

STORAGE NAME: h4209.cj
DATE: March 13, 1998

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
CRIMINAL JUSTICE APPROPRIATIONS
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 4209 (PCB CJ 98-02)

RELATING TO: Implementing the 1998-1999 General Appropriations Act

SPONSOR(S): Criminal Justice Appropriations Committee

COMPANION BILL(S): N/A

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) CRIMINAL JUSTICE APPROPRIATIONS YEAS 8 NAYS 0
 - (2)
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

This bill implements the General Appropriations Act in the area of criminal justice for FY 1998-1999.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

In the past, substantive language was included in proviso or in separate sections of the General Appropriations Act to clarify how funds contained in the act were to be expended. However, decisions such as Brown v. Firestone, 382 So. 2nd 654 (Fla. 1980), and Graham v. Firestone, Circuit Court of the Second Judicial Circuit, #82-1703, Leon County Florida, 1982, have found such proviso language in the annual General Appropriations Act to be unconstitutional and void.

B. EFFECT OF PROPOSED CHANGES:

This legislation provides the necessary statutory authority to temporarily implement and execute specific appropriations in the General Appropriations Act in lieu of the apparent unconstitutional methods utilized prior to the historic court decisions.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No

(3) any entitlement to a government service or benefit?

No

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No

b. Does the bill require or authorize an increase in any fees?

No

c. Does the bill reduce total taxes, both rates and revenues?

No

d. Does the bill reduce total fees, both rates and revenues?

No

e. Does the bill authorize any fee or tax increase by any local government?

No

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

No

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

N/A

E. SECTION-BY-SECTION RESEARCH:

Section 1. Provides legislative intent.

Section 2. In order to implement Specific Appropriation 1033, amends s. 216.181, F.S. to allow the Florida Department of Law Enforcement to transfer up to 20 positions and up to 10 percent of the initial approved salary rate between budget entities without prior approval. The department must provide notice to the Governor and legislative fiscal committee chairs at all transfers.

Section 3. Provides legislative intent that if any other bill passes which contains the same language as a provision of this bill, but without the future repeal applied by this bill, the provision in the other bill should take precedence.

Section 4. Provides for severability.

Section 5. Provides an effective date.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None

2. Recurring Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

4. Total Revenues and Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None

2. Recurring Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None

2. Direct Private Sector Benefits:

None

3. Effects on Competition, Private Enterprise and Employment Markets:

None

D. FISCAL COMMENTS:

Although the provisions of this bill affect the authority of the General Appropriations Act to transfer or to appropriate dollars, decisions related to fiscal consequences are actually made in the General Appropriations Act.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take any actions requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority of counties or municipalities to raise revenues in the aggregate, as such authority existed on February 1, 1989.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties and municipalities as an aggregate on February 1, 1989.

V. COMMENTS:

The Florida Supreme Court's decision in Moreau v. Lewis, No. 84,019, January 5, 1995, states that "[a]n implementing bill that changes or amends existing law on subjects other than appropriations runs afoul of article III, Section 6 of the Florida Constitution." (P.6)

The court further noted that "[b]ecause an appropriations bill must not change or amend existing law on subjects other than appropriations, it follows that a bill designed to implement the appropriations bill must also not change or amend existing law on subjects other than appropriations." (P.7)

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

COMMITTEE ON CRIMINAL JUSTICE APPROPRIATIONS:

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