ENROLLED 2011 Legislature

CS for CS for SB 170, 1st Engrossed

2011170er 1 2 An act relating to electronic filing and receipt of 3 court and other legal documents; creating ss. 27.341 4 and 27.5112, F.S.; requiring each state attorney and 5 public defender to electronically file court documents 6 with the clerk of the court and receive court 7 documents from the clerk of the court; defining the 8 term "court documents"; providing legislative 9 expectations that the state attorneys and public 10 defenders consult with specified entities; requiring the Florida Prosecuting Attorneys Association and the 11 12 Florida Public Defender Association report to the 13 President of the Senate and the Speaker of the House 14 of Representatives by a specified date on the progress 15 made to use the Florida Courts E-Portal system or the 16 clerks' offices portals to electronically file and 17 receive court documents; amending ss. 440.192 and 440.25, F.S.; providing for electronic procedures for 18 filing documents and resolving benefit disputes in 19 workers' compensation proceedings; requiring a 20 21 response to a petition for workers' compensation 22 benefits to be filed by approved electronic means; 23 amending ss. 440.29 and 440.45, F.S.; requiring that 2.4 the practice and procedure before the judges of 25 compensation claims be governed by the Office of the Judges of Compensation Claims instead of the Supreme 26 27 Court; authorizing the Office of the Judges of 28 Compensation Claims to adopt rules to implement 29 electronic procedures; amending s. 120.52, F.S.;

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| 30 | requiring use of electronic procedures by those |
| 31 | represented by an attorney; amending s. 120.54, F.S.; |
| 32 | requiring a petitioner requesting an administrative |
| 33 | hearing to include the petitioner's e-mail address; |
| 34 | amending ss. 57.111, 120.56, 120.569, 120.57, 552.40, |
| 35 | 553.73, and 961.03, F.S.; providing for electronic |
| 36 | procedures in administrative proceedings; providing an |
| 37 | effective date. |
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| 39 | Be It Enacted by the Legislature of the State of Florida: |
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| 41 | Section 1. Section 27.341, Florida Statutes, is created to |
| 42 | read: |
| 43 | 27.341 Electronic filing and receipt of court documents |
| 44 | (1) (a) Each office of the state attorney shall |
| 45 | electronically file court documents with the clerk of the court |
| 46 | and receive court documents from the clerk of the court. It is |
| 47 | the expectation of the Legislature that the electronic filing |
| 48 | and receipt of court documents will reduce costs for the office |
| 49 | of the state attorney, the clerk of the court, and the |
| 50 | judiciary; will increase timeliness in the processing of cases; |
| 51 | and will provide the judiciary and the clerk of the court with |
| 52 | case-related information to allow for improved judicial case |
| 53 | management. |
| 54 | (b) As used in this section, the term "court documents" |
| 55 | includes, but is not limited to, pleadings, motions, briefs, and |
| 56 | their respective attachments, orders, judgments, opinions, |
| 57 | decrees, and transcripts. |
| 58 | (2) It is further the expectation of the Legislature that |
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2011170er 59 each office of the state attorney consult with the office of the 60 public defender for the same circuit served by the office of the 61 state attorney, the clerks of court for the circuit, the Florida 62 Court Technology Commission, and any authority that governs the operation of a statewide portal for the electronic filing and 63 64 receipt of court documents. 65 (3) The Florida Prosecuting Attorneys Association shall 66 file a report with the President of the Senate and the Speaker 67 of the House of Representatives by March 1, 2012, describing the 68 progress that each office of the state attorney has made to use the Florida Courts E-Portal or, if the case type is not approved 69 70 for the Florida Courts E-Portal, separate clerks' offices 71 portals for purposes of electronic filing and documenting 72 receipt of court documents. For any office of the state attorney 73 that has not fully implemented an electronic filing and receipt system by March 1, 2012, the report must also include a 74 75 description of the additional activities that are needed to 76 complete the system for that office and the projected time 77 necessary to complete the additional activities. 78 Section 2. Section 27.5112, Florida Statutes, is created to 79 read: 80 27.5112 Electronic filing and receipt of court documents.-81 (1) (a) Each office of the public defender shall 82 electronically file court documents with the clerk of the court 83 and receive court documents from the clerk of the court. It is 84 the expectation of the Legislature that the electronic filing 85 and receipt of court documents will reduce costs for the office 86 of the public defender, the clerk of the court, and the 87 judiciary; will increase timeliness in the processing of cases;

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| 88 | and will provide the judiciary and the clerk of the court with |
| 89 | case-related information to allow for improved judicial case |
| 90 | management. |
| 91 | (b) As used in this section, the term "court documents" |
| 92 | includes, but is not limited to, pleadings, motions, briefs, and |
| 93 | their respective attachments, orders, judgments, opinions, |
| 94 | decrees, and transcripts. |
| 95 | (2) It is further the expectation of the Legislature that, |
| 96 | in developing the capability and implementing the process, each |
| 97 | office of the public defender consult with the office of the |
| 98 | state attorney for the same circuit served by the office of the |
| 99 | public defender, the clerks of court for the circuit, the |
| 100 | Florida Court Technology Commission, and any authority that |
| 101 | governs the operation of a statewide portal for the electronic |
| 102 | filing and receipt of court documents. |
| 103 | (3) The Florida Public Defender Association shall file a |
| 104 | report with the President of the Senate and the Speaker of the |
| 105 | House of Representatives by March 1, 2012, describing the |
| 106 | progress that each office of the public defender has made to use |
| 107 | the Florida Courts E-Portal or, if the case type is not approved |
| 108 | for the Florida Courts E-Portal, separate clerks' offices |
| 109 | portals for purposes of electronic filing and documenting |
| 110 | receipt of court documents. For any office of the public |
| 111 | defender that has not fully implemented an electronic filing and |
| 112 | receipt system by March 1, 2012, the report must also include a |
| 113 | description of the additional activities that are needed to |
| 114 | complete the system for that office and the projected time |
| 115 | necessary to complete the additional activities. |
| 116 | Section 3. Subsections (1) and (8) of section 440.192, |
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Florida Statutes, are amended to read:

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440.192 Procedure for resolving benefit disputes.-

119 (1) Any employee may, for any benefit that is ripe, due, 120 and owing, file by certified mail, or by electronic means approved by the Deputy Chief Judge, with the Office of the 121 122 Judges of Compensation Claims a petition for benefits which 123 meets the requirements of this section and the definition of 124 specificity in s. 440.02. An employee represented by an attorney 125 shall file by electronic means approved by the Deputy Chief 126 Judge. An employee not represented by an attorney may file by 127 certified mail or by electronic means approved by the Deputy Chief Judge. The department shall inform employees of the 128 129 location of the Office of the Judges of Compensation Claims and 130 the office's website address for purposes of filing a petition for benefits. The employee shall also serve copies of the 131 petition for benefits by certified mail, or by electronic means 132 133 approved by the Deputy Chief Judge, upon the employer and the employer's carrier. The Deputy Chief Judge shall refer the 134 135 petitions to the judges of compensation claims.

(8) Within 14 days after receipt of a petition for benefits 136 by certified mail or by approved electronic means, the carrier 137 must either pay the requested benefits without prejudice to its 138 right to deny within 120 days from receipt of the petition or 139 140 file a response to petition with the Office of the Judges of 141 Compensation Claims. The response shall be filed by electronic means approved by the Deputy Chief Judge. The carrier must list 142 143 all benefits requested but not paid and explain its justification for nonpayment in the response to petition. A 144 145 carrier that does not deny compensability in accordance with s.

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2011170er 146 440.20(4) is deemed to have accepted the employee's injuries as 147 compensable, unless it can establish material facts relevant to 148 the issue of compensability that could not have been discovered 149 through reasonable investigation within the 120-day period. The carrier shall provide copies of the response to the filing 150 party, employer, and claimant by certified mail or by electronic 151 152 means approved by the Deputy Chief Judge. 153 Section 4. Subsection (1) and paragraphs (a), (c), and (e) 154 of subsection (4) of section 440.25, Florida Statutes, are 155 amended to read: 440.25 Procedures for mediation and hearings.-156 (1) Forty days after a petition for benefits is filed under 157 s. 440.192, the judge of compensation claims shall notify the 158 159 interested parties by order that a mediation conference concerning such petition has been scheduled unless the parties 160 161 have notified the judge of compensation claims that a private 162 mediation has been held or is scheduled to be held. A mediation, whether private or public, shall be held within 130 days after 163 164 the filing of the petition. Such order must give the date the 165 mediation conference is to be held. Such order may be served personally upon the interested parties or may be sent to the 166 interested parties by mail or by electronic means approved by 167 168 the Deputy Chief Judge. If multiple petitions are pending, or if 169 additional petitions are filed after the scheduling of a 170 mediation, the judge of compensation claims shall consolidate all petitions into one mediation. The claimant or the adjuster 171 172 of the employer or carrier may, at the mediator's discretion, attend the mediation conference by telephone or, if agreed to by 173 174 the parties, other electronic means. A continuance may be

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175 granted upon the agreement of the parties or if the requesting 176 party demonstrates to the judge of compensation claims that the 177 reason for requesting the continuance arises from circumstances 178 beyond the party's control. Any order granting a continuance 179 must set forth the date of the rescheduled mediation conference. 180 A mediation conference may not be used solely for the purpose of 181 mediating attorney's fees.

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

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

(e) The order making an award or rejecting the claim, 192 193 referred to in this chapter as a "compensation order," shall set forth the findings of ultimate facts and the mandate; and the 194 195 order need not include any other reason or justification for such mandate. The compensation order shall be filed in the 196 Office of the Judges of Compensation Claims at Tallahassee. A 197 copy of such compensation order shall be sent by mail or by 198 199 electronic means approved by the Deputy Chief Judge to the 200 parties and attorneys of record and any parties not represented 201 by an attorney at the last known address of each, with the date 202 of mailing noted thereon.

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Section 5. Subsection (3) of section 440.29, Florida

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2011170er 204 Statutes, is amended to read: 440.29 Procedure before the judge of compensation claims.-205 206 (3) The practice and procedure before the judges of 207 compensation claims shall be governed by rules adopted by the 208 Office of the Judges of Compensation Claims Supreme Court, 209 except to the extent that such rules conflict with the 210 provisions of this chapter. Section 6. Subsection (4) of section 440.45, Florida 211 212 Statutes, is amended to read: 440.45 Office of the Judges of Compensation Claims.-213 214 (4) The Office of the Judges of Compensation Claims shall adopt rules to carry out effect the purposes of this section. 215 Such rules must shall include procedural rules applicable to 216 217 workers' compensation claim resolution, including rules requiring electronic filing and service where deemed appropriate 218 219 by the Deputy Chief Judge, and uniform criteria for measuring 220 the performance of the office, including, but not limited to, 221 the number of cases assigned and resolved disposed, the age of 222 pending and resolved disposed cases, timeliness of decisions decisionmaking, extraordinary fee awards, and other data 223 necessary for the judicial nominating commission to review the 224 225 performance of judges as required in paragraph (2)(c). The 226 workers' compensation rules of procedure approved by the Supreme 227 Court apply until the rules adopted by the Office of the Judges 228 of Compensation Claims pursuant to this section become 229 effective. 230 Section 7. Subsection (5) of section 120.52, Florida 231 Statutes, is amended to read: 232 120.52 Definitions.-As used in this act:

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| 233 | (5) "Division" means the Division of Administrative |
| 234 | Hearings. Any document filed with the division by a party |
| 235 | represented by an attorney shall be filed by electronic means |
| 236 | through the division's website. Any document filed with the |
| 237 | division by a party not represented by an attorney shall, |
| 238 | whenever possible, be filed by electronic means through the |
| 239 | division's website. |
| 240 | Section 8. Paragraph (b) of subsection (5) of section |
| 241 | 120.54, Florida Statutes, is amended to read: |
| 242 | 120.54 Rulemaking |
| 243 | (5) UNIFORM RULES |
| 244 | (b) The uniform rules of procedure adopted by the |
| 245 | commission pursuant to this subsection shall include, but are |
| 246 | not limited to: |
| 247 | 1. Uniform rules for the scheduling of public meetings, |
| 248 | hearings, and workshops. |
| 249 | 2. Uniform rules for use by each state agency that provide |
| 250 | procedures for conducting public meetings, hearings, and |
| 251 | workshops, and for taking evidence, testimony, and argument at |
| 252 | such public meetings, hearings, and workshops, in person and by |
| 253 | means of communications media technology. The rules shall |
| 254 | provide that all evidence, testimony, and argument presented |
| 255 | shall be afforded equal consideration, regardless of the method |
| 256 | of communication. If a public meeting, hearing, or workshop is |
| 257 | to be conducted by means of communications media technology, or |
| 258 | if attendance may be provided by such means, the notice shall so |
| 259 | state. The notice for public meetings, hearings, and workshops |
| 260 | utilizing communications media technology shall state how |
| 261 | persons interested in attending may do so and shall name |
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262 locations, if any, where communications media technology 263 facilities will be available. Nothing in this paragraph shall be 264 construed to diminish the right to inspect public records under 265 chapter 119. Limiting points of access to public meetings, 266 hearings, and workshops subject to the provisions of s. 286.011 267 to places not normally open to the public shall be presumed to 268 violate the right of access of the public, and any official 269 action taken under such circumstances is void and of no effect. 270 Other laws relating to public meetings, hearings, and workshops, 271 including penal and remedial provisions, shall apply to public 272 meetings, hearings, and workshops conducted by means of 273 communications media technology, and shall be liberally 274 construed in their application to such public meetings, hearings, and workshops. As used in this subparagraph, 275 "communications media technology" means the electronic 276 277 transmission of printed matter, audio, full-motion video, 278 freeze-frame video, compressed video, and digital video by any 279 method available.

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

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

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

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b. A statement of when and how the petitioner received

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291 notice of the agency's action or proposed action.

292 c. An explanation of how the petitioner's substantial 293 interests are or will be affected by the action or proposed 294 action.

295 d. A statement of all material facts disputed by the296 petitioner or a statement that there are no disputed facts.

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

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

304 g. A statement of the relief sought by the petitioner, 305 stating precisely the action petitioner wishes the agency to 306 take with respect to the proposed action.

307 5. Uniform rules for the filing of request for 308 administrative hearing by a respondent in agency enforcement and 309 disciplinary actions. Such rules shall require a request to 310 include:

a. The name, address, <u>e-mail address</u>, and telephone number of the party making the request and the name, address, and telephone number of the party's counsel or qualified representative upon whom service of pleadings and other papers shall be made;

b. A statement that the respondent is requesting an administrative hearing and disputes the material facts alleged by the petitioner, in which case the respondent shall identify those material facts that are in dispute, or that the respondent

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2011170er 320 is requesting an administrative hearing and does not dispute the 321 material facts alleged by the petitioner; and 322 c. A reference by file number to the administrative 323 complaint that the party has received from the agency and the 324 date on which the agency pleading was received. 325 326 The agency may provide an election-of-rights form for the 327 respondent's use in requesting a hearing, so long as any form 328 provided by the agency calls for the information in sub-329 subparagraphs a. through c. and does not impose any additional 330 requirements on a respondent in order to request a hearing, unless such requirements are specifically authorized by law. 331 332 6. Uniform rules of procedure for the filing and prompt 333 disposition of petitions for declaratory statements. The rules shall also describe the contents of the notices that must be 334 335 published in the Florida Administrative Weekly under s. 120.565, 336 including any applicable time limit for the filing of petitions 337 to intervene or petitions for administrative hearing by persons 338 whose substantial interests may be affected. 339 7. Provision of a method by which each agency head shall

provide a description of the agency's organization and general course of its operations. The rules shall require that the statement concerning the agency's organization and operations be published on the agency's website.

344 8. Uniform rules establishing procedures for granting or
345 denying petitions for variances and waivers pursuant to s.
346 120.542.

347 Section 9. Paragraph (b) of subsection (4) of section 348 57.111, Florida Statutes, is amended to read:

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349 57.111 Civil actions and administrative proceedings 350 initiated by state agencies; attorneys' fees and costs.-351 (4)

352 (b)1. To apply for an award under this section, the attorney for the prevailing small business party must submit an 353 354 itemized affidavit to the court which first conducted the adversarial proceeding in the underlying action, or by 355 356 electronic means through the division's website to the Division 357 of Administrative Hearings which shall assign an administrative 358 law judge, in the case of a proceeding pursuant to chapter 120, which affidavit shall reveal the nature and extent of the 359 360 services rendered by the attorney as well as the costs incurred in preparations, motions, hearings, and appeals in the 361 362 proceeding.

363 2. The application for an award of attorney's fees must be 364 made within 60 days after the date that the small business party 365 becomes a prevailing small business party.

366 Section 10. Paragraphs (c) and (d) of subsection (1) of 367 section 120.56, Florida Statutes, are amended to read:

120.56 Challenges to rules.-

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

(c) The petition shall be filed <u>by electronic means</u> with the division which shall, immediately upon filing, forward <u>by</u> <u>electronic means</u> copies to the agency whose rule is challenged, the Department of State, and the committee. Within 10 days after receiving the petition, the division director shall, if the petition complies with the requirements of paragraph (b), assign an administrative law judge who shall conduct a hearing within

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378 30 days thereafter, unless the petition is withdrawn or a 379 continuance is granted by agreement of the parties or for good 380 cause shown. Evidence of good cause includes, but is not limited 381 to, written notice of an agency's decision to modify or withdraw 382 the proposed rule or a written notice from the chair of the committee stating that the committee will consider an objection 383 384 to the rule at its next scheduled meeting. The failure of an agency to follow the applicable rulemaking procedures or 385 386 requirements set forth in this chapter shall be presumed to be 387 material; however, the agency may rebut this presumption by 388 showing that the substantial interests of the petitioner and the fairness of the proceedings have not been impaired. 389

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

395 Section 11. Paragraph (a) of subsection (2) of section 396 120.569, Florida Statutes, is amended to read:

120.569 Decisions which affect substantial interests.-

398 (2) (a) Except for any proceeding conducted as prescribed in s. 120.56, a petition or request for a hearing under this 399 400 section shall be filed with the agency. If the agency requests 401 an administrative law judge from the division, it shall so 402 notify the division by electronic means through the division's 403 website within 15 days after receipt of the petition or request. 404 A request for a hearing shall be granted or denied within 15 days after receipt. On the request of any agency, the division 405 406 shall assign an administrative law judge with due regard to the

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407 expertise required for the particular matter. The referring 408 agency shall take no further action with respect to a proceeding 409 under s. 120.57(1), except as a party litigant, as long as the 410 division has jurisdiction over the proceeding under s. 411 120.57(1). Any party may request the disqualification of the administrative law judge by filing an affidavit with the 412 413 division prior to the taking of evidence at a hearing, stating 414 the grounds with particularity. 415 Section 12. Paragraph (d) of subsection (3) of section 120.57, Florida Statutes, is amended to read: 416 417 120.57 Additional procedures for particular cases.-(3) ADDITIONAL PROCEDURES APPLICABLE TO PROTESTS TO 418 419 CONTRACT SOLICITATION OR AWARD.-Agencies subject to this chapter 420 shall use the uniform rules of procedure, which provide procedures for the resolution of protests arising from the 421 422 contract solicitation or award process. Such rules shall at 423 least provide that: (d)1. The agency shall provide an opportunity to resolve 424 425 the protest by mutual agreement between the parties within 7 426 days, excluding Saturdays, Sundays, and state holidays, after receipt of a formal written protest. 427 428 2. If the subject of a protest is not resolved by mutual 429 agreement within 7 days, excluding Saturdays, Sundays, and state 430 holidays, after receipt of the formal written protest, and if 431 there is no disputed issue of material fact, an informal 432 proceeding shall be conducted pursuant to subsection (2) and 433 applicable agency rules before a person whose qualifications 434 have been prescribed by rules of the agency. 435 3. If the subject of a protest is not resolved by mutual

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2011170er 436 agreement within 7 days, excluding Saturdays, Sundays, and state 437 holidays, after receipt of the formal written protest, and if 438 there is a disputed issue of material fact, the agency shall 439 refer the protest to the division by electronic means through 440 the division's website for proceedings under subsection (1). Section 13. Subsection (1) of section 552.40, Florida 441 Statutes, is amended to read: 442 552.40 Administrative remedy for alleged damage due to the 443 444 use of explosives in connection with construction materials 445 mining activities.-446 (1) A person may initiate an administrative proceeding to 447 recover damages resulting from the use of explosives in connection with construction materials mining activities by 448 449 filing a petition with the Division of Administrative Hearings 450 by electronic means through the division's website on a form 451 provided by it and accompanied by a filing fee of \$100 within 452 180 days after the occurrence of the alleged damage. If the 453 petitioner submits an affidavit stating that the petitioner's 454 annual income is less than 150 percent of the applicable federal 455 poverty guideline published in the Federal Register by the 456 United States Department of Health and Human Services, the \$100 457 filing fee must be waived. 458 Section 14. Paragraph (b) of subsection (4) of section 459 553.73, Florida Statutes, is amended to read: 460 553.73 Florida Building Code.-461 (4)462 (b) Local governments may, subject to the limitations of 463 this section, adopt amendments to the technical provisions of 464 the Florida Building Code which apply solely within the

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465 jurisdiction of such government and which provide for more 466 stringent requirements than those specified in the Florida 467 Building Code, not more than once every 6 months. A local 468 government may adopt technical amendments that address local 469 needs if:

470 1. The local governing body determines, following a public 471 hearing which has been advertised in a newspaper of general 472 circulation at least 10 days before the hearing, that there is a 473 need to strengthen the requirements of the Florida Building Code. The determination must be based upon a review of local 474 475 conditions by the local governing body, which review demonstrates by evidence or data that the geographical 476 477 jurisdiction governed by the local governing body exhibits a 478 local need to strengthen the Florida Building Code beyond the 479 needs or regional variation addressed by the Florida Building 480 Code, that the local need is addressed by the proposed local 481 amendment, and that the amendment is no more stringent than 482 necessary to address the local need.

483 2. Such additional requirements are not discriminatory
484 against materials, products, or construction techniques of
485 demonstrated capabilities.

3. Such additional requirements may not introduce a newsubject not addressed in the Florida Building Code.

488 4. The enforcing agency shall make readily available, in a 489 usable format, all amendments adopted pursuant to this section.

490 5. Any amendment to the Florida Building Code shall be 491 transmitted within 30 days by the adopting local government to 492 the commission. The commission shall maintain copies of all such 493 amendments in a format that is usable and obtainable by the

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494 public. Local technical amendments shall not become effective 495 until 30 days after the amendment has been received and 496 published by the commission.

497 6. Any amendment to the Florida Building Code adopted by a 498 local government pursuant to this paragraph shall be effective only until the adoption by the commission of the new edition of 499 500 the Florida Building Code every third year. At such time, the commission shall review such amendment for consistency with the 501 502 criteria in paragraph (9) (a) and adopt such amendment as part of 503 the Florida Building Code or rescind the amendment. The 504 commission shall immediately notify the respective local government of the rescission of any amendment. After receiving 505 such notice, the respective local government may readopt the 506 507 rescinded amendment pursuant to the provisions of this 508 paragraph.

509 7. Each county and municipality desiring to make local 510 technical amendments to the Florida Building Code shall by interlocal agreement establish a countywide compliance review 511 512 board to review any amendment to the Florida Building Code, 513 adopted by a local government within the county pursuant to this paragraph, that is challenged by any substantially affected 514 party for purposes of determining the amendment's compliance 515 with this paragraph. If challenged, the local technical 516 517 amendments shall not become effective until time for filing an 518 appeal pursuant to subparagraph 8. has expired or, if there is 519 an appeal, until the commission issues its final order 520 determining the adopted amendment is in compliance with this 521 subsection.

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8. If the compliance review board determines such amendment

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2011170er 523 is not in compliance with this paragraph, the compliance review 524 board shall notify such local government of the noncompliance 525 and that the amendment is invalid and unenforceable until the 526 local government corrects the amendment to bring it into compliance. The local government may appeal the decision of the 527 compliance review board to the commission. If the compliance 528 529 review board determines such amendment to be in compliance with this paragraph, any substantially affected party may appeal such 530 531 determination to the commission. Any such appeal shall be filed 532 with the commission within 14 days of the board's written 533 determination. The commission shall promptly refer the appeal to the Division of Administrative Hearings by electronic means 534 through the division's website for the assignment of an 535 536 administrative law judge. The administrative law judge shall conduct the required hearing within 30 days, and shall enter a 537 recommended order within 30 days of the conclusion of such 538 539 hearing. The commission shall enter a final order within 30 days 540 thereafter. The provisions of chapter 120 and the uniform rules 541 of procedure shall apply to such proceedings. The local 542 government adopting the amendment that is subject to challenge has the burden of proving that the amendment complies with this 543 paragraph in proceedings before the compliance review board and 544 the commission, as applicable. Actions of the commission are 545 546 subject to judicial review pursuant to s. 120.68. The compliance 547 review board shall determine whether its decisions apply to a respective local jurisdiction or apply countywide. 548

549 9. An amendment adopted under this paragraph shall include
550 a fiscal impact statement which documents the costs and benefits
551 of the proposed amendment. Criteria for the fiscal impact

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2011170er 552 statement shall include the impact to local government relative 553 to enforcement, the impact to property and building owners, as 554 well as to industry, relative to the cost of compliance. The 555 fiscal impact statement may not be used as a basis for 556 challenging the amendment for compliance. 557 10. In addition to subparagraphs 7. and 9., the commission 558 may review any amendments adopted pursuant to this subsection 559 and make nonbinding recommendations related to compliance of 560 such amendments with this subsection. 561 Section 15. Paragraph (b) of subsection (4) of section 961.03, Florida Statutes, is amended to read: 562 563 961.03 Determination of status as a wrongfully incarcerated person; determination of eligibility for compensation.-564 565 (4) 566 (b) If the prosecuting authority responds as set forth in 567 paragraph (2)(b), and the court determines that the petitioner 568 is eligible under the provisions of s. 961.04, but the 569 prosecuting authority contests the nature, significance or 570 effect of the evidence of actual innocence, or the facts related to the petitioner's alleged wrongful incarceration, the court 571 shall set forth its findings and transfer the petition by 572 573 electronic means through the division's website to the division 574 for findings of fact and a recommended determination of whether 575 the petitioner has established that he or she is a wrongfully 576 incarcerated person who is eligible for compensation under this 577 act. 578 Section 16. This act shall take effect July 1, 2011.

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