MISSISSIPPI LEGISLATURE

By: Representatives Bondurant, Holland, Eaton, Evans, Fredericks, Gibbs, Hudson, Markham, Mayo, Espy, Montgomery, Peranich, Brown, Clarke

REGULAR SESSION 2007

To: Public Health and Human Services; Appropriations

HOUSE BILL NO. 349
(As Passed the House)

1 AN ACT TO PROVIDE FOR A COMPREHENSIVE AND STATEWIDE TOBACCO
2 EDUCATION, PREVENTION AND CESSATION PROGRAM THAT IS CONSISTENT
3 WITH FEDERAL GUIDELINES; TO CREATE THE MISSISSIPPI TOBACCO CONTROL
4 COMMISSION TO DEVELOP AND IMPLEMENT THE PROGRAM; TO PROVIDE FOR
5 THE APPOINTMENT OF THE MEMBERSHIP OF THE COMMISSION; TO PROVIDE
6 THAT THE COMMISSION SHALL EMPLOY AN EXECUTIVE DIRECTOR; TO PROVIDE
7 FOR THE DUTIES OF THE COMMISSION; TO PRESCRIBE THE MINIMUM
8 COMPONENTS OF THE PROGRAM; TO PROVIDE GUIDELINES FOR PRIORITY FOR
9 FUNDING THE COMPONENTS OF THE PROGRAM; TO ESTABLISH IN THE STATE
10 TREASURY A SPECIAL FUND TO BE KNOWN AS THE TOBACCO CONTROL
11 COMMISSION FUND; TO PROVIDE THAT A CERTAIN AMOUNT FROM THE TOBACCO
12 SETTLEMENT INSTALLMENT PAYMENTS RECEIVED BY THE STATE EACH YEAR
13 SHALL BE DEPOSITED INTO THE SPECIAL FUND; TO PROVIDE THAT THE
14 LEGISLATURE SHALL ANNUALLY APPROPRIATE THE FUNDS IN THE SPECIAL
15 FUND TO THE COMMISSION, WHICH SHALL EXPEND THE FUNDS SOLELY FOR
16 THE PURPOSES SPECIFIED IN THIS ACT; TO AMEND SECTION 43-13-405,
17 MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING PROVISION;
18 AND FOR RELATED PURPOSES.
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20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:
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22 SECTION 1. (1) The Mississippi Legislature recognizes the
23 devastating impact that tobacco use has on the citizens of our
24 state. Tobacco use is the single most preventable cause of death
25 and disease in this country and this state. Each year, thousands
26 of Mississippians lose their lives to diseases caused by tobacco
27 use, and the cost to the state is hundreds of millions of dollars.
28 Tobacco use also is a large burden on the families and businesses
29 of Mississippi. It is therefore the intent of the Legislature
30 that there be developed, implemented and fully funded a
31 comprehensive and statewide tobacco education, prevention and
32 cessation program that is consistent with the Best Practices for
33 Tobacco Control Programs of the federal Centers for Disease
34 Control and Prevention, as periodically amended. It is also the
35 intent of the Legislature that all reasonable efforts be made to
36 maximize the amount of federal funds available for this program.
(2) The goals of the tobacco education, prevention and cessation program include, but are not limited to, the following:

(a) Preventing the initiation of use of tobacco products by youth;

(b) Encouraging and helping smokers to quit and reducing the numbers of youth and adults who use tobacco products;

(c) Assisting in the protection from secondhand smoke;

(d) Supporting the enforcement of laws prohibiting youth access to tobacco products;

(e) Eliminating the racial and cultural disparities related to use of tobacco products; and

(f) Educating the public and changing the cultural perception of use of tobacco products in Mississippi.

SECTION 2. (1) There is created the Mississippi Tobacco Control Commission, which shall consist of twenty-seven (27) members, fifteen (15) of which shall be voting members and twelve (12) of which shall be nonvoting members.

(2) The fifteen (15) voting members of the commission shall consist of the following:

(a) Five (5) members appointed by the Governor, with one (1) member each from a list of three (3) individuals recommended by the Mississippi Primary Care Association, a list of three (3) individuals recommended by the Mississippi State Medical Association, a list of three (3) individuals recommended by the American Nurses' Association, and a list of three (3) individuals recommended by the American Heart Association, and one (1) member who has experience in financial planning and accounting;

(b) Four (4) members appointed by the Lieutenant Governor, with one (1) member each from a list of three (3) individuals recommended by the Mississippi Chapter of the American Lung Association, a list of three (3) individuals recommended by the Mississippi Chapter of the American Academy of Family Practice, and a list of three (3) individuals recommended by the Mississippi State Medical Association.
Physicians, a list of three (3) individuals recommended by the Mississippi Medical and Surgical Association, and a list of three (3) individuals recommended by the American Cancer Society;

(c) One (1) member appointed by the Attorney General who has experience in law enforcement;

(d) The State Health Officer or his or her designee;

(e) The State Superintendent of Public Education or his or her designee;

(f) The Vice-Chancellor of Health Affairs of the University of Mississippi Medical Center or his or her designee;

(g) The Dean of the College of Health at the University of Southern Mississippi or his or her designee; and

(h) The Administrator of the School of Health Sciences of the College of Public Service at Jackson State University or his or her designee.

(3) (a) Eight (8) of the nonvoting members of the commission shall be individuals who are not affiliated with the tobacco industry who possess knowledge, skill, and prior experience in scientifically proven smoking prevention, reduction and cessation programs, health care services or preventive health measures, and shall consist of the following:

(i) One (1) member appointed by the Governor;

(ii) One (1) member appointed by the Lieutenant Governor;

(iii) Four (4) members appointed by the Speaker of the House of Representatives, with one (1) of those members being appointed from a list of three (3) individuals recommended by the Mississippi School Nurse Association; and

(iv) Two (2) members appointed by the Attorney General.

(b) Four (4) of the nonvoting members of the commission shall be members of the Legislature, as follows:
(i) The Chairman of the House Public Health and Human Services Committee and one (1) other member of that committee appointed by the Speaker of the House of Representatives; and

(ii) The Chairman of the Senate Public Health and Welfare Committee and one (1) other member of that committee appointed by the Lieutenant Governor.

(4) For those members that are required to be appointed from lists of individuals recommended by certain nominating groups, if none of the recommended names are acceptable to the appointing official, then the nominating group shall submit another list of three (3) different individuals until an acceptable individual is submitted to the appointing official.

(5) (a) Of the voting members appointed by the Governor, three (3) shall be appointed for terms ending on June 30, 2010, and two (2) shall be appointed for terms ending on June 30, 2012. Of the voting members appointed by the Lieutenant Governor, two (2) shall be appointed for terms ending on June 30, 2009, and two (2) shall be appointed for terms ending on June 30, 2011. The voting member appointed by the Attorney General shall be appointed for a term ending on June 30, 2009. After the expiration of the initial terms, all later appointments of the voting members shall be made by the original appointing officials for terms of five (5) years from the expiration date of the previous term. All appointed voting members shall serve until their successors are appointed and qualified.

(b) The voting members who are state officials or university officials shall serve as members for as long as they hold the designated office or university position.

(c) The nonvoting members shall serve for terms that are concurrent with the terms of the appointing officials, or until their successors are appointed and qualified.
(d) Any vacancy in an appointed member position shall be filled within thirty (30) days of the vacancy by the original appointing official, and the individual appointed to fill the vacancy shall meet the same qualifications as required for the former member.

(e) The initial appointments to the commission shall be made not later than forty-five (45) days after the effective date of this act, and the first meeting of the commission shall be held within sixty (60) days after the effective date of this act at a time, date and location specified by the Governor.

(6) The commission shall annually elect a chairman from among its members. The commission shall meet at least quarterly. A quorum for meetings of the commission shall be a majority of the voting members of the commission. The members of the commission shall serve without compensation.

SECTION 3. (1) The commission shall employ an executive director, who shall serve at the will and pleasure of the commission. The executive director shall be an individual who has knowledge and experience in public health, medical care, health care services, preventive health measures or tobacco use control. The executive director shall be the administrative officer of the commission, and shall perform the duties that are required of him or her by law and such other duties as may be assigned to him or her by the commission. The executive director shall receive such compensation as may be fixed by the commission, subject to the approval of the State Personnel Board.

(2) The commission may employ such other persons as may be necessary to carry out the provisions of this act. The compensation and the terms and conditions of their employment shall be determined by the commission in accordance with applicable state law and rules and regulations of the State Personnel Board.
SECTION 4. The commission shall perform the following duties:

(a) Develop and implement appropriate policies and procedures for the operation of the tobacco education, prevention and cessation program;

(b) Develop and implement a five-year strategic plan for the tobacco education, prevention and cessation program;

(c) Develop and maintain an annual operating budget and oversee fiscal management of the tobacco education, prevention and cessation program;

(d) Execute any contracts, agreements or other documents with any governmental agency or any person, corporation, association, partnership or other organization or entity that are necessary to accomplish the purposes of this act;

(e) Receive grants, bequeaths, gifts, donations or any other contributions made to the commission to be used for specific purposes related to the goals of this act;

(f) Submit an annual report to the Legislature regarding the operation of the commission;

(g) Submit to the State Auditor any financial records that are necessary for the Auditor to perform an annual audit of the commission as required by law;

(h) Adopt any rules or regulations that are necessary to carry out the purposes of this act; and

(i) Take any other actions that are necessary to carry out the purposes of this act.

SECTION 5. (1) The commission shall develop and implement a comprehensive and statewide tobacco education, prevention and cessation program that is consistent with the recommendations for effective program components and funding recommendations in the 1999 Best Practices for Comprehensive Tobacco Control Programs of the federal Centers for Disease Control and Prevention, as those...
Best Practices may be periodically amended by the Centers for Disease Control and Prevention.

(2) At a minimum, the program shall include the following components, and may include additional components that are contained within the Best Practices for Comprehensive Tobacco Control Programs of the federal Centers for Disease Control and Prevention, as periodically amended, and that based on scientific data and research have been shown to be effective at accomplishing the purposes of this section:

(a) The use of mass media, including paid advertising and other communication tools to discourage the use of tobacco products and to educate people, especially youth, about the health hazards from the use of tobacco products, which shall be designed to be effective at achieving these goals and shall include, but need not be limited to, television, radio, and print advertising, as well as sponsorship, exhibits and other opportunities to raise awareness statewide;

(b) Evidence-based curricula and programs implemented in schools to educate youth about tobacco and to discourage their use of tobacco products, including, but not limited to, programs that involve youth, educate youth about the health hazards from the use of tobacco products, help youth develop skills to refuse tobacco products, and demonstrate to youth how to stop using tobacco products;

(c) Local community programs, including, but not limited to, youth-based partnerships that discourage the use of tobacco products and involve community based organizations in tobacco education, prevention and cessation programs in their communities;

(d) Enforcement of laws, regulations and policies against the sale or other provision of tobacco products to minors, and the possession of tobacco products by minors;
(e) Programs to assist and help people to stop using tobacco products; and

(f) A surveillance and evaluation system that monitors program accountability and results, produces publicly available reports that review how monies expended for the program are spent, and includes an evaluation of the program's effectiveness in reducing and preventing the use of tobacco products, and annual recommendations for improvements to enhance the program's effectiveness.

(3) All programs or activities funded by the commission through the tobacco education, prevention and cessation program, whether part of a component described in subsection (2) or an additional component, must be consistent with the Best Practices for Comprehensive Tobacco Control Programs of the federal Centers for Disease Control and Prevention, as periodically amended, and all funds received by any person or entity under any such program or activity must be expended for purposes that are consistent with those Best Practices.

(4) Funding for the different components of the program shall be apportioned between the components based on the recommendations in the Best Practices for Comprehensive Tobacco Control Programs of the federal Centers for Disease Control and Prevention, as periodically amended, to provide adequate program development, implementation and evaluation for effective control of the use of tobacco products. While the commission shall develop annual budgets based on strategic planning, components of the program shall be funded using the following areas as guidelines for priority:

(a) School programs;

(b) Mass media (counter-marketing);

(c) Cessation programs (including media promotions);

(d) Community programs;

(e) Surveillance and evaluation;
(f) Law enforcement; and

(g) Administration and management; however, not more than five percent (5%) of the total budget may be expended for administration and management purposes.

(5) In funding the components of the program, the commission may provide funding for health care programs at the University of Mississippi Medical Center that are related to the prevention and cessation of the use of tobacco products and the treatment of illnesses that are related to the use of tobacco products.

SECTION 6. (1) There is established in the State Treasury a special fund to be known as the Tobacco Control Commission Fund, which shall be comprised of the funds specified in subsection (2) of this section and any other funds that are authorized or required to be deposited into the special fund.

(2) From the tobacco settlement installment payments that the State of Mississippi receives during each calendar year, the sum of Twenty Million Dollars ($20,000,000.00) shall be deposited into the special fund.

(3) The Legislature shall annually appropriate the funds in the special fund to the commission, which shall expend the funds solely for the purposes specified in Sections 1 through 5 of this act. None of the funds in the special fund may be transferred to any other fund or appropriated or expended for any other purpose.

(4) All income from the investment of the funds in the special fund shall be credited to the account of the special fund. Any funds in the special fund at the end of a fiscal year shall not lapse into the State General Fund.

SECTION 7. Section 43-13-405, Mississippi Code of 1972, is amended as follows:

43-13-405. (1) In accordance with the purposes of this article, there is established in the State Treasury the Health Care Trust Fund, into which shall be deposited Two Hundred Eighty Million Dollars ($280,000,000.00) of the funds received by the
ST: Tobacco education, prevention and cessation program; provide for.

State of Mississippi as a result of the tobacco settlement as of the end of fiscal year 1999, and all tobacco settlement installment payments made in subsequent years for which the use or purpose for expenditure is not restricted by the terms of the settlement, except as otherwise provided in Section 43-13-407(2) and (3) and Section 6 of this act. All income from the investment of the funds in the Health Care Trust Fund shall be credited to the account of the Health Care Trust Fund. The funds in the Health Care Trust Fund at the end of a fiscal year shall not lapse into the State General Fund.

(2) The Health Care Trust Fund shall remain inviolate and shall never be expended, except as provided in this article. The Legislature shall appropriate from the Health Care Trust Fund such sums as are necessary to recoup any funds lost as a result of any of the following actions:

(a) The federal Centers for Medicare and Medicaid Services, or other agency of the federal government, is successful in recouping tobacco settlement funds from the State of Mississippi;

(b) The federal share of funds for the support of the Mississippi Medicaid Program is reduced directly or indirectly as a result of the tobacco settlement;

(c) Federal funding for any other program is reduced as a result of the tobacco settlement; or

(d) Tobacco cessation programs are mandated by the federal government or court order.

(3) This section shall stand repealed on July 1, 2010.

SECTION 8. No statewide, district, local, county or municipal elected official shall take part as a public official in mass media advertising under the provisions of this act.

SECTION 9. This act shall take effect and be in force from and after its passage.