STORAGE NAME: h2257.ag
DATE: April 23, 1999

HOUSE OF REPRESENTATIVES
COMMITTEE ON
AGRICULTURE
ANALYSIS

BILL #: HB 2257

RELATING TO: Tobacco Producers

SPONSOR(S): Representative Stansel

COMPANION BILL(S): HB 2255 (c) by Representative Stansel

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) AGRICULTURE
(2) FINANCE & TAXATION
(3) GENERAL GOVERNMENT APPROPRIATIONS
(4)
(5)

I. SUMMARY:

Since 1938, with the exception of one year, tobacco has been produced by growers in the State of Florida under a federally controlled quota system that regulates the volume of production. The production of tobacco requires a large investment of capital to purchase the quota as well as the infrastructure, land, equipment, etc. In the last two years, there has been a 35 percent quota reduction, leaving many producers in serious financial jeopardy.

On August 25, 1997, there was a litigation settlement in the State of Florida et al. v. American Tobacco Company et al. for $11.3 billion. Since that time, the settlement amount has increased to $13 billion. This bill requires that two percent of the total amount collected in the tobacco company settlement shall be appropriated to the Florida Tobacco Producers Compensation Trust Fund (created in HB 2255) to compensate tobacco producers and quota holders for asset loss, stranded investment, and margin capabilities due to the tobacco quota reduction.

The bill directs the Department of Agriculture and Consumer Services, in consultation with the Florida Tobacco Advisory Council and the United States Department of Agriculture’s Farm Service Agency, to design and implement a program to provide direct and indirect compensation to Florida’s tobacco producers and quota holders.

Fiscal impact on the state is indeterminate at this time.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

On August 25, 1997, the State of Florida and the tobacco companies reached a settlement in the case of the State of Florida et al. v. American Tobacco Company et al., with the tobacco companies agreeing to pay the state $11.3 billion over 25 years. The States of Florida, Texas, Mississippi, and Minnesota each separately sued and reached settlements with the tobacco industry. The remaining 46 states joined together in an open-ended suit. Due to a clause in the Florida settlement, the amount that the tobacco industry will pay the state has increased by $1.7 billion, bringing the total amount to $13 billion.

As a result of this litigation and lawsuits by the remaining states, there has been a tobacco quota reduction of 35 percent (since 1997), leaving many producers in serious financial peril. Six states produce flue-cured tobacco: Florida, Georgia, Alabama, North Carolina, South Carolina, and Virginia. South Carolina has introduced legislation to compensate tobacco growers from tobacco company settlements, and both North Carolina and Virginia have already passed legislation to compensate growers using 25-50 percent of tobacco company settlements. Florida figures suggest that 2 percent of the settlement would be needed over a ten-year period to adequately indemnify Florida's tobacco farmers for lost asset value in quota, capital investment, production income opportunities and their communities. The Florida Farm Bureau Federation calculated figures for Florida and determined that $12 per pound of affected tobacco quota would return the farmers to solvency. This was based on $8 per pound for quota value, $0.15 per pound for machinery and structure losses, and $0.25 for lost income.

There are approximately 290 tobacco quota holders in the state, and the amount of tobacco quota affected in Florida is approximately 20 million pounds. This was calculated by averaging the basic flue-cured quota as allocated to Florida by the United States Department of Agriculture (USDA) for the years 1995-1998.

B. EFFECT OF PROPOSED CHANGES:

This legislation proposes to compensate tobacco producers and quota holders for economic losses and effects experienced as a result of the reduction of tobacco quotas. The bill requests that two percent ($260 million) of the money awarded to the state in the $13 billion settlement with the tobacco industry be placed in the Florida Tobacco Producers Compensation Trust Fund (created in HB 2255) and distributed by the Department of Agriculture (department), in consultation with the Florida Tobacco Advisory Council and based on information provided by the USDA's Farm Service Agency. The bill directs the department to adopt rules to implement the act.

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?

      Section 1 of the bill gives the department the authority to adopt rules to implement the legislative intent of the bill.

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

      The department is directed to design and implement the program. It is presumed that the Division of Marketing will house the program and would require some clerical assistance and administrative functions. The procedures for the compensation to growers has not yet been established.

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

Yes, the bill proposes that two percent of the tobacco company settlement of $13 billion be placed in a trust fund to compensate tobacco producers and quota holders.

b. If an agency or program is eliminated or reduced: **Not applicable.**

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

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

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

2. Lower Taxes: **Not applicable.**

a. Does the bill increase anyone's taxes?

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

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

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

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

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?

No.

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: **Not applicable.**

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

      (1) Who evaluates the family's needs?

      (2) Who makes the decisions?

      (3) Are private alternatives permitted?

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

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

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

   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?

      (2) service providers?

      (3) government employees/agencies?

D. STATUTE(S) AFFECTED:

Statute placement for this legislation has yet to be determined.

E. SECTION-BY-SECTION ANALYSIS:

Section 1: Provides legislative intent that Florida's tobacco producers and tobacco allotment holders be compensated for the economic losses and adverse economic effects they have experienced as a result of the loss of tobacco quotas; directs the department, in consultation with the Florida Tobacco Advisory Council and using information provided by the USDA's Farm Service Agency, to design and implement a program to provide direct and indirect compensation to Florida's tobacco producers and tobacco quota holders; authorizes the department to adopt rules to implement the legislative intent of this act.

Section 2: Stipulates that from January 1, 2000, through December 31, 2004, two percent of the proceeds paid to the State of Florida as a result of the State of Florida et al. v. American Tobacco Company et al. be appropriated to the Florida Tobacco Producers Compensation Trust Fund.

Section 3: Provides that this act shall take effect July 1, 1999, if HB 2255 is adopted in the same session.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

   Indeterminate at this time. See “Fiscal Comments.”

2. Recurring Effects:

   Indeterminate at this time. See “Fiscal Comments.”

3. Long Run Effects Other Than Normal Growth:

   Indeterminate at this time. See “Fiscal Comments.”

4. Total Revenues and Expenditures:

   Indeterminate at this time. See “Fiscal Comments.”

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:

   Tobacco producers and quota holders will be directly compensated from the state tobacco industry settlement.

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

   None.

D. FISCAL COMMENTS:

The procedures for the compensation to producers have not yet been established.

Under this legislation, approximately $260 million would be deposited into the Florida Tobacco Producers Compensation Trust Fund over the five-year period of January 1, 2000, through December 31, 2004. At this time, the fiscal effects on the tobacco producers is unknown.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to spend funds or to take 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 revenue in the aggregate.

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

This bill does not reduce any state tax shared with counties or municipalities.

V. COMMENTS:

Enactment of this legislation is contingent on the passage of HB 2255 (creation of the Florida Tobacco Producers Compensation Trust Fund).

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON AGRICULTURE:

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