

1                                   A bill to be entitled  
 2           An act relating to public employee compensation; amending  
 3           s. 215.425, F.S.; revising provisions relating to the  
 4           prohibition against the payment of extra compensation;  
 5           providing for bonuses; specifying the conditions for  
 6           paying bonuses; prohibiting provisions in contracts that  
 7           provide for severance pay; allowing for severance pay  
 8           under specified circumstances; defining the term  
 9           "severance pay"; prohibiting a contract provision that  
 10          provides for extra compensation to limit the ability to  
 11          discuss the contract; amending s. 166.021, F.S.; deleting  
 12          a provision that allows a municipality to pay extra  
 13          compensation; amending s. 112.061, F.S.; conforming cross-  
 14          references; repealing s. 125.01(1)(bb), F.S., relating to  
 15          the power of a local government to pay extra compensation;  
 16          repealing s. 373.0795, F.S., relating to a prohibition  
 17          against severance pay for officers or employees of water  
 18          management districts; providing an effective date.

19  
 20 Be It Enacted by the Legislature of the State of Florida:

21  
 22           Section 1. Section 215.425, Florida Statutes, is amended  
 23 to read:

24           215.425 Extra compensation claims prohibited; bonuses;  
 25 severance pay.—

26           (1) No extra compensation shall be made to any officer,  
 27 agent, employee, or contractor after the service has been  
 28 rendered or the contract made; nor shall any money be

29 appropriated or paid on any claim the subject matter of which  
 30 has not been provided for by preexisting laws, unless such  
 31 compensation or claim is allowed by a law enacted by two-thirds  
 32 of the members elected to each house of the Legislature.  
 33 However, when adopting salary schedules for a fiscal year, a  
 34 district school board or community college district board of  
 35 trustees may apply the schedule for payment of all services  
 36 rendered subsequent to July 1 of that fiscal year.

37 (2) The provisions of This section does ~~de~~ not apply to:

38 (a) Extra compensation given to state employees who are  
 39 included within the senior management group pursuant to rules  
 40 adopted by the Department of Management Services; ~~to extra~~  
 41 ~~compensation given to county, municipal, or special district~~  
 42 ~~employees pursuant to policies adopted by county or municipal~~  
 43 ~~ordinances or resolutions of governing boards of special~~  
 44 ~~districts or to employees of the clerk of the circuit court~~  
 45 ~~pursuant to written policy of the clerk; or to~~

46 (b) A clothing and maintenance allowance given to  
 47 plainclothes deputies pursuant to s. 30.49.

48 (3) Any policy, ordinance, rule, or resolution designed to  
 49 implement a bonus scheme must:

50 (a) Base the award of a bonus on work performance;

51 (b) Describe the performance standards and evaluation  
 52 process by which a bonus will be awarded;

53 (c) Notify all employees of the policy, ordinance, rule,  
 54 or resolution before the beginning of the evaluation period on  
 55 which a bonus will be based; and

56 (d) Consider all employees for the bonus.

57 (4) (a) On or after July 1, 2011, a unit of government may  
 58 not enter into a contract or employment agreement that contains  
 59 a provision for severance pay with an officer, agent, employee,  
 60 or contractor.

61 (b) On or after July 1, 2011, an officer, agent, employee,  
 62 or contractor may receive severance pay only if:

63 1. The severance pay is paid from wholly private funds,  
 64 the payment and receipt of which do not otherwise violate part  
 65 III of chapter 112;

66 2. The severance pay is administered under part II of  
 67 chapter 112 on behalf of an agency outside this state and would  
 68 be permitted under that agency's personnel system;

69 3. The severance pay represents the settlement of an  
 70 employment dispute. Such settlement may not include provisions  
 71 that limit the ability of any party to the settlement to discuss  
 72 the dispute or settlement; or

73 4. Provision for the severance pay is expressly included  
 74 in a contract for employment which was entered into before July  
 75 1, 2011.

76 (c) This subsection does not create an entitlement to  
 77 severance pay in the absence of its authorization.

78 (d) As used in this subsection, the term "severance pay"  
 79 means the actual or constructive compensation, including salary,  
 80 benefits, or perquisites, for employment services yet to be  
 81 rendered which is provided to an employee who has recently been  
 82 or is about to be terminated. The term does not include  
 83 compensation for:

84 1. Earned and accrued annual, sick, compensatory, or

85 administrative leave; or

86 2. Early retirement under provisions established in an  
 87 actuarially funded pension plan subject to part VII of chapter  
 88 112.

89 (5) Any agreement or contract involving extra compensation  
 90 between a unit of government and an officer, agent, employee, or  
 91 contractor may not include provisions that limit the ability of  
 92 any party to the agreement or contract to discuss the agreement  
 93 or contract.

94 Section 2. Present subsections (8) through (10) of section  
 95 166.021, Florida Statutes, are redesignated as subsections (7)  
 96 through (9) respectively, and present subsection (7) of that  
 97 section is amended, to read:

98 166.021 Powers.—

99 ~~(7) Notwithstanding the prohibition against extra~~  
 100 ~~compensation set forth in s. 215.425, the governing body of a~~  
 101 ~~municipality may provide for an extra compensation program,~~  
 102 ~~including a lump-sum bonus payment program, to reward~~  
 103 ~~outstanding employees whose performance exceeds standards, if~~  
 104 ~~the program provides that a bonus payment may not be included in~~  
 105 ~~an employee's regular base rate of pay and may not be carried~~  
 106 ~~forward in subsequent years.~~

107 Section 3. Paragraphs (a) and (c) of subsection (14) of  
 108 section 112.061, Florida Statutes, are amended to read:

109 112.061 Per diem and travel expenses of public officers,  
 110 employees, and authorized persons.—

111 (14) APPLICABILITY TO COUNTIES, COUNTY OFFICERS, DISTRICT  
 112 SCHOOL BOARDS, SPECIAL DISTRICTS, AND METROPOLITAN PLANNING

113 ORGANIZATIONS.—

114 (a) The following entities may establish rates that vary  
 115 from the per diem rate provided in paragraph (6) (a), the  
 116 subsistence rates provided in paragraph (6) (b), or the mileage  
 117 rate provided in paragraph (7) (d) if those rates are not less  
 118 than the statutorily established rates that are in effect for  
 119 the 2005-2006 fiscal year:

120 1. The governing body of a county by the enactment of an  
 121 ordinance or resolution;

122 2. A county constitutional officer, pursuant to s. 1(d),  
 123 Art. VIII of the State Constitution, by the establishment of  
 124 written policy;

125 3. The governing body of a district school board by the  
 126 adoption of rules;

127 4. The governing body of a special district, as defined in  
 128 s. 189.403(1), except those special districts that are subject  
 129 to s. 166.021(9) ~~166.021(10)~~, by the enactment of a resolution;  
 130 or

131 5. Any metropolitan planning organization created pursuant  
 132 to s. 339.175 or any other separate legal or administrative  
 133 entity created pursuant to s. 339.175 of which a metropolitan  
 134 planning organization is a member, by the enactment of a  
 135 resolution.

136 (c) Except as otherwise provided in this subsection,  
 137 counties, county constitutional officers and entities governed  
 138 by those officers, district school boards, special districts,  
 139 and metropolitan planning organizations, other than those  
 140 subject to s. 166.021(9) ~~166.021(10)~~, remain subject to the

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141 requirements of this section.

142 Section 4. Paragraph (bb) of subsection (1) of section  
143 125.01 and section 373.0795, Florida Statutes, are repealed.

144 Section 5. This act shall take effect July 1, 2011.