

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

BILL #: HB 5003

FINAL HOUSE FLOOR ACTION:

SPONSOR(S): Appropriations; McKeel

102 **Y's**

15 **N's**

**COMPANION
BILLS:** SB 2502

GOVERNOR'S ACTION: Pending

SUMMARY ANALYSIS

HB 5003 passed the House on May 2, 2014. 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.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF 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 2014-2015.

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 96.

Section 4 amends s. 1013.64, F.S., to provide that, notwithstanding the current formula, for the 2014-2015 fiscal year, funds appropriated for remodeling, renovation, maintenance, repairs and site improvement for existing satisfactory facilities will be allocated by prorating the total appropriation based on each school district's share of the 2013-2014 reported fixed capital outlay FTE.

Section 5 requires a “speed-up” of the levy of prior period funding adjustment millage (estimate based on 75 percent of the previous prior period millage) for districts where the local value adjustment board process delays completion of the certification of the final tax roll for longer than one year.

Section 6 provides that any district school board that generates less than \$1 million dollars in revenue from one mill of ad valorem tax shall contribute 0.75 mill, rather than 1.5 mills, for Fiscal Year 2014-2015 to the cost of funded special facilities projects.

Section 7 incorporates by reference 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 8 provides requirements to govern the continuation of the Department of Health's Florida Onsite Sewage Nitrogen Reduction Strategies Study.

Section 9 sets prioritization guidelines for the Agency for Persons with Disabilities (APD) in moving clients from the wait list and into receiving waiver services. Requires the APD to allow an individual who meets eligibility requirements to receive home and community based services in this state if the individual's parent or legal guardian is an active-duty military service member and, at the time of the service member's transfer to Florida, the individual was receiving home and community-based services in another state.

Section 10 provides that, notwithstanding any other law, behavioral health managing entities may not conduct provider network procurements during the 2014-2015 fiscal year.

Section 11 amends of s. 296.37(1), F.S., for the 2014-2015 fiscal year, to increase the personal needs allowance for residents of State Veterans' Nursing Homes from \$35 to \$105. This will maintain parity in

the amount of income that all residents are allowed to keep for incidental expenses not covered by room and board.

Section 12 requires the AHCA to ensure that nursing facility residents eligible for funds to transition to home and community based services waivers must first have resided in a skilled nursing facility for at least 60 consecutive days.

Section 13 requires the AHCA and the Department of Elder Affairs to prioritize individuals for enrollment in the Long Term Care waiver using a frailty based screening instrument resulting in a prioritization score and shall enroll individuals in the Long Term Care waiver in accordance with the assigned priority score as funds are available. The AHCA may adopt rules, pursuant to s. 409.919, F.S., and enter into interagency agreements necessary to administer s. 409.979(3), F.S. Any rules or interagency agreements adopted by the AHCA relating to the Scoring Process may delegate to the Department of Elder Affairs, pursuant to 409.978, F.S., responsibility for implementing and administering the Scoring Process, providing notice of Medicaid fair hearing rights, and responsibility for defending, as needed, the scores assigned to persons on the Long Term Care waiver waitlist in any resulting Medicaid fair hearings. The Department of Elder Affairs may delegate the provision of notice of Medicaid fair hearing rights to its contractors.

Section 14 permits the AHCA to extend the current contract for consultant services related to diagnostic related groups (DRGs) for Medicaid hospital inpatient services until June 30, 2015.

Section 15 requires the AHCA to submit a budget amendment pursuant to ch. 216, F.S., to realign funding based on the implementation of the Managed Medical Assistance component of the Statewide Medicaid Managed Care program as authorized in ch. 2011-134, L.O.F. The funding realignment shall reflect the actual enrollment changes due to the transfer of beneficiaries from fee-for-service to capitated managed care plans for medical assistance services. Notwithstanding s. 216.177, F.S., if the chair or vice chair of the Legislative Budget Commission or the President of the Senate or the Speaker of the House of Representatives timely advises the Executive Office of the Governor (EOG), in writing, that the budget amendment exceeds the delegated authority of the EOG or is contrary to legislative policy or intent, the EOG shall void the action.

Section 16 authorizes the AHCA and the Department of Health to submit a budget amendment to realign funding within and between agencies based on the implementation of the Statewide Medicaid Managed Care Medical Assistance Program for Children's Medical Services within the Department of Health. The funding realignment must reflect the actual enrollment changes due to the transfer of beneficiaries from fee-for-service to the capitated Children's Medical Services Network. The AHCA also is authorized to submit a request for non-operating budget authority to transfer the federal funds to the Department of Health, pursuant to s. 216.181(12), F.S.

Section 17 postpones when the provisions s. 409.97, F.S., relating to state and local Medicaid partnerships, become effective until the 2015-2016 fiscal year.

Section 18 provides that the provisions of s. 409.905, F.S., be waived and authorizes the AHCA to retroactively adjust hospital payment rates funded by intergovernmental transfers to align payments with appropriated intergovernmental transfer funding for Fiscal Year 2013-2014.

Section 19 provides that the provisions of s. 409.905, F.S., be waived and authorizes the ACHA to make retroactive rate adjustments for hospital inpatient reimbursements for hospitals with greater than 50 percent Medicaid utilization that reduced their charge master by at least 30 percent as of January 1, 2014.

Section 20 amends s. 216.262, F.S., to allow the EOG to request additional positions and appropriations from unallocated general revenue during the 2014-2015 fiscal year for the Department of Corrections (DOC) if the actual inmate population of the DOC exceeds certain Criminal Justice

Estimating Conference forecasts. 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 21 authorizes Department of Legal Affairs to expend appropriated funds in those 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 22 amends s. 932.7055, F.S., relating to the disbursement of proceeds from the sale of forfeited property 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 23 provides a limitation on the Department of Juvenile Justice's reimbursements for health care services to be 110 percent of Medicare allowable rates.

Section 24 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 25 amends s. 215.18, F.S., to provide the chief justice the authority to request a trust fund loan.

Section 26 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 27 and 28 require that fee for service of process against the Department of Financial Services or Office of Insurance Regulation be deposited to the Administrative Trust Fund rather than the Insurance Regulatory Trust Fund.

Sections 29 and 30 amend 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 31 provides that, notwithstanding s. 161.143, F.S., which requires the Department of Environmental Protection (DEP) to make available at least 10 percent of the total amount appropriated in each fiscal year for statewide beach management for the highest-ranked projects on the current year's inlet management project list, for the 2014-2015 fiscal year, the amount allocated for inlet management funding is provided in the General Appropriations Act.

Section 32 provides that funds in the Land Acquisition Trust Fund may be used to support the Total Maximum Daily Loads Program and may be transferred to the Save Our Everglades Trust Fund to support Everglades restoration projects included in the final report of the Select Committee on Indian River Lagoon and Lake Okeechobee Basin, dated November 8, 2013, and to the Florida Forever Trust Fund for the Florida Forever Program pursuant to nooperating budget authority under s. 216.181(12), F.S.

Section 33 amends s. 373.59., F.S., to provide for allocation of moneys from the Water Management Lands Trust Fund as follows: for 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; \$8 million to the General Revenue Fund; and \$7.7 million to the Save our Everglades Trust

Fund to support Everglades restoration projects included in the final report of the Select Committee on Indian River Lagoon and Lake Okeechobee Basin, dated November 8, 2013. Any remaining funds may be expended as provided in accordance with the General Appropriations Act.

Section 34 clarifies that the \$32 million appropriated to the DEP in ch. 2013-59, L.O.F., is transferred to the Save Our Everglades Trust Fund to support Everglades restoration projects included in the final report of the Select Committee on Indian River Lagoon and Lake Okeechobee Basin, dated November 8, 2013.

Section 35 amends s. 403.7095, F.S., relating to the solid waste management grant program to require DEP to award \$3 million of 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 36 amends s. 259.105, F.S., to provide that \$5 million from the Florida Forever Trust Fund be distributed to the Department of Agriculture and Consumer Services for the acquisition of agricultural lands through perpetual conservation easements and other perpetual less-than-fee interest. This section also provides that funds which reverted to the trust fund pursuant to section 56 of the 2014-2015 General Appropriations Act be provided to water management districts for land acquisitions, including less-than-fee interest, identified by the water management districts as being needed for water resource protection or ecosystem restoration.

Section 37 amends s. 259.032, F.S., to provide that monies from the Conservation and Recreation Lands Trust Fund may be transferred to the Florida Forever Trust Fund for the Florida Forever program and to the Save Our Everglades Trust Fund to support Everglades restoration projects included in the final report of the Indian River Lagoon and Lake Okeechobee Basin, dated November 8, 2013, pursuant to nonoperating budget authority under s. 216.181(12), F.S.

Section 38 amends s. 255.25001, F.S., authorizing the deposit of the proceeds from the sale of the Sanford State Farmer's Market into the Market Improvements Working Capital Trust Fund rather than the General Inspection Trust Fund. Before finalizing the sale, the department's action is subject to the notice and review procedures in s. 216.177, F.S.

Section 39 authorizes the Legislative Budget Commission to increase amounts appropriated to the Fish and Wildlife Conservation Commission or the Department of Environmental Protection 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 specifically identified.

Section 40 authorizes the Fish and Wildlife Conservation Commission to pay a bounty for each lionfish captured and destroyed from state or adjacent federal waters during lionfish derbies.

Section 41 amends s. 339.135, F.S., to provide that the Department of Transportation (DOT) may use appropriated funds for the purpose of funding the costs of land acquisition, design and construction of multiuse trails and related facilities, but that any funds appropriated may not reduce, delete or defer any existing projects funded as of July 1, 2014, in the DOT five-year work program. The bill requires DOT to give funding priority to certain types of projects.

Section 42 amends s. 335.065, F.S., to provide that DOT may use funds specifically appropriated for the purpose of the acquisition and development of an integrated system of interconnected multiuse trails of statewide significance and to pay the costs of land acquisition, design and construction of trails and related facilities, but that any funds appropriated may not reduce, delete or defer any existing

projects funded as of July 1, 2014, in the DOT five-year work program. The bill requires DOT to give priority to certain trail projects.

Section 43 provides that, notwithstanding s. 339.135(6)(c), F.S., the unobligated funds appropriated for transportation and economic development projects in Specific Appropriation 1891 of the 2013-2014 General Appropriations Act shall revert immediately.

Sections 44 and 45 amend s. 341.102, F.S., to authorize the DOT to approve and provide matching grant funding for railroad quiet zones.

Section 46 requires the Department of Highway Safety and Motor Vehicles to continue to contract with Prison Rehabilitation Industries and Diversified Enterprises, Inc., (PRIDE) for manufacturing license plates. This section requires PRIDE to rebid reflectorization sheeting used on the license plates and return 70 percent of savings to the department.

Section 47 amends s. 339.135, F.S., to authorize DOT to use up to \$15 million of appropriated funds to pay the costs of strategic and regionally significant transportation projects. Funds may be used to provide up to 75 percent of projects costs for production ready eligible projects. Preference must be given to projects that support the state's economic regions or have been identified as regionally significant in accordance with s. 339.155(4)(c), (d), and (e), F.S., and that have an increased level of non-state match.

Sections 48 and 49 amend 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 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 General Appropriations Act or by the Legislative Budget Commission.

Section 51 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 52 authorizes the EOG to transfer funds in the appropriation category "Special Categories-Transfer to DMS-Human Resources Services Purchased Per Statewide Contract" of the 2014-2015 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 DMS for human resources management services.

Section 53 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 54 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 55 and 56 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 2014-2015 General Appropriations Act.

Section 57 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 58 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 bill prohibits funds from being used to travel to foreign countries, other states, conferences, staff-training or other administrative functions unless agency head approves in writing and requires the agency head to consider use of teleconferencing and electronic communication to meet needs of activity before approving travel.

Section 59 authorizes an agency to transfer funds between the data processing appropriation categories and another appropriation category for the purpose of supporting and managing its computer resources until such time as the agency's data processing function is transferred.

Section 60 provides that the EOG is authorized to transfer funds appropriated in any appropriation category used to pay for data processing in the GAA between agencies in order to align the budget authority granted with the utilization rate of each department.

Section 61 notwithstands s. 216.292(2)(a), F.S., which authorizes agency budget transfers of up to 5 percent of approved budget between categories. Except for transfers approved pursuant to sections 59 and 60 of the Implementing Bill, agencies are prohibited from transferring funds from a data center appropriation category to a category other than a data center appropriation category.

Section 62 provides that the EOG is authorized to transfer funds appropriated in the appropriations category "expenses" between agencies in order to allocate a reduction relating to SUNCOM Services.

Sections 63 and 64 amend s. 110.12315, F.S., to modify copayments associated with the state employees' group health insurance program consistent with decisions that have been made in the General Appropriations Act; to authorize the Department of Management Services, for the state employees' prescription drug program, to negotiate the pharmacy dispensing fee, to implement a 90-day supply limit program for certain maintenance drugs at retail pharmacies for state employees under

certain circumstances, to maintain a list of maintenance drugs and preferred brand name drugs; and to provide that copayments for state employees for a 90-day supply of prescription drugs at a retail pharmacy will be the same as a 90-day supply through mail order.

Section 65 specifies that no section of the bill shall take effect if the appropriations and proviso to which it relates are vetoed.

Section 66 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 67 provides a severability clause.

Section 68 provides an effective date.

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.