

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Date: April 16, 1998 Revised: _____

Subject: State Planning and Budgeting

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Rhea</u>	<u>Wilson</u>	<u>GO</u>	<u>Favorable/CS</u>
2.	<u>Revell</u>	<u>Smith</u>	<u>WM</u>	<u>Favorable</u>
3.	<u>Krasovsky</u>	<u>Krasovsky</u>	<u>RC</u>	<u>Favorable/CS</u>
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

The committee substitute adds definitions of “incentive” and “disincentive” for the performance-based budgeting process, and describes in greater detail what incentives and disincentives are. The committee substitute also creates definitions for “performance-based program appropriation” and “performance ledger.” Additional documentation supporting performance measures is required by the committee substitute. Time-frames are changed to allow submission to the Legislature of programs and measures in advance of developing a performance-based program budget request. Reliance on large programs is reduced by repealing the prohibition against agencies using existing 5 percent budget transfer authority between programs.

The committee substitute also provides that all remaining programs within the Department of Education must convert to performance-based budgeting by September 1, 1999. State attorneys, public defenders, the Justice Administrative Commission, and capital collateral counsel, are added to the performance-based budgeting schedule. Agencies created after September 1, 2000, are required to submit performance-based budgets within a specified period. The committee substitute also establishes in statute the constitutionally-created Budget Stabilization Fund.

This committee substitute amends the following sections of the Florida Statutes: 216.011, 216.0166, 216.0172, 216.0235, 216.163, 216.167, 216.178, 216.292, 186.022, 121.051, 215.32, 216.221, and 252.37. The committee substitute repeals sections 186.021(5) and 212.081(3) of the Florida Statutes.

II. Present Situation:

State planning and budgeting is governed by the State Constitution,¹ as well as by chs. 215 and 216, F.S. Over the years, the Legislature adopted a number of budgeting processes that were intended to unify and improve state planning, budgeting, and the appropriations process.² In 1994, the Legislature adopted a budgeting process called Performance-Based Program Budgeting or PB2.³ Performance-based budgeting may be described as a budget process that bases resource needs on quantifiable results that are expected from the use of an allocation. Performance-based budgeting requires agencies to achieve or exceed specific performance or outcome objectives. To assist agencies achieve or exceed performance objectives, agency managers are given greater management flexibility.

Conversion to a performance-based budgeting process is being implemented by use of a multi-year schedule that requires additional agencies to use the process with each passing year.⁴ Approximately 30 programs in 12 agencies are budgeted under PB2 at the present time. Under the statutory schedule, the last agencies are due to convert to the PB2 process by September 1, 2000, for the 2001-2002 fiscal year.⁵

Converting to performance-based budgeting is a multi-stage process that requires identification of agency programs, identification of inputs and outputs, development of performance measures, and setting performance standards. The process laid out in statute requires participation of agencies, the Executive Office of the Governor (EOG), legislative committees, and the legislative Office of Program Policy Analysis and Government Accountability (OPPAGA). Ultimately, the Legislature must approve any proposed programs, measures, and standards.

Under the current statutory scheme, prior to October 15 of the fiscal year in which a state agency is required to submit a performance-based program budget, that agency must identify and submit

¹Art. II, sections 12 and 19; Art. IV, s. 13. ; Art. IX, s. 6; Art. X, s. 14; Art XI, s. 6; and Art. XII, sections 9, 18, and 21.

²During the 1960s, Planning, Programming and Budgeting Systems, or PPBS, was the standard. PPBS, however, led to the creation of large inventories of data that were not particularly helpful in the budgeting process. By the mid-1970s, PPBS was being replaced by Zero-Based Budgeting (ZBB), a corporate innovation that subjected all agency operations to annual reprioritization. ZBB also was data-intensive and was not easily adapted to entitlement program operations which dominated public sector budgets. By the late 1970s, Management By Objectives (MBO), a reaction to PPBS and ZBB, had begun replacing other budgeting methods. MBO focused management attention on discreet aspects of public organizational activities. Small operations were the focal point and change was defined in more modest, incremental terms. Total Quality Management (TQM) was the successor to MBO and continues to exist today. TQM also focuses upon activities at the bottom of the organizational pyramid which can be unified and made more consensual so that broad organizational goals can be achieved. Employee ownership and participation in agency goals are held in the highest esteem.

³Ch. 94-249, L.O.F.

⁴Section 216.0172, F.S.

⁵Section 216.0172(7), F.S.

to the EOG a list of proposed state agency programs.⁶ Program identification is conducted after discussion with legislative appropriations and appropriate substantive committees and must be approved by the EOG. The statute requires the EOG to review the list, after discussion with legislative appropriations and appropriate substantive committees, and authorizes the EOG to make changes to it. The EOG must approve or disapprove the list within 30 days of receipt. The program list is used in the preparation and submission of the state agency's final legislative budget request. The EOG provides the Legislature with a copy of the list, along with required supporting documentation.⁷

The EOG, after discussion with legislative appropriations committees, appropriate substantive committees, and the Legislative Auditing Committee, are required to jointly develop instructions for the development of performance measures for each program on the approved list.⁸ These instructions must be submitted to an agency prior to December 1 of the fiscal year preceding the year in which it is required to submit a performance-based program budget request.

Prior to June 1, the agency must submit to the EOG performance measures for each program on the approved list.⁹ Documentation supporting the validity, reliability, and appropriateness of each performance measure must be provided. The agency must explain how the performance measures relate to the agency strategic plan, how they are used in management decision making, and other agency process. The agency also must identify the outputs produced by and the outcomes resulting from each approved program, as well as baseline data associated with each performance measure. Performance measures are to be reviewed, after discussion with legislative appropriations and appropriate substantive committees and the Office of Program Policy Analysis and Government Accountability. The performance measures may be revised as necessary, but they must be approved or disapproved by the EOG within 30 days of receipt.

The Legislature has final approval of all programs, performance measures, and standards through the General Appropriations Act or legislation implementing the General Appropriations Act.¹⁰

No later than 45 days after the General Appropriations Act becomes law, state agencies may submit to the EOG any adjustments to their performance standards based on the amounts

⁶Section 216.0166(1), F.S.

⁷Section 216.0166(2), F.S., requires submission of the following documentation: (a) The constitutional or statutory direction and authority for each program; (b) Identification of the customers, clients, and users of each program; (c) The purpose of each program or the benefit derived by the customers, clients, and users of the program; (d) Direct and indirect costs of each program; (e) Information on fees collected and the adequacy of those fees in funding each program for which the fees are collected; (f) An assessment of whether each program is conducive to performance-based program budgeting; and (g) an assessment of the time needed to develop meaningful performance measures for each program.

⁸Section 216.0166(3), F.S.

⁹Section 216.0166(4), F.S.

¹⁰Section 216.0155(5), F.S.

appropriated for each program by the Legislature.¹¹ When an adjustment is made, all performance standards, including any adjustments made, must be submitted to the EOG for review. Upon approval by the EOG, they are submitted to the Legislature for review and approval.

III. Effect of Proposed Changes:

Section 1. Specific definitions of “disincentive” and “incentive” are created in s. 216.011, F.S. A “disincentive” is defined to mean “. . . a sanction, as described in s. 216.163.”¹² An “incentive” is defined to mean “. . . a mechanism, as described in s. 216.63, for recognizing the achievement of performance standards or for exceeding performance standards.”¹³ Section 6 of the committee substitute (see below) modifies the description of an incentive.

The committee substitute also creates a definition for “performance-based program appropriation” which is defined as “. . . funds appropriated for a specific set of activities or classification of expenditure within an approved performance-based program.”

A definition of “performance ledger” is created to mean “. . . the official compilation of information about state agency performance-based programs and measures including approved programs, approved outputs and outcomes, baseline data, approved standards for each performance measure and any approved adjustments thereto, as well as actual agency performance for each measure.”

The remaining definitions in s. 216.011, F.S., are renumbered to reflect the additional definitions.

Section 2. Section 216.0166, F.S., is amended to change the date by which proposed agency programs must be submitted to the EOG from October 15 to September 1 of the fiscal year in which a state agency is required to submit a PB2 budget request. The amendment requires submission of proposed performance measures by this time, as well, which results in the deletion of subsections (3), (4) and (6) of the section. The committee substitute also provides that an agency may submit a list of statutes or rules affecting its performance which may be addressed as

¹¹Section 216.0166(7), F.S.

¹²Section 216.163(4)(b), F.S., provides that disincentives include, but are not limited to: (1) mandatory quarterly reports to the EOG and the Legislature on the agency’s progress in meeting performance standards; (2) mandatory quarterly appearances before the Legislature, the Governor, or the Governor and Cabinet to report on the agency’s progress in meeting performance standards; (3) Elimination or restructuring of the program, which may include, but not be limited to transfer of the program or outsourcing all or a portion of the program; (4) reduction of total positions for a program; (5) restriction on or reduction of spending authority; and (6) reduction of managerial salaries.

¹³Section 163.163(4)(a), F.S., provides that incentives may include, but are not limited to: (1) additional flexibility in budget management; (2) additional flexibility in salary rate and position management; (3) retention of up to 50 percent of unexpended and unencumbered balances of appropriations, excluding special categories and grants and aids, which may be used for nonrecurring purposes including, but not limited to, lump-sum bonuses, employee training, or productivity enhancements, including technology and other improvements; and (4) additional funds to be used for, but not limited to, lump-sum bonuses, employee training, or productivity enhancements, including technology and other improvements.

incentives or disincentives. This list is to be accompanied by recommended legislation to implement the requested changes.

The Office of Program Policy Analysis and Government Accountability is added to the legislative committees that the EOG should contact during its review of the proposed programs and measures. The period during which the proposed programs and measures are reviewed is extended from 30 days of receipt to 60 days after receipt. The committee substitute also provides that an agency may be required to resubmit its proposed program list. The committee substitute also provides that the EOG and agencies may recommend legislation to implement any or all of the proposed incentives.

The committee substitute modifies the list of documents that must accompany the list of proposed programs that is submitted by an agency, as well as requires that this documentation be provided to support proposed performance measures. The committee substitute deletes from the list information on fees collected and the adequacy of those fees in funding each program for which the fees are collected. The committee substitute adds to the list: (1) a comparison of the agency's existing budget structure to the proposed structure; and (2) a description of the use of performance measures in agency decision making, agency actions to allocate funds and manage programs, and the agency strategic plan.

The committee substitute moves from subsection (6) the requirement that state agencies submit documentation to the EOG regarding the validity, reliability, and appropriateness of each performance measure, as well as the requirement that an explanation be provided regarding how performance measures relate to the agency strategic plan but reinserts the requirement in subsection (2)(j) because the committee substitute requires proposed performance measures to be submitted with the list of proposed agency programs. The committee substitute requires an agency to prepare supporting documentation in consultation with its Inspector General.

Agencies are required to submit a performance-based program budget legislative budget request using the programs and performance measures adopted by the Legislature, or if none are adopted, using those recommended by the EOG.

The committee substitute changes the date for making requests to revise approved programs or performance measures from no later than April 15 of the year in which the state agency intends to incorporate the changes into its legislative budget request to February 1 of the year in which it is proposed that the changes be incorporated into the budget request.

The committee substitute also requires the EOG to maintain the official performance ledger.

Section 3. Section 216.0172, F.S., amends some of the terms used and modifies the statutory schedule for submission of PB2 budget proposals. The Department of Health and Rehabilitative Services' name is changed to the Department of Children and Family Services; the Department of Commerce is deleted, as that department was eliminated and its duties transferred. All remaining programs of the Department of Education are added to the performance-based program budgeting

process effective FY 2000. State attorneys, public defenders, the Justice Administrative Commission, and the Capital Collateral Representative are added to the schedule for FY 2002.

Any new agency or portion of an agency created after September 1, 2000, is required to submit a performance-based program budget request for approved programs by September 1 of the year following the creation of the agency or portion of the agency.

Each state agency in the schedule has three years from the initial date set in the schedule to complete its performance budgeting tasks, after which time the EOG and the respective legislative committees shall undertake uncompleted activities.

Section 4. Section 216.0235, F.S., is amended to require that the annual budget preparation instructions sent to agencies must include instructions on how to comply with s. 216.0166, F.S.

Section 5. Nomenclature modifications are made to bring s. 216.031, F.S., into conformity with changes made in s. 216.0166, F.S. Additionally, a new subsection (12) is added that requires a legislative budget request to contain a prioritized list of planned expenditures for review and possible reduction in the event of revenue shortfalls. The list is to be in the format provided by the planning and budgeting instructions.

Section 6. Section 216.163, F.S., is amended to provide that the Governor's recommended budget may include as incentives: lump sums or special category appropriations; consolidated program components or budget categories; increased transfer authority across budget categories or entities; additional quarterly release of funds or upon attainment of a level of accomplishment specified in the General Appropriations Act.

The committee substitute amends the current incentive permitting retention of unexpended and unencumbered balances of appropriations, excluding special categories and grants and aids, which may be used for nonrecurring purposes. Retention of up to 50 percent of all unencumbered balances as of June 30 or undisbursed balances as of December 31 of appropriations, excluding special categories and grants and aids, is provided.

The committee substitute also creates a new incentive. Additional funds provided pursuant to law may be released to an agency quarterly or incrementally contingent upon the accomplishment of units of output or outcome specified in the General Appropriations Act.

Section 7. Section 216.167, F.S., which relates to the Governor's budget recommendations, is amended to refer to the Budget Stabilization Fund, which is created in the State Constitution, and statutorily-established in Section 14 of the committee substitute (See below).

Section 8. Section 216.178, F.S., which relates to the format of the General Appropriations Act, is amended to require the Office of Planning and Budget to produce the final budget report that reflects the net appropriations for each budget item by October 15 of each year. The current

deadline is 90 days after the beginning of the fiscal year (September 28). The amendment extends the deadline by roughly 2 weeks.

Section 9. Section 216.292(2), F.S., is amended to change where authorized revisions of the original approved operating budget, and related changes, must be transmitted by the state agency or the judicial branch. Currently, they must be transmitted to the Comptroller for entry in her or her records in the manner and format prescribed by the EOG in consultation with the Comptroller. The committee substitute requires transmission by the state agency or the judicial branch to the EOG or the Chief Justice, the chairs of the legislative appropriations committees, the OPPAGA, and the Auditor General. Authorized revisions must be consistent with the intent of the approved operating budget and with legislative policy and intent, and must not conflict with the specific spending policies specified in the General Appropriations Act.

The EOG is required to forward a copy of revisions within 7 working days to the Comptroller for entry in his or her records in the manner and format prescribed by the EOG in consultation with the Comptroller.

The committee substitute also provides that s. 216.292(3)(a), F.S.,¹⁴ does not apply to programs operating under performance-based program budgeting where a lump sum was appropriated. A new subsection (4) is created that permits the head of each department or the Chief Justice to transfer funds, positions and salary rate within and between program budget entities with performance-based program appropriations as defined in s. 216.011(1)(xx), F.S., whenever it is deemed necessary by reason of changed conditions. The committee substitute, however, provides that the total program funds, positions and salary rate may not be increase or decreased by more than 5 percent by all action taken under the section.

Authorized revisions to the original approved operating budget, together with related changes, must be transmitted by the state agency or by the judicial branch to the EOG or the Chief Justice, the chairs of the legislative appropriations committees, the OPPAGA, and the Auditor General. Authorized revisions must be consistent with the intent of the approved operating budget and with legislative policy and intent, and they must not conflict with specific spending policies specified in the General Appropriations Act. The EOG must forward a copy of any revisions within 7 working days to the Comptroller for entry in his or her records in the manner and format prescribed by the EOG in consultation with the Comptroller.

Section 10. Section 186.022, F.S., is amended to provide that state agency program performance measures must be consistent with the objectives in the draft agency strategic plan and must represent 1-year implementation efforts necessary to meet the 5-year agency strategic plan objectives. The committee substitute also authorizes state agencies to amend their strategic

¹⁴Section 216.292(3)(a), F.S., provides that the head of each department or the Chief Justice may transfer appropriations funded from identical funding sources whenever it is deemed necessary by reason of changed conditions and transfer the amounts included within the total original approved budget and releases between categories of appropriations within a budget entity if no category of appropriation is increased or decreased by more than 5 percent of the original approved budget or \$25,000, whichever is greater.

plans, as necessary, to ensure consistency with legislative actions prior to the effective date of the agency strategic plan.

Section 11. A technical cross-reference change is made in s. 121.05, F.S., to provide performance-budgeting conformance to the Division of Rehabilitation and Liquidation in the Department of Insurance.

Section 12. The committee substitute amends s. 215.32, F.S., to provide for the Budget Stabilization Fund.¹⁵ The fund is defined to consist of amounts equal to at least 5 percent of net revenue collections for the general Revenue Fund during the last completed fiscal year. The fund's principal balance is not to exceed an amount equal to 10 percent of the last completed fiscal year's net revenue collections for the General Revenue Fund. The term "last completed fiscal year" means the most recently completed fiscal year prior to the regular legislative session at which the Legislature considers the General Appropriations Act for the year in which the transfer to the Budget Stabilization Fund must be made.

The committee substitute requires the Governor by September 15 of each year to authorize the Comptroller to transfer to the Budget Stabilization Fund the amount of money needed for the balance of that fund to equal the amount specified above, minus any amounts expended and not restored. The moneys needed for transfer may be appropriated by the Legislature from any funds.

An expenditure from the Budget Stabilization Fund must be restored pursuant to a restoration schedule that provides for making five equal annual transfers from the General Revenue Fund beginning in the fiscal year following that in which the expenditure was made. For any Budget Stabilization Fund expenditure, the Legislature may establish by a law a different restoration schedule; and such change may be made at any time during the restoration period. The committee substitute appropriates moneys for transfers pursuant to provision.

¹⁵Art. III, s. 19(g), of the State Constitution, provides for the Budget Stabilization Fund. Beginning with the 1994-1995 fiscal year, at least 1% of an amount equal to the last completed fiscal year's net revenue collections for the general revenue fund was required to be retained in a budget stabilization fund. The fund was required to be increased to at least 2% of that amount for the 1995-1996 fiscal year; increased at least 3% of that amount for the 1996-1997 fiscal year; increased at least 4% of that amount for the 1997 fiscal year; and increased at least 5% of that amount for the 1998-1999 fiscal year. The budget stabilization fund is required to be maintained at an amount equal to at least 5% of the last completed fiscal year's net revenue collections for the general revenue fund. The budget stabilization fund's principal balance is not to exceed an amount equal to 10% of the last completed fiscal year's net revenue collections for the general revenue fund. General law is to provide for the restoration of the fund. The fund is to be comprised of funds not otherwise obligated or committed for any purpose. Additionally, Art. 7, s.1(e), of the State Constitution, requires that state revenues collected for any fiscal year in excess of the limit (the state revenue allowed for the prior fiscal year plus an adjustment for growth) must be transferred to the budget stabilization fund until the fund reaches the maximum balance specified in Art. III, s. 19(g), of the State Constitution.

The committee substitute provides that the Budget Stabilization Fund and the Working Capital Fund may be used as revolving funds for transfers as provided by s. 215.18, F.S.¹⁶ If the Comptroller determines that such moneys are not needed for such transfers, the moneys may be temporarily invested as provided in s. 18.125, F.S., except that any interest earned must be deposited in the General Revenue Fund.

The Working Capital Fund is to be funded by moneys in the General Revenue Fund which are in excess of the amount needed to meet General Revenue Fund appropriations for the current fiscal year. Each year, no later than the publishing date of the annual financial statements, funds must be transferred between the Working Capital Fund and the General Revenue Fund to establish the balance of the Working Capital Fund for that fiscal year at the amount determined pursuant to the provision.

Section 13. The committee substitute amends s. 216.221, F.S., which relates to the adjustment of budgets to avoid or eliminate deficits, to change references from the Working Capital Fund to the Budget Stabilization Fund.

Section 14. The committee substitute amends s. 252.37, F.S., which relates to financing. The amendment permits the Governor to transfer and expend moneys from the newly-created Budget Stabilization Fund or Working Capital Fund.

Section 15. The committee substitute amends s. 20.255(2), F.S., which enumerates the duties of inspectors general. That section currently requires inspectors general to assess the reliability and validity of the information provided by a state agency on performance measures and standards, and to make recommendations for improvement, if necessary. The committee substitute requires inspectors general to perform this assessment prior to submission of the performance measures and standards to the EOG.

Section 16. The committee substitute repeals s. 212.081(3), F.S. That subsection provides that it is the legislative intent that revenue produced by ch. 59-402, L.O.F., together with other available general revenue in excess of money required to meet the general revenue appropriations accrue to the Working Capital Fund.

The committee substitute repeals s. 186.021(5), which provides that the objectives in agency strategic plans must not be inconsistent with state agency performance measures which have been approved by the EOG. A provision requiring state agency program performance measures to be

¹⁶Section 215.18, F.S., provides that whenever there exists in any fund provided for by s. 215.32 a deficiency which would render such fund insufficient to meet its just requirements, and there shall exist in the other funds in the State Treasury moneys which are for the time being or otherwise in excess of the amounts necessary to meet the just requirements of these funds, the Administration Commission, with the concurrence of the Governor, may order a temporary transfer of moneys from one fund to another in order to meet temporary deficiencies in a particular fund without resorting to the necessity of borrowing money and paying interest. The fund from which any money is temporarily transferred is to be repaid the amount transferred from it not later than the end of the fiscal year in which such transfer is made, the date of repayment to be specified in the order of the Administration Commission.

consistent with the objectives in the draft agency strategic plan, however, is inserted in s. 186.022, F.S. (See Section 10 of the committee substitute.)

Section 17. The act has an effective date upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

Article III, s. 19(f)(3), of the State Constitution, prohibits the creation of a trust fund of the State of Florida or another public body by law without a three-fifths vote of the membership of each house of the Legislature in a separate bill for that purpose only. Trust funds authorized by the State Constitution are not subject to this requirement. Article III, s. 19(g), of the State Constitution provides for the Budget Stabilization Fund.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Agencies which are under performance-based budgeting and that meet or exceed performance standards could be positively impacted by additional economic incentives.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
