

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 2017-2018 General Appropriations Act

DATE: April 4, 2017

REVISED: _____

ANALYST

McVaney

STAFF DIRECTOR

Hansen

REFERENCE

ACTION

Pre-meeting

I. Summary:

SPB 2502 provides the statutory authority necessary to implement and execute the General Appropriations Act for Fiscal Year 2017-2018. Statutory changes are temporary and expire on July 1, 2018.

The bill provides an effective date of July 1, 2017, 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 to 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 2017-2018.

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 91.

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

Sections 4 amends s. 1008.46, F.S., to change the date for the Board of Governors annual accountability report from December 31 to March 15.

Section 5 amends s. 1011.62, F.S., relating to the Florida Digital Classrooms Allocation within the Florida Education Finance Program. This section changes the minimum allocation per district from \$250,000 to \$400,000 for Fiscal Year 2017-2018.

Sections 6 amends s. 1004.345, F.S., to extend the date by which Florida Polytechnic University must meet statutory deadlines by one year.

Section 7 reenacts s. 1009.986, F.S., to authorize Florida ABLE, Inc., to postpone the implementation date of the Florida ABLE program until December 31, 2016, if necessary, due to:

- Final regulations being issued by the United States Secretary of the Treasury, or
- Determination that an equivalent alternative to implementation of a qualified ABLE program in Florida becomes available through contracting with another state at a significant savings to the state.
- Determine whether or not to require residency as a condition of participation based on market research and estimated operating revenues and costs.

Section 8 reverts the language of s. 1009.986, F.S., to the text in effect on June 30, 2016.

Section 9 authorizes the Dixie Middle School/High School special facilities project to exceed the cost per student station.

Section 10 provides that the calculations of the Medicaid Low-Income Pool, Disproportionate Share Hospital, and hospital reimbursement programs for the 2017-2018 fiscal year contained in the document titled “Medicaid Hospital Funding Programs,” dated March 30, 2017, 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 11 authorizes the Agency for Health Care Administration (AHCA) to submit a budget amendment to realign funding between the AHCA and the Department of Health, for the Children’s Medical Services (CMS) Network for the implementation of Statewide Medicaid Managed Care, to reflect actual enrollment changes due to the transition from fee-for-service into the capitated CMS Network.

Section 12 provides requirements to the Agency for Persons with Disabilities for setting iBudget amounts for clients receiving Home and Community-Based Waiver services. It also provides parameters under which a client’s iBudget amount may be increased.

Section 13 directs the Agency for Persons with Disabilities to hire an independent consultant to review increases in Home and Community-Based Services Waiver costs to determine the

underlying factors behind the growth in expenditures. It requires a report to the Legislature and Governor by December 15, 2017.

Section 14 directs the Agency for Persons with Disabilities to hire an independent consultant to examine the state's transportation disadvantaged services. It creates the Task Force on Transportation Disadvantaged Services to examine the design and use of transportation disadvantaged services.

Section 15 amends s. 296.37(3), F.S., for the 2017-2018 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, 2017.

Section 16 amends s. 409.911, F.S., to provide that, notwithstanding the provisions of s. 409.911, F.S., for the 2016-2017 state fiscal year, the AHCA must distribute moneys to hospitals providing a disproportionate share of Medicaid or charity care services as provided in the 2017-2018 General Appropriations Act.

Section 17 amends s. 409.9113, F.S., to provide that, notwithstanding the provisions of s. 409.9113, F.S., for the 2017-2018 state fiscal year, the AHCA must make disproportionate share payments to teaching hospitals, as defined in s. 408.07, as provided in the 2017-2018 General Appropriations Act.

Section 18 amends s. 409.9119, F.S., to provide that, notwithstanding the provisions of s. 409.9119, F.S., for the 2017-2018 state fiscal year, for hospitals achieving full compliance under 409.9119(3), the AHCA must make disproportionate share payments to specialty hospitals for children as provided in the 2017-2018 General Appropriations Act.

Section 19 amends s. 893.055(17), F.S., to provide that, for the 2017-2018 fiscal year only, the Department of Health may use state funds appropriated in the 2017-2018 General Appropriations Act to administer the prescription drug monitoring program. It 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 20 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 2017-2018 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 21 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 22 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 23 amends s. 215.18, F.S., to provide the Chief Justice the authority to request a trust fund loan.

Section 24 authorizes the Department of Corrections to transfer funds from categories other than fixed capital outlay into the Inmate Health Services category, subject to the notice, review, and objection procedures of s. 216.177, F.S.

Section 25 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. The section also includes procedures to provide assurance to holders of bonds for which shared revenue fund distributions are pledged.

Section 26 prohibits the payment of reimbursement or application of credits to a nonfiscally constrained county for any previous overpayment of juvenile detention costs to offset detention share costs owed pursuant to s. 985.686, F.S., or any other law in Fiscal Year 2017-2018.

Sections 27 amends 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 28 permits the Justice Administrative Commission to provide funds to compensate the clerks of court for juror compensation, juror lodging and meals, and jury-related personnel costs.

Sections 29 creates a 28-member Florida Criminal Justice Reform Task Force for conducting a comprehensive review of the state's criminal justice system, court system, and corrections system. The task force must submit a report of its findings, conclusions, and recommendations for proposed legislation to the President of the Senate and the Speaker of the House of Representatives by January 9, 2018. The task force will be assigned legislative support staff under an appointed executive director. The task force expires January 31, 2018. The section appropriates \$300,000 for task force member travel and other related expenses.

Section 30 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, 2020.

Section 31 amends 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 maintaining a representative from the Department of Agriculture and Consumer Services.

Section 32 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 2017-2018 fiscal year only.

Section 33 prohibits an agency from transferring funds from a data processing category to any category other than another data processing category.

Section 34 provides that the EOG is authorized to transfer funds in the specific appropriation category “Data Processing Assessment - Agency for State Technology” between agencies, in order to align the budget authority granted with the Agency for State Technology estimated billing cycle and methodology.

Section 35 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 36 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 37 authorizes the EOG to transfer funds in the appropriation category “Special Categories - Transfer to DMS - Human Resources Services Purchased Per Statewide Contract” of the 2017-2018 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 38 defines the components of the Florida Accounting Information Resource subsystem (FLAIR) and Cash Management System (CMS) included in the Department of Financial Services Planning Accounting and Ledger Management (PALM) system. This section also provides the executive steering committee (ESC) membership and the process for ESC meetings and decisions.

Section 39 amends s. 259.105, F.S., relating to the distribution of proceeds in the Florida Forever Trust Fund, to provide: \$10,156,206 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 and \$5 million for land acquisition within the Florida Keys Area of Critical State Concern.

Section 40 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.

Section 41 amends s. 206.9935, F.S., to eliminate certain revenues from the calculation of the unobligated balance of the Water Quality Assurance Trust Fund within the DEP which are used to determine the excise tax rates that support the expenditures within the trust fund.

Section 42 amends s. 403.7095, F.S., to require the DEP to award, in Fiscal Year 2017-2018, \$3 million of grant funds equally to counties having populations of fewer than 110,000 for waste tire, litter prevention, recycling and education, and general solid waste programs under the solid waste management grant program.

Section 43 amends s. 215.18, 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 2017-2018 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 44 provides that, in order to implement specific appropriations from the land acquisition trust funds within the Department of Agriculture and Consumer Services, the 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 45 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.

Section 46 creates the Law Enforcement Workgroup within the Department of Highway Safety and Motor Vehicles and requires the workgroup to review the Florida Highway Patrol's (FHP) response to calls for service and the resources available for these services. The workgroup is also required to compare FHP resources to those of local law enforcement entities and other state highway patrol agencies to determine whether additional resources are necessary to improve response times.

Section 47 creates s. 316.0898, F.S., to require the Department of Transportation (DOT) to create a Smart Cities Grant program to provide funds to applicants who submit projects that demonstrate and document the adoption of emerging technologies and their impact on the transportation system.

Section 48 amends s. 341.302, F.S., authorize the DOT to approve and provide matching grant funding for railroad quiet zones for the 2017-2018 fiscal year.

Section 49 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 50 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 2017-2018, a notice of fund availability for \$40 million for loans to construct workforce housing to serve primarily low-income persons.

Section 51 creates the Affordable Housing Workgroup within the Florida Housing Finance Corporation. The workgroup is required to develop recommendations for addressing the state's affordable housing needs. The recommendations shall include a review of: market rate developments; housing developments; land use for affordable housing developments; building codes for affordable housing developments; the state's implementation of the low-income housing tax credit; private and public sector development and construction industries; the rental market for assisted rental housing; and development of strategies and pathways for low-income housing.

Section 52 amends s. 427.013, F.S., to authorize the Commission for the Transportation Disadvantaged to make distributions, during Fiscal Year 2017-2018, to community transportation coordinators that do not receive federal Urbanized Area Formula Funds to provide transportation disadvantaged services; 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.

Section 53 amends s. 321.04, F.S., to provide that for the 2017-2018 fiscal year, the Department of Highway Safety and Motor Vehicles may assign a patrol officer to the Lieutenant Governor, at his or her discretion, and to a Cabinet member if the department deems such assignment appropriate or in response to a threat, if requested by such Cabinet member.

Section 54 directs the State Library Council, the Florida Historical Commission, and the Florida Council on Arts and Culture to sort the applications received by each entity into two groups for ranking and funding purposes, those received from counties that are rural areas of opportunity as

defined in s. 288.0656(2)(d), Florida Statutes, and those received from all other counties. The two groups of applications shall be ranked separately, but otherwise in the same manner, and submitted for approval by the Secretary of State.

Section 55 amends s. 288.1201, F.S., to direct the Department of Economic Opportunity to return to the State Treasury all funds held by any entity pursuant to a contract executed for the Quick Action Closing Fund, which are unexpended as of June 30, 2017. Such unexpended funds shall be deposited into the State Economic Enhancement and Development Trust Fund.

Section 56 amends s. 311.07, F.S., to exempt seaport projects added by a specific appropriation from matching and eligibility requirements provided in s. 311.07, F.S.

Section 57 amends s. 339.135, F.S., to require the Department of Transportation to reduce all work program items identified as a reserve box in order to fund specific appropriations added to the work program in the 2017-2018 General Appropriations Act.

Section 58 amends s. 216.292(2)(a), F.S., to grant broader legislative review of any “five percent” budget transfers. For the 2017-2018 fiscal year, the legislature is authorized to object to a proposed action that exceeds delegated authority or is contrary to legislative policy and intent.

Section 59 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 the assigned employee.

Section 60 maintains legislative salaries at the July 1, 2010, level.

Section 61 amends 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 2017-2018 General Appropriations Act.

Section 62 reverts the language of s. 215.32(2)(b), F.S., to the text in effect on June 30, 2016.

Section 63 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 2017-2018 fiscal year should be implemented and is in the best interest of the state.

Section 64 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 65 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 dollars per day. An employee may expend his or her own funds for any lodging expenses in excess of 150 dollars.

Section 66 amends s. 110.12315, F.S., to modify copayments associated with the state employees' group health insurance program.

Section 67 reverts the language of s. 110.12315, F.S., to the text in effect on June 30, 2017.

Section 68 provides that a state agency may not enter into a contract containing a nondisclosure clause that prohibits a contractor from disclosing to members or staff of the Legislature information relevant to the performance of the contract.

Section 69 specifies that no section of the bill shall take effect if the appropriations and proviso to which it relates are vetoed.

Section 70 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 71 provides a severability clause.

Section 72 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 SPB 2500, the Senate Proposed General Appropriations Act for Fiscal Year 2017-2018, 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: 27.5304, 110.12315, 112.24, 206.9935, 215.18, 216.181, 216.262, 216.292, 259.105, 282.709, 288.1201, 296.37, 311.07, 321.04, 339.135, 341.302, 393.0662, 403.7095, 409.911, 409.9113, 409.9119, 420.5087, 420.9072, 427.013, 893.055, 932.7055, 1004.345, 1008.46, 1009.986, and 1011.62.

This bill creates section 316.0898 of the Florida Statutes.

This bill creates undesignated sections of Florida Law.

This bill reenacts the following provisions of the Florida Statutes: 215.32 and 1009.986.

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.