HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB HCA 10-07 Tobacco Education and Prevention
SPONSOR(S): Health Care Appropriations Committee
TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	Health Care Appropriations Committee		Massengale	Massengale
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SUMMARY ANALYSIS

The bill makes statutory changes to conform to funding decisions in the House proposed General Appropriations Act (GAA) for Fiscal Year 2010-11. The bill amends section 381.84, Florida Statutes, relating to the Comprehensive Statewide Tobacco Education and Use Prevention Program.

The bill deletes obsolete provisions and updates terminology and changes references to "smoking" to "tobacco use" to ensure the program covers cessation for all types of tobacco products.

The bill expands the media campaign component to include innovative communication strategies that incorporate the use of personal communication devices and online networking, deletes language that exempts each county health department from the competitive bid process to receive core funding, and ensures administration and management expenditures for the Department of Health are limited to 5 percent as provided elsewhere in the section.

The bill deletes obsolete language related to Area Health Education Centers (AHECs), makes the AHEC's continued function in each county permissive, and deletes language requiring the AHECs to compete for future funding. Additionally, the bill expands upon the state and community intervention component of the state tobacco control program with regard to tobacco-related disparities by authorizing community mental health providers under contract with the Department of Children and Families pursuant to section 394.74, Florida Statutes, to receive a portion of the annual tobacco appropriation to provide intervention and tobacco-use cessation treatment for persons with mental illness, subject to a specific appropriation in the General Appropriations Act.

The bill requires the department to submit a written proposal for implementing an incentive-based pilot program using commitment contracts for tobacco-users and provides specific guidance for decision-points that must be included in the department's proposal. The proposal must be submitted to the Legislature, including the appropriate substantive committees, by December 1, 2010.

The House proposed GAA for Fiscal Year 2010-11 continues a $10 million Tobacco Settlement Trust Fund appropriation for Area Health Education Centers and redirects $9 million from county health department core funding to community mental health providers.

The bill takes effect July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Constitutional Amendment

On November 7, 2006, the voters in the State of Florida adopted Amendment 4, creating the Comprehensive Statewide Tobacco Education and Prevention Program.[1] Pursuant to the amendment, the state is required to create a comprehensive, statewide program consistent with the United States Department of Health and Human Services, Centers for Disease Control and Prevention (CDC) 1999 best practices, as periodically amended. 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.
- Publicly-reported annual evaluations to ensure that moneys appropriated for the program are spent properly.

The Constitution 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. For Fiscal Year 2009-2010, the mandated appropriation is $61.8 million.

In 2007, the Legislature created section 381.84, Florida Statutes, the Comprehensive Statewide Tobacco Education and Use Prevention Program, to implement the constitutional amendment.

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

2007 CDC Best Practices for Comprehensive Tobacco Control Program

The CDC released an amended best practices document in October 2007, the Best Practices for Comprehensive Tobacco Control Programs—October 2007 ("2007 Best Practices").[2] The 2007 Best Practices comprise the following components:

- State and Community Interventions
- Health Communication Interventions
- Cessation Interventions
- Surveillance and Evaluation
- Administration and Management

State and Community Interventions

State and Community Interventions include statewide programs, community programs, programs to identify and eliminate tobacco related disparities, programs to prevent tobacco use among youth, and programs to reduce the burden of tobacco-related diseases.

The 2007 Best Practices provide that the program focus on identifying and eliminating tobacco-related disparities among population groups. Tobacco-related disparities are defined to include "[d]ifferences in the risk, incidence, morbidity, mortality, and burden of tobacco-related illness that exist among specific population groups in the United States."

The CDC notes that "because some populations experience a disproportionate health and economic burden from tobacco use, a focus on eliminating such tobacco-related disparities is necessary." The CDC encourages state programs to fund organizations that can "effectively reach, involve and mobilize identified specific populations." As an example of how states can address tobacco-related disparities, the CDC notes that New York's tobacco control program has integrated tobacco dependence treatment into treatment protocols for mentally ill persons, promoted tobacco-free campuses for mental health treatment facilities and has partnered with agencies representing mental health groups.[3]

Individuals with mental illness, including those who are treated in mental health clinics, are almost twice as likely to smoke than individuals without mental illness,[4] and close to half of cigarettes sales in the United States are to individuals suffering from mental illness.[5] Research by the National Institute on Drug Abuse suggests that treating mental illness can reduce smoking "intensity and nicotine addiction" and that addressing nicotine addiction in conjunction with providing mental health treatment is important to avoid increased risk for tobacco dependence.[6]

Health Communication Interventions

According to the CDC, research indicates that point-of-sale advertising is associated with encouraging youth, particularly younger teens, to try smoking and that cigarette promotions are more influential with youth already experimenting with cigarettes as they progress to regular smoking. Furthermore, the CDC points out that youth-and parent-focuses anti-tobacco advertising campaigns sponsored by the tobacco industry have been shown to actually increase youth tobacco use. In 2005, tobacco companies spent $13.4 billion to market cigarettes and smokeless tobacco, outspending the nation's total tobacco prevention and cessation efforts by a ratio of more than 22 to 1. For this reason, it is recommended that sustained media campaigns, combined with other interventions and strategies, are used to decrease the likelihood of tobacco initiation and promote smoking cessation. According to the CDC, an effective

[2] Located at http://www.cdc.gov/tobacco/stateandcommunity/best_practices/index.htm (last viewed on March 10, 2010).
[3] The New York Program also works with substance abuse treatment providers.
[4] Karen Lasser, MD, et al., *"Smoking and Mental Illness – A Population-Based Prevalence Study*", Journal of American Medical Association, Vol. 284, No. 20 (November 22-29, 2000); located at http://jama.ama-assn.org/cgi/content/abstract/284/20/2606 (last viewed on March 10, 2010).
[5] Patrick Zickler, "NIDA Research Illuminates Associations Between Psychiatric Disorders and Smoking," National Institute of Drug Abuse Notes, Vol. 20, No. 2 (August 2005); located at http://www.nida.nih.gov/NIDA_notes/NNvol20N2/NIDA.html (last viewed on March 10, 2010).
[6] *Id.*

state health communication intervention should deliver strategic, culturally appropriate, and high-impact messages that employ a number of approaches, including not only traditional print, radio, television, and web-based advertisements, but also press releases, media literacy, health promotion, and efforts to reduce or replace tobacco industry sponsorship and promotions. The CDC also recognizes innovative interventions such as targeting specific audiences by using personal communication devices, text messaging, online networking, and blogs as useful tools.

Cessation Interventions

The CDC recommends that tobacco use treatment should include the following: (1) sustaining, expanding, and promoting the services available through population-based counseling and treatment programs; (2) covering treatment for tobacco use under both public and private insurance, including individual, group, and telephone counseling and all FDA-approved medications; (3) eliminating cost and other barriers to treatment for underserved populations, particularly the uninsured and populations disproportionally affected by tobacco use; and (4) making the health care system changes recommended by the Public Health Service, such as using brief advice by medical providers about cessation, social support and coaching on problem-solving skills, FDA-approved pharmacotherapy, Quitline services, and comprehensive insurance coverage to decrease smoking prevalence.

Surveillance and Evaluation

State surveillance should monitor tobacco-related attitudes, behaviors and health outcomes. The CDC has identified the following surveillance goals: (1) preventing initiation of tobacco use among adults and youth; (2) promoting quitting among adults and youth; (3) eliminating exposure to secondhand smoke; and (4) identifying and eliminating tobacco-related disparities among population groups. By participating in national surveillance systems such as the Behavioral Risk Factor Surveillance System, Youth Risk Behavior Surveillance System, and the Pregnancy Risk Assessment Monitoring System states can compare a program's impact and outcomes with national trends. Program evaluation efforts should link statewide and local program efforts; use short-term and intermediate indicators of program effectiveness; identify needed policy and social norms changes; and monitor counter-marketing efforts to examine the impact of pro-tobacco influences. The CDC also recommends collecting data from the Quitline Minimal Data set, vital statistics, air quality studies, opinion surveys, and media programming data. The CDC has developed several guides for states that provide information on selecting evidence-based indicators and linking them to program outcomes.

Administration and Management

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

County Health Departments and Area Health Education Centers

Section 381.84(3)(g), Florida Statutes, authorizes county health departments to coordinate tobacco use and prevention programs and improve infrastructure of the county health departments to implement such programs. According to the Department of Health,[7] in furtherance of this statutory mission, county health departments currently provide:

- One-on-one counseling to individuals seeking to quit smoking;
- Fax referrals of individuals to the Florida Tobacco Quitline; and
- $500,000 in free Nicotine Replacement Therapy for Floridians.[8]

[7] See February 18, 2010 Presentation by Janine Myrick, J.D., Florida Department of Health Bureau of Tobacco Prevention Program, before the House Health Care Appropriations Committee.

[8] According to the department, current funding for Florida's Tobacco Quitline includes approximately $4 million for free Nicotine Replacement Therapy for Quitline participants. *See id.*

Additionally, county health departments are required to prominently display counter-marketing and advertising materials, such as wall posters and brochures in treating rooms and waiting rooms; and display screen savers, and internet and television advertising if internet kiosks or televisions are available. County health departments currently receive $9.4 million from the State and Community Interventions component of the Tobacco Cessation Program.

Section 381.84(3)(i), Florida Statutes, requires Area Health Education Centers (AHECs), for the 2009-2010 fiscal year, to expand tobacco-cessation initiatives to each county of the state. AHECs provide tobacco cessation, prevention and treatment training for health care practitioners and, in partnership with the Florida Quitline, provide in-person cessation counseling for individuals attempting to quit smoking.[9] Area Health Education Centers received: $4 million for tobacco cessation counseling services, while the remaining $6 million is used for prevention and treatment training. Current law authorizes AHECs to compete for funding beginning in the 2010-2011 fiscal year.

Community Mental Health Centers

Publicly-funded substance abuse and mental health services in Florida are primarily provided through the Department of Children and Family Services (DCF). The 2003 Legislature established separate substance abuse and mental health program offices within DCF under the Assistant Secretary for Substance Abuse and Mental Health.

Community mental health centers are publicly-funded, not-for-profit entities that contract with DCF pursuant to section 394.74, Florida Statutes, to provide inpatient, outpatient, day treatment or emergency mental health treatment services adults and children with mental illness or co-occurring substance abuse and mental illnesses.

Commitment Contracts

Commitment contracts are contracts entered into by two parties with the aim of helping one party fulfill a plan for future actions.[10] Commitment contracts can be in the form of hard commitments (those with harsh penalties for failure, or rewards for success) or soft commitments (those which do not have large economic consequences).[11] Such contracts could be used in a variety of ways to encourage results, including helping people meet smoking cessation, weight loss, or money management goals.[12]

A study in the Philippines tested the effectiveness of commitment contracts for individuals interesting in quitting smoking.[13] In the study, one group of smokers was randomly offered the opportunity to sign a commitment contract, called Committed Action to Reduce and End Smoking, with a Philippine Bank offering interest-free savings accounts to smokers as an incentive to stop smoking.[14] These test group participants made an initial deposit, and for the next six months they were encouraged to deposit into the savings account the money they would have spent on tobacco-related products.[15]

Participants could not withdraw the funds prior to the end of the six-month period, and risked losing all funds deposited in the account if they failed to cease smoking.[16] At the end of the six months, participants took urine tests to evidence smoking cessation. If they failed the test, then the participants' accumulated deposit funds were donated to charity.[17] Accumulated savings for successful participants was returned.

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[9] *See* February 18, 2010 Presentation by Dr. Cynthia S. Selleck before the House Health Care Appropriations Committee.
[10] Gharad Bryan, et al., "Commitment Contracts," Economic Growth Center, Yale University, Discussion Paper No. 980 (October 2009); located at http://ssrn.com/abstract=1493378 (last viewed March 8, 2010).
[11] *Id.*
[12] *Id.*
[13] Xavier Giné, et al., "Putt Your Money Where Your Butt Is: A Commitment Contract for Smoking Cessation," Financial Access Initiative and Innovations for Poverty Action (December 2008); located at http://www.povertyactionlab.com/papers/85_Karlan_Zinman_Smoking_Cessation.pdf (last visited on March 10, 2010).
[14] *Id.*
[15] *Id.*
[16] *Id.*
[17] *Id.*

Another group of smokers, the control group, was not provided the opportunity for a commitment contract and, instead, was provided picture cards used as reminders of the health risks associated with smoking.[18]

At the conclusion of the experiment, smokers who utilized commitment contracts were 3.3 to 5.8 percentage points more likely to pass the 6-month urine test than the control group.[19] Because urine tests are not the best indicator of continued cessation, "surprise" tests were conducted at 12-months and the results still indicated a greater increase in cessation for the commitment contract group than the control group (3.5 to 5.7 percentage points higher).[20]

Effect of Proposed Changes:

The bill makes statutory changes to conform to funding decisions made in the House proposed General Appropriations Act for Fiscal Year 2010-11. The bill amends section 381.84, Florida Statutes, relating to the Comprehensive Statewide Tobacco Education and Use Prevention Program. The bill deletes obsolete provisions and updates references to "cyberspace" to "internet." The bill also changes references to "smoking" to "tobacco use," which broadens the program to include cessation activity for all types of tobacco products.

The bill expands the media campaign component of the program to include innovative communication strategies that target specific audiences who use personal communication devices and frequent social networking websites. The bill also amends the current "administration, statewide programs, and county health departments" component to "administration and management" and deletes language that exempts each county health department from the competitive bid process to receive core funding. Additionally, the bill limits administration and management expenditures for the department to 5 percent.

The bill deletes obsolete language related to Area Health Education Centers (AHECs), makes the AHECs continued function in each county of the state permissive, and removes a provision authorizing AHECs to compete for future tobacco cessation funding. The House proposed General Appropriations Act (GAA) for Fiscal Year 2010-11 continues a $10 million appropriation for AHECs.

The bill creates a new component related to tobacco related disparities, which authorizes community mental health providers under contract with the Department of Children and Families pursuant to section 394.74, Florida Statutes, to receive a portion of the annual tobacco appropriation to provide intervention and tobacco-use cessation treatment for persons with mental illness. This paragraph is subject to a specific appropriation in the General Appropriations Act. The House proposed GAA for Fiscal Year 2010-11 redirects $9 million from county health department core funding to community mental health providers.

The bill requires the department to submit to the President of the Senate, Speaker of the Florida House of Representatives and the appropriate substantive committees of the Legislature a written proposal for implementing an incentive-based pilot program using commitment contracts for tobacco-users. The bill provides that the proposal must include a recommended amount and source of funding for the program, as well as recommendations related to: (1) the location of the pilot program; (2) the type of commitment contract; (3) proposed terms for the commitment contract, including any additional incentives the state could provide or proposed penalties for failing to abstain from smoking; (4) the method for testing for smoking abstention; and (5) locations of testing centers, which may include AHECs, county health departments or Federally Qualified Health Centers.

The bill deletes obsolete language related to department rulemaking authority.

[18] *Id.*
[19] *Id.*
[20] *Id.*

Finally, the bill provides an effective date of July 1, 2010.

B. SECTION DIRECTORY:

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

Section 2. Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The House proposed GAA for Fiscal Year 2010-11 continues a $10 million Tobacco Settlement Trust Fund appropriation for Area Health Education Centers and redirects $9 million from county health department core funding to community mental health providers.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Community mental health providers will receive a portion of the annual tobacco appropriation to provide intervention and tobacco use cessation treatment for persons with mental illness.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require a city or county to expend funds or take any action requiring the expenditure of funds. The bill does not appear to reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The department has sufficient rulemaking authority to implement the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES