

Council Substitute for House Bill No. 563

An act relating to the Lawton Chiles Endowment Fund; amending ss. 17.41, 20.435, F.S.; conforming statutory cross-references; amending s. 215.5601, F.S.; providing legislative intent to provide funds for the support of public health and biomedical research; revising procedures for the administration of the endowment fund; revising provisions concerning the availability and use of funds from the endowment; providing for a portion of unappropriated funds to be deposited into the endowment fund; establishing an advisory council; amending s. 215.5602, F.S.; providing for public health and biomedical research; providing an appropriation; providing an effective date.

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

Section 1. Subsection (4) of section 17.41, Florida Statutes, is amended to read:

17.41 Department of Banking and Finance Tobacco Settlement Clearing Trust Fund.—

(4) Net proceeds of the sale of the tobacco settlement agreement received by the state shall be immediately deposited into the Lawton Chiles Endowment Fund, created in s. 215.5601 ~~s. 215.5601(4)~~, without deposit to the Tobacco Settlement Clearing Trust Fund.

Section 2. Paragraph (h) of subsection (1) of section 20.435, Florida Statutes, is amended to read:

20.435 Department of Health; trust funds.—

(1) The following trust funds are hereby created, to be administered by the Department of Health:

(h) Biomedical Research Trust Fund.

1. Funds to be credited to the trust fund shall consist of funds deposited pursuant to s. 215.5601 ~~s. 215.5601(4)~~. Funds shall be used for the purposes of the Florida Biomedical Research Program as specified in s. 215.5602. The trust fund is exempt from the service charges imposed by s. 215.20.

2. Notwithstanding the provisions of s. 216.301 and pursuant to s. 216.351, any balance in the trust fund at the end of any fiscal year shall remain in the trust fund at the end of the year and shall be available for carrying out the purposes of the trust fund.

3. The trust fund shall, unless terminated sooner, be terminated on July 1, 2004.

Section 3. Section 215.5601, Florida Statutes, is amended to read:

(Substantial rewording of section. See

s. 215.5601, F.S., for present text.)

215.5601 Lawton Chiles Endowment Fund.—

(1) LEGISLATIVE INTENT.—It is the intent of the Legislature to:

(a) Provide a perpetual source of enhanced funding for state children's health programs, child welfare programs, children's community-based health and human services initiatives, elder programs, and biomedical research activities related to tobacco use.

(b) Use tobacco settlement moneys as the source of enhanced funding to ensure the financial security of vital health and human services programs for children and elders.

(c) Ensure that enhancement revenues will be available to help finance these important programs and initiatives.

(d) Provide funds to help support public-health and biomedical research for the prevention, diagnosis, and treatment of diseases related to tobacco use by creating an annual and perpetual source of funding for biomedical research in the state in order to expand the foundation of biomedical knowledge relating to the prevention, diagnosis, and treatment of diseases related to tobacco use, including cancer, cardiovascular disease, stroke, and pulmonary disease; improve the quality of the state's academic health centers by bringing the advances of biomedical research into the training of physicians and other health care providers; and increase the state's per capita funding for biomedical research by undertaking new initiatives in biomedical research which will attract additional funding from outside the state while also stimulating economic activity in the state in areas related to biomedical research, such as the research and production of pharmaceuticals, biotechnology, and medical devices.

(e) Encourage the development of community-based solutions to strengthen and improve the quality of life of Florida's most vulnerable citizens, its children and elders.

(2) DEFINITIONS.—As used in this section, the term:

(a) "Board" means the State Board of Administration established by s. 16, Art. IX of the State Constitution of 1885 and incorporated into s. 9(c), Art. XII of the State Constitution of 1968.

(b) "Endowment" means the Lawton Chiles Endowment Fund.

(c) "Earnings" means all income generated by investments and the net change in the market value of assets.

(d) "State agency" or "state agencies" means the Department of Health, the Department of Children and Family Services, the Department of Elderly Affairs, or the Agency for Health Care Administration, or any combination thereof, as the context indicates.

(3) LAWTON CHILES ENDOWMENT FUND; CREATION; PRINCIPAL.—

(a) There is created the Lawton Chiles Endowment Fund, to be administered by the State Board of Administration. The endowment shall serve as a clearing trust fund, not subject to termination under s. 19(f), Art. III of the State Constitution. The endowment fund shall be exempt from the service charges imposed by s. 215.20.

(b) The endowment shall receive moneys from the sale of the state's right, title, and interest in and to the tobacco settlement agreement as defined in s. 215.56005, including the right to receive payments under such agreement, and from accounts transferred from the Department of Banking and Finance Tobacco Settlement Clearing Trust Fund established under s. 17.41. Amounts to be transferred from the Department of Banking and Finance Tobacco Settlement Clearing Trust Fund to the endowment shall be in the following amounts for the following fiscal years:

1. For fiscal year 1999-2000, \$1.1 billion;
2. For fiscal year 2000-2001, \$200 million;
3. For fiscal year 2001-2002, \$200 million;
4. For fiscal year 2002-2003, \$200 million; and

(c) Amounts to be transferred under subparagraphs (b)2., 3., and 4. may be reduced by an amount equal to the lesser of \$200 million or the amount the endowment receives in that fiscal year from the sale of the state's right, title, and interest in and to the tobacco settlement agreement.

(d) For fiscal year 2001-2002, \$150 million of the existing principal in the endowment shall be reserved and accounted for within the endowment, the income from which shall be used solely for the funding for biomedical research activities as provided in s. 215.5602. The income from the remaining principal shall be used solely as the source of funding for health and human services programs for children and elders as provided in subsection (5). The separate account for biomedical research shall be dissolved and the entire principal in the endowment shall be used exclusively for health and human services programs when cures have been found for tobacco-related cancer, heart, and lung disease.

(4) ADMINISTRATION.—

(a) The board may invest and reinvest funds of the endowment in accordance with s. 215.47 and consistent with an investment plan developed by the executive director and approved by the board.

(b) The endowment shall be managed as an annuity. The investment objective shall be long-term preservation of the real value of the principal and a specified regular annual cash outflow for appropriation, as nonrecurring revenue. From the annual cash outflow, a pro rata share shall be used solely for biomedical research activities as provided in paragraph (3)(d),

until such time as cures are found for tobacco-related cancer and heart and lung disease. Five percent of the annual cash outflow dedicated to the biomedical research portion of the endowment shall be reinvested and applied to that portion of the endowment's principal, with the remainder to be spent on biomedical research activities consistent with this section. The schedule of annual cash outflow shall be included within the investment plan adopted under paragraph (a).

(c) In accordance with s. 215.44, the board shall include separate sections on the financial status of the endowment in its annual investment report to the Legislature.

(d) Accountability for funds from the endowment which have been appropriated to a state agency and distributed by the board shall reside with the state agency. The board is not responsible for the proper expenditure of or accountability concerning funds from the endowment after distribution to a state agency.

(e) Costs and fees of the board for investment services shall be deducted from the earnings accruing to the endowment. Fees for investment services shall be no greater than fees charged to the Florida Retirement System.

(5) AVAILABILITY OF FUNDS; USES.—

(a) Funds from the endowment which are available for legislative appropriation shall be transferred by the board to the Department of Banking and Finance Tobacco Settlement Clearing Trust Fund, created in s. 17.41, and disbursed in accordance with the legislative appropriation.

1. Appropriations by the Legislature to the Department of Health from endowment earnings from the principal set aside for biomedical research shall be from a category called Florida Biomedical Research Program and shall be deposited into the Biomedical Research Trust Fund in the Department of Health established in s. 20.435.

2. Appropriations by the Legislature to the Department of Children and Family Services, the Department of Health, or the Department of Elderly Affairs for health and human services programs shall be from a category called the Lawton Chiles Endowment Fund Programs and shall be deposited into each department's respective Tobacco Settlement Trust Fund as appropriated.

(b) In order to ensure that the expenditure of funds earned from the Lawton Chiles Endowment Fund will be used for the purposes intended by the Legislature, the Legislature shall establish line item categories for the state agencies describing the designated use of the appropriated funds as provided in the General Appropriations Act.

(c) The secretaries of the state agencies shall conduct meetings to discuss priorities for endowment funding for health and human services programs for children and elders before submitting their legislative budget requests to the Executive Office of the Governor and the Legislature. The purpose of the meetings is to gain consensus for priority requests and recommended

endowment funding levels for those priority requests. No later than September 1 of each year, the secretaries of the state agencies shall also submit their consensus priority requests to the Lawton Chiles Endowment Fund Advisory Council created in subsection (6).

(d) Subject to legislative appropriations, state agencies shall use distributions from the endowment to enhance or support increases in clients served or to meet increases in program costs in health and human services program areas. Funds distributed from the endowment may not be used to supplant existing revenues.

(e) Notwithstanding s. 216.301 and pursuant to s. 216.351, all unencumbered balances of appropriations as of June 30 or undisbursed balances as of December 31 shall revert to the endowment's principal. Unencumbered or undisbursed balances appropriated for biomedical research shall revert to the principal in the separately reserved and accounted-for portion of the endowment established for biomedical research activities.

(f) When advised by the Revenue Estimating Conference that a deficit will occur with respect to the appropriations from the tobacco settlement trust funds of the state agencies in any fiscal year, the Governor shall develop a plan of action to eliminate the deficit. Before implementing the plan of action, the Governor must comply with s. 216.177(2). In developing the plan of action, the Governor shall, to the extent possible, preserve legislative policy and intent, and, absent any specific directions to the contrary in the General Appropriations Act, any reductions in appropriations from the tobacco settlement trust funds of the state agencies for a fiscal year shall be prorated among the specific appropriations made from all tobacco settlement trust funds of the state agencies for that year.

(6) ADVISORY COUNCIL.—The Lawton Chiles Endowment Fund Advisory Council is established for the purpose of reviewing the funding priorities of the state agencies, evaluating their requests against the mission and goals of the agencies and legislative intent for the use of endowment funds, and allowing for public input and advocacy.

(a) The advisory council shall consist of 15 members, including:

1. The director of the United Way of Florida, Inc., or his or her designee;
2. The director of the Foster Parents Association, or his or her designee;
3. The chair of the Department of Elderly Affairs Advisory Council, or his or her designee;
4. The president of the Florida Association of Area Agencies on Aging, or his or her designee;
5. The State Long-Term Care Ombudsman, or his or her designee;
6. The state director of the Florida AARP, or his or her designee;
7. The director of the Florida Pediatric Society, or his or her designee;

8. A representative of the Guardian Ad Litem Program, appointed by the Governor;

9. A representative of a child welfare lead agency for community-based care, appointed by the Governor;

10. A representative of an elder care lead agency for community-based care, appointed by the Governor;

11. A representative of a statewide child advocacy organization, appointed by the Governor;

12. One consumer caregiver for children, appointed by the Governor;

13. One person over the age of 60 years to represent the interests of elders, appointed by the Governor;

14. One person under the age of 18 years to represent the interests of children, appointed by the Governor; and

15. One consumer caregiver for a functionally impaired elderly person, appointed by the Governor.

(b) Before November 1 of each year, the advisory council shall advise the Governor and the Legislature as to its recommendations with respect to the priorities submitted by the secretaries of the state agencies with respect to endowment funding for health and human services programs for children and elders. The responsibilities of the advisory council include:

1. Evaluating the value of programs and services submitted by the state agencies as they relate to the overall enhancement of services to children and elders;

2. Developing criteria and guiding principles for ranking the priorities submitted by the state agencies;

3. Providing recommendations with respect to funding levels for the programs ranked by the advisory council;

4. Participating in periodic evaluation of programs funded by the endowment to determine the need for continued funding; and

5. Soliciting input from child and elder advocacy organizations, community stakeholders, providers, and the public with respect to statewide child and elder needs and the effectiveness of program service delivery systems.

(c) Members of the advisory council shall serve without compensation, but may receive reimbursement as provided in s. 112.061 for per diem and travel expenses incurred in the performance of their official duties. The Department of Children and Family Services shall provide staff and other administrative assistance reasonably necessary to assist the advisory council in carrying out its responsibilities. Administrative costs of the advisory council shall be charged equally to endowment funds deposited in the Department of Children and Family Services and the Department of Elderly Affairs Tobacco Settlement Trust Funds.

Section 4. Section 215.5602, Florida Statutes, is amended to read:

215.5602 Florida Biomedical Research Program.—

(1) There is established within the Department of Health the Florida Biomedical Research Program funded by the proceeds of the Lawton Chiles Endowment Fund pursuant to s. 215.5601 s. 215.5601(4). The purpose of the Florida Biomedical Research Program is to provide an annual and perpetual source of funding in order to support research initiatives that address the health care problems of Floridians in the areas of tobacco-related cancer, cardiovascular disease, stroke, and pulmonary disease. The long-term goals of the program are to:

(a) Improve the health of Floridians by researching better prevention, diagnoses, and treatments for cancer, cardiovascular disease, stroke, and pulmonary disease.

(b) Expand the foundation of biomedical knowledge relating to the prevention, diagnosis, and treatment of diseases related to tobacco use, including cancer, cardiovascular disease, stroke, and pulmonary disease.

(c) Improve the quality of the state's academic health centers by bringing the advances of biomedical research into the training of physicians and other health care providers.

(d) Increase the state's per capita funding for ~~biomedical~~ research by undertaking new initiatives in public health and biomedical research that will attract additional funding from outside the state.

(e) Stimulate economic activity in the state in areas related to biomedical research, such as the research and production of pharmaceuticals, biotechnology, and medical devices.

(2) Funds appropriated for the Florida Biomedical Research Program shall be used exclusively for the award of grants and fellowships as established in this section; for research relating to the prevention, diagnosis, and treatment of diseases related to tobacco use, including cancer, cardiovascular disease, stroke, and pulmonary disease; and for expenses incurred in the administration of this section.

(3) There is created within the Department of Health the Biomedical Research Advisory Council.

(a) The council shall consist of nine members, including: the chief executive officer of the Florida Division of the American Cancer Society, or a designee; the chief executive officer of the Florida/Puerto Rico Affiliate of the American Heart Association, or a designee; and the chief executive officer of the American Lung Association of Florida, or a designee. The Governor shall appoint the remaining six members of the council, as follows:

1. Two members with expertise in the field of biomedical research.
2. One member with expertise in the field of behavioral or social research.

3. One member from a professional medical organization.
4. One member from a research university in the state.
5. One member representing the general population of the state.

In making his or her appointments, the Governor shall select primarily, but not exclusively, Floridians with biomedical and lay expertise in the general areas of cancer, cardiovascular disease, stroke, and pulmonary disease. The Governor's appointments shall be for a 3-year term and shall reflect the diversity of the state's population. A council member appointed by the Governor may not serve more than two consecutive terms.

(b) The council shall adopt internal organizational procedures as necessary for its efficient organization.

(c) The department shall provide such staff, information, and other assistance as is reasonably necessary to assist the council in carrying out its responsibilities.

(d) Members of the council shall serve without compensation, but may receive reimbursement as provided in s. 112.061 for travel and other necessary expenses incurred in the performance of their official duties.

(4) The council shall advise the Secretary of Health as to the direction and scope of the biomedical research program. The responsibilities of the council may include, but are not limited to:

- (a) Providing advice on program priorities and emphases.
- (b) Providing advice on the overall program budget.
- (c) Participating in periodic program evaluation.

(d) Assisting in the development of guidelines to ensure fairness, neutrality, and adherence to the principles of merit and quality in the conduct of the program.

(e) Assisting in the development of appropriate linkages to nonacademic entities, such as voluntary organizations, health care delivery institutions, industry, government agencies, and public officials.

(f) Developing criteria and standards for the award of research grants.

(g) Developing administrative procedures relating to solicitation, review, and award of research grants and fellowships, to ensure an impartial, high-quality peer review system.

(h) Developing and supervising research peer review panels.

(i) Reviewing reports of peer review panels and making recommendations for research grants and fellowships.

(j) Developing and providing oversight regarding mechanisms for the dissemination of research results.

(5)(a) Applications for biomedical research funding under the program may be submitted from any university or established research institute in the state. All qualified investigators in the state, regardless of institution affiliation, shall have equal access and opportunity to compete for the research funding.

(b) Grants and fellowships shall be awarded by the Secretary of Health, after consultation with the council, on the basis of scientific merit, as determined by an open competitive peer review process that ensures objectivity, consistency, and high quality. The following types of applications shall be considered for funding:

1. Investigator-initiated research grants.
2. Institutional research grants.
3. Predoctoral and postdoctoral research fellowships.

(6) To ensure that all proposals for research funding are appropriate and are evaluated fairly on the basis of scientific merit, the Secretary of Health, in consultation with the council, shall appoint a peer review panel of independent, scientifically qualified individuals to review the scientific content of each proposal and establish its scientific priority score. The priority scores shall be forwarded to the council and must be considered in determining which proposals shall be recommended for funding.

(7) The council and the peer review panel shall establish and follow rigorous guidelines for ethical conduct and adhere to a strict policy with regard to conflict of interest. A ~~No~~ member of the council or panel may not ~~shall~~ participate in any discussion or decision with respect to a research proposal by any firm, entity, or agency with which the member is associated as a member of the governing body or as an employee, or with which the member has entered into a contractual arrangement. Meetings of the council and the peer review panels shall be subject to the provisions of chapter 119, s. 286.011, and s. 24, Art. I of the State Constitution.

(8) The department may contract on a competitive-bid basis with an appropriate entity to administer the program. Administrative expenses may not exceed 15 percent of the total funds available to the program in any given year.

(9) The department, after consultation with the council, may adopt rules as necessary to implement this section.

(10) The council shall submit an annual progress report on the state of biomedical research in this state to the Governor, the Secretary of Health, the President of the Senate, and the Speaker of the House of Representatives by February 1. The report must include:

(a) A list of research projects supported by grants or fellowships awarded under the program.

(b) A list of recipients of program grants or fellowships.

(c) A list of publications in peer reviewed journals involving research supported by grants or fellowships awarded under the program.

(d) The total amount of biomedical research funding currently flowing into the state.

(e) New grants for biomedical research which were funded based on research supported by grants or fellowships awarded under the program.

(f) Progress in the prevention, diagnosis, and treatment of diseases related to tobacco use, including cancer, cardiovascular disease, stroke, and pulmonary disease.

Section 5. There is appropriated \$25,000 each to the Department of Children and Family Services and the Department of Elderly Affairs from Lawton Chiles endowment funds deposited into each department's Tobacco Settlement Trust Fund to pay for administrative costs associated with the Lawton Chiles Endowment Fund Advisory Council established in section 215.5601, Florida Statutes.

Section 6. This act shall take effect July 1, 2001.

Approved by the Governor May 29, 2001.

Filed in Office Secretary of State May 29, 2001.