Appropriations Subcommittee on Agriculture, Environment, and General Government (Perry) recommended the following:

**Senate Amendment (with directory and title amendments)**

Between lines 47 and 48

insert:

(7) **AUTHORITY OF DEPARTMENT OF MANAGEMENT SERVICES.**

(a) Notwithstanding any other provision of this section, the Department of Management Services shall be the agency of state government which is solely and exclusively authorized and empowered to administer and perform the functions described in subsections (3), (4), and (5) respecting all projects for which
the funds necessary to complete same are appropriated to the Department of Management Services, irrespective of whether such projects are intended for the use and benefit of the Department of Management Services or any other agency of government. However, nothing herein shall be construed to be in derogation of any authority conferred on the Department of Management Services by other express provisions of law. Additionally, any agency of government may, with the approval of the Department of Management Services, delegate to the Department of Management Services authority to administer and perform the functions described in subsections (3), (4), and (5). Under the terms of the delegation, the agency may reserve its right to accept or reject a proposed contract.

(b) The Department of Management Services is designated as the entity to administer and perform the procurement functions for guaranteed energy, water, and wastewater performance savings contracts in accordance with s. 489.145.

Section 3. Subsection (4) of section 489.145, Florida Statutes, is amended to read:

489.145 Guaranteed energy, water, and wastewater performance savings contracting.—

(4) PROCEDURES.—

(a) The Department of Management Services is authorized to procure a list of qualified energy savings contractors for use by agencies as prequalified contractors for guaranteed energy, water, and wastewater performance savings contracts. The department shall prequalify guaranteed energy, water, and wastewater performance savings contractors for inclusion on the list, and may also include such contractors on the National
Association of Energy Service Companies list of accredited energy service companies or a similar accreditation agency’s list. The department shall post on its website the list of prequalified energy savings contractors and a model agreement for use by agencies as set forth in subsection (6).

Notwithstanding chapter 287 and the authority of the department, for the purpose of enhancing energy savings and efficiencies in this state, the department shall follow good purchasing practices of state procurement to the extent practicable under the circumstances. Section 120.57(3) applies to the department’s contracting process, except the filing of a bond is not required in order to protect the list of prequalified energy savings contractors; and a formal written protest of any decision, intended decision, or other action subject to protest must be filed within 72 hours after receipt of notice of the decision, intended decision, or other actions. The department shall maintain the list and re-procure every 3 years.

(b) An agency may enter into a guaranteed energy, water, and wastewater performance savings contract with a guaranteed energy, water, and wastewater performance savings contractor to reduce energy or water consumption, wastewater production, or energy-related operating costs of an agency facility through one or more energy, water, or wastewater efficiency or conservation measures.

(c) Before design and installation of energy, water, or wastewater efficiency and conservation measures, the agency must obtain from a guaranteed energy, water, and wastewater performance savings contractor a report that summarizes the costs associated with the energy, water, or wastewater
efficiency and conservation measures or energy-related operational cost-saving measures and provides an estimate of the amount of the cost savings. The agency and the guaranteed energy, water, and wastewater performance savings contractor may enter into a separate agreement to pay for costs associated with the preparation and delivery of the report; however, payment to the contractor shall be contingent upon the report’s projection of energy, water, and wastewater cost savings being equal to or greater than the total projected costs of the design and installation of the report’s energy conservation measures.

(d) An agency may enter into a guaranteed energy, water, and wastewater performance savings contract with a guaranteed energy, water, and wastewater performance savings contractor if the agency finds that the amount the agency would spend on the energy, water, and wastewater efficiency and conservation measures is unlikely to exceed the amount of the cost savings for up to 20 years after the date of installation, based on the life cycle cost calculations provided in s. 255.255, if the recommendations in the report were followed and if the qualified provider or providers give a written guarantee that the cost savings will meet or exceed the costs of the system. However, actual computed cost savings must meet or exceed the estimated cost savings provided in each agency’s program approval. Baseline adjustments used in calculations must be specified in the contract. The contract may provide for repayment to the lender of the installation construction loan through installment payments for a period not to exceed 20 years.

(e) After the department has prequalified a list of guaranteed energy, water, and wastewater performance savings
contractors that is posted to the department’s website in accordance with paragraph (a), an agency may issue a procurement, in the issuing agency’s desired format, for selection of a guaranteed energy, water, and wastewater performance savings contractor for a guaranteed energy, water, and wastewater performance savings contract. A guaranteed energy, water, and wastewater performance savings contractor must be selected in compliance with s. 287.055; except that if fewer than three firms are qualified to perform the required services, the requirement for agency selection of three firms, as provided in s. 287.055(4)(b), and the bid requirements of s. 287.057 do not apply.

Before entering into a guaranteed energy, water, and wastewater performance savings contract, an agency must provide published notice of the meeting in which it proposes to award the contract, the names of the parties to the proposed contract, and the contract’s purpose.

A guaranteed energy, water, and wastewater performance savings contract may provide for financing, including tax-exempt financing, by a third party. The contract for third-party financing may be separate from the energy, water, and wastewater performance contract. A separate contract for third-party financing under this paragraph must include a provision that the third-party financier must not be granted rights or privileges that exceed the rights and privileges available to the guaranteed energy, water, and wastewater performance savings contractor.

Financing for guaranteed energy, water, and wastewater performance savings contracts may be provided under
the authority of s. 287.064.

(i) The Office of the Chief Financial Officer shall review proposals from state agencies to ensure that the most effective financing is being used.

(j) Annually, the agency that has entered into the contract shall provide the Department of Management Services and the Chief Financial Officer the measurement and verification report required by the contract to validate that savings have occurred.

(k) In determining the amount the agency will finance to acquire the energy, water, and wastewater efficiency and conservation measures, the agency may reduce such amount by the application of grant moneys, rebates, or capital funding available to the agency for the purpose of buying down the cost of the guaranteed energy, water, and wastewater performance savings contract. However, in calculating the life cycle cost as required in paragraph (d) (c), the agency may not apply any grants, rebates, or capital funding.

====== DIRECTORY CLAUSE AMENDMENT ======
And the directory clause is amended as follows:
Delete lines 27 - 28
and insert:

Section 2. Paragraph (g) of subsection (2) and subsection (7) of section 287.055, Florida Statutes, are amended to read:

============== TITLE AMENDMENT ===============
And the title is amended as follows:
Delete line 9
156 and insert:
157 and mapping services; designating the Department of
158 Management Services as the entity for administering
159 and performing procurement functions relating to
160 guaranteed energy, water, and wastewater performance
161 savings contracts; amending s. 489.145, F.S.;
162 authorizing the department to procure a list of
163 qualified guaranteed energy, water, and wastewater
164 performance savings contractors for use by agencies;
165 specifying requirements of the department in
166 developing and maintaining the list; modifying
167 procedures for any protests relating to the list;
168 modifying the manner of selection of a guaranteed
169 energy, water, and wastewater performance savings
170 contractor; providing an effective date.