

## **FINAL BILL ANALYSIS**

**BILL #:** SB 2002

**FINAL HOUSE FLOOR ACTION:**

80 Y's      39 N's

**SPONSOR:** Budget (Rep. Grimsley)

**GOVERNOR'S ACTION:** Approved

**COMPANION BILLS:** HB 5003

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## **SUMMARY ANALYSIS**

SB 2002 passed the House of Representatives on May 7, 2011. The bill was approved by the Governor on May 26, 2011, chapter 2011-47, Laws of Florida, and becomes effective July 1, 2011. The bill provides the statutory authority necessary to implement and execute the General Appropriations Act (GAA) for Fiscal Year 2011-2012. The statutory changes are effective for only one year and either expire on July 1, 2012 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 2011-2012, there are no direct fiscal impacts created by this bill.

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF 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.<sup>1</sup> 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.

The provisions of the bill are as follows:

Section 1 provides legislative intent that the implementing and administering provisions of this act apply to the General Appropriations Act for Fiscal Year 2011-12.

Section 2 incorporates Florida Education Finance Program workpapers by reference for the purpose of displaying the calculations used by the Legislature.

Section 3 amends s. 216.292 to authorize transfer of unused Fixed Capital Outlay appropriations from one public schools category to another.

Section 4 authorizes funds from the Workers’ Compensation Administration Trust Fund to be used for the Ready to Work Program.

Section 5 authorizes a university board of trustees to expend reserve or carry-forward balances from prior year operational and programmatic appropriations on legislatively approved fixed capital outlay projects authorized for the establishment of a new campus.

Section 6 amends s. 394.908, F.S. to authorize the Department of Children and Families to allocate funds appropriated for forensic mental health treatment services to the areas of the state with the greatest service demand and capacity.

Section 7 provides requirements to govern the completion of Phases 2 and 3 of the Department of Health’s Florida Onsite Sewage Nitrogen Strategies Study and prohibits state agencies from implementing regulations with higher standards than those currently in place until Phase 2 and Phase 3 of the department’s Florida Onsite Sewage Nitrogen Reduction Strategies Study is completed.

Section 8 amends section 1, ch. 2007-174, Laws of Florida, to extend for one year the repeal date of language that provides the Department of Children and Families flexibility in its organizational structure.

Section 9 adopts by reference the document used to display the calculations used by the Legislature in making appropriations for the Low Income Pool, Disproportionate Share Hospital, and Hospital Exemptions Programs.

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

Section 10 provides authority for the Department of Health to transfer funding to the Florida Agricultural and Mechanical University for the Crestview Center through the budget amendment process.

Section 11 amends the third and tenth paragraphs of proviso in Specific Appropriation 177 of the 2011-2012 General Appropriations Act.

Section 12 amends the second paragraph of proviso of relating to Specific Appropriation 182 of the 2011-2012 General Appropriations Act.

Section 13 prohibits the Department of Health from implementing the onsite sewage treatment and disposal program described in s. 381.0065, Florida Statutes, until the department submits a plan to the Legislative Budget Commission and the plan is approved.

Section 14 provides that the Department of Corrections and the Department of Juvenile Justice may expend appropriated funds to assist in defraying the costs of impacts incurred by a municipality or county and associated with opening or operating a facility under the authority of the respective department which is located within that municipality or county. The amount that is to be paid under this section for any facility may not exceed 1 percent of the facility construction cost, less building impact fees imposed by the municipality or by the county if the facility is located in the unincorporated portion of the county.

Section 15 amends s. 216.262, F.S. to allow the Executive Office of the Governor to request additional positions and appropriations from unallocated general revenue during the 2011-2012 fiscal year for the Department of Corrections if the actual inmate population of the department exceeds the inmate population projections of the February 2011 Criminal Justice Estimating Conference by 1 percent for 2 consecutive months or 2 percent for any month. The additional positions and appropriations must be approved by the Legislative Budget Commission.

Section 16 authorizes the Department of Legal Affairs to transfer cash remaining after required disbursements from specified Attorney General cases to the Operating Trust Fund to pay salaries and benefits.

Section 17 authorizes the Department of Legal Affairs to expend appropriated funds in those specific appropriations on the same programs that were funded by the department pursuant to specific appropriations made in general appropriations acts in prior years.

Section 18 amends s. 932.7055, F.S. to extend for another year the authorization for a municipality to expend funds in a special law enforcement trust fund 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 19 limits Department of Juvenile Justice's reimbursements for health care services to 110 percent of Medicare allowable rates.

Section 20 provides that the state court system is relieved of loan repayment obligations made from Mediation and Arbitration and Court Education Trust Fund during the 2010-11 fiscal year.

Section 21 authorizes the Chief Justice of the Supreme Court to secure a trust fund loan during the 2011-12 fiscal year.

Section 22 allows funds remaining in the Clerks of Court Trust Fund at the end of the 2010-2011 fiscal year to be available for clerks of court for fiscal year 2011-2012 expenditures rather than being transferred to the General Revenue Fund.

Section 23 amends s. 29.008, F.S. to provide that counties are exempt from the requirement to increase expenditures by 1.5 percent for court-related functions.

Section 24 amends s. 282.709, F.S. to provide that funds from the State Agency Law Enforcement Radio System Trust Fund may be used by the Department of Management Services to fund mutual aid build out maintenance and sustainment.

Section 25 provides for a study of factors affecting costs and availability of property and casualty insurance in Florida.

Section 26 authorizes the Department of Management Services to use interest earnings from the Communications Working Capital Trust Fund as the funding source for its responsibilities related to the MyFlorida.com portal.

Section 27 amends s. 253.034., F.S., to provide that funds derived from the sale of property by the Department of Citrus located in Lakeland, Florida, are authorized to be deposited into the Citrus Advertising Trust Fund.

Sections 28 and 29 amend s. 601.15, F.S. to limit the tax on grapefruit, tangerines, and fresh oranges at the rate in effect on May 1, 2011 and provide that the tax rate on oranges in processed form shall not exceed 25 cents per box.

Section 30 and 31 provide that the Executive Director of the Citrus Commission shall serve a 4-year term, except for the initial term of the Executive Director shall end on June 30, 2011.

Section 32 amends s. 375.041, F.S. to authorize revenues from the Land Acquisition Trust Fund to be used for Total Maximum Daily Loads programs within the Department of Environmental Protection.

Section 33 amends s. 373.59, F.S. to provides for the allocation of moneys from the Water Management Lands Trust Fund to pay debt service on bonds issued before 2/1/09, by the South Water Management District and the St. Johns Water Management District; continues to provide for \$8M to be transferred to the General Revenue Fund; and provides the remaining funds be distributed to the Suwannee River Water Management District, of which \$500,000 may be used for minimum flows and levels.

Section 34 and 35 amend s. 403.1651, F.S. to authorize the use of revenues in the Ecosystem Management and Restoration Trust Fund for funding of activities to preserve and repair the state's beaches.

Section 36 amends s. 570.20, F.S., to extend for another year the authorization for funds in the General Inspection Trust Fund of the Department of Agriculture and Consumer Services to be appropriated for programs operated by the department which are related to the programs authorized by chapter 570, F.S.

Section 37 amends s. 403.7095, F.S. to require the Department of Environmental Protection to award \$2,400,000 in grants equally to counties having populations of fewer than 100,000 for waste tire, litter prevention, recycling and education, and general solid waste programs.

Section 38 provides that the Department of Agriculture and Consumer Services, at its discretion, is authorized to extend, revise, and renew current contracts or agreements created or entered into, pursuant to chapter 2006-25, Laws of Florida (the 2006-2007 GAA), in order to provide consistency and continuity in agriculture promotion throughout the state.

Section 39 provides that the acquisition and disposition of state-owned lands are exempt from appraisal requirements if the proceeds of such conveyance will be used to purchase state-owned lands for preservation, conservation, and recreation purposes. This section requires agencies to submit a list of state-owned lands to Board of Trustees of the Internal Improvement Trust Fund that are available for lease or are surplus lands by October 1, 2011. Proceeds from the sale of such lands will be deposited into the Florida Forever Trust Fund and used to acquire state-owned lands for preservation, conservation, or recreation purposes.

Section 40 amends s. 379.204, F.S. to authorize the Fish and Wildlife Conservation Commission to transfer cash balance originating from hunting and finishing license fees in other trust funds into the Federal Grants Trust Fund for the purpose of supporting cash flow.

Section 41 provides that for the 2011-2012 fiscal year, the Fish and Wildlife Conservation Commission must suspend the publication of the printed version of the Florida Wildlife Magazine and the operations of the Florida

Section 42 amends s. 339.135(4)(a)(3), F.S. to provide Legislative intent to minimize the impacts of reduced revenues on the Department of Transportation work program.

Section 43 amends s. 339.135(5), F.S. to provide that the Department of Transportation shall transfer funds to the Office of Tourism, Trade, and Economic Development in an amount equal to \$15,000,000 for the purpose of funding economic development transportation projects. This section provides that the transfer shall not reduce, delete, or defer any existing projects funded, as of July 1, 2011, in the Department of Transportation's 5-year work program. This section also requires the Department of Transportation to fund airport development projects specified in the General Appropriations Act.

Section 44 amends s. 339.08(1), F.S. to provide that State Transportation Trust Funds may be used to pay for administrative expenses incurred in accordance with applicable laws for a multicounty transportation or expressway authority if jurisdiction for the authority includes a portion of the State Highway System and the administrative expenses are in furtherance of the duties and responsibilities of the authority in the development of improvements to the State Highway System.

Section 45 amends s. 339.08(4), F.S. to authorize the transfer of funds from the State Transportation Trust Fund may be transferred to General Revenue or the State School Trust Fund.

Section 46 provides that the ownership of all vehicles currently used by the Office of Motor Carrier Compliance shall be transferred to Department of Highway Safety and Motor Vehicles effective July 1, 2011 without payment of any titling or registration fees.

Section 47 amends s. 445.009, F.S. to provide that a participant in an adult or youth work experience activity administered pursuant to chapter 445 shall be deemed an employee of the state for purposes of workers' compensation coverage. This section provides that 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.

Sections 48 and 49 reenact s. 163.3247, F.S. to carry forward amendment made during 2010 session which removed authorization for members of the commission to receive per diem and travel expenses while in performance of duties.

Sections 50 and 51 reenact s. 201.15, F.S. to carry forward amendment made during 2010 session which removed language distributing certain taxes to the Century Commission.

Section 52 amends s. 206.608, F.S. to assist the Department of Transportation in adopting a work program balanced to revenues by giving the department the flexibility to use State Comprehensive Enhanced Transportation System Tax proceeds that are deposited into the State Transportation Trust Fund outside the district in which were collected.

Section 53 delays the transfer of funds from the Highway Safety Operating Trust fund to the Transportation Disadvantaged Trust Fund.

Section 54 provides that funding for passenger rail for the 2011-2012 fiscal year is included in the Transportations Systems Development budget entity.

Section 55 provides that that incumbent employees transferred from the Office of Motor Carrier Compliance to the Department of Highway Safety and Motor Vehicles who are exempt from career service will be placed in career service upon transfer. The section also provides legislative intent that incumbent employees will retain their current status unless otherwise provided in GAA.

Section 56 authorizes grants of up to \$3 million from the Toll Facilities Revolving Trust Fund for certain expressway projects.

Section 57 authorizes the Executive Office of the Governor to transfer funds in order to align the budget authority granted to pay each department's risk management insurance.

Section 58 authorizes the Executive Office of the Governor to transfer funds in the appropriation category "Special Categories-Transfer to Department of Management Services-Human Resources Services Purchased Per Statewide Contract" of the 2011-2012 General Appropriations Act 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 resources management services.

Section 59 sets rates for health savings accounts at the current levels for FY 2011-2012.

Section 60 provides that the state contribution to the State Group Insurance Program will be the difference between the costs and the employee contributions.

Section 61 amends s. 112.24, F.S. to provide that the reassignment 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 and House budget committees. Such actions shall be deemed approved if neither chair provides written notice of objection within 14 days after the chair's receiving notice of the action pursuant to s. 216.177, F.S.

Section 62 provides that legislative salaries will remain at the same level in effect on July 1, 2010.

Section 63 and 64 provide that in the event that HB 5011 or similar legislation fails to become law, the Justice Administrative Commission will maintain the registry of attorneys qualified for appointment for capital collateral defense.

Section 65 and 66 amend s. 215.32(2)(b), F.S., in order to authorize the transfer of moneys to the General Revenue Fund or State School Trust Fund from trust funds in the 2011-2012 General Appropriations Act.

Section 67 and 68 reenact s. 215.5601, F.S. relating to investment objectives of Lawton Chiles Endowment.

Section 69 provides that, in order to implement the issuance of new debt authorized in the 2011-2012 General Appropriations Act, and pursuant to the requirements of s. 215.98, F.S., the Legislature determines that the authorization and issuance of debt for the 2011-2012 fiscal year should be implemented and is in the best interest of the state and necessary to address a critical state emergency.

Section 70 provides that funds appropriated for travel by state employees shall be limited to travel for activities that are critical to each state agency's mission. This section prohibits funds from being used to travel to foreign countries, other states, conferences, staff-training or other administrative functions unless agency head approves in writing and requires agency heads to consider use of teleconferencing and electronic communication to meet needs of activity before approving travel.

Section 71 provides that the Governor is authorized to transfer funds appropriated in any appropriation category used to pay for data processing in the General Appropriations Act between agencies in order to align the budget authority granted with the utilization rate of each department.

Section 72 provides that state agencies that are required to begin planning for data consolidation scheduled for a subsequent fiscal year may accelerate the consolidation into the 2011-2012 fiscal year, contingent upon approval by the Legislative Budget Commission.

Section 73 provides that the Governor is authorized to transfer funds appropriated in the appropriations category "expenses" between agencies in order to allocate a reduction relating to SUNCOM Services.

Section 74 and 75 amends s. 110.12315, F.S., to modify copayments consistent with decisions that have been made in the General Appropriations Act.

Section 76 requires the Department of Management Services to use the services of a tenant broker to renegotiate all private lease agreements more than 150,000 square feet and requires the department to identify leases that do not comply with state law or the constitution.

Section 77 requires the Department of Management Services and state agencies to seek to renegotiate private lease agreements of more than 2,000 square feet expiring before June 30, 2013.

Section 78 requires the Department of Management Services to issue a solicitation for a pharmaceutical purchasing arrangement as a state term contract.

Section 79 requires the Agency for Health Care Administration to competitively reprocur a Florida Discount Drug Card Program to provide market competitive discounts and return money

to the state on a per prescription basis. Discounts will be available to Florida residents without income restrictions. Revenues deposited into Grants and Donations Trust Fund to reduce cost of Medicaid pharmacy purchases.

Section 80 requires agencies to submit report regarding purchases which could have been made from Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE), but were made from another vendor.

Section 81 specifies that no section shall take effect if the appropriations and proviso to which it relates are vetoed.

Section 82 provides that a permanent change made by another law to any of the same statutes amended by this bill will take precedence over the provision in this bill.

Section 83 provides a severability clause.

Section 84 provides the effective date of the act.

## **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.