

By the Policy and Steering Committee on Ways and Means; and
Senator Alexander

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1 A bill to be entitled
2 An act relating to state financial matters; amending
3 s. 17.29, F.S.; authorizing the Chief Financial
4 Officer to adopt rules requiring that payments made by
5 the state for goods, services, or anything of value be
6 made by electronic means; requiring that the rules
7 include methods for accommodating persons who may not
8 be able to receive payment by electronic means;
9 authorizing the Chief Financial Officer to make
10 payments by warrant if administratively necessary;
11 amending s. 43.16, F.S.; conforming a cross-reference;
12 amending s. 215.322, F.S.; conforming provisions to
13 changes made by the act to authorize state agencies,
14 local governments, and the judicial branch to accept
15 payments by electronic funds transfers; providing for
16 the adoption of rules to facilitate such payments and
17 to accommodate persons who may not be able to make
18 payments by electronic means; authorizing the Chief
19 Financial Officer to adopt rules establishing uniform
20 security safeguards for cardholder data; creating s.
21 215.971, F.S.; requiring that the Chief Financial
22 Officer adopt and disseminate uniform minimum
23 procedures to state agencies for agreements that
24 provide state or federal financial assistance to a
25 recipient or subrecipient; amending s. 216.3475, F.S.;
26 requiring an agency that is awarded funding on a
27 noncompetitive basis for certain services as specified
28 in the General Appropriations Act to maintain
29 specified documentation supporting a cost analysis;

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30 amending s. 287.056, F.S.; specifying the provisions
31 to be included in state agency purchasing agreements;
32 amending s. 287.057, F.S.; removing certain types of
33 services from an exception to the competitive bid
34 requirements for the purchase of contractual services;
35 providing that certain types of health care services
36 are except from competitive bid requirements for the
37 purchase of contractual services; requiring that an
38 agency document compliance with s. 216.3475, F.S., if
39 the purchase of contractual services exceeds a certain
40 amount and the services are not competitively
41 procured; requiring that an agency's contract manager
42 attend training regarding accountability in contracts
43 and grant management; providing for uniform procedures
44 that the Chief Financial Officer must establish and
45 disseminate to state agencies; subjecting users of
46 certain state term contracts to a transaction or user
47 fee; amending s. 287.0571, F.S.; conforming a cross-
48 reference; amending s. 287.058, F.S.; revising
49 provisions regarding contracts for services;
50 specifying provisions to be included in such
51 contracts; amending ss. 295.187, 394.47865, 402.40,
52 402.7305, 408.045, 427.0135, and 570.07, F.S.;
53 conforming cross-references; requiring state agencies
54 to provide specified information to the Department of
55 Financial Services relating to the purchase of
56 commodities or services; requiring state agencies to
57 review and renegotiate contract renewals and
58 reprocurments in an effort to reduce contract

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59 payments; requiring the Executive Office of the
60 Governor to place savings from the renegotiation of
61 contract renewals or reprocurements in reserve;
62 restricting funding for travel by state employees;
63 requiring that certain travel be approved in writing
64 by the agency head; providing exceptions; requiring
65 each state agency to review its contracts to ensure
66 that contractors comply with applicable preferred-
67 pricing clauses; requiring certain contracts
68 containing a preferred-pricing clause to require that
69 the contractor submit an affidavit attesting to the
70 contractor's compliance with the clause; defining the
71 term "preferred-pricing clause"; providing an
72 appropriation to the Department of Financial Services
73 and authorizing additional full-time equivalent
74 positions; providing an effective date.

75
76 Be It Enacted by the Legislature of the State of Florida:

77
78 Section 1. Section 17.29, Florida Statutes, is amended to
79 read:

80 17.29 Authority to prescribe rules.—The Chief Financial
81 Officer may adopt rules pursuant to ss. 120.536(1) and 120.54 to
82 implement this chapter and the duties assigned by statute or the
83 State Constitution. Such rules may include, but are not limited
84 to, the following:

85 (1) Procedures or policies relating to the processing of
86 payments from salaries, other personal services, or any other
87 applicable appropriation.

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88 (2) Procedures for processing interagency and intraagency
89 payments that ~~which~~ do not require the issuance of a state
90 warrant.

91 (3) Procedures or policies requiring that payments made by
92 the state for goods, services, or anything of value be made by
93 electronic means, including, but not limited to, debit cards,
94 credit cards, or electronic funds transfers.

95 (4) A method that reasonably accommodates persons who,
96 because of technological, financial, or other hardship, may not
97 be able to receive payments by electronic means. The Chief
98 Financial Officer may make payments by state warrant if deemed
99 administratively necessary.

100 Section 2. Subsection (1) of section 43.16, Florida
101 Statutes, is amended to read:

102 43.16 Justice Administrative Commission; membership, powers
103 and duties.—

104 (1) There is hereby created a Justice Administrative
105 Commission, with headquarters located in the state capital. The
106 necessary office space for use of the commission shall be
107 furnished by the proper state agency in charge of state
108 buildings. For purposes of the fees imposed on agencies pursuant
109 to s. 287.057(24) ~~s. 287.057(23)~~, the Justice Administrative
110 Commission shall be exempt from such fees.

111 Section 3. Section 215.322, Florida Statutes, is amended to
112 read:

113 215.322 Acceptance of credit cards, charge cards, ~~or~~ debit
114 cards, or electronic funds transfers by state agencies, units of
115 local government, and the judicial branch.—

116 (1) It is the intent of the Legislature to encourage state

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117 agencies, the judicial branch, and units of local government to
118 make their goods, services, and information more convenient to
119 the public through the acceptance of payments by credit cards,
120 charge cards, ~~and~~ debit cards, or other means of electronic
121 funds transfers to the maximum extent practicable when the
122 benefits to the participating agency and the public substantiate
123 the cost of accepting these types of payments.

124 (2) A state agency as defined in s. 216.011, or the
125 judicial branch, may accept credit cards, charge cards, ~~or~~ debit
126 cards, or electronic funds transfers in payment for goods and
127 services with the prior approval of the Chief Financial Officer.
128 If the Internet or other related electronic methods are to be
129 used as the collection medium, the Agency for Enterprise
130 Information Technology shall review and recommend to the Chief
131 Financial Officer whether to approve the request with regard to
132 the process or procedure to be used.

133 (3) The Chief Financial Officer shall adopt rules governing
134 the establishment and acceptance of credit cards, charge cards,
135 ~~or~~ debit cards, or electronic funds transfers by state agencies
136 or the judicial branch, including, but not limited to, the
137 following:

138 (a) Use ~~Utilization~~ of a standardized contract between the
139 financial institution or other appropriate intermediaries and
140 the agency or judicial branch which shall be developed by the
141 Chief Financial Officer or approval by the Chief Financial
142 Officer of a substitute agreement.

143 (b) Procedures that ~~which~~ permit an agency or officer
144 accepting payment by credit card, charge card, ~~or~~ debit card, or
145 electronic funds transfer to impose a convenience fee upon the

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146 person making the payment. However, the total amount of such
147 convenience fees may ~~shall~~ not exceed the total cost to the
148 state agency. A convenience fee is not refundable to the payor.
149 However ~~Notwithstanding the foregoing~~, this section does ~~shall~~
150 not ~~be construed to~~ permit the imposition of surcharges on any
151 other credit card purchase in violation of s. 501.0117.

152 (c) All service fees payable pursuant to this section ~~when~~
153 ~~practicable~~ shall be invoiced and paid by state warrant or such
154 other manner that is satisfactory to the Chief Financial Officer
155 in accordance with the time periods specified in s. 215.422, if
156 practicable.

157 (d) Submission of information to the Chief Financial
158 Officer concerning the acceptance of credit cards, charge cards,
159 ~~or~~ debit cards, or electronic funds transfers by all state
160 agencies or the judicial branch.

161 (e) A methodology for agencies to use when completing the
162 cost-benefit analysis referred to in subsection (1). The
163 methodology must consider all quantifiable cost reductions,
164 other benefits to the agency, and the potential impact on
165 general revenue. The methodology must also consider
166 nonquantifiable benefits such as the convenience to individuals
167 and businesses that would benefit from the ability to pay for
168 state goods and services through the use of credit cards, charge
169 cards, ~~and~~ debit cards, or electronic funds transfers.

170 (4) The Chief Financial Officer may establish contracts
171 with one or more financial institutions, credit card companies,
172 or other entities that ~~which~~ may lawfully provide such services,
173 in a manner consistent with chapter 287, for processing credit
174 card, charge card, ~~or~~ debit card, or electronic funds transfer

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175 collections for deposit into the State Treasury or another
176 qualified public depository. Any state agency, or the judicial
177 branch, which accepts payment by credit card, charge card, ~~or~~
178 debit card, or electronic funds transfer shall use at least one
179 of the contractors established by the Chief Financial Officer,
180 unless the state agency or judicial branch obtains authorization
181 from the Chief Financial Officer to use another contractor that
182 ~~which~~ is more advantageous to the ~~such~~ state agency or the
183 judicial branch. The ~~Such~~ contracts may authorize a unit of
184 local government to use the services upon the same terms and
185 conditions for deposit of credit card, charge card, ~~or~~ debit
186 card, or electronic funds transfer transactions into its
187 qualified public depositories.

188 (5) A unit of local government, including ~~which term means~~
189 a municipality, special district, or board of county
190 commissioners or other governing body of a county, ~~however~~
191 ~~styled, including that of~~ a consolidated or metropolitan
192 government, and ~~means~~ any clerk of the circuit court, sheriff,
193 property appraiser, tax collector, or supervisor of elections,
194 is authorized to accept payment by use of credit cards, charge
195 cards, ~~and~~ bank debit cards, and electronic funds transfers for
196 financial obligations that are owing to such unit of local
197 government and to surcharge the person who uses a credit card,
198 charge card, ~~or~~ bank debit card, or electronic funds transfer in
199 payment of taxes, license fees, tuition, fines, civil penalties,
200 court-ordered payments, or court costs, or other statutorily
201 prescribed revenues an amount sufficient to pay the service fee
202 charges by the financial institution, vending service company,
203 or credit card company for such services. A unit of local

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204 government shall verify both the validity of any credit card,
205 charge card, ~~or~~ bank debit card, or electronic funds transfer
206 used pursuant to this subsection and the existence of
207 appropriate credit with respect to the person using the card or
208 transfer. The unit of local government does not incur any
209 liability as a result of such verification or any subsequent
210 action taken.

211 (6) Any action required to be performed by a state officer
212 or agency pursuant to this section shall be performed within 10
213 working days after receipt of the request for approval or be
214 deemed approved if not acted upon within that time.

215 (7) ~~Nothing contained in~~ This section does not shall be
216 ~~construed to~~ prohibit a state agency or the judicial branch from
217 continuing to accept charge cards, ~~or~~ debit cards, or electronic
218 funds transfers pursuant to a contract that ~~which~~ was lawfully
219 entered into before ~~prior to~~ the effective date of this act,
220 unless specifically directed otherwise in the General
221 Appropriations Act. However, such contract may ~~shall~~ not be
222 extended or renewed after the effective date of this act unless
223 such renewal and extension conforms to the requirements of this
224 section.

225 (8) When deemed administratively necessary, a state agency,
226 as defined in s. 216.011, or the judicial branch may adopt rules
227 requiring that payments for goods, services, or anything of
228 value be made by electronic means, including, but not limited
229 to, credit cards, charge cards, debit cards, or electronic funds
230 transfers. The rules must provide a method to reasonably
231 accommodate persons who, because of technological, financial, or
232 other hardship, may not be able to make payment by electronic

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233 means.

234 (9) For payment programs in which credit cards, charge
235 cards, or debit cards are accepted by state agencies, the
236 judicial branch, or units of local government, the Chief
237 Financial Officer, in consultation with the Agency for
238 Enterprise Information Technology, may adopt rules to establish
239 uniform security safeguards for cardholder data and to ensure
240 compliance with the Payment Card Industry Data Security
241 Standards.

242 Section 4. Section 215.971, Florida Statutes, is created to
243 read:

244 215.971 Agreements funded by federal or state financial
245 assistance.—The Chief Financial Officer shall adopt and
246 disseminate uniform minimum procedures to state agencies
247 pursuant to s. 17.03 for agreements that provide state or
248 federal financial assistance to a recipient or subrecipient.

249 Section 5. Section 216.3475, Florida Statutes, is amended
250 to read:

251 216.3475 Maximum rate of payment for services funded under
252 General Appropriations Act or awarded on a noncompetitive
253 basis.—A person or entity that is designated by the General
254 Appropriations Act, or that is awarded funding on a
255 noncompetitive basis, to provide services for which funds are
256 appropriated by that act may not receive a rate of payment in
257 excess of the competitive prevailing rate for those services
258 unless expressly authorized in the General Appropriations Act.
259 Each agency shall maintain documentation to support a cost
260 analysis, which includes a detailed budget submitted by the
261 person or entity awarded funding and the agency's documented

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262 review of individual cost elements from the submitted budget for
263 allowability, reasonableness, and necessity.

264 Section 6. Subsection (1) of section 287.056, Florida
265 Statutes, is amended to read:

266 287.056 Purchases from purchasing agreements and state term
267 contracts.—

268 (1) Agencies shall, and eligible users may, purchase
269 commodities and contractual services from purchasing agreements
270 established and state term contracts procured, pursuant to s.
271 287.057, by the department. Each agency agreement made under
272 this subsection shall include:

273 (a) A provision specifying a scope of work that clearly
274 establishes all tasks that the contractor is required to
275 perform.

276 (b) A provision dividing the contract into quantifiable,
277 measurable, and verifiable units of deliverables that must be
278 received and accepted in writing by the contract manager before
279 payment. Each deliverable must be directly related to the scope
280 of work and specify the required minimum level of service to be
281 performed and the criteria for evaluating the successful
282 completion of each deliverable.

283 Section 7. Present subsections (6) through (24) of section
284 287.057, Florida Statutes, are redesignated as subsections (7)
285 through (25), respectively, a new subsection (6) is added to
286 that section, and present subsections (5) and (15) of that
287 section are amended, to read:

288 287.057 Procurement of commodities or contractual
289 services.—

290 (5) When the purchase price of commodities or contractual

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291 services exceeds the threshold amount provided in s. 287.017 for
292 CATEGORY TWO, no purchase of commodities or contractual services
293 may be made without receiving competitive sealed bids,
294 competitive sealed proposals, or competitive sealed replies
295 unless:

296 (a) The agency head determines in writing that an immediate
297 danger to the public health, safety, or welfare or other
298 substantial loss to the state requires emergency action. After
299 the agency head makes such a written determination, the agency
300 may proceed with the procurement of commodities or contractual
301 services necessitated by the immediate danger, without receiving
302 competitive sealed bids, competitive sealed proposals, or
303 competitive sealed replies. However, such emergency procurement
304 shall be made by obtaining pricing information from at least two
305 prospective vendors, which must be retained in the contract
306 file, unless the agency determines in writing that the time
307 required to obtain pricing information will increase the
308 immediate danger to the public health, safety, or welfare or
309 other substantial loss to the state. The agency shall furnish
310 copies of all written determinations certified under oath and
311 any other documents relating to the emergency action to the
312 department. A copy of the statement shall be furnished to the
313 Chief Financial Officer with the voucher authorizing payment.
314 The individual purchase of personal clothing, shelter, or
315 supplies which are needed on an emergency basis to avoid
316 institutionalization or placement in a more restrictive setting
317 is an emergency for the purposes of this paragraph, and the
318 filing with the department of such statement is not required in
319 such circumstances. In the case of the emergency purchase of

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320 insurance, the period of coverage of such insurance shall not
321 exceed a period of 30 days, and all such emergency purchases
322 shall be reported to the department.

323 (b) The purchase is made by an agency from a state term
324 contract procured, pursuant to this section, by the department
325 or by an agency, after receiving approval from the department,
326 from a contract procured, pursuant to subsection (1), subsection
327 (2), or subsection (3), by another agency.

328 (c) Commodities or contractual services available only from
329 a single source may be excepted from the competitive-
330 solicitation requirements. When an agency believes that
331 commodities or contractual services are available only from a
332 single source, the agency shall electronically post a
333 description of the commodities or contractual services sought
334 for a period of at least 7 business days. The description must
335 include a request that prospective vendors provide information
336 regarding their ability to supply the commodities or contractual
337 services described. If it is determined in writing by the
338 agency, after reviewing any information received from
339 prospective vendors, that the commodities or contractual
340 services are available only from a single source, the agency
341 shall:

342 1. Provide notice of its intended decision to enter a
343 single-source purchase contract in the manner specified in s.
344 120.57(3), if the amount of the contract does not exceed the
345 threshold amount provided in s. 287.017 for CATEGORY FOUR.

346 2. Request approval from the department for the single-
347 source purchase, if the amount of the contract exceeds the
348 threshold amount provided in s. 287.017 for CATEGORY FOUR. The

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349 agency shall initiate its request for approval in a form
350 prescribed by the department, which request may be
351 electronically transmitted. The failure of the department to
352 approve or disapprove the agency's request for approval within
353 21 days after receiving such request shall constitute prior
354 approval of the department. If the department approves the
355 agency's request, the agency shall provide notice of its
356 intended decision to enter a single-source contract in the
357 manner specified in s. 120.57(3).

358 (d) When it is in the best interest of the state, the
359 secretary of the department or his or her designee may authorize
360 the Support Program to purchase insurance by negotiation, but
361 such purchase shall be made only under conditions most favorable
362 to the public interest.

363 (e) Prescriptive assistive devices for the purpose of
364 medical, developmental, or vocational rehabilitation of clients
365 are excepted from competitive-solicitation requirements and
366 shall be procured pursuant to an established fee schedule or by
367 any other method which ensures the best price for the state,
368 taking into consideration the needs of the client. Prescriptive
369 assistive devices include, but are not limited to, prosthetics,
370 orthotics, and wheelchairs. For purchases made pursuant to this
371 paragraph, state agencies shall annually file with the
372 department a description of the purchases and methods of
373 procurement.

374 (f) The following contractual services and commodities are
375 not subject to the competitive-solicitation requirements of this
376 section:

377 1. Artistic services. For the purposes of this subsection,

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378 the term "artistic services" does not include advertising. As
379 used in this subparagraph, the term "advertising" means the
380 making of a representation in any form in connection with a
381 trade, business, craft, or profession in order to promote the
382 supply of commodities or services by the person promoting the
383 commodities or contractual services.

384 2. Academic program reviews if the fee for such services
385 does not exceed \$50,000.

386 3. Lectures by individuals.

387 ~~4. Auditing services.~~

388 ~~4.5.~~ Legal services, including attorney, paralegal, expert
389 witness, appraisal, or mediator services.

390 ~~6. Health services involving examination, diagnosis,~~
391 ~~treatment, prevention, medical consultation, or administration.~~

392 ~~5.7.~~ Services provided to persons with mental or physical
393 disabilities by not-for-profit corporations which have obtained
394 exemptions under the provisions of s. 501(c)(3) of the United
395 States Internal Revenue Code or when such services are governed
396 by the provisions of Office of Management and Budget Circular A-
397 122. However, in acquiring such services, the agency shall
398 consider the ability of the vendor, past performance,
399 willingness to meet time requirements, and price.

400 ~~8. Medicaid services delivered to an eligible Medicaid~~
401 ~~recipient by a health care provider who has not previously~~
402 ~~applied for and received a Medicaid provider number from the~~
403 ~~Agency for Health Care Administration. However, this exception~~
404 ~~shall be valid for a period not to exceed 90 days after the date~~
405 ~~of delivery to the Medicaid recipient and shall not be renewed~~
406 ~~by the agency.~~

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407 ~~6.9.~~ Family placement services.

408 ~~7.10.~~ Prevention services related to mental health,
409 including drug abuse prevention programs, child abuse prevention
410 programs, and shelters for runaways, operated by not-for-profit
411 corporations. However, in acquiring such services, the agency
412 shall consider the ability of the vendor, past performance,
413 willingness to meet time requirements, and price.

414 ~~8.11.~~ Training and education services provided to injured
415 employees pursuant to s. 440.491(6).

416 ~~9.12.~~ Contracts entered into pursuant to s. 337.11.

417 ~~10.13.~~ Services or commodities provided by governmental
418 agencies.

419 11. Health care services involving examinations, diagnosis,
420 or treatment provided by licensed Florida health care providers
421 or facilities that meet national and state standards or
422 accreditation requirements and that are willing to be reimbursed
423 at the Medicaid reimbursement rate.

424 (g) Continuing education events or programs that are
425 offered to the general public and for which fees have been
426 collected that pay all expenses associated with the event or
427 program are exempt from requirements for competitive
428 solicitation.

429 (6) An agency must document its compliance with s. 216.3475
430 if the purchase of contractual services exceeds the threshold
431 amount provided in s. 287.017 for CATEGORY TWO and such services
432 are not competitively procured.

433 (16) ~~(15)~~ For each contractual services contract, the agency
434 shall designate an employee to function as contract manager who
435 shall be responsible for enforcing performance of the contract

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436 terms and conditions and serve as a liaison with the contractor.
437 Each contract manager who is responsible for contracts in excess
438 of the threshold amount for CATEGORY TWO must attend training
439 conducted by the Chief Financial Officer for accountability in
440 contracts and grant management. The Chief Financial Officer
441 agency shall establish and disseminate uniform procedures
442 pursuant to s. 17.03(3) to ensure that contractual services have
443 been rendered in accordance with the contract terms before the
444 agency processes prior to processing the invoice for payment.
445 The procedures shall include, but need not be limited to,
446 procedures for monitoring and documenting contractor
447 performance, reviewing and documenting all deliverables for
448 which payment is requested by vendors, and providing written
449 certification by contract managers of the agency's receipt of
450 goods and services.

451 Section 8. Contracts for academic program reviews, auditing
452 services, health services, and Medicaid services are subject the
453 transaction or user fees imposed under ss. 287.057(23) and
454 287.1345, Florida Statutes, only to the extent that such
455 contracts were subjected to such transaction or user fees before
456 July 1, 2010.

457 Section 9. Paragraph (a) of subsection (4) of section
458 287.0571, Florida Statutes, is amended to read:

459 287.0571 Applicability of ss. 287.0571-287.0574.-

460 (4) Sections 287.0571-287.0574 do not apply to:

461 (a) A procurement of commodities and contractual services
462 listed in s. 287.057(5) (e), (f), and (g) and (23)~~(22)~~.

463 Section 10. Subsection (1) of section 287.058, Florida
464 Statutes, is amended to read:

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465 287.058 Contract document.—

466 (1) Every procurement of contractual services in excess of
467 the threshold amount provided in s. 287.017 for CATEGORY TWO,
468 except for the providing of health and mental health services or
469 drugs in the examination, diagnosis, or treatment of sick or
470 injured state employees or the providing of other benefits as
471 required by the provisions of chapter 440, shall be evidenced by
472 a written agreement embodying all provisions and conditions of
473 the procurement of such services, which ~~provisions and~~
474 ~~conditions~~ shall, where applicable, include, but ~~shall~~ not be
475 limited to, a provision:

476 (a) ~~A provision~~ That bills for fees or other compensation
477 for services or expenses be submitted in detail sufficient for a
478 proper preaudit and postaudit thereof.

479 (b) ~~A provision~~ That bills for any travel expenses be
480 submitted in accordance with s. 112.061. A state agency may
481 establish rates lower than the maximum provided in s. 112.061.

482 (c) ~~A provision~~ Allowing unilateral cancellation by the
483 agency for refusal by the contractor to allow public access to
484 all documents, papers, letters, or other material made or
485 received by the contractor in conjunction with the contract,
486 unless the records are exempt from s. 24(a) of Art. I of the
487 State Constitution and s. 119.07(1).

488 (d) Specifying a scope of work that clearly establishes all
489 tasks the contractor is required to perform.

490 (e) ~~(d)~~ ~~A provision~~ Dividing the contract into quantifiable,
491 measurable, and verifiable units of deliverables, ~~which shall~~
492 ~~include, but not be limited to, reports, findings, and drafts,~~
493 that must be received and accepted in writing by the contract

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494 manager before ~~prior to~~ payment. Each deliverable must be
495 directly related to the scope of work and specify the required
496 minimum level of service to be performed and criteria for
497 evaluating the successful completion of each deliverable.

498 (f) ~~(e)~~ ~~A provision~~ Specifying the criteria and the final
499 date by which such criteria must be met for completion of the
500 contract.

501 (g) ~~(f)~~ ~~A provision~~ Specifying that the contract may be
502 renewed for a period that may not exceed 3 years or the term of
503 the original contract, whichever period is longer, specifying
504 the renewal price for the contractual service as set forth in
505 the bid, proposal, or reply, specifying that costs for the
506 renewal may not be charged, and specifying that renewals shall
507 be contingent upon satisfactory performance evaluations by the
508 agency and subject to the availability of funds. Exceptional
509 purchase contracts pursuant to s. 287.057(5) (a) and (c) may not
510 be renewed.

511 (h) Specifying the financial consequences that the agency
512 must apply if the contractor fails to perform in accordance with
513 the contract.

514 (i) Addressing the property rights of any intellectual
515 property related to the contract and the specific rights of the
516 state regarding the intellectual property if the contractor
517 fails to provide the services or is no longer providing
518 services.

519
520 In lieu of a written agreement, the department may authorize the
521 use of a purchase order for classes of contractual services, if
522 the provisions of paragraphs (a)-(i) ~~(a)-(f)~~ are included in the

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523 purchase order or solicitation. The purchase order must include,
524 but need not be limited to, an adequate description of the
525 services, the contract period, and the method of payment. In
526 lieu of printing the provisions of paragraphs (a)-(i) ~~(a)-(f)~~ in
527 the contract document or purchase order, agencies may
528 incorporate the requirements of paragraphs (a)-(i) ~~(a)-(f)~~ by
529 reference.

530 Section 11. Paragraph (b) of subsection (4) of section
531 295.187, Florida Statutes, is amended to read:

532 295.187 Florida Service-Disabled Veteran Business
533 Enterprise Opportunity Act.—

534 (4) VENDOR PREFERENCE.—

535 (b) Notwithstanding s. 287.057(13) ~~s. 287.057(12)~~, if a
536 service-disabled veteran business enterprise entitled to the
537 vendor preference under this section and one or more businesses
538 entitled to this preference or another vendor preference
539 provided by law submit bids, proposals, or replies for
540 procurement of commodities or contractual services that are
541 equal with respect to all relevant considerations, including
542 price, quality, and service, then the state agency shall award
543 the procurement or contract to the business having the smallest
544 net worth.

545 Section 12. Paragraph (a) of subsection (1) of section
546 394.47865, Florida Statutes, is amended to read:

547 394.47865 South Florida State Hospital; privatization.—

548 (1) The Department of Children and Family Services shall,
549 through a request for proposals, privatize South Florida State
550 Hospital. The department shall plan to begin implementation of
551 this privatization initiative by July 1, 1998.

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552 (a) Notwithstanding s. 287.057(15) ~~s. 287.057(14)~~, the
553 department may enter into agreements, not to exceed 20 years,
554 with a private provider, a coalition of providers, or another
555 agency to finance, design, and construct a treatment facility
556 having up to 350 beds and to operate all aspects of daily
557 operations within the facility. The department may subcontract
558 any or all components of this procurement to a statutorily
559 established state governmental entity that has successfully
560 contracted with private companies for designing, financing,
561 acquiring, leasing, constructing, and operating major privatized
562 state facilities.

563 Section 13. Paragraph (c) of subsection (5) and subsection
564 (8) of section 402.40, Florida Statutes, are amended to read:

565 402.40 Child welfare training.—

566 (5) CORE COMPETENCIES.—

567 (c) Notwithstanding s. 287.057(5) and (23) ~~(22)~~, the
568 department shall competitively solicit and contract for the
569 development, validation, and periodic evaluation of the training
570 curricula for the established single integrated curriculum. No
571 more than one training curriculum may be developed for each
572 specific subset of the core competencies.

573 (8) ESTABLISHMENT OF TRAINING ACADEMIES.—The department
574 shall establish child welfare training academies as part of a
575 comprehensive system of child welfare training. In establishing
576 a program of training, the department may contract for the
577 operation of one or more training academies to perform one or
578 more of the following: to offer one or more of the training
579 curricula developed under subsection (5); to administer the
580 certification process; to develop, validate, and periodically

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581 evaluate additional training curricula determined to be
582 necessary, including advanced training that is specific to a
583 region or contractor, or that meets a particular training need;
584 or to offer the additional training curricula. The number,
585 location, and timeframe for establishment of training academies
586 shall be approved by the Secretary of Children and Family
587 Services who shall ensure that the goals for the core
588 competencies and the single integrated curriculum, the
589 certification process, the trainer qualifications, and the
590 additional training needs are addressed. Notwithstanding s.
591 287.057(5) and (23)~~(22)~~, the department shall competitively
592 solicit all training academy contracts.

593 Section 14. Subsections (2) and (3) of section 402.7305,
594 Florida Statutes, are amended to read:

595 402.7305 Department of Children and Family Services;
596 procurement of contractual services; contract management.—

597 (2) PROCUREMENT OF COMMODITIES AND CONTRACTUAL SERVICES.—

598 (a) Notwithstanding s. 287.057(5)(f)10. ~~s.~~

599 ~~287.057(5)(f)13.~~, whenever the department intends to contract
600 with a public postsecondary institution to provide a service,
601 the department must allow all public postsecondary institutions
602 in this state which ~~that~~ are accredited by the Southern
603 Association of Colleges and Schools to bid on the contract.
604 Thereafter, notwithstanding any other provision to the contrary,
605 if a public postsecondary institution intends to subcontract for
606 any service awarded in the contract, the subcontracted service
607 must be procured by competitive procedures.

608 (b) When it is in the best interest of a defined segment of
609 its consumer population, the department may competitively

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610 procure and contract for systems of treatment or service that
611 involve multiple providers, rather than procuring and
612 contracting for treatment or services separately from each
613 participating provider. The department must ensure that all
614 providers that participate in the treatment or service system
615 meet all applicable statutory, regulatory, service quality, and
616 cost control requirements. If other governmental entities or
617 units of special purpose government contribute matching funds to
618 the support of a given system of treatment or service, the
619 department shall formally request information from those funding
620 entities in the procurement process and may take the information
621 received into account in the selection process. If a local
622 government contributes matching funds to support the system of
623 treatment or contracted service and if the match constitutes at
624 least 25 percent of the value of the contract, the department
625 shall afford the governmental match contributor an opportunity
626 to name an employee as one of the persons required by s.
627 287.057(18) ~~s. 287.057(17)~~ to evaluate or negotiate certain
628 contracts, unless the department sets forth in writing the
629 reason why the inclusion would be contrary to the best interest
630 of the state. Any employee so named by the governmental match
631 contributor shall qualify as one of the persons required by s.
632 287.057(18) ~~s. 287.057(17)~~. A governmental entity or unit of
633 special purpose government may not name an employee as one of
634 the persons required by s. 287.057(18) ~~s. 287.057(17)~~ if it, or
635 any of its political subdivisions, executive agencies, or
636 special districts, intends to compete for the contract to be
637 awarded. The governmental funding entity or contributor of
638 matching funds must comply with all procurement procedures set

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639 forth in s. 287.057 when appropriate and required.

640 (c) The department may procure and contract for or provide
641 assessment and case management services independently from
642 treatment services.

643 (3) CONTRACT MANAGEMENT REQUIREMENTS AND PROCESS.—The
644 Department of Children and Family Services shall review the time
645 period for which the department executes contracts and shall
646 execute multiyear contracts to make the most efficient use of
647 the resources devoted to contract processing and execution.
648 Whenever the department chooses not to use a multiyear contract,
649 a justification for that decision must be contained in the
650 contract. Notwithstanding s. 287.057(16) ~~s. 287.057(15)~~, the
651 department is responsible for establishing a contract management
652 process that requires a member of the department's Senior
653 Management or Selected Exempt Service to assign in writing the
654 responsibility of a contract to a contract manager. The
655 department shall maintain a set of procedures describing its
656 contract management process which must minimally include the
657 following requirements:

658 (a) The contract manager shall maintain the official
659 contract file throughout the duration of the contract and for a
660 period not less than 6 years after the termination of the
661 contract.

662 (b) The contract manager shall review all invoices for
663 compliance with the criteria and payment schedule provided for
664 in the contract and shall approve payment of all invoices before
665 their transmission to the Department of Financial Services for
666 payment.

667 (c) The contract manager shall maintain a schedule of

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668 payments and total amounts disbursed and shall periodically
669 reconcile the records with the state's official accounting
670 records.

671 (d) For contracts involving the provision of direct client
672 services, the contract manager shall periodically visit the
673 physical location where the services are delivered and speak
674 directly to clients receiving the services and the staff
675 responsible for delivering the services.

676 (e) The contract manager shall meet at least once a month
677 directly with the contractor's representative and maintain
678 records of such meetings.

679 (f) The contract manager shall periodically document any
680 differences between the required performance measures and the
681 actual performance measures. If a contractor fails to meet and
682 comply with the performance measures established in the
683 contract, the department may allow a reasonable period for the
684 contractor to correct performance deficiencies. If performance
685 deficiencies are not resolved to the satisfaction of the
686 department within the prescribed time, and if no extenuating
687 circumstances can be documented by the contractor to the
688 department's satisfaction, the department must terminate the
689 contract. The department may not enter into a new contract with
690 that same contractor for the services for which the contract was
691 previously terminated for a period of at least 24 months after
692 the date of termination. The contract manager shall obtain and
693 enforce corrective action plans, if appropriate, and maintain
694 records regarding the completion or failure to complete
695 corrective action items.

696 (g) The contract manager shall document any contract

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697 modifications, which shall include recording any contract
698 amendments as provided for in this section.

699 (h) The contract manager shall be properly trained before
700 being assigned responsibility for any contract.

701 Section 15. Subsection (2) of section 408.045, Florida
702 Statutes, is amended to read:

703 408.045 Certificate of need; competitive sealed proposals.-

704 (2) The agency shall make a decision regarding the issuance
705 of the certificate of need in accordance with the provisions of
706 s. 287.057(18) ~~s. 287.057(17)~~, rules adopted by the agency
707 relating to intermediate care facilities for the developmentally
708 disabled, and the criteria in s. 408.035, as further defined by
709 rule.

710 Section 16. Subsection (3) of section 427.0135, Florida
711 Statutes, is amended to read:

712 427.0135 Purchasing agencies; duties and responsibilities.-
713 Each purchasing agency, in carrying out the policies and
714 procedures of the commission, shall:

715 (3) Not procure transportation disadvantaged services
716 without initially negotiating with the commission, as provided
717 in s. 287.057(5)(f)10. ~~s. 287.057(5)(f)13.~~, or unless otherwise
718 authorized by statute. If the purchasing agency, after
719 consultation with the commission, determines that it cannot
720 reach mutually acceptable contract terms with the commission,
721 the purchasing agency may contract for the same transportation
722 services provided in a more cost-effective manner and of
723 comparable or higher quality and standards. The Medicaid agency
724 shall implement this subsection in a manner consistent with s.
725 409.908(18) and as otherwise limited or directed by the General

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726 Appropriations Act.

727 Section 17. Subsection (41) of section 570.07, Florida
728 Statutes, is amended to read:

729 570.07 Department of Agriculture and Consumer Services;
730 functions, powers, and duties.—The department shall have and
731 exercise the following functions, powers, and duties:

732 (41) Notwithstanding the provisions of s. 287.057(24) which
733 ~~s. 287.057(23)~~ that require all agencies to use the online
734 procurement system developed by the Department of Management
735 Services, the department may continue to use its own online
736 system. However, vendors using ~~utilizing~~ such system must ~~shall~~
737 be prequalified as meeting mandatory requirements and
738 qualifications and shall remit fees pursuant to s. 287.057(24)
739 ~~s. 287.057(23)~~, and any rules implementing s. 287.057.

740 Section 18. (1) Each state agency, as defined in s.
741 216.011, Florida Statutes, shall provide the following
742 information to the Department of Financial Services regarding
743 the agency's contracted activities:

744 (a) The nature of the commodities or services purchased.

745 (b) The term of the contract.

746 (c) The final obligation made by the agency.

747 (d) A summary of any time constraints that apply to the
748 procurement.

749 (e) The justification for not using the competitive sealed
750 bid process, including any statutory exemption or exception.

751 (f) Other information regarding the contract or the
752 procurement which may be required by the Department of Financial
753 Services.

754 (2) This section applies to any contract executed on or

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755 after July 1, 2010, for the purchase of commodities or
756 contractual services in excess of the CATEGORY TWO threshold
757 amount provided in s. 287.017, Florida Statutes, which is not:

758 (a) Awarded by competitive sealed bid pursuant to s.
759 287.057(1), (2), or (3), Florida Statutes; or

760 (b) Purchased from a purchasing agreement or state term
761 contract pursuant to s. 287.056, Florida Statutes.

762 (3) An agency must submit the required information to the
763 Department of Financial Services within 3 calendar days after
764 executing the contract.

765 Section 19. Each state agency, as defined in s. 216.011,
766 Florida Statutes, shall review existing contract renewals and
767 reprocurements with private providers and public-private
768 providers in an effort to reduce contract payments by 3 percent.

769 It is the statewide goal to achieve substantial savings;
770 however, it is the intent of the Legislature that the level and
771 quality of services not be affected. Each agency shall
772 renegotiate and reprocure contracts consistent with this
773 section. Any savings that accrue through renegotiating the
774 renewal or reprocurement of an existing contract shall be placed
775 in reserve by the Executive Office of the Governor.

776 Section 20. It is the policy of the state that funds
777 appropriated to each state agency, as defined in s. 216.011,
778 Florida Statutes, which may be used for travel by state
779 employees be limited to travel for activities that are critical
780 to the state agency's mission. Funds may not be used to pay for
781 travel by state employees to foreign countries, other states,
782 conferences, staff-training activities, or other administrative
783 functions unless the agency head approves in writing that such

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784 activities are critical to the agency's mission. The agency head
785 must consider the use of teleconferencing and other forms of
786 electronic communication to meet the needs of the proposed
787 activity before approving mission-critical travel. This section
788 does not apply to travel for law enforcement purposes, military
789 purposes, emergency management activities, and public health
790 activities.

791 Section 21. (1) Each state agency, as defined in s.
792 216.011, Florida Statutes, shall review its contracts to ensure
793 that each contractor complies with any applicable preferred-
794 pricing clause.

795 (2) Each contract executed, renewed, extended, or modified
796 on or after July 1, 2010, which includes a preferred-pricing
797 clause, must require an affidavit from an authorized
798 representative of the contractor attesting under penalty of
799 perjury that the contract is in compliance with the preferred-
800 pricing clause. Such affidavit must be submitted at least
801 annually. A contractor's failure to comply with a preferred-
802 pricing clause is grounds for terminating the contract at the
803 state agency's sole discretion.

804 (3) As used in this section, the term "preferred-pricing
805 clause" means a contractual provision under which the state is
806 offered the most favorable price that the contractor offers any
807 client.

808 Section 22. The sum of \$311,915 from the General Revenue
809 Fund is appropriated and five full-time equivalent positions and
810 associated salary rate are authorized to the Department of
811 Financial Services to implement the provisions of this act.

812 Section 23. This act shall take effect July 1, 2010.