

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 5003      PCB APC 16-02    Implementing the 2016-2017 General Appropriations Act

**SPONSOR(S):** Appropriations Committee, Corcoran

**TIED BILLS:**                      **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Appropriations Committee	18 Y, 7 N	Kramer	Leznoff

### SUMMARY ANALYSIS

This bill provides the statutory authority necessary to implement and execute the General Appropriations Act (GAA) for Fiscal Year 2016-2017. The statutory changes are effective for only one year and either expire on July 1, 2017 or revert to the language as it existed before the changes made by the bill.

Because this bill implements provisions of the General Appropriations Act for Fiscal Year 2016-2017, there are no direct fiscal impacts created by this bill.

## **FULL ANALYSIS**

### **I. SUBSTANTIVE ANALYSIS**

#### **A. EFFECT OF PROPOSED CHANGES:**

##### **Background:**

Section 12 of Article III of the Florida Constitution states 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 amending general law. 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 GAA. The statutory changes are effective for only one year and either expire on July 1 of the next fiscal year or revert to the language as it existed before the changes made by the bill.

##### **Provisions of bill:**

Section 1 provides legislative intent that the implementing and administering provisions of this act apply to the General Appropriations Act for Fiscal Year 2016-2017.

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 proviso language associated with Specific Appropriation 94.

Section 4 provides that any district school board that generates less than \$2 million dollars in revenue from one mill of ad valorem tax shall contribute 0.75 mill, rather than 1.5 mills, for Fiscal Year 2016-2017 to the cost of funded special facilities projects.

Section 5 amends s. 11.45, F.S. to require the auditor general to conduct annual financial audits of the Florida School for the Deaf and Blind.

Section 6 creates s. 1001.66, F.S. to provide that the Florida College System Performance Based Incentive shall be awarded to institutions using performance-based metrics adopted by the State Board of Education. The section specifies the types of metrics that must be included. The bill provides that funding shall consist of state's investment in performance funding as well as base funds and that institutional funds will be restored for institutions that meet minimum performance thresholds.

Section 7 amends s. 1001.7065, F.S. relating to the Preeminent State Research Universities Program to require the Board of Governors to designate each state university that meets at least 6 of the 12 academic and research excellence standards identified in law as an “emerging preeminent state research university.” The bill also modifies the academic and research excellence standards of the preeminent state research universities program and establishes funding parameters for universities designated as “preeminent” or “emerging preeminent.”

Section 8 amends s. 1001.92, F.S. to provide that the State University System Performance Based Incentive shall be based on indicators of institutional attainment of performance metrics adopted by the State Board of Governors. The bill specifies types of metrics that must be considered, provides that funding shall consist of state's investment in performance funding as well as base funds and provides that institutional funds will be restored for institutions that meet minimum performance thresholds.

Section 9 amends s. 1002.39, F.S. and section 19 amends s. 1011.61, F.S. to exempt McKay scholarship payments from the 1.0 FTE proration when a McKay scholarship program participant takes Florida Virtual School courses.

Sections 10 modifies the deadline for the submission of the Board of Governors annual accountability report pursuant to s. 1008.46, F.S.

Section 11 and section 12 amend sections 1009.23 and 1009.24, F.S. to cap the distance learning fee that state universities and Florida colleges can charge students taking distance learning courses to \$15 per credit hour.

Sections 13 through 17 amend sections 1009.40, 1009.50, 1009.505, 1009.51 and 1009.52, F.S. to maximize the current allocation of need-based financial aid by adding a prioritization of award to eligible students. These provisions require college and university financial aid offices to complete an analysis of need for each eligible student to include all sources of funds available to student. The bill requires a prioritization of awarding Florida student assistance grants to students with the highest unmet need and aligns credit attainment and GPA requirements for probationary award time-frame.

Section 18 amends s. 1009.701, F.S. to increase the state matching funds for the First Generation Matching Grant Program from 1:1 to 2:1

Section 20 amends s. 1011.62(12), F.S. to provide for the use of funds in the digital classrooms allocation of the FEFP.

Section 21 amends s. 1011.62(13), F.S. to provide for federally connected student supplement in FEFP.

Section 22 amends s. 1011.62(15), F.S. to remove the requirement for an adjustment to be made to a district's funding in the FEFP based on an FTE reporting error that is not corrected by the district within the FTE reporting amendment periods.

Sections 23 and 25 amend sections 1012.39 and 1012.75, F.S. to extend the authorization for the Florida educator professional liability insurance program. DOE will be required to notify all instructional personnel and district school boards will be required to notify a student performing clinical field experience of the availability of educator liability insurance.

Section 24 creates s. 1012.731, F.S. to codify the Best and Brightest Scholarship Program to award classroom teachers who have demonstrated a high level of academic achievement.

Section 26 amends s. 1013.64, F.S. to adjust the Capital Outlay Full-Time Equivalent Student Calculations to be consistent with FEFP FTE calculations relative to facilities space needs and COFTE determination procedures.

Section 27 provides that amendments made by the bill in sections that do not have specific expiration language will expire July 1, 2017 and the text of those sections will revert to that in existence on June 30, 2016.

Section 28 provides that the calculations for the Medicaid Low-Income Pool, Disproportionate Share Hospital, and Hospital Reimbursement programs, for the 2016-2017 fiscal year contained in the document titled "Medicaid Supplemental Hospital Funding Programs," filed with the Clerk of the House of Representatives, are incorporated by reference for the purpose of displaying the calculations used by the Legislature, consistent with the requirements of state law, in making appropriations for the Medicaid Low-Income Pool, Disproportionate Share Hospital, and Hospital Reimbursement programs.

Section 29 amends s. 296.37(3), F.S., for the 2016-2017 fiscal year, to maintain the personal needs allowance for residents of state veterans' nursing homes at \$105 per month. Absent this provision, the amount would fall to \$35 per month on July 1, 2016.

Section 30 authorizes the Agency for Health Care Administration to submit a budget amendment to realign funding based on the implementation of the Managed Medical Assistance component of the Statewide Medicaid Managed Care program in order to reflect the actual enrollment changes due to the

transfer of beneficiaries from fee-for-service to capitated managed care plans for medical assistance services.

Section 31 provides that notwithstanding s. 409.991, F.S., funds provided from the Department of Children and Families to community-based care lead agencies for personnel training purposes will be allocated based on a training needs assessment conducted by the department.

Section 32 creates s. 893.055(17), F.S., to provide that, for the 2016-2017 fiscal year only, the Department of Health may use state funds appropriated in the 2016-2017 General Appropriations Act to administer the prescription drug monitoring program. Also provides that neither the attorney general nor the department may use funds received as part of a settlement agreement to administer the program.

Section 33 amends s. 216.262, F.S., to allow the Executive Office of the Governor (EOG) to request additional positions and appropriations from unallocated general revenue during the 2016-2017 fiscal year for the Department of Corrections (DOC) if the actual inmate population of the DOC exceeds certain Criminal Justice Estimating Conference forecasts. 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 34 authorizes the Department of Legal Affairs to expend appropriated funds in those specific appropriations on the same programs that were funded by the department pursuant to specific appropriations made in general appropriations acts in prior years.

Section 35 amends s. 932.7055, F.S., relating to the disbursement of proceeds from the sale of forfeited property to extend for another year the authorization for a municipality to expend funds in a special law enforcement trust fund to reimburse the general fund of the municipality for moneys advanced from the general fund to the special law enforcement trust fund prior to October 1, 2001.

Section 36 amends s. 215.18, F.S., to provide the Chief Justice the authority to request a trust fund loan.

Section 37 prohibits the Department of Corrections from transferring funds from salaries and benefits to any other appropriations category without the approval of the Legislative Budget Commission.

Section 38 requires the Department of Juvenile Justice to ensure that counties are fulfilling their financial responsibilities relating to shared cost of juvenile detention. 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.

Section 39 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, 2018.

Sections 40 and 41 require that the fee for service of process against the Department of Financial Services or Office of Insurance Regulation to be deposited in the Administrative Trust Fund rather than the Insurance Regulatory Trust Fund.

Section 42 provides that the online procurement system transaction fee authorized in ss. 287.042(1)(h)1 and 287.057, F.S., will be maintained at .7 percent for the 2016-2017 fiscal year.

Section 43 provides that the EOG is authorized to transfer funds in the specific appropriation category "Data Processing Services - State Data Center - AST" between agencies in order to align the budget authority granted with the AST estimated billing cycle and methodology.

Section 44 notwithstanding s. 216.292(2)(a), F.S., which authorizes agency budget transfers of up to 5 percent of approved budget between categories. Except as otherwise authorized by this bill, agencies will be prohibited from transferring funds from a data center appropriation category to a category other than a data center appropriation category.

Section 45 authorizes an agency to transfer funds appropriated to Data Processing Services-State Data Center-Agency for State Technology (AST) category to a contracted services appropriation category in order to contract with a private sector cloud service if the service reduces the agency's data center costs while maintaining the same or improved levels of service and complies with all applicable federal and state security and privacy requirements.

Section 46 provides that the EOG is authorized to transfer funds appropriated in the appropriations category "expenses" between agencies in order to allocate a reduction relating to SUNCOM Services.

Section 47 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 48 authorizes the EOG to transfer funds in the appropriation category "Special Categories-Transfer to DMS-Human Resources Services Purchased Per Statewide Contract" of the 2016-2017 General Appropriations Act 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 49 provides for the scope of the FLAIR replacement project and specifies the required governance structure.

Section 50 provides that notwithstanding s. 161.143, F.S., which requires DEP to make available at least 10 percent of the total amount appropriated in each fiscal year for statewide beach management for the three highest-ranked projects on the current year's inlet management project list, for the 2016-2017 fiscal year, the amount allocated for inlet management funding is provided in the GAA.

Section 51 amends s. 259.105, F.S., to provide the following distribution from the Florida Forever Trust Fund:

1. \$35 million to the Department of Agriculture and Consumer Services for the acquisition of agricultural lands through perpetual conservation easements and other perpetual less-than-fee techniques, which will achieve the objectives of Florida Forever and s. 570.71.
2. \$32 million to DEP to be distributed among the water management districts to fund water resource development projects intended to achieve the goal of ensuring that sufficient quantities of water are available to meet the current and future needs of natural systems and the citizens of the state.
3. The remaining moneys appropriated from the Florida Forever Trust Fund shall be distributed only to the Division of State Lands within the Department of Environmental Protection for land acquisitions that are less-than-fees interest, for partnerships in which the state's portion of the acquisition cost is no more than 50 percent, or for conservation lands needed for military buffering.

Section 52 authorizes the Legislative Budget Commission to increase amounts appropriated to the Fish and Wildlife Conservation Commission or the 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 restoration projects. Any continuing commitment for future appropriations by the Legislature must be specifically identified.

Section 53 establishes a solid waste management closure account within the Solid Waste Management Trust Fund within the Department of Environmental Protection to provide funding for the closing and long-term care of solid waste management facilities.

Section 54 authorizes 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 Department of Environmental Protection, 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 Article X, s. 28 of the Florida Constitution. This transfer is a temporary loan and the funds must be repaid to the trust funds from which the moneys were loaned by the end of the 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 55 provides that, in order to implement specific appropriations from the land acquisition trust funds within the Department of Agriculture and Consumer Services, the Department of Environmental Protection (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.

Section 56 amends s. 403.890, F.S., to provide that 100 percent of revenues deposited into the Water Protection and Sustainability Trust Fund for alternative water supply program pursuant to s. 373.707, F.S.

Section 57 requires the Department of Highway Safety and Motor Vehicles to continue to contract with Prison Rehabilitation Industries and Diversified Enterprises, Inc., (PRIDE) for manufacturing license plates, provided that the cost is the same as that paid by the department during fiscal year 2013-2014. This section requires PRIDE to seek bids for the reflectorized sheeting used on the license plates and return 70 percent of savings to the department.

Section 58 provides that, notwithstanding s. 339.2818(2)(a), F.S., the DOT may use appropriated funds to serve any county with a population of 165,000 or less through the Small County Outreach Program in the 5-year work program for the 2016-2017 fiscal year.

Sections 59 and 60 reenact amendments to s. 216.292, F.S., that remove language limiting scope of legislative review of "five percent" budget transfers. The Legislature would continue to be able to object that a proposed action exceeds delegated authority or is contrary to legislative policy and intent

Section 61 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 62 amends s. 112.24, 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 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 63 maintains legislative salaries at the July 1, 2010 level.

Sections 64 and 65 amend 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 2016-2017 General Appropriations Act.

Section 66 provides that, in order to implement the issuance of new debt authorized in the 2016-2017 General Appropriations Act, and pursuant to the requirements of s. 215.98, F.S., the Legislature determines that the authorization and issuance of debt for the fiscal year should be implemented and is in the best interest of the state.

Section 67 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.

Sections 68 and 69 reenact amendments to s. 110.12315, F.S., that: modify copayments associated with the state employees' group health insurance program consistent with decisions that have been made in the General Appropriations Act; authorize the Department of Management Services, for the state employees' prescription drug program, to negotiate the pharmacy dispensing fee, to implement a 90-day supply limit program for certain maintenance drugs at retail pharmacies for state employees under certain circumstances, and to maintain a list of maintenance drugs and preferred brand name drugs; and provide that copayments for state employees for a 90-day supply of prescription drugs at a retail pharmacy will be the same as a 90-day supply through mail order.

Section 70 provides that a state agency may not enter into a contract which contains a non-disclosure clause which prohibits the contractor from disclosing information relevant to the performance of the contract to members or staff of the Senate or House of Representatives.

Section 71 specifies that no section of the bill shall take effect if the appropriations and proviso to which it relates are vetoed.

Section 72 provides that a permanent change made by another law to any of the same statutes amended by this bill will take precedence over the provision in this bill.

Section 73 provides a severability clause.

Section 74 provides an effective date.

**B. SECTION DIRECTORY:**

See EFFECT OF PROPOSED CHANGES.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

**1. Revenues:**

None.

**2. Expenditures:**

None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

**1. Revenues:**

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Because this bill implements provisions of the General Appropriations Act for Fiscal Year 2016-2017, there are no direct fiscal impacts created by this bill.

### **III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenue in the aggregate ; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

B. RULE-MAKING AUTHORITY:

C. DRAFTING ISSUES OR OTHER COMMENTS:

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**