

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/CS/HB 1063 (2015)

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
WITHDRAWN \_\_\_\_\_ (Y/N)  
OTHER

1 Committee/Subcommittee hearing bill: State Affairs Committee  
2 Representative Fresen offered the following:

3  
4 **Amendment (with title amendment)**

5 Remove lines 633-746 and insert:

6 Section 12. Subsection (1) of section 215.425, Florida  
7 Statutes, is renumbered as subsection (2), present subsection  
8 (2) and paragraph (a) of subsection (4) are amended, and a new  
9 subsection (1) and subsections (6) through (12) are added to  
10 that section, to read:

11 215.425 Extra compensation claims prohibited; bonuses;  
12 severance pay.—

13 (1) As used in this section, the term "public funds" means  
14 any taxes, tuition, state grants, fines, fees, or other charges  
15 or any other type of revenue collected by the state or any  
16 county, municipality, special district, school district, Florida  
17 College System institution, state university, or other separate

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18 unit of government created pursuant to law, including any  
19 office, department, agency, division, subdivision, political  
20 subdivision, board, bureau, or commission of such entities.

21 However, the term does not include the following:

22 (a) For state universities, revenues received by, through,  
23 or from faculty practice plans, health services support  
24 organizations, hospitals with which state universities are  
25 affiliated, direct-support organizations, or federal, auxiliary,  
26 or private sources, except for tuition;

27 (b) For public hospitals, special districts, and Florida  
28 College System institutions, revenues and fees received from  
29 non-state appropriated sources or other general non-tax  
30 revenues; or

31 (c) A clothing and maintenance allowance given to  
32 plainclothes deputies pursuant to s. 30.49.

33 ~~(2) This section does not apply to:~~

34 ~~(a) A bonus or severance pay that is paid wholly from~~  
35 ~~nontax revenues and nonstate-appropriated funds, the payment and~~  
36 ~~receipt of which does not otherwise violate part III of chapter~~  
37 ~~112, and which is paid to an officer, agent, employee, or~~  
38 ~~contractor of a public hospital that is operated by a county or~~  
39 ~~a special district; or~~

40 ~~(b) A clothing and maintenance allowance given to~~  
41 ~~plainclothes deputies pursuant to s. 30.49.~~

42 (4) (a) ~~On or after July 1, 2011,~~ A unit of government, on  
43 or after July 1, 2011, or a state university, on or after July

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44 1, 2012, that is a party to ~~enters into~~ a contract or employment  
45 agreement, or renewal or renegotiation of an existing contract  
46 or employment agreement, that contains a provision for severance  
47 pay with an officer, agent, employee, or contractor must include  
48 the following provisions in the contract:

49 1. A requirement that severance pay paid from public funds  
50 ~~provided~~ may not exceed an amount greater than 20 weeks of  
51 compensation.

52 2. A prohibition of provision of severance pay paid from  
53 public funds when the officer, agent, employee, or contractor  
54 has been fired for misconduct, as defined in s. 443.036(29), by  
55 the unit of government.

56 (6) Upon discovery or notification that a unit of  
57 government has provided prohibited compensation to any officer,  
58 agent, employee, or contractor in violation of this section,  
59 such unit of government shall investigate and take all necessary  
60 action to recover the prohibited compensation.

61 (a) If the violation was unintentional, the unit of  
62 government shall recover the prohibited compensation from the  
63 individual receiving the prohibited compensation through normal  
64 recovery methods for overpayments.

65 (b) If the violation was willful, the unit of government  
66 shall recover the prohibited compensation from either the  
67 individual receiving the prohibited compensation or the  
68 individual or individuals responsible for approving the  
69 prohibited compensation. Each individual determined to have

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70 willfully violated this section is jointly and severally liable  
71 for repayment of the prohibited compensation.

72 (7) A person who willfully violates this section commits a  
73 misdemeanor of the first degree, punishable as provided in s.  
74 775.082 or s. 775.083.

75 (8) An officer who exercises the powers and duties of a  
76 state or county officer and willfully violates this section is  
77 subject to the Governor's power under s. 7(a), Art. IV of the  
78 State Constitution. An officer who exercises powers and duties  
79 other than those of a state or county officer and willfully  
80 violates this section is subject to the suspension and removal  
81 procedures under s. 112.51.

82 (9) (a) A person who reports a violation of this section is  
83 eligible for a reward of at least \$500, or the lesser of 10  
84 percent of the funds recovered or \$10,000 per incident of a  
85 prohibited compensation payment recovered by the unit of  
86 government, depending upon the extent to which the person  
87 substantially contributed to the discovery, notification, and  
88 recovery of such prohibited payment.

89 (b) In the event that the recovery of the prohibited  
90 compensation is based primarily on disclosures of specific  
91 information, other than information provided by such person,  
92 relating to allegations or transactions in a criminal, civil, or  
93 administrative hearing; in a legislative, administrative,  
94 inspector general, or other government report; in an auditor  
95 general report, hearing, audit, or investigation; or from the

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96 news media, such person is not eligible for a reward or for an  
97 award of a portion of the proceeds or payment of attorney fees  
98 and costs pursuant to s. 68.085.

99 (c) If it is determined that the person who reported a  
100 violation of this section was involved in the authorization,  
101 approval, or receipt of the prohibited compensation or is  
102 convicted of criminal conduct arising from his or her role in  
103 the authorization, approval, or receipt of the prohibited  
104 compensation, such person is not eligible for a reward or for an  
105 award of a portion of the proceeds or payment of attorney fees  
106 and costs pursuant to s. 68.085.

107 (10) An employee who is discharged, demoted, suspended,  
108 threatened, harassed, or in any manner discriminated against in  
109 the terms and conditions of employment by his or her employer  
110 because of lawful acts done by the employee on behalf of the  
111 employee or others in furtherance of an action under this  
112 section, including investigation for initiation of, testimony  
113 for, or assistance in an action filed or to be filed under this  
114 section, has a cause of action under s. 112.3187.

115 (11) If the unit of government fails to recover prohibited  
116 compensation for a willful violation of this section upon  
117 discovery and notification of such prohibited payment within 90  
118 days, a cause of action may be brought to:

119 (a) Recover state funds in accordance with ss. 68.082 and  
120 68.083.

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121 (b) Recover other funds by the Department of Legal Affairs  
122 using the procedures set forth in ss. 68.082 and 68.083, except  
123 that venue shall lie in the circuit court of the county in which  
124 the unit of government is located.

125 (c) Recover other funds by a person using the procedures  
126 set forth in ss. 68.082 and 68.083, except that venue shall lie  
127 in the circuit court of the county in which the unit of  
128 government is located.

129 (12) Subsections (7)-(11) apply prospectively to contracts  
130 or employment agreements, or the renewal or renegotiation of an  
131 existing contract or employment agreement, effective on or after  
132 July 1, 2015.

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**T I T L E A M E N D M E N T**

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Remove lines 44-56 and insert:

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F.S.; defining the term "public funds"; requiring

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certain contracts to which a unit of government or

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state university is a party during a specified period

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to contain certain prohibitions on severance pay;

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requiring a unit of government to investigate and take

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necessary action to recover prohibited compensation;

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specifying methods of recovery and liability for

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unintentional and willful violations; providing a

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penalty; specifying applicability of procedures

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regarding suspension and removal of an officer who

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147 |       commits a willful violation; establishing eligibility  
148 |       criteria and amounts for rewards; specifying  
149 |       circumstances under which an employee has a cause of  
150 |       action under the Whistle-blower's Act; establishing  
151 |       causes of action if a unit of government fails to  
152 |       recover prohibited compensation within a certain  
153 |       timeframe; providing applicability;