



416656

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/07/2011	.	
	.	
	.	
	.	

The Committee on Community Affairs (Thrasher) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

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

(1) No Extra compensation shall be made to any officer,
agent, employee, or contractor after the service has been
rendered or the contract made; nor shall any money be



416656

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.

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 1. Base the award of a bonus on work performance;

35 2. Describe the performance standards and evaluation
36 process by which a bonus will be awarded;

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

40 4. Consider all employees for the bonus.

41 (4) (a) On or after July 1, 2011, a unit of government may



416656

42 not enter into a contract or employment agreement that contains
43 a provision for severance pay with an officer, agent, employee,
44 or contractor.

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

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

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

53 3. The severance pay represents the settlement of an
54 employment dispute. Such settlement may not include provisions
55 that limit the ability of any party to the settlement to discuss
56 the dispute or settlement; or

57 4. Provision for the severance pay is expressly included in
58 a contract for employment which was entered into before July 1,
59 2011.

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

62 (d) As used in this subsection, the term "severance pay"
63 means the actual or constructive compensation, including salary,
64 benefits, or perquisites, for employment services yet to be
65 rendered which is provided to an employee who has recently been
66 or is about to be terminated. The term does not include
67 compensation for:

68 1. Earned and accrued annual, sick, compensatory, or
69 administrative leave; or

70 2. Early retirement under provisions established in an



71 actuarially funded pension plan subject to part VII of chapter
72 112.

73 (5) Any agreement or contract involving extra compensation
74 between a unit of government and an officer, agent, employee, or
75 contractor may not include provisions that limit the ability of
76 any party to the agreement or contract to discuss the agreement
77 or contract.

78 Section 2. Present subsections (8) through (10) of section
79 166.021, Florida Statutes, are redesignated as subsections (7)
80 through (9) respectively, and present subsection (7) of that
81 section is amended, to read:

82 166.021 Powers.—

83 ~~(7) Notwithstanding the prohibition against extra~~
84 ~~compensation set forth in s. 215.425, the governing body of a~~
85 ~~municipality may provide for an extra compensation program,~~
86 ~~including a lump-sum bonus payment program, to reward~~
87 ~~outstanding employees whose performance exceeds standards, if~~
88 ~~the program provides that a bonus payment may not be included in~~
89 ~~an employee's regular base rate of pay and may not be carried~~
90 ~~forward in subsequent years.~~

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

93 112.061 Per diem and travel expenses of public officers,
94 employees, and authorized persons.—

95 (14) APPLICABILITY TO COUNTIES, COUNTY OFFICERS, DISTRICT
96 SCHOOL BOARDS, SPECIAL DISTRICTS, AND METROPOLITAN PLANNING
97 ORGANIZATIONS.—

98 (a) The following entities may establish rates that vary
99 from the per diem rate provided in paragraph (6) (a), the



416656

100 subsistence rates provided in paragraph (6) (b), or the mileage
101 rate provided in paragraph (7) (d) if those rates are not less
102 than the statutorily established rates that are in effect for
103 the 2005-2006 fiscal year:

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

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

109 3. The governing body of a district school board by the
110 adoption of rules;

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

115 5. Any metropolitan planning organization created pursuant
116 to s. 339.175 or any other separate legal or administrative
117 entity created pursuant to s. 339.175 of which a metropolitan
118 planning organization is a member, by the enactment of a
119 resolution.

120 (c) Except as otherwise provided in this subsection,
121 counties, county constitutional officers and entities governed
122 by those officers, district school boards, special districts,
123 and metropolitan planning organizations, other than those
124 subject to s. 166.021(9) ~~166.021(10)~~, remain subject to the
125 requirements of this section.

126 Section 4. Paragraph (bb) of subsection (1) of section
127 125.01 and section 373.0795, Florida Statutes, are repealed.

128 Section 5. This act shall take effect July 1, 2011.



416656

129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to public employee compensation;
amending s. 215.425, F.S.; revising provisions
relating to the prohibition against the payment of
extra compensation; providing for bonuses; specifying
the conditions for paying bonuses; prohibiting
provisions in contracts that provide for severance
pay; allowing for severance pay under specified
circumstances; defining the term "severance pay";
prohibiting a contract provision that provides for
extra compensation to limit the ability to discuss the
contract; amending s. 166.021, F.S.; deleting a
provision that allows a municipality to pay extra
compensation; amending s. 112.061, F.S.; conforming
cross-references; repealing s. 125.01(1)(bb), F.S.,
relating to the power of a local government to pay
extra compensation; repealing s. 373.0795, F.S.,
relating to a prohibition against severance pay for
officers or employees of water management districts;
providing an effective date.