



962288

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/11/2014	.	
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The Committee on Banking and Insurance (Hays) recommended the following:

**Senate Amendment (with directory and title amendments)**

Between lines 397 and 398

insert:

(e) The corporation is subject to s. 287.057 for the purchase of commodities and contractual services except as otherwise provided in this paragraph. Services provided by tradepersons or technical experts to assist a licensed adjuster in the evaluation of individual claims are not subject to the procurement requirements of this section. Additionally, the



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11 procurement of financial services providers and underwriters  
12 must be made pursuant to s. 627.3513. Contracts for goods or  
13 services valued at or more than \$100,000 are subject to approval  
14 by the board.

15 1. The corporation is an agency for purposes of s. 287.057,  
16 except that, for purposes of s. 287.057(22), the corporation is  
17 an eligible user.

18 a. The authority of the Department of Management Services  
19 and the Chief Financial Officer under s. 287.057 extends to the  
20 corporation as if the corporation were an agency.

21 b. The executive director of the corporation is the agency  
22 head under s. 287.057, except for resolution of bid protests for  
23 which the board would serve as the agency head.

24 2. The corporation must provide notice of a decision or  
25 intended decision concerning a solicitation, contract award, or  
26 exceptional purchase by electronic posting. Such notice must  
27 contain the following statement: "Failure to file a protest  
28 within the time prescribed in this section constitutes a waiver  
29 of proceedings."

30 a. A person adversely affected by the corporation's  
31 decision or intended decision to award a contract pursuant to s.  
32 287.057(1) or (3)(c) who elects to challenge the decision must  
33 file a written notice of protest with the executive director of  
34 the corporation within 72 hours after the corporation posts a  
35 notice of its decision or intended decision. For a protest of  
36 the terms, conditions, and specifications contained in a  
37 solicitation, including ~~any~~ provisions governing the methods for  
38 ranking bids, proposals, replies, awarding contracts, reserving  
39 rights of further negotiation, or modifying or amending any



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40 contract, the notice of protest must be filed in writing within  
41 72 hours after ~~the~~ posting ~~of~~ the solicitation. Saturdays,  
42 Sundays, and state holidays are excluded in the computation of  
43 the 72-hour time period.

44       b. A formal written protest must be filed within 10 days  
45 after the date the notice of protest is filed. The formal  
46 written protest must state with particularity the facts and law  
47 upon which the protest is based. Upon receipt of a formal  
48 written protest that has been timely filed, the corporation must  
49 stop the solicitation or contract award process until the  
50 subject of the protest is resolved by final board action unless  
51 the executive director sets forth in writing particular facts  
52 and circumstances that require the continuance of the  
53 solicitation or contract award process without delay in order to  
54 avoid an immediate and serious danger to the public health,  
55 safety, or welfare. The corporation must provide an opportunity  
56 to resolve the protest by mutual agreement between the parties  
57 within 7 business days after receipt of the formal written  
58 protest. If the subject of a protest is not resolved by mutual  
59 agreement within 7 business days, the corporation's board must  
60 place the protest on the agenda and resolve it at its next  
61 regularly scheduled meeting. The protest must be heard by the  
62 board at a publicly noticed meeting in accordance with  
63 procedures established by the board.

64       c. In a protest of an invitation-to-bid or request-for-  
65 proposals procurement, submissions made after the bid or  
66 proposal opening which amend or supplement the bid or proposal  
67 may not be considered. In protesting an invitation-to-negotiate  
68 procurement, submissions made after the corporation announces



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69 its intent to award a contract, reject all replies, or withdraw  
70 the solicitation that amends or supplements the reply may not be  
71 considered. Unless otherwise provided by law, the burden of  
72 proof rests with the party protesting the corporation's action.  
73 In a competitive-procurement protest, other than a rejection of  
74 all bids, proposals, or replies, the corporation's board must  
75 conduct a de novo proceeding to determine whether the  
76 corporation's proposed action is contrary to the corporation's  
77 governing statutes, the corporation's rules or policies, or the  
78 solicitation specifications. The standard of proof for the  
79 proceeding is whether the corporation's action was clearly  
80 erroneous, contrary to competition, arbitrary, or capricious. In  
81 any bid-protest proceeding contesting an intended corporation  
82 action to reject all bids, proposals, or replies, the standard  
83 of review by the board is whether the corporation's intended  
84 action is illegal, arbitrary, dishonest, or fraudulent.

85 d. Failure to file a notice of protest or failure to file a  
86 formal written protest constitutes a waiver of proceedings.

87 e. In lieu of a bid protest proceeding conducted by the  
88 board in accordance with this subparagraph, the corporation may  
89 refer the protest to the Division of Administrative Hearings for  
90 a proceeding pursuant to s. 120.569. The division has  
91 jurisdiction to conduct a proceeding on such protest if a  
92 referral is made by the corporation.

93 3. Contract actions and decisions by the board under this  
94 paragraph are final. Any further legal remedy must be made in  
95 the Circuit Court of Leon County.

96  
97 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====



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98 And the directory clause is amended as follows:

99 Delete lines 90 - 91

100 and insert:

101 Section 2. Paragraphs (b), (e), and (hh) of subsection (6)  
102 of section 627.351, Florida Statutes, are amended to read:

103

104 ===== T I T L E A M E N D M E N T =====

105 And the title is amended as follows:

106 Delete line 27

107 and insert:

108 projected deficit; authorizing the Division of  
109 Administrative Hearings to hear protests of the  
110 corporation's decisions regarding the purchase of  
111 commodities and contractual services; revising the  
112 date for submitting