

By Senator Constantine

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1 A bill to be entitled

2 An act relating to state procurement of sustainable  
3 buildings and equipment; amending s. 255.251, F.S.;  
4 revising a short title; amending s. 255.252, F.S.;  
5 revising criteria concerning the energy efficiency and  
6 sustainability of state facilities; requiring that  
7 buildings constructed, financed, or leased by the state  
8 meet various sustainable-building standards; providing for  
9 the Department of Management Services to approve certain  
10 sustainable-building rating systems; requiring state  
11 agencies to identify state-owned facilities that are  
12 suitable for guaranteed energy performance savings  
13 contracts; providing requirements and procedures therefor;  
14 requiring the Department of Management Services to  
15 evaluate identified facilities and develop an energy  
16 efficiency project schedule; providing criteria for such  
17 schedule; amending s. 255.253, F.S.; providing  
18 definitions; amending s. 255.254, F.S.; revising criteria  
19 governing evaluation and disclosure of life-cycle costs  
20 prior to construction of certain state facilities;  
21 requiring certain state-owned buildings to meet  
22 sustainable-building ratings; revising provisions  
23 concerning leasing of certain buildings to require an  
24 analysis of energy performance; amending s. 255.255, F.S.;  
25 requiring that certain rules and procedures of the  
26 department concerning energy efficiency and conservation  
27 performance guidelines be based on sustainable building  
28 ratings; amending s. 287.063, F.S.; prohibiting extension  
29 of the term of payment for consolidated equipment finance

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30 contracts beyond the anticipated useful life of the  
31 equipment financed; providing exemptions from the  
32 prohibition; revising criteria governing appropriations  
33 for payment of purchases under certain deferred-payment  
34 contracts; amending s. 287.064, F.S.; extending the time  
35 allowed for the repayment of funds for certain purchases  
36 of energy conservation measures under specified  
37 conditions; providing an effective date.

38  
39 Be It Enacted by the Legislature of the State of Florida:

40  
41 Section 1. Section 255.251, Florida Statutes, is amended to  
42 read:

43 255.251 Energy Conservation and Sustainable ~~in~~ Buildings  
44 Act; short title.--Sections 255.251-255.257 may ~~This act shall~~ be  
45 cited as the "Florida Energy Conservation and Sustainable ~~in~~  
46 Buildings Act ~~of 1974.~~"

47 Section 2. Section 255.252, Florida Statutes, is amended to  
48 read:

49 255.252 Findings and intent.--

50 (1) Operating and maintenance expenditures associated with  
51 energy equipment and with energy consumed in state-financed and  
52 leased buildings represent a significant cost over the life of a  
53 building. Energy conserved by appropriate building design and  
54 operation ~~not only~~ reduces the demand for energy and the ~~but also~~  
55 ~~reduces~~ costs of ~~for~~ building operation. ~~For example, commercial~~  
56 ~~buildings are estimated to use from 20 to 80 percent more energy~~  
57 ~~than would be required if energy-conserving designs were used.~~  
58 The size, design, orientation, and operability of windows, the

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59 | ratio of ventilating air to air heated or cooled, the level of  
60 | lighting consonant with space-use requirements, the handling of  
61 | occupancy loads, and the ability to zone off areas not requiring  
62 | equivalent levels of heating or cooling are but a few of the  
63 | considerations necessary to conserving energy.

64 |       (2) Significant efforts are needed in order for the  
65 | buildings and equipment that the state owns or leases to meet  
66 | energy-efficiency and sustainable-materials standards underway by  
67 | ~~the General Services Administration, the National Institute of~~  
68 | ~~Standards and Technology, and others to detail the considerations~~  
69 | ~~and practices for energy conservation in buildings.~~ Most  
70 | important is that energy-efficient designs provide energy savings  
71 | over the life of the building structure. ~~Conversely, energy-~~  
72 | ~~inefficient designs cause excess and wasteful energy use and high~~  
73 | ~~costs over that life.~~ With buildings lasting many decades and  
74 | ~~with~~ energy costs escalating rapidly, it is essential that the  
75 | costs of operation and maintenance of ~~for~~ energy-using equipment  
76 | and sustainable materials be included in all design proposals for  
77 | state-owned ~~state~~ buildings.

78 |       (3) In order that such energy-efficiency and sustainable-  
79 | materials considerations become a function of building design,  
80 | and also a model for future application in the private sector, it  
81 | is ~~shall be~~ the policy of the state that buildings constructed  
82 | and financed by the state be designed and constructed:

83 |       (a) To meet the United States Green Building Council  
84 | (USGBC) Leadership in Energy and Environmental Design (LEED)  
85 | rating system, Green Building Initiative's Green Globes rating  
86 | system, or a nationally recognized, high-performance sustainable  
87 | building rating system as approved by the department.

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88           **(b)** In a manner ~~that~~ ~~which~~ will minimize the consumption of  
89 energy used in the operation and maintenance of such buildings.  
90 ~~It is further the policy of the state, when economically~~  
91 ~~feasible, to retrofit existing state-owned buildings in a manner~~  
92 ~~which will minimize the consumption of energy used in the~~  
93 ~~operation and maintenance of such buildings.~~

94           (4) In addition to designing and constructing new buildings  
95 to meet such rating systems and be energy-efficient, it is shall  
96 ~~be~~ the policy of the state to:

97           **(a)** Operate, maintain, and renovate existing state-owned  
98 ~~state~~ facilities, or provide for their renovation, in a manner  
99 that ~~which~~ will minimize their energy consumption and maximize  
100 their sustainability;

101           **(b)** Ensure that facilities leased by the state are operated  
102 so as to minimize energy use; and.

103           **(c)** Encourage agencies ~~are encouraged~~ to consider shared  
104 savings financing of such energy projects, using contracts that  
105 ~~which~~ split the resulting savings for a specified period ~~of time~~  
106 between the agency and the private firm or cogeneration contracts  
107 that ~~which~~ otherwise ~~permit the state to~~ lower the state's ~~its~~  
108 energy costs. Such energy contracts may be funded from the  
109 operating budget.

110           **(5) (a)** By December 31, 2008, each state agency responsible  
111 for paying the utilities and other operating expenses related to  
112 energy use of a state-owned facility of more than 5,000 square  
113 feet shall provide the department with a list specifying which of  
114 those facilities it considers suitable for a guaranteed energy  
115 performance contract under s. 489.145 and a description of any  
116 criteria used to determine suitability.

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117       (b) By March 1, 2009, the department, in consultation with  
118 the secretary or director of each agency submitting a list, shall  
119 develop a schedule for energy efficiency and conservation  
120 projects at the facilities which:

121       1. Is based on the magnitude of the project, the  
122 effectiveness of the energy efficiency or conservation measures  
123 to be implemented, and such other factors as may prove to be  
124 advantageous to pursue; and

125       2. Provides the deadline for completion of efficiency  
126 improvements to the facilities under a guaranteed energy  
127 performance savings contract.

128       Section 3. Subsections (6) and (7) are added to section  
129 255.253, Florida Statutes, to read:

130       255.253 Definitions; ss. 255.251-255.258.--

131       (6) "Sustainable building" means a building that is healthy  
132 and comfortable for its occupants and is economical to operate  
133 while conserving resources, including energy, water, raw  
134 materials, and land, and minimizing the generation of toxic  
135 materials and waste in its design, construction, landscaping, and  
136 operation.

137       (7) "Sustainable building rating" means a rating  
138 established by the United States Green Building Council (USGBC)  
139 Leadership in Energy and Environmental Design (LEED) rating  
140 system, Green Building Initiative's Green Globes rating system,  
141 or a nationally recognized, high-performance sustainable building  
142 rating system as approved by the department.

143       Section 4. Section 255.254, Florida Statutes, is amended to  
144 read:

145       255.254 Analysis of ~~No facility constructed or leased~~

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146 ~~without~~ life-cycle and energy performance costs of facilities and  
147 equipment.--

148 (1) A ~~No~~ state agency may not ~~shall lease,~~ construct, or  
149 have constructed, within limits prescribed herein, a facility  
150 without having secured from the department an ~~a proper~~ evaluation  
151 of life-cycle costs based on sustainable building ratings, ~~as~~  
152 ~~computed by an architect or engineer.~~ Furthermore, construction  
153 shall proceed only upon disclosing, for the facility chosen, the  
154 life-cycle costs as determined in s. 255.255, its sustainable  
155 building rating goal, and the capitalization of its ~~the~~ initial  
156 construction costs ~~of the building.~~ The life-cycle costs and goal  
157 for a sustainable-building rating are ~~shall be~~ a primary  
158 considerations ~~consideration~~ in selecting ~~the selection of~~ a  
159 building design. A state agency may not lease a building ~~Such~~  
160 ~~analysis shall be required only for construction of buildings~~  
161 ~~with an area~~ of 5,000 square feet or greater which is. ~~For leased~~  
162 ~~areas of 20,000 square feet or greater~~ within a given building  
163 boundary unless an analysis of the energy performance of the  
164 facility demonstrates, ~~a life-cycle analysis shall be performed,~~  
165 ~~and a lease shall only be made where there is a showing that the~~  
166 energy life-cycle costs incurred by the state are minimal  
167 compared to those of available like facilities.

168 (2) A ~~On and after January 1, 1979,~~ no state agency may not  
169 ~~shall~~ initiate construction or have construction initiated  
170 before, ~~prior to~~ approval thereof by the department, on a  
171 facility or self-contained unit of any facility, the design and  
172 construction of which incorporates or contemplates the use of an  
173 energy system other than a solar energy system when the life-  
174 cycle costs analysis prepared by the department has determined

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175 that a solar energy system is the most cost-efficient energy  
176 system for the facility or unit.

177 (3) ~~After September 30, 1985,~~ When a any state agency must  
178 replace or supplement major items of energy-consuming equipment  
179 ~~in existing state-owned or leased facilities or any self-~~  
180 ~~contained unit of any facility~~ with other such ~~major~~ items ~~of~~  
181 ~~energy-consuming equipment,~~ the selection of the replacement or  
182 supplement ~~such~~ items shall be based upon ~~made on the basis of~~ a  
183 life-cycle cost analysis of alternatives in accordance with rules  
184 adopted ~~promulgated~~ by the department under s. 255.255.

185 Section 5. Subsection (1) of section 255.255, Florida  
186 Statutes, is amended to read:

187 255.255 Life-cycle costs.--

188 (1) The department shall adopt ~~promulgate~~ rules and  
189 ~~procedures, including energy conservation performance guidelines,~~  
190 ~~for:~~

191 (a) Conducting an analysis of the a life-cycle costs of  
192 competing options as a state agency selects facilities or major  
193 items of energy-consuming equipment for purchase, construction,  
194 or lease. Such options may include, but are not limited to, cost  
195 ~~analysis of alternative architectural and engineering designs.~~

196 (b) Establishing and alternative major items of energy-  
197 ~~consuming equipment to be retrofitted in existing state-owned or~~  
198 ~~leased facilities and for developing~~ energy performance indices  
199 to evaluate the efficiency of energy utilization for competing  
200 designs in the construction of state-financed and leased  
201 facilities.

202  
203 The rules must include guidelines for energy efficiency and

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204 conservation performance which are based on sustainable building  
205 ratings.

206 Section 6. Paragraph (b) of subsection (2) and subsection  
207 (5) of section 287.063, Florida Statutes, are amended to read:

208 287.063 Deferred-payment commodity contracts; preaudit  
209 review.--

210 (2)

211 (b) The Chief Financial Officer shall adopt rules  
212 concerning the approval of ~~establish, by rule, criteria for~~  
213 ~~approving~~ purchases made under deferred-payment contracts which  
214 require the payment of interest. Criteria for approval shall  
215 include, but are not be limited to, the following provisions:

216 1. A ~~No~~ contract ~~shall be approved~~ in which interest  
217 exceeds the limit specified ~~statutory ceiling contained in~~  
218 subsection (1) may not be approved ~~this section~~. However, the  
219 interest component of any master equipment financing agreement  
220 entered into for the purpose of consolidated financing of a  
221 deferred-payment, installment sale, or lease-purchase is ~~shall be~~  
222 deemed to comply with the interest rate limitation of this  
223 paragraph if section so long as the interest component of each  
224 ~~every~~ interagency agreement under such master equipment financing  
225 agreement complies with the limit specified in subsection (1)  
226 ~~interest rate limitation of this section~~.

227 2. A ~~No~~ deferred-payment purchase for less than \$30,000 may  
228 not ~~shall~~ be approved, unless it is ~~can be~~ satisfactorily  
229 demonstrated and documented to the Chief Financial Officer that  
230 failure to make such deferred-payment purchase would adversely  
231 affect ~~an agency in the~~ performance of the agency's ~~its~~ duties.  
232 However, the Chief Financial Officer may approve any deferred-



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233 payment purchase if the Chief Financial Officer determines that  
234 such purchase is economically beneficial to this ~~the~~ state.

235 ~~3. No agency shall obligate an annualized amount of~~  
236 ~~payments for deferred-payment purchases in excess of current~~  
237 ~~operating capital outlay appropriations, unless specifically~~  
238 ~~authorized by law or unless it can be satisfactorily demonstrated~~  
239 ~~and documented to the Chief Financial Officer that failure to~~  
240 ~~make such deferred-payment purchase would adversely affect an~~  
241 ~~agency in the performance of its duties.~~

242 3.4. A ~~No~~ contract that ~~shall be approved which~~ extends  
243 payment beyond 5 years may not be approved, unless it is ~~can be~~  
244 satisfactorily demonstrated and documented to the Chief Financial  
245 Officer that failure to make such deferred-payment purchase would  
246 adversely affect ~~an agency in the performance of~~ the agency's ~~its~~  
247 duties. The payment term may not exceed the useful life of the  
248 equipment purchased unless the contract provides for the  
249 replacement or the extension of the useful life of the equipment  
250 during the term of the loan.

251 (5) For purposes of this section, the annualized amount of  
252 any such deferred payment commodity contract must be supported  
253 from available recurring funds appropriated to the agency in an  
254 appropriation category, ~~other than the expense appropriation~~  
255 ~~category~~ as defined in chapter 216, that the Chief Financial  
256 Officer has determined is appropriate or that the Legislature has  
257 designated for payment of the obligation incurred under this  
258 section.

259 Section 7. Subsections (10) and (11) of section 287.064,  
260 Florida Statutes, are amended to read:

261 287.064 Consolidated financing of deferred-payment

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262 purchases.--

263 (10) Costs incurred pursuant to a guaranteed energy  
264 performance savings contract, including the cost of energy  
265 conservation measures, each as defined in s. 489.145, may be  
266 financed pursuant to a master equipment financing agreement;  
267 however, the costs of training, operation, and maintenance may  
268 not be financed. For energy conservation measures pursuant to s.  
269 489.145, excluding the costs of training, operation, and  
270 maintenance, the period of time for repayment of the funds drawn  
271 pursuant to the master equipment financing agreement under this  
272 subsection ~~may exceed 5 years but~~ may not exceed 20 ~~10~~ years. The  
273 guaranteed energy performance savings contract shall require that  
274 the contractor, for the duration of the contract, replace the  
275 equipment or extend its useful life.

276 (11) For purposes of consolidated financing of deferred  
277 payment commodity contracts under this section by a state agency,  
278 any such contract must be supported from available recurring  
279 funds appropriated to the agency in an appropriation category,  
280 ~~other than the expense appropriation category~~ as defined in  
281 chapter 216, that the Chief Financial Officer has determined is  
282 appropriate or that the Legislature has designated for payment of  
283 the obligation incurred under this section.

284 Section 8. This act shall take effect July 1, 2008.