

STORAGE NAME: h0419s1.grr

DATE: April 10, 2000

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
GOVERNMENTAL RULES & REGULATIONS
ANALYSIS**

BILL #: CS/HB 419

RELATING TO: Tobacco Production Relief

SPONSOR(S): Committee on Agriculture and Representative Stansel and others

TIED BILL(S): HB 421

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

- (1) AGRICULTURE YEAS 8 NAYS 0
 - (2) COMMUNITY COLLEGES AND CAREER PREP W/D
 - (3) GOVERNMENTAL RULES & REGULATIONS
 - (4) GENERAL APPROPRIATIONS
 - (5)
-

I. SUMMARY:

CS/HB 419 provides for use of state funds to assist 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 assist 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 given assistance due to adverse economic effects of the loss of tobacco quota occurring subsequent to the tobacco settlement agreements, beginning in 1997.

The bill provides for unspecified appropriations 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. Receiving agencies, distribution procedures, and uses for the monies are specified in the bill. The bill provides that trustees shall be the 3 persons currently serving as Florida Trustees for the Phase II National Settlement Fund, plus 4 other persons, one each appointed by the President of the Senate, Speaker of the House of Representatives, Commissioner of Agriculture, and the Executive Director of the North Central Florida Regional Planning Council. Duties of the trustees and rulemaking authorization are provided.

This legislation will have a fiscal impact on both state and local governments; however, the exact impact is yet to be determined. The dollar amounts specified in Section 2. of the bill total \$40.5 million, to be distributed over a 10-year period.

The act will take effect July 1, 2001, if HB 421 or similar legislation creating the Florida Indemnification and Community Revitalization Trust Fund is adopted and becomes law.

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 volume of production. Florida tobacco farmers produce flue-cured tobacco which requires a large investment of capital to purchase quota as well as 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 number 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 CS/HB 419 states that Florida residents and communities involved in tobacco production should be assisted in handling the adverse economic effects of the loss of tobacco quota occurring subsequent to Florida's litigation and settlement agreements with tobacco companies, beginning in 1997. Assistance is intended to help persons seek alternative profitable enterprises and retain control of the ownership of their land. Assistance 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 affected counties and communities.

The bill provides for unspecified appropriations to be deposited in the Florida Indemnification and Community Revitalization Trust Fund (to be created by HB 421). Trustees are to distribute funds in equal amounts on March 1 of each calendar year for 10 years, beginning in 2001, as follows:

- \$500,000 per year for 10 years to the Institute of Food and Agricultural Sciences (IFAS) at the University of Florida to provide on-farm direct assistance to growers;
- \$1,000,000 per year for 10 years to the North Central Florida Regional Planning Council to assist affected counties in developing alternative industries, employment opportunities, and other economic development initiatives. Not less than 50 percent is specified for agricultural opportunities and the remainder for general employment and local tax base enhancement;
- a one-time appropriation of \$50,000 to the Florida Department of Agriculture and Consumer Services to study the feasibility of marketing unused tobacco equipment to other tobacco producing countries and to develop new marketing opportunities;
- \$150,000 per year for 3 years to the North Central Florida Regional Planning Council to assist tobacco warehouse marketing firms in transitioning to alternative ventures; and
- \$25,000,000 to the Florida Department of Agriculture and Consumer Services to be used for refinancing loans to tobacco farmers and quota holders.

The bill also provides that Florida's share of the Phase II National Tobacco Growers Settlement be held harmless through the remainder of the 12-year schedule adopted when the agreement was signed. Many growers express concern that, with other lawsuits being filed against the tobacco companies, the full 12 years of Phase II payouts will not be realized.

In addition, the bill provides that trust fund trustees 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 the Executive Director of the North Central Florida Regional Planning Council. 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:

See Section C. Effect of Proposed Changes.

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:

Under the provisions of this legislation, tobacco producers, quota holders, and warehouse operators and their communities and counties will have opportunity to obtain assistance from state funds.

D. FISCAL COMMENTS:

As no specific amounts of money to be appropriated are included in this legislation, the fiscal impact is yet to be determined. The dollar amounts specified in Section 2. of the bill total \$40.5 million (to be used over a 10 year period) to assist tobacco quota holders, growers, and warehouse operators adversely affected by loss of quota. A portion of this total is specified to aid counties and/or communities whose economies are greatly affected by the reduction in tobacco produced and sold in those areas. The bill provides for funds to be appropriated to the Florida Indemnification and Community Revitalization Trust Fund and distributed over 10 years.

The bill provides that Florida's share of the Phase II National Tobacco Growers Settlement be held harmless through the remainder of the 12-year schedule adopted when the agreement was signed. Many growers express concern that, with other lawsuits being filed against the tobacco companies, the full 12 years of Phase II payouts will not be realized. The state may be liable for payments should the tobacco industry default on payments under Phase II of the Settlement.

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

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A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

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:

The bill grants the Department of Agriculture and Consumer Services rulemaking authority to adopt rules and procedures for implementing the specified loan program. Rulemaking authority is also granted to the Trustees for the Florida Indemnification and Community Revitalization Trust Fund in determining and providing for certification of eligible participants and recipients under this act.

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Agriculture offered a Proposed Committee Substitute for HB 419 which was adopted unanimously. The resulting CS/HB 419 differs from the original bill by:

- removing all direct compensation to growers, quota holders, and warehouse operators;
- removing the requirement that funds from the state's tobacco settlement be deposited each year for 5 years into the Florida Indemnification and Community Revitalization Trust Fund (no specific source of funding is now in the bill);
- removing funding for workforce development and employer-employee training or retraining;
- providing that Florida's share of the Phase II National Tobacco Growers Settlement shall be held harmless through the remainder of its 12-year schedule; and
- in addition to the 3 Phase II trustees, adds 4 other persons to the Board of Trustees of the Indemnification and Community Revitalization Trust Fund.

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VII. SIGNATURES:

COMMITTEE ON AGRICULTURE:

Prepared by:

Staff Director:

Susan D. Reese

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