary fee awards, and other data
 452 necessary for the judicial nominating commission to review the
 453 performance of judges as required in paragraph (2) (c). ~~The~~
 454 ~~workers' compensation rules of procedure approved by the Supreme~~
 455 ~~Court apply until the rules adopted by the Office of the Judges~~
 456 ~~of Compensation Claims pursuant to this section become~~
 457 ~~effective.~~

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

460 552.40 Administrative remedy for alleged damage due to the
 461 use of explosives in connection with construction materials
 462 mining activities.—

463 (1) A person may initiate an administrative proceeding to
 464 recover damages resulting from the use of explosives in
 465 connection with construction materials mining activities by
 466 filing a petition with the Division of Administrative Hearings
 467 by electronic means through the division's website on a form
 468 provided by it and accompanied by a filing fee of \$100 within
 469 180 days after the occurrence of the alleged damage. If the
 470 petitioner submits an affidavit stating that the petitioner's
 471 annual income is less than 150 percent of the applicable federal
 472 poverty guideline published in the Federal Register by the
 473 United States Department of Health and Human Services, the \$100
 474 filing fee must be waived.

475 Section 17. Paragraph (b) of subsection (4) of section
 476 553.73, Florida Statutes, is amended to read:

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477 553.73 Florida Building Code.—
 478 (4)
 479 (b) Local governments may, subject to the limitations of
 480 this section, adopt amendments to the technical provisions of
 481 the Florida Building Code which apply solely within the
 482 jurisdiction of such government and which provide for more
 483 stringent requirements than those specified in the Florida
 484 Building Code, not more than once every 6 months. A local
 485 government may adopt technical amendments that address local
 486 needs if:
 487 1. The local governing body determines, following a public
 488 hearing which has been advertised in a newspaper of general
 489 circulation at least 10 days before the hearing, that there is a
 490 need to strengthen the requirements of the Florida Building
 491 Code. The determination must be based upon a review of local
 492 conditions by the local governing body, which review
 493 demonstrates by evidence or data that the geographical
 494 jurisdiction governed by the local governing body exhibits a
 495 local need to strengthen the Florida Building Code beyond the
 496 needs or regional variation addressed by the Florida Building
 497 Code, that the local need is addressed by the proposed local
 498 amendment, and that the amendment is no more stringent than
 499 necessary to address the local need.
 500 2. Such additional requirements are not discriminatory
 501 against materials, products, or construction techniques of
 502 demonstrated capabilities.
 503 3. Such additional requirements may not introduce a new
 504 subject not addressed in the Florida Building Code.

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

507 5. Any amendment to the Florida Building Code shall be
508 transmitted within 30 days by the adopting local government to
509 the commission. The commission shall maintain copies of all such
510 amendments in a format that is usable and obtainable by the
511 public. Local technical amendments shall not become effective
512 until 30 days after the amendment has been received and
513 published by the commission.

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

526 7. Each county and municipality desiring to make local
527 technical amendments to the Florida Building Code shall by
528 interlocal agreement establish a countywide compliance review
529 board to review any amendment to the Florida Building Code,
530 adopted by a local government within the county pursuant to this
531 paragraph, that is challenged by any substantially affected
532 party for purposes of determining the amendment's compliance

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533 with this paragraph. If challenged, the local technical
 534 amendments shall not become effective until time for filing an
 535 appeal pursuant to subparagraph 8. has expired or, if there is
 536 an appeal, until the commission issues its final order
 537 determining the adopted amendment is in compliance with this
 538 subsection.

539 8. If the compliance review board determines such
 540 amendment is not in compliance with this paragraph, the
 541 compliance review board shall notify such local government of
 542 the noncompliance and that the amendment is invalid and
 543 unenforceable until the local government corrects the amendment
 544 to bring it into compliance. The local government may appeal the
 545 decision of the compliance review board to the commission. If
 546 the compliance review board determines such amendment to be in
 547 compliance with this paragraph, any substantially affected party
 548 may appeal such determination to the commission. Any such appeal
 549 shall be filed with the commission within 14 days of the board's
 550 written determination. The commission shall promptly refer the
 551 appeal to the Division of Administrative Hearings by electronic
 552 means through the division's website for the assignment of an
 553 administrative law judge. The administrative law judge shall
 554 conduct the required hearing within 30 days, and shall enter a
 555 recommended order within 30 days of the conclusion of such
 556 hearing. The commission shall enter a final order within 30 days
 557 thereafter. The provisions of chapter 120 and the uniform rules
 558 of procedure shall apply to such proceedings. The local
 559 government adopting the amendment that is subject to challenge
 560 has the burden of proving that the amendment complies with this

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561 paragraph in proceedings before the compliance review board and
 562 the commission, as applicable. Actions of the commission are
 563 subject to judicial review pursuant to s. 120.68. The compliance
 564 review board shall determine whether its decisions apply to a
 565 respective local jurisdiction or apply countywide.

566 9. An amendment adopted under this paragraph shall include
 567 a fiscal impact statement which documents the costs and benefits
 568 of the proposed amendment. Criteria for the fiscal impact
 569 statement shall include the impact to local government relative
 570 to enforcement, the impact to property and building owners, as
 571 well as to industry, relative to the cost of compliance. The
 572 fiscal impact statement may not be used as a basis for
 573 challenging the amendment for compliance.

574 10. In addition to subparagraphs 7. and 9., the commission
 575 may review any amendments adopted pursuant to this subsection
 576 and make nonbinding recommendations related to compliance of
 577 such amendments with this subsection.

578 Section 18. Paragraph (b) of subsection (4) of section
 579 961.03, Florida Statutes, is amended to read:

580 961.03 Determination of status as a wrongfully
 581 incarcerated person; determination of eligibility for
 582 compensation.—

583 (4)

584 (b) If the prosecuting authority responds as set forth in
 585 paragraph (2)(b), and the court determines that the petitioner
 586 is eligible under the provisions of s. 961.04, but the
 587 prosecuting authority contests the nature, significance or
 588 effect of the evidence of actual innocence, or the facts related

BILL

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YEAR

589 | to the petitioner's alleged wrongful incarceration, the court
 590 | shall set forth its findings and transfer the petition by
 591 | electronic means through the division's website to the division
 592 | for findings of fact and a recommended determination of whether
 593 | the petitioner has established that he or she is a wrongfully
 594 | incarcerated person who is eligible for compensation under this
 595 | act.

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