

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative(s) Kottkamp offered the following:

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3 **Amendment (with title amendment)**

4 Remove lines 319 through 460, and insert:

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6 require adjustments to the agency's budget, in accordance with
7 chapter 216, totaling \$1 million or more. Amendments to existing
8 contracts are excluded.

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(c) Contractual services procurements that do not involve
an outlay of state funds estimated to total \$10 million or more
in any fiscal year because of the provision of services by the
contractor at a rate significantly below market rate, the
significant investment of other resources by the agency, or
other reason, but in which the total value of the services
performed by the agency and contractor under the contract is

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16 estimated to total \$10 million or more in any fiscal year.

17 Examples of such procurements include, but are not limited to,
18 free, no-cost, or codevelopment contracts.

19 (d) Contractual services procurements for which the sum of
20 gross revenues or shared savings to be generated for the state
21 and contractor over the term of the contract plus the sum of any
22 payments to the contractor by the agency over the term of the
23 contract, if any, is estimated to total \$10 million or more in
24 any fiscal year.

25 (e) Contractual services procurements that do not meet the
26 criteria in paragraphs (a)-(d) that the Legislature has directed
27 to be subject to the centralized gate process.

28 (2) Extensions and renewals of contracts resulting from
29 procurements in subsection (1) and extensions and renewals of
30 contracts meeting the criteria identified in paragraphs (1)(a),
31 (c), and (d) which did not pass through the center shall undergo
32 review and analysis through the centralized gate process
33 implemented by the center, through, notwithstanding any law to
34 the contrary, such contracts shall pass only through such gates
35 as the commission determines are appropriate based on the
36 legislative intent of this act.

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38 For purposes of determining whether a procurement meets the
39 requirements of this section, multiple contractual services
40 procurements for substantially similar or related functions or
41 responsibilities occurring in a coordinated fashion or in close
42 time proximity to one another are considered a single

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43 contractual services procurement for purposes of meeting the
44 thresholds set forth in this section.

45 (3) The centralized gate process shall require, at a
46 minimum, review of the procurement by the commission at each
47 gate. At each gate, the commission shall determine by majority
48 vote to:

49 (a) Approve the procurement, if the agency has
50 sufficiently met the requirements of the current gate, and
51 advance the procurement to the next phase;

52 (b) Withhold approval of the procurement, if additional
53 work must be completed in order to satisfy the requirements of
54 the current gate, and retain the procurement in that phase; or

55 (c) Deny the procurement, if the procurement is not a good
56 business decision, and remove the procurement from
57 consideration.

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59 Notwithstanding the provisions of this section, the commission
60 may not deny procurements which are required by law. If the
61 commission determines that a procurement required by law is not
62 a good business decision, the commission shall withhold approval
63 and transmit to the President of the Senate, the Speaker of the
64 House of Representatives, and the Governor the reasons why the
65 procurement should not be completed and any recommendation for
66 legislative action. If the President of the Senate or the
67 Speaker of the House of Representatives has not responded within
68 14 business days of receipt of the communication, the commission

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69 shall proceed at its discretion consistent with the Legislative
70 intent of this act.

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72 Notwithstanding any law to the contrary, agencies under the
73 individual control of the Attorney General, the Chief Financial
74 Officer, or the Commissioner of Agriculture are subject to the
75 provisions of this act, except that the commission shall not
76 grant, withhold, or deny approval of a procurement by such
77 agency but instead may only provide recommendations to the
78 agency. The respective agency head shall have sole authority to
79 grant, withhold, or deny approval of such procurement.

80 (4) The gates and required documentation comprising the
81 centralized gate process shall, at a minimum, consist of:

82 (a) The proposal identification gate, which shall include
83 the business case.

84 (b) The procurement preparation gate, which shall include
85 the updated business case and the solicitation documents prior
86 to the its issuance of such documents. An agency may not release
87 solicitation documents without the commission's approval at this
88 gate. The commission must review and approve the written
89 determination of the agency required pursuant to s.

90 287.057(3)(a) before granting approval for the use of an
91 invitation to negotiate, or withhold approval pending submission
92 by the agency of an acceptable alternative solicitation method.

93 (c) The contract development gate, which shall include the
94 final business case and the proposed unexecuted contract. An

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95 agency may not execute the contract without the commission's
96 approval at this gate.

97 (d) The transition management gate, which shall include
98 updates to the final business case and, for a procurement of
99 contractual services, an analysis of the agency's and
100 contractor's readiness for the contractor to perform the
101 proposed responsibility or function. An agency may not
102 transition to contractor performance without the commission's
103 approval at this gate.

104 (e) The post-implementation gate, which shall include
105 updates to the final business case and a report on the adequacy
106 of contractor performance.

107 (5)(a) Any executed contract for a procurement passing
108 through the centralized gate process pursuant to this section
109 shall be null and void if an agency fails to comply with the
110 commission decision at the proposal identification, procurement
111 preparation, or contract development gate.

112 (b) Failure to comply with any other requirements of this
113 act or implementing rules shall not affect the validity of the
114 competitive solicitation and award process or any contract.

115 (6) The commission shall take action at each gate within
116 60 days of the submission of a procurement by an agency. If the
117 commission does not take action within this timeframe, the
118 agency head shall determine whether to grant, withhold, or deny
119 approval of the procurement at that gate based on the rules and
120 guidelines of the commission for that gate and shall notify the
121 Governor, the President of the Senate, the Speaker of the House

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122 of Representatives, and the commission of such action and the
123 circumstances thereof.

124 (7) During the terms of the contracts, the agency shall
125 annually submit with its legislative budget request a status
126 report for each procurement that has passed through at least the
127 first three gates of the centralized gate process describing the
128 progress made to date, actual completion dates in comparison to
129 planned completion dates, actual costs incurred in comparison to
130 projected costs incurred, current issues requiring resolution,
131 planned project milestones, deliverables, and expenditures for
132 the next reporting period, and any other information relating to
133 the contractual services that may be requested.

134 Section 7. Section 287.0577, Florida Statutes, is created
135 to read:

136 287.0577 Requirements for procurement of certain
137 contractual services.--In addition to the other applicable
138 requirements of this chapter, an agency shall comply with the
139 following requirements for, at a minimum, procurements of
140 contractual services estimated to total \$1 million or more in
141 any fiscal year and those subject to review under s.

142 287.0576(1)(b), (c), (d), and (e) and (2):

143 (1) BUSINESS CASE.--The agency shall develop a business
144 case which describes and analyzes the procurement. The business
145 case is not subject to challenge or protest pursuant to chapter
146 120. The business case shall include, but not be limited to, the
147 information in paragraphs (a)-(l). For procurements not subject
148 to commission review, the agency shall provide a copy of the

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149 business case to the President of the Senate and the Speaker of
150 the House at least 14 days prior to releasing a solicitation.

151 For procurements subject to

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

155 Remove line 48 and insert:

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157 requiring the submission of annual status reports;