

Committee Substitute for Senate Bill No. 1270

An act relating to tobacco settlement funds; providing for the use of revenues obtained as a result of the settlement of litigation involving the tobacco industry; providing for a lump sum from certain of such funds to be appropriated to the Department of Health to continue implementation of the Florida Kids Campaign Against Tobacco Pilot Program; providing for distribution of funds in such lump sum to specified agencies for specified purposes; specifying guidelines to be applied by the Legislature in expending funds paid to the state as a result of the settlement of litigation involving the tobacco industry; appropriating funds received as a result of the settlement of litigation by the State of Florida against certain tobacco companies; providing for the deposit of the funds; requiring the Comptroller to enforce appropriations made herein; providing exclusive jurisdiction of such enforcement actions; limiting intervention in such actions; providing effective dates.

Be It Enacted by the Legislature of the State of Florida:

Section 1. There is hereby appropriated a lump sum of \$70 million from the tobacco settlement revenues that were received for the pilot program to the Department of Health to continue implementation of the Florida Kids Campaign Against Tobacco Pilot Program in fiscal year 1998-1999. Funds in the lump sum shall be distributed to the following agencies for the following programs, subject to the notice, review, and objection provisions of section 216.177, Florida Statutes:

(1) To the Department of Health for marketing and communications. Such funds shall be used for a media campaign to create and promote messages urging youth to live tobacco free.

(2) To the Department of Health for a comprehensive tobacco education and training initiative, directed toward Florida youth in pre-K through grade 12. The initiative should be created through collaborative efforts between the state, local communities, voluntary agencies, school districts, professional organizations, and the State University System and should emphasize intensive, interactive, and coordinated anti-tobacco curricula.

(3) To the Department of Health for youth programs and community partnerships. Such funds shall be used to develop community partnerships through the county health departments for implementing community-based tobacco prevention programs, including the needs of the minority youth populations of the state.

(4) To the Department of Business and Professional Regulation for enforcement of laws against underage tobacco access and possession through a combination of program development, research, and contracts with local law enforcement agencies. Funding provided to the department shall be

used for the purposes of placing enforcement agents in retail locations to deter youth purchasing of tobacco, providing training of store employees, and providing for enforcement efforts near schools.

(5) To the Department of Health for evaluation of each aspect of the pilot program. Funding provided shall be used to obtain baseline data on the prevalence of tobacco use among youth and for monitoring changes in tobacco utilization within this group.

(6) To the Department of Health or the Department of Business and Professional Regulation, as applicable, for coordination and program administration, not to exceed 5 percent of the total funds appropriated in this section. The Executive Office of the Governor may request Administration Commission approval of positions in excess of the number of positions fixed by the Legislature if necessary to implement the approved distribution of funds provided in this section. Positions established or redirected pursuant to this subsection are to be vacated and held in reserve by the Executive Office of the Governor upon completion of the Florida Kids Campaign Against Tobacco Pilot Program.

Section 2. The following guidelines shall be applied to the expenditure of all funds paid to the State of Florida as a result of litigation entitled The State of Florida et al. v. American Tobacco Company et al., Case #95-1466AH, in the Circuit Court of the Fifteenth Judicial Circuit, in and for Palm Beach County:

(1) The Legislature asserts its rights to appropriate all funds paid or payable to the state through the tobacco settlement. Before any funds are released, the Legislature must approve all program and funding proposals.

(2) A trust fund should be created solely for the purpose of receiving and managing settlement funds, and a full and complete record of all budget and expenditure actions should be maintained.

(3) Administrative costs associated with programs and providers that receive funds from the tobacco settlement should be set at a reasonable level, consistent with best-management practices.

(4) Local law enforcement agencies, businesses, and school districts should be involved in enforcement efforts as appropriate to the mission of each organization.

(5) Funds received from the tobacco settlement may not be used for advertising that includes the name, voice, or likeness of any elected or appointed public official.

(6) Greater emphasis should be placed on funding education, training, and enforcement programs than is placed on the funding of advertising.

(7) County health departments must administer funds provided to each local coalition that is not specifically granted an exemption by the Legislature. Exemptions from requirements to administer coalition programs by county health departments shall be limited to established administrative

entities that meet a test of several criteria established by the Department of Health and may not include provider agencies that could receive funding from the settlement.

(8) Programs which raise matching funds should be maximized in order to get the greatest leverage of state funds.

(9) Grant and contract processes should be competitive and objective.

(10) Requests for information or for proposals should emphasize that performance measures will be required for all contracts and grants.

(11) A substantial portion of the program should be character-based and focused on rewarding appropriate values and behavior in youth.

(12) Needs of the minority youth community in this state should be addressed.

Section 3. (1) The \$330,500,000, plus accrued interest and any other funds on deposit in accounts 3660512058 and 3660510843 at NationsBank, N.A., pursuant to Escrow Agreement dated September 15, 1997, and raised as a result of litigation entitled The State of Florida et al. vs. American Tobacco Company, et al., Case #95-1466AH, in the Circuit Court of the Fifteenth Judicial Circuit in and for Palm Beach County, are funds of the State of Florida and are hereby appropriated to the General Revenue Fund, and shall be transferred to the Tobacco Settlement Trust Fund, if such fund is created by law. Further, all subsequent payments made by the settling defendants in said litigation are funds of the State of Florida and are hereby appropriated to said trust fund, or if such trust fund is not created by law, to the General Revenue Fund.

(2) This section shall take effect upon becoming a law and shall supersede Section 16 of the 1998-1999 General Appropriations Act.

Section 4. (1) The Comptroller shall enforce the appropriation in Section 3 of this act by demanding payment from the depository institution within 2 business days of such section becoming law. If payment is not made within 2 business days of such demand, the Comptroller shall forthwith bring an action for a writ of mandamus or an action at law or such other action as may be necessary to ensure that the state's title to these funds is affirmed. Such action shall be filed in the circuit court of the Second Judicial Circuit, in and for Leon County, which circuit shall have exclusive jurisdiction thereof. Notice of such action shall be served upon any officer of the financial institution, or any other authorized service agent thereof, at any branch office thereof in Leon County. From and after the time this section becomes law, the depository institution is hereby and shall be prohibited from paying any of the respective funds to any person or entity other than the Comptroller of the State of Florida until the final resolution of the action and any appeal therefrom. No person who is not a party to the escrow agreement under which the respective funds were deposited shall be permitted to intervene in such action.

(2) This section shall take effect upon becoming a law.

Section 5. Except as otherwise provided herein, this act shall take effect July 1 of the year in which enacted.

Approved by the Governor May 15, 1998.

Filed in Office Secretary of State May 15, 1998.