

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.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: SB 2502-A

INTRODUCER: Senator Lee

SUBJECT: Implementing the 2015-2016 General Appropriations Act

DATE: May 28, 2015

REVISED: _____

ANALYST

McSwain

STAFF DIRECTOR

Kynoch

REFERENCE

ACTION

I. Summary:

SB 2502-A provides the statutory authority necessary to implement and execute the General Appropriations Act for Fiscal Year 2015-2016. Statutory changes are temporary and expire on July 1, 2016.

The bill provides an effective date of July 1, 2015, except as otherwise provided.

II. Present Situation:

Article III, s. 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.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 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 2015-2016.

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 provides that funds provided for instructional materials shall be released and expended as required in the proviso language attached to Specific Appropriation 90.

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

Section 4 amends s. 1013.64, F.S., to provide that, notwithstanding the current formula, for the 2015-2016 fiscal year, funds appropriated for remodeling, renovation, maintenance, and repairs and site improvement for existing satisfactory facilities will be allocated by prorating the total appropriation based on each school district's share of the 2014-2015 reported fixed capital outlay FTE.

Section 5 provides that any district school board that generates less than \$2 million dollars in revenue from one mill of ad valorem tax shall contribute 0.75 mill, rather than 1.5 mills, for Fiscal Year 2015-2016 to the cost of funded special facilities projects.

Section 6, 7, and 8 provide changes, for the 2015-2016 fiscal year, to the calculation of multiple components of the Florida Education Finance Program (FEFP), including:

- Providing funding for the 300 lowest performing elementary schools through funds allocated in the Supplemental Academic Instruction and the Research-Based Reading Instruction Allocation categoricals.
- Authorizing performance funding for a CAPE industry certification earned through a dual enrollment course, which is not a fundable certification on the Postsecondary Industry Certification Funding List or is earned as a result of an agreement with a nonpublic postsecondary institution, to be provided in the same manner as a non-dual enrollment course industry certification.
- Establishing two new tiers of bonuses available to CAPE industry certification teachers at \$75 for 0.3 weighted certifications and \$100 for 0.5 and 1.0 weighted certifications, with a \$4,000 maximum annual bonus for teachers providing instruction in courses leading to these industry certifications.
- Increasing the discretionary millage compression supplement for the school district 0.748 mill discretionary levy for operations from the state average to five percent above the state average funds per FTE.
- Modifying the sparsity supplement calculation to compute the sparsity supplement for larger eligible districts with a full-time equivalent student membership of between 20,000 and 24,000, by dividing the total number of full-time equivalent students in all programs by the number of permanent senior high school centers in the district, not in excess of four.
- Amending the virtual education contribution calculation by including the declining enrollment supplement and exceptional student education (ESE) guaranteed allocation.
- Creating the federally connected student supplement to provide funding to school districts to support the education of students connected with federally-owned military installations, National Aeronautics and Space Administration (NASA) property, and Indian lands. To be eligible for this supplement, the district must also be eligible for federal impact aid funds, pursuant to Title VIII of the Elementary and Secondary Education Act of 1965.
- Conforming a cross-reference in s.1011.71, F.S., changed as a result of the addition of the federally connected student supplement as a new subsection of law in s.1011.62, F.S.

Section 9 amends s. 1011.71, F.S., to clarify that, for Fiscal Year 2015-2016, annual license fees, maintenance fees, and lease agreements for enterprise resource software are allowable uses of local capital improvement funds.

Section 10 establishes the State University System (SUS) Performance Based Incentive funding model, for Fiscal Year 2015-2016, to evaluate the state universities' performance on specified metrics. Funding for the SUS Performance Based Incentive consists of a state investment, plus an institutional investment consisting of funds redistributed from SUS base funding.

Section 11 establishes a Florida College System (FCS) Performance Based Incentive funding model, for Fiscal Year 2015-2016, to evaluate the FCS institutions' performance on specified metrics. Funding for the FCS Performance Based Incentive consists of a state investment, plus an institutional investment consisting of funds redistributed from the Florida College System Program Fund.

Section 12 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 and Hospital Exemptions Programs.

Section 13 provides that the provisions of s. 409.905, F.S., be waived and authorizes the AHCA to retroactively adjust hospital payment rates funded by intergovernmental transfers to align payments with appropriated intergovernmental transfer funding for Fiscal Year 2014-2015.

Section 14 amends s. 20.435(4), F.S., for the 2015-2016 fiscal year, to provide that the Department of Health may use funds within the Medical Quality Assurance Trust Fund for providing health care services to Department of Health clients.

Section 15 sets prioritization guidelines for the Agency for Persons with Disabilities (APD) in moving clients from the wait list and into receiving waiver services. The APD is required to allow an individual who meets eligibility requirements to receive home and community based services in this state if the individual's parent or legal guardian is an active-duty military service member and, at the time of the service member's transfer to Florida, the individual was receiving home and community based services in another state.

Section 16 amends of s. 296.37(1), F.S., for the 2015-2016 fiscal year, to increase the personal needs allowance for residents of State Veterans' Nursing Homes from \$35 to \$105. This will maintain parity in the amount of income that all residents are allowed to keep for incidental expenses not covered by room and board.

Section 17 authorizes the AHCA and the Department of Health to submit a budget amendment to realign funding within and between agencies based on the implementation of the Statewide Medicaid Managed Care Medical Assistance Program for Children's Medical Services within the Department of Health. The funding realignment must reflect the actual enrollment changes due to the transfer of beneficiaries from fee-for-service to the capitated Children's Medical Services Network. The AHCA also is authorized to submit a request for non-operating budget authority to transfer the federal funds to the Department of Health, pursuant to s. 216.181(12), F.S.

Section 18 provides that, notwithstanding s. 409.991, F.S., for the 2015-2016 fiscal year, funds provided to community-based care lead agencies by the Department of Children and Families will be allocated based on a training needs assessment conducted by the Department of Children and Families.

Section 19 amends s. 216.262, F.S., to allow the EOG to request additional positions and appropriations from unallocated general revenue during the 2015-2016 fiscal year for the Department of Corrections (DOC) if the actual inmate population of the DOC exceeds certain Criminal Justice Estimating Conference forecasts. The additional positions and appropriations may be used for essential staff, fixed capital improvements, and other resources to provide classification, security, food services, health services, and other variable expenses within the institutions to accommodate the estimated increase in the inmate population, and are subject to Legislative Budget Commission review and approval.

Section 20 authorizes 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 21 amends s. 932.7055, F.S., relating to the disbursement of proceeds from the sale of forfeited property 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 22 amends s. 215.18, F.S., to provide the chief justice the authority to request a trust fund loan.

Section 23 requires the Department of Management Services (DMS) and agencies to utilize a tenant broker to renegotiate private lease agreements, in excess of 2,000 square feet, expiring before June 30, 2018.

Sections 24 and 25 require that fee for service of process against the Department of Financial Services or Office of Insurance Regulation be deposited to the Administrative Trust Fund rather than the Insurance Regulatory Trust Fund.

Section 26 provides that, in order to implement the provisions in SB 576, SB 578, SB 580, SB 582, SB 584, or similar legislation related to Article X, s. 28 of the Florida Constitution, enacted during the 2015 Regular Session of the Legislature or an extension thereof, the Agency for Persons with Disabilities, the Department of Agriculture and Consumer Services, the Department of Environmental Protection, the Fish and Wildlife Conservation Commission, and the Department of State may submit one or more budget amendments, as necessary, to: realign funding; increase operating, nonoperating, or fixed capital outlay budget authority from trust funds; or transfer trust funds between agencies or budget entities, as needed. A budget amendment is subject to the notice, review, and objection procedures of s. 216.177, F.S.

Section 27 amends s. 403.7095, F.S., relating to the solid waste management grant program to require the DEP to award \$3 million 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., related to the distribution of proceeds in the Florida Forever Trust Fund, to provide \$2 million to only the Division of State Lands within the Department of Environmental Protection for the Board of Trustees Florida Forever Priority List land acquisition projects.

Section 29 authorizes the Legislative Budget Commission to increase amounts appropriated to the Fish and Wildlife Conservation Commission or the DEP for fixed capital outlay projects. The increase in fixed capital outlay budget authority is authorized for funds provided to the state from the Gulf Environmental Benefit Fund administered by the National Fish and Wildlife Foundation, the Gulf Coast Restoration Trust Fund related to the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast Act of 2012 (RESTORE Act), or from British Petroleum Corporation (BP) for natural resources damage assessment early restoration projects. Any continuing commitment for future appropriations by the Legislature must be specifically identified.

Section 30 authorizes the Governor to temporarily transfer moneys, from one or more of the trust funds in the State Treasury, to the Department of Environmental Protection's Land Acquisition Trust Fund (LATF) whenever there is a deficiency that would render the LATF temporarily insufficient to meet its just requirements, including the timely payment of appropriations from that trust fund. These funds must be expended solely and exclusively in accordance with Article X, s. 28 of the Florida Constitution. This transfer is a temporary loan and the funds must be repaid to the trust funds from which the moneys were loaned by the end of the 2015-2016 fiscal year. Any action proposed pursuant to this subsection is subject to the notice, review, and objection procedures of s. 216.177, F.S., and the Governor shall provide notice of such action at least seven days before the effective date of the transfer of trust funds.

Section 31 amends s. 376.307, F.S., to provide that the Department of Environmental Protection may use appropriated funds within the Water Quality Assurance Trust Fund for the purpose of paying the outstanding and final debt service on bonds issued before February 1, 2009, by the South Florida Water Management District and the St. Johns River Water Management District.

Section 32 provides that, notwithstanding s. 287.057, F.S., the Department of Highway Safety and Motor Vehicles may extend its existing contract for driver license and identification card equipment and consumables through December 31, 2017, provided that the current price of each driver license and identification card does not increase. The contract extension must be executed by August 1, 2015.

Section 33 requires the Department of Transportation (DOT) to fund a statewide system of multi-use trails and related facilities, notwithstanding ss. 339.135(4)(a) and (5)(a), F.S., relating to geographic equity requirements for funding transportation projects.

Sections 34 and 35 reenact s. 341.102, F.S., to authorize the DOT to approve and provide matching grant funding for railroad quiet zones.

Sections 36 and 37 amend s. 339.2816, F.S., to allow the DOT to use up to \$50 million from the State Transportation Trust Fund for the purposes of funding the Small County Road Assistance Program in the 5-year work program for the 2015-2016 fiscal year.

Sections 38 and 39 reenact amendments to s. 216.292, F.S., that remove language limiting scope of legislative review of “five percent” budget transfers. The Legislature would continue to be able to object that a proposed action exceeds delegated authority or is contrary to legislative policy and intent.

Section 40 provides that no state agency may initiate a competitive solicitation for a product or service if the completion of such competitive solicitation would require a change in law or require a change to the agency's budget other than a transfer authorized in s. 216.292(2) or (3), F.S., unless the initiation of such competitive solicitation is specifically authorized in law or in the General Appropriations Act or by the Legislative Budget Commission.

Section 41 authorizes the EOG 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 42 authorizes the EOG to transfer funds in the appropriation category “Special Categories-Transfer to DMS-Human Resources Services Purchased Per Statewide Contract” of the 2015-2016 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 DMS for human resources management services.

Section 43 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 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 44 maintains legislative salaries at the July 1, 2010 level.

Sections 45 and 46 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 2015-2016 General Appropriations Act.

Section 47 provides that, in order to implement the issuance of new debt authorized in the 2015-2016 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 2015-2016 fiscal year should be implemented and is in the best interest of the state.

Section 48 provides that funds appropriated for travel by state employees 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. The agency head is required to consider the use of teleconferencing and electronic communication to meet needs of activity before approving travel.

Section 49 provides that the EOG 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 50 notwithstanding s. 216.292(2)(a), F.S., which authorizes agency budget transfers of up to 5 percent of approved budget between categories. Except for transfers approved pursuant to section 49 of the Implementing Bill, agencies are prohibited from transferring funds from a data center appropriation category to a category other than a data center appropriation category.

Section 51 provides that the EOG is authorized to transfer funds appropriated in the appropriations category “expenses” between agencies in order to allocate a reduction relating to SUNCOM Services.

Sections 52 and 53 reenacts amendments to s. 110.12315, F.S., that: modify copayments associated with the state employees’ group health insurance program consistent with decisions that have been made in the General Appropriations Act; authorize the Department of Management Services, for the state employees’ prescription drug program, to negotiate the pharmacy dispensing fee, to implement a 90-day supply limit program for certain maintenance drugs at retail pharmacies for state employees under certain circumstances, and to maintain a list of maintenance drugs and preferred brand name drugs; and provide that copayments for state employees for a 90-day supply of prescription drugs at a retail pharmacy will be the same as a 90-day supply through mail order.

Section 54 specifies that no section of the bill shall take effect if the appropriations and proviso to which it relates are vetoed.

Section 55 provides that 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 56 provides a severability clause.

Section 57 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 SB 2502-A implements provisions of the Senate Proposed General Appropriations Act for Fiscal Year 2015-2016, SB 2500-A, no direct fiscal impacts are created by this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.435, 112.24, 215.18, 215.32, 216.181, 216.262, 216.292, 259.105, 296.37, 339.135, 339.2816, 376.307, 403.7095, 932.7055, 1011.62, 1011.71, and 1013.64.

This bill creates undesignated sections of Florida Law.

This bill reenacts the following sections of the Florida Statutes: 110.12315, 124.502, 341.302, and 624.502.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

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

None.

B. Amendments:

None.