

**STORAGE NAME:** h1799a.go

**DATE:** April 8, 1999

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
GOVERNMENTAL OPERATIONS  
ANALYSIS**

**BILL #:** HB 1799

**RELATING TO:** Contracted Tenant Brokers

**SPONSOR(S):** Representative Reddick and others

**COMPANION BILL(S):** None

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) GOVERNMENTAL OPERATIONS YEAS 5 NAYS 0
  - (2) GENERAL GOVERNMENT APPROPRIATIONS
  - (3)
  - (4)
  - (5)
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**I. SUMMARY:**

This bill directs the Department of Management Services (DMS) to undertake a pilot project in Hillsborough, Leon, Escambia, and Orange Counties for a contracted tenant broker to assist state agencies in locating suitable private sector leases. The department shall solicit qualified candidates through the request for proposals process and conduct interviews of the finalists.

The tenant broker shall be under contract to the department, but all fees or commissions to be paid to the tenant broker shall be paid by the ultimate private sector lessor. The department shall select two brokers in each county in the pilot project. Agencies may employ the services of either broker in any such county for a specified period of time for a given property procurement.

Except for the exemption from competitive bidding as described in s. 255.25(3)(a), F.S., current leasing procedures would remain in effect, including the zone rate guidelines. Brokers shall be required to disclose any conflict of interest and all compensation received from transactions. Brokers' compensation shall be no more than what is customarily found in the marketplace. Contracts between the department and the brokers shall be for a term of 1 year, renewable for an additional year based on a satisfactory performance review. The Department of Management Services is authorized to adopt rules as may be necessary to establish and carry out this pilot project.

In designing the pilot project, the department shall endeavor to accomplish the following goals: provide for a faster, more efficient, and cost-effective lease procurement process; provide access for agencies to experienced brokers with knowledge of the local marketplace; provide a documented, professional cost-benefit analysis of all choices; provide for the ability to negotiate the best deal; provide the ability to reject any proposal which does not meet the needs of the agency; and provide that DMS shall have the final review and approval of all leases to ensure quality control.

On or before July 1, 2001, DMS shall report to the Legislature on the effectiveness of the pilot project and shall make recommendations, in the form of legislation, if necessary, for the implementation of the project on a statewide basis. The pilot project shall stand repealed effective July 1, 2001.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Except for the approval of emergency acquisition of space, by the Department of Management Services, due to space being destroyed or rendered uninhabitable by an act of God, fire, malicious destruction, structural failure or by legal action, no state agency shall enter into a lease as lessee for the use of 3,000 square feet or more of space in a privately owned building except upon advertisement for and receipt of competitive bids and award to the lowest and best bidder.

The Department of Management Services, pursuant to s. 255.249, F.S., is responsible for providing procedures for soliciting and accepting competitive proposals for leased space of 3,000 square feet or more in privately owned buildings, for evaluating the proposals received, for exemption from competitive bidding requirements of any lease the purpose of which is the provision of care and living space for persons or emergency space needs as provided in s. 255.25(10), F.S., and for the securing of at least three documented quotes for a lease that is not required to be competitively bid.

The department is also responsible for: development of a standard method for determining square footage or any other measurement used as the basis for lease payments or other charges; methods of allocating space in leased facilities; acceptable terms and conditions for inclusion in lease agreements; maximum rental rates, by geographic areas or by county, for leasing privately owned space; full disclosure of any interest by individuals required to be disclosed with regard to leased property; a method for certification by the agency head that all criteria have been complied with in the lease of space less than 3,000 square feet; and the preparation of a form listing all conditions and requirements which must be met by any state agency leasing any building or part thereof.

B. EFFECT OF PROPOSED CHANGES:

This bill directs the Department of Management Services to undertake a pilot project in Hillsborough, Leon, Escambia, and Orange Counties for a contracted tenant broker to assist state agencies in locating suitable private sector leases. It designs the pilot project to accomplish specific goals; provides for a report to the Legislature on or before July 1, 2001; and provides a repeal date for the pilot project effective July 1, 2001.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

The Department of Management Services is authorized to adopt rules as may be necessary to implement the pilot project.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

The selected contract tenant brokers would have responsibility for assisting state agencies in locating suitable private sector leases for building space.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

This bill does not eliminate or reduce an agency or program.

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

- (2) what is the cost of such responsibility at the new level/agency?

N/A

- (3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No.

- b. Does the bill require or authorize an increase in any fees?

No.

- c. Does the bill reduce total taxes, both rates and revenues?

No.

- d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

This bill does not purport to provide services to families or children.

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

N/A

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

This bill does not create or change a program providing services to families or children.

- (1) parents and guardians?

N/A

- (2) service providers?

N/A

- (3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Creates an unnumbered section, and amends s. 255.25, F.S.

E. SECTION-BY-SECTION ANALYSIS:

Section 1. Creates an unnumbered section directing the Department of Management Services to undertake a pilot project in Hillsborough, Leon, Escambia, and Orange Counties for a contracted tenant broker to assist state agencies in locating suitable private sector leases; provides for the solicitation and selection of qualified candidates; provides that the tenant broker shall be under contract to the department, but all fees or commissions shall be paid by the ultimate private sector lessor; provides for the selection of two brokers for each county in the project; provides that agencies may employ the services

of either broker in any such county for a given property procurement; provides that with the exception of competitive bidding requirements, current leasing procedures would remain in effect, including zone rate guidelines; provides for the disclosure of any conflicts of interest and all compensation by brokers; provides that compensation shall be no more than what is customarily found in the marketplace; provides that contracts with the broker shall be for a term of 1 year and shall be renewable for an additional year based on a satisfactory performance review; and provides authority for the department to adopt rules to implement the pilot project.

This section of the bill also provides for design of the pilot project to accomplish the following goals: a faster, more efficient, and cost-effective lease procurement process; access for agencies to experienced brokers with knowledge of the local marketplace; a documented, professional cost-benefit analysis of all choices; the ability to negotiate the best deal; the ability to reject any proposal which does not meet the needs of the agency; and final review and approval by DMS to ensure quality control.

The Department of Management services is required to report to the Legislature on or before July 1, 2001, on the effectiveness of the pilot project and shall make recommendations, in the form of legislation, if necessary, for the implementation of the project on a statewide basis. The pilot project shall stand repealed effective July 1, 2001.

Section 2. Amends s.255.25(3)(a), F.S., 1998 Supplement, providing exception from competitive bidding requirements for those leases negotiated pursuant to the pilot project for contracted tenant brokers established by the Department of Management services in this act.

Section 3. Provides an effective date of July 1, 1999.

### III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

#### A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

This bill provides that any commissions or fees to the contracted tenant broker will be paid by the ultimate private sector lessor.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

See 2. A. above.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

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2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

The contracted tenant brokers will receive commissions or fees from the private sector lessor. Private sector lessors may have the opportunity to lease space to state agencies.

3. Effects on Competition, Private Enterprise and Employment Markets:

Indeterminate.

D. FISCAL COMMENTS:

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require municipalities or counties to expend funds or take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority of municipalities or counties to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

At its April 8, 1999, meeting, the Committee on Governmental Operations adopted one amendment that corrected a statutory citation in the bill and reported the bill favorably, as amended. This amendment is traveling with the bill.

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VII. SIGNATURES:

COMMITTEE ON GOVERNMENTAL OPERATIONS:

Prepared by:

Staff Director:

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Jimmy O. Helms

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