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DATE: February 15, 2002

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
FISCAL POLICY & RESOURCES
ANALYSIS**

BILL #: HB 1137

RELATING TO: Florida Healthy Kids/Funding

SPONSOR(S): Representatives Rich, Farkas, and others

TIED BILL(S): None

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

- (1) HEALTH REGULATION YEAS 8 NAYS 1
- (2) FISCAL POLICY & RESOURCES
- (3) HEALTH & HUMAN SERVICES APPROPRIATIONS
- (4) COUNCIL FOR HEALTHY COMMUNITIES
- (5)

I. SUMMARY:

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

The Healthy Kids program is one of the partners of the Title XXI Florida Kidcare program. The local match requirement for the Florida Healthy Kids program was eliminated by the Legislature in Special Session C, 2001 for Fiscal Year 2001-2002. This provision expires July 1, 2002, when the local match will be required again. Counties participating in the Healthy Kids program are allotted 500 free base slots, which are funded primarily through state and federal dollars and required family contribution. Counties that want to enroll more children are required to provide local matching funds and county contribution levels may vary. Counties that were participating prior to April 1998, contribute at a 20% match rate. Counties that began participating after April 1998 were to begin at 5% in the first year, 10% in the second year, 15% in the third year and 20% in the fourth year.

The January 2002, OPPAGA Review, Report No. 02-02, recommends that the Legislature consider two policy options:

- Continue the local match requirement and direct the corporation to adopt the multi-year proposal in the 2000 local match study which reduces the local match requirement over time; or
- Permanently eliminate the local match and replace these funds with state funds such as Tobacco Trust Fund dollars.

HB 1137 effectively eliminates local matching funds for the Healthy Kids program. This bill makes clear that all local matching funds would be voluntary, thereby requiring Healthy Kids to utilize only state and federal funds, and use voluntary local funds for supplemental participation.

This bill may cause the state to subsidize the local match by either General Revenue Funds or funds from the Tobacco Settlement Trust Fund at approximately \$11.5 million dollars, if a policy decision is made to keep enrollment at current levels. According to the Healthy Kids Corporation, the state may lose up to \$26.1 million in federal funding if the local match is not subsidized by state funding.

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 type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

B. PRESENT SITUATION:

The Florida Healthy Kids Corporation was established in 1990 by the Florida Legislature as a public-private initiative to improve access to comprehensive health insurance for the state's uninsured children as set forth in section, 624.91, F.S., short title; "The Florida Healthy Kids Corporation Act." Upon creation of this program, the Legislature stated that its findings:

[T]hat increased access to health care services could improve children's health and reduce the incidence and costs of childhood illness and disabilities among children in this state. Many children do not have comprehensive, affordable health care services available. It is the intent of the Legislature that the Florida Healthy Kids Corporation provides comprehensive health insurance coverage to such children. The corporation is encouraged to cooperate with any existing health service programs funded by the public or the private sector and to work cooperatively with the Florida Partnership for School Readiness.

The Corporation helps thousands of uninsured children gain access to affordable, quality health care. The Healthy Kids program acts as a payor financing mechanism by aggregating local, state, federal and family funds to pay premiums to commercial health plans that assume the insurance risk for enrolled children. According to an OPPAGA report, enrollment for Title XXI Healthy Kids for 2001-02 is approximately 230,000 children that were covered who continue to enjoy a benefit structure with broad coverage from immunizations to transplants. This program is designed to provide affordable access to the insurance market for middle class families and to assist, with premium subsidies, lower-income families not eligible for Medicaid, who would be unable to pay the full premium. Similar to a group health insurance, where eligibility to participate is based on employment, eligibility for the Healthy Kids program is based on a child being enrolled in school and family income.

Participation by school districts, health plans and other entities in this initiative are voluntary and a key factor in the program's success. In 1992, before Healthy Kids' start-up in the pilot county of Volusia, the program required that the county subsidize its children due to the three-year limitation of the federal Medicaid demonstration grant. Furthermore, it was required that the county gradually increased its contribution if it wanted to maintain the program after the federal funds were no longer available. Volusia County agreed to provide the local funds necessary to bring the Healthy Kids program to their area and henceforth, set the parameters for which the entire program to operate in the future.

The local match became an integral part of the Healthy Kids program in 1993 as it served as a mechanism for stretching limited state dollars, thus maximizing the number of uninsured children who could receive benefits from the program.

In 1998, the Legislature directed the corporation to become available statewide through Chapter 98-288, Laws of Florida, utilizing the federal funds made available when Congress created Title XXI of the Social Security Act in 1997, the State Children's Health Insurance Program. This directive led Healthy Kids to create "base slots" for counties, as set forth in section 624.91(4)(b)15., F.S., as follows:

The Florida Healthy Kids Corporation shall phase in a program to: 15. Each fiscal year, establish a maximum number of participants by county, on a statewide basis, who may enroll in the program without the benefit of local matching funds. Thereafter, the corporation may establish local matching requirements for supplemental participation in the program. The corporation may vary local matching requirements and enrollment by county depending on factors which may influence the generation of local match, including, but not limited to, population density, per capita income, existing local tax effort, and other factors. The corporation also may accept in-kind match in lieu of cash for the local match requirement to the extent allowed by Title XXI of the Social Security Act;

According to AHCA, counties participating in the Healthy Kids program are allotted 500 free base slots. Counties that want to enroll more children are required to provide local matching funds. County contribution levels vary. Counties that were participating before April 1998, contribute at a 20% match rate. Counties that participated after April 1998 were to begin at 5% in the first year, 10% in the second year, 15% in the third year and 20% in the fourth year.

In FY 1999-2000, 31 of Florida's 67 counties contributed local match funds. The distribution of the match rate is found below:

Percentage Match Rate	Number of Contributing Counties
0%	36
4%	3
5%	6
10%	6
15%	4
16%	1
20%	11

The General Appropriations Act of FY 2000-2001 provided that counties maintain their prior local match commitments for the current year. The proviso language specifically stated:

In the event current local match levels are not met by counties, the Healthy Kids Program shall freeze admission in those counties which do not meet their local match commitments and requirements and begin reducing enrollment through attrition to reach the equivalent value of the lost local, state and associated federal matching funds.

During the year, two counties failed to meet their match until several months into the fiscal year and enrollment was frozen until the funds were provided.

In addition, in the General Appropriations Act of FY 2000-2001, the Legislature introduced funding for a dental benefit package. The dental benefit package was intended to cover an estimated 160,000 children in “counties that continue their current level of local match, or will in the future. The dental program shall be made available in counties which provide or commit to provide local match in excess of \$4,000.”

The General Appropriations Act of FY 2001-2002, contains proviso language stating that no local matching funds are required for the Healthy Kids Corporation program. Florida Healthy Kids was required to develop and implement a local match policy for the purpose of continuing and expanding coverage of uninsured children who do not meet the eligibility requirements of Title XXI. The Corporation was instructed to replace local match funds from FY 2000-2001 funding.

In Governor Jeb Bush appropriations’ veto message to Secretary of State, Katherine Harris, dated June 15, 2001, the Governor stated:

This proviso language attempts to change or amend substantive law by establishing a policy excusing all local match for the Healthy Kids Corporation program, in spite of the statutory requirement that Florida Healthy Kids Corporation establish each year a maximum number of participants by county, on a statewide basis, who may enroll in the program without the benefit of local matching funds.

Governor Bush expounded on this position by stating:

. . . I am concerned that the following proviso language from Senate Bill 2000, although not subject to my veto, likely violates Article III, Section 12 of the Florida Constitution. This proviso language, by changing or amending substantive law or by qualifying or restricting appropriations through provisions that are not directly and rationally related to the purpose of the respective appropriations, compromises the integrity of the legislative process. I have therefore directed my legal office to take action to secure a judicial determination that the following proviso language is unconstitutional and consequently null and void.

Subsequently, in an action filed by Governor Jeb Bush, plaintiff, against Katherine Harris, as Secretary of State, and Robert F. Milligan, Comptroller, the Governor sought declaratory judgment and injunctive relief in which the Governor challenged as unconstitutional seven portions of proviso language in Senate Bill 2000, the 2001-2002 General Appropriations Act, with Count I relating directly to the Healthy Kids proviso language. The Governor also sought a writ of mandamus directing the Secretary of State to expunge unconstitutional proviso language from the 2001-2002 General Appropriations Act.¹ At the time of this analysis, the parties have settled all matters in controversy pertaining to Counts II-VII of the Plaintiff’s Complaint, while the Legislature filed and was granted a motion to intervene as a party defendant regarding Count I; which challenges the Legislature’s authority to use proviso language to substitute one source of funding for another.

The Legislature resolved this issue during the 2001 Special Session C by eliminating in statute a local match requirement in each county for Fiscal Year 2001-02. This provision expires July 1, 2002, when the local match will be required again.

The 2001 Joint Legislative Auditing Committee directed the Office of Program Policy Analysis and Government Accountability (OPPAGA) to answer questions about the Florida Kidcare program pertaining specifically to the Florida Healthy Kids component of Kidcare. OPPAGA was directed to determine:

¹ John Ellis “Jeb” Bush, Governor of the State of Florida v. Katherine Harris, Secretary of State and Robert F. Milligan, Comptroller, case number 01-1629.

- Are there areas of the state where the 500 allotted and funded slots are not being utilized? If so, do access problems contribute to slots not being utilized?
- How many children are on the program's waiting list?
- What is the length of time needed to determine a child's eligibility for the program?

The January 2002 OPPAGA Review, Report No. 02-02, *Healthy Kids Slots Used: Waiting List Eliminated, But Could Reoccur If Local Match Is Reinstated*, reported that "In 1998, the Legislature created Healthy Kids Program to provide health insurance for low-income children. In the past two years, 27 Florida counties have never enrolled more than the 500 base slots allotted each county. This is largely due to their smaller, rural populations, not access barriers. The program now redistributes unused slots and funds to counties with higher enrollment."

In addition, the report states: "We recommend that the corporation work to estimate unmet need for the Healthy Kids Program in each county and continue its policy of redistributing funds not used by counties with low enrollment." OPPAGA determined that the corporation determines program eligibility for children within a reasonable time period. As well, there were no children on a waiting list as of November 1, 2001. However, in the past, the corporation instituted waiting lists to restrict services in some counties that did not pay their required local match after reaching the slot limit.

OPPAGA recommends that the Legislature consider two policy options:

- Continue the local match requirement and direct the corporation to adopt the multi-year proposal in the 2000 local match study which reduces the local match requirement over time; or
- Permanently eliminate the local match and replace these funds with state funds such as Tobacco Trust Fund dollars.

C. EFFECT OF PROPOSED CHANGES:

HB 1137 eliminates local matching funds requirement for the Healthy Kids program. This bill makes clear that all local matching funds would be voluntary, thereby requiring Healthy Kids to utilize state and federal funds first, and local funds as supplemental funding.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 624.91, F.S., and section 20 of chapter 2001-377, Laws of Florida, eliminating local matching fund requirements under the Florida Healthy Kids program; providing intent that voluntary local contributions to the program may be used for children not otherwise eligible for certain medical assistance.

Section 2. Provides for an effective date of July 1, 2002.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. <u>Revenues:</u>	Amount Year 1 FY 02-03	Amount Year 2 FY 03-04
Local Matching Funds/Florida Healthy Kids Corp.	\$(11,594,261)	\$(11,594,261)
Total Recurring Revenues	\$(11,594,261)	\$(11,594,261)

The bill provides that it is the intent to make the local matching fund requirement voluntary, after June 30, 2002. The previous local matching requirements range from 0% to 20% per county. The estimated local match available in FY 2000-2001 is approximately \$11.59 million before the change in local match policy provided by the Legislature in Special Session C. If the local matching requirement is eliminated, an estimated \$11.59 million of state funds will be required to replace the local match or enrollment will have to be limited, based on available funds.

2. <u>Expenditures:</u>	FY 02-03	FY 03-04
General Revenue or Tobacco Settlement Trust Fund	\$11,594,261	\$11,594,261

The shortfall in revenues represents funding from General Revenue or the Tobacco Settlement Trust Fund or another state funding source required to replace the local match with state funds.

General Revenue or Tobacco Settlement Trust Fund will replace local matching funds. State or qualified local matching funds are used as state match (31% matching rate) to draw federal funds (69% of total allowable expenditures net of family contributions).

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

At the time of this analysis, it could not be determined exactly what percentage of the \$11,594,261 previously contributed as local match was from local governments, although it is believed local governments contribute a large portion. According to the Healthy Kids Corporation, the local matching funds are a combination of funds from counties, government or local taxing authorities such as Children's Services Councils or Hospital Taxing Districts, private health care corporations (in 1997 the federal government disallowed health providers from contributing) and local charities. The repeal of the local match requirement will continue to relieve the local governments of their commitment and place any contribution on a voluntary basis.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

There is minimal impact on the private sector to the extent that private organizations or persons who were contributing towards a county's local match amount may not continue to do so in the future. Only a few counties used private donations to raise its local match commitment and the amount of those funds were of a limited amount.

However, according to data from the Florida Hospital Association, Florida ranks third in the nation in the number of individuals that are uninsured, with children representing almost one-fourth of that population, which equates to approximately 585,000 uninsured. In 1999, Florida hospitals absorbed \$1.2 billion in cost associated with treating the uninsured. In the event a local match is placed on a voluntary basis and the state subsidizes that loss fully, additional uninsured children may participate in the Healthy Kids Corporation, thereby, decreasing the population of uninsured children and lessening the burden on private/public hospitals for providing uncompensated care. In the converse, the fewer children insured, the higher the cost to local hospitals to provide care that may be mandated by the federal government through the Emergency Medical Treatment and Labor Act (EMTALA).

D. FISCAL COMMENTS:

According to the Healthy Kids Corporation, the maximum amount of federal funds that are lost if local match is not replaced by state funds is \$26.1 million.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require a city or county to expend funds or to take any action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

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

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

During recent years, the local match requirement became a poignant issue for some constituencies across the state, particularly those constituencies associated with rural counties or other counties

with few nongovernmental financial resources and little or no alternative tax revenue from which to fund local match. In response to those concerns, the 2000 Legislature directed the Florida Healthy Kids Corporation (FHKC) to conduct a review of the local match requirement and the development of recommendations for a multi-year proposal related to the reduction of local match.

FHKC selected Medimetrix Consulting to perform the review. Medimetrix presented a report to the Legislature via FHKC in November 2000. Despite the recommendations made by Medimetrix, the Board of the Healthy Kids Corporation voted against making formal recommendations to the Legislature due to the fiscal realities the Legislature would face in eliminating local contributions and the potential impact of this leading to the possible decrease in the number of children covered and/or shrinking benefits.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VI. SIGNATURES:

COMMITTEE ON HEALTH REGULATION:

Prepared by:

Staff Director:

Lisa Rawlins Maurer, Legislative Analyst

Lucretia Shaw Collins

AS REVISED BY THE COMMITTEE ON FISCAL POLICY & RESOURCES:

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