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576-00078B-09A

Proposed Committee Substitute by the Committee on Policy and
Steering Committee on Ways and Means

A bill to be entitled

An act relating to state contracts; amending s.
216.311, F.S.; prohibiting an agency or branch of
state government from paying liquidated damages or any
other moneys resulting from the breach or early
termination of a contract without legislative
authority; suspending such agency's or branch's
authority to exercise budget flexibility for 24 months
for unauthorized payment; creating s. 216.312, F.S.;
requiring the executive and judicial branch to provide
a copy of certain proposed contracts to the Governor
and the Legislature; transferring, renumbering, and
amending s. 287.0582, F.S.; requiring a state contract
to identify the appropriation that funds a contract;
providing an exception; requiring the judicial branch
to include a statement in its contracts; prohibiting a
state contract from obligating the state to make
future payments to cover unpaid current payments;
requiring the agency head to review all contracts and
certify compliance with ch. 216, F.S.; providing
penalties; providing an effective date.

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

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

216.311 Unauthorized contracts in excess of appropriations;



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28 penalty.-

29 (1) An ~~Ne~~ agency or branch of state government may not
30 shall contract to spend, or enter into any agreement to spend,
31 any moneys in excess of the amount appropriated to such agency
32 or branch unless specifically authorized by law, and any
33 contract or agreement in violation of this subsection is ~~chapter~~
34 shall be null and void.

35 (2) An agency or branch of state government may not
36 contract or enter into any agreement that requires such agency
37 or branch to pay liquidated damages or any other moneys
38 resulting from a breach or early termination of a contract by
39 such agency or branch unless the Legislature has specifically
40 authorized the agency or branch of government by law to commit
41 funds for the purpose of paying moneys for breach or early
42 termination. Any contract or agreement in violation of this
43 subsection is null and void.

44 (3)~~(2)~~ Any person who willfully enters into a contract or
45 other agreement in violation of this section commits ~~contracts~~
46 to spend, or enters into an agreement to spend, any money in
47 excess of the amount appropriated to the agency or branch for
48 whom the contract or agreement is executed is guilty of a
49 misdemeanor of the first degree, punishable as provided in s.
50 775.082 or s. 775.083.

51 (4) Any agency or branch of state government that enters
52 into a contract or other agreement that violates this section is
53 prohibited from using the budget flexibility granted under ss.
54 216.181 and 216.292 for a 24-month period. The Legislative
55 Budget Commission shall determine whether a violation of this
56 subsection has occurred. Upon an affirmative determination by



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57 the commission, the Governor shall void any action by the agency
58 or branch to transfer budget authority pursuant to s. 216.292
59 for a 24-month period.

60 Section 2. Section 216.312, Florida Statutes, is created to
61 read:

62 216.312 Reporting contract expenditures.-

63 (1) At least 30 days before an executive or judicial branch
64 public officer or employee enters into any contract on behalf of
65 the state or judicial branch which requires minimal or no
66 payments by the state and which authorizes the other party to
67 make expenditures in anticipation of revenues, the officer or
68 employee must provide a copy of the proposed contract to the
69 President of the Senate, the Speaker of the House of
70 Representatives, and the Governor.

71 (2) At least 30 days before an executive or judicial branch
72 public officer or employee enters into any contract on behalf of
73 the state or judicial branch which requires initial expenditures
74 by the other party and for which the other party will not
75 receive compensation within 90 days after the expenditure, the
76 officer or employee must provide a copy of the proposed contract
77 to the President of the Senate, the Speaker of the House of
78 Representatives, and the Governor.

79 (3) The execution of contracts described in this section
80 are actions or proposed actions subject to s. 216.177(2)(b).

81 Section 3. Section 287.0582, Florida Statutes, is
82 transferred and renumbered as section 216.313, Florida Statutes,
83 and amended to read:

84 216.313 ~~287.0582~~ Contract appropriations ~~Contracts which~~
85 ~~require annual appropriation;~~ contingency statement.-



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86 (1) An executive or judicial branch public officer or
87 employee may not enter into any contract on behalf of the state
88 or judicial branch which binds the state or its executive
89 agencies or the judicial branch for the purchase of services or
90 tangible personal property unless the contract identifies the
91 specific appropriation of state funds from which the state will
92 make payment under the contract in the first year of the
93 contract, or unless the Legislature has expressly authorized the
94 agency or the judicial branch to enter into such contract absent
95 a specific appropriation of funds.

96 (2) An ~~Ne~~ executive or judicial branch ~~publie~~ officer or
97 employee may not ~~shall~~ enter into any contract on behalf of the
98 state or judicial branch, which ~~contract~~ binds the state or its
99 executive agencies or the judicial branch for the purchase of
100 services or tangible personal property for a period in excess of
101 1 fiscal year, unless the following statement is included in the
102 contract: "The State of Florida's performance and obligation to
103 pay under this contract is contingent upon an annual
104 appropriation by the Legislature."

105 (3) An executive or judicial branch public officer or
106 employee may not enter into any contract on behalf of the state
107 or the judicial branch which binds the state or its executive
108 agencies or the judicial branch to make future-year payments to
109 offset payments not made in the current year due to the
110 insufficiency of current-year appropriations to pay for current-
111 year costs under the contract.

112 (4) A contract or other agreement may not be executed by
113 any executive or judicial branch agency unless the agency head
114 has determined that the contract is in compliance with the



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115 requirements of this chapter and certifies such compliance.

116 (5) Any contract or other agreement in violation of this
117 section is null and void.

118 (6) Any person who willfully enters into a contract or
119 other agreement in violation of this section commits a
120 misdemeanor of the first degree, punishable as provided in s.
121 775.082 or s. 775.083.

122 Section 4. This act shall take effect upon becoming a law.