

1 A bill to be entitled
2 An act relating to state financial matters; amending s.
3 216.011, F.S.; defining the term "lease or lease-purchase
4 of equipment"; amending s. 216.023, F.S.; requiring that
5 specified information relating to certain contracts be
6 included in an agency's legislative budget request;
7 amending s. 216.311, F.S.; defining the terms "contract"
8 and "agreement"; prohibiting an agency or branch of state
9 government, without legislative authority, from
10 contracting to pay liquidated damages or early termination
11 fees resulting from the breach or early termination of a
12 contract or agreement, from paying interest because of
13 insufficient budget authority to pay an obligation in the
14 current year, from obligating the state to make future
15 payments to cover unpaid payments, or from granting a
16 party the right to collect fees or other revenues from
17 nonparties; providing certain exemptions; prohibiting an
18 agency from entering into certain leases without
19 authorization by the Legislature or the Legislative Budget
20 Commission; creating s. 216.312, F.S.; requiring the
21 executive and judicial branch to notify the Governor and
22 Legislature before entering into contracts containing
23 certain provisions relating to expenditures; transferring,
24 renumbering, and amending s. 287.0582, F.S.; requiring a
25 state contract to identify the appropriation that funds a
26 contract; expanding the statement that must be included in
27 state contracts to include grounds for terminating the
28 contract based on budget deficits; requiring the judicial

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29 | branch to include the statement in its contracts;
30 | requiring the agency head, executive director, or chief
31 | judge, as appropriate, or a designated senior management
32 | employee, to sign contracts that exceed a specified
33 | amount; requiring the agency head, executive director, or
34 | chief judge to review certain contracts and certify
35 | compliance with ch. 216, F.S.; requiring contracts
36 | exceeding a specified amount to require written acceptance
37 | or rejection of contract deliverables; providing that
38 | contracts in violation of these provisions are null and
39 | void; providing penalties; amending s. 287.063, F.S.;
40 | prohibiting certain lease or deferred-payment purchases by
41 | state agencies unless expressly authorized by the
42 | Legislature in the General Appropriations Act or by the
43 | Legislative Budget Commission; amending s. 287.064, F.S.;
44 | prohibiting certain master equipment financing agreements
45 | unless expressly authorized by the Legislature in the
46 | General Appropriations Act or by the Legislative Budget
47 | Commission; amending ss. 376.3075 and 403.1837, F.S.;
48 | conforming cross-references; providing for application;
49 | providing an effective date.

50 |
51 | Be It Enacted by the Legislature of the State of Florida:

52 |
53 | Section 1. Present paragraph (vv) of subsection (1) of
54 | section 216.011, Florida Statutes, is redesignated as paragraph
55 | (ww), and a new paragraph (vv) is added to that subsection, to
56 | read:

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57 | 216.011 Definitions.—

58 | (1) For the purpose of fiscal affairs of the state,
59 | appropriations acts, legislative budgets, and approved budgets,
60 | each of the following terms has the meaning indicated:

61 | (vv) "Lease or lease-purchase of equipment" means the
62 | appropriations category used to fund the lease or lease-purchase
63 | of equipment, fixtures, and other tangible personal property.

64 | Section 2. Present subsections (6) through (9) of section
65 | 216.023, Florida Statutes, are renumbered as subsections (7)
66 | through (10), respectively, and a new subsection (6) is added to
67 | that section, to read:

68 | 216.023 Legislative budget requests to be furnished to
69 | Legislature by agencies.—

70 | (6) As part of the legislative budget request, each state
71 | agency must include the following information for each contract
72 | in which the state agency has granted a concession:

73 | (a) The name of the vendor.

74 | (b) A brief description of the services provided by the
75 | vendor.

76 | (c) The term of the contract and the years remaining on
77 | the contract.

78 | (d) The amount of revenue generated or expected to be
79 | generated by the vendor under the contract for the prior fiscal
80 | year, the current fiscal year, and the next fiscal year.

81 | (e) The amount of revenue remitted or expected to be
82 | remitted to the state agency by the vendor for the prior fiscal
83 | year, the current fiscal year, and the next fiscal year.

84 | (f) The value of capital improvements, if any, on state

85 property which have been funded by the vendor over the term of
 86 the contract.

87 (g) The remaining amount of capital improvements, if any,
 88 on state property which have not been fully amortized by June 30
 89 of the prior fiscal year.

90 (h) The amount, if any, of state appropriations made to
 91 the state agency to pay for services provided by the vendor.

92 Section 3. Section 216.311, Florida Statutes, is amended
 93 to read:

94 216.311 Unauthorized contracts ~~in excess of~~
 95 ~~appropriations~~; penalty.—

96 (1) As used in this section and ss. 216.312 and 216.313,
 97 the terms "contract" and "agreement" include the initial
 98 contract or agreement, any amendment to the contract or
 99 agreement, and any extension or renewal of the contract or
 100 agreement.

101 (2)~~(1)~~ Unless specifically authorized by law, an ~~no~~ agency
 102 or branch of state government ~~may not enter into any shall~~
 103 contract ~~to spend,~~ or ~~enter into any~~ agreement:

104 (a) To spend, any moneys in excess of the amount
 105 appropriated to such agency or branch ~~unless specifically~~
 106 ~~authorized by law, and any contract or agreement in violation of~~
 107 ~~this chapter shall be null and void.~~

108 (b) That requires the state to pay liquidated damages or
 109 early termination fees for a breach or early termination of a
 110 contract or agreement by such agency or branch due to an act of
 111 the Legislature which provides less than full funding for the
 112 contract during the fiscal year.

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113 (c) That requires the state to pay interest, other than
114 interest paid pursuant to s. 215.422, to another party because
115 the agency or branch has insufficient budget authority to pay
116 the underlying obligation of the contract or agreement in the
117 current year.

118 (d) That binds the state to make future-year payments to
119 offset payments not made in a prior year due to insufficient
120 budget authority.

121 (e) To grant to any party the right or privilege to
122 collect and retain fees or other revenues from persons who are
123 not a party to the contract which would otherwise be payable to
124 the state and deposited into the State Treasury.

125 (3) Notwithstanding subsection (2), the following agencies
126 may enter into the following contracts or agreements:

127 (a) In order to spend funds appropriated for the approved
128 5-year work program, the Department of Transportation may enter
129 into contracts and other agreements that require the state to
130 pay liquidated damages as a result of a breach of those
131 contracts or agreements.

132 (b) In order to administer the state group insurance
133 program as provided in s. 110.123, the Department of Management
134 Services may enter into contracts and other agreements that
135 permit health care providers, health maintenance organizations,
136 preferred provider organizations, and insurers to collect
137 premiums and copayments from participants in the group insurance
138 program.

139 (c) In order to administer the state Medicaid plan and the
140 Florida Healthy Kids program, the Agency for Health Care

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141 Administration may enter into contracts and other agreements
142 that permit health care providers to collect premiums and
143 copayments from participants in the Medicaid plan and the
144 Healthy Kids program.

145 (d) In order to administer the state parks system, the
146 Department of Environmental Protection may enter into contracts
147 and other agreements that require the state to pay liquidated
148 damages or early termination fees as a result of a breach of
149 those contracts or agreements, but only if the vendor makes
150 significant capital improvements to state property and the costs
151 of such improvements is amortized over no more than 3 years.
152 Such contracts are subject to the notice requirements of s.
153 216.312.

154 (4) Notwithstanding any law authorizing an agency to enter
155 into a lease, an agency may not enter into a lease or lease-
156 purchase agreement for tangible personal property which requires
157 the state to pay more than \$500,000 over the term of the lease
158 or agreement if the term of the lease or agreement exceeds 1
159 fiscal year unless such lease or agreement is expressly
160 authorized by the Legislature or the Legislative Budget
161 Commission has approved a transfer of budget authority from a
162 traditional appropriation category to the appropriation category
163 established for the lease or lease-purchase of equipment.
164 However, in order to administer the real estate and other
165 investment portfolios as provided in s. 215.47, the State Board
166 of Administration may enter into contracts and such other
167 agreements as necessary to carry out the investment duties of
168 the board.

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169 (5) Any contract or agreement in violation of this section
170 is null and void.

171 ~~(6)-(2) Any public officer or employee person who willfully~~
172 enters into a contract or other agreement in violation of this
173 section commits contracts to spend, or enters into an agreement
174 to spend, any money in excess of the amount appropriated to the
175 agency or branch for whom the contract or agreement is executed
176 ~~is guilty of~~ a misdemeanor of the first degree, punishable as
177 provided in s. 775.082 or s. 775.083.

178 Section 4. Section 216.312, Florida Statutes, is created
179 to read:

180 216.312 Reporting contract expenditures.-

181 (1) A state agency must provide written notification of
182 the terms and conditions of the contract to the Governor, the
183 President of the Senate, and the Speaker of the House of
184 Representatives at least 30 days before executing a contract, or
185 a series of contracts between the same parties, for the purchase
186 of services or tangible personal property that:

187 (a) Requires payments by the state in excess of \$10
188 million in any fiscal year;

189 (b) Requires minimal or no payments by the state during
190 the fiscal year;

191 (c) Authorizes the other party to make expenditures in
192 anticipation of collecting revenues from a third party,
193 including other state agencies, rather than receiving payments
194 from the state agency executing the contract; or

195 (d) Requires initial expenditures by the other party and
196 for which the other party will not receive payment from the

197 state within 180 days after the expenditure.

198 (2) The execution of any contract or agreement described
 199 in subsection (1) is an action or proposed action subject to s.
 200 216.177(2) (b) .

201 Section 5. Section 287.0582, Florida Statutes, is
 202 transferred, renumbered as section 216.313, Florida Statutes,
 203 and amended to read:

204 216.313 ~~287.0582~~ Contract appropriation ~~Contracts which~~
 205 ~~require annual appropriation;~~ contingency statement;
 206 requirements; penalty.-

207 (1) An executive or judicial branch public officer or
 208 employee may not enter into any contract or agreement on behalf
 209 of the state or judicial branch which binds the state or its
 210 executive agencies or the judicial branch for the purchase of
 211 services or tangible personal property unless the contract
 212 identifies the specific appropriation of state funds from which
 213 the state will make payment under the contract in the first year
 214 of the contract, or unless the Legislature expressly authorizes
 215 the agency or the judicial branch to enter into such contract
 216 absent a specific appropriation of funds.

217 (2) An ~~No~~ executive or judicial branch public officer or
 218 employee may not ~~shall~~ enter into any contract or agreement on
 219 behalf of the state, ~~which contract binds the state or its~~
 220 ~~executive agencies~~ for the purchase of services or tangible
 221 personal property ~~for a period in excess of 1 fiscal year,~~
 222 unless the following statements are ~~statement is~~ included in the
 223 contract:

224 (a) "The State of Florida's performance and obligation to

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225 pay under this contract is contingent upon an annual
226 appropriation by the Legislature."

227 (b) "This contract may be terminated by the state upon 10
228 days' written notice if funding for this contract is
229 specifically eliminated pursuant to a deficit reduction plan
230 implemented by:

231 1. The Governor or the Chief Justice or by an act of the
232 Legislature after certification pursuant to section 216.221,
233 Florida Statutes, that a deficit will occur in the General
234 Revenue Fund; or

235 2. The Governor or Chief Justice pursuant to section
236 216.221(10), Florida Statutes, or by an act of the Legislature,
237 after a determination by the Chief Financial Officer that a
238 deficit will occur with respect to appropriations from a
239 specific trust fund in the current fiscal year."

240 (3) A contract or other agreement that exceeds:

241 (a) The CATEGORY TWO threshold amount provided in s.
242 287.017 must be signed by the agency head, executive director,
243 or chief judge, as appropriate, or a designated senior
244 management employee.

245 (b) A term of 12 months may not be executed by any
246 executive or judicial branch agency unless the agency head,
247 executive director, or chief judge, as appropriate, or a
248 designated senior management employee, determines that the
249 contract is in compliance with the requirements of this chapter
250 and certifies such compliance in writing within the contract or
251 agreement.

252 (c) The CATEGORY FIVE threshold amount provided in s.

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253 287.017 must require the written acceptance or rejection of
 254 contract deliverables.

255 (4) Any contract or other agreement in violation of this
 256 section is null and void.

257 (5) Any public officer or employee who willfully enters
 258 into a contract or other agreement in violation of this section
 259 commits a misdemeanor of the first degree, punishable as
 260 provided in s. 775.082 or s. 775.083.

261 Section 6. Subsection (4) of section 287.063, Florida
 262 Statutes, is amended to read:

263 287.063 Deferred-payment commodity contracts; preaudit
 264 review.—

265 (4) Beginning July 1, 2011, an agency may not enter into a
 266 lease or deferred-payment purchase arrangement for the
 267 acquisition of equipment which has a total cost greater than
 268 \$500,000 unless the Legislature has expressly authorized such
 269 lease or deferred-payment purchase arrangement in the General
 270 Appropriations Act or the Legislative Budget Commission has
 271 approved a transfer of budget authority from a traditional
 272 appropriation category to the special appropriation category for
 273 deferred-payment commodity contracts. ~~For purposes of this~~
 274 ~~section, deferred-payment commodity contracts for replacing the~~
 275 ~~state accounting and cash management systems may include~~
 276 ~~equipment, accounting software, and implementation and project~~
 277 ~~management services.~~

278 Section 7. Subsection (9) of section 287.064, Florida
 279 Statutes, is amended to read:

280 287.064 Consolidated financing of deferred-payment

281 purchases.—

282 (9) Beginning July 1, 2011, an agency may not enter into a
 283 master equipment financing agreement that has a total cost
 284 greater than \$500,000 unless the Legislature has expressly
 285 authorized such agreement in the General Appropriations Act or
 286 the Legislative Budget Commission has approved a transfer of
 287 budget authority from a traditional appropriation category to
 288 the special appropriation category for deferred-payment
 289 commodity contracts. ~~For purposes of this section, deferred-~~
 290 ~~payment commodity contracts for replacing the state accounting~~
 291 ~~and cash management systems may include equipment, accounting~~
 292 ~~software, and implementation and project management services.~~

293 Section 8. Subsections (4) and (9) of section 376.3075,
 294 Florida Statutes, are amended to read:

295 376.3075 Inland Protection Financing Corporation.—

296 (4) The corporation may enter into one or more service
 297 contracts with the department to provide services to the
 298 department in connection with financing the functions and
 299 activities provided in ss. 376.30-376.317. The department may
 300 ~~enter into one or more such service contracts with the~~
 301 ~~corporation and provide payment for payments~~ under such
 302 contracts pursuant to s. 376.3071(4)(o), subject to annual
 303 appropriation by the Legislature. The proceeds from such service
 304 contracts may be used for the corporation's administrative costs
 305 and expenses after payments as set forth in subsection (5). Each
 306 service contract may have a term of up to 20 years. Amounts
 307 annually appropriated and applied to make payments under such
 308 service contracts may not include any funds derived from

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309 penalties or other payments received from any property owner or
 310 private party, including payments received under s.
 311 376.3071(6)(b). In compliance with s. 216.313 ~~287.0641~~ and other
 312 applicable provisions of law, the obligations of the department
 313 under such service contracts do not constitute a general
 314 obligation of the state or a pledge of the faith and credit or
 315 taxing power of the state nor may such obligations be construed
 316 in any manner as an obligation of the State Board of
 317 Administration or entities for which it invests funds, other
 318 than the department as provided in this section, but are payable
 319 solely from amounts available in the Inland Protection Trust
 320 Fund, subject to annual appropriation. ~~In compliance with this~~
 321 ~~subsection and s. 287.0582,~~ The service contract must expressly
 322 include the statements required under s. 216.313. ~~following~~
 323 ~~statement: "The State of Florida's performance and obligation to~~
 324 ~~pay under this contract is contingent upon an annual~~
 325 ~~appropriation by the Legislature."~~

326 (9) The corporation is not a special district for the
 327 purposes of chapter 189 or a unit of local government for the
 328 purposes of part III of chapter 218. The provisions of chapters
 329 120 and 215, except the limitation on interest rates provided by
 330 s. 215.84 which applies to obligations of the corporation issued
 331 pursuant to this section, and part I of chapter 287, except s.
 332 ~~ss. 287.0582 and 287.0641,~~ does ~~de~~ not apply to this section,
 333 the corporation, the service contracts entered into pursuant to
 334 this section, or debt obligations issued by the corporation as
 335 contemplated in this section.

336 Section 9. Subsections (5) and (10) of section 403.1837,

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337 Florida Statutes, are amended to read:

338 403.1837 Florida Water Pollution Control Financing
 339 Corporation.—

340 (5) The corporation may enter into one or more service
 341 contracts with the department under which the corporation shall
 342 provide services to the department in connection with financing
 343 the functions, projects, and activities provided in ss. 403.1835
 344 and 403.8532. The department may ~~enter into one or more service~~
 345 ~~contracts with the corporation and~~ provide payment for payments
 346 under those contracts pursuant to s. 403.1835(9) or s. 403.8533,
 347 subject to annual appropriation by the Legislature.

348 (a) The service contracts may provide for the transfer of
 349 all or a portion of the funds in the Wastewater Treatment and
 350 Stormwater Management Revolving Loan Trust Fund and the Drinking
 351 Water Revolving Loan Trust Fund to the corporation for use by
 352 the corporation for costs incurred by the corporation in its
 353 operations, including, but not limited to, payment of debt
 354 service, reserves, or other costs in relation to bonds issued by
 355 the corporation, for use by the corporation at the request of
 356 the department to directly provide the types of local financial
 357 assistance provided in ss. 403.1835(3) and 403.8532(3), or for
 358 payment of the administrative costs of the corporation.

359 (b) The department may not transfer funds under any
 360 service contract with the corporation without a specific
 361 appropriation for such purpose in the General Appropriations
 362 Act, except for administrative expenses incurred by the State
 363 Board of Administration or other expenses necessary under
 364 documents authorizing or securing previously issued bonds of the

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365 corporation. The service contracts may also provide for the
 366 assignment or transfer to the corporation of any loans made by
 367 the department.

368 (c) The service contracts may establish the operating
 369 relationship between the department and the corporation and must
 370 require the department to request the corporation to issue bonds
 371 before any issuance of bonds by the corporation, to take any
 372 actions necessary to enforce the agreements entered into between
 373 the corporation and other parties, and to take all other actions
 374 necessary to assist the corporation in its operations.

375 (d) In compliance with s. 287.0641 and other applicable
 376 provisions of law, the obligations of the department under the
 377 service contracts do not constitute a general obligation of the
 378 state or a pledge of the faith and credit or taxing power of the
 379 state, nor may the obligations be construed as an obligation of
 380 the State Board of Administration or entities for which it
 381 invests funds, or of the department except as provided in this
 382 section as payable solely from amounts available under any
 383 service contract between the corporation and the department,
 384 subject to appropriation.

385 (e) ~~The In compliance with this subsection and s.~~
 386 ~~287.0582,~~ service contracts must expressly include the
 387 statements required under s. 216.313. following statement: "The
 388 ~~State of Florida's performance and obligation to pay under this~~
 389 ~~contract is contingent upon an annual appropriation by the~~
 390 ~~Legislature."~~

391 (10) The corporation is not a special district for
 392 purposes of chapter 189 or a unit of local government for

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393 | purposes of part III of chapter 218. The provisions of chapters
394 | 120 and 215, except the limitation on interest rates provided by
395 | s. 215.84, which applies to obligations of the corporation
396 | issued under this section, and part I of chapter 287, except s.
397 | ~~ss. 287.0582~~ and 287.0641, do not apply to this section, the
398 | corporation, the service contracts entered into under this
399 | section, or debt obligations issued by the corporation as
400 | provided in this section.

401 | Section 10. This act shall take effect July 1, 2011, and
402 | applies to initial contracts and agreements, amendments to a
403 | contract or agreement, and extensions or renewals of a contract
404 | or agreement which are executed on or after that date.