

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 254
 SPONSOR: Senator Saunders
 SUBJECT: Public Medical Assistance Trust Fund Assessments
 DATE: February 15, 2001 REVISED: 2/21/01 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Munroe</u>	<u>Wilson</u>	<u>HC</u>	<u>Fav/2 amendments</u>
2.	_____	_____	<u>FT</u>	_____
3.	_____	_____	<u>AHS</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____

I. Summary:

Senate Bill 254 reduces the annual assessment on the net operating revenue of hospital outpatient services and the net operating revenue of certain health care entities from 1 percent to 0.5 percent. Revenue generated from these assessments is deposited into the Public Medical Assistance Trust Fund and used to pay for hospital inpatient services for medically indigent patients. The total reduction would amount to approximately \$34.2 million for state fiscal year 2002-2003. The bill provides for replacement of the revenues lost as a consequence of the assessment reduction through an appropriation from the General Revenue Fund or the Agency for Health Care Administration Tobacco Settlement Trust Fund, subject to federal requirements for matching dollars under the Medicaid program. Such an appropriation is to be adjusted downward by the amount of any other appropriation made for the same purpose during the 2001 Regular Session. The assessment reductions would take effect upon the bill becoming a law.

This bill amends ss. 395.701 and 395.7015, Florida Statutes, and creates two undesignated sections of law.

II. Present Situation:

Chapter 395, F.S., delegates authority to the Agency for Health Care Administration (AHCA or agency) to license and regulate hospitals, ambulatory surgical centers, and mobile surgical facilities. Part IV of chapter 395, F.S., consisting of ss. 395.701 and 395.7015, F.S., relates to the Public Medical Assistance Trust Fund (PMATF) which is created in s. 409.918, F.S. Revenues collected from assessments on the specified health care providers under Part IV of chapter 395, F.S., are used to fund Medicaid-reimbursed hospital inpatient services. Through use of such trust fund moneys, the State is able to avoid use of general revenue to pay for Medicaid services provided to medically indigent State residents.

Section 395.701, F.S., was originally enacted in 1984 to impose an assessment of 1.5 percent against the annual net operating revenue of each state-licensed hospital. The funds generated through the assessment were to be used to expand Medicaid coverage and equalize the financial burden of indigent health care among hospitals. Assessments are deposited into the PMATF. There are approximately 256 hospitals subject to the PMATF assessment, according to AHCA.

Section 395.7015, F.S., was originally enacted in 1991 to impose an annual assessment of 1.5 percent on the net operating revenues of ambulatory surgical centers and mobile surgical facilities, licensed under s. 395.003, F.S.; certain clinical laboratories, licensed under s. 483.091, F.S.; freestanding radiation therapy centers providing treatment through the use of radiation therapy machines that are registered under s. 404.22, F.S.; and diagnostic imaging centers that provide specialized services for the identification or determination of a disease through examination and also provide sophisticated radiological services which are rendered by physicians who meet certain specified state licensure credential requirements.

In 1998, the Legislature exempted hospital outpatient radiation therapy services from the assessment and repealed the assessment on freestanding radiation therapy centers, contingent on the receipt of federal confirmation that these changes would not adversely affect the use of the remaining assessments as state match for the Medicaid program. According to AHCA, there are approximately 382 diagnostic imaging centers, 254 ambulatory surgical centers, and 345 clinical laboratories subject to the PMATF assessment.

Section 16 of Chapter 2000-256, Laws of Florida, changed the structure of the PMATF assessment on hospitals. For hospitals, inpatient and outpatient services were made subject to different assessment rates. Inpatient hospital services were continued at the assessed rate of 1.5 percent of net operating revenue. Outpatient hospital services were made subject to an assessed rate of 1 percent of net operating revenue. Section 17 of Chapter 2000-256, L.O.F., reduced the assessment rate on the other health care entities from 1.5 percent to 1 percent.

Section 22 of Chapter 2000-256, L.O.F., provided for the PMATF assessment reductions to take effect, subject to the condition that AHCA first receive written confirmation from the federal Health Care Financing Administration (HCFA) that the changes contained in the assessed rates would not adversely affect the use of the remaining assessments as state match for the state's Medicaid program. The response from HCFA was that so long as the rate change was uniform and was applied to all assessed entities in a uniform manner the remaining assessments were not adversely affected for purposes of qualifying state dollars for federal matching dollars under the Medicaid program.

The agency currently imposes an assessment of 1 percent against the annual net operating revenue of each health care entity that is subject to the PMATF assessment. Within 120 days after the end of each health care entity's fiscal year, each entity that is subject to the PMATF assessment must report its actual fiscal experience in the preceding calendar year to AHCA. The agency, within six months of the end of the health care entity's fiscal year, must certify the amount of the assessment to each such entity based on its determination of the entity's net operating revenue. The assessment must be payable to and collected by the agency in equal quarterly amounts on or before the first day of each calendar quarter, beginning with the first full calendar quarter following the certification.

"Net operating revenue" is defined by paragraph 395.7015(1)(a), F.S., and administrative rule 59B-6.009(5), F.A.C., to mean gross revenue less deductions from revenue. For health care entities using a cash basis of accounting, net operating revenue means the amount of gross revenue collected. Paragraph 395.7015(1)(b), F.S., and administrative rule 59B-6.009(3), F.A.C., define "gross revenue" to mean the sum of daily service charges, ambulatory service charges, ancillary service charges, and other operating revenue. This amount includes all revenue to the health care entity, excluding documented physician professional fees, revenues received for testing or analysis of samples received from outside the state or from product sales outside the state, and revenue unrelated to the operation of the health care entity as provided in administrative rules 59B-6.012 and 59B-6.013, F.A.C. Paragraph 395.7015(1)(c), F.S., defines "deductions from revenue" to mean reductions from gross revenue resulting from inability to collect payment of charges. Such reductions include: bad debts; contractual adjustments; uncompensated care; administrative, courtesy, and policy discounts and adjustments; and other such revenue deductions, and includes the offset of restricted donations and grants for indigent care.

III. Effect of Proposed Changes:

Senate Bill 254 amends s. 395.701(2)(b), F.S., providing for an annual assessment on the net operating revenues of hospital outpatient services, to reduce the assessment from 1.0 percent to 0.5 percent and amends s. 395.7015(2)(a), F.S., providing for an annual assessment on the net operating revenues of ambulatory surgical centers, clinical laboratories, and diagnostic-imaging centers from 1.0 percent to 0.5 percent. The reductions are predicated on legislative findings that (1) the provision of indigent care is a broad social responsibility that should not be borne solely by the providers and the paying consumers of health care; (2) current economic conditions for health care entities differ now relative to the conditions in 1984, when the assessment was instituted for hospitals, and 1991, when the assessment was instituted for other health care entities; and (3) the assessments place a great burden on the affected entities. Revenues lost through the assessment reductions are replaced with appropriations, *each fiscal year*, from the General Revenue Fund or the AHCA Tobacco Settlement Trust Fund, subject to federal approval of the reduced amounts deposited into the PMATF as state match for the state's Medicaid program. An unspecified amount is appropriated, subject to reduction by an amount equal to any other appropriation for the same purpose contained in other legislation enacted during the 2001 Regular Session which becomes law, from the General Revenue Fund to AHCA for reimbursement for services funded through the PMATF. The total reduction will be an estimated \$34.2 million for state fiscal year 2002-2003.

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:

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. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

The bill reduces the annual assessment on the net operating revenue of hospital outpatient services and the net operating revenue of certain health care entities from 1 percent to 0.5 percent.

B. Private Sector Impact:

In fiscal year 2001-2002, hospitals and other affected health care entities will save an unspecified amount from the reduction of the assessment provided for in this bill. The assessment reduction of 0.5 percent enacted during the 2000 Regular Session totaled \$28.3 million. There is a lag in the reporting of revenues by providers and the verification and certification of the reports by AHCA, therefore the reduction in revenues will not be felt until state fiscal year 2002-2003. Following is the approximate reduction, by provider type, anticipated by AHCA for state fiscal year 2002-2003:

ENTITY TYPE	TOTAL ESTIMATED REDUCTION
Hospitals	\$28,800,000
Ambulatory Surgical Centers	\$1,203,750
Diagnostic Imaging Centers	\$1,725,375
Clinical Laboratories	\$2,420,875
TOTAL	\$34,150,000

C. Government Sector Impact:

There is a lag in the reporting of revenues by providers and the verification and certification of the reports by AHCA, therefore the reduction in revenues will not be felt until state fiscal year 2002-2003. The overall net effect of the PMATF assessment reduction, as provided for in this bill, is estimated to be \$34.2 million for state fiscal year 2002-2003, based on estimates provided by AHCA. The bill appropriates an unspecified amount from the General Revenue Fund or the AHCA Tobacco Settlement Trust Fund to replace the reduction in revenues. The bill directs the Legislature to make an appropriation *for each fiscal year* to the PMATF to replace the reduction in revenues as a result of this act. An appropriation of \$28.3 was made from the state General Revenue Fund to replace revenue lost as a result of the reduction in collected revenues following implementation of a similar assessment reduction enacted during the 2000 Regular Session.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill directs the Legislature to appropriate funds *each fiscal year* to the PMATF to replace the reduction in revenues deposited into the trust fund. The appropriation provided in this bill for fiscal years 2001-2002 is applicable only to those allocations specified for that fiscal year. As the Florida Supreme Court has ruled in a series of cases, the most recent of which is *Neu v. Miami Herald Publishing Company*, 462 So.2d 821 (Fla. 1985), one legislative body cannot bind a future Legislature to an obligation. In *Neu*, a case addressing the Public Meetings Law, the court stated “A legislature may not bind the hands of future legislatures by prohibiting amendments to statutory law.” See *Neu v. Miami Herald Publishing Company*, 462 So.2d 821, 824 (Fla. 1985). In an earlier case reviewing a challenge to establishment of geographic municipal boundaries, the court stated, “The Legislature cannot prohibit a future Legislature by proper enactment changing boundaries which it [the earlier Legislature] established” *Kirklands v. Town of Bradley*, 139 So. 144, 145 (Fla. 1932). The phrase each fiscal year, as provided on page 2, lines 29 and 30 of the bill, is nonbinding, based on the previous comments contained in this section.

A class action lawsuit, *Hameroff v. PMATF*, 736 So.2d 1150 (1999), has been certified for purposes of seeking judicial relief from the PMATF assessment on non-hospital health care providers.

On February 5, 2001, the Circuit Court in Leon County entered a final declaratory judgment in a challenge to the constitutionality of s. 395.7015, F.S., declaring that section to be unconstitutional as violation of due process under the federal and state constitutions and permanently enjoined AHCA from imposing any further assessments upon the plaintiff classes of non-hospital providers which include ambulatory surgical centers, clinical laboratories, diagnostic imaging centers, and radiation therapy centers. *Hameroff v. PMATF* Case No. CV-95-05936.

VIII. Amendments:

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

Specifies that no additional audited financial components may be required beyond those in effect on July 1, 2000, for purposes of the Agency for Health Care Administration’s calculation of the assessment. (WITH TITLE AMENDMENT)

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

Provides a contingent effective date of July 1, 2002, subject to legislative review prior to the 2002 legislative session. (WITH TITLE AMENDMENT)