

STORAGE NAME: h0071s1.ca

DATE: February 25, 2000

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
COMMUNITY AFFAIRS
ANALYSIS**

BILL #: CS/HB 71

RELATING TO: County Public Hospital Surtax

SPONSOR(S): Committee on Health Care Licensing & Regulation and Representative Lacasa

TIED BILL(S): None

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

- (1) HEALTH CARE LICENSING & REGULATION (HFC) YEAS 14 NAYS 0
 - (2) COMMUNITY AFFAIRS (PRC)
 - (3) FINANCE & TAXATION (FRC)
 - (4) HEALTH & HUMAN SERVICES (FRC)
 - (5)
-

I. SUMMARY:

This bill reallocates the contribution a county currently is required to contribute under the County Public Hospital Surtax. The bill requires any county that levies the county public hospital surtax and that has a population of at least 1.8 million residents to disburse its required contribution, which is separate from the surtax revenues, in the following manner:

- 65% of the funds will be remitted to the public health trust responsible for running the county public general hospital; and
- 35% of the funds will be remitted to a public health authority that is wholly independent of the public health trust.

The bill requires the public health authority to “adopt and implement a health care plan for indigent health care services.” The public health authority will use the proceeds from its portion of the county contribution to fund this new plan. The plan will provide indigent care services that include primary and preventive care, as well as hospital care.

This bill has no fiscal impact on state government. The impact of the bill on the affected local government is unclear. It requires the county to establish a plan for providing indigent health care services to eligible county residents. The bill reallocates a portion of the county contribution to pay for this new plan. It is unclear if this source will provide sufficient funds to implement all of the provisions contained in the committee substitute.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Any county, as defined in s. 125.011(1), F.S., is authorized pursuant to s. 212.055(5), F.S., to levy a 0.5% county public hospital surtax. Dade County is the only county that meets the definition of a "county" pursuant to s. 125.011(1), F.S. Section 212.055(5), F.S., provides that the surtax may be enacted either by an extraordinary vote of the county's governing body or voter approval in a countywide referendum.

Section 212.055(5)(c), F.S., requires the proceeds from this surtax be deposited in a special fund, set aside from all other funds and used solely for the operation, administration, and maintenance of the county public general hospital. Section 212.055(5)(d) requires the county to contribute at least 80% of that percentage of the total county budget appropriated for the operation, administration, and maintenance of the county public hospital from the county's general revenues in the fiscal year ending September 30, 1991.

A county public general hospital is a general hospital as defined in s. 395.002, F.S., that is owned, operated, maintained, or governed by the county, or its agency, authority, or public health trust. In Dade County, there is one county general public hospital, which is governed by a public health trust; that hospital is Jackson Memorial Hospital.

The legislation authorizing the surtax came about at the request of Jackson Memorial and the public health trust. Jackson Memorial was facing a growing financial crisis as its costs associated with providing indigent care services were ballooning. Jackson Memorial was seeking new sources of revenue to offset the burden placed on it due to a growing demand for services for indigent patients. On September 3, 1991, the citizens of Dade County approved the surtax to help pay for indigent care provided by Jackson Memorial to residents of Dade County. Since that time, Jackson Memorial has used this revenue source to offset its indigent care costs.

Pursuant to the approved 1999-00 budget, Dade County appropriated \$87.4 million to the Public Health Trust (PHT) to satisfy its statutory obligation. The PHT received an

additional \$120 million from the 0.5% sales tax. These dollars are required by statute to be used to fund the county public general hospital.

C. EFFECT OF PROPOSED CHANGES:

The bill reallocates the contribution a county currently is required to contribute under the County Public Hospital Surtax. It requires that 35% of the funds be remitted to a public health authority. The remaining 65% of the proceeds will continue to be remitted to the public health trust that runs Jackson Memorial Hospital.

The bill requires the public health authority to develop and implement a health care plan for indigent health care services. The authority will use its share of the surtax proceeds to fund the indigent health care services plan. The plan must provide primary and preventive health care services, as well as hospital services to the indigent and medically poor in Dade County.

The authority is required to develop reimbursement methodologies to be used by the county when contracting with providers for indigent health care services. These methodologies will:

- consider the cost of services rendered to eligible patients;
- recognize hospitals that provide a disproportionate share of indigent services;
- provide incentives to promote the delivery of charity care, in order to draw down federal funding where appropriate; and
- require cost containment measures, including case management.

The plan must require any hospital owned or operated by government entities on or after the effective date of the bill that wishes to receive funds through this plan to grant public access to all board meetings relating to budgeting for the retention of charity care.

The benefits of the new plan will be made available to all county residents eligible to receive health care services as indigent or medically poor as defined in s. 212.055(4)(d), F.S.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends paragraph (d) of subsection (5) of s. 212.055, F.S., to revise the manner in which counties authorized to levy the county public hospital surtax must distribute the required county contribution. A new paragraph (e) is added to require the establishment of a public health authority that will create and implement a plan for providing health care services to indigent residents of such counties. Current paragraph (e) is redesignated paragraph (f).

Section 2. Provides an effective date of July 1, 2000.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See fiscal comments section.

2. Expenditures:

See fiscal comments section.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

It is unclear what impact this bill will have on the private sector.

D. FISCAL COMMENTS:

This bill has no fiscal impact on state government. The impact of the bill on the affected local government is unclear. It requires the county to establish a plan for providing indigent health care services to eligible county residents. The bill reallocates a portion of the county's required contribution to pay for this new plan. It is unclear if this will provide sufficient funds to implement all of the provisions contained in the committee substitute.

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 expend funds or take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

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

This bill does not reduce the percentage of state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

Committee on Community Affairs

On page 2, lines 20-23, this bill adds new language to s. 212.055(5)(d), F.S., stating:

Any county as defined in s. 125.011(1) that has a population of at least 1.8 million residents shall distribute the funds defined in this paragraph in the following manner:

The remainder of the bill's provisions apply only to counties meeting the above classification.

This classification appears to be unnecessary, and may subject the act to unnecessary constitutional scrutiny. Currently, s. 212.055(5), F.S., only applies to counties as defined in s. 125.011(1), F.S. As noted in the "Present Situation," s. 125.011(1), F.S., refers to counties which operate "under a home rule charter adopted pursuant to ss. 10, 11 and 24 of Art. VIII of the Constitution of 1885, as preserved by Art. VIII, S. 6(e) of the Constitution of 1968." Dade, Hillsborough, and Monroe Counties potentially meet this definition, but only Dade County has adopted a home rule charter pursuant to the stated constitutional provisions. As a result, the classification added by this bill is unnecessary since both the current s. 212.055(5), F.S., and the classification added by the bill both refer only to Dade County.

As noted, in addition to being redundant, the new classification may subject the act to unnecessary constitutional scrutiny since it is based on population. So-called "population acts" -- general laws that use population to define the geographic areas affected -- are often regarded as being subject to constitutional challenge that they are in fact special laws subject to the advertisement or referendum requirements of Section 10 of Article III of the Florida Constitution.

The Florida Supreme Court has declared that "Every law is general which includes in its provisions all persons or things of the same genus." *McConiche v. State*, 17 Fla. 238 (1879). A general law of local application is a general law which, by its nature, has application only to a portion of the state. A statute relating to regions of the state or to subjects or to persons or things as a class, based upon proper distinctions and differences that are peculiar or appropriate to the class, is a general law of local application. Such laws, unlike special acts, do not have to be advertised or made subject to a referendum as required by section 10 of Article III of the Florida Constitution. However a general law of local application may not depend on an arbitrary basis. Section 11(b) of Article III of the Florida Constitution provides in part:

In the enactment of general laws . . . political subdivisions or other governmental entities may be classified only on a basis reasonably related to the subject of the law.

Laws which arbitrarily affect one subdivision of the state, but which fail to encompass other similarly situated subdivisions, are classified as special laws. *Department of Business Regulation v. Classic Mile, Inc.* 541 So. 2d 1155 (Fla. 1989).

In *Dade County v. City of North Miami Beach*, 109 So.2d 362 (Fla. 1959), the Florida Supreme Court summarized its previous decisions regarding so-called population bills as follows:

The rule of our decisions simply has been that where there is a substantial difference in population, and a statutory classification on a population basis is reasonably related to the purposes to be effected by the act and is grounded on such difference in population and not on mere arbitrary lines of demarcation, the subject statute will be considered a general law even though at the time of its enactment it may be applicable to only one political subdivision of the state. We think this rule has particular reference to statutes classifying counties on a basis of minimum population limits but without limit as to the maximum.

B. RULE-MAKING AUTHORITY:

This bill does not necessitate additional rule making authority.

C. OTHER COMMENTS:

According to Jackson Memorial officials, in the late 1980's the hospital became unable to sustain its capital needs as a result of tremendous growth in the amount of indigent care services provided by the hospital. The PHT, in concert with the hospital sought a way to offset these increasing costs. This led to the establishment of the county public hospital surtax. The citizens of Dade county approved this surtax in 1991. The new dollars were intended to directly offset the cost of providing indigent care services at Jackson Memorial Hospital.

Various sources indicate that Jackson Memorial provides between 70% and 84% of the indigent care services in Dade County. Other area hospitals have been forced to take on a growing role in caring for the indigent, due to changes in federal regulations. They contend that it is unfair for Jackson Memorial to receive 100% of the funds created in 1991 to offset indigent care, when Jackson Memorial does not provide 100% of the indigent care services in Dade County.

Committee on Health Care Licensing & Regulation

The committee substitute is not clear as to how the public health authority is to be created. It does not indicate how many members are to serve as part of the authority, nor does it indicate how membership in the public health authority is to be determined.

The committee substitute provides that 35% of the county's contribution will be remitted to the public health authority. It is not clear whether this will be sufficient to cover the costs for the indigent health care services to be provided through the plan that the public health authority will administer.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 8, 2000, the committee on Health Care Licensing & Regulation adopted a strike-everything amendment to HB 71. The bill, as amended, was adopted as a committee substitute.

The original bill eliminated the provision that *requires* counties authorized to levy the county public hospital surtax to contribute at least 80% of the base year percentage of the county budget appropriated for the operation, administration, and maintenance of the county public hospital.

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It provided *discretion* to such counties to appropriate annually less than 80% of the percentage of the total county budget appropriated for the operation, administration, and maintenance of the county public hospital.

The committee substitute does not change the percentage contribution that counties authorized to levy the surtax must appropriate. Rather, it changes the distribution of the county's contribution. Also, it provides that the counties levying this surtax must establish an independent public health authority that will develop and implement a county-wide plan for providing indigent health care services.

VII. SIGNATURES:

COMMITTEE ON HEALTH CARE LICENSING & REGULATION:

Prepared by:

Staff Director:

Andrew "Andy" Palmer

Lucretia Shaw Collins

AS REVISED BY THE COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

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