

By the Committee on Governmental Oversight and Accountability;
and Senators Bennett and Lynn

585-01840-11

2011276c1

1 A bill to be entitled

2 An act relating to procurement; requiring that the
3 Chief Financial Officer review and conduct an analysis
4 of the procurement process for the design, build, and
5 maintenance of state buildings and facilities;
6 requiring that the Chief Financial Officer submit a
7 report to the Legislature by a specified date;
8 amending s. 287.055, F.S.; authorizing a governmental
9 agency or school board to reopen negotiations with a
10 selected firm following termination of negotiations
11 with other firms; providing an effective date.
12

13 WHEREAS, the First District Court of Appeals Courthouse
14 located in the Southwood area of Tallahassee, Florida, will cost
15 taxpayers more than \$70 million dollars when the bonds to
16 finance the development of the courthouse are paid in full, and

17 WHEREAS, the judges of the District Court of Appeals took
18 complete control of the planning and building of the new
19 courthouse without any oversight or transparency, and

20 WHEREAS, the First District Court of Appeals Courthouse has
21 approximately 100 employees in a taxpayer-funded facility that
22 has roughly 100,000 square feet, which gives each employee
23 approximately 1,000 square feet of space. This exceeds the
24 normal limit of 180 square feet of office space that the
25 Department of Management Service typically limits for state
26 employees, and

27 WHEREAS, the judges of the District Court of Appeals
28 directed the architect and project manager of the new courthouse
29 to spend tens of millions of dollars on interior-framed wall

585-01840-11

2011276c1

30 hangings, soundproof private bathrooms for the judges, an
31 exercise room, two posh robbing rooms, dozens of large flat-
32 screen televisions, miles of South American Sepalia Mahogany,
33 and granite counter tops, and

34 WHEREAS, the Department of Management Services relinquished
35 its usual building management protocols and gave complete
36 decisionmaking and planning control to two judges of the
37 District Court of Appeals to plan and build what is now known
38 statewide as the "Taj Mahal" courthouse, NOW, THEREFORE,

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

41
42 Section 1. (1) The Chief Financial Officer shall review and
43 conduct an analysis of the procurement process for the design,
44 build, and maintenance of state buildings and facilities. The
45 Chief Financial Officer shall review, at a minimum:

46 (a) The contracting procedures for the construction,
47 maintenance, and renovation of state-owned facilities;

48 (b) The lines of authority and the areas of responsibility
49 by all parties involved in the procurement process;

50 (c) The methodology for the selection of internal fixtures,
51 furnishings, artwork, and any relevant infrastructure systems;
52 and

53 (d) Any identified necessary signatories and approvals for
54 such projects.

55 (2) The Chief Financial Officer shall submit a written
56 report to the President of the Senate and the Speaker of the
57 House of Representatives by October 1, 2011. The report must
58 include any recommendations for revising the law or rules

585-01840-11

2011276c1

59 designed to promote transparency and accountability in the
60 state's design-build process.

61 Section 2. Subsection (5) of section 287.055, Florida
62 Statutes, is amended to read:

63 287.055 Acquisition of professional architectural,
64 engineering, landscape architectural, or surveying and mapping
65 services; definitions; procedures; contingent fees prohibited;
66 penalties.—

67 (5) COMPETITIVE NEGOTIATION.—

68 (a) The agency shall negotiate a contract with the most
69 qualified firm for professional services at compensation which
70 the agency determines is fair, competitive, and reasonable. In
71 making such determination, the agency shall conduct a detailed
72 analysis of the cost of the professional services required in
73 addition to considering their scope and complexity. For any
74 lump-sum or cost-plus-a-fixed-fee professional service contract
75 over the threshold amount provided in s. 287.017 for CATEGORY
76 FOUR, the agency shall require the firm receiving the award to
77 execute a truth-in-negotiation certificate stating that wage
78 rates and other factual unit costs supporting the compensation
79 are accurate, complete, and current at the time of contracting.
80 Any professional service contract under which such a certificate
81 is required must contain a provision that the original contract
82 price and any additions thereto will be adjusted to exclude any
83 significant sums by which the agency determines the contract
84 price was increased due to inaccurate, incomplete, or noncurrent
85 wage rates and other factual unit costs. All such contract
86 adjustments must be made within 1 year following the end of the
87 contract.

585-01840-11

2011276c1

88 (b) Should the agency be unable to negotiate a satisfactory
89 contract with the firm considered to be the most qualified at a
90 price the agency determines to be fair, competitive, and
91 reasonable, negotiations with that firm must be formally
92 terminated. The agency shall then undertake negotiations with
93 the second most qualified firm. Failing accord with the second
94 most qualified firm, the agency must terminate negotiations. The
95 agency may ~~shall~~ then undertake negotiations with the third most
96 qualified firm. The agency may reopen negotiations with any
97 selected firm upon terminating negotiations with another
98 selected firm.

99 (c) Should the agency be unable to negotiate a satisfactory
100 contract with any of the selected firms, the agency shall select
101 additional firms in the order of their competence and
102 qualification and continue negotiations in accordance with this
103 subsection until an agreement is reached.

104 Section 3. This act shall take effect July 1, 2011.