HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB HCC 07-02 Tobacco education and prevention
SPONSOR(S): Healthcare Council and Representative Harrell
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Healthcare Council	14 Y, 0 N	Lowell	Gormley
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SUMMARY ANALYSIS

This Proposed Council Bill requires the Department of Health to conduct a comprehensive, statewide tobacco education and prevention program consistent with the 1999 Best Practices for Comprehensive Tobacco Control Programs developed by the United States Centers for Disease Control and Prevention.

The bill creates the Tobacco Education and Prevention Advisory Council to advise the Secretary of Health as to the direction and scope of the program. The bill also creates a competitive grant and contract award program. Grants and contracts will be awarded by the Secretary of Health, in consultation with the council, on the basis of merit through a competitive, peer review process.

Article X, section 27 of the Florida Constitution requires the Legislature to annually appropriate for the program 15 percent of the total gross funds that tobacco companies paid to the State of Florida in 2005 under the Tobacco Settlement. This amount must be adjusted annually for inflation using the Consumer Price Index.

The effective date of this bill is July 1, 2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill creates a tobacco education and prevention program within the department, creates an advisory council, and authorizes the award of grants and contracts through a competitive, peer review process.

Empower families – The bill increases opportunities for local and statewide organizations to support and encourage prevention and cessation of tobacco use by parents and their children.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

National Best Practices for Comprehensive Tobacco Control Programs
In August of 1999, the United States Department of Health and Human Services, Centers for Disease Control and Prevention ("CDC") published *Best Practices for Comprehensive Tobacco Control Programs* ("best practices").[1] The best practices were developed from analyses of programs in California and Massachusetts, as well as from the CDC's involvement in providing technical assistance to Florida, Maine, Minnesota, Mississippi, Oregon, and Texas. The best practices are designed to help states develop comprehensive tobacco control programs and evaluate funding priorities. As noted by the CDC in the best practices, the four primary goals of a comprehensive tobacco control program are the following:

- Prevent the initiation of tobacco use among young people.
- Promote cessation among young people and adults.
- Eliminate nonsmokers' exposure to environmental tobacco smoke.
- Identify and eliminate disparities related to tobacco use and its effects among different population groups.

The CDC recommends the following components within each state's tobacco control program:[2]

- Community programs to reduce tobacco use.
- Chronic disease programs to reduce the burden of tobacco-related diseases.
- School programs.
- Enforcement.
- Statewide programs.
- Counter-marketing.
- Cessation programs;
- Surveillance and evaluation.
- Administration and management.

The following is a brief description of each component.

Community programs to reduce tobacco use. The CDC notes that this component should focus on four primary goals: (1) prevention of the initiation of tobacco use among young people; (2) cessation for current users of tobacco; (3) protection from environmental tobacco smoke; and (4) elimination of disparities in tobacco use among populations. In particular, the CDC states that effective community

[1] *Best Practices for Comprehensive Tobacco Control Programs, August 1999* (visited March 9, 2007) http://www.cdc.gov/tobacco/tobacco_control_programs/stateandcommunity/best_practices/index.htm
[2] The CDC has informed staff that the *Best Practices* are being updated, which may result in the consolidation and renaming of some of the program components.

programs "involve people in their homes, work sites, schools, places of worship and entertainment, civic organizations, and other public places."

Chronic disease programs to reduce the burden of tobacco-related diseases. Examples of activities that may reduce the burden of tobacco-related diseases include: (1) community interventions that link tobacco control interventions with cardiovascular disease prevention; (2) counter-marketing to increase awareness of environmental tobacco smoke as a trigger for asthma; (3) training dental providers to counsel their patients on the role of tobacco use in the development of oral cancer; and (4) expanding cancer registries to monitor tobacco-related cancers.

School programs. The CDC notes that, since most people who are smokers start smoking before age 18, school-based programs are a "crucial part" of a state's prevention program. Specifically, education should be provided in elementary school and continued through and middle and high school.

Enforcement. The CDC best practices focus on two areas of enforcement: restriction on minors' access to tobacco and restrictions on smoking. Florida law currently addresses both of these areas.[3]

Statewide programs. The CDC states that these programs are a "major element" of the best practices. Examples of statewide programs include: (1) funding municipal organizations and networks to collect data and develop and implement culturally appropriate interventions; (2) sponsoring local, regional, and statewide training, conferences, and technical assistance on best practices; and (3) supporting innovative demonstration and research projects to prevent youth tobacco use, promote cessation, and promote smoke free communities.

Counter-marketing. According to the CDC, children are most susceptible to advertised brands and are three times more affected by advertising than adults. Consequently, a sustained counter-marketing campaign in intensity similar to tobacco advertising is needed. Counter-marketing consists of a number of approaches, including not only traditional print, radio, and television advertisements, but also press releases, media advocacy, and local events.

Cessation programs. The CDC notes that cessation programs may produce a quicker and larger short-term public health benefit than any other best practice component. Examples of cessation programs include: (1) covering treatment for tobacco use under both public and private insurance and (2) establishing population-based counseling and treatment programs, including cessation quitlines.

Surveillance and Evaluation. This component is necessary to assess program accountability and effectiveness. In particular, surveillance should monitor the decrease of the prevalence of tobacco use among young people and adults; per-capita tobacco consumption; and exposure to environmental tobacco smoke. In addition, evaluation programs should focus on individual program activities. The CDC recommends that 10 percent of the state's program budget be allocated for surveillance and evaluation.

Administration and management. The CDC recommends that 5 percent of the state's program budget be allocated to administration and management.

The Department of Health Tobacco Prevention Program

On August 25, 1997, the State of Florida entered into a settlement agreement with five tobacco companies, ending a lawsuit to recover Medicaid costs for tobacco-related illnesses. These five companies are Philip Morris, R.J. Reynolds, Brown & Williamson, Lorillard, and the United States Tobacco Company. As a result of the settlement agreement, in Fiscal Year 1997-98, Florida's tobacco prevention program began as the Youth Tobacco Pilot Program created in proviso.

[3] *See* Part II of Chapter 386, F.S., the Clean Indoor Air Act. *Also see* s. 569.101, F.S. (prohibiting the sale of tobacco products to persons under the age of 18).

The program has evolved to placing a Tobacco Prevention Specialist in 39 county health departments. These specialists create comprehensive tobacco prevention programs in each of the 39 counties, specifically: (1) a youth initiation prevention component (SWAT); (2) a cessation component; and (3) second hand smoke reduction programs. The remaining 28 counties receive $10,000 to support the tobacco component of the Chronic Disease Program; these funds maybe used for SWAT support; cessation services; and secondhand smoke awareness. In addition, the department operates the "Florida Tobacco Quit-For-Life Line" quitline through contract with the American Cancer Society.

Amendment 4

On November 7, 2006, the people of the state of Florida adopted Amendment 4,[4] creating the Comprehensive Statewide Tobacco Education and Prevention Program. Under the amendment, the state is required to create a comprehensive, statewide program consistent with the CDC's 1999 best practices. In particular, the program must consist of the following program components:

- An advertising campaign, funded by at least one-third of the required annual appropriation;
- Evidence-based curricula and programs to educate youth about tobacco and discourage their use of it;
- Programs of local community-based partnerships;
- Enforcement of laws, regulations, and policies against the sale or other provision of tobacco to minors, and the possession of tobacco by minors; and
- Publicly-reported annual evaluations to ensure that moneys appropriated for the program are spent properly.

The amendment specifies that the Legislature must appropriate 15 percent of the total gross funds that tobacco companies paid to the State of Florida in 2005 under the Tobacco Settlement. This amount must be adjusted annually for inflation using the Consumer Price Index.

Effect of Proposed Changes

The Proposed Council Bill requires the Department of Health to conduct a comprehensive, statewide tobacco education and prevention program consistent with the 1999 Best Practices for Comprehensive Tobacco Control Programs developed by the United States Centers for Disease Control and Prevention.

The department is required to include the following components within the program:

- An advertising campaign.
- Cessation programs.
- Evaluations of community and statewide programs.
- Evidence-based curricula and programs.
- Programs of local-community based partnerships.
- Training of health care providers and smoking cessation counselors.

The bill also creates the Tobacco Education and Prevention Advisory Council ("council") in order to advise the Secretary of Health as to the direction and scope of the program. The council consists of 14 members:

- The Secretary of Health, or a designee.
- Two members appointed by the Commissioner of Education, of which one must be a school district superintendent.
- The CEO of the Florida Division of the American Cancer Society.
- The CEO of the Greater Southeast Affiliate of the American Heart Association.
- The CEO of the American Lung Association of Florida.
- Four members appointed by the Governor.
- Two members appointed by the Speaker of the House.
- Two members appointed by the President of the Senate.

[4] Art. X, s. 27, Fla. Const.

In addition, the council is also provided a number of specific duties:

- Providing advice on program priorities and emphases.
- Participating in periodic program evaluation.
- Recommending meaningful outcome measures.
- Recommending policies to encourage a coordinate response to tobacco use in the state.

The bill creates a competitive grant and contract award program that will award grants and contracts under the program components listed above. Grants and contracts will be awarded by the Secretary of Health, in consultation with the council, on the basis of merit through a competitive, peer review process.

Grant and contract awards are restricted by limiting: (1) the use of food and promotional items to no more than 2.5 percent of the total amount of the contract or grant; (2) overhead or indirect costs to no more than 7.5 percent of the total amount of the contract or grant; and (3) production fees, buyer commissions, and related costs to no more than 5 percent of the total advertising contract amount.

The department is required to annually report on the program's effectiveness, including a survey of youth attitudes and behavior towards tobacco, and the department's administrative expenses are limited to 5 percent of the total appropriation for the program.

C. SECTION DIRECTORY:

Section 1. Creates s. 381.84, F.S., relating to the Comprehensive Statewide Tobacco Education and Prevention Program.

Section 2. Provides an effective date of July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   See fiscal comments below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The private sector will directly benefit from the availability of grant and contract awards under the program.

D. FISCAL COMMENTS:

Article X, section 27 of the Florida Constitution requires the Legislature to annually appropriate for the program 15 percent of the total gross funds that tobacco companies paid to the State of Florida in 2005

under the Tobacco Settlement. This amount must be adjusted annually for inflation using the Consumer Price Index. In addition, at least one third of this annual appropriation must be used for the advertising campaign component of the program.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The department is provided rulemaking authority to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES