

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 2446

SPONSOR: Senator Mitchell

SUBJECT: Tobacco Production Relief

DATE: March 28, 2000 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Poole</u>	<u>Poole</u>	<u>AG</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>CA</u>	_____
3.	_____	_____	<u>FP</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

Senate Bill 2446 provides for use of state funds to assist persons and communities adversely affected by the loss of tobacco quota. WHEREAS clauses provide historical information regarding production of tobacco in Florida and other states. Also included is information about steps being taken by other tobacco-producing states to assist their tobacco quota holders for costs incurred due to loss of quota. Legislative intent language states that Florida quota holders, warehouse operators, their workforces and communities should be given assistance and that economic development assistance is to be provided to Alachua, Columbia, Hamilton, Lafayette, Madison and Suwannee Counties, due to adverse economic effects of the loss of tobacco quota. Assistance is also intended to reduce encumbered debt on stranded investment in specialized equipment to assist recipients in maintaining adequate cash flow in line with that projected for tobacco production of 1997 and 1998.

The bill provides for an appropriation of \$66,957,249 over 5 years to the Florida Indemnification and Community Revitalization Trust Fund (to be created by SB 2466). Trustees of the fund are directed to distribute funds in equal amounts each calendar year for 10 years, beginning in 2001. Receiving agencies, distribution procedures, and uses for the monies are specified in the bill. The state's share of the Phase II National Tobacco Grower Settlement is to be held harmless through the 12-year schedule and \$53,901,000 is to be deposited in the Florida Indemnification and Community Revitalization Trust Fund on the effective date of this act.

In addition, the bill provides that trustees shall be the three persons currently serving as Florida Trustees for the Phase II National Settlement Fund, plus four other persons, one each appointed by the President of the Senate, Speaker of the House of Representatives, Commissioner of Agriculture, and the Executive Director of the North Central Florida Regional Planning Council. Duties of the trustees are included. The trustees may use any outside sources, consultants, methods, or means they consider necessary to accomplish the intent of this act, and the trustees are to submit an annual report to an unspecified recipient.

This bill creates s. 196.33, Florida Statutes, and other unspecified sections of the Florida Statutes.

II. Present Situation:

In 1933, the United States Congress passed the Agricultural Adjustment Act and since 1938, with the exception of one year, farmers in Florida produced tobacco under a federally controlled quota system that regulates the volume of production. There are now approximately 290 tobacco quota holders in the state. Florida tobacco farmers produce flue-cured tobacco which requires a large investment of capital to purchase quota as well as the infrastructure, land, equipment, etc.

Chapter 94-251, Laws of Florida, amended the "Medicaid Third-Party Liability Act" effectively removing defenses in tortious litigation by the state against tobacco companies. On August 25, 1997, the State of Florida and the tobacco companies reached a settlement in the case of the *State of Florida, et al. v. American Tobacco Company, et al.*, with the tobacco companies agreeing to pay the state \$11.3 billion over 25 years. Due to a "Most Favored Nation Status" clause being included in the Florida settlement, the amount the tobacco industry will pay the state has increased by \$1.7 billion, bringing the total amount to an estimated \$13 billion. In addition to Florida, Texas, Mississippi, and Minnesota each separately sued and reached settlements with the tobacco industry. The remaining 46 states joined together in a suit, resulting in what is known as the Master Settlement Agreement. As a result of the litigation, there have been quota reductions of 18 percent, 17 percent, and 18.5 percent, in 1998, 1999, and 2000 production years, respectively, dramatically reducing income opportunities for growers.

To ameliorate this hardship, a Phase II National Tobacco Grower's Settlement Trust was established with approximately \$4.3 million being mailed to Florida farmers and quota holders earlier this year, with an additional matching amount expected to be distributed to farmers and quota holders from the USDA during the 2000 growing season. Under the "Phase II agreement," Florida growers are scheduled to receive a total of \$58.5 million over a 12-year period.

Flue-cured tobacco is produced in six states: Florida, Georgia, Alabama, North Carolina, South Carolina, and Virginia. South Carolina has introduced legislation to compensate tobacco growers from tobacco company settlements, and both North Carolina and Virginia have passed legislation to compensate growers using 25-50 percent of tobacco company settlements.

III. Effect of Proposed Changes:

This bill proclaims 16 WHEREAS clauses pertaining to tobacco production related issues as follows:

- Tobacco was one of the first export commodities in this country, and was the major export commodity to raise funds to finance the American Revolution;
- Tobacco was from its beginnings, and continues to be, a legal enterprise in this state and nation;
- Tobacco has been produced by growers in this state every year since the establishment of a federally controlled quota system in 1938;

- Tobacco has been one of the most stable and predictable crops for Florida farmers;
- Tobacco requires a proportionally larger investment of capital per unit of production due to quotas and infrastructure needed for production;
- Tobacco requires large production costs causing producers to have very large asset investments and debt service requirements, constituting a disproportionately large component of the local economies;
- In 1994, the “Medicaid Third-Party Liability Act,” was amended to effectively remove defenses in tortious litigation by the state against tobacco companies;
- In 1997, the State of Florida and tobacco companies reached a settlement with those companies agreeing to pay the state \$11.3 billion over 25 years;
- Based upon the “Most Favored Nation Status” of the settlement, Florida has increased its settlement agreement to \$13 billion, an increase of \$1.7 billion;
- As a direct result of this litigation and other governmental actions in 1998, 1999, and 2000 production years, total quota reductions occurred of 18 percent, 17 percent, and 18.5 percent, respectively, leaving many tobacco producers in serious financial peril from such a substantial loss of production, and additional reduction is anticipated in the 2001 production year;
- Tobacco quota holders still possess sufficient infrastructure and equipment to produce the volume of 1997, the loss of quota has severely affected the value of their investment;
- Other tobacco-producing states have either passed or are currently considering legislation to assist their tobacco quota holders with costs, such as asset loss, stranded investment, and income and employment opportunities;
- Since the State of Florida and tobacco companies reached a settlement, the state has neglected to consider any method of assistance for tobacco quota holders, and such assistance is warranted because the decline in consumption and farmgate price of tobacco is a direct result of the state’s tobacco litigation;
- The assistance to tobacco quota holders by this act will help ensure stability in economies of 20 Florida counties by assisting the family farms in the state which have been adversely affected by Florida’s participation in the tobacco litigation;
- This will entail efforts to diversify and retool farms that have depended on tobacco for their primary source of income for generations; and
- There are precedents to the type of action taken by this legislation.

Legislative intent in this bill states that Florida tobacco quota holders, warehouse operators, and their workforces and communities involved in tobacco production should be given assistance in handling the adverse economic effects of the loss of tobacco quota occurring subsequent to Florida's litigation and settlement agreements with tobacco companies, beginning in 1997. Assistance is intended to provide for losses and to help persons seek alternative profitable enterprises and retain control of the ownership of their land. Assistance is also intended to reduce encumbered debt on stranded investment in specialized equipment, to allow for adequate cash flow for recipients, and to provide economic development assistance for the six counties affected most by the state's litigation (Alachua, Columbia, Hamilton, Lafayette, Madison and Suwannee Counties). The bill provides for an appropriation of \$66,957,249 over 5 years to be deposited in the Florida Indemnification and Community Revitalization Trust Fund (to be created by SB 2466). Trustees are to distribute funds in equal amounts for 10 years, beginning in 2001, as follows:

- \$500,000 per year for 10 years to the Institute of Food and Agricultural Sciences at the University of Florida to provide on-farm direct assistance to growers in the six counties affected most by the state's litigation;
- \$1,000,000 per year for 10 years to an agency such as the North Central Florida Regional Planning Council to assist the six most affected counties in developing alternative industries, employment opportunities, and other economic development initiatives. Not less than 50 percent is specified for agricultural opportunities and the remainder for general employment and local tax base enhancement;
- \$50,000 one-time appropriation to the Florida Department of Agriculture and Consumer Services to study the feasibility of marketing unused tobacco equipment to other tobacco producing countries and to develop new marketing opportunities;
- \$150,000 per year for 3 years to the North Central Florida Regional Planning Council to assist tobacco warehouse marketing firms in transitioning to alternative ventures;
- \$50,000,000 to the Florida Department of Agriculture and Consumer Services to be used for refinancing loans to tobacco farmers and quota holders;
- \$1,457,249 to be paid to farmers with tobacco quota for the 2000 crop year to improve barns and remove nitrosamine as required by tobacco-buying companies; and
- \$53,901,000--The bill provides that Florida's share of the Phase II National Tobacco Growers Settlement is to be held harmless through the remainder of the 12-year schedule adopted when the agreement was signed. Many growers have expressed concern that, with other lawsuits being filed against the tobacco companies, the full 12 years of Phase II payouts may not be realized. A transfer of those funds to the Florida Indemnification and Community Revitalization Trust Fund would assure that those funds would be available for distribution.

In addition, the bill provides that trust fund trustees are to be the three persons currently serving as Florida Trustees for the Phase II National Settlement Fund, plus four other persons, one each appointed by the President of the Senate, Speaker of the House of Representatives, Commissioner of Agriculture, and the Executive Director of the North Central Florida Regional Planning

Council. Duties of the trustees are specified, including a requirement that the trustees meet, organize and establish administrative procedures as soon as possible after the effective date of the act. The trustees are authorized to use any outside sources, consultants, methods, or means they consider necessary to accomplish the intent and goals of this act.

The trustees are required to prepare and submit an annual report to an unspecified recipient, and all assistance costs incurred by the Farm Service Agency or outside sources are considered administrative costs.

This act is to take effect July 1, 2000.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Tobacco producers and quota holders will be directly compensated from the state tobacco industry settlement.

C. Government Sector Impact:

- \$66,957,249 over 5 years is to be appropriated from the *State of Florida, et al. v. American Tobacco Company, et al.*, Case #95-1466AH, Circuit Court, 15th Judicial Circuit, and to be distributed over 10 years by the Florida Indemnification and Community Revitalization Trust Fund.

Funds under this bill would be expended to compensate tobacco quota holders, growers, and warehouse operators adversely affected by loss of quota. Funds would also go to counties and/or communities whose economies are most affected by the reduction in tobacco produced and sold in those areas. Monies used for the purposes of this bill become unavailable for other state uses.

VI. Technical Deficiencies:

Section 3 of the bill requires the trustees of the Florida Indemnification and Community Revitalization Trust Fund to prepare and submit an annual report but does not provide for who the recipient is to be.

VII. Related Issues:

Senate Bill 2466 creates the Florida Indemnification and Community Revitalization Trust Fund, which is directly linked to the substantive issues of this bill.

VIII. Amendments:

None.