

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB OTA 18-06 Budgetary Transparency
SPONSOR(S): Oversight, Transparency & Administration Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:** SB 1588

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Oversight, Transparency & Administration Subcommittee		Toliver	Harrington

SUMMARY ANALYSIS

The Florida Constitution requires the Legislature to pass a state budget each year and to prescribe in general law a planning process for such. To that end, the Legislature has created a detailed planning and budgeting process through which agencies and other state entities that are reliant on state funds submit their operating budgets and their budget requests for the forthcoming year. However, some state entities are not reliant on the Legislative appropriations process as they receive their operating income from alternate sources and therefore the operating budgets for such entities are not subject to legislative appropriations. While these entities may be required to comply with certain planning and budget requirements, unlike other state entities funded through the General Appropriations Act (GAA), their budgets are typically not approved by the Legislature.

The bill provides that an entity created by general law or the State Constitution that receives its operating income through an alternative funding source other than the GAA is subject to its provisions. Each applicable entity must prepare and approve an operating budget for each fiscal year pursuant to the budget preparation requirements in ch. 216, F.S. The operating budget, along with any amendments, must be approved at a publicly noticed meeting and must be available on the entity's website at the time the meeting is noticed. Once approved, the operating budget must be submitted to the chairs of the legislative appropriation committees and the Executive Office of the Governor by July 1 of each year. An entity subject to the act must also establish and maintain a website to post information relating to its operations and approved operating budget. The website must include:

- The most recently approved operating budget, to be posted no later than 30 days after adoption.
- Expenditure data.
- Position and rate information for each position.
- Revenue received and amounts disbursed.
- Fixed capital outlay project data.
- Links to state audits or reports regarding the entity's operations.
- Links to program or activity descriptions for which funds may be expended.
- Any contract and contract amendment executed by the entity.
- A video recording of each meeting of the entity's governing body in which the budget is discussed.
- The minutes of each meeting of the entity's governing body.

The bill has an indeterminate fiscal impact on state government. See Fiscal Comments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Legislative Appropriations Process

The Florida Constitution requires the Legislature to pass a state budget each year and to prescribe in general law a planning process for such.¹ To that end, the Florida legislature created ch. 216, F.S., relating to planning and budgeting. Chapter 216, F.S., provides guidelines to the Governor, the judicial branch, and state agencies for developing and submitting legislative budget requests and administering legislative appropriations. Chapter 216, F.S., requires state agencies² and state entities funded through the General Appropriations Act (GAA) to follow specific steps in order for their budget requests to be considered. Once the GAA is passed by the Legislature and signed by the Governor, subject to his or her veto or vetoes, it serves as the “original operating budget for operational and fixed capital outlay expenditures.”³

However, some state entities are not reliant on the Legislative appropriations process as they receive their operating income from alternate sources, other than the GAA, and therefore the operating budgets for such entities are not subject to Legislative appropriations. While these entities may be required to comply with portions of ch. 216, F.S.,⁴ unlike other state entities funded through the GAA, their budgets are typically not approved by the Legislature.

Transparency Florida Act

The Transparency Florida Act⁵ (Act) requires specified state fiscal information be made publicly available via a website or management system. The Act requires the Executive Office of the Governor (EOG), in consultation with the appropriations committees of the House of Representatives and Senate, to establish and maintain a website to provide information relating to the approved operating budget for each branch of state government and state agency.⁶ At a minimum, the information must include:

- Disbursement data for each appropriation by the object code associated with the expenditure established within the Florida Accounting Information Resource Subsystem (FLAIR). Expenditure data must include the name of the payee, the date and amount of the expenditure, and the statewide document number.
- For each appropriation, any adjustments, including vetoes, approved supplemental appropriations included in legislation other than the GAA, budget amendments, other actions approved pursuant to ch. 216, F.S.,⁷ and any other adjustments authorized by law.
- The status of spending authority for each appropriation in the approved operating budget, including released, unreleased, reserved, and disbursed balances.
- Position and rate information for positions provided in the GAA.

¹ FLA. CONST., art. III, s. 19(a).

² The term “state agency” or “agency” is defined, for purposes of ch. 216, F.S., to mean any official, officer, commission, board, authority, council, committee, or department of the executive branch of state government [including]... state attorneys, public defenders, criminal conflict and civil regional counsel, capital collateral regional counsel, the Justice Administrative Commission, the Florida Housing Finance Corporation, and the Florida Public Service Commission. Solely for the purposes of implementing s. 19(h), Art. III of the State Constitution, the terms “state agency” or “agency” include the judicial branch. Section 216.011(1)(qq), F.S.

³ Section 216.981(1), F.S.

⁴ The State Board of Administration, for instance, is funded through sources other than the GAA and it is required to “prepare and approve an operating budget each fiscal year consistent with the provisions of chapter 216.” Section 215.44(4), F.S.

⁵ Chapter 2009-74, s. 2, L.O.F. (codified as s. 215.985, F.S.).

⁶ Section 215.985(4), F.S.; see TRANSPARENCY FLORIDA, available at <http://www.transparencyflorida.gov/> (last visited 1/18/18).

⁷ Chapter 216, F.S., provides planning and budgeting requirements.

- Allotments, and current balances of such allotments, for planned expenditures of state appropriations established by state agencies in FLAIR;
- Trust fund balance reports to include cash available, investments, and receipts;
- General revenue fund balance reports to include revenue received and amounts disbursed;
- Fixed capital outlay project data to include original appropriation and disbursements throughout the life of the project;
- A 10-year history of appropriations indicated by state agency;
- Links to state audits or reports related to the expenditure and dispersal of state funds; and
- Links to program or activity descriptions for which funds may be expended.⁸

The EOG, in consultation with the appropriations committees of the House of Representatives and Senate, is required to establish and maintain a website that provides information relating to state fiscal planning.⁹ While the state budget website provides information for *approved* budgets and related data, current law requires the state fiscal planning website to include information submitted prior to the adoption of a budget, including proposals and requests that may never take effect.¹⁰ Data on the state fiscal planning website must be searchable by fiscal year, agency, appropriation category, and keywords.¹¹ In addition, the Act also requires the Office of Policy and Budget in the EOG to ensure that all data added to the website remains accessible to the public for 10 years.¹²

The Department of Management Services must establish and maintain a website providing current information relating to each employee or officer of a state agency, state university, or the State Board of Administration,¹³ regardless of the appropriation category from which the person is paid.¹⁴ For each employee or officer, the information must include, at a minimum, his or her:

- Name and salary or hourly rate of pay.
- Position number, class code, and class title.
- Employing agency and budget entity.¹⁵

The Act requires the Chief Financial Officer (CFO) to establish and maintain a secure contract tracking system, the Florida Accountability Contract Tracking System (FACTS),¹⁶ and make the system available for viewing and downloading by the public through a secure website.¹⁷ State entities are required to upload contracts and formal procurement documents that have been redacted to exclude confidential or exempt information to the FACTS website within 30 days after execution.¹⁸

Effect of the Bill

The bill provides that an entity created by general law or the State Constitution that receives its operating income through an alternative funding source other than the GAA is subject to its provisions. This definition would appear to capture entities such as the State Board of Administration and the Florida Housing Finance Corporation.

⁸ Section 215.985(4)(a), F.S.

⁹ Section 215.985(5), F.S.

¹⁰ *Id.*

¹¹ Section 215.985(5)(b), F.S.

¹² Section 215.985(5)(c), F.S.

¹³ The State Board of Administration is composed of the Governor, the CFO, and the Attorney General (FLA. CONST., art. IV, s. 4(e)). Its duties include, but are not limited to, the management of state investment funds such as the Florida Retirement System Pension Plan and Investment Plan.

¹⁴ Section 215.985(6), F.S.

¹⁵ Section 215.985(6)(a), F.S.

¹⁶ FLORIDA ACCOUNTABILITY CONTRACT TRACKING SYSTEM, available at <https://facts.fldfs.com/Search/ContractSearch.aspx> (last visited 1/18/18).

¹⁷ Section 215.985(14), F.S.

¹⁸ *Id.*

Each applicable entity must prepare and approve an operating budget for each fiscal year pursuant to the budget preparation requirements in ch. 216, F.S. The operating budget, along with any amendments, must be approved at a publicly noticed meeting at least 10 days prior to its adoption and must be available on the entity's website at the time the meeting is noticed. Once approved, the operating budget must be submitted to the chairs of the legislative appropriation committees and the EOG by July 1 of each year.

An entity subject to the act must also establish and maintain a website to post information relating to its operations and approved operating budget. The website must contain:

- The most recently approved operating budget, to be posted no later than 30 days after adoption.
- The operating budgets from the previous two fiscal years.
- Expenditure data, which must include:
 - The name of the payee;
 - The date of the expenditure; and
 - The amount of the expenditure.
- Position and rate information for each regularly established position, including the position title, salary or hourly rate of pay.
- Revenue received and amounts disbursed.
- Fixed capital outlay project data.
- Links to state audits or reports regarding the entity's operations.
- Links to program or activity descriptions for which funds may be expended.
- Any contract and contract amendment executed by the entity, to be posted no later than 30 days after its execution.
- A video recording of each meeting of the entity's governing body in which the budget is discussed, to be posted no later than five days after the meeting.
- The minutes of each meeting of the entity's governing body, to be posted no later than three days after the meeting.

B. SECTION DIRECTORY:

Section 1 creates s. 215.9851, F.S., relating to transparency for entities not subject to the legislative appropriations process.

Section 2 provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Indeterminate. Depending on whether the entities to which the bill applies have already completed some, or all of the requirements set forth therein, there may be a fiscal impact associated with compliance.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.