

By Senator Burt

16-616-02

1 A bill to be entitled
2 An act relating to proceeds from the tobacco
3 settlement; amending s. 569.21, F.S.; requiring
4 the Governor, in consultation with the Attorney
5 General, to report by a date certain on the
6 status of the tobacco settlement agreement and
7 the formula for calculating the annual
8 payments; requiring the Comptroller to request
9 informations from the tobacco industry which
10 are used to calculate the annual payments and
11 to verify such information; requiring the
12 Comptroller to notify the Governor, the Senate,
13 and the House of Representatives of any
14 overpayment or underpayment; authorizing any
15 refund of overpayment subject to approval by
16 the Legislative Budget Commission; requiring
17 the Comptroller to request the balance of any
18 underpayment; directing the Attorney General to
19 institute action to collect any unpaid
20 underpayment; requiring the Auditor General to
21 annually review the state's process for
22 verification of representations in order to
23 confirm that settlement payments are being made
24 in accordance with the settlement agreement,
25 and to report to the Governor, the Legislature,
26 and the Attorney General regarding such
27 confirmation; providing for budget amendments
28 and transfer of funds between agencies;
29 providing an effective date.

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

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

5 569.21 Expenditure of tobacco settlement
6 proceeds.--The following guidelines shall be applied to the
7 expenditure of all funds paid to the State of Florida as a
8 result of litigation entitled The State of Florida et al. v.
9 American Tobacco Company et al., Case #95-1466AH, in the
10 Circuit Court of the Fifteenth Judicial Circuit, in and for
11 Palm Beach County:

12 (2) The Governor, in consultation with the Attorney
13 General, shall submit a report to the President of the Senate,
14 the Speaker of the House of Representatives, the Comptroller,
15 and the Auditor General by October 1, 2002, on the status of
16 the settlement agreement as amended, in The State of Florida
17 et al. v. American Tobacco Company et al., Case #95-1466AH, in
18 the Circuit Court of the Fifteenth Judicial Circuit, in and
19 for Palm Beach County. The report shall specifically describe
20 and explain the settlement agreement's formula for determining
21 the amount of the annual tobacco settlement payments and the
22 application of the formula.

23 (3) The Comptroller shall request information from the
24 tobacco industry with respect to calculating the annual
25 tobacco-settlement payments. The Comptroller, in consultation
26 with the Auditor General, shall verify the information from
27 the tobacco industry, verify the annual payment amounts by
28 applying the terms of the settlement agreement to the
29 submitted industry information, and appropriately resolve
30 inconsistencies. The Comptroller may obtain contractual

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1 services necessary to verify the information from the tobacco
2 industry.

3 (a) If the Comptroller determines that there has been
4 an overpayment by a settling defendant pursuant to the
5 settlement agreement and the Auditor General confirms the
6 overpayment, the Comptroller shall notify the Governor, the
7 Senate, and the House of Representatives of such overpayment.
8 Upon approval by the Legislative Budget Commission, a refund
9 shall be made to the respective settling defendant for the
10 overpayment by the Comptroller.

11 (b) If the Comptroller determines that there has been
12 an underpayment by a settling defendant pursuant to the
13 settlement agreement and the Auditor General confirms the
14 underpayment, the Comptroller shall notify the Governor, the
15 Senate, the House of Representatives, and the Attorney General
16 of such underpayment. Within 10 days of the notification the
17 Comptroller shall on behalf of the state request the
18 respective settling defendant to pay the underpayment. If
19 within 40 days after the request for payment the settling
20 defendant has not made payment or entered into an agreement
21 with the Attorney General and the Governor for a method of
22 payment, the Attorney General shall institute proceedings in
23 State of Florida v. American Tobacco to enforce the agreement
24 and to collect the amount owed.

25 (c) The Auditor General shall annually review the
26 state's process for verifying the annual tobacco settlement
27 payments and confirm that the payments were properly made in
28 accordance with the settlement agreement. The Auditor General
29 shall report on such confirmation and any deviation from such
30 process to the Governor, the President of the Senate, the

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1 Speaker of the House of Representatives, the Comptroller, and
2 the Attorney General.

3 Section 2. The Governor is authorized to submit a
4 budget amendment to the Legislative Budget Commission to
5 transfer funds from the Tobacco Settlement Clearing Trust Fund
6 or any of the agency Tobacco Settlement Trust Funds to the
7 appropriate trust funds of the Governor, Comptroller, or
8 Attorney General to cover costs incurred to ensure that
9 tobacco settlement receipt amounts are accurate. This section
10 authorizes transfers between agencies, pursuant to the
11 requirements of section 216.292(1)(a), Florida Statutes. The
12 total amount transferred from the Tobacco Settlement Clearing
13 Trust Fund and the agency Tobacco Settlement Trust Funds shall
14 not exceed \$1 million.

15 Section 3. This act shall take effect upon becoming a
16 law.

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19 SENATE SUMMARY

20 Requires the Governor, in consultation with the Attorney
21 General, to report on the status of the tobacco
22 settlement agreement and the formula for calculating the
23 annual payments. Requires the Comptroller to notify the
24 Governor and the Legislature of any overpayment or
25 underpayment and the means to rectify those conditions.
26 Directs the Auditor General to review the process and
27 report on payments under the agreement. Provides
28 authority for budget amendments and the transfer of funds
29 between agencies.
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