

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB APC 15-02 Implementing the 2015-2016 General Appropriations Act

SPONSOR(S): Appropriations Committee

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Appropriations Committee		Kramer	Leznoff

SUMMARY ANALYSIS

The bill provides the statutory authority necessary to implement and execute the General Appropriations Act (GAA) for Fiscal Year 2015-2016. The statutory changes are effective for only one year and either expire on July 1, 2016 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 2015-2016, 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 2015-2016.

Section 2 provides that the calculations of the Florida Education Finance Program for the 2015-2016 fiscal year in the document titled "Public School Funding-The Florida Education Finance Program," which is 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 Florida Education Finance Program. The bill also provides that for the purposes of s. 24.121, part III of chapter 1002, s. 1003.03, s. 1003.52, s. 1008.36, s. 1010.20, part II of chapter 1011 and s. 1012.71, F.S., the provisions of the document titled "Public School Funding-The Florida Education Finance Program," which are incorporated by reference will be considered part of the 2015-2016 General Appropriations Act.

Section 3 provides that funds provided for instructional materials shall be released and expended as required in the document titled "Public School Funding-The Florida Education Finance Program".

Section 4 amends s. 1011.62, F.S. to provide that each school district's digital classrooms allocation plan must give preference to funding technology purchases that will support the district's compliance to the technology requirements established pursuant to s. 1001.20(4)., Florida Statutes. If a district's allocation plan does not include purchases associated with the technology requirements, the district must certify in the plan that the district is compliant with all technology requirements.

Section 5 provides that any district school board that generates less than \$1 million dollars in revenue from one mill of ad valorem tax must contribute 0.75 mill, rather than 1.5 mills, for Fiscal Year 2015-2016 to the cost of funded special facilities projects.

Section 6 amends s. 1012.75, F.S. to provide that the Department of Education shall administer an educator liability insurance program as provided in the GAA, to protect full-time instructional personnel from liability for monetary damages and the costs of defending actions resulting from claims made against the instructional personnel's professional capacity. The bill provides that liability coverage of at least \$2 million shall be provided to all full-time instructional personnel and may be provided to part time instructional personnel, administrative personnel, and students enrolled in a state-approved teacher preparation program that choose to participate in the program.

Section 7 provides that the Office of Early Learning may allocate or reallocate funds held by the Child Care Executive Partnership Program to prevent disenrollment of children from the school readiness program or child care funded through the Child Care Executive Partnership Program. The funds provided for the Child Care Executive Partnership Program will be released and expended as required in the proviso language associated with Specific Appropriation 81 of the 2015-2016 General Appropriations Act.

Section 8 incorporates by reference the document titled "Medicaid Supplemental Hospital Funding Programs," and filed with the Clerk of the House of Representatives for the purpose of displaying the calculations used by the Legislature, in making appropriations for the Disproportionate Share Hospital programs.

Section 9 provides requirements to govern the continuation of the Department of Health's Florida Onsite Sewage Nitrogen Reduction Strategies Study.

Section 10 sets prioritization guidelines for the Agency for Persons with Disabilities (APD) in moving clients from the Medicaid home and community based waiver program wait list and into receiving waiver services. The bill also requires the APD to allow an individual who meets eligibility requirements to receive home and community based services in this state if the individual's parent or legal guardian is an active-duty military service member and, at the time of the service member's transfer to Florida, the individual was receiving home and community-based services in another state.

Section 11 amends s. 296.37(1), F.S., for the 2015-2016 fiscal year, to maintain the prior year increase to the personal needs allowance for residents of State Veterans' Nursing Homes from \$35 to \$105.

Section 12 requires the AHCA to ensure that nursing facility residents eligible for funds to transition to home and community based services waivers must first have resided in a skilled nursing facility for at least 60 consecutive days.

Section 13 requires the AHCA and the Department of Elder Affairs to prioritize individuals for enrollment in the Long Term Care waiver using a frailty based screening instrument resulting in a prioritization score and shall enroll individuals in the Long Term Care waiver in accordance with the assigned priority score as funds are available. The AHCA may adopt rules, pursuant to s. 409.919, F.S., and enter into interagency agreements necessary to administer s. 409.979(3), F.S. Any rules or interagency agreements adopted by the AHCA relating to the Scoring Process may delegate to the Department of Elder Affairs, pursuant to 409.978, F.S., responsibility for implementing and administering the Scoring Process, providing notice of Medicaid fair hearing rights, and responsibility for defending, as needed, the scores assigned to persons on the Long Term Care waiver waitlist in any resulting Medicaid fair hearings. The Department of Elder Affairs may delegate the provision of notice of Medicaid fair hearing rights to its contractors.

Section 14 authorizes the AHCA and the Department of Health to submit a budget amendment to realign funding within and between agencies based on the implementation of the Statewide Medicaid Managed Care Medical Assistance Program for Children's Medical Services within the Department of Health. The funding realignment must reflect the actual enrollment changes due to the transfer of beneficiaries from fee-for-service to the capitated Children's Medical Services Network. The AHCA also is authorized to submit a request for non-operating budget authority to transfer the federal funds to the Department of Health, pursuant to s. 216.181(12), F.S.

Section 15 amends s. 893.055, F.S. which currently provides that all costs incurred by the Department of Health in administering the prescription drug monitoring program must be funded through federal grants or private funding applied for or received by the state. The bill provides that for the 2015-2016 fiscal year only, the department may use state funds appropriated in the General Appropriations Act to administer the prescription drug monitoring program. The bill provides that Attorney General or the department may not use funds received as part of a settlement agreement to administer the prescription drug monitoring program.

Section 16 amends s. 20.435, F.S. to provide that the Medical Quality Assurance Trust Fund may be used to provide health care services to clients of the Department of Health.

Section 17 amends s. 216.262, F.S., to allow the EOG to request additional positions and appropriations from unallocated general revenue during the 2015-2016 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 18 authorizes 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 19 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 20 amends s. 215.18, F.S., to provide the Chief Justice of the Supreme Court the authority to request a trust fund loan.

Section 21 provides that the Department of Corrections may not transfer funds from a salaries and benefits category to any other category within the department other than a salaries and benefits category without approval of the Legislative Budget Commission.

Section 22 requires the Department of Management Services and agencies to utilize a tenant broker to renegotiate private lease agreements for office or storage space, in excess of 2,000 square feet, expiring between July 1, 2015 and June 30, 2017.

Sections 23 and 24 reenact s. 624.502, F.S. to require that the fee for service of process against the Department of Financial Services or Office of Insurance Regulation be deposited to the Administrative Trust Fund rather than the Insurance Regulatory Trust Fund.

Sections 25 and 26 reenact s. 282.709, F.S. relating to the Joint Task Force on State Agency Law Enforcement Communications by removing a representative from the Department of Transportation from the task force and adding a representative from the Department of Agriculture and Consumer Services to the task force. The Department of Transportation has no sworn law enforcement positions. The Department of Agriculture and Consumer Services has sworn law enforcement positions.

Section 27 provides that the online procurement system transaction fee authorized in ss. 287.042(1)(h)1 and 287.057, F.S., currently set at 1 percent per rule of the Department of Management Services will be set at .7 percent for the 2015-2016 fiscal year only.

Section 28 provides that for new fixed capital outlay construction of buildings constructed with state appropriations, a maximum square foot cost will be applied. The Department of Management Services will be required to develop a maximum square foot cost plan for new fixed capital outlay construction which will include the design, construction, permitting, furniture and fixtures and any appurtenances. The maximum square foot cost for new construction will not apply to the construction of any new building or facility for nursing, medical care, laboratories, science, technology and research related facilities, and buildings for the incarceration of inmates. The Department of Management Services will be required to submit the maximum square foot cost plan to the President of the Senate, Speaker of the House of Representatives and the Executive Office of the Governor no later than July 15, 2015. Approval of the maximum square foot cost plan is subject to the notice, review and objection requirements of s. 216.177, Florida Statutes.

Section 29 amends s. 161.143, F.S. to provide that notwithstanding the provisions of that section which require the Department of Environmental Protection (DEP) to make available at least 10 percent of the total amount appropriated in each fiscal year for statewide beach management for the highest-ranked projects on the current year's inlet management project list, for the 2015-2016 fiscal year, the amount allocated for inlet management funding is provided in the General Appropriations Act.

Sections 30 and 31 amends s. 259.105, F.S., to provide the following distributions from the Florida Forever Trust Fund:

1. \$25 million to be distributed to the Department of Agriculture and Consumer Services for the acquisition of agricultural lands through perpetual conservation easements and other perpetual less-than-fee interest;
2. \$100 million to be distributed to 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. \$50 million to fund
 - a. Land acquisition, including less-than-fee interests, and capital projects that contribute to the restoration of the quality or quantity of water flowing from Priority Florida Springs by supporting attainment of a total maximum daily load or achievement of a minimum flow or level for a Priority Florida Spring; or
 - b. Capital projects to implement s. 403.067(7)(a)8. which support attainment of a total maximum daily load for a Priority Florida Spring. This provision shall take affect only if CS/HB 7003 or similar legislation becomes law.

Pursuant to the bill, these funds shall be placed in reserve until the Department of Environmental Protection submits to the Legislative Budget Commission a plan that includes, but is not limited to, a prioritization of land acquisitions and capital projects that support attainment of a total maximum daily load or achievement of a minimum flow or level in Priority Florida Springs. When considering land acquisitions, the department must give priority to land acquisitions that are less-than-fee interests. The department may request the release of the funds upon submission of the project plan for approval by the Legislative Budget Commission pursuant to the provisions of chapter 216, Florida Statutes.

4. \$25 million to the South Florida Water Management District to be used to acquire land necessary to complete the construction of the Kissimmee River Restoration Project.
5. The remaining funds will be distributed only to the Division of State Lands within DEP for land acquisitions that are less-than-fee 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 32 amends s. 216.181, F.S. to authorize the Legislative Budget Commission to increase amounts appropriated to the Fish and Wildlife Conservation Commission or the Department of Environmental Protection 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 early restoration projects. Any continuing commitment for future appropriations by the Legislature must be specifically identified in the submission to the LBC.

Section 33 amends s. 376.3071, F.S., which currently authorizes the Department of Environmental Protection to seek reimbursement relating to inland contamination to provide that DEP shall not seek reimbursement from another state agency.

Section 34 amends s. 403.890, F.S. relating to the Water Protection and Sustainability Program to provide that 100 percent of revenues deposited into or appropriated to the Water Protection and Sustainability Trust Fund must be used for the development of alternative water supply program pursuant to s. 373.707, F.S.

Section 35 amends s. 388.261, F.S. which currently provides that up to 20 percent of the annual funds appropriated to local governments for arthropod control may be used for arthropod control research or demonstration projects as approved by the department. The bill changes this percentage from up to 20 percent to up to 40 percent.

Section 36 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. This section requires PRIDE to rebid reflectorization sheeting used on the license plates and return 70 percent of savings to the department.

Sections 37 and 38 amend s. 339.135, F.S. Currently the section provides that any Department of Transportation work program amendment which requires the transfer of fixed capital outlay appropriations between categories within the department or the increase of an appropriation category is subject to the approval of the Legislative Budget Commission. The section provides that if a meeting of the LBC cannot be held within 30 days of the department submitting an amendment to the LBC, then the chair and vice chair of the LBC may authorize such amendment to be approved pursuant to s. 216.177, F.S. The bill removes the language authorizing the chair and vice chair of the LBC to approve such amendments if the LBC cannot meet within 30 days.

The bill also provides that any work program amendment that adds a new project or phase to the adopted work program in excess of \$3 million is subject to approval by the LBC. The bill provides that such a work program amendment must include a list of projects or phases of projects in the current 5 year adopted work program that are eligible for the funds with the appropriation category being used for the proposed amendment. The department will also be required to provide a narrative with the rationale for not advancing an existing project or phase of a project in lieu of the proposed amendment.

Sections 39 and 40 amend s. 216.292, F.S. which authorizes the head of each department or the Chief Justice of the Supreme Court to make the following transfers whenever they are deemed necessary by reason of changed circumstances:

1. transfers of appropriations funded from identical funding sources between categories of appropriations within a budget entity if no category of appropriation is increased by more than 5 percent of the original approved budget or \$250,000, whichever is greater.
2. transfers of appropriations funded from identical funding sources between budget entities within identical categories of appropriations if no category of appropriation is increased by more than 5 percent of the original approved budget or \$250,000, whichever is greater.

These types of transfers are commonly referred to as "5 percent" transfers. Notice of proposed budget transfers must be provided to the chair and vice chair of the Legislative Budget Commission in writing. The number of days of notice that must be given depends on the type of action to be taken. For a "5 percent" transfer, described above, notice of the proposed transfers must be provided to the Executive Office of the Governor and the chairs of the legislative appropriations committees at least 3 days prior to agency implementation in order to provide an opportunity to review.

Pursuant to s. 216.177, F.S. if the Speaker of the House of Representatives and the President of the Senate or the chair and vice chair of the Legislative Budget Commission advise in writing that an action or proposed action exceeds the delegated authority of the Executive Office of the Governor or the Chief Justice of the Supreme Court or is contrary to legislative policy and intent, the Governor or Chief Justice must change its spending action. Regarding a "5 percent" transfer s. 216.292(2)(a)4., F.S. provides that the review must be limited to ensuring that the transfer is in compliance with the requirements of the paragraph. This bill eliminates this limitation on the scope of the review and the general law which allows review as to whether the action exceeds delegated authority or is contrary to legislative policy and intent would apply.

Section 41 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 42 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 43 authorizes the EOG to transfer funds in the appropriation category "Special Categories- Transfer to DMS-Human Resources Services Purchased Per Statewide Contract" of the 2015-2016 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 44 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 the chair's 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 45 provides that notwithstanding s. 11.13, F.S., the authorized salaries for members of the Legislature for the 2015-2016 fiscal year shall be set at the same level in effect on July 1, 2010.

Sections 46 and 47 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 2015-2016 General Appropriations Act.

Section 48 provides that, in order to implement the issuance of new debt authorized in the 2015-2016 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 2015-2016 fiscal year should be implemented and is in the best interest of the state.

Section 49 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 bill prohibits funds from being used to travel to foreign countries, other states, conferences, staff-training or other administrative functions unless agency head approves in writing and requires the agency head to consider use of teleconferencing and electronic communication to meet needs of activity before approving travel.

Section 50 provides that notwithstanding s. 112.061, F.S., costs for lodging associated with a meeting, conference, or convention organized or sponsored in whole or in part by a state agency or the judicial branch may not exceed \$150 per day.

Section 51 provides that the EOG is authorized to transfer funds appropriated in any appropriation category used to pay for data processing in the GAA between agencies in order to align the budget authority granted with the utilization rate of each department.

Section 52 notwithstands s. 216.292(2)(a), F.S., which authorizes agency budget transfers of up to 5 percent of approved budget between categories. Except for transfers approved pursuant to sections 51 of the Implementing Bill, agencies are prohibited from transferring funds from a data center appropriation category to a category other than a data center appropriation category.

Section 53 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.

Sections 54 and 55 reenacts s. 110.12315, F.S., relating to the state employee prescription drug program to retain language added as part of the 2014 implementing bill¹ which:

1. Authorizes the Department of Management Services, for the state employees' prescription drug program, to negotiate the pharmacy dispensing fee.
2. Provides that in providing for reimbursement of pharmacies for prescription medicines dispensed to members of the state group health insurance plan and their dependents that there shall be a 30 day supply limit for prescription card purchases, a 90-day supply limit program for

- maintenance prescription drugs and a 90 day supply limit for mail order or mail order prescription drug purchases.
3. Provides that pharmacy disbursement rates shall be as follows;
 - a. For mail order and specialty pharmacies contracting with the department, reimbursement shall be as established in the contract;
 - b. For retail pharmacies, the reimbursement rate shall be at the same rate as mail order pharmacies under contract with the department.
 4. Requires the department to maintain a list of maintenance drugs.
 5. Provides that preferred provider organization health plan members may have prescriptions for maintenance drugs filled up to three times as a 30 day supply through a retail pharmacy; thereafter prescriptions for the same maintenance drug must be filled as a 90 day supply either through the department's contracted mail order pharmacy or through a retail pharmacy.
 6. Provides that health maintenance organization health plan members may have prescriptions for maintenance drugs filled as a 90 day supply either through a mail order pharmacy or a retail pharmacy.
 7. Provides 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.
 8. Retains the current copayments for the State Group Health Insurance Standard Plan and State Group Health Insurance High Deductible Plan.

Section 56 specifies that no section of the bill shall take effect if the appropriations and proviso to which it relates are vetoed.

Section 57 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 58 provides a severability clause.

Section 59 provides an effective date.

B. SECTION DIRECTORY:

See Effect of Proposed Changes section.

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 2015-2016, 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 affect county or municipal government.

2. Other:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES