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DATE: April 19, 1999

HOUSE OF REPRESENTATIVES
COMMITTEE ON
GENERAL APPROPRIATIONS
ANALYSIS

BILL #: HB 1885

RELATING TO: Lawton Chiles Endowment Trust Fund

SPONSOR(S): Representative Maygarden

COMPANION BILL(S): CS/SB 2422 (I)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) GENERAL APPROPRIATIONS YEAS 22 NAYS 0
(2)
(3)
(4)
(5)

I. SUMMARY:

This bill creates the Lawton Chiles Endowment Fund for Children and Elders, to be administered by the State Board of Administration. The money to be deposited into this fund is from the settlement of the lawsuit by the State of Florida against tobacco manufacturers and other defendants. This fund provides a mechanism for generating a recurring revenue stream from the non-recurring portions of the settlement receipts.

On April 20, 1999, the General Appropriations Committee adopted one amendment that allows an additional investment option, an annuity. This would smooth the cash flow available to the Legislature for annual appropriations from the endowment fund.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

The State of Florida commenced a legal action against various tobacco manufacturers and other defendants in February, 1995, asserting various claims for monetary and injunctive relief on behalf of the State of Florida. On August 25, 1997, the State of Florida entered into a settlement agreement with several of the tobacco companies.

B. EFFECT OF PROPOSED CHANGES:

This bill creates a new trust fund - the Lawton Chiles Endowment Fund for Children and Elders - to be administered by the State Board of Administration. Portions of the non-recurring moneys received pursuant to the settlement are required to be deposited into this fund. Moneys will be disbursed to tobacco funds in various departments depending on appropriations made by law. The moneys in the Lawton Chiles Endowment Fund for Children and Elders will be invested by the State Board of Administration in order to maximize rate of return earned by the state.

In order to accurately account for tobacco settlement funds, a number of other trust funds are being created. The Department of Banking and Finance Tobacco Settlement Clearing Trust Fund will be credited with all the annual payments received by the state from the settlement. These funds will be disbursed by a nonoperating transfer from the clearing trust fund to the tobacco settlement trust funds of the various agencies in amounts equal to the annual appropriations made from those trust funds in the General Appropriations Act. Additionally the Department of Banking and Finance will disburse funds from the clearing trust fund to the Lawton Chiles Endowment Fund for Children and Elders in amounts specified by law. Any unencumbered balance in the various agency tobacco settlement trust funds at the end of any fiscal year and any encumbered balance remaining undisbursed on December 31 of the same calendar year will revert to the Lawton Chiles Endowment Fund for Children and Elders.

The Lawton Chiles Endowment Fund for Children and Elders will serve as a clearing trust fund and not be subject to automatic termination by the Constitution after four years. Funds from the endowment will be distributed to the Department of Health, the Department of Children and Family Services, the Department of Elder Affairs, and the Agency for Health Care Administration, in the amounts indicated in the legislative appropriations for those state agencies. The state agencies will use these funds to enhance and support increases in clients served or in program costs for children's health care, child welfare, and community-based service initiatives for the elderly.

It is the intent of the Legislature that the tobacco funds distributed by the Lawton Chiles Endowment Fund for Children and Elders be used to:

(1) Provide a perpetual source of funding for the future of children's health care, child welfare, and community-based service initiatives for the elderly.

(2) Ensure that enhancement revenues will be available to finance these important initiatives.

(3) Use tobacco settlement moneys to ensure the financial health of vital children's and elders' programs.

(4) Encourage the development of community-based solutions to strengthen and improve the quality of life of Florida's children and elders.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

Yes, the bill allows the State Board of Administration to adopt rules to implement the Fund.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes, the State Board of Administration will invest the moneys in the Fund.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. <u>Lower Taxes:</u>

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

The bill allows the State Board of Administration to deduct costs and fees associated with managing the investment of moneys in the Fund.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. <u>Personal Responsibility:</u>

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Sections 215.5601 and 215.52, Florida Statutes.

E. SECTION-BY-SECTION ANALYSIS:

Section 1. Creates section 215.5601, F.S., creating the Lawton Chiles Endowment Fund for Children and Elders, to be administered by the State Board of Administration. Provides for deposit into the Fund of annual payments received by the State from the settlement of State Florida v. American Tobacco Company, Case No. 95-1466AH, in the Circuit Court for the Fifteenth Judicial Circuit, in and for Palm Beach County, Florida.

The fund is exempt from General Revenue service charge imposed by section 215.20, F.S. The funds of the endowment may be invested and reinvested by the State Board of Administration in accordance with section 215.47, F.S. The board will report twice a year on the financial status of the endowment. Only the earnings received on the endowment are available for distribution by the board into the separate accounts for each fund of the endowment. Once appropriated to the fund of the state agency, the board is no longer accountable for those moneys.

Funds from the endowment may not be used to supplant existing revenues.

The bill establishes that funds from the endowment shall not be available until July 1, 2000, and provides what portion of the earnings shall be appropriated to the state agencies. It indicates the amount to be appropriated on a yearly basis from the Department of Banking and Finance Tobacco Settlement Clearing Trust Fund.

Section 2. Amends section 215.52, F.S., to give the State Board of Administration rule-making authority to implement the provisions of section 215.5601, F.S.

Section 3. Provides an effective date of July 1, 1999.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

This bill provides for the deposit of non-recurring tobacco settlement moneys into the Lawton Chiles Endowment Fund for Children and Elders in the following amounts:

FY 1999-2000	$1,099,900,000
FY 2000-2001	$297,700,000
FY 2001-2002	$383,100,000
FY 2002-2003	$151,400,000

Additionally, earnings in excess of allowable expenditures remain part of the endowment. Further, other Tobacco Settlement Trust Fund bills specify that amounts appropriated from those funds that remain unspent, shall revert to the Lawton Chiles Endowment Fund for Children and Elders.

2. Recurring Effects:

This bill makes moneys in the Fund available for appropriation in the following amounts, based on earnings averaged over three years:

FY 2000-2001	earnings at a rate of 3 percent	$33 million plus interest on earnings

FY 2001-2002	earnings at a rate of 4 percent	$56 million plus interest on earnings
FY 2001-2003	earnings at a rate of 5 percent	$90 million plus interest on earniings
Thereafter	earnings at a rate of 6 percent	$116 million plus interest on earnings

The fund is exempt from General Revenue service charge imposed by section 215.20, F.S.

The State Board of Administration will deduct costs and fees for investment services from the endowment.

If earnings are insufficient to meet appropriations, distribution of funds to each agency will be reduced on a pro rata basis.

3. Long Run Effects Other Than Normal Growth:

   None.

4. Total Revenues and Expenditures:

   See 1. and 2. above.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

   None.

2. Recurring Effects:

   None.

3. Long Run Effects Other Than Normal Growth:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

   None.

2. Direct Private Sector Benefits:

   None.

3. Effects on Competition, Private Enterprise and Employment Markets:

   None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take any actions requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority of counties or municipalities to raise revenues in the aggregate, as such authority existed on February 1, 1989.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties and municipalities as an aggregate on February 1, 1989.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 20, 1999, the General Appropriations Committee adopted one amendment that allows an additional investment option, an annuity. This would smooth the cash flow available to the Legislature for annual appropriations from the endowment fund.

VII. SIGNATURES:

COMMITTEE ON GENERAL APPROPRIATIONS:

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