

By Senator Hays

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1 A bill to be entitled
2 An act relating to state-owned or leased space;
3 amending s. 216.0152, F.S.; revising provisions
4 requiring development, maintenance, and reporting
5 relating to an automated inventory of state-owned or
6 state-occupied facilities and providing procedures,
7 requirements, and departmental responsibilities with
8 respect thereto; amending s. 255.248, F.S.; adding
9 definitions for the terms "managing entity" and
10 "tenant broker"; amending s. 255.249, F.S.;
11 authorizing the Department of Management Services to
12 direct state agencies to occupy space in a state-owned
13 building; authorizing the department to implement
14 renovations of projects in order to efficiently use
15 state-owned buildings; revising the contents of the
16 master leasing report; authorizing state agencies to
17 use the services of a tenant broker to provide certain
18 information to the department; requiring the title
19 entity or managing agency to report any vacant or
20 underutilized space to the department; requiring the
21 department to adopt procedural rules; amending s.
22 255.25, F.S.; reducing the amount of square feet that
23 an agency may lease without department approval;
24 requiring a state agency to use a tenant broker to
25 assist with lease actions; requiring the lessor of
26 certain state-leased space to provide documentation
27 relating to compliance with uniform firesafety
28 standards under certain circumstances; conforming
29 cross-references; amending ss. 110.171 and 985.682,

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30 F.S.; conforming cross-references; providing an
31 effective date.

32
33 Be It Enacted by the Legislature of the State of Florida:

34
35 Section 1. Section 216.0152, Florida Statutes, is amended
36 to read:

37 216.0152 Inventory of state-owned facilities or state-
38 occupied facilities.—

39 (1) The Department of Management Services and the
40 Department of Environmental Protection shall develop and
41 maintain an automated inventory of all facilities owned, leased,
42 rented, or otherwise occupied or maintained by any agency of the
43 state, the judicial branch, or the water management districts.
44 The inventory data shall be provided by the owning or operating
45 agency and shall include the location, occupying agency,
46 ownership, size, condition assessment, valuations, operating
47 costs, maintenance record, age, parking and employee facilities,
48 building uses, full-time equivalent occupancy, known
49 restrictions or historic designations, leases or subleases,
50 associated revenues, and other information as required in a rule
51 adopted by the Department of Management Services. The Department
52 of Management Services shall use this data for determining
53 maintenance needs, conducting strategic analyses, including, but
54 not limited to, analyzing and identifying candidates for
55 surplus, valuation, and disposition, and life-cycle cost
56 evaluations of the facility. Inventory data shall be provided to
57 the Department of Environmental Protection on or before July 1
58 of each year by the owning or operating agency in a format

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59 prescribed by the Department of Environmental Protection and the
60 Department of Management Services. The inventory need not
61 include a condition assessment or maintenance record of
62 facilities not owned by a state agency, the judicial branch, or
63 a water management district. The term "facility," as used in
64 this section, means buildings, structures, and building systems,
65 but does not include transportation facilities of the state
66 transportation system. For reporting purposes, the Department of
67 Transportation shall develop and maintain an inventory of
68 transportation facilities of the state transportation system and
69 provide this inventory to the Department of Environmental
70 Protection and the Department of Management Services by July 1
71 of each year. The Department of Transportation shall also
72 identify and dispose of surplus property pursuant to ss. 337.25
73 and 339.04. The Board of Governors of the State University
74 System and the Department of Education, respectively, shall
75 develop and maintain an inventory, in the manner prescribed by
76 the Department of Management Services, of all state university
77 and community college facilities and shall provide ~~make~~ the data
78 ~~available~~ in a format acceptable to the Department of Management
79 Services by July 1 of each year. By March 15, 2011, the
80 Department of Management Services shall adopt rules ~~pursuant to~~
81 ~~ss. 120.536 and 120.54~~ to administer this section.

82 ~~(2) For the purpose of assessing needed repairs and~~
83 ~~renovations of facilities, the Department of Management Services~~
84 ~~shall update its inventory with condition information for~~
85 ~~facilities of 3,000 square feet or more and cause to be updated~~
86 ~~the other inventories required by subsection (1) at least once~~
87 ~~every 5 years, but the inventories shall record acquisitions of~~

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88 ~~new facilities and significant changes in existing facilities as~~
89 ~~they occur. The Department of Management Services shall provide~~
90 ~~each agency and the judicial branch with the most recent~~
91 ~~inventory applicable to that agency or to the judicial branch.~~
92 ~~Each agency and the judicial branch shall, in the manner~~
93 ~~prescribed by the Department of Management Services, report~~
94 ~~significant changes in the inventory as they occur. Items~~
95 ~~relating to the condition and life-cycle cost of a facility~~
96 ~~shall be updated at least every 5 years.~~

97 (2) ~~(3)~~ By October 1 of each year, the Department of
98 Management Services and the Department of Environmental
99 Protection shall, every 3 years, publish a complete report
100 detailing the inventory of all state-owned facilities, including
101 inventories of the Board of Governors of the State University
102 System, the Department of Education, and the Department of
103 Transportation. The annual state-owned real property disposition
104 report required under s. 216.0153 shall be included in the
105 report required under this subsection ~~this inventory and shall~~
106 ~~publish an annual update of the report. The department shall~~
107 ~~furnish the updated report to the Executive Office of the~~
108 ~~Governor and the Legislature no later than September 15 of each~~
109 ~~year.~~

110 Section 2. Section 255.248, Florida Statutes, is amended to
111 read:

112 255.248 Definitions; ss. 255.249 and 255.25. ~~As used in ss.~~
113 255.248-255.25 ~~255.249 and 255.25,~~ the term:

114 (1) "Best leasing value" means the highest overall value to
115 the state based on objective factors that include, but are not
116 limited to, rental rate, renewal rate, operational and

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117 maintenance costs, tenant-improvement allowance, location, lease
118 term, condition of facility, landlord responsibility, amenities,
119 and parking.

120 (2) "Competitive solicitation" means an invitation to bid,
121 a request for proposals, or an invitation to negotiate.

122 (3) "Department" means the Department of Management
123 Services.

124 (4) "Managing agency" means an agency that serves as the
125 title entity or leases property from the Board of Trustees of
126 the Internal Improvement Trust Fund for the operation and
127 maintenance of a state-owned office building.

128 (5)~~(4)~~ "Privately owned building" means any building not
129 owned by a governmental agency.

130 (6)~~(5)~~ "Responsible lessor" means a lessor who has the
131 capability in all respects to fully perform the contract
132 requirements and the integrity and reliability that will assure
133 good faith performance.

134 (7)~~(6)~~ "Responsive bid," "responsive proposal," or
135 "responsive reply" means a bid or proposal, or reply submitted
136 by a responsive and responsible lessor, which conforms in all
137 material respects to the solicitation.

138 (8)~~(7)~~ "Responsive lessor" means a lessor who ~~that~~ has
139 submitted a bid, proposal, or reply that conforms in all
140 material respects to the solicitation.

141 (9)~~(8)~~ "State-owned office building" means any building
142 title to which is vested in the state and which is used by one
143 or more executive agencies predominantly for administrative
144 direction and support functions. The ~~This~~ term excludes:

145 (a) District or area offices established for field

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146 operations where law enforcement, military, inspections, road
147 operations, or tourist welcoming functions are performed.

148 (b) All educational facilities and institutions under the
149 supervision of the Department of Education.

150 (c) All custodial facilities and institutions used
151 primarily for the care, custody, or treatment of wards of the
152 state.

153 (d) Buildings or spaces used for legislative activities.

154 (e) Buildings purchased or constructed from agricultural or
155 citrus trust funds.

156 (10) "Tenant broker" means a private real estate broker or
157 brokerage firm licensed to do business in this state and under
158 contract with the department to provide real estate transaction,
159 portfolio management, and strategic planning services for state
160 agencies.

161 Section 3. Section 255.249, Florida Statutes, is amended to
162 read:

163 255.249 Department of Management Services; responsibility;
164 department rules.—

165 (1) The department shall have responsibility and authority
166 for the custodial and preventive maintenance, repair, and
167 allocation of space of all buildings in the Florida Facilities
168 Pool and adjacent the grounds ~~located adjacent thereto~~.

169 (2) A state agency may not lease space in a private
170 building that is to be constructed for state use unless prior
171 approval of the architectural design and preliminary
172 construction plan is obtained from the department.

173 (3) ~~(2)~~ The department shall require a ~~any~~ state agency
174 planning to terminate a lease in a privately owned building for

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175 the purpose of occupying space in a new state-owned office
176 building, ~~the funds for which are appropriated after June 30,~~
177 ~~2000,~~ to state why the proposed relocation is in the best
178 interest of the state.

179 (4) ~~(3) (a)~~ The department shall, ~~to the extent feasible,~~
180 coordinate the vacation of privately owned leased space with the
181 expiration of the lease on that space and, if ~~when~~ a lease is
182 terminated before expiration of its base term, ~~will~~ make a
183 reasonable effort to place another state agency in the space
184 vacated. A ~~Any~~ state agency may lease the space in any building
185 that was subject to a lease terminated by a state agency for a
186 period of time equal to the remainder of the base term without
187 ~~the requirement of~~ competitive solicitation.

188 (5) The department may direct state agencies to occupy
189 space in any state-owned office building, including all state-
190 owned space identified within the Florida State-Owned Land
191 Records Information System at the Department of Environmental
192 Protection.

193 (6) If expressly authorized by the General Appropriations
194 Act and in the best interest of the state, the department may
195 implement renovations or construction of fixed capital outlay
196 projects to efficiently utilize state-owned office buildings.
197 Such use of fixed capital outlay funds apply only to state-owned
198 office buildings, and all expenditures must be reported by the
199 department in the master leasing report identified in subsection
200 (8).

201 (7) ~~(b)~~ The department shall develop and implement a
202 strategic leasing plan. The strategic leasing plan must ~~shall~~
203 forecast space needs for all state agencies and identify

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204 opportunities for reducing costs through consolidation,
205 relocation, reconfiguration, capital investment, and the
206 building or acquisition of state-owned space.

207 (8)~~(e)~~ The department shall annually publish a master
208 leasing report that includes the strategic leasing plan created
209 under subsection (7). The department shall annually submit
210 ~~furnish~~ the ~~master~~ leasing report and plan to the Executive
211 Office of the Governor and the Legislature by October 1. The
212 report must provide ~~September 15 of each year which provides~~ the
213 following information:

214 (a)1- A list, by agency and by geographic market, of all
215 leases that are due to expire within 24 months.

216 (b)2- Details of each lease, including location, size, cost
217 per leased square foot, lease-expiration date, and a
218 determination of whether sufficient state-owned office space
219 will be available at the expiration of the lease to accommodate
220 affected employees.

221 (c)3- A list of amendments and supplements to and waivers
222 of terms and conditions in lease agreements that have been
223 approved pursuant to s. 255.25(2) (a) during the previous 12
224 months and an associated comprehensive analysis, including
225 financial implications, showing that any amendment, supplement,
226 or waiver is in the state's long-term best interest.

227 (d)4- Financial impacts to the pool rental rate due to the
228 sale, removal, acquisition, or construction of pool facilities.

229 (e)5- Changes in occupancy rate, maintenance costs, and
230 efficiency costs of leases in the state portfolio. Changes to
231 occupancy costs in leased space by market and changes to space
232 consumption by agency and by market.

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233 (f)~~6.~~ An analysis of portfolio supply and demand.

234 (g)~~7.~~ Cost-benefit analyses of acquisition, build, and
235 consolidation opportunities, recommendations for strategic
236 consolidation, and strategic recommendations for disposition,
237 acquisition, and building.

238 (h) Recommendations for capital improvement funds to
239 implement state agency consolidation into state-owned office
240 buildings.

241 (i)~~8.~~ The updated plan required by s. 255.25(4)(c).

242 (9)~~(d)~~ Annually by June 30: of each year,

243 (a) Each state agency shall ~~annually~~ provide to the
244 department all information regarding agency programs affecting
245 the need for or use of space by that agency, reviews of lease-
246 expiration schedules for each geographic area, active and
247 planned full-time equivalent data, business case analyses
248 related to consolidation plans by an agency, a telecommuting
249 program, and current occupancy and relocation costs, inclusive
250 of furnishings, fixtures and equipment, data, and
251 communications. State agencies may use the services of a tenant
252 broker in preparing this information.

253 (b) The title entity or managing agency shall report to the
254 department any vacant or underutilized space for all state-owned
255 office buildings and any restrictions that would apply to any
256 other agency occupying the vacant space. It shall also notify
257 the department of any significant changes to its occupancy in
258 the coming fiscal year.

259 (10)~~(4)~~ The department shall adopt rules ~~pursuant to~~
260 ~~chapter 120~~ providing:

261 (a) Methods for accomplishing the duties outlined in

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262 subsection (1).

263 (b) Procedures for soliciting and accepting competitive
264 solicitations for leased space of 2,000 ~~5,000~~ square feet or
265 more in privately owned buildings, for evaluating the proposals
266 received, for exemption from competitive solicitations
267 requirements of any lease the purpose of which is the provision
268 of care and living space for persons or emergency space needs as
269 provided in s. 255.25(10), and for the securing of at least
270 three documented quotes for a lease that is not required to be
271 competitively solicited.

272 (c) A standard method for determining square footage or any
273 other measurement used as the basis for lease payments or other
274 charges.

275 (d) Methods of allocating space in both state-owned office
276 buildings and privately owned buildings leased by the state
277 based on use, personnel, and office equipment.

278 ~~1.~~ Acceptable terms and conditions for inclusion in
279 lease agreements.

280 ~~2.~~ At a minimum, such terms and conditions must ~~shall~~
281 include, ~~at a minimum~~, the following clauses, which may not be
282 amended, supplemented, or waived:

283 ~~1.a.~~ As provided in s. 255.2502, "The State of Florida's
284 performance and obligation to pay under this contract is
285 contingent upon an annual appropriation by the Legislature."

286 ~~2.b.~~ "The Lessee has ~~shall have~~ the right to terminate,
287 without penalty, this lease if ~~in the event~~ a State-owned
288 building becomes available to the Lessee for occupancy upon
289 giving 6 months' advance written notice to the Lessor by
290 Certified Mail, Return Receipt Requested."

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291 (f) Maximum rental rates, by geographic areas or by county,
292 for leasing privately owned space.

293 (g) A standard method for the assessment of rent to state
294 agencies and other authorized occupants of state-owned office
295 space, notwithstanding the source of funds.

296 (h) For full disclosure of the names and the extent of
297 interest of the owners holding a 4 percent ~~4 percent~~ or more
298 interest in ~~any~~ privately owned property leased to the state or
299 in the entity holding title to the property, for exemption from
300 such disclosure of any beneficial interest that ~~which~~ is
301 represented by stock in a any corporation registered with the
302 Securities and Exchange Commission or registered pursuant to
303 chapter 517~~7~~ which ~~stock~~ is for sale to the general public, and
304 for exemption from such disclosure of any leasehold interest in
305 property located outside the territorial boundaries of the
306 United States.

307 (i) For full disclosure of the names of all public
308 officials, agents, or employees holding any interest in any
309 privately owned property leased to the state or in the entity
310 holding title to the property, and the nature and extent of
311 their interest, for exemption from such disclosure of any
312 beneficial interest that ~~which~~ is represented by stock in any
313 corporation registered with the Securities and Exchange
314 Commission or registered pursuant to chapter 517~~7~~ which ~~stock~~ is
315 for sale to the general public, and for exemption from such
316 disclosure of any leasehold interest in property located outside
317 the territorial boundaries of the United States.

318 (j) A method for reporting leases for nominal or no
319 consideration.

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320 (k) For a lease of less than 2,000 ~~5,000~~ square feet, a
321 method for certification by the agency head or the agency head's
322 designated representative that all criteria for leasing have
323 been fully complied with and for ~~the~~ filing ~~of~~ a copy of such
324 lease and all supporting documents with the department for its
325 review and approval as to technical sufficiency and whether it
326 is in the best interests of the state.

327 (l) A standardized format for state agency reporting of the
328 information required by paragraph (9) (a) ~~(3) (d)~~.

329 (m) Procedures for administering this section.

330 ~~(11) (5)~~ The department shall prepare a form listing all
331 conditions and requirements adopted pursuant to this chapter
332 which must be met by any state agency leasing any building or
333 part thereof. Before executing any lease, this form must ~~shall~~
334 be certified by the agency head or the agency head's designated
335 representative and submitted to the department.

336 ~~(12) (6)~~ The department may contract for real estate
337 consulting or tenant brokerage services in order to carry out
338 its duties relating to the strategic leasing plan under
339 subsection (7). The contract must ~~shall~~ be procured pursuant to
340 s. 287.057. The vendor that is awarded the contract shall be
341 compensated by the department, subject to the provisions of the
342 contract, and such compensation is subject to appropriation by
343 the Legislature. The real estate consultant or tenant broker may
344 not receive compensation directly from a lessor for services
345 that are rendered pursuant to the contract. Moneys paid by a
346 lessor to the department under a facility-leasing arrangement
347 are not subject to the charges imposed under s. 215.20.

348 Section 4. Section 255.25, Florida Statutes, is amended to

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349 read:

350 255.25 Approval required before ~~prior to~~ construction or
351 lease of buildings.—

352 (1) (a) ~~A state agency may not lease space in a private~~
353 ~~building that is to be constructed for state use unless prior~~
354 ~~approval of the architectural design and preliminary~~
355 ~~construction plans is first obtained from the department.~~

356 ~~(b)~~ During the term of existing leases, each agency shall
357 consult with the department regarding opportunities for
358 consolidation, use of state-owned space, build-to-suit space,
359 and potential acquisitions; shall monitor market conditions; and
360 shall initiate a competitive solicitation or, if appropriate,
361 lease-renewal negotiations for each lease held in the private
362 sector to effect the best overall lease terms reasonably
363 available to that agency.

364 (b) Amendments to leases may be permitted to modify any
365 lease provisions or ~~any~~ other terms or conditions, ~~except to the~~
366 ~~extent specifically prohibited by this chapter. The department~~
367 ~~shall serve as a mediator in lease-renewal negotiations if the~~
368 ~~agency and the lessor are unable to reach a compromise within 6~~
369 ~~months after renegotiation and if ~~either~~ the agency or lessor~~
370 ~~requests intervention by the department.~~

371 (c) If expressly ~~When specifically~~ authorized by the
372 General Appropriations Act, and in accordance with s. 255.2501, ~~7~~
373 if applicable, the department may approve a lease-purchase,
374 sale-leaseback, or tax-exempt leveraged lease contract or other
375 financing technique for the acquisition, renovation, or
376 construction of a state fixed capital outlay project if ~~when~~ it
377 is in the best interest of the state.

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378 (2) (a) Except as provided in s. 255.2501, a state agency
379 may not lease a building or any part thereof unless prior
380 approval of the lease conditions and of the need for the lease
381 ~~therefor~~ is first obtained from the department. An ~~Any~~ approved
382 lease may include an option to purchase or an option to renew
383 the lease, or both, upon such terms and conditions as are
384 established by the department, subject to final approval by the
385 head of the department ~~of Management Services~~ and s. 255.2502.

386 (b) For the lease of less than 2,000 ~~5,000~~ square feet of
387 space, a state agency must notify the department at least 30
388 days before the execution of the lease. The department shall
389 review the lease and determine whether suitable space is
390 available in a state-owned or state-leased building located in
391 the same geographic region. If the department determines that
392 space is not available, the department shall determine whether
393 the state agency lease is in the best interests of the state. If
394 the department determines that the execution of the lease is not
395 in the best interests of the state, the department shall notify
396 the agency proposing the lease, the Governor, the President of
397 the Senate, and the Speaker of the House of Representatives ~~and~~
398 ~~the presiding officers of each house of the Legislature~~ of such
399 finding in writing. A lease that is for a term extending beyond
400 the end of a fiscal year is subject to ~~the provisions of~~ ss.
401 216.311, 255.2502, and 255.2503.

402 (c) The department shall adopt ~~as a rule~~ uniform leasing
403 procedures by rule for use by each state agency ~~other than the~~
404 ~~Department of Transportation~~. Each state agency shall ensure
405 that the leasing practices of that agency are in substantial
406 compliance with the uniform leasing rules adopted under this

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407 section and ss. 255.249, 255.2502, and 255.2503.

408 (d) Notwithstanding paragraph (a) and except as provided in
409 ss. 255.249 and 255.2501, a state agency may not lease a
410 building or any part thereof unless prior approval of the lease
411 terms and conditions and of the need for the lease ~~therefor~~ is
412 first obtained from the department. The department may not
413 approve any term or condition in a lease agreement which has
414 been amended, supplemented, or waived unless a comprehensive
415 analysis, including financial implications, demonstrates that
416 such amendment, supplement, or waiver is in the state's long-
417 term best interest. An ~~Any~~ approved lease may include an option
418 to purchase or an option to renew the lease, or both, upon such
419 terms and conditions as are established by the department
420 subject to final approval by the head of the department ~~of~~
421 ~~Management Services~~ and the provisions of s. 255.2502.

422 (3) (a) Except as provided in subsection (10), a state
423 agency may not enter into a lease as lessee for the use of 2,000
424 ~~5,000~~ square feet or more of space in a privately or government-
425 owned ~~owned~~ building except upon advertisement for and receipt
426 of competitive solicitations.

427 1.a. An invitation to bid must ~~shall~~ be made available
428 simultaneously to all lessors and ~~must~~ include a detailed
429 description of the space sought; the time and date for the
430 receipt of bids and of the public opening; and all contractual
431 terms and conditions applicable to the procurement, including
432 the criteria to be used in determining acceptability of the bid.
433 If the agency contemplates renewal of the contract, that fact
434 must be stated in the invitation to bid. The bid must include
435 the price for each year for which the contract may be renewed.

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436 Evaluation of bids shall include consideration of the total cost
437 for each year as submitted by the lessor. Criteria that were not
438 set forth in the invitation to bid may not be used in
439 determining acceptability of the bid.

440 b. The contract shall be awarded with reasonable promptness
441 by written notice to the responsible and responsive lessor who
442 ~~that~~ submits the lowest responsive bid. This bid must be
443 determined in writing to meet the requirements and criteria set
444 forth in the invitation to bid.

445 2.a. If an agency determines in writing that the use of an
446 invitation to bid is not practicable, leased space shall be
447 procured by competitive sealed proposals. A request for
448 proposals shall be made available simultaneously to all lessors
449 and must include a statement of the space sought; the time and
450 date for the receipt of proposals and of the public opening; and
451 all contractual terms and conditions applicable to the
452 procurement, including the criteria, which must include, but
453 need not be limited to, price, to be used in determining
454 acceptability of the proposal. The relative importance of price
455 and other evaluation criteria must ~~shall~~ be indicated. If the
456 agency contemplates renewal of the contract, that fact must be
457 stated in the request for proposals. The proposal must include
458 the price for each year for which the contract may be renewed.
459 Evaluation of proposals must ~~shall~~ include consideration of the
460 total cost for each year as submitted by the lessor.

461 b. The contract shall be awarded to the responsible and
462 responsive lessor whose proposal is determined in writing to be
463 the most advantageous to the state, taking into consideration
464 the price and the other criteria set forth in the request for

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465 proposals. The contract file must contain documentation
466 supporting the basis on which the award is made.

467 3.a. If the agency determines in writing that the use of an
468 invitation to bid or a request for proposals will not result in
469 the best leasing value to the state, the agency may procure
470 leased space by competitive sealed replies. The agency's written
471 determination must specify reasons that explain why negotiation
472 may be necessary in order for the state to achieve the best
473 leasing value and must be approved in writing by the agency head
474 or his or her designee before ~~prior to the~~ advertisement of an
475 invitation to negotiate. Cost savings related to the agency
476 procurement process are not sufficient justification for using
477 an invitation to negotiate. An invitation to negotiate shall be
478 made available to all lessors simultaneously and must include a
479 statement of the space sought; the time and date for the receipt
480 of replies and of the public opening; and all terms and
481 conditions applicable to the procurement, including the criteria
482 to be used in determining the acceptability of the reply. If the
483 agency contemplates renewal of the contract, that fact must be
484 stated in the invitation to negotiate. The reply must include
485 the price for each year for which the contract may be renewed.

486 b. The agency shall evaluate and rank responsive replies
487 against all evaluation criteria set forth in the invitation to
488 negotiate and ~~shall~~ select, based on the ranking, one or more
489 lessors with which to commence negotiations. After negotiations
490 are conducted, the agency shall award the contract to the
491 responsible and responsive lessor who ~~that~~ the agency determines
492 will provide the best leasing value to the state. The contract
493 file must contain a short, plain statement that explains the

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494 basis for lessor selection and sets forth the lessor's
495 deliverables and price pursuant to the contract, and an
496 explanation of how these deliverables and price provide the best
497 leasing value to the state.

498 (b) The department of ~~Management Services~~ shall have the
499 authority to approve a lease for 2,000 ~~5,000~~ square feet or more
500 of space which ~~that~~ covers more than 1 fiscal year, subject to
501 ~~the provisions of~~ ss. 216.311, 255.2501, 255.2502, and 255.2503,
502 if such lease is, in the judgment of the department, in the best
503 interests of the state. In determining best interest, the
504 department shall consider availability of state-owned space and
505 analyses of build-to-suit and acquisition opportunities. This
506 paragraph does not apply to buildings or facilities of any size
507 leased for the purpose of providing care and living space for
508 persons.

509 (c) The department may approve extensions of an existing
510 lease of 2,000 ~~5,000~~ square feet or more of space if such
511 extensions are determined to be in the best interests of the
512 state; however, ~~but in no case shall~~ the total of such
513 extensions may not exceed 11 months. If at the end of the 11th
514 month an agency still needs that space, it shall be procured by
515 competitive bid in accordance with s. 255.249(10)(b)
516 ~~255.249(4)(b)~~. However, an agency that determines that it is in
517 its best interest to remain in the space it currently occupies
518 may negotiate a replacement lease with the lessor if an
519 independent comparative market analysis demonstrates that the
520 rates offered are within market rates for the space and the cost
521 of the new lease does not exceed the cost of a comparable lease
522 plus documented moving costs. A present-value analysis and the

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523 consumer price index shall be used in the calculation of lease
524 costs. The term of the replacement lease may not exceed the base
525 term of the expiring lease.

526 (d) Any person who files an action protesting a decision or
527 intended decision pertaining to a competitive solicitation for
528 space to be leased by the agency pursuant to s. 120.57(3)(b)
529 shall post with the state agency at the time of filing the
530 formal written protest a bond payable to the agency in an amount
531 equal to 1 percent of the estimated total rental of the basic
532 lease period or \$5,000, whichever is greater, which bond is
533 ~~shall be~~ conditioned on ~~upon~~ the payment of all costs that may
534 be adjudged against him or her in the administrative hearing in
535 which the action is brought and in any subsequent appellate
536 court proceeding. If the agency prevails after completion of the
537 administrative hearing process and any appellate court
538 proceedings, it shall recover all costs and charges, which shall
539 be included in the final order or judgment, excluding attorney
540 ~~attorney's~~ fees. Upon payment of such costs and charges by the
541 person protesting the award, the bond shall be returned to him
542 or her. If the person protesting the award prevails, the bond
543 shall be returned to that person and he or she shall recover
544 from the agency all costs and charges, which must ~~shall~~ be
545 included in the final order of judgment, excluding attorney
546 ~~attorney's~~ fees.

547 (e) The agency and the lessor, when entering into a lease
548 for 2,000 ~~5,000~~ or more square feet of a privately owned
549 building, shall, before the effective date of the lease, agree
550 upon and separately state the cost of tenant improvements which
551 may qualify for reimbursement if the lease is terminated before

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552 the expiration of its base term. The department shall serve as
553 mediator if the agency and the lessor are unable to agree. The
554 amount agreed upon and stated shall, if appropriated, be
555 amortized over the original base term of the lease on a
556 straight-line basis.

557 (f) The unamortized portion of tenant improvements, if
558 appropriated, shall be paid in equal monthly installments over
559 the remaining term of the lease. If any portion of the original
560 leased premises is occupied after termination but during the
561 original term by a tenant who ~~that~~ does not require material
562 changes to the premises, the repayment of the cost of tenant
563 improvements applicable to the occupied but unchanged portion
564 shall be abated during occupancy. The portion of the repayment
565 to be abated must ~~shall~~ be based on the ratio of leased space to
566 unleased space.

567 (g) Notwithstanding s. 287.056(1), a state agency shall
568 ~~may, at the sole discretion of the agency head or his or her~~
569 ~~designee,~~ use the services of a tenant broker to assist with a
570 lease action ~~a competitive solicitation~~ undertaken by the
571 agency. If using ~~In making its determination whether to use a~~
572 ~~tenant broker, a state agency shall consult with the department.~~
573 ~~A state agency may not use the services of a tenant broker~~
574 ~~unless the tenant broker is under a term contract with the state~~
575 ~~which complies with paragraph (h).~~ If a state agency uses the
576 services of a tenant broker with respect to a transaction, the
577 agency may not enter into a lease with a any landlord for whom
578 ~~to which~~ the tenant broker is providing brokerage services for
579 that transaction.

580 (h) ~~The Department of Management Services may,~~ Pursuant to

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581 s. 287.042(2)(a), the department shall procure a term contracts
582 ~~contract~~ for tenant broker ~~real estate consulting and brokerage~~
583 services. A state agency may not purchase services from the
584 contract unless the contract has been procured under s.
585 287.057(1) ~~after March 1, 2007,~~ and contains the following
586 provisions or requirements:

587 1. Awarded tenant brokers must maintain an office or
588 presence in the market served. In awarding the contract,
589 preference must be given to brokers who ~~that~~ are licensed in
590 this state under chapter 475 and who ~~that~~ have 3 or more years
591 of experience in the market served. The contract may be made
592 with up to three tenant brokers in order to serve the
593 marketplace in the north, central, and south areas of the state.

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

597 3. The department shall provide training for the awarded
598 tenant brokers concerning the rules governing the procurement of
599 leases.

600 4. Tenant brokers must comply with all applicable
601 provisions of s. 475.278.

602 5. Real estate consultants and tenant brokers shall be
603 compensated by the state agency, subject to the provisions of
604 the term contract, and such compensation is subject to
605 appropriation by the Legislature. A real estate consultant or
606 tenant broker may not receive compensation directly from a
607 lessor for services that are rendered under the term contract.
608 Moneys paid by a lessor to the state agency under a facility
609 leasing arrangement are not subject to the charges imposed under

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610 s. 215.20. All terms relating to the compensation of the real
611 estate consultant or tenant broker must ~~shall~~ be specified in
612 the term contract and may not be supplemented or modified by the
613 state agency using the contract.

614 6. The department shall conduct periodic customer-
615 satisfaction surveys.

616 7. Each state agency shall report the following information
617 to the department:

618 a. The number of leases that adhere to the goal of the
619 workspace-management initiative of 180 square feet per full-time
620 employee FTE.

621 b. The quality of space leased and the adequacy of tenant-
622 improvement funds.

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

625 d. Whether cost-benefit analyses were performed before
626 execution of the lease in order to ensure that the lease is in
627 the best interest of the state.

628 e. The lease costs compared to market rates for similar
629 types and classifications of space according to the official
630 classifications of the Building Owners and Managers Association.

631 (4) (a) The department may ~~shall~~ not authorize any state
632 agency to enter into a lease agreement for space in a privately
633 owned building if ~~when~~ suitable space is available in a state-
634 owned building located in the same geographic region, except
635 upon presentation to the department of sufficient written
636 justification, acceptable to the department, that a separate
637 space is required in order to fulfill the statutory duties of
638 the agency making the ~~such~~ request. The term "state-owned

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639 building" as used in this subsection means any state-owned
640 facility regardless of use or control.

641 (b) State agencies shall cooperate with local governmental
642 units by using suitable, existing publicly owned facilities,
643 subject to ~~the provisions of~~ ss. 255.2501, 255.2502, and
644 255.2503. Agencies may use ~~utilize~~ unexpended funds appropriated
645 for lease payments to:

- 646 1. Pay their proportion of operating costs.
- 647 2. Renovate applicable spaces.

648 (c) Because the state has a substantial financial
649 investment in state-owned buildings, it is legislative policy
650 and intent that if ~~when~~ state-owned buildings meet the needs of
651 state agencies, agencies must fully use such buildings before
652 leasing privately owned buildings. By September 15, 2006, the
653 department ~~of Management Services~~ shall create a 5-year plan for
654 implementing this policy. The department shall update this plan
655 annually, detailing proposed departmental actions to meet the
656 plan's goals, and include ~~shall furnish~~ this plan annually as
657 part of the master leasing report.

658 (5) Before construction or renovation of any state-owned
659 building or state-leased space is commenced, the department ~~of~~
660 ~~Management Services~~ shall ascertain, through the ~~by~~ submission
661 of proposed plans to the Division of State Fire Marshal for
662 review, that the proposed construction or renovation plan
663 complies with the uniform firesafety standards required by the
664 division ~~of State Fire Marshal~~. The review of construction or
665 renovation plans for state-leased space must ~~shall~~ be completed
666 within 10 calendar days after ~~of~~ receipt of the plans by the
667 division ~~of State Fire Marshal~~. The review of construction or

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668 renovation plans for a state-owned building must ~~shall~~ be
669 completed within 30 calendar days after ~~of~~ receipt of the plans
670 by the division ~~of State Fire Marshal~~. The responsibility for
671 submission and retrieval of the plans may ~~called for in this~~
672 ~~subsection shall~~ not be imposed on the design architect or
673 engineer, but is ~~shall be~~ the responsibility of the two
674 agencies. If ~~Whenever~~ the Division of State Fire Marshal
675 determines that a construction or renovation plan is not in
676 compliance with ~~such~~ uniform firesafety standards, the division
677 ~~of State Fire Marshal~~ may issue an order to cease all
678 construction or renovation activities until compliance is
679 obtained, except those activities required to achieve ~~such~~
680 compliance. The lessor shall provide the department with
681 documentation that the facility meets all requirements of
682 ~~department of Management Services shall withhold approval of any~~
683 ~~proposed lease until the construction or renovation plan~~
684 ~~complies with the uniform firesafety standards of the Division~~
685 ~~of State Fire Marshal~~. The cost of all modifications or
686 renovations made for the purpose of bringing leased property
687 into compliance with the uniform firesafety standards shall be
688 borne by the lessor.

689 (6) Before construction or substantial improvement of any
690 state-owned building is commenced, the department ~~of Management~~
691 ~~Services~~ must ascertain that the proposed construction or
692 substantial improvement complies with the flood plain management
693 criteria for mitigation of flood hazards, as prescribed in the
694 October 1, 1986, rules and regulations of the Federal Emergency
695 Management Agency, and the department shall monitor the project
696 to assure compliance with the criteria. ~~In accordance with~~

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697 ~~chapter 120,~~ The department ~~of Management Services~~ shall adopt
698 any rules necessary for ensuring ~~rules to ensure~~ that all ~~such~~
699 proposed state construction and substantial improvement of state
700 buildings in designated flood-prone areas complies with the
701 flood plain management criteria. If ~~Whenever~~ the department
702 determines that a construction or substantial improvement
703 project is not in compliance with the established flood plain
704 management criteria, the department may issue an order to cease
705 all construction or improvement activities until compliance is
706 obtained, except those activities required to achieve such
707 compliance.

708 (7) This section does not apply to any lease having a term
709 of less than 120 consecutive days for the purpose of securing
710 the one-time special use of the leased property, or for. ~~This~~
711 ~~section does not apply to~~ any lease for nominal or no
712 consideration.

713 (8) An agency may not enter into more than one lease for
714 space in the same privately owned facility or complex within any
715 12-month period except upon competitive solicitation.

716 (9) Specialized educational facilities, excluding
717 classrooms, are ~~shall be~~ exempt from the competitive bid
718 requirements for leasing pursuant to this section if the
719 executive head of a ~~any~~ state agency certifies in writing that
720 the said facility is available from a single source and that the
721 competitive bid requirements would be detrimental to the state.
722 Such certification must ~~shall~~ include documentation of evidence
723 of steps taken to determine sole-source status.

724 (10) The department ~~of Management Services~~ may approve
725 emergency acquisition of space without competitive bids if

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726 existing state-owned or state-leased space is destroyed or
727 rendered uninhabitable by an act of God, fire, malicious
728 destruction, or structural failure, or by legal action, if the
729 chief administrator of the state agency or the chief
730 administrator's designated representative certifies in writing
731 that no other agency-controlled space is available to meet this
732 emergency need; however, ~~but in no case shall~~ the lease for such
733 space may not exceed 11 months. If the lessor elects not to
734 replace or renovate the destroyed or uninhabitable facility, the
735 agency shall procure the needed space by competitive bid in
736 accordance with s. 255.249(10)(b) ~~255.249(4)(b)~~. If the lessor
737 elects to replace or renovate the destroyed or uninhabitable
738 facility and the construction or renovations will not be
739 complete at the end of the 11-month lease, the agency may modify
740 the lease to extend it on a month-to-month basis for up to an
741 additional 6 months to allow completion of such construction or
742 renovations.

743 (11) In any leasing of space which ~~that~~ is accomplished
744 without competition, the individuals taking part in the
745 development or selection of criteria for evaluation, in the
746 evaluation, and in the award processes must ~~shall~~ attest in
747 writing that they are independent of, and have no conflict of
748 interest in, the entities evaluated and selected.

749 Section 5. Paragraph (m) of subsection (3) of section
750 110.171, Florida Statutes, is amended to read:

751 110.171 State employee telecommuting program.—

752 (3) By September 30, 2009, each state agency shall identify
753 and maintain a current listing of the job classifications and
754 positions that the agency considers appropriate for

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755 telecommuting. Agencies that adopt a state employee
756 telecommuting program must:

757 (m) Provide measurable financial benefits associated with
758 reduced office space requirements, reductions in energy
759 consumption, and reductions in associated emissions of
760 greenhouse gases resulting from telecommuting. State agencies
761 operating in office space owned or managed by the department
762 shall consult the facilities program to ensure its consistency
763 with the strategic leasing plan required under s. 255.249(7)
764 ~~255.249(3)(b)~~.

765 Section 6. Paragraph (b) of subsection (15) of section
766 985.682, Florida Statutes, is amended to read:

767 985.682 Siting of facilities; study; criteria.—

768 (15)

769 (b) Notwithstanding ss. 255.25(1)(a) ~~255.25(1)(b)~~ and
770 255.25001(2), the department may enter into lease-purchase
771 agreements to provide juvenile justice facilities for the
772 housing of committed youths contingent upon available funds. The
773 facilities provided through such agreements must ~~shall~~ meet the
774 program plan and specifications of the department. The
775 department may enter into such lease agreements with private
776 corporations and other governmental entities. However,
777 notwithstanding ~~the provisions of~~ s. 255.25(3)(a), a ~~no~~ such
778 lease agreement may not be entered into except upon
779 advertisement for the receipt of competitive bids and award to
780 the lowest and best bidder except when contracting with other
781 governmental entities.

782 Section 7. This act shall take effect July 1, 2012.