

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 1074

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Hays

SUBJECT: State-owned or State-leased Space

DATE: April 16, 2013                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McKay	McVaney	GO	<b>Favorable</b>
2.	Gudeman	Uchino	EP	<b>Fav/CS</b>
3.	Betta	Hansen	AP	<b>Pre-meeting</b>
4.				
5.				
6.				

**Please see Section VIII. for Additional Information:**

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

CS/SB 1074 expands the Department of Management Services (DMS) authority to coordinate and direct state agency use of state-owned and privately-leased office space, requires competitive solicitation for more agency leases, streamlines reports related to leasing activities, and increases reporting related to facility energy savings. The bill makes changes intended to facilitate the sale of non-conservation state lands determined to be surplus. Finally, the bill establishes the Underused Property Maximization Program in order to facilitate efficient and cost-effective use of all facilities and properties that are owned, leased, rented, or occupied by governmental entities.

The bill provides \$950,000 in non-recurring funds and \$50,000 in recurring funds from the General Revenue Fund to the Department of Environmental Protection for enhancements of the Florida State Owned Lands and Records Information System (FL-SOLARIS). The DMS has determined a need for one position and \$66,591 to assist municipalities, counties, and special districts with the entry and monitoring of information into the FL-SOLARIS database.

The bill amends sections 216.0152, 253.031, 253.034, 255.248, 255.249, 255.25, 255.252, 255.254, 255.257, 255.503, 110.171, and 985.682 of the Florida Statutes. It also creates s. 255.56 of the Florida Statutes.

## II. Present Situation:

### Leasing and DMS Authority

The DMS Facilities Program, also called the Division of Real Estate Development and Management, is responsible for the overall management of the 103 state-owned facilities in the Florida Facilities Pool, and other facilities and structures. The Bureau of Leasing within the Division administers public and private leasing.

According to the DMS 2012 Master Leasing Report,<sup>1</sup> the state leases a total of 13.5 million square feet with an annual rent of \$237 million, of which 7.1 million square feet is in 765 private sector leases, with an annual rent of \$136 million.

Chapter 255, F.S., provides the statutory authority for the DMS to manage and operate the Florida Facilities Pool and specifies the oversight role the DMS has in the leasing of privately owned space. The DMS has the authority to approve leases of greater than 5,000 square feet that cover more than one fiscal year by operation of s. 255.25(2)(a), F.S. Except as provided for emergency space needs,<sup>2</sup> no state agency may 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 solicitations, if such lease is, in the judgment of the DMS, in the best interests of the state.<sup>3</sup>

The approval of the DMS, except for technical sufficiency, need not be obtained for the lease of less than 5,000 square feet of space within a privately owned building, provided the agency head or the agency head's designated representative has certified that all criteria for leasing have been fully complied with,<sup>4</sup> and has determined such lease to be in the best interest of the state.<sup>5</sup>

Section 255.249(4)(b), F.S., requires the DMS to promulgate rules to provide procedures for: soliciting and accepting competitive proposals for leased space of 5,000 square feet or more in privately owned buildings; evaluating the proposals received; exempting from competitive bidding requirements any lease the purpose of which is the provision of care and living space for

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<sup>1</sup> DMS, *Master Leasing Report*, available at [http://www.dms.myflorida.com/business\\_operations/real\\_estate\\_development\\_management/facilities\\_management/lease\\_management](http://www.dms.myflorida.com/business_operations/real_estate_development_management/facilities_management/lease_management) (last visited Mar. 29, 2013).

<sup>2</sup> Section 255.25(10), F.S., provides that the DMS may approve emergency acquisition of space without competitive bids if existing state-owned or state-leased space is destroyed or rendered uninhabitable by an act of God, fire, malicious destruction, structural failure, or by legal action, if the chief administrator of the state agency or designated representative certifies that no other agency-controlled space is available to meet this emergency need, but in no case shall the lease for such space exceed 11 months.

<sup>3</sup> The size at which a leased space must be competitively bid was raised in 1990 from 2,000 square feet to 3,000 square feet by ch. 90-224, s. 3, Laws of Fla., and raised in 1999 to 5,000 square feet by ch. 99-399, s. 22, Laws of Fla.

<sup>4</sup> Pursuant to s. 255.249(4)(k), F.S.

<sup>5</sup> Section 255.25(2)(b), F.S.

persons or emergency space needs as provided in s. 255.25(10), F.S.; and the securing of at least three documented quotes for a lease that is not required to be competitively bid.

While the DMS is responsible for prior approval of lease terms for leases over 5,000 square feet, the lease is executed between the landlord and the agency. For leases less than 5,000 square feet, approval by the DMS is not necessary, except for technical sufficiency, so long as the agency head or his or her designee has certified compliance with applicable leasing criteria and has determined the lease is in the best interest of the state. Leases under 5,000 square feet need not be competitively bid. The terms “bids” and “proposals” are used throughout the leasing provisions of ch. 255, F.S.; the term “invitation to negotiate” does not appear in the chapter.

In 2007, the Legislature amended s. 255.249, F.S., to grant the DMS the authority to contract for a tenant broker or real estate consultant to assist with carrying out its responsibilities and to require the DMS to submit an annual master leasing report to the Legislature. The report must contain analyses and other information on the status of state-owned facilities and private sector leased space. To assist the DMS in preparing the report, state agencies are required to provide their projected requirements for leased space based on active and planned full-time employee data, lease-expiration schedules for each geographic region of the state, and opportunities for consolidating operations, as well as costs relating to occupancy and relocation. In September 2008, the DMS released the first required Master Leasing Report and Leasing Plan, in which the DMS advocated strongly for the centralization of leasing functions.

### **Legislative Direction on Leased Space**

In 2009, the Legislature directed the DMS to compile a list of all state-owned surplus real property that has a value greater than \$1,000 in order to determine potential cost savings and revenue opportunities from the sale or lease of assets, identify current contracts for leased office space in which the leased space is not fully used or occupied, and include a plan for contract renegotiation or subletting unoccupied space.<sup>6</sup> The DMS subsequently reported<sup>7</sup> the following in regard to space leased by state agencies:

- 566 private leases with 1.3 million square feet in potential excess space.
- More than 500,000 square feet of potential excess space is in Leon County.
- 276 leases with potential excess space with terms of 24 months or less.
- 80 percent of the leases have less than 2,500 square feet of potential excess space.

The DMS planned to work with state agencies and a contracted tenant broker to renegotiate leases with over 1,500 square feet of excess space, and at least 18 months remaining on the lease term, to recognize potential cost savings.

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<sup>6</sup> Chapter 2009-15, Laws of Fla.

<sup>7</sup> DMS, Senate Bill 44A, Interim Report to the Legislature, *State of Florida Surplus Real Estate and Private Lease Renegotiation Plan* (Mar. 3, 2009), available at <http://edocs.dlis.state.fl.us/fldocs/dms/redm/2009SB44Ainterim.pdf> (last visited Apr. 1, 2013).

The DMS was directed in 2011 to use the services of a tenant broker to renegotiate all leases over 150,000 square feet,<sup>8</sup> and report to the Legislative Budget Commission the projected savings, implementation costs, and recommendations for leases to terminate.

In 2012, the DMS and other agencies were directed to use tenant broker services to renegotiate or reprocure all private lease agreements expiring between July 1, 2013, and June 30, 2015, in order to achieve a reduction in costs in future years.<sup>9</sup> The DMS had to incorporate this initiative into its 2012 Master Leasing Report and could use tenant broker services to explore the possibilities of co-location, to review the space needs of each agency, and to review the length and terms of potential renewals or renegotiations. The DMS was directed to provide a report by March 1, 2013, that lists each lease contract for private office or storage space, the status of renegotiations, and the savings achieved. According to the Lease Renegotiation Status Report released by the DMS,<sup>10</sup> renegotiations since July 1, 2011, have resulted in a projected reduction in lease costs of \$25.1 million and a net reduction of 709,296 square feet for Fiscal Years 2011-12 and 2012-13.

### **Inventory of State-owned and State-leased Facilities**

Pursuant to s. 216.0152, F.S., the DMS must develop and maintain an automated inventory of all facilities owned, leased, rented, or otherwise occupied or maintained by any agency of the state, the judicial branch, or the water management districts. The DMS must use this data for determining maintenance needs and conducting strategic analyses. For assessing needed repairs and renovations of facilities, the DMS must update its inventory with condition information for facilities of 3,000 square feet or more, and the inventories must record acquisitions of new facilities and significant changes in existing facilities as they occur. The DMS must provide each agency and the judicial branch with the most recent inventory applicable to that agency or to the judicial branch. Each agency and the judicial branch must report significant changes in the inventory as they occur. Items relating to the condition and life-cycle cost of a facility must be updated at least every five years. The DMS must publish a complete report detailing this inventory every three years, and must publish an annual update of the report.

### **Inventory of State-owned Real Property**

In 2010, the Legislature mandated the creation of a database to identify surplus property and dispose of such property owned by the state that is unnecessary to achieving the state's responsibilities.<sup>11</sup> Pursuant to s. 216.0153, F.S., the Department of Environmental Protection (DEP) must create, administer, and maintain a comprehensive system for all state lands and real property leased, owned, rented, and otherwise occupied or maintained by any state agency, by the judicial branch, and by any water management district. The comprehensive state-owned real property system must contain a database that includes an accurate inventory of all real property that is leased, owned, rented, occupied, or managed by the state, the judicial branch, or the water

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<sup>8</sup> Chapter 2011-47, s. 76, Laws of Fla.

<sup>9</sup> Chapter 2012-119, s. 23, Laws of Fla.

<sup>10</sup> DMS, *Lease Management*, 2013 Lease Renegotiation Status Report, available at <http://www.dms.myflorida.com/content/download/89326/510593/version/1/file/Lease+Renegotiation+Status+Report.pdf> (last visited Apr. 1, 2013).

<sup>11</sup> Chapter 2010-280, Laws of Fla.

management districts. The Division of State Lands in the DEP is the statewide custodian of the real property information and is accountable for its accuracy.

The Division of State Lands in the DEP must annually submit a report that lists the state-owned real property recommended for disposition, including a report by the DMS of surplus buildings recommended for disposition. The report must include specific information that documents the valuation and analysis process used to identify the specific state-owned real property recommended for disposition.

The DEP and DMS are now implementing the Florida State Owned Lands and Records Information System (FL-SOLARIS), designed with two main components:

- Facility Information Tracking System (FITS); and
- Lands Information Tracking System (LITS).

Both components are now operational and are designed to give agencies an online interface to record data on their state-owned facilities, as well as provide the mechanism for agencies' annual identification and reporting of properties that are candidates for disposition.<sup>12</sup>

### **Sale and Disposition of Surplus State-Owned Lands**

Section 253.034(6), F.S., requires an appraisal for state lands estimated to be valued at over \$100,000 before they may be surplussed. At the discretion of the Division of State Lands in the DEP, a second appraisal may be required if the value is determined to be equal to or greater than \$1 million. All property less than \$100,000 can be valued by comparable sales analysis or a broker's opinion of value.

Section 253.034(15), F.S., also provides that before a building or parcel of land is offered for lease, sublease, or sale to a local or federal unit of government or a private party, it must first be offered for lease to state agencies, state universities, and community colleges, with a priority consideration given to state universities and community colleges. Once a state agency, county, or local government has requested the use of surplus property, it has six months to secure the property under lease.

### **Energy Performance and Reporting**

The "Florida Energy Conservation and Sustainable Buildings Act" in ss. 255.251 - 255.2575, F.S., creates duties for agencies and the DMS concerning energy efficiency in buildings leased and owned by the state.

Section 255.252(4), F.S., encourages agencies to consider shared savings financing of energy-efficiency and conservation projects, using contracts that split the resulting savings for a specified period of time between the state and the vendor. Such energy contracts may be funded from the operating budget.

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<sup>12</sup> DEP, Florida State Owned Lands and Records Information System (FL-SOLARIS), [http://www.dep.state.fl.us/lands/fl\\_solaris.htm](http://www.dep.state.fl.us/lands/fl_solaris.htm) (last visited Apr. 1, 2013).

Section 255.254, F.S., requires agencies to seek from the DMS an evaluation of life-cycle costs based on sustainable building ratings for all leased or newly constructed facilities. Agencies are required to perform an energy performance analysis for all leased facilities larger than 5,000 square feet. The energy performance analysis is required to project forward through the term of the proposed lease the annual energy consumption and cost of the major energy-consuming systems. The analysis is to be based on actual expenses. Potential leases may only be made where there is a showing that the energy costs incurred by the state are minimal compared to available like facilities. A lease agreement for any building leased by the state from a private sector entity must include provisions for monthly energy use data to be collected and submitted monthly to the DMS by the owner of the building.

Section 255.257, F.S., requires all agencies to collect energy consumption and cost data for all state-owned and metered state-leased facilities of 5,000 square feet and larger, and report the data to the DMS.

### **Consultants' Competitive Negotiation Act**

The Consultants' Competitive Negotiation Act (CCNA) in s. 287.055, F.S., is used by public entities for the acquisition of professional architectural, engineering, landscape architectural, or surveying and mapping services in construction, rehabilitation, or renovation activities. The CCNA must be used when professional services on a project, for which the basic cost of construction, as estimated by the agency, will exceed \$325,000, or for planning or study activity where compensation exceeds \$35,000. The CCNA process generally involves a competitive selection process, in which compensation is not considered, followed by a competitive negotiation process, during which compensation is determined.

### **III. Effect of Proposed Changes:**

**Section 1** amends s. 216.0152, F.S., to require the DMS and the DEP to publish a yearly inventory of all state-owned facilities, including the inventories of the Board of Governors of the State University System, and the Department of Education. The transportation facilities of the state transportation system are excluded. The entity that submits the annual report is also required to submit an inventory to the DMS of all underused property that it owns, leases, rents, or occupies. The annual report of state-owned real property recommended for disposition required under s. 216.0153, F.S., must be included in this report.

The bill requires the DMS to undertake rulemaking to administer the section.

**Section 2** amends s. 216.043, F.S., to include underused property, as identified in s. 255.46, F.S., in each legislative budget request for fixed capital outlay.

**Section 3** amends s. 253.031, F.S., to provide that authorized agents of the Board of Trustees of the Internal Improvement Trust Fund have authority to sign deeds conveying land.

**Section 4** amends a requirement in s. 253.034, F.S., relating to when the Division of State Lands (division) may use a comparable sales analysis or broker's opinion of value. Currently, the division, when determining the sale price of lands to be surplussed, must consider an appraisal,

or, for lands estimated at a value of less than \$100,000, a comparable sales analysis or a broker's opinion of value. The bill allows the division to use a comparable sales analysis or a broker's opinion of value for lands estimated at a value of less than \$500,000.

The bill requires a competitive bidding process for parcels with a market value over \$500,000 when initially offered for sale. The division may use agents for this process. Any parcels unsuccessfully offered for sale by competitive bid, and parcels with a market value of \$500,000 or less, may be sold by any reasonable means, including procuring real estate services, open or exclusive listings, competitive bid, auction, negotiated direct sales, or other appropriate services, to facilitate the sale.

The bill reduces from six months to 90 days the time period during which a state agency, county, or local government that has requested use of a property must secure the property under lease.

Before a building or parcel of land is offered for lease or sale, it must first be offered for lease to state agencies, state universities, and Florida College System institutions, contingent upon the submission of a business plan for the proposed use of the building or parcel. Within 60 days after the offer of a surplus building or parcel, a state agency, state university, Florida College System institution that requests the transfer of a surplus building or parcel must develop and submit a business plan for the proposed use. The business plan must include the proposed use, the cost of renovation, the replacement cost for a new building for the same proposed use, a capital improvement plan for the building, evidence that the building or parcel meets an existing need that cannot be otherwise met, and other criteria developed by rule by the Board of Trustees of the Internal Improvement Trust Fund (BOT). The BOT or its designee must compare the appraised value of the building or parcel to any submitted business plan for proposed use of the building or parcel to determine if the transfer or sale is in the best interest of the state. The bill changes this subsection to delete the priority consideration given to state universities and community colleges.

**Section 5** amends s. 255.248, F.S., to add definitions of "managing agency" and "tenant broker" for s. 255.48 and ss. 255.249-255.25, F.S., which govern public property and publicly owned buildings.

**Section 6** amends s. 255.249, F.S., to expand the duties of the DMS with regard to the Florida Facilities Pool, and the leasing of space in privately owned space.

The bill expands the DMS' authority with regard to the Florida Facilities Pool, to include the operation, alteration, and modification of all facilities in the pool and adjacent grounds.

The bill requires that in order to lease a space in a private building the agency must receive prior approval from the DMS of the architectural design and preliminary construction. In addition, an agency that intends to terminate a lease of privately owned space before the expiration of its base term must notify the DMS 90 days before the termination.

The DMS may direct a state agency to occupy, or relocate to, space in any state-owned office building, including all state-owned space identified in the Florida State-Owned Lands and Records Information System managed by the DEP.

If expressly authorized by the General Appropriations Act and, in the best interest of the state, the DMS may implement renovations or construction that more efficiently use state-owned buildings. Such use of tenant-improvement funds applies only to state-owned buildings, and all expenditures must be reported by the DMS in the master leasing report that the DMS annually publishes.

The bill requires that the DMS-developed strategic leasing plan be included in the master leasing report, which must provide, in addition to existing requirements, recommendations for using capital improvement funds to implement the consolidation of state agencies into state-owned office buildings.

The bill amends state agency duties to allow the agencies to use the services of a tenant broker in preparing the required yearly reporting information to the DMS. The title entity or managing agency must also report to the DMS any vacant or underutilized space for all state-owned office buildings, any restrictions that apply to any other agency occupying the vacant or underutilized space, and any significant changes to its occupancy for the coming fiscal year.

The bill mandates that the DMS adopt rules relating to:

- State agency use of space identified in the Florida State-Owned Lands and Records Information System;
- Procedures for the effective and efficient administration of s. 255.249, F.S.; and
- Procedures for competitive bidding of leased space of 2,000 square feet or more, instead of the current threshold of 5,000 square feet.

**Section 7** amends s. 255.25, F.S., to require a state agency to notify the DMS at least 30 days before execution of a lease of less than 2,000 square feet (a change from 5,000 square feet), for the DMS to determine whether suitable space is available in state-owned or leased space in the same geographic region. If the DMS determines execution of the lease is not in the best interests of the state, the DMS must notify the agency, the Governor and the Legislature. Leases for 2,000 square feet or more (changed from 5,000 square feet) must be competitively solicited.

The DMS has the authority to approve leases or extensions of leases of 2,000 square feet or more (a change from 5,000 square feet). The bill deletes a provision that allows an agency to determine that it is in its best interest to remain in the space it currently occupies.

In leases of 2,000 square feet or more (a change from 5,000 square feet), agencies and lessors must agree to the cost of tenant improvements before the effective date of the lease.

The bill also requires state agencies to use tenant brokers with a “lease action,” except for leases between governmental entities. “Lease action” is not defined but presumably includes extensions and renewals. This is a change from the current provision which allows the state agency head to determine whether or not to use the services of a tenant broker. The bill deletes a requirement that agencies must use tenant brokers that are on contract with the DMS; however, the new definition of “tenant broker” created in s. 255.248, F.S., specifies that the tenant brokers to be used by agencies must be under contract with the DMS.

**Section 8** amends s. 255.252, F.S., to allow, but not require, vendors for energy-saving contracts to be selected pursuant to the Consultants' Competitive Negotiation Act in s. 287.055, F.S.

**Section 9** amends s. 255.254, F.S., to require that an energy performance analysis must be performed prior to finalization on all leases of more than 2,000 square feet (change from 5,000 square feet).

**Section 10** amends s. 255.257, F.S., to require that each state agency must collect data on energy consumption and costs for all state-owned and state-leased facilities. The requirement currently applies to state-leased facilities of 5,000 square feet or more.

**Section 11** creates s. 255.46, F.S., to establish the "Underused Property Maximization Program." The program is created in the DMS to facilitate efficient and cost-effective use of all facilities and properties that are owned, leased, rented, or occupied by governmental entities.

The bill defines "facility" as buildings, structures, and building systems, including ancillary plants, auxiliary facilities, educational facilities, and educational plants as defined in s. 1013.01, F.S., and schools as defined in s. 1003.01, F.S. The definition does not include transportation facilities of the state transportation system.

The bill defines "governmental entity" as a state agency as defined in s. 216.011, F.S., judicial branch, the water management districts, a state university, a Florida College System institution, a county, a county agency, a municipality, a municipal agency, a special district as defined in s. 189.043, F.S., a school district under s. 1001.30, F.S., the Florida Virtual School under s. 1000.04(4), F.S., and a charter school under s. 1002.33, F.S.

The bill defines "underused property" as any facility that is owned, leased, rented, occupied, or maintained by a governmental entity that is not being used to its fullest potential as currently designed or configured and includes entire facilities as well as underused square footage within a facility.

The bill requires each governmental entity to conduct and complete an inventory of all facilities and real properties that are owned or leased by the governmental entity by July 1, 2014. The department is to create, administer, and maintain a database to be used by each governmental entity.

The bill requires each governmental entity to input into the database specific information about the underused property by July 1, 2015. Information that is confidential or exempt from public disclosure under federal or state law is exempt. The database is to be updated quarterly and must include:

- Location;
- Occupying entity;
- Ownership;
- A size and condition assessment;
- Valuations and operating costs;
- Maintenance record;

- Age;
- Parking and employee facilities,
- Building uses;
- Full-time equivalent occupancy;
- Known restrictions or historic designations;
- Leases or subleases; and
- Associated venues.

The bill also requires the DMS and the DEP to publish a complete annual report detailing the inventory of the underused properties by October 1.

Governmental entities that wish to procure leased or owned facilities are required to consult the underused properties inventory to determine if an underused property could be leased or purchased. If it is determined that an underused property can be used, then the governmental entity must submit a business case to the governmental entity that owns or occupies the underused space. The bill requires the DMS to provide forms for governmental entities to use in preparing the business case. The business case must include:

- The proposed use of the space;
- The proposed renovation of the space;
- An explanation of how the underused property meets the needs of the governmental entity; and
- The proposed plan for purchasing or leasing the underused space.

In the case that multiple entities are interested in the same underused property, K-20 public educational uses are given preference.

The bill allows the disposition of an underused property to be made by sale, lease, or similar means as determined by the governmental entity that owns or occupies the property. The disposition of property other than sale must provide the greatest combination of benefits to the general public and avoid uses that are contrary to the public interest.

The bill requires disposition procedures for district school boards as defined in s. 1003.01, F.S., a board of trustees as described in ss. 1001.60(3), 1001.71, 1002.36(4), and 1002.37(2), F.S., a governing board of a charter school indentified under s. 1002.33(7), F.S., or the governing body, agency head, or other governing figure. Each board or other governing figure must hold a public hearing before deciding whether to dispose of a property and make the final decision on disposition of the property based on the business plans submitted for the property.

The bill provides that suitability, zoning or use conflicts, mission conflicts, compatibility issues, or the property not being conducive to the proposed use are all grounds for refusing to dispose of the underused property.

The Auditor General must include findings relating to a government entity's compliance with the procedures and requirements for underused properties.

**Section 12** amends s. 255.503, F.S., to allow the DMS to charge fees directly to state employees for the use of parking facilities and to allow the DMS to use facility rentals or charges for improvement, maintenance, and repair of those facilities.

**Sections 13 and 14** amend sections 110.171 and 985.682, F.S., to correct cross-references.

**Section 15** appropriates \$950,000 in non-recurring funds and \$50,000 in recurring funds for Fiscal Year 2013-2014 from the General Revenue Fund to the DEP for the implementation of the act.

**Section 16** provides an effective date of July 1, 2013, unless otherwise provided in the act.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

To the extent this bill requires a local government to expend funds to comply with its terms, s. 18(a) of Art. VII, State Constitution, may apply. If those provisions do apply, in order for the law to be binding upon the cities and counties, the Legislature must find that the law fulfills an important state interest (included in section 11 of the bill), and one of the following relevant exceptions must be met:

- Funds estimated at the time of enactment sufficient to fund such expenditures are appropriated;
- Counties and cities are authorized to enact a funding source not available for such local government on February 1, 1989, that can be used to generate the amount of funds necessary to fund the expenditures;
- The expenditure is required to comply with a law that applies to all persons similarly situated; or
- The law must be approved by two-thirds of the membership of each house of the Legislature.

Since the bill contains a statement of important state interest and applies to state and local government entities, estimated expenditures required by the bill are required by all persons similarly situated. Given this relevant exception and the statement of interest, it appears the mandate restrictions do not apply.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Tenant brokers may obtain increased business from state agencies. Demand for private leases may be reduced with the requirement that certain governmental entities maximize current leases and prioritize government-owned spaces.

**C. Government Sector Impact:**

Greater coordination and efficiency of government entity leasing activities should result in an indeterminate cost savings.

According to the DMS:

[t]he bill would allow DMS, at the direction of the Legislature through the General Appropriations Act, to use fixed capital outlay funds to implement renovations or construction of fixed capital outlay projects to increase utilization and occupancy of state-owned office buildings. Because of the bond covenants in place for the Florida Facilities Pool, funds for non-pool facilities should not be comingled with facilities pool funds. Fixed capital outlay funds to renovate Florida Facilities Pool facilities are appropriated based upon annual Legislative Budget Requests and the Capital Improvement Plan. DMS frequently manages construction projects for other agencies or enters into client agency agreements for projects. Fixed capital outlay funds to renovate non-pool facilities are placed in the specific owner-agency's General Appropriations Act line item with proviso to specify what the funds are to be used for and may specify DMS to manage the project.

CS/SB 1074 appropriates \$950,000 in non-recurring funds and \$50,000 in recurring funds for Fiscal Year 2013-2014 from the General Revenue Fund to the DEP for the implementation of the act.

The DMS indicates that it needs one position and \$66,591 to assist municipalities, counties, and special districts with the entry and monitoring of information into the FL-SOLARIS database.

The cost to local governments and municipalities to implement and maintain the Underused Property Maximization Program is indeterminate.

**VI. Technical Deficiencies:**

The term “community college”, on lines 115, 215-216, and 357-358, is obsolete. The current term is “Florida College System institution.”

The term “lease action” is used in the bill on line 856, but not defined. The Legislature may wish to define the term to avoid agency actions inconsistent with the intent of the bill.

**VII. Related Issues:**

None.

**VIII. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Environmental Preservation and Conservation on April 2, 2013:**

- Deletes the requirement for the Department of Transportation to submit an inventory of transportation facilities to the DMS and the DEP;
- Requires that governmental entities submit an inventory of all underused property that they own, lease, rent, or occupy and requires the DMS to adopt rules;
- Resolves a technical deficiency that provided rulemaking authority to the DMS instead of the BOT;
- Creates the Underused Property Maximization Program in order to identify underused property and provide specific inventory, procurement, and disposition procedures and requirements related to underused property by state and local governmental entities;
- Provides definitions for “facility,” “governmental entity,” and “underused property”; and
- Provides non-recurring and recurring funds for the implementation of the act.

**B. Amendments:**

None.