

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 5511 PCB GOAS 12-07 Department of Business and Professional Regulation

SPONSOR(S): Government Operations Appropriations Subcommittee, Hooper

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Government Operations Appropriations Subcommittee	14 Y, 0 N	Topp	Topp
1) Appropriations Committee	22 Y, 0 N	Topp	Leznoff

SUMMARY ANALYSIS

Chapter 2010-161, Laws of Florida, transferred the Drugs, Devices and Cosmetics Regulatory Program (DDC) and the administration of chapter 499, Florida Statutes, from the Department of Health (DOH) to the Department of Business and Professional Regulation (DBPR), effective October 1, 2011.

HB 5511 amends current law to transfer the funding of the DDC between trust funds within DBPR and update chapter 20, F.S., to include the DDC within the DBPR organizational structure.

Specifically, the bill:

- Terminates the Drugs, Devices and Cosmetics Trust Fund and transfers funding of the DDC to the Professional Regulation Trust Fund.
- Designates the DDC as a division in the department's organizational structure in section 20.165, F.S.
- Updates references in chapter 499, F.S., to replace DOH with DBPR.

The bill conforms to the proposed House of Representatives General Appropriations Act for FY 2012-13 as \$2.7 million in trust fund appropriations for the DDC have been transferred from the Drugs, Devices and Cosmetics Trust Fund to the Professional Regulation Trust Fund.

The bill provides an effective date of July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Chapter 2010-161, Laws of Florida, transferred the Drugs, Devices and Cosmetics Regulatory Program and the administration of chapter 499, Florida Statutes, from the Department of Health to the Department of Business and Professional Regulation, effective October 1, 2011.

The Legislature during the 2011 Session created the Drugs, Devices and Cosmetics Trust Fund¹ within the DBPR and provided nine months of funding for the DDC in the FY 2011-12 General Appropriations Act. However, DBPR now indicates that organizationally the DDC should be placed within the Professional Regulation Trust Fund with similar regulated professions (such as architecture, veterinarians, accountants, realtors, engineers and geologists).²

Proposed Changes

The bill proposes to transfer funding for the DDC from the Drugs, Devices and Cosmetics Trust Fund to the Professional Regulation Trust Fund and designates the DDC as a division within DBPR's organizational structure in section 20.165, F.S. The bill terminates the Drugs, Devices, and Cosmetics Trust Fund.

In addition, the definition of the department and numerous references in chapter 499, F.S., are updated to delete the DOH and surgeon general with the secretary and DBPR.

B. SECTION DIRECTORY:

Section 1. Amends paragraph (d) of subsection 20.165(2)(d), F.S., to create the Division of Drugs, Devices, and Cosmetics within DBPR.

Section 2. Amends subsection 455.116(8), F.S., by eliminating the Drugs, Devices, and Cosmetics Trust Fund.

Section 3. Amends subsection 499.003(15), F.S., changing the definition of "Department" from DOH, to DBPR. Amends paragraph (a) of subsection 499.003(54), F.S., changing the reference from the "Surgeon General" of DOH, to the "Secretary of Business and Professional Regulation."

Section 4. Amends subsection 499.01211(2), F.S., changing the references from the "Surgeon General" of DOH, to the "Secretary of Business and Professional Regulation."

Section 5. Amends section 499.024, F.S., changing the reference from the "Surgeon General" of DOH, to the Department (i.e., DBPR),

Section 6. Amends subsection 499.065(2), F.S., changing the reference from the "Surgeon General" of DOH, to the "Secretary of Business and Professional Regulation."

Section 7. Amends subsection 499.601(2), F.S., changing the reference from DOH to the "Department" (i.e., DBPR).

¹ Chapter 2011-30, Laws of Florida

² Department of Business and Professional Regulation, Bill Analysis, dated January 18, 2012, on file with the Government Operations Appropriations Subcommittee.

Section 8. Amends subsection 499.61(2), F.S., changing the definition of “Department” from DOH, to DBPR.

Section 9. Repeals section 499.0031, F.S., eliminating the Drugs, Device, and Cosmetics Trust Fund.

Section 10. Terminates the Drugs, Devices, and Cosmetics Trust Fund; transfers current balance and remaining revenues of Drugs, Devices, and Cosmetics Trust Fund to the Professional Regulation Trust Fund; requires DBPR to pay outstanding debts of Drugs, Devices, and Cosmetics Trust fund as soon as practicable. This section is effective November 1, 2012.

Section 11. Amends paragraphs (d), (e), and (l) of subsection 499.01(2), F.S., to replace references to the Drugs, Devices, and Cosmetics Trust Fund with references to the Professional Regulation Trust Fund.

Section 12. Amends subsection 499.028(13), F.S., to replace references to the Drugs, Devices, and Cosmetics Trust Fund with references to the Professional Regulation Trust Fund.

Section 13. Amends subsection 499.04, F.S., to replace references to the Drugs, Devices, and Cosmetics Trust Fund with references to the Professional Regulation Trust Fund.

Section 14. Amends subsection 499.057, F.S., to replace references to the Drugs, Devices, and Cosmetics Trust Fund with references to the Professional Regulation Trust Fund. Also provides that unless otherwise provided in the General Appropriations Act all salaries and expenses of the DDC shall be paid from the Professional Regulation Trust Fund.

Section 15. Amends subsection 499.062, F.S., to replace references to the Drugs, Devices, and Cosmetics Trust Fund with references to the Professional Regulation Trust Fund.

Section 16. Amends subsection 499.066, F.S., to replace references to the Drugs, Devices, and Cosmetics Trust Fund with references to the Professional Regulation Trust Fund.

Section 17. Amends subsection 499.62 (7), F.S., to replace references to the Drugs, Devices, and Cosmetics Trust Fund with references to the Professional Regulation Trust Fund.

Section 18. Amends subsection 499.72, F.S., to replace references to the Drugs, Devices, and Cosmetics Trust Fund with references to the Professional Regulation Trust Fund.

Section 19. Amends subsection 499.79, F.S., to replace references to the Drugs, Devices, and Cosmetics Trust Fund with references to the Professional Regulation Trust Fund. Clarifies that moneys of the DDC shall be used by the DBPR in the administration of chapter 499, F.S.

Section 20. Provides an effective date July 1, 2012, except as otherwise expressly provided in the bill.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill conforms to the proposed House of Representatives General Appropriations Act for FY 2012-13 as \$2.7 million in trust fund appropriations for the DDC have been transferred from the Drugs, Devices and Cosmetics Trust Fund to the Professional Regulation Trust Fund. The bill directs all revenues of the DDC to be deposited into the Professional Regulation Trust Fund.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

No specific rule making authority is provided in the bill. However, DBPR will update several rules upon passage of this bill due to the transfer of funding of the DDC to the Professional Regulation Trust Fund. In addition, rules will continue to require updates related to the transfer of DDC from DOH to DBPR.

Specifically, rules that will require updates:

Rule Chapter 64F-12 to be amended to delete references to DOH forms. Rules 64F-12.012, 12.013, 12.015, 12.016, 12.020, 12.022 and 12.026, refer to DOH forms while the bill changes the references in chapter 499, F.S., from DOH to DBPR.³

Rule 64F-12.024 refers to administrative fees and fines being paid into the DDC trust fund, which the bill eliminates effective November 1, 2012.⁴

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

³ Department of Business and Professional Regulation, Bill Analysis, dated January 18, 2012, on file with the Government Operations Appropriations Subcommittee, page 5.

⁴ Department of Business and Professional Regulation, Bill Analysis, dated January 18, 2012, on file with the Government Operations Appropriations Subcommittee, page 5.