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A bill to be entitled  
 An act relating to the Florida Statutes; amending ss.  
 14.2015, 15.18, 20.23, 24.113, 61.1826, 101.292, 101.293,  
 112.3145, 112.3215, 119.07, 163.01, 190.033, 215.56005,  
 215.964, 216.345, 255.101, 255.102, 255.20, 255.60,  
 257.05, 265.284, 267.115, 267.173, 272.185, 273.055,  
 281.08, 284.32, 284.33, 284.40, 288.012, 288.1167,  
 288.1224, 288.1226, 288.703, 311.09, 321.02, 332.14,  
 337.02, 337.105, 337.107, 337.1075, 337.14, 343.54,  
 343.64, 343.74, 372.0222, 376.30711, 376.3075, 376.84,  
 381.0065, 394.457, 394.47865, 402.40, 402.73, 403.1837,  
 403.7065, 408.045, 409.908, 409.912, 411.01, 413.036,  
 420.0006, 420.507, 430.502, 445.024, 455.209, 455.2177,  
 455.221, 456.008, 456.009, 479.261, 481.205, 489.145,  
 517.1204, 527.23, 570.903, 571.27, 573.118, 601.10,  
 626.266, 626.2815, 627.062, 627.096, 627.919, 943.67,  
 944.10, 944.105, 945.091, 946.515, 957.04, 985.41,  
 1001.64, 1001.74, 1001.75, 1004.45, 1006.56, 1009.971,  
 1013.23, 1013.38, 1013.45, and 1013.46, F.S., to conform  
 cross references throughout the Florida Statutes to the  
 changes made in House Bill 1819; renumbering and amending  
 ss. 287.022, 287.0595, 287.064, 287.0641, 287.0822,  
 287.09431, and 287.09451, F.S., to conform; transferring,  
 renumbering, and amending s. 276.042(1)(c), F.S., as s.  
 287.313, F.S., to conform; transferring, renumbering, and  
 amending s. 287.057(5)(d), F.S., as s. 287.1242, F.S., to  
 conform; transferring, renumbering, and amending s.  
 287.057(8), F.S., as s. 287.44, F.S., to conform;  
 transferring, renumbering, and amending s. 287.057(9),

HB 1905

2004

30 F.S., as s. 287.415, F.S., to conform; transferring,  
 31 renumbering, and amending s. 287.057(12), F.S., as s.  
 32 287.46, F.S., to conform; transferring, renumbering, and  
 33 amending s. 287.057(13), F.S., as s. 287.331, F.S., to  
 34 conform; designating and titling parts I, II, IV, V, VI,  
 35 VII, and VIII of chapter 287, F.S.; renumbering ss.  
 36 283.55, 287.032, 287.0572, 287.0935, 287.059, 287.063,  
 37 283.425, 283.58, 287.083, 287.0834, 287.082, 287.0822,  
 38 287.084, 287.087, 287.092, 283.35, 287.0582, 287.05805,  
 39 287.0931, 287.094, 287.0947, 287.093, 287.134, 287.0585,  
 40 287.095, 287.115, 287.131, 287.14, 287.15, 287.151,  
 41 287.155, 287.175, 287.18, 287.19, 287.20, and 287.0821,  
 42 F.S.; providing a contingent effective date.

43

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

45

46 Section 1. Paragraphs (a) and (g) of subsection (2) of  
 47 section 14.2015, Florida Statutes, are amended to read:

48 14.2015 Office of Tourism, Trade, and Economic  
 49 Development; creation; powers and duties.--

50 (2) The purpose of the Office of Tourism, Trade, and  
 51 Economic Development is to assist the Governor in working with  
 52 the Legislature, state agencies, business leaders, and economic  
 53 development professionals to formulate and implement coherent  
 54 and consistent policies and strategies designed to provide  
 55 economic opportunities for all Floridians. To accomplish such  
 56 purposes, the Office of Tourism, Trade, and Economic Development  
 57 shall:

HB 1905

2004

58 (a) Contract, notwithstanding the provisions of parts I-  
 59 VII ~~part I~~ of chapter 287, with the direct-support organization  
 60 created under s. 288.1229 to guide, stimulate, and promote the  
 61 sports industry in the state, to promote the participation of  
 62 Florida's citizens in amateur athletic competition, and to  
 63 promote Florida as a host for national and international amateur  
 64 athletic competitions.

65 (g) Serve as contract administrator for the state with  
 66 respect to contracts with Enterprise Florida, Inc., the Florida  
 67 Commission on Tourism, and all direct-support organizations  
 68 under this act, excluding those relating to tourism. To  
 69 accomplish the provisions of this act and applicable provisions  
 70 of chapter 288, and notwithstanding the provisions of parts I-  
 71 VII ~~part I~~ of chapter 287, the office shall enter into specific  
 72 contracts with Enterprise Florida, Inc., the Florida Commission  
 73 on Tourism, and other appropriate direct-support organizations.  
 74 Such contracts may be multiyear and shall include specific  
 75 performance measures for each year.

76 Section 2. Subsection (7) of section 15.18, Florida  
 77 Statutes, is amended to read:

78 15.18 International and cultural relations.--The Divisions  
 79 of Cultural Affairs, Historical Resources, and Library and  
 80 Information Services of the Department of State promote programs  
 81 having substantial cultural, artistic, and indirect economic  
 82 significance that emphasize American creativity. The Secretary  
 83 of State, as the head administrator of these divisions, shall  
 84 hereafter be known as "Florida's Chief Cultural Officer." As  
 85 this officer, the Secretary of State is encouraged to initiate  
 86 and develop relationships between the state and foreign cultural

HB 1905

2004

87 officers, their representatives, and other foreign governmental  
 88 officials in order to promote Florida as the center of American  
 89 creativity. The Secretary of State shall coordinate  
 90 international activities pursuant to this section with  
 91 Enterprise Florida, Inc., and any other organization the  
 92 secretary deems appropriate. For the accomplishment of this  
 93 purpose, the Secretary of State shall have the power and  
 94 authority to:

95 (7) Notwithstanding the provisions of parts I-VII ~~part I~~  
 96 of chapter 287, promulgate rules for entering into contracts  
 97 which are primarily for promotional services and events, which  
 98 may include commodities involving a service. Such rules shall  
 99 include the authority to negotiate costs with the offerors of  
 100 such services and commodities who have been determined to be  
 101 qualified on the basis of technical merit, creative ability, and  
 102 professional competency. The rules shall only apply to the  
 103 expenditure of funds donated for promotional services and  
 104 events. Expenditures of appropriated funds shall be made only in  
 105 accordance with parts I-VII ~~part I~~ of chapter 287.

106 Section 3. Paragraph (e) of subsection (4) of section  
 107 20.23, Florida Statutes, is amended to read:

108 20.23 Department of Transportation.--There is created a  
 109 Department of Transportation which shall be a decentralized  
 110 agency.

111 (4)

112 (e)1. The responsibility for the turnpike system shall be  
 113 delegated by the secretary to the executive director of the  
 114 turnpike enterprise, who shall serve at the pleasure of the  
 115 secretary. The executive director shall report directly to the

HB 1905

2004

116 secretary, and the turnpike enterprise shall operate pursuant to  
 117 ss. 338.22-338.241.

118 2. To facilitate the most efficient and effective  
 119 management of the turnpike enterprise, including the use of best  
 120 business practices employed by the private sector, the turnpike  
 121 enterprise, except as provided in s. 287.125 ~~287.055~~, shall be  
 122 exempt from departmental policies, procedures, and standards,  
 123 subject to the secretary having the authority to apply any such  
 124 policies, procedures, and standards to the turnpike enterprise  
 125 from time to time as deemed appropriate.

126 Section 4. Subsection (1) of section 24.113, Florida  
 127 Statutes, is amended to read:

128 24.113 Minority participation.--

129 (1) It is the intent of the Legislature that the  
 130 department encourage participation by minority business  
 131 enterprises as defined in s. 288.703. Accordingly, 15 percent of  
 132 the retailers shall be minority business enterprises as defined  
 133 in s. 288.703(2); however, no more than 35 percent of such  
 134 retailers shall be owned by the same type of minority person, as  
 135 defined in s. 288.703(3). The department is encouraged to meet  
 136 the minority business enterprise procurement goals set forth in  
 137 s. 287.4471 ~~287.09451~~ in the procurement of commodities,  
 138 contractual services, construction, and architectural and  
 139 engineering services. This section shall not preclude or  
 140 prohibit a minority person from competing for any other  
 141 retailing or vending agreement awarded by the department.

142 Section 5. Paragraph (e) of subsection (1), subsection  
 143 (3), and paragraph (c) of subsection (4) of section 61.1826,  
 144 Florida Statutes, are amended to read:

HB 1905

2004

145 61.1826 Procurement of services for State Disbursement  
 146 Unit and the non-Title IV-D component of the State Case  
 147 Registry; contracts and cooperative agreements; penalties;  
 148 withholding payment.--

149 (1) LEGISLATIVE FINDINGS.--The Legislature finds that the  
 150 clerks of court play a vital role, as essential participants in  
 151 the establishment, modification, collection, and enforcement of  
 152 child support, in securing the health, safety, and welfare of  
 153 the children of this state. The Legislature further finds and  
 154 declares that:

155 (e) The potential loss of substantial federal funds poses  
 156 a direct and immediate threat to the health, safety, and welfare  
 157 of the children and citizens of the state and constitutes an  
 158 emergency for purposes of s. 287.0336 ~~287.057(5)(a)~~.

159  
 160 For these reasons, the Legislature hereby directs the Department  
 161 of Revenue, subject to the provisions of subsection (5), to  
 162 contract with the Florida Association of Court Clerks and each  
 163 depository to perform duties with respect to the operation and  
 164 maintenance of a State Disbursement Unit and the non-Title IV-D  
 165 component of the State Case Registry as further provided by this  
 166 section.

167 (3) CONTRACT.--The Florida Association of Court Clerks  
 168 shall enter into a written contract with the department that  
 169 fully complies with all federal and state laws within 60 days  
 170 after the effective date of this section. The contract shall be  
 171 mutually developed by the department and the Florida Association  
 172 of Court Clerks. As required by part II of chapter 287 ~~s.~~  
 173 ~~287.057~~ and 45 C.F.R. s. 74.43, any subcontracts entered into by

HB 1905

2004

174 the Florida Association of Court Clerks, except for a contract  
 175 between the Florida Association of Court Clerks and its totally  
 176 owned subsidiary corporation, must be procured through  
 177 competitive bidding.

178 (4) COOPERATIVE AGREEMENT AND CONTRACT TERMS.--The  
 179 contract between the Florida Association of Court Clerks and the  
 180 department, and cooperative agreements entered into by the  
 181 depositories and the department, must contain, but are not  
 182 limited to, the following terms:

183 (c) Under s. 287.31 ~~287.058(1)(a)~~, all providers and  
 184 subcontractors shall submit to the department directly, or  
 185 through the Florida Association of Court Clerks, a report of  
 186 monthly expenditures in a format prescribed by the department  
 187 and in sufficient detail for a proper preaudit and postaudit  
 188 thereof.

189 If either the department or the Florida Association of  
 190 Court Clerks objects to a term of the standard cooperative  
 191 agreement or contract specified in subsections (2) and (3), the  
 192 disputed term or terms shall be presented jointly by the parties  
 193 to the Attorney General or the Attorney General's designee, who  
 194 shall act as special master. The special master shall resolve  
 195 the dispute in writing within 10 days. The resolution of a  
 196 dispute by the special master is binding on the department and  
 197 the Florida Association of Court Clerks.

198 Section 6. Subsection (2) of section 101.292, Florida  
 199 Statutes, is amended to read:

200 101.292 Definitions; ss. 101.292-101.295.--As used in ss.  
 201 101.292-101.295, the following terms shall have the following  
 202 meanings:

HB 1905

2004

203 (2) "Voting equipment" means electronic or  
 204 electromechanical voting systems, voting devices, and automatic  
 205 tabulating equipment as defined in s. 101.5603, as well as  
 206 materials, parts, or other equipment necessary for the operation  
 207 and maintenance of such systems and devices, the individual or  
 208 combined retail value of which is in excess of the threshold  
 209 amount for CATEGORY TWO purchases provided in s. 287.028  
 210 ~~287.017~~.

211 Section 7. Subsection (1) of section 101.293, Florida  
 212 Statutes, is amended to read:

213 101.293 Competitive sealed bids and proposals required.--

214 (1) Any purchase of voting equipment, the individual or  
 215 combined retail value of which is in excess of the threshold  
 216 amount for CATEGORY TWO purchases provided in s. 287.028  
 217 ~~287.017~~, by a governing body shall be by means of competitive  
 218 sealed bids or competitive sealed proposals from at least two  
 219 bidders, except under the following conditions:

220 (a) If a majority of the governing body agrees by vote  
 221 that an emergency situation exists in regard to the purchase of  
 222 such equipment to the extent that the potential benefits derived  
 223 from competitive sealed bids or competitive sealed proposals are  
 224 outweighed by the detrimental effects of a delay in the  
 225 acquisition of such equipment; or

226 (b) If a majority of the governing body finds that there  
 227 is but a single source from which suitable equipment may be  
 228 obtained.

229 If such conditions are found to exist, the chair of the  
 230 governing body shall certify to the Division of Elections the  
 231 situation and conditions requiring an exception to the



HB 1905

2004

232 competitive sealed bidding and competitive sealed proposal  
 233 requirements of this section. Such certification shall be  
 234 maintained on file by the division.

235 Section 8. Paragraphs (a) and (b) of subsection (1) of  
 236 section 112.3145, Florida Statutes, are amended to read:

237 112.3145 Disclosure of financial interests and clients  
 238 represented before agencies.--

239 (1) For purposes of this section, unless the context  
 240 otherwise requires, the term:

241 (a) "Local officer" means:

242 1. Every person who is elected to office in any political  
 243 subdivision of the state, and every person who is appointed to  
 244 fill a vacancy for an unexpired term in such an elective office.

245 2. Any appointed member of any of the following boards,  
 246 councils, commissions, authorities, or other bodies of any  
 247 county, municipality, school district, independent special  
 248 district, or other political subdivision of the state:

249 a. The governing body of the political subdivision, if  
 250 appointed;

251 b. An expressway authority or transportation authority  
 252 established by general law;

253 c. A community college or junior college district board of  
 254 trustees;

255 d. A board having the power to enforce local code  
 256 provisions;

257 e. A planning or zoning board, board of adjustment, board  
 258 of appeals, or other board having the power to recommend,  
 259 create, or modify land planning or zoning within the political  
 260 subdivision, except for citizen advisory committees, technical

HB 1905

2004

261 coordinating committees, and such other groups who only have the  
 262 power to make recommendations to planning or zoning boards;

263 f. A pension board or retirement board having the power to  
 264 invest pension or retirement funds or the power to make a  
 265 binding determination of one's entitlement to or amount of a  
 266 pension or other retirement benefit; or

267 g. Any other appointed member of a local government board  
 268 who is required to file a statement of financial interests by  
 269 the appointing authority or the enabling legislation, ordinance,  
 270 or resolution creating the board.

271 3. Any person holding one or more of the following  
 272 positions: mayor; county or city manager; chief administrative  
 273 employee of a county, municipality, or other political  
 274 subdivision; county or municipal attorney; chief county or  
 275 municipal building code inspector; county or municipal water  
 276 resources coordinator; county or municipal pollution control  
 277 director; county or municipal environmental control director;  
 278 county or municipal administrator, with power to grant or deny a  
 279 land development permit; chief of police; fire chief; municipal  
 280 clerk; district school superintendent; community college  
 281 president; district medical examiner; or purchasing agent having  
 282 the authority to make any purchase exceeding the threshold  
 283 amount provided for in s. 287.028 ~~287.017~~ for CATEGORY ONE, on  
 284 behalf of any political subdivision of the state or any entity  
 285 thereof.

286 (b) "Specified state employee" means:

287 1. Public counsel created by chapter 350, an assistant  
 288 state attorney, an assistant public defender, a full-time state  
 289 employee who serves as counsel or assistant counsel to any state

HB 1905

2004

290 agency, the Deputy Chief Judge of Compensation Claims, a judge  
 291 of compensation claims, an administrative law judge, or a  
 292 hearing officer.

293 2. Any person employed in the office of the Governor or in  
 294 the office of any member of the Cabinet if that person is exempt  
 295 from the Career Service System, except persons employed in  
 296 clerical, secretarial, or similar positions.

297 3. Each appointed secretary, assistant secretary, deputy  
 298 secretary, executive director, assistant executive director, or  
 299 deputy executive director of each state department, commission,  
 300 board, or council; unless otherwise provided, the division  
 301 director, assistant division director, deputy director, bureau  
 302 chief, and assistant bureau chief of any state department or  
 303 division; or any person having the power normally conferred upon  
 304 such persons, by whatever title.

305 4. The superintendent or institute director of a state  
 306 mental health institute established for training and research in  
 307 the mental health field or the warden or director of any major  
 308 state institution or facility established for corrections,  
 309 training, treatment, or rehabilitation.

310 5. Business managers, purchasing agents having the power  
 311 to make any purchase exceeding the threshold amount provided for  
 312 in s. 287.028 ~~287.017~~ for CATEGORY ONE, finance and accounting  
 313 directors, personnel officers, or grants coordinators for any  
 314 state agency.

315 6. Any person, other than a legislative assistant exempted  
 316 by the presiding officer of the house by which the legislative  
 317 assistant is employed, who is employed in the legislative branch

HB 1905

2004

318 of government, except persons employed in maintenance, clerical,  
 319 secretarial, or similar positions.

320 7. Each employee of the Commission on Ethics.

321 Section 9. Paragraph (e) of subsection (1) of section  
 322 112.3215, Florida Statutes, is amended to read:

323 112.3215 Lobbyists before the executive branch or the  
 324 Constitution Revision Commission; registration and reporting;  
 325 investigation by commission.--

326 (1) For the purposes of this section:

327 (e) "Lobbyist" means a person who is employed and receives  
 328 payment, or who contracts for economic consideration, for the  
 329 purpose of lobbying, or a person who is principally employed for  
 330 governmental affairs by another person or governmental entity to  
 331 lobby on behalf of that other person or governmental entity.

332 "Lobbyist" does not include a person who is:

333 1. An attorney, or any person, who represents a client in  
 334 a judicial proceeding or in a formal administrative proceeding  
 335 conducted pursuant to chapter 120 or any other formal hearing  
 336 before an agency, board, commission, or authority of this state.

337 2. An employee of an agency or of a legislative or  
 338 judicial branch entity acting in the normal course of his or her  
 339 duties.

340 3. A confidential informant who is providing, or wishes to  
 341 provide, confidential information to be used for law enforcement  
 342 purposes.

343 4. A person who lobbies to procure a contract pursuant to  
 344 chapter 287 which contract is less than the threshold for  
 345 CATEGORY ONE as provided in s. 287.028 ~~287.017(1)(a)~~.

HB 1905

2004

346 Section 10. Paragraph (a) of subsection (1) of section  
 347 119.07, Florida Statutes, is amended to read:

348 119.07 Inspection, examination, and duplication of  
 349 records; exemptions.--

350 (1)(a) Every person who has custody of a public record  
 351 shall permit the record to be inspected and examined by any  
 352 person desiring to do so, at any reasonable time, under  
 353 reasonable conditions, and under supervision by the custodian of  
 354 the public record or the custodian's designee. The custodian  
 355 shall furnish a copy or a certified copy of the record upon  
 356 payment of the fee prescribed by law or, if a fee is not  
 357 prescribed by law, for duplicated copies of not more than 14  
 358 inches by 8 1/2 inches, upon payment of not more than 15 cents  
 359 per one-sided copy, and for all other copies, upon payment of  
 360 the actual cost of duplication of the record. An agency may  
 361 charge no more than an additional 5 cents for each two-sided  
 362 duplicated copy. For purposes of this section, duplicated copies  
 363 shall mean new copies produced by duplicating, meaning the  
 364 process of reproducing an image or images from an original to a  
 365 final substrate through the elecrophotographic, xerographic,  
 366 laser, or offset process or any combination of these processes,  
 367 by which an operator can make more than one copy without  
 368 rehandling the original ~~as defined in s. 283.30~~. The phrase  
 369 "actual cost of duplication" means the cost of the material and  
 370 supplies used to duplicate the record, but it does not include  
 371 the labor cost or overhead cost associated with such  
 372 duplication. However, the charge for copies of county maps or  
 373 aerial photographs supplied by county constitutional officers  
 374 may also include a reasonable charge for the labor and overhead

HB 1905

2004

375 associated with their duplication. Unless otherwise provided by  
 376 law, the fees to be charged for duplication of public records  
 377 shall be collected, deposited, and accounted for in the manner  
 378 prescribed for other operating funds of the agency. An agency  
 379 may charge up to \$1 per copy for a certified copy of a public  
 380 record.

381 Section 11. Paragraph (b) of subsection (15) of section  
 382 163.01, Florida Statutes, is amended to read:

383 163.01 Florida Interlocal Cooperation Act of 1969.--

384 (15) Notwithstanding any other provision of this section  
 385 or of any other law except s. 361.14, any public agency of this  
 386 state which is an electric utility, or any separate legal entity  
 387 created pursuant to the provisions of this section, the  
 388 membership of which consists only of electric utilities, and  
 389 which exercises or proposes to exercise the powers granted by  
 390 part II of chapter 361, the Joint Power Act, may exercise any or  
 391 all of the following powers:

392 (b)1. In any case in which any such public agency or legal  
 393 entity, or both, participate in an electric project with any one  
 394 or more of the following:

- 395 a. Any such legal entity;
- 396 b. One or more electric utilities;
- 397 c. One or more foreign public utilities; or
- 398 d. Any other person,

399 and if the right to full possession and to all of the use,  
 400 services, output, and capacity of any such electric project  
 401 during the original estimated useful life thereof is vested,  
 402 subject to creditors' rights, in any one or more of such legal  
 403 entities, electric utilities, or foreign public utilities, or in

HB 1905

2004

404 any combination thereof, such public agency or legal entity, or  
 405 both, may enter into an agreement or agreements with respect to  
 406 such electric project with the other person or persons  
 407 participating therein, and such legal entity may enter into an  
 408 agreement or agreements with one or more public agencies who are  
 409 parties to the interlocal agreement creating such legal entity.  
 410 Any such agreement may be for such period, including, but not  
 411 limited to, an unspecified period, and may contain such other  
 412 terms, conditions, and provisions, consistent with the  
 413 provisions of this section, as the parties thereto shall  
 414 determine. In connection with entry into and performance  
 415 pursuant to any such agreement, with the selection of any person  
 416 or persons with which any such public agency or legal entity, or  
 417 both, may enter into any such agreement, and with the selection  
 418 of any electric project to which such agreement may relate, no  
 419 such public agency or legal entity shall be required to comply  
 420 with any general, local, or special statute, including, but not  
 421 limited to, the provisions of s. 287.125 ~~287.055~~, or with any  
 422 charter provision of any public agency, which would otherwise  
 423 require public bidding, competitive negotiation, or both.

424 2. Any such agreement may include, but need not be limited  
 425 to, any or all of the following:

426 a. Provisions defining what constitutes a default  
 427 thereunder and providing for the rights and remedies of the  
 428 parties thereto upon the occurrence of such a default,  
 429 including, without limitation, the right to discontinue the  
 430 delivery of products or services to a defaulting party and  
 431 requirements that the remaining parties not in default who are  
 432 entitled to receive products or services from the same electric

HB 1905

2004

433 project may be required to pay for and use or otherwise dispose  
 434 of, on a proportionate or other basis, all or some portion of  
 435 the products and services which were to be purchased by the  
 436 defaulting party.

437       b. Provisions granting one or more of the parties the  
 438 option to purchase the interest or interests of one or more  
 439 other parties in the electric project upon such occurrences, and  
 440 at such times and pursuant to such terms and conditions, as the  
 441 parties may agree, notwithstanding the limitations on options in  
 442 the provisions of any law to the contrary.

443       c. Provisions setting forth restraints on alienation of  
 444 the interests of the parties in the electric project.

445       d. Provisions for the planning, design, engineering,  
 446 licensing, acquisition, construction, completion, management,  
 447 control, operation, maintenance, repair, renewal, addition,  
 448 replacement, improvement, modification, insuring,  
 449 decommissioning, cleanup, retirement, or disposal, or all of the  
 450 foregoing of such electric project by any one or more of the  
 451 parties to such agreement, which party or parties may be  
 452 designated in or pursuant to such agreement as agent or agents  
 453 on behalf of itself and one or more of the other parties thereto  
 454 or by such other means as may be determined by the parties  
 455 thereto.

456       e. Provisions for a method or methods of determining and  
 457 allocating among or between the parties the costs of planning,  
 458 design, engineering, licensing, acquisition, construction,  
 459 completion, management, control, operation, maintenance, repair,  
 460 renewal, addition, replacement, improvement, modification,



HB 1905

2004

461 insuring, decommissioning, cleanup, retirement, or disposal, or  
 462 all of the foregoing with respect to such electric project.

463 f. Provisions that any such public agency or legal entity,  
 464 or both, will not rescind, terminate, or amend any contract or  
 465 agreement relating to such electric project without the consent  
 466 of one or more persons with which such public agency or legal  
 467 entity, or both, have entered into an agreement pursuant to this  
 468 section or without the consent of one or more persons with whom  
 469 any such public agency or legal entity, or both, have made a  
 470 covenant or who are third-party beneficiaries of any such  
 471 covenant.

472 g. Provisions whereby any such public agency or legal  
 473 entity, or both, are obligated to pay for the products and  
 474 services of such electric project and the support of such  
 475 electric project, including, without limitation, those  
 476 activities set forth in sub-subparagraph d., without setoff or  
 477 counterclaim and irrespective of whether such products or  
 478 services are furnished, made available, or delivered to such  
 479 public agency or legal entity, or both, or whether any electric  
 480 project contemplated by such contract or agreement is completed,  
 481 operable, or operating, and notwithstanding suspension,  
 482 interruption, interference, reduction, or curtailment of the  
 483 products and services of such electric project and  
 484 notwithstanding the quality, or failure, of performance of any  
 485 one or more of the activities set forth in sub-subparagraph d.  
 486 with respect to such electric project.

487 h. Provisions that in the event of the failure or refusal  
 488 of any such public agency or legal entity, or both, to perform  
 489 punctually any specified covenant or obligation contained in or

HB 1905

2004

490 undertaken pursuant to any such agreement, any one or more  
491 parties to such agreement or any one or more persons who have  
492 been designated in such agreement as third-party beneficiaries  
493 of such covenant or obligation may enforce the performance of  
494 such public agency or legal entity by an action at law or in  
495 equity, including, but not limited to, specific performance or  
496 mandamus.

497 i. Provisions obligating any such public agency or legal  
498 entity, or both, to indemnify, including, without limitation,  
499 indemnification against the imposition or collection of local,  
500 state, or federal taxes and interest or penalties related  
501 thereto, or payments made in lieu thereof, to hold harmless, or  
502 to waive claims or rights for recovery, including claims or  
503 rights for recovery based on sole negligence, gross negligence,  
504 any other type of negligence, or any other act or omission,  
505 intentional or otherwise, against one or more of the other  
506 parties to such agreement. Such provisions may define the class  
507 or classes of persons for whose acts, intentional or otherwise,  
508 a party shall not be responsible; and all of such provisions may  
509 be upon such terms and conditions as the parties thereto shall  
510 determine.

511 j. Provisions obligating any such public agency or legal  
512 entity, or both, not to dissolve until all principal and  
513 interest payments for all bonds and other evidences of  
514 indebtedness issued by such public agency or legal entity, or  
515 both, have been paid or otherwise provided for and until all  
516 contractual obligations and duties of such public agency or  
517 legal entity have been fully performed or discharged, or both.

HB 1905

2004

518 k. Provisions obligating any such public agency or legal  
 519 entity, or both, to establish, levy, and collect rents, rates,  
 520 and other charges for the products and services provided by such  
 521 legal entity or provided by the electric or other integrated  
 522 utility system of such public agency, which rents, rates, and  
 523 other charges shall be at least sufficient to meet the operation  
 524 and maintenance expenses of such electric or integrated utility  
 525 system; to comply with all covenants pertaining thereto  
 526 contained in, and all other provisions of, any resolution, trust  
 527 indenture, or other security agreement relating to any bonds or  
 528 other evidences of indebtedness issued or to be issued by any  
 529 such public agency or legal entity; to generate funds sufficient  
 530 to fulfill the terms of all other contracts and agreements made  
 531 by such public agency or legal entity, or both; and to pay all  
 532 other amounts payable from or constituting a lien or charge on  
 533 the revenues derived from the products and services of such  
 534 legal entity or constituting a lien or charge on the revenues of  
 535 the electric or other integrated utility system of such public  
 536 agency.

537 1. Provisions obligating such legal entity to enforce the  
 538 covenants and obligations of each such public agency with which  
 539 such legal entity has entered into a contract or agreement with  
 540 respect to such electric project.

541 m. Provisions obligating such legal entity not to permit  
 542 any such public agency to withdraw from such legal entity until  
 543 all contractual obligations and duties of such legal entity and  
 544 of each such public agency with which it has entered into a  
 545 contract or agreement with respect to such electric project have  
 546 been fully performed, discharged, or both.

HB 1905

2004

547 n. Provisions obligating each such public agency which has  
 548 entered into a contract or agreement with such legal entity with  
 549 respect to an electric project not to withdraw from, or cause or  
 550 participate in the dissolution of, such legal entity until all  
 551 duties and obligations of such legal entity and of each such  
 552 public agency arising from all contracts and agreements entered  
 553 into by such public agency or legal entity, or both, have been  
 554 fully performed, discharged, or both.

555 o. Provisions obligating each such public agency which has  
 556 entered into a contract or agreement with such legal entity or  
 557 which has entered into a contract or agreement with any other  
 558 person or persons with respect to such electric project to  
 559 maintain its electric or other integrated utility system in good  
 560 repair and operating condition until all duties and obligations  
 561 of each such public agency and of each such legal entity arising  
 562 out of all contracts and agreements with respect to such  
 563 electric project entered into by each such public agency or  
 564 legal entity, or both, have been fully performed, discharged, or  
 565 both.

566 3. All actions taken by an agent designated in accordance  
 567 with the provisions of any such agreement may, if so provided in  
 568 the agreement, be made binding upon such public agency or legal  
 569 entity, or both, without further action or approval by such  
 570 public agency or legal entity, or both. Any agent or agents  
 571 designated in any such agreement shall be governed by the laws  
 572 and rules applicable to such agent as a separate entity and not  
 573 by any laws or rules which may be applicable to any of the other  
 574 participating parties and not otherwise applicable to the agent.

HB 1905

2004

575 Section 12. Section 190.033, Florida Statutes, is amended  
 576 to read:

577 190.033 Bids required.--

578 (1) No contract shall be let by the board for any goods,  
 579 supplies, or materials to be purchased when the amount thereof  
 580 to be paid by the district shall exceed the amount provided in  
 581 s. 287.028 ~~287.017~~ for category four, unless notice of bids  
 582 shall be advertised once in a newspaper in general circulation  
 583 in the county and in the district. Any board seeking to  
 584 construct or improve a public building, structure, or other  
 585 public works shall comply with the bidding procedures of s.  
 586 255.20 and other applicable general law. In each case, the bid  
 587 of the lowest responsive and responsible bidder shall be  
 588 accepted unless all bids are rejected because the bids are too  
 589 high, or the board determines it is in the best interests of the  
 590 district to reject all bids. The board may require the bidders  
 591 to furnish bond with a responsible surety to be approved by the  
 592 board. Nothing in this section shall prevent the board from  
 593 undertaking and performing the construction, operation, and  
 594 maintenance of any project or facility authorized by this act by  
 595 the employment of labor, material, and machinery.

596 (2) The provisions of the Consultants' Competitive  
 597 Negotiation Act, s. 287.125 ~~287.055~~, apply to contracts for  
 598 engineering, architecture, landscape architecture, or registered  
 599 surveying and mapping services let by the board.

600 (3) Contracts for maintenance services for any district  
 601 facility or project shall be subject to competitive bidding  
 602 requirements when the amount thereof to be paid by the district  
 603 exceeds the amount provided in s. 287.028 ~~287.017~~ for category

HB 1905

2004

604 four. The district shall adopt rules, policies, or procedures  
 605 establishing competitive bidding procedures for maintenance  
 606 services. Contracts for other services shall not be subject to  
 607 competitive bidding unless the district adopts a rule, policy,  
 608 or procedure applying competitive bidding procedures to said  
 609 contracts.

610 Section 13. Paragraph (g) of subsection (2) of section  
 611 215.56005, Florida Statutes, is amended to read:

612 215.56005 Tobacco Settlement Financing Corporation.--

613 (2) CORPORATION CREATION AND AUTHORITY.--

614 (g) The corporation shall not be deemed to be a special  
 615 district for purposes of chapter 189 or a unit of local  
 616 government for purposes of part III of chapter 218. The  
 617 provisions of chapter 120, parts I-VII ~~part I~~ of chapter 287,  
 618 and ss. 215.57-215.83 shall not apply to this section, the  
 619 corporation created in this section, the purchase agreements  
 620 entered into pursuant to this section, or bonds issued by the  
 621 corporation as provided in this section, except that  
 622 underwriters, financial advisors, and legal counsel shall be  
 623 selected in a manner consistent with the rules adopted pursuant  
 624 to the State Bond Act for the selection of service providers and  
 625 underwriters.

626 Section 14. Subsections (1) and (3) of section 215.964,  
 627 Florida Statutes, are amended to read:

628 215.964 Process for acquisition of commodities or services  
 629 that include the use of card-based technology.--

630 (1) Whenever any state agency intends to issue a bid,  
 631 request for proposals, or contract in any manner to acquire  
 632 commodities or services that include the use of card-based

HB 1905

2004

633 technology and will require the agency to expend more than the  
 634 threshold amount provided in s. 287.028 ~~287.017~~ for CATEGORY  
 635 FIVE, such acquisition documentation must be submitted to the  
 636 Florida Fiscal Accounting Management Information System  
 637 Coordinating Council for approval prior to issuance. The Florida  
 638 Fiscal Accounting Management Information System Coordinating  
 639 Council shall consider whether the proposed transaction is  
 640 structured to encourage vendor competition, cooperation among  
 641 agencies in the use of card-based technology, and other  
 642 financial terms and conditions that are appropriate with regard  
 643 to the nature of the card-based technology application being  
 644 acquired.

645 (3) An extension or renewal of an existing contract in any  
 646 manner for commodities or services that include the use of card-  
 647 based technology and will require the agency to expend more than  
 648 the threshold amount provided in s. 287.028 ~~287.017~~ for CATEGORY  
 649 FIVE, is subject to the provisions of subsection (1).

650 Section 15. Subsection (4) of section 216.345, Florida  
 651 Statutes, is amended to read:

652 216.345 Professional or other organization membership  
 653 dues; payment.--

654 (4) Payments for membership dues are exempt from the  
 655 provisions of parts I-VII ~~part I~~ of chapter 287.

656 Section 16. Subsection (1) of section 255.101, Florida  
 657 Statutes, is amended to read:

658 255.101 Contracts for public construction works;  
 659 utilization of minority business enterprises.--

660 (1) All county officials, boards of county commissioners,  
 661 school boards, city councils, city commissioners, and all other

HB 1905

2004

662 public officers of state boards or commissions which are charged  
 663 with the letting of contracts for public works and for the  
 664 construction of public bridges, buildings, and other structures  
 665 shall operate in accordance with s. 287.474 ~~287.093~~, except that  
 666 all contracts for the construction of state facilities should  
 667 comply with provisions in s. 287.4471 ~~287.09451~~, and rules  
 668 adopted pursuant thereto, for the utilization of minority  
 669 business enterprises. When construction is financed in whole or  
 670 in part from federal funds and where federal provisions for  
 671 utilization of minority business enterprises apply, this section  
 672 shall not apply.

673 Section 17. Subsection (4) of section 255.102, Florida  
 674 Statutes, is amended to read:

675 255.102 Contractor utilization of minority business  
 676 enterprises.--

677 (4) Notwithstanding the provisions of s. 287.4471  
 678 ~~287.09451~~ to the contrary, agencies shall monitor good faith  
 679 efforts of contractors in competitively awarded building and  
 680 construction projects, in accordance with rules established  
 681 pursuant to this section. It is the responsibility of the  
 682 contractor to exercise good faith efforts in accordance with  
 683 rules established pursuant to this section, and to provide  
 684 documentation necessary to assess efforts to include minority  
 685 business participation.

686 Section 18. Paragraph (d) of subsection (1) of section  
 687 255.20, Florida Statutes, is amended to read:

688 255.20 Local bids and contracts for public construction  
 689 works; specification of state-produced lumber.--



HB 1905

2004

690 (1) A county, municipality, special district as defined in  
 691 chapter 189, or other political subdivision of the state seeking  
 692 to construct or improve a public building, structure, or other  
 693 public construction works must competitively award to an  
 694 appropriately licensed contractor each project that is estimated  
 695 in accordance with generally accepted cost-accounting principles  
 696 to have total construction project costs of more than \$200,000.  
 697 For electrical work, local government must competitively award  
 698 to an appropriately licensed contractor each project that is  
 699 estimated in accordance with generally accepted cost-accounting  
 700 principles to have a cost of more than \$50,000. As used in this  
 701 section, the term "competitively award" means to award contracts  
 702 based on the submission of sealed bids, proposals submitted in  
 703 response to a request for proposal, proposals submitted in  
 704 response to a request for qualifications, or proposals submitted  
 705 for competitive negotiation. This subsection expressly allows  
 706 contracts for construction management services, design/build  
 707 contracts, continuation contracts based on unit prices, and any  
 708 other contract arrangement with a private sector contractor  
 709 permitted by any applicable municipal or county ordinance, by  
 710 district resolution, or by state law. For purposes of this  
 711 section, construction costs include the cost of all labor,  
 712 except inmate labor, and include the cost of equipment and  
 713 materials to be used in the construction of the project. Subject  
 714 to the provisions of subsection (3), the county, municipality,  
 715 special district, or other political subdivision may establish,  
 716 by municipal or county ordinance or special district resolution,  
 717 procedures for conducting the bidding process.

HB 1905

2004

718 (d)1. If the project is to be awarded based on price, the  
 719 contract must be awarded to the lowest qualified and responsive  
 720 bidder in accordance with the applicable county or municipal  
 721 ordinance or district resolution and in accordance with the  
 722 applicable contract documents. The county, municipality, or  
 723 special district may reserve the right to reject all bids and to  
 724 rebid the project or elect not to proceed with the project. This  
 725 subsection is not intended to restrict the rights of any local  
 726 government to reject the low bid of a nonqualified or  
 727 nonresponsive bidder and to award the contract to any other  
 728 qualified and responsive bidder in accordance with the standards  
 729 and procedures of any applicable county or municipal ordinance  
 730 or any resolution of a special district.

731 2. If the project uses a request for proposal or a request  
 732 for qualifications, the request must be publicly advertised and  
 733 the contract must be awarded in accordance with the applicable  
 734 local ordinances.

735 3. If the project is subject to competitive negotiations,  
 736 the contract must be awarded in accordance with s. 287.125  
 737 ~~287.055~~.

738 Section 19. Paragraph (d) of subsection (2) and subsection  
 739 (5) of section 255.60, Florida Statutes, are amended to read:

740 255.60 Special contracts with charitable youth  
 741 organizations.--The state, or the governing body of any  
 742 political subdivision of the state, is authorized, but not  
 743 required, to contract for public service work such as highway  
 744 and park maintenance, notwithstanding competitive sealed bid  
 745 procedures required under this chapter or chapter 287, upon  
 746 compliance with this section.

HB 1905

2004

747 (2) The contract, if approved by authorized agency  
 748 personnel of the state, or the governing body of a political  
 749 subdivision, as appropriate, must provide at a minimum that:

750 (d) The supplier or contractor has instituted a drug-free  
 751 workplace program substantially in compliance with the  
 752 provisions of s. 287.1414 ~~287.087~~.

753 (5) Nothing in this section shall excuse any person from  
 754 compliance with ss. 287.561-287.563 ~~287.132-287.134~~.

755 Section 20. Subsection (1) of section 257.05, Florida  
 756 Statutes, is amended to read:

757 257.05 Public documents; delivery to, and distribution by,  
 758 division.--

759 (1) The term "public document" as used in this section  
 760 means any document, report, directory, bibliography, rule,  
 761 newsletter, pamphlet, brochure, periodical, or other  
 762 publication, whether in print or nonprint format, that is paid  
 763 for in whole or in part by funds appropriated by the Legislature  
 764 and may be subject to distribution to the public; however, the  
 765 term excludes publications for internal use by an executive  
 766 agency ~~as defined in s. 283.30~~. For purposes of this subsection,  
 767 the term "executive agency" means any official, officer,  
 768 department, board, commission, division, bureau, section,  
 769 district, office, authority, committee, or council, or any other  
 770 unit of organization, however designated, of the executive  
 771 branch of state government, and the Public Service Commission.

772 Section 21. Subsection (7) of section 265.284, Florida  
 773 Statutes, is amended to read:

774 265.284 Chief cultural officer; director of division;  
 775 powers and duties.--

HB 1905

2004

776 (7) Notwithstanding any provision of s. 287.124 ~~287.022~~ or  
 777 ~~s. 287.025(1)(e)~~, the division may enter into contracts to  
 778 insure museum collections, artifacts, relics, and fine arts to  
 779 which it holds title.

780 Section 22. Subsection (8) of section 267.115, Florida  
 781 Statutes, is amended to read:

782 267.115 Objects of historical or archaeological  
 783 value.--The division shall acquire, maintain, preserve,  
 784 interpret, exhibit, and make available for study objects which  
 785 have intrinsic historical or archaeological value relating to  
 786 the history, government, or culture of the state. Such objects  
 787 may include tangible personal property of historical or  
 788 archaeological value. Objects acquired under this section belong  
 789 to the state, and title to such objects is vested in the  
 790 division.

791 (8) Notwithstanding any provision of s. 287.124 ~~287.022~~ or  
 792 ~~s. 287.025(1)(e)~~, the division may enter into contracts to  
 793 insure museum collections, artifacts, relics, and fine arts to  
 794 which it holds title.

795 Section 23. Subsection (6) of section 267.173, Florida  
 796 Statutes, is amended to read:

797 267.173 Historic preservation in West Florida; goals;  
 798 contracts for historic preservation; powers and duties.--

799 (6) Notwithstanding the provisions of part II of chapter  
 800 287 ~~s. 287.057~~, the University of West Florida or its direct-  
 801 support organization may enter into contracts or agreements with  
 802 or without competitive bidding, in its discretion, for the  
 803 protection or preservation of historic properties.

HB 1905

2004

804 Section 24. Subsection (2) of section 272.185, Florida  
 805 Statutes, is amended to read:

806 272.185 Maintenance of Governor's Mansion by Department of  
 807 Management Services.--

808 (2) The department shall insure the Governor's Mansion,  
 809 its contents, and all structures and appurtenances thereto with  
 810 the State Risk Management Trust Fund as provided in s. 284.01.  
 811 The department may purchase any necessary insurance either by a  
 812 primary insurance contract, excess coverage insurance, or  
 813 reinsurance to cover the contents of the mansion, whether title  
 814 of the contents is in the state or in any other person or entity  
 815 not a resident of the mansion, notwithstanding the provision of  
 816 s. 287.1241 ~~287.025~~.

817 Section 25. Subsection (4) of section 273.055, Florida  
 818 Statutes, is amended to read:

819 273.055 Disposition of state-owned tangible personal  
 820 property.--

821 (4) Each custodian shall adopt guidelines or  
 822 administrative rules and regulations pursuant to chapter 120  
 823 providing for, but not limited to, transferring, warehousing,  
 824 bidding, destroying, scrapping, or other disposing of state-  
 825 owned tangible personal property. However, the approval of the  
 826 Department of Management Services is required prior to the  
 827 disposal of motor vehicles, watercraft, or aircraft pursuant to  
 828 ss. 287.62 ~~287.15~~ and 287.65 ~~287.16~~.

829 Section 26. Section 281.08, Florida Statutes, is amended  
 830 to read:

831 281.08 Equipment.--The Department of Management Services  
 832 is specifically authorized to purchase, sell, trade, rent,

HB 1905

2004

833 lease, and maintain all necessary equipment, motor vehicles,  
 834 communication systems, housing facilities, and office space, and  
 835 perform any other acts necessary for the proper administration  
 836 of ss. 281.02-281.08, pursuant to parts I-VII ~~part I~~ of chapter  
 837 287.

838 Section 27. Section 284.32, Florida Statutes, is amended  
 839 to read:

840 284.32 Department of Financial Services to implement and  
 841 consolidate.--The Department of Financial Services is authorized  
 842 to effect a consolidation and combination of all insurance  
 843 coverages provided herein into one insurance program in  
 844 accordance with the provisions of parts I-VII ~~part I~~ of chapter  
 845 287.

846 Section 28. Subsection (1) of section 284.33, Florida  
 847 Statutes, is amended to read:

848 284.33 Purchase of insurance, reinsurance, and services.--

849 (1) The Department of Financial Services is authorized to  
 850 provide insurance, specific excess insurance, and aggregate  
 851 excess insurance through the Department of Management Services,  
 852 pursuant to the provisions of parts I-VII ~~part I~~ of chapter 287,  
 853 as necessary to provide insurance coverages authorized by this  
 854 part, consistent with market availability. However, the  
 855 Department of Financial Services may directly purchase annuities  
 856 by using a structured settlement insurance consulting firm  
 857 selected by the department to assist in the settlement of claims  
 858 being handled by the Division of Risk Management. The selection  
 859 of the structured settlement insurance services consultant shall  
 860 be made by using competitive sealed proposals. The consulting  
 861 firm shall act as an agent of record for the department in

HB 1905

2004

862 procuring the best annuity products available to facilitate  
 863 structured settlement of claims, considering price, insurer  
 864 financial strength, and the best interests of the state risk  
 865 management program. Purchase of annuities by the department  
 866 using a structured settlement method is excepted from  
 867 competitive sealed bidding or proposal requirements. The  
 868 Department of Financial Services is further authorized to  
 869 purchase such risk management services, including, but not  
 870 limited to, risk and claims control; safety management; and  
 871 legal, investigative, and adjustment services, as may be  
 872 required and pay claims. The department may contract with a  
 873 service organization for such services and advance money to such  
 874 service organization for deposit in a special checking account  
 875 for paying claims made against the state under the provisions of  
 876 this part. The special checking account shall be maintained in  
 877 this state in a bank or savings association organized under the  
 878 laws of this state or of the United States. The department may  
 879 replenish such account as often as necessary upon the  
 880 presentation by the service organization of documentation for  
 881 payments of claims equal to the amount of the requested  
 882 reimbursement.

883 Section 29. Subsection (1) of section 284.40, Florida  
 884 Statutes, is amended to read:

885 284.40 Division of Risk Management.--

886 (1) It shall be the responsibility of the Division of Risk  
 887 Management of the Department of Financial Services to administer  
 888 this part and the provisions of s. 287.593 ~~287.131~~.

HB 1905

2004

889 Section 30. Section 287.022, Florida Statutes, is  
 890 renumbered as section 287.124, Florida Statutes, and subsection  
 891 (1) of said section is amended to read:

892 287.124 ~~287.022~~ Purchase of insurance.--

893 (1) Insurance, while not a commodity, nevertheless shall  
 894 be purchased for all agencies by the department, except that  
 895 agencies may purchase title insurance for land acquisition and  
 896 may make emergency purchases of insurance pursuant to s.  
 897 287.0336 ~~287.057(5)(a)~~. The procedures for purchasing insurance,  
 898 whether the purchase is made by the department or by the  
 899 agencies, shall be the same as those set forth herein for the  
 900 purchase of commodities.

901 Section 31. Subsection (24) of section 287.057, Florida  
 902 Statutes, is transferred to section 287.129, Florida Statutes,  
 903 which is created, and is amended to read:

904 287.129 State strategic information alliances.--

905 ~~(1)(24)(a)~~ The State Technology Office shall establish, in  
 906 consultation with the department, state strategic information  
 907 technology alliances for the acquisition and use of information  
 908 technology and related material with prequalified contractors or  
 909 partners to provide the state with efficient, cost-effective,  
 910 and advanced information technology.

911 ~~(2)(b)~~ In consultation with and under contract to the  
 912 State Technology Office, the state strategic information  
 913 technology alliances shall design, develop, and deploy projects  
 914 providing the information technology needed to collect, store,  
 915 and process the state's data and information, provide  
 916 connectivity, and integrate and standardize computer networks  
 917 and information systems of the state.



HB 1905

2004

918        (3)~~(e)~~ The partners in the state strategic information  
 919 technology alliances shall be industry leaders with demonstrated  
 920 experience in the public and private sectors.

921        (4)~~(d)~~ The State Technology Office, in consultation with  
 922 the department, shall adopt rules, pursuant to ss. 120.536(1)  
 923 and 120.54, to administer the state strategic information  
 924 technology alliances.

925        Section 32. Section 287.0595, Florida Statutes, is  
 926 renumbered as section 287.136, Florida Statutes, and subsection  
 927 (4) of said section is amended to read:

928        287.136 ~~287.0595~~ Pollution response action contracts;  
 929 department rules.--

930        (4) This section does not apply to contracts which must be  
 931 negotiated under s. 287.125 ~~287.055~~.

932        Section 33. Section 287.064, Florida Statutes, is  
 933 renumbered as section 287.138, Florida Statutes, and paragraph  
 934 (c) of subsection (1) of said section is amended to read:

935        287.138 ~~287.064~~ Consolidated financing of deferred-payment  
 936 purchases.--

937        (1) The Division of Bond Finance of the State Board of  
 938 Administration and the Chief Financial Officer shall plan and  
 939 coordinate deferred-payment purchases made by or on behalf of  
 940 the state or its agencies or by or on behalf of state  
 941 universities or state community colleges participating under  
 942 this section pursuant to s. 1001.74(5) or s. 1001.64(26),  
 943 respectively. The Division of Bond Finance shall negotiate and  
 944 the Chief Financial Officer shall execute agreements and  
 945 contracts to establish master equipment financing agreements for  
 946 consolidated financing of deferred-payment, installment sale, or

HB 1905

2004

947 lease purchases with a financial institution or a consortium of  
 948 financial institutions. As used in this act, the term "deferred-  
 949 payment" includes installment sale and lease-purchase.

950 (c) The interest rate component of any master equipment  
 951 financing agreement shall be deemed to comply with the interest  
 952 rate limitation imposed in s. 287.137 ~~287.063~~ so long as the  
 953 interest rate component of every interagency, state university,  
 954 or community college agreement entered into under such master  
 955 equipment financing agreement complies with the interest rate  
 956 limitation imposed in s. 287.137 ~~287.063~~. Such interest rate  
 957 limitation does not apply when the payment obligation under the  
 958 master equipment financing agreement is rated by a nationally  
 959 recognized rating service in any one of the three highest  
 960 classifications, which rating services and classifications are  
 961 determined pursuant to rules adopted by the Chief Financial  
 962 Officer.

963 Section 34. Section 287.0641, Florida Statutes, is  
 964 renumbered as section 287.1385, Florida Statutes, and amended to  
 965 read:

966 287.1385 ~~287.0641~~ Agreement not debt or pledge of faith or  
 967 credit of state.--No agreement entered into pursuant to s.  
 968 287.138 ~~287.064~~ shall establish a debt of the state or shall be  
 969 a pledge of the faith and credit of the state; nor shall any  
 970 agreement be a liability or obligation of the state except from  
 971 appropriated funds. All agreements, however, may be  
 972 automatically renewable at the end of each fiscal year, subject  
 973 to sufficient annual appropriations.

HB 1905

2004

974 Section 35. Section 287.0822, Florida Statutes, is  
 975 renumbered as section 287.135, Florida Statutes, and subsection  
 976 (2) of said section is amended to read:

977 287.135 ~~287.0822~~ Beef and pork; prohibition on purchase;  
 978 bid specifications; penalty.--

979 (2) All solicitations for purchase of fresh or frozen  
 980 meats of any kind by any agency of the state or of any  
 981 municipality, political subdivision, school district, or special  
 982 district using state or local funds shall include the words: "  
 983 'All American' and 'Genuine Florida' meats or meat products  
 984 shall be granted preference as allowed by Section 287.135  
 985 ~~287.082~~, Florida Statutes."

986 Section 36. Section 287.0943, Florida Statutes, is  
 987 renumbered as section 287.4461, Florida Statutes, and paragraph  
 988 (i) of subsection (2), subsection (5), paragraph (a) of  
 989 subsection (6) and subsection (14) of said section are amended  
 990 to read:

991 287.4461 ~~287.0943~~ Certification of minority business  
 992 enterprises.--

993 (2)

994 (i) A business that is certified under the provisions of  
 995 the statewide and interlocal agreement shall be deemed a  
 996 certified minority enterprise in all jurisdictions or  
 997 organizations where the agreement is in effect, and that  
 998 business is deemed available to do business as such within any  
 999 such jurisdiction or with any such organization statewide. All  
 1000 state agencies must accept minority business enterprises  
 1001 certified in accordance with the statewide and interlocal  
 1002 agreement of s. 287.447 ~~287.0943~~, and that business shall also

HB 1905

2004

1003 be deemed a "certified minority business enterprise" as defined  
 1004 in s. 288.703. However, any governmental jurisdiction or  
 1005 organization that administers a minority business purchasing  
 1006 program may reserve the right to establish further certification  
 1007 procedures necessary to comply with federal law.

1008 (5)(a) The secretary of the Department of Management  
 1009 Services shall execute the statewide and interlocal agreement  
 1010 established under s. 287.447 ~~287.09431~~ on behalf of the state.  
 1011 The office shall certify minority business enterprises in  
 1012 accordance with the laws of this state and, by affidavit, shall  
 1013 recertify such minority business enterprises not less than once  
 1014 each year.

1015 (b) The office shall contract with parties to the  
 1016 statewide and interlocal agreement to perform onsite visits  
 1017 associated with state certifications.

1018 (6)(a) The office shall maintain up-to-date records of all  
 1019 certified minority business enterprises, as defined in s.  
 1020 288.703, and of applications for certification that were denied  
 1021 and shall make this list available to all agencies. The office  
 1022 shall, for statistical purposes, collect and track subgroupings  
 1023 of gender and nationality status for each certified minority  
 1024 business enterprise. Agency spending shall also be tracked for  
 1025 these subgroups. The records may include information about  
 1026 minority business enterprises that provide legal services,  
 1027 auditing services, and health services. Agencies shall use this  
 1028 list in efforts to meet the minority business enterprise  
 1029 procurement goals set forth in s. 287.4471 ~~287.09451~~.

1030 (14)(a) Except for certification decisions issued by the  
 1031 Office of Supplier Diversity, an executor to the statewide and

HB 1905

2004

1032 interlocal agreement shall, in accordance with its rules and  
 1033 procedures:

1034 1. Give reasonable notice to affected persons or parties  
 1035 of its decision to deny certification based on failure to meet  
 1036 eligibility requirements of the statewide and interlocal  
 1037 agreement of s. 287.447 ~~287.09431~~, together with a summary of  
 1038 the grounds therefor.

1039 2. Give affected persons or parties an opportunity, at a  
 1040 convenient time and place, to present to the agency written or  
 1041 oral evidence in opposition to the action or of the executor's  
 1042 refusal to act.

1043 3. Give a written explanation of any subsequent decision  
 1044 of the executor overruling the objections.

1045 (b) An applicant that is denied minority business  
 1046 enterprise certification based on failure to meet eligibility  
 1047 requirements of the statewide and interlocal agreement pursuant  
 1048 to s. 287.447 ~~287.09431~~ may not reapply for certification or  
 1049 recertification until at least 6 months after the date of the  
 1050 notice of the denial of certification or recertification.

1051 Section 37. Section 287.09431, Florida Statutes, is  
 1052 renumbered as section 287.447, Florida Statutes, and is amended  
 1053 to read:

1054 287.447 ~~287.09431~~ Statewide and interlocal agreement on  
 1055 certification of business concerns for the status of minority  
 1056 business enterprise.--The statewide and interlocal agreement on  
 1057 certification of business concerns for the status of minority  
 1058 business enterprise is hereby enacted and entered into with all  
 1059 jurisdictions or organizations legally joining therein. If,  
 1060 within 2 years from the date that the certification core

HB 1905

2004

1061 criteria are approved by the Department of Labor and Employment  
 1062 Security, the agreement included herein is not executed by a  
 1063 majority of county and municipal governing bodies that  
 1064 administer a minority business assistance program on the  
 1065 effective date of this act, then the Legislature shall review  
 1066 this agreement. It is the intent of the Legislature that if the  
 1067 agreement is not executed by a majority of the requisite  
 1068 governing bodies, then a statewide uniform certification process  
 1069 should be adopted, and that said agreement should be repealed  
 1070 and replaced by a mandatory state government certification  
 1071 process.

1074 ARTICLE I

1077 PURPOSE, FINDINGS, AND POLICY.--

1079 (1) The parties to this agreement, desiring by common  
 1080 action to establish a uniform certification process in order to  
 1081 reduce the multiplicity of applications by business concerns to  
 1082 state and local governmental programs for minority business  
 1083 assistance, declare that it is the policy of each of them, on  
 1084 the basis of cooperation with one another, to remedy social and  
 1085 economic disadvantage suffered by certain groups, resulting in  
 1086 their being historically underutilized in ownership and control  
 1087 of commercial enterprises. Thus, the parties seek to address  
 1088 this history by increasing the participation of the identified  
 1089 groups in opportunities afforded by government procurement.

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(2) The parties find that the State of Florida presently certifies firms for participation in the minority business assistance programs of the state. The parties find further that some counties, municipalities, school boards, special districts, and other divisions of local government require a separate, yet similar, and in most cases redundant certification in order for businesses to participate in the programs sponsored by each government entity.

(3) The parties find further that this redundant certification has proven to be unduly burdensome to the minority-owned firms intended to benefit from the underlying purchasing incentives.

(4) The parties agree that:

(a) They will facilitate integrity, stability, and cooperation in the statewide and interlocal certification process, and in other elements of programs established to assist minority-owned businesses.

(b) They shall cooperate with agencies, organizations, and associations interested in certification and other elements of minority business assistance.

(c) It is the purpose of this agreement to provide for a uniform process whereby the status of a business concern may be determined in a singular review of the business information for

HB 1905

2004

1119 these purposes, in order to eliminate any undue expense, delay,  
 1120 or confusion to the minority-owned businesses in seeking to  
 1121 participate in the minority business assistance programs of  
 1122 state and local jurisdictions.

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ARTICLE II

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1128 DEFINITIONS.--As used in this agreement and contracts made  
 1129 pursuant to it, unless the context clearly requires otherwise:

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1131 (1) "Awarding organization" means any political  
 1132 subdivision or organization authorized by law, ordinance, or  
 1133 agreement to enter into contracts and for which the governing  
 1134 body has entered into this agreement.

1135

1136 (2) "Department" means the Department of Labor and  
 1137 Employment Security.

1138

1139 (3) "Minority" means a person who is a lawful, permanent  
 1140 resident of the state, having origins in one of the minority  
 1141 groups as described and adopted by the Department of Labor and  
 1142 Employment Security, hereby incorporated by reference.

1143

1144 (4) "Minority business enterprise" means any small  
 1145 business concern as defined in subsection (6) that meets all of  
 1146 the criteria described and adopted by the Department of Labor  
 1147 and Employment Security, hereby incorporated by reference.



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(5) "Participating state or local organization" means any political subdivision of the state or organization designated by such that elects to participate in the certification process pursuant to this agreement, which has been approved according to s. 287.4461 ~~287.0943(3)~~ and has legally entered into this agreement.

(6) "Small business concern" means an independently owned and operated business concern which is of a size and type as described and adopted by vote related to this agreement of the commission, hereby incorporated by reference.

ARTICLE III

STATEWIDE AND INTERLOCAL CERTIFICATIONS.--

(1) All awarding organizations shall accept a certification granted by any participating organization which has been approved according to s. 287.4461 ~~287.0943(3)~~ and has entered into this agreement, as valid status of minority business enterprise.

(2) A participating organization shall certify a business concern that meets the definition of minority business enterprise in this agreement, in accordance with the duly adopted eligibility criteria.

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(3) All participating organizations shall issue notice of certification decisions granting or denying certification to all other participating organizations within 14 days of the decision. Such notice may be made through electronic media.

(4) No certification will be granted without an onsite visit to verify ownership and control of the prospective minority business enterprise, unless verification can be accomplished by other methods of adequate verification or assessment of ownership and control.

(5) The certification of a minority business enterprise pursuant to the terms of this agreement shall not be suspended, revoked, or otherwise impaired except on any grounds which would be sufficient for revocation or suspension of a certification in the jurisdiction of the participating organization.

(6) The certification determination of a party may be challenged by any other participating organization by the issuance of a timely written notice by the challenging organization to the certifying organization's determination within 10 days of receiving notice of the certification decision, stating the grounds therefor.

(7) The sole accepted grounds for challenge shall be the failure of the certifying organization to adhere to the adopted criteria or the certifying organization's rules or procedures, or the perpetuation of a misrepresentation or fraud by the firm.

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(8) The certifying organization shall reexamine its certification determination and submit written notice to the applicant and the challenging organization of its findings within 30 days after the receipt of the notice of challenge.

(9) If the certification determination is affirmed, the challenging agency may subsequently submit timely written notice to the firm of its intent to revoke certification of the firm.

ARTICLE IV

APPROVED AND ACCEPTED PROGRAMS.--Nothing in this agreement shall be construed to repeal or otherwise modify any ordinance, law, or regulation of a party relating to the existing minority business assistance provisions and procedures by which minority business enterprises participate therein.

ARTICLE V

TERM.--The term of the agreement shall be 5 years, after which it may be reexecuted by the parties.

ARTICLE VI

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AGREEMENT EVALUATION.--The designated state and local officials may meet from time to time as a group to evaluate progress under the agreement, to formulate recommendations for changes, or to propose a new agreement.

ARTICLE VII

OTHER ARRANGEMENTS.--Nothing in this agreement shall be construed to prevent or inhibit other arrangements or practices of any party in order to comply with federal law.

ARTICLE VIII

EFFECT AND WITHDRAWAL.--

(1) This agreement shall become effective when properly executed by a legal representative of the participating organization, when enacted into the law of the state and after an ordinance or other legislation is enacted into law by the governing body of each participating organization. Thereafter it shall become effective as to any participating organization upon the enactment of this agreement by the governing body of that organization.

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(2) Any party may withdraw from this agreement by enacting legislation repealing the same, but no such withdrawal shall take effect until one year after the governing body of the withdrawing party has given notice in writing of the withdrawal to the other parties.

(3) No withdrawal shall relieve the withdrawing party of any obligations imposed upon it by law.

ARTICLE IX

FINANCIAL RESPONSIBILITY.--

(1) A participating organization shall not be financially responsible or liable for the obligations of any other participating organization related to this agreement.

(2) The provisions of this agreement shall constitute neither a waiver of any governmental immunity under Florida law nor a waiver of any defenses of the parties under Florida law. The provisions of this agreement are solely for the benefit of its executors and not intended to create or grant any rights, contractual or otherwise, to any person or entity.

ARTICLE X

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VENUE AND GOVERNING LAW.--The obligations of the parties to this agreement are performable only within the county where the participating organization is located, and statewide for the Office of Supplier Diversity, and venue for any legal action in connection with this agreement shall lie, for any participating organization except the Office of Supplier Diversity, exclusively in the county where the participating organization is located. This agreement shall be governed by and construed in accordance with the laws and court decisions of the state.

ARTICLE XI

CONSTRUCTION AND SEVERABILITY.--This agreement shall be liberally construed so as to effectuate the purposes thereof. The provisions of this agreement shall be severable and if any phrase, clause, sentence, or provision of this agreement is declared to be contrary to the State Constitution or the United States Constitution, or the application thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this agreement shall be held contrary to the State Constitution, the agreement shall remain in full force and effect as to all severable matters.

HB 1905

2004

1322 Section 38. Section 287.09451, Florida Statutes, is  
 1323 renumbered as section 287.4471, Florida Statutes, and paragraphs  
 1324 (b), (c), (h), (m), and (o) of subsection (4) and paragraph (a)  
 1325 of subsection (5) of said section are amended to read:

1326 287.4471 ~~287.09451~~ Office of Supplier Diversity; powers,  
 1327 duties, and functions.--

1328 (4) The Office of Supplier Diversity shall have the  
 1329 following powers, duties, and functions:

1330 (b) To adopt rules to determine what constitutes a "good  
 1331 faith effort" for purposes of contractor compliance with  
 1332 contractual requirements relating to the use of services or  
 1333 commodities of a minority business enterprise under s.

1334 287.446(2) ~~287.094(2)~~. Factors which shall be considered by the  
 1335 Office of Supplier Diversity in determining whether a contractor  
 1336 has made good faith efforts shall include, but not be limited  
 1337 to:

1338 1. Whether the contractor attended any presolicitation or  
 1339 prebid meetings that were scheduled by the agency to inform  
 1340 minority business enterprises of contracting and subcontracting  
 1341 opportunities.

1342 2. Whether the contractor advertised in general  
 1343 circulation, trade association, or minority-focus media  
 1344 concerning the subcontracting opportunities.

1345 3. Whether the contractor provided written notice to a  
 1346 reasonable number of specific minority business enterprises that  
 1347 their interest in the contract was being solicited in sufficient  
 1348 time to allow the minority business enterprises to participate  
 1349 effectively.

HB 1905

2004

1350           4. Whether the contractor followed up initial  
 1351 solicitations of interest by contacting minority business  
 1352 enterprises or minority persons to determine with certainty  
 1353 whether the minority business enterprises or minority persons  
 1354 were interested.

1355           5. Whether the contractor selected portions of the work to  
 1356 be performed by minority business enterprises in order to  
 1357 increase the likelihood of meeting the minority business  
 1358 enterprise procurement goals, including, where appropriate,  
 1359 breaking down contracts into economically feasible units to  
 1360 facilitate minority business enterprise participation.

1361           6. Whether the contractor provided interested minority  
 1362 business enterprises or minority persons with adequate  
 1363 information about the plans, specifications, and requirements of  
 1364 the contract or the availability of jobs.

1365           7. Whether the contractor negotiated in good faith with  
 1366 interested minority business enterprises or minority persons,  
 1367 not rejecting minority business enterprises or minority persons  
 1368 as unqualified without sound reasons based on a thorough  
 1369 investigation of their capabilities.

1370           8. Whether the contractor effectively used the services of  
 1371 available minority community organizations; minority  
 1372 contractors' groups; local, state, and federal minority business  
 1373 assistance offices; and other organizations that provide  
 1374 assistance in the recruitment and placement of minority business  
 1375 enterprises or minority persons.

1376           (c) To adopt rules and do all things necessary or  
 1377 convenient to guide all state agencies toward making  
 1378 expenditures for commodities, contractual services,



HB 1905

2004

1379 construction, and architectural and engineering services with  
 1380 certified minority business enterprises in accordance with the  
 1381 minority business enterprise procurement goals set forth in part  
 1382 VI s. 287.042.

1383 (h) To develop procedures to investigate complaints  
 1384 against minority business enterprises or contractors alleged to  
 1385 violate any provision related to this section or ~~s. 287.4461~~  
 1386 ~~287.0943~~, that may include visits to worksites or business  
 1387 premises, and to refer all information on businesses suspected  
 1388 of misrepresenting minority status to the Department of  
 1389 Management Services for investigation. When an investigation is  
 1390 completed and there is reason to believe that a violation has  
 1391 occurred, the Department of Labor and Employment Security shall  
 1392 refer the matter to the office of the Attorney General,  
 1393 Department of Legal Affairs, for prosecution.

1394 (m) To certify minority business enterprises, as defined  
 1395 in s. 288.703, and as specified in ss. 287.4461 ~~287.0943~~ and  
 1396 287.447 ~~287.09431~~, and shall recertify such minority businesses  
 1397 not less than once a year. Minority business enterprises must be  
 1398 recertified annually by affidavit.

1399 (o)1. To establish a system to record and measure the use  
 1400 of certified minority business enterprises in state contracting.  
 1401 This system shall maintain information and statistics on  
 1402 certified minority business enterprise participation, awards,  
 1403 dollar volume of expenditures and agency goals, and other  
 1404 appropriate types of information to analyze progress in the  
 1405 access of certified minority business enterprises to state  
 1406 contracts and to monitor agency compliance with this section.  
 1407 Such reporting must include, but is not limited to, the

HB 1905

2004

1408 identification of all subcontracts in state contracting by  
 1409 dollar amount and by number of subcontracts and the  
 1410 identification of the utilization of certified minority business  
 1411 enterprises as prime contractors and subcontractors by dollar  
 1412 amounts of contracts and subcontracts, number of contracts and  
 1413 subcontracts, minority status, industry, and any conditions or  
 1414 circumstances that significantly affected the performance of  
 1415 subcontractors. Agencies shall report their compliance with the  
 1416 requirements of this reporting system at least annually and at  
 1417 the request of the office. All agencies shall cooperate with the  
 1418 office in establishing this reporting system. Except in  
 1419 construction contracting, all agencies shall review contracts  
 1420 costing in excess of CATEGORY FOUR as defined in s. 287.028  
 1421 ~~287.017~~ to determine if such contracts could be divided into  
 1422 smaller contracts to be separately solicited and awarded, and  
 1423 shall, when economical, offer such smaller contracts to  
 1424 encourage minority participation.

1425         2. To report agency compliance with the provisions of  
 1426 subparagraph 1. for the preceding fiscal year to the Governor  
 1427 and Cabinet, the President of the Senate, the Speaker of the  
 1428 House of Representatives, and the secretary of the Department of  
 1429 Labor and Employment Security on or before February 1 of each  
 1430 year. The report must contain, at a minimum, the following:

- 1431             a. Total expenditures of each agency by industry.
- 1432             b. The dollar amount and percentage of contracts awarded  
 1433 to certified minority business enterprises by each state agency.
- 1434             c. The dollar amount and percentage of contracts awarded  
 1435 indirectly to certified minority business enterprises as  
 1436 subcontractors by each state agency.

HB 1905

2004

1437 d. The total dollar amount and percentage of contracts  
 1438 awarded to certified minority business enterprises, whether  
 1439 directly or indirectly, as subcontractors.

1440 e. A statement and assessment of good faith efforts taken  
 1441 by each state agency.

1442 f. A status report of agency compliance with subsection  
 1443 (6), as determined by the Minority Business Enterprise Office.

1444 (5)(a) Each agency shall, at the time the specifications  
 1445 or designs are developed or contract sizing is determined for  
 1446 any proposed procurement costing in excess of CATEGORY FOUR, as  
 1447 defined in s. 287.028 ~~287.017~~, forward a notice to the Office of  
 1448 Supplier Diversity of the proposed procurement and any  
 1449 determination on the designs of specifications of the proposed  
 1450 procurement that impose requirements on prospective vendors, no  
 1451 later than 30 days prior to the issuance of a solicitation,  
 1452 except that this provision shall not apply to emergency  
 1453 acquisitions. The 30-day notice period shall not toll the time  
 1454 for any other procedural requirements.

1455 Section 39. Paragraph (c) of subsection (1) of section  
 1456 276.042, Florida Statutes, is transferred to section 287.313,  
 1457 Florida Statutes, which is created, and amended to read:

1458 287.313 Limitation of vendor liability.--

1459 ~~(e)~~ In order to promote cost-effective procurement of  
 1460 commodities and contractual services, the department or an  
 1461 agency may enter into contracts that limit the liability of a  
 1462 vendor consistent with s. 672.719.

1463 Section 40. Paragraph (d) of subsection (5) of section  
 1464 287.057, Florida Statutes, is transferred to section 287.1242,  
 1465 Florida Statutes, which is created, and amended to read:

HB 1905

2004

1466 287.1242 Purchase of insurance by negotiation.--

1467 ~~(d)~~ When it is in the best interest of the state, the  
 1468 secretary of the department or his or her designee may authorize  
 1469 the Support Program to purchase insurance by negotiation, but  
 1470 such purchase shall be made only under conditions most favorable  
 1471 to the public interest.

1472 Section 41. Subsection (8) of section 287.057, Florida  
 1473 Statutes, is transferred to section 287.44, Florida Statutes,  
 1474 which is created, and amended to read:

1475 287.44 Minority business enterprises.--

1476 ~~(1)(8)(a)~~ In order to strive to meet the minority business  
 1477 enterprise procurement goals set forth in s. 287.4471 ~~287.09451~~,  
 1478 an agency may reserve any contract for competitive solicitation  
 1479 only among certified minority business enterprises. Agencies  
 1480 shall review all their contracts each fiscal year and shall  
 1481 determine which contracts may be reserved for solicitation only  
 1482 among certified minority business enterprises. This reservation  
 1483 may only be used when it is determined, by reasonable and  
 1484 objective means, before the solicitation that there are capable,  
 1485 qualified certified minority business enterprises available to  
 1486 submit a bid, proposal, or reply on a contract to provide for  
 1487 effective competition. The Office of Supplier Diversity shall  
 1488 consult with any agency in reaching such determination when  
 1489 deemed appropriate.

1490 ~~(2)(b)~~ Before a contract may be reserved for solicitation  
 1491 only among certified minority business enterprises, the agency  
 1492 head must find that such a reservation is in the best interests  
 1493 of the state. All determinations shall be subject to s.  
 1494 287.4471(5) ~~287.09451(5)~~. Once a decision has been made to

HB 1905

2004

1495 reserve a contract, but before sealed bids, proposals, or  
 1496 replies are requested, the agency shall estimate what it expects  
 1497 the amount of the contract to be, based on the nature of the  
 1498 services or commodities involved and their value under  
 1499 prevailing market conditions. If all the sealed bids, proposals,  
 1500 or replies received are over this estimate, the agency may  
 1501 reject the bids, proposals, or replies and request new ones from  
 1502 certified minority business enterprises, or the agency may  
 1503 reject the bids, proposals, or replies and reopen the bidding to  
 1504 all eligible vendors.

1505 (3)~~(e)~~ All agencies shall consider the use of price  
 1506 preferences of up to 10 percent, weighted preference formulas,  
 1507 or other preferences for vendors as determined appropriate  
 1508 pursuant to guidelines established in accordance with s.  
 1509 287.4471(4) ~~287.09451(4)~~ to increase the participation of  
 1510 minority business enterprises.

1511 (4)~~(d)~~ All agencies shall avoid any undue concentration of  
 1512 contracts or purchases in categories of commodities or  
 1513 contractual services in order to meet the minority business  
 1514 enterprise purchasing goals in s. 287.4471 ~~287.09451~~.

1515 Section 42. Subsection (9) of section 287.057, Florida  
 1516 Statutes, is transferred to section 287.451, Florida Statutes,  
 1517 which is created to read:

1518 287.451 Reserved contracts for competitive solicitation.--

1519 ~~(9)~~ An agency may reserve any contract for competitive  
 1520 solicitation only among vendors who agree to use certified  
 1521 minority business enterprises as subcontractors or subvendors.  
 1522 The percentage of funds, in terms of gross contract amount and  
 1523 revenues, which must be expended with the certified minority

HB 1905

2004

1524 business enterprise subcontractors and subvendors shall be  
 1525 determined by the agency before such contracts may be reserved.  
 1526 In order to bid on a contract so reserved, the vendor shall  
 1527 identify those certified minority business enterprises which  
 1528 will be utilized as subcontractors or subvendors by sworn  
 1529 statement. At the time of performance or project completion, the  
 1530 contractor shall report by sworn statement the payments and  
 1531 completion of work for all certified minority business  
 1532 enterprises used in the contract.

1533 Section 43. Subsection (12) of section 287.057, Florida  
 1534 Statutes, is transferred to section 287.46, Florida Statutes,  
 1535 which is created to read:

1536 287.46 Equal response decisions.--

1537 ~~(12)~~ If two equal responses to a solicitation or a request  
 1538 for quote are received and one response is from a certified  
 1539 minority business enterprise, the agency shall enter into a  
 1540 contract with the certified minority business enterprise.

1541 Section 44. Subsection (13) of section 276.057, Florida  
 1542 Statutes, is transferred to section 287.331, Florida Statutes,  
 1543 which is created, and amended to read:

1544 287.331 Contract extension.--

1545 ~~(13)~~ Extension of a contract for contractual services  
 1546 shall be in writing for a period not to exceed 6 months and  
 1547 shall be subject to the same terms and conditions set forth in  
 1548 the initial contract. There shall be only one extension of a  
 1549 contract unless the failure to meet the criteria set forth in  
 1550 the contract for completion of the contract is due to events  
 1551 beyond the control of the contractor.

HB 1905

2004

1552 Section 45. Subsection (4) of section 288.012, Florida  
 1553 Statutes, is amended to read:

1554 288.012 State of Florida foreign offices.--The Legislature  
 1555 finds that the expansion of international trade and tourism is  
 1556 vital to the overall health and growth of the economy of this  
 1557 state. This expansion is hampered by the lack of technical and  
 1558 business assistance, financial assistance, and information  
 1559 services for businesses in this state. The Legislature finds  
 1560 that these businesses could be assisted by providing these  
 1561 services at State of Florida foreign offices. The Legislature  
 1562 further finds that the accessibility and provision of services  
 1563 at these offices can be enhanced through cooperative agreements  
 1564 or strategic alliances between state entities, local entities,  
 1565 foreign entities, and private businesses.

1566 (4) The Office of Tourism, Trade, and Economic  
 1567 Development, in connection with the establishment, operation,  
 1568 and management of any of its offices located in a foreign  
 1569 country, is exempt from the provisions of ss. 255.21, 255.25,  
 1570 and 255.254 relating to leasing of buildings; ~~ss. 283.33 and~~  
 1571 ~~283.35 relating to bids for printing;~~ ss. 287.001-287.69  
 1572 ~~287.001-287.20~~ relating to purchasing and motor vehicles; and  
 1573 ss. 282.003-282.111 relating to communications, and from all  
 1574 statutory provisions relating to state employment.

1575 (a) The Office of Tourism, Trade, and Economic Development  
 1576 may exercise such exemptions only upon prior approval of the  
 1577 Governor.

1578 (b) If approval for an exemption under this section is  
 1579 granted as an integral part of a plan of operation for a  
 1580 specified foreign office, such action shall constitute

HB 1905

2004

1581 continuing authority for the Office of Tourism, Trade, and  
 1582 Economic Development to exercise the exemption, but only in the  
 1583 context and upon the terms originally granted. Any modification  
 1584 of the approved plan of operation with respect to an exemption  
 1585 contained therein must be resubmitted to the Governor for his or  
 1586 her approval. An approval granted to exercise an exemption in  
 1587 any other context shall be restricted to the specific instance  
 1588 for which the exemption is to be exercised.

1589 (c) As used in this subsection, the term "plan of  
 1590 operation" means the plan developed pursuant to subsection (2).

1591 (d) Upon final action by the Governor with respect to a  
 1592 request to exercise the exemption authorized in this subsection,  
 1593 the Office of Tourism, Trade, and Economic Development shall  
 1594 report such action, along with the original request and any  
 1595 modifications thereto, to the President of the Senate and the  
 1596 Speaker of the House of Representatives within 30 days.

1597 Section 46. Subsection (1) of section 288.1167, Florida  
 1598 Statutes, is amended to read:

1599 288.1167 Sports franchise contract provisions for food and  
 1600 beverage concession and contract awards to minority business  
 1601 enterprises.--Any applicant who receives funding pursuant to the  
 1602 provisions of s. 212.20 must demonstrate that:

1603 (1) Funds and facilities with respect to food and beverage  
 1604 and related concessions shall be awarded to minority business  
 1605 enterprises as defined in s. 288.703 on the same terms and  
 1606 conditions as the general food and beverage concessionaire and  
 1607 in accordance with the minority business enterprise procurement  
 1608 goals set forth in s. 287.4471 ~~287.09451~~;



HB 1905

2004

1609 Section 47. Paragraph (b) of subsection (9) of section  
 1610 288.1224, Florida Statutes, is amended to read:

1611 288.1224 Powers and duties.--The commission:

1612 (9) Is authorized to establish and operate tourism offices  
 1613 in foreign countries in the execution of its responsibilities  
 1614 for promoting the development of tourism. To facilitate the  
 1615 performance of these responsibilities, the commission is  
 1616 authorized to contract with the commission's direct-support  
 1617 organization to establish and administer such offices. Where  
 1618 feasible, appropriate, and recommended by the 4-year marketing  
 1619 plan, the commission may collocate the programs of foreign  
 1620 tourism offices in cooperation with any foreign office operated  
 1621 by any agency of this state.

1622 (b) The Florida Commission on Tourism, or its direct-  
 1623 support organization, in connection with the establishment,  
 1624 operation, and management of any of its tourism offices located  
 1625 in a foreign country, is exempt from the provisions of ss.  
 1626 255.21, 255.25, and 255.254 relating to leasing of buildings;  
 1627 ~~ss. 283.33 and 283.35 relating to bids for printing;~~ ss.  
 1628 287.001-287.69 ~~287.001-287.20~~ relating to purchasing and motor  
 1629 vehicles; and ss. 282.003-282.111 relating to communications,  
 1630 and from all statutory provisions relating to state employment,  
 1631 if the laws, administrative code, or business practices or  
 1632 customs of the foreign country, or political or administrative  
 1633 subdivision thereof, in which such office is located are in  
 1634 conflict with these provisions.

1635 Section 48. Paragraph (d) of subsection (2) of section  
 1636 288.1226, Florida Statutes, is amended to read:

HB 1905

2004

1637 288.1226 Florida Tourism Industry Marketing Corporation;  
 1638 use of property; board of directors; duties; audit.--

1639 (2) ESTABLISHMENT.--The Florida Commission on Tourism  
 1640 shall establish, no later than July 31, 1996, the Florida  
 1641 Tourism Industry Marketing Corporation as a direct-support  
 1642 organization:

1643 (d) Which shall not be considered an agency for the  
 1644 purposes of chapters 120, 216, and 287; ss. 255.21, 255.25, and  
 1645 255.254, relating to leasing of buildings; ~~ss. 283.33 and~~  
 1646 ~~283.35, relating to bids for printing;~~ s. 215.31; and parts I,  
 1647 II, and IV-VIII of chapter 112.

1648 Section 49. Subsection (4) of section 288.703, Florida  
 1649 Statutes, is amended to read:

1650 288.703 Definitions.--As used in this act, the following  
 1651 words and terms shall have the following meanings unless the  
 1652 content shall indicate another meaning or intent:

1653 (4) "Certified minority business enterprise" means a  
 1654 business which has been certified by the certifying organization  
 1655 or jurisdiction in accordance with s. 287.4461(1) and (2)  
 1656 ~~287.0943(1) and (2)~~.

1657 Section 50. Subsection (12) of section 311.09, Florida  
 1658 Statutes, is amended to read:

1659 311.09 Florida Seaport Transportation and Economic  
 1660 Development Council.--

1661 (12) Members of the council shall serve without  
 1662 compensation but are entitled to receive reimbursement for per  
 1663 diem and travel expenses as provided in s. 112.061. The council  
 1664 may elect to provide an administrative staff to provide services  
 1665 to the council on matters relating to the Florida Seaport

HB 1905

2004

1666 Transportation and Economic Development Program and the council.  
 1667 The cost for such administrative services shall be paid by all  
 1668 ports that receive funding from the Florida Seaport  
 1669 Transportation and Economic Development Program, based upon a  
 1670 pro rata formula measured by each recipient's share of the funds  
 1671 as compared to the total funds disbursed to all recipients  
 1672 during the year. The share of costs for administrative services  
 1673 shall be paid in its total amount by the recipient port upon  
 1674 execution by the port and the Department of Transportation of a  
 1675 joint participation agreement for each council-approved project,  
 1676 and such payment is in addition to the matching funds required  
 1677 to be paid by the recipient port. Except as otherwise exempted  
 1678 by law, all moneys derived from the Florida Seaport  
 1679 Transportation and Economic Development Program shall be  
 1680 expended in accordance with the provisions of part II of chapter  
 1681 287 s. 287.057. Seaports subject to competitive negotiation  
 1682 requirements of a local governing body shall abide by the  
 1683 provisions of s. 287.125 ~~287.055~~.

1684 Section 51. Section 321.02, Florida Statutes, is amended  
 1685 to read:

1686 321.02 Powers and duties of department, highway  
 1687 patrol.--The director of the Division of Highway Patrol of the  
 1688 Department of Highway Safety and Motor Vehicles shall also be  
 1689 the commander of the Florida Highway Patrol. The said department  
 1690 shall set up and promulgate rules and regulations by which the  
 1691 personnel of the Florida Highway Patrol officers shall be  
 1692 examined, employed, trained, located, suspended, reduced in  
 1693 rank, discharged, recruited, paid and pensioned, subject to  
 1694 civil service provisions hereafter set out. The department may

HB 1905

2004

1695 enter into contracts or agreements, with or without competitive  
 1696 bidding or procurement, to make available, on a fair,  
 1697 reasonable, nonexclusive, and nondiscriminatory basis, property  
 1698 and other structures under division control for the placement of  
 1699 new facilities by any wireless provider of mobile service as  
 1700 defined in 47 U.S.C. s. 153(n) or s. 332(d), and any  
 1701 telecommunications company as defined in s. 364.02 when it is  
 1702 determined to be practical and feasible to make such property or  
 1703 other structures available. The department may, without adopting  
 1704 a rule, charge a just, reasonable, and nondiscriminatory fee for  
 1705 placement of the facilities, payable annually, based on the fair  
 1706 market value of space used by comparable communications  
 1707 facilities in the state. The department and a wireless provider  
 1708 or telecommunications company may negotiate the reduction or  
 1709 elimination of a fee in consideration of services provided to  
 1710 the division by the wireless provider or the telecommunications  
 1711 company. All such fees collected by the department shall be  
 1712 deposited directly into the State Agency Law Enforcement Radio  
 1713 System Trust Fund, and may be used to construct, maintain, or  
 1714 support the system. The department is further specifically  
 1715 authorized to purchase, sell, trade, rent, lease and maintain  
 1716 all necessary equipment, uniforms, motor vehicles, communication  
 1717 systems, housing facilities, office space, and perform any other  
 1718 acts necessary for the proper administration and enforcement of  
 1719 this chapter. However, all supplies and equipment consisting of  
 1720 single items or in lots shall be purchased under the  
 1721 requirements of part II of chapter 287 ~~s. 287.057~~. Purchases  
 1722 shall be made by accepting the bid of the lowest responsive  
 1723 bidder, the right being reserved to reject all bids. The

HB 1905

2004

1724 department shall prescribe a distinctive uniform and distinctive  
 1725 emblem to be worn by all officers of the Florida Highway Patrol.  
 1726 It shall be unlawful for any other person or persons to wear a  
 1727 similar uniform or emblem, or any part or parts thereof. The  
 1728 department shall also prescribe distinctive colors for use on  
 1729 motor vehicles and motorcycles operated by the Florida Highway  
 1730 Patrol. The prescribed colors shall be referred to as "Florida  
 1731 Highway Patrol black and tan."

1732 Section 52. Subsection (10) of section 332.14, Florida  
 1733 Statutes, is amended to read:

1734 332.14 Secure Airports for Florida's Economy Council.--

1735 (10) Except as otherwise exempted by law, all moneys  
 1736 derived from the SAFE programs shall be expended in accordance  
 1737 with the provisions of part II of chapter 287 ~~s. 287.057~~.  
 1738 Airports subject to competitive negotiation requirements of a  
 1739 local governing body are exempt from this requirement.

1740 Section 53. Subsection (1) of section 337.02, Florida  
 1741 Statutes, is amended to read:

1742 337.02 Purchases by department subject to competitive  
 1743 bids; advertisement; emergency purchases; bid specifications.--

1744 (1) Except as provided herein, purchase by the Department  
 1745 of Transportation of commodities, including the advertising and  
 1746 awarding of competitive bids, shall be governed by chapters 283  
 1747 and 287 and rules adopted by the Department of Management  
 1748 Services pursuant thereto. However, the provisions of part II of  
 1749 chapter 287 ~~s. 287.057~~ notwithstanding, the department may  
 1750 purchase parts and repairs valued at up to the threshold amount  
 1751 provided in s. 287.028 ~~287.017~~ for CATEGORY TWO for the repair  
 1752 of mobile road maintenance equipment, marine vessels, permanent

HB 1905

2004

1753 vehicle scales, and mechanical and electrical equipment for  
 1754 movable bridges, toll facilities including the Florida Turnpike,  
 1755 and up to the threshold amount provided in s. 287.028 ~~287.017~~  
 1756 for CATEGORY THREE for treatment plants and lift stations for  
 1757 water and sewage, and major heating and cooling systems without  
 1758 receiving competitive bids.

1759 Section 54. Subsections (2) and (3) of section 337.105,  
 1760 Florida Statutes, are amended to read:

1761 337.105 Qualifications of professional consultants and  
 1762 other providers of contractual services; performance bonds; and  
 1763 audits of indirect costs.--

1764 (2) For any contractual service, except a contractual  
 1765 service provided to the department under s. 287.125 ~~287.055~~, the  
 1766 department may require a performance bond equal to the full  
 1767 contract value if such requirement is deemed to be in the best  
 1768 interest of the state.

1769 (3) The department may require providers of professional  
 1770 services acquired under s. 287.125 ~~287.055~~ to submit annual  
 1771 audits of their indirect costs performed in accordance with  
 1772 department guidelines. The department may establish limits on  
 1773 the indirect cost rates it will accept.

1774 Section 55. Section 337.107, Florida Statutes, is amended  
 1775 to read:

1776 337.107 Contracts for right-of-way services.--The  
 1777 department may enter into contracts pursuant to s. 287.125  
 1778 ~~287.055~~ for right-of-way services on transportation corridors  
 1779 and transportation facilities. Right-of-way services include  
 1780 negotiation and acquisition services, appraisal services,

HB 1905

2004

1781 demolition and removal of improvements, and asbestos-abatement  
 1782 services.

1783 Section 56. Section 337.1075, Florida Statutes, is amended  
 1784 to read:

1785 337.1075 Contracts for planning services.--The department  
 1786 may enter into contracts pursuant to s. 287.125 ~~287.055~~ for  
 1787 professional transportation-related planning services to be  
 1788 provided by planners certified by the American Institute of  
 1789 Certified Planners.

1790 Section 57. Subsection (7) of section 337.14, Florida  
 1791 Statutes, is amended to read:

1792 337.14 Application for qualification; certificate of  
 1793 qualification; restrictions; request for hearing.--

1794 (7) No "contractor" as defined in s. 337.165(1)(d) or his  
 1795 or her "affiliate" as defined in s. 337.165(1)(a) qualified with  
 1796 the department under this section may also qualify under s.  
 1797 287.125 ~~287.055~~ or s. 337.105 to provide testing services,  
 1798 construction, engineering, and inspection services to the  
 1799 department. This limitation shall not apply to any design-build  
 1800 prequalification under s. 337.11(7).

1801 Section 58. Paragraph (p) of subsection (3) of section  
 1802 343.54, Florida Statutes, is amended to read:

1803 343.54 Powers and duties.--

1804 (3) The authority may exercise all powers necessary,  
 1805 appurtenant, convenient, or incidental to the carrying out of  
 1806 the aforesaid purposes, including, but not limited to, the  
 1807 following rights and powers:

1808 (p) To purchase by directly contracting with local,  
 1809 national, or international insurance companies to provide

HB 1905

2004

1810 liability insurance which the authority is contractually and  
 1811 legally obligated to provide, the requirements of s. 287.124(1)  
 1812 ~~287.022(1)~~, notwithstanding.

1813 Section 59. Paragraph (p) of subsection (2) of section  
 1814 343.64, Florida Statutes, is amended to read:

1815 343.64 Powers and duties.--

1816 (2) The authority may exercise all powers necessary,  
 1817 appurtenant, convenient, or incidental to the carrying out of  
 1818 the aforesaid purposes, including, but not limited to, the  
 1819 following rights and powers:

1820 (p) To purchase directly from local, national, or  
 1821 international insurance companies liability insurance which the  
 1822 authority is contractually and legally obligated to provide, the  
 1823 requirements of s. 287.124(1) ~~287.022(1)~~ notwithstanding.

1824 Section 60. Paragraph (p) of subsection (2) of section  
 1825 343.74, Florida Statutes, is amended to read:

1826 343.74 Powers and duties.--

1827 (2) The authority may exercise all powers necessary,  
 1828 appurtenant, convenient, or incidental to the carrying out of  
 1829 the aforesaid purposes, including, but not limited to, the  
 1830 following rights and powers:

1831 (p) To purchase directly from local, national, or  
 1832 international insurance companies liability insurance that the  
 1833 authority is contractually and legally obligated to provide, the  
 1834 requirements of s. 287.124(1) ~~287.022(1)~~ notwithstanding.

1835 Section 61. Subsection (7) of section 372.0222, Florida  
 1836 Statutes, is amended to read:

1837 372.0222 Private publication agreements; advertising;  
 1838 costs of production.--



HB 1905

2004

1839 (7) Notwithstanding the provisions of parts I-VII ~~part I~~  
 1840 of chapter 287, the commission may adopt rules for the purpose  
 1841 of entering into contracts that are primarily for promotional  
 1842 and advertising services and promotional events which may  
 1843 include the authority to negotiate costs with offerors of such  
 1844 services and commodities who have been determined to be  
 1845 qualified on the basis of technical merit, creative ability, and  
 1846 professional competency.

1847 Section 62. Paragraphs (a) and (c) of subsection (2) of  
 1848 section 376.30711, Florida Statutes, are amended to read:

1849 376.30711 Preapproved site rehabilitation, effective March  
 1850 29, 1995.--

1851 (2)(a) Competitive bidding pursuant to this section shall  
 1852 not be subject to the requirements of s. 287.125 ~~287.055~~. The  
 1853 department is authorized to use competitive bid procedures or  
 1854 negotiated contracts for preapproving all costs and  
 1855 rehabilitation procedures for site-specific rehabilitation  
 1856 projects through performance-based contracts. Site  
 1857 rehabilitation shall be conducted according to the priority  
 1858 ranking order established pursuant to s. 376.3071(5).

1859 (c) The contractor shall certify to the department that  
 1860 such contractor:

- 1861 1. Complies with applicable OSHA regulations.
- 1862 2. Maintains workers' compensation insurance for all  
 1863 employees as required by the Florida Workers' Compensation Law.
- 1864 3. Maintains comprehensive general liability and  
 1865 comprehensive automobile liability insurance with minimum limits  
 1866 of at least \$1 million per occurrence and \$1 million annual  
 1867 aggregate, as shall protect it from claims for damage for

HB 1905

2004

1868 personal injury, including accidental death, as well as claims  
 1869 for property damage which may arise from performance of work  
 1870 under the program, designating the state as an additional  
 1871 insured party.

1872 4. Maintains professional liability insurance of at least  
 1873 \$1 million per occurrence and \$1 million annual aggregate.

1874 5. Has completed and submitted a sworn statement under s.  
 1875 287.562(3)(a) ~~287.133(3)(a)~~, on public entity crimes.

1876 6. Has the capacity to perform or directly supervise the  
 1877 majority of the work at a site in accordance with s. 489.113(9).

1878 Section 63. Subsections (4) and (11) of section 376.3075,  
 1879 Florida Statutes, are amended to read:

1880 376.3075 Inland Protection Financing Corporation.--

1881 (4) The corporation is authorized to enter into one or  
 1882 more service contracts with the department pursuant to which the  
 1883 corporation shall provide services to the department in  
 1884 connection with financing the functions and activities provided  
 1885 for in ss. 376.30-376.319. The department may enter into one or  
 1886 more such service contracts with the corporation and to provide  
 1887 for payments under such contracts pursuant to s. 376.3071(4)(o),  
 1888 subject to annual appropriation by the Legislature. The proceeds  
 1889 from such service contracts may be used for the costs and  
 1890 expenses of administration of the corporation after payments as  
 1891 set forth in subsection (5). Each service contract shall have a  
 1892 term not to exceed 10 years and shall terminate no later than  
 1893 July 1, 2011. The aggregate amount payable from the Inland  
 1894 Protection Trust Fund under all such service contracts shall not  
 1895 exceed \$65 million in any state fiscal year. Amounts annually  
 1896 appropriated and applied to make payments under such service

HB 1905

2004

1897 contracts shall not include any funds derived from penalties or  
 1898 other payments received from any property owner or private  
 1899 party, including payments received from s. 376.3071(6)(b). In  
 1900 compliance with provisions of s. 287.1385 ~~287.0641~~ and other  
 1901 applicable provisions of law, the obligations of the department  
 1902 under such service contracts shall not constitute a general  
 1903 obligation of the state or a pledge of the faith and credit or  
 1904 taxing power of the state nor shall such obligations be  
 1905 construed in any manner as an obligation of the State Board of  
 1906 Administration or entities for which it invests funds, other  
 1907 than the department as provided in this section, but shall be  
 1908 payable solely from amounts available in the Inland Protection  
 1909 Trust Fund, subject to annual appropriation. In compliance with  
 1910 this subsection and s. 287.311 ~~287.0582~~, the service contract  
 1911 shall expressly include the following statement: "The State of  
 1912 Florida's performance and obligation to pay under this contract  
 1913 is contingent upon an annual appropriation by the Legislature."

1914 (11) The corporation shall not be deemed to be a special  
 1915 district for purposes of chapter 189 or a unit of local  
 1916 government for purposes of part III of chapter 218. The  
 1917 provisions of chapters 120 and 215, except the limitation on  
 1918 interest rates provided by s. 215.84 which applies to  
 1919 obligations of the corporation issued pursuant to this section,  
 1920 and parts I-VII ~~part I~~ of chapter 287, except ss. 287.1385 and  
 1921 287.311 ~~287.0582~~ and ~~287.0641~~, shall not apply to this section,  
 1922 the corporation created hereby, the service contracts entered  
 1923 into pursuant to this section, or to debt obligations issued by  
 1924 the corporation as contemplated in this section.

HB 1905

2004

1925 Section 64. Paragraph (g) of subsection (1) of section  
 1926 376.84, Florida Statutes, is amended to read:

1927 376.84 Brownfield redevelopment economic incentives.--It  
 1928 is the intent of the Legislature that brownfield redevelopment  
 1929 activities be viewed as opportunities to significantly improve  
 1930 the utilization, general condition, and appearance of these  
 1931 sites. Different standards than those in place for new  
 1932 development, as allowed under current state and local laws,  
 1933 should be used to the fullest extent to encourage the  
 1934 redevelopment of a brownfield. State and local governments are  
 1935 encouraged to offer redevelopment incentives for this purpose,  
 1936 as an ongoing public investment in infrastructure and services,  
 1937 to help eliminate the public health and environmental hazards,  
 1938 and to promote the creation of jobs in these areas. Such  
 1939 incentives may include financial, regulatory, and technical  
 1940 assistance to persons and businesses involved in the  
 1941 redevelopment of the brownfield pursuant to this act.

1942 (1) Financial incentives and local incentives for  
 1943 redevelopment may include, but not be limited to:

1944 (g) Minority business enterprise programs as provided in  
 1945 s. 287.4461 ~~287.0943~~.

1946 Section 65. Paragraph (j) of subsection (3) of section  
 1947 381.0065, Florida Statutes, is amended to read:

1948 381.0065 Onsite sewage treatment and disposal systems;  
 1949 regulation.--

1950 (3) DUTIES AND POWERS OF THE DEPARTMENT OF HEALTH.--The  
 1951 department shall:

1952 (j) Supervise research on, demonstration of, and training  
 1953 on the performance, environmental impact, and public health

HB 1905

2004

1954 impact of onsite sewage treatment and disposal systems within  
 1955 this state. Research fees collected under s. 381.0066(2)(k) must  
 1956 be used to develop and fund hands-on training centers designed  
 1957 to provide practical information about onsite sewage treatment  
 1958 and disposal systems to septic tank contractors, master septic  
 1959 tank contractors, contractors, inspectors, engineers, and the  
 1960 public and must also be used to fund research projects which  
 1961 focus on improvements of onsite sewage treatment and disposal  
 1962 systems, including use of performance-based standards and  
 1963 reduction of environmental impact. Research projects shall be  
 1964 initially approved by the technical advisory panel and shall be  
 1965 applicable to and reflect the soil conditions specific to  
 1966 Florida. Such projects shall be awarded through competitive  
 1967 negotiation, using the procedures provided in s. 287.125  
 1968 ~~287.055~~, to public or private entities that have experience in  
 1969 onsite sewage treatment and disposal systems in Florida and that  
 1970 are principally located in Florida. Research projects shall not  
 1971 be awarded to firms or entities that employ or are associated  
 1972 with persons who serve on either the technical advisory panel or  
 1973 the research review and advisory committee.

1974 Section 66. Subsection (3) of section 394.457, Florida  
 1975 Statutes, is amended to read:

1976 394.457 Operation and administration.--

1977 (3) POWER TO CONTRACT.--The department may contract to  
 1978 provide, and be provided with, services and facilities in order  
 1979 to carry out its responsibilities under this part with the  
 1980 following agencies: public and private hospitals; receiving and  
 1981 treatment facilities; clinics; laboratories; departments,  
 1982 divisions, and other units of state government; the state

HB 1905

2004

1983 colleges and universities; the community colleges; private  
 1984 colleges and universities; counties, municipalities, and any  
 1985 other governmental unit, including facilities of the United  
 1986 States Government; and any other public or private entity which  
 1987 provides or needs facilities or services. Baker Act funds for  
 1988 community inpatient, crisis stabilization, short-term  
 1989 residential treatment, and screening services must be allocated  
 1990 to each county pursuant to the department's funding allocation  
 1991 methodology. Notwithstanding the provisions of s. 287.123  
 1992 ~~287.057(5)(f)~~, contracts for community-based Baker Act services  
 1993 for inpatient, crisis stabilization, short-term residential  
 1994 treatment, and screening provided under this part, other than  
 1995 those with other units of government, to be provided for the  
 1996 department must be awarded using competitive sealed bids when  
 1997 the county commission of the county receiving the services makes  
 1998 a request to the department's district office by January 15 of  
 1999 the contracting year. The district shall not enter into a  
 2000 competitively bid contract under this provision if such action  
 2001 will result in increases of state or local expenditures for  
 2002 Baker Act services within the district. Contracts for these  
 2003 Baker Act services using competitive sealed bids will be  
 2004 effective for 3 years. Services contracted for by the department  
 2005 may be reimbursed by the state at a rate up to 100 percent. The  
 2006 department shall adopt rules establishing minimum standards for  
 2007 such contracted services and facilities and shall make periodic  
 2008 audits and inspections to assure that the contracted services  
 2009 are provided and meet the standards of the department.

2010 Section 67. Paragraph (a) of subsection (1) of section  
 2011 394.47865, Florida Statutes, is amended to read:

HB 1905

2004

2012 394.47865 South Florida State Hospital; privatization.--

2013 (1) The Department of Children and Family Services shall,  
 2014 through a request for proposals, privatize South Florida State  
 2015 Hospital. The department shall plan to begin implementation of  
 2016 this privatization initiative by July 1, 1998.

2017 (a) Notwithstanding s. 287.332 ~~287.057(14)~~, the department  
 2018 may enter into agreements, not to exceed 20 years, with a  
 2019 private provider, a coalition of providers, or another agency to  
 2020 finance, design, and construct a treatment facility having up to  
 2021 350 beds and to operate all aspects of daily operations within  
 2022 the facility. The department may subcontract any or all  
 2023 components of this procurement to a statutorily established  
 2024 state governmental entity that has successfully contracted with  
 2025 private companies for designing, financing, acquiring, leasing,  
 2026 constructing, and operating major privatized state facilities.

2027 Section 68. Paragraph (c) of subsection (5) and subsection  
 2028 (8) of section 402.40, Florida Statutes, are amended to read:

2029 402.40 Child welfare training.--

2030 (5) CORE COMPETENCIES.--

2031 (c) Notwithstanding ss. 287.0335, 287.0336, 287.0337,  
 2032 287.123, and 287.0341 ~~s. 287.057(5) and (22)~~, the department  
 2033 shall competitively solicit and contract for the development,  
 2034 validation, and periodic evaluation of the training curricula  
 2035 for the established single integrated curriculum. No more than  
 2036 one training curriculum may be developed for each specific  
 2037 subset of the core competencies.

2038 (8) ESTABLISHMENT OF TRAINING ACADEMIES.--The department  
 2039 shall establish child welfare training academies as part of a  
 2040 comprehensive system of child welfare training. In establishing

HB 1905

2004

2041 a program of training, the department may contract for the  
 2042 operation of one or more training academies to perform one or  
 2043 more of the following: to offer one or more of the training  
 2044 curricula developed under subsection (5); to administer the  
 2045 certification process; to develop, validate, and periodically  
 2046 evaluate additional training curricula determined to be  
 2047 necessary, including advanced training that is specific to a  
 2048 region or contractor, or that meets a particular training need;  
 2049 or to offer the additional training curricula. The number,  
 2050 location, and timeframe for establishment of training academies  
 2051 shall be approved by the Secretary of Children and Family  
 2052 Services who shall ensure that the goals for the core  
 2053 competencies and the single integrated curriculum, the  
 2054 certification process, the trainer qualifications, and the  
 2055 additional training needs are addressed. Notwithstanding ss.  
 2056 287.0335, 287.0336, 287.0337, 287.123, and 287.0341 ~~s-~~  
 2057 ~~287.057(5) and (22)~~, the department shall competitively solicit  
 2058 all training academy contracts.

2059 Section 69. Subsections (1), (3), and (5) of section  
 2060 402.73, Florida Statutes, are amended to read:

2061 402.73 Contracting and performance standards.--

2062 (1) The Department of Children and Family Services shall  
 2063 establish performance standards for all contracted client  
 2064 services. Notwithstanding s. 287.123 ~~287.057(5)(f)~~, the  
 2065 department must competitively procure any contract for client  
 2066 services when any of the following occurs:

2067 (a) The provider fails to meet appropriate performance  
 2068 standards established by the department after the provider has



HB 1905

2004

2069 | been given a reasonable opportunity to achieve the established  
 2070 | standards.

2071 |         (b) A new program or service has been authorized and  
 2072 | funded by the Legislature and the annual value of the contract  
 2073 | for such program or service is \$300,000 or more.

2074 |         (c) The department has concluded, after reviewing market  
 2075 | prices and available treatment options, that there is evidence  
 2076 | that the department can improve the performance outcomes  
 2077 | produced by its contract resources. At a minimum, the department  
 2078 | shall review market prices and available treatment options  
 2079 | biennially. The department shall compile the results of the  
 2080 | biennial review and include the results in its annual  
 2081 | performance report to the Legislature pursuant to chapter 94-  
 2082 | 249, Laws of Florida. The department shall provide notice and an  
 2083 | opportunity for public comment on its review of market prices  
 2084 | and available treatment options.

2085 |         (3) The Legislature intends that the department obtain  
 2086 | services in the manner that is most cost-effective for the  
 2087 | state, that provides the greatest long-term benefits to the  
 2088 | clients receiving services, and that minimizes the disruption of  
 2089 | client services. In order to meet these legislative goals, the  
 2090 | department may adopt rules providing procedures for the  
 2091 | competitive procurement of contracted client services which  
 2092 | represent an alternative to the request-for-proposal or  
 2093 | invitation-to-bid process. The alternative competitive  
 2094 | procedures shall permit the department to solicit professional  
 2095 | qualifications from prospective providers and to evaluate such  
 2096 | statements of qualification before requesting service proposals.  
 2097 | The department may limit the firms invited to submit service

HB 1905

2004

2098 proposals to only those firms that have demonstrated the highest  
 2099 level of professional capability to provide the services under  
 2100 consideration, but may not invite fewer than three firms to  
 2101 submit service proposals, unless fewer than three firms  
 2102 submitted satisfactory statements of qualification. The  
 2103 alternative procedures must, at a minimum, allow the department  
 2104 to evaluate competing proposals and select the proposal that  
 2105 provides the greatest benefit to the state while considering the  
 2106 quality of the services, dependability, and integrity of the  
 2107 provider, the dependability of the provider's services, the  
 2108 experience of the provider in serving target populations or  
 2109 client groups substantially identical to members of the target  
 2110 population for the contract in question, and the ability of the  
 2111 provider to secure local funds to support the delivery of  
 2112 services, including, but not limited to, funds derived from  
 2113 local governments. These alternative procedures need not conform  
 2114 to the requirements of s. 287.026 ~~287.042~~ or ss. 287.0331 and  
 2115 287.0332 ~~s. 287.057(1) or (2)~~.

2116 (5) When it is in the best interest of a defined segment  
 2117 of its consumer population, the department may competitively  
 2118 procure and contract for systems of treatment or service that  
 2119 involve multiple providers, rather than procuring and  
 2120 contracting for treatment or services separately from each  
 2121 participating provider. The department must ensure that all  
 2122 providers that participate in the treatment or service system  
 2123 meet all applicable statutory, regulatory, service-quality, and  
 2124 cost-control requirements. If other governmental entities or  
 2125 units of special purpose government contribute matching funds to  
 2126 the support of a given system of treatment or service, the

HB 1905

2004

2127 department shall formally request information from those funding  
 2128 entities in the procurement process and may take the information  
 2129 received into account in the selection process. If a local  
 2130 government contributes match to support the system of treatment  
 2131 or contracted service and if the match constitutes at least 25  
 2132 percent of the value of the contract, the department shall  
 2133 afford the governmental match contributor an opportunity to name  
 2134 an employee as one of the persons required by s. 287.036  
 2135 ~~287.057(17)~~ to evaluate or negotiate certain contracts, unless  
 2136 the department sets forth in writing the reason why such  
 2137 inclusion would be contrary to the best interest of the state.  
 2138 Any employee so named by the governmental match contributor  
 2139 shall qualify as one of the persons required by s. 287.036  
 2140 ~~287.057(17)~~. No governmental entity or unit of special purpose  
 2141 government may name an employee as one of the persons required  
 2142 by s. 287.036 ~~287.057(17)~~ if it, or any of its political  
 2143 subdivisions, executive agencies, or special districts, intends  
 2144 to compete for the contract to be awarded. The governmental  
 2145 funding entity or match contributor shall comply with any  
 2146 deadlines and procurement procedures established by the  
 2147 department. The department may also involve nongovernmental  
 2148 funding entities in the procurement process when appropriate.

2149 Section 70. Subsections (5) and (10) of section 403.1837,  
 2150 Florida Statutes, are amended to read:

2151 403.1837 Florida Water Pollution Control Financing  
 2152 Corporation.--

2153 (5) The corporation may enter into one or more service  
 2154 contracts with the department under which the corporation shall  
 2155 provide services to the department in connection with financing

HB 1905

2004

2156 the functions, projects, and activities provided for in s.  
 2157 403.1835. The department may enter into one or more service  
 2158 contracts with the corporation and provide for payments under  
 2159 those contracts pursuant to s. 403.1835(9), subject to annual  
 2160 appropriation by the Legislature. The service contracts may  
 2161 provide for the transfer of all or a portion of the funds in the  
 2162 Wastewater Treatment and Stormwater Management Revolving Loan  
 2163 Trust Fund to the corporation for use by the corporation for  
 2164 costs incurred by the corporation in its operations, including,  
 2165 but not limited to, payment of debt service, reserves, or other  
 2166 costs in relation to bonds issued by the corporation, for use by  
 2167 the corporation at the request of the department to directly  
 2168 provide the types of local financial assistance provided for in  
 2169 s. 403.1835(3), or for payment of the administrative costs of  
 2170 the corporation. The department may not transfer funds under any  
 2171 service contract with the corporation without specific  
 2172 appropriation for such purpose in the General Appropriations  
 2173 Act, except for administrative expenses incurred by the State  
 2174 Board of Administration or other expenses necessary under  
 2175 documents authorizing or securing previously issued bonds of the  
 2176 corporation. The service contracts may also provide for the  
 2177 assignment or transfer to the corporation of any loans made by  
 2178 the department. The service contracts may establish the  
 2179 operating relationship between the department and the  
 2180 corporation and shall require the department to request the  
 2181 corporation to issue bonds before any issuance of bonds by the  
 2182 corporation, to take any actions necessary to enforce the  
 2183 agreements entered into between the corporation and other  
 2184 parties, and to take all other actions necessary to assist the

HB 1905

2004

2185 corporation in its operations. In compliance with s. 287.1385  
 2186 ~~287.0641~~ and other applicable provisions of law, the obligations  
 2187 of the department under the service contracts do not constitute  
 2188 a general obligation of the state or a pledge of the faith and  
 2189 credit or taxing power of the state, nor may the obligations be  
 2190 construed in any manner as an obligation of the State Board of  
 2191 Administration or entities for which it invests funds, or of the  
 2192 department except as provided in this section as payable solely  
 2193 from amounts available under any service contract between the  
 2194 corporation and the department, subject to appropriation. In  
 2195 compliance with this subsection and s. 287.311 ~~287.0582~~, service  
 2196 contracts must expressly include the following statement: "The  
 2197 State of Florida's performance and obligation to pay under this  
 2198 contract is contingent upon an annual appropriation by the  
 2199 Legislature."

2200 (10) The corporation is not a special district for  
 2201 purposes of chapter 189 or a unit of local government for  
 2202 purposes of part III of chapter 218. The provisions of chapters  
 2203 120 and 215, except the limitation on interest rates provided by  
 2204 s. 215.84, which applies to obligations of the corporation  
 2205 issued under this section, and parts I-VII ~~part I~~ of chapter  
 2206 287, except ss. 287.1385 and 287.311 ~~287.0582 and 287.0641~~, do  
 2207 not apply to this section, the corporation created in this  
 2208 section, the service contracts entered into under this section,  
 2209 or debt obligations issued by the corporation as provided in  
 2210 this section.

2211 Section 71. Subsection (1) of section 403.7065, Florida  
 2212 Statutes, is amended to read:

HB 1905

2004

2213 403.7065 Procurement of products or materials with  
 2214 recycled content.--

2215 (1) Except as provided in s. 287.128 ~~287.045~~, any state  
 2216 agency or agency of a political subdivision of the state which  
 2217 is using state funds, or any person contracting with any such  
 2218 agency with respect to work performed under contract, is  
 2219 required to procure products or materials with recycled content  
 2220 when the Department of Management Services determines that those  
 2221 products or materials are available. A decision not to procure  
 2222 such items must be based on the Department of Management  
 2223 Services' determination that such procurement is not reasonably  
 2224 available within an acceptable period of time, fails to meet the  
 2225 performance standards set forth in the applicable  
 2226 specifications, or fails to meet the performance standards of  
 2227 the agency. When the requirements of s. 287.128 ~~287.045~~ are met,  
 2228 agencies shall be subject to the procurement requirements of  
 2229 that section for procuring products or materials with recycled  
 2230 content.

2231 Section 72. Subsection (2) of section 408.045, Florida  
 2232 Statutes, is amended to read:

2233 408.045 Certificate of need; competitive sealed  
 2234 proposals.--

2235 (2) The agency shall make a decision regarding the  
 2236 issuance of the certificate of need in accordance with the  
 2237 provisions of s. 287.036 ~~287.057(17)~~, rules adopted by the  
 2238 agency relating to intermediate care facilities for the  
 2239 developmentally disabled, and the criteria in s. 408.035, as  
 2240 further defined by rule.

HB 1905

2004

2241 Section 73. Section 409.908, Florida Statutes, is amended  
 2242 to read:

2243 409.908 Reimbursement of Medicaid providers.--Subject to  
 2244 specific appropriations, the agency shall reimburse Medicaid  
 2245 providers, in accordance with state and federal law, according  
 2246 to methodologies set forth in the rules of the agency and in  
 2247 policy manuals and handbooks incorporated by reference therein.  
 2248 These methodologies may include fee schedules, reimbursement  
 2249 methods based on cost reporting, negotiated fees, competitive  
 2250 bidding pursuant to part II of chapter 287 ~~s. 287.057~~, and other  
 2251 mechanisms the agency considers efficient and effective for  
 2252 purchasing services or goods on behalf of recipients. If a  
 2253 provider is reimbursed based on cost reporting and submits a  
 2254 cost report late and that cost report would have been used to  
 2255 set a lower reimbursement rate for a rate semester, then the  
 2256 provider's rate for that semester shall be retroactively  
 2257 calculated using the new cost report, and full payment at the  
 2258 recalculated rate shall be affected retroactively. Medicare-  
 2259 granted extensions for filing cost reports, if applicable, shall  
 2260 also apply to Medicaid cost reports. Payment for Medicaid  
 2261 compensable services made on behalf of Medicaid eligible persons  
 2262 is subject to the availability of moneys and any limitations or  
 2263 directions provided for in the General Appropriations Act or  
 2264 chapter 216. Further, nothing in this section shall be construed  
 2265 to prevent or limit the agency from adjusting fees,  
 2266 reimbursement rates, lengths of stay, number of visits, or  
 2267 number of services, or making any other adjustments necessary to  
 2268 comply with the availability of moneys and any limitations or

HB 1905

2004

2269 directions provided for in the General Appropriations Act,  
 2270 provided the adjustment is consistent with legislative intent.

2271 (1) Reimbursement to hospitals licensed under part I of  
 2272 chapter 395 must be made prospectively or on the basis of  
 2273 negotiation.

2274 (a) Reimbursement for inpatient care is limited as  
 2275 provided for in s. 409.905(5), except for:

2276 1. The raising of rate reimbursement caps, excluding rural  
 2277 hospitals.

2278 2. Recognition of the costs of graduate medical education.

2279 3. Other methodologies recognized in the General  
 2280 Appropriations Act.

2281 4. Hospital inpatient rates shall be reduced by 6 percent  
 2282 effective July 1, 2001, and restored effective April 1, 2002.

2283 During the years funds are transferred from the Department  
 2284 of Health, any reimbursement supported by such funds shall be  
 2285 subject to certification by the Department of Health that the  
 2286 hospital has complied with s. 381.0403. The agency is authorized  
 2287 to receive funds from state entities, including, but not limited  
 2288 to, the Department of Health, local governments, and other local  
 2289 political subdivisions, for the purpose of making special  
 2290 exception payments, including federal matching funds, through  
 2291 the Medicaid inpatient reimbursement methodologies. Funds  
 2292 received from state entities or local governments for this  
 2293 purpose shall be separately accounted for and shall not be  
 2294 commingled with other state or local funds in any manner. The  
 2295 agency may certify all local governmental funds used as state  
 2296 match under Title XIX of the Social Security Act, to the extent  
 2297 that the identified local health care provider that is otherwise



HB 1905

2004

2298 entitled to and is contracted to receive such local funds is the  
 2299 benefactor under the state's Medicaid program as determined  
 2300 under the General Appropriations Act and pursuant to an  
 2301 agreement between the Agency for Health Care Administration and  
 2302 the local governmental entity. The local governmental entity  
 2303 shall use a certification form prescribed by the agency. At a  
 2304 minimum, the certification form shall identify the amount being  
 2305 certified and describe the relationship between the certifying  
 2306 local governmental entity and the local health care provider.  
 2307 The agency shall prepare an annual statement of impact which  
 2308 documents the specific activities undertaken during the previous  
 2309 fiscal year pursuant to this paragraph, to be submitted to the  
 2310 Legislature no later than January 1, annually.

2311 (b) Reimbursement for hospital outpatient care is limited  
 2312 to \$1,500 per state fiscal year per recipient, except for:

- 2313 1. Such care provided to a Medicaid recipient under age
- 2314 21, in which case the only limitation is medical necessity.
- 2315 2. Renal dialysis services.
- 2316 3. Other exceptions made by the agency.

2317 The agency is authorized to receive funds from state  
 2318 entities, including, but not limited to, the Department of  
 2319 Health, the Board of Regents, local governments, and other local  
 2320 political subdivisions, for the purpose of making payments,  
 2321 including federal matching funds, through the Medicaid  
 2322 outpatient reimbursement methodologies. Funds received from  
 2323 state entities and local governments for this purpose shall be  
 2324 separately accounted for and shall not be commingled with other  
 2325 state or local funds in any manner.

HB 1905

2004

2326 (c) Hospitals that provide services to a disproportionate  
 2327 share of low-income Medicaid recipients, or that participate in  
 2328 the regional perinatal intensive care center program under  
 2329 chapter 383, or that participate in the statutory teaching  
 2330 hospital disproportionate share program may receive additional  
 2331 reimbursement. The total amount of payment for disproportionate  
 2332 share hospitals shall be fixed by the General Appropriations  
 2333 Act. The computation of these payments must be made in  
 2334 compliance with all federal regulations and the methodologies  
 2335 described in ss. 409.911, 409.9112, and 409.9113.

2336 (d) The agency is authorized to limit inflationary  
 2337 increases for outpatient hospital services as directed by the  
 2338 General Appropriations Act.

2339 (2)(a)1. Reimbursement to nursing homes licensed under  
 2340 part II of chapter 400 and state-owned-and-operated intermediate  
 2341 care facilities for the developmentally disabled licensed under  
 2342 chapter 393 must be made prospectively.

2343 2. Unless otherwise limited or directed in the General  
 2344 Appropriations Act, reimbursement to hospitals licensed under  
 2345 part I of chapter 395 for the provision of swing-bed nursing  
 2346 home services must be made on the basis of the average statewide  
 2347 nursing home payment, and reimbursement to a hospital licensed  
 2348 under part I of chapter 395 for the provision of skilled nursing  
 2349 services must be made on the basis of the average nursing home  
 2350 payment for those services in the county in which the hospital  
 2351 is located. When a hospital is located in a county that does not  
 2352 have any community nursing homes, reimbursement must be  
 2353 determined by averaging the nursing home payments, in counties  
 2354 that surround the county in which the hospital is located.

HB 1905

2004

2355 Reimbursement to hospitals, including Medicaid payment of  
 2356 Medicare copayments, for skilled nursing services shall be  
 2357 limited to 30 days, unless a prior authorization has been  
 2358 obtained from the agency. Medicaid reimbursement may be extended  
 2359 by the agency beyond 30 days, and approval must be based upon  
 2360 verification by the patient's physician that the patient  
 2361 requires short-term rehabilitative and recuperative services  
 2362 only, in which case an extension of no more than 15 days may be  
 2363 approved. Reimbursement to a hospital licensed under part I of  
 2364 chapter 395 for the temporary provision of skilled nursing  
 2365 services to nursing home residents who have been displaced as  
 2366 the result of a natural disaster or other emergency may not  
 2367 exceed the average county nursing home payment for those  
 2368 services in the county in which the hospital is located and is  
 2369 limited to the period of time which the agency considers  
 2370 necessary for continued placement of the nursing home residents  
 2371 in the hospital.

2372 (b) Subject to any limitations or directions provided for  
 2373 in the General Appropriations Act, the agency shall establish  
 2374 and implement a Florida Title XIX Long-Term Care Reimbursement  
 2375 Plan (Medicaid) for nursing home care in order to provide care  
 2376 and services in conformance with the applicable state and  
 2377 federal laws, rules, regulations, and quality and safety  
 2378 standards and to ensure that individuals eligible for medical  
 2379 assistance have reasonable geographic access to such care.

2380 1. Changes of ownership or of licensed operator do not  
 2381 qualify for increases in reimbursement rates associated with the  
 2382 change of ownership or of licensed operator. The agency shall  
 2383 amend the Title XIX Long Term Care Reimbursement Plan to provide

HB 1905

2004

2384 that the initial nursing home reimbursement rates, for the  
 2385 operating, patient care, and MAR components, associated with  
 2386 related and unrelated party changes of ownership or licensed  
 2387 operator filed on or after September 1, 2001, are equivalent to  
 2388 the previous owner's reimbursement rate.

2389         2. The agency shall amend the long-term care reimbursement  
 2390 plan and cost reporting system to create direct care and  
 2391 indirect care subcomponents of the patient care component of the  
 2392 per diem rate. These two subcomponents together shall equal the  
 2393 patient care component of the per diem rate. Separate cost-based  
 2394 ceilings shall be calculated for each patient care subcomponent.  
 2395 The direct care subcomponent of the per diem rate shall be  
 2396 limited by the cost-based class ceiling, and the indirect care  
 2397 subcomponent shall be limited by the lower of the cost-based  
 2398 class ceiling, by the target rate class ceiling, or by the  
 2399 individual provider target. The agency shall adjust the patient  
 2400 care component effective January 1, 2002. The cost to adjust the  
 2401 direct care subcomponent shall be net of the total funds  
 2402 previously allocated for the case mix add-on. The agency shall  
 2403 make the required changes to the nursing home cost reporting  
 2404 forms to implement this requirement effective January 1, 2002.

2405         3. The direct care subcomponent shall include salaries and  
 2406 benefits of direct care staff providing nursing services  
 2407 including registered nurses, licensed practical nurses, and  
 2408 certified nursing assistants who deliver care directly to  
 2409 residents in the nursing home facility. This excludes nursing  
 2410 administration, MDS, and care plan coordinators, staff  
 2411 development, and staffing coordinator.

HB 1905

2004

2412 4. All other patient care costs shall be included in the  
 2413 indirect care cost subcomponent of the patient care per diem  
 2414 rate. There shall be no costs directly or indirectly allocated  
 2415 to the direct care subcomponent from a home office or management  
 2416 company.

2417 5. On July 1 of each year, the agency shall report to the  
 2418 Legislature direct and indirect care costs, including average  
 2419 direct and indirect care costs per resident per facility and  
 2420 direct care and indirect care salaries and benefits per category  
 2421 of staff member per facility.

2422 6. In order to offset the cost of general and professional  
 2423 liability insurance, the agency shall amend the plan to allow  
 2424 for interim rate adjustments to reflect increases in the cost of  
 2425 general or professional liability insurance for nursing homes.  
 2426 This provision shall be implemented to the extent existing  
 2427 appropriations are available.

2428 It is the intent of the Legislature that the reimbursement  
 2429 plan achieve the goal of providing access to health care for  
 2430 nursing home residents who require large amounts of care while  
 2431 encouraging diversion services as an alternative to nursing home  
 2432 care for residents who can be served within the community. The  
 2433 agency shall base the establishment of any maximum rate of  
 2434 payment, whether overall or component, on the available moneys  
 2435 as provided for in the General Appropriations Act. The agency  
 2436 may base the maximum rate of payment on the results of  
 2437 scientifically valid analysis and conclusions derived from  
 2438 objective statistical data pertinent to the particular maximum  
 2439 rate of payment.

HB 1905

2004

2440           (3) Subject to any limitations or directions provided for  
 2441 in the General Appropriations Act, the following Medicaid  
 2442 services and goods may be reimbursed on a fee-for-service basis.  
 2443 For each allowable service or goods furnished in accordance with  
 2444 Medicaid rules, policy manuals, handbooks, and state and federal  
 2445 law, the payment shall be the amount billed by the provider, the  
 2446 provider's usual and customary charge, or the maximum allowable  
 2447 fee established by the agency, whichever amount is less, with  
 2448 the exception of those services or goods for which the agency  
 2449 makes payment using a methodology based on capitation rates,  
 2450 average costs, or negotiated fees.

2451           (a) Advanced registered nurse practitioner services.  
 2452           (b) Birth center services.  
 2453           (c) Chiropractic services.  
 2454           (d) Community mental health services.  
 2455           (e) Dental services, including oral and maxillofacial  
 2456 surgery.  
 2457           (f) Durable medical equipment.  
 2458           (g) Hearing services.  
 2459           (h) Occupational therapy for Medicaid recipients under age  
 2460 21.  
 2461           (i) Optometric services.  
 2462           (j) Orthodontic services.  
 2463           (k) Personal care for Medicaid recipients under age 21.  
 2464           (l) Physical therapy for Medicaid recipients under age 21.  
 2465           (m) Physician assistant services.  
 2466           (n) Podiatric services.  
 2467           (o) Portable X-ray services.

HB 1905

2004

2468 (p) Private-duty nursing for Medicaid recipients under age  
 2469 21.  
 2470 (q) Registered nurse first assistant services.  
 2471 (r) Respiratory therapy for Medicaid recipients under age  
 2472 21.  
 2473 (s) Speech therapy for Medicaid recipients under age 21.  
 2474 (t) Visual services.  
 2475 (4) Subject to any limitations or directions provided for  
 2476 in the General Appropriations Act, alternative health plans,  
 2477 health maintenance organizations, and prepaid health plans shall  
 2478 be reimbursed a fixed, prepaid amount negotiated, or  
 2479 competitively bid pursuant to part II of chapter 287 ~~s. 287.057~~,  
 2480 by the agency and prospectively paid to the provider monthly for  
 2481 each Medicaid recipient enrolled. The amount may not exceed the  
 2482 average amount the agency determines it would have paid, based  
 2483 on claims experience, for recipients in the same or similar  
 2484 category of eligibility. The agency shall calculate capitation  
 2485 rates on a regional basis and, beginning September 1, 1995,  
 2486 shall include age-band differentials in such calculations.  
 2487 Effective July 1, 2001, the cost of exempting statutory teaching  
 2488 hospitals, specialty hospitals, and community hospital education  
 2489 program hospitals from reimbursement ceilings and the cost of  
 2490 special Medicaid payments shall not be included in premiums paid  
 2491 to health maintenance organizations or prepaid health care  
 2492 plans. Each rate semester, the agency shall calculate and  
 2493 publish a Medicaid hospital rate schedule that does not reflect  
 2494 either special Medicaid payments or the elimination of rate  
 2495 reimbursement ceilings, to be used by hospitals and Medicaid  
 2496 health maintenance organizations, in order to determine the

HB 1905

2004

2497 Medicaid rate referred to in ss. 409.912(17), 409.9128(5), and  
 2498 641.513(6).

2499 (5) An ambulatory surgical center shall be reimbursed the  
 2500 lesser of the amount billed by the provider or the Medicare-  
 2501 established allowable amount for the facility.

2502 (6) A provider of early and periodic screening, diagnosis,  
 2503 and treatment services to Medicaid recipients who are children  
 2504 under age 21 shall be reimbursed using an all-inclusive rate  
 2505 stipulated in a fee schedule established by the agency. A  
 2506 provider of the visual, dental, and hearing components of such  
 2507 services shall be reimbursed the lesser of the amount billed by  
 2508 the provider or the Medicaid maximum allowable fee established  
 2509 by the agency.

2510 (7) A provider of family planning services shall be  
 2511 reimbursed the lesser of the amount billed by the provider or an  
 2512 all-inclusive amount per type of visit for physicians and  
 2513 advanced registered nurse practitioners, as established by the  
 2514 agency in a fee schedule.

2515 (8) A provider of home-based or community-based services  
 2516 rendered pursuant to a federally approved waiver shall be  
 2517 reimbursed based on an established or negotiated rate for each  
 2518 service. These rates shall be established according to an  
 2519 analysis of the expenditure history and prospective budget  
 2520 developed by each contract provider participating in the waiver  
 2521 program, or under any other methodology adopted by the agency  
 2522 and approved by the Federal Government in accordance with the  
 2523 waiver. Effective July 1, 1996, privately owned and operated  
 2524 community-based residential facilities which meet agency  
 2525 requirements and which formerly received Medicaid reimbursement



HB 1905

2004

2526 for the optional intermediate care facility for the mentally  
 2527 retarded service may participate in the developmental services  
 2528 waiver as part of a home-and-community-based continuum of care  
 2529 for Medicaid recipients who receive waiver services.

2530 (9) A provider of home health care services or of medical  
 2531 supplies and appliances shall be reimbursed on the basis of  
 2532 competitive bidding or for the lesser of the amount billed by  
 2533 the provider or the agency's established maximum allowable  
 2534 amount, except that, in the case of the rental of durable  
 2535 medical equipment, the total rental payments may not exceed the  
 2536 purchase price of the equipment over its expected useful life or  
 2537 the agency's established maximum allowable amount, whichever  
 2538 amount is less.

2539 (10) A hospice shall be reimbursed through a prospective  
 2540 system for each Medicaid hospice patient at Medicaid rates using  
 2541 the methodology established for hospice reimbursement pursuant  
 2542 to Title XVIII of the federal Social Security Act.

2543 (11) A provider of independent laboratory services shall  
 2544 be reimbursed on the basis of competitive bidding or for the  
 2545 least of the amount billed by the provider, the provider's usual  
 2546 and customary charge, or the Medicaid maximum allowable fee  
 2547 established by the agency.

2548 (12)(a) A physician shall be reimbursed the lesser of the  
 2549 amount billed by the provider or the Medicaid maximum allowable  
 2550 fee established by the agency.

2551 (b) The agency shall adopt a fee schedule, subject to any  
 2552 limitations or directions provided for in the General  
 2553 Appropriations Act, based on a resource-based relative value  
 2554 scale for pricing Medicaid physician services. Under this fee

HB 1905

2004

2555 schedule, physicians shall be paid a dollar amount for each  
 2556 service based on the average resources required to provide the  
 2557 service, including, but not limited to, estimates of average  
 2558 physician time and effort, practice expense, and the costs of  
 2559 professional liability insurance. The fee schedule shall provide  
 2560 increased reimbursement for preventive and primary care services  
 2561 and lowered reimbursement for specialty services by using at  
 2562 least two conversion factors, one for cognitive services and  
 2563 another for procedural services. The fee schedule shall not  
 2564 increase total Medicaid physician expenditures unless moneys are  
 2565 available, and shall be phased in over a 2-year period beginning  
 2566 on July 1, 1994. The Agency for Health Care Administration shall  
 2567 seek the advice of a 16-member advisory panel in formulating and  
 2568 adopting the fee schedule. The panel shall consist of Medicaid  
 2569 physicians licensed under chapters 458 and 459 and shall be  
 2570 composed of 50 percent primary care physicians and 50 percent  
 2571 specialty care physicians.

2572 (c) Notwithstanding paragraph (b), reimbursement fees to  
 2573 physicians for providing total obstetrical services to Medicaid  
 2574 recipients, which include prenatal, delivery, and postpartum  
 2575 care, shall be at least \$1,500 per delivery for a pregnant woman  
 2576 with low medical risk and at least \$2,000 per delivery for a  
 2577 pregnant woman with high medical risk. However, reimbursement to  
 2578 physicians working in Regional Perinatal Intensive Care Centers  
 2579 designated pursuant to chapter 383, for services to certain  
 2580 pregnant Medicaid recipients with a high medical risk, may be  
 2581 made according to obstetrical care and neonatal care groupings  
 2582 and rates established by the agency. Nurse midwives licensed  
 2583 under part I of chapter 464 or midwives licensed under chapter

HB 1905

2004

2584 467 shall be reimbursed at no less than 80 percent of the low  
 2585 medical risk fee. The agency shall by rule determine, for the  
 2586 purpose of this paragraph, what constitutes a high or low  
 2587 medical risk pregnant woman and shall not pay more based solely  
 2588 on the fact that a caesarean section was performed, rather than  
 2589 a vaginal delivery. The agency shall by rule determine a  
 2590 prorated payment for obstetrical services in cases where only  
 2591 part of the total prenatal, delivery, or postpartum care was  
 2592 performed. The Department of Health shall adopt rules for  
 2593 appropriate insurance coverage for midwives licensed under  
 2594 chapter 467. Prior to the issuance and renewal of an active  
 2595 license, or reactivation of an inactive license for midwives  
 2596 licensed under chapter 467, such licensees shall submit proof of  
 2597 coverage with each application.

2598 (d) For fiscal years 2001-2002 and 2002-2003 only and if  
 2599 necessary to meet the requirements for grants and donations for  
 2600 the special Medicaid payments authorized in the 2001-2002 and  
 2601 2002-2003 General Appropriations Acts, the agency may make  
 2602 special Medicaid payments to qualified Medicaid providers  
 2603 designated by the agency, notwithstanding any provision of this  
 2604 subsection to the contrary, and may use intergovernmental  
 2605 transfers from state entities or other governmental entities to  
 2606 serve as the state share of such payments.

2607 (13) Medicare premiums for persons eligible for both  
 2608 Medicare and Medicaid coverage shall be paid at the rates  
 2609 established by Title XVIII of the Social Security Act. For  
 2610 Medicare services rendered to Medicaid-eligible persons,  
 2611 Medicaid shall pay Medicare deductibles and coinsurance as  
 2612 follows:

HB 1905

2004

2613 (a) Medicaid shall make no payment toward deductibles and  
 2614 coinsurance for any service that is not covered by Medicaid.

2615 (b) Medicaid's financial obligation for deductibles and  
 2616 coinsurance payments shall be based on Medicare allowable fees,  
 2617 not on a provider's billed charges.

2618 (c) Medicaid will pay no portion of Medicare deductibles  
 2619 and coinsurance when payment that Medicare has made for the  
 2620 service equals or exceeds what Medicaid would have paid if it  
 2621 had been the sole payor. The combined payment of Medicare and  
 2622 Medicaid shall not exceed the amount Medicaid would have paid  
 2623 had it been the sole payor. The Legislature finds that there has  
 2624 been confusion regarding the reimbursement for services rendered  
 2625 to dually eligible Medicare beneficiaries. Accordingly, the  
 2626 Legislature clarifies that it has always been the intent of the  
 2627 Legislature before and after 1991 that, in reimbursing in  
 2628 accordance with fees established by Title XVIII for premiums,  
 2629 deductibles, and coinsurance for Medicare services rendered by  
 2630 physicians to Medicaid eligible persons, physicians be  
 2631 reimbursed at the lesser of the amount billed by the physician  
 2632 or the Medicaid maximum allowable fee established by the Agency  
 2633 for Health Care Administration, as is permitted by federal law.  
 2634 It has never been the intent of the Legislature with regard to  
 2635 such services rendered by physicians that Medicaid be required  
 2636 to provide any payment for deductibles, coinsurance, or  
 2637 copayments for Medicare cost sharing, or any expenses incurred  
 2638 relating thereto, in excess of the payment amount provided for  
 2639 under the State Medicaid plan for such service. This payment  
 2640 methodology is applicable even in those situations in which the  
 2641 payment for Medicare cost sharing for a qualified Medicare

HB 1905

2004

2642 beneficiary with respect to an item or service is reduced or  
 2643 eliminated. This expression of the Legislature is in  
 2644 clarification of existing law and shall apply to payment for,  
 2645 and with respect to provider agreements with respect to, items  
 2646 or services furnished on or after the effective date of this  
 2647 act. This paragraph applies to payment by Medicaid for items and  
 2648 services furnished before the effective date of this act if such  
 2649 payment is the subject of a lawsuit that is based on the  
 2650 provisions of this section, and that is pending as of, or is  
 2651 initiated after, the effective date of this act.

2652 (d) Notwithstanding paragraphs (a)-(c):

2653 1. Medicaid payments for Nursing Home Medicare part A  
 2654 coinsurance shall be the lesser of the Medicare coinsurance  
 2655 amount or the Medicaid nursing home per diem rate.

2656 2. Medicaid shall pay all deductibles and coinsurance for  
 2657 Medicare-eligible recipients receiving freestanding end stage  
 2658 renal dialysis center services.

2659 3. Medicaid payments for general hospital inpatient  
 2660 services shall be limited to the Medicare deductible per spell  
 2661 of illness. Medicaid shall make no payment toward coinsurance  
 2662 for Medicare general hospital inpatient services.

2663 4. Medicaid shall pay all deductibles and coinsurance for  
 2664 Medicare emergency transportation services provided by  
 2665 ambulances licensed pursuant to chapter 401.

2666 (14) A provider of prescribed drugs shall be reimbursed  
 2667 the least of the amount billed by the provider, the provider's  
 2668 usual and customary charge, or the Medicaid maximum allowable  
 2669 fee established by the agency, plus a dispensing fee. The agency  
 2670 is directed to implement a variable dispensing fee for payments

HB 1905

2004

2671 for prescribed medicines while ensuring continued access for  
 2672 Medicaid recipients. The variable dispensing fee may be based  
 2673 upon, but not limited to, either or both the volume of  
 2674 prescriptions dispensed by a specific pharmacy provider, the  
 2675 volume of prescriptions dispensed to an individual recipient,  
 2676 and dispensing of preferred-drug-list products. The agency may  
 2677 increase the pharmacy dispensing fee authorized by statute and  
 2678 in the annual General Appropriations Act by \$0.50 for the  
 2679 dispensing of a Medicaid preferred-drug-list product and reduce  
 2680 the pharmacy dispensing fee by \$0.50 for the dispensing of a  
 2681 Medicaid product that is not included on the preferred-drug  
 2682 list. The agency may establish a supplemental pharmaceutical  
 2683 dispensing fee to be paid to providers returning unused unit-  
 2684 dose packaged medications to stock and crediting the Medicaid  
 2685 program for the ingredient cost of those medications if the  
 2686 ingredient costs to be credited exceed the value of the  
 2687 supplemental dispensing fee. The agency is authorized to limit  
 2688 reimbursement for prescribed medicine in order to comply with  
 2689 any limitations or directions provided for in the General  
 2690 Appropriations Act, which may include implementing a prospective  
 2691 or concurrent utilization review program.

2692 (15) A provider of primary care case management services  
 2693 rendered pursuant to a federally approved waiver shall be  
 2694 reimbursed by payment of a fixed, prepaid monthly sum for each  
 2695 Medicaid recipient enrolled with the provider.

2696 (16) A provider of rural health clinic services and  
 2697 federally qualified health center services shall be reimbursed a  
 2698 rate per visit based on total reasonable costs of the clinic, as  
 2699 determined by the agency in accordance with federal regulations.

HB 1905

2004

2700 (17) A provider of targeted case management services shall  
 2701 be reimbursed pursuant to an established fee, except where the  
 2702 Federal Government requires a public provider be reimbursed on  
 2703 the basis of average actual costs.

2704 (18) Unless otherwise provided for in the General  
 2705 Appropriations Act, a provider of transportation services shall  
 2706 be reimbursed the lesser of the amount billed by the provider or  
 2707 the Medicaid maximum allowable fee established by the agency,  
 2708 except when the agency has entered into a direct contract with  
 2709 the provider, or with a community transportation coordinator,  
 2710 for the provision of an all-inclusive service, or when services  
 2711 are provided pursuant to an agreement negotiated between the  
 2712 agency and the provider. The agency, as provided for in s.  
 2713 427.0135, shall purchase transportation services through the  
 2714 community coordinated transportation system, if available,  
 2715 unless the agency determines a more cost-effective method for  
 2716 Medicaid clients. Nothing in this subsection shall be construed  
 2717 to limit or preclude the agency from contracting for services  
 2718 using a prepaid capitation rate or from establishing maximum fee  
 2719 schedules, individualized reimbursement policies by provider  
 2720 type, negotiated fees, prior authorization, competitive bidding,  
 2721 increased use of mass transit, or any other mechanism that the  
 2722 agency considers efficient and effective for the purchase of  
 2723 services on behalf of Medicaid clients, including implementing a  
 2724 transportation eligibility process. The agency shall not be  
 2725 required to contract with any community transportation  
 2726 coordinator or transportation operator that has been determined  
 2727 by the agency, the Department of Legal Affairs Medicaid Fraud  
 2728 Control Unit, or any other state or federal agency to have

HB 1905

2004

2729 engaged in any abusive or fraudulent billing activities. The  
 2730 agency is authorized to competitively procure transportation  
 2731 services or make other changes necessary to secure approval of  
 2732 federal waivers needed to permit federal financing of Medicaid  
 2733 transportation services at the service matching rate rather than  
 2734 the administrative matching rate.

2735 (19) County health department services may be reimbursed a  
 2736 rate per visit based on total reasonable costs of the clinic, as  
 2737 determined by the agency in accordance with federal regulations  
 2738 under the authority of 42 C.F.R. s. 431.615.

2739 (20) A renal dialysis facility that provides dialysis  
 2740 services under s. 409.906(9) must be reimbursed the lesser of  
 2741 the amount billed by the provider, the provider's usual and  
 2742 customary charge, or the maximum allowable fee established by  
 2743 the agency, whichever amount is less.

2744 (21) The agency shall reimburse school districts which  
 2745 certify the state match pursuant to ss. 409.9071 and 1011.70 for  
 2746 the federal portion of the school district's allowable costs to  
 2747 deliver the services, based on the reimbursement schedule. The  
 2748 school district shall determine the costs for delivering  
 2749 services as authorized in ss. 409.9071 and 1011.70 for which the  
 2750 state match will be certified. Reimbursement of school-based  
 2751 providers is contingent on such providers being enrolled as  
 2752 Medicaid providers and meeting the qualifications contained in  
 2753 42 C.F.R. s. 440.110, unless otherwise waived by the federal  
 2754 Health Care Financing Administration. Speech therapy providers  
 2755 who are certified through the Department of Education pursuant  
 2756 to rule 6A-4.0176, Florida Administrative Code, are eligible for  
 2757 reimbursement for services that are provided on school premises.



HB 1905

2004

2758 Any employee of the school district who has been fingerprinted  
 2759 and has received a criminal background check in accordance with  
 2760 Department of Education rules and guidelines shall be exempt  
 2761 from any agency requirements relating to criminal background  
 2762 checks.

2763 (22) The agency shall request and implement Medicaid  
 2764 waivers from the federal Health Care Financing Administration to  
 2765 advance and treat a portion of the Medicaid nursing home per  
 2766 diem as capital for creating and operating a risk-retention  
 2767 group for self-insurance purposes, consistent with federal and  
 2768 state laws and rules.

2769 Section 74. Section 409.912, Florida Statutes, is amended  
 2770 to read:

2771 409.912 Cost-effective purchasing of health care.--The  
 2772 agency shall purchase goods and services for Medicaid recipients  
 2773 in the most cost-effective manner consistent with the delivery  
 2774 of quality medical care. The agency shall maximize the use of  
 2775 prepaid per capita and prepaid aggregate fixed-sum basis  
 2776 services when appropriate and other alternative service delivery  
 2777 and reimbursement methodologies, including competitive bidding  
 2778 pursuant to part II of chapter 287 s. 287.057, designed to  
 2779 facilitate the cost-effective purchase of a case-managed  
 2780 continuum of care. The agency shall also require providers to  
 2781 minimize the exposure of recipients to the need for acute  
 2782 inpatient, custodial, and other institutional care and the  
 2783 inappropriate or unnecessary use of high-cost services. The  
 2784 agency may establish prior authorization requirements for  
 2785 certain populations of Medicaid beneficiaries, certain drug  
 2786 classes, or particular drugs to prevent fraud, abuse, overuse,

HB 1905

2004

2787 and possible dangerous drug interactions. The Pharmaceutical and  
 2788 Therapeutics Committee shall make recommendations to the agency  
 2789 on drugs for which prior authorization is required. The agency  
 2790 shall inform the Pharmaceutical and Therapeutics Committee of  
 2791 its decisions regarding drugs subject to prior authorization.

2792 (1) The agency shall work with the Department of Children  
 2793 and Family Services to ensure access of children and families in  
 2794 the child protection system to needed and appropriate mental  
 2795 health and substance abuse services.

2796 (2) The agency may enter into agreements with appropriate  
 2797 agents of other state agencies or of any agency of the Federal  
 2798 Government and accept such duties in respect to social welfare  
 2799 or public aid as may be necessary to implement the provisions of  
 2800 Title XIX of the Social Security Act and ss. 409.901-409.920.

2801 (3) The agency may contract with health maintenance  
 2802 organizations certified pursuant to part I of chapter 641 for  
 2803 the provision of services to recipients.

2804 (4) The agency may contract with:

2805 (a) An entity that provides no prepaid health care  
 2806 services other than Medicaid services under contract with the  
 2807 agency and which is owned and operated by a county, county  
 2808 health department, or county-owned and operated hospital to  
 2809 provide health care services on a prepaid or fixed-sum basis to  
 2810 recipients, which entity may provide such prepaid services  
 2811 either directly or through arrangements with other providers.  
 2812 Such prepaid health care services entities must be licensed  
 2813 under parts I and III by January 1, 1998, and until then are  
 2814 exempt from the provisions of part I of chapter 641. An entity  
 2815 recognized under this paragraph which demonstrates to the

HB 1905

2004

2816 satisfaction of the Office of Insurance Regulation of the  
 2817 Financial Services Commission that it is backed by the full  
 2818 faith and credit of the county in which it is located may be  
 2819 exempted from s. 641.225.

2820 (b) An entity that is providing comprehensive behavioral  
 2821 health care services to certain Medicaid recipients through a  
 2822 capitated, prepaid arrangement pursuant to the federal waiver  
 2823 provided for by s. 409.905(5). Such an entity must be licensed  
 2824 under chapter 624, chapter 636, or chapter 641 and must possess  
 2825 the clinical systems and operational competence to manage risk  
 2826 and provide comprehensive behavioral health care to Medicaid  
 2827 recipients. As used in this paragraph, the term "comprehensive  
 2828 behavioral health care services" means covered mental health and  
 2829 substance abuse treatment services that are available to  
 2830 Medicaid recipients. The secretary of the Department of Children  
 2831 and Family Services shall approve provisions of procurements  
 2832 related to children in the department's care or custody prior to  
 2833 enrolling such children in a prepaid behavioral health plan. Any  
 2834 contract awarded under this paragraph must be competitively  
 2835 procured. In developing the behavioral health care prepaid plan  
 2836 procurement document, the agency shall ensure that the  
 2837 procurement document requires the contractor to develop and  
 2838 implement a plan to ensure compliance with s. 394.4574 related  
 2839 to services provided to residents of licensed assisted living  
 2840 facilities that hold a limited mental health license. The agency  
 2841 shall seek federal approval to contract with a single entity  
 2842 meeting these requirements to provide comprehensive behavioral  
 2843 health care services to all Medicaid recipients in an AHCA area.  
 2844 Each entity must offer sufficient choice of providers in its

HB 1905

2004

2845 network to ensure recipient access to care and the opportunity  
 2846 to select a provider with whom they are satisfied. The network  
 2847 shall include all public mental health hospitals. To ensure  
 2848 unimpaired access to behavioral health care services by Medicaid  
 2849 recipients, all contracts issued pursuant to this paragraph  
 2850 shall require 80 percent of the capitation paid to the managed  
 2851 care plan, including health maintenance organizations, to be  
 2852 expended for the provision of behavioral health care services.  
 2853 In the event the managed care plan expends less than 80 percent  
 2854 of the capitation paid pursuant to this paragraph for the  
 2855 provision of behavioral health care services, the difference  
 2856 shall be returned to the agency. The agency shall provide the  
 2857 managed care plan with a certification letter indicating the  
 2858 amount of capitation paid during each calendar year for the  
 2859 provision of behavioral health care services pursuant to this  
 2860 section. The agency may reimburse for substance abuse treatment  
 2861 services on a fee-for-service basis until the agency finds that  
 2862 adequate funds are available for capitated, prepaid  
 2863 arrangements.

2864         1. By January 1, 2001, the agency shall modify the  
 2865 contracts with the entities providing comprehensive inpatient  
 2866 and outpatient mental health care services to Medicaid  
 2867 recipients in Hillsborough, Highlands, Hardee, Manatee, and Polk  
 2868 Counties, to include substance abuse treatment services.

2869         2. By July 1, 2003, the agency and the Department of  
 2870 Children and Family Services shall execute a written agreement  
 2871 that requires collaboration and joint development of all policy,  
 2872 budgets, procurement documents, contracts, and monitoring plans

HB 1905

2004

2873 that have an impact on the state and Medicaid community mental  
 2874 health and targeted case management programs.

2875 3. By July 1, 2006, the agency and the Department of  
 2876 Children and Family Services shall contract with managed care  
 2877 entities in each AHCA area except area 6 or arrange to provide  
 2878 comprehensive inpatient and outpatient mental health and  
 2879 substance abuse services through capitated prepaid arrangements  
 2880 to all Medicaid recipients who are eligible to participate in  
 2881 such plans under federal law and regulation. In AHCA areas where  
 2882 eligible individuals number less than 150,000, the agency shall  
 2883 contract with a single managed care plan. The agency may  
 2884 contract with more than one plan in AHCA areas where the  
 2885 eligible population exceeds 150,000. Contracts awarded pursuant  
 2886 to this section shall be competitively procured. Both for-profit  
 2887 and not-for-profit corporations shall be eligible to compete.

2888 4. By October 1, 2003, the agency and the department shall  
 2889 submit a plan to the Governor, the President of the Senate, and  
 2890 the Speaker of the House of Representatives which provides for  
 2891 the full implementation of capitated prepaid behavioral health  
 2892 care in all areas of the state. The plan shall include  
 2893 provisions which ensure that children and families receiving  
 2894 foster care and other related services are appropriately served  
 2895 and that these services assist the community-based care lead  
 2896 agencies in meeting the goals and outcomes of the child welfare  
 2897 system. The plan will be developed with the participation of  
 2898 community-based lead agencies, community alliances, sheriffs,  
 2899 and community providers serving dependent children.

HB 1905

2004

2900           a. Implementation shall begin in 2003 in those AHCA areas  
 2901 of the state where the agency is able to establish sufficient  
 2902 capitation rates.

2903           b. If the agency determines that the proposed capitation  
 2904 rate in any area is insufficient to provide appropriate  
 2905 services, the agency may adjust the capitation rate to ensure  
 2906 that care will be available. The agency and the department may  
 2907 use existing general revenue to address any additional required  
 2908 match but may not over-obligate existing funds on an annualized  
 2909 basis.

2910           c. Subject to any limitations provided for in the General  
 2911 Appropriations Act, the agency, in compliance with appropriate  
 2912 federal authorization, shall develop policies and procedures  
 2913 that allow for certification of local and state funds.

2914           5. Children residing in a statewide inpatient psychiatric  
 2915 program, or in a Department of Juvenile Justice or a Department  
 2916 of Children and Family Services residential program approved as  
 2917 a Medicaid behavioral health overlay services provider shall not  
 2918 be included in a behavioral health care prepaid health plan  
 2919 pursuant to this paragraph.

2920           6. In converting to a prepaid system of delivery, the  
 2921 agency shall in its procurement document require an entity  
 2922 providing comprehensive behavioral health care services to  
 2923 prevent the displacement of indigent care patients by enrollees  
 2924 in the Medicaid prepaid health plan providing behavioral health  
 2925 care services from facilities receiving state funding to provide  
 2926 indigent behavioral health care, to facilities licensed under  
 2927 chapter 395 which do not receive state funding for indigent  
 2928 behavioral health care, or reimburse the unsubsidized facility

HB 1905

2004

2929 for the cost of behavioral health care provided to the displaced  
 2930 indigent care patient.

2931           7. Traditional community mental health providers under  
 2932 contract with the Department of Children and Family Services  
 2933 pursuant to part IV of chapter 394, child welfare providers  
 2934 under contract with the Department of Children and Family  
 2935 Services, and inpatient mental health providers licensed  
 2936 pursuant to chapter 395 must be offered an opportunity to accept  
 2937 or decline a contract to participate in any provider network for  
 2938 prepaid behavioral health services.

2939           (c) A federally qualified health center or an entity owned  
 2940 by one or more federally qualified health centers or an entity  
 2941 owned by other migrant and community health centers receiving  
 2942 non-Medicaid financial support from the Federal Government to  
 2943 provide health care services on a prepaid or fixed-sum basis to  
 2944 recipients. Such prepaid health care services entity must be  
 2945 licensed under parts I and III of chapter 641, but shall be  
 2946 prohibited from serving Medicaid recipients on a prepaid basis,  
 2947 until such licensure has been obtained. However, such an entity  
 2948 is exempt from s. 641.225 if the entity meets the requirements  
 2949 specified in subsections (15) and (16).

2950           (d) A provider service network may be reimbursed on a fee-  
 2951 for-service or prepaid basis. A provider service network which  
 2952 is reimbursed by the agency on a prepaid basis shall be exempt  
 2953 from parts I and III of chapter 641, but must meet appropriate  
 2954 financial reserve, quality assurance, and patient rights  
 2955 requirements as established by the agency. The agency shall  
 2956 award contracts on a competitive bid basis and shall select  
 2957 bidders based upon price and quality of care. Medicaid

HB 1905

2004

2958 recipients assigned to a demonstration project shall be chosen  
 2959 equally from those who would otherwise have been assigned to  
 2960 prepaid plans and MediPass. The agency is authorized to seek  
 2961 federal Medicaid waivers as necessary to implement the  
 2962 provisions of this section.

2963 (e) An entity that provides comprehensive behavioral  
 2964 health care services to certain Medicaid recipients through an  
 2965 administrative services organization agreement. Such an entity  
 2966 must possess the clinical systems and operational competence to  
 2967 provide comprehensive health care to Medicaid recipients. As  
 2968 used in this paragraph, the term "comprehensive behavioral  
 2969 health care services" means covered mental health and substance  
 2970 abuse treatment services that are available to Medicaid  
 2971 recipients. Any contract awarded under this paragraph must be  
 2972 competitively procured. The agency must ensure that Medicaid  
 2973 recipients have available the choice of at least two managed  
 2974 care plans for their behavioral health care services.

2975 (f) An entity that provides in-home physician services to  
 2976 test the cost-effectiveness of enhanced home-based medical care  
 2977 to Medicaid recipients with degenerative neurological diseases  
 2978 and other diseases or disabling conditions associated with high  
 2979 costs to Medicaid. The program shall be designed to serve very  
 2980 disabled persons and to reduce Medicaid reimbursed costs for  
 2981 inpatient, outpatient, and emergency department services. The  
 2982 agency shall contract with vendors on a risk-sharing basis.

2983 (g) Children's provider networks that provide care  
 2984 coordination and care management for Medicaid-eligible pediatric  
 2985 patients, primary care, authorization of specialty care, and  
 2986 other urgent and emergency care through organized providers



HB 1905

2004

2987 designed to service Medicaid eligibles under age 18 and  
 2988 pediatric emergency departments' diversion programs. The  
 2989 networks shall provide after-hour operations, including evening  
 2990 and weekend hours, to promote, when appropriate, the use of the  
 2991 children's networks rather than hospital emergency departments.

2992 (h) An entity authorized in s. 430.205 to contract with  
 2993 the agency and the Department of Elderly Affairs to provide  
 2994 health care and social services on a prepaid or fixed-sum basis  
 2995 to elderly recipients. Such prepaid health care services  
 2996 entities are exempt from the provisions of part I of chapter 641  
 2997 for the first 3 years of operation. An entity recognized under  
 2998 this paragraph that demonstrates to the satisfaction of the  
 2999 Office of Insurance Regulation that it is backed by the full  
 3000 faith and credit of one or more counties in which it operates  
 3001 may be exempted from s. 641.225.

3002 (i) A Children's Medical Services network, as defined in  
 3003 s. 391.021.

3004 (5) By October 1, 2003, the agency and the department  
 3005 shall, to the extent feasible, develop a plan for implementing  
 3006 new Medicaid procedure codes for emergency and crisis care,  
 3007 supportive residential services, and other services designed to  
 3008 maximize the use of Medicaid funds for Medicaid-eligible  
 3009 recipients. The agency shall include in the agreement developed  
 3010 pursuant to subsection (4) a provision that ensures that the  
 3011 match requirements for these new procedure codes are met by  
 3012 certifying eligible general revenue or local funds that are  
 3013 currently expended on these services by the department with  
 3014 contracted alcohol, drug abuse, and mental health providers. The  
 3015 plan must describe specific procedure codes to be implemented, a

HB 1905

2004

3016 projection of the number of procedures to be delivered during  
 3017 fiscal year 2003-2004, and a financial analysis that describes  
 3018 the certified match procedures, and accountability mechanisms,  
 3019 projects the earnings associated with these procedures, and  
 3020 describes the sources of state match. This plan may not be  
 3021 implemented in any part until approved by the Legislative Budget  
 3022 Commission. If such approval has not occurred by December 31,  
 3023 2003, the plan shall be submitted for consideration by the 2004  
 3024 Legislature.

3025 (6) The agency may contract with any public or private  
 3026 entity otherwise authorized by this section on a prepaid or  
 3027 fixed-sum basis for the provision of health care services to  
 3028 recipients. An entity may provide prepaid services to  
 3029 recipients, either directly or through arrangements with other  
 3030 entities, if each entity involved in providing services:

3031 (a) Is organized primarily for the purpose of providing  
 3032 health care or other services of the type regularly offered to  
 3033 Medicaid recipients;

3034 (b) Ensures that services meet the standards set by the  
 3035 agency for quality, appropriateness, and timeliness;

3036 (c) Makes provisions satisfactory to the agency for  
 3037 insolvency protection and ensures that neither enrolled Medicaid  
 3038 recipients nor the agency will be liable for the debts of the  
 3039 entity;

3040 (d) Submits to the agency, if a private entity, a  
 3041 financial plan that the agency finds to be fiscally sound and  
 3042 that provides for working capital in the form of cash or  
 3043 equivalent liquid assets excluding revenues from Medicaid

HB 1905

2004

3044 premium payments equal to at least the first 3 months of  
 3045 operating expenses or \$200,000, whichever is greater;

3046 (e) Furnishes evidence satisfactory to the agency of  
 3047 adequate liability insurance coverage or an adequate plan of  
 3048 self-insurance to respond to claims for injuries arising out of  
 3049 the furnishing of health care;

3050 (f) Provides, through contract or otherwise, for periodic  
 3051 review of its medical facilities and services, as required by  
 3052 the agency; and

3053 (g) Provides organizational, operational, financial, and  
 3054 other information required by the agency.

3055 (7) The agency may contract on a prepaid or fixed-sum  
 3056 basis with any health insurer that:

3057 (a) Pays for health care services provided to enrolled  
 3058 Medicaid recipients in exchange for a premium payment paid by  
 3059 the agency;

3060 (b) Assumes the underwriting risk; and

3061 (c) Is organized and licensed under applicable provisions  
 3062 of the Florida Insurance Code and is currently in good standing  
 3063 with the Office of Insurance Regulation.

3064 (8) The agency may contract on a prepaid or fixed-sum  
 3065 basis with an exclusive provider organization to provide health  
 3066 care services to Medicaid recipients provided that the exclusive  
 3067 provider organization meets applicable managed care plan  
 3068 requirements in this section, ss. 409.9122, 409.9123, 409.9128,  
 3069 and 627.6472, and other applicable provisions of law.

3070 (9) The Agency for Health Care Administration may provide  
 3071 cost-effective purchasing of chiropractic services on a fee-for-  
 3072 service basis to Medicaid recipients through arrangements with a

HB 1905

2004

3073 statewide chiropractic preferred provider organization  
 3074 incorporated in this state as a not-for-profit corporation. The  
 3075 agency shall ensure that the benefit limits and prior  
 3076 authorization requirements in the current Medicaid program shall  
 3077 apply to the services provided by the chiropractic preferred  
 3078 provider organization.

3079 (10) The agency shall not contract on a prepaid or fixed-  
 3080 sum basis for Medicaid services with an entity which knows or  
 3081 reasonably should know that any officer, director, agent,  
 3082 managing employee, or owner of stock or beneficial interest in  
 3083 excess of 5 percent common or preferred stock, or the entity  
 3084 itself, has been found guilty of, regardless of adjudication, or  
 3085 entered a plea of nolo contendere, or guilty, to:

3086 (a) Fraud;

3087 (b) Violation of federal or state antitrust statutes,  
 3088 including those proscribing price fixing between competitors and  
 3089 the allocation of customers among competitors;

3090 (c) Commission of a felony involving embezzlement, theft,  
 3091 forgery, income tax evasion, bribery, falsification or  
 3092 destruction of records, making false statements, receiving  
 3093 stolen property, making false claims, or obstruction of justice;  
 3094 or

3095 (d) Any crime in any jurisdiction which directly relates  
 3096 to the provision of health services on a prepaid or fixed-sum  
 3097 basis.

3098 (11) The agency, after notifying the Legislature, may  
 3099 apply for waivers of applicable federal laws and regulations as  
 3100 necessary to implement more appropriate systems of health care  
 3101 for Medicaid recipients and reduce the cost of the Medicaid

HB 1905

2004

3102 program to the state and federal governments and shall implement  
 3103 such programs, after legislative approval, within a reasonable  
 3104 period of time after federal approval. These programs must be  
 3105 designed primarily to reduce the need for inpatient care,  
 3106 custodial care and other long-term or institutional care, and  
 3107 other high-cost services.

3108 (a) Prior to seeking legislative approval of such a waiver  
 3109 as authorized by this subsection, the agency shall provide  
 3110 notice and an opportunity for public comment. Notice shall be  
 3111 provided to all persons who have made requests of the agency for  
 3112 advance notice and shall be published in the Florida  
 3113 Administrative Weekly not less than 28 days prior to the  
 3114 intended action.

3115 (b) Notwithstanding s. 216.292, funds that are  
 3116 appropriated to the Department of Elderly Affairs for the  
 3117 Assisted Living for the Elderly Medicaid waiver and are not  
 3118 expended shall be transferred to the agency to fund Medicaid-  
 3119 reimbursed nursing home care.

3120 (12) The agency shall establish a postpayment utilization  
 3121 control program designed to identify recipients who may  
 3122 inappropriately overuse or underuse Medicaid services and shall  
 3123 provide methods to correct such misuse.

3124 (13) The agency shall develop and provide coordinated  
 3125 systems of care for Medicaid recipients and may contract with  
 3126 public or private entities to develop and administer such  
 3127 systems of care among public and private health care providers  
 3128 in a given geographic area.

HB 1905

2004

3129 (14) The agency shall operate or contract for the  
 3130 operation of utilization management and incentive systems  
 3131 designed to encourage cost-effective use services.

3132 (15)(a) The agency shall operate the Comprehensive  
 3133 Assessment and Review (CARES) nursing facility preadmission  
 3134 screening program to ensure that Medicaid payment for nursing  
 3135 facility care is made only for individuals whose conditions  
 3136 require such care and to ensure that long-term care services are  
 3137 provided in the setting most appropriate to the needs of the  
 3138 person and in the most economical manner possible. The CARES  
 3139 program shall also ensure that individuals participating in  
 3140 Medicaid home and community-based waiver programs meet criteria  
 3141 for those programs, consistent with approved federal waivers.

3142 (b) The agency shall operate the CARES program through an  
 3143 interagency agreement with the Department of Elderly Affairs.

3144 (c) Prior to making payment for nursing facility services  
 3145 for a Medicaid recipient, the agency must verify that the  
 3146 nursing facility preadmission screening program has determined  
 3147 that the individual requires nursing facility care and that the  
 3148 individual cannot be safely served in community-based programs.  
 3149 The nursing facility preadmission screening program shall refer  
 3150 a Medicaid recipient to a community-based program if the  
 3151 individual could be safely served at a lower cost and the  
 3152 recipient chooses to participate in such program.

3153 (d) By January 1 of each year, the agency shall submit a  
 3154 report to the Legislature and the Office of Long-Term-Care  
 3155 Policy describing the operations of the CARES program. The  
 3156 report must describe:

- 3157 1. Rate of diversion to community alternative programs;

HB 1905

2004

3158 2. CARES program staffing needs to achieve additional  
3159 diversions;

3160 3. Reasons the program is unable to place individuals in  
3161 less restrictive settings when such individuals desired such  
3162 services and could have been served in such settings;

3163 4. Barriers to appropriate placement, including barriers  
3164 due to policies or operations of other agencies or state-funded  
3165 programs; and

3166 5. Statutory changes necessary to ensure that individuals  
3167 in need of long-term care services receive care in the least  
3168 restrictive environment.

3169 (16)(a) The agency shall identify health care utilization  
3170 and price patterns within the Medicaid program which are not  
3171 cost-effective or medically appropriate and assess the  
3172 effectiveness of new or alternate methods of providing and  
3173 monitoring service, and may implement such methods as it  
3174 considers appropriate. Such methods may include disease  
3175 management initiatives, an integrated and systematic approach  
3176 for managing the health care needs of recipients who are at risk  
3177 of or diagnosed with a specific disease by using best practices,  
3178 prevention strategies, clinical-practice improvement, clinical  
3179 interventions and protocols, outcomes research, information  
3180 technology, and other tools and resources to reduce overall  
3181 costs and improve measurable outcomes.

3182 (b) The responsibility of the agency under this subsection  
3183 shall include the development of capabilities to identify actual  
3184 and optimal practice patterns; patient and provider educational  
3185 initiatives; methods for determining patient compliance with

HB 1905

2004

3186 prescribed treatments; fraud, waste, and abuse prevention and  
 3187 detection programs; and beneficiary case management programs.

3188 1. The practice pattern identification program shall  
 3189 evaluate practitioner prescribing patterns based on national and  
 3190 regional practice guidelines, comparing practitioners to their  
 3191 peer groups. The agency and its Drug Utilization Review Board  
 3192 shall consult with a panel of practicing health care  
 3193 professionals consisting of the following: the Speaker of the  
 3194 House of Representatives and the President of the Senate shall  
 3195 each appoint three physicians licensed under chapter 458 or  
 3196 chapter 459; and the Governor shall appoint two pharmacists  
 3197 licensed under chapter 465 and one dentist licensed under  
 3198 chapter 466 who is an oral surgeon. Terms of the panel members  
 3199 shall expire at the discretion of the appointing official. The  
 3200 panel shall begin its work by August 1, 1999, regardless of the  
 3201 number of appointments made by that date. The advisory panel  
 3202 shall be responsible for evaluating treatment guidelines and  
 3203 recommending ways to incorporate their use in the practice  
 3204 pattern identification program. Practitioners who are  
 3205 prescribing inappropriately or inefficiently, as determined by  
 3206 the agency, may have their prescribing of certain drugs subject  
 3207 to prior authorization.

3208 2. The agency shall also develop educational interventions  
 3209 designed to promote the proper use of medications by providers  
 3210 and beneficiaries.

3211 3. The agency shall implement a pharmacy fraud, waste, and  
 3212 abuse initiative that may include a surety bond or letter of  
 3213 credit requirement for participating pharmacies, enhanced  
 3214 provider auditing practices, the use of additional fraud and



HB 1905

2004

3215 abuse software, recipient management programs for beneficiaries  
 3216 inappropriately using their benefits, and other steps that will  
 3217 eliminate provider and recipient fraud, waste, and abuse. The  
 3218 initiative shall address enforcement efforts to reduce the  
 3219 number and use of counterfeit prescriptions.

3220 4. By September 30, 2002, the agency shall contract with  
 3221 an entity in the state to implement a wireless handheld clinical  
 3222 pharmacology drug information database for practitioners. The  
 3223 initiative shall be designed to enhance the agency's efforts to  
 3224 reduce fraud, abuse, and errors in the prescription drug benefit  
 3225 program and to otherwise further the intent of this paragraph.

3226 5. The agency may apply for any federal waivers needed to  
 3227 implement this paragraph.

3228 (17) An entity contracting on a prepaid or fixed-sum basis  
 3229 shall, in addition to meeting any applicable statutory surplus  
 3230 requirements, also maintain at all times in the form of cash,  
 3231 investments that mature in less than 180 days allowable as  
 3232 admitted assets by the Office of Insurance Regulation, and  
 3233 restricted funds or deposits controlled by the agency or the  
 3234 Office of Insurance Regulation, a surplus amount equal to one-  
 3235 and-one-half times the entity's monthly Medicaid prepaid  
 3236 revenues. As used in this subsection, the term "surplus" means  
 3237 the entity's total assets minus total liabilities. If an  
 3238 entity's surplus falls below an amount equal to one-and-one-half  
 3239 times the entity's monthly Medicaid prepaid revenues, the agency  
 3240 shall prohibit the entity from engaging in marketing and  
 3241 preenrollment activities, shall cease to process new  
 3242 enrollments, and shall not renew the entity's contract until the

HB 1905

2004

3243 required balance is achieved. The requirements of this  
 3244 subsection do not apply:

3245 (a) Where a public entity agrees to fund any deficit  
 3246 incurred by the contracting entity; or

3247 (b) Where the entity's performance and obligations are  
 3248 guaranteed in writing by a guaranteeing organization which:

3249 1. Has been in operation for at least 5 years and has  
 3250 assets in excess of \$50 million; or

3251 2. Submits a written guarantee acceptable to the agency  
 3252 which is irrevocable during the term of the contracting entity's  
 3253 contract with the agency and, upon termination of the contract,  
 3254 until the agency receives proof of satisfaction of all  
 3255 outstanding obligations incurred under the contract.

3256 (18)(a) The agency may require an entity contracting on a  
 3257 prepaid or fixed-sum basis to establish a restricted insolvency  
 3258 protection account with a federally guaranteed financial  
 3259 institution licensed to do business in this state. The entity  
 3260 shall deposit into that account 5 percent of the capitation  
 3261 payments made by the agency each month until a maximum total of  
 3262 2 percent of the total current contract amount is reached. The  
 3263 restricted insolvency protection account may be drawn upon with  
 3264 the authorized signatures of two persons designated by the  
 3265 entity and two representatives of the agency. If the agency  
 3266 finds that the entity is insolvent, the agency may draw upon the  
 3267 account solely with the two authorized signatures of  
 3268 representatives of the agency, and the funds may be disbursed to  
 3269 meet financial obligations incurred by the entity under the  
 3270 prepaid contract. If the contract is terminated, expired, or not  
 3271 continued, the account balance must be released by the agency to

HB 1905

2004

3272 the entity upon receipt of proof of satisfaction of all  
 3273 outstanding obligations incurred under this contract.

3274 (b) The agency may waive the insolvency protection account  
 3275 requirement in writing when evidence is on file with the agency  
 3276 of adequate insolvency insurance and reinsurance that will  
 3277 protect enrollees if the entity becomes unable to meet its  
 3278 obligations.

3279 (19) An entity that contracts with the agency on a prepaid  
 3280 or fixed-sum basis for the provision of Medicaid services shall  
 3281 reimburse any hospital or physician that is outside the entity's  
 3282 authorized geographic service area as specified in its contract  
 3283 with the agency, and that provides services authorized by the  
 3284 entity to its members, at a rate negotiated with the hospital or  
 3285 physician for the provision of services or according to the  
 3286 lesser of the following:

3287 (a) The usual and customary charges made to the general  
 3288 public by the hospital or physician; or

3289 (b) The Florida Medicaid reimbursement rate established  
 3290 for the hospital or physician.

3291 (20) When a merger or acquisition of a Medicaid prepaid  
 3292 contractor has been approved by the Office of Insurance  
 3293 Regulation pursuant to s. 628.4615, the agency shall approve the  
 3294 assignment or transfer of the appropriate Medicaid prepaid  
 3295 contract upon request of the surviving entity of the merger or  
 3296 acquisition if the contractor and the other entity have been in  
 3297 good standing with the agency for the most recent 12-month  
 3298 period, unless the agency determines that the assignment or  
 3299 transfer would be detrimental to the Medicaid recipients or the  
 3300 Medicaid program. To be in good standing, an entity must not

HB 1905

2004

3301 have failed accreditation or committed any material violation of  
 3302 the requirements of s. 641.52 and must meet the Medicaid  
 3303 contract requirements. For purposes of this section, a merger or  
 3304 acquisition means a change in controlling interest of an entity,  
 3305 including an asset or stock purchase.

3306 (21) Any entity contracting with the agency pursuant to  
 3307 this section to provide health care services to Medicaid  
 3308 recipients is prohibited from engaging in any of the following  
 3309 practices or activities:

3310 (a) Practices that are discriminatory, including, but not  
 3311 limited to, attempts to discourage participation on the basis of  
 3312 actual or perceived health status.

3313 (b) Activities that could mislead or confuse recipients,  
 3314 or misrepresent the organization, its marketing representatives,  
 3315 or the agency. Violations of this paragraph include, but are not  
 3316 limited to:

3317 1. False or misleading claims that marketing  
 3318 representatives are employees or representatives of the state or  
 3319 county, or of anyone other than the entity or the organization  
 3320 by whom they are reimbursed.

3321 2. False or misleading claims that the entity is  
 3322 recommended or endorsed by any state or county agency, or by any  
 3323 other organization which has not certified its endorsement in  
 3324 writing to the entity.

3325 3. False or misleading claims that the state or county  
 3326 recommends that a Medicaid recipient enroll with an entity.

3327 4. Claims that a Medicaid recipient will lose benefits  
 3328 under the Medicaid program, or any other health or welfare

HB 1905

2004

3329 benefits to which the recipient is legally entitled, if the  
 3330 recipient does not enroll with the entity.

3331 (c) Granting or offering of any monetary or other valuable  
 3332 consideration for enrollment, except as authorized by subsection  
 3333 (22).

3334 (d) Door-to-door solicitation of recipients who have not  
 3335 contacted the entity or who have not invited the entity to make  
 3336 a presentation.

3337 (e) Solicitation of Medicaid recipients by marketing  
 3338 representatives stationed in state offices unless approved and  
 3339 supervised by the agency or its agent and approved by the  
 3340 affected state agency when solicitation occurs in an office of  
 3341 the state agency. The agency shall ensure that marketing  
 3342 representatives stationed in state offices shall market their  
 3343 managed care plans to Medicaid recipients only in designated  
 3344 areas and in such a way as to not interfere with the recipients'  
 3345 activities in the state office.

3346 (f) Enrollment of Medicaid recipients.

3347 (22) The agency may impose a fine for a violation of this  
 3348 section or the contract with the agency by a person or entity  
 3349 that is under contract with the agency. With respect to any  
 3350 nonwillful violation, such fine shall not exceed \$2,500 per  
 3351 violation. In no event shall such fine exceed an aggregate  
 3352 amount of \$10,000 for all nonwillful violations arising out of  
 3353 the same action. With respect to any knowing and willful  
 3354 violation of this section or the contract with the agency, the  
 3355 agency may impose a fine upon the entity in an amount not to  
 3356 exceed \$20,000 for each such violation. In no event shall such

HB 1905

2004

3357 fine exceed an aggregate amount of \$100,000 for all knowing and  
 3358 willful violations arising out of the same action.

3359 (23) A health maintenance organization or a person or  
 3360 entity exempt from chapter 641 that is under contract with the  
 3361 agency for the provision of health care services to Medicaid  
 3362 recipients may not use or distribute marketing materials used to  
 3363 solicit Medicaid recipients, unless such materials have been  
 3364 approved by the agency. The provisions of this subsection do not  
 3365 apply to general advertising and marketing materials used by a  
 3366 health maintenance organization to solicit both non-Medicaid  
 3367 subscribers and Medicaid recipients.

3368 (24) Upon approval by the agency, health maintenance  
 3369 organizations and persons or entities exempt from chapter 641  
 3370 that are under contract with the agency for the provision of  
 3371 health care services to Medicaid recipients may be permitted  
 3372 within the capitation rate to provide additional health benefits  
 3373 that the agency has found are of high quality, are practicably  
 3374 available, provide reasonable value to the recipient, and are  
 3375 provided at no additional cost to the state.

3376 (25) The agency shall utilize the statewide health  
 3377 maintenance organization complaint hotline for the purpose of  
 3378 investigating and resolving Medicaid and prepaid health plan  
 3379 complaints, maintaining a record of complaints and confirmed  
 3380 problems, and receiving disenrollment requests made by  
 3381 recipients.

3382 (26) The agency shall require the publication of the  
 3383 health maintenance organization's and the prepaid health plan's  
 3384 consumer services telephone numbers and the "800" telephone  
 3385 number of the statewide health maintenance organization

HB 1905

2004

3386 complaint hotline on each Medicaid identification card issued by  
 3387 a health maintenance organization or prepaid health plan  
 3388 contracting with the agency to serve Medicaid recipients and on  
 3389 each subscriber handbook issued to a Medicaid recipient.

3390 (27) The agency shall establish a health care quality  
 3391 improvement system for those entities contracting with the  
 3392 agency pursuant to this section, incorporating all the standards  
 3393 and guidelines developed by the Medicaid Bureau of the Health  
 3394 Care Financing Administration as a part of the quality assurance  
 3395 reform initiative. The system shall include, but need not be  
 3396 limited to, the following:

3397 (a) Guidelines for internal quality assurance programs,  
 3398 including standards for:

- 3399 1. Written quality assurance program descriptions.
- 3400 2. Responsibilities of the governing body for monitoring,  
 3401 evaluating, and making improvements to care.
- 3402 3. An active quality assurance committee.
- 3403 4. Quality assurance program supervision.
- 3404 5. Requiring the program to have adequate resources to  
 3405 effectively carry out its specified activities.
- 3406 6. Provider participation in the quality assurance  
 3407 program.
- 3408 7. Delegation of quality assurance program activities.
- 3409 8. Credentialing and recredentialing.
- 3410 9. Enrollee rights and responsibilities.
- 3411 10. Availability and accessibility to services and care.
- 3412 11. Ambulatory care facilities.
- 3413 12. Accessibility and availability of medical records, as  
 3414 well as proper recordkeeping and process for record review.

HB 1905

2004

- 3415 13. Utilization review.
- 3416 14. A continuity of care system.
- 3417 15. Quality assurance program documentation.
- 3418 16. Coordination of quality assurance activity with other
- 3419 management activity.

3420 17. Delivering care to pregnant women and infants; to  
 3421 elderly and disabled recipients, especially those who are at  
 3422 risk of institutional placement; to persons with developmental  
 3423 disabilities; and to adults who have chronic, high-cost medical  
 3424 conditions.

3425 (b) Guidelines which require the entities to conduct  
 3426 quality-of-care studies which:

3427 1. Target specific conditions and specific health service  
 3428 delivery issues for focused monitoring and evaluation.

3429 2. Use clinical care standards or practice guidelines to  
 3430 objectively evaluate the care the entity delivers or fails to  
 3431 deliver for the targeted clinical conditions and health services  
 3432 delivery issues.

3433 3. Use quality indicators derived from the clinical care  
 3434 standards or practice guidelines to screen and monitor care and  
 3435 services delivered.

3436 (c) Guidelines for external quality review of each  
 3437 contractor which require: focused studies of patterns of care;  
 3438 individual care review in specific situations; and followup  
 3439 activities on previous pattern-of-care study findings and  
 3440 individual-care-review findings. In designing the external  
 3441 quality review function and determining how it is to operate as  
 3442 part of the state's overall quality improvement system, the



HB 1905

2004

3443 agency shall construct its external quality review organization  
 3444 and entity contracts to address each of the following:

3445 1. Delineating the role of the external quality review  
 3446 organization.

3447 2. Length of the external quality review organization  
 3448 contract with the state.

3449 3. Participation of the contracting entities in designing  
 3450 external quality review organization review activities.

3451 4. Potential variation in the type of clinical conditions  
 3452 and health services delivery issues to be studied at each plan.

3453 5. Determining the number of focused pattern-of-care  
 3454 studies to be conducted for each plan.

3455 6. Methods for implementing focused studies.

3456 7. Individual care review.

3457 8. Followup activities.

3458 (28) In order to ensure that children receive health care  
 3459 services for which an entity has already been compensated, an  
 3460 entity contracting with the agency pursuant to this section  
 3461 shall achieve an annual Early and Periodic Screening, Diagnosis,  
 3462 and Treatment (EPSDT) Service screening rate of at least 60  
 3463 percent for those recipients continuously enrolled for at least  
 3464 8 months. The agency shall develop a method by which the EPSDT  
 3465 screening rate shall be calculated. For any entity which does  
 3466 not achieve the annual 60 percent rate, the entity must submit a  
 3467 corrective action plan for the agency's approval. If the entity  
 3468 does not meet the standard established in the corrective action  
 3469 plan during the specified timeframe, the agency is authorized to  
 3470 impose appropriate contract sanctions. At least annually, the  
 3471 agency shall publicly release the EPSDT Services screening rates

HB 1905

2004

3472 of each entity it has contracted with on a prepaid basis to  
 3473 serve Medicaid recipients.

3474 (29) The agency shall perform enrollments and  
 3475 disenrollments for Medicaid recipients who are eligible for  
 3476 MediPass or managed care plans. Notwithstanding the prohibition  
 3477 contained in paragraph (19)(f), managed care plans may perform  
 3478 preenrollments of Medicaid recipients under the supervision of  
 3479 the agency or its agents. For the purposes of this section,  
 3480 "preenrollment" means the provision of marketing and educational  
 3481 materials to a Medicaid recipient and assistance in completing  
 3482 the application forms, but shall not include actual enrollment  
 3483 into a managed care plan. An application for enrollment shall  
 3484 not be deemed complete until the agency or its agent verifies  
 3485 that the recipient made an informed, voluntary choice. The  
 3486 agency, in cooperation with the Department of Children and  
 3487 Family Services, may test new marketing initiatives to inform  
 3488 Medicaid recipients about their managed care options at selected  
 3489 sites. The agency shall report to the Legislature on the  
 3490 effectiveness of such initiatives. The agency may contract with  
 3491 a third party to perform managed care plan and MediPass  
 3492 enrollment and disenrollment services for Medicaid recipients  
 3493 and is authorized to adopt rules to implement such services. The  
 3494 agency may adjust the capitation rate only to cover the costs of  
 3495 a third-party enrollment and disenrollment contract, and for  
 3496 agency supervision and management of the managed care plan  
 3497 enrollment and disenrollment contract.

3498 (30) Any lists of providers made available to Medicaid  
 3499 recipients, MediPass enrollees, or managed care plan enrollees

HB 1905

2004

3500 shall be arranged alphabetically showing the provider's name and  
 3501 specialty and, separately, by specialty in alphabetical order.

3502 (31) The agency shall establish an enhanced managed care  
 3503 quality assurance oversight function, to include at least the  
 3504 following components:

3505 (a) At least quarterly analysis and followup, including  
 3506 sanctions as appropriate, of managed care participant  
 3507 utilization of services.

3508 (b) At least quarterly analysis and followup, including  
 3509 sanctions as appropriate, of quality findings of the Medicaid  
 3510 peer review organization and other external quality assurance  
 3511 programs.

3512 (c) At least quarterly analysis and followup, including  
 3513 sanctions as appropriate, of the fiscal viability of managed  
 3514 care plans.

3515 (d) At least quarterly analysis and followup, including  
 3516 sanctions as appropriate, of managed care participant  
 3517 satisfaction and disenrollment surveys.

3518 (e) The agency shall conduct regular and ongoing Medicaid  
 3519 recipient satisfaction surveys.

3520 The analyses and followup activities conducted by the  
 3521 agency under its enhanced managed care quality assurance  
 3522 oversight function shall not duplicate the activities of  
 3523 accreditation reviewers for entities regulated under part III of  
 3524 chapter 641, but may include a review of the finding of such  
 3525 reviewers.

3526 (32) Each managed care plan that is under contract with  
 3527 the agency to provide health care services to Medicaid  
 3528 recipients shall annually conduct a background check with the

HB 1905

2004

3529 Florida Department of Law Enforcement of all persons with  
 3530 ownership interest of 5 percent or more or executive management  
 3531 responsibility for the managed care plan and shall submit to the  
 3532 agency information concerning any such person who has been found  
 3533 guilty of, regardless of adjudication, or has entered a plea of  
 3534 nolo contendere or guilty to, any of the offenses listed in s.  
 3535 435.03.

3536 (33) The agency shall, by rule, develop a process whereby  
 3537 a Medicaid managed care plan enrollee who wishes to enter  
 3538 hospice care may be disenrolled from the managed care plan  
 3539 within 24 hours after contacting the agency regarding such  
 3540 request. The agency rule shall include a methodology for the  
 3541 agency to recoup managed care plan payments on a pro rata basis  
 3542 if payment has been made for the enrollment month when  
 3543 disenrollment occurs.

3544 (34) The agency and entities which contract with the  
 3545 agency to provide health care services to Medicaid recipients  
 3546 under this section or s. 409.9122 must comply with the  
 3547 provisions of s. 641.513 in providing emergency services and  
 3548 care to Medicaid recipients and MediPass recipients.

3549 (35) All entities providing health care services to  
 3550 Medicaid recipients shall make available, and encourage all  
 3551 pregnant women and mothers with infants to receive, and provide  
 3552 documentation in the medical records to reflect, the following:

3553 (a) Healthy Start prenatal or infant screening.

3554 (b) Healthy Start care coordination, when screening or  
 3555 other factors indicate need.

3556 (c) Healthy Start enhanced services in accordance with the  
 3557 prenatal or infant screening results.

HB 1905

2004

3558 (d) Immunizations in accordance with recommendations of  
 3559 the Advisory Committee on Immunization Practices of the United  
 3560 States Public Health Service and the American Academy of  
 3561 Pediatrics, as appropriate.

3562 (e) Counseling and services for family planning to all  
 3563 women and their partners.

3564 (f) A scheduled postpartum visit for the purpose of  
 3565 voluntary family planning, to include discussion of all methods  
 3566 of contraception, as appropriate.

3567 (g) Referral to the Special Supplemental Nutrition Program  
 3568 for Women, Infants, and Children (WIC).

3569 (36) Any entity that provides Medicaid prepaid health plan  
 3570 services shall ensure the appropriate coordination of health  
 3571 care services with an assisted living facility in cases where a  
 3572 Medicaid recipient is both a member of the entity's prepaid  
 3573 health plan and a resident of the assisted living facility. If  
 3574 the entity is at risk for Medicaid targeted case management and  
 3575 behavioral health services, the entity shall inform the assisted  
 3576 living facility of the procedures to follow should an emergent  
 3577 condition arise.

3578 (37) The agency may seek and implement federal waivers  
 3579 necessary to provide for cost-effective purchasing of home  
 3580 health services, private duty nursing services, transportation,  
 3581 independent laboratory services, and durable medical equipment  
 3582 and supplies through competitive bidding pursuant to part II of  
 3583 chapter 287 ~~s. 287.057~~. The agency may request appropriate  
 3584 waivers from the federal Health Care Financing Administration in  
 3585 order to competitively bid such services. The agency may exclude

HB 1905

2004

3586 providers not selected through the bidding process from the  
 3587 Medicaid provider network.

3588 (38) The Agency for Health Care Administration is directed  
 3589 to issue a request for proposal or intent to negotiate to  
 3590 implement on a demonstration basis an outpatient specialty  
 3591 services pilot project in a rural and urban county in the state.  
 3592 As used in this subsection, the term "outpatient specialty  
 3593 services" means clinical laboratory, diagnostic imaging, and  
 3594 specified home medical services to include durable medical  
 3595 equipment, prosthetics and orthotics, and infusion therapy.

3596 (a) The entity that is awarded the contract to provide  
 3597 Medicaid managed care outpatient specialty services must, at a  
 3598 minimum, meet the following criteria:

3599 1. The entity must be licensed by the Office of Insurance  
 3600 Regulation under part II of chapter 641.

3601 2. The entity must be experienced in providing outpatient  
 3602 specialty services.

3603 3. The entity must demonstrate to the satisfaction of the  
 3604 agency that it provides high-quality services to its patients.

3605 4. The entity must demonstrate that it has in place a  
 3606 complaints and grievance process to assist Medicaid recipients  
 3607 enrolled in the pilot managed care program to resolve complaints  
 3608 and grievances.

3609 (b) The pilot managed care program shall operate for a  
 3610 period of 3 years. The objective of the pilot program shall be  
 3611 to determine the cost-effectiveness and effects on utilization,  
 3612 access, and quality of providing outpatient specialty services  
 3613 to Medicaid recipients on a prepaid, capitated basis.

HB 1905

2004

3614 (c) The agency shall conduct a quality assurance review of  
 3615 the prepaid health clinic each year that the demonstration  
 3616 program is in effect. The prepaid health clinic is responsible  
 3617 for all expenses incurred by the agency in conducting a quality  
 3618 assurance review.

3619 (d) The entity that is awarded the contract to provide  
 3620 outpatient specialty services to Medicaid recipients shall  
 3621 report data required by the agency in a format specified by the  
 3622 agency, for the purpose of conducting the evaluation required in  
 3623 paragraph (e).

3624 (e) The agency shall conduct an evaluation of the pilot  
 3625 managed care program and report its findings to the Governor and  
 3626 the Legislature by no later than January 1, 2001.

3627 (39) The agency shall enter into agreements with not-for-  
 3628 profit organizations based in this state for the purpose of  
 3629 providing vision screening.

3630 (40)(a) The agency shall implement a Medicaid prescribed-  
 3631 drug spending-control program that includes the following  
 3632 components:

3633 1. Medicaid prescribed-drug coverage for brand-name drugs  
 3634 for adult Medicaid recipients is limited to the dispensing of  
 3635 four brand-name drugs per month per recipient. Children are  
 3636 exempt from this restriction. Antiretroviral agents are excluded  
 3637 from this limitation. No requirements for prior authorization or  
 3638 other restrictions on medications used to treat mental illnesses  
 3639 such as schizophrenia, severe depression, or bipolar disorder  
 3640 may be imposed on Medicaid recipients. Medications that will be  
 3641 available without restriction for persons with mental illnesses  
 3642 include atypical antipsychotic medications, conventional

HB 1905

2004

3643 antipsychotic medications, selective serotonin reuptake  
 3644 inhibitors, and other medications used for the treatment of  
 3645 serious mental illnesses. The agency shall also limit the amount  
 3646 of a prescribed drug dispensed to no more than a 34-day supply.  
 3647 The agency shall continue to provide unlimited generic drugs,  
 3648 contraceptive drugs and items, and diabetic supplies. Although a  
 3649 drug may be included on the preferred drug formulary, it would  
 3650 not be exempt from the four-brand limit. The agency may  
 3651 authorize exceptions to the brand-name-drug restriction based  
 3652 upon the treatment needs of the patients, only when such  
 3653 exceptions are based on prior consultation provided by the  
 3654 agency or an agency contractor, but the agency must establish  
 3655 procedures to ensure that:

3656       a. There will be a response to a request for prior  
 3657 consultation by telephone or other telecommunication device  
 3658 within 24 hours after receipt of a request for prior  
 3659 consultation;

3660       b. A 72-hour supply of the drug prescribed will be  
 3661 provided in an emergency or when the agency does not provide a  
 3662 response within 24 hours as required by sub-subparagraph a.; and

3663       c. Except for the exception for nursing home residents and  
 3664 other institutionalized adults and except for drugs on the  
 3665 restricted formulary for which prior authorization may be sought  
 3666 by an institutional or community pharmacy, prior authorization  
 3667 for an exception to the brand-name-drug restriction is sought by  
 3668 the prescriber and not by the pharmacy. When prior authorization  
 3669 is granted for a patient in an institutional setting beyond the  
 3670 brand-name-drug restriction, such approval is authorized for 12



HB 1905

2004

3671 months and monthly prior authorization is not required for that  
 3672 patient.

3673 2. Reimbursement to pharmacies for Medicaid prescribed  
 3674 drugs shall be set at the average wholesale price less 13.25  
 3675 percent.

3676 3. The agency shall develop and implement a process for  
 3677 managing the drug therapies of Medicaid recipients who are using  
 3678 significant numbers of prescribed drugs each month. The  
 3679 management process may include, but is not limited to,  
 3680 comprehensive, physician-directed medical-record reviews, claims  
 3681 analyses, and case evaluations to determine the medical  
 3682 necessity and appropriateness of a patient's treatment plan and  
 3683 drug therapies. The agency may contract with a private  
 3684 organization to provide drug-program-management services. The  
 3685 Medicaid drug benefit management program shall include  
 3686 initiatives to manage drug therapies for HIV/AIDS patients,  
 3687 patients using 20 or more unique prescriptions in a 180-day  
 3688 period, and the top 1,000 patients in annual spending.

3689 4. The agency may limit the size of its pharmacy network  
 3690 based on need, competitive bidding, price negotiations,  
 3691 credentialing, or similar criteria. The agency shall give  
 3692 special consideration to rural areas in determining the size and  
 3693 location of pharmacies included in the Medicaid pharmacy  
 3694 network. A pharmacy credentialing process may include criteria  
 3695 such as a pharmacy's full-service status, location, size,  
 3696 patient educational programs, patient consultation, disease-  
 3697 management services, and other characteristics. The agency may  
 3698 impose a moratorium on Medicaid pharmacy enrollment when it is

HB 1905

2004

3699 determined that it has a sufficient number of Medicaid-  
 3700 participating providers.

3701         5. The agency shall develop and implement a program that  
 3702 requires Medicaid practitioners who prescribe drugs to use a  
 3703 counterfeit-proof prescription pad for Medicaid prescriptions.  
 3704 The agency shall require the use of standardized counterfeit-  
 3705 proof prescription pads by Medicaid-participating prescribers or  
 3706 prescribers who write prescriptions for Medicaid recipients. The  
 3707 agency may implement the program in targeted geographic areas or  
 3708 statewide.

3709         6. The agency may enter into arrangements that require  
 3710 manufacturers of generic drugs prescribed to Medicaid recipients  
 3711 to provide rebates of at least 15.1 percent of the average  
 3712 manufacturer price for the manufacturer's generic products.  
 3713 These arrangements shall require that if a generic-drug  
 3714 manufacturer pays federal rebates for Medicaid-reimbursed drugs  
 3715 at a level below 15.1 percent, the manufacturer must provide a  
 3716 supplemental rebate to the state in an amount necessary to  
 3717 achieve a 15.1-percent rebate level.

3718         7. The agency may establish a preferred drug formulary in  
 3719 accordance with 42 U.S.C. s. 1396r-8, and, pursuant to the  
 3720 establishment of such formulary, it is authorized to negotiate  
 3721 supplemental rebates from manufacturers that are in addition to  
 3722 those required by Title XIX of the Social Security Act and at no  
 3723 less than 10 percent of the average manufacturer price as  
 3724 defined in 42 U.S.C. s. 1936 on the last day of a quarter unless  
 3725 the federal or supplemental rebate, or both, equals or exceeds  
 3726 25 percent. There is no upper limit on the supplemental rebates  
 3727 the agency may negotiate. The agency may determine that specific

HB 1905

2004

3728 products, brand-name or generic, are competitive at lower rebate  
 3729 percentages. Agreement to pay the minimum supplemental rebate  
 3730 percentage will guarantee a manufacturer that the Medicaid  
 3731 Pharmaceutical and Therapeutics Committee will consider a  
 3732 product for inclusion on the preferred drug formulary. However,  
 3733 a pharmaceutical manufacturer is not guaranteed placement on the  
 3734 formulary by simply paying the minimum supplemental rebate.  
 3735 Agency decisions will be made on the clinical efficacy of a drug  
 3736 and recommendations of the Medicaid Pharmaceutical and  
 3737 Therapeutics Committee, as well as the price of competing  
 3738 products minus federal and state rebates. The agency is  
 3739 authorized to contract with an outside agency or contractor to  
 3740 conduct negotiations for supplemental rebates. For the purposes  
 3741 of this section, the term "supplemental rebates" may include, at  
 3742 the agency's discretion, cash rebates and other program benefits  
 3743 that offset a Medicaid expenditure. Such other program benefits  
 3744 may include, but are not limited to, disease management  
 3745 programs, drug product donation programs, drug utilization  
 3746 control programs, prescriber and beneficiary counseling and  
 3747 education, fraud and abuse initiatives, and other services or  
 3748 administrative investments with guaranteed savings to the  
 3749 Medicaid program in the same year the rebate reduction is  
 3750 included in the General Appropriations Act. The agency is  
 3751 authorized to seek any federal waivers to implement this  
 3752 initiative.

3753         8. The agency shall establish an advisory committee for  
 3754 the purposes of studying the feasibility of using a restricted  
 3755 drug formulary for nursing home residents and other  
 3756 institutionalized adults. The committee shall be comprised of

HB 1905

2004

3757 seven members appointed by the Secretary of Health Care  
 3758 Administration. The committee members shall include two  
 3759 physicians licensed under chapter 458 or chapter 459; three  
 3760 pharmacists licensed under chapter 465 and appointed from a list  
 3761 of recommendations provided by the Florida Long-Term Care  
 3762 Pharmacy Alliance; and two pharmacists licensed under chapter  
 3763 465.

3764 9. The Agency for Health Care Administration shall expand  
 3765 home delivery of pharmacy products. To assist Medicaid patients  
 3766 in securing their prescriptions and reduce program costs, the  
 3767 agency shall expand its current mail-order-pharmacy diabetes-  
 3768 supply program to include all generic and brand-name drugs used  
 3769 by Medicaid patients with diabetes. Medicaid recipients in the  
 3770 current program may obtain nondiabetes drugs on a voluntary  
 3771 basis. This initiative is limited to the geographic area covered  
 3772 by the current contract. The agency may seek and implement any  
 3773 federal waivers necessary to implement this subparagraph.

3774 (b) The agency shall implement this subsection to the  
 3775 extent that funds are appropriated to administer the Medicaid  
 3776 prescribed-drug spending-control program. The agency may  
 3777 contract all or any part of this program to private  
 3778 organizations.

3779 (c) The agency shall submit quarterly reports to the  
 3780 Governor, the President of the Senate, and the Speaker of the  
 3781 House of Representatives which must include, but need not be  
 3782 limited to, the progress made in implementing this subsection  
 3783 and its effect on Medicaid prescribed-drug expenditures.

3784 (41) Notwithstanding the provisions of chapter 287, the  
 3785 agency may, at its discretion, renew a contract or contracts for

HB 1905

2004

3786 fiscal intermediary services one or more times for such periods  
 3787 as the agency may decide; however, all such renewals may not  
 3788 combine to exceed a total period longer than the term of the  
 3789 original contract.

3790 (42) The agency shall provide for the development of a  
 3791 demonstration project by establishment in Miami-Dade County of a  
 3792 long-term-care facility licensed pursuant to chapter 395 to  
 3793 improve access to health care for a predominantly minority,  
 3794 medically underserved, and medically complex population and to  
 3795 evaluate alternatives to nursing home care and general acute  
 3796 care for such population. Such project is to be located in a  
 3797 health care condominium and colocated with licensed facilities  
 3798 providing a continuum of care. The establishment of this project  
 3799 is not subject to the provisions of s. 408.036 or s. 408.039.  
 3800 The agency shall report its findings to the Governor, the  
 3801 President of the Senate, and the Speaker of the House of  
 3802 Representatives by January 1, 2003.

3803 (43) The agency shall develop and implement a utilization  
 3804 management program for Medicaid-eligible recipients for the  
 3805 management of occupational, physical, respiratory, and speech  
 3806 therapies. The agency shall establish a utilization program that  
 3807 may require prior authorization in order to ensure medically  
 3808 necessary and cost-effective treatments. The program shall be  
 3809 operated in accordance with a federally approved waiver program  
 3810 or state plan amendment. The agency may seek a federal waiver or  
 3811 state plan amendment to implement this program. The agency may  
 3812 also competitively procure these services from an outside vendor  
 3813 on a regional or statewide basis.

HB 1905

2004

3814 (44) The agency may contract on a prepaid or fixed-sum  
 3815 basis with appropriately licensed prepaid dental health plans to  
 3816 provide dental services.

3817 Section 75. Paragraph (e) of subsection (5) of section  
 3818 411.01, Florida Statutes, is amended to read:

3819 411.01 Florida Partnership for School Readiness; school  
 3820 readiness coalitions.--

3821 (5) CREATION OF SCHOOL READINESS COALITIONS.--

3822 (e) Requests for proposals; payment schedule.--

3823 1. At least once every 3 years, beginning July 1, 2001,  
 3824 each coalition must follow the competitive procurement  
 3825 requirements of part II of chapter 287 ~~s. 287.057~~ for school  
 3826 readiness programs.

3827 2. Each coalition shall develop a payment schedule that  
 3828 encompasses all programs funded by that coalition. The payment  
 3829 schedule must take into consideration the relevant market rate,  
 3830 must include the projected number of children to be served, and  
 3831 must be submitted to the partnership for information. Informal  
 3832 child care arrangements shall be reimbursed at not more than 50  
 3833 percent of the rate developed for family childcare.

3834 Section 76. Subsection (2) of section 413.036, Florida  
 3835 Statutes, is amended to read:

3836 413.036 Procurement of services by agencies; authority of  
 3837 department.--

3838 (2) The provisions of parts I-VII ~~part I~~ of chapter 287 do  
 3839 not apply to any purchase of commodities or contractual services  
 3840 made by any legislative, executive, or judicial agency of the  
 3841 state from a qualified nonprofit agency for the blind or for the  
 3842 other severely handicapped.

HB 1905

2004

3843 Section 77. Section 420.0006, Florida Statutes, is amended  
 3844 to read:

3845 420.0006 Authority to contract with corporation; contract  
 3846 requirements; nonperformance.--The secretary of the department  
 3847 shall contract, notwithstanding the provisions of parts I-VII  
 3848 ~~part I~~ of chapter 287, with the Florida Housing Finance  
 3849 Corporation on a multiyear basis to stimulate, provide, and  
 3850 foster affordable housing in the state. The contract must  
 3851 incorporate the performance measures required by s. 420.511 and  
 3852 must be consistent with the provisions of the corporation's  
 3853 strategic plan prepared in accordance with s. 420.511 and  
 3854 compatible with s. 216.0166. The contract must provide that, in  
 3855 the event the corporation fails to comply with any of the  
 3856 performance measures required by s. 420.511, the secretary shall  
 3857 notify the Governor and shall refer the nonperformance to the  
 3858 department's inspector general for review and determination as  
 3859 to whether such failure is due to forces beyond the  
 3860 corporation's control or whether such failure is due to  
 3861 inadequate management of the corporation's resources. Advances  
 3862 shall continue to be made pursuant to s. 420.0005 during the  
 3863 pendency of the review by the department's inspector general. If  
 3864 such failure is due to outside forces, it shall not be deemed a  
 3865 violation of the contract. If such failure is due to inadequate  
 3866 management, the department's inspector general shall provide  
 3867 recommendations regarding solutions. The Governor is authorized  
 3868 to resolve any differences of opinion with respect to  
 3869 performance under the contract and may request that advances  
 3870 continue in the event of a failure under the contract due to  
 3871 inadequate management. The Chief Financial Officer shall approve

HB 1905

2004

3872 the request absent a finding by the Chief Financial Officer that  
 3873 continuing such advances would adversely impact the state;  
 3874 however, in any event the Chief Financial Officer shall provide  
 3875 advances sufficient to meet the debt service requirements of the  
 3876 corporation and sufficient to fund contracts committing funds  
 3877 from the State Housing Trust Fund so long as such contracts are  
 3878 in accordance with the laws of this state. The department  
 3879 inspector general shall perform for the corporation the  
 3880 functions set forth in s. 20.055 and report to the secretary of  
 3881 the department. The corporation shall be deemed an agency for  
 3882 the purposes of s. 20.055.

3883 Section 78. Subsection (27) of section 420.507, Florida  
 3884 Statutes, is amended to read:

3885 420.507 Powers of the corporation.--The corporation shall  
 3886 have all the powers necessary or convenient to carry out and  
 3887 effectuate the purposes and provisions of this part, including  
 3888 the following powers which are in addition to all other powers  
 3889 granted by other provisions of this part:

3890 (27) Notwithstanding the provisions of chapter 282 and  
 3891 parts I-VII ~~part I~~ of chapter 287, to establish guidelines for  
 3892 and to implement the purchase and procurement of materials and  
 3893 services for use by the corporation.

3894 Section 79. Subsections (4) and (5) of section 430.502,  
 3895 Florida Statutes, are amended to read:

3896 430.502 Alzheimer's disease; memory disorder clinics and  
 3897 day care and respite care programs.--

3898 (4) Pursuant to the provisions of part II of chapter 287  
 3899 ~~s. 287.057~~, the Department of Elderly Affairs may contract for  
 3900 the provision of specialized model day care programs in



HB 1905

2004

3901 conjunction with the memory disorder clinics. The purpose of  
 3902 each model day care program must be to provide service delivery  
 3903 to persons suffering from Alzheimer's disease or a related  
 3904 memory disorder and training for health care and social service  
 3905 personnel in the care of persons having Alzheimer's disease or  
 3906 related memory disorders.

3907 (5) Pursuant to part II of chapter 287 ~~s. 287.057~~, the  
 3908 Department of Elderly Affairs shall contract for the provision  
 3909 of respite care. All funds appropriated for the provision of  
 3910 respite care shall be distributed annually by the department to  
 3911 each funded county according to an allocation formula. In  
 3912 developing the formula, the department shall consider the number  
 3913 and proportion of the county population of individuals who are  
 3914 75 years of age and older. Each respite care program shall be  
 3915 used as a resource for research and statistical data by the  
 3916 memory disorder clinics established in this part. In  
 3917 consultation with the memory disorder clinics, the department  
 3918 shall specify the information to be provided by the respite care  
 3919 programs for research purposes.

3920 Section 80. Paragraph (c) of subsection (5) of section  
 3921 445.024, Florida Statutes, is amended to read:

3922 445.024 Work requirements.--

3923 (5) USE OF CONTRACTS.--Regional workforce boards shall  
 3924 provide work activities, training, and other services, as  
 3925 appropriate, through contracts. In contracting for work  
 3926 activities, training, or services, the following applies:

3927 (c) Notwithstanding the exemption from the competitive  
 3928 sealed bid requirements provided in s. 287.123 ~~287.057(5)(f)~~ for  
 3929 certain contractual services, each contract awarded under this

HB 1905

2004

3930 chapter must be awarded on the basis of a competitive sealed  
 3931 bid, except for a contract with a governmental entity as  
 3932 determined by the regional workforce board.

3933 Section 81. Subsection (2) of section 455.209, Florida  
 3934 Statutes, is amended to read:

3935 455.209 Accountability and liability of board members.--

3936 (2) Each board member and each former board member serving  
 3937 on a probable cause panel shall be exempt from civil liability  
 3938 for any act or omission when acting in the member's official  
 3939 capacity, and the department shall defend any such member in any  
 3940 action against any board or member of a board arising from any  
 3941 such act or omission. In addition, the department may defend the  
 3942 member's company or business in any action against the company  
 3943 or business if the department determines that the actions from  
 3944 which the suit arises are actions taken by the member in the  
 3945 member's official capacity and were not beyond the member's  
 3946 statutory authority. In providing such defense, the department  
 3947 may employ or utilize the legal services of the Department of  
 3948 Legal Affairs or outside counsel retained pursuant to s. 287.127  
 3949 ~~287.059~~. Fees and costs of providing legal services provided  
 3950 under this subsection shall be paid from the Professional  
 3951 Regulation Trust Fund, subject to the provisions of ss. 215.37  
 3952 and 455.219.

3953 Section 82. Paragraphs (a) and (d) of subsection (2) of  
 3954 section 455.2177, Florida Statutes, are amended to read:

3955 455.2177 Monitoring of compliance with continuing  
 3956 education requirements.--

3957 (2) If the compliance monitoring system required under  
 3958 this section is privatized, the following provisions apply:

HB 1905

2004

3959 (a) The department may contract pursuant to part II of  
 3960 chapter 287 ~~s. 287.057~~ with a vendor or vendors for the  
 3961 monitoring of compliance with applicable continuing education  
 3962 requirements by all licensees within one or more professions  
 3963 regulated by the department. The contract shall include, but  
 3964 need not be limited to, the following terms and conditions:

3965 1.a. The vendor shall create a computer database, in the  
 3966 form required by the department, that includes the continuing  
 3967 education status of each licensee and shall provide a report to  
 3968 the department within 90 days after the vendor receives the list  
 3969 of licensees to be monitored as provided in sub-subparagraph b.  
 3970 The report shall be in a format determined by the department and  
 3971 shall include each licensee's continuing education status by  
 3972 license number, hours of continuing education credit per cycle,  
 3973 and such other information the department deems necessary.

3974 b. No later than 30 days after the end of each renewal  
 3975 period, the department shall provide to the vendor a list that  
 3976 includes all licensees of a particular profession whose licenses  
 3977 were renewed during a particular renewal period. In order to  
 3978 account for late renewals, the department shall provide the  
 3979 vendor with such updates to the list as are mutually determined  
 3980 to be necessary.

3981 2.a. Before the vendor informs the department of the  
 3982 status of any licensee the vendor has determined is not in  
 3983 compliance with continuing education requirements, the vendor,  
 3984 acting on behalf of the department, shall provide the licensee  
 3985 with a notice stating that the vendor has determined that the  
 3986 licensee is not in compliance with applicable continuing  
 3987 education requirements. The notice shall also include the

HB 1905

2004

3988 licensee's continuing education record for the renewal period,  
 3989 as shown in the records of the vendor, and a description of the  
 3990 process for correcting the vendor's record under sub-  
 3991 subparagraph b.

3992 b. The vendor shall give the licensee 45 days to correct  
 3993 the vendor's information. The vendor shall correct a record only  
 3994 on the basis of evidence of compliance supplied to the vendor by  
 3995 a continuing education provider.

3996 3.a. The vendor must provide the department, with the  
 3997 report required under subparagraph 1., a list, in a form  
 3998 determined by the department, identifying each licensee who the  
 3999 vendor has determined is not in compliance with applicable  
 4000 continuing education requirements.

4001 b. The vendor shall provide the department with access to  
 4002 such information and services as the department deems necessary  
 4003 to ensure that the actions of the vendor conform to the contract  
 4004 and to the duties of the department and the vendor under this  
 4005 subsection.

4006 4. The department shall ensure the vendor access to such  
 4007 information from continuing education providers as is necessary  
 4008 to determine the continuing education record of each licensee.  
 4009 The vendor shall inform the department of any provider that  
 4010 fails to provide such information to the vendor.

4011 5. If the vendor fails to comply with a provision of the  
 4012 contract, the vendor is obligated to pay the department  
 4013 liquidated damages in the amounts specified in the contract.

4014 6. The department's payments to the vendor must be based  
 4015 on the number of licensees monitored. The department may  
 4016 allocate from the unlicensed activity account of any profession

HB 1905

2004

4017 under s. 455.2281 up to \$2 per licensee for the monitoring of  
 4018 that profession's licensees under this subsection, which  
 4019 allocations are the exclusive source of funding for contracts  
 4020 under this subsection.

4021 7. A continuing education provider is not eligible to be a  
 4022 vendor under this subsection.

4023 (d) Upon the failure of a vendor to meet its obligations  
 4024 under a contract as provided in paragraph (a), the department  
 4025 may suspend the contract and enter into an emergency contract  
 4026 under s. 287.0336 ~~287.057(5)~~.

4027 Section 83. Subsection (1) of section 455.221, Florida  
 4028 Statutes, is amended to read:

4029 455.221 Legal and investigative services.--

4030 (1) The department shall provide board counsel for boards  
 4031 within the department by contracting with the Department of  
 4032 Legal Affairs, by retaining private counsel pursuant to s.  
 4033 287.127 ~~287.059~~, or by providing department staff counsel. The  
 4034 primary responsibility of board counsel shall be to represent  
 4035 the interests of the citizens of the state. A board shall  
 4036 provide for the periodic review and evaluation of the services  
 4037 provided by its board counsel. Fees and costs of such counsel  
 4038 shall be paid from the Professional Regulation Trust Fund,  
 4039 subject to the provisions of ss. 215.37 and 455.219. All  
 4040 contracts for independent counsel shall provide for periodic  
 4041 review and evaluation by the board and the department of  
 4042 services provided.

4043 Section 84. Subsection (2) of section 456.008, Florida  
 4044 Statutes, is amended to read:

4045 456.008 Accountability and liability of board members.--

HB 1905

2004

4046 (2) Each board member and each former board member serving  
 4047 on a probable cause panel shall be exempt from civil liability  
 4048 for any act or omission when acting in the member's official  
 4049 capacity, and the department shall defend any such member in any  
 4050 action against any board or member of a board arising from any  
 4051 such act or omission. In addition, the department may defend the  
 4052 member's company or business in any action against the company  
 4053 or business if the department determines that the actions from  
 4054 which the suit arises are actions taken by the member in the  
 4055 member's official capacity and were not beyond the member's  
 4056 statutory authority. In providing such defense, the department  
 4057 may employ or utilize the legal services of the Department of  
 4058 Legal Affairs or outside counsel retained pursuant to s. 287.127  
 4059 ~~287.059~~. Fees and costs of providing legal services provided  
 4060 under this subsection shall be paid from a trust fund used by  
 4061 the department to implement this chapter, subject to the  
 4062 provisions of s. 456.025.

4063 Section 85. Subsection (1) of section 456.009, Florida  
 4064 Statutes, is amended to read:

4065 456.009 Legal and investigative services.--

4066 (1) The department shall provide board counsel for boards  
 4067 within the department by contracting with the Department of  
 4068 Legal Affairs, by retaining private counsel pursuant to s.  
 4069 287.127 ~~287.059~~, or by providing department staff counsel. The  
 4070 primary responsibility of board counsel shall be to represent  
 4071 the interests of the citizens of the state. A board shall  
 4072 provide for the periodic review and evaluation of the services  
 4073 provided by its board counsel. Fees and costs of such counsel  
 4074 shall be paid from a trust fund used by the department to

HB 1905

2004

4075 implement this chapter, subject to the provisions of s. 456.025.  
 4076 All contracts for independent counsel shall provide for periodic  
 4077 review and evaluation by the board and the department of  
 4078 services provided.

4079 Section 86. Subsection (4) of section 479.261, Florida  
 4080 Statutes, is amended to read:

4081 479.261 Logo sign program.--

4082 (4) The department may contract pursuant to part II of  
 4083 chapter 287 ~~s. 287.057~~ for the provision of services related to  
 4084 the logo sign program, including recruitment and qualification  
 4085 of businesses, review of applications, permit issuance, and  
 4086 fabrication, installation, and maintenance of logo signs. The  
 4087 department may reject all proposals and seek another request for  
 4088 proposals or otherwise perform the work. If the department  
 4089 contracts for the provision of services for the logo sign  
 4090 program, the contract must require, unless the business owner  
 4091 declines, that businesses that previously entered into  
 4092 agreements with the department to privately fund logo sign  
 4093 construction and installation be reimbursed by the contractor  
 4094 for the cost of the signs which has not been recovered through a  
 4095 previously agreed upon waiver of fees. The contract also may  
 4096 allow the contractor to retain a portion of the annual fees as  
 4097 compensation for its services.

4098 Section 87. Paragraph (b) of subsection (3) of section  
 4099 481.205, Florida Statutes, is amended to read:

4100 481.205 Board of Architecture and Interior Design.--

4101 (3)

4102 (b) Notwithstanding the provisions of s. 455.32(13), the  
 4103 board, in lieu of the department, shall contract with a

HB 1905

2004

4104 corporation or other business entity pursuant to s. 287.0333  
 4105 ~~287.057(3)~~ to provide investigative, legal, prosecutorial, and  
 4106 other services necessary to perform its duties.

4107 Section 88. Paragraph (d) of subsection (4) of section  
 4108 489.145, Florida Statutes, is amended to read:

4109 489.145 Guaranteed energy performance savings  
 4110 contracting.--

4111 (4) PROCEDURES.--

4112 (d) A guaranteed energy performance savings contractor  
 4113 must be selected in compliance with s. 287.125 ~~287.055~~; except  
 4114 that if fewer than three firms are qualified to perform the  
 4115 required services, the requirement for agency selection of three  
 4116 firms, as provided in s. 287.125(4)(b) ~~287.055(4)(b)~~, and the  
 4117 bid requirements of part II of chapter 287 ~~s. 287.057~~ do not  
 4118 apply.

4119 Section 89. Subsections (4) and (10) of section 517.1204,  
 4120 Florida Statutes, are amended to read:

4121 517.1204 Investment Fraud Restoration Financing  
 4122 Corporation.--

4123 (4) The corporation is authorized to enter into one or  
 4124 more service contracts with the office pursuant to which the  
 4125 corporation shall provide services to the office in connection  
 4126 with financing the functions and activities provided for in s.  
 4127 517.1203. The office may enter into one or more such service  
 4128 contracts with the corporation and provide for payments under  
 4129 such contracts pursuant to s. 517.1203(2)(a), subject to annual  
 4130 appropriation by the Legislature. The proceeds from such service  
 4131 contracts may be used for the costs and expenses of  
 4132 administration of the corporation after payments as set forth in



HB 1905

2004

4133 subsection (5). Each service contract shall have a term not to  
 4134 exceed 15 years and shall terminate no later than July 1, 2021.  
 4135 The aggregate amount payable from the Securities Guaranty Fund  
 4136 under all such service contracts shall not exceed the amount  
 4137 provided by s. 517.1203(1). In compliance with provisions of s.  
 4138 287.1385 ~~287.0641~~ and other applicable provisions of law, the  
 4139 obligations of the office under such service contracts shall not  
 4140 constitute a general obligation of the state or a pledge of the  
 4141 faith and credit or taxing power of the state nor shall such  
 4142 obligations be construed in any manner as an obligation of the  
 4143 State Board of Administration or entities for which it invests  
 4144 funds, other than the office as provided in this section, but  
 4145 shall be payable solely from amounts available in the Securities  
 4146 Guaranty Fund, subject to annual appropriation. In compliance  
 4147 with this subsection and s. 287.311 ~~287.0582~~, such service  
 4148 contracts shall expressly include the following statement: "The  
 4149 State of Florida's performance and obligation to pay under this  
 4150 contract is contingent upon an annual appropriation by the  
 4151 Legislature."

4152 (10) The corporation shall not be deemed to be a special  
 4153 district for purposes of chapter 189 or a unit of local  
 4154 government for purposes of part III of chapter 218. The  
 4155 provisions of chapters 120 and 215, except the limitation on  
 4156 interest rates provided by s. 215.84 which applies to  
 4157 obligations of the corporation issued pursuant to this section,  
 4158 and parts I-VII ~~part I~~ of chapter 287, except ss. 287.1385 and  
 4159 287.311 ~~287.0582~~ and ~~287.0641~~, shall not apply to this section,  
 4160 the corporation created in this section, the service contracts

HB 1905

2004

4161 entered into pursuant to this section, or debt obligations  
 4162 issued by the corporation as provided in this section.

4163 Section 90. Paragraph (b) of subsection (9) of section  
 4164 527.23, Florida Statutes, is amended to read:

4165 527.23 Marketing orders; referendum requirements;  
 4166 assessments.--

4167 (9)

4168 (b) The collected assessments shall be deposited into the  
 4169 General Inspection Trust Fund and shall be used for the sole  
 4170 purpose of implementing the marketing order for which the  
 4171 assessment was collected. Three percent of all income of a  
 4172 revenue nature deposited in this fund, including transfers from  
 4173 any subsidiary accounts thereof and any interest income, shall  
 4174 be deposited in the General Revenue Fund pursuant to chapter  
 4175 215. The department is not subject to the procedures found in  
 4176 part II of chapter 287 ~~s. 287.057~~ in the expenditure of these  
 4177 funds. However, the director of the Division of Marketing and  
 4178 Development shall file with the internal auditor of the  
 4179 department a certification of conditions and circumstances  
 4180 justifying each contract or agreement entered into without  
 4181 competitive bidding.

4182 Section 91. Paragraphs (b) and (c) of subsection (2) of  
 4183 section 570.903, Florida Statutes, are amended to read:

4184 570.903 Direct-support organization.--

4185 (2)

4186 (b) Notwithstanding the provisions of part II of chapter  
 4187 287 ~~s. 287.057~~, the direct-support organization may enter into  
 4188 contracts or agreements with or without competitive bidding for  
 4189 the restoration of objects, historical buildings, and other

HB 1905

2004

4190 historical materials or for the purchase of objects, historical  
 4191 buildings, and other historical materials which are to be added  
 4192 to the collections of the museum, or benefit the designated  
 4193 program. However, before the direct-support organization may  
 4194 enter into a contract or agreement without competitive bidding,  
 4195 the direct-support organization shall file a certification of  
 4196 conditions and circumstances with the internal auditor of the  
 4197 department justifying each contract or agreement.

4198 (c) Notwithstanding the provisions of s. 287.1241(1)(e)  
 4199 ~~287.025(1)(e)~~, the direct-support organization may enter into  
 4200 contracts to insure property of the museum or designated  
 4201 programs and may insure objects or collections on loan from  
 4202 others in satisfying security terms of the lender.

4203 Section 92. Section 571.27, Florida Statutes, is amended  
 4204 to read:

4205 571.27 Rules.--The department is authorized to adopt rules  
 4206 that implement, make specific, and interpret the provisions of  
 4207 this part, including rules for entering into contracts with  
 4208 advertising agencies for services which are directly related to  
 4209 the Florida Agricultural Promotional Campaign. Such rules shall  
 4210 establish the procedures for negotiating costs with the offerors  
 4211 of such advertising services who have been determined by the  
 4212 department to be qualified on the basis of technical merit,  
 4213 creative ability, and professional competency. Such  
 4214 determination of qualifications shall also include consideration  
 4215 of the provisions in s. 287.125(3), (4), and (5) ~~287.055(3),~~  
 4216 ~~(4), and (5)~~. The department is further authorized to determine,  
 4217 by rule, the logos or product identifiers to be depicted for use  
 4218 in advertising, publicizing, and promoting the sale of Florida

HB 1905

2004

4219 agricultural products or agricultural-based products in the  
 4220 Florida Agricultural Promotional Campaign. The department may  
 4221 also adopt rules not inconsistent with the provisions of this  
 4222 part as in its judgment may be necessary for participant  
 4223 registration, renewal of registration, classes of membership,  
 4224 application forms, as well as other forms and enforcement  
 4225 measures ensuring compliance with this part.

4226 Section 93. Subsection (1) of section 573.118, Florida  
 4227 Statutes, is amended to read:

4228 573.118 Assessment; funds; audit; loans.--

4229 (1) To provide funds to defray the necessary expenses  
 4230 incurred by the department in the formulation, issuance,  
 4231 administration, and enforcement of any marketing order, every  
 4232 person engaged in the production, distributing, or handling of  
 4233 agricultural commodities within this state, and directly  
 4234 affected by any marketing order, shall pay to the department, at  
 4235 such times and in such installments as the department may  
 4236 prescribe, such person's pro rata share of necessary expenses.  
 4237 Each person's share of expenses shall be that proportion which  
 4238 the total volume of agricultural commodities produced,  
 4239 distributed, or handled by the person during the current  
 4240 marketing season, or part thereof covered by such marketing  
 4241 order, is of the total volume of the commodities produced,  
 4242 distributed, or handled by all such persons during the same  
 4243 current marketing season or part thereof. The department, after  
 4244 receiving the recommendations of the advisory council, shall fix  
 4245 the rate of assessment on the volume of agricultural commodities  
 4246 sold or some other equitable basis. For convenience of  
 4247 collection, upon request of the department, handlers of the

HB 1905

2004

4248 commodities shall pay any producer assessments. Handlers paying  
 4249 assessments for and on behalf of any producers shall, at their  
 4250 discretion, collect the producer assessments from any moneys  
 4251 owed by the handlers to the producers. The collected assessments  
 4252 shall be deposited into the General Inspection Trust Fund and  
 4253 shall be used for the sole purpose of implementing the marketing  
 4254 order for which the assessment was collected. The department is  
 4255 not subject to the procedures found in part II of chapter 287 ~~s.~~  
 4256 ~~287.057~~ in the expenditure of these funds. However, the director  
 4257 of the Division of Marketing and Development shall file with the  
 4258 internal auditor of the department a certification of conditions  
 4259 and circumstances justifying each contract or agreement entered  
 4260 into without competitive bidding.

4261 Section 94. Subsection (8) of section 601.10, Florida  
 4262 Statutes, is amended to read:

4263 601.10 Powers of the Department of Citrus.--The Department  
 4264 of Citrus shall have and shall exercise such general and  
 4265 specific powers as are delegated to it by this chapter and other  
 4266 statutes of the state, which powers shall include, but shall not  
 4267 be confined to, the following:

4268 (8) To prepare and disseminate information of importance  
 4269 to citrus growers, handlers, shippers, processors, and industry-  
 4270 related and interested persons and organizations, relating to  
 4271 Department of Citrus activities and the production, handling,  
 4272 shipping, processing, and marketing of citrus fruit and  
 4273 processed citrus products. Any information which consists of a  
 4274 trade secret as defined in s. 812.081(1)(c) is confidential and  
 4275 exempt from the provisions of s. 119.07(1), and shall not be  
 4276 disclosed. For referendum and other notice and informational

HB 1905

2004

4277 purposes, the Department of Citrus may prepare and maintain,  
 4278 from the best available sources, a citrus grower mailing list.  
 4279 Such list shall be a public record available as other public  
 4280 records, but it shall not be subject to the purging provisions  
 4281 of s. 286.255 ~~283.55~~.

4282 Section 95. Section 626.266, Florida Statutes, is amended  
 4283 to read:

4284 626.266 Printing of examinations or related materials to  
 4285 preserve examination security.--A contract let for the  
 4286 development, administration, or grading of examinations or  
 4287 related materials by the department or office pursuant to the  
 4288 various agent, customer representative, or adjuster licensing  
 4289 and examination provisions of this code may include the printing  
 4290 or furnishing of these examinations or related materials in  
 4291 order to preserve security. Any such contract shall be let as a  
 4292 contract for a contractual service pursuant to part II of  
 4293 chapter 287 ~~287.057~~.

4294 Section 96. Subsection (7) of section 626.2815, Florida  
 4295 Statutes, is amended to read:

4296 626.2815 Continuing education required; application;  
 4297 exceptions; requirements; penalties.--

4298 (7) The department may contract services relative to the  
 4299 administration of the continuing education program to a private  
 4300 entity. The contract shall be procured as a contract for a  
 4301 contractual service pursuant to part II of chapter 287 ~~s.~~  
 4302 ~~287.057~~.

4303 Section 97. Paragraph (e) of subsection (8) of section  
 4304 627.062, Florida Statutes, is amended to read:

4305 627.062 Rate standards.--

HB 1905

2004

4306 (8)  
 4307 (e) The calculation and notice by the office of the  
 4308 presumed factor pursuant to paragraph (a) is not an order or  
 4309 rule that is subject to chapter 120. If the office enters into a  
 4310 contract with an independent consultant to assist the office in  
 4311 calculating the presumed factor, such contract shall not be  
 4312 subject to the competitive solicitation requirements of part II  
 4313 of chapter 287 ~~s. 287.057~~.

4314 Section 98. Subsection (2) of section 627.096, Florida  
 4315 Statutes, is amended to read:

4316 627.096 Workers' Compensation Rating Bureau.--

4317 (2) The acquisition by the Department of Management  
 4318 Services of data processing software, hardware, and services  
 4319 necessary to carry out the provisions of this act for the  
 4320 department or office shall be exempt from the provisions of  
 4321 parts I-VII ~~part I~~ of chapter 287.

4322 Section 99. Section 627.919, Florida Statutes, is amended  
 4323 to read:

4324 627.919 Maintenance of insurance data.--The office shall  
 4325 maintain data elements required in insurers' annual statements  
 4326 and information reported by insurers pursuant to this part in a  
 4327 computer file which will be available for the generation of  
 4328 reports and calculations on a scheduled or demand basis by the  
 4329 office and Legislature. The acquisition by the office of data  
 4330 processing software, hardware, and services necessary to carry  
 4331 out the provisions of this section shall be exempt from the  
 4332 provisions of parts I-VII ~~part I~~ of chapter 287.

4333 Section 100. Section 943.67, Florida Statutes, is amended  
 4334 to read:

HB 1905

2004

4335           943.67 Equipment.--The department is specifically  
 4336 authorized to purchase, sell, trade, rent, lease, and maintain  
 4337 all necessary equipment, uniforms, motor vehicles, communication  
 4338 systems, housing facilities, and office space, and perform any  
 4339 other acts necessary for the proper administration and  
 4340 enforcement of ss. 943.61-943.68 through the Capitol Police,  
 4341 pursuant to parts I-VII ~~part I~~ of chapter 287. The department  
 4342 may prescribe a distinctive uniform to be worn by personnel of  
 4343 the Capitol Police in the performance of their duties pursuant  
 4344 to s. 943.61. The department may prescribe a distinctive emblem  
 4345 to be worn by all officers or guards of the Capitol Police.

4346           Section 101. Paragraph (a) of subsection (4) of section  
 4347 944.10, Florida Statutes, is amended to read:

4348           944.10 Department of Corrections to provide buildings;  
 4349 sale and purchase of land; contracts to provide services and  
 4350 inmate labor.--

4351           (4)(a) Notwithstanding s. 253.025 or part II of chapter  
 4352 287 ~~s. 287.057~~, whenever the department finds it to be necessary  
 4353 for timely site acquisition, it may contract without the need  
 4354 for competitive selection with one or more appraisers whose  
 4355 names are contained on the list of approved appraisers  
 4356 maintained by the Division of State Lands of the Department of  
 4357 Environmental Protection in accordance with s. 253.025(6)(b). In  
 4358 those instances in which the department directly contracts for  
 4359 appraisal services, it must also contract with an approved  
 4360 appraiser who is not employed by the same appraisal firm for  
 4361 review services.

4362           Section 102. Subsection (6) of section 944.105, Florida  
 4363 Statutes, is amended to read:



HB 1905

2004

4364 944.105 Contractual arrangements with private entities for  
 4365 operation and maintenance of correctional facilities and  
 4366 supervision of inmates.--

4367 (6) The provisions of s. ss. 216.311 and part II of  
 4368 chapter 287 287.057 shall apply to all contracts between the  
 4369 department and any private vendor providing such services. The  
 4370 department shall promulgate rules pursuant to chapter 120  
 4371 specifying criteria for such contractual arrangements.

4372 Section 103. Paragraph (c) of subsection (1) of section  
 4373 945.091, Florida Statutes, is amended to read:

4374 945.091 Extension of the limits of confinement;  
 4375 restitution by employed inmates.--

4376 (1) The department may adopt rules permitting the  
 4377 extension of the limits of the place of confinement of an inmate  
 4378 as to whom there is reasonable cause to believe that the inmate  
 4379 will honor his or her trust by authorizing the inmate, under  
 4380 prescribed conditions and following investigation and approval  
 4381 by the secretary, or the secretary's designee, who shall  
 4382 maintain a written record of such action, to leave the confines  
 4383 of that place unaccompanied by a custodial agent for a  
 4384 prescribed period of time to:

4385 (c) Participate in a residential or nonresidential  
 4386 rehabilitative program operated by a public or private nonprofit  
 4387 agency, including faith-based service groups, with which the  
 4388 department has contracted for the treatment of such inmate. The  
 4389 provisions of s. ss. 216.311 and part II of chapter 287 287.057  
 4390 shall apply to all contracts between the department and any  
 4391 private entity providing such services. The department shall  
 4392 require such agency to provide appropriate supervision of

HB 1905

2004

4393 inmates participating in such program. The department is  
 4394 authorized to terminate any inmate's participation in the  
 4395 program if such inmate fails to demonstrate satisfactory  
 4396 progress in the program as established by departmental rules.

4397 Section 104. Subsection (2) of section 946.515, Florida  
 4398 Statutes, is amended to read:

4399 946.515 Use of goods and services produced in correctional  
 4400 work programs.--

4401 (2) No similar product or service of comparable price and  
 4402 quality found necessary for use by any state agency may be  
 4403 purchased from any source other than the corporation if the  
 4404 corporation certifies that the product is manufactured by, or  
 4405 the service is provided by, inmates and the product or service  
 4406 meets the comparable performance specifications and comparable  
 4407 price and quality requirements as specified under s.

4408 287.122(1)(c) ~~287.042(1)(f)~~ or as determined by an individual  
 4409 agency as provided in this section. The purchasing authority of  
 4410 any such state agency may make reasonable determinations of  
 4411 need, price, and quality with reference to products or services  
 4412 available from the corporation. In the event of a dispute  
 4413 between the corporation and any purchasing authority based upon  
 4414 price or quality under this section or s. 287.122(1)(c)  
 4415 ~~287.042(1)(f)~~, either party may request a hearing with the  
 4416 Department of Management Services and if not resolved, either  
 4417 party may request a proceeding pursuant to ss. 120.569 and  
 4418 120.57, which shall be referred to the Division of  
 4419 Administrative Hearings within 60 days after such request, to  
 4420 resolve any dispute under this section. No party is entitled to  
 4421 any appeal pursuant to s. 120.68.

HB 1905

2004

4422 Section 105. Paragraph (a) of subsection (7) of section  
 4423 957.04, Florida Statutes, is amended to read:

4424 957.04 Contract requirements.--

4425 (7)(a) Notwithstanding s. 253.025 or part II of chapter  
 4426 287 s. 287.057, whenever the commission finds it to be in the  
 4427 best interest of timely site acquisition, it may contract  
 4428 without the need for competitive selection with one or more  
 4429 appraisers whose names are contained on the list of approved  
 4430 appraisers maintained by the Division of State Lands of the  
 4431 Department of Environmental Protection in accordance with s.  
 4432 253.025(6)(b). In those instances when the commission directly  
 4433 contracts for appraisal services, it shall also contract with an  
 4434 approved appraiser who is not employed by the same appraisal  
 4435 firm for review services.

4436 Section 106. Paragraph (a) of subsection (16) of section  
 4437 985.41, Florida Statutes, is amended to read:

4438 985.41 Siting of facilities; study; criteria.--

4439 (16)(a) Notwithstanding s. 253.025 or part II of chapter  
 4440 287 s. 287.057, when the department finds it necessary for  
 4441 timely site acquisition, it may contract, without using the  
 4442 competitive selection procedure, with an appraiser whose name is  
 4443 on the list of approved appraisers maintained by the Division of  
 4444 State Lands of the Department of Environmental Protection under  
 4445 s. 253.025(6)(b). When the department directly contracts for  
 4446 appraisal services, it must contract with an approved appraiser  
 4447 who is not employed by the same appraisal firm for review  
 4448 services.

4449 Section 107. Subsection (26) of section 1001.64, Florida  
 4450 Statutes, is amended to read:

HB 1905

2004

4451 1001.64 Community college boards of trustees; powers and  
 4452 duties.--

4453 (26) Each board of trustees is authorized to contract for  
 4454 the purchase, sale, lease, license, or acquisition in any manner  
 4455 (including purchase by installment or lease-purchase contract  
 4456 which may provide for the payment of interest on the unpaid  
 4457 portion of the purchase price and for the granting of a security  
 4458 interest in the items purchased) of goods, materials, equipment,  
 4459 and services required by the community college. The board of  
 4460 trustees may choose to consolidate equipment contracts under  
 4461 master equipment financing agreements made pursuant to s.  
 4462 287.138 ~~287.064~~.

4463 Section 108. Subsections (5) and (29) of section 1001.74,  
 4464 Florida Statutes, are amended to read:

4465 1001.74 Powers and duties of university boards of  
 4466 trustees.--

4467 (5) Each board of trustees shall have the authority to  
 4468 acquire real and personal property and contract for the sale and  
 4469 disposal of same and approve and execute contracts for the  
 4470 purchase, sale, lease, license, or acquisition of commodities,  
 4471 goods, equipment, contractual services, leases of real and  
 4472 personal property, and construction. The acquisition may include  
 4473 purchase by installment or lease-purchase. Such contracts may  
 4474 provide for payment of interest on the unpaid portion of the  
 4475 purchase price. Title to all real property acquired prior to  
 4476 January 7, 2003, and to all real property acquired with funds  
 4477 appropriated by the Legislature shall be vested in the Board of  
 4478 Trustees of the Internal Improvement Trust Fund and shall be  
 4479 transferred and conveyed by it. Notwithstanding any other

HB 1905

2004

4480 provisions of this subsection, each board of trustees shall  
 4481 comply with the provisions of s. 287.125 ~~287.055~~ for the  
 4482 procurement of professional services as defined therein.

4483 (29) Each board of trustees shall ensure compliance with  
 4484 the provisions of s. 287.4471 ~~287.09451~~ for all procurement and  
 4485 ss. 255.101 and 255.102 for construction contracts, and rules  
 4486 adopted pursuant thereto, relating to the utilization of  
 4487 minority business enterprises, except that procurements costing  
 4488 less than the amount provided for in CATEGORY FIVE as provided  
 4489 in s. 287.028 ~~287.017~~ shall not be subject to s. 287.4471  
 4490 ~~287.09451~~.

4491 Section 109. Subsection (5) of section 1001.75, Florida  
 4492 Statutes, is amended to read:

4493 1001.75 University presidents; powers and duties.--The  
 4494 president is the chief executive officer of the state  
 4495 university, shall be corporate secretary of the university board  
 4496 of trustees, and is responsible for the operation and  
 4497 administration of the university. Each state university  
 4498 president shall:

4499 (5) Approve, execute, and administer contracts for and on  
 4500 behalf of the university board of trustees for licenses; the  
 4501 acquisition or provision of commodities, goods, equipment, and  
 4502 services; leases of real and personal property; and planning and  
 4503 construction to be rendered to or by the university, provided  
 4504 such contracts are within law and rules of the State Board of  
 4505 Education and in conformance with policies of the university  
 4506 board of trustees, and are for the implementation of approved  
 4507 programs of the university. University presidents shall comply  
 4508 with the provisions of s. 287.125 ~~287.055~~ for the procurement of

HB 1905

2004

4509 professional services and may approve and execute all contracts  
 4510 on behalf of the board of trustees for planning, construction,  
 4511 and equipment. For the purposes of a university president's  
 4512 contracting authority, a "continuing contract" for professional  
 4513 services under the provisions of s. 287.125 ~~287.055~~ is one in  
 4514 which construction costs do not exceed \$1 million or the fee for  
 4515 study activity does not exceed \$100,000.

4516 Section 110. Paragraph (d) of subsection (2) of section  
 4517 1004.45, Florida Statutes, is amended to read:

4518 1004.45 Ringling Center for Cultural Arts.--

4519 (2)

4520 (d) Notwithstanding the provision of part II of chapter  
 4521 287 ~~s. 287.057~~, the John and Mable Ringling Museum of Art  
 4522 direct-support organization may enter into contracts or  
 4523 agreements with or without competitive bidding, in its  
 4524 discretion, for the restoration of objects of art in the museum  
 4525 collection or for the purchase of objects of art that are to be  
 4526 added to the collection.

4527 Section 111. Subsection (3) of section 1006.56, Florida  
 4528 Statutes, is amended to read:

4529 1006.56 Specified university publications; activities;  
 4530 trust funds.--

4531 (3) Printing of such publications shall be let upon  
 4532 contract to the lowest responsive bidder, ~~in accordance with s.~~  
 4533 ~~283.33~~, except when the additional costs incurred in changing  
 4534 from the current printer to the new low bidder exceed the  
 4535 savings reflected in the bid prices. Such additional costs shall  
 4536 not exceed 10 percent of the lowest bid price.

HB 1905

2004

4537 Section 112. Paragraph (w) of subsection (4) and  
 4538 subsection (5) of section 1009.971, Florida Statutes, are  
 4539 amended to read:

4540 1009.971 Florida Prepaid College Board.--

4541 (4) FLORIDA PREPAID COLLEGE BOARD; POWERS AND DUTIES.--The  
 4542 board shall have the powers and duties necessary or proper to  
 4543 carry out the provisions of ss. 1009.97-1009.984, including, but  
 4544 not limited to, the power and duty to:

4545 (w) Solicit proposals and contract, pursuant to part II of  
 4546 chapter 287 ~~s. 287.057~~, for the marketing of the prepaid program  
 4547 or the savings program, or both together. Any materials produced  
 4548 for the purpose of marketing the prepaid program or the savings  
 4549 program shall be submitted to the board for review. No such  
 4550 materials shall be made available to the public before the  
 4551 materials are approved by the board. Any educational institution  
 4552 may distribute marketing materials produced for the prepaid  
 4553 program or the savings program; however, all such materials  
 4554 shall be approved by the board prior to distribution. Neither  
 4555 the state nor the board shall be liable for misrepresentation of  
 4556 the prepaid program or the savings program by a marketing agent.

4557 (5) FLORIDA PREPAID COLLEGE BOARD; CONTRACTUAL  
 4558 SERVICES.--The board shall solicit proposals and contract,  
 4559 pursuant to part II of chapter 287 ~~s. 287.057~~, for:

4560 (a) The services of records administrators.

4561 (b) Investment consultants to review the performance of  
 4562 the board's investment managers and advise the board on  
 4563 investment management and performance and investment policy,  
 4564 including the contents of the comprehensive investment plans.

HB 1905

2004

4565 (c) Trustee services firms to provide trustee and related  
 4566 services to the board. The trustee services firm shall agree to  
 4567 meet the obligations of the board to qualified beneficiaries if  
 4568 moneys in the fund fail to offset the obligations of the board  
 4569 as a result of imprudent selection or supervision of investment  
 4570 programs by such firm.

4571 (d) Investment managers to provide investment portfolios  
 4572 for the prepaid program or the savings program. Investment  
 4573 managers shall be limited to authorized insurers as defined in  
 4574 s. 624.09, banks as defined in s. 658.12, associations as  
 4575 defined in s. 665.012, authorized Securities and Exchange  
 4576 Commission investment advisers, and investment companies as  
 4577 defined in the Investment Company Act of 1940. All investment  
 4578 managers shall have their principal place of business and  
 4579 corporate charter located and registered in the United States.  
 4580 In addition, each investment manager shall agree to meet the  
 4581 obligations of the board to qualified beneficiaries if moneys in  
 4582 the fund fail to offset the obligations of the board as a result  
 4583 of imprudent investing by such provider. Each authorized insurer  
 4584 shall evidence superior performance overall on an acceptable  
 4585 level of surety in meeting its obligations to its policyholders  
 4586 and other contractual obligations. Only qualified public  
 4587 depositories approved by the Chief Financial Officer shall be  
 4588 eligible for board consideration. Each investment company shall  
 4589 provide investment plans as specified within the request for  
 4590 proposals.

4591  
 4592 The goals of the board in procuring such services shall be to  
 4593 provide all purchasers and benefactors with the most secure,



HB 1905

2004

4594 well-diversified, and beneficially administered prepaid program  
 4595 or savings program possible, to allow all qualified firms  
 4596 interested in providing such services equal consideration, and  
 4597 to provide such services to the state at no cost and to the  
 4598 purchasers and benefactors at the lowest cost possible.  
 4599 Evaluations of proposals submitted pursuant to this subsection  
 4600 shall include, but not be limited to, fees and other costs that  
 4601 are charged to purchasers or benefactors that affect account  
 4602 values, or that impact the operational costs of the prepaid  
 4603 program or the savings program; past experience and past  
 4604 performance in providing the required services; financial  
 4605 history and current financial strength and capital adequacy to  
 4606 provide the required services; and capabilities and experience  
 4607 of the proposed personnel that will provide the required  
 4608 services.

4609 Section 113. Paragraph (b) of subsection (3) of section  
 4610 1013.23, Florida Statutes, is amended to read:

4611 1013.23 Energy efficiency contracting.--

4612 (3) ENERGY PERFORMANCE-BASED CONTRACT PROCEDURES.--

4613 (b) The energy performance contractor shall be selected in  
 4614 compliance with s. 287.125 ~~287.055~~; except that in a case where  
 4615 a district school board, community college board of trustees, or  
 4616 state university board of trustees determines that fewer than  
 4617 three firms are qualified to perform the required services, the  
 4618 requirement for agency selection of three firms, as provided in  
 4619 s. 287.125(4)(b) ~~287.055(4)(b)~~, shall not apply and the bid  
 4620 requirements of part II of chapter 287 ~~s. 287.057~~ shall not  
 4621 apply.

HB 1905

2004

4622 Section 114. Subsection (3) of section 1013.38, Florida  
 4623 Statutes, is amended to read:

4624 1013.38 Boards to ensure that facilities comply with  
 4625 building codes and life safety codes.--

4626 (3) The Department of Management Services may, upon  
 4627 request, provide facilities services for the Florida School for  
 4628 the Deaf and the Blind, the Division of Blind Services, and  
 4629 public broadcasting. As used in this section, the term  
 4630 "facilities services" means project management, code and design  
 4631 plan review, and code compliance inspection for projects as  
 4632 defined in s. 287.028(1)(e) ~~287.017(1)(e)~~.

4633 Section 115. Paragraphs (b), (c), and (d) of subsection  
 4634 (1) and subsection (4) of section 1013.45, Florida Statutes, are  
 4635 amended to read:

4636 1013.45 Educational facilities contracting and  
 4637 construction techniques.--

4638 (1) Boards may employ procedures to contract for  
 4639 construction of new facilities, or major additions to existing  
 4640 facilities, that will include, but not be limited to:

4641 (b) Design-build pursuant to s. 287.125 ~~287.055~~.

4642 (c) Selecting a construction management entity, pursuant  
 4643 to the process provided by s. 287.125 ~~287.055~~, that would be  
 4644 responsible for all scheduling and coordination in both design  
 4645 and construction phases and is generally responsible for the  
 4646 successful, timely, and economical completion of the  
 4647 construction project. The construction management entity must  
 4648 consist of or contract with licensed or registered professionals  
 4649 for the specific fields or areas of construction to be  
 4650 performed, as required by law. At the option of the board, the

HB 1905

2004

4651 construction management entity, after having been selected, may  
 4652 be required to offer a guaranteed maximum price or a guaranteed  
 4653 completion date; in which case, the construction management  
 4654 entity must secure an appropriate surety bond pursuant to s.  
 4655 255.05 and must hold construction subcontracts. The criteria for  
 4656 selecting a construction management entity shall not unfairly  
 4657 penalize an entity that has relevant experience in the delivery  
 4658 of construction projects of similar size and complexity by  
 4659 methods of delivery other than construction management.

4660 (d) Selecting a program management entity, pursuant to the  
 4661 process provided by s. 287.125 ~~287.055~~, that would act as the  
 4662 agent of the board and would be responsible for schedule  
 4663 control, cost control, and coordination in providing or  
 4664 procuring planning, design, and construction services. The  
 4665 program management entity must consist of or contract with  
 4666 licensed or registered professionals for the specific areas of  
 4667 design or construction to be performed as required by law. The  
 4668 program management entity may retain necessary design  
 4669 professionals selected under the process provided in s. 287.125  
 4670 ~~287.055~~. At the option of the board, the program management  
 4671 entity, after having been selected, may be required to offer a  
 4672 guaranteed maximum price or a guaranteed completion date, in  
 4673 which case the program management entity must secure an  
 4674 appropriate surety bond pursuant to s. 255.05 and must hold  
 4675 design and construction subcontracts. The criteria for selecting  
 4676 a program management entity shall not unfairly penalize an  
 4677 entity that has relevant experience in the delivery of  
 4678 construction programs of similar size and complexity by methods  
 4679 of delivery other than program management.

HB 1905

2004

4680 (4) Except as otherwise provided in this section and s.  
 4681 481.229, the services of a registered architect must be used for  
 4682 the development of plans for the erection, enlargement, or  
 4683 alteration of any educational facility. The services of a  
 4684 registered architect are not required for a minor renovation  
 4685 project for which the construction cost is less than \$50,000 or  
 4686 for the placement or hookup of relocatable educational  
 4687 facilities that conform with standards adopted under s. 1013.37.  
 4688 However, boards must provide compliance with building code  
 4689 requirements and ensure that these structures are adequately  
 4690 anchored for wind resistance as required by law. Boards are  
 4691 encouraged to consider the reuse of existing construction  
 4692 documents or design criteria packages where such reuse is  
 4693 feasible and practical. Notwithstanding s. 287.125 ~~287.055~~, a  
 4694 board may purchase the architectural services for the design of  
 4695 educational or ancillary facilities under an existing contract  
 4696 agreement for professional services held by a district school  
 4697 board in the State of Florida, provided that the purchase is to  
 4698 the economic advantage of the purchasing board, the services  
 4699 conform to the standards prescribed by rules of the State Board  
 4700 of Education, and such reuse is not without notice to, and  
 4701 permission from, the architect of record whose plans or design  
 4702 criteria are being reused. Plans shall be reviewed for  
 4703 compliance with the state requirements for educational  
 4704 facilities. Rules adopted under this section must establish  
 4705 uniform prequalification, selection, bidding, and negotiation  
 4706 procedures applicable to construction management contracts and  
 4707 the design-build process. This section does not supersede any  
 4708 small, woman-owned or minority-owned business enterprise

HB 1905

2004

4709 preference program adopted by a board. Except as otherwise  
 4710 provided in this section, the negotiation procedures applicable  
 4711 to construction management contracts and the design-build  
 4712 process must conform to the requirements of s. 287.125 ~~287.055~~.  
 4713 A board may not modify any rules regarding construction  
 4714 management contracts or the design-build process.

4715 Section 116. Paragraph (c) of subsection (1) of section  
 4716 1013.46, Florida Statutes, is amended to read:

4717 1013.46 Advertising and awarding contracts;  
 4718 prequalification of contractor.--

4719 (1)

4720 (c) As an option, any county, municipality, or board may  
 4721 set aside up to 10 percent of the total amount of funds  
 4722 allocated for the purpose of entering into construction capital  
 4723 project contracts with minority business enterprises, as defined  
 4724 in s. 287.446 ~~287.094~~. Such contracts shall be competitively bid  
 4725 only among minority business enterprises. The set-aside shall be  
 4726 used to redress present effects of past discriminatory practices  
 4727 and shall be subject to periodic reassessment to account for  
 4728 changing needs and circumstances.

4729 Section 117. Part I of chapter 287, Florida Statutes,  
 4730 entitled COMMODITIES, INSURANCE, AND CONTRACTUAL SERVICES, is  
 4731 retitled GENERAL PROVISIONS, and shall consist of sections  
 4732 287.001-287.027, Florida Statutes.

4733 Section 118. Part II of chapter 287, Florida Statutes,  
 4734 entitled MEANS OF TRANSPORT, is redesignated as Part VIII of  
 4735 said chapter.

4736 Section 119. Part II of chapter 287, Florida Statutes,  
 4737 entitled SOURCE SELECTION is created and shall consist of

HB 1905

2004

4738 sections 287.028-287.038, Florida Statutes.

4739 Section 120. Part IV of chapter 287, Florida Statutes, to  
 4740 be entitled SPECIAL PROVISIONS, is created and shall consist of  
 4741 ss. 287.122-287.1416, Florida Statutes.

4742 Section 121. Part V of chapter 287, Florida Statutes, is  
 4743 created, to be entitled CONTRACTS, and shall consist of sections  
 4744 287.31-287.332, Florida Statutes.

4745 Section 122. Part VI of chapter 287, Florida Statutes, is  
 4746 created, to be entitled MINORITY BUSINESS ENTERPRISES, and shall  
 4747 consist of sections 287.44-287.474, Florida Statutes.

4748 Section 123. Part VII of chapter 287, Florida Statutes, is  
 4749 created, to be entitled MISCELLANEOUS PROVISIONS, and shall  
 4750 consist of sections 287.55-287.592, Florida Statutes.

4751 Section 124. Section 287.032, Florida Statutes, is  
 4752 renumbered as section 287.0263, Florida Statutes.

4753 Section 125. Section 283.55, Florida Statutes, is  
 4754 renumbered as section 286.255, Florida Statutes.

4755 Section 126. Section 287.0572, Florida Statutes, is  
 4756 renumbered as section 287.035, Florida Statutes.

4757 Section 127. Section 287.0935, Florida Statutes, is  
 4758 renumbered as section 287.126, Florida Statutes.

4759 Section 128. Section 287.059, Florida Statutes, is  
 4760 renumbered as section 287.127, Florida Statutes.

4761 Section 129. Section 287.063, Florida Statutes, is  
 4762 renumbered as section 287.137, Florida Statutes.

4763 Section 130. Section 283.425, Florida Statutes, is  
 4764 renumbered as section 287.139, Florida Statutes.

4765 Section 131. Section 283.58, Florida Statutes, is  
 4766 renumbered as section 287.1401, Florida Statutes.

HB 1905

2004

4767       Section 132. Section 287.083, Florida Statutes, is  
 4768 renumbered as section 287.1405, Florida Statutes.

4769       Section 133. Section 287.0834, Florida Statutes, is  
 4770 renumbered as 287.1410, Florida Statutes.

4771       Section 134. Section 287.082, Florida Statutes, is  
 4772 renumbered as section 287.1411, Florida Statutes.

4773       Section 135. Section 287.0822, Florida Statutes, is  
 4774 renumbered as section 287.1412, Florida Statutes.

4775       Section 136. Section 287.084, Florida Statutes, is  
 4776 renumbered as section 287.1413, Florida Statutes.

4777       Section 137. Section 287.087, Florida Statutes, is  
 4778 renumbered as section 287.1414, Florida Statutes.

4779       Section 138. Section 287.092, Florida Statutes, is  
 4780 renumbered as section 287.1415, Florida Statutes.

4781       Section 139. Section 283.35, Florida Statutes, is  
 4782 renumbered as section 287.1416, Florida Statutes.

4783       Section 140. Section 287.0582, Florida Statutes, is  
 4784 renumbered as section 287.311, Florida Statutes.

4785       Section 141. Section 287.05805, Florida Statutes, is  
 4786 renumbered as section 287.312, Florida Statutes.

4787       Section 142. Section 287.0931, Florida Statutes, is  
 4788 renumbered as section 287.445, Florida Statutes.

4789       Section 143. Section 287.094, Florida Statutes, is  
 4790 renumbered as section 287.446, Florida Statutes.

4791       Section 144. Section 287.0947, Florida Statutes, is  
 4792 renumbered as section 287.448, Florida Statutes.

4793       Section 145. Section 287.093, Florida Statutes, is  
 4794 renumbered as section 287.474, Florida Statutes.

HB 1905

2004

4795           Section 146. Section 287.134, Florida Statutes, is  
 4796 renumbered as section 287.563, Florida Statutes.

4797           Section 147. Section 287.0585, Florida Statutes, is  
 4798 renumbered as section 287.58, Florida Statutes.

4799           Section 148. Section 287.095, Florida Statutes, is  
 4800 renumbered as section 287.591, Florida Statutes.

4801           Section 149. Section 287.115, Florida Statutes, is  
 4802 renumbered as section 287.592, Florida Statutes.

4803           Section 150. Section 287.131, Florida Statutes, is  
 4804 renumbered as section 287.593, Florida Statutes.

4805           Section 151. Section 287.14, Florida Statutes, is  
 4806 renumbered as section 287.61, Florida Statutes.

4807           Section 152. Section 287.15, Florida Statutes, is  
 4808 renumbered as section 287.62, Florida Statutes.

4809           Section 153. Section 287.151, Florida Statutes, is  
 4810 renumbered as section 287.63, Florida Statutes.

4811           Section 154. Section 287.155, Florida Statutes, is  
 4812 renumbered as section 287.64, Florida Statutes.

4813           Section 155. Section 287.175, Florida Statutes, is  
 4814 renumbered as section 287.665, Florida Statutes.

4815           Section 156. Section 287.18, Florida Statutes, is  
 4816 renumbered as section 287.67, Florida Statutes.

4817           Section 157. Section 287.19, Florida Statutes, is  
 4818 renumbered as section 287.68, Florida Statutes.

4819           Section 158. Section 287.20, Florida Statutes, is  
 4820 renumbered as section 287.69, Florida Statutes.

4821           Section 159. Section 287.0821, Florida Statutes, is  
 4822 renumbered as section 571.12, Florida Statutes.



HB 1905

2004

4823           Section 160. This act shall take effect on the date HB  
4824 1819 or similar legislation takes effect, if such legislation is  
4825 adopted in the same legislative session or an extension thereof  
4826 and becomes a law.