

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 123 Use of Cigarette Tax Proceeds

SPONSOR(S): Grant and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 342

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Committee		Wilson	Langston
2) Health & Human Services Committee			
3) Appropriations Committee			

SUMMARY ANALYSIS

Section 1004.43, F.S., establishes the H. Lee Moffitt Cancer Center and Research Institute (Moffitt). A not-for-profit corporation governs Moffitt in accordance with an agreement with the Board of Governors of the State University System for the use of facilities on the campus of the University of South Florida (USF). Moffitt is funded in part through a distribution from the cigarette tax.

HB 123 amends s. 210.20, F.S., to provide that beginning July 1, 2013, through June 30, 2045, the Moffitt funding distribution will increase from 1.47 percent to 4.88 percent of net cigarette tax collections. Also, the bill adds to the list of allowable uses of the funds to include:

- Financing, operating, and maintaining clinical and related facilities;
- Furnishing, equipping, operating, and maintaining other properties owned or leased by Moffitt; and
- Paying costs incurred in connection with purchasing, financing, operating, and maintain such equipment, facilities, and properties.

The bill removes a reference to a cancer research facility at the University of South Florida being adjacent to Moffitt from statute.

The bill provides that any change or repeal of the cigarette tax that adversely affects bonds issued for Moffitt would be provided through an alternative funding source by the Legislature to ensure sufficient debt service.

The bill also amends s. 210.201, F.S., to conform to similar changes in s. 210.20, F.S., related to Moffitt facilities funding proceeds and usage described above.

The Revenue Estimating Conference determined that this bill will have a -\$13.2 Million cash and recurring General Revenue impact beginning in FY 2013-14. See FISCAL COMMENTS.

This act shall take effect July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

The H. Lee Moffitt Cancer Center and Research Institute

Section 1004.43, F.S., establishes the H. Lee Moffitt Cancer Center and Research Institute (Moffitt). A not-for-profit corporation governs Moffitt in accordance with an agreement with the Board of Governors of the State University System for the use of facilities on the USF campus. Moffitt is funded in part through a distribution from the cigarette tax.

Cigarette Tax

Chapter 210, F.S., provides for the tax on tobacco products. Taxes are imposed on the sale of cigarettes and other non-cigar tobacco products in Florida. The cigarette tax is collected by the Department of Business and Professional Regulation (DBPR) and deposited into Cigarette Tax Collection Trust Fund.

Section 210.20(2), F.S. provides for monthly distribution from the cigarette tax as follows:

Distribution from total collections:

- 8 percent to General Revenue Service Charge¹; and
- 0.9 percent to the Alcoholic Beverage and Tobacco Trust Fund².

Distribution from remaining collections:

- 2.9 percent to Revenue Sharing Trust Fund for Counties;
- 29.3 percent to Public Medical Assistance Trust Fund;
- 1.47 percent to Board of Directors of Moffitt³; and
- The remainder of funds to General Revenue.

Below is the distribution of the cigarette tax by funding source:

Distribution from Cigarette Tax (millions)

Fiscal Year	Total Distribution*	General Revenue**	County Revenue Sharing	Public Medical Assistance Trust Fund	Moffitt
2010-11	308.8	214.1	8.2	80.7	5.6
2009-10	298.2	204.2	8.0	80.3	5.6
2008-09	415.1	208.9	11.1	112.3	5.7
2007-08	406.3	269.2	10.9	110.3	10.8
2006-07	417.4	277.0	11.2	113.2	15.9

* Distributions do not include refunds or administrative costs.

** Includes an 8 percent General Revenue Service Charge⁴.

Use of the Cigarette Tax Distribution to Moffitt

¹ s. 215.20, F.S.

² s. 210.02, F.S.

³ Note: Chapter 98-286, L.O.F., provided for a 10 year cigarette tax distribution of 2.59 percent to Moffitt, beginning in FY 1999-2000. Chapter 2002-393, L.O.F., provided for an additional cigarette tax distribution to Moffitt: 0.2632 percent in FY 2002-03 and 2003-04; and then 1.47 percent beginning in FY 2004-05 through FY 2015-16. Chapter 2009-58, L.O.F., extended the 1.47 percent Moffitt cigarette tax distribution through 2019-20.

⁴ s. 215.20, F.S.

Section 210.20(b)2., F.S., provides that the 1.47 percent distribution to the Board of Directors of Moffitt is to be used for purposes of constructing, furnishing, and equipping a cancer research facility at USF adjacent to Moffitt.

Section 210.201, F.S., further specifies that the distribution to Moffitt provided in 210.20, F.S., must be used to secure financing to pay cost related to constructing, furnishing, and equipping the cancer research facility. The financing may include the issuance of tax-exempt bonds by a local authority, municipality, or county pursuant to parts I and II of chapter 159⁵. The bonds must not constitute state bonds for purposes of s. 11, Art. VII of the State Constitution, but shall constitute bonds of a "local agency"⁶.

Effect of Proposed Changes

The bill amends s. 210.20(2), F.S., to provide that beginning July 1, 2013, through June 30, 2045, the Moffitt funding distribution will increase from 1.47 percent to 4.88 percent of net cigarette tax collections.

Also, the bill adds to the list of allowable uses of the funds to include:

- Financing, operating, and maintaining clinical and related facilities;
- Furnishing, equipping, operating, and maintaining other properties owned or leased by Moffitt; and
- Paying costs incurred in connection with purchasing, financing, operating, and maintain such equipment, facilities, and properties.

The bill removes a reference to a cancer research facility at the University of South Florida being adjacent to Moffitt from statute.

The bill provides that any change or repeal of the cigarette tax that adversely affects bonds issued for Moffitt would be provided through an alternative funding source by the Legislature to ensure sufficient debt service of outstanding bonds.

The bill also amends s. 210.201, F.S., related to Moffitt facilities funding proceeds and usage described above, to conform to similar changes made in s. 210.20, F.S.

B. SECTION DIRECTORY:

Section 1: Amends s. 210.20, F.S., increasing the Moffitt funding distribution to 4.88 percent of net cigarette tax collections, providing how the funds can be utilized, and further providing an alternative funding source by the Legislature for Moffitt to ensure sufficient debt service on bonds.

Section 2: Amends s. 210.201, F.S., conforming Moffitt facilities funding proceeds and usage to similar provisions found in s. 210.20 F.S.

Section 3: This act shall take effect July, 1, 2012.

⁵ Part I and part II of ch.159, F.S., provides for the type of bond financing under the Florida Industrial Development Financing Act and for Industrial Development Authorities.

⁶ s. 159.27(4), F.S., defines "local agency" as any county or municipality existing or hereafter created pursuant to the laws of the state or any special district or other local governmental body existing or hereafter created pursuant to the laws of the state, the purpose for the creation of which could reasonably be interpreted to be consistent with the issuance of revenue bonds to finance the cost of projects within the meaning of this definition.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference determined that this bill will have a -\$13.2 Million cash and recurring General Revenue impact beginning in FY 2013-14. Also see FISCAL COMMENTS.

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Current law provides that beginning in FY 2004-2005, the appropriation to Moffitt authorized under s. 210.20(2), F.S., will not be less than the amount that would have been paid to Moffitt in FY 2001-2002 had the distribution been in effect in that 2001-2002. In FY 2001-2002, the net cigarette tax collected was \$418.2 million. This provision is not changed by the bill. Consequently, the revenue impact is based on the 2001-2002 tax collections.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES