

CHAPTER 98-279

House Bill No. 4831

An act relating to the Florida Statutes; amending ss. 110.108, 110.123, 120.57, 154.04, 215.196, 216.292, 217.045, 217.11, 230.23, 255.102, 255.249, 255.25, 255.25001, 255.253, 255.254, 255.255, 255.257, 255.258, 255.31, 255.45, 255.451, 255.502, 255.503, 255.504, 255.505, 255.506, 255.507, 255.508, 255.509, 255.51, 255.511, 255.513, 255.514, 255.515, 255.517, 255.518, 255.52, 255.521, 255.522, 255.523, 265.001, 265.002, 265.2865, 272.03, 272.04, 272.05, 272.06, 272.07, 272.08, 272.09, 272.12, 272.121, 272.122, 272.124, 272.16, 272.185, 273.055, 281.02, 281.03, 281.04, 281.05, 281.06, 281.08, 281.09, 282.102, 282.103, 282.104, 282.105, 282.1095, 282.111, 283.30, 283.32, 284.33, 287.012, 287.017, 287.022, 287.032, 287.042, 287.045, 287.055, 287.056, 287.057, 287.058, 287.073, 287.083, 287.09451, 287.131, 287.15, 287.16, 287.161, 287.19, 288.15, 288.18, 318.21, 334.0445, 364.515, 365.171, 376.10, 395.1031, 401.013, 401.015, 401.018, 401.024, 403.7065, and 946.515, Florida Statutes, pursuant to the directive of the Legislature in s. 4, ch. 97-296, Laws of Florida, to substitute a reference to the Department of Management Services for all references in the Florida Statutes to any division, bureau, or other unit of the Department of Management Services, except for references to the Division of Administrative Hearings, the Division of Retirement, or commissions.

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

Section 1. Subsection (4) of section 110.108, Florida Statutes, is amended to read:

110.108 Personnel pilot projects.—

(4) After the Legislature approves a plan for a personnel flexibility pilot project, the agency must prepare and submit a progress report to the Legislature and ~~the Division of Personnel Management Services~~ of the Department of Management Services every 6 months, or sooner, if so requested by the Legislature. Upon completion of the pilot project, the agency shall prepare and submit a final report on the project within 6 months of termination of the project.

Section 2. Paragraph (e) of subsection (3) of section 110.123, Florida Statutes, is amended to read:

110.123 State group insurance program.—

(3) STATE GROUP INSURANCE PROGRAM.—

(e)1. Notwithstanding the provisions of chapter 287 and the authority of the department ~~Division of Purchasing~~, for the purpose of protecting the health of, and providing medical services to, state employees participating

in the State Employees' Health Self-Insurance Plan, the Division of State Group Insurance may contract to retain the services of professional administrators for the State Employees' Health Self-Insurance Plan. The agency shall follow good purchasing practices of state procurement to the extent practicable under the circumstances.

2. Each vendor in a major procurement, and any other vendor if the division deems it necessary to protect the state's financial interests, shall, at the time of executing any contract with the division, post an appropriate bond with the division in an amount determined by the division to be adequate to protect the state's interests but not higher than the full amount estimated to be paid annually to the vendor under the contract.

3. Each major contract entered into by the division pursuant to this section shall contain a provision for payment of liquidated damages to the division for material noncompliance by a vendor with a contract provision. The division may require a liquidated damages provision in any contract if the division deems it necessary to protect the state's financial interests.

4. The provisions of s. 120.57(3) apply to the division's contracting process, except:

a. A formal written protest of any decision, intended decision, or other action subject to protest shall be filed within 72 hours after receipt of notice of the decision, intended decision, or other action.

b. As an alternative to any provision of s. 120.57(3), the division may proceed with the bid selection or contract award process if the director of the department sets forth, in writing, particular facts and circumstances which demonstrate the necessity of continuing the procurement process or the contract award process in order to avoid a substantial disruption to the provision of any scheduled insurance services.

Section 3. Paragraph (a) of subsection (3) of section 120.57, Florida Statutes, is amended to read:

120.57 Additional procedures for particular cases.—

(3) **ADDITIONAL PROCEDURES APPLICABLE TO PROTESTS TO CONTRACT BIDDING OR AWARD.**—Agencies subject to this chapter shall utilize the uniform rules of procedure, which provide procedures for the resolution of protests arising from the contract bidding process. Such rules shall at least provide that:

(a) The agency shall provide notice of its decision or intended decision concerning a bid solicitation or a contract award as follows:

1. For a bid solicitation, notice of a decision or intended decision shall be given by United States mail or by hand delivery.

2. For any decision of the ~~Division of Purchasing~~ of the Department of Management Services concerning a request by an agency for approval of an exceptional purchase under part I of chapter 287 and the rules of the Department of Management Services ~~Division of Purchasing~~, notice of a decision

or intended decision shall be given by posting such notice in the office of the Department of Management Services ~~Division of Purchasing~~.

3. For any other agency decision, notice of a decision or intended decision shall be given either by posting the bid tabulation at the location where the bids were opened or by certified United States mail or other express delivery service, return receipt requested.

The notice required by this paragraph shall contain the following statement: "Failure to file a protest within the time prescribed in s. 120.57(3), Florida Statutes, shall constitute a waiver of proceedings under chapter 120, Florida Statutes."

Section 4. Subsection (2) of section 154.04, Florida Statutes, is amended to read:

154.04 Personnel of county health departments; duties; compensation.—

(2) The personnel of the county health department shall be employed by the Department of Health. The compensation of such personnel shall be determined under the rules of the ~~Division of Personnel Management Services of the~~ Department of Management Services. Such employees shall engage in the prevention of disease and the promotion of health under the supervision of the Department of Health.

Section 5. Subsection (2) of section 215.196, Florida Statutes, is amended to read:

215.196 Architects Incidental Trust Fund; creation; assessment.—

(2) The ~~department division~~ is authorized to levy and assess an amount necessary to cover the cost of administration by the ~~department division~~ of fixed capital outlay projects on which it serves as owner representative on behalf of the state. The assessment rate is to be provided in the General Appropriations Act and statement of intent and shall be based on estimated operating cost projections for the services rendered. The total assessment shall be transferred into the Architects Incidental Trust Fund at the beginning of each fiscal year.

Section 6. Subsection (8) of section 216.292, Florida Statutes, is amended to read:

216.292 Appropriations nontransferable; exceptions.—

(8) Moneys appropriated in the General Appropriations Act for the purpose of paying for services provided by the state communications system in the ~~Division of Communications of the~~ Department of Management Services shall be paid by the user agencies, or the judicial branch, within 45 days after the billing date. Billed amounts not paid by the user agencies, or by the judicial branch, shall be transferred by the Comptroller from the user agencies to the Communications Working Capital Trust Fund.

Section 7. Section 217.045, Florida Statutes, is amended to read:

217.045 Department of Management Services Bureau of Federal Property Assistance; assistance to state agencies.—~~The Bureau of Federal Property Assistance of the Division of Purchasing of the Department of Management Services~~ may follow whatever procedure is considered necessary to enable state agencies to take advantage of surplus property allocated to the state by the Federal Government or by its disposal agencies.

Section 8. Section 217.11, Florida Statutes, is amended to read:

217.11 Department of Management Services Division of Facilities Management; authority to construct and maintain warehouses and other facilities.—~~The Division of Facilities Management of the~~ department is authorized to construct and maintain such warehouses and other facilities necessary for carrying out the purposes of this chapter.

Section 9. Paragraph (j) of subsection (10) of section 230.23, Florida Statutes, is amended to read:

230.23 Powers and duties of school board.—The school board, acting as a board, shall exercise all powers and perform all duties listed below:

(10) FINANCE.—Take steps to assure children adequate educational facilities through the financial procedure authorized in chapters 236 and 237 and as prescribed below:

(j) Purchasing regulations to be secured from Department of Management Services.—Secure purchasing regulations and amendments and changes thereto from the Division of Purchasing of the Department of Management Services and prior to any purchase have reported to it by its staff, and give consideration to the lowest price available to it under such regulations, provided a regulation applicable to the item or items being purchased has been adopted by the department Division of Purchasing. The department Division of Purchasing should meet with educational administrators to expand the inventory of standard items for common usage in all schools and higher education institutions.

Section 10. Subsections (1) and (2) of section 255.102, Florida Statutes, are amended to read:

255.102 Contractor utilization of minority business enterprises.—

(1) Agencies shall consider the use of price preferences, weighted preference formulas, or other preferences for construction contracts, as determined appropriate by the Minority Business Advocacy and Assistance Office in collaboration with the Department of Management Services Division of Building Construction to increase minority participation.

(2) The Minority Business Advocacy and Assistance Office, in collaboration with the Division of Building Construction of the Department of Management Services and the State University System, shall adopt rules to determine what is a “good faith effort” for purposes of contractor compliance with minority participation goals established for competitively awarded building and construction projects. Pro forma efforts shall not be considered

good faith. Factors which shall be considered by the state agency in determining whether a contractor has made good faith efforts shall include, but not be limited to:

(a) Whether the contractor attended any presolicitation or prebid meetings that were scheduled by the agency to inform minority business enterprises of contracting and subcontracting opportunities.

(b) Whether the contractor advertised in general circulation, trade association, or minority-focus media concerning the subcontracting opportunities.

(c) Whether the contractor provided written notice to all relevant subcontractors listed on the minority vendor list for that locality and statewide as provided by the agency as of the date of issuance of the invitation to bid, that their interest in the contract was being solicited in sufficient time to allow the minority business enterprises to participate effectively.

(d) Whether the contractor followed up initial solicitations of interest by contacting minority business enterprises, the Minority Business Advocacy and Assistance Office, or minority persons who responded and provided detailed information about prebid meetings, access to plans, specifications, contractor's project manager, subcontractor bonding, if any, payment schedule, bid addenda, and other assistance provided by the contractor to enhance minority business enterprise participation.

(e) Whether the contractor selected portions of the work to be performed by minority business enterprises in order to increase the likelihood of meeting the minority business enterprise procurement goals, including, where appropriate, breaking down contracts into economically feasible units to facilitate minority business enterprise participation under reasonable and economical conditions of performance.

(f) Whether the contractor provided the Minority Business Advocacy and Assistance Office as well as interested minority business enterprises or minority persons with adequate information about the plans, specifications, and requirements of the contract or the availability of jobs at a time no later than when such information was provided to other subcontractors.

(g) Whether the contractor negotiated in good faith with interested minority business enterprises or minority persons, not rejecting minority business enterprises or minority persons as unqualified without sound reasons based on a thorough investigation of their capabilities or imposing implausible conditions of performance on the contract.

(h) Whether the contractor diligently seeks to replace a minority business enterprise subcontractor that is unable to perform successfully with another minority business enterprise.

(i) Whether the contractor effectively used the services of available minority community organizations; minority contractors' groups; local, state, and federal minority business assistance offices; and other organizations that provide assistance in the recruitment and placement of minority business enterprises or minority persons.

Section 11. Subsections (1) and (3) of section 255.249, Florida Statutes, are amended to read:

255.249 Department of Management Services ~~Division of Facilities Management~~; responsibility; department rules.—

(1) The Department of Management Services ~~Division of Facilities Management~~ shall have responsibility and authority for the custodial and preventive maintenance, repair, and allocation of space of all buildings in the Florida Facilities Pool and the grounds located adjacent thereto.

(3) The Department of Management Services ~~Division of Facilities Management~~ shall prepare a form listing all conditions and requirements adopted pursuant to this chapter which must be met by any state agency leasing any building or part thereof. This form shall be certified by the agency head or the agency head's designated representative.

Section 12. Paragraphs (a) and (c) of subsection (1), paragraphs (a) and (b) of subsection (2), paragraphs (a) and (b) of subsection (3), paragraph (a) of subsection (4), and subsections (5), (6), and (10) of section 255.25, Florida Statutes, are amended to read:

255.25 Approval required prior to construction or lease of buildings.—

(1)(a) No state agency may construct a building for state use or lease space in a private building that is to be constructed for state use unless prior approval of the architectural design and preliminary construction plans is first obtained from the Department of Management Services ~~Division of Building Construction~~.

(c) When specifically authorized by the Appropriations Act and in accordance with s. 255.2501, if applicable, the Department of Management Services ~~Division of Facilities Management~~ may approve a lease-purchase, sale-leaseback, or tax-exempt leveraged lease contract or other financing technique for the acquisition, renovation, or construction of a state fixed capital outlay project when it is in the best interest of the state.

(2)(a) Except as provided in s. 255.2501, no state agency may lease a building or any part thereof unless prior approval of the lease conditions and of the need therefor is first obtained from the Department of Management Services ~~Division of Facilities Management~~. Any approved lease may include an option to purchase or an option to renew the lease, or both, upon such terms and conditions as are established by the department division subject to final approval by the head of the Department of Management Services and s. 255.2502.

(b) The approval of the Department of Management Services ~~Division of Facilities Management~~, except for technical sufficiency, need not be obtained for the lease of less than 3,000 square feet of space within a privately owned building, provided the agency head or the agency head's designated representative has certified compliance with applicable leasing criteria as may be provided pursuant to s. 255.249(2)(k) and has determined such lease to be in the best interest of the state. Such a lease which is for a term

extending beyond the end of a fiscal year is subject to the provisions of ss. 216.311, 255.2502, and 255.2503.

(3)(a) Except as provided in subsection (10), no state agency shall enter into a lease as lessee for the use of 3,000 square feet or more of space in a privately owned building except upon advertisement for and receipt of competitive bids and award to the lowest and best bidder. The Department of Management Services Division of Facilities Management shall have the authority to approve a lease for 3,000 square feet or more of space that covers more than 1 fiscal year, subject to the provisions of ss. 216.311, 255.2501, 255.2502, and 255.2503, if such lease is, in the judgment of the department division, in the best interests of the state. This paragraph does not apply to buildings or facilities of any size leased for the purpose of providing care and living space for persons.

(b) The Department of Management Services Division of Facilities Management may approve extensions of an existing lease of 3,000 square feet or more of space if such extensions are determined to be in the best interests of the state, but in no case shall the total of such extensions exceed 11 months. If at the end of the 11th month an agency still needs space, it shall be procured by competitive bid in accordance with s. 255.249(2)(b).

(4)(a) The Department of Management Services Division of Facilities Management shall not authorize any state agency to enter into a lease agreement for space in a privately owned building when suitable space is available in a state-owned building located in the same geographic region, except upon presentation to the department division of sufficient written justification, acceptable to the department division, that a separate space is required in order to fulfill the statutory duties of the agency making such request. The term "state-owned building" as used in this subsection means any state-owned facility regardless of use or control.

(5) Before construction or renovation of any state-owned building or state-leased space is commenced, the Department of Management Services Division of Building Construction or the Division of Facilities Management, as appropriate, shall ascertain, by submission of proposed plans to the Division of State Fire Marshal for review, that the proposed construction or renovation plan complies with the uniform firesafety standards required by the Division of State Fire Marshal. The review of construction or renovation plans for state-leased space shall be completed within 10 calendar days of receipt of the plans by the Division of State Fire Marshal. The review of construction or renovation plans for a state-owned building shall be completed within 30 calendar days of receipt of the plans by the Division of State Fire Marshal. The responsibility for submission and retrieval of the plans called for in this subsection shall not be imposed on the design architect or engineer, but shall be the responsibility of the two agencies. Whenever the Division of State Fire Marshal determines that a construction or renovation plan is not in compliance with such uniform firesafety standards, the Division of State Fire Marshal may issue an order to cease all construction or renovation activities until compliance is obtained, except those activities required to achieve such compliance. The Department of Management Services Division of Facilities Management shall withhold approval of any

proposed lease until the construction or renovation plan complies with the uniform firesafety standards of the Division of State Fire Marshal. The cost of all modifications or renovations made for the purpose of bringing leased property into compliance with the uniform firesafety standards shall be borne by the lessor.

(6) Before construction or substantial improvement of any state-owned building is commenced, the ~~Department of Management Services Division of Building Construction~~ must ascertain that the proposed construction or substantial improvement complies with the flood plain management criteria for mitigation of flood hazards, as prescribed in the October 1, 1986, rules and regulations of the Federal Emergency Management Agency, and the ~~department division~~ shall monitor the project to assure compliance with the criteria. In accordance with chapter 120, the Department of Management Services Division of Building Construction shall adopt any necessary rules to ensure that all such proposed state construction and substantial improvement of state buildings in designated flood-prone areas complies with the flood plain management criteria. Whenever the ~~department division~~ determines that a construction or substantial improvement project is not in compliance with the established flood plain management criteria, the ~~department division~~ may issue an order to cease all construction or improvement activities until compliance is obtained, except those activities required to achieve such compliance.

(10) The Department of Management Services Division of Facilities Management may approve emergency acquisition of space without competitive bids if existing state-owned or state-leased space is destroyed or rendered uninhabitable by an act of God, fire, malicious destruction, or structural failure, or by legal action, if the chief administrator of the state agency or the chief administrator's designated representative certifies in writing that no other agency-controlled space is available to meet this emergency need, but in no case shall the lease for such space exceed 11 months. If the lessor elects not to replace or renovate the destroyed or uninhabitable facility, the agency shall procure the needed space by competitive bid in accordance with s. 255.249(2)(b). If the lessor elects to replace or renovate the destroyed or uninhabitable facility and the construction or renovations will not be complete at the end of the 11-month lease, the agency may modify the lease to extend it on a month-to-month basis for an additional 6 months to allow completion of such construction or renovations.

Section 13. Subsection (2) of section 255.25001, Florida Statutes, is amended to read:

255.25001 Suspension or delay of specified functions, programs, and requirements relating to governmental operations.—Notwithstanding the provisions of:

(2) Sections 253.025 and 255.25, the ~~Department of Management Services, Division of Facilities Management~~, has the authority to promulgate rules pursuant to chapter 120 to be used in determining whether a lease-purchase of a state-owned office building is in the best interests of the state, which rules provide:

(a) Procedures state agencies will follow to certify the need for a lease-purchase acquisition for a state-owned office building to the Department of Management Services ~~Division of Facilities Management~~ and a notification procedure of the department's division's decision regarding state agencies' requests for a lease-purchase agreement. The certification process shall include but not be limited to the following:

1. Current programmatic space requirements of the state agency.
2. Future programmatic space requirements of the state agency.
3. Time considerations in providing state-owned office building space.
4. An analysis of existing leases affected by the lease-purchase agreement.

(b) Procedures and document formats for the advertisement, competitive bid process, including format of submissions, and evaluation of lease-purchase acquisition proposals for state-owned office buildings. The evaluation process shall include but not be limited to the following:

1. A consideration of the cost of comparable operating leases.
2. The appraised value of the facility as required by s. 253.025.
3. A present value analysis of the proposed payment stream.
4. The cost of financing the facility to be acquired.
5. The cost to repair identified physical defects.
6. The cost to remove identified hazardous substances.
7. An energy analysis.
8. A determination of who is responsible for management and maintenance activities.

In order to minimize the cost of the evaluation process, the Department of Management Services ~~Division of Facilities Management~~ may develop a multistage evaluation process to identify the most cost-efficient proposals for extensive evaluation. The studies developed as a result of this evaluation process shall be considered confidential and exempt from the provisions of s. 119.07(1) to the same extent that appraisal reports are considered confidential and exempt from the provisions of s. 119.07(1) as provided in s. 253.025(6)(d).

(c) Acceptable terms and conditions for inclusion in lease-purchase agreements, which shall include but not be limited to:

1. The assignment of the lease-purchase agreement to other governmental entities, including accumulated equity.
2. The ability of the acquiring state agency to sublease a portion of the facility, not to exceed 25 percent, to other governmental entities. These

subleases shall provide for the recovery of the agencies' cost of operations and maintenance.

The execution of a lease-purchase is conditioned upon a finding by the Department of Management Services that it would be in the best interests of the state. The language in this subsection shall be considered specific authorization for a lease-purchase pursuant to s. 255.25(1)(b) upon the Department of Management Services' certification that the lease-purchase is in the best interests of the state. Thereafter, the agency is authorized to enter into a lease-purchase agreement and to expend operating funds for lease-purchase payments. Any facility which is acquired pursuant to the processes authorized by this subsection shall be considered to be a "state-owned office building" and a "state-owned building" as those terms are applied in ss. 255.248-255.25.

(d) That any costs resulting from the processes authorized by this subsection, including but not limited to appraisals, environmental analyses, and any other studies which may be required under these provisions, shall be borne by the owner of the property which is the subject of the proposed lease-purchase.

Section 14. Subsections (1) and (5) of section 255.253, Florida Statutes, are amended to read:

255.253 Definitions; ss. 255.251-255.258.—

(1) "Department" ~~"Division"~~ means the ~~Division of Building Construction~~ of the Department of Management Services.

(5) "Shared savings financing" means the financing of energy conservation measures and maintenance services through a private firm which may own any purchased equipment for the duration of a contract, which shall not exceed 10 years unless so authorized by the ~~department division~~. Such contract shall specify that the private firm will be recompensed either out of a negotiated portion of the savings resulting from the conservation measures and maintenance services provided by the private firm or, in the case of a cogeneration project, through the payment of a rate for energy lower than would otherwise have been paid for the same energy from current sources.

Section 15. Section 255.254, Florida Statutes, is amended to read:

255.254 No facility constructed or leased without life-cycle costs.—

(1) No state agency shall lease, construct, or have constructed, within limits prescribed herein, a facility without having secured from the ~~department division~~ a proper evaluation of life-cycle costs, as computed by an architect or engineer. Furthermore, construction shall proceed only upon disclosing, for the facility chosen, the life-cycle costs as determined in s. 255.255 and the capitalization of the initial construction costs of the building. The life-cycle costs shall be a primary consideration in the selection of a building design. Such analysis shall be required only for construction of buildings with an area of 5,000 square feet or greater. For leased areas of

20,000 square feet or greater within a given building boundary, a life-cycle analysis shall be performed, and a lease shall only be made where there is a showing that the life-cycle costs are minimal compared to available like facilities.

(2) On and after January 1, 1979, no state agency shall initiate construction or have construction initiated, prior to approval thereof by the department division, on a facility or self-contained unit of any facility, the design and construction of which incorporates or contemplates the use of an energy system other than a solar energy system when the life-cycle costs analysis prepared by the department division has determined that a solar energy system is the most cost-efficient energy system for the facility or unit.

(3) After September 30, 1985, when any state agency must replace or supplement major items of energy-consuming equipment in existing state-owned or leased facilities or any self-contained unit of any facility with other major items of energy-consuming equipment, the selection of such items shall be made on the basis of a life-cycle cost analysis of alternatives in accordance with rules promulgated by the department division under s. 255.255.

Section 16. Subsection (1) and paragraph (a) of subsection (2) of section 255.255, Florida Statutes, are amended to read:

255.255 Life-cycle costs.—

(1) The department division shall promulgate rules and procedures, including energy conservation performance guidelines, for conducting a life-cycle cost analysis of alternative architectural and engineering designs and alternative major items of energy-consuming equipment to be retrofitted in existing state-owned or leased facilities and for developing energy performance indices to evaluate the efficiency of energy utilization for competing designs in the construction of state-financed and leased facilities.

(2) Such life-cycle costs shall be the sum of:

(a) The reasonably expected fuel costs over the life of the building, as determined by the department division, that are required to maintain illumination, power, temperature, humidity, and ventilation and all other energy-consuming equipment in a facility, and

Section 17. Subsections (1), (2), (3), and (4) of section 255.257, Florida Statutes, are amended to read:

255.257 Energy management plan; buildings occupied by state agencies.—

(1) DEPARTMENT DIVISION RESPONSIBILITY.—The Department of Management Services Division of Facilities Management shall constitute the responsible state agency for developing and implementing an energy management plan for state agencies occupying state-owned or state-leased buildings. The Department of Community Affairs shall assist in the development of this plan.

(2) ENERGY CONSUMPTION AND COST DATA.—Each state agency shall submit, in the form and manner to be prescribed by the Department of Management Services Division of Facilities Management, data on energy consumption and cost. These data will be used in the computation of the effectiveness of the state energy management plan and the effectiveness of the energy management program of each of the reporting agencies. The ~~department division~~ shall advise the various agencies on the effectiveness of their energy management programs.

(3) ENERGY MANAGEMENT COORDINATORS.—Each state agency, the Florida Public Service Commission, the Department of Military Affairs, and the judicial branch shall appoint a coordinator whose responsibility shall be to advise the head of the agency on matters relating to energy consumption in facilities under the control of that head or in space occupied by the various units comprising that agency, in vehicles operated by that agency, and in other energy-consuming activities of the agency. The coordinator shall cooperate with the Department of Management Services Division of Facilities Management in the implementation of the state energy management plan. The coordinator shall implement the energy management program jointly agreed upon by the agency concerned and the department division.

(4) CONTENTS OF THE STATE ENERGY MANAGEMENT PLAN.—The Department of Management Services Division of Facilities Management shall develop a state energy management plan consisting of, but not limited to, the following elements:

- (a) Data-gathering requirements;
- (b) Building energy audit procedures;
- (c) Uniform data analysis procedures;
- (d) Employee energy education program measures;
- (e) Energy consumption reduction techniques;
- (f) Training program for agency energy management coordinators; and
- (g) Guidelines for building managers.

The plan shall include a description of actions to reduce consumption of electricity and nonrenewable energy sources used for space heating and cooling, ventilation, lighting, water heating, and transportation.

Section 18. Subsection (2) of section 255.258, Florida Statutes, is amended to read:

255.258 Shared savings financing of energy conservation in state-owned buildings.—

(2) Except as noted in subsection (4), state agency shared savings contracts shall be developed in accordance with a model contract to be developed

by the ~~department division~~ in cooperation with the Attorney General, the Comptroller, and the Department of Community Affairs. The model contract shall include the methodology for calculating base line energy costs, a procedure for revising these costs should the state institute additional energy conservation features or building use change, a requirement for a performance bond guaranteeing that the facility will be restored to the original condition in the event of default, a provision for early buy-out, a clause specifying who will be responsible for maintaining the equipment, and a provision allowing the disposal of equipment at the end of the contract. No agency shall substantially alter the provisions described in the model without the permission of the department division.

Section 19. Subsections (1), (2), and (3) of section 255.31, Florida Statutes, are amended to read:

255.31 Authority to the ~~Division of Building Construction~~ of the Department of Management Services to manage construction projects for state and local governments.—

(1) The Department of Management Services ~~Division of Building Construction~~ shall provide the project management and administration services for the construction, renovation, repair, modification, or demolition of buildings, utilities, parks, parking lots, or other facilities or improvements for projects for which the funds are appropriated to the department of ~~Management Services~~. The department's division's fees for such services shall be paid from such appropriations.

(2) The Department of Management Services ~~Division of Building Construction~~ may, upon request, enter into contracts with other state agencies under which the ~~department division~~ may provide the project management, administration services, or assistance for the construction, renovation, repair, modification, or demolition of buildings, utilities, parks, parking lots, or other facilities or improvements for projects for which the funds are appropriated to other state agencies. The contracts shall provide for payment of fees to the department division.

(3) The Department of Management Services ~~Division of Building Construction~~ may, upon request, enter into contracts with municipalities, school boards, school districts, authorities, other political subdivisions, and community colleges under which the ~~department division~~ may provide the project management, administration services, or assistance for the construction, renovation, repair, modification, or demolition of buildings, utilities, parks, parking lots, or other facilities or improvements. The contracts shall provide for payment of fees to the department division.

Section 20. Section 255.45, Florida Statutes, is amended to read:

255.45 Correction of firesafety violations in certain state-owned property.—The ~~Division of Facilities Management~~ of the Department of Management Services is responsible for ensuring that firesafety violations that are noted by the State Fire Marshal pursuant to s. 633.085 are corrected as soon as practicable for all state-owned property which is leased from the Department of Management Services.

Section 21. Section 255.451, Florida Statutes, is amended to read:

255.451 Electronic firesafety and security system.—The management responsibility of the electronic firesafety and security system located within the Capitol and any system associated therewith is vested in the ~~Division of Facilities Management~~ of the Department of Management Services.

Section 22. Paragraphs (c), (d), and (l) of subsection (2), subsections (5), (10), (12), and (13), paragraph (b) of subsection (14), and subsection (16) of section 255.502, Florida Statutes, are amended to read:

255.502 Definitions; ss. 255.501-255.525.—As used in this act, the following words and terms shall have the following meanings unless the context otherwise requires:

(2) “Acquisition costs” means all reasonable and necessary costs incurred in the acquisition of a facility, which costs may include, but are not limited to:

(c) Any expenses relating to the issuance of the obligations by the division in the name and on behalf of the Department of Management Services ~~Division of Facilities Management~~, including, but not limited to, private placement fees, underwriting fees, original issue discounts, rating agency fees, and other necessary fees.

(d) Fees in connection with the planning, execution, and financing of a project, such as those of architects, engineers, attorneys, feasibility consultants, financial advisers, accountants, and the Department of Management Services ~~Division of Facilities Management~~, including the allocable portions of direct costs of the Department of Management Services ~~Division of Facilities Management~~ and the lessee agencies.

(l) The reimbursement of all moneys advanced or supplied to or borrowed by the Department of Management Services ~~Division of Facilities Management~~ or others for the payment of any item of cost of a facility.

(5) “Debt service charges” means, collectively, principal, including mandatory sinking fund requirements and the accretion portion of any capital appreciation bonds for retirement of obligations, interest, redemption premium, if any, required to be paid by the Department of Management Services ~~Division of Facilities Management~~ on obligations issued under this act and any obligation administrative fees.

(10) “Obligation administrative fees” means any periodic expense, charge, or cost relating to or incurred in connection with remarketing of obligations such as remarketing agent or indexing agent fees and any periodic expense, charge, or cost related to any obligations or to credit enhancements or liquidity features, including, but not limited to, letter of credit fees, whether direct pay or standby, swap agent fees and similar expenses, periodic fees and expenses, if any, of trustees, depositories, registrars, book entry registrars and paying agents, and any allowances established by the Department of Management Services ~~Division of Facilities Management~~ for working capital, contingency reserves, and reserves for any anticipated operating deficits during each fiscal year.

(12) "Pool pledged revenues" means all legislative appropriations and all fees, charges, revenues, or receipts derived by the Department of Management Services ~~Division of Facilities Management~~ from the operation, leasing, or other disposition of facilities in the pool, and the proceeds of obligations issued under this act, and shall include any moneys appropriated to an agency for the purpose of making such rental payments, rental payments received with respect to such facilities from whatever sources, and receipts therefrom, and investment of any such moneys pursuant to this act, all as are available for the payment of debt service charges on such obligations as are issued with respect to the pool.

(13) "Pool rental rate" means the per square foot rental rate established by the Department of Management Services ~~Division of Facilities Management~~ for every facility which is in the pool.

(14) "Qualified facility" means an eligible facility which is either:

(b) Determined by the Department of Management Services ~~Division of Facilities Management~~ to be suitable for entry into the pool although not meeting the requirements of paragraph (a); or

(16) "Revenue bonds" means any bonds, debentures, notes, certificates, or other evidences of financial indebtedness, whether certificated or noncertificated, issued by the division on behalf of the ~~Division of Facilities Management~~ of the Department of Management Services under and pursuant to this act, including, but not limited to, variable rate obligations, designated maturity obligations, capital appreciation bonds, original issue discount bonds, and multimodal instruments or obligations, or instruments combining any of the foregoing.

Section 23. Section 255.503, Florida Statutes, is amended to read:

255.503 Powers of the Department of Management Services ~~Division of Facilities Management~~.—The Department of Management Services ~~Division of Facilities Management~~ shall have all the authority necessary to carry out and effectuate the purposes and provisions of this act, including, but not limited to, the authority to:

(1) Collect reasonable rentals or charges for the use of and services provided for facilities in the pool in accordance with the provisions of this act exclusively for the purpose of paying the expenses of improving, repairing, maintaining, and operating facilities and paying debt service charges in connection with its obligations.

(2) Prescribe for the use of facilities in the pool, prescribe the amount of rentals or charges, and make and enter into contracts with any political subdivision or agency, for the use of and services provided for such facilities.

(3) Acquire facilities pursuant to s. 11(e), Art. VII of the State Constitution and own, operate, and finance such facilities in accordance with this act through the issuance of obligations by the division under this act; to utilize rentals or charges from such facilities, as well as any appropriated state or other public funds; and to pledge revenue from such facilities to finance the acquisition of facilities pursuant to the provisions of this act.

(4) Operate existing state-owned facilities in the pool and to pledge rentals or charges for such facilities to finance the acquisition of facilities pursuant to the provisions of this act.

(5) Pledge, hypothecate, or otherwise encumber rentals or charges as may be agreed as security for obligations issued under this act and enter into trust agreements or indentures for the benefit of the holders of such obligations.

(6) Borrow money or accept advances, loans, gifts, grants, devises, or bequests from any legal source; enter into contracts or agreements with any party; and hold and apply advances, loans, gifts, grants, devises, or bequests according to the terms thereof. Such advances, loans, gifts, grants, devises, or bequests of real estate may be in fee simple or of any lesser estate and may be subject to any reasonable reservations. Any advances or loans received from any source may be repaid in accordance with the terms of such advance or loan.

(7) Sell, lease, release, or otherwise dispose of facilities in the pool in accordance with applicable law.

(8) Create and establish funds and accounts for the purpose of debt service reserves, for the matching of the timing and the amount of available funds and debt service charges, for sinking funds, for capital depreciation reserves, for operating reserves, for capitalized interest and moneys not required for immediate disbursement to acquire all or a portion of any facility, and for any other reserves, funds, or accounts reasonably necessary to carry out the provisions of this act and to invest in authorized investments any moneys held in such funds and accounts, provided such investments will be made on behalf of the Department of Management Services Division of Facilities Management by the State Board of Administration or the Treasurer, as appropriate.

(9) Engage the services of consultants for rendering professional and technical assistance and advice and to engage services of professionals in connection with the acquisition or financing of any facility or the operation and activities of the Department of Management Services Division of Facilities Management, including attorneys, auditors, consultants, and accountants.

(10) Lease all or any portion of any facility to an agency or to any political subdivision.

(11) Promulgate all rules necessary to implement the provisions of this act.

(12) Do all other acts reasonably necessary to carry out the provisions of this act.

Section 24. Subsection (1) of section 255.504, Florida Statutes, is amended to read:

255.504 Use of facilities.—

(1) Any facility which is acquired and approved pursuant to s. 11(e), Art. VII of the State Constitution and financed under this act, and any facility in the pool shall be occupied to the extent that space is available, by agencies as authorized by the Department of Management Services Division of Facilities Management.

Section 25. Section 255.505, Florida Statutes, is amended to read:

255.505 Creation of the pool.—The Department of Management Services Division of Facilities Management is hereby authorized and directed to create the Florida Facilities Pool in order that agencies may participate, and thereby pool the rentals to be paid by such agencies, at uniform rates with additional charges for services provided, and to authorize the issuance of obligations secured by and payable from such rentals and charges. Participation in the pool shall be in accordance with the provisions of this act.

Section 26. Subsections (3) and (4) of section 255.506, Florida Statutes, are amended to read:

255.506 Facilities in pool.—The following facilities shall be entered into the pool:

(3) Any agency may submit all, but not less than all, of the eligible facilities under its jurisdiction for entry into the pool. Each of such eligible facilities which is determined by the Department of Management Services Division of Facilities Management to be a qualified facility shall be entered into the pool upon such determination.

(4) Any agency which requests the issuance of obligations under this act for the financing of the acquisition of a facility shall submit all, but not less than all, of the eligible facilities under its jurisdiction for entry into the pool. Each of such eligible facilities which is determined by the Department of Management Services Division of Facilities Management to be a qualified facility shall be entered into the pool upon such a determination.

Section 27. Section 255.507, Florida Statutes, is amended to read:

255.507 Determination of qualified facilities.—The Department of Management Services Division of Facilities Management, in making determinations under s. 255.502(14)(b), shall determine a facility to be a qualified facility if the facility meets either of the following standards:

(1) The facility is in compliance with the firesafety standards established by the State Fire Marshal for state-owned buildings, is in compliance with flood management criteria if it is located in a flood-prone area, and is in good operating condition in relation to its intended use.

(2) The facility's economic benefit to the pool will be equal to or greater than the cost of restoring the facility to the condition described in subsection (1). For purposes of this subsection, achieving such economic benefit means that the rent to be paid by the occupants of the facility will be adequate to repay the restoration costs within 5 years.

Section 28. Section 255.508, Florida Statutes, is amended to read:

255.508 Participation in pool.—To participate in the pool, an agency head shall submit a request to the Department of Management Services ~~Division of Facilities Management~~ and to the division pursuant to rules adopted by the Department of Management Services ~~Division of Facilities Management~~ pursuant to this act.

Section 29. Section 255.509, Florida Statutes, is amended to read:

255.509 Request for advisory statement.—

(1) Any agency may request from the Department of Management Services ~~Division of Facilities Management~~ an advisory statement which shall state the estimated pool rental rate which would be assessed under current conditions for the agency's facilities if entered into the pool. The request for an advisory statement shall contain a description of each eligible facility under the jurisdiction of the agency or to be acquired by the agency.

(2) In rendering such advisory statement, the Department of Management Services ~~Division of Facilities Management~~ shall consult with the division and shall be entitled to rely upon financial advisers or other professionals and may assume whatever method of financing that the division deems cost-effective.

Section 30. Section 255.51, Florida Statutes, is amended to read:

255.51 Determination of rental rates.—The Department of Management Services ~~Division of Facilities Management~~ shall determine and establish rental rates charged and computed on a per square foot basis for all facilities in the pool whether or not of new construction, and such rates shall be applied uniformly to all agencies using or occupying space in facilities in the pool with additional charges based upon the elements of service and special requests as provided. Separate rates and charges may be established for warehouse space and parking space incidental to facilities in the pool.

Section 31. Subsection (1) of section 255.511, Florida Statutes, is amended to read:

255.511 Factors to be considered in establishing rental rates.—

(1) The Department of Management Services ~~Division of Facilities Management~~ shall prepare a complete annual budget for debt service on obligations issued under this act and for capital depreciation reserve deposits and expenses included in the operation and maintenance of each facility in the pool.

Section 32. Section 255.513, Florida Statutes, is amended to read:

255.513 Powers of the Division of Bond Finance and the Department of Management Services ~~Division of Facilities Management~~.—The Division of Bond Finance and the Department of Management Services ~~Division of Facilities Management~~ are authorized to jointly:

(1) Engage the services of remarketing agents, indexing agents, underwriters, financial advisers, special tax counsel, bond counsel, or similar type services with respect to the issuance of any obligations under this act.

(2) Procure credit enhancements such as municipal bond insurance, debt service reserve insurance, lease payment insurance, letters of credit or liquidity facilities such as letters of credit or surety bonds, or to enter into rate protection agreements, such as interest rate swaps or similar arrangements, in conjunction with the issuance of any obligations under this act.

Section 33. Section 255.514, Florida Statutes, is amended to read:

255.514 Division of Bond Finance; revenue bonds.—The division is authorized to issue obligations under this act on behalf of and at the request of the Department of Management Services ~~Division of Facilities Management~~.

Section 34. Section 255.515, Florida Statutes, is amended to read:

255.515 Issuance of obligations by the division.—With respect to the issuance of any obligations under this act, the division shall be entitled to use such method of financing or combination of methods of financing as it deems appropriate to result in cost-effective financing. The division shall be entitled to rely upon the advice of financial advisers and other professionals retained jointly by the Department of Management Services ~~Division of Facilities Management~~ and the division for such purposes.

Section 35. Section 255.517, Florida Statutes, is amended to read:

255.517 Anticipation obligations.—To provide funds for the purposes of this act, and prior to the delivery of an issue of revenue bonds for the purposes of this act, the division may, on behalf of the Department of Management Services ~~Division of Facilities Management~~, from time to time, by resolution, anticipate the issuance of such revenue bonds by the issuance of revenue notes, including commercial paper notes in the form of bond anticipation notes, with or without coupons, exchangeable for the revenue bonds when such revenue bonds have been executed and are available for delivery, or to be paid, together with interest and premium, if any, from the proceeds of the sale of such revenue bonds or a renewal issue of revenue notes, including commercial paper notes in the form of bond anticipation notes. In connection with such revenue notes, the Department of Management Services ~~Division of Facilities Management~~ may covenant to do all things necessary to authorize the issuance of the obligations and shall make the exchange or application of the proceeds pursuant to its agreements. Such revenue notes and, in the case of commercial paper notes, the latest maturity thereof shall mature not later than 5 years from the date of issue of the original revenue notes and shall bear such other terms and shall be executed and sold in the manner authorized by the division and not prohibited by this act.

Section 36. Paragraph (a) of subsection (1), subsection (2), paragraphs (b) and (c) of subsection (5), paragraphs (a), (d), (e), and (f) of subsection (6),

paragraph (a) of subsection (7), paragraph (a) of subsection (8), and subsections (10), (11), (12), and (13) of section 255.518, Florida Statutes, are amended to read:

255.518 Obligations; purpose, terms, approval, limitations.—

(1)(a) The issuance of obligations shall provide sufficient funds to achieve the purposes of this act; pay interest on obligations except as provided in paragraph (b); pay expenses incident to the issuance and sale of any obligations issued pursuant to this act, including costs of validating, printing, and delivering the obligations, printing the official statement, publishing notices of sale of the obligations, and related administrative expenses; pay building acquisition and construction costs; and pay all other capital expenditures of the ~~Department of Management Services~~ Division of Facilities Management and the division incident to and necessary to carry out the purposes and powers granted by this act, subject to the provisions of s. 11(e), Art. VII of the State Constitution and the applicable provisions of the State Bond Act. Such obligations shall be payable solely from the pool pledged revenues identified to such obligation. Proceeds of obligations may not be used to pay building acquisition or construction costs for any facility until the Legislature has appropriated funds from other sources estimated to be necessary for all costs relating to the initial planning, preliminary design and programming, and land acquisition for such facility and until such planning, design, and land acquisition activities have been completed. Obligation proceeds for building construction, renovation, or acquisition shall be requested for appropriation in any fiscal year by the Department of Management Services only if the department estimates that such construction, renovation, or acquisition can be initiated during such fiscal year.

(2) All obligations authorized by this act shall be issued on behalf of and in the name of the ~~Department of Management Services~~ Division of Facilities Management by the division as provided by this act, with a term of not more than 30 years and, except as otherwise provided herein, in such principal amounts as shall be necessary to provide sufficient funds to achieve the purposes of this act.

(5) Any resolution or resolutions authorizing any obligations issued pursuant to this act shall provide that:

(b) The ~~Department of Management Services~~ Division of Facilities Management shall maintain all facilities in the pool in a satisfactory state of repair, subject to such exceptions as are determined by the ~~Department of Management Services~~ Division of Facilities Management, provided that such exceptions do not result in breach of any rate covenant in connection with the obligations.

(c) The ~~Department of Management Services~~ Division of Facilities Management shall establish pool rental rates in amounts so that the annualized amount of pool pledged revenues for the then-current bond year shall be at least equal to the aggregate of 110 percent of debt services charges, plus 100 percent of capital depreciation reserve deposits, plus 100 percent of costs of operations and maintenance, if any, in each case as shown in the annual budget required pursuant to this act.

(6) Any resolution authorizing any obligations issued pursuant to this act may contain provisions, without limitation, which shall be a part of the contract with the holders thereof, as to:

(a) Pledging all or any part of the assets of the Department of Management Services Division of Facilities Management securing the same, including leases with respect to all or any part of a facility, to secure the payment of obligations, subject to such agreements with holders of obligations as may then exist.

(d) Vesting in the State Board of Administration such property, rights, powers, and duties in trust as the division and the Department of Management Services Division of Facilities Management may determine, and limiting or abrogating the right of holders of obligations to appoint a trustee under this act or limiting the rights, powers, and duties of such trustee.

(e) Defining the acts or omissions to act which shall constitute a default in the obligations and duties of the division and the Department of Management Services Division of Facilities Management to the holders of obligations and providing for the rights and remedies of holders of obligations in the event of such default, including, as matter of right, the appointment of a receiver; provided such rights and remedies shall not be inconsistent with the general laws of the state and the other provisions of this act.

(f) Providing for the segregation of revenues payable to the Department of Management Services Division of Facilities Management as rentals or charges arising from facilities in the pool; providing for the handling of such revenues and the remittance of all or a portion thereof to the State Board of Administration or a paying agent; providing for the establishment of debt service reserves, capitalized interest accounts, capital depreciation reserve accounts, and the calculation of the amounts to be deposited therein; providing for the procurement of letters of credit or municipal bond insurance or similar credit enhancements or of letters of credit or similar liquidity facilities for the benefit of holders of such obligations or for the entering into of agreements with remarketing agents, tender agents, or indexing agents or of reimbursement agreements with respect to any of the foregoing concerning any such obligations.

(7)(a) The obligations issued by the division on behalf of and in the name of the Department of Management Services Division of Facilities Management shall be sold at public sale in the manner provided by the State Bond Act; provided that if the division shall determine that a negotiated sale of the obligations is in the best interest of the state, the division may negotiate for sale of the obligations with the underwriter jointly designated by the division and the Department of Management Services Division of Facilities Management. In authorizing the negotiated sale, the division shall provide specific findings as to the reasons for the negotiated sale. The reasons shall include, but not be limited to, characteristics of the obligations to be issued and prevailing market conditions that necessitate a negotiated sale. In the event the division negotiates for sale of obligations, the managing underwriter, or financial consultant or adviser, if applicable, shall provide to the division, prior to the award of such obligations to the managing underwriter, a disclosure statement containing the following information:

1. An itemized list setting forth the nature and estimated amounts of expenses to be incurred by the managing underwriter in connection with the issuance of such obligations. Notwithstanding the foregoing, any such list may include an item for miscellaneous expenses, provided it includes only minor items of expense which cannot be easily categorized elsewhere in the statement.
2. The names, addresses, and estimated amounts of compensation of any finders connected with the issuance of the obligations.
3. The amount of underwriting spread expected to be realized.
4. Any management fee charged by the managing underwriter.
5. Any other fee, bonus, or compensation estimated to be paid by the managing underwriter in connection with the obligations issued to any person not regularly employed or retained by it.
6. The name and address of the managing underwriter, if any, connected with the obligations issued.
7. Any other disclosure which the division may require.

This paragraph is not intended to restrict or prohibit the employment of professional services relating to obligations issued under this act or the issuance of bonds by the division under any other provisions of law.

(8)(a) No underwriter, commercial bank, investment banker, or financial consultant or adviser shall pay any finder any bonus, fee, or gratuity in connection with the sale of obligations issued by the division on behalf of and in the name of the Department of Management Services ~~Division of Facilities Management~~ unless full disclosure is made to the division prior to or concurrently with the submission of a purchase proposal for such obligations by the underwriter, commercial bank, investment banker, or financial consultant or adviser and is made subsequently in the official statement or offering circular, if any, detailing the name and address of any finder and the amount of bonus, fee, or gratuity paid to such finder.

(10) All obligations issued by the division on behalf of and in the name of the Department of Management Services ~~Division of Facilities Management~~ shall state on the face thereof that they are payable, both as to principal and interest, and premium, if any, solely out of the pool pledged revenues, and do not constitute an obligation, either general or special, of the state or of any political subdivision.

(11) All obligations issued by the division on behalf of and in the name of the Department of Management Services ~~Division of Facilities Management~~ are hereby declared to have all the qualities and incidents of negotiable instruments under the applicable laws of the state.

(12) Any pledge of earnings, revenues, or other moneys made by the Department of Management Services ~~Division of Facilities Management~~ shall be valid and binding from the time the pledge is made. Any earnings,

revenues, or other moneys so pledged and thereafter received by the Department of Management Services Division of Facilities Management shall immediately be subject to the lien of that pledge without any physical delivery thereof or further act, and the lien of the pledge shall be valid and binding as against the Department of Management Services Division of Facilities Management irrespective of whether the parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded or filed pursuant to the Uniform Commercial Code.

(13) No employee of the Department of Management Services Division of Facilities Management or the division, nor any person lawfully executing obligations issued under this act by the division on behalf of and in the name of the Department of Management Services Division of Facilities Management, shall be liable personally on the obligations or be subject to any personal liability or accountability by reason of the issuance thereof.

Section 37. Section 255.52, Florida Statutes, is amended to read:

255.52 Approval by State Board of Administration.—At or prior to the sale by the division, all obligations proposed to be issued by the division shall be approved by the State Board of Administration as to fiscal sufficiency. The State Board of Administration shall look to the rate coverage of all pool pledged revenues, as projected by the Department of Management Services Division of Facilities Management, with respect to all proposed and outstanding obligations issued under this act:

- (1) One hundred and ten percent of debt service charges; plus
- (2) One hundred percent of capital depreciation reserved deposits, if any; plus
- (3) One hundred percent of costs of operation and maintenance.

With respect to variable rate obligations, such evaluation shall be made at the interest rate for the date of sale determined as provided in s. 255.519.

Section 38. Section 255.521, Florida Statutes, is amended to read:

255.521 Failure of payment.—Should an agency fail to make a timely payment of the pool pledged rentals or charges as required by this act, the Comptroller shall withhold general revenues of the agency in an amount sufficient to pay the rentals and charges due and unpaid from such agency. The Comptroller shall forward said general revenue amounts to the Department of Management Services Division of Facilities Management in payment of such rents.

Section 39. Section 255.522, Florida Statutes, is amended to read:

255.522 State and political subdivisions not liable on obligations.—Obligations issued pursuant to this act shall not be a debt of the state or of any political subdivision, and neither the state nor any political subdivision shall be liable thereon. The Department of Management Services Division of Facilities Management shall not have the power to pledge the credit, the

revenues, or the taxing power of the state or of any political subdivision; and neither the credit, the revenues, nor the taxing power of the state or of any political subdivision shall be, or shall be deemed to be, pledged to the payment of any obligations issued pursuant to this act.

Section 40. Section 255.523, Florida Statutes, is amended to read:

255.523 Exemption from taxes.—The property of the Department of Management Services ~~Division of Facilities Management~~, the transactions and operations thereof, and the income therefrom shall be exempt from taxation by the state and political subdivisions.

Section 41. Paragraph (a) of subsection (2) of section 265.001, Florida Statutes, is amended to read:

265.001 Florida Women's Hall of Fame.—

(2)(a) There is hereby established the Florida Women's Hall of Fame. The ~~Division of Facilities Management of the~~ Department of Management Services shall set aside an area on the Plaza Level of the Capitol Building and shall consult with the Florida Commission on the Status of Women regarding the design and theme of such area.

Section 42. Paragraph (a) of subsection (2) of section 265.002, Florida Statutes, is amended to read:

265.002 Legislative intent; Florida Medal of Honor Wall; duties of the Department of Veterans' Affairs.—

(2)(a) There is hereby established the Florida Medal of Honor Wall. The ~~Division of Facilities Management of the~~ Department of Management Services shall, in consultation with the Florida Commission on Veterans' Affairs, designate an appropriate area on the Plaza Level of the Capitol Building in Tallahassee for this purpose. The department division shall also subsequently consult with the Commission on Veterans' Affairs regarding the design and theme of such area.

Section 43. Paragraph (a) of subsection (2) of section 265.2865, Florida Statutes, is amended to read:

265.2865 Florida Artists Hall of Fame.—

(2)(a) There is hereby created the Florida Artists Hall of Fame. The Florida Arts Council shall identify an appropriate location in the public area of a building in the Capitol Center that is under the jurisdiction of the ~~Division of Facilities Management of the~~ Department of Management Services, which location shall be set aside by the department ~~Division of Facilities Management~~ and designated as the Florida Artists Hall of Fame.

Section 44. Subsection (1) of section 272.03, Florida Statutes, is amended to read:

272.03 Department of Management Services ~~Division of Facilities Management~~ to supervise Capitol Center buildings; title in state.—

(1) All state buildings now or hereafter constructed included in the Capitol Center at the state capital and the grounds and squares contiguous thereto shall be under the general control, custodianship, and supervision of the ~~Division of Facilities Management of the~~ Department of Management Services.

Section 45. Section 272.04, Florida Statutes, is amended to read:

272.04 Department ~~Division~~ to allocate space.—The ~~Division of Facilities Management of the~~ Department of Management Services shall have authority to allocate space to house the various departments, agencies, boards, and commissions in said buildings, excepting, however, the new Supreme Court Building, for which authority shall be vested in the justices of the Supreme Court.

Section 46. Section 272.05, Florida Statutes, is amended to read:

272.05 Budgets for repair and maintenance; review.—The ~~Division of Facilities Management of the~~ Department of Management Services and the Executive Office of the Governor shall be empowered to review, change, and modify the budgets of the departments, agencies, boards, and commissions relating to the repair, upkeep, and maintenance of said buildings.

Section 47. Section 272.06, Florida Statutes, is amended to read:

272.06 Authority to enter into contracts to provide utility services for buildings.—The ~~Division of Facilities Management of the~~ Department of Management Services may provide or enter into contracts to provide heating, power, lighting, cooling systems, and other necessary services or facilities for any or all of said buildings.

Section 48. Section 272.07, Florida Statutes, is amended to read:

272.07 ~~Division may provide for parks, drives, and walkways.~~—The ~~Division of Facilities Management of the~~ Department of Management Services may provide for the establishment of parks, drives, walkways, and parkways on said grounds and squares and for the supervision, regulation, and maintenance of the same, including traffic and parking thereon.

Section 49. Section 272.08, Florida Statutes, is amended to read:

272.08 Duty of repair, maintenance, and supervision.—Except when otherwise directed by the ~~Division of Facilities Management of the~~ Department of Management Services, the official or officials now having the duty of repair, care, maintenance, and supervision of any of said buildings shall continue to exercise such authority.

Section 50. Section 272.09, Florida Statutes, is amended to read:

272.09 Management, maintenance, and upkeep of Capitol Center.—The management, maintenance, and upkeep of the Capitol Center as defined in s. 272.03, are hereby vested in and made the direct obligation of the ~~Division of Facilities Management of the~~ Department of Management Services,

which shall have authority to do all things necessary to satisfactorily accomplish these functions, including the employment of a superintendent of grounds and buildings and other employees; the establishment of central repair and maintenance shops; and the designation or appointment of non-salaried advisory committees to advise with them.

Section 51. Subsection (7) of section 272.12, Florida Statutes, is amended to read:

272.12 Florida Capitol Center Planning District.—

(7) ~~The Division of Facilities Management of the Department of Management Services~~ is hereby authorized to purchase at fair market value any lands or buildings owned by the Department of Transportation within the Capitol Center. The Department of Management Services Division of Facilities Management may use for this purpose any funds which are available to it ~~the division~~ at the time of the purchase.

Section 52. Section 272.121, Florida Statutes, is amended to read:

272.121 Capitol Center long-range planning.—

(1) ~~The Division of Facilities Management of the Department of Management Services~~ shall develop a comprehensive and long-range plan for development within the Capitol Center, which plan, and amendments thereto, shall be presented to the planning commission for final approval. In developing this plan, the department division shall consider:

(a) The most efficient, expeditious, and economical method of accomplishing the desired results.

(b) The architectural and aesthetic coordination of the proposed plan with the existing structures.

(c) The effective utilization of all available space so as to minimize waste.

(d) The plans adopted by the local planning agencies in Leon County.

(2) The department division shall further determine the needs of state government and the various agencies thereof occupying the Capitol Center and activities requiring space or facilities in the Capitol Center. When these needs have been determined the department division shall develop a comprehensive plan for meeting these needs and for providing immediate facilities for state government and its agencies to effectively and efficiently discharge their duties and responsibilities, which plan shall be consistent with the plan for development of the Capitol Center Planning District.

(3) In carrying out the provisions of the foregoing, the department division shall consult with the Capitol Center Planning Commission and shall request the cooperation of those state and private architects, engineers and interior designers determined by the department division to possess expertise or information helpful to the development of a Capitol Plan and solicit and accept information, suggestions, and recommendations from all interested parties.

(4) The commission and the department ~~division~~ shall prepare a report of their findings and recommendations and submit the same to the Governor and the Legislature every fifth year, except that the next report shall not be due until February 1, 1979. Said report shall reflect the actions of the commission and the department ~~division~~ in carrying out the provisions of this act and shall include an updated comprehensive plan to carry out the provisions of this act each time the report is submitted.

(5) The department ~~division~~ is authorized to contract with the City of Tallahassee, Leon County, the Tallahassee-Leon County Planning Department, or any other agency of such city or county to obtain planning services and functions required for the planning and development of the district in harmony with the coordinated planning of the city and the county. Services and functions covered under such agreements may include, but shall not be limited to, topographic surveys; base mapping; inventory of land use, employment, parking, and building floor areas; land acquisition information; analysis of trends; physical planning activities, including a master plan and any other required planning studies; preparation of zoning codes to provide for compatible development within the Capitol Center area and in the vicinity thereof; coordination of plans for development of the district with city and county development plans; and application for and use of federal funds which may be available for planning or related purposes.

Section 53. Section 272.122, Florida Statutes, is amended to read:

272.122 Acquisition of land for state buildings and facilities in the Capitol Center.—The ~~Division of Facilities Management of the~~ Department of Management Services is hereby authorized and directed to acquire both land and buildings now needed or to be needed for use, in whole or in part, by state government or any agency, board, bureau, or commission thereof. However, no building can be constructed or land acquired under this section without specific legislative approval. The acquisition of the land, buildings, and facilities may be financed by grants, by direct appropriations, or by the issuance of revenue bonds or certificates pledging the revenues and rentals derived from the use of the buildings and facilities. The Department of Management Services is expressly authorized to issue revenue certificates to carry out the purposes of this section. Title to any lands acquired pursuant to this section shall be vested in the Board of Trustees of the Internal Improvement Trust Fund for the use and benefit of the State of Florida.

Section 54. Section 272.124, Florida Statutes, is amended to read:

272.124 Department of Management Services ~~Division of Facilities Management~~; power to contract.—The ~~Division of Facilities Management of the~~ Department of Management Services is authorized and empowered to make and enter into any contract or agreement, with any person or agency, public or private, to lease, buy, acquire, construct, hold, or dispose of real and personal property necessary to carry out the objects and purposes of this act; however, no contract may be entered into without specific authorization of the Legislature for the project. Lands shall be acquired by the department ~~Division of Facilities Management~~ in accordance with acquisition procedures for state lands provided for in s. 253.025.

Section 55. Subsection (1) of section 272.16, Florida Statutes, is amended to read:

272.16 Parking areas within Capitol Center area.—

(1) ~~The Division of Facilities Management of the~~ Department of Management Services may assign parking areas within the Capitol Center area to a state agency for its own use or for reassignment to state officers and employees employed in Tallahassee; however, parking areas must be provided for members of the Legislature during sessions of the Legislature, regular and extraordinary. Not more than 15 percent of said parking areas may be set aside for the use of persons temporarily visiting or attending to business in the Capitol Center area who reside beyond the territorial limits of the City of Tallahassee. Any remaining portion of the parking areas not assigned as aforesaid may be limited in period of time for use. However, the Department of Management Services shall have no power to assign parking spaces in the legislative office buildings, nor shall those spaces and spaces in the parking facility within the Capitol Building which are allocated to the Legislature be included under the provisions of this section and s. 272.161(1), except as provided in subsection (2) of this section.

Section 56. Section 272.185, Florida Statutes, is amended to read:

272.185 Maintenance of Governor's Mansion by Department of Management Services ~~Division of Facilities Management~~.—

(1) POWERS AND DUTIES OF DEPARTMENT DIVISION.—

(a) ~~The Division of Facilities Management of the~~ Department of Management Services shall maintain all structures, furnishings, equipment, and grounds of the Governor's Mansion, except that the exterior facades; the landscaping of the grounds; the antique furnishings in the private quarters; the interiors of the state rooms; and the articles of furniture, fixtures, and decorative objects used or displayed in the state rooms shall be maintained pursuant to the directives of the Governor's Mansion Commission.

(b) ~~The department division~~ shall insure the Governor's Mansion, its contents, and all structures and appurtenances thereto with the State Property Insurance Trust Fund as provided in s. 284.01. ~~The department division~~ is authorized to purchase any necessary insurance either by a primary insurance contract, excess coverage insurance, or reinsurance to cover the contents of the mansion, whether title of the contents is in the state or in any other person or entity not a resident of the mansion, notwithstanding the provision of s. 287.025.

(c) ~~The department division~~ shall have authority to contract and be contracted with for work and materials required.

(d) ~~The department division~~ shall keep a continuing and accurate inventory of all equipment and furnishings.

(2) FINANCING; BUDGETS.—The division shall submit its budgetary requirements to the Department of Management Services for its approval and inclusion in legislative budget requests.

Section 57. Subsection (4) of section 273.055, Florida Statutes, is amended to read:

273.055 Disposition of state-owned tangible personal property.—

(4) Each custodian shall adopt guidelines or administrative rules and regulations pursuant to chapter 120 providing for, but not limited to, transferring, warehousing, bidding, destroying, scrapping, or other disposing of state-owned tangible personal property. However, the approval of the Department of Management Services ~~Division of Motor Pool~~ is required prior to the disposal of motor vehicles, watercraft, or aircraft pursuant to ss. 287.15 and 287.16.

Section 58. Section 281.02, Florida Statutes, is amended to read:

281.02 Powers and duties of the Department of Management Services ~~Division of Capitol Police~~.—The ~~Division of Capitol Police~~ of the Department of Management Services has the following powers and duties:

(1) To establish a comprehensive and ongoing plan for the firesafety and security of the Capitol, the Senate Office Building, the House Office Building, and the Historic Capitol, including, but not limited to, the institution of programs for the awareness and training in firesafety and security of members of the Legislature and their employees, and all other elected officials and their respective employees, who occupy such buildings. The department ~~division~~ shall also ensure that adequate signs and personnel are in place to inform and assist the occupants of and visitors to such buildings.

(2) To provide and maintain the firesafety and security of all state-owned property leased from the Department of Management Services, excluding state universities and custodial institutions, the Governor's office, the Governor's mansion and the grounds thereof, and the Supreme Court.

(3) To develop emergency procedures and evacuation routes in the event of fire or disaster and to make such procedures and routes known to those persons occupying state-owned buildings leased from the Department of Management Services.

(4) To employ:

(a) Agents who hold certification as police officers in accordance with the minimum standards and qualifications as set forth in s. 943.13 and the provisions of chapter 110, who shall have the authority to bear arms, make arrests, and apply for arrest warrants; and

(b) Guards and administrative, clerical, technical, and other personnel as may be required.

(5) To train agents and guards in fire prevention, firesafety, and emergency medical procedures.

(6) To respond to all complaints relating to criminal activity within state-owned buildings or state-leased property.

(7) To enforce rules of the Department of Management Services governing the regulation of traffic and parking on state-owned or state-leased property, including, but not limited to, issuing citations for the violation of such rules or the traffic laws of the state or any county or municipality and impounding illegally or wrongfully parked vehicles.

(8) To delegate its duties provided in this section to any state agency occupying such state-owned or state-leased property.

Section 59. Section 281.03, Florida Statutes, is amended to read:

281.03 Investigations by department division.—

(1) The Department of Management Services Division of Capitol Police shall conduct traffic accident investigations and investigations relating to felonies and misdemeanors occurring on state-owned or state-leased property. Any matters which are deemed to involve a felony may be referred to the appropriate law enforcement agency for criminal investigation. Such referrals shall include transmittal of records, reports, statements, and all other information relating to such matters.

(2) The Department of Management Services Division of Capitol Police shall retain copies of all reports relating to such criminal activity for use in the ongoing firesafety and security plan as required in s. 281.02.

Section 60. Section 281.04, Florida Statutes, is amended to read:

281.04 Arrests by agents of department division.—A person arrested by an agent of the Department of Management Services Division of Capitol Police shall be delivered to the sheriff of the county in which the arrest takes place.

Section 61. Section 281.05, Florida Statutes, is amended to read:

281.05 Ex officio agents.—The Department of Highway Safety and Motor Vehicles, the Department of Law Enforcement, and law enforcement officers of counties and municipalities are ex officio agents of the Department of Management Services Division of Capitol Police and may, when authorized by the department division, enforce rules and laws applicable to the powers and duties of the department division to provide and maintain the security required by ss. 281.02-281.09.

Section 62. Section 281.06, Florida Statutes, is amended to read:

281.06 Contracts with counties, municipalities, or licensed private security agencies.—The Department of Management Services Division of Capitol Police may contract with any county, municipality, or licensed private security agency to provide and maintain the security of state-owned or state-leased property required by ss. 281.02-281.09 upon such terms as the department division may deem to be in the best interest of the state.

Section 63. Section 281.08, Florida Statutes, is amended to read:

281.08 Equipment.—

(1) The Department of Management Services ~~Division of Capitol Police~~ is specifically authorized to purchase, sell, trade, rent, lease, and maintain all necessary equipment, uniforms, motor vehicles, communication systems, housing facilities, and office space, and perform any other acts necessary for the proper administration and enforcement of ss. 281.02-281.09, pursuant to part I of chapter 287. The department division may prescribe a distinctive uniform to be worn by personnel in the performance of their duties pursuant to s. 281.02(3). The ~~department division~~ may prescribe a distinctive emblem to be worn by all agents or guards.

(2) It is unlawful for any unauthorized person to wear a uniform or emblem prescribed by the department division, or a similar uniform or emblem, or to impersonate, pretend, or represent himself or herself to be an agent or guard. Any person who violates the provisions of this subsection is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 64. Section 281.09, Florida Statutes, is amended to read:

281.09 Bonding required of officers and agents.—The Department of Management Services shall ensure that each officer and agent of the department Division of Capitol Police is adequately bonded in accordance with its procedures relating to blanket bonding of public employees.

Section 65. Section 282.102, Florida Statutes, is amended to read:

282.102 Powers and duties of ~~Division of Communications~~ of the Department of Management Services.—The ~~Division of Communications~~ of the Department of Management Services shall have the following powers, duties, and functions:

(1) To publish electronically the portfolio of services available from the department division, including pricing information; the policies and procedures of the department division governing usage of available services; and a forecast of the priorities and initiatives for the state communications system for the ensuing 2 years. The department division shall provide a hard copy of its portfolio of services upon request.

(2) To coordinate the purchase, lease, and use of all communications services for state government, including communications services provided as part of any other total system to be used by the state or any of its agencies.

(3) To advise and render aid to state agencies and political subdivisions of the state as to systems or methods to be used for organizing and meeting communications requirements efficiently and effectively.

(4) To consolidate the communications systems and services of state agencies and to provide for their joint use by the agencies when determined by the department division to be economically efficient or performance-effective.

(5) To adopt technical standards for the state communications system which will assure the interconnection of computer networks and information systems of state agencies.

(6) To assume management responsibility for any consolidated communications system or service when determined by the department ~~division~~ to be economically efficient or performance-effective.

(7) To enter into agreements for the support and use of the communications services of state agencies and of political subdivisions of the state.

(8) To use or acquire, with agency concurrence, communications facilities now owned or operated by any state agency.

(9) To standardize policies and procedures for the use of such services.

(10) To purchase from or contract with suppliers and communications companies for communications facilities or services, including private line services.

(11) To apply for, receive, and hold, or assist agencies in applying for, receiving, or holding, such authorizations, licenses, and allocations or channels and frequencies to carry out the purposes of ss. 282.101-282.109.

(12) To acquire real estate, equipment, and other property.

(13) To cooperate with any federal, state, or local emergency management agency in providing for emergency communications services.

(14) To delegate to state agencies the powers of acquisition and utilization of communications equipment, facilities, and services or to control and approve the purchase, lease, and use of all communications equipment, services, and facilities, including communications services provided as part of any other total system to be used by the state or any of its agencies. This subsection does not apply to the data processing hardware of an agency as defined in this part.

(15) To take ownership, custody, and control of existing communications equipment and facilities, with agency concurrence, including all right, title, interest, and equity therein, to carry out the purposes of ss. 282.101-282.109. However, the provisions of this subsection shall in no way affect the rights, title, interest, or equity in any such equipment or facilities owned by, or leased to, the state or any state agency by any telecommunications company.

(16) To prescribe rules and regulations for the use of the state communications system.

(17) To provide a means whereby political subdivisions of the state may use the state communications system upon such terms and under such conditions as the department ~~division~~ may establish.

(18) To apply for and accept federal funds for any of the purposes of ss. 282.101-282.109 as well as gifts and donations from individuals, foundations, and private organizations.

(19) To monitor issues relating to communications facilities and services before the Florida Public Service Commission and, when necessary, prepare position papers, prepare testimony, appear as a witness, and retain witnesses on behalf of state agencies in proceedings before the commission.

(20) Unless delegated to the agencies, to manage and control, but not intercept or interpret, communications within the SUNCOM Network by:

(a) Establishing technical standards to physically interface with the SUNCOM Network.

(b) Specifying how communications are transmitted within the SUNCOM Network.

(c) Controlling the routing of communications within the SUNCOM Network.

(d) Establishing standards, policies, and procedures for access to the SUNCOM Network.

(e) Ensuring orderly and reliable communications services in accordance with the standards and policies of all state agencies and the service agreements executed with state agencies.

(21) To plan, design, and conduct experiments in communications services, equipment, and technologies, and to implement enhancements in the state communications system when justified and cost-effective. Funding for such experiments shall be derived from SUNCOM Network service revenues and shall not exceed 1 percent of the annual budget for the SUNCOM Network for any fiscal year. New services offered as a result of this subsection shall not affect existing rates for facilities or services.

(22) To enter into contracts or agreements, with or without competitive bidding or procurement, to make available, on a fair, reasonable, and non-discriminatory basis, property and other structures under department division control for the placement of new facilities by any wireless provider of mobile service as defined in 47 U.S.C. s. 153(n) or s. 332(d) and any telecommunications company as defined in s. 364.02 when it is determined to be practical and feasible to make such property or other structures available. The department division may, without adopting a rule, charge a just, reasonable, and nondiscriminatory fee for the placement of the facilities, payable annually, based on the fair market value of space used by comparable communications facilities in the state. The department division and a wireless provider or telecommunications company may negotiate the reduction or elimination of a fee in consideration of services provided to the department division by the wireless provider or telecommunications company. All such fees collected by the department division shall be deposited directly into the State Agency Law Enforcement Radio System Trust Fund, and may be used by the department division to construct, maintain, or support the system.

Section 66. Section 282.103, Florida Statutes, is amended to read:

282.103 SUNCOM Network; exemptions from the required use.—

(1) There is created within the ~~Division of Communications of the Department of Management Services~~ the SUNCOM Network which shall be developed to serve as the state communications system for providing local and long-distance communications services to state agencies, political subdivisions of the state, municipalities, and nonprofit corporations pursuant to ss. 282.101-282.111. The SUNCOM Network shall be developed to transmit all types of communications signals, including, but not limited to, voice, data, video, image, and radio. State agencies shall cooperate and assist in the development and joint use of communications systems and services.

(2) The Department of Management Services ~~Division of Communications~~ shall design, engineer, implement, manage, and operate through state ownership, commercial leasing, or some combination thereof, the facilities and equipment providing SUNCOM Network services, and shall develop a system of equitable billings and charges for communication services.

(3) All state agencies are required to use the SUNCOM Network for agency communications services as the services become available; however, no agency is relieved of responsibility for maintaining communications services necessary for effective management of its programs and functions. If a SUNCOM Network service does not meet the communications requirements of an agency, the agency shall notify the Department of Management Services ~~Division of Communications~~ in writing and detail the requirements for that communications service. If the ~~department division~~ is unable, within 90 days, to meet an agency's requirements by enhancing SUNCOM Network service, the ~~department division~~ shall grant the agency an exemption from the required use of specified SUNCOM Network services.

Section 67. Section 282.104, Florida Statutes, is amended to read:

282.104 Use of state SUNCOM Network by municipalities.—Any municipality may request the Department of Management Services ~~Division of Communications~~ to provide any or all of the SUNCOM Network's portfolio of communications services upon such terms and under such conditions as the ~~department division~~ may establish. The requesting municipality shall pay its share of installation and recurring costs according to the published rates for SUNCOM Network services and as invoiced by the ~~department division~~. Such municipality shall also pay for any requested modifications to existing SUNCOM Network services, if any charges apply.

Section 68. Section 282.105, Florida Statutes, is amended to read:

282.105 Use of state SUNCOM Network by nonprofit corporations.—

(1) The ~~Division of Communications of the Department of Management Services~~ shall provide a means whereby private nonprofit corporations under contract with state agencies or political subdivisions of the state may use the state SUNCOM Network, subject to the limitations in this section. In order to qualify to use the state SUNCOM Network, a nonprofit corporation shall:

(a) Expend the majority of its total direct revenues for the provision of contractual services to the state, a municipality, or a political subdivision of the state; and

(b) Receive only a small portion of its total revenues from any source other than a state agency, a municipality, or a political subdivision of the state during the period of time SUNCOM Network services are requested.

(2) Each nonprofit corporation seeking authorization to use the state SUNCOM Network pursuant to this section shall provide to the department division, upon request, proof of compliance with subsection (1).

(3) Nonprofit corporations established pursuant to general law and an association of municipal governments which is wholly owned by the municipalities shall be eligible to use the state SUNCOM Network, subject to the terms and conditions of the department division.

(4) Institutions qualified pursuant to s. 240.605 shall be eligible to use the state SUNCOM Network, subject to the terms and conditions of the department division. Such entities shall not be required to satisfy the other criteria of this section.

Section 69. Paragraphs (f) and (g) of subsection (2) and subsection (5) of section 282.1095, Florida Statutes, are amended to read:

282.1095 State agency law enforcement radio system.—

(2)

(f) The Department of Management Services Division of Communications is hereby authorized to rent or lease space on any tower under its control. The department division may also rent, lease, or sublease ground space as necessary to locate equipment to support antennae on the towers. The costs for use of such space shall be established by the department division for each site, when it is determined to be practicable and feasible to make space available. The department division may refuse to lease space on any tower at any site. All moneys collected by the department division for such rents, leases, and subleases shall be deposited directly into the State Agency Law Enforcement Radio System Trust Fund and may be used by the department division to construct, maintain, or support the system.

(g) The Department of Management Services Division of Communications is hereby authorized to rent, lease, or sublease ground space on lands acquired by the division or the department of Management Services for the construction of privately owned or publicly owned towers. The department division may, as a part of such rental, lease, or sublease agreement, require space on said tower or towers for antennae as may be necessary for the construction and operation of the state agency law enforcement radio system or any other state need. The positions necessary for the department division to accomplish its duties under this paragraph and paragraph (f) shall be established in the General Appropriations Act and shall be funded by the State Agency Law Enforcement Radio System Trust Fund.

(5)(a) ~~The Division of Communications of the Department of Management Services shall provide technical support to the joint task force and shall bear the overall responsibility for the design, engineering, acquisition, and implementation of the statewide radio communications system and for ensuring the proper operation and maintenance of all system common equipment.~~

(b) The positions necessary for the department division to accomplish its duties under this section shall be established through the budgetary process and shall be funded by the State Agency Law Enforcement Radio System Trust Fund.

Section 70. Subsections (1), (2), (3), (5), and (6) of section 282.111, Florida Statutes, are amended to read:

282.111 Statewide system of regional law enforcement communications.—

(1) It is the intent and purpose of the Legislature that a statewide system of regional law enforcement communications be developed whereby maximum efficiency in the use of existing radio channels is achieved in order to deal more effectively with the apprehension of criminals and the prevention of crime generally. To this end, all law enforcement agencies within the state are directed to provide the ~~Division of Communications of the Department of Management Services~~ with any information the department division requests for the purpose of implementing the provisions of subsection (2).

(2) The Department of Management Services ~~Division of Communications~~ is hereby authorized and directed to develop and maintain a statewide system of regional law enforcement communications. In formulating such a system, the department division shall divide the state into appropriate regions and shall develop a program which shall include, but not be limited to, the following provisions:

(a) The communications requirements for each county and municipality comprising the region.

(b) An interagency communications provision which shall depict the communication interfaces between municipal, county, and state law enforcement entities which operate within the region.

(c) Frequency allocation and use provision which shall include, on an entity basis, each assigned and planned radio channel and the type of operation, simplex, duplex, or half-duplex, on each channel.

(3) The department division shall adopt any necessary rules and regulations for implementing and coordinating the statewide system of regional law enforcement communications.

(5) No law enforcement communications system shall be established or present system expanded after July 1, 1972, without the prior approval of the Department of Management Services ~~Division of Communications~~. After January 1, 1997, the department ~~Division of Communications~~ shall consult

with the Criminal and Juvenile Justice Information Systems Council before approving any law enforcement communications system or system expansion.

(6) Within the limits of its capability, the Department of Law Enforcement is encouraged to lend assistance to the Department of Management Services Division of Communications in the development of the statewide system of regional law enforcement communications proposed by this section.

Section 71. Subsection (2) of section 283.30, Florida Statutes, is amended to read:

283.30 Definitions.—As used in this part, unless the context clearly requires otherwise, the term:

(2) “Department” ~~“Division”~~ means the ~~Division of Purchasing of the~~ Department of Management Services.

Section 72. Subsection (3) of section 283.32, Florida Statutes, is amended to read:

283.32 Recycled paper to be used by each agency; printing bids certifying use of recycled paper; percentage preference in awarding contracts.—

(3) Upon evaluation of bids for each printing contract, the agency shall identify the lowest responsive bidder and any other responsive bidders who have certified that the materials used in printing contain at least the minimum percentage of recycled content that is set forth by the department division. In awarding a contract for printing, the agency may allow up to a 10-percent price preference, as provided in s. 287.045, to a responsive bidder who has certified that the materials used in printing contain at least the minimum percentage of recycled content established by the department division. If no bidders offer materials for printing that contain the minimum prescribed recycled content, the contract shall be awarded to the lowest qualified bidder.

Section 73. Subsection (1) of section 284.33, Florida Statutes, is amended to read:

284.33 Purchase of insurance, reinsurance, and services.—

(1) The Department of Insurance is authorized to provide insurance, specific excess insurance, and aggregate excess insurance through the Department of Management Services Division of Purchasing, pursuant to the provisions of part I of chapter 287, as necessary to provide insurance coverages authorized by this part, consistent with market availability. The Department of Insurance is further authorized to purchase such risk management services, including, but not limited to, risk and claims control; safety management; and legal, investigative, and adjustment services, as may be required and pay claims. The department may contract with a service organization for such services and advance money to such service organization for deposit in a special checking account for paying claims made against the

state under the provisions of this part. The special checking account shall be maintained in this state in a bank or savings association organized under the laws of this state or of the United States. The department may replenish such account as often as necessary upon the presentation by the service organization of documentation for payments of claims equal to the amount of the requested reimbursement.

Section 74. Subsections (8) and (9) of section 287.012, Florida Statutes, are amended to read:

287.012 Definitions.—The following definitions shall apply in this part:

(8) “Department” ~~“Division”~~ means the ~~Division of Purchasing of the~~ Department of Management Services.

(9) “Exceptional purchase” means any purchase of commodities or contractual services excepted by law or rule from the requirements for competitive solicitation or acquisition, including, but not limited to, purchases from a single source, purchases upon receipt of less than two responsive bids or proposals, purchases without publication of notice in the Florida Administrative Weekly, and exceptions granted by the department ~~division~~ for a purchase of commodities from other than a state term contract vendor.

Section 75. Section 287.017, Florida Statutes, is amended to read:

287.017 Purchasing categories, threshold amounts; procedures for automatic adjustment by department ~~division~~.—

(1) The following purchasing categories are hereby created:

- (a) CATEGORY ONE: \$5,000.
- (b) CATEGORY TWO: \$15,000.
- (c) CATEGORY THREE: \$20,000.
- (d) CATEGORY FOUR: \$60,000.
- (e) CATEGORY FIVE: \$120,000.

(2) The department ~~division~~ shall adopt rules to annually adjust the amounts provided in subsection (1) based upon the rate of change of a nationally recognized price index. Such rules shall include, but not be limited to, the following:

(a) Designation of the nationally recognized price index or component thereof used to calculate the proper adjustment authorized in this section.

(b) The procedure for rounding results.

(c) The effective date of each annual adjustment based upon the previous calendar year data.

(3) Notwithstanding s. 240.225, the State University System shall be subject to the rules adopted pursuant to this section.

Section 76. Section 287.022, Florida Statutes, is amended to read:

287.022 Purchase of insurance.—

(1) Insurance, while not a commodity, nevertheless shall be purchased for all agencies by the department division, except that agencies may purchase title insurance for land acquisition and may make emergency purchases of insurance pursuant to s. 287.057(3)(a). The procedures for purchasing insurance, whether the purchase is made by the department division or by the agencies, shall be the same as those set forth herein for the purchase of commodities.

(2) When an insurer or agent pays a commission or any portion thereof to any person, on insurance purchased under this part, such payment shall be reported to the department division in writing and under oath within 30 days thereafter. Any failure to report as required herein shall subject the insurer or agent to the penalties provided in s. 624.15.

Section 77. Section 287.032, Florida Statutes, is amended to read:

287.032 Purpose of department division.—It shall be the purpose of the Department of Management Services Division of Purchasing:

(1) To promote efficiency, economy, and the conservation of energy and to effect coordination in the purchase of commodities for the state.

(2) To provide uniform contractual service procurement policies, rules, procedures, and forms for use by the various agencies in procuring contractual services.

(3) To procure and distribute state-owned surplus tangible personal property and federal surplus tangible personal property allocated to the state by the Federal Government.

Section 78. Section 287.042, Florida Statutes, is amended to read:

287.042 Powers, duties, and functions.—The department division shall have the following powers, duties, and functions:

(1)(a) To canvass all sources of supply, establish and maintain a vendor list, and contract for the purchase, lease, or acquisition in any manner, including purchase by installment sales or lease-purchase contracts which may provide for the payment of interest on unpaid portions of the purchase price, of all commodities and contractual services required by any agency under competitive bidding or by contractual negotiation. Any contract providing for deferred payments and the payment of interest shall be subject to specific rules adopted by the department division.

(b) The department division may remove from its vendor list any source of supply which fails to fulfill any of its duties specified in a contract with the state. It may reinstate any such source of supply when it is satisfied that further instances of default will not occur.

(c) In order to promote cost-effective procurement of commodities and contractual services, the ~~department division~~ or an agency may enter into contracts that limit the liability of a vendor consistent with s. 672.719.

(d) The ~~department division~~ shall issue commodity numbers for all products of the corporation operating the correctional industry program which meet or exceed ~~department division~~ specifications.

(e) The ~~department division~~ shall, beginning October 1, 1991, include the products offered by the corporation on any listing prepared by the ~~department division~~ which lists term contracts executed by the ~~department division~~. The products or services shall be placed on such list in a category based upon specification criteria developed through a joint effort of the ~~department division~~ and the corporation and approved by the ~~department division~~.

(f) The corporation may submit products and services to the ~~department division~~ for testing, analysis, and review relating to the quality and cost comparability. If, after review and testing, the ~~department division~~ approves of the products and services, the ~~department division~~ shall give written notice thereof to the corporation. The corporation shall pay a reasonable fee charged for testing its products by the Department of Agriculture and Consumer Services.

(g) The ~~department division~~ may collect fees for the use of its electronic information services. The fees may be imposed on an individual transaction basis or as a fixed subscription for a designated period of time. At a minimum, the fees shall be determined in an amount sufficient to cover the ~~department's division's~~ projected costs of such services, including overhead in accordance with the policies of the Department of Management Services for computing its administrative assessment. All fees collected pursuant to this paragraph shall be deposited in the Grants and Donations Trust Fund for disbursement as provided by law.

(2)(a) To plan and coordinate purchases in volume and to negotiate and execute purchasing agreements and contracts for commodities and contractual services under which state agencies shall make purchases pursuant to s. 287.056, and under which a federal, county, municipality, institutions qualified pursuant to s. 240.605, private nonprofit community transportation coordinator designated pursuant to chapter 427, while conducting business related solely to the Commission for the Transportation Disadvantaged, or other local public agency may make purchases. The ~~department division~~ may restrict purchases from some term contracts to state agencies only for those term contracts where the inclusion of other governmental entities will have an adverse effect on competition or to those federal facilities located in this state. In such planning or purchasing the Minority Business Advocacy and Assistance Office may monitor to ensure that opportunities are afforded for contracting with minority business enterprises. The ~~department division~~, for state term contracts, and all agencies, for multiyear contractual services or term contracts, shall explore reasonable and economical means to utilize certified minority business enterprises. Purchases by any county, municipality, private nonprofit community transportation coordinator designated pursuant to chapter 427, while conducting business related solely to the Commission for the Transportation Disadvantaged, or

other local public agency under the provisions in the state purchasing contracts, and purchases, from the corporation operating the correctional work programs, of products or services that are subject to paragraph (1)(f), are exempt from the competitive sealed bid requirements otherwise applying to their purchases.

(b) As an alternative to any provision in s. 120.57(3)(c), the department division may proceed with the bid solicitation or contract award process of a term contract bid when the director of the division sets forth in writing particular facts and circumstances which demonstrate that the delay incident to staying the bid process or contract award process would be detrimental to the interests of the state. After the award of a contract resulting from a bid in which a timely protest was received and in which the state did not prevail, the contract may be canceled and reawarded to the prevailing party.

(c) Any person who files an action protesting a decision or intended decision pertaining to contracts administered by the department division or a state agency pursuant to s. 120.57(3)(b) shall post with the department division or the state agency at the time of filing the formal written protest a bond payable to the department division or state agency in an amount equal to 1 percent of the department's division's or the state agency's estimate of the total volume of the contract or \$5,000, whichever is less, which bond shall be conditioned upon the payment of all costs which may be adjudged against him or her in the administrative hearing in which the action is brought and in any subsequent appellate court proceeding. For protests of decisions or intended decisions of the department division pertaining to agencies' requests for approval of exceptional purchases, the bond shall be in an amount equal to 1 percent of the requesting agency's estimate of the contract amount for the exceptional purchase requested or \$5,000, whichever is less. In lieu of a bond, the department division or state agency may, in either case, accept a cashier's check or money order in the amount of the bond. If, after completion of the administrative hearing process and any appellate court proceedings, the agency prevails, it shall recover all costs and charges which shall be included in the final order or judgment, excluding attorney's fees. This section shall not apply to protests filed by the Minority Business Advocacy and Assistance Office. Upon payment of such costs and charges by the person protesting the award, the bond, cashier's check, or money order shall be returned to him or her. If the person protesting the award prevails, he or she shall recover from the agency all costs and charges which shall be included in the final order of judgment, excluding attorney's fees.

(3) To have general supervision, through the state agencies, of all store-rooms and stores operated by the agencies and to have supervision of inventories of all commodities belonging to the state agencies. The duties imposed by this section do not relieve any state agency from accountability for commodities under its control.

(4) To establish a system of coordinated, uniform procurement policies, procedures, and practices to be used by agencies in acquiring commodities and contractual services, which shall include, but not be limited to:

(a) Development of a list of interested vendors to be maintained by classes of commodities and contractual services. This list shall not be used to prequalify vendors or to exclude any interested vendor from bidding.

(b) Development of procedures for the releasing of requests for proposals and invitations to bid, which procedures shall include, but not be limited to, publication in the Florida Administrative Weekly or on the Florida Communities Network of notice for requests for proposals at least 28 days before the date set for submittal of proposals and publication of notice for invitations to bid at least 10 calendar days before the date set for submission of bids. An agency may waive the requirement for notice in the Florida Administrative Weekly or on the Florida Communities Network. Notice of the request for proposals shall be mailed to prospective offerors at least 28 calendar days prior to the date for submittal of proposals. Notice of the invitation to bid shall be mailed to prospective bidders at least 10 calendar days prior to the date set for submittal of bids. The Minority Business Advocacy and Assistance Office may consult with agencies regarding the development of bid distribution procedures to ensure that maximum distribution is afforded to certified minority business enterprises as defined in s. 288.703.

(c) Development of procedures for the receipt and opening of bids or proposals by an agency. Such procedures shall provide the Minority Business Advocacy and Assistance Office an opportunity to monitor and ensure that the contract award is consistent with the original request for proposal or invitation to bid, in accordance with s. 287.0945(6), and subject to the review of bid responses within standard timelines.

(d) Development of procedures to be used by an agency in deciding to contract, including, but not limited to, identifying and assessing in writing project needs and requirements, availability of agency employees, budgetary constraints or availability, facility equipment availability, current and projected agency workload capabilities, and the ability of any other state agency to perform the services.

(e) Development of procedures to be used by an agency in maintaining a contract file for each contract which shall include, but not be limited to, all pertinent information relating to the contract during the preparatory stages, a copy of the invitation to bid or request for proposals, documentation relating to the bid process, opening of bids, evaluation and tabulation of bids, and determination and notice of award of contract.

(5)(a) To prescribe the methods of securing competitive sealed bids and proposals, or negotiating and awarding commodity and contractual services contracts, unless otherwise provided by law.

(b) To prescribe, by September 1, 1995, procedures for procuring information technology consultant services which provide for public announcement and qualification, competitive selection, competitive negotiation, contract award, and prohibition against contingent fees. Such procedures shall be limited to information technology consultant contracts for which the total project costs, or planning or study activities, are estimated to exceed the threshold amount provided for in s. 287.017, for CATEGORY TWO.

(6) To prescribe specific commodities and quantities to be purchased locally.

(7)(a) To govern the purchase by any agency of any commodity or contractual service and to establish standards and specifications for any commodity.

(b) Except for the purchase of insurance, the department ~~division~~ may delegate to agencies the authority for the contracting for, or the purchase, lease, or acquisition of, commodities or contractual services.

(8) To establish definitions and classes of commodities and contractual services. Agencies shall follow the definitions and classes of commodities and contractual services established by the department ~~division~~ in acquiring or purchasing commodities or contractual services. The authority of the department ~~division~~ under this section shall not be construed to impair or interfere with the determination by state agencies of their need for, or their use of, services including particular specifications.

(9) To furnish copies of any commodity and contractual service purchasing rules to the Comptroller and all agencies affected thereby. The Comptroller shall not approve any account or direct any payment of any account for the purchase of any commodity or the procurement of any contractual service covered by a purchasing or contractual service rule except as authorized therein. The department ~~division~~ shall furnish copies of rules adopted by the department ~~division~~ to any county, municipality, or other local public agency requesting them.

(10) To require that every agency furnish information relative to its commodity and contractual services purchases and methods of purchasing commodities and contractual services to the department ~~division~~ when so requested.

(11) To prepare statistical data concerning the method of procurement, terms, usage, and disposition of commodities and contractual services by state agencies. All agencies shall furnish such information for this purpose to the office and to the department ~~division~~, as the department ~~division~~ or office may call for, but no less frequently than annually, on such forms or in such manner as the department ~~division~~ may prescribe.

(12) To establish and maintain programs for the purpose of disseminating information to government, industry, educational institutions, and the general public concerning policies, procedures, rules, and forms for the procurement of commodities and contractual services.

(13) Except as otherwise provided herein, to adopt rules necessary to carry out the purposes of this section, including the authority to delegate to any state agency any and all of the responsibility conferred by this section, retaining to the department ~~division~~ any and all authority for supervision thereof. Such purchasing of commodities and procurement of contractual services by state agencies shall be in strict accordance with the rules and procedures prescribed by the Department of Management Services.

(14) If the department ~~division~~ determines that it is in the best interest of the state, to award to multiple suppliers contracts for commodities and contractual services established by the department ~~division~~ for use by all agencies. Such awards may be on a statewide or regional basis. If regional contracts are established by the department ~~division~~, multiple supplier awards may be based upon multiple awards for regions. Agencies may award contracts to the lowest qualified responsive bidder on a statewide or regional basis.

(15) To procure and distribute state-owned surplus tangible personal property and federal surplus tangible personal property allocated to the state by the Federal Government.

(16)(a) To enter into joint agreements with governmental agencies, as defined in s. 163.3164(10), for the purpose of pooling funds for the purchase of commodities, information technology resources, or services that can be used by multiple agencies. However, the department may consult with the State Technology Office on joint agreements that involve the purchase of information technology resources. Agencies entering into joint purchasing agreements with the department ~~division~~ shall authorize the department ~~division~~ to contract for such purchases on their behalf.

(b) Each agency that has been appropriated or has existing funds for such purchases, shall, upon contract award by the department ~~division~~, transfer their portion of the funds into the department's ~~division's~~ Grants and Donations Trust Fund for payment by the department ~~division~~. These funds shall be transferred by the Executive Office of the Governor pursuant to the agency budget amendment request provisions in chapter 216.

(c) Agencies that sign such joint agreements are financially obligated for their portion of the agreed-upon funds. If any agency becomes more than 90 days delinquent in paying such funds, the Department of Management Services shall certify to the Comptroller the amount due, and the Comptroller shall transfer the amount due to the Grants and Donations Trust Fund of the department ~~division~~ from any of the agency's available funds. The Comptroller shall report all such transfers and the reasons for such transfers to the Executive Office of the Governor and the legislative appropriations committees.

(17) To evaluate contracts let by the Federal Government, another state, or a political subdivision for the provision of commodities and contract services, and, when it is determined to be cost-effective and in the best interest of the state, to enter into a written agreement authorizing a state agency to make purchases under a contract approved by the department ~~division~~ and let by the Federal Government, another state, or a political subdivision.

Section 79. Paragraph (a) of subsection (1), paragraphs (a), (b), and (c) of subsection (2), and subsections (3), (4), (5), (7), (8), (9), (10), and (11) of section 287.045, Florida Statutes, are amended to read:

287.045 Procurement of products and materials with recycled content.—

(1)(a) The Department of Management Services Division of Purchasing, in cooperation with the Department of Environmental Protection, shall review and revise existing procurement procedures and specifications for the purchase of products and materials to eliminate any procedures and specifications that explicitly discriminate against products and materials with recycled content except where such procedures and specifications are necessary to protect the public health, safety, and welfare.

(2)(a) The department division and each state agency shall review and revise its procurement procedures and specifications for the purchase of products and materials to ensure to the maximum extent feasible that each agency uses state contracts to purchase products or materials that may be recycled or reused when these products or materials are discarded.

~~(b) The division shall establish procurement goals for state agencies in procuring products with recycled content and postconsumer content. In order to establish these goals, the department shall contract for a technical study to determine what minimum recycled content and postconsumer content levels should be established, on a commodity-by-commodity basis, for those commodities purchased by the state. The study shall be completed no later than October 1, 1994. The established levels should be consistent with orderly market development.~~

~~1. At a minimum, the study must include plastic, glass, paper, and steel and aluminum cans.~~

~~2. The division shall propose minimum content levels for products made from the commodities studied and procurement goals no later than November 1, 1994. The division shall use accepted national standards when defining terms, especially postconsumer recovered material.~~

~~(c) Notwithstanding the division's rulemaking efforts, recycled content printing and fine writing grades of paper shall contain at least 10 percent "postconsumer recovered materials." "Postconsumer recovered materials" means any product generated by a business or a consumer which has served its intended end use, and which has been separated from solid waste for the purpose of collection, recycling, and disposition. The purchase of such recycled content paper with postconsumer recovered materials shall be phased in over a 4-year period as follows:~~

~~1. By January 1, 1995, not less than 30 percent of the paper purchased by the division and all state agencies shall be recycled content paper;~~

~~2. By January 1, 1996, not less than 40 percent of the paper purchased by the division and all state agencies shall be recycled content paper;~~

~~3. By January 1, 1997, not less than 50 percent of the paper purchased by the division and all state agencies shall be recycled content paper; and~~

~~4. By January 1, 1998, not less than 65 percent of the paper purchased by the division and all state agencies shall be recycled content paper.~~

(3) As part of the review and revision required in subsection (2), the department division and each agency shall review its procurement provi-

sions and specifications for the purchase of products and materials to determine which products or materials with recycled content could be procured by the ~~department division~~ or other agencies and the amount of recycled content that can technologically be contained in such products or materials. The ~~department division~~ and other agencies must use the amounts of recycled content and postconsumer recovered material determined by the ~~department division~~ in issuing invitations to bid for contracts for the purchase of such products or materials.

(4) Upon completion of the review required in subsection (3), the ~~department division~~ or an agency shall require that a person who submits a bid for a contract for the purchase of products or materials identified in subsection (3) and who wishes to be considered for the price preference described in subsection (5) certify in writing the percentage of recycled content in the product or material that is subject to the bid. A person may certify that the product or material contains no recycled content.

(5) Upon evaluation of bids for every public contract that involves the purchase of products or materials identified in subsection (3), the ~~department division~~ or an agency shall identify the lowest responsive bidder and other responsive bidders who have certified that the products or materials contain at least the minimum percentage of recycled content and postconsumer recovered material that is set forth in the invitation for the bids. The ~~department division~~ or agency may consider life-cycle costing when evaluating a bid on a product that consists of recycled materials. The ~~department division~~ shall adopt rules that specify the criteria to be used when considering life-cycle costing in evaluating bids. The rules must take into consideration the specified warranty periods for products and the comparative expected service life relative to the cost of the products. In awarding a contract for the purchase of products or materials, the ~~department division~~ or an agency may allow up to a 10-percent price preference to a responsive bidder who has certified that the products or materials contain at least the minimum percentage of recycled content and postconsumer recovered material and up to an additional 5-percent price preference to a responsible bidder who has certified that the products or material are made of materials recovered in this state. The amount of the price preference must be commensurate with the certified amounts of recycled material and postconsumer recovered material and materials recycled from products in this state, contained in the product or materials on a sliding scale as established by ~~department division~~ rule, which rule shall not become effective prior to November 1, 1994. Reusable materials and products shall be used where economically and technically feasible. If no bidders offer products or materials with measurable life-cycle costing factors or the minimum prescribed recycled and postconsumer content, the contract must be awarded to the lowest qualified responsive bidder.

(7) Any person may request the ~~department division~~ to evaluate a product or material with recycled content if the product or material is eligible for inclusion under state contracts. The ~~department division~~ shall review each reasonable proposal to determine its merit and, if it finds that the product or material may be used beneficially, it may incorporate that product or material into its procurement procedures.

(8) The department ~~division~~ and each state agency shall review and revise its procedures and specifications on a continuing basis to encourage the use of products and materials with recycled content and postconsumer recovered material and shall, in developing new procedures and specifications, encourage the use of products and materials with recycled content and postconsumer recovered material.

(9) After November 1, 1994, the department ~~division~~ may discontinue contracting for products or materials the recycled content of which does not meet the requirements of subsection (3) if it determines that products or materials meeting those requirements are available at a cost not to exceed an additional 10 percent of comparable virgin products.

(10) A state agency, or a person contracting with such agency with respect to work performed under contract, must procure products or materials with recycled content if the department ~~division~~ determines that those products or materials are available pursuant to subsection (5). Notwithstanding any other provision to the contrary, for the purpose of this section, the term "agency" means any of the various state officers, departments, boards, commissions, divisions, bureaus, and councils and any other unit of organization, however designated, of the executive branch including the Department of the Lottery, the legislative branch, the judicial branch, and the State University System. A decision not to procure such items must be based on the department's ~~division's~~ determination that such procurement is not reasonably available within an acceptable period of time or fails to meet the performance standards set forth in the applicable specifications or fails to meet the performance standards of the agency.

(11) Each state agency shall report annually to the department ~~division~~ its total expenditures on, and use of, products with recycled content and the percentage of its budget that represents purchases of similar products made from virgin materials. The department ~~division~~ shall design a uniform reporting mechanism and prepare annual summaries of statewide purchases delineating those with recycled content to be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Section 80. Subsection (7) of section 287.055, Florida Statutes, is amended to read:

287.055 Acquisition of professional architectural, engineering, landscape architectural, or surveying and mapping services; definitions; procedures; contingent fees prohibited; penalties.—

(7) AUTHORITY OF DEPARTMENT OF MANAGEMENT SERVICES.—Notwithstanding any other provision of this section, the Department of Management Services, ~~Division of Building Construction~~, shall be the agency of state government which is solely and exclusively authorized and empowered to administer and perform the functions described in subsections (3), (4), and (5) respecting all projects for which the funds necessary to complete same are appropriated to the Department of Management Services, irrespective of whether such projects are intended for the use and benefit of the Department of Management Services or any other agency of government. However, nothing herein shall be construed to be in derogation

of any authority conferred on the Department of Management Services by other express provisions of law. Additionally, any agency of government may, with the approval of the Department of Management Services, delegate to the Department of Management Services authority to administer and perform the functions described in subsections (3), (4), and (5). Under the terms of the delegation, the agency may reserve its right to accept or reject a proposed contract.

Section 81. Section 287.056, Florida Statutes, is amended to read:

287.056 Agency purchases from agreements and contracts executed by the department division.—

(1) Agencies shall purchase commodities and contractual services from the purchasing agreements and contracts negotiated and executed by the department division, as authorized in s. 287.042(2).

(2) Agencies may have the option to purchase commodities or contractual services from any written agreements or contracts negotiated and executed by the department division which contain a user surcharge pursuant to s. 287.1345 or such other agreements as determined by the department division.

Section 82. Paragraphs (a), (b), (c), and (e) of subsection (3) and subsections (4), (5), (14), and (18) of section 287.057, Florida Statutes, are amended to read:

287.057 Procurement of commodities or contractual services.—

(3) When the purchase price of commodities or contractual services exceeds the threshold amount provided in s. 287.017 for CATEGORY TWO, no purchase of commodities or contractual services may be made without receiving competitive sealed bids or competitive sealed proposals unless:

(a) The agency head determines in writing that an immediate danger to the public health, safety, or welfare or other substantial loss to the state requires emergency action. After the agency head makes such a written determination, the agency may proceed with the procurement of commodities or contractual services necessitated by the immediate danger, without competition. However, such emergency procurement shall be made with such competition as is practicable under the circumstances. The agency shall furnish copies of the written determination certified under oath and any other documents relating to the emergency action to the department division. A copy of the statement shall be furnished to the Comptroller with the voucher authorizing payment. The individual purchase of personal clothing, shelter, or supplies which are needed on an emergency basis to avoid institutionalization or placement in a more restrictive setting is an emergency for the purposes of this paragraph, and the filing with the department division of such statement is not required in such circumstances. In the case of the emergency purchase of insurance, the period of coverage of such insurance shall not exceed a period of 30 days, and all such emergency purchases shall be reported to the ~~department of Management Services~~.

(b) Purchasing agreements and contracts executed by the department division or by agencies under authority delegated by the department division in writing are excepted from bid requirements.

(c) Commodities or contractual services available only from a single source may be excepted from the bid requirements if it is determined that such commodities or services are available only from a single source and such determination is documented. However, if such contract is for an amount greater than the threshold amount provided in s. 287.017 for CATEGORY FOUR, the agency head shall file a certification of conditions and circumstances with the department division and shall obtain the prior approval of the department division. The failure of the department division to approve or disapprove the request of an agency for prior approval within 21 days after receiving such request or within 14 days after receiving from the agency additional materials requested by the department division shall constitute prior approval of the department division. To the greatest extent practicable, but no later than 45 days after authorizing the exception in writing, the department division shall combine single-source procurement authorizations for identical information technology resources for which the purchase price exceeds the threshold amount provided in s. 287.017 for CATEGORY FOUR, and shall negotiate and execute volume purchasing agreements for such procurements on behalf of the agencies.

(e) Prescriptive assistive devices for the purpose of medical, developmental, or vocational rehabilitation of clients are excepted from competitive sealed bid and competitive sealed proposal requirements and shall be procured pursuant to an established fee schedule or by any other method which ensures the best price for the state, taking into consideration the needs of the client. Prescriptive assistive devices include, but are not limited to, prosthetics, orthotics, and wheelchairs. For purchases made pursuant to this paragraph, state agencies shall annually file with the department division a description of the purchases and methods of procurement.

(4) If less than two responsive bids or proposals for commodity or contractual services purchases are received, the department division or the agency may negotiate on the best terms and conditions. The agency shall document the reasons that such action is in the best interest of the state in lieu of resoliciting competitive sealed bids or proposals. The agency shall report all such actions to the department division on a quarterly basis, in a manner and form prescribed by the department division.

(5) Upon issuance of any invitation to bid or request for proposals, an agency shall forward to the department division one copy of each invitation to bid or request for proposals for all commodity and contractual services purchases in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO. An agency shall also, upon request, furnish a copy of all competitive sealed bid or competitive sealed proposal tabulations. The Minority Business Advocacy and Assistance Office may also request from the agencies any information submitted to the department division pursuant to this subsection.

(14) Each agency shall designate at least one employee who shall serve as a contract administrator responsible for maintaining a contract file and

financial information on all contractual services contracts and who shall serve as a liaison with the contract managers and the department division.

(18) The department division may establish state contractual service term contracts. Such contracts may be utilized by any agency, county, municipality, or local public agency.

Section 83. Subsections (1) and (2) of section 287.058, Florida Statutes, are amended to read:

287.058 Contract document.—

(1) Every procurement of contractual services in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO, except for the providing of health and mental health services or drugs in the examination, diagnosis, or treatment of sick or injured state employees or the providing of other benefits as required by the provisions of chapter 440, shall be evidenced by a written agreement embodying all provisions and conditions of the procurement of such services, which provisions and conditions shall, where applicable, include, but shall not be limited to:

(a) A provision that bills for fees or other compensation for services or expenses be submitted in detail sufficient for a proper preaudit and postaudit thereof.

(b) A provision that bills for any travel expenses be submitted in accordance with s. 112.061. A state agency may establish rates lower than the maximum provided in s. 112.061.

(c) A provision allowing unilateral cancellation by the agency for refusal by the contractor to allow public access to all documents, papers, letters, or other material subject to the provisions of chapter 119 and made or received by the contractor in conjunction with the contract.

(d) A provision dividing the contract into units of deliverables, which shall include, but not be limited to, reports, findings, and drafts, that must be received and accepted in writing by the contract manager prior to payment.

(e) A provision specifying the criteria and the final date by which such criteria must be met for completion of the contract.

(f) A provision specifying that the contract may be renewed on a yearly basis for a period of up to 2 years after the initial contract or for a period no longer than the term of the original contract, whichever period is longer, specifying the terms under which the cost may change as determined in the invitation to bid or request for proposals, and specifying that renewals shall be contingent upon satisfactory performance evaluations by the agency and subject to the availability of funds.

In lieu of a written agreement, the department division may authorize the use of a purchase order for classes of contractual services, provided the provisions of paragraphs (a)-(f) are included in the purchase order, invitation to bid, or request for proposals. The purchase order shall include an

adequate description of the services, the contract period, and the method of payment. In lieu of printing the provisions of paragraphs (a)-(f) in the contract document or purchase order, agencies may incorporate the requirements of paragraphs (a)-(f) by reference.

(2) The written agreement shall be signed by the agency head and the contractor prior to the rendering of any contractual service the value of which is in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO, except in the case of a valid emergency as certified by the agency head. The certification of an emergency shall be prepared within 30 days after the contractor begins rendering the service and shall state the particular facts and circumstances which precluded the execution of the written agreement prior to the rendering of the service. If the agency fails to have the contract signed by the agency head and the contractor prior to rendering the contractual service, and if an emergency does not exist, the agency head shall, no later than 30 days after the contractor begins rendering the service, certify the specific conditions and circumstances to the department ~~division~~ as well as describe actions taken to prevent recurrence of such noncompliance. The agency head may delegate the certification only to other senior management agency personnel. A copy of the certification shall be furnished to the Comptroller with the voucher authorizing payment. The department ~~division~~ shall report repeated instances of noncompliance by an agency to the Auditor General. Nothing in this subsection shall be deemed to authorize additional compensation prohibited by s. 215.425. The procurement of contractual services shall not be divided so as to avoid the provisions of this section.

Section 84. Subsections (3) and (4) of section 287.073, Florida Statutes, are amended to read:

287.073 Procurement of information technology resources.—

(3) When an agency determines that there are alternative means by which to meet the agency's requirements for information technology resources, that establishing precise specifications is not practicable, and that other evaluation criteria, in addition to price, will best meet the agency's requirements, the agency may solicit sealed proposals through a request for proposals, stating in writing the title, date, and hour of the public opening. A request for proposals may include, but is not limited to, general information, applicable laws and rules, functional or general specifications, a statement of work, proposal instructions, and evaluation criteria. Evaluation criteria may include, but are not limited to, cost factors, technological assessment, service assessment, reliability assessment, software compatibility, and benchmark performance. To assure full understanding of and responsiveness to the requirements set forth in the request for proposals, the agency may conduct discussions with qualified offerors. The department ~~division~~ shall assist in such discussions upon the request of an agency. Qualified offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals prior to the submittal date specified in the request for proposals. A contract shall be awarded to the responsive offeror whose proposal is determined to be the most advantageous to the state, taking into consideration price and other evaluation criteria set forth in the request for proposals.

(4) If an agency determines that the information technology resources required to meet the agency's needs are available only from a single source of supply, the agency head shall file a single-source certification request with the department ~~division~~, specifying the conditions and circumstances and requesting that the acquisition of information technology resources be exempt from the bid requirements provided under s. 287.057.

Section 85. Section 287.083, Florida Statutes, is amended to read:

287.083 Purchase of commodities.—

(1) It shall be the policy of the state for the Department of Management Services ~~Division of Purchasing~~ to consider the life-cycle cost of commodities purchased by the state, when applicable and feasible as determined by the department ~~division~~.

(2) Definitions.—For the purpose of this section:

(a) "Major energy-consuming product" means any article so designated by the department ~~division~~.

(b) "Energy-efficiency standard" means a performance standard which prescribes the relationship of the energy use of a product to its useful output of services.

(3)(a) The department ~~division~~ is authorized to establish by rule energy-efficiency standards for major energy-consuming products.

(b) When federal energy-efficiency standards exist, the department ~~division~~ shall, when feasible, adopt standards at least as stringent as the federal standards.

(4) When energy-efficiency standards are established, life-cycle costs shall be used by the department ~~division~~ in contracting for major energy-consuming products.

(5) In determining the life-cycle cost, the department ~~division~~ may consider the acquisition cost of the product; the energy consumption and the projected cost of energy over the useful life of the product; and the anticipated trade-in, resale, or salvage value of the product.

Section 86. Paragraph (n) of subsection (4) of section 287.09451, Florida Statutes, is amended to read:

287.09451 Minority Business Advocacy and Assistance Office; powers, duties, and functions.—

(4) The Minority Business Advocacy and Assistance Office shall have the following powers, duties, and functions:

(n)1. To develop procedures to be used by an agency in identifying commodities, contractual services, architectural and engineering services, and construction contracts, except those architectural, engineering, construction, or other related services or contracts subject to the provisions of chapter 339, that could be provided by minority business enterprises. Each

agency is encouraged to spend 21 percent of the moneys actually expended for construction contracts, 25 percent of the moneys actually expended for architectural and engineering contracts, 24 percent of the moneys actually expended for commodities, and 50.5 percent of the moneys actually expended for contractual services during the previous fiscal year, except for the state university construction program which shall be based upon public education capital outlay projections for the subsequent fiscal year, and reported to the Legislature pursuant to s. 216.023, for the purpose of entering into contracts with certified minority business enterprises as defined in s. 288.703(2), or approved joint ventures. However, in the event of budget reductions pursuant to s. 216.221, the base amounts may be adjusted to reflect such reductions. The overall spending goal for each industry category shall be subdivided as follows:

a. For construction contracts: 4 percent for black Americans, 6 percent for Hispanic-Americans, and 11 percent for American women.

b. For architectural and engineering contracts: 9 percent for Hispanic-Americans, 1 percent for Asian-Americans, and 15 percent for American women.

c. For commodities: 2 percent for black Americans, 4 percent for Hispanic-Americans, 0.5 percent for Asian-Americans, 0.5 percent for Native Americans, and 17 percent for American women.

d. For contractual services: 6 percent for black Americans, 7 percent for Hispanic-Americans, 1 percent for Asian-Americans, 0.5 percent for Native Americans, and 36 percent for American women.

2. For the purposes of commodities contracts for the purchase of equipment to be used in the construction and maintenance of state transportation facilities involving the Department of Transportation, "minority business enterprise" has the same meaning as provided in s. 288.703. "Minority person" has the same meaning as in s. 288.703(3). In order to ensure that the goals established under this paragraph for contracting with certified minority business enterprises are met, the department division, with the assistance of the Minority Business Advocacy and Assistance Office, shall make recommendations to the Legislature on revisions to the goals, based on an updated statistical analysis, at least once every 5 years. Such recommendations shall be based on statistical data indicating the availability of and disparity in the use of minority businesses contracting with the state. The results of the first updated disparity study must be presented to the Legislature no later than December 1, 1996.

3. In determining the base amounts for assessing compliance with this paragraph, the Minority Business Advocacy and Assistance Office may develop, by rule, guidelines for all agencies to use in establishing such base amounts. These rules must include, but are not limited to, guidelines for calculation of base amounts, a deadline for the agencies to submit base amounts, a deadline for approval of the base amounts by the Minority Business Advocacy and Assistance Office, and procedures for adjusting the base amounts as a result of budget reductions made pursuant to s. 216.221.

4. To determine guidelines for the use of price preferences, weighted preference formulas, or other preferences, as appropriate to the particular industry or trade, to increase the participation of minority businesses in state contracting. These guidelines shall include consideration of:

- a. Size and complexity of the project.
- b. The concentration of transactions with minority business enterprises for the commodity or contractual services in question in prior agency contracting.
- c. The specificity and definition of work allocated to participating minority business enterprises.
- d. The capacity of participating minority business enterprises to complete the tasks identified in the project.
- e. The available pool of minority business enterprises as prime contractors, either alone or as partners in an approved joint venture that serves as the prime contractor.

5. To determine guidelines for use of joint ventures to meet minority business enterprises spending goals. For purposes of this section, "joint venture" means any association of two or more business concerns to carry out a single business enterprise for profit, for which purpose they combine their property, capital, efforts, skills, and knowledge. The guidelines shall allow transactions with joint ventures to be eligible for credit against the minority business enterprise goals of an agency when the contracting joint venture demonstrates that at least one partner to the joint venture is a certified minority business enterprise as defined in s. 288.703, and that such partner is responsible for a clearly defined portion of the work to be performed, and shares in the ownership, control, management, responsibilities, risks, and profits of the joint venture. Such demonstration shall be by verifiable documents and sworn statements and may be reviewed by the Minority Business Advocacy and Assistance Office at or before the time a contract bid is submitted. An agency may count toward its minority business enterprise goals a portion of the total dollar amount of a contract equal to the percentage of the ownership and control held by the qualifying certified minority business partners in the contracting joint venture, so long as the joint venture meets the guidelines adopted by the office.

Section 87. Section 287.131, Florida Statutes, is amended to read:

287.131 Assistance of Department of Insurance.—The Department of Insurance shall provide the Department of Management Services division with technical assistance in all matters pertaining to the purchase of insurance for all agencies, and shall make surveys of the insurance needs of the state and all departments thereof, including the benefits, if any, of self-insurance.

Section 88. Section 287.15, Florida Statutes, is amended to read:

287.15 Purchase or lease of motor vehicles, watercraft, or aircraft; prior approval of ~~Division of Motor Pool~~ of the Department of Management Ser-

vices.—No state agency shall purchase, lease, or acquire any motor vehicle, watercraft, or aircraft of any type unless prior approval is first obtained from the ~~Division of Motor Pool of the~~ Department of Management Services. However, nothing herein shall prohibit the lease for casual use of motor vehicles, or remove the requirement that all purchases be in compliance with the rules and regulations of the Department of Management Services ~~Division of Purchasing~~.

Section 89. Section 287.16, Florida Statutes, is amended to read:

287.16 Powers and duties of ~~department division~~.—The Department of Management Services ~~Division of Motor Pool~~ shall have the following powers, duties, and responsibilities:

(1) To obtain the most effective and efficient use of motor vehicles, watercraft, and aircraft for state purposes.

(2) To establish and operate central facilities for the acquisition, disposal, operation, maintenance, repair, storage, supervision, control, and regulation of all state-owned or state-leased aircraft and motor vehicles and to operate any state facilities for those purposes. Acquisition may be by purchase, lease, loan, or in any other legal manner.

(3) In its discretion, to require every state agency to transfer its ownership, custody, and control of every aircraft and motor vehicle, and associated maintenance facilities and equipment, except those used principally for law enforcement or fire control purposes, to the Department of Management Services, including all right, title, interest, and equity therein.

(4) Upon requisition and showing of need, to assign suitable aircraft or motor vehicles, on a temporary (for a period up to and including 1 month) or permanent (for a period from 1 month up to and including 1 full year) basis, to any state agency.

(5) To allocate and charge fees to the state agencies to which aircraft or motor vehicles are furnished, based upon any reasonable criteria.

(6) To adopt and enforce rules and regulations for the efficient and safe use, operation, maintenance, repair, and replacement of all state-owned or state-leased aircraft and motor vehicles and to require the placement of appropriate stickers, decals, or other markings upon the aircraft and motor vehicles of the state. The ~~department division~~ may delegate to the respective heads of the agencies to which aircraft and motor vehicles are assigned the duty of enforcing the rules and regulations adopted by the department division.

(7) To contract for specialized maintenance services.

(8) To require any state agency to keep records and make reports regarding aircraft and motor vehicles to the ~~department division~~ as may be required. The Department of Highway Safety and Motor Vehicles may use the reporting system in effect on October 1, 1983, until July 1, 1984. Beginning July 1, 1984, the Department of Highway Safety and Motor Vehicles shall

use a reporting system approved by the department division. The division shall assist the Department of Highway Safety and Motor Vehicles in developing or implementing a reporting system prior to July 1, 1984, which shall specifically address the needs and requirements of the division and the Department of Highway Safety and Motor Vehicles.

(9) To establish and operate central facilities to determine the mode of transportation to be used by state employees traveling on official state business and to schedule and coordinate use of state-owned or state-leased aircraft and passenger-carrying vehicles to assure maximum utilization of state aircraft, motor vehicles, and employee time by assuring that employees travel by the most practical and economical mode of travel. The department division shall consider the number of employees making the trip to the same location, the most efficient and economical means of travel considering the time of the employee, transportation cost and subsistence required, the urgency of the trip, and the nature and purpose of the trip.

(10) To provide the Legislature annual reports at the end of each calendar year concerning the utilization of all aircraft in the executive pool and special purpose aircraft.

Section 90. Subsections (1) and (2) of section 287.161, Florida Statutes, are amended to read:

287.161 Executive aircraft pool; assignment of aircraft; charge for transportation.—

(1) There is created within the Department of Management Services Bureau of Aircraft an executive aircraft pool consisting of state-owned aircraft for the purpose of furnishing executive air travel. Such aircraft shall not be a model in excess of a two-engine jet. Aircraft included in the executive aircraft pool may not be specifically assigned to any department or agency on any basis.

(2) The Department of Management Services Bureau of Aircraft shall charge all persons receiving transportation from the executive aircraft pool a rate not less than the mileage allowance fixed by the Legislature for the use of privately owned vehicles. However, state employees traveling on a space-available basis may not be charged more than the vehicle mileage allowance.

Section 91. Section 287.19, Florida Statutes, is amended to read:

287.19 Transfer of funds.—All moneys designated for or appropriated to any agency for the use, operation, maintenance, repair, or replacement of any state-owned or leased motor vehicles or aircraft shall be transferred to the Department of Management Services Division of Motor Pool as required by the department division.

Section 92. Paragraph (d) of subsection (5) and subsection (8) of section 288.15, Florida Statutes, are amended to read:

288.15 Powers of Division of Bond Finance.—There is hereby granted to and vested in the Division of Bond Finance of the State Board of Administration the power, right, franchise, and authority:

(5) In order to carry out the objectives and purposes of this chapter, the division is authorized to acquire, own, construct, operate, maintain, improve, and extend public buildings, facilities, or works within the state which are of the character hereinafter specifically mentioned. All public buildings, facilities, and works which the division is authorized to own, construct, operate, and maintain must be such as can ultimately be owned and operated by an agency, department, board, bureau, or commission of the state. All or any such buildings, facilities, or works may be of a revenue-producing character in order that the cost of the same or some part of improvements or extensions thereto may be paid from receipts therefrom, including in Tallahassee only rentals, leases, and sales to both public and nonpublic agencies through the issue and sales or disposition of revenue bonds, notes, or certificates of the division. The buildings, facilities, and works which the division is hereby authorized to acquire, construct, operate, maintain, improve, and extend are:

(d) Public buildings, facilities, and additions or improvements to existing buildings and facilities for ultimate use in connection with any of the several state institutions, departments, bureaus, boards, or commissions; and, in furtherance of this paragraph, ~~the Division of Building Construction of the Department of Management Services, the Division of Facilities Management of the Department of Management Services,~~ and the State Board of Education are authorized to cooperate with the Division of Bond Finance and to do and perform all acts and things necessary thereto. Any property acquired by the Division of Bond Finance under the provisions of this chapter may ultimately be conveyed to the state free and clear of all debt or other encumbrance.

(8) The division is hereby authorized and directed to proceed with the acquisition of land and buildings thereon now needed or to be needed for use in whole or in part by any agency, board, bureau, or commission of the state, such acquisition to be within the area defined by the ~~Division of Facilities Management of the Department of Management Services~~ for the long-range development of the proposed Capitol Center; and

(a) To construct, acquire, own, and operate buildings and facilities thereon, such buildings and facilities to be financed by the revenue they yield, through the issuance of revenue certificates;

(b) To have specific authority in financing the acquisition, construction, and operation of such buildings and facilities, to utilize rentals to both public and nonpublic agencies as well as any regularly appropriated state or other public funds; however, no revenue from lands, buildings, or facilities now owned by the state may be pledged to finance the acquisition of land, buildings, or facilities pursuant to the provisions of this law, except revenue from land, buildings, or facilities purchased or acquired pursuant to the provisions of this law.

Section 93. Subsections (1) and (3) of section 288.18, Florida Statutes, are amended to read:

288.18 Planning, promoting, and supervising state building projects.—

(1) ~~The Division of Facilities Management of the~~ Department of Management Services shall be responsible for promoting any state building project financed as provided by law in any community where a state building is needed.

(3) Any state agency required to occupy space by the ~~Division of Facilities Management of the~~ Department of Management Services may contract for such space and pledge such rentals as are provided and appropriated by the Legislature for the purpose of financing the retirement of revenue certificates for the lifetime of any issue.

Section 94. Subsection (10) of section 318.21, Florida Statutes, is amended to read:

318.21 Disposition of civil penalties by county courts.—All civil penalties received by a county court pursuant to the provisions of this chapter shall be distributed and paid monthly as follows:

(10) Twelve dollars and fifty cents from each moving traffic violation must be used by the county to fund that county's participation in an inter-governmental radio communication program approved by the ~~Division of Communications of the~~ Department of Management Services. If the county is not participating in such a program, funds collected must be used to fund local law enforcement automation and must be distributed to the municipality or special improvement district in which the violation occurred or to the county if the violation occurred within the unincorporated area of the county.

Section 95. Subsection (5) of section 334.0445, Florida Statutes, is amended to read:

334.0445 Model career service classification and compensation plan.—

(5) This section shall not be construed to remove employees of the Department of Transportation from the Career Service System or abrogate the terms and conditions of the collective bargaining agreements currently in effect and applicable to such employees. The ~~Office of Labor Relations of the~~ Department of Management Services shall continue to represent the state for purposes of negotiating terms related to this act and shall be authorized, pursuant to the provisions of this section, to provide benefits in addition to those offered to career service employees under the terms of the collective bargaining agreement.

Section 96. Subsection (2) of section 364.515, Florida Statutes, is amended to read:

364.515 Infrastructure investment.—

(2) In order to be eligible under this act, an eligible facility, or a group of eligible facilities based on geographic proximity, shall submit a technology-needs request to the ~~Division of Communications of the~~ Department of Management Services. The department ~~division~~ shall review the technology-needs request to determine if it conforms to the standards outlined in the

State Education Technology Committee's plan. If the technology-needs request does not conform to the plan, then the ~~department division~~ shall return the request to the eligible facility or group for modifications. After modification of a technology-needs request it can then be resubmitted by the eligible facility or a group of eligible facilities. A technology-needs request shall be submitted to the ~~department division~~ no later than July 1, 1997. Nothing in this section shall prevent the Department of Management Services from grouping eligible facilities technology requests when such grouping would result in the most efficient method to deliver advanced telecommunications services.

Section 97. Paragraph (b) of subsection (3) is repealed and subsections (4), (7), (9), and (10) and paragraph (a) of subsection (13) of section 365.171, Florida Statutes, are amended to read:

365.171 Emergency telephone number "911."—

(4) STATE PLAN.—The ~~department division~~ shall develop a statewide emergency telephone number "911" system plan. The plan shall provide for:

(a) The establishment of the public agency emergency telephone communications requirements for each entity of local government in the state.

(b) A system to meet specific local government requirements. Such system shall include law enforcement, firefighting, and emergency medical services and may include other emergency services such as poison control, suicide prevention, and emergency management services.

(c) Identification of the mutual aid agreements necessary to obtain an effective "911" system.

(d) A funding provision which shall identify the cost necessary to implement the "911" system.

(e) A firm implementation schedule which shall include the installation of the "911" system in a local community within 24 months after the designated agency of the local government gives a firm order to the telephone utility for a "911" system.

The ~~department division~~ shall be responsible for the implementation and coordination of such plan. The ~~department division~~ shall adopt any necessary rules and schedules related to public agencies for implementing and coordinating such plan, pursuant to chapter 120. The public agency designated in the plan shall order such system within 6 months after publication date of the plan if the public agency is in receipt of funds appropriated by the Legislature for the implementation and maintenance of the "911" system. Any jurisdiction which has utilized local funding as of July 1, 1976, to begin the implementation of the state plan as set forth in this section shall be eligible for at least a partial reimbursement of its direct cost when, and if, state funds are available for such reimbursement.

(7) TELEPHONE INDUSTRY COORDINATION.—The ~~department division~~ shall coordinate with the Florida Public Service Commission which

shall encourage the Florida telephone industry to activate facility modification plans for a timely “911” implementation.

(9) **SYSTEM APPROVAL.**—No emergency telephone number “911” system shall be established and no present system shall be expanded without prior approval of the department ~~Division of Communications~~.

(10) **COMPLIANCE.**—All public agencies shall assist the department ~~division~~ in their efforts to carry out the intent of this section, and such agencies shall comply with the developed plan.

(13) **“911” FEE.**—

(a) Following approval by referendum as set forth in paragraph (b), or following approval by a majority vote of its board of county commissioners, a county may impose a “911” fee to be paid by the local exchange subscribers within its boundaries served by the “911” service. Proceeds from the “911” fee shall be used only for “911” expenditures as set forth in subparagraph 6. The manner of imposing and collecting said payment shall be as follows:

1. At the request of the county subscribing to “911” service, the telephone company shall, insofar as is practicable, bill the “911” fee to the local exchange subscribers served by the “911” service, on an individual access line basis, at a rate not to exceed 50 cents per month per line (up to a maximum of 25 access lines per account bill rendered). However, the fee may not be assessed on any pay telephone in this state. A county collecting the fee for the first time may collect the fee for no longer than 36 months without initiating the acquisition of its “911” equipment.

2. Fees collected by the telephone company pursuant to subparagraph 1. shall be returned to the county, less the costs of administration retained pursuant to paragraph (c). The county shall provide a minimum of 90 days’ written notice to the telephone company prior to the collection of any “911” fees.

3. Any county that currently has an operational “911” system or that is actively pursuing the implementation of a “911” system shall establish a fund to be used exclusively for receipt and expenditure of “911” fee revenues collected pursuant to this section. All fees placed in said fund, and any interest accrued thereupon, shall be used solely for “911” costs described in subparagraph 6. The money collected and interest earned in this fund shall be appropriated for “911” purposes by the county commissioners and incorporated into the annual county budget. The county shall annually have a financial audit performed on this fund, in accordance with s. 11.45. A report of the audit shall be forwarded to the department ~~Division of Communications~~ within 60 days of its completion. A county may carry forward on an annual basis unspent moneys in the fund for expenditures allowed by this section, or it may reduce its fee. However, in no event shall a county carry forward more than 10 percent of the “911” fee billed for the prior year. The amount of moneys carried forward each year may be accumulated in order to allow for capital improvements described in this subsection. The carryover shall be documented by resolution of the board of county commissioners expressing the purpose of the carryover or by an adopted capital im-

provement program identifying projected expansion or replacement expenditures for "911" equipment and service features, or both. In no event shall the "911" fee carryover surplus moneys be used for any purpose other than for the "911" equipment, service features, and installation charges authorized in subparagraph 6. Nothing in this section shall prohibit a county from using other sources of revenue for improvements, replacements, or expansions of its "911" system. A county may increase its fee for purposes authorized in this section. However, in no case shall the fee exceed 50 cents per month per line. All current "911" fees shall be reported to the department Division of Communications within 30 days of the start of each county's fiscal period. Any fee adjustment made by a county shall be reported to the department Division of Communications. A county shall give the telephone company a 90-day written notice of such fee adjustment.

4. The telephone company shall have no obligation to take any legal action to enforce collection of the "911" fee. The telephone company shall provide quarterly to the county a list of the names, addresses, and telephone numbers of any and all subscribers who have identified to the telephone company their refusal to pay the "911" fee.

5. The county subscribing to "911" service shall remain liable to the telephone company for any "911" service, equipment, operation, or maintenance charge owed by the county to the telephone company.

As used in this paragraph, "telephone company" means an exchange telephone service provider of "911" service or equipment to any county within its certificated area.

6. It is the intent of the Legislature that the "911" fee authorized by this section to be imposed by counties will not necessarily provide the total funding required for establishing or providing the "911" service. For purposes of this section, "911" service includes the functions of database management, call taking, location verification, and call transfer. The following costs directly attributable to the establishment and/or provision of "911" service are eligible for expenditure of moneys derived from imposition of the "911" fee authorized by this section: the acquisition, implementation, and maintenance of Public Safety Answering Point (PSAP) equipment and "911" service features, as defined in the Florida Public Service Commission's lawfully approved "911" and related tariffs and/or the acquisition, installation, and maintenance of other "911" equipment, including call answering equipment, call transfer equipment, ANI controllers, ALI controllers, ANI displays, ALI displays, station instruments, "911" telecommunications systems, teleprinters, logging recorders, instant playback recorders, telephone devices for the deaf (TDD) used in the "911" system, PSAP backup power systems, consoles, automatic call distributors, and interfaces (hardware and software) for computer-aided dispatch (CAD) systems; salary and associated expenses for "911" call takers for that portion of their time spent taking and transferring "911" calls; salary and associated expenses for a county to employ a full-time equivalent "911" coordinator position and a full-time equivalent staff assistant position per county for the portion of their time spent administrating the "911" system; training costs for PSAP call takers in the proper methods and techniques used in taking and transferring "911"

calls; and expenses required to develop and maintain all information (ALI and ANI databases and other information source repositories) necessary to properly inform call takers as to location address, type of emergency, and other information directly relevant to the "911" call-taking and transferring function. The "911" fee revenues shall not be used to pay for any item not listed, including, but not limited to, any capital or operational costs for emergency responses which occur after the call transfer to the responding public safety entity and the costs for constructing buildings, leasing buildings, maintaining buildings, or renovating buildings, except for those building modifications necessary to maintain the security and environmental integrity of the PSAP and "911" equipment rooms.

7. It is the goal of the Legislature that enhanced "911" service be available throughout the state. Expenditure by counties of the "911" fees authorized by this section should support this goal to the greatest extent feasible within the context of local service needs and fiscal capability. Nothing in this section shall be construed to prohibit two or more counties from establishing a combined emergency "911" telephone service by interlocal agreement and utilizing the "911" fees authorized by this section for such combined "911" service.

Section 98. Section 376.10, Florida Statutes, is amended to read:

376.10 Personnel and equipment.—The department shall establish and maintain at such ports within the state and other places as it shall determine such employees and equipment as in its judgment may be necessary to carry out the provisions of ss. 376.011-376.21. The department may employ and prescribe the duties of such employees, subject to the rules and regulations of the ~~Division of Personnel Management Services of the Department of Management Services~~. The salaries of the employees and the cost of the equipment shall be paid from the Florida Coastal Protection Trust Fund established by ss. 376.011-376.21. The department shall periodically consult with other departments of the state relative to procedures for the prevention of discharges of pollutants into or affecting the coastal waters of the state from operations regulated by ss. 376.011-376.21.

Section 99. Section 395.1031, Florida Statutes, is amended to read:

395.1031 Emergency medical services; communication.—Each licensed hospital with an emergency department must be capable of communicating by two-way radio with all ground-based basic life support service vehicles and advanced life support service vehicles that operate within the hospital's service area under a state permit and with all rotocraft air ambulances that operate under a state permit. The hospital's radio system must be capable of interfacing with municipal mutual aid channels designated by the ~~Division of Communications of the Department of Management Services~~ and the Federal Communications Commission.

Section 100. Section 401.013, Florida Statutes, is amended to read:

401.013 Legislative intent.—It is the intention and purpose of the Legislature that a statewide system of regional emergency medical telecommunications be developed whereby maximum use of existing radio channels is

achieved in order to more effectively and rapidly provide emergency medical service to the general population. To this end, all emergency medical service entities within the state are directed to provide the ~~Division of Communications of the~~ Department of Management Services with any information the ~~department division~~ requests for the purpose of implementing the provisions of s. 401.015, and such entities shall comply with the resultant provisions established pursuant to this part.

Section 101. Section 401.015, Florida Statutes, is amended to read:

401.015 Statewide regional emergency medical telecommunication system.—The ~~Division of Communications of the~~ Department of Management Services is authorized and directed to develop a statewide system of regional emergency medical telecommunications. For the purpose of this part, the term “telecommunications” means those voice, data, and signaling transmissions and receptions between emergency medical service components, including, but not limited to: ambulances; rescue vehicles; hospitals or other related emergency receiving facilities; emergency communications centers; physicians and emergency medical personnel; paging facilities; law enforcement and fire protection agencies; and poison control, suicide, and emergency management agencies. In formulating such a system, the ~~department division~~ shall divide the state into appropriate regions and shall develop a program which includes, but is not limited to, the following provisions:

(1) A requirements provision, which shall state the telecommunications requirements for each emergency medical entity comprising the region.

(2) An interfacility communications provision, which shall depict the telecommunications interfaces between the various medical service entities which operate within the region and state.

(3) An organizational layout provision, which shall include each emergency medical entity and the number of radio operating units (base, mobile, handheld, etc.) per entity.

(4) A frequency allocation and use provision, which shall include on an entity basis each assigned and planned radio channel and the type of operation (simplex, duplex, half duplex, etc.) on each channel.

(5) An operational provision, which shall include dispatching, logging, and operating procedures pertaining to telecommunications on an entity basis and regional basis.

(6) An emergency medical service telephone provision, which shall include the telephone and the numbering plan throughout the region for both the public and interface requirements.

Section 102. Section 401.018, Florida Statutes, is amended to read:

401.018 System coordination.—

(1) The statewide system of regional emergency medical telecommunications shall be developed by the Department of Management Services Division of Communications, which department division shall be responsible for

the implementation and coordination of such system into the state telecommunications plan. The ~~department division~~ shall adopt any necessary rules and regulations for implementing and coordinating such a system.

(2) The Department of Management Services Division of Communications shall be designated as the state frequency coordinator for the special emergency radio service.

Section 103. Section 401.024, Florida Statutes, is amended to read:

401.024 System approval.—From July 1, 1973, no emergency medical telecommunications system shall be established or present systems expanded without prior approval of the Department of Management Services Division of Communications.

Section 104. Subsection (1) of section 403.7065, Florida Statutes, is amended to read:

403.7065 Procurement of products or materials with recycled content.—

(1) Except as provided in s. 287.045, any state agency or agency of a political subdivision of the state which is using state funds, or any person contracting with any such agency with respect to work performed under contract, is required to procure products or materials with recycled content when the ~~Division of Purchasing of the~~ Department of Management Services determines that those products or materials are available. A decision not to procure such items must be based on the Department of Management Services' Division of Purchasing's determination that such procurement is not reasonably available within an acceptable period of time, fails to meet the performance standards set forth in the applicable specifications, or fails to meet the performance standards of the agency. When the requirements of s. 287.045 are met, agencies shall be subject to the procurement requirements of that section for procuring products or materials with recycled content.

Section 105. Subsection (2) of section 946.515, Florida Statutes, is amended to read:

946.515 Use of goods and services produced in correctional work programs.—

(2) No similar product or service of comparable price and quality found necessary for use by any state agency may be purchased from any source other than the corporation if the corporation certifies that the product is manufactured by, or the service is provided by, inmates and the product or service meets the comparable performance specifications and comparable price and quality requirements as specified under s. 287.042(1)(f) or as determined by an individual agency as provided in this section. The purchasing authority of any such state agency may make reasonable determinations of need, price, and quality with reference to products or services available from the corporation. In the event of a dispute between the corporation and any purchasing authority based upon price or quality under this section or s. 287.042(1)(f), either party may request a hearing with the Department

of Management Services ~~Division of Purchasing~~ and if not resolved, either party may request a proceeding pursuant to ss. 120.569 and 120.57, which shall be referred to the Division of Administrative Hearings within 60 days after such request, to resolve any dispute under this section. No party is entitled to any appeal pursuant to s. 120.68.

Reviser's note.—Amended pursuant to the directive in s. 4, ch. 97-296, Laws of Florida, to substitute a reference to the Department of Management Services for all references in the Florida Statutes to any division, bureau, or other unit of the Department of Management Services, except for references to the Division of Administrative Hearings, the Division of Retirement, or commissions.

Became a law without the Governor's approval May 28, 1998.

Filed in Office Secretary of State May 27, 1998.