

Committee Substitute for Senate Bill No. 1424

An act relating to state financial matters; amending s. 215.47, F.S.; revising a limitation on the percentage of a fund that may be invested in specified investments; amending s. 216.181, F.S.; prohibiting initiating or commencing a new fixed capital outlay project through an amendment to the original approved operating budget for operational and fixed capital outlay expenditures; authorizing the Executive Office of the Governor to approve changes in amounts appropriated to the Department of Military Affairs for fixed capital outlay projects under specified circumstances; prohibiting initiating or commencing a fixed capital outlay project by a change to an approved operating budget unless specifically provided; amending s. 216.1827, F.S.; requiring that a state agency submit to the Executive Office of the Governor for review and approval requests concerning the revision or addition of agency activities, including the alignment of activities to performance measures; amending s. 216.192, F.S.; providing for certain exceptions to provisions of the original approved operating budget of state agencies and the judicial branch to be provided by law rather than in the General Appropriations Act; amending s. 216.292, F.S.; deleting provisions authorizing the approval of the transfer of funds for fixed capital outlay projects for the Department of Military Affairs; amending s. 286.036, F.S.; reassigning the Taxation and Budget Reform Commission for administrative purposes from the Board of Regents to the Office of Legislative Services; amending s. 1003.03, F.S.; authorizing the Commissioner of Education to recommend a budget amendment for the transfer of certain funds if the State Board of Education finds that a district has been unable to meet class size reduction requirements; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (14) of section 215.47, Florida Statutes, is amended to read:

215.47 Investments; authorized securities; loan of securities.—Subject to the limitations and conditions of the State Constitution or of the trust agreement relating to a trust fund, moneys available for investments under ss. 215.44-215.53 may be invested as follows:

(14) With no more than 5 percent of any fund in alternative investments, as defined in s. 215.44(8)(c)1.a., ~~private equity through participation in the vehicles defined in s. 215.44(8)(c)1.b. limited partnerships and limited liability companies.~~

Section 2. Subsections (2) and (11) of section 216.181, Florida Statutes, are amended, and subsection (18) is added to that section, to read:

216.181 Approved budgets for operations and fixed capital outlay.—

(2) Amendments to the original approved operating budgets for operational and fixed capital outlay expenditures must comply with the following guidelines in order to be approved by the Governor and the Legislative Budget Commission for the executive branch and the Chief Justice and the Legislative Budget Commission for the judicial branch:

(a) The amendment must be consistent with legislative policy and intent.

(b) The amendment may not initiate or commence a new program or a fixed capital outlay project, except as authorized by this chapter, or eliminate an existing program.

(c) Except as authorized in s. 216.292 or other provisions of this chapter, the amendment may not provide funding or increased funding for items which were funded by the Legislature in an amount less than that requested by the agency in the legislative budget request or recommended by the Governor, or which were vetoed by the Governor.

(d) For amendments that involve trust funds, there must be adequate and appropriate revenues available in the trust fund and the amendment must be consistent with the laws authorizing such trust funds and the laws relating to the use of the trust funds. However, a trust fund shall not be increased in excess of the original approved budget, except as provided in subsection (11).

(e) The amendment shall not conflict with any provision of law.

(f) The amendment must not provide funding for any issue which was requested by the agency or branch in its legislative budget request and not funded in the General Appropriations Act.

(g) The amendment must include a written description of the purpose of the proposed change, an indication of why interim budget action is necessary, and the intended recipient of any funds for contracted services.

(h) The amendment must not provide general salary increases which the Legislature has not authorized in the General Appropriations Act or other laws.

(i) Notwithstanding paragraph (f), the Agency for Persons with Disabilities is authorized to submit an amendment to adjust its full-time equivalent positions, salary rate, and related budget authority to provide sufficient infrastructure and administrative support. This paragraph expires July 1, 2007.

(11)(a) The Executive Office of the Governor and the Chief Justice of the Supreme Court may approve changes in the amounts appropriated from state trust funds in excess of those in the approved operating budget up to \$1 million only pursuant to the federal funds provisions of s. 216.212, when grants and donations are received after April 1, or when deemed necessary due to a set of conditions that were unforeseen at the time the General Appropriations Act was adopted and that are essential to correct in order to continue the operation of government.

(b) Changes in the amounts appropriated from state trust funds in excess of those in the approved operating budget which are in excess of \$1 million may be approved only by the Legislative Budget Commission pursuant to the request of a state agency filed with the Executive Office of the Governor or pursuant to the request of an entity of the judicial branch filed with the Chief Justice of the Supreme Court.

(c) Notwithstanding the provisions of paragraphs (a) and (b) to the contrary, the Executive Office of the Governor may approve changes in the amounts appropriated to the Department of Military Affairs for fixed capital outlay projects when the department has received federal funds for specific fixed capital outlay projects that do not carry a continuing commitment for future appropriations by the Legislature.

The provisions of this subsection are subject to the notice and objection procedures set forth in s. 216.177.

(18) Except as otherwise specifically provided in this chapter or chapter 339, a change to the approved operating budget may not initiate or commence a fixed capital outlay project.

Section 3. Paragraph (a) of subsection (3) of section 216.1827, Florida Statutes, is amended to read:

216.1827 Requirements for performance measures and standards.—

(3)(a) An agency may submit requests to delete or amend its existing approved performance measures and standards or activities, including alignment of activities to performance measures, or submit requests to create additional performance measures and standards or activities to the Executive Office of the Governor for review and approval. The request shall document the justification for the change and ensure that the revision, deletion, or addition is consistent with legislative intent. Revisions or deletions to, or additions of performance measures and standards approved by the Executive Office of the Governor are subject to the review and objection procedure set forth in s. 216.177.

Section 4. Subsection (1) of section 216.192, Florida Statutes, is amended to read:

216.192 Release of appropriations; revision of budgets.—

(1) Unless otherwise provided in law ~~the General Appropriations Act,~~ on July 1 of each fiscal year, up to 25 percent of the original approved operating budget of each agency and of the judicial branch may be released until such time as annual plans for quarterly releases for all appropriations have been developed, approved, and furnished to the Chief Financial Officer by the Executive Office of the Governor for state agencies and by the Chief Justice of the Supreme Court for the judicial branch. The plans, including appropriate plans of releases for fixed capital outlay projects that correspond with each project schedule, shall attempt to maximize the use of trust funds and shall be transmitted to the Chief Financial Officer by August 1 of each fiscal year. Such releases shall at no time exceed the total appropriations available

to a state agency or to the judicial branch, or the approved budget for such agency or the judicial branch if less. The Chief Financial Officer shall enter such releases in his or her records in accordance with the release plans prescribed by the Executive Office of the Governor and the Chief Justice, unless otherwise amended as provided by law. The Executive Office of the Governor and the Chief Justice shall transmit a copy of the approved annual releases to the head of the state agency, the chair and vice chair of the Legislative Budget Commission, and the Auditor General. The Chief Financial Officer shall authorize all expenditures to be made from the appropriations on the basis of such releases and in accordance with the approved budget, and not otherwise. Expenditures shall be authorized only in accordance with legislative authorizations. Nothing herein precludes periodic reexamination and revision by the Executive Office of the Governor or by the Chief Justice of the annual plans for release of appropriations and the notifications of the parties of all such revisions.

Section 5. Subsection (5) of section 216.292, Florida Statutes, is amended to read:

216.292 Appropriations nontransferable; exceptions.—

(5)(a) A transfer of funds may not result in the initiation of a fixed capital outlay project that has not received a specific legislative appropriation, ~~except that federal funds for fixed capital outlay projects for the Department of Military Affairs, which do not carry a continuing commitment on future appropriations by the Legislature, may be approved by the Executive Office of the Governor for the purpose received, subject to the notice and objection procedures set forth in s. 216.177.~~

(b) Notwithstanding paragraph (a), and for the 2006-2007 fiscal year only, the Governor may recommend the initiation of fixed capital outlay projects funded by grants awarded by the Federal Emergency Management Agency for FEMA Disaster Declarations 1539-DR-FL, 1545-DR-FL, 1551-DR-FL, 1561-DR-FL, 1595-DR-FL, 1602-DR-FL, and EM3259-FL. All actions taken pursuant to the authority granted in this paragraph are subject to review and approval by the Legislative Budget Commission. This paragraph expires July 1, 2007.

Section 6. Subsection (5) of section 286.036, Florida Statutes, is amended to read:

286.036 Taxation and Budget Reform Commission; powers.—

(5) The Taxation and Budget Reform Commission is assigned, for administrative purposes, to the legislative branch Board of Regents. ~~The Office of Legislative Services Board of Regents~~ is directed to expedite, where possible, the business of the commission consistent with prudent financial and management practices.

Section 7. Subsection (4) of section 1003.03, Florida Statutes, is amended to read:

1003.03 Maximum class size.—

(4) ACCOUNTABILITY.—

(a) 1. Beginning in the 2003-2004 fiscal year, if the department determines for any year that a school district has not reduced average class size as required in subsection (2) at the time of the third FEFP calculation, the department shall calculate an amount from the class size reduction operating categorical which is proportionate to the amount of class size reduction not accomplished. Upon verification of the department's calculation by the Florida Education Finance Program Appropriation Allocation Conference and not later than March 1 of each year, the Executive Office of the Governor shall transfer undistributed funds equivalent to the calculated amount from the district's class size reduction operating categorical to an approved fixed capital outlay appropriation for class size reduction in the affected district pursuant to s. 216.292(2)(d). The amount of funds transferred shall be the lesser of the amount verified by the Florida Education Finance Program Appropriation Allocation Conference or the undistributed balance of the district's class size reduction operating categorical.

2. In lieu of the transfer required by subparagraph 1., the Commissioner of Education may recommend a budget amendment, subject to approval by the Legislative Budget Commission, to transfer an alternative amount of funds from the district's class size reduction operating categorical to its approved fixed capital outlay account for class size reduction if the commissioner finds ~~However, based upon a recommendation by the Commissioner of Education that the State Board of Education has reviewed evidence indicating that a district has been unable to meet class size reduction requirements despite appropriate effort to do so. The commissioner's budget amendment must be submitted to the Legislative Budget Commission by February 15 of each year., the Legislative Budget Commission may approve an alternative amount of funds to be transferred from the district's class size reduction operating categorical to its approved fixed capital outlay account for class size reduction.~~

(b) Beginning in the 2005-2006 school year, the department shall determine by January 15 of each year which districts have not met the two-student-per-year reduction required in subsection (2) based upon a comparison of the district's October student membership survey for the current school year and the February 2003 baseline student membership survey. The department shall report such districts to the Legislature. Each district that has not met the two-student-per-year reduction shall be required to implement one of the following policies in the subsequent school year unless the department finds that the district comes into compliance based upon the February student membership survey:

1. Year-round schools;
2. Double sessions;
3. Rezoning; or
4. Maximizing use of instructional staff by changing required teacher loads and scheduling of planning periods, deploying school district employees who have professional certification to the classroom, using adjunct edu-

cators, operating schools beyond the normal operating hours to provide classes in the evening, or operating more than one session during the day.

A school district that is required to implement one of the policies outlined in subparagraphs 1. through 4. shall correct in the year of implementation any past deficiencies and bring the district into compliance with the two-student-per-year reduction goals established for the district by the department pursuant to subsection (2). A school district may choose to implement more than one of these policies. The district school superintendent shall report to the Commissioner of Education the extent to which the district implemented any of the policies outlined in subparagraphs 1. through 4. in a format to be specified by the Commissioner of Education. The Department of Education shall use the enforcement authority provided in s. 1008.32 to ensure that districts comply with the provisions of this paragraph.

(c) Beginning in the 2006-2007 school year, the department shall annually determine which districts do not meet the requirements described in subsection (2). In addition to enforcement authority provided in s. 1008.32, the Department of Education shall develop a constitutional compliance plan for each such district which includes, but is not limited to, redrawing school attendance zones to maximize use of facilities while minimizing the additional use of transportation unless the department finds that the district comes into compliance based upon the February student membership survey and the other accountability policies listed in paragraph (b). Each district school board shall implement the constitutional compliance plan developed by the state board until the district complies with the constitutional class size maximums.

Section 8. This act shall take effect July 1, 2007.

Approved by the Governor June 12, 2007.

Filed in Office Secretary of State June 12, 2007.