

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1471

Healthy and Fit Florida Act

SPONSOR(S): Adams

TIED BILLS:

IDEN./SIM. BILLS: SB 2614

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Health Care Services Policy Committee		Preston	Schoolfield
2)	Health & Family Services Policy Council			
3)	Human Services Appropriations Committee			
4)	Full Appropriations Council on General Government & Health Care			
5)				

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 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. These components include, State and Community Interventions; Health Communication Interventions; Cessation Interventions; Surveillance and Evaluation; and Administration and Management.
- Revising provisions related to the Tobacco Education and Use Prevention Advisory Council (council), including, requiring the council to adhere to state ethics laws and that council meetings are subject to public-records and public-meeting requirements; requiring the Department of Health (DOH or department) to be more involved in the role of the council; deleting a requirement relating to contracts and grants; and deleting a requirement relating to participation by a member of the council in discussion or decisionmaking with respect to a research proposal.

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, but not limited to:

- 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 in order to reduce the occurrence of specified diseases. The duties and responsibilities of the program are specified;
- 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. Program components are specified; and
- 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. Requirements for those initiatives are specified.

The bill is anticipated to have no fiscal impact on state or local governments.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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DATE: 3/23/2009

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

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").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 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 tobacco use and its effects among different population groups.

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 the following overarching components."²

- State and Community Interventions.
- Health Communications Interventions.
- Cessation Interventions.
- Surveillance and Evaluation.

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

² Best Practices for Comprehensive Tobacco Control Programs, October 2007. Available at http://www.cdc.gov/tobacco/tobacco_control_programs/stateandcommunity/best_practices/index.htm.

- 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,³ ending a lawsuit to recover Medicaid costs for tobacco-related illnesses. 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.

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: a youth initiation prevention component (SWAT); a cessation component; and second hand smoke reduction programs. The remaining 28 counties receive \$10,000 to support the tobacco component of the Chronic Disease Program to be used for the same initiatives. 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 4,⁴ 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. 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.

Section 381.84, Florida Statutes, was created in 2007⁵ to provide legislative findings and intent language to implement the provisions of s. 27, Art. X of the State Constitution. Further, program funding is to be based on the results of assessments and evaluations and portions of the program are to be funded on a non-recurring basis. In addition:

- The DOH is required to conduct a comprehensive, statewide tobacco education and prevention program consistent with the 1999 Best Practices for Comprehensive Tobacco Control Programs of the Centers for Disease Control, as amended;
- The department is required to contract with the Area Health Education Center (AHEC) network to disseminate information about smoking cessation and how it relates to prenatal care, obesity prevention, and other chronic tobacco-related diseases;
- The statewide expansion of the existing AHEC smoking cessation initiative to each county health department is required where funds may be used to improve the infrastructure of the county health department to implement the program; and
- The Tobacco Education and Prevention Advisory Council (council) was created to advise the Surgeon General on programmatic issues; council membership and responsibilities were specified.

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. These components include:

- State and Community Interventions;
- Health Communication Interventions;

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

⁴ Art. X, s. 27, Fla. Const.

⁵ See Chapter 2007-65, Laws of Florida.

- Cessation Interventions;
 - Surveillance and Evaluation; and
 - Administration and Management.
- 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 and requiring that council and review panel meetings are subject to public-records and public-meeting requirements;
 - Increasing the role of the department in the duties and responsibilities of the council;
 - Deleting a requirement relating to schools or colleges of medicine that are represented on the council not being eligible to receive a contract or grant under s. 381.84, Florida Statutes; and
 - Deleting a requirement relating to participation by a member of the council in discussion or decisionmaking with respect to a research proposal;

CHRONIC DISEASE

Chronic diseases have a long course of illness; they rarely resolve spontaneously; they are generally not cured by medication or prevented by vaccine. Chronic diseases, such as heart disease, cancer, and diabetes, 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.⁶

Established in 1998, DOH's Bureau of Chronic Disease Prevention and Health Promotion currently houses the following programs: 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.⁷ The bureau receives funding from a variety of federal and state sources, including the Preventive Health and Health Services Block Grant, the Centers for Disease Control and Prevention, state trust funds, and general revenue.

THE BILL makes a number of technical changes related to chronic diseases, including, but not limited to:

- Transferring the following sections of chapter 381, Florida Statutes, relating to Public Health to chapter 385, Florida Statutes, and renumbering them as follows:
 - s. 381.91, Florida Statutes, relating to the Jessie Trice Cancer Prevention Program, is transferred and renumbered as s. 385.2024, Florida Statutes.
 - s. 381.911, Florida Statutes, relating to the Prostate Cancer Awareness Program, is transferred and renumbered as s. 385.2023, Florida Statutes.
 - s. 381.92, Florida Statutes, relating to the Florida Cancer Council, is transferred and renumbered as s. 385.2025, Florida Statutes.
 - s. 381.921, Florida Statutes, relating to the Florida Cancer Council's mission and duties, is transferred and renumbered as s. 385.20251, Florida Statutes.
 - s. 381.93, Florida Statutes, relating to the Mary Brogan Breast and Cervical Cancer Early Detection Program Act, is transferred and renumbered as s. 385.2021 Florida Statutes.
 - s. 381.931, Florida Statutes, relating to an annual report on Medicaid expenditures pursuant to the Mary Brogan Program, is transferred and renumbered as s. 385.20211, Florida Statutes.

⁶ Florida Department of Health. Available at <http://www.doh.state.fl.us/Family/chronicdisease/> .

⁷ Id.

In addition, s. 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, but not limited to:

- Amending legislative intent to direct the department to establish, promote, and maintain state-level and local-level programs for chronic disease prevention to the extent that funds are available;
- Creating new definitions for use in the chapter;
- 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 of poor nutrition and obesity, tobacco use, sun exposure, and physical inactivity in order to reduce the occurrence of arthritis, cancer, diabetes, heart disease, lung disease, stroke, and other chronic diseases. The duties and responsibilities of the program are specified;
- 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. Program components are specified;
- 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. Requirements for those initiatives are specified.
- Expanding the list of entities required to report specified information to DOH related to the statewide cancer registry to include, facilities licensed under chapters 459, 464, 483, and 485, Florida Statutes, relating to osteopathic medicine, nursing, health testing services, and hypnosis, respectively;
- Revising provisions relating to the Hematology-Oncology Center Program; and
- Requiring the department to collect certain specified information from providers of epilepsy services and deleting the requirement that the department limit total administrative expenditures from the Epilepsy Services Trust Fund to 5% of annual receipts.

● In addition, the bill repeals ss. 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, and amends a number of sections of statute to conform cross references.

B. SECTION DIRECTORY:

Section 1. Amends s. 154.503, Florida Statutes, relating to Primary Care for Children and Families Challenge Grant Program.

Section 2. Repeals ss. 381.0053, 381.0054, 381.732, 381.733, and 381.734, Florida Statutes, 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, Florida Statutes, relating to the Comprehensive Statewide Tobacco Education and Use Prevention Program, as s. 385.106, Florida Statutes.

Section 4. Transfers and renumbers s. 381.91, Florida Statutes, relating to the Jesse Trice Cancer Prevention Program, as s. 385.2024, Florida Statutes.

Section 5. Transfers and renumbers s. 381.911, Florida Statutes, relating to the Prostate Cancer Awareness Program, as s. 385.2023, Florida Statutes.

Section 6. Repeals s. 381.912, Florida Statutes, relating to the Cervical Cancer Elimination Task Force.

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

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

Section 9. Amends s. 381.922, Florida Statutes, relating to the William G. "Bill" Bankhead, Jr., and David Coley Cancer Research Program.

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

Section 11. Transfers and renumbers s. 381.931, Florida Statutes, relating to the annual report on Medicaid expenditures, as s. 385.20211, Florida Statutes.

Section 12. Renames chapter 385, Florida Statutes, entitled "Chronic Diseases" as the "Healthy and Fit Florida Act."

Section 13. Amends s. 385.101, Florida Statutes, relating to the "Chronic Diseases Act."

Section 14. Amends s. 385.102, Florida Statutes, relating to legislative intent.

Section 15. Creates s. 385.1021, Florida Statutes, relating to definitions.

Section 16. Creates s. 385.1022, Florida Statutes, relating to a chronic disease prevention program.

Section 17. Creates s. 385.1023, Florida Statutes, relating to state-level prevention programs for chronic disease.

Section 18. Amends s. 385.103, Florida Statutes, relating to community intervention programs.

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

Section 20. Amends s. 385.202, Florida Statutes, relating to the statewide cancer registry.

Section 21. Amends s. 385.206, Florida Statutes, relating to the Hematology-Oncology Center Program.

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

Section 23. Amends s. 385.210, Florida Statutes, relating to arthritis prevention and education.

Section 24. Creates s. 385.301, Florida Statutes, relating to rulemaking authority.

Section 25. Amends s. 409.904, Florida Statutes, relating to optional payments for eligible persons.

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:

None.

2. Expenditures:

The Department of Health has reported that there will be no additional cost to the department to implement the provisions of the bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

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:

- Outdated rulemaking authority related to the Comprehensive Statewide Tobacco Education and Use Prevention Program is deleted;
- The Department of Health is provided with rulemaking authority to adopt rules to administer subsection (3) of newly created s. 385.105, Florida Statutes, relating to nutrition strategies;
- DOH is required to provide by rule requirements for nominal participation fees, when applicable, which may not exceed the department's actual costs, the collaborations with businesses, and the procurement of equipment and incentives, relating to the employee wellness programs;
- The department is given the authority to adopt rules regarding the establishment and operation of a statewide cancer registry, relating to reporting requirements for the cancer registry, and relating to the classifications of facilities that must make reports; and
- The department is provided with the authority to adopt rules to administer chapter 385, Florida Statutes.

C. DRAFTING ISSUES OR OTHER COMMENTS:

- On line 198 of the bill, “1999” should be amended to “2007” to reflect the updated CDC best practices.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES