

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: SB 66-E

SPONSOR: Senators Sullivan, King, and others

SUBJECT: Cigarette Taxes

DATE: May 2, 2002 REVISED: 05/07/02 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Keating</u>	<u>Johansen</u>	<u>FT</u>	<u>Withdrawn</u>
2.	<u>Peters</u>	<u>Belcher</u>	<u>HHS</u>	<u>Favorable/1 amendment</u>
3.	_____	_____	<u>AP</u>	<u>Withdrawn:Fav/1 am.</u>
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill specifies that, beginning July 1, 2002, and continuing through June 30, 2004, 0.2632 percent of net cigarette tax collections are to be paid monthly to the Board of Directors of the H. Lee Moffitt Cancer and Research Institute by warrant drawn by the Comptroller. This amount would be in addition to the 2.59 percent of net cigarette tax collections currently being paid to the H. Lee Moffitt Cancer and Research Institute.

The bill further specifies that, beginning July 1, 2004, and continuing through June 30, 2016, 1.47 percent of net cigarette tax collections are to be paid to the Board of Directors of the H. Lee Moffitt Cancer and Research Institute. These funds are to be appropriated monthly out of the Cigarette Tax Collection Trust Fund for use in financing the construction, furnishing and equipping of a cancer research facility at the University of South Florida. The bill provides that in fiscal years 2004-2005 and thereafter, the appropriation to the H. Lee Moffitt Cancer Center and Research Institute authorized by this bill must not be less than the amount paid to the center in fiscal year 2001-2002 if this new provision had been in effect. The bill also changes the requirement that the cigarette tax dollars pledged to the facility under s. 210.20, F.S., must be replaced with tobacco litigation settlement proceeds. The bill makes that optional.

This bill amends sections 210.20 and 210.201 of the Florida Statutes.

II. Present Situation:

Cigarette Tax Revenue

Florida began taxing cigarettes in 1943. Taxes must be paid by the wholesale dealer at the time of the first sale within the state. Under s. 210.02, F.S., cigarettes of common size are taxed at a

rate of \$0.339 per pack, with rates varying proportionately for cigarettes and packs of non-standard size.

Section 210.20, F.S., specifies the disposition of this tax revenue to require that: 7.3 percent of total collections is deducted for the General Revenue service charge under s. 215.20, F.S.; and an additional 0.9 percent of total collections is deducted to fund the administrative costs of the Division of Alcoholic Beverages and Tobacco within the Department of Business and Professional Regulation. Of the remaining cigarette tax revenue, distributions are made as follows: 2.9 percent to County Revenue Sharing; 29.3 percent to the Public Medical Assistance Trust Fund to fund indigent health care; 2.59 percent to the Board of Directors of the H. Lee Moffitt Cancer Center and Research Institute; and the remainder to the General Revenue Fund. Chapter 2000-355, Laws of Florida, eliminated the distribution from the cigarette tax to the Municipal Revenue Sharing Trust Fund and the Municipal Financial Assistance Trust Fund, thereby increasing the distribution to the General Revenue Fund. The loss of the cigarette tax revenues to the Municipal Revenue Sharing Trust Fund and the Municipal Financial Assistance Trust Fund was replaced by a sales and use tax distribution.

Section 210.20, F.S., provides for the Cigarette Tax Collection Trust Fund. The Division of Alcoholic Beverages and Tobacco within the Department of Business and Professional Regulation receives collections of cigarette tax and deposits the collections into the trust fund with a distribution outlined in s. 210.20, F.S. Beginning January 1, 1999, and continuing for 10 years thereafter, 2.59 percent of net cigarette tax collections are to be paid to the Board of Directors of the H. Lee Moffitt Cancer Center and Research Institute. These funds are appropriated monthly out of the Cigarette Tax Collection Trust Fund to be used for the purpose of constructing, furnishing, and equipping a cancer research facility at the University of South Florida adjacent to the H. Lee Moffitt Cancer Center and Research Institute.

Cigarette tax collections for fiscal year 2000-2001 were \$419,247,235 and are estimated to be \$421.7 million in fiscal year 2001-2002 through fiscal year 2003-2004. General Revenue allocations, excluding the service charge, for fiscal year 2000-2001 were \$249,951,903 and are estimated to be \$249.2 in fiscal year 2001-2002 through fiscal year 2003-2004.

The 2.59 percent of net cigarette tax collections generated to the H. Lee Moffitt Cancer Center and Research Institute, \$4.5 million in fiscal year 1998-1999, \$10,529,317 million in fiscal year 1999-2000, \$10,279,894 in fiscal year 2000-2001 and is estimated to generate to the Institute, \$10.2 million in fiscal year 2001-2002 through fiscal year 2003-2004. The General Appropriations Act for fiscal year 1999-2000 transferred \$15,000,000 from the Tobacco Settlement Trust Fund into the General Revenue Fund to replace cigarette tax revenues pledged to the H. Lee Moffitt Cancer Center and Research Institute for fiscal years 1998-1999 and 1999-2000.

University-Based Cancer Research

There are three university-based comprehensive cancer centers in Florida that conduct basic and clinical cancer-related research. The cancer centers include: the University of Florida Shands Cancer Center in Gainesville, the H. Lee Moffitt Cancer Center and Research Institute at the

University of South Florida in Tampa, and the Sylvester Comprehensive Cancer Center at the University of Miami in Miami.

The H. Lee Moffitt Cancer Center and Research Institute was established under s. 240.512, F.S., at the University of South Florida to provide research, education, treatment, prevention, and the early detection of cancer. The H. Lee Moffitt Cancer Center and Research Institute is currently the only National Cancer Institute-designated cancer center in Florida and a cancer research facility affiliated with the center is funded from proceeds of the cigarette tax. Section 210.201, F.S., requires the Board of Directors of the H. Lee Moffitt Cancer Center and Research Institute to construct, furnish, and equip and to covenant to complete, the cancer research facility at the University of South Florida adjacent to the center and research institute. Any cigarette tax dollars pledged to this facility must be replaced annually by the Legislature from tobacco litigation settlement proceeds. Section 210.20, F.S., also requires any moneys transferred to the Board of Directors of the center and research institute to be used to secure financing to pay costs related to constructing, furnishing, and equipping the cancer research facility.

III. Effect of Proposed Changes:

Section 1. Amends s. 210.20, F.S., to specify that beginning July 1, 2002, and continuing through June 30, 2004, 0.2632 percent of net cigarette tax collections are to be paid monthly to the Board of Directors of the H. Lee Moffitt Cancer and Research Institute by warrant drawn by the Comptroller. This amount would be in addition to the 2.59 percent of net cigarette tax collections currently being paid to the H. Lee Moffitt Cancer and Research Institute.

Section 210.20, F.S., is further amended to specify that, beginning July 1, 2004, and continuing through June 30, 2016, 1.47 percent of net cigarette tax collections are to be paid to the Board of Directors of the H. Lee Moffitt Cancer and Research Institute. These funds are to be appropriated monthly out of the Cigarette Tax Collection Trust Fund for use in financing the construction, furnishing and equipping of a cancer research facility at the University of South Florida. The bill provides that in fiscal years 2004-2005 and thereafter, the appropriation to the H. Lee Moffitt Cancer Center and Research Institute authorized by this bill must not be less than the amount paid to the center in fiscal year 2001-2002 if this new provision had been in effect.

Section 2. Amends s. 210.201, F.S., relating to the H. Lee Moffitt Cancer Center and Research Institute's establishment and funding, to clarify that the funding be used by the Board of Directors of the H. Lee Moffitt Cancer and Research Institute for financing the construction, furnishing and equipping of the cancer research facility from the Cigarette Tax Collection Trust Fund. The bill also changes the requirement that the cigarette tax dollars pledged to the facility under s. 210.20, F.S., must be replaced with tobacco litigation settlement proceeds. The bill makes that optional.

Section 3. Provides language requiring that any law that is amended by this act that is also amended by a law enacted at the 2002 Regular Session, be construed as if they had been enacted at the same session, and full effect should be given to each if that is possible.

Section 4. Provides an effective date of upon becoming a law.

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:**

The bill increases revenues to the H. Lee Moffitt Cancer Center and Research Institute on a recurring basis over the next 14 years. The Revenue Estimating Conference reviewed identical bill SB 2118 during the 2002 Regular Session and estimated that the bill should increase revenues to the H. Lee Moffitt Cancer Center and Research Institute by an estimated \$1.0 million in fiscal years 2002-2003 and 2003-2004 and \$5.4 million beginning in fiscal year 2004-2005.

There will be a loss to the General Revenue Fund from the transfer of cigarette tax revenues if the Legislature does not annually replace the cigarette tax dollars pledged to the H. Lee Moffitt Cancer Center and Research Institute from tobacco litigation settlement proceeds.

B. Private Sector Impact:

None.

C. Government Sector Impact:

If cigarette tax dollars pledged to the cancer research facility are replaced annually by the Legislature from tobacco litigation settlement proceeds, fewer dollars will be available for other publicly funded programs.

VI. Technical Deficiencies:

None.

VII. Related Issues:

This bill requires an additional monthly appropriation of a portion of the revenue collected from the tax on cigarettes for payment of construction, furnishing and equipment of the H. Lee Moffitt Cancer Research Center and Institute for a period of 14 years.

As the Florida Supreme Court has ruled in a series of cases, the most recent of which is *Neu v. Miami Herald Publishing Company*, 462 So.2d 821 (Fla. 1985), one legislative body cannot bind a future Legislature to an obligation. In *Neu*, a case addressing the Public Meetings Law, the court stated "A legislature may not bind the hands of future legislatures by prohibiting amendments to statutory law." See *Neu v. Miami Herald Publishing Company*, 462 So.2d 821, 824 (Fla. 1985). In an earlier case reviewing a challenge to establishment of geographic municipal boundaries, the court stated, "The Legislature cannot prohibit a future Legislature by proper enactment changing boundaries which it [the earlier Legislature] established" *Kirklands v. Town of Bradley*, 139 So. 144, 145 (Fla. 1932). As a result, the monthly appropriation specified in the bill is non-binding on future legislatures.

VIII. Amendments:

Amendment #1 by Appropriations Health & Human Services Subcommittee
Names the act the "James L. Stevens Act."