

By Representative Atwater

1 A bill to be entitled
 2 An act relating to the tobacco settlement;
 3 amending ss. 17.41 and 215.56005, F.S.;
 4 deleting the requirement of prior approval of
 5 the Legislature for the sale of all or part of
 6 the state's right, title, and interest in and
 7 to the tobacco settlement agreement and for the
 8 issuance of bonds by the Tobacco Settlement
 9 Financing Corporation which are payable from
 10 and secured by tobacco settlement proceeds;
 11 amending s. 215.5601, F.S.; changing amounts to
 12 be transferred to the Lawton Chiles Endowment
 13 Fund from the Department of Banking and Finance
 14 Tobacco Settlement Clearing Trust Fund;
 15 providing an effective date.

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 17 Be It Enacted by the Legislature of the State of Florida:

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 19 Section 1. Paragraph (a) of subsection (3) of section
 20 17.41, Florida Statutes, is amended to read:

21 17.41 Department of Banking and Finance Tobacco
 22 Settlement Clearing Trust Fund.--

23 (3)(a) ~~Subject to approval of the Legislature,~~All or
 24 any portion of the state's right, title, and interest in and
 25 to the tobacco settlement agreement may be sold to the Tobacco
 26 Settlement Financing Corporation created pursuant to s.
 27 215.56005. Any such sale shall be a true sale and not a
 28 borrowing.

29 Section 2. Paragraphs (c), (d), and (e) of subsection
 30 (2) and paragraph (a) of subsection (3) of section 215.56005,
 31 Florida Statutes, are amended to read:

1 215.56005 Tobacco Settlement Financing Corporation.--
2 (2) CORPORATION CREATION AND AUTHORITY.--
3 (c) The corporation shall have all the powers of a
4 corporate body under the laws of this state, including, but
5 not limited to, the powers of corporations under chapter 617,
6 to the extent not inconsistent with or restricted by the
7 provisions of this section, including, but not limited to, the
8 power to:
9 1. Adopt, amend, and repeal bylaws not inconsistent
10 with this section.
11 2. Sue and be sued.
12 3. Adopt and use a common seal.
13 4. Acquire, purchase, hold, lease, and convey real and
14 personal property, contract rights, general intangibles,
15 revenues, moneys, and accounts as may be proper or expedient
16 to carry out the purposes of the corporation and this section,
17 and to assign, convey, sell, transfer, lease, or otherwise
18 dispose of such property.
19 5. Elect or appoint and employ such officers, agents,
20 and employees as the corporation deems advisable to operate
21 and manage the affairs of the corporation, which officers,
22 agents, and employees may be employees of this state or of the
23 state officers and agencies represented on the board of
24 directors of the corporation.
25 6. Make and execute any and all contracts, trust
26 agreements, trust indentures, and other instruments and
27 agreements necessary or convenient to accomplish the purposes
28 of the corporation and this section, including but not limited
29 to investment contracts, swap agreements, or liquidity
30 facilities.
31

1 7. Select, retain, and employ professionals,
2 contractors, or agents, which may include the Division of Bond
3 Finance of the State Board of Administration, as necessary or
4 convenient to enable or assist the corporation in carrying out
5 the purposes of the corporation.

6 8. Do any act or thing necessary or convenient to
7 carry out the purposes of the corporation ~~subject to approval~~
8 ~~of the Legislature where required in this section.~~

9 (d) The corporation is authorized to enter into one or
10 more purchase agreements with the department pursuant to which
11 the corporation purchases any or all of the state's right,
12 title, and interest in and to the tobacco settlement agreement
13 and to execute and deliver any other documents necessary or
14 desirable to effectuate such purchase. ~~Sale of all or part of~~
15 ~~the state's right, title, and interest in and to the tobacco~~
16 ~~settlement agreement is subject to approval by the Legislature~~
17 ~~in a regular, extended, or special session.~~The tobacco
18 settlement agreement moneys received pursuant to the purchase
19 agreements may be used for the costs and expenses of
20 administration of the corporation.

21 (e)1. The corporation may issue bonds payable from and
22 secured by amounts payable to the corporation pursuant to the
23 tobacco settlement agreement. ~~Issuance of bonds by the~~
24 ~~corporation is subject to approval by the Legislature in a~~
25 ~~regular, extended, or special session.~~In addition, the
26 corporation is authorized to issue bonds to refund previously
27 issued bonds and to deposit the proceeds of such bonds as
28 provided in the documents authorizing the issuance of such
29 bonds. The corporation is authorized to do all things
30 necessary or desirable in connection with the issuance of the
31 bonds, including, but not limited to, establishing debt

1 service reserves or other additional security for the bonds,
2 providing for capitalized interest, and executing and
3 delivering any and all documents and agreements. The total
4 principal amount of bonds issued by the corporation shall not
5 exceed \$3 billion. The principal amount of bonds issued in
6 any single fiscal year shall not exceed \$1.5 billion,
7 beginning with the 2000-2001 fiscal year. The limitation on
8 the principal amount of bonds issued by the corporation shall
9 not apply to bonds issued to refund previously issued bonds.
10 No series of bonds issued shall have a true interest cost rate
11 of more than 4 percent over the yield on U.S. Treasury
12 obligations which have a maturity approximately equal to the
13 average life of such series of bonds. Satisfaction of the
14 foregoing interest rate limitation shall be determined on the
15 date such bonds are sold or a definitive agreement to sell
16 such bonds at specified prices or yields is executed and
17 delivered. The corporation may sell bonds through competitive
18 bidding or negotiated contracts, whichever method of sale is
19 determined by the corporation to be in the best interest of
20 the corporation.

21 2. The corporation does not have the power to pledge
22 the credit, the general revenues, or the taxing power of the
23 state or of any political subdivision of the state. The
24 obligations of the department and the corporation under the
25 purchase agreement and under any bonds shall not constitute a
26 general obligation of the state or a pledge of the faith and
27 credit or taxing power of the state. The bonds shall be
28 payable from and secured by payments received under the
29 tobacco settlement agreement, and neither the state nor any of
30 its agencies shall have any liability on such bonds. Such
31 bonds shall not be construed in any manner as an obligation of

1 the state or any agency of the state, the department, the
2 State Board of Administration or entities for which the State
3 Board of Administration invests funds, or board members or
4 their respective agencies. The corporation shall not be
5 authorized to expend moneys for payment of debt service on
6 bonds from any source other than revenues received under the
7 tobacco settlement agreement or reserves, funds, or accounts
8 established pursuant to documents authorizing the issuance of
9 such bonds.

10 3. The corporation may validate any bonds issued
11 pursuant to this paragraph and the security for payment for
12 such bonds, as provided in chapter 75. The validation
13 complaint shall be filed only in the circuit court for Leon
14 County. The notice required under s. 75.06 shall be published
15 in Leon County, and the complaint and order of the circuit
16 court shall be served only on the State Attorney for the
17 Second Judicial Circuit. The provisions of ss. 75.04(2) and
18 75.06(2) shall not apply to a validation complaint filed as
19 authorized in this paragraph. The validation of the first
20 bonds issued pursuant to this paragraph may be appealed to the
21 Supreme Court, and such appeal shall be handled on an
22 expedited basis.

23 4. The state hereby covenants with the holders of
24 bonds of the corporation that the state will not limit or
25 alter the authority or the rights under this section vested in
26 the corporation to fulfill the terms of any agreement,
27 including the terms of any purchase agreement, or in any way
28 impair the rights and remedies of such bondholders until at
29 least 1 year and 1 day after which no such bonds remain
30 outstanding unless adequate provision has been made for the
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1 payment of such bonds pursuant to the documents authorizing
2 such bonds.

3 5. The corporation shall not take any action which
4 will materially and adversely affect the rights of holders of
5 any bonds issued under this paragraph as long as such bonds
6 are outstanding.

7 6. Until at least 1 year and 1 day after which no
8 bonds of the corporation remain outstanding, the corporation
9 shall not have the authority to file a voluntary petition
10 under chapter 9 of the federal Bankruptcy Code or such
11 corresponding chapter or sections as may be in effect, from
12 time to time, and neither any public officer nor any
13 organization, entity, or other person shall authorize the
14 corporation to be or become a debtor under chapter 9 of the
15 federal Bankruptcy Code or such corresponding chapter or
16 sections as may be in effect, from time to time, during any
17 such period. The state hereby covenants with the holders of
18 bonds of the corporation that the state will not limit or
19 alter the denial of authority to file bankruptcy under this
20 paragraph until at least 1 year and 1 day after which no bonds
21 of the corporation remain outstanding.

22 7. The corporation may contract with the State Board
23 of Administration to serve as trustee with respect to bonds
24 issued by the corporation as provided by this paragraph and to
25 hold, administer, and invest proceeds of such bonds and other
26 funds of the corporation and to perform other services
27 required by the corporation. The State Board of
28 Administration may perform such services and may contract with
29 others to provide all or a part of such services and to
30 recover the costs and expenses of providing such services.

31 (3) POWERS OF THE DEPARTMENT.--

1 (a) The department is authorized, on behalf of the
2 state, to do all things necessary or desirable to assist the
3 corporation in the execution of the corporation's
4 responsibilities, including, but not limited to, processing
5 budget amendments against the Department of Banking and
6 Finance Tobacco Settlement Clearing Trust Fund, subject to the
7 requirements of s. 216.177, for the costs and expenses of
8 administration of the corporation in an amount not to exceed
9 \$500,000; entering into one or more purchase agreements to
10 sell to the corporation any or all of the state's right,
11 title, and interest in and to the tobacco settlement
12 agreement; executing any administrative agreements with the
13 corporation to fund the administration, operation, and
14 expenses of the corporation from moneys appropriated for such
15 purpose; and executing and delivering any and all other
16 documents and agreements necessary or desirable in connection
17 with the sale of any or all of the state's right, title, and
18 interest in and to the tobacco settlement agreement to the
19 corporation or the issuance of the bonds by the corporation.
20 ~~The department's authority to sell any or all of the state's~~
21 ~~right, title, and interest in and to the tobacco settlement~~
22 ~~agreement is subject to approval by the Legislature in a~~
23 ~~regular, extended, or special session.~~

24 Section 3. Subsection (7) of section 215.5601, Florida
25 Statutes, is amended to read:

26 215.5601 Lawton Chiles Endowment Fund.--

27 (7) ENDOWMENT PRINCIPAL.--The endowment shall receive
28 moneys from the sale of the state's right, title, and interest
29 in and to the tobacco settlement agreement and from amounts
30 transferred from the Department of Banking and Finance Tobacco
31 Settlement Clearing Trust Fund. Amounts to be transferred

1 from the clearing trust fund shall be in the following amounts
2 for the following fiscal years:

- 3 (a) For fiscal year 1999-2000, \$1.1 billion;
4 (b) For fiscal year 2000-2001, \$200 million;
5 (c) For fiscal year 2001-2002, \$247.7~~\$200~~ million;
6 and
7 (d) For fiscal year 2002-2003, \$125~~\$200~~ million.

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9 Amounts to be transferred pursuant to paragraphs (b), (c), and
10 (d) may ~~shall~~ be reduced by an amount equal to the lesser of
11 the amount specified in the paragraph for that fiscal year
12 ~~\$200 million~~ or the amount the endowment receives in that
13 fiscal year pursuant to the sale of the state's right, title,
14 and interest in and to the tobacco settlement agreement.

15 Section 4. This act shall take effect upon becoming a
16 law.

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19 HOUSE SUMMARY

20
21 Deletes the requirement of prior approval of the
22 Legislature for the sale of all or part of the state's
23 right, title, and interest in and to the tobacco
24 settlement agreement and for the issuance of bonds by the
25 Tobacco Settlement Financing Corporation which are
26 payable from and secured by tobacco settlement proceeds.
27 Changes amounts to be transferred to the Lawton Chiles
28 Endowment Fund from the Department of Banking and Finance
29 Tobacco Settlement Clearing Trust Fund. See bill for
30 details.
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