

1 A bill to be entitled
2 An act relating to state-owned or state-leased space;
3 amending s. 216.0152, F.S.; revising provisions
4 relating to the update of an inventory of certain
5 facilities needing repairs or innovation maintained by
6 the Department of Management Services; revising
7 provisions relating to a report detailing an inventory
8 of state-owned facilities; amending s. 253.031, F.S.;
9 clarifying that deeds may be signed by agents of the
10 Board of Trustees of the Internal Improvement Trust
11 Fund; amending s. 253.034, F.S.; revising provisions
12 relating to decisions by the board to surplus lands;
13 revising the valuation of lands that are subject to
14 certain requirements; requiring state entities to
15 submit a business plan if a building or parcel is
16 offered for use to the entity; amending s. 255.248,
17 F.S.; defining the terms "managing agency" and "tenant
18 broker"; amending s. 255.249, F.S.; revising the
19 responsibilities of the Department of Management
20 Services with respect to state-owned buildings;
21 prohibiting a state agency from leasing space in a
22 private building under certain circumstances;
23 requiring an agency to notify the department of an
24 early termination of a lease within a certain
25 timeframe; authorizing the department to direct state
26 agencies to occupy space in a state-owned building;
27 authorizing the department to implement renovations in
28 order to more efficiently use state-owned buildings;

29 | revising the contents of the master leasing report;
 30 | authorizing state agencies to use the services of a
 31 | tenant broker to provide certain information to the
 32 | department; requiring the title entity or managing
 33 | agency to report any vacant or underutilized space to
 34 | the department; authorizing the department to adopt
 35 | additional rules; amending s. 255.25, F.S.; deleting
 36 | an exemption that allows an agency to negotiate a
 37 | replacement lease under certain circumstances;
 38 | requiring a state agency to use a tenant broker to
 39 | assist with lease actions; amending s. 255.252, F.S.;
 40 | specifying that a vendor for certain energy efficiency
 41 | contracts must be selected in accordance with state
 42 | procurement requirements; amending s. 255.254, F.S.;
 43 | revising provisions relating to requirements for
 44 | energy performance analysis for certain buildings;
 45 | amending 255.257, F.S.; requiring all state-owned
 46 | facilities to report energy consumption and cost data;
 47 | amending ss. 110.171 and 985.682, F.S.; conforming
 48 | cross-references; providing effective dates.

49 |

50 | Be It Enacted by the Legislature of the State of Florida:

51 |

52 | Section 1. Section 216.0152, Florida Statutes, is amended
 53 | to read:

54 | 216.0152 Inventory of state-owned facilities or state-
 55 | occupied facilities.—

56 | (1) The Department of Management Services shall develop

57 | and maintain an automated inventory of all facilities owned,
58 | leased, rented, or otherwise occupied or maintained by a state
59 | ~~any agency of the state~~, the judicial branch, or the water
60 | management districts. The inventory data shall be provided
61 | annually by July 1 by the owning or operating agency in a format
62 | prescribed by the department and must ~~shall~~ include the
63 | location, occupying agency, ownership, size, condition
64 | assessment, valuations, operating costs, maintenance record,
65 | age, parking and employee facilities, building uses, full-time
66 | equivalent occupancy, known restrictions or historic
67 | designations, leases or subleases, associated revenues, and
68 | other information as required by ~~in a~~ rule adopted by the
69 | department. The department shall use this data for determining
70 | maintenance needs, conducting strategic analyses, including, but
71 | not limited to, analyzing and identifying candidates for
72 | surplus, valuation, and disposition, and life-cycle cost
73 | evaluations of the facility. ~~Inventory data shall be provided to~~
74 | ~~the department on or before July 1 of each year by the owning or~~
75 | ~~operating agency in a format prescribed by the department.~~ The
76 | inventory need not include a condition assessment or maintenance
77 | record of facilities not owned by a state agency, the judicial
78 | branch, or a water management district. The term "facility," as
79 | used in this section, means buildings, structures, and building
80 | systems, but does not include transportation facilities of the
81 | state transportation system.

82 | (a) For reporting purposes, the Department of
83 | Transportation shall develop and maintain an inventory of the
84 | transportation facilities of the state transportation system.

85 The Department of Transportation shall also identify and dispose
 86 of surplus property pursuant to ss. 337.25 and 339.04.

87 (b) The Board of Governors of the State University System
 88 and the Department of Education, respectively, shall develop and
 89 maintain an inventory, in the manner prescribed by the
 90 Department of Management Services, of all state university and
 91 community college facilities and, by July 1 of each year,
 92 provide this inventory ~~shall make the data available~~ in a format
 93 acceptable to the Department of Management Services. ~~By March~~
 94 ~~15, 2011, the department shall adopt rules pursuant to ss.~~
 95 ~~120.536 and 120.54 to administer this section.~~

96 ~~(2) For the purpose of assessing needed repairs and~~
 97 ~~renovations of facilities, the Department of Management Services~~
 98 ~~shall update its inventory with condition information for~~
 99 ~~facilities of 3,000 square feet or more and cause to be updated~~
 100 ~~the other inventories required by subsection (1) at least once~~
 101 ~~every 5 years, but the inventories shall record acquisitions of~~
 102 ~~new facilities and significant changes in existing facilities as~~
 103 ~~they occur. The Department of Management Services shall provide~~
 104 ~~each agency and the judicial branch with the most recent~~
 105 ~~inventory applicable to that agency or to the judicial branch.~~
 106 ~~Each agency and the judicial branch shall, in the manner~~
 107 ~~prescribed by the Department of Management Services, report~~
 108 ~~significant changes in the inventory as they occur. Items~~
 109 ~~relating to the condition and life-cycle cost of a facility~~
 110 ~~shall be updated at least every 5 years.~~

111 (2)(3) The Department of Management Services and the
 112 Department of Environmental Protection shall, by October 1 of

113 each year, every 3 years, publish a complete report detailing
 114 the this inventory of all state-owned facilities, including the
 115 inventories of the Board of Governors of the State University
 116 System, the Department of Education, and the Department of
 117 Transportation, excluding the transportation facilities of the
 118 state transportation system. The annual report of state-owned
 119 real property recommended for disposition required under s.
 120 216.0153 must be included in this report and shall publish an
 121 annual update of the report. The department shall furnish the
 122 updated report to the Executive Office of the Governor and the
 123 Legislature no later than September 15 of each year.

124 (3) The Department of Management Services shall adopt
 125 rules to administer this section.

126 Section 2. Subsection (8) of section 253.031, Florida
 127 Statutes, is amended to read:

128 253.031 Land office; custody of documents concerning land;
 129 moneys; plats.—

130 (8) The board shall keep a suitable seal of office. An
 131 impression of this seal shall be made upon the deeds conveying
 132 lands sold by the state, by the Board of Education, and by the
 133 Board of Trustees of the Internal Improvement Trust Fund of this
 134 state; and all such deeds shall be ~~personally~~ signed by the
 135 ~~officers or trustees~~ or their agents as authorized under s.
 136 253.431, making the same and impressed with the said seal and
 137 are shall be operative and valid without witnesses to the
 138 execution thereof; and the impression of such seal on any such
 139 deeds entitles ~~shall entitle~~ the same to record and to be
 140 received in evidence in all courts.

141 Section 3. Subsections (6) and (15) of section 253.034,
 142 Florida Statutes, are amended to read:

143 253.034 State-owned lands; uses.—

144 (6) The Board of Trustees of the Internal Improvement
 145 Trust Fund shall determine which lands, the title to which is
 146 vested in the board, may be surplus. For conservation lands,
 147 the board shall determine whether ~~make a determination that~~ the
 148 lands are no longer needed for conservation purposes and may
 149 dispose of them by an affirmative vote of at least three
 150 members. In the case of a land exchange involving the
 151 disposition of conservation lands, the board must determine by
 152 an affirmative vote of at least three members that the exchange
 153 will result in a net positive conservation benefit. For all
 154 other lands, the board shall determine whether ~~make a~~
 155 ~~determination that~~ the lands are no longer needed and may
 156 dispose of them by an affirmative vote of at least three
 157 members.

158 (a) For the purposes of this subsection, all lands
 159 acquired by the state before ~~prior to~~ July 1, 1999, using
 160 proceeds from ~~the~~ Preservation 2000 bonds, the Conservation and
 161 Recreation Lands Trust Fund, the Water Management Lands Trust
 162 Fund, Environmentally Endangered Lands Program, and the Save Our
 163 Coast Program and titled to the board, ~~which lands~~ are
 164 identified as core parcels or within original project boundaries
 165 are, ~~shall be~~ deemed to have been acquired for conservation
 166 purposes.

167 (b) For any lands purchased by the state on or after July
 168 1, 1999, before ~~a determination shall be made by the board prior~~

169 ~~to~~ acquisition, the board must determine which ~~as to these~~
 170 parcels must ~~that shall~~ be designated as having been acquired
 171 for conservation purposes. ~~No~~ Lands acquired for use by the
 172 Department of Corrections, the Department of Management Services
 173 for use as state offices, the Department of Transportation,
 174 except those specifically managed for conservation or recreation
 175 purposes, or the State University System or the Florida
 176 Community College System may not ~~shall~~ be designated as having
 177 been purchased for conservation purposes.

178 (c) At least every 10 years, as a component of each land
 179 management plan or land use plan and in a form and manner
 180 prescribed by rule by the board, each manager shall evaluate and
 181 indicate to the board those lands that are not being used for
 182 the purpose for which they were originally leased. For
 183 conservation lands, the council shall review and ~~shall~~ recommend
 184 to the board whether such lands should be retained in public
 185 ownership or disposed of by the board. For nonconservation
 186 lands, the division shall review such lands and ~~shall~~ recommend
 187 to the board whether such lands should be retained in public
 188 ownership or disposed of by the board.

189 (d) Lands owned by the board which are not actively
 190 managed by any state agency or for which a land management plan
 191 has not been completed pursuant to subsection (5) must ~~shall~~ be
 192 reviewed by the council or its successor for its recommendation
 193 as to whether such lands should be disposed of by the board.

194 (e) Before ~~Prior to~~ any decision by the board to surplus
 195 lands, the Acquisition and Restoration Council shall review and
 196 make recommendations to the board concerning the request for

197 | surplus. The council shall determine whether the request for
 198 | surplus is compatible with the resource values of and
 199 | management objectives for such lands.

200 | (f) In reviewing lands owned by the board, the council
 201 | shall consider whether such lands would be more appropriately
 202 | owned or managed by the county or other unit of local government
 203 | in which the land is located. The council shall recommend to the
 204 | board whether a sale, lease, or other conveyance to a local
 205 | government would be in the best interests of the state and local
 206 | government. The provisions of this paragraph in no way limit the
 207 | provisions of ss. 253.111 and 253.115. Such lands shall be
 208 | offered to the state, county, or local government for a period
 209 | of 45 days. Permittable uses for such surplus lands may include
 210 | public schools; public libraries; fire or law enforcement
 211 | substations; governmental, judicial, or recreational centers;
 212 | and affordable housing meeting the criteria of s. 420.0004(3).
 213 | County or local government requests for surplus lands shall be
 214 | expedited throughout the surplus process. If the county or
 215 | local government does not elect to purchase such lands in
 216 | accordance with s. 253.111, ~~then~~ any surplus determination
 217 | involving other governmental agencies shall be made when ~~upon~~
 218 | the board decides ~~deciding~~ the best public use of the lands.
 219 | Surplus properties in which governmental agencies have expressed
 220 | no interest must ~~shall~~ then be available for sale on the private
 221 | market.

222 | (g) ~~1.~~ The sale price of lands determined to be surplus
 223 | pursuant to this subsection and s. 253.82 shall be determined by
 224 | the division, which shall consider ~~and shall take into~~

225 | ~~consideration~~ an appraisal of the property, or, if ~~when~~ the
 226 | estimated value of the land is \$500,000 or less ~~than \$100,000~~, a
 227 | comparable sales analysis or a broker's opinion of value. ~~If the~~
 228 | ~~appraisal referenced in this paragraph yields a value equal to~~
 229 | ~~or greater than \$1 million~~, The division, ~~in its sole~~
 230 | ~~discretion~~, may require a second appraisal. The individual or
 231 | entity that requests ~~requesting~~ to purchase the surplus parcel
 232 | shall pay all ~~appraisal~~ costs associated with determining the
 233 | property's value, if any.

234 | 1.2.a. A written valuation of land determined to be
 235 | surplus pursuant to this subsection and s. 253.82, and related
 236 | documents used to form the valuation or which pertain to the
 237 | valuation, are confidential and exempt from s. 119.07(1) and s.
 238 | 24(a), Art. I of the State Constitution.

239 | a.b. The exemption expires 2 weeks before the contract or
 240 | agreement regarding the purchase, exchange, or disposal of the
 241 | surplus land is first considered for approval by the board.

242 | b.c. ~~Prior to~~ expiration of the exemption, the
 243 | division may disclose confidential and exempt appraisals,
 244 | valuations, or valuation information regarding surplus land:

245 | (I) During negotiations for the sale or exchange of the
 246 | land.

247 | (II) During the marketing effort or bidding process
 248 | associated with the sale, disposal, or exchange of the land to
 249 | facilitate closure of such effort or process.

250 | (III) When the passage of time has made the conclusions of
 251 | value invalid.

252 | (IV) When negotiations or marketing efforts concerning the

253 land are concluded.

254 ~~2.3-~~ A unit of government that acquires title to lands
 255 hereunder for less than appraised value may not sell or transfer
 256 title to all or any portion of the lands to any private owner
 257 for ~~a period of~~ 10 years. Any unit of government seeking to
 258 transfer or sell lands pursuant to this paragraph must ~~shall~~
 259 first allow the board of trustees to reacquire such lands for
 260 the price at which the board sold such lands.

261 (h) Parcels with a market value over \$500,000 must be
 262 initially offered for sale by competitive bid. The division may
 263 use agents, as authorized by s. 253.431, for this process. Any
 264 parcels unsuccessfully offered for sale by competitive bid, and
 265 parcels with a market value of \$500,000 or less, may be sold by
 266 any reasonable means, including procuring real estate services,
 267 open or exclusive listings, competitive bid, auction, negotiated
 268 direct sales, or other appropriate services, to facilitate the
 269 sale.

270 ~~(i)-(h)~~ After reviewing the recommendations of the council,
 271 the board shall determine whether lands identified for surplus
 272 are to be held for other public purposes or ~~whether such lands~~
 273 are no longer needed. The board may require an agency to release
 274 its interest in such lands. A state ~~For an agency, county, or~~
 275 local government that has requested the use of a property that
 276 was to be declared as surplus, ~~said agency~~ must secure ~~have~~ the
 277 property under lease within 90 days ~~after being notified that it~~
 278 may use such property ~~6 months of the date of expiration of the~~
 279 ~~notice provisions required under this subsection and s. 253.111.~~

280 ~~(j)-(i)~~ Requests for surplusizing may be made by any public

281 or private entity or person. All requests shall be submitted to
 282 the lead managing agency for review and recommendation to the
 283 council or its successor. Lead managing agencies ~~shall~~ have 90
 284 days to review such requests and make recommendations. Any
 285 surplus requests that have not been acted upon within the 90-
 286 day time period shall be immediately scheduled for hearing at
 287 the next regularly scheduled meeting of the council or its
 288 successor. Requests for surplus pursuant to this paragraph
 289 are ~~shall~~ not be required to be offered to local or state
 290 governments as provided in paragraph (f).

291 (k) ~~(j)~~ Proceeds from any sale of surplus lands pursuant to
 292 this subsection shall be deposited into the fund from which such
 293 lands were acquired. However, if the fund from which the lands
 294 were originally acquired no longer exists, such proceeds shall
 295 be deposited into an appropriate account to be used for land
 296 management by the lead managing agency assigned the lands before
 297 ~~prior to~~ the lands were ~~being~~ declared surplus. Funds received
 298 from the sale of surplus nonconservation lands, or lands that
 299 were acquired by gift, by donation, or for no consideration,
 300 shall be deposited into the Internal Improvement Trust Fund.

301 (l) ~~(k)~~ Notwithstanding ~~the provisions of~~ this subsection,
 302 ~~no~~ such disposition of land may not ~~shall~~ be made if it ~~such~~
 303 ~~disposition~~ would have the effect of causing all or any portion
 304 of the interest on any revenue bonds issued to lose the
 305 exclusion from gross income for federal income tax purposes.

306 (m) ~~(l)~~ The sale of filled, formerly submerged land that
 307 does not exceed 5 acres in area is not subject to review by the
 308 council or its successor.

309 ~~(n)-(m)~~ The board may adopt rules to administer ~~implement~~
 310 ~~the provisions of~~ this section, which may include procedures for
 311 administering surplus land requests and criteria for when the
 312 division may approve requests to surplus nonconservation lands
 313 on behalf of the board.

314 (15) Before a building or parcel of land is offered for
 315 lease, sublease, or sale to a local or federal unit of
 316 government or a private party, it must ~~shall~~ first be offered
 317 for lease to state agencies, state universities, and community
 318 colleges, contingent upon the submission of a business plan for
 319 the proposed use of the building or parcel. Within 60 days after
 320 the offer of a surplus building or parcel, a state agency, state
 321 university, or Florida College System institution that requests
 322 the transfer of a surplus building or parcel must develop and
 323 submit a business plan for the proposed use of the building or
 324 parcel. The business plan must, at a minimum, include the
 325 proposed use, the cost of renovation, the replacement cost for a
 326 new building for the same proposed use, a capital improvement
 327 plan for the building, evidence that the building or parcel
 328 meets an existing need that cannot be otherwise met, and other
 329 criteria developed by rule by the department ~~with priority~~
 330 ~~consideration given to state universities and community~~
 331 ~~colleges. A state~~ agency, university, or Florida College System
 332 institution shall ~~community college must~~ submit its business a
 333 plan for review and approval by the Board of Trustees of the
 334 Internal Improvement Trust Fund or its designee regarding the
 335 intended use of the building or parcel of land before approval
 336 of a lease. The board or its designee shall compare the

337 appraised value of the building or parcel to any submitted
 338 business plan for proposed use of the building or parcel to
 339 determine if the transfer or sale is in the best interest of the
 340 state.

341 Section 4. Section 255.248, Florida Statutes, is amended
 342 to read:

343 255.248 Definitions; ~~ss. 255.249 and 255.25.~~—As used in
 344 this section and ss. 255.249-255.25 ~~255.249 and 255.25~~, the
 345 term:

346 (1) "Best leasing value" means the highest overall value
 347 to the state based on objective factors that include, but are
 348 not limited to, rental rate, renewal rate, operational and
 349 maintenance costs, tenant-improvement allowance, location, lease
 350 term, condition of facility, landlord responsibility, amenities,
 351 and parking.

352 (2) "Competitive solicitation" means an invitation to bid,
 353 a request for proposals, or an invitation to negotiate.

354 (3) "Department" means the Department of Management
 355 Services.

356 (4) "Managing agency" means an agency that serves as the
 357 title entity or that leases property from the Board of Trustees
 358 of the Internal Improvement Trust Fund for the operation and
 359 maintenance of a state-owned office building.

360 (5)~~(4)~~ "Privately owned building" means any building not
 361 owned by a governmental agency.

362 (6)~~(5)~~ "Responsible lessor" means a lessor that ~~who~~ has
 363 the capability in all respects to fully perform the contract
 364 requirements and the integrity and reliability that will assure

365 | good faith performance.

366 | ~~(7)(6)~~ "Responsive bid," "responsive proposal," or
 367 | "responsive reply" means a bid or proposal, or reply submitted
 368 | by a responsive and responsible lessor, which conforms in all
 369 | material respects to the solicitation.

370 | ~~(8)(7)~~ "Responsive lessor" means a lessor that has
 371 | submitted a bid, proposal, or reply that conforms in all
 372 | material respects to the solicitation.

373 | ~~(9)(8)~~ "State-owned office building" means any building
 374 | whose title ~~to which~~ is vested in the state and which is used by
 375 | one or more executive agencies predominantly for administrative
 376 | direction and support functions. The ~~This~~ term excludes:

377 | (a) District or area offices established for field
 378 | operations where law enforcement, military, inspections, road
 379 | operations, or tourist welcoming functions are performed.

380 | (b) All educational facilities and institutions under the
 381 | supervision of the Department of Education.

382 | (c) All custodial facilities and institutions used
 383 | primarily for the care, custody, or treatment of wards of the
 384 | state.

385 | (d) Buildings or spaces used for legislative activities.

386 | (e) Buildings purchased or constructed from agricultural
 387 | or citrus trust funds.

388 | ~~(10)~~ "Tenant broker" means a private real estate broker or
 389 | brokerage firm licensed to do business in this state and under
 390 | contract with the department to provide real estate transaction,
 391 | portfolio management, and strategic planning services for state
 392 | agencies.

393 Section 5. Section 255.249, Florida Statutes, is amended
394 to read:

395 255.249 Department of Management Services; responsibility;
396 department rules.—

397 (1) The department shall have responsibility and authority
398 for the operation, custodial care, ~~and~~ preventive maintenance,
399 repair, alteration, modification, and allocation of space for ~~of~~
400 all buildings in the Florida Facilities Pool and adjacent ~~the~~
401 grounds ~~located adjacent thereto.~~

402 (2) A state agency may not lease space in a private
403 building that is to be constructed for state use without first
404 obtaining prior approval of the architectural design and
405 preliminary construction from the department.

406 (3) ~~(2)~~ The department shall require a ~~any~~ state agency
407 planning to terminate a lease for the purpose of occupying space
408 in a new state-owned office building, ~~the funds for which are~~
409 ~~appropriated after June 30, 2000,~~ to state why the proposed
410 relocation is in the best interest of the state.

411 (4) ~~(3)~~ ~~(a)~~ An agency that intends to terminate a lease of
412 privately owned space before the expiration of its base term,
413 must notify the department 90 days before the termination. The
414 department shall, to the extent feasible, coordinate the
415 vacation of privately owned leased space with the expiration of
416 the lease on that space and, when a lease is terminated before
417 expiration of its base term, will make a reasonable effort to
418 place another state agency in the space vacated. A ~~Any~~ state
419 agency may lease the space in any building that was subject to a
420 lease terminated by a state agency for a period of time equal to

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421 the remainder of the base term without ~~the requirement of~~
422 competitive solicitation.

423 (5) The department may direct a state agency to occupy, or
424 relocate to, space in any state-owned office building, including
425 all state-owned space identified in the Florida State-Owned
426 Lands and Records Information System managed by the Department
427 of Environmental Protection.

428 (6) If expressly authorized by the General Appropriations
429 Act and in the best interest of the state, the department may
430 implement renovations or construction that more efficiently use
431 state-owned buildings. Such use of tenant-improvement funds
432 applies only to state-owned buildings, and all expenditures must
433 be reported by the department in the master leasing report
434 identified in subsection (8).

435 (7)(b) The department shall develop and implement a
436 strategic leasing plan. The strategic leasing plan must ~~shall~~
437 forecast space needs for all state agencies and identify
438 opportunities for reducing costs through consolidation,
439 relocation, reconfiguration, capital investment, and the
440 renovation, building, or acquisition of state-owned space.

441 (8)(e) The department shall annually publish a master
442 leasing report that includes the strategic leasing plan created
443 under subsection (7). The department shall annually submit
444 ~~furnish the master~~ leasing report to the Executive Office of the
445 Governor and the Legislature by October 1. The report must
446 provide September 15 of each year which provides the following
447 information:

448 (a)1. A list, by agency and by geographic market, of all

449 leases that are due to expire within 24 months.

450 ~~(b)2.~~ Details of each lease, including location, size,
451 cost per leased square foot, lease-expiration date, and a
452 determination of whether sufficient state-owned office space
453 will be available at the expiration of the lease to accommodate
454 affected employees.

455 ~~(c)3.~~ A list of amendments and supplements to and waivers
456 of terms and conditions in lease agreements that have been
457 approved pursuant to s. 255.25(2)~~(a)~~ during the previous 12
458 months and an associated comprehensive analysis, including
459 financial implications, showing that any amendment, supplement,
460 or waiver is in the state's long-term best interest.

461 ~~(d)4.~~ Financial impacts to the Florida Facilities Pool
462 rental rate due to the sale, removal, acquisition, or
463 construction of pool facilities.

464 ~~(e)5.~~ Changes in occupancy rate, maintenance costs, and
465 efficiency costs of leases in the state portfolio. Changes to
466 occupancy costs in leased space by market and changes to space
467 consumption by agency and by market.

468 ~~(f)6.~~ An analysis of portfolio supply and demand.

469 ~~(g)7.~~ Cost-benefit analyses of acquisition, build, and
470 consolidation opportunities, recommendations for strategic
471 consolidation, and strategic recommendations for disposition,
472 acquisition, and building.

473 (h) Recommendations for using capital improvement funds to
474 implement the consolidation of state agencies into state-owned
475 office buildings.

476 ~~(i)8.~~ The updated plan required by s. 255.25(4)(c).

477 | ~~(9)(d)~~ Annually, by June 30: ~~of each year,~~

478 | (a) Each state agency shall ~~annually~~ provide to the
 479 | department all information regarding agency programs affecting
 480 | the need for or use of space by that agency, reviews of lease-
 481 | expiration schedules for each geographic area, active and
 482 | planned full-time equivalent data, business case analyses
 483 | related to consolidation plans by an agency, a telework program
 484 | under s. 110.171, and current occupancy and relocation costs,
 485 | inclusive of furnishings, fixtures and equipment, data, and
 486 | communications. State agencies may use the services of a tenant
 487 | broker in preparing this information.

488 | (b) The title entity or managing agency shall report to
 489 | the department any vacant or underutilized space for all state-
 490 | owned office buildings and any restrictions that apply to any
 491 | other agency occupying the vacant or underutilized space. The
 492 | title entity or managing agency shall also notify the department
 493 | of any significant changes to its occupancy for the coming
 494 | fiscal year.

495 | ~~(10)(4)~~ The department shall adopt rules ~~pursuant to~~
 496 | ~~chapter 120~~ providing:

497 | (a) Methods for accomplishing the duties outlined in
 498 | subsection (1).

499 | (b) Procedures for soliciting and accepting competitive
 500 | solicitations for leased space of 5,000 square feet or more in
 501 | privately owned buildings, for evaluating ~~the~~ proposals
 502 | received, for exemption from competitive solicitations
 503 | requirements of any lease for ~~the purpose of which is the~~
 504 | provision of care and living space for persons or emergency

505 space needs as provided in s. 255.25(10), and for ~~the~~ securing
 506 ~~of~~ at least three documented quotes for a lease that is not
 507 required to be competitively solicited.

508 (c) A standard method for determining square footage or
 509 any other measurement used as the basis for lease payments or
 510 other charges.

511 (d) Methods of allocating space in both state-owned office
 512 buildings and privately owned buildings leased by the state
 513 based on use, personnel, and office equipment.

514 (e)~~1.~~ Acceptable terms and conditions for inclusion in
 515 lease agreements.

516 ~~2.~~ At a minimum, such terms and conditions must ~~shall~~
 517 include, ~~at a minimum,~~ the following clauses, which may not be
 518 amended, supplemented, or waived:

519 ~~1.a.~~ As provided in s. 255.2502, "The State of Florida's
 520 performance and obligation to pay under this contract is
 521 contingent upon an annual appropriation by the Legislature."

522 ~~2.b.~~ "The lessee has ~~shall have~~ the right to terminate
 523 this lease, without penalty, if this lease in the event a state-
 524 owned building becomes available to the lessee for occupancy and
 525 the lessee has given ~~upon giving~~ 6 months' advance written
 526 notice to the lessor by certified mail, return receipt
 527 requested."

528 (f) State agency use of space identified in the Florida
 529 State-Owned Lands and Records Information System under
 530 subsection (5) Maximum rental rates, ~~by geographic areas or by~~
 531 ~~county, for leasing privately owned space.~~

532 (g) A standard method for the assessment of rent to state

533 agencies and other authorized occupants of state-owned office
534 space, notwithstanding the source of funds.

535 (h) For full disclosure of the names and the extent of
536 interest of the owners holding a 4 percent ~~4-percent~~ or more
537 interest in ~~any~~ privately owned property leased to the state or
538 in the entity holding title to the property, for exemption from
539 such disclosure of any beneficial interest that ~~which~~ is
540 represented by stock in a ~~any~~ corporation registered with the
541 Securities and Exchange Commission or registered pursuant to
542 chapter 517~~7~~, which ~~stock~~ is for sale to the general public, and
543 for exemption from such disclosure of any leasehold interest in
544 property located outside the territorial boundaries of the
545 United States.

546 (i) For full disclosure of the names of all public
547 officials, agents, or employees holding any interest in any
548 privately owned property leased to the state or in the entity
549 holding title to the property, and the nature and extent of
550 their interest, for exemption from such disclosure of any
551 beneficial interest that ~~which~~ is represented by stock in any
552 corporation registered with the Securities and Exchange
553 Commission or registered pursuant to chapter 517~~7~~, which ~~stock~~ is
554 for sale to the general public, and for exemption from such
555 disclosure of any leasehold interest in property located outside
556 the territorial boundaries of the United States.

557 (j) A method for reporting leases for nominal or no
558 consideration.

559 (k) For a lease of less than 5,000 square feet, a method
560 for certification by the agency head or the agency head's

561 designated representative that all criteria for leasing have
562 been fully complied with and for ~~the~~ filing ~~of~~ a copy of such
563 lease and all supporting documents with the department for its
564 review and approval as to technical sufficiency and whether it
565 is in the best interests of the state.

566 (1) A standardized format for state agency reporting of
567 the information required by paragraph (9) (a) ~~(3) (d)~~.

568 (m) Procedures for the effective and efficient
569 administration of this section.

570 ~~(11) (5)~~ The department shall prepare a form listing all
571 conditions and requirements adopted pursuant to this chapter
572 which must be met by any state agency leasing any building or
573 part thereof. Before executing any lease, this form must ~~shall~~
574 be certified by the agency head or the agency head's designated
575 representative and submitted to the department.

576 ~~(12) (6)~~ The department may contract for real estate
577 consulting or tenant brokerage services in order to carry out
578 its duties relating to the strategic leasing plan under
579 subsection (7). The contract must ~~shall~~ be procured pursuant to
580 s. 287.057. The vendor ~~that is~~ awarded the contract shall be
581 compensated ~~by the department~~, subject to the provisions of the
582 contract, and such compensation is subject to appropriation by
583 the Legislature. A ~~The~~ real estate consultant or tenant broker
584 may not receive compensation directly from a lessor for services
585 that are rendered pursuant to the contract. Moneys paid by a
586 lessor to the department under a facility-leasing arrangement
587 are not subject to the charges imposed under s. 215.20.

588 Section 6. Section 255.25, Florida Statutes, is amended to

589 read:

590 255.25 Approval required before ~~prior to~~ construction or
 591 lease of buildings.—

592 (1) ~~(a) A state agency may not lease space in a private~~
 593 ~~building that is to be constructed for state use unless prior~~
 594 ~~approval of the architectural design and preliminary~~
 595 ~~construction plans is first obtained from the department.~~

596 ~~(b)~~ During the term of existing leases, each agency shall
 597 consult with the department regarding opportunities for
 598 consolidation, use of state-owned space, build-to-suit space,
 599 and potential acquisitions; shall monitor market conditions; and
 600 shall initiate a competitive solicitation or, if appropriate,
 601 lease-renewal negotiations for each lease held in the private
 602 sector to effect the best overall lease terms reasonably
 603 available to that agency.

604 (a) Amendments to leases may be permitted to modify any
 605 lease provisions or ~~any~~ other terms or conditions unless, ~~except~~
 606 ~~to the extent~~ specifically prohibited under ~~by~~ this chapter.

607 (b) The department shall serve as a mediator in lease-
 608 renewal negotiations if the agency and the lessor are unable to
 609 reach a compromise within 6 months after renegotiation and if
 610 ~~either~~ the agency or lessor requests intervention by the
 611 department.

612 (c) ~~If~~ When specifically authorized by the General
 613 Appropriations Act, and in accordance with s. 255.2501, if
 614 applicable, the department may approve a lease-purchase, sale-
 615 leaseback, or tax-exempt leveraged lease contract or other
 616 financing technique for the acquisition, renovation, or

617 construction of a state fixed capital outlay project if ~~when~~ it
 618 is in the best interest of the state.

619 (2) ~~(a)~~ Except as provided in ss. 255.249 and ~~s.~~ 255.2501,
 620 a state agency may not lease a building or any part thereof
 621 unless prior approval of the lease conditions and of the need
 622 for the lease ~~therefor~~ is first obtained from the department. An
 623 ~~Any~~ approved lease may include an option to purchase or an
 624 option to renew the lease, or both, upon such terms and
 625 conditions as are established by the department, subject to
 626 final approval by the head of the department ~~of Management~~
 627 ~~Services~~ and s. 255.2502.

628 (a) ~~(b)~~ For the lease of less than 5,000 square feet of
 629 space, including space leased for nominal or no consideration, a
 630 state agency must notify the department at least 90 ~~30~~ days
 631 before the execution of the lease. The department shall review
 632 the lease and determine whether suitable space is available in a
 633 state-owned or state-leased building located in the same
 634 geographic region. If the department determines that space is
 635 not available, the department shall determine whether the state
 636 agency lease is in the best interests of the state. If the
 637 department determines that the execution of the lease is not in
 638 the best interests of the state, the department shall notify the
 639 agency proposing the lease, the Governor, the President of the
 640 Senate, and the Speaker of the House of Representatives ~~and the~~
 641 ~~presiding officers of each house of the Legislature~~ of such
 642 finding in writing. A lease that is for a term extending beyond
 643 the end of a fiscal year is subject to ~~the provisions of~~ ss.
 644 216.311, 255.2502, and 255.2503.

645 ~~(b)(e)~~ The department shall adopt ~~as a rule~~ uniform
 646 leasing procedures by rule for use by each state agency ~~other~~
 647 ~~than the Department of Transportation~~. Each state agency shall
 648 ensure that the leasing practices of that agency are in
 649 substantial compliance with the uniform leasing rules adopted
 650 under this section and ss. 255.249, 255.2502, and 255.2503.

651 ~~(c)(d)~~ Notwithstanding paragraph (a) and except as
 652 ~~provided in ss. 255.249 and 255.2501, a state agency may not~~
 653 ~~lease a building or any part thereof unless prior approval of~~
 654 ~~the lease terms and conditions and of the need therefor is first~~
 655 ~~obtained from the department~~. The department may not approve any
 656 term or condition in a lease agreement which has been amended,
 657 supplemented, or waived unless a comprehensive analysis,
 658 including financial implications, demonstrates that such
 659 amendment, supplement, or waiver is in the state's long-term
 660 best interest. An ~~Any~~ approved lease may include an option to
 661 purchase or an option to renew the lease, or both, upon such
 662 terms and conditions as are established by the department,
 663 subject to final approval by the head of the department, ~~of~~
 664 ~~Management Services~~ and the provisions of s. 255.2502.

665 (3) (a) Except as provided in subsection (10), a state
 666 agency may not enter into a lease as lessee for the use of 5,000
 667 square feet or more of space in a privately owned building
 668 except upon advertisement for and receipt of competitive
 669 solicitations.

670 1.a. An invitation to bid must ~~shall~~ be made available
 671 simultaneously to all lessors and ~~must~~ include a detailed
 672 description of the space sought; the time and date for the

673 receipt of bids and of the public opening; and all contractual
674 terms and conditions applicable to the procurement, including
675 the criteria to be used in determining the acceptability of the
676 bid. If the agency contemplates renewing ~~renewal of~~ the
677 contract, that fact must be stated in the invitation to bid. The
678 bid must include the price for each year for which the contract
679 may be renewed. Evaluation of bids must ~~shall~~ include
680 consideration of the total cost for each year as submitted by
681 the lessor. Criteria that were not set forth in the invitation
682 to bid may not be used in determining the acceptability of the
683 bid.

684 b. The contract shall be awarded with reasonable
685 promptness by written notice to the responsible and responsive
686 lessor that submits the lowest responsive bid. The contract file
687 must contain a written determination that the bid meets ~~This bid~~
688 ~~must be determined in writing to meet~~ the requirements and
689 criteria set forth in the invitation to bid.

690 2.a. If an agency determines in writing that the use of an
691 invitation to bid is not practicable, leased space shall be
692 procured by competitive sealed proposals. A request for
693 proposals shall be made available simultaneously to all lessors
694 and must include a statement of the space sought; the time and
695 date for the receipt of proposals and of the public opening; and
696 all contractual terms and conditions applicable to the
697 procurement, including the criteria, which must include, but
698 need not be limited to, price, to be used in determining the
699 acceptability of the proposal. The relative importance of price
700 and other evaluation criteria must ~~shall~~ be indicated. If the

701 agency contemplates renewing ~~renewal~~ of the contract, that fact
702 must be stated in the request for proposals. The proposal must
703 include the price for each year for which the contract may be
704 renewed. Evaluation of proposals must ~~shall~~ include
705 consideration of the total cost for each year as submitted by
706 the lessor.

707 b. The contract shall be awarded to the responsible and
708 responsive lessor whose proposal is determined in writing to be
709 the most advantageous to the state, taking into consideration
710 the price and the other criteria set forth in the request for
711 proposals. The contract file must contain documentation
712 supporting the basis on which the award is made.

713 3.a. If the agency determines in writing that the use of
714 an invitation to bid or a request for proposals will not result
715 in the best leasing value to the state, the agency may procure
716 leased space by competitive sealed replies. The agency's written
717 determination must specify reasons ~~that explain~~ why negotiation
718 may be necessary in order for the state to achieve the best
719 leasing value and must be approved in writing by the agency head
720 or his or her designee before ~~prior to the~~ advertisement of an
721 invitation to negotiate. Cost savings related to the agency
722 procurement process are not sufficient justification for using
723 an invitation to negotiate. An invitation to negotiate shall be
724 made available to all lessors simultaneously and must include a
725 statement of the space sought; the time and date for the receipt
726 of replies and of the public opening; and all terms and
727 conditions applicable to the procurement, including the criteria
728 to be used in determining the acceptability of the reply. If the

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729 agency contemplates renewing ~~renewal~~ of the contract, that fact
730 must be stated in the invitation to negotiate. The reply must
731 include the price for each year for which the contract may be
732 renewed.

733 b. The agency shall evaluate and rank responsive replies
734 against all evaluation criteria set forth in the invitation to
735 negotiate and ~~shall~~ select, based on the ranking, one or more
736 lessors with which to commence negotiations. After negotiations
737 are conducted, the agency shall award the contract to the
738 responsible and responsive lessor that the agency determines
739 will provide the best leasing value to the state. The contract
740 file must contain a short, plain statement that explains the
741 basis for lessor selection and sets forth the lessor's
742 deliverables and price pursuant to the contract, and an
743 explanation of how these deliverables and price provide the best
744 leasing value to the state.

745 (b) The department ~~of Management Services~~ shall have the
746 authority to approve a lease for 5,000 square feet or more of
747 space which ~~that~~ covers more than 12 consecutive months ~~1 fiscal~~
748 ~~year~~, subject to ~~the provisions of~~ ss. 216.311, 255.2501,
749 255.2502, and 255.2503, if such lease is, in the judgment of the
750 department, in the best interests of the state. In determining
751 best interest, the department shall consider availability of
752 state-owned space and analyses of build-to-suit and acquisition
753 opportunities. This paragraph does not apply to buildings or
754 facilities of any size leased for the purpose of providing care
755 and living space to individuals ~~for persons~~.

756 (c) The department may approve extensions of an existing

757 lease of 5,000 square feet or more of space if such extensions
758 are determined to be in the best interests of the state;
759 however, ~~but in no case shall~~ the total of such extensions may
760 not exceed 11 months. If at the end of the 11th month an agency
761 still needs that space, it must ~~shall~~ be procured by competitive
762 bid in accordance with s. 255.249(10)(b) ~~255.249(4)(b)~~. ~~However,~~
763 ~~an agency that determines that it is in its best interest to~~
764 ~~remain in the space it currently occupies may negotiate a~~
765 ~~replacement lease with the lessor if an independent comparative~~
766 ~~market analysis demonstrates that the rates offered are within~~
767 ~~market rates for the space and the cost of the new lease does~~
768 ~~not exceed the cost of a comparable lease plus documented moving~~
769 ~~costs. A present value analysis and the consumer price index~~
770 ~~shall be used in the calculation of lease costs. The term of the~~
771 ~~replacement lease may not exceed the base term of the expiring~~
772 ~~lease.~~

773 (d) Any person who files an action protesting a decision
774 or intended decision pertaining to a competitive solicitation
775 for space to be leased by the agency pursuant to s. 120.57(3)(b)
776 shall post with the state agency at the time of filing the
777 formal written protest a bond payable to the agency in an amount
778 equal to 1 percent of the estimated total rental of the basic
779 lease period or \$5,000, whichever is greater, which bond is
780 ~~shall be~~ conditioned on ~~upon~~ the payment of all costs that may
781 be adjudged against him or her in the administrative hearing in
782 which the action is brought and in any subsequent appellate
783 court proceeding. If the agency prevails after completion of the
784 administrative hearing process and any appellate court

785 | proceedings, it shall recover all costs and charges, which must
786 | ~~shall~~ be included in the final order or judgment, excluding
787 | attorney ~~attorney's~~ fees. Upon payment of such costs and charges
788 | by the person protesting the award, the bond shall be returned
789 | to him or her. If the person protesting the award prevails, the
790 | bond shall be returned to that person and he or she shall
791 | recover from the agency all costs and charges, which must ~~shall~~
792 | be included in the final order of judgment, excluding attorney
793 | ~~attorney's~~ fees.

794 | (e) The agency and the lessor, when entering into a lease
795 | for 5,000 or more square feet of a privately owned building,
796 | shall, before the effective date of the lease, agree upon and
797 | separately state the cost of tenant improvements which may
798 | qualify for reimbursement if the lease is terminated before the
799 | expiration of its base term. The department shall serve as
800 | mediator if the agency and the lessor are unable to agree. The
801 | amount agreed upon and stated shall, if appropriated, be
802 | amortized over the original base term of the lease on a
803 | straight-line basis.

804 | (f) The unamortized portion of tenant improvements, if
805 | appropriated, shall be paid in equal monthly installments over
806 | the remaining term of the lease. If any portion of the original
807 | leased premises is occupied after termination but during the
808 | original term by a tenant who ~~that~~ does not require material
809 | changes to the premises, the repayment of the cost of tenant
810 | improvements applicable to the occupied but unchanged portion
811 | shall be abated during occupancy. The portion of the repayment
812 | to be abated must ~~shall~~ be based on the ratio of leased space to

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813 | unleased space.

814 | (g) Notwithstanding s. 287.056(1), a state agency shall
815 | ~~may, at the sole discretion of the agency head or his or her~~
816 | ~~designee,~~ use the services of a tenant broker under a state term
817 | contract to assist with a lease action ~~a competitive~~
818 | ~~solicitation~~ undertaken by the agency, with the exception of
819 | leases between governmental entities. ~~If using~~ ~~In making its~~
820 | ~~determination whether to use a tenant broker, a state agency~~
821 | ~~shall consult with the department. A state agency may not use~~
822 | ~~the services of a tenant broker unless the tenant broker is~~
823 | ~~under a term contract with the state which complies with~~
824 | ~~paragraph (h).~~ ~~If a state agency uses the services of a tenant~~
825 | ~~broker with respect to a transaction, the agency may not enter~~
826 | ~~into a lease with a any landlord for whom to which the tenant~~
827 | ~~broker is providing brokerage services for that transaction.~~

828 | (h) ~~The Department of Management Services may,~~ Pursuant to
829 | s. 287.042(2) (a), the department shall procure ~~a term~~ contracts
830 | ~~contract~~ for tenant broker ~~real estate consulting and brokerage~~
831 | ~~services.~~ A state agency may not purchase services from the
832 | contract unless the contract has been procured under s.
833 | 287.057(1) ~~after March 1, 2007,~~ and contains the following
834 | provisions or requirements:

835 | 1. Awarded tenant brokers must maintain an office or
836 | presence in the market served. In awarding the contract,
837 | preference must be given to brokers who ~~that~~ are licensed in
838 | this state under chapter 475 and who ~~that~~ have 3 or more years
839 | of experience in the market served. The contract may be made
840 | with multiple ~~up to three~~ tenant brokers in order to serve the

841 marketplace ~~in the north, central, and south areas of the state.~~

842 2. Each contracted tenant broker works ~~shall work~~ under
843 the direction, supervision, and authority of the state agency,
844 subject to the rules governing lease procurements.

845 3. The department shall provide training for the awarded
846 tenant brokers concerning the rules governing the procurement of
847 leases.

848 4. Tenant brokers must comply with all applicable
849 provisions of s. 475.278.

850 5. Real estate consultants and tenant brokers shall be
851 compensated by the state agency, subject to the provisions of
852 the term contract, and such compensation is subject to
853 appropriation by the Legislature. A real estate consultant or
854 tenant broker may not receive compensation directly from a
855 lessor for services that are rendered under the term contract.
856 Moneys paid by a lessor to the state agency under a facility
857 leasing arrangement are not subject to the charges imposed under
858 s. 215.20. All terms relating to the compensation of the real
859 estate consultant or tenant broker must ~~shall~~ be specified in
860 the term contract and may not be supplemented or modified by the
861 state agency using the contract.

862 6. The department shall conduct periodic customer-
863 satisfaction surveys.

864 7. Each state agency shall report the following
865 information to the department:

866 a. The number of leases that adhere to the goal of the
867 workspace-management initiative of 180 square feet per full-time
868 employee ~~FTE~~.

869 b. The quality of space leased and the adequacy of tenant-
870 improvement funds.

871 c. The timeliness of lease procurement, measured from the
872 date of the agency's request to the finalization of the lease.

873 d. Whether cost-benefit analyses were performed before
874 execution of the lease in order to ensure that the lease is in
875 the best interest of the state.

876 e. The lease costs compared to market rates for similar
877 types and classifications of space according to the official
878 classifications of the Building Owners and Managers Association.

879 (4) (a) The department may ~~shall~~ not authorize any state
880 agency to enter into a lease agreement for space in a privately
881 owned building if ~~when~~ suitable space is available in a state-
882 owned building located in the same geographic region, except
883 upon presentation to the department of sufficient written
884 justification, acceptable to the department, that a separate
885 space is required in order to fulfill the statutory duties of
886 the agency making the ~~such~~ request. The term "state-owned
887 building" as used in this subsection means any state-owned
888 facility regardless of use or control.

889 (b) State agencies shall cooperate with local governmental
890 units by using suitable, existing publicly owned facilities,
891 subject to ~~the provisions of~~ ss. 255.2501, 255.2502, and
892 255.2503. Agencies may use ~~utilize~~ unexpended funds appropriated
893 for lease payments to:

- 894 1. Pay their proportion of operating costs.
- 895 2. Renovate applicable spaces.

896 (c) Because the state has a substantial financial

897 investment in state-owned buildings, it is legislative policy
898 and intent that if ~~when~~ state-owned buildings meet the needs of
899 state agencies, agencies must fully use such buildings before
900 leasing privately owned buildings. ~~By September 15, 2006,~~ The
901 department ~~of Management Services~~ shall create a 5-year plan for
902 implementing this policy. The department shall update this plan
903 annually, detailing proposed departmental actions to meet the
904 plan's goals, and include ~~shall furnish~~ this plan annually as
905 part of the master leasing report.

906 (5) Before construction or renovation of any state-owned
907 building or state-leased space is commenced, the department ~~of~~
908 ~~Management Services~~ shall determine ~~ascertain~~, through the ~~by~~
909 submission of proposed plans to the Division of State Fire
910 Marshal for review, whether ~~that~~ the proposed construction or
911 renovation plan complies with the uniform firesafety standards
912 required by the division ~~of State Fire Marshal~~. The review of
913 construction or renovation plans for state-leased space must
914 ~~shall~~ be completed within 10 calendar days after ~~of~~ receipt of
915 the plans by the division ~~of State Fire Marshal~~. The review of
916 construction or renovation plans for a state-owned building must
917 ~~shall~~ be completed within 30 calendar days after ~~of~~ receipt of
918 the plans by the division ~~of State Fire Marshal~~. The
919 responsibility for submission and retrieval of the plans may
920 ~~called for in this subsection~~ shall not be imposed on the design
921 architect or engineer, but is ~~shall be~~ the responsibility of the
922 two agencies. If ~~Whenever~~ the division ~~of State Fire Marshal~~
923 determines that a construction or renovation plan is not in
924 compliance with ~~such~~ uniform firesafety standards, the division

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925 ~~of State Fire Marshal~~ may issue an order to cease all
926 construction or renovation activities until compliance is
927 obtained, except those activities required to achieve ~~such~~
928 compliance. The lessor shall provide the department with ~~of~~
929 Management Services documentation certifying that the facility
930 meets all of ~~shall withhold approval of any proposed lease until~~
931 ~~the construction or renovation plan complies with~~ the uniform
932 firesafety standards ~~of the Division of State Fire Marshal~~. The
933 cost of all modifications or renovations made for the purpose of
934 bringing leased property into compliance with the uniform
935 firesafety standards are ~~shall be~~ borne by the lessor. The state
936 may not take occupancy without the division's final approval.

937 (6) Before construction or substantial improvement of any
938 state-owned building is commenced, the department ~~of Management~~
939 ~~Services~~ must determine ~~ascertain~~ that the proposed construction
940 or substantial improvement complies with the flood plain
941 management criteria for mitigation of flood hazards, as
942 prescribed in the October 1, 1986, rules and regulations of the
943 Federal Emergency Management Agency, and the department shall
944 monitor the project to assure compliance with the criteria. ~~In~~
945 ~~accordance with chapter 120,~~ The department ~~of Management~~
946 ~~Services~~ shall adopt rules ~~any necessary rules~~ to ensure that
947 all ~~such~~ proposed state construction and substantial improvement
948 of state buildings in designated flood-prone areas complies with
949 the flood plain management criteria. If ~~Whenever~~ the department
950 determines that a construction or substantial improvement
951 project is not in compliance with such ~~with the established~~
952 ~~flood plain management~~ criteria, the department may issue an

953 order to cease all construction or improvement activities until
 954 compliance is obtained, except those activities required to
 955 achieve such compliance.

956 (7) This section does not apply to any lease having a term
 957 of less than 120 consecutive days for the purpose of securing
 958 the one-time special use of the leased property. ~~This section~~
 959 ~~does not apply to any lease for nominal or no consideration.~~

960 (8) An agency may not enter into more than one lease for
 961 space in the same privately owned facility or complex within any
 962 12-month period except upon competitive solicitation.

963 (9) Specialized educational facilities, excluding
 964 classrooms, are ~~shall be~~ exempt from the competitive bid
 965 requirements for leasing pursuant to this section if the
 966 executive head of a ~~any~~ state agency certifies in writing that
 967 the said facility is available from a single source and that the
 968 competitive bid requirements would be detrimental to the state.
 969 Such certification must ~~shall~~ include documentation of evidence
 970 of steps taken to determine sole-source status.

971 (10) The department ~~of Management Services~~ may approve
 972 emergency acquisition of space without competitive bids if
 973 existing state-owned or state-leased space is destroyed or
 974 rendered uninhabitable by an act of God, fire, malicious
 975 destruction, or structural failure, or by legal action, or if
 976 the agency head certifies in writing that there is an immediate
 977 danger to the public health, safety, or welfare, or if other
 978 substantial loss to the state requires emergency action and ~~if~~
 979 the chief administrator of the state agency or the chief
 980 administrator's designated representative certifies in writing

981 that no other agency-controlled space is available to meet this
 982 emergency need; however, ~~but in no case shall~~ the lease for such
 983 space may not exceed 11 months. If the lessor elects not to
 984 replace or renovate the destroyed or uninhabitable facility, the
 985 agency shall procure the needed space by competitive bid in
 986 accordance with s. 255.249(10)(b) ~~255.249(4)(b)~~. If the lessor
 987 elects to replace or renovate the destroyed or uninhabitable
 988 facility and the construction or renovations will not be
 989 complete at the end of the 11-month lease, the agency may modify
 990 the lease to extend it on a month-to-month basis for up to an
 991 ~~additional~~ 6 months to allow completion of such construction or
 992 renovations.

993 (11) In any leasing of space which occurs ~~that is~~
 994 ~~accomplished~~ without competition, the individuals taking part in
 995 the development or selection of criteria for evaluation, in the
 996 evaluation, and in the award processes must ~~shall~~ attest in
 997 writing that they are independent of, and have no conflict of
 998 interest in, the entities evaluated and selected.

999 Section 7. Subsection (4) of section 255.252, Florida
 1000 Statutes, is amended to read:

1001 255.252 Findings and intent.—

1002 (4) In addition to designing and constructing new
 1003 buildings to be energy-efficient, it is the policy of the state
 1004 to operate and maintain state facilities in a manner that
 1005 minimizes energy consumption and maximizes building
 1006 sustainability and to operate facilities leased by the state so
 1007 as to minimize energy use. It is further the policy of the state
 1008 that the renovation of existing state facilities be in

1009 | accordance with a sustainable building rating or a national
 1010 | model green building code. State agencies are encouraged to
 1011 | consider shared savings financing of energy-efficiency and
 1012 | conservation projects, using contracts that split the resulting
 1013 | savings for a specified period of time between the state agency
 1014 | and the private firm or cogeneration contracts and that
 1015 | otherwise permit the state to lower its net energy costs. Such
 1016 | energy contracts may be funded from the operating budget. The
 1017 | vendor for such energy contracts may be selected in accordance
 1018 | with s. 287.055.

1019 | Section 8. Effective July 1, 2014, subsection (1) of
 1020 | section 255.254, Florida Statutes, is amended to read:

1021 | 255.254 No facility constructed or leased without life-
 1022 | cycle costs.-

1023 | (1) A ~~No~~ state agency may not ~~shall~~ lease, construct, or
 1024 | have constructed, within limits prescribed in this section, a
 1025 | facility without having secured from the department an
 1026 | evaluation of life-cycle costs based on sustainable building
 1027 | ratings. ~~Furthermore,~~ Construction shall proceed only upon
 1028 | disclosing to the department, for the facility chosen, the life-
 1029 | cycle costs as determined in s. 255.255, the facility's
 1030 | sustainable building rating goal, and the capitalization of the
 1031 | initial construction costs of the building. The life-cycle costs
 1032 | and the sustainable building rating goal shall be primary
 1033 | considerations in the selection of a building design. For leased
 1034 | facilities larger buildings more than 2,000 ~~5,000~~ square feet in
 1035 | area within a given building boundary, an energy performance
 1036 | analysis that calculates ~~consisting of a projection of the total~~

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1037 annual energy consumption and energy costs ~~in dollars~~ per square
1038 foot ~~of major energy-consuming equipment and systems based on~~
1039 ~~actual expenses from the last 3 years and projected forward for~~
1040 ~~the term of the proposed lease~~ shall be performed. The analysis
1041 must also compare the energy performance of the proposed lease
1042 to lease shall only be made where there is a showing that the
1043 energy costs incurred by the state are minimal compared to
1044 ~~available~~ like facilities. A lease may not be finalized until
1045 the energy performance analysis has been approved by the
1046 department. ~~A lease agreement for any building leased by the~~
1047 ~~state from a private sector entity shall include provisions for~~
1048 ~~monthly energy use data to be collected and submitted monthly to~~
1049 ~~the department by the owner of the building.~~

1050 Section 9. Effective July 1, 2014, subsection (1) of
1051 section 255.257, Florida Statutes, is amended to read:

1052 255.257 Energy management; buildings occupied by state
1053 agencies.—

1054 (1) ENERGY CONSUMPTION AND COST DATA.— Each state agency
1055 shall collect data on energy consumption and cost for all. ~~The~~
1056 ~~data gathered shall be on~~ state-owned facilities and metered
1057 state-leased facilities ~~of 5,000 net square feet or more~~. These
1058 data will be used in the computation of the effectiveness of the
1059 state energy management plan and the effectiveness of the energy
1060 management program of each of the state agencies. Collected data
1061 shall be reported annually to the department in a format
1062 prescribed by the department.

1063 Section 10. Subsection (7) of section 110.171, Florida
1064 Statutes, is amended to read:

1065 110.171 State employee telework program.—
 1066 (7) Agencies that have a telework program shall establish
 1067 and track performance measures that support telework program
 1068 analysis and report data annually to the department in
 1069 accordance with s. 255.249(9) ~~255.249(3)(d)~~. Such measures must
 1070 include, but need not be limited to, those that quantify
 1071 financial impacts associated with changes in office space
 1072 requirements resulting from the telework program. Agencies
 1073 operating in office space owned or managed by the department
 1074 shall consult the department to ensure consistency with the
 1075 strategic leasing plan required under s. 255.249(7)
 1076 ~~255.249(3)(b)~~.

1077 Section 11. Paragraph (b) of subsection (15) of section
 1078 985.682, Florida Statutes, is amended to read:

1079 985.682 Siting of facilities; study; criteria.—

1080 (15)

1081 (b) Notwithstanding s. 255.25(1)~~(b)~~, the department may
 1082 enter into lease-purchase agreements to provide juvenile justice
 1083 facilities for ~~the~~ housing ~~of~~ committed youths, contingent upon
 1084 available funds. The facilities provided through such agreements
 1085 must ~~shall~~ meet the program plan and specifications of the
 1086 department. The department may enter into such lease agreements
 1087 with private corporations and other governmental entities.
 1088 However, notwithstanding ~~the provisions of~~ s. 255.25(3)(a), a ~~no~~
 1089 ~~such~~ lease agreement may not be entered into except upon
 1090 advertisement for the receipt of competitive bids and award to
 1091 the lowest and best bidder except if ~~when~~ contracting with other
 1092 governmental entities.

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1093 | Section 12. Except as otherwise expressly provided in this
1094 | act, this act shall take effect July 1, 2013.