

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Albritton offered the following:

Amendment to Amendment (872490) (with title amendment)

Remove lines 5-1487 of the amendment and insert:

Section 1. Section 119.0701, Florida Statutes, is created to read:

119.0701 Contracts; public records.-

(1) For purposes of this section, the term:

(a) "Contractor" means an individual, partnership, corporation, or business entity that enters into a contract for services with a public agency and is acting on behalf of the public agency as provided under s. 119.011(2).

(b) "Public agency" means a state, county, district, authority, or municipal officer, or department, division, board, bureau, commission, or other separate unit of government created or established by law.

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17 (2) In addition to other contract requirements provided by
18 law, each public agency contract for services must include a
19 provision that requires the contractor to comply with public
20 records laws, specifically to:

21 (a) Keep and maintain public records that ordinarily and
22 necessarily would be required by the public agency in order to
23 perform the service.

24 (b) Provide the public with access to public records on the
25 same terms and conditions that the public agency would provide
26 the records and at a cost that does not exceed the cost provided
27 in this chapter or as otherwise provided by law.

28 (c) Ensure that public records that are exempt or
29 confidential and exempt from public records disclosure
30 requirements are not disclosed except as authorized by law.

31 (d) Meet all requirements for retaining public records and
32 transfer, at no cost, to the public agency all public records in
33 possession of the contractor upon termination of the contract
34 and destroy any duplicate public records that are exempt or
35 confidential and exempt from public records disclosure
36 requirements. All records stored electronically must be provided
37 to the public agency in a format that is compatible with the
38 information technology systems of the public agency.

39 (3) If a contractor does not comply with a public records
40 request, the public agency shall enforce the contract provisions
41 in accordance with the contract.

42 Section 2. Section 215.971, Florida Statutes, is amended to
43 read:

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44 215.971 Agreements funded with federal or ~~and~~ state
45 assistance.—

46 (1) ~~For~~ An agency agreement that provides state financial
47 assistance to a recipient or subrecipient, as those terms are
48 defined in s. 215.97, or that provides federal financial
49 assistance to a subrecipient, as defined by applicable United
50 States Office of Management and Budget circulars, must ~~the~~
51 ~~agreement shall~~ include all of the following:

52 (a) ~~(1)~~ A provision specifying a scope of work that clearly
53 establishes the tasks that the recipient or subrecipient is
54 required to perform. ~~;~~ ~~and~~

55 (b) ~~(2)~~ A provision dividing the agreement into quantifiable
56 units of deliverables that must be received and accepted in
57 writing by the agency before payment. Each deliverable must be
58 directly related to the scope of work and ~~must~~ specify the
59 required minimum level of service to be performed and the
60 criteria for evaluating the successful completion of each
61 deliverable.

62 (c) A provision specifying the financial consequences that
63 apply if the recipient or subrecipient fails to perform the
64 minimum level of service required by the agreement. The
65 provision can be excluded from the agreement only if financial
66 consequences are prohibited by the federal agency awarding the
67 grant. Funds refunded to a state agency from a recipient or
68 subrecipient for failure to perform as required under the
69 agreement may be expended only in direct support of the program
70 from which the agreement originated.

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71 (d) A provision specifying that a recipient or subrecipient
72 of federal or state financial assistance may expend funds only
73 for allowable costs resulting from obligations incurred during
74 the specified agreement period.

75 (e) A provision specifying that any balance of unobligated
76 funds which has been advanced or paid must be refunded to the
77 state agency.

78 (f) A provision specifying that any funds paid in excess of
79 the amount to which the recipient or subrecipient is entitled
80 under the terms and conditions of the agreement must be refunded
81 to the state agency.

82 (g) Any additional information required pursuant to s.
83 215.97.

84 (2) For each agreement funded with federal or state
85 financial assistance, the state agency shall designate an
86 employee to function as a grant manager who shall be responsible
87 for enforcing performance of the agreement's terms and
88 conditions and who shall serve as a liaison with the recipient
89 or subrecipient.

90 (a)1. Each grant manager who is responsible for agreements
91 in excess of the threshold amount for CATEGORY TWO under s.
92 287.017 must, at a minimum, complete training conducted by the
93 Chief Financial Officer for accountability in contracts and
94 grant management.

95 2. Effective December 1, 2014, each grant manager
96 responsible for agreements in excess of \$100,000 annually must
97 complete the training and become a certified contract manager as
98 provided under s. 287.057(14). All grant managers must become

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99 certified contract managers within 24 months after establishment
100 of the training and certification requirements by the Department
101 of Management Services and the Department of Financial Services.

102 (b) The Chief Financial Officer shall establish and
103 disseminate uniform procedures for grant management pursuant to
104 s. 17.03(3) to ensure that services have been rendered in
105 accordance with agreement terms before the agency processes an
106 invoice for payment. The procedures must include, but need not
107 be limited to, procedures for monitoring and documenting
108 recipient or subrecipient performance, reviewing and documenting
109 all deliverables for which payment is requested by the recipient
110 or subrecipient, and providing written certification by the
111 grant manager of the agency's receipt of goods and services.

112 (c) The grant manager shall reconcile and verify all funds
113 received against all funds expended during the grant agreement
114 period and produce a final reconciliation report. The final
115 report must identify any funds paid in excess of the
116 expenditures incurred by the recipient or subrecipient.

117 (3) After execution of a grant agreement, the Chief
118 Financial Officer shall perform audits of the executed state and
119 federal grant agreement documents and grant manager's records in
120 order to ensure that adequate internal controls are in place for
121 complying with the terms and conditions of such agreements and
122 for validation and receipt of goods and services.

123 (a) At the conclusion of the audit, the Chief Financial
124 Officer's designee shall discuss the audit and potential
125 findings with the official whose office is subject to audit. The
126 final audit report shall be submitted to the agency head.

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127 (b) Within 30 days after receipt of the final audit report,
128 the agency head shall submit to the Chief Financial Officer or
129 designee his or her written statement of explanation or rebuttal
130 concerning findings requiring corrective action, including
131 corrective action to be taken to preclude a recurrence.

132 Section 3. Subsections (4) through (28) of section 287.012,
133 Florida Statutes, are amended to read:

134 287.012 Definitions.—As used in this part, the term:

135 (4) "Best value" means the highest overall value to the
136 state based on ~~objective~~ factors that include, but are not
137 limited to, price, quality, design, and workmanship.

138 (5) "Commodity" means any of the various supplies,
139 materials, goods, merchandise, food, equipment, information
140 technology, and other personal property, including a mobile
141 home, trailer, or other portable structure that has ~~with floor~~
142 ~~space of~~ less than 5,000 square feet of floor space, purchased,
143 leased, or otherwise contracted for by the state and its
144 agencies. The term "Commodity" also includes interest on
145 deferred-payment commodity contracts approved pursuant to s.
146 287.063 entered into by an agency for the purchase of other
147 commodities. However, commodities purchased for resale are
148 excluded from this definition. Printing of publications shall be
149 considered a commodity if procured ~~when let upon contract~~
150 pursuant to s. 283.33, whether purchased for resale or not.

151 (6) "Competitive solicitation" means the process of
152 requesting and receiving two or more sealed bids, proposals, or
153 replies submitted by responsive vendors in accordance with the

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154 terms of a competitive process, regardless of the method of
155 procurement.

156 (7) "Contractor" means a person who contracts to sell
157 commodities or contractual services to an agency.

158 (8) "Contractual service" means the rendering by a
159 contractor of its time and effort rather than the furnishing of
160 specific commodities. The term applies only to those services
161 rendered by individuals and firms who are independent
162 contractors, and such services may include, but are not limited
163 to, evaluations; consultations; maintenance; accounting;
164 security; management systems; management consulting; educational
165 training programs; research and development studies or reports
166 on the findings of consultants engaged thereunder; and
167 professional, technical, and social services. The term
168 ~~"Contractual service"~~ does not include a any contract for the
169 furnishing of labor or materials for the construction,
170 renovation, repair, modification, or demolition of a any
171 facility, building, portion of building, utility, park, parking
172 lot, or structure or other improvement to real property entered
173 into pursuant to chapter 255 and rules adopted thereunder.

174 (9) "Department" means the Department of Management
175 Services.

176 (10) "Electronic posting" or "electronically post" means
177 the noticing of solicitations, agency decisions or intended
178 decisions, or other matters relating to procurement on a
179 centralized Internet website designated by the department for
180 this purpose, and in the manner and form required under s.
181 120.57(3) (a).

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182 (11) "Eligible user" means any person or entity authorized
183 by the department pursuant to rule to purchase from state term
184 contracts or to use the online procurement system.

185 (12) "Exceptional purchase" means any purchase of
186 commodities or contractual services excepted by law or rule from
187 the requirements for competitive solicitation, including, but
188 not limited to, purchases from a single source; purchases upon
189 receipt of less than two responsive bids, proposals, or replies;
190 purchases made by an agency, after receiving approval from the
191 department, from a contract procured, pursuant to s. 287.057(1),
192 or by another agency; and purchases made without advertisement
193 in the manner required under ~~by~~ s. 287.042(3)(b).

194 (13) "Extension" means an increase in the time allowed for
195 the contract period ~~due to circumstances which, without fault of~~
196 ~~either party, make performance impracticable or impossible, or~~
197 ~~which prevent a new contract from being executed, with or~~
198 ~~without a proportional increase in the total dollar amount, with~~
199 ~~any increase to be based on the method and rate previously~~
200 ~~established in the contract.~~

201 (14) "Governmental entity" means a political subdivision or
202 agency of this state or of any state of the United States,
203 including, but not limited to, state government, county,
204 municipality, school district, nonprofit public university or
205 college, single-purpose or multipurpose special district,
206 single-purpose or multipurpose public authority, metropolitan or
207 consolidated government, separate legal entity or administrative
208 entity, or any agency of the Federal Government.

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209 (15)~~(14)~~ "Information technology" has the same meaning as
210 provided ~~ascribed~~ in s. 282.0041.

211 (16)~~(15)~~ "Invitation to bid" means a written or
212 electronically posted solicitation for competitive sealed bids.

213 (17)~~(16)~~ "Invitation to negotiate" means a written or
214 electronically posted solicitation for competitive sealed
215 replies to select one or more vendors with which to commence
216 negotiations for the procurement of commodities or contractual
217 services.

218 (18)~~(17)~~ "Minority business enterprise" has the same
219 meaning as provided ~~ascribed~~ in s. 288.703.

220 (19)~~(18)~~ "Office" means the Office of Supplier Diversity of
221 the Department of Management Services.

222 (20)~~(19)~~ "Outsource" means the process of contracting with
223 a vendor to provide a service as defined in s. 216.011(1)(f), in
224 whole or in part, or an activity as defined in s.
225 216.011(1)(rr), while a state agency retains the responsibility
226 and accountability for the service or activity and there is a
227 transfer of management responsibility for the delivery of
228 resources and the performance of those resources.

229 (21)~~(20)~~ "Renewal" means contracting with the same
230 contractor for an additional contract period after the initial
231 contract period, only if pursuant to contract terms specifically
232 providing for such renewal.

233 (22)~~(21)~~ "Request for information" means a written or
234 electronically posted request made by an agency to vendors for
235 information concerning commodities or contractual services.

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236 Responses to these requests are not offers and may not be
237 accepted by the agency to form a binding contract.

238 ~~(23)~~ ~~(22)~~ "Request for proposals" means a written or
239 electronically posted solicitation for competitive sealed
240 proposals.

241 ~~(24)~~ ~~(23)~~ "Request for a quote" means an oral, electronic,
242 or written request for written pricing or services information
243 from a state term contract vendor for commodities or contractual
244 services available on a state term contract from that vendor.

245 ~~(25)~~ ~~(24)~~ "Responsible vendor" means a vendor who has the
246 capability in all respects to fully perform the contract
247 requirements and the integrity and reliability that will assure
248 good faith performance.

249 ~~(26)~~ ~~(25)~~ "Responsive bid," "responsive proposal," or
250 "responsive reply" means a bid, or proposal, or reply submitted
251 by a responsive and responsible vendor which ~~that~~ conforms in
252 all material respects to the solicitation.

253 ~~(27)~~ ~~(26)~~ "Responsive vendor" means a vendor that has
254 submitted a bid, proposal, or reply that conforms in all
255 material respects to the solicitation.

256 ~~(28)~~ ~~(27)~~ "State term contract" means a term contract that
257 is competitively procured by the department pursuant to s.
258 287.057 and that is used by agencies and eligible users pursuant
259 to s. 287.056.

260 ~~(29)~~ ~~(28)~~ "Term contract" means an indefinite quantity
261 contract to furnish commodities or contractual services during a
262 defined period.

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263 Section 4. Paragraph (a) of subsection (1), paragraph (b)
264 of subsection (2), and subsections (8) and (15) of section
265 287.042, Florida Statutes, are amended to read:

266 287.042 Powers, duties, and functions.—The department shall
267 have the following powers, duties, and functions:

268 (1) (a) To canvass all sources of supply, ~~establish and~~
269 ~~maintain a vendor list,~~ and contract for the purchase, lease, or
270 acquisition, including purchase by installment sales or lease-
271 purchase contracts which may provide for the payment of interest
272 on unpaid portions of the purchase price, of all commodities and
273 contractual services required by any agency under this chapter.
274 Any contract providing for deferred payments and the payment of
275 interest is ~~shall be~~ subject to specific rules adopted by the
276 department.

277 (2)

278 (b) As an alternative to any provision in s. 120.57(3)(c),
279 the department may proceed with the competitive solicitation or
280 contract award process of a term contract when the Secretary of
281 Management Services ~~the department~~ or his or her designee sets
282 forth in writing particular facts and circumstances that ~~which~~
283 demonstrate that the delay incident to staying the solicitation
284 or contract award process would be detrimental to the interests
285 of the state. After the award of a contract resulting from a
286 competitive solicitation in which a timely protest was received
287 and in which the state did not prevail, the contract may be
288 canceled and reawarded.

289 (8) To provide any commodity and contractual service
290 purchasing rules to the Chief Financial Officer and all agencies

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291 electronically or through ~~an electronic medium or~~ other means.
292 Agencies may not approve an ~~any~~ account or request any payment
293 of an ~~any~~ account for the purchase of any commodity or the
294 procurement of any contractual service covered by a purchasing
295 or contractual service rule except as authorized therein. The
296 department shall furnish copies of rules adopted by the
297 department to any county, municipality, or other local public
298 agency requesting them.

299 (15) To lead or enter into joint agreements with
300 governmental entities ~~agencies, as defined in s. 163.3164, for~~
301 ~~the purpose of pooling funds~~ for the purchase of commodities or
302 contractual services ~~information technology~~ that can be used by
303 multiple agencies.

304 (a) Each agency that has been appropriated or has existing
305 funds for such purchase, shall, upon contract award by the
306 department, transfer its ~~their~~ portion of the funds into the
307 department's Operating Trust Fund for payment by the department.
308 The funds shall be transferred by the Executive Office of the
309 Governor pursuant to the agency budget amendment request
310 provisions under ~~in~~ chapter 216.

311 (b) Agencies that sign the joint agreements are financially
312 obligated for their portion of the agreed-upon funds. If an
313 agency becomes more than 90 days delinquent in paying the funds,
314 the department shall certify to the Chief Financial Officer the
315 amount due, and the Chief Financial Officer shall transfer the
316 amount due to the Operating Trust Fund of the department from
317 any of the agency's available funds. The Chief Financial Officer
318 shall report these transfers and the reasons for the transfers

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319 to the Executive Office of the Governor and the legislative
320 appropriations committees.

321 Section 5. Paragraph (a) of subsection (1) and subsections
322 (3), (10), (12), (13), (16), and (22) of section 287.057,
323 Florida Statutes, are amended to read:

324 287.057 Procurement of commodities or contractual
325 services.—

326 (1) The competitive solicitation processes authorized in
327 this section shall be used for procurement of commodities or
328 contractual services in excess of the threshold amount provided
329 for CATEGORY TWO in s. 287.017. Any competitive solicitation
330 shall be made available simultaneously to all vendors, must
331 include the time and date for the receipt of bids, proposals, or
332 replies and of the public opening, and must include all
333 contractual terms and conditions applicable to the procurement,
334 including the criteria to be used in determining acceptability
335 and relative merit of the bid, proposal, or reply.

336 (a) *Invitation to bid.*—The invitation to bid shall be used
337 when the agency is capable of specifically defining the scope of
338 work for which a contractual service is required or when the
339 agency is capable of establishing precise specifications
340 defining the actual commodity or group of commodities required.

341 1. All invitations to bid must include:

342 a. A detailed description of the commodities or contractual
343 services sought; and

344 b. If the agency contemplates renewal of the contract, a
345 statement to that effect.

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346 2. Bids submitted in response to an invitation to bid in
347 which the agency contemplates renewal of the contract must
348 include the price for each year for which the contract may be
349 renewed.

350 3. Evaluation of bids must ~~shall~~ include consideration of
351 the total cost for each year of the contract, including renewal
352 years, as submitted by the vendor.

353 4. The contract shall be awarded to the responsible and
354 responsive vendor who submits the lowest responsive bid.

355 (3) If ~~When~~ the purchase price of commodities or
356 contractual services exceeds the threshold amount provided in s.
357 287.017 for CATEGORY TWO, ~~no~~ purchase of commodities or
358 contractual services may not be made without receiving
359 competitive sealed bids, competitive sealed proposals, or
360 competitive sealed replies unless:

361 (a) The agency head determines in writing that an immediate
362 danger to the public health, safety, or welfare or other
363 substantial loss to the state requires emergency action. After
364 the agency head signs ~~makes~~ such a written determination, the
365 agency may proceed with the procurement of commodities or
366 contractual services necessitated by the immediate danger,
367 without receiving competitive sealed bids, competitive sealed
368 proposals, or competitive sealed replies. However, the ~~such~~
369 emergency procurement shall be made by obtaining pricing
370 information from at least two prospective vendors, which must be
371 retained in the contract file, unless the agency determines in
372 writing that the time required to obtain pricing information
373 will increase the immediate danger to the public health, safety,

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374 or welfare or other substantial loss to the state. The agency
375 shall furnish copies of all written determinations ~~certified~~
376 ~~under oath~~ and any other documents relating to the emergency
377 action to the department. A copy of the written statement shall
378 be furnished to the Chief Financial Officer with the voucher
379 authorizing payment. The individual purchase of personal
380 clothing, shelter, or supplies which are needed on an emergency
381 basis to avoid institutionalization or placement in a more
382 restrictive setting is an emergency for the purposes of this
383 paragraph, and the filing with the department of such statement
384 is not required in such circumstances. In the case of the
385 emergency purchase of insurance, the period of coverage of such
386 insurance may ~~shall~~ not exceed ~~a period of~~ 30 days, and all such
387 emergency purchases shall be reported to the department.

388 (b) The purchase is made by an agency from a state term
389 contract procured, pursuant to this section, by the department
390 or by an agency, after receiving approval from the department,
391 from a contract procured, pursuant to subsection (1), by another
392 agency.

393 (c) Commodities or contractual services available only from
394 a single source may be excepted from the competitive-
395 solicitation requirements. If ~~When~~ an agency believes that
396 commodities or contractual services are available only from a
397 single source, the agency shall electronically post a
398 description of the commodities or contractual services sought
399 for ~~a period of~~ at least 7 business days. The description must
400 include a request that prospective vendors provide information
401 regarding their ability to supply the commodities or contractual

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402 services described. If it is determined in writing by the
403 agency, after reviewing any information received from
404 prospective vendors, that the commodities or contractual
405 services are available only from a single source, the agency
406 shall:

407 1. provide notice of its intended decision to enter a
408 single-source purchase contract in the manner specified in s.
409 120.57(3), ~~if the amount of the contract does not exceed the~~
410 ~~threshold amount provided in s. 287.017 for CATEGORY FOUR.~~

411 2. ~~Request approval from the department for the single-~~
412 ~~source purchase, if the amount of the contract exceeds the~~
413 ~~threshold amount provided in s. 287.017 for CATEGORY FOUR. The~~
414 ~~agency shall initiate its request for approval in a form~~
415 ~~prescribed by the department, which request may be~~
416 ~~electronically transmitted. The failure of the department to~~
417 ~~approve or disapprove the agency's request for approval within~~
418 ~~21 days after receiving such request shall constitute prior~~
419 ~~approval of the department. If the department approves the~~
420 ~~agency's request, the agency shall provide notice of its~~
421 ~~intended decision to enter a single source contract in the~~
422 ~~manner specified in s. 120.57(3).~~

423 ~~(d) When it is in the best interest of the state, the~~
424 ~~secretary of the department or his or her designee may authorize~~
425 ~~the Support Program to purchase insurance by negotiation, but~~
426 ~~such purchase shall be made only under conditions most favorable~~
427 ~~to the public interest.~~

428 (d) ~~(e)~~ Prescriptive assistive devices for the purpose of
429 medical, developmental, or vocational rehabilitation of clients

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430 are excepted from competitive-solicitation requirements and
431 shall be procured pursuant to an established fee schedule or by
432 any other method that ~~which~~ ensures the best price for the
433 state, taking into consideration the needs of the client.
434 Prescriptive assistive devices include, but are not limited to,
435 prosthetics, orthotics, and wheelchairs. For purchases made
436 pursuant to this paragraph, state agencies shall annually file
437 with the department a description of the purchases and methods
438 of procurement.

439 ~~(e)-(f)~~ (e) The following contractual services and commodities
440 are not subject to the competitive-solicitation requirements of
441 this section:

442 1. Artistic services. As used in ~~For the purposes of~~ this
443 subsection, the term "artistic services" does not include
444 advertising or typesetting. As used in this subparagraph, the
445 term "advertising" means the making of a representation in any
446 form in connection with a trade, business, craft, or profession
447 in order to promote the supply of commodities or services by the
448 person promoting the commodities or contractual services.

449 2. Academic program reviews if the fee for such services
450 does not exceed \$50,000.

451 3. Lectures by individuals.

452 4. Legal services, including attorney, paralegal, expert
453 witness, appraisal, or mediator services.

454 5. ~~a.~~ Health services involving examination, diagnosis,
455 treatment, prevention, medical consultation, or administration.

456 The term also includes,

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457 ~~b. Beginning January 1, 2011, health services, including,~~
458 but is not limited to, substance abuse and mental health
459 services, involving examination, diagnosis, treatment,
460 prevention, or medical consultation ~~if, when~~ such services are
461 offered to eligible individuals participating in a specific
462 program that qualifies multiple providers and uses a standard
463 payment methodology. Reimbursement of administrative costs for
464 providers of services purchased in this manner are ~~shall~~ also ~~be~~
465 exempt. For purposes of this subparagraph ~~sub-subparagraph~~, the
466 term "providers" means health professionals and health
467 facilities, or organizations that deliver or arrange for the
468 delivery of health services.

469 6. Services provided to persons with mental or physical
470 disabilities by not-for-profit corporations that ~~which~~ have
471 obtained exemptions under ~~the provisions of~~ s. 501(c)(3) of the
472 United States Internal Revenue Code or when such services are
473 governed by the ~~provisions of~~ Office of Management and Budget
474 Circular A-122. However, in acquiring such services, the agency
475 shall consider the ability of the vendor, past performance,
476 willingness to meet time requirements, and price.

477 7. Medicaid services delivered to an eligible Medicaid
478 recipient unless the agency is directed otherwise in law.

479 8. Family placement services.

480 9. Prevention services related to mental health, including
481 drug abuse prevention programs, child abuse prevention programs,
482 and shelters for runaways, operated by not-for-profit
483 corporations. However, in acquiring such services, the agency

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484 shall consider the ability of the vendor, past performance,
485 willingness to meet time requirements, and price.

486 10. Training and education services provided to injured
487 employees pursuant to s. 440.491(6).

488 11. Contracts entered into pursuant to s. 337.11.

489 12. Services or commodities provided by governmental
490 entities ~~agencies~~.

491 13. Statewide public service announcement programs provided
492 by a Florida statewide nonprofit corporation under s. 501(c)(6)
493 of the Internal Revenue Code which have, ~~with~~ a guaranteed
494 documented match of at least \$3 to \$1.

495 (f) ~~(g)~~ Continuing education events or programs that are
496 offered to the general public and for which fees have been
497 collected which ~~that~~ pay all expenses associated with the event
498 or program are exempt from requirements for competitive
499 solicitation.

500 (10) A contract for commodities or contractual services may
501 be awarded without competition if state or federal law
502 prescribes with whom the agency must contract or if the rate of
503 payment or the recipient of the funds is established during the
504 appropriations process.

505 (12) Extension of a contract for commodities or contractual
506 services must ~~shall~~ be in writing for a period not to exceed 6
507 months and is ~~shall be~~ subject to the same terms and conditions
508 set forth in the initial contract and any written amendments
509 signed by the parties. There may ~~shall~~ be only one extension of
510 a contract unless the failure to meet the criteria set forth in

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511 the contract for completion of the contract is due to events
512 beyond the control of the contractor.

513 (13) Contracts for commodities or contractual services may
514 be renewed for a period that may not exceed 3 years or the term
515 of the original contract, whichever ~~period~~ is longer. Renewal of
516 a contract for commodities or contractual services must ~~shall~~ be
517 in writing and is ~~shall be~~ subject to the same terms and
518 conditions set forth in the initial contract and any written
519 amendments signed by the parties. If the commodity or
520 contractual service is purchased as a result of the solicitation
521 of bids, proposals, or replies, the price of the commodity or
522 contractual service to be renewed must ~~shall~~ be specified in the
523 bid, proposal, or reply, except that an agency may negotiate
524 lower pricing. A renewal contract may not include any
525 compensation for costs associated with the renewal. Renewals are
526 ~~shall be~~ contingent upon satisfactory performance evaluations by
527 the agency and subject to the availability of funds. Exceptional
528 purchase contracts pursuant to paragraphs (3) (a) and (c) may not
529 be renewed. With the exception of subsection (10) ~~(12)~~, if a
530 contract amendment results in a longer contract term or
531 increased payments, a state agency may not renew or amend a
532 contract for the outsourcing of a service or activity that has
533 an original term value exceeding ~~the sum of~~ \$10 million before
534 submitting a written report concerning contract performance to
535 the Governor, the President of the Senate, and the Speaker of
536 the House of Representatives at least 90 days before execution
537 of the renewal or amendment.

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538 (16) (a) For a contract in excess of the threshold amount
539 provided in s. 287.017 for CATEGORY FOUR, the agency head shall
540 appoint:

541 1.~~(a)~~ At least three persons to evaluate proposals and
542 replies who collectively have experience and knowledge in the
543 program areas and service requirements for which commodities or
544 contractual services are sought.

545 2.~~(b)~~ At least three persons to conduct negotiations during
546 a competitive sealed reply procurement who collectively have
547 experience and knowledge in negotiating contracts, contract
548 procurement, and the program areas and service requirements for
549 which commodities or contractual services are sought.

550 (b) ~~If~~ ~~When~~ the value of a contract is in excess of \$1
551 million in any fiscal year, at least one of the persons
552 conducting negotiations must be certified as a contract
553 negotiator based upon department rules ~~adopted by the Department~~
554 ~~of Management Services~~ in order to ensure that certified
555 contract negotiators are knowledgeable about effective
556 negotiation strategies, capable of successfully implementing
557 those strategies, and involved appropriately in the procurement
558 process. At a minimum, the rules must address the qualifications
559 required for certification, the method of certification, and the
560 procedure for involving the certified negotiator. If the value
561 of a contract is in excess of \$10 million in any fiscal year, at
562 least one of the persons conducting negotiations must be a
563 Project Management Professional, as certified by the Project
564 Management Institute.

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565 (22) The department, in consultation with the Chief
566 Financial Officer ~~Agency for Enterprise Information Technology~~
567 ~~and the Comptroller~~, shall maintain ~~develop~~ a program for online
568 procurement of commodities and contractual services. To enable
569 the state to promote open competition and ~~to~~ leverage its buying
570 power, agencies shall participate in the online procurement
571 program, and eligible users may participate in the program. Only
572 vendors prequalified as meeting mandatory requirements and
573 qualifications criteria may participate in online procurement.

574 (a) The department, ~~in consultation with the agency~~, may
575 contract for equipment and services necessary to develop and
576 implement online procurement.

577 (b) The department, ~~in consultation with the agency~~, shall
578 adopt rules, ~~pursuant to ss. 120.536(1) and 120.54~~, to
579 administer the program for online procurement. The rules must
580 ~~shall~~ include, but not be limited to:

581 1. Determining the requirements and qualification criteria
582 for prequalifying vendors.

583 2. Establishing the procedures for conducting online
584 procurement.

585 3. Establishing the criteria for eligible commodities and
586 contractual services.

587 4. Establishing the procedures for providing access to
588 online procurement.

589 5. Determining the criteria warranting any exceptions to
590 participation in the online procurement program.

591 (c) The department may impose and shall collect all fees
592 for the use of the online procurement systems.

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593 1. The fees may be imposed on an individual transaction
594 basis or as a fixed percentage of the cost savings generated. At
595 a minimum, the fees must be set in an amount sufficient to cover
596 the projected costs of the services, including administrative
597 and project service costs in accordance with the policies of the
598 department.

599 2. If the department contracts with a provider for online
600 procurement, the department, pursuant to appropriation, shall
601 compensate the provider from the fees after the department has
602 satisfied all ongoing costs. The provider shall report
603 transaction data to the department each month so that the
604 department may determine the amount due and payable to the
605 department from each vendor.

606 3. All fees that are due and payable to the state on a
607 transactional basis or as a fixed percentage of the cost savings
608 generated are subject to s. 215.31 and must be remitted within
609 40 days after receipt of payment for which the fees are due. For
610 fees that are not remitted within 40 days, the vendor shall pay
611 interest at the rate established under s. 55.03(1) on the unpaid
612 balance from the expiration of the 40-day period until the fees
613 are remitted.

614 4. All fees and surcharges collected under this paragraph
615 shall be deposited in the Operating Trust Fund as provided by
616 law.

617 Section 6. Effective December 1, 2014, subsection (14) of
618 section 287.057, Florida Statutes, is amended to read:

619 287.057 Procurement of commodities or contractual
620 services.—

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621 (14) For each contractual services contract, the agency
622 shall designate an employee to function as contract manager who
623 ~~is shall be~~ responsible for enforcing performance of the
624 contract terms and conditions and serve as a liaison with the
625 contractor.

626 (a) Each contract manager who is responsible for contracts
627 in excess of the threshold amount for CATEGORY TWO must, at a
628 minimum, complete ~~attend~~ training conducted by the Chief
629 Financial Officer for accountability in contracts and grant
630 management. The Chief Financial Officer shall establish and
631 disseminate uniform procedures pursuant to s. 17.03(3) to ensure
632 that contractual services have been rendered in accordance with
633 the contract terms before the agency processes the invoice for
634 payment. The procedures must ~~shall~~ include, but need not be
635 limited to, procedures for monitoring and documenting contractor
636 performance, reviewing and documenting all deliverables for
637 which payment is requested by vendors, and providing written
638 certification by contract managers of the agency's receipt of
639 goods and services.

640 (b) Each contract manager who is responsible for contracts
641 in excess of \$100,000 annually must complete training in
642 contract management and become a certified contract manager. The
643 department is responsible for establishing and disseminating the
644 requirements for certification which include completing the
645 training conducted by the Chief Financial Officer for
646 accountability in contracts and grant management. Training and
647 certification must be coordinated by the department, and the
648 training must be conducted jointly by the department and the

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649 Department of Financial Services. Training must promote best
650 practices and procedures related to negotiating, managing, and
651 ensuring accountability in agency contracts and grant
652 agreements, which must include the use of case studies based
653 upon previous audits, contracts, and grant agreements. All
654 agency contract managers must become certified within 24 months
655 after establishment of the training and certification
656 requirements by the department and the Department of Financial
657 Services.

658 Section 7. Paragraph (a) of subsection (3) of section
659 287.0571, Florida Statutes, is amended to read:

660 287.0571 Business case to outsource; applicability.—

661 (3) This section does not apply to:

662 (a) A procurement of commodities and contractual services
663 listed in s. 287.057(3)(d) and (e) ~~287.057(3)(e), (f), and (g)~~
664 and (21).

665 Section 8. Subsections (1), (2), and (5) of section
666 287.058, Florida Statutes, are amended to read:

667 287.058 Contract document.—

668 (1) Every procurement of contractual services in excess of
669 the threshold amount provided in s. 287.017 for CATEGORY TWO,
670 except for the providing of health and mental health services or
671 drugs in the examination, diagnosis, or treatment of sick or
672 injured state employees or the providing of other benefits as
673 required by ~~the provisions of~~ chapter 440, shall be evidenced by
674 a written agreement embodying all provisions and conditions of
675 the procurement of such services, which shall, where applicable,
676 include, but not be limited to, a provision:

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677 (a) That bills for fees or other compensation for services
678 or expenses be submitted in detail sufficient for a proper
679 preaudit and postaudit thereof.

680 (b) That bills for any travel expenses be submitted in
681 accordance with s. 112.061. A state agency may establish rates
682 lower than the maximum provided in s. 112.061.

683 (c) Allowing unilateral cancellation by the agency for
684 refusal by the contractor to allow public access to all
685 documents, papers, letters, or other material made or received
686 by the contractor in conjunction with the contract, unless the
687 records are exempt from s. 24(a) of Art. I of the State
688 Constitution and s. 119.07(1).

689 (d) Specifying a scope of work that clearly establishes all
690 tasks the contractor is required to perform.

691 (e) Dividing the contract into quantifiable, measurable,
692 and verifiable units of deliverables that must be received and
693 accepted in writing by the contract manager before payment. Each
694 deliverable must be directly related to the scope of work and
695 specify a performance measure. As used in this paragraph, the
696 term "performance measure" means the required minimum acceptable
697 level of service to be performed and criteria for evaluating the
698 successful completion of each deliverable.

699 (f) Specifying the criteria and the final date by which
700 such criteria must be met for completion of the contract.

701 (g) Specifying that the contract may be renewed for a
702 period that may not exceed 3 years or the term of the original
703 contract, whichever ~~period~~ is longer, specifying the renewal
704 price for the contractual service as set forth in the bid,

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705 proposal, or reply, specifying that costs for the renewal may
706 not be charged, and specifying that renewals are ~~shall be~~
707 contingent upon satisfactory performance evaluations by the
708 agency and subject to the availability of funds. Exceptional
709 purchase contracts pursuant to s. 287.057(3) (a) and (c) may not
710 be renewed.

711 (h) Specifying the financial consequences that the agency
712 must apply if the contractor fails to perform in accordance with
713 the contract.

714 (i) Addressing the property rights of any intellectual
715 property related to the contract and the specific rights of the
716 state regarding the intellectual property if the contractor
717 fails to provide the services or is no longer providing
718 services.

719
720 In lieu of a written agreement, the agency ~~department~~ may
721 authorize the use of a purchase order for classes of contractual
722 services, if the provisions of paragraphs (a)-(i) are included
723 in the purchase order or solicitation. The purchase order must
724 include, but need not be limited to, an adequate description of
725 the services, the contract period, and the method of payment. In
726 lieu of printing the provisions of paragraphs (a)-(c) and (g)
727 ~~(a)-(i)~~ in the contract document or purchase order, agencies may
728 incorporate the requirements of paragraphs (a)-(c) and (g) ~~(a)-~~
729 ~~(i)~~ by reference.

730 (2) The written agreement shall be signed by the agency
731 head or designee and the contractor before ~~prior to~~ the
732 rendering of any contractual service the value of which is in

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733 excess of the threshold amount provided in s. 287.017 for
734 CATEGORY TWO, except in the case of a valid emergency as
735 certified by the agency head. The written statement
736 ~~certification~~ of an emergency must ~~shall~~ be prepared within 30
737 days after the contractor begins rendering the service and must
738 ~~shall~~ state the particular facts and circumstances which
739 precluded the execution of the written agreement before ~~prior to~~
740 the rendering of the service. If the agency fails to have the
741 contract signed by the agency head or designee and the
742 contractor before ~~prior to~~ rendering the contractual service,
743 and if an emergency does not exist, the agency head shall,
744 within ~~no later than~~ 30 days after the contractor begins
745 rendering the service, certify the specific conditions and
746 circumstances to the department as well as describe actions
747 taken to prevent recurrence of such noncompliance. The agency
748 head may delegate the written statement ~~certification~~ only to
749 other senior management agency personnel. A copy of the written
750 statement ~~certification~~ shall be furnished to the Chief
751 Financial Officer with the voucher authorizing payment. The
752 department shall report repeated instances of noncompliance by
753 an agency to the Auditor General. ~~Nothing in~~ This subsection
754 does not ~~shall be deemed to~~ authorize additional compensation
755 prohibited under ~~by~~ s. 215.425. The procurement of contractual
756 services may ~~shall~~ not be divided so as to avoid the provisions
757 of this section.

758 (5) Unless otherwise provided in the General Appropriations
759 Act or the substantive bill implementing the General
760 Appropriations Act, the Chief Financial Officer may waive the

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761 requirements of this section for services which are included in
762 s. 287.057(3)(e) ~~287.057(3)(f)~~.

763 Section 9. Section 287.136, Florida Statutes, is created to
764 read:

765 287.136 Audit of executed contract documents.—After
766 execution of a contract, the Chief Financial Officer shall
767 perform audits of the executed contract document and contract
768 manager's records to ensure that adequate internal controls are
769 in place for complying with the terms and conditions of the
770 contract and for the validation and receipt of goods and
771 services.

772 (1) At the conclusion of the audit, the Chief Financial
773 Officer's designee shall discuss the audit and potential
774 findings with the official whose office is subject to audit. The
775 final audit report shall be submitted to the agency head.

776 (2) Within 30 days after receipt of the final audit report,
777 the agency head shall submit to the Chief Financial Officer or
778 designee his or her written statement of explanation or rebuttal
779 concerning findings requiring corrective action, including
780 corrective action to be taken to preclude a recurrence.

781 Section 10. Section 287.076, Florida Statutes, is amended
782 to read:

783 287.076 Project Management Professionals training for
784 personnel involved in managing outsourcings and negotiations;
785 funding.—The department of ~~Management Services~~ may implement a
786 program to train state agency employees who are involved in
787 managing outsourcings as Project Management Professionals, as
788 certified by the Project Management Institute. Subject to annual

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789 ~~appropriations, For the 2006-2007 fiscal year, the sum of~~
790 ~~\$500,000 in recurring funds from the General Revenue Fund is~~
791 ~~appropriated to the Department of Management Services to~~
792 ~~implement this program. the department of Management Services,~~
793 in consultation with entities subject to this part act, shall
794 identify personnel to participate in this training based on
795 requested need and ensure that each agency is represented. The
796 department ~~of Management Services~~ may remit payment for this
797 training on behalf of all participating personnel.

798 Section 11. Subsection (3) of section 16.0155, Florida
799 Statutes, is amended to read:

800 16.0155 Contingency fee agreements.—

801 (3) Notwithstanding the exemption provided in s.
802 287.057(3)(e), if the Attorney General makes the determination
803 described in subsection (2), he or she ~~notwithstanding the~~
804 ~~exemption provided in s. 287.057(3)(f)~~, the Attorney General
805 shall request proposals from private attorneys to represent the
806 department on a contingency-fee basis, unless the Attorney
807 General determines in writing that requesting proposals is not
808 feasible under the circumstances. The written determination does
809 not constitute a final agency action subject to review pursuant
810 to ss. 120.569 and 120.57. For purposes of this subsection only,
811 the department is exempt from ~~the requirements of~~ s. 120.57(3),
812 and neither the request for proposals nor the contract award is
813 subject to challenge pursuant to ss. 120.569 and 120.57.

814 Section 12. Subsection (1) of section 283.33, Florida
815 Statutes, is amended to read:

816 283.33 Printing of publications; lowest bidder awards.—

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817 (1) Publications may be printed and prepared in-house, by
818 another agency or the Legislature, or purchased on bid,
819 whichever is more economical and practicable as determined by
820 the agency. An agency may contract for binding separately when
821 more economical or practicable, whether or not the remainder of
822 the printing is done in-house. A vendor may subcontract for
823 binding and still be considered a responsible vendor as defined
824 in s. 287.012, notwithstanding s. 287.012(24).

825 Section 13. Subsection (3) of section 394.457, Florida
826 Statutes, is amended to read:

827 394.457 Operation and administration.—

828 (3) POWER TO CONTRACT.—The department may contract to
829 provide, and be provided with, services and facilities in order
830 to carry out its responsibilities under this part with the
831 following agencies: public and private hospitals; receiving and
832 treatment facilities; clinics; laboratories; departments,
833 divisions, and other units of state government; the state
834 colleges and universities; the community colleges; private
835 colleges and universities; counties, municipalities, and any
836 other governmental unit, including facilities of the United
837 States Government; and any other public or private entity which
838 provides or needs facilities or services. Baker Act funds for
839 community inpatient, crisis stabilization, short-term
840 residential treatment, and screening services must be allocated
841 to each county pursuant to the department's funding allocation
842 methodology. Notwithstanding s. 287.057(3)(e) ~~the provisions of~~
843 ~~s. 287.057(3)(f)~~, contracts for community-based Baker Act
844 services for inpatient, crisis stabilization, short-term

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845 residential treatment, and screening provided under this part,
846 other than those with other units of government, to be provided
847 for the department must be awarded using competitive sealed bids
848 ~~if when~~ the county commission of the county receiving the
849 services makes a request to the department's district office by
850 January 15 of the contracting year. The district ~~may shall~~ not
851 enter into a competitively bid contract under this provision if
852 such action will result in increases of state or local
853 expenditures for Baker Act services within the district.
854 Contracts for these Baker Act services using competitive sealed
855 bids ~~are will be~~ effective for 3 years. The department shall
856 adopt rules establishing minimum standards for such contracted
857 services and facilities and shall make periodic audits and
858 inspections to assure that the contracted services are provided
859 and meet the standards of the department.

860 Section 14. Paragraph (a) of subsection (2) of section
861 402.7305, Florida Statutes, is amended to read:

862 402.7305 Department of Children and Family Services;
863 procurement of contractual services; contract management.—

864 (2) PROCUREMENT OF COMMODITIES AND CONTRACTUAL SERVICES.—

865 (a) Notwithstanding s. 287.057(3)(e)12. ~~287.057(3)(f)12.~~,
866 ~~if whenever~~ the department intends to contract with a public
867 postsecondary institution to provide a service, the department
868 must allow all public postsecondary institutions in this state
869 that are accredited by the Southern Association of Colleges and
870 Schools to bid on the contract. Thereafter, notwithstanding any
871 other provision of law ~~to the contrary~~, if a public
872 postsecondary institution intends to subcontract for any service

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873 awarded in the contract, the subcontracted service must be
874 procured by competitive procedures.

875 Section 15. Section 409.9132, Florida Statutes, is amended
876 to read:

877 409.9132 Pilot project to monitor home health services.—The
878 Agency for Health Care Administration shall expand the home
879 health agency monitoring pilot project in Miami-Dade County on a
880 statewide basis effective July 1, 2012, except in counties in
881 which the program is ~~will~~ not be cost-effective, as determined
882 by the agency. The agency shall contract with a vendor to verify
883 the utilization and delivery of home health services and provide
884 an electronic billing interface for home health services. The
885 contract must require the creation of a program to submit claims
886 electronically for the delivery of home health services. The
887 program must verify telephonically visits for the delivery of
888 home health services using voice biometrics. The agency may seek
889 amendments to the Medicaid state plan and waivers of federal
890 laws, as necessary, to implement or expand the pilot project.
891 Notwithstanding s. 287.057(3)(e) ~~287.057(3)(f)~~, the agency must
892 award the contract through the competitive solicitation process
893 and may use the current contract to expand the home health
894 agency monitoring pilot project to include additional counties
895 as authorized under this section.

896 Section 16. Subsection (3) of section 427.0135, Florida
897 Statutes, is amended to read:

898 427.0135 Purchasing agencies; duties and responsibilities.—
899 Each purchasing agency, in carrying out the policies and
900 procedures of the commission, shall:

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901 (3) Not procure transportation disadvantaged services
902 without initially negotiating with the commission, as provided
903 in s. 287.057(3)(e)12. ~~287.057(3)(f)12.~~, or unless otherwise
904 authorized by statute. If the purchasing agency, after
905 consultation with the commission, determines that it cannot
906 reach mutually acceptable contract terms with the commission,
907 the purchasing agency may contract for the same transportation
908 services provided in a more cost-effective manner and of
909 comparable or higher quality and standards. The Medicaid agency
910 shall implement this subsection in a manner consistent with s.
911 409.908(18) and as otherwise limited or directed by the General
912 Appropriations Act.

913 Section 17. Paragraph (c) of subsection (5) of section
914 445.024, Florida Statutes, is amended to read:

915 445.024 Work requirements.—

916 (5) USE OF CONTRACTS.—Regional workforce boards shall
917 provide work activities, training, and other services, as
918 appropriate, through contracts. In contracting for work
919 activities, training, or services, the following applies:

920 (c) Notwithstanding the exemption from the competitive
921 sealed bid requirements provided in s. 287.057(3)(e)
922 ~~287.057(3)(f)~~ for certain contractual services, each contract
923 awarded under this chapter must be awarded on the basis of a
924 competitive sealed bid, except for a contract with a
925 governmental entity as determined by the regional workforce
926 board.

927 Section 18. Paragraph (c) of subsection (5) of section
928 627.311, Florida Statutes, is amended to read:

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929 627.311 Joint underwriters and joint reinsurers; public
930 records and public meetings exemptions.—

931 (5)

932 (c) The operation of the plan shall be governed by a plan
933 of operation that is prepared at the direction of the board of
934 governors and approved by order of the office. The plan is
935 subject to continuous review by the office. The office may, by
936 order, withdraw approval of all or part of a plan if the office
937 determines that conditions have changed since approval was
938 granted and that the purposes of the plan require changes in the
939 plan. The plan of operation must ~~shall~~:

940 1. Authorize the board to engage in the activities
941 necessary to implement this subsection, including, but not
942 limited to, borrowing money.

943 2. Develop criteria for eligibility for coverage by the
944 plan, including, but not limited to, documented rejection by at
945 least two insurers which reasonably assures that insureds
946 covered under the plan are unable to acquire coverage in the
947 voluntary market.

948 3. Require notice from the agent to the insured at the time
949 of the application for coverage that the application is for
950 coverage with the plan and that coverage may be available
951 through an insurer, group self-insurers' fund, commercial self-
952 insurance fund, or assessable mutual insurer through another
953 agent at a lower cost.

954 4. Establish programs to encourage insurers to provide
955 coverage to applicants of the plan in the voluntary market and
956 to insureds of the plan, including, but not limited to:

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957 a. Establishing procedures for an insurer to use in
958 notifying the plan of the insurer's desire to provide coverage
959 to applicants to the plan or existing insureds of the plan and
960 in describing the types of risks in which the insurer is
961 interested. The description of the desired risks must be on a
962 form developed by the plan.

963 b. Developing forms and procedures that provide an insurer
964 with the information necessary to determine whether the insurer
965 wants to write particular applicants to the plan or insureds of
966 the plan.

967 c. Developing procedures for notice to the plan and the
968 applicant to the plan or insured of the plan that an insurer
969 will insure the applicant or the insured of the plan, and notice
970 of the cost of the coverage offered; and developing procedures
971 for the selection of an insuring entity by the applicant or
972 insured of the plan.

973 d. Provide for a market-assistance plan to assist in the
974 placement of employers. All applications for coverage in the
975 plan received 45 days before the effective date for coverage
976 shall be processed through the market-assistance plan. A market-
977 assistance plan specifically designed to serve the needs of
978 small, good policyholders as defined by the board must be
979 reviewed and updated periodically.

980 5. Provide for policy and claims services to the insureds
981 of the plan of the nature and quality provided for insureds in
982 the voluntary market.

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983 6. Provide for the review of applications for coverage with
984 the plan for reasonableness and accuracy, using any available
985 historic information regarding the insured.

986 7. Provide for procedures for auditing insureds of the plan
987 which are based on reasonable business judgment and are designed
988 to maximize the likelihood that the plan will collect the
989 appropriate premiums.

990 8. Authorize the plan to terminate the coverage of and
991 refuse future coverage for any insured that submits a fraudulent
992 application to the plan or provides fraudulent or grossly
993 erroneous records to the plan or to any service provider of the
994 plan in conjunction with the activities of the plan.

995 9. Establish service standards for agents who submit
996 business to the plan.

997 10. Establish criteria and procedures to prohibit any agent
998 who does not adhere to the established service standards from
999 placing business with the plan or receiving, directly or
1000 indirectly, any commissions for business placed with the plan.

1001 11. Provide for the establishment of reasonable safety
1002 programs for all insureds in the plan. All insureds of the plan
1003 must participate in the safety program.

1004 12. Authorize the plan to terminate the coverage of and
1005 refuse future coverage to any insured who fails to pay premiums
1006 or surcharges when due; who, at the time of application, is
1007 delinquent in payments of workers' compensation or employer's
1008 liability insurance premiums or surcharges owed to an insurer,
1009 group self-insurers' fund, commercial self-insurance fund, or
1010 assessable mutual insurer licensed to write such coverage in

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1011 this state; or who refuses to substantially comply with any
1012 safety programs recommended by the plan.

1013 13. Authorize the board of governors to provide the goods
1014 and services required by the plan through staff employed by the
1015 plan, through reasonably compensated service providers who
1016 contract with the plan to provide services as specified by the
1017 board of governors, or through a combination of employees and
1018 service providers.

1019 a. Purchases that equal or exceed \$2,500 but are less than
1020 or equal to \$25,000, shall be made by receipt of written quotes,
1021 telephone quotes, or informal bids, if ~~whenever~~ practical. The
1022 procurement of goods or services valued over \$25,000 is subject
1023 to competitive solicitation, except in situations in which the
1024 goods or services are provided by a sole source or are deemed an
1025 emergency purchase, or the services are exempted from
1026 competitive-solicitation requirements under s. 287.057(3)(e)
1027 ~~287.057(3)(f)~~. Justification for the sole-sourcing or emergency
1028 procurement must be documented. Contracts for goods or services
1029 valued at or over \$100,000 are subject to board approval.

1030 b. The board shall determine whether it is more cost-
1031 effective and in the best interests of the plan to use legal
1032 services provided by in-house attorneys employed by the plan
1033 rather than contracting with outside counsel. In making such
1034 determination, the board shall document its findings and shall
1035 consider the expertise needed; whether time commitments exceed
1036 in-house staff resources; whether local representation is
1037 needed; the travel, lodging, and other costs associated with in-

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1038 house representation; and such other factors that the board
1039 determines are relevant.

1040 14. Provide for service standards for service providers,
1041 methods of determining adherence to those service standards,
1042 incentives and disincentives for service, and procedures for
1043 terminating contracts for service providers that fail to adhere
1044 to service standards.

1045 15. Provide procedures for selecting service providers and
1046 standards for qualification as a service provider that
1047 reasonably assure that any service provider selected will
1048 continue to operate as an ongoing concern and is capable of
1049 providing the specified services in the manner required.

1050 16. Provide for reasonable accounting and data-reporting
1051 practices.

1052 17. Provide for annual review of costs associated with the
1053 administration and servicing of the policies issued by the plan
1054 to determine alternatives by which costs can be reduced.

1055 18. Authorize the acquisition of such excess insurance or
1056 reinsurance as is consistent with the purposes of the plan.

1057 19. Provide for an annual report to the office on a date
1058 specified by the office and containing such information as the
1059 office reasonably requires.

1060 20. Establish multiple rating plans for various
1061 classifications of risk which reflect risk of loss, hazard
1062 grade, actual losses, size of premium, and compliance with loss
1063 control. At least one of such plans must be a preferred-rating
1064 plan to accommodate small-premium policyholders with good
1065 experience as defined in sub-subparagraph 22.a.

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1066 21. Establish agent commission schedules.

1067 22. For employers otherwise eligible for coverage under the
1068 plan, establish three tiers of employers meeting the criteria
1069 and subject to the rate limitations specified in this
1070 subparagraph.

1071 a. Tier One.—

1072 (I) Criteria; rated employers.—An employer that has an
1073 experience modification rating shall be included in Tier One if
1074 the employer meets all of the following:

1075 (A) The experience modification is below 1.00.

1076 (B) The employer had no lost-time claims subsequent to the
1077 applicable experience modification rating period.

1078 (C) The total of the employer's medical-only claims
1079 subsequent to the applicable experience modification rating
1080 period did not exceed 20 percent of premium.

1081 (II) Criteria; non-rated employers.—An employer that does
1082 not have an experience modification rating shall be included in
1083 Tier One if the employer meets all of the following:

1084 (A) The employer had no lost-time claims for the 3-year
1085 period immediately preceding the inception date or renewal date
1086 of the employer's coverage under the plan.

1087 (B) The total of the employer's medical-only claims for the
1088 3-year period immediately preceding the inception date or
1089 renewal date of the employer's coverage under the plan did not
1090 exceed 20 percent of premium.

1091 (C) The employer has secured workers' compensation coverage
1092 for the entire 3-year period immediately preceding the inception
1093 date or renewal date of the employer's coverage under the plan.

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1094 (D) The employer is able to provide the plan with a loss
1095 history generated by the employer's prior workers' compensation
1096 insurer, except if the employer is not able to produce a loss
1097 history due to the insolvency of an insurer, the receiver shall
1098 provide to the plan, upon the request of the employer or the
1099 employer's agent, a copy of the employer's loss history from the
1100 records of the insolvent insurer if the loss history is
1101 contained in records of the insurer which are in the possession
1102 of the receiver. If the receiver is unable to produce the loss
1103 history, the employer may, in lieu of the loss history, submit
1104 an affidavit from the employer and the employer's insurance
1105 agent setting forth the loss history.

1106 (E) The employer is not a new business.

1107 (III) Premiums.—The premiums for Tier One insureds shall be
1108 set at a premium level 25 percent above the comparable voluntary
1109 market premiums until the plan has sufficient experience as
1110 determined by the board to establish an actuarially sound rate
1111 for Tier One, at which point the board shall, subject to
1112 paragraph (e), adjust the rates, if necessary, to produce
1113 actuarially sound rates, provided such rate adjustment shall not
1114 take effect prior to January 1, 2007.

1115 b. Tier Two.—

1116 (I) Criteria; rated employers.—An employer that has an
1117 experience modification rating shall be included in Tier Two if
1118 the employer meets all of the following:

1119 (A) The experience modification is equal to or greater than
1120 1.00 but not greater than 1.10.

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1121 (B) The employer had no lost-time claims subsequent to the
1122 applicable experience modification rating period.

1123 (C) The total of the employer's medical-only claims
1124 subsequent to the applicable experience modification rating
1125 period did not exceed 20 percent of premium.

1126 (II) Criteria; non-rated employers.—An employer that does
1127 not have any experience modification rating shall be included in
1128 Tier Two if the employer is a new business. An employer shall be
1129 included in Tier Two if the employer has less than 3 years of
1130 loss experience in the 3-year period immediately preceding the
1131 inception date or renewal date of the employer's coverage under
1132 the plan and the employer meets all of the following:

1133 (A) The employer had no lost-time claims for the 3-year
1134 period immediately preceding the inception date or renewal date
1135 of the employer's coverage under the plan.

1136 (B) The total of the employer's medical-only claims for the
1137 3-year period immediately preceding the inception date or
1138 renewal date of the employer's coverage under the plan did not
1139 exceed 20 percent of premium.

1140 (C) The employer is able to provide the plan with a loss
1141 history generated by the workers' compensation insurer that
1142 provided coverage for the portion or portions of such period
1143 during which the employer had secured workers' compensation
1144 coverage, except if the employer is not able to produce a loss
1145 history due to the insolvency of an insurer, the receiver shall
1146 provide to the plan, upon the request of the employer or the
1147 employer's agent, a copy of the employer's loss history from the
1148 records of the insolvent insurer if the loss history is

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1149 contained in records of the insurer which are in the possession
1150 of the receiver. If the receiver is unable to produce the loss
1151 history, the employer may, in lieu of the loss history, submit
1152 an affidavit from the employer and the employer's insurance
1153 agent setting forth the loss history.

1154 (III) Premiums.—The premiums for Tier Two insureds shall be
1155 set at a rate level 50 percent above the comparable voluntary
1156 market premiums until the plan has sufficient experience as
1157 determined by the board to establish an actuarially sound rate
1158 for Tier Two, at which point the board shall, subject to
1159 paragraph (e), adjust the rates, if necessary, to produce
1160 actuarially sound rates, provided such rate adjustment shall not
1161 take effect prior to January 1, 2007.

1162 c. Tier Three.—

1163 (I) Eligibility.—An employer shall be included in Tier
1164 Three if the employer does not meet the criteria for Tier One or
1165 Tier Two.

1166 (II) Rates.—The board shall establish, subject to paragraph
1167 (e), and the plan shall charge, actuarially sound rates for Tier
1168 Three insureds.

1169 23. For Tier One or Tier Two employers which employ no
1170 nonexempt employees or which report payroll which is less than
1171 the minimum wage hourly rate for one full-time employee for 1
1172 year at 40 hours per week, the plan shall establish actuarially
1173 sound premiums, provided, however, that the premiums may not
1174 exceed \$2,500. These premiums shall be in addition to the fee
1175 specified in subparagraph 26. When the plan establishes
1176 actuarially sound rates for all employers in Tier One and Tier

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1177 Two, the premiums for employers referred to in this paragraph
1178 are no longer subject to the \$2,500 cap.

1179 24. Provide for a depopulation program to reduce the number
1180 of insureds in the plan. If an employer insured through the plan
1181 is offered coverage from a voluntary market carrier:

1182 a. During the first 30 days of coverage under the plan;

1183 b. Before a policy is issued under the plan;

1184 c. By issuance of a policy upon expiration or cancellation
1185 of the policy under the plan; or

1186 d. By assumption of the plan's obligation with respect to
1187 an in-force policy,

1188
1189 that employer is no longer eligible for coverage through the
1190 plan. The premium for risks assumed by the voluntary market
1191 carrier must be no greater than the premium the insured would
1192 have paid under the plan, and shall be adjusted upon renewal to
1193 reflect changes in the plan rates and the tier for which the
1194 insured would qualify as of the time of renewal. The insured may
1195 be charged such premiums only for the first 3 years of coverage
1196 in the voluntary market. A premium under this subparagraph is
1197 deemed approved and is not an excess premium for purposes of s.
1198 627.171.

1199 25. Require that policies issued and applications must
1200 include a notice that the policy could be replaced by a policy
1201 issued from a voluntary market carrier and that, if an offer of
1202 coverage is obtained from a voluntary market carrier, the
1203 policyholder is no longer eligible for coverage through the
1204 plan. The notice must also specify that acceptance of coverage

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1205 under the plan creates a conclusive presumption that the
1206 applicant or policyholder is aware of this potential.

1207 26. Require that each application for coverage and each
1208 renewal premium be accompanied by a nonrefundable fee of \$475 to
1209 cover costs of administration and fraud prevention. The board
1210 may, with the prior approval of the office, increase the amount
1211 of the fee pursuant to a rate filing to reflect increased costs
1212 of administration and fraud prevention. The fee is not subject
1213 to commission and is fully earned upon commencement of coverage.

1214 Section 19. Paragraph (e) of subsection (6) of section
1215 627.351, Florida Statutes, is amended to read:

1216 627.351 Insurance risk apportionment plans.—

1217 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

1218 (e) Purchases that equal or exceed \$2,500, but are less
1219 than \$25,000, shall be made by receipt of written quotes,
1220 written record of telephone quotes, or informal bids, if
1221 ~~whenever~~ practical. The procurement of goods or services valued
1222 at or over \$25,000 is ~~shall be~~ subject to competitive
1223 solicitation, except in situations where the goods or services
1224 are provided by a sole source or are deemed an emergency
1225 purchase; the services are exempted from competitive
1226 solicitation requirements under s. 287.057(3)(e) ~~287.057(3)(f)~~;
1227 or the procurement of services is subject to s. 627.3513.
1228 Justification for the sole-sourcing or emergency procurement
1229 must be documented. Contracts for goods or services valued at or
1230 over \$100,000 are subject to approval by the board.

1231 Section 20. Subsection (2) of section 765.5155, Florida
1232 Statutes, is amended to read:

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1233 765.5155 Donor registry; education program.—

1234 (2) The agency and the department shall jointly contract
1235 for the operation of a donor registry and education program. The
1236 contractor shall be procured by competitive solicitation
1237 pursuant to chapter 287, notwithstanding an ~~any~~ exemption under
1238 ~~in~~ s. 287.057(3)(e) ~~287.057(3)(f)~~. When awarding the contract,
1239 priority shall be given to existing nonprofit groups that are
1240 based within the state, have expertise working with procurement
1241 organizations, have expertise in conducting statewide organ and
1242 tissue donor public education campaigns, and represent the needs
1243 of the organ and tissue donation community in the state.

1244 Section 21. Subsection (10) of section 893.055, Florida
1245 Statutes, is amended to read:

1246 893.055 Prescription drug monitoring program.—

1247 (10) All costs incurred by the department in administering
1248 the prescription drug monitoring program shall be funded through
1249 federal grants or private funding applied for or received by the
1250 state. The department may not commit funds for the monitoring
1251 program without ensuring funding is available. The prescription
1252 drug monitoring program and the implementation thereof are
1253 contingent upon receipt of the nonstate funding. The department
1254 and state government shall cooperate with the direct-support
1255 organization established pursuant to subsection (11) in seeking
1256 federal grant funds, other nonstate grant funds, gifts,
1257 donations, or other private moneys for the department if ~~so long~~
1258 ~~as~~ the costs of doing so are not considered material.
1259 Nonmaterial costs for this purpose include, but are not limited
1260 to, the costs of mailing and personnel assigned to research or

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1261 apply for a grant. Notwithstanding the exemptions to
 1262 competitive-solicitation requirements under s. 287.057(3)(e)
 1263 ~~287.057(3)(f)~~, the department shall comply with the competitive-
 1264 solicitation requirements under s. 287.057 for the procurement
 1265 of any goods or services required by this section. Funds
 1266 provided, directly or indirectly, by prescription drug
 1267 manufacturers may not be used to implement the program.

1268 Section 22. Except as otherwise expressly provided in this
 1269 act, this act shall take effect July 1, 2013.

1270

1271 -----

1272 **T I T L E A M E N D M E N T**

1273 Remove lines 1493-1591 of the amendment and insert:

1274 A bill to be entitled
 1275 An act relating to governmental accountability;
 1276 creating s. 119.0701, F.S.; providing definitions;
 1277 providing that each public agency contract for
 1278 services must meet specified requirements; requiring
 1279 the public agency to enforce contract provisions if a
 1280 contractor does not comply with a public records
 1281 request; amending s. 215.971, F.S.; requiring
 1282 agreements funded with state or federal financial
 1283 assistance to include additional provisions; requiring
 1284 state agencies to designate a grants manager for each
 1285 agreement and providing requirements and procedures
 1286 for managers; requiring the Chief Financial Officer to
 1287 perform audits of executed agreements and to discuss
 1288 such audits with agency officials; requiring the

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1289 agency head to respond to the audit; amending s.
1290 287.012, F.S.; providing and revising definitions;
1291 amending s. 287.042, F.S.; revising powers, duties,
1292 and functions of the Department of Management
1293 Services; eliminating a duty of the department to
1294 maintain a vendor list; authorizing the department to
1295 lead or enter into joint agreements with governmental
1296 entities for the purchase of commodities or
1297 contractual services that can be used by multiple
1298 agencies; amending s. 287.057, F.S.; providing that
1299 contracts awarded pursuant to an invitation to bid
1300 shall be awarded to the responsible and responsive
1301 vendor that submits the lowest responsive bid;
1302 revising exceptions to the requirement that the
1303 purchase of specified commodities or contractual
1304 services be made only as a result of receiving
1305 competitive sealed bids, competitive sealed proposals,
1306 or competitive sealed replies; revising contractual
1307 services and commodities that are not subject to
1308 competitive solicitation requirements by virtue of
1309 being available only from a single source; providing
1310 that a contract for commodities or contractual
1311 services may be awarded without competition if the
1312 recipient of funds is established during the
1313 appropriations process; revising provisions relating
1314 to extension of a contract for commodities or
1315 contractual services; authorizing an agency to
1316 negotiate better pricing upon renewal of a contract;

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1317 providing training requirements for contract managers
1318 responsible for contracts in excess of a specified
1319 threshold amount; providing contract manager
1320 certification for contract managers responsible for
1321 contracts in excess of a specified threshold amount;
1322 providing that the department is responsible for
1323 establishing and disseminating the requirements for
1324 certification of a contract manager; providing that
1325 training will be conducted jointly by the Department
1326 of Management Services and the Department of Financial
1327 Services; providing training guidelines and
1328 requirements; requiring the department, in
1329 consultation with the Chief Financial Officer to
1330 maintain a program for online procurement of
1331 commodities and contractual services; amending s.
1332 287.0571, F.S.; revising nonapplicability of a
1333 business case to outsource; amending s. 287.058, F.S.;
1334 defining the term "performance measure"; revising
1335 references within provisions relating to purchase
1336 orders used in lieu of written agreements for classes
1337 of contractual services; revising terminology;
1338 creating s. 287.136, F.S.; requiring the Chief
1339 Financial Officer to perform audits of executed
1340 contract documents and to discuss such audits with the
1341 agency officials; requiring the agency head to respond
1342 to the audit; amending s. 287.076, F.S.; providing
1343 that Project Management Professionals training for
1344 personnel involved in managing outsourcings and

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1345 negotiations is subject to annual appropriations;
1346 amending ss. 16.0155, 283.33, 394.457, 402.7305,
1347 409.9132, 427.0135, 445.024, 627.311, 627.351,
1348 765.5155, and 893.055, F.S.; conforming cross-
1349 references; providing effective dates.