STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL 1009

By: Adair, Toure, Wells, Nance, Gilbert, Vaughn and Lindley of the House

and

Hobson of the Senate

COMMITTEE SUBSTITUTE

[public health and safety - Oklahoma Tobacco Use Prevention and Cessation Act - codification - effective date]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-229 of Title 63, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Tobacco Use Prevention and Cessation Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-229.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Tobacco Use Prevention and Cessation Act:

1. "Committee" means the Tobacco Use Prevention and Cessation Advisory Committee established pursuant to Section 4 of this act to review and recommend a State Plan for Tobacco Use Prevention and Cessation, to periodically review progress toward meeting the objectives of the State Plan, and to make recommendations for the

award of contracts from the Fund for the purpose of reducing tobacco use;

2. "Contractor" means any public entity or private nonprofit entity to which the State Department of Health, after recommendation by the Tobacco Use Prevention and Cessation Advisory Committee, has awarded monies from the Fund for qualified tobacco use prevention and cessation programs;

3. "Department" means the State Department of Health;

4. "Fund" means the Tobacco Prevention and Cessation Revolving Fund established pursuant to Section 1-105d of Title 63 of the Oklahoma Statutes;

5. "State Plan" means the State Plan for Tobacco Use Prevention and Cessation adopted pursuant to Section 5 of this act;

6. “Tobacco use” means the consumption of tobacco products by burning, chewing, inhalation or other forms of ingestion; and

7. "Qualified tobacco use prevention and cessation program" means a program for the prevention of tobacco use that meets the criteria set forth in the State Plan for Tobacco Use Prevention and Cessation.

SECTION 3. AMENDATORY Section 20, Chapter 340, O.S.L. 2000 (63 O.S. Supp. 2000, Section 1-105d), is amended to read as follows:

Section 1-105d. There is hereby created in the State Treasury a revolving fund for the State Department of Health, to be designated the “Tobacco Prevention and Cessation Revolving Fund”. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies deposited to the credit of the fund by law <u>and any funds that may be directed thereto by the Board of Directors of the Tobacco Settlement Endowment Trust Fund</u>. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the State Department of Health for purposes of paragraph 2 of subsection C of Section 1 of ~~this act~~

Chapter 340 of Oklahoma Session Laws 2000 and the State Plan for Tobacco Use Prevention and Cessation. Such funds may also be expended for other purposes authorized by this act. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-229.2 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. There is hereby established the Tobacco Use Prevention and Cessation Advisory Committee, which shall review and recommend a State Plan for Tobacco Use Prevention and Cessation to the Department, periodically review progress towards meeting the objectives of the State Plan, and make recommendations for the award of contracts from the Fund for qualified tobacco use prevention and cessation programs.

B. The Committee shall consist of nineteen (19) members as follows:

1. The State Commissioner of Health or designee, who shall be chairperson;

2. The State Superintendent of Public Instruction, or designee;

3. The Director of the Department of Mental Health and Substance Abuse Services, or designee;

4. The Director of the Alcoholic Beverage Laws Enforcement Commission, or designee;

5. Seven members shall be appointed by the Governor as follows:

a. one member who shall be a certified prevention specialist with experience in youth drug and alcohol prevention,

b. one member who provides and has experience in behavioral health and youth programs,

c. one member who is between twelve (12) and eighteen (18) years of age,

d. one member who has experience in retail business,

e. one member who has advertising and marketing experience selected from a list provided by the American Cancer Society,

f. a director of a community-based youth program or club selected from a list provided by the Oklahoma Public Health Association, and

g. an osteopathic physician selected from a list provided by the Oklahoma Osteopathic Association;

6. Four members shall be selected by the Speaker of the House of Representatives as follows:

a. an allopathic physician selected from a list provided by the Oklahoma State Medical Association,

b. one member selected from a list provided by the American Heart Association,

c. a registered nurse selected from a list provided by the Oklahoma Nurses Association, and

d. a director of a community-based youth program or club;

7. Four members shall be selected by the President Pro Tempore of the Senate as follows:

a. a licensed behavioral health professional with experience in the field of juvenile behavior selected from a list provided by the Quality Behavioral Services Alliance,

b. one member selected from a list provided by the American Lung Association,

c. a middle school or high school counselor selected from a list provided by the Oklahoma Institute for Child Advocacy, and

d. one member who is between twelve (12) and eighteen (18) years of age.

The appointed members shall serve two-year terms and may be reappointed. The appointed members shall be selected for their knowledge, competence, experience, or interest in tobacco use prevention and cessation. No appointed members except the retailer, as provided for in subparagraph d of paragraph 5 of this subsection, shall have any current affiliation with the tobacco industry or any industry contractor, agent, or organization that sells or distributes tobacco products. No appointed members except the retailer, as provided for in subparagraph d of paragraph 5 of this subsection, shall receive or seek any remuneration, gift, or political contribution from a tobacco manufacturer or its contractors, agents, or representatives.

C. The Committee shall be convened and chaired by the State Commissioner of Health or designee for its first meeting no later than October 1, 2001. A vice-chair of the Committee shall be elected by a majority vote of its members and shall serve at the pleasure of the majority of the members of the Committee. Meetings of the Committee shall be at the call of the chairperson. The chairperson, or in the chairperson's absence, the vice-chairperson, shall preside over meetings of the Committee. A quorum shall consist of a simple majority of the members.

D. The Committee shall have an executive director who shall be appointed by the State Commissioner of Health and approved by a majority vote of the members of the Committee. The Executive Director shall be an unclassified employee of the Department. The salary of the Executive Director and travel and per diem expenses of the Committee members when attending Committee meetings shall be paid from the Fund in accordance with the State Travel Reimbursement Act. From time to time as necessary to support its activities, the Committee may request from the State Department of Health the

assignment of staff and support personnel who are full-time employees of the State Department of Health. No portion of the salaries of such employees shall be reimbursable from the Fund.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-229.3 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. On or before March 1, 2002, the Committee shall review and recommend a State Plan for Tobacco Use Prevention and Cessation. On or before March 1 of each subsequent year, the Committee may propose amendments to the plan. The Committee shall submit its proposed State Plan or any proposed amendments thereto to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Attorney General. The Governor, members of the Legislature, and the Attorney General may submit comments to the Committee on the State Plan on or before April 30, 2002, and may submit comments to the Committee on its proposed amendments to the State Plan on or before April 30 of each subsequent year. On or before June 30, 2002, the Committee shall adopt a final State Plan and shall submit such plan to the Department. On or before June 30 of each subsequent year, the Committee shall recommend any amendments to the State Plan to the Department and shall make such amended State Plan public.

B. The State Plan shall set out the criteria by which contract proposals are considered by the Committee. Such plan shall also describe the types of tobacco use prevention and cessation programs that shall be eligible for consideration for contracts from the Fund. Such eligible programs shall include, but not be limited to:

1. Media campaigns directed to youth to prevent underage tobacco use;

2. School-based education programs to prevent youth tobacco use;

3. Community-based youth programs involving tobacco use prevention and cessation through general youth development;

4. Enforcement and administration of the Prevention of Youth Access to Tobacco Act, and related retailer education and compliance efforts;

5. Cessation programs for youth; and

6. Prevention and cessation programs for adults.

C. The State Plan shall provide that no less than seventy percent (70%) of the dollar value of the contracts awarded in each year shall be dedicated to programs described in paragraphs 1, 2, 3, 4 and 5 of subsection B of this section.

D. The State Plan shall provide for the evaluation of all funded programs to determine their overall effectiveness in preventing and reducing tobacco use according to each program's stated goals.

An annual evaluation shall be provided by an independent contractor to determine the effectiveness of the programs by measuring the following:

1. Tobacco consumption;

2. Smoking rates among the population targeted by the programs; and

3. The specific effectiveness of any other program funded.

Such evaluation shall also be compared with initial baseline data collected prior to the creation of this act, and data from previous years if it is a multi-year program.

E. The State Plan further shall provide for administration of the Oklahoma Youth Tobacco Survey to measure tobacco use and behavior towards tobacco use by individuals in grades six through twelve. Such survey shall:

1. Involve a statistically valid sample of the individuals in each of grades six through twelve;

2. Be made available to the public, along with the resulting data, excluding respondent identities and respondent-identifiable data, within sixty (60) days of completion of the survey; and

3. Be compared with data from previous year(s) including initial baseline data collected prior to the creation of this act.

F. The State Plan shall provide that no more than five percent (5%) of the Fund shall be expended on the administrative costs of the Committee.

G. The development and adoption of the State Plan shall be subject to the notice and comment provisions of the Administrative Procedures Act, except as otherwise provided in this act.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-229.4 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The Committee shall meet at least four times a year to review applications for contracts and evaluate the progress and outcome of tobacco use prevention and cessation programs. On or before November 1 of each year, the Committee shall make final recommendations to the State Department of Health for the award of contracts to qualified applicants for the next fiscal year. No recommendation may be forwarded to the Department without the approval of the vote of a majority of the Committee. To the extent practicable and consistent with the criteria for qualified applicants set forth in the State Plan, the Committee shall make recommendations for expenditure from the fund in the fiscal year beginning July 1, 2003, and subsequent fiscal years for qualified tobacco use prevention and cessation programs.

B. An applicant for a contract for a qualified tobacco use prevention and cessation program must file an application with the Department no later than October 1 of the year preceding the fiscal year for which the contract is requested. The Department shall

forward all applications to the Committee for review. No contracts shall be awarded without the approval of the Committee.

C. An applicant that requests funding to initiate, continue or expand a tobacco use prevention and cessation program shall demonstrate, by means of application, letters of recommendation, and such other means as the Committee may designate, that the proposed tobacco use prevention and cessation program for which it seeks funds meets the criteria set forth in the State Plan. Previous contractors shall include recent evaluations of their programs with their applications. The Committee may not recommend the award of a contract unless it makes a specific finding, as to each applicant, that the program proposed to be funded meets the criteria set forth in the State Plan.

D. In addition to evaluating the funding request pursuant to the criteria set out in the State Plan, the Committee shall consider:

1. In the case of applications to fund media campaigns directed to youth to prevent underage tobacco use, whether the campaign provides for sound management and periodic evaluation of the campaign's relevance to the intended audience, including audience awareness of the campaign and recollection of the main message;

2. In the case of applications to fund school-based education programs to prevent youth tobacco use, whether there is credible evidence that the program is effective in reducing youth tobacco use;

3. In the case of applications to fund community-based youth programs involving youth tobacco use prevention through general youth development, whether the program:

a. has a comprehensive strategy with a clear mission and goals,

b. has committed, caring, and professional leadership,

c. offers a diverse array of youth-centered activities in youth-accessible facilities,

d. is culturally sensitive, inclusive, and diverse,

e. involves youth in the planning, delivery, and evaluation of services that affect them, and

f. offers a positive focus including all youth;

4. In the case of applications to fund enforcement and administration of the Prevention of Youth Access to Tobacco Act and related retailer education and compliance efforts, whether such activities and efforts can reasonably be expected to reduce the extent to which tobacco products are available to individuals under eighteen (18) years of age;

5. In the case of applications to fund youth cessation, whether there is credible evidence that the program is effective in long-term tobacco use cessation; and

6. In the case of applications to fund adult programs, whether there is credible evidence that the program is effective in decreasing tobacco use.

E. State and local governmental departments and agencies shall be eligible for contracts provided pursuant to this act.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-229.5 of Title 63, unless there is created a duplication in numbering, reads as follows:

On or before January 1 of each year, the State Department of Health shall announce the award of contracts for the next fiscal year. Any funds appropriated for qualified tobacco use prevention or cessation programs not expended in any fiscal year shall be retained in the Fund and available for qualified smoking prevention programs in any following year.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-229.6 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. As a condition to the receipt of funds under this act, a contractor shall agree to file a report with the State Department of Health, on or before September 30 after the end of the fiscal year for which the contract was awarded, as to the following:

1. Amount received as a contract and the expenditures made with the proceeds of the contract;

2. A description of the program offered and the number of individuals who initially participated in and completed the program; and

3. Specific elements of the program meeting the criteria set forth in the State Plan.

B. Any contractor failing to timely file the report required under this section shall be subject to prosecution by the Attorney General for repayment of the full amount of the contract expended.

C. The State Department of Health shall review and evaluate the reports of contractors required pursuant to this section and shall file a written report with the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Governor on or before February 1 of each year on the status of the Fund and the activities of the Fund for the fiscal year most recently ended. The report shall include the beginning and ending balance of the Fund for each fiscal year, payments or gifts received by the Fund, income earned and expenditures made, the name of each contractor and the amount of each contract made, the criteria used to award each contract, and whether the program implemented by each contractor met the criteria. The report shall be publicly available immediately upon its filing.

SECTION 9. This act shall become effective September 1, 2001.

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