

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

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

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

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

41 287.056 Purchases from purchasing agreements and state  
 42 term contracts.—

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

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

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

57 completion of each deliverable.

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

61 (2)~~(3)~~ Agencies and eligible users may use a request for  
 62 quote to obtain written pricing or services information from a  
 63 state term contract vendor for commodities or contractual  
 64 services available on state term contract from that vendor. The  
 65 purpose of a request for quote is to determine whether a price,  
 66 term, or condition more favorable to the agency or eligible user  
 67 than that provided in the state term contract is available. Use  
 68 of a request for quote does not constitute a decision or  
 69 intended decision that is subject to protest under s. 120.57(3).

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

72 287.057 Procurement of commodities or contractual  
 73 services.—

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

84 (a) Invitation to bid.—The invitation to bid shall be used

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85 when the agency is capable of specifically defining the scope of  
86 work for which a contractual service is required or when the  
87 agency is capable of establishing precise specifications  
88 defining the actual commodity or group of commodities required.

89 1. All invitations to bid must include:

90 a. A detailed description of the commodities or  
91 contractual services sought; and

92 b. If the agency contemplates renewal of the contract, a  
93 statement to that effect.

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

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

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

112 1. Before issuing a request for proposals, the agency must

113 determine and specify in writing the reasons that procurement by  
 114 invitation to bid is not practicable.

115 2. All requests for proposals must include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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169 and price provide the best value to the state.

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

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

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

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

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

195 ~~b. Source selection information that is relevant to the~~  
196 ~~contract but is not available to all competitors and that would~~

197 ~~assist the vendor in obtaining the contract.~~

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

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

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

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

219       287.058 Contract document.—

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



225 required by the provisions of chapter 440, shall be evidenced by  
 226 a written agreement embodying all provisions and conditions of  
 227 the procurement of such services, which shall, where applicable,  
 228 include, but not be limited to, a provision:

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

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

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

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

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

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

252 7.~~(g)~~ Specifying that the contract may be renewed for a

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

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

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

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

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

282 287.09431 Statewide and interlocal agreement on  
 283 certification of business concerns for the status of minority  
 284 business enterprise.—The statewide and interlocal agreement on  
 285 certification of business concerns for the status of minority  
 286 business enterprise is hereby enacted and entered into with all  
 287 jurisdictions or organizations legally joining therein. If,  
 288 within 2 years from the date that the certification core  
 289 criteria are approved by the Department of Management Services  
 290 ~~Department of Labor and Employment Security~~, the agreement  
 291 included herein is not executed by a majority of county and  
 292 municipal governing bodies that administer a minority business  
 293 assistance program on the effective date of this act, then the  
 294 Legislature shall review this agreement. It is the intent of the  
 295 Legislature that if the agreement is not executed by a majority  
 296 of the requisite governing bodies, then a statewide uniform  
 297 certification process should be adopted, and that said agreement  
 298 should be repealed and replaced by a mandatory state government  
 299 certification process.

300 ARTICLE I

301 PURPOSE, FINDINGS, AND POLICY.—

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

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

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

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

325 (4) The parties agree that:

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

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

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

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

340 | ARTICLE II

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

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

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

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

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

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

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

368 ARTICLE III

369 STATEWIDE AND INTERLOCAL CERTIFICATIONS.—

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

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

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

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

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

392 the jurisdiction of the participating organization.

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

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

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

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

410 ARTICLE IV

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

416 ARTICLE V

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

419 ARTICLE VI

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

424                                   ARTICLE VII

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

428                                   ARTICLE VIII

429           EFFECT AND WITHDRAWAL.—

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

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

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

445                                   ARTICLE IX

446           FINANCIAL RESPONSIBILITY.—

447           (1) A participating organization shall not be financially



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

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

456 ARTICLE X

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

466 ARTICLE XI

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

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

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

482 | 287.09451 Office of Supplier Diversity; powers, duties,  
 483 | and functions.—

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

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

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

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

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

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

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

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

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

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

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

544 287.0947 Florida Advisory Council on Small and Minority  
545 Business Development; creation; membership; duties.—

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

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

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

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

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

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

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

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

584  
585 A candidate for appointment may be considered if eligible to be  
586 certified as an owner of a minority business enterprise, or if  
587 otherwise qualified under the criteria above. Vacancies may be

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

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

592 (3)~~(4)~~ The council shall meet at the call of its chair, at  
593 the request of a majority of its membership, at the request of  
594 the commission or its executive administrator, or at such times  
595 as may be prescribed by rule, but not less than once a year, to  
596 offer its views on issues related to small and minority business  
597 development of concern to this state. A majority of the members  
598 of the council shall constitute a quorum.

599 (4)~~(5)~~ The powers and duties of the council include, but  
600 are not limited to: researching and reviewing the role of small  
601 and minority businesses in the state's economy; reviewing issues  
602 and emerging topics relating to small and minority business  
603 economic development; studying the ability of financial markets  
604 and institutions to meet small business credit needs and  
605 determining the impact of government demands on credit for small  
606 businesses; assessing the implementation of s. 187.201(21)  
607 ~~187.201(22)~~, requiring a state economic development  
608 comprehensive plan, as it relates to small and minority  
609 businesses; assessing the reasonableness and effectiveness of  
610 efforts by any state agency or by all state agencies  
611 collectively to assist minority business enterprises; and  
612 advising the Governor, the secretary, and the Legislature on  
613 matters relating to small and minority business development  
614 which are of importance to the international strategic planning  
615 and activities of this state.

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616           ~~(5)~~ (6) On or before January 1 of each year, the council  
 617 shall present an annual report to the secretary that sets forth  
 618 in appropriate detail the business transacted by the council  
 619 during the year and any recommendations to the secretary,  
 620 including those to improve business opportunities for small and  
 621 minority business enterprises.

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

624           61.1826 Procurement of services for State Disbursement  
 625 Unit and the non-Title IV-D component of the State Case  
 626 Registry; contracts and cooperative agreements; penalties;  
 627 withholding payment.—

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

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

639  
 640 If either the department or the Florida Association of Court  
 641 Clerks objects to a term of the standard cooperative agreement  
 642 or contract specified in subsections (2) and (3), the disputed  
 643 term or terms shall be presented jointly by the parties to the

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

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

651 403.7061 Requirements for review of new waste-to-energy  
652 facility capacity by the Department of Environmental  
653 Protection.—

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

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

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

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

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



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672           Section 9. Section 287.115, Florida Statutes, is repealed.

673           Section 10. Section 403.7065, Florida Statutes, is  
674 repealed.

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