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1 A bill to be entitled
2 An act relating to state financial matters; amending
3 s. 216.311, F.S.; prohibiting an agency or branch of
4 state government from contracting to pay, without
5 legislative authority, liquidated damages or early
6 termination fees resulting from the breach or early
7 termination of a contract or agreement, from
8 contracting to pay interest because of insufficient
9 budget authority to pay an obligation in the current
10 year, from obligating the state to make future
11 payments to cover unpaid payments, or from granting to
12 a party the right to collect fees or other revenues
13 from nonparties; providing that such contracts are
14 null and void; prohibiting an agency from entering
15 into certain lease or lease-purchase agreements unless
16 expressly authorized by the Legislature; providing
17 exceptions for certain agency contracts or agreements;
18 authorizing the State Board of Administration to enter
19 into contracts and other agreements that are necessary
20 to carry out the investment duties of the board;
21 defining the terms "contract" and "agreement";
22 creating s. 216.312, F.S.; requiring the executive and
23 judicial branch to notify the Governor and the
24 Legislature before entering into contracts or
25 agreements in excess of a certain amount, which
26 authorize expenditures in anticipation of revenues, or
27 for which payment is delayed for a certain time after
28 expenditure; transferring, renumbering, and amending
29 s. 287.0582, F.S.; requiring a state contract to

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30 identify the appropriation that funds the contract;
31 providing an exception; expanding the statement that
32 must be included in state contracts to include grounds
33 for terminating the contract based on budget deficits;
34 requiring the judicial branch to include the statement
35 in its contracts; providing an exception; requiring
36 the agency head, executive director, or chief judge,
37 as appropriate, or a designated senior management
38 employee to sign contracts that exceed a certain
39 amount; requiring the agency head, executive director,
40 or chief judge to review certain contracts and certify
41 compliance with ch. 216, F.S.; requiring contracts
42 exceeding a specified amount to require written
43 acceptance or rejection of contract deliverables;
44 providing that contracts in violation of these
45 provisions are null and void; providing penalties;
46 amending s. 287.063, F.S.; prohibiting certain lease
47 or deferred payment purchases by state agencies unless
48 expressly authorized by the Legislature in the
49 appropriations act; amending s. 287.064, F.S.;

50 prohibiting certain master equipment financing
51 agreements unless expressly authorized by the
52 Legislature in the appropriations act; providing for
53 application; providing an effective date.

54
55 Be It Enacted by the Legislature of the State of Florida:

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57 Section 1. Section 216.311, Florida Statutes, is amended to
58 read:

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59 216.311 Unauthorized contracts ~~in excess of appropriations;~~
60 penalty.-

61 (1) ~~An~~ No agency or branch of state government may not
62 enter into any ~~shall~~ contract ~~to spend,~~ or ~~enter into any~~
63 agreement:

64 (a) To spend, any moneys in excess of the amount
65 appropriated to such agency or branch unless specifically
66 authorized by law, ~~and any contract or agreement in violation of~~
67 ~~this chapter shall be null and void.~~

68 (b) That requires the state to pay liquidated damages or
69 early termination fees for a breach or early termination of a
70 contract or agreement by such agency or branch due to an act of
71 the Legislature which provides less than full funding for the
72 contract during the fiscal year.

73 (c) That requires the state to pay interest, other than
74 interest paid pursuant to s. 215.422, to another party because
75 the agency or branch has insufficient budget authority to pay
76 the underlying obligation of the contract or agreement in the
77 current year.

78 (d) That binds the state to make future-year payments to
79 offset payments not made in a prior year due to insufficient
80 budget authority, unless the Legislature expressly authorizes
81 the agency or branch to enter into such contract or agreement.

82 (e) To grant to any party the right or privilege to collect
83 and retain fees or other revenues from persons who are not a
84 party to the contract which would otherwise be payable to the
85 state and deposited into the State Treasury, unless the
86 Legislature expressly authorizes the agency or branch to enter
87 into such contract or agreement.

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88 (2) Notwithstanding any law authorizing an agency to enter
89 into a lease, an agency may not enter into a lease or lease-
90 purchase agreement for tangible personal property which requires
91 the state to pay more than \$500,000 over the term of the lease
92 or agreement if the term of the lease or agreement exceeds 1
93 fiscal year unless such lease or agreement is expressly
94 authorized by the Legislature.

95 (3) Any contract or agreement in violation of this section
96 is null and void.

97 (4)~~(2)~~ Any public officer or employee ~~person~~ who willfully
98 enters into a contract or other agreement in violation of this
99 section commits ~~contracts to spend, or enters into an agreement~~
100 ~~to spend, any money in excess of the amount appropriated to the~~
101 ~~agency or branch for whom the contract or agreement is executed~~
102 ~~is guilty of a misdemeanor of the first degree, punishable as~~
103 provided in s. 775.082 or s. 775.083.

104 (5) Notwithstanding subsection (1), the following agencies
105 may enter into the following contracts or agreements:

106 (a) In order to spend funds appropriated for the approved
107 5-year work program, the Department of Transportation may enter
108 into contracts and other agreements that require the state to
109 pay liquidated damages as a result of a breach of those
110 contracts or agreements.

111 (b) In order to administer the state group insurance
112 program as provided in s. 110.123, the Department of Management
113 Services may enter into contracts and other agreements that
114 permit health care providers, health maintenance organizations,
115 preferred provider organizations, and insurers to collect
116 premiums and copayments from participants in the group insurance

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117 program.

118 (c) In order to administer the state Medicaid plan and the
119 Florida Healthy Kids program, the Agency for Health Care
120 Administration may enter into contracts and other agreements
121 that permit health care providers to collect premiums and
122 copayments from participants in the Medicaid plan and the
123 Healthy Kids program.

124 (6) Notwithstanding subsection (2), in order to administer
125 the real estate and other investment portfolios as provided in
126 s. 215.47, the State Board of Administration may enter into
127 contracts and such other agreements that are necessary to carry
128 out the investment duties of the board.

129 (7) For purposes of this section and ss. 216.312 and
130 216.313, the terms "contract" and "agreement" include the
131 initial contract or agreement, any amendment to the contract or
132 agreement, and any extension or renewal of the contract or
133 agreement.

134 Section 2. Section 216.312, Florida Statutes, is created to
135 read:

136 216.312 Reporting contract expenditures.—

137 (1) At least 30 days before an executive or judicial branch
138 public officer or employee enters into any contract or
139 agreement, or any series of contracts or agreements between the
140 same parties, on behalf of the state which requires payments by
141 the state in excess of \$10 million in any fiscal or calendar
142 year, the officer or employee must notify the Governor, the
143 President of the Senate, and the Speaker of the House of
144 Representatives of the intent to enter into such contract or
145 agreement or series of contracts or agreements.

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146 (2) At least 30 days before an executive or judicial branch
147 public officer or employee enters into any contract or agreement
148 on behalf of the state which requires minimal or no payments by
149 the state or authorizes the other party to make expenditures in
150 anticipation of revenues, the officer or employee must notify
151 the Governor, the President of the Senate, and the Speaker of
152 the House of Representatives of the intent to enter into such
153 contract or agreement.

154 (3) At least 30 days before an executive or judicial branch
155 public officer or employee enters into any contract or agreement
156 on behalf of the state which requires initial expenditures by
157 the other party and for which the other party will not receive
158 payment from the state within 180 days after the expenditure,
159 the officer or employee must notify the Governor, the President
160 of the Senate, and the Speaker of the House of Representatives
161 of the intent to enter into such contract or agreement.

162 (4) The execution of any contract or agreement described in
163 this section is an action or proposed action that is subject to
164 s. 216.177(2) (b).

165 Section 3. Section 287.0582, Florida Statutes, is
166 transferred and renumbered as section 216.313, Florida Statutes,
167 and amended to read:

168 216.313 ~~287.0582~~ Contract appropriations ~~Contracts which~~
169 ~~require annual appropriation;~~ contingency statement.-

170 (1) An executive or judicial branch public officer or
171 employee may not enter into any contract or agreement on behalf
172 of the state or judicial branch which binds the state or its
173 executive agencies or the judicial branch for the purchase of
174 services or tangible personal property unless the contract

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175 identifies the specific appropriation of state funds from which
176 the state will make payment under the contract in the first year
177 of the contract, or unless the Legislature expressly authorizes
178 the agency or the judicial branch to enter into such contract
179 absent a specific appropriation of funds.

180 (2) An ~~Ne~~ executive or judicial branch public officer or
181 employee may not ~~shall~~ enter into any contract or agreement on
182 behalf of the state, which ~~contract~~ binds the state or its
183 ~~executive agencies~~ for the purchase of services or tangible
184 personal property ~~for a period in excess of 1 fiscal year,~~
185 unless the following statements are ~~statement is~~ included in the
186 contract:

187 (a) "The State of Florida's performance and obligation to
188 pay under this contract is contingent upon an annual
189 appropriation by the Legislature."

190 (b) "This contract may be terminated by the state upon 30
191 days' written notice if funding for this contract is
192 specifically eliminated pursuant to:

193 1. A deficit reduction plan implemented by the Governor or
194 the Chief Justice or by an act of the Legislature after
195 certification pursuant to section 216.221, Florida Statutes,
196 that a deficit will occur in the General Revenue Fund; or

197 2. A deficit reduction plan implemented by the Governor or
198 Chief Justice pursuant to section 216.221(10), Florida Statutes,
199 or by an act of the Legislature, after a determination by the
200 Chief Financial Officer that a deficit will occur with respect
201 to the appropriations from a specific trust fund in the current
202 fiscal year."

203 (3) A contract or other agreement that exceeds:

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204 (a) The CATEGORY TWO threshold amount provided in s.
205 287.017 must be signed by the agency head, executive director,
206 or chief judge, as appropriate, or a designated senior
207 management employee.

208 (b) A term of 12 months may not be executed by any
209 executive or judicial branch agency unless the agency head,
210 executive director, or chief judge, as appropriate, determines
211 that the contract is in compliance with the requirements of this
212 chapter and certifies such compliance in writing within the
213 contract or agreement.

214 (c) The CATEGORY FIVE threshold amount provided in s.
215 287.017 must require the written acceptance or rejection of
216 contract deliverables.

217 (4) Any contract or other agreement in violation of this
218 section is null and void.

219 (5) Any public officer or employee who willfully enters
220 into a contract or other agreement in violation of this section
221 commits a misdemeanor of the first degree, punishable as
222 provided in s. 775.082 or s. 775.083.

223 Section 4. Subsection (4) of section 287.063, Florida
224 Statutes, is amended to read:

225 287.063 Deferred-payment commodity contracts; preaudit
226 review.—

227 (4) Beginning July 1, 2009, an agency may not enter into a
228 lease or deferred payment purchase arrangement for the
229 acquisition of equipment that has a total cost greater than
230 \$500,000 unless the Legislature has expressly authorized such
231 lease or deferred payment purchase arrangement in the General
232 Appropriations Act. ~~For purposes of this section, deferred-~~

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233 ~~payment commodity contracts for replacing the state accounting~~
234 ~~and cash management systems may include equipment, accounting~~
235 ~~software, and implementation and project management services.~~

236 Section 5. Subsection (9) of section 287.064, Florida
237 Statutes, is amended to read:

238 287.064 Consolidated financing of deferred-payment
239 purchases.-

240 (9) Beginning July 1, 2009, an agency may not enter into
241 amaster equipment financing agreement that has a total cost
242 exceeding \$500,000 unless the Legislature has expressly
243 authorized such agreement in the General Appropriations Act. ~~For~~
244 ~~purposes of this section, deferred payment commodity contracts~~
245 ~~for replacing the state accounting and cash management systems~~
246 ~~may include equipment, accounting software, and implementation~~
247 ~~and project management services.~~

248 Section 6. This act shall take effect July 1, 2009, and
249 applies to initial contracts and agreements, amendments to a
250 contract or agreement, and extensions or renewals of a contract
251 or agreement which are executed on or after that date.