

By Senator Siplin

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1                                   A bill to be entitled  
2           An act relating to small businesses; amending s.  
3           287.012, F.S.; defining the terms "bundled contract"  
4           and "small business" for purposes of state procurement  
5           requirements; amending s. 287.057, F.S.; authorizing  
6           small businesses to submit bids, proposals, and  
7           replies for portions of bundled contracts; authorizing  
8           agencies to award separate contracts for portions of a  
9           bundled contract under certain circumstances;  
10          authorizing agencies to award contracts to small  
11          businesses that submit bids that exceed the lowest  
12          responsive bid under certain circumstances; requiring  
13          agencies to give preference to bids, proposals, and  
14          replies submitted by small businesses under certain  
15          circumstances; requiring agencies to award a specified  
16          percentage of contracts to small businesses; directing  
17          agencies to avoid contract bundling under certain  
18          circumstances; requiring agencies to conduct market  
19          research and include written summaries and analyses of  
20          such research in solicitations for bundled contracts;  
21          requiring contract vendors to use small businesses in  
22          the state as subcontractors or subvendors; requiring  
23          the timely payment of subcontractors; requiring the  
24          Florida Small Business Advocate to submit an annual  
25          report on small business participation in contracting;  
26          requiring agencies to cooperate with such reporting;  
27          prohibiting agencies from requiring certain bonds or  
28          other sureties for certain contracts; amending s.  
29          288.703, F.S.; providing and revising definitions;

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30 specifying that definitions apply to ch. 288, F.S.;

31 amending s. 120.54, F.S.; deleting provisions

32 authorizing an agency to use an alternative definition

33 of the term "small business" for purposes of

34 estimating the regulatory costs and impact on small

35 businesses of proposed rules; amending ss. 24.113,

36 212.08, 212.096, 220.181, 220.182, 283.33, 287.0931,

37 287.0943, and 287.09451, F.S.; conforming cross-

38 references; amending s. 287.0947, F.S.; authorizing

39 the Secretary of Management Services to appoint the

40 Florida Advisory Council on Small and Minority

41 Business Development; deleting obsolete provisions;

42 conforming a cross-reference; amending ss. 310.0015,

43 320.63, 376.3072, 376.60, 440.45, 473.3065, 624.4072,

44 627.3511, 641.217, and 1004.435, F.S.; conforming

45 cross-references; reenacting ss. 120.541(2)(d),

46 288.7001(2)(d), 288.7031, and 290.004(7), F.S.,

47 relating to agency statements of estimated regulatory

48 costs for purposes of rulemaking, the Small Business

49 Regulatory Advisory Council, the application of small

50 and minority business definitions to the state and

51 political subdivisions thereof, and the definition of

52 small business for the Florida Enterprise Zone Act,

53 respectively, to incorporate the amendment made by the

54 act to s. 288.703, F.S., in references thereto;

55 providing an effective date.

56

57 Be It Enacted by the Legislature of the State of Florida:

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59 Section 1. Subsections (5) through (26) of section 287.012,  
60 Florida Statutes, are renumbered as subsections (6) through  
61 (27), respectively, present subsections (27) and (28) are  
62 renumbered as subsections (29) and (30), respectively, and new  
63 subsections (5) and (28) are added to that section to read:

64 287.012 Definitions.—As used in this part, the term:

65 (5) "Bundled contract" means a contract for commodities or  
66 contractual services that may be provided or performed under two  
67 or more separate smaller contracts but that are consolidated  
68 into a single contract that is not appropriate for award to a  
69 small business as the prime contractor.

70 (28) "Small business" means a small business as defined in  
71 s. 288.703 which is, and for at least the previous 3 years has  
72 been, domiciled in this state.

73 Section 2. Subsections (1) through (3) of section 287.057,  
74 Florida Statutes, are amended, and subsections (26) through (30)  
75 are added to that section, to read:

76 287.057 Procurement of commodities or contractual  
77 services.—

78 (1) (a) Unless otherwise authorized by law, all contracts  
79 for the purchase of commodities or contractual services in  
80 excess of the threshold amount provided in s. 287.017 for  
81 CATEGORY TWO shall be awarded by competitive sealed bidding. An  
82 invitation to bid shall be made available simultaneously to all  
83 vendors and must include a detailed description of the  
84 commodities or contractual services sought; the time and date  
85 for the receipt of bids and of the public opening; and all  
86 contractual terms and conditions applicable to the procurement,  
87 including the criteria to be used in determining acceptability

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88 of the bid. If the agency contemplates renewal of the contract,  
89 that fact must be stated in the invitation to bid. The bid shall  
90 include the price for each year for which the contract may be  
91 renewed. Evaluation of bids shall include consideration of the  
92 total cost for each year as submitted by the vendor. Criteria  
93 that were not set forth in the invitation to bid may not be used  
94 in determining acceptability of the bid.

95 (b) The criteria used in determining the acceptability of  
96 bids must allow a small business to submit a bid for any portion  
97 of a bundled contract. Upon receipt of such a bid, if the agency  
98 determines that the small business is a responsible and  
99 responsive vendor for that portion of the bundled contract, the  
100 agency shall allow each responsible and responsive vendor to  
101 submit a separate bid, and may award a separate contract, for  
102 that portion of the bundled contract.

103 (c) ~~(b)~~ The contract shall be awarded with reasonable  
104 promptness by written notice to the responsible and responsive  
105 vendor that submits the lowest responsive bid. For any contract  
106 or portion of a bundled contract, the agency may award the  
107 contract and must give preference to a responsible and  
108 responsive vendor that is a small business whose responsive bid  
109 does not exceed the lowest responsive bid by more than 10  
110 percent. This bid must be determined in writing to meet the  
111 requirements and criteria set forth in the invitation to bid.

112 (2) (a) If an agency determines in writing that the use of  
113 an invitation to bid is not practicable, commodities or  
114 contractual services shall be procured by competitive sealed  
115 proposals. A request for proposals shall be made available  
116 simultaneously to all vendors, and must include a statement of

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117 the commodities or contractual services sought; the time and  
118 date for the receipt of proposals and of the public opening; and  
119 all contractual terms and conditions applicable to the  
120 procurement, including the criteria, which shall include, but  
121 need not be limited to, price, to be used in determining  
122 acceptability of the proposal. The relative importance of price  
123 and other evaluation criteria shall be indicated. If the agency  
124 contemplates renewal of the commodities or contractual services  
125 contract, that fact must be stated in the request for proposals.  
126 The proposal shall include the price for each year for which the  
127 contract may be renewed. Evaluation of proposals shall include  
128 consideration of the total cost for each year as submitted by  
129 the vendor.

130 (b) The criteria used in determining the acceptability of  
131 proposals must allow a small business to submit a proposal for  
132 any portion of a bundled contract. Upon receipt of such a  
133 proposal, if the agency determines that the small business is a  
134 responsible and responsive vendor for that portion of the  
135 bundled contract, the agency shall allow each responsible and  
136 responsive vendor to submit a separate proposal, and may award a  
137 separate contract, for that portion of the bundled contract.

138 (c) ~~(b)~~ The contract shall be awarded to the responsible and  
139 responsive vendor whose proposal is determined in writing to be  
140 the most advantageous to the state, taking into consideration  
141 the price and the other criteria set forth in the request for  
142 proposals. For any contract or portion of a bundled contract,  
143 the criteria must give preference to a responsive proposal from  
144 a responsible and responsive vendor that is a small business.  
145 The contract file shall contain documentation supporting the

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146 basis on which the award is made.

147 (3) (a) If the agency determines in writing that the use of  
148 an invitation to bid or a request for proposals will not result  
149 in the best value to the state, the agency may procure  
150 commodities and contractual services by competitive sealed  
151 replies. The agency's written determination must specify reasons  
152 that explain why negotiation may be necessary in order for the  
153 state to achieve the best value and must be approved in writing  
154 by the agency head or his or her designee before ~~prior to~~ the  
155 advertisement of an invitation to negotiate. An invitation to  
156 negotiate shall be made available to all vendors simultaneously  
157 and must include a statement of the commodities or contractual  
158 services sought; the time and date for the receipt of replies  
159 and of the public opening; and all terms and conditions  
160 applicable to the procurement, including the criteria to be used  
161 in determining the acceptability of the reply. If the agency  
162 contemplates renewal of the contract, that fact must be stated  
163 in the invitation to negotiate. The reply shall include the  
164 price for each year for which the contract may be renewed.

165 (b) The criteria used in determining the acceptability of  
166 replies must allow a small business to submit a reply for any  
167 portion of a bundled contract. Upon receipt of such a reply, if  
168 the agency determines that the small business is a responsible  
169 and responsive vendor for that portion of the bundled contract,  
170 the agency shall allow each responsible and responsive vendor to  
171 submit a separate reply, and may award a separate contract, for  
172 that portion of the bundled contract.

173 (c) ~~(b)~~ The agency shall evaluate and rank responsive  
174 replies against all evaluation criteria set forth in the

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175 invitation to negotiate and shall select, based on the ranking,  
176 one or more vendors with which to commence negotiations. For any  
177 contract or portion of a bundled contract, the criteria must  
178 give preference to a responsive reply from a responsible and  
179 responsive vendor that is a small business. After negotiations  
180 are conducted, the agency shall award the contract to the  
181 responsible and responsive vendor that the agency determines  
182 will provide the best value to the state. The contract file must  
183 contain a short plain statement that explains the basis for  
184 vendor selection and that sets forth the vendor's deliverables  
185 and price, pursuant to the contract, with an explanation of how  
186 these deliverables and price provide the best value to the  
187 state.

188 (26) An agency shall annually award to small businesses,  
189 either directly or indirectly as subcontractors, at least 25  
190 percent of the total dollar amount of contracts awarded.

191 (27) (a) An agency, to the maximum extent practicable, shall  
192 structure agency contracts to facilitate competition by and  
193 among small businesses in this state, taking all reasonable  
194 steps to eliminate obstacles to their participation and avoiding  
195 the unnecessary and unjustified bundling of contracts that may  
196 preclude small business participation as prime contractors.

197 (b) Before issuing a solicitation for a bundled contract,  
198 an agency must conduct market research to determine whether  
199 contract bundling is necessary and justified. If the agency  
200 determines that contract bundling is necessary and justified,  
201 the agency must include in the solicitation a written summary of  
202 the agency's market research and a written analysis of the  
203 research that explains why contract bundling is necessary and

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204 justified.

205 (28) (a) Each contract awarded under this section must  
206 require the vendor to use small businesses in this state as  
207 subcontractors or subvendors. The percentage of funds, in terms  
208 of gross contract amount and revenues, that must be expended  
209 with small businesses in this state shall be determined by the  
210 agency before the solicitation for the contract is issued;  
211 however, the contract may not allow a vendor to expend less than  
212 10 percent of the gross contract amount with small businesses in  
213 this state.

214 (b) Each contract must also include specific requirements  
215 for the timely payment of subcontractors by the prime contractor  
216 and specific terms and conditions applicable if a prime  
217 contractor breaches the payment timelines specified in the  
218 contract.

219 (29) The Florida Small Business Advocate selected under s.  
220 288.7002 shall:

221 (a) Establish a system to record and measure the use of  
222 small businesses in state contracting. This system shall  
223 maintain information and statistics on state business  
224 participation, awards, dollar volume of expenditures, and other  
225 appropriate types of information to analyze progress in the  
226 access of small businesses to state contracts and to monitor  
227 agency compliance with this section. Such reporting must  
228 include, but is not limited to, the identification of all  
229 subcontracts in state contracting by dollar amount and by number  
230 of subcontracts and identification of the use of small  
231 businesses as prime contractors and subcontractors by dollar  
232 amounts of contracts and subcontracts, number of contracts and

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233 subcontracts, industry, and any conditions or circumstances that  
234 significantly affected the performance of subcontractors. An  
235 agency shall report its compliance with the requirements of this  
236 reporting system at least annually and at the request of the  
237 Florida Small Business Advocate. All agencies shall cooperate  
238 with the Florida Small Business Advocate in establishing this  
239 reporting system.

240 (b) Report agency compliance with paragraph (a) for the  
241 preceding fiscal year to the Governor and Cabinet, the President  
242 of the Senate, the Speaker of the House of Representatives, and  
243 the Small Business Regulatory Advisory Council created under s.  
244 288.7001 on or before February 1 of each year. The report must  
245 contain, at a minimum, the following:

246 1. Total expenditures of each agency by industry.  
247 2. The dollar amount and percentage of contracts awarded to  
248 small businesses by each state agency.

249 3. The dollar amount and percentage of contracts awarded  
250 indirectly to small businesses as subcontractors by each state  
251 agency.

252 4. The total dollar amount and percentage of contracts  
253 awarded to small businesses, whether directly or indirectly as  
254 subcontractors.

255 (30) Notwithstanding any provision of law, an agency may  
256 not require a vendor to post a bid bond, performance bond, or  
257 other surety for a contract that does not exceed \$500,000. This  
258 subsection does not apply to any requirement for posting a bond  
259 pending the protest of a solicitation; the protest of a rejected  
260 bid, proposal, or reply; or the protest of a contract award.

261 Section 3. Section 288.703, Florida Statutes, is reordered

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262 and amended to read:

263 288.703 Definitions.—As used in this chapter act, the term  
264 following words and terms shall have the following meanings  
265 unless the content shall indicate another meaning or intent:

266 (1) "Business concern" means a business entity organized  
267 for profit that has a place of business within the United  
268 States; operates primarily within the United States or makes a  
269 significant contribution to the United States economy through  
270 payment of taxes or use of American products, materials, or  
271 labor; is independently owned and operated; and is not dominant  
272 within the business entity's industry. The term includes any  
273 such business entity organized as any form of corporation,  
274 partnership, limited liability company, sole proprietorship,  
275 joint venture, association, trust, cooperative, or other legal  
276 entity.

277 (9)(1) "Small business" means a an independently owned and  
278 operated business concern that has a workforce of 100 employs  
279 200 or fewer permanent full-time positions, whether employees,  
280 independent contractors, or other contractual personnel, and  
281 that, together with its affiliates, has a net worth of not more  
282 than \$5 million or any firm based in this state which has a  
283 Small Business Administration 8(a) certification. As applicable  
284 to sole proprietorships, the \$5 million net worth requirement  
285 shall include both personal and business investments.

286 (5)(2) "Minority business enterprise" means any small  
287 business that concern as defined in subsection (1) which is  
288 organized to engage in commercial transactions, that which is  
289 domiciled in Florida, and that which is at least 51-percent-  
290 owned by minority persons who are members of an insular group

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291 ~~that is~~ of a particular racial, ethnic, or gender makeup or  
292 national origin, which has been subjected historically to  
293 disparate treatment due to identification in and with that group  
294 resulting in an underrepresentation of commercial enterprises  
295 under the group's control, and whose management and daily  
296 operations are controlled by such persons. A minority business  
297 enterprise may primarily involve the practice of a profession.  
298 Ownership by a minority person does not include ownership which  
299 is the result of a transfer from a nonminority person to a  
300 minority person within a related immediate family group if the  
301 combined total net asset value of all members of such family  
302 group exceeds \$1 million. For purposes of this subsection, the  
303 term "related immediate family group" means one or more children  
304 under 16 years of age and a parent of such children or the  
305 spouse of such parent residing in the same house or living unit.

306 (6)~~(3)~~ "Minority person" means a lawful, permanent resident  
307 of Florida who is:

308 (a) An African American, a person having origins in any of  
309 the black racial groups of the African Diaspora, regardless of  
310 cultural origin.

311 (b) A Hispanic American, a person of Spanish or Portuguese  
312 culture with origins in Spain, Portugal, Mexico, South America,  
313 Central America, or the Caribbean, regardless of race.

314 (c) An Asian American, a person having origins in any of  
315 the original peoples of the Far East, Southeast Asia, the Indian  
316 Subcontinent, or the Pacific Islands, including the Hawaiian  
317 Islands before ~~prior to~~ 1778.

318 (d) A Native American, a person who has origins in any of  
319 the Indian Tribes of North America before ~~prior to~~ 1835, upon

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320 presentation of proper documentation thereof as established by  
321 rule of the Department of Management Services.

322 (e) An American woman.

323 (2)~~(4)~~ "Certified minority business enterprise" means a  
324 business that is ~~which has been~~ certified by the certifying  
325 organization or jurisdiction in accordance with s. 287.0943(1)  
326 and (2).

327 (3)~~(5)~~ "Department" means the Department of Management  
328 Services.

329 (7)~~(6)~~ "Ombudsman" means an office or individual whose  
330 responsibilities include coordinating with the Office of  
331 Supplier Diversity for the interests of and providing assistance  
332 to small and minority business enterprises in dealing with  
333 governmental agencies and in developing proposals for changes in  
334 state agency rules.

335 (4)~~(7)~~ "Financial institution" means any bank, trust  
336 company, insurance company, savings and loan association, credit  
337 union, federal lending agency, or foundation.

338 (8) "Secretary" means the Secretary of ~~the Department of~~  
339 Management Services.

340 Section 4. Paragraph (b) of subsection (3) of section  
341 120.54, Florida Statutes, is amended to read:

342 120.54 Rulemaking.—

343 (3) ADOPTION PROCEDURES.—

344 (b) *Special matters to be considered in rule adoption.*—

345 1. Statement of estimated regulatory costs.—Prior to the  
346 adoption, amendment, or repeal of any rule other than an  
347 emergency rule, an agency is encouraged to prepare a statement  
348 of estimated regulatory costs of the proposed rule, as provided

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349 by s. 120.541. However, an agency shall prepare a statement of  
350 estimated regulatory costs of the proposed rule, as provided by  
351 s. 120.541, if the proposed rule will have an impact on small  
352 business.

353 2. Small businesses, small counties, and small cities.—

354 a. Each agency, before the adoption, amendment, or repeal  
355 of a rule, shall consider the impact of the rule on small  
356 businesses as defined in ~~by~~ s. 288.703 and the impact of the  
357 rule on small counties or small cities as defined in ~~by~~ s.  
358 120.52. Whenever practicable, an agency shall tier its rules to  
359 reduce disproportionate impacts on small businesses, small  
360 counties, or small cities to avoid regulating small businesses,  
361 small counties, or small cities that do not contribute  
362 significantly to the problem the rule is designed to address. An  
363 agency may ~~define "small business" to include businesses~~  
364 ~~employing more than 200 persons,~~ may define "small county" to  
365 include those with populations of more than 75,000~~7~~ and may  
366 define "small city" to include those with populations of more  
367 than 10,000, if it finds that such a definition is necessary to  
368 adapt a rule to the needs and problems of ~~small businesses,~~  
369 ~~small counties,~~ or small cities. The agency shall consider each  
370 of the following methods for reducing the impact of the proposed  
371 rule on small businesses, small counties, and small cities, or  
372 any combination of these entities:

373 (I) Establishing less stringent compliance or reporting  
374 requirements in the rule.

375 (II) Establishing less stringent schedules or deadlines in  
376 the rule for compliance or reporting requirements.

377 (III) Consolidating or simplifying the rule's compliance or

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378 reporting requirements.

379 (IV) Establishing performance standards or best management  
380 practices to replace design or operational standards in the  
381 rule.

382 (V) Exempting small businesses, small counties, or small  
383 cities from any or all requirements of the rule.

384 b.(I) If the agency determines that the proposed action  
385 will affect small businesses as defined in s. 288.703 ~~by the~~  
386 ~~agency as provided in sub-subparagraph a.~~, the agency shall send  
387 written notice of the rule to the Small Business Regulatory  
388 Advisory Council and the Office of Tourism, Trade, and Economic  
389 Development not less than 28 days prior to the intended action.

390 (II) Each agency shall adopt those regulatory alternatives  
391 offered by the Small Business Regulatory Advisory Council and  
392 provided to the agency no later than 21 days after the council's  
393 receipt of the written notice of the rule which it finds are  
394 feasible and consistent with the stated objectives of the  
395 proposed rule and which would reduce the impact on small  
396 businesses. When regulatory alternatives are offered by the  
397 Small Business Regulatory Advisory Council, the 90-day period  
398 for filing the rule in subparagraph (e)2. is extended for a  
399 period of 21 days.

400 (III) If an agency does not adopt all alternatives offered  
401 pursuant to this sub-subparagraph, it shall, prior to rule  
402 adoption or amendment and pursuant to subparagraph (d)1., file a  
403 detailed written statement with the committee explaining the  
404 reasons for failure to adopt such alternatives. Within 3 working  
405 days of the filing of such notice, the agency shall send a copy  
406 of such notice to the Small Business Regulatory Advisory

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407 Council. The Small Business Regulatory Advisory Council may make  
408 a request of the President of the Senate and the Speaker of the  
409 House of Representatives that the presiding officers direct the  
410 Office of Program Policy Analysis and Government Accountability  
411 to determine whether the rejected alternatives reduce the impact  
412 on small business while meeting the stated objectives of the  
413 proposed rule. Within 60 days after the date of the directive  
414 from the presiding officers, the Office of Program Policy  
415 Analysis and Government Accountability shall report to the  
416 Administrative Procedures Committee its findings as to whether  
417 an alternative reduces the impact on small business while  
418 meeting the stated objectives of the proposed rule. The Office  
419 of Program Policy Analysis and Government Accountability shall  
420 consider the proposed rule, the economic impact statement, the  
421 written statement of the agency, the proposed alternatives, and  
422 any comment submitted during the comment period on the proposed  
423 rule. The Office of Program Policy Analysis and Government  
424 Accountability shall submit a report of its findings and  
425 recommendations to the Governor, the President of the Senate,  
426 and the Speaker of the House of Representatives. The  
427 Administrative Procedures Committee shall report such findings  
428 to the agency, and the agency shall respond in writing to the  
429 Administrative Procedures Committee if the Office of Program  
430 Policy Analysis and Government Accountability found that the  
431 alternative reduced the impact on small business while meeting  
432 the stated objectives of the proposed rule. If the agency will  
433 not adopt the alternative, it must also provide a detailed  
434 written statement to the committee as to why it will not adopt  
435 the alternative.

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436 Section 5. Subsection (1) of section 24.113, Florida  
437 Statutes, is amended to read:

438 24.113 Minority participation.—

439 (1) It is the intent of the Legislature that the department  
440 encourage participation by minority business enterprises as  
441 defined in s. 288.703. Accordingly, 15 percent of the retailers  
442 shall be minority business enterprises as defined in s.  
443 288.703~~(2)~~; however, no more than 35 percent of such retailers  
444 shall be owned by the same type of minority person, as defined  
445 in s. 288.703~~(3)~~. The department is encouraged to meet the  
446 minority business enterprise procurement goals set forth in s.  
447 287.09451 in the procurement of commodities, contractual  
448 services, construction, and architectural and engineering  
449 services. This section shall not preclude or prohibit a minority  
450 person from competing for any other retailing or vending  
451 agreement awarded by the department.

452 Section 6. Paragraphs (g) and (h) of subsection (5) and  
453 paragraph (b) of subsection (15) of section 212.08, Florida  
454 Statutes, are amended to read:

455 212.08 Sales, rental, use, consumption, distribution, and  
456 storage tax; specified exemptions.—The sale at retail, the  
457 rental, the use, the consumption, the distribution, and the  
458 storage to be used or consumed in this state of the following  
459 are hereby specifically exempt from the tax imposed by this  
460 chapter.

461 (5) EXEMPTIONS; ACCOUNT OF USE.—

462 (g) *Building materials used in the rehabilitation of real*  
463 *property located in an enterprise zone.*—

464 1. Building materials used in the rehabilitation of real

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465 property located in an enterprise zone shall be exempt from the  
466 tax imposed by this chapter upon an affirmative showing to the  
467 satisfaction of the department that the items have been used for  
468 the rehabilitation of real property located in an enterprise  
469 zone. Except as provided in subparagraph 2., this exemption  
470 inures to the owner, lessee, or lessor of the rehabilitated real  
471 property located in an enterprise zone only through a refund of  
472 previously paid taxes. To receive a refund pursuant to this  
473 paragraph, the owner, lessee, or lessor of the rehabilitated  
474 real property located in an enterprise zone must file an  
475 application under oath with the governing body or enterprise  
476 zone development agency having jurisdiction over the enterprise  
477 zone where the business is located, as applicable, which  
478 includes:

- 479       a. The name and address of the person claiming the refund.  
480       b. An address and assessment roll parcel number of the  
481 rehabilitated real property in an enterprise zone for which a  
482 refund of previously paid taxes is being sought.  
483       c. A description of the improvements made to accomplish the  
484 rehabilitation of the real property.  
485       d. A copy of the building permit issued for the  
486 rehabilitation of the real property.  
487       e. A sworn statement, under the penalty of perjury, from  
488 the general contractor licensed in this state with whom the  
489 applicant contracted to make the improvements necessary to  
490 accomplish the rehabilitation of the real property, which  
491 statement lists the building materials used in the  
492 rehabilitation of the real property, the actual cost of the  
493 building materials, and the amount of sales tax paid in this

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494 state on the building materials. In the event that a general  
495 contractor has not been used, the applicant shall provide this  
496 information in a sworn statement, under the penalty of perjury.  
497 Copies of the invoices which evidence the purchase of the  
498 building materials used in such rehabilitation and the payment  
499 of sales tax on the building materials shall be attached to the  
500 sworn statement provided by the general contractor or by the  
501 applicant. Unless the actual cost of building materials used in  
502 the rehabilitation of real property and the payment of sales  
503 taxes due thereon is documented by a general contractor or by  
504 the applicant in this manner, the cost of such building  
505 materials shall be an amount equal to 40 percent of the increase  
506 in assessed value for ad valorem tax purposes.

507 f. The identifying number assigned pursuant to s. 290.0065  
508 to the enterprise zone in which the rehabilitated real property  
509 is located.

510 g. A certification by the local building code inspector  
511 that the improvements necessary to accomplish the rehabilitation  
512 of the real property are substantially completed.

513 h. Whether the business is a small business as defined in  
514 ~~by~~ s. 288.703(1).

515 i. If applicable, the name and address of each permanent  
516 employee of the business, including, for each employee who is a  
517 resident of an enterprise zone, the identifying number assigned  
518 pursuant to s. 290.0065 to the enterprise zone in which the  
519 employee resides.

520 2. This exemption inures to a city, county, other  
521 governmental agency, or nonprofit community-based organization  
522 through a refund of previously paid taxes if the building

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523 materials used in the rehabilitation of real property located in  
524 an enterprise zone are paid for from the funds of a community  
525 development block grant, State Housing Initiatives Partnership  
526 Program, or similar grant or loan program. To receive a refund  
527 pursuant to this paragraph, a city, county, other governmental  
528 agency, or nonprofit community-based organization must file an  
529 application which includes the same information required to be  
530 provided in subparagraph 1. by an owner, lessee, or lessor of  
531 rehabilitated real property. In addition, the application must  
532 include a sworn statement signed by the chief executive officer  
533 of the city, county, other governmental agency, or nonprofit  
534 community-based organization seeking a refund which states that  
535 the building materials for which a refund is sought were paid  
536 for from the funds of a community development block grant, State  
537 Housing Initiatives Partnership Program, or similar grant or  
538 loan program.

539       3. Within 10 working days after receipt of an application,  
540 the governing body or enterprise zone development agency shall  
541 review the application to determine if it contains all the  
542 information required pursuant to subparagraph 1. or subparagraph  
543 2. and meets the criteria set out in this paragraph. The  
544 governing body or agency shall certify all applications that  
545 contain the information required pursuant to subparagraph 1. or  
546 subparagraph 2. and meet the criteria set out in this paragraph  
547 as eligible to receive a refund. If applicable, the governing  
548 body or agency shall also certify if 20 percent of the employees  
549 of the business are residents of an enterprise zone, excluding  
550 temporary and part-time employees. The certification shall be in  
551 writing, and a copy of the certification shall be transmitted to

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552 the executive director of the Department of Revenue. The  
553 applicant shall be responsible for forwarding a certified  
554 application to the department within the time specified in  
555 subparagraph 4.

556 4. An application for a refund pursuant to this paragraph  
557 must be submitted to the department within 6 months after the  
558 rehabilitation of the property is deemed to be substantially  
559 completed by the local building code inspector or by September 1  
560 after the rehabilitated property is first subject to assessment.

561 5. Not more than one exemption through a refund of  
562 previously paid taxes for the rehabilitation of real property  
563 shall be permitted for any single parcel of property unless  
564 there is a change in ownership, a new lessor, or a new lessee of  
565 the real property. No refund shall be granted pursuant to this  
566 paragraph unless the amount to be refunded exceeds \$500. No  
567 refund granted pursuant to this paragraph shall exceed the  
568 lesser of 97 percent of the Florida sales or use tax paid on the  
569 cost of the building materials used in the rehabilitation of the  
570 real property as determined pursuant to sub-subparagraph 1.e. or  
571 \$5,000, or, if no less than 20 percent of the employees of the  
572 business are residents of an enterprise zone, excluding  
573 temporary and part-time employees, the amount of refund granted  
574 pursuant to this paragraph shall not exceed the lesser of 97  
575 percent of the sales tax paid on the cost of such building  
576 materials or \$10,000. A refund approved pursuant to this  
577 paragraph shall be made within 30 days of formal approval by the  
578 department of the application for the refund. This subparagraph  
579 shall apply retroactively to July 1, 2005.

580 6. The department shall adopt rules governing the manner

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581 and form of refund applications and may establish guidelines as  
582 to the requisites for an affirmative showing of qualification  
583 for exemption under this paragraph.

584 7. The department shall deduct an amount equal to 10  
585 percent of each refund granted under the provisions of this  
586 paragraph from the amount transferred into the Local Government  
587 Half-cent Sales Tax Clearing Trust Fund pursuant to s. 212.20  
588 for the county area in which the rehabilitated real property is  
589 located and shall transfer that amount to the General Revenue  
590 Fund.

591 8. For the purposes of the exemption provided in this  
592 paragraph:

593 a. "Building materials" means tangible personal property  
594 which becomes a component part of improvements to real property.

595 b. "Real property" has the same meaning as provided in s.  
596 192.001(12).

597 c. "Rehabilitation of real property" means the  
598 reconstruction, renovation, restoration, rehabilitation,  
599 construction, or expansion of improvements to real property.

600 d. "Substantially completed" has the same meaning as  
601 provided in s. 192.042(1).

602 9. This paragraph expires on the date specified in s.  
603 290.016 for the expiration of the Florida Enterprise Zone Act.

604 (h) *Business property used in an enterprise zone.*—

605 1. Business property purchased for use by businesses  
606 located in an enterprise zone which is subsequently used in an  
607 enterprise zone shall be exempt from the tax imposed by this  
608 chapter. This exemption inures to the business only through a  
609 refund of previously paid taxes. A refund shall be authorized

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610 upon an affirmative showing by the taxpayer to the satisfaction  
611 of the department that the requirements of this paragraph have  
612 been met.

613 2. To receive a refund, the business must file under oath  
614 with the governing body or enterprise zone development agency  
615 having jurisdiction over the enterprise zone where the business  
616 is located, as applicable, an application which includes:

617 a. The name and address of the business claiming the  
618 refund.

619 b. The identifying number assigned pursuant to s. 290.0065  
620 to the enterprise zone in which the business is located.

621 c. A specific description of the property for which a  
622 refund is sought, including its serial number or other permanent  
623 identification number.

624 d. The location of the property.

625 e. The sales invoice or other proof of purchase of the  
626 property, showing the amount of sales tax paid, the date of  
627 purchase, and the name and address of the sales tax dealer from  
628 whom the property was purchased.

629 f. Whether the business is a small business as defined in  
630 ~~by~~ s. 288.703(1).

631 g. If applicable, the name and address of each permanent  
632 employee of the business, including, for each employee who is a  
633 resident of an enterprise zone, the identifying number assigned  
634 pursuant to s. 290.0065 to the enterprise zone in which the  
635 employee resides.

636 3. Within 10 working days after receipt of an application,  
637 the governing body or enterprise zone development agency shall  
638 review the application to determine if it contains all the

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639 information required pursuant to subparagraph 2. and meets the  
640 criteria set out in this paragraph. The governing body or agency  
641 shall certify all applications that contain the information  
642 required pursuant to subparagraph 2. and meet the criteria set  
643 out in this paragraph as eligible to receive a refund. If  
644 applicable, the governing body or agency shall also certify if  
645 20 percent of the employees of the business are residents of an  
646 enterprise zone, excluding temporary and part-time employees.  
647 The certification shall be in writing, and a copy of the  
648 certification shall be transmitted to the executive director of  
649 the Department of Revenue. The business shall be responsible for  
650 forwarding a certified application to the department within the  
651 time specified in subparagraph 4.

652 4. An application for a refund pursuant to this paragraph  
653 must be submitted to the department within 6 months after the  
654 tax is due on the business property that is purchased.

655 5. The amount refunded on purchases of business property  
656 under this paragraph shall be the lesser of 97 percent of the  
657 sales tax paid on such business property or \$5,000, or, if no  
658 less than 20 percent of the employees of the business are  
659 residents of an enterprise zone, excluding temporary and part-  
660 time employees, the amount refunded on purchases of business  
661 property under this paragraph shall be the lesser of 97 percent  
662 of the sales tax paid on such business property or \$10,000. A  
663 refund approved pursuant to this paragraph shall be made within  
664 30 days of formal approval by the department of the application  
665 for the refund. No refund shall be granted under this paragraph  
666 unless the amount to be refunded exceeds \$100 in sales tax paid  
667 on purchases made within a 60-day time period.

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668           6. The department shall adopt rules governing the manner  
669 and form of refund applications and may establish guidelines as  
670 to the requisites for an affirmative showing of qualification  
671 for exemption under this paragraph.

672           7. If the department determines that the business property  
673 is used outside an enterprise zone within 3 years from the date  
674 of purchase, the amount of taxes refunded to the business  
675 purchasing such business property shall immediately be due and  
676 payable to the department by the business, together with the  
677 appropriate interest and penalty, computed from the date of  
678 purchase, in the manner provided by this chapter.

679 Notwithstanding this subparagraph, business property used  
680 exclusively in:

- 681           a. Licensed commercial fishing vessels,
- 682           b. Fishing guide boats, or
- 683           c. Ecotourism guide boats

684  
685 that leave and return to a fixed location within an area  
686 designated under s. 379.2353 are eligible for the exemption  
687 provided under this paragraph if all requirements of this  
688 paragraph are met. Such vessels and boats must be owned by a  
689 business that is eligible to receive the exemption provided  
690 under this paragraph. This exemption does not apply to the  
691 purchase of a vessel or boat.

692           8. The department shall deduct an amount equal to 10  
693 percent of each refund granted under the provisions of this  
694 paragraph from the amount transferred into the Local Government  
695 Half-cent Sales Tax Clearing Trust Fund pursuant to s. 212.20  
696 for the county area in which the business property is located

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697 and shall transfer that amount to the General Revenue Fund.

698 9. For the purposes of this exemption, "business property"  
699 means new or used property defined as "recovery property" in s.  
700 168(c) of the Internal Revenue Code of 1954, as amended, except:

701 a. Property classified as 3-year property under s.  
702 168(c)(2)(A) of the Internal Revenue Code of 1954, as amended;

703 b. Industrial machinery and equipment as defined in sub-  
704 subparagraph (b)6.a. and eligible for exemption under paragraph  
705 (b);

706 c. Building materials as defined in sub-subparagraph  
707 (g)8.a.; and

708 d. Business property having a sales price of under \$5,000  
709 per unit.

710 10. This paragraph expires on the date specified in s.  
711 290.016 for the expiration of the Florida Enterprise Zone Act.

712 (15) ELECTRICAL ENERGY USED IN AN ENTERPRISE ZONE.—

713 (b) To receive this exemption, a business must file an  
714 application, with the enterprise zone development agency having  
715 jurisdiction over the enterprise zone where the business is  
716 located, on a form provided by the department for the purposes  
717 of this subsection and s. 166.231(8). The application shall be  
718 made under oath and shall include:

719 1. The name and location of the business.

720 2. The identifying number assigned pursuant to s. 290.0065  
721 to the enterprise zone in which the business is located.

722 3. The date on which electrical service is to be first  
723 initiated to the business.

724 4. The name and mailing address of the entity from which  
725 electrical energy is to be purchased.

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726 5. The date of the application.

727 6. The name of the city in which the business is located.

728 7. If applicable, the name and address of each permanent  
729 employee of the business including, for each employee who is a  
730 resident of an enterprise zone, the identifying number assigned  
731 pursuant to s. 290.0065 to the enterprise zone in which the  
732 employee resides.

733 8. Whether the business is a small business as defined in  
734 ~~by~~ s. 288.703(1).

735 Section 7. Paragraph (g) of subsection (3) of section  
736 212.096, Florida Statutes, is amended to read:

737 212.096 Sales, rental, storage, use tax; enterprise zone  
738 jobs credit against sales tax.—

739 (3) In order to claim this credit, an eligible business  
740 must file under oath with the governing body or enterprise zone  
741 development agency having jurisdiction over the enterprise zone  
742 where the business is located, as applicable, a statement which  
743 includes:

744 (g) Whether the business is a small business as defined in  
745 ~~by~~ s. 288.703(1).

746 Section 8. Paragraph (g) of subsection (2) of section  
747 220.181, Florida Statutes, is amended to read:

748 220.181 Enterprise zone jobs credit.—

749 (2) When filing for an enterprise zone jobs credit, a  
750 business must file under oath with the governing body or  
751 enterprise zone development agency having jurisdiction over the  
752 enterprise zone where the business is located, as applicable, a  
753 statement which includes:

754 (g) Whether the business is a small business as defined in

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755 by s. 288.703~~(1)~~.

756 Section 9. Subsection (13) of section 220.182, Florida  
757 Statutes, is amended to read:

758 220.182 Enterprise zone property tax credit.—

759 (13) When filing for an enterprise zone property tax  
760 credit, a business shall indicate whether the business is a  
761 small business as defined in ~~by~~ s. 288.703~~(1)~~.

762 Section 10. Subsection (1) of section 283.33, Florida  
763 Statutes, is amended to read:

764 283.33 Printing of publications; lowest bidder awards.—

765 (1) Publications may be printed and prepared in-house, by  
766 another agency or the Legislature, or purchased on bid,  
767 whichever is more economical and practicable as determined by  
768 the agency. An agency may contract for binding separately when  
769 more economical or practicable, whether or not the remainder of  
770 the printing is done in-house. A vendor may subcontract for  
771 binding and still be considered a responsible vendor,  
772 notwithstanding s. 287.012 (25) ~~(24)~~.

773 Section 11. Subsection (2) of section 287.0931, Florida  
774 Statutes, is amended to read:

775 287.0931 Minority business enterprises; participation in  
776 bond underwriting.—

777 (2) To meet such participation requirement, the minority  
778 firm must have full-time employees located in this state, must  
779 have a permanent place of business located in this state, and  
780 must be a firm which is at least 51-percent-owned by minority  
781 persons as defined in s. 288.703~~(3)~~. However, for the purpose of  
782 bond underwriting only, the requirement that the minority person  
783 be a permanent resident of this state shall not apply.

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784 Section 12. Paragraph (e) of subsection (2) of section  
785 287.0943, Florida Statutes, is amended to read:

786 287.0943 Certification of minority business enterprises.—

787 (2)

788 (e) In assessing the status of ownership and control,  
789 certification criteria shall, at a minimum:

790 1. Link ownership by a minority person, as defined in s.  
791 288.703~~(3)~~, or as dictated by the legal obligations of a  
792 certifying organization, to day-to-day control and financial  
793 risk by the qualifying minority owner, and to demonstrated  
794 expertise or licensure of a minority owner in any trade or  
795 profession that the minority business enterprise will offer to  
796 the state when certified. Businesses must comply with all state  
797 licensing requirements prior to becoming certified as a minority  
798 business enterprise.

799 2. If present ownership was obtained by transfer, require  
800 the minority person on whom eligibility is based to have owned  
801 at least 51 percent of the applicant firm for a minimum of 2  
802 years, when any previous majority ownership interest in the firm  
803 was by a nonminority who is or was a relative, former employer,  
804 or current employer of the minority person on whom eligibility  
805 is based. This requirement shall not apply to minority persons  
806 who are otherwise eligible who take a 51-percent-or-greater  
807 interest in a firm that requires professional licensure to  
808 operate and who will be the qualifying licenseholder for the  
809 firm when certified. A transfer made within a related immediate  
810 family group from a nonminority person to a minority person in  
811 order to establish ownership by a minority person shall be  
812 deemed to have been made solely for purposes of satisfying

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813 certification criteria and shall render such ownership invalid  
814 for purposes of qualifying for such certification if the  
815 combined total net asset value of all members of such family  
816 group exceeds \$1 million. For purposes of this subparagraph, the  
817 term "related immediate family group" means one or more children  
818 under 16 years of age and a parent of such children or the  
819 spouse of such parent residing in the same house or living unit.

820 3. Require that prospective certified minority business  
821 enterprises be currently performing or seeking to perform a  
822 useful business function. A "useful business function" is  
823 defined as a business function which results in the provision of  
824 materials, supplies, equipment, or services to customers. Acting  
825 as a conduit to transfer funds to a nonminority business does  
826 not constitute a useful business function unless it is done so  
827 in a normal industry practice. As used in this section, the term  
828 "acting as a conduit" means, in part, not acting as a regular  
829 dealer by making sales of material, goods, or supplies from  
830 items bought, kept in stock, and regularly sold to the public in  
831 the usual course of business. Brokers, manufacturer's  
832 representatives, sales representatives, and nonstocking  
833 distributors are considered as conduits that do not perform a  
834 useful business function, unless normal industry practice  
835 dictates.

836 Section 13. Paragraph (n) of subsection (4) of section  
837 287.09451, Florida Statutes, is amended to read:

838 287.09451 Office of Supplier Diversity; powers, duties, and  
839 functions.—

840 (4) The Office of Supplier Diversity shall have the  
841 following powers, duties, and functions:

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842 (n)1. To develop procedures to be used by an agency in  
843 identifying commodities, contractual services, architectural and  
844 engineering services, and construction contracts, except those  
845 architectural, engineering, construction, or other related  
846 services or contracts subject to the provisions of chapter 339,  
847 that could be provided by minority business enterprises. Each  
848 agency is encouraged to spend 21 percent of the moneys actually  
849 expended for construction contracts, 25 percent of the moneys  
850 actually expended for architectural and engineering contracts,  
851 24 percent of the moneys actually expended for commodities, and  
852 50.5 percent of the moneys actually expended for contractual  
853 services during the previous fiscal year, except for the state  
854 university construction program which shall be based upon public  
855 education capital outlay projections for the subsequent fiscal  
856 year, and reported to the Legislature pursuant to s. 216.023,  
857 for the purpose of entering into contracts with certified  
858 minority business enterprises as defined in s. 288.703~~(2)~~, or  
859 approved joint ventures. However, in the event of budget  
860 reductions pursuant to s. 216.221, the base amounts may be  
861 adjusted to reflect such reductions. The overall spending goal  
862 for each industry category shall be subdivided as follows:

863 a. For construction contracts: 4 percent for black  
864 Americans, 6 percent for Hispanic-Americans, and 11 percent for  
865 American women.

866 b. For architectural and engineering contracts: 9 percent  
867 for Hispanic-Americans, 1 percent for Asian-Americans, and 15  
868 percent for American women.

869 c. For commodities: 2 percent for black Americans, 4  
870 percent for Hispanic-Americans, 0.5 percent for Asian-Americans,

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871 0.5 percent for Native Americans, and 17 percent for American  
872 women.

873 d. For contractual services: 6 percent for black Americans,  
874 7 percent for Hispanic-Americans, 1 percent for Asian-Americans,  
875 0.5 percent for Native Americans, and 36 percent for American  
876 women.

877 2. For the purposes of commodities contracts for the  
878 purchase of equipment to be used in the construction and  
879 maintenance of state transportation facilities involving the  
880 Department of Transportation, "minority business enterprise" has  
881 the same meaning as provided in s. 288.703. "Minority person"  
882 has the same meaning as in s. 288.703~~(3)~~. In order to ensure  
883 that the goals established under this paragraph for contracting  
884 with certified minority business enterprises are met, the  
885 department, with the assistance of the Office of Supplier  
886 Diversity, shall make recommendations to the Legislature on  
887 revisions to the goals, based on an updated statistical  
888 analysis, at least once every 5 years. Such recommendations  
889 shall be based on statistical data indicating the availability  
890 of and disparity in the use of minority businesses contracting  
891 with the state. The results of the first updated disparity study  
892 must be presented to the Legislature no later than December 1,  
893 1996.

894 3. In determining the base amounts for assessing compliance  
895 with this paragraph, the Office of Supplier Diversity may  
896 develop, by rule, guidelines for all agencies to use in  
897 establishing such base amounts. These rules must include, but  
898 are not limited to, guidelines for calculation of base amounts,  
899 a deadline for the agencies to submit base amounts, a deadline

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900 for approval of the base amounts by the Office of Supplier  
901 Diversity, and procedures for adjusting the base amounts as a  
902 result of budget reductions made pursuant to s. 216.221.

903 4. To determine guidelines for the use of price  
904 preferences, weighted preference formulas, or other preferences,  
905 as appropriate to the particular industry or trade, to increase  
906 the participation of minority businesses in state contracting.  
907 These guidelines shall include consideration of:

908 a. Size and complexity of the project.

909 b. The concentration of transactions with minority business  
910 enterprises for the commodity or contractual services in  
911 question in prior agency contracting.

912 c. The specificity and definition of work allocated to  
913 participating minority business enterprises.

914 d. The capacity of participating minority business  
915 enterprises to complete the tasks identified in the project.

916 e. The available pool of minority business enterprises as  
917 prime contractors, either alone or as partners in an approved  
918 joint venture that serves as the prime contractor.

919 5. To determine guidelines for use of joint ventures to  
920 meet minority business enterprises spending goals. For purposes  
921 of this section, "joint venture" means any association of two or  
922 more business concerns to carry out a single business enterprise  
923 for profit, for which purpose they combine their property,  
924 capital, efforts, skills, and knowledge. The guidelines shall  
925 allow transactions with joint ventures to be eligible for credit  
926 against the minority business enterprise goals of an agency when  
927 the contracting joint venture demonstrates that at least one  
928 partner to the joint venture is a certified minority business

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929 enterprise as defined in s. 288.703, and that such partner is  
930 responsible for a clearly defined portion of the work to be  
931 performed, and shares in the ownership, control, management,  
932 responsibilities, risks, and profits of the joint venture. Such  
933 demonstration shall be by verifiable documents and sworn  
934 statements and may be reviewed by the Office of Supplier  
935 Diversity at or before the time a contract bid, proposal, or  
936 reply is submitted. An agency may count toward its minority  
937 business enterprise goals a portion of the total dollar amount  
938 of a contract equal to the percentage of the ownership and  
939 control held by the qualifying certified minority business  
940 partners in the contracting joint venture, so long as the joint  
941 venture meets the guidelines adopted by the office.

942 Section 14. Subsection (1) of section 287.0947, Florida  
943 Statutes, is amended to read:

944 287.0947 Florida Advisory Council on Small and Minority  
945 Business Development; creation; membership; duties.—

946 (1) ~~On or after October 1, 1996,~~ The Secretary of  
947 Management Services ~~the Department of Labor and Employment~~  
948 ~~Security~~ may create the Florida Advisory Council on Small and  
949 Minority Business Development with the purpose of advising and  
950 assisting the secretary in carrying out the secretary's duties  
951 with respect to minority businesses and economic and business  
952 development. It is the intent of the Legislature that the  
953 membership of such council include practitioners, laypersons,  
954 financiers, and others with business development experience who  
955 can provide invaluable insight and expertise for this state in  
956 the diversification of its markets and networking of business  
957 opportunities. The council shall initially consist of 19

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958 persons, each of whom is or has been actively engaged in small  
959 and minority business development, either in private industry,  
960 in governmental service, or as a scholar of recognized  
961 achievement in the study of such matters. Initially, the council  
962 shall consist of members representing all regions of the state  
963 and shall include at least one member from each group identified  
964 within the definition of "minority person" in s. 288.703~~(3)~~,  
965 considering also gender and nationality subgroups, and shall  
966 consist of the following:

967 (a) Four members consisting of representatives of local and  
968 federal small and minority business assistance programs or  
969 community development programs.

970 (b) Eight members composed of representatives of the  
971 minority private business sector, including certified minority  
972 business enterprises and minority supplier development councils,  
973 among whom at least two shall be women and at least four shall  
974 be minority persons.

975 (c) Two representatives of local government, one of whom  
976 shall be a representative of a large local government, and one  
977 of whom shall be a representative of a small local government.

978 (d) Two representatives from the banking and insurance  
979 industry.

980 (e) Two members from the private business sector,  
981 representing the construction and commodities industries.

982 (f) The chairperson of the Florida Black Business  
983 Investment Board or the chairperson's designee.

984

985 A candidate for appointment may be considered if eligible to be  
986 certified as an owner of a minority business enterprise, or if

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987 otherwise qualified under the criteria above. Vacancies may be  
988 filled by appointment of the secretary, in the manner of the  
989 original appointment.

990 Section 15. Paragraph (d) of subsection (3) of section  
991 310.0015, Florida Statutes, is amended to read:

992 310.0015 Piloting regulation; general provisions.—

993 (3) The rate-setting process, the issuance of licenses only  
994 in numbers deemed necessary or prudent by the board, and other  
995 aspects of the economic regulation of piloting established in  
996 this chapter are intended to protect the public from the adverse  
997 effects of unrestricted competition which would result from an  
998 unlimited number of licensed pilots being allowed to market  
999 their services on the basis of lower prices rather than safety  
1000 concerns. This system of regulation benefits and protects the  
1001 public interest by maximizing safety, avoiding uneconomic  
1002 duplication of capital expenses and facilities, and enhancing  
1003 state regulatory oversight. The system seeks to provide pilots  
1004 with reasonable revenues, taking into consideration the normal  
1005 uncertainties of vessel traffic and port usage, sufficient to  
1006 maintain reliable, stable piloting operations. Pilots have  
1007 certain restrictions and obligations under this system,  
1008 including, but not limited to, the following:

1009 (d)1. The pilot or pilots in a port shall train and  
1010 compensate all member deputy pilots in that port. Failure to  
1011 train or compensate such deputy pilots shall constitute a ground  
1012 for disciplinary action under s. 310.101. Nothing in this  
1013 subsection shall be deemed to create an agency or employment  
1014 relationship between a pilot or deputy pilot and the pilot or  
1015 pilots in a port.

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1016 2. The pilot or pilots in a port shall establish a  
1017 competency-based mentor program by which minority persons, as  
1018 defined in s. 288.703~~(3)~~, may acquire the skills for the  
1019 professional preparation and education competency requirements  
1020 of a licensed state pilot or certificated deputy pilot. The  
1021 department shall provide the Governor, the President of the  
1022 Senate, and the Speaker of the House of Representatives with a  
1023 report each year on the number of minority persons, as defined  
1024 in s. 288.703~~(3)~~, who have participated in each mentor program,  
1025 who are licensed state pilots or certificated deputy pilots, and  
1026 who have applied for state pilot licensure or deputy pilot  
1027 certification.

1028 Section 16. Subsection (3) of section 320.63, Florida  
1029 Statutes, is amended to read:

1030 320.63 Application for license; contents.—Any person  
1031 desiring to be licensed pursuant to ss. 320.60-320.70 shall make  
1032 application therefor to the department upon a form containing  
1033 such information as the department requires. The department  
1034 shall require, with such application or otherwise and from time  
1035 to time, all of the following, which information may be  
1036 considered by the department in determining the fitness of the  
1037 applicant or licensee to engage in the business for which the  
1038 applicant or licensee desires to be licensed:

1039 (3) From each manufacturer, distributor, or importer which  
1040 utilizes an identical blanket basic agreement for its dealers or  
1041 distributors in this state, which agreement comprises all or any  
1042 part of the applicant's or licensee's agreements with motor  
1043 vehicle dealers in this state, a copy of the written agreement  
1044 and all supplements thereto, together with a list of the

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1045 applicant's or licensee's authorized dealers or distributors and  
1046 their addresses. The applicant or licensee shall further notify  
1047 the department immediately of the appointment of any additional  
1048 dealer or distributor. The applicant or licensee shall annually  
1049 report to the department on its efforts to add new minority  
1050 dealer points, including difficulties encountered under ss.  
1051 320.61-320.70. For purposes of this section "minority" shall  
1052 have the same meaning as that given it in the definition of  
1053 "minority person" in s. 288.703~~(3)~~. Not later than 60 days prior  
1054 to the date a revision or modification to a franchise agreement  
1055 is offered uniformly to a licensee's motor vehicle dealers in  
1056 this state, the licensee shall notify the department of such  
1057 revision, modification, or addition to the franchise agreement  
1058 on file with the department. In no event may a franchise  
1059 agreement, or any addendum or supplement thereto, be offered to  
1060 a motor vehicle dealer in this state until the applicant or  
1061 licensee files an affidavit with the department acknowledging  
1062 that the terms or provisions of the agreement, or any related  
1063 document, are not inconsistent with, prohibited by, or contrary  
1064 to the provisions contained in ss. 320.60-320.70. Any franchise  
1065 agreement offered to a motor vehicle dealer in this state shall  
1066 provide that all terms and conditions in such agreement  
1067 inconsistent with the law and rules of this state are of no  
1068 force and effect.

1069 Section 17. Paragraph (a) of subsection (2) of section  
1070 376.3072, Florida Statutes, is amended to read:

1071 376.3072 Florida Petroleum Liability and Restoration  
1072 Insurance Program.—

1073 (2) (a) Any owner or operator of a petroleum storage system

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1074 may become an insured in the restoration insurance program at a  
1075 facility provided:

1076 1. A site at which an incident has occurred shall be  
1077 eligible for restoration if the insured is a participant in the  
1078 third-party liability insurance program or otherwise meets  
1079 applicable financial responsibility requirements. After July 1,  
1080 1993, the insured must also provide the required excess  
1081 insurance coverage or self-insurance for restoration to achieve  
1082 the financial responsibility requirements of 40 C.F.R. s.  
1083 280.97, subpart H, not covered by paragraph (d).

1084 2. A site which had a discharge reported prior to January  
1085 1, 1989, for which notice was given pursuant to s. 376.3071(9)  
1086 or (12), and which is ineligible for the third-party liability  
1087 insurance program solely due to that discharge shall be eligible  
1088 for participation in the restoration program for any incident  
1089 occurring on or after January 1, 1989, in accordance with  
1090 subsection (3). Restoration funding for an eligible contaminated  
1091 site will be provided without participation in the third-party  
1092 liability insurance program until the site is restored as  
1093 required by the department or until the department determines  
1094 that the site does not require restoration.

1095 3. Notwithstanding paragraph (b), a site where an  
1096 application is filed with the department prior to January 1,  
1097 1995, where the owner is a small business under s. 288.703~~(1)~~, a  
1098 state community college with less than 2,500 FTE, a religious  
1099 institution as defined in ~~by~~ s. 212.08(7)(m), a charitable  
1100 institution as defined in ~~by~~ s. 212.08(7)(p), or a county or  
1101 municipality with a population of less than 50,000, shall be  
1102 eligible for up to \$400,000 of eligible restoration costs, less

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1103 a deductible of \$10,000 for small businesses, eligible community  
1104 colleges, and religious or charitable institutions, and \$30,000  
1105 for eligible counties and municipalities, provided that:

1106 a. Except as provided in sub-subparagraph e., the facility  
1107 was in compliance with department rules at the time of the  
1108 discharge.

1109 b. The owner or operator has, upon discovery of a  
1110 discharge, promptly reported the discharge to the department,  
1111 and drained and removed the system from service, if necessary.

1112 c. The owner or operator has not intentionally caused or  
1113 concealed a discharge or disabled leak detection equipment.

1114 d. The owner or operator proceeds to complete initial  
1115 remedial action as defined by department rules.

1116 e. The owner or operator, if required and if it has not  
1117 already done so, applies for third-party liability coverage for  
1118 the facility within 30 days of receipt of an eligibility order  
1119 issued by the department pursuant to this provision.

1120

1121 However, the department may consider in-kind services from  
1122 eligible counties and municipalities in lieu of the \$30,000  
1123 deductible. The cost of conducting initial remedial action as  
1124 defined by department rules shall be an eligible restoration  
1125 cost pursuant to this provision.

1126 4.a. By January 1, 1997, facilities at sites with existing  
1127 contamination shall be required to have methods of release  
1128 detection to be eligible for restoration insurance coverage for  
1129 new discharges subject to department rules for secondary  
1130 containment. Annual storage system testing, in conjunction with  
1131 inventory control, shall be considered to be a method of release

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1132 detection until the later of December 22, 1998, or 10 years  
1133 after the date of installation or the last upgrade. Other  
1134 methods of release detection for storage tanks which meet such  
1135 requirement are:

1136 (I) Interstitial monitoring of tank and integral piping  
1137 secondary containment systems;

1138 (II) Automatic tank gauging systems; or

1139 (III) A statistical inventory reconciliation system with a  
1140 tank test every 3 years.

1141 b. For pressurized integral piping systems, the owner or  
1142 operator must use:

1143 (I) An automatic in-line leak detector with flow  
1144 restriction meeting the requirements of department rules used in  
1145 conjunction with an annual tightness or pressure test; or

1146 (II) An automatic in-line leak detector with electronic  
1147 flow shut-off meeting the requirements of department rules.

1148 c. For suction integral piping systems, the owner or  
1149 operator must use:

1150 (I) A single check valve installed directly below the  
1151 suction pump, provided there are no other valves between the  
1152 dispenser and the tank; or

1153 (II) An annual tightness test or other approved test.

1154 d. Owners of facilities with existing contamination that  
1155 install internal release detection systems in accordance with  
1156 sub-subparagraph a. shall permanently close their external  
1157 groundwater and vapor monitoring wells in accordance with  
1158 department rules by December 31, 1998. Upon installation of the  
1159 internal release detection system, these wells shall be secured  
1160 and taken out of service until permanent closure.

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1161 e. Facilities with vapor levels of contamination meeting  
1162 the requirements of or below the concentrations specified in the  
1163 performance standards for release detection methods specified in  
1164 department rules may continue to use vapor monitoring wells for  
1165 release detection.

1166 f. The department may approve other methods of release  
1167 detection for storage tanks and integral piping which have at  
1168 least the same capability to detect a new release as the methods  
1169 specified in this subparagraph.

1170 Section 18. Section 376.60, Florida Statutes, is amended to  
1171 read:

1172 376.60 Asbestos removal program inspection and notification  
1173 fee.—The Department of Environmental Protection shall charge an  
1174 inspection and notification fee, not to exceed \$300 for a small  
1175 business as defined in s. 288.703~~(1)~~, or \$1,000 for any other  
1176 project, for any asbestos removal project. The department may  
1177 establish a fee schedule by rule. Schools, colleges,  
1178 universities, residential dwellings, and those persons otherwise  
1179 exempted from licensure under s. 469.002(4) are exempt from the  
1180 fees. Any fee collected must be deposited in the asbestos  
1181 program account in the Air Pollution Control Trust Fund to be  
1182 used by the department to administer its asbestos removal  
1183 program.

1184 (1) In those counties with approved local air pollution  
1185 control programs, the department shall return 80 percent of the  
1186 asbestos removal program inspection and notification fees  
1187 collected in that county to the local government quarterly, if  
1188 the county requests it.

1189 (2) The fees returned to a county under subsection (1) must

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1190 be used only for asbestos-related program activities.

1191 (3) A county may not levy any additional fees for asbestos  
1192 removal activity while it receives fees under subsection (1).

1193 (4) If a county has requested reimbursement under  
1194 subsection (1), the department shall reimburse the approved  
1195 local air pollution control program with 80 percent of the fees  
1196 collected in the county retroactive to July 1, 1994, for  
1197 asbestos-related program activities.

1198 (5) If an approved local air pollution control program that  
1199 is providing asbestos notification and inspection services  
1200 according to 40 C.F.R. part 61, subpart M, and is collecting  
1201 fees sufficient to support the requirements of 40 C.F.R. part  
1202 61, subpart M, opts not to receive the state-generated asbestos  
1203 notification fees, the state may discontinue collection of the  
1204 state asbestos notification fees in that county.

1205 Section 19. Paragraph (b) of subsection (2) of section  
1206 440.45, Florida Statutes, is amended to read:

1207 440.45 Office of the Judges of Compensation Claims.—

1208 (2)

1209 (b) Except as provided in paragraph (c), the Governor shall  
1210 appoint a judge of compensation claims from a list of three  
1211 persons nominated by a statewide nominating commission. The  
1212 statewide nominating commission shall be composed of the  
1213 following:

1214 1. Five members, at least one of whom must be a member of a  
1215 minority group as defined in s. 288.703~~(3)~~, one of each who  
1216 resides in each of the territorial jurisdictions of the district  
1217 courts of appeal, appointed by the Board of Governors of The  
1218 Florida Bar from among The Florida Bar members who are engaged

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1219 in the practice of law. On July 1, 1999, the term of office of  
1220 each person appointed by the Board of Governors of The Florida  
1221 Bar to the commission expires. The Board of Governors shall  
1222 appoint members who reside in the odd-numbered district court of  
1223 appeal jurisdictions to 4-year terms each, beginning July 1,  
1224 1999, and members who reside in the even-numbered district court  
1225 of appeal jurisdictions to 2-year terms each, beginning July 1,  
1226 1999. Thereafter, each member shall be appointed for a 4-year  
1227 term;

1228         2. Five electors, at least one of whom must be a member of  
1229 a minority group as defined in s. 288.703~~(3)~~, one of each who  
1230 resides in each of the territorial jurisdictions of the district  
1231 courts of appeal, appointed by the Governor. On July 1, 1999,  
1232 the term of office of each person appointed by the Governor to  
1233 the commission expires. The Governor shall appoint members who  
1234 reside in the odd-numbered district court of appeal  
1235 jurisdictions to 2-year terms each, beginning July 1, 1999, and  
1236 members who reside in the even-numbered district court of appeal  
1237 jurisdictions to 4-year terms each, beginning July 1, 1999.  
1238 Thereafter, each member shall be appointed for a 4-year term;  
1239 and

1240         3. Five electors, at least one of whom must be a member of  
1241 a minority group as defined in s. 288.703~~(3)~~, one of each who  
1242 resides in the territorial jurisdictions of the district courts  
1243 of appeal, selected and appointed by a majority vote of the  
1244 other 10 members of the commission. On October 1, 1999, the term  
1245 of office of each person appointed to the commission by its  
1246 other members expires. A majority of the other members of the  
1247 commission shall appoint members who reside in the odd-numbered

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1248 district court of appeal jurisdictions to 2-year terms each,  
1249 beginning October 1, 1999, and members who reside in the even-  
1250 numbered district court of appeal jurisdictions to 4-year terms  
1251 each, beginning October 1, 1999. Thereafter, each member shall  
1252 be appointed for a 4-year term.

1253  
1254 A vacancy occurring on the commission shall be filled by the  
1255 original appointing authority for the unexpired balance of the  
1256 term. No attorney who appears before any judge of compensation  
1257 claims more than four times a year is eligible to serve on the  
1258 statewide nominating commission. The meetings and determinations  
1259 of the nominating commission as to the judges of compensation  
1260 claims shall be open to the public.

1261 Section 20. Subsection (1), paragraph (a) of subsection  
1262 (3), and subsection (6) of section 473.3065, Florida Statutes,  
1263 are amended to read:

1264 473.3065 Certified Public Accountant Education Minority  
1265 Assistance Program; advisory council.—

1266 (1) The Certified Public Accountant Education Minority  
1267 Assistance Program for Florida residents is hereby established  
1268 in the division for the purpose of providing scholarships to  
1269 minority persons, as defined in s. 288.703~~(3)~~, who are students  
1270 enrolled in their fifth year of an accounting education program  
1271 at an institution in this state approved by the board by rule. A  
1272 Certified Public Accountant Education Minority Assistance  
1273 Advisory Council shall assist the board in administering the  
1274 program.

1275 (3) The board shall adopt rules as necessary for  
1276 administration of the program, including rules relating to the

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1277 following:

1278 (a) Eligibility criteria for receipt of a scholarship,  
1279 which, at a minimum, shall include the following factors:

1280 1. Financial need.

1281 2. Ethnic, gender, or racial minority status pursuant to s.  
1282 288.703~~(3)~~.

1283 3. Scholastic ability and performance.

1284 (6) There is hereby created the Certified Public Accountant  
1285 Education Minority Assistance Advisory Council to assist the  
1286 board in administering the program. The council shall be diverse  
1287 and representative of the gender, ethnic, and racial categories  
1288 set forth in s. 288.703~~(3)~~.

1289 (a) The council shall consist of five licensed Florida-  
1290 certified public accountants selected by the board, of whom one  
1291 shall be a board member who serves as chair of the council, one  
1292 shall be a representative of the National Association of Black  
1293 Accountants, one shall be a representative of the Cuban American  
1294 CPA Association, and two shall be selected at large. At least  
1295 one member of the council must be a woman.

1296 (b) The board shall determine the terms for initial  
1297 appointments and appointments thereafter.

1298 (c) Any vacancy on the council shall be filled in the  
1299 manner provided for the selection of the initial member. Any  
1300 member appointed to fill a vacancy of an unexpired term shall be  
1301 appointed for the remainder of that term.

1302 (d) Three consecutive absences or absences constituting 50  
1303 percent or more of the council's meetings within any 12-month  
1304 period shall cause the council membership of the member in  
1305 question to become void, and the position shall be considered

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1306 vacant.

1307 (e) The members of the council shall serve without  
1308 compensation, and any necessary and actual expenses incurred by  
1309 a member while engaged in the business of the council shall be  
1310 borne by such member or by the organization or agency such  
1311 member represents. However, the council member who is a member  
1312 of the board shall be compensated in accordance with the  
1313 provisions of ss. 455.207(4) and 112.061.

1314 Section 21. Subsections (1) and (3) of section 624.4072,  
1315 Florida Statutes, are amended to read:

1316 624.4072 Minority-owned property and casualty insurers;  
1317 limited exemption for taxation and assessments.—

1318 (1) A minority business that is at least 51 percent owned  
1319 by minority persons, as defined in s. 288.703~~(3)~~, initially  
1320 issued a certificate of authority in this state as an authorized  
1321 insurer after May 1, 1998, and before January 1, 2002, to write  
1322 property and casualty insurance shall be exempt, for a period  
1323 not to exceed 10 years from the date of receiving its  
1324 certificate of authority, from the following taxes and  
1325 assessments:

1326 (a) Taxes imposed under ss. 175.101, 185.08, and 624.509;

1327 (b) Assessments by the Citizens Property Insurance  
1328 Corporation, except for emergency assessments collected from  
1329 policyholders pursuant to s. 627.351(6)(b)3.d. Any such insurer  
1330 shall be a member insurer of the Citizens Property Insurance  
1331 Corporation. The premiums of such insurer shall be included in  
1332 determining, for the Citizens Property Insurance Corporation,  
1333 the aggregate statewide direct written premium for the subject  
1334 lines of business for all member insurers.

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1335 (3) The provision of the definition of "minority person" in  
1336 s. 288.703~~(3)~~ that requires residency in Florida shall not apply  
1337 to the term "minority person" as used in this section or s.  
1338 627.3511.

1339 Section 22. Subsection (7) of section 627.3511, Florida  
1340 Statutes, is amended to read:

1341 627.3511 Depopulation of Citizens Property Insurance  
1342 Corporation.—

1343 (7) A minority business, which is at least 51 percent owned  
1344 by minority persons as described in s. 288.703~~(3)~~, desiring to  
1345 operate or become licensed as a property and casualty insurer  
1346 may exempt up to \$50 of the escrow requirements of the take-out  
1347 bonus, as described in this section. Such minority business,  
1348 which has applied for a certificate of authority to engage in  
1349 business as a property and casualty insurer, may simultaneously  
1350 file the business' proposed take-out plan, as described in this  
1351 section, with the corporation.

1352 Section 23. Subsection (1) of section 641.217, Florida  
1353 Statutes, is amended to read:

1354 641.217 Minority recruitment and retention plans required.—

1355 (1) Any entity contracting with the Agency for Health Care  
1356 Administration to provide health care services to Medicaid  
1357 recipients or state employees on a prepaid or fixed-sum basis  
1358 must submit to the Agency for Health Care Administration the  
1359 entity's plan for recruitment and retention of health care  
1360 practitioners who are minorities as defined in s. 288.703~~(3)~~.  
1361 The plan must demonstrate an ability to recruit and retain  
1362 minorities which shall include, but is not limited to, the  
1363 following efforts:

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1364 (a) Establishing and maintaining contacts with various  
1365 organizations representing the interests and concerns of  
1366 minority constituencies to seek advice and assistance.

1367 (b) Identifying and recruiting at colleges and universities  
1368 which primarily serve minority students.

1369 (c) Reviewing and analyzing the organization's workforce as  
1370 to minority representation.

1371 (d) Other factors identified by the Agency for Health Care  
1372 Administration by rule.

1373 Section 24. Paragraph (a) of subsection (4) of section  
1374 1004.435, Florida Statutes, is amended to read:

1375 1004.435 Cancer control and research.—

1376 (4) FLORIDA CANCER CONTROL AND RESEARCH ADVISORY COUNCIL;  
1377 CREATION; COMPOSITION.—

1378 (a) There is created within the H. Lee Moffitt Cancer  
1379 Center and Research Institute, Inc., the Florida Cancer Control  
1380 and Research Advisory Council. The council shall consist of 34  
1381 members, which includes the chairperson, all of whom must be  
1382 residents of this state. All members, except those appointed by  
1383 the Speaker of the House of Representatives and the President of  
1384 the Senate, must be appointed by the Governor. At least one of  
1385 the members appointed by the Governor must be 60 years of age or  
1386 older. One member must be a representative of the American  
1387 Cancer Society; one member must be a representative of the  
1388 Florida Tumor Registrars Association; one member must be a  
1389 representative of the Sylvester Comprehensive Cancer Center of  
1390 the University of Miami; one member must be a representative of  
1391 the Department of Health; one member must be a representative of  
1392 the University of Florida Shands Cancer Center; one member must

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1393 be a representative of the Agency for Health Care  
1394 Administration; one member must be a representative of the  
1395 Florida Nurses Association; one member must be a representative  
1396 of the Florida Osteopathic Medical Association; one member must  
1397 be a representative of the American College of Surgeons; one  
1398 member must be a representative of the School of Medicine of the  
1399 University of Miami; one member must be a representative of the  
1400 College of Medicine of the University of Florida; one member  
1401 must be a representative of NOVA Southeastern College of  
1402 Osteopathic Medicine; one member must be a representative of the  
1403 College of Medicine of the University of South Florida; one  
1404 member must be a representative of the College of Public Health  
1405 of the University of South Florida; one member must be a  
1406 representative of the Florida Society of Clinical Oncology; one  
1407 member must be a representative of the Florida Obstetric and  
1408 Gynecologic Society who has had training in the specialty of  
1409 gynecologic oncology; one member must be a representative of the  
1410 Florida Medical Association; one member must be a member of the  
1411 Florida Pediatric Society; one member must be a representative  
1412 of the Florida Radiological Society; one member must be a  
1413 representative of the Florida Society of Pathologists; one  
1414 member must be a representative of the H. Lee Moffitt Cancer  
1415 Center and Research Institute, Inc.; three members must be  
1416 representatives of the general public acting as consumer  
1417 advocates; one member must be a member of the House of  
1418 Representatives appointed by the Speaker of the House of  
1419 Representatives; one member must be a member of the Senate  
1420 appointed by the President of the Senate; one member must be a  
1421 representative of the Florida Dental Association; one member

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1422 must be a representative of the Florida Hospital Association;  
1423 one member must be a representative of the Association of  
1424 Community Cancer Centers; one member shall be a representative  
1425 from a statutory teaching hospital affiliated with a community-  
1426 based cancer center; one member must be a representative of the  
1427 Florida Association of Pediatric Tumor Programs, Inc.; one  
1428 member must be a representative of the Cancer Information  
1429 Service; one member must be a representative of the Florida  
1430 Agricultural and Mechanical University Institute of Public  
1431 Health; and one member must be a representative of the Florida  
1432 Society of Oncology Social Workers. Of the members of the  
1433 council appointed by the Governor, at least 10 must be  
1434 individuals who are minority persons as defined in ~~by~~ s.  
1435 288.703~~(3)~~.

1436 Section 25. For the purpose of incorporating the amendment  
1437 made by this act to section 288.703, Florida Statutes, in a  
1438 reference thereto, paragraph (d) of subsection (2) of section  
1439 120.541, Florida Statutes, is reenacted to read:

1440 120.541 Statement of estimated regulatory costs.—

1441 (2) A statement of estimated regulatory costs shall  
1442 include:

1443 (d) An analysis of the impact on small businesses as  
1444 defined by s. 288.703, and an analysis of the impact on small  
1445 counties and small cities as defined by s. 120.52.

1446 Section 26. For the purpose of incorporating the amendment  
1447 made by this act to section 288.703, Florida Statutes, in a  
1448 reference thereto, paragraph (d) of subsection (2) of section  
1449 288.7001, Florida Statutes, is reenacted to read:

1450 288.7001 Small Business Regulatory Advisory Council.—

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1451 (2) DEFINITIONS.—As used in this section, the term:

1452 (d) "Small business" means a small business as defined in  
1453 s. 288.703.

1454 Section 27. For the purpose of incorporating the amendment  
1455 made by this act to section 288.703, Florida Statutes, in a  
1456 reference thereto, section 288.7031, Florida Statutes, is  
1457 reenacted to read:

1458 288.7031 Application of certain definitions.—The  
1459 definitions of "small business," "minority business enterprise,"  
1460 and "certified minority business enterprise" provided in s.  
1461 288.703 apply to the state and all political subdivisions of the  
1462 state.

1463 Section 28. For the purpose of incorporating the amendment  
1464 made by this act to section 288.703, Florida Statutes, in a  
1465 reference thereto, subsection (7) of section 290.004, Florida  
1466 Statutes, is reenacted to read:

1467 290.004 Definitions relating to Florida Enterprise Zone  
1468 Act.—As used in ss. 290.001-290.016:

1469 (7) "Small business" has the same meaning as in s. 288.703.

1470 Section 29. This act shall take effect July 1, 2010.