

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 Health Regulation Committee

BILL: SB 1108
 INTRODUCER: Senator Storms
 SUBJECT: The Use of Cigarette Tax Proceeds
 DATE: March 25, 2011 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|------------------|
| 1. | Brown | Stovall | HR | Favorable |
| 2. | _____ | _____ | BC | _____ |
| 3. | _____ | _____ | _____ | _____ |
| 4. | _____ | _____ | _____ | _____ |
| 5. | _____ | _____ | _____ | _____ |
| 6. | _____ | _____ | _____ | _____ |

I. Summary:

The bill amends Florida Statutes related to the distribution of funds from the Cigarette Tax Collection Trust Fund to the H. Lee Moffitt Cancer Center and Research Institute (Moffitt Center) and the use of those funds.

Effective June 30, 2013, the bill discontinues the current cigarette tax revenue distribution to the Moffitt Center of 1.47 percent of the net collections and, effective July 1, 2013, provides for a distribution to the Moffitt Center of 5 percent of net collections through June 30, 2045. Under current law and the bill, the distribution amount cannot be less than the amount would have been in state fiscal year 2001-02 if distributed at the percentage amount specified in statute. The bill expands the allowable use of these funds to various additional functions at the Moffitt Center.

This bill substantially amends the following sections of the Florida Statutes: 210.20 and 210.201.

II. Present Situation:

The H. Lee Moffitt Cancer Center and Research Institute

Section 1004.43, F.S., establishes the Moffitt Center at the University of South Florida (USF). A not-for-profit corporation governs the Moffitt Center in accordance with an agreement with the State Board of Education for the use of facilities on the USF campus. The not-for-profit corporation, acting as an instrumentality of the state, operates the center in accordance with an agreement between the Board of Governors¹ and the corporation. A board of directors manages

¹ Under revisions to the statute made by ch. 2007-217, L.O.F., the original agreement between the State Board of Education

the corporation, and a chief executive officer, who serves at the pleasure of the board of directors, administers the center.

The Statewide Presence of the H. Lee Moffitt Cancer Center and Research Institute

The Moffitt Center is the only cancer research facility in Florida that is designated as a Comprehensive Cancer Center by the National Cancer Institute (NCI). According to NCI, the Comprehensive Cancer Centers “are expected to initiate and conduct early phase, innovative clinical trials and to participate in the NCI’s cooperative groups by providing leadership and recruiting patients for trials.”²

Comprehensive Cancer Centers must conduct outreach and educational activities for healthcare professionals and the public. The Moffitt Center operates a clinical care and research network called Total Cancer Care (TCC) in collaboration with 15 medical center affiliates in Florida and one in Georgia. The TCC project provides personalized therapy in a large research project with patients who consent for the center to follow them over their lifetime. The TCC network increases access to the Moffitt Center’s cancer care and research expertise, including genetic profiling of patient specimens leading to personalized therapies, for patients being treated at one of the affiliated medical centers.

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 (DBPR) are deposited into the Cigarette Tax Collection Trust Fund. Section 210.20(2), F.S., provides for monthly distributions as follows:

From total collections:

- 8.0 percent service charge to General Revenue Fund
- 0.9 percent to Alcoholic Beverage and Tobacco Trust Fund

From the remaining net collections:

- 2.9 percent to Revenue Sharing Trust Fund for Counties
- 29.3 percent to Public Medical Assistance Trust Fund
- 1.47 percent to the Moffitt Center (\$5,691,995 per year minimum, or \$474,332.96 monthly)³
- The remainder to the General Revenue Fund

and the center is now overseen by the Board of Governors.

² National Institutes of Health, National Cancer Institute, “NCI-designated Cancer Centers”. See http://cancercenters.cancer.gov/cancer_centers/cancer-centers-list.html (last visited March 25, 2011).

³ When the Moffitt Center’s distribution was created in 1998 by ch. 98-286, L.O.F., the percentage was set at 2.59 percent, which was in effect until December 31, 2008. Other distributions were created in 2002 by ch. 2002-393, L.O.F., including an additional 1.47 percent distribution, which took effect July 1, 2004, on top of the 2.59 percent distribution. The 1.47 percent distribution expires June 30, 2020, under current law.

Use of Cigarette Tax Funds by the Moffitt Center

Section 210.20(b)2., F.S., which provides for the current 1.47 percent distribution to the Moffitt Center, specifies that the funds are to be used for the purpose of constructing, furnishing, and equipping a cancer research facility at USF adjacent to the Moffitt Center.

Section 210.201, F.S., further specifies that funds distributed to the Moffitt Center under s. 210.20, F.S., must be used to secure financing to pay costs related to constructing, furnishing, and equipping the cancer research facility. Such financing may include the issuance of tax-exempt bonds by a local authority, municipality, or county.

III. Effect of Proposed Changes:

Section 1 amends s. 210.20, F.S., to provide that, beginning with the distributions from the July 2013 net cigarette collections, and continuing monthly through June 30, 2045, the Moffitt Center's cigarette tax distribution will increase from 1.47 percent of the net collections to 5 percent, with a minimum of what would have been paid in state fiscal year 2001-02 had the distribution rate of 5 percent been in effect at that time.

The bill also expands the allowable uses for the Moffitt Center's distribution to specify that the funds must be used for lawful purposes that include:

- Constructing, furnishing, equipping, operating, and maintaining cancer center and clinical facilities;
- Furnishing, equipping, operating, and maintaining other properties owned or leased by the Moffitt Center; and
- Paying costs incurred for purchasing, operating, and maintaining equipment in or on any of those facilities or properties.

Reference to the cancer center facility being located at USF, adjacent to the Moffitt Center, is removed from statute.

The change to the distribution percentage does not become effective until July 1, 2013; however, the changes made to the allowable uses of the funds take effect on the bill's effective date, regardless of the distribution percentage.

Section 2 amends s. 210.201, F.S., to conform to the allowable uses specified by the amendment to s. 210.20, F.S., in Section 1 of the bill.

Section 3 provides an effective date for the bill of July 1, 2011.

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 the bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

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. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Under current law, the statutory minimum cigarette tax distribution to the Moffitt Center is \$5,691,995 annually or \$474,332.96 monthly, based on the amount of the distribution percentage if that percentage had been in effect in state fiscal year 2001-02. The bill increases the minimum to \$19,411,110 annually or \$1,617,592.50 monthly, effective July 1, 2013. This means that, under the bill, the Moffitt Center's minimum distribution per year will increase by \$13,719,115 beginning with the 2013-14 state fiscal year.⁴

By increasing the distribution percentage to the Moffitt Center as described above, there will be a corresponding decrease in revenue remaining to be distributed to the state General Revenue Fund, by an amount of \$13,719,115 annually, beginning with the 2013-14 state fiscal year.⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

⁴ Department of Business and Professional Regulation, *2011 Legislative Analysis: SB 1108*, on file with Senate Committee on Health Regulation staff.

⁵ *Id.*

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.

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