

1 A bill to be entitled
2 An act relating to procurement; amending s. 287.012, F.S.;
3 revising, eliminating, and providing definitions; amending
4 s. 287.017, F.S.; revising the threshold amounts for state
5 purchasing categories; eliminating a requirement that the
6 Department of Management Services adopt rules to adjust
7 the threshold amounts; repealing s. 287.045, F.S.,
8 relating to procurement of products and materials with
9 recycled content; amending s. 287.057, F.S.; revising and
10 organizing provisions relating to the procurement of
11 commodities and contractual services by the state;
12 specifying authorized uses for competitive solicitation
13 processes; providing procedures and requirements with
14 respect to competitive solicitation; specifying types of
15 procurements for which invitations to bid, requests for
16 proposals, and invitations to negotiate are to be utilized
17 and providing procedures and requirements with respect
18 thereto; revising contractual services and commodities
19 that are not subject to competitive-solicitation
20 requirements; prohibiting an agency from dividing the
21 solicitation of commodities or contractual services in
22 order to avoid specified requirements; authorizing a
23 renewal of contracts for community-based care lead agency
24 services for a specified term under certain conditions;
25 providing a requirement that an agency must avoid,
26 neutralize, or mitigate significant potential
27 organizational conflicts of interests before a contract is
28 awarded; providing procedures and requirements with

29 | respect to mitigation of such conflicts of interest;
30 | authorizing an agency to proceed with a contract award
31 | when such conflict cannot be avoided or mitigated under
32 | specified circumstances and providing a restriction on
33 | such award; specifying conditions that constitute an
34 | unfair competitive advantage for a vendor; eliminating
35 | provisions with respect to eligibility of persons who
36 | receive specified contracts that were not subject to
37 | competitive procurement to contract with an agency for any
38 | other contracts dealing with the specific subject matter
39 | of the original contract; amending s. 287.0571, F.S.;
40 | revising applicability of ss. 287.0571-287.0574, F.S.;
41 | specifying procurements and contracts to which s.
42 | 287.0571, F.S., relating to agency business cases for
43 | outsourcing of specified projects, does not apply;
44 | requiring an agency to complete a business case for any
45 | outsourcing project with an expected cost in excess of a
46 | specified amount within a single fiscal year; providing
47 | for the submission of the business case in accordance with
48 | provisions governing the submission of agency legislative
49 | budget requests; providing that a business case is not
50 | subject to challenge; providing required components of a
51 | business case; specifying required provisions for a
52 | contract for a proposed outsourcing; repealing s.
53 | 287.05721, F.S.; eliminating definitions; creating s.
54 | 287.0575, F.S.; establishing duties and responsibilities
55 | of the Department of Children and Family Services, the
56 | Agency for Persons with Disabilities, the Department of

57 Health, the Department of Elderly Affairs, and the Florida
58 Department of Veterans Affairs, and service providers
59 under contract to those agencies, with respect to
60 coordination of contracted services; requiring state
61 agencies contracting for health and human services to
62 notify their contract service providers of certain
63 requirements by a specified date or upon entering into any
64 new contract for health and human services; requiring
65 service providers that have more than one contract with
66 one or more state agencies to provide health and human
67 services to provide each of their contract managers with a
68 comprehensive list of their health and human services
69 contracts by a specified date; specifying information to
70 be contained in the list; providing for assignment, by a
71 specified date, of a single lead administrative
72 coordinator for each service provider from among agencies
73 having multiple health and human services contracts;
74 requiring the lead administrative coordinator to provide
75 notice of his or her designation to the service provider
76 and to the agency contract managers for each affected
77 contract; providing the method of selection of lead
78 administrative coordinator; providing responsibilities of
79 the designated lead administrative coordinator; providing
80 duties of contract managers for agency contracts;
81 providing nonapplicability; requiring annual performance
82 evaluations of designated lead administrative coordinators
83 by each agency contracting for health and human services;
84 providing for a report; repealing s. 287.0573, F.S., which

85 | establishes the Council on Efficient Government and
 86 | provides membership and duties thereof; repealing s.
 87 | 287.0574, F.S.; eliminating provisions relating to
 88 | business cases to outsource, review and analysis conducted
 89 | thereunder, and requirements thereof that are relocated in
 90 | other sections of Florida Statutes set forth in this act;
 91 | amending ss. 283.32 and 403.7065, F.S.; conforming
 92 | provisions to the repeal of s. 287.045, F.S.; relating to
 93 | procurement of products and materials with recycled
 94 | content; amending ss. 14.204, 43.16, 61.1826, 112.3215,
 95 | 255.25, 286.0113, 287.022, 287.058, 287.059, 295.187,
 96 | 394.457, 394.47865, 402.40, 402.7305, 408.045, 427.0135,
 97 | 445.024, 481.205, 570.07, 627.311, 627.351, 765.5155,
 98 | 893.055, and 1013.38, F.S., s. 21, ch. 2009-55, Laws of
 99 | Florida, and s. 31, ch. 2009-223, Laws of Florida;
 100 | conforming cross-references; providing an effective date.

101

102 | Be It Enacted by the Legislature of the State of Florida:

103

104 | Section 1. Section 287.012, Florida Statutes, is amended
 105 | to read:

106 | 287.012 Definitions.—As used in this part, the term:

107 | (1) "Agency" means any of the various state officers,
 108 | departments, boards, commissions, divisions, bureaus, and
 109 | councils and any other unit of organization, however designated,
 110 | of the executive branch of state government. "Agency" does not
 111 | include the university and college boards of trustees or the
 112 | state universities and colleges.

CS/HB 7151

2010

113 (2) "Agency head" means, with respect to an agency headed
114 by a collegial body, the executive director or chief
115 administrative officer of the agency.

116 (3) "Artistic services" ~~"Artist"~~ means the rendering by a
117 contractor of its time and effort to create or perform an
118 artistic work in the fields ~~an individual or group of~~
119 ~~individuals who profess and practice a demonstrated creative~~
120 ~~talent and skill in the area~~ of music, dance, drama, folk art,
121 creative writing, painting, sculpture, photography, graphic
122 arts, craft arts, industrial design, costume design, fashion
123 design, motion pictures, television, radio, or tape and sound
124 recording ~~or in any other related field.~~

125 (4) "Best value" means the highest overall value to the
126 state based on objective factors that include, but are not
127 limited to, price, quality, design, and workmanship.

128 (5) "Commodity" means any of the various supplies,
129 materials, goods, merchandise, food, equipment, information
130 technology, and other personal property, including a mobile
131 home, trailer, or other portable structure with floor space of
132 less than 5,000 square feet, purchased, leased, or otherwise
133 contracted for by the state and its agencies. "Commodity" also
134 includes interest on deferred-payment commodity contracts
135 approved pursuant to s. 287.063 entered into by an agency for
136 the purchase of other commodities. However, commodities
137 purchased for resale are excluded from this definition. ~~Further,~~
138 ~~a prescribed drug, medical supply, or device required by a~~
139 ~~licensed health care provider as a part of providing health~~
140 ~~services involving examination, diagnosis, treatment,~~

141 ~~prevention, medical consultation, or administration for clients~~
 142 ~~at the time the service is provided is not considered to be a~~
 143 ~~"commodity."~~ Printing of publications shall be considered a
 144 commodity when let upon contract pursuant to s. 283.33, whether
 145 purchased for resale or not.

146 (6) "Competitive solicitation sealed bids," "~~competitive~~
 147 ~~sealed proposals,~~" or "~~competitive sealed replies~~" means the
 148 process of requesting and receiving two or more sealed bids,
 149 proposals, or replies submitted by responsive vendors in
 150 accordance with the terms of a competitive process, regardless
 151 of the method of procurement and includes bids, proposals, or
 152 ~~replies transmitted by electronic means in lieu of or in~~
 153 ~~addition to written bids, proposals, or replies.~~

154 ~~(7) "Competitive solicitation" or "solicitation" means an~~
 155 ~~invitation to bid, a request for proposals, or an invitation to~~
 156 ~~negotiate.~~

157 (7)~~(8)~~ "Contractor" means a person who contracts to sell
 158 commodities or contractual services to an agency.

159 (8)~~(9)~~ "Contractual service" means the rendering by a
 160 contractor of its time and effort rather than the furnishing of
 161 specific commodities. The term applies only to those services
 162 rendered by individuals and firms who are independent
 163 contractors, and such services may include, but are not limited
 164 to, evaluations; consultations; maintenance; accounting;
 165 security; management systems; management consulting; educational
 166 training programs; research and development studies or reports
 167 on the findings of consultants engaged thereunder; and
 168 professional, technical, and social services. "Contractual

CS/HB 7151

2010

169 service" does not include any contract for the furnishing of
 170 labor or materials for the construction, renovation, repair,
 171 modification, or demolition of any facility, building, portion
 172 of building, utility, park, parking lot, or structure or other
 173 improvement to real property entered into pursuant to chapter
 174 255 and rules adopted thereunder.

175 (9)~~(10)~~ "Department" means the Department of Management
 176 Services.

177 (10)~~(11)~~ "Electronic posting" or "electronically post"
 178 means the noticing ~~posting~~ of solicitations, agency decisions or
 179 intended decisions, or other matters relating to procurement on
 180 a centralized Internet website designated by the department for
 181 this purpose.

182 (11)~~(12)~~ "Eligible user" means any person or entity
 183 authorized by the department pursuant to rule to purchase from
 184 state term contracts or to use the online procurement system.

185 (12)~~(13)~~ "Exceptional purchase" means any purchase of
 186 commodities or contractual services excepted by law or rule from
 187 the requirements for competitive solicitation, including, but
 188 not limited to, purchases from a single source; purchases upon
 189 receipt of less than two responsive bids, proposals, or replies;
 190 purchases made by an agency, after receiving approval from the
 191 department, from a contract procured, pursuant to s. 287.057(1),
 192 ~~(2), or (3),~~ or by another agency; and purchases made without
 193 advertisement in the manner required by s. 287.042(3)(b).

194 (13)~~(14)~~ "Extension" means an increase in the time allowed
 195 for the contract period due to circumstances which, without
 196 fault of either party, make performance impracticable or

CS/HB 7151

2010

197 impossible, or which prevent a new contract from being executed,
 198 with or without a proportional increase in the total dollar
 199 amount, with any increase to be based on the method and rate
 200 previously established in the contract.

201 (14)~~(15)~~ "Information technology" has the meaning ascribed
 202 in s. 282.0041.

203 (15)~~(16)~~ "Invitation to bid" means a written or
 204 electronically posted solicitation for competitive sealed bids.
 205 ~~The invitation to bid is used when the agency is capable of~~
 206 ~~specifically defining the scope of work for which a contractual~~
 207 ~~service is required or when the agency is capable of~~
 208 ~~establishing precise specifications defining the actual~~
 209 ~~commodity or group of commodities required. A written~~
 210 ~~solicitation includes a solicitation that is electronically~~
 211 ~~posted.~~

212 (16)~~(17)~~ "Invitation to negotiate" means a written or
 213 electronically posted solicitation for competitive sealed
 214 replies to select one or more vendors with which to commence
 215 negotiations for the procurement of commodities or contractual
 216 services. ~~The invitation to negotiate is used when the agency~~
 217 ~~determines that negotiations may be necessary for the state to~~
 218 ~~receive the best value. A written solicitation includes a~~
 219 ~~solicitation that is electronically posted.~~

220 (17)~~(18)~~ "Minority business enterprise" has the meaning
 221 ascribed in s. 288.703.

222 (18)~~(19)~~ "Office" means the Office of Supplier Diversity
 223 of the Department of Management Services.

224 (19) "Outsource" means the process of contracting with a

225 vendor to provide a service as defined in s. 216.011(1)(f), in
 226 whole or in part, or an activity as defined in s.
 227 216.011(1)(rr), while a state agency retains the responsibility
 228 and accountability for the service or activity and there is a
 229 transfer of management responsibility for the delivery of
 230 resources and the performance of those resources.

231 (20) "Renewal" means contracting with the same contractor
 232 for an additional contract period after the initial contract
 233 period, only if pursuant to contract terms specifically
 234 providing for such renewal.

235 (21) "Request for information" means a written or
 236 electronically posted request made by an agency to vendors for
 237 information concerning commodities or contractual services.
 238 Responses to these requests are not offers and may not be
 239 accepted by the agency to form a binding contract.

240 (22) "Request for proposals" means a written or
 241 electronically posted solicitation for competitive sealed
 242 proposals. ~~The request for proposals is used when it is not~~
 243 ~~practicable for the agency to specifically define the scope of~~
 244 ~~work for which the commodity, group of commodities, or~~
 245 ~~contractual service is required and when the agency is~~
 246 ~~requesting that a responsible vendor propose a commodity, group~~
 247 ~~of commodities, or contractual service to meet the~~
 248 ~~specifications of the solicitation document. A written~~
 249 ~~solicitation includes a solicitation that is electronically~~
 250 ~~posted.~~

251 (23) "Request for a quote" means an oral or written
 252 request for written pricing or services information from a state

CS/HB 7151

2010

253 term contract vendor for commodities or contractual services
 254 available on a state term contract from that vendor.

255 (24) "Responsible vendor" means a vendor who has the
 256 capability in all respects to fully perform the contract
 257 requirements and the integrity and reliability that will assure
 258 good faith performance.

259 (25) "Responsive bid," "responsive proposal," or
 260 "responsive reply" means a bid, or proposal, or reply submitted
 261 by a responsive and responsible vendor that conforms in all
 262 material respects to the solicitation.

263 (26) "Responsive vendor" means a vendor that has submitted
 264 a bid, proposal, or reply that conforms in all material respects
 265 to the solicitation.

266 (27) "State term contract" means a term contract that is
 267 competitively procured by the department pursuant to s. 287.057
 268 and that is used by agencies and eligible users pursuant to s.
 269 287.056.

270 (28) "Term contract" means an indefinite quantity contract
 271 to furnish commodities or contractual services during a defined
 272 period.

273 Section 2. Section 287.017, Florida Statutes, is amended
 274 to read:

275 287.017 Purchasing categories, threshold amounts, ~~+~~
 276 ~~procedures for automatic adjustment by department.~~

277 ~~(1)~~ The following purchasing categories are hereby
 278 created:

279 (1) ~~(a)~~ CATEGORY ONE: \$20,000 ~~\$15,000~~.

280 (2) ~~(b)~~ CATEGORY TWO: \$35,000 ~~\$25,000~~.

281 ~~(3)(e)~~ CATEGORY THREE: \$65,000 ~~\$50,000~~.

282 ~~(4)(d)~~ CATEGORY FOUR: \$195,000 ~~\$150,000~~.

283 ~~(5)(e)~~ CATEGORY FIVE: \$325,000 ~~\$250,000~~.

284 ~~(2) The department shall adopt rules to adjust the amounts~~
 285 ~~provided in subsection (1) based upon the rate of change of a~~
 286 ~~nationally recognized price index. Such rules shall include, but~~
 287 ~~not be limited to, the following:~~

288 ~~(a) Designation of the nationally recognized price index~~
 289 ~~or component thereof used to calculate the proper adjustment~~
 290 ~~authorized in this section.~~

291 ~~(b) The procedure for rounding results.~~

292 ~~(c) The effective date of each adjustment based upon the~~
 293 ~~previous calendar year data.~~

294 Section 3. Section 287.045, Florida Statutes, is repealed.

295 Section 4. Section 287.057, Florida Statutes, is amended
 296 to read:

297 287.057 Procurement of commodities or contractual
 298 services.—

299 (1) PROCUREMENT PROCESSES.—The competitive solicitation
 300 processes authorized in this section shall be used for
 301 procurement of commodities or contractual services in excess of
 302 the threshold amount provided for CATEGORY TWO in s. 287.017.
 303 Any competitive solicitation shall be made available
 304 simultaneously to all vendors, must include the time and date
 305 for the receipt of bids, proposals, or replies and of the public
 306 opening, and must include all contractual terms and conditions
 307 applicable to the procurement, including the criteria to be used
 308 in determining acceptability and relative merit of the bid,

CS/HB 7151

2010

309 proposal, or reply.

310 (a) Invitation to bid.—The invitation to bid shall be used
311 when the agency is capable of specifically defining the scope of
312 work for which a contractual service is required or when the
313 agency is capable of establishing precise specifications
314 defining the actual commodity or group of commodities required.

315 1. All invitations to bid must include:

316 a. A detailed description of the commodities or
317 contractual services sought; and

318 b. If the agency contemplates renewal of the contract, a
319 statement to that effect.

320 2. Bids submitted in response to an invitation to bid in
321 which the agency contemplates renewal of the contract must
322 include the price for each year for which the contract may be
323 renewed.

324 3. Evaluation of bids shall include consideration of the
325 total cost for each year of the contract, including renewal
326 years, as submitted by the vendor.

327 (b) Request for proposals.—An agency shall use a request
328 for proposals when the purposes and uses for which the
329 commodity, group of commodities, or contractual service being
330 sought can be specifically defined and the agency is capable of
331 identifying necessary deliverables. Various combinations or
332 versions of commodities or contractual services may be proposed
333 by a responsive vendor to meet the specifications of the
334 solicitation document.

335 1. Before issuing a request for proposals, the agency must
336 determine and specify in writing the reasons that procurement by

CS/HB 7151

2010

337 invitation to bid is not practicable.

338 2. All requests for proposals must include:

339 a. A statement describing the commodities or contractual
340 services sought;

341 b. The relative importance of price and other evaluation
342 criteria; and

343 c. If the agency contemplates renewal of the contract, a
344 statement to that effect.

345 3. Criteria that will be used for evaluation of proposals
346 shall include, but are not limited to:

347 a. Price, which must be specified in the proposal;

348 b. If the agency contemplates renewal of the contract, the
349 price for each year for which the contract may be renewed; and

350 c. Consideration of the total cost for each year of the
351 contract, including renewal years, as submitted by the vendor.

352 4. The contract shall be awarded by written notice to the
353 responsible and responsive vendor whose proposal is determined
354 in writing to be the most advantageous to the state, taking into
355 consideration the price and other criteria set forth in the
356 request for proposals. The contract file shall contain
357 documentation supporting the basis on which the award is made.

358 (c) Invitation to negotiate.—The invitation to negotiate
359 is a solicitation used by an agency intended to determine the
360 best method for achieving a specific goal or solving a
361 particular problem and that identifies one or more responsive
362 vendors with which the agency may negotiate in order to receive
363 the best value.

364 1. Before issuing an invitation to negotiate, the head of

365 an agency must determine and specify in writing the reasons that
 366 procurement by either an invitation to bid or a request for
 367 proposal is not practicable.

368 2. The invitation to negotiate must describe the questions
 369 being explored, the facts being sought, and the specific goals
 370 or problems that are the subject of the solicitation.

371 3. The criteria that will be used for determining the
 372 acceptability of the reply and guiding the selection of the
 373 vendors with which the agency will negotiate must be specified.

374 4. The agency shall evaluate replies against all
 375 evaluation criteria set forth in the invitation to negotiate, in
 376 order to establish a competitive range of replies reasonably
 377 susceptible of award. The agency may select one or more vendors
 378 within the competitive range with which to commence
 379 negotiations. After negotiations are conducted, the agency shall
 380 award the contract to the responsible and responsive vendor that
 381 the agency determines will provide the best value to the state,
 382 based on the selection criteria.

383 5. The contract file for a vendor selected through an
 384 invitation to negotiate must contain a short plain statement
 385 that explains the basis for the selection of the vendor and that
 386 sets forth the vendor's deliverables and price, pursuant to the
 387 contract, with an explanation of how these deliverables and
 388 price provide the best value to the state.

389 ~~(1)(a) Unless otherwise authorized by law, all contracts~~
 390 ~~for the purchase of commodities or contractual services in~~
 391 ~~excess of the threshold amount provided in s. 287.017 for~~
 392 ~~CATEGORY TWO shall be awarded by competitive sealed bidding. An~~

393 ~~invitation to bid shall be made available simultaneously to all~~
394 ~~vendors and must include a detailed description of the~~
395 ~~commodities or contractual services sought; the time and date~~
396 ~~for the receipt of bids and of the public opening; and all~~
397 ~~contractual terms and conditions applicable to the procurement,~~
398 ~~including the criteria to be used in determining acceptability~~
399 ~~of the bid. If the agency contemplates renewal of the contract,~~
400 ~~that fact must be stated in the invitation to bid. The bid shall~~
401 ~~include the price for each year for which the contract may be~~
402 ~~renewed. Evaluation of bids shall include consideration of the~~
403 ~~total cost for each year as submitted by the vendor. Criteria~~
404 ~~that were not set forth in the invitation to bid may not be used~~
405 ~~in determining acceptability of the bid.~~

406 ~~(b) The contract shall be awarded with reasonable~~
407 ~~promptness by written notice to the responsible and responsive~~
408 ~~vendor that submits the lowest responsive bid. This bid must be~~
409 ~~determined in writing to meet the requirements and criteria set~~
410 ~~forth in the invitation to bid.~~

411 ~~(2)(a) If an agency determines in writing that the use of~~
412 ~~an invitation to bid is not practicable, commodities or~~
413 ~~contractual services shall be procured by competitive sealed~~
414 ~~proposals. A request for proposals shall be made available~~
415 ~~simultaneously to all vendors, and must include a statement of~~
416 ~~the commodities or contractual services sought; the time and~~
417 ~~date for the receipt of proposals and of the public opening; and~~
418 ~~all contractual terms and conditions applicable to the~~
419 ~~procurement, including the criteria, which shall include, but~~
420 ~~need not be limited to, price, to be used in determining~~

421 ~~acceptability of the proposal. The relative importance of price~~
422 ~~and other evaluation criteria shall be indicated. If the agency~~
423 ~~contemplates renewal of the commodities or contractual services~~
424 ~~contract, that fact must be stated in the request for proposals.~~
425 ~~The proposal shall include the price for each year for which the~~
426 ~~contract may be renewed. Evaluation of proposals shall include~~
427 ~~consideration of the total cost for each year as submitted by~~
428 ~~the vendor.~~

429 ~~(b) The contract shall be awarded to the responsible and~~
430 ~~responsive vendor whose proposal is determined in writing to be~~
431 ~~the most advantageous to the state, taking into consideration~~
432 ~~the price and the other criteria set forth in the request for~~
433 ~~proposals. The contract file shall contain documentation~~
434 ~~supporting the basis on which the award is made.~~

435 ~~(3)(a) If the agency determines in writing that the use of~~
436 ~~an invitation to bid or a request for proposals will not result~~
437 ~~in the best value to the state, the agency may procure~~
438 ~~commodities and contractual services by competitive sealed~~
439 ~~replies. The agency's written determination must specify reasons~~
440 ~~that explain why negotiation may be necessary in order for the~~
441 ~~state to achieve the best value and must be approved in writing~~
442 ~~by the agency head or his or her designee prior to the~~
443 ~~advertisement of an invitation to negotiate. An invitation to~~
444 ~~negotiate shall be made available to all vendors simultaneously~~
445 ~~and must include a statement of the commodities or contractual~~
446 ~~services sought; the time and date for the receipt of replies~~
447 ~~and of the public opening; and all terms and conditions~~
448 ~~applicable to the procurement, including the criteria to be used~~

449 ~~in determining the acceptability of the reply. If the agency~~
450 ~~contemplates renewal of the contract, that fact must be stated~~
451 ~~in the invitation to negotiate. The reply shall include the~~
452 ~~price for each year for which the contract may be renewed.~~

453 ~~(b) The agency shall evaluate and rank responsive replies~~
454 ~~against all evaluation criteria set forth in the invitation to~~
455 ~~negotiate and shall select, based on the ranking, one or more~~
456 ~~vendors with which to commence negotiations. After negotiations~~
457 ~~are conducted, the agency shall award the contract to the~~
458 ~~responsible and responsive vendor that the agency determines~~
459 ~~will provide the best value to the state. The contract file must~~
460 ~~contain a short plain statement that explains the basis for~~
461 ~~vendor selection and that sets forth the vendor's deliverables~~
462 ~~and price, pursuant to the contract, with an explanation of how~~
463 ~~these deliverables and price provide the best value to the~~
464 ~~state.~~

465 ~~(2)(4)~~ Prior to the time for receipt of bids, proposals,
466 or replies, an agency may conduct a conference or written
467 question and answer period for purposes of assuring the vendor's
468 full understanding of the solicitation requirements. The vendors
469 shall be accorded fair and equal treatment.

470 ~~(3)(5)~~ When the purchase price of commodities or
471 contractual services exceeds the threshold amount provided in s.
472 287.017 for CATEGORY TWO, no purchase of commodities or
473 contractual services may be made without receiving competitive
474 sealed bids, competitive sealed proposals, or competitive sealed
475 replies unless:

476 (a) The agency head determines in writing that an

CS/HB 7151

2010

477 immediate danger to the public health, safety, or welfare or
478 other substantial loss to the state requires emergency action.
479 After the agency head makes such a written determination, the
480 agency may proceed with the procurement of commodities or
481 contractual services necessitated by the immediate danger,
482 without receiving competitive sealed bids, competitive sealed
483 proposals, or competitive sealed replies. However, such
484 emergency procurement shall be made by obtaining pricing
485 information from at least two prospective vendors, which must be
486 retained in the contract file, unless the agency determines in
487 writing that the time required to obtain pricing information
488 will increase the immediate danger to the public health, safety,
489 or welfare or other substantial loss to the state. The agency
490 shall furnish copies of all written determinations certified
491 under oath and any other documents relating to the emergency
492 action to the department. A copy of the statement shall be
493 furnished to the Chief Financial Officer with the voucher
494 authorizing payment. The individual purchase of personal
495 clothing, shelter, or supplies which are needed on an emergency
496 basis to avoid institutionalization or placement in a more
497 restrictive setting is an emergency for the purposes of this
498 paragraph, and the filing with the department of such statement
499 is not required in such circumstances. In the case of the
500 emergency purchase of insurance, the period of coverage of such
501 insurance shall not exceed a period of 30 days, and all such
502 emergency purchases shall be reported to the department.

503 (b) The purchase is made by an agency from a state term
504 contract procured, pursuant to this section, by the department

505 or by an agency, after receiving approval from the department,
 506 from a contract procured, pursuant to subsection (1), ~~subsection~~
 507 ~~(2), or subsection (3),~~ by another agency.

508 (c) Commodities or contractual services available only
 509 from a single source may be excepted from the competitive-
 510 solicitation requirements. When an agency believes that
 511 commodities or contractual services are available only from a
 512 single source, the agency shall electronically post a
 513 description of the commodities or contractual services sought
 514 for a period of at least 7 business days. The description must
 515 include a request that prospective vendors provide information
 516 regarding their ability to supply the commodities or contractual
 517 services described. If it is determined in writing by the
 518 agency, after reviewing any information received from
 519 prospective vendors, that the commodities or contractual
 520 services are available only from a single source, the agency
 521 shall:

522 1. Provide notice of its intended decision to enter a
 523 single-source purchase contract in the manner specified in s.
 524 120.57(3), if the amount of the contract does not exceed the
 525 threshold amount provided in s. 287.017 for CATEGORY FOUR.

526 2. Request approval from the department for the single-
 527 source purchase, if the amount of the contract exceeds the
 528 threshold amount provided in s. 287.017 for CATEGORY FOUR. The
 529 agency shall initiate its request for approval in a form
 530 prescribed by the department, which request may be
 531 electronically transmitted. The failure of the department to
 532 approve or disapprove the agency's request for approval within

CS/HB 7151

2010

533 21 days after receiving such request shall constitute prior
534 approval of the department. If the department approves the
535 agency's request, the agency shall provide notice of its
536 intended decision to enter a single-source contract in the
537 manner specified in s. 120.57(3).

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

543 (e) Prescriptive assistive devices for the purpose of
544 medical, developmental, or vocational rehabilitation of clients
545 are excepted from competitive-solicitation requirements and
546 shall be procured pursuant to an established fee schedule or by
547 any other method which ensures the best price for the state,
548 taking into consideration the needs of the client. Prescriptive
549 assistive devices include, but are not limited to, prosthetics,
550 orthotics, and wheelchairs. For purchases made pursuant to this
551 paragraph, state agencies shall annually file with the
552 department a description of the purchases and methods of
553 procurement.

554 (f) The following contractual services and commodities are
555 not subject to the competitive-solicitation requirements of this
556 section:

557 1. Artistic services. For the purposes of this subsection,
558 the term "artistic services" does not include advertising or
559 typesetting. As used in this subparagraph, the term
560 "advertising" means the making of a representation in any form

561 in connection with a trade, business, craft, or profession in
 562 order to promote the supply of commodities or services by the
 563 person promoting the commodities or contractual services.

564 2. Academic program reviews.

565 3. Lectures by individuals.

566 4. Auditing services.

567 5. Legal services, including attorney, paralegal, expert
 568 witness, appraisal, or mediator services.

569 6. Health services involving examination, diagnosis,
 570 treatment, prevention, or medical consultation, when such
 571 services are offered to eligible individuals participating in a
 572 specific program that qualifies multiple providers and utilizes
 573 a standard payment methodology or administration.

574 ~~7. Services provided to persons with mental or physical~~
 575 ~~disabilities by not-for-profit corporations which have obtained~~
 576 ~~exemptions under the provisions of s. 501(c)(3) of the United~~
 577 ~~States Internal Revenue Code or when such services are governed~~
 578 ~~by the provisions of Office of Management and Budget Circular A-~~
 579 ~~122. However, in acquiring such services, the agency shall~~
 580 ~~consider the ability of the vendor, past performance,~~
 581 ~~willingness to meet time requirements, and price.~~

582 ~~7.8.~~ Medicaid services delivered to an eligible Medicaid
 583 recipient unless the agency is directed otherwise in law by a
 584 ~~health care provider who has not previously applied for and~~
 585 ~~received a Medicaid provider number from the Agency for Health~~
 586 ~~Care Administration. However, this exception shall be valid for~~
 587 ~~a period not to exceed 90 days after the date of delivery to the~~
 588 ~~Medicaid recipient and shall not be renewed by the agency.~~

CS/HB 7151

2010

589 8.9. Family placement services.

590 ~~10. Prevention services related to mental health,~~
591 ~~including drug abuse prevention programs, child abuse prevention~~
592 ~~programs, and shelters for runaways, operated by not-for-profit~~
593 ~~corporations. However, in acquiring such services, the agency~~
594 ~~shall consider the ability of the vendor, past performance,~~
595 ~~willingness to meet time requirements, and price.~~

596 9.11. Training and education services provided to injured
597 employees pursuant to s. 440.491(6).

598 10.12. Contracts entered into pursuant to s. 337.11.

599 11.13. Services or commodities provided by governmental
600 agencies.

601 (g) Continuing education events or programs that are
602 offered to the general public and for which fees have been
603 collected that pay all expenses associated with the event or
604 program are exempt from requirements for competitive
605 solicitation.

606 (4)~~(6)~~ If less than two responsive bids, proposals, or
607 replies for commodity or contractual services purchases are
608 received, the department or other agency may negotiate on the
609 best terms and conditions. The department or other agency shall
610 document the reasons that such action is in the best interest of
611 the state in lieu of resoliciting competitive sealed bids,
612 proposals, or replies. Each agency shall report all such actions
613 to the department on a quarterly basis, in a manner and form
614 prescribed by the department.

615 (5)~~(7)~~ Upon issuance of any solicitation, an agency shall,
616 upon request by the department, forward to the department one

CS/HB 7151

2010

617 copy of each solicitation for all commodity and contractual
618 services purchases in excess of the threshold amount provided in
619 s. 287.017 for CATEGORY TWO. An agency shall also, upon request,
620 furnish a copy of all competitive-solicitation tabulations. The
621 Office of Supplier Diversity may also request from the agencies
622 any information submitted to the department pursuant to this
623 subsection.

624 (6)~~(8)~~ (a) In order to strive to meet the minority business
625 enterprise procurement goals set forth in s. 287.09451, an
626 agency may reserve any contract for competitive solicitation
627 only among certified minority business enterprises. Agencies
628 shall review all their contracts each fiscal year and shall
629 determine which contracts may be reserved for solicitation only
630 among certified minority business enterprises. This reservation
631 may only be used when it is determined, by reasonable and
632 objective means, before the solicitation that there are capable,
633 qualified certified minority business enterprises available to
634 submit a bid, proposal, or reply on a contract to provide for
635 effective competition. The Office of Supplier Diversity shall
636 consult with any agency in reaching such determination when
637 deemed appropriate.

638 (b) Before a contract may be reserved for solicitation
639 only among certified minority business enterprises, the agency
640 head must find that such a reservation is in the best interests
641 of the state. All determinations shall be subject to s.
642 287.09451(5). Once a decision has been made to reserve a
643 contract, but before sealed bids, proposals, or replies are
644 requested, the agency shall estimate what it expects the amount

645 of the contract to be, based on the nature of the services or
 646 commodities involved and their value under prevailing market
 647 conditions. If all the sealed bids, proposals, or replies
 648 received are over this estimate, the agency may reject the bids,
 649 proposals, or replies and request new ones from certified
 650 minority business enterprises, or the agency may reject the
 651 bids, proposals, or replies and reopen the bidding to all
 652 eligible vendors.

653 (c) All agencies shall consider the use of price
 654 preferences of up to 10 percent, weighted preference formulas,
 655 or other preferences for vendors as determined appropriate
 656 pursuant to guidelines established in accordance with s.
 657 287.09451(4) to increase the participation of minority business
 658 enterprises.

659 (d) All agencies shall avoid any undue concentration of
 660 contracts or purchases in categories of commodities or
 661 contractual services in order to meet the minority business
 662 enterprise purchasing goals in s. 287.09451.

663 (7)~~(9)~~ An agency may reserve any contract for competitive
 664 solicitation only among vendors who agree to use certified
 665 minority business enterprises as subcontractors or subvendors.
 666 The percentage of funds, in terms of gross contract amount and
 667 revenues, which must be expended with the certified minority
 668 business enterprise subcontractors and subvendors shall be
 669 determined by the agency before such contracts may be reserved.
 670 In order to bid on a contract so reserved, the vendor shall
 671 identify those certified minority business enterprises which
 672 will be utilized as subcontractors or subvendors by sworn

673 | statement. At the time of performance or project completion, the
 674 | contractor shall report by sworn statement the payments and
 675 | completion of work for all certified minority business
 676 | enterprises used in the contract.

677 | (8)~~(10)~~ An agency shall not divide the solicitation
 678 | ~~procurement~~ of commodities or contractual services so as to
 679 | avoid the requirements of subsections (1)-(3) ~~(1) through (5)~~.

680 | (9)~~(11)~~ A contract for commodities or contractual services
 681 | may be awarded without competition if state or federal law
 682 | prescribes with whom the agency must contract or if the rate of
 683 | payment is established during the appropriations process.

684 | (10)~~(12)~~ If two equal responses to a solicitation or a
 685 | request for quote are received and one response is from a
 686 | certified minority business enterprise, the agency shall enter
 687 | into a contract with the certified minority business enterprise.

688 | (11)~~(13)~~ Extension of a contract for contractual services
 689 | shall be in writing for a period not to exceed 6 months and
 690 | shall be subject to the same terms and conditions set forth in
 691 | the initial contract. There shall be only one extension of a
 692 | contract unless the failure to meet the criteria set forth in
 693 | the contract for completion of the contract is due to events
 694 | beyond the control of the contractor.

695 | (12)~~(14)~~(a) Contracts for commodities or contractual
 696 | services may be renewed for a period that may not exceed 3 years
 697 | or the term of the original contract, whichever period is
 698 | longer. Renewal of a contract for commodities or contractual
 699 | services shall be in writing and shall be subject to the same
 700 | terms and conditions set forth in the initial contract. If the

CS/HB 7151

2010

701 commodity or contractual service is purchased as a result of the
702 solicitation of bids, proposals, or replies, the price of the
703 commodity or contractual service to be renewed shall be
704 specified in the bid, proposal, or reply. A renewal contract may
705 not include any compensation for costs associated with the
706 renewal. Renewals shall be contingent upon satisfactory
707 performance evaluations by the agency and subject to the
708 availability of funds. Exceptional purchase contracts pursuant
709 to paragraphs (3)~~(5)~~(a) and (c) may not be renewed. With the
710 exception of subsection (11)~~(13)~~, if a contract amendment
711 results in a longer contract term or increased payments, a state
712 agency may not renew or amend a contract for the outsourcing of
713 a service or activity that has an original term value exceeding
714 the sum of \$10 million before submitting a written report
715 concerning contract performance to the Governor, the President
716 of the Senate, and the Speaker of the House of Representatives
717 at least 90 days before execution of the renewal or amendment.

718 (b) The Department of Health shall enter into an
719 agreement, not to exceed 20 years, with a private contractor to
720 finance, design, and construct a hospital, of no more than 50
721 beds, for the treatment of patients with active tuberculosis and
722 to operate all aspects of daily operations within the facility.
723 The contractor may sponsor the issuance of tax-exempt
724 certificates of participation or other securities to finance the
725 project, and the state may enter into a lease-purchase agreement
726 for the facility. The department shall begin the implementation
727 of this initiative by July 1, 2008. This paragraph expires July
728 1, 2009.

729 (c) In addition to any renewal authorized under paragraph
730 (a), contracts for community-based care lead agency services in
731 accordance with s. 409.1671(1)(e) may be renewed once for a term
732 not to exceed 5 years, provided that the lead agency currently
733 under contract is in compliance with the performance, fiscal,
734 and administrative standards established by the Department of
735 Children and Family Services and the agency head determines that
736 renewal of the contract without a competitive solicitation is in
737 the best interests of the children and families served.

738 ~~(13)-(15)~~ For each contractual services contract, the
739 agency shall designate an employee to function as contract
740 manager who shall be responsible for enforcing performance of
741 the contract terms and conditions and serve as a liaison with
742 the contractor. The agency shall establish procedures to ensure
743 that contractual services have been rendered in accordance with
744 the contract terms prior to processing the invoice for payment.

745 ~~(14)-(16)~~ Each agency shall designate at least one employee
746 who shall serve as a contract administrator responsible for
747 maintaining a contract file and financial information on all
748 contractual services contracts and who shall serve as a liaison
749 with the contract managers and the department.

750 ~~(15)-(17)~~ For a contract in excess of the threshold amount
751 provided in s. 287.017 for CATEGORY FOUR, the agency head shall
752 appoint:

753 (a) At least three persons to evaluate proposals and
754 replies who collectively have experience and knowledge in the
755 program areas and service requirements for which commodities or
756 contractual services are sought.

CS/HB 7151

2010

757 (b) At least three persons to conduct negotiations during
758 a competitive sealed reply procurement who collectively have
759 experience and knowledge in negotiating contracts, contract
760 procurement, and the program areas and service requirements for
761 which commodities or contractual services are sought. When the
762 value of a contract is in excess of \$1 million in any fiscal
763 year, at least one of the persons conducting negotiations must
764 be certified as a contract negotiator based upon rules adopted
765 by the Department of Management Services in order to ensure that
766 certified contract negotiators are knowledgeable about effective
767 negotiation strategies, capable of successfully implementing
768 those strategies, and involved appropriately in the procurement
769 process. At a minimum, the rules must address the qualifications
770 required for certification, the method of certification, and the
771 procedure for involving the certified negotiator. If the value
772 of a contract is in excess of \$10 million in any fiscal year, at
773 least one of the persons conducting negotiations must be a
774 Project Management Professional, as certified by the Project
775 Management Institute.

776 (16) (a) 1. Each agency must avoid, neutralize, or mitigate
777 significant potential organizational conflicts of interest
778 before a contract is awarded. If the agency elects to mitigate
779 the significant potential organizational conflict or conflicts
780 of interest, an adequate mitigation plan including
781 organizational, physical, and electronic barriers shall be
782 developed.

783 2. If a conflict cannot be avoided or mitigated, an agency
784 is authorized to proceed with the contract award if the agency

785 head certifies that the award is in the best interests of the
 786 state. The agency head must specify in writing the basis for the
 787 certification.

788 (b)1. An agency head may not proceed with a contract award
 789 under subparagraph (a)2. if a conflict of interest is based upon
 790 the vendor gaining an unfair competitive advantage.

791 2. An unfair competitive advantage exists where the vendor
 792 competing for the award of a contract obtained:

793 a. Access to information that is not available to the
 794 public and would assist the vendor in obtaining the contract; or

795 b. Source selection information that is relevant to the
 796 contract but is not available to all competitors and that would
 797 assist the vendor in obtaining the contract.

798 3. An unfair competitive advantage does not exist as a
 799 result of the vendor acquiring expertise and having access to
 800 publicly available information as a result of performing the
 801 incumbent contract or another similar contract.

802 ~~(18) A person who receives a contract that has not been~~
 803 ~~procured pursuant to subsections (1) through (5) to perform a~~
 804 ~~feasibility study of the potential implementation of a~~
 805 ~~subsequent contract, who participates in the drafting of a~~
 806 ~~solicitation or who develops a program for future~~
 807 ~~implementation, is not eligible to contract with the agency for~~
 808 ~~any other contracts dealing with that specific subject matter,~~
 809 ~~and any firm in which such person has any interest is not~~
 810 ~~eligible to receive such contract. However, this prohibition~~
 811 ~~does not prevent a vendor who responds to a request for~~
 812 ~~information from being eligible to contract with an agency.~~

813 ~~(17)~~(19) Each agency shall establish a review and approval
814 process for all contractual services contracts costing more than
815 the threshold amount provided for in s. 287.017 for CATEGORY
816 THREE which shall include, but not be limited to, program,
817 financial, and legal review and approval. Such reviews and
818 approvals shall be obtained before the contract is executed.

819 ~~(18)~~(20) In any procurement that costs more than the
820 threshold amount provided for in s. 287.017 for CATEGORY TWO and
821 is accomplished without competition, the individuals taking part
822 in the development or selection of criteria for evaluation, the
823 evaluation process, and the award process shall attest in
824 writing that they are independent of, and have no conflict of
825 interest in, the entities evaluated and selected.

826 ~~(19)~~(21) Nothing in this section shall affect the validity
827 or effect of any contract in existence on October 1, 1990.

828 ~~(20)~~(22) An agency may contract for services with any
829 independent, nonprofit college or university which is located
830 within the state and is accredited by the Southern Association
831 of Colleges and Schools, on the same basis as it may contract
832 with any state university and college.

833 ~~(21)~~(23) The department, in consultation with the Agency
834 for Enterprise Information Technology and the Comptroller, shall
835 develop a program for online procurement of commodities and
836 contractual services. To enable the state to promote open
837 competition and to leverage its buying power, agencies shall
838 participate in the online procurement program, and eligible
839 users may participate in the program. Only vendors prequalified
840 as meeting mandatory requirements and qualifications criteria

841 may participate in online procurement.

842 (a) The department, in consultation with the agency, may
 843 contract for equipment and services necessary to develop and
 844 implement online procurement.

845 (b) The department, in consultation with the agency, shall
 846 adopt rules, pursuant to ss. 120.536(1) and 120.54, to
 847 administer the program for online procurement. The rules shall
 848 include, but not be limited to:

849 1. Determining the requirements and qualification criteria
 850 for prequalifying vendors.

851 2. Establishing the procedures for conducting online
 852 procurement.

853 3. Establishing the criteria for eligible commodities and
 854 contractual services.

855 4. Establishing the procedures for providing access to
 856 online procurement.

857 5. Determining the criteria warranting any exceptions to
 858 participation in the online procurement program.

859 (c) The department may impose and shall collect all fees
 860 for the use of the online procurement systems.

861 1. The fees may be imposed on an individual transaction
 862 basis or as a fixed percentage of the cost savings generated. At
 863 a minimum, the fees must be set in an amount sufficient to cover
 864 the projected costs of the services, including administrative
 865 and project service costs in accordance with the policies of the
 866 department.

867 2. If the department contracts with a provider for online
 868 procurement, the department, pursuant to appropriation, shall

869 | compensate the provider from the fees after the department has
 870 | satisfied all ongoing costs. The provider shall report
 871 | transaction data to the department each month so that the
 872 | department may determine the amount due and payable to the
 873 | department from each vendor.

874 | 3. All fees that are due and payable to the state on a
 875 | transactional basis or as a fixed percentage of the cost savings
 876 | generated are subject to s. 215.31 and must be remitted within
 877 | 40 days after receipt of payment for which the fees are due. For
 878 | fees that are not remitted within 40 days, the vendor shall pay
 879 | interest at the rate established under s. 55.03(1) on the unpaid
 880 | balance from the expiration of the 40-day period until the fees
 881 | are remitted.

882 | 4. All fees and surcharges collected under this paragraph
 883 | shall be deposited in the Operating Trust Fund as provided by
 884 | law.

885 | (22)~~(24)~~ Each solicitation for the procurement of
 886 | commodities or contractual services shall include the following
 887 | provision: "Respondents to this solicitation or persons acting
 888 | on their behalf may not contact, between the release of the
 889 | solicitation and the end of the 72-hour period following the
 890 | agency posting the notice of intended award, excluding
 891 | Saturdays, Sundays, and state holidays, any employee or officer
 892 | of the executive or legislative branch concerning any aspect of
 893 | this solicitation, except in writing to the procurement officer
 894 | or as provided in the solicitation documents. Violation of this
 895 | provision may be grounds for rejecting a response."

896 Section 5. Section 287.0571, Florida Statutes, is amended
 897 to read:

898 287.0571 Business case to outsource; applicability ~~of ss.~~
 899 ~~287.0571-287.0574.~~

900 ~~(1) Sections 287.0571-287.0574 may be cited as the~~
 901 ~~"Florida Efficient Government Act."~~

902 (1)~~(2)~~ It is the intent of the Legislature that each state
 903 agency focus on its core mission and deliver services
 904 effectively and efficiently by leveraging resources and
 905 contracting with private sector vendors whenever vendors can
 906 more effectively and efficiently provide services and reduce the
 907 cost of government.

908 (2)~~(3)~~ It is further the intent of the Legislature that
 909 business cases to outsource be evaluated for feasibility, cost-
 910 effectiveness, and efficiency before a state agency proceeds
 911 with any outsourcing of services.

912 (3)~~(4)~~ This section does ~~Sections 287.0571-287.0574 do not~~
 913 apply to:

914 (a) A procurement of commodities and contractual services
 915 listed in s. 287.057 (3)~~(5)~~~~(e)~~, (f), and (g) and (20)~~(22)~~.

916 (b) A procurement of contractual services subject to s.
 917 287.055.

918 (c) A contract in support of the planning, development,
 919 implementation, operation, or maintenance of the road, bridge,
 920 and public transportation construction program of the Department
 921 of Transportation.

922 (d) A procurement of commodities or contractual services
 923 which does not constitute an outsourcing of services or

924 activities.

925 (4) An agency shall complete a business case for any
926 outsourcing project with an expected cost in excess of \$10
927 million within a single fiscal year. The business case shall be
928 submitted pursuant to s. 216.023. The business case shall be
929 available as part of the solicitation but is not subject to
930 challenge and shall include the following:

931 (a) A detailed description of the service or activity for
932 which the outsourcing is proposed.

933 (b) A description and analysis of the state agency's
934 current performance, based on existing performance metrics if
935 the state agency is currently performing the service or
936 activity.

937 (c) The goals desired to be achieved through the proposed
938 outsourcing and the rationale for such goals.

939 (d) A citation to the existing or proposed legal authority
940 for outsourcing the service or activity.

941 (e) A description of available options for achieving the
942 goals. If state employees are currently performing the service
943 or activity, at least one option involving maintaining state
944 provision of the service or activity shall be included.

945 (f) An analysis of the advantages and disadvantages of
946 each option, including, at a minimum, potential performance
947 improvements and risks.

948 (g) A description of the current market for the
949 contractual services that are under consideration for
950 outsourcing.

951 (h) A cost-benefit analysis documenting the direct and

952 indirect specific baseline costs, savings, and qualitative and
953 quantitative benefits involved in or resulting from the
954 implementation of the recommended option or options. Such
955 analysis must specify the schedule that, at a minimum, must be
956 adhered to in order to achieve the estimated savings. All
957 elements of cost must be clearly identified in the cost-benefit
958 analysis, described in the business case, and supported by
959 applicable records and reports. The state agency head shall
960 attest that, based on the data and information underlying the
961 business case, to the best of his or her knowledge, all
962 projected costs, savings, and benefits are valid and achievable.
963 As used in this section, the term "cost" means the reasonable,
964 relevant, and verifiable cost, which may include, but is not
965 limited to, elements such as personnel, materials and supplies,
966 services, equipment, capital depreciation, rent, maintenance and
967 repairs, utilities, insurance, personnel travel, overhead, and
968 interim and final payments. The appropriate elements shall
969 depend on the nature of the specific initiative. As used in this
970 section, the term "savings" means the difference between the
971 direct and indirect actual annual baseline costs compared to the
972 projected annual cost for the contracted functions or
973 responsibilities in any succeeding state fiscal year during the
974 term of the contract.

975 (i) A description of differences among current state
976 agency policies and processes and, as appropriate, a discussion
977 of options for or a plan to standardize, consolidate, or revise
978 current policies and processes, if any, to reduce the
979 customization of any proposed solution that would otherwise be

980 required.

981 (j) A description of the specific performance standards
 982 that must, at a minimum, be met to ensure adequate performance.

983 (k) The projected timeframe for key events from the
 984 beginning of the procurement process through the expiration of a
 985 contract.

986 (l) A plan to ensure compliance with the public records
 987 law.

988 (m) A specific and feasible contingency plan addressing
 989 contractor nonperformance and a description of the tasks
 990 involved in and costs required for its implementation.

991 (n) A state agency's transition plan for addressing
 992 changes in the number of agency personnel, affected business
 993 processes, employee transition issues, and communication with
 994 affected stakeholders, such as agency clients and the public.
 995 The transition plan must contain a reemployment and retraining
 996 assistance plan for employees who are not retained by the state
 997 agency or employed by the contractor.

998 (o) A plan for ensuring access by persons with
 999 disabilities in compliance with applicable state and federal
 1000 law.

1001 (5) In addition to the contract requirements provided in
 1002 s. 287.058, each contract for a proposed outsourcing, pursuant
 1003 to this section, must include, but need not be limited to, the
 1004 following contractual provisions:

1005 (a) A scope-of-work provision that clearly specifies each
 1006 service or deliverable to be provided, including a description
 1007 of each deliverable or activity that is quantifiable,

1008 measurable, and verifiable. This provision must include a clause
 1009 that states if a particular service or deliverable is
 1010 inadvertently omitted or not clearly specified but determined to
 1011 be operationally necessary and verified to have been performed
 1012 by the agency within the 12 months before the execution of the
 1013 contract, such service or deliverable will be provided by the
 1014 contractor through the identified contract-amendment process.

1015 (b) A service-level-agreement provision describing all
 1016 services to be provided under the terms of the agreement, the
 1017 state agency's service requirements and performance objectives,
 1018 specific responsibilities of the state agency and the
 1019 contractor, and the process for amending any portion of the
 1020 service-level agreement. Each service-level agreement must
 1021 contain an exclusivity clause that allows the state agency to
 1022 retain the right to perform the service or activity, directly or
 1023 with another contractor, if service levels are not being
 1024 achieved.

1025 (c) A provision that identifies all associated costs,
 1026 specific payment terms, and payment schedules, including
 1027 provisions governing incentives and financial disincentives and
 1028 criteria governing payment.

1029 (d) A provision that identifies a clear and specific
 1030 transition plan that will be implemented in order to complete
 1031 all required activities needed to transfer the service or
 1032 activity from the state agency to the contractor and operate the
 1033 service or activity successfully.

1034 (e) A performance-standards provision that identifies all
 1035 required performance standards, which must include, at a

CS/HB 7151

2010

1036 minimum:

1037 1. Detailed and measurable acceptance criteria for each
1038 deliverable and service to be provided to the state agency under
1039 the terms of the contract which document the required
1040 performance level.

1041 2. A method for monitoring and reporting progress in
1042 achieving specified performance standards and levels.

1043 3. The sanctions or disincentives that shall be imposed
1044 for nonperformance by the contractor or state agency.

1045 (f) A provision that requires the contractor and its
1046 subcontractors to maintain adequate accounting records that
1047 comply with all applicable federal and state laws and generally
1048 accepted accounting principles.

1049 (g) A provision that authorizes the state agency to have
1050 access to and to audit all records related to the contract and
1051 subcontracts, or any responsibilities or functions under the
1052 contract and subcontracts, for purposes of legislative
1053 oversight, and a requirement for audits by a service
1054 organization in accordance with professional auditing standards,
1055 if appropriate.

1056 (h) A provision that requires the contractor to interview
1057 and consider for employment with the contractor each displaced
1058 state employee who is interested in such employment.

1059 (i) A contingency-plan provision that describes the
1060 mechanism for continuing the operation of the service or
1061 activity, including transferring the service or activity back to
1062 the state agency or successor contractor if the contractor fails
1063 to perform and comply with the performance standards and levels

1064 of the contract and the contract is terminated.

1065 (j) A provision that requires the contractor and its
 1066 subcontractors to comply with public records laws, specifically
 1067 to:

1068 1. Keep and maintain the public records that ordinarily
 1069 and necessarily would be required by the state agency in order
 1070 to perform the service or activity.

1071 2. Provide the public with access to such public records
 1072 on the same terms and conditions that the state agency would
 1073 provide the records and at a cost that does not exceed that
 1074 provided in chapter 119 or as otherwise provided by law.

1075 3. Ensure that records that are exempt or records that are
 1076 confidential and exempt are not disclosed except as authorized
 1077 by law.

1078 4. Meet all requirements for retaining records and
 1079 transfer to the state agency, at no cost, all public records in
 1080 possession of the contractor upon termination of the contract
 1081 and destroy any duplicate public records that are exempt or
 1082 confidential and exempt. All records stored electronically must
 1083 be provided to the state agency in a format that is compatible
 1084 with the information technology systems of the state agency.

1085 (k)1. A provision that provides that any copyrightable or
 1086 patentable intellectual property produced as a result of work or
 1087 services performed under the contract, or in any way connected
 1088 with the contract, shall be the property of the state, with only
 1089 such exceptions as are clearly expressed and reasonably valued
 1090 in the contract.

1091 2. A provision that provides that, if the primary purpose

1092 of the contract is the creation of intellectual property, the
 1093 state shall retain an unencumbered right to use such property.

1094 (1) If applicable, a provision that allows the agency to
 1095 purchase from the contractor, at its depreciated value, assets
 1096 used by the contractor in the performance of the contract. If
 1097 assets have not depreciated, the agency shall retain the right
 1098 to negotiate to purchase at an agreed-upon cost.

1099 Section 6. Section 287.05721, Florida Statutes, is
 1100 repealed.

1101 Section 7. Section 287.0575, Florida Statutes, is created
 1102 to read:

1103 287.0575 Coordination of contracted services.—The
 1104 following duties and responsibilities of the Department of
 1105 Children and Family Services, the Agency for Persons with
 1106 Disabilities, the Department of Health, the Department of
 1107 Elderly Affairs, and the Florida Department of Veterans Affairs,
 1108 and service providers under contract to those agencies, are
 1109 established:

1110 (1) No later than August 1, 2010, or upon entering into
 1111 any new contract for health and human services, state agencies
 1112 contracting for health and human services must notify their
 1113 contract service providers of the requirements of this section.

1114 (2) No later than October 1, 2010, contract service
 1115 providers that have more than one contract with one or more
 1116 state agencies to provide health and human services must provide
 1117 to each of their contract managers a comprehensive list of their
 1118 health and human services contracts. The list must include the
 1119 following information:

1120 (a) The name of each contracting state agency and the
 1121 applicable office or program issuing the contract.
 1122 (b) The identifying name and number of each contract.
 1123 (c) The starting and ending date of each contract.
 1124 (d) The amount of each contract.
 1125 (e) A brief description of the purpose of the contract and
 1126 the types of services provided under each contract.
 1127 (f) The name and contact information of the contract
 1128 manager.
 1129 (3) With respect to contracts entered into after August 1,
 1130 2010, effective November 1, 2010, or 30 days after receiving the
 1131 list provided under subsection (2), a single lead administrative
 1132 coordinator for each contract service provider shall be
 1133 designated as provided in this subsection from among the
 1134 agencies having multiple contracts as provided in subsection
 1135 (2). On or before the date such responsibilities are assumed,
 1136 the designated lead administrative coordinator shall provide
 1137 notice of his or her designation to the contract service
 1138 provider and to the agency contract managers for each affected
 1139 contract. Unless another lead administrative coordinator is
 1140 selected by agreement of all affected contract managers, the
 1141 designated lead administrative coordinator shall be the agency
 1142 contract manager of the contract with the highest dollar value
 1143 over the term of the contract, provided the term of the contract
 1144 remaining at the time of designation exceeds 24 months. If the
 1145 remaining terms of all contracts are 24 months or less, the
 1146 designated lead administrative coordinator shall be the contract
 1147 manager of the contract with the latest end date. A designated

CS/HB 7151

2010

1148 lead administrative coordinator, or his or her successor as
1149 contract manager, shall continue as lead administrative
1150 coordinator until another lead administrative coordinator is
1151 selected by agreement of all affected contract managers or until
1152 the end date of the contract for which the designated lead
1153 administrative coordinator serves as contract manager, at which
1154 time a new lead administrative coordinator shall be designated
1155 pursuant to this subsection if applicable.

1156 (4) The designated lead administrative coordinator shall
1157 be responsible for:

1158 (a) Establishing a coordinated schedule for administrative
1159 and fiscal monitoring;

1160 (b) Consulting with other case managers to establish a
1161 single unified set of required administrative and fiscal
1162 documentation;

1163 (c) Consulting with other case managers to establish a
1164 single unified schedule for periodic updates of administrative
1165 and fiscal information; and

1166 (d) Maintaining an accessible electronic file of up-to-
1167 date administrative and fiscal documents, including, but not
1168 limited to, corporate documents, membership records, audits, and
1169 monitoring reports.

1170 (5) Contract managers for agency contracts other than the
1171 designated lead administrative coordinator must conduct
1172 administrative and fiscal monitoring activities in accordance
1173 with the coordinated schedule and must obtain any necessary
1174 administrative and fiscal documents from the designated lead
1175 administrative coordinator's electronic file.

1176 (6) This section does not apply to routine program
 1177 performance monitoring or prohibit a contracting agency from
 1178 directly and immediately contacting the service provider when
 1179 the health or safety of clients is at risk.

1180 (7) Annually, each agency contracting for health and human
 1181 services shall evaluate the performance of its designated lead
 1182 administrative coordinator in establishing coordinated systems,
 1183 improving efficiency, and reducing redundant monitoring
 1184 activities for state agencies and their service providers. The
 1185 report shall be submitted to the Governor, the President of the
 1186 Senate and the Speaker of the House of Representatives.

1187 Section 8. Section 287.0573, Florida Statutes, is
 1188 repealed.

1189 Section 9. Section 287.0574, Florida Statutes, is
 1190 repealed.

1191 Section 10. Subsections (2) and (3) of section 283.32,
 1192 Florida Statutes, are amended to read:

1193 283.32 Recycled paper to be used by each agency; printing
 1194 bids certifying use of recycled paper; percentage preference in
 1195 awarding contracts.—

1196 (2) Each agency shall require a vendor that submits a bid
 1197 for a contract for printing ~~and that wishes to be considered for~~
 1198 ~~the price preference described in s. 287.045~~ to certify in
 1199 writing the percentage of recycled content of the material used
 1200 for such printing. Such vendor may certify that the material
 1201 contains no recycled content.

1202 (3) Upon evaluation of bids for each printing contract,
 1203 the agency shall identify the lowest responsive bid and any

CS/HB 7151

2010

1204 other responsive bids in which it has been certified that the
 1205 materials used in printing contain at least the minimum
 1206 percentage of recycled content that is set forth by the
 1207 department. ~~In awarding a contract for printing, the agency may~~
 1208 ~~allow up to a 10-percent price preference, as provided in s.~~
 1209 ~~287.045, to a responsible and responsive vendor that has~~
 1210 ~~certified that the materials used in printing contain at least~~
 1211 ~~the minimum percentage of recycled content established by the~~
 1212 ~~department.~~ If no vendors offer materials for printing that
 1213 contain the minimum prescribed recycled content, the contract
 1214 shall be awarded to the responsible vendor that submits the
 1215 lowest responsive bid.

1216 Section 11. Subsection (1) of section 403.7065, Florida
 1217 Statutes, is amended to read:

1218 403.7065 Procurement of products or materials with
 1219 recycled content.—

1220 (1) ~~Except as provided in s. 287.045,~~ Any state agency or
 1221 agency of a political subdivision of the state which is using
 1222 state funds, or any person contracting with any such agency with
 1223 respect to work performed under contract, is required to procure
 1224 products or materials with recycled content when the Department
 1225 of Management Services determines that those products or
 1226 materials are available. A decision not to procure such items
 1227 must be based on the Department of Management Services'
 1228 determination that such procurement is not reasonably available
 1229 within an acceptable period of time, fails to meet the
 1230 performance standards set forth in the applicable
 1231 specifications, or fails to meet the performance standards of

CS/HB 7151

2010

1232 the agency. ~~When the requirements of s. 287.045 are met,~~
 1233 ~~agencies shall be subject to the procurement requirements of~~
 1234 ~~that section for procuring products or materials with recycled~~
 1235 ~~content.~~

1236 Section 12. Paragraph (d) of subsection (4) of section
 1237 14.204, Florida Statutes, is amended to read:

1238 14.204 Agency for Enterprise Information Technology.—The
 1239 Agency for Enterprise Information Technology is created within
 1240 the Executive Office of the Governor.

1241 (4) The agency shall have the following duties and
 1242 responsibilities:

1243 (d) Plan and establish policies for managing proposed
 1244 statutorily authorized enterprise information technology
 1245 services, which includes:

- 1246 1. Developing business cases that, when applicable,
 1247 include the components identified in s. 287.0571 ~~287.0574~~;
- 1248 2. Establishing and coordinating project-management teams;
- 1249 3. Establishing formal risk-assessment and mitigation
 1250 processes; and
- 1251 4. Providing for independent monitoring of projects for
 1252 recommended corrective actions.

1253 Section 13. Subsection (1) of section 43.16, Florida
 1254 Statutes, is amended to read:

1255 43.16 Justice Administrative Commission; membership,
 1256 powers and duties.—

1257 (1) There is hereby created a Justice Administrative
 1258 Commission, with headquarters located in the state capital. The
 1259 necessary office space for use of the commission shall be

CS/HB 7151

2010

1260 furnished by the proper state agency in charge of state
 1261 buildings. For purposes of the fees imposed on agencies pursuant
 1262 to s. 287.057 (21) ~~(23)~~, the Justice Administrative Commission
 1263 shall be exempt from such fees.

1264 Section 14. Paragraph (e) of subsection (1) of section
 1265 61.1826, Florida Statutes, is amended to read:

1266 61.1826 Procurement of services for State Disbursement
 1267 Unit and the non-Title IV-D component of the State Case
 1268 Registry; contracts and cooperative agreements; penalties;
 1269 withholding payment.—

1270 (1) LEGISLATIVE FINDINGS.—The Legislature finds that the
 1271 clerks of court play a vital role, as essential participants in
 1272 the establishment, modification, collection, and enforcement of
 1273 child support, in securing the health, safety, and welfare of
 1274 the children of this state. The Legislature further finds and
 1275 declares that:

1276 (e) The potential loss of substantial federal funds poses
 1277 a direct and immediate threat to the health, safety, and welfare
 1278 of the children and citizens of the state and constitutes an
 1279 emergency for purposes of s. 287.057 (3) ~~(5)~~ (a).

1280
 1281 For these reasons, the Legislature hereby directs the Department
 1282 of Revenue, subject to the provisions of subsection (5), to
 1283 contract with the Florida Association of Court Clerks and each
 1284 depository to perform duties with respect to the operation and
 1285 maintenance of a State Disbursement Unit and the non-Title IV-D
 1286 component of the State Case Registry as further provided by this
 1287 section.

CS/HB 7151

2010

1288 Section 15. Paragraph (h) of subsection (1) of section
 1289 112.3215, Florida Statutes, is amended to read:

1290 112.3215 Lobbying before the executive branch or the
 1291 Constitution Revision Commission; registration and reporting;
 1292 investigation by commission.—

1293 (1) For the purposes of this section:

1294 (h) "Lobbyist" means a person who is employed and receives
 1295 payment, or who contracts for economic consideration, for the
 1296 purpose of lobbying, or a person who is principally employed for
 1297 governmental affairs by another person or governmental entity to
 1298 lobby on behalf of that other person or governmental entity.

1299 "Lobbyist" does not include a person who is:

1300 1. An attorney, or any person, who represents a client in
 1301 a judicial proceeding or in a formal administrative proceeding
 1302 conducted pursuant to chapter 120 or any other formal hearing
 1303 before an agency, board, commission, or authority of this state.

1304 2. An employee of an agency or of a legislative or
 1305 judicial branch entity acting in the normal course of his or her
 1306 duties.

1307 3. A confidential informant who is providing, or wishes to
 1308 provide, confidential information to be used for law enforcement
 1309 purposes.

1310 4. A person who lobbies to procure a contract pursuant to
 1311 chapter 287 which contract is less than the threshold for
 1312 CATEGORY ONE as provided in s. 287.017~~(1)(a)~~.

1313 Section 16. Paragraph (h) of subsection (3) of section
 1314 255.25, Florida Statutes, is amended to read:

1315 255.25 Approval required prior to construction or lease of

1316 buildings.—

1317 (3)

1318 (h) The Department of Management Services may, pursuant to
 1319 s. 287.042(2)(a), procure a term contract for real estate
 1320 consulting and brokerage services. A state agency may not
 1321 purchase services from the contract unless the contract has been
 1322 procured under s. 287.057(1), ~~(2), or (3)~~ after March 1, 2007,
 1323 and contains the following provisions or requirements:

1324 1. Awarded brokers must maintain an office or presence in
 1325 the market served. In awarding the contract, preference must be
 1326 given to brokers that are licensed in this state under chapter
 1327 475 and that have 3 or more years of experience in the market
 1328 served. The contract may be made with up to three tenant brokers
 1329 in order to serve the marketplace in the north, central, and
 1330 south areas of the state.

1331 2. Each contracted tenant broker shall work under the
 1332 direction, supervision, and authority of the state agency,
 1333 subject to the rules governing lease procurements.

1334 3. The department shall provide training for the awarded
 1335 tenant brokers concerning the rules governing the procurement of
 1336 leases.

1337 4. Tenant brokers must comply with all applicable
 1338 provisions of s. 475.278.

1339 5. Real estate consultants and tenant brokers shall be
 1340 compensated by the state agency, subject to the provisions of
 1341 the term contract, and such compensation is subject to
 1342 appropriation by the Legislature. A real estate consultant or
 1343 tenant broker may not receive compensation directly from a

CS/HB 7151

2010

1344 lessor for services that are rendered under the term contract.
 1345 Moneys paid to a real estate consultant or tenant broker are
 1346 exempt from any charge imposed under s. 287.1345. Moneys paid by
 1347 a lessor to the state agency under a facility leasing
 1348 arrangement are not subject to the charges imposed under s.
 1349 215.20. All terms relating to the compensation of the real
 1350 estate consultant or tenant broker shall be specified in the
 1351 term contract and may not be supplemented or modified by the
 1352 state agency using the contract.

1353 6. The department shall conduct periodic customer-
 1354 satisfaction surveys.

1355 7. Each state agency shall report the following
 1356 information to the department:

1357 a. The number of leases that adhere to the goal of the
 1358 workspace-management initiative of 180 square feet per FTE.

1359 b. The quality of space leased and the adequacy of tenant-
 1360 improvement funds.

1361 c. The timeliness of lease procurement, measured from the
 1362 date of the agency's request to the finalization of the lease.

1363 d. Whether cost-benefit analyses were performed before
 1364 execution of the lease in order to ensure that the lease is in
 1365 the best interest of the state.

1366 e. The lease costs compared to market rates for similar
 1367 types and classifications of space according to the official
 1368 classifications of the Building Owners and Managers Association.

1369 Section 17. Paragraph (a) of subsection (2) of section
 1370 286.0113, Florida Statutes, is amended to read:

1371 286.0113 General exemptions from public meetings.—

CS/HB 7151

2010

1372 (2) (a) A meeting at which a negotiation with a vendor is
 1373 conducted pursuant to s. 287.057(1)~~(3)~~ is exempt from s. 286.011
 1374 and s. 24(b), Art. I of the State Constitution.

1375 Section 18. Subsection (1) of section 287.022, Florida
 1376 Statutes, is amended to read:

1377 287.022 Purchase of insurance.—

1378 (1) Insurance, while not a commodity, nevertheless shall
 1379 be purchased for all agencies by the department, except that
 1380 agencies may purchase title insurance for land acquisition and
 1381 may make emergency purchases of insurance pursuant to s.
 1382 287.057(3)~~(5)~~(a). The procedures for purchasing insurance,
 1383 whether the purchase is made by the department or by the
 1384 agencies, shall be the same as those set forth herein for the
 1385 purchase of commodities.

1386 Section 19. Paragraph (f) of subsection (1) and subsection
 1387 (5) of section 287.058, Florida Statutes, are amended to read:

1388 287.058 Contract document.—

1389 (1) Every procurement of contractual services in excess of
 1390 the threshold amount provided in s. 287.017 for CATEGORY TWO,
 1391 except for the providing of health and mental health services or
 1392 drugs in the examination, diagnosis, or treatment of sick or
 1393 injured state employees or the providing of other benefits as
 1394 required by the provisions of chapter 440, shall be evidenced by
 1395 a written agreement embodying all provisions and conditions of
 1396 the procurement of such services, which provisions and
 1397 conditions shall, where applicable, include, but shall not be
 1398 limited to:

1399 (f) A provision specifying that the contract may be

CS/HB 7151

2010

1400 renewed for a period that may not exceed 3 years or the term of
 1401 the original contract, whichever period is longer, specifying
 1402 the renewal price for the contractual service as set forth in
 1403 the bid, proposal, or reply, specifying that costs for the
 1404 renewal may not be charged, and specifying that renewals shall
 1405 be contingent upon satisfactory performance evaluations by the
 1406 agency and subject to the availability of funds. Exceptional
 1407 purchase contracts pursuant to s. 287.057 (3) ~~(5)~~ (a) and (c) may
 1408 not be renewed.

1409
 1410 In lieu of a written agreement, the department may authorize the
 1411 use of a purchase order for classes of contractual services, if
 1412 the provisions of paragraphs (a)-(f) are included in the
 1413 purchase order or solicitation. The purchase order must include,
 1414 but need not be limited to, an adequate description of the
 1415 services, the contract period, and the method of payment. In
 1416 lieu of printing the provisions of paragraphs (a)-(f) in the
 1417 contract document or purchase order, agencies may incorporate
 1418 the requirements of paragraphs (a)-(f) by reference.

1419 (5) Unless otherwise provided in the General
 1420 Appropriations Act or the substantive bill implementing the
 1421 General Appropriations Act, the Chief Financial Officer may
 1422 waive the requirements of this section for services which are
 1423 included in s. 287.057 (3) ~~(5)~~ (f).

1424 Section 20. Subsection (14) of section 287.059, Florida
 1425 Statutes, is amended to read:

1426 287.059 Private attorney services.—

1427 (14) The office of the Attorney General is authorized to

CS/HB 7151

2010

1428 competitively bid and contract with one or more court reporting
 1429 services, on a circuitwide basis, on behalf of all state
 1430 agencies in accordance with s. 287.057~~(2)~~. The office of the
 1431 Attorney General shall develop requests for proposal for court
 1432 reporter services in consultation with the Florida Court
 1433 Reporters Association. All agencies shall utilize the contracts
 1434 for court reporting services entered into by the office of the
 1435 Attorney General where in force, unless otherwise ordered by a
 1436 court or unless an agency has a contract for court reporting
 1437 services executed prior to May 5, 1993.

1438 Section 21. Paragraph (b) of subsection (4) of section
 1439 295.187, Florida Statutes, is amended to read:

1440 295.187 Florida Service-Disabled Veteran Business
 1441 Enterprise Opportunity Act.—

1442 (4) VENDOR PREFERENCE.—

1443 (b) Notwithstanding s. 287.057~~(10)~~(12), if a service-
 1444 disabled veteran business enterprise entitled to the vendor
 1445 preference under this section and one or more businesses
 1446 entitled to this preference or another vendor preference
 1447 provided by law submit bids, proposals, or replies for
 1448 procurement of commodities or contractual services that are
 1449 equal with respect to all relevant considerations, including
 1450 price, quality, and service, then the state agency shall award
 1451 the procurement or contract to the business having the smallest
 1452 net worth.

1453 Section 22. Subsection (3) of section 394.457, Florida
 1454 Statutes, is amended to read:

1455 394.457 Operation and administration.—

1456 (3) POWER TO CONTRACT.—The department may contract to
 1457 provide, and be provided with, services and facilities in order
 1458 to carry out its responsibilities under this part with the
 1459 following agencies: public and private hospitals; receiving and
 1460 treatment facilities; clinics; laboratories; departments,
 1461 divisions, and other units of state government; the state
 1462 colleges and universities; the community colleges; private
 1463 colleges and universities; counties, municipalities, and any
 1464 other governmental unit, including facilities of the United
 1465 States Government; and any other public or private entity which
 1466 provides or needs facilities or services. Baker Act funds for
 1467 community inpatient, crisis stabilization, short-term
 1468 residential treatment, and screening services must be allocated
 1469 to each county pursuant to the department's funding allocation
 1470 methodology. Notwithstanding the provisions of s.
 1471 287.057(3) ~~(5)~~ (f), contracts for community-based Baker Act
 1472 services for inpatient, crisis stabilization, short-term
 1473 residential treatment, and screening provided under this part,
 1474 other than those with other units of government, to be provided
 1475 for the department must be awarded using competitive sealed bids
 1476 when the county commission of the county receiving the services
 1477 makes a request to the department's district office by January
 1478 15 of the contracting year. The district shall not enter into a
 1479 competitively bid contract under this provision if such action
 1480 will result in increases of state or local expenditures for
 1481 Baker Act services within the district. Contracts for these
 1482 Baker Act services using competitive sealed bids will be
 1483 effective for 3 years. The department shall adopt rules

CS/HB 7151

2010

1484 establishing minimum standards for such contracted services and
 1485 facilities and shall make periodic audits and inspections to
 1486 assure that the contracted services are provided and meet the
 1487 standards of the department.

1488 Section 23. Paragraph (a) of subsection (1) of section
 1489 394.47865, Florida Statutes, is amended to read:

1490 394.47865 South Florida State Hospital; privatization.—

1491 (1) The Department of Children and Family Services shall,
 1492 through a request for proposals, privatize South Florida State
 1493 Hospital. The department shall plan to begin implementation of
 1494 this privatization initiative by July 1, 1998.

1495 (a) Notwithstanding s. 287.057 (12) ~~(14)~~, the department may
 1496 enter into agreements, not to exceed 20 years, with a private
 1497 provider, a coalition of providers, or another agency to
 1498 finance, design, and construct a treatment facility having up to
 1499 350 beds and to operate all aspects of daily operations within
 1500 the facility. The department may subcontract any or all
 1501 components of this procurement to a statutorily established
 1502 state governmental entity that has successfully contracted with
 1503 private companies for designing, financing, acquiring, leasing,
 1504 constructing, and operating major privatized state facilities.

1505 Section 24. Paragraph (c) of subsection (5) and subsection
 1506 (8) of section 402.40, Florida Statutes, are amended to read:

1507 402.40 Child welfare training.—

1508 (5) CORE COMPETENCIES.—

1509 (c) Notwithstanding s. 287.057 (3) ~~(5)~~ and (20) ~~(22)~~, the
 1510 department shall competitively solicit and contract for the
 1511 development, validation, and periodic evaluation of the training

CS/HB 7151

2010

1512 | curricula for the established single integrated curriculum. No
1513 | more than one training curriculum may be developed for each
1514 | specific subset of the core competencies.

1515 | (8) ESTABLISHMENT OF TRAINING ACADEMIES.—The department
1516 | shall establish child welfare training academies as part of a
1517 | comprehensive system of child welfare training. In establishing
1518 | a program of training, the department may contract for the
1519 | operation of one or more training academies to perform one or
1520 | more of the following: to offer one or more of the training
1521 | curricula developed under subsection (5); to administer the
1522 | certification process; to develop, validate, and periodically
1523 | evaluate additional training curricula determined to be
1524 | necessary, including advanced training that is specific to a
1525 | region or contractor, or that meets a particular training need;
1526 | or to offer the additional training curricula. The number,
1527 | location, and timeframe for establishment of training academies
1528 | shall be approved by the Secretary of Children and Family
1529 | Services who shall ensure that the goals for the core
1530 | competencies and the single integrated curriculum, the
1531 | certification process, the trainer qualifications, and the
1532 | additional training needs are addressed. Notwithstanding s.
1533 | 287.057 (3) ~~(5)~~ and (20) ~~(22)~~, the department shall competitively
1534 | solicit all training academy contracts.

1535 | Section 25. Paragraphs (a) and (b) of subsection (2) and
1536 | subsection (3) of section 402.7305, Florida Statutes, are
1537 | amended to read:

1538 | 402.7305 Department of Children and Family Services;
1539 | procurement of contractual services; contract management.—

1540 (2) PROCUREMENT OF COMMODITIES AND CONTRACTUAL SERVICES.—
 1541 (a) Notwithstanding s. 287.057(3)(f)11. ~~s.~~
 1542 ~~287.057(5)(f)13.~~, whenever the department intends to contract
 1543 with a public postsecondary institution to provide a service,
 1544 the department must allow all public postsecondary institutions
 1545 in this state that are accredited by the Southern Association of
 1546 Colleges and Schools to bid on the contract. Thereafter,
 1547 notwithstanding any other provision to the contrary, if a public
 1548 postsecondary institution intends to subcontract for any service
 1549 awarded in the contract, the subcontracted service must be
 1550 procured by competitive procedures.

1551 (b) When it is in the best interest of a defined segment
 1552 of its consumer population, the department may competitively
 1553 procure and contract for systems of treatment or service that
 1554 involve multiple providers, rather than procuring and
 1555 contracting for treatment or services separately from each
 1556 participating provider. The department must ensure that all
 1557 providers that participate in the treatment or service system
 1558 meet all applicable statutory, regulatory, service quality, and
 1559 cost control requirements. If other governmental entities or
 1560 units of special purpose government contribute matching funds to
 1561 the support of a given system of treatment or service, the
 1562 department shall formally request information from those funding
 1563 entities in the procurement process and may take the information
 1564 received into account in the selection process. If a local
 1565 government contributes matching funds to support the system of
 1566 treatment or contracted service and if the match constitutes at
 1567 least 25 percent of the value of the contract, the department

1568 shall afford the governmental match contributor an opportunity
 1569 to name an employee as one of the persons required by s.
 1570 287.057 (15) ~~(17)~~ to evaluate or negotiate certain contracts,
 1571 unless the department sets forth in writing the reason why the
 1572 inclusion would be contrary to the best interest of the state.
 1573 Any employee so named by the governmental match contributor
 1574 shall qualify as one of the persons required by s.
 1575 287.057 (15) ~~(17)~~. A governmental entity or unit of special
 1576 purpose government may not name an employee as one of the
 1577 persons required by s. 287.057 (15) ~~(17)~~ if it, or any of its
 1578 political subdivisions, executive agencies, or special
 1579 districts, intends to compete for the contract to be awarded.
 1580 The governmental funding entity or contributor of matching funds
 1581 must comply with all procurement procedures set forth in s.
 1582 287.057 when appropriate and required.

1583 (3) CONTRACT MANAGEMENT REQUIREMENTS AND PROCESS.—The
 1584 Department of Children and Family Services shall review the time
 1585 period for which the department executes contracts and shall
 1586 execute multiyear contracts to make the most efficient use of
 1587 the resources devoted to contract processing and execution.
 1588 Whenever the department chooses not to use a multiyear contract,
 1589 a justification for that decision must be contained in the
 1590 contract. Notwithstanding s. 287.057 (13) ~~(15)~~, the department is
 1591 responsible for establishing a contract management process that
 1592 requires a member of the department's Senior Management or
 1593 Selected Exempt Service to assign in writing the responsibility
 1594 of a contract to a contract manager. The department shall
 1595 maintain a set of procedures describing its contract management

CS/HB 7151

2010

1596 process which must minimally include the following requirements:

1597 (a) The contract manager shall maintain the official
1598 contract file throughout the duration of the contract and for a
1599 period not less than 6 years after the termination of the
1600 contract.

1601 (b) The contract manager shall review all invoices for
1602 compliance with the criteria and payment schedule provided for
1603 in the contract and shall approve payment of all invoices before
1604 their transmission to the Department of Financial Services for
1605 payment.

1606 (c) The contract manager shall maintain a schedule of
1607 payments and total amounts disbursed and shall periodically
1608 reconcile the records with the state's official accounting
1609 records.

1610 (d) For contracts involving the provision of direct client
1611 services, the contract manager shall periodically visit the
1612 physical location where the services are delivered and speak
1613 directly to clients receiving the services and the staff
1614 responsible for delivering the services.

1615 (e) The contract manager shall meet at least once a month
1616 directly with the contractor's representative and maintain
1617 records of such meetings.

1618 (f) The contract manager shall periodically document any
1619 differences between the required performance measures and the
1620 actual performance measures. If a contractor fails to meet and
1621 comply with the performance measures established in the
1622 contract, the department may allow a reasonable period for the
1623 contractor to correct performance deficiencies. If performance

CS/HB 7151

2010

1624 deficiencies are not resolved to the satisfaction of the
 1625 department within the prescribed time, and if no extenuating
 1626 circumstances can be documented by the contractor to the
 1627 department's satisfaction, the department must terminate the
 1628 contract. The department may not enter into a new contract with
 1629 that same contractor for the services for which the contract was
 1630 previously terminated for a period of at least 24 months after
 1631 the date of termination. The contract manager shall obtain and
 1632 enforce corrective action plans, if appropriate, and maintain
 1633 records regarding the completion or failure to complete
 1634 corrective action items.

1635 (g) The contract manager shall document any contract
 1636 modifications, which shall include recording any contract
 1637 amendments as provided for in this section.

1638 (h) The contract manager shall be properly trained before
 1639 being assigned responsibility for any contract.

1640 Section 26. Subsection (2) of section 408.045, Florida
 1641 Statutes, is amended to read:

1642 408.045 Certificate of need; competitive sealed
 1643 proposals.—

1644 (2) The agency shall make a decision regarding the
 1645 issuance of the certificate of need in accordance with the
 1646 provisions of s. 287.057 (15) ~~(17)~~, rules adopted by the agency
 1647 relating to intermediate care facilities for the developmentally
 1648 disabled, and the criteria in s. 408.035, as further defined by
 1649 rule.

1650 Section 27. Subsection (3) of section 427.0135, Florida
 1651 Statutes, is amended to read:

CS/HB 7151

2010

1652 427.0135 Purchasing agencies; duties and
 1653 responsibilities.—Each purchasing agency, in carrying out the
 1654 policies and procedures of the commission, shall:

1655 (3) Not procure transportation disadvantaged services
 1656 without initially negotiating with the commission, as provided
 1657 in s. 287.057(3)(f)11. ~~s. 287.057(5)(f)13.~~, or unless otherwise
 1658 authorized by statute. If the purchasing agency, after
 1659 consultation with the commission, determines that it cannot
 1660 reach mutually acceptable contract terms with the commission,
 1661 the purchasing agency may contract for the same transportation
 1662 services provided in a more cost-effective manner and of
 1663 comparable or higher quality and standards. The Medicaid agency
 1664 shall implement this subsection in a manner consistent with s.
 1665 409.908(18) and as otherwise limited or directed by the General
 1666 Appropriations Act.

1667 Section 28. Paragraph (c) of subsection (5) of section
 1668 445.024, Florida Statutes, is amended to read:

1669 445.024 Work requirements.—

1670 (5) USE OF CONTRACTS.—Regional workforce boards shall
 1671 provide work activities, training, and other services, as
 1672 appropriate, through contracts. In contracting for work
 1673 activities, training, or services, the following applies:

1674 (c) Notwithstanding the exemption from the competitive
 1675 sealed bid requirements provided in s. 287.057 (3) ~~(5)~~ (f) for
 1676 certain contractual services, each contract awarded under this
 1677 chapter must be awarded on the basis of a competitive sealed
 1678 bid, except for a contract with a governmental entity as
 1679 determined by the regional workforce board.

CS/HB 7151

2010

1680 Section 29. Paragraph (b) of subsection (3) of section
 1681 481.205, Florida Statutes, is amended to read:

1682 481.205 Board of Architecture and Interior Design.—

1683 (3)

1684 (b) The board shall contract with a corporation or other
 1685 business entity pursuant to s. 287.057~~(3)~~ to provide
 1686 investigative, legal, prosecutorial, and other services
 1687 necessary to perform its duties.

1688 Section 30. Subsection (41) of section 570.07, Florida
 1689 Statutes, is amended to read:

1690 570.07 Department of Agriculture and Consumer Services;
 1691 functions, powers, and duties.—The department shall have and
 1692 exercise the following functions, powers, and duties:

1693 (41) Notwithstanding the provisions of s. 287.057 (21)~~(23)~~
 1694 that require all agencies to use the online procurement system
 1695 developed by the Department of Management Services, the
 1696 department may continue to use its own online system. However,
 1697 vendors utilizing such system shall be prequalified as meeting
 1698 mandatory requirements and qualifications and shall remit fees
 1699 pursuant to s. 287.057 (21)~~(23)~~, and any rules implementing s.
 1700 287.057.

1701 Section 31. Paragraph (c) of subsection (5) of section
 1702 627.311, Florida Statutes, is amended to read:

1703 627.311 Joint underwriters and joint reinsurers; public
 1704 records and public meetings exemptions.—

1705 (5)

1706 (c) The operation of the plan shall be governed by a plan
 1707 of operation that is prepared at the direction of the board of

1708 | governors and approved by order of the office. The plan is
 1709 | subject to continuous review by the office. The office may, by
 1710 | order, withdraw approval of all or part of a plan if the office
 1711 | determines that conditions have changed since approval was
 1712 | granted and that the purposes of the plan require changes in the
 1713 | plan. The plan of operation shall:

1714 | 1. Authorize the board to engage in the activities
 1715 | necessary to implement this subsection, including, but not
 1716 | limited to, borrowing money.

1717 | 2. Develop criteria for eligibility for coverage by the
 1718 | plan, including, but not limited to, documented rejection by at
 1719 | least two insurers which reasonably assures that insureds
 1720 | covered under the plan are unable to acquire coverage in the
 1721 | voluntary market.

1722 | 3. Require notice from the agent to the insured at the
 1723 | time of the application for coverage that the application is for
 1724 | coverage with the plan and that coverage may be available
 1725 | through an insurer, group self-insurers' fund, commercial self-
 1726 | insurance fund, or assessable mutual insurer through another
 1727 | agent at a lower cost.

1728 | 4. Establish programs to encourage insurers to provide
 1729 | coverage to applicants of the plan in the voluntary market and
 1730 | to insureds of the plan, including, but not limited to:

1731 | a. Establishing procedures for an insurer to use in
 1732 | notifying the plan of the insurer's desire to provide coverage
 1733 | to applicants to the plan or existing insureds of the plan and
 1734 | in describing the types of risks in which the insurer is
 1735 | interested. The description of the desired risks must be on a

CS/HB 7151

2010

1736 form developed by the plan.

1737 b. Developing forms and procedures that provide an insurer
1738 with the information necessary to determine whether the insurer
1739 wants to write particular applicants to the plan or insureds of
1740 the plan.

1741 c. Developing procedures for notice to the plan and the
1742 applicant to the plan or insured of the plan that an insurer
1743 will insure the applicant or the insured of the plan, and notice
1744 of the cost of the coverage offered; and developing procedures
1745 for the selection of an insuring entity by the applicant or
1746 insured of the plan.

1747 d. Provide for a market-assistance plan to assist in the
1748 placement of employers. All applications for coverage in the
1749 plan received 45 days before the effective date for coverage
1750 shall be processed through the market-assistance plan. A market-
1751 assistance plan specifically designed to serve the needs of
1752 small, good policyholders as defined by the board must be
1753 reviewed and updated periodically.

1754 5. Provide for policy and claims services to the insureds
1755 of the plan of the nature and quality provided for insureds in
1756 the voluntary market.

1757 6. Provide for the review of applications for coverage
1758 with the plan for reasonableness and accuracy, using any
1759 available historic information regarding the insured.

1760 7. Provide for procedures for auditing insureds of the
1761 plan which are based on reasonable business judgment and are
1762 designed to maximize the likelihood that the plan will collect
1763 the appropriate premiums.

1764 8. Authorize the plan to terminate the coverage of and
 1765 refuse future coverage for any insured that submits a fraudulent
 1766 application to the plan or provides fraudulent or grossly
 1767 erroneous records to the plan or to any service provider of the
 1768 plan in conjunction with the activities of the plan.

1769 9. Establish service standards for agents who submit
 1770 business to the plan.

1771 10. Establish criteria and procedures to prohibit any
 1772 agent who does not adhere to the established service standards
 1773 from placing business with the plan or receiving, directly or
 1774 indirectly, any commissions for business placed with the plan.

1775 11. Provide for the establishment of reasonable safety
 1776 programs for all insureds in the plan. All insureds of the plan
 1777 must participate in the safety program.

1778 12. Authorize the plan to terminate the coverage of and
 1779 refuse future coverage to any insured who fails to pay premiums
 1780 or surcharges when due; who, at the time of application, is
 1781 delinquent in payments of workers' compensation or employer's
 1782 liability insurance premiums or surcharges owed to an insurer,
 1783 group self-insurers' fund, commercial self-insurance fund, or
 1784 assessable mutual insurer licensed to write such coverage in
 1785 this state; or who refuses to substantially comply with any
 1786 safety programs recommended by the plan.

1787 13. Authorize the board of governors to provide the goods
 1788 and services required by the plan through staff employed by the
 1789 plan, through reasonably compensated service providers who
 1790 contract with the plan to provide services as specified by the
 1791 board of governors, or through a combination of employees and

1792 service providers.

1793 a. Purchases that equal or exceed \$2,500 but are less than
 1794 or equal to \$25,000, shall be made by receipt of written quotes,
 1795 telephone quotes, or informal bids, whenever practical. The
 1796 procurement of goods or services valued over \$25,000 is subject
 1797 to competitive solicitation, except in situations in which the
 1798 goods or services are provided by a sole source or are deemed an
 1799 emergency purchase, or the services are exempted from
 1800 competitive-solicitation requirements under s. 287.057 (3) ~~(5)~~ (f).
 1801 Justification for the sole-sourcing or emergency procurement
 1802 must be documented. Contracts for goods or services valued at or
 1803 over \$100,000 are subject to board approval.

1804 b. The board shall determine whether it is more cost-
 1805 effective and in the best interests of the plan to use legal
 1806 services provided by in-house attorneys employed by the plan
 1807 rather than contracting with outside counsel. In making such
 1808 determination, the board shall document its findings and shall
 1809 consider the expertise needed; whether time commitments exceed
 1810 in-house staff resources; whether local representation is
 1811 needed; the travel, lodging, and other costs associated with in-
 1812 house representation; and such other factors that the board
 1813 determines are relevant.

1814 14. Provide for service standards for service providers,
 1815 methods of determining adherence to those service standards,
 1816 incentives and disincentives for service, and procedures for
 1817 terminating contracts for service providers that fail to adhere
 1818 to service standards.

1819 15. Provide procedures for selecting service providers and

1820 standards for qualification as a service provider that
 1821 reasonably assure that any service provider selected will
 1822 continue to operate as an ongoing concern and is capable of
 1823 providing the specified services in the manner required.

1824 16. Provide for reasonable accounting and data-reporting
 1825 practices.

1826 17. Provide for annual review of costs associated with the
 1827 administration and servicing of the policies issued by the plan
 1828 to determine alternatives by which costs can be reduced.

1829 18. Authorize the acquisition of such excess insurance or
 1830 reinsurance as is consistent with the purposes of the plan.

1831 19. Provide for an annual report to the office on a date
 1832 specified by the office and containing such information as the
 1833 office reasonably requires.

1834 20. Establish multiple rating plans for various
 1835 classifications of risk which reflect risk of loss, hazard
 1836 grade, actual losses, size of premium, and compliance with loss
 1837 control. At least one of such plans must be a preferred-rating
 1838 plan to accommodate small-premium policyholders with good
 1839 experience as defined in sub-subparagraph 22.a.

1840 21. Establish agent commission schedules.

1841 22. For employers otherwise eligible for coverage under
 1842 the plan, establish three tiers of employers meeting the
 1843 criteria and subject to the rate limitations specified in this
 1844 subparagraph.

1845 a. Tier One.—

1846 (I) Criteria; rated employers.—An employer that has an
 1847 experience modification rating shall be included in Tier One if

1848 the employer meets all of the following:

1849 (A) The experience modification is below 1.00.

1850 (B) The employer had no lost-time claims subsequent to the
1851 applicable experience modification rating period.

1852 (C) The total of the employer's medical-only claims
1853 subsequent to the applicable experience modification rating
1854 period did not exceed 20 percent of premium.

1855 (II) Criteria; non-rated employers.—An employer that does
1856 not have an experience modification rating shall be included in
1857 Tier One if the employer meets all of the following:

1858 (A) The employer had no lost-time claims for the 3-year
1859 period immediately preceding the inception date or renewal date
1860 of the employer's coverage under the plan.

1861 (B) The total of the employer's medical-only claims for
1862 the 3-year period immediately preceding the inception date or
1863 renewal date of the employer's coverage under the plan did not
1864 exceed 20 percent of premium.

1865 (C) The employer has secured workers' compensation
1866 coverage for the entire 3-year period immediately preceding the
1867 inception date or renewal date of the employer's coverage under
1868 the plan.

1869 (D) The employer is able to provide the plan with a loss
1870 history generated by the employer's prior workers' compensation
1871 insurer, except if the employer is not able to produce a loss
1872 history due to the insolvency of an insurer, the receiver shall
1873 provide to the plan, upon the request of the employer or the
1874 employer's agent, a copy of the employer's loss history from the
1875 records of the insolvent insurer if the loss history is

CS/HB 7151

2010

1876 contained in records of the insurer which are in the possession
 1877 of the receiver. If the receiver is unable to produce the loss
 1878 history, the employer may, in lieu of the loss history, submit
 1879 an affidavit from the employer and the employer's insurance
 1880 agent setting forth the loss history.

1881 (E) The employer is not a new business.

1882 (III) Premiums.—The premiums for Tier One insureds shall
 1883 be set at a premium level 25 percent above the comparable
 1884 voluntary market premiums until the plan has sufficient
 1885 experience as determined by the board to establish an
 1886 actuarially sound rate for Tier One, at which point the board
 1887 shall, subject to paragraph (e), adjust the rates, if necessary,
 1888 to produce actuarially sound rates, provided such rate
 1889 adjustment shall not take effect prior to January 1, 2007.

1890 b. Tier Two.—

1891 (I) Criteria; rated employers.—An employer that has an
 1892 experience modification rating shall be included in Tier Two if
 1893 the employer meets all of the following:

1894 (A) The experience modification is equal to or greater
 1895 than 1.00 but not greater than 1.10.

1896 (B) The employer had no lost-time claims subsequent to the
 1897 applicable experience modification rating period.

1898 (C) The total of the employer's medical-only claims
 1899 subsequent to the applicable experience modification rating
 1900 period did not exceed 20 percent of premium.

1901 (II) Criteria; non-rated employers.—An employer that does
 1902 not have any experience modification rating shall be included in
 1903 Tier Two if the employer is a new business. An employer shall be

1904 included in Tier Two if the employer has less than 3 years of
 1905 loss experience in the 3-year period immediately preceding the
 1906 inception date or renewal date of the employer's coverage under
 1907 the plan and the employer meets all of the following:

1908 (A) The employer had no lost-time claims for the 3-year
 1909 period immediately preceding the inception date or renewal date
 1910 of the employer's coverage under the plan.

1911 (B) The total of the employer's medical-only claims for
 1912 the 3-year period immediately preceding the inception date or
 1913 renewal date of the employer's coverage under the plan did not
 1914 exceed 20 percent of premium.

1915 (C) The employer is able to provide the plan with a loss
 1916 history generated by the workers' compensation insurer that
 1917 provided coverage for the portion or portions of such period
 1918 during which the employer had secured workers' compensation
 1919 coverage, except if the employer is not able to produce a loss
 1920 history due to the insolvency of an insurer, the receiver shall
 1921 provide to the plan, upon the request of the employer or the
 1922 employer's agent, a copy of the employer's loss history from the
 1923 records of the insolvent insurer if the loss history is
 1924 contained in records of the insurer which are in the possession
 1925 of the receiver. If the receiver is unable to produce the loss
 1926 history, the employer may, in lieu of the loss history, submit
 1927 an affidavit from the employer and the employer's insurance
 1928 agent setting forth the loss history.

1929 (III) Premiums.—The premiums for Tier Two insureds shall
 1930 be set at a rate level 50 percent above the comparable voluntary
 1931 market premiums until the plan has sufficient experience as

CS/HB 7151

2010

1932 determined by the board to establish an actuarially sound rate
 1933 for Tier Two, at which point the board shall, subject to
 1934 paragraph (e), adjust the rates, if necessary, to produce
 1935 actuarially sound rates, provided such rate adjustment shall not
 1936 take effect prior to January 1, 2007.

1937 c. Tier Three.—

1938 (I) Eligibility.—An employer shall be included in Tier
 1939 Three if the employer does not meet the criteria for Tier One or
 1940 Tier Two.

1941 (II) Rates.—The board shall establish, subject to
 1942 paragraph (e), and the plan shall charge, actuarially sound
 1943 rates for Tier Three insureds.

1944 23. For Tier One or Tier Two employers which employ no
 1945 nonexempt employees or which report payroll which is less than
 1946 the minimum wage hourly rate for one full-time employee for 1
 1947 year at 40 hours per week, the plan shall establish actuarially
 1948 sound premiums, provided, however, that the premiums may not
 1949 exceed \$2,500. These premiums shall be in addition to the fee
 1950 specified in subparagraph 26. When the plan establishes
 1951 actuarially sound rates for all employers in Tier One and Tier
 1952 Two, the premiums for employers referred to in this paragraph
 1953 are no longer subject to the \$2,500 cap.

1954 24. Provide for a depopulation program to reduce the
 1955 number of insureds in the plan. If an employer insured through
 1956 the plan is offered coverage from a voluntary market carrier:

- 1957 a. During the first 30 days of coverage under the plan;
- 1958 b. Before a policy is issued under the plan;
- 1959 c. By issuance of a policy upon expiration or cancellation

1960 of the policy under the plan; or
 1961 d. By assumption of the plan's obligation with respect to
 1962 an in-force policy,
 1963
 1964 that employer is no longer eligible for coverage through the
 1965 plan. The premium for risks assumed by the voluntary market
 1966 carrier must be no greater than the premium the insured would
 1967 have paid under the plan, and shall be adjusted upon renewal to
 1968 reflect changes in the plan rates and the tier for which the
 1969 insured would qualify as of the time of renewal. The insured may
 1970 be charged such premiums only for the first 3 years of coverage
 1971 in the voluntary market. A premium under this subparagraph is
 1972 deemed approved and is not an excess premium for purposes of s.
 1973 627.171.

1974 25. Require that policies issued and applications must
 1975 include a notice that the policy could be replaced by a policy
 1976 issued from a voluntary market carrier and that, if an offer of
 1977 coverage is obtained from a voluntary market carrier, the
 1978 policyholder is no longer eligible for coverage through the
 1979 plan. The notice must also specify that acceptance of coverage
 1980 under the plan creates a conclusive presumption that the
 1981 applicant or policyholder is aware of this potential.

1982 26. Require that each application for coverage and each
 1983 renewal premium be accompanied by a nonrefundable fee of \$475 to
 1984 cover costs of administration and fraud prevention. The board
 1985 may, with the prior approval of the office, increase the amount
 1986 of the fee pursuant to a rate filing to reflect increased costs
 1987 of administration and fraud prevention. The fee is not subject

CS/HB 7151

2010

1988 | to commission and is fully earned upon commencement of coverage.

1989 | Section 32. Paragraph (e) of subsection (6) of section
1990 | 627.351, Florida Statutes, is amended to read:

1991 | 627.351 Insurance risk apportionment plans.—

1992 | (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

1993 | (e) Purchases that equal or exceed \$2,500, but are less
1994 | than \$25,000, shall be made by receipt of written quotes,
1995 | written record of telephone quotes, or informal bids, whenever
1996 | practical. The procurement of goods or services valued at or
1997 | over \$25,000 shall be subject to competitive solicitation,
1998 | except in situations where the goods or services are provided by
1999 | a sole source or are deemed an emergency purchase; the services
2000 | are exempted from competitive solicitation requirements under s.
2001 | 287.057 (3) ~~(5)~~ (f); or the procurement of services is subject to
2002 | s. 627.3513. Justification for the sole-sourcing or emergency
2003 | procurement must be documented. Contracts for goods or services
2004 | valued at or over \$100,000 are subject to approval by the board.

2005 | Section 33. Subsection (2) of section 765.5155, Florida
2006 | Statutes, is amended to read:

2007 | 765.5155 Donor registry; education program.—

2008 | (2) The agency and the department shall jointly contract
2009 | for the operation of a donor registry and education program. The
2010 | contractor shall be procured by competitive solicitation
2011 | pursuant to chapter 287, notwithstanding any exemption in s.
2012 | 287.057 (3) ~~(5)~~ (f). When awarding the contract, priority shall be
2013 | given to existing nonprofit groups that are based within the
2014 | state, have expertise working with procurement organizations,
2015 | have expertise in conducting statewide organ and tissue donor

CS/HB 7151

2010

2016 public education campaigns, and represent the needs of the organ
 2017 and tissue donation community in the state.

2018 Section 34. Subsection (10) of section 893.055, Florida
 2019 Statutes, is amended to read:

2020 893.055 Prescription drug monitoring program.—

2021 (10) All costs incurred by the department in administering
 2022 the prescription drug monitoring program shall be funded through
 2023 federal grants or private funding applied for or received by the
 2024 state. The department may not commit funds for the monitoring
 2025 program without ensuring funding is available. The prescription
 2026 drug monitoring program and the implementation thereof are
 2027 contingent upon receipt of the nonstate funding. The department
 2028 and state government shall cooperate with the direct-support
 2029 organization established pursuant to subsection (11) in seeking
 2030 federal grant funds, other nonstate grant funds, gifts,
 2031 donations, or other private moneys for the department so long as
 2032 the costs of doing so are not considered material. Nonmaterial
 2033 costs for this purpose include, but are not limited to, the
 2034 costs of mailing and personnel assigned to research or apply for
 2035 a grant. Notwithstanding the exemptions to competitive-
 2036 solicitation requirements under s. 287.057 (3) ~~(5)~~ (f), the
 2037 department shall comply with the competitive-solicitation
 2038 requirements under s. 287.057 for the procurement of any goods
 2039 or services required by this section.

2040 Section 35. Subsection (3) of section 1013.38, Florida
 2041 Statutes, is amended to read:

2042 1013.38 Boards to ensure that facilities comply with
 2043 building codes and life safety codes.—

CS/HB 7151

2010

2044 (3) The Department of Management Services may, upon
 2045 request, provide facilities services for the Florida School for
 2046 the Deaf and the Blind, the Division of Blind Services, and
 2047 public broadcasting. As used in this section, the term
 2048 "facilities services" means project management, code and design
 2049 plan review, and code compliance inspection for projects as
 2050 defined in s. 287.017 (5) ~~(1)(e)~~.

2051 Section 36. Section 21 of chapter 2009-55, 2009 Laws of
 2052 Florida, is amended to read:

2053 Section 21. The Agency for Health Care Administration
 2054 shall develop and implement a home health agency monitoring
 2055 pilot project in Miami-Dade County by January 1, 2010. The
 2056 agency shall contract with a vendor to verify the utilization
 2057 and the delivery of home health services and provide an
 2058 electronic billing interface for such services. The contract
 2059 must require the creation of a program to submit claims for the
 2060 home health services electronically. The program must verify
 2061 visits for the delivery of home health services telephonically
 2062 using voice biometrics. The agency may seek amendments to the
 2063 Medicaid state plan and waivers of federal law, as necessary, to
 2064 implement the pilot project. Notwithstanding s.
 2065 287.057 (3) ~~(5)~~ (f), Florida Statutes, the agency must award the
 2066 contract through the competitive solicitation process. The
 2067 agency shall submit a report to the Governor, the President of
 2068 the Senate, and the Speaker of the House of Representatives
 2069 evaluating the pilot project by February 1, 2011.

2070 Section 37. Section 31 of chapter 2009-223, Laws of
 2071 Florida, is amended to read:

CS/HB 7151

2010

2072 Section 31. Pilot project to monitor home health
2073 services.—The Agency for Health Care Administration shall
2074 develop and implement a home health agency monitoring pilot
2075 project in Miami-Dade County by January 1, 2010. The agency
2076 shall contract with a vendor to verify the utilization and
2077 delivery of home health services and provide an electronic
2078 billing interface for home health services. The contract must
2079 require the creation of a program to submit claims
2080 electronically for the delivery of home health services. The
2081 program must verify telephonically visits for the delivery of
2082 home health services using voice biometrics. The agency may seek
2083 amendments to the Medicaid state plan and waivers of federal
2084 laws, as necessary, to implement the pilot project.
2085 Notwithstanding s. 287.057 (3) ~~(5)~~ (f), Florida Statutes, the
2086 agency must award the contract through the competitive
2087 solicitation process. The agency shall submit a report to the
2088 Governor, the President of the Senate, and the Speaker of the
2089 House of Representatives evaluating the pilot project by
2090 February 1, 2011.

2091 Section 38. This act shall take effect January 1, 2011.