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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; authorizing the payment of bonuses  
6 and severance pay to officers, agents, employees, and  
7 contractors of a public hospital under certain  
8 circumstances; providing for bonuses; specifying the  
9 conditions for paying bonuses; requiring that  
10 contracts providing for severance pay under certain  
11 circumstances include specified provisions; providing  
12 an exception; defining the term "severance pay";  
13 prohibiting certain contract provisions that provide  
14 for extra compensation to limit the ability to discuss  
15 the contract; amending s. 125.01, F.S.; deleting  
16 provisions relating to the power of a county to pay  
17 extra compensation; amending s. 166.021, F.S.;  
18 deleting a provision that allows a municipality to pay  
19 extra compensation; amending s. 112.061, F.S.;  
20 conforming cross-references; repealing s. 373.0795,  
21 F.S., relating to a prohibition against severance pay  
22 for officers or employees of water management  
23 districts; providing an effective date.

24  
25 Be It Enacted by the Legislature of the State of Florida:

26  
27 Section 1. Section 215.425, Florida Statutes, is amended to  
28 read:

29 215.425 Extra compensation claims prohibited; bonuses;

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30 severance pay.—

31 (1) No extra compensation shall be made to any officer,  
32 agent, employee, or contractor after the service has been  
33 rendered or the contract made; nor shall any money be  
34 appropriated or paid on any claim the subject matter of which  
35 has not been provided for by preexisting laws, unless such  
36 compensation or claim is allowed by a law enacted by two-thirds  
37 of the members elected to each house of the Legislature.  
38 However, when adopting salary schedules for a fiscal year, a  
39 district school board or community college district board of  
40 trustees may apply the schedule for payment of all services  
41 rendered subsequent to July 1 of that fiscal year.

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

43 (a) A bonus or severance pay that is paid wholly from  
44 nontax revenues and nonstate-appropriated funds, the payment and  
45 receipt of which does not otherwise violate part III of chapter  
46 112, and which is paid to an officer, agent, employee, or  
47 contractor of a public hospital that is operated by a county or  
48 a special district; or ~~Extra compensation given to state~~  
49 ~~employees who are included within the senior management group~~  
50 ~~pursuant to rules adopted by the Department of Management~~  
51 ~~Services; to extra compensation given to county, municipal, or~~  
52 ~~special district employees pursuant to policies adopted by~~  
53 ~~county or municipal ordinances or resolutions of governing~~  
54 ~~boards of special districts or to employees of the clerk of the~~  
55 ~~circuit court pursuant to written policy of the clerk; or to~~

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

58 (3) Any policy, ordinance, rule, or resolution designed to

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59 implement a bonus scheme must:

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

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

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

66 (d) Consider all employees for the bonus.

67 (4) (a) On or after July 1, 2011, a unit of government that  
68 enters into a contract or employment agreement, or renewal or  
69 renegotiation of an existing contract or employment agreement,  
70 that contains a provision for severance pay with an officer,  
71 agent, employee, or contractor must include the following  
72 provisions in the contract:

73 1. A requirement that severance pay provided may not exceed  
74 an amount greater than 20 weeks of compensation.

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

79 (b) On or after July 1, 2011, an officer, agent, employee,  
80 or contractor may receive severance pay that is not provided for  
81 in a contract or employment agreement if the severance pay  
82 represents the settlement of an employment dispute. Such  
83 severance pay may not exceed an amount greater than 6 weeks of  
84 compensation. The settlement may not include provisions that  
85 limit the ability of any party to the settlement to discuss the  
86 dispute or settlement.

87 (c) This subsection does not create an entitlement to

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88 severance pay in the absence of its authorization.

89 (d) As used in this subsection, the term "severance pay"  
90 means the actual or constructive compensation, including salary,  
91 benefits, or perquisites, for employment services yet to be  
92 rendered which is provided to an employee who has recently been  
93 or is about to be terminated. The term does not include  
94 compensation for:

95 1. Earned and accrued annual, sick, compensatory, or  
96 administrative leave;

97 2. Early retirement under provisions established in an  
98 actuarially funded pension plan subject to part VII of chapter  
99 112; or

100 3. Any subsidy for the cost of a group insurance plan  
101 available to an employee upon normal or disability retirement  
102 that is by policy available to all employees of the unit of  
103 government pursuant to the unit's health insurance plan. This  
104 subparagraph may not be construed to limit the ability of a unit  
105 of government to reduce or eliminate such subsidies.

106 (5) Any agreement or contract, executed on or after July 1,  
107 2011, which involves extra compensation between a unit of  
108 government and an officer, agent, employee, or contractor may  
109 not include provisions that limit the ability of any party to  
110 the agreement or contract to discuss the agreement or contract.

111 Section 2. Paragraphs (cc) and (dd) of subsection (1) of  
112 section 125.01, Florida Statutes, are redesignated as paragraphs  
113 (bb) and (cc), respectively, and paragraph (bb) of that  
114 subsection is amended to read:

115 125.01 Powers and duties.—

116 (1) The legislative and governing body of a county shall

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117 have the power to carry on county government. To the extent not  
118 inconsistent with general or special law, this power includes,  
119 but is not restricted to, the power to:

120 ~~(bb) Notwithstanding the prohibition against extra~~  
121 ~~compensation set forth in s. 215.425, provide for an extra~~  
122 ~~compensation program, including a lump-sum bonus payment~~  
123 ~~program, to reward outstanding employees whose performance~~  
124 ~~exceeds standards, if the program provides that a bonus payment~~  
125 ~~may not be included in an employee's regular base rate of pay~~  
126 ~~and may not be carried forward in subsequent years.~~

127 Section 3. Present subsections (8) through (10) of section  
128 166.021, Florida Statutes, are redesignated as subsections (7)  
129 through (9) respectively, and present subsection (7) of that  
130 section is amended, to read:

131 166.021 Powers.—

132 ~~(7) Notwithstanding the prohibition against extra~~  
133 ~~compensation set forth in s. 215.425, the governing body of a~~  
134 ~~municipality may provide for an extra compensation program,~~  
135 ~~including a lump-sum bonus payment program, to reward~~  
136 ~~outstanding employees whose performance exceeds standards, if~~  
137 ~~the program provides that a bonus payment may not be included in~~  
138 ~~an employee's regular base rate of pay and may not be carried~~  
139 ~~forward in subsequent years.~~

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

142 112.061 Per diem and travel expenses of public officers,  
143 employees, and authorized persons.—

144 (14) APPLICABILITY TO COUNTIES, COUNTY OFFICERS, DISTRICT  
145 SCHOOL BOARDS, SPECIAL DISTRICTS, AND METROPOLITAN PLANNING

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146 ORGANIZATIONS.—

147 (a) The following entities may establish rates that vary  
148 from the per diem rate provided in paragraph (6) (a), the  
149 subsistence rates provided in paragraph (6) (b), or the mileage  
150 rate provided in paragraph (7) (d) if those rates are not less  
151 than the statutorily established rates that are in effect for  
152 the 2005-2006 fiscal year:

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

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

158 3. The governing body of a district school board by the  
159 adoption of rules;

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

164 5. Any metropolitan planning organization created pursuant  
165 to s. 339.175 or any other separate legal or administrative  
166 entity created pursuant to s. 339.175 of which a metropolitan  
167 planning organization is a member, by the enactment of a  
168 resolution.

169 (c) Except as otherwise provided in this subsection,  
170 counties, county constitutional officers and entities governed  
171 by those officers, district school boards, special districts,  
172 and metropolitan planning organizations, other than those  
173 subject to s. 166.021(9) ~~166.021(10)~~, remain subject to the  
174 requirements of this section.

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175 Section 5. Section 373.0795, Florida Statutes, is repealed.  
176 Section 6. This act shall take effect July 1, 2011.