

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 5003 PCB APC 22-02 Implementing the 2022-2023 General Appropriations Act

SPONSOR(S): Appropriations Committee, Trumbull

TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Appropriations Committee	20 Y, 9 N	Harrington	Pridgeon

SUMMARY ANALYSIS

The bill provides the statutory authority necessary to implement and execute the General Appropriations Act (GAA) for Fiscal Year 2022-2023. The statutory changes are effective for only one year and either expire on July 1, 2023, 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 2022-2023, 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 2022-2023.

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 amends s. 1013.62, F.S., to provide that for the 2022-2023 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, 2023.

Section 6 amends s. 1011.62, F.S., to extend for 1 year the authorization for the Legislature to provide a funding compression and hold harmless allocation in the FEFP.

Section 7 reenact s. 1001.26, F.S., to allow public colleges and universities that are part of a public broadcasting system to qualify to receive state funds.

Section 8 provides that the amendments to s. 1001.26(1), F.S., expire July 1, 2023.

Section 9 amends s. 1002.45, F.S., revising conditional approval for virtual instruction programs to remain valid for 2 years, rather than 1 school year.

Section 10 provides that the amendments to s. 1002.45, F.S., expire July 1, 2023.

Section 11 amends s. 1008.36, F.S., revising provisions addressing the Florida School Recognition Program.

Section 12 provides that the amendments to s. 1008.36, F.S., expire July 1, 2023.

Section 13 amends s. 1001.7065, F.S., deleting a provision requiring certain funding increases to preeminent state research universities to follow designated distribution requirements.

Section 14 provides that the amendments to s. 1001.7065, F.S., expire July 1, 2023.

Section 15 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 16 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. A single budget amendment must be submitted in the last quarter of the 2022-2023 fiscal year only.

Section 17 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 2022-2023 fiscal year only.

Section 18 amends s. 381.986, 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, 2023, 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, 2023.

Section 19 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. 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, 2023.

Section 20 provides that the amendments to s. 14(1) of chapter 2017-232, L.O.F., expire on July 1, 2023, and the text of that provision reverts back to that in existence on June 30, 2019.

Section 21 authorizes AHCA to establish a direct payment program for hospitals providing inpatient and outpatient services to Medicaid managed care enrollees and for the Indirect Medical Education Program (IME).

Section 22 authorizes the Department of Children and Families (DCF) to submit a budget amendment to realign funding within appropriations for the Guardianship Assistance Program.

Section 23 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 24 authorizes DOH to submit a budget amendment to increase budget authority for the HIV/AIDS Prevention and Treatment Program if additional federal revenues specific to the program become available in the 2022-2023 Fiscal Year.

Section 25 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 26 provides that the unexpended balance of funds provided to DCF for the Family Support Services of Suncoast Community Based Care lead agency must be carried forward and made available to the lead agency for the same purpose.

Section 27 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 2022-2023 fiscal year for the Department of Corrections (DOC) if the actual inmate population of the DOC exceeds the Criminal Justice Estimating Conference forecasts of January 13, 2022. 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.

Sections 28 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 29 provides that the amendments to s. 1011.80(8)(b), F.S., expire July 1, 2023.

Section 30 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 2022-2023.

Section 31 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.

Sections 32 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 33 provides that the amendments to s. 27.40, F.S., expire July 1, 2023.

Sections 34 reenacts s. 27.5304, F.S., to increase, for the 2022-2023 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 2022-2023.

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 35 provides that the amendments to s. 27.5304, F.S., expire July 1, 2023.

Section 36 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, 2025.

Section 37 prohibits an agency from transferring funds from a data processing category to any category other than another data processing category.

Section 38 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 39 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 40 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 41 authorizes DMS to use certain facility disposition funds from the Architects Incidental Trust Fund to pay for relocation costs associated with disposing of the Gore Building.

Section 42 amends s. 550.135, F.S., authorizing certain pari-mutuel fees to be used to fund the operation of the Florida Gaming Control Commission.

Section 43 provides that the amendments to s. 550.135, F.S., expire July 1, 2023.

Section 44 amends s. 849.086, F.S., to revise a cross-reference impacted by section 39 of this bill.

Section 45 provides that the amendments to s. 849.086, F.S., expire July 1, 2023.

Section 46 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 47 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 2022-2023 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 48 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 49 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 2022-2023 fiscal year not occur.

Section 50 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 51 provides that the amendments to s. 570.93, F.S., expire July 1, 2023.

Section 52 reenact 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 53 provides that the amendments to s. 376.3071, F.S., expire July 1, 2023.

Section 54 amends s. 321.04, F.S., to provide that for the 2022-2023 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 55 amends s. 215.559, F.S., providing for the Manufactured Housing and Mobile Home Mitigation and Enhancement Program to be operated by the Gulf Coast State College; delaying the repeal of the Hurricane Loss Mitigation Program within the Division of Emergency Management.

Section 56 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 proviso.

Section 57 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 58 amends s. 339.08, F.S., extending for 1 year a requirement that certain funds appropriated from the General Revenue Fund be used on State Highway System projects and grants to Florida ports as provided in the GAA.

Section 59 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 does not occur 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 60 amends s. 288.9015, F.S., deleting authority for Enterprise Florida, Inc., to carry forward unexpended state appropriations.

Section 61 provides that the amendments to s. 288.9015, F.S., expire July 1, 2023.

Section 62 amends s. 420.0005, F.S., extending by 1 fiscal year the authorization to use funds in the State Housing Trust Fund as provided in the GAA.

Section 63 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 64 requires DMS to maintain and offer during Fiscal Year 2022-2023 for the State Group Health Insurance Program the standard and high deductible PPO and HMO plans which are offered during Fiscal Year 2021-2022.

Section 65 maintains legislative salaries at the July 1, 2010, level.

Section 66 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 67 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.

Sections 68 and 69 reenact and amend s. 216.181, F.S., to authorize the Legislative Budget Commission (LBC) to increase the amounts appropriated to state agencies for certain fixed capital outlay projects using specified federal funds for deferred maintenance. The bill also authorizes the LBC to approve budget amendments to increase the approved operating budgets for operational and fixed capital outlay expenditures of a state agency or an entity of the judicial branch when deemed necessary to offset cost increases driven by inflation.

Section 70 amends s. 350.0614, F.S., to provide that the operating budget, as approved jointly by the President of the Senate and the Speaker of the House of Representatives, from moneys appropriated to the Public Counsel by the Legislature constitutes the allocation under which the Public Counsel must manage the duties of his or her office and requires the Public Counsel to submit annual budget amendments to the Legislature in the format, detail, and schedule determined by the President of the Senate and the Speaker of the House of Representatives.

Section 71 specifies that no section of the bill shall take effect if the appropriations and proviso to which it relates are vetoed.

Section 72 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 73 provides a severability clause.

Section 74 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 2022-2023, 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:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.