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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

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29 cross-references; amending ss. 110.171 and 985.682,  
 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

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57 | the Department of Environmental Protection on or before July 1  
58 | of each year by the owning or operating agency in a format  
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 Management Services shall adopt rules ~~pursuant to ss.~~  
81 | ~~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~~

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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~~  
 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  
 111 to read:

112 255.248 Definitions; ~~ss. 255.249 and 255.25.~~—As used in

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113 ss. 255.248-255.25 ~~255.249~~ and ~~255.25~~, the term:

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

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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  
 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  
 155 or 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  
 162 to 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.~~

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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  
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.

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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  
 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,  
 217 cost 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



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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.

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  
 254 the department any vacant or underutilized space for all state-  
 255 owned office buildings and any restrictions that would apply to  
 256 any other agency occupying the vacant space. It shall also  
 257 notify the department of any significant changes to its  
 258 occupancy in 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  
 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  
 273 any other measurement used as the basis for lease payments or  
 274 other 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           ~~(e)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."

291 (f) Maximum rental rates, by geographic areas or by  
 292 county, 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, ~~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

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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.

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  
 328 | the information required by paragraph (9) (a) ~~(3) (d)~~.

329 |       (m) Procedures for administering this section.

330 |       (11) (5) ~~(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) ~~(6)~~ The department may contract for real estate

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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  
 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,  
 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.

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

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

408 | (d) Notwithstanding paragraph (a) and except as provided  
 409 | in 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.  
 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  
 441 promptness by written notice to the responsible and responsive  
 442 lessor who ~~that~~ submits the lowest responsive bid. This bid must  
 443 be determined in writing to meet the requirements and criteria  
 444 set 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



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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  
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  
468 an invitation to bid or a request for proposals will not result  
469 in 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

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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  
 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

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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  
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  
527 or intended decision pertaining to a competitive solicitation  
528 for 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

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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  
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

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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  
 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,

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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  
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

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617 information 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  
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  
 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



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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~~  
 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 ~~the~~ 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  
 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

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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  
753 identify and maintain a current listing of the job  
754 classifications and positions that the agency considers  
755 appropriate for telecommuting. Agencies that adopt a state  
756 employee telecommuting program must:

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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.