

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 2378

SPONSOR: Senators Fasano, Smith, King, Rich, Dockery and Wise

SUBJECT: Cancer Research and Treatment Act

DATE: March 28, 2005

REVISED: _____

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

I. Summary:

This bill may be known as the “Florida Cancer Research and Treatment Act.” The bill 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 newly created Cancer Research and Treatment 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. The bill authorizes award of grants under executed contracts with specific requirements. A grant may be used for capital construction when approved by the Governor and Cabinet. The council must 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. The Office of Program Policy Analysis and Government Accountability (OPPAGA) must conduct certain reviews and complete certain reports relating to the work of the council.

This bill amends ss. 210.01, 210.20, and 381.921, F.S. The bill creates ss. 210.202, 381.922, 381.923, 381.924, and 381.925, F.S., and four unnumbered sections of law.

II. Present Situation:

Cancer Research

According to the Florida Dialogue on Cancer, of \$10 billion spent nationally on cancer research funding in 2002, the National Cancer Institute provided \$4.2 billion; industry and pharmaceutical companies provided \$5 billion; the U. S. Centers for Disease Control and Prevention provided \$269 million; the American Cancer Society provided \$125 million; and other non-profit groups provided \$375 million. In 2003, Florida, ranked 21st among the states in the amount of money (\$38.4 million) the National Cancer Institute provided for cancer research in this state. Florida

ranked second among states in the incidence of cancer (97,290 diagnoses) and mortality (40,090 deaths) from cancer in 2004.

The Florida Dialogue on Cancer

The Florida Dialogue on Cancer (FDOC) is a collaboration of Florida leaders of hospitals, research centers, universities, professional medical groups, community-based organizations, and private business groups, as well as government officials. FDOC is an initiative designed to expand the state's capacity to reduce the incidence and mortality rates of cancer. The goals of FDOC are to:

- Create a coalition that speaks with one voice on major statewide cancer issues for Florida;
- Enhance and promote Florida's capacity to conduct cancer research, professional education, clinical trials and treatment programs; and
- Identify and promote the replication of best practices in providing access to cancer prevention, education, screening, diagnosis, and treatment programs for all Floridians and to reduce the disparities that exist.

The Florida Division of the American Cancer Society sponsors FDOC, which is based on the work of the National Dialogue on Cancer.

The Florida Cancer Council

The 2004 Legislature created the Florida Cancer Council within the Department of Health for the purpose of making Florida a center of excellence for cancer research. Under s. 381.92, F.S., the council may create not-for-profit corporate subsidiaries to fulfill its mission, and those subsidiaries could receive, hold, invest, and administer property and any monies acquired from private, local, state, and federal sources as well as technical and professional income from the mission-related activities of the council.

The council consists of:

- The Chairman of the Florida Dialogue on Cancer, who shall serve as the chairman of the council;
- The Secretary of the Department of Health, or his or her designee;
- The Chief Executive Officer of the H. Lee Moffitt Cancer Center, or his or her designee;
- The President of the University of Florida Shands Cancer Center, or his or her designee,
- The Chief Executive Officer of the University of Miami Sylvester Comprehensive Cancer Center, or his or her designee;
- The Chief Executive Officer of the Mayo Clinic, Jacksonville, or his or her designee;
- The Chief Executive Officer of the American Cancer Society, Florida Division, or his or her designee;
- The President of the American Cancer Society, Florida Division Board of Directors, or his or her designee;
- The President of the Florida Society of Clinical Oncology, or his or her designee;
- The President of the American College of Surgeons, Florida Chapter, or his or her designee;

- The Chief Executive Officer of Enterprise Florida, Inc., or his or her designee;
- Five representatives from cancer programs approved by the American College of Surgeons, three of whom are appointed by the Governor, one by the Speaker of the House of Representatives, and one by the President of the Senate;
- One member of the House of Representatives, to be appointed by the Speaker of the House of Representatives; and
- One member of the Senate, to be appointed by the President of the Senate.

Appointments made by the Speaker of the House of Representatives and the President of the Senate are for 2-year terms concurrent with the terms of the presiding officers who make the appointments. Appointments made by the Governor will be for 2-year terms, and the Governor may reappoint directors. Members of the council or any subsidiaries serve without compensation and each organization represented must cover the expenses of its representatives.

The council must issue an annual report to the Center for Universal Research to Eradicate Disease, the Governor, the Speaker of the House of Representatives, and the President of the Senate by December 15 of each year. The report must contain policy and funding recommendations regarding cancer research capacity in Florida and related issues.

The mission and duties of the council are established in s. 381.921, F.S. The council must work in concert with the Florida Center for Universal Research to Eradicate Disease to ensure that the goals of the center are advanced and must endeavor to dramatically improve cancer research and treatment in Florida through the following efforts:

- Efforts to significantly expand cancer research capacity in Florida by:
 - Identifying ways to attract new research talent and attendant national grant producing researchers to Florida-based cancer research facilities;
 - Implementing a peer-reviewed, competitive process to identify and fund the best proposals to expand cancer research institutes in Florida;
 - Funding through available resources for those proposals that demonstrate the greatest opportunity to attract federal research grants and private financial support;
 - Encouraging the employment of bioinformatics in order to create a cancer informatics infrastructure that enhances information and resource exchange and integration through researchers working in diverse disciplines, to facilitate the full spectrum of cancer investigations;
 - Facilitating the technical coordination, business development, and support of intellectual property as it relates to the advancement of cancer research; and
 - Aiding in other multidisciplinary research-support activities as they inure to the advancement of cancer research.
- Efforts to improve both research and treatment through greater participation in clinical trials networks by:
 - Identifying ways to increase adult enrollment in cancer clinical trials;
 - Supporting public and private professional education programs designed to increase the awareness and knowledge about cancer clinical trials;
 - Providing tools to cancer patients and community-based oncologists to aid in the identification of cancer clinical trials available in the state; and

- Creating opportunities for the state's academic cancer centers to collaborate with community-based oncologists in cancer clinical trials networks.
- Efforts to reduce the impact of cancer on disparate groups by:
 - Identifying those cancers that disproportionately impact certain demographic groups; and
 - Building collaborations designed to reduce health disparities as they relate to cancer.

Cigarette Tax Revenues

Chapter 210, F.S., governs taxes on tobacco products. Cigarette tax collections received by the Division of Alcoholic Beverages and Tobacco in the Department of Business and Professional Regulation are deposited into the Cigarette Tax Collection Trust Fund. As provided in s. 210.20, F.S., funds are disbursed as follows:

- .9% to the Alcoholic Beverage and Tobacco Trust Fund to fund the division
- 2.9% to the Revenue Sharing Trust Fund for Counties
- 29.3 % to the Public Medical Assistance Trust Fund to pay for indigent health care
- 4.6 % to the H. Lee Moffitt Cancer Center and Research Institute¹

After the required distributions and after payment of a service charge required of trust funds under s. 215.20, F.S., the amount remaining in the trust fund is deposited in the General Revenue Fund.

The estimated amount of tax collections from cigarettes for 2005-2006 is \$429.2 million.²

III. Effect of Proposed Changes:

Section 1. Provides that the bill may be cited as the "Florida Cancer Research and Treatment Act."

Section 2. States that it is the intent of the Legislature to dramatically reduce Florida's inordinately high cancer burden, reducing both cancer incidence and mortality, while advancing scientific endeavors in Florida, making the state a world-class leader in cancer research and treatment. It is also the intent of the Legislature to make Florida's cancer research institutions and facilities more competitive in the pursuit of cancer research grant funding from the National Institutes of Health's National Cancer Institute and other sources, with a goal of increasing the allocation of federal cancer research grants to grantees in Florida from the current level of \$38 million per annum to \$200 million per annum by 2010. Additionally, it is the intent of the Legislature to spawn dramatic economic development, particularly in the biotech industry, through investment in the state's cancer research and treatment infrastructure.

Section 3. Amends s. 210.01, F.S., relating to taxes on cigarettes, to define *council* to mean the Florida Cancer Council, under the Department of Health, as established in s. 381.92, F.S.

¹ The H. Lee Moffitt Cancer Center and Research Institute will receive funding until 2016.

² 2005 *Florida Tax Handbook*, the Florida Legislature, p. 34. readable at <http://www.state.fl.us/edr/reports/taxhandbook2005/taxhandbook2005.pdf>

Section 4. Amends s. 210.20, F.S., relating to distribution of funds collected from cigarette taxes, to require that for a period of 5 years, beginning July 1, 2005, a portion of the proceeds from the cigarette tax in an amount equal to 12.9528 percent of the net collections will be deposited in the Cancer Research and Treatment Trust Fund, which is created in SB 2376, for the use of the Florida Cancer Council. Funds must be used for the purposes prescribed in s. 381.921, F.S., as they relate to:

- Attracting, recruiting, and employing experts in the field of cancer research, with emphasis given to those cancer researchers that will generate increased federal cancer research dollars directed to institutions in the state.
- Providing operational start-up support, including appropriate equipment as determined by the council, for individual cancer researchers or teams of cancer researchers attracted to the state.
- Capital expenditures as they relate to the purposes prescribed in s. 381.921, subject to approval by the Governor and Cabinet.

The bill provides that in fiscal years 2005-2006 through 2009-2010, the appropriation to the Florida Cancer Council must not be less than the amount that would have been distributed to the Florida Cancer Council in fiscal year 2004-2005 had the provisions of this section of the bill been in effect.

Section 5. Creates s. 210.202, F.S., to require the Florida Cancer Council to use the funds it receives from cigarette tax collections for the purposes enumerated in s. 381.921, F.S. Any capital construction projects granted by the council pursuant to s. 210.20(2)(c)3., F.S., must be approved by the Governor and Cabinet.

Section 6. Amends s. 381.921, F.S., which governs the Florida Cancer Council's mission and duties, to provide that the council will identify ways to attract new research talent and national grant-producing researchers to cancer research facilities "in this state" rather than "Florida-based" facilities. The council is authorized to award grants, using a peer-reviewed competitive process, from the funds generated pursuant to s. 210.20(2)(c)3., F.S., or funds allocated from other sources to execute the council's purposes. Where possible, the council must give preference to proposals that promote collaborative efforts between institutions in Florida and facilities to advance cancer research, as well as the detection and treatment of cancer.

Section 7. Creates s. 381.922, F.S., to establish allocation percentages for Florida Cancer Council grants, as follows:

- Up to 40 percent of available proceeds may be used for grants related to attracting, recruiting, and employing experts in the field of cancer research, with emphasis given to those researchers that will generate increased federal research dollars directed to institutions in this state.
- Up to 40 percent of available proceeds may be used for grants related to the provision of operational start-up support to institutions in this state and facilities for those researchers or teams of researchers recruited to the state, including appropriate equipment as determined by the council.

- Up to 20 percent of available proceeds may be used for grants related to capital projects. Any capital construction projects granted by the council will require the approval of the Governor and Cabinet.

Section 8. Creates s. 381.923, F.S., to establish requirements for Florida Cancer Council grant contracts. Each grant issued by the council must require the execution of a contract with, at a minimum, provisions:

- Specifying the procedures and schedules that govern the disbursement of funds under the grant.
- Specifying the conditions or deliverables that the grantee or grantees must satisfy before the release of any disbursement.
- Governing the ownership of, or security interests in, real property and personal property, including, but not limited to, research equipment obtained for private institutions through state resources, including a provision that if the grant contract is breached, or if a private sector grantee ceases operations in this state, such property purchased with state funds shall revert to the state.
- Requiring the grantee to be an equal opportunity employer.
- Requiring the grantee to submit data quarterly to the council on the activities and performance of the grantee in executing the intent of the grant, including an accounting of the funds disbursed under the grant, the number and nature of the jobs created as a result of the grant activity, and the average wages related thereto.
- Establishing that the council must review the activities of the grantee to assess the grantee's financial and operational compliance with the provisions of the contract and with relevant provisions of law.
- Authorizing the grantee, when feasible, to use information submitted by the grantee to the National Institutes of Health's National Cancer Institute or to other organizations awarding research grants to the grantee to help meet reporting requirements under this section or the contract, if the information satisfies the reporting standards of this section and the contract.
- Requiring the grantee to allow the council to retain an independent certified accountant licensed under ch. 473, F.S., to inspect the records of the grantee in order to audit the expenditure of funds granted to the grantee. The independent certified accountant may not disclose any confidential or proprietary scientific information of the grantee.
- Requiring the grantee to maintain liability insurance and governing the coverage level of such insurance.

An amendment to a contract executed under this section requires an affirmative vote by at least two-thirds of the council.

Section 9. Creates s. 381.924, F.S., to require the Florida Cancer Council to work with the Office of Tourism, Trade, and Economic Development to ascertain the economic benefits accruing to the state as a result of funds being appropriated to the council for disbursement of grants to carry out the intent prescribed in s. 381.921, F.S. The council must report to the Governor, the President of the Senate, and the Speaker of the House of Representatives in its annual report due by December 15 performance results, at a minimum, addressing:

- The number and dollar value of cancer research grants obtained by institutions in the state from the National Institutes of Health's National Cancer Institute or sources other than this state, as well as overall cancer research funding in Florida.
- The percentage of total cancer research dollars received by grantees from sources other than this state which is used to conduct cancer research activities by the grantee in this state.
- The number or value of any patent or licensing agreements, arising from cancer research grants disbursed by the council, executed by the council's grantees.
- The extent to which cancer research conducted by the council's grantees results in commercial applications.
- The extent to which grants disbursed by the council enhance participation in cancer clinical trials, and the reportable results related to such trials.
- The number and nature of collaborations on cancer research between institutions in Florida, as well as partnerships with out-of-state institutions engaged in cancer research.
- The number and nature of collaborative partnerships of council grantees with businesses in Florida.
- The number or value of businesses created as a result of Florida's investment in an enhanced cancer research and treatment infrastructure, including the number and nature of jobs created as result of council grants, as well as data on the average salary per created job.

Section 10. Creates s. 381.925, F.S., to require the Florida Cancer Council to award grants over a period of 5 fiscal years, beginning July 1, 2005. The council must complete disbursement of the total amount of grant funds appropriated by the Legislature no later than June 30, 2010, unless grantees fail to satisfy the prescribed terms and conditions of contracts. Any funds that are not disbursed by June 30, 2010, will revert to the Cancer Research and Treatment Trust Fund created in s. 381.926, F.S.

Section 11. Requires the Office of Program Policy Analysis and Government Accountability to conduct a review of the status of cancer research and participation in cancer clinical trials in Florida to establish baseline measures for the Florida Cancer Council's reporting requirements prescribed in s. 381.924, F.S., and to report its findings to the President of the Senate and the Speaker of the House of Representatives by November 1, 2005. OPPAGA must review the progress of the council in carrying out its mission and duties prescribed in s. 381.921, F.S., and must report to the President of the Senate and the Speaker of the House of Representatives by January 1, 2007. Subsequent reviews will be due to the President of the Senate and the Speaker of the House of Representatives by January 1, 2010, and January 1, 2012. The initial two reviews may be done in conjunction with the legislatively-mandated reviews prescribed in ch. 2003-420, L.O.F.

Section 12. In addition to the revenues from s. 210.20, F.S., dedicated from fiscal years 2005-2006 through 2009-2010 for investment in the purposes prescribed in s. 381.921, F.S., the bill appropriates the sum of \$250 million from the General Revenue Fund, provided such appropriation is included in the General Appropriations Act for fiscal year 2005-2006, and deposited into the Cancer Research and Treatment Trust Fund created in s. 381.926, F.S., to further carry out the intent of the bill. Unless specified in another enactment, the funds contemplated in this section must be derived from the nonrecurring General Revenue funds available for appropriation for fiscal year 2005-2006.

Section 13. Provides an effective date of July 1, 2005.

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:

Under s. 24, Art. I, Florida Constitution, every person has the right to inspect or copy any public record made in connection with the official business of any public body unless a specific exemption for those records is enacted by the Legislature. Section 381.923(1)(h), F.S., as created in s. 8 of the bill, specifies that the independent certified accountant retained by the Florida Cancer Council to inspect records of grantees may not disclose any confidential or proprietary scientific information of the grantee. The Florida Cancer Council does not have a public records exemption that would cover this provision.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

The bill requires that 12.9528 percent of cigarette tax revenues, which would be \$51.1 million in 2005-2006, must be deposited in the Cancer Research and Treatment Trust Fund for the use of the Florida Cancer Council. Such an allocation of cigarette tax revenues would produce a \$51.1 million loss to the General Revenue Fund.

B. Private Sector Impact:

The goal of the bill is that Florida would become a major center for cancer research and treatment. An economic impact study conducted by Ernst and Young at the request of the American Cancer Society of Florida predicted that approximately \$47.6 billion in total economic output would be generated over a 20-year period. The Ernst and Young study predicted the creation of approximately 71,000 new jobs in the state, the creation of \$22.5 billion in total personal income, and approximately \$1 billion in total tax revenue to the state over a 20-year period.

C. Government Sector Impact:

The bill 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 newly created Cancer Research and Treatment Trust Fund over a 5-year period. The bill appropriates

\$250 million from nonrecurring General Revenue funds in FY 2005-06 for certain uses by the Florida Cancer Council.

The bill does not provide for professional and administrative staff support or administrative costs including daily operations, annual report preparation, application intake or peer review. The Department of Health estimates a cost of \$372,137 to administer the program in 2005-2006 and a cost of \$356,686 in subsequent years. This cost includes salaries for a full time program administrator, half-time positions for a senior attorney, administrative secretary, and administrative assistant, and expenses which include the application and peer review process, annual report production, program marketing, and website development and maintenance.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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.
