

By Senator Alexander

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1 A bill to be entitled
2 An act relating to state financial matters; amending
3 s. 216.292, F.S.; providing that certain transfers of
4 appropriations by the head of an agency or the Chief
5 Justice may be made only if specific authority is
6 provided in the General Appropriations Act; amending
7 s. 216.311, F.S.; prohibiting an agency or branch of
8 state government from contracting to pay, without
9 legislative authority, liquidated damages or any other
10 moneys resulting from the breach or early termination
11 of a contract or agreement, from contracting to pay
12 interest because of insufficient budget authority to
13 pay an obligation in the current year, or from
14 obligating the state to make future payments to cover
15 unpaid current payments; providing that such contracts
16 are null and void; defining the terms "contract" and
17 "agreement"; creating s. 216.312, F.S.; requiring the
18 executive and judicial branch to notify the Governor
19 and the Legislature before entering into contracts or
20 agreements in excess of a certain amount, which
21 authorize expenditures in anticipation of revenues, or
22 for which payment is delayed for a certain time after
23 expenditure; transferring, renumbering, and amending
24 s. 287.0582, F.S.; requiring a state contract to
25 identify the appropriation that funds the contract;
26 providing an exception; expanding the statement that
27 must be included in state contracts to include grounds
28 for terminating the contract based on budget deficits;
29 requiring the judicial branch to include the statement

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30 in its contracts; providing an exception; requiring
31 the agency head or chief judge to sign contracts that
32 exceed a certain amount; requiring the agency head or
33 chief judge to review certain contracts and certify
34 compliance with ch. 216, F.S.; providing that
35 contracts in violation of these provisions are null
36 and void; providing penalties; providing an effective
37 date.

38
39 Be It Enacted by the Legislature of the State of Florida:

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41 Section 1. Subsection (2) of section 216.292, Florida
42 Statutes, is amended to read:

43 216.292 Appropriations nontransferable; exceptions.—

44 (2) If the Legislature grants a state agency or the
45 judicial branch specific authority in the General Appropriations
46 Act, the following transfers may be ~~are authorized to be~~ made by
47 the head of the agency ~~each department~~ or the Chief Justice of
48 the Supreme Court whenever it is deemed necessary by reason of
49 changed conditions:

50 (a) The transfer of appropriations funded from identical
51 funding sources, except appropriations for fixed capital outlay,
52 and the transfer of amounts included within the total original
53 approved budget and plans of releases of appropriations as
54 furnished pursuant to ss. 216.181 and 216.192, as follows:

55 1. Between categories of appropriations within a budget
56 entity, if no category of appropriation is increased or
57 decreased by more than 5 percent of the original approved budget
58 or \$250,000, whichever is greater, by all action taken under

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59 this subsection.

60 2. Between budget entities within identical categories of
61 appropriations, if no category of appropriation is increased or
62 decreased by more than 5 percent of the original approved budget
63 or \$250,000, whichever is greater, by all action taken under
64 this subsection.

65 3. Any agency exceeding salary rate established pursuant to
66 s. 216.181(8) on June 30th of any fiscal year may ~~shall~~ not be
67 ~~authorized to~~ make transfers pursuant to subparagraphs 1. and 2.
68 in the subsequent fiscal year.

69 4. Notice of proposed transfers under subparagraphs 1. and
70 2. shall be provided to the Executive Office of the Governor and
71 the chairs of the legislative appropriations committees at least
72 3 days prior to agency implementation in order to provide an
73 opportunity for review. The review is ~~shall be~~ limited to
74 ensuring that the transfer is in compliance with the
75 requirements of this paragraph.

76 (b) After providing notice at least 5 working days prior to
77 implementation:

78 1. The transfer of funds within programs identified in the
79 General Appropriations Act from identical funding sources
80 between the following appropriation categories without
81 limitation so long as such a transfer does not result in an
82 increase, to the total recurring general revenue or trust fund
83 cost of the agency or entity of the judicial branch in the
84 subsequent fiscal year: other personal services, expenses,
85 operating capital outlay, food products, state attorney and
86 public defender operations, data processing services, operating
87 and maintenance of patrol vehicles, overtime payments, salary

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88 incentive payments, compensation to retired judges, law
89 libraries, and juror and witness payments.

90 2. The transfer of funds and positions from identical
91 funding sources between salaries and benefits appropriation
92 categories within programs identified in the General
93 Appropriations Act. Such transfers must be consistent with
94 legislative policy and intent and may not adversely affect
95 achievement of approved performance outcomes or outputs in any
96 program.

97 (c) The transfer of funds appropriated to accounts
98 established for disbursement purposes upon release of such
99 appropriation upon request of a department and approval by the
100 Chief Financial Officer. Such transfer may only be made to the
101 same appropriation category and the same funding source from
102 which the funds are transferred.

103 (d) The transfer of funds by the Executive Office of the
104 Governor from appropriations for public school operations to a
105 fixed capital outlay appropriation for class size reduction
106 based on recommendations of the Florida Education Finance
107 Program Appropriation Allocation Conference or the Legislative
108 Budget Commission pursuant to s. 1003.03(4)(a). Actions by the
109 Governor under this subsection are subject to the notice and
110 review provisions of s. 216.177.

111 Section 2. Section 216.311, Florida Statutes, is amended to
112 read:

113 216.311 Unauthorized contracts ~~in excess of appropriations;~~
114 penalty.—

115 (1) An ~~No~~ agency or branch of state government may not
116 enter into any ~~shall contract to spend,~~ or ~~enter into any~~

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117 agreement:

118 (a) To spend~~7~~ any moneys in excess of the amount
119 appropriated to such agency or branch unless specifically
120 authorized by law~~7~~, and any contract or agreement in violation of
121 this chapter shall be null and void.

122 (b) That requires the state to pay liquidated damages or
123 any other moneys resulting from a breach or early termination of
124 a contract by such agency or branch unless the Legislature
125 specifically authorizes the agency or branch by law to commit
126 funds for the purpose of paying moneys for breach or early
127 termination.

128 (c) That requires the state to pay interest to another
129 party because the agency or branch has insufficient budget
130 authority to pay the underlying obligation of the contract or
131 agreement in the current year.

132 (d) That binds the state to make future-year payments to
133 offset payments not made in the current year due to the
134 insufficiency of current-year appropriations in order to pay for
135 current-year costs under the contract or agreement, unless the
136 Legislature expressly authorizes the agency or branch to enter
137 into such contract or agreement.

138 (2) Any contract or agreement in violation of this section
139 is null and void.

140 (3)~~(2)~~ Any public officer or employee ~~person~~ who willfully
141 enters into a contract or other agreement in violation of this
142 section ~~commits contracts to spend, or enters into an agreement~~
143 ~~to spend, any money in excess of the amount appropriated to the~~
144 ~~agency or branch for whom the contract or agreement is executed~~
145 ~~is guilty of a misdemeanor of the first degree, punishable as~~

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146 provided in s. 775.082 or s. 775.083.

147 (4) For purposes of this section and ss. 216.312 and
148 216.313, the terms "contract" and "agreement" include the
149 initial contract or agreement, any amendment to the contract or
150 agreement, and any extension or renewal of the contract or
151 agreement.

152 Section 3. Section 216.312, Florida Statutes, is created to
153 read:

154 216.312 Reporting contract expenditures.—

155 (1) At least 30 days before an executive or judicial branch
156 public officer or employee enters into any contract or
157 agreement, or any series of contracts or agreements between the
158 same parties, on behalf of the state which requires payments by
159 the state in excess of \$5 million in any fiscal or calendar
160 year, the officer or employee must notify the Governor, the
161 President of the Senate, and the Speaker of the House of
162 Representatives of the intent to enter into such contract or
163 agreement or series of contracts or agreements.

164 (2) At least 30 days before an executive or judicial branch
165 public officer or employee enters into any contract or agreement
166 on behalf of the state which requires minimal or no payments by
167 the state or authorizes the other party to make expenditures in
168 anticipation of revenues, the officer or employee must notify
169 the Governor, the President of the Senate, and the Speaker of
170 the House of Representatives of the intent to enter into such
171 contract or agreement.

172 (3) At least 30 days before an executive or judicial branch
173 public officer or employee enters into any contract or agreement
174 on behalf of the state which requires initial expenditures by

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175 the other party and for which the other party will not receive
 176 payment from the state within 180 days after the expenditure,
 177 the officer or employee must notify the Governor, the President
 178 of the Senate, and the Speaker of the House of Representatives
 179 of the intent to enter into such contract or agreement.

180 (4) The execution of any contract or agreement described in
 181 this section is an action or proposed action that is subject to
 182 s. 216.177(2) (b).

183 Section 4. Section 287.0582, Florida Statutes, is
 184 transferred and renumbered as section 216.313, Florida Statutes,
 185 and amended to read:

186 216.313 ~~287.0582~~ Contract appropriations ~~Contracts which~~
 187 ~~require annual appropriation;~~ contingency statement.-

188 (1) An executive or judicial branch public officer or
 189 employee may not enter into any contract or agreement on behalf
 190 of the state or judicial branch which binds the state or its
 191 executive agencies or the judicial branch for the purchase of
 192 services or tangible personal property unless the contract
 193 identifies the specific appropriation of state funds from which
 194 the state will make payment under the contract in the first year
 195 of the contract, or unless the Legislature expressly authorizes
 196 the agency or the judicial branch to enter into such contract
 197 absent a specific appropriation of funds.

198 (2) An ~~No~~ executive or judicial branch public officer or
 199 employee may not ~~shall~~ enter into any contract or agreement on
 200 behalf of the state, ~~which contract~~ binds the state ~~or its~~
 201 ~~executive agencies~~ for the purchase of services or tangible
 202 personal property ~~for a period in excess of 1 fiscal year,~~
 203 unless the following statements are ~~statement is~~ included in the

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204 contract:

205 (a) "The State of Florida's performance and obligation to
206 pay under this contract is contingent upon an annual
207 appropriation by the Legislature."

208 (b) "This contract may be terminated by the state upon 30
209 days' written notice if funding for this contract is
210 specifically eliminated pursuant to:

211 1. A deficit reduction plan implemented by the Governor or
212 the Chief Justice or by an act of the Legislature after
213 certification pursuant to section 216.221, Florida Statutes,
214 that a deficit will occur in the General Revenue Fund; or

215 2. A deficit reduction plan implemented by the Governor or
216 Chief Justice pursuant to section 216.221(10), Florida Statutes,
217 or by an act of the Legislature, after a determination by the
218 Chief Financial Officer that a deficit will occur with respect
219 to the appropriations from a specific trust fund in the current
220 fiscal year."

221 (3) A contract or other agreement that exceeds:

222 (a) The CATEGORY TWO threshold amount provided in s.
223 287.017 must be signed by the agency head, executive director,
224 or chief judge, as appropriate.

225 (b) A term of 12 months may not be executed by any
226 executive or judicial branch agency unless the agency head,
227 executive director, or chief judge, as appropriate, determines
228 that the contract is in compliance with the requirements of this
229 chapter and certifies such compliance in writing within the
230 contract or agreement.

231 (4) Any contract or other agreement in violation of this
232 section is null and void.

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233 (5) Any public officer or employee who willfully enters
234 into a contract or other agreement in violation of this section
235 commits a misdemeanor of the first degree, punishable as
236 provided in s. 775.082 or s. 775.083.

237 Section 5. This act shall take effect upon becoming a law.