

STORAGE NAME: h1897.hhs

DATE: March 17, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
HEALTH AND HUMAN SERVICES APPROPRIATIONS
ANALYSIS**

BILL #: HB 1897 (PCB HHS 99-05)

RELATING TO: Tobacco Settlement Trust Fund/Department of Health

SPONSOR(S): Committee on Health and Human Services Appropriations

COMPANION BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

(1) HEALTH AND HUMAN SERVICES APPROPRIATIONS YEAS 8 NAYS 0

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I. SUMMARY:

This bill renames the current Tobacco Settlement Trust Fund to the Department of Health Tobacco Settlement Trust Fund. The need for this change results from the need to accurately account for funds received by the state from the settlement of a lawsuit by the State of Florida against tobacco manufacturers and other defendants.

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. The companies agreed to make annual payments to the state and in order to accurately account for these settlement funds the Tobacco Settlement Trust Fund was created effective May 22, 1998, by Chapter 98-122, Laws of Florida.

B. EFFECT OF PROPOSED CHANGES:

The Department of Banking and Finance Tobacco Settlement Clearing Trust Fund is being created in another bill. That 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, by nonoperating transfer, from the clearing trust fund to the Lawton Chiles Endowment Fund for Children and Elders (also being created in another bill) 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 shall revert to the Lawton Chiles Endowment Fund for Children and Elders.

The Lawton Chiles Endowment Fund for Children and Elders, is to be created within the State Board of Administration and will serve as a clearing trust fund. Funds from the endowment will be distributed to the Department of Health, the Department of Children and Family Services, the Department of Elderly Affairs, and the Agency for Health Care Administration, in the amounts indicated in the legislative appropriations for state agencies. The state agencies will use these funds to enhance and support increases in clients served or in program costs in the following program areas: children's health care, child welfare, and community-based service initiatives for the elderly.

This bill renames the current Tobacco Settlement Trust Fund to the Department of Health Tobacco Settlement Trust Fund to account for the spending of those tobacco settlement funds that are authorized by law to be expended by the department. Further this bill moves current statutory language creating the fund from Chapter 562, related to the Department of Business and Professional Regulation dealing with alcohol and tobacco regulation, to an appropriate chapter relating to Department of Health trust funds.

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?

No.

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

No.

(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. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

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

No.

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. Personal Responsibility:

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?

N/A

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:

Section 20.435, Florida Statutes is amended and section 569.20, Florida Statutes, 1998 Supplement, is redesignated as paragraph (g) of subsection (1) of section 20.435, Florida Statutes, and is amended.

E. SECTION-BY-SECTION ANALYSIS:

Section 1. Renames the Tobacco Settlement Trust Fund to the Department of Health Tobacco Settlement Trust Fund and determines the source of funds and the appropriate use of the fund.

Section 2. Establishes an effective date.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

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:

This fund will allow tobacco settlement expenditures to be tracked over time.

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:

N/A

VII. SIGNATURES:

COMMITTEE ON HEALTH AND HUMAN SERVICES APPROPRIATIONS:

Prepared by:

Staff Director:

Michael Plata

Lynn Dixon