

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Agriculture, Environment, and General Government

BILL: PCS/CS/SB 954 (351370)

INTRODUCER: Appropriations Subcommittee on Agriculture, Environment, and General Government; Governmental Oversight and Accountability Committee; and Senator Brodeur and others

SUBJECT: Energy

DATE: February 18, 2022 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Limonas-Borja</u>	<u>McVaney</u>	<u>GO</u>	<u>Fav/CS</u>
2.	<u>Davis</u>	<u>Betta</u>	<u>AEG</u>	<u>Recommend: Fav/CS</u>
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 954 revises the vehicle procurement requirements for the state purchasing plan. Specifically, the bill requires vehicles of a given use class be selected for procurement based on the lowest lifetime ownership costs, including costs for fuel, operations, and maintenance, rather than based on the greatest fuel efficiency available when fuel economy data is available.

The bill also removes current requirements placed on state agencies to use ethanol and biodiesel fuel when available and on certain entities to procure biofuels for fleet when possible.

The bill requires the DMS, by July 1, 2023, to make recommendations regarding the procurement of electric vehicles and natural gas fuel vehicles and the best practices for integrating these vehicles into existing fleets.

The bill expands the definition of single-trade inspection for purposes of building code inspection services to include inspections of the installation of electric vehicle charging stations and solar energy and energy storage installations or alterations.

The impact on state revenues and expenditures is unknown at this time. The bill is not expected to impact local government revenues or expenditures.

The bill takes effect July 1, 2022.

II. Present Situation:

Procurement of Commodities or Contractual Services

Chapter 287, F.S., specifies the procedures for the procurement of commodities or contractual services. The DMS oversees state purchasing activity, including professional and contractual services, as well as commodities needed to support agency activities.¹ The DMS establishes purchasing agreements and procures state term contracts for commodities and contractual services, and establishes uniform procurement policies, rules, and procedures.² The DMS negotiates contracts and purchasing agreements that are intended to leverage the state's buying power. The DMS is directed to consider the life-cycle cost of commodities when purchased by the state.³ Section 287.83, F.S., authorizes the DMS to establish energy-efficiency standards for major energy-consuming products.

State agencies may use a variety of procurement methods, depending on the cost and characteristics of the needed good or service, the complexity of the procurement, and the number of available vendors. These methods include the following:

- Single source contracts,⁴ used when an agency determines that only one vendor is available to provide a commodity or service at the time of purchase;
- Invitations to bid,⁵ used when an agency determines that standard services or goods will meet needs, wide competition is available and the vendor's experience will not greatly influence the agency's results;
- Requests for proposals,⁶ used when the procurement requirements allow for consideration of various solutions and the agency believes more than two or three vendors exist who can provide the required goods or services; and
- Invitations to negotiate,⁷ used when negotiations are determined to be necessary to obtain the best value and involve a request for highly complex, customized, mission-critical services, by an agency dealing with a limited number of vendors.

For procurement of commodities or contractual services in excess of \$35,000, agencies must use a competitive solicitation process.⁸ However, specified contractual services and commodities are not subject to competitive solicitation requirements.⁹

Climate-friendly Public Business

Section 286.29, F.S., requires state agencies:

¹ Sections 287.032 and 287.042, F.S.

² *Id.*; see Fla. Admin. Code, ch. 60A-1002.

³ Section 287.083(1), F.S.

⁴ Section 287.057(3)(c), F.S.

⁵ Section 287.057(1)(a), F.S.

⁶ Section 287.057(1)(b), F.S.

⁷ Section 287.057(1)(c), F.S.

⁸ Section 287.057(1), F.S.

⁹ Section 287.057(3)(e), F.S.

- To consult with the “Florida Climate-Friendly Preferred Products List,”¹⁰ in procuring products from state term contracts.¹¹ If the price is comparable, then they shall procure such products.¹²
- To contract only with hotels or conference facilities for meetings and conferences as recognized by the Green Lodging Program.^{13,14}
- To ensure vehicles meet minimum maintenance schedules shown to reduce fuel consumption and report such compliance to the DMS.¹⁵ When procuring new vehicles, to define the intended purpose for such vehicle which will then be chosen based on greatest fuel efficiency available for a given use class, when fuel economy data is available.¹⁶
- To use ethanol and biodiesel blended fuels when available.¹⁷
- That administer central fueling operations to procure biofuels for fleet, to the greatest extent practicable.¹⁸

Florida Building Codes

Part IV of ch. 553, F.S., is known as the “Florida Building Codes Act” (Building Code). The purpose and intent of the Building Code is to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The Building Code consists of a single set of documents that apply to the design, construction, erection, alteration, modification, repair or demolition of public or private buildings, structures, or facilities in Florida. The Building Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction.¹⁹

Contractors and property owners are permitted to hire licensed Building Code administrators, engineers, and architects, referred to as private providers, to review building plans, perform building inspections, and prepare certificates of completion.²⁰ A private provider and any duly

¹⁰ The Department of Management Services (DMS) keeps a Florida Climate-Friendly Preferred Products List at https://www.dms.myflorida.com/business_operations/state_purchasing/state_contracts_and_agreements/florida_climate_friendly_preferred_products_list, (last visited Feb. 7, 2022).

¹¹ Section 286.29(1), F.S.

¹² *Id.*

¹³ The Florida Department of Environmental Protection designates and recognizes lodging facilities that make a commitment to conserve and protect Florida's natural resources through the Florida Green Lodging Program. To become designated, facilities must conduct a thorough property assessment and implement a specified number of environmental practices in five areas of sustainable operations: (1) waste reduction, reuse and recycling; (2) water conservation; (3) energy efficiency; (4) indoor air quality; and (5) communication and education with customers, employees, and the public. See Green Lodging, <https://floridadep.gov/osi/green-lodging/content/about-florida-green-lodging-program> (last visited Feb. 7, 2022).

¹⁴ Section 286.29(2), F.S.

¹⁵ Section 286.29(3), F.S., requires state agencies to report compliance to the DMS through the Equipment Management Information System database. The DMS is implementing a new Statewide Fleet Management Information System that can be used to manage cost information and reports to ensure the effective and efficient use, operation, maintenance, repair, and replacement of motor vehicles, watercraft, and aircraft. See Fleet Management Information System, https://www.dms.myflorida.com/business_operations/fleet_management_and_federal_property_assistance/fleet_management/fleet_management_information_system (last visited Feb. 7, 2022).

¹⁶ *Id.*

¹⁷ Section 286.29(5), F.S.

¹⁸ *Id.*

¹⁹ Section 553.72(1), F.S.

²⁰ Section 553.791, F.S.

authorized representative may only perform building code inspection services that are set forth in statute, including single-trade inspections. A “single-trade inspection” is defined:

any inspection focused on a single construction trade, such as plumbing, mechanical, or electrical. The term includes, but is not limited to, inspections of door or window replacements; fences and block walls more than 6 feet high from the top of the wall to the bottom of the footing; stucco or plastering; reroofing with no structural alteration; HVAC replacements; ductwork or fan replacements; alteration or installation of wiring, lighting, and service panels; water heater changeouts; sink replacements; and repiping.²¹

A private provider cannot provide building code inspection services to any building designed or constructed by the private provider or the private provider’s firm.²² A fee owner or the fee owner’s contractor using a private provider to provide building code inspection services must notify the local building official in writing that a private provider has been contracted to perform the required inspections of construction, including single-trade inspections.²³ If the fee owner or the fee owner’s contractor makes any changes to the listed private providers or the services to be provided by such private providers the fee owner’s contractors must update the notice to reflect such changes.²⁴

III. Effect of Proposed Changes:

Section 1 amends s. 286.29, F.S., to require vehicles of a given use class be selected for procurement based on the lowest lifetime ownership costs, including costs for fuel, operations, and maintenance, rather than based on the greatest fuel efficiency available when fuel economy data is available. The section deletes the current law requirements on state agencies to use ethanol and biodiesel fuel when available. It also removes the requirement that state agencies administering central fueling operations for state-owned vehicles must procure biofuels for fleet needs to the greatest extent practicable.

Section 2 requires the DMS to make recommendations before July 1, 2023, to state agencies, including state colleges and universities, and local governments regarding the procurement of electric vehicles and natural gas fuel vehicles and the best practices for integrating those vehicles into existing fleets.

Section 3 amends s. 553.791, F.S., to expand the definition of “single-trade inspection” to include the inspection of an installation of electric vehicle charging stations and solar energy and energy storage installations or alterations.

Section 4 provides the bill takes effect July 1, 2022.

²¹ *Id.*

²² *Id.*

²³ Section 553.791(4), F.S.

²⁴ *Id.*

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

Not applicable. The bill does not require counties or municipalities to take action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The impact on state revenues and expenditures is unknown at this time. The DMS states that modifications, including a possible configuration in the Fleet Management Information System (FleetWave system), will need to be made to capture information needed to make recommendations.²⁵ The bill is not expected to impact local government revenues or expenditures.

VI. Technical Deficiencies:

None.

²⁵ See DMS, *2022 Agency Legislative Bill Analysis for SB 954*, at p. 4 (Dec. 2, 2021)(on file with the Senate Appropriations Subcommittee on Agriculture, Environment, and General Government).

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 286.29 and 553.791 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

Recommended CS by Appropriations Subcommittee on Agriculture, Environment, and General Government on February 16, 2022:

The committee substitute:

- Requires state agencies rather than the DMS, to procure vehicles based on the lowest lifetime ownership costs, including costs for fuel, operations, and maintenance;
- Eliminates the provision in the bill that requires the DMS to procure vehicles based on certain criteria over five years, rank vehicles based on the lowest cost of ownership over five years, and publish the rankings on its website; and.
- Requires the DMS to include natural gas fuel vehicles in its recommendation regarding procurement and integration.

CS by Governmental Oversight and Accountability on January 13, 2022:

The committee substitute does the following:

- Specifies that the DMS must procure vehicles based on the lowest lifetime ownership cost over five years.
- Requires the DMS to rank their vehicles annually based on the lowest lifetime ownership cost of five years, and then publish the rankings on its website.
- Requires that any vehicle purchased under the state's purchasing plan that is a sedan or light truck be ranked in the top five of the DMS's rankings.
 - Allows for exceptions to be made if approved by the secretary of the DMS and the secretary states the reason for the exemption.
- Exempts law enforcement from the top-five ranking requirement.

B. Amendments:

None.