

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: SPB 2502

INTRODUCER: For consideration by the Appropriations Committee

SUBJECT: Implementing the 2016-2017 General Appropriations Act

DATE: February 2, 2016

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>McSwain</u>	<u>Kynoch</u>		Pre-meeting

I. Summary:

SPB 2502 provides the statutory authority necessary to implement and execute the General Appropriations Act for Fiscal Year 2016-2017. Statutory changes are temporary and expire on July 1, 2017.

The bill provides an effective date of July 1, 2016, except as otherwise provided.

II. Present Situation:

Article III, s. 12 of the Florida Constitution provides 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 changing general law.¹ 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 general appropriations act. The statutory changes are effective only for one year and either expire on July 1 of the next fiscal year or the language of the amended statute reverts that which existed before the changes made by the bill.

III. Effect of Proposed Changes:

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 attached to Specific Appropriation 94.

¹ *Brown v. Firestone*, 382 So.2d 654 (Fla. 1980); *Chiles v. Milligan*, 659 So.2d 1055 (Fla. 1995).

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.

Sections 5, 6, and 7 provide changes, for the 2016-2017 fiscal year, to the calculation of multiple components of the Florida Education Finance Program (FEFP), including:

- Providing funding for the 300 lowest performing elementary schools through funds allocated in the Supplemental Academic Instruction (SAI) and the Research-Based Reading Instruction Allocation categoricals and amends the SAI calculation.
- Modifying the sparsity supplement calculation to compute the sparsity supplement for larger eligible districts with a full-time equivalent (FTE) student membership of between 20,000 and 24,000, by dividing the total number of full-time equivalent students in all programs by the number of permanent senior high school centers in the district, not in excess of four.
- Reauthorizing the federally connected student supplement to provide funding to school districts to support the education of students connected with federally-owned military installations, National Aeronautics and Space Administration (NASA) property, and Indian lands. To be eligible for this supplement, the district must also be eligible for federal impact aid funds, pursuant to Title VIII of the Elementary and Secondary Education Act of 1965.
- Authorizing a recalculation of the ESE Guaranteed Allocation based on actual FTE as reported on the October FTE survey.
- Conforming a cross-reference in s.1011.71, F.S., changed as a result of the addition of the federally connected student supplement as a new subsection of law in s.1011.62, F.S.

Sections 8 and 9 extend the Adults with Disabilities Pilot Program through July 1, 2017.

Section 10 authorizes state universities to expend university reserves for fixed capital outlay projects approved by the Board of Governors which include significant academic instructional space or critical deferred maintenance needs in this area.

Section 11 reauthorizes the State University System (SUS) Performance-Based Incentive funding model, for Fiscal Year 2016-2017, to evaluate the state universities' performance on specified metrics. Funding for the SUS Performance Based Incentive consists of a state investment, plus an institutional investment consisting of funds redistributed from SUS base funding.

Section 12 reauthorizes the Florida College System (FCS) Performance Based Incentive funding model, for Fiscal Year 2016-2017, to evaluate the FCS institutions' performance on specified metrics. Funding for the FCS Performance Based Incentive consists of a state investment, plus an institutional investment consisting of funds redistributed from the Florida College System Program Fund.

Section 13 requires the Department of Education to administer an educator liability insurance program, which provides a minimum of \$2 million in liability coverage for all full-time public school instructional personnel.

Section 14 establishes the Distinguished Florida College System program which recognizes the highest performing Florida Colleges.

Sections 15 and 16 amend the preeminent state research universities program by modifying the academic and research excellence standards and requiring the Board of Governors (BOG) to designate each state university that meets at least six of the 12 academic and research excellence standards as an “emerging preeminent state research university.”

Section 17 provides that the Agency for Health Care Administration is authorized to submit a budget amendment to realign Medicaid funding based on the parameters of various hospital funding programs included in the document titled “Medicaid Hospital Funding Programs” incorporated by reference in SPB 2502, consistent with legislative intent.

Section 18 provides parameters to the Agency for Persons with Disabilities for removing clients from the wait list for home and community-based waiver services and provides client prioritization for that process.

Section 19 provides requirements to the Agency for Persons with Disabilities for setting iBudget amounts for clients receiving home and community-based waiver services. Provides parameters under which a client’s iBudget amount may be increased.

Section 20 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. Otherwise, the amount would fall to \$35 per month on July 1, 2016.

Section 21 requires the Agency for Health Care Administration 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 22 requires the Agency for Health Care Administration (AHCA) and the Department of Elder Affairs (DOEA) 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 DOEA, 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 DOEA may delegate the provision of notice of Medicaid fair hearing rights to its contractors.

Section 23 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 24 provides that the calculations of the Medicaid Low-Income Pool, Disproportionate Share Hospital, and hospital reimbursement programs for the 2016-2017 fiscal year contained in the document titled “Medicaid Hospital Funding Programs,” dated _____, 2016, and filed with the Secretary of the Senate, 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 25 amends 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 state attorney general nor the department may use funds received as part of a settlement agreement to administer the program.

Section 26 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 funds 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 27 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 28 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 29 amends s. 215.18, F.S., to provide the Chief Justice the authority to request a trust fund loan.

Section 30 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 31 requires the Department of Juvenile Justice to ensure that counties are fulfilling their financial responsibilities and to report any deficiencies to the Department of Revenue. 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.

Sections 32 and 33 amend s. 27.5304, F.S., to permit the Legislature to increase the statutory compensation limits for fees paid to court-appointed attorneys in two case categories: noncapital, nonlife felonies and life felonies. These changes allow the Legislature to increase flat fees paid to attorneys in these categories in the General Appropriations Act.

Section 34 amends s. 28.36, F.S., to provide for the distribution of the funds appropriated from general revenue to augment the Clerks of the Court revenues for County Fiscal Year 2015-2016 and for County Fiscal Year 2016-2017, to address ongoing revenue deficits of the Clerks of the Court.

Section 35 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, 2019.

Sections 36 and 37 reenact s. 624.502, F.S., to require that fees 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 38 and 39 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.

Section 40 provides that the online procurement system transaction fee authorized in ss. 287.042(1)(h)1 and 287.057(22)(c), F.S., will remain at 0.7 percent for the 2016-2017 fiscal year only.

Section 41 amends s. 259.105, F.S., related to the distribution of proceeds in the Florida Forever Trust Fund, to provide \$22,256,206 to only the Division of State Lands within the Department of Environmental Protection (DEP) for the Board of Trustees Florida Forever Priority List land acquisition projects, to provide \$30 million to the Florida Communities Trust Program, and to require the allocation of 66.67 percent of funds available for the Florida Communities Trust for projects acquiring conservation or recreation lands to enhance recreational opportunities for individuals with unique abilities. Additionally, the DEP is authorized to waive local government match requirements for Florida Communities Trust projects that acquire conservation or recreational lands to enhance recreational opportunities for individuals with unique abilities.

Section 42 requires that a minimum of thirty percent of the Fiscal Year 2016-2017 funding for the Florida Development Assistance Program (FRDAP) be used exclusively for projects that provide recreational enhancements and opportunities for individuals with unique abilities and that the DEP establish a separate application process for such projects.

Section 43 expands the powers of the Florida Communities Trust to include authority necessary to undertake, coordinate, and fund projects that provide accessibility, availability, or adaptability of conservation or recreation lands for individuals with unique abilities.

Section 44 amends s. 216.181(11)(d), F.S., to authorize 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 early restoration projects. Any continuing commitment for future appropriations by the Legislature must be specifically identified.

Sections 45 and 46 eliminate certain revenues from the calculation of the unobligated balance of the Water Quality Assurance Trust Fund within the Department of Environmental Protection which are used to determine the excise tax rates that supports the expenditures within the trust fund.

Section 47 establishes a solid waste management closure account within the Solid Waste Management Trust Fund within the DEP to provide funding for the closing and long-term care of solid waste management facilities.

Section 48 amends s. 403.7095, F.S., to require the DEP to award \$1.5 million in Fiscal Year 2015-2016 and \$3,750,000 in Fiscal Year 2016-2017, of grant funds equally to counties having populations of fewer than 100,000 for waste tire, litter prevention, recycling and education, and general solid waste programs under the solid waste management grant program.

Section 49 amends s. 215.18(3), F.S., to authorize 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 DEP, 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 Art. 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 2016-2017 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 50 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.

Sections 51 and 52 authorizes the transfer of interest earnings from the Inland Protection Trust Fund to the Water Quality Assurance Trust Fund within the DEP as authorized in the General Appropriations Act.

Sections 53 and 54 amend s. 288.047, F.S., to specifically authorize CareerSource Florida, Inc., (CareerSource) to approve applications and execute Quick Response Training (QRT) agreements with terms not to exceed 24 months, as long as the total amount of contractual obligations at any given time does not exceed \$30,000,000, and to provide that the total amount of reimbursements approved for payment by CareerSource, based on actual performance under grant agreements, may not exceed the amount appropriated to CareerSource for the QRT program during Fiscal Year 2016-2017. The Department of Economic Opportunity (DEO) is required to transfer funds to CareerSource only as needed to make reimbursement payments; however, CareerSource may request an advance to reimburse estimated claims for the first quarter of Fiscal Year 2016-2017. Additionally:

- An obsolete reference to the term “enterprise zone” is replaced with the term “rural area of opportunity,” for purposes of the six month set-aside for training programs for businesses located in certain areas;
- Educational institutions are authorized to be a party to QRT grant agreements, in addition to CareerSource and the business; and
- Matching contributions received during the fiscal year from businesses participating in the QRT program may be counted as private sector support for Enterprise Florida, Inc.

Section 55 requires the Department of Transportation (DOT) to fund a statewide system of multi-use trails and related facilities, notwithstanding ss. 339.135(4)(a) and (5)(a), F.S., relating to geographic equity requirements for funding transportation projects. The section also provides that this funding may not impact any existing projects for multi-use trails and related facilities that are in the work program as of July 1, 2016.

Section 55 also amends s. 339.135, F.S., to authorize the DOT to use up to \$15 million of appropriated funds to pay the costs of strategic and regionally significant transportation projects. Funds may be used to provide up to 75 percent of projects costs for production-ready eligible projects. Preference must be given to projects that support the state’s economic regions or have been identified as regionally significant in accordance with s. 339.155(4)(c), (d), and (e), F.S., and that have an increased level of non-state match.

Section 56 provides that, notwithstanding s. 339.2818(2)(a), F.S., the DOT may use appropriated funds to serve any county with a population of 170,000 or less through the Small County Outreach Program in the 5-year work program for the 2016-2017 fiscal year.

Sections 57 and 58 reenact s. 341.302(10), F.S., to authorize the DOT to approve and provide matching grant funding for railroad quiet zones.

Section 59 and 60 amend s. 339.2816(3), F.S., to allow the DOT to use up to \$50 million from the State Transportation Trust Fund for the purposes of funding the Small County Road Assistance Program in the 5-year work program for the 2016-2017 fiscal year.

Section 61 amends s. 420.9072, F.S., relating to the State Housing Initiatives Partnership (SHIP) Program, to provide exceptions to the limitations on using SHIP funds for rent subsidies and to allow counties and eligible municipalities to use up to 25 percent of available SHIP funds for rental housing.

Section 62 amends s. 420.5087, F.S., relating to the State Apartment Incentive Loan (SAIL) Program, to change requirements for reserving percentages of available SAIL funding for specified tenant groups to reflect the projected housing needs for those groups. Additionally, notwithstanding requirements that SAIL funds be used for housing for very-low income persons and specified percentages of the units in SAIL projects be reserved for persons or families of specified income levels, the Florida Housing Finance Corporation is directed to issue, during Fiscal Year 2016-2017, a notice of fund availability for \$20 million for loans to construct workforce housing to serve primarily low-income persons.

Section 63 amends s. 427.013, F.S., to authorize the Transportation Disadvantaged Commission to make distributions during Fiscal Year 2016-2017 to community transportation coordinators:

- That do not receive federal Urbanized Area Formula Funds to provide services for persons with disabilities, older adults and low-income persons to access health care, employment, education and other life-sustaining activities, using the commission's Transportation Trip and Equipment allocation methodology;
- As competitive grants to address unique transportation challenges of persons with disabilities, older adults and low-income persons seeking to obtain or maintain employment, to allow residents of inner-city, urban or rural neighborhoods to access jobs, and to provide transportation services for persons who work later at night or on weekends; and
- As competitive grants to support transportation projects to enhance access to specified activities, to assist in development of transportation systems in nonurbanized areas, to promote efficient coordination of services, to support inner-city bus transportation, and to encourage private transportation providers to participate.

Sections 64 and 65 reenact amendments to s. 216.292(2)(a), 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 66 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 67 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 68 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 69 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 70 maintains legislative salaries at the July 1, 2010, level.

Sections 71 and 72 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 73 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 2016-2017 fiscal year should be implemented and is in the best interest of the state.

Section 74 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.

Section 75 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 76 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 77 notwithstanding 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 75 and 76 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 78 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 79 and 80 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 81 specifies that no section of the bill shall take effect if the appropriations and proviso to which it relates are vetoed.

Section 82 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 83 provides a severability clause.

Section 84 provides an effective date.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Because SPB 2502 implements provisions of the Senate Proposed General Appropriations Act for Fiscal Year 2016-2017, SPB 2500, no direct fiscal impacts are created by this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1011.62, 1011.71, 1004.935, 1013.74, 1001.92, 1012.75, 1001.7065, 296.37, 893.055, 216.262, 932.7055, 215.18, 27.5304, 28.36, 259.105, 375.075, 380.507, 216.181, 403.709, 403.7095, 215.18, 376.3071, 288.047, 339.135, 339.2818, 339.2816, 420.9072, 420.5087, 427.013, and 112.24.

This bill creates the following sections of the Florida Statutes: 1001.66 and 1001.67.

This bill creates undesignated sections of Florida Law.

This bill reenacts the following provisions of the Florida Statutes: 624.502, 282.709(2)(a), 341.302(10), 216.292(2)(a), 215.32(2)(b), and 110.12315.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.