

By Senator Burt

16-505-01

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A bill to be entitled
An act relating to state facilities; amending
s. 255.25, F.S.; authorizing state agencies to
execute certain replacement leases; providing
guidelines for the execution of such leases;
providing for direct negotiations of certain
leases; providing an effective date.

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

Section 1. Subsection (3) of section 255.25, Florida
Statutes, is amended to read:

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

(3)(a) Except as provided in subsection (10), no state
agency shall enter into a lease as lessee for the use of 5,000
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 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

1 extensions exceed 11 months. If at the end of the 11th month
2 an agency still needs that space, it shall be procured by
3 competitive bid in accordance with s. 255.249(4)(b)~~s.~~
4 ~~255.249(2)(b)~~. However, an agency that determines that it is
5 in its best interest to remain in the space it currently
6 occupies may negotiate a replacement lease with the lessor if
7 an independent market analysis demonstrates that the rates
8 offered are within market rates for the space and the cost of
9 the new lease does not exceed the cost of a comparable lease
10 plus documented moving costs. A present-value analysis and the
11 consumer price index shall be used in the calculation of lease
12 costs. The term of the replacement lease may not exceed the
13 base term of the expiring lease.

14 (c) Any agency proposing to enter into a lease for
15 office space in an area designated as a community
16 redevelopment area or an area that is part of the Front Porch
17 Florida Initiative may, with the prior approval of the
18 Department of Management Services, directly negotiate with a
19 building owner for leased space within such area without
20 meeting the competitive bid requirement of paragraph (a).

21 (d)~~(c)~~ Any person who files an action protesting a
22 decision or intended decision pertaining to a competitive bid
23 for space to be leased by the agency pursuant to s.
24 120.57(3)(b) shall post with the state agency at the time of
25 filing the formal written protest a bond payable to the agency
26 in an amount equal to 1 percent of the estimated total rental
27 of the basic lease period or \$5,000, whichever is greater,
28 which bond shall be conditioned upon the payment of all costs
29 which may be adjudged against him or her in the administrative
30 hearing in which the action is brought and in any subsequent
31 appellate court proceeding. If the agency prevails after

1 completion of the administrative hearing process and any
2 appellate court proceedings, it shall recover all costs and
3 charges which shall be included in the final order or
4 judgment, excluding attorney's fees. Upon payment of such
5 costs and charges by the person protesting the award, the bond
6 shall be returned to him or her. If the person protesting the
7 award prevails, the bond shall be returned to that person and
8 he or she shall recover from the agency all costs and charges
9 which shall be included in the final order of judgment,
10 excluding attorney's fees.

11 (e)~~(d)~~ The agency and the lessor, when entering into a
12 lease for 5,000 or more square feet of a privately owned
13 building, shall, before the effective date of the lease, agree
14 upon and separately state the cost of tenant improvements
15 which may qualify for reimbursement if the lease is terminated
16 before the expiration of its base term. The department shall
17 serve as mediator if the agency and the lessor are unable to
18 agree. The amount agreed upon and stated shall, if
19 appropriated, be amortized over the original base term of the
20 lease on a straight-line basis.

21 (f)~~(e)~~ The unamortized portion of tenant improvements,
22 if appropriated, will be paid in equal monthly installments
23 over the remaining term of the lease. If any portion of the
24 original leased premises is occupied after termination but
25 during the original term by a tenant that does not require
26 material changes to the premises, the repayment of the cost of
27 tenant improvements applicable to the occupied but unchanged
28 portion shall be abated during occupancy. The portion of the
29 repayment to be abated shall be based on the ratio of leased
30 space to unleased space.

31 Section 2. This act shall take effect July 1, 2001.

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SENATE SUMMARY

Authorizes state agencies to negotiate replacement leases for space currently occupied. Exempts agencies from competitive bid requirements for leases of property that is in a community redevelopment area or is part of the Front Porch Florida Initiative.