

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

Prepared By: The Professional Staff of the Budget Committee

BILL: SB 1040

INTRODUCER: Budget Subcommittee on General Government Appropriations

SUBJECT: Florida Drug, Device, and Cosmetic Trust Fund/Department of Business and Professional Regulation

DATE: March 11, 2011      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Frederick	Meyer, C.	BC	<b>Favorable</b>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

This bill creates the Florida Drug, Device, and Cosmetic Trust Fund within the Department of Business and Professional Regulation. This trust fund is established to be used for activities relating to the regulation and administration of the Florida Drug and Cosmetic Act as authorized by section 499.002, F.S. Funds to be credited to the Florida Drug, Device, and Cosmetic Trust Fund will consist of funds collected for licenses, fees, interest earnings, and permits.

This bill substantially amends section 455.116, Florida Statutes.

This bill creates section 499.0031, Florida Statutes.

**II. Present Situation:**

Section 19 (f), Art.III of the State Constitution requires that every trust fund be created by a three-fifths vote of the membership in each house of the Legislature in a separate bill for the sole purpose of creating that trust fund. The Constitution also provides that all newly created trust funds terminate not more than four years after the initial creation unless re-created.

Chapter 499, F.S., known as the Florida Drug and Cosmetic Act, was enacted in 1982. Section 499.057, F.S., authorized the creation of the Florida Drug, Device, and Cosmetic Trust Fund. Section 499.79, F.S., provided that all fees collected for licenses and permits required under the act be deposited into the trust fund for administration of the act. Since 2006, the Division of Medical Quality Assurance within the Department of Health has been responsible for administering the provisions of the act.

Section 27 of ch. 210-161, L.O.F., transferred the administration of ch. 499, F.S., from the Department of Health to the Department of Business and Professional Regulation, effective October 1, 2011.

### **III. Effect of Proposed Changes:**

This bill creates the Florida Drug, Device, and Cosmetic Trust Fund within the Department of Business and Professional Regulation. This trust fund is established to be used for activities relating to the regulation and administration of the Florida Drug and Cosmetic Act as authorized by section 499.002, F.S. Funds to be credited to the Florida Drug, Device, and Cosmetic Trust Fund will consist of funds collected for licenses, fees, interest earnings, and permits.

The trust fund will terminate in four years, on July 1, 2015, pursuant to s. 19 (f)(2), Art. III of the State Constitution, unless terminated sooner or re-created by the Legislature.

### **IV. Constitutional Issues:**

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

None.

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

None.

#### **C. Trust Funds Restrictions:**

This bill, creating a new trust fund, must pass by a three-fifths vote of the membership of each house of the legislature to become law pursuant to s. 19(f)(2), Art. III of the State Constitution.

### **V. Fiscal Impact Statement:**

#### **A. Tax/Fee Issues:**

None.

#### **B. Private Sector Impact:**

None.

#### **C. Government Sector Impact:**

Creation of the Florida Drug, Device, and Cosmetic Trust Fund within the department will allow the department to administer funds to be used for activities relating to the regulation and administration of the Florida Drug and Cosmetic Act.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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