

By the Committee on Governmental Operations

585-2170-07

1                                   A bill to be entitled  
2           An act relating to the leasing of private  
3           property by state agencies; amending s.  
4           255.248, F.S.; defining terms; amending s.  
5           255.249, F.S.; requiring the Department of  
6           Management Services to develop a strategic  
7           leasing plan; removing the expiration of  
8           provisions requiring that the department  
9           annually submit a master leasing report to the  
10          Governor and the Legislature concerning leases  
11          that are due to expire and amendments and  
12          supplements to and waivers of the terms and  
13          conditions of lease agreements; requiring state  
14          agencies to provide information concerning  
15          space needs to the Department of Management  
16          Services; requiring that the Department of  
17          Management Services adopt rules for soliciting  
18          and accepting competitive solicitations for  
19          certain leased space, for exempting the lease  
20          of care and living space or emergency space  
21          from competitive-solicitation requirements, for  
22          securing at least three quotes for a lease that  
23          is not required to be competitively solicited  
24          and for providing information regarding space  
25          needs to the Department of Management Services;  
26          removing the expiration of provisions requiring  
27          that specified clauses, which may not be  
28          amended, supplemented, or waived, be included  
29          in the terms and conditions of a lease;  
30          authorizing the Department of Management  
31          Services to contract for services in carrying

1 out the strategic leasing plan; amending s.  
2 255.25, F.S.; requiring state agencies to  
3 consult with the Department of Management  
4 Services concerning use of space; removing the  
5 expiration of provisions requiring that the  
6 department approve the terms of a lease by a  
7 state agency; requiring an analysis if the  
8 department approves an amendment or supplement  
9 to or waiver of a term or condition of a lease  
10 agreement; prohibiting a state agency from  
11 entering into certain leases of space in a  
12 privately owned building except upon  
13 advertisement for and receipt of competitive  
14 solicitations; providing exceptions; providing  
15 requirements for the use of invitations to bid,  
16 requests for proposals, and invitations to  
17 negotiate; providing criteria for awarding  
18 contracts; providing criteria for protesting an  
19 agency decision or intended decision pertaining  
20 to a competitive solicitation for leased space;  
21 providing criteria for the Department of  
22 Management Services to use when determining the  
23 state's best interest and when approving leases  
24 of 5,000 square feet or more; authorizing state  
25 agencies to use the services of a tenant broker  
26 under specified circumstances; authorizing the  
27 Department of Management Services to procure a  
28 state term contract for real estate consulting  
29 and brokerage services; removing the expiration  
30 of provisions providing legislative intent with  
31 respect to the use of state-owned buildings;

1           requiring that the department create a plan for  
2           fully using such buildings before leasing  
3           private buildings; requiring an annual report  
4           to the Legislature and the Governor; providing  
5           appropriations and authorizing additional  
6           positions; providing an effective date.  
7

8 Be It Enacted by the Legislature of the State of Florida:  
9

10           Section 1. Section 255.248, Florida Statutes, is  
11 amended to read:

12           255.248 Definitions; ss. 255.249 and 255.25.--~~As The~~  
13 ~~following definitions shall apply when used in ss. 255.249 and~~  
14 ~~255.25, the term:~~

15           (1) "Best leasing value" means the highest overall  
16 value to the state based on objective factors that include,  
17 but are not limited to, rental rate, renewal rate, operational  
18 and maintenance costs, tenant-improvement allowance, location,  
19 lease term, condition of facility, landlord responsibility,  
20 amenities, and parking.

21           (2) "Competitive solicitation" means an invitation to  
22 bid, a request for proposals, or an invitation to negotiate.

23           (3) "Department" means the Department of Management  
24 Services.

25           (4) "Privately owned building" means any building not  
26 owned by a governmental agency.

27           (5) "Responsible lessor" means a lessor who has the  
28 capability in all respects to fully perform the contract  
29 requirements and the integrity and reliability that will  
30 assure good faith performance.  
31

1           (6) "Responsive bid," "responsive proposal," or  
2 "responsive reply" means a bid or proposal, or reply submitted  
3 by a responsive and responsible lessor, which conforms in all  
4 material respects to the solicitation.

5           (7) "Responsive lessor" means a lessor that has  
6 submitted a bid, proposal, or reply that conforms in all  
7 material respects to the solicitation.

8           ~~(8)(1) The term~~ "State-owned office building" means  
9 any building title to which is vested in the state and which  
10 is used by one or more executive agencies predominantly for  
11 administrative direction and support functions. This term  
12 excludes:

13           (a) District or area offices established for field  
14 operations where law enforcement, military, inspections, road  
15 operations, or tourist welcoming functions are performed.

16           (b) All educational facilities and institutions under  
17 the supervision of the Department of Education.

18           (c) All custodial facilities and institutions used  
19 primarily for the care, custody, or treatment of wards of the  
20 state.

21           (d) Buildings or spaces used for legislative  
22 activities.

23           (e) Buildings purchased or constructed from  
24 agricultural or citrus trust funds.

25           ~~(2) The term "privately owned building" shall mean any~~  
26 ~~building not owned by a governmental agency.~~

27           Section 2. Subsections (1), (3), (4), and (5) of  
28 section 255.249, Florida Statutes, are amended, and subsection  
29 (6) is added to that section, to read:

30           255.249 Department of Management Services;  
31 responsibility; department rules.--

1           (1) The department ~~of Management Services~~ shall have  
2 responsibility and authority for the custodial and preventive  
3 maintenance, repair, and allocation of space of all buildings  
4 in the Florida Facilities Pool and the grounds located  
5 adjacent thereto.

6           (3)(a) The department shall, to the extent feasible,  
7 coordinate the vacation of privately owned leased space with  
8 the expiration of the lease on that space and, when a lease is  
9 terminated before expiration of its base term, will make a  
10 reasonable effort to place another state agency in the space  
11 vacated. Any state agency may lease the space in any building  
12 that was subject to a lease terminated by a state agency for a  
13 period of time equal to the remainder of the base term without  
14 the requirement of competitive solicitation ~~bidding~~.

15           (b) The department shall develop and implement a  
16 strategic leasing plan. The strategic leasing plan shall  
17 forecast space needs for all state agencies and identify  
18 opportunities for reducing costs through consolidation,  
19 relocation, reconfiguration, capital investment, and the  
20 building or acquisition of state-owned space.

21           ~~(c)(b)~~ The department shall annually publish a master  
22 leasing report ~~that lists, by agency, all leases that are due~~  
23 ~~to expire within 24 months. The annual report must include the~~  
24 ~~following information for each lease: location; size of leased~~  
25 ~~space; current cost per leased square foot; lease expiration~~  
26 ~~date; and a determination of whether sufficient state owned~~  
27 ~~office space will be available at the expiration of the lease~~  
28 ~~to house affected employees. The report must also include a~~  
29 ~~list of amendments and supplements to and waivers of terms and~~  
30 ~~conditions in lease agreements that have been approved~~  
31 ~~pursuant to s. 255.25(2)(a) during the previous 12 months and~~

1 ~~an associated comprehensive analysis, including financial~~  
2 ~~implications, showing that any amendment, supplement, or~~  
3 ~~waiver is in the state's long term best interest.~~ The  
4 department shall furnish the master leasing ~~this~~ report to the  
5 Executive Office of the Governor and the Legislature by  
6 September 15 of each year which provides the following  
7 information: This paragraph expires July 1, 2007.

8 1. A list, by agency and by geographic market, of all  
9 leases that are due to expire within 24 months.

10 2. Details of each lease, including location, size,  
11 cost per leased square foot, lease-expiration date, and a  
12 determination of whether sufficient state-owned office space  
13 will be available at the expiration of the lease to  
14 accommodate affected employees.

15 3. A list of amendments and supplements to and waivers  
16 of terms and conditions in lease agreements that have been  
17 approved pursuant to s. 255.25(2)(a) during the previous 12  
18 months and an associated comprehensive analysis, including  
19 financial implications, showing that any amendment,  
20 supplement, or waiver is in the state's long-term best  
21 interest.

22 4. Financial impacts to the pool rental rate due to  
23 the sale, removal, acquisition, or construction of pool  
24 facilities.

25 5. Changes in occupancy rate, maintenance costs, and  
26 efficiency costs of leases in the state portfolio. Changes to  
27 occupancy costs in leased space by market and changes to space  
28 consumption by agency and by market.

29 6. An analysis of portfolio supply and demand.

30 7. Cost-benefit analyses of acquisition, build, and  
31 consolidation opportunities, recommendations for strategic

1 consolidation, and strategic recommendations for disposition,  
2 acquisition, and building.

3 8. The updated plan required by s. 255.25(4)(c).

4 (d) By June 30 of each year, each state agency shall  
5 annually provide to the department all information regarding  
6 agency programs affecting the need for or use of space by that  
7 agency, reviews of lease-expiration schedules for each  
8 geographic area, active and planned full-time equivalent data,  
9 business case analyses related to consolidation plans by an  
10 agency, and current occupancy and relocation costs, inclusive  
11 of furnishings, fixtures and equipment, data, and  
12 communications.

13 (4) The department shall adopt ~~promulgate~~ rules  
14 pursuant to chapter 120 providing:

15 (a) Methods for accomplishing the duties outlined in  
16 subsection (1).

17 (b) Procedures for soliciting and accepting  
18 competitive solicitations ~~proposals~~ for leased space of 5,000  
19 square feet or more in privately owned buildings, for  
20 evaluating the proposals received, for exemption from  
21 competitive solicitations ~~bidding~~ requirements of any lease  
22 the purpose of which is the provision of care and living space  
23 for persons or emergency space needs as provided in s.  
24 255.25(10), and for the securing of at least three documented  
25 quotes for a lease that is not required to be competitively  
26 solicited ~~bid~~.

27 (c) A standard method for determining square footage  
28 or any other measurement used as the basis for lease payments  
29 or other charges.

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1 (d) Methods of allocating space in both state-owned  
2 office buildings and privately owned buildings leased by the  
3 state based on use, personnel, and office equipment.

4 (e)1. Acceptable terms and conditions for inclusion in  
5 lease agreements.

6 2. Such terms and conditions shall include, at a  
7 minimum, the following clauses, which may not be amended,  
8 supplemented, or waived:

9 a. As provided in s. 255.2502, "The State of Florida's  
10 performance and obligation to pay under this contract is  
11 contingent upon an annual appropriation by the Legislature."

12 b. "The Lessee shall have the right to terminate,  
13 without penalty, this lease in the event a State-owned  
14 building becomes available to the Lessee for occupancy ~~in the~~  
15 ~~County of ....., Florida, during the term of said lease for~~  
16 ~~the purposes for which this space is being leased~~ upon giving  
17 6 months' advance written notice to the Lessor by Certified  
18 Mail, Return Receipt Requested."

19  
20 ~~This subparagraph expires July 1, 2007.~~

21 (f) Maximum rental rates, by geographic areas or by  
22 county, for leasing privately owned space.

23 (g) A standard method for the assessment of rent to  
24 state agencies and other authorized occupants of state-owned  
25 office space, notwithstanding the source of funds.

26 (h) For full disclosure of the names and the extent of  
27 interest of the owners holding a 4-percent or more interest in  
28 any privately owned property leased to the state or in the  
29 entity holding title to the property, for exemption from such  
30 disclosure of any beneficial interest which is represented by  
31 stock in any corporation registered with the Securities and



1 Exchange Commission or registered pursuant to chapter 517,  
2 which stock is for sale to the general public, and for  
3 exemption from such disclosure of any leasehold interest in  
4 property located outside the territorial boundaries of the  
5 United States.

6 (i) For full disclosure of the names of all public  
7 officials, agents, or employees holding any interest in any  
8 privately owned property leased to the state or in the entity  
9 holding title to the property, and the nature and extent of  
10 their interest, for exemption from such disclosure of any  
11 beneficial interest which is represented by stock in any  
12 corporation registered with the Securities and Exchange  
13 Commission or registered pursuant to chapter 517, which stock  
14 is for sale to the general public, and for exemption from such  
15 disclosure of any leasehold interest in property located  
16 outside the territorial boundaries of the United States.

17 (j) A method for reporting leases for nominal or no  
18 consideration.

19 (k) For a lease of less than 5,000 square feet, a  
20 method for certification by the agency head or the agency  
21 head's designated representative that all criteria for leasing  
22 have been fully complied with and for the filing of a copy of  
23 such lease and all supporting documents with the department  
24 for its review and approval as to technical sufficiency.

25 (l) A standardized format for state agency reporting  
26 of the information required by paragraph (3)(d).

27 (5) The department ~~of Management Services~~ shall  
28 prepare a form listing all conditions and requirements adopted  
29 pursuant to this chapter which must be met by any state agency  
30 leasing any building or part thereof. Before executing any  
31 lease, this form shall be certified by the agency head or the

1 agency head's designated representative and submitted to the  
2 department.

3 (6) The department may contract for real estate  
4 consulting or tenant brokerage services in order to carry out  
5 its duties relating to the strategic leasing plan. The  
6 contract shall be procured pursuant to s. 287.057. The vendor  
7 that is awarded the contract shall be compensated by the  
8 department, subject to the provisions of the contract, and  
9 such compensation is subject to appropriation by the  
10 Legislature. The real estate consultant or tenant broker may  
11 not receive compensation directly from a lessor for services  
12 that are rendered pursuant to the contract. Moneys paid to the  
13 real estate consultant or tenant broker are exempt from any  
14 charge imposed under s. 287.1345. Moneys paid by a lessor to  
15 the department under a facility-leasing arrangement are not  
16 subject to the charges imposed under s. 215.20.

17 Section 3. Subsections (1), (2), (3), (4), and (8) of  
18 section 255.25, Florida Statutes, are amended to read:

19 255.25 Approval required prior to construction or  
20 lease of buildings.--

21 (1)(a) ~~A No~~ state agency may not lease space in a  
22 private building that is to be constructed for state use  
23 unless prior approval of the architectural design and  
24 preliminary construction plans is first obtained from the  
25 department ~~of Management Services.~~

26 (b) During the term of existing leases, each agency  
27 shall consult with the department regarding opportunities for  
28 consolidation, use of state-owned space, build-to-suit space,  
29 and potential acquisitions; shall monitor market conditions;  
30 and shall initiate a competitive solicitation or, if  
31 appropriate, lease-renewal negotiations for each lease held in

1 | the private sector to effect the best overall lease terms  
2 | reasonably available to that agency. Amendments to leases may  
3 | be permitted to modify any lease provisions or any other terms  
4 | or conditions, except to the extent specifically prohibited by  
5 | this chapter. The department ~~of Management Services~~ shall  
6 | serve as a mediator in lease-renewal negotiations ~~lease~~  
7 | ~~renegotiations~~ if the agency and the lessor are unable to  
8 | reach a compromise within 6 months after ~~of~~ renegotiation and  
9 | if either the agency or lessor requests ~~the Department of~~  
10 | ~~Management Services'~~ intervention by the department.

11 |         (c) When specifically authorized by the Appropriations  
12 | Act and in accordance with s. 255.2501, if applicable, the  
13 | department ~~of Management Services~~ may approve a  
14 | lease-purchase, sale-leaseback, or tax-exempt leveraged lease  
15 | contract or other financing technique for the acquisition,  
16 | renovation, or construction of a state fixed capital outlay  
17 | project when it is in the best interest of the state.

18 |         (2)(a) Except as provided in s. 255.2501, a ~~no~~ state  
19 | agency may not lease a building or any part thereof unless  
20 | prior approval of the lease conditions and of the need  
21 | therefor is first obtained from the department ~~of Management~~  
22 | ~~Services~~. Any approved lease may include an option to  
23 | purchase or an option to renew the lease, or both, upon such  
24 | terms and conditions as are established by the department  
25 | subject to final approval by the head of the Department of  
26 | Management Services and s. 255.2502.

27 |         (b) The approval of the department ~~of Management~~  
28 | ~~Services~~, except for technical sufficiency, need not be  
29 | obtained for the lease of less than 5,000 square feet of space  
30 | within a privately owned building, provided the agency head or  
31 | the agency head's designated representative has certified

1 compliance with applicable leasing criteria as may be provided  
2 pursuant to s. 255.249(4)(k) and has determined such lease to  
3 be in the best interest of the state. ~~Such~~ A lease that ~~which~~  
4 is for a term extending beyond the end of a fiscal year is  
5 subject to the provisions of ss. 216.311, 255.2502, and  
6 255.2503.

7 (c) The department ~~of Management Services~~ shall adopt  
8 as a rule uniform leasing procedures for use by each state  
9 agency other than the Department of Transportation. Each state  
10 agency shall ensure that the leasing practices of that agency  
11 are in substantial compliance with the uniform leasing rules  
12 adopted under this section and ss. 255.249, 255.2502, and  
13 255.2503.

14 (d) Notwithstanding paragraph (a) and except as  
15 provided in ss. 255.249 and 255.2501, a state agency may not  
16 lease a building or any part thereof unless prior approval of  
17 the lease terms and conditions and of the need therefor is  
18 first obtained from the department ~~of Management Services~~. The  
19 department may not approve any term or condition in a lease  
20 agreement which has been amended, supplemented, or waived  
21 unless a comprehensive analysis, including financial  
22 implications, demonstrates that such amendment, supplement, or  
23 waiver is in the state's long-term best interest. Any approved  
24 lease may include an option to purchase or an option to renew  
25 the lease, or both, upon such terms and conditions as are  
26 established by the department subject to final approval by the  
27 head of the Department of Management Services and the  
28 provisions of s. 255.2502. ~~This paragraph expires July 1,~~  
29 ~~2007.~~

30 (3)(a) Except as provided in subsection (10), a ~~no~~  
31 state agency may not ~~shall~~ enter into a lease as lessee for

1 the use of 5,000 square feet or more of space in a privately  
2 owned building except upon advertisement for and receipt of  
3 competitive solicitations ~~bids and award to the lowest and~~  
4 ~~best bidder.~~

5 1.a. An invitation to bid shall be made available  
6 simultaneously to all lessors and must include a detailed  
7 description of the space sought; the time and date for the  
8 receipt of bids and of the public opening; and all contractual  
9 terms and conditions applicable to the procurement, including  
10 the criteria to be used in determining acceptability of the  
11 bid. If the agency contemplates renewal of the contract, that  
12 fact must be stated in the invitation to bid. The bid must  
13 include the price for each year for which the contract may be  
14 renewed. Evaluation of bids shall include consideration of the  
15 total cost for each year as submitted by the lessor. Criteria  
16 that were not set forth in the invitation to bid may not be  
17 used in determining acceptability of the bid.

18 b. The contract shall be awarded with reasonable  
19 promptness by written notice to the responsible and responsive  
20 lessor that submits the lowest responsive bid. This bid must  
21 be determined in writing to meet the requirements and criteria  
22 set forth in the invitation to bid.

23 2.a. If an agency determines in writing that the use  
24 of an invitation to bid is not practicable, leased space shall  
25 be procured by competitive sealed proposals. A request for  
26 proposals shall be made available simultaneously to all  
27 lessors and must include a statement of the space sought; the  
28 time and date for the receipt of proposals and of the public  
29 opening; and all contractual terms and conditions applicable  
30 to the procurement, including the criteria, which must  
31 include, but need not be limited to, price, to be used in

1 determining acceptability of the proposal. The relative  
2 importance of price and other evaluation criteria shall be  
3 indicated. If the agency contemplates renewal of the contract,  
4 that fact must be stated in the request for proposals. The  
5 proposal must include the price for each year for which the  
6 contract may be renewed. Evaluation of proposals shall include  
7 consideration of the total cost for each year as submitted by  
8 the lessor.

9       b. The contract shall be awarded to the responsible  
10 and responsive lessor whose proposal is determined in writing  
11 to be the most advantageous to the state, taking into  
12 consideration the price and the other criteria set forth in  
13 the request for proposals. The contract file must contain  
14 documentation supporting the basis on which the award is made.

15       3.a. If the agency determines in writing that the use  
16 of an invitation to bid or a request for proposals will not  
17 result in the best leasing value to the state, the agency may  
18 procure leased space by competitive sealed replies. The  
19 agency's written determination must specify reasons that  
20 explain why negotiation may be necessary in order for the  
21 state to achieve the best leasing value and must be approved  
22 in writing by the agency head or his or her designee prior to  
23 the advertisement of an invitation to negotiate. Cost savings  
24 related to the agency procurement process are not sufficient  
25 justification for using an invitation to negotiate. An  
26 invitation to negotiate shall be made available to all lessors  
27 simultaneously and must include a statement of the space  
28 sought; the time and date for the receipt of replies and of  
29 the public opening; and all terms and conditions applicable to  
30 the procurement, including the criteria to be used in  
31 determining the acceptability of the reply. If the agency

1 contemplates renewal of the contract, that fact must be stated  
2 in the invitation to negotiate. The reply must include the  
3 price for each year for which the contract may be renewed.

4 b. The agency shall evaluate and rank responsive  
5 replies against all evaluation criteria set forth in the  
6 invitation to negotiate and shall select, based on the  
7 ranking, one or more lessors with which to commence  
8 negotiations. After negotiations are conducted, the agency  
9 shall award the contract to the responsible and responsive  
10 lessor that the agency determines will provide the best  
11 leasing value to the state. The contract file must contain a  
12 short, plain statement that explains the basis for lessor  
13 selection and sets forth the lessor's deliverables and price  
14 pursuant to the contract, and an explanation of how these  
15 deliverables and price provide the best leasing value to the  
16 state.

17 (b) The Department of Management Services shall have  
18 the authority to approve a lease for 5,000 square feet or more  
19 of space that covers more than 1 fiscal year, subject to the  
20 provisions of ss. 216.311, 255.2501, 255.2502, and 255.2503,  
21 if such lease is, in the judgment of the department, in the  
22 best interests of the state. In determining best interest, the  
23 department shall consider availability of state-owned space  
24 and analyses of build-to-suit and acquisition opportunities.

25 This paragraph does not apply to buildings or facilities of  
26 any size leased for the purpose of providing care and living  
27 space for persons.

28 (c)(b) The department ~~of Management Services~~ may  
29 approve extensions of an existing lease of 5,000 square feet  
30 or more of space if such extensions are determined to be in  
31 the best interests of the state, but in no case shall the

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

14 ~~(d)(e)~~ Any person who files an action protesting a  
15 decision or intended decision pertaining to a competitive  
16 solicitation ~~bid~~ for space to be leased by the agency pursuant  
17 to s. 120.57(3)(b) shall post with the state agency at the  
18 time of filing the formal written protest a bond payable to  
19 the agency in an amount equal to 1 percent of the estimated  
20 total rental of the basic lease period or \$5,000, whichever is  
21 greater, which bond shall be conditioned upon the payment of  
22 all costs that ~~which~~ may be adjudged against him or her in the  
23 administrative hearing in which the action is brought and in  
24 any subsequent appellate court proceeding. If the agency  
25 prevails after completion of the administrative hearing  
26 process and any appellate court proceedings, it shall recover  
27 all costs and charges, which shall be included in the final  
28 order or judgment, excluding attorney's fees. Upon payment of  
29 such costs and charges by the person protesting the award, the  
30 bond shall be returned to him or her. If the person  
31 protesting the award prevails, the bond shall be returned to



1 that person and he or she shall recover from the agency all  
2 costs and charges, which shall be included in the final order  
3 of judgment, excluding attorney's fees.

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

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

24 (g) Notwithstanding s. 287.056(1), a state agency may,  
25 at the sole discretion of the agency head or his or her  
26 designee, use the services of a tenant broker to assist with a  
27 competitive solicitation undertaken by the agency. In making  
28 its determination whether to use a tenant broker, a state  
29 agency shall consult with the department. After October 1,  
30 2007, a state agency may not use the services of a tenant  
31 broker unless the tenant broker is under a term contract with

1 the state which complies with paragraph (h). If a state agency  
2 uses the services of a tenant broker with respect to a  
3 transaction, the agency may not enter into a lease with any  
4 landlord to which the tenant broker is providing brokerage  
5 services for that transaction.

6 (h) The Department of Management Services may,  
7 pursuant to s. 287.042(2)(a), procure a term contract for real  
8 estate consulting and brokerage services. A state agency may  
9 not purchase services from the contract unless the contract  
10 has been procured under s. 287.057(1), (2), or (3) after March  
11 1, 2007, and contains the following provisions or  
12 requirements:

13 1. Awarded brokers must maintain an office or presence  
14 in the market served. In awarding the contract, preference  
15 must be given to brokers that are licensed in this state under  
16 chapter 475 and that have 3 or more years of experience in the  
17 market served. The contract may be made with up to three  
18 tenant brokers in order to serve the marketplace in the north,  
19 central, and south areas of the state.

20 2. Each contracted tenant broker shall work under the  
21 direction, supervision, and authority of the state agency,  
22 subject to the rules governing lease procurements.

23 3. The department shall provide training for the  
24 awarded tenant brokers concerning the rules governing the  
25 procurement of leases.

26 4. Tenant brokers must comply with all applicable  
27 provisions of s. 475.278.

28 5. Real estate consultants and tenant brokers shall be  
29 compensated by the state agency, subject to the provisions of  
30 the term contract, and such compensation is subject to  
31 appropriation by the Legislature. A real estate consultant or

1 tenant broker may not receive compensation directly from a  
2 lessor for services that are rendered under the term contract.  
3 Moneys paid to a real estate consultant or tenant broker are  
4 exempt from any charge imposed under s. 287.1345. Moneys paid  
5 by a lessor to the state agency under a facility leasing  
6 arrangement are not subject to the charges imposed under s.  
7 215.20. All terms relating to the compensation of the real  
8 estate consultant or tenant broker shall be specified in the  
9 term contract and may not be supplemented or modified by the  
10 state agency using the contract.

11 6. The department shall conduct periodic  
12 customer-satisfaction surveys.

13 7. Each state agency shall report the following  
14 information to the department:

15 a. The number of leases that adhere to the goal of the  
16 workspace-management initiative of 180 square feet per FTE.

17 b. The quality of space leased and the adequacy of  
18 tenant-improvement funds.

19 c. The timeliness of lease procurement, measured from  
20 the date of the agency's request to the finalization of the  
21 lease.

22 d. Whether cost-benefit analyses were performed before  
23 execution of the lease in order to ensure that the lease is in  
24 the best interest of the state.

25 e. The lease costs compared to market rates for  
26 similar types and classifications of space according to the  
27 official classifications of the Building Owners and Managers  
28 Association.

29 (4)(a) The department ~~of Management Services~~ shall not  
30 authorize any state agency to enter into a lease agreement for  
31 space in a privately owned building when suitable space is

1 available in a state-owned building located in the same  
2 geographic region, except upon presentation to the department  
3 of sufficient written justification, acceptable to the  
4 department, that a separate space is required in order to  
5 fulfill the statutory duties of the agency making such  
6 request. The term "state-owned building" as used in this  
7 subsection means any state-owned facility regardless of use or  
8 control.

9 (b) State agencies shall cooperate with local  
10 governmental units by using suitable, existing publicly owned  
11 facilities, subject to the provisions of ss. 255.2501,  
12 255.2502, and 255.2503. Agencies may utilize unexpended funds  
13 appropriated for lease payments to:

- 14 1. Pay their proportion of operating costs.
- 15 2. Renovate applicable spaces.

16 (c) Because the state has a substantial financial  
17 investment in state-owned buildings, it is legislative policy  
18 and intent that when state-owned buildings meet the needs of  
19 state agencies, agencies must fully use such buildings before  
20 leasing privately owned buildings. By September 15, 2006, the  
21 Department of Management Services shall create a 5-year plan  
22 for implementing this policy. The department shall update this  
23 plan annually, detailing proposed departmental actions to meet  
24 the plan's goals, and shall furnish this plan annually as part  
25 of the master leasing report. ~~The department shall furnish~~  
26 ~~this plan to the President of the Senate, the Speaker of the~~  
27 ~~House of Representatives, and the Executive Office of the~~  
28 ~~Governor by September 15 of each year. This paragraph expires~~  
29 ~~July 1, 2007.~~

30 (8) An ~~No~~ agency may not ~~shall~~ enter into more than  
31 one lease for space in the same privately owned facility or

1 complex within any 12-month period except upon competitive ~~the~~  
2 solicitation ~~of competitive bids~~.

3 Section 4. For the 2007-2008 fiscal year, the sum of  
4 \$330,620 in recurring funds and the sum of \$23,630 in  
5 nonrecurring funds are appropriated from the Supervision Trust  
6 Fund in the Department of Management Services. Five full-time  
7 equivalent positions with the associated salary rate of  
8 272,500 are authorized for the purpose of providing strategic  
9 planning of leasing transactions for the state.

10 Section 5. For the 2007-2008 fiscal year, the sum of  
11 \$1 million in nonrecurring trust funds is appropriated in a  
12 lump-sum category to the administered funds program to provide  
13 budget authority to state agencies for the payment of  
14 professional real estate and tenant broker transaction fees.

15 Section 6. This act shall take effect July 1, 2007.

16

17 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
18 COMMITTEE SUBSTITUTE FOR  
19 Senate Bill 1972

20

21 Requires DMS to develop a strategic leasing plan for  
22 forecasting agency space needs.

23 Allows DMS to use the services of a tenant broker/real estate  
24 consultant in developing the strategic leasing plan.

25 Requires DMS to annually publish a master leasing report  
26 providing specific information relating to agency leases, and  
27 requires agencies to give all necessary information to DMS to  
28 compile the report.

29 Allows DMS to procure a state term contract for real estate  
30 consultant/tenant broker services; agencies may use the  
31 contract only if specified terms are included in the contract.

Compensation for tenant brokers must come from agencies, not  
lessors, subject to appropriation.

Appropriates \$353,000 and 5 FTEs to DMS to carry out duties,  
and \$1 million in budget authority for payment of tenant  
broker transaction fees.

31