

By the Committee on Community Affairs; and Senator Gaetz

578-02153-11

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

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

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

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

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

578-02153-11

201188c1

30 rendered or the contract made; nor shall any money be
31 appropriated or paid on any claim the subject matter of which
32 has not been provided for by preexisting laws, unless such
33 compensation or claim is allowed by a law enacted by two-thirds
34 of the members elected to each house of the Legislature.
35 However, when adopting salary schedules for a fiscal year, a
36 district school board or community college district board of
37 trustees may apply the schedule for payment of all services
38 rendered subsequent to July 1 of that fiscal year.

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

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

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

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

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

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

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

58 (d) Consider all employees for the bonus.

578-02153-11

201188c1

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

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

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

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

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

75 4. Provision for the severance pay is expressly included in
76 a contract for employment which was entered into before July 1,
77 2011.

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

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

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

578-02153-11

201188c1

88 2. Early retirement under provisions established in an
89 actuarially funded pension plan subject to part VII of chapter
90 112.

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

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

100 166.021 Powers.—

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

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

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

113 (14) APPLICABILITY TO COUNTIES, COUNTY OFFICERS, DISTRICT
114 SCHOOL BOARDS, SPECIAL DISTRICTS, AND METROPOLITAN PLANNING
115 ORGANIZATIONS.—

116 (a) The following entities may establish rates that vary

578-02153-11

201188c1

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

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

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

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

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

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

138 (c) Except as otherwise provided in this subsection,
139 counties, county constitutional officers and entities governed
140 by those officers, district school boards, special districts,
141 and metropolitan planning organizations, other than those
142 subject to s. 166.021(9) ~~166.021(10)~~, remain subject to the
143 requirements of this section.

144 Section 4. Paragraph (bb) of subsection (1) of section
145 125.01 and section 373.0795, Florida Statutes, are repealed.

578-02153-11

201188c1

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