

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 5003      PCB APC 21-02      Implementing the 2021-2022 General Appropriations Act

**SPONSOR(S):** Appropriations Committee, Trumbull

**TIED BILLS:**                      **IDEN./SIM. BILLS:**

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<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR or BUDGET/POLICY CHIEF</b>
Orig. Comm.: Appropriations Committee	23 Y, 3 N	Harrington	Pridgeon

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**SUMMARY ANALYSIS**

The bill provides the statutory authority necessary to implement and execute the General Appropriations Act (GAA) for Fiscal Year 2021-2022. The statutory changes are effective for only one year and either expire on July 1, 2022 or revert to the language as it existed before the changes made by the bill.

Because this bill implements provisions of the General Appropriations Act for Fiscal Year 2021-2022, there are no direct fiscal impacts created by this bill.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

Section 12 of Article III of the Florida Constitution states 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 amending general law. 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 (GAA). The changes made in the “implementing bill” are effective for only one year and either expire on July 1 of the next fiscal year or revert to the language as it existed before the changes made by the bill.

##### **Effect of the Bill**

Section 1 provides legislative intent that the implementing and administering provisions of this act apply to the GAA for Fiscal Year 2021-2022.

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 appropriated for instructional materials shall be released and expended as required in the GAA.

Section 4 reenacts and amends s. 1013.62, F.S., to provide that for the 2021-2022 fiscal year, charter school capital outlay funding shall consist of state funds appropriated in the General Appropriations Act and not revenue resulting from discretionary millage.

Section 5 provides that the amendments to s. 1013.62(1), F.S., expire July 1, 2022, and the text of those sections revert to that in existence on June 30, 2020.

Section 6 provides that the calculations of the Medicaid Hospital Funding Program for the 2021-2022 fiscal year are incorporated by reference for the purpose of displaying the calculations used by the Legislature.

Section 7 authorizes the Agency for Health Care Administration (AHCA) to submit a budget amendment to realign funding between the AHCA and the Department of Health (DOH) for the Children’s Medical Services (CMS) Network for the implementation of the Statewide Medicaid Managed Care program to reflect actual enrollment changes due to the transition from fee-for-service into the capitated CMS Network.

Section 8 reenacts and amends s. 893.055(17), F.S., relating to the prescription drug monitoring program to prohibit the use of any settlement agreement funds for the program for Fiscal Year 2021-2022.

Section 9 reenacts and amends s. 409.911, F.S., to provide that for the 2021-2022 fiscal year, AHCA must distribute moneys to hospitals providing a disproportionate share of Medicaid or charity care services as provided in the GAA.

Section 10 reenacts and amends s. 409.9113, F.S., to provide that for the 2021-2022 fiscal year, AHCA must make disproportionate share payments to teaching hospitals, as defined in s. 408.07, F.S., as provided in the GAA.

Section 11 reenacts and amends s. 409.9119, F.S., to provide that for the 2021-2022 fiscal year, AHCA must make disproportionate share payments to specialty hospitals for children as provided in the GAA.

Section 12 authorizes AHCA to submit a budget amendment to realign funding within the Medicaid program appropriation categories to address any projected surpluses and deficits and maximize the use of state trust funds.

Section 13 authorizes AHCA and DOH to each submit a budget amendment to realign funding within the Florida KidCare program appropriation categories, or to increase budget authority in the Children's Medical Services Network category, to address projected surpluses and deficits within the program or to maximize the use of state trust funds. A single budget amendment must be submitted by each agency in the last quarter of the 2021-2022 fiscal year only.

Sections 14 and 15 reenact and amend ss. 381.986 and 381.988, F.S., to provide that DOH is not required to prepare a statement of estimated regulatory costs when promulgating rules relating to medical marijuana testing laboratories and any such rules adopted prior to July 1, 2022, are exempt from the legislative ratification provision of s. 120.541(3), F.S. Medical marijuana treatment centers are authorized to use a laboratory that has not been certified by the department until rules relating to medical marijuana testing laboratories are adopted by the department, but no later than July 1, 2022.

Section 16 reenacts and amends s. 14(1) of chapter 2017-232, L.O.F., to provide limited emergency rulemaking authority to the DOH and applicable boards to adopt emergency rules to implement the Medical Use of Marijuana Act (2017). DOH and applicable boards are not required to prepare a statement of estimated regulatory costs when promulgating rules to replace emergency rules, and any such rules are exempt from the legislative ratification provision of s. 120.541(3), F.S., until July 1, 2022.

Section 17 provides that the amendments to s. 14(1) of chapter 2017-232, L.O.F., expire on July 1, 2022, and the text of that provision reverts back to that in existence on June 30, 2019.

Section 18 authorizes AHCA to establish a direct payment program for hospitals providing inpatient and outpatient services to Medicaid managed care enrollees.

Section 19 authorizes the Department of Children and Families (DCF) to submit a budget amendment to realign funding within appropriations for the Guardianship Assistance Program.

Section 20 authorizes DCF to submit a budget amendment to realign funding within the Family Safety Program to maximize the use of Title IV-E and other federal funds.

Section 21 reenacts and amends subsections (1)-(5) of s. 42 of chapter 2020-114, L.O.F., to provide the components of the new Medicaid Enterprise System (MES) included in AHCA's new Florida Health Care Connection (FX) system, the executive steering committee membership for the FX information technology project, and the procedures for executive steering committee meetings and decisions for the FX project.

Section 22 reenacts and amends s. 216.262, F.S., to allow the Executive Office of the Governor to request additional positions and appropriations from unallocated general revenue funds during the 2021-2022 fiscal year for the Department of Corrections (DOC) if the actual inmate population of the DOC exceeds the Criminal Justice Estimating Conference forecasts of March 17, 2021. 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 23 reenacts and amends s. 1011.80(8)(b), F.S., to permit the expenditure of appropriations for the education of state or federal inmates to the extent funds are specifically appropriated in the GAA.

Section 24 provides that the amendments to s. 1011.80(8)(b), F.S., expire on July 1, 2022, and the text of that section reverts back to that in existence on June 30, 2018.

Section 25 reenacts and amends s. 215.18, F.S., to provide the Chief Justice of the Florida Supreme Court the authority to request a trust fund loan to ensure the state court system has sufficient funds to meet its appropriations contained in the GAA for Fiscal Year 2021-2022.

Section 26 requires the Department of Juvenile Justice (DJJ) to ensure that counties are fulfilling their financial responsibilities required in s. 985.6865, F.S., and to report any deficiencies to the Department of Revenue. If DJJ determines that a county has not met its obligations, it must direct the Department of Revenue to deduct the amount owed to DJJ from shared revenue funds provided to the county under s. 218.23, F.S. to be deposited into the Shared County/State Juvenile Detention Trust Fund in DJJ. The section also includes procedures to provide assurance to holders of bonds for which shared revenue fund distributions are pledged.

Section 27 reenacts s. 27.40, F.S., relating to criminal case conflicts to require written certification of conflict by a public defender. If the office of criminal conflict and civil regional counsel cannot accept a case from the public defender due to conflict, the office of civil regional counsel is required to specifically identify and describe the conflict of interest and certify the conflict to the court before a court-appointed counsel may be assigned. Each public defender and regional counsel must report, in the aggregate, the basis of all conflicts of interest certified to the court on a quarterly basis.

In addition, contracts with appointed counsel and forms used in billing by court-appointed counsel are required to be consistent with ss. 27.5304 and 216.311, F.S. A contract with court-appointed counsel must specify that payment is contingent upon an appropriation by the Legislature. The flat fee established in s. 27.5304, F.S., is required to be presumed to be sufficient compensation.

The Justice Administrative Commission (JAC) also is required to review appointed counsel billings, and objections by the JAC are required to be presumed correct unless a court determines, in writing, that competent and substantial evidence exists to justify overcoming the presumption. If an attorney does not permit the JAC or the Auditor General to review billing documentation, the attorney waives the claim for attorney fees. A finding by the JAC that the appointed counsel waived the right to seek compensation above the flat fee is required to be presumed correct, unless a court determines, in written findings, that competent and substantial evidence exists to overcome the presumption.

Section 28 provides that the amendments to s. 27.40(1), (2)(a), (3)(a), (5), (6), and (7), F.S., expire on July 1, 2022, and the text of those provisions reverts to that in existence on June 30, 2019.

Section 29 reenacts and amends s. 27.5304, F.S., to increase, for the 2021-2022 fiscal year, the statutory compensation limits for fees paid to court-appointed attorneys in noncapital, nonlife felony and life felony cases. The Legislature is authorized to establish the actual amounts paid to attorneys in these categories in the GAA for Fiscal Year 2021-2022.

In addition, court-appointed counsel may be compensated only in compliance with ss. 27.40(1), (2)(a), (7) and 27.5304, F.S., and the GAA. The JAC is required to review all billings and must contemporaneously document its review before authorizing payment to an attorney. Objections by the JAC to billings by an attorney are required to be presumed correct by a court unless the court determines, in writing, that competent and substantial evidence supports overcoming the presumption. Motions to exceed the flat fee are required to be served on the JAC at least 20 business days before the hearing date, and the JAC may appear at the hearing in person or telephonically.

Section 30 provides that the amendments to s. 27.5304(1), (3), (7), (11), and (12)(a) – (e), F.S., expire on July 1, 2022, and the text of those provisions reverts to that in existence on June 30, 2019.

Section 31 reenacts s. 20.316, F.S., to establish a new program entitled “Accountability and Program Support” within DJJ.

Section 32 provides that the amendments to s. 20.316(2) and (3), F.S., expires on July 1, 2022, and the text of those provisions revert to that in existence on June 30, 2020.

Section 33 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, 2024.

Section 34 prohibits an agency from transferring funds from a data processing category to any category other than another data processing category.

Section 35 authorizes the Executive Office of the Governor (EOG) to transfer funds in the specific appropriation category "Data Processing Assessment – Department of Management Service" between agencies, in order to align the budget authority granted with the assessments that must be paid by each agency to the DMS.

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 GAA for Fiscal Year 2021-2022 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 reenacts and amends subsections (1)-(5) of s. 72 of chapter 2020-114, L.O.F., to define 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 membership and the procedures for executive steering committee meetings and decisions.

Section 39 reenacts and 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 State Constitution. This transfer is a temporary loan, and the funds must be repaid to the trust funds from which the moneys are loaned by the end of the 2021-2022 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 40 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. The section further provides that DEP may advance funds from the beginning unobligated fund balance in the Land Acquisition Trust Fund to LATF within the Fish and Wildlife Conservation Commission for cash flow purposes.

Section 41 reenacts and amends s. 375.041, F.S., to provide that the distribution from the Land Acquisition Trust Fund for restoration of Lake Apopka for the 2021-2022 fiscal year not occur.

Section 42 reenacts s. 570.93, F.S., to revise the agricultural water conservation program to enable cost-share funds to continue to be used for irrigation system retrofits and mobile irrigation lab evaluations. The revision also permits the funds to be expended on additional water conservation activities pursuant to s. 403.067(7)(c), F.S.

Section 43 provides that the amendment to s. 570.93(1)(a), F.S., expires July 1, 2022, and the text of that paragraph reverts to that in existence on June 30, 2019.

Section 44 reenacts s. 376.3071, F.S., to revise the requirements for the usage of the Inland Protection Trust Fund for ethanol and biodiesel damage to petroleum tanks.

Section 45 provides that the amendment to s. 376.3071, F.S., expires July 1, 2022, and the text of that paragraph reverts to that in existence on June 30, 2020.

Section 46 clarifies that rulemaking regarding water quality monitoring for Everglades restoration purposes is limited to procedures to implement water quality monitoring required in lieu of implementation of best management practices or other measures. DEP must replace existing rule 40E-61, Florida Administrative Code. This section expires July 1, 2022.

Section 47 provides that notwithstanding s. 570.1912, F.S., there is no appropriation from the General Revenue Fund to the Agricultural Emergency Eradication Trust Fund in the amount equal to the prior year's transfers into the trust fund for Fiscal Year 2021-2022.

Section 48 amends s. 253.01, F.S., to allow moneys in the Internal Improvement Trust Fund to be authorized for grants and aids to local governments for the drinking water and waste water facility construction state revolving loan programs for Fiscal Year 2021-2022.

Sections 49 and 50 amend ss. 403.0874 and 378.035, F.S., to allow moneys in the Air Pollution Trust Fund and the Non-mandatory Reclamation Trust Fund to be used for grants and aids to local governments for the wastewater facility construction state revolving loan program for Fiscal Year 2021-2022.

Section 51 reenacts and amends s. 321.04, F.S., to provide that for the 2021-2022 fiscal year, the Department of Highway Safety and Motor Vehicles may assign a patrol officer to a Cabinet member if the department deems such assignment appropriate or if requested by such Cabinet member in response to a threat. Additionally, the Governor may request the department to assign one or more highway patrol officers to the Lieutenant Governor for security services.

Section 52 reenacts and amends s. 288.0655, F.S., relating to the Rural Infrastructure Fund, to provide that funds appropriated for the grant program for Florida Panhandle counties must be distributed pursuant to and for the purposes described in the proviso language associated with Specific Appropriation 2237 of the GAA for Fiscal Year 2021-2022.

Section 53 reenacts and amends s. 288.80125, F.S., relating to the Triumph Gulf Coast Trust Fund, to provide that funds shall be used for the Rebuild Florida Revolving Loan Fund Program to provide assistance to businesses impacted by Hurricane Michael as provided in the GAA.

Section 54 reenacts and amends s. 339.135(7)(g) and (h), F.S., to authorize the chair and vice chair of the Legislative Budget Commission to approve, pursuant to s. 216.177, F.S., the following work program amendments if a commission meeting cannot be held within 30 days of submittal of the amendment by the Department of Transportation:

- A work program amendment that transfers fixed capital outlay appropriations between categories or increases appropriation categories.
- A work program amendment that adds a new project, or a phase of a new project, in excess of \$3 million.

Section 55 reenacts and amends s. 112.061, F.S., to authorize a lieutenant governor who permanently resides outside of Leon County to designate an official headquarters in his or her county as his or her official headquarters for purposes of s. 112.061, F.S. A lieutenant governor for whom an official headquarters in his or her county of residence is established may be paid travel and subsistence expenses when travelling between their official headquarters and the State Capitol to conduct state business.

Section 56 requires DMS to maintain and offer during Fiscal Year 2021-2022 for the State Group Health Insurance Program the standard and high deductible PPO and HMO plans which are offered during Fiscal Year 2020-2021, notwithstanding s. 110.123(3)(f) and (j), F.S.

Section 57 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 GAA or by the Legislative Budget Commission.

Section 58 maintains legislative salaries at the July 1, 2010, level.

Section 59 reenacts 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 2021-2022 GAA.

Section 60 reverts the language of s. 215.32(2)(b), F.S., to the text in effect on June 30, 2011.

Section 61 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 62 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 \$175 per day. An employee may expend his or her own funds for any lodging expenses in excess of \$175 per day. Exempts travel for conducting an audit, examination, inspection or investigation or travel activities relating to a litigation or emergency response.

Section 63 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 64 requires all new state contracts and amended contracts entered on or after July 1, 2021, to authorize public agencies to inspect: a) financial records and documents directly related to the performance of the contract or public expenditures; and b) programmatic records and documents of the contractor which the public agency determines are necessary to monitor performance of the contract or ensure the contract terms are being met. Contractors are required to provide the requested records and documents within 10 business days after the request by the public agency.

Section 65 authorizes the Legislative Budget Commission to increase the amounts appropriated to state agencies for certain fixed capital outlay projects using specified federal funds for deferred maintenance.

Section 66 incorporates the back of the bill reversions by reference for Fiscal Year 2020-2021.

Section 67 specifies that no section of the bill shall take effect if the appropriations and proviso to which it relates are vetoed.

Section 68 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 69 provides a severability clause.

Section 70 provides effective dates.

**B. SECTION DIRECTORY:**

See Effect of Proposed Changes section.

**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:**

Because this bill implements provisions of the proposed House of Representatives General Appropriations Act for Fiscal Year 2021-2022, there are no direct fiscal impacts created by the bill.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

Not applicable.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.



#### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.