

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; requiring that contracts providing for  
7 severance pay under certain circumstances include  
8 specified provisions; defining the term "severance pay";  
9 prohibiting certain contract provisions that provide for  
10 extra compensation to limit the ability to discuss the  
11 contract; amending s. 125.01, F.S.; deleting provisions  
12 relating to the power of a county to pay extra  
13 compensation; amending s. 166.021, F.S.; deleting a  
14 provision that allows a municipality to pay extra  
15 compensation; amending s. 112.061, F.S.; conforming cross-  
16 references; 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

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57        (d) Consider all employees for the bonus.

58        (4) (a) On or after July 1, 2011, a unit of government that  
59 enters into a contract or employment agreement, or renewal or  
60 renegotiation of an existing contract or employment agreement,  
61 that contains a provision for severance pay with an officer,  
62 agent, employee, or contractor must include the following  
63 provisions in the contract:

64            1. A requirement that severance pay provided may not  
65 exceed an amount greater than 20 weeks of compensation, unless  
66 the unit of government approves the contract or employment  
67 agreement, or renewal or renegotiation of a contract or  
68 employment agreement, by a two-thirds vote of the membership of  
69 the approving body of the unit of government.

70            2. A prohibition of provision of severance pay when the  
71 officer, agent, employee, or contractor has been fired for  
72 misconduct, as defined in s. 443.036(29), by the unit of  
73 government.

74        (b) Notwithstanding paragraph (a), on or after July 1,  
75 2011, an officer, agent, employee, or contractor may receive  
76 severance pay if:

77            1. The severance pay is paid from wholly private funds,  
78 the payment and receipt of which do not otherwise violate part  
79 III of chapter 112; or

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

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

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85        (d) As used in this subsection, the term "severance pay"  
86 means the actual or constructive compensation, including salary,  
87 benefits, or perquisites, for employment services yet to be  
88 rendered which is provided to an employee who has recently been  
89 or is about to be terminated. The term does not include  
90 compensation for:

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

93        2. Early retirement under provisions established in an  
94 actuarially funded pension plan subject to part VII of chapter  
95 112; or

96        3. Any subsidy for the cost of a group insurance plan  
97 available to an employee upon normal or disability retirement  
98 that is by policy available to all employees of the unit of  
99 government pursuant to the unit's health insurance plan. This  
100 subparagraph may not be construed to limit the ability of a unit  
101 of government to reduce or eliminate such subsidies.

102        (5) Any agreement or contract, executed on or after July  
103 1, 2011, which involves extra compensation between a unit of  
104 government and an officer, agent, employee, or contractor may  
105 not include provisions that limit the ability of any party to  
106 the agreement or contract to discuss the agreement or contract.

107        Section 2. Paragraphs (cc) and (dd) of subsection (1) of  
108 section 125.01, Florida Statutes, are redesignated as paragraphs  
109 (bb) and (cc), respectively, and paragraph (bb) of that  
110 subsection is amended to read:

111        125.01 Powers and duties.—

112        (1) The legislative and governing body of a county shall

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113 have the power to carry on county government. To the extent not  
114 inconsistent with general or special law, this power includes,  
115 but is not restricted to, the power to:

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

123 Section 3. Present subsections (8) through (10) of section  
124 166.021, Florida Statutes, are redesignated as subsections (7)  
125 through (9) respectively, and present subsection (7) of that  
126 section is amended, to read:

127 166.021 Powers.—

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

136 Section 4. Paragraphs (a) and (c) of subsection (14) of  
137 section 112.061, Florida Statutes, are amended to read:

138 112.061 Per diem and travel expenses of public officers,  
139 employees, and authorized persons.—

140 (14) APPLICABILITY TO COUNTIES, COUNTY OFFICERS, DISTRICT

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141 SCHOOL BOARDS, SPECIAL DISTRICTS, AND METROPOLITAN PLANNING  
142 ORGANIZATIONS.—

143       (a) The following entities may establish rates that vary  
144 from the per diem rate provided in paragraph (6)(a), the  
145 subsistence rates provided in paragraph (6)(b), or the mileage  
146 rate provided in paragraph (7)(d) if those rates are not less  
147 than the statutorily established rates that are in effect for  
148 the 2005-2006 fiscal year:

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

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

154       3. The governing body of a district school board by the  
155 adoption of rules;

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

160       5. Any metropolitan planning organization created pursuant  
161 to s. 339.175 or any other separate legal or administrative  
162 entity created pursuant to s. 339.175 of which a metropolitan  
163 planning organization is a member, by the enactment of a  
164 resolution.

165       (c) Except as otherwise provided in this subsection,  
166 counties, county constitutional officers and entities governed  
167 by those officers, district school boards, special districts,  
168 and metropolitan planning organizations, other than those

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

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

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