

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 404

SPONSOR: Banking and Insurance Committee, Senator Latvala and others

SUBJECT: Florida Health Endowment Trust Fund

DATE: March 17, 2000

REVISED: 03/21/00 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Johnson</u>	<u>Deffenbaugh</u>	<u>BI</u>	<u>Favorable/CS</u>
2.	<u>Carter</u>	<u>Wilson</u>	<u>HC</u>	<u>Fav/1 Amendment</u>
3.	_____	_____	<u>FP</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

The Committee Substitute for Senate Bill 404 creates the Florida Health Endowment Trust Fund within the State Board of Administration for the purpose of funding the Florida Health Endowment Association (FHEA). Committee Substitute for Senate Bill 402, the companion bill to Committee Substitute for Senate Bill 404, creates the FHEA which is a nonprofit entity that provides insurance coverage to individuals whose health insurance has been involuntarily terminated or whose pre-existing medical conditions or financial situation prevent them from obtaining coverage in the standard individual health insurance market.

The Florida Health Endowment Trust Fund, administered by the board of directors of the FHEA, consists of state appropriations, premiums paid from insurance contracts from the Florida Health Endowment Association, and voluntary contributions from insurance companies. Appropriations and other monies received by the trust fund may be invested, and dividends and interest shall go toward the administration of the FHEA and payment of insurance benefits. With the exception of administrative fees paid to the State Board of Administration, all earnings of the trust fund are required to be used for the administration of the association for the benefit of the participants. The bill allows for the creation of a contingency fund.

The committee substitute provides that the trust fund is exempt from the general government service charge of 7 percent that is generally assessed against all trust funds, unless the trust fund is specifically exempted from the service charge in s. 215.22, *Florida Statutes* (F.S.).

This bill creates a yet unnumbered section of the *Florida Statutes*. This bill amends s. 215.22, F.S.

II. Present Situation:

Under the companion bill, Committee Substitute for Senate Bill 402, the Florida Health Endowment Association is created to replace the Florida Comprehensive Health Association (FCHA) which currently provides health care coverage for approximately 802 individuals. The

FCHA is established under ss. 627.648 through 627.6498, F.S., to provide health insurance coverage to eligible individuals who are unable to obtain health insurance through the private insurance market. In 1991, the FCHA was prohibited from issuing policies to new applicants.

As a condition of doing business in Florida, health insurers are required to pay assessments to fund the deficits of the FCHA. Companies subject to the assessment include all health insurance companies, health maintenance organizations, fraternal benefit societies, multiple employer welfare arrangements, and prepaid health clinics. Self-funded employers and governmental entities are not subject to the assessment. The assessments/losses for fiscal year 1998 for the FCHA were \$4.9 million. The projected assessment for fiscal year 1999 is \$4,019,913.

Chapter 18, F.S., provides the statutory requirements relating to the duties and responsibilities of the State Treasurer. Section 18.10, F.S., pertains to deposits and investments of state money. This provision of law, more specifically, directs the Treasurer, or other parties with the permission of the Treasurer, to deposit the money of the state or any money in the State Treasury (including any county, school district, metropolitan government, or commissions, and institutions of any such entities, or of any court, and includes the moneys of all county officers, including constitutional officers) in a bank, savings bank, or savings association that is organized under federal law and any state in the United States and that has its principal place of business in this state or has a branch office in this state which is authorized under Florida law or federal law to receive deposits in Florida, among other requirements.

Chapter 215, F.S., gives guidance to state officials as to how to conduct the financial affairs of the state. It defines the state fiscal year period, provides procedures for paying money into the State Treasury, and directs the Governor, the Department of Banking and Finance, the Department of Revenue, the Insurance Commissioner and Treasurer, and the State Board of Administration in the management of financial matters on behalf of the state. Section 215.22, F.S., provides a list of revenue income and trust funds, which is collected or that are established pursuant to state law, exempted from the 7 percent service charge assessed under s. 215.20, F.S., against all income of a revenue nature deposited in all trust funds except those enumerated in s. 215.22, F.S. Moneys for investment that are under the control of the State Board of Administration and the Investment Advisory Council of the Board, in the possession of the State, are governed by s. 215.47, F.S., subject to the limitations and conditions of the *State Constitution* or of the trust agreement relating to a trust fund. This provision of law contains guidelines relating to the types of securities in which moneys in the possession of the state may be invested, restrictions on such investments, payment of charges for services related to the investments, and other related guidelines, including rulemaking authority that is specific to such investment activities.

III. Effect of Proposed Changes:

Section 1. Creates the “Florida Health Endowment Trust Fund” within the State Board of Administration consisting of state appropriations, moneys acquired from governmental and private sources, premiums paid from insurance contracts from the Florida Health Endowment Association, and voluntary contributions from insurance companies. Funds invested in the trust fund may be invested pursuant to s. 215.47, F.S., and dividends and interest shall go toward the administration of the FHEA and payment of insurance benefits. It allows for the creation of a

contingency fund and moneys within the trust fund are exempt from the investment requirements of s. 18.10, F.S.

The section also provides that the assets of the trust fund shall be maintained and invested for the purposes of the FHEA and may not be loaned for any other purpose. All earnings of the trust fund, except for administrative fees paid to the State Board of Administration, are required to be used for the administration of the association for the benefit of the participants and to fund the contingency fund that the State Board of Administration may establish.

Section 2. Provides that the trust fund is exempt from the general government service charge of 7 percent that is generally assessed against the income of all trust funds, unless the trust fund is specifically exempted from the service charge in s. 215.22, F.S.

Section 3. Provides that the act shall take effect on the effective date of Senate Bill 402, but shall not take effect if such legislation does not become law.

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

C. Trust Funds Restrictions:

Article III, s.19(f) of the State Constitution, effective November 1992, prohibits the creation of a trust fund by the state or any other public body without a three-fifths vote of the membership of each house of the Legislature in a separate bill for that purpose only. Additionally, trust funds created after November 1992 terminate not more than 4 years after the effective date of the act authorizing the trust fund's creation.

Pursuant to s. 215.3207, F.S., each trust fund must be created by language which specifies the name and purpose of the fund, the agency responsible for its administration, and the source of money to be credited to the fund.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Under the companion bill, Committee Substitute for Senate Bill 402, certain health insurers will continue to pay assessments into the Florida Health Endowment Trust Fund until January 1, 2001, when the assessment to fund the Florida Comprehensive Health Association is abolished by repeal of ss. 627.6492 and 627.6494, F.S., to fund the deficits of the FCHA since the newly created Florida Health Endowment Association assumes all liabilities of the FCHA.

C. Government Sector Impact:

The companion bill, Committee Substitute for Senate Bill 402, establishing the Florida Health Endowment Association, appropriates \$50 million from the General Revenue Fund to the Florida Health Endowment Trust Fund which is created by this bill. All earnings of the trust fund, except for the administrative costs paid to the State Board of Administration, are required to be used by the association for the benefit of participants or to establish a contingency fund authorized by the bill. In the event the earnings of the trust fund are not adequate to meet obligations of the association for the current fiscal year, it is unclear whether the initial \$50 million transferred to the trust fund could be used to fund such deficits in a given year.

Revenues of the Trust Fund would be exempt from the annual 7 percent general government service charge generally deducted from all trust funds.

VI. Technical Deficiencies:

The bill does not define or explain how the contingency fund authorized under section 1 of the bill is to be used. This may result in an unlawful delegation of legislative authority.

VII. Related Issues:

The bill allows for the creation of a contingency fund within the trust fund; however, all monies (principal and interest) deposited and maintained would be contained within the Florida Health Endowment Trust Fund.

VIII. Amendments:

#1 by Health, Aging and Long-Term Care:

Deletes authorization, by reference only, for the establishment of a contingency fund within the Florida Health Endowment Trust Fund.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
