

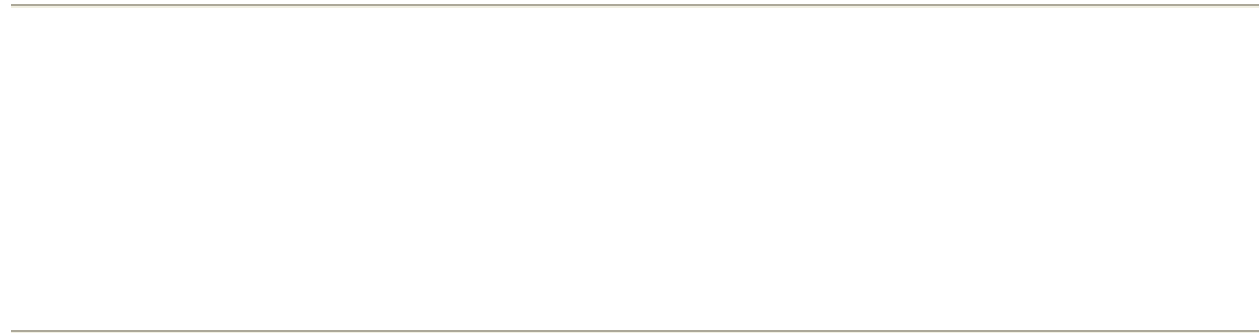
Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative Negron offered the following:

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3 **Amendment (with title amendment)**

4 On page 114, between lines 22 and 23,
5 insert:

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7 Section 103. Section 215.3215, Florida Statutes, is
8 created to read:

9 215.3215 Charges by agencies or contractors.--Specific
10 statutory authority authorizing the maximum amount of a fee,
11 tax, or other charge shall be required for an agency, as defined
12 in s. 287.012(1), or a contractor with such agency to levy or
13 impose upon a person who is not a party to the contract a fee,
14 tax, or other charge which funds the contract or provides
15 payment to the contractor, regardless of whether the levy or
16 imposition is direct or indirect or is mandatory or optional.

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17 Section 104. Subsections (17) and (23) of section 287.057,
18 Florida Statutes, are amended, and a new subsection (25) is
19 added to said section, to read:

20 287.057 Procurement of commodities or contractual
21 services.--

22 (17) For a contract in excess of the threshold amount
23 provided in s. 287.017 for CATEGORY FOUR, the agency head shall
24 appoint:

25 (a) At least three persons to evaluate proposals and
26 replies who collectively have experience and knowledge in the
27 program areas and service requirements for which commodities or
28 contractual services are sought.

29 (b) At least three persons to conduct negotiations during
30 a competitive sealed reply procurement who collectively have
31 experience and knowledge in negotiating contracts, contract
32 procurement, and the program areas and service requirements for
33 which commodities or contractual services are sought. As of
34 January 1, 2005, when the contract is in excess of \$1 million,
35 at least one of the persons conducting negotiations must be a
36 certified negotiator as established by the department. The
37 department shall, by rule, establish the experience, knowledge,
38 and training required to be a certified negotiator.

39 (23)(a) The department, in consultation with the Chief
40 Financial Officer ~~State Technology Office and the Comptroller,~~
41 shall develop a program for on-line procurement of commodities
42 and contractual services. To enable the state to promote open
43 competition and to leverage its buying power, agencies shall
44 participate in the on-line procurement program, and eligible

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45 | users and cabinet agencies may participate in the program. ~~Only~~
46 | ~~vendors prequalified as meeting mandatory requirements and~~
47 | ~~qualifications criteria shall be permitted to participate in on-~~
48 | ~~line procurement.~~ The department, ~~in consultation with the State~~
49 | ~~Technology Office,~~ may contract for equipment and services
50 | necessary to develop and implement on-line procurement.

51 | (b) The department, in consultation with the State
52 | Technology Office, shall adopt rules, pursuant to ss. 120.536(1)
53 | and 120.54, to administer the program for on-line procurement.
54 | The rules shall include, but not be limited to:

55 | 1. Determining the requirements and qualification criteria
56 | for prequalifying vendors.

57 | 2. Establishing the procedures for conducting on-line
58 | procurement.

59 | 3. Establishing the criteria for eligible commodities and
60 | contractual services.

61 | 4. Establishing the procedures for providing access to on-
62 | line procurement.

63 | 5. Determining the criteria warranting any exceptions to
64 | participation in the on-line procurement program.

65 | (c) The department may collect fees for the use of the on-
66 | line procurement program systems. Purchase of commodities and
67 | contractual services from vendors that are registered with the
68 | on-line procurement program may be considered use of the
69 | program. The fees may be imposed on an individual transaction
70 | basis or as a fixed percentage of the cost savings generated. At
71 | a minimum, the fees must be set in an amount sufficient to cover
72 | the projected costs of such services, including administrative

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73 and project service costs in accordance with the policies of the
74 department; however, fees imposed on an individual transaction
75 basis may not exceed 1 percent of the transaction amount. ~~For~~
76 ~~the purposes of compensating the provider, the department may~~
77 ~~authorize the provider to collect and retain a portion of the~~
78 ~~fees. The providers may withhold the portion retained from the~~
79 ~~amount of fees to be remitted to the department. The department~~
80 ~~may negotiate the retainage as a percentage of such fees charged~~
81 ~~to users, as a flat amount, or as any other method the~~
82 ~~department deems feasible. All fees and surcharges collected~~
83 ~~under this paragraph shall be collected by the department and~~
84 ~~deposited in the Grants and Donation Trust Fund as provided by~~
85 ~~law.~~

86 (25)(a) Legal authority is required for contractual
87 services procurements with a cost greater than \$10 million over
88 the contract term which shift functions or responsibilities from
89 agency staff to the private sector where the agency remains
90 accountable while the private sector entity performs the
91 function or responsibility. At least 60 days prior to the
92 Legislative session, if the agency seeks authority by law to
93 procure such contractual services, or 30 days prior to issuing a
94 solicitation, if the agency has legal authority to procure such
95 contractual services, upon issuance of a solicitation, and upon
96 execution of a contract, the agency shall provide to the
97 President of the Senate and the Speaker of the House of
98 Representatives current cost-benefit analyses, business case
99 analyses, plans for contract management, proposed performance
100 contracting procedures, detailed service comparisons, and

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101 information about impacts to approved performance standards
102 regarding the proposed procurement. The contract for such
103 procurement shall include at a minimum a detailed scope of work
104 specifying services and deliverables; specific payment terms,
105 including incentive and penalty provisions; implementation
106 schedules; required performance measures; provisions for the
107 transfer of the function or responsibility if the contractor
108 ceases to perform; and requirements for access to public records
109 consistent with law. The Chief Financial Officer shall
110 promulgate guidelines regarding the content of contract
111 documents for such procurements. The department shall maintain a
112 database containing, for procurements subject to this
113 subsection, the agency name, the name and description of the
114 contractual service procured, and the names of the prime
115 contractor and any subcontractors; projected and actual
116 completion dates by project phase; a description of performance
117 measures contained in the contract, projected performance, and
118 actual performance; and projected costs and revenues, as
119 applicable, and actual costs and revenues.

120 (b) This subsection shall not apply to any procurement for
121 which a contract was executed prior to July 1, 1994, for
122 contractual services substantially similar in nature and purpose
123 to those to be procured in the proposed contract.

124 Section 105. Effective October 1, 2004, there is hereby
125 appropriated from the Grants and Donation Trust Fund in the
126 Department of Management Services \$5,000,000 in the Special
127 Categories-Contractual Services for the purpose of transferring

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128 funds to the on-line procurement program contractor, in
129 accordance with section 287.057, Florida Statutes.

130 Section 106. The amendment to section 287.057(23)(c),
131 Florida Statutes, which removes authority for the provider to
132 collect and retain fees and requires the department to collect
133 the fees, shall take effect October 1, 2004.

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136 ===== T I T L E A M E N D M E N T =====

137 On page 8, line 15, remove all of said line,

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139

and insert:

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creating s. 215.3215; authorizing agencies or contractors
to levy or impose on certain noncontract parties certain
fees, taxes, or charges only if authorized by law;
amending s. 287.057, F.S.; requiring certified negotiators
for certain procurements; revising provisions relating to
on-line procurement programs; prohibiting agencies from
procuring certain contractual services except as provided
by law; requiring agencies to provide information to the
Legislature regarding such procurements; requiring certain
contract provisions for such procurements; requiring the
Chief Financial Officer to promulgate guidelines;
requiring the department to establish a database;
providing exceptions; providing an appropriation; amending
s. 658.73, F.S.; delineating which