

STORAGE NAME: h0419.ag
DATE: March 2, 2000

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
AGRICULTURE
ANALYSIS**

BILL #: HB 419

RELATING TO: Tobacco Production Relief

SPONSOR(S): Representative Stansel & others

TIED BILL(S): HB 421 by Representative Stansel & others

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

- (1) AGRICULTURE
 - (2) COMMUNITY COLLEGES & CAREER PREP
 - (3) GOVERNMENTAL RULES & REGULATION
 - (4) GENERAL APPROPRIATIONS
 - (5)
-

I. SUMMARY:

HB 419 provides for use of a portion of the state's tobacco settlement funds to compensate persons and communities adversely affected by loss of tobacco quota. WHEREAS clauses provide historical information regarding production of tobacco in Florida and other states. Also included is information about steps being taken by other tobacco-producing states to compensate their tobacco quota holders for costs incurred due to loss of quota. Legislative intent language states that Florida residents and communities involved in tobacco production should be compensated for adverse economic effects of the loss of tobacco quota occurring subsequent to the tobacco settlement agreements, beginning in 1997.

The bill provides that an unspecified amount of settlement fund proceeds be appropriated each year for 5 years, beginning in 2001, to the Florida Indemnification and Community Revitalization Trust Fund (to be created by HB 421). Trustees of the fund are directed to distribute funds in equal amounts on March 1 of each calendar year for 10 years, beginning in 2001. Purposes and distribution procedures are specified in the bill.

In addition, the bill provides that trustees of the trust fund shall be the three persons currently serving as Florida Trustees for the Phase II National Settlement Fund, plus four other persons, one each appointed by the President of the Senate, Speaker of the House of Representatives, Commissioner of Agriculture, and Board of Directors of Enterprise Florida, Inc. Duties of the trustees are included.

This legislation will have a fiscal impact on both state and local government; however, as the amount of the appropriation is not specified, the exact impact is yet to be determined.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Since 1938, with the exception of one year, farmers in Florida produced tobacco under a federally controlled quota system that regulates the volume of production. Flue-cured tobacco production requires a large investment of capital to purchase quota as well as the infrastructure, land, equipment, etc.

Chapter 94-251, Laws of Florida, amended the "Medicaid Third-Party Liability Act" effectively removing defenses in tortious litigation by the state against tobacco companies. 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. Due to a "Most Favored Nation Status" clause being included in the Florida settlement, the amount the tobacco industry will pay the state has increased by \$1.7 billion, bringing the total amount to \$13 billion. In addition to Florida, the States of 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, resulting in what is known as the Master Settlement Agreement. As a result of the litigation, there have been quota reductions of 18 percent, 17 percent, and 18.5 percent, in 1998, 1999, and 2000 production years, respectively, drastically reducing income opportunities for growers.

Flue-cured tobacco is produced in six states: 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. The Florida Farm Bureau Federation has calculated that \$12 per pound of affected tobacco quota would return Florida tobacco farmers to solvency. Included in this amount is \$8 per pound for quota value, \$0.15 per pound for machinery and structure losses, and \$0.25 per pound 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.

C. EFFECT OF PROPOSED CHANGES:

Legislative intent in HB 419 states that Florida residents and communities involved in tobacco production should be compensated for adverse economic effects of the loss of tobacco quota occurring subsequent to Florida's litigation and settlement agreements with tobacco companies, beginning in 1997. Compensation is intended to assist persons in seeking alternative profitable enterprises and retaining control of the ownership of their land. Compensation is also intended to reduce encumbered debt on stranded investment in specialized equipment, to allow for adequate cash flow for recipients, and to provide economic development assistance for the 6 counties (Alachua, Columbia, Hamilton, Lafayette, Madison and Suwannee) affected most by the litigation.

The bill provides that an unspecified amount of settlement fund proceeds be appropriated each year for 5 years, beginning in 2001, to the Florida Indemnification and Community Revitalization Trust Fund (to be created by HB 421). Trustees of the fund are directed to distribute funds in equal amounts on March 1 of each calendar year for 10 years, beginning in 2001. Funds are to be distributed as follows:

- 74.5% to eligible quota holders and producers. Eligibility is specified in the bill.
- 16.5% to Florida tobacco warehouse operators engaged in marketing tobacco when the bill becomes law. Four warehouses are named, along with percentages to be received.
- 4% for workforce development and employer-employee training or retraining for quota holders and warehouse operators, their immediate families, and other affected groups as determined by the trustees.
- 5% for economic development assistance to organizations and agencies in Alachua, Columbia, Hamilton, Lafayette, Madison and Suwannee Counties.

Any compensation an eligible recipient is to receive for a given calendar year, shall be reduced, dollar for dollar, by any compensation the person receives from the agreement between tobacco-growing states and the major tobacco companies. This agreement is commonly known as the "Phase II Settlement".

In addition, the bill provides that trustees of the trust fund shall be the three persons currently serving as Florida Trustees for the Phase II National Settlement Fund, plus four other persons, one each appointed by the President of the Senate, Speaker of the House of Representatives, Commissioner of Agriculture, and Board of Directors of Enterprise Florida, Inc. Duties of the trustees are specified, including a requirement that the trustees meet, organize and establish administrative procedures as soon as possible after the effective date of the act.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: provides legislative intent that Florida's tobacco quota holders, warehouse operators, and their respective workforces and communities be compensated for the adverse economic effects of the loss of tobacco quota occurring subsequent to the tobacco settlement agreements, beginning in 1997.

Section 2: provides that an unspecified portion of the proceeds paid to the State of Florida as a result of litigation between the state and the tobacco companies be appropriated every January 10 for 5 years, beginning in 2001, and placed in the Florida Indemnification and Community Revitalization Trust Fund. Trustees of the trust fund are required to distribute the funds over a 10-year period. Recipients of such distributions are described, along with percentages they are to receive.

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Section 3: provides the makeup of the Board of Trustees of the Florida Indemnification and Community Revitalization Trust Fund and their duties and responsibilities.

Section 4: provides an effective date of July 1, 2000, if legislation creating the trust fund is also adopted.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Please see Fiscal Comments Section.

2. Expenditures:

Please see Fiscal Comments Section.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Please see Fiscal Comments Section.

2. Expenditures:

Please see Fiscal Comments Section.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

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

D. FISCAL COMMENTS:

As no specific amounts of money or percentage of the tobacco settlement funds are included in this legislation, the fiscal impact is yet to be determined. Should this legislation be enacted, a percentage of tobacco settlement dollars will go to compensate tobacco quota holders, growers, and warehouse operators adversely affected by loss of quota. A percentage will also go to counties and/or communities whose economies are greatly affected by the reduction in tobacco produced and sold in those areas. Monies used for the purposes of this bill become unavailable for other state uses.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

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B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

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

N/A

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON AGRICULTURE:

Prepared by:

Staff Director:

Susan D. Reese

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