

## Senate Bill No. 850

An act relating to state facilities; amending s. 255.25, F.S.; authorizing state agencies to execute certain replacement leases; providing guidelines for the execution of such leases; amending s. 255.31, F.S.; authorizing the Department of Management Services to review certain plans for consistency with the Florida Building Code; providing an effective date.

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

Section 1. Subsection (3) of section 255.25, Florida Statutes, is amended to read:

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

(3)(a) Except as provided in subsection (10), no state agency shall enter into a lease as lessee for the use of 5,000 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 shall have the authority to approve a lease for 5,000 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, 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 may approve extensions of an existing lease of 5,000 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 that space, it shall be procured by competitive bid in accordance with s. 255.249(4)(b) ~~s. 255.249(2)(b)~~. However, an agency that determines that it is in its best interest to remain in the space it currently occupies may negotiate a replacement lease with the lessor if an independent comparative market analysis demonstrates that the rates offered are within market rates for the space and the cost of the new lease does not exceed the cost of a comparable lease plus documented moving costs. A present-value analysis and the consumer price index shall be used in the calculation of lease costs. The term of the replacement lease may not exceed the base term of the expiring lease.

(c) Any person who files an action protesting a decision or intended decision pertaining to a competitive bid for space to be leased by the agency pursuant to s. 120.57(3)(b) shall post with the state agency at the time of filing the formal written protest a bond payable to the agency in an amount equal to 1 percent of the estimated total rental of the basic lease period or \$5,000, whichever is greater, 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. If the agency prevails after completion of the administrative hearing process and any appellate court proceedings, it shall recover all costs and charges which shall be included in the final order or judgment, excluding attorney's fees. Upon payment of such costs and charges by the person protesting the award, the bond shall be returned to him or her. If the person protesting the award prevails, the bond shall be returned to that person and 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.

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

(e) The unamortized portion of tenant improvements, if appropriated, will be paid in equal monthly installments over the remaining term of the lease. If any portion of the original leased premises is occupied after termination but during the original term by a tenant that does not require material changes to the premises, the repayment of the cost of tenant improvements applicable to the occupied but unchanged portion shall be abated during occupancy. The portion of the repayment to be abated shall be based on the ratio of leased space to unleased space.

Section 2. Subsection (1) of section 255.31, Florida Statutes, is amended to read:

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

(1) The design, construction, erection, alteration, modification, repair, and demolition of all public and private buildings are governed by the Florida Building Code and the Florida Fire Prevention Code, which are to be enforced by local jurisdictions or local enforcement districts unless specifically exempted as provided in s. 553.80. However, the Department of Management Services 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; provided that, with the exception of facilities constructed under the authority of chapters 944, 945, and 985; the Governor's mansion and grounds thereof as described in s. 272.18; and the Capitol Building and environs, being that part of the City of Tallahassee bounded on the north by Pensacola and Jefferson Streets, on the east by Monroe Street, on the south by Madison Street, and on the west by Duval Street, the department may not conduct plans reviews or inspection services for consistency with the Florida Building Code. The department's fees for such services shall be paid from such appropriations.

Section 3. This act shall take effect July 1, 2001.

Approved by the Governor June 19, 2001.

Filed in Office Secretary of State June 19, 2001.