

HOUSE OF REPRESENTATIVES STAFF FINAL BILL 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:** SB 2502

FINAL HOUSE FLOOR ACTION: 105 Y's 3 N's **GOVERNOR'S ACTION:** Pending

SUMMARY ANALYSIS

HB 5003 passed the House on March 14, 2022, as amended by the conference committee, and subsequently passed the Senate on March 14, 2022.

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.

Subject to the Governor's veto powers, the effective date of this bill is July 1, 2022, except as otherwise provided.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF 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 authorizes the Florida State University to use revenues derived from student facilities fees to pay and secure debt with annual debt service in an amount not to exceed \$4 million to finance or refinance the University's new Student Union Project.

Section 14 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 15 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 16 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 17 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 and any such rules adopted prior to July 1, 2023, are exempt from the legislative ratification provision of s. 120.541(3), F.S.

Section 18 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 19 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 20 authorizes AHCA to submit a budget amendment to implement the federally approved Directed Payment Program and the Indirect Medical Education Program.

Section 21 authorizes the Department of Children and Families (DCF) to submit a budget amendment to realign funding within appropriations for the Guardianship Assistance Program.

Section 22 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 23 authorizes DCF to submit a budget amendment to realign funding between appropriation categories to support contracted staffing equivalents to sustain forensic bed capacity and resident-to-workforce ratios at state's mental health treatment facilities.

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 authorizes DOH to submit budget amendments to increase budget authority for the department if additional federal revenues specific to COVID-19 relief funds become available.

Section 26 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 27 requires ACHA, in consultation with DOH, APD, DCF, DOC, to competitively procure a contract with a vendor to negotiate prices for prescription drugs, including insulin and epinephrine, for all participating agencies. The contract must require the vendor be compensated on a contingency basis paid from a portion of the savings achieved through the negotiation and purchase of prescription drugs.

Section 28 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 29 notwithstanding s. 381.915, F.S., to exclude \$37,771,257 from the calculation for the distribution of funds.

Section 30 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 31 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 32 provides that the amendments to s. 1011.80(8)(b), F.S., expire July 1, 2023.

Section 33 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 34 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 35 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 36 provides that the amendments to s. 27.40, F.S., expire July 1, 2023.

Section 37 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 38 provides that the amendments to s. 27.5304, F.S., expire July 1, 2023.

Section 39 notwithstanding proviso in the GAA to provide \$4.5 million from General Revenue to Department of Corrections to grant special pay adjustments to address compression issues for eligible employees in institutions and community corrections management positions.

Section 40 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 41 notwithstanding s. 216.292(2)(a), F.S., which authorizes transfers of up to 5 percent of approved budget between categories. Agencies will be prohibited from transferring funds from data center appropriation category to a category other than a data center appropriation category.

Section 42 requires DMS to contract with the NWRDC, effective July 1, 2022, for the management, operation, and staffing of the State Data Center. Provides contract requirements. Specifies that all functions, records, personnel, contracts, interagency agreements, and assets of the SDC are transferred to NWRDC.

Section 43 transfers all functions, records, personnel, contracts, interagency agreements, and assets of the current DMS SDC to NWRDC.

Section 44 allows Executive Office of the Governor (EOG) to transfer funds appropriated in the Northwest Regional Data Center appropriations category between departments in order to align the budget authority granted based on estimated billings.

Section 45 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 46 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 47 authorizes DMS to use certain facility disposition funds from the Architects Incidental Trust Fund to pay for relocation costs associated with disposing of a state-owned building.

Section 48 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 49 provides that the amendments to s. 550.135, F.S., expire July 1, 2023.

Section 50 amends s. 849.086, F.S., to revise a cross-reference.

Section 51 provides that the amendments to s. 849.086, F.S., expire July 1, 2023.

Section 52 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 53 reenacts s. 282.709(3), F.S., to carry forward the Department of Management Services' (DMS) authority to execute a 15-year contract with the Statewide Law Enforcement Radio system (SLERS) operator.

Section 54 provides that the amendment to s. 282.709(3), F.S., expires July 1, 2023, and the text of that section reverts to that in existence on June 30, 2021.

Section 55 authorizes state agencies and other eligible users of SLERS to, notwithstanding s. 287.057, F.S., use the DMS SLERS contract for the purchase of equipment and services related to SLERS.

Section 56 reduces the transaction fee collected for use of the online procurement system from 1% to .7% for FY 22-23.

Section 57 provides that lottery ticket sale commissions must be 5.75% for FY 22-23.

Section 58 provides that the amendment to s. 24.105, F.S., expires July 1, 2023.

Section 59 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 60 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 61 amends s. 576.045, F.S., to extend the repeal date for the following supplemental fees:

- One hundred dollars for each license to distribute fertilizer.
- One hundred dollars for each specialty fertilizer registration.
- Fifty cents per ton for all fertilizer that contains nitrogen or phosphorous that is sold in this state.

Section 62 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 63 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 64 provides that the amendments to s. 570.93, F.S., expire July 1, 2023.

Section 65 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 66 provides that the amendments to s. 376.3071, F.S., expire July 1, 2023.

Section 67 provides that in order to expedite the closure of the Piney Point facility located in Manatee County, the DEP is exempt from the competitive procurement requirements of s. 287.057, F.S., for any procurement of commodities or contractual services in support of the site closure or to address the environmental impacts associated with the system failure.

Section 68 notwithstanding chapter 255, F.S., to allow the Department of Agriculture and Consumer Services to administer a program to expedite the expansion of citrus tree propagation.

Section 69 notwithstanding chapter 287, F.S., to allow the Department of Citrus to enter into agreements to expedite the increased production of disease free citrus trees.

Section 70 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 71 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 72 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 73 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 74 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 75 amends s. 339.135(7), F.S., to authorize the chair and vice chair of the Legislative Budget Commission to approve, pursuant to s. 216.177, F.S., a work program amendment that adds a new project, or a phase of a new project, in excess of \$3 million if a commission meeting does not occur within 30 days of submittal of the amendment by the Department of Transportation.

Section 76 amends s. 288.9015, F.S., deleting authority for Enterprise Florida, Inc., to carry forward unexpended state appropriations.

Section 77 provides that the amendments to s. 288.9015, F.S., expire July 1, 2023.

Section 78 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 79 amends s. 331.3101, F.S., to limit Space Florida's expenditures on entertainment and lodging and require Space Florida to submit additional information in its annual report relating to itemized expenses and information related to corrective actions taken by Space Florida to address the findings in the 2022-049 Auditor General Report.

Section 80 creates s. 251.001, F.S., creating the Florida State Guard. Subject to appropriation, authorizes the creation of the guard to be used exclusively within the state, separate and apart from the Florida National Guard. Provides that the maximum number of personnel that may be commissioned, enrolled, or employed as members of the Florida State Guard is 400. Provides that the Florida State Guard may be activated when the Florida National Guard is in active federal service and the Governor has declared a state of emergency.

Section 81 provides that for FY 2022-2023, toll rates may not be adjusted for inflation under s. 338.165, F.S.

Section 82 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 83 revises the DMS's authority relating to the procurement of HMOs, including notwithstanding the requirement for metal plans. Authorizes the DMS to enter into contracts that may require the payment of administrative fees in excess of 110 percent of the amount appropriated in the GAA.

Section 84 maintains legislative salaries at the July 1, 2010, level.

Section 85 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 General Appropriations Act.

Section 86 provides that the amendment to s. 215.32(2)(b), F.S., expires July 1, 2023, and the text of that section reverts to that in existence on June 30, 2011.

Section 87 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 88 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 89 reenacts and amends 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 amendment 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 90 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.

Sections 91 through 95 provides that the electronic submission of forms must begin January 1, 2023, rather than January 1, 2022. Requires the commission to provide notice on its website and send forms by email.

Section 96 for Fiscal Year 2022-2023, prohibits a state agency, political subdivision, public school, state college, or state university from entering into a cultural agreement or accepting a grant from the Russian Federation.

Section 97 requires the Department of Management Services to review all state agency contracts and procurements to determine what, if any, state funds are spent on goods and services from Russian-based companies. DMS must submit its findings in a report to the Legislature by December 1, 2022.

Section 98 specifies that no section of the amendment shall take effect if the appropriations and proviso to which it relates are vetoed.

Section 99 provides that a permanent change made by another law to any of the same statutes amended by this amendment will take precedence over the provision in this amendment.

Section 100 provides a severability clause.

Section 101 provides effective dates.

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:

None.