

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

CS/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 the procedure for payment to the tenant broker
51 | for commissions earned; providing appropriations and
52 | authorizing positions; providing an effective date.

53 |
54 | Be It Enacted by the Legislature of the State of Florida:
55 |

56 Section 1. Section 255.248, Florida Statutes, is amended
 57 to read:

58 255.248 Definitions; ss. 255.249 and 255.25.--As The
 59 ~~following definitions shall apply when used in ss. 255.249 and~~
 60 255.25, the term:

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

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

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

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

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

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

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

84 (8)~~(1)~~ The term "State-owned office building" means any
 85 building title to which is vested in the state and which is used
 86 by one or more executive agencies predominantly for
 87 administrative direction and support functions. This term
 88 excludes:

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

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

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

97 (d) Buildings or spaces used for legislative activities.

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

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

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

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

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

CS/HB 7143

2007

112 (3) (a) The department shall, to the extent feasible,
113 coordinate the vacation of privately owned leased space with the
114 expiration of the lease on that space and, when a lease is
115 terminated before expiration of its base term, will make a
116 reasonable effort to place another state agency in the space
117 vacated. Any state agency may lease the space in any building
118 that was subject to a lease terminated by a state agency for a
119 period of time equal to the remainder of the base term without
120 the requirement of competitive bidding.

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

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

CS/HB 7143

2007

140 ~~supplement, or waiver is in the state's long term best interest.~~

141 The department shall furnish the master leasing ~~this~~ report to
142 the Executive Office of the Governor and the Legislature by
143 September 15 of each year, which provides the following
144 information:

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

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

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

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

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

164 6. An analysis of portfolio supply and demand.

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

167 consolidation, and strategic recommendations for disposition,
 168 acquisition, and build.

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

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

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

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

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

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

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

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

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

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

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

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

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

219 (h) For full disclosure of the names and the extent of
 220 interest of the owners holding a 4-percent or more interest in
 221 any privately owned property leased to the state or in the

CS/HB 7143

2007

222 entity holding title to the property, for exemption from such
223 disclosure of any beneficial interest which is represented by
224 stock in any corporation registered with the Securities and
225 Exchange Commission or registered pursuant to chapter 517, which
226 stock is for sale to the general public, and for exemption from
227 such disclosure of any leasehold interest in property located
228 outside the territorial boundaries of the United States.

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

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

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

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

250 (5) The department ~~of Management Services~~ shall prepare a
 251 form listing all conditions and requirements adopted pursuant to
 252 this chapter which must be met by any state agency leasing any
 253 building or part thereof. Before executing any lease, this form
 254 shall be certified by the agency head or the agency head's
 255 designated representative and submitted to the department.

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

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

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

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

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

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

302 (2) (a) Except as provided in s. 255.2501, a ~~no~~ state
 303 agency may not lease a building or any part thereof unless prior
 304 approval of the lease conditions and of the need therefor is
 305 first obtained from the department ~~of Management Services~~. Any

CS/HB 7143

2007

306 approved lease may include an option to purchase or an option to
307 renew the lease, or both, upon such terms and conditions as are
308 established by the department subject to final approval by the
309 head of the department ~~of Management Services~~ and s. 255.2502.

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

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

326 (d) Notwithstanding paragraph (a) and except as provided
327 in ss. 255.249 and 255.2501, a state agency may not lease a
328 building or any part thereof unless prior approval of the lease
329 terms and conditions and of the need therefor is first obtained
330 from the department ~~of Management Services~~. The department may
331 not approve any term or condition in a lease agreement which has
332 been amended, supplemented, or waived unless a comprehensive
333 analysis, including financial implications, demonstrates that

334 such amendment, supplement, or waiver is in the state's long-
 335 term best interest. Any approved lease may include an option to
 336 purchase or an option to renew the lease, or both, upon such
 337 terms and conditions as are established by the department
 338 subject to final approval by the head of the department of
 339 ~~Management Services~~ and the provisions of s. 255.2502. ~~This~~
 340 ~~paragraph expires July 1, 2007.~~

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

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

359 b. The contract shall be awarded with reasonable
 360 promptness by written notice to the responsible and responsive
 361 lessor that submits the lowest responsive bid. This bid must be

362 determined in writing to meet the requirements and criteria set
363 forth in the invitation to bid.

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

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

386 3.a. If the agency determines in writing that the use of
387 an invitation to bid or a request for proposals will not result
388 in the best value to the state, the agency may procure leased
389 space by competitive sealed replies. The agency's written

CS/HB 7143

2007

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

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

417 (b) The department ~~of Management Services~~ shall have the
418 authority to approve a lease for 5,000 square feet or more of
419 space that covers more than 1 fiscal year, subject to the
420 provisions of ss. 216.311, 255.2501, 255.2502, and 255.2503, if
421 such lease is, in the judgment of the department, in the best
422 interests of the state. In determining best interest, the
423 department shall consider availability of state-owned space and
424 analyses of build-to-suit and acquisition opportunities. This
425 paragraph does not apply to buildings or facilities of any size
426 leased for the purpose of providing care and living space for
427 persons.

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

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

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

CS/HB 7143

2007

473 amount agreed upon and stated shall, if appropriated, be
474 amortized over the original base term of the lease on a
475 straight-line basis.

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

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

498 (h) The department may, pursuant to s. 287.042(2)(a),
499 procure a term contract for real estate consulting and brokerage
500 services. A state agency may not purchase services from the

501 contract unless the contract has been procured under s.
502 287.057(1), (2), or (3) and contains the following provisions or
503 requirements:

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

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

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

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

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

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

529 a lessor to the state agency under a facility leasing
530 arrangement are not subject to the charges imposed under s.
531 215.20. All terms relating to the compensation of the real
532 estate consultant or tenant broker shall be specified in the
533 term contract and may not be supplemented or modified by the
534 state agency using the contract.

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

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

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

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

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

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

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

551 (4) (a) The department ~~of Management Services~~ shall not
552 authorize any state agency to enter into a lease agreement for
553 space in a privately owned building when suitable space is
554 available in a state-owned building located in the same
555 geographic region, except upon presentation to the department of
556 sufficient written justification, acceptable to the department,

CS/HB 7143

2007

557 that a separate space is required in order to fulfill the
558 statutory duties of the agency making such request. The term
559 "state-owned building" as used in this subsection means any
560 state-owned facility regardless of use or control.

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

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

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

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

585 Section 4. Recognizing that a term contract consistent
586 with the requirements of ss. 255.25(3)(a) and 255.249(6),
587 Florida Statutes, cannot be competitively established prior to
588 July 1, 2007, and notwithstanding any provision of law to the
589 contrary, with the prior written approval of the Department of
590 Management Services an agency may utilize the services of a
591 tenant broker currently under contract with the department
592 notwithstanding that such contract was procured prior to March
593 1, 2007. After July 1, 2007, funds generated through the payment
594 of commissions by third-party landlords shall be deposited into
595 a trust fund of the Department of Management Services and
596 distributed to the tenant broker through the appropriations
597 process provided for in s. 255.249(6), Florida Statutes, or
598 other provision of law. This section shall not be construed to
599 abrogate any existing contract between the department and a
600 tenant broker, and is intended to clarify the procedure for
601 payment to the tenant broker, for commissions earned through
602 successfully completed transactions under a contract procured
603 prior to March 1, 2007.

604 Section 5. For the 2007-2008 fiscal year, the sum of
605 \$330,620 in recurring funds and the sum of \$23,630 in
606 nonrecurring funds are appropriated from the Supervision Trust
607 Fund in the Department of Management Services. Five full-time
608 equivalent positions with the associated salary rate of 272,500
609 are authorized for the purpose of providing strategic planning
610 of leasing transactions for the state.

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