

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 1286

SPONSOR: Children and Families Committee and Senator King

SUBJECT: Lawton Chiles Endowment Fund

DATE: April 5, 2001 REVISED: 4/10/01 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Barnes</u>	<u>Whiddon</u>	<u>CF</u>	<u>Favorable/CS</u>
2.	<u>Thomas</u>	<u>Wilson</u>	<u>HC</u>	<u>Fav/1 amendment</u>
3.	_____	_____	<u>AHS</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Committee Substitute for Senate Bill 1286 restructures the current allocation of funds distributed from the Lawton Chiles Endowment Fund for community-based health and human services initiatives for children and elders, and biomedical research. The bill “carves out” of the principal appropriated to the endowment an annual and perpetual source of funding for biomedical research of diseases related to tobacco use, including cancer, heart disease and lung disease.

The endowment is to receive funding of \$200 million annually for fiscal years 2001-2002 and 2002-2003. Beginning in fiscal year 2001-2002, \$150 million of the existing principal in the endowment must be reserved and accounted for solely as funding for biomedical research activities, with 5 percent of the cash flow reinvested to adjust the base for inflation. The remaining principal in the endowment is to be used to fund health and human services programs for children and elders. When a cure has been found for tobacco-related cancer, heart disease and lung disease, the dedicated biomedical research funding must be discontinued and the entire principal in the endowment used exclusively for health and human services programs.

The Legislature must establish dedicated line item categories for the agencies receiving funds and funds distributed from the endowment may not be used to supplant existing revenues. The Governor is required to develop a plan of action to address any fund deficits in accordance with initial legislative intent.

A 16-member Lawton Chiles Endowment Fund Advisory Council is created in the State Board of Administration with specified representatives to evaluate funding priorities, to replace the two current councils housed in the Departments of Children and Family Services and Elderly Affairs. The Departments of Health, Children and Family Services, and Elderly Affairs must make recommendations for program and funding priorities to the council and the council must in turn

make recommendations as to such priorities to the Legislature. The bill requires the Biomedical Research Advisory Council to report annually as to the progress made in the prevention and diagnosis of diseases related to tobacco use. Council members serve without compensation, but may be reimbursed for council-related expenses.

This bill provides an appropriation of \$25,000 each to the Department of Children and Family Services and the Department of Elderly Affairs, from each department's Tobacco Settlement Trust Fund, to pay administrative costs associated with the Lawton Chiles Endowment Fund Advisory Council.

This bill amends sections 17.41, 20.435, 215.5601 and 215.5602 of the Florida Statutes.

II. Present Situation:

Chapter 99-167, Laws of Florida, provided for the creation of the Lawton Chiles Endowment Fund at s. 215.5601, F.S. The fund finances community-based health and human services for children and elders and pays for a biomedical research program addressing the tobacco-related diseases of cancer, cardiovascular disease, stroke and pulmonary disease. The intent of the fund is to provide a perpetual source of funding for the focus areas of children's health programs, child welfare, community-based health and human service initiatives and biomedical research into diseases linked to tobacco use. The fund is administered by the State Board of Administration and funded by settlement moneys received from the tobacco industry.

Section 215.5601(9), F.S., establishes the 13-member Lawton Chiles Endowment Fund Advisory Council for Children within the Department of Children and Family Services, and the 13-member Lawton Chiles Endowment Fund Advisory Council for Elders within the Department of Elderly Affairs. These advisory councils provide the Legislature with a ranking of children's programs and elder programs submitted by the departments to the councils for evaluation. The advisory council members serve without compensation but may receive reimbursement for travel and other necessary expenses incurred in the performance of their official duties.

The secretaries of Health, Children and Family Services, and Health Care Administration develop a list of the top five funding priorities for children's services, and the secretaries of Health, Elderly Affairs and Health Care Administration develop a list of the top five priorities for programs for the elderly. These lists are submitted to the respective advisory councils by November 15 of each year. Distributed funds may not be used to supplant existing revenues. In the event a deficit is expected to arise in the fund, the Governor is required to develop a plan of action to eliminate the deficit, while adhering as much as possible to original legislative intent.

Section 215.5602, F.S., establishes the Florida Biomedical Research Program funded from earnings of the endowment fund and provides that funds appropriated to the program are devoted to competitive grants and fellowships in research relating to diagnosis and treatment of tobacco-related illnesses including cancer, cardiovascular disease, stroke and pulmonary disease. The Biomedical Research Advisory Council in the Department of Health assists the Secretary in establishing criteria and guidelines for the competitive grant programs. Grants and fellowships are awarded on the basis of scientific merit, as determined by an open, objective peer-review process. The council is required to submit an annual progress report to the Governor, Secretary

of the Department of Health, the President of the Senate, and the Speaker of the House of Representatives by February 1 of each year.

Chapter 2000-255, L.O.F., provided that the Lawton Chiles Endowment Fund distributions for health and human services and biomedical research for fiscal year 2000-2001 be specifically appropriated by the Legislature. In the following years, the distribution of the funds is to be: 50 percent to the Department of Children and Family Services; 33.5 percent to the Department of Health for biomedical research; and the remainder to the Department of Elderly Affairs. (see s. 215.5601(4)(b), F.S.) Each year, the Secretaries of Children and Family Services, Elderly Affairs, Health, and Health Care Administration are required to meet to establish funding priorities for the various focus areas.

The General Appropriations Act for 2000-2001 provided a \$2 million appropriation for the Biomedical Research Program.

III. Effect of Proposed Changes:

Section 1. Amends s. 17.41, F.S., to change a cite reference from s. 215.5601(4), F.S., to s. 215.5601, F.S.

Section 2. Amends s. 20.435, F.S., to change a cite reference from s. 215.5601(4), F.S., to s. 215.5601, F.S.

Section 3. Rewords s. 215.5601, F.S., relating to the Lawton Chiles Endowment Fund. The bill states that it is the intent of the Legislature that a perpetual source of enhanced funding be provided for state children's health programs, child welfare programs, children's community-based health and human services initiatives, elder programs and biomedical research activities related to tobacco use.

The Legislature intends that tobacco settlement monies ensure the financial security of vital health and human services programs for children and elders, to include: support of public-health and biomedical research for the prevention, diagnosis, and treatment of diseases related to tobacco use, including cancer, cardiovascular disease, stroke, and pulmonary disease; improvement of the state's academic health centers by bringing the advances of biomedical research into the training of physicians and other health care providers; and attracting additional funding from outside the state for matters related to biomedical research, such as research and production of pharmaceuticals, biotechnology and medical devices. The Legislature also seeks to encourage the development of community-based solutions to strengthen and improve the quality of life of children and elders, Florida's most vulnerable citizens.

The bill provides definitions for the terms "Board," "Endowment," "Earnings," and "State agency."

The bill provides that the Lawton Chiles Endowment Fund will be administered by the State Board of Administration. The endowment will serve as a clearing trust fund, not subject to termination under s. 19(f), Art. III of the Florida Constitution, and will be exempt from service charges imposed by s. 215.20, F.S.

The endowment will receive moneys from the sale of the state's right, title and interest in and to the tobacco settlement agreement as defined in s. 215.56005, F.S., and from tobacco settlement accounts established under s. 17.41, F.S., transferred from the Department of Banking and Finance. Annual amounts for transfer from the Tobacco Settlement Clearing Trust Fund to the endowment fund are specified as \$1.1 billion for fiscal year 1999-2000, and \$200 million in each fiscal year 2000-2001, 2001-2002 and 2002-2003.

The bill authorizes the annual amounts transferred from the trust to be adjusted to reflect the amount the endowment receives from the sale of the state's right, title and interest in and to the tobacco settlement agreement.

The bill provides that, beginning in fiscal year 2001-2002, \$150 million of the existing endowment principal will be reserved and accounted for within the endowment to be used solely as funding for biomedical research activities under s. 215.5602, F.S. The remaining principal will be used solely as funding for health and human services programs for children and elders as provided in s. 215.5601(5), F.S. The dedicated fund for biomedical research will be dissolved and the entire endowment principal will be used exclusively for health and human services programs when cures have been found for tobacco-related cancer, heart and lung disease.

The bill specifies provisions for the administration of the endowment:

- The board is authorized to invest and reinvest endowment funds as allowed by s. 215.47, F.S., consistent with a specific investment plan developed by the executive director and approved by the board, to include a schedule of annual cash outflow.
- The endowment is to be managed as an annuity, with an investment objective of long-term preservation of principal and a specified annual cash outflow. From the annual cash outflow, a pro rata share will be used solely for biomedical research activities as provided in s. 215.5601(3)(d), F.S., until such time as cures have been found for tobacco-related cancer, heart and lung disease. Annually, 5 percent of the cash flow from the portion of the endowment dedicated to biomedical research must be reinvested for future use within that portion of the endowment.
- The board is to report the financial status of the endowment in its annual report to the Legislature under s. 215.44, F.S.
- The board is accountable for endowment funds up to the point of distribution to the state agency, thereafter the state agency is responsible for proper appropriation.
- Board costs and fees for investment services will be deducted from the earnings accruing to the endowment, and investment services fees must be no greater than those charged to the Florida Retirement System.

The bill addresses availability of funds and uses of those funds, as follows:

- Funds from the endowment, which are available for legislative appropriation, will be transferred by the board to the Tobacco Settlement Clearing Trust Fund as created under s. 17.41, F.S., and disbursed in accordance with legislative appropriation.

- Appropriations to the Department of Health’s Biomedical Research Trust Fund as established by s. 20.435, F.S., shall be from a category called the Biomedical Research Program.
- Appropriations to the respective Tobacco Settlement Trust Funds of the Department of Children and Family Services, Department of Health and the Department of Elderly Affairs for health and human services programs shall be from a category called the Lawton Chiles Endowment Fund Programs.
- The Legislature must establish line item categories for the state agencies’ appropriations to ensure that the funds from the Lawton Chiles Endowment Fund be used for the purposes intended by the Legislature.
- The secretaries of the state agencies are to meet to gain consensus on priorities and recommended funding from the endowment fund for health and human services programs for children and elders prior to submitting legislative budget requests, and to submit these recommendations to the Lawton Chiles Endowment Fund Advisory Council each year by September 1.
- Subject to legislative appropriations, state agencies must use endowment distributions to enhance or support health and human services, as measured in number of clients served or by cost increases, but the funds may not be used to supplant existing revenues.
- Unencumbered or undisbursed balances revert to the endowment fund under s. 216.351, F.S., as of June 30, or December 31, respectively, notwithstanding s. 216.301, F.S. Biomedical research funds that are unencumbered or undisbursed revert to the principal reserved for biomedical research activities.
- The Governor is directed to develop a plan of action in compliance with s. 216.177(2), F.S., should the Revenue Estimating Conference project a deficit in the tobacco settlement trust funds of the respective state agencies in any fiscal year. The plan must preserve original legislative intent and reductions in appropriations must be prorated among the funded purposes, absent specific directions to the contrary in the General Appropriations Act.

The bill establishes the Lawton Chiles Endowment Fund Advisory Council to review and evaluate the applicable funding priorities of state agencies and to allow for public input and advocacy.¹ The 16 members of the council are as specified:

- The director of the United Way of Florida, Inc., or a designee;
- The director of the Foster Parents Association, or a designee;
- The chair of the Department of Elderly Affairs Advisory Council, or a designee;
- The president of the Florida Association of Area Agencies on Aging, or a designee;
- The state Long-Term Care Ombudsman, or a designee;
- The state director of Florida AARP, or a designee;
- The chair of the Elder Law Section of the Florida Bar, or a designee;
- The director of the Florida Pediatric Society, or a designee;
- A representative of the Guardian Ad Litem Program, appointed by the Governor;

¹ The 13-member Lawton Chiles Endowment Fund Advisory Council for Children within the Department of Children and Family Services, and the 13-member Lawton Chiles Endowment Fund Advisory Council for Elders within the Department of Elderly Affairs, established by s. 215.5601(9), F.S., are eliminated.

- A representative of a child welfare lead agency for community-based care, appointed by the Governor;
- A representative of an elder care lead agency for community-based care, appointed by the Governor;
- A representative of a statewide child advocacy organization, appointed by the Governor;
- One consumer caregiver for children, appointed by the Governor;
- One person over the age of 60 representing interests of elders, appointed by the Governor;
- One person under the age of 18 representing interests of children, appointed by the Governor; and
- One consumer caregiver for a functionally impaired elderly person, appointed by the Governor.

The responsibilities of the council include the following:

- Make specific recommendations to the Legislature regarding the endowment priorities annually by November 1;
- Evaluate the value of programs and services proposed to children and elders;
- Develop criteria and principles for ranking agency priorities;
- Provide recommendations for funding levels for prioritized programs;
- Participate in periodic evaluation of funded programs to determine need for continued funding; and
- Solicit input from child and elder advocacy organizations, stakeholders, providers and the public with respect to statewide child and elder needs and the effectiveness of programs.

Council members are not to be compensated, but may receive travel reimbursement as provided in s. 112.061, F.S. The Department of Children and Family Services must provide staff and other administrative assistance to the council, and administrative costs of the council are to be charged equally to endowment funds of the Department of Children and Family Services and the Department of Elderly Affairs.

Section 4. Amends s. 215.5602, F.S., to change a cite reference from s. 215.5601(4), F.S., to 215.5601, F.S. The bill specifies that the purpose of the Florida Biomedical Research Program is to provide an annual and perpetual source of funding to address public health and tobacco-related diseases. The bill specifies that in the Biomedical Research Advisory Council's annual report to the Governor, Secretary of Health, President of the Senate and Speaker of the House of Representatives, must report on the progress in prevention, diagnosis and treatment of tobacco-related diseases.

Section 5. The bill provides an appropriation of \$25,000 each to the Department of Children and Family Services and the Department of Elderly Affairs to pay administrative costs associated with the Lawton Chiles Endowment Fund Advisory Council, to be made from each department's Tobacco Settlement Trust Fund.

Section 6. The bill, should it become law, will take effect July 1, 2001.

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 Art. VII, s. 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Art. I, s. 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Art. III, s. 19(f) of the Florida Constitution.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

To the extent that biomedical research is conducted in the private sector, that sector will benefit from enhanced funding. The private sector will also benefit from the spin-off effect of enhanced university-related biomedical research.

C. Government Sector Impact:

The bill provides an appropriation of \$25,000 to the Department of Children and Family Services and an appropriation of \$25,000 to the Department of Elderly Affairs to pay administrative costs associated with the Lawton Chiles Endowment Fund Advisory Council. The appropriations are made from each department's Tobacco Settlement Trust Fund.

According to the Department of Health, no start-up or nonrecurring costs will occur because the program is currently being funded for its first year of operation by a one-time \$2 million appropriation. The \$150 million in dedicated funding proposed in the bill, with an annualized return of approximately 4.5 percent, is expected to yield a net trust fund income of \$6.75 million for biomedical research in fiscal year 2001-2002 and beyond. The State Board of Administration concurs with the Department of Health estimate of trust fund income that would be generated from the designated \$150 million.

The Department of Elderly Affairs states that the bill does not specify an allocation of earnings to the Department of Children and Family Services or the Department of Elderly Affairs, either by percentage or amount. The remaining principal must be used solely as the source of funding for health and human services programs for children and elders utilizing

appropriations by the Legislature to the Department of Children and Family Services or the Department of Elderly Affairs.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Health, Aging and Long-Term Care:

Provides that the \$150 million reserved for funding solely biomedical research activities be only for the one fiscal year 2001-2002.

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