

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 Finance and Tax

BILL: CS/CS/SB 284

INTRODUCER: Finance and Tax Committee; Governmental Oversight and Accountability Committee;
and Senator Brodeur

SUBJECT: Energy

DATE: March 14, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Limonas-Borja</u>	<u>McVaney</u>	<u>GO</u>	<u>Fav/CS</u>
2.	<u>Gross</u>	<u>Babin</u>	<u>FT</u>	<u>Fav/CS</u>
3.	_____	_____	<u>FP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 284 revises the vehicle procurement requirements for the state purchasing plan. Specifically, the bill requires vehicles of a given use class to be selected for procurement based on the lowest lifetime ownership costs, including costs for operations, maintenance, and fuel when fuel economy data is available, rather than on the greatest fuel efficiency available, when fuel economy data is available. The current exemption to this requirement is continued for emergency response vehicles.

The bill requires, when available, the use of ethanol and biodiesel blended fuels and natural gas fuel when a state agency purchases a vehicle with an internal combustion engine.

The bill requires the Department of Management Services to make recommendations before July 1, 2024, regarding the procurement of electric vehicles and natural gas fuel vehicles and other vehicles powered by renewable energy. The recommendations must include best practices for integrating these vehicles into existing fleets.

The bill expands the definition of “single-trade inspection” for purposes of building code inspection services to include inspections of the installation of electric vehicle charging stations and solar energy and energy storage installations or alterations. This allows the property owner to contract with a private provider for the inspection services rather than rely solely on the local government code inspectors.

The Department of Management Services will incur costs modifying the configuration of the Fleet Management Information System. Local governments may have reduced workloads relating to code inspections, but will experience a similar decline in revenues associated with those inspections conducted by private providers.

The bill takes effect July 1, 2023.

II. Present Situation:

Procurement of Commodities or Contractual Services

Chapter 287, F.S., specifies the procedures for the state procurement of commodities or contractual services. The Department of Management Services (DMS) oversees state purchasing activity, including professional and contractual services, as well as commodities needed to support agency activities.¹ The DMS establishes purchasing agreements and procures state term contracts for commodities and contractual services, and establishes uniform procurement policies, rules, and procedures.² The DMS negotiates contracts and purchasing agreements that are intended to leverage the state's buying power. The DMS is directed to consider the life-cycle cost of commodities purchased by the state.³ The DMS is authorized to establish energy-efficiency standards for major energy-consuming products.⁴

State agencies may use a variety of procurement methods, depending on the cost and characteristics of the needed good or service, the complexity of the procurement, and the number of available vendors. These methods include the following:

- Single source contracts,⁵ used when an agency determines that only one vendor is available to provide a commodity or service at the time of purchase;
- Invitations to bid,⁶ used when an agency determines that standard services or goods will meet needs, wide competition is available and the vendor's experience will not greatly influence the agency's results;
- Requests for proposals,⁷ used when the procurement requirements allow for consideration of various solutions and the agency believes more than two or three vendors exist who can provide the required goods or services; and
- Invitations to negotiate,⁸ used when negotiations are determined to be necessary to obtain the best value and involve a request for highly complex, customized, mission-critical services, by an agency dealing with a limited number of vendors.

¹ Sections 287.032 and 287.042, F.S.

² *Id.*; see Rule 60A-1002, F.A.C.

³ Section 287.083(1), F.S.

⁴ Section 287.083(3), F.S.

⁵ Section 287.057(3)(c), F.S.

⁶ Section 287.057(1)(a), F.S.

⁷ Section 287.057(1)(b), F.S.

⁸ Section 287.057(1)(c), F.S.

For procurement of commodities or contractual services in excess of \$35,000, agencies must use a competitive solicitation process.⁹ However, specific contractual services and commodities are not subject to competitive solicitation requirements.¹⁰

Climate-friendly Public Business

Section 286.29, F.S., requires state agencies to:

- Consult with the “Florida Climate-Friendly Preferred Products List,”¹¹ in procuring products from state term contracts.¹² If the price is comparable, then they shall procure such products.¹³
- Contract only with hotels or conference facilities for meetings and conferences as recognized by the Green Lodging Program.^{14,15}
- Ensure vehicles meet minimum maintenance schedules shown to reduce fuel consumption and report such compliance to the DMS.¹⁶ When procuring new vehicles, to define the intended purpose for such vehicle which will then be chosen based on greatest fuel efficiency available for a given use class, when fuel economy data is available.¹⁷
- Use ethanol and biodiesel blended fuels when available.¹⁸
- Procure biofuels for fleet, to the greatest extent practicable, if the agency administers central fueling operations.¹⁹

Florida Building Codes

The purpose and intent of the Florida Building Code (building code) is to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code.²⁰ The Building Code consists of a single set of documents that apply to the design, construction, erection, alteration, modification, repair or demolition of public or private

⁹ Section 287.057(1), F.S.

¹⁰ Section 287.057(3)(e), F.S.

¹¹ The DMS keeps a Florida Climate-Friendly Preferred Products List at https://www.dms.myflorida.com/business_operations/state_purchasing/state_contracts_and_agreements/florida_climate_friendly_preferred_products_list, (last visited Mar. 07, 2023).

¹² Section 286.29(1), F.S.

¹³ *Id.*

¹⁴ The Florida Department of Environmental Protection designates and recognizes lodging facilities that make a commitment to conserve and protect Florida’s natural resources through the Florida Green Lodging Program. To become designated, facilities must conduct a thorough property assessment and implement a specified number of environmental practices in five areas of sustainable operations: (1) communication and education with customers, employees, and the public; (2) waste reduction, reuse and recycling; (3) water conservation; (4) energy efficiency; and (5) indoor air quality. *See, Green Lodging*, <https://floridadep.gov/osi/green-lodging/content/about-florida-green-lodging-program> (Last visited Mar. 07, 2023).

¹⁵ Section 286.29(2), F.S.

¹⁶ Section 286.29(3), F.S., requires state agencies to report compliance to the DMS through the Equipment Management Information System database. The DMS is implementing a new Statewide Fleet Management Information System that can be used to manage cost information and reports to ensure the effective and efficient use, operation, maintenance, repair, and replacement of motor vehicles, watercraft, and aircraft. *See, Fleet Management Information System*, https://www.dms.myflorida.com/business_operations/fleet_management_and_federal_property_assistance/fleet_management/fleet_management_information_system (Last visited Mar. 07, 2023).

¹⁷ *Id.*

¹⁸ Section 286.29(5), F.S.

¹⁹ *Id.*

²⁰ See Part IV, ch. 553, F.S.

buildings, structures, or facilities in Florida. The Building Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction.²¹

Contractors and property owners are permitted to hire licensed Building Code administrators, engineers, and architects, referred to as “private providers,” to review building plans, perform building inspections, and prepare certificates of completion.²² A private provider and any duly authorized representative may only perform building code inspection services that are set forth in statute, including single-trade inspections. A “single-trade inspection” is defined as:

[a]ny inspection focused on a single construction trade, such as plumbing, mechanical, or electrical. The term includes, but is not limited to, inspections of door or window replacements; fences and block walls more than 6 feet high from the top of the wall to the bottom of the footing; stucco or plastering; reroofing with no structural alteration; HVAC replacements; ductwork or fan replacements; alteration or installation of wiring, lighting, and service panels; water heater changeouts; sink replacements; and repiping.²³

A private provider cannot provide building code inspection services to any building designed or constructed by the private provider or the private provider’s firm.²⁴ A fee owner or the fee owner’s contractor who uses a private provider to provide building code inspection services must notify the local building official in writing that a private provider has been contracted to perform the required inspections of construction, including single-trade inspections.²⁵ If the fee owner or the fee owner’s contractor makes any changes to the listed private providers or the services to be provided by such private providers the fee owner’s contractors must update the notice to reflect such changes.²⁶

III. Effect of Proposed Changes:

Section 1 amends s. 286.29, F.S., to require any governmental entity that purchases under the state purchasing plan to select vehicles based on the lowest lifetime ownership costs, including costs for operations, maintenance, and fuel when fuel economy data is available. The section also requires, when available, the use of ethanol and biodiesel blended fuels and natural gas fuel when a state agency purchases a vehicle with an internal combustion engine. The current exemption to this requirement continues for emergency response vehicles.

Section 2 requires the DMS to make recommendations before July 1, 2024, to state agencies, including state colleges and universities, and local governments regarding the procurement of electric vehicles and natural gas fuel vehicles and other vehicles powered by renewable energy. The recommendations must include best practices for integrating those vehicles into existing fleets.

²¹ Section 553.72(1), F.S.

²² Section 553.791, F.S.

²³ *Id.*

²⁴ *Id.*

²⁵ Section 553.791(4), F.S.

²⁶ *Id.*

The bill defines “renewable energy” to mean electrical energy produced from a method that uses one or more of the following fuels or energy sources: hydrogen produced or resulting from sources other than fossil fuels, biomass, solar energy, geothermal energy, wind energy, ocean energy, and hydroelectric power. The term includes the alternative energy resource, waste heat, from sulfuric acid manufacturing operations and electrical energy produced using pipeline-quality synthetic gas produced from waste petroleum coke with carbon capture and sequestration.

Section 3 amends s. 553.791, F.S., to expand the definition of “single-trade inspection” to include the inspection of an installation of electric vehicle charging stations and solar energy and energy storage installations or alterations.

Section 4 provides the bill takes effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties and municipalities to spend funds, limit the ability of counties and municipalities to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

The bill does not create or increase a state tax or fee as specified in Article VII, s. 19 of the Florida Constitution.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Section 4 of the bill, allowing the use of private providers to inspect the installation of electric vehicle charging stations and solar energy and energy storage installations or alterations, may increase efficiencies and lower costs for its owners. Additionally, persons qualified to be a private provider will be able to offer official inspection services, increasing business opportunities.

C. Government Sector Impact:

To implement section 3 of the bill, the DMS states that modifications, including a possible configuration in the Fleet Management Information System, will be necessary to capture information needed to make recommendations.²⁷

Section 4 of the bill, allowing the use of private providers to inspect the installation of electric vehicle charging stations and solar energy and energy storage installations or alterations, may reduce the workload of the local governments relating to inspections; however, each inspection performed by a private provider will reduce the revenue otherwise collected by the local governmental entity that would have conducted the inspection.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Department of Management Services has stated that the July 1, 2024, implementation date would be challenging due to the need to consult with outside experts on best practices for integrating electric vehicles into the existing fleet.²⁸

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 286.29 and 553.791.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Finance and Tax on March 14, 2023:**

The committee substitute:

- Removes the sales and use tax exemption for components and labor used in electric vehicle conversions and the associated definition.

²⁷ Department of Management Services, *2023 Agency Legislative Bill Analysis*, available at: <http://abar.laspbs.state.fl.us/ABAR/Attachment.aspx?ID=34198> (Last visited Mar. 07, 2023).

²⁸ *Id.*

- Clarifies that selection of a vehicle based on the lowest lifetime ownership costs includes fuel economy data, if available.
- Requires the use of ethanol and biodiesel blended fuels and natural gas fuel, if available, when a state agency purchases a vehicle with an internal combustion engine.
- Requires DMS to make recommendations to certain state entities and local governments before July 1, 2024, regarding the procurement of vehicles powered by renewable energy.

CS by Governmental Oversight and Accountability on February 20, 2023:

The committee substitute:

- Exempts from sales tax the components and labor used in an electric vehicle conversion.
- Defines “electric vehicle conversion” to mean replacing the gas or diesel powertrain technology of a motor vehicle with 100 percent battery electric powertrain technology.

B. Amendments:

None.