

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

---

Prepared By: Health Care Committee

---

BILL: SB 2376

SPONSOR: Senator Fasano

SUBJECT: The Cancer Research and Treatment Trust Fund

DATE: March 29, 2005

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Harkey</u>	<u>Wilson</u>	<u>HE</u>	<b>Favorable</b>
2.	_____	_____	<u>HA</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

---

## I. Summary:

This bill creates the Cancer Research and Treatment Trust Fund within the Department of Health and requires that moneys in the trust fund be used for the disbursement of grants by the Florida Cancer Council for certain purposes. The trust fund must be reviewed prior to its termination on July 1, 2009. The effective date of the bill is contingent upon the passage of HB 1233 or similar legislation.

This bill creates s. 381.926, F.S.

## II. Present Situation:

A related bill, SB 2378 (similar to HB 1233) provides for the deposit of a portion of cigarette tax funds (12.9528 percent of the net collections of the Cigarette Tax Collection Trust Fund) into the Cancer Research and Treatment Trust Fund, which would be created by this bill. Funds would be deposited in the trust fund over a 5-year period, along with \$250 million from nonrecurring General Revenue funds in FY 2005-06 for certain uses by the Florida Cancer Council. SB 2378 authorizes the awarding of grants under executed contracts with specific requirements. A grant could be used for capital construction when approved by the Governor and Cabinet. SB 2378 requires the council to work with the Office of Tourism, Trade, and Economic Development to determine economic benefits accruing to the state as a result of the council's expenditure of funds.

### Creation and Operation of Trust Funds

A trust fund consists of monies received by the state which, under law or under trust agreement, are segregated for a purpose authorized by law (s. 215.32(2)(b)1., F.S.). Section 19(f), Art. III of

the State Constitution, governs the creation of trust funds. This constitutional provision prohibits the creation by law of a trust fund of the state or other public body without a three-fifths vote of the membership of each house of the Legislature.<sup>1</sup> This provision further specifies that a trust fund must be created in a separate bill for that purpose only.

In addition, the Legislature has established criteria governing the establishment of trust funds. Under these criteria, a law creating a trust fund must, at a minimum, specify:

- The name of the trust fund;
- The agency or branch of state government responsible for administering the trust fund;
- The requirements or purposes that the trust fund is established to meet; and
- The sources of moneys to be credited to the trust fund or specific sources of receipts to be deposited in the trust fund (s. 215.3207, F.S.).

The Chief Financial Officer is directed to invest all the trust funds and all agency funds of each state agency (s. 17.61, F.S.). Under current law, any balance of an appropriation for any given fiscal year that is remaining after lawful expenditures have been charged against it reverts to the fund from which the Legislature appropriated it and shall be available for reappropriation (s. 216.301(1)(b), F.S.). Any reversion of appropriations provided from the General Revenue Fund must be transferred to the General Revenue Fund within 15 days after the reversion, unless otherwise provided by federal or state law, including the General Appropriations Act (s. 216.301(1)(c), F.S.).

### **Termination of Trust Funds**

Section 19(f)(2), Art. III of the State Constitution, specifies that trust funds created after November 4, 1992, with certain exceptions, shall terminate not more than 4 years after the effective date of the act authorizing the creation of the trust fund, unless the Legislature by law sets a shorter time period. Accordingly, a bill that creates a trust fund should specify the trust fund's date of termination, or, if the trust fund is exempt from the automatic 4-year termination requirement, the bill should declare that the trust fund is exempt from this requirement.<sup>2</sup>

The Legislature established a schedule and process for reviewing trust funds (ss. 215.3206 and 215.3208, F.S.). Before the regular session of the Legislature immediately before the scheduled termination date of an executive branch trust fund (or an earlier date if specified by the Legislature), the agency responsible for administration of the trust fund and the Governor must recommend to the Legislature whether the trust fund should be allowed to terminate or should be re-created (s. 215.3206(1), F.S.). Each recommendation is based on a review of the trust fund's purpose, use, and necessity. A recommendation to re-create the trust fund may include suggested modifications to the purpose, sources of receipts, and allowable expenditures for the trust fund.

If the trust fund is terminated and not immediately re-created, all cash balances and income of the trust fund are deposited into the General Revenue Fund (s. 215.3206(2), F.S.). The agency must pay any outstanding debts of the trust fund as soon as practicable, and the Chief Financial

---

<sup>1</sup> Section 19(f)(1), Art. III of the State Constitution.

<sup>2</sup> See Florida Senate, *Manual for Drafting General Bills* 82 (Sept. 1999).

Officer closes out and removes the trust fund from the various state accounting systems, using generally accepted accounting practices concerning warrants outstanding, assets, and liabilities.

### III. Effect of Proposed Changes:

**Section 1.** Creates s. 381.926, F.S., to create the Cancer Research and Treatment Trust Fund within the Department of Health. Funds credited to the trust fund must consist of moneys provided by law or otherwise appropriated by the Legislature for the purposes prescribed in s. 381.921, F.S. In accordance with s. 19(f)(2), Art. III, State Constitution, the trust fund will terminate on July 1, 2009, unless terminated sooner. Before its scheduled termination, the trust fund must be reviewed as provided in s. 215.3206, F.S.

**Section 2.** Provides an effective date of July 1, 2005, if House Bill 1233 or similar legislation is enacted in the same legislative session or an extension thereof and becomes law or if the General Appropriations Act for fiscal year 2005-2006 includes funding for the purposes prescribed in s. 381.921, F.S.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

#### B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Art. I, s. 24(a) and (b) of the Florida Constitution.

#### C. Trust Funds Restrictions:

The bill appears to comply with s. 19(f), Art. III of the State Constitution, relating to the creation and termination of trust funds. Passage of this bill will require a three-fifths vote of the membership of each house of the Legislature.

### V. Economic Impact and Fiscal Note:

#### A. Tax/Fee Issues:

None.

#### B. Private Sector Impact:

None.

#### C. Government Sector Impact:

This newly created trust fund would be a repository for funds dedicated to cancer research.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

A similarly named trust fund, the Cancer Control and Research Fund, created in s. 1004.435, F.S., funds the work of the Florida Cancer Control and Research Advisory Council which is created within the H. Lee Moffitt Cancer Center and Research Institute, Inc. The broad-based advisory council includes representatives from academic institutions, health care facility and practitioner professional organizations, and the general public. The council must approve the Florida Cancer Plan each year. The plan for the care and treatment of persons suffering from cancer is to include recommendations concerning cancer research.

---

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

---

## **VIII. Summary of Amendments:**

None.

---

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

---