

1                   A bill to be entitled  
2           An act relating to procurement; amending s. 287.056, F.S.;  
3           deleting duplicative language relating to the option of an  
4           agency to purchase commodities or contractual services  
5           from a state contract; amending s. 287.057, F.S.;  
6           clarifying provisions relating to competitive solicitation  
7           processes; specifying conditions for preference in award  
8           of a contract under an invitation to bid; requiring the  
9           inclusion of certain information in an invitation to  
10          negotiate; revising requirements with respect to agency  
11          avoidance, neutralization, or mitigation of potential  
12          organizational conflicts of interest prior to award of a  
13          contract; amending s. 287.058, F.S.; reorganizing  
14          provisions; removing duplicative language; amending s.  
15          287.09431, F.S.; updating obsolete references within the  
16          statewide and interlocal agreement on certification of  
17          business concerns for the status of minority business  
18          enterprise; amending s. 287.09451, F.S.; updating obsolete  
19          references within provisions relating to the Office of  
20          Supplier Diversity within the Department of Management  
21          Services; amending s. 287.0947, F.S.; removing obsolete  
22          language and references within provisions relating to the  
23          Florida Advisory Council on Small and Minority Business  
24          Development; correcting a cross-reference; amending s.  
25          61.1826, F.S.; conforming a cross-reference; amending s.  
26          403.7061, F.S., relating to requirements for review of new  
27          waste-to-energy facility capacity by the Department of  
28          Environmental Protection; revising criteria with respect

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29 | to construction of a new waste-to-energy facility or the  
 30 | expansion of an existing waste-to-energy facility to  
 31 | conform to the repeal of s. 403.7065, F.S.; repealing s.  
 32 | 287.115, F.S., relating to an annual report of the Chief  
 33 | Financial Officer on disallowed contractual service  
 34 | contracts; repealing s. 403.7065, F.S., relating to  
 35 | procurement of products or materials with recycled  
 36 | content; providing an effective date.

37 |  
 38 | Be It Enacted by the Legislature of the State of Florida:

39 |  
 40 | Section 1. Section 287.056, Florida Statutes, is amended  
 41 | to read:

42 | 287.056 Purchases from purchasing agreements and state  
 43 | term contracts.—

44 | (1) Agencies shall, and eligible users may, purchase  
 45 | commodities and contractual services from purchasing agreements  
 46 | established and state term contracts procured, pursuant to s.  
 47 | 287.057, by the department. Each agency agreement made under  
 48 | this subsection shall include:

49 | (a) A provision specifying a scope of work that clearly  
 50 | establishes all tasks that the contractor is required to  
 51 | perform.

52 | (b) A provision dividing the contract into quantifiable,  
 53 | measurable, and verifiable units of deliverables that must be  
 54 | received and accepted in writing by the contract manager before  
 55 | payment. Each deliverable must be directly related to the scope  
 56 | of work and specify the required minimum level of service to be

57 performed and the criteria for evaluating the successful  
 58 completion of each deliverable.

59 ~~(2) Agencies may have the option to purchase commodities~~  
 60 ~~or contractual services from state term contracts procured,~~  
 61 ~~pursuant to s. 287.057, by the department.~~

62 (2)~~(3)~~ Agencies and eligible users may use a request for  
 63 quote to obtain written pricing or services information from a  
 64 state term contract vendor for commodities or contractual  
 65 services available on state term contract from that vendor. The  
 66 purpose of a request for quote is to determine whether a price,  
 67 term, or condition more favorable to the agency or eligible user  
 68 than that provided in the state term contract is available. Use  
 69 of a request for quote does not constitute a decision or  
 70 intended decision that is subject to protest under s. 120.57(3).

71 Section 2. Subsections (1) and (17) of section 287.057,  
 72 Florida Statutes, are amended to read:

73 287.057 Procurement of commodities or contractual  
 74 services.—

75 (1) The competitive solicitation processes authorized in  
 76 this section shall be used for procurement of commodities or  
 77 contractual services in excess of the threshold amount provided  
 78 for CATEGORY TWO in s. 287.017. Any competitive solicitation  
 79 shall be made available simultaneously to all vendors, must  
 80 include the time and date for the receipt of bids, proposals, or  
 81 replies and of the public opening, and must include all  
 82 contractual terms and conditions applicable to the procurement,  
 83 including the criteria to be used in determining acceptability  
 84 and relative merit of the bid or proposal, and the criteria to

85 be used in determining the responsiveness of the ~~or~~ reply.

86 (a) Invitation to bid.—The invitation to bid shall be used  
 87 when the agency is capable of specifically defining the scope of  
 88 work for which a contractual service is required or when the  
 89 agency is capable of establishing precise specifications  
 90 defining the actual commodity or group of commodities required.

91 1. All invitations to bid must include:

92 a. A detailed description of the commodities or  
 93 contractual services sought; and

94 b. If the agency contemplates renewal of the contract, a  
 95 statement to that effect.

96 2. Bids submitted in response to an invitation to bid in  
 97 which the agency contemplates renewal of the contract must  
 98 include the price for each year for which the contract may be  
 99 renewed.

100 3. Evaluation of bids shall include consideration of the  
 101 total cost for each year of the contract, including renewal  
 102 years, as submitted by the vendor, with preference in award  
 103 being given to the lowest responsive bid determined to meet the  
 104 requirements and criteria set forth in the invitation to bid.

105 (b) Request for proposals.—An agency shall use a request  
 106 for proposals when the purposes and uses for which the  
 107 commodity, group of commodities, or contractual service being  
 108 sought can be specifically defined and the agency is capable of  
 109 identifying necessary deliverables. Various combinations or  
 110 versions of commodities or contractual services may be proposed  
 111 by a responsive vendor to meet the specifications of the  
 112 solicitation document.

113 1. Before issuing a request for proposals, the agency must  
 114 determine and specify in writing the reasons that procurement by  
 115 invitation to bid is not practicable.

116 2. All requests for proposals must include:

117 a. A statement describing the commodities or contractual  
 118 services sought;

119 b. The relative importance of price and other evaluation  
 120 criteria; and

121 c. If the agency contemplates renewal of the contract, a  
 122 statement to that effect.

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

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

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

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

130 4. The contract shall be awarded by written notice to the  
 131 responsible and responsive vendor whose proposal is determined  
 132 in writing to be the most advantageous to the state, taking into  
 133 consideration the price and other criteria set forth in the  
 134 request for proposals. The contract file shall contain  
 135 documentation supporting the basis on which the award is made.

136 (c) Invitation to negotiate.—The invitation to negotiate  
 137 is a solicitation used by an agency which is intended to  
 138 determine the best method for achieving a specific goal or  
 139 solving a particular problem and identifies one or more  
 140 responsive vendors with which the agency may negotiate in order

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141 to receive the best value.

142 1. Before issuing an invitation to negotiate, the head of  
143 an agency must determine and specify in writing the reasons that  
144 procurement by an invitation to bid or a request for proposal is  
145 not practicable.

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

149 3. The criteria that will be used for determining the  
150 responsiveness ~~acceptability~~ of the reply and guiding the  
151 selection of the vendors with which the agency will negotiate  
152 must be specified. If the agency contemplates renewal of the  
153 contract, that fact must be stated in the invitation to  
154 negotiate as well as a requirement that the reply must include  
155 the price for each year for which the contract may be renewed.

156 4. The agency shall evaluate replies against all  
157 evaluation criteria set forth in the invitation to negotiate in  
158 order to establish a competitive range of replies reasonably  
159 susceptible of award. The agency may select one or more vendors  
160 within the competitive range with which to commence  
161 negotiations. After negotiations are conducted, the agency shall  
162 award the contract to the responsible and responsive vendor that  
163 the agency determines will provide the best value to the state,  
164 based on the selection criteria.

165 5. The contract file for a vendor selected through an  
166 invitation to negotiate must contain a short plain statement  
167 that explains the basis for the selection of the vendor and that  
168 sets forth the vendor's deliverables and price, pursuant to the

169 contract, along with an explanation of how these deliverables  
 170 and price provide the best value to the state.

171 (17) (a)1. Each agency must avoid, neutralize, or mitigate  
 172 significant potential organizational conflicts of interest  
 173 before a contract is awarded. If an agency identifies such  
 174 conflict, the agency may request the vendor to propose a  
 175 mitigation plan with its response to a competitive solicitation.  
 176 If the agency elects to mitigate the significant potential  
 177 organizational conflict or conflicts of interest, a ~~an~~ adequate  
 178 mitigation plan shall be developed. The plan shall include,  
 179 ~~including~~ organizational, physical, and electronic barriers,  
 180 ~~shall be developed.~~

181 2. If a conflict cannot be avoided or mitigated, an agency  
 182 may proceed with the contract award if the agency head certifies  
 183 that the award is in the best interests of the state. The agency  
 184 head must specify in writing the basis for the certification.

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

188 2. An unfair competitive advantage exists when the vendor  
 189 competing for the award of a contract obtained access to  
 190 information that is not available to the public or source  
 191 selection information that is relevant to the contract but is  
 192 not available to all competitors and such information would  
 193 assist the vendor in obtaining the contract.

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

196 ~~b. Source selection information that is relevant to the~~

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197 ~~contract but is not available to all competitors and that would~~  
 198 ~~assist the vendor in obtaining the contract.~~

199 (c) Unless a mitigation plan is developed as provided in  
 200 paragraph (a), a person who receives a contract that has not  
 201 been procured pursuant to subsections (1)-(3) to perform a  
 202 feasibility study of the potential implementation of a  
 203 subsequent contract or a person who develops a program for  
 204 future implementation is not eligible to contract with the  
 205 agency for any other contracts pertaining to that specific  
 206 subject matter, and any firm in which such person has any  
 207 interest is not eligible to receive such contract.

208 (d) A person who participates in the drafting of a  
 209 solicitation ~~or who develops a program for future~~  
 210 ~~implementation,~~ is not eligible to contract with the agency for  
 211 any other contracts dealing with that specific subject matter,  
 212 and any firm in which such person has any interest is not  
 213 eligible to receive such contract.

214 (e) The prohibitions provided in this subsection do  
 215 ~~However, this prohibition does not prevent a vendor who responds~~  
 216 ~~to a request for information from being eligible to contract~~  
 217 ~~with an agency.~~

218 Section 3. Subsection (1) of section 287.058, Florida  
 219 Statutes, is amended to read:

220 287.058 Contract document.—

221 (1) (a) Every procurement of contractual services in excess  
 222 of the threshold amount provided in s. 287.017 for CATEGORY TWO,  
 223 except for the providing of health and mental health services or  
 224 drugs in the examination, diagnosis, or treatment of sick or



225 injured state employees or the providing of other benefits as  
 226 required by the provisions of chapter 440, shall be evidenced by  
 227 a written agreement embodying all provisions and conditions of  
 228 the procurement of such services, which shall, where applicable,  
 229 include, but not be limited to, a provision:

230 1.~~(a)~~ That bills for fees or other compensation for  
 231 services or expenses be submitted in detail sufficient for a  
 232 proper preaudit and postaudit thereof.

233 2.~~(b)~~ That bills for any travel expenses be submitted in  
 234 accordance with s. 112.061. A state agency may establish rates  
 235 lower than the maximum provided in s. 112.061.

236 3.~~(c)~~ Allowing unilateral cancellation by the agency for  
 237 refusal by the contractor to allow public access to all  
 238 documents, papers, letters, or other material made or received  
 239 by the contractor in conjunction with the contract, unless the  
 240 records are exempt from s. 24(a) of Art. I of the State  
 241 Constitution and s. 119.07(1).

242 4.~~(d)~~ Specifying a scope of work that clearly establishes  
 243 all tasks the contractor is required to perform.

244 5.~~(e)~~ Dividing the contract into quantifiable, measurable,  
 245 and verifiable units of deliverables that must be received and  
 246 accepted in writing by the contract manager before payment. Each  
 247 deliverable must be directly related to the scope of work and  
 248 specify the required minimum level of service to be performed  
 249 and criteria for evaluating the successful completion of each  
 250 deliverable.

251 6.~~(f)~~ Specifying the criteria and the final date by which  
 252 such criteria must be met for completion of the contract.

253        7.~~(g)~~ Specifying that the contract may be renewed for a  
 254 period that may not exceed 3 years or the term of the original  
 255 contract, whichever period is longer, specifying the renewal  
 256 price for the contractual service as set forth in the bid,  
 257 proposal, or reply, specifying that costs for the renewal may  
 258 not be charged, and specifying that renewals shall be contingent  
 259 upon satisfactory performance evaluations by the agency and  
 260 subject to the availability of funds. Exceptional purchase  
 261 contracts pursuant to s. 287.057(3)(a) and (c) may not be  
 262 renewed.

263        8.~~(h)~~ Specifying the financial consequences that the  
 264 agency must apply if the contractor fails to perform in  
 265 accordance with the contract.

266        9.~~(i)~~ Addressing the property rights of any intellectual  
 267 property related to the contract and the specific rights of the  
 268 state regarding the intellectual property if the contractor  
 269 fails to provide the services or is no longer providing  
 270 services.

271        (b) In lieu of a written agreement, the department may  
 272 authorize the use of a purchase order for classes of contractual  
 273 services, if the provisions of subparagraphs (a)1.-9. ~~paragraphs~~  
 274 ~~(a)-(i)~~ are included in the purchase order or solicitation. The  
 275 purchase order must include, but need not be limited to, an  
 276 adequate description of the services, the contract period, and  
 277 the method of payment. ~~In lieu of printing the provisions of~~  
 278 ~~paragraphs (a)-(i) in the contract document or purchase order,~~  
 279 ~~agencies may incorporate the requirements of paragraphs (a)-(i)~~  
 280 ~~by reference.~~

281 Section 4. Section 287.09431, Florida Statutes, is amended  
 282 to read:

283 287.09431 Statewide and interlocal agreement on  
 284 certification of business concerns for the status of minority  
 285 business enterprise.—The statewide and interlocal agreement on  
 286 certification of business concerns for the status of minority  
 287 business enterprise is hereby enacted and entered into with all  
 288 jurisdictions or organizations legally joining therein. If,  
 289 within 2 years from the date that the certification core  
 290 criteria are approved by the Department of Management Services  
 291 ~~Department of Labor and Employment Security~~, the agreement  
 292 included herein is not executed by a majority of county and  
 293 municipal governing bodies that administer a minority business  
 294 assistance program on the effective date of this act, then the  
 295 Legislature shall review this agreement. It is the intent of the  
 296 Legislature that if the agreement is not executed by a majority  
 297 of the requisite governing bodies, then a statewide uniform  
 298 certification process should be adopted, and that said agreement  
 299 should be repealed and replaced by a mandatory state government  
 300 certification process.

301 ARTICLE I

302 PURPOSE, FINDINGS, AND POLICY.—

303 (1) The parties to this agreement, desiring by common  
 304 action to establish a uniform certification process in order to  
 305 reduce the multiplicity of applications by business concerns to  
 306 state and local governmental programs for minority business  
 307 assistance, declare that it is the policy of each of them, on  
 308 the basis of cooperation with one another, to remedy social and

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309 economic disadvantage suffered by certain groups, resulting in  
310 their being historically underutilized in ownership and control  
311 of commercial enterprises. Thus, the parties seek to address  
312 this history by increasing the participation of the identified  
313 groups in opportunities afforded by government procurement.

314 (2) The parties find that the State of Florida presently  
315 certifies firms for participation in the minority business  
316 assistance programs of the state. The parties find further that  
317 some counties, municipalities, school boards, special districts,  
318 and other divisions of local government require a separate, yet  
319 similar, and in most cases redundant certification in order for  
320 businesses to participate in the programs sponsored by each  
321 government entity.

322 (3) The parties find further that this redundant  
323 certification has proven to be unduly burdensome to the  
324 minority-owned firms intended to benefit from the underlying  
325 purchasing incentives.

326 (4) The parties agree that:

327 (a) They will facilitate integrity, stability, and  
328 cooperation in the statewide and interlocal certification  
329 process, and in other elements of programs established to assist  
330 minority-owned businesses.

331 (b) They shall cooperate with agencies, organizations, and  
332 associations interested in certification and other elements of  
333 minority business assistance.

334 (c) It is the purpose of this agreement to provide for a  
335 uniform process whereby the status of a business concern may be  
336 determined in a singular review of the business information for

337 | these purposes, in order to eliminate any undue expense, delay,  
 338 | or confusion to the minority-owned businesses in seeking to  
 339 | participate in the minority business assistance programs of  
 340 | state and local jurisdictions.

341 | ARTICLE II

342 | DEFINITIONS.—As used in this agreement and contracts made  
 343 | pursuant to it, unless the context clearly requires otherwise:

344 | (1) "Awarding organization" means any political  
 345 | subdivision or organization authorized by law, ordinance, or  
 346 | agreement to enter into contracts and for which the governing  
 347 | body has entered into this agreement.

348 | (2) "Department" means the Department of Management  
 349 | Services ~~Department of Labor and Employment Security~~.

350 | (3) "Minority" means a person who is a lawful, permanent  
 351 | resident of the state, having origins in one of the minority  
 352 | groups as described and adopted by the Department of Management  
 353 | Services ~~Department of Labor and Employment Security~~, hereby  
 354 | incorporated by reference.

355 | (4) "Minority business enterprise" means any small  
 356 | business concern as defined in subsection (6) that meets all of  
 357 | the criteria described and adopted by the Department of  
 358 | Management Services ~~Department of Labor and Employment Security~~,  
 359 | hereby incorporated by reference.

360 | (5) "Participating state or local organization" means any  
 361 | political subdivision of the state or organization designated by  
 362 | such that elects to participate in the certification process  
 363 | pursuant to this agreement, which has been approved according to  
 364 | s. 287.0943(3) and has legally entered into this agreement.

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365 (6) "Small business concern" means an independently owned  
366 and operated business concern which is of a size and type as  
367 described and adopted by vote related to this agreement of the  
368 commission, hereby incorporated by reference.

## ARTICLE III

## STATEWIDE AND INTERLOCAL CERTIFICATIONS.—

371 (1) All awarding organizations shall accept a  
372 certification granted by any participating organization which  
373 has been approved according to s. 287.0943(3) and has entered  
374 into this agreement, as valid status of minority business  
375 enterprise.

376 (2) A participating organization shall certify a business  
377 concern that meets the definition of minority business  
378 enterprise in this agreement, in accordance with the duly  
379 adopted eligibility criteria.

380 (3) All participating organizations shall issue notice of  
381 certification decisions granting or denying certification to all  
382 other participating organizations within 14 days of the  
383 decision. Such notice may be made through electronic media.

384 (4) No certification will be granted without an onsite  
385 visit to verify ownership and control of the prospective  
386 minority business enterprise, unless verification can be  
387 accomplished by other methods of adequate verification or  
388 assessment of ownership and control.

389 (5) The certification of a minority business enterprise  
390 pursuant to the terms of this agreement shall not be suspended,  
391 revoked, or otherwise impaired except on any grounds which would  
392 be sufficient for revocation or suspension of a certification in

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393 the jurisdiction of the participating organization.

394 (6) The certification determination of a party may be  
395 challenged by any other participating organization by the  
396 issuance of a timely written notice by the challenging  
397 organization to the certifying organization's determination  
398 within 10 days of receiving notice of the certification  
399 decision, stating the grounds therefor.

400 (7) The sole accepted grounds for challenge shall be the  
401 failure of the certifying organization to adhere to the adopted  
402 criteria or the certifying organization's rules or procedures,  
403 or the perpetuation of a misrepresentation or fraud by the firm.

404 (8) The certifying organization shall reexamine its  
405 certification determination and submit written notice to the  
406 applicant and the challenging organization of its findings  
407 within 30 days after the receipt of the notice of challenge.

408 (9) If the certification determination is affirmed, the  
409 challenging agency may subsequently submit timely written notice  
410 to the firm of its intent to revoke certification of the firm.

#### 411 ARTICLE IV

412 APPROVED AND ACCEPTED PROGRAMS.—Nothing in this agreement  
413 shall be construed to repeal or otherwise modify any ordinance,  
414 law, or regulation of a party relating to the existing minority  
415 business assistance provisions and procedures by which minority  
416 business enterprises participate therein.

#### 417 ARTICLE V

418 TERM.—The term of the agreement shall be 5 years, after  
419 which it may be reexecuted by the parties.

#### 420 ARTICLE VI

421           AGREEMENT EVALUATION.—The designated state and local  
 422 officials may meet from time to time as a group to evaluate  
 423 progress under the agreement, to formulate recommendations for  
 424 changes, or to propose a new agreement.

425                                   ARTICLE VII

426           OTHER ARRANGEMENTS.—Nothing in this agreement shall be  
 427 construed to prevent or inhibit other arrangements or practices  
 428 of any party in order to comply with federal law.

429                                   ARTICLE VIII

430           EFFECT AND WITHDRAWAL.—

431           (1) This agreement shall become effective when properly  
 432 executed by a legal representative of the participating  
 433 organization, when enacted into the law of the state and after  
 434 an ordinance or other legislation is enacted into law by the  
 435 governing body of each participating organization. Thereafter it  
 436 shall become effective as to any participating organization upon  
 437 the enactment of this agreement by the governing body of that  
 438 organization.

439           (2) Any party may withdraw from this agreement by enacting  
 440 legislation repealing the same, but no such withdrawal shall  
 441 take effect until one year after the governing body of the  
 442 withdrawing party has given notice in writing of the withdrawal  
 443 to the other parties.

444           (3) No withdrawal shall relieve the withdrawing party of  
 445 any obligations imposed upon it by law.

446                                   ARTICLE IX

447           FINANCIAL RESPONSIBILITY.—

448           (1) A participating organization shall not be financially



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449 responsible or liable for the obligations of any other  
450 participating organization related to this agreement.

451 (2) The provisions of this agreement shall constitute  
452 neither a waiver of any governmental immunity under Florida law  
453 nor a waiver of any defenses of the parties under Florida law.  
454 The provisions of this agreement are solely for the benefit of  
455 its executors and not intended to create or grant any rights,  
456 contractual or otherwise, to any person or entity.

#### 457 ARTICLE X

458 VENUE AND GOVERNING LAW.—The obligations of the parties to  
459 this agreement are performable only within the county where the  
460 participating organization is located, and statewide for the  
461 Office of Supplier Diversity, and venue for any legal action in  
462 connection with this agreement shall lie, for any participating  
463 organization except the Office of Supplier Diversity,  
464 exclusively in the county where the participating organization  
465 is located. This agreement shall be governed by and construed in  
466 accordance with the laws and court decisions of the state.

#### 467 ARTICLE XI

468 CONSTRUCTION AND SEVERABILITY.—This agreement shall be  
469 liberally construed so as to effectuate the purposes thereof.  
470 The provisions of this agreement shall be severable and if any  
471 phrase, clause, sentence, or provision of this agreement is  
472 declared to be contrary to the State Constitution or the United  
473 States Constitution, or the application thereof to any  
474 government, agency, person, or circumstance is held invalid, the  
475 validity of the remainder of this agreement and the  
476 applicability thereof to any government, agency, person, or

477 | circumstance shall not be affected thereby. If this agreement  
 478 | shall be held contrary to the State Constitution, the agreement  
 479 | shall remain in full force and effect as to all severable  
 480 | matters.

481 | Section 5. Paragraphs (h) and (o) of subsection (4) of  
 482 | section 287.09451, Florida Statutes, are amended to read:

483 | 287.09451 Office of Supplier Diversity; powers, duties,  
 484 | and functions.—

485 | (4) The Office of Supplier Diversity shall have the  
 486 | following powers, duties, and functions:

487 | (h) To develop procedures to investigate complaints  
 488 | against minority business enterprises or contractors alleged to  
 489 | violate any provision related to this section or s. 287.0943,  
 490 | that may include visits to worksites or business premises, and  
 491 | to refer all information on businesses suspected of  
 492 | misrepresenting minority status to the Department of Management  
 493 | Services for investigation. When an investigation is completed  
 494 | and there is reason to believe that a violation has occurred,  
 495 | ~~the Department of Labor and Employment Security shall refer the~~  
 496 | matter shall be referred to the office of the Attorney General,  
 497 | Department of Legal Affairs, for prosecution.

498 | (o)1. To establish a system to record and measure the use  
 499 | of certified minority business enterprises in state contracting.  
 500 | This system shall maintain information and statistics on  
 501 | certified minority business enterprise participation, awards,  
 502 | dollar volume of expenditures and agency goals, and other  
 503 | appropriate types of information to analyze progress in the  
 504 | access of certified minority business enterprises to state

505 | contracts and to monitor agency compliance with this section.  
 506 | Such reporting must include, but is not limited to, the  
 507 | identification of all subcontracts in state contracting by  
 508 | dollar amount and by number of subcontracts and the  
 509 | identification of the utilization of certified minority business  
 510 | enterprises as prime contractors and subcontractors by dollar  
 511 | amounts of contracts and subcontracts, number of contracts and  
 512 | subcontracts, minority status, industry, and any conditions or  
 513 | circumstances that significantly affected the performance of  
 514 | subcontractors. Agencies shall report their compliance with the  
 515 | requirements of this reporting system at least annually and at  
 516 | the request of the office. All agencies shall cooperate with the  
 517 | office in establishing this reporting system. Except in  
 518 | construction contracting, all agencies shall review contracts  
 519 | costing in excess of CATEGORY FOUR as defined in s. 287.017 to  
 520 | determine if such contracts could be divided into smaller  
 521 | contracts to be separately solicited and awarded, and shall,  
 522 | when economical, offer such smaller contracts to encourage  
 523 | minority participation.

524 |         2. To report agency compliance with the provisions of  
 525 | subparagraph 1. for the preceding fiscal year to the Governor  
 526 | and Cabinet, the President of the Senate, and the Speaker of the  
 527 | House of Representatives, ~~and the secretary of the Department of~~  
 528 | ~~Labor and Employment Security~~ on or before February 1 of each  
 529 | year. The report must contain, at a minimum, the following:

- 530 |             a. Total expenditures of each agency by industry.
- 531 |             b. The dollar amount and percentage of contracts awarded
- 532 | to certified minority business enterprises by each state agency.

533 c. The dollar amount and percentage of contracts awarded  
 534 indirectly to certified minority business enterprises as  
 535 subcontractors by each state agency.

536 d. The total dollar amount and percentage of contracts  
 537 awarded to certified minority business enterprises, whether  
 538 directly or indirectly, as subcontractors.

539 e. A statement and assessment of good faith efforts taken  
 540 by each state agency.

541 f. A status report of agency compliance with subsection  
 542 (6), as determined by the Minority Business Enterprise Office.

543 Section 6. Subsections (1), (3), (4), (5), and (6) of  
 544 section 287.0947, Florida Statutes, are amended to read:

545 287.0947 Florida Advisory Council on Small and Minority  
 546 Business Development; creation; membership; duties.—

547 (1) ~~On or after October 1, 1996,~~ The Secretary of  
 548 Management Services ~~the Department of Labor and Employment~~  
 549 ~~Security~~ may create the Florida Advisory Council on Small and  
 550 Minority Business Development with the purpose of advising and  
 551 assisting the secretary in carrying out the secretary's duties  
 552 with respect to minority businesses and economic and business  
 553 development. It is the intent of the Legislature that the  
 554 membership of such council include practitioners, laypersons,  
 555 financiers, and others with business development experience who  
 556 can provide invaluable insight and expertise for this state in  
 557 the diversification of its markets and networking of business  
 558 opportunities. The council shall initially consist of 19  
 559 persons, each of whom is or has been actively engaged in small  
 560 and minority business development, either in private industry,

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561 in governmental service, or as a scholar of recognized  
562 achievement in the study of such matters. Initially, the council  
563 shall consist of members representing all regions of the state  
564 and shall include at least one member from each group identified  
565 within the definition of "minority person" in s. 288.703(3),  
566 considering also gender and nationality subgroups, and shall  
567 consist of the following:

568 (a) Four members consisting of representatives of local  
569 and federal small and minority business assistance programs or  
570 community development programs.

571 (b) Eight members composed of representatives of the  
572 minority private business sector, including certified minority  
573 business enterprises and minority supplier development councils,  
574 among whom at least two shall be women and at least four shall  
575 be minority persons.

576 (c) Two representatives of local government, one of whom  
577 shall be a representative of a large local government, and one  
578 of whom shall be a representative of a small local government.

579 (d) Two representatives from the banking and insurance  
580 industry.

581 (e) Two members from the private business sector,  
582 representing the construction and commodities industries.

583 (f) The chairperson of the Florida Black Business  
584 Investment Board or the chairperson's designee.

585

586 A candidate for appointment may be considered if eligible to be  
587 certified as an owner of a minority business enterprise, or if  
588 otherwise qualified under the criteria above. Vacancies may be

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589 filled by appointment of the secretary, in the manner of the  
590 original appointment.

591 ~~(3) Within 30 days after its initial meeting, the council~~  
592 ~~shall elect from among its members a chair and a vice chair.~~

593 (3)~~(4)~~ The council shall meet at the call of its chair, at  
594 the request of a majority of its membership, at the request of  
595 the commission or its executive administrator, or at such times  
596 as may be prescribed by rule, but not less than once a year, to  
597 offer its views on issues related to small and minority business  
598 development of concern to this state. A majority of the members  
599 of the council shall constitute a quorum.

600 (4)~~(5)~~ The powers and duties of the council include, but  
601 are not limited to: researching and reviewing the role of small  
602 and minority businesses in the state's economy; reviewing issues  
603 and emerging topics relating to small and minority business  
604 economic development; studying the ability of financial markets  
605 and institutions to meet small business credit needs and  
606 determining the impact of government demands on credit for small  
607 businesses; assessing the implementation of s. 187.201(21)  
608 ~~187.201(22)~~, requiring a state economic development  
609 comprehensive plan, as it relates to small and minority  
610 businesses; assessing the reasonableness and effectiveness of  
611 efforts by any state agency or by all state agencies  
612 collectively to assist minority business enterprises; and  
613 advising the Governor, the secretary, and the Legislature on  
614 matters relating to small and minority business development  
615 which are of importance to the international strategic planning  
616 and activities of this state.

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617           ~~(5)~~ ~~(6)~~ On or before January 1 of each year, the council  
 618 shall present an annual report to the secretary that sets forth  
 619 in appropriate detail the business transacted by the council  
 620 during the year and any recommendations to the secretary,  
 621 including those to improve business opportunities for small and  
 622 minority business enterprises.

623           Section 7. Paragraph (c) of subsection (4) of section  
 624 61.1826, Florida Statutes, is amended to read:

625           61.1826 Procurement of services for State Disbursement  
 626 Unit and the non-Title IV-D component of the State Case  
 627 Registry; contracts and cooperative agreements; penalties;  
 628 withholding payment.—

629           (4) COOPERATIVE AGREEMENT AND CONTRACT TERMS.—The contract  
 630 between the Florida Association of Court Clerks and the  
 631 department, and cooperative agreements entered into by the  
 632 depositories and the department, must contain, but are not  
 633 limited to, the following terms:

634           (c) Under s. 287.058(1)(a)1., all providers and  
 635 subcontractors shall submit to the department directly, or  
 636 through the Florida Association of Court Clerks, a report of  
 637 monthly expenditures in a format prescribed by the department  
 638 and in sufficient detail for a proper preaudit and postaudit  
 639 thereof.

640  
 641 If either the department or the Florida Association of Court  
 642 Clerks objects to a term of the standard cooperative agreement  
 643 or contract specified in subsections (2) and (3), the disputed  
 644 term or terms shall be presented jointly by the parties to the

645 Attorney General or the Attorney General's designee, who shall  
646 act as special magistrate. The special magistrate shall resolve  
647 the dispute in writing within 10 days. The resolution of a  
648 dispute by the special magistrate is binding on the department  
649 and the Florida Association of Court Clerks.

650 Section 8. Paragraphs (e), (f), (g), and (h) of subsection  
651 (3) of section 403.7061, Florida Statutes, are amended to read:

652 403.7061 Requirements for review of new waste-to-energy  
653 facility capacity by the Department of Environmental  
654 Protection.—

655 (3) An applicant must provide reasonable assurance that  
656 the construction of a new waste-to-energy facility or the  
657 expansion of an existing waste-to-energy facility will comply  
658 with the following criteria:

659 ~~(e) The local government in which the facility is located~~  
660 ~~has implemented a program to procure products or materials with~~  
661 ~~recycled content, pursuant to s. 403.7065.~~

662 (e) ~~(f)~~ A program will exist in the local government in  
663 which the facility is located for collecting and recycling  
664 recovered material from the institutional, commercial, and  
665 industrial sectors by the time the facility begins operation.

666 (f) ~~(g)~~ The facility will be in compliance with applicable  
667 local ordinances and with the approved state and local  
668 comprehensive plans required by chapter 163.

669 (g) ~~(h)~~ The facility is in substantial compliance with its  
670 permit, conditions of certification, and any agreements or  
671 orders resulting from environmental enforcement actions by state  
672 agencies.



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673 | Section 9. Section 287.115, Florida Statutes, is repealed.

674 | Section 10. Section 403.7065, Florida Statutes, is  
675 | repealed.

676 | Section 11. This act shall take effect July 1, 2011.