

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: HB 5003 PCB APC 23-02 Implementing the 2023-2024 General Appropriations Act

SPONSOR(S): Appropriations Committee, Leek

TIED BILLS: **IDEN./SIM. BILLS:** SB 2502

FINAL HOUSE FLOOR ACTION: 105 Y's 5 N's **GOVERNOR'S ACTION:** Pending

SUMMARY ANALYSIS

HB 5003 passed the House on May 5, 2023, as SB 2502, as amended by the conference committee.

The bill provides the statutory authority necessary to implement and execute the General Appropriations Act (GAA) for Fiscal Year 2023-2024. The statutory changes are effective for only one year and either expire on July 1, 2024, 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 2023-2024, 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, 2023, except as otherwise provided.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Background

Article III, section 12 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 the bill apply to the GAA for Fiscal Year 2023-2024.

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 amends s. 1009.895, F.S., to add student eligibility requirements for programs in which the student must be enrolled and provides 100 percent award for tuition and fees and a stipend of up to \$1,500 for expenses related to cost of attendance. Amends specifications for funds distribution and reporting requirements. Specifies that the program be will administered by participating institutions in accordance with rules of the State Board of Education.

Section 4 provides that the amendments to s. 1009.895, F.S., expire July 1, 2024, and the text of that section reverts to that in existence on June 30, 2023.

Section 5 amends s. 1002.68(4),(5), & (6), F.S., to extend the timelines for the development and implementation of methodology relating to performance metrics for voluntary prekindergarten (VPK) providers. Removes the provision that disqualifies VPK providers based on a failure to meet minimum program assessment composite scores.

Section 6 provides that the amendments to s. 1002.68(4)(a),(f), (5) & (6)(e), F.S., expire July 1, 2024, and the text of those sections reverts to that in existence on June 30, 2023.

Section 7 authorizes the Agency for Health Care Administration (AHCA) and the Department of Health (DOH) to submit a budget amendment to realign funding within and between agencies based on the implementation of the Managed Medical Assistance component of the Statewide Medicaid Managed Care program for the Children's Medical Services program within DOH. The funding realignment must reflect the actual enrollment changes due to the transfer of beneficiaries from fee-for-service to the capitated Children's Medical Services Network. Also authorizes AHCA to submit a request for non-operating budget authority to transfer the federal funds to DOH, pursuant to s. 216.181(12), F.S.

Section 8 authorizes AHCA to submit a budget amendment, subject to s. 216.177, F.S., to realign funding in the Medicaid program appropriation categories to address projected surpluses and deficits and to maximize use of state trust funds.

Section 9 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.

Section 10 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, 2024, are exempt from the legislative ratification provision of ss. 120.54(3)(b) and 120.541, 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, 2024.

Section 11 amends s. 14(1) of ch. 2017-232, L.O.F., to provide emergency rulemaking authority to DOH to adopt rules necessary to implement provisions of s. 381.986, F.S., and to provide that rules adopted under the nonemergency rulemaking procedures of the APA to replace emergency rules adopted under s. 14 of ch. 2017-232, L.O.F., are exempt from the legislative ratification provisions of ss. 120.54(3)(b) and 120.541, F.S.

Section 12 provides that the amendments to s. 14(1) of ch. 2017-232, L.O.F., expire on July 1, 2024, and the text of that provision reverts back to that in existence on June 30, 2019.

Section 13 authorizes AHCA to submit a budget amendment to implement the federally approved Directed Payment Program for hospitals statewide, the Indirect Medical Education Program, and a nursing workforce expansion and education program.

Section 14 authorizes AHCA to submit a budget amendment to implement the federally approved Directed Payment Program and fee-for-service supplemental payments for cancer hospitals that meet certain federal criteria and provides an extension for Fiscal Year 2022-2023 Letters of Agreement.

Section 15 authorizes AHCA to submit a budget amendment that includes specific information to implement the Low Income Pool Program.

Section 16 authorizes AHCA to submit a budget amendment to implement fee-for-service supplemental payments and a directed payment program for physicians and subordinate licensed health care practitioners employed by or under contract with a Florida medical or dental school or a public hospital and provides an extension for Fiscal Year 2022-2023 Letters of Agreement.

Section 17 authorizes AHCA to submit a budget amendment to establish budget authority for public emergency transportation services.

Section 18 authorizes the Department of Children and Families (DCF) to submit a budget amendment, subject to the notice, review, and objection procedures of s. 216.177, F.S., to realign funding within DCF based on the implementation of the Guardianship Assistance Program, between the specific appropriations for guardianship assistance payments, foster care Level 1 room and board payments, relative caregiver payments, and nonrelative caregiver payments.

Section 19 authorizes DCF, DOH, & AHCA to submit budget amendments to increase budget authority to support Refugee Programs administered by the federal Office of Refugee Resettlement based on programmatic need. DCF must submit quarterly reports to the Executive Office of the Governor, the President of the Senate, and the Speaker of the House of Representatives on the number of refugees entering Florida, the nations of origin and current expenditure projections.

Section 20 authorizes DCF to submit a budget amendment, subject to the notice, review, and objection procedures of s. 216.177, F.S., to increase budget authority to support the following federal grant programs: the Supplemental Nutrition Assistance Grant Program, Pandemic Electronic Benefit Transfer (P-EBT), the American Rescue Plan Grant, the State Opioid Response Grant, the Substance Abuse Prevention and Treatment Block Grant, and the Mental Health Block Grant.

Section 21 authorizes DOH to submit a budget amendment, subject to the notice, review, and objection procedures of s. 216.177, F.S., to increase budget authority for the department if additional federal grant revenues specific to the Women, Infants, and Children (WIC) program and the Child Care Food program become available.

Section 22 authorizes DOH to submit a budget amendment, subject to the notice, review, and objection procedures of s. 216.177, F.S., to increase budget authority for the HIV/AIDS Prevention and Treatment Program if additional federal revenues specific to the program become available in Fiscal Year 2023-2024.

Section 23 authorizes DOH to submit a budget amendment, subject to the notice, review, and objection procedures of s. 216.177, F.S., to increase budget authority for the department if additional federal revenues specific to COVID-19 relief funds become available in the 2023-2024 fiscal year.

Section 24 requires AHCA to replace the current Florida Medicaid Management Information System and provides requirements of the system (FX). This section establishes the executive steering committee membership, including updated titles to reflect AHCA reorganization, duties and the process for steering committee meetings and decisions. Provides requirements for deliverables-based fixed price contracts.

Section 25 requires ACHA, in consultation with DOH, APD, DCF, and 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 26 provides that the Agency for Persons with Disabilities, notwithstanding ss. 216.181 and 216.292, F.S., may submit budget amendments, subject to the notice, review, and objection procedures of s. 216.177, F.S., to transfer funding from the Salaries and Benefits appropriation categories to categories used for contractual services in order to support additional staff augmentation resources needed at the Developmental Disability Centers.

Section 27 excludes from the state Medicaid expenditures specially assessed funds for the Directed Payment Program when calculating county Medicaid billings.

Section 28 amends s. 216.262, F.S. to allow the Executive Office of the Governor (EOG) to request additional positions and appropriations from unallocated general revenue during the fiscal year for the Department of Corrections (DOC) if the actual inmate population of DOC exceeds certain Criminal Justice Estimating Conference forecasts. The additional positions and appropriations may be used for essential staff, fixed capital improvements, and other resources to provide classification, security, food services, health services, and other variable expenses within the institutions to accommodate the estimated increase in the inmate population, and are subject to LBC review and approval.

Section 29 amends s. 215.18, F.S. to provide chief justice the authority to request a trust fund loan.

Section 30 requires the Department of Juvenile Justice to review county juvenile detention payments to ensure that counties are fulfilling their financial responsibilities. If the department determines that a county has not met its obligations, Department of Revenue must deduct the amount owed to the Department of Juvenile Justice from shared revenue funds provided to the county under s. 218.23, F.S.

Section 31 reenacts s. 27.40, F.S., 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.

Contracts with appointed counsel and forms for use in billing must be consistent with ss. 27.5304 and 216.311. The contract 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) 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 32 provides that the amendments to s. 27.40(1),(2)(a),(3)(a) and (5)-(7), F.S., expire July 1, 2024, and the text of that section reverts to that in existence on June 30, 2019.

Section 33 reenacts and amends s. 27.5304, F.S. to increase caps for compensation of court appointed counsel in criminal cases. Court-appointed counsel may be compensated only in compliance with s. 27.40(1), (2)(a), (6), (7), this section, 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 34 provides that the amendments to s. 27.5304(1), (3), (6), (7), (11), and (12)(a)-(e), F.S., expire July 1, 2024, and the text of that section reverts to that in existence on June 30, 2019.

Section 35 requires the Department of Management Services (DMS) and agencies to utilize a tenant broker to renegotiate private lease agreements for office or storage space, in excess of 2,000 square feet, expiring between July 1, 2024 and June 30, 2026.

Section 36 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 a data center appropriation category to a category other than a data center appropriation category.

Section 37 authorizes the Executive Office of the Governor 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 38 authorizes the Executive Office of the Governor to transfer funds in the appropriation category "Special Categories-Transfer to Department of Management Services-Human Resources Services Purchased Per Statewide Contract" of the GAA between departments in order to align the budget authority granted with the assessments that must be paid by each agency to DMS for human resources management services.

Section 39 authorizes DMS to use 5% of facility disposition funds after selling a state office building to offset relocation expenses associated with the disposition of state office buildings.

Section 40 notwithstanding s. 253.025(4), F.S., to authorize DMS to acquire additional state-owned office buildings, as defined in s. 255.248, F.S., for inclusion in the Florida Facilities Pool as created in s. 255.505, F.S.

Section 41 provides scope of FLAIR replacement project and specifies governance structure.

Section 42 reenacts s. 282.709, F.S., to carryforward the authority for DMS to execute a 15-year contract with the SLERs operator.

Section 43 provides that the text of s. 282.709(3), F.S., expires July 1, 2024, and the text of that section reverts to that in existence on June 1, 2021.

Section 44 authorizes state agencies and other eligible users to use the DMS SLERS contract to purchase equipment and services.

Section 45 reduces the transaction fee collected for use of the online procurement system from 1% to 0.7% for fiscal year 2023-2024.

Section 46 amends s. 24.105(9)(i), F.S., to provide that lottery ticket sale commissions will be 6.0% for FY 2023-2024. (Current year commissions set at 5.75%.)

Section 47 provides that the amendment to s. 24.105(9)(i), F.S., expires July 1, 2024, and the text of that section reverts to that in existence on June 30, 2022.

Section 48 amends s. 717.123, F.S., to allow the Department of Financial Services to retain an amount not exceeding \$65 million (instead of \$15 million) in the unclaimed property trust fund for Fiscal Year 2022-2023.

Section 49 amends s. 627.351(6)(II), F.S., to authorize Citizen's Property Insurance Corp. to adopt policy forms authorizing claim determination disputes to come before the Division of Administrative Hearings.

Section 50 amends s. 934.50(7), F.S., to create the drone replacement program within the Florida Department of Law Enforcement to provide funds to law enforcement agencies that turn in non-compliant drones; requires the department to provide any drones turned in via grant program to the USF Florida Center for Cybersecurity for analysis; and authorizes FDLE to adopt emergency rules to implement grant program.

Section 51 exempts the public service commission from rule ratification when Regulatory Assessment Fees are set within statutory limits.

Section 52 amends s. 215.18, F.S. to authorize loans to land acquisition trust funds.

Section 53 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 LATF within the DEP on a monthly basis, after subtracting required debt service payments, to each agency and retain a proportionate share within the LATF 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 LATF to LATF within FWC for cash flow purposes.

Section 54 amends s. 259.105(3), F.S. to notwithstanding the distribution of funds and provides that the proceeds shall be distributed as provided in the GAA.

Section 55 amends 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 allows funds to be expended on additional water conservation activities pursuant to s. 403.067(7)(c), F.S.

Section 56 provides that the amendments to s. 570.93(1)(a), F.S., expire July 1, 2024, and the text of that section reverts to that in existence on June 30, 2019.

Section 57 amends s. 376.3071(15)(g), F.S., to revise the requirements for the usage of the trust fund for ethanol or biodiesel damage.

Section 58 provides that the amendment to s. 376.3071(15)(g), F.S., expires July 1, 2024, and the text of that section reverts to that in existence on July 1, 2020.

Section 59 notwithstanding state procurement laws in ch. 287, F.S., and requires the Department of Citrus to enter into agreements for the purpose of increasing production of trees that show tolerance or resistance to citrus greening and to commercialize technologies that produce tolerance or resistance to citrus greening in trees. The department must enter into these agreements no later than Jan. 1, 2024 and file with the department's Inspector General a certification of conditions and circumstances justifying each agreement entered into without competitive solicitation.

Section 60 amends s. 161.101(22), F.S., to extend expiration date of waiver for local match requirement relating to beach management and erosion control projects for counties affected by Hurricanes Ian & Nicole.

Section 61 amends ch. 22-272, Laws of Fla., (SB 4-A) to extend expiration date from July 1, 2023 to July 1, 2024. Also expands definition of eligible residential properties to include multi-family, site-built, residential property up to four units, and increases state funding cap for matching grants.

Section 62 amends s. 321.04, F.S. to provide that upon request of Governor, the Department of Highway Safety & Motor Vehicles shall assign one or more patrol officers to the office of the Lieutenant Governor for security services. Also allows assignment of a patrol officer to Cabinet Members if deemed appropriate by DHSMV or in response to a threat.

Section 63 amends s. 288.80125(4), 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 64 amends s. 288.8013(3), F.S., to allow certain interest earnings to be used for awards under program or administrative costs, instead of being transferred to the Triumph Gulf Coast Trust Fund.

Section 65 provides that the amendment to s. 288.8013(3), F.S., expires July 1, 2024, and the text of that section reverts to that in existence on June 30, 2023.

Section 66 amends s. 339.08, F.S., to authorize the transfer of funds from General Revenue to the State Transportation Trust Fund as provided in the GAA.

Section 67 amends s. 339.135(7)(h), F.S., to authorize the chair and vice chair of the Legislative Budget Commission to approve certain work program amendments under specified circumstances, pursuant to s. 216.177, F.S. Specifically, authorizes the department to adopt an amendment if a commission meeting cannot be held within 30 days of submittal of the amendment that adds a new project, or a phase of a new project, in excess of \$3 million.

Section 68 establishes the Florida National Guard (FNG) Joint Enlistment Enhancement Program (JEEP) program within the Department of Military Affairs, authorizing certain current and former Guardsmen to act as recruiting assistants and receive \$1000 upon enlistment of each new member referred by them to the FNG. Requires DMA, in cooperation with the FNG, to adopt rules to administer program.

Section 69 amends s. 288.0655, F.S. to specify grant funds for Florida Panhandle counties shall be distributed pursuant to and for the purposes described in the GAA.

Section 70 authorizes the Division of Emergency Management to submit budget amendments to increase budget authority for projected expenditures due to federal reimbursements from federally declared disasters.

Section 71 amends s. 112.061, F.S. to authorize a Lieutenant Governor who permanently resides outside Leon County to have an appropriate facility as an official headquarters. The Lieutenant Governor will be eligible for subsistence allowance for days spent at the State Capitol and transportation expenses between Capitol and official headquarters.

Section 72 revises DMS' authority relating to the procurement of HMOs. Authorizes 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 73 requires DMS to collect an administrative health insurance assessment from each state agency equal to the employer's cost of individual employee health care coverage for each vacant position within such agency eligible for coverage through the Division of State Group Insurance.

Section 74 notwithstanding s. 11.13, F.S., to maintain salaries of legislators at the same level as July 1, 2010.

Section 75 amends s. 215.32(2)(b), F.S., in order to implement the transfer of moneys to the General Revenue Fund from trust funds in the GAA.

Section 76 provides that the amendment to s. 215.32(2)(b), F.S., expires July 1, 2024, and the text of that section reverts to that in existence on June 30, 2011.

Section 77 provides that funds appropriated for travel by state employees shall be limited to travel for activities that are critical to each state agency's mission. Prohibits funds from being used to travel to foreign countries, other states, conferences, staff-training or other administrative functions unless agency head approves in writing. Requires agency head to consider use of teleconferencing and electronic communication to meet needs of activity before approving travel.

Section 78 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 \$225 per day. An employee may expend his or her own funds for any lodging expenses in excess of \$225 per day. Exempts travel for conducting an audit, examination, inspection or investigation or travel activities relating to a litigation or emergency response.

Section 79 authorizes the LBC to increase amounts appropriated to state agencies for new fixed capital outlay projects projects using general revenue funds.

Section 80 amends s. 350.0614, F.S., to provide that the operating budget as approved jointly by the President of the Senate and Speaker of the House from moneys appropriated to the Public Counsel by the Legislature constitutes the allocation under which the Public Counsel will 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 Speaker of the House.

Section 81 amends s. 216.292(2), F.S. to broaden legislative review of "5 percent" budget transfers. Legislature would be able to object that the proposed action exceeds delegated authority or is contrary to legislative policy and intent would apply. Also, requires that review ensure that transfer maximizes the use of available and appropriate trust funds.

Section 82 in order to implement appropriations in the 2023-2024 GAA for the acquisitions of motor vehicles, and notwithstanding ch. 287, F.S., relating to the purchase of motor vehicles from a state term contract, state agencies may purchase vehicles from nonstate term contract vendors without prior approval from DMS, provided the cost of the motor vehicle is equal to or less than the cost of a similar class of vehicle found on a state term contract and provided the funds for the purchase have been specifically appropriated.

Section 83 provides that, notwithstanding s. 255.25(3)(a), F.S., the Department of Management Services, the Executive Office of the Governor, the Commissioner of Agriculture, the Chief Financial Officer, and the Attorney General are authorized to enter into a lease as a lessee for the use of space in a privately owned building, even if such space is 5,000 square feet or more, without having to advertise or receive competitive solicitations.

Section 84 subject to the state land purchasing laws provided in ch. 253, F.S., authorizes DEP to purchase interests (i.e. fee simple acquisition or less-than-fee conservation easements) in lands located in certain defined wildlife corridors; requires DEP, in order to reduce land management costs, to provide a lease back option to the sellers under certain circumstances; and requires DEP to review all land management activities, in consultation with other state lead land managers, and submit a report of their findings.

Section 85 prohibits a local government from adopting or amending a fertilizer management ordinance pursuant to s. 403.9337, F.S., which provides for a prohibited application period (aka blackout period) that was not in existence on June 30, 2023.

Section 86 specifies that no section shall take effect if the appropriations and proviso to which it relates are vetoed.

Section 87 provides that if any other act passed during the 2023 Regular Session contains a provision that is substantively the same as a provision in this act, but removes or otherwise is not subject to the future repeal applied by this act, the intent is for the other provision to take precedence and continue to operate.

Section 88 provides for severability.

Section 89 provides for a July 1, 2023 effective date, unless otherwise provided in the act.

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 2023-2024, there are no direct fiscal impacts created by the bill.

D. FISCAL COMMENTS:

None.