HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7203 CS PCB HCR 06-07 Obesity
SPONSOR(S): Health Care Regulation Committee
TIED BILLS: **IDEN./SIM. BILLS:** 1324

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Health Care Regulation Committee	9 Y, 0 N	Bell	Mitchell
1) PreK-12 Committee	11 Y, 0 N, w/CS	Mizereck	Mizereck
2) Health Care Appropriations Committee	12 Y, 0 N, w/CS	Money	Massengale
3) Health & Families Council	9 Y, 0 N, w/CS	Bell	Moore
4)			
5)			

SUMMARY ANALYSIS

House Bill 7203 CS addresses the issue of obesity in Florida, and defines specific elements to be included in age-based and gender-based services provided by the health maintenance organizations under contract to the state employee health insurance program. It also creates within the Department of Management Services the Florida State Employee Wellness Council, made up of nine members appointed by the Governor.

In 2000, more than six and a half million Florida adults were overweight or obese based on self-reported height and weight; and of those, approximately 2.5 million adults were obese. Its implications include serious health consequences such as diabetes, coronary heart disease, high blood pressure, high cholesterol, osteoarthritis, sleep disturbances and breathing problems, and certain cancers.

The bill requires the Department of Health (DOH or department), in addition to its current health promotion and prevention activities, to:

- Collaborate with other state agencies to develop policies and strategies for preventing obesity, which must be incorporated into programs administered by each agency and which must include promoting healthy lifestyles of employees of each agency.
- Advise Florida-licensed health care practitioners regarding the morbidity, mortality, and costs associated with the conditions of being overweight or obese, inform such practitioners of clinical best practices for preventing obesity, and encourage practitioners to counsel their patients regarding the adoption of healthy lifestyles.

The bill creates the Florida State Employee Wellness Council to provide health education information to employees and to help develop minimum benefits for health care providers when providing age-based and gender-based wellness benefits. The council has three specific duties:

- Work to encourage participation in wellness programs by state employees.
- Develop standards and criteria for age-based and gender-based wellness programs.
- Recommend a “healthy food and beverage” menu for food-service establishments in buildings owned, operated, or leased by the state.

According to the Department of Health, the obesity sections of the bill will have no significant fiscal impact on state government. The fiscal impact of the council is nominal. Certain aspects of the newly-defined health benefits may have an indeterminate effect on healthcare premiums paid by the state.

The effective date of the bill is July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Promote Limited Government - The bill directs the Department of Health to work with all the state agencies to offer wellness programming to employees and advise health care practitioners to provide healthy lifestyle recommendations to their patients. The bill also creates a nine-member advisory council.

Empower Families - Obesity is a serious risk factor for diabetes, heart disease, stroke, asthma, and many other chronic diseases. Early obesity interventions improve quality and quantity of life.

Promote Personal Responsibility – The bill defines certain benefits included in the health maintenance organization program that are intended to foster healthier behaviors in state employees.

B. EFFECT OF PROPOSED CHANGES:

CURRENT SITUATION

The Prevalence of Obesity

The prevalence of obesity doubled in the past few decades. Today, approximately 129 million U.S. adults are considered obese. The number of overweight and obese persons in the country surpasses the number of people who smoke, live in poverty, or drink heavily. The U.S. Surgeon General recognized in 2001 that overweight and obesity have reached epidemic proportions in America.[1] An "epidemic" is defined as any disease occurring at a greater frequency than usually expected. Although historically the term "epidemic" referred to occurrences of infectious diseases, the definition has evolved to include chronic diseases and conditions such as obesity.

Defining & Measuring Overweight and Obesity

Overweight and obesity are both labels for ranges of weight that are greater than what is generally considered healthy for a given height. For adults, overweight and obesity ranges are determined by using weight and height to calculate a number called the "body mass index" (BMI). The BMI is calculated by dividing weight in pounds by height in inches squared, then multiplying the quotient by 703. An adult who has a BMI between 24 and 29.9 is considered overweight. An adult who has a BMI of 30 or higher is considered obese. For children and teens, BMI ranges above a normal weight have different labels (at risk of overweight and overweight). Additionally, BMI ranges for children and teens are defined so that they take into account normal differences in body fat between boys and girls and differences in body fat at various ages.

[1] U.S. Department of Health and Human Services. The Surgeon General's call to action to prevent and decrease overweight and obesity. [Rockville, MD]: U.S. Department of Health and Human Services, Public Health Service, Office of the Surgeon General; [2001].

Florida Statistics on Obesity and Overweight

In 2000, more than six and a half million Florida adults[2] were overweight or obese based on self-reported height and weight; and of those, approximately 2.5 million adults were obese. Since 1986, when height and weight were first monitored in Florida's adult population, overweight increased from 35.3 percent of the adult population in 1986 to 57.4 percent in 2002 to 60 percent in 2004.[3] The prevalence of obesity has increased dramatically among both men and women between 1990 and 2002; for men the prevalence of obesity has increased 61 percent, and among women, the prevalence has increased 27 percent.

The BMI is also used to identify children who are overweight or who are at risk of becoming overweight.[4] In 2004, approximately 12.4 percent of Florida's high school students were considered overweight, with the rates for boys (16.5 percent) nearly doubling that of girls (8.1 percent). An additional 14 percent of Florida's high school students were considered at risk of overweight, with similar trends between boys (14.6 percent) and girls (13.4 percent). In 2002, nearly one-third of students in kindergarten, third, sixth, and ninth grades were significantly above their ideal weights.

Health Costs of Obesity & Overweight

Obesity is second only to tobacco use as a threat to public health. Its implications include serious health consequences such as diabetes, coronary heart disease, high blood pressure, high cholesterol, osteoarthritis, sleep disturbances and breathing problems, and certain cancers. Further studies conclude that obesity is linked to higher rates of chronic health conditions than smoking, drinking or poverty.[5] The U.S. Surgeon General reports that 300,000 deaths per year are attributed to obesity. The problem of obesity is especially dangerous for children. The adverse health conditions that typically occur in adults are becoming more prevalent in adolescents, and these conditions in childhood lead to chronic illness. One out of four children, who are overweight, show early signs of type 2 diabetes.[6] Overweight children are far more likely to become overweight adults than children who maintain normal weight through adolescence.[7]

Economic Cost of Obesity & Overweight

The U.S. Surgeon General announced that obesity and overweight cost U.S. taxpayers $117 billion per year in direct health care costs and indirect costs such as lost wages. Of this, the Centers for Disease Control (CDC) estimates that direct health care costs alone reached $75 billion in 2003. In Florida, obesity-related medical expenditures for adults total more than $3.9 billion in that year, with more than half of the costs financed by Medicare and Medicaid. Because of this, Florida's Agency for Health Care Administration (AHCA) reported that obesity and overweight have caused increased statewide healthcare expenditures for hospitalizations and treatments, including disability costs, related to chronic conditions.

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[2] Most of Florida data comes from the Behavioral Risk Factor Surveillance System (BRFSS). This is an on-going, state-based, random-digit dialed telephone survey of the general civilian population aged 18 and older. Youth Physical Activity and Nutrition Survey (YPANS) are used for data on physical activity, nutrition, and sedentary lifestyles among public middle school students, and the Florida Youth Behavior Survey (YRBS) is used to collect similar data among high school students.

[3] CDC BRFSS 2004 data. http://www.cdc.gov/nccdphp/dnpa/obesity/state_programs/florida.htm

[4] These terms are defined based on a comparison of BMI to all other youth of the same age and sex. A child is considered at risk for overweight if his or her BMI is higher than the 85th percentile, and lower than the 95 percent percentile, of his or her peers. A child is considered overweight if his or her BMI is greater than or equal to the BMI of the 95th percentile of peers.

[5] RAND Corporation

[6] NEJM.

[7] National Library of Medicine

Numerous studies have found a correlation between obesity and increased claims costs on insurance. A Kaiser-Oakland study found that individuals with a BMI of 30-30.49 had increased claims 25 percent; those with a BMI of more than 35 percent increased claims 44 percent. A Medstat Group study found that claims from individuals with a BMI of more than 27.5 percent cost 25 percent more than claims from those with an ideal body weight. Finally, a Bank One Study found that 24 percent of health care costs were because of overweight.

Causes of the Obesity Epidemic

In simple terms, obesity has reached epidemic proportions because our energy input through food exceeds our energy output through physical activity. Some contributors to this include larger meal portions, diets higher in fat, frequency of meals away from home, higher calorie and high fat drinks, and sedentary lifestyles. According to a recent study by the National Center for Health Statistics (NCHS), less than a third of U.S. adults engage in regular leisure-time physical activity. One study looked at adults who were trying to lose or not gain weight and found that less than 20 percent of them were following recommendations about increasing physical activity and reducing calories.[8] Another notable finding is that only 42.8 percent of obese people, who had routine checkups in past months, had been urged during those visits to lose weight.[9]

In 2002, only 25.7 percent of Floridian adults consumed five or more servings of fruit and vegetables a day. Also in this year, 26.4 percent of Floridian adults were physically inactive, with women and Hispanics the most likely to be sedentary. Even among those who reported being physically active, the level of intensity of physical activity has decreased since 1992.

Solutions for Handling the Obesity Epidemic

Changing people's habits related to physical activity is challenging. Individuals who want to be more active often find it difficult to do so because of daily demands and other constraints associated with work and family. The U.S. Surgeon General reported, in his 2001 "Call to Action to Prevent and Decrease Overweight and Obesity," that individual behavior can only change in a supportive environment, by giving people access to affordable and healthy food choices, and by giving people the opportunity for regular physical activity. A number of initiatives have been developed in both the private and public sectors to encourage individuals to adopt healthy nutrition and fitness behaviors.

Obesity Prevention in Florida

In October 2003, the Governor of Florida created a task force to address the rising rates of overweight and obesity among adults and youth in Florida, to evaluate data and testimony to determine the extent of the problem in Florida, and to make recommendations on how to address obesity in Florida.[10] The Governor's Task Force on the Obesity Epidemic issued a final report in February 2004, with 22 comprehensive recommendations.[11]

Section 381.0054, F.S., requires the Department of Health (DOH) to promote healthy lifestyles to reduce the prevalence of overweight and obesity in Florida by implementing appropriate physical activity and nutrition programs that target all Floridians. These activities include:

- Using all appropriate media to promote maximum public awareness of the latest research on healthy lifestyles and chronic diseases and disseminating relevant information through a

[8] Mokdad AH, Bowman, BA, Ford ES, Vinicor F, Marks JS, Koplan JP. The continuing epidemics of obesity and diabetes in the United States. *JAMA* 2001; 286(10): 1195-1200.
[9] Ibid.
[10] See Executive Order No. 2003-196.
[11] See http://www.doh.state.fl.us/Family/GTFOE/report.pdf (last visited on March 10, 2006).

statewide clearinghouse relating to wellness, physical activity, and nutrition and their impact on chronic diseases and disabling conditions.
- Providing technical assistance, training, and resources on healthy lifestyles and chronic diseases to the public, county health departments, health care providers, school districts, and other persons or entities, including faith-based organizations, that request such assistance to promote physical activity, nutrition, and healthy lifestyle programs.
- Developing, implementing, and using all available research methods to collect data, including, but not limited to, population-specific data, and track the incidence and effects of weight gain, obesity, and related chronic diseases. The department must include an evaluation and data collection component in all programs as appropriate.
- Partnering with the Department of Education, local communities, school districts, and other entities to encourage Florida schools to promote activities during and after school to help students meet a minimum goal of 60 minutes of activity per day.
- Partnering with the Department of Education, school districts, and the Florida Sports Foundation to develop a program that recognizes schools whose students demonstrate excellent physical fitness or fitness improvement.
- Maximizing all local, state, and federal funding sources, including grants, public-private partnerships, and other mechanisms, to strengthen the department's current physical activity and nutrition programs and to enhance similar county health department programs.

The Obesity Prevention Program within DOH is funded through a cooperative agreement with a planning grant of $450,000 from the United States Centers for Disease Control and Prevention (CDC). This funding must be used to develop infrastructure within the program in an effort to reduce the burden of obesity among adults and youth in Florida, develop partnerships to combat obesity, and develop a five-year work plan that focuses on increased physical activity, healthy nutrition, initiation and duration of breastfeeding, and decreased TV, video, or computer screen time.

During Fiscal Year 2004-05, DOH used media for public awareness through limited partner funds to conduct a direct-hit marketing campaign to affect physical activity in an identified five-county area, and a billboard campaign and bus placard campaign in Miami-Dade County to affect fruit and vegetable consumption. Because of the lack of funding, DOH has no plans for a public awareness media campaign for Fiscal Year 2005-06.

The department has launched an obesity prevention website that serves as a clearinghouse where limited resources can be downloaded and weblinks are available to other resources that may be purchased by the public. Limited resources are provided by DOH to county health departments, public or private agencies, schools, and community groups, as funding allows. Local media events are conducted by the Bureau of Chronic Disease Prevention and Health Promotion that cover all 67 Florida counties.

The Bureau of Chronic Disease Prevention and Health Promotion provides technical assistance to the public, county health departments, health care providers, school districts, and others who request assistance to promote physical activity, nutrition, and healthy lifestyle programs. The department uses the Behavior Risk Factor Surveillance System developed by CDC for state surveillance and data collection to assess overweight, obesity, physical activity levels, and fruit and vegetable consumption for adults. The department also surveys middle and high school students and conducts body-mass-index surveys on all full service school students enrolled in kindergarten, third, sixth, and ninth grades.

The department collaborates with the Department of Education through the school health program to promote the CDC School Health Index Assessment and conduct seven regional trainings for the school health advisory committee regarding the development of school wellness policies, which include increased opportunities for physical activity during and after school and the Step Up Florida physical activity campaign. On the local level, education coordinators for the Bureau of Chronic Disease Prevention and Health Promotion work with local schools to implement policy and environmental changes, as well as programs for during- and after-school physical activity. According to DOH staff, no

state standards have been developed for measuring school physical fitness levels or methods to assess physical fitness or fitness improvement among students.

The department collaborates with several state agencies on specific projects and programs to address increasing physical activity and healthy nutrition, such as the school health program with the Department of Education and the safe ways to schools program with the Department of Transportation. The department maximizes local, state and federal funding to strengthen the Obesity Prevention Program and other chronic disease prevention programs, through partnerships with state, local and federal organizations related to obesity prevention and related chronic diseases.

At the local level, the Bureau of Chronic Disease Prevention and Health Promotion emphasizes community-specific needs and planning, and establishes partnerships with local businesses, health care organizations, community organizations, schools, and faith-based organizations, requiring a 25 percent match in local resources, to address the leading preventable risk factors for all chronic diseases through community-based programs.

EFFECTS OF THE BILL

The bill amends s. 381.0054, F.S., to require the Department of Health (DOH), in addition to its current health promotion and prevention activities aimed at reducing the prevalence of excess weight gain and obesity, to:

- Collaborate with other state agencies to develop policies and strategies for preventing and treating obesity, which must be incorporated into programs administered by each agency and which must include promoting healthy lifestyles of employees of each agency.
- Advise, in accordance with s. 456.081, F.S., Florida-licensed health care practitioners regarding the morbidity, mortality, and costs associated with the conditions of being overweight or obese, inform such practitioners of clinical best practices for preventing and treating obesity, and encourage practitioners to counsel their patients regarding the adoption of healthy lifestyles.

The bill amends s. 110.123, F.S., to require that (health maintenance organizations) HMOs under contract with the state employee health insurance program provide enumerated age- and gender-based services. The named services include:

- Aerobic exercise;
- Education in alcohol and substance abuse prevention;
- Blood cholesterol screening;
- Health risk appraisals;
- Blood pressure screening and education;
- Nutrition education;
- Program planning;
- Safety belt education;
- Smoking cessation;
- Stress management;
- Weight management; and
- Women’s health education.

The bill adds a new subsection (13) to s. 110.123, F.S., to create the Florida State Employee Wellness Council. The council is composed of nine members appointed by the Governor for staggered 4-year terms. Its members must be state residents and must be active in the health and medical field. One member must be a state employee.

The council has three specific duties:

- Encourage state employee participation in wellness programs and prepare informational actions on this topic;
- Develop standards for age-based and gender-based programs; and
- Recommend a "healthy food and beverage menu" for food outlets in buildings owned, operated or leased by the State of Florida.

The council is directed to meet within 60 days after appointments are complete, and to meet at least quarterly thereafter. The Department of Management Services is directed to provide administrative support for the activities of the council.

The effective date of the bill is July 1, 2006.

BACKGROUND

Wellness Initiatives for State Employees

State governments have been increasingly active in encouraging healthy habits. A sample of programs is highlighted below.

Oklahoma: State employees are eligible to receive two wellness incentives in the OK Health Program. The first incentive offers employees an initial visit to a primary care physician along with lab work at no out-of-pocket cost. The second incentive is a discount at a participating fitness center. Agency directors are also given the authority to offer financial incentives to their employees who participate in the OK Health Program. The pay incentive program consist of three separate lump sums payable to an employee upon completion of specified steps and is available during the first year participation. The three levels of pay incentive are: $100 (Bronze), for enrolling in the program and completing the initial visit; $300 (Silver) for completing a twelve-week follow up visit; and $500 (Gold) for achieving goals at the twelve-month follow up.[12]

Arkansas: Offers nutrition counseling and smoking cessation aids, including the nicotine patch, to Medicaid recipients and state employees. Workers in the governor's office are offered "walking breaks" instead of smoking breaks.[13]

Wisconsin: The governor created, through an executive order, the Wisconsin Encourages Healthy Lifestyles (WEHL) initiative and council to promote healthy lifestyles for state employees. The WEHL Council encourages each state agency to create its own council; designs a plan to promote the overall health and well-being of state employees; and is to identify incentives to promote participation by state employees in WEHL activities. The goals of WELH are to encourage physical activity for at least 30 minutes per day and to encourage healthy eating habits among state employees.[14]

Health Coverage for State Employees

The State of Florida provides a comprehensive array of workplace benefits to its employees and their spouses and dependents.[15] Full-time and part-time employees and retirees may choose between a preferred provider organization (PPO) or from one of several health maintenance organizations (HMOs) for their health insurance needs.[16] Employees who are eligible retired members from one of the branches of the United States Armed Services may choose a health care supplement (TRICARE) to complement their federal retiree benefits. The Department of Management Services, through its

[12] Oklahoma's OK Health Program: http://www.ebc.state.ok.us/en/OkHealth/Finance_Incentives/FinancialIncentives.htm
[13] Kiely, Kathy. "Governor's healthy state." *USA Today.* July 7, 2004. http://www.usatoday.com/news/health/2004-07-11-arkansas-governor_x.htm
[14] State of Wisconsin, Executive Order on WEHL Council. http://oci.wi.gov/special/wehlcoun.htm
[15] See generally s. 110.123, F.S.
[16] Section 110.123(3), F.S.

Division of State Group Insurance, negotiates all contracts with these providers.[17] The providers, however, own their respective networks or are the direct contractors for service delivery.

"Wellness" is a term used in s. 110.123, F.S., but it is not otherwise defined. In a wider sense wellness has come to mean an array of health care services that focus on chronic disease management or lifestyle changes that have direct or indirect health outcomes. Some of these services may be workplace based, as with blood pressure monitoring; home-based, as with changes to personal nutrition and portion control practices; or a combination of the two in which the employer provides subsidies or discounts with plan-affiliated vendors to achieve the same objectives. In this latter sense "wellness" is not part of the insurance contract per se but does serve the complementary objectives of provider and patient in promoting preventive techniques that stabilize employer compensation expenses, including direct benefit costs and compensated absences, and add to the quality of employee lives.

The PPO plan contains a feature called "Blue Complements" that provides access to the following discounted wellness services:[18]

- Alternative therapies;
- Discounted vision care;
- Discounted hearing care and appliances;
- Laser correction of vision impairments;
- Discounted fitness or athletic club membership;[19]
- Discounted bicycle helmets; and
- Discounted weight-loss management club memberships.

Each HMO decides individually how it will approach the concept of wellness. Wellness services provided by participating HMOs include:[20]

- AVMED: smoking cessation; weight management; live/recorded access to a health information service; and chronic disease management.
- CAPITAL HEALTH PLAN: chronic disease management specifically targeting diabetes and asthma; smoking cessation; weight loss; cholesterol/heart disease; newborn health care; nutrition; and cardio-pulmonary resuscitation (CPR).
- FLORIDA HEALTH CARE PLANS: automated links to sponsored health information web sites; smoking cessation; osteoporosis management; diabetes management; weight management; nutrition management; asthma management; bariatrics and sponsored exercise.
- TRICARE: weight loss; hearing; health screening.
- UNITED HEALTH CARE: on-line/live health assessments and information; chronic disease management; nutrition; and discounted vision, dental, alternative, smoking cessation, long-term care, fitness, and weight management.
- VISTA HEALTH PLANS: registration required; none listed.

Wellness benefits are broadly recognized as valuable adjuncts to health insurance plans and can stabilize the costs of an employer's direct benefits costs by reducing compensated absences, increasing productivity, and limiting the out-of-pocket expenses incurred by employees for health events that can be minimized by lifestyle changes. Current law provides premium rebates for insurance plans that can demonstrate a majority of enrollees participate in organized wellness programs.[21] The nominal indicators of measurement are smoking cessation, weight reduction, and body mass index.

[17] Specific authority is granted in s. 110.123(5)(c), F.S.
[18] http://www.bcbsfl.com. The "Blue Complements" materials are directly available at http://www.bcbsfl.com/index.cfm?fuseaction=BlueComplements.Home
[19] Limited geographic accessibility.
[20] Accessible through www.myflorida.com/dsgi.
[21] Section 627.65626, F.S.

A principal feature of the recently enacted Medicaid Choice program is the development of preventive care programs for eligible low-income individuals.[22] For enrollees who take advantage of these services and alter their lifestyles under physician guidance, there can be tangible financial effects through additional choices they will have in the selection of health benefits.

Licensed Health Care Practitioners

Chapter 456, F.S., specifies the general provisions for licensed health care practitioners in DOH's Division of Medical Quality Assurance. In addition to chapter 456, F.S., each health care profession has its own practice act with specific regulatory provisions. Section 456.081, F.S., grants authority to DOH and the boards to advise licensees periodically, through the publication of a newsletter on the department's website, about information that the department or the board determines is of interest to the industry.

Councils

Section 20.03(7), F.S. defines a "council" or "advisory council" as an "advisory body created… to function on a continuing basis for the study of the problems arising in a specified… area… and to provide recommendations and policy alternatives." Councils must be established and maintained according to certain provisions, including:[23]

- A statutorily defined purpose;
- The appointment of members to 4-year staggered terms;
- Appointment of members by the governor, the head of a department, or a Cabinet officer; and
- Compliance with public meeting and public records requirements.

C. SECTION DIRECTORY:

Section 1. - Amends s. 381.0054, F.S., directing the Department of Health to collaborate with other state agencies to develop workplace wellness programs and advise health care practitioners of the morbidity, mortality, and costs associated with obesity or overweight. The bill also creates the Florida State Employee Wellness Council

Section 2. - Provides the bill will take effect July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   Department of Health Fiscal Impact

	1st Year	2nd Year
Estimated Expenditures		(Annualized/Recurr.)
Salaries and Fringe	**0**	**0**

[22] Section 409.91211, F.S.; Senate Bill 2-B; Chapter 2005-358, Laws of Florida.
[23] Section 20.052(4), F.S., *et seq*.

Expense		
State Agency Obesity Prevention Workgroup	*$ 1,800*	*$ 800*
Funding for DCF, DOEA, ADP, AHCA, DJJ, DOA to Implement Obesity Prevention in current programs @ $5,000 each	*$ 30,000*	*$ 30,000*
Compliance with s.456.081 – Providing information to Healthcare Practitioners	*0*	*0*
Total:	**$31,800**	**$30,800**

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   According to the Department of Health, the changes made in the bill to s. 381.0054, F.S., will have an insignificant fiscal impact on state government.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

There is no direct impact to the contract vendors that operate food service establishments in state agency occupied buildings as the recommendations of the council on a model healthy menu are not binding. This element could be a consideration in later negotiations of leases or subleases of such spaces where the State of Florida is the building owner.

The bill is nominally directed at HMOs, not PPOs. Many of these service elements are contained in current practices of these providers and are available directly or by referral. As wellness programs, under current law, are not necessarily part of the insurance coverage arrangements, a provider may make arrangements for their provision at the expense of the insured outside of the contract reimbursements. Employees enrolled in one of several pre-tax medical reimbursements or health savings accounts authorized under federal law may reduce their taxable expense for eligible services by paying for these items with pre-tax dollars.

D. FISCAL COMMENTS:

The Florida State Employee Wellness Council is directed to meet at least once per calendar quarter. Travel and per diem for these meetings at $500 per member equals $18,000 annually. The Department of Management Services is directed to provide staff support. Absent any specific appropriation, the meeting costs will have to be assumed by the agency out of appropriated funds or, alternatively, assumed by the employers of the appointed members.

Section 381.0054, F.S., Healthy Lifestyle Promotion, is not currently funded. The Obesity Prevention program is funded by the Centers for Disease Control (CDC) and can only be used on CDC-approved projects.

Full implementation of s. 381.0054, F.S., is estimated by the Department of Health to cost $3,310,674 in year one and $2,341,319 in year two.

It is not entirely clear whether the enumerated benefits would result in an increased premium to be paid by state employers. The Division of State Group Insurance has stated that the additional definition "would have the effect of mandating benefits not currently a part of the benefit plan for State

members."[24] However, virtually all of the "wellness" components are already part of the HMO providers' plans, as the components presumably lead to lower healthcare costs incurred by the providers.

Additionally, the complex negotiation involved in entering into HMO contracts means that the state may be able to leverage its enrollee size in order to receive these mandates at no increase in premium. These are "bargaining chips" that cannot be accounted for in great detail, in advance of the solicitation and negotiation of new benefits plans.

Wellness programs can have front-loaded effects but back-loaded benefits. Lifestyle changes require the passage of time for their effects to be fully realized. The changes also may not necessarily be linear. A person may adopt an alternative, healthier lifestyle for which the tangible benefits may accrue principally to the employer, such as in reduced absenteeism and increased productivity.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   This bill does not require counties or municipalities to spend funds or take action requiring the expenditure of funds. This bill does not reduce the percentage of state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The Department of Health has the necessary rulemaking authority to carry out the provisions in the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments – HMOs

As drafted, the bill applies only to the HMOs but not PPOs. The Department of Management Services negotiates multi-year contracts with its provider HMOs. The bill will not necessarily cause the contracts to be amended prior to their normal expiration, unless both contracting parties consent to the specification of different services and the incidence of payment.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On April 4, the PreK-12 Committee adopted two amendments to the bill. Amendment one removed the "Whereas" clauses. Amendment two removed the school district pilot program.

On April 17, 2006 the Health Care Appropriations Committee adopted one amendment to the bill. The amendment removed the undesignated appropriation in Section 2 of the bill.

On April 20, 2006, the Health and Families Council adopted two amendments and voted the bill favorably with a council substitute.

Amendment 1: Directs the Department of Health to inform licensed health care practitioners about preventing and treating obesity, rather than simply preventing it. The bill also directs the Department of Health to work with other state agencies to develop obesity treatment and prevention strategies.

[24] *Department of Management Services' HB 783 Bill Analysis*, Director, Division of State Group Insurance, February 7, 2006.

Amendment 2: Creates the Florida State Employee Wellness Council to provide health education information to employees and to develop minimum benefits for health care providers when providing age-based and gender-based wellness benefits. The council has three specific duties:

1. Work to encourage participation in wellness programs by state employees;
2. Develop standards and criteria for age-based and gender-based wellness programs; and
3. Recommend a “health food and beverage” menu for food-service establishments in buildings owned, operated, or leased by the state.

This staff analysis is drafted to the council substitute.