STORAGE NAME: h4733.hhs
DATE: April 14, 1998

HOUSE OF REPRESENTATIVES
COMMITTEE ON
HEALTH AND HUMAN SERVICES APPROPRIATIONS
BILL RESEARCH & ECONOMIC IMPACT STATEMENT

BILL #: HB 4733 (PCB HHS 98-07)

RELATING TO: Tobacco Pilot Program Trust Fund/Department of Health

SPONSOR(S): Health & Human Services Appropriations Committee

COMPANION BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) HEALTH AND HUMAN SERVICES APPROPRIATIONS YEAS 12 NAYS 0
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I. SUMMARY:

This bill creates the Tobacco Pilot Program Trust Fund in the Department of Health. The need for this new fund results from the settlement of the lawsuit by the State of Florida against tobacco manufacturers and other defendants. The settling defendants have already paid to the State of Florida $200 million for a pilot program targeted to stop smoking by children, and an initial annual payment of $550 million in settlement of the state’s claims.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

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, including Philip Morris Incorporated, R.J. Reynolds Tobacco Company, Brown & Williamson Tobacco Corporation, Lorillard Tobacco Company, and United States Tobacco Company .

The settling defendants agreed among other things:

- To discontinue all billboards and transit advertisements of tobacco products in the State of Florida,

- To support legislative initiatives to enact new laws and administrative initiatives to promulgate new rules intended to effectuate:

  1. The prohibition of the sale of cigarettes in vending machines, except in adult-only locations and facilities;

  2. The strengthening of civil penalties for sales of tobacco products to children under the age of 18, including the suspension or revocation of retail licenses; and

  3. The strengthening of civil penalties for possession of tobacco products by children under the age of 18.

- Monetary provisions, including

  1. Initial Payment -- Pilot Program. Settling defendants also agreed to support a pilot program by the State of Florida, the elements of which are to be aimed specifically at the reduction of the use of tobacco products by persons under the age of 18 years. On or before September 15, 1997, the settling defendants agreed to pay into a second escrow account for the benefit of the State of Florida, the sum of $200 million.

  2. Initial Payment -- General. On or before September 15, 1997, Settling defendants agreed to pay into an escrow account for the benefit of the State of Florida, the sum of $550 million, representing the plaintiffs' estimate of the portion Florida would receive of the $10 billion payment provided for in the then proposed federal resolution.

  3. Annual Payments. On September 15, 1998, (subject to adjustment for actual market share by January 30, 1999), and annually thereafter, on December 31st (subject to final adjustment within 30 days), each of the settling defendants agreed, severally and not jointly, that it will pay into a special account for the benefit of the State of Florida, pro rata in proportion equal to its respective market share, its share of 5.5% of the following amounts (in billions):

Year	Amount
1	$4.0B
2	$4.5B
3	$5.0B
4	$6.5B
5	$6.5B
6	$8.0B
thereafter	$8.0B

These payments are to be adjusted upward by the greater of 3% or the Consumer Price Index applied each year on the previous year, beginning with the first annual payment. These payments will also be decreased or increased, in accordance with decreases or increases in volume of domestic tobacco product volume sales.

The monies received by the State of Florida under this settlement agreement constitute not only reimbursement for Medicaid expenses incurred by the state, but also settlement of all of Florida's other claims, including those for punitive damages, RICO and other statutory theories. In consonance with the proposed federal resolution, other than the Pilot Program and legal expense reimbursement, the parties hereto anticipate that these funds, will be used for:

- children's health care coverage and other health-related services,
- to reimburse the State of Florida for medical expenses incurred by the state,
- for mandated improvements in State enforcement efforts regarding the reduction of sales of tobacco products to minors, and
- to ensure the proposed federal resolution's performance targets.

The funds provided under the settlement agreement may be used for such purposes as the state match required to draw federal funds to provide children's health care coverage and for enhancement of children's and adolescents' substance abuse services, substance abuse prevention and intervention and children's mental health services.

In the event that the proposed federal resolution is enacted as federal legislation, or if any substantially equivalent federal program is enacted, the settlement will remain in place, but the terms of the proposed resolution will supersede the provisions of the settlement agreement, except for the pilot program. In the event of the enactment of the proposed resolution, and to the extent that the payments made pursuant to the settlement agreement differ from the amounts to be received by the State of Florida pursuant to the proposed resolution, Florida agreed to take whatever steps are necessary to ensure that the principal amount of payments received by the state will be the same as the amounts it would receive pursuant to the proposed resolution or substantially equivalent federal program.

B. EFFECT OF PROPOSED CHANGES:

This bill creates a new trust fund - the Tobacco Pilot Program Trust Fund - in the Department of Health to account for the spending of those tobacco settlement funds that are authorized by law to be expended by the department.

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?

No.

(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?

      N/A

4. Individual Freedom:

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

      N/A

   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?

N/A

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. 20.435, Florida Statutes.

E. SECTION-BY-SECTION RESEARCH:

Section 1. Establishes a Tobacco Pilot Program Trust Fund in Department of Health and determines the source of funds and the appropriate use of the fund. Establishes a termination date of July 1, 2002.

Section 2. Establishes an effective date.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

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:

   None.

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

   None.

D. FISCAL COMMENTS:

HB 4203 contains appropriations of $100,000,000 from the Tobacco Settlement funds. These are placed in the Grants and Donations Trust Fund.

IV. 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 any actions requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority of counties or municipalities to raise revenues in the aggregate, as such authority existed on February 1, 1989.

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

This bill does not reduce the percentage of a state tax shared with counties and municipalities as an aggregate on February 1, 1989.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS:

Prepared by:	Legislative Research Director:
______________________	______________________
Lynn S. Dixon	Lynn S. Dixon