

By the Committee on Governmental Oversight and Accountability;
and Senator Ring

585-03077-10

20101238c1

1 A bill to be entitled
2 An act relating to a review of the Department of
3 Management Services under the Florida Government
4 Accountability Act; transferring certain programs and
5 related trust funds from the department to other state
6 agencies within the executive branch; authorizing the
7 Executive Office of the Governor to transfer funds and
8 positions with the approval of the Legislative budget
9 Commission; requesting the interim assistance of the
10 Division of Statutory Revision to prepare conforming
11 legislation for the next regular session of the
12 Legislature; amending ss. 11.917, 14.057, 14.204,
13 16.615, and 20.04, F.S.; conforming provisions to
14 changes made by the act; amending s. 20.22, F.S.;
15 changing the name of the department to the Department
16 of Personnel Management; conforming provisions to
17 changes made by the act; amending ss. 20.23, 20.331,
18 20.50, 24.105, 24.120, 29.008, 29.21, 110.1055,
19 110.107, 110.1099, 110.116, 110.121, 110.1227,
20 110.1228, 110.123, 110.12312, 110.12315, 110.1232,
21 110.1234, 110.1245, 110.125, 110.131, 110.151,
22 110.1522, 110.161, 110.171, 110.181, 110.2035,
23 110.2037, 110.205, 110.2135, 110.227, 110.403,
24 110.405, 110.406, 110.503, 110.605, 110.606, 112.0455,
25 112.05, 112.08, 112.0804, 112.24, 112.3173, 112.31895,
26 112.352, 112.354, 112.358, 112.361, 112.362, 112.363,
27 112.63, 112.64, 112.658, 112.661, 112.665, 120.65,
28 121.021, 121.025, 121.031, 121.051, 121.0511,
29 121.0515, 121.055, and 121.1815, F.S.; conforming

585-03077-10

20101238c1

30 provisions to changes made by the act; repealing s.
31 121.1905, F.S., relating to the creation of the
32 Division of Retirement; amending ss. 121.192, 121.22,
33 121.23, 121.24, 121.35, 121.40, 121.4501, 121.4503,
34 121.591, 121.5911, 121.78, 122.02, 122.09, 122.23,
35 122.34, 145.19, 154.04, 163.3184, 175.032, 175.1215,
36 175.361, 185.02, 185.105, 185.37, 189.4035, 189.412,
37 210.20, 210.75, 213.053, 215.196, 215.22, 215.28,
38 215.422, 215.425, 215.47, 215.50, 215.94, 215.96,
39 216.0152, 216.016, 216.023, 216.044, 216.163, 216.237,
40 216.238, 216.262, 216.292, 217.02, 217.04, 217.045,
41 238.01, 238.02, 238.03, 238.07, 238.09, 238.10,
42 238.11, 238.12, 238.15, 238.171, 238.181, 238.32,
43 250.22, 252.385, 253.034, 253.126, 253.45, 255.02,
44 255.043, 255.05, 255.0525, 255.248, 255.249, 255.25,
45 255.25001, 255.252, 255.253, 255.257, 255.2575,
46 255.259, 255.28, 255.29, 255.30, 255.31, 255.32,
47 255.45, 255.451, 255.502, 255.503, 255.504, 255.505,
48 255.506, 255.507, 255.508, 255.509, 255.51, 255.511,
49 255.513, 255.514, 255.515, 255.517, 255.518, 255.52,
50 255.521, 255.522, 255.523, 255.555, 265.001, 265.2865,
51 267.061, 267.0625, 267.075, 270.27, 272.03, 272.04,
52 272.05, 272.06, 272.07, 272.08, 272.09, 272.12,
53 272.121, 272.122, 272.124, 272.129, 272.16, 272.161,
54 272.18, 272.185, 273.055, 281.02, 281.03, 281.06,
55 281.07, 281.08, 282.0041, 282.205, 282.604, 282.702,
56 282.703, 282.704, 282.705, 282.706, 282.707, 282.709,
57 282.7101, 282.711, 283.30, 283.32, 284.01, 284.04,
58 284.05, 284.08, 284.33, 284.385, 284.42, 285.06,

585-03077-10

20101238c1

59 285.14, 286.29, 287.012, 287.025, 287.032, 287.042,
60 287.055, 287.057, and 287.05721, F.S.; conforming
61 provisions to changes made by the act; repealing s.
62 287.0573, F.S., relating to the Council on Efficient
63 Government; amending ss. 287.0574, 287.076, 287.083,
64 287.0834, 287.0943, 287.09451, 287.131, 287.133,
65 287.134, 287.15, 287.151, 287.155, 287.16, 287.161,
66 287.17, 287.18, 287.19, 288.021, 288.109, 288.1092,
67 288.1093, 288.1185, 288.15, 288.17, 288.18, 288.703,
68 288.706, 288.708, 288.7091, 288.712, 288.901, 295.187,
69 318.18, 318.21, 320.0802, s. 320.08056, 321.04,
70 328.72, 337.02, 337.023, 337.165, 338.2216, 338.227,
71 350.0614, 350.125, 364.0135, 364.515, 364.516,
72 365.171, 365.172, 365.173, 373.4596, 373.461, 376.10,
73 377.703, 381.98, 394.9151, 395.1031, 400.121, 401.013,
74 401.015, 401.018, 401.021, 401.024, 401.027, 401.245,
75 402.35, 402.50, 403.061, 403.42, 403.518, 403.5365,
76 403.7065, 403.714, 403.7145, 403.71852, 406.075,
77 408.039, 408.910, 413.036, 413.051, 414.37, 429.14,
78 440.2715, 440.45, 445.009, 447.205, 455.32, 471.038,
79 489.145, 553.995, 570.07, 627.096, 633.382, 650.02,
80 760.04, 766.302, 768.1326, 943.03, 943.0311, 943.13,
81 943.61, 943.66, 943.681, 944.02, 944.10, 944.115,
82 944.713, 944.72, 944.8041, 945.215, 946.504, 946.515,
83 946.525, 957.04, 957.06, 957.07, 957.08, 957.14,
84 957.15, 957.16, 1001.27, 1001.42, 1001.705, 1001.706,
85 1001.74, 1002.36, 1002.37, 1004.58, 1012.33, 1012.34,
86 1012.61, 1012.796, 1012.865, 1012.875, 1013.03,
87 1013.23, s. 1013.30, and 1013.38, F.S.; conforming

585-03077-10

20101238c1

88 provision to changes made by the act; creating s.
89 20.51, F.S.; establishing the Department of Asset
90 Management; transferring certain divisions and
91 programs in the Department of Environmental Protection
92 to the new department; providing effective dates.
93

94 WHEREAS, the Florida Government Accountability Act, ss.
95 11.901-11.920, Florida Statutes, requires the Department of
96 Management Services to undergo a sunset review by July 1, 2010,
97 in order to determine whether the agency should be retained,
98 modified, or abolished, and

99 WHEREAS, in anticipation of that review, the Department of
100 Management Services produced a report pursuant to s. 11.906,
101 Florida Statutes, and

102 WHEREAS, upon receipt of that report, the Joint Legislative
103 Sunset Committee and the Legislative Sunset Review Committees of
104 the Senate and the House of Representatives reviewed the report
105 and directed the Office of Program Policy Analysis and
106 Government Accountability to conduct a review of the department,
107 and

108 WHEREAS, based on the department's report, the reports
109 prepared by the Office of Program Policy Analysis and Government
110 Accountability, and public input, the Legislative Sunset Review
111 Committees made recommendations on the abolition, continuation,
112 or reorganization of the Department of Management Services; on
113 the need for the functions performed by the department; and on
114 the consolidation, transfer, or reorganization of programs
115 within the department, NOW, THEREFORE,
116

585-03077-10

20101238c1

117 Be It Enacted by the Legislature of the State of Florida:

118
119 Section 1. Type two transfers from the Department of
120 Management Services.-

121 (1) All powers, duties, functions, records, offices,
122 personnel, property, pending issues, and existing contracts,
123 administrative authority, administrative rules, and unexpended
124 balances of appropriations, allocations, and other funds
125 relating to the following programs in the Department of
126 Management Services are transferred by a type two transfer, as
127 defined in s. 20.06(2), Florida Statutes, as follows:

128 (a) The executive aircraft pool established under s.
129 287.161, Florida Statutes, is transferred to the Executive
130 Office of the Governor.

131 (b) The Division of State Purchasing, the Office of
132 Supplier Diversity, the Fleet Management program, the Federal
133 Surplus Property Donation Program, and the Bureau of Private
134 Prison Monitoring are transferred to the Department of Financial
135 Services.

136 (c) The Facilities Program is transferred to the Department
137 of Environmental Protection.

138 (d) All programs relating to the delivery of
139 telecommunications services, including, but not limited to,
140 SUNCOM, are transferred to the Agency for Enterprise Information
141 Technology.

142 (e) All programs relating to the delivery of land mobile
143 radio services, including local public safety radio services,
144 state public safety radio services, emergency medical services,
145 and the Florida Interoperability Network, are transferred to the

585-03077-10

20101238c1

146 Department of Law Enforcement.

147 (2) The following trust funds are transferred:

148 (a) From the Department of Management Services to the
149 Department of Environmental Protection:

150 1. The Architects Incidental Trust Fund, FLAIR number 72-2-
151 033.

152 2. The Florida Facilities Pool Working Capital Trust Fund,
153 FLAIR number 72-2-225.

154 3. The Florida Facilities Pool Clearing Trust Fund, FLAIR
155 number 72-2-313.

156 4. The Public Facilities Finance Trust Fund, FLAIR number
157 72-2-495.

158 5. The Supervision Trust Fund, FLAIR number 72-2-696.

159 (b) The Bureau of Aircraft Trust Fund, FLAIR number 72-2-
160 066, is transferred from the Department of Management Services
161 to the Executive Office of the Governor:

162 (c) From the Department of Management Services to the
163 Agency for Enterprise Information Technology:

164 1. The Communications Working Capital Trust Fund, FLAIR
165 number 72-2-105.

166 2. The Working Capital Trust Fund, FLAIR number 72-2-792.

167 (d) From the Department of Management Services to the
168 Department of Law Enforcement:

169 1. The Law Enforcement Radio Trust Fund, FLAIR number 72-2-
170 432.

171 2. The Emergency Communications Number E911 System Trust
172 Fund, FLAIR number 72-2-344.

173 (e) The Surplus Property Revolving Trust Fund, FLAIR number
174 72-2-696, is transferred From the Department of Management

585-03077-10

20101238c1

175 Services to the Department of Financial Services.

176 Section 2. Notwithstanding ss. 216.292 and 216.351, Florida
177 Statutes, upon approval by the Legislative Budget Committee, the
178 Executive Office of the Governor may transfer funds and
179 positions between agencies to implement this act.

180 Section 3. The Legislature recognizes that there is a need
181 to conform the Florida Statutes to the policy decisions
182 reflected in this act and that there is a need to resolve
183 apparent conflicts between any other legislation that has been
184 or may be enacted during 2010 and the abolition of the
185 Department of Management Services, the creation of the
186 Department of Personnel Management, and the transfer of the
187 duties of the Department of Management Services to other
188 agencies made by this act. Therefore, in the interim between
189 this act becoming law and the 2011 Regular Session of the
190 Legislature or an earlier special session addressing this issue,
191 the Division of Statutory Revision shall provide the relevant
192 substantive committees of the Senate and the House of
193 Representatives with assistance, upon request, to enable such
194 committees to prepare draft legislation to conform the Florida
195 Statutes and any legislation enacted during 2010 to the
196 provisions of this act.

197 Section 4. Subsection (3) of section 11.917, Florida
198 Statutes, is amended to read:

199 11.917 Procedure after termination.—

200 (3) ~~(a)~~ If not otherwise provided by law:—

201 (a) Property in the custody of an abolished state agency or
202 advisory committee shall be transferred to the Department of
203 Financial Management Services.

585-03077-10

20101238c1

204 (b) ~~If not otherwise provided by law,~~ Records in the
205 custody of an abolished state agency or advisory committee shall
206 be transferred to the Department of State.

207 Section 5. Subsection (2) of section 14.057, Florida
208 Statutes, is amended to read:

209 14.057 Governor-elect; establishment of operating fund.—

210 (2) The Department of Environmental Protection ~~Management~~
211 ~~Services~~ shall provide for the Governor-elect, the Governor-
212 elect's staff, and the inauguration staff temporary office
213 facilities in the capitol center ~~for the period extending~~ from
214 the day of the certification of the Governor-elect's election by
215 the Elections Canvassing Commission to the day of his or her
216 inauguration.

217 Section 6. Paragraphs (h) and (i) of subsection (4) of
218 section 14.204, Florida Statutes, are amended to read:

219 14.204 Agency for Enterprise Information Technology.—The
220 Agency for Enterprise Information Technology is created within
221 the Executive Office of the Governor.

222 (4) The agency shall have the following duties and
223 responsibilities:

224 (h) In consultation with the Division of Purchasing in the
225 Department of Financial ~~Management~~ Services, coordinate
226 procurement negotiations for software that will be used by
227 multiple agencies.

228 (i) In coordination with, and through the services of, the
229 Division of Purchasing in the Department of Financial ~~Management~~
230 Services, develop best practices for technology procurements.

231 Section 7. Paragraph (i) of subsection (1) of section
232 16.615, Florida Statutes, is amended to read:

585-03077-10

20101238c1

233 16.615 Council on the Social Status of Black Men and Boys.—

234 (1) The Council on the Social Status of Black Men and Boys
235 is established within the Department of Legal Affairs and shall
236 consist of 19 members appointed as follows:

237 (i) The executive director of the Department of Personnel
238 Management ~~Secretary of Management Services~~ or a ~~his or her~~
239 designee.

240 Section 8. Subsections (3) and (7) of section 20.04,
241 Florida Statutes, are amended to read:

242 20.04 Structure of executive branch.—The executive branch
243 of state government is structured as follows:

244 (3) For their internal structure, all departments, except
245 for the Department of Financial Services, the Department of
246 Children and Family Services, the Department of Corrections, the
247 Department of Personnel Management Services, the Department of
248 Revenue, and the Department of Transportation, must adhere to
249 the following standard terms:

250 (a) The principal unit of the department is the "division."
251 Each division is headed by a "director."

252 (b) The principal unit of the division is the "bureau."
253 Each bureau is headed by a "chief."

254 (c) The principal unit of the bureau is the "section." Each
255 section is headed by an "administrator."

256 (d) If further subdivision is necessary, sections may be
257 divided into "subsections," which are headed by "supervisors."

258 (7) ~~(a)~~ Unless specifically authorized by law, the head of a
259 department may not reallocate duties and functions specifically
260 assigned by law to a specific unit of the department.

261 (a) Those functions or agencies assigned generally to the

585-03077-10

20101238c1

262 department without specific designation to a unit of the
263 department may be allocated and reallocated to a unit of the
264 department at the discretion of the head of the department.

265 (b) Within the limitations of this subsection, the head of
266 the department may recommend the establishment of additional
267 divisions, bureaus, sections, and subsections of the department
268 to promote efficient and effective operation of the department.
269 However, additional divisions, or offices in the Department of
270 Children and Family Services, the Department of Corrections, and
271 the Department of Transportation, may be established only by
272 specific statutory enactment.

273 (c) New bureaus, sections, and subsections of departments
274 may be initiated by a department and established as recommended
275 by the Department of Personnel Management Services and approved
276 by the Executive Office of the Governor, or may be established
277 by specific statutory enactment.

278 (d) ~~(e)~~ For the purposes of such recommendations and
279 approvals, the Department of Personnel Management ~~Services~~ and
280 the Executive Office of the Governor, respectively, must adopt
281 and apply specific criteria for assessing the appropriateness of
282 all reorganization requests from agencies. The criteria must be
283 applied to future agency requests for reorganization and must be
284 used to review the appropriateness of bureaus currently in
285 existence. Any current bureau that does not meet the criteria
286 for a bureau must be reorganized into a section or other
287 appropriate unit.

288 Section 9. Section 20.22, Florida Statutes, is amended to
289 read:

290 20.22 Department of Personnel Management ~~Services~~.—The

585-03077-10

20101238c1

291 ~~There is created a Department of Personnel Management is created~~
 292 ~~Services.~~

293 (1) The head of the Department of Personnel Management
 294 ~~Services~~ is the Governor and Cabinet, who shall appoint an
 295 executive director ~~the Secretary of Management Services~~, who
 296 ~~shall be appointed by the Governor~~, subject to confirmation by
 297 the Senate, and who shall serve at the pleasure of the Governor
 298 and Cabinet.

299 (2) The following divisions and programs ~~within the~~
 300 ~~Department of Management Services~~ are established within the
 301 department:

302 ~~(a) Facilities Program.~~

303 ~~(b) Technology Program.~~

304 ~~(a)-(c)~~ Division of Human Resource Management Workforce
 305 Program.

306 ~~(d)1. Support Program.~~

307 ~~2. Federal Property Assistance Program.~~

308 ~~(e) Administration Program.~~

309 ~~(f) Division of Administrative Hearings.~~

310 ~~(b)-(g)~~ Division of Retirement.

311 ~~(c)-(h)~~ Division of State Group Insurance.

312 (d) Division of Administrative Hearings, as a separate
 313 budget entity and not subject to the department's control,
 314 supervision, or direction.

315 (3) The duties of the Chief Labor Negotiator shall be
 316 determined by the Governor ~~Secretary of Management Services~~, and
 317 must include, but need not be limited to, the representation of
 318 the Governor as the public employer in collective bargaining
 319 negotiations pursuant to ~~the provisions of~~ chapter 447.

585-03077-10

20101238c1

320 Section 10. Subsection (6) of section 20.23, Florida
321 Statutes, is amended to read:

322 20.23 Department of Transportation.—There is created a
323 Department of Transportation which shall be a decentralized
324 agency.

325 (6) Notwithstanding ~~the provisions of~~ s. 110.205, the
326 Department of Personnel Management may ~~Services is authorized to~~
327 exempt positions within the Department of Transportation which
328 are comparable to positions within the Senior Management Service
329 pursuant to s. 110.205(2) (j) or positions that ~~which~~ are
330 comparable to positions in the Selected Exempt Service under s.
331 110.205(2) (m).

332 Section 11. Paragraph (c) of subsection (6) of section
333 20.331, Florida Statutes, is amended to read:

334 20.331 Fish and Wildlife Conservation Commission.—

335 (6) GENERAL PROVISIONS.—

336 (c) Divisions, sections, and offices created by this act
337 may be abolished only by general law. Additional divisions in
338 the commission may only be established by general law. New
339 sections, subsections, and offices of the commission may be
340 initiated by the commission and established as recommended by
341 the Department of Personnel Management ~~Services~~ and approved by
342 the Executive Office of the Governor, or may be established by
343 general law.

344 Section 12. Section 20.50, Florida Statutes, is amended to
345 read:

346 20.50 Agency for Workforce Innovation.—~~There is created~~ The
347 Agency for Workforce Innovation is created within the Department
348 of Personnel Management ~~Services~~. The agency is ~~shall be~~ a

585-03077-10

20101238c1

349 separate budget entity, as provided in the General
350 Appropriations Act, ~~and the director of the agency shall be the~~
351 ~~agency head for all purposes.~~ The head of the agency is the
352 director of Workforce Innovation, who shall be appointed by the
353 Governor. The agency is ~~shall~~ not be subject to control,
354 supervision, or direction by the Department of Personnel
355 ~~Management Services in any manner~~, including, but not limited
356 to, personnel, purchasing, transactions involving real or
357 personal property, and budgetary matters.

358 (1) The agency ~~for Workforce Innovation~~ shall ensure that
359 the state appropriately administers federal and state workforce
360 funding by administering plans and policies of Workforce
361 Florida, Inc., under contract with Workforce Florida, Inc. The
362 operating budget and midyear amendments ~~thereto~~ must be part of
363 such contract.

364 (a) All program and fiscal instructions to regional
365 workforce boards must ~~shall~~ emanate from the agency pursuant to
366 plans and policies of Workforce Florida, Inc. Workforce Florida,
367 Inc., is ~~shall be~~ responsible for all policy directions to the
368 regional boards.

369 (b) Unless otherwise provided by agreement with Workforce
370 Florida, Inc., administrative and personnel policies of the
371 agency ~~for Workforce Innovation~~ shall apply.

372 (2) ~~(a)~~ The agency ~~for Workforce Innovation~~ is the
373 administrative agency designated for receipt of federal
374 workforce development grants and other federal funds. The agency
375 shall administer the duties and responsibilities assigned by the
376 Governor under each federal grant assigned to the agency.

377 (a) The agency shall expend each revenue source as provided

585-03077-10

20101238c1

378 by federal and state law and as provided in plans developed by
379 and agreements with Workforce Florida, Inc. The agency may serve
380 as contract administrator for Workforce Florida, Inc., contracts
381 pursuant to s. 445.004(5) as directed by Workforce Florida, Inc.

382 (b) The agency shall prepare and submit a unified budget
383 request for workforce development, in accordance with chapter
384 216 for, and in conjunction with, Workforce Florida, Inc., and
385 its board. ~~The head of the agency is the director of Workforce~~
386 ~~Innovation, who shall be appointed by the Governor.~~

387 (c) The agency shall include the following offices within
388 its organizational structure:

- 389 1. The Office of Unemployment Compensation Services;
- 390 2. The Office of Workforce Program Support;
- 391 3. The Office of Early Learning, which shall administer the
392 school readiness system in accordance with s. 411.01 and the
393 operational requirements of the Voluntary Prekindergarten
394 Education Program in accordance with part V of chapter 1002. The
395 office shall be directed by the Deputy Director for Early
396 Learning, who shall be appointed by and serve at the pleasure of
397 the director; and
- 398 4. The Office of Agency Support Services.

399 (d) The director of the agency may establish the positions
400 of assistant director and deputy director to administer the
401 requirements and functions of the agency. In addition, the
402 director may organize and structure the offices of the agency to
403 best meet the goals and objectives of the agency as provided in
404 s. 20.04.

405 (e) ~~(d)~~ The Unemployment Appeals Commission, authorized by
406 s. 443.012, is not subject to control, supervision, or direction

585-03077-10

20101238c1

407 by the agency ~~for Workforce Innovation~~ in the performance of its
408 powers and duties but shall receive any and all support and
409 assistance from the agency that is required for the performance
410 of its duties.

411 (3) The agency ~~for Workforce Innovation~~ shall serve as the
412 designated agency for purposes of each federal workforce
413 development grant assigned to it for administration. The agency
414 shall carry out the duties assigned to it by the Governor, under
415 the terms and conditions of each grant. The agency shall have
416 the level of authority and autonomy necessary to be the
417 designated recipient of each federal grant assigned to it, and
418 shall disperse such grants pursuant to the plans and policies of
419 Workforce Florida, Inc. The director may, upon delegation from
420 the Governor and pursuant to agreement with Workforce Florida,
421 Inc., sign contracts, grants, and other instruments as necessary
422 to execute functions assigned to the agency. Notwithstanding
423 other provisions of law, the agency ~~for Workforce Innovation~~
424 shall administer other programs funded by federal or state
425 appropriations, as determined by the Legislature in the General
426 Appropriations Act or by law.

427 (4) The agency ~~for Workforce Innovation~~ may provide or
428 contract for training for employees of administrative entities
429 and case managers of any contracted providers to ensure that
430 they have the necessary competencies and skills to provide
431 adequate administrative oversight and delivery of the full array
432 of client services.

433 (5) The agency ~~for Workforce Innovation~~ shall have an
434 official seal by which its records, orders, and proceedings are
435 authenticated. The seal shall be judicially noticed.

585-03077-10

20101238c1

436 Section 13. Subsection (13) of section 24.105, Florida
437 Statutes, is amended to read:

438 24.105 Powers and duties of department.—The department
439 shall:

440 (13) ~~Have the authority to~~ Perform any of the functions of
441 the Department of Financial Management Services under chapter
442 255, chapter 273, chapter 281, chapter 283, or chapter 287, or
443 ~~any~~ rules adopted under ~~any~~ such chapter, and may grant
444 approvals provided for under ~~any~~ such chapter or rules. If the
445 department finds, by rule, that compliance with ~~any~~ such chapter
446 would impair or impede the effective or efficient operation of
447 the lottery, the department may adopt rules providing
448 alternative procurement procedures. Such alternative procedures
449 shall be designed to allow the department to evaluate competing
450 proposals and select the proposal that provides the greatest
451 long-term benefit to the state with respect to the quality of
452 the products or services, dependability and integrity of the
453 vendor, dependability of the vendor's products or services,
454 security, competence, timeliness, and maximization of gross
455 revenues and net proceeds over the life of the contract.

456 Section 14. Subsection (6) of section 24.120, Florida
457 Statutes, is amended to read:

458 24.120 Financial matters; Operating Trust Fund; interagency
459 cooperation.—

460 (6) The Department of Financial Management Services may
461 authorize a sales incentive program for employees of the
462 department for the purpose of increasing the sales volume and
463 distribution of lottery tickets. Payments pursuant to the
464 program are ~~shall not be construed to be~~ lump-sum salary

585-03077-10

20101238c1

465 bonuses.

466 Section 15. Paragraph (a) of subsection (1) of section
467 29.008, Florida Statutes, is amended to read:

468 29.008 County funding of court-related functions.—

469 (1) Counties are required by s. 14, Art. V of the State
470 Constitution to fund the cost of communications services,
471 existing radio systems, existing multiagency criminal justice
472 information systems, and the cost of construction or lease,
473 maintenance, utilities, and security of facilities for the
474 circuit and county courts, public defenders' offices, state
475 attorneys' offices, guardian ad litem offices, and the offices
476 of the clerks of the circuit and county courts performing court-
477 related functions. For purposes of this section, the term
478 "circuit and county courts" includes the offices and staffing of
479 the guardian ad litem programs, and the term "public defenders'
480 offices" includes the offices of criminal conflict and civil
481 regional counsel. The county designated under s. 35.05(1) as the
482 headquarters for each appellate district shall fund these costs
483 for the appellate division of the public defender's office in
484 that county. For purposes of implementing these requirements,
485 the term:

486 (a) "Facility" means reasonable and necessary buildings and
487 office space and appurtenant equipment and furnishings,
488 structures, real estate, easements, and related interests in
489 real estate, including, but not limited to, those for the
490 purpose of housing legal materials for use by the general public
491 and personnel, equipment, or functions of the circuit or county
492 courts, public defenders' offices, state attorneys' offices, and
493 court-related functions of the office of the clerks of the

585-03077-10

20101238c1

494 circuit and county courts and all storage. The term "~~facility~~"
495 includes all wiring necessary for court reporting services. The
496 term also includes access to parking for such facilities in
497 connection with ~~such~~ court-related functions that may be
498 available free or from a private provider or a local government
499 for a fee. The office space provided by a county may not be less
500 than the standards for space allotment adopted by the Department
501 of Environmental Protection Management Services, except that
502 this requirement applies only to facilities that are leased, or
503 on which construction commences, after June 30, 2003. County
504 funding must include physical modifications and improvements to
505 all facilities ~~as are~~ required for compliance with the Americans
506 with Disabilities Act. Upon mutual agreement of a county and the
507 affected entity ~~in this paragraph~~, the office space provided by
508 the county may vary from the standards for space allotment
509 adopted by the Department of Environmental Protection Management
510 Services.

511 1. ~~As of July 1, 2005,~~ Equipment and furnishings are ~~shall~~
512 ~~be~~ limited to that which is appropriate and customary for
513 courtrooms, hearing rooms, jury facilities, and other public
514 areas in courthouses and any other facility occupied by the
515 courts, state attorneys, public defenders, guardians ad litem,
516 and criminal conflict and civil regional counsel. Court
517 reporting equipment in these areas or facilities is not a
518 responsibility of the county.

519 2. Equipment and furnishings under this paragraph in
520 existence and owned by counties on July 1, 2005, except for that
521 in the possession of the clerks, for areas other than
522 courtrooms, hearing rooms, jury facilities, and other public

585-03077-10

20101238c1

523 areas in courthouses and any other facility occupied by the
524 courts, state attorneys, and public defenders, shall be
525 transferred to the state at no charge. This provision does not
526 apply to ~~any~~ communications services as defined in paragraph
527 (f).

528 Section 16. Section 29.21, Florida Statutes, is amended to
529 read:

530 29.21 ~~Department of Management Services to provide~~
531 Assistance in procuring services.—In accordance with s. 287.042,
532 the Department of Financial Management Services may assist the
533 Office of the State Courts Administrator and the Justice
534 Administrative Commission with competitive solicitations for the
535 procurement of state-funded services under this chapter. This
536 may include assistance in the development and review of
537 proposals in compliance with chapter 287, and rules adopted
538 under that chapter.

539 Section 17. Section 110.1055, Florida Statutes, is amended
540 to read:

541 110.1055 Rules and rulemaking authority.—The Department of
542 Personnel Management Services shall adopt rules as necessary to
543 effectuate the provisions of this chapter, ~~as amended by this~~
544 ~~act,~~ and in accordance with the authority granted to the
545 department under ~~in~~ this chapter. ~~All existing rules relating to~~
546 ~~this chapter are statutorily repealed January 1, 2002, unless~~
547 ~~otherwise readopted.~~

548 Section 18. Subsections (1) and (2) of section 110.107,
549 Florida Statutes, are amended to read:

550 110.107 Definitions.—As used in this chapter, the term:

551 (1) "Department" means the Department of Personnel

585-03077-10

20101238c1

552 Management ~~Services~~.

553 (2) "Executive director ~~Secretary~~" means the executive
554 director of the department ~~Secretary of Management Services~~.

555 Section 19. Subsection (5) of section 110.1099, Florida
556 Statutes, is amended to read:

557 110.1099 Education and training opportunities for state
558 employees.—

559 (5) The department ~~of Management Services~~, in consultation
560 with the agencies and, to the extent applicable, with the state
561 ~~Florida's public~~ community colleges, ~~public~~ career centers, and
562 ~~public~~ universities, shall adopt rules to administer this
563 section.

564 Section 20. Section 110.116, Florida Statutes, is amended
565 to read:

566 110.116 Personnel information system; payroll procedures.—
567 The department ~~of Management Services~~ shall establish and
568 maintain, in coordination with the payroll system of the
569 Department of Financial Services, a complete personnel
570 information system for all authorized and established positions
571 in the state service, with the exception of employees of the
572 Legislature, unless the Legislature chooses to participate. The
573 department may contract with a vendor to provide the personnel
574 information system. The specifications shall be developed in
575 conjunction with the payroll system of the Department of
576 Financial Services and in coordination with the Auditor General.
577 The Department of Financial Services shall determine that the
578 position occupied by each employee has been authorized and
579 established in accordance with ~~the provisions of~~ s. 216.251. The
580 department ~~of Management Services~~ shall develop and maintain a

585-03077-10

20101238c1

581 position numbering system that identifies ~~will identify~~ each
 582 established position, and such information shall be a part of
 583 the payroll system of the Department of Financial Services. With
 584 the exception of employees of the Legislature, unless the
 585 Legislature chooses to participate, this system includes ~~shall~~
 586 ~~include~~ all career service positions and those positions
 587 exempted from career service provisions, notwithstanding the
 588 funding source of the salary payments, and information regarding
 589 persons receiving payments from other sources. Necessary
 590 revisions shall be made in the personnel and payroll procedures
 591 of the state to avoid duplication insofar as is feasible. A list
 592 shall be organized by budget entity to show the employees or
 593 vacant positions within each budget entity. This list must ~~shall~~
 594 be available to the Speaker of the House of Representatives and
 595 the President of the Senate upon request.

596 Section 21. Section 110.121, Florida Statutes, is amended
 597 to read:

598 110.121 Sick leave pool.—Each state ~~department or~~ agency
 599 that ~~of the state which~~ has authority to adopt rules governing
 600 the accumulation and use of sick leave for employees and that
 601 ~~which~~ maintains accurate and reliable records showing the amount
 602 of sick leave which has been accumulated and is unused by
 603 employees may, in accordance with guidelines that are ~~which~~
 604 ~~shall be~~ established by the department of Management Services,
 605 adopt rules for establishing ~~the establishment of~~ a plan
 606 allowing participating employees to pool sick leave and allowing
 607 any sick leave thus pooled to be used by a ~~any~~ participating
 608 employee who has used all of his or her ~~the~~ sick leave ~~that has~~
 609 ~~been personally accrued by him or her.~~ At a minimum ~~Although not~~

585-03077-10

20101238c1

610 ~~limited to the following~~, such rules shall provide:

611 (1) That employees are ~~shall be~~ eligible for participation
612 in the sick leave pool after 1 year of employment with a ~~the~~
613 state ~~or agency~~ if of the state; ~~provided that~~ such employee has
614 accrued a minimum amount of unused sick leave, which minimum
615 shall be established by rule.

616 (2) That participation in the sick leave pool is ~~shall, at~~
617 ~~all times~~, be voluntary on the part of the employees.

618 (3) That any sick leave pooled shall be removed from the
619 personally accumulated sick leave balance of the employee
620 contributing such leave.

621 (4) That any sick leave in the pool which leave is used by
622 a participating employee is ~~shall be~~ used only for the
623 employee's personal illness, accident, or injury.

624 (5) That a participating employee may ~~shall not be eligible~~
625 ~~to~~ use sick leave accumulated in the pool until all of his or
626 her personally accrued sick, annual, and compensatory leave has
627 been used.

628 (6) The ~~A~~ maximum number of days of sick leave in the pool
629 which any one employee may use.

630 (7) That a participating employee who uses sick leave from
631 the pool is ~~shall not be~~ required to recontribute such sick
632 leave to the pool, except as otherwise provided in this section.

633 (8) That an employee who cancels his or her membership in
634 the sick leave pool may ~~shall not be eligible to~~ withdraw the
635 days of sick leave contributed by that employee to the pool.

636 (9) That an employee who transfers from one position in a
637 state agency ~~government~~ to another position in another state
638 agency ~~government~~ may transfer from one pool to another if the

585-03077-10

20101238c1

639 eligibility criteria of the pools are comparable or the
640 administrators of the pools have agreed on a formula for
641 transfer of credits.

642 (10) That alleged abuse of the use of the sick leave pool
643 shall be investigated, and, on a finding of wrongdoing, the
644 employee must ~~shall~~ repay all of the sick leave credits drawn
645 from the sick leave pool and is ~~shall be~~ subject to such other
646 disciplinary action as is determined by the agency head.

647 (11) That sick leave credits may be drawn from the sick
648 leave pool by a part-time employee on a pro rata basis.

649 Section 22. Section 110.1227, Florida Statutes, is amended
650 to read:

651 110.1227 Florida Employee Long-Term-Care Plan Act.—

652 (1) The Legislature finds that state expenditures for long-
653 term-care services continue to increase at a rapid rate and that
654 the state faces increasing pressure in its efforts to meet the
655 long-term-care needs of the public.

656 (a) It is the intent of the Legislature that the Department
657 of Personnel Management ~~Services~~ and the Department of Elderly
658 Affairs implement a self-funded or fully insured, voluntary,
659 long-term-care plan for public employees and their families and
660 provide an opportunity for public employees and their families
661 to purchase said long-term-care insurance by means of payroll
662 deduction.

663 (b) The department and the Department of Elderly Affairs
664 ~~and the Department of Management Services~~ shall jointly design
665 the plan to provide long-term-care coverage for public
666 employees, family members of public employees, and retirees. The
667 departments ~~Department of Management Services and the Department~~

585-03077-10

20101238c1

668 ~~of Elderly Affairs~~ shall enter into an interagency agreement
669 defining their roles with regard to plan development and design.
670 Joint planning expenses shall be shared to the extent that
671 funded planning activities are consistent with the goals of the
672 departments. Eligible plan participants must include active and
673 retired officers and employees of all branches and state
674 agencies ~~of state~~ and their spouses, children, stepchildren,
675 parents, and parents-in-law; and, upon the affirmative vote of
676 the governing body of any county or municipality in this state,
677 the active and retired officers and employees of any such county
678 or municipality and their spouses, children, stepchildren,
679 parents, and parents-in-law; and the surviving spouses,
680 children, stepchildren, parents, and parents-in-law of such
681 deceased officers and employees, whether active or retired at
682 the time of death.

683 (c) This section does not limit the department's ~~act in no~~
684 ~~way affects the Department of Management Services'~~ authority
685 under ~~pursuant to~~ s. 110.123.

686 (d) The department ~~of Management Services~~ and the
687 Department of Elderly Affairs shall review all self-insured and
688 all fully-insured proposals submitted to it by qualified vendors
689 ~~who have submitted responses~~ prior to February 23, 1999. Upon
690 review of the proposals, the departments ~~Department of~~
691 ~~Management Services and the Department of Elderly Affairs~~ may
692 award a contract to the vendor that the departments deem to
693 represent the best value to public employees, family members of
694 public employees, and retirees.

695 (e) An ~~No~~ entity providing actuarial consulting services to
696 the department ~~of Management Services~~ or the Department of

585-03077-10

20101238c1

697 Elderly Affairs in the preparation of the request for proposals,
698 in the evaluation of such proposals, or in the selection of a
699 provider of long-term-care service offerings may not ~~shall be~~
700 ~~eligible to~~ provide or contract to provide the entity selected
701 as the provider of long-term-care service offerings in this
702 state with any services related to the ~~Florida Employee Long-~~
703 ~~Term-Care~~ plan.

704 (2) As used in this section, the term:

705 ~~(a) "Department" means the Department of Elderly Affairs.~~

706 (a) ~~(b)~~ "Self-funded" means that plan benefits and costs are
707 funded from contributions made by or on behalf of participants
708 and trust fund investment revenue.

709 (b) ~~(c)~~ "Plan" means the Florida Employee Long-Term-Care
710 Plan.

711 (3) The department ~~of Management Services~~ and the
712 Department of Elderly Affairs shall, in consultation with public
713 employers and employees and representatives from unions and
714 associations representing state, university, local government,
715 and other public employees, establish and supervise the
716 implementation and administration of a self-funded or fully
717 insured long-term-care plan entitled "Florida Employee Long-
718 Term-Care Plan."

719 (a) The departments ~~Department of Management Services~~ and
720 ~~the department~~ shall, in consultation with the Office of
721 Insurance Regulation of the Financial Services Commission,
722 contract for actuarial, professional-administrator, and other
723 services for the ~~Florida Employee Long-Term-Care~~ plan.

724 (b) When contracting for a professional administrator, the
725 department ~~of Management Services~~ shall consider, at a minimum,

585-03077-10

20101238c1

726 the entity's previous experience and expertise in administering
727 group long-term-care self-funded plans or long-term-care
728 insurance programs; the entity's demonstrated ability to perform
729 its contractual obligations in the state and in other
730 jurisdictions; the entity's projected administrative costs; the
731 entity's capability to adequately provide service coverage,
732 including a sufficient number of experienced and qualified
733 personnel in the areas of marketing, claims processing,
734 recordkeeping, and underwriting; the entity's accessibility to
735 public employees and other qualified participants; and the
736 entity's financial soundness and solvency.

737 (c) Any contract with a professional administrator entered
738 into by the department ~~of Management Services~~ must require that
739 the state be held harmless and indemnified for any financial
740 loss caused by the failure of the professional administrator to
741 comply with the terms of the contract.

742 (d) The department ~~of Management Services~~ shall explore
743 innovations in long-term-care financing and service delivery
744 with regard to possible future inclusion in the plan. Such
745 innovative financing and service delivery mechanisms may include
746 managed long-term care and plans that set aside assets with
747 regard to eligibility for Medicaid-funded long-term-care
748 services in the same proportion that private long-term-care
749 insurance benefits are used to pay for long-term care.

750 (4) The department ~~of Management Services~~ and the
751 Department of Elderly Services shall coordinate, directly or
752 through contract, marketing of the plan. Expenses related to
753 such marketing shall be reimbursed from funds of the plan.

754 (5) The department ~~of Management Services~~ shall contract

585-03077-10

20101238c1

755 with the State Board of Administration for the investment of
756 funds in the Florida Employee Long-Term-Care Plan reserve fund.
757 Plan funds are not state funds. The moneys shall be held by the
758 state board ~~of Administration~~ on behalf of enrollees and
759 invested and disbursed in accordance with a trust agreement
760 approved by the division and the state board ~~of Administration~~
761 and in accordance with ~~the provisions of~~ ss. 215.44-215.53.
762 Moneys in the reserve fund may be used only for the purposes
763 specified in the agreement.

764 (6) A Florida Employee Long-Term-Care Plan Board of
765 Directors is created, composed of nine members who shall serve
766 2-year terms, to be appointed ~~after May 1, 1999,~~ as follows:

767 (a) The secretary of the Department of Elderly Affairs
768 shall appoint a member who is a plan participant.

769 (b) The Director of the Office of Insurance Regulation
770 shall appoint an actuary.

771 (c) The Attorney General shall appoint an attorney licensed
772 to practice law in this state.

773 (d) The Governor shall appoint three members from a broad
774 cross-section of the residents of this state.

775 (e) The Department of Personnel Management ~~Services~~ shall
776 appoint a member.

777 (f) The President of the Senate shall appoint a member of
778 the Senate.

779 (g) The Speaker of the House of Representatives shall
780 appoint a member of the House of Representatives.

781 (7) The board of directors of the Florida Long-Term-Care
782 Plan shall:

783 (a) Prepare an annual report of the plan, with the

585-03077-10

20101238c1

784 assistance of an actuarial consultant, to be submitted to the
785 Speaker of the House of Representatives, the President of the
786 Senate, the Governor, and the Minority Leaders of the Senate and
787 the House of Representatives.

788 (b) Approve the appointment of an executive director
789 jointly recommended by the department ~~of Management Services~~ and
790 the Department of Elderly Affairs to serve as the chief
791 administrative and operational officer of the ~~Florida Employee~~
792 ~~Long-Term-Care~~ plan.

793 (c) Approve the terms of the department's ~~Department of~~
794 ~~Management Services'~~ third-party administrator contract.

795 (d) Implement such other policies and procedures as
796 necessary to assure the soundness and efficient operation of the
797 plan.

798 (8) Members of the board may not receive a salary, but may
799 be reimbursed for travel, per diem, and administrative expenses
800 related to their duties. Board expenses and costs for the annual
801 report and other administrative expenses must be borne by the
802 plan. State funds may not be used for ~~contributed toward~~ costs
803 associated with board members or their activities conducted on
804 behalf of and for the benefit of plan beneficiaries.

805 Section 23. Paragraph (f) of subsection (5) and subsection
806 (7) of section 110.1228, Florida Statutes, are amended to read:

807 110.1228 Participation by small counties, small
808 municipalities, and district school boards located in small
809 counties.—

810 (5) If the department determines that a small county, small
811 municipality, or district school board is eligible to enroll,
812 the small county, small municipality, or district school board

585-03077-10

20101238c1

813 must agree to the following terms and conditions:

814 (f) If a small county, small municipality, or district
815 school board employer fails to make the payments required by
816 this section to fully reimburse the state, upon the department's
817 request, the Department of Revenue or the Department of
818 Financial Services shall, ~~upon the request of the Department of~~
819 ~~Management Services~~, deduct the amount owed by the employer from
820 any funds not pledged to bond debt service satisfaction that are
821 to be distributed by it to the small county, small municipality,
822 or district school board. The amounts ~~se~~ deducted shall be
823 transferred to the department ~~of Management Services~~ for further
824 distribution to the trust funds in accordance with this chapter.

825 (7) The department ~~of Management Services~~ may adopt rules
826 necessary to administer this section.

827 Section 24. Subsection (2) and paragraphs (a), (e), (h),
828 and (i) of subsection (3) of section 110.123, Florida Statutes,
829 are amended to read:

830 110.123 State group insurance program.—

831 (2) DEFINITIONS.—As used in this section, the term:

832 ~~(a) "Department" means the Department of Management~~
833 ~~Services.~~

834 ~~(a) (b)~~ "Enrollee" means all state officers and employees,
835 retired state officers and employees, surviving spouses of
836 deceased state officers and employees, and terminated employees
837 or individuals with continuation coverage who are enrolled in an
838 insurance plan offered by the state group insurance program. The
839 term "Enrollee" includes all state university officers and
840 employees, retired state university officers and employees,
841 surviving spouses of deceased state university officers and

585-03077-10

20101238c1

842 employees, and terminated state university employees or
843 individuals with continuation coverage who are enrolled in an
844 insurance plan offered by the state group insurance program.

845 (b)~~(e)~~ "Full-time state employees" means ~~includes all~~ full-
846 time employees of state ~~all branches or~~ agencies of ~~state~~
847 ~~government~~ holding salaried positions and paid by state warrant
848 or from agency funds, and employees paid from regular salary
849 appropriations for 8 months' employment, including university
850 personnel on academic contracts, but in no case shall "state
851 employee" or "salaried position" include persons paid from
852 other-personal-services ~~(OPS)~~ funds. "Full-time employees"
853 includes all full-time employees of the state universities.

854 (c)~~(d)~~ "Health maintenance organization" or "HMO" means an
855 entity certified under part I of chapter 641.

856 (d)~~(e)~~ "Health plan member" means any person participating
857 in a state group health insurance plan, a TRICARE supplemental
858 insurance plan, or a health maintenance organization plan under
859 the state group insurance program, including enrollees and
860 covered dependents thereof.

861 (e)~~(f)~~ "Part-time state employee" means any employee of any
862 branch or agency of state government paid by state warrant from
863 salary appropriations or from agency funds, and who is employed
864 for less than the normal full-time workweek established by the
865 department or, if on academic contract or seasonal or other type
866 of employment which is less than year-round, is employed for
867 less than 8 months during any 12-month period. The term does
868 not, but in no case shall "part-time" employee include a person
869 paid from other-personal-services ~~(OPS)~~ funds. "Part-time state
870 employee" includes any part-time employee of the state

585-03077-10

20101238c1

871 universities.

872 (f)~~(g)~~ "Retired state officer or employee" or "retiree"
873 means any state or state university officer or employee who
874 retires under a state retirement system or a state optional
875 annuity or retirement program or is placed on disability
876 retirement, ~~and~~ who was insured under the state group insurance
877 program at the time of retirement, and who begins receiving
878 retirement benefits immediately after retirement from state or
879 state university office or employment. In addition ~~to these~~
880 ~~requirements~~, the term includes any state officer or state
881 employee who retires under the defined contribution Public
882 ~~Employee Optional Retirement~~ program established under part II
883 of chapter 121 ~~shall be considered a "retired state officer or~~
884 ~~employee" or "retiree" as used in this section~~ if he or she:

885 1. Meets the age and service requirements to qualify for
886 normal retirement as set forth in s. 121.021(29); or

887 2. Has attained the age specified by s. 72(t)(2)(A)(i) of
888 the Internal Revenue Code and has 6 years of creditable service.

889 (g)~~(h)~~ "State agency" or "agency" means any branch,
890 department, or agency of state government. "State agency" or
891 "agency" includes any state university for purposes of this
892 section only.

893 (h)~~(i)~~ "State group health insurance plan or plans" or
894 "state plan or plans" mean the state self-insured health
895 insurance plan or plans offered to state officers and employees,
896 retired state officers and employees, and surviving spouses of
897 deceased state officers and employees pursuant to this section.

898 (i)~~(j)~~ "State-contracted HMO" means any health maintenance
899 organization under contract with the department to participate

585-03077-10

20101238c1

900 in the state group insurance program.

901 (j)~~(k)~~ "State group insurance program" or "programs" means
902 the package of insurance plans offered to state officers and
903 employees, retired state officers and employees, and surviving
904 spouses of deceased state officers and employees pursuant to
905 this section, including the state group health insurance plan or
906 plans, health maintenance organization plans, TRICARE
907 supplemental insurance plans, and other plans required or
908 authorized by law.

909 (k)~~(l)~~ "State officer" means any constitutional state
910 officer, any elected state officer paid by state warrant, or any
911 appointed state officer who is commissioned by the Governor and
912 who is paid by state warrant.

913 (l)~~(m)~~ "Surviving spouse" means the widow or widower of a
914 deceased state officer, full-time state employee, part-time
915 state employee, or retiree if such widow or widower was covered
916 as a dependent under the state group health insurance plan, a
917 TRICARE supplemental insurance plan, or a health maintenance
918 organization plan established pursuant to this section at the
919 time of the death of the deceased officer, employee, or retiree.
920 The term "Surviving spouse" also means any widow or widower who
921 is receiving or eligible to receive a monthly state warrant from
922 a state retirement system as the beneficiary of a state officer,
923 full-time state employee, or retiree who died before ~~prior to~~
924 July 1, 1979. For the purposes of this section, any such widow
925 or widower shall cease to be a surviving spouse upon his or her
926 remarriage.

927 (m)~~(n)~~ "TRICARE supplemental insurance plan" means the
928 Department of Defense Health Insurance Program for eligible

585-03077-10

20101238c1

929 members of the uniformed services authorized by 10 U.S.C. s.
930 1097.

931 (3) STATE GROUP INSURANCE PROGRAM.—

932 (a) The Division of State Group Insurance is created within
933 the department ~~of Management Services~~.

934 (e) The department ~~of Management Services~~ and the Division
935 of State Group Insurance may not prohibit or limit any properly
936 licensed insurer, health maintenance organization, prepaid
937 limited health services organization, or insurance agent from
938 competing for any insurance product or plan purchased, provided,
939 or endorsed by the department or the division on the basis of
940 the compensation arrangement used by the insurer or organization
941 for its agents.

942 (h)~~1~~. In lieu of participating in the state group health
943 insurance program, a person eligible to participate in the ~~state~~
944 ~~group insurance~~ program may be authorized by department rules
945 ~~adopted by the department, in lieu of participating in the state~~
946 ~~group health insurance plan, to exercise an option to elect~~
947 membership in a health maintenance organization plan that ~~which~~
948 is under contract with the state in accordance with criteria
949 established by this section and department ~~by said~~ rules. The
950 offer of optional membership in a health maintenance
951 organization plan ~~permitted by this paragraph~~ may be limited or
952 conditioned by rule as ~~may be~~ necessary to meet the requirements
953 of state and federal laws.

954 1.2. The department shall contract with health maintenance
955 organizations seeking to participate in the state group
956 insurance program through a request for proposal or other
957 procurement process, as developed by the department ~~of~~

585-03077-10

20101238c1

958 ~~Management Services~~ and determined to be appropriate.

959 a. The department shall establish a schedule of minimum
960 benefits for health maintenance organization coverage, and that
961 schedule must ~~shall~~ include: physician services; inpatient and
962 outpatient hospital services; emergency medical services,
963 including out-of-area emergency coverage; diagnostic laboratory
964 and diagnostic and therapeutic radiologic services; mental
965 health, alcohol, and chemical dependency treatment services
966 meeting the minimum requirements of state and federal law;
967 skilled nursing facilities and services; prescription drugs;
968 age-based and gender-based wellness benefits; and other benefits
969 as may be required by the department. Additional services may be
970 provided subject to the contract between the department and the
971 HMO. As used in this paragraph, the term "age-based and gender-
972 based wellness benefits" includes aerobic exercise, education in
973 alcohol and substance abuse prevention, blood cholesterol
974 screening, health risk appraisals, blood pressure screening and
975 education, nutrition education, program planning, safety belt
976 education, smoking cessation, stress management, weight
977 management, and women's health education.

978 b. The department may establish uniform deductibles,
979 copayments, coverage tiers, or coinsurance schedules for all
980 participating HMO plans.

981 c. The department may require detailed information from
982 each health maintenance organization participating in the
983 procurement process, including information pertaining to
984 organizational status, experience in providing prepaid health
985 benefits, accessibility of services, financial stability of the
986 plan, quality of management services, accreditation status,

585-03077-10

20101238c1

987 quality of medical services, network access and adequacy,
988 performance measurement, ability to meet the department's
989 reporting requirements, and the actuarial basis of the proposed
990 rates and other data determined by the director to be necessary
991 for the evaluation and selection of health maintenance
992 organization plans and negotiation of appropriate rates for
993 these plans. Upon receipt of proposals by health maintenance
994 organization plans and the evaluation of those proposals, the
995 department may enter into negotiations with all of the plans or
996 a subset of the plans, as the department determines appropriate.
997 ~~Nothing shall preclude~~ The department may negotiate ~~from~~
998 ~~negotiating~~ regional or statewide contracts with health
999 maintenance organization plans if ~~when~~ this is cost-effective
1000 and ~~when~~ the department determines that the plan offers high
1001 value to enrollees.

1002 d. The department may limit the number of HMOs that it
1003 contracts with in each service area based on the nature of the
1004 bids the department receives, the number of state employees in
1005 the service area, or any unique geographical characteristics of
1006 the service area. The department shall establish by rule service
1007 areas throughout the state.

1008 e. All persons participating in the state group insurance
1009 program may be required to contribute towards a total state
1010 group health premium that may vary depending upon the plan and
1011 coverage tier selected by the enrollee and the level of state
1012 contribution authorized by the Legislature.

1013 ~~2.3.~~ The department may ~~is authorized to~~ negotiate and ~~to~~
1014 contract with specialty psychiatric hospitals for mental health
1015 benefits, on a regional basis, for alcohol, drug abuse, and

585-03077-10

20101238c1

1016 mental and nervous disorders. ~~The department may establish,~~
 1017 Subject to the approval of the Legislature pursuant to
 1018 subsection (5), the department may establish any such regional
 1019 plan upon completion of an actuarial study to determine the
 1020 effect any impact on plan benefits and premiums.

1021 3.4. In addition to contracting pursuant to subparagraph 1.
 1022 ~~2.~~, the department may ~~enter into~~ contract with any HMO to
 1023 participate in the state group insurance program which:

1024 a. Serves greater than 5,000 recipients on a prepaid basis
 1025 under the Medicaid program;

1026 b. Does not currently meet the 25-percent non-Medicare/non-
 1027 Medicaid enrollment composition requirement established by the
 1028 Department of Health excluding participants enrolled in the
 1029 state group insurance program;

1030 c. Meets the minimum benefit package and copayments and
 1031 deductibles contained in sub-subparagraphs 1.a. ~~2.a.~~ and b.;

1032 d. Is willing to participate in the state group insurance
 1033 program at a cost of premiums that is not greater than 95
 1034 percent of the cost of HMO premiums accepted by the department
 1035 in each service area; and

1036 e. Meets the minimum surplus requirements of s. 641.225.

1037
 1038 The department may ~~is authorized to~~ contract with HMOs that meet
 1039 the requirements of sub-subparagraphs a.-d. before ~~prior to~~ the
 1040 open enrollment period for state employees. The department is
 1041 not required to renew the contract with the HMOs ~~as set forth in~~
 1042 ~~this paragraph~~ more than twice. Thereafter, the HMOs may ~~shall~~
 1043 ~~be eligible to~~ participate in the state group insurance program
 1044 only through the request for proposal or invitation to negotiate

585-03077-10

20101238c1

1045 process described in subparagraph 1. ~~2.~~

1046 ~~4.5.~~ All enrollees in a state group health insurance plan,
1047 a TRICARE supplemental insurance plan, or any health maintenance
1048 organization plan may change ~~have the option of changing~~ to any
1049 other health plan that is offered by the state within an ~~any~~
1050 open enrollment period designated by the department. Open
1051 enrollment shall be held at least once each calendar year.

1052 ~~5.6.~~ If ~~When~~ a contract between a treating provider and the
1053 state-contracted health maintenance organization is terminated
1054 for any reason other than for cause, each party shall allow any
1055 enrollee for whom treatment was active to continue coverage and
1056 care when medically necessary, through completion of treatment
1057 of a condition for which the enrollee was receiving care at the
1058 time of the termination, until the enrollee selects another
1059 treating provider, or until the next open enrollment period
1060 offered, whichever is longer, but no longer than 6 months after
1061 termination of the contract. Each party to the terminated
1062 contract shall allow an enrollee who has initiated a course of
1063 prenatal care, regardless of the trimester in which care was
1064 initiated, to continue care and coverage until completion of
1065 postpartum care. This does not prevent a provider from refusing
1066 to continue to provide care to an enrollee who is abusive,
1067 noncompliant, or in arrears in payments for services provided.
1068 For care continued under this subparagraph, the program and the
1069 provider shall continue to be bound by the terms of the
1070 terminated contract. Changes made within 30 days before
1071 termination of a contract are effective only if agreed to by
1072 both parties.

1073 ~~6.7.~~ Any HMO participating in the state group insurance

585-03077-10

20101238c1

1074 program shall submit health care utilization and cost data to
1075 the department, in such form and in such manner as the
1076 department shall require, as a condition of participating in the
1077 program. The department shall enter into negotiations with its
1078 contracting HMOs to determine the nature and scope of the data
1079 submission and the final requirements, format, penalties
1080 associated with noncompliance, and timetables for submission.
1081 These determinations shall be adopted by rule.

1082 (i)~~g.~~ The department may establish and direct, with respect
1083 to collective bargaining issues, a comprehensive package of
1084 insurance benefits that may include supplemental health and life
1085 coverage, dental care, long-term care, vision care, and other
1086 benefits it determines necessary to enable state employees to
1087 select from among benefit options that best suit their
1088 individual and family needs.

1089 1.a.~~Based upon a desired benefit package, the department~~
1090 shall issue a request for proposal or invitation to negotiate
1091 for health insurance providers interested in participating in
1092 the state group insurance program, and the department shall
1093 issue a request for proposal or invitation to negotiate for
1094 insurance providers interested in participating in the non-
1095 health-related components of the state group insurance program.
1096 Upon receipt of all proposals, the department may enter into
1097 contract negotiations with insurance providers submitting bids
1098 or negotiate a specially designed benefit package. Insurance
1099 providers offering or providing supplemental coverage as of May
1100 30, 1991, which qualify for pretax benefit treatment pursuant to
1101 s. 125 of the Internal Revenue Code of 1986, with 5,500 or more
1102 state employees currently enrolled may be included by the

585-03077-10

20101238c1

1103 department in the supplemental insurance benefit plan
1104 established by the department without participating in a request
1105 for proposal, submitting bids, negotiating contracts, or
1106 negotiating a specially designed benefit package. These
1107 contracts must ~~shall~~ provide state employees with the most cost-
1108 effective and comprehensive coverage available; however, ~~no~~
1109 state or agency funds may not contribute ~~shall be contributed~~
1110 toward the cost of any part of the premium of such supplemental
1111 benefit plans. With respect to dental coverage, the division
1112 shall include in any solicitation or contract for any state
1113 group dental program made after July 1, 2001, a comprehensive
1114 indemnity dental plan option that ~~which~~ offers enrollees a
1115 completely unrestricted choice of dentists. If a dental plan is
1116 endorsed, or in some manner recognized as the preferred product,
1117 such plan shall include a comprehensive indemnity dental plan
1118 option that ~~which~~ provides enrollees with a completely
1119 unrestricted choice of dentists.

1120 2.b. Pursuant to the applicable provisions of s. 110.161,
1121 and s. 125 of the Internal Revenue Code of 1986, the department
1122 shall enroll in the pretax benefit program those state employees
1123 who voluntarily elect coverage in any of the supplemental
1124 insurance benefit plans as provided by sub-subparagraph a.

1125 3.e. ~~This paragraph does not~~ ~~Nothing herein contained shall~~
1126 ~~be construed to~~ prohibit insurance providers from continuing to
1127 provide or offer supplemental benefit coverage to state
1128 employees as provided under existing agency plans.

1129 (j) ~~(i)~~ The benefits of the insurance authorized by this
1130 section are ~~shall~~ not be in lieu of any benefits payable under
1131 chapter 440, the Workers' Compensation Law. The insurance

585-03077-10

20101238c1

1132 authorized by this section may ~~law shall~~ not be deemed to
1133 constitute insurance to secure workers' compensation benefits as
1134 required by chapter 440.

1135 Section 25. Section 110.12312, Florida Statutes, is amended
1136 to read:

1137 110.12312 Open enrollment period for retirees.—On or after
1138 July 1, 1997, the department ~~of Management Services~~ shall
1139 provide for an open enrollment period for retired state
1140 employees who want to obtain health insurance coverage under ss.
1141 110.123 and 110.12315. The options offered during the open
1142 enrollment period must provide the same health insurance
1143 coverage as the coverage provided to active employees under the
1144 same premium payment conditions in effect for covered retirees,
1145 including eligibility for health insurance subsidy payments
1146 under s. 112.363. A person who separates from employment after
1147 ~~subsequent to~~ May 1, 1988, but whose date of retirement occurs
1148 on or after August 1, 1995, is eligible as of the first open
1149 enrollment period occurring after July 1, 1997, with an
1150 effective date of January 1, 1998, as long as the retiree's
1151 enrollment remains in effect.

1152 Section 26. Section 110.12315, Florida Statutes, is amended
1153 to read:

1154 110.12315 Prescription drug program.—The state employees'
1155 prescription drug program is established. This program shall be
1156 administered by the department ~~of Management Services~~, according
1157 to the terms and conditions of the plan as established by the
1158 ~~relevant provisions of the annual~~ General Appropriations Act and
1159 implementing legislation, subject to the following conditions:

1160 (1) The department ~~of Management Services~~ shall allow

585-03077-10

20101238c1

1161 prescriptions written by health care providers under the plan to
1162 be filled by any licensed pharmacy pursuant to contractual
1163 claims-processing provisions. ~~Nothing in~~ This section does not
1164 prohibit ~~may be construed as prohibiting~~ a mail order
1165 prescription drug program that is distinct from the service
1166 provided by retail pharmacies.

1167 (2) In providing for reimbursement of pharmacies for
1168 prescription medicines dispensed to members of the state group
1169 health insurance plan and their dependents under the state
1170 employees' prescription drug program:

1171 (a) Retail pharmacies participating in the program must be
1172 reimbursed at a uniform rate and subject to uniform conditions,
1173 according to the terms and conditions of the plan.

1174 (b) There shall be a 30-day supply limit for prescription
1175 card purchases and 90-day supply limit for mail order or mail
1176 order prescription drug purchases.

1177 (c) The current pharmacy dispensing fee remains in effect.

1178 (3) The department ~~of Management Services~~ shall establish
1179 the reimbursement schedule for prescription pharmaceuticals
1180 dispensed under the program. Reimbursement rates for a
1181 prescription pharmaceutical must be based on the cost of the
1182 generic equivalent drug if a generic equivalent exists, unless
1183 the physician prescribing the pharmaceutical clearly states on
1184 the prescription that the brand name drug is medically necessary
1185 or that the drug product is included on the formulary of drug
1186 products that may not be interchanged as provided in chapter
1187 465, in which case reimbursement must be based on the cost of
1188 the brand name drug as specified in the reimbursement schedule
1189 adopted by the department ~~of Management Services~~.

585-03077-10

20101238c1

1190 (4) The department ~~of Management Services~~ shall conduct a
 1191 prescription utilization review program. In order to participate
 1192 in the state employees' prescription drug program, retail
 1193 pharmacies dispensing prescription medicines to members of the
 1194 state group health insurance plan or their covered dependents,
 1195 or to subscribers or covered dependents of a health maintenance
 1196 organization plan under the state group insurance program, shall
 1197 make their records available for this review.

1198 (5) The department ~~of Management Services~~ shall implement
 1199 such additional cost-saving measures and adjustments as may be
 1200 required to balance program funding within appropriations
 1201 provided, including a trial or starter dose program and
 1202 dispensing of long-term-maintenance medication in lieu of acute
 1203 therapy medication.

1204 (6) Participating pharmacies must use a point-of-sale
 1205 device or an online computer system to verify a participant's
 1206 eligibility for coverage. The state is not liable for
 1207 reimbursement of a participating pharmacy for dispensing
 1208 prescription drugs to any person whose current eligibility for
 1209 coverage has not been verified by the state's contracted
 1210 administrator or by the department ~~of Management Services~~.

1211 (7) Under the state employees' prescription drug program
 1212 copayments must be made as follows:

1213 (a) ~~Effective January 1, 2006,~~ For the State Group Health
 1214 Insurance Standard Plan:

- 1215 1. For generic drug with card.....\$10.
- 1216 2. For preferred brand name drug with card.....\$25.
- 1217 3. For nonpreferred brand name drug with card.....\$40.
- 1218 4. For generic mail order drug.....\$20.

585-03077-10

20101238c1

1219
1220
1221
1222
1223
1224
1225
1226
1227
1228
1229
1230
1231
1232
1233
1234
1235
1236
1237
1238
1239
1240
1241
1242
1243
1244
1245
1246
1247

5. For preferred brand name mail order drug.....\$50.

6. For nonpreferred brand name mail order drug.....\$80.

(b) ~~Effective January 1, 2006,~~ For the State Group Health Insurance High Deductible Plan:

1. Retail coinsurance for generic drug with card.....30%.

2. Retail coinsurance for preferred brand name drug with card.....30%.

3. Retail coinsurance for nonpreferred brand name drug with card.....50%.

4. Mail order coinsurance for generic drug.....30%.

5. Mail order coinsurance for preferred brand name drug.30%.

6. Mail order coinsurance for nonpreferred brand name drug50%.

(c) The department ~~of Management Services~~ shall create a preferred brand name drug list to be used in the administration of the state employees' prescription drug program.

Section 27. Section 110.1232, Florida Statutes, is amended to read:

110.1232 Health insurance coverage for persons retired under state-administered retirement systems before January 1, 1976, and for spouses.—Notwithstanding any other provision ~~provisions~~ of law ~~to the contrary,~~ the department ~~of Management Services~~ shall provide health insurance coverage under the state group insurance program for persons who retired before January 1, 1976, under any of the state-administered retirement systems and who are not covered by social security and for the spouses and surviving spouses of such retirees who are also not covered by social security. Such health insurance coverage must ~~shall~~ provide the same benefits as provided to other retirees who are entitled to participate under s. 110.123. The claims experience

585-03077-10

20101238c1

1248 of this group shall be commingled with the claims experience of
1249 other members covered under s. 110.123.

1250 Section 28. Section 110.1234, Florida Statutes, is amended
1251 to read:

1252 110.1234 Health insurance for retirees under the Florida
1253 Retirement System; Medicare supplement and fully insured
1254 coverage.—

1255 (1) The department ~~of Management Services~~ shall solicit
1256 competitive bids from state-licensed insurance companies to
1257 provide and administer a fully insured Medicare supplement
1258 policy for all eligible retirees of a state or local public
1259 employer. Such ~~Medicare supplement~~ policy must ~~shall~~ meet the
1260 provisions of ss. 627.671-627.675. For the purpose of this
1261 subsection, "eligible retiree" means a ~~any~~ public employee who
1262 retired from a state or local public employer who is covered by
1263 Medicare, Parts A and B. The department shall authorize one
1264 company to offer the Medicare supplement coverage to all
1265 eligible retirees. All premiums shall be paid by the retiree.

1266 (2) The department ~~of Management Services~~ shall solicit
1267 competitive bids from state-licensed insurance companies to
1268 provide and administer fully insured health insurance coverage
1269 for all public employees who retired from a state or local
1270 public employer who are not covered by Medicare, Parts A and B.
1271 The department may authorize one company to offer such coverage
1272 if the proposed benefits and premiums are reasonable. If such
1273 coverage is authorized, all premiums shall be paid for by the
1274 retiree.

1275 Section 29. Paragraph (a) of subsection (1) of section
1276 110.1245, Florida Statutes, is amended to read:

585-03077-10

20101238c1

1277 110.1245 Savings sharing program; bonus payments; other
1278 awards.—

1279 (1) (a) The department ~~of Management Services~~ shall adopt
1280 rules that prescribe procedures and promote a savings sharing
1281 program for an individual or group of employees who propose
1282 procedures or ideas that are adopted and that result in
1283 eliminating or reducing state expenditures, if such proposals
1284 are placed in effect and may be implemented under current
1285 statutory authority.

1286 Section 30. Section 110.125, Florida Statutes, is amended
1287 to read:

1288 110.125 Administrative costs.—The administrative expenses
1289 and costs of operating the personnel program established by this
1290 chapter shall be paid by the various state agencies ~~of the state~~
1291 ~~government~~, and each such agency shall include in its budget
1292 estimates its pro rata share of such cost as determined by the
1293 department ~~of Management Services~~. To establish an equitable
1294 division of the costs, the amount to be paid by each agency
1295 shall be determined in such proportion as the service rendered
1296 to each agency bears to the total service rendered under ~~the~~
1297 ~~provisions of~~ this chapter. The amounts paid to the department
1298 ~~of Management Services~~ which are attributable to positions
1299 within the Senior Management Service and the Selected Exempt
1300 ~~Professional~~ Service shall be used for the administration of
1301 such services, training activities for positions within those
1302 services, and the development and implementation of a database
1303 of pertinent historical information on exempt positions. If
1304 ~~Should~~ any state agency is ~~become~~ more than 90 days delinquent
1305 in paying ~~payment of~~ this obligation, the department shall

585-03077-10

20101238c1

1306 certify to the Chief Financial Officer the amount due and the
1307 Chief Financial Officer shall transfer that ~~the~~ amount ~~due~~ to
1308 the department from any available debtor agency funds ~~available~~.

1309 Section 31. Subsection (7) of section 110.131, Florida
1310 Statutes, is amended to read:

1311 110.131 Other-personal-services temporary employment.—

1312 (7) The department ~~of Management Services~~ shall annually
1313 assess agencies for the regulation of other personal services on
1314 a pro rata share basis not to exceed the ~~an~~ amount ~~as~~ provided
1315 in the General Appropriations Act.

1316 Section 32. Section 110.151, Florida Statutes, is amended
1317 to read:

1318 110.151 State officers' and employees' child care
1319 services.—

1320 (1) The department ~~of Management Services~~ shall approve,
1321 administer, and coordinate child care services for state
1322 officers' and employees' children or dependents. Duties ~~shall~~
1323 include, but are not ~~be~~ limited to, reviewing and approving
1324 requests from state agencies for child care services; providing
1325 technical assistance on child care program startup and
1326 operation; and assisting other agencies in conducting needs
1327 assessments, designing centers, and selecting service providers.
1328 Primary emphasis for child care services shall be given to
1329 children who are not subject to compulsory school attendance
1330 pursuant to part II of chapter 1003, and, to the extent
1331 possible, ~~emphasis shall be placed~~ on child care for children
1332 aged 2 and under.

1333 (2) Child care programs may be located in state-owned
1334 office buildings, educational facilities and institutions,

585-03077-10

20101238c1

1335 custodial facilities and institutions, and, with the consent of
1336 the President of the Senate and the Speaker of the House of
1337 Representatives, in buildings or spaces used for legislative
1338 activities. In addition, centers may be located in privately
1339 owned buildings conveniently located to the place of employment
1340 of those officers and employees to be served by the centers. If
1341 a child care program is located in a state-owned office
1342 building, educational facility or institution, or custodial
1343 facility or institution, or in a privately owned building leased
1344 by the state, a portion of the service provider's rental fees
1345 for child care space may be waived by the sponsoring agency in
1346 accordance with the department ~~rules of the Department of~~
1347 ~~Management Services~~. Additionally, the sponsoring state agency
1348 may be responsible for the maintenance, utilities, and other
1349 operating costs associated with the child care center.

1350 (3) Except as otherwise provided in this section, the cost
1351 of child care services shall be offset by fees charged to
1352 employees who use the ~~child care~~ services. Requests for
1353 proposals may provide for a sliding fee schedule based on, ~~with~~
1354 ~~fees charged on the basis of~~ the employee's household income.

1355 (4) The provider of proposed child care services shall be
1356 selected by competitive contract. Requests for proposals shall
1357 be developed with the assistance of, and subject to the approval
1358 of, the department ~~of Management Services~~. Management of the
1359 contract with the service provider is ~~shall be~~ the
1360 responsibility of the sponsoring state agency.

1361 (5) An operator selected to provide services must comply
1362 with all state and local standards for the licensure and
1363 operation of child care facilities, maintain adequate liability

585-03077-10

20101238c1

1364 insurance coverage, and assume financial and legal
1365 responsibility for the operation of the program. ~~Neither~~ The
1366 operator of and not any personnel employed by or at a child care
1367 facility may not ~~shall~~ be deemed ~~to be~~ employees of the state.
1368 However, the sponsoring state agency may be responsible for the
1369 operation of the child care center if ~~when~~:

1370 (a) A second request for proposals fails to procure a
1371 qualified service provider; or

1372 (b) The service provider's contract is canceled and
1373 attempts to procure another qualified service provider are
1374 unsuccessful;

1375
1376 and plans for direct operation are approved by the department ~~of~~
1377 ~~Management Services~~.

1378 (6) In the areas where the state has an insufficient number
1379 of employees to justify a worksite center, a state agency may
1380 join in a consortium arrangement using ~~utilizing~~ available state
1381 facilities with not-for-profit corporations or other public
1382 employers to provide child care services to both public
1383 employees and employees of private sector employers. The
1384 consortium agreement must first address the unmet child care
1385 needs of the children of the public employees whose employers
1386 are members of the consortium, and then address the child care
1387 needs of private sector employees.

1388 (7) The department ~~of Management Services~~ may adopt ~~any~~
1389 rules necessary to administer ~~achieve the purposes of~~ this
1390 section.

1391 Section 33. Section 110.1522, Florida Statutes, is amended
1392 to read:

585-03077-10

20101238c1

1393 110.1522 Model rule establishing family support personnel
1394 policies.—The department ~~of Management Services~~ shall develop a
1395 model rule establishing family support personnel policies for
1396 all executive branch agencies, excluding the State University
1397 System. The term “family support personnel policies,” for
1398 purposes of ss. 110.1521-110.1523, means personnel policies
1399 affecting employees’ ability to both work and devote care and
1400 attention to their families and includes policies on flexible
1401 hour work schedules, compressed time, job sharing, part-time
1402 employment, maternity or paternity leave for employees with a
1403 newborn or newly adopted child, and paid and unpaid family or
1404 administrative leave for family responsibilities.

1405 Section 34. Subsections (5), (6), and (7) of section
1406 110.161, Florida Statutes, are amended to read:

1407 110.161 State employees; pretax benefits program.—

1408 (5) The department ~~of Management Services~~ shall develop
1409 rules for the pretax benefits program, which shall specify the
1410 benefits to be offered under the program, the continuing tax-
1411 exempt status of the program, and any other matters deemed
1412 necessary by the department to implement this section. The rules
1413 must be approved by a majority vote of the Administration
1414 Commission.

1415 (6) The department shall ~~of Management Services~~ ~~is~~
1416 ~~authorized to~~ administer the pretax benefits program ~~established~~
1417 for all employees so that employees may receive benefits that
1418 are not includable in gross income under the Internal Revenue
1419 Code of 1986. The pretax benefits program:

1420 (a) Must ~~shall~~ allow employee contributions to premiums for
1421 the state group insurance program administered under s. 110.123

585-03077-10

20101238c1

1422 to be paid on a pretax basis unless an employee elects not to
1423 participate.

1424 (b) Must ~~shall~~ allow employees to voluntarily establish
1425 expense reimbursement plans from their salaries on a pretax
1426 basis to pay for qualified medical and dependent care expenses,
1427 including premiums paid by employees for qualified supplemental
1428 insurance.

1429 (c) May provide for the payment of ~~such~~ premiums through a
1430 pretax payroll procedure. The Administration Commission and the
1431 department ~~of Management Services~~ are directed to take all
1432 actions necessary to preserve the tax-exempt status of the
1433 program.

1434 (7) The Legislature recognizes that a substantial amount of
1435 the employer savings realized by the implementation of a pretax
1436 benefits program is ~~will be~~ the result of diminutions in the
1437 state's employer contribution to the Federal Insurance
1438 Contributions Act tax. ~~There is hereby created~~ The Pretax
1439 Benefits Trust Fund is created in the department ~~of Management~~
1440 ~~Services~~. Each agency in the executive, legislative, or judicial
1441 branch of the state, including the State Board of
1442 Administration, state universities, and other entities of state
1443 government whose employees hold salaried positions and are paid
1444 by state warrant or from agency funds, shall transfer to the
1445 Pretax Benefits Trust Fund the full and complete employer FICA
1446 contributions saved in connection with each weekly, biweekly,
1447 semimonthly, or monthly payroll as a result of the
1448 implementation of the pretax benefits program authorized
1449 pursuant to this section. Such savings shall be transferred to
1450 the Pretax Benefits Trust Fund upon transacting each payroll,

585-03077-10

20101238c1

1451 but not later than a subsequent payroll. Any moneys forfeited
1452 pursuant to employees' salary reduction agreements to
1453 participate in the program must also be deposited in the Pretax
1454 Benefits Trust Fund. Moneys in the Pretax Benefits Trust Fund
1455 shall be used for the pretax benefits program, including its
1456 administration by the department ~~of Management Services~~ or a
1457 third-party administrator.

1458 Section 35. Subsection (1) of section 110.171, Florida
1459 Statutes, is amended to read:

1460 110.171 State employee telecommuting program.—

1461 (1) As used in this section, the term:

1462 (a) "Agency" means any official, officer, commission,
1463 board, authority, council, committee, or department of state
1464 government.

1465 ~~(b) "Department" means the Department of Management~~
1466 ~~Services.~~

1467 (b) ~~(e)~~ "Telecommuting" means a work arrangement whereby
1468 selected state employees are allowed to perform the normal
1469 duties and responsibilities of their positions, through the use
1470 of computers or telecommunications, at home or another place
1471 apart from the employees' usual place of work.

1472 Section 36. Paragraph (a) of subsection (1), paragraph (a)
1473 of subsection (2), and subsection (4) of section 110.181,
1474 Florida Statutes, are amended to read:

1475 110.181 Florida State Employees' Charitable Campaign.—

1476 (1) CREATION AND ORGANIZATION OF CAMPAIGN.—

1477 (a) The department ~~of Management Services~~ shall establish
1478 and maintain, in coordination with the payroll system of the
1479 Department of Financial Services, an annual Florida State

585-03077-10

20101238c1

1480 Employees' Charitable Campaign. Except as provided in subsection
1481 (5), this annual fundraising drive is the only authorized
1482 charitable fundraising drive directed toward state employees
1483 within work areas during work hours, and for which the state
1484 provides ~~will provide~~ payroll deduction.

1485 (2) SELECTION OF FISCAL AGENTS; COST.—

1486 (a) The department ~~of Management Services~~ shall select
1487 through the competitive procurement process a fiscal agent or
1488 agents to receive, account for, and distribute charitable
1489 contributions among participating charitable organizations.

1490 (4) FLORIDA STATE EMPLOYEES' CHARITABLE CAMPAIGN STEERING
1491 COMMITTEE.—A Florida State Employees' Charitable Campaign
1492 steering committee shall be established with seven members
1493 appointed by members of the administration commission, and two
1494 members appointed by the executive director ~~secretary~~ of the
1495 department from among applications submitted from other agencies
1496 or departments. The committee, whose members shall serve
1497 staggered terms, shall meet at the call of the executive
1498 director ~~secretary~~. Members shall serve without compensation,
1499 but shall be entitled to receive reimbursement for travel and
1500 per diem expenses as provided in s. 112.061.

1501 Section 37. Subsection (1) of section 110.2035, Florida
1502 Statutes, is amended to read:

1503 110.2035 Classification and compensation program.—

1504 (1) The department ~~of Management Services~~ shall establish
1505 and maintain a classification and compensation program
1506 addressing career service, selected exempt service, and senior
1507 management service positions. Actions ~~No action~~ may not be taken
1508 to fill any position until it has been classified in accordance

585-03077-10

20101238c1

1509 with the classification plan.

1510 (a) The department shall develop occupation profiles
1511 necessary for the establishment of new occupations or for the
1512 revision of existing occupations and shall adopt the appropriate
1513 occupation title and broadband level code for each occupation.
1514 Such occupation profiles, titles, and codes are ~~shall~~ not
1515 ~~constitute~~ rules within the meaning of s. 120.52.

1516 (b) The department shall be responsible for conducting
1517 periodic studies and surveys to ensure that the classification
1518 plan is maintained on a current basis.

1519 (c) The department may review in a postaudit capacity the
1520 action taken by an employing agency in classifying or
1521 reclassifying a position.

1522 (d) The department shall effect a classification change on
1523 any classification or reclassification action taken by an
1524 employing agency if the action taken by the agency was not based
1525 on the duties and responsibilities officially assigned the
1526 position as they relate to the concepts and description
1527 contained in the official occupation profile and the level
1528 definition ~~defined~~ in the occupational group characteristics
1529 adopted by the department.

1530 (e) In cooperation and consultation with the employing
1531 agencies, the department shall adopt rules necessary to
1532 administer ~~govern the administration of~~ the classification plan.
1533 Such rules shall be approved by the Administration Commission
1534 before ~~prior to~~ their adoption by the department.

1535 Section 38. Subsection (1) of section 110.2037, Florida
1536 Statutes, is amended to read:

1537 110.2037 Alternative benefits; tax-sheltered annual leave

585-03077-10

20101238c1

1538 and sick leave payments and special compensation payments.—

1539 (1) The department may ~~of Management Services has authority~~
1540 ~~to~~ adopt tax-sheltered plans under s. 401(a) of the Internal
1541 Revenue Code for state employees who are eligible for payment
1542 for accumulated leave. ~~The department,~~ Upon adoption of the
1543 plans, the department shall contract for a private vendor or
1544 vendors to administer the plans. These plans are ~~shall be~~
1545 limited to state employees who are over age 55 and who are
1546 eligible for accumulated leave and special compensation payments
1547 and separating from employment with 10 years of service in
1548 accordance with the Internal Revenue Code, or who are
1549 participating in the Deferred Retirement Option Program on or
1550 after July 1, 2001. The plans must provide benefits in a manner
1551 that minimizes the tax liability of the state and participants.
1552 The plans must be funded by employer contributions of payments
1553 for accumulated leave or special compensation payments, or both,
1554 as specified by the department. The plans must have received all
1555 necessary federal and state approval as required by law, must
1556 not adversely impact the qualified status of the Florida
1557 Retirement System defined benefit or defined contribution plans
1558 or the pretax benefits program, and must comply with the
1559 provisions of s. 112.65. Adoption of any plan is contingent on
1560 the department receiving appropriate favorable rulings from the
1561 Internal Revenue Service; the department negotiating under the
1562 provisions of chapter 447, where applicable; and the Chief
1563 Financial Officer making appropriate changes to the state
1564 payroll system. The department's request for proposals by
1565 vendors ~~for such plans~~ may require that the vendors provide
1566 market-risk or volatility ratings from recognized rating

585-03077-10

20101238c1

1567 agencies for each of their investment products. The department
1568 shall provide ~~for~~ a system of continuous quality assurance
1569 oversight to ensure that the program objectives are achieved and
1570 that the program is prudently managed.

1571 Section 39. Subsections (4) and (6) of section 110.205,
1572 Florida Statutes, as amended by chapter 2009-271, Laws of
1573 Florida, are amended to read:

1574 110.205 Career service; exemptions.—

1575 (4) DEFINITION OF DEPARTMENT.—~~As when~~ used in this section,
1576 the term "department" shall mean all departments and commissions
1577 of the executive branch, whether created by the State
1578 Constitution or chapter 20,~~†~~ the office of the Governor,~~†~~ and
1579 the Public Service Commission; however, the term "department"
1580 means shall mean the Department of Personnel Management ~~Services~~
1581 when used in the context of the authority to establish pay bands
1582 and benefits.

1583 (6) EXEMPTION OF CHIEF INSPECTOR OF BOILER SAFETY PROGRAM,
1584 DEPARTMENT OF FINANCIAL SERVICES.—~~In addition to those positions~~
1585 ~~exempted from this part, there is hereby exempted from the~~
1586 ~~Career Service System~~ The chief inspector of the boiler
1587 inspection program of the Department of Financial Services is
1588 exempted from Career Service. The pay band of this position
1589 shall be established by the Department of Personnel Management
1590 ~~Services~~ in accordance with the classification and pay plan
1591 established for the Selected Exempt Service.

1592 Section 40. Subsection (2) of section 110.2135, Florida
1593 Statutes, is amended to read:

1594 110.2135 Preference in employment, reemployment, promotion,
1595 and retention.—

585-03077-10

20101238c1

1596 (2) A disabled veteran employed as the result of being
1597 placed at the top of the appropriate employment list under ~~the~~
1598 ~~provisions of~~ s. 295.08 or s. 295.085 shall be appointed for a
1599 probationary period of 1 year. At the end of such period, if the
1600 work of the veteran has been satisfactorily performed, the
1601 veteran will acquire permanent employment status and ~~will~~ be
1602 subject to the employment rules of the department ~~of Management~~
1603 ~~Services~~ and the veteran's employing agency.

1604 Section 41. Paragraph (a) of subsection (3) of section
1605 110.227, Florida Statutes, is amended to read:

1606 110.227 Suspensions, dismissals, reductions in pay,
1607 demotions, layoffs, transfers, and grievances.—

1608 (3) (a) For ~~With regard to~~ law enforcement or correctional
1609 officers, firefighters, or professional health care providers,
1610 if when a layoff becomes necessary, the ~~such~~ layoff shall be
1611 conducted within the competitive area identified by the agency
1612 head and approved by the department ~~of Management Services~~. Such
1613 competitive area shall be established taking into consideration
1614 the similarity of work; the organizational unit, which may be by
1615 agency, department, division, bureau, or other organizational
1616 unit; and the commuting area for the work affected.

1617 Section 42. Subsections (1) and (2) of section 110.403,
1618 Florida Statutes, are amended to read:

1619 110.403 Powers and duties of the department.—

1620 (1) In order to implement the purposes of this part, the
1621 department ~~of Management Services~~, after approval by the
1622 Administration Commission, shall adopt ~~and amend~~ rules that
1623 provide ~~providing for~~:

1624 (a) A system for employing, promoting, or reassigning

585-03077-10

20101238c1

1625 managers that is responsive to organizational or program needs.
1626 ~~In no event shall~~ The number of positions included in the Senior
1627 Management Service may not exceed 1.0 percent of the total full-
1628 time equivalent positions in the Career Service. The department
1629 may not approve the establishment of ~~shall deny approval to~~
1630 ~~establish~~ any position within the Senior Management Service
1631 which exceeds ~~would exceed~~ the limitation established in this
1632 paragraph. The department shall report that the limitation has
1633 been reached to the Governor, the President of the Senate, and
1634 the Speaker of the House of Representatives, as soon as
1635 practicable after it ~~such event~~ occurs. Employees in the Senior
1636 Management Service shall serve at the pleasure of the agency
1637 head and are ~~shall be~~ subject to suspension, dismissal,
1638 reduction in pay, demotion, transfer, or other personnel action
1639 at the discretion of the agency head. Such personnel actions are
1640 exempt from ~~the provisions of~~ chapter 120.

1641 (b) A performance appraisal system that takes ~~which shall~~
1642 ~~take~~ into consideration individual and organizational
1643 efficiency, productivity, and effectiveness.

1644 (c) A classification plan and a salary and benefit plan
1645 that provides appropriate incentives for the recruitment and
1646 retention of outstanding management personnel and provides ~~for~~
1647 salary increases based on performance.

1648 (d) A system of rating duties and responsibilities for
1649 positions within the Senior Management Service and the
1650 qualifications of candidates for those positions.

1651 (e) A system for documenting actions taken on agency
1652 requests for approval of position exemptions and special pay
1653 increases.

585-03077-10

20101238c1

1654 (f) Requirements for ~~regarding~~ recordkeeping by agencies
1655 with respect to senior management service positions. Such
1656 records shall be audited periodically by the department ~~of~~
1657 ~~Management Services~~ to determine agency compliance with ~~the~~
1658 ~~provisions of~~ this part and department ~~the rules of the~~
1659 ~~Department of Management Services~~.

1660 (g) Other procedures relating to personnel administration
1661 to carry out the purposes of this part.

1662 (h) A program of affirmative and positive action that will
1663 ensure full utilization of women and minorities in senior
1664 management service positions.

1665 (2) The powers, duties, and functions of the department
1666 includes ~~of Management Services shall include~~ responsibility for
1667 the policy administration of the Senior Management Service.

1668 Section 43. Section 110.405, Florida Statutes, is amended
1669 to read:

1670 110.405 Advisory committees.—The department's executive
1671 director ~~Secretary of Management Services~~ may at any time
1672 appoint an ad hoc or continuing advisory committee consisting of
1673 members of the Senior Management Service or other persons
1674 knowledgeable in the field of personnel management. ~~Any~~ Such
1675 committee may not have ~~shall consist of not~~ more than nine
1676 members, who shall serve at the pleasure of and meet at the call
1677 of the director ~~secretary~~, to advise and consult with the
1678 director ~~secretary~~ on such matters affecting the Senior
1679 Management Service as the director ~~secretary~~ requests. Members
1680 shall serve without compensation, but are ~~shall be~~ entitled to
1681 ~~receive~~ reimbursement for travel expenses as provided in s.
1682 112.061. The executive director ~~secretary~~ may periodically hire

585-03077-10

20101238c1

1683 a consultant who has ~~with~~ expertise in personnel management to
1684 advise him or her with respect to the administration of the
1685 Senior Management Service.

1686 Section 44. Paragraph (b) of subsection (2) and subsection
1687 (3) of section 110.406, Florida Statutes, are amended to read:

1688 110.406 Senior Management Service; data collection.—

1689 (2) The data required by this section shall include:

1690 (b) Any recommendations and proposals for legislation which
1691 the executive director ~~secretary~~ may have with respect to
1692 improving the operation and administration of the Senior
1693 Management Service.

1694 (3) To assist in the preparation of the data required by
1695 this section, the executive director ~~secretary~~ may hire a
1696 consultant with expertise in the field of personnel management
1697 and may use the services of the advisory committee authorized in
1698 s. 110.405.

1699 Section 45. Section 110.503, Florida Statutes, is amended
1700 to read:

1701 110.503 Responsibilities of state ~~departments and~~
1702 agencies.—Each state ~~department or~~ agency using ~~utilizing~~ the
1703 services of volunteers shall:

1704 (1) Take such actions as are necessary and appropriate to
1705 develop meaningful opportunities for volunteers involved in
1706 state-administered programs.

1707 (2) Comply with the uniform rules adopted by the department
1708 ~~of Management Services~~ governing the recruitment, screening,
1709 training, responsibility, use, and supervision of volunteers.

1710 (3) Take such actions as are necessary to ensure that
1711 volunteers understand their duties and responsibilities.

585-03077-10

20101238c1

1712 (4) Take such actions as are necessary and appropriate to
1713 ensure a receptive climate for citizen volunteers.

1714 (5) Provide for the recognition of volunteers who have
1715 offered continuous and outstanding service to state-administered
1716 programs. Each state department ~~or~~ agency using the services of
1717 volunteers may ~~is authorized to~~ incur expenditures not to exceed
1718 \$100 each plus applicable taxes for suitable framed
1719 certificates, plaques, or other tokens of recognition to honor,
1720 reward, or encourage volunteers for their service.

1721 (6) Recognize prior volunteer service as partial
1722 fulfillment of state employment requirements for training and
1723 experience pursuant to department rules ~~adopted by the~~
1724 ~~Department of Management Services~~.

1725 Section 46. Subsection (5) of section 110.605, Florida
1726 Statutes, is amended to read:

1727 110.605 Powers and duties; personnel rules, records,
1728 reports, and performance appraisal.—

1729 (5) The executive director ~~secretary~~ may periodically hire
1730 a consultant with expertise in personnel management to advise
1731 him or her with respect to the administration of the Selected
1732 Exempt Service.

1733 Section 47. Paragraph (b) of subsection (2) and subsection
1734 (3) of section 110.606, Florida Statutes, are amended to read:

1735 110.606 Selected Exempt Service; data collection.—

1736 (2) The data required by this section shall include:

1737 (b) Any recommendations and proposals for legislation which
1738 the executive director ~~secretary~~ may have with respect to
1739 improving the operation and administration of the Selected
1740 Exempt Service.

585-03077-10

20101238c1

1741 (3) To assist in the preparation of the data required by
1742 this section, the executive director ~~secretary~~ may hire a
1743 consultant with expertise in the field of personnel management.

1744 Section 48. Paragraph (c) of subsection (13) of section
1745 112.0455, Florida Statutes, is amended to read:

1746 112.0455 Drug-Free Workplace Act.—

1747 (13) RULES.—

1748 (c) The Department of Personnel Management ~~Services~~ may
1749 adopt rules for all executive branch agencies implementing this
1750 section.

1751
1752 This section shall not be construed to eliminate the bargainable
1753 rights as provided in the collective bargaining process where
1754 applicable.

1755 Section 49. Paragraph (b) of subsection (4) of section
1756 112.05, Florida Statutes, is amended to read:

1757 112.05 Retirement; cost-of-living adjustment; employment
1758 after retirement.—

1759 (4)

1760 (b) Any person to whom the limitation in paragraph (a)
1761 applies who violates such ~~reemployment~~ limitation and is
1762 reemployed with any agency participating in the Florida
1763 Retirement System before completing ~~prior to completion~~ of the
1764 12-month limitation period must ~~shall~~ give timely notice of this
1765 fact in writing to the employer and to the Division of
1766 Retirement; and the person's retirement benefits shall be
1767 suspended for the balance of the 12-month limitation period. Any
1768 person employed in violation of this subsection and any
1769 employing agency that ~~which~~ knowingly employs or appoints such

585-03077-10

20101238c1

1770 person without notifying the Department of Personnel Management
1771 ~~Services~~ to suspend retirement benefits is ~~shall be~~ jointly and
1772 severally liable for reimbursement to the retirement trust fund
1773 of any benefits paid during the ~~reemployment~~ limitation period.
1774 To avoid liability, the ~~such~~ employing agency must ~~shall~~ have a
1775 written statement from the retiree that he or she is not retired
1776 from a state-administered retirement system. Any retirement
1777 benefits received by such person while reemployed during this
1778 limitation period must ~~shall~~ be repaid to the retirement trust
1779 fund, and the retirement benefits ~~shall~~ remain suspended until
1780 such repayment has been made. Any benefits suspended beyond the
1781 reemployment limitation period ~~shall~~ apply toward the repayment
1782 of benefits received in violation of the reemployment
1783 limitation.

1784 Section 50. Subsection (5) of section 112.08, Florida
1785 Statutes, is amended to read:

1786 112.08 Group insurance for public officers, employees, and
1787 certain volunteers; physical examinations.-

1788 (5) The Department of Personnel Management ~~Services~~ shall
1789 initiate and supervise a group insurance program providing death
1790 and disability benefits for active members of the Florida
1791 Highway Patrol Auxiliary, with coverage beginning July 1, 1978,
1792 and purchased from state funds appropriated for that purpose.
1793 The department ~~of Management Services~~, in cooperation with the
1794 Office of Insurance Regulation, shall prepare specifications
1795 necessary to implement the program, ~~and the Department of~~
1796 ~~Management Services~~ shall receive bids and award the contract in
1797 accordance with general law.

1798 Section 51. Section 112.0804, Florida Statutes, is amended

585-03077-10

20101238c1

1799 to read:

1800 112.0804 Medicare supplement and health insurance for
1801 retirees under the Florida Retirement System; ~~Medicare~~
1802 ~~supplement and fully insured coverage.~~-

1803 (1) The Department of Personnel Management ~~Services~~ shall
1804 solicit competitive bids from state-licensed insurance companies
1805 to provide and administer a fully insured Medicare supplement
1806 policy for all eligible retirees of a state or local public
1807 employer. Such ~~Medicare supplement~~ policy must ~~shall~~ meet the
1808 provisions of ss. 627.671-627.675. For the purpose of this
1809 subsection, the term "eligible retiree" means any public
1810 employee who retired from a state or local public employer who
1811 is covered by Medicare, Parts A and B. The department ~~of~~
1812 ~~Management Services~~ shall authorize one company to offer the
1813 Medicare supplement coverage to all eligible retirees. All
1814 premiums shall be paid by the retiree.

1815 (2) The Department of Management Services shall solicit
1816 competitive bids from state-licensed insurance companies to
1817 provide and administer fully insured health insurance coverage
1818 for all public employees who retired from a state or local
1819 public employer and who are not covered by Medicare, Parts A and
1820 B. The department ~~of Management Services~~ may authorize one
1821 company to offer such coverage if the proposed benefits and
1822 premiums are reasonable. If such coverage is authorized, all
1823 premiums shall be paid for by the retiree.

1824 Section 52. Subsections (1) and (2) of section 112.24,
1825 Florida Statutes, are amended to read:

1826 112.24 Intergovernmental interchange of public employees.-
1827 To encourage economical and effective utilization of public

585-03077-10

20101238c1

1828 employees in this state, the temporary assignment of employees
1829 among agencies of government, both state and local, and
1830 including school districts and public institutions of higher
1831 education is authorized under terms and conditions set forth in
1832 this section. State agencies, municipalities, and political
1833 subdivisions are authorized to enter into employee interchange
1834 agreements with other state agencies, the Federal Government,
1835 another state, a municipality, or a political subdivision
1836 including a school district, or with a public institution of
1837 higher education. State agencies are also authorized to enter
1838 into employee interchange agreements with private institutions
1839 of higher education and other nonprofit organizations under the
1840 terms and conditions provided in this section. In addition, the
1841 Governor or the Governor and Cabinet may enter into employee
1842 interchange agreements with a state agency, the Federal
1843 Government, another state, a municipality, or a political
1844 subdivision including a school district, or with a public
1845 institution of higher learning to fill, subject to the
1846 requirements of chapter 20, appointive offices which are within
1847 the executive branch of government and which are filled by
1848 appointment by the Governor or the Governor and Cabinet. Under
1849 no circumstances shall employee interchange agreements be
1850 utilized for the purpose of assigning individuals to participate
1851 in political campaigns. Duties and responsibilities of
1852 interchange employees shall be limited to the mission and goals
1853 of the agencies of government.

1854 (1) Details of an employee interchange program must ~~shall~~
1855 be the subject of an agreement, which may be extended or
1856 modified, between a sending party and a receiving party. State

585-03077-10

20101238c1

1857 agencies shall report such agreements and any extensions or
1858 modifications ~~thereto~~ to the Department of Personnel Management
1859 Services.

1860 (2) The period of an individual's assignment or detail
1861 under an employee interchange program may ~~shall~~ not exceed 2
1862 years. Upon agreement of the sending party and the receiving
1863 party and under the same or modified terms, an assignment or
1864 detail of 2 years may be extended by 3 months. However,
1865 agreements relating to faculty members of the State University
1866 System may be extended biennially upon approval by the
1867 Department of Personnel Management ~~Services~~. If the appointing
1868 agency is the Governor or the Governor and Cabinet, the period
1869 of an individual's assignment or detail under an employee
1870 interchange program may ~~shall~~ not exceed 2 years plus an
1871 extension of 3 months or the number of years left in the term of
1872 office of the Governor, whichever is less.

1873 Section 53. Paragraph (d) of subsection (4) of section
1874 112.3173, Florida Statutes, is amended to read:

1875 112.3173 Felonies involving breach of public trust and
1876 other specified offenses by public officers and employees;
1877 forfeiture of retirement benefits.—

1878 (4) NOTICE.—

1879 (d) The Commission on Ethics shall forward any notice and
1880 any other document received by it pursuant to this subsection to
1881 the governing body of the public retirement system of which the
1882 public officer or employee is a member or from which the public
1883 officer or employee may be entitled to receive a benefit. If
1884 ~~When~~ called on by the Commission on Ethics, the Department of
1885 Personnel Management ~~Services~~ shall assist the commission in

585-03077-10

20101238c1

1886 identifying the appropriate public retirement system.

1887 Section 54. Paragraph (a) of subsection (3) of section
1888 112.31895, Florida Statutes, is amended to read:

1889 112.31895 Investigative procedures in response to
1890 prohibited personnel actions.—

1891 (3) CORRECTIVE ACTION AND TERMINATION OF INVESTIGATION.—

1892 (a) The Florida Commission on Human Relations, in
1893 accordance with the Whistle-blower's ~~this~~ Act and for the sole
1894 purpose of the ~~this~~ act, is empowered to:

1895 1. Receive and investigate complaints from employees
1896 alleging retaliation by state agencies, as the term "state
1897 agency" is defined in s. 216.011.

1898 2. Protect employees and applicants for employment with
1899 such agencies from prohibited personnel practices under s.
1900 112.3187.

1901 3. Petition for stays and petition for corrective actions,
1902 including, but not limited to, temporary reinstatement.

1903 4. Recommend disciplinary proceedings pursuant to
1904 investigation and appropriate agency rules and procedures.

1905 5. Coordinate with the Chief Inspector General in the
1906 Executive Office of the Governor and the Florida Commission on
1907 Human Relations to receive, review, and forward to appropriate
1908 agencies, legislative entities, or the Department of Law
1909 Enforcement disclosures of a violation of any law, rule, or
1910 regulation, or disclosures of gross mismanagement, malfeasance,
1911 misfeasance, nonfeasance, neglect of duty, or gross waste of
1912 public funds.

1913 6. Review rules pertaining to personnel matters issued or
1914 proposed by the Department of Personnel Management ~~Services~~, the

585-03077-10

20101238c1

1915 Public Employees Relations Commission, and other agencies, and,
1916 if the Florida Commission on Human Relations finds that any rule
1917 or proposed rule, on its face or as implemented, requires the
1918 commission of a prohibited personnel practice, provide a written
1919 comment to the appropriate agency.

1920 7. Investigate, request assistance from other governmental
1921 entities, and, if appropriate, bring actions concerning,
1922 allegations of retaliation by state agencies under subparagraph
1923 1.

1924 8. Administer oaths, examine witnesses, take statements,
1925 issue subpoenas, order the taking of depositions, order
1926 responses to written interrogatories, and make appropriate
1927 motions to limit discovery, pursuant to investigations under
1928 subparagraph 1.

1929 9. Intervene or otherwise participate, as a matter of
1930 right, in any appeal or other proceeding arising under this
1931 section before the Public Employees Relations Commission or any
1932 other appropriate agency, except that the Florida Commission on
1933 Human Relations must comply with the rules of the commission or
1934 other agency and may not seek corrective action or intervene in
1935 an appeal or other proceeding without the consent of the person
1936 protected under ss. 112.3187-112.31895.

1937 10. Conduct an investigation, in the absence of an
1938 allegation, to determine whether reasonable grounds exist to
1939 believe that a prohibited action or a pattern of prohibited
1940 action has occurred, is occurring, or is to be taken.

1941 Section 55. Subsection (7) of section 112.352, Florida
1942 Statutes, is amended to read:

1943 112.352 Definitions.—The following words and phrases as

585-03077-10

20101238c1

1944 used in this act shall have the following meaning unless a
1945 different meaning is required by the context:

1946 (7) "Department" means the Department of Personnel
1947 Management Services.

1948 Section 56. Section 112.354, Florida Statutes, is amended
1949 to read:

1950 112.354 Eligibility for supplement.—Each retired member or,
1951 if applicable, a joint annuitant, except any person receiving
1952 survivor benefits under the teachers' retirement system of the
1953 state in accordance with s. 238.07(18), is ~~shall be~~ entitled to
1954 receive a supplement computed in accordance with s. 112.355
1955 upon:

1956 (1) Furnishing to the department ~~of Management Services~~
1957 evidence from the Social Security Administration of setting
1958 ~~forth~~ the retired member's social security benefit or certifying
1959 the noninsured status of the retired member under the Social
1960 Security Act, and

1961 (2) Filing written application ~~with the Department of~~
1962 ~~Management Services~~ for such supplement with the department.

1963 Section 57. Section 112.358, Florida Statutes, is amended
1964 to read:

1965 112.358 Administration of system.—The department ~~of~~
1966 ~~Management Services~~ shall adopt ~~make such~~ rules and regulations
1967 as ~~are~~ necessary for the effective and efficient administration
1968 of this part act and the cost to pay the expenses of such
1969 administration is ~~hereby~~ appropriated out of the appropriate
1970 retirement fund.

1971 Section 58. Paragraph (g) of subsection (2) of section
1972 112.361, Florida Statutes, is amended to read:

585-03077-10

20101238c1

1973 112.361 Additional and updated supplemental retirement
1974 benefits.-

1975 (2) DEFINITIONS.-As used in this section, unless a
1976 different meaning is required by the context:

1977 ~~(g) "Department" means the Department of Management~~
1978 ~~Services.~~

1979 Section 59. Paragraphs (a) and (b) of subsection (4) of
1980 section 112.362, Florida Statutes, are amended to read:

1981 112.362 Recomputation of retirement benefits.-

1982 (4) (a) Effective July 1, 1980, any person who retired
1983 before ~~prior to~~ July 1, 1987, under a state-supported retirement
1984 system with at least ~~not less than~~ 10 years of creditable
1985 service and who is not receiving or entitled to receive federal
1986 social security benefits shall, upon reaching 65 years of age
1987 and upon application to the department ~~of Management Services,~~
1988 ~~be entitled to~~ receive a minimum monthly benefit equal to \$16.50
1989 multiplied by the member's total number of years of creditable
1990 service and adjusted by the actuarial factor applied to the
1991 original benefit for optional forms of retirement. Thereafter,
1992 the minimum monthly benefit shall be recomputed as provided in
1993 paragraph (5) (a). Application for this minimum monthly benefit
1994 must ~~shall~~ include certification by the retired member that he
1995 or she is not receiving and is not entitled to receive social
1996 security benefits and ~~shall~~ include written authorization giving
1997 ~~for~~ the department ~~of Management Services to have~~ access to
1998 information from the Federal Social Security Administration
1999 concerning the member's entitlement to or eligibility for social
2000 security benefits. The minimum benefit may ~~provided by this~~
2001 ~~paragraph shall~~ not be paid unless and ~~until~~ the application

585-03077-10

20101238c1

2002 requirements of this paragraph are satisfied.

2003 (b) Effective July 1, 1978, the surviving spouse or
2004 beneficiary who is receiving or entitled to receive a monthly
2005 benefit commencing before ~~prior to~~ July 1, 1987, from the
2006 account of a ~~any~~ deceased retired member who had completed at
2007 least 10 years of creditable service shall, at the time the ~~such~~
2008 deceased retiree would have reached age 65, if living, and, upon
2009 application to the department ~~of Management Services~~, ~~be~~
2010 ~~entitled to~~ receive the minimum monthly benefit described in
2011 paragraph (a), adjusted by the actuarial factor applied to the
2012 optional form of benefit payable to the said surviving spouse or
2013 beneficiary, if such ~~provided said~~ person is not receiving or
2014 entitled to receive federal social security benefits.

2015 Application for this minimum monthly benefit must ~~shall~~ include
2016 certification by the surviving spouse or beneficiary that he or
2017 she is not receiving and is not entitled to receive social
2018 security benefits and ~~shall~~ include written authorization giving
2019 ~~for the department of Management Services to have access to~~
2020 information from the Federal Social Security Administration
2021 concerning such person's entitlement to or eligibility for
2022 social security benefits. The minimum benefit may ~~provided by~~
2023 ~~this paragraph shall~~ not be paid unless and until the
2024 application requirements of this paragraph are satisfied.

2025 Section 60. Paragraph (d) of subsection (2) and subsections
2026 (4), (7), and (8) of section 112.363, Florida Statutes, are
2027 amended to read:

2028 112.363 Retiree health insurance subsidy.—

2029 (2) ELIGIBILITY FOR RETIREE HEALTH INSURANCE SUBSIDY.—

2030 (d) Payment of the retiree health insurance subsidy shall

585-03077-10

20101238c1

2031 be made only after coverage for health insurance for the retiree
2032 or beneficiary has been certified in writing to the department
2033 ~~of Management Services~~. Participation in a former employer's
2034 group health insurance program is not a requirement for
2035 eligibility under this section. Coverage issued pursuant to s.
2036 408.9091 is considered health insurance for the purposes of this
2037 section.

2038 (4) PAYMENT OF RETIREE HEALTH INSURANCE SUBSIDY.—Beginning
2039 January 1, 1988, any monthly retiree health insurance subsidy
2040 amount due and payable under this section shall be paid to
2041 retired members by the department ~~of Management Services~~ or
2042 under the direction and control of the department.

2043 (7) ADMINISTRATION OF SYSTEM.—The department ~~of Management~~
2044 ~~Services~~ may adopt ~~such rules and regulations~~ as are necessary
2045 for the effective and efficient administration of this section.
2046 The cost of administration shall be appropriated from the trust
2047 fund.

2048 (8) CONTRIBUTIONS.—For purposes of funding the insurance
2049 subsidy provided by this section:

2050 (a) Beginning October 1, 1987, the employer of each member
2051 of a state-administered retirement plan shall contribute 0.24
2052 percent of gross compensation each pay period.

2053 (b) Beginning January 1, 1989, the employer of each member
2054 of a state-administered retirement plan shall contribute 0.48
2055 percent of gross compensation each pay period.

2056 (c) Beginning January 1, 1994, the employer of each member
2057 of a state-administered retirement plan shall contribute 0.56
2058 percent of gross compensation each pay period.

2059 (d) Beginning January 1, 1995, the employer of each member

585-03077-10

20101238c1

2060 of a state-administered retirement plan shall contribute 0.66
2061 percent of gross compensation each pay period.

2062 (e) Beginning July 1, 1998, the employer of each member of
2063 a state-administered retirement plan shall contribute 0.94
2064 percent of gross compensation each pay period.

2065 (f) Beginning July 1, 2001, the employer of each member of
2066 a state-administered plan shall contribute 1.11 percent of gross
2067 compensation each pay period.

2068
2069 Such contributions shall be submitted to the department of
2070 ~~Management Services~~ and deposited in the Retiree Health
2071 Insurance Subsidy Trust Fund.

2072 Section 61. Subsections (2) and (4) of section 112.63,
2073 Florida Statutes, are amended to read:

2074 112.63 Actuarial reports and statements of actuarial
2075 impact; review.—

2076 (2) The frequency of actuarial reports must be at least
2077 every 3 years commencing from the last actuarial report of the
2078 plan or system or October 1, 1980, if no actuarial report has
2079 been issued within the 3-year period prior to October 1, 1979.
2080 The results of each actuarial report must ~~shall~~ be filed with
2081 the plan administrator within 60 days after ~~of~~ certification.
2082 Thereafter, the results of each ~~actuarial~~ report shall be made
2083 available for inspection upon request. Additionally, each
2084 retirement system or plan covered by this part ~~act~~ which is not
2085 administered directly by the Department of Personnel Management
2086 ~~Services~~ shall furnish a copy of each actuarial report to the
2087 department of ~~Management Services~~ within 60 days after receipt
2088 from the actuary. The requirements of this section are

585-03077-10

20101238c1

2089 supplemental to actuarial valuations necessary to comply with
2090 ~~the requirements of~~ s. 218.39.

2091 (4) Upon receipt, pursuant to subsection (2), of an
2092 actuarial report, or upon receipt, pursuant to subsection (3),
2093 of a statement of actuarial impact, the Department of Personnel
2094 Management ~~Services~~ shall acknowledge such receipt, but shall
2095 only review and comment on each retirement system's or plan's
2096 actuarial valuations at least on a triennial basis. If the
2097 department finds that the actuarial valuation is not complete,
2098 accurate, or based on reasonable assumptions or otherwise
2099 materially fails to satisfy the requirements of this part; if ~~if~~
2100 ~~the department~~ requires additional material information
2101 necessary to complete its review of the actuarial valuation of a
2102 system or plan or material information necessary to satisfy the
2103 duties of the department pursuant to s. 112.665(1); or ~~if the~~
2104 ~~department~~ does not receive the actuarial report or statement of
2105 actuarial impact, the department shall notify the administrator
2106 of the affected retirement system or plan and the affected
2107 governmental entity and request appropriate adjustment, the
2108 additional material information, or the required report or
2109 statement. The notification must inform the administrator of the
2110 affected retirement system or plan and the affected governmental
2111 entity of the consequences of failing ~~for failure~~ to comply with
2112 ~~the requirements of~~ this subsection. If, after a reasonable
2113 period of time, a satisfactory adjustment is not made or the
2114 report, statement, or additional material information is not
2115 provided, the department may notify the Department of Revenue
2116 and the Department of Financial Services of such noncompliance,
2117 in which case the Department of Revenue and the Department of

585-03077-10

20101238c1

2118 Financial Services shall withhold any funds not pledged for
2119 satisfaction of bond debt service which are payable to the
2120 affected governmental entity until the adjustment is made or the
2121 report, statement, or additional material information is
2122 provided to the department. The department shall specify the
2123 date such action is to begin, and notification by the department
2124 must be received by the Department of Revenue, the Department of
2125 Financial Services, and the affected governmental entity 30 days
2126 before the date the action begins.

2127 (a) Within 21 days after receipt of the notice, the
2128 affected governmental entity may petition for a hearing under
2129 ss. 120.569 and 120.57 with the Department of Personnel
2130 ~~Management Services~~. The Department of Revenue and the
2131 Department of Financial Services may not be parties to ~~any~~ such
2132 hearing, but may request to intervene if requested by the
2133 department ~~of Management Services~~ or if the Department of
2134 Revenue or the Department of Financial Services determines its
2135 interests may be adversely affected by the hearing. If the
2136 administrative law judge recommends in favor of the department,
2137 the department shall perform an actuarial review, prepare the
2138 statement of actuarial impact, or collect the requested material
2139 information. The cost to the department of conducting ~~performing~~
2140 such actuarial review, preparing the statement, or collecting
2141 the requested material information shall be charged to the
2142 affected governmental entity responsible for ~~of which~~ the
2143 employees ~~are~~ covered by the retirement system or plan. If
2144 payment of such costs is not received by the department within
2145 60 days after receipt by the affected governmental entity of the
2146 request for payment, the department shall certify to the

585-03077-10

20101238c1

2147 Department of Revenue and the Department of Financial Services
2148 the amount due, and the Department of Revenue and the Department
2149 of Financial Services shall pay such amount to the department ~~of~~
2150 ~~Management Services~~ from any funds not pledged for satisfaction
2151 of bond debt service which are payable to the affected
2152 governmental entity ~~of which the employees are covered by the~~
2153 ~~retirement system or plan~~. If the administrative law judge
2154 recommends in favor of the affected governmental entity and the
2155 department conducts ~~performs~~ an actuarial review, prepares the
2156 statement of actuarial impact, or collects the requested
2157 material information, the cost to the department of performing
2158 the actuarial review, preparing the statement, or collecting the
2159 requested material information shall be paid by the department
2160 ~~of Management Services~~.

2161 (b) In the case of an affected special district, the
2162 Department of Personnel Management ~~Services~~ shall also notify
2163 the Department of Community Affairs. Upon receipt of
2164 notification, the Department of Community Affairs shall proceed
2165 pursuant to ~~the provisions of~~ s. 189.421 with regard to the
2166 special district.

2167 Section 62. Subsection (1) of section 112.64, Florida
2168 Statutes, is amended to read:

2169 112.64 Administration of funds; amortization of unfunded
2170 liability.—

2171 (1) Employee contributions shall be deposited in the
2172 retirement system or plan at least monthly. Employer
2173 contributions shall be deposited at least quarterly; however,
2174 any revenues received from any source by an employer which are
2175 specifically collected for the purpose of allocation for deposit

585-03077-10

20101238c1

2176 into a retirement system or plan must ~~shall~~ be ~~so~~ deposited
2177 within 30 days after ~~of~~ receipt by the employer. All employers
2178 and employees participating in the Florida Retirement System and
2179 other existing retirement systems that ~~which~~ are administered by
2180 the Department of Personnel Management Services shall continue
2181 to make contributions at least monthly.

2182 Section 63. Section 112.658, Florida Statutes, is amended
2183 to read:

2184 112.658 Office of Program Policy Analysis and Government
2185 Accountability to determine compliance of the Florida Retirement
2186 System.—

2187 ~~(1)~~ The Office of Program Policy Analysis and Government
2188 Accountability shall:

2189 (1) Determine, through the examination of actuarial
2190 reviews, financial statements, and the practices and procedures
2191 of the Department of Personnel Management ~~Services~~, the
2192 compliance of the Florida Retirement System with the provisions
2193 of this part ~~act~~.

2194 ~~(2) The Office of Program Policy Analysis and Government~~
2195 ~~Accountability shall~~ Employ an independent consulting actuary
2196 who is an enrolled actuary ~~as defined in this part~~ to assist in
2197 the determination of compliance.

2198 ~~(3) The Office of Program Policy Analysis and Government~~
2199 ~~Accountability shall~~ Employ the same actuarial standards to
2200 monitor the Department of Personnel Management that ~~Services as~~
2201 the department ~~of Management Services~~ uses to monitor local
2202 governments.

2203 Section 64. Subsections (9), (16), and (17) of section
2204 112.661, Florida Statutes, are amended to read:

585-03077-10

20101238c1

2205 112.661 Investment policies.—Investment of the assets of
2206 any local retirement system or plan must be consistent with a
2207 written investment policy adopted by the board. Such policies
2208 shall be structured to maximize the financial return to the
2209 retirement system or plan consistent with the risks incumbent in
2210 each investment and shall be structured to establish and
2211 maintain an appropriate diversification of the retirement system
2212 or plan's assets.

2213 (9) EXPECTED ANNUAL RATE OF RETURN.—The investment policy
2214 must ~~shall~~ require that, for each actuarial valuation, the board
2215 determine the total expected annual rate of return for the
2216 current year, for each of the next several years, and for the
2217 long term ~~thereafter~~. This determination must be filed promptly
2218 with the Department of Personnel Management ~~Services~~ and with
2219 the plan's sponsor and the consulting actuary. The department
2220 shall use this determination ~~only~~ to notify the board, the
2221 plan's sponsor, and consulting actuary only of material
2222 differences between the total expected annual rate of return and
2223 the actuarial assumed rate of return.

2224 (16) FILING OF INVESTMENT POLICY.—Upon adoption by the
2225 board, the investment policy shall be promptly filed with the
2226 Department of Personnel Management ~~Services~~ and the plan's
2227 sponsor and consulting actuary. The effective date of the
2228 investment policy, and any amendment ~~thereto~~, is ~~shall~~ be the
2229 31st calendar day following the filing date with the plan
2230 sponsor.

2231 (17) VALUATION OF ILLIQUID INVESTMENTS.—The investment
2232 policy must ~~shall~~ provide for the valuation of illiquid
2233 investments for which a generally recognized market is not

585-03077-10

20101238c1

2234 available or for which there is no consistent or generally
2235 accepted pricing mechanism. If those investments are used
2236 ~~utilized~~, the investment policy must include the criteria ~~set~~
2237 ~~forth~~ in s. 215.47(6), except that submission to the Investment
2238 Advisory Council is not required. The investment policy must
2239 ~~shall~~ require that, for each actuarial valuation, the board must
2240 verify the determination of the fair market value for those
2241 investments and ascertain that the determination complies with
2242 all applicable state and federal requirements. The investment
2243 policy must ~~shall~~ require that the board disclose to the
2244 Department of Personnel Management ~~Services~~ and the plan's
2245 sponsor each ~~such~~ investment for which the fair market value is
2246 not provided.

2247 Section 65. Section 112.665, Florida Statutes, is amended
2248 to read:

2249 112.665 Duties of Department of Personnel Management
2250 ~~Services~~.—

2251 (1) The Department of Personnel Management ~~Services~~ shall:

2252 (a) Gather, catalog, and maintain complete, computerized
2253 data information on all public employee retirement systems or
2254 plans in the state, based upon a review of audits, reports, and
2255 other data pertaining to the systems or plans;

2256 (b) Receive and comment upon all actuarial reviews of
2257 retirement systems or plans maintained by units of local
2258 government;

2259 (c) Cooperate with local retirement systems or plans on
2260 matters of mutual concern and provide technical assistance to
2261 units of local government in the assessment and revision of
2262 retirement systems or plans;

585-03077-10

20101238c1

2263 (d) Annually issue~~7~~ by January 1 ~~annually~~, a report to the
2264 President of the Senate and the Speaker of the House of
2265 Representatives, which ~~report~~ details division activities,
2266 findings, and recommendations concerning all governmental
2267 retirement systems. The report may include proposed legislation
2268 ~~proposed~~ to carry out such recommendations;

2269 (e) Annually issue~~7~~ by January 1 ~~annually~~, a report to the
2270 Special District Information Program of the Department of
2271 Community Affairs which ~~that~~ includes the participation in and
2272 compliance of special districts with the local government
2273 retirement system provisions in s. 112.63 and the state-
2274 administered retirement system provisions as specified in part I
2275 of chapter 121; and

2276 (f) Adopt reasonable rules to administer ~~the provisions of~~
2277 this part.

2278 (2) The Department of Personnel Management may subpoena
2279 actuarial witnesses, review books and records, hold hearings,
2280 and take testimony. A witness shall have the right to be
2281 accompanied by counsel.

2282 Section 66. Subsection (1) of section 120.65, Florida
2283 Statutes, is amended to read:

2284 120.65 Administrative law judges.—

2285 (1) The Division of Administrative Hearings within the
2286 Department of Personnel Management ~~Services~~ shall be headed by a
2287 director who shall be appointed by the Administration Commission
2288 and confirmed by the Senate. The director, who shall also serve
2289 as the chief administrative law judge, and any deputy chief
2290 administrative law judge must possess the same minimum
2291 qualifications as the administrative law judges employed by the

585-03077-10

20101238c1

2292 division. The Deputy Chief Judge of Compensation Claims must
2293 possess the minimum qualifications established in s. 440.45(2)
2294 and shall report to the director. The division shall be a
2295 separate budget entity, and the director shall be its agency
2296 head for all purposes. The department ~~of Management Services~~
2297 shall provide administrative support and service to the division
2298 to the extent requested by the director. The division is ~~shall~~
2299 not ~~be~~ subject to control, supervision, or direction by the
2300 department ~~of Management Services~~ in any manner, including, but
2301 not limited to, personnel, purchasing, transactions involving
2302 real or personal property, and budgetary matters.

2303 Section 67. Subsections (4), (5), and (32) of section
2304 121.021, Florida Statutes, are amended to read:

2305 121.021 Definitions.—The following words and phrases as
2306 used in this chapter have the respective meanings set forth
2307 unless a different meaning is plainly required by the context:

2308 (4) "Department" means the Department of Personnel
2309 Management ~~Services~~.

2310 (5) "Administrator" means the executive director ~~secretary~~
2311 ~~of the Department~~ of Management Services.

2312 (32) "State agency" means the Department of Personnel
2313 Management ~~Services~~ within the provisions and contemplation of
2314 chapter 650.

2315 Section 68. Section 121.025, Florida Statutes, is amended
2316 to read:

2317 121.025 Administrator; powers and duties.—The executive
2318 director ~~secretary of the Department~~ of Personnel Management is
2319 ~~Services shall be~~ the administrator of the retirement and
2320 pension systems assigned or transferred to the Department of

585-03077-10

20101238c1

2321 ~~Personnel Management Services by law~~ and shall have the
2322 ~~authority to~~ sign all the contracts necessary to carry out the
2323 duties and responsibilities assigned ~~by law~~ to the department by
2324 law of Management Services.

2325 Section 69. Subsections (1), (2), and (5) of section
2326 121.031, Florida Statutes, are amended to read:

2327 121.031 Administration of system; appropriation; oaths;
2328 actuarial studies; public records.—

2329 (1) The department may ~~of Management Services~~ has the
2330 ~~authority to~~ adopt rules pursuant to ~~ss. 120.536(1) and 120.54~~
2331 to implement the provisions of law conferring duties upon the
2332 department and ~~to adopt rules as are necessary for the effective~~
2333 and efficient administration of the retirement ~~this~~ system. The
2334 funds to pay the expenses of administering ~~for administration of~~
2335 the system are ~~hereby~~ appropriated from the interest earned on
2336 investments made for the Retirement System Trust Fund and the
2337 assessments allowed under chapter 650.

2338 (2) The department may ~~of Management Services~~ is authorized
2339 ~~to~~ require oaths, by affidavit or otherwise, and acknowledgments
2340 from persons in connection with administering ~~the administration~~
2341 ~~of~~ its duties and responsibilities under this chapter.

2342 (5) The names and addresses of retirees are confidential
2343 and exempt from ~~the provisions of s. 119.07(1)~~ such ~~to the~~
2344 ~~extent~~ that a ~~no~~ state or local governmental agency may not
2345 provide the names or addresses of retirees ~~such persons~~ in
2346 aggregate, compiled, or list form to any person except to a
2347 public agency engaged in official business. However, a state or
2348 local government agency may provide the names and addresses of
2349 retirees from that agency to a bargaining agent as defined in s.

585-03077-10

20101238c1

2350 447.203(12) or to a retiree organization for official business
2351 use. Lists of names or addresses of retirees may be exchanged by
2352 public agencies, but such lists may ~~shall~~ not be provided to, or
2353 open for inspection by, the public. Any person may view or copy
2354 an ~~any~~ individual's retirement records at the department ~~of~~
2355 ~~Management Services~~, one record at a time, or may obtain
2356 information by a separate written request for a named individual
2357 for which information is desired.

2358 Section 70. Paragraph (c) of subsection (1) and paragraph
2359 (b) of subsection (2) of section 121.051, Florida Statutes, are
2360 amended to read:

2361 121.051 Participation in the system.—

2362 (1) COMPULSORY PARTICIPATION.—

2363 ~~(c)1. After June 30, 1983, a member of an existing system~~
2364 ~~who is reemployed after terminating employment shall have at the~~
2365 ~~time of reemployment the option of selecting to remain in the~~
2366 ~~existing retirement system or to transfer to the Florida~~
2367 ~~Retirement System. Failure to submit such selection in writing~~
2368 ~~to the department of Management Services within 6 months of~~
2369 ~~reemployment shall result in compulsory membership in the~~
2370 ~~Florida Retirement System.~~

2371 ~~2. After June 30, 1988, the provisions of subparagraph 1.~~
2372 ~~shall not apply to~~ A member of an existing retirement system who
2373 is reemployed within 12 months after terminating employment.
2374 ~~Such member~~ shall continue ~~to have~~ membership in the existing
2375 system upon reemployment and may ~~shall~~ not be ~~permitted to~~
2376 become a member of the Florida Retirement System, except by
2377 transferring to that system as provided in ss. 121.052 and
2378 121.055.

585-03077-10

20101238c1

2379 (2) OPTIONAL PARTICIPATION.—

2380 (b)~~1~~. The governing body of a ~~any~~ municipality,
2381 metropolitan planning organization, or special district ~~in the~~
2382 ~~state~~ may elect to participate in the Florida Retirement System
2383 upon proper application to the administrator and may cover all
2384 or any of its units as approved by the Secretary of Health and
2385 Human Services and the administrator. The department shall adopt
2386 rules providing ~~establishing provisions~~ for the submission of
2387 documents ~~necessary~~ for such application.

2388 1. ~~Prior to~~ being approved for participation in the
2389 ~~Florida Retirement~~ system, the governing body of ~~any~~ such
2390 municipality, metropolitan planning organization, or special
2391 district that has a local retirement system shall submit ~~to the~~
2392 ~~administrator~~ a certified financial statement to the
2393 administrator showing the condition of the local retirement
2394 system as of a date within 3 months before ~~prior to~~ the proposed
2395 effective date of membership in the Florida Retirement System.
2396 The statement must be certified by a recognized accounting firm
2397 that is independent of the local retirement system. All required
2398 documents necessary for extending Florida Retirement System
2399 coverage must be received by the department ~~for consideration~~ at
2400 least 15 days before ~~prior to~~ the proposed effective date of
2401 coverage. If the municipality, metropolitan planning
2402 organization, or special district does not comply with this
2403 requirement, the department may change ~~require that~~ the
2404 effective date of coverage ~~be changed~~.

2405 2. Any municipality ~~city~~, metropolitan planning
2406 organization, or special district that has an existing
2407 retirement system covering the employees in the units that are

585-03077-10

20101238c1

2408 to be brought under the Florida Retirement System may
2409 participate only after holding a referendum in which all
2410 employees in the affected units have the right to participate.
2411 Only those employees electing coverage under the ~~Florida~~
2412 ~~Retirement~~ system by affirmative vote in the said referendum are
2413 ~~shall be~~ eligible for coverage under this chapter, and those not
2414 participating or electing not to be covered by the Florida
2415 Retirement System shall remain in their existing retirement
2416 ~~present~~ systems and are ~~shall~~ not be eligible for coverage under
2417 this chapter. After the referendum is held, all future employees
2418 are ~~shall be~~ compulsory members of the Florida Retirement
2419 System.

2420 3. The governing body of a municipality ~~any city~~,
2421 metropolitan planning organization, or special district
2422 complying with subparagraph 1. may elect to provide, or not
2423 provide, benefits based on past service of officers and
2424 employees as described in s. 121.081(1). However, if the ~~such~~
2425 employer elects to provide past service benefits, such benefits
2426 must be provided for all officers and employees of its covered
2427 group.

2428 4. Once the ~~this~~ election is made and approved it may not
2429 be revoked, except pursuant to subparagraphs 5. and 6., and all
2430 present officers and employees electing coverage under this
2431 chapter and all future officers and employees are ~~shall be~~
2432 compulsory members of the Florida Retirement System.

2433 5. Subject to the conditions set forth in subparagraph 6.,
2434 the governing body of a ~~any~~ hospital licensed under chapter 395
2435 which is governed by the board of a special district as defined
2436 in s. 189.403(1) or by the board of trustees of a public health

585-03077-10

20101238c1

2437 trust created under s. 154.07, hereinafter referred to as
2438 "hospital district," and which participates in the system, may
2439 elect to cease participation in the system with regard to future
2440 employees in accordance with the following procedure:

2441 a. No more than 30 days and at least 7 days before adopting
2442 a resolution to partially withdraw from the Florida Retirement
2443 System and establish an alternative retirement plan for future
2444 employees, a public hearing must be held on the proposed
2445 withdrawal and proposed alternative plan.

2446 b. From 7 to 15 days before such hearing, notice of intent
2447 to withdraw, specifying the time and place of the hearing, must
2448 be provided in writing to employees of the hospital district
2449 proposing partial withdrawal and must be published in a
2450 newspaper of general circulation in the area affected, as
2451 provided by ss. 50.011-50.031. Proof of publication of such
2452 notice must ~~shall~~ be submitted to the department of ~~Management~~
2453 Services.

2454 c. The governing body of any hospital district seeking to
2455 partially withdraw from the system must, before such hearing,
2456 have an actuarial report prepared and certified by an enrolled
2457 actuary, as defined in s. 112.625(3), illustrating the cost to
2458 the hospital district of providing, through the retirement plan
2459 that the hospital district is to adopt, benefits for new
2460 employees comparable to those provided under the Florida
2461 Retirement System.

2462 d. Upon meeting all applicable requirements of this
2463 subparagraph, and subject to the conditions set forth in
2464 subparagraph 6., partial withdrawal from the system and adoption
2465 of the alternative retirement plan may be accomplished by

585-03077-10

20101238c1

2466 resolution ~~duly~~ adopted by the hospital district board. The
2467 hospital district board must provide written notice of such
2468 withdrawal to the division by mailing a copy of the resolution
2469 to the division, postmarked by ~~no later than~~ December 15, 1995.
2470 The withdrawal shall take effect January 1, 1996.

2471 6. Following the adoption of a resolution under sub-
2472 subparagraph 5.d., all employees of the withdrawing hospital
2473 district who were participants in the Florida Retirement System
2474 before ~~prior to~~ January 1, 1996, ~~shall~~ remain ~~as~~ participants in
2475 the system for as long as they are employees of the hospital
2476 district, and all rights, duties, and obligations between the
2477 hospital district, the system, and the employees ~~shall~~ remain in
2478 full force and effect. Any employee who is hired or appointed on
2479 or after January 1, 1996, may not participate in the Florida
2480 Retirement System, and the withdrawing hospital district has
2481 ~~shall have~~ no obligation to the system with respect to such
2482 employees.

2483 Section 71. Subsection (2) of section 121.0511, Florida
2484 Statutes, is amended to read:

2485 121.0511 Revocation of election and alternative plan.—The
2486 governing body of any municipality or independent special
2487 district that has elected to participate in the Florida
2488 Retirement System may revoke its election in accordance with the
2489 following procedure:

2490 (2) At least 7 days, but not more than 15 days, before the
2491 hearing, notice of intent to revoke, specifying the time and
2492 place of the hearing, must be published in a newspaper of
2493 general circulation in the area affected, as provided by ss.
2494 50.011-50.031. Proof of publication ~~of the notice~~ must be

585-03077-10

20101238c1

2495 submitted to the department ~~of Management Services~~.

2496 Section 72. Paragraph (b) of subsection (3) of section
2497 121.0515, Florida Statutes, is amended to read:

2498 121.0515 Special risk membership.—

2499 (3) PROCEDURE FOR DESIGNATING.—

2500 (b)~~1~~. Applying the criteria set forth in this section, the
2501 department ~~of Management Services~~ shall determine ~~specify~~ which
2502 current and newly created classes of positions ~~under the uniform~~
2503 ~~classification plan established pursuant to chapter 110~~ entitle
2504 the incumbents of positions in those classes to membership in
2505 the Special Risk Class. Only employees employed in the classes
2506 so specified shall be special risk members.

2507 ~~2. If~~ When a class is determined ~~to be in the Special~~
2508 Risk Class ~~specified by the department as provided in~~
2509 ~~subparagraph 1.~~, the employing agency may petition the State
2510 Retirement Commission for approval in accordance with s. 121.23.

2511 Section 73. Paragraphs (b) and (h) of subsection (1) and
2512 paragraph (a) of subsection (6) of section 121.055, Florida
2513 Statutes, are amended to read:

2514 121.055 Senior Management Service Class.—There is hereby
2515 established a separate class of membership within the Florida
2516 Retirement System to be known as the "Senior Management Service
2517 Class," which shall become effective February 1, 1987.

2518 (1)

2519 (b)1. Except as provided in subparagraph 2., ~~effective~~
2520 ~~January 1, 1990,~~ participation in the Senior Management Service
2521 Class ~~is shall be~~ compulsory for the president of each community
2522 college, the manager of each participating city or county, and
2523 all appointed district school superintendents. Effective January

585-03077-10

20101238c1

2524 1, 1994, additional positions may be included ~~designated for~~
2525 ~~inclusion~~ in the Senior Management Service Class. ~~of the Florida~~
2526 ~~Retirement System, provided that:~~

2527 a. ~~The~~ positions must ~~to be included in the class shall~~ be
2528 designated by the local agency employer. Notice of intent to
2529 designate positions for inclusion in the class must ~~shall~~ be
2530 published once a week for 2 consecutive weeks in a newspaper of
2531 general circulation published in the county or counties
2532 affected, as provided in chapter 50.

2533 b. Up to 10 nonelective full-time positions may be
2534 designated for each local agency employer reporting to the
2535 department. ~~of Management Services;~~ For local agencies with 100
2536 or more regularly established positions, additional nonelective
2537 full-time positions may be designated, not to exceed 1 percent
2538 of the regularly established positions within the agency.

2539 c. Each position added to the class must be a managerial or
2540 policymaking position filled by an employee who is not subject
2541 to continuing contract; who ~~and~~ serves at the pleasure of the
2542 local agency employer without civil service protection; ~~r~~ and
2543 who:

2544 ~~(I)~~ heads an organizational unit; ~~r~~ or

2545 ~~(II)~~ has authority ~~responsibility~~ to effect or recommend
2546 personnel, budget, expenditure, or policy decisions in his or
2547 her areas of responsibility.

2548 2. In lieu of participation in the Senior Management
2549 Service Class, members of the ~~Senior Management Service~~ class
2550 under ~~pursuant to the provisions of~~ subparagraph 1. may withdraw
2551 from the Florida Retirement System altogether. The decision to
2552 withdraw from the Florida Retirement System is ~~shall be~~

585-03077-10

20101238c1

2553 irrevocable ~~for~~ as long as the employee holds the ~~such a~~
2554 position. Any service creditable under the Senior Management
2555 Service Class shall be retained after the member withdraws from
2556 the ~~Florida Retirement~~ system; however, additional service
2557 credit in the Senior Management Service Class may ~~shall~~ not be
2558 earned after ~~such~~ withdrawal. Such members may ~~shall~~ not be
2559 eligible to participate in the Senior Management Service
2560 Optional Annuity Program.

2561 3. Effective January 1, 2006, through June 30, 2006, an
2562 employee who has withdrawn from the Florida Retirement System
2563 under subparagraph 2. has one opportunity to elect to
2564 participate in ~~either~~ the defined benefit program or the defined
2565 contribution ~~Public Employee Optional Retirement~~ program of the
2566 Florida Retirement System.

2567 a. If the employee elects to participate in the defined
2568 contribution ~~Public Employee Optional Retirement~~ program,
2569 membership is ~~shall be~~ prospective, and the applicable
2570 provisions of s. 121.4501(4) ~~shall~~ govern the election.

2571 b. If the employee elects to participate in the defined
2572 benefit program ~~of the Florida Retirement System~~, the employee
2573 shall, upon payment to the system trust fund of the amount
2574 calculated under sub-sub-subparagraph (I), receive service
2575 credit for prior service based upon the time ~~during which~~ the
2576 employee had withdrawn from the system.

2577 (I) The cost for such credit shall be an amount
2578 representing the actuarial accrued liability for the affected
2579 period of service. The cost shall be calculated using the
2580 discount rate and other relevant actuarial assumptions that were
2581 used to value the ~~Florida Retirement System~~ defined benefit plan

585-03077-10

20101238c1

2582 liabilities in the most recent actuarial valuation. The
2583 calculation must ~~shall~~ include any service already maintained
2584 under the defined benefit plan in addition to the period of
2585 withdrawal. The actuarial accrued liability attributable to any
2586 service already maintained under the defined benefit plan is
2587 ~~shall be~~ applied as a credit to the total cost resulting from
2588 the calculation. The division shall ensure that the transfer sum
2589 is prepared using a formula and methodology certified by an
2590 actuary.

2591 (II) The employee must transfer a sum representing the net
2592 cost owed for the actuarial accrued liability in sub-sub-
2593 subparagraph (I) immediately following the time of such
2594 movement, determined assuming that attained service equals the
2595 sum of service in the defined benefit program and the period of
2596 withdrawal.

2597 (h)1. Except as provided in subparagraph 3., ~~effective~~
2598 ~~January 1, 1994,~~ participation in the Senior Management Service
2599 Class is ~~shall be~~ compulsory for the State Courts Administrator
2600 and the Deputy State Courts Administrators, the Clerk of the
2601 Supreme Court, the Marshal of the Supreme Court, the Executive
2602 Director of the Justice Administrative Commission, the capital
2603 collateral regional counsel, the clerks of the district courts
2604 of appeals, the marshals of the district courts of appeals, and
2605 the trial court administrator and the Chief Deputy Court
2606 Administrator in each judicial circuit. ~~Effective January 1,~~
2607 ~~1994,~~ Additional positions in the offices of the state attorney
2608 and public defender in each judicial circuit may be designated
2609 for inclusion in the Senior Management Service class of the
2610 ~~Florida Retirement System, provided that:~~

585-03077-10

20101238c1

2611 a. The positions must ~~to be included in the class shall~~ be
2612 designated by the state attorney or public defender, as
2613 appropriate. Notice of intent to designate positions for
2614 inclusion in the class must ~~shall~~ be published once a week for 2
2615 consecutive weeks in a newspaper of general circulation
2616 published in the county or counties affected, as provided in
2617 chapter 50.

2618 b. One nonelective full-time position may be designated for
2619 each state attorney and public defender reporting to the
2620 department ~~of Management Services~~; for agencies with 200 or more
2621 regularly established positions under the state attorney or
2622 public defender, additional nonelective full-time positions may
2623 be designated, not to exceed 0.5 percent of the regularly
2624 established positions within the agency.

2625 c. Each position added to the class must be a managerial or
2626 policymaking position filled by an employee who serves at the
2627 pleasure of the state attorney or public defender without civil
2628 service protection, and who:

2629 ~~(I)~~ heads an organizational unit; or

2630 ~~(II)~~ has authority ~~responsibility~~ to effect or recommend
2631 personnel, budget, expenditure, or policy decisions in his or
2632 her areas of responsibility.

2633 2. Participation in this class is ~~shall be~~ compulsory,
2634 except as provided in subparagraph 3., for any judicial employee
2635 who holds a position designated for coverage in the Senior
2636 Management Service Class, and such participation continues ~~shall~~
2637 ~~continue~~ until the employee terminates employment in a covered
2638 position. ~~Effective January 1, 2001,~~ Participation in this class
2639 is compulsory for assistant state attorneys, assistant statewide

585-03077-10

20101238c1

2640 prosecutors, assistant public defenders, ~~and~~ assistant capital
2641 collateral regional counsel, and. ~~Effective January 1, 2002,~~
2642 ~~participation in this class is compulsory for~~ assistant
2643 attorneys general.

2644 3. In lieu of participation in the Senior Management
2645 Service Class, such members, excluding assistant state
2646 attorneys, assistant public defenders, assistant statewide
2647 prosecutors, assistant attorneys general, and assistant capital
2648 collateral regional counsel, may participate in the Senior
2649 Management Service Optional Annuity Program as established in
2650 subsection (6).

2651 (6) (a) *Senior Management Service Optional Annuity Program.*—
2652 The department ~~of Management Services~~ shall establish a Senior
2653 Management Service Optional Annuity Program under which
2654 contracts providing retirement, death, and disability benefits
2655 may be purchased for ~~these~~ employees who elect to participate in
2656 the optional annuity program. The benefits to be provided for or
2657 on behalf of participants must ~~in such optional annuity program~~
2658 ~~shall~~ be provided through individual contracts or individual
2659 certificates issued for group annuity contracts, which may be
2660 fixed, variable, or a combination thereof, in accordance with s.
2661 401(a) of the Internal Revenue Code. Any ~~such~~ individual
2662 contract or certificate must ~~shall~~ state the annuity plan on its
2663 face page, and ~~shall~~ include, but not be limited to, a statement
2664 of ownership, the contract benefits, annuity income options,
2665 limitations, expense charges, and surrender charges, if any. The
2666 employing agency shall contribute, as provided in this section,
2667 toward the purchase of the ~~such~~ optional benefits which shall be
2668 fully and immediately vested in the participants.

585-03077-10

20101238c1

2669 Section 74. Section 121.1815, Florida Statutes, is amended
2670 to read:

2671 121.1815 Special pensions to individuals; administration ~~of~~
2672 ~~laws by Department of Management Services.~~—All powers, duties,
2673 and functions related to the administration of laws providing
2674 special pensions to individuals, including chapter 18054, Laws
2675 of Florida, 1937; chapter 26788, Laws of Florida, 1951, as
2676 amended by chapter 57-871, Laws of Florida; chapter 26836, Laws
2677 of Florida, 1951; and chapter 63-953, Laws of Florida, are
2678 vested in the department. All laws hereinafter enacted by the
2679 Legislature pertaining to special pensions for individuals shall
2680 be administered by the department, unless contrary provisions
2681 are contained in such law. Upon the death of any person
2682 receiving a monthly pension under this section, the monthly
2683 pension shall be paid through the last day of the month of death
2684 and shall terminate on that date, unless contrary provisions are
2685 contained in the special pension law.

2686 Section 75. Section 121.1905, Florida Statutes, is
2687 repealed.

2688 Section 76. Section 121.192, Florida Statutes, is amended
2689 to read:

2690 121.192 State retirement actuary.—The department may employ
2691 an actuary. ~~Such actuary shall,~~ Together with such other duties
2692 as the executive director ~~secretary~~ may assign, the actuary
2693 shall be responsible for:

2694 (1) Advising the executive director ~~secretary~~ on actuarial
2695 matters of the state retirement systems.

2696 (2) Making periodic valuations of the retirement systems.

2697 (3) Providing actuarial analyses to the Legislature

585-03077-10

20101238c1

2698 concerning proposed changes in the retirement systems.

2699 (4) Assisting the executive director ~~secretary~~ in
2700 developing a sound and modern retirement system.

2701 Section 77. Subsection (1) of section 121.22, Florida
2702 Statutes, is amended to read:

2703 121.22 State Retirement Commission; creation; membership;
2704 compensation.—

2705 (1) The ~~There is created within the Department of~~
2706 ~~Management Services~~ a State Retirement Commission is created
2707 within the department, composed of five members: Two members who
2708 are retired under a state-supported retirement system
2709 administered by the department; two members who are active
2710 members of a state-supported retirement system that is
2711 administered by the department; and one member who is neither a
2712 retiree, beneficiary, or member of a state-supported retirement
2713 system administered by the department. Each member shall have a
2714 different occupational background from the other members.

2715 Section 78. Subsection (1) of section 121.23, Florida
2716 Statutes, is amended to read:

2717 121.23 Disability retirement and special risk membership
2718 applications; Retirement Commission; powers and duties; judicial
2719 review.—The provisions of this section apply to all proceedings
2720 in which the administrator has made a written final decision on
2721 the merits respecting applications for disability retirement,
2722 reexamination of retired members receiving disability benefits,
2723 applications for special risk membership, and reexamination of
2724 special risk members in the Florida Retirement System. The
2725 jurisdiction of the State Retirement Commission under this
2726 section shall be limited to written final decisions of the

585-03077-10

20101238c1

2727 administrator on the merits.

2728 (1) In accordance with the rules of procedure adopted by
2729 the department ~~of Management Services~~, the administrator shall:

2730 (a) Give reasonable notice of his or her proposed action,
2731 or decision to refuse action, together with a summary of the
2732 factual, legal, and policy grounds for the action ~~therefor~~.

2733 (b) Give affected members, or their counsel, an opportunity
2734 to present to the division written evidence in opposition to the
2735 proposed action or refusal to act or a written statement
2736 challenging the grounds upon which the administrator has chosen
2737 to justify his or her action or inaction.

2738 (c) If the objections of the member are overruled, provide
2739 a written explanation within 21 days.

2740 Section 79. Subsections (2), (3), and (4) of section
2741 121.24, Florida Statutes, are amended to read:

2742 121.24 Conduct of commission business; legal and other
2743 assistance; compensation.—

2744 (2) Legal counsel for the commission may be provided by the
2745 department or the Department of Legal Affairs ~~or by the~~
2746 ~~Department of Management Services~~, with the concurrence of the
2747 commission, and shall be paid by the department ~~of Management~~
2748 ~~Services~~ from the appropriate funds.

2749 (3) The department ~~of Management Services~~ shall provide
2750 timely and appropriate training for newly appointed members of
2751 the commission. Such training shall be designed to acquaint new
2752 members ~~of the commission~~ with the duties and responsibilities
2753 of the commission.

2754 (4) The department ~~of Management Services~~ shall furnish
2755 administrative and secretarial assistance to the commission and

585-03077-10

20101238c1

2756 shall provide a place where the commission may hold its
2757 meetings.

2758 Section 80. Subsection (1) and paragraphs (c) and (d) of
2759 subsection (2) of section 121.35, Florida Statutes, are amended
2760 to read:

2761 121.35 Optional retirement program for the State University
2762 System.—

2763 (1) OPTIONAL RETIREMENT PROGRAM ESTABLISHED.—The department
2764 ~~of Management Services~~ shall establish an optional retirement
2765 program under which contracts providing retirement and death
2766 benefits may be purchased for eligible members of the State
2767 University System who elect to participate in the program. The
2768 benefits to be provided for or on behalf of participants ~~in such~~
2769 ~~optional retirement program~~ shall be provided through individual
2770 contracts or individual certificates issued for group annuity or
2771 other contracts, which may be fixed, variable, or a combination
2772 thereof, in accordance with s. 403(b) of the Internal Revenue
2773 Code. An Any individual contract or certificate must ~~shall~~ state
2774 the annuity plan on its face page, and ~~shall~~ include, but not be
2775 limited to, a statement of ownership, the contract benefits,
2776 annuity income options, limitations, expense charges, and
2777 surrender charges, if any. The state shall contribute, as
2778 provided in this section, toward the purchase of such optional
2779 benefits.

2780 (2) ELIGIBILITY FOR PARTICIPATION IN OPTIONAL PROGRAM.—

2781 ~~(c) For purposes of this section, the Department of~~
2782 ~~Management Services is referred to as the "department."~~

2783 (c) ~~(d)~~ For purposes of this section, the authority granted
2784 to the Board of Governors of the State University System may be

585-03077-10

20101238c1

2785 exercised by the Board of Governors or by the Chancellor of the
2786 State University System.

2787 Section 81. Subsections (3) and (13) of section 121.40,
2788 Florida Statutes, are amended to read:

2789 121.40 Cooperative extension personnel at the Institute of
2790 Food and Agricultural Sciences; supplemental retirement
2791 benefits.—

2792 (3) DEFINITIONS.—The definitions provided in s. 121.021 do
2793 ~~shall~~ not apply to this program unless ~~except when~~ specifically
2794 cited. For the purposes of this section, the term ~~the following~~
2795 ~~words or phrases have the respective meanings set forth:~~

2796 (a) "Institute" means the Institute of Food and
2797 Agricultural Sciences of the University of Florida.

2798 ~~(b) "Department" means the Department of Management~~
2799 ~~Services.~~

2800 (b) ~~(e)~~ "Participant" means any employee of the institute
2801 who is eligible to receive a supplemental benefit under this
2802 program as provided in subsection (4).

2803 (c) ~~(d)~~ "Trust fund" means the Florida Retirement System
2804 Trust Fund.

2805 (d) ~~(e)~~ "Creditable service" means any service after
2806 ~~subsequent to~~ December 1, 1970, with the institute as a
2807 cooperative extension employee holding both state and federal
2808 appointments, that is credited for retirement purposes by the
2809 institute toward a federal Civil Service Retirement System
2810 annuity.

2811 (13) ADMINISTRATION OF PROGRAM.—The Department of Personnel
2812 Management:

2813 (a) ~~The Department~~ Shall adopt ~~make~~ such rules as are

585-03077-10

20101238c1

2814 necessary for the effective and efficient administration of this
2815 program. The executive director ~~secretary~~ of the department is
2816 ~~shall be~~ the administrator of the program. The funds to pay the
2817 expenses for such administration shall be appropriated from the
2818 interest earned on investments made for the Florida Retirement
2819 System Trust Fund.

2820 (b) ~~The Department~~ May require oaths, by affidavit or
2821 otherwise, and acknowledgments from persons in connection with
2822 the administration of its duties and responsibilities under this
2823 section.

2824 Section 82. Paragraphs (d) through (m) of subsection (2),
2825 paragraph (b) of subsection (8), paragraph (h) of subsection
2826 (10), and subsection (19) of section 121.4501, Florida Statutes,
2827 is amended to read:

2828 121.4501 Public Employee Optional Retirement Program.—

2829 (2) DEFINITIONS.—As used in this part, the term:

2830 ~~(d) "Department" means the Department of Management~~
2831 ~~Services.~~

2832 (d) ~~(e)~~ "Division" means the Division of Retirement within
2833 the department ~~of Management Services.~~

2834 (e) ~~(f)~~ "Eligible employee" means an officer or employee, as
2835 defined in s. 121.021, who:

2836 1. Is a member of, or is eligible for membership in, the
2837 Florida Retirement System, including any renewed member of the
2838 Florida Retirement System initially enrolled before July 1,
2839 2010; or

2840 2. Participates in, or is eligible to participate in, the
2841 Senior Management Service Optional Annuity Program as
2842 established under s. 121.055(6), the State Community College

585-03077-10

20101238c1

2843 System Optional Retirement Program as established under s.
2844 121.051(2)(c), or the State University System Optional
2845 Retirement Program established under s. 121.35.

2846

2847 The term does not include any member participating in the
2848 Deferred Retirement Option Program established under s.
2849 121.091(13), a retiree of a state-administered retirement system
2850 initially reemployed on or after July 1, 2010, or a mandatory
2851 participant of the State University System Optional Retirement
2852 Program established under s. 121.35.

2853 (f)~~(g)~~ "Employer" means an employer, as defined in s.
2854 121.021~~(10)~~, of an eligible employee.

2855 (g)~~(h)~~ "Participant" means an eligible employee who is
2856 enrolled ~~elects to participate in the Public Employee Optional~~
2857 ~~Retirement Program and enrolls in such~~ optional program as
2858 ~~provided in subsection (4)~~ or a terminated Deferred Retirement
2859 Option Program participant as described in subsection (21).

2860 (h)~~(i)~~ "Public Employee Optional Retirement Program,"
2861 "optional program," or "optional retirement program" means the
2862 ~~alternative~~ defined contribution retirement program established
2863 under this section.

2864 (i)~~(j)~~ "Retiree" means a former participant of ~~the Florida~~
2865 ~~Retirement System Public Employee~~ optional retirement program
2866 who has terminated employment and has taken a distribution as
2867 provided in s. 121.591, except for a mandatory distribution of a
2868 de minimis account authorized by the state board.

2869 ~~(k) "State board" or "board" means the State Board of~~
2870 ~~Administration.~~

2871 ~~(l) "Trustees" means Trustees of the State Board of~~

585-03077-10

20101238c1

2872 ~~Administration.~~

2873 (j)~~(m)~~ "Vested" or "vesting" means the guarantee that a
2874 participant is eligible to receive a retirement benefit upon
2875 completion of the required years of service under the Public
2876 Employee Optional Retirement Program.

2877 (8) ADMINISTRATION OF PROGRAM.—

2878 (b)1. The state board shall select and contract with a ~~one~~
2879 third-party administrator to provide administrative services if
2880 those services cannot be competitively and contractually
2881 provided by the division ~~of Retirement within the Department of~~
2882 ~~Management Services~~. With the approval of the state board, the
2883 third-party administrator may subcontract ~~with other~~
2884 ~~organizations or individuals~~ to provide components of the
2885 administrative services. As a cost of administration, the state
2886 board may compensate any such contractor for its services, in
2887 accordance with the terms of the contract, as is deemed
2888 necessary or proper by the board. The third-party administrator
2889 may not be an approved provider or be affiliated with an
2890 approved provider.

2891 2. These administrative services may include, but are not
2892 limited to, enrollment of eligible employees, collection of
2893 employer contributions, disbursement of ~~such~~ contributions to
2894 approved providers in accordance with the allocation directions
2895 of participants; services relating to consolidated billing;
2896 individual and collective recordkeeping and accounting; asset
2897 purchase, control, and safekeeping; and direct disbursement of
2898 funds to and from the third-party administrator, the division,
2899 the board, employers, participants, approved providers, and
2900 beneficiaries. This section does not prevent or prohibit a

585-03077-10

20101238c1

2901 bundled provider from providing any administrative or customer
2902 service, including accounting and administration of individual
2903 participant benefits and contributions; individual participant
2904 recordkeeping; asset purchase, control, and safekeeping; direct
2905 execution of the participant's instructions as to asset and
2906 contribution allocation; calculation of daily net asset values;
2907 direct access to participant account information; or periodic
2908 reporting to participants, at least quarterly, on account
2909 balances and transactions, if these services are authorized by
2910 the board as part of the contract.

2911 3. The state board shall select and contract with one or
2912 more organizations to provide educational services. With
2913 approval of the state board, the organizations may subcontract
2914 ~~with other organizations or individuals~~ to provide components of
2915 the educational services. As a cost of administration, the state
2916 board may compensate any such contractor for its services in
2917 accordance with the terms of the contract, as is deemed
2918 necessary or proper by the board. The education organization may
2919 not be an approved provider or be affiliated with an approved
2920 provider.

2921 4. Educational services shall be designed by the state
2922 board and department to assist employers, eligible employees,
2923 participants, and beneficiaries in order to maintain compliance
2924 with United States Department of Labor regulations under s.
2925 404(c) of the Employee Retirement Income Security Act of 1974
2926 and to assist employees in their choice of defined benefit or
2927 defined contribution retirement program alternatives.
2928 Educational services include, but are not limited to,
2929 disseminating educational materials; providing retirement

585-03077-10

20101238c1

2930 planning education; explaining the differences between the
 2931 defined benefit ~~retirement plan~~ and the defined contribution
 2932 retirement programs plan; and offering financial planning
 2933 guidance on matters such as investment diversification,
 2934 investment risks, investment costs, and asset allocation. An
 2935 approved provider may also provide educational information,
 2936 including retirement planning and investment allocation
 2937 information concerning its products and services.

2938 (10) EDUCATION COMPONENT.—

2939 (h) Pursuant to paragraph (8)(a), all Florida Retirement
 2940 System employers have an obligation to regularly communicate the
 2941 existence of the two Florida Retirement System plans and the
 2942 plan choice in the natural course of administering their
 2943 personnel functions, using the educational materials supplied by
 2944 the state board and the department ~~of Management Services~~.

2945 (19) PARTICIPANT RECORDS.—Personal identifying information
 2946 of a participant in the Public Employee Optional Retirement
 2947 Program contained in Florida Retirement System records held by
 2948 the State Board of Administration or the department ~~of~~
 2949 ~~Management Services~~ is exempt from s. 119.07(1) and s. 24(a),
 2950 Art. I of the State Constitution.

2951 Section 83. Section 121.4503, Florida Statutes, is amended
 2952 to read:

2953 121.4503 Florida Retirement System Contributions Clearing
 2954 Trust Fund.—

2955 (1) The Florida Retirement System Contributions Clearing
 2956 Trust Fund is created as a clearing fund for disbursing employer
 2957 contributions to the component plans of the Florida Retirement
 2958 System and shall be administered by the department ~~of Management~~

585-03077-10

20101238c1

2959 ~~Services~~. Funds shall be credited to the trust fund as provided
2960 in this chapter and ~~shall be~~ held in trust for the contributing
2961 employers until such time as the assets are transferred by the
2962 department to the Florida Retirement System Trust Fund, the
2963 Public Employee Optional Retirement Program Trust Fund, or other
2964 trust funds as authorized by law, to be used for the purposes of
2965 this chapter. The trust fund is exempt from the service charges
2966 imposed by s. 215.20.

2967 (2) The Florida Retirement System Contributions Clearing
2968 Trust Fund is a clearing trust fund of the department ~~of~~
2969 ~~Management Services~~ pursuant to s. 19(f), Art. III of the State
2970 Constitution, and is not subject to termination.

2971 (3) The department ~~of Management Services~~ may adopt rules
2972 governing the receipt and disbursement of amounts received by
2973 the Florida Retirement System Contributions Clearing Trust Fund
2974 from employers contributing to the component plans of the
2975 Florida Retirement System.

2976 Section 84. Section 121.591, Florida Statutes, is amended
2977 to read:

2978 121.591 Payment of benefits ~~payable under the Public~~
2979 ~~Employee Optional Retirement Program of the Florida Retirement~~
2980 ~~System.~~—Benefits may not be paid under this section unless the
2981 member has terminated employment as provided in s.
2982 121.021(39) (a) or is deceased and a proper application has been
2983 filed as in the manner prescribed by the state board or the
2984 department. The state board or department, as appropriate, may
2985 cancel an application for retirement benefits if ~~when~~ the member
2986 or beneficiary fails to timely provide the information and
2987 documents required by this chapter and the rules of the state

585-03077-10

20101238c1

2988 board and department. In accordance with their respective
2989 responsibilities ~~as provided herein~~, the state board ~~of~~
2990 ~~Administration~~ and the department ~~of Management Services~~ shall
2991 adopt rules establishing procedures for application for
2992 retirement benefits and for the cancellation of such application
2993 if when the required information or documents are not received.
2994 The state board ~~of Administration~~ and the department ~~of~~
2995 ~~Management Services~~, as appropriate, are authorized to cash out
2996 a de minimis account of a participant who has been terminated
2997 from Florida Retirement System covered employment for a minimum
2998 of 6 calendar months. A de minimis account is an account
2999 containing employer contributions and accumulated earnings of
3000 not more than \$5,000 made under the provisions of this chapter.
3001 Such cash-out must ~~either~~ be a complete lump-sum liquidation of
3002 the account balance, subject to the provisions of the Internal
3003 Revenue Code, or a lump-sum direct rollover distribution paid
3004 directly to the custodian of an eligible retirement plan, as
3005 defined by the Internal Revenue Code, on behalf of the
3006 participant. If any financial instrument issued for the payment
3007 of retirement benefits under this section is not presented for
3008 payment within 180 days after the last day of the month in which
3009 it was originally issued, the third-party administrator or other
3010 duly authorized agent of the state board ~~of Administration~~ shall
3011 cancel the instrument and credit the amount of the instrument to
3012 the suspense account of the Public Employee Optional Retirement
3013 Program Trust Fund authorized under s. 121.4501(6). Any ~~such~~
3014 amounts transferred to the suspense account are payable upon a
3015 proper application, not to include earnings thereon, as provided
3016 in this section, within 10 years after the last day of the month

585-03077-10

20101238c1

3017 in which the instrument was originally issued, after which time
3018 such amounts and any earnings are ~~thereon shall be~~ forfeited.
3019 Any such forfeited amounts are assets of the ~~Public Employee~~
3020 ~~Optional Retirement Program~~ trust fund and are not subject to
3021 ~~the provisions of~~ chapter 717.

3022 (1) NORMAL BENEFITS.—Under the Public Employee Optional
3023 Retirement Program:

3024 (a) Benefits in the form of vested accumulations as
3025 described in s. 121.4501(6) are payable under this subsection in
3026 accordance with the following terms and conditions:

3027 1. ~~To the extent vested,~~ Benefits are payable only to a
3028 participant.

3029 2. Benefits shall be paid by the third-party administrator
3030 or designated approved providers in accordance with the law, the
3031 contracts, and any applicable board rule or policy.

3032 3. ~~To receive benefits,~~ The participant must be terminated
3033 from all employment with all Florida Retirement System
3034 employers, as provided in s. 121.021(39).

3035 4. Benefit payments may not be made until the participant
3036 has been terminated for 3 calendar months, except that the state
3037 board may authorize by rule for the distribution of up to 10
3038 percent of the participant's account after being terminated for
3039 1 calendar month if the participant has reached the normal
3040 retirement date as defined in s. 121.021 ~~of the defined benefit~~
3041 ~~plan~~.

3042 5. If a member or former member of the Florida Retirement
3043 System receives an invalid distribution ~~from the Public Employee~~
3044 ~~Optional Retirement Program Trust Fund~~, such person must repay
3045 the full amount ~~invalid distribution to the trust fund~~ within 90

585-03077-10

20101238c1

3046 days after receipt of final notification by the state board or
3047 the third-party administrator that the distribution was invalid.
3048 If such person fails to repay the full invalid distribution
3049 within 90 days after receipt of final notification, the person
3050 may be deemed retired from the optional retirement program by
3051 the state board, as provided pursuant to s. 121.4501(2)(j), and
3052 is subject to s. 121.122. If such person is deemed retired ~~by~~
3053 ~~the state board~~, any joint and several liability set out in s.
3054 121.091(9)(d)2. is ~~becomes~~ null and void, and the state board,
3055 the department, or the employing agency is not liable for gains
3056 on payroll contributions that have not been deposited to the
3057 person's account in the retirement program, pending resolution
3058 of the invalid distribution. The member or former member who has
3059 been deemed retired or who has been determined by the board to
3060 have taken an invalid distribution may appeal the agency
3061 decision through the complaint process as provided under s.
3062 121.4501(9)(g)3. As used in this subparagraph, the term "invalid
3063 distribution" means any distribution from an account in the
3064 optional retirement program which is taken in violation of this
3065 section, s. 121.091(9), or s. 121.4501.

3066 (b) If a participant elects to receive his or her benefits
3067 upon termination of employment as defined in s. 121.021, the
3068 participant must submit a written application or an equivalent
3069 form to the third-party administrator indicating his or her
3070 preferred distribution date and selecting an authorized method
3071 of distribution as provided in paragraph (c). The participant
3072 may defer receipt of benefits until he or she chooses to make
3073 such application, subject to federal requirements.

3074 (c) Upon receipt by the third-party administrator of a

585-03077-10

20101238c1

3075 properly executed application for distribution of benefits, the
3076 total accumulated benefit is ~~shall be~~ payable to the
3077 participant, as:

3078 1. A lump-sum distribution to the participant;

3079 2. A lump-sum direct rollover distribution whereby all
3080 accrued benefits, plus interest and investment earnings, are
3081 paid from the participant's account directly to the custodian of
3082 an eligible retirement plan, as defined in s. 402(c)(8)(B) of
3083 the Internal Revenue Code, on behalf of the participant; or

3084 3. Periodic distributions, as authorized by the state
3085 board.

3086 (2) DISABILITY RETIREMENT BENEFITS.—Benefits provided under
3087 this subsection are payable in lieu of the benefits that ~~which~~
3088 would otherwise be payable under ~~the provisions of~~ subsection
3089 (1). Such benefits must ~~shall~~ be funded entirely from employer
3090 contributions made under s. 121.571, transferred participant
3091 funds accumulated pursuant to paragraph (a), and interest and
3092 earnings thereon. ~~Pursuant thereto:~~

3093 (a) *Transfer of funds.*—To qualify for ~~to receive~~ monthly
3094 disability benefits under this subsection:

3095 1. All moneys accumulated in the participant's Public
3096 Employee Optional Retirement Program accounts, including vested
3097 and nonvested accumulations as described in s. 121.4501(6), must
3098 ~~shall~~ be transferred from such individual accounts to the
3099 division ~~of Retirement~~ for deposit in the disability account of
3100 the Florida Retirement System Trust Fund. Such moneys must ~~shall~~
3101 be ~~separately~~ accounted for separately. Earnings must ~~shall~~ be
3102 credited on an annual basis for amounts held in the disability
3103 accounts ~~of the Florida Retirement System Trust Fund~~ based on

585-03077-10

20101238c1

3104 actual earnings of the ~~Florida Retirement System~~ trust fund.

3105 2. If the participant has retained retirement credit ~~he or~~
 3106 ~~she had~~ earned under the defined benefit program ~~of the Florida~~
 3107 ~~Retirement System~~ as provided in s. 121.4501(3)(b), a sum
 3108 representing the actuarial present value of such credit within
 3109 the Florida Retirement System Trust Fund shall be reassigned by
 3110 the division ~~of Retirement~~ from the defined benefit program to
 3111 the disability program as implemented under this subsection and
 3112 shall be deposited in the disability account of the ~~Florida~~
 3113 ~~Retirement System~~ trust fund. Such moneys must ~~shall~~ be
 3114 ~~separately~~ accounted for separately.

3115 (b) *Disability retirement; entitlement.*—

3116 1. A participant of the Public Employee Optional Retirement
 3117 Program who becomes totally and permanently disabled, as defined
 3118 in paragraph (d) ~~s. 121.091(4)(b)~~, after completing 8 years of
 3119 creditable service, or a participant who becomes totally and
 3120 permanently disabled in the line of duty regardless of ~~his or~~
 3121 ~~her~~ length of service, is ~~shall be~~ entitled to a monthly
 3122 disability benefit ~~as provided herein~~.

3123 2. In order for service to apply toward the 8 years of
 3124 creditable service required ~~to vest~~ for regular disability
 3125 benefits, or toward the creditable service used in calculating a
 3126 service-based benefit as provided ~~for~~ under paragraph (g), the
 3127 service must be creditable service as described below:

3128 a. The participant's period of service under the Public
 3129 Employee Optional Retirement Program is ~~will be~~ considered
 3130 creditable service, except as provided in subparagraph d.

3131 b. If the participant has elected to retain credit for ~~his~~
 3132 ~~or her~~ service under the defined benefit program ~~of the Florida~~

585-03077-10

20101238c1

3133 ~~Retirement System~~ as provided under s. 121.4501(3)(b), all such
3134 service is ~~will be~~ considered creditable service.

3135 c. If the participant elects ~~has elected~~ to transfer to his
3136 or her participant accounts a sum representing the present value
3137 of his or her retirement credit under the defined benefit
3138 program as provided under s. 121.4501(3)(c), the period of
3139 service under the defined benefit program represented in the
3140 present value amounts transferred is ~~will be~~ considered
3141 creditable service ~~for purposes of vesting for disability~~
3142 ~~benefits~~, except as provided in subparagraph d.

3143 d. Whenever a participant has terminated employment and has
3144 taken distribution of his or her funds as provided in subsection
3145 (1), all creditable service represented by such distributed
3146 funds is forfeited for purposes of this subsection.

3147 (c) *Disability retirement effective date.*—The effective
3148 retirement date for a participant who applies and is approved
3149 for disability retirement shall be established as provided under
3150 s. 121.091(4)(a)2. and 3.

3151 (d) *Total and permanent disability.*—A participant shall be
3152 considered totally and permanently disabled if, in the opinion
3153 of the division, he or she is prevented, by reason of a
3154 medically determinable physical or mental impairment, from
3155 rendering useful and efficient service as an officer or
3156 employee.

3157 (e) *Proof of disability.*—~~The division,~~ Before approving
3158 payment of any disability retirement benefit, the division shall
3159 require proof that the participant is totally and permanently
3160 disabled ~~in the same manner~~ as provided ~~for members of the~~
3161 ~~defined benefit program of the Florida Retirement System~~ under

585-03077-10

20101238c1

3162 s. 121.091(4)(c).

3163 (f) *Disability retirement benefit.*—Upon the disability
3164 retirement of a participant under this subsection, the
3165 participant shall receive a monthly benefit that begins accruing
3166 ~~shall begin to accrue~~ on the first day of the month of
3167 disability retirement, as approved by the division, and is shall
3168 ~~be~~ payable on the last day of that month and each month
3169 thereafter during his or her lifetime and continued disability.
3170 All disability benefits must payable to such member shall be
3171 paid out of the disability account of the Florida Retirement
3172 System Trust Fund established under this subsection.

3173 (g) *Computation of disability retirement benefit.*—The
3174 amount of each monthly payment must shall be calculated ~~in the~~
3175 ~~same manner~~ as provided ~~for members of the defined benefit~~
3176 ~~program of the Florida Retirement System~~ under s. 121.091(4)(f).
3177 ~~For such purpose,~~ Creditable service under both the defined
3178 benefit program and the Public Employee Optional Retirement
3179 Program ~~of the Florida Retirement System~~ shall be applicable as
3180 provided under paragraph (b).

3181 (h) *Reapplication.*—A participant whose initial application
3182 for disability retirement is has been denied may reapply for
3183 disability benefits ~~in the same manner, and under the same~~
3184 ~~conditions,~~ as provided ~~for members of the defined benefit~~
3185 ~~program of the Florida Retirement System~~ under s. 121.091(4)(g).

3186 (i) *Membership.*—Upon approval of a participant's an
3187 application for disability benefits ~~under this subsection,~~ the
3188 applicant shall be transferred to the defined benefit program ~~of~~
3189 ~~the Florida Retirement System,~~ effective upon his or her
3190 disability retirement effective date.

585-03077-10

20101238c1

3191 (j) *Option to cancel.*—~~A~~ Any participant whose application
3192 for disability benefits is approved may cancel the ~~his or her~~
3193 application ~~if for disability benefits, provided that~~ the
3194 cancellation request is received by the division before a
3195 disability retirement warrant has been deposited, cashed, or
3196 received by direct deposit. Upon ~~such~~ cancellation:

3197 1. The participant's transfer to the defined benefit
3198 program under paragraph (i) shall be nullified;

3199 2. The participant shall be retroactively reinstated in the
3200 Public Employee Optional Retirement Program without hiatus;

3201 3. All funds transferred to the Florida Retirement System
3202 Trust Fund under paragraph (a) must ~~shall~~ be returned to the
3203 participant accounts from which the ~~such~~ funds were drawn; and

3204 4. The participant may elect to receive the benefit payable
3205 under ~~the provisions of~~ subsection (1) in lieu of disability
3206 benefits ~~as provided under this subsection.~~

3207 (k) *Recovery from disability.*—

3208 1. The division may require periodic reexaminations at the
3209 expense of the disability program account of the Florida
3210 Retirement System Trust Fund. Except as otherwise provided in
3211 subparagraph 2., ~~the requirements, procedures, and restrictions~~
3212 ~~relating to the conduct and review of such reexaminations,~~
3213 ~~discontinuation or termination of benefits, reentry into~~
3214 ~~employment, disability retirement after reentry into covered~~
3215 ~~employment, and all other matters relating to recovery from~~
3216 disability shall be ~~the same~~ as are set forth under s.
3217 121.091(4)(h).

3218 2. Upon recovery from disability, the ~~any~~ recipient of
3219 disability retirement benefits under this subsection shall be

585-03077-10

20101238c1

3220 transferred back to a ~~compulsory member of~~ the Public Employee
3221 Optional Retirement Program ~~of the Florida Retirement System~~.
3222 The net difference between the recipient's original account
3223 balance transferred to the Florida Retirement System Trust Fund,
3224 including earnings, ~~under paragraph (a)~~ and total disability
3225 benefits paid to such recipient, if any, shall be determined as
3226 provided in sub-subparagraph a.

3227 a. An amount equal to the total benefits paid shall be
3228 subtracted from that portion of the transferred account balance
3229 consisting of vested accumulations as described under s.
3230 121.4501(6), if any, and an amount equal to the remainder of
3231 benefit amounts paid, if any, shall ~~then~~ be subtracted from any
3232 remaining ~~portion consisting of~~ nonvested accumulations ~~as~~
3233 ~~described under s. 121.4501(6)~~.

3234 b. Amounts subtracted under sub-subparagraph a. must ~~shall~~
3235 be retained within the disability account of the Florida
3236 Retirement System Trust Fund. Any remaining account balance
3237 shall be transferred to the third-party administrator for
3238 disposition as provided under sub-subparagraph c. or sub-
3239 subparagraph d., as appropriate.

3240 c. If the recipient returns to covered employment,
3241 transferred amounts must ~~shall~~ be deposited in individual
3242 accounts under the Public Employee Optional Retirement Program,
3243 as directed by the participant. Vested and nonvested amounts
3244 shall be separately accounted for as provided in s. 121.4501(6).

3245 d. If the recipient fails to return to covered employment
3246 upon recovery from disability:

3247 (I) Any remaining vested amount must ~~shall~~ be deposited in
3248 individual accounts under the Public Employee Optional

585-03077-10

20101238c1

3249 Retirement Program, as directed by the participant, and shall be
3250 payable as provided in subsection (1).

3251 (II) Any remaining nonvested amount must ~~shall~~ be held in a
3252 suspense account and is ~~shall be~~ forfeitable after 5 years as
3253 provided in s. 121.4501(6).

3254 3. If present value was reassigned from the defined benefit
3255 program to the disability program ~~of the Florida Retirement~~
3256 ~~System~~ as provided under subparagraph (a)2., the full present
3257 value amount must ~~shall~~ be returned to the defined benefit
3258 account within the Florida Retirement System Trust Fund and the
3259 recipient's ~~affected individual's~~ associated retirement credit
3260 under the defined benefit program must ~~shall~~ be reinstated in
3261 full. Any benefit based upon such credit shall be calculated as
3262 provided in s. 121.091(4)(h)1.

3263 (1) *Nonadmissible causes of disability.*—A participant shall
3264 not be entitled to receive a disability retirement benefit if
3265 the disability results from any injury or disease sustained or
3266 inflicted as described in s. 121.091(4)(i).

3267 (m) *Disability retirement of justice or judge by order of*
3268 *Supreme Court.*—

3269 1. If a participant is a justice of the Supreme Court,
3270 judge of a district court of appeal, circuit judge, or judge of
3271 a county court who has served for 6 years or more as an elected
3272 constitutional judicial officer, including service as a judicial
3273 officer in any court abolished pursuant to Art. V of the State
3274 Constitution, and who is retired for disability ~~by order of the~~
3275 ~~Supreme Court upon recommendation of the Judicial Qualifications~~
3276 ~~Commission~~ pursuant to s. 12, ~~the provisions of~~ Art. V of the
3277 State Constitution, the participant's Option 1 monthly

585-03077-10

20101238c1

3278 disability benefit amount as provided in s. 121.091(6)(a)1.
3279 shall be two-thirds of his or her monthly compensation as of the
3280 participant's disability retirement date. The ~~Such a~~ participant
3281 may alternatively elect to receive an actuarially adjusted
3282 disability retirement benefit under any other option as provided
3283 in s. 121.091(6)(a), or to receive the normal benefit payable
3284 under ~~the Public Employee Optional Retirement Program as set~~
3285 ~~forth in~~ subsection (1).

3286 2. If any justice or judge who is a participant of the
3287 Public Employee Optional Retirement Program ~~of the Florida~~
3288 ~~Retirement System~~ is retired for disability ~~by order of the~~
3289 ~~Supreme Court upon recommendation of the Judicial Qualifications~~
3290 ~~Commission pursuant to s. 12,~~ the provisions of Art. V of the
3291 State Constitution and elects to receive a monthly disability
3292 benefit under the provisions of this paragraph:

3293 a. Any present value amount that was transferred to his or
3294 her program account and all employer contributions made to such
3295 account on his or her behalf, plus interest and earnings
3296 thereon, must ~~shall~~ be transferred to and deposited in the
3297 disability account of the Florida Retirement System Trust Fund;
3298 and

3299 b. The monthly benefits payable under this paragraph ~~for~~
3300 ~~any affected justice or judge retired from the Florida~~
3301 ~~Retirement System pursuant to Art. V of the State Constitution~~
3302 shall be paid from the disability account of the Florida
3303 Retirement System Trust Fund.

3304 (n) *Death of retiree or beneficiary.*—Upon the death of a
3305 disabled retiree or beneficiary of the retiree ~~thereof~~ who is
3306 receiving monthly disability benefits under this subsection, the

585-03077-10

20101238c1

3307 monthly benefits shall be paid through the last day of the month
3308 of death and shall terminate, or be adjusted, if applicable, as
3309 of that date in accordance with the optional form of benefit
3310 selected at the time of retirement. The department ~~of Management~~
3311 ~~Services~~ may adopt rules necessary to administer this paragraph.

3312 (3) DEATH BENEFITS.—Under the Public Employee Optional
3313 Retirement Program:

3314 (a) Survivor benefits are ~~shall be~~ payable in accordance
3315 with the following terms and conditions:

3316 1. ~~To the extent vested,~~ Benefits shall be payable only to
3317 a participant's beneficiary or beneficiaries as designated by
3318 the participant as provided in s. 121.4501(20).

3319 2. Benefits must ~~shall~~ be paid by the third-party
3320 administrator or designated approved providers in accordance
3321 with the law, the contracts, and any applicable board rule or
3322 policy.

3323 3. ~~To receive benefits under this subsection,~~ The
3324 participant must be deceased.

3325 (b) In the event of a participant's death, all vested
3326 accumulations as described in s. 121.4501(6), less withholding
3327 taxes remitted to the Internal Revenue Service, shall be
3328 distributed, as provided in paragraph (c) or as described in s.
3329 121.4501(20), as if the participant retired on the date of
3330 death. No other death benefits are ~~shall be~~ available for
3331 survivors of participants ~~under the Public Employee Optional~~
3332 ~~Retirement Program~~, except for ~~such~~ benefits, or coverage for
3333 ~~such~~ benefits, as are otherwise provided by law or ~~are~~
3334 separately provided ~~afforded~~ by the employer, at the employer's
3335 discretion.

585-03077-10

20101238c1

3336 (c) Upon receipt by the third-party administrator of a
3337 properly executed application for distribution of benefits, the
3338 total accumulated benefit is ~~shall be~~ payable by the third-party
3339 administrator to the participant's surviving beneficiary or
3340 beneficiaries, as:

3341 1. A lump-sum distribution payable to the beneficiary or
3342 beneficiaries, or to the deceased participant's estate;

3343 2. An eligible rollover distribution on behalf of the
3344 surviving spouse of a deceased participant, whereby all accrued
3345 benefits, plus interest and investment earnings, are paid from
3346 the deceased participant's account directly to the custodian of
3347 an eligible retirement plan, as described in s. 402(c)(8)(B) of
3348 the Internal Revenue Code, on behalf of the surviving spouse; or

3349 3. A partial lump-sum payment whereby a portion of the
3350 accrued benefit is paid to the deceased participant's surviving
3351 spouse or other designated beneficiaries, less withholding taxes
3352 remitted to the Internal Revenue Service, and the remaining
3353 amount is transferred directly to the custodian of an eligible
3354 retirement plan, as described in s. 402(c)(8)(B) of the Internal
3355 Revenue Code, on behalf of the surviving spouse. The proportions
3356 must be specified by the participant or the surviving
3357 beneficiary.

3358
3359 This paragraph does not abrogate other applicable provisions of
3360 state or federal law providing for payment of death benefits.

3361 (4) LIMITATION ON LEGAL PROCESS.—The benefits payable to
3362 any person under the Public Employee Optional Retirement
3363 Program, and any contributions accumulated under such program,
3364 are not subject to assignment, execution, attachment, or any

585-03077-10

20101238c1

3365 legal process, except for qualified domestic relations orders by
3366 a court of competent jurisdiction, income deduction orders as
3367 provided in s. 61.1301, and federal income tax levies.

3368 Section 85. Section 121.5911, Florida Statutes, is amended
3369 to read:

3370 121.5911 Disability retirement program; qualified status;
3371 rulemaking authority.—It is the intent of the Legislature that
3372 the disability retirement program for participants of the Public
3373 Employee Optional Retirement Program ~~as created in this act~~ must
3374 meet all applicable requirements of federal law for a qualified
3375 plan. The department ~~of Management Services~~ shall seek a private
3376 letter ruling from the Internal Revenue Service on the
3377 disability retirement program ~~for participants of the Public~~
3378 ~~Employee Optional Retirement Program~~. Consistent with the
3379 private letter ruling, the department ~~of Management Services~~
3380 shall adopt ~~any necessary~~ rules necessary ~~required~~ to maintain
3381 the qualified status of the disability retirement program and
3382 the Florida Retirement System defined benefit program plan.

3383 Section 86. Paragraph (b) of subsection (3) of section
3384 121.78, Florida Statutes, is amended to read:

3385 121.78 Payment and distribution of contributions.—

3386 (3)

3387 (b) If contributions made by an employer on behalf of
3388 participants of the optional retirement program or accompanying
3389 payroll data are not received within the calendar month they are
3390 due, including, but not limited to, contribution adjustments as
3391 a result of employer errors or corrections, and if that
3392 delinquency results in market losses to participants, the
3393 employer shall reimburse each participant's account for market

585-03077-10

20101238c1

3394 losses resulting from the late contributions. If a participant
3395 has terminated employment and taken a distribution, the
3396 participant is responsible for returning any excess
3397 contributions erroneously provided by employers, adjusted for
3398 any investment gain or loss incurred during the period such
3399 excess contributions were in the participant's ~~Public Employee~~
3400 ~~Optional Retirement Program~~ account. The state board of
3401 ~~Administration~~ or its designated agent shall communicate to
3402 terminated participants any obligation to repay such excess
3403 contribution amounts. However, the state board of
3404 ~~Administration~~, its designated agents, the Public Employee
3405 Optional Retirement Program Trust Fund, the department of
3406 ~~Management Services~~, or the Florida Retirement System Trust Fund
3407 may shall not incur any loss or gain as a result of an
3408 employer's correction of such excess contributions. The third-
3409 party administrator, hired by the state board pursuant to s.
3410 121.4501(8), shall calculate the market losses for each affected
3411 participant. If ~~When~~ contributions made on behalf of
3412 participants of the optional retirement program or accompanying
3413 payroll data are not received within the calendar month due, the
3414 employer shall also pay the cost of the third-party
3415 administrator's calculation and reconciliation adjustments
3416 resulting from the late contributions. The third-party
3417 administrator shall notify the employer of the results of the
3418 calculations and the total amount due from the employer for such
3419 losses and the costs of calculation and reconciliation. The
3420 employer shall remit to the division the amount due within 10
3421 working days after the date of the penalty notice sent by the
3422 division. The Division of Retirement shall transfer said amount

585-03077-10

20101238c1

3423 to the third-party administrator, which ~~who~~ shall deposit
3424 proceeds from the 1-percent assessment and from individual
3425 market losses into participant accounts, as appropriate. The
3426 state board may ~~is authorized to~~ adopt rules to administer
3427 ~~implement~~ the provisions regarding late contributions, late
3428 submission of payroll data, the process for reimbursing
3429 participant accounts for resultant market losses, and the
3430 penalties charged to the employers.

3431 Section 87. Subsection (6) of section 122.02, Florida
3432 Statutes, is amended to read:

3433 122.02 Definitions.—The following words and phrases as used
3434 in this chapter shall have the following meaning unless a
3435 different meaning is plainly required by the context:

3436 (6) "Department" means the Department of Personnel
3437 Management ~~Services~~.

3438 Section 88. Section 122.09, Florida Statutes, is amended to
3439 read:

3440 122.09 Disability retirement; medical examinations.—An
3441 ~~Whenever any~~ officer or employee of the state or a county who
3442 has 10 years of ~~the state has~~ service credit as ~~such officer or~~
3443 ~~employee for 10 years within the contemplation of this law,~~ the
3444 last 5 years of which, except for a single break not to exceed 1
3445 year, is ~~must be~~ continuous, unbroken service and who is
3446 regularly contributing to the State and County Officers and
3447 Employees' Retirement Trust Fund and who, ~~shall~~ while holding
3448 such office or employment, becomes ~~become~~ permanently and
3449 totally disabled, physically or mentally, or both, from
3450 rendering useful and efficient service as an ~~such~~ officer or
3451 employee, ~~such officer or employee~~ may retire from his or her

585-03077-10

20101238c1

3452 office or employment, ~~and upon such retirement the officer or~~
3453 ~~employee shall~~ be paid, so long as the permanent and total
3454 disability continues, on his or her own monthly requisition,
3455 from the State and County Officers and Employees' Retirement
3456 Trust Fund ~~hereinafter established~~, retirement compensation as
3457 provided in s. 122.08; provided that no officer or employee
3458 retiring under this section shall receive less than 50 percent
3459 of his or her average final compensation not to exceed \$75. The
3460 ~~No officer or employee may not of the state and county of the~~
3461 ~~state shall be permitted to retire under the provisions of this~~
3462 section until examined by a ~~duly~~ qualified physician or surgeon
3463 or board of physicians and surgeons, ~~to be~~ selected by the
3464 Governor for that purpose, and found to be disabled in the
3465 degree and in the manner specified in this section. An ~~Any~~
3466 officer or employee retiring under this section must ~~shall~~ be
3467 reexamined ~~examined~~ periodically by a ~~duly~~ qualified physician
3468 or surgeon or board of physicians and surgeons ~~to be~~ selected by
3469 the Governor for that purpose and paid from the retirement trust
3470 fund ~~herein provided for~~, at such time as the department directs
3471 ~~of Management Services shall direct~~ to determine if such total
3472 disability has continued. If the ~~and in the event it be~~
3473 ~~disclosed by said examination that said~~ total disability has
3474 ceased to exist, the ~~then such officer or employee shall~~
3475 ~~forthwith cease to be paid~~ benefits paid under this section must
3476 cease. Benefits shall be computed in accordance with ~~Reference~~
3477 ~~to s. 122.08 is for the purpose of computing benefits only~~. Any
3478 person ~~heretofore~~ retired under this section qualifies ~~shall be~~
3479 ~~eligible to qualify~~ for the minimum benefits provided herein;
3480 however, minimum benefits may ~~shall~~ not be paid retroactively.

585-03077-10

20101238c1

3481 Section 89. Section 122.23, Florida Statutes, is amended to
3482 read:

3483 122.23 Definitions; ss. 122.21-122.321.—In addition to
3484 those definitions set forth in s. 122.02 the following words and
3485 phrases used in ss. 122.21-122.24, 122.26 to 122.321, inclusive,
3486 have the respective meanings set forth:

3487 (1) "System" means the general retirement system provided
3488 by this chapter, with its two divisions.

3489 (2) "Social security coverage" means old age and survivors
3490 insurance as provided by the federal Social Security Act.

3491 ~~(3) "Department" means the Department of Management~~
3492 ~~Services.~~

3493 (3)~~(4)~~ "Agreement" means the modification of the ~~that~~
3494 ~~certain~~ agreement entered into October 23, 1951, between the
3495 State of Florida and the Secretary of Health, Education and
3496 Welfare, pursuant to s. 650.03, which makes available to members
3497 of division B of this system the provisions of said agreement.

3498 (4)~~(5)~~ "State agency" means the department ~~of Management~~
3499 ~~Services~~ within the provisions and contemplation of chapter 650.

3500 Section 90. Subsection (11) of section 122.34, Florida
3501 Statutes, is amended to read:

3502 122.34 Special provisions for certain sheriffs and full-
3503 time deputy sheriffs.—

3504 (11) A ~~No~~ high hazard member may not ~~shall be permitted to~~
3505 receive benefits under this section until examined by a ~~duly~~
3506 qualified physician or surgeon, or board of physicians and
3507 surgeons, ~~to be~~ selected by the Governor for that purpose, and
3508 found to be disabled in the degree and in the manner specified
3509 in this section. ~~At such time~~ As directed by the department ~~of~~

585-03077-10

20101238c1

3510 ~~Management Services directs, a~~ any high hazard member receiving
 3511 disability benefits under this section must ~~shall~~ submit to a
 3512 medical examination to determine if such disability has
 3513 continued. ~~and~~ The cost of such examination shall be paid from
 3514 the retirement trust fund ~~herein provided for;~~ and if the ~~in the~~
 3515 ~~event it is declared by said examination that said~~ disability
 3516 has cleared, the ~~such~~ member shall ~~be ordered to~~ return to
 3517 active duty with the same rank and salary that he or she had at
 3518 the time of disability. Any ~~such~~ member who fails ~~shall fail~~ to
 3519 return to duty forfeits ~~following such order shall forfeit~~ all
 3520 rights and claims under this section ~~law~~. A ~~Every~~ high hazard
 3521 member retiring under this provision shall be paid so long as
 3522 the member's permanent total or partial disability continues, on
 3523 his or her own requisition.

3524 Section 91. Paragraph (a) of subsection (1) and subsection
 3525 (2) of section 145.19, Florida Statutes, are amended to read:

3526 145.19 Annual percentage increases based on increase for
 3527 state career service employees; limitation.-

3528 (1) As used in this section, the term:

3529 (a) "Annual factor" means 1 plus the lesser of:

3530 1. The average percentage increase in the salaries of state
 3531 career service employees for the current fiscal year as
 3532 determined by the Department of Personnel ~~Management Services~~ or
 3533 as provided in the General Appropriations Act; or

3534 2. Seven percent.

3535 (2) Each fiscal year, the salaries of all officials listed
 3536 in this chapter, s. 1001.395, and s. 1001.47 shall be adjusted.
 3537 The adjusted salary rate is ~~shall be~~ the product, rounded to the
 3538 nearest dollar, of the salary rate granted by the appropriate

585-03077-10

20101238c1

3539 section of this chapter, s. 1001.395, or s. 1001.47 multiplied
3540 first by the initial factor, then by the cumulative annual
3541 factor, and finally by the annual factor. The Department of
3542 Personnel Management Services shall certify the annual factor
3543 and the cumulative annual factors. Any special qualification
3544 salary received under this chapter, s. 1001.47, or the annual
3545 performance salary incentive available to elected
3546 superintendents under s. 1001.47 shall be added to such adjusted
3547 salary rate. The special qualification salary is ~~shall be~~
3548 \$2,000, ~~but shall not exceed \$2,000.~~

3549 Section 92. Subsection (2) of section 154.04, Florida
3550 Statutes, is amended to read:

3551 154.04 Personnel of county health departments; duties;
3552 compensation.—

3553 (2) The personnel of the county health department shall be
3554 employed by the Department of Health. The compensation of such
3555 personnel shall be determined in accordance with ~~under the~~ rules
3556 of the Department of Personnel Management Services. Such
3557 employees shall engage in the prevention of disease and the
3558 promotion of health under the supervision of the Department of
3559 Health.

3560 Section 93. Paragraph (b) of subsection (9) and paragraph
3561 (a) of subsection (10) of section 163.3184, Florida Statutes,
3562 are amended to read:

3563 163.3184 Process for adoption of comprehensive plan or plan
3564 amendment.—

3565 (9) PROCESS IF LOCAL PLAN OR AMENDMENT IS IN COMPLIANCE.—

3566 (b) The hearing shall be conducted by an administrative law
3567 judge of the Division of Administrative Hearings ~~of the~~

585-03077-10

20101238c1

3568 ~~Department of Management Services~~, who shall hold the hearing in
3569 the county of and convenient to the affected local jurisdiction
3570 and submit a recommended order to the state land planning
3571 agency. The state land planning agency shall allow for the
3572 filing of exceptions to the recommended order and shall issue a
3573 final order after receipt of the recommended order if the state
3574 land planning agency determines that the plan or plan amendment
3575 is in compliance. If the state land planning agency determines
3576 that the plan or plan amendment is not in compliance, the agency
3577 shall submit the recommended order to the Administration
3578 Commission for final agency action.

3579 (10) PROCESS IF LOCAL PLAN OR AMENDMENT IS NOT IN
3580 COMPLIANCE.—

3581 (a) If the state land planning agency issues a notice of
3582 intent to find the comprehensive plan or plan amendment not in
3583 compliance with this act, the notice of intent shall be
3584 forwarded to the Division of Administrative Hearings ~~of the~~
3585 ~~Department of Management Services~~, which shall conduct a
3586 proceeding under ss. 120.569 and 120.57 in the county of and
3587 convenient to the affected local jurisdiction. The parties to
3588 the proceeding are ~~shall be~~ the state land planning agency, the
3589 affected local government, and any affected person who
3590 intervenes. No new issue may be alleged as a reason to find a
3591 plan or plan amendment not in compliance in an administrative
3592 pleading filed more than 21 days after publication of notice
3593 unless the party seeking that issue establishes good cause for
3594 not alleging the issue within that time period. Good cause does
3595 ~~shall~~ not include excusable neglect. In the proceeding, the
3596 local government's determination that the comprehensive plan or

585-03077-10

20101238c1

3597 plan amendment is in compliance is presumed ~~to be~~ correct. The
3598 local government's determination shall be sustained unless it is
3599 shown by a preponderance of the evidence that the comprehensive
3600 plan or plan amendment is not in compliance. The local
3601 government's determination that elements of its plans are
3602 related to and consistent with each other shall be sustained if
3603 the determination is fairly debatable.

3604 Section 94. Subsection (6) of section 175.032, Florida
3605 Statutes, is amended to read:

3606 175.032 Definitions.—For any municipality, special fire
3607 control district, chapter plan, local law municipality, local
3608 law special fire control district, or local law plan under this
3609 chapter, the following words and phrases have the following
3610 meanings:

3611 (6) "Division" means the Division of Retirement of the
3612 Department of Personnel Management ~~Services~~.

3613 Section 95. Section 175.1215, Florida Statutes, is amended
3614 to read:

3615 175.1215 Police and Firefighters' Premium Tax Trust Fund.—
3616 The Police and Firefighters' Premium Tax Trust Fund is created,
3617 to be administered by the division ~~of Retirement of the~~
3618 ~~Department of Management Services~~. Funds credited to the trust
3619 fund, as provided in chapter 95-250, Laws of Florida, or similar
3620 legislation, shall be expended for the purposes set forth in
3621 that legislation.

3622 Section 96. Section 175.361, Florida Statutes, is amended
3623 to read:

3624 175.361 Termination of plan and distribution of fund.—For
3625 any municipality, special fire control district, chapter plan,

585-03077-10

20101238c1

3626 local law municipality, local law special fire control district,
3627 or local law plan under this chapter, the plan may be terminated
3628 by the municipality or special fire control district. Upon
3629 termination of the plan by the municipality or special fire
3630 control district for any reason or because of a transfer,
3631 merger, or consolidation of governmental units, services, or
3632 functions as provided in chapter 121, or upon written notice by
3633 the municipality or special fire control district to the board
3634 of trustees that contributions under the plan are being
3635 permanently discontinued, the rights of all employees to
3636 benefits accrued to the date of such termination and the amounts
3637 credited to the employees' accounts are nonforfeitable. The fund
3638 shall be distributed in accordance with the following
3639 procedures:

3640 (1) The board of trustees shall determine the date of
3641 distribution and the asset value required to fund all the
3642 nonforfeitable benefits after taking into account the expenses
3643 of such distribution. The board shall inform the municipality or
3644 special fire control district if additional assets are required,
3645 in which event the municipality or special fire control district
3646 shall continue to financially support the plan until all
3647 nonforfeitable benefits have been funded.

3648 (2) The board of trustees shall determine the method of
3649 distribution of the asset value, whether distribution is ~~shall~~
3650 ~~be~~ by payment in cash, by the maintenance of another or
3651 substituted trust fund, by the purchase of insured annuities, or
3652 otherwise, for each firefighter entitled to benefits under the
3653 plan as specified in subsection (3).

3654 (3) The board of trustees shall distribute the asset value

585-03077-10

20101238c1

3655 as of the date of termination as ~~in the manner~~ set forth in this
3656 subsection, on the basis that the amount required to provide any
3657 given retirement income is the actuarially computed single-sum
3658 value of such retirement income, except that if the method of
3659 distribution determined under subsection (2) involves the
3660 purchase of an insured annuity, the amount required to provide
3661 the given retirement income is the single premium payable for
3662 such annuity. The actuarial single-sum value may not be less
3663 than the employee's accumulated contributions to the plan, with
3664 interest if provided by the plan, less the value of any plan
3665 benefits previously paid to the employee.

3666 (4) If there is asset value remaining after the full
3667 distribution specified in subsection (3), and after the payment
3668 of any expenses incurred with such distribution, such excess
3669 shall be returned to the municipality or special fire control
3670 district, less the return to the state of the state's
3671 contributions, ~~provided that,~~ If the excess is less than the
3672 total contributions made by the municipality or special fire
3673 control district and the state to date of termination of the
3674 plan, such excess shall be divided proportionately to the total
3675 contributions made by the municipality or special fire control
3676 district and the state.

3677 (5) The board of trustees shall distribute, in accordance
3678 with subsection (2), the amounts determined under subsection
3679 (3).

3680 (6) If, after 24 months after the date the plan terminated
3681 or the date the board received written notice that the
3682 contributions ~~thereunder~~ were being permanently discontinued,
3683 the municipality or special fire control district or the board

585-03077-10

20101238c1

3684 of trustees of the firefighters' pension trust fund affected has
3685 not complied with all the provisions in this section, the
3686 Department of Personnel Management Services shall effect the
3687 termination of the fund in accordance with this section.

3688 Section 97. Subsection (7) of section 185.02, Florida
3689 Statutes, is amended to read:

3690 185.02 Definitions.—For any municipality, chapter plan,
3691 local law municipality, or local law plan under this chapter,
3692 the following words and phrases as used in this chapter shall
3693 have the following meanings, unless a different meaning is
3694 plainly required by the context:

3695 (7) "Division" means the Division of Retirement of the
3696 Department of Personnel Management Services.

3697 Section 98. Section 185.105, Florida Statutes, is amended
3698 to read:

3699 185.105 Police and Firefighters' Premium Tax Trust Fund.—
3700 The Police and Firefighters' Premium Tax Trust Fund is the trust
3701 fund created under s. 175.1215 and is created, to be
3702 administered by the division of Retirement of the Department of
3703 Management Services. Funds credited to the trust fund, as
3704 provided in chapter 95-250, Laws of Florida, or similar
3705 legislation, shall be expended for the purposes set forth in
3706 that legislation.

3707 Section 99. Section 185.37, Florida Statutes, is amended to
3708 read:

3709 185.37 Termination of plan and distribution of fund.—For
3710 any municipality, chapter plan, local law municipality, or local
3711 law plan under this chapter, the plan may be terminated by the
3712 municipality. Upon termination of the plan by the municipality

585-03077-10

20101238c1

3713 for any reason, or because of a transfer, merger, or
3714 consolidation of governmental units, services, or functions as
3715 provided in chapter 121, or upon written notice to the board of
3716 trustees by the municipality that contributions under the plan
3717 are being permanently discontinued, the rights of all employees
3718 to benefits accrued to the date of such termination or
3719 discontinuance and the amounts credited to the employees'
3720 accounts are nonforfeitable. The fund shall be distributed in
3721 accordance with the following procedures:

3722 (1) The board of trustees shall determine the date of
3723 distribution and the asset value required to fund all the
3724 nonforfeitable benefits, after taking into account the expenses
3725 of such distribution. The board shall inform the municipality if
3726 additional assets are required, in which event the municipality
3727 shall continue to financially support the plan until all
3728 nonforfeitable benefits have been funded.

3729 (2) The board of trustees shall determine the method of
3730 distribution of the asset value, whether distribution is ~~shall~~
3731 ~~be~~ by payment in cash, by the maintenance of another or
3732 substituted trust fund, by the purchase of insured annuities, or
3733 otherwise, for each police officer entitled to benefits under
3734 the plan, as specified in subsection (3).

3735 (3) The board of trustees shall distribute the asset value
3736 as of the date of termination in the manner set forth in this
3737 subsection, on the basis that the amount required to provide any
3738 given retirement income is the actuarially computed single-sum
3739 value of such retirement income, except that if the method of
3740 distribution determined under subsection (2) involves the
3741 purchase of an insured annuity, the amount required to provide

585-03077-10

20101238c1

3742 the given retirement income is the single premium payable for
3743 such annuity. The actuarial single-sum value may not be less
3744 than the employee's accumulated contributions to the plan, with
3745 interest if provided by the plan, less the value of any plan
3746 benefits previously paid to the employee.

3747 (4) If there is asset value remaining after the full
3748 distribution specified in subsection (3), and after payment of
3749 any expenses incurred with such distribution, such excess shall
3750 be returned to the municipality, less the return to the state of
3751 the state's contributions. ~~., provided that,~~ If the excess is less
3752 than the total contributions made by the municipality and the
3753 state to date of termination of the plan, such excess shall be
3754 divided proportionately to the total contributions made by the
3755 municipality and the state.

3756 (5) The board of trustees shall distribute, in accordance
3757 with the manner of distribution determined under subsection (2),
3758 the amounts determined under subsection (3).

3759 (6) If, after 24 months after the date the plan terminated
3760 or the date the board received written notice that the
3761 contributions ~~thereunder~~ were being permanently discontinued,
3762 the municipality or the board of trustees of the municipal
3763 police officers' retirement trust fund affected has not complied
3764 with all the provisions in this section, the Department of
3765 Management Services shall effect the termination of the fund in
3766 accordance with this section.

3767 Section 100. Subsection (5) of section 189.4035, Florida
3768 Statutes, is amended to read:

3769 189.4035 Preparation of official list of special
3770 districts.—

585-03077-10

20101238c1

3771 (5) The official list of special districts shall be
 3772 distributed by the department on October 1 of each year to the
 3773 President of the Senate, the Speaker of the House of
 3774 Representatives, the Auditor General, the Department of Revenue,
 3775 the Department of Financial Services, the Department of Pesonnel
 3776 Management ~~Services~~, the State Board of Administration,
 3777 counties, municipalities, county property appraisers, tax
 3778 collectors, and supervisors of elections and to all interested
 3779 parties who request the list.

3780 Section 101. Subsection (1) of section 189.412, Florida
 3781 Statutes, is amended to read:

3782 189.412 Special District Information Program; duties and
 3783 responsibilities.—The Special District Information Program of
 3784 the Department of Community Affairs is created and has the
 3785 following special duties:

3786 (1) The collection and maintenance of special district
 3787 noncompliance status reports from the Department of Personnel
 3788 Management ~~Services~~, the Department of Financial Services, the
 3789 Division of Bond Finance of the State Board of Administration,
 3790 and the Auditor General for the reporting required in ss.
 3791 112.63, 218.32, 218.38, and 218.39. The ~~noncompliance~~ reports
 3792 must list those special districts that did not comply with the
 3793 statutory reporting requirements.

3794 Section 102. Subsection (1) of section 210.20, Florida
 3795 Statutes, is amended to read:

3796 210.20 Employees and assistants; distribution of funds.—

3797 (1) The division under the applicable rules of the
 3798 Department of Personnel Management may ~~Services shall have the~~
 3799 ~~power to~~ employ such employees and assistants and incur such

585-03077-10

20101238c1

3800 other expenses as ~~may be~~ necessary for the administration of
3801 this part, within the limits of an appropriation for the
3802 operation of the Department of Business and Professional
3803 Regulation as ~~may be~~ authorized by the General Appropriations
3804 Act.

3805 Section 103. Subsection (1) of section 210.75, Florida
3806 Statutes, is amended to read:

3807 210.75 Administration.—

3808 (1) The division, under the applicable rules of the
3809 Department of Personnel Management may Services, ~~shall have the~~
3810 ~~power to~~ employ such employees and assistants and ~~to~~ incur such
3811 other expenses as ~~may be~~ necessary for the administration of
3812 this part within the limits of an appropriation for the
3813 operation of the Department of Business and Professional
3814 Regulation as ~~may be~~ authorized by the General Appropriations
3815 Act.

3816 Section 104. Paragraph (r) of subsection (8) of section
3817 213.053, Florida Statutes, is amended to read:

3818 213.053 Confidentiality and information sharing.—

3819 (8) Notwithstanding any other provision of this section,
3820 the department may provide:

3821 (r) Information relative to the returns required by ss.
3822 175.111 and 185.09 to the Department of Personnel Management
3823 ~~Services~~ in the conduct of its official duties. The Department
3824 of Personnel Management may Services ~~is~~, in turn, ~~authorized to~~
3825 disclose payment information to a governmental agency or the
3826 agency's agent for purposes related to budget preparation,
3827 auditing, revenue or financial administration, or administration
3828 of chapters 175 and 185.

585-03077-10

20101238c1

3829

3830 Disclosure of information under this subsection shall be
3831 pursuant to a written agreement between the executive director
3832 and the agency. Such agencies, governmental or nongovernmental,
3833 shall be bound by the same requirements of confidentiality as
3834 the Department of Revenue. Breach of confidentiality is a
3835 misdemeanor of the first degree, punishable as provided by s.
3836 775.082 or s. 775.083.

3837 Section 105. Subsection (1) of section 215.196, Florida
3838 Statutes, is amended to read:

3839 215.196 Architects Incidental Trust Fund; creation;
3840 assessment.—

3841 (1) ~~There is created~~ The Architects Incidental Trust Fund
3842 is created for the purpose of providing sufficient funds for the
3843 operation of the facilities development activities of the
3844 Department of Environmental Protection ~~Management Services~~.

3845 Section 106. Paragraph (p) of subsection (1) of section
3846 215.22, Florida Statutes, is amended to read:

3847 215.22 Certain income and certain trust funds exempt.—

3848 (1) The following income of a revenue nature or the
3849 following trust funds shall be exempt from the appropriation
3850 required by s. 215.20(1):

3851 (p) The Communications Working Capital Trust Fund of the
3852 Agency for Enterprise Information Technology ~~Department of~~
3853 ~~Management Services~~.

3854 Section 107. Subsection (3) of section 215.28, Florida
3855 Statutes, is amended to read:

3856 215.28 United States securities, purchase by state and
3857 county officers and employees; deductions from salary.—

585-03077-10

20101238c1

3858 (3) All deductions ~~so~~ made by a ~~any such~~ disbursing
3859 authority shall be deposited in a trust account separate and
3860 apart from the funds of the state, county, or subordinate
3861 agency. Such account is ~~will be~~ subject to withdrawal only for
3862 the purchase of United States securities on behalf of officers
3863 and employees, or for refunds to such persons in accordance with
3864 ~~the provisions of this section law.~~ If ~~Whenever~~ the sum of
3865 \$18.75 or the purchase price of the security requested to be
3866 purchased is accumulated from deductions ~~so~~ made from the
3867 salaries or wages of an officer or employee, the ~~such~~ disbursing
3868 agent shall arrange the purchase of the bond or security applied
3869 for and have it registered in the name or names requested in the
3870 deduction authorization. Securities so purchased must ~~will~~ be
3871 delivered in a ~~such~~ manner that is ~~as may be~~ convenient for the
3872 issuing agent and the purchaser. Any interest earned on moneys
3873 ~~in such account while~~ awaiting the accumulation of the purchase
3874 price of the security shall be transferred to the Florida
3875 Retirement System Trust Fund as reimbursement for administrative
3876 costs incurred by the Department of Personnel Management
3877 ~~Services~~ under this section.

3878 Section 108. Subsection (6) of section 215.422, Florida
3879 Statutes, is amended to read:

3880 215.422 Payments, warrants, and invoices; processing time
3881 limits; dispute resolution; agency or judicial branch
3882 compliance.—

3883 (6) The Department of Financial Services shall monitor each
3884 agency's and the judicial branch's compliance with the time
3885 limits and interest penalty provisions of this section. The
3886 department shall provide a report to an agency or to the

585-03077-10

20101238c1

3887 judicial branch if the department determines that the agency or
3888 the judicial branch has failed to maintain an acceptable rate of
3889 compliance with the time limits and interest penalty provisions
3890 ~~of this section~~. The department shall establish criteria for
3891 determining acceptable rates of compliance. The report must
3892 ~~shall~~ also include a list of late invoices or payments, the
3893 amount of interest owed or paid, and any corrective actions
3894 recommended. The department shall perform monitoring
3895 responsibilities, pursuant to this section, using the Department
3896 of Financial Services' financial systems provided in s. 215.94.
3897 Each agency and the judicial branch shall be responsible for the
3898 accuracy of information entered into ~~the Department of~~
3899 ~~Management Services' procurement system and the department's~~
3900 ~~Department of Financial Services'~~ financial systems for use in
3901 this monitoring.

3902 Section 109. Section 215.425, Florida Statutes, is amended
3903 to read:

3904 215.425 Extra compensation claims prohibited. ~~No~~ Extra
3905 compensation may not be paid ~~shall be made~~ to any officer,
3906 agent, employee, or contractor after the service has been
3907 rendered or the contract made; nor shall any money be
3908 appropriated or paid on any claim the subject matter of which
3909 has not been provided for by preexisting laws, unless such
3910 compensation or claim is allowed by a law enacted by two-thirds
3911 of the members elected to each house of the Legislature.
3912 However, when adopting salary schedules for a fiscal year, a
3913 district school board or community college district board of
3914 trustees may apply the schedule for payment of all services
3915 rendered after ~~subsequent to~~ July 1 of that fiscal year. The

585-03077-10

20101238c1

3916 provisions of this section do not apply to extra compensation
3917 given to state employees who are included within the senior
3918 management group pursuant to rules adopted by the Department of
3919 Personnel Management Services; to extra compensation given to
3920 county, municipal, or special district employees pursuant to
3921 policies adopted by county or municipal ordinances or
3922 resolutions of governing boards of special districts or to
3923 employees of the clerk of the circuit court pursuant to written
3924 policy of the clerk; or to a clothing and maintenance allowance
3925 given to plainclothes deputies pursuant to s. 30.49.

3926 Section 110. Paragraph (g) of subsection (1) of section
3927 215.47, Florida Statutes, is amended to read:

3928 215.47 Investments; authorized securities; loan of
3929 securities.—Subject to the limitations and conditions of the
3930 State Constitution or of the trust agreement relating to a trust
3931 fund, moneys available for investments under ss. 215.44-215.53
3932 may be invested as follows:

3933 (1) Without limitation in:

3934 (g) Bonds issued by the Florida State Improvement
3935 Commission, Florida Development Commission, ~~Division of Bond~~
3936 ~~Finance of the Department of General Services~~, or Division of
3937 Bond Finance of the State Board of Administration.

3938 Section 111. Subsection (3) of section 215.50, Florida
3939 Statutes, is amended to read:

3940 215.50 Custody of securities purchased; income.—

3941 (3) The Chief Financial Officer, as custodian of securities
3942 owned by the Florida Retirement System Trust Fund and the
3943 Florida Survivor Benefit Trust Fund, shall collect the interest,
3944 dividends, prepayments, maturities, proceeds from sales, and

585-03077-10

20101238c1

3945 other income accruing from such assets. As such income is
3946 collected by the Chief Financial Officer, it shall be deposited
3947 directly into a commercial bank to the credit of the State Board
3948 of Administration. The ~~Such~~ bank accounts ~~as may be~~ required for
3949 this purpose shall offer satisfactory collateral security as
3950 provided by chapter 280. If the ~~In the event~~ funds ~~se~~ deposited
3951 ~~according to the provisions of this section~~ are required to pay
3952 ~~for the purpose of paying~~ benefits or other operational needs,
3953 the State Board of Administration shall remit to the Florida
3954 Retirement System Trust Fund in the State Treasury such amounts
3955 as may be requested by the Department of Personnel Management
3956 Services.

3957 Section 112. Subsections (4) and (5) of section 215.94,
3958 Florida Statutes, are amended to read:

3959 215.94 Designation, duties, and responsibilities of
3960 functional owners.—

3961 (4) The Department of Financial ~~Management~~ Services is
3962 ~~shall be~~ the functional owner of the Purchasing Subsystem. The
3963 department shall design, implement, and operate the subsystem in
3964 accordance with ~~the provisions of~~ ss. 215.90-215.96. The
3965 subsystem includes ~~shall include~~, but is ~~shall~~ not be limited
3966 to, functions for commodity and service procurement.

3967 (5) The Department of Personnel Management is ~~Services~~
3968 ~~shall be~~ the functional owner of the Personnel Information
3969 System. The department shall ensure that the system is designed,
3970 implemented, and operated in accordance with ~~the provisions of~~
3971 ss. 110.116 and 215.90-215.96. The department may contract with
3972 a vendor to provide the system and services required of the
3973 ~~Personnel Information~~ system. The subsystem includes ~~shall~~

585-03077-10

20101238c1

3974 ~~include~~, but is ~~shall~~ not ~~be~~ limited to, functions for:

3975 (a) Maintenance of employee and position data, including
3976 funding sources and percentages and salary lapse. The employee
3977 data includes ~~shall include~~, but is not ~~be~~ limited to,
3978 information to meet the payroll system requirements of the
3979 Department of Financial Services and to meet the employee
3980 benefit system requirements of the Department of Personnel
3981 Management ~~Services~~.

3982 (b) Recruitment and selection.

3983 (c) Time and leave reporting.

3984 (d) Collective bargaining.

3985 Section 113. Subsection (2) of section 215.96, Florida
3986 Statutes, is amended to read:

3987 215.96 Coordinating council and design and coordination
3988 staff.—

3989 (2) The coordinating council shall consist of the Chief
3990 Financial Officer; the Commissioner of Agriculture; the
3991 executive director ~~secretary~~ of the Department of Personnel
3992 Management ~~Services~~; the Attorney General; and the Director of
3993 Planning and Budgeting, Executive Office of the Governor, or
3994 their designees. The Chief Financial Officer, or a ~~his or her~~
3995 designee, shall be the chair of the coordinating council, and
3996 the design and coordination staff shall provide administrative
3997 and clerical support to the council and the board. The design
3998 and coordination staff shall maintain the minutes of each
3999 meeting and ~~shall~~ make such minutes available to any interested
4000 person. The Auditor General, the State Courts Administrator, an
4001 executive officer of the Florida Association of State Agency
4002 Administrative Services Directors, and an executive officer of

585-03077-10

20101238c1

4003 the Florida Association of State Budget Officers, or their
4004 designees, shall serve without voting rights as ex officio
4005 members on the coordinating council. The chair may call meetings
4006 of the coordinating council as often as necessary to transact
4007 business; however, the coordinating council must ~~shall~~ meet at
4008 least once a year. Action of the coordinating council shall be
4009 by motion, duly made, seconded and passed by a majority of the
4010 coordinating council voting in the affirmative for approval of
4011 items that are to be recommended for approval to the Financial
4012 Management Information Board.

4013 Section 114. Section 216.0152, Florida Statutes, is amended
4014 to read:

4015 216.0152 Inventory of state-owned facilities or state-
4016 occupied facilities.—

4017 (1) The Department of Environmental Protection Management
4018 ~~Services~~ shall develop and maintain an automated inventory of
4019 all facilities owned, leased, rented, or otherwise occupied or
4020 maintained by any state agency ~~of the state~~ or by the judicial
4021 branch, except those with less than 3,000 square feet. The
4022 inventory must ~~shall~~ include the location, occupying agency,
4023 ownership, size, condition assessment, maintenance record, age,
4024 parking and employee facilities, and other information ~~as~~
4025 required by the department for determining maintenance needs and
4026 life-cycle cost evaluations of the facility. The inventory need
4027 not include a condition assessment or maintenance record of
4028 facilities not owned by a state agency or by the judicial
4029 branch. The term "facility," as used in this section, means
4030 buildings, structures, and building systems, but does not
4031 include transportation facilities of the state transportation

585-03077-10

20101238c1

4032 system. The Department of Transportation shall develop and
4033 maintain an inventory of transportation facilities of the state
4034 transportation system. The Board of Governors of the State
4035 University System and the Department of Education, respectively,
4036 shall develop and maintain an inventory, in the manner
4037 prescribed by the Department of Environmental Protection
4038 ~~Management Services~~, of all state university and community
4039 college facilities and shall make the data available in a format
4040 acceptable to the Department of Environmental Protection
4041 ~~Management Services~~.

4042 (2) The Department of Environmental Protection ~~Management~~
4043 ~~Services~~ shall update its inventory and cause ~~to be updated~~ the
4044 other inventories required by subsection (1) to be updated at
4045 least once every 5 years. However, ~~but~~ the inventories must
4046 ~~shall~~ record acquisitions of new facilities and significant
4047 changes in existing facilities as they occur. The department ~~of~~
4048 ~~Management Services~~ shall provide each state agency and the
4049 judicial branch with the most recent inventory applicable to
4050 that agency or to the judicial branch. Each state agency and the
4051 judicial branch shall, in the manner prescribed by the
4052 department ~~of Management Services~~, report significant changes in
4053 the inventory as they occur. Items relating to the condition and
4054 life-cycle cost of a facility must ~~shall~~ be updated at least
4055 every 5 years.

4056 (3) The Department of Environmental Protection ~~Management~~
4057 ~~Services~~ shall, every 3 years, publish a complete report
4058 detailing this inventory and ~~shall~~ publish an annual update of
4059 the report. The department shall furnish the updated report to
4060 the Executive Office of the Governor and the Legislature by ~~no~~

585-03077-10

20101238c1

4061 ~~later than~~ September 15 of each year.

4062 Section 115. Subsection (1) of section 216.016, Florida
4063 Statutes, is amended to read:

4064 216.016 Evaluation of plans; determination of financing
4065 method.—

4066 (1) Pursuant to ~~the requirements of~~ s. 216.044, the
4067 Department of Environmental Protection ~~Management Services~~ shall
4068 evaluate state agency plans and plans of the judicial branch.

4069 Section 116. Paragraph (a) of subsection (4) of section
4070 216.023, Florida Statutes, is amended to read:

4071 216.023 Legislative budget requests to be furnished to
4072 Legislature by agencies.—

4073 (4) (a) The legislative budget request must include ~~contain~~
4074 for each program:

4075 1. The constitutional or statutory authority for a program,
4076 a brief purpose statement, and approved program components.

4077 2. Information on expenditures for 3 fiscal years by
4078 appropriation category, which includes ~~(actual prior-year~~
4079 ~~expenditures, current-year estimated expenditures, and agency~~
4080 ~~budget requested expenditures for the next fiscal year)~~ by
4081 ~~appropriation category.~~

4082 3. Details on trust funds and fees.

4083 4. The total number of positions, including ~~(authorized,~~
4084 ~~fixed, and requested).~~

4085 5. An issue narrative describing and justifying changes in
4086 amounts and positions requested for current and proposed
4087 programs for the next fiscal year.

4088 6. Information resource requests.

4089 7. Supporting information, including applicable cost-

585-03077-10

20101238c1

4090 benefit analyses, business case analyses, performance
4091 contracting procedures, service comparisons, and impacts on
4092 performance standards for any request to outsource or privatize
4093 agency functions. The cost-benefit and business case analyses
4094 must include an assessment of the impact on each affected
4095 activity from those identified in accordance with paragraph (b).
4096 Performance standards must include standards for each affected
4097 activity and be expressed in terms of the associated unit of
4098 activity.

4099 8. An evaluation of any major outsourcing and privatization
4100 initiatives undertaken during the last 5 fiscal years having
4101 aggregate expenditures exceeding \$10 million during the term of
4102 the contract. The evaluation must ~~shall~~ include an assessment of
4103 contractor performance, a comparison of anticipated service
4104 levels to actual service levels, and a comparison of estimated
4105 savings to actual savings achieved. Consolidated reports issued
4106 by the Department of Financial ~~Management~~ Services may be used
4107 to satisfy this requirement.

4108 9. Supporting information for any proposed consolidated
4109 financing of deferred-payment commodity contracts including
4110 guaranteed energy performance savings contracts. Supporting
4111 information must also include narrative describing and
4112 justifying the need, baseline for current costs, estimated cost
4113 savings, projected equipment purchases, estimated contract
4114 costs, and return on investment calculation.

4115 10. For projects that exceed \$10 million in total cost, the
4116 statutory reference of the existing policy or the proposed
4117 substantive policy that establishes and defines the project's
4118 governance structure, planned scope, main business objectives

585-03077-10

20101238c1

4119 that must be achieved, and estimated completion timeframes.
4120 Information technology budget requests for the continuance of
4121 existing hardware and software maintenance agreements, renewal
4122 of existing software licensing agreements, or the replacement of
4123 desktop units with new technology that is similar to the
4124 technology currently in use are exempt from this requirement.

4125 Section 117. Section 216.044, Florida Statutes, is amended
4126 to read:

4127 216.044 Budget evaluation ~~by Department of Management~~
4128 ~~Services.~~—

4129 (1) Any state agency or judicial branch entity requesting a
4130 fixed capital outlay project to be managed by the Department of
4131 Environmental Protection ~~Management Services~~ shall consult with
4132 that department during the budget development process. The
4133 department ~~of Management Services~~ shall provide recommendations
4134 regarding construction requirements, cost of the project, and
4135 project alternatives to be incorporated in the agency's or
4136 entity's proposed fixed capital outlay budget request and
4137 narrative justification.

4138 (2) Concurrently with the submission of the fixed capital
4139 outlay legislative budget request to the Executive Office of the
4140 Governor or to the Chief Justice of the Supreme Court, the
4141 agency or judicial branch shall submit a copy of the legislative
4142 budget request to the Department of Environmental Protection
4143 ~~Management Services~~ for evaluation.

4144 (3) The Department of Environmental Protection ~~Management~~
4145 ~~Services~~ shall advise the Executive Office of the Governor, the
4146 Chief Justice, and the Legislature regarding alternatives to the
4147 proposed fixed capital outlay project and make recommendations

585-03077-10

20101238c1

4148 relating to the construction requirements and cost of the
4149 project. These recommendations shall be provided to the
4150 Legislature and Executive Office of the Governor at a time
4151 specified by the Governor, but at least ~~not less than~~ 90 days
4152 before ~~prior to~~ the regular session of the Legislature. When
4153 evaluating alternatives, the department ~~of Management Services~~
4154 shall include information as to whether it would be more cost-
4155 efficient to lease private property or facilities, to construct
4156 facilities on property presently owned by the state, or to
4157 acquire property on which to construct the facilities. In
4158 determining the cost to the state of constructing facilities on
4159 property presently owned by the state or the cost of acquiring
4160 property on which to construct facilities, the department ~~of~~
4161 ~~Management Services~~ shall include the costs that ~~which~~ would be
4162 incurred by a private person in acquiring the property and
4163 constructing the facilities, including, but not limited to,
4164 taxes and return on investment.

4165 Section 118. Paragraph (c) of subsection (2) of section
4166 216.163, Florida Statutes, is amended to read:

4167 216.163 Governor's recommended budget; form and content;
4168 declaration of collective bargaining impasses.-

4169 (2) The Governor's recommended budget shall also include:

4170 (c) The evaluation of the fixed capital outlay request of
4171 each agency and the judicial branch and alternatives to the
4172 proposed projects as made by the Department of Environmental
4173 Protection ~~Management Services~~ pursuant to s. 216.044.

4174 Section 119. Section 216.237, Florida Statutes, is amended
4175 to read:

4176 216.237 Availability of any remaining funds; ~~agency~~

585-03077-10

20101238c1

4177 maintenance of accounting records.—Any funds remaining ~~funds~~
4178 from the General Revenue Fund and trust fund spending authority
4179 not awarded to agencies pursuant to s. 216.236 shall be made
4180 available to agencies for innovative projects that ~~which~~
4181 generate a cost savings, increase revenue, or improve service
4182 delivery. Innovative projects that ~~which~~ generate a cost savings
4183 shall receive greater consideration when awarding innovation
4184 ~~investment~~ funds. Any trust fund authority granted under this
4185 program must be used ~~shall be utilized~~ in a manner that is
4186 consistent with the statutory authority for the use of the said
4187 trust fund. Any savings realized as a result of implementing the
4188 innovative project must ~~shall~~ be used by the agency to establish
4189 an internal innovations fund. State agencies that ~~which~~ are
4190 awarded funds for innovative projects shall use ~~utilize~~ the
4191 chart of accounts used by the Florida Accounting Information
4192 Resource Subsystem in the manner described in s. 215.93(3). The
4193 ~~Such~~ chart of accounts shall be developed and amended in
4194 consultation with the Department of Financial Services and the
4195 Executive Office of the Governor to separate and account for ~~the~~
4196 savings that result from the implementation of the innovative
4197 projects and to keep track of how the innovative funds are
4198 reinvested by the state agency to fund additional innovative
4199 projects, which may include, but are not ~~be~~ limited to,
4200 expenditures for training and information technology resources.
4201 Guidelines for the establishment of such internal innovations
4202 fund shall be provided by the Department of Financial Management
4203 ~~Services~~. Any agency awarded funds under this section must ~~shall~~
4204 maintain detailed accounting records showing all expenses, loan
4205 transfers, savings, or other financial actions concerning the

585-03077-10

20101238c1

4206 project. Any savings realized as a result of implementing the
4207 innovative project must ~~shall~~ be quantified, validated, and
4208 verified by the agency. A final report of the results of the
4209 implementation of each innovative project must ~~shall~~ be
4210 submitted by each participating agency to the Governor's Office
4211 of Policy and Budget ~~Planning and Budgeting~~ and the legislative
4212 appropriations committees by June 30 of the fiscal year in which
4213 the funds were received and ensuing fiscal years for the life of
4214 the project.

4215 Section 120. Section 216.238, Florida Statutes, is amended
4216 to read:

4217 216.238 Rules ~~Authority given to carry out provisions of~~
4218 ~~program.~~—The Department of Financial ~~Management~~ Services shall,
4219 ~~in accordance with chapter 120,~~ adopt, promulgate, amend, or
4220 ~~rescind~~ such rules as ~~it deems~~ necessary and administratively
4221 feasible to administer ~~carry out the provisions of~~ the
4222 Innovation Investment Program.

4223 Section 121. Paragraphs (d), (e), (f), and (g) of
4224 subsection (1) and subsection (3) of section 216.262, Florida
4225 Statutes, are amended to read:

4226 216.262 Authorized positions.—

4227 (1)

4228 (d) An individual employed by a state agency or by the
4229 judicial branch may not hold more than one employment during his
4230 or her normal working hours with the state, such working hours
4231 to be determined by the head of the state agency affected,
4232 unless approved by the Department of Personnel ~~Management~~
4233 ~~Services~~, or otherwise delegated to the agency head, or by the
4234 Chief Justice of the Supreme Court, respectively.

585-03077-10

20101238c1

4235 (e) An individual employed by a state agency or by the
4236 judicial branch may not fill more than a total of one full-time
4237 equivalent established position, receive compensation
4238 simultaneously from any appropriation other than appropriations
4239 for salaries, or receive compensation simultaneously from more
4240 than one state agency unless approved by the Department of
4241 Personnel Management Services, or otherwise delegated to the
4242 agency head, or by the Chief Justice, respectively, during each
4243 fiscal year. The department ~~of Management Services~~ may adopt
4244 uniform rules applicable to the executive branch agencies to
4245 implement its responsibilities under this paragraph.

4246 (f) Perquisites may not be furnished by a state agency or
4247 by the judicial branch unless approved by the Department of
4248 Personnel Management Services, or otherwise delegated to the
4249 agency head, or by the Chief Justice, respectively, during each
4250 fiscal year. ~~If Whenever~~ a state agency or the judicial branch
4251 is to furnish perquisites, the department ~~of Management Services~~
4252 or the agency head to which the approval has been delegated or
4253 the Chief Justice, respectively, must approve the kind and
4254 monetary value of such perquisites before they are ~~may be~~
4255 furnished. Perquisites may be furnished only if ~~when~~ in the best
4256 interest of the state due to the exceptional or unique
4257 requirements of the position. The value of a perquisite may not
4258 be used to compute an employee's base rate of pay or regular
4259 rate of pay unless required by the Fair Labor Standards Act.
4260 Permissible perquisites include, but are not limited to, moving
4261 expenses, clothing, use of vehicles and other transportation,
4262 domestic services, groundskeeping services, telephone services,
4263 medical services, housing, utilities, and meals. The Department

585-03077-10

20101238c1

4264 of Personnel ~~Management~~ Services may adopt uniform rules
4265 applicable to the executive branch agencies to implement its
4266 responsibilities under this paragraph, which ~~rules~~ may specify
4267 additional perquisites, establish additional criteria for each
4268 kind of perquisite, provide the procedure to be used by
4269 executive agencies in applying for approvals, and establish the
4270 required justification. As used in this section, the term
4271 "perquisites" means those things, or the use thereof, or
4272 services of a kind that confer on the officers or employees
4273 receiving them some benefit that is in the nature of additional
4274 compensation, or that reduce to some extent the normal personal
4275 expenses of the officer or employee receiving them. The term
4276 includes, but is not limited to, such things as quarters,
4277 subsistence, utilities, laundry services, medical service, use
4278 of state-owned vehicles for other than state purposes, and
4279 servants paid by the state.

4280 (g) If goods and services are to be sold to officers and
4281 employees of a state agency or of the judicial branch rather
4282 than being furnished as perquisites, the kind and selling price
4283 must ~~thereof shall~~ be approved by the Department of Personnel
4284 ~~Management~~ Services, unless otherwise delegated to the agency
4285 head, or by the Chief Justice, respectively, during each fiscal
4286 year before such sales are made. The selling price may be
4287 deducted from any amounts due by the state to the ~~any~~ person
4288 receiving such things. The amount of cash so deducted must ~~shall~~
4289 be faithfully accounted for. This paragraph does not apply to
4290 sales to officers or employees of items generally sold to the
4291 public and does not apply to meals that ~~which~~ may be provided
4292 without charge to volunteers under a volunteer service program

585-03077-10

20101238c1

4293 approved by the Department of Personnel Management ~~Services~~. The
4294 goods and services may include, but are not limited to, medical
4295 services, long-term and short-term rental housing, and laundry
4296 and transportation services. The department ~~of Management~~
4297 ~~Services~~ may adopt uniform rules applicable to the executive
4298 branch agencies to implement its responsibilities under this
4299 paragraph, which ~~rules~~ may specify other items that may be
4300 approved, the required justification for proposed sales, and the
4301 manner in which agencies are required to ~~will~~ apply for
4302 approvals.

4303 (3) A ~~No~~ full-time position may not ~~shall~~ be filled by more
4304 than the equivalent of one full-time officer or employee, except
4305 when extenuating circumstances exist. Extenuating circumstances
4306 must ~~will~~ be provided for in rules to be adopted by the
4307 Department of Personnel Management ~~Services~~ or by the Chief
4308 Justice, respectively.

4309 Section 122. Paragraph (c) of subsection (6) of section
4310 216.292, Florida Statutes, is amended to read:

4311 216.292 Appropriations nontransferable; exceptions.—

4312 (6) The Chief Financial Officer shall transfer from any
4313 available funds of an agency or the judicial branch the
4314 following amounts and shall report all such transfers and the
4315 reasons therefor to the legislative appropriations committees
4316 and the Executive Office of the Governor:

4317 (c) The amount due to the Communications Working Capital
4318 Trust Fund from moneys appropriated in the General
4319 Appropriations Act for the purpose of paying for services
4320 provided by the state communications system in the Agency for
4321 Enterprise Information Technology ~~Department of Management~~

585-03077-10

20101238c1

4322 ~~Services~~ which is unpaid 45 days after the billing date. The
4323 amount transferred shall be the amount ~~that~~ billed by the
4324 department.

4325 Section 123. Section 217.02, Florida Statutes, is amended
4326 to read:

4327 217.02 Definitions.—As used in this chapter ~~act~~, the term:

4328 (1) "Department" means the Department of Financial
4329 ~~Management~~ Services.

4330 (2) "Surplus property" means any federal property that
4331 ~~which~~ has been declared excess by a federal agency, including
4332 the Department of Defense, and made available for procurement
4333 and distribution in the state in compliance with the Federal
4334 Property and Administrative Services Act of 1949, and subsequent
4335 amendments thereto, or any other federal law provided for the
4336 procurement and distribution of federal excess and surplus
4337 property.

4338 Section 124. Section 217.04, Florida Statutes, is amended
4339 to read:

4340 217.04 Negotiation ~~Department of Management Services as~~
4341 ~~state agency to negotiate~~ with federal agency.—The department of
4342 ~~Management Services~~ is designated the official agency of the
4343 state to negotiate with any federal agency in accordance and
4344 compliance with the Federal Property and Administrative Services
4345 Act of 1949 and subsequent amendments thereto, and any other
4346 federal law or regulation providing for the procurement and
4347 distribution of federal surplus personal property.

4348 Section 125. Section 217.045, Florida Statutes, is amended
4349 to read:

4350 217.045 ~~Department of Management Services;~~ Assistance to

585-03077-10

20101238c1

4351 state agencies.—The department ~~of Management Services~~ may follow
4352 whatever procedure is considered necessary to enable state
4353 agencies to take advantage of surplus property allocated to the
4354 state by the Federal Government or by its disposal agencies.

4355 Section 126. Subsections (2), (3), (11), and (13) of
4356 section 238.01, Florida Statutes, are amended to read:

4357 238.01 Definitions.—The following words and phrases as used
4358 in this chapter shall have the following meanings unless a
4359 different meaning is plainly required by the context:

4360 (2) "Department" means the Department of Personnel
4361 ~~Management~~ Services.

4362 (3) "Teacher" means any member of the teaching or
4363 professional staff and any certificated employee of any public
4364 free school, ~~of~~ any district school system and career center,
4365 any member of the teaching or professional staff of the Florida
4366 School for the Deaf and Blind, child training schools of the
4367 Department of Juvenile Justice, the Department of Corrections,
4368 and any tax-supported institution of higher learning of the
4369 state, and any member and any certified employee of the
4370 Department of Education, any certified employee of the
4371 retirement system, any full-time employee of any nonprofit
4372 professional association or corporation of teachers functioning
4373 in Florida on a statewide basis, which seeks to protect and
4374 improve public school opportunities for children and advance the
4375 professional and welfare status of its members, any person now
4376 serving as superintendent, or who was serving as county
4377 superintendent of public instruction on July 1, 1939, and any
4378 hereafter duly elected or appointed superintendent, who holds a
4379 valid Florida teachers' certificate. In all cases of doubt the

585-03077-10

20101238c1

4380 department ~~of Management Services~~ shall determine whether a ~~any~~
4381 person is a teacher as defined herein.

4382 (11) "Regular interest" means interest at such rate as may
4383 be set from time to time by the department ~~of Management~~
4384 ~~Services~~.

4385 (13) "Earnable compensation" means the full compensation
4386 payable to a teacher working the full working time for his or
4387 her position. With In respect to plans A, B, C, and D only, if
4388 the in-cases where compensation includes maintenance, the
4389 department ~~of Management Services~~ shall fix the value of that
4390 part of the compensation not paid in money if; ~~provided that~~ all
4391 members as of ~~shall from~~ July 1, 1955, make contributions to the
4392 retirement system on the basis of "earnable compensation," as
4393 defined herein and ~~all persons who are members on July 1, 1955,~~
4394 ~~may, upon application, have their "earnable compensation" for~~
4395 ~~the time during which they have been members prior to that date~~
4396 ~~determined on the basis of "earnable compensation" as defined in~~
4397 ~~this law, upon paying to the retirement system, on or before the~~
4398 ~~date of retirement, a sum equal to the additional contribution~~
4399 ~~with accumulated regular interest thereon they would have made~~
4400 ~~if "earnable compensation" had been defined, at the time they~~
4401 ~~became members, as it is now defined. However, earnable~~
4402 compensation for all plan years beginning on or after July 1,
4403 1990, may ~~shall~~ not include any amounts in excess of the
4404 compensation limitation (originally \$200,000) established by s.
4405 401(a)(17) of the Internal Revenue Code prior to the Omnibus
4406 Budget Reconciliation Act of 1993, which limitation shall be
4407 adjusted for changes in the cost of living since 1989, as in the
4408 ~~manner~~ provided by s. 401(a)(17) of the Internal Revenue Code of

585-03077-10

20101238c1

4409 1991. This limitation, which has been part of the Teachers'
4410 Retirement System since plan years beginning on or after July 1,
4411 1990, must ~~shall~~ be adjusted as required by federal law for
4412 qualified government plans.

4413 Section 127. Section 238.02, Florida Statutes, is amended
4414 to read:

4415 238.02 ~~Name and date of Establishment.~~-A retirement system
4416 is established and placed under the management of the department
4417 ~~of Management Services~~ for the purpose of providing retirement
4418 allowances and other benefits for teachers of the state. The
4419 retirement system shall have ~~begin operations on July 1, 1939.~~
4420 ~~It has~~ such powers and privileges of a corporation as ~~may be~~
4421 necessary to carry out ~~effectively~~ the provisions of this
4422 chapter and shall be known as the "Teachers' Retirement System
4423 of the State," and by such name all of its business shall be
4424 transacted, all of its funds invested, and all of its cash and
4425 securities and other property held in trust for the purpose for
4426 which received.

4427 Section 128. Subsection (1) of section 238.03, Florida
4428 Statutes, is amended to read:

4429 238.03 Administration.-

4430 (1) The general administration and the responsibility for
4431 the proper operation of the retirement system and for making
4432 effective the provisions of this chapter are vested in the
4433 department ~~of Management Services~~. Subject to the limitation of
4434 this chapter, the department shall, from time to time, adopt
4435 ~~establish~~ rules ~~and regulations~~ for the administration and
4436 transaction of the business of the retirement system and shall
4437 perform such other functions as are required for the execution

585-03077-10

20101238c1

4438 of this chapter.

4439 Section 129. Subsection (3) of section 238.07, Florida
4440 Statutes, is amended to read:

4441 238.07 Regular benefits; survivor benefits.—

4442 (3) ~~Any member who, prior to July 1, 1955, elected to~~
4443 ~~retire under one of plans A, B, C, or D may elect, prior to~~
4444 ~~retirement, to retire under plan E in accordance with the terms~~
4445 ~~hereof.~~ Any person who became a member on or after July 1, 1955,
4446 shall retire under plan E, except as provided for under s.
4447 238.31. With respect to plans A, B, C, or D, any member may
4448 ~~shall have the right~~ at any time ~~to~~ change to a plan of
4449 retirement requiring a lower rate of contribution. The
4450 department ~~of Management Services~~ shall also notify the member
4451 of the rate of contribution such member must make from and after
4452 selecting such plan of retirement. Any member in service may
4453 retire upon reaching the age of retirement formerly selected by
4454 him or her, upon the member's written application to the
4455 department setting forth at which time, not more than 90 days
4456 after ~~subsequent to the execution and filing of~~ such
4457 application, it is his or her desire to retire notwithstanding
4458 that during such period ~~of notification~~ he or she may have
4459 separated from service. Upon receipt of such application ~~for~~
4460 ~~retirement~~, the department shall retire such member not more
4461 than 90 days thereafter. Before such member may retire, he or
4462 she must file with the department his or her written selection
4463 of one of the optional benefits provided in s. 238.08.

4464 Section 130. Paragraph (a) of subsection (1) of section
4465 238.09, Florida Statutes, is amended to read:

4466 238.09 Method of financing.—All of the assets of the

585-03077-10

20101238c1

4467 retirement system shall be credited, according to the purposes
4468 for which they are held, to one of four funds; namely, the
4469 Annuity Savings Trust Fund, the Pension Accumulation Trust Fund,
4470 the Expense Trust Fund, and the Survivors' Benefit Trust Fund.

4471 (1) The Annuity Savings Trust Fund shall be a fund in which
4472 shall be accumulated contributions made from the salaries of
4473 members under the provisions of paragraph (c) or paragraph (f).
4474 Contribution to, payments from, the Annuity Savings Trust Fund
4475 shall be made as follows:

4476 (a) With respect to plan A, B, C, or D, upon the basis of
4477 such tables as the department of ~~Management Services~~ shall
4478 adopt, and regular interest, the actuary of the retirement
4479 system shall determine for each member the proportion of
4480 earnable compensation which, when deducted from each payment of
4481 his or her prospective earnable annual compensation prior to his
4482 or her minimum service retirement age, and accumulated at
4483 regular interest until such age, shall be computed to provide at
4484 such age:

4485 1. An annuity equal to one one-hundred-fortieth of the
4486 member's ~~his or her~~ average final compensation multiplied by the
4487 number of ~~his or her~~ years of membership in the case of each
4488 member electing to retire under the provisions of plan A or B.

4489 2. An annuity equal to one one-hundred-twentieth of the
4490 member's ~~his or her~~ average final compensation multiplied by the
4491 number of ~~his or her~~ years of membership service in the case of
4492 each member electing to retire under the provisions of plan C.

4493 3. An annuity equal to one one-hundredth of his or her
4494 average final compensation multiplied by the number of the
4495 members' ~~his or her~~ years of membership service in the case of

585-03077-10

20101238c1

4496 each member electing to retire under the provisions of plan D.

4497

4498 For each ~~In the case of any~~ member who ~~has~~ attained his or her
4499 minimum service retirement age before ~~prior to~~ becoming a
4500 member, the proportion of salary applicable to such member, with
4501 respect to plan A, B, C, or D, shall be the proportion computed
4502 for the age 1 year younger than his or her minimum service
4503 retirement age.

4504 Section 131. Section 238.10, Florida Statutes, is amended
4505 to read:

4506 238.10 Management of funds.—The department ~~of Management~~
4507 ~~Services~~, annually, shall allow regular interest on the amount
4508 for the preceding year to the credit of each of the funds of the
4509 retirement system, and to the credit of the individual account
4510 therein, if any, with the exception of the expense fund, from
4511 the interest and dividends earned from investments.

4512 Section 132. Paragraph (b) of subsection (1) and
4513 subsections (2) and (3) of section 238.11, Florida Statutes, are
4514 amended to read:

4515 238.11 Collection of contributions.—

4516 (1) The collection of contributions shall be as follows:

4517 (b) Each employer shall transmit monthly to the department
4518 ~~of Management Services~~ a warrant for the total amount of ~~such~~
4519 deductions. Each employer shall also transmit monthly to the
4520 department a warrant for ~~such~~ employer contribution set aside as
4521 provided ~~for~~ in paragraph (a) ~~of this subsection~~. The
4522 department, after making records of all such warrants, shall
4523 transmit them to the Department of Financial Services for
4524 delivery to the Chief Financial Officer, who shall collect them.

585-03077-10

20101238c1

4525 (2) The collection of the state contribution shall be made
4526 as follows:

4527 (a) The amounts required to be paid by the state into the
4528 Teachers' Retirement System under ~~in~~ this chapter shall be
4529 provided ~~therefor~~ in the General Appropriations Act. However, if
4530 ~~in the event~~ a sufficient amount is not included in the General
4531 Appropriations Act to meet the full amount needed to pay the
4532 retirement compensation provided for in this chapter, the
4533 additional amount needed for such retirement compensation is
4534 ~~hereby~~ appropriated from the General Revenue Fund as approved by
4535 the department ~~of Management Services~~.

4536 (b) The department ~~of Management Services~~ shall certify
4537 one-fourth of the amount so ascertained for each year to the
4538 Chief Financial Officer on or before the last day of July,
4539 October, January, and April of each year. The Chief Financial
4540 Officer shall, on or before the first day of August, November,
4541 February, and May of each year, immediately transfer the amounts
4542 due to the several funds of the retirement system ~~the amounts~~
4543 ~~due~~.

4544 (3) All collection of contributions of a nonprofit
4545 professional association or corporation of teachers as referred
4546 to in s. 238.01(3) and (5) shall be made by such association or
4547 corporation in the following manner:

4548 (a) On April 1 of each year, the department ~~of Management~~
4549 ~~Services~~ shall certify to ~~any~~ such nonprofit professional
4550 association or corporation of teachers the amounts that ~~which~~
4551 will become due and payable during the ensuing fiscal year to
4552 each of the funds of the retirement system to which such
4553 contributions are payable as set forth in this section ~~law~~.

585-03077-10

20101238c1

4554 (b) The department ~~of Management Services~~ shall certify
4555 one-fourth of the amount so ascertained for each year to the
4556 nonprofit professional association or corporation of teachers on
4557 or before the last day of July, October, January, and April of
4558 each year. The nonprofit professional association or corporation
4559 of teachers shall, on or before the first day of August,
4560 November, February, and May of each year, draw its check payable
4561 to the department for the respective amounts due the several
4562 funds of the retirement system. Upon receipt of the check, the
4563 department shall immediately transfer the amounts due to the
4564 several funds of the retirement system ~~the amounts due,~~
4565 ~~provided, however, that the amounts due the several funds of the~~
4566 ~~retirement system from any such association or corporation for~~
4567 ~~creditable service accruing to any such member before July 1,~~
4568 ~~1947, shall be paid prior to the retirement of any such member.~~

4569 Section 133. Subsection (1) of section 238.12, Florida
4570 Statutes, is amended to read:

4571 238.12 Duties of employers.—

4572 (1) Each employer shall keep such records and, from time to
4573 time, shall furnish such information as the department ~~of~~
4574 ~~Management Services~~ may require in the discharge of its duties.
4575 Upon the employment of any teacher to whom this chapter may
4576 apply, the teacher shall be informed by his or her employer of
4577 his or her duties and obligations in connection with the
4578 retirement system as a condition of his or her employment. Every
4579 teacher accepting employment shall be deemed to consent and
4580 agree to any deductions from his or her compensation required in
4581 this chapter and to all other provisions of this chapter.

4582 Section 134. Section 238.15, Florida Statutes, is amended

585-03077-10

20101238c1

4583 to read:

4584 238.15 Exemption of funds from taxation, execution, and
4585 assignment.—The pensions, annuities or any other benefits
4586 accrued or accruing to any person under ~~the provisions of~~ this
4587 chapter and the accumulated contributions and cash securities in
4588 the funds created under this chapter are exempted from any
4589 state, county or municipal tax of the state, and are ~~shall~~ not
4590 ~~be~~ subject to execution or attachment or to any legal process
4591 whatsoever, and shall be unassignable, except:

4592 (1) That any teacher who has retired may ~~shall have the~~
4593 ~~right and power to~~ authorize the department in writing ~~the~~
4594 ~~department of Management Services~~ to deduct from his or her
4595 monthly retirement allowance money for the payment of the
4596 premiums on group insurance for hospital, medical and surgical
4597 benefits, under a plan or plans for such benefits approved in
4598 writing by the Chief Financial Officer, and upon receipt of such
4599 request the department shall make the monthly payments as
4600 directed; and

4601 (2) As may be otherwise specifically provided for in this
4602 chapter.

4603 Section 135. Paragraph (b) of subsection (3) of section
4604 238.171, Florida Statutes, is amended to read:

4605 238.171 Monthly allowance; when made.—

4606 (3)

4607 (b) On July 1, 1975, and each July 1 thereafter, the
4608 department ~~of Management Services~~ shall adjust the monthly
4609 allowance being paid on that ~~said~~ date. The percentage of such
4610 adjustment is ~~shall be~~ equal to the percentage change in the
4611 average cost-of-living index during the preceding 12-month

585-03077-10

20101238c1

4612 period, April 1 through March 31, ignoring changes in the cost-
4613 of-living index which are greater than 3 percent during the
4614 preceding fiscal year.

4615 Section 136. Paragraph (b) of subsection (2) of section
4616 238.181, Florida Statutes, is amended to read:

4617 238.181 Reemployment after retirement; conditions and
4618 limitations.-

4619 (2)

4620 (b) Any person to whom the limitation in paragraph (a)
4621 applies who violates such reemployment limitation and who is
4622 reemployed with any agency participating in the Florida
4623 Retirement System before completing ~~completion of~~ the 12-month
4624 limitation period must ~~shall~~ give timely notice of this fact in
4625 writing to his or her employer and to the department ~~of~~
4626 ~~Management Services~~ and shall have his or her retirement
4627 benefits suspended for the balance of the 12-month limitation
4628 period. Any person employed in violation of this paragraph and
4629 any employing agency that ~~which~~ knowingly employs or appoints
4630 such person without notifying the department to suspend
4631 retirement benefits are ~~shall be~~ jointly and severally liable
4632 for reimbursement ~~to the retirement trust fund~~ of any benefits
4633 paid during the reemployment limitation period. To avoid
4634 liability, the ~~such~~ employing agency shall have a written
4635 statement from the retiree that he or she is not retired from a
4636 state-administered retirement system. Any retirement benefits
4637 received must ~~while reemployed during this reemployment~~
4638 ~~limitation period shall~~ be repaid to the retirement trust fund,
4639 and retirement benefits ~~shall~~ remain suspended until such
4640 repayment has been made. Benefits suspended beyond the

585-03077-10

20101238c1

4641 reemployment limitation ~~shall~~ apply toward repayment of benefits
4642 received in violation of the reemployment limitation.

4643 Section 137. Section 238.32, Florida Statutes, is amended
4644 to read:

4645 238.32 Service credit in disputed cases.—The department ~~of~~
4646 ~~Management Services~~ may ~~in its discretion~~ allow or deny a member
4647 service credit in disputed or doubtful cases for employment in
4648 in this state Florida and in out-of-state schools in order to
4649 serve the best interests of the state and the member, subject to
4650 the membership dates set forth in s. 238.06(4).

4651 Section 138. Subsection (6) of section 250.22, Florida
4652 Statutes, is amended to read:

4653 250.22 Retirement.—

4654 (6) All powers, duties, and functions related to the
4655 administration of this section are vested in the Department of
4656 Personnel Management Services.

4657 Section 139. Subsection (4) of section 252.385, Florida
4658 Statutes, is amended to read:

4659 252.385 Public shelter space.—

4660 (4)~~(a)~~ Public facilities, including schools, postsecondary
4661 education facilities, and other facilities owned or leased by
4662 the state or local governments, but excluding hospitals, hospice
4663 care facilities, assisted living facilities, and nursing homes,
4664 which are suitable for use as public hurricane evacuation
4665 shelters shall be made available at the request of the local
4666 emergency management agencies. The local emergency management
4667 agency shall coordinate with these entities to ensure that
4668 designated facilities are ready to activate before ~~prior to~~ a
4669 specific hurricane or disaster. Such agencies shall coordinate

585-03077-10

20101238c1

4670 with the appropriate school board, university, community
4671 college, state agency, or local governing board when requesting
4672 the use of such facilities as public hurricane evacuation
4673 shelters.

4674 ~~(b)~~ The Department of Environmental Protection Management
4675 Services shall:

4676 (a) Incorporate provisions for the use of suitable leased
4677 public facilities as public hurricane evacuation shelters into
4678 lease agreements for state agencies. Suitable leased public
4679 facilities include leased public facilities that are solely
4680 occupied by state agencies and have at least 2,000 square feet
4681 of net floor area in a single room or in a combination of rooms
4682 having a minimum of 400 square feet in each room. The net square
4683 footage of floor area shall be determined by subtracting from
4684 the gross square footage the square footage of spaces such as
4685 mechanical and electrical rooms, storage rooms, open corridors,
4686 restrooms, kitchens, science or computer laboratories, shop or
4687 mechanical areas, administrative offices, records vaults, and
4688 crawl spaces.

4689 ~~(b)-(c)~~ ~~The Department of Management Services shall,~~ In
4690 consultation with local and state emergency management agencies,
4691 assess department ~~of Management Services~~ facilities to identify
4692 the extent to which each facility has public hurricane
4693 evacuation shelter space. The department ~~of Management Services~~
4694 shall submit proposed facility retrofit projects that
4695 incorporate hurricane protection enhancements to the department
4696 for assessment and inclusion in the annual report prepared in
4697 accordance with subsection (3).

4698 (c) ~~(d)~~ ~~The Department of Management Services shall Include~~

585-03077-10

20101238c1

4699 in the annual state facilities inventory report required under
4700 ss. 216.015-216.016 a separate list of state-owned facilities,
4701 including, but not limited to, meeting halls, auditoriums,
4702 conference centers, and training centers that have unoccupied
4703 space suitable for use as an emergency shelter during a storm or
4704 other catastrophic event. Facilities must be listed by the
4705 county and municipality where the facility is located and must
4706 be made available in accordance with this subsection ~~paragraph~~
4707 ~~(a)~~. As used in this paragraph, the term "suitable for use as an
4708 emergency shelter" means meeting the standards set by the
4709 American Red Cross for a hurricane evacuation shelter, and the
4710 term "unoccupied" means vacant due to suspended operation or
4711 nonuse. The list must be updated by May 31 of each year.

4712 Section 140. Paragraph (b) of subsection (6) of section
4713 253.034, Florida Statutes, is amended to read:

4714 253.034 State-owned lands; uses.—

4715 (6) The Board of Trustees of the Internal Improvement Trust
4716 Fund shall determine which lands, the title to which is vested
4717 in the board, may be surplus. For conservation lands, the
4718 board shall make a determination that the lands are no longer
4719 needed for conservation purposes and may dispose of them by an
4720 affirmative vote of at least three members. In the case of a
4721 land exchange involving the disposition of conservation lands,
4722 the board must determine by an affirmative vote of at least
4723 three members that the exchange will result in a net positive
4724 conservation benefit. For all other lands, the board shall make
4725 a determination that the lands are no longer needed and may
4726 dispose of them by an affirmative vote of at least three
4727 members.

585-03077-10

20101238c1

4728 (b) For ~~any~~ lands purchased by the state on or after July
4729 1, 1999, a determination shall be made by the board before ~~prior~~
4730 ~~to~~ acquisition as to those parcels that shall be designated as
4731 having been acquired for conservation purposes. ~~No~~ Lands
4732 acquired for use by the Department of Corrections, the
4733 Department of Environmental Protection ~~Management Services~~ for
4734 use as state offices, the Department of Transportation, except
4735 those specifically managed for conservation or recreation
4736 purposes, or the State University System or the Florida
4737 Community College System may not ~~shall be~~ designated as having
4738 been purchased for conservation purposes.

4739 Section 141. Subsection (2) of section 253.126, Florida
4740 Statutes, is amended to read:

4741 253.126 Legislative intent.—The limitations and
4742 restrictions imposed by this chapter as amended by chapter 67-
4743 393, Laws of Florida, upon the construction of islands or the
4744 extension or addition to existing lands or islands bordering on
4745 or being in the navigable waters, as defined in s. 253.12, shall
4746 apply to the state, its agencies and all political subdivisions
4747 and governmental units. No other general or special act shall
4748 operate to grant exceptions to this section unless this section
4749 is specifically repealed thereby.

4750 (2) The provisions of chapter 120 shall be accorded any
4751 person where substantial interests will be affected by an
4752 activity proposed to be conducted by such agency pursuant to its
4753 certification and the department's acceptance. If a proceeding
4754 is conducted pursuant to ss. 120.569 and 120.57, the department
4755 may intervene as a party. Should an administrative law judge of
4756 the Division of Administrative Hearings ~~of the Department of~~

585-03077-10

20101238c1

4757 ~~Management Services~~ submit a recommended order pursuant to ss.
4758 ~~120.569 and 120.57~~, the Department of Environmental Protection
4759 shall issue a final department order adopting, rejecting, or
4760 modifying the recommended order pursuant to such action.

4761 Section 142. Subsection (1) of section 253.45, Florida
4762 Statutes, is amended to read:

4763 253.45 Sale or lease of phosphate, clay, minerals, etc., in
4764 or under state lands.—

4765 (1) The Board of Trustees of the Internal Improvement Trust
4766 Fund may sell or lease any phosphate, earth or clay, sand,
4767 gravel, shell, mineral, metal, timber or water, or any other
4768 substance similar to the foregoing, in, on, or under, any land
4769 the title to which is vested in the state, ~~the Department of~~
4770 ~~Management Services~~, the Department of Environmental Protection,
4771 the Fish and Wildlife Conservation Commission, the State Board
4772 of Education, or any other state board, department, or agency;
4773 provided that the board of trustees does ~~may~~ not grant such a
4774 sale or lease on the land of any other state board, department,
4775 or agency without first obtaining approval therefrom. Such ~~No~~
4776 sale or lease is not ~~provided for in this section shall be~~
4777 allowed on hard-surfaced beaches that are used for bathing or
4778 driving and areas contiguous thereto out to a mean low-water
4779 depth of 3 feet and landward to the nearest paved public road.
4780 Any sale or lease provided for in this section shall be
4781 conducted by competitive bidding as provided for in ss. 253.52,
4782 253.53, and 253.54. The proceeds of such sales or leases are to
4783 be credited to the board of trustees, board, department, or
4784 agency that ~~which~~ has title or control of the land involved.

4785 Section 143. Section 255.02, Florida Statutes, is amended

585-03077-10

20101238c1

4786 to read:

4787 255.02 Boards authorized to replace buildings destroyed by
4788 fire.—The Department of Environmental Protection Management
4789 ~~Services~~ or any board or person having the direct supervision
4790 and control of any state building or state property may rebuild
4791 or replace ~~have rebuilt or replaced~~, out of the proceeds from
4792 the fire insurance on such buildings or property, any buildings
4793 or property owned by the state, which is ~~may be~~ destroyed in
4794 whole or in part by fire.

4795 Section 144. Subsection (2) of section 255.043, Florida
4796 Statutes, is amended to read:

4797 255.043 Art in state buildings.—

4798 (2) The Department of Environmental Protection Management
4799 ~~Services~~ or other state agency ~~agencies~~ receiving appropriations
4800 for original constructions shall notify the Florida Arts Council
4801 and the user agency of any construction project that ~~which~~ is
4802 eligible under ~~the provisions of~~ this section. The department of
4803 ~~Management Services~~ or other state agency shall determine the
4804 amount to be made available for purchase or commission of works
4805 of art for each project and shall report these amounts to the
4806 Florida Arts Council and the user agency. Payments ~~therefor~~
4807 shall be made from funds appropriated for fixed capital outlay
4808 according to law.

4809 Section 145. Paragraphs (a) and (b) of subsection (1) of
4810 section 255.05, Florida Statutes, are amended to read:

4811 255.05 Bond of contractor constructing public buildings;
4812 form; action by materialmen.—

4813 (1) (a) Any person entering into a formal contract with the
4814 state or any county, municipality ~~city~~, or political subdivision

585-03077-10

20101238c1

4815 thereof, or other public authority or private entity, for the
4816 construction of a public building, for the prosecution and
4817 completion of a public work, or for repairs upon a public
4818 building or public work must ~~shall be required~~, before
4819 commencing the work or before recommencing the work after a
4820 default or abandonment, ~~to~~ execute, deliver to the public owner,
4821 and record in the public records of the county where the
4822 improvement is located, a payment and performance bond with a
4823 surety insurer authorized to do business in this state as
4824 surety. A public entity may not require a contractor to secure a
4825 surety bond under this section from a specific agent or bonding
4826 company. The bond must state on its front page: the name,
4827 principal business address, and phone number of the contractor,
4828 the surety, the owner of the property being improved, and, if
4829 different from the owner, the contracting public entity; the
4830 contract number assigned by the contracting public entity; and a
4831 description of the project sufficient to identify it, such as a
4832 legal description or the street address of the property being
4833 improved, and a general description of the improvement. Such
4834 bond must ~~shall~~ be conditioned upon the contractor's performance
4835 of the construction work in the time and manner prescribed in
4836 the contract and promptly making payments to all persons defined
4837 in s. 713.01 who furnish labor, services, or materials for the
4838 prosecution of the work provided for in the contract. Any
4839 claimant may apply to the governmental entity having charge of
4840 the work for copies of the contract and bond and shall ~~thereupon~~
4841 be furnished with a certified copy of the contract and bond. The
4842 claimant shall have a right of action against the contractor and
4843 surety for the amount due him or her, including unpaid finance

585-03077-10

20101238c1

4844 charges due under the claimant's contract. Such action may ~~shall~~
4845 not involve the public authority in any expense. If ~~When~~ such
4846 work is done for the state and the contract is for \$100,000 or
4847 less, a ~~no~~ payment and performance bond is not ~~shall be~~
4848 required. At the discretion of the official or board awarding
4849 such contract when such work is done for any county,
4850 municipality ~~city~~, political subdivision, or public authority,
4851 any person entering into ~~such~~ a contract ~~which is~~ for \$200,000
4852 or less may be exempted from executing the payment and
4853 performance bond. If ~~When~~ such work is done for the state, the
4854 Secretary of Environmental Protection ~~Management Services~~ may
4855 delegate to state agencies the authority to exempt any person
4856 entering into such a contract amounting to more than \$100,000
4857 but less than \$200,000 from executing the payment and
4858 performance bond. If ~~In the event~~ such exemption is granted, the
4859 officer or officials may ~~shall~~ not be held personally liable to
4860 persons suffering loss because of granting such exemption. The
4861 Department of Environmental Protection ~~Management Services~~ shall
4862 maintain information on the number of requests by state agencies
4863 for delegation of authority to waive the bond requirements by
4864 agency and project number and whether any request for delegation
4865 was denied and the justification for the denial. Any provision
4866 in a payment bond furnished for public work contracts ~~as~~
4867 ~~provided by this subsection~~ which restricts the classes of
4868 persons as defined in s. 713.01 protected by the bond or the
4869 venue of any proceeding relating to such bond is unenforceable.

4870 (b) The Department of Environmental Protection ~~Management~~
4871 ~~Services~~ shall adopt rules with respect to all contracts for
4872 \$200,000 or less, to provide:

585-03077-10

20101238c1

4873 1. Procedures for retaining up to 10 percent of each
4874 request for payment submitted by a contractor and procedures for
4875 determining disbursements from the amount retained on a pro rata
4876 basis to laborers, materialmen, and subcontractors, as defined
4877 in s. 713.01.

4878 2. Procedures for requiring certification from laborers,
4879 materialmen, and subcontractors, as defined in s. 713.01, prior
4880 to final payment to the contractor that such laborers,
4881 materialmen, and subcontractors have no claims against the
4882 contractor resulting from the completion of the work provided
4883 for in the contract.

4884
4885 The state shall not be held liable to any laborer, materialman,
4886 or subcontractor for any amounts greater than the pro rata share
4887 as determined under this section.

4888 Section 146. Subsection (1) of section 255.0525, Florida
4889 Statutes, is amended to read:

4890 255.0525 Advertising for competitive bids or proposals.—

4891 (1) The solicitation of competitive bids or proposals for
4892 any state construction project that is projected to cost more
4893 than \$200,000 must ~~shall~~ be publicly advertised once in the
4894 Florida Administrative Weekly at least 21 days before ~~prior to~~
4895 the established bid opening. For state construction projects
4896 that are projected to cost more than \$500,000, the advertisement
4897 must ~~shall~~ be published in the Florida Administrative Weekly at
4898 least 30 days before ~~prior to~~ the established bid opening and at
4899 least once in a newspaper of general circulation in the county
4900 where the project is located at least 30 days before ~~prior to~~
4901 the established bid opening and at least 5 days before ~~a prior~~

585-03077-10

20101238c1

4902 ~~to any~~ scheduled prebid conference. The bids or proposals must
4903 ~~shall~~ be received and opened publicly at the location, date, and
4904 time established in the bid or proposal advertisement. In cases
4905 of emergency, the Secretary of Environmental Protection
4906 ~~Management Services~~ may alter these ~~the~~ procedures ~~required in~~
4907 ~~this section~~ in any manner that is reasonable under the
4908 emergency circumstances.

4909 Section 147. Subsection (3) of section 255.248, Florida
4910 Statutes, is amended to read:

4911 255.248 Definitions; ss. 255.249 and 255.25.—As used in ss.
4912 255.249 and 255.25, the term:

4913 (3) "Department" means the Department of Environmental
4914 Protection Management Services.

4915 Section 148. Section 255.249, Florida Statutes, is amended
4916 to read:

4917 255.249 Department responsibilities ~~of Management Services;~~
4918 ~~responsibility; department~~ rules.—

4919 (1) The department shall have responsibility and authority
4920 for the custodial and preventive maintenance, repair, and
4921 allocation of space of all buildings in the Florida Facilities
4922 Pool and the grounds located adjacent thereto.

4923 (2) The department shall require any state agency planning
4924 to terminate a lease for the purpose of occupying space in a new
4925 state-owned office building, ~~the funds for which are~~
4926 ~~appropriated after June 30, 2000,~~ to state why the proposed
4927 relocation is in the best interest of the state.

4928 (3) (a) The department shall, to the extent feasible,
4929 coordinate the vacation of privately owned leased space with the
4930 expiration of the lease on that space and, if ~~when~~ a lease is

585-03077-10

20101238c1

4931 terminated before expiration of its base term, shall ~~will~~ make a
4932 reasonable effort to place another state agency in the space
4933 vacated. Any state agency may lease the space in any building
4934 that was subject to a lease terminated by a state agency for a
4935 period of time equal to the remainder of the base term without
4936 ~~the requirement of~~ competitive solicitation.

4937 (b) The department shall develop and implement a strategic
4938 leasing plan. The ~~strategic leasing~~ plan must ~~shall~~ forecast
4939 space needs for all state agencies and identify opportunities
4940 for reducing costs through consolidation, relocation,
4941 reconfiguration, capital investment, and the building or
4942 acquisition of state-owned space.

4943 (c) The department shall annually publish a master leasing
4944 report. The department shall furnish the ~~master leasing~~ report
4945 to the Executive Office of the Governor and the Legislature by
4946 September 15 of each year which provides the following
4947 information:

4948 1. A list, by agency and by geographic market, of all
4949 leases that are due to expire within 24 months.

4950 2. Details of each lease, including location, size, cost
4951 per leased square foot, lease-expiration date, and a
4952 determination of whether sufficient state-owned office space
4953 will be available at the expiration of the lease to accommodate
4954 affected employees.

4955 3. A list of amendments and supplements to and waivers of
4956 terms and conditions in lease agreements that have been approved
4957 pursuant to s. 255.25(2)(a) during the previous 12 months and an
4958 associated comprehensive analysis, including financial
4959 implications, showing that any amendment, supplement, or waiver

585-03077-10

20101238c1

4960 is in the state's long-term best interest.

4961 4. Financial impacts to the pool rental rate due to the
4962 sale, removal, acquisition, or construction of pool facilities.

4963 5. Changes in occupancy rate, maintenance costs, and
4964 efficiency costs of leases in the state portfolio. Changes to
4965 occupancy costs in leased space by market and changes to space
4966 consumption by agency and by market.

4967 6. An analysis of portfolio supply and demand.

4968 7. Cost-benefit analyses of acquisition, build, and
4969 consolidation opportunities, recommendations for strategic
4970 consolidation, and strategic recommendations for disposition,
4971 acquisition, and building.

4972 8. The updated plan required by s. 255.25(4)(c).

4973 (d) By June 30 of each year, each state agency shall
4974 annually provide to the department all information regarding
4975 agency programs affecting the need for or use of space by that
4976 agency, reviews of lease-expiration schedules for each
4977 geographic area, active and planned full-time equivalent data,
4978 business case analyses related to consolidation plans by an
4979 agency, a telecommuting program, and current occupancy and
4980 relocation costs, inclusive of furnishings, fixtures and
4981 equipment, data, and communications.

4982 (4) The department shall adopt rules ~~pursuant to chapter~~
4983 ~~120~~ providing:

4984 (a) Methods for accomplishing the duties outlined in
4985 subsection (1).

4986 (b) Procedures for soliciting and accepting competitive
4987 solicitations for leased space of 5,000 square feet or more in
4988 privately owned buildings, for evaluating the proposals

585-03077-10

20101238c1

4989 received, for exemption from competitive solicitations
4990 requirements of any lease the purpose of which is the provision
4991 of care and living space for persons or emergency space needs as
4992 provided in s. 255.25(10), and for the securing of at least
4993 three documented quotes for a lease that is not required to be
4994 competitively solicited.

4995 (c) A standard method for determining square footage or any
4996 other measurement used as the basis for lease payments or other
4997 charges.

4998 (d) Methods of allocating space in both state-owned office
4999 buildings and privately owned buildings leased by the state
5000 based on use, personnel, and office equipment.

5001 (e)~~1.~~ Acceptable terms and conditions for inclusion in
5002 lease agreements.

5003 ~~2.~~ Such terms and conditions must ~~shall~~ include, at a
5004 minimum, the following clauses, which may not be amended,
5005 supplemented, or waived:

5006 1.a. As provided in s. 255.2502, "The State of Florida's
5007 performance and obligation to pay under this contract is
5008 contingent upon an annual appropriation by the Legislature."

5009 2.b. "The Lessee shall have the right to terminate, without
5010 penalty, this lease in the event a State-owned building becomes
5011 available to the Lessee for occupancy upon giving 6 months'
5012 advance written notice to the Lessor by Certified Mail, Return
5013 Receipt Requested."

5014 (f) Maximum rental rates, by geographic areas or by county,
5015 for leasing privately owned space.

5016 (g) A standard method for the assessment of rent to state
5017 agencies and other authorized occupants of state-owned office

585-03077-10

20101238c1

5018 space, notwithstanding the source of funds.

5019 (h) For full disclosure of the names and the extent of
5020 interest of the owners holding a 4-percent or more interest in
5021 any privately owned property leased to the state or in the
5022 entity holding title to the property, for exemption from such
5023 disclosure of any beneficial interest which is represented by
5024 stock in any corporation registered with the Securities and
5025 Exchange Commission or registered pursuant to chapter 517, which
5026 stock is for sale to the general public, and for exemption from
5027 such disclosure of any leasehold interest in property located
5028 outside the territorial boundaries of the United States.

5029 (i) For full disclosure of the names of all public
5030 officials, agents, or employees holding any interest in any
5031 privately owned property leased to the state or in the entity
5032 holding title to the property, and the nature and extent of
5033 their interest;i for exemption from such disclosure of any
5034 beneficial interest which is represented by stock in any
5035 corporation registered with the Securities and Exchange
5036 Commission or registered pursuant to chapter 517, which stock is
5037 for sale to the general public;i and for exemption from such
5038 disclosure of any leasehold interest in property located outside
5039 the territorial boundaries of the United States.

5040 (j) A method for reporting leases for nominal or no
5041 consideration.

5042 (k) For a lease of less than 5,000 square feet, a method
5043 for certification by the agency head or the agency head's
5044 designated representative that all criteria for leasing have
5045 been fully complied with and for ~~the~~ filing ~~of~~ a copy of such
5046 lease and all supporting documents with the department for its

585-03077-10

20101238c1

5047 review and approval as to technical sufficiency and whether it
5048 is in the best interests of the state.

5049 (1) A standardized format for state agency reporting of the
5050 information required by paragraph (3) (d).

5051 (5) The department shall prepare a form listing all
5052 conditions and requirements adopted pursuant to this chapter
5053 which must be met by any state agency leasing any building or
5054 part thereof. Before executing any lease, this form must ~~shall~~
5055 be certified by the agency head or a designee ~~the agency head's~~
5056 ~~designated representative~~ and submitted to the department.

5057 (6) The department may contract for real estate consulting
5058 or tenant brokerage services in order to carry out its duties
5059 relating to the strategic leasing plan. The contract must ~~shall~~
5060 be procured pursuant to s. 287.057. The vendor that is awarded
5061 the contract shall be compensated by the department, subject to
5062 the provisions of the contract, and such compensation is subject
5063 to appropriation by the Legislature. The real estate consultant
5064 or tenant broker may not receive compensation directly from a
5065 lessor for services that are rendered pursuant to the contract.
5066 Moneys paid to the real estate consultant or tenant broker are
5067 exempt from any charge imposed under s. 287.1345. Moneys paid by
5068 a lessor to the department under a facility-leasing arrangement
5069 are not subject to the charges imposed under s. 215.20.

5070 Section 149. Paragraphs (a) and (d) of subsection (2),
5071 paragraphs (b) and (h) of subsection (3), paragraph (c) of
5072 subsection (4), and subsections (5), (6), and (10) of section
5073 255.25, Florida Statutes, are amended to read:

5074 255.25 Approval required prior to construction or lease of
5075 buildings.—

585-03077-10

20101238c1

5076 (2) (a) Except as provided in s. 255.2501, a state agency
5077 may not lease a building or any part thereof unless prior
5078 approval of the lease conditions and of the need for the lease
5079 ~~therefor~~ is first obtained from the department. An ~~Any~~ approved
5080 lease may include an option to purchase or an option to renew
5081 the lease, or both, upon such terms and conditions as are
5082 established by the department subject to final approval by the
5083 head of the department ~~of Management Services~~ and s. 255.2502.

5084 (d) Notwithstanding paragraph (a) and except as provided in
5085 ss. 255.249 and 255.2501, a state agency may not lease a
5086 building or any part thereof unless prior approval of the lease
5087 terms and conditions and of the need therefor is first obtained
5088 from the department. The department may not approve any term or
5089 condition in a lease agreement which has been amended,
5090 supplemented, or waived unless a comprehensive analysis,
5091 including financial implications, demonstrates that such
5092 amendment, supplement, or waiver is in the state's long-term
5093 best interest. Any approved lease may include an option to
5094 purchase or an option to renew the lease, or both, upon such
5095 terms and conditions as are established by the department
5096 subject to final approval by the head of the department ~~of~~
5097 ~~Management Services~~ and ~~the provisions of~~ s. 255.2502.

5098 (3)

5099 (b) The department may ~~of Management Services~~ shall have
5100 ~~the authority to~~ approve a lease for 5,000 square feet or more
5101 of space that covers more than 1 fiscal year, subject to ~~the~~
5102 ~~provisions of~~ ss. 216.311, 255.2501, 255.2502, and 255.2503, if
5103 such lease is, in the judgment of the department, in the best
5104 interests of the state. In determining best interest, the

585-03077-10

20101238c1

5105 department shall consider availability of state-owned space and
5106 analyses of build-to-suit and acquisition opportunities. This
5107 paragraph does not apply to buildings or facilities of any size
5108 leased for the purpose of providing care and living space for
5109 persons.

5110 (h) The department ~~of Management Services~~ may, pursuant to
5111 s. 287.042(2)(a), procure a term contract for real estate
5112 consulting and brokerage services. A state agency may not
5113 purchase services from the contract unless the contract has been
5114 procured under s. 287.057(1), (2), or (3) after March 1, 2007,
5115 and contains the following provisions or requirements:

5116 1. Awarded brokers must maintain an office or presence in
5117 the market served. In awarding the contract, preference must be
5118 given to brokers that are licensed ~~in this state~~ under chapter
5119 475 and that have 3 or more years of experience in the market
5120 served. The contract may be made with up to three tenant brokers
5121 in order to serve the marketplace in the north, central, and
5122 south areas of the state.

5123 2. Each contracted tenant broker shall work under the
5124 direction, supervision, and authority of the state agency,
5125 subject to the rules governing lease procurements.

5126 3. The department shall provide training for the awarded
5127 tenant brokers concerning the rules governing the procurement of
5128 leases.

5129 4. Tenant brokers must comply with all applicable
5130 provisions of s. 475.278.

5131 5. Real estate consultants and tenant brokers shall be
5132 compensated by the state agency, subject to the provisions of
5133 the term contract, and such compensation is subject to

585-03077-10

20101238c1

5134 appropriation by the Legislature. A real estate consultant or
5135 tenant broker may not receive compensation directly from a
5136 lessor for services that are rendered under the term contract.
5137 Moneys paid to a real estate consultant or tenant broker are
5138 exempt from any charge imposed under s. 287.1345. Moneys paid by
5139 a lessor to the state agency under a facility leasing
5140 arrangement are not subject to the charges imposed under s.
5141 215.20. All terms relating to the compensation of the real
5142 estate consultant or tenant broker must ~~shall~~ be specified in
5143 the term contract and may not be supplemented or modified by the
5144 state agency using the contract.

5145 6. The department shall conduct periodic customer-
5146 satisfaction surveys.

5147 7. Each state agency shall report the following information
5148 to the department:

5149 a. The number of leases that adhere to the goal of the
5150 workspace-management initiative of 180 square feet per FTE.

5151 b. The quality of space leased and the adequacy of tenant-
5152 improvement funds.

5153 c. The timeliness of lease procurement, measured from the
5154 date of the agency's request to the finalization of the lease.

5155 d. Whether cost-benefit analyses were performed before
5156 execution of the lease in order to ensure that the lease is in
5157 the best interest of the state.

5158 e. The lease costs compared to market rates for similar
5159 types and classifications of space according to the official
5160 classifications of the Building Owners and Managers Association.

5161 (4)

5162 (c) Because the state has a substantial financial

585-03077-10

20101238c1

5163 investment in state-owned buildings, it is legislative policy
5164 and intent that when state-owned buildings meet the needs of
5165 state agencies, agencies must fully use such buildings before
5166 leasing privately owned buildings. ~~By September 15, 2006,~~ The
5167 department ~~of Management Services~~ shall create a 5-year plan for
5168 implementing this policy. The department shall update this plan
5169 annually, detailing proposed departmental actions to meet the
5170 plan's goals, and shall furnish this plan annually as part of
5171 the master leasing report.

5172 (5) Before construction or renovation of any state-owned
5173 building or state-leased space is commenced, the department ~~of~~
5174 ~~Management Services~~ shall ascertain, by submission of proposed
5175 plans to the Division of State Fire Marshal for review, that the
5176 proposed construction or renovation plan complies with the
5177 uniform firesafety standards required by the division ~~of State~~
5178 ~~Fire Marshal~~. The review of construction or renovation plans for
5179 state-leased space must ~~shall~~ be completed within 10 calendar
5180 days after ~~of~~ receipt of the plans by the division ~~of State Fire~~
5181 ~~Marshal~~. The review of construction or renovation plans for a
5182 state-owned building must ~~shall~~ be completed within 30 calendar
5183 days after ~~of~~ receipt of the plans by the division ~~of State Fire~~
5184 ~~Marshal~~. The responsibility for submission and retrieval of the
5185 plans called for in this subsection may ~~shall~~ not be imposed on
5186 the design architect or engineer, but shall be the
5187 responsibility of the two agencies. If ~~Whenever~~ the division ~~of~~
5188 ~~State Fire Marshal~~ determines that a construction or renovation
5189 plan is not in compliance with such uniform firesafety
5190 standards, the division ~~of State Fire Marshal~~ may issue an order
5191 to cease all construction or renovation activities until

585-03077-10

20101238c1

5192 compliance is obtained, except those activities required to
5193 achieve such compliance. The department ~~of Management Services~~
5194 shall withhold approval of any proposed lease until the
5195 construction or renovation plan complies with the division's
5196 uniform firesafety standards ~~of the Division of State Fire~~
5197 ~~Marshal~~. The cost of all modifications or renovations made for
5198 the purpose of bringing leased property into compliance with the
5199 uniform firesafety standards shall be borne by the lessor.

5200 (6) Before construction or substantial improvement of any
5201 state-owned building is commenced, the department ~~of Management~~
5202 ~~Services~~ must ascertain that the proposed construction or
5203 substantial improvement complies with the flood plain management
5204 criteria for mitigation of flood hazards, as prescribed in the
5205 October 1, 1986, rules and regulations of the Federal Emergency
5206 Management Agency, and the department shall monitor the project
5207 to assure compliance with the criteria. ~~In accordance with~~
5208 ~~chapter 120,~~ The department ~~of Management Services~~ shall adopt
5209 ~~any necessary~~ rules necessary to ensure that all such proposed
5210 state construction and substantial improvement of state
5211 buildings in designated flood-prone areas complies with the
5212 flood plain management criteria. If ~~Whenever~~ the department
5213 determines that a construction or substantial improvement
5214 project is not in compliance with the ~~established flood plain~~
5215 ~~management~~ criteria, the department may issue an order to cease
5216 all construction or improvement activities until compliance is
5217 obtained, except those activities required to achieve such
5218 compliance.

5219 (10) The department ~~of Management Services~~ may approve
5220 emergency acquisition of space without competitive bids if

585-03077-10

20101238c1

5221 existing state-owned or state-leased space is destroyed or
5222 rendered uninhabitable by an act of God, fire, malicious
5223 destruction, or structural failure, or by legal action, if the
5224 chief administrator of the state agency or the chief
5225 administrator's designee ~~designated representative~~ certifies in
5226 writing that no other agency-controlled space is available to
5227 meet this emergency need, but in no case shall the lease for
5228 such space exceed 11 months. If the lessor elects not to replace
5229 or renovate the destroyed or uninhabitable facility, the agency
5230 shall procure the needed space by competitive bid in accordance
5231 with s. 255.249(4)(b). If the lessor elects to replace or
5232 renovate the destroyed or uninhabitable facility and the
5233 construction or renovations will not be complete at the end of
5234 the 11-month lease, the agency may modify the lease to extend it
5235 on a month-to-month basis for an additional 6 months to allow
5236 completion of such construction or renovations.

5237 Section 150. Subsections (1) and (2) of section 255.25001,
5238 Florida Statutes, are amended to read:

5239 255.25001 Suspension or delay of specified functions,
5240 programs, and requirements relating to governmental operations.—
5241 Notwithstanding the provisions of:

5242 (1) Section 946.504(3), as amended by chapter 92-279, Laws
5243 of Florida, the Department of Environmental Protection is
5244 ~~Management Services~~ shall not be required to participate with
5245 the Department of Corrections in the correctional work program
5246 (PRIDE) leasing process.

5247 (2) Sections 253.025 and 255.25, the Department of
5248 Environmental Protection may adopt ~~Management Services has the~~
5249 ~~authority to promulgate rules pursuant to chapter 120~~ to be used

585-03077-10

20101238c1

5250 in determining whether a lease-purchase of a state-owned office
5251 building is in the best interests of the state, which ~~rules~~
5252 provide:

5253 (a) Procedures state agencies shall ~~will~~ follow to certify
5254 the need for a lease-purchase acquisition for a state-owned
5255 office building to the department ~~of Management Services~~ and a
5256 notification procedure of the department's decision regarding
5257 state agencies' requests for a lease-purchase agreement. The
5258 certification process shall include but not be limited to the
5259 following:

5260 1. Current programmatic space requirements of the state
5261 agency.

5262 2. Future programmatic space requirements of the state
5263 agency.

5264 3. Time considerations in providing state-owned office
5265 building space.

5266 4. An analysis of existing leases affected by the lease-
5267 purchase agreement.

5268 (b) Procedures and document formats for the advertisement,
5269 competitive bid process, including format of submissions, and
5270 evaluation of lease-purchase acquisition proposals for state-
5271 owned office buildings. The evaluation process shall include but
5272 not be limited to the following:

5273 1. A consideration of the cost of comparable operating
5274 leases.

5275 2. The appraised value of the facility as required by s.
5276 253.025.

5277 3. A present value analysis of the proposed payment stream.

5278 4. The cost of financing the facility to be acquired.

585-03077-10

20101238c1

- 5279 5. The cost to repair identified physical defects.
 5280 6. The cost to remove identified hazardous substances.
 5281 7. An energy analysis.
 5282 8. A determination of who is responsible for management and
 5283 maintenance activities.

5284

5285 In order to minimize the cost of the evaluation process, the
 5286 department of ~~Management Services~~ may develop a multistage
 5287 evaluation process to identify the most cost-efficient proposals
 5288 for extensive evaluation. The studies developed as a result of
 5289 this evaluation process are ~~shall be considered~~ confidential and
 5290 exempt from ~~the provisions of~~ s. 119.07(1) to the same extent
 5291 that appraisal reports are ~~considered~~ confidential and exempt
 5292 from ~~the provisions of~~ s. 119.07(1) as provided in s.
 5293 253.025(6)(d).

5294 (c) Acceptable terms and conditions for inclusion in lease-
 5295 purchase agreements, which ~~shall~~ include, but are not ~~be~~ limited
 5296 to:

5297 1. The assignment of the lease-purchase agreement to other
 5298 governmental entities, including accumulated equity.

5299 2. The ability of the acquiring state agency to sublease up
 5300 to 25 percent of a portion of the facility, ~~not to exceed 25~~
 5301 ~~percent,~~ to other governmental entities. These subleases must
 5302 ~~shall~~ provide for the recovery of the agencies' cost of
 5303 operations and maintenance.

5304

5305 The execution of a lease-purchase is conditioned upon a finding
 5306 by the Department of Environmental Protection ~~Management~~
 5307 ~~Services~~ that it would be in the best interests of the state.

585-03077-10

20101238c1

5308 ~~The language in~~ This subsection shall be considered specific
5309 authorization for a lease-purchase pursuant to s. 255.25(1)(c)
5310 upon the department's ~~Department of Management Services'~~
5311 certification that the lease-purchase is in the best interests
5312 of the state. Thereafter, the agency may ~~is authorized to~~ enter
5313 into a lease-purchase agreement and ~~to~~ expend operating funds
5314 for lease-purchase payments. Any facility that ~~which~~ is acquired
5315 pursuant to ~~the processes authorized by~~ this subsection is ~~shall~~
5316 ~~be considered to be~~ a "state-owned office building" and a
5317 "state-owned building" as those terms are applied in ss.
5318 255.248-255.25.

5319 (d) That any costs resulting from the processes authorized
5320 by this subsection, including but not limited to appraisals,
5321 environmental analyses, and any other studies that ~~which~~ may be
5322 required under these provisions, shall be borne by the owner of
5323 the property that ~~which~~ is the subject of the proposed lease-
5324 purchase.

5325 Section 151. Subsection (5) of section 255.252, Florida
5326 Statutes, is amended to read:

5327 255.252 Findings and intent.—

5328 (5) Each state agency occupying space within buildings
5329 owned or managed by the Department of Environmental Protection
5330 ~~Management Services~~ must identify and compile a list of projects
5331 determined to be suitable for a guaranteed energy, water, and
5332 wastewater performance savings contract pursuant to s. 489.145.
5333 The list of projects compiled by each state agency shall be
5334 submitted to the department ~~of Management Services by December~~
5335 ~~31, 2008,~~ and must include all criteria used to determine
5336 suitability. The list of projects shall be developed from the

585-03077-10

20101238c1

5337 list of state-owned facilities more than 5,000 square feet in
5338 area and for which the state agency is responsible for paying
5339 the expenses of utilities and other operating expenses as they
5340 relate to energy use. In consultation with the head of each
5341 state agency, by July 1, 2009, the department shall prioritize
5342 all projects deemed suitable by each state agency and shall
5343 develop an energy-efficiency project schedule based on factors
5344 such as project magnitude, efficiency and effectiveness of
5345 energy conservation measures to be implemented, and other
5346 factors that may prove to be advantageous to pursue. The
5347 schedule shall provide the deadline for guaranteed energy,
5348 water, and wastewater performance savings contract improvements
5349 to be made to the state-owned buildings.

5350 Section 152. Subsection (1) of section 255.253, Florida
5351 Statutes, is amended to read:

5352 255.253 Definitions; ss. 255.251-255.258.—

5353 (1) "Department" means the Department of Environmental
5354 Protection Management Services.

5355 Section 153. Subsection (3) of section 255.257, Florida
5356 Statutes, is amended to read:

5357 255.257 Energy management; buildings occupied by state
5358 agencies.—

5359 (3) CONTENTS OF THE STATE ENERGY MANAGEMENT PLAN.—The
5360 department ~~of Management Services~~ shall develop a state energy
5361 management plan consisting of, but not limited to, the following
5362 elements:

- 5363 (a) Data-gathering requirements;
5364 (b) Building energy audit procedures;
5365 (c) Uniform data analysis procedures;

585-03077-10

20101238c1

- 5366 (d) Employee energy education program measures;
5367 (e) Energy consumption reduction techniques;
5368 (f) Training program for state agency energy management
5369 coordinators; and
5370 (g) Guidelines for building managers.
5371

5372 The plan must ~~shall~~ include a description of actions that state
5373 agencies shall take to reduce consumption of electricity and
5374 nonrenewable energy sources used for space heating and cooling,
5375 ventilation, lighting, water heating, and transportation.

5376 Section 154. Subsection (2) of section 255.2575, Florida
5377 Statutes, is amended to read:

5378 255.2575 Energy-efficient and sustainable buildings.—

5379 (2) All county, municipal, school district, water
5380 management district, state university, community college, and
5381 Florida state court buildings shall be constructed to meet the
5382 United States Green Building Council (USGBC) Leadership in
5383 Energy and Environmental Design (LEED) rating system, the Green
5384 Building Initiative's Green Globes rating system, the Florida
5385 Green Building Coalition standards, or a nationally recognized,
5386 high-performance green building rating system as approved by the
5387 department ~~of Management Services~~. This section applies ~~shall~~
5388 ~~apply~~ to all county, municipal, school district, water
5389 management district, state university, community college, and
5390 Florida state court buildings the architectural plans of which
5391 are commenced after July 1, 2008.

5392 Section 155. Subsections (2) and (3) of section 255.259,
5393 Florida Statutes, are amended to read:

5394 255.259 Florida-friendly landscaping on public property.—

585-03077-10

20101238c1

5395 (2) As used in this section, "publicly owned buildings or
5396 facilities" means construction projects under the purview of the
5397 Department of Environmental Protection ~~Management Services~~. The
5398 term does not include environmentally endangered land or roads
5399 and highway construction under the purview of the Department of
5400 Transportation.

5401 (3) The ~~Department of Management Services, in consultation~~
5402 ~~with the~~ Department of Environmental Protection, shall adopt
5403 rules and guidelines for the required use of Florida-friendly
5404 landscaping on public property associated with publicly owned
5405 buildings or facilities constructed after June 30, 2009. The
5406 department ~~of Management Services~~ shall also develop a 5-year
5407 program for phasing in the use of Florida-friendly landscaping
5408 on public property associated with publicly owned buildings or
5409 facilities constructed before July 1, 2009. In accomplishing
5410 these tasks, the department ~~of Management Services~~ shall take
5411 into account the standards provided in s. 373.185. The
5412 Department of Transportation shall implement Florida-friendly
5413 landscaping pursuant to s. 335.167.

5414 Section 156. Paragraphs (c) and (d) of subsection (1) of
5415 section 255.28, Florida Statutes, are amended to read:

5416 255.28 Department authority to acquire land with or for
5417 facility thereon.—

5418 (1) For the purposes of this section:

5419 (c) "Building" or "facility" means those construction
5420 projects under the purview of the department ~~of Management~~
5421 ~~Services. It shall not include~~ Environmentally endangered land,
5422 recreational land, or roads and highway construction under the
5423 purview of the Department of Transportation are not included.

585-03077-10

20101238c1

5424 (d) "Department" means the Department of Environmental
5425 Protection Management Services.

5426 Section 157. Section 255.29, Florida Statutes, is amended
5427 to read:

5428 255.29 Construction contracts; department rules.—The
5429 Department of Environmental Protection Management Services shall
5430 establish by rule, ~~through the adoption of administrative rules~~
5431 ~~as provided in chapter 120~~:

5432 (1) Procedures for determining the qualifications and
5433 responsibility of potential bidders before ~~prior to~~
5434 advertisement for and receipt of bids for building construction
5435 contracts, including procedures for the rejection of bidders who
5436 are reasonably determined from prior experience to be
5437 unqualified or irresponsible to perform the work required by a
5438 proposed contract.

5439 (2) Procedures for awarding each state agency construction
5440 project to the lowest qualified bidder as well as procedures to
5441 be followed when ~~in cases in which~~ the department ~~of Management~~
5442 ~~Services~~ declares the existence of a valid emergency that
5443 necessitates ~~to exist which would necessitate~~ the waiver of the
5444 rules governing the awarding of state construction contracts to
5445 the lowest qualified bidder.

5446 (3) Procedures to govern negotiations for construction
5447 contracts and modifications to contract documents if ~~when~~ such
5448 negotiations are determined by the secretary of the department
5449 ~~of Management Services~~ to be in the best interest of the state.

5450 (4) Procedures for entering into performance-based
5451 contracts for the development of public facilities when the
5452 department ~~of Management Services~~ determines the use of such

585-03077-10

20101238c1

5453 contracts to be in the best interest of the state. The
5454 procedures must ~~shall~~ include, but are not limited to:

5455 (a) Prequalification of bidders;

5456 (b) Criteria to be used in developing requests for
5457 proposals which may provide for singular responsibility for
5458 design and construction, developer flexibility in material
5459 selection, construction techniques, and application of state-of-
5460 the-art improvements;

5461 (c) Accelerated scheduling, including the development of
5462 plans, designs, and construction simultaneously; and

5463 (d) Evaluation of proposals and award of contracts
5464 considering such factors as price, quality, and concept of the
5465 proposal.

5466 Section 158. Subsection (1) of section 255.30, Florida
5467 Statutes, is amended to read:

5468 255.30 Fixed capital outlay projects; department rules;
5469 delegation of supervisory authority; delegation of
5470 responsibility for accounting records.-

5471 (1) The Department of Environmental Protection Management
5472 ~~Services~~ shall ~~make and~~ adopt rules pursuant to ~~chapter 120 in~~
5473 ~~order~~ to establish a procedure for delegating to state agencies
5474 its supervisory authority as it relates to the repair,
5475 alteration, and construction of fixed capital outlay projects.

5476 Section 159. Section 255.31, Florida Statutes, is amended
5477 to read:

5478 255.31 Authority to ~~the Department of Management Services~~
5479 ~~to~~ manage construction projects for state and local
5480 governments.-

5481 (1) The design, construction, erection, alteration,

585-03077-10

20101238c1

5482 modification, repair, and demolition of all public and private
5483 buildings are governed by the Florida Building Code and the
5484 Florida Fire Prevention Code, which are ~~to be~~ enforced by local
5485 jurisdictions or local enforcement districts unless specifically
5486 exempted as provided in s. 553.80. However, the Department of
5487 Environmental Protection Management Services shall provide the
5488 project management and administration services for the
5489 construction, renovation, repair, modification, or demolition of
5490 buildings, utilities, parks, parking lots, or other facilities
5491 or improvements for projects for which the funds are
5492 appropriated to the department. ~~However; provided that,~~ with the
5493 exception of facilities constructed under the authority of
5494 chapters 944, 945, and 985; the Governor's mansion and grounds
5495 thereof, as described in s. 272.18; and the Capitol Building and
5496 environs, being that part of the City of Tallahassee bounded on
5497 the north by Pensacola and Jefferson Streets, on the east by
5498 Monroe Street, on the south by Madison Street, and on the west
5499 by Duval Street, the department may not conduct plans reviews or
5500 inspection services for consistency with the Florida Building
5501 Code. The department's fees for such services shall be paid from
5502 such appropriations.

5503 (2) The Department of Environmental Protection Management
5504 ~~Services~~ may, upon request, enter into contracts with other
5505 state agencies under which the department may provide the
5506 project management, administration services, or assistance for
5507 the construction, renovation, repair, modification, or
5508 demolition of buildings, utilities, parks, parking lots, or
5509 other facilities or improvements for projects for which the
5510 funds are appropriated to other state agencies; however,

585-03077-10

20101238c1

5511 ~~provided that~~ the department may ~~does~~ not conduct plans reviews
5512 or inspection services for consistency with the Florida Building
5513 Code. The contracts must ~~shall~~ provide for payment of fees to
5514 the department.

5515 (3) This section may ~~shall~~ not be construed to be in
5516 derogation of any authority conferred on the department by other
5517 provisions of law.

5518 Section 160. Paragraph (d) of subsection (1) of section
5519 255.32, Florida Statutes, is amended to read:

5520 255.32 State construction management contracting.—

5521 (1) As used in this section, the term:

5522 (d) "Department" means the Department of Environmental
5523 Protection Management Services.

5524 Section 161. Section 255.45, Florida Statutes, is amended
5525 to read:

5526 255.45 Correction of firesafety violations in certain
5527 state-owned property.—The Department of Environmental Protection
5528 Management Services is responsible for ensuring that firesafety
5529 violations that are noted by the State Fire Marshal pursuant to
5530 s. 633.085 are corrected as soon as practicable for all state-
5531 owned property ~~which is~~ leased from the department ~~of Management~~
5532 Services.

5533 Section 162. Section 255.451, Florida Statutes, is amended
5534 to read:

5535 255.451 Electronic firesafety and security system.—The
5536 management responsibility of the electronic firesafety and
5537 security system located within the Capitol and any associated
5538 system ~~associated therewith~~ is vested in the Department of
5539 Environmental Protection Management Services.

585-03077-10

20101238c1

5540 Section 163. Present subsections (6) through (18) of
5541 section 255.502, Florida Statutes, are redesignated as
5542 subsections (7) through (15), a new subsection (6) is added to
5543 that section, and paragraphs (c), (d), and (l) of subsections
5544 (2), and present subsections (5), (7), (10), (12), (14), and
5545 (16) of that section, are amended to read:

5546 255.502 Definitions; ss. 255.501-255.525.—As used in this
5547 act, the following words and terms shall have the following
5548 meanings unless the context otherwise requires:

5549 (2) "Acquisition costs" means all reasonable and necessary
5550 costs incurred in the acquisition of a facility, which costs may
5551 include, but are not limited to:

5552 (c) Any expenses relating to the issuance of the
5553 obligations by the division in the name and on behalf of the
5554 department ~~of Management Services~~, including, but not limited
5555 to, private placement fees, underwriting fees, original issue
5556 discounts, rating agency fees, and other necessary fees.

5557 (d) Fees in connection with the planning, execution, and
5558 financing of a project, such as those of architects, engineers,
5559 attorneys, feasibility consultants, financial advisers,
5560 accountants, and the department ~~of Management Services~~,
5561 including the allocable portions of direct costs of the
5562 department ~~of Management Services~~ and the lessee agencies.

5563 (1) The reimbursement of all moneys advanced or supplied to
5564 or borrowed by the department ~~of Management Services~~ or others
5565 for the payment of any item of cost of a facility.

5566 (5) "Debt service charges" means, collectively, principal,
5567 including mandatory sinking fund requirements and the accretion
5568 portion of any capital appreciation bonds for retirement of

585-03077-10

20101238c1

5569 obligations, interest, redemption premium, if any, ~~required~~ to
5570 be paid by the department ~~of Management Services~~ on obligations
5571 issued under this act and any obligation administrative fees.

5572 (6) "Department" means the Department of Environmental
5573 Protection.

5574 (8)~~(7)~~ "Eligible facility" means all state-owned facilities
5575 under the jurisdiction of the department ~~of Management Services~~
5576 and all other state-owned facilities except those having less
5577 than 3,000 square feet.

5578 (11)~~(10)~~ "Obligation administrative fees" means any
5579 periodic expense, charge, or cost relating to or incurred in
5580 connection with remarketing of obligations such as remarketing
5581 agent or indexing agent fees and any periodic expense, charge,
5582 or cost related to any obligations or to credit enhancements or
5583 liquidity features, including, but not limited to, letter of
5584 credit fees, whether direct pay or standby, swap agent fees and
5585 similar expenses, periodic fees and expenses, if any, of
5586 trustees, depositories, registrars, book entry registrars and
5587 paying agents, and any allowances established by the department
5588 ~~of Management Services~~ for working capital, contingency
5589 reserves, and reserves for any anticipated operating deficits
5590 during each fiscal year.

5591 (13)~~(12)~~ "Pool pledged revenues" means all legislative
5592 appropriations and all fees, charges, revenues, or receipts
5593 derived by the department ~~of Management Services~~ from the
5594 operation, leasing, or other disposition of facilities in the
5595 pool, and the proceeds of obligations issued under this act,
5596 including and shall include any moneys appropriated to an agency
5597 for the purpose of making such rental payments, rental payments

585-03077-10

20101238c1

5598 received with respect to such facilities from whatever sources,
5599 and receipts therefrom, and investment of any such moneys
5600 pursuant to this act, all as are available for the payment of
5601 debt service charges on such obligations as are issued with
5602 respect to the pool.

5603 (15)~~(14)~~ "Qualified facility" means an eligible facility
5604 that ~~which~~ is either:

5605 (a) Structurally sound and is in a satisfactory state of
5606 repair;

5607 (b) Determined by the department ~~of Management Services~~ to
5608 be suitable for entry into the pool although not meeting the
5609 requirements of paragraph (a); or

5610 (c) Under the jurisdiction of the department ~~of Management~~
5611 ~~Services~~.

5612 (17)~~(16)~~ "Revenue bonds" means any bonds, debentures,
5613 notes, certificates, or other evidences of financial
5614 indebtedness, whether certificated or noncertificated, issued by
5615 the division on behalf of the department ~~of Management Services~~
5616 under and pursuant to this act, including, but not limited to,
5617 variable rate obligations, designated maturity obligations,
5618 capital appreciation bonds, original issue discount bonds, and
5619 multimodal instruments or obligations, or instruments combining
5620 any of the foregoing.

5621 Section 164. Section 255.503, Florida Statutes, is amended
5622 to read:

5623 255.503 Powers of the Department of Environmental
5624 Protection Management Services.—The department is authorized ~~of~~
5625 ~~Management Services shall have all the authority necessary to~~
5626 carry out and effectuate the purposes and provisions of this

585-03077-10

20101238c1

5627 act, including, but not limited to, ~~the authority to:~~

5628 (1) Collect reasonable rentals or charges for the use of
5629 and services provided for facilities in the pool in accordance
5630 with ~~the provisions of~~ this act exclusively for the purpose of
5631 paying the expenses of improving, repairing, maintaining, and
5632 operating facilities and paying debt service charges in
5633 connection with its obligations.

5634 (2) Prescribe ~~for~~ the use of facilities in the pool,
5635 prescribe the amount of rentals or charges, and make and enter
5636 into contracts with any political subdivision or agency, for the
5637 use of and services provided for such facilities.

5638 (3) Acquire facilities pursuant to s. 11(f), Art. VII of
5639 the State Constitution and own, operate, and finance such
5640 facilities in accordance with this act through the issuance of
5641 obligations by the division ~~under this act;~~ to use utilize
5642 rentals or charges from such facilities, as well as any
5643 appropriated state or other public funds; and to pledge revenue
5644 from such facilities to finance the acquisition of facilities
5645 pursuant to ~~the provisions of~~ this act.

5646 (4) Operate existing state-owned facilities in the pool and
5647 to pledge rentals or charges for such facilities to finance the
5648 acquisition of facilities pursuant to ~~the provisions of~~ this
5649 act.

5650 (5) Pledge, hypothecate, or otherwise encumber rentals or
5651 charges as may be agreed as security for obligations issued
5652 under this act and enter into trust agreements or indentures for
5653 the benefit of the holders of such obligations.

5654 (6) Borrow money or accept advances, loans, gifts, grants,
5655 devises, or bequests from any legal source; enter into contracts

585-03077-10

20101238c1

5656 or agreements with any party; and hold and apply advances,
5657 loans, gifts, grants, devises, or bequests according to the
5658 terms thereof. Such advances, loans, gifts, grants, devises, or
5659 bequests of real estate may be in fee simple or of any lesser
5660 estate and may be subject to any reasonable reservations. Any
5661 advances or loans received from any source may be repaid in
5662 accordance with the terms of such advance or loan.

5663 (7) (a) Sell, lease, release, or otherwise dispose of
5664 facilities in the pool in accordance with applicable law.

5665 (b) Upon determining ~~No later than the date upon which the~~
5666 ~~department recommends to the Division of State Lands of the~~
5667 ~~Department of Environmental Protection~~ the disposition of any
5668 facility within the Florida Facilities Pool, the department
5669 shall provide to the President of the Senate, the Speaker of the
5670 House of Representatives, the Executive Office of the Governor,
5671 and the Division of Bond Finance of the State Board of
5672 Administration an analysis that includes:

5673 1. The cost benefit of the proposed facility disposition,
5674 including the facility's current operating expenses, condition,
5675 and market value, and viable alternatives for work space for
5676 impacted state employees.

5677 2. The effect of the proposed facility disposition on the
5678 financial status of the Florida Facilities Pool, including the
5679 effect on rental rates and coverage requirement for the bonds.

5680

5681 ~~This paragraph expires July 1, 2010.~~

5682 (8) Create and establish funds and accounts for ~~the purpose~~
5683 ~~of~~ debt service reserves, for ~~the~~ matching ~~of~~ the timing and the
5684 amount of available funds and debt service charges, for sinking

585-03077-10

20101238c1

5685 funds, for capital depreciation reserves, for operating
5686 reserves, for capitalized interest and moneys not required for
5687 immediate disbursement to acquire all or a portion of any
5688 facility, and for any other reserves, funds, or accounts
5689 reasonably necessary to carry out the provisions of this act and
5690 to invest in authorized investments any moneys held in such
5691 funds and accounts ~~if, provided~~ such investments will be made on
5692 behalf of the department ~~of Management Services~~ by the State
5693 Board of Administration or the Chief Financial Officer, as
5694 appropriate.

5695 (9) Engage the services of consultants for rendering
5696 professional and technical assistance and advice and ~~to~~ engage
5697 services of professionals in connection with the acquisition or
5698 financing of any facility or the operation and activities of the
5699 department ~~of Management Services~~, including attorneys,
5700 auditors, consultants, and accountants.

5701 (10) Lease all or any portion of any facility to an agency
5702 or to any political subdivision.

5703 (11) Adopt ~~Promulgate~~ all rules necessary to administer
5704 ~~implement the provisions of~~ this act.

5705 (12) Do all other acts reasonably necessary to carry out
5706 the provisions of this act.

5707 Section 165. Subsection (1) of section 255.504, Florida
5708 Statutes, is amended to read:

5709 255.504 Use of facilities.—

5710 (1) Any facility that ~~which~~ is acquired and approved
5711 pursuant to s. 11(f), Art. VII of the State Constitution and
5712 financed under this act, and any facility in the pool shall be
5713 occupied to the extent that space is available, by agencies as

585-03077-10

20101238c1

5714 authorized by the department ~~of Management Services~~.

5715 Section 166. Section 255.505, Florida Statutes, is amended
5716 to read:

5717 255.505 Creation of the pool.—The department ~~of Management~~
5718 ~~Services~~ is hereby authorized and directed to create the Florida
5719 Facilities Pool in order for ~~that~~ agencies to ~~may~~ participate,
5720 and ~~thereby~~ pool the rentals to be paid by such agencies, at
5721 uniform rates with additional charges for services provided, and
5722 to authorize the issuance of obligations secured by and payable
5723 from such rentals and charges. Participation in the pool must
5724 ~~shall~~ be in accordance with ~~the provisions of~~ this act.

5725 Section 167. Subsections (1), (3), and (4) of section
5726 255.506, Florida Statutes, are amended to read:

5727 255.506 Facilities in pool.—The following facilities shall
5728 be entered into the pool:

5729 (1) All existing state-owned facilities under the
5730 jurisdiction of the department ~~of Management Services~~ shall be
5731 entered into the pool upon the creation of the pool.

5732 (3) Any agency may submit all, but not less than all, of
5733 the eligible facilities under its jurisdiction for entry into
5734 the pool. Each of such eligible facilities which is determined
5735 by the department ~~of Management Services~~ to be a qualified
5736 facility shall be entered into the pool ~~upon such determination~~.

5737 (4) Any agency that ~~which~~ requests the issuance of
5738 obligations under this act for ~~the~~ financing ~~of~~ the acquisition
5739 of a facility shall submit all, but not less than all, of the
5740 eligible facilities under its jurisdiction for entry into the
5741 pool. Each of such eligible facilities which is determined by
5742 the department ~~of Management Services~~ to be a qualified facility

585-03077-10

20101238c1

5743 shall be entered into the pool ~~upon such a determination.~~

5744 Section 168. Section 255.507, Florida Statutes, is amended
5745 to read:

5746 255.507 Determination of qualified facilities.—~~The~~
5747 ~~Department of Management Services,~~ In making determinations
5748 under s. 255.502(15)(b) ~~255.502(14)(b)~~, the department shall
5749 determine a facility to be a qualified ~~facility~~ if the facility
5750 meets one ~~either~~ of the following standards:

5751 (1) The facility is in compliance with the firesafety
5752 standards established by the State Fire Marshal for state-owned
5753 buildings, is in compliance with flood management criteria if it
5754 is located in a flood-prone area, and is in good operating
5755 condition in relation to its intended use.

5756 (2) The facility's economic benefit to the pool will be
5757 equal to or greater than the cost of restoring the facility to
5758 the condition described in subsection (1). For purposes of this
5759 subsection, achieving such economic benefit means that the rent
5760 to be paid by the occupants of the facility will be adequate to
5761 repay the restoration costs within 5 years.

5762 Section 169. Section 255.508, Florida Statutes, is amended
5763 to read:

5764 255.508 Participation in pool.—To participate in the pool,
5765 an agency head shall submit a request to the department ~~of~~
5766 ~~Management Services~~ and to the division pursuant to rules
5767 adopted by the department ~~of Management Services~~ pursuant to
5768 this act.

5769 Section 170. Section 255.509, Florida Statutes, is amended
5770 to read:

5771 255.509 Request for advisory statement.—

585-03077-10

20101238c1

5772 (1) Any agency may request ~~from the Department of~~
5773 ~~Management Services~~ an advisory statement from the department
5774 which states ~~shall state~~ the estimated pool rental rate that
5775 ~~which~~ would be assessed under current conditions for the
5776 agency's facilities if entered into the pool. The request for an
5777 advisory statement must ~~shall~~ contain a description of each
5778 eligible facility under the jurisdiction of the agency or to be
5779 acquired by the agency.

5780 (2) In rendering such advisory statement, the department ~~of~~
5781 ~~Management Services~~ shall consult with the division and is ~~shall~~
5782 ~~be~~ entitled to rely upon financial advisers or other
5783 professionals and may assume whatever method of financing that
5784 the division deems cost-effective.

5785 Section 171. Section 255.51, Florida Statutes, is amended
5786 to read:

5787 255.51 Determination of rental rates.—The department ~~of~~
5788 ~~Management Services~~ shall determine and establish rental rates
5789 charged and computed on a per square foot basis for all
5790 facilities in the pool whether or not of new construction, and
5791 such rates shall be applied uniformly to all agencies using or
5792 occupying space in facilities in the pool with additional
5793 charges based upon the elements of service and special requests
5794 as provided. Separate rates and charges may be established for
5795 warehouse space and parking space incidental to facilities in
5796 the pool.

5797 Section 172. Subsection (1) of section 255.511, Florida
5798 Statutes, is amended to read:

5799 255.511 Factors to be considered in establishing rental
5800 rates.—

585-03077-10

20101238c1

5801 (1) The department ~~of Management Services~~ shall prepare a
5802 complete annual budget for debt service on obligations issued
5803 under this act and for capital depreciation reserve deposits and
5804 expenses included in the operation and maintenance of each
5805 facility in the pool.

5806 Section 173. Section 255.513, Florida Statutes, is amended
5807 to read:

5808 255.513 Powers of the Division of Bond Finance and the
5809 Department of Environmental Protection ~~Management Services~~.—The
5810 division ~~of Bond Finance~~ and the department ~~of Management~~
5811 ~~Services~~ are authorized to jointly:

5812 (1) Engage the services of remarketing agents, indexing
5813 agents, underwriters, financial advisers, special tax counsel,
5814 bond counsel, or similar type services with respect to the
5815 issuance of any obligations under this act.

5816 (2) Procure credit enhancements such as municipal bond
5817 insurance, debt service reserve insurance, lease payment
5818 insurance, letters of credit or liquidity facilities such as
5819 letters of credit or surety bonds, or to enter into rate
5820 protection agreements, such as interest rate swaps or similar
5821 arrangements, in conjunction with the issuance of any
5822 obligations under this act.

5823 Section 174. Section 255.514, Florida Statutes, is amended
5824 to read:

5825 255.514 Division of Bond Finance; revenue bonds.—The
5826 division is authorized to issue obligations under this act on
5827 behalf of and at the request of the department ~~of Management~~
5828 ~~Services~~.

5829 Section 175. Section 255.515, Florida Statutes, is amended

585-03077-10

20101238c1

5830 to read:

5831 255.515 Issuance of obligations by the division.—With
5832 respect to the issuance of any obligations under this act, the
5833 division may ~~shall be entitled to~~ use such method of financing
5834 or combination of methods of financing as it deems appropriate
5835 to result in cost-effective financing. The division may ~~shall be~~
5836 ~~entitled to~~ rely upon the advice of financial advisers and other
5837 professionals retained jointly by the department ~~of Management~~
5838 ~~Services~~ and the division for such purposes.

5839 Section 176. Section 255.517, Florida Statutes, is amended
5840 to read:

5841 255.517 Anticipation obligations.—To provide funds for the
5842 purposes of this act, and before ~~prior to~~ the delivery of an
5843 issue of revenue bonds for the purposes of this act, the
5844 division may, on behalf of the department ~~of Management~~
5845 ~~Services, from time to time~~, by resolution, anticipate the
5846 issuance of such revenue bonds by the issuance of revenue notes,
5847 including commercial paper notes in the form of bond
5848 anticipation notes, with or without coupons, exchangeable for
5849 the revenue bonds when such revenue bonds have been executed and
5850 are available for delivery, or to be paid, together with
5851 interest and premium, if any, from the proceeds of the sale of
5852 such revenue bonds or a renewal issue of revenue notes,
5853 including commercial paper notes in the form of bond
5854 anticipation notes. In connection with such revenue notes, the
5855 department ~~of Management Services~~ may covenant to do all things
5856 necessary to authorize the issuance of the obligations and shall
5857 make the exchange or application of the proceeds pursuant to its
5858 agreements. Such revenue notes and, in the case of commercial

585-03077-10

20101238c1

5859 paper notes, the latest maturity thereof may not ~~shall~~ mature
5860 ~~not~~ later than 5 years from the date of issue of the original
5861 revenue notes and shall bear such other terms and shall be
5862 executed and sold in the manner authorized by the division and
5863 not prohibited by this act.

5864 Section 177. Subsections (1) and (2), paragraphs (b) and
5865 (c) of subsection (5), paragraphs (a), (d), (e), and (f) of
5866 subsection (6), paragraph (a) of subsection (7), and subsections
5867 (8), (10), (11), (12), and (13) of section 255.518, Florida
5868 Statutes, are amended to read:

5869 255.518 Obligations; purpose, terms, approval,
5870 limitations.-

5871 (1)~~(a)~~ The issuance of obligations shall provide sufficient
5872 funds to achieve the purposes of this act; pay interest on
5873 obligations except as provided in paragraph (b); pay expenses
5874 incident to the issuance and sale of any obligations issued
5875 pursuant to this act, including costs of validating, printing,
5876 and delivering the obligations, printing the official statement,
5877 publishing notices of sale of the obligations, and related
5878 administrative expenses; pay building acquisition and
5879 construction costs; and pay all other capital expenditures of
5880 the department ~~of Management Services~~ and the division incident
5881 to and necessary to carry out the purposes and powers granted by
5882 this act, subject to ~~the provisions of~~ s. 11(f), Art. VII of the
5883 State Constitution and the applicable provisions of the State
5884 Bond Act. Such obligations are ~~shall be~~ payable solely from the
5885 pool pledged revenues identified to such obligation.

5886 (a) Proceeds of obligations may not be used to pay building
5887 acquisition or construction costs for any facility until the

585-03077-10

20101238c1

5888 Legislature has appropriated funds from other sources estimated
5889 to be necessary for all costs relating to the initial planning,
5890 preliminary design and programming, and land acquisition for
5891 such facility and until such planning, design, and land
5892 acquisition activities have been completed. Obligation proceeds
5893 for building construction, renovation, or acquisition shall be
5894 requested for appropriation in any fiscal year by the department
5895 ~~of Management Services~~ only if the department estimates that
5896 such construction, renovation, or acquisition can be initiated
5897 during such fiscal year.

5898 (b) Payment of debt service charges on obligations during
5899 the construction of any facility financed by such obligations
5900 shall be made from funds other than proceeds of obligations.

5901 (2) All obligations authorized by this act shall be issued
5902 on behalf of and in the name of the Department of Management
5903 Services by the division as provided by this act, with a term of
5904 not more than 30 years and, except as otherwise provided herein,
5905 in such principal amounts as shall be necessary to provide
5906 sufficient funds to achieve the purposes of this act.

5907 (5) Any resolution or resolutions authorizing any
5908 obligations issued pursuant to this act shall provide that:

5909 (b) The department ~~of Management Services~~ shall maintain
5910 all facilities in the pool in a satisfactory state of repair,
5911 subject to such exceptions as are determined by the department
5912 ~~of Management Services~~, provided that such exceptions do not
5913 result in breach of any rate covenant in connection with the
5914 obligations.

5915 (c) The department ~~of Management Services~~ shall establish
5916 pool rental rates in amounts so that the annualized amount of

585-03077-10

20101238c1

5917 pool pledged revenues for the then-current bond year is ~~shall be~~
5918 at least equal to the aggregate of 110 percent of debt services
5919 charges, plus 100 percent of capital depreciation reserve
5920 deposits, plus 100 percent of costs of operations and
5921 maintenance, if any, in each case as shown in the annual budget
5922 required pursuant to this act.

5923 (6) Any resolution authorizing any obligations issued
5924 pursuant to this act may contain provisions, without limitation,
5925 which shall be a part of the contract with the holders thereof,
5926 as to:

5927 (a) Pledging all or any part of the assets of the
5928 department ~~of Management Services~~ securing the same, including
5929 leases with respect to all or any part of a facility, to secure
5930 the payment of obligations, subject to any existing ~~such~~
5931 agreements with holders of obligations ~~as may then exist~~.

5932 (d) Vesting in the State Board of Administration such
5933 property, rights, powers, and duties in trust as the division
5934 and the department ~~of Management Services~~ may determine, and
5935 limiting or abrogating the right of holders of obligations to
5936 appoint a trustee under this act or limiting the rights, powers,
5937 and duties of such trustee.

5938 (e) Defining the acts or omissions to act which ~~shall~~
5939 constitute a default in the obligations and duties of the
5940 division and the department ~~of Management Services~~ to the
5941 holders of obligations and providing for the rights and remedies
5942 of holders of obligations in the event of such default,
5943 including, as matter of right, the appointment of a receiver;
5944 provided such rights and remedies are ~~shall~~ not be inconsistent
5945 with state law ~~the general laws of the state and the other~~

585-03077-10

20101238c1

5946 provisions of this act.

5947 (f) Providing for the segregation of revenues payable to
5948 the department ~~of Management Services~~ as rentals or charges
5949 arising from facilities in the pool; providing for the handling
5950 of such revenues and the remittance of all or a portion thereof
5951 to the State Board of Administration or a paying agent;
5952 providing for the establishment of debt service reserves,
5953 capitalized interest accounts, capital depreciation reserve
5954 accounts, and the calculation of the amounts to be deposited
5955 therein; providing for the procurement of letters of credit or
5956 municipal bond insurance or similar credit enhancements or of
5957 letters of credit or similar liquidity facilities for the
5958 benefit of holders of such obligations or for the entering into
5959 of agreements with remarketing agents, tender agents, or
5960 indexing agents or of reimbursement agreements with respect to
5961 any of the foregoing concerning any such obligations.

5962 (7) (a) The obligations issued by the division on behalf of
5963 and in the name of the department ~~of Management Services~~ shall
5964 be sold at public sale in the manner provided by the State Bond
5965 Act. However, provided that if the division determines ~~shall~~
5966 ~~determine~~ that a negotiated sale of the obligations is in the
5967 best interest of the state, the division may negotiate for sale
5968 of the obligations with the underwriter jointly designated by
5969 the division and the department ~~of Management Services~~. In
5970 authorizing the negotiated sale, the division shall provide
5971 specific findings as to the reasons for the negotiated sale. The
5972 reasons ~~shall~~ include, but are not ~~be~~ limited to,
5973 characteristics of the obligations to be issued and prevailing
5974 market conditions that necessitate a negotiated sale. If ~~In~~ the

585-03077-10

20101238c1

5975 ~~event~~ the division negotiates for sale of obligations, the
5976 managing underwriter, or financial consultant or adviser, if
5977 applicable, shall provide to the division, before awarding ~~prior~~
5978 ~~to the award of~~ such obligations to the managing underwriter, a
5979 disclosure statement containing the following information:

5980 1. An itemized list setting forth the nature and estimated
5981 amounts of expenses to be incurred by the managing underwriter
5982 in connection with the issuance of such obligations. However
5983 ~~Notwithstanding the foregoing,~~ any such list may include an item
5984 for miscellaneous expenses, provided it includes only minor
5985 items of expense which are not ~~cannot be~~ easily categorized
5986 elsewhere in the statement.

5987 2. The names, addresses, and estimated amounts of
5988 compensation of any finders connected with the issuance of the
5989 obligations.

5990 3. The amount of underwriting spread expected to be
5991 realized.

5992 4. Any management fee charged by the managing underwriter.

5993 5. Any other fee, bonus, or compensation estimated to be
5994 paid by the managing underwriter in connection with the
5995 obligations issued to any person not regularly employed or
5996 retained by it.

5997 6. The name and address of the managing underwriter, if
5998 any, connected with the obligations issued.

5999 7. Any other disclosure ~~which~~ the division may require.

6000

6001 This paragraph is not intended to restrict or prohibit the
6002 employment of professional services relating to obligations
6003 issued under this act or the issuance of bonds by the division

585-03077-10

20101238c1

6004 under any other provisions of law.

6005 (8)~~(a)~~ No underwriter, commercial bank, investment banker,
6006 or financial consultant or adviser shall pay any finder any
6007 bonus, fee, or gratuity in connection with the sale of
6008 obligations issued by the division on behalf of and in the name
6009 of the department ~~of Management Services~~ unless full disclosure
6010 is made to the division before ~~prior to~~ or concurrently with the
6011 submission of a purchase proposal for such obligations by the
6012 underwriter, commercial bank, investment banker, or financial
6013 consultant or adviser and is made subsequently in the official
6014 statement or offering circular, if any, detailing the name and
6015 address of any finder and the amount of bonus, fee, or gratuity
6016 paid to such finder.

6017 (a)~~(b)~~ A willful violation of this subsection is a felony
6018 of the third degree, punishable as provided in s. 775.082, s.
6019 775.083, or s. 775.084.

6020 (b)~~(c)~~ A ~~No~~ violation of this subsection does not ~~shall~~
6021 affect the validity of any obligation issued under this act.

6022 (10) All obligations issued by the division on behalf of
6023 and in the name of the department ~~of Management Services~~ shall
6024 state on the face thereof that they are payable, both as to
6025 principal and interest, and premium, if any, solely out of the
6026 pool pledged revenues, and do not constitute an obligation,
6027 ~~either~~ general or special, of the state or of any political
6028 subdivision.

6029 (11) All obligations issued by the division on behalf of
6030 and in the name of the department ~~of Management Services~~ are
6031 ~~hereby declared to~~ have all the qualities and incidents of
6032 negotiable instruments under the applicable laws of the state.

585-03077-10

20101238c1

6033 (12) Any pledge of earnings, revenues, or other moneys made
6034 by the department are ~~of Management Services shall be~~ valid and
6035 binding from the time the pledge is made. Any earnings,
6036 revenues, or other moneys so pledged and thereafter received by
6037 the department ~~of Management Services~~ shall immediately be
6038 subject to the lien of that pledge without any physical delivery
6039 thereof or further act, and the lien of the pledge is ~~shall be~~
6040 valid and binding ~~as~~ against the department ~~of Management~~
6041 ~~Services~~ irrespective of whether the parties have notice
6042 ~~thereof~~. Neither the resolution nor any other instrument by
6043 which a pledge is created need be recorded or filed pursuant to
6044 the Uniform Commercial Code.

6045 (13) No employee of the department ~~of Management Services~~
6046 or the division, nor any person lawfully executing obligations
6047 issued under this act by the division on behalf of and in the
6048 name of the Department of Management Services, is ~~shall be~~
6049 ~~liable~~ personally liable on the obligations or ~~be~~ subject to any
6050 personal liability or accountability by reason of the issuance
6051 thereof.

6052 Section 178. Section 255.52, Florida Statutes, is amended
6053 to read:

6054 255.52 Approval by State Board of Administration.—At or
6055 before ~~prior to~~ the sale by the division, all obligations
6056 proposed to be issued by the division must ~~shall~~ be approved by
6057 the State Board of Administration as to fiscal sufficiency. The
6058 state board ~~of Administration~~ shall look to the rate coverage of
6059 all pool pledged revenues, as projected by the department ~~of~~
6060 ~~Management Services~~, with respect to all proposed and
6061 outstanding obligations issued under this act:

585-03077-10

20101238c1

6062 (1) One hundred and ten percent of debt service charges;
6063 plus

6064 (2) One hundred percent of capital depreciation reserved
6065 deposits, if any; plus

6066 (3) One hundred percent of costs of operation and
6067 maintenance.

6068

6069 With respect to variable rate obligations, such evaluation shall
6070 be made at the interest rate for the date of sale determined as
6071 provided in s. 255.519.

6072 Section 179. Section 255.521, Florida Statutes, is amended
6073 to read:

6074 255.521 Failure of payment.—~~If should~~ an agency fails ~~fail~~
6075 to make a timely payment of the pool pledged rentals or charges
6076 as required by this act, the Chief Financial Officer shall
6077 withhold general revenues of the agency in an amount sufficient
6078 to pay the rentals and charges due and unpaid ~~from such agency~~.
6079 The Chief Financial Officer shall forward such general revenue
6080 ~~amounts~~ to the department ~~of Management Services~~ in payment of
6081 such rents.

6082 Section 180. Section 255.522, Florida Statutes, is amended
6083 to read:

6084 255.522 State and political subdivisions not liable on
6085 obligations.—Obligations issued pursuant to this act are ~~shall~~
6086 not ~~be~~ a debt of the state or of any political subdivision, and
6087 neither the state nor any political subdivision is ~~shall be~~
6088 liable thereon. The department may not ~~of Management Services~~
6089 ~~shall not have the power to~~ pledge the credit, the revenues, or
6090 the taxing power of the state or of any political subdivision;

585-03077-10

20101238c1

6091 and ~~neither~~ the credit, ~~the~~ revenues, or ~~nor~~ the taxing power of
6092 the state or of any political subdivision may not ~~shall be, or~~
6093 ~~shall~~ be deemed to be, pledged to the payment of any obligations
6094 issued pursuant to this act.

6095 Section 181. Section 255.523, Florida Statutes, is amended
6096 to read:

6097 255.523 Exemption from taxes.—The property of the
6098 department ~~of Management Services~~, the transactions and
6099 operations thereof, and the income therefrom are ~~shall be~~ exempt
6100 from taxation by the state and political subdivisions.

6101 Section 182. Section 255.555, Florida Statutes, is amended
6102 to read:

6103 255.555 Records.—Each state agency that ~~which~~ finds that it
6104 has asbestos-containing materials in any public building for
6105 which it is responsible shall prepare and maintain a record
6106 containing a report summarizing the survey, including the hazard
6107 assessment, drawings and photographs of the sample area, and
6108 estimates of the quantities of hazardous materials. The agency
6109 shall, within 30 days after ~~of~~ receipt of said survey, submit a
6110 copy of the survey to the regional asbestos program manager and
6111 a summary to the Department of Environmental Protection
6112 ~~Management Services~~.

6113 Section 183. Paragraph (a) of subsection (2) of section
6114 265.001, Florida Statutes, is amended to read:

6115 265.001 Florida Women's Hall of Fame.—

6116 (2) (a) There is hereby established the Florida Women's Hall
6117 of Fame. The Department of Environmental Protection ~~Management~~
6118 ~~Services~~ shall set aside an area on the Plaza Level of the
6119 Capitol Building and shall consult with the Florida Commission

585-03077-10

20101238c1

6120 on the Status of Women regarding the design and theme of such
6121 area.

6122 Section 184. Paragraph (a) of subsection (2) of section
6123 265.2865, Florida Statutes, is amended to read:

6124 265.2865 Florida Artists Hall of Fame.—

6125 (2) (a) There is hereby created the Florida Artists Hall of
6126 Fame. The Florida Arts Council shall identify an appropriate
6127 location in the public area of a building in the Capitol Center
6128 that is under the jurisdiction of the Department of
6129 Environmental Protection Management Services, which location
6130 shall be set aside by the department and designated as the
6131 Florida Artists Hall of Fame.

6132 Section 185. Subsection (3) of section 267.061, Florida
6133 Statutes, is amended to read:

6134 267.061 Historic properties; state policy,
6135 responsibilities.—

6136 (3) DEPARTMENT OF ENVIRONMENTAL PROTECTION MANAGEMENT
6137 SERVICES.—The Department of Environmental Protection Management
6138 Services, in consultation with the division, shall adopt rules
6139 for the renovation of historic properties that ~~which~~ are owned
6140 or leased by the state. Such rules must ~~shall~~ be based on
6141 national guidelines for historic renovation, including the
6142 standards and guidelines for rehabilitation adopted by the
6143 United States Secretary of the Interior.

6144 Section 186. Paragraph (b) of subsection (4) of section
6145 267.0625, Florida Statutes, is amended to read:

6146 267.0625 Abrogation of offensive and derogatory geographic
6147 place names.—

6148 (4) The division shall:

585-03077-10

20101238c1

6149 (b) Notify the Department of Transportation, the Office of
6150 Tourism, Trade, and Economic Development, the Department of
6151 Environmental Protection Management Services, and any other
6152 entity that compiles information for or develops maps or markers
6153 for the state of the name change so that it may be reflected on
6154 subsequent editions of any maps, informational literature, or
6155 markers produced by those entities.

6156 Section 187. Paragraphs (a) and (c) of subsection (3) of
6157 section 267.075, Florida Statutes, are amended to read:

6158 267.075 The Grove Advisory Council; creation; membership;
6159 purposes.—

6160 (3) (a) The Grove Advisory Council shall be composed of
6161 eight members, as follows:

6162 1. Five members shall be private citizens appointed by the
6163 Secretary of State.

6164 2. One member shall be the Secretary of Environmental
6165 Protection Management Services or a his or her designee.

6166 3. One member shall be the director of the Division of
6167 Historical Resources of the Department of State.

6168 4. At least one member shall be a direct descendant of Mary
6169 Call Darby Collins appointed by the Secretary of State with the
6170 advice of the oldest living generation of lineal descendants of
6171 Mary Call Darby Collins.

6172
6173 Of the citizen members, at least one member must ~~shall~~ have
6174 professional curatorial and museum expertise, one member must
6175 ~~shall~~ have professional architectural expertise in the
6176 preservation of historic buildings, and one member must ~~shall~~
6177 have professional landscape expertise. The five citizen members

585-03077-10

20101238c1

6178 of the council appointed by the Secretary of State and the
6179 member of the council who is a direct descendant of Mary Call
6180 Darby Collins appointed by the Secretary of State shall be
6181 appointed for staggered 4-year terms. The Secretary of State
6182 shall fill the remainder of unexpired terms for the five citizen
6183 members of the council and the member of the council who is a
6184 direct descendant of Mary Call Darby Collins.

6185 (c) The council shall obtain clerical, expert, technical,
6186 or other services from the Division of Historical Resources. The
6187 Department of Environmental Protection ~~Management Services~~ shall
6188 provide reasonable assistance to the Department of State in
6189 carrying out the purposes of this section.

6190 Section 188. Subsections (1) and (2) of section 270.27,
6191 Florida Statutes, are amended to read:

6192 270.27 Sale of unused public lands.—

6193 (1) The Department of Environmental Protection may
6194 ~~Management Services~~ is hereby authorized to sell, to the best
6195 possible advantage, any or all detached pieces or parcels of
6196 land held by the state for the use of any institution under the
6197 supervision and control of the department if, whenever, in the
6198 judgment of the department, such detached pieces or parcels of
6199 land are not suitable for, or necessary and useful in, the
6200 operation and maintenance of the ~~such~~ institution, and the
6201 proceeds from the sale of such land could be used to better
6202 advantage ~~than said land~~ in the operation and maintenance of
6203 such institution.

6204 (2) The proceeds derived from the sale of any land, as
6205 authorized in this section, shall be deposited in the State
6206 Treasury to the account of the Department of Environmental

585-03077-10

20101238c1

6207 Protection Management Services for the use of the particular
6208 institution from the sale of whose lands the ~~said~~ funds were
6209 derived. Such funds may be used, from time to time, by the
6210 department for the purpose of acquiring additional lands that
6211 may be needed for the particular institution credited with such
6212 funds, or for needed buildings or repairs for such institution,
6213 in the discretion of the department; and such funds, when
6214 obtained, are hereby appropriated for such purposes.

6215 Section 189. Section 272.03, Florida Statutes, is amended
6216 to read:

6217 272.03 Supervision of Department of Management Services to
6218 ~~supervise~~ Capitol Center buildings; title in state.-

6219 (1) All state buildings ~~now or hereafter constructed~~
6220 included in the Capitol Center at the state capital and the
6221 grounds and squares contiguous thereto are ~~shall be~~ under the
6222 general control, custodianship, and supervision of the
6223 Department of Environmental Protection Management Services.

6224 (2) Title to Capitol Center ~~said~~ buildings vests ~~shall vest~~
6225 in the state.

6226 (3) This section does not ~~Nothing herein is intended to~~
6227 disturb or impair the contractual obligations for the discharge
6228 of the indebtedness incurred for the construction of the Florida
6229 Industrial Commission Building.

6230 Section 190. Section 272.04, Florida Statutes, is amended
6231 to read:

6232 272.04 Department to allocate space.-The Department of
6233 Environmental Protection Management Services shall ~~have~~
6234 ~~authority to~~ allocate space to house the various departments,
6235 agencies, boards, and commissions in said buildings, excepting,

585-03077-10

20101238c1

6236 however, the new Supreme Court Building, for which authority is
6237 ~~shall be~~ vested in the justices of the Supreme Court.

6238 Section 191. Section 272.05, Florida Statutes, is amended
6239 to read:

6240 272.05 Budgets for repair and maintenance; review.—The
6241 Department of Environmental Protection ~~Management Services~~ and
6242 the Executive Office of the Governor may ~~shall be empowered to~~
6243 review, change, and modify the budgets of the departments,
6244 agencies, boards, and commissions relating to the repair,
6245 upkeep, and maintenance of said buildings.

6246 Section 192. Section 272.06, Florida Statutes, is amended
6247 to read:

6248 272.06 Authority to contract for utility services.—The
6249 Department of Environmental Protection ~~Management Services~~ may
6250 provide or enter into contracts to provide heating, power,
6251 lighting, cooling systems, and other necessary services or
6252 facilities for any or all of said buildings.

6253 Section 193. Section 272.07, Florida Statutes, is amended
6254 to read:

6255 272.07 Department may provide for parks, drives, and
6256 walkways.—The Department of Environmental Protection ~~Management~~
6257 ~~Services~~ may provide for the establishment of parks, drives,
6258 walkways, and parkways on said grounds and squares and for the
6259 supervision, regulation, and maintenance of the same, including
6260 traffic and parking thereon.

6261 Section 194. Section 272.08, Florida Statutes, is amended
6262 to read:

6263 272.08 Duty of repair, maintenance, and supervision.—Except
6264 when otherwise directed by the Department of Environmental

585-03077-10

20101238c1

6265 ~~Protection Management Services, the official or~~ officials now
6266 having the duty of repair, care, maintenance, and supervision of
6267 any of said buildings shall continue to exercise such authority.

6268 Section 195. Section 272.09, Florida Statutes, is amended
6269 to read:

6270 272.09 Management, maintenance, and upkeep of Capitol
6271 Center.—The management, maintenance, and upkeep of the Capitol
6272 Center as defined in s. 272.03, are hereby vested in and made
6273 the direct obligation of the Department of Environmental
6274 Protection Management Services, which shall ~~have authority to do~~
6275 all things necessary to satisfactorily accomplish these
6276 functions, including the employment of a superintendent of
6277 grounds and buildings and other employees; the establishment of
6278 central repair and maintenance shops; and the designation or
6279 appointment of nonsalaried advisory committees to advise with
6280 them.

6281 Section 196. Subsection (2) of section 272.12, Florida
6282 Statutes, is amended to read:

6283 272.12 Florida Capitol Center Planning District.—

6284 (2) The Department of Environmental Protection may
6285 ~~Management Services is hereby authorized to purchase at fair~~
6286 market value any lands or buildings owned by the Department of
6287 Transportation within the Capitol Center. The Department of
6288 Environmental Protection ~~Management Services~~ may use any funds
6289 for this purpose ~~any funds~~ which are available to it at the time
6290 of the purchase.

6291 Section 197. Subsection (1) of section 272.121, Florida
6292 Statutes, is amended to read:

6293 272.121 Capitol Center long-range planning.—

585-03077-10

20101238c1

6294 (1) The Department of Environmental Protection ~~Management~~
6295 ~~Services~~ shall develop a comprehensive and long-range plan for
6296 the development of state-owned property within the Capitol
6297 Center. In developing this plan, the department shall consider:

6298 (a) The most efficient, expeditious, and economical method
6299 of accomplishing the desired results.

6300 (b) The architectural and aesthetic coordination of the
6301 proposed plan with the existing structures.

6302 (c) The effective utilization of all available space so as
6303 to minimize waste.

6304 (d) The plans adopted by the local planning agencies in
6305 Leon County.

6306 Section 198. Section 272.122, Florida Statutes, is amended
6307 to read:

6308 272.122 Acquisition of land for state buildings and
6309 facilities in the Capitol Center.—The Department of
6310 Environmental Protection shall ~~Management Services~~ ~~is hereby~~
6311 ~~authorized and directed to~~ acquire both land and buildings ~~now~~
6312 ~~needed or to be~~ needed for use, in whole or in part, by state
6313 government or any agency, board, bureau, or commission thereof.
6314 However, no building can be constructed or land acquired under
6315 this section without specific legislative approval. The
6316 acquisition of the land, buildings, and facilities may be
6317 financed by grants, by direct appropriations, or by the issuance
6318 of revenue bonds or certificates pledging the revenues and
6319 rentals derived from the use of the buildings and facilities.
6320 The department may ~~of Management Services~~ ~~is expressly~~
6321 ~~authorized to~~ issue revenue certificates to carry out the
6322 purposes of this section. Title to any lands acquired pursuant

585-03077-10

20101238c1

6323 to this section shall be vested in the Board of Trustees of the
6324 Internal Improvement Trust Fund for the use and benefit of the
6325 State of Florida.

6326 Section 199. Section 272.124, Florida Statutes, is amended
6327 to read:

6328 272.124 ~~Department of Management Services;~~ Power to
6329 contract.—The Department of Environmental Protection may
6330 ~~Management Services is authorized and empowered to make and~~
6331 enter into any contract or agreement, with any person or agency,
6332 public or private, to lease, buy, acquire, construct, hold, or
6333 dispose of real and personal property necessary to carry out the
6334 objects and purposes of this chapter. ~~act;~~ However, no contract
6335 may be entered into without specific authorization of the
6336 Legislature for the project. Lands shall be acquired by the
6337 department in accordance with acquisition procedures for state
6338 lands provided ~~for~~ in s. 253.025.

6339 Section 200. Subsection (3) of section 272.129, Florida
6340 Statutes, is amended to read:

6341 272.129 Florida Historic Capitol; space allocation;
6342 maintenance, repair, and security.—

6343 (3) Custodial and preventive maintenance and repair of the
6344 entire Historic Capitol and the grounds located adjacent thereto
6345 are ~~shall be~~ the responsibility of the Department of
6346 Environmental Protection ~~Management Services~~, subject to the
6347 special requirements of the building as determined by the
6348 Capitol Curator.

6349 Section 201. Subsections (1) and (4) of section 272.16,
6350 Florida Statutes, are amended to read:

6351 272.16 Parking areas within Capitol Center area.—

585-03077-10

20101238c1

6352 (1) The Department of Environmental Protection ~~Management~~
6353 ~~Services~~ may assign parking areas within the Capitol Center area
6354 to a state agency for its own use or for reassignment to state
6355 officers and employees employed in Tallahassee; however, parking
6356 areas must be provided for members of the Legislature during
6357 sessions of the Legislature, regular and extraordinary. Not more
6358 than 15 percent of the ~~said~~ parking areas may be set aside for
6359 the use of persons temporarily visiting or attending to business
6360 in the Capitol Center area who reside beyond the territorial
6361 limits of the City of Tallahassee. Any remaining portion of the
6362 parking areas not assigned ~~as aforesaid~~ may be limited in period
6363 of time for use. However, the department may not ~~of Management~~
6364 ~~Services shall have no power to~~ assign parking spaces in the
6365 legislative office buildings, nor shall those spaces and spaces
6366 in the parking facility within the Capitol Building which are
6367 allocated to the Legislature be included under the provisions of
6368 this section and s. 272.161(1), except as provided in subsection
6369 (2) of this section.

6370 (4) The Department of Environmental Protection ~~Management~~
6371 ~~Services~~ shall adopt such rules as are necessary to carry out
6372 the purposes of subsections (1) and (3).

6373 Section 202. Section 272.161, Florida Statutes, is amended
6374 to read:

6375 272.161 Rental of reserved parking spaces.—

6376 (1)~~(a)~~ The Department of Environmental Protection
6377 ~~Management Services~~ may assign a reserved parking space to any
6378 state employee, qualified state employee car pool, provider of
6379 essential services to the state, or state agency for
6380 reassignment to its employees.

585-03077-10

20101238c1

6381 (a) Any state agency assigned a reserved parking space
6382 shall charge the user of such space, except a qualified state
6383 employee car pool, a fee in accordance with guidelines
6384 established by the department.

6385 (b) Any state agency assigned a reserved parking space that
6386 ~~which~~ is not rented for ~~a period of~~ 7 consecutive days shall
6387 return such space to the department for reassignment. All state
6388 agencies assigned reserved parking spaces must ensure ~~shall~~
6389 ~~assure~~ the timely payment of assessed rent to the department.

6390 (c) Assignments of reserved parking spaces is ~~shall be~~
6391 limited to the amount of available parking under the supervision
6392 of the department. Preference in the assignment of reserved
6393 parking spaces shall be given qualified state employee car
6394 pools. A state agency, employee, state employee car pool, or
6395 provider of essential services may request a reserved parking
6396 space in a manner prescribed by the department.

6397 (2) ~~All~~ Employee parking fees are ~~shall be~~ payable by the
6398 payroll deduction plan, periodically according to the employee's
6399 pay schedule, to the Department of Environmental Protection
6400 ~~Management Services~~ or to the contracting agency.

6401 (3) All fees collected by the Department of Environmental
6402 Protection Management Services ~~under the provisions of~~ this
6403 section shall be deposited in the Supervision Trust Fund. The
6404 department shall account for the revenues and expenditures
6405 related to the paid parking program in compliance with ~~the~~
6406 ~~provisions of~~ s. 215.32(2)(b). The revenues collected from
6407 parking fees shall be used for the maintenance, minor
6408 construction, enforcement, security, and administration of
6409 parking facilities and programs.

585-03077-10

20101238c1

6410 (4) The Department of Environmental Protection Management
6411 ~~Services~~ shall adopt ~~such~~ rules as ~~are~~ necessary to carry out
6412 the purposes of this section. The department shall establish
6413 guidelines for qualifying as a state employee car pool and for
6414 the preferential assignment of reserved spaces to car pools.

6415 (5) The Department of Environmental Protection Management
6416 ~~Services~~ shall establish fees on all state-owned reserved
6417 parking spaces, except those assigned to qualified state
6418 employee car pools, under the jurisdiction of the department.
6419 The department shall also issue loading zone permits and
6420 scramble parking permits for a fee sufficient to cover the cost
6421 of administering the permits and maintaining the parking areas.

6422 (6) The Department of Environmental Protection may
6423 ~~Management Services~~ shall ~~have the authority to~~ remove or tow
6424 away, or cause to be removed or towed away, any wrongfully
6425 parked vehicle in any assigned or reserved parking space or area
6426 under the control of the department ~~of Management Services~~
6427 throughout the state at the expense of the owner of the
6428 wrongfully parked vehicle.

6429 Section 203. Paragraph (a) of subsection (1) and paragraphs
6430 (b) and (c) of subsection (2) of section 272.18, Florida
6431 Statutes, are amended to read:

6432 272.18 Governor's Mansion Commission.—

6433 (1) (a) ~~There is created within the Department of Management~~
6434 ~~Services~~ A Governor's Mansion Commission ~~to be~~ composed of seven
6435 ~~eight~~ members is created within the Department of Environmental
6436 Protection. Five members shall be private citizens appointed by
6437 the Governor and subject to confirmation by the Senate; ~~one~~
6438 ~~member shall be the Secretary of Management Services or his or~~

585-03077-10

20101238c1

6439 ~~her designee~~, one member shall be the director of the Division
6440 of Recreation and Parks of the Department of Environmental
6441 Protection; and one member shall be designated by the Secretary
6442 of State and shall be an employee of the Department of State
6443 with curatorial and museum expertise. The Governor shall appoint
6444 all citizen members for 4-year terms. The Governor shall fill
6445 vacancies for the remainder of unexpired terms. The spouse of
6446 the Governor or the designated representative of the Governor
6447 shall be an ex officio member of the commission but shall have
6448 no voting rights except in the case of a tie vote.

6449 (2)

6450 (b) The commission shall obtain clerical, expert,
6451 technical, or other services from the Department of
6452 Environmental Protection Management Services ~~as the commission~~
6453 ~~requires~~ to carry out the purposes of this section.

6454 (c) Members of the commission shall serve without
6455 compensation or honorarium but are ~~shall be~~ entitled to receive
6456 reimbursement for per diem and travel expenses as provided in s.
6457 112.061. All expenses of the commission shall be paid from
6458 appropriations to be made by the Legislature to the Department
6459 of Environmental Protection Management Services ~~for that~~
6460 purpose. The commission shall submit its budgetary requests to
6461 the department of ~~Management Services~~ for approval and inclusion
6462 in the legislative budget request of the department. All
6463 vouchers must ~~shall~~ be approved by the secretary of the
6464 department of ~~Management Services~~ before being submitted to the
6465 Chief Financial Officer for payment.

6466 Section 204. Section 272.185, Florida Statutes, is amended
6467 to read:

585-03077-10

20101238c1

6468 272.185 Maintenance of Governor's Mansion ~~by Department of~~
6469 ~~Management Services.~~—

6470 (1) The Department of Environmental Protection ~~Management~~
6471 ~~Services~~ shall maintain all structures, furnishings, equipment,
6472 and grounds of the Governor's Mansion, except that the exterior
6473 facades; the landscaping of the grounds; the antique furnishings
6474 in the private quarters; the interiors of the state rooms; and
6475 the articles of furniture, fixtures, and decorative objects used
6476 or displayed in the state rooms shall be maintained pursuant to
6477 the directives of the Governor's Mansion Commission.

6478 (2) The Department of Environmental Protection shall insure
6479 the Governor's Mansion, its contents, and all structures and
6480 appurtenances thereto with the State Risk Management Trust Fund
6481 as provided in s. 284.01. The department may purchase any
6482 necessary insurance ~~either~~ by a primary insurance contract,
6483 excess coverage insurance, or reinsurance to cover the contents
6484 of the mansion, whether title of the contents is in the state or
6485 in any other person or entity not a resident of the mansion,
6486 notwithstanding ~~the provision of~~ s. 287.025.

6487 (3) The Department of Environmental Protection ~~may shall~~
6488 ~~have authority to~~ contract and be contracted with for work and
6489 materials required.

6490 (4) The Department of Environmental Protection shall keep a
6491 continuing and accurate inventory of all equipment and
6492 furnishings.

6493 Section 205. Subsection (4) of section 273.055, Florida
6494 Statutes, is amended to read:

6495 273.055 Disposition of state-owned tangible personal
6496 property.—

585-03077-10

20101238c1

6497 (4) Each custodian shall adopt guidelines or ~~administrative~~
6498 ~~rules and regulations pursuant to chapter 120~~ providing for, but
6499 not limited to, transferring, warehousing, bidding, destroying,
6500 scrapping, or other disposing of state-owned tangible personal
6501 property. However, ~~the~~ approval of the Department of Financial
6502 ~~Management~~ Services is required before ~~prior to~~ the disposal of
6503 motor vehicles, watercraft, or aircraft pursuant to ss. 287.15
6504 and 287.16.

6505 Section 206. Section 281.02, Florida Statutes, is amended
6506 to read:

6507 281.02 ~~Powers and duties of the Department of Management~~
6508 ~~Services with respect to Firesafety and security.~~—The Department
6509 of Environmental Protection ~~Management Services~~ has the
6510 following powers and duties with respect to firesafety and
6511 security:

6512 (1) ~~To~~ Assist the State Fire Marshal in maintaining the
6513 firesafety of public buildings pursuant to s. 633.085.

6514 (2) ~~To~~ Make provision by rule, contract, lease, or
6515 interagency agreement for the security of all state-owned
6516 property leased from the department ~~of Management Services~~,
6517 excluding state universities and custodial institutions, the
6518 Capitol Complex, the Governor's mansion and the grounds thereof,
6519 and the Supreme Court. For these purposes, security includes
6520 ~~shall include~~ the safety and security of occupants and visitors
6521 to state-owned property, appropriate law enforcement response to
6522 complaints relating to criminal activity or security threats,
6523 the development of emergency procedures and evacuation routes in
6524 the event of fire or disaster, and ensuring that such procedures
6525 and routes are known to ~~those~~ persons occupying such property.

585-03077-10

20101238c1

6526 (3) ~~☞~~ Employ guards and administrative, clerical,
6527 technical, and other personnel as may be required.

6528 (4) ~~☞~~ Train employees and make provision for the training
6529 of agents, guards, and employees of tenant agencies in security
6530 and emergency procedures.

6531 (5) ~~☞~~ Make provision for the enforcement of rules
6532 governing the regulation of traffic and parking on state-owned
6533 property, including, but not limited to, issuing citations for
6534 the violation of such rules or the traffic laws of the state or
6535 any county or municipality and impounding illegally or
6536 wrongfully parked vehicles.

6537 (6) ~~☞~~ Delegate or assign duties and responsibilities
6538 furthering the provision of security as required and authorized
6539 by this section to any state agency occupying such state-owned
6540 property. Security requirements may be included in lease
6541 agreements or established by department rule.

6542 Section 207. Section 281.03, Florida Statutes, is amended
6543 to read:

6544 281.03 Incident reports and record retention.—The
6545 Department of Environmental Protection Management Services shall
6546 provide ~~make provision~~ for the collection and retention of
6547 copies of reports relating to criminal activity or other safety-
6548 related and security-related incidents occurring on state-owned
6549 property for use in ongoing security planning and to fulfill its
6550 responsibilities under s. 281.02.

6551 Section 208. Section 281.06, Florida Statutes, is amended
6552 to read:

6553 281.06 Contracts with counties, municipalities, or licensed
6554 private security agencies.—The Department of Environmental

585-03077-10

20101238c1

6555 Protection Management Services may contract with any county,
6556 municipality, or licensed private security agency to provide and
6557 maintain the security of state-owned property, and the safety
6558 and security of occupants and visitors thereof, pursuant to ss.
6559 281.02-281.08 upon such terms as the department deems ~~may deem~~
6560 to be in the best interest of the state.

6561 Section 209. Subsection (1) of section 281.07, Florida
6562 Statutes, is amended to read:

6563 281.07 Rules; Facilities Program; traffic regulation.—

6564 (1) The Department of Environmental Protection Management
6565 ~~Services~~ shall adopt ~~and promulgate~~ rules to govern the
6566 administration, operation, and management of the Facilities
6567 Program and to regulate traffic and parking on state-owned
6568 property, including the Capitol Complex, which may ~~rules are~~ not
6569 ~~in~~ conflict with any state law or county or municipal ordinance,
6570 and to carry out the provisions of ss. 281.02-281.08.

6571 Section 210. Section 281.08, Florida Statutes, is amended
6572 to read:

6573 281.08 Equipment.—The Department of Environmental
6574 Protection ~~may Management Services is specifically authorized to~~
6575 purchase, sell, trade, rent, lease, and maintain all necessary
6576 equipment, motor vehicles, communication systems, housing
6577 facilities, and office space, and perform any other acts
6578 necessary for the proper administration of ss. 281.02-281.08,
6579 pursuant to part I of chapter 287.

6580 Section 211. Subsection (12) of section 282.0041, Florida
6581 Statutes, is amended to read:

6582 282.0041 Definitions.—As used in this chapter, the term:
6583 ~~(12) "Department" means the Department of Management~~

585-03077-10

20101238c1

6584 ~~Services.~~

6585 Section 212. Section 282.205, Florida Statutes, is amended
6586 to read:

6587 282.205 Southwood Shared Resource Center.—The Southwood
6588 Shared Resource Center is an agency established within the
6589 Agency for Enterprise Information Technology ~~department~~ for
6590 administrative purposes only.

6591 (1) The center is designated as a primary data center and
6592 shall be a separate budget entity that is not subject to
6593 control, supervision, or direction of the agency ~~department~~ in
6594 any manner, including, but not limited to, purchasing,
6595 transactions involving real or personal property, personnel, or
6596 budgetary matters.

6597 (2) The center shall be headed by a board of trustees as
6598 provided in s. 282.203, who shall comply with all requirements
6599 of that section related to the operation of the center and with
6600 the rules of the agency ~~for Enterprise Information Technology~~
6601 related to the design and delivery of enterprise information
6602 technology services.

6603 Section 213. Section 282.604, Florida Statutes, is amended
6604 to read:

6605 282.604 Adoption of rules.—The Agency for Enterprise
6606 Information Technology ~~Department of Management Services~~ shall,
6607 with input from stakeholders, adopt rules ~~pursuant to ss.~~
6608 ~~120.536(1) and 120.54~~ for the development, procurement,
6609 maintenance, and use of accessible electronic information
6610 technology by governmental units.

6611 Section 214. Section 282.702, Florida Statutes, is amended
6612 to read:

585-03077-10

20101238c1

6613 282.702 Powers and duties.—The Agency for Enterprise
6614 Information Technology Department of Management Services shall
6615 have the following powers, duties, and functions:

6616 (1) To publish electronically the portfolio of services
6617 available from the department, including pricing information;
6618 the policies and procedures of the state communications network
6619 governing usage of available services; and a forecast of the
6620 priorities and initiatives for the state communications system
6621 for the ensuing 2 years.

6622 (2) To adopt technical standards for the state
6623 communications network which will ensure the interconnection of
6624 computer networks and information systems of agencies.

6625 (3) To enter into agreements related to information
6626 technology with state agencies and political subdivisions of the
6627 state.

6628 (4) To purchase from or contract with information
6629 technology providers for information technology, including
6630 private line services.

6631 (5) To apply for, receive, and hold such authorizations,
6632 patents, copyrights, trademarks, service marks, licenses, and
6633 allocations or channels and frequencies to carry out the
6634 purposes of this part.

6635 (6) To purchase, lease, or otherwise acquire and to hold,
6636 sell, transfer, license, or otherwise dispose of real, personal,
6637 and intellectual property, including, but not limited to,
6638 patents, trademarks, copyrights, and service marks.

6639 (7) To cooperate with any federal, state, or local
6640 emergency management agency in providing for emergency
6641 communications services.

585-03077-10

20101238c1

6642 (8) To control and approve the purchase, lease, or
6643 acquisition and the use of communications services provided as
6644 part of any other total system to be used by the state or any of
6645 its agencies.

6646 (9) To adopt rules ~~pursuant to ss. 120.536(1) and 120.54~~
6647 relating to communications and to administer ~~the provisions of~~
6648 this part.

6649 (10) To apply for and accept federal funds for any of the
6650 purposes of this part as well as gifts and donations from
6651 individuals, foundations, and private organizations.

6652 (11) To monitor issues relating to communications
6653 facilities and services before the Florida Public Service
6654 Commission and, when necessary, prepare position papers, prepare
6655 testimony, appear as a witness, and retain witnesses on behalf
6656 of state agencies in proceedings before the commission.

6657 (12) Unless delegated to the state agencies by the Agency
6658 for Enterprise Information Technology department, to manage and
6659 control, but not intercept or interpret, communications within
6660 the SUNCOM Network by:

6661 (a) Establishing technical standards to physically
6662 interface with the SUNCOM Network.

6663 (b) Specifying how communications are transmitted within
6664 the SUNCOM Network.

6665 (c) Controlling the routing of communications within the
6666 SUNCOM Network.

6667 (d) Establishing standards, policies, and procedures for
6668 access to the SUNCOM Network.

6669 (e) Ensuring orderly and reliable communications services
6670 in accordance with the service level agreements executed with

585-03077-10

20101238c1

6671 state agencies.

6672 (13) To plan, design, and conduct experiments for
6673 communications services, equipment, and technologies, and to
6674 implement enhancements in the state communications network if
6675 ~~when~~ in the public interest and cost-effective. Funding for such
6676 experiments shall be derived from SUNCOM Network service
6677 revenues and may ~~shall~~ not exceed 2 percent of the annual budget
6678 for the SUNCOM Network for any fiscal year or as provided in the
6679 General Appropriations Act. New services offered as a result of
6680 this subsection may ~~shall~~ not affect existing rates for
6681 facilities or services.

6682 (14) To enter into contracts or agreements, with or without
6683 competitive bidding or procurement, to make available, on a
6684 fair, reasonable, and nondiscriminatory basis, property and
6685 other structures under the Agency for Enterprise Information
6686 Technology's ~~departmental~~ control for the placement of new
6687 facilities by any wireless provider of mobile service as defined
6688 in 47 U.S.C. s. 153(27) or s. 332(d) and any telecommunications
6689 company as defined in s. 364.02 if ~~when~~ it is ~~determined to be~~
6690 practical and feasible to make such property or other structures
6691 available. The agency ~~department~~ may, without adopting a rule,
6692 charge a just, reasonable, and nondiscriminatory fee for the
6693 placement of the facilities, payable annually, based on the fair
6694 market value of space used by comparable communications
6695 facilities in the state. The agency ~~department~~ and a wireless
6696 provider or telecommunications company may negotiate the
6697 reduction or elimination of a fee in consideration of services
6698 provided to the agency ~~department~~ by the wireless provider or
6699 telecommunications company. All such fees collected by the

585-03077-10

20101238c1

6700 department shall be deposited directly into ~~the~~ Law Enforcement
6701 Radio ~~Operating~~ Trust Fund, and may be used by the agency
6702 ~~department~~ to construct, maintain, or support the system.

6703 Section 215. Section 282.703, Florida Statutes, is amended
6704 to read:

6705 282.703 SUNCOM Network; exemptions from the required use.—

6706 (1) ~~There is created within the department~~ The SUNCOM
6707 Network is created within the Agency for Enterprise Information
6708 Technology as, ~~which shall be developed to serve as~~ the state
6709 communications system for providing local and long-distance
6710 communications services to state agencies, political
6711 subdivisions of the state, municipalities, state universities,
6712 and nonprofit corporations pursuant to this part. The SUNCOM
6713 Network shall be developed to transmit all types of
6714 communications signals, including, but not limited to, voice,
6715 data, video, image, and radio. State agencies shall cooperate
6716 and assist in the development and joint use of communications
6717 systems and services.

6718 (2) The agency ~~department~~ shall design, engineer,
6719 implement, manage, and operate through state ownership,
6720 commercial leasing, or some combination thereof, the facilities
6721 and equipment providing SUNCOM Network services, and shall
6722 develop a system of equitable billings and charges for
6723 communication services.

6724 (3) All state agencies and state universities shall use the
6725 SUNCOM Network for agency and state university communications
6726 services as the services become available; however, no agency or
6727 university is relieved of responsibility for maintaining
6728 communications services necessary for effective management of

585-03077-10

20101238c1

6729 its programs and functions. If a SUNCOM Network service does not
6730 meet the communications requirements of an agency or university,
6731 the agency or university shall notify the Agency for Enterprise
6732 Information Technology ~~department~~ in writing and detail the
6733 requirements for that communications service. If the agency
6734 ~~department~~ is unable to meet an agency's or university's
6735 requirements by enhancing SUNCOM Network service, the agency
6736 ~~department~~ may grant the agency or university an exemption from
6737 the required use of specified SUNCOM Network services.

6738 Section 216. Section 282.704, Florida Statutes, is amended
6739 to read:

6740 282.704 Use of state SUNCOM Network by municipalities.—Any
6741 municipality may request the Agency for Enterprise Information
6742 Technology ~~department~~ to provide any or all of the SUNCOM
6743 Network's portfolio of communications services upon such terms
6744 and conditions as the agency ~~department~~ may establish. The
6745 requesting municipality shall pay its share of installation and
6746 recurring costs according to the published rates for SUNCOM
6747 Network services and as invoiced by the agency ~~department~~. Such
6748 municipality shall also pay for any requested modifications to
6749 existing SUNCOM Network services, if any charges apply.

6750 Section 217. Section 282.705, Florida Statutes, is amended
6751 to read:

6752 282.705 Use of state SUNCOM Network by nonprofit
6753 corporations.—

6754 (1) The Agency for Enterprise Information Technology
6755 ~~department~~ shall provide a means whereby private nonprofit
6756 corporations under contract with state agencies or political
6757 subdivisions of the state may use the state SUNCOM Network,

585-03077-10

20101238c1

6758 subject to the limitations in this section. In order to qualify
6759 to use the state SUNCOM Network, a nonprofit corporation shall:

6760 (a) Expend the majority of its total direct revenues for
6761 the provision of contractual services to the state, a
6762 municipality, or a political subdivision; and

6763 (b) Receive only a small portion of its total revenues from
6764 any source other than a state agency, a municipality, or a
6765 political subdivision during the time SUNCOM Network services
6766 are requested.

6767 (2) Each nonprofit corporation seeking authorization to use
6768 the state SUNCOM Network shall provide to the agency ~~department~~,
6769 upon request, proof of compliance with subsection (1).

6770 (3) Nonprofit corporations established pursuant to general
6771 law and an association of municipal governments which is wholly
6772 owned by the municipalities are eligible to use the state SUNCOM
6773 Network, subject to the terms and conditions of the agency
6774 ~~department~~.

6775 (4) Institutions qualified to participate in the William L.
6776 Boyd, IV, Florida Resident Access Grant Program pursuant to s.
6777 1009.89 may ~~are eligible to~~ use the state SUNCOM Network,
6778 subject to the terms and conditions of the agency ~~department~~.
6779 Such entities are not required to satisfy the other criteria of
6780 this section.

6781 (5) Private, nonprofit elementary and secondary schools are
6782 eligible for rates and services on the same basis as public
6783 schools if such schools do not have an endowment in excess of
6784 \$50 million.

6785 Section 218. Section 282.706, Florida Statutes, is amended
6786 to read:

585-03077-10

20101238c1

6787 282.706 Use of SUNCOM Network by libraries.—The Agency for
6788 Enterprise Information Technology ~~department~~ may provide SUNCOM
6789 Network services to any library in the state, including
6790 libraries in public schools, community colleges, state
6791 universities, and nonprofit private postsecondary educational
6792 institutions, and libraries owned and operated by municipalities
6793 and political subdivisions.

6794 Section 219. Section 282.707, Florida Statutes, is amended
6795 to read:

6796 282.707 SUNCOM Network; criteria for usage.—

6797 (1) The Agency for Enterprise Information Technology
6798 ~~department~~ shall periodically review the qualifications of
6799 subscribers using the state SUNCOM Network and ~~shall~~ terminate
6800 services provided to any facility not qualified under this part
6801 or rules adopted hereunder. In the event of nonpayment of
6802 invoices by subscribers whose SUNCOM Network invoices are paid
6803 from sources other than legislative appropriations, such
6804 nonpayment represents good and sufficient reason to terminate
6805 service.

6806 (2) The agency ~~department~~ shall adopt rules for
6807 implementing and operating the state SUNCOM Network, which
6808 include procedures for withdrawing and restoring authorization
6809 to use the state SUNCOM Network. Such rules must ~~shall~~ provide a
6810 minimum of 30 days' notice to affected parties before
6811 terminating voice communications service.

6812 (3) This section does not limit or restrict the ability of
6813 the Florida Public Service Commission to set jurisdictional
6814 tariffs of telecommunications companies.

6815 Section 220. Section 282.709, Florida Statutes, is amended

585-03077-10

20101238c1

6816 to read:

6817 282.709 State agency law enforcement radio system and
6818 interoperability network.—

6819 (1) The Department of Law Enforcement may acquire and
6820 administer a statewide radio communications system to serve law
6821 enforcement units of state agencies, and to serve local law
6822 enforcement agencies through mutual aid channels.

6823 (a) The department shall, in conjunction with the
6824 Department of Law Enforcement and the Division of Emergency
6825 Management of the Department of Community Affairs, establish
6826 policies, procedures, and standards to be incorporated into a
6827 comprehensive management plan for the use and operation of the
6828 statewide radio communications system.

6829 (b) The department shall bear the overall responsibility
6830 for the design, engineering, acquisition, and implementation of
6831 the statewide radio communications system and for ensuring the
6832 proper operation and maintenance of all common system equipment.

6833 (c)1. The department may rent or lease space on any tower
6834 under its control and refuse to lease space on any tower at any
6835 site.

6836 2. The department may rent, lease, or sublease ground space
6837 as necessary to locate equipment to support antennae on the
6838 towers. The costs for the use of such space shall be established
6839 by the department for each site if it is determined to be
6840 practicable and feasible to make space available.

6841 3. The department may rent, lease, or sublease ground space
6842 on lands acquired by the department for the construction of
6843 privately owned or publicly owned towers. The department may, as
6844 a part of such rental, lease, or sublease agreement, require

585-03077-10

20101238c1

6845 space on such towers for antennae as necessary for the
6846 construction and operation of the state agency law enforcement
6847 radio system or any other state need.

6848 4. All moneys collected by the department for rents,
6849 leases, and subleases under this subsection shall be deposited
6850 directly into the ~~State Agency Law Enforcement Radio System~~
6851 Trust Fund established in subsection (3) and may be used by the
6852 department to construct, maintain, or support the system.

6853 5. The positions necessary for the department to accomplish
6854 its duties under this subsection shall be established in the
6855 General Appropriations Act and funded by the Law Enforcement
6856 Radio ~~Operating~~ Trust Fund or other revenue sources.

6857 (d) The department shall exercise its powers and duties
6858 under this part to plan, manage, and administer the mutual aid
6859 channels in the statewide radio communication system.

6860 1. In implementing such powers and duties, the department
6861 shall consult and act in conjunction with the Department of Law
6862 Enforcement and the Division of Emergency Management of the
6863 Department of Community Affairs, and shall manage and administer
6864 the mutual aid channels in a manner that reasonably addresses
6865 the needs and concerns of the involved law enforcement agencies
6866 and emergency response agencies and entities.

6867 2. The department may make the mutual aid channels
6868 available to federal agencies, state agencies, and agencies of
6869 the political subdivisions of the state for the purpose of
6870 public safety and domestic security.

6871 (e) The department may allow other state agencies to use
6872 the statewide radio communications system under terms and
6873 conditions established by the department.

585-03077-10

20101238c1

6874 (2) The Joint Task Force on State Agency Law Enforcement
6875 Communications is created adjunct to the department to advise
6876 the department of member-agency needs relating to the planning,
6877 designing, and establishment of the statewide communication
6878 system.

6879 (a) The Joint Task Force on State Agency Law Enforcement
6880 Communications shall consist of eight members, as follows:

6881 1. A representative of the Division of Alcoholic Beverages
6882 and Tobacco of the Department of Business and Professional
6883 Regulation who shall be appointed by the secretary of the
6884 department.

6885 2. A representative of the Division of Florida Highway
6886 Patrol of the Department of Highway Safety and Motor Vehicles
6887 who shall be appointed by the executive director of the
6888 department.

6889 3. A representative of the Department of Law Enforcement
6890 who shall be appointed by the executive director of the
6891 department.

6892 4. A representative of the Fish and Wildlife Conservation
6893 Commission who shall be appointed by the executive director of
6894 the commission.

6895 5. A representative of the Division of Law Enforcement of
6896 the Department of Environmental Protection who shall be
6897 appointed by the secretary of the department.

6898 6. A representative of the Department of Corrections who
6899 shall be appointed by the secretary of the department.

6900 7. A representative of the Division of State Fire Marshal
6901 of the Department of Financial Services who shall be appointed
6902 by the State Fire Marshal.

585-03077-10

20101238c1

6903 8. A representative of the Department of Transportation who
6904 shall be appointed by the secretary of the department.

6905 (b) Each appointed member of the joint task force shall
6906 serve at the pleasure of the appointing official. Any vacancy on
6907 the joint task force shall be filled in the same manner as the
6908 original appointment. A joint task force member may, upon
6909 notification to the chair before the beginning of any scheduled
6910 meeting, appoint an alternative to represent the member on the
6911 task force and vote on task force business in his or her
6912 absence.

6913 (c) The joint task force shall elect a chair from among its
6914 members to serve a 1-year term. A vacancy in the chair of the
6915 joint task force must be filled for the remainder of the
6916 unexpired term by an election of the joint task force members.

6917 (d) The joint task force shall meet as necessary, but at
6918 least quarterly, at the call of the chair and at the time and
6919 place designated by him or her.

6920 (e) The per diem and travel expenses incurred by a member
6921 of the joint task force in attending its meetings and in
6922 attending to its affairs shall be paid pursuant to s. 112.061,
6923 from funds budgeted to the state agency that the member
6924 represents.

6925 (f) The department shall provide technical support to the
6926 joint task force.

6927 (3) The ~~State Agency~~ Law Enforcement Radio ~~System~~ Trust
6928 Fund is established in the department and funded from surcharges
6929 collected under ss. 318.18, 320.0802, and 328.72. Upon
6930 appropriation, moneys in the trust fund may be used by the
6931 department to acquire by competitive procurement the equipment,

585-03077-10

20101238c1

6932 software, and engineering, administrative, and maintenance
6933 services it needs to construct, operate, and maintain the
6934 statewide radio system. Moneys in the trust fund collected as a
6935 result of the surcharges set forth in ss. 318.18, 320.0802, and
6936 328.72 shall be used to help fund the costs of the system. Upon
6937 completion of the system, moneys in the trust fund may also be
6938 used by the department for payment of the recurring maintenance
6939 costs of the system.

6940 (4) The department may create and administer an
6941 interoperability network to enable interoperability between
6942 various radio communications technologies and to serve federal
6943 agencies, state agencies, and agencies of political subdivisions
6944 of the state for the purpose of public safety and domestic
6945 security.

6946 (a) The department shall, in conjunction with the
6947 Department of Law Enforcement and the Division of Emergency
6948 Management of the Department of Community Affairs, exercise its
6949 powers and duties pursuant to this chapter to plan, manage, and
6950 administer the interoperability network. The office may:

6951 1. Enter into mutual aid agreements among federal agencies,
6952 state agencies, and political subdivisions of the state for the
6953 use of the interoperability network.

6954 2. Establish the cost of maintenance and operation of the
6955 interoperability network and charge subscribing federal and
6956 local law enforcement agencies for access and use of the
6957 network. The department may not charge state law enforcement
6958 agencies identified in paragraph (2) (a) to use the network.

6959 3. In consultation with the ~~Department of Law Enforcement~~
6960 ~~and the~~ Division of Emergency Management of the Department of

585-03077-10

20101238c1

6961 Community Affairs, amend and enhance the statewide radio
6962 communications system as necessary to implement the
6963 interoperability network.

6964 (b) The department, in consultation with the Joint Task
6965 Force on State Agency Law Enforcement Communications, and in
6966 conjunction with ~~the Department of Law Enforcement and the~~
6967 Division of Emergency Management of the Department of Community
6968 Affairs, shall establish policies, procedures, and standards to
6969 incorporate into a comprehensive management plan for the use and
6970 operation of the interoperability network.

6971 Section 221. Section 282.7101, Florida Statutes, is amended
6972 to read:

6973 282.7101 Statewide system of regional law enforcement
6974 communications.—

6975 (1) It is the intent and purpose of the Legislature that a
6976 statewide system of regional law enforcement communications be
6977 developed whereby maximum efficiency in the use of existing
6978 radio channels is achieved in order to deal more effectively
6979 with the apprehension of criminals and the prevention of crime.
6980 To this end, all law enforcement agencies within the state are
6981 directed to provide the Department of Law Enforcement with any
6982 information the department requests for the purpose of
6983 implementing the provisions of subsection (2).

6984 (2) The Department of Law Enforcement shall ~~is hereby~~
6985 ~~authorized and directed to~~ develop and maintain a statewide
6986 system of regional law enforcement communications. In
6987 formulating such a system, the department shall divide the state
6988 into appropriate regions and shall develop a program that
6989 includes, but is not limited to:

585-03077-10

20101238c1

6990 (a) The communications requirements for each county and
6991 municipality comprising the region.

6992 (b) An interagency communications provision that depicts
6993 the communication interfaces between municipal, county, and
6994 state law enforcement entities operating within the region.

6995 (c) A frequency allocation and use provision that includes,
6996 on an entity basis, each assigned and planned radio channel and
6997 the type of operation, simplex, duplex, or half-duplex, on each
6998 channel.

6999 (3) The department shall adopt ~~any~~ necessary rules ~~and~~
7000 ~~regulations~~ for administering and coordinating the statewide
7001 system of regional law enforcement communications.

7002 (4) The executive director ~~secretary~~ of the department or a
7003 ~~his or her~~ designee shall be ~~is designated as~~ the director of
7004 the statewide system of regional law enforcement communications
7005 and, for the purpose of carrying out the provisions of this
7006 section, may coordinate the activities of the system with other
7007 interested state agencies and local law enforcement agencies.

7008 (5) A law enforcement communications system may not be
7009 established or expanded without the prior approval of the
7010 department.

7011 ~~(6) Within the limits of its capability, the Department of~~
7012 ~~Law Enforcement is encouraged to lend assistance to the~~
7013 ~~department in the development of the statewide system of~~
7014 ~~regional law enforcement communications proposed by this~~
7015 ~~section.~~

7016 Section 222. Section 282.711, Florida Statutes, is amended
7017 to read:

7018 282.711 Remote electronic access services.—The Agency for

585-03077-10

20101238c1

7019 Enterprise Information Technology ~~department~~ may collect fees
7020 for providing remote electronic access pursuant to s. 119.07(2).
7021 The fees may be imposed on individual transactions or as a fixed
7022 subscription for a designated period of time. All fees collected
7023 under this section shall be deposited in the appropriate trust
7024 fund of the program or activity that made the remote electronic
7025 access available.

7026 Section 223. Subsections (2) through (6) of section 283.30,
7027 Florida Statutes, are amended to read:

7028 283.30 Definitions.—As used in this part, unless the
7029 context clearly requires otherwise, the term:

7030 ~~(2) "Department" means the Department of Management~~
7031 ~~Services.~~

7032 (2)~~(3)~~ "Duplicating" means the process of reproducing an
7033 image or images from an original to a final substrate through
7034 the electrophotographic, xerographic, laser, or offset process
7035 or any combination of these processes, by which an operator can
7036 make more than one copy without rehandling the original.

7037 (3)~~(4)~~ "Printing" means ~~is~~ the transfer of an image or
7038 images by the use of ink or similar substance from an original
7039 image to the final substrate through the process of letterpress,
7040 offset lithography, gravure, screen printing, or engraving.
7041 Printing includes ~~shall include~~ the process of and the materials
7042 used in binding. Printing ~~shall~~ also includes ~~include~~
7043 duplicating when used to produce publications.

7044 (4) (5) "Public" means those entities and persons other than
7045 subordinate and functionally related or connected federal,
7046 state, or local governmental agencies.

7047 (5)~~(6)~~ "Publication" means any document, whether produced

585-03077-10

20101238c1

7048 for public or internal distribution.

7049 Section 224. Subsection (3) of section 283.32, Florida
7050 Statutes, is amended to read:

7051 283.32 Recycled paper to be used by each agency; printing
7052 bids certifying use of recycled paper; percentage preference in
7053 awarding contracts.—

7054 (3) Upon the evaluation of bids for each printing contract,
7055 the agency shall identify the lowest responsive bid and any
7056 other responsive bids in which it has been certified that the
7057 materials used in printing contain at least the minimum
7058 percentage of recycled content that is set forth by the
7059 Department of Financial Services. In awarding a contract for
7060 printing, the agency may allow up to a 10-percent price
7061 preference, as provided in s. 287.045, to a responsible and
7062 responsive vendor that has certified that the materials used in
7063 printing contain at least the minimum percentage of recycled
7064 content established by the department. If no vendors offer
7065 materials for printing that contain the minimum prescribed
7066 recycled content, the contract shall be awarded to the
7067 responsible vendor that submits the lowest responsive bid.

7068 Section 225. Subsection (2) of section 284.01, Florida
7069 Statutes, is amended to read:

7070 284.01 State Risk Management Trust Fund; coverages to be
7071 provided.—

7072 (2) The fund shall insure all buildings, whether financed
7073 in whole or in part by revenue bonds or certificates, and the
7074 contents thereof or of any other buildings leased or rented by
7075 the state. For the purpose of this section, all manufactured
7076 homes and contents, whether permanently affixed to realty or

585-03077-10

20101238c1

7077 otherwise, are included. Rental value insurance shall also be
7078 provided to indemnify the state or any of its agencies for loss
7079 of income if ~~when such~~ rental income insurance is required to be
7080 carried by the terms of any bonding or revenue certificates or
7081 resolutions. Rental value insurance must ~~shall~~ also be provided
7082 to indemnify the state or any of its agencies for loss of income
7083 from those buildings operated and maintained by the Department
7084 of Environmental Protection Management Services from the
7085 Supervision Trust Fund.

7086 Section 226. Section 284.04, Florida Statutes, is amended
7087 to read:

7088 284.04 ~~Notice and information required by Department of~~
7089 ~~Financial Services of all~~ Newly erected or acquired state
7090 property subject to insurance.—The Department of Environmental
7091 Protection Management Services and all agencies in charge of
7092 state property shall notify the Department of Financial Services
7093 of all newly erected or acquired property subject to coverage as
7094 soon as erected or acquired, giving its value, type of
7095 construction, location, whether inside or outside of corporate
7096 limits, occupancy, and any other information the Department of
7097 Financial Services may require in connection with such property.
7098 Such department or agency shall also immediately notify the
7099 Department of Financial Services ~~immediately~~ of any change in
7100 value or occupancy of any property covered by the fund. Unless
7101 the above data is submitted in writing within a reasonable time
7102 following such erection, acquisition, or change, the Department
7103 of Financial Services shall provide insurance coverage to the
7104 extent shown by the last notification in writing to the fund or
7105 in accordance with the last valuation shown by fund records. In

585-03077-10

20101238c1

7106 case of disagreement between the Department of Financial
7107 Services and the agency or person in charge of any covered state
7108 property as to its true value, the amount of the insurance to be
7109 carried ~~thereon~~, the proper premium rate or rates, or amount of
7110 loss settlement, the matter in disagreement shall be determined
7111 by the Department of Environmental Protection Management
7112 ~~Services~~.

7113 Section 227. Section 284.05, Florida Statutes, is amended
7114 to read:

7115 284.05 Inspection of insured state property.—The Department
7116 of Financial Services shall inspect all permanent buildings
7117 insured by the State Risk Management Trust Fund, and whenever
7118 ~~conditions are found to exist which~~, in the opinion of the
7119 Department of Financial Services, conditions are found to exist
7120 which are hazardous from the standpoint of destruction by fire
7121 or other loss, the department ~~of Financial Services~~ may order
7122 the same repaired or remedied, and the agency, board, or person
7123 in charge of such property must immediately repair or remedy is
7124 ~~required to have such dangerous conditions immediately repaired~~
7125 ~~or remedied~~ upon written notice from the department ~~of Financial~~
7126 ~~Services~~ of the such hazardous conditions. Such amounts as may
7127 be necessary to comply with such notice or notices shall be paid
7128 by the Department of Environmental Protection Management
7129 ~~Services~~ or by the agency, board, or person in charge of such
7130 property out of any moneys appropriated for the maintenance of
7131 the respective agency or for the repairs or permanent
7132 improvement of such properties or from any incidental or
7133 contingent funds they may have on hand. If there is ~~In the event~~
7134 ~~of~~ a disagreement between the Department of Financial Services

585-03077-10

20101238c1

7135 and the agency, board, or person having charge of such property
7136 as to the necessity of the repairs or remedies ordered, the
7137 matter in disagreement shall be determined by the Department of
7138 Environmental Protection Management Services.

7139 Section 228. Section 284.08, Florida Statutes, is amended
7140 to read:

7141 284.08 Reinsurance on excess coverage ~~and approval by~~
7142 ~~Department of Management Services.~~—The Department of Financial
7143 Services shall determine what excess coverage is necessary and
7144 may purchase reinsurance ~~thereon upon approval by the Department~~
7145 ~~of Management Services.~~

7146 Section 229. Subsection (1) of section 284.33, Florida
7147 Statutes, is amended to read:

7148 284.33 Purchase of insurance, reinsurance, and services.—

7149 (1) The Department of Financial Services shall ~~is~~
7150 ~~authorized to~~ provide insurance, specific excess insurance, and
7151 aggregate excess insurance ~~through the Department of Management~~
7152 ~~Services,~~ pursuant to ~~the provisions of~~ part I of chapter 287,
7153 as necessary to provide insurance coverages authorized by this
7154 part, consistent with market availability. ~~However,~~ The
7155 department ~~of Financial Services~~ may directly purchase annuities
7156 by using a structured settlement insurance consulting firm
7157 ~~selected by the department~~ to assist in the settlement of claims
7158 being handled by the Division of Risk Management. The selection
7159 of the structured settlement insurance services consultant shall
7160 be made by using competitive sealed proposals. The consulting
7161 firm shall act as an agent of record for the department in
7162 procuring the best annuity products available to facilitate
7163 structured settlement of claims, considering price, insurer

585-03077-10

20101238c1

7164 financial strength, and the best interests of the state risk
7165 management program. Purchase of annuities by the department
7166 using a structured settlement method is excepted from
7167 competitive sealed bidding or proposal requirements. The
7168 department may also ~~of Financial Services is further authorized~~
7169 ~~to~~ purchase ~~such~~ risk management services, including, but not
7170 limited to, risk and claims control; safety management; and
7171 legal, investigative, and adjustment services, as ~~may be~~
7172 required and pay claims. The department may contract with a
7173 service organization for such services and advance money to such
7174 ~~service~~ organization for deposit in a special checking account
7175 for paying claims made against the state under ~~the provisions of~~
7176 this part. The special checking account shall be maintained in
7177 this state in a bank or savings association organized under the
7178 laws of this state or of the United States. The department may
7179 replenish such account as often as necessary upon the
7180 presentation by the service organization of documentation for
7181 payments of claims equal to the amount of the requested
7182 reimbursement.

7183 Section 230. Section 284.385, Florida Statutes, is amended
7184 to read:

7185 284.385 Reporting and handling of claims.—All departments
7186 covered by the State Risk Management Trust Fund under this part
7187 shall immediately report all known or potential claims to the
7188 Department of Financial Services for handling, except employment
7189 complaints which have not been filed with the Florida Human
7190 Relations Commission, Equal Employment Opportunity Commission,
7191 or any similar agency. If ~~When~~ deemed necessary, the Department
7192 of Financial Services shall assign or reassign the claim to

585-03077-10

20101238c1

7193 counsel. The assigned counsel shall report regularly to the
7194 Department of Financial Services or to the covered department on
7195 the status of any such claims or litigation as required by the
7196 Department of Financial Services. A ~~No such~~ claim may not ~~shall~~
7197 be compromised or settled for monetary compensation without the
7198 prior approval of the Department of Financial Services and prior
7199 notification to the covered department. All departments shall
7200 cooperate with the Department of Financial Services in its
7201 handling of claims. The Department of Financial Services ~~and the~~
7202 ~~Department of Management Services~~, with the cooperation of the
7203 state attorneys and the clerks of the courts, shall develop a
7204 system to coordinate the exchange of information concerning
7205 claims for and against the state, its agencies, and its
7206 subdivisions, to assist in collection of amounts due to them.
7207 The covered department shall have the responsibility for the
7208 settlement of any claim for injunctive or affirmative relief
7209 under 42 U.S.C. s. 1983 or similar federal or state statutes.
7210 The payment of a settlement or judgment for any claim covered
7211 and reported under this part shall be made only from the State
7212 Risk Management Trust Fund.

7213 Section 231. Section 284.42, Florida Statutes, is amended
7214 to read:

7215 284.42 Reports on state insurance program.—

7216 (1) The Department of Financial Services, ~~with the~~
7217 ~~Department of Management Services~~, shall make an analysis of the
7218 state insurance program annually, which includes ~~shall include~~:

7219 (a) Complete underwriting information as to the nature of
7220 the risks accepted for self-insurance and those risks that are
7221 transferred to the insurance market.

585-03077-10

20101238c1

7222 (b) The funds allocated to the Florida Casualty Risk
7223 Management Trust Fund and premiums paid for insurance through
7224 the market.

7225 (c) The method of handling legal matters and the cost
7226 allocated.

7227 (d) The method and cost of handling inspection and
7228 engineering of risks.

7229 (e) The cost of risk management service purchased.

7230 (f) The cost of managing the State Insurance Program by the
7231 Department of Financial Services ~~and the Department of~~
7232 ~~Management Services.~~

7233 (2) The department ~~departments~~ shall make available
7234 complete claims history including description of loss, claims
7235 paid and reserved, and the cost of all claims handled by the
7236 state.

7237 Section 232. Section 285.06, Florida Statutes, is amended
7238 to read:

7239 285.06 State Indian Reservation.—~~If~~ When, as the result of
7240 the exchanges provided ~~for~~ in ss. 285.04 and 285.05, ~~there shall~~
7241 ~~have been established~~ a reservation that has been established
7242 for the Indians by the United States in Florida, the State
7243 Seminole Indian Reservation in Monroe County, created by chapter
7244 7310, Acts of 1917, is ~~shall be~~ withdrawn and returned to the
7245 Board of Trustees of the Internal Improvement Trust Fund, ~~and~~
7246 ~~thereupon~~ the board of trustees ~~of the Internal Improvement~~
7247 ~~Trust Fund~~ shall set aside a tract of land of approximately
7248 equal size and of suitable character, adjacently located, as
7249 nearly as may be, to the reservation ~~to be~~ established by the
7250 United States; and said lands, when so set aside, shall

585-03077-10

20101238c1

7251 constitute the State Indian Reservation and shall be held in
7252 trust by the Department of Environmental Protection Management
7253 ~~Services~~ for the perpetual benefit of the Indians and as a
7254 reservation for them.

7255 Section 233. Subsection (4) of section 285.14, Florida
7256 Statutes, is amended to read:

7257 285.14 Board of Trustees of the Internal Improvement Trust
7258 Fund as trustee to accept donations of and acquire property for
7259 Indians.—

7260 (4) The Department of Environmental Protection Management
7261 ~~Services~~, the State Board of Education, and any other state
7262 board or agency having title to lands or having lands under
7263 their jurisdiction, management, or control, may ~~in their~~
7264 ~~discretion~~ convey and transfer to the board of trustees the
7265 title to such ~~any of said~~ lands in trust for the use and benefit
7266 of said Indians.

7267 Section 234. Subsections (1) and (3) of section 286.29,
7268 Florida Statutes, are amended to read:

7269 286.29 Climate-friendly public business.—The Legislature
7270 recognizes the importance of leadership by state government in
7271 the area of energy efficiency and in reducing the greenhouse gas
7272 emissions of state government operations. The following shall
7273 pertain to all state agencies when conducting public business:

7274 (1) The Department of Financial Management ~~Services~~ shall
7275 develop the "Florida Climate-Friendly Preferred Products List."
7276 In maintaining that list, the department, in consultation with
7277 the Department of Environmental Protection, shall continually
7278 assess products currently available for purchase under state
7279 term contracts to identify specific products and vendors that

585-03077-10

20101238c1

7280 offer clear energy efficiency or other environmental benefits
7281 over competing products. When procuring products from state term
7282 contracts, state agencies shall first consult the Florida
7283 Climate-Friendly Preferred Products List and procure such
7284 products if the price is comparable.

7285 (3) Each state agency shall ensure that all maintained
7286 vehicles meet minimum maintenance schedules shown to reduce fuel
7287 consumption, which include: ensuring appropriate tire pressures
7288 and tread depth; replacing fuel filters and emission filters at
7289 recommended intervals; using proper motor oils; and performing
7290 timely motor maintenance. Each state agency shall measure and
7291 report compliance to the Department of Financial Management
7292 Services through the Equipment Management Information System
7293 database.

7294 Section 235. Subsections (10) and (19) of section 287.012,
7295 Florida Statutes, are amended to read:

7296 287.012 Definitions.—As used in this part, the term:

7297 (10) "Department" means the Department of Financial
7298 ~~Management~~ Services.

7299 (19) "Office" means the Office of Supplier Diversity in ~~of~~
7300 the department ~~of Management Services~~.

7301 Section 236. Subsection (4) of section 287.025, Florida
7302 Statutes, is amended to read:

7303 287.025 Prohibition against certain insurance coverage on
7304 specified state property or insurable subjects.—

7305 (4) No primary insurance contracts shall be purchased on
7306 any property or insurable subjects when the same is loaned to,
7307 leased by, or intended to be leased by, the state or its
7308 departments, divisions, bureaus, commissions, or agencies unless

585-03077-10

20101238c1

7309 such coverage is required by the terms of the lease agreement
7310 and unless the insurance coverages required by the provisions of
7311 the lease are approved in writing by the Department of Financial
7312 ~~Management~~ Services.

7313 Section 237. Section 287.032, Florida Statutes, is amended
7314 to read:

7315 287.032 Purpose of department.—~~It shall be~~ The purpose of
7316 the Department of Financial Management Services under this
7317 chapter is to:

7318 (1) ~~To~~ Promote efficiency, economy, and the conservation of
7319 energy and to effect coordination in the purchase of commodities
7320 and contractual services for the state.

7321 (2) ~~To~~ Provide uniform commodity and contractual service
7322 procurement policies, rules, procedures, and forms for use by
7323 agencies and eligible users.

7324 (3) ~~To~~ Procure and distribute federal surplus tangible
7325 personal property allocated to the state by the Federal
7326 Government.

7327 Section 238. Paragraph (h) of subsection (1), paragraph (b)
7328 of subsection (2), and subsection (8) of section 287.042,
7329 Florida Statutes, are amended to read:

7330 287.042 Powers, duties, and functions.—The department shall
7331 have the following powers, duties, and functions:

7332 (1)

7333 (h) The department may collect fees for the use of its
7334 electronic information services. The fees may be imposed on an
7335 individual transaction basis or as a fixed subscription for a
7336 designated period of time. At a minimum, the fees shall be
7337 determined in an amount sufficient to cover the department's

585-03077-10

20101238c1

7338 projected costs of the services, including overhead in
7339 accordance with the department's policies ~~of the Department of~~
7340 ~~Management Services~~ for computing its administrative assessment.
7341 All fees collected under this paragraph shall be deposited in
7342 the Operating Trust Fund for disbursement as provided by law.

7343 (2)

7344 (b) As an alternative to any provision in s. 120.57(3)(c),
7345 the department may proceed with the competitive solicitation or
7346 contract award process of a term contract if the Chief Financial
7347 Officer ~~when the secretary of the department or a his or her~~
7348 designee sets forth in writing particular facts and
7349 circumstances that ~~which~~ demonstrate that the delay incident to
7350 staying the solicitation or contract award process would be
7351 detrimental to the interests of the state. After the award of a
7352 contract resulting from a competitive solicitation in which a
7353 timely protest was received and in which the state did not
7354 prevail, the contract may be canceled and reawarded.

7355 (8) To provide any commodity and contractual service
7356 purchasing rules to ~~the Chief Financial Officer and~~ all agencies
7357 through an electronic medium or other means. Agencies may not
7358 approve any account or request any payment of any account for
7359 the purchase of any commodity or the procurement of any
7360 contractual service covered by a purchasing or contractual
7361 service rule except as authorized therein. The department shall
7362 furnish copies of department rules ~~adopted by the department~~ to
7363 any county, municipality, or other local public agency
7364 requesting them.

7365 Section 239. Subsections (7) and (8) and paragraph (c) of
7366 subsection (9) of section 287.055, Florida Statutes, are amended

585-03077-10

20101238c1

7367 to read:

7368 287.055 Acquisition of professional architectural,
7369 engineering, landscape architectural, or surveying and mapping
7370 services; definitions; procedures; contingent fees prohibited;
7371 penalties.—

7372 (7) AUTHORITY OF DEPARTMENT OF ENVIRONMENTAL PROTECTION
7373 ~~MANAGEMENT SERVICES~~.—Notwithstanding any other provision of this
7374 section, the Department of Environmental Protection Management
7375 ~~Services~~ shall be the agency of state government which is solely
7376 and exclusively authorized and empowered to administer and
7377 perform the functions described in subsections (3), (4), and (5)
7378 respecting all projects for which the funds necessary to
7379 complete same are appropriated to the department of ~~Management~~
7380 ~~Services~~, irrespective of whether such projects are intended for
7381 the use and benefit of the department of ~~Management Services~~ or
7382 any other agency of government. However, nothing herein shall be
7383 construed to be in derogation of any authority conferred on the
7384 Department of Environmental Protection Management Services by
7385 other express provisions of law. Additionally, any agency of
7386 government may, with the approval of the department of ~~of~~
7387 ~~Management Services~~, delegate to the department of ~~of Management~~
7388 ~~Services~~ authority to administer and perform the functions
7389 described in subsections (3), (4), and (5). Under the terms of
7390 the delegation, the agency may reserve its right to accept or
7391 reject a proposed contract.

7392 (8) STATE ASSISTANCE TO LOCAL AGENCIES.—On any professional
7393 service contract for which the fee is over \$25,000, the
7394 Department of Transportation or the Department of Environmental
7395 Protection Management Services shall provide, upon request by a

585-03077-10

20101238c1

7396 municipality, political subdivision, school board, or school
7397 district, and upon reimbursement of the costs involved,
7398 assistance in selecting consultants and in negotiating
7399 consultant contracts.

7400 (9) APPLICABILITY TO DESIGN-BUILD CONTRACTS.—

7401 (c) Except as otherwise provided in s. 337.11(7), the
7402 Department of Environmental Protection ~~Management Services~~ shall
7403 adopt rules for the award of design-build contracts to be
7404 followed by state agencies. Each other agency must adopt rules
7405 or ordinances for the award of design-build contracts.

7406 Municipalities, political subdivisions, school districts, and
7407 school boards shall award design-build contracts by the ~~use of a~~
7408 competitive proposal selection process ~~as~~ described in this
7409 subsection, or by ~~the use of~~ a qualifications-based selection
7410 process pursuant to subsections (3), (4), and (5) for entering
7411 into a contract whereby the selected firm shall ~~will~~, subsequent
7412 to competitive negotiations, establish a guaranteed maximum
7413 price and guaranteed completion date. If the procuring agency
7414 elects the option of qualifications-based selection, during the
7415 selection of the design-build firm the procuring agency shall
7416 employ or retain a licensed design professional appropriate to
7417 the project to serve as the agency's representative. Procedures
7418 for the use of a competitive proposal selection process must
7419 include, at ~~as~~ a minimum, the following:

7420 1. The preparation of a design criteria package for the
7421 design and construction of the public construction project.

7422 2. The qualification and selection of at least ~~no fewer~~
7423 ~~than~~ three design-build firms as the most qualified, based on
7424 the qualifications, availability, and past work of the firms,

585-03077-10

20101238c1

7425 including the partners or members thereof.

7426 3. The criteria, procedures, and standards for the
7427 evaluation of design-build contract proposals or bids, based on
7428 price, technical, and design aspects of the public construction
7429 project, weighted for the project.

7430 4. The solicitation of competitive proposals, pursuant to a
7431 design criteria package, from those qualified design-build firms
7432 and the evaluation of the responses or bids submitted by those
7433 firms based on the evaluation criteria and procedures
7434 established before ~~prior to~~ the solicitation of competitive
7435 proposals.

7436 5. For consultation with the employed or retained design
7437 criteria professional concerning the evaluation of the responses
7438 or bids submitted by the design-build firms, the supervision or
7439 approval by the agency of the detailed working drawings of the
7440 project; and for evaluation of the compliance of the project
7441 construction with the design criteria package by the design
7442 criteria professional.

7443 6. In the case of public emergencies, for the agency head
7444 to declare an emergency and authorize negotiations with the best
7445 qualified design-build firm available at that time.

7446 Section 240. Paragraph (d) of subsection (5) and paragraph
7447 (b) of subsection (17) of section 287.057, Florida Statutes, are
7448 amended to read:

7449 287.057 Procurement of commodities or contractual
7450 services.—

7451 (5) When the purchase price of commodities or contractual
7452 services exceeds the threshold amount provided in s. 287.017 for
7453 CATEGORY TWO, no purchase of commodities or contractual services

585-03077-10

20101238c1

7454 may be made without receiving competitive sealed bids,
7455 competitive sealed proposals, or competitive sealed replies
7456 unless:

7457 (d) ~~If~~ When it is in the best interest of the state, the
7458 Chief Financial Officer ~~secretary of the department~~ or a ~~his or~~
7459 ~~her~~ designee may authorize the Support Program to purchase
7460 insurance by negotiation, but such purchase shall be made only
7461 under conditions most favorable to the public interest.

7462 (17) For a contract in excess of the threshold amount
7463 provided in s. 287.017 for CATEGORY FOUR, the agency head shall
7464 appoint:

7465 (b) At least three persons to conduct negotiations during a
7466 competitive sealed reply procurement who collectively have
7467 experience and knowledge in negotiating contracts, contract
7468 procurement, and the program areas and service requirements for
7469 which commodities or contractual services are sought. ~~If~~ When
7470 the value of a contract is in excess of \$1 million in any fiscal
7471 year, at least one of the persons conducting negotiations must
7472 be certified as a contract negotiator in accordance with
7473 department ~~based upon~~ rules ~~adopted by the Department of~~
7474 ~~Management Services~~ in order to ensure that certified contract
7475 negotiators are knowledgeable about effective negotiation
7476 strategies, capable of successfully implementing those
7477 strategies, and involved appropriately in the procurement
7478 process. At a minimum, the rules must address the qualifications
7479 required for certification, the method of certification, and the
7480 procedure for involving the certified negotiator. If the value
7481 of a contract is in excess of \$10 million in any fiscal year, at
7482 least one of the persons conducting negotiations must be a

585-03077-10

20101238c1

7483 Project Management Professional, as certified by the Project
7484 Management Institute.

7485 Section 241. Section 287.05721, Florida Statutes, is
7486 amended to read:

7487 287.05721 Definitions.—As used in ss. 287.0571–287.0574,
7488 the term:

7489 ~~(1) "Council" means the Council on Efficient Government.~~

7490 ~~(2) "outsource" means the process of contracting with a~~
7491 vendor to provide a service as defined in s. 216.011(1)(f), in
7492 whole or in part, or an activity as defined in s.
7493 216.011(1)(rr), while a state agency retains the responsibility
7494 and accountability for the service or activity and there is a
7495 transfer of management responsibility for the delivery of
7496 resources and the performance of those resources.

7497 Section 242. Section 287.0573, Florida Statutes, is
7498 repealed.

7499 Section 243. Subsections (1), (2), (3), and (4) of section
7500 287.0574, Florida Statutes, are amended to read:

7501 287.0574 Business cases to outsource; review and analysis;
7502 requirements.—

7503 (1) A business case to outsource having a projected cost
7504 exceeding \$10 million in any fiscal year shall require:

7505 (a) An initial business case analysis conducted by the
7506 state agency and submitted to ~~the council~~, the Governor, the
7507 President of the Senate, and the Speaker of the House of
7508 Representatives at least 60 days before a solicitation is
7509 issued. ~~The council shall evaluate the business case analysis~~
7510 ~~and submit an advisory report to the state agency, the Governor,~~
7511 ~~the President of the Senate, and the Speaker of the House of~~

585-03077-10

20101238c1

7512 ~~Representatives when the advisory report is completed, but at~~
7513 ~~least 30 days before the agency issues the solicitation.~~

7514 (b) A final business case analysis conducted by the state
7515 agency and submitted after the conclusion of any negotiations,
7516 at least 30 days before execution of a contract, to ~~the council,~~
7517 the Governor, the President of the Senate, and the Speaker of
7518 the House of Representatives.

7519 (2) A proposal to outsource having a projected total cost
7520 that ranges from \$1 million to \$10 million must ~~in any fiscal~~
7521 ~~year shall~~ require:

7522 (a) An initial business case analysis conducted by the
7523 state agency and submission of the business case, at least 30
7524 days before issuing a solicitation, to ~~the council,~~ the
7525 Governor, the President of the Senate, and the Speaker of the
7526 House of Representatives.

7527 (b) A final business case analysis conducted by the state
7528 agency and submitted after the conclusion of any negotiations,
7529 at least 30 days before execution of a contract, to ~~the council,~~
7530 the Governor, the President of the Senate, and the Speaker of
7531 the House of Representatives.

7532 (3) A business case to outsource that has ~~having~~ a
7533 projected cost that is less than \$1 million must ~~in any fiscal~~
7534 ~~year shall~~ require a final business case analysis conducted by
7535 the state agency after the conclusion of any negotiations ~~and~~
7536 ~~provided at least 30 days before execution of a contract to the~~
7537 ~~council. The council shall provide such business cases in its~~
7538 ~~annual report to the Legislature.~~

7539 (4) For any proposed outsourcing, the state agency shall
7540 develop a business case that justifies the proposal to

585-03077-10

20101238c1

7541 outsource. In order to reduce any administrative burden, the
7542 ~~council may allow a~~ state agency shall ~~to~~ submit the business
7543 case in the form required by the budget instructions issued
7544 pursuant to s. 216.023(4)(a)7., augmented with additional
7545 information if necessary, to ensure that the requirements of
7546 this section are met. The business case is not subject to
7547 challenge or protest pursuant to chapter 120. The business case
7548 must include, but need not be limited to:

7549 (a) A detailed description of the service or activity for
7550 which the outsourcing is proposed.

7551 (b) A description and analysis of the state agency's
7552 current performance, based on existing performance metrics if
7553 the state agency is currently performing the service or
7554 activity.

7555 (c) The goals desired to be achieved through the proposed
7556 outsourcing and the rationale for such goals.

7557 (d) A citation to the existing or proposed legal authority
7558 for outsourcing the service or activity.

7559 (e) A description of available options for achieving the
7560 goals. If state employees are currently performing the service
7561 or activity, at least one option involving maintaining state
7562 provision of the service or activity must ~~shall~~ be included.

7563 (f) An analysis of the advantages and disadvantages of each
7564 option, including, at a minimum, potential performance
7565 improvements and risks.

7566 (g) A description of the current market for the contractual
7567 services that are under consideration for outsourcing.

7568 (h) A cost-benefit analysis documenting the direct and
7569 indirect specific baseline costs, savings, and qualitative and

585-03077-10

20101238c1

7570 quantitative benefits involved in or resulting from the
7571 implementation of the recommended option or options. Such
7572 analysis must specify the schedule that, at a minimum, must be
7573 adhered to in order to achieve the estimated savings. All
7574 elements of cost must be clearly identified in the cost-benefit
7575 analysis, described in the business case, and supported by
7576 applicable records and reports. The state agency head shall
7577 attest that, based on the data and information underlying the
7578 business case, to the best of his or her knowledge, all
7579 projected costs, savings, and benefits are valid and achievable.
7580 As used in this section, the term "cost" means the reasonable,
7581 relevant, and verifiable cost, which may include, but is not
7582 limited to, elements such as personnel, materials and supplies,
7583 services, equipment, capital depreciation, rent, maintenance and
7584 repairs, utilities, insurance, personnel travel, overhead, and
7585 interim and final payments. The appropriate elements shall
7586 depend on the nature of the specific initiative. As used in this
7587 section, the term "savings" means the difference between the
7588 direct and indirect actual annual baseline costs compared to the
7589 projected annual cost for the contracted functions or
7590 responsibilities in any succeeding state fiscal year during the
7591 term of the contract.

7592 (i) A description of differences among current state agency
7593 policies and processes and, as appropriate, a discussion of
7594 options for or a plan to standardize, consolidate, or revise
7595 current policies and processes, if any, to reduce the
7596 customization of any proposed solution that would otherwise be
7597 required.

7598 (j) A description of the specific performance standards

585-03077-10

20101238c1

7599 that must, at a minimum, be met to ensure adequate performance.

7600 (k) The projected timeframe for key events from the
7601 beginning of the procurement process through the expiration of a
7602 contract.

7603 (l) A plan to ensure compliance with the public records
7604 law.

7605 (m) A specific and feasible contingency plan addressing
7606 contractor nonperformance and a description of the tasks
7607 involved in and costs required for its implementation.

7608 (n) A state agency's transition plan for addressing changes
7609 in the number of agency personnel, affected business processes,
7610 employee transition issues, and communication with affected
7611 stakeholders, such as agency clients and the public. The
7612 transition plan must contain a reemployment and retraining
7613 assistance plan for employees who are not retained by the state
7614 agency or employed by the contractor.

7615 (o) A plan for ensuring access by persons with disabilities
7616 in compliance with applicable state and federal law.

7617 (p) A description of legislative and budgetary actions
7618 necessary to accomplish the proposed outsourcing.

7619 Section 244. Section 287.076, Florida Statutes, is amended
7620 to read:

7621 287.076 ~~Project Management Professionals~~ Training for
7622 personnel involved in managing outsourcings; funding.—The
7623 department ~~of Management Services~~ may implement a program to
7624 train state agency employees who are involved in managing
7625 outsourcings as Project Management Professionals, as certified
7626 by the Project Management Institute. ~~For the 2006-2007 fiscal~~
7627 ~~year, the sum of \$500,000 in recurring funds from the General~~

585-03077-10

20101238c1

7628 Revenue Fund is appropriated to the department of Management
7629 Services to implement this program. The department of Management
7630 Services, in consultation with entities subject to this act,
7631 shall identify personnel to participate in this training based
7632 on requested need and ensure that each agency is represented.
7633 The department of Management Services may remit payment for this
7634 training on behalf of all participating personnel.

7635 Section 245. Subsection (1) of section 287.083, Florida
7636 Statutes, is amended to read:

7637 287.083 Purchase of commodities.—

7638 (1) ~~It shall be the policy of the state for~~ The Department
7639 of Financial Management Services shall ~~to~~ consider the life-
7640 cycle cost of commodities purchased by the state, if when
7641 applicable and feasible as determined by the department.

7642 Section 246. Section 287.0834, Florida Statutes, is amended
7643 to read:

7644 287.0834 Motor vehicles; energy-saving equipment and
7645 additives.—Each motor vehicle purchased by the state and each
7646 motor vehicle leased by the state ~~for a period~~ in excess of 1
7647 year must ~~shall~~ use devices, equipment, and additives that have
7648 been certified as energy-saving and approved for use by the
7649 United States Environmental Protection Agency and that have been
7650 determined by the department to be cost-effective ~~by the~~
7651 ~~Department of Management Services~~.

7652 Section 247. Subsection (1), paragraphs (d), (g), and (j)
7653 of subsection (2), paragraph (e) of subsection (3), paragraph
7654 (a) of subsection (5), and subsection (12) of section 287.0943,
7655 Florida Statutes, are amended to read:

7656 287.0943 Certification of minority business enterprises.—

585-03077-10

20101238c1

7657 (1) A business certified by any local governmental
7658 jurisdiction or organization shall be accepted by the ~~Department~~
7659 ~~of Management Services~~, office of ~~Supplier Diversity~~, as a
7660 certified minority business enterprise for purposes of doing
7661 business with state government if ~~when~~ the office of ~~Supplier~~
7662 ~~Diversity~~ determines that the state's minority business
7663 enterprise certification criteria are applied in the local
7664 certification process.

7665 (2)

7666 (d) A final list of the criteria and procedures proposed by
7667 the task force shall be considered by the Chief Financial
7668 Officer ~~secretary~~. The task force may seek technical assistance
7669 from qualified providers of technical, business, and managerial
7670 expertise to ensure the reliability of the certification
7671 criteria developed.

7672 (g) The certification criteria approved by the task force
7673 and adopted by the department must ~~of Management Services~~ shall
7674 be included in a statewide and interlocal agreement as defined
7675 in s. 287.09431 and, in accordance with s. 163.01, shall be
7676 executed according to the terms included therein.

7677 (j) The statewide and interlocal agreement shall be guided
7678 by the terms and conditions found therein and may be amended at
7679 any meeting of the task force and subsequently adopted by the
7680 Chief Financial Officer ~~secretary of the Department of~~
7681 ~~Management Services~~. The amended agreement must be enacted,
7682 initialed, and legally executed by at least two-thirds of the
7683 certifying entities party to the existing agreement and adopted
7684 by the state as originally executed in order to bind the
7685 certifying entity.

585-03077-10

20101238c1

7686 (3)
7687 (e) Any participating program receiving three or more
7688 challenges to its certification decisions pursuant to subsection
7689 (4) from other organizations that are executors to the statewide
7690 and interlocal agreement, is ~~shall be~~ subject to a review by the
7691 office, as provided in paragraphs (a) and (b), of the
7692 organization's capacity to perform under such agreement and in
7693 accordance with the core criteria established by the task force.
7694 The office shall submit a report to the Chief Financial Officer
7695 ~~secretary of the Department of Management Services~~ regarding the
7696 results of the review.

7697 (5) (a) The Chief Financial Officer ~~secretary of the~~
7698 ~~Department of Management Services~~ shall execute the statewide
7699 and interlocal agreement established under s. 287.09431 on
7700 behalf of the state. The office shall certify minority business
7701 enterprises in accordance with the laws of this state and, by
7702 affidavit, shall recertify such minority business enterprises
7703 not less than once each year.

7704 (12) Any executor of the statewide and interlocal agreement
7705 may revoke the certification or recertification of a firm doing
7706 business as a certified minority business enterprise if the
7707 minority business enterprise does not meet the requirements of
7708 the jurisdiction or certifying entity that certified or
7709 recertified the firm as a certified minority business
7710 enterprise, or the requirements of subsection (2), s. 288.703,
7711 and any rule of the office or the department ~~of Management~~
7712 ~~Services~~ or if the business acquired certification or
7713 recertification by means of falsely representing any entity as a
7714 minority business enterprise for purposes of qualifying for

585-03077-10

20101238c1

7715 certification or recertification.

7716 Section 248. Subsections (2) and (3) and paragraph (h) of
7717 subsection (4) of section 287.09451, Florida Statutes, are
7718 amended to read:

7719 287.09451 Office of Supplier Diversity; powers, duties, and
7720 functions.—

7721 (2) The Office of Supplier Diversity is established within
7722 the department ~~of Management Services~~ to assist minority
7723 business enterprises in becoming suppliers of commodities,
7724 services, and construction to state government.

7725 (3) The Chief Financial Officer ~~secretary~~ shall appoint an
7726 executive director for the office ~~of Supplier Diversity~~, who
7727 shall serve at the pleasure of the Chief Financial Officer
7728 ~~secretary~~.

7729 (4) The Office of Supplier Diversity shall have the
7730 following powers, duties, and functions:

7731 (h) To develop procedures to investigate complaints against
7732 minority business enterprises or contractors alleged to violate
7733 any provision related to this section or s. 287.0943, that may
7734 include visits to worksites or business premises, and to refer
7735 all information on businesses suspected of misrepresenting
7736 minority status to the department ~~of Management Services~~ for
7737 investigation. When an investigation is completed and there is
7738 reason to believe that a violation has occurred, the department
7739 ~~of Labor and Employment Security~~ shall refer the matter to the
7740 office of the Attorney General, ~~Department of Legal Affairs~~, for
7741 prosecution.

7742 Section 249. Section 287.131, Florida Statutes, is amended
7743 to read:

585-03077-10

20101238c1

7744 287.131 Assistance of Department of Financial Services.—The
7745 department ~~of Financial Services~~ shall provide ~~the Department of~~
7746 ~~Management Services with~~ technical assistance in all matters
7747 pertaining to the purchase of insurance for all agencies, and
7748 shall make surveys of the insurance needs of the state and all
7749 departments thereof, including the benefits, if any, of self-
7750 insurance.

7751 Section 250. Paragraphs (d), (e), (f), and (g) of
7752 subsection (1) of section 287.133, Florida Statutes, are amended
7753 to read:

7754 287.133 Public entity crime; denial or revocation of the
7755 right to transact business with public entities.—

7756 (1) As used in this section:

7757 ~~(d) "Department" means the Department of Management~~
7758 ~~Services.~~

7759 (d)~~(e)~~ "Person" means any natural person or any entity
7760 organized under the laws of any state or of the United States
7761 with the legal power to enter into a binding contract and which
7762 bids or applies to bid on contracts let by a public entity, or
7763 which otherwise transacts or applies to transact business with a
7764 public entity. The term "~~person~~" includes those officers,
7765 directors, executives, partners, shareholders, employees,
7766 members, and agents who are active in management of an entity.

7767 (e)~~(f)~~ "Public entity" means the State of Florida, any of
7768 its ~~departments or~~ agencies, or any political subdivision.

7769 (f)~~(g)~~ "Public entity crime" means a violation of any state
7770 or federal law by a person with respect to and directly related
7771 to the transaction of business with any public entity or with an
7772 agency or political subdivision of any other state or with the

585-03077-10

20101238c1

7773 United States, including, but not limited to, any bid, proposal,
7774 reply, or contract for goods or services, any lease for real
7775 property, or any contract for the construction or repair of a
7776 public building or public work, involving antitrust, fraud,
7777 theft, bribery, collusion, racketeering, conspiracy, or material
7778 misrepresentation.

7779 Section 251. Paragraphs (d), (e), (f), and (g) of
7780 subsection (1) of section 287.134, Florida Statutes, are amended
7781 to read:

7782 287.134 Discrimination; denial or revocation of the right
7783 to transact business with public entities.—

7784 (1) As used in this section:

7785 ~~(d) "Department" means the Department of Management~~
7786 ~~Services.~~

7787 (d) ~~(e)~~ "Entity" means any natural person or any entity
7788 organized under the laws of any state or of the United States
7789 with the legal power to enter into a binding contract and which
7790 bids or applies to bid on contracts let by a public entity, or
7791 which otherwise transacts or applies to transact business with a
7792 public entity.

7793 (e) ~~(f)~~ "Public entity" means this state and ~~any department~~
7794 ~~or~~ agency of this state.

7795 (f) ~~(g)~~ "Senior management" includes chief executive
7796 officers; assistant chief executive officers, including, but not
7797 limited to, assistant presidents, vice presidents, or assistant
7798 treasurers; chief financial officers; chief personnel officers;
7799 or any employee of an entity performing similar functions.

7800 Section 252. Section 287.15, Florida Statutes, is amended
7801 to read:

585-03077-10

20101238c1

7802 287.15 Purchase or lease of motor vehicles, watercraft, or
7803 aircraft; ~~prior approval of the Department of Management~~
7804 ~~Services.~~—No state agency shall purchase, lease, or acquire any
7805 motor vehicle, watercraft, or aircraft of any type unless prior
7806 approval is first obtained from the Department of Financial
7807 ~~Management~~ Services. However, this section does not ~~nothing~~
7808 ~~herein shall~~ prohibit the lease for casual use of motor
7809 vehicles, or remove the requirement that all purchases be in
7810 compliance with the rules ~~and regulations~~ of the Department of
7811 Financial Management Services.

7812 Section 253. Subsection (2) of section 287.151, Florida
7813 Statutes, is amended to read:

7814 287.151 Limitation on classes of motor vehicles procured.—

7815 (2) ~~No~~ Funds in the General Appropriations Act may not
7816 ~~shall~~ be used to purchase any vehicle at prices in excess of the
7817 standard prices negotiated by the Department of Financial
7818 ~~Management~~ Services.

7819 Section 254. Subsections (1) and (3) of section 287.155,
7820 Florida Statutes, are amended to read:

7821 287.155 Motor vehicles; purchase by Department of Children
7822 and Family Services, Agency for Persons with Disabilities,
7823 Department of Health, Department of Juvenile Justice, and
7824 Department of Corrections.—

7825 (1) The Department of Children and Family Services, the
7826 Agency for Persons with Disabilities, the Department of Health,
7827 the Department of Juvenile Justice, and the Department of
7828 Corrections may, subject to the approval of the Department of
7829 Financial Management Services, purchase automobiles, trucks,
7830 tractors, and other automotive equipment for the use of

585-03077-10

20101238c1

7831 institutions or developmental disabilities centers under the
7832 management of the Department of Children and Family Services,
7833 the Agency for Persons with Disabilities, the Department of
7834 Health, and the Department of Corrections, and for the use of
7835 residential facilities managed or contracted by the Department
7836 of Juvenile Justice.

7837 (3) The Department of Health may ~~is authorized~~, subject to
7838 the approval of the Department of Financial Management ~~Services~~,
7839 ~~to~~ purchase automobiles, trucks, and other automotive equipment
7840 for use by county health departments.

7841 Section 255. Section 287.16, Florida Statutes, is amended
7842 to read:

7843 287.16 Powers and duties of department.—The Department of
7844 Financial Management ~~Services~~ shall have the following powers,
7845 duties, and responsibilities:

7846 (1) To obtain the most effective and efficient use of motor
7847 vehicles, watercraft, and aircraft for state purposes.

7848 (2) To establish and operate central facilities for the
7849 acquisition, disposal, operation, maintenance, repair, storage,
7850 supervision, control, and regulation of all state-owned or
7851 state-leased aircraft, watercraft, and motor vehicles and to
7852 operate any state facilities for those purposes. Acquisition may
7853 be by purchase, lease, loan, or in any other legal manner. The
7854 department may contract for the maintenance of motor vehicles.

7855 (3) In its discretion, to require every state agency to
7856 transfer its ownership, custody, and control of every aircraft
7857 and motor vehicle, and associated maintenance facilities and
7858 equipment, except those used principally for law enforcement,
7859 state fire marshal, or fire control purposes, to the department

585-03077-10

20101238c1

7860 ~~of Management Services~~, including all right, title, interest,
7861 and equity therein.

7862 (4) Upon requisition and showing of need, to assign
7863 suitable aircraft or motor vehicles, on a temporary basis of
7864 ~~(for a period up to and including 1 month,)~~ or a permanent basis
7865 ~~(for a period from 1 month up to and including 1 full year)~~
7866 basis, to any state agency.

7867 (5) To allocate and charge fees to the state agencies to
7868 which aircraft or motor vehicles are furnished, based upon any
7869 reasonable criteria.

7870 (6) To adopt and enforce rules and regulations for the
7871 efficient and safe use, operation, maintenance, repair,
7872 disposal, and replacement of all state-owned or state-leased
7873 aircraft, watercraft, and motor vehicles and to require the
7874 placement of appropriate stickers, decals, or other markings
7875 upon them. The department may delegate to the respective heads
7876 of the agencies to which aircraft, watercraft, and motor
7877 vehicles are assigned the duty of enforcing the rules and
7878 regulations adopted by the department.

7879 (7) To contract for specialized maintenance services.

7880 (8) To require any state agency to keep records and make
7881 reports regarding aircraft and motor vehicles to the department
7882 as may be required. The Department of Highway Safety and Motor
7883 Vehicles shall use a reporting system approved by the
7884 department.

7885 (9) To establish and operate central facilities to
7886 determine the mode of transportation to be used by state
7887 employees traveling on official state business and to schedule
7888 and coordinate use of state-owned or state-leased aircraft and

585-03077-10

20101238c1

7889 passenger-carrying vehicles to assure maximum utilization of
7890 state aircraft, motor vehicles, and employee time by assuring
7891 that employees travel by the most practical and economical mode
7892 of travel. The department shall consider the number of employees
7893 making the trip to the same location, the most efficient and
7894 economical means of travel considering the time of the employee,
7895 transportation cost and subsistence required, the urgency of the
7896 trip, and the nature and purpose of the trip.

7897 (10) To provide the Legislature annual reports at the end
7898 of each calendar year concerning the use ~~utilization~~ of all
7899 aircraft in the executive pool.

7900 (11) To calculate biennially the break-even mileage at
7901 which it becomes cost-effective for the state to provide
7902 assigned motor vehicles to employees. The Support Program shall
7903 provide the information to agency heads and agency inspectors
7904 general to assist them in meeting the reporting requirements of
7905 s. 20.055.

7906 (12) To conduct, in coordination with the Department of
7907 Transportation, an analysis of fuel additive and biofuel use by
7908 the Department of Transportation through its central fueling
7909 facilities. The department shall encourage other state
7910 government entities to analyze transportation fuel usage,
7911 including the different types and percentages of fuels consumed,
7912 and report such information to the department.

7913 Section 256. Section 287.161, Florida Statutes, is amended
7914 to read:

7915 287.161 Executive aircraft pool; assignment of aircraft;
7916 charge for transportation.-

7917 (1) ~~There is created within the Department of Management~~

585-03077-10

20101238c1

7918 ~~Services~~ An executive aircraft pool consisting of state-owned
7919 aircraft for the purpose of furnishing executive air travel is
7920 created within the Executive Office of the Governor. Such
7921 aircraft may ~~shall~~ not be a model in excess of a two-engine jet.
7922 Aircraft included in the executive aircraft pool may not be
7923 specifically assigned to any department or agency on any basis.

7924 (2) The Executive Office of the Governor ~~Department of~~
7925 ~~Management Services~~ shall charge all persons receiving
7926 transportation from the executive aircraft pool a rate not less
7927 than the mileage allowance fixed by the Legislature for the use
7928 of privately owned vehicles. Fees collected for persons
7929 traveling by aircraft in the executive aircraft pool shall be
7930 deposited into the Bureau of Aircraft Trust Fund and ~~shall be~~
7931 expended for costs incurred to operate ~~the~~ aircraft management
7932 activities ~~of the department~~. It is the intent of the
7933 Legislature that the executive aircraft pool be operated on a
7934 full cost recovery basis, less available funds.

7935 Section 257. Paragraph (a) of subsection (3) of section
7936 287.17, Florida Statutes, is amended to read:

7937 287.17 Limitation on use of motor vehicles and aircraft.—

7938 (3) (a) The term "official state business" does ~~may not be~~
7939 ~~construed to~~ permit the use of a motor vehicle or aircraft for
7940 commuting purposes, unless special assignment of a motor vehicle
7941 is authorized as a perquisite by the Department of Personnel
7942 ~~Management Services~~, required by an employee after normal duty
7943 hours to perform duties of the position to which assigned, or
7944 authorized for an employee whose home is the official base of
7945 operation.

7946 Section 258. Section 287.18, Florida Statutes, is amended

585-03077-10

20101238c1

7947 to read:

7948 287.18 Repair and service of motor vehicles and aircraft.—
7949 The Chief Financial Officer ~~Secretary of Management Services~~ or
7950 a his or her designee may require a ~~department or any~~ state
7951 agency having facilities for the repair of aircraft or motor
7952 vehicles and for the storage and distribution of gasoline and
7953 other petroleum products to repair aircraft and motor vehicles
7954 and to furnish gasoline and other petroleum products to any
7955 other state ~~department or~~ agency and shall compensate for the
7956 cost of such services and products.

7957 Section 259. Section 287.19, Florida Statutes, is amended
7958 to read:

7959 287.19 Transfer of funds.—All moneys designated for or
7960 appropriated to any agency for the use, operation, maintenance,
7961 repair, or replacement of any state-owned or leased motor
7962 vehicles or aircraft shall be transferred to the Department of
7963 Financial Management Services as required by the department.

7964 Section 260. Subsection (1) of section 288.021, Florida
7965 Statutes, is amended to read:

7966 288.021 Economic development liaison.—

7967 (1) The heads of the Department of Transportation, the
7968 Department of Environmental Protection and an additional member
7969 appointed by the secretary of the department, ~~the Department of~~
7970 ~~Labor and Employment Security,~~ the Department of Education, the
7971 Department of Community Affairs, ~~the Department of Management~~
7972 ~~Services,~~ the Department of Revenue, the Fish and Wildlife
7973 Conservation Commission, each water management district, and
7974 each Department of Transportation District office shall
7975 designate a high-level staff member from within such agency to

585-03077-10

20101238c1

7976 serve as the economic development liaison for the agency. This
7977 person shall report to the agency head and have general
7978 knowledge both of the state's permitting and other regulatory
7979 functions and of the state's economic goals, policies, and
7980 programs. This person shall also be the primary point of contact
7981 for the agency with the Office of Tourism, Trade, and Economic
7982 Development on issues and projects important to the economic
7983 development of this state Florida, including its rural areas, to
7984 expedite project review, to ensure a prompt, effective response
7985 to problems arising with regard to permitting and regulatory
7986 functions, and to work closely with the other economic
7987 development liaisons to resolve interagency conflicts.

7988 Section 261. Subsections (1) and (2), paragraphs (c)
7989 through (j) of subsection (4), and subsection (6) of section
7990 288.109, Florida Statutes, are amended to read:

7991 288.109 One-Stop Permitting System.—

7992 (1) The Department of Community Affairs shall ~~By January 1,~~
7993 ~~2001, the State Technology Office must~~ establish and administer
7994 ~~implement~~ an Internet site for the One-Stop Permitting System.
7995 The One-Stop Permitting System Internet site shall provide
7996 individuals and businesses with information concerning
7997 development permits; guidance on what development permits are
7998 needed for particular projects; permit requirements; and who may
7999 be contacted for more information concerning a particular
8000 development permit for a specific location. The department
8001 ~~office~~ shall design and construct the Internet site and may
8002 competitively procure and contract for services to develop the
8003 site. In designing and constructing the Internet site, the
8004 department shall ~~office must~~ solicit input from potential users

585-03077-10

20101238c1

8005 of the site.

8006 (2) The Department of Community Affairs ~~office~~ shall
 8007 develop the One-Stop Permitting System Internet site to allow an
 8008 applicant to complete and submit application forms for
 8009 development permits to agencies and counties. The Internet site
 8010 must be capable of allowing an applicant to submit payment for
 8011 permit fees and must provide payment options. After initially
 8012 establishing the Internet site, the department ~~office~~ shall
 8013 implement, in the most timely manner possible, the capabilities
 8014 described in this subsection. The department ~~office~~ shall also
 8015 develop a protocol for adding ~~to the One-Stop Permitting System~~
 8016 additional state agencies and counties that agree to participate
 8017 to the One-Stop Permitting System. The department ~~office~~ may
 8018 competitively procure and contract for services to develop such
 8019 capabilities.

8020 (4) The One-Stop Permitting System must initially provide
 8021 access to the following state agencies, water management
 8022 districts and counties, with other agencies and counties that
 8023 agree to participate:

8024 ~~(e) The Department of Management Services.~~

8025 (c) ~~(d)~~ The Department of Transportation, including district
 8026 offices.

8027 (d) ~~(e)~~ The Northwest Florida Water Management District.

8028 (e) ~~(f)~~ The St. Johns River Water Management District.

8029 (f) ~~(g)~~ The Southwest Florida Water Management District.

8030 (g) ~~(h)~~ The Suwannee River Water Management District.

8031 (h) ~~(i)~~ The South Florida Water Management District.

8032 (i) ~~(j)~~ Selected counties that agree to participate.

8033 (6) The Department of Community Affairs ~~office~~ may add

585-03077-10

20101238c1

8034 counties and municipalities to the One-Stop Permitting System as
8035 such local governments agree to participate and develop the
8036 technical capability of joining the system.

8037 Section 262. Section 288.1092, Florida Statutes, is amended
8038 to read:

8039 288.1092 One-Stop Permitting System Grant Program. ~~There is~~
8040 ~~created within the State Technology Office~~ The One-Stop
8041 Permitting System Grant Program is created within the Department
8042 of Community Affairs. The purpose of the grant program is to
8043 encourage counties to coordinate and integrate the development
8044 of the county's permitting process with the One-Stop Permitting
8045 System. The department ~~office~~ shall review grant applications
8046 and, subject to available funds, if a county is certified as a
8047 Quick Permitting County under s. 288.1093, shall award a grant
8048 of up to \$50,000 to provide for such integration. The department
8049 ~~office~~ must review a grant application for consistency with the
8050 purpose of the One-Stop Permitting System to provide access to
8051 development permit information and application forms. Grants
8052 shall be issued on a first-come, first-served basis to qualified
8053 Quick Permitting Counties. The grant moneys may be used to
8054 purchase software, hardware, or consulting services necessary
8055 for the county to create an interface with the One-Stop
8056 Permitting System. Grant moneys may not be used to pay
8057 administrative costs. The grant application must specify what
8058 items or services the county intends to purchase using the grant
8059 moneys, the amount of each of the items or services to be
8060 purchased, and how the items or services are necessary for the
8061 county to create an interface with the One-Stop Permitting
8062 System.

585-03077-10

20101238c1

8063 Section 263. Subsections (1) and (3) of section 288.1093,
8064 Florida Statutes, are amended to read:

8065 288.1093 Quick Permitting County Designation Program.—

8066 (1) ~~There is established within the State Technology Office~~
8067 The Quick Permitting County Designation Program is established
8068 within the Department of Community Affairs. To be designated as
8069 a Quick Permitting County, the chair of the board of county
8070 commissioners of the applying county must certify to the
8071 department ~~office~~ that the county meets the criteria specified
8072 in subsection (3).

8073 (3) In order to qualify for a Quick Permitting County
8074 designation, a county must certify to the Department of
8075 Community Affairs ~~office~~ that the county has implemented the
8076 following best management practices:

8077 (a) The establishment of a single point of contact for a
8078 business seeking assistance in obtaining a permit;

8079 (b) The selection of high-priority projects for accelerated
8080 permit review;

8081 (c) The use of documented preapplication meetings following
8082 standard procedures;

8083 (d) The maintenance of an inventory of sites suitable for
8084 high-priority projects;

8085 (e) The development of a list of consultants who conduct
8086 business in the county;

8087 (f) The evaluation and elimination of duplicative approval
8088 and permitting requirements within the county;

8089 (g) The commitment to participate, through the entry of an
8090 interlocal agreement for individual projects, in the expedited
8091 permit process set forth in s. 403.973;

585-03077-10

20101238c1

8092 (h) The development of a timetable for processing
8093 development permits and approvals; and

8094 (i) The use of interagency coordination to facilitate
8095 permit processing.

8096 Section 264. Paragraph (a) of subsection (3) of section
8097 288.1185, Florida Statutes, is amended to read:

8098 288.1185 Recycling Markets Advisory Committee.—

8099 (3) (a) The heads of the Department of Transportation, the
8100 Department of Environmental Protection, ~~the Department of~~
8101 ~~Management Services~~, the Department of Agriculture and Consumer
8102 Services, the Florida Energy Office, the Chief Financial
8103 Officer, and the Governor shall each designate a staff member
8104 from within the agency to serve as the recycling market
8105 development liaison for the agency. This person must ~~shall~~ have
8106 knowledge of recycling and the issues and problems related to
8107 recycling and recycled materials market development. This person
8108 shall be the primary point of contact for the agency on issues
8109 related to recycled materials market development. These liaisons
8110 shall be available for committee meetings and shall work closely
8111 with the committee and other recycling market development
8112 liaisons to further the goals of the committee, as appropriate.

8113 Section 265. Paragraph (d) of subsection (5) and subsection
8114 (8) of section 288.15, Florida Statutes, are amended to read:

8115 288.15 Powers of Division of Bond Finance.—There is hereby
8116 granted to and vested in the Division of Bond Finance of the
8117 State Board of Administration the power, right, franchise, and
8118 authority:

8119 (5) In order to carry out the objectives and purposes of
8120 this chapter, the division is authorized to acquire, own,

585-03077-10

20101238c1

8121 construct, operate, maintain, improve, and extend public
 8122 buildings, facilities, or works within the state which are of
 8123 the character hereinafter specifically mentioned. All public
 8124 buildings, facilities, and works which the division is
 8125 authorized to own, construct, operate, and maintain must be such
 8126 as can ultimately be owned and operated by an agency,
 8127 department, board, bureau, or commission of the state. All or
 8128 any such buildings, facilities, or works may be of a revenue-
 8129 producing character in order that the cost of the same or some
 8130 part of improvements or extensions thereto may be paid from
 8131 receipts therefrom, including in Tallahassee only rentals,
 8132 leases, and sales to both public and nonpublic agencies through
 8133 the issue and sales or disposition of revenue bonds, notes, or
 8134 certificates of the division. The buildings, facilities, and
 8135 works which the division is hereby authorized to acquire,
 8136 construct, operate, maintain, improve, and extend are:

8137 (d) Public buildings, facilities, and additions or
 8138 improvements to existing buildings and facilities for ultimate
 8139 use in connection with any of the several state institutions,
 8140 departments, bureaus, boards, or commissions. For this use; ~~and,~~
 8141 ~~In furtherance of this paragraph,~~ the Department of
 8142 Environmental Protection Management Services, the Board of
 8143 Governors of the State University System, and the State Board of
 8144 Education shall ~~are authorized to~~ cooperate with the Division of
 8145 Bond Finance and ~~to do and~~ perform all acts and things necessary
 8146 thereto. Any property acquired by the division ~~of Bond Finance~~
 8147 ~~under the provisions of~~ this chapter may ultimately be conveyed
 8148 to the state free and clear of all debt or other encumbrance.

8149 (8) The division shall ~~is hereby authorized and directed to~~

585-03077-10

20101238c1

8150 proceed with the acquisition of land and buildings ~~thereon now~~
8151 ~~needed or to be~~ needed for use in whole or in part by any
8152 agency, board, bureau, or commission of the state, such
8153 acquisition to be within the area defined by the Department of
8154 Environmental Protection Management Services for the long-range
8155 development of the proposed Capitol Center. The division shall
8156 also; ~~and~~

8157 (a) ~~To~~ Construct, acquire, own, and operate buildings and
8158 facilities thereon, such buildings and facilities to be financed
8159 by the revenue they yield, through the issuance of revenue
8160 certificates; and

8161 (b) ~~To~~ Have specific authority in financing the
8162 acquisition, construction, and operation of such buildings and
8163 facilities, to utilize rentals to both public and nonpublic
8164 agencies as well as any regularly appropriated state or other
8165 public funds; however, ~~no~~ revenue from lands, buildings, or
8166 facilities now owned by the state may not be pledged to finance
8167 the acquisition of land, buildings, or facilities pursuant to
8168 this section ~~the provisions of this law~~, except for revenue from
8169 land, buildings, or facilities purchased or acquired pursuant to
8170 this section ~~the provisions of this law~~.

8171 Section 266. Section 288.17, Florida Statutes, is amended
8172 to read:

8173 288.17 Revenue certificates.—The Division of Bond Finance
8174 of the State Board of Administration may ~~is authorized to~~ issue
8175 interest-bearing revenue certificates for construction of all
8176 state buildings approved by the Legislature in its appropriation
8177 acts and requested by the Department of Environmental Protection
8178 ~~Management Services~~ or by the Board of Governors of the State

585-03077-10

20101238c1

8179 University System.

8180 Section 267. Subsections (1) and (3) of section 288.18,
8181 Florida Statutes, are amended to read:

8182 288.18 Planning, promoting, and supervising state building
8183 projects.—

8184 (1) The Department of Environmental Protection is
8185 ~~Management Services~~ shall be responsible for promoting any state
8186 building project financed as provided by law in any community
8187 where a state building is needed.

8188 (3) Any state agency required to occupy space by the
8189 Department of Environmental Protection ~~Management Services~~ may
8190 contract for such space and pledge such rentals as are provided
8191 and appropriated by the Legislature for the purpose of financing
8192 the retirement of revenue certificates for the lifetime of any
8193 issue.

8194 Section 268. Paragraph (d) of subsection (3) and
8195 subsections (5) and (8) of section 288.703, Florida Statutes,
8196 are amended to read:

8197 288.703 Definitions.—As used in this act, the following
8198 words and terms shall have the following meanings unless the
8199 content shall indicate another meaning or intent:

8200 (3) "Minority person" means a lawful, permanent resident of
8201 Florida who is:

8202 (d) A Native American, a person who has origins in any of
8203 the Indian Tribes of North America prior to 1835, upon
8204 presentation of proper documentation ~~thereof~~ as established by
8205 rule of the Department of Financial ~~Management~~ Services.

8206 (5) "Department" means the Department of Financial
8207 ~~Management~~ Services.

585-03077-10

20101238c1

8208 ~~(8) "Secretary" means the secretary of the Department of~~
8209 ~~Management Services.~~

8210 Section 269. Subsections (2), (10), (11), and (12) of
8211 section 288.706, Florida Statutes, are amended to read:

8212 288.706 Florida Minority Business Loan Mobilization
8213 Program.—

8214 (2) The Florida Minority Business Loan Mobilization Program
8215 is created to promote the development of minority business
8216 enterprises, ~~as defined in s. 288.703(2)~~, increase the ability
8217 of minority business enterprises to compete for state contracts,
8218 and sustain the economic growth of minority business enterprises
8219 in this state. The goal of the program is to assist minority
8220 business enterprises by facilitating working capital loans to
8221 minority business enterprises that are vendors on state agency
8222 contracts. The department ~~of Management Services~~ shall
8223 administer the program.

8224 (10) The department ~~of Management Services~~ may adopt rules
8225 to administer ~~implement the provisions of~~ this section.

8226 (11) The department ~~of Management Services~~ shall maintain a
8227 listing of financial institutions willing to participate in the
8228 Florida Minority Business Loan Mobilization Program. This list
8229 may of financial institutions ~~shall~~ not be exclusive. A minority
8230 business enterprise vendor who has a working relationship with a
8231 financial institution is encouraged to request that the
8232 financial institution apply to participate as a financial
8233 institution for the program.

8234 (12) The department ~~of Management Services~~ shall
8235 collaborate with the Florida Black Business Investment Board,
8236 Inc., and the Office of Tourism, Trade, and Economic Development

585-03077-10

20101238c1

8237 to assist in the development and enhancement of black business
8238 enterprises.

8239 Section 270. Subsection (2) of section 288.708, Florida
8240 Statutes, is amended to read:

8241 288.708 President; employees.—

8242 (2) An employee of the board may not receive compensation
8243 for employment that exceeds the salary paid to the Governor,
8244 unless the board and the employee have executed a contract that
8245 prescribes specific and measurable performance outcomes for the
8246 employee, the satisfaction of which provides the basis for the
8247 award of incentive payments that increase the employee's total
8248 compensation to a level above the salary paid to the Governor.
8249 The Executive Office of the Governor ~~Department of Management~~
8250 ~~Services~~ shall establish a lease-agreement program under which
8251 an employee of the board, as of June 30, 2002, retains his or
8252 her status as a state employee until the employee voluntarily or
8253 involuntarily terminates his or her status with the board.
8254 Status as a state employee includes ~~shall include~~ the right to
8255 participate in the Florida Retirement System.

8256 Section 271. Subsection (6) of section 288.7091, Florida
8257 Statutes, is amended to read:

8258 288.7091 Duties of the Florida Black Business Investment
8259 Board, Inc.—The board shall:

8260 (6) Collaborate with the Department of Transportation, the
8261 Department of Financial Management ~~Management~~ Services, including the
8262 Florida Minority Business Loan Mobilization Program, Workforce
8263 Florida, Inc., and other state agencies and partners, the State
8264 University System, including the Florida Agricultural and
8265 Mechanical University's Institute of Urban Policy and Commerce,

585-03077-10

20101238c1

8266 school boards, and local governments to create an ~~a network of~~
8267 information network and to identify available resources to
8268 enhance the development and expansion of black business
8269 enterprises.

8270 Section 272. Paragraph (b) of subsection (5) of section
8271 288.712, Florida Statutes, is amended to read:

8272 288.712 Guarantor funds.—

8273 (5) The board shall do all of the following to implement
8274 the black contractors bonding program:

8275 (b) Provide assistance to the Office of Supplier Diversity
8276 within the Department of Financial ~~Management~~ Services, as
8277 needed, to certify new black business enterprises and to train
8278 appropriate department staff.

8279 Section 273. Subsection (2) of section 288.901, Florida
8280 Statutes, is amended to read:

8281 288.901 Enterprise Florida, Inc.; creation; membership;
8282 organization; meetings; disclosure.—

8283 (2) Enterprise Florida, Inc., shall establish one or more
8284 corporate offices, at least one of which shall be located in
8285 Leon County. The Executive Office of the Governor ~~Department of~~
8286 ~~Management Services~~ may establish a lease agreement program
8287 under which Enterprise Florida, Inc., may hire any individual
8288 who, ~~as of June 30, 1996, is employed by the Department of~~
8289 ~~Commerce or who, as of January 1, 1997, is employed by the~~
8290 Executive Office of the Governor and has responsibilities
8291 specifically in support of the Workforce Development Board
8292 established under s. 445.004 ~~288.9620~~. Under such agreement, the
8293 employee shall retain his or her status as a state employee but
8294 shall work under the direct supervision of Enterprise Florida,

585-03077-10

20101238c1

8295 Inc. Retention of state employee status includes ~~shall include~~
8296 the right to participate in the Florida Retirement System. The
8297 office Department of Management Services shall establish the
8298 terms and conditions of such lease agreements.

8299 Section 274. Paragraph (a) of subsection (3), paragraphs
8300 (d) and (e) of subsection (5), paragraph (a) of subsection (6),
8301 and subsections (7) and (9) of section 295.187, Florida
8302 Statutes, are amended to read:

8303 295.187 Florida Service-Disabled Veteran Business
8304 Enterprise Opportunity Act.—

8305 (3) DEFINITIONS.—For the purpose of this section, the term:

8306 (a) "Certified service-disabled veteran business
8307 enterprise" means a business that has been certified by the
8308 Department of Financial Management Services to be a service-
8309 disabled veteran business enterprise ~~as defined in paragraph~~
8310 ~~(e)~~.

8311 (5) CERTIFICATION PROCEDURE.—

8312 (d) A certified service-disabled veteran business
8313 enterprise must notify the Department of Financial Management
8314 Services within 30 business days after any event that may
8315 significantly affect the certification of the business,
8316 including, but not limited to, a change in ownership or change
8317 in management and daily business operations.

8318 (e) The certification of a service-disabled veteran
8319 business enterprise shall be revoked for 12 months if the
8320 Department of Financial Management Services determines that the
8321 business enterprise violated paragraph (d). An owner of a
8322 certified service-disabled veteran business enterprise whose
8323 certification is revoked may ~~is not permitted to~~ reapply for

585-03077-10

20101238c1

8324 certification under this section as an owner of any business
8325 enterprise during the 12-month revocation period.

8326 1. During the 12-month revocation period, a service-
8327 disabled veteran business enterprise whose certification has
8328 been revoked may bid on state contracts but is not eligible for
8329 any preference available under this section.

8330 2. A service-disabled veteran business enterprise whose
8331 certification has been revoked may apply for certification at
8332 the conclusion of the 12-month revocation period by complying
8333 with requirements applicable to initial certifications.

8334 (6) DUTIES OF THE DEPARTMENT OF VETERANS' AFFAIRS.—The
8335 department shall:

8336 (a) Assist the Department of Financial ~~Management~~ Services
8337 in establishing a certification procedure, which shall be
8338 reviewed biennially and updated as necessary.

8339 (7) DUTIES OF THE DEPARTMENT OF FINANCIAL ~~MANAGEMENT~~
8340 SERVICES.—The department shall:

8341 (a) With assistance from the Department of Veterans'
8342 Affairs, establish a certification procedure, which shall be
8343 reviewed biennially and updated as necessary.

8344 (b) Grant, deny, or revoke the certification of a service-
8345 disabled veteran business enterprise under this section.

8346 (c) Maintain an electronic directory of certified service-
8347 disabled veteran business enterprises for use by the state,
8348 political subdivisions of the state, and the public.

8349 (9) RULES.—The Department of Veterans' Affairs and the
8350 Department of Financial ~~Management~~ Services, as appropriate, may
8351 adopt rules as necessary to administer this section.

8352 Section 275. Subsection (17) of section 318.18, Florida

585-03077-10

20101238c1

8353 Statutes, is amended to read:

8354 318.18 Amount of penalties.—The penalties required for a
8355 noncriminal disposition pursuant to s. 318.14 or a criminal
8356 offense listed in s. 318.17 are as follows:

8357 (17) In addition to any penalties imposed, a surcharge of
8358 \$3 must be paid for all criminal offenses listed in s. 318.17
8359 and for all noncriminal moving traffic violations under chapter
8360 316. Revenue from the surcharge shall be remitted to the
8361 Department of Revenue and deposited quarterly into the State
8362 Agency Law Enforcement Radio System Trust Fund of the Department
8363 of Law Enforcement ~~Management Services~~ for the state agency law
8364 enforcement radio system, as described in s. 282.709, and to
8365 provide technical assistance to state agencies and local law
8366 enforcement agencies with their statewide systems of regional
8367 law enforcement communications, as described in s. 282.710. This
8368 subsection expires July 1, 2012. The Department of Law
8369 Enforcement ~~Management Services~~ may retain funds sufficient to
8370 recover the costs and expenses incurred for managing,
8371 administering, and overseeing the Statewide Law Enforcement
8372 Radio System, and providing technical assistance to state
8373 agencies and local law enforcement agencies with their statewide
8374 systems of regional law enforcement communications. The
8375 Department of Law Enforcement ~~Management Services~~ working in
8376 conjunction with the Joint Task Force on State Agency Law
8377 Enforcement Communications shall determine and direct the
8378 purposes for which these funds are used to enhance and improve
8379 the radio system.

8380 Section 276. Subsection (9) of section 318.21, Florida
8381 Statutes, is amended to read:

585-03077-10

20101238c1

8382 318.21 Disposition of civil penalties by county courts.—All
8383 civil penalties received by a county court pursuant to the
8384 provisions of this chapter shall be distributed and paid monthly
8385 as follows:

8386 (9) Twelve dollars and fifty cents from each moving traffic
8387 violation must be used by the county to fund that county's
8388 participation in an intergovernmental radio communication
8389 program approved by the Department of Law Enforcement Management
8390 ~~Services~~. If the county is not participating in such a program,
8391 funds collected must be used to fund local law enforcement
8392 automation and must be distributed to the municipality or
8393 special improvement district in which the violation occurred or
8394 to the county if the violation occurred within the
8395 unincorporated area of the county.

8396 Section 277. Section 320.0802, Florida Statutes, is amended
8397 to read:

8398 320.0802 Surcharge on license tax.—A \$1 surcharge There is
8399 ~~hereby~~ levied and imposed on each license tax imposed under s.
8400 320.08, except those set forth in s. 320.08(11), ~~a surcharge in~~
8401 ~~the amount of \$1,~~ which shall be collected in the same manner as
8402 the license tax and deposited into the State Agency Law
8403 Enforcement Radio System Trust Fund of the Department of Law
8404 Enforcement Management Services.

8405 Section 278. Subsection (7) of section 320.08056, Florida
8406 Statutes, is amended to read:

8407 320.08056 Specialty license plates.—

8408 (7) The department shall annually retain from the first
8409 proceeds derived from the annual use fees collected an amount
8410 sufficient to defray each specialty plate's pro rata share of

585-03077-10

20101238c1

8411 the department's costs directly related to the specialty license
8412 plate program. Such costs must ~~shall~~ include inventory costs,
8413 distribution costs, direct costs to the department, costs
8414 associated with reviewing each organization's compliance with
8415 audit and attestation requirements of s. 320.08062, and any
8416 applicable increased costs of manufacturing the specialty
8417 license plate. Any cost increase to the department related to
8418 actual cost of the plate, including a reasonable vendor profit,
8419 shall be verified by the Department of Financial Management
8420 ~~Services~~. The balance of the proceeds from the annual use fees
8421 collected for that specialty license plate shall be distributed
8422 as provided by law.

8423 Section 279. Subsection (1) of section 321.04, Florida
8424 Statutes, is amended to read:

8425 321.04 Personnel of the highway patrol; rank
8426 classifications; probationary status of new patrol officers;
8427 subsistence; special assignments.—

8428 (1) The Department of Highway Safety and Motor Vehicles
8429 shall employ patrol officers, as authorized by the Legislature
8430 in appropriating funds for their salaries exclusive of those
8431 members of the patrol who are assigned to and paid by special
8432 departments; and shall establish the necessary supervisory ranks
8433 within the Florida Highway Patrol to efficiently supervise and
8434 carry out the designated functions of the patrol and the
8435 department in accordance with rules ~~the regulations~~ established
8436 by the Department of Personnel Management Services.

8437 Section 280. Subsection (9) of section 328.72, Florida
8438 Statutes, is amended to read:

8439 328.72 Classification; registration; fees and charges;

585-03077-10

20101238c1

8440 surcharge; disposition of fees; fines; marine turtle stickers.-

8441 (9) SURCHARGE.—In addition, there is hereby levied and
8442 imposed on each vessel registration fee imposed under subsection
8443 (1) a surcharge in the amount of \$1 for each 12-month period of
8444 registration, which shall be collected in the same manner as the
8445 fee and deposited into the State Agency Law Enforcement Radio
8446 System Trust Fund of the Department of Law Enforcement
8447 ~~Management Services~~.

8448 Section 281. Subsections (1) and (2) of section 337.02,
8449 Florida Statutes, are amended to read:

8450 337.02 Purchases by department subject to competitive bids;
8451 advertisement; emergency purchases; bid specifications.—

8452 (1) Except as provided herein, purchase by the Department
8453 of Transportation of commodities, including the advertising and
8454 awarding of competitive bids, are ~~shall be~~ governed by chapters
8455 283 and 287 and rules adopted by the Department of Financial
8456 ~~Management Services pursuant thereto~~. However, ~~the provisions of~~
8457 s. 287.057 notwithstanding, the department may purchase parts
8458 and repairs valued at up to the threshold amount provided in s.
8459 287.017 for CATEGORY TWO for the repair of mobile road
8460 maintenance equipment, marine vessels, permanent vehicle scales,
8461 and mechanical and electrical equipment for movable bridges,
8462 toll facilities including the Florida Turnpike, and up to the
8463 threshold amount provided in s. 287.017 for CATEGORY THREE for
8464 treatment plants and lift stations for water and sewage, and
8465 major heating and cooling systems without receiving competitive
8466 bids.

8467 (2) If the department determines that an emergency exists
8468 in regard to the purchase of materials, machinery, tools,

585-03077-10

20101238c1

8469 equipment, or supplies, so that the delay incident to ~~giving~~
8470 ~~opportunity for~~ competitive bidding is ~~would be~~ detrimental to
8471 the interests of the state, the provisions for competitive
8472 bidding do not apply; and the department may authorize or
8473 purchase such materials, machinery, tools, equipment, or
8474 supplies without ~~giving opportunity for~~ competitive bidding
8475 ~~thereon~~. The department shall, within 10 days after such
8476 determination and purchase, file with the Chief Financial
8477 Officer ~~head of the Department of Management Services~~ a written
8478 statement of the materials, machinery, tools, equipment, or
8479 supplies purchased and a certificate as to the conditions and
8480 circumstances constituting such emergency.

8481 Section 282. Section 337.023, Florida Statutes, is amended
8482 to read:

8483 337.023 Sale of building; acceptance of replacement
8484 building.—Notwithstanding ~~the provisions of~~ s. 216.292(2)(b)2.,
8485 if the department sells a building, the department may accept
8486 the construction of a replacement building, in response to a
8487 request for proposals, totally or partially in lieu of cash, and
8488 may do so without a specific legislative appropriation. Such
8489 action is subject to the approval of the Executive Office of the
8490 Governor, and is subject to the notice, review, and objection
8491 procedures under s. 216.177. The replacement building shall be
8492 consistent with the current and projected needs of the
8493 department as agreed upon by the department and the Department
8494 of Environmental Protection ~~Management Services~~.

8495 Section 283. Paragraph (d) of subsection (2) of section
8496 337.165, Florida Statutes, is amended to read:

8497 337.165 Contract crime; denial or revocation of a

585-03077-10

20101238c1

8498 certificate of qualification.—

8499 (2)

8500 (d) A contractor or affiliate whose certificate has been
8501 denied or revoked may, at any time after denial or revocation,
8502 petition for and be granted a hearing to determine his or her
8503 eligibility for reapplication or reinstatement upon such terms
8504 and conditions as may be prescribed upon finding that
8505 reapplication or reinstatement is in the public interest. The
8506 petition shall be filed with the department. Any hearing
8507 conducted by the department must ~~shall~~ be conducted within 30
8508 days after receipt of the petition, unless otherwise stipulated
8509 by the parties. If the contractor or affiliate requests in the
8510 ~~his or her~~ petition that the hearing be conducted by the
8511 Division of Administrative Hearings ~~of the Department of~~
8512 ~~Management Services~~, the department shall, within 5 days after
8513 receipt of the petition, notify the division of the request. The
8514 director of the Division of Administrative Hearings shall,
8515 within 5 days after receipt of the notice by the department,
8516 assign an administrative law judge, who shall conduct the
8517 hearing within 30 days ~~thereafter~~, unless otherwise stipulated
8518 by the parties. The department shall be a party in interest in
8519 any hearing conducted by the division ~~of Administrative~~
8520 ~~Hearings~~. In determining whether reapplication or reinstatement
8521 would be in the public interest, the department or ~~division~~
8522 administrative law judge shall give consideration to any
8523 relevant mitigating circumstances, which may include, but are
8524 not limited to, the following:

8525 1. The degree of culpability;

8526 2. Prompt and voluntary payment of damages to the state as

585-03077-10

20101238c1

8527 a result of the contractor's violation of state or federal
8528 antitrust laws;

8529 3. Cooperation with any state or federal prosecution or
8530 investigation of a contract crime;

8531 4. Disassociation with those involved in a contract crime;

8532 5. Reinstatement in other state or federal jurisdictions;

8533 and

8534 6. The needs of the department in completing its programs
8535 in a timely, cost-effective manner.

8536

8537 The department or ~~division~~ administrative law judge shall also
8538 consider the failure of the contractor or affiliate to comply
8539 with the notification provisions of subsection (5). Any hearing
8540 requested under this paragraph must ~~shall~~ be conducted and
8541 concluded without undue delay. The administrative law judge
8542 shall, within 30 days after the hearing, complete and submit a
8543 final order to the department, which ~~order~~ may not be altered or
8544 amended by the department. If eligibility for reapplication or
8545 reinstatement is denied, the contractor or affiliate may not
8546 petition for a subsequent hearing for ~~a period of~~ 9 months
8547 following the date of the order of denial or revocation.

8548 However, a hearing before ~~prior to~~ the expiration of such period
8549 may be authorized by the department if, ~~in its discretion,~~ it
8550 determines that a hearing is in the public interest.

8551 Section 284. Subsection (2) of section 338.2216, Florida
8552 Statutes, is amended to read:

8553 338.2216 Florida Turnpike Enterprise; powers and
8554 authority.—

8555 (2) The department may ~~shall have the authority to~~ employ

585-03077-10

20101238c1

8556 procurement methods available to the Department of Financial
8557 ~~Management~~ Services and the Department of Environmental
8558 Protection under chapters 255 and 287 and under any rule adopted
8559 under such chapters solely for the benefit of the turnpike
8560 enterprise.

8561 Section 285. Subsection (4) of section 338.227, Florida
8562 Statutes, is amended to read:

8563 338.227 Turnpike revenue bonds.—

8564 (4) The Department of Transportation and the Department of
8565 Financial ~~Management~~ Services shall create and implement an
8566 outreach program designed to enhance the participation of
8567 minority persons and minority business enterprises in all
8568 contracts entered into by their respective departments for
8569 services related to the financing of department projects for the
8570 Florida Intrastate Highway System Plan. These services must
8571 ~~shall~~ include, but are not ~~be~~ limited to, bond counsel and bond
8572 underwriters.

8573 Section 286. Subsection (3) of section 350.0614, Florida
8574 Statutes, is amended to read:

8575 350.0614 Public Counsel; compensation and expenses.—

8576 (3) Neither the Executive Office of the Governor nor the
8577 Department of Personnel ~~Management Services~~ or its successor may
8578 ~~shall have power to~~ determine the number, or fix the
8579 compensation, of the employees of the Public Counsel or to
8580 exercise any ~~manner of~~ control over them.

8581 Section 287. Section 350.125, Florida Statutes, is amended
8582 to read:

8583 350.125 Administrative law judges.—Notwithstanding any
8584 other provision of law ~~to the contrary notwithstanding~~, the

585-03077-10

20101238c1

8585 commission shall use ~~utilize~~ administrative law judges of the
8586 Division of Administrative Hearings ~~of the Department of~~
8587 ~~Management Services~~ to conduct hearings of the commission not
8588 assigned to members of the commission.

8589 Section 288. Subsection (2) of section 364.0135, Florida
8590 Statutes, is amended to read:

8591 364.0135 Promotion of broadband deployment.—

8592 (2) The Agency for Enterprise Information Technology shall
8593 ~~Department of Management Services is authorized to work~~
8594 collaboratively with, and ~~to~~ receive staffing support and other
8595 resources from, Enterprise Florida, Inc., state agencies, local
8596 governments, private businesses, and community organizations to:

8597 (a) Conduct a needs assessment of broadband Internet
8598 service in collaboration with communications service providers,
8599 including, but not limited to, wireless and wireline Internet
8600 service providers, to develop geographical information system
8601 maps at the census tract level that will:

8602 1. Identify geographic gaps in broadband services,
8603 including areas unserved by any broadband provider and areas
8604 served by a single broadband provider;

8605 2. Identify the download and upload transmission speeds
8606 made available to businesses and individuals in the state, at
8607 the census tract level of detail, using data rate benchmarks for
8608 broadband service used by the Federal Communications Commission
8609 to reflect different speed tiers; and

8610 3. Provide a baseline assessment of statewide broadband
8611 deployment in terms of percentage of households with broadband
8612 availability.

8613 (b) Create a strategic plan that has goals and strategies

585-03077-10

20101238c1

8614 for increasing the use of broadband Internet service in the
8615 state.

8616 (c) Build and facilitate local technology planning teams or
8617 partnerships with members representing cross-sections of the
8618 community, which may include, but are not limited to,
8619 representatives from the following organizations and industries:
8620 libraries, K-12 education, colleges and universities, local
8621 health care providers, private businesses, community
8622 organizations, economic development organizations, local
8623 governments, tourism, parks and recreation, and agriculture.

8624 (d) Encourage the use of broadband Internet service,
8625 especially in the rural, unserved, and underserved communities
8626 of the state through grant programs having effective strategies
8627 to facilitate the statewide deployment of broadband Internet
8628 service. For any grants to be awarded, priority must be given to
8629 projects that:

8630 1. Provide access to broadband education, awareness,
8631 training, access, equipment, and support to libraries, schools,
8632 colleges and universities, health care providers, and community
8633 support organizations.

8634 2. Encourage investments in primarily unserved areas to
8635 give consumers a choice of more than one broadband Internet
8636 service provider.

8637 3. Work toward establishing affordable and sustainable
8638 broadband Internet service in unserved areas of the state.

8639 4. Facilitate the development of applications, programs,
8640 and services, including, but not limited to, telework,
8641 telemedicine, and e-learning to increase the usage of, and
8642 demand for, broadband Internet service in the state.

585-03077-10

20101238c1

8643 Section 289. Subsections (2), (3), (4), (5), (6), and (9)
8644 of section 364.515, Florida Statutes, are amended to read:

8645 364.515 Infrastructure investment.—

8646 (2) In order to be eligible under this act, an eligible
8647 facility, or a group of eligible facilities based on geographic
8648 proximity, shall submit a technology-needs request to the Agency
8649 for Enterprise Information Technology ~~Department of Management~~
8650 ~~Services~~. The agency department shall review the technology-
8651 needs request to determine if it conforms to the standards
8652 outlined in the State Education Technology Committee's plan. If
8653 the technology-needs request does not conform to the plan, ~~then~~
8654 the agency department shall return the request to the eligible
8655 facility or group for modifications. After modification of a
8656 technology-needs request it can ~~then~~ be resubmitted by the
8657 eligible facility or a group of eligible facilities. A
8658 technology-needs request shall be submitted to the agency by
8659 ~~department no later than July 1, 1997. Nothing in this section~~
8660 ~~shall prevent~~ The agency may group ~~Department of Management~~
8661 ~~Services from grouping~~ eligible facilities technology requests
8662 if when such grouping would result in the most efficient method
8663 to deliver advanced telecommunications services.

8664 (3) Once a technology-needs request or group request has
8665 been received and has been determined to meet the standards
8666 outlined in the plan, the Agency for Enterprise Information
8667 Technology ~~Department of Management Services~~ shall acquire
8668 advanced telecommunications services requested by an eligible
8669 facility or group of eligible facilities pursuant to chapter
8670 287. The agency ~~Department of Management Services~~ shall
8671 establish specifications to acquire the advanced

585-03077-10

20101238c1

8672 telecommunications infrastructure needed to provide advanced
8673 telecommunications services. The advanced telecommunications
8674 infrastructure used to provide ~~such~~ connections to the eligible
8675 facilities shall be provided at no cost in an amount not to
8676 exceed \$20,000 per eligible facility. If ~~In those instances in~~
8677 ~~which~~ a competitive bid is not received, advanced
8678 telecommunications services to be provided over this
8679 communication infrastructure must ~~shall~~ be priced below
8680 commercially available rates for comparable service and less
8681 than the statewide average of such services.

8682 (4) Notwithstanding ~~the requirements in~~ subsection (3), in
8683 geographic areas where interconnection between entities is the
8684 most efficient method of providing advanced telecommunications
8685 services, the Agency for Enterprise Information Technology
8686 ~~Department of Management Services~~ may suggest, along with the
8687 commission, such interconnection arrangements.

8688 (5) Any entity may submit a bid or proposal in response to
8689 the solicitation for services by the Agency for Enterprise
8690 Information Technology ~~Department of Management Services~~. The
8691 agency ~~Department of Management Services~~ shall award a bid in
8692 conformity with chapter 287, and may not require ~~under no~~
8693 ~~circumstances shall~~ the bidder ~~be required~~ to install facilities
8694 until the eligible facility is ready to use ~~utilize~~ the
8695 services. If no bids or proposals are received in response to a
8696 solicitation ~~issued by the Department of Management Services,~~
8697 the agency ~~Department of Management Services~~ shall obtain the
8698 name and address from the commission of the carrier of last
8699 resort in the territory of the eligible facility and provide
8700 that carrier ~~of last resort~~ with a description of the advanced

585-03077-10

20101238c1

8701 telecommunications services that must be provided. If no bids or
8702 proposals are submitted for the provision of advanced
8703 telecommunications services to an eligible facility, the
8704 telecommunications company serving as the carrier of last resort
8705 to such eligible facility shall provide the advanced
8706 telecommunications services.

8707 (6) Advanced telecommunications services to be provided by
8708 the entity awarded the contract or, if no bid or proposal is
8709 received, the carrier of last resort must ~~shall~~ be provided
8710 within 6 months or at such later date as the eligible facility
8711 may specify. If ~~In~~ the event that a technology-needs request is
8712 received by July 1, 1997, but is requested not to be completed
8713 until after January 1, 1999, the Agency for Enterprise
8714 Information Technology Department of Management Services shall
8715 ~~then~~ issue a solicitation closer to the time the advanced
8716 telecommunications services are requested. The entities
8717 providing advanced telecommunications services pursuant to this
8718 chapter shall abide by the same terms and conditions as those
8719 eligible facilities requesting such services by January 1, 1999.

8720 (9) ~~Nothing in~~ This part does not shall preclude the Agency
8721 for Enterprise Information Technology Department of Management
8722 Services from combining an eligible facility with any grouping
8723 of qualified subscribers as defined in chapter 282, to create
8724 the most cost-effective and efficient access to network
8725 services.

8726 Section 290. Section 364.516, Florida Statutes, is amended
8727 to read:

8728 364.516 Penalties.—If ~~In the event that~~ the provision of
8729 advanced telecommunications services to a requesting eligible

585-03077-10

20101238c1

8730 facility pursuant to s. 364.515(5) or (6) is not performed by
8731 the entity awarded the contract or by a carrier of last resort
8732 or within the date specified in the solicitation, except in
8733 those instances in which acts of God may have prevented the
8734 bidder from completing the contract, the eligible facility or
8735 the Agency for Enterprise Information Technology ~~Department of~~
8736 ~~Management Services~~ may petition the commission for an order
8737 enforcing the requirements. The commission shall act upon such
8738 petition within 60 days and, if ~~in the event~~ the commission
8739 finds that the entity that has been awarded the contract or the
8740 carrier of last resort has not performed as specified in this
8741 part, the commission shall order the entities to perform as
8742 required in the contract or by this part. If ~~In the event~~ the
8743 entity fails to comply with the commission's order within 60
8744 days, the commission shall impose a fine on the bidding company
8745 or carrier of last resort of \$25,000 per eligible facility
8746 specified in the contract. Any fines collected ~~under this~~
8747 ~~section~~ shall be deposited in the General Revenue Fund to be
8748 allocated back to the specific requesting area where the
8749 eligible facility is located to implement advanced
8750 telecommunications services.

8751 Section 291. Paragraph (a) of subsection (3) of section
8752 365.171, Florida Statutes, is amended to read:

8753 365.171 Emergency communications number E911 state plan.—

8754 (3) DEFINITIONS.—As used in this section, the term:

8755 (a) "Office" means the Technology Program within the
8756 Department of Law Enforcement ~~Management Services~~, as designated
8757 by the department's executive director ~~secretary of the~~
8758 ~~department~~.

585-03077-10

20101238c1

8759 Section 292. Paragraph (t) of subsection (3), paragraph (a)
8760 of subsection (6), paragraph (c) of subsection (7), and
8761 paragraph (f) of subsection (12) of section 365.172, Florida
8762 Statutes, are amended to read:

8763 365.172 Emergency communications number "E911."—

8764 (3) DEFINITIONS.—Only as used in this section and ss.
8765 365.171, 365.173, and 365.174, the term:

8766 (t) "Office" means the Technology Program within the
8767 Department of Law Enforcement ~~Management Services~~, as designated
8768 by the department's executive director ~~secretary of the~~
8769 ~~department~~.

8770 (6) AUTHORITY OF THE BOARD; ANNUAL REPORT.—

8771 (a) The board shall:

- 8772 1. Administer the E911 fee.
- 8773 2. Implement, maintain, and oversee the fund.
- 8774 3. Review and oversee the disbursement of the revenues
8775 deposited into the fund as provided in s. 365.173.

8776 a. The board may establish a schedule for implementing
8777 wireless E911 service by service area, and prioritize
8778 disbursements of revenues from the fund to providers and rural
8779 counties as provided in s. 365.173(2)(d) and (g) pursuant to the
8780 schedule, in order to implement E911 services in the most
8781 efficient and cost-effective manner.

8782 b. Revenues in the fund which have not been disbursed
8783 because sworn invoices ~~as~~ required by s. 365.173(2)(d) have not
8784 been submitted to the board may be used by the board as needed
8785 to provide grants to counties for the purpose of upgrading E911
8786 systems. The counties must use the funds only for capital
8787 expenditures directly attributable to establishing and

585-03077-10

20101238c1

8788 provisioning E911 services, which may include next-generation
8789 deployment. Before distributing the ~~Prior to the distribution of~~
8790 grants, the board shall provide 90 days' written notice to all
8791 counties and publish ~~electronically~~ an approved application
8792 process electronically. County grant applications shall be
8793 prioritized based on the availability of funds, current system
8794 life expectancy, system replacement needs, and Phase II
8795 compliance per the Federal Communications Commission. No grants
8796 will be available to any county for next-generation deployment
8797 until all counties are Phase II complete. The board shall take
8798 all actions within its authority to ensure that county
8799 recipients of such grants use these funds only for the purpose
8800 under which they have been provided and may take any actions
8801 within its authority to secure county repayment of grant
8802 revenues upon determination that the funds were not used for the
8803 purpose for ~~under~~ which they were provided.

8804 c. The board shall reimburse all costs of a wireless
8805 provider in accordance with s. 365.173(2)(d) before taking any
8806 action to transfer additional funds.

8807 d. By September 1, 2007, the board shall authorize the
8808 transfer of up to \$15 million to the counties from existing
8809 money within the fund established under s. 365.173(1). The money
8810 shall be disbursed equitably to all of the counties using a
8811 timeframe and distribution methodology established by the board
8812 before September 1, 2007, in order to prevent a loss to the
8813 counties in the ordinary and expected time value of money caused
8814 by any timing delay in remittance to the counties of wireline
8815 fees caused by the one-time transfer of collecting wireline fees
8816 by the counties to the board. All disbursements for this purpose

585-03077-10

20101238c1

8817 must be returned to the fund from future remittances by the
8818 nonwireless category.

8819 e. After taking the action required in sub-subparagraphs
8820 a.-d., the board may review and, with all members participating
8821 in the vote, adjust the percentage allocations or adjust the
8822 amount of the fee, or both, under paragraph (8)(h), and, if the
8823 board determines that the revenues in the wireless category
8824 exceed the amount needed to reimburse wireless providers for the
8825 cost to implement E911 services, the board may transfer revenue
8826 to the counties from the existing funds within the wireless
8827 category. The board shall disburse the funds equitably to all
8828 counties using a timeframe and distribution methodology
8829 established by the board.

8830 4. Review documentation submitted by wireless providers
8831 which reflects current and projected funds derived from the fee,
8832 and the expenses incurred and expected to be incurred in order
8833 to comply with the E911 service requirements contained in the
8834 order for the purposes of:

8835 a. Ensuring that wireless providers receive fair and
8836 equitable distributions of funds from the fund.

8837 b. Ensuring that wireless providers are not provided
8838 disbursements from the fund which exceed the costs of providing
8839 E911 service, including the costs of complying with the order.

8840 c. Ascertaining the projected costs of compliance with the
8841 requirements of the order and projected collections of the fee.

8842 d. Implementing changes to the allocation percentages or
8843 adjusting the fee under paragraph (8)(i).

8844 5. Meet monthly in the most efficient and cost-effective
8845 manner, including telephonically if ~~when~~ practical, ~~for the~~

585-03077-10

20101238c1

8846 ~~business to be conducted,~~ to review and approve or reject, in
8847 whole or in part, applications submitted by wireless providers
8848 for recovery of moneys deposited into the wireless category, and
8849 to authorize the transfer of, and distribute, the fee allocation
8850 to the counties.

8851 6. Hire and retain employees, which may include an
8852 independent executive director who must ~~shall~~ possess experience
8853 in ~~the area of~~ telecommunications and emergency 911 issues, for
8854 the purposes of performing the technical and administrative
8855 functions for the board.

8856 7. Make and enter into contracts, pursuant to chapter 287,
8857 and execute other instruments necessary or convenient for the
8858 exercise of the powers and functions of the board.

8859 8. Sue and be sued, and appear and defend in all actions
8860 and proceedings, in its corporate name to the same extent as a
8861 natural person.

8862 9. Adopt, use, and alter a common corporate seal.

8863 10. Elect or appoint the officers and agents that are
8864 required by the affairs of the board.

8865 11. The board may adopt rules ~~under ss. 120.536(1) and~~
8866 ~~120.54~~ to implement this section and ss. 365.173 and 365.174.

8867 12. Provide coordination, support, and technical assistance
8868 to counties to promote the deployment of advanced 911 and E911
8869 systems in the state.

8870 13. Provide coordination and support for educational
8871 opportunities related to E911 issues for the E911 community in
8872 this state.

8873 14. Act as an advocate for issues related to E911 system
8874 functions, features, and operations to improve the delivery of

585-03077-10

20101238c1

8875 E911 services to the residents of and visitors to this state.

8876 15. Coordinate input from this state at national forums and
8877 associations, to ensure that policies related to E911 systems
8878 and services are consistent with the policies of the E911
8879 community in this state.

8880 16. Work cooperatively with the system director established
8881 in s. 365.171(5) to enhance the state of E911 services in this
8882 state and to provide unified leadership for all E911 issues
8883 through planning and coordination.

8884 17. Do all acts and things necessary or convenient to carry
8885 out the powers granted in this section in a manner that is
8886 competitively and technologically neutral as to all voice
8887 communications services providers, including, but not limited
8888 to, consideration of emerging technology and related cost
8889 savings, while taking into account embedded costs in current
8890 systems.

8891 18. Have ~~the~~ authority to secure the services of an
8892 independent, private attorney via invitation to bid, request for
8893 proposals, invitation to negotiate, or professional contracts
8894 for legal services already established at the Division of
8895 Purchasing of the Department of Financial Management ~~Management~~ Services.

8896 (7) REQUEST FOR PROPOSALS FOR INDEPENDENT ACCOUNTING FIRM.—

8897 (c) ~~After July 1, 2004,~~ The board may secure the services
8898 of an independent accounting firm via invitation to bid, request
8899 for proposals, invitation to negotiate, or professional
8900 contracts already established at the Division of Purchasing,
8901 Department of Financial Management ~~Management~~ Services, for certified
8902 public accounting firms, or the board may hire and retain
8903 professional accounting staff to accomplish these functions.

585-03077-10

20101238c1

8904 (12) FACILITATING E911 SERVICE IMPLEMENTATION.—To balance
8905 the public need for reliable E911 services through reliable
8906 wireless systems and the public interest served by governmental
8907 zoning and land development regulations and notwithstanding any
8908 other law or local ordinance to the contrary, the following
8909 standards shall apply to a local government's actions, as a
8910 regulatory body, in the regulation of the placement,
8911 construction, or modification of a wireless communications
8912 facility. This subsection shall not, however, be construed to
8913 waive or alter the provisions of s. 286.011 or s. 286.0115. For
8914 the purposes of this subsection only, "local government" shall
8915 mean any municipality or county and any agency of a municipality
8916 or county only. The term "local government" does not, however,
8917 include any airport, as defined by s. 330.27(2), even if it is
8918 owned or controlled by or through a municipality, county, or
8919 agency of a municipality or county. Further, notwithstanding
8920 anything in this section to the contrary, this subsection does
8921 not apply to or control a local government's actions as a
8922 property or structure owner in the use of any property or
8923 structure owned by such entity for the placement, construction,
8924 or modification of wireless communications facilities. In the
8925 use of property or structures owned by the local government,
8926 however, a local government may not use its regulatory authority
8927 so as to avoid compliance with, or in a manner that does not
8928 advance, the provisions of this subsection.

8929 (f) Notwithstanding any other law ~~to the contrary~~
8930 ~~notwithstanding~~, the Department of Law Enforcement Management
8931 ~~Services~~ shall negotiate, in the name of the state, leases for
8932 wireless communications facilities that provide access to state

585-03077-10

20101238c1

8933 government-owned property not acquired for transportation
8934 purposes, and the Department of Transportation shall negotiate,
8935 in the name of the state, leases for wireless communications
8936 facilities that provide access to property acquired for state
8937 rights-of-way. On property acquired for transportation purposes,
8938 leases shall be granted in accordance with s. 337.251. On other
8939 state government-owned property, leases shall be granted on a
8940 space available, first-come, first-served basis. Payments
8941 required by state government under a lease must be reasonable
8942 and must reflect the market rate for the use of the state
8943 government-owned property. The Department of Law Enforcement
8944 ~~Management Services~~ and the Department of Transportation may ~~are~~
8945 ~~authorized to~~ adopt rules for the terms and conditions and
8946 granting of any such leases.

8947 Section 293. Subsection (1) of section 365.173, Florida
8948 Statutes, is amended to read:

8949 365.173 Emergency Communications Number E911 System Fund.—

8950 (1) All revenues derived from the fee levied on subscribers
8951 under s. 365.172 must be paid by the board into the State
8952 Treasury on or before the 15th day of each month. Such moneys
8953 must be accounted for in a special fund to be designated as the
8954 Emergency Communications Number E911 System Fund, a fund created
8955 in the Technology Program within the Department of Law
8956 Enforcement, or other office as designated by the department's
8957 executive director ~~Secretary of Management Services~~, and, for
8958 accounting purposes, must be segregated into ~~two separate~~
8959 ~~categories:~~

8960 ~~(a)~~ the wireless category; and

8961 ~~(b)~~ the nonwireless category. All moneys must be invested

585-03077-10

20101238c1

8962 by the Chief Financial Officer pursuant to s. 17.61. All moneys
8963 in such fund are to be expended by the office for the purposes
8964 provided in this section and s. 365.172. These funds are not
8965 subject to s. 215.20.

8966 Section 294. Section 373.4596, Florida Statutes, is amended
8967 to read:

8968 373.4596 State compliance with stormwater management
8969 programs.—The state, through the department ~~of Management~~
8970 ~~Services~~, the Department of Transportation, and other agencies,
8971 shall construct, operate, and maintain buildings, roads, and
8972 other facilities it owns, leases, or manages to fully comply
8973 with state, water management district, and local government
8974 stormwater management programs.

8975 Section 295. Paragraph (f) of subsection (5) of section
8976 373.461, Florida Statutes, is amended to read:

8977 373.461 Lake Apopka improvement and management.—

8978 (5) PURCHASE OF AGRICULTURAL LANDS.—

8979 (f)1. Tangible personal property acquired by the district
8980 as part of related facilities pursuant to this section, and
8981 classified as surplus by the district, shall be sold by the
8982 Department of Financial Management Services. The department ~~of~~
8983 ~~Management Services~~ shall deposit the proceeds of such sale in
8984 the Economic Development Trust Fund in the Executive Office of
8985 the Governor. The proceeds shall be used to provide for the
8986 ~~purpose of providing~~ economic and infrastructure development in
8987 portions of northwestern Orange County and east central Lake
8988 County which will be adversely affected economically due to the
8989 acquisition of lands pursuant to this subsection.

8990 2. The Office of Tourism, Trade, and Economic Development

585-03077-10

20101238c1

8991 shall, upon presentation of ~~the~~ appropriate documentation
8992 justifying expenditure of the funds deposited pursuant to this
8993 paragraph, pay any obligation for which it has sufficient funds
8994 from the proceeds of the sale of tangible personal property and
8995 which meets the limitations specified in paragraph (g). The
8996 authority of the office of ~~Tourism, Trade, and Economic~~
8997 ~~Development~~ to expend such funds shall expire 5 years after ~~from~~
8998 the effective date of this paragraph. Such expenditures may
8999 occur without future appropriation from the Legislature.

9000 3. Funds deposited under this paragraph may not be used for
9001 any purpose other than those enumerated in paragraph (g).

9002 Section 296. Section 376.10, Florida Statutes, is amended
9003 to read:

9004 376.10 Personnel and equipment.—The department shall
9005 establish and maintain at ~~such~~ ports within the state and other
9006 places as it shall determine such employees and equipment as in
9007 its judgment may be necessary to carry out ~~the provisions of~~ ss.
9008 376.011-376.21. The department may employ and prescribe the
9009 duties of such employees, subject to the rules ~~and regulations~~
9010 of the Department of Personnel Management Services. The salaries
9011 of the employees and the cost of the equipment shall be paid
9012 from the Florida Coastal Protection Trust Fund established by
9013 ss. 376.011-376.21. The department shall periodically consult
9014 with other agencies ~~departments~~ of the state relative to
9015 procedures for the prevention of discharges of pollutants into
9016 or affecting the coastal waters of the state from operations
9017 regulated by ss. 376.011-376.21.

9018 Section 297. Paragraph (k) of subsection (2) of section
9019 377.703, Florida Statutes, is amended to read:

585-03077-10

20101238c1

9020 377.703 Additional functions of the Florida Energy and
9021 Climate Commission.—

9022 (2) FLORIDA ENERGY AND CLIMATE COMMISSION; DUTIES.—The
9023 commission shall perform the following functions consistent with
9024 the development of a state energy policy:

9025 (k) The commission shall coordinate energy-related programs
9026 of state government, including, but not limited to, the programs
9027 provided in this section. To this end, the commission shall:

9028 1. Provide assistance to other state agencies, counties,
9029 municipalities, and regional planning agencies to further and
9030 promote their energy planning activities.

9031 2. Require, in cooperation with the Department of
9032 Environmental Protection ~~Management Services~~, that all state
9033 agencies ~~to~~ operate state-owned and state-leased buildings in
9034 accordance with energy conservation standards ~~as~~ adopted by the
9035 department ~~of Management Services~~. Every 3 months, the
9036 department ~~of Management Services~~ shall furnish the commission
9037 with data on agencies' energy consumption and emissions of
9038 greenhouse gases in a format prescribed by the commission.

9039 3. Promote the development and use of renewable energy
9040 resources, energy efficiency technologies, and conservation
9041 measures.

9042 4. Promote the recovery of energy from wastes, including,
9043 but not limited to, the use of waste heat, the use of
9044 agricultural products as a source of energy, and recycling of
9045 manufactured products. Such promotion must ~~shall~~ be conducted in
9046 conjunction with, and after consultation with, the Department of
9047 Environmental Protection and the Florida Public Service
9048 Commission where electrical generation or natural gas is

585-03077-10

20101238c1

9049 involved, and any other relevant federal, state, or local
 9050 governmental agency having responsibility for resource recovery
 9051 programs.

9052 Section 298. Subsection (9) of section 381.98, Florida
 9053 Statutes, is amended to read:

9054 381.98 The Florida Public Health Institute, Inc.;
 9055 establishment; purpose; mission; duties; board of directors.—

9056 (9) The corporation may purchase goods, services, and
 9057 property for use by the Department of Health. These purchases
 9058 are not subject to the provisions of chapters 253, 255, and 287,
 9059 or ~~nor~~ to the control or direction of the Department of
 9060 Environmental Protection or the Department of Financial
 9061 ~~Management~~ Services.

9062 Section 299. Section 394.9151, Florida Statutes, is amended
 9063 to read:

9064 394.9151 Contract authority.—The Department of Children and
 9065 Family Services may contract with a private entity or state
 9066 agency for use of and operation of facilities to comply with the
 9067 requirements of this part ~~act~~. The department ~~of Children and~~
 9068 ~~Family Services~~ may also contract with the Department of
 9069 Financial Management ~~Management~~ Services to issue a request for proposals
 9070 and monitor contract compliance for these services.

9071 Section 300. Section 395.1031, Florida Statutes, is amended
 9072 to read:

9073 395.1031 Emergency medical services; communication.—Each
 9074 licensed hospital with an emergency department must be capable
 9075 of communicating by two-way radio with all ground-based basic
 9076 life support service vehicles and advanced life support service
 9077 vehicles that operate within the hospital's service area under a

585-03077-10

20101238c1

9078 state permit and with all rotorcraft air ambulances that operate
9079 under a state permit. The hospital's radio system must be
9080 capable of interfacing with municipal mutual aid channels
9081 designated by the Department of Law Enforcement Management
9082 ~~Services~~ and the Federal Communications Commission.

9083 Section 301. Subsection (5) of section 400.121, Florida
9084 Statutes, is amended to read:

9085 400.121 Denial, suspension, revocation of license;
9086 administrative fines; procedure; order to increase staffing.—

9087 (5) An action taken by the agency to deny, suspend, or
9088 revoke a facility's license under this part or part II of
9089 chapter 408 shall be heard by the Division of Administrative
9090 Hearings ~~of the Department of Management Services~~ within 60 days
9091 after the assignment of an administrative law judge, unless the
9092 time limitation is waived by both parties. The administrative
9093 law judge must render a decision within 30 days after receipt of
9094 a proposed recommended order.

9095 Section 302. Section 401.013, Florida Statutes, is amended
9096 to read:

9097 401.013 Legislative intent.—It is the intention ~~and purpose~~
9098 of the Legislature that a statewide system of regional emergency
9099 medical telecommunications be developed whereby maximum use of
9100 existing radio channels is achieved in order to more effectively
9101 and rapidly provide emergency medical service to the general
9102 population. To this end, all emergency medical service entities
9103 within the state are directed to provide the Department of Law
9104 Enforcement Management Services with any information the
9105 department requests for the purpose of implementing ~~the~~
9106 ~~provisions of~~ s. 401.015, and such entities shall comply with

585-03077-10

20101238c1

9107 the resultant provisions established pursuant to this part.

9108 Section 303. Section 401.015, Florida Statutes, is amended
9109 to read:

9110 401.015 Statewide regional emergency medical
9111 telecommunication system.—The Department of Law Enforcement
9112 ~~shall Management Services is authorized and directed to~~ develop
9113 a statewide system of regional emergency medical
9114 telecommunications. For the purpose of this part, the term
9115 “telecommunications” means those voice, data, and signaling
9116 transmissions and receptions between emergency medical service
9117 components, including, but not limited to: ambulances; rescue
9118 vehicles; hospitals or other related emergency receiving
9119 facilities; emergency communications centers; physicians and
9120 emergency medical personnel; paging facilities; law enforcement
9121 and fire protection agencies; and poison control, suicide, and
9122 emergency management agencies. In formulating such a system, the
9123 department shall divide the state into appropriate regions and
9124 shall develop a program that ~~which~~ includes, but is not limited
9125 to, ~~the following provisions:~~

9126 (1) A requirements provision that states, ~~which shall state~~
9127 the telecommunications requirements for each emergency medical
9128 entity comprising the region.

9129 (2) An interfacility communications provision that depicts,
9130 ~~which shall depict~~ the telecommunications interfaces between the
9131 various medical service entities that ~~which~~ operate within the
9132 region and state.

9133 (3) An organizational layout provision that includes, ~~which~~
9134 ~~shall include~~ each emergency medical entity and the number of
9135 base, mobile, handheld, or other radio operating units ~~(base,~~

585-03077-10

20101238c1

9136 ~~mobile, handheld, etc.)~~ per entity.

9137 (4) A frequency allocation and use provision that includes,
9138 ~~which shall include~~ on an entity basis each assigned and planned
9139 radio channel and the simplex, duplex, or other type of
9140 operation ~~(simplex, duplex, half duplex, etc.)~~ on each channel.

9141 (5) An operational provision that includes, ~~which shall~~
9142 ~~include~~ dispatching, logging, and operating procedures
9143 pertaining to telecommunications on an entity basis and regional
9144 basis.

9145 (6) An emergency medical service telephone provision that
9146 includes, ~~which shall include~~ the telephone and the numbering
9147 plan throughout the region for both the public and interface
9148 requirements.

9149 Section 304. Section 401.018, Florida Statutes, is amended
9150 to read:

9151 401.018 System coordination.—

9152 (1) The statewide system of regional emergency medical
9153 telecommunications shall be developed by the Department of Law
9154 Enforcement Management Services, which ~~department~~ shall be
9155 responsible for the implementation and coordination of such
9156 system into the state telecommunications plan. The department
9157 shall adopt any necessary rules ~~and regulations~~ for implementing
9158 and coordinating such a system.

9159 (2) The Department of Law Enforcement is Management
9160 ~~Services shall be~~ designated as the state frequency coordinator
9161 for the special emergency radio service.

9162 Section 305. Section 401.021, Florida Statutes, is amended
9163 to read:

9164 401.021 System director.—The executive director of Law

585-03077-10

20101238c1

9165 ~~Enforcement Secretary of Management Services~~ or a ~~his or her~~
9166 designee shall be ~~is designated as~~ the director of the statewide
9167 telecommunications system of the regional emergency medical
9168 service and, for the purpose of carrying out the provisions of
9169 this part, may ~~is authorized to~~ coordinate the activities of the
9170 telecommunications system with other interested state, county,
9171 local, and private agencies.

9172 Section 306. Section 401.024, Florida Statutes, is amended
9173 to read:

9174 401.024 System approval.—~~An~~ From July 1, 1973, ~~no~~ emergency
9175 medical telecommunications system may not ~~shall~~ be established
9176 or present systems expanded without prior approval of the
9177 Department of Law Enforcement Management Services.

9178 Section 307. Section 401.027, Florida Statutes, is amended
9179 to read:

9180 401.027 Federal assistance.—The executive director of Law
9181 ~~Enforcement Secretary of Management Services~~ or a ~~his or her~~
9182 designee may ~~is authorized to~~ apply for and accept federal
9183 funding assistance in the development and implementation of a
9184 statewide emergency medical telecommunications system.

9185 Section 308. Paragraph (b) of subsection (2) of section
9186 401.245, Florida Statutes, is amended to read:

9187 401.245 Emergency Medical Services Advisory Council.—

9188 (2)

9189 (b) Representation on the Emergency Medical Services
9190 Advisory Council must ~~shall~~ include: two licensed physicians who
9191 are “medical directors” ~~as defined in s. 401.23(15)~~ or whose
9192 medical practice is closely related to emergency medical
9193 services; two emergency medical service administrators, one of

585-03077-10

20101238c1

9194 whom is employed by a fire service; two certified paramedics,
9195 one of whom is employed by a fire service; two certified
9196 emergency medical technicians, one of whom is employed by a fire
9197 service; one emergency medical services educator; one emergency
9198 nurse; one hospital administrator; one representative of air
9199 ambulance services; one representative of a commercial ambulance
9200 operator; and two laypersons who are in no way connected with
9201 emergency medical services, one of whom is a representative of
9202 the elderly. Ex officio members of the advisory council from
9203 state agencies must ~~shall~~ include, but are ~~shall~~ not be limited
9204 to, representatives from the Department of Education, the
9205 Department of Law Enforcement Management Services, the State
9206 Fire Marshal, the Department of Highway Safety and Motor
9207 Vehicles, the Department of Transportation, and the Department
9208 of Community Affairs.

9209 Section 309. Section 402.35, Florida Statutes, is amended
9210 to read:

9211 402.35 Employees.—All personnel of the Department of
9212 Children and Family Services shall be governed by rules ~~and~~
9213 ~~regulations~~ adopted ~~and promulgated~~ by the Department of
9214 Personnel Management Services ~~relative thereto~~ except for the
9215 director and persons paid on a fee basis. The Department of
9216 Children and Family Services may participate with other state
9217 departments and agencies in a joint merit system. A ~~No~~ federal,
9218 state, county, or municipal officer may not ~~shall be eligible to~~
9219 serve as an employee of the Department of Children and Family
9220 Services.

9221 Section 310. Paragraph (a) of subsection (2) of section
9222 402.50, Florida Statutes, is amended to read:

585-03077-10

20101238c1

9223 402.50 Administrative infrastructure; legislative intent;
 9224 establishment of standards.—

9225 (2) ADMINISTRATIVE INFRASTRUCTURE STANDARDS.—

9226 (a) The department, in conjunction with the Department of
 9227 Personnel Management Services and the Governor's Office of
 9228 Policy and Budget Planning and Budgeting, shall develop
 9229 standards for administrative infrastructure funding and staffing
 9230 to support the department and contract service providers in the
 9231 execution of their duties and responsibilities.

9232 Section 311. Paragraph (b) of subsection (14) of section
 9233 403.061, Florida Statutes, is amended to read:

9234 403.061 Department; powers and duties.—The department shall
 9235 have the power and the duty to control and prohibit pollution of
 9236 air and water in accordance with the law and rules adopted and
 9237 promulgated by it and, for this purpose, to:

9238 (14) Establish a permit system whereby a permit may be
 9239 required for the operation, construction, or expansion of any
 9240 installation that may be a source of air or water pollution and
 9241 provide for the issuance and revocation of such permits and for
 9242 the posting of an appropriate bond to operate.

9243 (b) The provisions of chapter 120 shall be accorded any
 9244 person when substantial interests will be affected by an
 9245 activity proposed to be conducted by the Department of
 9246 Transportation pursuant to its certification and the acceptance
 9247 of the department. If a proceeding is conducted pursuant to ss.
 9248 120.569 and 120.57, the department may intervene as a party. If
 9249 ~~Should~~ an administrative law judge of the Division of
 9250 Administrative Hearings submits ~~of the Department of Management~~
 9251 ~~Services~~ submit a recommended order pursuant to ss. 120.569 and

585-03077-10

20101238c1

9252 ~~120.57~~, the department shall issue a final department order
9253 adopting, rejecting, or modifying the recommended order pursuant
9254 to such action.

9255
9256 The department shall implement such programs in conjunction with
9257 its other powers and duties and shall place special emphasis on
9258 reducing and eliminating contamination that presents a threat to
9259 humans, animals or plants, or to the environment.

9260 Section 312. Paragraph (b) of subsection (3) of section
9261 403.42, Florida Statutes, is amended to read:

9262 403.42 Florida Clean Fuel Act.—

9263 (3) CLEAN FUEL FLORIDA ADVISORY BOARD ESTABLISHED;
9264 MEMBERSHIP; DUTIES AND RESPONSIBILITIES.—

9265 (b)1. The advisory board shall consist of the Secretary of
9266 Community Affairs, or a designee ~~from that department~~, the
9267 Secretary of Environmental Protection, or a designee ~~from that~~
9268 ~~department~~, the Commissioner of Education, or a designee ~~from~~
9269 ~~that department~~, the Secretary of Transportation, or a designee
9270 ~~from that department~~, the Commissioner of Agriculture, or a
9271 designee ~~from the Department of Agriculture and Consumer~~
9272 ~~Services~~, the Chief Financial Officer ~~Secretary of Management~~
9273 ~~Services~~, or a designee ~~from that department~~, and a
9274 representative of each of the following, who shall be appointed
9275 by the Secretary of Environmental Protection:

- 9276 a. The Florida biodiesel industry.
9277 b. The Florida electric utility industry.
9278 c. The Florida natural gas industry.
9279 d. The Florida propane gas industry.
9280 e. An automobile manufacturers' association.

585-03077-10

20101238c1

- 9281 f. A Florida Clean Cities Coalition designated by the
9282 United States Department of Energy.
- 9283 g. Enterprise Florida, Inc.
- 9284 h. EV Ready Broward.
- 9285 i. The Florida petroleum industry.
- 9286 j. The Florida League of Cities.
- 9287 k. The Florida Association of Counties.
- 9288 l. Floridians for Better Transportation.
- 9289 m. A motor vehicle manufacturer.
- 9290 n. Florida Local Environment Resource Agencies.
- 9291 o. Project for an Energy Efficient Florida.
- 9292 p. Florida Transportation Builders Association.
- 9293 2. The purpose of the advisory board is to serve as a
9294 resource for the department and to provide the Governor, the
9295 Legislature, and the Secretary of Environmental Protection with
9296 private sector and other public agency perspectives on achieving
9297 the goal of increasing the use of alternative fuel vehicles in
9298 this state.
- 9299 3. Members shall be appointed to serve terms of 1 year
9300 each, with reappointment at the discretion of the Secretary of
9301 Environmental Protection. Vacancies shall be filled for the
9302 remainder of the unexpired term in the same manner as the
9303 original appointment.
- 9304 4. The board shall annually select a chairperson.
- 9305 5.~~a~~. The board shall meet at least once each quarter or
9306 more often at the call of the chairperson or the Secretary of
9307 Environmental Protection.
- 9308 ~~b~~. Meetings are exempt from the notice requirements of
9309 chapter 120, and sufficient notice must ~~shall~~ be given to afford

585-03077-10

20101238c1

9310 interested persons reasonable notice under the circumstances.

9311 6. Members of the board are entitled to travel expenses
9312 while engaged in the performance of board duties.

9313 7. The board shall terminate 5 years after the effective
9314 date of this act.

9315 Section 313. Paragraph (b) of subsection (2) and paragraph
9316 (b) of subsection (3) of section 403.518, Florida Statutes, are
9317 amended to read:

9318 403.518 Fees; disposition.—The department shall charge the
9319 applicant the following fees, as appropriate, which, unless
9320 otherwise specified, shall be paid into the Florida Permit Fee
9321 Trust Fund:

9322 (2) An application fee, which shall not exceed \$200,000.
9323 The fee shall be fixed by rule on a sliding scale related to the
9324 size, type, ultimate site capacity, or increase in electrical
9325 generating capacity proposed by the application.

9326 (b) The following percentages shall be transferred to the
9327 Operating Trust Fund of the Division of Administrative Hearings
9328 ~~of the Department of Management Services:~~

9329 1. Five percent to compensate expenses from the initial
9330 exercise of duties associated with the filing of an application.

9331 2. An additional 5 percent if a land use hearing is held
9332 pursuant to s. 403.508.

9333 3. An additional 10 percent if a certification hearing is
9334 held pursuant to s. 403.508.

9335 (3)

9336 (b) The fee shall be submitted to the department with a
9337 petition for modification pursuant to s. 403.516. The ~~This~~ fee
9338 shall be established, disbursed, and processed in the same

585-03077-10

20101238c1

9339 manner as the application fee in subsection (2), except that the
9340 Division of Administrative Hearings may ~~shall~~ not receive a
9341 portion of the fee unless the petition for certification
9342 modification is referred to the Division of Administrative
9343 Hearings for hearing. If the petition is so referred, only
9344 \$10,000 of the fee shall be transferred to the Operating Trust
9345 Fund of the ~~Division of Administrative Hearings of the~~
9346 Department of Personnel Management ~~Services~~.

9347 Section 314. Paragraph (c) of subsection (1) of section
9348 403.5365, Florida Statutes, is amended to read:

9349 403.5365 Fees; disposition.—The department shall charge the
9350 applicant the following fees, as appropriate, which, unless
9351 otherwise specified, shall be paid into the Florida Permit Fee
9352 Trust Fund:

9353 (1) An application fee.

9354 (c) The following percentages shall be transferred to the
9355 Operating Trust Fund of the ~~Division of Administrative Hearings~~
9356 ~~of the~~ Department of Personnel Management ~~Services~~:

9357 1. Five percent to compensate for expenses from the initial
9358 exercise of duties associated with the filing of an application.

9359 2. An additional 10 percent if an administrative hearing
9360 under s. 403.527 is held.

9361 Section 315. Subsection (1) of section 403.7065, Florida
9362 Statutes, is amended to read:

9363 403.7065 Procurement of products or materials with recycled
9364 content.—

9365 (1) Except as provided in s. 287.045, any state agency or
9366 agency of a political subdivision of the state which is using
9367 state funds, or any person contracting with ~~any~~ such agency with

585-03077-10

20101238c1

9368 respect to work performed under contract, must ~~is required to~~
9369 procure products or materials that have ~~with~~ recycled content if
9370 ~~when~~ the Department of Financial Management ~~Management~~ Services determines
9371 that those products or materials are available. A decision not
9372 to procure such items must be based on the department's
9373 ~~Department of Management Services'~~ determination that such
9374 procurement is not reasonably available within an acceptable
9375 period of time, fails to meet the performance standards set
9376 forth in the applicable specifications, or fails to meet the
9377 performance standards of the agency. If ~~When~~ the requirements of
9378 s. 287.045 are met, agencies are ~~shall be~~ subject to the
9379 procurement requirements of that section for procuring products
9380 or materials with recycled content.

9381 Section 316. Paragraphs (a) and (d) of subsection (1) and
9382 subsection (3) of section 403.714, Florida Statutes, are amended
9383 to read:

9384 403.714 Duties of state agencies.—

9385 (1) Each state agency, the judicial branch of state
9386 government, and the State University System shall:

9387 (a) Establish a program, in cooperation with the department
9388 and the Department of Financial Management ~~Management~~ Services, for the
9389 collection of all recyclable materials generated in state
9390 offices and institutions throughout the state, including, at a
9391 minimum, aluminum, high-grade office paper, and corrugated
9392 paper.

9393 (d) Establish and implement, in cooperation with the
9394 department and the Department of Financial Management ~~Management~~ Services,
9395 a solid waste reduction program for materials used in the course
9396 of agency operations. The program shall be designed and

585-03077-10

20101238c1

9397 implemented to achieve the maximum feasible reduction of solid
9398 waste generated as a result of agency operations.

9399 (3) All state agencies, including, but not limited to, the
9400 Department of Transportation, the department, and the Department
9401 of Financial Management Services and local governments, must ~~are~~
9402 ~~required to~~ procure compost products if ~~when~~ they can be
9403 substituted for, and cost no more than, regular soil amendment
9404 products, provided the compost products meet all applicable
9405 state standards, specifications, and regulations.

9406 Section 317. Subsection (1) of section 403.7145, Florida
9407 Statutes, is amended to read:

9408 403.7145 Recycling.—

9409 (1) The Capitol and the House and Senate office buildings
9410 constitute the Capitol recycling area. The Florida House of
9411 Representatives, the Florida Senate, and the Office of the
9412 Governor, the Secretary of State, and each Cabinet officer who
9413 heads a department that occupies office space in the Capitol,
9414 shall institute a recycling program for their respective offices
9415 in the House and Senate office buildings and the Capitol.

9416 Provisions shall be made to collect and sell wastepaper and
9417 empty aluminum beverage cans generated by employee activities in
9418 these offices. The collection and sale of such materials shall
9419 be coordinated with ~~Department of Management Services~~ recycling
9420 activities of the Department of Financial Services in order to
9421 maximize the efficiency and economy of the ~~this~~ program. The
9422 Governor, the Speaker of the House of Representatives, the
9423 President of the Senate, the Secretary of State, and the Cabinet
9424 officers may authorize the use of proceeds from recyclable
9425 material sales for employee benefits and other purposes, in

585-03077-10

20101238c1

9426 order to provide incentives to their respective employees for
9427 participation in the recycling program. Such proceeds may also
9428 be used to offset any costs of the recycling program.

9429 Section 318. Section 403.71852, Florida Statutes, is
9430 amended to read:

9431 403.71852 Collection of lead-containing products.—The
9432 department shall ~~of Environmental Protection is directed to~~ work
9433 with the Department of Financial Management ~~Services~~ to
9434 implement a pilot program to collect lead-containing products,
9435 including end-of-life computers and other electronic equipment
9436 from state and local agencies. Local governments are encouraged
9437 to establish collection and recycling programs for publicly and
9438 privately owned lead-containing products, including end-of-life
9439 televisions, computers, and other electronic products, through
9440 existing recycling and household hazardous-waste-management
9441 programs.

9442 Section 319. Paragraph (c) of subsection (3) of section
9443 406.075, Florida Statutes, is amended to read:

9444 406.075 Grounds for discipline; disciplinary proceedings.—

9445 (3)

9446 (c) A formal hearing before an administrative law judge
9447 from the Division of Administrative Hearings ~~of the Department~~
9448 ~~of Management Services~~ shall be held pursuant to chapter 120
9449 unless all parties agree in writing that there is no disputed
9450 issue of material fact. The administrative law judge shall issue
9451 a recommended order ~~pursuant to chapter 120~~. If any party raises
9452 an issue of disputed fact during an informal hearing, the
9453 hearing shall be terminated and a formal hearing pursuant to
9454 chapter 120 shall be held.

585-03077-10

20101238c1

9455 Section 320. Paragraph (b) of subsection (5) of section
9456 408.039, Florida Statutes, is amended to read:

9457 408.039 Review process.—The review process for certificates
9458 of need shall be as follows:

9459 (5) ADMINISTRATIVE HEARINGS.—

9460 (b) Hearings shall be held in Tallahassee unless the
9461 administrative law judge determines that changing the location
9462 will facilitate the proceedings. The agency shall assign
9463 proceedings requiring hearings to the Division of Administrative
9464 Hearings ~~of the Department of Management Services~~ within 10 days
9465 after the time has expired for requesting a hearing. Except upon
9466 unanimous consent of the parties or upon the granting by the
9467 administrative law judge of a motion of continuance, hearings
9468 shall commence within 60 days after the administrative law judge
9469 has been assigned. For an application for a general hospital,
9470 administrative hearings shall commence within 6 months after the
9471 administrative law judge has been assigned, and a continuance
9472 may not be granted absent a finding of extraordinary
9473 circumstances by the administrative law judge. All parties,
9474 except the agency, shall bear their own expense of preparing a
9475 transcript. In any application for a certificate of need which
9476 is referred to the division ~~of Administrative Hearings~~ for
9477 hearing, the administrative law judge shall complete and submit
9478 to the parties a recommended order as provided in ss. 120.569
9479 and 120.57. The recommended order must ~~shall~~ be issued within 30
9480 days after the receipt of the proposed recommended orders or the
9481 deadline for submission of such proposed recommended orders,
9482 whichever is earlier. The division shall adopt procedures for
9483 administrative hearings which ~~shall~~ maximize the use of

585-03077-10

20101238c1

9484 stipulated facts and ~~shall~~ provide for the admission of prepared
9485 testimony.

9486 Section 321. Paragraph (a) of subsection (11) of section
9487 408.910, Florida Statutes, is amended to read:

9488 408.910 Florida Health Choices Program.—

9489 (11) CORPORATION.—There is created the Florida Health
9490 Choices, Inc., which shall be registered, incorporated,
9491 organized, and operated in compliance with part III of chapter
9492 112 and chapters 119, 286, and 617. The purpose of the
9493 corporation is to administer the program created in this section
9494 and to conduct such other business as may further the
9495 administration of the program.

9496 (a) The corporation shall be governed by a 15-member board
9497 of directors consisting of:

9498 1. Three ex officio, nonvoting members to include:

9499 a. The Secretary of Health Care Administration or a
9500 designee with expertise in health care services.

9501 b. The executive director of Personnel ~~Secretary of~~
9502 Management ~~Services~~ or a designee with expertise in state
9503 employee benefits.

9504 c. The commissioner of the Office of Insurance Regulation
9505 or a designee with expertise in insurance regulation.

9506 2. Four members appointed by and serving at the pleasure of
9507 the Governor.

9508 3. Four members appointed by and serving at the pleasure of
9509 the President of the Senate.

9510 4. Four members appointed by and serving at the pleasure of
9511 the Speaker of the House of Representatives.

9512 5. Board members may not include insurers, health insurance

585-03077-10

20101238c1

9513 agents or brokers, health care providers, health maintenance
9514 organizations, prepaid service providers, or any other entity,
9515 affiliate or subsidiary of eligible vendors.

9516 Section 322. Subsection (3) of section 413.036, Florida
9517 Statutes, is amended to read:

9518 413.036 Procurement of services by agencies; authority of
9519 department.—

9520 (3) If, pursuant to a contract between a ~~any~~ legislative,
9521 executive, or judicial agency of the state and any private
9522 contract vendor, a product or service is required by the
9523 Department of Financial Management Services or on behalf of any
9524 state agency which ~~that~~ is included on the procurement list
9525 established by the commission pursuant to s. 413.035(2), the
9526 contract must contain the following language:

9527 "IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT ANY ARTICLES
9528 THAT ARE THE SUBJECT OF, OR REQUIRED TO CARRY OUT, THIS CONTRACT
9529 MUST ~~SHALL~~ BE PURCHASED FROM A NONPROFIT AGENCY FOR THE BLIND OR
9530 FOR THE SEVERELY HANDICAPPED WHICH ~~THAT~~ IS QUALIFIED PURSUANT TO
9531 CHAPTER 413, FLORIDA STATUTES, IN THE SAME MANNER AND UNDER THE
9532 SAME PROCEDURES SET FORTH IN SECTION 413.036(1) AND (2), FLORIDA
9533 STATUTES. ~~;~~ ~~AND~~ FOR PURPOSES OF THIS CONTRACT THE PERSON, FIRM,
9534 OR OTHER BUSINESS ENTITY CARRYING OUT THE PROVISIONS OF THIS
9535 CONTRACT SHALL BE DEEMED TO BE SUBSTITUTED FOR THE STATE AGENCY
9536 INSOFAR AS DEALINGS WITH SUCH QUALIFIED NONPROFIT AGENCY ARE
9537 CONCERNED."

9538 Section 323. Subsection (11) of section 413.051, Florida
9539 Statutes, is amended to read:

9540 413.051 Eligible blind persons; operation of vending
9541 stands.—

585-03077-10

20101238c1

9542 (11) Effective July 1, 1996, blind licensees who remain
9543 members of the Florida Retirement System pursuant to s.
9544 121.051(6)(b)1. must ~~shall~~ pay any unappropriated retirement
9545 costs from their net profits or from program income. Within 30
9546 days after the effective date of this act, each blind licensee
9547 who is eligible to maintain membership in the Florida Retirement
9548 System under s. 121.051(6)(b)1., but who elects to withdraw from
9549 the system as provided in s. 121.051(6)(b)3., must, on or before
9550 July 31, 1996, notify the Division of Blind Services and the
9551 Department of Personnel Management ~~Services~~ in writing of his or
9552 her election to withdraw. Failure to timely notify the divisions
9553 shall be deemed a decision to remain a compulsory member of the
9554 Florida Retirement System. However, if, at any time after July
9555 1, 1996, sufficient funds are not paid by a blind licensee to
9556 cover the required contribution to the Florida Retirement
9557 System, that blind licensee is ~~shall become~~ ineligible to
9558 participate in the Florida Retirement System on the last day of
9559 the first month for which no contribution is made or the amount
9560 contributed is insufficient to cover the required contribution.
9561 For any blind licensee who becomes ineligible to participate in
9562 the Florida Retirement System as described in this subsection,
9563 ~~no~~ creditable service may not ~~shall~~ be earned under the Florida
9564 Retirement System for any period following the month that
9565 retirement contributions ceased to be reported. However, ~~any~~
9566 such person may participate in the Florida Retirement System in
9567 the future if employed by a participating employer in a covered
9568 position.

9569 Section 324. Section 414.37, Florida Statutes, is amended
9570 to read:

585-03077-10

20101238c1

9571 414.37 Public assistance overpayment recovery
9572 privatization; reemployment of laid-off career service
9573 employees.—Should career service employees of the Department of
9574 Children and Family Services be subject to layoff after July 1,
9575 1995, due to the privatization of public assistance overpayment
9576 recovery functions, the privatization contract must ~~shall~~
9577 require the contracting firm to give priority consideration to
9578 employment of such employees. In addition, a task force composed
9579 of representatives from the Department of Children and Family
9580 Services and the Department of Personnel Management Services
9581 shall be established to provide reemployment assistance to such
9582 employees.

9583 Section 325. Subsection (5) of section 429.14, Florida
9584 Statutes, is amended to read:

9585 429.14 Administrative penalties.—

9586 (5) An action taken by the agency to suspend, deny, or
9587 revoke a facility's license under this part or part II of
9588 chapter 408, in which the agency claims that the facility owner
9589 or an employee of the facility has threatened the health,
9590 safety, or welfare of a resident of the facility must be heard
9591 by the Division of Administrative Hearings ~~of the Department of~~
9592 ~~Management Services~~ within 120 days after receipt of the
9593 facility's request for a hearing, unless that time limitation is
9594 waived by both parties. The administrative law judge must render
9595 a decision within 30 days after receipt of a proposed
9596 recommended order.

9597 Section 326. Section 440.2715, Florida Statutes, is amended
9598 to read:

9599 440.2715 Access to courts through state video

585-03077-10

20101238c1

9600 teleconferencing network.—The First District Court of Appeal
9601 shall use the state video teleconferencing network established
9602 by the Agency for Enterprise Information Technology Department
9603 ~~of Management Services~~ to facilitate access to courts for
9604 purposes of workers' compensation actions.

9605 Section 327. Paragraph (a) of subsection (1) of section
9606 440.45, Florida Statutes, is amended to read:

9607 440.45 Office of the Judges of Compensation Claims.—

9608 (1) (a) ~~There is created~~ The Office of the Judges of
9609 Compensation Claims is created within the Division of
9610 Administrative Hearings ~~Department of Management Services~~. The
9611 office ~~of the Judges of Compensation Claims~~ shall be headed by
9612 the Deputy Chief Judge of Compensation Claims. The Deputy Chief
9613 Judge shall report to the director of the Division of
9614 Administrative Hearings. The Deputy Chief Judge shall be
9615 appointed by the Governor for a term of 4 years from a list of
9616 three names submitted by the statewide nominating commission
9617 created under subsection (2). The Deputy Chief Judge must
9618 demonstrate prior administrative experience and possess the same
9619 qualifications for appointment as a judge of compensation
9620 claims, and the procedure for reappointment of the Deputy Chief
9621 Judge will be the same as for reappointment of a judge of
9622 compensation claims. The office shall be a separate budget
9623 entity and the director of the Division of Administrative
9624 Hearings shall be its agency head for all purposes, including,
9625 but not limited to, rulemaking pursuant to subsection (4) and
9626 establishing agency policies and procedures. The Department of
9627 Personnel Management Services shall provide administrative
9628 support and service to the office to the extent requested by the

585-03077-10

20101238c1

9629 division director ~~of the Division of Administrative Hearings~~ but
9630 may ~~shall~~ not direct, supervise, or control the Office of the
9631 Judges of Compensation Claims in any manner, including, but not
9632 limited to, personnel, purchasing, budgetary matters, or
9633 property transactions. The operating budget of the Office of the
9634 Judges of Compensation Claims shall be paid out of the Workers'
9635 Compensation Administration Trust Fund established in s. 440.50.

9636 Section 328. Paragraph (b) of subsection (9) of section
9637 445.009, Florida Statutes, is amended to read:

9638 445.009 One-stop delivery system.—

9639 (9)

9640 (b) The network shall assure that a uniform method is used
9641 to determine eligibility for and management of services provided
9642 by agencies that conduct workforce development activities. The
9643 Department of Financial Management ~~Services~~ shall develop
9644 strategies to allow access to the databases and information
9645 management systems of the following systems in order to link
9646 information in those databases with the one-stop delivery
9647 system:

9648 1. The Unemployment Compensation Program of the Agency for
9649 Workforce Innovation.

9650 2. The public employment service described in s. 443.181.

9651 3. The FLORIDA System and the components related to WAGES,
9652 food stamps, and Medicaid eligibility.

9653 4. The Student Financial Assistance System of the
9654 Department of Education.

9655 5. Enrollment in the public postsecondary education system.

9656 6. Other information systems determined appropriate by
9657 Workforce Florida, Inc.

585-03077-10

20101238c1

9658 Section 329. Subsections (3) and (4) of section 447.205,
9659 Florida Statutes, are amended to read:

9660 447.205 Public Employees Relations Commission.—

9661 (3) The commission, in the performance of its powers and
9662 duties under this part, is ~~shall~~ not be subject to control,
9663 supervision, or direction by the Department of Personnel
9664 Management ~~Services~~.

9665 (4) The property, personnel, and appropriations related to
9666 the commission's specified authority, powers, duties, and
9667 responsibilities shall be provided to the commission by the
9668 Department of Personnel Management ~~Services~~.

9669 Section 330. Paragraph (k) of subsection (14) of section
9670 455.32, Florida Statutes, is amended to read:

9671 455.32 Management Privatization Act.—

9672 (14) The contract between the department and the
9673 corporation must be in compliance with this section and other
9674 applicable laws. The department shall retain responsibility for
9675 any duties it currently exercises relating to its police powers
9676 and any other current duty that is not provided to the
9677 corporation by contract or this section. The contract shall
9678 provide, at a minimum, that:

9679 (k) The corporation, out of its allocated budget, pay to
9680 the department all costs incurred by the corporation or the
9681 board for the Division of Administrative Hearings ~~of the~~
9682 ~~Department of Management Services~~ and any other cost for using
9683 ~~utilization of~~ these state services.

9684 Section 331. Paragraph (j) of subsection (3) of section
9685 471.038, Florida Statutes, is amended to read:

9686 471.038 Florida Engineers Management Corporation.—

585-03077-10

20101238c1

9687 (3) The Florida Engineers Management Corporation is created
9688 to provide administrative, investigative, and prosecutorial
9689 services to the board in accordance with the provisions of
9690 chapter 455 and this chapter. The management corporation may
9691 hire staff as necessary to carry out its functions. Such staff
9692 are not public employees for the purposes of chapter 110 or
9693 chapter 112, except that the board of directors and the staff
9694 are subject to the provisions of s. 112.061. The provisions of
9695 s. 768.28 apply to the management corporation, which is deemed
9696 to be a corporation primarily acting as an instrumentality of
9697 the state, but which is not an agency within the meaning of s.
9698 20.03(11). The management corporation shall:

9699 (j) Operate under a written contract with the department
9700 which is approved by the board. The contract must provide for,
9701 but is not limited to:

9702 1. Submission by the management corporation of an annual
9703 budget that complies with board rules for approval by the board
9704 and the department.

9705 2. Annual certification by the board and the department
9706 that the management corporation is complying with the terms of
9707 the contract in a manner consistent with the goals and purposes
9708 of the board and in the best interest of the state. This
9709 certification must be reported in the board's minutes. The
9710 contract must also provide for methods and mechanisms to resolve
9711 any situation in which the certification process determines
9712 noncompliance.

9713 3. Funding of the management corporation through
9714 appropriations allocated to the regulation of professional
9715 engineers from the Professional Regulation Trust Fund.

585-03077-10

20101238c1

9716 4. The reversion to the board, or the state if the board
9717 ceases to exist, of moneys, records, data, and property held in
9718 trust by the management corporation for the benefit of the
9719 board, if the management corporation is no longer approved to
9720 operate for the board or the board ceases to exist. All records
9721 and data in a computerized database shall be returned to the
9722 department in a form that is compatible with the computerized
9723 database of the department.

9724 5. The securing and maintaining by the management
9725 corporation, during the term of the contract and for all acts
9726 performed during the term of the contract, of all liability
9727 insurance coverages in an amount to be approved by the board to
9728 defend, indemnify, and hold harmless the management corporation
9729 and its officers and employees, the department and its
9730 employees, and the state against all claims arising from state
9731 and federal laws. Such insurance coverage must be with insurers
9732 qualified and doing business in the state. The management
9733 corporation must provide proof of insurance to the department.
9734 The department and its employees and the state are exempt from
9735 and are not liable for any sum of money which represents a
9736 deductible, which sums are ~~shall be~~ the sole responsibility of
9737 the management corporation. Violation of this subparagraph is
9738 ~~shall be~~ grounds for terminating the contract.

9739 6. Payment by the management corporation, out of its
9740 allocated budget, to the department of all costs of
9741 representation by the board counsel, including salary and
9742 benefits, travel, and any other compensation traditionally paid
9743 by the department to other board counsel.

9744 7. Payment by the management corporation, out of its

585-03077-10

20101238c1

9745 allocated budget, to the department of all costs incurred by the
9746 management corporation or the board for the Division of
9747 Administrative Hearings ~~of the Department of Management Services~~
9748 and any other cost for using ~~utilization of~~ these state
9749 services.

9750 8. Payment by the management corporation, out of its
9751 allocated budget, to the department of reasonable costs
9752 associated with the contract monitor.

9753 Section 332. Section 489.145, Florida Statutes, is amended
9754 to read:

9755 489.145 Guaranteed energy, water, and wastewater
9756 performance savings contracting.—

9757 (1) SHORT TITLE.—This section may be cited as the
9758 "Guaranteed Energy, Water, and Wastewater Performance Savings
9759 Contracting Act."

9760 (2) LEGISLATIVE FINDINGS.—The Legislature finds that
9761 investment in energy, water, and wastewater efficiency and
9762 conservation measures in agency facilities can reduce the amount
9763 of energy and water consumed and wastewater produced and produce
9764 immediate and long-term savings. It is the policy of this state
9765 to encourage each agency to invest in energy, water, and
9766 wastewater efficiency and conservation measures to minimize
9767 energy and water consumption and wastewater production and
9768 maximize energy, water, and wastewater savings. It is further
9769 the policy of this state to encourage agencies to reinvest any
9770 resulting savings ~~resulting from energy, water, and wastewater~~
9771 ~~efficiency and conservation measures~~ in additional energy,
9772 water, and wastewater efficiency and conservation measures.

9773 (3) DEFINITIONS.—As used in this section, the term:

585-03077-10

20101238c1

9774 (a) "Agency" means the state, a municipality, or a
9775 political subdivision.

9776 (b) "Energy, water, and wastewater efficiency and
9777 conservation measure" means a training program incidental to the
9778 contract, facility alteration, or equipment purchase to be used
9779 in new construction, including an addition to existing
9780 facilities or infrastructure, which reduces energy or water
9781 consumption, wastewater production, or energy-related operating
9782 costs and includes, but is not limited to:

9783 1. Insulation of the facility structure and systems within
9784 the facility.

9785 2. Storm windows and doors, caulking or weatherstripping,
9786 multiglazed windows and doors, heat-absorbing, or heat-
9787 reflective, glazed and coated window and door systems,
9788 additional glazing, reductions in glass area, and other window
9789 and door system modifications that reduce energy consumption.

9790 3. Automatic energy control systems.

9791 4. Heating, ventilating, or air-conditioning system
9792 modifications or replacements.

9793 5. Replacement or modifications of lighting fixtures to
9794 increase the energy efficiency of the lighting system, which, at
9795 a minimum, must conform to the applicable state or local
9796 building code.

9797 6. Energy recovery systems.

9798 7. Cogeneration systems that produce steam or forms of
9799 energy such as heat, as well as electricity, for use primarily
9800 within a facility or complex of facilities.

9801 8. Energy conservation measures that reduce British thermal
9802 units (Btu), kilowatts (kW), or kilowatt hours (kWh) consumed or

585-03077-10

20101238c1

9803 provide long-term operating cost reductions.

9804 9. Renewable energy systems, such as solar, biomass, or
9805 wind systems.

9806 10. Devices that reduce water consumption or sewer charges.

9807 11. Energy storage systems, such as fuel cells and thermal
9808 storage.

9809 12. Energy-generating technologies, such as microturbines.

9810 13. Any other repair, replacement, or upgrade of existing
9811 equipment.

9812 (c) "Energy, water, or wastewater cost savings" means a
9813 measured reduction in the cost of fuel, energy or water
9814 consumption, wastewater production, and stipulated operation and
9815 maintenance created from the implementation of one or more
9816 energy, water, or wastewater efficiency or conservation measures
9817 when compared with an established baseline for the previous cost
9818 of fuel, energy or water consumption, wastewater production, and
9819 stipulated operation and maintenance.

9820 (d) "Guaranteed energy, water, and wastewater performance
9821 savings contract" means a contract for the evaluation,
9822 recommendation, and implementation of energy, water, or
9823 wastewater efficiency or conservation measures, which, at a
9824 minimum, ~~shall~~ include:

9825 1. The design and installation of equipment to implement
9826 one or more of such measures and, if applicable, operation and
9827 maintenance of such measures.

9828 2. The amount of any actual annual savings that meet or
9829 exceed total annual contract payments made by the agency for the
9830 contract and may include allowable cost avoidance if determined
9831 appropriate by the Chief Financial Officer.

585-03077-10

20101238c1

9832 3. The finance charges incurred by the agency over the life
9833 of the contract.

9834 (e) "Guaranteed energy, water, and wastewater performance
9835 savings contractor" means a person or business that is licensed
9836 under chapter 471, chapter 481, or this chapter and is
9837 experienced in the analysis, design, implementation, or
9838 installation of energy, water, and wastewater efficiency and
9839 conservation measures through energy performance contracts.

9840 (f) "Investment grade energy audit" means a detailed
9841 energy, water, and wastewater audit, along with an accompanying
9842 analysis of proposed energy, water, and wastewater conservation
9843 measures, and their costs, savings, and benefits before ~~prior to~~
9844 entry into an energy savings contract.

9845 (4) PROCEDURES.—

9846 (a) An agency may enter into a guaranteed energy, water,
9847 and wastewater performance savings contract with a guaranteed
9848 energy, water, and wastewater performance savings contractor to
9849 reduce energy or water consumption, wastewater production, or
9850 energy-related operating costs of an agency facility through one
9851 or more energy, water, or wastewater efficiency or conservation
9852 measures.

9853 (b) Before design and installation of energy, water, or
9854 wastewater efficiency and conservation measures, the agency must
9855 obtain from a guaranteed energy, water, and wastewater
9856 performance savings contractor a report that summarizes the
9857 costs associated such ~~with the energy, water, or wastewater~~
9858 ~~efficiency and conservation~~ measures or energy-related
9859 operational cost-saving measures and provides an estimate of the
9860 amount of the cost savings. The agency and the ~~guaranteed~~

585-03077-10

20101238c1

9861 ~~energy, water, and wastewater performance savings~~ contractor may
9862 enter into a separate agreement to pay for costs associated with
9863 the preparation and delivery of the report; however, payment to
9864 the contractor is ~~shall be~~ contingent upon the report's
9865 projection of energy, water, and wastewater cost savings being
9866 equal to or greater than the total projected costs of the design
9867 and installation of the report's energy conservation measures.

9868 (c) The agency may enter into a guaranteed energy, water,
9869 and wastewater performance savings contract with a guaranteed
9870 energy, water, and wastewater performance savings contractor if
9871 the agency finds that the amount the agency would spend on such
9872 ~~the energy, water, and wastewater efficiency and conservation~~
9873 measures will not likely exceed the amount of the cost savings
9874 for up to 20 years from the date of installation, based on the
9875 life cycle cost calculations provided in s. 255.255, if the
9876 recommendations in the report were followed and if the qualified
9877 provider or providers give a written guarantee that the cost
9878 savings will meet or exceed the costs of the system. However,
9879 actual computed cost savings must meet or exceed the estimated
9880 cost savings provided in each agency's program approval.
9881 Baseline adjustments used in calculations must be specified in
9882 the contract. The contract may provide for installment payments
9883 for up to ~~a period not to exceed~~ 20 years.

9884 (d) A guaranteed energy, water, and wastewater performance
9885 savings contractor must be selected in compliance with s.
9886 287.055; except that if fewer than three firms are qualified to
9887 perform the required services, the requirement for agency
9888 selection of three firms, as provided in s. 287.055(4)(b), and
9889 the bid requirements of s. 287.057 do not apply.

585-03077-10

20101238c1

9890 (e) Before entering into a guaranteed energy, water, and
9891 wastewater performance savings contract, an agency must provide
9892 published notice of the meeting in which it proposes to award
9893 the contract, the names of the parties to the proposed contract,
9894 and the contract's purpose.

9895 (f) A guaranteed energy, water, and wastewater performance
9896 savings contract may provide for financing, including tax-exempt
9897 financing, by a third party. The contract for third-party
9898 financing may be separate from the energy, water, and wastewater
9899 performance contract. A separate contract for third-party
9900 financing under this paragraph must include a provision that the
9901 third-party financier may ~~must~~ not be granted rights or
9902 privileges that exceed the rights and privileges available to
9903 the ~~guaranteed energy, water, and wastewater performance savings~~
9904 contractor.

9905 (g) Financing for guaranteed energy, water, and wastewater
9906 performance savings contracts may be provided under ~~the~~
9907 ~~authority of~~ s. 287.064.

9908 (h) ~~The Office of the~~ Chief Financial Officer shall review
9909 proposals from state agencies to ensure that the most effective
9910 financing is being used.

9911 (i) Annually, the agency that has entered into the contract
9912 shall provide the ~~Department of Management Services and the~~
9913 ~~Chief Financial Officer~~ the measurement and verification report
9914 required by the contract to the Chief Financial Officer to
9915 validate that savings have occurred.

9916 (j) In determining the amount the agency will finance to
9917 acquire the energy, water, and wastewater efficiency and
9918 conservation measures, the agency may reduce such amount by the

585-03077-10

20101238c1

9919 application of any grant moneys, rebates, or capital funding
9920 available to the agency for the purpose of buying down the cost
9921 of the guaranteed energy, water, and wastewater performance
9922 savings contract. However, in calculating the life cycle cost as
9923 required in paragraph (c), the agency may ~~shall~~ not apply any
9924 grants, rebates, or capital funding.

9925 (5) CONTRACT PROVISIONS.—

9926 (a) A guaranteed energy, water, and wastewater performance
9927 savings contract must include a written guarantee that may
9928 include, but is not limited to the form of, a letter of credit,
9929 insurance policy, or corporate guarantee by the guaranteed
9930 energy, water, and wastewater performance savings contractor
9931 that annual cost savings will meet or exceed the amortized cost
9932 of energy, water, and wastewater efficiency and conservation
9933 measures.

9934 (b) The guaranteed energy, water, and wastewater
9935 performance savings contract must provide that all payments,
9936 except obligations on termination of the contract before its
9937 expiration, may be made over time, but not ~~to~~ exceed 20 years
9938 from the date of complete installation and acceptance by the
9939 agency, and that the annual savings are guaranteed to the extent
9940 necessary to make annual payments to satisfy the ~~guaranteed~~
9941 ~~energy, water, and wastewater performance savings~~ contract.

9942 (c) The guaranteed energy, water, and wastewater
9943 performance savings contract must require that the guaranteed
9944 energy, water, and wastewater performance savings contractor to
9945 whom the contract is awarded provide a 100-percent public
9946 construction bond to the agency for its faithful performance, as
9947 required by s. 255.05.

585-03077-10

20101238c1

9948 (d) The guaranteed energy, water, and wastewater
9949 performance savings contract may contain a provision allocating
9950 to the parties to the contract any annual cost savings that
9951 exceed the amount of the cost savings guaranteed in the
9952 contract.

9953 (e) The guaranteed energy, water, and wastewater
9954 performance savings contract must ~~shall~~ require the guaranteed
9955 energy, water, and wastewater performance savings contractor to
9956 provide to the agency an annual reconciliation of the guaranteed
9957 energy or associated cost savings. If the reconciliation reveals
9958 a shortfall in annual energy or associated cost savings, the
9959 ~~guaranteed energy, water, and wastewater performance savings~~
9960 contractor is liable for such shortfall. If the reconciliation
9961 reveals an excess in annual cost savings, the excess savings may
9962 be allocated under paragraph (d) but may not be used to cover
9963 potential energy or associated cost savings shortages in
9964 subsequent contract years.

9965 (f) The guaranteed energy, water, and wastewater
9966 performance savings contract must provide for payments of not
9967 less than one-twentieth of the price to be paid within 2 years
9968 from the date of the complete installation and acceptance by the
9969 agency using straight-line amortization for the term of the
9970 loan, and the remaining costs to be paid at least quarterly, not
9971 to exceed a 20-year term, based on life cycle cost calculations.

9972 (g) The guaranteed energy, water, and wastewater
9973 performance savings contract may extend beyond the fiscal year
9974 in which it becomes effective; however, the term of any contract
9975 expires at the end of each fiscal year and may be automatically
9976 renewed annually for up to 20 years, subject to the agency

585-03077-10

20101238c1

9977 making sufficient annual appropriations based upon continued
9978 realized energy, water, and wastewater savings.

9979 (h) The guaranteed energy, water, and wastewater
9980 performance savings contract must stipulate that it does not
9981 constitute a debt, liability, or obligation of the state.

9982 (6) PROGRAM ADMINISTRATION AND CONTRACT REVIEW.—The
9983 Department of Financial Management Services, ~~with the assistance~~
9984 ~~of the Office of the Chief Financial Officer,~~ shall, within
9985 available resources, provide technical content assistance to
9986 state agencies contracting for energy, water, and wastewater
9987 efficiency and conservation measures and engage in other
9988 activities considered appropriate by the department for
9989 promoting and facilitating guaranteed energy, water, and
9990 wastewater performance contracting by state agencies. The
9991 Department of Financial Management Services shall review the
9992 investment-grade audit for each proposed project and certify
9993 that the cost savings are appropriate and sufficient for the
9994 term of the contract. ~~The Office of the Chief Financial Officer,~~
9995 ~~with the assistance of the~~ Department of Financial Management
9996 Services, shall, within available resources, develop model
9997 contractual and related documents for use by state agencies.
9998 Before ~~Prior to~~ entering into a guaranteed energy, water, and
9999 wastewater performance savings contract, any contract or lease
10000 for third-party financing, or any combination of such contracts,
10001 a state agency shall submit such proposed contract or lease to
10002 the Department of Financial Services ~~Office of the Chief~~
10003 ~~Financial Officer~~ for review and approval. A proposed contract
10004 or lease must ~~shall~~ include:

10005 (a) Supporting information required by s. 216.023(4)(a)9.

585-03077-10

20101238c1

10006 in ss. 287.063(5) and 287.064(11). For contracts approved under
10007 this section, the criteria may, at a minimum, include the
10008 specification of a benchmark cost of capital and minimum real
10009 rate of return on energy, water, or wastewater savings against
10010 which proposals must ~~shall~~ be evaluated.

10011 (b) Documentation supporting recurring funds requirements
10012 in ss. 287.063(5) and 287.064(11).

10013 (c) Approval by the head of the agency or a ~~his or her~~
10014 designee.

10015 (d) An agency measurement and verification plan to monitor
10016 cost savings.

10017 (7) FUNDING SUPPORT.—For purposes of consolidated financing
10018 of deferred payment commodity contracts under this section by an
10019 agency, ~~any~~ such contract must be supported from available funds
10020 appropriated to the agency in an appropriation category, as
10021 defined in chapter 216, that the Chief Financial Officer has
10022 determined is appropriate or that the Legislature has designated
10023 for payment ~~of the obligation incurred under this section.~~

10024
10025 The ~~Office of the~~ Chief Financial Officer may ~~shall~~ not approve
10026 any contract submitted under this section from a state agency
10027 that does not meet the requirements of this section.

10028 Section 333. Subsection (4) of section 553.995, Florida
10029 Statutes, is amended to read:

10030 553.995 Energy-efficiency ratings for buildings.—

10031 (4) The Department of Community Affairs shall develop a
10032 training and certification program to certify raters. In
10033 addition to the department, ratings may be conducted by any
10034 local government or private entity if, ~~provided that~~ the

585-03077-10

20101238c1

10035 appropriate persons have completed the necessary training and
10036 have been certified by the department. The Department of
10037 Environmental Protection ~~Management Services~~ shall rate state-
10038 owned or state-leased buildings ~~if, provided that~~ the
10039 appropriate persons have completed the necessary training and
10040 have been certified by the Department of Community Affairs. A
10041 state agency that ~~which~~ has building construction regulation
10042 authority may rate its own buildings and those it is responsible
10043 for, if the appropriate persons have completed the necessary
10044 training and have been certified by the Department of Community
10045 Affairs. The department ~~of Community Affairs~~ may charge a fee
10046 not to exceed the costs for the training and certification of
10047 raters. The department shall by rule set the appropriate charges
10048 for raters to charge for energy ratings, not to exceed the
10049 actual costs.

10050 Section 334. Subsection (41) of section 570.07, Florida
10051 Statutes, is amended to read:

10052 570.07 Department of Agriculture and Consumer Services;
10053 functions, powers, and duties.—The department shall have and
10054 exercise the following functions, powers, and duties:

10055 (41) Notwithstanding ~~the provisions of~~ s. 287.057(23) that
10056 require all agencies to use the online procurement system
10057 developed by the Department of Financial ~~Management~~ Services,
10058 the department may continue to use its own online system.
10059 However, vendors using ~~utilizing~~ such system must ~~shall~~ be
10060 prequalified as meeting mandatory requirements and
10061 qualifications and shall remit fees pursuant to s. 287.057(23),
10062 and any rules implementing s. 287.057.

10063 Section 335. Subsection (2) of section 627.096, Florida

585-03077-10

20101238c1

10064 Statutes, is amended to read:

10065 627.096 Workers' Compensation Rating Bureau.—

10066 (2) The acquisition by the Department of Financial
10067 ~~Management~~ Services of data processing software, hardware, and
10068 services necessary to carry out the provisions of this part act
10069 for the department or office are ~~shall be~~ exempt from the
10070 ~~provisions of~~ part I of chapter 287.

10071 Section 336. Paragraph (c) of subsection (4) of section
10072 633.382, Florida Statutes, is amended to read:

10073 633.382 Firefighters; supplemental compensation.—

10074 (4) FUNDING.—

10075 (c) There is appropriated from the Police and Firefighter's
10076 Premium Tax Trust Fund to the Firefighters' Supplemental
10077 Compensation Trust Fund, which is ~~hereby~~ created under the
10078 Department of Revenue, all moneys that ~~which~~ have not been
10079 distributed to municipalities and special fire control districts
10080 in accordance with s. 175.121 due to ~~as a result of~~ the
10081 limitation contained in s. 175.122 on the disbursement of
10082 revenues collected pursuant to chapter 175 or as a result of any
10083 municipality or special fire control district not having
10084 qualified in any given year, or portion thereof, for
10085 participation in the distribution of the revenues collected
10086 pursuant to chapter 175. The total required annual distribution
10087 from the Firefighters' Supplemental Compensation Trust Fund must
10088 ~~shall~~ equal the amount necessary to pay supplemental
10089 compensation as provided in this section if, ~~provided that~~:

10090 1. Any deficit in the total required annual distribution is
10091 ~~shall be~~ made up from accrued surplus funds existing in the
10092 Firefighters' Supplemental Compensation Trust Fund on June 30,

585-03077-10

20101238c1

10093 1990, for as long as such funds last. If the accrued surplus is
 10094 insufficient to cure the deficit in any given year, the
 10095 proration of the appropriation among the counties,
 10096 municipalities, and special fire service taxing districts must
 10097 ~~shall~~ equal the ratio of compensation paid in the prior year to
 10098 county, municipal, and special fire service taxing district
 10099 firefighters pursuant to this section. This ratio shall be
 10100 provided annually to the Department of Revenue by the Division
 10101 of State Fire Marshal. Surplus funds that have accrued or accrue
 10102 on or after July 1, 1990, shall be redistributed to
 10103 municipalities and special fire control districts as provided in
 10104 subparagraph 2.

10105 2. By October 1 of each year, any funds that have accrued
 10106 or accrue on or after July 1, 1990, and remain in the
 10107 Firefighters' Supplemental Compensation Trust Fund following the
 10108 required annual distribution shall be redistributed by the
 10109 Department of Revenue pro rata to those municipalities and
 10110 special fire control districts identified by the Department of
 10111 Personnel Management Services as ~~being~~ eligible for additional
 10112 funds pursuant to s. 175.121(3)(b).

10113 Section 337. Subsection (4) of section 650.02, Florida
 10114 Statutes, is amended to read:

10115 650.02 Definitions.—For the purpose of this chapter:

10116 (4) The term "state agency" means the Department of
 10117 Personnel Management Services.

10118 Section 338. Section 760.04, Florida Statutes, is amended
 10119 to read:

10120 760.04 ~~Commission on Human Relations~~, Assigned to Executive
 10121 Office of the Governor ~~Department of Management Services~~.—The

585-03077-10

20101238c1

10122 commission ~~created by s. 760.03~~ is assigned to the Executive
10123 Office of the Governor ~~Department of Management Services~~. The
10124 commission, in the performance of its duties pursuant to the
10125 Florida Civil Rights Act of 1992, is ~~shall~~ not be subject to
10126 control, supervision, or direction by the office ~~Department of~~
10127 ~~Management Services~~.

10128 Section 339. Subsection (5) of section 766.302, Florida
10129 Statutes, is amended to read:

10130 766.302 Definitions; ss. 766.301-766.316.—As used in ss.
10131 766.301-766.316, the term:

10132 (5) "Division" means the Division of Administrative
10133 Hearings ~~of the Department of Management Services~~.

10134 Section 340. Section 768.1326, Florida Statutes, is amended
10135 to read:

10136 768.1326 Placement of automated external defibrillators in
10137 state buildings; rulemaking authority. ~~No later than January 1,~~
10138 ~~2003,~~ The State Surgeon General shall adopt rules to establish
10139 guidelines on the appropriate placement of automated external
10140 defibrillator devices in buildings or portions of buildings
10141 owned or leased by the state, and shall establish, by rule,
10142 recommendations on procedures for the deployment of automated
10143 external defibrillator devices in such buildings in accordance
10144 with the guidelines. The Secretary of Environmental Protection
10145 ~~Management Services~~ shall assist the State Surgeon General in
10146 the development of the guidelines. The guidelines for the
10147 placement of the automated external defibrillators must ~~shall~~
10148 take into account the typical number of employees and visitors
10149 in the buildings, the extent of the need for security measures
10150 regarding the buildings, special circumstances in buildings or

585-03077-10

20101238c1

10151 portions of buildings such as high electrical voltages or
10152 extreme heat or cold, and such other factors as the ~~State~~
10153 Surgeon General and secretary of ~~Management Services~~ determine
10154 to be appropriate.

10155 (1) The ~~State~~ Surgeon General's recommendations for
10156 deployment of automated external defibrillators in buildings or
10157 portions of buildings owned or leased by the state must ~~shall~~
10158 include:

10159 (a) ~~(1)~~ A reference list of appropriate training courses in
10160 the use of such devices, including the role of cardiopulmonary
10161 resuscitation;

10162 (b) ~~(2)~~ The extent to which such devices may be used by
10163 laypersons;

10164 (c) ~~(3)~~ Manufacturer recommended maintenance and testing of
10165 the devices; and

10166 (d) ~~(4)~~ Coordination with local emergency medical services
10167 systems regarding the incidents of use of the devices.

10168 (2) In formulating these guidelines and recommendations,
10169 the State Surgeon General may consult with all appropriate
10170 public and private entities, including national and local public
10171 health organizations that seek to improve the survival rates of
10172 individuals who experience cardiac arrest.

10173 Section 341. Subsection (11) of section 943.03, Florida
10174 Statutes, is amended to read:

10175 943.03 Department of Law Enforcement.—

10176 (11) The department shall establish headquarters in
10177 Tallahassee. The Department of Environmental Protection
10178 ~~Management Services~~ shall furnish the department with proper and
10179 adequate housing for its operation.

585-03077-10

20101238c1

10180 Section 342. Subsection (7) of section 943.0311, Florida
10181 Statutes, is amended to read:

10182 943.0311 Chief of Domestic Security; duties of the
10183 department with respect to domestic security.—

10184 (7) As used in this section, the term "state agency"
10185 includes the Agency for Health Care Administration, the Agency
10186 for Workforce Innovation, the Department of Agriculture and
10187 Consumer Services, the Department of Business and Professional
10188 Regulation, the Department of Children and Family Services, the
10189 Department of Citrus, the Department of Community Affairs, the
10190 Department of Corrections, the Department of Education, the
10191 Department of Elderly Affairs, the Department of Environmental
10192 Protection, the Department of Financial Services, the Department
10193 of Health, the Department of Highway Safety and Motor Vehicles,
10194 the Department of Juvenile Justice, the Department of Law
10195 Enforcement, the Department of Legal Affairs, the Department of
10196 Personnel Management Services, the Department of Military
10197 Affairs, the Department of Revenue, the Department of State, the
10198 Department of the Lottery, the Department of Transportation, the
10199 Department of Veterans' Affairs, the Fish and Wildlife
10200 Conservation Commission, the Parole Commission, the State Board
10201 of Administration, and the Executive Office of the Governor.

10202 Section 343. Section 943.13, Florida Statutes, is amended
10203 to read:

10204 943.13 Officers' minimum qualifications for employment or
10205 appointment. ~~On or after October 1, 1984,~~ Any person employed or
10206 appointed as a full-time, part-time, or auxiliary law
10207 enforcement officer or correctional officer; ~~on or after October~~
10208 ~~1, 1986,~~ any person employed as a full-time, part-time, or

585-03077-10

20101238c1

10209 auxiliary correctional probation officer; and ~~on or after~~
10210 ~~October 1, 1986, any person employed~~ as a full-time, part-time,
10211 or auxiliary correctional officer by a private entity under
10212 contract to the Department of Corrections, to a county
10213 commission, or to the Department of Personnel Management must
10214 ~~Services shall:~~

10215 (1) Be at least 19 years of age.

10216 (2) Be a citizen of the United States, notwithstanding any
10217 law of the state to the contrary.

10218 (3) Be a high school graduate or its "equivalent" as the
10219 commission has defined the term by rule.

10220 (4) Not have been convicted of any felony or of a
10221 misdemeanor involving perjury or a false statement, or have
10222 received a dishonorable discharge from any of the Armed Forces
10223 of the United States. Any person who, after July 1, 1981, pleads
10224 guilty or nolo contendere to or is found guilty of any felony or
10225 of a misdemeanor involving perjury or a false statement is not
10226 eligible for employment or appointment as an officer,
10227 notwithstanding suspension of sentence or withholding of
10228 adjudication. Notwithstanding this subsection, any person who
10229 has pled nolo contendere to a misdemeanor involving a false
10230 statement, before ~~prior to~~ December 1, 1985, and has had such
10231 record sealed or expunged may ~~shall~~ not be deemed ineligible for
10232 employment or appointment as an officer.

10233 (5) Have documentation of his or her processed fingerprints
10234 on file with the employing agency or, if a private correctional
10235 officer, have documentation of his or her processed fingerprints
10236 on file with the Department of Corrections or the Criminal
10237 Justice Standards and Training Commission. If administrative

585-03077-10

20101238c1

10238 delays are caused by the department or the Federal Bureau of
10239 Investigation and the person has complied with subsections (1)-
10240 (4) and (6)-(9), he or she may be employed or appointed for up
10241 to a period not to exceed 1 calendar year from the date he or
10242 she was employed or appointed or until return of the processed
10243 fingerprints documenting noncompliance with subsections (1)-(4)
10244 or subsection (7), whichever occurs first. ~~Beginning January 15,~~
10245 ~~2007,~~ The department shall retain and enter into the statewide
10246 automated fingerprint identification system authorized by s.
10247 943.05 all fingerprints submitted to the department as required
10248 by this section. Thereafter, the fingerprints shall be available
10249 for all purposes and uses authorized for arrest fingerprint
10250 cards entered in the statewide automated fingerprint
10251 identification system pursuant to s. 943.051. The department
10252 shall search all arrest fingerprint cards received pursuant to
10253 s. 943.051 against the fingerprints retained in the statewide
10254 automated fingerprint identification system pursuant to this
10255 section and report to the employing agency any arrest records
10256 that are identified with the retained employee's fingerprints.
10257 ~~By January 1, 2008, a person who must meet minimum~~
10258 ~~qualifications as provided in this section and whose~~
10259 ~~fingerprints are not retained by the department pursuant to this~~
10260 ~~section must be refingerprinted. These fingerprints must be~~
10261 ~~forwarded to the department for processing and retention.~~

10262 (6) Have passed a physical examination by a licensed
10263 physician, physician assistant, or certified advanced registered
10264 nurse practitioner, based on specifications established by the
10265 commission. In order to be eligible for the presumption set
10266 forth in s. 112.18 while employed with an employing agency, a

585-03077-10

20101238c1

10267 law enforcement officer, correctional officer, or correctional
10268 probation officer must have successfully passed the physical
10269 examination required by this subsection upon entering into
10270 service as a law enforcement officer, correctional officer, or
10271 correctional probation officer with the employing agency, which
10272 examination must have failed to reveal any evidence of
10273 tuberculosis, heart disease, or hypertension. A law enforcement
10274 officer, correctional officer, or correctional probation officer
10275 may not use a physical examination from a former employing
10276 agency for purposes of claiming the presumption set forth in s.
10277 112.18 against the current employing agency.

10278 (7) Have a good moral character as determined by a
10279 background investigation under procedures established by the
10280 commission.

10281 (8) Execute and submit to the employing agency or, if a
10282 private correctional officer, submit to the appropriate
10283 governmental entity an affidavit-of-applicant form, adopted by
10284 the commission, attesting to his or her compliance with
10285 subsections (1)-(7). The affidavit must ~~shall~~ be executed under
10286 oath and constitutes an official statement within the purview of
10287 s. 837.06. The affidavit must ~~shall~~ include conspicuous language
10288 that the intentional false execution of the affidavit
10289 constitutes a misdemeanor of the second degree. The affidavit
10290 shall be retained by the employing agency.

10291 (9) Complete a commission-approved basic recruit training
10292 program for the applicable criminal justice discipline, unless
10293 exempt under this subsection. An applicant who has:

10294 (a) Completed a comparable basic recruit training program
10295 for the applicable criminal justice discipline in another state

585-03077-10

20101238c1

10296 or for the Federal Government; and

10297 (b) Served as a full-time sworn officer in another state or
10298 for the Federal Government for at least 1 year and ~~provided~~
10299 there is no more than an 8-year break in employment, as measured
10300 from the separation date of the most recent qualifying
10301 employment to the time a complete application is submitted for
10302 an exemption under this section,

10303

10304 is exempt in accordance with s. 943.131(2) from completing the
10305 commission-approved basic recruit training program.

10306 (10) Achieve an acceptable score on the officer
10307 certification examination for the applicable criminal justice
10308 discipline.

10309 (11) Comply with the continuing training or education
10310 requirements of s. 943.135.

10311 Section 344. Paragraph (i) of subsection (4) of section
10312 943.61, Florida Statutes, is amended to read:

10313 943.61 Powers and duties of the Capitol Police.—

10314 (4) The Capitol Police shall have the following
10315 responsibilities, powers, and duties:

10316 (i) To enforce rules of the Department of Environmental
10317 Protection Management Services governing the regulation of
10318 traffic and parking within the Capitol Complex and to impound
10319 illegally or wrongfully parked vehicles.

10320 Section 345. Section 943.66, Florida Statutes, is amended
10321 to read:

10322 943.66 Rules; Facilities Program, Capitol Police; traffic
10323 regulation.—The Capitol Police may enforce rules of the
10324 Department of Environmental Protection Management Services

585-03077-10

20101238c1

10325 governing the administration, operation, and management of the
10326 Facilities Program and regulating traffic and parking at state-
10327 owned buildings or on state-owned property and any local
10328 ordinance on the violation of such if such rules are not in
10329 conflict with ~~any~~ state law or county or municipal ordinance,
10330 and are not inconsistent with the other requirements of ss.
10331 943.61-943.68 or any security plan developed and approved
10332 thereunder.

10333 Section 346. Section 943.681, Florida Statutes, is amended
10334 to read:

10335 943.681 Capitol Police program; funding.—Funds shall be
10336 transferred quarterly, ~~beginning July 1, 2002,~~ by the Department
10337 of Environmental Protection Management Services, from the
10338 Supervision Trust Fund, to the Florida Department of Law
10339 Enforcement for the purpose of funding the Capitol Police
10340 program. Funds are provided from the office space rental
10341 receipts assessed to tenant agencies in the Florida Facilities
10342 Pool, based on the rental assessment mandated in s. 255.51.
10343 Transfers shall be based on the existing rental rate on July 1,
10344 2002, unless otherwise appropriated by the Legislature. This
10345 section does not ~~Additionally, nothing herein shall~~ limit the
10346 Capitol Police from providing for the safety and security needs
10347 of the archaeological, archival, and historic treasures and
10348 artifacts housed in the Historic Capitol or the R.A. Gray
10349 Building, as the official capitol repositories, from funds
10350 provided by the Department of State.

10351 Section 347. Subsection (4) of section 944.02, Florida
10352 Statutes, is amended to read:

10353 944.02 Definitions.—The following words and phrases used in

585-03077-10

20101238c1

10354 this chapter shall, unless the context clearly indicates
10355 otherwise, have the following meanings:

10356 (4) "Elderly offender" means a prisoner age 50 or older in
10357 a state correctional institution or facility operated by the
10358 Department of Corrections or the Department of Financial
10359 ~~Management~~ Services.

10360 Section 348. Paragraph (a) of subsection (3) of section
10361 944.10, Florida Statutes, is amended to read:

10362 944.10 Department of Corrections to provide buildings; sale
10363 and purchase of land; contracts to provide services and inmate
10364 labor.—

10365 (3) (a) The department may enter into lease-purchase
10366 agreements to provide correctional facilities for the housing of
10367 state inmates. However, a no-such lease-purchase agreement may
10368 not shall be entered into without specific legislative
10369 authorization of that agreement, and funds must be specifically
10370 appropriated for each ~~lease-purchase~~ agreement. The facilities
10371 provided through such agreements must shall meet the program
10372 plans and specifications of the department. The department may
10373 enter into such lease agreements with private corporations and
10374 other governmental entities. However, notwithstanding ~~the~~
10375 ~~provisions of~~ s. 255.25(3) (a), the department may not enter into
10376 such lease agreement except upon advertisement for and receipt
10377 of competitive bids and award to the lowest and best bidder,
10378 unless the lease-purchase agreement is entered into with the
10379 Department of Environmental Protection Management Services, the
10380 Florida Correctional Finance Corporation, or the successors or
10381 assignees of either.

10382 Section 349. Paragraph (b) of subsection (2) of section

585-03077-10

20101238c1

10383 944.115, Florida Statutes, is amended to read:

10384 944.115 Smoking prohibited inside state correctional
10385 facilities.—

10386 (2) As used in this section, the term:

10387 (b) "Employee" means an employee of the department or a
10388 private vendor in a contractual relationship with ~~either~~ the
10389 Department of Corrections or the Department of Financial
10390 ~~Management~~ Services, and includes persons such as contractors,
10391 volunteers, or law enforcement officers who are within a state
10392 correctional facility to perform a professional service.

10393 Section 350. Subsection (1) of section 944.713, Florida
10394 Statutes, is amended to read:

10395 944.713 Insurance against liability.—

10396 (1) A bidder must provide an adequate plan of insurance
10397 against liability, including liability for violations of an
10398 inmate's civil rights by an insurance agency licensed in this
10399 state, pursuant to chapter 287. The insurance plan must ~~shall~~,
10400 at a minimum, protect the department from actions of a third
10401 party, assure the private vendor's ability to fulfill the
10402 conditions of the contract, and provide adequate protection for
10403 the department against claims arising as a result of any
10404 occurrence during the term of the contract on an occurrence
10405 basis. The adequacy of the insurance plan shall be determined,
10406 at the bidder's expense, by an independent risk management or
10407 actuarial firm selected by the Department of Financial
10408 ~~Management~~ Services. The risk management or actuarial firm
10409 selected must have demonstrated experience in assessing public
10410 liability of state government.

10411 Section 351. Subsection (1) of section 944.72, Florida

585-03077-10

20101238c1

10412 Statutes, is amended to read:

10413 944.72 Privately Operated Institutions Inmate Welfare Trust
10414 Fund.—

10415 (1) ~~There is hereby created in the Department of~~
10416 ~~Corrections~~ The Privately Operated Institutions Inmate Welfare
10417 Trust Fund is created in the department. The purpose of the
10418 trust fund shall be the benefit and welfare of inmates
10419 incarcerated in private correctional facilities under contract
10420 with the department pursuant to this chapter or the Department
10421 of Financial Management Services pursuant to chapter 957. Moneys
10422 shall be deposited in the trust fund and expenditures made from
10423 the trust fund as provided in s. 945.215.

10424 Section 352. Section 944.8041, Florida Statutes, is amended
10425 to read:

10426 944.8041 Elderly offenders; annual review.—For the purpose
10427 of providing information to the Legislature on elderly offenders
10428 within the correctional system, the department and the
10429 Correctional Medical Authority shall each submit annually a
10430 report on the status and treatment of elderly offenders in the
10431 state-administered and private state correctional systems, as
10432 well as such information on the River Junction Correctional
10433 Institution. In order to adequately prepare the reports, the
10434 department and the Department of Financial Management Services
10435 shall grant access to the Correctional Medical Authority which
10436 includes access to the facilities, offenders, and any
10437 information the agencies require to complete their reports. The
10438 review must ~~shall~~ also include an examination of promising
10439 geriatric policies, practices, and programs currently
10440 implemented in other correctional systems within the United

585-03077-10

20101238c1

10441 States. The reports, with specific findings and recommendations
10442 for implementation, shall be submitted to the President of the
10443 Senate and the Speaker of the House of Representatives on or
10444 before December 31 of each year.

10445 Section 353. Paragraphs (a) and (c) of subsection (2) of
10446 section 945.215, Florida Statutes, are amended to read:

10447 945.215 Inmate welfare and employee benefit trust funds.—

10448 (2) PRIVATELY OPERATED INSTITUTIONS INMATE WELFARE TRUST
10449 FUND; PRIVATE CORRECTIONAL FACILITIES.—

10450 (a) For purposes of this subsection, privately operated
10451 institutions or private correctional facilities are those
10452 correctional facilities under contract with the department
10453 pursuant to chapter 944 or the Department of Financial
10454 ~~Management~~ Services pursuant to chapter 957.

10455 (c) The Department of Financial ~~Management~~ Services shall
10456 annually compile a report that documents Privately Operated
10457 Institutions Inmate Welfare Trust Fund receipts and expenditures
10458 at each private correctional facility. This report must
10459 specifically identify receipt sources and expenditures. The
10460 department of ~~Management Services~~ shall compile this report for
10461 the prior fiscal year and shall submit the report by September 1
10462 of each year to the chairs of the appropriate substantive and
10463 fiscal committees of the Senate and House of Representatives and
10464 to the Executive Office of the Governor.

10465 Section 354. Subsection (3) and paragraph (a) of subsection
10466 (6) of section 946.504, Florida Statutes, are amended to read:

10467 946.504 Organization of corporation to operate correctional
10468 work programs; lease of facilities.—

10469 (3) The corporation shall negotiate with the Department of

585-03077-10

20101238c1

10470 Environmental Protection ~~Management Services~~ to reach and enter
10471 into an agreement for the lease of each correctional work
10472 program proposed by the corporation. The facilities to be leased
10473 and the amount of rental for such facilities shall be agreed
10474 upon by the Department of Environmental Protection ~~Management~~
10475 ~~Services~~ and the corporation, with consultation with the
10476 department. The length of such lease shall be mutually agreed
10477 upon among the department, the Department of Environmental
10478 Protection ~~Management Services~~, and the corporation; however,
10479 the initial lease may not exceed 7 years. The department shall
10480 continue to manage and operate the various correctional work
10481 programs until the lease between the department and the
10482 corporation is effective.

10483 (6) (a) Upon the effective date of each lease of each
10484 correctional work program, the department shall remit ~~cause to~~
10485 ~~be remitted~~ to the corporation all funds appropriated for,
10486 associated with, or budgeted for the operation of that
10487 correctional work program, as agreed upon among the department,
10488 the Department of Environmental Protection ~~Management Services~~,
10489 and the corporation.

10490 Section 355. Subsections (2) and (6) of section 946.515,
10491 Florida Statutes, are amended to read:

10492 946.515 Use of goods and services produced in correctional
10493 work programs.—

10494 (2) A ~~No~~ similar product or service of comparable price and
10495 quality found necessary for use by any state agency may not be
10496 purchased from any source other than the corporation if the
10497 corporation certifies that the product is manufactured by, or
10498 the service is provided by, inmates and the product or service

585-03077-10

20101238c1

10499 meets the comparable performance specifications and comparable
 10500 price and quality requirements as specified under s.
 10501 287.042(1)(f) or as determined by an individual agency as
 10502 provided in this section. The purchasing authority of ~~any~~ such
 10503 state agency may make reasonable determinations of need, price,
 10504 and quality with reference to products or services available
 10505 from the corporation. If ~~In the event of~~ a dispute between the
 10506 corporation and any purchasing authority based upon price or
 10507 quality under this section or s. 287.042(1)(f), either party may
 10508 request a hearing with the Department of Environmental
 10509 Protection Management Services ~~Management Services~~ and if not resolved, either party
 10510 may request a proceeding pursuant to ss. 120.569 and 120.57,
 10511 which shall be referred to the Division of Administrative
 10512 Hearings within 60 days after such request, to resolve any
 10513 dispute under this section. No party is entitled to any appeal
 10514 pursuant to s. 120.68.

10515 (6) If, pursuant to a contract between any legislative,
 10516 executive, or judicial agency of the state and any private
 10517 contract vendor, a product or service is required by the
 10518 Department of Financial Management Services ~~Management Services~~ or on behalf of any
 10519 state agency, is certified by or is available from the
 10520 corporation identified in this chapter, and has been approved in
 10521 accordance with subsection (2), the contract must contain the
 10522 following language:

10523
 10524 IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT ANY
 10525 ARTICLES THAT ~~WHICH~~ ARE THE SUBJECT OF, OR REQUIRED TO
 10526 CARRY OUT, THIS CONTRACT MUST ~~SHALL~~ BE PURCHASED FROM
 10527 THE CORPORATION IDENTIFIED UNDER CHAPTER 946, F.S., IN

585-03077-10

20101238c1

10528 THE SAME MANNER AND UNDER THE SAME PROCEDURES SET
10529 FORTH IN SECTION 946.515(2), AND (4), F.S.; AND FOR
10530 PURPOSES OF THIS CONTRACT, THE PERSON, FIRM, OR OTHER
10531 BUSINESS ENTITY CARRYING OUT THE PROVISIONS OF THIS
10532 CONTRACT IS ~~SHALL BE~~ DEEMED TO BE SUBSTITUTED FOR THIS
10533 AGENCY INSOFAR AS DEALINGS WITH SUCH CORPORATION ARE
10534 CONCERNED.

10535 Section 356. Section 946.525, Florida Statutes, is amended
10536 to read:

10537 946.525 Participation by the corporation in the state group
10538 health insurance and prescription drug programs.—

10539 (1) The board of directors of the corporation established
10540 under this part may apply for participation in the state group
10541 health insurance program authorized in s. 110.123 and the
10542 prescription drug coverage program authorized by s. 110.12315 by
10543 submitting an application along with a \$500 nonrefundable fee to
10544 the Department of Personnel Management ~~Services~~.

10545 (2) As a prerequisite to the adoption of a resolution for
10546 participation in the state group health insurance and
10547 prescription drug coverage program, the corporation shall seek
10548 proposals to provide health insurance and prescription drug
10549 coverages which ~~coverages~~ are equivalent to those offered
10550 currently by the corporation and ~~coverages~~ equivalent to the
10551 state group health insurance and prescription drug coverage
10552 program. The corporation shall review and consider all
10553 responsive proposals before ~~prior to the~~ adoption of any
10554 resolution for participation in the state group health insurance
10555 and prescription drug coverage program.

10556 (3) If the Department of Personnel Management ~~Services~~

585-03077-10

20101238c1

10557 determines that the corporation is eligible to enroll, the
10558 corporation must agree to the following terms and conditions:

10559 (a) The minimum enrollment or contractual period is ~~will be~~
10560 3 years.

10561 (b) The corporation must pay to the department ~~of~~
10562 ~~Management Services~~ an initial administrative fee not less than
10563 \$2.61 per enrollee per month, or such other amount established
10564 annually to fully reimburse the department ~~of Management~~
10565 ~~Services~~ for its costs.

10566 (c) Termination of participation of the corporation
10567 requires written notice 1 year before the termination date.

10568 (d) If participation is terminated, the corporation may not
10569 reapply for participation for ~~a period of~~ 2 years.

10570 (e) The corporation shall reimburse the state for 100
10571 percent of its costs, including administrative costs.

10572 (f) If the corporation fails to make the payments required
10573 by this section to fully reimburse the state, the Department of
10574 Revenue or the Department of Financial Services shall, upon the
10575 request of the Department of Personnel Management ~~Services~~,
10576 deduct the amount owed by the employer from any funds to be
10577 distributed by it to the corporation. The amounts so deducted
10578 shall be transferred to the Department of Personnel Management
10579 ~~Services~~ for further distribution to the trust funds in
10580 accordance with this chapter.

10581 (g) The corporation shall furnish the Department of
10582 Personnel Management ~~Services~~ any information requested by the
10583 department ~~of Management Services~~ which the department ~~of~~
10584 ~~Management Services~~ considers necessary to administer the state
10585 group health insurance program and the prescription drug

585-03077-10

20101238c1

10586 program.

10587 (4) Sections ~~The provisions of ss.~~ 624.436-624.446 do not
10588 apply to the State Group Insurance Program or to this section.

10589 (5) The Department of Personnel Management ~~Services~~ may
10590 adopt rules necessary to administer this section.

10591 Section 357. Section 957.04, Florida Statutes, is amended
10592 to read:

10593 957.04 Contract requirements.—

10594 (1) A contract entered into under this chapter for the
10595 operation of private correctional facilities must ~~shall~~ maximize
10596 the cost savings of such facilities and shall:

10597 (a) Be negotiated with the firm found most qualified.
10598 However, a contract for private correctional services may not be
10599 entered into by the Department of Financial ~~Management~~ Services
10600 unless the Department of Financial ~~Management~~ Services
10601 determines that the contractor has demonstrated that it has:

10602 1. The qualifications, experience, and management personnel
10603 necessary to carry out the terms of the contract.

10604 2. The ability to expedite the siting, design, and
10605 construction of correctional facilities.

10606 3. The ability to comply with applicable laws, court
10607 orders, and national correctional standards.

10608 (b) Indemnify the state and the department, including their
10609 officials and agents, against any and all liability, including,
10610 but not limited to, civil rights liability. Proof of
10611 satisfactory insurance is required in an amount to be determined
10612 by the Department of Financial ~~Management~~ Services.

10613 (c) Require that the contractor seek, obtain, and maintain
10614 accreditation by the American Correctional Association for the

585-03077-10

20101238c1

10615 facility under that contract. Compliance with amendments to the
10616 accreditation standards of the association is required upon the
10617 approval of such amendments by the commission.

10618 (d) Require that the proposed facilities and the management
10619 plans for the inmates meet applicable American Correctional
10620 Association standards and the requirements of all applicable
10621 court orders and state law.

10622 (e) Establish operations standards for correctional
10623 facilities subject to the contract. However, if the department
10624 and the contractor disagree with an operations standard, the
10625 contractor may propose to waive any rule, policy, or procedure
10626 of the department related to the operations standards of
10627 correctional facilities which is inconsistent with the mission
10628 of the contractor to establish cost-effective, privately
10629 operated correctional facilities. The Department of Financial
10630 ~~Management~~ Services is ~~shall be~~ responsible for considering all
10631 proposals from the contractor to waive any rule, policy, or
10632 procedure and shall render a final decision granting or denying
10633 such request.

10634 (f) Require the contractor to be responsible for a range of
10635 dental, medical, and psychological services; diet; education;
10636 and work programs at least equal to those provided by the
10637 department in comparable facilities. The work and education
10638 programs must be designed to reduce recidivism, and include
10639 opportunities to participate in such work programs as authorized
10640 pursuant to s. 946.523.

10641 (g) Require the selection and appointment of a full-time
10642 contract monitor. The contract monitor shall be appointed and
10643 supervised by the Department of Financial ~~Management~~ Services.

585-03077-10

20101238c1

10644 The contractor is required to reimburse the Department of
10645 Financial Management Services for the salary and expenses of the
10646 contract monitor. It is the obligation of the contractor to
10647 provide suitable office space for the contract monitor at the
10648 correctional facility. The contract monitor shall have unlimited
10649 access to the correctional facility.

10650 (h) Be for a period of 3 years and may be renewed for
10651 successive 2-year periods thereafter. However, the state is not
10652 obligated for any payments to the contractor beyond current
10653 annual appropriations.

10654 (2) Each contract entered into for the design and
10655 construction of a private correctional facility or juvenile
10656 commitment facility must include:

10657 (a) Notwithstanding any provision of chapter 255 ~~to the~~
10658 ~~contrary~~, a specific provision authorizing the use of tax-exempt
10659 financing through the issuance of tax-exempt bonds, certificates
10660 of participation, lease-purchase agreements, or other tax-exempt
10661 financing methods. Pursuant to s. 255.25, approval is hereby
10662 provided for the lease-purchase of up to two private
10663 correctional facilities and any other facility authorized by the
10664 General Appropriations Act.

10665 (b) A specific provision requiring the design and
10666 construction of the proposed facilities to meet the applicable
10667 standards of the American Correctional Association and the
10668 requirements of all applicable court orders and state law.

10669 (c) A specific provision requiring the contractor, and not
10670 the Department of Financial Management Services, to obtain the
10671 financing required to design and construct the private
10672 correctional facility or juvenile commitment facility built

585-03077-10

20101238c1

10673 under this chapter.

10674 (d) A specific provision stating that the state is not
10675 obligated for any payments that exceed the amount of the current
10676 annual appropriation.

10677 (3) (a) Each contract for the designing, financing,
10678 acquiring, leasing, constructing, and operating of a private
10679 correctional facility is ~~shall be~~ subject to ss. 255.2502 and
10680 255.2503.

10681 (b) Each contract for the designing, financing, acquiring,
10682 leasing, and constructing of a private juvenile commitment
10683 facility is ~~shall be~~ subject to ss. 255.2502 and 255.2503.

10684 (4) A contract entered into under this chapter does not
10685 accord third-party beneficiary status to any inmate or juvenile
10686 offender or to any member of the general public.

10687 (5) Each contract entered into by the Department of
10688 Financial Management Services must include substantial minority
10689 participation unless demonstrated by evidence, after a good
10690 faith effort, as impractical and must also include any other
10691 requirements the Department of Financial Management Services
10692 considers necessary and appropriate for carrying out the
10693 purposes of this chapter.

10694 (6) Notwithstanding s. 253.025(7), the Board of Trustees of
10695 the Internal Improvement Trust Fund need not approve a lease-
10696 purchase agreement negotiated by the Department of Financial
10697 Management Services if the department ~~of Management Services~~
10698 finds that there is a need to expedite the lease-purchase.

10699 (7) (a) Notwithstanding s. 253.025 or s. 287.057, if
10700 ~~whenever~~ the Department of Financial Management Services finds
10701 it to be in the best interest of timely site acquisition, it may

585-03077-10

20101238c1

10702 contract without the need for competitive selection with one or
10703 more appraisers whose names are contained on the list of
10704 approved appraisers maintained by the Division of State Lands of
10705 the Department of Environmental Protection in accordance with s.
10706 253.025(6)(b). ~~If In those instances when~~ the Department of
10707 Management Services directly contracts for appraisal services,
10708 it shall also contract with an approved appraiser who is not
10709 employed by the same appraisal firm for review services.

10710 (b) Notwithstanding s. 253.025(6), the Department of
10711 Financial ~~Management~~ Services may negotiate and enter into
10712 lease-purchase agreements before an appraisal is obtained. Any
10713 such agreement must state that the final purchase price cannot
10714 exceed the maximum value allowed by law.

10715 Section 358. Subsection (2) of section 957.06, Florida
10716 Statutes, is amended to read:

10717 957.06 Powers and duties not delegable to contractor.—A
10718 contract entered into under this chapter does not authorize,
10719 allow, or imply a delegation of authority to the contractor to:

10720 (2) Choose the facility to which an inmate is initially
10721 assigned or subsequently transferred. The contractor may
10722 request, in writing, that an inmate be transferred to a facility
10723 operated by the department. The Department of Financial
10724 ~~Management~~ Services, the contractor, and the department shall
10725 develop and implement a cooperative agreement for transferring
10726 inmates between a correctional facility operated by the
10727 department and a private correctional facility. The department,
10728 the Department of Financial ~~Management~~ Services, and the
10729 contractor must comply with the cooperative agreement.

10730 Section 359. Subsection (1) and paragraph (d) of subsection

585-03077-10

20101238c1

10731 (5) of section 957.07, Florida Statutes, are amended to read:

10732 957.07 Cost-saving requirements.—

10733 (1) The Department of Financial Management Services may not
10734 enter into a contract or series of contracts unless the
10735 department determines that the contract or series of contracts
10736 in total for the facility will result in a cost savings to the
10737 state of at least 7 percent over the public provision of a
10738 similar facility. Such cost savings, as determined by the
10739 Department of Financial Management Services, must be based upon
10740 the actual costs associated with the construction and operation
10741 of similar facilities or services as determined by the
10742 Department of Corrections and certified by the Auditor General.
10743 The Department of Corrections shall calculate all of the cost
10744 components that determine the inmate per diem in correctional
10745 facilities of a substantially similar size, type, and location
10746 that are operated by the department ~~of Corrections~~, including
10747 administrative costs associated with central administration.
10748 Services that are provided to the Department of Corrections by
10749 other governmental agencies at no direct cost to the department
10750 shall be assigned an equivalent cost and included in the per
10751 diem.

10752 (5)

10753 (d) If a private vendor chooses not to renew the contract
10754 at the appropriated level, the Department of Financial
10755 ~~Management~~ Services shall terminate the contract as provided in
10756 s. 957.14.

10757 Section 360. Section 957.08, Florida Statutes, is amended
10758 to read:

10759 957.08 Capacity requirements.—The Department of Corrections

585-03077-10

20101238c1

10760 shall transfer and assign prisoners to each private correctional
10761 facility opened pursuant to this chapter in an amount not less
10762 than 90 percent or more than 100 percent of the capacity of the
10763 facility pursuant to the contract with the Department of
10764 Financial Management Services. The prisoners transferred by the
10765 Department of Corrections must ~~shall~~ represent a cross-section
10766 of the general inmate population, based on the grade of custody
10767 or the offense of conviction, at the most comparable facility
10768 operated by the department.

10769 Section 361. Section 957.14, Florida Statutes, is amended
10770 to read:

10771 957.14 Contract termination and control of a correctional
10772 facility by the department.—A detailed plan shall be provided by
10773 a private vendor under which the department shall assume
10774 temporary control of a private correctional facility upon
10775 termination of the contract. The Department of Financial
10776 ~~Management~~ Services may terminate the contract with cause after
10777 written notice of material deficiencies and after 60 workdays in
10778 order to correct the material deficiencies. If any event occurs
10779 that involves the noncompliance with or violation of contract
10780 terms and ~~that~~ presents a serious threat to the safety, health,
10781 or security of the inmates, employees, or the public, the
10782 department may temporarily assume control of the private
10783 correctional facility, with the approval of the Department of
10784 Financial Management Services. A plan must ~~shall~~ also be
10785 provided by a private vendor for the purchase and temporary
10786 assumption of operations of a correctional facility by the
10787 department in the event of bankruptcy or the financial
10788 insolvency of the private vendor. The private vendor shall

585-03077-10

20101238c1

10789 provide an emergency plan to address inmate disturbances,
10790 employee work stoppages, strikes, or other serious events in
10791 accordance with standards of the American Correctional
10792 Association.

10793 Section 362. Section 957.15, Florida Statutes, is amended
10794 to read:

10795 957.15 Funding of contracts for operation, maintenance, and
10796 lease-purchase of private correctional facilities.—The request
10797 for appropriation of funds to make payments pursuant to
10798 contracts entered into by the Department of Financial ~~Management~~
10799 Services for the operation, maintenance, and lease-purchase of
10800 the private correctional facilities authorized by this chapter
10801 shall be made by the Department of Financial ~~Management~~ Services
10802 in a request to the department. The department shall include
10803 such request in its budget request to the Legislature as a
10804 separately identified item and shall forward the request of the
10805 Department of Financial ~~Management~~ Services without change.
10806 After an appropriation has been made by the Legislature to the
10807 department for the private correctional facilities, the
10808 department shall have no authority over such funds other than to
10809 pay from such appropriation to the appropriate private vendor
10810 such amounts as are certified for payment by the Department of
10811 Financial ~~Management~~ Services.

10812 Section 363. Section 957.16, Florida Statutes, is amended
10813 to read:

10814 957.16 Expanding capacity.—The Department of Financial
10815 ~~Management~~ Services may ~~is authorized to~~ modify and execute
10816 agreements with contractors to expand up to the total capacity
10817 of contracted correctional facilities. Total capacity means the

585-03077-10

20101238c1

10818 design capacity of all contracted correctional facilities
10819 increased by one-half as described under s. 944.023(1)(b). Any
10820 additional beds authorized under this section must comply with
10821 the cost-saving requirements set forth in s. 957.07. Any
10822 additional beds authorized as a result of expanded capacity
10823 under this section are contingent upon specified appropriations.

10824 Section 364. Subsection (3) of section 1001.27, Florida
10825 Statutes, is amended to read:

10826 1001.27 State satellite network.—

10827 (3) The department, in consultation with the Department of
10828 Financial Management Services, shall implement the provisions of
10829 this section and coordinate the network. Specifically, the
10830 department shall:

10831 (a) Provide for technical analysis of suitable existing
10832 satellite receiving equipment at Florida public postsecondary
10833 educational institutions for inclusion in the network.

10834 (b) Acquire by competitive sealed bid and place appropriate
10835 receiving equipment in those community college regions of the
10836 state in which such equipment is presently not available at a
10837 public postsecondary educational institution.

10838 (c) Develop an implementation plan that provides for
10839 designation of a site in each community college region for
10840 inclusion in the initial network. Criteria for selection must
10841 ~~shall~~ include:

10842 1. Accessibility to a substantial portion of the population
10843 of the region.

10844 2. Demonstrated institutional commitment to support and
10845 encourage use of the network both within the region and
10846 statewide.

585-03077-10

20101238c1

10847 3. Willingness to complement state support with matching
10848 institutional resources.

10849 4. Evidence of cooperation and coordinated planning with
10850 other postsecondary educational institutions in the region.

10851 5. Availability of existing telecommunications equipment
10852 which is compatible or adaptable for use in the network.

10853 (d) Identify additional sites for inclusion in the network
10854 in the event that demand exceeds the capacity of the initial
10855 network.

10856 (e) Coordinate scheduling and encourage use of the network.

10857 (f) Develop operating procedures for the system and
10858 recommend fee schedules for both public and private entities
10859 wishing to transmit or receive programming through the network.
10860 Scheduling procedures must ~~shall~~ assign the highest priority to
10861 educational programming.

10862 (g) Provide training for institutional, state agency, and
10863 other personnel in effective techniques for the use of the
10864 network.

10865 (h) Provide initial startup support for operations,
10866 maintenance, and publicity costs of the network. Continuation
10867 costs in these areas shall be recovered through user fees and
10868 local resources.

10869 Section 365. Paragraph (j) of subsection (12) of section
10870 1001.42, Florida Statutes, is amended to read:

10871 1001.42 Powers and duties of district school board.—The
10872 district school board, acting as a board, shall exercise all
10873 powers and perform all duties listed below:

10874 (12) FINANCE.—Take steps to assure students adequate
10875 educational facilities through the financial procedure

585-03077-10

20101238c1

10876 authorized in chapters 1010 and 1011 and as prescribed below:

10877 (j) *Purchasing regulations to be secured from Department of*
10878 *Financial Management Services.*—Secure purchasing regulations and
10879 amendments and changes thereto from the Department of Financial
10880 Management Services and report ~~prior to~~ any expected purchase
10881 ~~have reported to the department it by its staff,~~ and give
10882 consideration to the lowest price available ~~to it~~ under such
10883 regulations, if provided a regulation applicable to the item or
10884 items being purchased has been adopted by the department. The
10885 department should meet with educational administrators to expand
10886 the inventory of standard items for common usage in all schools
10887 and postsecondary educational institutions.

10888 Section 366. Paragraph (b) of subsection (1) of section
10889 1001.705, Florida Statutes, is amended to read:

10890 1001.705 Responsibility for the State University System
10891 under s. 7, Art. IX of the State Constitution; legislative
10892 finding and intent.—

10893 (1) LEGISLATIVE FINDINGS.—

10894 (b) *Constitutional duties of the Board of Governors of the*
10895 *State University System.*—In accordance with s. 7, Art. IX of the
10896 State Constitution, the Board of Governors of the State
10897 University System has the duty to operate, regulate, control,
10898 and be fully responsible for the management of the whole
10899 publicly funded State University System and the board, or the
10900 board's designee, has responsibility for:

10901 1. Defining the distinctive mission of each constituent
10902 university.

10903 2. Defining the articulation of each constituent university
10904 in conjunction with the Legislature's authority over the public

585-03077-10

20101238c1

10905 schools and community colleges.

10906 3. Ensuring the well-planned coordination and operation of
10907 the State University System.

10908 4. Avoiding wasteful duplication of facilities or programs
10909 within the State University System.

10910 5. Accounting for expenditure of funds appropriated by the
10911 Legislature for the State University System as provided by law.

10912 6. Submitting a budget request for legislative
10913 appropriations for the institutions under the supervision of the
10914 board as provided by law.

10915 7. Adopting strategic plans for the State University System
10916 and each constituent university.

10917 8. Approving, reviewing, and terminating degree programs of
10918 the State University System.

10919 9. Governing admissions to the state universities.

10920 10. Serving as the public employer to all public employees
10921 of state universities for collective bargaining purposes.

10922 11. Establishing a personnel system for all state
10923 university employees; however, the Department of Personnel
10924 Management ~~Services~~ shall retain authority over state university
10925 employees for programs established in ss. 110.123, 110.1232,
10926 110.1234, 110.1238, and 110.161, and in chapters 121, 122, and
10927 238.

10928 12. Complying with, and enforcing for institutions under
10929 the board's jurisdiction, all applicable local, state, and
10930 federal laws.

10931 Section 367. Paragraph (b) of subsection (5) of section
10932 1001.706, Florida Statutes, is amended to read:

10933 1001.706 Powers and duties of the Board of Governors.—

585-03077-10

20101238c1

10934 (5) POWERS AND DUTIES RELATING TO PERSONNEL.—

10935 (b) The Department of Personnel Management ~~Services~~ shall
 10936 retain authority over state university employees for programs
 10937 established in ss. 110.123, 110.1232, 110.1234, 110.1238, and
 10938 110.161 and in chapters 121, 122, and 238. Unless specifically
 10939 authorized by law, neither the Board of Governors nor a state
 10940 university may offer group insurance programs for employees as a
 10941 substitute for or as an alternative to the health insurance
 10942 programs offered pursuant to chapter 110.

10943 Section 368. Paragraph (c) of subsection (5) of section
 10944 1001.74, Florida Statutes, is amended to read:

10945 1001.74 Powers and duties of university boards of
 10946 trustees.—

10947 (5) POWERS AND DUTIES RELATING TO PERSONNEL.—

10948 (c) The Department of Personnel Management ~~Services~~ shall
 10949 retain authority over state university employees for programs
 10950 established in ss. 110.123, 110.1232, 110.1234, 110.1238, and
 10951 110.161 and in chapters 121, 122, and 238. Unless specifically
 10952 authorized by law, neither the Board of Governors nor a state
 10953 university may offer group insurance programs for employees as a
 10954 substitute for or as an alternative to the health insurance
 10955 programs offered pursuant to chapter 110.

10956 Section 369. Paragraph (f) of subsection (4) of section
 10957 1002.36, Florida Statutes, is amended to read:

10958 1002.36 Florida School for the Deaf and the Blind.—

10959 (4) BOARD OF TRUSTEES.—

10960 (f) The board of trustees shall:

10961 1. Prepare and submit legislative budget requests for
 10962 operations and fixed capital outlay, in accordance with chapter

585-03077-10

20101238c1

10963 216 and ss. 1011.56 and 1013.60, to the Department of Education
10964 for review and approval. The department must analyze the amount
10965 requested for fixed capital outlay to determine if the request
10966 is consistent with the school's campus master plan, educational
10967 plant survey, and facilities master plan. Projections of
10968 facility space needs may exceed the norm space and occupant
10969 design criteria established in the State Requirements for
10970 Educational Facilities.

10971 2. Approve and administer an annual operating budget in
10972 accordance with ss. 1011.56 and 1011.57.

10973 3. Require all funds received other than gifts, donations,
10974 bequests, funds raised by or belonging to student clubs or
10975 student organizations, and funds held for specific students or
10976 in accounts for individual students to be deposited in the State
10977 Treasury and expended as authorized in the General
10978 Appropriations Act.

10979 4. Require all purchases to be in accordance with the
10980 ~~provisions of~~ chapter 287 except for purchases made with funds
10981 received as gifts, donations, or bequests; funds raised by or
10982 belonging to student clubs or student organizations; or funds
10983 held for specific students or in accounts for individual
10984 students.

10985 5. Administer and maintain personnel programs for all
10986 employees of the board of trustees and the Florida School for
10987 the Deaf and the Blind who are ~~shall be~~ state employees,
10988 including the personnel classification and pay plan established
10989 in accordance with ss. 110.205(2)(d) and 216.251(2)(a)2. for
10990 academic and academic administrative personnel, the provisions
10991 of chapter 110, and the provisions of law that grant authority

585-03077-10

20101238c1

10992 to the Department of Personnel Management ~~Services~~ over ~~such~~
10993 programs for state employees.

10994 6. Give preference in appointment and retention in
10995 positions of employment as provided in ~~within~~ s. 295.07(1).

10996 7. Ensure that the Florida School for the Deaf and the
10997 Blind complies with s. 1013.351 concerning the coordination of
10998 planning between the Florida School for the Deaf and the Blind
10999 and local governing bodies.

11000 8. Ensure that the Florida School for the Deaf and the
11001 Blind complies with s. 112.061 concerning per diem and travel
11002 expenses of public officers, employees, and authorized persons
11003 with respect to all funds other than funds received as gifts,
11004 donations, or bequests; funds raised by or belonging to student
11005 clubs or student organizations; or funds held for specific
11006 students or in accounts for individual students.

11007 9. Adopt a master plan that ~~which~~ specifies the mission and
11008 objectives of the Florida School for the Deaf and the Blind. The
11009 plan must ~~shall~~ include, but not be limited to, procedures for
11010 systematically measuring the school's progress toward meeting
11011 its objectives, analyzing changes in the student population, and
11012 modifying school programs and services to respond to such
11013 changes. The plan shall be for ~~a period of~~ 5 years and shall be
11014 reviewed for needed modifications every 2 years. The board of
11015 trustees shall submit the initial plan and subsequent
11016 modifications to the Speaker of the House of Representatives and
11017 the President of the Senate.

11018 10. Designate a portion of the school as "The Verle Allyn
11019 Pope Complex for the Deaf," in tribute to the late Senator Verle
11020 Allyn Pope.

585-03077-10

20101238c1

11021 Section 370. Paragraph (f) of subsection (2) of section
11022 1002.37, Florida Statutes, is amended to read:

11023 1002.37 The Florida Virtual School.—

11024 (2) The Florida Virtual School shall be governed by a board
11025 of trustees comprised of seven members appointed by the Governor
11026 to 4-year staggered terms. The board of trustees shall be a
11027 public agency entitled to sovereign immunity pursuant to s.
11028 768.28, and board members shall be public officers who shall
11029 bear fiduciary responsibility for the Florida Virtual School.
11030 The board of trustees shall have the following powers and
11031 duties:

11032 (f) In accordance with law and rules of the State Board of
11033 Education, the board of trustees shall administer and maintain
11034 personnel programs for all employees of the board of trustees
11035 and the Florida Virtual School. The board of trustees may adopt
11036 rules, policies, and procedures related to the appointment,
11037 employment, and removal of personnel.

11038 1. The board of trustees shall determine the compensation,
11039 including salaries and fringe benefits, and other conditions of
11040 employment for such personnel.

11041 2. The board of trustees may establish and maintain a
11042 personnel loan or exchange program by which persons employed by
11043 the board of ~~trustees for the Florida Virtual School~~ as academic
11044 administrative and instructional staff may be loaned to, or
11045 exchanged with persons employed in like capacities by, public
11046 agencies ~~either~~ within or without this state, or by private
11047 industry. With respect to public agency employees, the program
11048 must ~~authorized by this subparagraph shall~~ be consistent with
11049 the requirements of part II of chapter 112. The salary and

585-03077-10

20101238c1

11050 benefits of board of trustees personnel participating in the
11051 loan or exchange program shall be continued during the period ~~of~~
11052 ~~time~~ they participate in a loan or exchange program, and such
11053 personnel shall be deemed to not have a ~~no~~ break in creditable
11054 or continuous service or employment during such time. The salary
11055 and benefits of persons participating in the personnel loan or
11056 exchange program who are employed by public agencies or private
11057 industry shall be paid by the originating employers of those
11058 participants, and such personnel are ~~shall be~~ deemed to have no
11059 break in creditable or continuous service or employment during
11060 such time.

11061 3. The employment of all Florida Virtual School academic
11062 administrative and instructional personnel is ~~shall be~~ subject
11063 to rejection for cause by the board of trustees, ~~and shall be~~
11064 ~~subject~~ to policies of the board of trustees relative to
11065 certification, tenure, leaves of absence, sabbaticals,
11066 remuneration, and such other conditions of employment as the
11067 board of trustees deems necessary and proper, not inconsistent
11068 with law.

11069 4. Each person employed by the board of trustees in an
11070 academic administrative or instructional capacity with the
11071 Florida Virtual School is ~~shall be~~ entitled to a contract as
11072 provided by rules of the board of trustees.

11073 5. All employees except temporary, seasonal, and student
11074 employees may be state employees for the purpose of being
11075 eligible to participate in the Florida Retirement System and
11076 receive benefits. The classification and pay plan, including
11077 terminal leave and other benefits are, ~~and any amendments~~
11078 ~~thereto~~, ~~shall be~~ subject to review and approval by the

585-03077-10

20101238c1

11079 Department of Personnel Management ~~Services~~ and the Executive
11080 Office of the Governor before ~~prior to~~ adoption.

11081
11082 The Governor shall designate the initial chair of the board of
11083 trustees to serve a term of 4 years. Members of the board of
11084 trustees shall serve without compensation, but may be reimbursed
11085 for per diem and travel expenses pursuant to s. 112.061. The
11086 board of trustees shall be a body corporate with all the powers
11087 of a body corporate and such authority as is needed for the
11088 proper operation and improvement of the Florida Virtual School.
11089 The board of trustees is specifically authorized to adopt rules,
11090 policies, and procedures, consistent with law and rules of the
11091 State Board of Education related to governance, personnel,
11092 budget and finance, administration, programs, curriculum and
11093 instruction, travel and purchasing, technology, students,
11094 contracts and grants, and property as necessary for optimal,
11095 efficient operation of the Florida Virtual School. Tangible
11096 personal property owned by the board of trustees shall be
11097 subject to the provisions of chapter 273.

11098 Section 371. Paragraph (c) of subsection (2) of section
11099 1004.58, Florida Statutes, is amended to read:

11100 1004.58 Leadership Board for Applied Research and Public
11101 Service.—

11102 (2) Membership of the board shall be:

11103 (c) The executive director ~~secretary~~ of Personnel
11104 Management ~~the Department of Management Services~~.

11105 Section 372. Paragraph (f) of subsection (3) and paragraph
11106 (a) of subsection (6) of section 1012.33, Florida Statutes, are
11107 amended to read:

585-03077-10

20101238c1

11108 1012.33 Contracts with instructional staff, supervisors,
11109 and school principals.-

11110 (3)

11111 (f) The district school superintendent shall notify an
11112 employee who holds a professional service contract on July 1,
11113 1997, in writing, within ~~no later than~~ 6 weeks before ~~prior to~~
11114 the end of the postschool conference period, of performance
11115 deficiencies which may result in termination of employment, if
11116 not corrected during the subsequent year of employment, ~~(which~~
11117 shall be granted for an additional year in accordance with ~~the~~
11118 ~~provisions in~~ subsection (1)~~). Except as otherwise hereinafter~~
11119 provided, this action is ~~shall not be~~ subject to ~~the provisions~~
11120 ~~of~~ chapter 120, but the following procedures shall apply:

11121 1. On receiving notice of unsatisfactory performance, the
11122 employee, on request, shall be accorded an opportunity to meet
11123 with the district school superintendent, or a ~~his or her~~
11124 designee, for an informal review of the determination of
11125 unsatisfactory performance.

11126 2. An employee notified of unsatisfactory performance may
11127 request ~~an opportunity to be considered for~~ a transfer to
11128 another appropriate position, with a different supervising
11129 administrator, for the subsequent year of employment. If the
11130 request for the transfer is granted, the district school
11131 superintendent shall annually report to the department the total
11132 number of employees transferred pursuant to this subparagraph,
11133 where they were transferred, and what, if any, remediation was
11134 implemented to remediate the unsatisfactory performance.

11135 3. During the subsequent year, the employee shall be
11136 provided assistance and inservice training opportunities to help

585-03077-10

20101238c1

11137 correct the noted performance deficiencies. The employee shall
11138 also be evaluated periodically so that he or she will be kept
11139 apprised of progress achieved.

11140 4. At least ~~Not later than~~ 6 weeks before ~~prior to~~ the
11141 close of the postschool conference period of the subsequent
11142 year, the district school superintendent, after receiving and
11143 reviewing the recommendation required by s. 1012.34, shall
11144 notify the employee, in writing, whether the performance
11145 deficiencies have been corrected. If so, a new professional
11146 service contract shall be issued to the employee. If the
11147 performance deficiencies have not been corrected, the district
11148 school superintendent may notify the district school board and
11149 the employee, in writing, that the employee shall not be issued
11150 a new professional service contract; however, if the
11151 recommendation of the district school superintendent is not to
11152 issue a new professional service contract, and if the employee
11153 wishes to contest such recommendation, the employee will have 15
11154 days from receipt of the district school superintendent's
11155 recommendation to demand, in writing, a hearing. In such
11156 hearing, the employee may raise as an issue, among other things,
11157 the sufficiency of the district school superintendent's charges
11158 of unsatisfactory performance. Such hearing shall be conducted
11159 at the district school board's election in accordance with one
11160 of the following procedures:

11161 a. A direct hearing conducted by the district school board
11162 within 60 days after ~~of~~ receipt of the written appeal. The
11163 hearing shall be conducted in accordance with ~~the provisions of~~
11164 ss. 120.569 and 120.57. A majority vote of the membership of the
11165 district school board is ~~shall be~~ required to sustain the

585-03077-10

20101238c1

11166 district school superintendent's recommendation. The
11167 determination of the district school board is ~~shall be~~ final as
11168 to the sufficiency or insufficiency of the grounds for
11169 termination of employment; or

11170 b. A hearing conducted by an administrative law judge
11171 assigned by the Division of Administrative Hearings ~~of the~~
11172 ~~Department of Management Services~~. The hearing must ~~shall~~ be
11173 conducted within 60 days after ~~of~~ receipt of the written appeal
11174 in accordance with chapter 120. The recommendation of the
11175 administrative law judge shall be made to the district school
11176 board. A majority vote of the membership of the district school
11177 board is ~~shall be~~ required to sustain or change the
11178 administrative law judge's recommendation. The determination of
11179 the district school board is ~~shall be~~ final as to the
11180 sufficiency or insufficiency of the grounds for termination of
11181 employment.

11182 (6) (a) Any member of the instructional staff, excluding an
11183 employee specified in subsection (4), may be suspended or
11184 dismissed at any time during the term of the contract for just
11185 cause as provided in paragraph (1) (a). The district school board
11186 must notify the employee in writing whenever charges are made
11187 against the employee and may suspend such person without pay;
11188 however ~~but~~, if the charges are not sustained, the employee must
11189 ~~shall~~ be immediately reinstated, and his or her back salary
11190 ~~shall be~~ paid. If the employee wishes to contest the charges,
11191 the employee must, within 15 days after receipt of the written
11192 notice, submit a written request for a hearing. Such hearing
11193 shall be conducted at the district school board's election in
11194 accordance with one of the following procedures:

585-03077-10

20101238c1

11195 1. A direct hearing conducted by the district school board
11196 within 60 days after receipt of the written appeal. The hearing
11197 shall be conducted in accordance with ~~the provisions of~~ ss.
11198 120.569 and 120.57. A majority vote of the membership of the
11199 district school board is ~~shall be~~ required to sustain the
11200 district school superintendent's recommendation. The
11201 determination of the district school board is ~~shall be~~ final as
11202 to the sufficiency or insufficiency of the grounds for
11203 termination of employment; or

11204 2. A hearing conducted by an administrative law judge
11205 assigned by the Division of Administrative Hearings ~~of the~~
11206 ~~Department of Management Services~~. The hearing shall be
11207 conducted within 60 days after receipt of the written appeal in
11208 accordance with chapter 120. The recommendation of the
11209 administrative law judge shall be made to the district school
11210 board. A majority vote of the membership of the district school
11211 board is ~~shall be~~ required to sustain or change the
11212 administrative law judge's recommendation. The determination of
11213 the district school board is ~~shall be~~ final as to the
11214 sufficiency or insufficiency of the grounds for termination of
11215 employment.

11216
11217 Any such decision adverse to the employee may be appealed by the
11218 employee pursuant to s. 120.68, provided such appeal is filed
11219 within 30 days after the decision of the district school board.

11220 Section 373. Paragraph (d) of subsection (3) of section
11221 1012.34, Florida Statutes, is amended to read:

11222 1012.34 Assessment procedures and criteria.—

11223 (3) The assessment procedure for instructional personnel

585-03077-10

20101238c1

11224 and school administrators must be primarily based on the
11225 performance of students assigned to their classrooms or schools,
11226 as appropriate. Pursuant to this section, a school district's
11227 performance assessment is not limited to basing unsatisfactory
11228 performance of instructional personnel and school administrators
11229 upon student performance, but may include other criteria
11230 approved to assess instructional personnel and school
11231 administrators' performance, or any combination of student
11232 performance and other approved criteria. The procedures must
11233 comply with, but are not limited to, the following requirements:

11234 (d) If an employee is not performing his or her duties in a
11235 satisfactory manner, the evaluator shall notify the employee in
11236 writing of such determination. The notice must describe such
11237 unsatisfactory performance and include notice of the following
11238 procedural requirements:

11239 1. Upon delivery of a notice of unsatisfactory performance,
11240 the evaluator must confer with the employee, make
11241 recommendations with respect to specific areas of unsatisfactory
11242 performance, and provide assistance in helping to correct
11243 deficiencies within a prescribed period of time.

11244 2.a. If the employee holds a professional service contract
11245 as provided in s. 1012.33, the employee shall be placed on
11246 performance probation and governed by the provisions of this
11247 section for 90 calendar days following the receipt of the notice
11248 of unsatisfactory performance to demonstrate corrective action.
11249 School holidays and school vacation periods are not counted when
11250 calculating the 90-calendar-day period. During the 90 calendar
11251 days, the employee who holds a professional service contract
11252 must be evaluated periodically and apprised of progress achieved

585-03077-10

20101238c1

11253 and must be provided assistance and inservice training
11254 opportunities to help correct the noted performance
11255 deficiencies. At any time during the 90 calendar days, the
11256 employee who holds a professional service contract may request a
11257 transfer to another appropriate position with a different
11258 supervising administrator; however, a transfer does not extend
11259 the period for correcting performance deficiencies.

11260 b. Within 14 days after the close of the 90 calendar days,
11261 the evaluator must assess whether the performance deficiencies
11262 have been corrected and forward a recommendation to the district
11263 school superintendent. Within 14 days after receiving the
11264 evaluator's recommendation, the district school superintendent
11265 must notify the employee who holds a professional service
11266 contract in writing whether the performance deficiencies have
11267 been satisfactorily corrected and whether the district school
11268 superintendent will recommend that the district school board
11269 continue or terminate his or her employment contract. If the
11270 employee wishes to contest the district school superintendent's
11271 recommendation, the employee must, within 15 days after receipt
11272 of the district school superintendent's recommendation, submit a
11273 written request for a hearing. The hearing shall be conducted at
11274 the district school board's election in accordance with one of
11275 the following procedures:

11276 (I) A direct hearing conducted by the district school board
11277 within 60 days after receipt of the written appeal. The hearing
11278 shall be conducted in accordance with ~~the provisions of~~ ss.
11279 120.569 and 120.57. A majority vote of the membership of the
11280 district school board is ~~shall be~~ required to sustain the
11281 district school superintendent's recommendation. The

585-03077-10

20101238c1

11282 determination of the district school board is ~~shall be~~ final as
11283 to the sufficiency or insufficiency of the grounds for
11284 termination of employment; or

11285 (II) A hearing conducted by an administrative law judge
11286 assigned by the Division of Administrative Hearings ~~of the~~
11287 ~~Department of Management Services~~. The hearing shall be
11288 conducted within 60 days after receipt of the written appeal in
11289 accordance with chapter 120. The recommendation of the
11290 administrative law judge shall be made to the district school
11291 board. A majority vote of the membership of the district school
11292 board is ~~shall be~~ required to sustain or change the
11293 administrative law judge's recommendation. The determination of
11294 the district school board is ~~shall be~~ final as to the
11295 sufficiency or insufficiency of the grounds for termination of
11296 employment.

11297 Section 374. Paragraph (d) of subsection (2) of section
11298 1012.61, Florida Statutes, is amended to read:

11299 1012.61 Sick leave.—

11300 (2) PROVISIONS GOVERNING SICK LEAVE.—The following
11301 provisions shall govern sick leave:

11302 (d) *Expenditure authorized.*—District school boards may
11303 expend public funds for payment to employees on account of
11304 sickness. The expending and excluding of such funds shall be in
11305 compliance with rules adopted by the Department of Personnel
11306 ~~Management Services~~ pursuant to chapter 650.

11307 Section 375. Subsection (6) of section 1012.796, Florida
11308 Statutes, is amended to read:

11309 1012.796 Complaints against teachers and administrators;
11310 procedure; penalties.—

585-03077-10

20101238c1

11311 (6) Upon the finding of probable cause, the commissioner
11312 shall file a formal complaint and prosecute the complaint
11313 pursuant to ~~the provisions of~~ chapter 120. An administrative law
11314 judge shall be assigned by the Division of Administrative
11315 Hearings ~~of the Department of Management Services~~ to hear the
11316 complaint if there are disputed issues of material fact. The
11317 administrative law judge shall make recommendations in
11318 accordance with ~~the provisions of~~ subsection (7) to the
11319 appropriate Education Practices Commission panel which shall
11320 conduct a formal review of such recommendations and other
11321 pertinent information and issue a final order. The commission
11322 shall consult with its legal counsel before ~~prior to~~ issuance of
11323 a final order.

11324 Section 376. Subsection (5) of section 1012.865, Florida
11325 Statutes, is amended to read:

11326 1012.865 Sick leave.—Each community college board of
11327 trustees shall adopt rules whereby any full-time employee who is
11328 unable to perform his or her duties at the community college on
11329 account of personal sickness, accident disability, or extended
11330 personal illness, or because of illness or death of the
11331 employee's father, mother, brother, sister, husband, wife,
11332 child, or other close relative or member of the employee's own
11333 household, and who consequently has to be absent from work shall
11334 be granted leave of absence for sickness by the president or by
11335 the president's designated representative. The following
11336 provisions shall govern sick leave:

11337 (5) EXPENDITURE AUTHORIZED.—Community college boards of
11338 trustees may expend public funds for payment to employees on
11339 account of sickness. The expending and excluding of such funds

585-03077-10

20101238c1

11340 must comply ~~shall be in compliance~~ with rules adopted by the
11341 Department of Personnel Management ~~Services~~ pursuant to chapter
11342 650.

11343 Section 377. Paragraph (c) of subsection (1) of section
11344 1012.875, Florida Statutes, is amended to read:

11345 1012.875 State Community College System Optional Retirement
11346 Program.—Each community college may implement an optional
11347 retirement program, if such program is established therefor
11348 pursuant to s. 1001.64(20), under which annuity or other
11349 contracts providing retirement and death benefits may be
11350 purchased by, and on behalf of, eligible employees who
11351 participate in the program, in accordance with s. 403(b) of the
11352 Internal Revenue Code. Except as otherwise provided herein, this
11353 retirement program, which shall be known as the State Community
11354 College System Optional Retirement Program, may be implemented
11355 and administered only by an individual community college or by a
11356 consortium of community colleges.

11357 (1) As used in this section, the term:

11358 (c) "Department" means the Department of Personnel
11359 Management ~~Services~~.

11360 Section 378. Subsection (7) of section 1013.03, Florida
11361 Statutes, is amended to read:

11362 1013.03 Functions of the department and the Board of
11363 Governors.—The functions of the Department of Education as it
11364 pertains to educational facilities of school districts and
11365 community colleges and of the Board of Governors as it pertains
11366 to educational facilities of state universities shall include,
11367 but not be limited to, the following:

11368 (7) Provide training, technical assistance, and building

585-03077-10

20101238c1

11369 code interpretation for requirements of the mandatory Florida
11370 Building Code for the educational facilities construction and
11371 capital improvement programs of the community college boards and
11372 district school boards and, upon request, approve phase III
11373 construction documents for remodeling, renovation, or new
11374 construction of educational plants or ancillary facilities,
11375 except that university boards of trustees shall approve
11376 specifications and construction documents for their respective
11377 institutions pursuant to guidelines of the Board of Governors.
11378 The Department of Environmental Protection ~~Management Services~~
11379 may, upon request, provide similar services for the Florida
11380 School for the Deaf and the Blind and shall use the Florida
11381 Building Code and the Florida Fire Prevention Code.

11382 Section 379. Paragraph (d) of subsection (3) of section
11383 1013.23, Florida Statutes, is amended to read:

11384 1013.23 Energy efficiency contracting.—

11385 (3) ENERGY PERFORMANCE-BASED CONTRACT PROCEDURES.—

11386 (d) Prior to the design and installation of the energy
11387 conservation measure, the district school board, community
11388 college board of trustees, or state university board of trustees
11389 must obtain from the energy performance contractor a report that
11390 discloses all costs associated with the energy conservation
11391 measure and provides an estimate of the amount of the energy
11392 cost savings. The report must be reviewed by ~~either~~ the
11393 Department of Education or the Department of Financial
11394 ~~Management~~ Services or signed and sealed by a registered
11395 professional engineer.

11396 Section 380. Subsection (8) of section 1013.30, Florida
11397 Statutes, is amended to read:

585-03077-10

20101238c1

11398 1013.30 University campus master plans and campus
11399 development agreements.-

11400 (8) Following receipt of a petition challenging a campus
11401 master plan or plan amendment, the university board of trustees
11402 must submit the petition to the Division of Administrative
11403 Hearings ~~of the Department of Management Services~~ for assignment
11404 to an administrative law judge under ss. 120.569 and 120.57.

11405 (a) If a party to the proceeding requests mediation, the
11406 parties have up to ~~no more than~~ 30 days to resolve any issue in
11407 dispute. The costs of the mediation must be borne equally by all
11408 ~~of the~~ parties to the proceeding.

11409 (b) If the matter is not resolved within 30 days, the
11410 administrative law judge shall proceed with a hearing under ss.
11411 120.569 and 120.57. The hearing shall be held in the county
11412 where the campus of the university subject to the amendment is
11413 located. Within 60 days after receiving the petition, the
11414 administrative law judge must, ~~consistent with the applicable~~
11415 ~~requirements and procedures of the Administrative Procedure Act,~~
11416 hold a hearing pursuant to chapter 120, identify the issues
11417 remaining in dispute, prepare a record of the proceedings, and
11418 submit a recommended order to the state land planning agency for
11419 final action. Parties to the proceeding may submit written
11420 exceptions to the recommended order within 10 days after the
11421 recommended order is issued. The state land planning agency must
11422 issue its final order within ~~no later than~~ 60 days after
11423 receiving the recommended order.

11424 (c) The final order of the state land planning agency is
11425 subject to judicial review as provided in s. 120.68.

11426 (d) The signature of an attorney or party constitutes a

585-03077-10

20101238c1

11427 certificate that he or she has read the pleading, motion, or
11428 other paper and that, to the best of his or her knowledge,
11429 information, and belief formed after reasonable inquiry, it is
11430 not interposed for any improper purpose, such as to harass or to
11431 cause unnecessary delay, or for economic advantage, competitive
11432 reasons, frivolous purposes, or needless increase in the cost of
11433 litigation. If a pleading, motion, or other paper is signed in
11434 violation of these requirements, the division, upon motion or
11435 its own initiative, shall impose upon ~~either~~ the person who
11436 signed it or a represented party, or both, an appropriate
11437 sanction, which may include an order to pay to the other party
11438 or parties the amount of reasonable expenses incurred because of
11439 the filing of the pleading, motion, or other paper, including
11440 reasonable attorney's fees.

11441 Section 381. Subsection (3) of section 1013.38, Florida
11442 Statutes, is amended to read:

11443 1013.38 Boards to ensure that facilities comply with
11444 building codes and life safety codes.—

11445 (3) The Department of Environmental Protection Management
11446 ~~Services~~ may, upon request, provide facilities services for the
11447 Florida School for the Deaf and the Blind, the Division of Blind
11448 Services, and public broadcasting. As used in this section, the
11449 term "facilities services" means project management, code and
11450 design plan review, and code compliance inspection for projects
11451 as defined in s. 287.017(1)(e).

11452 Section 382. Effective July 1, 2011, section 20.51, Florida
11453 Statutes, is created to read:

11454 20.51 Department of Asset Management.—The Department of
11455 Asset Management is created.

585-03077-10

20101238c1

11456 (1) The head of the department is the Governor and Cabinet.
11457 The Governor and Cabinet shall appoint an executive director,
11458 subject to confirmation by the Senate, who shall serve at the
11459 pleasure of the Governor and Cabinet.

11460 (2) The following divisions are established in the
11461 department:

11462 (a) The Division of State Lands.

11463 (b) The Division of Facilities.

11464 Section 383. Effective July 1, 2011, all powers, duties,
11465 functions, records, offices, personnel, property, pending
11466 issues, and existing contracts, administrative authority,
11467 administrative rules, and unexpended balances of appropriations,
11468 allocations, and other funds relating to the Division of State
11469 Lands established under s. 20.255(3)(h), Florida Statutes, in
11470 the Department of Environmental Protection and the Facilities
11471 Program transferred to the Department of Environmental
11472 Protection by section 1 of this act, are transferred to the
11473 Department of Asset Management by a type two transfer, as
11474 defined in s. 20.06(1), Florida Statutes.

11475 Section 384. Except as otherwise expressly provided in this
11476 act, this act shall take effect July 1, 2010.