

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB APC 23-02 Implementing the 2023-2024 General Appropriations Act

SPONSOR(S): Appropriations Committee

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Appropriations Committee	28 Y, 0 N	Willson	Pridgeon

SUMMARY ANALYSIS

The bill provides the statutory authority necessary to implement and execute the General Appropriations Act (GAA) for Fiscal Year 2023-2024. The statutory changes are effective for only one year and either expire on July 1, 2024, or revert to the language as it existed before the changes made by the bill.

Because this bill implements provisions of the General Appropriations Act for Fiscal Year 2023-2024, there are no direct fiscal impacts created by this bill.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Article III, section 12 of the Florida Constitution states that “[l]aws making appropriations for salaries of public officers and other current expenses of the state shall contain provisions on no other subject.” This language has been interpreted to defeat proviso language attached to appropriations that have the effect of amending general law. For this reason, when general law changes are required to effectuate appropriations, those changes are placed in a general bill implementing the appropriations act instead of in the General Appropriations Act (GAA). The changes made in the “implementing bill” are effective for only one year and either expire on July 1 of the next fiscal year or revert to the language as it existed before the changes made by the bill.

Effect of the Bill

Section 1 provides legislative intent that the implementing and administering provisions of this act apply to the GAA for Fiscal Year 2023-2024.

Section 2 incorporates the Florida Education Finance Program (FEFP) work papers by reference for the purpose of displaying the calculations used by the Legislature.

Section 3 authorizes the Agency for Health Care Administration (AHCA) to submit a budget amendment to realign funding between AHCA and the Department of Health (DOH) for the Children’s Medical Services (CMS) Network for the implementation of the Statewide Medicaid Managed Care program to reflect actual enrollment changes due to the transition from fee-for-service into the capitated CMS Network.

Section 4 authorizes AHCA to submit a budget amendment to realign funding within the Medicaid program appropriation categories to address any projected surpluses and deficits and maximize the use of state trust funds. A single budget amendment must be submitted in the last quarter of the 2023-2024 fiscal year only.

Section 5 authorizes AHCA and DOH to each submit a budget amendment to realign funding within the Florida KidCare program appropriation categories, or to increase budget authority in the Children’s Medical Services Network category, to address projected surpluses and deficits within the program or to maximize the use of state trust funds. A single budget amendment must be submitted by each agency in the last quarter of the 2023-2024 fiscal year only.

Section 6 amends s. 381.986, F.S., to provide that DOH is not required to prepare a statement of estimated regulatory costs when promulgating rules relating to medical marijuana testing laboratories and any such rules adopted prior to July 1, 2024, are exempt from the legislative ratification provision of s. 120.541(3), F.S.

Section 7 reenacts and amends s. 14(1) of ch. 2017-232, Laws of Fla., to provide limited emergency rulemaking authority to the DOH and applicable boards to adopt emergency rules to implement the Medical Use of Marijuana Act. DOH and applicable boards are not required to prepare a statement of estimated regulatory costs when promulgating rules to replace emergency rules, and any such rules are exempt from the legislative ratification provision of s. 120.541(3), F.S., until July 1, 2024.

Section 8 provides that the amendments to s. 14(1) of ch. 2017-232, Laws of Fla., expire July 1, 2024, and the text of that provision reverts back to that in existence on June 30, 2019.

Section 9 authorizes AHCA to submit a budget amendment to implement the federally approved

Directed Payment Program and the Indirect Medical Education Program.

Section 10 authorizes AHCA to submit a budget amendment to implement the Low Income Pool component of the Florida Managed Medical Assistance demonstration up to the total computable funds authorized by the federal Centers for Medicare and Medicaid Services.

Section 11 authorizes the Department of Children and Families (DCF) to submit a budget amendment to realign funding to support contracted staffing equivalents to sustain forensic bed capacity and resident-to-workforce ratios at the state's mental health treatment facilities.

Section 12 authorizes DOH to submit a budget amendment to increase budget authority for the HIV/AIDS Prevention and Treatment Program if additional federal revenues specific to the program become available in the 2023-2024 fiscal year.

Section 13 reenacts and amends subsections (1)-(5) of s. 42 of ch. 2020-114, Laws of Fla., to provide the components of the new Medicaid Enterprise System (MES) included in AHCA's new Florida Health Care Connection (FX) system, the executive steering committee membership for the FX information technology project, and the procedures for executive steering committee meetings and decisions for the FX project.

Section 14 authorizes DCF, DOH, and AHCA to submit budget amendments to increase budget authority to support refugee programs administered by the federal Office of Refugee Resettlement due to the ongoing instability of federal immigration policy and the resulting inability of the state to reasonably predict, with certainty, the budgetary need of the state with respect to the number of refugees relocated to the state as part of those federal programs. DCF must submit quarterly reports which contain specified information.

Section 15 amends s. 409.967, F.S., to provide that the federal share of the Medicaid achieved savings rebates be refunded to the state and transferred to the Medical Care Trust Fund instead of the General Revenue Fund.

Section 16 provides that the amendments to s. 409.967, F.S., expire July 1, 2024.

Section 17 amends s. 409.909, F.S., to establish the Slots for Doctors Program to address the physician workforce shortage by increasing the supply of highly trained physicians through the creation of new resident positions which will increase access to care and improve health outcomes for Medicaid recipients. The section requires AHCA to allocate \$100,000 to hospitals and qualifying institutions for each newly created resident position that is accredited by the Accreditation Council for Graduate Medical Education or the Osteopathic Postdoctoral Training Institution in an initial or established accredited training program that is in a physician specialty in statewide supply-and-demand deficit.

Section 18 provides that the amendments to s. 409.909, F.S., expire July 1, 2024.

Section 19 authorizes AHCA to submit a budget amendment requesting additional spending authority to implement a supplemental payment plan for physicians and subordinate licensed health care practitioners employed with a medical or dental school, or a public hospital.

Section 20 authorizes AHCA to submit a budget amendment requesting additional spending authority to implement a certified expenditure program for emergency medical transportation services.

Section 21 authorizes AHCA to submit a budget amendment requesting additional spending authority to implement a supplemental payment program for Florida cancer hospitals.

Section 22 authorizes DOH to submit a budget amendment to increase budget authority for the Special Supplemental Nutrition Program for Women, Infants, and Children and the Child Care Food Program if additional federal revenues will be expended in the 2023-2024 fiscal year.

Section 23 amends s. 216.262, F.S., to allow the Executive Office of the Governor to request additional positions and appropriations from unallocated general revenue funds during the 2023-2024 fiscal year for the Department of Corrections (DOC) if the actual inmate population of the DOC exceeds the Criminal Justice Estimating Conference forecasts of February 13, 2023. The additional positions and appropriations may be used for essential staff, fixed capital improvements, and other resources to provide classification, security, food services, health services, and other variable expenses within the institutions to accommodate the estimated increase in the inmate population, and are subject to Legislative Budget Commission review and approval.

Section 24 amends s. 215.18, F.S., to provide the Chief Justice of the Florida Supreme Court the authority to request a trust fund loan to ensure the state court system has sufficient funds to meet its appropriations contained in the GAA for Fiscal Year 2023-2024.

Section 25 requires the Department of Juvenile Justice (DJJ) to ensure that counties are fulfilling their financial responsibilities required in s. 985.6865, F.S., and to report any deficiencies to the Department of Revenue. If DJJ determines that a county has not met its obligations, it must direct the Department of Revenue to deduct the amount owed to DJJ from shared revenue funds provided to the county under s. 218.23, F.S. to be deposited into the Shared County/State Juvenile Detention Trust Fund in DJJ. The section also includes procedures to provide assurance to holders of bonds for which shared revenue fund distributions are pledged.

Sections 26 reenacts s. 27.40, F.S., relating to criminal case conflicts to require written certification of conflict by a public defender. If the office of criminal conflict and civil regional counsel cannot accept a case from the public defender due to conflict, the office of civil regional counsel is required to specifically identify and describe the conflict of interest and certify the conflict to the court before a court-appointed counsel may be assigned. Each public defender and regional counsel must report, in the aggregate, the basis of all conflicts of interest certified to the court on a quarterly basis.

In addition, contracts with appointed counsel and forms used in billing by court-appointed counsel are required to be consistent with ss. 27.5304 and 216.311, F.S. A contract with court-appointed counsel must specify that payment is contingent upon an appropriation by the Legislature. The flat fee established in s. 27.5304, F.S., is required to be presumed to be sufficient compensation.

The Justice Administrative Commission (JAC) also is required to review appointed counsel billings, and objections by the JAC are required to be presumed correct unless a court determines, in writing, that competent and substantial evidence exists to justify overcoming the presumption. If an attorney does not permit the JAC or the Auditor General to review billing documentation, the attorney waives the claim for attorney fees. A finding by the JAC that the appointed counsel waived the right to seek compensation above the flat fee is required to be presumed correct, unless a court determines, in written findings, that competent and substantial evidence exists to overcome the presumption.

Section 27 provides that the amendments to s. 27.40, F.S., expire July 1, 2024.

Section 28 reenacts s. 27.5304, F.S., to increase, for the 2023-2024 fiscal year, the statutory compensation limits for fees paid to court-appointed attorneys in noncapital, nonlife felony and life felony cases. The Legislature is authorized to establish the actual amounts paid to attorneys in these categories in the GAA for Fiscal Year 2023-2024.

In addition, court-appointed counsel may be compensated only in compliance with ss. 27.40(1), (2)(a) & (7), and 27.5304, F.S., and the GAA. The JAC is required to review all billings and must contemporaneously document its review before authorizing payment to an attorney. Objections by the JAC to billings by an attorney are required to be presumed correct by a court unless the court determines, in writing, that competent and substantial evidence supports overcoming the presumption. Motions to exceed the flat fee are required to be served on the JAC at least 20 business days before the hearing date, and the JAC may appear at the hearing in person or telephonically.

Section 29 provides that the amendments to s. 27.5304, F.S., expire July 1, 2024.

Section 30 requires the Department of Management Services (DMS) and agencies to use tenant broker services to renegotiate private lease agreements in excess of 2,000 square feet, expiring before June 30, 2026.

Section 31 prohibits an agency from transferring funds from a data processing category to any category other than another data processing category.

Section 32 authorizes the Executive Office of the Governor (EOG) to transfer funds in the specific appropriation category "Northwest Regional Data Center" between agencies, in order to align the budget authority granted based on the estimated costs for data processing services.

Section 33 authorizes the EOG to transfer funds in the appropriation category "Special Categories-Risk Management Insurance" between departments in order to align the budget authority granted with the premiums paid by each department for risk management insurance.

Section 34 authorizes the EOG to transfer funds in the appropriation category "Special Categories - Transfer to DMS - Human Resources Services Purchased per Statewide Contract" of the GAA for Fiscal Year 2023-2024 between departments, in order to align the budget authority granted with the assessments that must be paid by each agency to the DMS for human resources management services.

Section 35 authorizes DMS to use certain facility disposition funds from the Architects Incidental Trust Fund to pay for relocation costs associated with disposing a state-owned building.

Section 36 authorizes DMS to acquire additional state-owned office buildings or property for inclusion in the Florida Facilities Pool.

Section 37 reenacts and amends subsections (1)-(5) of s. 72 of ch. 2020-114, Laws of Fla., to define the components of the Florida Accounting Information Resource subsystem (FLAIR) and Cash Management System (CMS) included in the Department of Financial Services Planning Accounting and Ledger Management (PALM) system. This section also provides the executive steering committee membership and the procedures for executive steering committee meetings and decisions.

Section 38 reenacts s. 282.709(3), F.S., to carry forward the DMS authority to execute a 15-year contract with the Statewide Law Enforcement Radio system (SLERS) operator.

Section 39 provides that the amendment to s. 282.709(3), F.S., expires July 1, 2024, and the text of that section reverts to that in existence on June 30, 2021.

Section 40 authorizes state agencies and other eligible users of SLERS to, notwithstanding s. 287.057, F.S., use the DMS SLERS contract for the purchase of equipment and services related to SLERS.

Section 41 reduces the transaction fee collected for use of the online procurement system from 1% to 0.7% for Fiscal Year 2023-2024

Section 42 amends s. 24.105, F.S., to provide that lottery ticket sale commissions must be 6.00% for Fiscal Year 2023-2024.

Section 43 provides that the amendment to s. 24.105, F.S., expire July 1, 2024.

Section 44 amends s. 717.123, F.S., effective upon the bill becoming law, to allow the Department of Financial Services to retain an amount not exceeding \$65 million in the unclaimed property trust fund.

Section 45 provides that the amendment to s. 717.123, F.S., expires July 1, 2023.

Section 46 requires DMS to assess an administrative health assessment to each state agency equal to the employer's cost of individual employee health care coverage for each vacant position within such agency eligible for coverage through the Division of State Group Insurance. This section does not apply to positions funded with federal funds.

Section 47 amends s. 215.18, F.S., to authorize the Governor to temporarily transfer moneys, from one or more of the trust funds in the State Treasury, to a land acquisition trust fund (LATF) within the Department of Agriculture and Consumer Services, the Department of Environmental Protection (DEP), the Department of State, or the Fish and Wildlife Conservation Commission, whenever there is a deficiency that would render the LATF temporarily insufficient to meet its just requirements, including the timely payment of appropriations from that trust fund. These funds must be expended solely and exclusively in accordance with article X, section 28 of the Florida Constitution. This transfer is a temporary loan, and the funds must be repaid to the trust funds from which the moneys are loaned by the end of the 2023-2024 fiscal year. Any action proposed pursuant to this subsection is subject to the notice, review, and objection procedures of s. 216.177, F.S., and the Governor shall provide notice of such action at least seven days before the effective date of the transfer of trust funds.

Section 48 provides that, in order to implement specific appropriations from the land acquisition trust funds within the Department of Agriculture and Consumer Services, the DEP, the Fish and Wildlife Conservation Commission, and the Department of State, the DEP will transfer a proportionate share of revenues in the Land Acquisition Trust Fund within the DEP on a monthly basis, after subtracting required debt service payments, to each agency and retain a proportionate share within the Land Acquisition Trust Fund within the DEP. Total distributions to a land acquisition trust fund within the other agencies may not exceed the total appropriations for the fiscal year. The section further provides that DEP may advance funds from the beginning unobligated fund balance in the Land Acquisition Trust Fund to LATF within the Fish and Wildlife Conservation Commission for cash flow purposes.

Section 49 amends s. 375.041, F.S., to provide that the distribution from the Land Acquisition Trust Fund for restoration of Lake Apopka for the 2023-2024 fiscal year not occur.

Section 50 reenacts s. 376.3071(15), F.S., relating to the usage of the Inland Protection Trust Fund for damaged ethanol and biodiesel petroleum tanks.

Section 51 provides that the amendment to s. 376.3071, F.S., expires July 1, 2024.

Section 52 amends s. 259.105(3), F.S., to notwithstanding statutory distributions from the Florida Forever Trust Fund and distribute \$2.2 million to the Department of State Lands within DEP for the Board of Trustees Florida Forever Priority List land acquisition projects.

Section 53 amends s. 161.101(22), F.S., to extend the expiration date allowing DEP to waive local match requirements for certain counties affected by Hurricanes Ian and Nicole.

Section 54 amends section 10 of ch. 2022-272, Laws of Fla., to extend the expiration date of the Hurricane Restoration Reimbursement Grant Program.

Section 55 amends s. 321.04, F.S., to provide that for the 2023-2024 fiscal year, the Department of Highway Safety and Motor Vehicles may assign a patrol officer to a Cabinet member if the department deems such assignment appropriate or if requested by such Cabinet member in response to a threat. Additionally, the Governor may request the department to assign one or more highway patrol officers to the Lieutenant Governor for security services.

Section 56 amends s. 288.80125, F.S., relating to the Triumph Gulf Coast Trust Fund, to provide that funds shall be used for the Rebuild Florida Revolving Loan Fund Program to provide assistance to businesses impacted by Hurricane Michael as provided in the GAA.

Section 57 amends s. 339.08, F.S., to authorize funds to be transferred to the State Transportation Trust Fund from the General Revenue Fund as provided in the GAA.

Section 58 amends s. 339.135(7), F.S., to authorize the chair and vice chair of the Legislative Budget Commission to approve, pursuant to s. 216.177, F.S., a work program amendment that adds a new project, or a phase of a new project, in excess of \$3 million if a commission meeting does not occur within 30 days of submittal of the amendment by the Department of Transportation.

Section 59 authorizes the Division of Emergency Management to submit budget amendments, notwithstanding ss. 216.181 and 216.292, F.S., but subject to the notice, review, and objection procedures of s. 216.177, F.S., to increase budget authority for projected expenditures due to reimbursements from federally declared disasters.

Section 60 amends s. 112.061, F.S., to authorize a lieutenant governor who permanently resides outside of Leon County to designate an official headquarters in his or her county as his or her official headquarters for purposes of s. 112.061, F.S. A lieutenant governor for whom an official headquarters in his or her county of residence is established may be paid travel and subsistence expenses when travelling between their official headquarters and the State Capitol to conduct state business.

Section 61 maintains legislative salaries at the July 1, 2010, level.

Section 62 reenacts s. 215.32(2)(b), F.S., in order to implement the transfer of moneys to the General Revenue Fund from trust funds in the GAA.

Section 63 provides that the amendment to s. 215.32(2)(b), F.S., expires July 1, 2024, and the text of that section reverts to that in existence on June 30, 2011.

Section 64 provides that funds appropriated for travel by state employees be limited to travel for activities that are critical to each state agency's mission. The section prohibits funds from being used to travel to foreign countries, other states, conferences, staff training, or other administrative functions unless the agency head approves in writing. The agency head is required to consider the use of teleconferencing and electronic communication to meet needs of activity before approving travel.

Section 65 provides that notwithstanding s. 112.061, F.S., costs for lodging associated with a meeting, conference or convention organized or sponsored in whole or in part by a state agency or the judicial branch may not exceed \$225 per day. An employee may expend his or her own funds for any lodging expenses in excess of \$225 per day. The section exempts travel for conducting an audit, examination, inspection or investigation or travel activities relating to a litigation or emergency response.

Section 66 reenacts and amends s. 216.181(11)(d), F.S., to authorize the Legislative Budget Commission (LBC) to approve budget amendments for new fixed capital outlay projects or increase the amounts appropriated to state agencies for fixed capital outlay projects.

Section 67 amends s. 350.0614, F.S., to provide that the operating budget, as approved jointly by the President of the Senate and the Speaker of the House of Representatives, from moneys appropriated to the Public Counsel by the Legislature constitutes the allocation under which the Public Counsel must manage the duties of his or her office. The section requires the Public Counsel to submit annual budget amendments to the Legislature in the format, detail, and schedule determined by the President of the Senate and the Speaker of the House of Representatives.

Section 68 amends s. 216.292(2)(a), F.S., to grant broader legislative review of any "five percent" budget transfers. For the 2023-2024 fiscal year, the review must ensure the proposed action maximizes the use of available and appropriate trust funds, does not exceed delegated authority and is not contrary to legislative policy and intent.

Section 69 specifies that no section of the bill shall take effect if the appropriations and proviso to which it relates are vetoed.

Section 70 provides that a permanent change made by another law to any of the same statutes amended by this bill will take precedence over the provision in this bill.

Section 71 provides a severability clause.

Section 72 provides effective dates.

B. SECTION DIRECTORY:

See Effect of Proposed Changes section.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Because this bill implements provisions of the proposed House of Representatives General Appropriations Act for Fiscal Year 2023-2024, there are no direct fiscal impacts created by the bill.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES