

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB APC 20-02 Implementing the 2020-2021 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		Kramer	Pridgeon

SUMMARY ANALYSIS

The bill provides the statutory authority necessary to implement and execute the General Appropriations Act (GAA) for Fiscal Year 2020-2021. The statutory changes are effective for only one year and either expire on July 1, 2020 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 2020-2021, there are no direct fiscal impacts created by this bill.

The bill is effective July 1, 2020.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Section 12 of Article III 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 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.

Provisions of the bill:

Section 1 provides legislative intent that the implementing and administering provisions of this act apply to the General Appropriations Act (GAA) for Fiscal Year 2020-2021.

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 provides that funds provided for instructional materials shall be released and expended as required in the proviso language attached to Specific Appropriation 93 of the 2020-2021 General Appropriations Act.

Section 4 provides that the calculations of the Medicaid Hospital Funding Programs for the 2020-2021 fiscal year, which is contained in the document titled “Medicaid Hospital Funding Programs Fiscal Year 2020-2021” dated January 30, 2020, and filed with the Clerk of the House of Representatives, are incorporated by reference for the purpose of displaying the calculations used by the Legislature.

Section 5 authorizes the Agency for Health Care Administration (AHCA) to submit a budget amendment subject to the notice, review, and objection provisions of s. 216.177, F.S., to realign funding between the AHCA and the Department of Health (DOH) for the Children’s Medical Services (CMS) Network for the implementation of Statewide Medicaid Managed Care, to reflect actual enrollment changes due to the transition from fee-for-service into the capitated CMS Network.

Section 6 authorizes the AHCA to submit a budget amendment subject to the notice, review, and objection provisions of s. 216.177, F.S., to realign funding within the Medicaid program appropriation categories to address any projected surpluses and deficits and to maximize the use of state trust funds.

Section 7 authorizes the Agency for Health Care Administration and the Department of Health to each submit a budget amendment subject to the notice, review, and objection provisions of s. 216.177, F.S., 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 2020-2021 fiscal year only.

Sections 8 amends s. 381.986, F.S., to provide that the Department of Health 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, 2021, are exempt from the legislative ratification provision of s. 120.541(3), F.S.

Section 9 allows the DCF to submit a budget amendment subject to the notice, review, and objection provisions of s. 216.177, F.S., to realign funding within appropriations for the Guardianship Assistance Program.

Section 10 authorizes the DCF to establish a formula to distribute funding for the Path Forward initiative due to the expiration of the federal Title IV-E Waiver.

Section 11 authorizes the Department of Health to submit a budget amendment, subject to the notice, review, and objection provisions of s. 216.177, F.S., to increase budget authority for the HIV/AIDS Prevention and Treatment Program if additional federal revenues become available in the 2020-2021 fiscal year.

Section 12 authorizes the DCF to submit a budget amendment, subject to the notice, review, and objection provisions of s. 216.177, F.S., to realign funding within the Family Safety Program to maximize the use of Title IV-E and other federal funds.

Section 13 amends s. 409.968, F.S. to authorize AHCA to withhold and set aside a portion of the managed care rates from the rate cells for special needs and home health services in the managed medical assistance and managed long term care programs to implement a home health performance incentive program. The agency must direct Medicaid managed care plans to submit to the agency proposals to ensure all covered and authorized home health services are provided to recipients, methods for measuring provider compliance and mechanisms for documenting compliance to the agency. Plans must implement a method for families and caregivers to report provider failures to provide services in real time. The agency may disburse the withheld portion of rate in the last quarter of the fiscal year only upon a documented determination by the agency that the plans ensured all covered and authorized home health services were provided.

Section 14 requires AHCA to replace the current Florida Medicaid Management Information System and provides requirements of the system. This section also establishes the executive steering committee (ESC) membership, duties and the process for ESC meetings and decisions.

Section 15 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 2020-2021 fiscal year for the Department of Corrections (DOC), if the actual inmate population of the DOC exceeds the Criminal Justice Estimating Conference forecasts of December 17, 2019. 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 16 amends s. 1011.80, F.S., to permit the expenditure of appropriations for the education of state or federal inmates to the extent funds are specifically appropriated for this purpose.

Section 17 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 2020-2021.

Section 18 requires the Department of Juvenile Justice 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 the Department of Juvenile Justice determines that a county has not met its obligations, it must direct the Department of Revenue to deduct the amount owed to the Department of Juvenile Justice 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 Department of Juvenile Justice. The section also includes procedures to provide assurance to holders of bonds for which shared revenue fund distributions are pledged.

Section 19 amends s. 27.40, F.S., 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 shall report, in the aggregate, the basis of all conflicts of interest certified to the court on a quarterly basis.

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) 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 20 provides that the amendments to s. 27.40(1), (2)(a), (3)(a), (5), (6), and (7), F.S., expire on July 1, 2021, and the text of those provisions reverts to that in existence on June 30, 2019.

Section 21 amends s. 27.5304, F.S., to increase, for the 2020-2021 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 2020-2021.

Court-appointed counsel may be compensated only in compliance with s. 27.40(1), (2)(a), (7), F.S., this section, 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 22 provides that the amendments to s. 27.5304(1), (3), (7), (11), and (12)(a) – (e), F.S., expire on July 1, 2021, and the text of those provisions reverts to that in existence on June 30, 2019.

Section 23 requires clerks to pay costs of compensation to jurors, for meals or lodging provided to jurors, and for jury-related personnel costs that exceed funding in the GAA for these purposes.

Sections 24 and 25 amend s. 318.18 and s. 817.568, F.S., to require the deposit of certain funds into the Indigent Criminal Defense Trust Fund instead of the Public Defenders Revenue Trust Fund.

Section 26 provides that the amendments to ss. 318.18, F.S., and 817.568, F.S., expire July 1, 2021 and the text of those sections reverts to that in existence on June 30, 2018.

Section 27 requires the Department of Management Services (DMS) and agencies to utilize a tenant broker to renegotiate private lease agreements, in excess of 2,000 square feet, expiring before June 30, 2022.

Section 28 continues the online procurement system transaction fee authorized in ss. 287.042(1)(h)1. and 287.057(22)(c), F.S., at 0.7 percent for the 2020-2021 fiscal year.

Section 29 prohibits an agency from transferring funds from a data processing category to any category other than another data processing category.

Section 30 authorizes the Executive Office of the Governor (EOG) to transfer funds in the specific appropriation category "Data Processing Assessment – Department of Management Services" between

agencies, in order to align the budget authority granted with the assessments that must be paid by each agency to DMS.

Section 31 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 32 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 2020-2021 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 33 defines 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 (ESC) membership and the process for ESC meetings and decisions.

Section 34 amends section 29 of Chapter 2019-118, Laws of Florida, relating to the Florida Cybersecurity Task Force to extend the expiration date of the task force from January 1, 2021 to May 1, 2021 and the due date of the final report from November 1, 2020 to February 1, 2021.

Section 35 amends s. 216.181(11)(d), F.S., to authorize the Legislative Budget Commission to increase amounts appropriated to the Fish and Wildlife Conservation Commission or the Department of Environmental Protection (DEP) for fixed capital outlay projects. The increase in fixed capital outlay budget authority is authorized for funds provided to the state from the Gulf Environmental Benefit Fund administered by the National Fish and Wildlife Foundation, the Gulf Coast Restoration Trust Fund related to the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast Act of 2012 (RESTORE Act), or from British Petroleum Corporation (BP) for natural resources damage assessment early restoration projects. Any continuing commitment for future appropriations by the Legislature must be identified specifically.

Section 36 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 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 Art. X, s. 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 2020-2021 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 37 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 38 amends s. 375.041, F.S., relating to the Land Acquisition Trust Fund to remove the requirement to fund Lake Apopka restoration.

Section 39 extends the sunset date from June 30, 2020, to July 1, 2021, to authorize the Department of Agriculture and Consumer Services to use money deposited in the Pest Control Trust Fund to carry out any of the powers of the Division of Agricultural Environmental Services.

Section 40 amends s. 527.07(1), F.S., to revise requirements for labeling petroleum measuring devices that have been inspected by the Department of Agriculture and Consumer Services and requires the removal of stickers which do not meet these requirements by September 15, 2020.

Section 41 amends s. 321.04, F.S., to provide that for the 2020-2021 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 42 amends s. 420.9079, F.S., relating to the Local Government Housing Trust Fund, to allow funds to be used as provided in the GAA for the 2020-2021 fiscal year.

Section 43 amends s. 420.0005, F.S., relating to the State Housing Trust Fund, to allow funds to be used as provided in the GAA for the 2020-2021 fiscal year.

Section 44 amends s. 288.0655, F.S., relating to the Rural Infrastructure Fund to provide that funds appropriated for the grant program for Florida Panhandle counties shall be distributed pursuant to and for the purposes described in the proviso language associated with Specific Appropriation 2280 of the GAA for the 2020-2021 fiscal year.

Section 45 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 46 amends s. 339.135(7)(g), 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 transfers fixed capital outlay appropriations between categories or increases appropriation categories if a commission meeting cannot be held within 30 days of submittal of the amendment by the Department of Transportation.

Section 47 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 48 amends s. 216.292(2)(a), F.S., to grant broader legislative review of any "five percent" budget transfers. For the 2020-2021 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 49 requires the Department of Management Services to maintain and offer during Fiscal Year 2020-2021 for the State Group Health Insurance Program the standard and high deductible PPO and HMO plans which are offered during Fiscal Year 2019-2020, notwithstanding s. 110.123(3)(f) and (j), F.S..

Section 50 provides that no state agency may initiate a competitive solicitation for a product or service if the completion of such competitive solicitation would require a change in law or require a change to the agency's budget other than a transfer authorized in s. 216.292(2) or (3), F.S., unless the initiation of such competitive solicitation is specifically authorized in law or in the GAA or by the Legislative Budget Commission.

Section 51 amends s. 112.24, F.S., to provide that the reassignment of an employee of a state agency may be made if recommended by the Governor or Chief Justice, as appropriate, and approved by the chairs of the Senate and House budget committees. Such actions shall be deemed approved if neither chair provides written notice of objection within 14 days after receiving notice of the action, pursuant to s. 216.177, F.S. This requirement applies to state employee reassignments regardless of which agency (sending or receiving) is responsible for pay and benefits of the assigned employee.

Section 52 maintains legislative salaries at the July 1, 2010, level.

Section 53 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 54 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 \$150 per day. An employee may expend his or her own funds for any lodging expenses in excess of \$150 per day. Exempts travel for conducting an audit, examination, inspection or investigation or travel activities relating to a litigation or emergency response.

Section 55 provides that a state agency may not enter into a contract containing a nondisclosure clause that prohibits a contractor from disclosing to members or staff of the Legislature information relevant to the performance of the contract.

Section 56 specifies that no section of the bill shall take effect if the appropriations and proviso to which it relates are vetoed.

Section 57 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 58 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 2020-2021, 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:

N/A

2. Other:

B. RULE-MAKING AUTHORITY:

N/A

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES