

**Constitution Revision Commission  
General Provisions Committee  
Proposal Analysis**

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

Proposal #: P 94

Relating to: MISCELLANEOUS, Comprehensive Statewide Tobacco Education And Prevention Program

Introducer(s): Commissioner Nuñez

Article/Section affected: Article X, section 27

Date: December 11, 2017

	REFERENCE	ACTION
1.	GP	<b>Pre-meeting</b>
2.	FT	

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**I. SUMMARY:**

Currently, s. 27 of Art. X of the Florida Constitution provides that fifteen percent of the funds paid to the state of Florida for the tobacco settlement are to be used for a statewide tobacco education and prevention program.

The proposal revises s. 27 of Art. X of the Florida Constitution to require that twenty percent of the fifteen percent received from the tobacco settlement for tobacco prevention be used for purposes related to the research and treatment of cancer.

Based on estimates of s.27, Art X funds from the Office of Economic and Demographic Research, the amounts dedicated to research and treatment equate to the following:

- FY19-20: \$14.3 million
- FY20-21: \$14.6 million
- FY21-22: \$15.0 million
- FY22-23: \$15.2 million

The proposal provides that the funds shall be distributed evenly between competitive cancer research projects that are administered by the biomedical research advisory council. After consultation with the biomedical research advisory council, the state surgeon general shall award the grants.

## II. SUBSTANTIVE ANALYSIS:

### A. PRESENT SITUATION:

#### **Florida Tobacco Settlement**

In August 1997, tobacco companies (Phillip Morris, Inc., R.J. Reynolds Tobacco Company, Brown & Williamson Tobacco Corp., and Lorillard Tobacco Company) entered into a multi-billion dollar tobacco settlement agreement with Florida for all past, present and future claims by the state, including reimbursement of Medicaid expenses, fraud, RICO, and punitive damages.<sup>1</sup> In November 2006, Florida's voters approved a state Constitutional amendment, creating Article X, Section 27, calling for a comprehensive tobacco education and use prevention program.<sup>2</sup>

#### **Comprehensive Statewide Tobacco Education and Prevention Program**

Section 381.84, F.S, provides that the Department of Health (DOH), through the Bureau of Tobacco Free Florida (BTFF), administers the statewide tobacco education and use prevention program outlined in s. 27 of Art. X of the Florida Constitution. The statute requires BTFF's programs to focus on tobacco use by youth and specifies the primary goals of the program are to "reduce the prevalence of tobacco use among youth, adults, and pregnant women; reduce per capita tobacco consumption; and reduce exposure to environmental tobacco smoke, and enforcing the "Florida Clean Indoor Air Act". As directed by statute, BTFF organizes and administers the program in accordance with the CDC Best Practices for Comprehensive Tobacco Control Programs, with a "focus on educating people, particularly youth and their parents, about the health hazards of tobacco and discouraging the use of tobacco."

#### **Funding From the Tobacco Settlement**

Section 27(b) of Article X of the Florida Constitution, directs the legislature to appropriate 15 percent of the funds paid to the state in 2005 under the tobacco settlement for the statewide tobacco education and use prevention program.<sup>3</sup> The legislature appropriates the remaining 85% of the annual tobacco settlement trust fund amount to programs outside of BTFF.

The following are the funds appropriated for FY16-17 and FY17-18 and estimates for the next years:

- FY16-17: \$66.3 million

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<sup>1</sup> *The State of Florida et al., vs. The American Tobacco Company, et al.*, Civil Action #95-1466AH (Circuit Court of the 15th Judicial Circuit, Palm Beach Co., FL August 25, 1997).

<sup>2</sup> The Protect People, Especially Youth, from Addiction, Disease, and other Health Hazards of using Tobacco Amendment passed in the 2006 general election .See

<http://dos.elections.myflorida.com/initiatives/initdetail.asp?account=41791&seqnum=1> (last visited 12/11/17).

<sup>3</sup> Sec. 27(b), Art. X, Fla. Const., sets the base amount at 15% of the funds paid in 2005 and then adjusted annually for inflation.

- FY17-18: \$69.0 million
- FY18-19: \$70.3 million
- FY19-20: \$71.5 million
- FY20-21: \$73.0 million
- FY21-22: \$75.1 million
- FY22-23: \$77.1 million<sup>4</sup>

Section 27(a)(1) of Article X also requires that one third of the total appropriation be used for an advertising campaign to discourage the use of tobacco.<sup>5</sup>

## **B. EFFECT OF PROPOSED CHANGES:**

The proposal revises s. 27 of Art. X of the Florida Constitution to require that twenty percent of the fifteen percent received from the tobacco settlement be used for purposes related to the research and treatment of cancer.

Based on estimates of s.27, Art X funds from the Office of Economic and Demographic Research, the amounts dedicated to research and treatment equate to the following:

- FY19-20: \$14.3 million
- FY20-21: \$14.6 million
- FY21-22: \$15.0 million
- FY22-23: \$15.2 million<sup>6</sup>

The proposal provides that the funds shall be distributed evenly between competitive cancer research projects that are administered by the biomedical research advisory council.<sup>7</sup> After consultation with the biomedical research advisory council, the state surgeon general shall award the grants.

## **C. FISCAL IMPACT:**

The following fiscal impact was provided by the Florida Department of Health at the request of Constitution Revision Commission staff:<sup>8</sup>

Redirecting funding from the tobacco education and use prevention program toward the research and treatment of cancer would require reductions to community-based tobacco prevention programs, including youth and young adult initiatives, health education communications efforts, cessation programs currently available to Florida's citizens

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<sup>4</sup> Estimates are from the *Tobacco Settlement Trust Fund Financial Outlook Statement*, 12/08/17, by the Florida Office of Economic and Demographic Research. [http://edr.state.fl.us/content/revenues/outlook-statements/tobacco-settlement-tf/171208\\_TSTFoutl.pdf](http://edr.state.fl.us/content/revenues/outlook-statements/tobacco-settlement-tf/171208_TSTFoutl.pdf) (last visited 12/11/17).

<sup>5</sup> For more information, see Tobacco Free Florida website: <http://tobaccofreeflorida.com/> (last visited 12/11/17).

<sup>6</sup> These estimates are based on 20% of Office of Economic and Demographic Research estimates of funds available for tobacco prevention program.

<sup>7</sup> For more information on the Florida Biomedical Research Advisory Council, see <http://www.floridahealth.gov/provider-and-partner-resources/brac/index.html> (last visited 12/11/17).

<sup>8</sup> Staff Analysis on Proposal 94 by Florida Department of Health (on file with CRC staff).

trying to quit smoking, statewide health behavior surveillance and evaluative systems. Reductions to tobacco program area funding would likely result in setbacks in progress towards DOH's Long Range Program Plan (LRPP) components of "Readiness for Emerging Health Threats" and the DOH and State Health Improvement Plan (SHIP) strategic priority of reducing statewide inhaled nicotine prevalence among youth and adults.<sup>9</sup> In addition, economic modeling from BTFF's independent external evaluator demonstrates redirecting current funding from tobacco education and use prevention to cancer research would significantly increase health care costs to Florida citizens and to the state, including to Medicaid. Conservative projections indicate a 20% redirect in funding could equate to \$1.9 billion increased in personal health care costs (including \$.5 billion to Medicaid), a moderate estimate could equate to \$3.9 billion in increased costs (\$.9 billion to Medicaid), and maximum estimate of \$21.4 billion (\$4.5 billion to Medicaid) in increased costs from 2019-2028.<sup>10</sup>

### **III. Additional Information:**

#### **A. Statement of Changes:**

(Summarizing differences between the current version and the prior version of the proposal.)

None.

#### **B. Amendments:**

None.

#### **C. Technical Deficiencies:**

None.

#### **D. Related Issues:**

None.

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<sup>9</sup> Florida Department of Health. (2017). State Health Improvement Plan, Long Range Program Plan, Agency Strategic Plan. Retrieved from <http://www.floridahealth.gov/about-the-department-of-health/about-us/priorities.html> (last visited 12/11/17).

<sup>10</sup> Research Triangle Institute International. (2017). Prevalence Scenarios and Health Care Costs 2011-2028: Ad hoc report.