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HOUSE OF REPRESENTATIVES
COMMITTEE ON
HEALTH CARE LICENSING & REGULATION
ANALYSIS

BILL #: HB 951

RELATING TO: Sales Tax/Health Care Technology

SPONSOR(S): Representative Crist

COMPANION BILL(S): HB 431 (c) and SB 1396 (s)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) HEALTH CARE LICENSING & REGULATION
(2) BUSINESS DEVELOPMENT & INTERNATIONAL TRADE
(3) FINANCE & TAXATION
(4) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS
(5)

I. SUMMARY:

Findings indicate that the health technology industry is very valuable to Florida, and by being made up primarily of small companies, needs governmental support to flourish. This bill expands tax exemptions for computer-related industries to include technology industries. It exempts health technology from fees and registration requirements of the Florida Drug and Cosmetic Act.

The bill directs the State University System [SUS] and the University of Miami to perform certain evaluations relating to health technology business incubators and health technology companies. The bill also directs the State University System to submit a report of its findings to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The bill encourages the State Board of Community Colleges to develop health technology curricula to support the industry's work force needs. The bill directs the Division of Securities of the Office of the Comptroller to form a task force to review ch. 517, F.S., to enhance opportunities for health technology firms to raise capital. The Division of Securities is required to submit a report of its findings to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

This bill reduces or eliminates state's duplicate review and fee on FDA approved regulated product manufacturing.

The Office of Tourism, Trade, and Economic Development is the final authority for tax exemption certification.

The Department of Health estimates that approximately 2,750 separate and distinct medical devices are registered with the department annually. Thus, on an annual basis, the Drug, Devices and Cosmetics Trust Fund will not collect annual fees of an estimated $27,500. There will not be a fiscal impact on local government and the private sector in general.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

There are presently 60 biotechnology firms located in the state of Florida that employ 2,200 workers earning annual wages of $45,000, and generating approximately $2.9 million state sales taxes.

According to a 1998 study prepared by Enterprise Florida, Inc., Florida's Health Technology Industry leaders indicate that the state is making steps to improve the health technology infrastructure needed for the industry to grow, flourish and remain competitive. However, the industry leaders report that in order to be fully recognized as a "serious player" and global leader in the health technology arena, improvements are needed in the following areas: workforce, availability and skills; adequate financing programs; and a share of federal and private research and development funds.

Enterprise Florida Inc., states that presently Florida receives only approximately two percent of the total federal research funds available at the nation's universities. Currently, there are not any federally funded research and development centers in Florida. Florida is well positioned to take advantage to this sub-sector's growth, as the state is already the third location of choice for medical device manufactures, following California and Texas.

B. EFFECT OF PROPOSED CHANGES:

The health technology industry in Florida receives no special tax or fee breaks. This bill includes health technology industries for tax exemptions. According to Florida Enterprise, Inc., the tax incentives would facilitate the growth of this industry and insure Florida as a location for the biotechnology and pharmaceutical/drug firms. This could result in the retention and creation of new medical manufacturing operations throughout the state.

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?

Yes, the bill gives the Office of Tourism, Trade, and Economic Development responsibility to administer the program. All designated parties such as SUS and the University of Miami and Enterprise Florida, Inc. are charged with studying and formulating strategies to facilitate the growth and expansion of the health technology industry in Florida.

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

N/A

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?

An exemption from sales tax is provided for machinery and equipment used to produce health technology products.

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

Yes, certain medical device manufactures are exempt from payment of annual fees to the Drug, Devices and Cosmetics Trust Fund.

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?

      Yes.

   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:

Section 212.08 and 499.015, F.S.

E. SECTION-BY-SECTION ANALYSIS:

Section 1. Provides legislative intent to encourage and facilitate the expansion of the state's health technology industry. This industry sector creates high-wage jobs that can strengthen the state's economy.

Section 2. Amends s. 212.08 F.S., to provide criteria for exemptions from state taxes on health technology related areas. Defines "health technology products" to include: drugs; surgical, medical, and dental instruments and supplies; ophthalmic goods, laboratory apparatus, and laboratory analytical instruments; optical instruments and lenses and related health technology products as determined by the Office of Tourism, Trade, and Economic Development."

Section 3. Amends section 499.015 F.S., to provide exemptions from fees and registration requirements for certain medical device manufactures under the requirements of the Florida Drug and Cosmetic Act. Requires the manufacturers to submit evidence of registration, listing, and approval by the federal government of such devices.

Section 4. Charges the State University System [SUS] and the University of Miami with evaluating the feasibility of expanding health technology business incubators to other universities in the SUS. The State University System and the University of Miami shall consult with the Health Technology Advisory Council of Enterprise Florida, Inc., and Bio+Florida as part of these evaluations and recommendations. Results of the evaluation shall be reported to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 1, 1999.

Section 5. Encourages the State Board of Community Colleges to continue its efforts to develop health technology curricula to support the industry's workforce needs. Results of these efforts must be reported to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 1, 1999.

Section 6. Requires the Division of Securities of the Office for the Comptroller, in collaboration with the Office of Tourism, Trade, and Economic Development, Enterprise Florida, Inc., and its Health Technology Advisory Council, Bio+Florida, and The Florida Bar, to form a task force to review and evaluate chapter 517, Florida Statues, to determine its impact on the ability of Florida's health technology firms to raise capital. The findings must be reported to the Governor, the President of the Senate, and the Speaker of the House of Representatives, by December 1, 1999.

Section 7. Provides an effective date of July 1, 1999.

III. FISCAL ANALYSIS & 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:

   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:

   Certain medical device manufacturers in Florida will avoid paying annual fees payable to the state under the Florida Drug and Cosmetics Act.

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

   There will be no effect on private enterprise and employment markets. However, exporters of Class II and Class III medical devices manufactured in Florida, will no longer be able to obtain a Certificate of Free Sale from the State of Florida. While they may obtain a certificate from the federal government, it involves a much longer processing period. This could impact their ability to compete internationally.

D. FISCAL COMMENTS:

The department estimates that approximately 2,750 separate and distinct medical devices currently registered with the department annually will no longer be required to be registered. The registration fee per device is $20 for two years, or $10 per year. Thus, on an annual basis, the Drug, Devices and Cosmetics Trust Fund will not collect annual fees of an estimated $27,500 (2,750 @ $10 each).

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 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 in the aggregate.

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.

V. COMMENTS:

This bill deletes the requirement for certain medical device manufactures to pay the product registration fee. As reported by the department, "other manufactures in Florida, ie., prescription drug, over-the-counter drug, compressed medical gas, and cosmetic manufacturers, are still required to register and pay the biennial registration fee for their products. They might decide that they shouldn't have to pay to register their products, if medical device manufacturers don't have to pay the registration fee." According to the department, the bill provides that a manufacturer submit evidence of registration, listing, and approval at the time manufacturer submits an application to the department for a permit to do business in Florida as required by s. 499.013 (2)(d), F.S.

This bill is not clear as to whether the manufacturer is required to continue to submit to the department such evidence for new products or changes to previously reported products during the two year permit renewal period. According to the department, a manufacturer should report evidence for new products and any changes to previously reported products at the time they submit a renewal application for a permit. However, the language in the bill exempts the manufacturer from all of s. 499.015, F.S., except the requirement to obtain a permit to do business in Florida. This would appear to make it difficult for the department to enforce submission of evidence of new products or changes to previously reported products.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON HEALTH CARE LICENSING & REGULATION:

Prepared by:	Staff Director:
Felicia L. Odum	Lucretia Shaw Collins