

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: SPB 2502

INTRODUCER: For consideration by Appropriations Committee

SUBJECT: Implementing the 2022-2023 General Appropriations Act

DATE: February 8, 2022

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Urban	Sadberry		Pre-meeting

I. Summary:

SPB 2502 provides the statutory authority necessary to implement and execute the General Appropriations Act for Fiscal Year 2022-2023. Statutory changes are temporary and expire on July 1, 2023.

The bill provides an effective date of July 1, 2022, except as otherwise provided.

II. Present Situation:

Article III, s. 12 of the Florida Constitution provides 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 changing general law.¹ 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. The statutory changes are effective only for one year and either expire on July 1 of the next fiscal year or the language of the amended statute reverts to the text that existed before the changes made by the bill.

III. Effect of Proposed Changes:

Section 1 provides legislative intent that the implementing and administering provisions of this act apply to the General Appropriations Act (GAA) for Fiscal Year 2022-2023.

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 GAA.

¹ *Brown v. Firestone*, 382 So.2d 654 (Fla. 1980); *Chiles v. Milligan*, 659 So.2d 1055 (Fla. 1995).

Section 4 revises language relating to charter school capital outlay funding. Specifically, the revision provides that charter school capital outlay funding for Fiscal Year 2022-23 will consist of state funds appropriated by the Legislature in the GAA. This change does not remove the requirement that districts must share local millage revenues beginning in FY 2023-2024.

Section 5 provides that the amendments to s. 1013.62(1), F.S., expire July 1, 2023, and the text of those sections reverts to that in existence on June 30, 2020.

Section 6 amends s. 1011.62(15), F.S., to maintain the Funding Compression and Hold Harmless categorical within the FEFP, which provides additional funding for school districts whose total funds per FTE in the prior year were less than the statewide average or whose district cost differential decreased compared to the prior year.

Section 7 amends s. 1011.62(7)(a) and (b), F.S., to increase the number of FTE for the Sparsity calculation from 24,000 to 30,000 FTE.

Section 8 provides that the amendments to s. 1011.26(7)(a) and (b), F.S., expire July 1, 2023, and the text of those sections reverts to that in existence on June 30, 2022.

Section 9 reenacts s. 1001.26(1), F.S., to allow public colleges or universities that are not part of the public broadcasting program system to qualify to receive state funds.

Section 10 provides that the amendments to s. 1001.26(1), F.S., expire July 1, 2023, and the text of those sections reverts to that in existence on June 30, 2018.

Section 11 amends s. 1011.80(7)(b), F.S., to extend the existing incentive funding model for district workforce education industry certifications for another year.

Section 12 amends s. 1011.81(2)(b), F.S., to extend the existing incentive funding model for Florida College System industry certifications for another year.

Section 13 provides that the amendments to ss. 1011.80(7)(b) and 1011.81(2)(b), F.S., expire July 1, 2023, and the text of those sections reverts to that in existence on June 30, 2022.

Section 14 authorizes the Agency for Health Care Administration (AHCA) to submit a budget amendment to realign funding between the 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 15 authorizes the AHCA to submit a budget amendment to realign funding priorities within the Medicaid program appropriation categories to address any projected surpluses and deficits.

Section 16 authorizes the AHCA and the 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 2022-2023 fiscal year only.

Section 17 amends s. 381.986(17), F.S., to provide that the 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, 2023, are exempt from the legislative ratification provision of s. 120.541(3), F.S.

Section 18 amends s. 381.988(11), F.S., to provide that the 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, 2023, are exempt from the legislative ratification provision of s. 120.541(3), F.S.

Section 19 amends s. 14(1) of Chapter 2017-232, L.O.F., to provide limited emergency rulemaking authority to the DOH and applicable boards to adopt emergency rules to implement the Medical Use of Marijuana Act (2017). The department 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, 2023.

Section 20 provides that the amendments to s. 14(1) of Chapter 2017-232, L.O.F., expire on July 1, 2023, and the text of that provision reverts back to that in existence on June 30, 2019.

Section 21 allows the Department of Children and Families (DCF) to submit a budget amendment to realign funding within appropriations between the Guardianship Assistance Program, the Non-relative Caregiver Program and the Temporary Cash Assistance Program, as necessary, to meet caseload demand.

Section 22 allows the DCF to submit a budget amendment to realign funding within the Family Safety Program to maximize the use of Title IV-E and other federal funds.

Section 23 allows the DCF to submit budget amendments to realign funding between appropriation categories to support contracted staffing equivalents to sustain forensic bed capacity and resident-to-workforce ratios at the state's mental health treatment facilities.

Section 24 authorizes DOH to submit a budget amendment to increase budget authority for the HIV/AIDS Prevention and Treatment Program if additional federal revenues become available.

Section 25 authorizes DOH to submit a budget amendment to increase budget authority for COVID-19 relief funds if additional federal funds become available in the 2022-2023 fiscal year.

Section 26 amends s. 42(1) through (5) of Chapter 2020-114, L.O.F., to require 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. Additionally, this section provides requirements for deliverables based fixed price contracts.

Section 27 amends s. 216.262(4), F.S., to allow the Department of Corrections (DOC) to request additional positions and appropriations from unallocated general revenue during the 2022-2023 fiscal year 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 LBC review and approval.

Section 28 amends s. 1011.80(8)(b), F.S., to authorize the Department of Corrections to use state funds appropriated specifically for postsecondary education of inmates through CareerSource Florida.

Section 29 provides that the amendments to s. 1011.80(8)(b), F.S., expire July 1, 2023, and the text of that section reverts to that in existence on July 1, 2019.

Section 30 amends s. 215.18(2), F.S. to provide chief justice the authority to request a trust fund loan.

Section 31 requires the Department of Juvenile Justice to review county juvenile detention payments to ensure that counties are fulfilling their financial responsibilities. If the department determines that a county has not met its obligations, Department of Revenue must deduct the amount owed to the Department of Juvenile Justice from shared revenue funds provided to the county under s. 218.23, F.S.

Section 32 reenacts s. 27.40(1), (2)(a), (3)(a), (5), (6), and (7), F.S., to continue to require written certification of conflict by the public defender or regional conflict counsel before a court may appoint private conflict counsel.

Section 33 provides that the amendments to s. 27.40(1), (2)(a), (3)(a), (5), (6), and (7), F.S., expire July 1, 2023, and the text of that section reverts to that in existence on July 1, 2019.

Section 34 amends s. 27.5304(13), F.S. to create a rebuttable presumption of correctness for objections to billings made by the Justice Administrative Commission and provides requirements for payments to private counsel.

The bill also reenacts s. 27.5304(1), (3), (7), (11), (12), (a) through (e), F.S., to increase caps for compensation of court appointed counsel in criminal cases.

Section 35 provides that the amendments to s. 27.5304(1), (3), (7), (11), and (12)(a) through (e), F.S., expire July 1, 2023, and the text of that section reverts to that in existence on June 30, 2019.

Section 36 provides that, notwithstanding ss. 216.181 and 216.292, F.S., the department is authorized to submit a budget amendment to increase the category to pay for the implementation of a new data warehouse.

Section 37 provides that, notwithstanding ss. 216.181 and 216.292, F.S., the department is authorized to submit a budget amendment to increase the appropriation for the implementation of a new prize payment system.

Section 38 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 between July 1, 2023 and June 30, 2025. Reports are required to be submitted by November 1, 2022.

Section 39 notwithstanding s. 216.292(2)(a), F.S., which authorizes transfers of up to 5 percent of approved budget between categories. This section prohibits an agency from transferring funds from a data processing category to another category.

Section 40 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 that must be paid by each agency for the 2022-2023 fiscal year.

Section 41 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 42 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 2022-2023 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 43 amends s. 72(1) through (5) of chapter 2020-114, Laws of Florida, 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 44 amends s. 215.18(3), F.S. to authorize loans to land acquisition trust funds.

Section 45 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 46 amends s. 576.045, F.S., to extend the repeal date for the following supplemental fees:

- One hundred dollars for each license to distribute fertilizer.
- One hundred dollars for each specialty fertilizer registration.
- Fifty cents per ton for all fertilizer that contains nitrogen or phosphorous that is sold in this state.

Section 47 amends s. 375.041(3)(b), F.S., to provide that the distribution from the Land Acquisition Trust Fund for restoration of Lake Apopka for the 2022-2023 fiscal year does not occur.

Section 48 amends s. 376.3071(15)(g), F.S., to revise the requirements for the usage of the trust fund for ethanol or biodiesel damage.

Section 49 provides that the amendment to s. 376.3071(15)(g), F.S., expires July 1, 2023, and the text of that section reverts to that in existence on June 30, 2020.

Section 50 reenacts s. 282.709(3), F.S., to carry forward the Department of Management Services' (DMS) authority to execute a 15-year contract with the Statewide Law Enforcement Radio system (SLERS) operator.

Section 51 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 52 provides that the amendment to s. 282.709(3), F.S., expires July 1, 2023, and the text of that section reverts to that in existence on June 30, 2021.

Section 53 provides that in order to expedite the closure of the Piney Point facility located in Manatee County, the DEP is exempt from the competitive procurement requirements of s. 287.057, F.S., for any procurement of commodities or contractual services in support of the site closure or to address the environmental impacts associated with the system failure.

Section 54 amends s. 321.04(3)(b) and (5), F.S., to provide that for the 2022-2023 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 55 extends repeal date for Hurricane Loss Mitigation Program for one year.

Section 56 amends s. 288.80125(3), F.S., to allow funds to 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 require funds to appropriated to the State Transportation Trust Fund from the General Revenue Fund to be used as provided in the General Appropriations

Act, excludes such funds from certain calculations, and requires such funds to be separately accounted and tracked.

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

Section 59 amends s. 331.3101, F.S., to limit Space Florida's expenditures on entertainment and lodging and require Space Florida to submit additional information in its annual report relating to itemized expenses and information related to corrective actions taken by Space Florida to address the findings in the 2022-049 Auditor General Report.

Section 60 amends s. 337.11, F.S., to direct the department to reduce the cost of design, inspection, and construction in the Work Program and submit a report to the Governor and the Legislature by December 31, 2022. This section authorizes the department to share up to 10 percent of the construction cost savings realized with consultants (design services and/or construction engineering and inspection services) that were involved.

Section 61 requires priority to be provided to applications for projects in economic development programs by the DEO that benefit the on-shoring of manufacturing to the state when such prioritization is applicable to the scope of the economic development project.

Section 62 amends s. 112.061(4)(d), F.S., to permit a lieutenant governor who resides outside of Leon County to designate an official headquarters in his or her county as his or her official headquarter for purposes of s. 112.061, F.S. A lieutenant governor for whom an official headquarters in his or her county of residence may be paid travel and subsistence expenses when travelling between their official headquarters and the State Capitol to conduct state business.

Section 63 revises the DMS's authority relating to the procurement of HMOs, including notwithstanding the requirement for metal plans. This section authorizes DMS to enter into contracts that may require the payment of administrative fees not to exceed 110 percent of the amount appropriated in the GAA.

Section 64 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 65 notwithstanding s. 11.13, F.S., maintains salaries of legislators at the same level as July 1, 2010.

Section 66 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 General Appropriations Act.

Section 67 provides that the amendment to s. 215.32(2)(b), F.S., expires July 1, 2023, and the text of that section reverts to that in existence on June 30, 2011.

Section 68 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 the activity before approving travel.

Section 69 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 the activity before approving travel.

Section 70 prohibits a state agency from entering into a contract containing a nondisclosure agreement that prohibits a contractor from disclosing information relevant to the performance of the contract to members or staff of the Senate or House.

Section 71 reenacts s. 14.25, F.S., to authorize the Governor to award the "Governor's Medal of Freedom" to any person who has made an especially meritorious contribution to the State of Florida or other significant public or private endeavors.

Section 72 specifies that no section shall take effect if the appropriations and proviso to which it relates are vetoed.

Section 73 provides that if any other act passed during the 2022 Regular Session contains a provision that is substantively the same as a provision in this act, but removes or otherwise is not subject to the future repeal applied by this act, the intent is for the other provision to take precedence and continue to operate.

Section 74 provides that if any provision of this act is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision.

Section 75 provides for a general effective date of July 1, 2022 (except as otherwise provided).

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Because SPB 2502 implements provisions of SPB 2500, the Senate Proposed GAA for Fiscal Year 2022-2023, no direct fiscal impacts are created by this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 14.35, 27.5304, 112.061, 215.559, 216.262, 215.18, 375.041, 321.04, 288.80125, 337.11, 331.3101, 339.135, 339.08, 381.988, 381.986, 576.405, 1011.62, 1011.80, 1011.81, and 1013.62.

This bill creates undesignated sections of Florida law.

This bill reenacts the following sections of the Florida Statutes: 1001.26, 27.40, 376.3071, 215.32, and 282.709.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
