

By the Committee on General Government Appropriations; and
Senator Carlton

601-2401-07

1 A bill to be entitled

2 An act relating to state financial matters;

3 amending s. 215.47, F.S.; revising a limitation

4 on the percentage of a fund that may be

5 invested in specified investments; amending s.

6 216.181, F.S.; prohibiting initiating or

7 commencing a new fixed capital outlay project

8 through an amendment to the original approved

9 operating budget for operational and fixed

10 capital outlay expenditures; authorizing the

11 Executive Office of the Governor to approve

12 changes in amounts appropriated to the

13 Department of Military Affairs for fixed

14 capital outlay projects under specified

15 circumstances; prohibiting initiating or

16 commencing a fixed capital outlay project by a

17 change to an approved operating budget unless

18 specifically provided; amending s. 216.1827,

19 F.S.; requiring that a state agency submit to

20 the Executive Office of the Governor for review

21 and approval requests concerning the revision

22 or addition of agency activities, including the

23 alignment of activities to performance

24 measures; amending s. 216.192, F.S.; providing

25 for certain exceptions to provisions of the

26 original approved operating budget of state

27 agencies and the judicial branch to be provided

28 by law rather than in the General

29 Appropriations Act; amending s. 216.292, F.S.;

30 deleting provisions authorizing the approval of

31 the transfer of funds for fixed capital outlay

1 projects for the Department of Military
2 Affairs; amending s. 286.036, F.S.; reassigning
3 the Taxation and Budget Reform Commission for
4 administrative purposes from the Board of
5 Regents to the Office of Legislative Services;
6 amending s. 1003.03, F.S.; authorizing the
7 Commissioner of Education to recommend a budget
8 amendment for the transfer of certain funds if
9 the State Board of Education finds that a
10 district has been unable to meet class size
11 reduction requirements; providing an effective
12 date.

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

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16 Section 1. Subsection (14) of section 215.47, Florida
17 Statutes, is amended to read:

18 215.47 Investments; authorized securities; loan of
19 securities.--Subject to the limitations and conditions of the
20 State Constitution or of the trust agreement relating to a
21 trust fund, moneys available for investments under ss.
22 215.44-215.53 may be invested as follows:

23 (14) With no more than 5 percent of any fund in
24 alternative investments, as defined in s. 215.44(8)(c)1.a.,
25 ~~private equity~~ through participation in the vehicles defined
26 in s. 215.44(8)(c)1.b. limited partnerships and limited
27 ~~liability companies.~~

28 Section 2. Subsections (2) and (11) of section
29 216.181, Florida Statutes, are amended, and subsection (18) is
30 added to that section, to read:

31

1 216.181 Approved budgets for operations and fixed
2 capital outlay.--

3 (2) Amendments to the original approved operating
4 budgets for operational and fixed capital outlay expenditures
5 must comply with the following guidelines in order to be
6 approved by the Governor and the Legislative Budget Commission
7 for the executive branch and the Chief Justice and the
8 Legislative Budget Commission for the judicial branch:

9 (a) The amendment must be consistent with legislative
10 policy and intent.

11 (b) The amendment may not initiate or commence a new
12 program or a fixed capital outlay project, except as
13 authorized by this chapter, or eliminate an existing program.

14 (c) Except as authorized in s. 216.292 or other
15 provisions of this chapter, the amendment may not provide
16 funding or increased funding for items which were funded by
17 the Legislature in an amount less than that requested by the
18 agency in the legislative budget request or recommended by the
19 Governor, or which were vetoed by the Governor.

20 (d) For amendments that involve trust funds, there
21 must be adequate and appropriate revenues available in the
22 trust fund and the amendment must be consistent with the laws
23 authorizing such trust funds and the laws relating to the use
24 of the trust funds. However, a trust fund shall not be
25 increased in excess of the original approved budget, except as
26 provided in subsection (11).

27 (e) The amendment shall not conflict with any
28 provision of law.

29 (f) The amendment must not provide funding for any
30 issue which was requested by the agency or branch in its
31

1 legislative budget request and not funded in the General
2 Appropriations Act.

3 (g) The amendment must include a written description
4 of the purpose of the proposed change, an indication of why
5 interim budget action is necessary, and the intended recipient
6 of any funds for contracted services.

7 (h) The amendment must not provide general salary
8 increases which the Legislature has not authorized in the
9 General Appropriations Act or other laws.

10 (i) Notwithstanding paragraph (f), the Agency for
11 Persons with Disabilities is authorized to submit an amendment
12 to adjust its full-time equivalent positions, salary rate, and
13 related budget authority to provide sufficient infrastructure
14 and administrative support. This paragraph expires July 1,
15 2007.

16 (11)(a) The Executive Office of the Governor and the
17 Chief Justice of the Supreme Court may approve changes in the
18 amounts appropriated from state trust funds in excess of those
19 in the approved operating budget up to \$1 million only
20 pursuant to the federal funds provisions of s. 216.212, when
21 grants and donations are received after April 1, or when
22 deemed necessary due to a set of conditions that were
23 unforeseen at the time the General Appropriations Act was
24 adopted and that are essential to correct in order to continue
25 the operation of government.

26 (b) Changes in the amounts appropriated from state
27 trust funds in excess of those in the approved operating
28 budget which are in excess of \$1 million may be approved only
29 by the Legislative Budget Commission pursuant to the request
30 of a state agency filed with the Executive Office of the
31 Governor or pursuant to the request of an entity of the

1 judicial branch filed with the Chief Justice of the Supreme
2 Court.

3 (c) Notwithstanding the provisions of paragraphs (a)
4 and (b) to the contrary, the Executive Office of the Governor
5 may approve changes in the amounts appropriated to the
6 Department of Military Affairs for fixed capital outlay
7 projects when the department has received federal funds for
8 specific fixed capital outlay projects that do not carry a
9 continuing commitment for future appropriations by the
10 Legislature.

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12 The provisions of this subsection are subject to the notice
13 and objection procedures set forth in s. 216.177.

14 (18) Except as otherwise specifically provided in this
15 chapter or chapter 339, a change to the approved operating
16 budget may not initiate or commence a fixed capital outlay
17 project.

18 Section 3. Paragraph (a) of subsection (3) of section
19 216.1827, Florida Statutes, is amended to read:

20 216.1827 Requirements for performance measures and
21 standards.--

22 (3)(a) An agency may submit requests to delete or
23 amend its existing approved performance measures and standards
24 or activities, including alignment of activities to
25 performance measures, or submit requests to create additional
26 performance measures and standards or activities to the
27 Executive Office of the Governor for review and approval. The
28 request shall document the justification for the change and
29 ensure that the revision, deletion, or addition is consistent
30 with legislative intent. Revisions or deletions to, or
31 additions of performance measures and standards approved by

1 the Executive Office of the Governor are subject to the review
2 and objection procedure set forth in s. 216.177.

3 Section 4. Subsection (1) of section 216.192, Florida
4 Statutes, is amended to read:

5 216.192 Release of appropriations; revision of
6 budgets.--

7 (1) Unless otherwise provided in law ~~the General~~
8 ~~Appropriations Act~~, on July 1 of each fiscal year, up to 25
9 percent of the original approved operating budget of each
10 agency and of the judicial branch may be released until such
11 time as annual plans for quarterly releases for all
12 appropriations have been developed, approved, and furnished to
13 the Chief Financial Officer by the Executive Office of the
14 Governor for state agencies and by the Chief Justice of the
15 Supreme Court for the judicial branch. The plans, including
16 appropriate plans of releases for fixed capital outlay
17 projects that correspond with each project schedule, shall
18 attempt to maximize the use of trust funds and shall be
19 transmitted to the Chief Financial Officer by August 1 of each
20 fiscal year. Such releases shall at no time exceed the total
21 appropriations available to a state agency or to the judicial
22 branch, or the approved budget for such agency or the judicial
23 branch if less. The Chief Financial Officer shall enter such
24 releases in his or her records in accordance with the release
25 plans prescribed by the Executive Office of the Governor and
26 the Chief Justice, unless otherwise amended as provided by
27 law. The Executive Office of the Governor and the Chief
28 Justice shall transmit a copy of the approved annual releases
29 to the head of the state agency, the chair and vice chair of
30 the Legislative Budget Commission, and the Auditor General.
31 The Chief Financial Officer shall authorize all expenditures

1 | to be made from the appropriations on the basis of such
2 | releases and in accordance with the approved budget, and not
3 | otherwise. Expenditures shall be authorized only in accordance
4 | with legislative authorizations. Nothing herein precludes
5 | periodic reexamination and revision by the Executive Office of
6 | the Governor or by the Chief Justice of the annual plans for
7 | release of appropriations and the notifications of the parties
8 | of all such revisions.

9 | Section 5. Subsection (5) of section 216.292, Florida
10 | Statutes, is amended to read:

11 | 216.292 Appropriations nontransferable; exceptions.--

12 | (5)(a) A transfer of funds may not result in the
13 | initiation of a fixed capital outlay project that has not
14 | received a specific legislative appropriation, ~~except that~~
15 | ~~federal funds for fixed capital outlay projects for the~~
16 | ~~Department of Military Affairs, which do not carry a~~
17 | ~~continuing commitment on future appropriations by the~~
18 | ~~Legislature, may be approved by the Executive Office of the~~
19 | ~~Governor for the purpose received, subject to the notice and~~
20 | ~~objection procedures set forth in s. 216.177.~~

21 | (b) Notwithstanding paragraph (a), and for the
22 | 2006-2007 fiscal year only, the Governor may recommend the
23 | initiation of fixed capital outlay projects funded by grants
24 | awarded by the Federal Emergency Management Agency for FEMA
25 | Disaster Declarations 1539-DR-FL, 1545-DR-FL, 1551-DR-FL,
26 | 1561-DR-FL, 1595-DR-FL, 1602-DR-FL, and EM3259-FL. All actions
27 | taken pursuant to the authority granted in this paragraph are
28 | subject to review and approval by the Legislative Budget
29 | Commission. This paragraph expires July 1, 2007.

30 | Section 6. Subsection (5) of section 286.036, Florida
31 | Statutes, is amended to read:

1 286.036 Taxation and Budget Reform Commission;
2 powers.--

3 (5) The Taxation and Budget Reform Commission is
4 assigned, for administrative purposes, to the legislative
5 branch ~~Board of Regents~~. The Office of Legislative Services
6 ~~Board of Regents~~ is directed to expedite, where possible, the
7 business of the commission consistent with prudent financial
8 and management practices.

9 Section 7. Subsection (4) of section 1003.03, Florida
10 Statutes, is amended to read:

11 1003.03 Maximum class size.--

12 (4) ACCOUNTABILITY.--

13 (a)1. Beginning in the 2003-2004 fiscal year, if the
14 department determines for any year that a school district has
15 not reduced average class size as required in subsection (2)
16 at the time of the third FEFP calculation, the department
17 shall calculate an amount from the class size reduction
18 operating categorical which is proportionate to the amount of
19 class size reduction not accomplished. Upon verification of
20 the department's calculation by the Florida Education Finance
21 Program Appropriation Allocation Conference and not later than
22 March 1 of each year, the Executive Office of the Governor
23 shall transfer undistributed funds equivalent to the
24 calculated amount from the district's class size reduction
25 operating categorical to an approved fixed capital outlay
26 appropriation for class size reduction in the affected
27 district pursuant to s. 216.292(2)(d). The amount of funds
28 transferred shall be the lesser of the amount verified by the
29 Florida Education Finance Program Appropriation Allocation
30 Conference or the undistributed balance of the district's
31 class size reduction operating categorical.

1 2. In lieu of the transfer required by subparagraph
2 1., the Commissioner of Education may recommend a budget
3 amendment, subject to approval by the Legislative Budget
4 Commission, to transfer an alternative amount of funds from
5 the district's class size reduction operating categorical to
6 its approved fixed capital outlay account for class size
7 reduction if the commissioner finds ~~However, based upon a~~
8 ~~recommendation by the Commissioner of Education~~ that the State
9 Board of Education has reviewed evidence indicating that a
10 district has been unable to meet class size reduction
11 requirements despite appropriate effort to do so. The
12 commissioner's budget amendment must be submitted to the
13 Legislative Budget Commission by February 15 of each year.~~7~~
14 ~~the Legislative Budget Commission may approve an alternative~~
15 ~~amount of funds to be transferred from the district's class~~
16 ~~size reduction operating categorical to its approved fixed~~
17 ~~capital outlay account for class size reduction.~~

18 (b) Beginning in the 2005-2006 school year, the
19 department shall determine by January 15 of each year which
20 districts have not met the two-student-per-year reduction
21 required in subsection (2) based upon a comparison of the
22 district's October student membership survey for the current
23 school year and the February 2003 baseline student membership
24 survey. The department shall report such districts to the
25 Legislature. Each district that has not met the
26 two-student-per-year reduction shall be required to implement
27 one of the following policies in the subsequent school year
28 unless the department finds that the district comes into
29 compliance based upon the February student membership survey:

- 30 1. Year-round schools;
31 2. Double sessions;

1 3. Rezoning; or

2 4. Maximizing use of instructional staff by changing
3 required teacher loads and scheduling of planning periods,
4 deploying school district employees who have professional
5 certification to the classroom, using adjunct educators,
6 operating schools beyond the normal operating hours to provide
7 classes in the evening, or operating more than one session
8 during the day.

9
10 A school district that is required to implement one of the
11 policies outlined in subparagraphs 1. through 4. shall correct
12 in the year of implementation any past deficiencies and bring
13 the district into compliance with the two-student-per-year
14 reduction goals established for the district by the department
15 pursuant to subsection (2). A school district may choose to
16 implement more than one of these policies. The district school
17 superintendent shall report to the Commissioner of Education
18 the extent to which the district implemented any of the
19 policies outlined in subparagraphs 1. through 4. in a format
20 to be specified by the Commissioner of Education. The
21 Department of Education shall use the enforcement authority
22 provided in s. 1008.32 to ensure that districts comply with
23 the provisions of this paragraph.

24 (c) Beginning in the 2006-2007 school year, the
25 department shall annually determine which districts do not
26 meet the requirements described in subsection (2). In addition
27 to enforcement authority provided in s. 1008.32, the
28 Department of Education shall develop a constitutional
29 compliance plan for each such district which includes, but is
30 not limited to, redrawing school attendance zones to maximize
31 use of facilities while minimizing the additional use of

1 transportation unless the department finds that the district
2 comes into compliance based upon the February student
3 membership survey and the other accountability policies listed
4 in paragraph (b). Each district school board shall implement
5 the constitutional compliance plan developed by the state
6 board until the district complies with the constitutional
7 class size maximums.

8 Section 8. This act shall take effect July 1, 2007.

9

10 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
11 COMMITTEE SUBSTITUTE FOR
12 Senate Bill 1424

12

13 Clarifies the State Board of Administration's authority to
14 invest in alternative investments.

15 Assigns the Taxation and Budget Reform Commission to the
16 Office of Legislative Services for administrative purposes.

17 Sets specific dates by which the Executive Office of the
18 Governor and the Commissioner of Education must act regarding
19 the transfer of funds to meet class size reduction
20 requirements.

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