

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; requiring that contracts providing for
 7 severance pay under certain circumstances include
 8 specified provisions; defining the term "severance pay";
 9 prohibiting certain contract provisions that provide for
 10 extra compensation to limit the ability to discuss the
 11 contract; amending s. 125.01, F.S.; deleting provisions
 12 relating to the power of a county to pay extra
 13 compensation; amending s. 166.021, F.S.; deleting a
 14 provision that allows a municipality to pay extra
 15 compensation; amending s. 112.061, F.S.; conforming cross-
 16 references; 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

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57 (d) Consider all employees for the bonus.

58 (4) (a) On or after July 1, 2011, a unit of government that
59 enters into a contract or employment agreement, or renewal or
60 renegotiation of an existing contract or employment agreement,
61 that contains a provision for severance pay with an officer,
62 agent, employee, or contractor must include the following
63 provisions in the contract:

64 1. A requirement that severance pay provided may not
65 exceed an amount greater than 20 weeks of compensation, unless
66 the unit of government approves the contract or employment
67 agreement, or renewal or renegotiation of a contract or
68 employment agreement, by a two-thirds vote of the membership of
69 the approving body of the unit of government.

70 2. A prohibition of provision of severance pay when the
71 officer, agent, employee, or contractor has been fired for
72 misconduct, as defined in s. 443.036(29), by the unit of
73 government.

74 (b) Notwithstanding paragraph (a), on or after July 1,
75 2011, an officer, agent, employee, or contractor may receive
76 severance pay if:

77 1. The severance pay is paid from wholly private funds,
78 the payment and receipt of which do not otherwise violate part
79 III of chapter 112; or

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

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

85 (d) As used in this subsection, the term "severance pay"
 86 means the actual or constructive compensation, including salary,
 87 benefits, or perquisites, for employment services yet to be
 88 rendered which is provided to an employee who has recently been
 89 or is about to be terminated. The term does not include
 90 compensation for:

91 1. Earned and accrued annual, sick, compensatory, or
 92 administrative leave;

93 2. Early retirement under provisions established in an
 94 actuarially funded pension plan subject to part VII of chapter
 95 112; or

96 3. Any subsidy for the cost of a group insurance plan
 97 available to an employee upon normal or disability retirement
 98 that is by policy available to all employees of the unit of
 99 government pursuant to the unit's health insurance plan. This
 100 subparagraph may not be construed to limit the ability of a unit
 101 of government to reduce or eliminate such subsidies.

102 (5) Any agreement or contract, executed on or after July
 103 1, 2011, which involves extra compensation between a unit of
 104 government and an officer, agent, employee, or contractor may
 105 not include provisions that limit the ability of any party to
 106 the agreement or contract to discuss the agreement or contract.

107 Section 2. Paragraphs (cc) and (dd) of subsection (1) of
 108 section 125.01, Florida Statutes, are redesignated as paragraphs
 109 (bb) and (cc), respectively, and paragraph (bb) of that
 110 subsection is amended to read:

111 125.01 Powers and duties.—

112 (1) The legislative and governing body of a county shall

113 have the power to carry on county government. To the extent not
 114 inconsistent with general or special law, this power includes,
 115 but is not restricted to, the power to:

116 ~~(bb) Notwithstanding the prohibition against extra~~
 117 ~~compensation set forth in s. 215.425, provide for an extra~~
 118 ~~compensation program, including a lump sum bonus payment~~
 119 ~~program, to reward outstanding employees whose performance~~
 120 ~~exceeds standards, if the program provides that a bonus payment~~
 121 ~~may not be included in an employee's regular base rate of pay~~
 122 ~~and may not be carried forward in subsequent years.~~

123 Section 3. Present subsections (8) through (10) of section
 124 166.021, Florida Statutes, are redesignated as subsections (7)
 125 through (9) respectively, and present subsection (7) of that
 126 section is amended, to read:

127 166.021 Powers.—

128 ~~(7) Notwithstanding the prohibition against extra~~
 129 ~~compensation set forth in s. 215.425, the governing body of a~~
 130 ~~municipality may provide for an extra compensation program,~~
 131 ~~including a lump sum bonus payment program, to reward~~
 132 ~~outstanding employees whose performance exceeds standards, if~~
 133 ~~the program provides that a bonus payment may not be included in~~
 134 ~~an employee's regular base rate of pay and may not be carried~~
 135 ~~forward in subsequent years.~~

136 Section 4. Paragraphs (a) and (c) of subsection (14) of
 137 section 112.061, Florida Statutes, are amended to read:

138 112.061 Per diem and travel expenses of public officers,
 139 employees, and authorized persons.—

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

141 SCHOOL BOARDS, SPECIAL DISTRICTS, AND METROPOLITAN PLANNING
 142 ORGANIZATIONS.—

143 (a) The following entities may establish rates that vary
 144 from the per diem rate provided in paragraph (6) (a), the
 145 subsistence rates provided in paragraph (6) (b), or the mileage
 146 rate provided in paragraph (7) (d) if those rates are not less
 147 than the statutorily established rates that are in effect for
 148 the 2005-2006 fiscal year:

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

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

154 3. The governing body of a district school board by the
 155 adoption of rules;

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

160 5. Any metropolitan planning organization created pursuant
 161 to s. 339.175 or any other separate legal or administrative
 162 entity created pursuant to s. 339.175 of which a metropolitan
 163 planning organization is a member, by the enactment of a
 164 resolution.

165 (c) Except as otherwise provided in this subsection,
 166 counties, county constitutional officers and entities governed
 167 by those officers, district school boards, special districts,
 168 and metropolitan planning organizations, other than those

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

171 Section 5. Section 373.0795, Florida Statutes, is
172 repealed.

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