

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1235 Cancer Research and Treatment Trust Fund
SPONSOR(S): Hasner and others
TIED BILLS: HB 1233 **IDEN./SIM. BILLS:** SB 2376

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Health Care General Committee</u>	_____	<u>Schiefelbein</u>	<u>Brown-Barrios</u>
2) <u>Economic Development, Trade & Banking Committee</u>	_____	_____	_____
3) <u>Health Care Appropriations Committee</u>	_____	_____	_____
4) <u>Health & Families Council</u>	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

This bill creates the Cancer Research and Treatment Trust Fund within the Department of Health and requires that moneys in the trust fund be used for the disbursement of grants by the Florida Cancer Council for certain purposes. The trust fund must be reviewed prior to its termination on July 1, 2009. The effective date of the bill is contingent upon the passage of HB 1233 or similar legislation.

This bill creates s. 381.926, F.S.

This bill provides for an effective date of July 1, 2005, provided House Bill 1233 or similar legislation is enacted in the same legislative session or an extension thereof and becomes law or if the General Appropriations Act for fiscal year 2005-2006 includes funding for the purposes prescribed in s. 381.921, F. S.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not implicate the House Principles.

B. EFFECT OF PROPOSED CHANGES:

House Bill 1233 provides for the deposit of a portion of cigarette tax funds (12.9528 percent of the net collections of the Cigarette Tax Collection Trust Fund) into the Cancer Research and Treatment Trust Fund, which would be created by this bill. These funds would be deposited in the trust fund over a 5-year period, along with \$250 million from nonrecurring General Revenue funds in FY 2005-06 for certain uses by the Florida Cancer Council (FCC). This bill authorizes the FCC to award grants under executed contracts with specific requirements. A grant could be used for capital construction when approved by the Governor and Cabinet. House Bill 1233 requires the council to work with the Office of Tourism, Trade, and Economic Development to determine economic benefits accruing to the state as a result of the council's expenditure of funds.

BACKGROUND

Creation and Operations of Trust Funds

A trust fund consists of monies received by the state which, under law or under trust agreement, are segregated for a purpose authorized by law (s. 215.32(2) (b) 1., F.S.). Section 19(f), Art. III of the State Constitution, governs the creation of trust funds. This constitutional provision prohibits the creation by law of a trust fund of the state or other public body without a three-fifths vote of the membership of each house of the Legislature.¹ This provision further specifies that a trust fund must be created in a separate bill for that purpose only.

In addition, the Legislature has established criteria governing the establishment of trust funds. Under these criteria, a law creating a trust fund must, at a minimum, specify:

- The name of the trust fund;
- The agency or branch of state government responsible for administering the trust fund;
- The requirements or purposes that the trust fund is established to meet; and
- The sources of moneys to be credited to the trust fund or specific sources of receipts to be deposited in the trust fund (s. 215.3207, F.S.).

The Chief Financial Officer is directed to invest all the trust funds and all agency funds of each state agency (s. 17.61, F.S.). Under current law, any balance of an appropriation for any given fiscal year that is remaining after lawful expenditures have been charged against it reverts to the fund from which the Legislature appropriated it and shall be available for reappropriation (s. 216.301(1) (b), F.S.). Any reversion of appropriations provided from the General Revenue Fund must be transferred to the General Revenue Fund within 15 days after the reversion, unless otherwise provided by federal or state law, including the General Appropriations Act (s. 216.301(1)(c), F.S.).

Termination of Trust Funds

Section 19(f) (2), Art. III of the State Constitution, specifies that trust funds created after November 4, 1992, with certain exceptions, shall terminate not more than 4 years after the effective date of the act

¹ Section 19(f) (1), Art. III of the State Constitution.

authorizing the creation of the trust fund, unless the Legislature by law sets a shorter time period. Accordingly, a bill that creates a trust fund should specify the trust fund's date of termination, or, if the trust fund is exempt from the automatic 4-year termination requirement, the bill should declare that the trust fund is exempt from this requirement.

The Legislature established a schedule and process for reviewing trust funds (ss. 215.3206 and 215.3208, F.S.). Before the regular session of the Legislature immediately before the scheduled termination date of an executive branch trust fund (or an earlier date if specified by the Legislature), the agency responsible for administration of the trust fund and the Governor must recommend to the Legislature whether the trust fund should be allowed to terminate or should be re-created (s. 215.3206(1), F.S.). Each recommendation is based on a review of the trust fund's purpose, use, and necessity. A recommendation to re-create the trust fund may include suggested modifications to the purpose, sources of receipts, and allowable expenditures for the trust fund.

If the trust fund is terminated and not immediately re-created, all cash balances and income of the trust fund are deposited into the General Revenue Fund (s. 215.3206(2), F.S.). The agency must pay any outstanding debts of the trust fund as soon as practicable, and the Chief Financial Officer closes out and removes the trust fund from the various state accounting systems, using generally accepted accounting practices concerning warrants outstanding, assets, and liabilities.

C. SECTION DIRECTORY:

Section 1. Creates s. 381.926, F.S., to create the Cancer Research and Treatment Trust Fund within the Department of Health. Funds credited to the trust fund must consist of moneys provided by law or otherwise appropriated by the Legislature for the purposes prescribed in s. 381.921, F.S. In accordance with s. 19(f) (2), Art. III, State Constitution, the trust fund will terminate on July 1, 2009, unless terminated sooner. Before its scheduled termination, the trust fund must be reviewed as provided in s. 215.3206, F.S.

Section 2. Provides an effective date of July 1, 2005, if House Bill 1233 or similar legislation is enacted in the same legislative session or an extension thereof and becomes law or if the General Appropriations Act for fiscal year 2005-2006 includes funding for the purposes prescribed in s. 381.921, F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The newly created Cancer Research and Treatment Trust Fund will be a repository for funds dedicated to cancer research.

2. Expenditures:

The Florida Cancer Council is authorized to fund research grants via the Cancer Research and Treatment Fund. The amount of grant awards is undetermined.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

A similarly named trust fund, the Cancer Council and Research Fund, created in s. 1004.435, F.S., funds the Florida Cancer Control and Research Advisory Council which is created within the H. Lee Moffitt Cancer Center and Research Institute, Inc. The board-based advisory council includes representatives from academic institutions, health care facilities and practitioner professional organizations, and the general public. The council must approve the Florida Cancer Plan each year. The plan for the care and treatment of persons suffering from cancer is to include recommendations concerning cancer research.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None

B. RULE-MAKING AUTHORITY:

The Department of Health has sufficient rule making authority to implement this act.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES