

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 5003 PCB APC 14-10 Implementing 2014-2015 General Appropriations Act

SPONSOR(S): Appropriations Committee, McKeel

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Appropriations Committee	17 Y, 7 N	Kramer	Leznoff

SUMMARY ANALYSIS

The bill provides the statutory authority necessary to implement and execute the General Appropriations Act (GAA) for Fiscal Year 2014-2015. The statutory changes are effective for only one year and either expire on July 1, 2015 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 2014-2015, there are no direct fiscal impacts created by this bill.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background:

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 statutory changes 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 Bill:

Section 1 provides legislative intent that the implementing and administering provisions of this act apply to the General Appropriations Act for Fiscal Year 2014-15.

Section 2 incorporates the document entitled “Public School Funding-The Florida Education Finance Program” by reference for the purpose of displaying the calculations used by the Legislature in making appropriations for the Florida Education Finance Program.

Section 3 incorporates by reference the document entitled "Medicaid Hospital Funding Programs" for the purpose of displaying the calculations used by the legislature in making appropriations for the Low-Income Pool, Disproportionate Share Hospital, and Hospital Exemptions Programs.

Section 4 provides requirements to govern the completion of the Department of Health's (DOH) Florida Onsite Sewage Nitrogen Strategies Study by providing:

1. Funding for completion of the project is through the Department of Health. The current contract may be extended until completion of the study.
2. The Department of Health, the Department of Health's Research Review and Advisory Committee, and the Department of Environmental Protection must work together to provide the necessary technical oversight of the completion of the study.
3. Management and oversight of the completion of the project must be consistent with the terms of the existing contract. However, the main focus and priority to be completed shall be developing, testing, and recommending cost-effective passive technology design criteria for nitrogen reduction. Before the study is completed, a state agency may not adopt or implement a rule or policy that:
 - a. Mandates, establishes, or implements more restrictive nitrogen reduction standards to existing or new onsite sewage treatment systems or modification of such systems; or
 - b. Directly or indirectly, such as through an administrative order developed by the Department of Environmental Protection as part of a basin management action plan, requires the use of performance-based treatment systems or similar technology. However, more restrictive nitrogen reduction standards for onsite systems may be required through a basin management action plan if such plan is phased in after completion of the study.
4. Any systems installed at home sites are experimental in nature and shall be installed with significant field testing and monitoring. The Department of Health is specifically authorized to allow installation of these experimental systems.

Section 5 provides that the Agency for Health Care Administration must perform a reconciliation of the resident days used by each nursing home facility provider in calculating its quality assessment payments, as required in s. 409.9082, Florida Statutes, to determine the fiscal impact differential resulting from the reporting of resident days for quality assessment purposes, versus the reporting of resident days as reported annually in the Medicaid cost report used to calculate the Medicaid reimbursement rates for nursing home facility providers for fiscal years 2008-2009 through 2012-2013.

If the reconciliation shows that the projection, based on the Medicaid Cost Report, of the amount that the nursing home facility providers were projected to pay was greater than the actual assessments paid by the nursing home facility providers, the agency must require the nursing home facility providers to remit the difference to the agency over a 6-month period. The agency must submit an invoice to the nursing home facility providers indicating the amount of required funds that are due. In the event that any nursing home facility provider fails to remit the required funds, the agency must withhold any medical assistance reimbursement payments until such time as the funds are recovered.

Section 6 provides for the priority of individuals on the Medicaid home and community-based waiver programs wait list to be offered a slot on the Home and Community Based Services Waiver.

Section 7 amends s. 216.262, F.S. to allow the Executive Office of the Governor to request additional positions and appropriations from unallocated general revenue during the 2014-2015 fiscal year for the Department of Corrections if the actual inmate population of the department exceeds the inmate population projections of the February 27, 2014 Criminal Justice Estimating Conference by 1 percent for 2 consecutive months or 2 percent for any month. The additional positions and appropriations must be approved by the Legislative Budget Commission.

Section 8 authorizes the Department of Legal Affairs to expend appropriated funds in certain specific appropriations on the same programs that were funded by the department pursuant to specific appropriations made in general appropriations acts in prior years.

Section 9 amends s. 932.7055, F.S. to extend for another year the authorization for a municipality to expend funds in a special law enforcement trust fund to reimburse the general fund of the municipality for moneys advanced from the general fund to the special law enforcement trust fund prior to October 1, 2001.

Section 10 provides a limitation on Department of Juvenile Justice reimbursements for health care services to 110 percent of Medicare allowable rates.

Section 11 amends s. 29.008, F.S. to provide that counties are exempt from the statutory requirement to increase expenditures each year by 1.5 percent for court-related functions.

Section 12 requires the Department of Management Services and agencies to utilize a tenant broker to renegotiate private lease agreements for office or storage space, in excess of 2,000 square feet, expiring between July 1, 2015 and June 30, 2017.

Sections 13 and 14 amend s. 624.502, F.S. to require that the fee for service of process upon the Department of Financial Services or the Office of Insurance Regulation be deposited to the Administrative Trust Fund rather than the Insurance Regulatory Trust Fund.

Section 15 and 16 amends s. 282.709, F.S. relating to the Joint Task Force on State Agency Law Enforcement Communications by removing a representative from the Department of Transportation from the task force and adding a representative from the Department of Agriculture and Consumer Services to the task force. The Department of Transportation no longer has any sworn law enforcement positions. The Department of Agriculture and Consumer Services has sworn law enforcement positions but does not currently have a place on the task force.

Section 17 amends s. 161.143, F.S., relating to inlet management which currently requires the Department of Environmental Protection to make available

- 1) at least 10 percent of the total amount appropriated in each fiscal year for statewide beach management for the three highest-ranked projects on the inlet management project list
- 2) at least 50 percent of the funds appropriated for the feasibility and design category in the department's fixed capital outlay funding request for projects on the current year's inlet management project list which involve the study for, or design or development of, an inlet management project.

The bill provides that for the 2014-2015 fiscal year, the amount allocated for inlet management funding is provided in the GAA.

Section 18 amends s. 375.041, F.S. to authorize moneys in the Land Acquisition Trust Fund to be transferred to support the Total Maximum Daily Loads (TMDL) program, to the Save Our Everglades Trust Fund for Everglades restoration and to the Florida Forever Program for the Florida Forever Program.

Section 19 amends s. 373.59., F.S. to provide for allocation of moneys from the Water Management Lands Trust Fund as follows:

1. An amount necessary to pay debt service on bonds issued before February 1, 2009, by the South Water Management District and the St. Johns Water Management District;
2. \$8 million to be transferred to the General Revenue Fund;
3. Any remaining funds to be provided in accordance with the General Appropriations Act.

Section 20 amends s. 403.7095, F.S., relating to the solid waste management grant program to require DEP to award \$3,000,000 in grant funds equally to counties having populations of fewer than 100,000 for waste tire, litter prevention, recycling and education, and general solid waste programs.

Section 21 amends s. 259.105, F.S. relating to the Florida Forever Act to provide that moneys appropriated from the Florida Forever Trust Fund shall be distributed by DEP as follows:

1. \$15 million to the Department of Agriculture and Consumer Services for the acquisition of agricultural lands, through perpetual conservation easements and other perpetual less-than-fee techniques, which will achieve the objectives of Florida Forever and s. 570.71;
2. The remaining funds shall be distributed only to the Division of State Lands within DEP for land acquisitions that are for:
 - a) less-than-fee interest;
 - b) partnerships where the state's acquisition cost is no more than 50 percent; or
 - c) conservation lands needed for military buffering, or springs or water resources protection.

Section 22 amends s. 259.032, F.S. relating to the Conservation and Recreation Lands Trust Fund to provide that moneys in that trust fund may be transferred to the Florida Forever Trust Fund for the Florida Forever Program and allow the cash transfer in non-operating authority pursuant to section 216.181(12) .

Section 23 amends s. 255.25001, F.S. Currently, this section authorizes the Department of Agriculture and Consumer Services to sell any tangible personal property, real property, or structures on leased or department-owned real property without complying with other provisions of law and requires the proceeds of such a sale to be deposited into the Property Trust Account in the General Inspection Trust Fund. The bill authorizes funds received from the sale of property located in Sanford, Florida to be deposited into the Market Improvements Working Capital Trust Fund.

Section 24 amends s. 216.181, F.S. Currently, this section of statute prohibits the Legislative Budget Commission from approving budget amendments that would initiate or commence a new fixed capital outlay project, except as otherwise authorized by chapter 216. The bill would authorize the Legislative Budget Commission to approve fixed capital outlay projects proposed by the Department of Environmental Protection or the Fish and Wildlife Conservation Commission using funds received from the civil and criminal settlements relating to the Deepwater Horizon oil spill.

Section 25 and 26 amends s. 216.292, F.S. which authorizes the head of each department or the Chief Justice of the Supreme Court to make the following transfers whenever they are deemed necessary by reason of changed circumstances:

1. transfers of appropriations funded from identical funding sources between categories of appropriations within a budget entity if no category of appropriation is increased by more than 5 percent of the original approved budget or \$250,000, whichever is greater.

2. transfers of appropriations funded from identical funding sources between budget entities within identical categories of appropriations if no category of appropriation is increased by more than 5 percent of the original approved budget or \$250,000, whichever is greater.

These types of transfers are commonly referred to as "5 percent" transfers. Notice of proposed budget transfers must be provided to the chair and vice chair of the Legislative Budget Commission in writing. The number of days of notice that must be given depends on the type of action to be taken. For a "5 percent" transfer, described above, notice of the proposed transfers must be provided to the Executive Office of the Governor and the chairs of the legislative appropriations committees at least 3 days prior to agency implementation in order to provide an opportunity to review.

Pursuant to s. 216.177, F.S. if the Speaker of the House of Representatives and the President of the Senate or the chair and vice chair of the Legislative Budget Commission advise in writing that an action or proposed action exceeds the delegated authority of the Executive Office of the Governor or the Chief Justice of the Supreme Court or is contrary to legislative policy and intent, the Governor or Chief Justice must change its spending action. Regarding a "5 percent" transfer s. 216.292(2)(a)4., F.S. provides that the review must be limited to ensuring that the transfer is in compliance with the requirements of the paragraph. This bill eliminates this limitation on the scope of the review and the general law which allows review as to whether the action exceeds delegated authority or is contrary to legislative policy and intent would apply.

Section 27 provides that no state agency may initiate a competitive solicitation for a product or service if the completion of such competitive solicitation would:

1. Require a change in law; or
2. Require a change to the agency's budget other than a transfer authorized in s. 216.292(2) or (3), Florida Statutes, unless the initiation of such competitive solicitation is specifically authorized in law, in the General Appropriations Act or by the Legislative Budget Commission.

The bill provides that this prohibition does not apply to competitive solicitations for which the agency head certifies a valid emergency exists.

Section 28 authorizes the Executive Office of the Governor 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 29 authorizes the Executive Office of the Governor to transfer funds in the appropriation category "Special Categories-Transfer to Department of Management Services-Human Resources Services Purchased Per Statewide Contract" of the General Appropriations Act between departments in order to align the budget authority granted with the assessments that must be paid by each agency to the Department of Management Services for human resources management services.

Section 30 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 the chair's 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 assigned employee.

Section 31 provides that notwithstanding s. 11.13, F.S., the authorized salaries for members of the Legislature for the 2014-2015 fiscal year shall be set at the same level in effect on July 1, 2010.

Sections 32 and 33 amend 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 General Appropriations Act.

Section 34 provides that, in order to implement the issuance of new debt authorized in the 2014-2015 General Appropriations Act, and pursuant to the requirements of s. 215.98, F.S., the Legislature

determines that the authorization and issuance of debt for the 2014-2015 fiscal year should be implemented and is in the best interest of the state.

Section 35 provides that funds appropriated for travel by state employees shall be limited to travel for activities that are critical to each state agency's mission. The bill 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 bill requires the agency head to consider the use of teleconferencing and electronic communication before approving travel.

Section 36 provides that the Governor is authorized to transfer funds appropriated in a data processing category between agencies in order to align the budget authority granted with the utilization rate of each department.

Section 37 notwithstanding s. 216.292(2)(a), F.S. which authorizes transfers of up to 5 percent of approved budget between categories. Agencies will be prohibited from transferring funds from data center appropriation category to a category other than a data center appropriation category except as authorized by the bill.

Section 38 provides that the Governor is authorized to transfer funds appropriated in the appropriations category "expenses" between agencies in order to allocate a reduction relating to SUNCOM Services.

Section 39 and 40 amend s. 110.12315, F.S., to modify prescription drug copayments consistent with decisions that have been made in the GAA. The bill also authorizes the Department of Management Services to implement a 90-day supply limit program for certain maintenance drugs as determined by the department at retail pharmacies participating in the program if the department determines it to be in the best financial interest of the state.

Section 41 specifies that no section shall take effect if the appropriation or proviso to which it relates are vetoed.

Section 42 provides for 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 43 provides a severability clause.

Section 44 provides that, except as otherwise expressly provided in this act, this act shall take effect July 1, 2014; or, if this act fails to become a law until after that date, it shall take effect upon becoming a law and shall operate retroactively to July 1, 2014.

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:

None.

D. FISCAL COMMENTS:

Because this bill implements provisions of the General Appropriations Act for Fiscal Year 2014-2015, there are no direct fiscal impacts created by this bill.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal government.

2. Other:

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES