

1 A bill to be entitled
2 An act relating to the leasing of private property by
3 state agencies; amending s. 255.248, F.S.; providing
4 definitions; amending s. 255.249, F.S.; requiring the
5 Department of Management Services to develop and implement
6 a strategic leasing plan; requiring the department to
7 annually publish a master leasing report containing
8 certain information; removing the expiration of provisions
9 requiring that the department annually report to the
10 Governor and the Legislature certain information
11 concerning leases that are due to expire and amendments
12 and supplements to and waivers of the terms and conditions
13 of lease agreements; requiring each agency to annually
14 provide specified information to the department; requiring
15 that the department adopt certain rules; removing the
16 expiration of provisions requiring that certain specified
17 clauses be included in the terms and conditions of a
18 lease; authorizing the department to contract for real
19 estate consulting or tenant brokerage services for
20 specified purposes; exempting certain funds from certain
21 charges; amending s. 255.25, F.S.; requiring each agency
22 to consult with the department regarding specified leasing
23 opportunities; requiring the agency to initiate a
24 competitive solicitation or lease renewal under certain
25 circumstances; requiring prior approval by the department
26 for amendments to current leases; removing the expiration
27 of provisions requiring that the department approve the
28 terms of a lease by a state agency; requiring an analysis

HB 7143

2007

29 | if the department approves an amendment or supplement to
30 | or waiver of a term or condition of a lease agreement;
31 | prohibiting a state agency from entering into certain
32 | leases of space in a privately owned building; providing
33 | exceptions; providing requirements for the use of
34 | invitations to bid, requests for proposals, and
35 | invitations to negotiate; providing criteria for awarding
36 | contracts; providing criteria for protesting an agency
37 | decision or intended decision pertaining to a competitive
38 | solicitation for leased space; providing criteria for the
39 | department to use when determining the state's best
40 | interest and when approving leases of 5,000 square feet or
41 | more; authorizing state agencies to use the services of a
42 | tenant broker under specified circumstances; authorizing
43 | the department to procure a state term contract for real
44 | estate consulting and brokerage services; removing the
45 | expiration of provisions providing legislative intent with
46 | respect to the use of state-owned buildings; requiring
47 | that the department create a plan for fully using such
48 | buildings before leasing private buildings; requiring an
49 | annual report to the Legislature and the Governor;
50 | providing appropriations and authorizing positions;
51 | providing an effective date.

52 |
53 | Be It Enacted by the Legislature of the State of Florida:

54 |
55 | Section 1. Section 255.248, Florida Statutes, is amended
56 | to read:

HB 7143

2007

57 255.248 Definitions; ss. 255.249 and 255.25.--As The
58 ~~following definitions shall apply when used in ss. 255.249 and~~
59 ~~255.25, the term:~~

60 (1) "Best leasing value" means the highest overall value
61 to the state based on objective factors that include, but are
62 not limited to, the rental rate, the renewal rate, operational
63 and maintenance costs, any tenant-improvement allowance,
64 location, the lease term, the condition of the facility,
65 landlord responsibility, amenities, and parking.

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

68 (3) "Department" means the Department of Management
69 Services.

70 (4) "Privately owned building" means any building not
71 owned by a governmental agency.

72 (5) "Responsible lessor" means a lessor who has the
73 capability in all respects to fully perform the contract
74 requirements and the integrity and reliability that will ensure
75 good faith performance.

76 (6) "Responsive bid," "responsive proposal," or
77 "responsive reply" means a bid, proposal, or reply submitted by
78 a responsive and responsible vendor that conforms in all
79 material respects to the solicitation.

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

83 (8) ~~(1)~~ ~~The term~~ "State-owned office building" means any
84 building title to which is vested in the state and which is used

HB 7143

2007

85 | by one or more executive agencies predominantly for
 86 | administrative direction and support functions. This term
 87 | excludes:

88 | (a) District or area offices established for field
 89 | operations where law enforcement, military, inspections, road
 90 | operations, or tourist welcoming functions are performed.

91 | (b) All educational facilities and institutions under the
 92 | supervision of the Department of Education.

93 | (c) All custodial facilities and institutions used
 94 | primarily for the care, custody, or treatment of wards of the
 95 | state.

96 | (d) Buildings or spaces used for legislative activities.

97 | (e) Buildings purchased or constructed from agricultural
 98 | or citrus trust funds.

99 | ~~(2) The term "privately owned building" shall mean any~~
 100 | ~~building not owned by a governmental agency.~~

101 | Section 2. Subsections (1), (3), (4), and (5) of section
 102 | 255.249, Florida Statutes, are amended, and subsection (6) is
 103 | added to that section, to read:

104 | 255.249 Department of Management Services; responsibility;
 105 | department rules.--

106 | (1) The department ~~of Management Services~~ shall have
 107 | responsibility and authority for the custodial and preventive
 108 | maintenance, repair, and allocation of space of all buildings in
 109 | the Florida Facilities Pool and the grounds located adjacent
 110 | thereto.

111 | (3) (a) The department shall, to the extent feasible,
 112 | coordinate the vacation of privately owned leased space with the

HB 7143

2007

113 expiration of the lease on that space and, when a lease is
114 terminated before expiration of its base term, will make a
115 reasonable effort to place another state agency in the space
116 vacated. Any state agency may lease the space in any building
117 that was subject to a lease terminated by a state agency for a
118 period of time equal to the remainder of the base term without
119 the requirement of competitive bidding.

120 (b) The department shall develop and implement a strategic
121 leasing plan. The strategic leasing plan shall forecast agency
122 space needs for all state agencies and identify opportunities
123 for reducing costs through consolidation, relocation,
124 reconfiguration, capital investment, and the building or
125 acquisition of state-owned space.

126 (c) ~~(b)~~ Beginning fiscal year 2008-2009, the department
127 shall annually publish a master leasing report that lists, by
128 agency, all leases that are due to expire within 24 months. The
129 annual report must include the following information for each
130 lease: location; size of leased space; current cost per leased
131 square foot; lease expiration date; and a determination of
132 whether sufficient state owned office space will be available at
133 the expiration of the lease to house affected employees. The
134 report must also include a list of amendments and supplements to
135 and waivers of terms and conditions in lease agreements that
136 have been approved pursuant to s. 255.25(2)(a) during the
137 previous 12 months and an associated comprehensive analysis,
138 including financial implications, showing that any amendment,
139 supplement, or waiver is in the state's long term best interest.
140 The department shall furnish the master leasing this report to

HB 7143

2007

141 the Executive Office of the Governor and the Legislature by
142 September 15 of each year, which provides the following
143 information:

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

146 2. Details of each lease, including the location, size,
147 cost per leased square foot, and lease-expiration date and a
148 determination of whether sufficient state-owned office space
149 will be available at the expiration of the lease to accommodate
150 affected employees.

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

157 4. Financial impacts to the pool rental rate due to sale,
158 removal, acquisition, or construction of pool facilities.

159 5. Changes in occupancy rate, maintenance costs, and
160 efficiency costs of leases in the state portfolio; changes to
161 occupancy costs in leased space by market; and changes to space
162 consumption by agency and by market.

163 6. An analysis of portfolio supply and demand.

164 7. Cost-benefit analyses of acquisition, build and
165 consolidation opportunities, recommendations for strategic
166 consolidation, and strategic recommendations for disposition,
167 acquisition, and build.

HB 7143

2007

168 (d) On or before June 30 of each year, each state agency
169 shall provide to the department all information regarding agency
170 programs affecting the need for or use of space by that agency,
171 reviews of lease-expiration schedules for each geographic area,
172 active and planned full-time equivalent data, business case
173 analyses related to consolidation plans by an agency, and
174 current occupancy and relocation costs, inclusive of
175 furnishings, fixtures and equipment, data, and communications.
176 ~~This paragraph expires July 1, 2007.~~

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

179 (a) Methods for accomplishing the duties outlined in
180 subsection (1).

181 (b) Procedures for soliciting and accepting competitive
182 solicitations ~~proposals~~ for leased space of 5,000 square feet or
183 more in privately owned buildings, for evaluating the proposals
184 received, for exemption from competitive solicitations ~~bidding~~
185 requirements of any lease the purpose of which is the provision
186 of care and living space for persons or emergency space needs as
187 provided in s. 255.25(10), and for the securing of at least
188 three documented quotes for a lease that is not required to be
189 competitively solicited ~~bid~~.

190 (c) A standard method for determining square footage or
191 any other measurement used as the basis for lease payments or
192 other charges.

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

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

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

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

204 b. "The Lessee shall have the right to terminate, without
205 penalty, this lease in the event a State-owned building becomes
206 available to the Lessee for occupancy ~~in the County of~~
207 , Florida, during the term of said lease for the
208 ~~purposes for which this space is being leased~~ upon giving 6
209 months' advance written notice to the Lessor by Certified Mail,
210 Return Receipt Requested."

211
212 ~~This subparagraph expires July 1, 2007.~~

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

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

218 (h) For full disclosure of the names and the extent of
219 interest of the owners holding a 4-percent or more interest in
220 any privately owned property leased to the state or in the
221 entity holding title to the property, for exemption from such
222 disclosure of any beneficial interest which is represented by
223 stock in any corporation registered with the Securities and

224 Exchange Commission or registered pursuant to chapter 517, which
 225 stock is for sale to the general public, and for exemption from
 226 such disclosure of any leasehold interest in property located
 227 outside the territorial boundaries of the United States.

228 (i) For full disclosure of the names of all public
 229 officials, agents, or employees holding any interest in any
 230 privately owned property leased to the state or in the entity
 231 holding title to the property, and the nature and extent of
 232 their interest, for exemption from such disclosure of any
 233 beneficial interest that ~~which~~ is represented by stock in any
 234 corporation registered with the Securities and Exchange
 235 Commission or registered pursuant to chapter 517, which stock is
 236 for sale to the general public, and for exemption from such
 237 disclosure of any leasehold interest in property located outside
 238 the territorial boundaries of the United States.

239 (j) A method for reporting leases for nominal or no
 240 consideration.

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

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

249 (5) The department ~~of Management Services~~ shall prepare a
 250 form listing all conditions and requirements adopted pursuant to
 251 this chapter which must be met by any state agency leasing any

HB 7143

2007

252 building or part thereof. Before executing any lease, this form
 253 shall be certified by the agency head or the agency head's
 254 designated representative and submitted to the department.

255 (6) The department may contract for real estate consulting
 256 or tenant brokerage services in order to carry out its duties
 257 relating to the strategic leasing plan. The contract shall be
 258 procured pursuant to s. 287.057. The vendor that is awarded the
 259 contract shall be compensated by the department, subject to the
 260 provisions of the contract, with such compensation being subject
 261 to appropriation by the Legislature. The real estate consultant
 262 or tenant broker may not receive compensation directly from a
 263 lessor for services that are rendered pursuant to the contract.
 264 Moneys paid to the real estate consultant or tenant broker are
 265 exempt from any charge imposed under s. 287.1345. Moneys paid by
 266 a lessor to the department under a facility-leasing arrangement
 267 are not subject to the charges imposed under s. 215.20.

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

270 255.25 Approval required prior to construction or lease of
 271 buildings.--

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

277 (b) During the term of existing leases, each agency shall
 278 consult with the department regarding opportunities for
 279 consolidation, use of state-owned space, build-to-suit space,

HB 7143

2007

280 and potential acquisitions; shall monitor market conditions; and
281 shall initiate a competitive solicitation or, if appropriate,
282 lease-renewal negotiations for each lease held in the private
283 sector to effect the best overall lease terms reasonably
284 available to that agency. With prior approval of the department,
285 amendments to leases may be permitted to modify any lease
286 provisions or any other terms or conditions, except to the
287 extent specifically prohibited by this chapter. The department
288 of Management Services shall serve as a mediator in lease-
289 renewal negotiations lease-renegotiations if the agency and the
290 lessor are unable to reach a compromise within 6 months after of
291 renegotiation and if either the agency or lessor requests the
292 Department of Management Services' intervention by the
293 department.

294 (c) When specifically authorized by the Appropriations Act
295 and in accordance with s. 255.2501, if applicable, the
296 Department of Management Services may approve a lease-purchase,
297 sale-leaseback, or tax-exempt leveraged lease contract or other
298 financing technique for the acquisition, renovation, or
299 construction of a state fixed capital outlay project when it is
300 in the best interest of the state.

301 (2)(a) Except as provided in s. 255.2501, a ~~no~~ state
302 agency may not lease a building or any part thereof unless prior
303 approval of the lease conditions and of the need therefor is
304 first obtained from the department ~~of Management Services~~. Any
305 approved lease may include an option to purchase or an option to
306 renew the lease, or both, upon such terms and conditions as are

HB 7143

2007

307 established by the department subject to final approval by the
308 head of the department ~~of Management Services~~ and s. 255.2502.

309 (b) The approval of the department ~~of Management Services~~,
310 except for technical sufficiency, need not be obtained for the
311 lease of less than 5,000 square feet of space within a privately
312 owned building, provided the agency head or the agency head's
313 designated representative has certified compliance with
314 applicable leasing criteria as may be provided pursuant to s.
315 255.249(4)(k) and has determined such lease to be in the best
316 interest of the state. Such a lease which is for a term
317 extending beyond the end of a fiscal year is subject to the
318 provisions of ss. 216.311, 255.2502, and 255.2503.

319 (c) The department ~~of Management Services~~ shall adopt as a
320 rule uniform leasing procedures for use by each state agency
321 other than the Department of Transportation. Each state agency
322 shall ensure that the leasing practices of that agency are in
323 substantial compliance with the uniform leasing rules adopted
324 under this section and ss. 255.249, 255.2502, and 255.2503.

325 (d) Notwithstanding paragraph (a) and except as provided
326 in ss. 255.249 and 255.2501, a state agency may not lease a
327 building or any part thereof unless prior approval of the lease
328 terms and conditions and of the need therefor is first obtained
329 from the department ~~of Management Services~~. The department may
330 not approve any term or condition in a lease agreement which has
331 been amended, supplemented, or waived unless a comprehensive
332 analysis, including financial implications, demonstrates that
333 such amendment, supplement, or waiver is in the state's long-
334 term best interest. Any approved lease may include an option to

HB 7143

2007

335 purchase or an option to renew the lease, or both, upon such
336 terms and conditions as are established by the department
337 subject to final approval by the head of the department of
338 ~~Management Services~~ and the provisions of s. 255.2502. ~~This~~
339 ~~paragraph expires July 1, 2007.~~

340 (3) (a) Except as provided in subsection (10), a ~~no~~ state
341 agency may not ~~shall~~ enter into a lease as lessee for the use of
342 5,000 square feet or more of space in a privately owned building
343 except upon advertisement for and receipt of competitive
344 solicitations bids and award to the lowest and best bidder.

345 1.a. An invitation to bid shall be made available
346 simultaneously to all lessors and must include a detailed
347 description of the space sought; the time and date for the
348 receipt of bids and of the public opening; and all contractual
349 terms and conditions applicable to the procurement, including
350 the criteria to be used in determining acceptability of the bid.
351 If the agency contemplates renewal of the contract, that fact
352 must be stated in the invitation to bid. The bid must include
353 the price for each year for which the contract may be renewed.
354 Evaluation of bids shall include consideration of the total cost
355 for each year as submitted by the lessor. Criteria that were not
356 set forth in invitation to bid may not be used in determining
357 acceptability of the bid.

358 b. The contract shall be awarded with reasonable
359 promptness by written notice to the responsible and responsive
360 lessor that submits the lowest responsive bid. This bid must be
361 determined in writing to meet the requirements and criteria set
362 forth in the invitation to bid.

363 2.a. If an agency determines in writing that the use of an
364 invitation to bid is not practicable, leased space shall be
365 procured by competitive sealed proposals. A request for
366 proposals shall be made available simultaneously to all lessors
367 and must include a statement of the space sought; the time and
368 date for the receipt of proposals and of the public opening; and
369 all contractual terms and conditions applicable to the
370 procurement, including the criteria, which must include, but
371 need not be limited to, price, to be used in determining
372 acceptability of the proposal. The relative importance of price
373 and other evaluation criteria shall be indicated. If the agency
374 contemplates renewal of the contract, that fact must be stated
375 in the request for proposals. The proposal must include the
376 price for each year for which the contract may be renewed.
377 Evaluation of proposals shall include consideration of the total
378 cost for each year as submitted by the lessor.

379 b. The contract shall be awarded to the responsible and
380 responsive lessor whose proposal is determined in writing to be
381 the most advantageous to the state, taking into consideration
382 the price and the other criteria set forth in the request for
383 proposals. The contract file must contain documentation
384 supporting the basis on which the award is made.

385 3.a. If the agency determines in writing that the use of
386 an invitation to bid or a request for proposals will not result
387 in the best value to the state, the agency may procure leased
388 space by competitive sealed replies. The agency's written
389 determination must specify reasons that explain why negotiation
390 may be necessary in order for the state to achieve the best

HB 7143

2007

391 leasing value and must be approved in writing by the agency head
392 or his or her designee prior to the advertisement of an
393 invitation to negotiate. Cost savings related to the agency
394 procurement process are not sufficient justification for using
395 an invitation to negotiate. An invitation to negotiate shall be
396 made available to all lessors simultaneously and must include a
397 statement of the space sought; the time and date for the receipt
398 of replies and of the public opening; and all terms and
399 conditions applicable to the procurement, including the criteria
400 to be used in determining the acceptability of the reply. If the
401 agency contemplates renewal of the contract, that fact must be
402 stated in the invitation to negotiate. The reply must include
403 the price for each year for which the contract may be renewed.

404 b. The agency shall evaluate and rank responsive replies
405 against all evaluation criteria set forth in the invitation to
406 negotiate and shall select, based on the ranking, one or more
407 lessors with which to commence negotiations. After negotiations
408 are conducted, the agency shall award the contract to the
409 responsible and responsive lessor that the agency determines
410 will provide the best leasing value to the state. The contract
411 file must contain a short, plain statement that explains the
412 basis for lessor selection and sets forth the lessor's
413 deliverables and price pursuant to the contract and an
414 explanation of how these deliverables and price provide the best
415 leasing value to the state.

416 (b) The department of ~~Management Services~~ shall have the
417 authority to approve a lease for 5,000 square feet or more of
418 space that covers more than 1 fiscal year, subject to the

HB 7143

2007

419 provisions of ss. 216.311, 255.2501, 255.2502, and 255.2503, if
420 such lease is, in the judgment of the department, in the best
421 interests of the state. In determining best interest, the
422 department shall consider availability of state-owned space and
423 analyses of build-to-suit and acquisition opportunities. This
424 paragraph does not apply to buildings or facilities of any size
425 leased for the purpose of providing care and living space for
426 persons.

427 (c) ~~(b)~~ The department ~~of Management Services~~ may approve
428 extensions of an existing lease of 5,000 square feet or more of
429 space if such extensions are determined to be in the best
430 interests of the state, but in no case shall the total of such
431 extensions exceed 11 months. If at the end of the 11th month an
432 agency still needs that space, it shall be procured by
433 competitive bid in accordance with s. 255.249(4)(b). However, an
434 agency that determines that it is in its best interest to remain
435 in the space it currently occupies may negotiate a replacement
436 lease with the lessor if an independent comparative market
437 analysis demonstrates that the rates offered are within market
438 rates for the space and the cost of the new lease does not
439 exceed the cost of a comparable lease plus documented moving
440 costs. A present-value analysis and the consumer price index
441 shall be used in the calculation of lease costs. The term of the
442 replacement lease may not exceed the base term of the expiring
443 lease.

444 (d) ~~(e)~~ Any person who files an action protesting a
445 decision or intended decision pertaining to a competitive
446 solicitation ~~bid~~ for space to be leased by the agency pursuant

HB 7143

2007

447 to s. 120.57(3)(b) shall post with the state agency at the time
448 of filing the formal written protest a bond payable to the
449 agency in an amount equal to 1 percent of the estimated total
450 rental of the basic lease period or \$5,000, whichever is
451 greater, which bond shall be conditioned upon the payment of all
452 costs which may be adjudged against him or her in the
453 administrative hearing in which the action is brought and in any
454 subsequent appellate court proceeding. If the agency prevails
455 after completion of the administrative hearing process and any
456 appellate court proceedings, it shall recover all costs and
457 charges that ~~which~~ shall be included in the final order or
458 judgment, excluding attorney's fees. Upon payment of such costs
459 and charges by the person protesting the award, the bond shall
460 be returned to him or her. If the person protesting the award
461 prevails, the bond shall be returned to that person and he or
462 she shall recover from the agency all costs and charges which
463 shall be included in the final order of judgment, excluding
464 attorney's fees.

465 (e) ~~(d)~~ The agency and the lessor, when entering into a
466 lease for 5,000 or more square feet of a privately owned
467 building, shall, before the effective date of the lease, agree
468 upon and separately state the cost of tenant improvements which
469 may qualify for reimbursement if the lease is terminated before
470 the expiration of its base term. The department shall serve as
471 mediator if the agency and the lessor are unable to agree. The
472 amount agreed upon and stated shall, if appropriated, be
473 amortized over the original base term of the lease on a
474 straight-line basis.

HB 7143

2007

475 ~~(f)(e)~~ The unamortized portion of tenant improvements, if
476 appropriated, shall ~~will~~ be paid in equal monthly installments
477 over the remaining term of the lease. If any portion of the
478 original leased premises is occupied after termination but
479 during the original term by a tenant that does not require
480 material changes to the premises, the repayment of the cost of
481 tenant improvements applicable to the occupied but unchanged
482 portion shall be abated during occupancy. The portion of the
483 repayment to be abated shall be based on the ratio of leased
484 space to unleased space.

485 (g) Notwithstanding s. 287.056(1), a state agency may, at
486 the sole discretion of the agency head or his or her designee,
487 use the services of a tenant broker to assist with a competitive
488 solicitation undertaken by the agency. In making its
489 determination whether to use a tenant broker, a state agency
490 shall consult with the department. After October 1, 2007, a
491 state agency may not use the services of a tenant broker unless
492 the tenant broker is under a term contract with the state which
493 complies with paragraph (h). If a state agency uses the services
494 of a tenant broker with respect to a transaction, the agency may
495 not enter into a lease with any landlord to which the tenant
496 broker is providing brokerage services for that transaction.

497 (h) The department may, pursuant to s. 287.042(2)(a),
498 procure a term contract for real estate consulting and brokerage
499 services. A state agency may not purchase services from the
500 contract unless the contract has been procured under s.
501 287.057(1), (2), or (3) and contains the following provisions or
502 requirements:

HB 7143

2007

503 1. Awarded brokers must maintain an office or presence in
504 the market served. In awarding the contract, preference must be
505 given to brokers that are licensed in this state under chapter
506 475 and that have 3 or more years of experience in the market
507 served. The contract may be made with up to three tenant brokers
508 in order to serve the marketplace in the north, central, and
509 south areas of the state.

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

513 3. The department shall provide training for the awarded
514 tenant brokers concerning the rules governing the procurement of
515 leases.

516 4. Tenant brokers should participate in developing the
517 strategic leasing plan.

518 5. Tenant brokers must comply with all applicable
519 provisions of s. 475.278.

520 6. Real estate consultants and tenant brokers shall be
521 compensated by the state agency, subject to the provisions of
522 the term contract, and such compensation is subject to
523 appropriation by the Legislature. A real estate consultant or
524 tenant broker may not receive compensation directly from a
525 lessor for services that are rendered under the term contract.
526 Moneys paid to a real estate consultant or tenant broker are
527 exempt from any charge imposed under s. 287.1345. Moneys paid by
528 a lessor to the state agency under a facility leasing
529 arrangement are not subject to the charges imposed under s.
530 215.20. All terms relating to the compensation of the real

HB 7143

2007

531 estate consultant or tenant broker shall be specified in the
532 term contract and may not be supplemented or modified by the
533 state agency using the contract.

534 (i) The department shall conduct periodic customer-
535 satisfaction surveys.

536 (j) Each state agency shall report the following
537 information to the department:

538 1. The number of leases that adhere to the goal of the
539 workspace-management initiative of 180 square feet per FTE.

540 2. The quality of space leased and the adequacy of tenant-
541 improvement funds.

542 3. The timeliness of lease procurement, measured from the
543 date of the agency's request to the finalization of the lease.

544 4. Whether cost-benefit analyses were performed before
545 execution of the lease in order to ensure that the lease is in
546 the best interest of the state.

547 5. The lease costs compared to market rates for similar
548 types and classifications of space according to the official
549 classifications of the Building Owners and Managers Association.

550 ~~(4) (a) The department of Management Services shall not~~
551 ~~authorize any state agency to enter into a lease agreement for~~
552 ~~space in a privately owned building when suitable space is~~
553 ~~available in a state-owned building located in the same~~
554 ~~geographic region, except upon presentation to the department of~~
555 ~~sufficient written justification, acceptable to the department,~~
556 ~~that a separate space is required in order to fulfill the~~
557 ~~statutory duties of the agency making such request. The term~~

HB 7143

2007

558 "state-owned building" as used in this subsection means any
 559 state-owned facility regardless of use or control.

560 (b) State agencies shall cooperate with local governmental
 561 units by using suitable, existing publicly owned facilities,
 562 subject to the provisions of ss. 255.2501, 255.2502, and
 563 255.2503. Agencies may utilize unexpended funds appropriated for
 564 lease payments to:

- 565 1. Pay their proportion of operating costs.
- 566 2. Renovate applicable spaces.

567 (c) Because the state has a substantial financial
 568 investment in state-owned buildings, it is legislative policy
 569 and intent that when state-owned buildings meet the needs of
 570 state agencies, agencies must fully use such buildings before
 571 leasing privately owned buildings. By September 15, 2006, the
 572 Department of Management Services shall create a 5-year plan for
 573 implementing this policy. The department shall update this plan
 574 annually, detailing proposed departmental actions to meet the
 575 plan's goals. The department shall furnish this plan to the
 576 President of the Senate, the Speaker of the House of
 577 Representatives, and the Executive Office of the Governor by
 578 September 15 of each year, as part of the master leasing report.
 579 ~~This paragraph expires July 1, 2007.~~

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

584 Section 4. For the 2007-2008 fiscal year, the sum of
 585 \$330,620 in recurring funds and the sum of \$23,630 in

HB 7143

2007

586 nonrecurring funds are appropriated from the Supervision Trust
587 Fund in the Department of Management Services. Five full-time
588 equivalent positions with the associated salary rate of 272,500
589 are authorized for the purpose of providing strategic planning
590 of leasing transactions for the state.

591 Section 5. This act shall take effect July 1, 2007.