

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/CS/CS/SB 802

SPONSOR: Fiscal Resource Committee; Health, Aging and Long-Term Care Committee; Comprehensive Planning, Local and Military Affairs Committee; Senators Saunders and Silver

SUBJECT: County public hospital surtax

DATE: April 26, 2000 **REVISED:**

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bowman</u>	<u>Yeatman</u>	<u>CA</u>	<u>Favorable/CS</u>
2.	<u>Munroe</u>	<u>Wilson</u>	<u>HC</u>	<u>Favorable/CS</u>
3.	<u>Keating</u>	<u>Wood</u>	<u>FR</u>	<u>Favorable/CS</u>
4.	<u> </u>	<u> </u>	<u> </u>	<u> </u>
5.	<u> </u>	<u> </u>	<u> </u>	<u> </u>

I. Summary:

The Committee Substitute for Committee Substitute for Senate Bill 802 (CS) revises the requirements of the indigent health surtax to also fund a trauma center and directs the clerk of the court of the county with a population of at least 800,000 residents that has levied the indigent care surtax to annually disburse \$6.5 million to fund a hospital in the county’s jurisdiction that has a Level I trauma center or to annually disburse \$3.5 million to fund a hospital in the county’s jurisdiction that has a Level I trauma center if that county enacts a hospital lien law in accordance with ch. 98-499, L.O.F. If the hospital receiving funds for its Level I trauma center status requests such funds to be used to generate federal matching funds under Medicaid, the clerk of the court shall instead issue a check to the AHCA to accomplish that purpose.

The CS requires Miami-Dade County, as a condition of levying the half-cent County Public Hospital Surtax, to reallocate 35% of the funds which the county must budget for the operation, maintenance, and administration of the county public general hospital, Jackson Memorial Hospital, to a separate governing board, agency, or authority to be established to provide indigent care to the residents of Miami-Dade County. The Miami-Dade County Commission must charter a governing board, agency, or authority upon the CS becoming law, and certain funds allocated for the authority must be placed in a restricted account pending the creation of the authority. The CS provides conditions of appointment of the members of the governing board, agency, or authority responsible for adopting and implementing the indigent health care services plan. The independent entity receiving the 35% allocation must prepare and adopt a plan for providing indigent health care services in Miami-Dade County. The plan must divide the county into 4-6 service areas and the county general hospital shall be designated as the provider for one of the service areas. The plan must also provide for a children’s pediatric hospital to provide services on a county-wide basis.

In addition, the bill requires service providers to receive reimbursements, on a fee-for-service basis at a rate, not to exceed the rate for Medicaid, for the initial emergency room visit and a per member per month fee for those members enrolled in their service area as compensation for services rendered following the initial emergency visit.

This CS amends s. 212.055, Florida Statutes.

II. Present Situation:

Indigent Care Surtax

Under s. 212.055(4), F.S., the governing body in each county the government of which is not consolidated with that of one or more municipalities, which has a population of at least 800,000 residents and is not authorized to levy a county public hospital surtax or a school capital outlay surtax under subsections (5) or (6) of s. 212.055, F.S., may levy a discretionary sales surtax at a rate that may not exceed 0.5 percent. The surtax may be levied pursuant to the passage of an ordinance either approved by an extraordinary vote of the governing body or conditioned to take effect only upon approval by a majority vote of the electors of the county voting in a referendum. The proceeds of the surtax must fund the provision of a broad range of health care services for both indigent persons and the medically poor who are residents of the county, including but not limited to, primary care and preventive care as well as hospital care established under a plan. The indigent health care plan must emphasize a continuity of care in the most cost-effective setting, taking into account both a high quality of care and geographic access. The plan must provide that agreements negotiated between the county and providers will include reimbursement methodologies that: take into account the cost of services rendered to eligible patients; recognize hospitals that render a disproportionate share of indigent care; provide other incentives to promote the delivery of charity care; and require cost containment.

Hillsborough County Lien Authority

Chapter 98-499, Laws of Florida, (a special law limited to Hillsborough County) authorizes the Hillsborough County Commission to adopt an ordinance for liens in favor of all operators of hospitals in Hillsborough County and in favor of Hillsborough County, when the county pays for medical care, treatment, or maintenance of qualifying residents of the county, upon all causes of action which the injured person or his legal representative may assert, as well as the proceeds of any settlements or judgments arising from the cause of action that required hospitalization and medical treatment. The county ordinance may provide for the attachment, perfection priority, and enforcement of such liens and for necessary and appropriate procedures to carry out the purposes of the ordinance. Any ordinance adopted by Hillsborough County under this act must grant identical remedies to every hospital operating in the county and to the County Indigent Health Care Plan. Specific Appropriation Category 217 in the Senate 2000 General Appropriations Act (Senate Bill 2200 1st Eng.) contains proviso language which provides that no Disproportionate Share Program payments shall be made to Tampa General Hospital after September 30, 2000, unless documentation is provided to the Agency for Health Care Administration that a \$6 million payment was made by Hillsborough County to Tampa General Hospital, or a \$3 million payment was made by Hillsborough County to Tampa General Hospital in conjunction with the passage of an ordinance that implements a hospital lien law in accordance with ch. 98-499, L.O.F.

County Public Hospital Surtax

Any county as defined by s. 125.011(1), F.S., (refers to any county operating under a home rule charter adopted under ss. 10, 11 and 24, Article VIII of the Constitution of 1885--Miami-Dade County being the only county to meet the definition) is authorized, pursuant to s. 212.055(5), F.S., to levy a 0.5 percent sales surtax, the proceeds of which are to be used to supplement the operation, maintenance, and administration of the county public general hospital.

The surtax may be enacted either by an extraordinary vote of the county's governing body or voter approval in a county wide referendum. In addition, the surtax is subject to a rate limitation which states that a county shall not levy the following discretionary sales surtaxes (Local Government Infrastructure Surtax, Small County Surtax, Indigent Care Surtax, and County Public Hospital Surtax) in excess of a combined rate of 1 percent.

Miami-Dade County is required to contribute each year at least 80 percent of that percentage of the 1990-91 fiscal year county budget appropriated for the operation, administration, and maintenance of the county public general hospital. This required "maintenance of effort" by the Miami-Dade County Commission is equal to approximately \$89 million for fiscal year 1999-00. The term "county public general hospital" means a general hospital, as defined in s. 395.002, F.S., which is owned, operated, maintained, or governed by the county or its agency, authority, or public health trust.

The proceeds of the surtax must be deposited by the county into a special fund, set aside from other county funds, to be used only for the operation, maintenance, and administration of the county public general hospital. The funds must be remitted promptly by the county to the agency, authority, or public health trust created by law which administers or operates the county public general hospital.

Miami-Dade County is the only county eligible to levy the surtax. The county is levying the surtax at the maximum rate of 0.5 percent. For fiscal year 1999-2000, the surtax is estimated to generate revenue of \$127,918,846 to fund the operation of Jackson Memorial Hospital through the Public Health Trust. In addition to this revenue, the Miami-Dade County Commission's required maintenance of effort budget for fiscal year 1999-2000 is approximately \$89 million.

According to Ira C. Clark, the President and Chief Executive Officer of Jackson Memorial Hospital, while the county's maintenance of effort funding originally was spent on direct hospital and outpatient services when the surtax was enacted in 1991, "today's maintenance effort dollars are spent substantially on non-hospital services such as corrections health care, and nursing home care." This shift largely occurred after the Dade County Attorney's Office opined that the Miami-Dade County Commission could use "maintenance of effort" budget to fund certain health services such as corrections health care and nursing home care that the Public Health Trust was given the authority to fund but which are not traditional functions of Jackson Memorial Hospital.

The Public Health Trust of Miami-Dade County was created in 1973 by the Dade County Board of County Commissioners as an independent governing body for Jackson Memorial Hospital. Since its creation, the Trust has assumed responsibility for Corrections Health Care Services, two-county owned nursing homes, several community-based primary care centers and a number of

high-school-based health clinics. The board of trustees of the Trust consists of 21 members and establishes priorities, sets policies and ratifies management recommendations regarding Jackson Memorial Hospital.

Jackson Memorial Hospital has traditionally been the provider of health care to indigent persons in Miami-Dade County. According to the Agency for Health Care Administration, in 1998 Jackson Memorial Hospital provided 86% of the indigent care provided by hospitals in Miami-Dade County.

III. Effect of Proposed Changes:

The CS revises s. 212.055(4), F.S., which authorize a governing body in each county the government of which is not consolidated with that of one or more municipalities, which has a population of at least 800,000 residents to levy a discretionary sales surtax at a rate that may not exceed 0.5 percent which must be used to fund an indigent health plan. The name of the surtax is changed to the "Indigent Care and Trauma Center Surtax." The CS expands the plan funded by the surtax to also require the funding of a trauma center with the proceeds of the surtax. The CS requires the clerk of the court in a county that has levied the indigent health and trauma center surtax to annually issue a check in the amount of \$6.5 million on October 1st to a hospital in its jurisdiction that has a Level I trauma center. As an alternative under the CS, the clerk of the court of that county may issue a check in the amount of \$3.5 million to a hospital in its jurisdiction that has a Level I trauma center hospital, if that county enacts and implements a hospital lien law in accordance with ch. 98-499, L.O.F., a special law limited to Hillsborough County. The issuance of the checks on October 1 of each year is provided in recognition of the Level I trauma center status and must be in addition to the base contract amount of surtax monies received during fiscal year 1999-2000 and any additional amount negotiated to the base contract. If the hospital receiving funds for its Level I trauma center status requests such funds to be used to generate federal matching funds under Medicaid, the clerk of the court shall instead issue a check to the AHCA to accomplish that purpose.

The CS amends s. 212.055(5), F.S., relating to the county public hospital surtax in Miami-Dade County. It does not change the allocation of the proceeds of the County Public Hospital Surtax under which 100% of the proceeds are used exclusively for the operation, maintenance, and administration of the county public general hospital. However, the CS reallocates the "maintenance of effort" funding which the Miami-Dade County Commission must budget each year as a prerequisite to collecting the surtax. The CS would require that rather than 100% of these funds being remitted to the entity responsible for the county public general hospital, the percentage received for the county public general hospital would be reduced to 65%. The CS requires the remaining 35% to be remitted to a governing board, agency, or authority that is independent from the public health trust, agency, or authority responsible for the county public general hospital. The CS specifies conditions for appointment of the members of the governing board, agency, or authority. The governing board, agency, or authority must consist of no more than seven and no fewer than five members appointed by the county commission. No member may be employed by or affiliated with a health care provider or the public health trust, agency, or authority responsible for the county public general hospital. Hence, approximately \$31 million (based on the 1999-00 maintenance of effort budget of \$89,059,000 million) would be redirected from the Public Health Trust to a governing board, agency, or authority, chartered by the county

commission upon this act becoming law (July 1, 2000), for the provision of indigent health care services. As of July 1, 2000, the Miami-Dade County Commission may not direct the public health trust, agency or authority responsible for the county public general hospital to assume or revise the budget of the county public general hospital to include financial responsibilities for any programs unrelated to the operation, maintenance, or administration of the county public general hospital or in any manner divert funds from the hospital's operation, administration, or maintenance.

The governing board, agency, or authority receiving the 35 percent allocation of the "maintenance of effort" funding is required to adopt and implement a health care plan for the provision of indigent health care services. The plan must include:

- A method to fund health care services for the indigent and medically poor. These services must include preventive care, indigent care and hospital care, including hospital care necessary to stabilize the patient.
- The provision of services by physicians, clinics, community hospitals, mental health centers, alternative delivery sites, and at least one regional referral hospital, where appropriate.
- Reimbursement methodologies that address: the cost of services rendered to eligible patients; which hospitals render a disproportionate share of indigent care; incentives to promote the delivery of charity care to draw down federal funds where appropriate; and cost containment. Service providers will receive a per member per month fee or capitation for those members enrolled in their service area as compensation for the services rendered.
- A requirement that, as a condition of using the allocation, a hospital owned and operated by a government entity must conduct its governing board meetings, where the subject of the meeting is budgeting resources for charity care, as provided by s. 286.011, F.S. (open meetings requirement).
- Innovative health care programs that provide cost-effective alternatives to traditional methods of service and delivery funding.
- A children's pediatric hospital to provide services on a county-wide basis.
- Post-stabilization services to be provided to all plan members by the county public general hospital and if such services cannot be provided by the county public general hospital a mechanism is established which requires the public health trust, agency, or authority responsible for the county public hospital to compensate any participant hospital for the provision of post stabilization services at rate not to exceed the federal Medicaid rate.

In addition, the bill requires service providers to receive reimbursements, on a fee-for-service basis at a rate, not to exceed the rate for Medicaid, for the initial emergency room visit and a per member per month fee for those members enrolled in their service area as compensation for services rendered following the initial emergency visit.

In addition, the benefits of the plan must be made available to all Miami-Dade County residents currently eligible to receive health care services as indigents or medically poor. Residents who participate in the plan must receive coverage for a 12 month period, or the period extending from the time of enrollment to the end of the current fiscal year, whichever is less.

To date, no authority independent of the Public Health Trust that operates Jackson Memorial Hospital has been created to provide indigent care to Miami-Dade County residents, nor has a health plan been created that meets the specifications required by the CS.

The effective date of the CS is July 1, 2000.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The CS requires hospitals owned and operated by government entities in Miami-Dade County that receive surtax proceeds to provide public access to any meeting of the governing board that considers the budgeting of resources for the retention of charity care.

C. Trust Funds Restrictions:

The bill provides for an independent authority chartered by the Miami-Dade County Commission to receive the reallocated 35% of "maintenance of effort" funding to be placed in a restricted account set aside from other county funds and not to be disbursed by the county for any other purpose. To the extent that this requirement creates a trust fund in a local government entity (*a public body*), it raises constitutional issues regarding the creation of trust funds by the Legislature. Article III, Section 19 of the State Constitution provides that no trust fund of the State of Florida or *other public body* may be created by law without a three-fifths vote of the membership of each house of the legislature in a separate bill for that purpose only.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

To the extent any alternative method of providing indigent care involves contracts with private sector hospitals and health care providers, the private sector might benefit from the CS.

C. Government Sector Impact:

The CS requires the Miami-Dade County Commission to redirect approximately \$31 million of “maintenance of effort” money from the Public Health Trust to some independent public entity to be created for the provision of indigent health care services.

The CS directs a clerk of the court of the county with a population of at least 800,000 residents and that has levied the indigent care surtax to annually disburse \$6 million to fund a hospital in the county’s jurisdiction that has a Level I trauma center or to annually disburse \$3 million to fund a hospital in the county’s jurisdiction that has a Level I trauma center if that county enacts a hospital lien law in accordance with ch. 98-499, L.O.F.

VI. Technical Deficiencies:

The CS does not require the independent authority which is to receive the reallocated 35% of “maintenance of effort” funding to be created by a date certain. The CS requires a governing board, agency, or authority to be chartered by the county commission upon this act becoming a law. The bill provides an effective date of July 1, 2000, therefore the earliest date that this provision may take effect is July 1, 2000.

The bill does not provide a definition for Level I trauma center. Section 395.401, F.S., defines “Level I trauma center” to mean a hospital that is determined by the Department of Health to be in substantial compliance with trauma center and pediatric trauma referral center verification standards as established by rule of the department, and which: has formal research and education programs for the enhancement of trauma care; serves as a resource facility to Level II trauma centers, pediatric trauma referral centers, and community hospitals; and ensures an organized system of trauma care.

On page 9, line 18, the bill refers to the “federal Medicaid rate.” Medicaid rates are set by the state, not the federal government. The federal government establishes Medicare rates. It is unclear whether the rate should be the rate established under Medicaid or Medicare.

VII. Related Issues:

Through its home rule charter adopted pursuant to Article VIII, Section 11 of the Constitution of 1885, as amended, Miami-Dade County has the authority to create an alternative authority or agency for providing indigent health care without general or special law authorization from the Florida Legislature.

The Hillsborough County Home Rule Charter took effect May 1985 and provides for local self-determination and grants all powers of a chartered county under Section I, Article VIII, Florida Constitution, 1968, as amended. One of the features of the Hillsborough County charter as described in “Home Rule Charter for Hillsborough County Florida, Approved by Hillsborough County Voters, September, 1983,” is:

Special laws enacted by the Florida Legislature may be effective in Hillsborough County without approval by County electors if they relate to the following: civil service, aviation, the port, sports, transportation, **hospitals**, planning, environment, solid waste management, consumer affairs, resource recovery, criminal justice, historic preservation, and the arts. [Emphasis added.]

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
