

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 5003 PCB PBC 08-02 Implementing 2008-2009 General Appropriations Act
SPONSOR(S): Policy & Budget Council
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Policy & Budget Council	21 Y, 9 N	Martin	Hansen
1) _____	_____	_____	_____
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The bill provides the statutory authority necessary to implement and execute the General Appropriations Act for Fiscal Year 2008-2009. The statutory changes are effective for only one year and either expire on July 1, 2009 or revert to the language as it existed before the changes made by the bill.

The bill substantially amends, creates, repeals, or renders inapplicable the following sections of the Florida Statutes: 110.123, 112.24, 215.559, 215.5595, 215.5601, 216.221, 216.262, 216.292, 252.373, 259.032, 288.1088, 394.908, 553.75, 1001.451, and 1012.225.

Since this bill implements provisions of the General Appropriations Act for Fiscal Year 2008-2009, there are no direct fiscal impacts created by this bill.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

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

B. EFFECT OF PROPOSED CHANGES:

Section 19 of Article III of the Florida Constitution states that appropriations acts "shall contain provisions on no other subject" other than making appropriations. This language has been interpreted to defeat proviso to appropriations that have the effect of amending general law. See, e.g., *Brown v. Firestone*, 382 So.2d 654 (Fla. 1980); *Chiles v. Milligan*, 659 So.2d 1055 (Fla. 1995). For this reason, when general law changes are required to effectuate appropriations, those changes are placed in a general bill implementing the General Appropriations Act (GAA) instead of in the GAA.

C. SECTION DIRECTORY:

Section 1. This section provides legislative intent that the implementing and administering provisions of this act apply to the General Appropriations Act for Fiscal Year 2008-2009.

Section 2. Amends s. 1001.451, F.S.; Provides that, for the 2008-2009 fiscal year only, the incentive grant per school district and eligible member of regional consortium service organizations will be reduced from \$50,000 to \$48,000. These grants are used for the delivery of services within the participating school districts. Implements Specific Appropriation 101 of the General Appropriations Act for Fiscal Year 2008-2009.

Section 3. Amends s. 1012.225, F.S.; Extends by one year the deadline for the Fiscal Year 2008-2009 Merit Award Plan submission to the Department of Education. Implements Specific Appropriation 81 of the General Appropriations Act for Fiscal Year 2008-2009.

Section 4. Provides that the amendments to s. 1012.225(5), Florida Statutes, made by this act shall expire July 1, 2009, and the text of that section shall revert to that in existence on June 30, 2008, except that any amendments to such text enacted other than by this act shall be preserved and continue to operate to the extent that such amendments are not dependent upon the portions of such text which expire pursuant to this section.

Section 5. Amends s. 394.908, F.S.; Authorizes the Department of Children and Families (DCF) to allocate funds appropriated for forensic mental health treatment services to the areas of the state with the greatest service demand and capacity. Also provides that additional funds appropriated for mental health services from funds available through the Community-Based Medicaid Administrative Claiming Program shall be allocated as provided in the 2008-2009 General Appropriations Act and in proportion to contributed provider earnings. Where these mental health funds are used in lieu of funds from the General Revenue Fund, the allocation of funds shall be unchanged from the allocation for those funds for the 2008-2009 fiscal year. Implements Specific Appropriations 376 through 415 of the General Appropriations Act for Fiscal Year 2008-2009.

Section 6. Requires the Department of Health to develop and establish a health care collaborative action network as a 1-year pilot program in Miami-Dade County. The Miami-Dade County Health Department is required to:

- Establish an alliance of hospitals, federally qualified health centers, free clinics, physician groups and other health care providers in Miami-Dade County for the purpose of increasing access to and coordination of care. Approval of a certificate of need by the Agency for Health

Care Administration for any provider in Miami-Dade County during the 1-year pilot program shall be contingent on that provider actively participating in the alliance. The Department of Health shall require all contract providers in Miami-Dade County to participate in the alliance as a condition of the contract and shall impose this requirement on all future contracts entered into during the 1-year pilot program and amend all existing contracts to reflect this requirement.

- Ensure coordination of service delivery, increased access to health care, enhanced cooperation among participating network providers, elimination of duplication, and establishment of a medical home for all patients served by members of the network.
- Establish a discount health care card program and negotiate with provider members of the alliance to establish discounted charges for services provided to enrollees in the discount health care card program. Approval of a certificate of need by the Agency for Health Care Administration for any provider in Miami-Dade County during the 1-year pilot program shall be contingent on that provider actively participating in the discount health care card program. The Department of Health shall require all contract providers in Miami-Dade County to participate in the discount health care card program as a condition of the contract and shall impose this requirement on all future contracts entered into during the 1-year pilot program and amend all existing contracts to reflect this requirement.
- Ensure that the discount health care card is available to any uninsured resident of Miami-Dade County with a family income below 200 percent of the federal poverty level. Reimbursement or payment for health care services by a participant's health insurance policy or health plan or other coverage contract shall be governed by the terms of that contract.
- Ensure that primary care services, either for free or at a discount rate, are made available to all uninsured and underserved populations in Miami-Dade County by the network members.
- Encourage participating providers to create and maintain an electronic medical record for each Miami-Dade County resident who participates in the pilot program.

On January 1, 2009, the department shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives a report on the success and outcomes achieved by the pilot program, which must include a recommendation as to whether the pilot program should be continued, terminated, or expanded in the next fiscal year.

Implements Specific Appropriation 588 of the General Appropriations Act for Fiscal Year 2008-2009.

Section 7. Authorizes the Executive Office of the Governor, in consultation with the Legislature, to approve an increase in nonoperating transfer budget authority for trust funds in the Department of Children and Family Services to continue programs authorized by the 2008-2009 General Appropriations Act. Implements Specific Appropriations 290 through 469 of the General Appropriations Act for Fiscal Year 2008-2009.

Section 8. Provides that the Department of Corrections and the Department of Juvenile Justice may expend appropriated funds to assist in defraying the costs of impacts that are incurred by a municipality or county and associated with opening or operating a facility under the authority of the respective department which is located within that municipality or county. The amount that is to be paid under this section for any facility may not exceed 1 percent of the facility construction cost, less building impact fees imposed by the municipality or by the county if the facility is located in the unincorporated portion of the county. Implements Specific Appropriations 721L, 721X, 721AI, and 1146 of the General Appropriations Act for Fiscal Year 2008-2009.

Section 9. Amends s. 216.262, F.S.; Allows the Executive Office of the Governor to request additional positions during the 2008-2009 fiscal year for the Department of Corrections if the Criminal Justice Estimating Conference projects an increase in the inmate population exceeding the February 15, 2008 projections by 1 percent for 2 consecutive months or 2 percent for any month, and the additional positions must be approved by the Legislative Budget Commission. Implements Specific Appropriations 721A through 760H and 780 through 806 of the General Appropriations Act for Fiscal Year 2008-2009.

Section 10. Amends s. 216.292, F.S.; Allows for the transfer of funds within and between the regional conflict counsel offices and the child dependency and civil conflict case appropriation category and the criminal conflict case costs appropriation category within the Justice Administrative Commission. Implements Specific Appropriations 819, 821, and 1048 through 1072 of the General Appropriations Act for Fiscal Year 2008-2009.

Section 11. Authorizes the Department of Legal Affairs to expend funds in Specific Appropriations 1301 and 1302 on the same programs that were funded by the department pursuant to specific appropriations made in prior years.

Section 12. Authorizes the Department of Legal Affairs to transfer cash remaining after required disbursements from Attorney General case numbers L01-6-1004, L03-6-1002, and L01-6-1009 from FLAIR account 41-74-2-601001-41100100-00-181076-00 to the Operating Trust fund to pay salaries and benefits. Implements Specific Appropriations 1266, 1286, 1307, and 1317 of the General Appropriations Act for Fiscal Year 2008-2009.

Section 13. Amends s. 112.24, F.S.; Provides that the assignment of an employee of a state agency pursuant to an intergovernmental interchange of public employees can only be made without reimbursement by the receiving agency when so authorized in the General Appropriations Act. Implements specific appropriations for salaries and benefits in the General Appropriations Act for Fiscal Year 2008-2009.

Section 14. Authorizes the Executive Office of the Governor to transfer funds appropriated in the appropriation category "Special Categories-Risk Management Insurance" of the 2008-2009 General Appropriations Act between departments in order to align the budget authority granted with the premiums paid by each department for risk management insurance.

Section 15. Authorizes the Executive Office of the Governor to transfer funds appropriated in the appropriation category "Special Categories-Transfer to Department of Management Services-Human Resources Services Purchased Per Statewide Contract" of the 2008-2009 General Appropriations Act between departments in order to align the budget authority granted with the assessments that must be paid by each agency to the Department of Management Services for human resource management services.

Section 16. Amends s. 110.123, F.S.; Provides that for health savings accounts for full-time and part-time state employees in association with a health insurance plan option authorized by the Legislature, the state's monthly contribution for employees having individual coverage shall be \$41.66 and the monthly contribution for employees having family coverage shall be \$83.33. Implements specific appropriations for salaries and benefits in the General Appropriations Act for Fiscal Year 2008-2009.

Section 17. Authorizes the Department of Financial Services to expend \$998,820 of the funds appropriated by section 4 of chapter 2006-12, Laws of Florida, for salaries and related expenses of the My Florida Safe Home (hurricane mitigation) program. Implements Specific Appropriations 2536, 2537, 2538, and 2542 in the General Appropriations Act for Fiscal Year 2008-2009.

Section 18. Amends s. 215.5595, F.S.; In 2006, the Insurance Capital Build-Up Incentive Program (ICBIP) was created to increase the availability of residential property insurance covering the risk of hurricanes and mitigating premium increases by providing a low-cost source of capital to write additional residential property insurance. Administered by the State Board of Administration (SBA), ICBIP loans are memorialized in surplus note agreements, repayable over 20 years, with interest at the 10 year treasury rate on unpaid principal. Payments for the first three years are of interest only.

This section of the implementing bill:

- Extends the deadline until September 1, 2008 for an insurer to apply to the ICBIP and receive a surplus note of up to \$25 million in the amount equal to the new capital contributed by the insurer.
- Revises a minimum writing ratio of premium to surplus an insurer must maintain.
- Provides that an insurer must also commit to writing at least ten percent of its net or gross written premium for new policies, not including renewal premiums, for policies taken out of Citizens Property Insurance Corporation, during each of the first 3 years after receiving the surplus note.
- Allows the State Board of Administration to charge a late fee for repayments.
- Provides that amendments made by the act do not affect the terms of surplus notes approved prior to January 1, 2008, but authorizes the SBA and an insurer to renegotiate such terms consistent with such amendments.
- Directs Citizens Property Insurance Corporation to transfer \$250 million to the General Revenue Fund on or before August 1, 2008 for appropriation by the Legislature to the Insurance Capital Build-Up Incentive Program.

Implements section 38 of the General Appropriations Act for Fiscal Year 2008-2009.

Section 19. Provides that the amendments to s. 215.5595, Florida Statutes, made by this act shall expire July 1, 2009, and the text of that section shall revert to that in existence on June 30, 2008, except that any amendments to such text enacted other than by this act shall be preserved and continue to operate to the extent that such amendments are not dependent upon the portions of such text which expire pursuant to this section.

Section 20. Amends s. 252.373, F.S.; Allows the Division of Emergency Management to use the Emergency Management Preparedness and Assistance Trust Fund for generators installed in special needs shelters, except that such funds may not be used for administrative purposes and the matching fund requirements of the 2008-2009 General Appropriations Act must be met. Implements Specific Appropriation 1541 of the General Appropriations Act for Fiscal Year 2008-2009.

Section 21. Amends s. 215.559, F.S.; Authorizes the Division of Emergency Management to use funds appropriated from the Grants and Donations Trust Fund to provide emergency power generators in special-needs hurricane evacuation shelters, except that such funds may not be used for administrative purposes and the matching fund requirements of the 2008-2009 General Appropriations Act must be met. Implements Specific Appropriation 1541 of the General Appropriations Act for Fiscal Year 2008-2009.

Section 22. Amends s.288.1088, F.S.; Modifies the Quick Action Closing Fund authorization to provide that the state's less populated regions that seek economic development, that have suitable land and water resources to accommodate growth in an environmentally acceptable manner, and that have adopted a conceptual long-term buildout overlay to the comprehensive plan under s. 163.3184, F.S., and a detailed specific area plan that implements the conceptual long-term buildout overlay to the comprehensive plan must be provided incentives to actively pursue high-impact business facilities that will serve as a catalyst to stimulate economic growth. Implements Specific Appropriation 2635 of the General Appropriations Act for Fiscal Year 2008-2009.

Section 23. Provides that the amendments to s. 288.1088(1), Florida Statutes, made by this act shall expire July 1, 2009, and the text of that section shall revert to that in existence on June 30, 2008, except that any amendments to such text enacted other than by this act shall be preserved and continue to operate to the extent that such amendments are not dependent upon the portions of such text which expire pursuant to this section.

Section 24. Amends s. 553.75, F.S.; Authorizes the Florida Building Commission to use teleconferencing equipment for their commission meetings. Implements Specific Appropriation 1591 of the General Appropriations Act for Fiscal Year 2008-2009.

Section 25. Provides that the amendments to s. 553.75(3), Florida Statutes, made by this act shall expire July 1, 2009, and the text of that section shall revert to that in existence on June 30, 2008, except that any amendments to such text enacted other than by this act shall be preserved and continue to operate to the extent that such amendments are not dependent upon the portions of such text which expire pursuant to this section.

Section 26. Amends s. 259.032, F.S.; Allows the Conservation and Recreation Lands Trust Fund to be transferred to the Nonmandatory Land Reclamation Trust Fund for activities associated with the cleanup of the Mulberry and Piney Point sites. Also allows the Conservation and Recreation Lands Trust Fund to be transferred to the Ecosystem Management and Restoration Trust Fund for beach restoration activities. Implements Specific Appropriations 1748, 1756 and 1770 of the General Appropriations Act for Fiscal Year 2008-2009.

Section 27. Amends s. 216.221, F.S.; Provides that, for Fiscal Years 2007-2008 and 2008-2009 only, in the event that the Revenue Estimating Conference projects that General Revenue Fund collections will fall below the March 11, 2008 official estimates, adjusted for the 2008 Legislative Session law changes, by \$200 million or more in either year or in both years combined, the Governor is authorized to submit a budget amendment to the Legislative Budget Commission requesting the transfer of funds from the Budget Stabilization Fund to the General Revenue Fund. The total of all such transfers shall not exceed the lesser of the projected revenue shortfalls as described in this subsection, or one half of the May 1, 2008 cash balance in the Budget Stabilization Fund.

Section 28. Amends s. 215.5601, F.S.; Provides that, in the event that transfers from the Budget Stabilization Fund authorized in s. 216.221(3) are insufficient to address projected revenue shortfalls, the Governor is authorized to submit a budget amendment to the Legislative Budget Commission requesting the transfer of funds from the Lawton Chiles Endowment Fund to the General Revenue Fund. The total of all such transfers shall not exceed the lesser of the projected revenue shortfalls remaining after transfers from the Budget Stabilization Fund as described in s. 216.221(3), or \$1 billion. Any expenditure from the Lawton Chiles Endowment Fund must be restored by making five equal annual transfers from the General Revenue Fund, beginning in the third fiscal year following that in which the expenditure was made.

Section 29. Specifies that no section shall take effect if the appropriations and proviso to which it relates are vetoed.

Section 30. Provides that a permanent change made by another law to any of the same statutes amended by this bill shall take precedence over the provisions in this bill.

Section 31. Provides a severability clause.

Section 32. Provides that, except as otherwise expressly provided in this act, this act shall take effect July 1, 2008; or, if this act fails to become a law until after that date, it shall take effect upon becoming a law and shall operate retroactively to July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Although the provisions of this bill allow specific budget decisions to be effective, actual funding changes are made in the General Appropriations Act for Fiscal Year 2008-2009.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not: require counties or cities to spend funds or take action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On April 3, 2008 the Policy and Budget Council adopted one amendment that provides for transfers of funds from the Budget Stabilization Fund and the Lawton Chiles Endowment Fund in the event of a revenue shortfall. (See new sections 27 and 28 of the bill as amended.)

This staff analysis is drafted to the bill as amended.