

STORAGE NAME: h2077a.jud

DATE: April 16, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
JUDICIARY
ANALYSIS**

BILL #: HJR 2077

RELATING TO: Lawton Chiles Endowment Fund for Children and Elders

SPONSOR(S): Representative Putnam

COMPANION BILL(S): HB 1885(c), SB 1952(c), and SB 2422(c)

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

- (1) JUDICIARY YEAS 8 NAYS 0
 - (2) GENERAL APPROPRIATIONS
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

HJR 2077 creates Section 19 of Article VII of the State Constitution and provides that an amendment reflecting such act shall be submitted to the electors of Florida for approval or rejection at the November 2000 general election.

If the amendment is adopted, the Lawton Chiles Endowment Fund for Children and Elders will be created to help fund the state children's health insurance program, child welfare programs, and community-based service initiatives for the elderly. The funds held by the endowment are to be used to enhance funding for such programs and initiatives above the level of funding that would otherwise be available but for the existence of the endowment.

The endowment is to be funded with monies derived from funds paid to the state from the settlement of the tobacco litigation. The endowment is to be funded up to \$1,932,100,000 by June 30, 2003, and thereafter nonrecurring settlement proceeds from the tobacco litigation are to be deposited into the endowment annually.

The funds held by the endowment are to be invested according to general law and income from such investments to be deposited into the endowment. Only those funds that are earnings received on the endowment fund and reversions to principal shall be available for distribution.

HJR 2077 provides for a constitutional amendment pursuant to s. 101.161, F.S.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Process for Proposing Constitutional Amendments

Article XI, Section 1 of the State Constitution allows the Legislature to propose an amendment to the state constitution by joint resolution agreed to by three-fifths of the membership of the House and Senate. In such a case, the full text of the joint resolution and the vote of each member must be entered in the House and Senate journals. Art. XI, s.1, Fla.Const.

The proposed amendment must be submitted to the electors at the next general election held more than 90 days after the joint resolution is filed with the Secretary of State (see below), unless, pursuant to law enacted by the affirmative vote of three-fourths of the membership of each house of the Legislature and limited to a single amendment, it is submitted at an earlier special election held more than 90 days after such filing. Art. XI, s. 5(a), Fla.Const.

The Constitution requires that the proposed amendment and notice of election be published prior to the election. Art. XI, s. 5(b), Fla. Const.

Finally, once the proposed amendment is adopted, it becomes effective on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified by the proposed amendment. Art. XI, s. 5(c), Fla. Const.

Form of Amendment

Section 101.161(1), F.S., prescribes the format and contents of the ballot containing a proposed constitutional amendment. This section requires that the substance of the amendment be printed in "clear and unambiguous" language on the ballot, followed by the words "Yes" and "No" styled in such a way so that a "Yes" vote will signify approval of the ballot and a "No" vote will signify disapproval. *Id.* The wording of the amendment must be contained in the joint resolution (in cases where the Legislature proposes the amendment). *Id.* The substance of the amendment must include an explanation of no longer than 75 words of the chief purpose of the measure and the ballot title must not exceed 15 words. *Id.*

Subsection (2) of s. 101.161, F.S., prescribes the process by which a constitutional amendment ballot shall be filed and approved. The ballot must be approved by the Secretary of State, who will provide the ballot with a designating number for reference. The Secretary shall then furnish the designating number, ballot title, and the substance of each amendment to the supervisor of elections of each county in which such amendment is to be voted on. s. 101.161(2), F.S.

B. EFFECT OF PROPOSED CHANGES:

HJR 2077 creates Section 19 of Article VII of the State Constitution and provides that an amendment reflecting such act shall be submitted to the electors of Florida for approval or rejection at the November 2000 general election.

If the amendment is adopted, the Lawton Chiles Endowment Fund for Children and Elders will be created to help fund the state children's health insurance program, child welfare programs, and communitybased service initiatives for the elderly. The funds held by the endowment are to be used to enhance funding for such programs and initiatives above the level of funding that would otherwise be available but for the existence of the endowment.

The endowment is to be funded with monies derived from funds paid to the state from the settlement of the tobacco litigation. The endowment is to be funded up to \$1,932,100,000 by June 30, 2003, and thereafter nonrecurring settlement proceeds from the tobacco litigation are to be deposited into the endowment annually.

The funds held by the endowment are to be invested according to general law and income from such investments to be deposited into the endowment. Only those funds that are earnings received on the endowment fund and reversions to principal shall be available for distribution.

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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?

The joint resolution requires the state to provide "enhancement" funding for certain children's insurance and health programs as well as community-based elder programs.

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?

The joint resolution does not reduce or eliminate any agency or program.

(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?

No.

- 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?

The joint resolution does not purport to provide services to families or children; it will provide increased funds for child insurance and welfare programs and for community-based programs for the elderly.

- (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?

No.

- 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?

The bill does not create or change a program providing services to families or children, but it does provide for increased "enhancement" funding for child insurance, welfare, and elder programs.

- (2) service providers?

N/A

- (3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

None. The joint resolution will amend Article VII of the State Constitution.

E. SECTION-BY-SECTION ANALYSIS:

N/A

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

The joint resolution requires the Legislature to deposit future tobacco settlement funds into the endowment on a non-recurring basis.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

The joint resolution requires total initial funding of \$1,932,100,000 by June 30, 2003.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

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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:

N/A

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

None.

D. FISCAL COMMENTS:

N/A

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

A. APPLICABILITY OF THE MANDATES PROVISION:

The joint resolution does not require cities or counties to expend funds or to take any action requiring expenditure of any funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The joint resolution does not affect the revenue raising authority of any city or county.

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

The joint resolution does not affect the amount of state tax shared with any city or county.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON JUDICIARY:

Prepared by:

Staff Director:

Michael W. Carlson

Don Rubottom