

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: SPB 7042

INTRODUCER: For consideration by the Appropriations Committee

SUBJECT: Implementing the 2013-2014 General Appropriations Act

DATE: April 2, 2013

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McSwain	Hansen		<b>Pre-meeting</b>
2.				
3.				
4.				
5.				
6.				

**I. Summary:**

The bill provides the statutory authority necessary to implement and execute the General Appropriations Act for Fiscal Year 2013-2014. Statutory changes are temporary and expire on July 1, 2014.

The bill substantially amends the following sections of the Florida Statutes: 29.008, 110.123, 110.12315, 112.24, 215.18, 216.262, 216.292, 259.105, 335.065, 339.08, 339.135, 373.59, 375.041, 403.7095, and 932.7055.

This bill substantially amends chapter 2012-119, Laws of Florida.

The bill reenacts the following sections of the Florida Statutes: 110.12315, 215.32, and 215.5601(4)(b).

This bill repeals section 53, chapter 2012-119, Laws of Florida.

**II. Present Situation:**

Article III, section 12 of the Florida Constitution provides 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 changing general law.<sup>1</sup> For this reason, when general law changes are required to effectuate appropriations, those changes are placed in a general bill

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<sup>1</sup> *Brown v. Firestone*, 382 So.2d 654 (Fla. 1980); *Chiles v. Milligan*, 659 So.2d 1055 (Fla. 1995).

implementing the appropriations act instead of in the general appropriations act. The statutory changes are effective only for one year and either expire on July 1 of the next fiscal year or the language of the amended statute reverts that which existed before the changes made by the bill.

### III. Effect of Proposed Changes:

**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 Florida Education Finance Program (FEFP) work papers by reference for the purpose of displaying the calculations used by the Legislature

**Section 3** amends s. 216.292, F.S., to authorize the transfer of fixed capital outlay appropriations for public schools between appropriation categories upon approval of the Executive Office of the Governor.

**Section 4** adopts by reference a document, "Medicaid Supplemental Hospital Funding Programs," for the purpose of displaying the calculations used by the Legislature in making appropriations for the Low Income Pool and Disproportionate Share Hospital programs and adjustments to hospital reimbursements specified in the General Appropriations Act.

**Section 5** provides that, notwithstanding any other law, the Department of Children and Families may not require managing entities contracting with the department under s. 394.9082, F. S., to conduct provider network procurements during the 2013-2014 fiscal year. The Department of Children and Families is required to amend its contracts with each managing entity, if necessary, to remove contractual provisions that have the effect of requiring a managing entity to conduct a provider network procurement during the 2013-2014 fiscal year.

**Section 6** provides requirements to govern the completion of Phase 3 of the Department of Health's Florida Onsite Sewage Nitrogen Strategies Study. State agencies are prohibited from implementing regulations with higher standards than those currently in place until Phase 3 of the department's Florida Onsite Sewage Nitrogen Reduction Strategies Study is completed.

**Section 7** provides that the Agency for Persons with Disabilities, when moving persons from the wait list and into waiver services, will: (a) give top priority to individuals in category 1, which includes clients deemed in crisis; (b) move individuals in category 2 into waiver services upon a finalized adoption with placement in a family home, reunification with family members with placement in a family home, or permanent placement with a relative in a family home; and (c) move individuals in category 3 or 4 into waiver services using the agency's Wait List Prioritization Tool, dated March 15, 2013, to the extent funds are available. Individuals remaining on the wait list will be deemed not to have been substantially affected by agency action and, therefore, will not be entitled to a hearing under s. 393.125, F.S., or to an administrative proceeding under ch. 120, F.S.

**Section 8** 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 9** authorizes Department of Legal Affairs to expend appropriated funds in 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 10** 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 11** limits the Department of Juvenile Justice's reimbursements for health care services to 110 percent of Medicare allowable rates.

**Section 12** authorizes the Chief Justice of the Supreme Court to secure a trust fund loan during the 2013-2014 fiscal year to ensure that the state court system has funds sufficient to meet its appropriations.

**Section 13** provides, notwithstanding section 28.2455, F.S., that funds remaining in the Clerks of Court Trust Fund may not be transferred to the General Revenue Fund at the end of the fiscal year and will remain available for clerks of court for fiscal year 2013-2014 expenditures.

**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** establishes performance benchmarks and reporting requirements for the Department of Corrections and imposes penalties for noncompliance during Fiscal Year 2013-2014. Specifically, this section requires that the department implement, and report the progress related to, all proviso language included in the General Appropriations Act; submit progress reports concerning the outsourcing of the health services functions, including associated staffing and estimated and actual savings; monitor and report the vacancy rates of institutions; report the status of procurements exceeding \$100,000; implement an electronic time and attendance system; monitor and report the number of inmates eligible for and/or transferred to work release facilities and the status of inmate identification cards. This section requires quarterly reporting by the department to the Governor, President of the Senate and Speaker of the House of Representatives, and imposes penalties upon the department's senior management for noncompliance with specific benchmarks.

**Section 16** authorizes the Department of Management Services to use interest earnings from the Communications Working Capital Trust Fund as the funding source for its responsibilities related to the MyFlorida.com portal.

**Section 17** requires DMS and agencies to utilize a tenant broker to renegotiate private lease agreements, in excess of 2,000 square feet, expiring between July 1, 2013 and June 30, 2015.

**Section 18** 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.

**Section 19** provides that revenues in the Land Acquisition Trust Fund within the Department of Environmental Protection are authorized to support the Total Maximum Daily Loads and Everglades Restoration programs.

**Section 20** provides that \$3 million from the Water Management Lands Trust Fund within the Department of Environmental Protection be distributed to the Suwannee River Water Management District for springs restoration and protection projects; authorizes the transfer of funds from the Water Management Lands Trust Fund to the Save Our Everglades Trust Fund within the Department of Environmental Protection for Everglades Restoration.

**Section 21** clarifies that the recurring \$12,000,000 from the General Revenue Fund and the recurring \$20,000,000 from the Water Management Trust Fund appropriated to the Department of Environmental Protection for the Restoration Strategies Regional Water Quality Plan contained Committee Substitute for Senate Bill 768, or similar legislation enacted during the 2013 Regular Session of the Legislature, be deposited into the Save Our Everglades Trust Fund in the department to implement Specific Appropriation 1600 of the 2013-2014 General Appropriations Act.

**Section 22** requires the Department of Environmental Protection (DEP) to award \$2,400,000 of grant funds equally to counties having populations of fewer than 100,000 for waste tire, litter prevention, recycling education, and general solid waste programs.

**Section 23** provides that \$10,000,000 from the Florida Forever Trust Fund within the Department of Environmental Protection is distributed only to the Division of State Lands for land acquisition projects that provide conservation lands to protect the state's military installations against encroachment.

**Section 24** amends s. 339.135(4) and (5), F.S., to authorize the Department of Transportation to use appropriated funds for costs of land acquisition, design and construction of multi-use trails, and specifies that these funds are not subject to the geographic equity requirements of equal parts of population and motor fuel tax collections, and that funds specifically appropriated for this purpose may not reduce, delete or defer any existing project funded as of July 1, 2013.

**Section 25** creates subsection (4) of s. 335.065, F.S., to authorize the Department of Transportation, notwithstanding any other law, to use appropriated funds for the purpose of acquisition, design and construction of multi-use trails of statewide significance.

**Section 26** creates subsection (1)(n) of s. 339.08, F.S., to allow the Department of Transportation to pay for administrative expenses of certain multicounty transportation authorities that incur expenses in furtherance of the provisions of ch. 2012-174, L.O.F.

**Section 27** authorizes the Executive Office of the Governor to transfer funds between departments in order to align the budget authority granted to pay each department's risk management insurance.

**Section 28** 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 29** amends s. 110.123, F.S. to set the state's monthly contribution for health savings accounts for the 2013-2014 fiscal year at the same levels used for the 2012-2013 fiscal year.

**Section 30** 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 appropriations committees. Such actions shall be deemed approved if neither chair provides written notice of objection within 14 days after receiving notice of the action pursuant to s. 216.177, F.S.

**Section 31** provides that legislative salaries will remain at the same level in effect on July 1, 2010.

**Sections 32 and 33** 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 34 and 35** reenact s. 215.5601, F.S. relating to investment objectives of The Lawton Chiles Endowment Fund and authorize the transfer of funds from the endowment to the General Revenue Fund.

**Section 36** 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 37** 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 section 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 that the activities are critical to the agency's mission. The section requires the agency head to consider use of

teleconferencing and electronic communication to meet the needs of an activity before approving travel.

**Section 38** provides that an agency may transfer funds from the data processing appropriation categories to another appropriation category based on changes to the data center consolidation schedule.

**Section 39** provides that the Governor is authorized to transfer funds appropriated in any appropriation category used to pay for data processing in the General Appropriations Act between agencies in order to align the budget authority granted with the utilization rate of each department.

**Section 40 and 41** amend s. 110.12315, F.S., to modify copayments consistent with decisions that have been made in the GAA. The sections authorize 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 42** specifies that no section will take effect if the appropriations or proviso to which it relates are vetoed.

**Section 43** provides that a permanent change made by another law to any of the same statutes amended by this bill takes precedence over the provision in this bill.

**Section 44** provides a severability clause.

**Section 45** provides an effective date.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

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.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.