



758386

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/31/2009	.	
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The Committee on Governmental Oversight and Accountability
(Haridopolos) recommended the following:

Senate Amendment (with title amendment)

Between lines 73 and 74

insert:

Section 2. Paragraphs (a), (c), and (g) of subsection (2)
and subsection (3) of section 287.055, Florida Statutes, are
amended to read:

287.055 Acquisition of professional architectural,
engineering, landscape architectural, or surveying and mapping
services; definitions; procedures; contingent fees prohibited;
penalties.—



758386

12 (2) DEFINITIONS.—For purposes of this section:

13 (a) "Professional services" means those services within the
14 scope of the practice of architecture, professional engineering,
15 landscape architecture, or registered surveying and mapping, as
16 defined by law; the laws of the state, or those performed by any
17 architect, professional engineer, landscape architect, or
18 registered surveyor and mapper in connection with his or her
19 professional employment or practice; or construction or program
20 management services, as described in s. 255.103, performed by a
21 design-build, construction management, or program management
22 firm.

23 (c) "Firm" means any individual, firm, partnership,
24 corporation, association, or other legal entity permitted by law
25 to practice architecture, engineering, or surveying and mapping
26 in the state, or any design-build, construction management, or
27 program management firm providing construction or program
28 management services as described in s. 255.103.

29 (g) A "continuing contract" is a contract for professional
30 services entered into in accordance with all the procedures of
31 this act between an agency and a firm whereby the firm provides
32 professional services to the agency for projects in which
33 construction costs for each project under the contract do not
34 exceed \$2 \$1 million, for study activity if when the fee for
35 such professional services for each study under the contract do
36 service does not exceed \$200,000 \$50,000, or for work of a
37 specified nature as outlined in the contract required by the
38 agency, with no time limitation or limit on the aggregate values
39 under the contract, except that the contract must provide a
40 termination clause. Firms providing professional services under



758386

41 continuing contracts do not have ~~shall not be required~~ to bid
42 against one another.

43 (6) PROHIBITION AGAINST CONTINGENT FEES.—

44 (a) Each contract entered into by the agency for
45 professional services must contain a prohibition against
46 contingent fees as follows: "The architect (or registered
47 surveyor and mapper, ~~or~~ professional engineer, or construction
48 or program manager, as applicable) warrants that he or she has
49 not employed or retained any company or person, other than a
50 bona fide employee working solely for the architect (or
51 registered surveyor and mapper, ~~or~~ professional engineer, or
52 construction or program manager, as applicable) to solicit or
53 secure this agreement and that he or she has not paid or agreed
54 to pay any person, company, corporation, individual, or firm,
55 other than a bona fide employee working solely for the architect
56 (or registered surveyor and mapper, ~~or~~ professional engineer, or
57 construction or program manager, as applicable) any fee,
58 commission, percentage, gift, or other consideration contingent
59 upon or resulting from the award or making of this agreement."
60 For the breach or violation of this provision, the agency may
61 ~~shall have the right to~~ terminate the agreement without
62 liability and, ~~at its discretion,~~ to deduct from the contract
63 price, or otherwise recover, the full amount of such fee,
64 commission, percentage, gift, or consideration.

65 (b) Any individual, corporation, partnership, firm, or
66 company, other than a bona fide employee working solely for an
67 architect, professional engineer, ~~or~~ registered land surveyor
68 and mapper, or construction or program manager, who offers,
69 agrees, or contracts to solicit or secure agency contracts for



758386

70 professional services for any other individual, company,
71 corporation, partnership, or firm and to be paid, ~~or is paid,~~
72 any fee, commission, percentage, gift, or other consideration
73 contingent upon, or resulting from, the award or the making of a
74 contract for professional services commits a shall, upon
75 ~~conviction in a competent court of this state, be found guilty~~
76 ~~of a first degree~~ misdemeanor of the first degree, punishable as
77 provided in s. 775.082 or s. 775.083.

78 (c) Any architect, professional engineer, ~~or~~ registered
79 surveyor and mapper, or construction or program manager, or any
80 group, association, company, corporation, firm, or partnership
81 thereof, who offers to pay, or pays, any fee, commission,
82 percentage, gift, or other consideration contingent upon, or
83 resulting from, the award or making of any agency contract for
84 professional services commits a shall, upon conviction in a
85 ~~state court of competent authority, be found guilty of a first~~
86 ~~degree~~ misdemeanor of the first degree, punishable as provided
87 in s. 775.082 or s. 775.083.

88 (d) Any agency official who offers to solicit or secure, or
89 solicits or secures, a contract for professional services and to
90 be paid, or is paid, any fee, commission, percentage, gift, or
91 other consideration contingent upon the award or making of such
92 a contract for professional services between the agency and any
93 individual person, company, firm, partnership, or corporation
94 commits a shall, upon conviction by a court of competent
95 ~~authority, be found guilty of a first degree~~ misdemeanor of the
96 first degree, punishable as provided in s. 775.082 or s.
97 775.083.

98 Section 3. Paragraph (a) of subsection (2) of section



758386

99 1001.74, Florida Statutes, is amended to read:

100 1001.74 Powers and duties of university boards of
101 trustees.—

102 (2) POWERS AND DUTIES RELATING TO ORGANIZATION AND
103 OPERATION OF STATE UNIVERSITIES.—

104 (a) Each board of trustees constitutes the contracting
105 agent of the university. Each university shall comply with the
106 provisions of s. 287.055 for the procurement of professional
107 services and may approve and execute all contracts for planning,
108 construction, and equipment. For the purpose of a university's
109 contracting authority, a "continuing contract" for professional
110 services under ~~the provisions of~~ s. 287.055 is one in which
111 construction costs for each project under the contract do not
112 exceed \$2 \$1 million or in which the fee for study activity does
113 not exceed \$200,000 for each study under the contract, with no
114 limit on the aggregate values under the contract \$100,000.
115 Contracts executed pursuant to this paragraph are subject to ~~the~~
116 ~~requirements of~~ s. 1010.62.

117
118 ===== T I T L E A M E N D M E N T =====

119 And the title is amended as follows:

120 Delete line 14

121 and insert:

122 adopt rules; amending s. 287.055, F.S.; revising provisions
123 relating to state agency acquisition of certain construction or
124 landscaping-related services to include construction or program
125 management services; revising the dollar caps for continuing
126 contracts for related services; amending s. 1001.74, F.S.;

127 revising the dollar caps for state university continuing



758386

128 contracts for construction-related services; providing an
129 effective date.