

Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

|                       |             |       |
|-----------------------|-------------|-------|
| ADOPTED               | <u>    </u> | (Y/N) |
| ADOPTED AS AMENDED    | <u>    </u> | (Y/N) |
| ADOPTED W/O OBJECTION | <u>    </u> | (Y/N) |
| FAILED TO ADOPT       | <u>    </u> | (Y/N) |
| WITHDRAWN             | <u>    </u> | (Y/N) |
| OTHER                 | <u>    </u> |       |

1 Committee/Subcommittee hearing bill: Government Operations  
 2 Subcommittee

3 Representative La Rosa offered the following:

4

5 **Amendment (with title amendment)**

6 Remove lines 508-1084 and insert:

7 solicitations for leased space of 5,000 square feet or more in  
 8 privately owned buildings, for evaluating ~~the~~ proposals  
 9 received, for exemption from competitive solicitations  
 10 requirements of any lease for ~~the purpose of which is~~ the  
 11 provision of care and living space for persons or emergency  
 12 space needs as provided in s. 255.25(10), and for ~~the~~ securing  
 13 ~~of~~ at least three documented quotes for a lease that is not  
 14 required to be competitively solicited.

15 (c) A standard method for determining square footage or  
 16 any other measurement used as the basis for lease payments or  
 17 other charges.

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

Amendment No. 2

21 (e)~~1.~~ Acceptable terms and conditions for inclusion in  
22 lease agreements.

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

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

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

35 (f) State agency use of space identified in the Florida  
36 State-Owned Lands and Records Information System under  
37 subsection (5) Maximum rental rates, by geographic areas or by  
38 county, for leasing privately owned space.

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

42 (h) For full disclosure of the names and the extent of  
43 interest of the owners holding a 4 percent ~~4 percent~~ or more  
44 interest in ~~any~~ privately owned property leased to the state or  
45 in the entity holding title to the property, for exemption from  
46 such disclosure of any beneficial interest that ~~which~~ is  
47 represented by stock in a any corporation registered with the  
48 Securities and Exchange Commission or registered pursuant to

Amendment No. 2

49 chapter 517~~7~~ which ~~stock~~ is for sale to the general public, and  
50 for exemption from such disclosure of any leasehold interest in  
51 property located outside the territorial boundaries of the  
52 United States.

53 (i) For full disclosure of the names of all public  
54 officials, agents, or employees holding any interest in any  
55 privately owned property leased to the state or in the entity  
56 holding title to the property, and the nature and extent of  
57 their interest, for exemption from such disclosure of any  
58 beneficial interest that ~~which~~ is represented by stock in any  
59 corporation registered with the Securities and Exchange  
60 Commission or registered pursuant to chapter 517~~7~~ which ~~stock~~ is  
61 for sale to the general public, and for exemption from such  
62 disclosure of any leasehold interest in property located outside  
63 the territorial boundaries of the United States.

64 (j) A method for reporting leases for nominal or no  
65 consideration.

66 (k) For a lease of less than 5,000 square feet, a method  
67 for certification by the agency head or the agency head's  
68 designated representative that all criteria for leasing have  
69 been fully complied with and for ~~the~~ filing ~~of~~ a copy of such  
70 lease and all supporting documents with the department for its  
71 review and approval as to technical sufficiency and whether it  
72 is in the best interests of the state.

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

75 (m) Procedures for the effective and efficient  
76 administration of this section.

Amendment No. 2

77        ~~(11)(5)~~ The department shall prepare a form listing all  
78 conditions and requirements adopted pursuant to this chapter  
79 which must be met by any state agency leasing any building or  
80 part thereof. Before executing any lease, this form must ~~shall~~  
81 be certified by the agency head or the agency head's designated  
82 representative and submitted to the department.

83        ~~(12)(6)~~ The department may contract for real estate  
84 consulting or tenant brokerage services in order to carry out  
85 its duties relating to the strategic leasing plan under  
86 subsection (7). The contract must ~~shall~~ be procured pursuant to  
87 s. 287.057. The vendor ~~that is~~ awarded the contract shall be  
88 compensated ~~by the department~~, subject to the provisions of the  
89 contract, and such compensation is subject to appropriation by  
90 the Legislature. A ~~The~~ real estate consultant or tenant broker  
91 may not receive compensation directly from a lessor for services  
92 that are rendered pursuant to the contract. Moneys paid by a  
93 lessor to the department under a facility-leasing arrangement  
94 are not subject to the charges imposed under s. 215.20.

95        Section 6. Section 255.25, Florida Statutes, is amended to  
96 read:

97        255.25 Approval required before ~~prior to~~ construction or  
98 lease of buildings.—

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

103        ~~(b)~~ During the term of existing leases, each agency shall  
104 consult with the department regarding opportunities for

Amendment No. 2

105 consolidation, use of state-owned space, build-to-suit space,  
106 and potential acquisitions; shall monitor market conditions; and  
107 shall initiate a competitive solicitation or, if appropriate,  
108 lease-renewal negotiations for each lease held in the private  
109 sector to effect the best overall lease terms reasonably  
110 available to that agency.

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

114 (b) The department shall serve as a mediator in lease-  
115 renewal negotiations if the agency and the lessor are unable to  
116 reach a compromise within 6 months after renegotiation and if  
117 ~~either~~ the agency or lessor requests intervention by the  
118 department.

119 (c) ~~If when specifically~~ authorized by the General  
120 Appropriations Act, and in accordance with s. 255.2501, if  
121 applicable, the department may approve a lease-purchase, sale-  
122 leaseback, or tax-exempt leveraged lease contract or other  
123 financing technique for the acquisition, renovation, or  
124 construction of a state fixed capital outlay project if ~~when~~ it  
125 is in the best interest of the state.

126 (2) ~~(a)~~ Except as provided in ss. 255.249 and ~~s.~~ 255.2501,  
127 a state agency may not lease a building or any part thereof  
128 unless prior approval of the lease conditions and of the need  
129 for the lease ~~therefor~~ is first obtained from the department. An  
130 ~~Any~~ approved lease may include an option to purchase or an  
131 option to renew the lease, or both, upon such terms and  
132 conditions as are established by the department, subject to

Amendment No. 2

133 final approval by the head of the department ~~of Management~~  
134 ~~Services~~ and s. 255.2502.

135 ~~(a)-(b)~~ For the lease of less than 5,000 square feet of  
136 space, including space leased for nominal or no consideration, a  
137 state agency must notify the department at least 90 ~~30~~ days  
138 before the execution of the lease. The department shall review  
139 the lease and determine whether suitable space is available in a  
140 state-owned or state-leased building located in the same  
141 geographic region. If the department determines that space is  
142 not available, the department shall determine whether the state  
143 agency lease is in the best interests of the state. If the  
144 department determines that the execution of the lease is not in  
145 the best interests of the state, the department shall notify the  
146 agency proposing the lease, the Governor, the President of the  
147 Senate, and the Speaker of the House of Representatives ~~and the~~  
148 ~~presiding officers of each house of the Legislature~~ of such  
149 finding in writing. A lease that is for a term extending beyond  
150 the end of a fiscal year is subject to ~~the provisions of~~ ss.  
151 216.311, 255.2502, and 255.2503.

152 ~~(b)-(e)~~ The department shall adopt ~~as a rule~~ uniform  
153 leasing procedures by rule for use by each state agency ~~other~~  
154 ~~than the Department of Transportation~~. Each state agency shall  
155 ensure that the leasing practices of that agency are in  
156 substantial compliance with the uniform leasing rules adopted  
157 under this section and ss. 255.249, 255.2502, and 255.2503.

158 ~~(c)-(d)~~ ~~Notwithstanding paragraph (a) and except as~~  
159 ~~provided in ss. 255.249 and 255.2501, a state agency may not~~  
160 ~~lease a building or any part thereof unless prior approval of~~

Amendment No. 2

161 ~~the lease terms and conditions and of the need therefor is first~~  
162 ~~obtained from the department.~~ The department may not approve any  
163 term or condition in a lease agreement which has been amended,  
164 supplemented, or waived unless a comprehensive analysis,  
165 including financial implications, demonstrates that such  
166 amendment, supplement, or waiver is in the state's long-term  
167 best interest. An ~~Any~~ approved lease may include an option to  
168 purchase or an option to renew the lease, or both, upon such  
169 terms and conditions as are established by the department,  
170 subject to final approval by the head of the department, ~~of~~  
171 ~~Management Services~~ and the provisions of s. 255.2502.

172 (3) (a) Except as provided in subsection (10), a state  
173 agency may not enter into a lease as lessee for the use of 5,000  
174 square feet or more of space in a privately owned building  
175 except upon advertisement for and receipt of competitive  
176 solicitations.

177 1.a. An invitation to bid must ~~shall~~ be made available  
178 simultaneously to all lessors and ~~must~~ include a detailed  
179 description of the space sought; the time and date for the  
180 receipt of bids and of the public opening; and all contractual  
181 terms and conditions applicable to the procurement, including  
182 the criteria to be used in determining the acceptability of the  
183 bid. If the agency contemplates renewing ~~renewal of~~ the  
184 contract, that fact must be stated in the invitation to bid. The  
185 bid must include the price for each year for which the contract  
186 may be renewed. Evaluation of bids must ~~shall~~ include  
187 consideration of the total cost for each year as submitted by  
188 the lessor. Criteria that were not set forth in the invitation

Amendment No. 2

189 to bid may not be used in determining the acceptability of the  
190 bid.

191 b. The contract shall be awarded with reasonable  
192 promptness by written notice to the responsible and responsive  
193 lessor that submits the lowest responsive bid. The contract file  
194 must contain a written determination that the bid meets ~~This bid~~  
195 ~~must be determined in writing to meet~~ the requirements and  
196 criteria set forth in the invitation to bid.

197 2.a. If an agency determines in writing that the use of an  
198 invitation to bid is not practicable, leased space shall be  
199 procured by competitive sealed proposals. A request for  
200 proposals shall be made available simultaneously to all lessors  
201 and must include a statement of the space sought; the time and  
202 date for the receipt of proposals and of the public opening; and  
203 all contractual terms and conditions applicable to the  
204 procurement, including the criteria, which must include, but  
205 need not be limited to, price, to be used in determining the  
206 acceptability of the proposal. The relative importance of price  
207 and other evaluation criteria must ~~shall~~ be indicated. If the  
208 agency contemplates renewing ~~renewal~~ of the contract, that fact  
209 must be stated in the request for proposals. The proposal must  
210 include the price for each year for which the contract may be  
211 renewed. Evaluation of proposals must ~~shall~~ include  
212 consideration of the total cost for each year as submitted by  
213 the lessor.

214 b. The contract shall be awarded to the responsible and  
215 responsive lessor whose proposal is determined in writing to be  
216 the most advantageous to the state, taking into consideration



Amendment No. 2

217 the price and the other criteria set forth in the request for  
218 proposals. The contract file must contain documentation  
219 supporting the basis on which the award is made.

220 3.a. If the agency determines in writing that the use of  
221 an invitation to bid or a request for proposals will not result  
222 in the best leasing value to the state, the agency may procure  
223 leased space by competitive sealed replies. The agency's written  
224 determination must specify reasons ~~that explain~~ why negotiation  
225 may be necessary in order for the state to achieve the best  
226 leasing value and must be approved in writing by the agency head  
227 or his or her designee before ~~prior to the~~ advertisement of an  
228 invitation to negotiate. Cost savings related to the agency  
229 procurement process are not sufficient justification for using  
230 an invitation to negotiate. An invitation to negotiate shall be  
231 made available to all lessors simultaneously and must include a  
232 statement of the space sought; the time and date for the receipt  
233 of replies and of the public opening; and all terms and  
234 conditions applicable to the procurement, including the criteria  
235 to be used in determining the acceptability of the reply. If the  
236 agency contemplates renewing ~~renewal of~~ the contract, that fact  
237 must be stated in the invitation to negotiate. The reply must  
238 include the price for each year for which the contract may be  
239 renewed.

240 b. The agency shall evaluate and rank responsive replies  
241 against all evaluation criteria set forth in the invitation to  
242 negotiate and ~~shall~~ select, based on the ranking, one or more  
243 lessors with which to commence negotiations. After negotiations  
244 are conducted, the agency shall award the contract to the

Amendment No. 2

245 responsible and responsive lessor that the agency determines  
246 will provide the best leasing value to the state. The contract  
247 file must contain a short, plain statement that explains the  
248 basis for lessor selection and sets forth the lessor's  
249 deliverables and price pursuant to the contract, and an  
250 explanation of how these deliverables and price provide the best  
251 leasing value to the state.

252 (b) The department ~~of Management Services~~ shall have the  
253 authority to approve a lease for 5,000 square feet or more of  
254 space which that covers more than 12 consecutive months ~~1 fiscal~~  
255 ~~year~~, subject to ~~the provisions of~~ ss. 216.311, 255.2501,  
256 255.2502, and 255.2503, if such lease is, in the judgment of the  
257 department, in the best interests of the state. In determining  
258 best interest, the department shall consider availability of  
259 state-owned space and analyses of build-to-suit and acquisition  
260 opportunities. This paragraph does not apply to buildings or  
261 facilities of any size leased for the purpose of providing care  
262 and living space to individuals ~~for persons~~.

263 (c) The department may approve extensions of an existing  
264 lease of 5,000 square feet or more of space if such extensions  
265 are determined to be in the best interests of the state;  
266 however, ~~but in no case shall~~ the total of such extensions may  
267 not exceed 11 months. If at the end of the 11th month an agency  
268 still needs that space, it must ~~shall~~ be procured by competitive  
269 bid in accordance with s. 255.249(10)(b) ~~255.249(4)(b)~~. ~~However,~~  
270 ~~an agency that determines that it is in its best interest to~~  
271 ~~remain in the space it currently occupies may negotiate a~~  
272 ~~replacement lease with the lessor if an independent comparative~~

Amendment No. 2

273 ~~market analysis demonstrates that the rates offered are within~~  
274 ~~market rates for the space and the cost of the new lease does~~  
275 ~~not exceed the cost of a comparable lease plus documented moving~~  
276 ~~costs. A present value analysis and the consumer price index~~  
277 ~~shall be used in the calculation of lease costs. The term of the~~  
278 ~~replacement lease may not exceed the base term of the expiring~~  
279 ~~lease.~~

280 (d) Any person who files an action protesting a decision  
281 or intended decision pertaining to a competitive solicitation  
282 for space to be leased by the agency pursuant to s. 120.57(3)(b)  
283 shall post with the state agency at the time of filing the  
284 formal written protest a bond payable to the agency in an amount  
285 equal to 1 percent of the estimated total rental of the basic  
286 lease period or \$5,000, whichever is greater, which bond is  
287 ~~shall be~~ conditioned on ~~upon~~ the payment of all costs that may  
288 be adjudged against him or her in the administrative hearing in  
289 which the action is brought and in any subsequent appellate  
290 court proceeding. If the agency prevails after completion of the  
291 administrative hearing process and any appellate court  
292 proceedings, it shall recover all costs and charges, which must  
293 ~~shall~~ be included in the final order or judgment, excluding  
294 attorney ~~attorney's~~ fees. Upon payment of such costs and charges  
295 by the person protesting the award, the bond shall be returned  
296 to him or her. If the person protesting the award prevails, the  
297 bond shall be returned to that person and he or she shall  
298 recover from the agency all costs and charges, which must ~~shall~~  
299 be included in the final order of judgment, excluding attorney  
300 ~~attorney's~~ fees.

## Amendment No. 2

301 (e) The agency and the lessor, when entering into a lease  
302 for 5,000 or more square feet of a privately owned building,  
303 shall, before the effective date of the lease, agree upon and  
304 separately state the cost of tenant improvements which may  
305 qualify for reimbursement if the lease is terminated before the  
306 expiration of its base term. The department shall serve as  
307 mediator if the agency and the lessor are unable to agree. The  
308 amount agreed upon and stated shall, if appropriated, be  
309 amortized over the original base term of the lease on a  
310 straight-line basis.

311 (f) The unamortized portion of tenant improvements, if  
312 appropriated, shall be paid in equal monthly installments over  
313 the remaining term of the lease. If any portion of the original  
314 leased premises is occupied after termination but during the  
315 original term by a tenant who ~~that~~ does not require material  
316 changes to the premises, the repayment of the cost of tenant  
317 improvements applicable to the occupied but unchanged portion  
318 shall be abated during occupancy. The portion of the repayment  
319 to be abated must ~~shall~~ be based on the ratio of leased space to  
320 unleased space.

321 (g) Notwithstanding s. 287.056(1), a state agency shall  
322 ~~may, at the sole discretion of the agency head or his or her~~  
323 ~~designee,~~ use the services of a tenant broker under a state term  
324 contract to assist with a lease action ~~a competitive~~  
325 ~~solicitation~~ undertaken by the agency, with the exception of  
326 leases between governmental entities. If using ~~In making its~~  
327 ~~determination whether to use a tenant broker, a state agency~~  
328 ~~shall consult with the department. A state agency may not use~~

Amendment No. 2

329 ~~the services of a tenant broker unless the tenant broker is~~  
330 ~~under a term contract with the state which complies with~~  
331 ~~paragraph (h). If a state agency uses the services of a tenant~~  
332 ~~broker with respect to a transaction, the agency may not enter~~  
333 ~~into a lease with a any landlord for whom ~~to which~~ the tenant~~  
334 ~~broker is providing brokerage services for that transaction.~~

335 (h) ~~The Department of Management Services may,~~ Pursuant to  
336 s. 287.042(2) (a), the department shall procure a term contracts  
337 ~~contract for tenant broker real estate consulting and brokerage~~  
338 ~~services. A state agency may not purchase services from the~~  
339 ~~contract unless the contract has been procured under s.~~  
340 ~~287.057(1) after March 1, 2007,~~ and contains the following  
341 provisions or requirements:

342 1. Awarded tenant brokers must maintain an office or  
343 presence in the market served. In awarding the contract,  
344 preference must be given to brokers who ~~that~~ are licensed in  
345 this state under chapter 475 and who ~~that~~ have 3 or more years  
346 of experience in the market served. The contract may be made  
347 with multiple ~~up to three~~ tenant brokers in order to serve the  
348 marketplace ~~in the north, central, and south areas of the state.~~

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

352 3. The department shall provide training for the awarded  
353 tenant brokers concerning the rules governing the procurement of  
354 leases.

355 4. Tenant brokers must comply with all applicable  
356 provisions of s. 475.278.

## Amendment No. 2

357 5. Real estate consultants and tenant brokers shall be  
358 compensated by the state agency, subject to the provisions of  
359 the term contract, and such compensation is subject to  
360 appropriation by the Legislature. A real estate consultant or  
361 tenant broker may not receive compensation directly from a  
362 lessor for services that are rendered under the term contract.  
363 Moneys paid by a lessor to the state agency under a facility  
364 leasing arrangement are not subject to the charges imposed under  
365 s. 215.20. All terms relating to the compensation of the real  
366 estate consultant or tenant broker must ~~shall~~ be specified in  
367 the term contract and may not be supplemented or modified by the  
368 state agency using the contract.

369 6. The department shall conduct periodic customer-  
370 satisfaction surveys.

371 7. Each state agency shall report the following  
372 information to the department:

373 a. The number of leases that adhere to the goal of the  
374 workspace-management initiative of 180 square feet per full-time  
375 employee FTE.

376 b. The quality of space leased and the adequacy of tenant-  
377 improvement funds.

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

380 d. Whether cost-benefit analyses were performed before  
381 execution of the lease in order to ensure that the lease is in  
382 the best interest of the state.

383 e. The lease costs compared to market rates for similar  
384 types and classifications of space according to the official

Amendment No. 2

385 classifications of the Building Owners and Managers Association.

386 (4) (a) The department may ~~shall~~ not authorize any state  
387 agency to enter into a lease agreement for space in a privately  
388 owned building if ~~when~~ suitable space is available in a state-  
389 owned building located in the same geographic region, except  
390 upon presentation to the department of sufficient written  
391 justification, acceptable to the department, that a separate  
392 space is required in order to fulfill the statutory duties of  
393 the agency making the ~~such~~ request. The term "state-owned  
394 building" as used in this subsection means any state-owned  
395 facility regardless of use or control.

396 (b) State agencies shall cooperate with local governmental  
397 units by using suitable, existing publicly owned facilities,  
398 subject to ~~the provisions of~~ ss. 255.2501, 255.2502, and  
399 255.2503. Agencies may use ~~utilize~~ unexpended funds appropriated  
400 for lease payments to:

- 401 1. Pay their proportion of operating costs.
- 402 2. Renovate applicable spaces.

403 (c) Because the state has a substantial financial  
404 investment in state-owned buildings, it is legislative policy  
405 and intent that if ~~when~~ state-owned buildings meet the needs of  
406 state agencies, agencies must fully use such buildings before  
407 leasing privately owned buildings. ~~By September 15, 2006,~~ The  
408 department ~~of Management Services~~ shall create a 5-year plan for  
409 implementing this policy. The department shall update this plan  
410 annually, detailing proposed departmental actions to meet the  
411 plan's goals, and include ~~shall furnish~~ this plan annually as  
412 part of the master leasing report.

## Amendment No. 2

413 (5) Before construction or renovation of any state-owned  
414 building or state-leased space is commenced, the department ~~of~~  
415 ~~Management Services~~ shall determine ~~ascertain~~, through the ~~by~~  
416 submission of proposed plans to the Division of State Fire  
417 Marshal for review, whether ~~that~~ the proposed construction or  
418 renovation plan complies with the uniform firesafety standards  
419 required by the division ~~of State Fire Marshal~~. The review of  
420 construction or renovation plans for state-leased space must  
421 ~~shall~~ be completed within 10 calendar days after ~~of~~ receipt of  
422 the plans by the division ~~of State Fire Marshal~~. The review of  
423 construction or renovation plans for a state-owned building must  
424 ~~shall~~ be completed within 30 calendar days after ~~of~~ receipt of  
425 the plans by the division ~~of State Fire Marshal~~. The  
426 responsibility for submission and retrieval of the plans may  
427 ~~called for in this subsection shall~~ not be imposed on the design  
428 architect or engineer, but is ~~shall be~~ the responsibility of the  
429 two agencies. If ~~Whenever~~ the division ~~of State Fire Marshal~~  
430 determines that a construction or renovation plan is not in  
431 compliance with ~~such~~ uniform firesafety standards, the division  
432 ~~of State Fire Marshal~~ may issue an order to cease all  
433 construction or renovation activities until compliance is  
434 obtained, except those activities required to achieve ~~such~~  
435 compliance. The lessor shall provide the department with ~~of~~  
436 ~~Management Services~~ documentation certifying that the facility  
437 meets all of ~~shall withhold approval of any proposed lease until~~  
438 ~~the construction or renovation plan complies with~~ the uniform  
439 firesafety standards ~~of the Division of State Fire Marshal~~. The  
440 cost of all modifications or renovations made for the purpose of



Amendment No. 2

441 bringing leased property into compliance with the uniform  
442 firesafety standards are ~~shall be~~ borne by the lessor. The state  
443 may not take occupancy without the division's final approval.

444 (6) Before construction or substantial improvement of any  
445 state-owned building is commenced, the department ~~of Management~~  
446 ~~Services~~ must determine ~~ascertain~~ that the proposed construction  
447 or substantial improvement complies with the flood plain  
448 management criteria for mitigation of flood hazards, as  
449 prescribed in the October 1, 1986, rules and regulations of the  
450 Federal Emergency Management Agency, and the department shall  
451 monitor the project to assure compliance with the criteria. ~~In~~  
452 ~~accordance with chapter 120,~~ The department ~~of Management~~  
453 ~~Services~~ shall adopt rules ~~any~~ necessary ~~rules~~ to ensure that  
454 all ~~such~~ proposed state construction and substantial improvement  
455 of state buildings in designated flood-prone areas complies with  
456 the flood plain management criteria. If ~~Whenever~~ the department  
457 determines that a construction or substantial improvement  
458 project is not in compliance with such ~~with the established~~  
459 ~~flood plain management~~ criteria, the department may issue an  
460 order to cease all construction or improvement activities until  
461 compliance is obtained, except those activities required to  
462 achieve such compliance.

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

467 (8) An agency may not enter into more than one lease for  
468 space in the same privately owned facility or complex within any

Amendment No. 2

469 12-month period except upon competitive solicitation.

470 (9) Specialized educational facilities, excluding  
471 classrooms, are ~~shall be~~ exempt from the competitive bid  
472 requirements for leasing pursuant to this section if the  
473 executive head of a any state agency certifies in writing that  
474 the said facility is available from a single source and that the  
475 competitive bid requirements would be detrimental to the state.  
476 Such certification must ~~shall~~ include documentation of evidence  
477 of steps taken to determine sole-source status.

478 (10) The department ~~of Management Services~~ may approve  
479 emergency acquisition of space without competitive bids if  
480 existing state-owned or state-leased space is destroyed or  
481 rendered uninhabitable by an act of God, fire, malicious  
482 destruction, or structural failure, or by legal action, or if  
483 the agency head certifies in writing that there is an immediate  
484 danger to the public health, safety, or welfare, or if other  
485 substantial loss to the state requires emergency action and if  
486 the chief administrator of the state agency or the chief  
487 administrator's designated representative certifies in writing  
488 that no other agency-controlled space is available to meet this  
489 emergency need; however, but in no case shall the lease for such  
490 space may not exceed 11 months. If the lessor elects not to  
491 replace or renovate the destroyed or uninhabitable facility, the  
492 agency shall procure the needed space by competitive bid in  
493 accordance with s. 255.249(10)(b) ~~255.249(4)(b)~~. If the lessor  
494 elects to replace or renovate the destroyed or uninhabitable  
495 facility and the construction or renovations will not be  
496 complete at the end of the 11-month lease, the agency may modify

Amendment No. 2

497 the lease to extend it on a month-to-month basis for up to an  
498 ~~additional~~ 6 months to allow completion of such construction or  
499 renovations.

500 (11) In any leasing of space which occurs ~~that is~~  
501 ~~accomplished~~ without competition, the individuals taking part in  
502 the development or selection of criteria for evaluation, in the  
503 evaluation, and in the award processes must ~~shall~~ attest in  
504 writing that they are independent of, and have no conflict of  
505 interest in, the entities evaluated and selected.

506 Section 7. Subsection (4) of section 255.252, Florida  
507 Statutes, is amended to read:

508 255.252 Findings and intent.—

509 (4) In addition to designing and constructing new  
510 buildings to be energy-efficient, it is the policy of the state  
511 to operate and maintain state facilities in a manner that  
512 minimizes energy consumption and maximizes building  
513 sustainability and to operate facilities leased by the state so  
514 as to minimize energy use. It is further the policy of the state  
515 that the renovation of existing state facilities be in  
516 accordance with a sustainable building rating or a national  
517 model green building code. State agencies are encouraged to  
518 consider shared savings financing of energy-efficiency and  
519 conservation projects, using contracts that split the resulting  
520 savings for a specified period of time between the state agency  
521 and the private firm or cogeneration contracts and that  
522 otherwise permit the state to lower its net energy costs. Such  
523 energy contracts may be funded from the operating budget. The  
524 vendor for such energy contracts may be selected in accordance

Amendment No. 2  
with s. 287.055.

Section 8. Effective July 1, 2014, subsection (1) of section 255.254, Florida Statutes, is amended to read:

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

(1) A ~~No~~ state agency may not ~~shall~~ lease, construct, or have constructed, within limits prescribed in this section, a facility without having secured from the department an evaluation of life-cycle costs based on sustainable building ratings. ~~Furthermore,~~ Construction shall proceed only upon disclosing to the department, for the facility chosen, the life-cycle costs as determined in s. 255.255, the facility's sustainable building rating goal, and the capitalization of the initial construction costs of the building. The life-cycle costs and the sustainable building rating goal shall be primary considerations in the selection of a building design. For leased facilities larger ~~buildings more than 2,000 5,000~~ square feet in area within a given building boundary, an energy performance analysis that calculates ~~consisting of a projection of the total~~ annual energy consumption and energy costs ~~in dollars~~ per square foot ~~of major energy-consuming equipment and systems based on actual expenses from the last 3 years and projected forward for the term of the proposed lease~~ shall be performed. The analysis must also compare the energy performance of the proposed lease to lease ~~shall only be made where there is a showing that the energy costs incurred by the state are minimal compared to available like facilities.~~ A lease may not be finalized until the energy performance analysis has been approved by the

Amendment No. 2

553 ~~department. A lease agreement for any building leased by the~~  
554 ~~state from a private sector entity shall include provisions for~~  
555 ~~monthly energy use data to be collected and submitted monthly to~~  
556 ~~the department by the owner of the building.~~

557 Section 9. Effective July 1, 2014, subsection (1) of  
558 section 255.257, Florida Statutes, is amended to read:

559 255.257 Energy management; buildings occupied by state  
560 agencies.—

561 (1) ENERGY CONSUMPTION AND COST DATA.— Each state agency  
562 shall collect data on energy consumption and cost for all. ~~The~~  
563 ~~data gathered shall be on~~ state-owned facilities and metered  
564 state-leased facilities ~~of 5,000 net square feet or more~~. These  
565 data will be used in the computation of the effectiveness of the  
566 state energy management plan and the effectiveness of the energy  
567 management program of each of the state agencies. Collected data  
568 shall be reported annually to the department in a format  
569 prescribed by the department.

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574 **T I T L E A M E N D M E N T**

575 Remove lines 35-51 and insert:

576 additional rules; amending s. 255.25, F.S.; deleting an  
577 exemption that allows an agency to negotiate a replacement lease  
578 under certain circumstances; requiring a state agency to use a  
579 tenant broker to assist with lease actions; amending s. 255.252,  
580 F.S.; specifying that a vendor for certain energy efficiency

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1145 (2013)

Amendment No. 2

581 contracts must be selected in accordance with state procurement  
582 requirements; amending s. 255.254, F.S.; revising provisions  
583 relating to requirements for energy performance analysis for  
584 certain buildings; amending 255.257, F.S.; requiring all state-  
585 owned facilities to report energy consumption and cost data;  
586 amending ss. 110.171 and 985.682, F.S.;

587