

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 2502

SPONSOR: Committee on Appropriations

SUBJECT: Implementing the General Appropriations Act for Fiscal Year 2002-2003

DATE: February 28, 2002 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hendon</u>	<u>Revell</u>	<u>AP</u>	_____
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

## I. Summary:

This bill would provide the necessary statutory authority to implement and execute the General Appropriations Act. Such statutory changes are temporary and either expire on July 1, 2003 or revert to the original language prior to the change.

This bill substantially amends the following sections of the Florida Statutes: 240.35, 240.209, 216.292, 216.262, 25.402, 252.373, 163.3184, 375.041, 403.709, 403.7095, 287.161, 110.1239, 110.12315, 212.02, 212.04, 212.05, 212.07, and 212.08, F.S. The bill repeals section 212.031, F.S. for the fiscal year 2002-2003.

## II. Present Situation:

In the past, substantive language was included in proviso or in separate sections of the General Appropriations Act to clarify how funds contained in the act were to be expended. However, decisions such as *Brown v. Firestone*, 382 So. 2d 654 (Fla.1980), and *Graham v. Firestone*, Circuit Court of the Second Judicial Circuit, #82-1703, Leon County, Florida 1982 have found such proviso language in the annual General Appropriations Act to be unconstitutional and void.

On January 5, 1995, the Supreme Court ruled in *Moreau v. Lewis* that "Because an appropriations bill must not change or amend existing law on subjects other than appropriations, it follows that a bill designed to implement the appropriations bill also must not change existing law on subjects other than appropriations." This legislation would provide the necessary statutory authority to implement and execute the General Appropriations Act.

## III. Effect of Proposed Changes:

Section 1. This section provides Legislative intent.

Section 2. In order to implement Specific Appropriation 161 of the General Appropriations Act, subsection (11) of section 240.35, F.S. is amended to require a minimum of 75 percent of the funds generated from community college student financial aid fees be used for need based financial aid. In addition, each college must report the revenue collected as well as information on the financial need of students receiving financial aid awards.

Section 3. States how subsection (11) of section 240.35, F.S. will read after the effect of the temporary change made in section two expires.

Section 4. In order to implement Specific Appropriation 166A of the General Appropriations Act, subsection (6) of section 240.209, F.S. is amended prohibit State University System employees from enrolling in tuition-free courses for the 2002-2003 fiscal year.

Section 5. In order to implement Specific Appropriations 166A through 181 of the General Appropriations Act, and notwithstanding provisions in ch. 216 and 240, F.S., the State University System shall use the state accounting system (FLAIR) but is not required to provide funds to the Department of Banking and Finance. Funds appropriated to state universities shall be distributed to each university according to its operating budget approved by its respective board of trustees. Operating budgets must include revenue from student fees, contracts and grants, donations, and auxiliary enterprises. The Comptroller or Chief Financial Officer shall record the distribution of such revenues in FLAIR.

Section 6. In order to implement Specific Appropriations 303 through 338 of the General Appropriations Act, subsection (12) of section 216.292, F.S. is amended to allow the Department of Children and Families to transfer funds within the Family Safety Program with certain restrictions. The department must provide notice of such transfers to the Executive Office of the Governor and the chairs of the legislative appropriation committees at least five working days before the transfer takes effect.

Section 7. In order to implement Specific Appropriations 691 through 806 and 843 through 857 of the General Appropriations Act, subsection (4) of section 216.262, F.S. is amended to allow the Executive Office of the Governor to request additional positions for the Department of Corrections if the Criminal Justice Estimating Conference projects a certain increase in the inmate population.

Section 8. In order to implement Specific Appropriation 1178 of the General Appropriations Act, the Correctional Privatization Commission may pay certain costs incurred by a local government associated with opening a private prison or juvenile facility in an unincorporated area.

Section 9. In order to implement Specific Appropriations 889 through 1070, 3165, and 3201 through 3222 of the General Appropriations Act, section 25.402, F.S., is amended to allow funds in the County Article V Trust Fund to be used for costs associated with state attorneys, public defenders, and the operation of the state's trial courts.

Section 10. In order to implement Specific Appropriations 1505 through 1569A of the General Appropriations Act, subsection (1) of section 252.373, F.S. is amended to allow funds from the

Emergency Management, Preparedness, and Assistance Trust Fund to be used as provided in the General Appropriations Act.

Section 11. In order to implement Specific Appropriation 1498 of the General Appropriations Act, subsection (8) of section 163.3184, F.S., is amended to allow the Department of Community Affairs to use the Internet or other methods to advertise notice of intent for comprehensive plan amendments.

Section 12. In order to implement Specific Appropriation 1760A of the General Appropriations Act, subsection (6) is added to section 375.041, F.S., to allow the funds in the Land Acquisition Trust Fund to be used as provided in the General Appropriations Act.

Section 13. In order to implement Specific Appropriations 1760A and 1768A of the General Appropriations Act, subsection (7) is added to section 403.709, F.S., to allow the funds in the Solid Waste Management Trust Fund to be used as provided in the General Appropriations Act.

Section 14. In order to implement Specific Appropriation 1819, subsection (8) of section 403.7095, F.S., is amended to require the Department of Environmental Protection to only provide solid waste and recycling grants to counties with a population of less than 100,000 at a level at least 80% of the level of funding provided in fiscal year 2000-01.

Section 15. In order to implement Specific Appropriation 2095 of the General Appropriations Act, and notwithstanding section 332.007, F.S., certain airports with outstanding loans to the Department of Transportation shall have such loans extended.

Section 16. In order to implement Specific Appropriation 2776 through 2780 of the General Appropriations Act, subsection (4) of section 287.161, F.S., is amended to require the Department of Management Services to operate the executive aircraft pool on a full cost recovery basis, less available funds.

Section 17. In order to implement section 8 of the General Appropriations Act, section 110.1239, F.S., is amended to require the Division of State Group Insurance to determine the level of premiums necessary to fully fund the program for the fiscal year 2002-2003 and to require the Governor to include such premium rates in the Governor's recommended budget.

Section 18. In order to implement section eight of the General Appropriations Act, subsection (7) of section 110.12315, F.S., is amended to maintain state employees' prescription drug program co-payments at the current levels.

Section 19. In order to implement section two of the General Appropriations Act, subsection (29) of section 212.02, F.S., is amended to redefine livestock except where the context clearly indicates a different meaning. For the purpose of this chapter ostriches are not considered livestock. For the purpose of this subsection, racehorses are not considered livestock.

Section 20. States how subsection (29) of section 212.02, F.S. will read after the effect of the change made in section 19 expires.

Section 21. In order to implement section two of the General Appropriations Act, subsection (9) of section 212.031, F.S., is amended to repeal the sales tax exemption for the rental, lease, sublease, or license for the use of a skybox, luxury box, or other box seats for use during a high school or college football game, when the tax is imposed by a nonprofit organization.

Section 22. States how subsection (9) of section 212.031, F.S., will read after the effect of the change made in section 21 expires.

Section 23. In order to implement section two of the General Appropriations Act, subsection (2) of section 212.04, F.S., is amended to repeal the sales tax exemption for admissions to live theater, live opera, or live ballet imposed by a nonprofit organization as defined by the Internal Revenue Code.

Section 24. States how subsection (2) of section 212.04, F.S., will read after the effect of the change made in section 23 expires.

Section 25. In order to implement section two of the General Appropriations Act, subsection (1) of section 212.05, F.S., is amended to impose the sales and use tax on tanning salon services; services provided by dance studios, dance schools, and dance halls; radio and television broadcasting rights, and music license fees; promotion based advertising; computer programming services, system design services, data processing services, and other computer related services; professional sports clubs operators and promoters services; and management services, management consulting services, and public relations services.

Section 26. States how subsection (1) of section 212.05, F.S., will read after the effect of the change made in section 25 expires.

Section 27. In order to implement section two of the General Appropriations Act, subsection (5) of section 212.07, F.S. is amended to repeal the tax exemption for the sale, as long as it is not the first sale, on the amount of the mark up for a racehorse sold at a claiming race.

Section 28. States how subsection (5) of section 212.07, F.S., will read after the effect of the change made in section 27 expires.

Section 29. In order to implement section two of the General Appropriations Act, subsection (7) of section 218.08, F.S., is amended to repeal the tax exemption status of wine and alcoholic beverages provided by distributors or vendors for the purpose of "wine tasting" and "spirituous beverage tasting". It also repeals the sales tax exemption on the following: charges for chartering any boat or vessel, with the crew furnished, solely for the purpose of fishing; the sale of a racing dog by its owner if the owner is also the breeder; and the sale of feeds for ostriches and racehorses.

Section 30. States how subsection (7) of section 218.08, F.S., will read after the effect of the change made in section 29 expires.

Section 31. This section provides that a section in this bill is void if all the items in the budget to which it is tied are vetoed.

Section 32. This section adopts performance measures and standards contained in the document entitled "Agency Performance Measures and Standards for the Fiscal Year 2002-2003" dated February 22, 2002, by reference. Agencies are directed to revise their Long-Range Program Plans accordingly.

Section 33. States that it is the policy of the state that funds appropriated in the General Appropriations Act may not be used for certain contracts for public service announcements unless specifically authorized by the Legislative Budget Commission.

Section 34. This section provides an effective date of July 1, 2002 and in the event that the bill takes effect after this date, it shall operate retroactively to July 1, 2002.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

In order to implement section two of the General Appropriations Act, the bill removes various exemptions to the sales and use tax for the fiscal year 2002-2003 contained in ch. 212, F.S. The fiscal impact of these changes is detailed below.

<b>Sales Tax Exemption Changes</b>			
<b>Line No.*</b>	<b>Florida Statute (or SIC Code)</b>	<b>Short Description (See statute for full description of exemption)</b>	<b>FY 2002-2003 Annualized Value \$ (millions)</b>
41	212.031(9)	High school and college teams' stadium skyboxes	0.7
190	874	Management, management consulting, and public relations services	516.5
201	7371, 7373, 7374 and 7379	Computer programming, systems design, data processing, and other computer related services	300.0
219	6794 pt.	Fees for broadcast rights and music licenses	33.0
227	794	Professional sports club operators and promoters	191.4
289	212.08(7)	Racing dogs by breeders	0.1
147	212.08(7)(d)	Feed for racehorses and ostriches.	0.5
174	212.08(7)(s)	Alcoholic beverages used by businesses for tasting	1.3
220	various	Promotion-based advertising	13.7
226	791	Dance studios, schools, and halls	2.5
49	212.04(2)(a)6	Tickets for certain no n-profit theater, opera or ballet events	1.6
92	212.07(5)(b)	Horses sold at claiming races are taxed on first sale; then on mark-up	0.4
179	7299 pt.	Tanning salons	1.5
268	212.08(7)(y)	Charter fishing boats	34.1
<b>Annualized Total</b>			<b>1,097.4</b>
<b>Estimated FY 2002-2003 Collections</b>			<b>878.0</b>

\* Line numbers from the 2002 Florida Tax Handbook

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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