

1                                   A bill to be entitled  
 2       An act relating to public employee compensation; amending  
 3       s. 215.425, F.S.; revising provisions relating to the  
 4       prohibition against the payment of extra compensation;  
 5       providing for bonuses; specifying the conditions for  
 6       paying bonuses; prohibiting provisions in contracts that  
 7       provide for severance pay; allowing for severance pay  
 8       under specified circumstances; defining the term  
 9       "severance pay"; prohibiting a contract provision that  
 10      provides for extra compensation to limit the ability to  
 11      discuss the contract; amending s. 166.021, F.S.; deleting  
 12      a provision that allows a municipality to pay extra  
 13      compensation; amending s. 112.061, F.S.; conforming cross-  
 14      references; amending s. 125.01, F.S.; deleting provisions  
 15      relating to the power of a local government to pay extra  
 16      compensation; repealing s. 373.0795, F.S., relating to a  
 17      prohibition against severance pay for officers or  
 18      employees of water management districts; providing an  
 19      effective date.

20  
 21 Be It Enacted by the Legislature of the State of Florida:

22  
 23           Section 1. Section 215.425, Florida Statutes, is amended  
 24   to read:

25           215.425 Extra compensation claims prohibited; bonuses;  
 26   severance pay.—

27           (1) No extra compensation shall be made to any officer,  
 28   agent, employee, or contractor after the service has been

29 rendered or the contract made; nor shall any money be  
 30 appropriated or paid on any claim the subject matter of which  
 31 has not been provided for by preexisting laws, unless such  
 32 compensation or claim is allowed by a law enacted by two-thirds  
 33 of the members elected to each house of the Legislature.

34 However, when adopting salary schedules for a fiscal year, a  
 35 district school board or community college district board of  
 36 trustees may apply the schedule for payment of all services  
 37 rendered subsequent to July 1 of that fiscal year.

38 (2) The provisions of This section does ~~de~~ not apply to:

39 (a) Extra compensation given to state employees who are  
 40 included within the senior management group pursuant to rules  
 41 adopted by the Department of Management Services; ~~to extra~~  
 42 ~~compensation given to county, municipal, or special district~~  
 43 ~~employees pursuant to policies adopted by county or municipal~~  
 44 ~~ordinances or resolutions of governing boards of special~~  
 45 ~~districts or to employees of the clerk of the circuit court~~  
 46 ~~pursuant to written policy of the clerk; or to~~

47 (b) A clothing and maintenance allowance given to  
 48 plainclothes deputies pursuant to s. 30.49.

49 (3) Any policy, ordinance, rule, or resolution designed to  
 50 implement a bonus scheme must:

51 (a) Base the award of a bonus on work performance;

52 (b) Describe the performance standards and evaluation  
 53 process by which a bonus will be awarded;

54 (c) Notify all employees of the policy, ordinance, rule,  
 55 or resolution before the beginning of the evaluation period on  
 56 which a bonus will be based; and

57        (d) Consider all employees for the bonus.

58        (4) (a) On or after July 1, 2011, a unit of government may  
 59 not enter into a contract or employment agreement that contains  
 60 a provision for severance pay with an officer, agent, employee,  
 61 or contractor.

62        (b) On or after July 1, 2011, an officer, agent, employee,  
 63 or contractor may receive severance pay only if:

64            1. The severance pay is paid from wholly private funds,  
 65 the payment and receipt of which do not otherwise violate part  
 66 III of chapter 112;

67            2. The severance pay is administered under part II of  
 68 chapter 112 on behalf of an agency outside this state and would  
 69 be permitted under that agency's personnel system;

70            3. The severance pay represents the settlement of an  
 71 employment dispute. Such settlement may not include provisions  
 72 that limit the ability of any party to the settlement to discuss  
 73 the dispute or settlement; or

74            4. Provision for the severance pay is expressly included  
 75 in a contract for employment which was entered into before July  
 76 1, 2011.

77        (c) This subsection does not create an entitlement to  
 78 severance pay in the absence of its authorization.

79        (d) As used in this subsection, the term "severance pay"  
 80 means the actual or constructive compensation, including salary,  
 81 benefits, or perquisites, for employment services yet to be  
 82 rendered which is provided to an employee who has recently been  
 83 or is about to be terminated. The term does not include  
 84 compensation for:

85 1. Earned and accrued annual, sick, compensatory, or  
 86 administrative leave; or

87 2. Early retirement under provisions established in an  
 88 actuarially funded pension plan subject to part VII of chapter  
 89 112.

90 (5) Any agreement or contract involving extra compensation  
 91 between a unit of government and an officer, agent, employee, or  
 92 contractor may not include provisions that limit the ability of  
 93 any party to the agreement or contract to discuss the agreement  
 94 or contract.

95 Section 2. Present subsections (8) through (10) of section  
 96 166.021, Florida Statutes, are redesignated as subsections (7)  
 97 through (9) respectively, and present subsection (7) of that  
 98 section is amended, to read:

99 166.021 Powers.—

100 ~~(7) Notwithstanding the prohibition against extra~~  
 101 ~~compensation set forth in s. 215.425, the governing body of a~~  
 102 ~~municipality may provide for an extra compensation program,~~  
 103 ~~including a lump-sum bonus payment program, to reward~~  
 104 ~~outstanding employees whose performance exceeds standards, if~~  
 105 ~~the program provides that a bonus payment may not be included in~~  
 106 ~~an employee's regular base rate of pay and may not be carried~~  
 107 ~~forward in subsequent years.~~

108 Section 3. Paragraphs (a) and (c) of subsection (14) of  
 109 section 112.061, Florida Statutes, are amended to read:

110 112.061 Per diem and travel expenses of public officers,  
 111 employees, and authorized persons.—

112 (14) APPLICABILITY TO COUNTIES, COUNTY OFFICERS, DISTRICT

113 SCHOOL BOARDS, SPECIAL DISTRICTS, AND METROPOLITAN PLANNING  
 114 ORGANIZATIONS.—

115 (a) The following entities may establish rates that vary  
 116 from the per diem rate provided in paragraph (6) (a), the  
 117 subsistence rates provided in paragraph (6) (b), or the mileage  
 118 rate provided in paragraph (7) (d) if those rates are not less  
 119 than the statutorily established rates that are in effect for  
 120 the 2005-2006 fiscal year:

121 1. The governing body of a county by the enactment of an  
 122 ordinance or resolution;

123 2. A county constitutional officer, pursuant to s. 1(d),  
 124 Art. VIII of the State Constitution, by the establishment of  
 125 written policy;

126 3. The governing body of a district school board by the  
 127 adoption of rules;

128 4. The governing body of a special district, as defined in  
 129 s. 189.403(1), except those special districts that are subject  
 130 to s. 166.021(9) ~~166.021(10)~~, by the enactment of a resolution;  
 131 or

132 5. Any metropolitan planning organization created pursuant  
 133 to s. 339.175 or any other separate legal or administrative  
 134 entity created pursuant to s. 339.175 of which a metropolitan  
 135 planning organization is a member, by the enactment of a  
 136 resolution.

137 (c) Except as otherwise provided in this subsection,  
 138 counties, county constitutional officers and entities governed  
 139 by those officers, district school boards, special districts,  
 140 and metropolitan planning organizations, other than those

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141 subject to s. 166.021(9) ~~166.021(10)~~, remain subject to the  
142 requirements of this section.

143 Section 4. Paragraphs (cc) and (dd) of subsection (1) of  
144 section 125.01, Florida Statutes, are redesignated as paragraphs  
145 (bb) and (cc), respectively, and paragraph (bb) of that  
146 subsection is amended to read:

147 125.01 Powers and duties.—

148 (1) The legislative and governing body of a county shall  
149 have the power to carry on county government. To the extent not  
150 inconsistent with general or special law, this power includes,  
151 but is not restricted to, the power to:

152 ~~(bb) Notwithstanding the prohibition against extra~~  
153 ~~compensation set forth in s. 215.425, provide for an extra~~  
154 ~~compensation program, including a lump-sum bonus payment~~  
155 ~~program, to reward outstanding employees whose performance~~  
156 ~~exceeds standards, if the program provides that a bonus payment~~  
157 ~~may not be included in an employee's regular base rate of pay~~  
158 ~~and may not be carried forward in subsequent years.~~

159 Section 5. Section 373.0795, Florida Statutes, is  
160 repealed.

161 Section 6. This act shall take effect July 1, 2011.