The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Finance and Tax Committee

BILL:	SB 1802
INTRODUCER:	Senator Gardiner
SUBJECT:	Cigarette Surcharge Revenue Uses
DATE:	April 9, 2010
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hansson	Walsh	CF	**Favorable**
2.	Fournier	McKee	FT	**Favorable**
3.			HA	
4.			WPSC	
5.				
6.				

I. Summary:

The bill reduces the amount of cigarette surcharge revenues deposited into the Health Care Trust Fund. The bill appropriates five percent of the cigarette surcharge revenue to the Department of Children and Family Services (DCF) for purposes of expanding community-based mental health services and providing programs to reduce the rate of smoking among persons with mental illness. The bill prohibits the use of such portion to supplant certain general revenue funds allocated to DCF.

The Revenue Estimating Conference has determined that this bill will reduce the amount of cigarette surcharge revenues deposited into the Health Care Trust Fund by $40.2 million in FY 2010-11 and $43.9 million recurring. DCF will have a like amount appropriated to it to expand commjnity-based mental health services and toprovide programs to reduce smoking rates among persons with mental illness.

This bill substantially amends section 210.011 of the Florida Statutes.

II. Present Situation:

Smoking and Mental Illness

The harmful health, economic and social effects of smoking have been widely shown.[1] However, tobacco-use and the health problems and premature deaths resulting from it, are disproportionate

[1] Tobacco use is the leading preventable cause of death and disease in Florida, claiming 28,600 lives each year and costing the state $6.3 billion annually in health care bills, including $1.2 billion in Medicaid payments alone. *Florida Cigarette Tax Increase Delivers Victory for Kids and Taxpayers*, http://www.tobaccofreekids.org/Script/DisplayPressRelease.php3?Display=1151, (last visited March 16, 2010).

among those living with mental illness. Smoking harms the individual's health, treatment, and overall recovery from mental illness.

People living with mental illness are twice as likely to smoke as others persons.[2] A study by the Journal of the American Medical Association found that 44.3 percent of all cigarettes in America are consumed by individuals living with mental illness and/or substance abuse disorders.[3] Additionally, persons living with mental illness also tend to smoke much more heavily than the general population.[4] Seventy-five percent of individuals with mental illness smoke at three to four times the rate of the general population.[5] The reason that people with mental illness have such a high rate of smoking is unclear, but many attribute it to neurobiological, psychological, and social factors, which reinforce the use of nicotine.[6]

In addition to the normal harmful effects, smoking exacerbates diseases and symptoms from which persons with mental illness already suffer. For example, many people with mental illness also have diabetes, which is vastly complicated by smoking. A person who smokes and has diabetes is 11 times more likely than an individual in the general population to have a heart attack.[7] Additionally, smoking may interfere with prescribed medications and treatment. Smoking further increases the risks of heart disease that persons with mental illness may already have from second-generation atypical antipsychotic medications.[8] Furthermore, smoking increases the breakdown of medicines in the body, so smokers must take higher doses to get the same results of someone who does not smoke, which also increases the risk of side effects.[9]

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[2] National Alliance on Mental Illness, *Smoking and Mental Illness*, http://nami.org/Content/NavigationMenu/Hearts_and_Minds/Smoking_Cessation/Smoking_and_Mental_Illness.htm, (last visited March 16, 2010).
[3] *Id.*
[4] Nady el-Guebaly, *Smoking Cessation Approaches for Persons with Mental Illness of Addictive Disorders*, http://psychservices.psychiatryonline.org/cgi/content/full/53/9/1166, (last visited March 12, 2010).
[5] National Alliance on Mental Illness, *Smoking and Mental Illness*, http://nami.org/Content/NavigationMenu/Hearts_and_Minds/Smoking_Cessation/Smoking_and_Mental_Illness.htm, (last visited March 16, 2010).
[6] Nady el-Guebaly, *Smoking Cessation Approaches for Persons with Mental Illness of Addictive Disorders*, http://psychservices.psychiatryonline.org/cgi/content/full/53/9/1166, (last visited March 12, 2010). Many of the social factors that encourage smoking relate to the nature of mental health facilities themselves. Smoke breaks are one of the few times that patients and staff can relate to each other in a "normalized way." Cigarettes are sometimes used as positive/negative reinforcement by staff to control behavior. National Association of State Mental Health Program Directors, *Tobacco-Free Living in Psychiatric Settings: Best-Practices Toolkit*, http://www.nasmhpd.org/general_files/publications/NASMHPD.toolkitfinalupdated90707.pdf, (last visited March 16, 2010). Some people with mental illness learned to smoke in a group setting, demonstrating the tie in the mental health setting between socialization and smoking. National Alliance on Mental Illness, *Smoking and Mental Illness*, http://nami.org/Content/NavigationMenu/Hearts_and_Minds/Smoking_Cessation/Smoking_and_Mental_Illness.htm, (last visited March 16, 2010). Smoking also adds routine to the lives of mentally ill patients.
[7] National Alliance on Mental Illness, *Smoking and Mental Illness*, http://nami.org/Content/NavigationMenu/Hearts_and_Minds/Smoking_Cessation/Smoking_and_Mental_Illness.htm, (last visited March 16, 2010).
[8] *Id.*
[9] *Id.*

The life span of an individual living with mental illness is, on average, 20 to 25 years shorter than that of the average citizen.[10] One of the most common contributors to early death among people with mental illness is smoking.[11] Every year, smoking kills about 200,000 people who live with mental illness.[12] Additionally, as compared to the general population, the rate of cardiovascular disease is 2.3 times higher, the rate of respiratory disease is 3.2 times higher, and the rate of lung cancer is 3 times higher among individuals with mental illness.[13]

Despite the scope of this problem, tobacco use is largely ignored in the mental-health and addiction-treatment setting.[14] While it was formerly believed that persons with mental illness would be unable or unwilling to quit smoking, recent research has resulted in a shift in conventional attitudes.[15] Studies have found that people with mental illness have substantial quit rates, almost as high as the group without mental illness.[16]

Thus, there has been a strong push in the mental health system to provide the education, tools and resources necessary to help individuals living with mental illness to quit smoking, and thus improve their quality and quantity of life.[17] The mental health community has urged cessation efforts (including in the outpatient setting) and strongly encouraged comprehensive programs to curb tobacco use.[18] Efforts have explored staff training, including better educating mental-health

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[10] National Association of State Mental Health Program Directors (NASMHPD), *Morbidity and Mortality in People with Serious Mental Illness*, http://74.125.155.132/scholar?q=cache:AgxJmv17cekJ:scholar.google.com/+morbidity+and+mortality+in+people+with+severe+mental+illness&hl=en&as_sdt=40000&as_vis=1, (last visited March 16, 2010).

[11] Kate Torgovnick, *Why Do the Mentally Ill Die Younger*, TIME, Dec. 03, 2008, *available at:* http://www.time.com/time/printout/0,8816,1863220,00.html#, (last visited March 16, 2010).

[12] National Alliance on Mental Illness, *Smoking and Mental Illness*, http://nami.org/Content/NavigationMenu/Hearts_and_Minds/Smoking_Cessation/Smoking_and_Mental_Illness.htm, (last visited March 16, 2010).

[13] National Association of State Mental Health Program Directors (NASMHPD), *Morbidity and Mortality in People with Serious Mental Illness*, http://74.125.155.132/scholar?q=cache:AgxJmv17cekJ:scholar.google.com/+morbidity+and+mortality+in+people+with+severe+mental+illness&hl=en&as_sdt=40000&as_vis=1, (last visited March 16, 2010).

[14] Many still do not see tobacco as a disorder like other mental illnesses or addictions. Additionally, most mental health workers have had limited training in addressing tobacco and have limited knowledge about nicotine neurobiology. Jill M. Williams, *Addressing Tobacco Among Individuals with a Mental Illness or an Addiction*, http://nyc.gov/html/doh///downloads/pdf/csi/cessation-mental-ill-or-addiction.pdf, (last visited March 16, 2010). The problem with the disproportionate smoking in mentally ill patients is further complicated because many facilities already are, or are becoming smoke-free, but no efforts are being made to curb smoking among patients. Nady el-Guebaly, *Smoking Cessation Approaches for Persons with Mental Illness of Addictive Disorders*, http://psychservices.psychiatryonline.org/cgi/content/full/53/9/1166, (last visited March 12, 2010).

[15] Nady el-Guebaly, *Smoking Cessation Approaches for Persons with Mental Illness of Addictive Disorders*, http://psychservices.psychiatryonline.org/cgi/content/full/53/9/1166, (last visited March 12, 2010).

[16] *Id.*

[17] *See Tobacco-Free Living in Psychiatric Settings: Best-Practices Toolkit* prepared by the National Association of State Mental Health Program Directors, showing policy changes and strategies that can be used to change the way the public mental health culture relates to smoking: http://www.nasmhpd.org/general_files/publications/NASMHPD.toolkitfinalupdated90707.pdf, (last visited March 16, 2010).

[18] National Alliance on Mental Illness, *Smoking and Mental Illness*, http://nami.org/Content/NavigationMenu/Hearts_and_Minds/Smoking_Cessation/Smoking_and_Mental_Illness.htm, (last visited March 16, 2010).

specialists about the connection between mental health and physical health and establishing programs specifically tailored to meet the needs of mentally ill patients.[19]

Need for Mental Health Services

Florida currently ranks 49th in the nation in per capita spending on mental health care.[20] During the 2008-09 fiscal year (FY), the Florida Department of Children and Families' (DCF) Mental Health Program served 85,698 children and 187,366 adults.[21] It is estimated that DCF is able to meet approximately 57 percent of the need for adults with serious and persistent mental illnesses, adults in crisis, adults forensically-involved in community, and those served in mental health treatment facilities both civil and forensic.[22] For those children classified as serious-emotionally disturbed, emotionally disturbed, and at risk, DCF is meeting approximately 58 percent of the need.[23]

According to DCF, some of the community-based crisis stabilization units throughout the state are already non-smoking facilities and offer smoking cessation programs; however, the exact number of such programs is not known. All of the state mental health treatment facilities offer smoking cessation programs and are smoke-free facilities.[24]

Taxation of Cigarettes in Florida

In 2009, the Florida Legislature passed a cigarette surcharge of $1.00 per pack. Pursuant to s. 210.011, F.S., 100 percent of the cigarette surcharge revenue is deposited into the Health Care Trust Fund within the Agency for Health Care Administration. In accordance with s. 408.16(4), F.S., moneys in the Health Care Trust Fund shall be for the use of the agency in the performance of its functions and duties as provided by law, subject to the fiscal and budgetary provision of general law and the General Appropriations Act.

Based on the February 2010 Tobacco Tax and Surcharge Revenue Estimating Conference, the cigarette surcharge is expected to generate $955,000,000 in FY 2010-11.

III. Effect of Proposed Changes:

The bill provides that five percent of the revenue produced from the cigarette surcharge shall be appropriated to the Department of Children and Family Services. The purpose of appropriating the funds is to expand community-based mental health services and to provide programs to reduce the rate of smoking among persons with mental illness. The funds shall not be used to

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[19] Kate Torgovnick, *Why Do the Mentally Ill Die Younger*, TIME, Dec. 03, 2008, *available at:* http://www.time.com/time/printout/0,8816,1863220,00.html#, (last visited March 16, 2010) (explaining that services provided for mental-health needs may be moot if people are dying so early from physical causes); National Association of State Mental Health Program Directors, *Tobacco-Free Living in Psychiatric Settings: Best-Practices Toolkit*, http://www.nasmhpd.org/general_files/publications/NASMHPD.toolkitfinalupdated90707.pdf, (last visited March 16, 2010).

[20] Florida Department of Children and Families, *Substance Abuse and Mental Health Overview*, http://www.dcf.state.fl.us/samh/, (last visited March 16, 2010).

[21] This includes community and mental health treatment facilities). Florida Department of Children and Families 2010 Bill Analysis & Economic Impact Statement for SB 1802, on file with the Children, Families, and Elder Affairs Committee.

[22] This does not factor in those served through Medicaid. *Id.*

[23] *Id.*

[24] *Id.*

supplant general revenue funds allocated to the Department of Children and Family Services as of July 1, 2009.

The bill amends s. 210.011, F.S., to reduce the distribution of surcharge revenue into the Health Care Trust Fund within the Agency for Health Care Administration from 100 percent to 95 percent.

The bill provides an effective date of July 1, 2010.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Persons living with mental illness may be provided with smoking cessation services from community mental health programs.

C. Government Sector Impact:[25]

The Revenue Estimating Conference has determined that this bill reduces the amount of cigarette surcharge revenues deposited into the Health Care Trust Fund by $40.2 million in FY 2010-11 and $43.9 million recurring, and it requires that portion of cigarette surcharge revenues be appropriated to DCF. The bill prohibits using a portion of the cigarette surcharge revenues to supplant certain general revenue funds allocated to DCF.

For FY 2009-10 AHCA has been appropriated $878,600,000 in the Health Care Trust Fund, i.e., the estimated revenue from the cigarette surcharge. Based on the February

[25] *See* Florida Department of Children and Families 2010 Bill Analysis & Economic Impact Statement for SB 1802, on file with the Children, Families, and Elder Affairs Committee. *See also* Florida Agency for Health Care Administration 2010 Bill Analysis & Economic Impact Statement for SB 1802, on file with the Children, Families, and Elder Affairs Committee.

2010 Social Services Estimating Conference, AHCA is projecting to spend all of the $878,600,000 in FY 2010-11. If $40.2 million of this amount is appropriated to DCF, then the total amount appropriated to AHCA in the Health Care Trust Fund would be reduced to $838,400,000. Since AHCA is projecting to need and spend all of the $878,600,000 in FY 2010-11, AHCA will need to receive $40.2 million from another funding source, possibly General Revenue, in order to pay Medicaid Services expenditures.

Consequently, DCF would receive approximately $40.2 million in FY 2010-2011 which the bill states cannot be used to supplant general revenue funds already allocated to DCF. At an annual average cost of $1,664 per person, the additional funding to the community mental health system could potentially serve another 26,400 individuals.

In addition to expanding community mental health services, funding from the cigarette tax would be used to support smoking cessation programs in community mental health programs. Funds would be distributed by DCF to interested community mental health providers state-wide.

VI. Technical Deficiencies:

The bill does not provide for the disposition of cigarette surcharge revenue into a DCF trust fund from which it can be appropriated.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.