

By the Committees on Rules; and Rules

595-02201-12

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1                   A bill to be entitled  
2           An act relating to the outsourcing or privatization of  
3           agency functions; amending s. 216.023, F.S.; providing  
4           that certain information relating to the outsourcing  
5           or privatization of an agency function which is  
6           expressly required by law is not required to be  
7           included in the agency's legislative budget request  
8           until after the contract for such function is  
9           executed; amending s. 287.0571, F.S.; requiring an  
10          agency to publicly publish the business case prepared  
11          for an outsourcing project on the agency's website;  
12          amending s. 944.105, F.S.; providing that certain  
13          requirements that apply to Department of Corrections'  
14          contracts do not apply to contracts for outsourcing or  
15          privatizing the operation and maintenance of  
16          correctional facilities which are expressly required  
17          by law; providing an effective date.

18  
19 Be It Enacted by the Legislature of the State of Florida:

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21           Section 1. Paragraph (a) of subsection (4) of section  
22           216.023, Florida Statutes, is amended to read:

23           216.023 Legislative budget requests to be furnished to  
24           Legislature by agencies.—

25           (4) (a) The legislative budget request ~~must contain~~ for each  
26           program must contain:

27           1. The constitutional or statutory authority for a program,  
28           a brief purpose statement, and approved program components.

29           2. Information on expenditures for 3 fiscal years (actual

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30 prior-year expenditures, current-year estimated expenditures,  
31 and agency budget requested expenditures for the next fiscal  
32 year) by appropriation category.

33 3. Details on trust funds and fees.

34 4. The total number of positions (authorized, fixed, and  
35 requested).

36 5. An issue narrative describing and justifying changes in  
37 amounts and positions requested for current and proposed  
38 programs for the next fiscal year.

39 6. Information resource requests.

40 7. Supporting information, including applicable cost-  
41 benefit analyses, business case analyses, performance  
42 contracting procedures, service comparisons, and impacts on  
43 performance standards for any agency request to outsource or  
44 privatize agency functions. The cost-benefit and business case  
45 analyses must include an assessment of the impact on each  
46 affected activity from those identified in accordance with  
47 paragraph (b). Performance standards must include standards for  
48 each affected activity and be expressed in terms of the  
49 associated unit of activity. This subparagraph does not apply to  
50 the outsourcing or privatization of agency functions expressly  
51 required by the General Appropriation Act or any other law until  
52 the first legislative budget request submitted by the agency  
53 after the contract for the outsourcing and privatization has  
54 been executed.

55 8. An evaluation of any major outsourcing and privatization  
56 initiatives undertaken during the last 5 fiscal years having  
57 aggregate expenditures exceeding \$10 million during the term of  
58 the contract. The evaluation must ~~shall~~ include an assessment of

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59 contractor performance, a comparison of anticipated service  
60 levels to actual service levels, and a comparison of estimated  
61 savings to actual savings achieved. Consolidated reports issued  
62 by the Department of Management Services may be used to satisfy  
63 this requirement. This subparagraph does not apply to the  
64 outsourcing or privatization of agency functions expressly  
65 required by the General Appropriation Act or any other law until  
66 the first legislative budget request submitted by the agency  
67 after the contract for the outsourcing and privatization has  
68 been executed.

69 9. Supporting information for any proposed consolidated  
70 financing of deferred-payment commodity contracts including  
71 guaranteed energy performance savings contracts. Supporting  
72 information must also include narrative describing and  
73 justifying the need, baseline for current costs, estimated cost  
74 savings, projected equipment purchases, estimated contract  
75 costs, and return on investment calculation.

76 10. For projects that are requested by an agency and that  
77 exceed \$10 million in total cost, the statutory reference of the  
78 existing policy or the proposed substantive policy that  
79 establishes and defines the project's governance structure,  
80 planned scope, main business objectives that must be achieved,  
81 and estimated completion timeframes. Information technology  
82 budget requests for the continuance of existing hardware and  
83 software maintenance agreements, renewal of existing software  
84 licensing agreements, or the replacement of desktop units with  
85 new technology that is similar to the technology currently in  
86 use are exempt from this requirement. This subparagraph does not  
87 apply to the outsourcing or privatization of agency functions

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88 expressly required by the General Appropriation Act or any other  
89 law until the first legislative budget request submitted by the  
90 agency after the contract for the outsourcing and privatization  
91 has been executed.

92 Section 2. Subsection (4) of section 287.0571, Florida  
93 Statutes, is amended to read:

94 287.0571 Business case to outsource; applicability.—

95 (4) An agency must ~~shall~~ complete a business case for any  
96 outsourcing project that has an expected cost in excess of \$10  
97 million within a single fiscal year. The business case shall be  
98 submitted pursuant to s. 216.023. The business case shall be  
99 prepared and made publicly available on the agency's website  
100 before the issuance as part of the solicitation but is not  
101 subject to challenge and must ~~shall~~ include ~~the following~~:

102 (a) A detailed description of the service or activity for  
103 which the outsourcing is proposed.

104 (b) A description and analysis of the state agency's  
105 current performance, based on existing performance metrics if  
106 the state agency is currently performing the service or  
107 activity.

108 (c) The goals desired to be achieved through the proposed  
109 outsourcing and the rationale for such goals.

110 (d) A citation to the existing or proposed legal authority  
111 for outsourcing the service or activity.

112 (e) A description of available options for achieving the  
113 goals. If state employees are currently performing the service  
114 or activity, at least one option involving maintaining state  
115 provision of the service or activity must ~~shall~~ be included.

116 (f) An analysis of the advantages and disadvantages of each

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117 option, including, at a minimum, potential performance  
118 improvements and risks.

119 (g) A description of the current market for the contractual  
120 services that are under consideration for outsourcing.

121 (h) A cost-benefit analysis documenting the direct and  
122 indirect specific baseline costs, savings, and qualitative and  
123 quantitative benefits involved in or resulting from the  
124 implementation of the recommended option or options. Such  
125 analysis must specify the schedule that, at a minimum, must be  
126 adhered to in order to achieve the estimated savings. All  
127 elements of cost must be clearly identified in the cost-benefit  
128 analysis, described in the business case, and supported by  
129 applicable records and reports. The state agency head shall  
130 attest that, based on the data and information underlying the  
131 business case, to the best of his or her knowledge, all  
132 projected costs, savings, and benefits are valid and achievable.  
133 As used in this section, the term "cost" means the reasonable,  
134 relevant, and verifiable cost, which may include, but is not  
135 limited to, elements such as personnel, materials and supplies,  
136 services, equipment, capital depreciation, rent, maintenance and  
137 repairs, utilities, insurance, personnel travel, overhead, and  
138 interim and final payments. The appropriate elements ~~shall~~  
139 depend on the nature of the specific initiative. As used in this  
140 paragraph, the term "savings" means the difference between the  
141 direct and indirect actual annual baseline costs compared to the  
142 projected annual cost for the contracted functions or  
143 responsibilities in any succeeding state fiscal year during the  
144 term of the contract.

145 (i) A description of differences among current state agency

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146 policies and processes and, as appropriate, a discussion of  
147 options for or a plan to standardize, consolidate, or revise  
148 current policies and processes, if any, to reduce the  
149 customization of any proposed solution that would otherwise be  
150 required.

151 (j) A description of the specific performance standards  
152 that ~~must~~, at a minimum, must be met to ensure adequate  
153 performance.

154 (k) The projected timeframe for key events from the  
155 beginning of the procurement process through the expiration of a  
156 contract.

157 (l) A plan to ensure compliance with the public records  
158 law.

159 (m) A specific and feasible contingency plan addressing  
160 contractor nonperformance and a description of the tasks  
161 involved in and costs required for its implementation.

162 (n) A state agency's transition plan for addressing changes  
163 in the number of agency personnel, affected business processes,  
164 employee transition issues, and communication with affected  
165 stakeholders, such as agency clients and the public. The  
166 transition plan must contain a reemployment and retraining  
167 assistance plan for employees who are not retained by the state  
168 agency or employed by the contractor.

169 (o) A plan for ensuring access by persons with disabilities  
170 in compliance with applicable state and federal law.

171 Section 3. Subsection (9) is added to section 944.105,  
172 Florida Statutes, to read:

173 944.105 Contractual arrangements with private entities for  
174 operation and maintenance of correctional facilities and

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175 supervision of inmates.-

176 (9) This section does not apply to a contract for the  
177 outsourcing or privatization of the operation and maintenance of  
178 correctional facilities expressly directed to be outsourced or  
179 privatized by the General Appropriation Act or any other law.

180 Section 4. This act shall take effect July 1, 2012.