

# 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/SJR 2236

SPONSOR: Appropriations Subcommittee on Health and Human Services, Senators Burt and Rossin

SUBJECT: Constitutional Amendment for Lawton Chiles Endowment Fund

DATE: April 24, 2001                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Thomas</u>	<u>Wilson</u>	<u>HC</u>	<u>Favorable</u>
2.	<u>Peters</u>	<u>Belcher</u>	<u>AHS</u>	<u>Favorable/CS</u>
3.	_____	_____	<u>AP</u>	<u>Withdrawn: Fav/CS</u>
4.	_____	_____	<u>RC</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

The Committee Substitute for Senate Joint Resolution 2236 creates Article X, section 20 of the Florida Constitution providing for the creation of the Lawton Chiles Endowment Fund to provide for a perpetual source of funding for children’s health and child welfare programs, community-based health and human services, and biomedical research. The principal of the fund may not be appropriated except as provided by this section. The capital gains and investment income of the fund may be appropriated only in accordance with general law and by the Legislature in a separate act approved by a two-thirds vote of the membership of each house. The appropriation shall not supplant current state or federal funds. In the event of an emergency declared by the Legislature, no more than ten percent of the principal of the fund may be appropriated in any fiscal year for children’s health and child welfare programs, and community-based health and human services. Such appropriation must be by a two-thirds vote of the membership of each house. The term “emergency” is defined as a set of conditions which was unforeseen and which must be corrected to continue a government program, or an imminent threat to public health, safety or welfare related to children’s health programs, child welfare programs or community-based health and human services. The resolution provides ballot language for the proposed constitutional amendment.

This resolution creates Article X, section 20 of the Florida Constitution.

**II. Present Situation:**

*Constitutional Amendments*

Article XI, section 1 of the Florida Constitution provides that the Legislature may propose to amend the constitution by adopting a joint resolution agreed to by three-fifths of the membership

of each house of the Legislature. The wording of the substance of the amendment and the ballot title must be embodied in the joint resolution under s. 101.161(1), F.S. The Department of State must have printed and furnish to each supervisor of elections, copies of the amendment and the supervisor must conspicuously post such notices at each precinct on the day of the election under s. 101.171, F.S.

A legislatively proposed constitutional amendment is to be submitted to the vote of the electorate in clear and unambiguous language on the voting ballot under s. 101.161(1), F.S.<sup>1</sup> The ballot title and summary must advise the electorate of the true meaning of the proposal and give the voter fair notice of the decision he or she must make.<sup>2</sup> When petitioned to review a legislatively proposed constitutional amendment for propriety, the courts traditionally have accorded a measure of deference to the Legislature.<sup>3</sup> Unless ballot language is clearly and conclusively defective, it will typically be upheld upon judicial review.<sup>4</sup>

### ***Lawton Chiles Endowment Fund***

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.

Chapter 99-167, Laws of Florida, provided for the creation of the Lawton Chiles Endowment Fund at s. 215.5601, F.S. The money deposited into the fund is from the settlement of the tobacco lawsuit and the State Board of Administration administers the fund. 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.

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

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<sup>1</sup> *Armstrong v. Harris*, 25 Fla.L.Weekly S656 (Fla.2000).

<sup>2</sup> *Kainen v. Harris*, 25 Fla.L.Weekly S735 (Fla.2000); *Miami Dolphins, Ltd. v. Metropolitan Dade County*, 394 So.2d 981, 986 (Fla.1981); *Askew v. Firestone*, 421 So.2d 151, 156-57 (Fla.1982).

<sup>3</sup> *Armstrong v. Harris*, *supra*; *Gray v. Golden*, 89 So.2d 785, 790 (Fla.1956).

<sup>4</sup> *Kainen v. Harris*, *supra*; *Florida League of Cities v. Smith*, 607 So.2d 397, 399 (Fla.1992).

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 a 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:**

The Senate Joint Resolution creates Article X, section 20, Florida Constitution creating the Lawton Chiles Endowment Fund to provide for a perpetual source of funding for children's health programs, child welfare programs, community-based health and human services initiatives and biomedical research.

The principal of the fund, comprised of tobacco-settlement monies, may not be appropriated except as provided by this section. The capital gains and investment income of the fund may be appropriated in accordance with general law and must be approved by a two-thirds vote of the membership of each house. The appropriation shall not supplant current state or federal funds.

In the event of an emergency declared by the Legislature, no more than ten percent of the principal of the endowment fund may be appropriated in any fiscal year for children's health programs, child welfare programs and community-based health and human services. Such appropriation must be made by a two-thirds vote of the membership of each house.

The term "emergency" is defined as a set of unforeseen conditions which must be corrected in order to continue an operation of government, or a set of conditions which constitutes an imminent threat to public health, safety or welfare. The emergency must relate to the state

children's health programs, child welfare programs, or community-based health and human services.

The resolution provides ballot language for the proposed constitutional amendment.

**IV. Constitutional Issues:**

**A. Municipality/County Mandates Restrictions:**

The provisions of this resolution 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 resolution 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 resolution 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:**

None.

**C. Government Sector Impact:**

The Legislature's ability to utilize principal from the Lawton Chiles Endowment Fund is restricted to a maximum of ten percent per year, and for emergency purposes only.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.