

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Gonzalez offered the following:

2
3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5
6 Section 1. Section 215.425, Florida Statutes, is amended
7 to read:

8 215.425 Extra compensation claims prohibited; bonuses;
9 severance pay.—

10 (1) No extra compensation shall be made to any officer,
11 agent, employee, or contractor after the service has been
12 rendered or the contract made; nor shall any money be
13 appropriated or paid on any claim the subject matter of which
14 has not been provided for by preexisting laws, unless such
15 compensation or claim is allowed by a law enacted by two-thirds
16 of the members elected to each house of the Legislature.

100079

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Amendment No.

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

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

22 (a) Extra compensation given to state employees who are
23 included within the senior management group pursuant to rules
24 adopted by the Department of Management Services; ~~to extra~~
25 compensation given to county, municipal, or special district
26 employees pursuant to policies adopted by county or municipal
27 ordinances or resolutions of governing boards of special
28 districts or to employees of the clerk of the circuit court
29 pursuant to written policy of the clerk; or to

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

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

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

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

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

40 (d) Consider all employees for the bonus.

41 (4) (a) On or after July 1, 2011, a unit of government that
42 enters into a contract or employment agreement, or renewal or
43 renegotiation of an existing contract or employment agreement,
44 that contains a provision for severance pay with an officer,

100079

Approved For Filing: 5/3/2011 1:58:08 PM

Amendment No.

45 agent, employee, or contractor must include the following
46 provisions in the contract:

47 1. A requirement that severance pay provided may not
48 exceed an amount greater than 20 weeks of compensation, unless
49 the unit of government approves the contract or employment
50 agreement, or renewal or renegotiation of a contract or
51 employment agreement, by a two-thirds vote of the membership of
52 the approving body of the unit of government.

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

57 (b) Notwithstanding paragraph (a), on or after July 1,
58 2011, an officer, agent, employee, or contractor may receive
59 severance pay if:

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

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

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

68 (d) As used in this subsection, the term "severance pay"
69 means the actual or constructive compensation, including salary,
70 benefits, or perquisites, for employment services yet to be
71 rendered which is provided to an employee who has recently been

100079

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Amendment No.

72 or is about to be terminated. The term does not include
73 compensation for:

74 1. Earned and accrued annual, sick, compensatory, or
75 administrative leave;

76 2. Early retirement under provisions established in an
77 actuarially funded pension plan subject to part VII of chapter
78 112; or

79 3. Any subsidy for the cost of a group insurance plan
80 available to an employee upon normal or disability retirement
81 that is by policy available to all employees of the unit of
82 government pursuant to the unit's health insurance plan. This
83 subparagraph may not be construed to limit the ability of a unit
84 of government to reduce or eliminate such subsidies.

85 (5) Any agreement or contract, executed on or after July
86 1, 2011, which involves extra compensation between a unit of
87 government and an officer, agent, employee, or contractor may
88 not include provisions that limit the ability of any party to
89 the agreement or contract to discuss the agreement or contract.

90 Section 2. Paragraphs (cc) and (dd) of subsection (1) of
91 section 125.01, Florida Statutes, are redesignated as paragraphs
92 (bb) and (cc), respectively, and paragraph (bb) of that
93 subsection is amended to read:

94 125.01 Powers and duties.—

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

100079

Approved For Filing: 5/3/2011 1:58:08 PM

Amendment No.

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

106 Section 3. Present subsections (8) through (10) of section
107 166.021, Florida Statutes, are redesignated as subsections (7)
108 through (9) respectively, and present subsection (7) of that
109 section is amended, to read:

110 166.021 Powers.—

111 ~~(7) Notwithstanding the prohibition against extra~~
112 ~~compensation set forth in s. 215.425, the governing body of a~~
113 ~~municipality may provide for an extra compensation program,~~
114 ~~including a lump-sum bonus payment program, to reward~~
115 ~~outstanding employees whose performance exceeds standards, if~~
116 ~~the program provides that a bonus payment may not be included in~~
117 ~~an employee's regular base rate of pay and may not be carried~~
118 ~~forward in subsequent years.~~

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

121 112.061 Per diem and travel expenses of public officers,
122 employees, and authorized persons.—

123 (14) APPLICABILITY TO COUNTIES, COUNTY OFFICERS, DISTRICT
124 SCHOOL BOARDS, SPECIAL DISTRICTS, AND METROPOLITAN PLANNING
125 ORGANIZATIONS.—

100079

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Amendment No.

126 (a) The following entities may establish rates that vary
127 from the per diem rate provided in paragraph (6)(a), the
128 subsistence rates provided in paragraph (6)(b), or the mileage
129 rate provided in paragraph (7)(d) if those rates are not less
130 than the statutorily established rates that are in effect for
131 the 2005-2006 fiscal year:

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

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

137 3. The governing body of a district school board by the
138 adoption of rules;

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

143 5. Any metropolitan planning organization created pursuant
144 to s. 339.175 or any other separate legal or administrative
145 entity created pursuant to s. 339.175 of which a metropolitan
146 planning organization is a member, by the enactment of a
147 resolution.

148 (c) Except as otherwise provided in this subsection,
149 counties, county constitutional officers and entities governed
150 by those officers, district school boards, special districts,
151 and metropolitan planning organizations, other than those
152 subject to s. 166.021(9) ~~166.021(10)~~, remain subject to the
153 requirements of this section.

100079

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Amendment No.

154 Section 5. Section 373.0795, Florida Statutes, is
155 repealed.

156 Section 6. This act shall take effect July 1, 2011.
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159 **T I T L E A M E N D M E N T**

160 Remove the entire title and insert:

161 A bill to be entitled

162 An act relating to public employee compensation; amending s.
163 215.425, F.S.; revising provisions relating to the prohibition
164 against the payment of extra compensation; providing for
165 bonuses; specifying the conditions for paying bonuses; requiring
166 that contracts providing for severance pay under certain
167 circumstances include specified provisions; defining the term
168 "severance pay"; prohibiting certain contract provisions that
169 provide for extra compensation to limit the ability to discuss
170 the contract; amending s. 125.01, F.S.; deleting provisions
171 relating to the power of a county to pay extra compensation;
172 amending s. 166.021, F.S.; deleting a provision that allows a
173 municipality to pay extra compensation; amending s. 112.061,
174 F.S.; conforming cross-references; repealing s. 373.0795, F.S.,
175 relating to a prohibition against severance pay for officers or
176 employees of water management districts; providing an effective
177 date.