

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

BILL #: HB 5003

FINAL HOUSE FLOOR ACTION:

SPONSOR(S): Appropriations Committee; McKeel

107 **Y's**

10 **N's**

**COMPANION (SB 1502)
BILLS:**

GOVERNOR'S ACTION: Approved

SUMMARY ANALYSIS

HB 5003 passed the House on May 3, 2013 as SB 1502. The bill provides the statutory authority necessary to implement and execute the General Appropriations Act (GAA) for Fiscal Year 2013-2014. The statutory changes are effective for only one year and either expire on July 1, 2014 or revert to the language as it existed before the changes made by the bill.

Because this bill implements provisions of the General Appropriations Act for Fiscal Year 2013-2014, there are no direct fiscal impacts created by this bill.

The bill was approved by the Governor on May 20, 2013, ch. 2013-41, L.O.F., and will become effective on July 1, 2013.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Background:

Section 12 of Article III of the Florida Constitution states that “[l]aws making appropriations for salaries of public officers and other current expenses of the state shall contain provisions on no other subject”. This language has been interpreted to defeat proviso language attached to appropriations that have the effect of amending general law.¹ For this reason, when general law changes are required to effectuate appropriations, those changes are placed in a general bill implementing the appropriations act instead of in the GAA. The statutory changes are effective for only one year and either expire on July 1 of the next fiscal year or revert to the language as it existed before the changes made by the bill.

Provisions of Bill:

Section 1 provides legislative intent that the implementing and administering provisions of this act apply to the General Appropriations Act for Fiscal Year 2013-14.

Section 2 incorporates the document entitled “Public School Funding-The Florida Education Finance Program” by reference for the purpose of displaying the calculations used by the Legislature in making appropriations for the Florida Education Finance Program.

Section 3 provides that funds provided for instructional materials shall be released and expended as required in the proviso language attached to Specific Appropriation 87.

Section 4 provides that the calculations for district bandwidth support for the 2013-2014 fiscal year in the document entitled "Public School Funding District Bandwidth Support" are incorporated by reference.

Section 5 amends s. 1002.32, F.S. to provide that funds appropriated for capital improvement purposes for lab schools will be divided between the schools based on full-time equivalent student membership.

Section 6 incorporates by reference the document entitled "Medicaid Hospital Funding Programs" for the purpose of displaying the calculations used by the legislature in making appropriations for the Low-Income Pool, Disproportionate Share Hospital, and Hospital Exemptions Programs.

Section 7 provides that the Department of Children and Families (DCF) may not require managing entities contracting with the department under s. 394.9082, F.S. to conduct provider network procurements during the 2013-14 fiscal year. DCF is required to amend its contracts, if necessary, to remove contractual provisions that have the effect of requiring a managing entity to conduct a provider network procurement during the fiscal year.

Section 8 provides requirements to govern the completion of the Department of Health's (DOH) Florida Onsite Sewage Nitrogen Strategies Study. The bill provides that the department's underlying contract for the study remains in full force and effect and funding for completion of the project is through the department. The section also provides:

- The Department of Health, the Department of Health's Research Review and Advisory Committee, and the Department of Environmental Protection (DEP) shall work together to provide the necessary technical oversight of the completion of the project.
- Management and oversight of the completion of the project must be consistent with the terms of the existing contract. However, the main focus and priority to be completed during Phase 3 shall be developing, testing, and recommending cost-effective passive technology design criteria for nitrogen reduction.

¹ See, e.g., *Brown v. Firestone*, 382 So.2d 654 (Fla. 1980); *Chiles v. Milligan*, 659 So.2d 1055 (Fla. 1995).

- The bill provides that notwithstanding any other law, before the project is complete, a state agency may not adopt or implement a rule or policy that:
 - Mandates, establishes, or implements more restrictive nitrogen reduction standards to existing or new onsite sewage treatment systems or modifications of such systems; or
 - Directly or indirectly, such as through an administrative order developed by DEP as part of a basin management action plan, requires the use of performance-based treatment systems or similar technology.

Section 9 provides for the priority of individuals on the Medicaid home and community-based waiver programs wait list to be offered a slot on the Home and Community Based Services Waiver.

Section 10 amends s. 216.262, F.S. to allow the Executive Office of the Governor to request additional positions and appropriations from unallocated general revenue during the 2013-2014 fiscal year for the Department of Corrections if the actual inmate population of the department exceeds the inmate population projections of the February 19, 2013 Criminal Justice Estimating Conference by 1 percent for 2 consecutive months or 2 percent for any month. The additional positions and appropriations must be approved by the Legislative Budget Commission.

Section 11 authorizes the Department of Legal Affairs to expend appropriated funds in those specific appropriations on the same programs that were funded by the department pursuant to specific appropriations made in general appropriations acts in prior years.

Section 12 amends s. 932.7055, F.S. to extend for another year the authorization for a municipality to expend funds in a special law enforcement trust fund to reimburse the general fund of the municipality for moneys advanced from the general fund to the special law enforcement trust fund prior to October 1, 2001.

Section 13 provides a limitation on Department of Juvenile Justice reimbursements for health care services to 110 percent of Medicare allowable rates.

Section 14 amends s. 29.008, F.S. to provide that counties are exempt from the statutory requirement to increase expenditures each year by 1.5 percent for court-related functions.

Section 15 requires the Department of Management Services and agencies to utilize a tenant broker to renegotiate private lease agreements for office or storage space, in excess of 2,000 square feet, expiring between July 1, 2014 and June 30, 2016.

Section 16 provides that funds available in the Audit and Warrant Clearing Trust Fund for subsequent distribution to the General Revenue Fund will be available to the tax collection service provider who shall make the interest payment required by s. 443.131(5), F.S., to the Federal Government in the amount directed by the Governor.

Sections 17 and 18 amend s. 624.502, F.S. to require that the fee for service of process upon the Department of Financial Services or the Office of Insurance Regulation be deposited to the Administrative Trust Fund rather than the Insurance Regulatory Trust Fund.

Section 19 amends s. 161.143, F.S., which requires DEP to make available at least 10 percent of the total amount appropriated in each fiscal year for statewide beach management for the three highest-ranked projects on the current year's inlet management project list, to provide that, for the 2013-2014 fiscal year, the amount allocated for inlet management funding is provided in the GAA.

Section 20 amends s. 253.01, F.S. to provide that moneys in the Internal Improvement Trust Fund may be transferred to the Save Our Everglades Trust Fund for Everglades restoration and allows the cash transfer in non-operating authority pursuant to section 216.181 (12).

Section 21 amends s. 375.041, F.S. to authorize moneys in the Land Acquisition Trust Fund to be transferred to support the Total Maximum Daily Loads (TMDL) program and to the Save Our Everglades Trust Fund for Everglades restoration.

Section 22 provides that notwithstanding sections 161.041, 161.055 and 373.427, Florida Statutes, and any rules implementing those sections, existing joint coastal permits for projects identified in the GAA which expire during the 2013-2014 fiscal year are extended until the completion of said projects, to take advantage of time-sensitive full federal emergency funding for sand losses and to address 2012 storm damages to the state's beaches. The bill provides that no fees shall be charged for the extension of those existing joint coastal permits and no application is required for any such extension.

Section 23 amends s. 373.472(1), relating to the Save Our Everglades Trust Fund to authorize funds to be used for the South Florida Water Management District's "Everglades Protection Area Tributary Basins Conceptual Plan for Achieving Long-Term Water Quality Goals Final Report" dated March 2003.

Section 24 amends s. 373.59., F.S. to provide for allocation of moneys from the Water Management Lands Trust Fund as follows:

1. An amount necessary to pay debt service on bonds issued before February 1, 2009, by the South Water Management District and the St. Johns Water Management District;
2. \$8 million to be transferred to the General Revenue Fund;
3. \$3 million to be distributed to the Suwanee River Water Management District for springs restoration and protection projects;
4. \$3 million to be distributed to the Northwest Florida Water Management District for Apalachicola Bay water quality improvement projects;
5. \$4 million to be distributed to the South Florida Water Management District for J.W. Corbett Levee system improvements
6. One million dollars to be distributed to the Southwest Florida Water Management District for Duck Slough/Thousand Oaks flood mitigation
7. The remaining appropriation to be distributed to the Suwanee River Water Management District.

Section 25 provides that in order to implement Specific Appropriation 1600, the recurring \$12 million appropriated from the General Revenue Fund and the recurring \$20 million appropriated from the Water Management Lands Trust Fund to DEP for the Restoration Strategies Regional Water Quality Plan contained in HB 7065 shall be deposited into the Save Our Everglades Trust Fund to be spent for the Restoration Strategies Regional Water Quality Plan.

Section 26 amends s. 403.709, F.S. to provide that moneys in the Solid Waste Management Trust Fund may be transferred to the Save Our Everglades Trust Fund for Everglades restoration and allows the cash transfer in non-operating authority pursuant to section 216.181 (12).

Section 27 amends s. 403.7095, F.S., relating to the solid waste management grant program to require DEP to award \$3,000,000 of grant funds equally to counties having populations of fewer than 100,000 for waste tire, litter prevention, recycling and education, and general solid waste programs.

Section 28 amends s. 259.105, F.S. relating to the Florida Forever Act to provide that moneys appropriated from the Florida Forever Trust Fund shall be distributed only to the Division of State Lands within DEP as follows:

1. \$10 million for Board of Trustees Florida Forever Priority List land acquisition projects that provide conservation lands to protect the state's military installations against encroachment;
2. The remaining funds for land acquisitions that are for:
 - a) less-than-fee interest;
 - b) partnerships where the state's acquisition cost is no more than 50 percent; or
 - c) conservation lands needed for military buffering, or springs or water resources protection.

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Section 29 amends s. 376.30711, F.S., to require all task assignments, work orders and contracts for providers under the Petroleum Restoration Program entered into by DEP to:

1. Be procured through competitive bidding;
2. Require that a statement under oath be submitted by all owners, responsible parties, and cleanup contractors and subcontractors, that no compensation, remuneration, or gift, of any kind, directly or indirectly, has been solicited, offered accepted, paid or received in exchange for designation or employment in connection with the cleanup of an eligible site, except for the compensation paid by the department to the contractor for the cleanup;
3. Require that a statement under oath be submitted by all cleanup contractors and subcontractors receiving compensation for cleanup of eligible sites that they have never paid, offered or provided any compensation in exchange for being designated or hired to do cleanup work, except for the compensation for the cleanup work.

The bill also requires that any owner, responsible party or cleanup contractor or subcontractor who falsely executes a statement required by this section be prohibited from participating in the Petroleum Restoration Program.

Section 30 provides that, notwithstanding s. 287.057, F.S. (governing procurement of commodities or contractual services), the Department of Agriculture and Consumer Services, at its discretion, is authorized to extend, revise, and renew current contracts or agreements created or entered into, pursuant to chapter 2006-25, Laws of Florida (the 2006-2007 GAA), in order to provide consistency and continuity in agriculture promotion throughout the state.

Section 31 amends s. 339.135, F.S. relating to the Department of Transportation (DOT) work program to provide that DOT may use appropriated funds for the purpose of funding the costs of land acquisition, design and construction of multiuse trails and related facilities.

Section 32 amends s. 335.065, FS relating to bicycle and pedestrian ways along state roads and transportation facilities to provide that DOT may use funds specifically appropriated for the purpose of the acquisition and development of an integrated system of interconnected multiuse trails of statewide significance and to pay the costs of land acquisition, design and construction of trails and related facilities. The bill requires DOT to give priority to certain trail projects.

Section 33 amends s. 339.08, F.S., regarding uses of the State Transportation Trust Fund to authorize funds to be used for a financial analysis of the cost savings to be achieved by the consolidation of transit authorities within the Tampa Bay Area Regional Transportation Authority.

Section 34 requires Department of Highway Safety & Motor Vehicles (DHSMV) to contract with Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE) to manufacture license tags. The bill requires PRIDE to seek sealed bids for the reflectorized sheeting used in the manufacture of license tags, and in the event the sealed bids result in any savings in sheeting costs, the corporation will be required to credit 70 percent of the savings to DHSMV. The bill provides that the county name may not appear on the redesigned license tag.

Section 35 provides that no state agency may initiate a competitive solicitation for a product or service if the completion of such competitive solicitation would:

- (1) Require a change in law; or
- (2) Require a change to the agency's budget other than a transfer authorized in s. 216.292(2) or (3), Florida Statutes, unless the initiation of such competitive solicitation is specifically authorized in law, in the General Appropriations Act or by the Legislative Budget Commission.

The bill provides that this prohibition does not apply to competitive solicitations for which the agency head certifies a valid emergency exists.

Section 36 authorizes the Executive Office of the Governor to transfer funds in the appropriation category "Special Categories-Risk Management Insurance" between departments in order to align the budget authority granted with the premiums paid by each department for risk management insurance.

Section 37 authorizes the Executive Office of the Governor to transfer funds in the appropriation category "Special Categories-Transfer to Department of Management Services-Human Resources Services Purchased Per Statewide Contract" of the 2013-2014 General Appropriations Act between departments in order to align the budget authority granted with the assessments that must be paid by each agency to the Department of Management Services for human resources management services.

Section 38 amends s. 110.123(12), F.S. to extend for another year the provision that, for health savings accounts for full-time and part-time state employees in association with a health insurance plan option authorized by the Legislature, the state's monthly contribution for employees having individual coverage shall be \$41.66 and the monthly contribution for employees having family coverage shall be \$83.33.

Section 39 amends s. 112.24, F.S. to provide that the reassignment of an employee of a state agency may be made if recommended by the Governor or Chief Justice, as appropriate, and approved by the chairs of the Senate and House budget committees. Such actions shall be deemed approved if neither chair provides written notice of objection within 14 days after the chair's receiving notice of the action pursuant to s. 216.177, F.S. This requirement applies to state employee reassignments regardless of which agency (sending or receiving) is responsible for pay and benefits of assigned employee.

Section 40 provides that notwithstanding s. 11.13, F.S., the authorized salaries for members of the Legislature for the 2013-2014 fiscal year shall be set at the same level in effect on July 1, 2010.

Sections 41 and 42 amend s. 215.32(2)(b), F.S., in order to implement the transfer of moneys to the General Revenue Fund from trust funds in the 2013-2014 General Appropriations Act.

Sections 43 and 44 reenact s. 215.5601, F.S. relating to investment objectives of endowment. In 2008 session, language was added to indicate that the investment objective shall be long-term preservation of the real value of the net contributed principal and a specified regular annual cash outflow for appropriation, as nonrecurring revenue. The following sentence was also added: "Withdrawals other than specified regular cash outflow shall be considered reductions in contributed principal for the purposes of this subsection."

Section 45 provides that, in order to implement the issuance of new debt authorized in the 2013-2014 General Appropriations Act, and pursuant to the requirements of s. 215.98, F.S., the Legislature determines that the authorization and issuance of debt for the 2013-2014 fiscal year should be implemented and is in the best interest of the state and necessary to address a critical state emergency.

Section 46 provides that funds appropriated for travel by state employees shall be limited to travel for activities that are critical to each state agency's mission. The bill prohibits funds from being used to travel to foreign countries, other states, conferences, staff-training or other administrative functions unless the agency head approves in writing. The bill requires the agency head to consider the use of teleconferencing and electronic communication before approving travel.

Sections 47 and 48 amend s. 282.401(4), F.S. to align the data center consolidation schedule in statute to funding in the GAA. FWCC will be required to consolidate into the Northwood Shared Resource Center(NSRC) rather than Southwood Shared Resource Center. The bill removes the requirement that the Departments of Agriculture and Consumer Services, Legal Affairs and Veterans' Affairs consolidate into the NSRC during 2013-2014 fiscal year.

Section 49 authorizes an agency to transfer funds between the data processing appropriation categories and another appropriation category for the purpose of supporting and managing its

computer resources until such time as the agency's data processing function is transferred to the Southwood Shared Resource Center, the Northwood Shared Resource Center, or the Northwest Regional Data Center.

Section 50 provides that the Governor is authorized to transfer funds appropriated in any appropriation category used to pay for data processing in the GAA between agencies in order to align the budget authority granted with the utilization rate of each department.

Section 51 notwithstanding s. 216.292(2)(a), F.S. which authorizes transfers of up to 5 percent of approved budget between categories. Agencies will be prohibited from transferring funds from data center appropriation category to a category other than a data center appropriation category except as authorized by the bill.

Section 52 provides that the Governor is authorized to transfer funds appropriated in the appropriations category "expenses" between agencies in order to allocate a reduction relating to SUNCOM Services.

Section 53 and 54 amend s. 110.12315, F.S., to modify prescription drug copayments consistent with decisions that have been made in the GAA. The bill also authorizes the Department of Management Services to implement a 90-day supply limit program for certain maintenance drugs as determined by the department at retail pharmacies participating in the program if the department determines it to be in the best financial interest of the state.

Section 55 specifies that no section shall take effect if the appropriation or proviso to which it relates are vetoed.

Section 56 provides for a permanent change made by another law to any of the same statutes amended by this bill will take precedence over the provision in this bill.

Section 57 provides a severability clause.

Section 58 provides that, except as otherwise expressly provided in this act, this act shall take effect July 1, 2013; or, if this act fails to become a law until after that date, it shall take effect upon becoming a law and shall operate retroactively to July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
None.
2. Expenditures:
None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
None.
2. Expenditures:
None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Because this bill implements provisions of the General Appropriations Act for Fiscal Year 2013-2014, there are no direct fiscal impacts created by this bill.