

BILL

ORIGINAL

YEAR

1                                   A bill to be entitled  
 2           An act relating to procurement; amending s. 287.056, F.S.;  
 3           deleting duplicative language relating to agency option to  
 4           purchase from a state contract; amending s. 287.057, F.S.;  
 5           revising provisions relating to procurement of commodities  
 6           or contractual services to make clarifying changes;  
 7           providing that preference in award be given to lowest  
 8           responsive bid; requiring certain information be included  
 9           in an invitation to negotiate; revising requirements for  
 10          avoidance, neutralization, or mitigation of potential  
 11          organizational conflicts of interest; amending s. 287.058,  
 12          F.S.; removing duplicative language; making editorial  
 13          changes; amending s. 287.09431, F.S.; updating references  
 14          to the Department of Labor and Employment Security;  
 15          amending s. 287.09451, F.S.; removing references to the  
 16          Department of Labor and Employment Security; amending s.  
 17          287.0947, F.S.; removing a reference to the Department of  
 18          Labor and Employment Security; correcting a cross-  
 19          reference; repealing s. 287.115, F.S., relating to the  
 20          Chief Financial Officer providing an annual report;  
 21          repealing s. 403.7065, F.S., relating to procurement of  
 22          products or materials with recycled content; providing an  
 23          effective date.

24  
 25    Be It Enacted by the Legislature of the State of Florida:

26  
 27           Section 1.   Section 287.056, Florida Statutes, is amended  
 28    to read:

BILL

ORIGINAL

YEAR

29 | 287.056 Purchases from purchasing agreements and state  
30 | term contracts.—

31 | (1) Agencies shall, and eligible users may, purchase  
32 | commodities and contractual services from purchasing agreements  
33 | established and state term contracts procured, pursuant to s.  
34 | 287.057, by the department. Each agency agreement made under  
35 | this subsection shall include:

36 | (a) A provision specifying a scope of work that clearly  
37 | establishes all tasks that the contractor is required to  
38 | perform.

39 | (b) A provision dividing the contract into quantifiable,  
40 | measurable, and verifiable units of deliverables that must be  
41 | received and accepted in writing by the contract manager before  
42 | payment. Each deliverable must be directly related to the scope  
43 | of work and specify the required minimum level of service to be  
44 | performed and the criteria for evaluating the successful  
45 | completion of each deliverable.

46 | ~~(2) Agencies may have the option to purchase commodities~~  
47 | ~~or contractual services from state term contracts procured,~~  
48 | ~~pursuant to s. 287.057, by the department.~~

49 | (2) ~~(3)~~ Agencies and eligible users may use a request for  
50 | quote to obtain written pricing or services information from a  
51 | state term contract vendor for commodities or contractual  
52 | services available on state term contract from that vendor. The  
53 | purpose of a request for quote is to determine whether a price,  
54 | term, or condition more favorable to the agency or eligible user  
55 | than that provided in the state term contract is available. Use  
56 | of a request for quote does not constitute a decision or

BILL ORIGINAL YEAR

57 intended decision that is subject to protest under s. 120.57(3).

58 Section 2. Subsections (1) and (17) of section 287.057,  
59 Florida Statutes, are amended to read:

60 287.057 Procurement of commodities or contractual  
61 services.—

62 (1) The competitive solicitation processes authorized in  
63 this section shall be used for procurement of commodities or  
64 contractual services in excess of the threshold amount provided  
65 for CATEGORY TWO in s. 287.017. Any competitive solicitation  
66 shall be made available simultaneously to all vendors, must  
67 include the time and date for the receipt of bids, proposals, or  
68 replies and of the public opening, and must include all  
69 contractual terms and conditions applicable to the procurement,  
70 including the criteria to be used in determining acceptability  
71 and relative merit of the bid or proposal, and the criteria to  
72 be used in determining the responsiveness of the ~~or~~ reply.

73 (a) Invitation to bid.—The invitation to bid shall be used  
74 when the agency is capable of specifically defining the scope of  
75 work for which a contractual service is required or when the  
76 agency is capable of establishing precise specifications  
77 defining the actual commodity or group of commodities required.

78 1. All invitations to bid must include:

79 a. A detailed description of the commodities or  
80 contractual services sought; and

81 b. If the agency contemplates renewal of the contract, a  
82 statement to that effect.

83 2. Bids submitted in response to an invitation to bid in  
84 which the agency contemplates renewal of the contract must

BILL

ORIGINAL

YEAR

85 | include the price for each year for which the contract may be  
 86 | renewed.

87 |         3. Evaluation of bids shall include consideration of the  
 88 | total cost for each year of the contract, including renewal  
 89 | years, as submitted by the vendor, with preference in award  
 90 | being given to the lowest responsive bid determined to meet the  
 91 | requirements and criteria set forth in the invitation to bid.

92 |         (b) Request for proposals.—An agency shall use a request  
 93 | for proposals when the purposes and uses for which the  
 94 | commodity, group of commodities, or contractual service being  
 95 | sought can be specifically defined and the agency is capable of  
 96 | identifying necessary deliverables. Various combinations or  
 97 | versions of commodities or contractual services may be proposed  
 98 | by a responsive vendor to meet the specifications of the  
 99 | solicitation document.

100 |         1. Before issuing a request for proposals, the agency must  
 101 | determine and specify in writing the reasons that procurement by  
 102 | invitation to bid is not practicable.

103 |         2. All requests for proposals must include:

104 |             a. A statement describing the commodities or contractual  
 105 | services sought;

106 |             b. The relative importance of price and other evaluation  
 107 | criteria; and

108 |             c. If the agency contemplates renewal of the contract, a  
 109 | statement to that effect.

110 |         3. Criteria that will be used for evaluation of proposals  
 111 | shall include, but are not limited to:

112 |             a. Price, which must be specified in the proposal;

BILL

ORIGINAL

YEAR

113           b. If the agency contemplates renewal of the contract, the  
114 price for each year for which the contract may be renewed; and

115           c. Consideration of the total cost for each year of the  
116 contract, including renewal years, as submitted by the vendor.

117           4. The contract shall be awarded by written notice to the  
118 responsible and responsive vendor whose proposal is determined  
119 in writing to be the most advantageous to the state, taking into  
120 consideration the price and other criteria set forth in the  
121 request for proposals. The contract file shall contain  
122 documentation supporting the basis on which the award is made.

123           (c) Invitation to negotiate.—The invitation to negotiate  
124 is a solicitation used by an agency which is intended to  
125 determine the best method for achieving a specific goal or  
126 solving a particular problem and identifies one or more  
127 responsive vendors with which the agency may negotiate in order  
128 to receive the best value.

129           1. Before issuing an invitation to negotiate, the head of  
130 an agency must determine and specify in writing the reasons that  
131 procurement by an invitation to bid or a request for proposal is  
132 not practicable.

133           2. The invitation to negotiate must describe the questions  
134 being explored, the facts being sought, and the specific goals  
135 or problems that are the subject of the solicitation.

136           3. The criteria that will be used for determining the  
137 responsiveness ~~acceptability~~ of the reply and guiding the  
138 selection of the vendors with which the agency will negotiate  
139 must be specified. If the agency contemplates renewal of the  
140 contract, that fact must be stated in the invitation to

BILL

ORIGINAL

YEAR

141 negotiate as well as a requirement that the reply must include  
 142 the price for each year for which the contract may be renewed.

143 4. The agency shall evaluate replies against all  
 144 evaluation criteria set forth in the invitation to negotiate in  
 145 order to establish a competitive range of replies reasonably  
 146 susceptible of award. The agency may select one or more vendors  
 147 within the competitive range with which to commence  
 148 negotiations. After negotiations are conducted, the agency shall  
 149 award the contract to the responsible and responsive vendor that  
 150 the agency determines will provide the best value to the state,  
 151 based on the selection criteria.

152 5. The contract file for a vendor selected through an  
 153 invitation to negotiate must contain a short plain statement  
 154 that explains the basis for the selection of the vendor and that  
 155 sets forth the vendor's deliverables and price, pursuant to the  
 156 contract, along with an explanation of how these deliverables  
 157 and price provide the best value to the state.

158 (17) (a)1. Each agency must avoid, neutralize, or mitigate  
 159 significant potential organizational conflicts of interest  
 160 before a contract is awarded. If an agency identifies such  
 161 conflict, the agency may request the vendor to propose a  
 162 mitigation plan with its response to a competitive solicitation.  
 163 If the agency elects to mitigate the significant potential  
 164 organizational conflict or conflicts of interest, a ~~an adequate~~  
 165 mitigation plan shall be developed. The plan shall include,  
 166 ~~including~~ organizational, physical, and electronic barriers,  
 167 ~~shall be developed.~~

168 2. If a conflict cannot be avoided or mitigated, an agency

BILL

ORIGINAL

YEAR

169 may proceed with the contract award if the agency head certifies  
 170 that the award is in the best interests of the state. The agency  
 171 head must specify in writing the basis for the certification.

172 (b)1. An agency head may not proceed with a contract award  
 173 under subparagraph (a)2. if a conflict of interest is based upon  
 174 the vendor gaining an unfair competitive advantage.

175 2. An unfair competitive advantage exists when the vendor  
 176 competing for the award of a contract obtained access to  
 177 information that is not available to the public or source  
 178 selection information that is relevant to the contract but is  
 179 not available to all competitors and such information would  
 180 assist the vendor in obtaining the contract.

181 ~~a. Access to information that is not available to the~~  
 182 ~~public and would assist the vendor in obtaining the contract; or~~

183 ~~b. Source selection information that is relevant to the~~  
 184 ~~contract but is not available to all competitors and that would~~  
 185 ~~assist the vendor in obtaining the contract.~~

186 (c) Unless a mitigation plan is developed as provided in  
 187 paragraph (a), a person who receives a contract that has not  
 188 been procured pursuant to subsections (1)-(3) to perform a  
 189 feasibility study of the potential implementation of a  
 190 subsequent contract or to develop a program for implementation  
 191 is not eligible to contract with the agency for any other  
 192 contracts pertaining to that specific subject matter, and any  
 193 firm in which such person has any interest is not eligible to  
 194 receive such contract.

195 (d) A person who participates in the drafting of a  
 196 solicitation ~~or who develops a program for future~~

BILL ORIGINAL YEAR

197 ~~implementation,~~ is not eligible to contract with the agency for  
 198 any other contracts dealing with that specific subject matter,  
 199 and any firm in which such person has any interest is not  
 200 eligible to receive such contract.

201 (e) The prohibitions provided in this subsection do  
 202 ~~However, this prohibition does~~ not prevent a vendor who responds  
 203 to a request for information from being eligible to contract  
 204 with an agency.

205 Section 3. Subsection (1) of section 287.058, Florida  
 206 Statutes, is amended to read:

207 287.058 Contract document.—

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

217 1.(a) That bills for fees or other compensation for  
 218 services or expenses be submitted in detail sufficient for a  
 219 proper preaudit and postaudit thereof.

220 2.(b) That bills for any travel expenses be submitted in  
 221 accordance with s. 112.061. A state agency may establish rates  
 222 lower than the maximum provided in s. 112.061.

223 3.(c) Allowing unilateral cancellation by the agency for  
 224 refusal by the contractor to allow public access to all



BILL

ORIGINAL

YEAR

225 documents, papers, letters, or other material made or received  
 226 by the contractor in conjunction with the contract, unless the  
 227 records are exempt from s. 24(a) of Art. I of the State  
 228 Constitution and s. 119.07(1).

229 4.~~(d)~~ Specifying a scope of work that clearly establishes  
 230 all tasks the contractor is required to perform.

231 5.~~(e)~~ Dividing the contract into quantifiable,  
 232 measurable, and verifiable units of deliverables that must be  
 233 received and accepted in writing by the contract manager before  
 234 payment. Each deliverable must be directly related to the scope  
 235 of work and specify the required minimum level of service to be  
 236 performed and criteria for evaluating the successful completion  
 237 of each deliverable.

238 6.~~(f)~~ Specifying the criteria and the final date by which  
 239 such criteria must be met for completion of the contract.

240 7.~~(g)~~ Specifying that the contract may be renewed for a  
 241 period that may not exceed 3 years or the term of the original  
 242 contract, whichever period is longer, specifying the renewal  
 243 price for the contractual service as set forth in the bid,  
 244 proposal, or reply, specifying that costs for the renewal may  
 245 not be charged, and specifying that renewals shall be contingent  
 246 upon satisfactory performance evaluations by the agency and  
 247 subject to the availability of funds. Exceptional purchase  
 248 contracts pursuant to s. 287.057(3)(a) and (c) may not be  
 249 renewed.

250 8.~~(h)~~ Specifying the financial consequences that the  
 251 agency must apply if the contractor fails to perform in  
 252 accordance with the contract.

BILL

ORIGINAL

YEAR

253 |        9.~~(i)~~ Addressing the property rights of any intellectual  
 254 | property related to the contract and the specific rights of the  
 255 | state regarding the intellectual property if the contractor  
 256 | fails to provide the services or is no longer providing  
 257 | services.

258 |        (b) In lieu of a written agreement, the department may  
 259 | authorize the use of a purchase order for classes of contractual  
 260 | services, if the provisions of subparagraphs 1.-9. ~~paragraphs~~  
 261 | ~~(a)-(i)~~ are included in the purchase order or solicitation. The  
 262 | purchase order must include, but need not be limited to, an  
 263 | adequate description of the services, the contract period, and  
 264 | the method of payment. ~~In lieu of printing the provisions of~~  
 265 | ~~paragraphs (a)-(i) in the contract document or purchase order,~~  
 266 | ~~agencies may incorporate the requirements of paragraphs (a)-(i)~~  
 267 | ~~by reference.~~

268 |        Section 4. Section 287.09431, Florida Statutes, is amended  
 269 | to read:

270 |        287.09431 Statewide and interlocal agreement on  
 271 | certification of business concerns for the status of minority  
 272 | business enterprise.—The statewide and interlocal agreement on  
 273 | certification of business concerns for the status of minority  
 274 | business enterprise is hereby enacted and entered into with all  
 275 | jurisdictions or organizations legally joining therein. If,  
 276 | within 2 years from the date that the certification core  
 277 | criteria are approved by the Department of Management Services  
 278 | ~~Department of Labor and Employment Security~~, the agreement  
 279 | included herein is not executed by a majority of county and  
 280 | municipal governing bodies that administer a minority business

BILL

ORIGINAL

YEAR

281 assistance program on the effective date of this act, then the  
 282 Legislature shall review this agreement. It is the intent of the  
 283 Legislature that if the agreement is not executed by a majority  
 284 of the requisite governing bodies, then a statewide uniform  
 285 certification process should be adopted, and that said agreement  
 286 should be repealed and replaced by a mandatory state government  
 287 certification process.

288 ARTICLE I

289 PURPOSE, FINDINGS, AND POLICY.—

290 (1) The parties to this agreement, desiring by common  
 291 action to establish a uniform certification process in order to  
 292 reduce the multiplicity of applications by business concerns to  
 293 state and local governmental programs for minority business  
 294 assistance, declare that it is the policy of each of them, on  
 295 the basis of cooperation with one another, to remedy social and  
 296 economic disadvantage suffered by certain groups, resulting in  
 297 their being historically underutilized in ownership and control  
 298 of commercial enterprises. Thus, the parties seek to address  
 299 this history by increasing the participation of the identified  
 300 groups in opportunities afforded by government procurement.

301 (2) The parties find that the State of Florida presently  
 302 certifies firms for participation in the minority business  
 303 assistance programs of the state. The parties find further that  
 304 some counties, municipalities, school boards, special districts,  
 305 and other divisions of local government require a separate, yet  
 306 similar, and in most cases redundant certification in order for  
 307 businesses to participate in the programs sponsored by each

BILL

ORIGINAL

YEAR

308 government entity.

309 (3) The parties find further that this redundant  
 310 certification has proven to be unduly burdensome to the  
 311 minority-owned firms intended to benefit from the underlying  
 312 purchasing incentives.

313 (4) The parties agree that:

314 (a) They will facilitate integrity, stability, and  
 315 cooperation in the statewide and interlocal certification  
 316 process, and in other elements of programs established to assist  
 317 minority-owned businesses.

318 (b) They shall cooperate with agencies, organizations, and  
 319 associations interested in certification and other elements of  
 320 minority business assistance.

321 (c) It is the purpose of this agreement to provide for a  
 322 uniform process whereby the status of a business concern may be  
 323 determined in a singular review of the business information for  
 324 these purposes, in order to eliminate any undue expense, delay,  
 325 or confusion to the minority-owned businesses in seeking to  
 326 participate in the minority business assistance programs of  
 327 state and local jurisdictions.

328 ARTICLE II

329 DEFINITIONS.—As used in this agreement and contracts made  
 330 pursuant to it, unless the context clearly requires otherwise:

331 (1) "Awarding organization" means any political  
 332 subdivision or organization authorized by law, ordinance, or  
 333 agreement to enter into contracts and for which the governing  
 334 body has entered into this agreement.

BILL

ORIGINAL

YEAR

335 (2) "Department" means the Department of Management  
 336 Services ~~Department of Labor and Employment Security.~~

337 (3) "Minority" means a person who is a lawful, permanent  
 338 resident of the state, having origins in one of the minority  
 339 groups as described and adopted by the Department of Management  
 340 Services ~~Department of Labor and Employment Security~~, hereby  
 341 incorporated by reference.

342 (4) "Minority business enterprise" means any small  
 343 business concern as defined in subsection (6) that meets all of  
 344 the criteria described and adopted by the Department of  
 345 Management Services ~~Department of Labor and Employment Security~~,  
 346 hereby incorporated by reference.

347 (5) "Participating state or local organization" means any  
 348 political subdivision of the state or organization designated by  
 349 such that elects to participate in the certification process  
 350 pursuant to this agreement, which has been approved according to  
 351 s. 287.0943(3) and has legally entered into this agreement.

352 (6) "Small business concern" means an independently owned  
 353 and operated business concern which is of a size and type as  
 354 described and adopted by vote related to this agreement of the  
 355 commission, hereby incorporated by reference.

356 ARTICLE III

357 STATEWIDE AND INTERLOCAL CERTIFICATIONS.—

358 (1) All awarding organizations shall accept a  
 359 certification granted by any participating organization which  
 360 has been approved according to s. 287.0943(3) and has entered  
 361 into this agreement, as valid status of minority business

BILL

ORIGINAL

YEAR

362 enterprise.

363 (2) A participating organization shall certify a business  
 364 concern that meets the definition of minority business  
 365 enterprise in this agreement, in accordance with the duly  
 366 adopted eligibility criteria.

367 (3) All participating organizations shall issue notice of  
 368 certification decisions granting or denying certification to all  
 369 other participating organizations within 14 days of the  
 370 decision. Such notice may be made through electronic media.

371 (4) No certification will be granted without an onsite  
 372 visit to verify ownership and control of the prospective  
 373 minority business enterprise, unless verification can be  
 374 accomplished by other methods of adequate verification or  
 375 assessment of ownership and control.

376 (5) The certification of a minority business enterprise  
 377 pursuant to the terms of this agreement shall not be suspended,  
 378 revoked, or otherwise impaired except on any grounds which would  
 379 be sufficient for revocation or suspension of a certification in  
 380 the jurisdiction of the participating organization.

381 (6) The certification determination of a party may be  
 382 challenged by any other participating organization by the  
 383 issuance of a timely written notice by the challenging  
 384 organization to the certifying organization's determination  
 385 within 10 days of receiving notice of the certification  
 386 decision, stating the grounds therefor.

387 (7) The sole accepted grounds for challenge shall be the  
 388 failure of the certifying organization to adhere to the adopted  
 389 criteria or the certifying organization's rules or procedures,

BILL

ORIGINAL

YEAR

390 or the perpetuation of a misrepresentation or fraud by the firm.

391 (8) The certifying organization shall reexamine its  
 392 certification determination and submit written notice to the  
 393 applicant and the challenging organization of its findings  
 394 within 30 days after the receipt of the notice of challenge.

395 (9) If the certification determination is affirmed, the  
 396 challenging agency may subsequently submit timely written notice  
 397 to the firm of its intent to revoke certification of the firm.

398 ARTICLE IV

399 APPROVED AND ACCEPTED PROGRAMS.—Nothing in this agreement  
 400 shall be construed to repeal or otherwise modify any ordinance,  
 401 law, or regulation of a party relating to the existing minority  
 402 business assistance provisions and procedures by which minority  
 403 business enterprises participate therein.

404 ARTICLE V

405 TERM.—The term of the agreement shall be 5 years, after  
 406 which it may be reexecuted by the parties.

407 ARTICLE VI

408 AGREEMENT EVALUATION.—The designated state and local  
 409 officials may meet from time to time as a group to evaluate  
 410 progress under the agreement, to formulate recommendations for  
 411 changes, or to propose a new agreement.

412 ARTICLE VII

BILL

ORIGINAL

YEAR

413 OTHER ARRANGEMENTS.—Nothing in this agreement shall be  
 414 construed to prevent or inhibit other arrangements or practices  
 415 of any party in order to comply with federal law.

416 ARTICLE VIII

417 EFFECT AND WITHDRAWAL.—

418 (1) This agreement shall become effective when properly  
 419 executed by a legal representative of the participating  
 420 organization, when enacted into the law of the state and after  
 421 an ordinance or other legislation is enacted into law by the  
 422 governing body of each participating organization. Thereafter it  
 423 shall become effective as to any participating organization upon  
 424 the enactment of this agreement by the governing body of that  
 425 organization.

426 (2) Any party may withdraw from this agreement by enacting  
 427 legislation repealing the same, but no such withdrawal shall  
 428 take effect until one year after the governing body of the  
 429 withdrawing party has given notice in writing of the withdrawal  
 430 to the other parties.

431 (3) No withdrawal shall relieve the withdrawing party of  
 432 any obligations imposed upon it by law.

433 ARTICLE IX

434 FINANCIAL RESPONSIBILITY.—

435 (1) A participating organization shall not be financially  
 436 responsible or liable for the obligations of any other  
 437 participating organization related to this agreement.



BILL

ORIGINAL

YEAR

438 (2) The provisions of this agreement shall constitute  
 439 neither a waiver of any governmental immunity under Florida law  
 440 nor a waiver of any defenses of the parties under Florida law.  
 441 The provisions of this agreement are solely for the benefit of  
 442 its executors and not intended to create or grant any rights,  
 443 contractual or otherwise, to any person or entity.

444 ARTICLE X

445 VENUE AND GOVERNING LAW.—The obligations of the parties to  
 446 this agreement are performable only within the county where the  
 447 participating organization is located, and statewide for the  
 448 Office of Supplier Diversity, and venue for any legal action in  
 449 connection with this agreement shall lie, for any participating  
 450 organization except the Office of Supplier Diversity,  
 451 exclusively in the county where the participating organization  
 452 is located. This agreement shall be governed by and construed in  
 453 accordance with the laws and court decisions of the state.

454 ARTICLE XI

455 CONSTRUCTION AND SEVERABILITY.—This agreement shall be  
 456 liberally construed so as to effectuate the purposes thereof.  
 457 The provisions of this agreement shall be severable and if any  
 458 phrase, clause, sentence, or provision of this agreement is  
 459 declared to be contrary to the State Constitution or the United  
 460 States Constitution, or the application thereof to any  
 461 government, agency, person, or circumstance is held invalid, the  
 462 validity of the remainder of this agreement and the

BILL

ORIGINAL

YEAR

463 applicability thereof to any government, agency, person, or  
 464 circumstance shall not be affected thereby. If this agreement  
 465 shall be held contrary to the State Constitution, the agreement  
 466 shall remain in full force and effect as to all severable  
 467 matters.

468 Section 5. Paragraphs (h) and (o) of subsection (4) of  
 469 section 287.09451, Florida Statutes, are amended to read:

470 287.09451 Office of Supplier Diversity; powers, duties,  
 471 and functions.—

472 (4) The Office of Supplier Diversity shall have the  
 473 following powers, duties, and functions:

474 (h) To develop procedures to investigate complaints  
 475 against minority business enterprises or contractors alleged to  
 476 violate any provision related to this section or s. 287.0943,  
 477 that may include visits to worksites or business premises, and  
 478 to refer all information on businesses suspected of  
 479 misrepresenting minority status to the Department of Management  
 480 Services for investigation. When an investigation is completed  
 481 and there is reason to believe that a violation has occurred,  
 482 ~~the Department of Labor and Employment Security shall refer the~~  
 483 matter shall be referred to the office of the Attorney General,  
 484 Department of Legal Affairs, for prosecution.

485 (o)1. To establish a system to record and measure the use  
 486 of certified minority business enterprises in state contracting.  
 487 This system shall maintain information and statistics on  
 488 certified minority business enterprise participation, awards,  
 489 dollar volume of expenditures and agency goals, and other  
 490 appropriate types of information to analyze progress in the

BILL

ORIGINAL

YEAR

491 access of certified minority business enterprises to state  
 492 contracts and to monitor agency compliance with this section.  
 493 Such reporting must include, but is not limited to, the  
 494 identification of all subcontracts in state contracting by  
 495 dollar amount and by number of subcontracts and the  
 496 identification of the utilization of certified minority business  
 497 enterprises as prime contractors and subcontractors by dollar  
 498 amounts of contracts and subcontracts, number of contracts and  
 499 subcontracts, minority status, industry, and any conditions or  
 500 circumstances that significantly affected the performance of  
 501 subcontractors. Agencies shall report their compliance with the  
 502 requirements of this reporting system at least annually and at  
 503 the request of the office. All agencies shall cooperate with the  
 504 office in establishing this reporting system. Except in  
 505 construction contracting, all agencies shall review contracts  
 506 costing in excess of CATEGORY FOUR as defined in s. 287.017 to  
 507 determine if such contracts could be divided into smaller  
 508 contracts to be separately solicited and awarded, and shall,  
 509 when economical, offer such smaller contracts to encourage  
 510 minority participation.

511 2. To report agency compliance with the provisions of  
 512 subparagraph 1. for the preceding fiscal year to the Governor  
 513 and Cabinet, the President of the Senate, and the Speaker of the  
 514 House of Representatives, ~~and the secretary of the Department of~~  
 515 ~~Labor and Employment Security~~ on or before February 1 of each  
 516 year. The report must contain, at a minimum, the following:

- 517 a. Total expenditures of each agency by industry.
- 518 b. The dollar amount and percentage of contracts awarded

BILL

ORIGINAL

YEAR

519 to certified minority business enterprises by each state agency.

520 c. The dollar amount and percentage of contracts awarded  
521 indirectly to certified minority business enterprises as  
522 subcontractors by each state agency.

523 d. The total dollar amount and percentage of contracts  
524 awarded to certified minority business enterprises, whether  
525 directly or indirectly, as subcontractors.

526 e. A statement and assessment of good faith efforts taken  
527 by each state agency.

528 f. A status report of agency compliance with subsection  
529 (6), as determined by the Minority Business Enterprise Office.

530 Section 6. Subsections (1), (3), (4), (5), and (6) of  
531 section 287.0947, Florida Statutes, are amended to read:

532 287.0947 Florida Advisory Council on Small and Minority  
533 Business Development; creation; membership; duties.—

534 (1) ~~On or after October 1, 1996, The Secretary of~~  
535 ~~Management Services the Department of Labor and Employment~~  
536 ~~Security~~ may create the Florida Advisory Council on Small and  
537 Minority Business Development with the purpose of advising and  
538 assisting the secretary in carrying out the secretary's duties  
539 with respect to minority businesses and economic and business  
540 development. It is the intent of the Legislature that the  
541 membership of such council include practitioners, laypersons,  
542 financiers, and others with business development experience who  
543 can provide invaluable insight and expertise for this state in  
544 the diversification of its markets and networking of business  
545 opportunities. The council shall initially consist of 19  
546 persons, each of whom is or has been actively engaged in small

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ORIGINAL

YEAR

547 and minority business development, either in private industry,  
 548 in governmental service, or as a scholar of recognized  
 549 achievement in the study of such matters. Initially, the council  
 550 shall consist of members representing all regions of the state  
 551 and shall include at least one member from each group identified  
 552 within the definition of "minority person" in s. 288.703(3),  
 553 considering also gender and nationality subgroups, and shall  
 554 consist of the following:

555 (a) Four members consisting of representatives of local  
 556 and federal small and minority business assistance programs or  
 557 community development programs.

558 (b) Eight members composed of representatives of the  
 559 minority private business sector, including certified minority  
 560 business enterprises and minority supplier development councils,  
 561 among whom at least two shall be women and at least four shall  
 562 be minority persons.

563 (c) Two representatives of local government, one of whom  
 564 shall be a representative of a large local government, and one  
 565 of whom shall be a representative of a small local government.

566 (d) Two representatives from the banking and insurance  
 567 industry.

568 (e) Two members from the private business sector,  
 569 representing the construction and commodities industries.

570 (f) The chairperson of the Florida Black Business  
 571 Investment Board or the chairperson's designee.

572

573 A candidate for appointment may be considered if eligible to be  
 574 certified as an owner of a minority business enterprise, or if

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ORIGINAL

YEAR

575 otherwise qualified under the criteria above. Vacancies may be  
 576 filled by appointment of the secretary, in the manner of the  
 577 original appointment.

578 ~~(3) Within 30 days after its initial meeting, the council~~  
 579 ~~shall elect from among its members a chair and a vice chair.~~

580 (3)~~(4)~~ The council shall meet at the call of its chair, at  
 581 the request of a majority of its membership, at the request of  
 582 the commission or its executive administrator, or at such times  
 583 as may be prescribed by rule, but not less than once a year, to  
 584 offer its views on issues related to small and minority business  
 585 development of concern to this state. A majority of the members  
 586 of the council shall constitute a quorum.

587 (4)~~(5)~~ The powers and duties of the council include, but  
 588 are not limited to: researching and reviewing the role of small  
 589 and minority businesses in the state's economy; reviewing issues  
 590 and emerging topics relating to small and minority business  
 591 economic development; studying the ability of financial markets  
 592 and institutions to meet small business credit needs and  
 593 determining the impact of government demands on credit for small  
 594 businesses; assessing the implementation of s. 187.201(21)  
 595 ~~187.201(22)~~, requiring a state economic development  
 596 comprehensive plan, as it relates to small and minority  
 597 businesses; assessing the reasonableness and effectiveness of  
 598 efforts by any state agency or by all state agencies  
 599 collectively to assist minority business enterprises; and  
 600 advising the Governor, the secretary, and the Legislature on  
 601 matters relating to small and minority business development  
 602 which are of importance to the international strategic planning

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ORIGINAL

YEAR

603 and activities of this state.

604 (5)~~(6)~~ On or before January 1 of each year, the council  
 605 shall present an annual report to the secretary that sets forth  
 606 in appropriate detail the business transacted by the council  
 607 during the year and any recommendations to the secretary,  
 608 including those to improve business opportunities for small and  
 609 minority business enterprises.

610 Section 7. Section 287.115, Florida Statutes, is repealed.

611 Section 8. Section 403.7065, Florida Statutes, is  
 612 repealed.

613 Section 9. This act shall take effect July 1, 2011.