

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Limited Government – Adds a new grant program and expands the administrative and oversight duties of the Department of Health. Increases the reporting duties of The Office of Program Policy Analysis and Government Accountability and the Office of Tourism, Trade and Economic Development. Requires the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation to certify amounts monthly to be deposited into the new trust fund.

B. EFFECT OF PROPOSED CHANGES:

The 2004 Legislature created the Florida Cancer Council whose primary purpose was to establish the state as a center of excellence for cancer research. The council is located within the Department of Health and is closely associated with the Florida Dialogue on Cancer. This bill establishes a source of revenue from the cigarette excise tax which shall be used to fund the mission of the Florida Cancer Council including recruitment of federal grant-producing researchers, operational start-up grants, capital construction, when approved and other related activities. Monies derived from the cigarette tax will be deposited into the newly created Cancer Research and Treatment Trust Fund proposed in HB 1235.

This bill changes the types of facilities that may be awarded grants—revising the reference from “Florida based cancer research facilities”¹ to “cancer research facilities in this state”. This would allow the Florida Cancer Council to award grants to non-Florida owned institutions and will include for-profit entities. Grant funding decisions would be based on a peer-review system according to specific criteria and would be based on a percentage formula. The Florida Cancer Council would be required to work with the Office of Tourism, Trade, and Economic Development to ascertain any economic benefits to the state as a result of grant disbursements. Such information would expand the scope of the current annual report regarding public health under s. 381.92(3) F.S. The Office of Policy and Program Analysis would be required to conduct baseline measurement reviews on cancer research and treatment, and reviews of the Florida Cancer Council grant process.

Background:

The emphasis that Florida places on cancer research is evidenced in the high-profile cancer related programs and funding strategies that have been established over the years. In addition, Florida recognizes the importance of a coordinated and collaborative approach to biomedical research. The scientific, humanitarian and economic value that is derived from a coordinated state, federal, and academic and private effort can not be overstated. Ultimately, Biomedical research contributes to a healthier population and biomedical discoveries and the resultant products or treatments contribute to the economy of the area in which they are produced. For both health and economic reasons, governments are interested in furthering the work of biomedical researchers and in helping researchers collaborate and share resources. Efforts in Florida relating to the coordination and development of medical research and disease prevention include:

The Florida Dialogue on Cancer

The Florida Dialogue on Cancer (FDOC) is a collaboration of Florida leaders of hospitals, research centers, universities, professional medical groups, community-based organizations, and private business groups, and government officials. FDOC is an initiative designed to expand the state’s capacity to reduce the incidence and mortality rates of cancer. The goals of FDOC are to:

- Create a coalition that speaks with one voice on major statewide cancer issues for Florida;

¹ Section 215.5602(5) (a), F.S., Biomedical Research Program grant awardees must be Florida-based, interpreted as headquartered in Florida.

- Enhance and promote Florida's capacity to conduct cancer research, professional education, clinical trials and treatment programs; and
- Identify and promote the replication of best practices in providing access to cancer prevention, education, and screening, diagnosis and treatment programs for all Floridians and to reduce the disparities that exist.

The Florida Division of the American Cancer Society sponsors FDOC, which is based on the work of the National Dialogue on Cancer. Florida was the first state to establish a dialogue on cancer.

The Florida Cancer Council

In 2004, the Legislature created the Florida Cancer Council within the Department of Health for the purpose of making Florida a center of excellence for cancer research. ² The council membership is representative of Florida cancer centers, hospitals, and patient groups. The council is authorized to create not-for-profit corporate subsidiaries to fulfill its mission and those subsidiaries could receive, hold, invest and administer property and any monies acquired from private, local, state and federal sources and technical and professional income from the mission-related activities of the council.

The council membership is as follows:

- The Chairman of the Florida Dialogue on Cancer, who serves as the council chairman;
- The Secretary of the Department of Health, or his or her designee;
- The Chief Executive Officer of the H. Lee Moffitt Cancer Center, or his or her designee;
- The President of the University of Florida Sands Cancer Center, or his or her designee;
- The Chief Executive Officer of the University of Miami Sylvester Comprehensive Cancer Center, or his or her designee;
- The Chief Executive Officer of the Mayo Clinic, Jacksonville, or his or her designee;
- The Chief Executive Officer of the American Cancer Society, Florida Division, or his or her designee;
- The President of the American Cancer Society, Florida Division Board of Directors, or his or her designee;
- The President of the Florida Society of Clinical Oncology, or his or her designee;
- The President of the American College of Surgeons, Florida Chapter, or his or her designee;
- The Chief Executive Officer of Enterprise Florida, Inc., or his or her designee;
- Five representatives from cancer programs approved by the American College of Surgeons. Three of whom shall be appointed by the Governor, one by the Speaker of the House of Representatives and one by the President of the Senate;
- One member of the House of Representatives, to be appointed by the Speaker of the House of Representatives; and
- One member of the Senate, to be appointed by the President of the Senate.

Appointments made by the Speaker of the House of Representatives and the President of the Senate are two-year terms concurrent with the terms of the presiding officers who make the appointments. Appointments made by the Governor are two-year terms, and the Governor may reappoint directors. Members of the council or any subsidiaries serve without compensation and each organization represented covers the expenses of its representatives.

The council issues an annual report to the Center for Universal Research to Eradicate Disease, the Governor, the Speaker of the House of Representatives, and the President of the Senate by December 15th of each year. The report contains policy and funding recommendations regarding cancer research capacity in Florida and related issues.

Florida Cancer Council Mission and Responsibilities:

² Section 381.92, Florida Statutes, s.10, ch. 2004-2 Laws of Florida

Section 381.921, F.S., provides the overall mission of the Florida Cancer Council and stipulates that the council must work in concert with the Florida Center for Universal Research to Eradicate Disease to ensure that the goals of the center are advanced, and must work toward dramatically improve cancer research and treatment in Florida through a number of specific efforts as follows:

Efforts to significantly expand cancer research capacity in Florida by:

- Identifying ways to attract new research talent and attendant national grant producing researchers to Florida-based cancer research facilities;
- Implementing a peer-reviewed, competitive process to identify and fund the best proposals to expand cancer research institutes in Florida.
- Funding through available resources for those proposals that demonstrate the greatest opportunity to attract federal research grants and private financial support;
- Encouraging the employment of bioinformatics in order to create a cancer informatics infrastructure that enhances information and resource exchange and integration through researchers working in diverse disciplines, to facilitate the full spectrum of cancer investigations;
- Facilitating the technical coordination, business development, and support of intellectual property as it relates to the advancement of cancer research; and
- Aiding in other multidisciplinary research-support activities as they inure to the advancement of cancer research.

Efforts to improve both research and treatment through greater participation in clinical trials networks by:

- Identifying ways to increase adult enrollment in cancer clinical trials;
- Supporting public and private professional education programs designed to increase the awareness and knowledge about cancer clinical trials;
- Providing tools to cancer patients and community-based oncologists to aid in the identification of cancer clinical trials available in the state; and
- Creating opportunities for the state's academic cancer centers to collaborate with community-based oncologists in cancer clinical trials networks.

Efforts to reduce the impact of cancer on disparate groups by:

- Identifying those cancers that disproportionately impact certain demographic groups; and
- Building collaborations designed to reduce health disparities as they relate to cancer.

The James and Ester King Biomedical Research Program

The 1999 Legislature established the Lawton Chiles Endowment Fund³ funded as a result of its settlements with the tobacco industry to enhance or support expansions in children's health care programs, child welfare programs, community-based health and human service initiatives, and biomedical research. Section 215.5602, F.S., establishes the James and Ester King Biomedical Research Program funded from earnings of the endowment fund and provided that funds appropriated to the program are to be devoted to competitive grants and fellowships in research relating to prevention, diagnosis, and treatment of tobacco-related illnesses, including cancer, cardiovascular disease, stroke and pulmonary disease. The Biomedical Research Advisory Council in the Department of Health assists the Secretary in establishing criteria and guidelines for the competitive grant programs. Grants and fellowships are awarded on the basis of scientific merit, as determined by an open, objective peer-review process.

The Emerging Technology Commission

³ Section 215.5601, F.S., ch. 99-167, Laws of Florida

Section 1004.225, F.S., established the “Florida Technology Development Act, “the Emerging Technology Commission which was created within the Governor’s Office to guide the establishment of centers of excellence within, and in collaboration with Florida’s universities.

Enterprise Florida, Inc.

Enterprise Florida, Inc., created under part VII of ch. 188, F.S., is a partnership between Florida’s business and government leaders and is the principal economic development organization for Florida. The organization’s mission is to increase economic opportunities for all Floridians by supporting the creation of quality jobs, a well-trained workforce and globally competitive businesses. Enterprise Florida works in cooperation with its statewide network of economic development partners.

Bio Florida House of Representatives

BioFlorida’s mission is to promote biotechnology and related science in Florida by creating a favorable business and legislative environment; to provide a platform for business, academia and government to work jointly to support and encourage development of existing companies in the state and to attract new business and organizations to Florida.

The Florida Medical Foundation

The Florida Medical Foundation is the Florida Medical Association’s philanthropic organization for medical education, research, and community service and physician support programs. The foundation emphasizes support for physicians at all stages of their professional careers. The foundation has a current project relating to doctor patient communications as a way of addressing the program of low health literacy among patients.

Pharmaceutical Research and Manufacturers of America

The Pharmaceutical Research and Manufacturers of America (PhRMA) represents the country’s leading research-based pharmaceutical and biotechnology companies, which are devoted to inventing medicines that improve the health and longevity of patients. The industry invested more than \$30 billion in 2001 in discovering and developing new medicines. PhRMA companies are involved in the search for new cures.

C. SECTION DIRECTORY:

Section 1. Creates the “Florida Cancer Research and Treatment Act.”

Section 2. Provides legislative intent.

Section 3. Amends s. 210.01, F. S., to create a new subsection (11) to include the definition of the Florida Cancer Council and renumber subsequent subsections.

Section 4. Amends s. 210.10 (2), F.S., relating to the distribution of funds designated to the “Cigarette Tax Collection Trust Fund.”

Section 5. Creates new s. 210.202, F. S., relating to the expenditure of cigarette tax proceeds; provides that any capital construction projects granted by the council shall require Governor and Cabinet approval.

Section 6. Amends s. 381.921 (1) (a), F.S., related to the mission and duties of the Florida Cancer Council; provides new language regarding a grant review and award process.

Section 7. Creates new s. 381.922, F.S., relating to the Florida Cancer Council grants and apportionment of allocated funds.

Section 8. Creates new s. 381.923, F.S., relating to the Florida Cancer Council grant specifications.

Section 9. Creates new s. 381.924, F.S., relating to the Florida Cancer Council performance expectations, requires the FCC to work with the Office of Tourism, Trade and Economic Development to ascertain economic benefits related to grants.

Section 10. Creates new s. 381.925, F.S., relating to Florida Cancer Council grant disbursements; provides for the complete disbursement of the total amount of grant funds by June 30, 1010, with certain exception.

Section 11. Directs the Office of Program Policy Analysis and Government Accountability to conduct reviews relating to the Florida Cancer Council's duties and operations and overall mission; provides report due dates.

Section 12. Provides for a \$250,000 non-recurring appropriation from the General Revenue Fund; provides for specific use of such funds and that funds be deposited into the Cancer Research and Treatment Trust Fund⁴.

Section 13. Provides for an effective date of July 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Non-Recurring General Revenue	\$250,000
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2. Expenditures:

The bill provides for the deposit of a portion of cigarette tax funds – 12.9528 percent of the net collections of the Cigarette Tax Collection Trust Fund—into a newly created Cancer Research and Treatment Trust Fund over a 5-year period. The bill appropriates \$250 million from nonrecurring General Revenue funds in FY 2005-06 for certain uses by the Florida Cancer Council. The bill does not provide for professional and administrative staff support or administrative costs including daily operations, annual report preparation, application intake or peer review. The Department of Health provided the following information related to anticipated costs associated with this proposal.

Estimated Expenditures	1st Year	2nd Year (Annualized/Recur.)
Salaries		
.5 Senior Attorney @\$54,795	\$35,069	\$36,121
.5 Administrative Secretary@27,397	\$17,534	\$18,060
1 Program Administrator @57,000	\$72,960	\$75,149
0.5 Administrative Assistant @32,000	\$20,480	\$21,094
(FTE computed w/ 28% fringe and 25% lapse; 3% annual salary increase in second year)		

⁴ The Cancer Research and Treatment Trust Fund is created in s. 381.926, F.S.,

Expense

1 FTE @ Std DOH profess. pkg. w/ maximum travel	\$19,097	\$15,867
0.5 FTE @ Std DOH profess. pkg. w/ limited travel	\$13,730	\$10,500
0.5 FTE @ Std DOH support pkg. (x2)	\$16,300	\$10,728
Annual report production	\$18,000	\$18,000
Application & peer review process	\$100,000	\$100,000
Program marketing, information dissemination, web site development and maintenance	\$50,000	\$50,000

Operating Capital Outlay

1 FTE @ Std DOH profess. pkg.(x2)	\$3,600	\$0
0.5 FTE @ Std DOH support pkg.(x2)	\$4,200	\$0

Human Resources Services

\$1,167	\$1,167
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Total Estimated Expenditures	\$372,137	\$356,686
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B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

By changing the language currently in statute from “Florida based cancer research facilities” to “cancer research facilities in this state”, non-state universities and for-profit entities, researchers, biotechnology, and pharmaceutical companies will benefit from this bill by receiving grants from which they may develop patented or licensed intellectual property.

Florida citizens should benefit from greater access to information and health care services derived from cancer clinical trials and resultant new therapies.

D. FISCAL COMMENTS:

The bill requires that a portion of cigarette tax revenues – 12.9528 must be deposited in the Cancer Research and Treatment Trust fund for the use of the Florida Cancer Council as enumerated earlier in this analysis. It is estimated that this would equate to a \$51.1 million loss to the General Revenue Fund.

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. As provided in s. 210.20, F.S., funds are disbursed as follows:

- .9% to the Alcoholic Beverage and Tobacco Trust Fund to fund the division
- 2.9% to the Revenue Sharing Trust Fund for Counties
- 29.3 % to the Public Medical Assistance Trust Fund to pay for indigent health care
- 4.6 % to the H. Lee Moffitt Cancer Center and Research Institute^[1]

After the required distributions and after payment of a service charge required of trust funds under s. 215.20, F.S., the amount remaining in the trust fund is deposited in the General Revenue Fund.

The estimated amount of tax collections from cigarettes and other tobacco products for 2005-2006 is \$460,400,000.^[2]

^[1] The H. Lee Moffitt Cancer Center and Research Institute will receive funding until 2016.

^[1] *2005 Florida Tax Handbook*, the Florida Legislature, p. 34. readable at <http://www.state.fl.us/edr/reports/taxhandbook2005/taxhandbook2005.pdf>

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill has no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

2. Other:

This bill has no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

B. RULE-MAKING AUTHORITY:

The Department of Health requires no additional rule-making authority to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

According to the Department of Health, by limiting eligibility for operational start-up support to only researchers recruited to the state, up to 80 percent of funds could be dedicated to supporting the work of new researchers, excluding current Florida-based cancer researchers.

The program analyses in Sections 9 and 11 do not address base-lining of all the duties of the Florida Cancer Council as described in s. 380.921, F.S., particularly identifying those cancers that disproportionately impact certain demographic groups, and any impact the disbursements through the FCC might have to close the healthcare disparity gap as it relates to cancer.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES