

STORAGE NAME: h0687z.hcs

DATE: May 19, 1999

****FINAL ACTION****

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

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
HEALTH CARE SERVICES
FINAL ANALYSIS**

BILL #: HB 687 (Passed as section 192 of HB 2125)

RELATING TO: Public Medical Assistance Trust Fund Task Force

SPONSOR(S): Representative Brummer

COMPANION BILL(S): None

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

- (1) HEALTH CARE SERVICES YEAS 15 NAYS 0
- (2) GOVERNMENTAL OPERATIONS YEAS 5 NAYS 0
- (3) FINANCE & TAXATION
- (4) HEALTH & HUMAN SERVICES APPROPRIATIONS
- (5)

I. FINAL ACTION STATUS:

06/18/99 Approved by Governor; Chapter No. 99-397

II. SUMMARY:

HB 687, as amended by the Health Care Services Committee and by the Governmental Operations Committee, and as adopted as section 192 of HB 2125, provides for the establishment of a seven-member task force to review sources of funds deposited into the Public Medical Assistance Trust Fund. Members are to be appointed by the Senate President (2), the House Speaker (2), and the Governor (3). The Governor is to designate the task force chair from among the members.

Specific study topics include:

- Whether any provisions of ss. 395.701 and 395.7015, F.S., relating to assessments on net operating revenues of hospitals and non-hospital health care entities for deposit into the Public Medical Assistance Trust Fund, and s. 409.918, F.S., relating to the creation of and authorization for the Public Medical Assistance Trust Fund, need to be revised;
- Whether current assessments are equitably imposed;
- Whether exemptions from, or inclusions within, the assessments are justified; and
- The extent to which modifications to other statutory provisions that require deposit of specified revenue into the Public Medical Assistance Trust Fund could result in increased revenue for the trust fund, including but not limited to: s. 210.20, F.S., relating to cigarette tax funds; s. 395.1041, F.S., relating to hospital emergency room access violation fines; s. 408.040, F.S., relating to certificate-of-need violation fines; and s. 408.08, F.S., relating to hospital cost containment violation fines.

The bill directs the task force to provide an analysis of the budgetary impact of any recommended exemptions from, inclusions within, or modifications to, existing assessments. In addition, the bill directs the Agency for Health Care Administration (AHCA) to provide staff support and technical assistance to the task force, and requires the task force to convene no later than August 1, 1999, and report its findings and recommendations by December 1, 1999.

The effective date of this provision is July 1, 1999.

III. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Chapter 409, F.S., relates to various state social and economic assistance programs. Sections 409.901-409.9205, F.S., provide the statutory basis for Florida's Medicaid Program. Section 409.918, F.S., authorizes the Public Medical Assistance Trust Fund, as created in 1984. This section provides legislative findings and intent, provides for deposit of revenue into the trust fund, and use of such trust fund revenue.

Chapter 395, F.S., relates to hospital licensing and regulation. Part IV of ch. 395, F.S., relates to the Public Medical Assistance Trust Fund. Section 395.701, F.S., 1998 Supplement, imposes an assessment of 1.5 percent on the net operating revenue for each hospital, as determined by the Agency for Health Care Administration (AHCA), based on the actual audited data of the hospital as reported to AHCA.

Section 395.7015, F.S., 1998 Supplement, imposes an annual assessment of 1.5 percent on the net operating revenues of certain health care entities. The assessment is imposed on the following entities: ambulatory surgical centers and mobile surgical facilities licensed under s. 395.003; clinical laboratories licensed under s. 483.091 (with certain exclusions); freestanding radiation therapy centers providing treatment through the use of radiation therapy machines that are registered under s. 404.22, F.S., and rules 10D-91.902, 10D-91.903, and 10D-91.904 of the Florida Administrative Code; and diagnostic-imaging centers that provide specialized services for the identification or determination of diseases through examinations, and also provide sophisticated radiological services rendered by physicians licensed under s. 458.311, 458.313, 458.317, 459.006, 459.007, or 459.0075, F.S.

Chapter 98-192, L.O.F., provided an exemption from the assessment on hospital net operating revenues for outpatient radiation therapy services provided by a hospital, and provided for the elimination of the assessment on freestanding radiation therapy centers. The exemption and elimination were made contingent upon AHCA receiving written confirmation from the federal Health Care Financing Administration (HCFA) that the changes would not adversely affect the use of the remaining assessments as state matches for the Medicaid program. On July 7, 1998, AHCA submitted a letter to HCFA requesting that they confirm that the provisions of chapter 98-192, L.O.F., would have no impact on the permissibility under federal rules of the remaining assessments. On December 17, 1998, HCFA requested additional information from the agency. The agency is evaluating HCFA's request to determine how best to obtain the data that the agency does not now have, or how to otherwise approximate the requested information. Because HCFA confirmation has not been received, the assessments are still in place.

In addition to the assessments noted above derived from assessments on the net operating revenues of hospitals and non-hospital health care entities, there are several other sources of revenues for the trust fund. Most notable as a major source of funding is the cigarette tax revenue, as authorized in s. 210.20, F.S. In addition, authorization also exists for certain health care regulatory enforcement fine amounts to be deposited into the trust fund: s. 395.1041, F.S., relating to hospital emergency room access violation fines; s. 408.040, F.S., relating to certificate-of-need violation fines; and s. 408.08, F.S., relating to hospital cost containment violation fines.

All assessments collected under ss. 395.701 and 395.7015, F.S., 1998 Supplement, are deposited into the Public Medical Assistance Trust Fund. The assessments, combined with the projected revenues from cigarette taxes and interest earnings, are fully utilized each year in the General Appropriations Act.

The Social Services Estimating Conference met on February 16, 1999, and adopted the following estimates for the Public Medical Assistance Trust Fund for FY 1999-2000:

Estimated revenues:	
Assessments on hospitals	\$253,300,000

Assessments on other health care entities	19,200,000
Cigarette tax distribution to PMATF	118,300,000
Interest	3,000,000
Total estimated revenues	\$393,800,000
Estimated expenditures:	
Hospital inpatient services	\$393,600,000
Administration	200,000
Total estimated expenditures	\$393,800,000
Estimated ending cash balance	\$0

B. EFFECT OF PROPOSED CHANGES:

HB 687, as amended by the Health Care Services Committee and by the Governmental Operations Committee, and as adopted as section 192 of HB 2125, provides for the establishment of a seven-member task force to review sources of funds deposited into the Public Medical Assistance Trust Fund. Members are to be appointed as follows: 2 by the President of the Senate, one of whom is a member of the Senate and one of whom represents a hospital subject to the PMATF assessment; 2 by the Speaker of the House of Representatives, one of whom is a member of the House and one of whom represents a non-hospital health care entity subject to the PMATF assessment; and 3 by the Governor, the Director of AHCA or his designee, a medical doctor licensed to practice in the state, and a consumer with no employment or investment interest in any health care entity subject to the PMATF and who is a representative of Florida TaxWatch. The Governor is to designate the task force chair from among the members.

Specific study topics include:

- Whether any provisions of ss. 395.701 and 395.7015, F.S., relating to assessments on net operating revenues of hospitals and non-hospital health care entities for deposit into the Public Medical Assistance Trust Fund, and s. 409.918, F.S., relating to the creation of and authorization for the Public Medical Assistance Trust Fund, need to be revised;
- Whether current assessments are equitably imposed;
- Whether exemptions from, or inclusions within, the assessments are justified; and
- The extent to which modifications to other statutory provisions that require deposit of specified revenue into the Public Medical Assistance Trust Fund could result in increased revenue for the trust fund, including but not limited to: s. 210.20, F.S., relating to cigarette tax funds; s. 395.1041, F.S., relating to hospital emergency room access violation fines; s. 408.040, F.S., relating to certificate-of-need violation fines; and s. 408.08, F.S., relating to hospital cost containment violation fines.

The bill directs the task force to provide an analysis of the budgetary impact of any recommended exemptions from, inclusions within, or modifications to, existing assessments. In addition, the bill directs AHCA to provide staff support and technical assistance to the task force, and requires the task force to convene no later than August 1, 1999, and report its findings and recommendations by December 1, 1999.

The effective date of this provision is July 1, 1999.

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?

The Agency for Health Care Administration is required to provide staff support and technical assistance to the task force.

(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?

None.

(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?

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:

- 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:

None.

E. SECTION-BY-SECTION ANALYSIS:

See EFFECT OF PROPOSED CHANGES above.

IV. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

The Agency for Health Care Administration is required to absorb the costs associated with the provision of necessary staff support and technical assistance to the task force.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

See Non-Recurring Effects above.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Since the bill is silent as to travel reimbursement for task force members, it is assumed that those appointed to the task force, or their respective employers', will be responsible for all task force-related travel expenses.

2. Direct Private Sector Benefits:

N/A

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

N/A

D. FISCAL COMMENTS:

None.

V. 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:

The 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:

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

VI. COMMENTS:

The strike-everything amendment adopted by the Health Care Services Committee on April 5, 1999, included as a task force function a review of federal requirements relating to provider assessments. This was specifically included because of previous concerns raised regarding the federal requirements that must be met in order for "provider taxes" to be an acceptable source of matching funds under federal Medicaid program guidance that requires such assessments to be broad based and uniform. Compliance with these federal requirements is crucial to the state's authority, and ability, to modify existing assessments.

As indicated in the PRESENT SITUATION portion of the analysis, at the time of the 1999 Legislative session, Florida was still awaiting word from the federal government as to federal approval or disapproval of Florida's request for an exemption from the assessment on hospital net operating revenues for outpatient radiation therapy services provided by a hospital and for elimination of the assessment on freestanding radiation therapy centers. As directed by ch. 98-192, L.O.F., written federal confirmation of these changes were required prior to the implementation of these assessment revisions. On May 28, 1999, HCFA notified AHCA of federal approval of these revisions. Such changes do, in fact, meet all federal tests relating to a "broad based health care-related tax" and uniformity requirements. This decision may have an impact on the deliberations of the task force created by this measure.

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

As filed, HB 687 proposed the repeal s. 395.7015, F.S., relating to non-hospital health care entity assessments for deposit into the Public Medical Assistance Trust Fund. This annual assessment is 1.5 percent on the net operating revenues of ambulatory surgical centers, mobile surgical facilities, clinical laboratories, freestanding radiation therapy centers, and diagnostic imaging centers. The bill would have had a negative fiscal impact of \$19.2 million in lost revenue to the state. This lost assessment revenue would have needed to be replaced in the state budget. There would also have been a loss of \$24.9 million drawn down in federal Medicaid matching funds. The total negative fiscal impact would have been \$44.1 million per fiscal year.

When the Committee on Health Care Services heard this bill on April 5, 1999, the committee adopted a strike-everything amendment which:

- Deleted reference to the repeal of the assessment on non-hospital health care entities.
- Provided for the establishment of a 7-member task force to review sources of funds deposited into the Public Medical Assistance Trust Fund. Members are to be appointed by the Senate President (2), the House Speaker (2), and the Governor (3). Specific study topics include:
 - The need for any statute updates;
 - Whether current assessments are equitably imposed;
 - Whether exemption from or inclusions within the assessments are justified; and
 - A review of federal requirements relating to provider assessments.
- Directed AHCA to provide staff support and technical assistance to the task force.
- Required the task force to convene no later than August 1, 1999, and report its findings and recommendations by December 1, 1999.

At its meeting on April 14, 1999, the Committee on Governmental Operations adopted one amendment to the amendment adopted in the Committee on Health Care Services. The Governmental Operations amendment replaced one of the two consumer task force members appointed by the Governor with a medical doctor licensed to practice in the state.

The provisions adopted as section 192 of HB 2125 reflect the committees' revisions, with the exception noted in the COMMENTS section above, relating to a review of federal requirements for provider assessments.

VIII. SIGNATURES:

COMMITTEE ON HEALTH CARE SERVICES:

Prepared by:

Phil E. Williams

Staff Director:

Phil E. Williams

AS REVISED BY THE COMMITTEE ON GOVERNMENTAL OPERATIONS:

Prepared by:

Russell J. Cyphers, J r.

Staff Director:

Jimmy O. Helms

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON HEALTH CARE SERVICES:

Prepared by:

Phil E. Williams

Staff Director:

Phil E. Williams