

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: HB 5009

INTRODUCER: Budget Committee and Representative Sirois

SUBJECT: Government Administration

DATE: April 16, 2025

REVISED: 4/17/25

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Urban	Sadberry	AP	Fav/1 amendment

Please see Section IX. for Additional Information:

AMENDMENTS - Significant amendments were recommended

I. Summary:

HB 5009 establishes a Florida Accountability Office (FAO) in the Legislature comprising of four divisions, reorganizes certain audit functions, and expands the audit mission to include investigations of whistleblower complaints and other matters. The bill also changes the appointment and term of the Auditor General to two-year terms corresponding to the biennial reorganization of the Legislature. The bill assigns to each division primary responsibility for particular types of audits and investigations, and directs the Auditor General and other legislative offices to review and report on the need for further definition and delineation of audit functions. Additionally, the bill revises a number of provisions in ch. 216, F.S., relating to state planning and budgeting.

The bill has an indeterminate impact to state expenditures. See Section V., Fiscal Impact Statement.

The bill is effective July 1, 2025, except as otherwise expressly provided.

II. Present Situation:

Florida Auditor General

Article III, s. 2 of the Floria Constitution, requires the Legislature to appoint an auditor that serves at its pleasure and who is required to audit public records and perform related duties as prescribed by law or concurrent resolution. Section 11.42, F.S., requires the auditor general to be appointed to office by a majority vote of the members of the Legislative Auditing Committee,

subject to confirmation of both houses. The appointment of the auditor general may be terminated at any time by a majority vote of both houses.

The Auditor General is required to be certified under the Public Accountancy Law for a period of at least 10 years and have not less than 10 years' experience in an accounting or auditing related field.¹ The auditor general is required to make all spending decisions within the annual operating budget approved by the President of the Senate and the Speaker of the House of Representatives.

Officers or salaried employees of the Office of the Auditor General are prohibited from serving as the representative of any political party or on any executive committee or other governing body thereof; serving as an executive, officer, or employee of any political party committee, organization, or association; or be engaged on behalf of any candidate for public office in the solicitation of votes or other activities in behalf of such candidacy. Additionally, neither the auditor general nor any employee of the auditor general may become a candidate for election to public office unless she or he first resigns from office or employment.

State Budgeting and Planning

Chapter 216, F.S., provides guidelines and requirements for the Executive Office of the Governor, state agencies, and the judicial branch for developing and submitting legislative budget requests and implementing legislative appropriations in accordance with s. 19, Art. III, of the Florida Constitution.

Legislative Budget Requests

In accordance with s. 19, Art. III, of the Florida Constitution, s. 216.023, F.S., requires state agencies and the judicial branch to submit requests for the Legislature for the amounts of money such agency or branch believes will be needed in the performance of the functions that it is authorized, or which it is requesting authorization by law, to perform.²

Each state agency and the judicial branch is required to submit a final legislative budget request to the Legislature and the Governor in the form and manner prescribed by the budget instructions no later than October 15th of each year, unless an alternative date is agreed to be in the best interest of the state by the Governor and the chairs of the legislative appropriations committees.³

Authorized Positions

The total number of authorized positions of a state agency or entity of the judicial branch may not exceed the total provided in the General Appropriations Act, unless otherwise expressly provided by law.⁴ If a state agency or entity of the judicial branch finds that the number of positions so provided is not sufficient to administer its authorized programs, it may file an application with the Executive Office of the Governor or the Chief Justice. If the Executive Office of the Governor or Chief Justice certifies that there are no authorized positions available for addition, deletion, or transfer within the agency and recommends an increase in the number

¹ Section 11.42, F.S.

² Section 216.011(1)(cc), F.S.

³ Section 216.023.

⁴ Section 216.262, F.S.

of positions, the Governor or the Chief Justice may recommend an increase in the number of positions for the following reasons only:

- To implement or provide for continuing federal grants or changes in grants not previously anticipated.
- To meet emergencies pursuant to s. 252.36.
- To satisfy new federal regulations or changes therein.
- To take advantage of opportunities to reduce operating expenditures or to increase the revenues of the state or local government.
- To authorize positions that were not fixed by the Legislature through error in drafting the appropriations acts.⁵

Actions recommended by the Executive Office of the Governor or the Chief Justice are subject to the approval by the Legislative Budget Commission.⁶

Historically, there has been an exception provided for the Department of Corrections in the bill implementing the General Appropriations Act.⁷ For the 2024-2025 fiscal year, if the actual inmate population of the Department of Corrections exceeds the inmate population projections of the December 15, 2023, Criminal Justice Estimating Conference by 1 percent for 2 consecutive months or 2 percent for any month, the Executive Office of the Governor, with the approval of the Legislative Budget Commission, is required to immediately notify the Criminal Justice Estimating Conference, which shall convene as soon as possible to revise the estimates.

The Department of Corrections is then authorized to submit a budget amendment requesting the establishment of positions in excess of the number authorized by the Legislature and additional appropriations from unallocated general revenue sufficient to provide 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.⁸

Transfers of Appropriations

Funds provided in the General Appropriations Act or otherwise expressly provided by law are required to be expended only for the purpose for which appropriated. Appropriations may not be transferred between state agencies, or between a state agency and the judicial branch, unless specifically authorized by law.⁹

However, there are some exceptions provided in s. 216.292, F.S., provided the transfer is determined to be in the best interest of the state. Additionally, such authorized revisions must be consistent with the intent of the approved operating budget, must be consistent with legislative policy and intent, and may not conflict with specific spending policies specified in the General Appropriations Act.¹⁰

⁵ *Id.*

⁶ *Id.*

⁷ Chapter 2024-228, s. 28, L.O.F.

⁸ Section 216.262(4), F.S.

⁹ *Id.*

¹⁰ Section 216.292, F.S.

The transfer of appropriations funded from identical funding sources, except appropriations for fixed capital outlay, and the transfer of amounts included within the total original approved budget and plans of releases of appropriations as furnished pursuant to ss. 216.181 and 216.192, F.S., may be made by the head of each department or the Chief of the Supreme Court whenever it is deemed necessary by reason of changed conditions as follows:

- Between categories of appropriations within a budget entity, if no category of appropriation is increased or decreased by more than five percent of the original approved budget or \$250,000, whichever is greater, by all action taken under this subsection.
- Between budget entities within identical categories of appropriations, if no category of appropriation is increased or decreased by more than five percent of the original approved budget or \$250,000, whichever is greater, by all action taken under this subsection.¹¹

However, any agency exceeding salary rate established pursuant to s. 216.181(8) on June 30th of any fiscal year is not authorized to make such transfers in the subsequent fiscal year.

Notice of proposed transfers must be provided to the Executive Office of the Governor and the chairs of the legislative appropriations committees at least three days prior to agency implementation, in order to provide an opportunity for review. The review shall be limited to ensuring that the transfer is in compliance with the requirements of this paragraph, but must ensure that transfers proposed pursuant to this paragraph comply with this chapter, maximize the use of available and appropriate trust funds, and are not contrary to legislative policy and intent.

The following transfers are authorized with the approval of the Executive Office of the Governor for the executive branch or the Chief Justice for the judicial branch, subject to the notice and objection provisions of s. 216.177, F.S.:

- The transfer of appropriations for operations from trust funds up to \$1 million.
- The transfer of positions between budget entities.¹²

The following transfers are authorized with the approval of the Legislative Budget Commission. Unless waived by the chair and vice chair of the commission, notice of such transfers must be provided 14 days before the commission meeting:

- The transfer of appropriations for operations from the General Revenue Fund in excess of \$1 million, but within a state agency or within the judicial branch, as recommended by the Executive Office of the Governor or the Chief Justice of the Supreme Court.
- The transfer of appropriations for operations from trust funds in excess of \$1 million, as recommended by the Executive Office of the Governor or the Chief Justice of the Supreme Court.
- The transfer of the portion of an appropriation for a named fixed capital outlay project found to be in excess of that needed to complete the project to another project for which there has been an appropriation in the same fiscal year from the same fund and within the same department where a deficiency is found to exist, at the request of the Executive Office of the Governor for state agencies or the Chief Justice of the Supreme Court for the judicial branch.

¹¹ Section 216.292(2), F.S.

¹² Section 216.292(3), F.S.

- The transfers necessary to accomplish the purposes of reorganization within state agencies or the judicial branch authorized by the Legislature when the necessary adjustments of appropriations and positions have not been provided in the General Appropriations Act.¹³

III. Effect of Proposed Changes:

Section 1 amends s. 11.26, F.S., to add employees of joint offices or the Florida Accountability Office to the list of employees that must have the permission of the presiding officers of both houses before engaging in outside employment.

Section 2 amends s. 11.40, F.S., to revise the authority of the Joint Legislative Auditing Committee. In cases where the committee has determined that a local governmental entity or district school board should be subject to further state action, the bill requires the committee to "advise" instead of "direct" the Department of Revenue (DOR) and Department of Financial Services (DFS) to withhold certain funds until the entity complies with the law.

The bill specifies that upon receipt of the advice the DOR and DFS have the authority to withhold the funds, and within 30 days from receipt of the advice withhold the funds or report the reasons for not doing so to the committee.

The bill requires the committee to "notify" rather than "request" the Department of Commerce to take action against special districts that fail to comply with the law.

Section 3 amends s. 11.40, F.S., effective November 18, 2026, to remove the requirement that a random sample of 3 percent of all legislative branch lobbying firms and executive branch lobbying firms be conducted.

Section 4 creates s. 11.405, F.S., to establish the Florida Accountability Office (FAO) under which the audit functions currently under the purview of the Legislature are consolidated into four divisions: Auditor General, General Accountability, Office of Program Policy Analysis and Government Accountability (OPPAGA), and a Public Integrity division. The bill authorizes any unit of the FAO to conduct any audit or investigation authorized by s. 11.45, F.S., except accounts and records of certain entities.

Audits and investigations would require consultation with the presiding officers of the Legislature for guidance regarding objectives and scope of the engagement. Governance of the FAO would be under direct authority of the Legislature comparable to the present governance of Joint Legislative Auditing Committee, OPPAGA, and similar legislative offices. Restrictions under current law on political activity and outside employment of auditor general employees are extended to all FAO personnel.

The bill establishes the FAO headquarters as the state capitol, but authorizes the Legislature to establish field offices. The bill requires the auditor general to be appointed by the Legislature for

¹³ Section 216.292(4), F.S.

two year-terms, coinciding with biennial reorganization of the Legislature, and head a division devoted to financial audits.

Section 5 creates s. 11.406, F.S., relating to public integrity division investigations, to require that beginning with the 2026-2027 fiscal year, the Auditor General and the Public Integrity Division is required to randomly select and review appropriations projects appropriated in the prior fiscal year, and if appropriate, investigate and recommend an audit of such projects. Each review must include an evaluation of the appropriations project recipient's efficient and effective administration of the project.

The bill authorizes the division to request the Legislative Auditing Committee or any legislative committee to exercise existing powers¹⁴ to issue subpoenas and subpoenas duces tecum to compel testimony or the production of evidence when deemed necessary to an authorized investigation. The bill also provides the means for enforcing a subpoena.

Additionally, the bill authorizes the division to select and review the financial activities of any political subdivision, special district, public authority, public hospital, state or local council or commission, unit of local government, or public education entity in this state, as well as any authority, council, commission, direct support organization, institution, foundation, or similar entity created for a public purpose, entitled by law to any distribution of tax or fee revenues, or organized for the sole purpose of supporting certain public entities.

Section 6 creates s. 11.407, F.S., to require, beginning January 1, 2026, the General Accountability division to conduct all operational audits and compliance audits required by law, except those specifically assigned to the auditor general or OPPAGA.

Section 7 amends s. 11.42, F.S., relating to the auditor general, to revise the requirements of who appoints the auditor general (who will be appointed by the Legislature as required under Section 4 of the bill). Additionally, instead of requiring that the auditor general must have been certified in this state for at least 10 years and have at least 10 years in the field of accounting or auditing related field, the bill states that if that is not the case than a deputy director of auditing who possesses such qualifications must be appointed.

The bill removes the authority of the auditor general to make all spending decisions within the annual operating budget approved by the President and Speaker, including employing qualified persons necessary to the efficient operation of the auditor general's office and fix their compensation with the approval of the President and Speaker.

Section 8 amends s. 11.45, F.S., to define the term "compliance audit" to mean an operational audit or a performance audit directed at the systems and processes, governance, legal compliance, regulations, and contracts of an agency, a program, or an activity, as well as any other objectives specified by the entity requesting or directing the examination. The bill broadens the duties of the auditor general under current law to apply to the FAO.

¹⁴ Section 11.143(3), F.S.

Section 9 amends s. 11.47, F.S., to expand the authority of the auditor general and OPPAGA to apply to the FAO generally and make other conforming changes.

Section 10 amends s. 11.51, F.S., relating to OPPAGA, to make conforming changes.

Section 11 amends s. 14.32, F.S., to require the Chief Inspector General to report expeditiously and cooperate fully with the Chief Financial Officer, in addition to the Florida Department of Law Enforcement and Department of Legal Affairs and other law enforcement agencies when there are recognizable grounds to believe that there has been a violation of criminal law or a civil action should be taken.

Section 12 amends s. 112.3187, F.S., to expand the Whistle-blower's Act to include the FAO.

Section 13 amends s. 112.3188, F.S., to expand the Whistle-blower's Act to include the FAO and allegations against an individual that "is suspected of having committed" an act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, or gross neglect of duty.

Section 14 amends s. 112.3189, F.S., to expand the Whistle-blower's Act to include the FAO and require at least once per month that the Chief Inspector General submit an accurate summary of information received via the hotline.

Section 15 amends s. 112.31901, F.S., to provide that the public records exemption may not prevent the FAO from reviewing any records of any investigation.

Section 16 amends s. 216.011, F.S., to provide that that the term "fixed capital outlay" does not include minor repairs or maintenance and may be appropriated in an expense, contracted services, or special appropriation category.

Section 17 amends s. 216.023, F.S., to codify the current practice of submitting legislative budget requests by September 15 of each odd-numbered year and October 15 of each even-numbered year.

Section 18 repeals s. 216.052, F.S., relating to community budget requests.

Section 19 amends s. 216.134, F.S., to require the Office of Economic and Demographic Research to make available to the public "all materials, unless exempt, that will be considered by the conference" at least 24 hours before a scheduled session or a meeting of a consensus estimating conference.

Section 20 amends s. 216.177, F.S., to authorize the chair or the vice chair of the Legislative Budget Commission or the President of the Senate or the Speaker of the House of Representatives to object to a budget amendment.

Section 21 amends s. 216.192, F.S., to require the approval of annual release plans to be subject to the notice, review, and objection procedures of s. 216.177, F.S.

Section 22 amends s. 216.222, F.S., to restrict funds in the Budget Stabilization Fund from being used for an emergency unless the emergency was declared by law, rather than by the Governor, and requires such transfer to be made pursuant to an appropriation.

Section 23 amends s. 216.231, F.S., to require appropriations for emergencies that have been renewed be subject to the notice, review, and objection procedures.

Section 24 amends s. 216.292, F.S., to authorize the Department of Corrections to submit a budget amendment to increase the number of authorized positions if the inmate population projections are over Criminal Justice Estimating Conference estimates.

Section 25 amends s. 216.292, F.S., to clarify that transfers of appropriations may be made between agencies if specifically authorized in the General Appropriations Act in addition to by law. The bill also authorizes transfers for state-wide distributions for Risk Management, Human Resource Services, Division of Administrative Hearings, and Data Processing.

Section 26 amends s. 252.36, F.S., to apply the notice, review, and objection procedures to the appropriation of funds for an emergency that exceeds 60 days.

Section 27 amends s. 409.8134, F.S., to authorize, notwithstanding ss. 216.181 and 216.292, F.S., the Agency for Healthcare Administration (AHCA) and the Department of Health to each submit a budget amendment, subject so s. 216.177, F.S., to realign funding within the Florida KidCare program appropriation categories or to increase budget authority in the Children's Medical Services network category to address projected surpluses and deficits within the program or to maximize the use of state trust funds. A single budget amendment may be submitted by the agency and the department in the last quarter of the fiscal year.

Section 28 amends s. 409.902, F.S., to authorize, notwithstanding ss. 216.181 and 216.292, F.S., the AHCA to submit a budget amendment, subject to s. 216.177, F.S., 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. A single budget amendment may be submitted by the AHCA in the last quarter of the fiscal year.

Sections 29 and 30 amend ss. 20.055 and 760.06, F.S., respectively, to make conforming changes.

Section 31 requires each state agency to review its rules regarding audit requirements and report any such rule that is not specified in statute to the Joint Legislative Auditing Committee. The bill also requires joint review of all statutory audit requirements imposed on public or private entities. The bill requires a report by the auditor general, the Joint Legislative Auditing Committee, and OPPAGA to be submitted by October 1, 2026, containing certain information on all statutory audit requirements.

Section 32 provides that the bill is effective on July 1, 2025, except as otherwise provided.

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.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill creates the Florida Accountability Office, the costs of which may be absorbed within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 11.26, 11.40, 11.42, 11.45, 11.47, 11.51, 14.32, 112.3187, 112.3188, 112.3189, 112.31901, 216.011, 216.023,

216.134, 216.177, 216.192, 216.222, 216.231, 216.262, 216.292, 252.36, 409.8134, 409.902, 20.055, and 760.06.

This bill creates the following sections of the Florida Statutes: 11.405, 11.406, and 11.407.

This bill repeals section 216.052 of the Florida Statutes.

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:

Barcode 696916 by Appropriations on April 17, 2025:

This amendment deletes everything and does not insert additional language.

(WITH TITLE AMENDMENT)