

By the Committees on General Government Appropriations; and
Governmental Operations

601-2403-07

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 an effective date.
6

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

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

11 255.248 Definitions; ss. 255.249 and 255.25.--~~As The~~
12 ~~following definitions shall apply when used in ss. 255.249 and~~
13 ~~255.25, the term:~~

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

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

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

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

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

30 (6) "Responsive bid," "responsive proposal," or
31 "responsive reply" means a bid or proposal, or reply submitted

1 by a responsive and responsible lessor, which conforms in all
2 material respects to the solicitation.

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

6 ~~(8)(1)~~ The term "State-owned office building" means
7 any building title to which is vested in the state and which
8 is used by one or more executive agencies predominantly for
9 administrative direction and support functions. This term
10 excludes:

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

14 (b) All educational facilities and institutions under
15 the supervision of the Department of Education.

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

19 (d) Buildings or spaces used for legislative
20 activities.

21 (e) Buildings purchased or constructed from
22 agricultural or citrus trust funds.

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

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

28 255.249 Department of Management Services;
29 responsibility; department rules.--

30 (1) The department ~~of Management Services~~ shall have
31 responsibility and authority for the custodial and preventive

1 maintenance, repair, and allocation of space of all buildings
2 in the Florida Facilities Pool and the grounds located
3 adjacent thereto.

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

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

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

1 ~~waiver is in the state's long term best interest.~~ The
2 department shall furnish the master leasing ~~this~~ report to the
3 Executive Office of the Governor and the Legislature by
4 September 15 of each year which provides the following
5 information: ~~This paragraph expires July 1, 2007.~~

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

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

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

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

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

27 6. An analysis of portfolio supply and demand.

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

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

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

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

13 (a) Methods for accomplishing the duties outlined in
14 subsection (1).

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

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

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

31

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

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

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

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

16
17 ~~This subparagraph expires July 1, 2007.~~

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

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

23 (h) For full disclosure of the names and the extent of
24 interest of the owners holding a 4-percent or more interest in
25 any privately owned property leased to the state or in the
26 entity holding title to the property, for exemption from such
27 disclosure of any beneficial interest which is represented by
28 stock in any corporation registered with the Securities and
29 Exchange Commission or registered pursuant to chapter 517,
30 which stock is for sale to the general public, and for
31 exemption from such disclosure of any leasehold interest in

1 property located outside the territorial boundaries of the
2 United States.

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

14 (j) A method for reporting leases for nominal or no
15 consideration.

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

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

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

31

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

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

17 255.25 Approval required prior to construction or
18 lease of buildings.--

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

24 (b) During the term of existing leases, each agency
25 shall consult with the department regarding opportunities for
26 consolidation, use of state-owned space, build-to-suit space,
27 and potential acquisitions; shall monitor market conditions;
28 and shall initiate a competitive solicitation or, if
29 appropriate, lease-renewal negotiations for each lease held in
30 the private sector to effect the best overall lease terms
31 reasonably available to that agency. Amendments to leases may

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

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

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

25 | (b) The approval of the department ~~of Management~~
26 | ~~Services~~, except for technical sufficiency, need not be
27 | obtained for the lease of less than 5,000 square feet of space
28 | within a privately owned building, provided the agency head or
29 | the agency head's designated representative has certified
30 | compliance with applicable leasing criteria as may be provided
31 | pursuant to s. 255.249(4)(k) and has determined such lease to

1 | be in the best interest of the state. ~~Such~~ A lease that ~~which~~
2 | is for a term extending beyond the end of a fiscal year is
3 | subject to the provisions of ss. 216.311, 255.2502, and
4 | 255.2503.

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

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

28 | (3)(a) Except as provided in subsection (10), a ~~no~~
29 | state agency may not ~~shall~~ enter into a lease as lessee for
30 | the use of 5,000 square feet or more of space in a privately
31 | owned building except upon advertisement for and receipt of

1 competitive solicitations ~~bids~~ and award to the lowest and
2 ~~best bidder~~.

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

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

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

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

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

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

1 in the invitation to negotiate. The reply must include the
2 price for each year for which the contract may be renewed.

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

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

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

27 (c)(b) ~~The department of Management Services~~ may
28 approve extensions of an existing lease of 5,000 square feet
29 or more of space if such extensions are determined to be in
30 the best interests of the state, but in no case shall the
31 total of such extensions exceed 11 months. If at the end of

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

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

1 costs and charges, which shall be included in the final order
2 of judgment, excluding attorney's fees.

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

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

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

1 tenant broker with respect to a transaction, the agency may
2 not enter into a lease with any landlord to which the tenant
3 broker is providing brokerage services for that transaction.

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

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

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

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

24 4. Tenant brokers must comply with all applicable
25 provisions of s. 475.278.

26 5. Real estate consultants and tenant brokers shall be
27 compensated by the state agency, subject to the provisions of
28 the term contract, and such compensation is subject to
29 appropriation by the Legislature. A real estate consultant or
30 tenant broker may not receive compensation directly from a
31 lessor for services that are rendered under the term contract.

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

9 6. The department shall conduct periodic
10 customer-satisfaction surveys.

11 7. Each state agency shall report the following
12 information to the department:

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

15 b. The quality of space leased and the adequacy of
16 tenant-improvement funds.

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

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

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

27 (4)(a) ~~The department of Management Services~~ shall not
28 authorize any state agency to enter into a lease agreement for
29 space in a privately owned building when suitable space is
30 available in a state-owned building located in the same
31 geographic region, except upon presentation to the department

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

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

- 12 1. Pay their proportion of operating costs.
- 13 2. Renovate applicable spaces.

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

28 (8) An ~~No~~ agency may not ~~shall~~ enter into more than
29 one lease for space in the same privately owned facility or
30 complex within any 12-month period except upon competitive ~~the~~
31 ~~solicitation of competitive bids.~~

1 Section 4. This act shall take effect July 1, 2007.

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3 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
4 COMMITTEE SUBSTITUTE FOR
5 CS/SB 1972

6

6 Removes the appropriations sections from the bill. The
7 appropriations are included in SB 2800.

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8 The effective date for state agencies opting to use the
9 services of a tenant broker is changed from October 1, 2007,
10 to July 1, 2007.

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