

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1471 Healthy and Fit Florida Act  
**SPONSOR(S):** Adams and others  
**TIED BILLS:** **IDEN./SIM. BILLS:** CS/SB 2614

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	<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
1)	Health Care Services Policy Committee	5 Y, 0 N	Preston	Schoolfield
2)	Health & Family Services Policy Council	24 Y, 0 N	Lowell	Gormley
3)	Human Services Appropriations Committee	4 Y, 0 N	Bradford	Massengale
4)	Full Appropriations Council on General Government & Health Care		Bradford	Leznoff
5)				

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### SUMMARY ANALYSIS

The bill makes a number of changes related to the Comprehensive Statewide Tobacco Education and Use Prevention Program created by the Legislature in 2007, including:

- Revising program components to reflect those contained in the 2007 Best Practices for Comprehensive Tobacco Control Programs as established by the Centers for Disease Control.
- Revising provisions related to the Tobacco Education and Use Prevention Advisory Council, including requiring the council to adhere to state ethics laws, subjecting council meetings to public-records and public-meeting requirements and requiring the Department of Health (DOH or department) to be more involved in the role of the council.

The bill also transfers multiple sections of statute, relating to chronic disease, from chapter 381, Florida Statutes, to chapter 385, Florida Statutes, and renames chapter 385 from "Chronic Diseases" to the "Healthy and Fit Florida Act."

The bill makes numerous additional revisions to chapter 385, Florida Statutes, relating to chronic disease, including:

- Requiring the department to create state-level programs that address the leading, preventable chronic disease risk factors of poor nutrition and obesity, tobacco use, sun exposure, and physical inactivity to reduce the occurrence of specified diseases.
- Revising the focus for community-level chronic disease prevention and health promotion and requiring the department to develop and implement a comprehensive, community-based program.
- Requiring the department to develop programs relating to physical activity, to promote healthy lifestyles to address obesity prevention, to develop strategies related to good nutrition, to promote personal responsibility related to other health-promotion services, and to conduct employee wellness programs.

The bill appears to have no fiscal impact on local governments. The bill eliminates the 5 percent limit on administrative expenditures from the Epilepsy Services Trust Fund.

The bill is effective July 1, 2009.

## 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:

#### Tobacco Use Prevention

##### Background

##### *National Best Practices for Comprehensive Tobacco Control Programs*

In August of 1999 the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention (CDC) published Best Practices for Comprehensive Tobacco Control Programs (best practices).<sup>1</sup> The best practices were developed from analyses of programs and the CDC's involvement in providing technical assistance to a number of states and 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 to:

- 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 the effects of tobacco use among differing populations.

The CDC updated the best practices in 2007 to provide an "integrated programmatic structure for implementing interventions proven to be effective and provide the recommended level of state investment to reach these goals and reduce tobacco use in each state. It is important to recognize that these individual components must work together to produce the synergistic effects of a comprehensive tobacco control program. Based on the evidence of effectiveness documented in scientific literature, the most effective population-based approaches have been defined within five core overarching components."<sup>2</sup>

##### *State of Florida Tobacco Settlement*

On August 25, 1997, the State of Florida entered into a settlement agreement with five tobacco

<sup>1</sup> Centers for Disease Control and Prevention. *Best Practices for Comprehensive Tobacco Control Programs*, August 1999.

<sup>2</sup> Best Practices for Comprehensive Tobacco Control Programs, October 2007. See [http://www.cdc.gov/tobacco/tobacco\\_control\\_programs/stateandcommunity/best\\_practices/index.htm](http://www.cdc.gov/tobacco/tobacco_control_programs/stateandcommunity/best_practices/index.htm) (last visited March 29, 2009).

companies,<sup>3</sup> ending a lawsuit to recover Medicaid costs for tobacco-related illnesses. In Fiscal Year 1997-98, Florida's tobacco prevention program began as the Youth Tobacco Pilot Program in proviso. The program currently has a Tobacco Prevention Specialist in 39 county health departments to create comprehensive tobacco prevention programs.<sup>4</sup> The remaining 28 counties receive \$10,000 to support the tobacco component of the Chronic Disease Program. In addition, the department operates the "Florida Tobacco Quit-For-Life Line" quitline through contract with the American Cancer Society.

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

On November 7, 2006, the people of the state of Florida adopted Amendment 4,<sup>5</sup> 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. The Legislature is required to 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.

Section 381.84, Florida Statutes, was created in 2007<sup>6</sup> to provide legislative findings and intent language to implement the provisions of s. 27, Art. X of the State Constitution.

### **Effect of Proposed Changes**

The bill makes a number of changes to the Comprehensive Statewide Tobacco Education and Use Prevention Program, including, but not limited to:

- Revising program components to reflect those contained in the Best Practices for Comprehensive Tobacco Control Programs as established by the Centers for Disease Control as amended in 2007.<sup>7</sup>
- Requiring a youth-directed focus in every component.
- Revising provisions related to the Tobacco Education and Use Prevention Advisory Council, including requiring the council to adhere to state ethics laws, requiring council panel meetings to be subject to public-records and public-meeting requirements, and increasing the role of the department in the duties and responsibilities of the council.

### **Chronic Disease**

#### **Background**

Chronic diseases, such as heart disease, cancer, and diabetes, have a long course of illness, rarely resolve spontaneously, and are generally not cured by medication or prevented by vaccine. Chronic diseases account for 7 of every 10 deaths and affect the quality of life of 90 million Americans. Chronic disabling conditions cause major limitations in activity for more than 1 of every 10 Americans or 25 million people. Although chronic diseases are among the most common and most costly of all health problems, they also represent some of the most preventable. Healthy behaviors such as eating nutritious foods, being physically active, and avoiding tobacco use can prevent or control the effects of these diseases.<sup>8</sup>

Established in 1998, DOH's Bureau of Chronic Disease Prevention and Health Promotion currently houses a number of programs<sup>9</sup> and receives funding from a variety of federal and state sources,

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<sup>3</sup> These five companies are Philip Morris, R.J. Reynolds, Brown & Williamson, Lorillard, and the United States Tobacco Company.

<sup>4</sup> Specifically, those programs are a youth initiation prevention component (SWAT), a cessation component, and second hand smoke reduction programs.

<sup>5</sup> Art. X, s. 27, Fla. Const.

<sup>6</sup> Ch. 2007-65, Laws of Fla.

<sup>7</sup> These components include: State and Community Interventions; Health Communication Interventions; Cessation Interventions; Surveillance and Evaluation; and Administration and Management.

<sup>8</sup> Florida Department of Health, see <http://www.doh.state.fl.us/Family/chronicdisease/> (last visited March 29, 2009).

<sup>9</sup> Heart Disease and Stroke Prevention, Healthy Communities Healthy People, Diabetes Prevention and Control, Comprehensive Cancer Control, Breast and Cervical Early Detection, Arthritis Prevention and Education, and Epilepsy Services.

including the Preventive Health and Health Services Block Grant, the Centers for Disease Control and Prevention, state trust funds, and general revenue funds.

## Effect of Proposed Changes

The bill makes technical changes related to chronic diseases, including:

- Transferring and renumbering sections of chapter 381, Florida Statutes, relating to Public Health to chapter 385, Florida Statutes, relating to Chronic Diseases.<sup>10</sup> In addition, section 381.912, Florida Statutes, relating to the Cervical Cancer Elimination Task Force, is repealed. The final report from the task force was due on June 30, 2008 and the task force was to be dissolved after submission of the final report.
- Renaming chapter 385, Florida Statutes, entitled “Chronic Diseases” to the “Healthy and Fit Florida Act” and making additional changes to chapter 385, including:
  - Amending legislative intent to direct the department to establish, promote, and maintain state-level and local-level programs for chronic disease prevention with available funds.
  - Requiring the department to support public health programs aimed at reducing mortality and morbidity from diseases for which risk factors can be identified.
  - Requiring the department to create state-level programs that address the leading, preventable chronic disease risk factors to reduce the occurrence of those diseases and specifying program duties and responsibilities.
  - Revising the focus for community-level chronic disease prevention and health promotion and requiring the DOH to develop and implement a comprehensive, community-based program.
  - Requiring the department to develop programs to promote personal responsibility for good health and to conduct employee wellness programs.
  - Expanding the list of licensed facilities required to report specified information to DOH related to the statewide cancer registry.
  - Requiring the DOH to collect certain specified information from providers of epilepsy services.

In addition, the bill repeals subsection. 381.0053, 381.0054, 381.732, 381.733, and 381.734, Florida Statutes, relating to a comprehensive nutrition program, healthy lifestyles promotion, and the Healthy Communities Healthy People Act, respectively.

### B. SECTION DIRECTORY:

**Section 1.** Amends s. 154.503, F. S., relating to Primary Care for Children and Families Challenge Grant Program, conforming a cross reference.

**Section 2.** Repeals ss. 381.0053, 381.0054, 381.732, 381.733, and 381.734, F. S., relating to a comprehensive nutrition program, healthy lifestyle promotion, and the Healthy Communities Healthy People Act, respectively.

**Section 3.** Transfers, renumbers, and amends s. 381.84, F. S., relating to the Comprehensive Statewide Tobacco Education and Use Prevention Program, as s. 385.106, F.S.

**Section 4.** Transfers and renumbers s. 381.91, F. S., relating to the Jesse Trice Cancer Prevention Program, as s. 385.2024, F. S.

**Section 5.** Transfers and renumbers s. 381.911, F. S., relating to the Prostate Cancer Awareness Program, as s. 385.2023, F. S.

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<sup>10</sup> s. 381.91, F.S., relating to the Jessie Trice Cancer Prevention Program, would become s. 385.2024, F.S.  
s. 381.911, F.S. relating to the Prostate Cancer Awareness Program, would become s. 385.2023, F.S.  
s. 381.92, F.S., relating to the Florida Cancer Council, would become s. 385.2025, F.S.  
s. 381.921, F.S., relating to the Florida Cancer Council’s mission and duties, would become s. 385.20251, F.S.  
s. 381.93, F.S., relating to the Mary Brogan Breast and Cervical Cancer Early Detection Program Act, would become s. 385.2021 F.S.  
s. 381.931, F.S., relating to an annual report on Medicaid expenditures, would become s. 385.20211, F.S.

**Section 6.** Repeals s. 381.912, F.S., relating to the Cervical Cancer Elimination Task Force.

**Section 7.** Transfers and renumbers s. 381.92, F. S., relating to the Florida Cancer Council, as s. 385.2025, F. S.

**Section 8.** Transfers and renumbers s. 381.921, F. S., relating to the Florida Cancer Council mission and duties, to s. 385.20251, F. S.

**Section 9.** Amends s. 381.922, F. S., relating to the William G. "Bill" Bankhead, Jr., and David Coley Cancer Research Program, conforming a cross reference.

**Section 10.** Transfers and renumbers s. 381.93, F. S., relating to the breast and cervical cancer early detection program, as s. 385.2021, F. S.

**Section 11.** Transfers and renumbers s. 381.931, F. S., relating to the annual report on Medicaid expenditures, as s. 385.20211, F. S.

**Section 12.** Renames chapter 385, F. S., as the "Healthy and Fit Florida Act."

**Section 13.** Amends s. 385.101, F. S., relating to the "Chronic Diseases Act."

**Section 14.** Amends s. 385.102, F. S., relating to legislative intent.

**Section 15.** Creates s. 385.1021, F. S., relating to definitions.

**Section 16.** Creates s. 385.1022, F. S., relating to a chronic disease prevention program.

**Section 17.** Creates s. 385.1023, F. S., relating to state-level prevention programs for chronic disease.

**Section 18.** Amends s. 385.103, F. S., relating to community intervention programs.

**Section 19.** Creates s. 385.105, F. S., relating to physical activity, obesity prevention, nutrition, other health-promotion services, and wellness programs.

**Section 20.** Amends s. 385.202, F. S., relating to the statewide cancer registry.

**Section 21.** Amends s. 385.206, F. S., relating to the Hematology-Oncology Center Program.

**Section 22.** Amends s. 385.207, F. S., relating to care and assistance of persons with epilepsy and the establishment of programs in epilepsy control.

**Section 23.** Amends s. 385.210, F. S., relating to arthritis prevention and education.

**Section 24.** Creates s. 385.301, F. S., relating to rulemaking authority for chapter 385.

**Section 25.** Amends s. 409.904, F. S., relating to optional payments for eligible persons, conforming a cross reference.

**Section 26.** Provides for an effective date of July 1, 2009.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

Section 19 of the bill creates by rule requirements for nominal participation fees that will offset the cost of equipment and incentives for individuals that wish to participate in the employee wellness programs established in conjunction with other state agencies. The amount of revenues is indeterminate and may not exceed the department's actual costs.

#### 2. Expenditures:

Section 24 of the bill establishes new rule authority to administer chapter 385, Florida Statutes. It is unknown when specific rules would need to be addressed, but there is a cost each time a rule is created or changed. If more than one rule is addressed, the cost could become significant.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

Section 22 of the bill eliminates the limit on administrative expenditures from the Epilepsy Services Trust Fund of 5 percent of annual receipts. It is unknown if this will allow increased expenditures for administrative costs or if there will be a shift from expenditures for direct client services.

## 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 bill deletes outdated rulemaking authority related to the Comprehensive Statewide Tobacco Education and Use Prevention Program and provides the department rulemaking authority to adopt rules to:

- Administer a program relating to nutrition strategies.
- Determine requirements relating to the employee wellness programs.

- Establish and operate a statewide cancer registry.
- Administer chapter 385, Florida Statutes.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**