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

11  
12 Be It Enacted by the Legislature of the State of Florida:

13  
14 Section 1. Section 216.262, Florida Statutes, is amended  
15 to read:

16 216.262 Authorized positions.—

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

29 | number of positions for the following reasons only:

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

32 |       2. To meet emergencies pursuant to s. 252.36.

33 |       3. To satisfy new federal regulations or changes therein.

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

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

39 |

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

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

54 |       (c)1. The Executive Office of the Governor, under such  
55 | procedures and qualifications as it deems appropriate, shall,  
56 | upon agency request, delegate to any state agency authority to

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

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

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

83 |       (e) An individual employed by a state agency or by the  
84 | judicial branch may not fill more than a total of one full-time

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

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

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

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

141 include, but are not limited to, medical services, long-term and  
 142 short-term rental housing, and laundry and transportation  
 143 services. The Department of Management Services may adopt  
 144 uniform rules applicable to the executive branch agencies to  
 145 implement its responsibilities under this paragraph. These  
 146 ~~which~~ rules may specify other items that may be approved, the  
 147 required justification for proposed sales, and the manner in  
 148 which agencies will apply for approvals.

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

168 (3) A ~~No~~ full-time position may not ~~shall~~ be filled by

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169 more than the equivalent of one full-time officer or employee,  
170 except when extenuating circumstances exist. Extenuating  
171 circumstances will be provided for in rules to be adopted by the  
172 Department of Management Services or by the Chief Justice,  
173 respectively.

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

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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.