

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles

B. EFFECT OF PROPOSED CHANGES:

CURRENT SITUATION

Planning and Budgeting Law: Chapter 216, Florida Statutes, provides guidelines to the Governor, the judicial branch and state agencies for developing and submitting legislative budget requests and administering legislative appropriations. Over the years, the statute has been modified to incorporate most of the functions related to the state budgetary process; from consensus estimating conferences to the single audit act. The result is an aggregation of topics that periodically require updating in order to keep abreast of the current budgetary practices of the state.

Consensus Estimating Conferences: Section 216.136, F.S., creates eleven consensus estimating conferences. These conferences develop official estimates of revenues, workload, expenditures, and other information related to budgeting. Executive agencies are required to use the conferences' official information for budgeting purposes. Generally, the principals of the conferences include staff of the Executive Office of the Governor and the Legislature. At times, agency staff may serve as principals of the conference, but typically such staff are participants – providing information to the conferences.

The conferences authorized in statute include the Economic Estimating Conference, the Demographic Estimating Conference, the Revenue Estimating Conference, the Education Estimating Conference, the Criminal Justice Estimating Conference, the Social Services Estimating Conference, the Child Welfare System Estimating Conference, the Juvenile Justice Estimating Conference, the Workforce Estimating Conference, the School Readiness Program Estimating Conference, the Self-Insurance Estimating Conference and the Florida Retirement System Actuarial Assumption Conference.

The Child Welfare System Estimating Conference is charged with developing official information relating to the forecasts of child welfare caseloads. The Juvenile Justice Estimating Conference is charged with developing official information relating to estimates of juvenile delinquency caseloads and workloads; secure, nonsecure, and home juvenile detention placements; and mental health and substance abuse treatment for juveniles.

Funds: Section 215.32, F.S., requires all moneys received by the state to be deposited into the State Treasury, unless specifically provided otherwise. The State Treasury is comprised of the four types of funds. These include the General Revenue Fund, the Budget Stabilization Fund, the various trust funds, and the Working Capital Fund.

Salary Rate: Current law defines “salary rate” as the monetary compensation authorized to be paid a position on an annualized basis. In short, rate represents pure salary only and does not include moneys authorized for benefits associated with the position.

EXAMPLE:

Annual salary = \$20,000 Salaries and Benefits budget = \$25,000
Salary rate = 20,000

Salary rate is the mechanism used in Florida to control overall salary expenditures and avoid unanticipated costs to annualize agency personnel actions, especially those actions occurring late in the fiscal year. Absent a control on salary rate, agencies would be limited only to the total level of salaries and benefits budget for purposes of implementing personnel decisions. This would allow agencies to implement position upgrades or pay raises late in the fiscal year, when the budget impact is small enough to be absorbed within the total budget for the year. However, the annual impact of those decisions would not be covered in next year's budget, thus creating an immediate salary deficit.

Salary rate is currently controlled at the department level, with the rate level maintained in a rate ledger by the Executive Office of the Governor. Certain adjustments may be authorized by the Executive Office of the Governor, such as increases for vacant positions. Additional adjustments must be approved by the Legislative Budget Commission. Over the years, the various adjustments to agencies' approved salary rate have resulted in many agencies having much more salary rate than they have salaries and benefits budget to support.

PROPOSED CHANGES

The provisions in this bill provide for more efficient government by updating provisions relating to fiscal oversight of state budgets and deleting certain antiquated provisions. Specifically, provisions relating to transfers between budgets are simplified, provisions relating to long range planning are simplified, and provisions relating to the Single Audit Act transfer the program to the Chief Financial Officer where it is more appropriately managed. Oversight of state expenditures is strengthened by provisions relating to managing salary rate, a mechanism used to ensure that agencies do not overspend salary budget, and by provisions which strengthen the ability of the Legislature to address general revenue fund shortfalls. See SECTION DIRECTORY, below, for specific changes.

C. SECTION DIRECTORY:

Section 1 amends s. 14.2015, F.S., to allow the Office of Tourism, Trade and Economic Development and the Commission on Tourism to "advise and consult" (rather than reach agreement) with the consensus estimating conference before changing the methodology used or the information gathered relating to visitor counts and profiles.

Section 2 amends s. 20.19, F.S. to eliminate the ten-percent transfer authorization for district administrators of the Department of Children and Family Services.

Section 3 amends s. 20.316, F.S. to delete a reference to the Juvenile Justice Estimating Conference, which is repealed by s.22 of the bill.

Section 4 amends s. 45.062, F.S., to limit the ability of agencies to settle lawsuits that require the expenditure of state funds or that result in the refund or future loss of state revenues exceeding \$10 million, unless:

- Notice is given to the Legislature when settlement negotiations are begun.

- Notice is given to the Legislature at least five days before settlement. This is a condition precedent to settlement.
- Notice is given to the Legislature and the Attorney General at least five days before finalizing any proposed settlement obligation that requires the other party to commit funds to a particular purpose. This is a condition precedent to settlement.

Notice requirements are waived for:

- The Division of Risk Management for settlements under \$10,000.
- Any settlement if the only obligation is less than \$10,000 of court costs.

Requires moneys received by the state as the result of settlements to be deposited in the General Revenue Fund or the appropriate trust fund. Exempts moneys received for payment to injured third parties.

Section 5 amends s. 110.1239 F.S., to correct a reference to s. 216.136 , F.S.

Section 6 amends s. 110.1245, F.S., to correct a reference to the Legislative Budget Commission.

Section 7 amends s. 215.32, F.S., to eliminate the Working Capital Fund as a statutory term but maintains the concept by substituting unallocated general revenue funds. Deletes a requirement that 5% of the increase in the General Revenue Fund shall be appropriated for capital outlay. The default repayment schedule for monies transferred from the Budget Stabilization Fund is delayed until the beginning of the third fiscal year following the year in which the transfer was made.

Section 8 amends s. 215.5601, F.S., to allow unexpended moneys that were appropriated for biomedical research to be retained in the Biomedical Research Trust Fund rather than reverting to, and being separately accounted in, the Lawton Chiles Endowment Fund. Allows the Department of Health to invest such moneys through the State Board of Administration outside the Treasury. Deletes the requirement that in the event of a tobacco settlement revenue shortfall, reductions must be prorated among all tobacco settlement appropriations. Deletes the requirement for a special appropriations category for tobacco settlement appropriations for certain agencies.

Section 9 amends s. 215.93, F.S., to remove the exemption from Financial Management Information Board approval of data codes specified by the Auditor General.

Section 10 amends s. 215.94, F.S., to clarify the role of the Auditor General relating to implementation of the Florida Financial Management Information System.

Section 11 amends s. 215.97, F.S., to clarify provisions and responsibilities associated with the Florida Single Audit Act. This section revises and provides the definitions of terms used in the Act, revises the Governor's responsibilities associated with the Act from a primary role to a supporting role, transfers the responsibilities to the Department of Financial Services, and provides responsibilities for state agencies that award grants.

Section 12 amends s. 216.011, F.S., to define various terms.

"Annual salary rate" will no longer specify that vacant positions must be calculated at the minimum of the pay grade.

"Appropriation" is expanded to cover appropriations made by law, not just those included in the annual General Appropriations Act. The terms "performance-based program appropriation" and "performance-based program budget" are repealed.

"Mandatory reserve" is defined as the reduction of an appropriation by the Governor or Legislative Budget Commission due to anticipated deficits, pursuant to s. 216.211, F.S. No action may be taken to restore a mandatory reserve either directly or indirectly.

"Budget reserve" is defined as the withholding of an appropriation based on conditions set by the Legislature or based on conditions unforeseen when the General Appropriations Act was passed.

"Program" is expanded to cover services, as well as activities.

"Activity" is added and defined as a unit of work that has identifiable starting and ending points, consumes resources, and produces outputs.

"Statutorily-authorized entity" is added to define any body that has responsibility for or recommends expenditure of state funds, and is created or authorized in law or assists a state agency to provide statewide services.

Section 13 amends s. 216.013, F.S., to allow an alternate date to the current August 1 deadline to be set for submission of long-range program plans, and to extend the deadline from June 15 to June 30 for adjustments to such plans, if approved by the Governor and the chairs of the legislative appropriations committees. The concept of agency "functions" is replaced with agency "services" or "activities."

Section 14 amends s. 216.023, F.S., to modify the legislative budget request process. Alternative dates for the September 15 submission of budget requests and for the June 15 distribution of budget instructions may be set by the Governor and the chairs of the legislative appropriations committees. The information required in budget requests is expanded to include supporting information, including applicable cost-benefit analyses, business case analyses, performance contracting procedures, service comparisons, and impacts to performance standards for any requests by the agency to outsource or privatize current agency functions, and any evaluations of functions currently outsourced and privatized by the agency. Obsolete provisions relating to performance-based budget requests from the state court system are deleted. Agency reports on major litigation are expanded to include cases that may affect revenues received by the state, in addition to cases that may require additional appropriations or statutory changes. Other technical corrections are made.

Section 15 amends s. 216.031, F.S., to eliminate the deadline for submission of target budgets and to repeal an alternative format for target budgets.

Section 16 repeals portions of s. 216.052, F.S., to delete certain requirements for community budget requests, including required local participation, an additional hearing, the preference for loans rather than grants, and reports by private or nonprofit organizations.

Section 17 repeals subsection (5) of s. 216.053, F.S., to delete the requirement that the General Appropriations Act contain summary information on performance-based budget programs.

Section 18 amends s. 216.065, F.S., to expand the circumstances under which the Governor or Cabinet must submit fiscal impact statements to the appropriations committees on final actions that affect state

revenues or spending. The requirements are also applied to all state agencies and statutorily authorized entities.

Section 19 amends s. 216.081, F.S., to require the Governor's recommended budget for the Legislature to match current appropriations if the Legislature does not provide a future-year estimate of its financial needs.

Section 20 amends s. 216.133, F.S. to delete a reference to the Juvenile Justice Estimating Conference and the Child Welfare System Estimating Conference, which are deleted by the bill.

Section 21 amends s. 216.134, F.S. to clarify that a consensus estimating conferences are part of the legislative branch. The bill provides that sessions and meetings of the conference where official information is adopted must be noticed and open to the public.

Section 22 repeals subsections (7) and (8) of s. 216.136, F.S., to delete reference to the Child Welfare System Estimating Conference and the Juvenile Justice Estimating Conference.

Section 23 amends s. 216.162, F.S., to allow the Governor an additional five days to submit the Governor's recommended budget to the Legislature.

Section 24 amends s 216.163, F.S. to allow the Governor to submit an alternative budget recommendation to the Chief Justice in order to comply with s. 216.162, F.S.

Section 25 amends s. 216.167, F.S., to remove references to the Working Capital Fund relating to the Governor's recommended budget.

Section 26 amends s. 216.168, F.S., to repeal the exemption that the Governor, at his discretion, need not provide amendments to his budget recommendations after March 1.

Section 27 amends s. 216.177, F.S., to allow the chairs of the legislative appropriations committees to respond to requests for legislative intent, to receive notice of certain budget amendments, and to advise the Governor or Chief Justice that an action, including expenditure of lawsuit settlement proceeds, exceeds their delegated authority.

Sections 28 amends s. 216.181, F.S., to modify several provisions related to approved budgets for operations and fixed capital outlay. Requires Legislative Budget Commission approval of judicial branch amendments consistent with the existing requirements for the executive branch. Provides for a more direct legislative role in the establishment of salary rate, consistent with the role of establishing the overall salaries and benefits budget amounts. Rate control would be reestablished at the budget entity level, with the rate level determined annually in the General Appropriations Act. Adjustments to these figures would be made for reorganizations authorized by law, any other appropriations made by law, and, subject to s. 216.177, for distribution of lump sum appropriations and administered funds appropriations. Any other adjustments would require approval by the Legislative Budget Commission. Requires the approval of the chairs of the legislative appropriations committees to establish non-operating budgets. Repeals authority to advance certain contracted services funds in the Department of Health and the Department of Children and Family Services based on approval that existed in 1993-1994.

Section 29 amends s. 216.192, F.S., to repeal obsolete provisions allowing the appropriations committees to advise the Administration Commission, Chief Financial Officer, Governor, or Chief

Justice on the release of appropriations. The Governor and Chief Justice will be permitted to place appropriations in mandatory reserve or budget reserve in order to prevent deficits or implement directives in the General Appropriations Act. This section is also amended to require operational work plans for certain information technology projects requested in agency legislative budget requests.

Section 30 amends s. 216.195, F.S., to repeal the requirement for notice to the Legislature by the executive or judicial branches if appropriations are impounded to prevent a deficit.

Section 31 amends s. 216.221, F.S., to provide for the General Appropriations Act to include directions regarding the use of any fund, not just the Budget Stabilization Fund and Working Capital Fund, to address deficits in the General Revenue Fund. Requires that all agencies, not just those with general revenue funding, participate in reductions in the event of a projected general revenue deficit. Expands the legislature's ability to provide direction on resolving general revenue deficits beyond the General Appropriations Act. Allows the President of the Senate and Speaker of the House of Representatives, after consulting with the Revenue Estimating Conference, to certify a general revenue deficit, if the Governor does not certify the deficit. Requires the Governor and Chief Justice to develop a plan to reduce the deficit within 30 days. Revises the statutory guidelines for reductions. Allows the Governor and Chief Justice, rather than the Administration Commission, to resolve those projected general revenue deficits that are less than 1.5% of general revenue appropriations. Requires the Chief Financial Officer to notify the President and Speaker in addition to the Governor if he believes a general revenue deficit will occur. Requires that actions to resolve projected trust fund deficits greater than \$1 million must be approved by the Legislative Budget Commission. Removes the requirement for prorated reductions to address trust fund deficits.

Section 32 amends s. 216.231, F.S., to require the Governor, rather than the Administration Commission, to determine when deficiency funds appropriated by the legislature should be released for use.

Section 33 amends s. 216.235, F.S., to eliminate obsolete references to the Information Resource Commission. Requires agencies developing information technology proposals to consult with the State Technology Office, rather than the Information Resource Commission. Prohibits use of funds appropriated to the Innovation Investment Program for proposals requested by agencies in a legislative budget request, or recommended in the Governor's budget recommendation, but not funded by the Legislature.

Section 34 amends s. 216.241, F.S., to require the Legislative Budget Commission to approve new programs or programs that require additional appropriations for the judicial branch, consistent with current executive branch requirements.

Section 35 amends s. 216.251, F.S., to repeal the authority of the executive and judicial branches to set the salary of certain positions.

Section 36 amends s. 216.262, F.S., to allow the Governor and Chief Justice to recommend, rather than to authorize, an increase in the number of authorized positions. The Legislative Budget Commission has the authority to approve the Governor's recommendation. The provisions allowing state agencies to retain salary dollars of positions eliminated after July 1, 2001, are repealed.

Section 37 amends s. 216.292, F.S., to restructure the section for clarity. Increases from \$150,000 to \$250,000 the authority of agencies and the Supreme Court to transfer certain appropriations without

notice to the Legislature, approval by the Executive Office of the Governor, or approval by the Legislative Budget Commission. Incorporates transfer provisions from other statutes, specifically:

- The restriction in s. 393.22, F.S., on transfer of funds appropriated for developmental services programs unless the Secretary of the Department of Children and Families determines no adverse effect will occur.
- The authority in s. 409.906, F.S., for the Department of Children and Families to transfer funds to the Agency for Health Care Administration to fund state match requirements for targeted case management services.
- The requirement to transfer unexpended funds for Assisted Living for the Elderly Medicaid waiver from the Department of Elder Affairs to the Agency for Health Care Administration to fund Medicaid reimbursed nursing home care.

Section 38 amends s. 216.301, F.S., to clarify and eliminate duplicate processes related to the certification of fixed capital outlay appropriations. Provides for the President of the Senate and the Speaker of the House of Representatives to notify the Executive Office of the Governor to retain certified-forward balances from legislative budget entities until June 30 of the following fiscal year.

Section 39 amends s. 216.301, F.S., effective July 1, 2006, to modify the certification forward process for operating appropriations. Balances of appropriations expended, but not disbursed, would be certified by the agency head without further review by the Executive Office of the Governor, and would revert effective September 30. The previous provisions for certification of balances contracted to be expended, and the December 31 reversion date for certified forward balances are repealed, consistent with Project Aspire task force recommendations.

Section 40 repeals subsection (3) of s. 218.60, F.S., to delete an out-dated provision related to first-year participation by local governments in half-cent sales tax proceeds.

Section 41 amends s. 252.37, F.S., to delete a reference to the Working Capital Fund.

Section 42 amends s. 265.55, F.S., to delete a reference to the Working Capital Fund.

Section 43 amends s. 288.7091, F.S., to correct a reference to s. 216.136, F.S.

Section 44 amends s. 320.20, F.S., to require the Chief Financial Officer, rather than the Revenue Estimating Conference, to determine when revenues derived from the registration of motor vehicles are sufficient to repay trust funds from which moneys were drawn for deposit into the State Transportation Trust Fund.

Section 45 amends s. 337.023, F.S., to correct a reference to s. 216.292, F.S.

Section 46 amends s. 339.135, F.S., to prevent the Department of Transportation from amending the tentative work program to include new anticipated revenues until such revenues have been appropriated by the Legislature. In addition, spending authority may be rolled forward from one fiscal year to the next fiscal year only with the approval of the Legislative Budget Commission, and current exemptions for budget amendments associated with work program amendments from the standard budget amendment process are eliminated.

Section 47 amends s. 373.6065, F.S., to correct a reference to s. 215.32, F.S.

Section 48 amends s. 381.0303, F.S., to allow the compensation of health care practitioners from the General Revenue Fund, rather than from the Working Capital Fund, when such practitioners are used by the Department of Health to staff special needs shelters in times of emergency or disaster.

Section 49 amends s. 392.69, F.S., to correct a reference to s. 216.292, F.S.

Section 50 amends subsection (5) of s. 409.906, F.S., relating to optional Medicaid services.

Section 51 repeals paragraph (b) of subsection (11) of s. 409.912, F.S., which was incorporated in the new s. 216.292, F.S. provisions.

Section 52 amends s. 409.16745, F.S. to eliminate the seventy- two hour notification for transfers of budget authority for the community partnership matching grant program.

Section 53 amends subsection (2) of s. 468.392, F.S., to eliminate the provision specifying that amounts transferred to the Auctioneer Recovery Fund within the Professional Regulation Trust Fund shall not be subject to any limitation imposed by an appropriation act of the Legislature.

Section 54 amends subsection (2) of s. 475.484, F.S., to eliminate the provision specifying that amounts transferred to the Real Estate Recovery Fund shall not be subject to any limitation imposed by an appropriation act of the Legislature.

Section 55 amends s. 921.001, F.S., to require the Legislature, rather than the Criminal Justice Estimating Conference, to determine that certain legislation creating or enhancing felony criminal penalties will result in no prison impact, unless such legislation contains a funding source.

Section 56 amends s. 1003.03, F.S., to correct a cross reference to s. 216.292, F.S.

Section 57 amends s. 1009.536, F.S., to delete a reference to the Workforce Estimating Conference.

Section 58 provides that any appropriation made in the budget that would be inadvertently negated by the repeal of the Working Capital Fund as provided in the bill shall remain.

Section 59 repeals ss. 216.1825 and 216.183, F.S., which required the zero-based budget review of each state agency every eight years and which set requirements for the charts of accounts for agencies with performance-based budgets. This section also repeals s. 288.1234, F.S., to repeal the Olympic Games Guaranty Account within the Economic Development Trust Fund. The account was designed to be used to fulfill the state's obligations under a games-support contract to indemnify and insure against any net financial deficit resulting from the conduct of the 2002 games.

Section 60 provides an effective date of upon becoming law, unless otherwise provided.

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:

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES