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Bill Analysis
Legislative Service Commission

Sub. H.B. 544*
127th General Assembly
(As Reported by S. Finance and Financial Institutions)

Reps. Hottinger, R. Hagan, Yates, J. McGregor

BILL SUMMARY

- Abolishes the Tobacco Use and Prevention Control Foundation.
- Transfers certain powers of the Foundation regarding tobacco use and prevention to the Department of Health.
- Requires the Treasurer of State to liquidate the Tobacco Use Prevention and Control Foundation Endowment Fund and deposit the money in two new funds: the Tobacco Use Prevention Fund and the Jobs Fund.
- Requires the Director of Health, by December 31, 2008, to submit to the Governor and legislative leaders a plan regarding management of the remaining moneys in the Tobacco Use Prevention Fund.
- Makes an appropriation to the Department from the Tobacco Use Prevention Fund for tobacco use prevention purposes.
- Declares an emergency.

* This analysis was prepared before the report of the Senate Finance and Financial Institutions Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

CONTENT AND OPERATION

Abolition of the Tobacco Use Prevention and Control Foundation

(Sections 3 and 4; R.C. 102.02, 183.021, 183.30, 183.33, 2151.87, and 3701.841; R.C. 183.03, 183.04, 183.05, 183.06, 183.061, 183.07, 183.08, 183.09, 183.10 (repealed by the bill))

The bill abolishes the Tobacco Use Prevention and Control Foundation as of the bill's effective date. It further provides that no validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of the abolition of the Foundation and any such matter must be administered by the Department of Health. No action or proceeding pending on the bill's effective date is affected by the abolition of the Foundation, and all such matters shall be prosecuted or defended in the name of the Department or the Director of Health. In all such actions and proceedings, the Department or the Director, upon application to the court, is to be substituted as a party.

Tobacco Use Prevention Fund

The bill requires the Treasurer of State to liquidate the Tobacco Use Prevention and Control Foundation Endowment Fund in a prudent manner. The Treasurer must deposit the lesser of \$40 million or 14.8% of the proceeds from the liquidation into the Tobacco Use Prevention Fund and the remaining proceeds into the Jobs Fund, both of which are created in the state treasury.

The Tobacco Use Prevention Fund consists of money deposited by the Treasurer from the liquidation of the former Tobacco Use Prevention and Control Endowment Fund and any gifts, grants, or donations received by the Director for the purposes of the new Fund. All investment earnings of the Fund are to be credited to the Fund. The Treasurer, in consultation with the Director, may invest moneys in the Fund in accordance with laws governing the investment of state funds. Moneys in the Fund are to be used to pay outstanding expenses of the former Foundation at the discretion of the Director and are to be used in accordance with a tobacco use prevention plan adopted by the Department (*see discussion below*).

Authority of the Department of Health

(R.C. 3701.84; Sections 5 and 6)

The bill requires the Director of Health to pay outstanding expenses of the former Tobacco Use Prevention and Control Foundation. These payments are to be made from the Tobacco Use Prevention Fund.

With the remaining funds, the Department is permitted to prepare and execute a plan to reduce the use of tobacco by Ohioans. Emphasis is to be placed on reducing the use of tobacco by youth, minority and regional populations, pregnant women, and others who may be disproportionately affected by the use of tobacco. The plan also can provide for periodic surveys to measure tobacco use and behavior toward tobacco use by Ohioans.

In addition, the plan can describe youth tobacco consumption prevention programs that are to be eligible for consideration for grants and can set forth the criteria by which applications for such grants will be considered by the Department. These programs can include (1) media campaigns directed to youth to prevent underage tobacco consumption, (2) school-based education programs to prevent youth tobacco consumption, (3) community-based youth programs involving youth tobacco consumption prevention through general youth development, (4) retailer education and compliance efforts to prevent youth tobacco consumption, and (5) mentoring programs designed to prevent or reduce tobacco use by students. Copies of the plan must be available to the public.

Pursuant to the plan, the Department may carry out, or provide funding for private or public agencies to carry out, research and programs related to tobacco use prevention and cessation. If the Department provides such funding, it is required to establish an objective process to determine which research and program proposals to fund and, when appropriate, provide for them to be peer-reviewed. No program is to be carried out or funded by the Department without research indicating that the program is likely to achieve the results desired. Any research or program funded by the Department is to be goal-oriented and independently and objectively evaluated annually as to whether it is meeting its goals. The Department is to contract for such evaluations and to adopt rules under the Administrative Procedure Act regarding conflicts of interest in the research and programs it funds. It also must endeavor to coordinate its research and programs with the efforts of other state agencies to reduce tobacco use by Ohioans. In this regard, the bill requires any state agency that conducts a survey that measures tobacco use or behavior toward tobacco use by Ohioans to share the results with the Department. The Department may adopt additional rules under the Administrative Procedure Act, as necessary, to implement the plan.

The bill also requires the Director, by December 31, 2008, to submit a plan regarding management of the remaining moneys in the Tobacco Use Prevention Fund. The plan may include a strategy for maintaining a portion of the Fund for investment and expending the earned income, thereby creating a long-term source of funding for tobacco use prevention and cessation. The plan must be submitted to the Governor, Speaker of the House of Representatives, President of the Senate, and the chairs and ranking minority members of the standing committees of the

Senate and House of Representatives with primary responsibility for health legislation.

Declaration of emergency

(Section 11)

The bill takes effect immediately for the purpose of permitting the use of state funds in a manner that allows the Department of Health to promote a reduction in tobacco use and to increase employment and job security.

HISTORY

ACTION	DATE
Introduced	04-29-08
Reported, H. Finance & Appropriations	04-30-08
Passed House (85-10)	04-30-08
Reported, S, Finance & Financial Institutions	---

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