

STORAGE NAME: h1791.ga

DATE: March 19, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
GENERAL APPROPRIATIONS
ANALYSIS**

BILL #: HB 1791 (PCB GA 99-12)

RELATING TO: Implementing the 1999-2000 General Appropriations Act

SPONSOR(S): Committee on General Appropriations

COMPANION BILL(S):

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

(1) GENERAL APPROPRIATIONS 22 Yeas 0 Nays

(2)

(3)

(4)

(5)

I. SUMMARY:

This bill implements the General Appropriations Act for the 1999-2000 fiscal year. It includes performance based program (PB²) measures and standards for specific programs in the agencies that are scheduled to be included in PB².

II. SUBSTANTIVE ANALYSIS:

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. 2d 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 implement and execute the Appropriations Act in lieu of the apparent unconstitutional methods utilized in the past.

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?

N/A

4. Individual Freedom:

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

N/A

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

N/A

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?

N/A

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 ANALYSIS:

Section 1. Provides legislative intent.

Section 2. Amends s. 239.115, F.S., to suspend the workforce development education funding formula provisions for adult general education programs and to suspend the fee requirements for all workforce development education programs for 1999-2000.

Section 3. Amends s. 239.117, F.S., to suspend the implementation fee requirements for workforce development education programs for 1999-2000.

Section 4. Amends s. 239.301, F.S., to suspend the workforce development education funding formula provisions for adult general education programs for 1999-2000.

Section 5. Amends s. 240.3341, F.S., to allow community colleges to have leased (rather than owned) incubator facilities.

Section 6. Amends s. 409.9115, F.S., to continue the current mental health institution disproportionate share. This continues s. 2 of the 1998-99 implementing act.

Section 7. Requires the AHCA to continue the current disproportionate share formula infiscal year 1998-1999 for qualifying rural hospitals. This continues s. 3 of the 1998-99 implementing act.

Section 8. Amends s. 409.9116, F.S., to continue the current formula for rural hospital disproportionate share payments. This continues s. 4 of the 1998-99 implementing act.

Section 9. Amends s. 216.181, F.S., to authorize the Departments of Health and of Children and Family Services to advance money to contract providers. This continues s. 5 of the 1998-99 implementing act.

Section 10. Directs the Agency for Health Care Administration to include health maintenance organization recipients in the county billing process for inpatient hospital stays. This continues s. 6 of the 1998-99 implementing act.

Section 11. Authorizes the Departments of Children & Families, Revenue, Labor & Employment Security, and Health, and the Agency for Health Care Administration to transfer positions and funds in order to comply with WAGES and other provisions of the GAA. This continues s. 7 of the 1998-99 implementing act.

Section 12. Amends s. 216.181, F.S., to authorize Department of Children & Families to use operating funds for Developmental Services Institutions FCO necessary to license beds as ICF/DD. This continues s. 8 of the 1998-99 implementing act.

Section 13. Requires AHCA to ensure that Medicaid transportation expenditures do not exceed appropriations. If impossible must notify Legislature with recommendations. This continues s. 9 of the 1998-99 implementing act.

Section 14. Amends s. 409.912, F.S. to require AHCA to develop prescription practice pattern guidelines, sanction abusers, educate patients and providers, and detect fraud.

Section 15. Amends s. 402.3015, F.S., to expand priority for subsidized child care to children under 200% of poverty who are enrolled in the Child Care Executive Partnership Program.

Section 16. Amends s. 216.181 to allow the Department of Law Enforcement to transfer positions and associated rate between budget entities without prior approval.

The department is required to notify EOG and the Legislature. This continues s. 14 of the 1998-99 implementing act.

Section 17. Authorizes the Correctional Privatization Commission and the Department of Juvenile Justice to make expenditures to defray costs incurred by a municipality or county for privatized facilities. This continues s. 17 of the 1998-99 implementing act.

Section 18. Amends 403.7095, F.S., to provide solid waste and recycling grants. This continues section 22 of the 1998-99 implementing act.

Section 19. Allows the Administration Commission to approve exemptions from specified personnel, payroll, and benefit rules and laws in order to implement the Florida Financial Management and Information System pilot. This continues section 23 of the 1998-99 implementing act.

Section 20. Amends s. 110.1239, F.S., to require the Division of State Group Insurance to determine the level of premiums necessary to fully fund the program for 99-2000, require the Governor to include such rates in his recommended budget, and specifying that increased appropriations are state contribution, i.e., an increase in state premiums. This continues section 25 of the 1998-99 implementing act.

Section 21. Amends s. 259.032, F.S., to authorize the appropriation of funds from the Conservation and Recreation Lands Trust Fund for outdoor-recreation grants. This continues section 26 of the 1998-99 implementing act.

Section 22. Amends s. 373.59, F.S., to allow the Department of Environmental Protection to release funds to water management district for SWIM purposes. Limits such releases until after debt service obligations and payments in lieu of taxes are met. This continues section 27 of the 1998-99 implementing act.

Section 23. Amends s. 86 of Chapter 93-213, Laws of Florida, to repeal the requirement for repayment of a loan from the Pollution Recovery Trust Fund by the Department of Environmental Protection. This continues section 28 of the 1998-99 implementing act.

Section 24. Amends s. 287.161, F.S., to increase charges for the executive aircraft pool. Specifies the intent that the pool be operated on a full cost recovery basis, less available funds. This continues section 29 of the 1998-99 implementing act.

Section 25. Provides Parimutuel Laboratory employees in Tallahassee the job protections they would have had if they had not been transferred from the Department of Business and Professional Regulation to the University of Florida in FY 1997-98.

Section 26. Amends s. 216.181, F.S., to allow transfer of salary rate to implement transfer of personnel to the new turnpike headquarters in Orange County. Requires report to the Executive Office of the Governor and the Legislature.

Section 27. Amends s. 253.034, F.S., to allow property owned by the Department of Transportation, and used by Highway Safety & Motor Vehicles, to be sold with the proceeds to be deposited in the State Transportation Trust Fund. This continues section 32 of the 1998-99 implementing act.

Section 28. Amends 334.0445, F.S., to extend the Department of Transportation pilot on model career service classification and compensation system. Section 3 of Chapter 97-280, Laws of Florida, extends this pilot project to 7/1/99.

Section 29. Amends s. 15.09, F.S., to authorize the use of funds in the Public Access Data Systems Trust Fund for Department of State Operations. This continues section 30 of the 1998-99 implementing act.

Section 30. Department of Highway Safety and Motor Vehicles may only contract for emissions testing after 5/31/2000. This continues section 34 of the 1998-99 implementing act.

Section 31. Requires the Department of Community Affairs to transfer \$1 million from the Emergency Management, Preparedness, and Assistance Trust Fund to the Department of Management Services for purchase of 800 MHZ radios for use by state and local entities during emergencies.

Section 32. Establishes Performance Based Program Budget measures for the State University System.

Section 33. Establishes Performance Based Program Budgeting measures and standards for individual programs in specific agencies for the 1999-2000 fiscal year. Measures and standards are established by program in the following agencies:

A. Department of Children and Families

1. Aging and Adult Services Program
2. People with Mental Health and Substance Abuse Problems Program
3. People with Developmental Disabilities-Community Program
4. Developmental Services-Institutions Program
5. Economic Self-Sufficiency Program
6. People in Need of Family Safety and Preservation Services Program
7. Mental Health-Institutions Program
8. Florida Abuse Hotline Program

B. Agency for Health Care Administration

1. Medicaid Health Services Program
2. Health Services Quality Assurance Program

C. Department of Elder Affairs

1. Services to Elders Program

Section 34. Establishes Performance Based Program Budget measures and standards for individual programs in specific agencies for the 1999-2000 fiscal year (Department of Legal Affairs to be added by amendment). Measures and standards are established by program in the following agencies:

A. Department of Juvenile Justice

1. Juvenile Detention Program
2. Juvenile Offender Program

B. Department of Corrections

1. Health Services Program
2. Community Corrections Program
3. Offender Work and Training Program

C. Department of Law Enforcement

1. Criminal Justice Investigations and Forensic Science Program
2. Criminal Justice Information Program
3. Criminal Justice Professionalism Program

Section 35. Establishes the Performance Based Program Budget measures and standards for individual programs in specific agencies for the 1999-2000 fiscal year. Measures and standards are established by program in the following agencies:

A. Department of Agriculture and Consumer Services

1. Agricultural Economic Development Program
2. Food Safety and Quality Program
3. Forest and Resource Protection Program
4. Consumer Protection Program

B. The Department of Banking and Finance

1. Financial Accountability for Public Funds Program
2. Consumer Financial Protection and Industry Authorization Program
3. Financial Institutions Regulatory Program
4. Unclaimed Property Program

C. The Department of Environmental Protection

1. Recreation and Parks Program
2. State Lands Program
3. Law Enforcement Program
4. Marine Resources Program

D. The Department of Lottery

1. Sale of Lottery Products Program

E. The Department of Management Services

1. Facilities Program
2. Support Program
3. Workforce Program
4. Information Technology Program

F. The Division of Retirement

1. Retirement Benefits Program

G. The Division of State Group Insurance

1. State Group Insurance Program

H. The Department of Insurance

1. Fire Marshall Program
2. State Property and Casualty Claims Program

I. The Department of Revenue

1. General Tax Administration Program
2. Property Tax Administration Program
3. Child Support Enforcement Program

J. The Game and Fresh Water Fish Commission

1. Law Enforcement Program
2. Fisheries Management Program
3. Wildlife Management Program

Section 36. Establishes the Performance Based Program Budget measures and standards for individual programs in specific agencies for the 1999-2000 fiscal year. Measures and standards are established by program in the following agencies:

A. The Department of Labor and Employment Security

1. Disability Determination Program
2. Rehabilitation Program
3. Safety/Workers' Compensation Program
4. Employment Security Program
5. Public Employees Relations Commission
6. Workers' Compensation Hearings Program
7. Unemployment Appeals Commission
8. Information Management Center

B. The Department of Military Affairs

1. Readiness and Response Program

C. The Department of State

1. Libraries, Archives and Information Services Program
2. Commercial Recording and Registration Program
3. Licensing Program
4. Historical, Archaeological and Folklife Appreciation Program
5. Cultural Grants Program

D. The Department of Transportation

1. Highway Construction/Engineering Program
2. Right-of-way Acquisition Program
3. Public Transportation Program
4. Transportation System Maintenance Program
5. Motor Carrier Compliance Program

6. Toll Operation Program

E. Executive Office of the Governor

1. Economic Improvement Program

F. Department of Highway Safety and Motor Vehicles

1. Highway Patrol Program

2. Driver Licenses Program

3. Motor Vehicles Program

Section 37. Provides that a section in this bill is void if all the items in the budget to which it is tied are vetoed.

Section 38. 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 39. Provides for severability.

Section 40. Provides an effective date.

III. FISCAL ANALYSIS & 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 provisions in funding, decisions 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 charges 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

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PAGE 12

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:

None.

VII. SIGNATURES:

COMMITTEE ON GENERAL APPROPRIATIONS:

Prepared by:

Staff Director:

Sarah Spector

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