

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 497 Classification and Pay Plans for Public Defenders
SPONSOR(S): Coley; Soto
TIED BILLS: None **IDEN./SIM. BILLS:** SB 614

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Courts _____	6 Y, 0 N _____	Webb _____	Bond _____
2) Safety & Security Council _____	_____	_____	_____
3) Policy & Budget Council _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

Currently, Florida state agencies may only award lump sum bonuses to their employees in two instances. Otherwise, any excess funds that a state agency possesses at the end of the fiscal year must revert back to the General Revenue Fund of the state.

This bill allows the public defenders to use unallocated dollars for lump sum bonuses without such bonuses being either specifically appropriated by the Legislature or authorized by the Legislative Budget Commission.

This bill appears to have an unknown fiscal impact on state government expenditures.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Background:

Each year, the General Appropriations Act is enacted during the legislative session. The General Appropriations Act is the authorization of the legislature, based upon legislative budgets, for the expenditure of amounts of money by an agency, the judicial branch, or the legislative branch for stated purposes in the performance of the functions it is authorized by law to perform. The salaries of state agencies, including public defenders, are provided for in the General Appropriations Act and are paid by the state in equal monthly installments.¹

Section 216.181, F.S., provides that amendments to the approved operating budgets for operational and fixed capital outlay expenditures from state agencies may be requested only through the Executive Office of the Governor and approved by the Governor and the Legislative Budget Commission as provided in this ch. 216.181, F.S. Furthermore, amendments from the judicial branch may be requested only through the Chief Justice of the Supreme Court and must be approved by the Chief Justice and the Legislative Budget Commission as provided in this ch. 216.181, F.S.

The twenty Office of the Public Defender are funded by the Legislature. Public Defenders are authorized to appoint and pay assistant public defenders. Section 27.53, F.S., provides that public defenders from all judicial circuits must jointly develop a coordinated classification and pay plan for all to be submitted on or before January 1st of each year to the Justice Administrative Commission, the office of the President of the Senate, and the office of the Speaker of the House of Representatives.² This pay plan must be established according to the policies and procedures of the Executive Office of the Governor established in s. 216.181, F.S. Section 27.25, F.S. provides that state attorneys must similarly develop a pay plan for their staff and attorneys pursuant to s. 216.181, F.S.³

Section 216.181(10)(b), F.S., currently provides that state agencies may award lump sum salary bonuses to their employees only if specifically appropriated according to s. 110.1245, F.S., or s. 216.1815, F.S.⁴ Therefore, lump sum bonuses may only be awarded in two instances. First, bonuses may be awarded to an individual or group if the employee or employees meet certain criteria⁵ and the award is approved by the Legislative Budget Commission.⁶ Second, an agency who has funds remaining at the end of the fiscal year due to internal savings must submit a request to retain a percentage of the money to the Legislative Budget Commission detailing the amount the agency saved.

¹ Section 27.5301(3), F.S.

² Section 27.53, F.S.

³ Section 27.25, F.S.

⁴ Section 216.181(10)(b), F.S.

⁵ Criteria includes in part: being employed prior to July 1st of the fiscal year the bonus is awarded, not having been on leave without pay for more than 6 months during the fiscal year, not sustaining any disciplinary action from July 1st of the fiscal year until the bonus is awarded, demonstrating commitment to the agency by improving productivity or other similar shows of commitment, demonstrating initiative in work and exceeding normal expectations, and modeling fairness, cooperation, honesty and other traits.

⁶ Section 110.1245, F.S.

The agency is eligible to retain no less than 5% and no greater than 25% of the annual savings. This money can then be used for salary bonuses or other non-recurring expenditures.⁷

If a state agency has any remaining, unallocated funds at the end of the fiscal year, then the funds revert back to the General Revenue Fund of the State.⁸

Effect of the Bill:

This bill provides that public defenders must develop and submit a pay plan based on s. 216.181, F.S., notwithstanding s. 216.181(10)(b), which provides that lump-sum bonuses may be provided to employees only if specifically appropriated or provided in two instances pursuant to s. 110.1245 or s. 216.1815. Therefore, this bill allows the public defenders only to use unallocated dollars for lump sum bonuses without such bonuses being either specifically appropriated by the Legislature or authorized by the Legislative Budget Commission. Other state agencies, including state attorneys, can still only give lump-sum bonuses in the two circumstances provided s. 110.1245, F.S. and s. 216.1815, F.S.

C. SECTION DIRECTORY:

Section 1 amends s. 27.53, F.S., relating to pay plans for public defenders.

Section 2 provides an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

This bill appears to have an unknown fiscal impact on state government expenditures. See fiscal.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

⁷ Section 110.1245, F.S.

⁸ Section 216.301, F.S.

The provisions of this bill do not in and of itself require an expenditure. However, the provisions of this bill may allow an expenditure that would otherwise be made. For example, public defenders paid \$4.8 million bonuses in fiscal year 2006-2007.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

D. STATEMENT OF THE SPONSOR

No Statement Submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

None.