

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; amending s. 125.01, F.S.; deleting provisions
15 relating to the power of a local government to pay extra
16 compensation; repealing s. 373.0795, F.S., relating to a
17 prohibition against severance pay for officers or
18 employees of water management districts; providing an
19 effective date.
20

21 Be It Enacted by the Legislature of the State of Florida:

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

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

27 (1) No extra compensation shall be made to any officer,
28 agent, employee, or contractor after the service has been

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rendered or the contract made; nor shall any money be appropriated or paid on any claim the subject matter of which has not been provided for by preexisting laws, unless such compensation or claim is allowed by a law enacted by two-thirds of the members elected to each house of the Legislature.

However, when adopting salary schedules for a fiscal year, a district school board or community college district board of trustees may apply the schedule for payment of all services rendered subsequent to July 1 of that fiscal year.

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

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

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

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

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

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

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

57 (d) Consider all employees for the bonus.

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

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

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

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

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

74 4. Provision for the severance pay is expressly included
75 in a contract for employment which was entered into before July
76 1, 2011.

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

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

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1. Earned and accrued annual, sick, compensatory, or administrative leave; or

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

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

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

166.021 Powers.—

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

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

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

(14) APPLICABILITY TO COUNTIES, COUNTY OFFICERS, DISTRICT

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113 SCHOOL BOARDS, SPECIAL DISTRICTS, AND METROPOLITAN PLANNING
114 ORGANIZATIONS.—

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

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

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

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

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

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

137 (c) Except as otherwise provided in this subsection,
138 counties, county constitutional officers and entities governed
139 by those officers, district school boards, special districts,
140 and metropolitan planning organizations, other than those

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subject to s. 166.021(9) ~~166.021(10)~~, remain subject to the requirements of this section.

Section 4. Paragraphs (cc) and (dd) of subsection (1) of section 125.01, Florida Statutes, are redesignated as paragraphs (bb) and (cc), respectively, and paragraph (bb) of that subsection is amended to read:

125.01 Powers and duties.—

(1) The legislative and governing body of a county shall have the power to carry on county government. To the extent not inconsistent with general or special law, this power includes, but is not restricted to, the power to:

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

Section 5. Section 373.0795, Florida Statutes, is repealed.

Section 6. This act shall take effect July 1, 2011.