

STORAGE NAME: h0959.hcs

DATE: April 8, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
HEALTH CARE SERVICES
ANALYSIS**

BILL #: HB 959

RELATING TO: Florida Health Endowment Trust Fund

SPONSOR(S): Rep. C. Green

COMPANION BILL(S): SB 1802 (i)

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

- (1) HEALTH CARE SERVICES
 - (2) GOVERNMENTAL OPERATIONS
 - (3) HEALTH & HUMAN SERVICES APPROPRIATIONS
 - (4)
 - (5)
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I. SUMMARY:

HB 959 creates the Florida Health Endowment Trust Fund within the State Board of Administration for the purpose of funding the Florida Health Endowment Association (FHEA). (A companion bill to this bill, HB 1035, creates the FHEA, which is a nonprofit entity that provides insurance coverage to individuals whose health insurance has been involuntarily terminated or whose pre-existing medical conditions prevent them from obtaining coverage in the standard individual health insurance market.)

The Florida Health Endowment Trust Fund, administered by the Board of the FHEA, consists of state appropriations, premiums paid from insurance contracts from the Florida Health Endowment Association, and voluntary contributions from insurers. Revenues received by the trust fund may be invested, and dividends and interest shall go toward the administration of the FHEA and payment of insurance benefits. The bill allows for the creation of a contingency fund.

The bill requires the state to agree to meet the obligations of the FHEA board to participants in the FHEA if moneys in the Trust Fund fail to offset the obligations of the board. The bill requires the Legislature to appropriate to the Trust Fund the amount necessary to meet the obligations of the board to the participants in the plan.

Article III, section 19(f)(1) of the Florida Constitution requires a three-fifths (3/5) vote of the membership of each house for the creation of a trust fund. Paragraph (2) of the same subsection (f) provides that a trust fund so created must terminate not more than four years after the effective date of the act authorizing the creation of the trust fund.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Under a companion measure, HB 1035, the Florida Health Endowment Association is created to replace the Florida Comprehensive Health Association which currently provides health care coverage for approximately 900 individuals. In 1991, the FCHA was prohibited from issuing policies to new applicants.

As a condition of doing business in Florida, health insurers are required to pay assessments to fund the deficits of the FCHA. Companies subject to the assessment include all health insurance companies, health maintenance organizations, fraternal benefit societies, multiple employer welfare arrangements, and prepaid health clinics. Self-funded employers and governmental entities are not subject to the assessment. It is estimated that the assessments to cover the "losses" for the FCHA for fiscal year 1998 are \$4.6 million.

Article III, section 19(f)(1), of the Florida Constitution, requires a trust fund of the State of Florida be created by a separate bill for that purpose only. The bill must be approved by a three-fifths (3/5) vote of the membership of both houses of the Legislature. Paragraph (2) of the same subsection (f) provides that a trust fund so created must terminate not more than four years after the effective date of the act authorizing the creation of the trust fund.

Pursuant to s. 215.3207, F.S., each trust fund must be created by language which specifies the name and purpose of the fund, the agency responsible for its administration, and the source of money to be credited to the fund.

B. EFFECT OF PROPOSED CHANGES:

HB 959 will create the Florida Health Endowment Trust Fund within the State Board of Administration. The bill will provide for sources of funds for the trust fund, as well as the annual carry-forward of such funds.

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?

N/A

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

The State Board of Administration will be required to administer a new trust fund.

(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?

N/A

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

N/A

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

N/A

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

N/A

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

N/A

3. Personal Responsibility:

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

N/A

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?

N/A

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:

The bill creates an undesignated section of law.

E. SECTION-BY-SECTION ANALYSIS:

Section 1. Creates the "Florida Health Endowment Trust Fund" which is created within the State Board of Administration. The trust fund is to consist of state appropriations, moneys acquired from governmental and private sources, premiums paid from insurance contracts from the Florida Health Endowment Association, and voluntary contributions from insurance companies. Funds deposited into the trust fund may be invested pursuant to s. 215.47, F.S., and dividends, interest, and gains from such investment shall increase the amount available for the program. The bill allows for the creation of a contingency fund if dividends, interest, and gains exceed the amount necessary for program administration and payment of insurance benefits. Moneys within the trust fund are exempt from the investment requirements of s. 18.10, F.S.

The bill provides that the state shall agree to meet the obligations of the FHEA board to participants in the FHEA if moneys in the trust fund fail to offset the obligations of the board. The bill requires the Legislature to appropriate to the trust fund the amount necessary to meet the obligations of the board to the participants in the plan.

The bill provides that the assets of the trust fund shall be maintained, invested, and expended solely for the purposes of the FHEA and may not be used for any other purpose.

Section 2. Provides that the act shall take effect on the effective date of Senate Bill ____, relating to the Florida Health Endowment Association, but shall not take effect if such legislation does not become law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

This bill does not have a direct fiscal impact, but the companion bill, HB 1035, appropriates an unspecified amount from the General Revenue Fund to the Florida Health Endowment Trust Fund created by this bill.

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

N/A

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:

Under the companion bill, HB 1035, health insurers will have to pay assessments into the Florida Health Endowment Trust Fund (until January 1, 2003, when the provision is repealed) to fund the deficits of the Florida Comprehensive Health Association because the newly created Florida Health Endowment Association assumes all liabilities of the FCHA.

2. Direct Private Sector Benefits:

N/A

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

N/A

D. FISCAL COMMENTS:

N/A

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:

The bill does not reduce the authority that counties or municipalities 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.

V. COMMENTS:

Section 2 of the bill makes passage of this bill contingent on the passage of the companion substantive Senate Bill, with no reference to a specific bill number. The actual companion measure should be specified.

The bill does not meet the constitutional requirement relating to repeal of a trust fund four years subsequent to the creation of the trust fund.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON HEALTH CARE SERVICES:

Prepared by:

Staff Director:

Phil E. Williams

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