

By Senator Rich

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1 A bill to be entitled
2 An act relating to state budgeting and planning;
3 amending s. 216.262, F.S.; providing that the
4 limitation on the total number of authorized positions
5 within a state agency or an entity of the judicial
6 branch does not apply to certain positions within the
7 Department of Health; deleting the exception for
8 requesting additional positions within the Department
9 of Corrections in excess of the number of positions
10 authorized for the 2009-2010 fiscal year; providing an
11 effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

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15 Section 1. Section 216.262, Florida Statutes, is amended to
16 read:

17 216.262 Authorized positions.—

18 (1) (a) Unless otherwise expressly provided by law, the
19 total number of authorized positions may not exceed the total
20 provided in the appropriations acts. If ~~In the event~~ any state
21 agency or entity of the judicial branch finds that the number of
22 positions so provided is not sufficient to administer its
23 authorized programs, it may file an application with the
24 Executive Office of the Governor or the Chief Justice; and, if
25 the Executive Office of the Governor or Chief Justice certifies
26 that there are no authorized positions available for addition,
27 deletion, or transfer within the agency as provided in paragraph
28 (c) and recommends an increase in the number of positions, the
29 Governor or the Chief Justice may recommend an increase in the

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30 number of positions for the following reasons only:

31 1. To implement or provide for continuing federal grants or
32 changes in grants not previously anticipated.

33 2. To meet emergencies pursuant to s. 252.36.

34 3. To satisfy new federal regulations or changes therein.

35 4. To take advantage of opportunities to reduce operating
36 expenditures or to increase the revenues of the state or local
37 government.

38 5. To authorize positions that were not fixed by the
39 Legislature through error in drafting the appropriations acts.

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41 Actions recommended pursuant to this paragraph are subject to
42 approval by the Legislative Budget Commission. The certification
43 and the final authorization shall be provided to the Legislative
44 Budget Commission, the appropriations committees, and the
45 Auditor General.

46 (b) The Governor and the Chief Justice may, after a public
47 hearing, delete supervisory or managerial positions within a
48 department and establish direct service delivery positions in
49 excess of the number of supervisory or managerial positions
50 deleted. The salary rate for all positions authorized under this
51 paragraph may not exceed the salary rate for all positions
52 deleted under this paragraph. Positions affected by changes made
53 under this paragraph may be funded only from identical funding
54 sources.

55 (c)1. The Executive Office of the Governor, under such
56 procedures and qualifications as it deems appropriate, shall,
57 upon agency request, delegate to any state agency authority to
58 add and delete authorized positions or transfer authorized

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59 positions from one budget entity to another budget entity within
60 the same division, and may approve additions and deletions of
61 authorized positions or transfers of authorized positions within
62 the state agency when such changes would enable the agency to
63 administer more effectively its authorized and approved
64 programs. The additions or deletions must be consistent with the
65 intent of the approved operating budget, must be consistent with
66 legislative policy and intent, and must not conflict with
67 specific spending policies specified in the General
68 Appropriations Act.

69 2. The Chief Justice of the Supreme Court may ~~shall have~~
70 ~~the authority to~~ establish procedures for the judicial branch to
71 add and delete authorized positions or transfer authorized
72 positions from one budget entity to another budget entity, and
73 to add and delete authorized positions within the same budget
74 entity, when such changes are consistent with legislative policy
75 and intent and do not conflict with spending policies specified
76 in the General Appropriations Act.

77 (d) An individual employed by a state agency or by the
78 judicial branch may not hold more than one employment during his
79 or her normal working hours with the state, such working hours
80 to be determined by the head of the state agency affected,
81 unless approved by the Department of Management Services, or
82 otherwise delegated to the agency head, or by the Chief Justice
83 of the Supreme Court, respectively.

84 (e) An individual employed by a state agency or by the
85 judicial branch may not fill more than a total of one full-time
86 equivalent established position, receive compensation
87 simultaneously from any appropriation other than appropriations

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88 for salaries, or receive compensation simultaneously from more
89 than one state agency unless approved by the Department of
90 Management Services, or otherwise delegated to the agency head,
91 or by the Chief Justice, respectively, during each fiscal year.
92 The Department of Management Services may adopt uniform rules
93 applicable to the executive branch agencies to implement its
94 responsibilities under this paragraph.

95 (f) Perquisites may not be furnished by a state agency or
96 by the judicial branch unless approved by the Department of
97 Management Services, or otherwise delegated to the agency head,
98 or by the Chief Justice, respectively, during each fiscal year.
99 Whenever a state agency or the judicial branch is to furnish
100 perquisites, the Department of Management Services or the agency
101 head to which the approval has been delegated or the Chief
102 Justice, respectively, must approve the kind and monetary value
103 of such perquisites before they may be furnished. Perquisites
104 may be furnished only when in the best interest of the state due
105 to the exceptional or unique requirements of the position. The
106 value of a perquisite may not be used to compute an employee's
107 base rate of pay or regular rate of pay unless required by the
108 Fair Labor Standards Act. Permissible perquisites include, but
109 are not limited to, moving expenses, clothing, use of vehicles
110 and other transportation, domestic services, groundskeeping
111 services, telephone services, medical services, housing,
112 utilities, and meals. The Department of Management Services may
113 adopt uniform rules applicable to the executive branch agencies
114 to implement its responsibilities under this paragraph, which
115 rules may specify additional perquisites, establish additional
116 criteria for each kind of perquisite, provide the procedure to

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117 be used by executive agencies in applying for approvals, and
118 establish the required justification. As used in this section,
119 the term "perquisites" means those things, or the use thereof,
120 or services of a kind that confer on the officers or employees
121 receiving them some benefit that is in the nature of additional
122 compensation, or that reduce to some extent the normal personal
123 expenses of the officer or employee receiving them. The term
124 includes, but is not limited to, such things as quarters,
125 subsistence, utilities, laundry services, medical service, use
126 of state-owned vehicles for other than state purposes, and
127 servants paid by the state.

128 (g) If goods and services are to be sold to officers and
129 employees of a state agency or of the judicial branch rather
130 than being furnished as perquisites, the kind and selling price
131 thereof shall be approved by the Department of Management
132 Services, unless otherwise delegated to the agency head, or by
133 the Chief Justice, respectively, during each fiscal year before
134 such sales are made. The selling price may be deducted from any
135 amounts due by the state to any person receiving such things.
136 The amount of cash so deducted shall be faithfully accounted
137 for. This paragraph does not apply to sales to officers or
138 employees of items generally sold to the public and does not
139 apply to meals that ~~which~~ may be provided without charge to
140 volunteers under a volunteer service program approved by the
141 Department of Management Services. The goods and services may
142 include, but are not limited to, medical services, long-term and
143 short-term rental housing, and laundry and transportation
144 services. The Department of Management Services may adopt
145 uniform rules applicable to the executive branch agencies to

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146 implement its responsibilities under this paragraph. These
147 ~~which~~ rules may specify other items that may be approved, the
148 required justification for proposed sales, and the manner in
149 which agencies will apply for approvals.

150 (2) The provisions of paragraphs (1)(d) and (e) do not
151 apply to an individual filling a position the salary of which
152 has been specifically fixed or limited by law. Unless
153 specifically authorized by law, an individual filling or
154 performing the duties of a position the salary of which has been
155 specifically fixed or limited by law may not receive
156 compensation from more than one appropriation, or in excess of
157 the amount so fixed or limited by law, regardless of any
158 additional duties performed by that individual in any capacity
159 or position. However, this subsection does not prohibit
160 additional compensation from an educational appropriation to any
161 person holding a position the salary of which is specifically
162 fixed or limited by law, provided such compensation does not
163 exceed payment for more than one course of instruction during
164 any one academic term and that such compensation is approved as
165 provided in paragraphs (1)(d) and (e). Any compensation received
166 by any person pursuant to the provisions of this subsection
167 shall not be computed as a part of average final compensation
168 for retirement purposes under the provisions of chapter 121.

169 (3) A ~~No~~ full-time position may not ~~shall~~ be filled by more
170 than the equivalent of one full-time officer or employee, except
171 when extenuating circumstances exist. Extenuating circumstances
172 will be provided for in rules to be adopted by the Department of
173 Management Services or by the Chief Justice, respectively.

174 (4) The requirement provided in subsection (1) regarding

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175 the limit on the total number of authorized positions does not
176 apply to positions within the Department of Health which are
177 funded by the County Health Department Trust Fund.

178 ~~Notwithstanding the provisions of this chapter on increasing the~~
179 ~~number of authorized positions, and for the 2009-2010 fiscal~~
180 ~~year only, if the actual inmate population of the Department of~~
181 ~~Corrections exceeds the inmate population projections of the~~
182 ~~April 30, 2009, Criminal Justice Estimating Conference by 1~~
183 ~~percent for 2 consecutive months or 2 percent for any month, the~~
184 ~~Executive Office of the Governor, with the approval of the~~
185 ~~Legislative Budget Commission, shall immediately notify the~~
186 ~~Criminal Justice Estimating Conference, which shall convene as~~
187 ~~soon as possible to revise the estimates. The Department of~~
188 ~~Corrections may then submit a budget amendment requesting the~~
189 ~~establishment of positions in excess of the number authorized by~~
190 ~~the Legislature and additional appropriations from unallocated~~
191 ~~general revenue sufficient to provide for essential staff, fixed~~
192 ~~capital improvements, and other resources to provide~~
193 ~~classification, security, food services, health services, and~~
194 ~~other variable expenses within the institutions to accommodate~~
195 ~~the estimated increase in the inmate population. All actions~~
196 ~~taken pursuant to the authority granted in this subsection shall~~
197 ~~be subject to review and approval by the Legislative Budget~~
198 ~~Commission. This subsection expires July 1, 2010.~~

199 Section 2. This act shall take effect July 1, 2010.