

1 A bill to be entitled
2 An act relating to state leases; amending s.
3 216.043, F.S.; revising language with respect
4 to budget for fixed capital outlay; providing
5 an additional requirement; amending s. 255.249,
6 F.S.; requiring state agencies to present
7 justification prior to terminating a lease of
8 privately owned property; providing for the
9 coordination and assumption of the remaining
10 term of a lease terminated by a state agency
11 prior to the end of its base term; providing
12 for the determination and amortization of the
13 cost of tenant improvements; providing a
14 process for the recovery of unamortized cost of
15 tenant improvements when a lease is terminated
16 prior to the end of its base term; amending s.
17 255.25, F.S.; revising cross references, to
18 conform; designating the procedure for the sale
19 of public property to the tenants doing the
20 majority of business in the public property;
21 authorizing the Division of Facility Management
22 to procure real estate appraisals on the public
23 property; requiring the Board of Trustees of
24 the Internal Improvement Trust Fund to
25 institute a procedure to negotiate the sale and
26 privatization of certain public property and
27 buildings; providing an effective date.

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29 WHEREAS, the State of Florida currently owns
30 significant public properties and buildings located on those
31 public properties, known as state facilities, and

1 WHEREAS, the Legislature wishes to promote businesses
2 within Florida while upgrading certain state facilities
3 through privatization, and

4 WHEREAS, certain state facilities need substantial
5 capital improvements to continue to provide the services
6 necessary for the Florida businesses, and

7 WHEREAS, it is the Legislature's public policy to
8 promote private industry in areas such as property
9 construction, renovation, and management, and

10 WHEREAS, certain state facilities are operating without
11 substantial capital improvements to fully optimize the use of
12 the state facilities, NOW, THEREFORE,

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

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16 Section 1. The Board of Trustees of the Internal
17 Improvement Trust Fund shall institute a program of
18 privatization of certain state facilities.

19 (1) The Board of Trustees of the Internal Improvement
20 Trust Fund shall privatize certain state facilities where the
21 majority private business tenants on the facility are private
22 businesses, the majority private business tenants petition the
23 board of trustees, and the facility meets one or more of the
24 following criteria:

25 (a) The state facility is more than 25 years old and
26 is in need of substantial capital improvements;

27 (b) The Office of Program Policy Analysis and
28 Government Accountability has issued a report questioning the
29 long-term viability of the state facility or states that the
30 sale of the state facility is appropriate;

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1 (c) The state agency has provided in its budget for
2 substantial capital improvements to the state facility and the
3 budget request has gone unfunded for 2 consecutive years; or

4 (d) The state facility requires asbestos removal from
5 the buildings on the facility and such removal has not been
6 undertaken within 2 years of discovery.

7 (2) For purposes of this section, the term:

8 (a) "Substantial capital improvement" means that the
9 capital improvements' cost would exceed 25 percent of the
10 appraised value of the property, including the cost of removal
11 and replacement of outdated buildings on the public property.

12 (b) "State facility" means public property and
13 buildings consisting of 25 acres or less of state-owned land
14 that is improved with office space and is leased by the state
15 to private tenants that occupy the majority of the square
16 footage of the leased space.

17 (c) "Majority private business tenants" means the
18 nongovernmental lessees of the state facilities which lease
19 the majority of the square footage of state facilities which
20 is for lease.

21 (3) The Board of Trustees of the Internal Improvement
22 Trust Fund shall have 6 months from the date of the receipt of
23 the petition to procure three appraisals of the facility for
24 purposes of negotiating with the petitioning tenants to sell
25 the state facility for the average price of the appraisals.

26 (4) The agreement for purchase shall be executed by
27 the Board of Trustees of the Internal Improvement Trust Fund
28 within 9 months after the date of the receipt of tenant
29 petition and shall be for the average price of the three
30 appraisals.

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1 (5) Notwithstanding any other law to the contrary, the
2 majority private business tenants shall have a right of first
3 refusal to purchase the state facility, provided the majority
4 private business tenants have petitioned the state in their
5 petition. Such right of first refusal must be exercised within
6 90 days after notice of the sale to the tenants.

7 Section 2. Paragraph (g) is added to subsection (3) of
8 section 216.043, Florida Statutes, to read:

9 216.043 Budgets for fixed capital outlay.--

10 (3) Each legislative budget request for fixed capital
11 outlay submitted shall contain:

12 (g) The unamortized cost of tenant improvements under
13 any lease executed after September 30, 2000, which is
14 terminated prior to the expiration of its term for the purpose
15 of relocating to a state-owned building.

16 Section 3. Section 255.249, Florida Statutes, is
17 amended to read:

18 255.249 Department of Management Services;
19 responsibility; department rules.--

20 (1) The Department of Management Services shall have
21 responsibility and authority for the custodial and preventive
22 maintenance, repair, and allocation of space of all buildings
23 in the Florida Facilities Pool and the grounds located
24 adjacent thereto.

25 (2) The department shall require any state agency
26 planning to terminate a lease for the purpose of occupying
27 space in a new state-owned office building appropriated after
28 June 30, 2000, to state why the proposed relocation is in the
29 best interest of the state.

30 (3) The department shall, to the extent feasible,
31 coordinate the vacation of privately owned leased space with

1 the expiration of the lease on that space and, when a lease is
2 terminated prior to expiration of its base term, shall make a
3 reasonable effort to place another state agency in the space
4 vacated. Any state agency may lease the space in any building
5 which was subject to a lease terminated by a state agency for
6 a period of time equal to the remainder of the base term
7 without the requirement of competitive bidding.

8 ~~(4)(2)~~ The department shall promulgate rules pursuant
9 to chapter 120 providing:

10 (a) Methods for accomplishing the duties outlined in
11 subsection (1).

12 (b) Procedures for soliciting and accepting
13 competitive proposals for leased space of 5,000 square feet or
14 more in privately owned buildings, for evaluating the
15 proposals received, for exemption from competitive bidding
16 requirements of any lease the purpose of which is the
17 provision of care and living space for persons or emergency
18 space needs as provided in s. 255.25(10), and for the securing
19 of at least three documented quotes for a lease that is not
20 required to be competitively bid.

21 (c) A standard method for determining square footage
22 or any other measurement used as the basis for lease payments
23 or other charges.

24 (d) Methods of allocating space in both state-owned
25 office buildings and privately owned buildings leased by the
26 state based on use, personnel, and office equipment.

27 (e) Acceptable terms and conditions for inclusion in
28 lease agreements.

29 (f) Maximum rental rates, by geographic areas or by
30 county, for leasing privately owned space.

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1 (g) A standard method for the assessment of rent to
2 state agencies and other authorized occupants of state-owned
3 office space, notwithstanding the source of funds.

4 (h) For full disclosure of the names and the extent of
5 interest of the owners holding a 4-percent or more interest in
6 any privately owned property leased to the state or in the
7 entity holding title to the property, for exemption from such
8 disclosure of any beneficial interest which is represented by
9 stock in any corporation registered with the Securities and
10 Exchange Commission or registered pursuant to chapter 517,
11 which stock is for sale to the general public, and for
12 exemption from such disclosure of any leasehold interest in
13 property located outside the territorial boundaries of the
14 United States.

15 (i) For full disclosure of the names of all public
16 officials, agents, or employees holding any interest in any
17 privately owned property leased to the state or in the entity
18 holding title to the property, and the nature and extent of
19 their interest, for exemption from such disclosure of any
20 beneficial interest which is represented by stock in any
21 corporation registered with the Securities and Exchange
22 Commission or registered pursuant to chapter 517, which stock
23 is for sale to the general public, and for exemption from such
24 disclosure of any leasehold interest in property located
25 outside the territorial boundaries of the United States.

26 (j) A method for reporting leases for nominal or no
27 consideration.

28 (k) For a lease of less than 5,000 square feet, a
29 method for certification by the agency head or the agency
30 head's designated representative that all criteria for leasing
31 have been fully complied with and for the filing of a copy of

1 such lease and all supporting documents with the department
2 for its review and approval as to technical sufficiency.

3 (l) The agency and the lessor, when entering into a
4 lease of 5,000 or more square feet of a privately owned
5 building, shall, prior to the effective date of the lease,
6 agree upon and separately state the cost of tenant
7 improvements which may qualify for reimbursement if the lease
8 is terminated prior to the expiration of its base term. The
9 department shall serve as mediator if the agency and the
10 lessor are unable to agree. The amount agreed upon and stated
11 shall, if appropriated, be amortized over the original base
12 term of the lease on a straight-line basis.

13 (m) The unamortized portion of the tenant
14 improvements, if appropriated, shall be paid in equal monthly
15 installments over the remaining term of the lease. If any
16 portion of the original leased premises is occupied after
17 termination but during the original term by a tenant which
18 does not require material changes to the premises, then the
19 repayment of the cost of tenant improvements applicable to the
20 occupied but unchanged portion shall be abated during
21 occupancy. The portion of the repayment to be abated shall be
22 based on the ratio of leased space to unleased space.

23 ~~(5)(3)~~ The Department of Management Services shall
24 prepare a form listing all conditions and requirements adopted
25 pursuant to this chapter which must be met by any state agency
26 leasing any building or part thereof. This form shall be
27 certified by the agency head or the agency head's designated
28 representative.

29 Section 4. Paragraph (b) of subsection (2), paragraph
30 (b) of subsection (3), and subsection (10) of section 255.25,
31 Florida Statutes, are amended to read:

1 255.25 Approval required prior to construction or
2 lease of buildings.--

3 (2)

4 (b) The approval of the Department of Management
5 Services, except for technical sufficiency, need not be
6 obtained for the lease of less than 5,000 square feet of space
7 within a privately owned building, provided the agency head or
8 the agency head's designated representative has certified
9 compliance with applicable leasing criteria as may be provided
10 pursuant to s. 255.249(4)~~(2)~~(k) and has determined such lease
11 to be in the best interest of the state. Such a lease which is
12 for a term extending beyond the end of a fiscal year is
13 subject to the provisions of ss. 216.311, 255.2502, and
14 255.2503.

15 (3)

16 (b) The Department of Management Services may approve
17 extensions of an existing lease of 5,000 square feet or more
18 of space if such extensions are determined to be in the best
19 interests of the state, but in no case shall the total of such
20 extensions exceed 11 months. If at the end of the 11th month
21 an agency still needs space, it shall be procured by
22 competitive bid in accordance with s. 255.249(4)~~(2)~~(b).

23 (10) The Department of Management Services may approve
24 emergency acquisition of space without competitive bids if
25 existing state-owned or state-leased space is destroyed or
26 rendered uninhabitable by an act of God, fire, malicious
27 destruction, or structural failure, or by legal action, if the
28 chief administrator of the state agency or the chief
29 administrator's designated representative certifies in writing
30 that no other agency-controlled space is available to meet
31 this emergency need, but in no case shall the lease for such

1 space exceed 11 months. If the lessor elects not to replace or
2 renovate the destroyed or uninhabitable facility, the agency
3 shall procure the needed space by competitive bid in
4 accordance with s. 255.249(4)~~(2)~~(b). If the lessor elects to
5 replace or renovate the destroyed or uninhabitable facility
6 and the construction or renovations will not be complete at
7 the end of the 11-month lease, the agency may modify the lease
8 to extend it on a month-to-month basis for an additional 6
9 months to allow completion of such construction or
10 renovations.

11 Section 5. This act shall take effect upon becoming a
12 law.

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