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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; requiring contracts
7 that provide for severance pay to include certain
8 provisions after a certain date; allowing for
9 severance pay under specified circumstances; defining
10 the term "severance pay"; prohibiting a contract
11 provision that provides for extra compensation to
12 limit the ability to discuss the contract; amending s.
13 166.021, F.S.; deleting a provision that allows a
14 municipality to pay extra compensation; amending s.
15 112.061, F.S.; conforming cross-references; repealing
16 s. 125.01(1)(bb), F.S., relating to the power of a
17 local government to pay extra compensation; repealing
18 s. 373.0795, F.S., relating to a prohibition against
19 severance pay for officers or employees of water
20 management districts; 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 ~~extra compensation given to state employees who are included~~
41 ~~within the senior management group pursuant to rules adopted by~~
42 ~~the Department of Management Services; to extra compensation~~
43 ~~given to county, municipal, or special district employees~~
44 ~~pursuant to policies adopted by county or municipal ordinances~~
45 ~~or resolutions of governing boards of special districts or to~~
46 ~~employees of the clerk of the circuit court pursuant to written~~
47 ~~policy of the clerk; or to a clothing and maintenance allowance~~
48 ~~given to plainclothes deputies pursuant to s. 30.49.~~

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

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

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

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

57 (d) Consider all employees for the bonus.

58 (4) (a) On or after July 1, 2011, a unit of government that

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59 enters into a contract or employment agreement, or the renewal
60 or renegotiation of an existing contract or employment
61 agreement, which contains a provision for severance pay with an
62 officer, agent, employee, or contractor, must include the
63 following provisions in the contract:

64 1. A requirement that severance pay provided may not exceed
65 an amount greater than 6 weeks of compensation.

66 2. A prohibition against the provision of severance pay if
67 the officer, agent, employee, or contractor has been fired for
68 misconduct, as defined in s. 443.036, or for other cause by the
69 unit of government.

70 (b) On or after July 1, 2011, an officer, agent, employee,
71 or contractor may receive severance pay not provided for in a
72 contract or employment agreement if the severance pay represents
73 the settlement of an employment dispute. Such severance pay may
74 not exceed an amount greater than 6 weeks of compensation. The
75 settlement may not include provisions that limit the ability of
76 any party to the settlement to discuss the dispute or
77 settlement.

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.