

By Senator Lee

10-1484A-04

1 A bill to be entitled
2 An act relating to state planning and
3 budgeting; amending s. 11.90, F.S.; revising
4 the membership of the Legislative Budget
5 Commission; providing for the appointment of
6 presiding officers; revising requirements for
7 meetings and a quorum; revising requirements
8 for appointing the staff of the commission;
9 requiring the commission to review budget
10 amendments proposed by the Governor or Chief
11 Justice; authorizing the commission to perform
12 other duties prescribed by the Legislature;
13 amending s. 29.0095, F.S.; requiring the
14 legislative appropriations committees to
15 prescribe the format of budget expenditure
16 reports; amending s. 110.1245, F.S., relating
17 to the savings sharing program; correcting a
18 reference; amending s. 216.011, F.S.;
19 redefining the term "consultation" and defining
20 the term "long-range fiscal plan" for purposes
21 of state fiscal affairs; creating s. 216.012,
22 F.S.; providing requirements for the long-range
23 fiscal plan prepared by the commission;
24 requiring state agencies to provide certain
25 information; specifying timeframes for state
26 agencies and the commission in developing and
27 completing the long-range fiscal plan; amending
28 s. 216.023, F.S.; clarifying certain
29 requirements for legislative budget
30 instructions; amending s. 216.231, F.S.;
31 requiring that a determination be made by the

1 Governor rather than the commission before the
2 release of certain appropriations; amending s.
3 216.262, F.S., relating to the transfer of
4 positions; correcting a reference; amending s.
5 320.20, F.S.; revising requirements for the
6 transfer of certain funds; amending s.
7 409.1671, F.S.; deleting obsolete provisions
8 governing proposals to the Legislative Budget
9 Commission; repealing s. 409.912(5), F.S.,
10 relating to a plan for implementing new
11 Medicaid procedure codes; amending s. 631.141,
12 F.S.; clarifying provisions requiring the
13 commission to approve certain appropriations;
14 amending s. 943.61, F.S., relating to
15 appropriations to the Capitol Police; deleting
16 provisions requiring approval by the Governor
17 and the commission; amending s. 1013.512, F.S.;
18 requiring a recommendation by the Governor
19 before placing certain school district funds in
20 reserve; providing a contingent effective date.

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22 Be It Enacted by the Legislature of the State of Florida:

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24 Section 1. Section 11.90, Florida Statutes, is amended
25 to read:

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11.90 Legislative Budget Commission.--

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(1) There is created the joint Legislative Budget

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Commission composed of the following members: five members of

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the Senate appointed by the President of the Senate, one of

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whom must be the President Pro Tempore of the Senate and one

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of whom must be the chairperson of the appropriations

1 committee of the Senate; and five members of the House of
2 Representatives appointed by the Speaker of the House of
3 Representatives, one of whom must be the Speaker Pro Tempore
4 of the House of Representatives and one of whom must be the
5 chairperson of the appropriations committee of the House of
6 Representatives. Each member shall serve at the pleasure of
7 the officer who appointed the member. A vacancy on the
8 commission shall be filled in the same manner as the original
9 appointment. From November of each odd-numbered year through
10 October of each even-numbered year, the chairperson of the
11 commission shall be the President Pro Tempore of the Senate
12 and the vice chairperson of the commission shall be the
13 Speaker Pro Tempore of the House of Representatives. From
14 November of each even-numbered year through October of each
15 odd-numbered year, the chairperson of the commission shall be
16 the Speaker Pro Tempore of the House of Representatives and
17 the vice chairperson of the commission shall be the President
18 Pro Tempore of the Senate.~~There is created a standing joint~~
19 ~~committee of the Legislature designated the Legislative Budget~~
20 ~~Commission, composed of 14 members as follows: seven members~~
21 ~~of the Senate appointed by the President of the Senate, to~~
22 ~~include the chair of the Senate Budget Committee or its~~
23 ~~successor, and seven members of the House of Representatives~~
24 ~~appointed by the Speaker of the House of Representatives, to~~
25 ~~include the chair of the Fiscal Responsibility Council or its~~
26 ~~successor. The terms of members shall be for 2 years and shall~~
27 ~~run from the organization of one Legislature to the~~
28 ~~organization of the next Legislature. Vacancies occurring~~
29 ~~during the interim period shall be filled in the same manner~~
30 ~~as the original appointment. During even-numbered years, the~~
31 ~~chair of the commission shall be the chair of the Senate~~

1 ~~Budget Committee or its successor, and the vice chair of the~~
2 ~~commission shall be the chair of the House Fiscal~~
3 ~~Responsibility Council or its successor. During odd-numbered~~
4 ~~years, the chair of the commission shall be the chair of the~~
5 ~~House Fiscal Responsibility Council or its successor, and the~~
6 ~~vice chair of the commission shall be the chair of the Senate~~
7 ~~Budget Committee or its successor.~~

8 (2) The Legislative Budget Commission shall be
9 governed by joint rules of the Senate and the House of
10 Representatives which shall remain in effect until repealed or
11 amended by concurrent resolution.

12 (3) The commission shall convene at the call of the
13 President of the Senate and the Speaker of the House of
14 Representatives at least quarterly. A majority of the
15 commission members of each house constitutes a quorum. ~~The~~
16 ~~commission shall meet at least quarterly. A quorum shall~~
17 ~~consist of a majority of members from each house, plus one~~
18 ~~additional member from either house.~~ Action by the commission
19 requires a majority vote of the members present of each house.

20 (4) The commission may conduct its meetings through
21 teleconferences or other similar means.

22 (5) The commission shall be staffed by legislative
23 staff members, as assigned by the President of the Senate and
24 the Speaker of the House of Representatives. ~~The commission~~
25 ~~will be jointly staffed by the appropriations committees of~~
26 ~~the House of Representatives and the Senate. During~~
27 ~~even-numbered years, the Senate will serve as lead staff, and~~
28 ~~during odd-numbered years, the House of Representatives will~~
29 ~~serve as lead staff.~~

30 (6) The commission shall have the power and duty to:
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1 (a) Review and approve or disapprove budget amendments
2 proposed by the Governor or the Chief Justice of the Supreme
3 Court as provided in chapter 216.~~Annually review the amount~~
4 ~~of state debt outstanding and submit to the President of the~~
5 ~~Senate and the Speaker of the House of Representatives an~~
6 ~~estimate of the maximum amount of additional state~~
7 ~~tax-supported debt that prudently may be authorized during the~~
8 ~~current fiscal year. The estimate shall be advisory and shall~~
9 ~~in no way bind the Legislature.~~

10 (b) ~~Promptly~~ After receiving the report required by s.
11 215.98(2)(c), ~~the commission shall~~ submit to the President of
12 the Senate and the Speaker of the House of Representatives the
13 commission's estimate of tax-supported debt which prudently
14 may be authorized for the next fiscal year, together with a
15 report explaining the basis for the estimate. The estimate
16 shall be advisory and is not binding on the Legislature.

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18 In addition to the powers and duties specified in this
19 section, the commission shall exercise all other powers and
20 perform any other duties prescribed by the Legislature.

21 (7) The commission shall review information resources
22 management needs identified in agency long-range program plans
23 for consistency with the State Annual Report on Enterprise
24 Resource Planning and Management and statewide policies
25 adopted by the State Technology Office. The commission shall
26 also review proposed budget amendments associated with
27 information technology that involve more than one agency, that
28 have an outcome that impacts another agency, or that exceed
29 \$500,000 in total cost over a 1-year period.

30 Section 2. Subsection (4) of section 29.0095, Florida
31 Statutes, is amended to read:

1 29.0095 Budget expenditure reports.--

2 (4) The appropriations committees of the Senate and
3 the House of Representatives ~~Legislative Budget Commission~~
4 shall prescribe the format of the report required by this
5 section in consultation with the Chief Justice and the Justice
6 Administrative Commission.

7 Section 3. Paragraph (b) of subsection (1) of section
8 110.1245, Florida Statutes, is amended to read:

9 110.1245 Savings sharing program; bonus payments;
10 other awards.--

11 (1)

12 (b) Each agency head shall recommend employees
13 individually or by group to be awarded an amount of money,
14 which amount shall be directly related to the cost savings
15 realized. Each proposed award and amount of money must be
16 approved by the Legislative Budget ~~Budgeting~~ Commission.

17 Section 4. Paragraph (h) of subsection (1) of section
18 216.011, Florida Statutes, is amended, and paragraph (rr) is
19 added to that subsection, to read:

20 216.011 Definitions.--

21 (1) For the purpose of fiscal affairs of the state,
22 appropriations acts, legislative budgets, and approved
23 budgets, each of the following terms has the meaning
24 indicated:

25 (h) "Consultation" means communication on fiscal
26 matters between the Governor and the Legislature to deliberate
27 and seek advice in an open and forthright manner ~~with the full~~
28 ~~committee, a subcommittee thereof, the chair, or the staff as~~
29 ~~deemed appropriate by the chair of the respective~~
30 ~~appropriations committee.~~

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1 (rr) "Long-range fiscal plan" means a 5-year plan,
2 developed by the commission and updated annually using
3 official information, including, but not limited to,
4 projections developed by the consensus estimating conferences,
5 which projects state revenues and expenditures and provides
6 the framework and context for legislative budget requests
7 prepared by state agencies.

8 Section 5. Section 216.012, Florida Statutes, is
9 created to read:

10 216.012 Long-range fiscal plan.--

11 (1) The commission shall develop a long-range 5-year
12 fiscal plan and shall update that plan each year.

13 (2) Each state agency shall provide information to the
14 commission, based on the commission's direction, which
15 supports the commission's development and updates of the
16 long-range fiscal plan.

17 (a) By May 30 of each year, the commission shall
18 provide the goals and objectives of the long-range fiscal plan
19 to the state agencies.

20 (b) By June 30 of each year, state agencies shall
21 provide estimates of the funding that would be necessary to
22 meet the goals and objectives of the long-range fiscal plan.

23 (c) By July 15 of each year, the commission shall:

24 1. Accept the estimates provided by an agency;
25 2. Modify the estimates provided by an agency; or
26 3. Direct an agency to modify its estimates,
27 consistent with directions specified by the commission.

28 (d) By July 30 of each year, an agency directed to
29 modify its estimate shall provide new estimates to the
30 commission.

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1 (e) By August 15 of each year, the commission shall
2 complete the long-range fiscal plan.

3 Section 6. Subsection (13) of section 216.023, Florida
4 Statutes, is amended to read:

5 216.023 Legislative budget requests to be furnished to
6 Legislature by agencies.--

7 (13) In order to ensure an integrated state planning
8 and budgeting process, the agency long-range plan should be
9 reviewed by the Legislature. The legislative budget request
10 instructions must provide for consistency between the agency's
11 long-range plan and the agency's legislative budget request.

12 Section 7. Subsection (2) of section 216.231, Florida
13 Statutes, is amended to read:

14 216.231 Release of certain classified
15 appropriations.--

16 (2) The release of appropriated funds classified as
17 "deficiency" shall be approved only when a General Revenue
18 Fund appropriation for operations of a state agency or of the
19 judicial branch is inadequate because the workload or cost of
20 the operation exceeds that anticipated by the Legislature and
21 a determination has been made by the Governor ~~commission~~ that
22 the deficiency will result in an impairment of the activities
23 of an agency or of the judicial branch to the extent that the
24 agency is unable to carry out its program as provided by the
25 Legislature in the general appropriations acts. These funds
26 may not be used for creation of any new agency or program, for
27 increases of salary, or for the construction or equipping of
28 additional buildings.

29 Section 8. Paragraph (c) of subsection (1) of section
30 216.262, Florida Statutes, is amended to read:

31 216.262 Authorized positions.--

1 (1)

2 (c)1. The Executive Office of the Governor, under such

3 procedures and qualifications as it deems appropriate, shall,

4 upon agency request, delegate to any state agency authority to

5 add and delete authorized positions or transfer authorized

6 positions from one budget entity to another budget entity

7 within the same division, and may approve additions and

8 deletions of authorized positions or transfers of authorized

9 positions within the state agency when such changes would

10 enable the agency to administer more effectively its

11 authorized and approved programs. The additions or deletions

12 must be consistent with the intent of the approved operating

13 budget, must be consistent with legislative policy and intent,

14 and must not conflict with specific spending policies

15 specified in the General Appropriations Act.

16 2. The Chief Justice of the Supreme Court shall have

17 the authority to establish procedures for the judicial branch

18 to add and delete authorized positions or transfer authorized

19 positions from one budget entity to another budget entity, and

20 to add and delete authorized positions within the same budget

21 entity, when such changes are consistent with legislative

22 policy and intent and do not conflict with spending policies

23 specified in the General Appropriations Act.

24 3.a. A state agency may be eligible to retain salary

25 dollars for authorized positions eliminated after July 1,

26 2001. The agency must certify the eliminated positions to the

27 Legislative Budget ~~Budgeting~~ Commission.

28 b. The Legislative Budget ~~Budgeting~~ Commission shall

29 authorize the agency to retain 20 percent of the salary

30 dollars associated with the eliminated positions and may

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1 authorize retention of a greater percentage. All such salary
2 dollars shall be used for permanent salary increases.

3 Section 9. Paragraph (b) of subsection (5) of section
4 320.20, Florida Statutes, is amended to read:

5 320.20 Disposition of license tax moneys.--The revenue
6 derived from the registration of motor vehicles, including any
7 delinquent fees and excluding those revenues collected and
8 distributed under the provisions of s. 320.081, must be
9 distributed monthly, as collected, as follows:

10 (5)

11 (b) The Chief Financial Officer each month shall
12 deposit in the State Transportation Trust Fund an amount,
13 drawn from other funds in the State Treasury which are not
14 immediately needed or are otherwise in excess of the amount
15 necessary to meet the requirements of the State Treasury,
16 which when added to such remaining revenues each month will
17 equal one-twelfth of the amount of the anticipated annual
18 revenues to be deposited in the State Transportation Trust
19 Fund under paragraph (a) as estimated by the most recent
20 revenue estimating conference held pursuant to s. 216.136(3).
21 If recommended by the Governor pursuant to s. 216.221, the
22 transfers required hereunder may be suspended by action of the
23 Legislative Budget Commission in the event of a significant
24 shortfall of state revenues.

25 Section 10. Subsection (7) of section 409.1671,
26 Florida Statutes, as amended by section 27 of chapter
27 2003-399, Laws of Florida, is amended to read:

28 409.1671 Foster care and related services;
29 privatization.--

30 (7) The department, in consultation with existing lead
31 agencies, shall develop a proposal regarding the long-term use

1 and structure of a statewide shared earnings program which
2 addresses the financial risk to eligible lead community-based
3 providers resulting from unanticipated caseload growth or from
4 significant changes in client mixes or services eligible for
5 federal reimbursement. The recommendations in the statewide
6 proposal must also be available to entities of the department
7 until the conversion to community-based care takes place. At a
8 minimum, the proposal must allow for use of federal earnings
9 received from child welfare programs, which earnings are
10 determined by the department to be in excess of the amount
11 appropriated in the General Appropriations Act, to be used for
12 specific purposes. These purposes include, but are not limited
13 to:

14 (a) Significant changes in the number or composition
15 of clients eligible to receive services.

16 (b) Significant changes in the services that are
17 eligible for reimbursement.

18 (c) Significant changes in the availability of federal
19 funds.

20 (d) Shortfalls in state funds available for eligible
21 or ineligible services.

22 (e) Significant changes in the mix of available funds.

23 (f) Scheduled or unanticipated, but necessary,
24 advances to providers or other cash-flow issues.

25 (g) Proposals to participate in optional Medicaid
26 services or other federal grant opportunities.

27 (h) Appropriate incentive structures.

28 (i) Continuity of care in the event of lead agency
29 failure, discontinuance of service, or financial misconduct.

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1 ~~The department shall further specify the necessary steps to~~
2 ~~ensure the financial integrity of these dollars and their~~
3 ~~continued availability on an ongoing basis. The final proposal~~
4 ~~shall be submitted to the Legislative Budget Commission for~~
5 ~~formal adoption before December 31, 2002. If the Legislative~~
6 ~~Budget Commission refuses to concur with the adoption of the~~
7 ~~proposal, the department shall present its proposal in the~~
8 ~~form of recommended legislation to the President of the Senate~~
9 ~~and the Speaker of the House of Representatives before the~~
10 ~~commencement of the next legislative session. For fiscal year~~
11 ~~2003-2004 and annually thereafter, The Department of Children~~
12 ~~and Family Services may request in its legislative budget~~
13 ~~request, and the Governor may recommend, the funding necessary~~
14 ~~to carry out paragraph (i) from excess federal earnings. The~~
15 ~~General Appropriations Act shall include any funds~~
16 ~~appropriated for this purpose in a lump sum in the~~
17 ~~Administered Funds Program, which funds constitute partial~~
18 ~~security for lead agency contract performance. The department~~
19 ~~shall use this appropriation to offset the need for a~~
20 ~~performance bond for that year after a comparison of risk to~~
21 ~~the funds available. In no event shall this performance bond~~
22 ~~exceed 2.5 percent of the annual contract value. The~~
23 ~~department may separately require a bond to mitigate the~~
24 ~~financial consequences of potential acts of malfeasance,~~
25 ~~misfeasance, or criminal violations by the provider. Prior to~~
26 ~~the release of any funds in the lump sum, the department shall~~
27 ~~submit a detailed operational plan, which must identify the~~
28 ~~sources of specific trust funds to be used. The release of the~~
29 ~~trust fund shall be subject to the notice and review~~
30 ~~provisions of s. 216.177. However, the release shall not~~
31 ~~require approval of the Legislative Budget Commission.~~

1 Section 11. Subsection (5) of section 409.912, Florida
2 Statutes, is repealed.

3 Section 12. Paragraph (b) of subsection (7) of section
4 631.141, Florida Statutes, is amended to read:

5 631.141 Conduct of delinquency proceeding; domestic
6 and alien insurers.--

7 (7)

8 (b) In the event that initiation of delinquency
9 proceedings does not result in appointment of the department
10 as receiver, or in the event that the funds or assets of an
11 insurer for which the department is appointed as receiver are
12 insufficient to cover the cost of compensation to special
13 agents, counsel, clerks, or assistants and all expenses of
14 taking, or attempting to take, possession of the insurer, and
15 of conducting the proceeding, there is appropriated, upon
16 approval of the Chief Financial Officer and of the Legislative
17 Budget Commission pursuant to chapter 216, from the Insurance
18 Regulation Trust Fund to the Division of Rehabilitation and
19 Liquidation a sum that is sufficient to cover the unreimbursed
20 costs.

21 Section 13. Subsection (3) of section 943.61, Florida
22 Statutes, is amended to read:

23 943.61 Powers and duties of the Capitol Police.--

24 (3) ~~Notwithstanding the provisions of chapter 216, no~~
25 ~~assets, personnel, or resources shall be taken from the~~
26 ~~Capitol Police, and no appropriation to the Capitol Police~~
27 ~~shall be reduced without the express approval of the Governor~~
28 ~~and the Legislative Budget Commission.~~ Nothing herein limits
29 the ability of the Capitol Police to provide mutual aid to
30 other law enforcement agencies as authorized by law unless

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1 such a limitation is expressly included in the operational
2 security plans provided for herein.

3 Section 14. Subsection (2) of section 1013.512,
4 Florida Statutes, is amended to read:

5 1013.512 Land Acquisition and Facilities Advisory
6 Board.--

7 (2) If the director of the Office of Program Policy
8 Analysis and Government Accountability (OPPAGA) or the Auditor
9 General determines in a review or examination that significant
10 deficiencies exist in a school district's land acquisition and
11 facilities operational processes, he or she shall certify to
12 the President of the Senate, the Speaker of the House of
13 Representatives, the Legislative Budget Commission, and the
14 Governor that the deficiency exists. If recommended by the
15 Governor, the Legislative Budget Commission shall approve or
16 disapprove the placement of ~~determine whether funds for the~~
17 school district funds ~~will be placed~~ in reserve until the
18 deficiencies are corrected.

19 Section 15. This act shall take effect upon the
20 effective date of the amendment to the State Constitution
21 contained in Senate Joint Resolution No. ____, or a similar
22 constitutional amendment, relating to the state budgeting,
23 planning, and appropriations processes.

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26 SENATE SUMMARY

27 Revises various provisions governing the state's planning
28 and budget process for purposes of implementing an
29 amendment to the State Constitution. Revises the
30 membership and duties of the Legislative Budget
31 Commission. Provides requirements for developing and
updating a long-range 5-year state fiscal plan.
Prescribes the timeframes within which state agencies and
the commission are required to develop and complete the
long-range fiscal plan. (See bill for details.)