

By Senator Montford

3-00643-15

2015574__

1 A bill to be entitled
2 An act relating to government procurement; amending s.
3 287.012, F.S.; revising the term "eligible user";
4 defining the term "reverse auction"; amending s.
5 287.057, F.S.; requiring the Department of Management
6 Services to maintain a program for reverse auctions;
7 authorizing the department to contract for equipment
8 and services necessary to implement reverse auctions;
9 requiring the department to adopt certain rules;
10 authorizing the department to impose and collect fees
11 for use of the reverse auction program; requiring the
12 department to compensate a provider for managing a
13 reverse auction website under specified conditions;
14 amending s. 570.07, F.S.; revising the functions,
15 powers, and duties of the Department of Agriculture
16 and Consumer Services to conform to changes made by
17 the act; amending s. 1006.27, F.S.; authorizing the
18 Department of Education to use reverse auctions and
19 other online procurement programs in assisting
20 district school boards with transportation services
21 contracts; requiring the State Board of Education to
22 adopt certain rules; amending s. 1010.04, F.S.;
23 authorizing the Board of Governors to adopt
24 regulations establishing procedures governing a state
25 university's participation in reverse auctions and
26 other online procurement programs; reenacting ss.
27 120.57(3)(g) and 283.33(3), F.S., relating to
28 procedures for a protest of a contract solicitation or
29 award and contracts for printing of publications,

3-00643-15

2015574__

30 respectively, to incorporate the amendments made to s.
31 287.012, F.S., in references thereto; reenacting s.
32 627.351(6) (e), F.S., relating to Citizens Property
33 Insurance Corporation, to incorporate the amendments
34 made to s. 287.057, F.S., in a reference thereto;
35 providing an effective date.

36
37 Be It Enacted by the Legislature of the State of Florida:

38
39 Section 1. Subsection (11) of section 287.012, Florida
40 Statutes, is amended, present subsections (28) and (29) are
41 redesignated as subsections (29) and (30), respectively, and a
42 new subsection (28) is added to that section, to read:

43 287.012 Definitions.—As used in this part, the term:

44 (11) "Eligible user" means any person or entity authorized
45 by the department pursuant to rule to purchase from state term
46 contracts, ~~or~~ to use the online procurement system, or
47 participate in reverse auctions.

48 (28) "Reverse auction" means a procurement of commodities
49 or contractual services conducted on a centralized website that
50 uses third-party software and is jointly managed by an approved
51 vendor and an agency or other governmental entity using the
52 procurement processes in s. 287.057 or other applicable law.
53 Eligible users are allowed to submit bids electronically in real
54 time through the website in response to a competitive
55 solicitation.

56 Section 2. Subsection (22) of section 287.057, Florida
57 Statutes, is amended to read:

58 287.057 Procurement of commodities or contractual

3-00643-15

2015574__

59 services.-

60 (22) The department, in consultation with the Chief
61 Financial Officer and the Agency for State Technology, shall
62 maintain a program for online procurement of commodities and
63 contractual services and reverse auctions. To enable the state
64 to promote open competition and leverage its buying power,
65 agencies shall participate in the online procurement program and
66 reverse auctions, and eligible users may participate in either
67 ~~the~~ program. Only vendors prequalified as meeting mandatory
68 requirements and qualifications criteria may participate in
69 online procurement and reverse auctions.

70 (a) The department, in consultation with the Agency for
71 State Technology and in compliance with the standards of the
72 agency, may contract for equipment and services necessary to
73 develop and implement online procurement and reverse auctions.

74 (b) The department shall adopt rules to administer the
75 program for online procurement and reverse auctions. The rules
76 must include, but not be limited to:

77 1. Determining the requirements and qualification criteria
78 for prequalifying vendors.

79 2. Establishing the procedures for conducting online
80 procurement and reverse auction events.

81 3. Establishing the criteria for eligible commodities and
82 contractual services.

83 4. Establishing the procedures for providing access to
84 online procurement and reverse auction events.

85 5. Determining the criteria warranting any exceptions to
86 participation in the online procurement program and reverse
87 auctions.

3-00643-15

2015574__

88 (c) The department may impose and shall collect all fees
89 for the use of the online procurement systems and reverse
90 auctions.

91 1. The fees may be imposed on an individual transaction
92 basis or as a fixed percentage of the cost savings generated. At
93 a minimum, the fees must be set in an amount sufficient to cover
94 the projected costs of the services, including administrative
95 and project service costs in accordance with the policies of the
96 department.

97 2. If the department contracts with a provider for online
98 procurement or for management of a website that administers
99 reverse auctions, the department, pursuant to appropriation,
100 shall compensate the provider from the fees after the department
101 has satisfied all ongoing costs. The provider shall report
102 transaction data to the department each month so that the
103 department may determine the amount due and payable to the
104 department from each vendor.

105 3. All fees that are due and payable to the state on a
106 transactional basis or as a fixed percentage of the cost savings
107 generated are subject to s. 215.31 and must be remitted within
108 40 days after receipt of payment for which the fees are due. For
109 fees that are not remitted within 40 days, the vendor shall pay
110 interest at the rate established under s. 55.03(1) on the unpaid
111 balance from the expiration of the 40-day period until the fees
112 are remitted.

113 4. All fees and surcharges collected under this paragraph
114 shall be deposited in the Operating Trust Fund as provided by
115 law.

116 Section 3. Subsection (42) of section 570.07, Florida

3-00643-15

2015574__

117 Statutes, is amended to read:

118 570.07 Department of Agriculture and Consumer Services;
119 functions, powers, and duties.—The department shall have and
120 exercise the following functions, powers, and duties:

121 (42) Notwithstanding the provisions of s. 287.057(22) that
122 require all agencies to use the online procurement program or
123 reverse auctions ~~system~~ developed by the Department of
124 Management Services, the department may continue to use its own
125 online system. However, vendors using ~~utilizing~~ such system are
126 ~~shall be~~ prequalified as meeting mandatory requirements and
127 qualifications and shall remit fees pursuant to s. 287.057(22),
128 and any rules implementing s. 287.057.

129 Section 4. Subsection (1) of section 1006.27, Florida
130 Statutes, is amended to read:

131 1006.27 Pooling of school buses and related purchases by
132 district school boards; transportation services contracts.—

133 (1) The department shall assist district school boards in
134 securing school buses, contractual needs, equipment, and
135 supplies at as reasonable prices as possible by providing a plan
136 under which district school boards may voluntarily pool their
137 bids for such purchases. The department shall prepare bid forms
138 and specifications, obtain quotations of prices and make such
139 information available to district school boards in order to
140 facilitate this service. The service may also include the use of
141 reverse auctions as defined in s. 287.012 or other online
142 procurement programs. District school boards from time to time,
143 as prescribed by State Board of Education rule, shall furnish
144 the department with information concerning the prices paid for
145 such items and the department shall furnish to district school

3-00643-15

2015574__

146 boards periodic information concerning the lowest prices at
147 which school buses, equipment, and related supplies are
148 available based upon comparable specifications. The State Board
149 of Education shall adopt rules establishing procedures for the
150 use of reverse auctions or other online procurement programs by
151 district school boards.

152 Section 5. Paragraph (b) of subsection (4) of section
153 1010.04, Florida Statutes, is amended to read:

154 1010.04 Purchasing.—

155 (4)

156 (b) The Board of Governors may, by regulation, provide for
157 alternative procedures, including reverse auctions as defined in
158 s. 287.012 or other online procurement programs, for state
159 universities for bidding or purchasing in cases in which the
160 character of the item requested renders competitive bidding
161 impractical.

162 Section 6. Paragraph (g) of subsection (3) of s. 120.57 and
163 subsection (3) of s. 283.33, Florida Statutes, are reenacted for
164 the purpose of incorporating the amendments made by this act to
165 s. 287.012, Florida Statutes, in references thereto.

166 Section 7. Paragraph (e) of subsection (6) of s. 627.351,
167 Florida Statutes, is reenacted for the purpose of incorporating
168 the amendments made by this act to s. 287.057, Florida Statutes,
169 in a reference thereto.

170 Section 8. This act shall take effect July 1, 2015.