

By the Committees on Appropriations; and Environmental
Preservation and Conservation; and Senator Hays

576-04663-13

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1 A bill to be entitled
2 An act relating to state-owned or state-leased space;
3 amending s. 216.0152, F.S.; revising provisions
4 relating to the update of an inventory of certain
5 facilities needing repairs or innovation maintained by
6 the Department of Management Services; revising
7 provisions relating to a report detailing an inventory
8 of state-owned facilities; requiring specified
9 entities to submit an inventory of underused property;
10 requiring the department to adopt rules; amending s.
11 216.043, F.S.; requiring state agencies to explain why
12 available underused property is not sufficient to meet
13 their needs when requesting fixed capital outlay
14 projects; amending s. 253.031, F.S.; clarifying that
15 deeds may be signed by agents of the Board of Trustees
16 of the Internal Improvement Trust Fund; amending s.
17 253.034, F.S.; revising provisions relating to
18 decisions by the board to surplus lands; revising the
19 valuation of lands that are subject to certain
20 requirements; revising provisions requiring state
21 entities to submit a plan if a building or parcel is
22 offered for use to the entity; requiring the board to
23 adopt rules; amending s. 255.248, F.S.; defining the
24 terms "managing agency" and "tenant broker"; amending
25 s. 255.249, F.S.; revising the responsibilities of the
26 Department of Management Services with respect to
27 state-owned buildings; prohibiting a state agency from
28 leasing space in a private building under certain
29 circumstances; requiring an agency to notify the

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30 department of an early termination of a lease within a
31 certain timeframe; authorizing the department to
32 direct state agencies to occupy space in a state-owned
33 building; revising the contents of the master leasing
34 report; authorizing state agencies to use the services
35 of a tenant broker to provide certain information to
36 the department; requiring the title entity or managing
37 agency to report any vacant or underused space to the
38 department; amending s. 255.25, F.S.; revising
39 requirements for the construction or lease of certain
40 building space; revising an exemption to allow certain
41 agencies to negotiate a replacement lease under
42 certain circumstances; amending s. 255.252, F.S.;
43 specifying that a vendor for certain energy efficiency
44 contracts may be selected in accordance with state
45 procurement requirements; amending s. 255.254, F.S.;
46 revising provisions relating to requirements for
47 energy performance analysis for certain buildings;
48 amending s. 255.257, F.S.; requiring all state-owned
49 facilities to report energy consumption and cost data;
50 creating s. 255.46, F.S.; creating the Underused
51 Property Maximization Program in the Department of
52 Management Services; providing legislative intent and
53 definitions; requiring governmental entities to submit
54 data and the department to establish an inventory of
55 underused property; requiring governmental entities to
56 consult such inventory and, if suitable, submit a
57 business case to the entity that owns or occupies the
58 property; providing for the disposition of underused

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59 property; requiring the Auditor General to include
60 findings relating to compliance with this section in
61 any audits; providing certain exemptions for the Board
62 of Trustees of the Internal Improvement Trust Fund;
63 requiring the department to adopt rules; report energy
64 consumption and cost data; amending ss. 110.171 and
65 985.682, F.S.; conforming cross-references; providing
66 an appropriation; providing effective dates.

67
68 Be It Enacted by the Legislature of the State of Florida:

69
70 Section 1. Section 216.0152, Florida Statutes, is amended
71 to read:

72 216.0152 Inventory of state-owned facilities or state-
73 occupied facilities.—

74 (1) The Department of Management Services shall develop and
75 maintain an automated inventory of all facilities owned, leased,
76 rented, or otherwise occupied or maintained by a state ~~any~~
77 ~~agency of the state~~, the judicial branch, or the water
78 management districts. The inventory data shall be provided
79 annually by July 1 by the owning or operating agency in a format
80 prescribed by the department and must ~~shall~~ include the
81 location, occupying agency, ownership, size, condition
82 assessment, valuations, operating costs, maintenance record,
83 age, parking and employee facilities, building uses, full-time
84 equivalent occupancy, known restrictions or historic
85 designations, leases or subleases, associated revenues, and
86 other information as required by ~~in a~~ rule adopted by the
87 department. The department shall use this data for determining

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88 maintenance needs, conducting strategic analyses, including, but
89 not limited to, analyzing and identifying candidates for
90 surplus, valuation, and disposition, and life-cycle cost
91 evaluations of the facility. ~~Inventory data shall be provided to~~
92 ~~the department on or before July 1 of each year by the owning or~~
93 ~~operating agency in a format prescribed by the department.~~ The
94 inventory need not include a condition assessment or maintenance
95 record of facilities not owned by a state agency, the judicial
96 branch, or a water management district. The term "facility," as
97 used in this section, means buildings, structures, and building
98 systems, but does not include transportation facilities of the
99 state transportation system.

100 (a) For reporting purposes, the Department of
101 Transportation shall develop and maintain an inventory of the
102 transportation facilities of the state transportation system.
103 The Department of Transportation shall also identify and dispose
104 of surplus property pursuant to ss. 337.25 and 339.04.

105 (b) The Board of Governors of the State University System
106 and the Department of Education, respectively, shall develop and
107 maintain an inventory, in the manner prescribed by the
108 Department of Management Services, of all state university and
109 community college facilities and, by July 1 of each year,
110 provide this inventory shall make the data available in a format
111 acceptable to the Department of Management Services. ~~By March~~
112 ~~15, 2011, the department shall adopt rules pursuant to ss.~~
113 ~~120.536 and 120.54 to administer this section.~~

114 ~~(2) For the purpose of assessing needed repairs and~~
115 ~~renovations of facilities, the Department of Management Services~~
116 ~~shall update its inventory with condition information for~~

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117 ~~facilities of 3,000 square feet or more and cause to be updated~~
118 ~~the other inventories required by subsection (1) at least once~~
119 ~~every 5 years, but the inventories shall record acquisitions of~~
120 ~~new facilities and significant changes in existing facilities as~~
121 ~~they occur. The Department of Management Services shall provide~~
122 ~~each agency and the judicial branch with the most recent~~
123 ~~inventory applicable to that agency or to the judicial branch.~~
124 ~~Each agency and the judicial branch shall, in the manner~~
125 ~~prescribed by the Department of Management Services, report~~
126 ~~significant changes in the inventory as they occur. Items~~
127 ~~relating to the condition and life cycle cost of a facility~~
128 ~~shall be updated at least every 5 years.~~

129 (2)(3) The Department of Management Services and the
130 Department of Environmental Protection shall, by October 1 of
131 each year, every 3 years, publish a complete report detailing
132 the ~~this~~ inventory of all state-owned facilities, including the
133 inventories of the Board of Governors of the State University
134 System, the Department of Education, and the Department of
135 Transportation, excluding the transportation facilities of the
136 state transportation system. The annual report of state-owned
137 real property recommended for disposition required under s.
138 216.0153 must be included in this report and shall publish an
139 annual update of the report. The department shall furnish the
140 updated report to the Executive Office of the Governor and the
141 Legislature no later than September 15 of each year.

142 (3) An entity that is required to submit a report under
143 this section must also submit an inventory of all underused
144 property it owns, leases, rents, or otherwise occupies or
145 maintains to the Department of Management Services pursuant to

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146 s. 255.46.

147 (4) The Department of Management Services shall adopt rules
148 to administer this section.

149 Section 2. Paragraph (b) of subsection (3) of section
150 216.043, Florida Statutes, is amended to read:

151 216.043 Budgets for fixed capital outlay.—

152 (3) Each legislative budget request for fixed capital
153 outlay submitted shall contain:

154 (b) A full explanation of the basis for each project,
155 including a description of the program which requires the
156 facility; an explanation of the inability of existing
157 facilities, or underused property as identified in s. 255.46, to
158 meet such requirements; historical background; alternatives; and
159 anticipated changes in operating costs, both initial and
160 continuing.

161 Section 3. Subsection (8) of section 253.031, Florida
162 Statutes, is amended to read:

163 253.031 Land office; custody of documents concerning land;
164 moneys; plats.—

165 (8) The board shall keep a suitable seal of office. An
166 impression of this seal shall be made upon the deeds conveying
167 lands sold by the state, by the Board of Education, and by the
168 Board of Trustees of the Internal Improvement Trust Fund of this
169 state; and all such deeds shall be ~~personally~~ signed by the
170 ~~officers or trustees~~ or their agents as authorized under s.
171 253.431, making the same and impressed with the said seal and
172 are shall be operative and valid without witnesses to the
173 execution thereof; and the impression of such seal on any such
174 deeds entitles ~~shall entitle~~ the same to record and to be

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175 received in evidence in all courts.

176 Section 4. Subsections (6) and (15) of section 253.034,
177 Florida Statutes, are amended to read:

178 253.034 State-owned lands; uses.—

179 (6) The Board of Trustees of the Internal Improvement Trust
180 Fund shall determine which lands, the title to which is vested
181 in the board, may be surplus. For conservation lands, the
182 board shall determine whether ~~make a determination that~~ the
183 lands are no longer needed for conservation purposes and may
184 dispose of them by an affirmative vote of at least three
185 members. In the case of a land exchange involving the
186 disposition of conservation lands, the board must determine by
187 an affirmative vote of at least three members that the exchange
188 will result in a net positive conservation benefit. For all
189 other lands, the board shall determine whether ~~make a~~
190 ~~determination that~~ the lands are no longer needed and may
191 dispose of them by an affirmative vote of at least three
192 members.

193 (a) For the purposes of this subsection, all lands acquired
194 by the state before ~~prior to~~ July 1, 1999, using proceeds from
195 ~~the~~ Preservation 2000 bonds, the Conservation and Recreation
196 Lands Trust Fund, the Water Management Lands Trust Fund,
197 Environmentally Endangered Lands Program, and the Save Our Coast
198 Program and titled to the board, ~~which lands~~ are identified as
199 core parcels or within original project boundaries are, ~~shall be~~
200 deemed to have been acquired for conservation purposes.

201 (b) For any lands purchased by the state on or after July
202 1, 1999, before ~~a determination shall be made by the board prior~~
203 ~~to~~ acquisition, the board must determine which ~~as to those~~

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204 parcels must ~~that shall~~ be designated as having been acquired
205 for conservation purposes. ~~No~~ Lands acquired for use by the
206 Department of Corrections, the Department of Management Services
207 for use as state offices, the Department of Transportation,
208 except those specifically managed for conservation or recreation
209 purposes, or the State University System or the Florida
210 Community College System may not ~~shall~~ be designated as having
211 been purchased for conservation purposes.

212 (c) At least every 10 years, as a component of each land
213 management plan or land use plan and in a form and manner
214 prescribed by rule by the board, each manager shall evaluate and
215 indicate to the board those lands that are not being used for
216 the purpose for which they were originally leased. For
217 conservation lands, the council shall review and ~~shall~~ recommend
218 to the board whether such lands should be retained in public
219 ownership or disposed of by the board. For nonconservation
220 lands, the division shall review such lands and ~~shall~~ recommend
221 to the board whether such lands should be retained in public
222 ownership or disposed of by the board.

223 (d) Lands owned by the board which are not actively managed
224 by any state agency or for which a land management plan has not
225 been completed pursuant to subsection (5) must ~~shall~~ be reviewed
226 by the council or its successor for its recommendation as to
227 whether such lands should be disposed of by the board.

228 (e) Before ~~Prior to~~ any decision by the board to surplus
229 lands, the Acquisition and Restoration Council shall review and
230 make recommendations to the board concerning the request for
231 surplus. The council shall determine whether the request for
232 surplus is compatible with the resource values of and

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233 management objectives for such lands.

234 (f) In reviewing lands owned by the board, the council
235 shall consider whether such lands would be more appropriately
236 owned or managed by the county or other unit of local government
237 in which the land is located. The council shall recommend to the
238 board whether a sale, lease, or other conveyance to a local
239 government would be in the best interests of the state and local
240 government. The provisions of this paragraph in no way limit the
241 provisions of ss. 253.111 and 253.115. Such lands shall be
242 offered to the state, county, or local government for a period
243 of 45 days. Permittable uses for such surplus lands may include
244 public schools; public libraries; fire or law enforcement
245 substations; governmental, judicial, or recreational centers;
246 and affordable housing meeting the criteria of s. 420.0004(3).
247 County or local government requests for surplus lands shall be
248 expedited throughout the surplus process. If the county or
249 local government does not elect to purchase such lands in
250 accordance with s. 253.111, ~~then~~ any surplus determination
251 involving other governmental agencies shall be made when ~~upon~~
252 the board decides ~~deciding~~ the best public use of the lands.
253 Surplus properties in which governmental agencies have expressed
254 no interest must ~~shall~~ then be available for sale on the private
255 market.

256 (g) ~~1-~~ The sale price of lands determined to be surplus
257 pursuant to this subsection and s. 253.82 shall be determined by
258 the division, which shall consider ~~and shall take into~~
259 ~~consideration~~ an appraisal of the property, or, if ~~when~~ the
260 estimated value of the land is \$500,000 or less ~~than \$100,000~~, a
261 comparable sales analysis or a broker's opinion of value. ~~If the~~

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262 ~~appraisal referenced in this paragraph yields a value equal to~~
263 ~~or greater than \$1 million, The division, in its sole~~
264 ~~discretion,~~ may require a second appraisal. The individual or
265 entity that requests ~~requesting~~ to purchase the surplus parcel
266 shall pay all ~~appraisal~~ costs associated with determining the
267 property's value, if any.

268 ~~1.2.a.~~ A written valuation of land determined to be surplus
269 pursuant to this subsection and s. 253.82, and related documents
270 used to form the valuation or which pertain to the valuation,
271 are confidential and exempt from s. 119.07(1) and s. 24(a), Art.
272 I of the State Constitution.

273 ~~a.b.~~ The exemption expires 2 weeks before the contract or
274 agreement regarding the purchase, exchange, or disposal of the
275 surplus land is first considered for approval by the board.

276 ~~b.c.~~ Before ~~Prior to~~ expiration of the exemption, the
277 division may disclose confidential and exempt appraisals,
278 valuations, or valuation information regarding surplus land:

279 (I) During negotiations for the sale or exchange of the
280 land.

281 (II) During the marketing effort or bidding process
282 associated with the sale, disposal, or exchange of the land to
283 facilitate closure of such effort or process.

284 (III) When the passage of time has made the conclusions of
285 value invalid.

286 (IV) When negotiations or marketing efforts concerning the
287 land are concluded.

288 ~~2.3.~~ A unit of government that acquires title to lands
289 hereunder for less than appraised value may not sell or transfer
290 title to all or any portion of the lands to any private owner

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291 for a ~~period of~~ 10 years. Any unit of government seeking to
292 transfer or sell lands pursuant to this paragraph must ~~shall~~
293 first allow the board of trustees to reacquire such lands for
294 the price at which the board sold such lands.

295 (h) Parcels with an estimated value over \$500,000 must be
296 initially offered for sale by competitive bid. The division may
297 use agents, as authorized by s. 253.431, for this process. Any
298 parcels unsuccessfully offered for sale by competitive bid, and
299 parcels with a estimated value of \$500,000 or less, may be sold
300 by any reasonable means, including procuring real estate
301 services, open or exclusive listings, competitive bid, auction,
302 negotiated direct sales, or other appropriate services, to
303 facilitate the sale.

304 (i) ~~(h)~~ After reviewing the recommendations of the council,
305 the board shall determine whether lands identified for surplus
306 are to be held for other public purposes or ~~whether such lands~~
307 are no longer needed. The board may require an agency to release
308 its interest in such lands. A state ~~For an agency, county, or~~
309 local government that has requested the use of a property that
310 was to be declared as surplus, ~~said agency~~ must secure ~~have~~ the
311 property under lease within 90 days after being notified that it
312 may use such property ~~6 months of the date of expiration of the~~
313 ~~notice provisions required under this subsection and s. 253.111.~~

314 (j) ~~(i)~~ Requests for surplusizing may be made by any public or
315 private entity or person. All requests shall be submitted to the
316 lead managing agency for review and recommendation to the
317 council or its successor. Lead managing agencies ~~shall~~ have 90
318 days to review such requests and make recommendations. Any
319 surplusizing requests that have not been acted upon within the 90-

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320 day time period shall be immediately scheduled for hearing at
321 the next regularly scheduled meeting of the council or its
322 successor. Requests for surplus pursuant to this paragraph
323 are ~~shall~~ not ~~be~~ required to be offered to local or state
324 governments as provided in paragraph (f).

325 (k) ~~(j)~~ Proceeds from any sale of surplus lands pursuant to
326 this subsection shall be deposited into the fund from which such
327 lands were acquired. However, if the fund from which the lands
328 were originally acquired no longer exists, such proceeds shall
329 be deposited into an appropriate account to be used for land
330 management by the lead managing agency assigned the lands before
331 ~~prior to~~ the lands were ~~being~~ declared surplus. Funds received
332 from the sale of surplus nonconservation lands, or lands that
333 were acquired by gift, by donation, or for no consideration,
334 shall be deposited into the Internal Improvement Trust Fund.

335 (l) ~~(k)~~ Notwithstanding ~~the provisions of~~ this subsection,
336 ~~no~~ such disposition of land may not ~~shall~~ be made if it ~~such~~
337 ~~disposition~~ would have the effect of causing all or any portion
338 of the interest on any revenue bonds issued to lose the
339 exclusion from gross income for federal income tax purposes.

340 (m) ~~(l)~~ The sale of filled, formerly submerged land that
341 does not exceed 5 acres in area is not subject to review by the
342 council or its successor.

343 (n) ~~(m)~~ The board may adopt rules to administer ~~implement~~
344 ~~the provisions of~~ this section, which may include procedures for
345 administering surplus land requests and criteria for when the
346 division may approve requests to surplus nonconservation lands
347 on behalf of the board.

348 (15) Before a building or parcel of land is offered for

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349 lease, ~~sublease,~~ or sale to a local or federal unit of
350 government or a private party, it must ~~shall~~ first be offered
351 for lease to state agencies, state universities, and Florida
352 College System institutions ~~community colleges,~~ with priority
353 consideration given to state universities and Florida College
354 System institutions ~~community colleges.~~

355 (a) Within 60 days after the offer for lease of a surplus
356 building or parcel:

357 1. A state university or Florida College System institution
358 that requests the lease ~~community college~~ must submit a plan for
359 review and approval by the Board of Trustees of the Internal
360 Improvement Trust Fund regarding the intended use, including
361 future use, of the building or parcel of land before approval of
362 a lease.

363 2. A state agency that requests the lease of a surplus
364 building or parcel must submit a plan for review and approval by
365 the board of trustees regarding the intended use. The state
366 agency plan must, at a minimum, include the proposed use of the
367 facility or parcel, the estimated cost of renovation, a capital
368 improvement plan for the building, and evidence that the
369 building or parcel meets an existing need that cannot be
370 otherwise met, and other criteria developed by rule by the board
371 of trustees. The board of trustees or its designee shall compare
372 the estimated value of the building or parcel to any submitted
373 plan to determine if the lease or sale is in the best interest
374 of the state.

375 (b) The board of trustees shall adopt rules to administer
376 this subsection.

377 Section 5. Section 255.248, Florida Statutes, is amended to

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378 read:

379 255.248 Definitions; ~~ss. 255.249 and 255.25.~~ As used in
380 this section and ss. 255.249-255.25 ~~255.249 and 255.25~~, the
381 term:

382 (1) "Best leasing value" means the highest overall value to
383 the state based on objective factors that include, but are not
384 limited to, rental rate, renewal rate, operational and
385 maintenance costs, tenant-improvement allowance, location, lease
386 term, condition of facility, landlord responsibility, amenities,
387 and parking.

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

390 (3) "Department" means the Department of Management
391 Services.

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

396 (5) ~~(4)~~ "Privately owned building" means any building not
397 owned by a governmental agency.

398 (6) ~~(5)~~ "Responsible lessor" means a lessor that ~~who~~ has the
399 capability in all respects to fully perform the contract
400 requirements and the integrity and reliability that will assure
401 good faith performance.

402 (7) ~~(6)~~ "Responsive bid," "responsive proposal," or
403 "responsive reply" means a bid or proposal, or reply submitted
404 by a responsive and responsible lessor, which conforms in all
405 material respects to the solicitation.

406 (8) ~~(7)~~ "Responsive lessor" means a lessor that has

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407 submitted a bid, proposal, or reply that conforms in all
408 material respects to the solicitation.

409 (9)~~(8)~~ "State-owned office building" means any building
410 whose title to which is vested in the state and which is used by
411 one or more executive agencies predominantly for administrative
412 direction and support functions. The ~~This~~ term excludes:

413 (a) District or area offices established for field
414 operations where law enforcement, military, inspections, road
415 operations, or tourist welcoming functions are performed.

416 (b) All educational facilities and institutions under the
417 supervision of the Department of Education.

418 (c) All custodial facilities and institutions used
419 primarily for the care, custody, or treatment of wards of the
420 state.

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

422 (e) Buildings purchased or constructed from agricultural or
423 citrus trust funds.

424 (10) "Tenant broker" means a private real estate broker or
425 brokerage firm licensed to do business in this state and under
426 contract with the department to provide real estate transaction,
427 portfolio management, and strategic planning services for state
428 agencies.

429 Section 6. Section 255.249, Florida Statutes, is amended to
430 read:

431 255.249 Department of Management Services; responsibility;
432 department rules.—

433 (1) The department shall have responsibility and authority
434 for the operation, custodial care, ~~and~~ preventive maintenance,
435 repair, alteration, modification, and allocation of space for ~~of~~

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436 all buildings in the Florida Facilities Pool and adjacent ~~the~~
437 grounds ~~located adjacent thereto~~.

438 (2) A state agency may not lease space in a private
439 building that is to be constructed for state use without first
440 obtaining prior approval of the architectural design and
441 preliminary construction from the department.

442 (3)~~(2)~~ The department shall require a ~~any~~ state agency
443 planning to terminate a lease for the purpose of occupying space
444 in a new state-owned office building, ~~the funds for which are~~
445 ~~appropriated after June 30, 2000,~~ to state why the proposed
446 relocation is in the best interest of the state.

447 (4)~~(3)~~~~(a)~~ An agency that intends to terminate a lease of
448 privately owned space before the expiration of its base term,
449 must notify the department 90 days before the termination. The
450 department shall, to the extent feasible, coordinate the
451 vacation of privately owned leased space with the expiration of
452 the lease on that space and, when a lease is terminated before
453 expiration of its base term, will make a reasonable effort to
454 place another state agency in the space vacated. A ~~Any~~ state
455 agency may lease the space in any building that was subject to a
456 lease terminated by a state agency for a period of time equal to
457 the remainder of the base term without ~~the requirement of~~
458 competitive solicitation.

459 (5) The department may direct a state agency to occupy, or
460 relocate to, space in any state-owned office building, including
461 all state-owned space identified in the Florida State-Owned
462 Lands and Records Information System managed by the Department
463 of Environmental Protection. The Department of Legal Affairs,
464 the Department of Agriculture and Consumer Services, and the

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465 Department of Financial Services are exempted from this
466 subsection; however, the exempted departments may elect to
467 comply with this subsection in whole or in part.

468 (6)~~(b)~~ The department shall develop and implement a
469 strategic leasing plan. The strategic leasing plan must ~~shall~~
470 forecast space needs for all state agencies and identify
471 opportunities for reducing costs through consolidation,
472 relocation, reconfiguration, capital investment, and the
473 renovation, building, or acquisition of state-owned space.

474 (7)~~(e)~~ The department shall annually publish a master
475 leasing report that includes the strategic leasing plan created
476 under subsection (6). The department shall annually submit
477 ~~furnish~~ the ~~master~~ leasing report to the Executive Office of the
478 Governor and the Legislature by October 1. The report must
479 provide September 15 of each year which provides the following
480 information:

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

483 (b)~~2.~~ Details of each lease, including location, size, cost
484 per leased square foot, lease-expiration date, and a
485 determination of whether sufficient state-owned office space
486 will be available at the expiration of the lease to accommodate
487 affected employees.

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

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494 (d)4. Financial impacts to the Florida Facilities Pool
495 rental rate due to the sale, removal, acquisition, or
496 construction of pool facilities.

497 (e)5. Changes in occupancy rate, maintenance costs, and
498 efficiency costs of leases in the state portfolio. Changes to
499 occupancy costs in leased space by market and changes to space
500 consumption by agency and by market.

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

502 (g)7. Cost-benefit analyses of acquisition, build, and
503 consolidation opportunities, recommendations for strategic
504 consolidation, and strategic recommendations for disposition,
505 acquisition, and building.

506 (h) Recommendations for using capital improvement funds to
507 implement the consolidation of state agencies into state-owned
508 office buildings.

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

510 (8)(d) Annually, by June 30: ~~of each year,~~

511 (a) Each state agency shall annually provide to the
512 department all information regarding agency programs affecting
513 the need for or use of space by that agency, reviews of lease-
514 expiration schedules for each geographic area, active and
515 planned full-time equivalent data, business case analyses
516 related to consolidation plans by an agency, a telework program
517 under s. 110.171, and current occupancy and relocation costs,
518 inclusive of furnishings, fixtures and equipment, data, and
519 communications. State agencies may use the services of a tenant
520 broker in preparing this information.

521 (b) The title entity or managing agency shall report to the
522 department any vacant or underused space for all state-owned

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523 office buildings and any restrictions that apply to any other
524 agency occupying the vacant or underused space. The title entity
525 or managing agency shall also notify the department of any
526 significant changes to its occupancy for the coming fiscal year.
527 The Department of Legal Affairs, the Department of Agriculture
528 and Consumer Services, and the Department of Financial Services
529 are exempted from this subsection; however, the exempted
530 departments may elect to comply with this subsection in whole or
531 in part.

532 (9)~~(4)~~ The department shall adopt rules pursuant to chapter
533 ~~120~~ providing:

534 (a) Methods for accomplishing the duties outlined in
535 subsection (1).

536 (b) Procedures for soliciting and accepting competitive
537 solicitations for leased space of 5,000 square feet or more in
538 privately owned buildings, for evaluating ~~the~~ proposals
539 received, for exemption from competitive solicitations
540 requirements of any lease for ~~the purpose of which is~~ the
541 provision of care and living space for persons or emergency
542 space needs as provided in s. 255.25(10), and for ~~the~~ securing
543 ~~of~~ at least three documented quotes for a lease that is not
544 required to be competitively solicited.

545 (c) A standard method for determining square footage or any
546 other measurement used as the basis for lease payments or other
547 charges.

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

551 ~~(e)~~ Acceptable terms and conditions for inclusion in

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552 lease agreements.

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

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

559 ~~2.b.~~ "The lessee has ~~shall have~~ the right to terminate this
560 lease, without penalty, if this lease in the event a state-owned
561 building becomes available to the lessee for occupancy and the
562 lessee has given ~~upon giving~~ 6 months' advance written notice to
563 the lessor by certified mail, return receipt requested."

564 ~~(f) Maximum rental rates, by geographic areas or by county,~~
565 ~~for leasing privately owned space.~~

566 ~~(f)(g)~~ A standard method for the assessment of rent to
567 state agencies and other authorized occupants of state-owned
568 office space, notwithstanding the source of funds.

569 ~~(g)(h)~~ For full disclosure of the names and the extent of
570 interest of the owners holding a 4-percent or more interest in
571 ~~any~~ privately owned property leased to the state or in the
572 entity holding title to the property, for exemption from such
573 disclosure of any beneficial interest that ~~which~~ is represented
574 by stock in a any corporation registered with the Securities and
575 Exchange Commission or registered pursuant to chapter 517, which
576 ~~stock~~ is for sale to the general public, and for exemption from
577 such disclosure of any leasehold interest in property located
578 outside the territorial boundaries of the United States.

579 ~~(h)(i)~~ For full disclosure of the names of all public
580 officials, agents, or employees holding any interest in any

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581 privately owned property leased to the state or in the entity
582 holding title to the property, and the nature and extent of
583 their interest, for exemption from such disclosure of any
584 beneficial interest that ~~which~~ is represented by stock in any
585 corporation registered with the Securities and Exchange
586 Commission or registered pursuant to chapter 517, which ~~stock~~ is
587 for sale to the general public, and for exemption from such
588 disclosure of any leasehold interest in property located outside
589 the territorial boundaries of the United States.

590 (i) ~~(j)~~ A method for reporting leases for nominal or no
591 consideration.

592 (j) ~~(k)~~ For a lease of less than 5,000 square feet, a method
593 for certification by the agency head or the agency head's
594 designated representative that all criteria for leasing have
595 been fully complied with and for ~~the~~ filing ~~of~~ a copy of such
596 lease and all supporting documents with the department for its
597 review and approval as to technical sufficiency and whether it
598 is in the best interests of the state.

599 (k) ~~(l)~~ A standardized format for state agency reporting of
600 the information required by paragraph (8) (a) ~~(3) (d)~~.

601 (10) ~~(5)~~ The department shall prepare a form listing all
602 conditions and requirements adopted pursuant to this chapter
603 which must be met by any state agency leasing any building or
604 part thereof. Before executing any lease, this form must ~~shall~~
605 be certified by the agency head or the agency head's designated
606 representative and submitted to the department.

607 (11) ~~(6)~~ The department may contract for real estate
608 consulting or tenant brokerage services in order to carry out
609 its duties relating to the strategic leasing plan under

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610 subsection (6). The contract must ~~shall~~ be procured pursuant to
611 s. 287.057. The vendor ~~vendor that is~~ awarded the contract shall
612 be compensated ~~by the department~~, subject to the provisions of
613 the contract, and such compensation is subject to appropriation
614 by the Legislature. A ~~The~~ real estate consultant or tenant
615 broker may not receive compensation directly from a lessor for
616 services that are rendered pursuant to the contract. Moneys paid
617 by a lessor to the department under a facility-leasing
618 arrangement are not subject to the charges imposed under s.
619 215.20.

620 Section 7. Section 255.25, Florida Statutes, is amended to
621 read:

622 255.25 Approval required before ~~prior to~~ construction or
623 lease of buildings.—

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

628 ~~(b)~~ During the term of existing leases, each agency shall
629 consult with the department regarding opportunities for
630 consolidation, use of state-owned space, build-to-suit space,
631 and potential acquisitions; shall monitor market conditions; and
632 shall initiate a competitive solicitation or, if appropriate,
633 lease-renewal negotiations for each lease held in the private
634 sector to effect the best overall lease terms reasonably
635 available to that agency.

636 (a) Amendments to leases may be permitted to modify any
637 lease provisions or ~~any~~ other terms or conditions unless, ~~except~~
638 ~~to the extent~~ specifically prohibited under ~~by~~ this chapter.

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639 (b) The department shall serve as a mediator in lease-
640 renewal negotiations if the agency and the lessor are unable to
641 reach a compromise within 6 months after renegotiation and if
642 ~~either~~ the agency or lessor requests intervention by the
643 department.

644 (c) If ~~When specifically~~ authorized by the General
645 Appropriations Act, and in accordance with s. 255.2501, if
646 applicable, the department may approve a lease-purchase, sale-
647 leaseback, or tax-exempt leveraged lease contract or other
648 financing technique for the acquisition, renovation, or
649 construction of a state fixed capital outlay project if ~~when~~ it
650 is in the best interest of the state.

651 (2) ~~(a)~~ Except as provided in ss. 255.249 and ~~s.~~ 255.2501, a
652 state agency may not lease a building or any part thereof unless
653 prior approval of the lease conditions and of the need for the
654 lease therefor is first obtained from the department. An ~~Any~~
655 approved lease may include an option to purchase or an option to
656 renew the lease, or both, upon such terms and conditions as are
657 established by the department, subject to final approval by the
658 head of the department ~~of Management Services~~ and s. 255.2502.

659 (a) ~~(b)~~ For the lease of less than 5,000 square feet of
660 space, including space leased for nominal or no consideration, a
661 state agency must notify the department at least 90 ~~30~~ days
662 before the execution of the lease. The department shall review
663 the lease and determine whether suitable space is available in a
664 state-owned or state-leased building located in the same
665 geographic region. If the department determines that space is
666 not available, the department shall determine whether the state
667 agency lease is in the best interests of the state. If the

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668 department determines that the execution of the lease is not in
669 the best interests of the state, the department shall notify the
670 agency proposing the lease, the Governor, the President of the
671 Senate, and the Speaker of the House of Representatives ~~and the~~
672 ~~presiding officers of each house of the Legislature~~ of such
673 finding in writing. A lease that is for a term extending beyond
674 the end of a fiscal year is subject to ~~the provisions of~~ ss.
675 216.311, 255.2502, and 255.2503.

676 (b) ~~(e)~~ The department shall adopt ~~as a rule~~ uniform leasing
677 procedures by rule for use by each state agency ~~other than the~~
678 ~~Department of Transportation~~. Each state agency shall ensure
679 that the leasing practices of that agency are in substantial
680 compliance with the uniform leasing rules adopted under this
681 section and ss. 255.249, 255.2502, and 255.2503.

682 (c) ~~(d)~~ ~~Notwithstanding paragraph (a) and except as provided~~
683 ~~in ss. 255.249 and 255.2501, a state agency may not lease a~~
684 ~~building or any part thereof unless prior approval of the lease~~
685 ~~terms and conditions and of the need therefor is first obtained~~
686 ~~from the department~~. The department may not approve any term or
687 condition in a lease agreement which has been amended,
688 supplemented, or waived unless a comprehensive analysis,
689 including financial implications, demonstrates that such
690 amendment, supplement, or waiver is in the state's long-term
691 best interest. An ~~Any~~ approved lease may include an option to
692 purchase or an option to renew the lease, or both, upon such
693 terms and conditions as are established by the department,
694 subject to final approval by the head of the department, ~~of~~
695 ~~Management Services~~ and the provisions of s. 255.2502.

696 (3) (a) Except as provided in subsection (10), a state

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697 agency may not enter into a lease as lessee for the use of 5,000
698 square feet or more of space in a privately owned building
699 except upon advertisement for and receipt of competitive
700 solicitations.

701 1.a. An invitation to bid must ~~shall~~ be made available
702 simultaneously to all lessors and ~~must~~ include a detailed
703 description of the space sought; the time and date for the
704 receipt of bids and of the public opening; and all contractual
705 terms and conditions applicable to the procurement, including
706 the criteria to be used in determining the acceptability of the
707 bid. If the agency contemplates renewing ~~renewal~~ of the
708 contract, that fact must be stated in the invitation to bid. The
709 bid must include the price for each year for which the contract
710 may be renewed. Evaluation of bids must ~~shall~~ include
711 consideration of the total cost for each year as submitted by
712 the lessor. Criteria that were not set forth in the invitation
713 to bid may not be used in determining the acceptability of the
714 bid.

715 b. The contract shall be awarded with reasonable promptness
716 by written notice to the responsible and responsive lessor that
717 submits the lowest responsive bid. The contract file must
718 contain a written determination that the bid meets ~~This bid must~~
719 ~~be determined in writing to meet~~ the requirements and criteria
720 set forth in the invitation to bid.

721 2.a. If an agency determines in writing that the use of an
722 invitation to bid is not practicable, leased space shall be
723 procured by competitive sealed proposals. A request for
724 proposals shall be made available simultaneously to all lessors
725 and must include a statement of the space sought; the time and

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726 date for the receipt of proposals and of the public opening; and
727 all contractual terms and conditions applicable to the
728 procurement, including the criteria, which must include, but
729 need not be limited to, price, to be used in determining the
730 acceptability of the proposal. The relative importance of price
731 and other evaluation criteria must ~~shall~~ be indicated. If the
732 agency contemplates renewing ~~renewal~~ of the contract, that fact
733 must be stated in the request for proposals. The proposal must
734 include the price for each year for which the contract may be
735 renewed. Evaluation of proposals must ~~shall~~ include
736 consideration of the total cost for each year as submitted by
737 the lessor.

738 b. The contract shall be awarded to the responsible and
739 responsive lessor whose proposal is determined in writing to be
740 the most advantageous to the state, taking into consideration
741 the price and the other criteria set forth in the request for
742 proposals. The contract file must contain documentation
743 supporting the basis on which the award is made.

744 3.a. If the agency determines in writing that the use of an
745 invitation to bid or a request for proposals will not result in
746 the best leasing value to the state, the agency may procure
747 leased space by competitive sealed replies. The agency's written
748 determination must specify reasons ~~that explain~~ why negotiation
749 may be necessary in order for the state to achieve the best
750 leasing value and must be approved in writing by the agency head
751 or his or her designee before ~~prior to the~~ advertisement of an
752 invitation to negotiate. Cost savings related to the agency
753 procurement process are not sufficient justification for using
754 an invitation to negotiate. An invitation to negotiate shall be

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755 made available to all lessors simultaneously and must include a
756 statement of the space sought; the time and date for the receipt
757 of replies and of the public opening; and all terms and
758 conditions applicable to the procurement, including the criteria
759 to be used in determining the acceptability of the reply. If the
760 agency contemplates renewing ~~renewal~~ of the contract, that fact
761 must be stated in the invitation to negotiate. The reply must
762 include the price for each year for which the contract may be
763 renewed.

764 b. The agency shall evaluate and rank responsive replies
765 against all evaluation criteria set forth in the invitation to
766 negotiate and ~~shall~~ select, based on the ranking, one or more
767 lessors with which to commence negotiations. After negotiations
768 are conducted, the agency shall award the contract to the
769 responsible and responsive lessor that the agency determines
770 will provide the best leasing value to the state. The contract
771 file must contain a short, plain statement that explains the
772 basis for lessor selection and sets forth the lessor's
773 deliverables and price pursuant to the contract, and an
774 explanation of how these deliverables and price provide the best
775 leasing value to the state.

776 (b) The department ~~of Management Services~~ shall have the
777 authority to approve a lease for 5,000 square feet or more of
778 space which ~~that~~ covers more than 12 consecutive months ~~1 fiscal~~
779 ~~year,~~ subject to ~~the provisions of~~ ss. 216.311, 255.2501,
780 255.2502, and 255.2503, if such lease is, in the judgment of the
781 department, in the best interests of the state. In determining
782 best interest, the department shall consider availability of
783 state-owned space and analyses of build-to-suit and acquisition

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784 opportunities. This paragraph does not apply to buildings or
785 facilities of any size leased for the purpose of providing care
786 and living space to individuals ~~for persons~~.

787 (c) The department may approve extensions of an existing
788 lease of 5,000 square feet or more of space if such extensions
789 are determined to be in the best interests of the state;
790 however, ~~but in no case shall~~ the total of such extensions may
791 not exceed 11 months. If at the end of the 11th month an agency
792 still needs that space, it must ~~shall~~ be procured by competitive
793 bid in accordance with s. 255.249(9)(b) ~~255.249(4)(b)~~. However:r

794 1. If the Department of Agriculture and Consumer Services,
795 the Department of Financial Services, or the Department of Legal
796 Affairs ~~an agency that~~ determines that it is in its best
797 interest to remain in the space it currently occupies, it may
798 negotiate a replacement lease with the lessor if an independent
799 comparative market analysis demonstrates that the rates offered
800 are within market rates for the space and the cost of the new
801 lease does not exceed the cost of a comparable lease plus
802 documented moving costs. A present-value analysis and the
803 consumer price index shall be used in the calculation of lease
804 costs. The term of the replacement lease may not exceed the base
805 term of the expiring lease.

806 2. For those agencies for which the department may approve
807 lease actions, the department may approve a replacement lease
808 with a lessor for an agency to remain in the space it currently
809 occupies if, in the judgment of the department, such lease is in
810 the best interests of the state. In determining best interest,
811 the department shall consider the availability of state-owned
812 space and an analyses of build-to-suit and acquisition

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813 opportunities. The term of the replacement lease may not exceed
814 the base term of the expiring lease.

815 (d) Any person who files an action protesting a decision or
816 intended decision pertaining to a competitive solicitation for
817 space to be leased by the agency pursuant to s. 120.57(3)(b)
818 shall post with the state agency at the time of filing the
819 formal written protest a bond payable to the agency in an amount
820 equal to 1 percent of the estimated total rental of the basic
821 lease period or \$5,000, whichever is greater, which bond is
822 ~~shall be~~ conditioned on ~~upon~~ the payment of all costs that may
823 be adjudged against him or her in the administrative hearing in
824 which the action is brought and in any subsequent appellate
825 court proceeding. If the agency prevails after completion of the
826 administrative hearing process and any appellate court
827 proceedings, it shall recover all costs and charges, which must
828 ~~shall~~ be included in the final order or judgment, excluding
829 attorney ~~attorney's~~ fees. Upon payment of such costs and charges
830 by the person protesting the award, the bond shall be returned
831 to him or her. If the person protesting the award prevails, the
832 bond shall be returned to that person and he or she shall
833 recover from the agency all costs and charges, which must ~~shall~~
834 be included in the final order of judgment, excluding attorney
835 ~~attorney's~~ fees.

836 (e) The agency and the lessor, when entering into a lease
837 for 5,000 or more square feet of a privately owned building,
838 shall, before the effective date of the lease, agree upon and
839 separately state the cost of tenant improvements which may
840 qualify for reimbursement if the lease is terminated before the
841 expiration of its base term. The department shall serve as

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842 mediator if the agency and the lessor are unable to agree. The
843 amount agreed upon and stated shall, if appropriated, be
844 amortized over the original base term of the lease on a
845 straight-line basis.

846 (f) The unamortized portion of tenant improvements, if
847 appropriated, shall be paid in equal monthly installments over
848 the remaining term of the lease. If any portion of the original
849 leased premises is occupied after termination but during the
850 original term by a tenant who ~~that~~ does not require material
851 changes to the premises, the repayment of the cost of tenant
852 improvements applicable to the occupied but unchanged portion
853 shall be abated during occupancy. The portion of the repayment
854 to be abated must ~~shall~~ be based on the ratio of leased space to
855 unleased space.

856 (g) Notwithstanding s. 287.056(1), a state agency may, at
857 the sole discretion of the agency head or his or her designee,
858 use the services of a tenant broker to assist with a competitive
859 solicitation undertaken by the agency. In making its
860 determination whether to use a tenant broker, a state agency
861 shall consult with the department. A state agency may not use
862 the services of a tenant broker unless the tenant broker is
863 under a term contract with the state which complies with
864 paragraph (h). If a state agency uses the services of a tenant
865 broker with respect to a transaction, the agency may not enter
866 into a lease with a any landlord for whom ~~to which~~ the tenant
867 broker is providing brokerage services for that transaction.

868 ~~The Department of Management Services may,~~ Pursuant to
869 s. 287.042(2) (a), the department shall procure a term contract
870 for real estate consulting and brokerage services. A state

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871 agency may not purchase services from the contract unless the
872 contract has been procured under s. 287.057(1) after March 1,
873 2007, and contains the following provisions or requirements:

874 1. Awarded brokers must maintain an office or presence in
875 the market served. In awarding the contract, preference must be
876 given to brokers who ~~that~~ are licensed in this state under
877 chapter 475 and who ~~that~~ have 3 or more years of experience in
878 the market served. The contract may be made with up to three
879 tenant brokers in order to serve the marketplace in the north,
880 central, and south areas of the state.

881 2. Each contracted tenant broker works ~~shall work~~ under the
882 direction, supervision, and authority of the state agency,
883 subject to the rules governing lease procurements.

884 3. The department shall provide training for the awarded
885 tenant brokers concerning the rules governing the procurement of
886 leases.

887 4. Tenant brokers must comply with all applicable
888 provisions of s. 475.278.

889 5. Real estate consultants and tenant brokers shall be
890 compensated by the state agency, subject to the provisions of
891 the term contract, and such compensation is subject to
892 appropriation by the Legislature. A real estate consultant or
893 tenant broker may not receive compensation directly from a
894 lessor for services that are rendered under the term contract.
895 Moneys paid by a lessor to the state agency under a facility
896 leasing arrangement are not subject to the charges imposed under
897 s. 215.20. All terms relating to the compensation of the real
898 estate consultant or tenant broker must ~~shall~~ be specified in
899 the term contract and may not be supplemented or modified by the

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900 state agency using the contract.

901 6. The department shall conduct periodic customer-
902 satisfaction surveys.

903 7. Each state agency shall report the following information
904 to the department:

905 a. The number of leases that adhere to the goal of the
906 workspace-management initiative of 180 square feet per full-time
907 employee FTE.

908 b. The quality of space leased and the adequacy of tenant-
909 improvement funds.

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

912 d. Whether cost-benefit analyses were performed before
913 execution of the lease in order to ensure that the lease is in
914 the best interest of the state.

915 e. The lease costs compared to market rates for similar
916 types and classifications of space according to the official
917 classifications of the Building Owners and Managers Association.

918 (4) (a) The department may ~~shall~~ not authorize any state
919 agency to enter into a lease agreement for space in a privately
920 owned building if ~~when~~ suitable space is available in a state-
921 owned building located in the same geographic region, except
922 upon presentation to the department of sufficient written
923 justification, acceptable to the department, that a separate
924 space is required in order to fulfill the statutory duties of
925 the agency making the ~~such~~ request. The term "state-owned
926 building" as used in this subsection means any state-owned
927 facility regardless of use or control.

928 (b) State agencies shall cooperate with local governmental

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929 units by using suitable, existing publicly owned facilities,
930 subject to ~~the provisions of~~ ss. 255.2501, 255.2502, and
931 255.2503. Agencies may use ~~utilize~~ unexpended funds appropriated
932 for lease payments to:

- 933 1. Pay their proportion of operating costs.
- 934 2. Renovate applicable spaces.

935 (c) Because the state has a substantial financial
936 investment in state-owned buildings, it is legislative policy
937 and intent that if ~~when~~ state-owned buildings meet the needs of
938 state agencies, agencies must fully use such buildings before
939 leasing privately owned buildings. ~~By September 15, 2006,~~ The
940 department ~~of Management Services~~ shall create a 5-year plan for
941 implementing this policy. The department shall update this plan
942 annually, detailing proposed departmental actions to meet the
943 plan's goals, and include ~~shall furnish~~ this plan annually as
944 part of the master leasing report.

945 (5) Before construction or renovation of any state-owned
946 building or state-leased space is commenced, the department ~~of~~
947 ~~Management Services~~ shall determine ~~ascertain~~, through the ~~by~~
948 submission of proposed plans to the Division of State Fire
949 Marshal for review, whether ~~that~~ the proposed construction or
950 renovation plan complies with the uniform firesafety standards
951 required by the division ~~of State Fire Marshal~~. The review of
952 construction or renovation plans for state-leased space must
953 ~~shall~~ be completed within 10 calendar days after ~~of~~ receipt of
954 the plans by the division ~~of State Fire Marshal~~. The review of
955 construction or renovation plans for a state-owned building must
956 ~~shall~~ be completed within 30 calendar days after ~~of~~ receipt of
957 the plans by the division ~~of State Fire Marshal~~. The

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958 responsibility for submission and retrieval of the plans may
959 ~~called for in this subsection shall~~ not be imposed on the design
960 architect or engineer, but is ~~shall be~~ the responsibility of the
961 two agencies. ~~If Whenever~~ the division ~~of State Fire Marshal~~
962 determines that a construction or renovation plan is not in
963 compliance with ~~such~~ uniform firesafety standards, the division
964 ~~of State Fire Marshal~~ may issue an order to cease all
965 construction or renovation activities until compliance is
966 obtained, except those activities required to achieve ~~such~~
967 compliance. The lessor shall provide the department with
968 documentation certifying that the facility meets all of
969 ~~Management Services shall withhold approval of any proposed~~
970 ~~lease until the construction or renovation plan complies with~~
971 the uniform firesafety standards ~~of the Division of State Fire~~
972 ~~Marshal~~. The cost of all modifications or renovations made for
973 the purpose of bringing leased property into compliance with the
974 uniform firesafety standards are ~~shall be~~ borne by the lessor.
975 The state may not take occupancy without the division's final
976 approval.

977 (6) Before construction or substantial improvement of any
978 state-owned building is commenced, the department ~~of Management~~
979 ~~Services~~ must determine ~~ascertain~~ that the proposed construction
980 or substantial improvement complies with the flood plain
981 management criteria for mitigation of flood hazards, as
982 prescribed in the October 1, 1986, rules and regulations of the
983 Federal Emergency Management Agency, and the department shall
984 monitor the project to assure compliance with the criteria. ~~In~~
985 ~~accordance with chapter 120,~~ The department ~~of Management~~
986 ~~Services~~ shall adopt rules ~~any necessary rules~~ to ensure that

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987 all ~~such~~ proposed state construction and substantial improvement
988 of state buildings in designated flood-prone areas complies with
989 the flood plain management criteria. If ~~Whenever~~ the department
990 determines that a construction or substantial improvement
991 project is not in compliance with such ~~with the established~~
992 ~~flood plain management~~ criteria, the department may issue an
993 order to cease all construction or improvement activities until
994 compliance is obtained, except those activities required to
995 achieve such compliance.

996 (7) This section does not apply to any lease having a term
997 of less than 120 consecutive days for the purpose of securing
998 the one-time special use of the leased property. ~~This section~~
999 ~~does not apply to any lease for nominal or no consideration.~~

1000 (8) An agency may not enter into more than one lease for
1001 space in the same privately owned facility or complex within any
1002 12-month period except upon competitive solicitation.

1003 (9) Specialized educational facilities, excluding
1004 classrooms, are ~~shall be~~ exempt from the competitive bid
1005 requirements for leasing pursuant to this section if the
1006 executive head of a ~~any~~ state agency certifies in writing that
1007 the ~~said~~ facility is available from a single source and that the
1008 competitive bid requirements would be detrimental to the state.
1009 Such certification must ~~shall~~ include documentation of evidence
1010 of steps taken to determine sole-source status.

1011 (10) The department ~~of Management Services~~ may approve
1012 emergency acquisition of space without competitive bids if
1013 existing state-owned or state-leased space is destroyed or
1014 rendered uninhabitable by an act of God, fire, malicious
1015 destruction, or structural failure, or by legal action, or if

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1016 the agency head certifies in writing that there is an immediate
1017 danger to the public health, safety, or welfare, or if other
1018 substantial loss to the state requires emergency action and ~~if~~
1019 the chief administrator of the state agency or the chief
1020 administrator's designated representative certifies in writing
1021 that no other agency-controlled space is available to meet this
1022 emergency need; however, ~~but in no case shall~~ the lease for such
1023 space may not exceed 11 months. If the lessor elects not to
1024 replace or renovate the destroyed or uninhabitable facility, the
1025 agency shall procure the needed space by competitive bid in
1026 accordance with s. 255.249(9)(b) ~~255.249(4)(b)~~. If the lessor
1027 elects to replace or renovate the destroyed or uninhabitable
1028 facility and the construction or renovations will not be
1029 complete at the end of the 11-month lease, the agency may modify
1030 the lease to extend it on a month-to-month basis for up to an
1031 ~~additional~~ 6 months to allow completion of such construction or
1032 renovations.

1033 (11) In any leasing of space which occurs ~~that is~~
1034 ~~accomplished~~ without competition, the individuals taking part in
1035 the development or selection of criteria for evaluation, in the
1036 evaluation, and in the award processes must ~~shall~~ attest in
1037 writing that they are independent of, and have no conflict of
1038 interest in, the entities evaluated and selected.

1039 Section 8. Subsection (4) of section 255.252, Florida
1040 Statutes, is amended to read:

1041 255.252 Findings and intent.—

1042 (4) In addition to designing and constructing new buildings
1043 to be energy-efficient, it is the policy of the state to operate
1044 and maintain state facilities in a manner that minimizes energy

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1045 consumption and maximizes building sustainability and to operate
1046 facilities leased by the state so as to minimize energy use. It
1047 is further the policy of the state that the renovation of
1048 existing state facilities be in accordance with a sustainable
1049 building rating or a national model green building code. State
1050 agencies are encouraged to consider shared savings financing of
1051 energy-efficiency and conservation projects, using contracts
1052 that split the resulting savings for a specified period of time
1053 between the state agency and the private firm or cogeneration
1054 contracts and that otherwise permit the state to lower its net
1055 energy costs. Such energy contracts may be funded from the
1056 operating budget. The vendor for such energy contracts may be
1057 selected in accordance with s. 287.055.

1058 Section 9. Effective July 1, 2014, subsection (1) of
1059 section 255.254, Florida Statutes, is amended to read:

1060 255.254 No facility constructed or leased without life-
1061 cycle costs.-

1062 (1) A ~~No~~ state agency may not ~~shall~~ lease, construct, or
1063 have constructed, within limits prescribed in this section, a
1064 facility without having secured from the department an
1065 evaluation of life-cycle costs based on sustainable building
1066 ratings. ~~Furthermore,~~ Construction shall proceed only upon
1067 disclosing to the department, for the facility chosen, the life-
1068 cycle costs as determined in s. 255.255, the facility's
1069 sustainable building rating goal, and the capitalization of the
1070 initial construction costs of the building. The life-cycle costs
1071 and the sustainable building rating goal shall be primary
1072 considerations in the selection of a building design. For leased
1073 facilities larger buildings more than 2,000 ~~5,000~~ square feet in

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1074 area within a given building boundary, an energy performance
1075 analysis that calculates ~~consisting of a projection of the total~~
1076 annual energy consumption and energy costs in dollars per square
1077 foot ~~of major energy-consuming equipment and systems based on~~
1078 ~~actual expenses from the last 3 years and projected forward for~~
1079 ~~the term of the proposed lease shall be performed. The analysis~~
1080 must also compare the energy performance of the proposed lease
1081 to lease shall only be made where there is a showing that the
1082 energy costs incurred by the state are minimal compared to
1083 available like facilities. A lease may not be finalized until
1084 the energy performance analysis has been approved by the
1085 department ~~A lease agreement for any building leased by the~~
1086 ~~state from a private sector entity shall include provisions for~~
1087 ~~monthly energy use data to be collected and submitted monthly to~~
1088 ~~the department by the owner of the building.~~

1089 Section 10. Effective July 1, 2014, subsection (1) of
1090 section 255.257, Florida Statutes, is amended to read:

1091 255.257 Energy management; buildings occupied by state
1092 agencies.—

1093 (1) ENERGY CONSUMPTION AND COST DATA.— Each state agency
1094 shall collect data on energy consumption and cost for all. ~~The~~
1095 ~~data gathered shall be on~~ state-owned facilities and metered
1096 state-leased facilities ~~of 5,000 net square feet or more~~. These
1097 data will be used in the computation of the effectiveness of the
1098 state energy management plan and the effectiveness of the energy
1099 management program of each of the state agencies. Collected data
1100 shall be reported annually to the department in a format
1101 prescribed by the department.

1102 Section 11. Section 255.46, Florida Statutes, is created to

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1103 read:

1104 255.46 Underused Property Maximization Program.—

1105 (1) The Legislature finds that it is in the best interest
1106 of the state to maximize the use of underused property by
1107 identifying such property and concluding that such property
1108 cannot be used by another governmental entity before procuring
1109 facilities or real property for governmental use or disposing of
1110 underused property.

1111 (2) The Underused Property Maximization Program is created
1112 in the Department of Management Services to facilitate the
1113 efficient and cost-effective use of all facilities and real
1114 property owned, leased, rented, or occupied by governmental
1115 entities. The department shall coordinate with the Department of
1116 Environmental Protection to use the systems and inventories
1117 created pursuant to s. 216.0152 and this section in order to
1118 comply with this section.

1119 (3) As used in this section, the term:

1120 (a) "Facility" means buildings, structures, and building
1121 systems, and includes ancillary plants, auxiliary facilities,
1122 educational facilities, and educational plants as defined in s.
1123 1013.01, and schools as defined in s. 1003.01. The term does not
1124 include transportation facilities of the state transportation
1125 system.

1126 (b) "Governmental entity" means a state agency as defined
1127 in s. 216.011, the judicial branch, the water management
1128 districts, a state university, a Florida College System
1129 institution, a county, a county agency, a municipality, a
1130 municipal agency, a special district as defined in s. 189.403, a
1131 school district under s. 1001.30, the Florida School for the

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1132 Deaf and the Blind under s. 1000.04(3), the Florida Virtual
1133 School under s. 1000.04(4), and a charter school under s.
1134 1002.33.

1135 (c) "Underused property" means any facility owned, leased,
1136 rented, or otherwise occupied or maintained by a governmental
1137 entity, which is not being used to its fullest potential as
1138 currently designed or configured, and includes entire
1139 facilities, as well as underused square footage within a
1140 facility.

1141 (4) By July 1, 2014:

1142 (a) Each governmental entity must conduct and complete an
1143 inventory of all facilities and real property owned or leased by
1144 the governmental entity.

1145 (b) The department shall create, administer, and maintain a
1146 database to be used by each governmental entity to provide and
1147 access information about underused property.

1148 (5) By July 1, 2015, each governmental entity shall input
1149 into the database, in a format prescribed by the department, the
1150 following information relating to its underused property: the
1151 location, occupying entity, ownership, size, condition
1152 assessment, valuations, operating costs, maintenance record,
1153 age, parking and employee facilities, building uses, full-time
1154 equivalent occupancy, known restrictions or historic
1155 designations, leases or subleases, and associated revenues.
1156 Information that is confidential or otherwise exempt from public
1157 disclosure under federal or state law may not be included in the
1158 database. The entity shall update the required information
1159 quarterly.

1160 (6) The Department of Management Services and the

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1161 Department of Environmental Protection shall, by October 1 of
1162 each year, publish a complete report detailing the inventory of
1163 underused properties of all governmental entities.

1164 (7) When seeking to procure leased or owned facilities, a
1165 governmental entity must first consult the inventory of
1166 underused properties created under this section to determine if
1167 an underused property of another governmental entity will
1168 satisfy its facility needs.

1169 (a) If the governmental entity seeking space determines
1170 that underused property can meet its needs, it shall submit a
1171 business case to the governmental entity that owns or occupies
1172 the underused property which provides, at a minimum, the
1173 proposed use of the space, proposed renovation of the space, an
1174 explanation of how the underused property meets the needs of the
1175 governmental entity, and any proposed plan for purchasing or
1176 leasing the underused property.

1177 (b) The department shall provide suggested forms for
1178 governmental entities to use in preparing a business case for
1179 obtaining the underused property.

1180 (c) If underused property has been identified and multiple
1181 governmental entities are interested in obtaining such property,
1182 preference shall be given to K-20 public educational uses over
1183 other governmental or nonprofit uses.

1184 (8) Disposition of underused property may be made by sale,
1185 lease, or similar means as determined by the governmental entity
1186 that owns or occupies the property.

1187 (a) When evaluating disposition other than sale, the
1188 evaluation must consider disposing of the property in a manner
1189 that provides the greatest combination of benefits to the

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1190 general public and avoid uses that are contrary to the public
1191 interest.

1192 (b) A district school board as defined in s. 1003.01; a
1193 board of trustees described in ss. 1001.60(3), 1001.71,
1194 1002.36(4), and 1002.37(2); a governing board of a charter
1195 school identified under s. 1002.33(7); or the governing body,
1196 agency head, or other governing figure of each entity that owns
1197 property must:

1198 1. Hold a public hearing before deciding whether to dispose
1199 of the property; and

1200 2. Make the final decision regarding whether to dispose of
1201 the property based on received business plans.

1202 (c) Grounds for refusing to dispose of underused property
1203 include suitability, zoning or use conflicts, mission conflicts,
1204 compatibility issues, or a determination that the property is
1205 not conducive to the proposed use.

1206 (9) The Auditor General shall include findings relating to
1207 a governmental entity's compliance with this section in any
1208 audits conducted pursuant to s. 11.45.

1209 (10) Underused property owned by the Board of Trustees of
1210 the Internal Improvement Trust Fund is exempt from subsections
1211 (1), (2), and (8) and paragraph (7)(c).

1212 (11) The department shall adopt rules to administer this
1213 section, including the procedures and requirements for
1214 submitting and updating the information and documentation
1215 relating to underused property.

1216 Section 12. Subsection (7) of section 110.171, Florida
1217 Statutes, is amended to read:

1218 110.171 State employee telework program.—

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1219 (7) Agencies that have a telework program shall establish
1220 and track performance measures that support telework program
1221 analysis and report data annually to the department in
1222 accordance with s. 255.249(8) ~~255.249(3)(d)~~. Such measures must
1223 include, but need not be limited to, those that quantify
1224 financial impacts associated with changes in office space
1225 requirements resulting from the telework program. Agencies
1226 operating in office space owned or managed by the department
1227 shall consult the department to ensure consistency with the
1228 strategic leasing plan required under s. 255.249(6)
1229 ~~255.249(3)(b)~~.

1230 Section 13. Paragraph (b) of subsection (15) of section
1231 985.682, Florida Statutes, is amended to read:

1232 985.682 Siting of facilities; study; criteria.—

1233 (15)

1234 (b) Notwithstanding s. 255.25(1) ~~(b)~~, the department may
1235 enter into lease-purchase agreements to provide juvenile justice
1236 facilities for ~~the~~ housing ~~of~~ committed youths, contingent upon
1237 available funds. The facilities provided through such agreements
1238 must ~~shall~~ meet the program plan and specifications of the
1239 department. The department may enter into such lease agreements
1240 with private corporations and other governmental entities.
1241 However, notwithstanding ~~the provisions of~~ s. 255.25(3)(a), a ~~no~~
1242 ~~such~~ lease agreement may not be entered into except upon
1243 advertisement for the receipt of competitive bids and award to
1244 the lowest and best bidder except if ~~when~~ contracting with other
1245 governmental entities.

1246 Section 14. For the 2013-2014 fiscal year, the sums of
1247 \$950,000 in nonrecurring and \$50,000 in recurring funds are

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1248 appropriated from the General Revenue Fund to the Department of
1249 Environmental Protection for the purpose of implementing this
1250 act.

1251 Section 15. For the 2013-2014 fiscal year, the sum of
1252 \$66,591 in recurring funds from the Supervision Trust Fund and
1253 one full-time equivalent position and associated salary rate of
1254 \$50,000 is appropriated to the Department of Management
1255 Services' Facilities Program for the purpose of implementing
1256 this act.

1257 Section 16. Except as otherwise expressly provided in this
1258 act, this act shall take effect July 1, 2013.