

By Representative Machek

1 A bill to be entitled
2 An act relating to state facilities; amending
3 s. 255.25, F.S.; authorizing the Department of
4 Management Services to exempt certain
5 replacement leases from a provision of law
6 requiring uniform leasing procedures under
7 certain circumstances; providing an effective
8 date.

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

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

14 255.25 Approval required prior to construction or
15 lease of buildings.--

16 (3)(a) Except as provided in subsection (10), no state
17 agency shall enter into a lease as lessee for the use of 5,000
18 square feet or more of space in a privately owned building
19 except upon advertisement for and receipt of competitive bids
20 and award to the lowest and best bidder. The Department of
21 Management Services shall have the authority to approve a
22 lease for 5,000 square feet or more of space that covers more
23 than 1 fiscal year, subject to the provisions of ss. 216.311,
24 255.2501, 255.2502, and 255.2503, if such lease is, in the
25 judgment of the department, in the best interests of the
26 state. This paragraph does not apply to buildings or
27 facilities of any size leased for the purpose of providing
28 care and living space for persons.

29 (b) The Department of Management Services may approve
30 extensions of an existing lease of 5,000 square feet or more
31 of space if such extensions are determined to be in the best

1 interests of the state, but in no case shall the total of such
2 extensions exceed 11 months. If at the end of the 11th month
3 an agency still needs that space, it shall be procured by
4 competitive bid in accordance with s. 255.249(4)(b). However,
5 an agency that determines that it is in its best interest to
6 remain in the space it currently occupies may negotiate a
7 replacement lease with the lessor if an independent
8 comparative market analysis demonstrates that the rates
9 offered are within market rates for the space and the cost of
10 the new lease does not exceed the cost of a comparable lease
11 plus documented moving costs. Notwithstanding the provisions
12 of paragraph (2)(c), the Department of Management Services may
13 exempt the replacement lease from the provisions of 60H-1.007
14 of the Florida Administrative Code if, upon complying with the
15 provisions of this paragraph, the cumulative cost of the new
16 lease is at least 10 percent less than the cost of a
17 comparable lease plus documented moving costs. A present-value
18 analysis and the consumer price index shall be used in the
19 calculation of lease costs. The term of the replacement lease
20 may not exceed the base term of the expiring lease.

21 (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 (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 (e) The unamortized portion of tenant improvements, if
22 appropriated, will be paid in equal monthly installments over
23 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, 2002.

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HOUSE SUMMARY

Authorizes the Department of Management Services to exempt described replacement leases entered into by state agencies from a uniform leasing procedure if the cumulative cost of the new lease is at least 10 percent less than the cost of a comparable lease plus the documented moving costs and the lease is otherwise in compliance with s. 255.25, F.S.