

Bill No. CS for SB 1126

Barcode 551180

CHAMBER ACTION

Senate

House

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The Conference Committee on CS for SB 1126 recommended the following amendment:

**Conference Committee Amendment (with title amendment)**

Delete everything after the enacting clause

and insert:

Section 1. Section 381.84, Florida Statutes, is created to read:

381.84 Comprehensive Statewide Tobacco Education and Use Prevention Program.--

(1) DEFINITIONS.--As used in this section and for purposes of the provisions of s. 27, Art. X of the State Constitution, the term:

(a) "AHEC network" means an area health education center network established under s. 381.0402.

(b) "CDC" means the United States Centers for Disease Control and Prevention.

(c) "Council" means the Tobacco Education and Use Prevention Advisory Council.

(d) "Department" means the Department of Health.

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1       (e) "Tobacco" means, without limitation, tobacco  
 2 itself and tobacco products that include tobacco and are  
 3 intended or expected for human use or consumption, including,  
 4 but not limited to, cigarettes, cigars, pipe tobacco, and  
 5 smokeless tobacco.

6       (f) "Youth" means minors and young adults.

7       (2) PURPOSE, FINDINGS, AND INTENT.--It is the purpose  
 8 of this section to implement s. 27, Art. X of the State  
 9 Constitution. The Legislature finds that s. 27, Art. X of the  
 10 State Constitution requires the funding of a statewide tobacco  
 11 education and use prevention program that focuses on tobacco  
 12 use by youth. The Legislature further finds that the primary  
 13 goals of the program are to reduce the prevalence of tobacco  
 14 use among youth, adults, and pregnant women; reduce per capita  
 15 tobacco consumption; and reduce exposure to environmental  
 16 tobacco smoke. Further, it is the intent of the Legislature to  
 17 base increases in funding for individual components of the  
 18 program on the results of assessments and evaluations.  
 19 Recognizing that some components will need to grow faster than  
 20 inflation, it is the intent of the Legislature to fund  
 21 portions of the program on a nonrecurring basis in the early  
 22 years so that those components that are most effective can be  
 23 supported as the program matures.

24       (3) PROGRAM COMPONENTS AND REQUIREMENTS.--The  
 25 department shall conduct a comprehensive, statewide tobacco  
 26 education and use prevention program consistent with the  
 27 recommendations for effective program components contained in  
 28 the 1999 Best Practices for Comprehensive Tobacco Control  
 29 Programs of the CDC, as amended by the CDC. The program shall  
 30 include the following components, each of which shall focus on  
 31 educating people, particularly youth and their parents, about

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1 the health hazards of tobacco and discouraging the use of  
2 tobacco:

3       (a) Counter-marketing and advertising; cyberspace  
4 resource center.--The counter-marketing and advertising  
5 campaign shall include, at a minimum, Internet, print, radio,  
6 and television advertising and shall be funded with a minimum  
7 of one-third of the total annual appropriation required by s.  
8 27, Art. X of the State Constitution. A cyberspace resource  
9 center for copyrighted materials and information concerning  
10 tobacco education and use prevention, including cessation,  
11 shall be maintained by the program. Such resource center must  
12 be accessible to the public, including parents, teachers, and  
13 students, at each level of public and private schools,  
14 universities, and colleges in the state and shall provide  
15 links to other relevant resources. The Internet address for  
16 the resource center must be incorporated in all advertising.  
17 The information maintained in the resource center shall be  
18 used by the other components of the program.

19       (b) Cessation programs, counseling, and  
20 treatment.--This program component shall include two  
21 subcomponents:

22           1. A statewide toll-free cessation service, which may  
23 include counseling, referrals to other local resources and  
24 support services, and treatment to the extent funds are  
25 available for treatment services; and

26           2. A local community-based program to disseminate  
27 information about smoking cessation, how smoking cessation  
28 relates to prenatal care and obesity prevention, and other  
29 chronic tobacco-related diseases.

30       (c) Surveillance and evaluation.--The program shall  
31 conduct ongoing epidemiological surveillance and shall

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1 contract for annual independent evaluations of the  
2 effectiveness of the various components of the program in  
3 meeting the goals as set forth in subsection (2).

4 (d) Youth school programs.--School and after-school  
5 programs shall use current evidence-based curricula and  
6 programs that involve youth to educate youth about the health  
7 hazards of tobacco, help youth develop skills to refuse  
8 tobacco, and demonstrate to youth how to stop using tobacco.

9 (e) Community programs and chronic disease  
10 prevention.--The department shall promote and support local  
11 community-based partnerships that emphasize programs involving  
12 youth, including programs for the prevention, detection, and  
13 early intervention of smoking-related chronic diseases.

14 (f) Training.--The program shall include the training  
15 of health care practitioners, smoking-cessation counselors,  
16 and teachers by health professional students and other  
17 tobacco-use prevention specialists who are trained in  
18 preventing tobacco use and health education. Smoking-cessation  
19 counselors shall be trained by specialists who are certified  
20 in tobacco-use cessation.

21 (g) Administration, statewide programs, and county  
22 health departments.--Each county health department is eligible  
23 to receive a portion of the annual appropriation, on a per  
24 capita basis, for coordinating tobacco education and use  
25 prevention programs within that county. Appropriated funds may  
26 be used to improve the infrastructure of the county health  
27 department to implement the comprehensive, statewide tobacco  
28 education and use prevention program. Each county health  
29 department shall prominently display in all treatment rooms  
30 and waiting rooms, counter-marketing and advertisement  
31 materials in the form of wall posters, brochures, television

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1 advertising if televisions are used in the lobby or waiting  
2 room, and screensavers and Internet advertising if computer  
3 kiosks are available for use or viewing by people at the  
4 county health department.

5 (h) Enforcement and awareness of related laws.--In  
6 coordination with the Department of Business and Professional  
7 Regulation, the program shall monitor the enforcement of laws,  
8 rules, and policies prohibiting the sale or other provision of  
9 tobacco to minors, as well as the continued enforcement of the  
10 Clean Indoor Air Act prescribed in chapter 386. The  
11 advertisements produced in accordance with paragraph (a) may  
12 also include information designed to make the public aware of  
13 these related laws and rules. The departments may enter into  
14 interagency agreements to carry out this program component.

15 (i) AHEC smoking-cessation initiative.--For the  
16 2007-2008 and 2008-2009 fiscal years only, the AHEC network  
17 shall expand the AHEC smoking-cessation initiative to each  
18 county within the state and perform other activities as  
19 determined by the department.

20 (4) ADVISORY COUNCIL; MEMBERS, APPOINTMENTS, AND  
21 MEETINGS.--The Tobacco Education and Use Prevention Advisory  
22 Council is created within the department.

23 (a) The council shall consist of 23 members,  
24 including:

25 1. The Secretary of Health, who shall serve as the  
26 chairperson.

27 2. One county health department director, appointed by  
28 the Secretary of Health.

29 3. Two members appointed by the Commissioner of  
30 Education, of whom one must be a school district  
31 superintendent.

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1           4. The chief executive officer of the Florida Division  
2 of the American Cancer Society, or his or her designee.

3           5. The chief executive officer of the Greater  
4 Southeast Affiliate of the American Heart Association, or his  
5 or her designee.

6           6. The chief executive officer of the American Lung  
7 Association of Florida, or his or her designee.

8           7. The dean of the University of Miami School of  
9 Medicine, or his or her designee.

10           8. The dean of the University of Florida College of  
11 Medicine, or his or her designee.

12           9. The dean of the University of South Florida College  
13 of Medicine, or his or her designee.

14           10. The dean of the Florida State University College  
15 of Medicine, or his or her designee.

16           11. The dean of Nova Southeastern College of  
17 Osteopathic Medicine, or his or her designee.

18           12. The dean of the Lake Erie College of Osteopathic  
19 Medicine in Bradenton, Florida, or his or her designee.

20           13. The chief executive officer of the Campaign for  
21 Tobacco Free Kids, or his or her designee.

22           14. The chief executive officer of the Legacy  
23 Foundation, or his or her designee.

24           15. Four members appointed by the Governor, of whom  
25 two must have expertise in the field of tobacco-use prevention  
26 and education or smoking cessation and one individual who  
27 shall be between the ages of 16 and 21 at the time of his or  
28 her appointment.

29           16. Two members appointed by the President of the  
30 Senate, of whom one must have expertise in the field of  
31 tobacco-use prevention and education or smoking cessation.

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1           17. Two members appointed by the Speaker of the House  
2 of Representatives, of whom one must have expertise in the  
3 field of tobacco-use prevention and education or smoking  
4 cessation.

5           (b) The appointments shall be for 3-year terms and  
6 shall reflect the diversity of the state's population. A  
7 vacancy shall be filled by appointment by the original  
8 appointing authority for the unexpired portion of the term.

9           (c) An appointed member may not serve more than two  
10 consecutive terms.

11           (d) The council shall meet at least quarterly and upon  
12 the call of the chairperson. Meetings may be held via  
13 teleconference or other electronic means.

14           (e) Members of the council shall serve without  
15 compensation, but are entitled to reimbursement for per diem  
16 and travel expenses pursuant to s. 112.061. Members who are  
17 state officers or employees or who are appointed by state  
18 officers or employees shall be reimbursed for per diem and  
19 travel expenses pursuant to s. 112.061 from the state agency  
20 through which they serve.

21           (f) The department shall provide council members with  
22 information and other assistance as is reasonably necessary to  
23 assist the council in carrying out its responsibilities.

24           (5) COUNCIL DUTIES AND RESPONSIBILITIES.--The council  
25 shall advise the Secretary of Health as to the direction and  
26 scope of the Comprehensive Statewide Tobacco Education and Use  
27 Prevention Program. The responsibilities of the council  
28 include, but are not limited to:

29           (a) Providing advice on program priorities and  
30 emphases.

31           (b) Providing advice on the overall program budget.

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1       (c) Providing advice on copyrighted material,  
2 trademark, and future transactions as they pertain to the  
3 tobacco education and use prevention program.

4       (d) Reviewing broadcast material prepared for the  
5 Internet, portable media players, radio, and television as it  
6 relates to the advertising component of the tobacco education  
7 and use prevention program.

8       (e) Participating in periodic program evaluation.

9       (f) Assisting in the development of guidelines to  
10 ensure fairness, neutrality, and adherence to the principles  
11 of merit and quality in the conduct of the program.

12       (g) Assisting in the development of administrative  
13 procedures relating to solicitation, review, and award of  
14 contracts and grants in order to ensure an impartial,  
15 high-quality peer-review system.

16       (h) Assisting in the development and supervision of  
17 peer-review panels.

18       (i) Reviewing reports of peer-review panels and making  
19 recommendations for contracts and grants.

20       (j) Reviewing the activities and evaluating the  
21 performance of the AHEC network to avoid duplicative efforts  
22 using state funds.

23       (k) Recommending meaningful outcome measures through a  
24 regular review of tobacco-use prevention and education  
25 strategies and programs of other states and the Federal  
26 Government.

27       (l) Recommending policies to encourage a coordinated  
28 response to tobacco use in this state, focusing specifically  
29 on creating partnerships within and between the public and  
30 private sectors.

31       (6) CONTRACT REQUIREMENTS.--Contracts or grants for



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1 the program components or subcomponents described in  
2 paragraphs (3)(a)-(f) shall be awarded by the Secretary of  
3 Health, after consultation with the council, on the basis of  
4 merit, as determined by an open, competitive, peer-reviewed  
5 process that ensures objectivity, consistency, and high  
6 quality. The department shall award such grants or contracts  
7 no later than October 1 for each fiscal year. A recipient of a  
8 contract or grant for the program component described in  
9 paragraph (3)(c) is not eligible for a contract or grant award  
10 for any other program component described in subsection (3) in  
11 the same state fiscal year. A school or college of medicine  
12 that is represented on the council is not eligible to receive  
13 a contract or grant under this section. For the 2007-2008 and  
14 2008-2009 fiscal years only, the department shall award a  
15 contract or grant in the amount of \$10 million to the AHEC  
16 network for the purpose of developing the components described  
17 in paragraph (3)(i). The AHEC network may apply for a  
18 competitive contract or grant after the 2008-2009 fiscal year.

19 (a) In order to ensure that all proposals for funding  
20 are appropriate and are evaluated fairly on the basis of  
21 merit, the Secretary of Health, in consultation with the  
22 council, shall appoint a peer-review panel of independent,  
23 qualified experts in the field of tobacco control to review  
24 the content of each proposal and establish its priority score.  
25 The priority scores shall be forwarded to the council and must  
26 be considered in determining which proposals will be  
27 recommended for funding.

28 (b) The council and the peer-review panel shall  
29 establish and follow rigorous guidelines for ethical conduct  
30 and adhere to a strict policy with regard to conflicts of  
31 interest. A member of the council or panel may not participate

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1 in any discussion or decision with respect to a research  
 2 proposal by any firm, entity, or agency with which the member  
 3 is associated as a member of the governing body or as an  
 4 employee or with which the member has entered into a  
 5 contractual arrangement. Meetings of the council and the  
 6 peer-review panels are subject to chapter 119, s. 286.011, and  
 7 s. 24, Art. I of the State Constitution.

8 (c) In each contract or grant agreement, the  
 9 department shall limit the use of food and promotional items  
 10 to no more than 2.5 percent of the total amount of the  
 11 contract or grant and limit overhead or indirect costs to no  
 12 more than 7.5 percent of the total amount of the contract or  
 13 grant. The department, in consultation with the Department of  
 14 Financial Services, shall publish guidelines for appropriate  
 15 food and promotional items.

16 (d) In each advertising contract, the department shall  
 17 limit the total of production fees, buyer commissions, and  
 18 related costs to no more than 10 percent of the total contract  
 19 amount.

20 (e) Notwithstanding the competitive process for  
 21 contracts prescribed in this subsection, each county health  
 22 department is eligible for core funding, on a per capita  
 23 basis, to implement tobacco education and use prevention  
 24 activities within that county.

25 (7) ANNUAL REPORT REQUIRED.--By January 31 of each  
 26 year, the department shall provide to the Governor, the  
 27 President of the Senate, and the Speaker of the House of  
 28 Representatives a report that evaluates the program's  
 29 effectiveness in reducing and preventing tobacco use and that  
 30 recommends improvements to enhance the program's  
 31 effectiveness. The report must contain, at a minimum, an

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1 annual survey of youth attitudes and behavior toward tobacco,  
 2 as well as a description of the progress in reducing the  
 3 prevalence of tobacco use among youth, adults, and pregnant  
 4 women; reducing per capita tobacco consumption; and reducing  
 5 exposure to environmental tobacco smoke.

6 (8) LIMITATION ON ADMINISTRATIVE EXPENSES.--From the  
 7 total funds appropriated for the Comprehensive Statewide  
 8 Tobacco Education and Use Prevention Program in the General  
 9 Appropriations Act, an amount of up to 5 percent may be used  
 10 by the department for administrative expenses.

11 (9) RULEMAKING AUTHORIZED.--By January 1, 2008, the  
 12 department shall adopt rules pursuant to ss. 120.536(1) and  
 13 120.54 to administer this section.

14 Section 2. This act shall take effect July 1, 2007.

17 ===== T I T L E A M E N D M E N T =====

18 And the title is amended as follows:

19 Delete everything before the enacting clause

21 and insert:

22 A bill to be entitled

23 An act relating to tobacco education and  
 24 prevention; creating s. 381.84, F.S.; requiring  
 25 the Department of Health to conduct a statewide  
 26 tobacco education and use prevention program;  
 27 providing definitions; providing legislative  
 28 purpose and findings; establishing components  
 29 of the program; creating the Tobacco Education  
 30 and Use Prevention Advisory Council; providing  
 31 membership and duties of the council; providing

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1 reimbursement for travel and other expenses for  
2 council members; requiring the Secretary of  
3 Health to award contracts in consultation with  
4 the council; providing for the appointment of a  
5 peer-review panel to review proposals for  
6 funding; specifying the use of funds  
7 appropriated under the program; requiring an  
8 annual report by the department to the Governor  
9 and the Legislature; providing rulemaking  
10 authority; providing an effective date.  
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