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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/18/2013	.	
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	.	
	.	

The Committee on Transportation (Evers) recommended the following:

Senate Amendment (with title amendment)

Between lines 89 and 90
insert:

Section 1. Section 337.25, Florida Statutes, is amended to read:

337.25 Acquisition, lease, and disposal of real and personal property.—

(1) (a) The department may purchase, lease, exchange, or otherwise acquire any land, property interests, or buildings or other improvements, including personal property within such buildings or on such lands, necessary to secure or utilize



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13 transportation rights-of-way for existing, proposed, or
14 anticipated transportation facilities on the State Highway
15 System, on the State Park Road System, in a rail corridor, or in
16 a transportation corridor designated by the department. Such
17 property shall be held in the name of the state.

18 (b) The department may accept donations of any land or
19 buildings or other improvements, including personal property
20 within such buildings or on such lands with or without such
21 conditions, reservations, or reverter provisions as are
22 acceptable to the department. Such donations may be used as
23 transportation rights-of-way or to secure or utilize
24 transportation rights-of-way for existing, proposed, or
25 anticipated transportation facilities on the State Highway
26 System, on the State Park Road System, or in a transportation
27 corridor designated by the department.

28 (c) When lands, buildings, or other improvements are needed
29 for transportation purposes, but are held by a federal, state,
30 or local governmental entity and utilized for public purposes
31 other than transportation, the department may compensate the
32 entity for such properties by providing functionally equivalent
33 replacement facilities. The providing of replacement facilities
34 under this subsection may only be undertaken with the agreement
35 of the governmental entity affected.

36 (d) The department may contract pursuant to s. 287.055 for
37 auction services used in the conveyance of real or personal
38 property or the conveyance of leasehold interests under the
39 provisions of subsections (4) and (5). The contract may allow
40 for the contractor to retain a portion of the proceeds as
41 compensation for the contractor's services.



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42 (2) A complete inventory shall be made of all real or
43 personal property immediately upon possession or acquisition.
44 Such inventory shall include a statement of the location or site
45 of each piece of realty, structure, or severable item ~~an~~
46 ~~itemized listing of all appliances, fixtures, and other~~
47 ~~severable items; a statement of the location or site of each~~
48 ~~piece of realty, structure, or severable item; and the serial~~
49 ~~number assigned to each.~~ Copies of each inventory shall be filed
50 in the district office in which the property is located. Such
51 inventory shall be carried forward to show the final disposition
52 of each item of property, both real and personal.

53 (3) The inventory of real property which was acquired by
54 the state after December 31, 1988, which has been owned by the
55 state for 10 or more years, and which is not within a
56 transportation corridor or within the right-of-way of a
57 transportation facility shall be evaluated to determine the
58 necessity for retaining the property. If the property is not
59 needed for the construction, operation, and maintenance of a
60 transportation facility, or is not located within a
61 transportation corridor, the department may dispose of the
62 property pursuant to subsection (4).

63 (4) The department may convey ~~sell~~, in the name of the
64 state, any land, building, or other property, real or personal,
65 which was acquired under the provisions of subsection (1) and
66 which the department has determined is not needed for the
67 construction, operation, and maintenance of a transportation
68 facility. ~~With the exception of any parcel governed by paragraph~~
69 ~~(c), paragraph (d), paragraph (f), paragraph (g), or paragraph~~
70 ~~(i), the department shall afford first right of refusal to the~~



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71 ~~local government in the jurisdiction of which the parcel is~~
72 ~~situated.~~ When such a determination has been made, property may
73 be disposed of through negotiations, sealed competitive bids,
74 auctions, or any other means the department deems to be in its
75 best interest. A sale may not occur at a price less than the
76 department's current estimate of value, except as provided in
77 paragraphs (a)-(d). The department may afford a right of first
78 refusal to the local government or other political subdivision
79 in the jurisdiction in which the parcel is situated, except in
80 conveyances transacted under paragraph (a), paragraph (c), or
81 paragraph (e) in the following manner:

82 (a) If the ~~value of the property has been donated to the~~
83 ~~state for transportation purposes and a facility has not been~~
84 ~~constructed for a period of at least 5 years, plans have not~~
85 ~~been prepared for the construction of such facility, and the~~
86 ~~property is not located in a transportation corridor, the~~
87 ~~governmental entity may authorize reconveyance of the donated~~
88 ~~property for no consideration to the original donor or the~~
89 ~~donor's heirs, successors, assigns, or representatives is~~
90 ~~\$10,000 or less as determined by department estimate, the~~
91 ~~department may negotiate the sale.~~

92 (b) If ~~the value of the property is to be used for a public~~
93 ~~purpose, the property may be conveyed without consideration to a~~
94 ~~governmental entity exceeds \$10,000 as determined by department~~
95 ~~estimate, such property may be sold to the highest bidder~~
96 ~~through receipt of sealed competitive bids, after due~~
97 ~~advertisement, or by public auction held at the site of the~~
98 ~~improvement which is being sold.~~

99 (c) If the property was originally acquired specifically to



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100 provide replacement housing for persons displaced by
101 transportation projects, the department may negotiate for the
102 sale of such property as replacement housing. As compensation,
103 the state shall receive no less than its investment in such
104 property or the department's current estimate of value,
105 whichever is lower. It is expressly intended that this benefit
106 be extended only to persons actually displaced by the project.
107 Dispositions to any other person must be for no less than the
108 department's current estimate of value, in the discretion of the
109 department, public sale would be inequitable, properties may be
110 sold by negotiation to the owner holding title to the property
111 abutting the property to be sold, provided such sale is at a
112 negotiated price not less than fair market value as determined
113 by an independent appraisal, the cost of which shall be paid by
114 the owner of the abutting land. If negotiations do not result in
115 the sale of the property to the owner of the abutting land and
116 the property is sold to someone else, the cost of the
117 independent appraisal shall be borne by the purchaser; and the
118 owner of the abutting land shall have the cost of the appraisal
119 refunded to him or her. If, however, no purchase takes place,
120 the owner of the abutting land shall forfeit the sum paid by him
121 or her for the independent appraisal. If, due to action of the
122 department, the property is removed from eligibility for sale,
123 the cost of any appraisal prepared shall be refunded to the
124 owner of the abutting land.

125 (d) If the department determines that the property will
126 require significant costs to be incurred or that continued
127 ownership of the property exposes the department to significant
128 liability risks, the department may use the projected



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129 maintenance costs over the next 10 years to offset the
130 property's value in establishing a value for disposal of the
131 property, even if that value is zero ~~property acquired for use~~
132 ~~as a borrow pit is no longer needed, the department may sell~~
133 ~~such property to the owner of the parcel of abutting land from~~
134 ~~which the borrow pit was originally acquired, provided the sale~~
135 ~~is at a negotiated price not less than fair market value as~~
136 ~~determined by an independent appraisal, the cost of which shall~~
137 ~~be paid by the owner of such abutting land.~~

138 (e) If, in the discretion of the department, a sale to
139 anyone other than an abutting property owner would be
140 inequitable, the property may be sold to the abutting owner for
141 the department's current estimate of value. The department
142 begins the process for disposing of the property on its own
143 initiative, either by negotiation under the provisions of
144 paragraph (a), paragraph (c), or paragraph (d), ~~or paragraph~~
145 ~~(i)~~, or by receipt of sealed competitive bids or public auction
146 under the provisions of paragraph (b) ~~or paragraph (i)~~, a
147 department staff appraiser may determine the fair market value
148 of the property by an appraisal.

149 ~~(f) Any property which was acquired by a county or by the~~
150 ~~department using constitutional gas tax funds for the purpose of~~
151 ~~a right-of-way or borrow pit for a road on the State Highway~~
152 ~~System, State Park Road System, or county road system and which~~
153 ~~is no longer used or needed by the department may be conveyed~~
154 ~~without consideration to that county. The county may then sell~~
155 ~~such surplus property upon receipt of competitive bids in the~~
156 ~~same manner prescribed in this section.~~

157 ~~(g) If a property has been donated to the state for~~



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158 ~~transportation purposes and the facility has not been~~
159 ~~constructed for a period of at least 5 years and no plans have~~
160 ~~been prepared for the construction of such facility and the~~
161 ~~property is not located in a transportation corridor, the~~
162 ~~governmental entity may authorize reconveyance of the donated~~
163 ~~property for no consideration to the original donor or the~~
164 ~~donor's heirs, successors, assigns, or representatives.~~

165 ~~(h) If property is to be used for a public purpose, the~~
166 ~~property may be conveyed without consideration to a governmental~~
167 ~~entity.~~

168 ~~(i) If property was originally acquired specifically to~~
169 ~~provide replacement housing for persons displaced by~~
170 ~~transportation projects, the department may negotiate for the~~
171 ~~sale of such property as replacement housing. As compensation,~~
172 ~~the state shall receive no less than its investment in such~~
173 ~~properties or fair market value, whichever is lower. It is~~
174 ~~expressly intended that this benefit be extended only to those~~
175 ~~persons actually displaced by such project. Dispositions to any~~
176 ~~other persons must be for fair market value.~~

177 ~~(j) If the department determines that the property will~~
178 ~~require significant costs to be incurred or that continued~~
179 ~~ownership of the property exposes the department to significant~~
180 ~~liability risks, the department may use the projected~~
181 ~~maintenance costs over the next 5 years to offset the market~~
182 ~~value in establishing a value for disposal of the property, even~~
183 ~~if that value is zero.~~

184 (5) The department may convey a leasehold interest for
185 commercial or other purposes, in the name of the state, to any
186 land, building, or other property, real or personal, which was



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187 acquired under the provisions of subsection (1). However, a
188 lease may not be entered into at a price less than the
189 department's current estimate of value, except as provided in
190 paragraphs (4) (a) - (d).

191 (a) A lease may be through negotiations, sealed competitive
192 bids, auctions, or any other means the department deems to be in
193 its best interest ~~The department may negotiate such a lease at~~
194 ~~the prevailing market value with the owner from whom the~~
195 ~~property was acquired; with the holders of leasehold estates~~
196 ~~existing at the time of the department's acquisition; or, if~~
197 ~~public bidding would be inequitable, with the owner holding~~
198 ~~title to privately owned abutting property, if reasonable notice~~
199 ~~is provided to all other owners of abutting property.~~ The
200 department may allow an outdoor advertising sign to remain on
201 the property acquired, or be relocated on department property,
202 and such sign shall not be considered a nonconforming sign
203 pursuant to chapter 479.

204 (b) If, in the discretion of the department, a lease to a
205 person other than an abutting property owner or tenant with a
206 leasehold interest in the abutting property would be
207 inequitable, the property may be leased to the abutting owner or
208 tenant for no less than the department's current estimate of
209 value ~~All other leases shall be by competitive bid.~~

210 (c) No lease signed pursuant to paragraph (a) ~~or paragraph~~
211 ~~(b)~~ shall be for a period of more than 5 years; however, the
212 department may renegotiate or extend such a lease for an
213 additional term of 5 years as the department deems appropriate
214 ~~without rebidding.~~

215 (d) Each lease shall provide that, unless otherwise



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216 directed by the lessor, any improvements made to the property
217 during the term of the lease shall be removed at the lessee's
218 expense.

219 (e) If property is to be used for a public purpose,
220 ~~including a fair, art show, or other educational, cultural, or~~
221 ~~fundraising activity,~~ the property may be leased without
222 consideration to a governmental entity ~~or school board.~~ A lease
223 for a public purpose is exempt from the term limits in paragraph
224 (c).

225 (f) Paragraphs (c) and (e) ~~(d)~~ do not apply to leases
226 entered into pursuant to s. 260.0161(3), except as provided in
227 such a lease.

228 (g) No lease executed under this subsection may be utilized
229 by the lessee to establish the ~~4 years'~~ standing required by s.
230 73.071(3) (b) if the business had not been established for the
231 specified number of 4 years on the date title passed to the
232 department.

233 (h) The department may enter into a long-term lease without
234 compensation with a public port listed in s. 403.021(9) (b) for
235 rail corridors used for the operation of a short-line railroad
236 to the port.

237 (6) Nothing in this chapter prevents the joint use of
238 right-of-way for alternative modes of transportation; provided
239 that the joint use does not impair the integrity and safety of
240 the transportation facility.

241 (7) The department's estimate of value, required by
242 subsections (4) and (5), shall be prepared in accordance with
243 department procedures, guidelines, and rules for valuation of
244 real property. If the value of the property exceeds \$50,000, as



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245 determined by the department estimate, the sale or lease must be
246 at a negotiated price not less than the estimate of value as
247 determined by an appraisal prepared in accordance with
248 department procedures, guidelines, and rules for valuation of
249 real property, the cost of which shall be paid by the party
250 seeking the purchase or lease of the property appraisal required
251 by paragraphs (4) (c) and (d) shall be prepared in accordance
252 with department guidelines and rules by an independent appraiser
253 who has been certified by the department. If federal funds were
254 used in the acquisition of the property, the appraisal shall
255 also be subject to the approval of the Federal Highway
256 Administration.

257 ~~(8) A "due advertisement" under this section is an~~
258 ~~advertisement in a newspaper of general circulation in the area~~
259 ~~of the improvements of not less than 14 calendar days prior to~~
260 ~~the date of the receipt of bids or the date on which a public~~
261 ~~auction is to be held.~~

262 ~~(8)(9)~~ The department, with the approval of the Chief
263 Financial Officer, is authorized to disburse state funds for
264 real estate closings in a manner consistent with good business
265 practices and in a manner minimizing costs and risks to the
266 state.

267 ~~(9)(10)~~ The department is authorized to purchase title
268 insurance in those instances where it is determined that such
269 insurance is necessary to protect the public's investment in
270 property being acquired for transportation purposes. The
271 department shall adopt procedures to be followed in making the
272 determination to purchase title insurance for a particular
273 parcel or group of parcels which, at a minimum, shall set forth



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274 criteria which the parcels must meet.

275 (10) This section does not modify the requirements of s.
276 73.013.

277 Section 2. If the Federal Government approves a program
278 that allows participation in the maintenance of highway roadside
279 rights-of-way through monetary contributions in exchange for
280 recognition of services provided in the form of organic
281 corporate emblems placed in view of passing motorists, the
282 Department of Transportation shall submit the program for
283 legislative approval in the next regular legislative session.

284
285 ===== T I T L E A M E N D M E N T =====

286 And the title is amended as follows:

287 Delete lines 2 - 6

288 and insert:

289 An act relating to transportation; amending s. 337.25,
290 F.S.; authorizing the Department of Transportation to
291 use auction services in the conveyance of certain
292 property or leasehold interests; revising certain
293 inventory requirements; revising provisions and
294 providing criteria for the department to dispose of
295 certain excess property; providing such criteria for
296 the disposition of donated property, property used for
297 a public purpose, or property acquired to provide
298 replacement housing for certain displaced persons;
299 providing value offsets for property that requires
300 significant maintenance costs or exposes the
301 department to significant liability; providing
302 procedures for the sale of property to abutting



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303 property owners; deleting provisions to conform to
304 changes made by the act; providing monetary
305 restrictions and criteria for the conveyance of
306 certain leasehold interests; providing exceptions to
307 restrictions for leases entered into for a public
308 purpose; providing criteria for the preparation of
309 estimates of value prepared by the department;
310 providing that the requirements of s. 73.013, F.S.,
311 relating to eminent domain, are not modified;
312 providing that certain programs approved by the
313 Federal Government relating to the maintenance of
314 highway roadside rights-of-way must be submitted to
315 the Legislature for approval; amending provisions of
316 ch. 479, F.S., relating to outdoor advertising signs;
317 amending s. 479.01, F.S.; revising and deleting
318 definitions; amending s. 479.02, F.S.; revising powers
319 of the department relating to