



278496

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/20/2015	.	
	.	
	.	
	.	

The Committee on Rules (Gaetz) recommended the following:

1 **Senate Amendment to Amendment (533978) (with title**
2 **amendment)**

3
4 Delete lines 206 - 332

5 and insert:

6 Section 11. Present subsections (1) through (5) of section
7 215.425, Florida Statutes, are redesignated as subsections (2)
8 through (6), respectively, present subsection (2) and paragraph
9 (a) of present subsection (4) of that section are amended, and a
10 new subsection (1) and subsections (7) through (12) are added to
11 that section, to read:



278496

12 215.425 Extra compensation claims prohibited; bonuses;
13 severance pay.—

14 (1) As used in this section, the term "public funds" means
15 any taxes, tuition, grants, fines, fees, or other charges or any
16 other type of revenue collected by the state or any county,
17 municipality, special district, school district, Florida College
18 System institution, state university, or other separate unit of
19 government created pursuant to law, including any office,
20 department, agency, division, subdivision, political
21 subdivision, board, bureau, or commission of such entities.

22 (3)~~(2)~~ Notwithstanding subsection (2), if the payment and
23 receipt does not otherwise violate part III of chapter 112, the
24 following funds may be used to provide extra compensation:

25 (a) Revenues received by state universities through or from
26 faculty practice plans; health services support organizations;
27 hospitals with which state universities are affiliated; direct-
28 support organizations; or federal, auxiliary, or private
29 sources, except for tuition;

30 (b) Revenues received by Florida College System
31 institutions through or from faculty practice plans; health
32 services support organizations; direct-support organizations; or
33 federal, auxiliary, or private sources, except for tuition;

34 (c) Revenues that are received by a hospital licensed under
35 chapter 395 which has entered into a Medicaid Provider Contract
36 and that:

37 1. Are not derived from the levy of an ad valorem tax;

38 2. Are not derived from patient services paid through the
39 Medicaid or Medicare program;

40 3. Are derived from patient services pursuant to contracts



278496

41 with private insurers or private managed care entities; or
42 4. Are not appropriated by the Legislature or by any
43 county, municipality, special district, school district, Florida
44 College System institution, state university, or other separate
45 unit of government created pursuant to law, including any
46 office, department, agency, division, subdivision, political
47 subdivision, board, bureau, commission, authority, or
48 institution of such entities, except for revenues otherwise
49 authorized to be used pursuant to subparagraphs 2. and 3.

50 ~~This section does not apply to:~~

51 ~~(a) a bonus or severance pay that is paid wholly from~~
52 ~~non-tax revenues and nonstate-appropriated funds, the payment and~~
53 ~~receipt of which does not otherwise violate part III of chapter~~
54 ~~112, and which is paid to an officer, agent, employee, or~~
55 ~~contractor of a public hospital that is operated by a county or~~
56 ~~a special district; or~~

57 ~~(d)(b)~~ A clothing and maintenance allowance given to
58 plainclothes deputies pursuant to s. 30.49.

59 (e) Revenues or fees received by a seaport or airport from
60 sources other than through the levy of a tax, or funds
61 appropriated by any county or municipality or the Legislature.

62 (5) (a) (4) (a) On or after July 1, 2011, A unit of
63 government, on or after July 1, 2011, or a state university, on
64 or after July 1, 2012, that is a party to enters into a contract
65 or employment agreement, or renewal or renegotiation of an
66 existing contract or employment agreement, that contains a
67 provision for severance pay with an officer, agent, employee, or
68 contractor must include the following provisions in the
69 contract:



278496

70 1. A requirement that severance pay paid from public funds
71 ~~provided~~ may not exceed an amount greater than 20 weeks of
72 compensation.

73 2. A prohibition of provision of severance pay paid from
74 public funds when the officer, agent, employee, or contractor
75 has been fired for misconduct, as defined in s. 443.036(29), by
76 the unit of government.

77 (7) Upon discovery or notification that a unit of
78 government has provided prohibited compensation to any officer,
79 agent, employee, or contractor in violation of this section,
80 such unit of government shall investigate and take all necessary
81 action to recover the prohibited compensation.

82 (a) If the violation was unintentional, the unit of
83 government shall recover the prohibited compensation from the
84 individual receiving the prohibited compensation through normal
85 recovery methods for overpayments.

86 (b) If the violation was willful, the unit of government
87 shall recover the prohibited compensation from either the
88 individual receiving the prohibited compensation or the
89 individual or individuals responsible for approving the
90 prohibited compensation. Each individual determined to have
91 willfully violated this section is jointly and severally liable
92 for repayment of the prohibited compensation.

93 (8) A person who willfully violates this section commits a
94 misdemeanor of the first degree, punishable as provided in s.
95 775.082 or s. 775.083.

96 (9) An officer who exercises the powers and duties of a
97 state or county officer and willfully violates this section is
98 subject to the Governor's power under s. 7(a), Art. IV of the



278496

99 State Constitution. An officer who exercises powers and duties
100 other than those of a state or county officer and willfully
101 violates this section is subject to the suspension and removal
102 procedures under s. 112.51.

103 (10) (a) A person who reports a violation of this section is
104 eligible for a reward of at least \$500, or the lesser of 10
105 percent of the funds recovered or \$10,000 per incident of a
106 prohibited compensation payment recovered by the unit of
107 government, depending upon the extent to which the person
108 substantially contributed to the discovery, notification, and
109 recovery of such prohibited payment.

110 (b) In the event that the recovery of the prohibited
111 compensation is based primarily on disclosures of specific
112 information, other than information provided by such person,
113 relating to allegations or transactions in a criminal, civil, or
114 administrative hearing; in a legislative, administrative,
115 inspector general, or other government report; in an auditor
116 general report, hearing, audit, or investigation; or from the
117 news media, such person is not eligible for a reward, or for an
118 award of a portion of the proceeds or payment of attorney fees
119 and costs pursuant to s. 68.085.

120 (c) If it is determined that the person who reported a
121 violation of this section was involved in the authorization,
122 approval, or receipt of the prohibited compensation or is
123 convicted of criminal conduct arising from his or her role in
124 the authorization, approval, or receipt of the prohibited
125 compensation, such person is not eligible for a reward, or for
126 an award of a portion of the proceeds or payment of attorney
127 fees and costs pursuant to s. 68.085.



278496

128 (11) An employee who is discharged, demoted, suspended,
129 threatened, harassed, or in any manner discriminated against in
130 the terms and conditions of employment by his or her employer
131 because of lawful acts done by the employee on behalf of the
132 employee or others in furtherance of an action under this
133 section, including investigation for initiation of, testimony
134 for, or assistance in an action filed or to be filed under this
135 section, has a cause of action under s. 112.3187.

136 (12) If the unit of government fails to recover prohibited
137 compensation for a willful violation of this section upon
138 discovery and notification of such prohibited payment within 90
139 days, a cause of action may be brought to:

140 (a) Recover state funds in accordance with ss. 68.082 and
141 68.083.

142 (b) Recover other funds by the Department of Legal Affairs
143 using the procedures set forth in ss. 68.082 and 68.083, except
144 that venue shall lie in the circuit court of the county in which
145 the unit of government is located.

146 (c) Recover other funds by a person using the procedures
147 set forth in ss. 68.082 and 68.083, except that venue shall lie
148 in the circuit court of the county in which the unit of
149 government is located.

150 (13) Subsections (7)-(12) apply prospectively to contracts
151 or employment agreements, or the renewal or renegotiation of an
152 existing contract or employment agreement, effective on or after
153 July 1, 2015.

154
155 ===== T I T L E A M E N D M E N T =====

156 And the title is amended as follows:



278496

157 Delete lines 348 - 364
158 and insert:
159 F.S.; defining the term "public funds"; revising
160 nonapplicability to the prohibition on extra
161 compensation claims; requiring certain contracts to
162 which a unit of government or state university is a
163 party during a specified period to contain certain
164 prohibitions on severance pay; requiring a unit of
165 government to investigate and take necessary action to
166 recover prohibited compensation; specifying methods of
167 recovery and liability for unintentional and willful
168 violations; providing a penalty; specifying
169 applicability of procedures regarding suspension and
170 removal of an officer who commits a willful violation;
171 establishing eligibility criteria and amounts for
172 rewards; specifying circumstances under which an
173 employee has a cause of action under the Whistle-
174 blower's Act; establishing causes of action if a unit
175 of government fails to recover prohibited compensation
176 within a certain timeframe; providing for
177 applicability;