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30 31 By the Committee on Governmental Operations and Representative Posey

A bill to be entitled An act relating to the Department of Management Services; amending s. 255.25, F.S., providing an exception to competitive bidding for those leases negotiated pursuant to the department pilot project to be established; providing for negotiation of a replacement lease for currently occupied space under certain conditions; allowing agencies to negotiate leases in designated Front Porch Communities without competitive bidding; establishing a tenant broker pilot project in certain designated Florida counties to assist with property procurement and providing goals for the project; providing for automatic repeal of the pilot project; amending s. 255.2501, F.S., extending the conditions of this section to any lease that, during the term of the lease, becomes financed with local government obligations of any type; amending s. 272.161, F.S., providing for the rental of "permit" parking spaces in addition to "reserved" parking spaces; amending s. 287.042, F.S., authorizing emergency medical services organizations to purchase under state term contracts; amending s. 365.171, F.S.; authorizing the Public Service Commission to enforce the remittance of the collected "911" fee to the county; providing the department with rulemaking authority for establishing the methods for collecting data and the "911" fee;

amending s. 110.1521, F.S.; combining current ss. 110.1522 and 110.1523, F.S., into this section; repealing s. 110.1522, F.S., relating to model rule establishing family support personnel policies; repealing s. 110.1523, F.S., relating to adoption of model rule; amending s. 110.17, F.S.; changing "personal holiday" to "personal day" and replacing "entitled to" with "eligible for"; amending s. 110.122, F.S.; providing that state employees who terminate employment for reasons of disability shall be eligible for payment of accumulated and unused sick leave; providing for application of this section to each employee upon termination of employment; providing an effective date.

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

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Section 1. Paragraphs (a) and (b) of subsection (3) of section 255.25, Florida Statutes, are amended, paragraph (c) of said subsection is redesignated as paragraph (d), and a new paragraph (c) is added to said subsection, and subsection (12) is added to said section, to read:

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

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(3)(a) Except as provided in subsection (10) and except for those leases negotiated pursuant to the pilot project established by the Department of Management Services herein, no state agency shall enter into a lease as lessee for 31 the use of 5,000 square feet or more of space in a privately

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owned building except upon advertisement for and receipt of competitive bids and award to the lowest and best bidder. The Department of Management Services shall have the authority to approve a lease for 5,000 square feet or more of space that covers more than 1 fiscal year, subject to the provisions of ss. 216.311, 255.2501, 255.2502, and 255.2503, if such lease is, in the judgment of the department, in the best interests of the state. This paragraph does not apply to buildings or facilities of any size leased for the purpose of providing care and living space for persons.

- (b) The Department of Management Services may approve extensions of an existing lease of 5,000 square feet or more of space if such extensions are determined to be in the best interests of the state, but in no case shall the total of such extensions exceed 11 months. If at the end of the 11th month an agency still needs such space, it shall be procured by competitive bid in accordance with s. 255.249(2)(b) or if an agency determines that it is in its best interest to remain in the space it currently occupies, the agency may negotiate a replacement lease with the lessor if an independent market analysis demonstrates that the rates offered are within market rates for the space offered, and if the cost of the new lease does not exceed the cost of a comparable lease plus documented moving costs. A present value analysis and the consumer price index shall be used in the calculation of lease costs. term of the replacement lease shall not exceed the base term of the expiring lease.
- (c) Any agency proposing to enter into a lease for office space in an area designated as part of the Front Porch Florida Initiative, may, with the prior approval of the Department of Management Services, directly negotiate with a

building owner for leased space within such area without the 1 2 competitive bid requirement of subsection (3)(a). 3 (12)(a) The Department of Management Services shall 4 undertake a pilot project in Hillsborough, Leon, Broward, 5 Orange, and Seminole Counties for a contracted tenant broker 6 to assist state agencies in locating suitable private sector 7 leases. The department shall solicit qualified candidates 8 through the request for proposals process and conduct interviews of finalists. The tenant broker shall be under 9 contract to the department, but all fees or commissions to be 10 paid to the tenant broker shall be paid by the ultimate 11 12 private sector lessor. The department shall select a tenant 13 broker in each county in the pilot project. Agencies may 14 employ the services of the broker in any such county for a 15 specified period of time for a given property procurement. 16 Except for the exemption from competitive bidding described in subsection (3)(a) current leasing procedures would remain in 17 effect, including the zone rate guidelines. Brokers shall be 18 19 required to disclose any conflict of interest and all 20 compensation received from transactions. Brokers' compensation shall be no more than what is customarily found 21 22 in the marketplace. Contracts between the department and the broker shall be for a term of 1 year, renewable for an 23 additional year based on a satisfactory performance review. 24 The Department of Management Services is authorized to adopt 25 26 such rules as may be necessary to carry out the intent of this 27 section. 28 (b) In designing the pilot project, the department 29 shall endeavor to accomplish the following goals: 30 Provide for a faster, more efficient, and cost-effective lease procurement process.

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- 2. Provide access for agencies to experienced brokers with knowledge of the local marketplace.
- 3. Provide a documented, professional cost-benefit analysis of all choices.
 - 4. Provide for the ability to negotiate the best deal.
- 5. Provide the ability to reject any proposal which does not meet the needs of the agency.
- 6. Provide that the Department of Management Services shall have the final review and approval of all leases to ensure quality control.
- (c) On or before July 1, 2002, the Department of Management Services 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.
- (d) The pilot project shall stand repealed effective July 1, 2002.
- Section 2. Subsection (1) of section 255.2501, Florida Statutes, is amended to read:
- 255.2501 Lease of space financed with local government obligations. --
- (1) Except when specifically authorized by the Appropriations Act, no executive agency, department, public officer or employee shall enter any contract on behalf of the state, the term of which contract is more than 5 years, including any and all renewal periods and including any and all leases which constitute a series of leases, for the lease, lease-purchase, sale-leaseback, purchase, or rental of any office space, building, real property and improvements thereto, or any other fixed capital outlay project, any of 31 which is, or is to be, or during the term of any lease entered

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into pursuant to s. 255.25, becomes financed with local government obligations of any type.

Section 3. Section 272.161, Florida Statutes, is amended to read:

272.161 Rental of reserved parking spaces. --

- (1)(a) The Department of Management Services may assign a reserved or permit parking space to any state employee, qualified state employee car pool, provider of essential services to the state, or state agency for reassignment to its employees. Any state agency assigned a reserved or permit parking space shall charge the user of such space, except a qualified state employee car pool, a fee in accordance with guidelines established by the department.
- (b) Any state agency assigned a reserved or permit parking space which is not rented for a period of 30 7 consecutive days shall return such space to the department for reassignment. All state agencies assigned reserved or permit parking spaces shall assure the timely payment of assessed rent to the department.
- (c) Assignments of reserved or permit parking spaces shall be limited to the amount of available parking under the supervision of the department. Preference in the assignment of reserved parking spaces shall be given qualified state employee car pools. A state agency, employee, state employee car pool, or provider of essential services may request a reserved or permit parking space in a manner prescribed by the department.
- (d) The Auditor General shall conduct an audit of state employee parking in non-state-owned parking lots and shall make a recommendation to the Legislature before the 1986 31 session, for an equitable ratesetting mechanism to ensure that

 state employees, who, by job description, are required to own an automobile as a condition of employment, are not subjected to higher parking rates than the average rate for employees in state-owned parking facilities.

- (2) All employee parking fees shall be payable by the payroll deduction plan, periodically according to the employee's pay schedule, to the Department of Management Services or to the contracting agency.
- (3) All fees collected by the Department of Management Services under the provisions of this section shall be deposited in the Supervision Trust Fund. The department shall account for the revenues and expenditures related to the paid parking program in compliance with the provisions of s. 215.32(2)(b). The revenues collected from parking fees shall be used for the maintenance, minor construction, enforcement, security, and administration of parking facilities and programs.
- (4) The Department of Management Services shall adopt such rules as are necessary to carry out the purposes of this section. The department shall establish guidelines for qualifying as a state employee car pool and for the preferential assignment of reserved spaces to car pools.
- establish fees on all state-owned reserved parking facilities under the jurisdiction of the department spaces, except those assigned to qualified state employee car pools, under the jurisdiction of the department. The department shall also issue loading zone permits and scramble parking permits for a fee sufficient to cover the cost of administering the permits and maintaining the parking areas.

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(6) The Department of Management Services shall have the authority to remove or tow away, or cause to be ticketed, removed, or towed away, any wrongfully parked vehicle in any assigned, or reserved, or permit parking space or area under the control of the Department of Management Services throughout the state at the expense of the owner of the wrongfully parked vehicle.

Section 4. Paragraph (a) of subsection (2) of section 287.042, Florida Statutes, is amended to read:

287.042 Powers, duties, and functions. -- The department shall have the following powers, duties, and functions:

(2)(a) To plan and coordinate purchases in volume and to negotiate and execute purchasing agreements and contracts for commodities and contractual services under which state agencies shall make purchases pursuant to s. 287.056, and under which a federal, county, municipality, institutions qualified pursuant to s. 240.605, private nonprofit community transportation coordinator designated pursuant to chapter 427, while conducting business related solely to the Commission for the Transportation Disadvantaged, emergency medical services organizations approved to purchase pursuant to s. 401.024, or other local public agency may make purchases. The department may restrict purchases from some term contracts to state agencies only for those term contracts where the inclusion of other governmental entities will have an adverse effect on competition or to those federal facilities located in this state. In such planning or purchasing the Minority Business Advocacy and Assistance Office may monitor to ensure that opportunities are afforded for contracting with minority business enterprises. The department, for state term 31 contracts, and all agencies, for multiyear contractual

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services or term contracts, shall explore reasonable and economical means to utilize certified minority business enterprises. Purchases by any county, municipality, private nonprofit community transportation coordinator designated pursuant to chapter 427, while conducting business related solely to the Commission for the Transportation Disadvantaged, emergency medical services organizations approved to purchase pursuant to s. 401.024, or other local public agency under the provisions in the state purchasing contracts, and purchases, from the corporation operating the correctional work programs, of products or services that are subject to paragraph (1)(f), are exempt from the competitive sealed bid requirements otherwise applying to their purchases.

Section 5. Paragraph (a) of subsection (13) of section 365.171, Florida Statutes, is amended to read:

365.171 Emergency telephone number "911."--

- (13) "911" FEE.--
- (a) Following approval by referendum as set forth in paragraph (b), or following approval by a majority vote of its board of county commissioners, a county may impose a "911" fee to be paid by the local exchange subscribers within its boundaries served by the "911" service. Proceeds from the "911" fee shall be used only for "911" expenditures as set forth in subparagraph 6. The manner of imposing and collecting said payment shall be as follows:
- 1. At the request of the county subscribing to "911" service, the telephone company shall, insofar as is practicable, bill the "911" fee to the local exchange subscribers served by the "911" service, on an individual access line basis, at a rate not to exceed 50 cents per month 31 per line (up to a maximum of 25 access lines per account bill

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rendered). However, the fee may not be assessed on any pay telephone in this state. A county collecting the fee for the first time may collect the fee for no longer than 36 months without initiating the acquisition of its "911" equipment.

- 2. Fees collected by the telephone company pursuant to subparagraph 1. shall be returned to the county, less the costs of administration retained pursuant to paragraph (c). The Public Service Commission is authorized to enforce the remittance of the collected "911" fee to the county. The county shall provide a minimum of 90 days' written notice to the telephone company prior to the collection of any "911" fees.
- Any county that currently has an operational "911" system or that is actively pursuing the implementation of a "911" system shall establish a fund to be used exclusively for receipt and expenditure of "911" fee revenues collected pursuant to this section. All fees placed in said fund, and any interest accrued thereupon, shall be used solely for "911" costs described in subparagraph 6. The money collected and interest earned in this fund shall be appropriated for "911" purposes by the county commissioners and incorporated into the annual county budget. The county shall annually have a financial audit performed on this fund, in accordance with s. 11.45. A report of the audit shall be forwarded to the department within 60 days of its completion. A county may carry forward on an annual basis unspent moneys in the fund for expenditures allowed by this section, or it may reduce its fee. However, in no event shall a county carry forward more than 10 percent of the "911" fee billed for the prior year. The amount of moneys carried forward each year may be 31 accumulated in order to allow for capital improvements

described in this subsection. The carryover shall be documented by resolution of the board of county commissioners expressing the purpose of the carryover or by an adopted capital improvement program identifying projected expansion or replacement expenditures for "911" equipment and service features, or both. In no event shall the "911" fee carryover surplus moneys be used for any purpose other than for the "911" equipment, service features, and installation charges authorized in subparagraph 6. Nothing in this section shall prohibit a county from using other sources of revenue for improvements, replacements, or expansions of its "911" system. A county may increase its fee for purposes authorized in this section. However, in no case shall the fee exceed 50 cents per month per line. All current "911" fees shall be reported to the department within 30 days of the start of each county's fiscal period. Any fee adjustment made by a county shall be reported to the department. A county shall give the telephone company a 90-day written notice of such fee adjustment.

- 4. The telephone company shall have no obligation to take any legal action to enforce collection of the "911" fee. The telephone company shall provide quarterly to the county a list of the names, addresses, and telephone numbers of any and all subscribers who have identified to the telephone company their refusal to pay the "911" fee.
- 5. The county subscribing to "911" service shall remain liable to the telephone company for any "911" service, equipment, operation, or maintenance charge owed by the county to the telephone company.

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As used in this paragraph, "telephone company" means an exchange telephone service provider of "911" service or equipment to any county within its certificated area.

It is the intent of the Legislature that the "911" fee authorized by this section to be imposed by counties will not necessarily provide the total funding required for establishing or providing the "911" service. For purposes of this section, "911" service includes the functions of database management, call taking, location verification, and call transfer. The following costs directly attributable to the establishment and/or provision of "911" service are eligible 12 for expenditure of moneys derived from imposition of the "911" 13 fee authorized by this section: the acquisition, implementation, and maintenance of Public Safety Answering Point (PSAP) equipment and "911" service features, as defined in the Florida Public Service Commission's lawfully approved 16 "911" and related tariffs and/or the acquisition, 17 installation, and maintenance of other "911" equipment, 18 19 including call answering equipment, call transfer equipment, 20 ANI controllers, ALI controllers, ANI displays, ALI displays, station instruments, "911" telecommunications systems, 21 22 teleprinters, logging recorders, instant playback recorders, telephone devices for the deaf (TDD) used in the "911" system, 23 PSAP backup power systems, consoles, automatic call 24 25 distributors, and interfaces (hardware and software) for 26 computer-aided dispatch (CAD) systems; salary and associated 27 expenses for "911" call takers for that portion of their time 28 spent taking and transferring "911" calls; salary and 29 associated expenses for a county to employ a full-time equivalent "911" coordinator position and a full-time 30 31 equivalent staff assistant position per county for the portion of their time spent administrating the "911" system; training costs for PSAP call takers in the proper methods and techniques used in taking and transferring "911" calls; and expenses required to develop and maintain all information (ALI and ANI databases and other information source repositories) necessary to properly inform call takers as to location address, type of emergency, and other information directly relevant to the "911" call-taking and transferring function. The "911" fee revenues shall not be used to pay for any item not listed, including, but not limited to, any capital or operational costs for emergency responses which occur after the call transfer to the responding public safety entity and the costs for constructing buildings, leasing buildings, maintaining buildings, or renovating buildings, except for those building modifications necessary to maintain the security and environmental integrity of the PSAP and "911" equipment rooms.

- 7. It is the goal of the Legislature that enhanced "911" service be available throughout the state. Expenditure by counties of the "911" fees authorized by this section should support this goal to the greatest extent feasible within the context of local service needs and fiscal capability. Nothing in this section shall be construed to prohibit two or more counties from establishing a combined emergency "911" telephone service by interlocal agreement and utilizing the "911" fees authorized by this section for such combined "911" service.
- 8. The Department may establish by rule, in conjunction with applicable public agencies, the methods for collecting data and the "911" fee.

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           Section 6. Section 110.1521, Florida Statutes, is
    amended to read:
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           110.1521 Short title.--This section Sections
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   \frac{110.1521-110.1523}{10.1521-110.1523} may be cited as the "Family Support
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    Personnel Policies Act."
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          (1) The Department of Management Services shall
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    develop a model rule establishing family support personnel
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    policies for all executive branch agencies, excluding the
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    State University System. "Family support personnel policies,"
    for purposes of this section means personnel policies
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    affecting employees' ability to both work and devote care and
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    attention to their families and includes policies on flexible
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   hour work schedules, compressed time, job sharing, part-time
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    employment, maternity or paternity leave for employees with a
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   newborn or newly adopted child, and paid and unpaid family or
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    administrative leave for family responsibilities.
          (2) The model rule shall be effective 20 days after
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    having been filed with the Department of State and shall
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   become part of the personnel rules of all applicable state
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    agencies 150 days after the effective date of the rule to the
    extent that each agency does not, subsequent to such effective
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    date, adopt a rule that sets forth the intent to specifically
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    amend all or part of such model rule. Any employee or
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    organization representing employees shall be considered a
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   party for purposes of any rule required by this section,
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    notwithstanding any provision of chapter 120 to the contrary.
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           Section 7. Section 110.1522, Florida Statutes, is
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   repealed.
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           Section 8. Section 110.1523, Florida Statutes, is
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   repealed.
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Section 9. Subsection (3) of section 110.117, Florida Statutes, is amended to read:

110.117 Paid holidays.--

to one personal day holiday each year. Each part-time employee is eligible for entitled to a personal day holiday each year which shall be calculated proportionately to the personal day holiday allowed to a full-time employee. Such personal day holiday shall be credited to eligible employees on July 1 of each year to be taken prior to June 30 of the following year. Members of the teaching and research faculty of the State University System and administrative and professional positions exempted under s. 110.205(2)(d) are not eligible for this benefit.

Section 10. Section 110.122, Florida Statutes, is amended to read:

- 110.122 Terminal payment for accumulated sick leave. --
- (1) All state branches, departments, and agencies which have the authority to establish or approve personnel policies for employees and to employ personnel and establish the conditions of their employment shall establish policies to provide terminal "incentive" pay for accumulated and unused sick leave to each employee upon normal or regular retirement for reason other than disability or upon termination of employment, or to the employee's beneficiary if service is terminated by death, provided such retirement, termination, or death occurs after 10 years of creditable state employment.
- (2) The employing entity shall establish and publish rules governing the accumulation and use of sick leave and maintain accurate and reliable records showing the amount of

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sick leave which has accumulated and is unused by the employee at the time of retirement, death, or termination.

- (3) The payments authorized by this section shall be determined by using the rate of pay received by the employee at the time of retirement, termination, or death, applied to the sick leave time for which the employee is qualified to receive terminal "incentive" pay under the rules adopted by the department pursuant to the provisions of this section. Rules and policies adopted pursuant to this section shall permit terminal pay for sick leave equal to one-eighth of all unused sick leave credit accumulated prior to October 1, 1973, plus one-fourth of all unused sick leave accumulated on or after October 1, 1973. However, terminal pay allowable for unused sick leave accumulated on or after October 1, 1973, shall not exceed a maximum of 480 hours of actual payment. Employees shall be required to use all sick leave accumulated prior to October 1, 1973, before using sick leave accumulated on or after October 1, 1973.
- (4) The payments made pursuant to this section shall not be considered in any state-administered retirement system as salary payments and shall not be used in determining the average final compensation of an employee in any state-administered retirement system.
 - (5) Any otherwise eligible employee:
- (a) Who is found guilty in a court of competent jurisdiction of committing, aiding, or abetting any embezzlement or theft from the employee's employer or bribery in connection with the employment, committed prior to retirement or 10-year normal creditable termination;
- (b) Whose employment is terminated by reason of the employee having admitted committing, aiding, or abetting an

embezzlement or theft from his or her employer or by reason of bribery;

- (c) Who, prior to 10-year normal creditable termination or retirement is adjudged by a court of competent jurisdiction to have violated any state law against strikes by public employees; or
- (d) Who has been found guilty by a court of competent jurisdiction of violating any state law prohibiting strikes by public employees,

shall forfeit all rights and benefits under this section. An employee whose employment terminates as a result of an act committed subject to this subsection shall not be given credit for unused sick leave accumulated prior to termination should the employee be reemployed at a later date.

Section 11. This act shall take effect July 1, 2000.

HOUSE SUMMARY Revises provisions of law relating to the Department of Management Services to:
1. Provide an exception to competitive bidding requirements for those leases negotiated pursuant to a department pilot project for a contracted tenant broker to assist state agencies in locating suitable private sector leases. 2. Provide for negotiation of replacement leases for currently occupied space under described circumstances 3. Permit agencies to negotiate leases in designated Front Porch Communities without competitive bidding. Provide for the rental of permit parking spaces in addition to reserved parking spaces. 5. Authorize emergency medical services organizations to purchase under state term contracts.
6. Remove obsolete language regarding "911" fee billing, authorize the Public Service Commission to enforce the remittance of the collected "911" fee to the county, and to provide the department with rulemaking authority for establishing the methods for collecting date and the "911" fee.

7 Provide that state employees who terminate 7. Provide that state employees who terminate employment for reasons of disability shall be eligible for payment of accumulated and unused sick leave. See bill for details.