

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; amending s.  
 15          287.057, F.S.; revising specified requirements for  
 16          certain contract managers; making a technical change;  
 17          amending s. 287.084, F.S.; providing that a vendor is  
 18          deemed to have its principal place of business in this  
 19          state if it meets certain criteria; requiring agencies  
 20          to apply a specified price preference for bids or  
 21          proposals for certain competitive solicitations from  
 22          vendors whose principal place of business is in this  
 23          state; prohibiting such preference from resulting in a  
 24          price increase exceeding a certain percentage;  
 25          requiring agencies to disclose such preference in the

26 | stated goals of an invitation to negotiate to  
 27 | determine best value; providing an order of preference  
 28 | when multiple bids, proposals, or replies for certain  
 29 | competitive solicitations are submitted by such  
 30 | vendors; prohibiting such vendors from substituting  
 31 | end products that would otherwise not qualify for a  
 32 | certain preference after the award of the contract or  
 33 | during the contract term unless specified conditions  
 34 | exist; requiring agencies to consider a specified  
 35 | price preference for bids or proposals for certain  
 36 | competitive solicitations from vendors whose principal  
 37 | place of business is in the United States; prohibiting  
 38 | such preference from resulting in a price increase  
 39 | exceeding a certain percentage; requiring agencies to  
 40 | disclose such preference in the stated goals of an  
 41 | invitation to negotiate to determine best value;  
 42 | providing an order of preference when multiple bids,  
 43 | proposals, or replies for certain competitive  
 44 | solicitations are submitted by such vendors;  
 45 | prohibiting such vendors from substituting end  
 46 | products that would otherwise not qualify for a  
 47 | certain preference after the award of the contract or  
 48 | during the contract term unless specified conditions  
 49 | exist; providing and revising applicability; creating  
 50 | s. 287.0841, F.S.; requiring agencies to apply a price

51 preference for bids or proposals from vendors that  
 52 currently hold or maintain an investment from the  
 53 Florida Opportunity Fund; prohibiting such preference  
 54 from resulting in a price increase exceeding a certain  
 55 percentage; requiring agencies to disclose such  
 56 preference in the stated goals of an invitation to  
 57 negotiate to determine best value; providing an  
 58 effective date.

59

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

61

62 Section 1. Paragraph (n) of subsection (2) and subsection  
 63 (4) of section 110.205, Florida Statutes, are amended, and  
 64 paragraphs (y), (z), and (aa) are added to subsection (2) of  
 65 that section, to read:

66 110.205 Career service; exemptions.—

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

69 (n)1.a. In addition to those positions exempted by other  
 70 paragraphs of this subsection, each department head may  
 71 designate a maximum of 20 policymaking or managerial positions,  
 72 as defined by the department and approved by the Administration  
 73 Commission, as being exempt from the Career Service System.  
 74 Career service employees who occupy a position designated as a  
 75 position in the Selected Exempt Service under this paragraph

76 shall have the right to remain in the Career Service System by  
 77 opting to serve in a position not exempted by the employing  
 78 agency. Unless otherwise fixed by law, the department shall set  
 79 the salary and benefits of these positions in accordance with  
 80 the rules of the Selected Exempt Service; ~~provided, however,~~  
 81 ~~that if the agency head determines that the general counsel,~~  
 82 ~~chief Cabinet aide, public information administrator or~~  
 83 ~~comparable position for a Cabinet officer, inspector general, or~~  
 84 ~~legislative affairs director has both policymaking and~~  
 85 ~~managerial responsibilities and if the department determines~~  
 86 ~~that any such position has both policymaking and managerial~~  
 87 ~~responsibilities, the salary and benefits for each such position~~  
 88 ~~shall be established by the department in accordance with the~~  
 89 ~~rules of the Senior Management Service.~~

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

95 2. If otherwise exempt, employees of the Public Employees  
 96 Relations Commission, the Commission on Human Relations, and the  
 97 Reemployment Assistance Appeals Commission, upon the  
 98 certification of their respective commission heads, may be  
 99 provided for under this paragraph as members of the Senior  
 100 Management Service, if otherwise qualified. However, the deputy

101 general counsel of the Public Employees Relations Commission  
 102 shall be compensated as members of the Selected Exempt Service.

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

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

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

122 (4) DEFINITION OF DEPARTMENT.—When used in this section,  
 123 the term "department" shall mean all departments and commissions  
 124 of the executive branch, whether created by the State  
 125 Constitution or chapter 20; the office of the Governor; the

126 Office of Insurance Regulation of the Financial Services  
 127 Commission; the Office of Financial Regulation of the Financial  
 128 Services Commission; the Florida Gaming Control Commission; the  
 129 Division of Administrative Hearings; the Commission on Offender  
 130 Review; the Florida Commission on Human Relations; the Public  
 131 Employees Relations Commission; and the Public Service  
 132 Commission; however, the term "department" shall mean the  
 133 Department of Management Services when used in the context of  
 134 the authority to establish pay bands and benefits.

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

137 110.211 Recruitment.—

138 (1) Recruiting must ~~shall~~ be planned and carried out in a  
 139 manner that assures open competition based upon current and  
 140 projected employing agency needs, taking into consideration the  
 141 number and types of positions to be filled and the labor market  
 142 conditions, with special emphasis placed on recruiting efforts  
 143 to attract minorities, women, or other groups ~~that are~~  
 144 underrepresented in the workforce of the employing agency.  
 145 However, open competition is not required when an employing  
 146 agency is filling a position with an apprentice participating in  
 147 an apprenticeship program as defined in s. 446.021(6) in a  
 148 related field.

149 Section 3. Section 217.07, Florida Statutes, is amended to  
 150 read:

151           217.07 Transfer of surplus property assets to department.—  
 152 The Chief Financial Officer is authorized to transfer to the  
 153 department any funds unexpended in the Surplus Property  
 154 Revolving Trust Fund account in the State Treasury. This  
 155 revolving fund shall remain in existence as a separate trust  
 156 fund as long as the surplus property program exists. Upon  
 157 termination of the program, any remaining funds shall be  
 158 disposed of as provided by federal law. All funds held in the  
 159 Surplus Property Revolving Trust Fund account in the State  
 160 Treasury generated by the Federal Surplus Personal Property  
 161 Donation Program may be used only for the direct and indirect  
 162 operating expenses of the Federal Surplus Personal Property  
 163 Donation Program administered by the department.

164           Section 4. Paragraph (d) of subsection (15) of section  
 165 287.057, Florida Statutes, is amended to read:

166           287.057 Procurement of commodities or contractual  
 167 services.—

168           (15)

169           (d) Each contract manager who is responsible for contracts  
 170 in excess of \$10 million annually must, in addition to the  
 171 training required in paragraph (b) and the training and  
 172 certification required in paragraph (c), possess at least 3 ~~5~~  
 173 years of experience managing contracts totaling at least ~~in~~  
 174 ~~excess of~~ \$5 million annually.

175           Section 5. Section 287.084, Florida Statutes, is amended

176 to read:

177 287.084 Preference to Florida businesses.—

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

181 (a) Is incorporated in this state as a Florida business  
 182 entity, not a foreign business entity, excluding cases in which  
 183 incorporation is used to do business on behalf of a parent  
 184 company or to benefit an owner outside of this state.

185 (b) Maintains a physical location in this state.

186 (c) More than 50 percent of its workforce is domiciled in  
 187 this state.

188 (2) For competitive solicitations for commodities or  
 189 contractual services in excess of the threshold amount provided  
 190 for CATEGORY TWO in s. 287.017, an agency must apply a 5-percent  
 191 price preference for a bid or proposal from a vendor whose  
 192 principal place of business is in this state. For competitive  
 193 solicitations pursuant to s. 287.057(1)(c), an agency must apply  
 194 a 5-percent preference to the total score of a vendor whose  
 195 principal place of business is in this state, provided that a  
 196 price increase resulting from applying such preference may not  
 197 exceed 15 percent, and must disclose such preference in the  
 198 stated goals of an invitation to negotiate in order to determine  
 199 best value.

200 (3) For competitive solicitations for commodities or



201 contractual services in excess of the threshold amount provided  
 202 for CATEGORY TWO in s. 287.017, an agency must give priority in  
 203 the following order for bids, proposals, or replies submitted by  
 204 vendors whose principal places of business are in this state,  
 205 and when all things stated in such bids, proposals, or replies  
 206 are equal with respect to price, quality, and service:

207 (a) To the vendor whose goods are manufactured and  
 208 assembled in their entirety in this state. A vendor may not  
 209 substitute end products that would otherwise not qualify for  
 210 such preference after the award of the contract or during the  
 211 contract term unless pricing or availability of supply is  
 212 affected by extreme and unforeseen volatility in the  
 213 marketplace.

214 (b) To the vendor that manufactures a larger percentage of  
 215 its goods in this state.

216 (c) To the vendor that employs the greater number of  
 217 individuals domiciled in this state.

218 (4) For all competitive solicitations for commodities or  
 219 contractual services in excess of the threshold amount provided  
 220 for CATEGORY TWO in s. 287.017, an agency must apply a 5-percent  
 221 price preference for a bid or proposal from a vendor whose  
 222 principal place of business is in the United States. For  
 223 competitive solicitations pursuant to s. 287.057(1)(c), an  
 224 agency must apply a 5-percent preference to the total score of a  
 225 vendor whose principal place of business is in the United

226 States, provided that a price increase resulting from applying  
 227 such preference may not exceed 15 percent, and must disclose  
 228 such preference in the stated goals of an invitation to  
 229 negotiate in order to determine best value.

230 (5) For competitive solicitations for commodities or  
 231 contractual services in excess of the threshold amount provided  
 232 for CATEGORY TWO in s. 287.017, an agency must give priority in  
 233 the following order for bids, proposals, or replies submitted by  
 234 vendors whose principal places of business are in the United  
 235 States, and when all things stated in such bids, proposals, or  
 236 replies are equal with respect to price, quality, and service:

237 (a) To the vendor whose goods are manufactured and  
 238 assembled in their entirety in this state, and if such vendor  
 239 does not exist, then in the United States. A vendor may not  
 240 substitute end products that would otherwise not qualify for  
 241 such preference after the award of the contract or during the  
 242 contract term unless pricing or availability of supply is  
 243 affected by extreme and unforeseen volatility in the  
 244 marketplace.

245 (b) To the vendor that manufactures a larger percentage of  
 246 its goods in this state, and if such vendor does not exist, then  
 247 in the United States.

248 (c) To the vendor that employs the greater number of  
 249 individuals domiciled in this state, and if such vendor does not  
 250 exist, then in the United States.

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

253 ~~(1)(a) When an agency, university, college, school~~  
 254 ~~district, or other political subdivision of the state is~~  
 255 ~~required to make purchases of personal property through~~  
 256 ~~competitive solicitation and the lowest responsible and~~  
 257 ~~responsive bid, proposal, or reply is by a vendor whose~~  
 258 ~~principal place of business is in a state or political~~  
 259 ~~subdivision thereof which grants a preference for the purchase~~  
 260 ~~of such personal property to a person whose principal place of~~  
 261 ~~business is in such state, then the agency, university, college,~~  
 262 ~~school district, or other political subdivision of this state~~  
 263 ~~shall award a preference to the lowest responsible and~~  
 264 ~~responsive vendor having a principal place of business within~~  
 265 ~~this state, which preference is equal to the preference granted~~  
 266 ~~by the state or political subdivision thereof in which the~~  
 267 ~~lowest responsible and responsive vendor has its principal place~~  
 268 ~~of business. In a competitive solicitation in which the lowest~~  
 269 ~~bid is submitted by a vendor whose principal place of business~~  
 270 ~~is located outside the state and that state does not grant a~~  
 271 ~~preference in competitive solicitation to vendors having a~~  
 272 ~~principal place of business in that state, the preference to the~~  
 273 ~~lowest responsible and responsive vendor having a principal~~  
 274 ~~place of business in this state shall be 5 percent.~~

275 ~~(b) Paragraph (a) does not apply to transportation~~

276 ~~projects for which federal aid funds are available.~~

277 ~~(c) As used in this section, the term "other political~~  
 278 ~~subdivision of this state" does not include counties or~~  
 279 ~~municipalities.~~

280 ~~(2) A vendor whose principal place of business is outside~~  
 281 ~~this state must accompany any written bid, proposal, or reply~~  
 282 ~~documents with a written opinion of an attorney at law licensed~~  
 283 ~~to practice law in that foreign state, as to the preferences, if~~  
 284 ~~any or none, granted by the law of that state to its own~~  
 285 ~~business entities whose principal places of business are in that~~  
 286 ~~foreign state in the letting of any or all public contracts.~~

287 (7)(3)(a) A vendor whose principal place of business is in  
 288 this state may not be precluded from being an authorized  
 289 reseller of information technology commodities of a state  
 290 contractor as long as the vendor demonstrates that it employs an  
 291 internationally recognized quality management system, such as  
 292 ISO 9001 or its equivalent, and provides a warranty on the  
 293 information technology commodities which is, at a minimum, of  
 294 equal scope and length as that of the contract.

295 (8)(b) This section subsection applies to any solicitation  
 296 or renewal of any state contract executed on or after October 1,  
 297 2024 July 1, 2012. However, the preferences in this section do  
 298 not apply to transportation projects for which federal funds are  
 299 available.

300 Section 6. Section 287.0841, Florida Statutes, is created

301 to read:

302 287.0841 Florida Opportunity Fund preference.—In addition  
 303 to the preferences considered in s. 287.084, for competitive  
 304 solicitations for commodities or contractual services in excess  
 305 of the threshold amount provided for CATEGORY TWO in s. 287.017,  
 306 an agency must apply a 5-percent price preference for a bid or  
 307 proposal from a vendor that currently holds or maintains an  
 308 investment from the Florida Opportunity Fund pursuant to s.  
 309 288.9624. For competitive solicitations pursuant to s.  
 310 287.057(1)(c), an agency must apply a 5-percent preference to  
 311 the total score of a vendor that currently holds or maintains an  
 312 investment from the Florida Opportunity Fund pursuant to s.  
 313 288.9624, provided that a price increase resulting from applying  
 314 such preference may not exceed 15 percent, and must disclose  
 315 such preference in the stated goals of an invitation to  
 316 negotiate in order to determine best value.

317 Section 7. This act shall take effect July 1, 2024.