

By the Committees on Governmental Oversight and Accountability;
Judiciary; and Community Affairs; and Senators Gaetz and Storms

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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

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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.

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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;

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

91 3. A subsidy for the cost of a group insurance plan
92 available to an employee upon normal or disability retirement
93 which is available to all employees of the unit of government
94 pursuant to the unit's health insurance plan. This subparagraph
95 does not limit the ability of a unit of government to reduce or
96 eliminate such subsidies.

97 (5) Any agreement or contract, executed on or after July 1,
98 2011, which involves extra compensation between a unit of
99 government and an officer, agent, employee, or contractor may
100 not include provisions that limit the ability of any party to
101 the agreement or contract to discuss the agreement or contract.

102 Section 2. Present subsections (8) through (10) of section
103 166.021, Florida Statutes, are redesignated as subsections (7)
104 through (9) respectively, and present subsection (7) of that
105 section is amended, to read:

106 166.021 Powers.—

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

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

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117 112.061 Per diem and travel expenses of public officers,
118 employees, and authorized persons.—

119 (14) APPLICABILITY TO COUNTIES, COUNTY OFFICERS, DISTRICT
120 SCHOOL BOARDS, SPECIAL DISTRICTS, AND METROPOLITAN PLANNING
121 ORGANIZATIONS.—

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

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

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

133 3. The governing body of a district school board by the
134 adoption of rules;

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

139 5. Any metropolitan planning organization created pursuant
140 to s. 339.175 or any other separate legal or administrative
141 entity created pursuant to s. 339.175 of which a metropolitan
142 planning organization is a member, by the enactment of a
143 resolution.

144 (c) Except as otherwise provided in this subsection,
145 counties, county constitutional officers and entities governed

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146 by those officers, district school boards, special districts,
147 and metropolitan planning organizations, other than those
148 subject to s. 166.021(9) ~~166.021(10)~~, remain subject to the
149 requirements of this section.

150 Section 4. Paragraph (bb) of subsection (1) of section
151 125.01 and section 373.0795, Florida Statutes, are repealed.

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