

By Senator Collins

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1 A bill to be entitled
2 An act relating to the Department of Management
3 Services; amending s. 110.205, F.S.; providing that
4 certain positions are exempt from the Career Service
5 System; requiring the department to establish the
6 salary and benefits for such positions; revising the
7 definition of the term "department"; amending s.
8 110.211, F.S.; providing an exception to certain open
9 competition requirements for positions filled by
10 specified apprentices; amending s. 217.07, F.S.;
11 providing that funds held in the Surplus Property
12 Revolving Trust Fund account may be used only for
13 certain operating expenses of the Federal Surplus
14 Personal Property Donation Program; creating s.
15 217.22, F.S.; providing that certain entities are
16 exempt from a specified sales tax on the sale or
17 transfer of personal property through the Federal
18 Surplus Personal Property Donation Program; amending
19 s. 287.012, F.S.; defining the term "aircraft";
20 amending s. 287.057, F.S.; exempting aircraft
21 maintenance, repairs, modifications, systems, parts,
22 and other related components from specified
23 competitive-solicitation requirements; revising the
24 number of years of experience managing specified
25 contracts which are required for certain contract
26 managers; making a technical change; amending s.
27 287.084, F.S.; providing that a vendor is deemed to
28 have its principal place of business in this state if
29 it meets certain criteria; requiring agencies to

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30 consider a specified price preference for bids and
31 proposals for certain competitive solicitations from
32 vendors with their principal places of business in
33 this state; requiring agencies to disclose such
34 preference in the stated goals of an invitation to
35 negotiate to determine best value; providing an order
36 of preference when two or more bids, proposals, or
37 replies from such vendors are received for certain
38 competitive solicitations; prohibiting such vendors
39 from substituting end products that would otherwise
40 not qualify for a certain preference after award or
41 during the contract term unless specified conditions
42 exist; requiring agencies to consider a specified
43 price preference for bids and proposals for certain
44 competitive solicitations from vendors that have their
45 principal places of business in the United States;
46 requiring agencies to disclose a certain preference
47 for such vendors in the stated goals of an invitation
48 to negotiate to determine best value; providing
49 construction; providing an order of preference when
50 two or more bids, proposals, or replies from such
51 vendors are received for certain competitive
52 solicitations; prohibiting such vendors from
53 substituting end products that would otherwise not
54 qualify for a certain preference after award or during
55 the contract term unless specified conditions exist;
56 providing applicability; authorizing agencies to apply
57 a preference upon receipt and review of documentation
58 from the vendor that its supply chain does not use

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59 child or forced labor; revising applicability;
60 creating s. 287.0841, F.S.; requiring agencies to
61 consider a price preference for bids and proposals
62 from vendors that have obtained investments from the
63 Florida Venture Capital Program; providing an
64 effective date.

65

66 Be It Enacted by the Legislature of the State of Florida:

67

68 Section 1. Paragraph (n) of subsection (2) and subsection
69 (4) of section 110.205, Florida Statutes, are amended, and
70 paragraphs (y), (z), and (aa) are added to subsection (2) of
71 that section, to read:

72 110.205 Career service; exemptions.—

73 (2) EXEMPT POSITIONS.—The exempt positions that are not
74 covered by this part include the following:

75 (n)1.a. In addition to those positions exempted by other
76 paragraphs of this subsection, each department head may
77 designate a maximum of 20 policymaking or managerial positions,
78 as defined by the department and approved by the Administration
79 Commission, as being exempt from the Career Service System.
80 Career service employees who occupy a position designated as a
81 position in the Selected Exempt Service under this paragraph
82 shall have the right to remain in the Career Service System by
83 opting to serve in a position not exempted by the employing
84 agency. Unless otherwise fixed by law, the department shall set
85 the salary and benefits of these positions in accordance with
86 the rules of the Selected Exempt Service; ~~provided, however,~~
87 ~~that if the agency head determines that the general counsel,~~

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~~chief Cabinet aide, public information administrator or comparable position for a Cabinet officer, inspector general, or legislative affairs director has both policymaking and managerial responsibilities and if the department determines that any such position has both policymaking and managerial responsibilities, the salary and benefits for each such position shall be established by the department in accordance with the rules of the Senior Management Service.~~

b. In addition, each department may designate one additional position in the Senior Management Service if that position reports directly to the agency head or to a position in the Senior Management Service and if any additional costs are absorbed from the existing budget of that department.

2. If otherwise exempt, employees of the Public Employees Relations Commission, the Commission on Human Relations, and the Reemployment Assistance Appeals Commission, upon the certification of their respective commission heads, may be provided for under this paragraph as members of the Senior Management Service, if otherwise qualified. However, the deputy general counsel of the Public Employees Relations Commission shall be compensated as members of the Selected Exempt Service.

(y) The general counsel, chief or senior Cabinet aide, public information administrator, communications director or comparable position, inspector general, chief information officer, agency information security manager designated pursuant to s. 282.318(4) (a), and legislative affairs director of each department. The department shall establish the salary and benefits for each such position in accordance with the rules of the Senior Management Service.

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117 (z) Personnel employed by or reporting to the inspector
118 general, general counsel, state chief information security
119 officer, state chief data officer, and agency information
120 security manager designated pursuant to s. 282.318(4) (a). Unless
121 otherwise fixed by law, the department shall establish the
122 salary and benefits for these positions in accordance with the
123 rules of the Selected Exempt Service.

124 (aa) All actuaries at each department. Unless otherwise
125 fixed by law, the department shall establish the salaries and
126 benefits for these positions in accordance with the rules of the
127 Selected Exempt Service.

128 (4) DEFINITION OF DEPARTMENT.—When used in this section,
129 the term “department” shall mean all departments and commissions
130 of the executive branch, whether created by the State
131 Constitution or chapter 20; the office of the Governor; the
132 Office of Insurance Regulation of the Financial Services
133 Commission; the Office of Financial Regulation of the Financial
134 Services Commission; the Florida Gaming Control Commission; the
135 Division of Administrative Hearings; the Commission on Offender
136 Review; the Florida Commission on Human Relations; the Public
137 Employees Relations Commission; and the Public Service
138 Commission; however, the term “department” shall mean the
139 Department of Management Services when used in the context of
140 the authority to establish pay bands and benefits.

141 Section 2. Subsection (1) of section 110.211, Florida
142 Statutes, is amended to read:

143 110.211 Recruitment.—

144 (1) Recruiting must ~~shall~~ be planned and carried out in a
145 manner that assures open competition based upon current and

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146 projected employing agency needs, taking into consideration the
147 number and types of positions to be filled and the labor market
148 conditions, with special emphasis placed on recruiting efforts
149 to attract minorities, women, or other groups ~~that are~~
150 underrepresented in the workforce of the employing agency.
151 However, open competition is not required when an employing
152 agency is filling a position with an apprentice participating in
153 an apprenticeship program as defined in s. 446.021(6) in a
154 related field.

155 Section 3. Section 217.07, Florida Statutes, is amended to
156 read:

157 217.07 Transfer of surplus property assets to department.—
158 The Chief Financial Officer is authorized to transfer to the
159 department any funds unexpended in the Surplus Property
160 Revolving Trust Fund account in the State Treasury. This
161 revolving fund shall remain in existence as a separate trust
162 fund as long as the surplus property program exists. Upon
163 termination of the program, any remaining funds shall be
164 disposed of as provided by federal law. All funds held in the
165 Surplus Property Revolving Trust Fund account in the State
166 Treasury generated by the Federal Surplus Personal Property
167 Donation Program may be used only for the direct and indirect
168 operating expenses of the Federal Surplus Personal Property
169 Donation Program administered by the department.

170 Section 4. Section 217.22, Florida Statutes, is created to
171 read:

172 217.22 Exemption from sales tax on donated personal
173 property.—Notwithstanding chapter 212, regarding taxes on the
174 sale of personal property, eligible United States Small Business

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175 Administration-approved veteran-owned small businesses, service-
176 disabled veteran-owned small businesses or businesses which
177 participate in the United States Small Business Administration
178 business development program, and other entities eligible to
179 receive a distribution under the Federal Surplus Personal
180 Property Donation Program are exempt from sales tax otherwise
181 assessed pursuant to chapter 212 on any costs, charges, or fees
182 assessed in connection with the transfer of personal property
183 through the Federal Surplus Personal Property Donation Program.

184 Section 5. Present subsections (3) through (29) of section
185 287.012, Florida Statutes, are redesignated as subsections (4)
186 through (30), respectively, and a new subsection (3) is added to
187 that section, to read:

188 287.012 Definitions.—As used in this part, the term:

189 (3) "Aircraft" means an airplane, a helicopter, or other
190 machine capable of flight. The term does not include unmanned
191 aircraft systems as defined in s. 330.41 or drones as defined in
192 s. 934.50.

193 Section 6. Paragraph (e) of subsection (3) and paragraph
194 (d) of subsection (15) of section 287.057, Florida Statutes, are
195 amended to read:

196 287.057 Procurement of commodities or contractual
197 services.—

198 (3) If the purchase price of commodities or contractual
199 services exceeds the threshold amount provided in s. 287.017 for
200 CATEGORY TWO, purchase of commodities or contractual services
201 may not be made without receiving competitive sealed bids,
202 competitive sealed proposals, or competitive sealed replies
203 unless:

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204 (e) The following contractual services and commodities are
205 not subject to the competitive-solicitation requirements of this
206 section:

207 1. Artistic services. As used in this subsection, the term
208 "artistic services" does not include advertising or typesetting.
209 As used in this subparagraph, the term "advertising" means the
210 making of a representation in any form in connection with a
211 trade, business, craft, or profession in order to promote the
212 supply of commodities or services by the person promoting the
213 commodities or contractual services.

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

216 3. Lectures by individuals.

217 4. Legal services, including attorney, paralegal, expert
218 witness, appraisal, or mediator services.

219 5. Health services involving examination, diagnosis,
220 treatment, prevention, medical consultation, or administration.
221 The term also includes, but is not limited to, substance abuse
222 and mental health services involving examination, diagnosis,
223 treatment, prevention, or medical consultation if such services
224 are offered to eligible individuals participating in a specific
225 program that qualifies multiple providers and uses a standard
226 payment methodology. Reimbursement of administrative costs for
227 providers of services purchased in this manner are also exempt.
228 For purposes of this subparagraph, the term "providers" means
229 health professionals and health facilities, or organizations
230 that deliver or arrange for the delivery of health services.

231 6. Services provided to persons with mental or physical
232 disabilities by not-for-profit corporations that have obtained

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233 exemptions under s. 501(c)(3) of the United States Internal
234 Revenue Code or when such services are governed by Office of
235 Management and Budget Circular A-122. However, in acquiring such
236 services, the agency shall consider the ability of the vendor,
237 past performance, willingness to meet time requirements, and
238 price.

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

241 8. Family placement services.

242 9. Prevention services related to mental health, including
243 drug abuse prevention programs, child abuse prevention programs,
244 and shelters for runaways, operated by not-for-profit
245 corporations. However, in acquiring such services, the agency
246 shall consider the ability of the vendor, past performance,
247 willingness to meet time requirements, and price.

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

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

251 12. Services or commodities provided by governmental
252 entities.

253 13. Statewide public service announcement programs provided
254 by a Florida statewide nonprofit corporation under s. 501(c)(6)
255 of the Internal Revenue Code which have a guaranteed documented
256 match of at least \$3 to \$1.

257 14. Aircraft maintenance, repairs, modifications, systems,
258 parts, and other related components.

259 (15)

260 (d) Each contract manager who is responsible for contracts
261 in excess of \$10 million annually must, in addition to the

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262 training required in paragraph (b) and the training and
263 certification required in paragraph (c), possess at least 3 ~~5~~
264 years of experience managing contracts totaling at least ~~in~~
265 ~~excess of~~ \$5 million annually.

266 Section 7. Section 287.084, Florida Statutes, is amended to
267 read:

268 287.084 Preference to Florida businesses.-

269 (1) For the purposes of this section, a vendor is deemed to
270 have its principal place of business in this state if the vendor
271 meets all of the following criteria:

272 (a) Is incorporated in this state as a Florida business
273 entity, not a foreign business entity, excluding cases in which
274 incorporation is used to do business on behalf of a parent
275 company or to benefit an owner outside of this state ~~When an~~
276 ~~agency, university, college, school district, or other political~~
277 ~~subdivision of the state is required to make purchases of~~
278 ~~personal property through competitive solicitation and the~~
279 ~~lowest responsible and responsive bid, proposal, or reply is by~~
280 ~~a vendor whose principal place of business is in a state or~~
281 ~~political subdivision thereof which grants a preference for the~~
282 ~~purchase of such personal property to a person whose principal~~
283 ~~place of business is in such state, then the agency, university,~~
284 ~~college, school district, or other political subdivision of this~~
285 ~~state shall award a preference to the lowest responsible and~~
286 ~~responsive vendor having a principal place of business within~~
287 ~~this state, which preference is equal to the preference granted~~
288 ~~by the state or political subdivision thereof in which the~~
289 ~~lowest responsible and responsive vendor has its principal place~~
290 ~~of business. In a competitive solicitation in which the lowest~~

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291 ~~bid is submitted by a vendor whose principal place of business~~
292 ~~is located outside the state and that state does not grant a~~
293 ~~preference in competitive solicitation to vendors having a~~
294 ~~principal place of business in that state, the preference to the~~
295 ~~lowest responsible and responsive vendor having a principal~~
296 ~~place of business in this state shall be 5 percent.~~

297 (b) Maintains a physical location in this state Paragraph
298 ~~(a) does not apply to transportation projects for which federal~~
299 ~~aid funds are available.~~

300 (c) More than 50 percent of its workforce is domiciled in
301 ~~As used in this section, the term "other political subdivision~~
302 ~~of this state" does not include counties or municipalities.~~

303 (2) For all competitive solicitations for contracts for
304 commodities and contractual services with an annual value in
305 excess of the threshold amount for CATEGORY TWO in s. 287.017,
306 an agency shall consider a price preference for bids and
307 proposals for vendors with a principal place of business in this
308 state. For competitive solicitations pursuant to s.
309 287.057(1)(c), an agency shall consider a preference for vendors
310 with a principal place of business in this state and shall
311 disclose this preference in the stated goals of an invitation to
312 negotiate in order to determine best value ~~A vendor whose~~
313 ~~principal place of business is outside this state must accompany~~
314 ~~any written bid, proposal, or reply documents with a written~~
315 ~~opinion of an attorney at law licensed to practice law in that~~
316 ~~foreign state, as to the preferences, if any or none, granted by~~
317 ~~the law of that state to its own business entities whose~~
318 ~~principal places of business are in that foreign state in the~~
319 ~~letting of any or all public contracts.~~

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320 (3) When two or more bids, proposals, or replies for
321 competitive solicitations for contracts for commodities and
322 contractual services are submitted by vendors whose principal
323 places of business are in this state, and when all things stated
324 in such bids, proposals, or replies are equal with respect to
325 price, quality, and service, the following preferences must be
326 granted in the following order:

327 (a) To a vendor whose goods are manufactured and assembled
328 in their entirety in this state. A vendor may not substitute end
329 products that would otherwise not qualify for this preference
330 after award of the contract or during the contract term unless
331 pricing or availability of supply is affected by extreme and
332 unforeseen volatility in the marketplace.

333 (b) To a vendor that manufactures a larger percentage of
334 its goods in this state.

335 (c) To a vendor that employs the greater number of
336 individuals domiciled in this state.

337 (4) For all competitive solicitations for contracts for
338 commodities and contractual services with an annual value in
339 excess of the threshold amount for CATEGORY TWO in s. 287.017,
340 an agency shall consider a price preference for bids and
341 proposals for vendors with a principal place of business in the
342 United States. For competitive solicitations pursuant to s.
343 287.057(1)(c), an agency shall consider a preference for vendors
344 with a principal place of business in the United States and
345 shall disclose this preference in the stated goals of an
346 invitation to negotiate in order to determine best value. For
347 vendors with a principal place of business in this state, this
348 preference must be calculated after the preference provided in

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349 subsection (2).

350 (5) When two or more bids, proposals, or replies for
351 competitive solicitations for contracts for commodities and
352 contractual services are submitted by vendors whose principal
353 places of business are in the United States, and when all things
354 stated in such bids, proposals, or replies are equal with
355 respect to price, quality, and service, the following
356 preferences must be granted in the following order:

357 (a) To a vendor whose goods are manufactured and assembled
358 in their entirety in the United States. A vendor may not
359 substitute end products that would otherwise not qualify for
360 this preference after award of the contract or during the
361 contract term unless pricing or availability of supply is
362 affected by extreme and unforeseen volatility in the
363 marketplace.

364 (b) To a vendor that manufactures a larger percentage of
365 its goods in the United States.

366 (c) To a vendor that employs the greater number of
367 individuals domiciled in the United States.

368 (6) Preferences applied under this section have precedence
369 over those applied pursuant to s. 287.092.

370 (7) An agency may also apply a preference upon receipt and
371 review of documentation submitted by a vendor establishing that
372 the vendor's supply chain does not produce commodities resulting
373 from the use of child or forced labor as those terms are defined
374 by the Bureau of International Labor Affairs of the United
375 States Department of Labor.

376 (8)~~(a)~~ A vendor whose principal place of business is in
377 this state may not be precluded from being an authorized

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378 reseller of information technology commodities of a state
379 contractor as long as the vendor demonstrates that it employs an
380 internationally recognized quality management system, such as
381 ISO 9001 or its equivalent, and provides a warranty on the
382 information technology commodities which is, at a minimum, of
383 equal scope and length as that of the contract.

384 (9) ~~(b)~~ This section subsection applies to any solicitation
385 or renewal of any state contract executed on or after September
386 1, 2024 July 1, 2012. However, the preferences in this section
387 do not apply to transportation projects for which federal funds
388 are available.

389 Section 8. Section 287.0841, Florida Statutes, is created
390 to read:

391 287.0841 Florida Venture Capital Program preference.-In
392 addition to the preferences considered in s. 287.084, for all
393 competitive solicitations for contracts for commodities and
394 contractual services with an annual value in excess of the
395 threshold amount for CATEGORY TWO in s. 287.017, an agency must
396 consider a price preference for bids and proposals for vendors
397 that have obtained investments from the Florida Venture Capital
398 Program provided by the Florida Opportunity Fund pursuant to s.
399 288.9624.

400 Section 9. This act shall take effect July 1, 2024.