

STORAGE NAME: h3783z.hcs
DATE: May 11, 1998

****FINAL ACTION****
****SEE FINAL ACTION STATUS SECTION****

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
HEALTH CARE SERVICES
FINAL BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 3783
RELATING TO: Cigarette Tax Collection Trust Fund
SPONSOR(S): Reps. Tamargo, Bradley and others
COMPANION BILL(S): SB 1636 (Identical)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) HEALTH CARE SERVICES YEAS 11 NAYS 0
- (2) REGULATED SERVICES (W/D)
- (3) FINANCE AND TAXATION YEAS 15 NAYS 0
- (4) HEALTH & HUMAN SERVICES APPROPRIATIONS (W/D)
- (5)

I. FINAL ACTION STATUS:

05/28/98 Approved by Governor; Chapter No. 98-286

II. SUMMARY:

This bill requires the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation (division) to certify to the Comptroller an amount equal to 2.59 percent of the revenues derived from the cigarette tax imposed under s. 210.02, F.S., to be paid to the Board of Directors of the H. Lee Moffitt Cancer Center and Research Institute (Moffitt Cancer Center) for a period of 10 years beginning January 1, 1999. The Moffitt Cancer Center is to use these funds for constructing, furnishing, and equipping a cancer-research facility. A floor is placed on the amount of funds to be appropriated under the act at the annualized amount appropriated in fy 1999-2000.

The Board of Directors at the Cancer Center must use these funds to secure financing to pay costs related to constructing, furnishing, and equipping the cancer-research facility. Financing may include the use of tax-exempt bonds by a local authority, municipality or county pursuant to parts II and III of chapter 159, F.S. In addition, the bill specifies that the cigarette dollars pledged to the Moffitt Cancer Center shall be replaced annually by the Legislature from tobacco litigation settlement proceeds.

It is estimated that this bill will reduce the amount of cigarette tax revenue deposited into General Revenue by \$ 10.6 million annually, or by a total of \$106 million over the ten year period specified in the bill. However, this money is to be replaced by tobacco litigation settlement proceeds.

III. SUBSTANTIVE RESEARCH:

A. 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 \$.339 per pack, with rates varying proportionately for cigarettes and packs of non-standard size. As to disposition of this tax revenue, s. 210.20, F.S., specifies that: 7.3 percent of total collections be used for the General Revenue service charge under s. 215.20, F.S.; and an additional 0.9 percent of total collections be used to fund 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:

<u>Distribution Entity</u>	<u>Percent</u>
Municipal Financial Assistance Trust Fund	5.8
Municipal Revenue Sharing	32.4
County Revenue Sharing	2.9
Public Medical Assistance Trust Fund	29.3
General Revenue - Balance of available funds	29.6

Cigarette tax collections for fiscal years 1997-98 and 1998-99 are estimated to be \$451,300,000 and \$447,900,000, respectively. Based on the above distribution, General Revenue allocations (excluding the service charge) for fiscal years 1997-98 and 1998-99 are estimated to be \$122,630,846 and \$121,706,971, respectively.

University-Based Cancer Research in Florida

There are three university-based comprehensive cancer centers in Florida that conduct basic and clinical cancer-related research. These are: 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. However, the Moffitt Cancer Center is Florida's only National Cancer Institute-designated cancer center.

Section 240.512, F.S., establishes the H. Lee Moffitt Cancer Center and Research Institute at the University of South Florida. The section requires the Board of Regents to enter into an agreement for the utilization of the facilities on the campus of the University of South Florida to be known as the H. Lee Moffitt Cancer Center and Research Institute, including all furnishings, equipment, and other chattels used in the operation of said facilities, with a Florida not-for-profit corporation organized solely for the purpose of governing and operating the H. Lee Moffitt Cancer Center and Research Institute. This not-for-profit corporation, acting as an instrumentality of the State of Florida, must govern and operate the H. Lee Moffitt Cancer Center and Research Institute in accordance with the terms of the agreement between the Board of Regents and the not-for-profit corporation. The not-for-profit corporation may, with the prior approval of

the Board of Regents, create not-for-profit corporate subsidiaries to fulfill its mission. The not-for-profit corporation and its subsidiaries are authorized to receive, hold, invest, and administer property and any moneys received from private, state, and federal sources, as well as technical and professional income generated or derived from practice activities of the institute, for the benefit of the institute and the fulfillment of its mission. The affairs of the corporation are managed by a board of directors who serve without compensation. The President of the University of South Florida and the chair of the Board of Regents, or his or her designee, are the directors of the not-for-profit corporation, together with 5 representatives of the State University System and no more than 14 nor fewer than 10 directors who are not medical doctors or state employees. Each director has only one vote, serves a term of 3 years, and may be reelected to the board. Other than the President of the University of South Florida and the chair of the Board of Regents, directors are elected by a majority vote of the board. The chair of the board of directors is selected by majority vote of the directors.

B. EFFECT OF PROPOSED CHANGES:

Over the next 10 years a 5 story, 329,000 square foot research facility will be constructed at and operated by the Moffitt Cancer Center. Cancer patients will have improved access to state-of-the-art cancer treatment.

Funds available from the tobacco litigation settlement proceeds will be reduced by just over \$106 million over 10 years, which may result in a reduction of other programs or services in that amount.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Obligations are placed on the Moffitt Cancer Center to comply with funding requirements.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Yes, to the extent that smokers are more likely to require cancer treatment.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

No.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

s. 210.20, F.S.

E. SECTION-BY-SECTION RESEARCH:

Section 1. Amends s. 210.20, F.S., relating to the Cigarette Tax Collection Trust Fund, to requires the division to certify to the Comptroller an amount equal to 2.59 percent of the revenues derived from the cigarette tax imposed under s. 210.02, F.S., to be paid to the Board of Directors of the Moffitt Cancer Center for a period of 10 years beginning January 1, 1999. The Moffitt Cancer Center is to use these funds for constructing, furnishing, and equipping a cancer-research facility at the University of South Florida adjacent to the Moffitt Cancer Center. The amount of funds paid to the board of directors for each of the ten years is to be no less than the amount paid from January 1 through June 30, 1999, multiplied by two to reflect an entire year's payment.

Section 2. Specifies that the Board of Directors of the Moffitt Cancer Center shall construct, furnish, and equip, and shall covenant to complete, the cancer-research facility at the USF adjacent to the Moffitt Cancer Center. Funds allocated pursuant to the act must be used to secure financing, by means including the issuance of tax-exempt bonds by a local authority, municipality, or county pursuant to parts II or III of chapter 159, F.S. Cigarette tax dollars pledged to the Moffitt Cancer Center are to be replaced annually by the Legislature from tobacco litigation settlement proceeds.

Section 2. Provides an effective date of July 1, 1998.

IV. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

General Revenue will be decreased by an estimated \$10.6 million annually for 10 years. However, these funds will be replaced by funds from tobacco settlement proceeds.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

See 2. above.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

The H. Lee Moffitt Cancer Center and Research Institute will receive approximately \$10 million dollars a year in funding for construction, furnishing, and equipping a cancer research facility. It is estimated by the Division of Bond Finance, if cigarette revenues remain stable, that approximately \$36 to \$60 million, as a rough order of magnitude, could be raised through bonding.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

Given the pending federal tobacco settlement and the possible federal increase in the cigarette tax which may significantly decrease cigarette sales in Florida, the future revenues generated by Florida's cigarette tax are uncertain. However, the bill places a floor in the annual payment level at the six months payments annualized.

V. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

VI. COMMENTS:

There are three provisions in this bill as filed which may conflict with the Florida Constitution. First, the language which specifies that 2.59 percent of cigarette collections be certified to the Comptroller to be paid the Moffitt Cancer Center is unclear with regard to whether these funds are to be taken out of the fund prior to meeting other obligations on the fund. If this is the case, then the amount of revenues shared with local governments could be reduced, which could conflict with s. 18, Art. VII, of the Florida Constitution. Second, the bill authorizes the use of these funds to issue tax exempt bonds which are guaranteed by the pledge of proceeds of the Cigarette Tax Collection Trust Fund. This may be a violation of s. 11, Art. VII, of the Florida Constitution. Finally, by pledging credit for a 10 year period, this bill may be construed as binding future Legislatures through limiting their ability to appropriate future cigarette tax proceeds.

History

02/25/98 H Prefiled

03/03/98 H Introduced -HJ 00057

03/26/98 H Referred to Health Care Services (GSC); Regulated Services (EIC);
Finance & Taxation (FRC); Health & Human Services Appropriations

-HJ 00380
04/02/98 H On Committee agenda-- Health Care Services (GSC), 04/08/98, 10:00 am, Morris Hall --Meeting cancelled
04/08/98 H On Committee agenda-- Health Care Services (GSC), 04/15/98, 1:30 pm, Morris Hall
04/15/98 H Comm. Action: Unanimously Favorable with 1 amendment(s) by Health Care Services (GSC) -HJ 00690
04/16/98 H Now in Regulated Services (EIC) -HJ 00690
04/20/98 H Withdrawn from Regulated Services (EIC) -HJ 00698; Now in Finance & Taxation (FRC)
04/22/98 H On Committee agenda-- Finance & Taxation (FRC), 04/23/98, 12:00 pm, Morris Hall
04/23/98 H Comm. Action: Unanimously Favorable by Finance & Taxation (FRC) -HJ 01091; Now in Health & Human Services Appropriations -HJ 01091
04/24/98 H Withdrawn from Health & Human Services Appropriations -HJ 01094; Placed on General Calendar; Read second time -HJ 01236; Amendment(s) adopted -HJ 01236
04/28/98 H Read third time -HJ 01526; Amendment(s) adopted -HJ 01527; Passed as amended; YEAS 118 NAYS 0 -HJ 01527
04/28/98 S In Messages
05/01/98 S Received, referred to Health Care; Ways and Means -SJ 01817; Immediately withdrawn from Health Care; Ways and Means -SJ 01743; Substituted for CS/SB 1636 -SJ 01743; Read second and third times -SJ 01743; Passed; YEAS 38 NAYS 0 -SJ 01743
05/01/98 H Ordered enrolled
05/13/98 Signed by Officers and presented to Governor
05/28/98 Approved by Governor; Chapter No. 98-286

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

A "delete all after the enacting clause" amendment was adopted at the April 15, 1998 meeting of the Health Care Services Committee to address the issues raised in the comments section. Specifically, this amendment does the following:

- Clarifies that the 2.59 percent of funds taken from the Cigarette Tax Collection Trust Fund are to be taken from the General Revenue portion, and not from revenues to be shared with local governments.
- Clarifies that the issuance of any tax exempt bonds must be done pursuant to the provisions of Part II and III of Chapter 159, F.S., and do not constitute state bonds for the purposes of s. 11, Art. VII of the Florida Constitution.

In addition, this amendment places a floor on the amount of funds to be paid to the Moffitt Cancer Center at the annualized amount received in FY 1998-99.

STORAGE NAME: h3783z.hcs

DATE: May 11, 1998

PAGE 10

VIII. SIGNATURES:

COMMITTEE ON HEALTH CARE SERVICES:

Prepared by:

Legislative Research Director:

Michael P. Hansen

Michael P. Hansen

AS FURTHER REVISED BY THE COMMITTEE ON FINANCE AND TAXATION:

Prepared by:

Legislative Research Director:

George T. Levesque

Keith G. Baker, Ph.D.

FINAL RESEARCH PREPARED BY COMMITTEE ON HEALTH CARE SERVICES:

Prepared by:

Legislative Research Director:

Michael P. Hansen

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