

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

29 amending s. 120.54, F.S.; requiring a petitioner  
 30 requesting an administrative hearing to include the  
 31 petitioner's e-mail address; amending ss. 57.111, 120.56,  
 32 120.569, 120.57, 552.40, 553.73, and 961.03, F.S.;

33 providing for electronic procedures in administrative  
 34 proceedings; providing an effective date.

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

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

40 27.341 Electronic filing and receipt of court documents.-

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

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

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

CS/CS/HB 443

2011

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

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

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

77 27.5112 Electronic filing and receipt of court documents.—

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

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

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

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

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

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

115 440.192 Procedure for resolving benefit disputes.—

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

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

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

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

153 440.25 Procedures for mediation and hearings.—

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

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

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

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

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

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

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

202 440.29 Procedure before the judge of compensation claims.—

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

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

210 440.45 Office of the Judges of Compensation Claims.—

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

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

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

229 120.52 Definitions.—As used in this act:

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

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

239 120.54 Rulemaking.—

240 (5) UNIFORM RULES.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CS/CS/HB 443

2011

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

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

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

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

348 (4)

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

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

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

365 120.56 Challenges to rules.—

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

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

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

CS/CS/HB 443

2011

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

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

394 120.569 Decisions which affect substantial interests.—

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

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

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

414 120.57 Additional procedures for particular cases.—

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

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

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

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

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

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

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

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

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

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

457 553.73 Florida Building Code.—

458 (4)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CS/CS/HB 443

2011

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

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

563 (4)

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

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