

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 342

INTRODUCER: Senator Storms and others

SUBJECT: Use of Cigarette Tax Proceeds

DATE: January 9, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wilson	Stovall	HR	Pre-meeting
2.			BC	
3.				
4.				
5.				
6.				

I. Summary:

The bill amends statutory provisions relating 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.

The bill moves up the date on which the current cigarette tax revenue distribution to the Moffitt Center of 1.47 percent of net collections is set to expire, from June 30, 2020, to June 30, 2013. Under the bill, effective July 1, 2013, the Moffitt Center would receive a distribution of 4.88 percent of net cigarette tax collections. This distribution would continue 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 2001-2002 if distributed at the percentage amount specified in statute. The bill expands the allowable uses of these funds to various additional functions of the Moffitt Center.

The bill expresses the Legislature’s intent to provide alternative funding sources to pay any deficit in the amount required for debt service on the Moffitt Center’s existing bonds if the bonds are adversely affected by amendment to or repeal of the cigarette tax or by amendment to the existing statutory Moffitt Center cigarette tax distribution.

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, acting as an instrumentality of the state, governs and operates the Moffitt Center in accordance with an agreement with the Board of Governors of the State University System,¹ which authorizes use of facilities on the USF campus. A board of directors manages the corporation, and a chief executive officer, who serves at the pleasure of the board of directors, administers the Moffitt Center.

The Moffitt Center is a statewide resource for basic and clinical research and multidisciplinary approaches to patient care. Its sole mission is to contribute to the prevention and cure of cancer. In 1999, the Moffitt Affiliate Network was established to further enhance the center's abilities to serve Florida communities by providing tertiary care, clinical trials, medical education, and community education and screening. The affiliate network consists of 14 Florida hospitals, plus one hospital in Georgia and one in Pennsylvania. The network also includes more than 400 community oncologists.²

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 the NCI, "the NCI-designated Cancer Centers are a major source of discovery of the nature of cancer and of the development of more effective approaches to cancer prevention, diagnosis, and therapy. They also deliver medical advances to patients and their families, educate health-care professionals and the public, and reach out to underserved populations. They are characterized by strong organizational capabilities, institutional commitment, and trans-disciplinary, cancer-focused science; experienced scientific and administrative leadership; and state-of-the-art cancer research and patient care facilities."³

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. Section 210.20(2), F.S., provides for monthly distributions as follows:

From total collections:

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

¹ Under revisions to the statute made by ch. 2007-217, L.O.F., the original agreement between the State Board of Education and the Moffitt Center is now overseen by the Board of Governors.

² Moffitt Cancer Center, Affiliate Hospitals. Found at:

<<http://www.moffitt.org/Site.aspx?spid=5CE54FA5D8EE4D27A5BD6C496C99028D>> (Last visited on January 3, 2012).

³ National Institutes of Health, National Cancer Institute, Office of Cancer Centers. Found at:

<<http://cancercenters.cancer.gov/about/index.html>> (Last visited on January 3, 2012).

From the remaining net collections:

- 2.9 percent to the Revenue Sharing Trust Fund for counties,
- 29.3 percent to the Public Medical Assistance Trust Fund, and
- 1.47 percent to the Moffitt Center (\$5,691,995 per year minimum, or \$474,332.96 monthly).⁴

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 the 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 terminate the existing 1.47 percent distribution June 30, 2013, and to provide that, beginning with the distributions from the July 2013 net cigarette tax 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 4.88 percent of the net collections, with a minimum of what would have been paid in state fiscal year 2001-2002 had the distribution rate of 4.88 percent been in effect at that time.

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

- Constructing, furnishing, equipping, financing, operating, and maintaining cancer research and clinical and related facilities;
- Furnishing, equipping, operating, and maintaining other properties owned or leased by the Moffitt Center; and
- Paying costs incurred in connection with purchasing, financing, operating, and maintaining equipment, facilities, and properties.

The bill removes a requirement that the funds be used for a facility at the University of South Florida adjacent to the Moffitt Center.

The bill states that if the cigarette tax is amended or repealed or the paragraph relating to the Moffitt Center is modified in a manner that would adversely affect the Moffitt Center's bonds, the Legislature intends to provide alternative funding sources in an amount sufficient to pay any deficit in the amount required for debt service on the bonds.

⁴ 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.

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 remove a requirement that the Moffitt Center facility be located at the University of South Florida and to conform to the allowable uses specified by the amendment to s. 210.20, F.S., in Section 1 of the bill. The bill also authorizes the Board of Directors of the Moffitt Center to secure financing, beyond local tax-exempt bonds, through other forms of indebtedness.

Section 3 provides an effective date for the bill of July 1, 2012.

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 \$5.6 million based on the amount of the distribution percentage if that percentage had been in effect in state fiscal year 2001-2002. The bill increases the minimum to \$18.8 million annually, effective July 1, 2013.⁵

⁵ Revenue Estimating Conference, Impact Conference Results, November 10, 2011. Found at: <<http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2012/pdf/page60-61.pdf>> (Last visited on January 3, 2012).

The 4.88 percent of net collections on its own would yield only \$13.2 million in FY 2013-2014, \$13.1 million in FY 2014-2015, and \$13.0 million in FY 2015-2016. The amount needed to bring the distribution to \$18.8 million annually results from the language requiring the distribution to at least match what it would have been had it been in place in FY 2001-2002, when the net tax collections were \$418.2 million. Since current and future collections are not expected to approach the \$418.2 million, the floor of \$18.8 million will be the distribution amount, just as under current law the FY 2001-2002 floor of \$5.6 million is in effect.⁶

Due to the low level of excise tax currently and in the forecast compared to FY 2001-2002, the result of this legislation is to put into place a distribution of \$18.8 million annually, replacing the current \$5.6 million annually. The impact is therefore \$13.2 million in additional revenue annually to the Moffitt Center, and a loss of \$13.2 million annually to the General Revenue Fund.⁷

VI. Technical Deficiencies:

On lines 72 and 73, the words “in addition to the distribution authorized in subparagraph 1.” appear to be unnecessary, since the distribution under that subparagraph has expired.

VII. Related Issues:

One Legislature cannot bind a future Legislature, therefore the language in the bill expressing legislative intent to provide alternative funding sources to the Moffitt Center, if the cigarette tax law or the statutory distribution of cigarette tax funds to the Moffitt Center is changed in a way that adversely affects Moffitt Center’s bonds, is only the expression of the intent of the 2012 Legislature.

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.

⁶ *Id.*

⁷ *Id.*