

- Requires budget amendments associated with Department of Transportation Work Program changes to comply with ch. 216 provisions and limits inclusion of fall Revenue Estimating Conference positive impacts in the work program until addressed by Legislature.
- Merges and clarifies provisions regarding agency budget transfer authority, and increases the current limit from \$150,000 to \$250,000.
- Eliminates the Child Welfare System and Juvenile Justice Estimating Conferences.
- Provides for alternative due dates for Legislative Budget Requests and Long Range Program Plans with House and Senate approval.
- Eliminates separate deficit reduction language that requires prorated reductions for the Chiles Endowment/Tobacco Settlement Trust Fund.
- Clarifies that the Working Capital Fund is the unappropriated balance of the General Revenue Fund, rather than a separate fund.
- Authorizes the Governor and Chief Justice to address General Revenue deficits under 1.5% and allows the House of Representatives and Senate to certify a deficit if the Governor does not certify the deficit.
- Expands current requirements for fiscal impact statements to apply to all agencies and statutorily-created entities, and requires statements prior to final action that will affect revenues or appropriations.
- Requires specific approval by chairs of the House and Senate appropriations committees for non-operating appropriations.
- Removes unnecessary requirements for community budget requests.
- Updates obsolete references in the Innovation Investment program and clarifies that such process cannot circumvent the normal Legislative Budget Request and legislative appropriation process.
- Expands notice requirements for lawsuit settlements.
- Describes standard trust funds to be consistent across agencies.
- Eliminates obsolete zero based budgeting and performance-based program budgeting requirements.
- Modifies the certifications forward process, effective July 1, 2005, to provide automatic approval of items expended but not disbursed, and require a September 30 reversion date.

- Transfers the Florida Single Audit Act functions from the Executive Office of the Governor to the Chief Financial Officer (CFO).

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes: 14.2015, 45.062, 110.1245, 215.32, 215.5601, 215.93, 215.94, 215.97, 216.011, 216.013, 216.023, 216.031, 216.052, 216.053, 216.065, 216.081, 216.136, 216.162, 216.167, 216.168, 216.177, 216.181, 216.1825, 216.183, 216.192, 216.195, 216.221, 216.231, 216.235, 216.241, 216.251, 216.262, 216.292, 216.301, 216.341, 218.60, 252.37, 255.25001, 255.2501, 265.55, 288.1234, 320.20, 339.135, 381.0303, 393.22, 409.906, 409.912, 468.392, 475.484, 921.001, and 1009.536.

II. Present Situation:

Chapter 216, Florida Statutes, the planning and budgeting law, provides guidelines to the Governor, the judicial branch and state agencies for developing and submitting legislative budget requests and administering legislative appropriations. Over the years, the statute has been modified to incorporate most of the functions related to the state budgetary process; from consensus estimating conferences to the single audit act. The result is an aggregation of topics that periodically require updating in order to keep abreast of the current budgetary practices of the state.

Consensus Estimating Conferences

Section 216.136, F.S., creates eleven consensus estimating conferences. These conferences develop official estimates of revenues, workload, expenditures, and other information related to budgeting. Executive agencies are required to use the conferences' official information for budgeting purposes. Generally, the principals of the conferences include staff of the Executive Office of the Governor and the Legislature. At times, agency staff may serve as principals of the conference, but typically such staff are participants – providing information to the conferences.

The conferences authorized in statute include the Economic Estimating Conference, the Demographic Estimating Conference, the Revenue Estimating Conference, the Education Estimating Conference, the Criminal Justice Estimating Conference, the Social Services Estimating Conference, the Child Welfare System Estimating Conference, the Juvenile Justice Estimating Conference, the Workforce Estimating Conference, the School Readiness Program Estimating Conference, the Self-Insurance Estimating Conference and the Florida Retirement System Actuarial Assumption Conference.

The Child Welfare System Estimating Conference is charged with developing official information relating to the forecasts of child welfare caseloads. The Juvenile Justice Estimating Conference is charged with developing official information relating to estimates of juvenile delinquency caseloads and workloads; secure, nonsecure, and home juvenile detention placements; and mental health and substance abuse treatment for juveniles.

Funds

Section 215.32, F.S., requires all moneys received by the state to be deposited into the State Treasury, unless specifically provided otherwise. The State Treasury is comprised of the four types of funds. These include the General Revenue Fund, the Budget Stabilization Fund, the various trust funds, and the Working Capital Fund.

In the Strategic Business Issue Paper #3 “Trust Funds”, the Project Aspire task force recommends a statutory classification scheme for trust funds. The classifications and uses of the trust funds would be consistent statewide for each agency. The task force also recommended a phased-in approach to allow each agency to realign its operations with the new classifications.

Salary Rate

Current law defines “salary rate” as the monetary compensation authorized to be paid a position on an annualized basis. In short, rate represents pure salary only and does not include moneys authorized for benefits associated with the position.

EXAMPLE:

Annual salary = \$20,000 Salaries and Benefits budget = \$25,000
 Salary rate = 20,000

Salary rate is the mechanism used in Florida to control overall salary expenditures and avoid unanticipated costs to annualize agency personnel actions, especially those actions occurring late in the fiscal year. Absent a control on salary rate, agencies would be limited only to the total level of salaries and benefits budget for purposes of implementing personnel decisions. This would allow agencies to implement position upgrades or pay raises late in the fiscal year, when the budget impact is small enough to be absorbed within the total budget for the year. However, the annual impact of those decisions would not be covered in the next year’s budget, thus creating an immediate salary deficit.

Salary rate is currently controlled at the department level, with the rate level maintained in a rate ledger by the Executive Office of the Governor. Certain adjustments may be authorized by the Executive Office of the Governor, such as increases for vacant positions. Additional adjustments must be approved by the Legislative Budget Commission. Over the years, the various adjustments to agencies’ approved salary rate have resulted in many agencies having much more salary rate than they have salaries and benefits budget to support.

See Section III., “Effect of Proposed Changes” for a description of the current situation for remaining issues addressed by the Proposed Committee Substitute.

III. Effect of Proposed Changes:

Section 1 amends s. 14.2015, F.S., to allow the Office of Tourism, Trade and Economic Development and the Commission on Tourism to “advise and consult” (rather than reach agreement) with the consensus estimating conference before changes to the methodology used or the information gathered relating to visitor counts and profiles.

Section 2 amends s. 45.062, F.S., to limit the ability of agencies to settle lawsuits that require the expenditure of state funds or result in the refund or future loss of state revenues exceeding \$10 million, unless:

- Notice is given to the Legislature when settlement negotiations are begun.
- Notice is given to the Legislature at least 5 days before settlement. This is a condition precedent to settlement.
- Notice is given to the Legislature and the Attorney General at least 5 days before finalizing any proposed settlement obligation that requires the other party to commit funds to a particular purpose. This is a condition precedent to settlement.

Notice requirements are waived for:

- The Division of Risk Management for settlements under \$10,000.
- Any settlement if the only obligation is less than \$10,000 of court costs.

Requires moneys received by the state as the result of settlements to be deposited in the General Revenue Fund or the appropriate trust fund. Exempts moneys received for payment to injured third parties.

Section 3 amends s. 110.1245, F.S., to correct a reference to the Legislative Budget Commission.

Section 4 amends s. 215.32, F.S., to define the types of trust funds that should be used for day-to-day operations. Each executive branch agency is directed to adjust its internal accounting to accommodate these types of trust funds. If an agency does not have the necessary trust funds and cannot make such internal adjustments, the agency must recommend the creation of the appropriate trust funds to the Legislature during the agency's next scheduled trust fund review.

This section also eliminates the Working Capital Fund as a statutory term but maintains the concept by substituting unallocated general revenue funds. The default repayment schedule for monies transferred from the Budget Stabilization Fund is delayed until the beginning of the third fiscal year following the year in which the transfer was made.

Section 5 amends s. 215.5601, F.S., to allow unexpended moneys that were appropriated for biomedical research to be retained in the Biomedical Research Trust Fund rather than reverting to, and being separately accounted in, the Lawton Chiles Endowment Fund. Allows the Department of Health to invest such moneys through the State Board of Administration outside the Treasury. Deletes the requirement that in the event of a tobacco settlement revenue shortfall, reductions must be prorated among all tobacco settlement appropriations. Deletes the requirement for a special appropriations category for tobacco settlement appropriations for certain agencies.

Section 6 amends s. 215.93, F.S., to remove the exemption from Financial Management Information Board approval of data codes specified by the Auditor General.

Section 7 amends s. 215.94, F.S., to clarify the role of the Auditor General relating to implementation of the Florida Financial Management Information System.

Section 8 amends s. 215.97, F.S., to clarify provisions and responsibilities associated with the Florida Single Audit Act. This section revises and provides the definitions of terms used in the Act, revises the Governor's responsibilities associated with the Act from a primary role to a supporting role in the Act, transfers the responsibilities to the Department of Financial Services, and provides responsibilities for state agencies that award grants.

Section 9 amends s. 216.011, F.S., to define various terms. "Annual salary rate" will no longer specify that vacant positions must be calculated at the minimum of the pay grade. "Appropriation" is expanded to cover appropriations made by law, not just those included in the annual General Appropriations Act.

The terms "performance-based program appropriation" and "performance-based program budget" are repealed.

"Mandatory reserve" is defined as the reduction of an appropriation by the Governor or Legislative Budget Commission due to anticipated deficits, pursuant to s. 216.211, F.S. No action may be taken to restore a mandatory reserve either directly or indirectly.

"Budget reserve" is defined as the withholding of an appropriation based on conditions set by the Legislature or based on conditions unforeseen when the General Appropriations Act was passed.

"Program" is expanded to cover services, as well as activities.

"Activity" is added and defined as a unit of work that has identifiable starting and ending points, consumes resources, and produces outputs.

"Statutorily-authorized entity" is added to define any body that has responsibility for or recommends expenditure of state funds, and is created or authorized in law or assists a state agency to provide statewide services.

Section 10 amends s. 216.013, F.S., to allow an alternate date to the current August 1 deadline to be set for submission of long-range program plans, and to extend the deadline from June 15 to June 30 for adjustments to such plans, if approved by the Governor and the chairs of the legislative appropriations committees. The concept of agency "functions" is replaced with agency "services" or "activities."

Section 11 amends s. 216.023, F.S., to modify the legislative budget request process. Alternative dates for the September 15 submission of budget requests and for the June 15 distribution of budget instructions may be set by the Governor and the chairs of the legislative appropriations committees. The information required in budget requests is expanded to include supporting information, including applicable cost-benefit analyses, business case analyses, performance contracting procedures, service comparisons, and impacts to performance standards for any requests by the agency to outsource or privatize current agency functions, and any evaluations of functions currently outsourced and privatized by the agency. Obsolete provisions relating to performance-based budget requests from the state court system are deleted. Agency reports on major litigation are expanded to include cases that may affect revenues received by

the state, in addition to cases that may require additional appropriations or statutory changes. Other technical corrections are made.

Section 12 amends s. 216.031, F.S., to eliminate the deadline for submission of target budgets and to repeal an alternative format for target budgets.

Section 13 repeals portions of s. 216.052, F.S., to delete certain requirements for community budget requests, including required local participation, an additional hearing, the preference for loans rather than grants, and reports by private or nonprofit organizations.

Section 14 repeals subsection (5) of s. 216.053, F.S., to delete the requirement that the General Appropriations Act contain summary information on performance-based budget programs.

Section 15 amends s. 216.065, F.S., to expand the circumstances under which the Governor or Cabinet must submit fiscal impact statements to the appropriations committees on final actions that affect state revenues or spending. The requirements are also applied to all state agencies and statutorily authorized entities.

Section 16 amends s. 216.081, F.S., to require the Governor's recommended budget for the Legislature to match current appropriations if the Legislature does not provide a future-year estimate of its financial needs.

Section 17 repeals subsections (7) and (8) of s. 216.136, F.S., to delete reference to the Child Welfare System Estimating Conference and the Juvenile Justice Estimating Conference.

Section 18 amends s. 216.162, F.S., to allow the Governor an additional 5 days to submit the Governor's recommended budget to the Legislature.

Section 19 amends s. 216.167, F.S., to remove references to the Working Capital Fund relating to the Governor's recommended budget.

Section 20 amends s. 216.168, F.S., to repeal the exemption that the Governor, at his discretion, need not provide amendments to his budget recommendations after March 1.

Section 21 amends s. 216.177, F.S., to allow the chairs of the legislative appropriations committees to respond to requests for legislative intent, to receive notice of certain budget amendments, and to advise the Governor or Chief Justice that an action, including expenditure of lawsuit settlement proceeds, exceeds their delegated authority.

Section 22 amends s. 216.181, F.S., to modify several provisions related to approved budgets for operations and fixed capital outlay. Requires Legislative Budget Commission approval of judicial branch amendments consistent with the existing requirements for the executive branch.

Provides for a more direct legislative role in the establishment of salary rate, consistent with the role of establishing the overall salaries and benefits budget amounts. Rate control would be re-established at the budget entity level, with the rate level determined annually in the General Appropriations Act. Adjustments to these figures would be made for reorganizations authorized

by law, any other appropriations made by law, and, subject to s. 216.177, for distribution of lump sum appropriations and administered funds appropriations. Any other adjustments would require approval by the Legislative Budget Commission.

Requires the approval of the chairs of the legislative appropriations committees to establish nonoperating budgets. Repeals authority to advance certain contracted services funds in the Department of Health and the Department of Children and Family Services based on approval that existed in 1993-1994.

Section 23 repeals ss. 216.1825 and 216.183, F.S., which required the zero-based budget review of each state agency every 8 years and which set requirements for the charts of accounts for agencies with performance-based budgets.

Section 24 amends s. 216.192, F.S., to repeal obsolete provisions allowing the appropriations committees to advise the Administration Commission, Chief Financial Officer, Governor, or Chief Justice on the release of appropriations. The Governor and Chief Justice will be permitted to place appropriations in mandatory reserve or budget reserve in order to prevent deficits or implement directives in the General Appropriations Act.

Section 25 amends s. 216.195, F.S., to repeal the requirement for notice to the Legislature by the executive or judicial branches if appropriations are impounded to prevent a deficit.

Section 26 amends s. 216.221, F.S., to provide for the General Appropriations Act to include directions regarding the use of any fund, not just the Budget Stabilization Fund and Working Capital Fund, to address deficits in the General Revenue Fund. Requires that all agencies, not just those with general revenue funding, participate in reductions in the event of a projected general revenue deficit. Expands the legislature's ability to provide direction on resolving general revenue deficits beyond the General Appropriations Act. Allows the President of the Senate and Speaker of the House of Representatives, after consulting with the Revenue Estimating Conference, to certify a general revenue deficit, if the Governor does not certify the deficit. Requires the Governor and Chief Justice to develop a plan to reduce the deficit within 30 days. Revises the statutory guidelines for reductions. Allows the Governor and Chief Justice, rather than the Administration Commission, to resolve those projected general revenue deficits that are less than 1.5% of general revenue appropriations. Requires the Chief Financial Officer to notify the President and Speaker in addition to the Governor if he believes a general revenue deficit will occur. Requires that actions to resolve projected trust fund deficits greater than \$1 million must be approved by the Legislative Budget Commission. Removes the requirement for prorated reductions to address trust fund deficits.

Section 27 amends s. 216.231, F.S., to require the Governor, rather than the Administration Commission, to determine when deficiency funds appropriated by the legislature should be released for use.

Section 28 amends s. 216.235, F.S., to eliminate obsolete references to the Information Resource Commission. Requires agencies developing information technology proposals to consult with the State Technology Office, rather than the Information Resource Commission. Prohibits use of funds appropriated to the Innovation Investment Program for proposals requested by agencies in

a legislative budget request, or recommended in the Governor 's budget recommendation, but not funded by the Legislature.

Section 29 amends s. 216.241, F.S., to require the Legislative Budget Commission to approve new programs or programs that require additional appropriations for the judicial branch, consistent with current executive branch requirements. The Legislature or the Legislative Budget Commission must specifically approve state agency and judicial branch proposals to shift responsibilities from an agency to the private sector or to another agency's staff, including outsourcing, public-private partnerships, or shared-savings initiatives. The agency must submit detailed justification for the shift of responsibilities, and any budget amendments necessary to implement the shift must be approved prior to the execution of the contract or related agreement.

Section 30 amends s. 216.251, F.S., to repeal the authority of the executive and judicial branches to set the salary of certain positions.

Section 31 amends s. 216.262, F.S., to allow the Governor and Chief Justice to recommend, rather than to authorize, an increase in the number of authorized positions. The Legislative Budget Commission has the authority to approve the Governor's recommendation. The provisions allowing state agencies to retain salary dollars of positions eliminated after July 1, 2001, are repealed.

Section 32 amends s. 216.292, F.S., to restructure the section for clarity. Increases from \$150,000 to \$250,000 the authority of agencies and the Supreme Court to transfer certain appropriations without notice to the Legislature, approval by the Executive Office of the Governor, or approval by the Legislative Budget Commission. Incorporates transfer provisions from other statutes, specifically:

- The restriction in s. 393.22, F.S., on transfer of funds appropriated for developmental services programs unless the Secretary of the Department of Children and Families determines no adverse effect will occur.
- The authority in s. 409.906, F.S., for the Department of Children and Families to transfer funds to the Agency for Health Care Administration to fund state match requirements for targeted case management services.
- The requirement to transfer unexpended funds for Assisted Living for the Elderly Medicaid waiver from the Department of Elder Affairs to the Agency for Health Care Administration to fund Medicaid reimbursed nursing home care.

Section 33 amends s. 216.301, F.S., to clarify and eliminate duplicate processes related to the certification of fixed capital outlay appropriations. Provides for the President of the Senate and the Speaker of the House of Representatives to notify the Executive Office of the Governor to retain certified-forward balances from legislative budget entities until June 30 of the following fiscal year.

Section 34 amends s. 216.301, F.S., effective July 1, 2005, to modify the certification forward process for operating appropriations. Balances of appropriations expended, but not disbursed, would be certified by the agency head without further review by the Executive Office of the Governor, and would revert September 30. The previous provisions for certification of balances

contracted to be expended, and the December 31 reversion date for certified forward balances are repealed, consistent with Project Aspire task force recommendations.

Section 35 amends s. 216.341, F.S., to clarify that the requirements regarding the increase in authorized positions do not apply to positions within the Department of Health funded from county health department trust funds or the United States Trust Fund.

Section 36 repeals subsection (3) of s. 218.60, F.S., to delete an out-dated provision related to first-year participation by local governments in half-cent sales tax proceeds.

Section 37 amends s. 252.37, F.S., to delete reference to the Working Capital Fund.

Sections 38 and 39 amend ss. 255.25001 and 255.2501, F.S., to conform state leasing provisions to be consistent with chapter 287, F.S., regarding the competitive solicitation process. Clarifies that a request for proposal and an invitation to negotiate may be used, and clarifies that these provisions apply only to executive branch agencies.

Section 40 amends s. 265.55, F.S., to delete reference to the Working Capital Fund.

Section 41 repeals s. 288.1234, F.S., to repeal the Olympic Games Guaranty Account within the Economic Development Trust Fund. The account was designed to be used to fulfill the state's obligations under a games-support contract to indemnify and insure against any net financial deficit resulting from the conduct of the 2002 games.

Section 42 amends s. 320.20, F.S., to require the Chief Financial Officer, rather than the Revenue Estimating Conference, to determine when revenues derived from the registration of motor vehicles are sufficient to repay trust funds from which moneys were drawn for deposit into the State Transportation Trust Fund.

Section 43 amends s. 339.135, F.S., to prevent the Department of Transportation from amending the tentative work program to include new anticipated revenues until such revenues have been appropriated by the Legislature. In addition, spending authority may be rolled forward from one fiscal year to the next fiscal year only with the approval of the Legislative Budget Commission, and current exemptions for budget amendments associated with work program amendments from the standard budget amendment process are eliminated.

Section 44 amends s. 381.0303, F.S., to allow the compensation of health care practitioners from the General Revenue Fund, rather than from the Working Capital Fund, when such practitioners are used by the Department of Health to staff special needs shelters in times of emergency or disaster.

Section 45 repeals subsection (1) of s. 393.22, F.S., which was incorporated in the new s. 216.292, F.S. provisions.

Section 46 repeals subsection (5) of s. 409.906, F.S., which was incorporated in the new s. 216.292, F.S. provisions.

Section 47 repeals paragraph (b) of subsection (11) of s. 409.912, F.S., which was incorporated in the new s. 216.292, F.S. provisions.

Section 48 amends subsection (2) of s. 468.392, F.S., to eliminate the provision specifying that amounts transferred to the Auctioneer Recovery Fund within the Professional Regulation Trust Fund shall not be subject to any limitation imposed by an appropriation act of the Legislature.

Section 49 amends subsection (2) of s. 475.484, F.S., to eliminate the provision specifying that amounts transferred to the Real Estate Recovery Fund shall not be subject to any limitation imposed by an appropriation act of the Legislature.

Section 50 amends s. 921.001, F.S., to require the Legislature, rather than the Criminal Justice Estimating Conference, to determine that certain legislation creating or enhancing felony criminal penalties will result in no prison impact, unless such legislation contains a funding source.

Section 51 amends s. 1009.536, F.S., to delete a reference to the Workforce Estimating Conference.

Section 52 provides effective dates.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

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.
