

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 5003 PCB CEED 10-03 Implementing the 2010-2011 General Appropriations Act

SPONSOR(S): Full Appropriations Council on Education & Economic Development and Rivera

TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	Full Appropriations Council on Education & Economic Development	11 Y, 5 N	Kramer	Voyles
1)				
2)				
3)				
4)				
5)				

SUMMARY ANALYSIS

The bill provides the statutory authority necessary to implement and execute the General Appropriations Act (GAA) for Fiscal Year 2010-2011. The statutory changes are effective for only one year and either expire on July 1, 2011 or revert to the language as it existed before the changes made by the bill.

Because this bill implements provisions of the General Appropriations Act for Fiscal Year 2010-2011, there are no direct fiscal impacts created by this bill.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background:

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.¹ For this reason, when general law changes are required to effectuate appropriations, those changes are placed in a general bill implementing the appropriations act instead of in the GAA. The statutory changes are effective for only one year and either expire on July 1 of the next fiscal year or revert to the language as it existed before the changes made by the bill.

2010-2011 Implementing Bill:

Section 1 provides legislative intent.

Section 2 provides that the calculations of the Florida Education Finance Program for the 2010-2011 fiscal year in the document entitled "Public School Funding - The Florida Education Finance Program," and filed with the Secretary of the Senate are incorporated by reference for the purpose of displaying the calculations used by the Legislature in making appropriations for the Florida Education Finance Program.

Section 3 amends s. 216.292 to authorize the transfer of appropriations for fixed capital outlay from the Survey Recommended Needs-Public Schools appropriations category to the Maintenance, Repair, Renovation and Remodeling appropriation category.

Section 4 authorizes the Department of Corrections and the Department of Juvenile Justice to make expenditures to defray costs incurred by a municipality or county for facilities operated under the authority of each department. The payment may not exceed one percent of the construction costs, less any building impact fees paid to the local government.

Section 5 amends s. 216.262, F.S., to extend to FY 2010-2011 the authority of the Executive Office of the Governor to request additional positions and other resources, including fixed capital outlay, for the

¹ See, e.g., *Brown v. Firestone*, 382 So.2d 654 (Fla. 1980); *Chiles v. Milligan*, 659 So.2d 1055 (Fla. 1995)

Department of Corrections, if the Criminal Justice Estimating Conference projects a certain increase in the inmate population and the additional positions are approved by the Legislative Budget Commission.

Section 6 authorizes the Department of Legal Affairs to transfer cash remaining after required disbursements from specific cases handled by the Department of Legal Affairs to the Operating Trust Fund to pay salaries and benefits.

Section 7 amends s. 932.7055, F.S. regarding the disbursement of proceeds of the sale of forfeited property, to extend to FY 2010-2011 the authority for funds in a special law enforcement trust fund established by the governing body of a municipality to be expended to reimburse the general fund of the municipality for moneys advanced from the general fund to the special law enforcement trust fund prior to October 1, 2001.

Section 8 amends s. 394.908, F.S., to extend to FY 2010-2011 the requirement that funds appropriated for mental health treatment services in institutions be allocated to the areas of the state having the greatest demand for services and treatment capacity and providing that funds appropriated for community based providers participating in the Medicaid Administrative Claiming Program be allocated according to the General Appropriation Act.

Section 9 amends s. 215.5602, F.S. to suspend requirement for FY 2010-2011 that 5 percent of the revenue deposited into the Health Care Trust Fund pursuant to ss. 210.011(9) and 210.276(7) be reserved for research of tobacco-related or cancer-related illnesses.

Section 10 amends s. 381.922, F.S., relating to the William G. "Bill" Bankhead, Jr., and David Coley Cancer Research Program to delay the repeal of the section from January 1, 2011 to July 1, 2011.

Section 11 provides that notwithstanding any law to the contrary, a state agency may not adopt or implement a rule or policy that:

- (a) Mandates or establishes new nitrogen-reduction limits that apply to existing or new onsite sewage treatment systems;
- (b) Has the effect of requiring the use of performance-based treatment systems; or
- (c) Increases the cost of treatment for nitrogen reduction from onsite systems,

before the study and report required in proviso following Specific Appropriation 486 is completed.

Section 12 requires the Florida Catastrophic Storm Risk Management Center at Florida State University to conduct the analysis that was originally required in section 164 of chapter 2004-390, Laws of Florida. Section 164 of chapter 2004-390, Laws of Florida, required a detailed analysis of factors affecting costs and potential assessments on consumers, and availability, of personal lines property and casualty insurance in Florida generally and in those areas in which coverage is underwritten by the Citizens Property and Casualty Insurance Company. The chapter law required the analysis to include an evaluation of such factors and recommendations appropriate to moderate or enhance their impact on premiums potential assessments and availability of such insurance. The study was to be funded from a budget of no more than \$250,000, from assessments on insurers issuing personal lines property and casualty insurance in the state. These assessments were collected by the Office of Insurance Regulation; however, the study was not completed. Section 12 requires the Florida Catastrophic Storm Risk Management Center at Florida State University to use the most recent and available premium data for personal lines property and casualty insurance in completing the analysis.

Sections 13 and 14 amends s. 218.12, F.S., to clarify the method for calculating impacts on ad valorem tax revenue for fiscally constrained counties resulting from revisions of Article VII of the State Constitution.

Section 15 and 16 amends s. 255.518, F.S. to extend for FY 2010-2011 the removal of the prohibition on funding reserve funds from bond proceeds.

Section 17 amends 255.503, F.S., to extend for FY 2010-2011 the requirement that the Department of Management Services submit an analysis of the disposition of all state-owned facilities and the effect of disposal.

Section 18 amends s. 253.034, F.S. to extend until July 1, 2011 the authority for funds derived from the sale of the Department of Citrus' property located in Lakeland, Florida, to be deposited into the Citrus Advertising Trust Fund.

Section 19 amends s. 375.041, F.S. to authorize the transfer of moneys in the Land Acquisition Trust Fund to the Water Quality Assurance Trust Fund for the Total Maximum Daily Loads Program, the Drinking Water Facility Construction–State Revolving Loan Fund, the Wastewater Facility Treatment Construction–State Revolving Loan Fund, and the Florida Onsite Sewage Reduction Strategies Study.

Section 20 amends s. 373.59, F.S., to prioritize the distribution of funds in the Water Management Lands Trust Fund within the Department of Environmental Protection.

Section 21 amends s. 376.3071, F.S., to provide site selection and cleanup criteria for the removal of contaminated soil as it relates to the use of the Inland Protection Trust Fund within the Department of Environmental Protection.

Section 22 amends s. 570.20, F.S., to extend for FY 2010-2011 the authority for moneys in the General Inspection Trust Fund to be appropriated for certain programs operated by the Department of Agriculture and Consumer Services.

Section 23 amends s. 403.7095, F.S. to require the Department of Environmental Protection to award the sum of \$2,600,000 in grants equally to counties having populations of fewer than 100,000 for waste tire and litter prevention, recycling education, and general solid waste programs.

Section 24 provides that in order to provide consistency and continuity in the promotion of agriculture throughout the state, the Department of Agriculture and Consumer Services, at its discretion, may extend, revise, and renew current contracts or agreements created or entered into pursuant to chapter 2006-25, Laws of Florida.

Section 25 amends s. 339.135, F.S., to extend to FY 2010-2011 the requirement that the Department of Transportation transfer funds to the Office of Tourism, Trade, and Economic Development in an amount equal to \$20,000,000 for the purpose of funding economic development transportation projects. The section provides that this transfer shall not reduce, delete, or defer any existing projects funded, as of July 1, 2009, in the Department of Transportation's 5-year work program.

Section 26 provides that funds appropriated out of the Economic Development Transportation Trust Fund may be used:

- for economic development infrastructure projects and other economic development projects;
- for improvements to other launch complexes and space transportation facilities in order to attract new space vehicle testing and launch business to the state;
- to address intermodal requirements and impacts of the launch ranges, spaceports, and other space transportation facilities;
- to advance aerospace technology to meet the current and future needs of the United States commercial space transportation industry; and
- to assist in the development of joint-use facilities and technology that support aviation and aerospace operations, including high altitude and suborbital flights and range technology development.

Section 27 amends s. 216.292, F.S. which provides that a transfer of funds may not result in the initiation of a fixed capital outlay project that has not received a specific legislative appropriation to provide that, for FY 2010-2011, notwithstanding this provision, the Governor may recommend the initiation of fixed capital outlay projects funded by grants awarded by the Federal Government through the American Recovery and Reinvestment Act of 2009 or by any other federal economic stimulus grant

funding received. All actions taken pursuant to the authority granted in the paragraph are subject to review and approval by the Legislative Budget Commission.

Section 28 provides that the Executive Office of the Governor is authorized to transfer funds appropriated for the American Recovery and Reinvestment Act of 2009 (ARRA) in traditional appropriation categories to appropriation categories established for the specific purpose of tracking funds appropriated for the ARRA.

Sections 29 and 30 reenacts s. 288.1254, F.S. to continue for FY 2010-2011 the priority for funding of the entertainment industry financial incentive program established in 2009.

Section 31 amends s. 339.08, F.S., to extend the expiration date of paragraph (n) which allows funds in the State Transportation Trust Fund to be used for administrative expenses of a multicounty transportation or expressway authority created under chapter 343 or chapter 348, where jurisdiction for the authority includes a portion of the State Highway System until July 1, 2011.

Section 32 amends s. 339.08, F.S. to authorize the transfer of funds from the State Transportation Trust Fund to the General Revenue Fund

Section 33 amends s. 445.009, F.S. to extend the expiration date of subsection (11) to July 1, 2011. This subsection provides that a participant in an adult or youth work experience activity shall be deemed an employee of the state for purposes of workers' compensation coverage. In determining the average weekly wage, all remuneration received from the employer shall be considered a gratuity, and the participant shall not be entitled to any benefits otherwise payable under s. 440.15, regardless of whether the participant may be receiving wages and remuneration from other employment with another employer and regardless of his or her future wage-earning capacity.

Section 34 authorizes the Executive Office of the Governor to transfer funds appropriated for the payment of risk management insurance premiums between departments in order to align the budget authority granted with the premiums paid by each department for risk management insurance. The amendment to the approved operating budget is subject to the notice and objection procedures of s. 216.177, F.S.

Section 35 authorizes the Executive Office of the Governor to transfer funds appropriated for the payment of the statewide human resource management services contract 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. The amendment to the approved operating budget is subject to the notice and objection procedures of s. 216.177, F.S.

Section 36 provides that In order to implement the reduction in each agency's salary and benefit appropriation and pursuant to the notice, review, and objection procedures of s. 216.177, F.S., the Executive Office of the Governor may transfer funds appropriated in the appropriation category "Salaries and Benefits" between departments in order to align the budget authority granted to each agency with the reductions that must be made by each agency. All actions taken pursuant to the authority granted in this section are subject to the review and approval of the Legislative Budget Commission.

Section 37 provides that in order to implement specific appropriations for salaries and benefits in the 2010-11 General Appropriations Act, the intent of the Legislature is to provide flexibility to agency heads over personnel management to maximize the efficiency and effectiveness of agency operations. The section provides that the Legislature recognizes that:

- the state is facing a critical fiscal situation unprecedented in the last quarter century;
- during this time of budgetary shortfall it is in the best interest of the state to ensure that that the state's resources be used in the most efficient and prudent manner, while maintaining the critical missions of the state;

- agency heads are uniquely positioned to determine how to best manage their agency's human resources given the constraints associated with a reduction in the salary and benefit appropriation.

The bill provides that notwithstanding specific provisions of Chapters 110, 112, 216, 447, F.S., to the contrary, and for the fiscal year 2010-2011 only, agency heads are authorized to terminate or layoff staff, reduce salaries of individual or groups of employees, reclassify positions and provide retention adjustments or bonuses to high performing staff. For the purpose of the authority granted by this section, the term "agency head" shall include the term as defined in s. 20.055(1)(b) and shall also include the Chief Justice of the Supreme Court; the Board of Trustees of each University; the Board of Trustees of the Florida School for the Deaf and Blind; the executive director of the Justice Administrative Commission; the executive director of the Office of Guardian Ad Litem; each State Attorney; each Public Defender; each Capital Collateral Regional Counsel and each Regional Counsel.

Section 38 amends s. 110.123, F.S. to provide the state's monthly contribution rates for health saving accounts will be the same in FY 2010-2011 as they were in FY 2009-2010.

Section 39 amends s. 112.24, relating to intergovernmental exchanges of state employees to provide that the assignment of an employee of a state agency may be made if recommended by the Governor or Chief Justice, as appropriate, and approved by the chairs of the Senate Policy and Steering Committee on Ways and Means and the House Full Appropriations Council on Education and Economic Development.

Section 40 reenacts s. 215.32, F.S., to authorize the Legislature to transfer in the General Appropriations Act unencumbered trust fund balances to the General Revenue Fund or the Budget Stabilization Fund.

Section 41 provides a legislative finding that the authorization and issuance of state debt during the 2010-2011 fiscal year is in the best interests of the state and is necessary to address a critical state emergency.

Section 42 limits the funds appropriated to each state agency for state employee travel to activities that are critical to each state agency's mission.

Section 43 specifies that no section of this bill will take effect if the appropriations and proviso to which it relates are vetoed.

Section 44 provides that a permanent change made by another law to any of the same statutes amended by this bill takes precedence over the provision in this bill.

Section 45 provides a severability clause.

Section 46 provides an effective date.

B. SECTION DIRECTORY:

See Effect of Proposed Changes.

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:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

The Full Appropriations Council on Education and Economic Development adopted one amendment to section 26 of the bill which authorizes the use of Economic Development Transportation Project funding for other economic development projects.