

Bill No. CS for SB 1580

Amendment No. Barcode 791384

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Burt moved the following amendment:

Senate Amendment (with title amendment)
Delete everything after the enacting clause

and insert:

Section 1. Present subsections (2) through (12) of section 569.21, Florida Statutes, are redesignated as subsections (4) through (14), respectively and new subsections (2) and (3) are added to that section, to read:

569.21 Expenditure of tobacco settlement proceeds.--The following guidelines shall be applied to the expenditure of all funds paid to the State of Florida as a result of litigation entitled The State of Florida et al. v. American Tobacco Company et al., Case #95-1466AH, in the Circuit Court of the Fifteenth Judicial Circuit, in and for Palm Beach County:

(2) The Governor, in consultation with the Attorney General, shall submit a report to the President of the Senate, the Speaker of the House of Representatives, the Comptroller, and the Auditor General by October 1, 2001, on the status of

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1 the settlement agreement as amended, in the case of The State
2 of Florida et al. v. American Tobacco Company et al., Case
3 #95-1466AH, in the Circuit Court of the Fifteenth Judicial
4 Circuit, in and for Palm Beach County. The report shall
5 specifically describe and explain the settlement agreement's
6 formula for determining the amount of the annual tobacco
7 settlement payments and the application of the formula,
8 including:

9 (a) The information being used and that is necessary
10 for applying the formula,

11 (b) The appropriate independent sources being used and
12 what should be used to verify the actual volume of cigarette
13 shipments and the annual tobacco settlement payments,

14 (c) Each settling defendant's 1997 Net Operating
15 Profit Methodology and how the annual process is being applied
16 or should be applied to verify current net operating profit
17 against that methodology, including, but not limited to, the
18 State's access to applicable proprietary confidential business
19 information of the settling defendants,

20 (d) How the formula is being applied and should be
21 applied at the payment date, including any estimation
22 methodology that is being used and should be used to
23 facilitate timely receipt of the annual tobacco settlement
24 payments, and

25 (e) The process being used and the process that should
26 be used to revise prior annual tobacco settlement payments for
27 adjustments to the applied settlement formula; changes in
28 estimates of the Consumer Price Index, Actual Volume, and net
29 operating profit; and other adjustments for properly applying
30 the formula and how that process specified the due dates and
31 interest terms to be applied to amounts due as a result of

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1 such payment revisions.

2 (3) The Comptroller shall receive representations from
3 the tobacco industry with respect to calculating the annual
4 tobacco-settlement payments. The Comptroller, in consultation
5 with the Governor's Office, shall verify the representations
6 from the tobacco industry, verify the annual payment amounts
7 by applying the terms of the settlement agreement to the
8 submitted industry representations, and appropriately resolve
9 inconsistencies. The Comptroller may obtain contractual
10 services, funded by the Department of Banking and Finance
11 Tobacco Settlement Trust Fund, necessary to verify the
12 representations from the tobacco industry.

13 (a) If the Comptroller determines that there has been
14 an overpayment by a settling defendant pursuant to the
15 settlement agreement, and the Auditor General confirms the
16 overpayment, the Comptroller shall notify the Governor, the
17 Senate and the House of Representatives of such overpayment.
18 Upon approval by the Legislative Budget Commission, a refund
19 shall be made to the respective settling defendant for the
20 overpayment by the Comptroller.

21 (b) If the Comptroller determines that there has been
22 an underpayment by a settling defendant pursuant to the
23 settlement agreement, and the Auditor General confirms the
24 underpayment, the Comptroller shall notify the Governor, the
25 Senate, the House of Representatives, and the Attorney General
26 of such underpayment. Within 10 days of the notification the
27 Attorney General shall request the respective settling
28 defendant to pay the underpayment. If within 40 days after the
29 request for payment, the settling defendant has not made
30 payment or entered into an agreement with the Attorney General
31 and the Governor for a method of payment, the Attorney General

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1 shall institute proceedings to collect the amount owed the
2 State.

3 (c) The Auditor General shall annually review the
4 state's process for verifying the annual tobacco settlement
5 payments and confirm that the payments were properly made in
6 accordance with the settlement agreement. The Auditor General
7 shall report on such confirmation and any deviation from such
8 process to the Governor, the President of the Senate, the
9 Speaker of the House of Representatives and the Attorney
10 General.

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13 ===== T I T L E A M E N D M E N T =====

14 And the title is amended as follows:

15 Delete everything before the enacting clause

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17 and insert:

18 An act relating to proceeds from the tobacco
19 settlement; amending s. 569.21, F.S.; requiring
20 the Governor in consultation with the Attorney
21 General to report by a date certain on the
22 status of the tobacco settlement agreement and
23 the formula for calculating the annual
24 payments; requiring the Comptroller to receive
25 representations from the tobacco industry which
26 are used to calculate the annual payments and
27 to verify such representations; requiring the
28 Comptroller to notify the Governor, the Senate
29 and the House of Representatives of any
30 overpayment or underpayment; authorizing any
31 refund of overpayment subject to approval by

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1 Legislative Budget Commission; requiring
2 Attorney General to demand balance of any
3 underpayment; directing Attorney General to
4 institute action to collect unpaid
5 underpayment; requiring the Auditor General to
6 annually review State's process for
7 verification of representations, to confirm
8 that settlement payments are being made in
9 accordance with the settlement agreement and to
10 report to the Governor, the Legislature and the
11 Attorney General regarding such confirmation;
12 redesignating the Comptroller as the Chief
13 Financial Officer to conform to a revision of
14 the State Constitution; providing effective
15 dates.

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