

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: SPB 2502

INTRODUCER: For consideration by Appropriations Committee

SUBJECT: Implementing the 2021-2022 General Appropriations Act

DATE: March 30, 2021

REVISED: _____

ANALYST

Urban

STAFF DIRECTOR

Sadberry

REFERENCE

ACTION

Pre-meeting

I. Summary:

SPB 2502 provides the statutory authority necessary to implement and execute the General Appropriations Act for Fiscal Year 2021-2022. Statutory changes are temporary and expire on July 1, 2022.

The bill provides an effective date of July 1, 2021, 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 to the text that 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 (GAA) for Fiscal Year 2020-2021.

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 GAA.

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

Section 4 amends s. 1011.62, F.S., to suspend the Decline in Full-Time Equivalent Students allocation and modify the Funding Compression Allocation within the FEFP to provide additional funding for school districts whose total funds per FTE in the prior year were less than the statewide average.

Section 5 reenacts s. 1001.26, F.S., to continue to allow public colleges or universities that are not part of the public broadcasting program system to qualify to receive state funds.

Section 6 provides that the amendments to s. 1001.26, F.S., expire on July 1, 2022, and the text of that section reverts to that in existence on June 30, 2018.

Section 7 amends s. 1004.6495, F.S., to provide flexibility for the Florida Center for Students with Unique Abilities to administer the Florida Postsecondary Comprehensive Training Transition Program grants beyond the current limitations requiring grants to be used solely for start-up and enhancements.

Section 8 amends s. 3, ch. 2020-28, Laws of Florida, relating to intercollegiate athlete compensation and rights, to extend the effective date of the act to July 1, 2022.

Section 9 amends s. 1006.73, F.S., to provide that the Board of Governors and the Department of Education will jointly oversee the Florida Postsecondary Academic Library Network to deliver certain services to public postsecondary educational institutions.

Section 10 provides that the calculations of the Medicaid Disproportionate Share Hospital and Hospital Reimbursement programs for the 2021-2022 fiscal year, which is contained in the document titled “Medicaid Disproportionate Share Hospital and Hospital Reimbursement Programs, Fiscal Year 2021-2022” dated March 26, 2021, and filed with the Secretary of the Senate, are incorporated by reference for the purpose of displaying the calculations used by the Legislature.

Section 11 authorizes the Agency for Health Care Administration (AHCA) to submit a budget amendment to realign funding between the AHCA and the Department of Health (DOH) for the Children’s Medical Services (CMS) Network for the implementation of the Statewide Medicaid Managed Care program, to reflect actual enrollment changes due to the transition from fee-for-service into the capitated CMS Network.

Section 12 authorizes the AHCA to submit a budget amendment to realign funding within the Medicaid program appropriation categories to address projected surpluses and deficits within the program and to maximize the use of state trust funds.

Section 13 authorizes the AHCA to submit a budget amendment to realign funding between the AHCA and the DOH within the Florida KidCare program appropriation categories, or to increase budget authority in the CMS Network category, to address projected surpluses and deficits within the program or to maximize the use of state trust funds.

Sections 14 amends 381.986, F.S., to provide that the DOH is not required to prepare a statement of estimated regulatory costs when adopting rules relating to medical marijuana testing laboratories, and any such rules adopted prior to July 1, 2022, are exempt from the legislative ratification provision of s. 120.541(3), F.S.

Section 15 amends 381.988, F.S., to provide that the DOH is not required to prepare a statement of estimated regulatory costs when adopting rules relating to medical marijuana testing laboratories, and any such rules adopted prior to July 1, 2022, are exempt from the legislative ratification provision of s. 120.541(3), F.S.

Section 16 amends s. 14(1) of ch. 2017-232, Laws of Florida, to provide limited emergency rulemaking authority to the DOH and applicable boards to adopt emergency rules to implement the Medical Use of Marijuana Act (2017). The department and applicable boards are not required to prepare a statement of estimated regulatory costs when promulgating rules to replace emergency rules, and any such rules are exempt from the legislative ratification provision of s. 120.541(3), F.S., until July 1, 2022.

Section 17 provides that the amendments to s. 14(1) of ch. 2017-232, Laws of Florida, expire on July 1, 2022, and the text of that provision reverts back to that in existence on June 30, 2019.

Section 18 authorizes the DCF to submit a budget amendment to realign funding within the DCF based on the implementation of the Guardianship Assistance Program.

Section 19 authorizes the DOH to submit a budget amendment to increase budget authority for the HIV/AIDS Prevention and Treatment Program if additional federal revenues specific to HIV/AIDS prevention and treatment become available in the 2021-2022 fiscal year.

Section 20 requires AHCA to replace the current Florida Medicaid Management Information System and provides requirements of the system. This section also establishes an executive steering committee, membership, duties, and the processes and committee meetings and decisions.

Section 21 amends s. 216.262, F.S., to allow the Executive Office of the Governor to request additional positions and appropriations from unallocated general revenue funds during the 2021-2022 fiscal year for the Department of Corrections (DOC), if the actual inmate population of the DOC exceeds the Criminal Justice Estimating Conference forecasts of March 17, 2021. 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 22 amends s. 1011.80(8)(b), F.S., to authorize the expenditure of appropriations for the education of state or federal inmates to the extent funds are specifically appropriated for postsecondary workforce programs.

Section 23 provides that the amendments to s. 1011.80(8)(b), F.S., expire on July 1, 2022, and the text of that section reverts back to that in existence on July 1, 2019.

Section 24 amends s. 215.18, F.S., to provide the Chief Justice of the Florida Supreme Court the authority to request a trust fund loan to ensure the state court system has sufficient funds to meet its appropriations contained in the GAA for the 2021-2022 fiscal year.

Section 25 requires the Department of Juvenile Justice to ensure that counties are fulfilling their financial responsibilities required in s. 985.6865, F.S., and to report any deficiencies to the Department of Revenue. If the Department of Juvenile Justice determines that a county has not met its obligations, it must direct the Department of Revenue to deduct the amount owed to the Department of Juvenile Justice from shared revenue funds provided to the county under s. 218.23, F.S. to be deposited into the Shared County/State Juvenile Detention Trust Fund in Department of Juvenile Justice. The section also includes procedures to provide assurance to holders of bonds for which shared revenue fund distributions are pledged.

Section 26 reenacts s. 27.40, F.S., to continue to require written certification of conflict by the public defender or regional conflict counsel before a court may appoint private conflict counsel.

Section 27 amends s. 27.5304(13), F.S., to continue the creation of a rebuttable presumption of correctness for objections to billings made by the Justice Administrative Commission and provision of requirements for payments to private counsel and reenacts s. 27.5304(1), (3), (7), and (11), and 12(a)-(e), F.S., to continue the increase on caps for compensation of court appointed counsel in criminal cases.

Section 28 provides that the amendments to s. 27.40(1), (2)(a), (3)(a), (5), (6), (7), and (11), F.S., and s. 27.5304(1), (3), (7), (11), and (12)(a) – (e) expire on July 1, 2022, and the text of those provisions reverts to that in existence on June 30, 2019.

Section 29 creates s. 27.403, F.S., to create the cross-jurisdictional death penalty pilot program within the office of criminal conflict and civil regional counsel for the region comprising the Second Appellate District. Under the pilot program if the public defender in the Fifth Judicial Circuit or the Ninth Judicial Circuit is unable to provide representation to an indigent defendant charged with certain crimes due to a conflict of interest, the criminal conflict and civil regional counsel for the region comprising the Second Appellate District shall be appointed.

Section 30 requires clerks to pay costs of compensation to jurors, for meals or lodging provided to jurors, and for jury-related personnel costs that exceed funding in the GAA for these purposes.

Section 31 reenacts 20.316, F.S., to continue the creation of the Accountability and Program Support Program in the Department of Juvenile Justice.

Section 32 provides that the amendments to s. 20.316(2) and (3), F.S., expire July 1, 2022 and the text of that section shall revert to that in existence on June 30, 2020.

Section 33 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, 2024.

Section 34 prohibits an agency from transferring funds from a data processing category to any category other than another data processing category.

Section 35 authorizes the Executive Office of the Governor (EOG) to transfer funds in the specific appropriation category “Data Processing Assessment – Department of Management Service” between agencies, in order to align the budget authority granted with the assessments that must be paid by each agency to the DMS.

Section 36 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 37 authorizes the EOG to transfer funds in the appropriation category “Special Categories - Transfer to DMS - Human Resources Services Purchased per Statewide Contract” of the GAA for 2021-2022 fiscal year 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 38 defines the components of the Florida Accounting Information Resource subsystem (FLAIR) and Cash Management System (CMS) included in the Department of Financial Services Planning Accounting and Ledger Management (PALM) system. This section also provides the executive steering committee membership and the procedures for executive steering committee meetings and decisions.

Section 39 amends s. 216.181(11)(d), F.S., to authorize the Legislative Budget Commission to increase amounts appropriated to the Fish and Wildlife Conservation Commission or the Department of Environmental Protection (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 identified specifically.

Section 40 amends s. 215.18, F.S., to authorize the Governor to temporarily transfer moneys, from one or more of the trust funds in the State Treasury, to a land acquisition trust fund (LATF) within the Department of Agriculture and Consumer Services, the DEP, the Department of State, or the Fish and Wildlife Conservation Commission, 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 Art. X, s. 28 of the State Constitution. This transfer is a temporary loan, and the funds must be repaid to the trust funds from which the moneys are

loaned by the end of the 2020-2021 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 41 provides that, in order to implement specific appropriations from the land acquisition trust funds within the Department of Agriculture and Consumer Services, the DEP, the Fish and Wildlife Conservation Commission, and the Department of State, the DEP will transfer a proportionate share of revenues in the Land Acquisition Trust Fund within the DEP on a monthly basis, after subtracting required debt service payments, to each agency and retain a proportionate share within the Land Acquisition Trust Fund within the DEP. Total distributions to a land acquisition trust fund within the other agencies may not exceed the total appropriations for the fiscal year. The section further provides that DEP may advance funds from the beginning unobligated fund balance in the Land Acquisition Trust Fund to LATF within the Fish and Wildlife Conservation Commission for cash flow purposes.

Section 42 amends s. 375.041(3)(b), F.S., to provide that the distribution from the Land Acquisition Trust Fund for restoration of Lake Apopka is as specified in the GAA.

Section 43 reenacts s. 570.93(1)(a), F.S., to continue the revision of the agricultural water conservation program to enable cost-share funds to continue to be used for irrigation system retrofits and mobile irrigation lab evaluations. The revision also permits the funds to be expended on additional water conservation activities pursuant to s. 403.067(7)(c), F.S.

Section 44 provides that the amendments to s. 570.93(1)(a), F.S., expires on July 1, 2022, and the text of that section reverts to that in existence on June 30, 2019.

Section 45 amends s. 259.105(3)(m), F.S., to provide for distribution of a specified amount from the Florida Forever Trust to the Florida Recreation Development Assistance Program within the DEP.

Section 46 amends s. 161.101, F.S., to provide that the funding criteria for beach and inlet management projects will not apply and funding shall be provided as specified in the GAA.

Section 47 reenacts s. 376.3071(15)(g), F.S., to continue revisions to the requirements for the usage of the Inland Protection Trust Fund relating to ethanol or biodiesel damage.

Section 48 provides that the amendment to s. 376.3071(15)(g), F.S., expires on July 1, 2022, and the text of that section reverts to that in existence on July 1, 2020.

Section 49 amends s. 321.04(3)(b) and (5), F.S., to provide that for the 2021-2022 fiscal year, the Department of Highway Safety and Motor Vehicles may assign a patrol officer to a Cabinet member if the department deems such assignment appropriate or if requested by such Cabinet member in response to a threat. Additionally, the Governor may request the department to assign one or more highway patrol officers to the Lieutenant Governor for security services.

Section 50 amends s. 215.559, F.S., to extend the repeal date for the Hurricane Loss Mitigation Program within the Department of Emergency Management to June 30, 2022.

This section is effective upon becoming a law.

Section 51 amends s. 288.80125, F.S., to authorize funds to be used for the Rebuild Florida Revolving Loan Fund Program to provide assistance to businesses impacted by Hurricane Michael as provided in the GAA.

Section 52 amends s. 337.11, F.S., to prohibit the Department of Transportation (DOT) from entering into a contract with a consultant for design services or construction engineering and inspection services related to a construction project that exceeds five percent of the estimated cost of such construction project without the approval of the secretary. The bill also authorizes the DOT to share a portion of construction cost savings, up to 5 percent, realized due to a change in the construction contract design scope, initiated after execution of the contract, with a certain consultants to the extent such consultant's input and involvement contributed to such savings.

Section 53 amends s. 339.08, F.S., to authorize funds to be transferred from the State Transportation Trust Fund to the General Revenue Fund as specified in the GAA.

Section 54 amends s. 339.135(7)(g)(h), F.S., to authorize the chair and vice chair of the Legislative Budget Commission to approve, pursuant to s. 216.177, F.S., the following work program amendments if a commission meeting cannot be held within 30 days of submittal of the amendment by the Department of Transportation:

- A work program amendment that transfers fixed capital outlay appropriations between categories or increases appropriation categories.
- A work program amendment that adds a new project, or a phase of a new project, in excess of \$3 million.

Section 55 amends s. 112.061(4)(d), F.S., to permit a lieutenant governor who resides outside of Leon County to designate an official headquarters in his or her county as his or her official headquarter for purposes of s. 112.061, F.S. A lieutenant governor for whom an official headquarters in his or her county of residence may be paid travel and subsistence expenses when travelling between their official headquarters and the State Capitol to conduct state business.

Section 56 amends s. 216.292(2)(a), F.S. to remove language limiting scope of legislative review of "5 percent" budget transfers. Legislature would be able to object that the proposed action exceeds delegated authority or is contrary to legislative policy and intent would apply. Requires that transfers maximize use of available and appropriate trust funds.

Section 57 requires the Department of Management Services to maintain and offer, during Fiscal Year 2020-2021, the standard and high deductible PPO and HMO plans that were in effect during Fiscal Year 2019-2020.

Section 58 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 59 amends s. 112.24(6), 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 60 maintains salaries of legislators at the same level as July 1, 2010, through notwithstanding s. 11.13, F.S.

Section 61 reenacts 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 General Appropriations Act.

Section 62 provides that the amendment to s. 215.32(2)(b), F.S., expires July 1, 2022, and the text of that section reverts to that in existence on June 30, 2011.

Section 63 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 64 provides that, notwithstanding s. 112.061, F.S., costs for lodging associated with a meeting, conference, or convention organized or sponsored in whole or in part by a state agency or the judicial branch may not exceed \$225 per day. An employee may expend his or her own funds for any lodging expenses in excess of \$175.

Section 65 prohibits a state agency from entering into a contract containing a nondisclosure agreement that prohibits a contractor from disclosing information relevant to the performance of the contract to members or staff of the Senate or House.

Section 66 reenacts and amends s. 216.1366, F.S., to require all new state contracts and amended contracts entered on or after July 1, 2021, to authorize public agencies to inspect: a) financial records and documents directly related to the performance of the contract or public expenditures; and b) programmatic records and documents of the contractor which the public agency determines are necessary to monitor performance of the contract or ensure the contract terms are being met. Contractors are required to provide the requested records and documents within 10 business days after the request by the public agency.

Section 67 incorporates by reference the Legislative working papers titled "Fiscal Year 2020-2021 Immediate Reversions" filed for the purpose of displaying the calculations used by the Legislature.

Section 68 authorizes agencies, notwithstanding s. 216.181(2)(h), F.S., to issue budget amendments to request salary increases to address pay plan compression issues as a result of raising the minimum wage to \$13 per hour.

Section 69 specifies that no section shall take effect if the appropriations and proviso to which it relates are vetoed.

Section 70 provides that if any other act passed during the 2021 Regular Session contains a provision that is substantively the same as a provision in this act, but removes or otherwise is not subject to the future repeal applied by this act, the intent is for the other provision to take precedence and continue to operate

Section 71 provides a severability clause.

Section 72 provides effective dates.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Because SPB 2502 implements provisions of SPB 2500, the Senate Proposed GAA for Fiscal Year 2021-2022, 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: 1011.62, 1004.6495, 1006.73, 381.986, 381.988, 216.262, 1011.80, 215.18, 216.181, 215.18, 375.041, 259.105, 161.101, 321.04, 215.559, 288.80125, 337.11, 339.08, 339.135, 112.061, 216.292, and 112.24.

This bill amends chapter 2017-232 of the Laws of Florida.

This bill creates section 27.403 of the Florida Statutes.

This bill creates undesignated sections of Florida law.

This bill reenacts the following sections of the Florida Statutes: 1001.26, 27.40, 27.5304, 20.316, 570.93, 376.3071, 215.32, and 216.1366.

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.