**South Carolina General Assembly**

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**H. 3204**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Whipper and Hutto

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Introduced in the House on January 13, 2009

Currently residing in the House Committee on **Ways and Means**

Summary: Healthy Communities Capacity Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/16/2008 House Prefiled

12/16/2008 House Referred to Committee on **Ways and Means**

1/13/2009 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2009\01-13-09.docx)‑91

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2/17/2009 House Member(s) request name added as sponsor: Hutto

**VERSIONS OF THIS BILL**

[12/16/2008](file:///p:\pprever\2009-10\3204_20081216.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 11 TO CHAPTER 6, TITLE 44 TO ENACT THE “HEALTHY COMMUNITIES CAPACITY ACT” SO AS TO ESTABLISH THE SMALL BUSINESS HEALTH INSURANCE PREMIUM ASSISTANCE PROGRAM WITHIN THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO PROVIDE HEALTH INSURANCE PREMIUM ASSISTANCE TO SMALL BUSINESSES FOR EMPLOYEES WHO ARE AT OR UNDER TWO HUNDRED PERCENT OF THE FEDERAL POVERTY LEVEL, TO ESTABLISH ELIGIBILITY CRITERIA FOR SMALL BUSINESSES TO PARTICIPATE IN THE PROGRAM, TO REQUIRE ELIGIBLE EMPLOYEES TO CONTRIBUTE UP TO FIFTEEN PERCENT OF THE PREMIUM COST, TO REQUIRE THE DEPARTMENT TO PLACE CAPS ON THE NUMBER OF EMPLOYEES THAT MAY ENROLL IN THE PROGRAM SO THAT NO MORE FUNDS ARE EXPENDED THAN ARE AVAILABLE FOR THIS PROGRAM FROM THE MEDICAID MATCH FUND, TO PROVIDE THAT THIS PROGRAM MUST BE FUNDED FROM A PORTION OF AN ADDITIONAL 4.65 CENTS PER CIGARETTE LICENSE TAX WHICH MUST BE ADJUSTED ANNUALLY BASED ON THE CONSUMER PRICE INDEX, AND TO DIRECT THE DEPARTMENT TO APPLY FOR A MEDICAID WAIVER TO IMPLEMENT THIS PROGRAM; TO PROVIDE THAT THE DEPARTMENT SHALL PROVIDE MEDICAID COVERAGE TO CHILDREN EIGHTEEN YEARS OF AGE AND YOUNGER WHOSE FAMILY INCOMES DO NOT EXCEED TWO HUNDRED PERCENT OF THE FEDERAL POVERTY LEVEL; TO CREATE THE MEDICAID MATCH FUND INTO WHICH A PORTION OF THE ADDITIONAL CIGARETTE TAX MUST BE DEPOSITED; BY ADDING SECTION 12‑21‑640 SO AS TO PROVIDE FOR AN ADDITIONAL 4.65 CENT LICENSE TAX ON EACH CIGARETTE TO FUND THE SMALL BUSINESS HEALTH INSURANCE PREMIUM PROGRAM AND TO PROVIDE FOR THE DISTRIBUTION OF THE REMAINING PORTION OF THIS ADDITIONAL TAX TO THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, THE PARKS AND RECREATION DEVELOPMENT FUND, THE STATE DEPARTMENT OF EDUCATION, AND THE DEPARTMENT OF AGRICULTURE; AND BY ADDING ARTICLE 9 TO CHAPTER 6, TITLE 44 SO AS TO ESTABLISH THE SECOND CHANCE QUIT ASSISTANCE PROGRAM WITHIN THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO PROVIDE ADDITIONAL COUNSELING TO EXPANDED SMOKING CESSATION SERVICES FOR MEDICAID SMOKERS WHO HAVE UNSUCCESSFULLY ATTEMPTED TO QUIT SMOKING UNDER CURRENT MEDICAID PROGRAMS, TO DIRECT THE DEPARTMENT TO APPLY FOR A MEDICAID WAIVER FOR THIS PROGRAM, TO PROVIDE THAT FUNDING FOR THIS PROGRAM MUST BE PROVIDED FROM THE MEDICAID MATCH FUND, AND TO PROVIDE THAT FUNDING FOR THE SMALL BUSINESS HEALTH INSURANCE PREMIUM ASSISTANCE PROGRAM TAKES PRIORITY OVER THE SECOND CHANCE QUIT ASSISTANCE PROGRAM.

Whereas, recognizing that according to the United States Surgeon General, the leading cause of preventable disease and death in the nation is tobacco use and exposure, including active and passive smoking, and that over six thousand South Carolinians die each year from tobacco‑related diseases; and

Whereas, the state’s health care system is impacted by $1.09 billion for the care and treatment of tobacco‑related diseases, the Department of Health and Human Services (Medicaid) spends approximately $362 million annually as a result of smoking related illnesses and the state’s business community loses $1.83 billion annually in productivity due to tobacco‑related disease absenteeism and illness; and

Whereas, many South Carolinians do not have health care benefits, coverage, or even access to health services in rural areas, many small businesses cannot afford to provide health care benefits to their employees, and under federal law, barriers exist to providing Medicaid benefits to the uninsured; and

Whereas, the South Carolina General Assembly finds that lowering the number of uninsured South Carolinians, assisting businesses in their ability to afford health care benefits and coverage for their employees, eliminating barriers to providing health coverage to eligible enrollees under federal law, providing minimal funding for the full complement of tobacco prevention program elements recommended by the Centers for Disease Control to reduce tobacco use and thereby tobacco‑related diseases resulting in decreased demand for health care and increased worker productivity, providing community health centers to provide preventative and primary care in areas of assessed need, and increasing capacity for communities to facilitate active, healthy lifestyles at the local level would greatly benefit all South Carolinians; and

Whereas, there is an estimated 323,545 smokers enrolled in the Medicaid program; and

Whereas, according to the Centers for Disease Control and Prevention, access to counseling and pharmacotherapy smoking cessation treatments doubles the successful quit rate and has achieved reported quit rates of twenty five to thirty three percent; however, Medicaid beneficiaries who have unsuccessfully attempted to quit utilizing counseling and agents used to promote smoking cessation that otherwise meet the definition of a “covered outpatient drug” under the federal Social Security Act, Section 1927(k) should have access to an expanded selection of treatment options to help them quit; and

Whereas, in fiscal year 2006 the Medicaid program is eligible to collect up to 54.45% in federal matching funds for covering counseling services and therapeutic agents used to promote smoking cessation; and

Whereas, both counseling and medications for smoking cessation are highly cost‑effective relative to other reimbursed treatments, and Medicaid patients, clinicians, the Medicaid program, and the State would benefit from expanding the current list of smoking cessation treatments included as a covered benefit. Now, therefore,

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act may be cited as the “Healthy Communities Capacity Act”.

SECTION 2. Chapter 6, Title 44 of the 1976 Code is amended by adding:

“Article 11

Small Business Health Insurance Premium Assistance Program

Section 44‑6‑1400. This article may be cited as the ‘Small Business Health Insurance Premium Assistance Program’.

Section 44‑6‑1410. (A) There is established the Small Business Health Insurance Premium Assistance Program within the Department of Health and Human Services. The purpose of this program is to provide health insurance premium assistance to small businesses for all employees and employee spouses who are at or under two hundred percent of the federal poverty level.

(B) To be eligible to participate in this program, a small business owner must:

(1) employ seventy‑five or fewer employees;

(2) provide health insurance to all employees who are employed the requisite number of hours pursuant to the health insurance policy of the small business and agree to maintain this insurance for the next twelve months;

(3) contribute twenty‑five percent of the premium cost for those employees eligible for the premium assistance program; and

(4) contribute a minimum of twenty‑five percent of the premiums for those employees not eligible for the premium assistance program.

(C) An employee who qualifies pursuant to subsection (A) to participate in this program shall contribute, on a sliding fee basis determined by income, as established by the department in regulation, up to fifteen percent of the premium cost.

(D) The department shall apply to the Centers for Medicaid and Medicare Services for a waiver to carry out the provisions of this section.

(E) Funding for this program must be provided from those funds deposited in the Medicaid Match Fund created pursuant to Section 44‑6‑1430. However, the department shall place appropriate caps on the number of employees that may enroll in the Small Business Health Insurance Premium Program so that no more funds are expended for this program than are available in the Medicaid Matching Fund after funds are expended for the expansion of Medicaid funding pursuant to Section 44‑6‑1420.

Section 44‑6‑1420. The South Carolina Department of Health and Human Services shall expand coverage under the state Medicaid program to children eighteen years of age and under whose family incomes do not exceed two hundred percent of the federal poverty level.

Section 44‑6‑1430. (A) There is created in the State Treasury the Medicaid Match Fund that is separate and distinct from the general fund of the State and all other funds. Revenue collected pursuant to Section 12‑21‑640 must be credited to the Medicaid Match Fund and used by the Department of Health and Human Services as the state match for federal Medicaid funding for the Health Insurance Premium Assistance Program provided for in Section 44‑6‑1410, the expansion of Medicaid coverage pursuant to Section 44‑6‑1420, the expansion of cancer screening and treatment programs that target low‑income citizens and community health centers provided for in Section 12‑21‑640(C)(4) and (5) and Second Chance Program provided for in Section 44‑6‑1210.

(B) Monies in the fund are supplementary and may not be used to replace recurring monies appropriated from the general fund of the State or from other funds for the support of the Medicaid program. This fund is exempt from reductions imposed by law as a result of general fund shortfalls. Earnings on fund revenues must be credited to the fund and used for the same purposes. Revenues in the fund not expended during a fiscal year are carried forward to the succeeding fiscal year and must be used for the same purposes.

(C) Revenue spending from the fund must be capped at ninety percent of the total revenue generated for the fiscal year to account for predicted tax collection declines in order to sustain funding for recurring programs.”

SECTION 3. Article 5, Chapter 21, Title 12 of the 1976 Code is amended by adding:

“Section 12‑21‑640. (A) In addition to the license tax imposed pursuant to Section 12‑21‑620(1), there is imposed on all cigarettes made of tobacco or any substitute for tobacco an additional license tax equal to 4.65 cents on each cigarette Effective July 1, 2009, and annually thereafter, the Department of Revenue shall adjust the additional tax imposed pursuant to this section by the percentage of increase, if any, in the Consumer Price Index occurring in the last completed calendar year.

(B) The additional license tax imposed pursuant to subsection (A) must be reported, paid, collected, and enforced in the same manner as the license tax imposed pursuant to Section 12‑21‑620(1).

(C) Of monies collected pursuant to this section:

(1) 22.5 million dollars must be credited to the South Carolina Department of Health and Environmental Control to fund a statewide tobacco prevention program to include components articulated by the Centers for Disease Control ‘Best Practices in Tobacco Control and Prevention’ minimum funding guidelines;

(2) thirty‑three million dollars must be credited to the Parks and Recreation Development Fund provided for in Chapter 23, Title 51 to be distributed among the forty‑six counties in the State for planning and development for new parks and recreation facilities or renovations of existing facilities;

(3) four million dollars must be credited to the Medical University of South Carolina Hollings Cancer Center to fund cancer research programs;

(4) eighteen million dollars must be credited to the South Carolina Department of Health and Human Services to fund cancer prevention, screening, early detection and treatment programs modeled after the Best Chance Network (breast cancer prevention) to expand or establish effective cancer screening programs that target low‑income citizens consistent with the objectives of the South Carolina Comprehensive Cancer Plan 2005‑2010;

(5) fifteen million dollars must be credited to the South Carolina Department of Health and Human Services to fund community health centers;

(6) two million dollars must be credited to the South Carolina Department of Agriculture for programs to market South Carolina grown agricultural products;

(7) three million dollars must be credited to the South Carolina Department of Education to fund eighteen additional Save the Children program sites designed to improve students’ reading skills through supplementary in‑school and after‑school programs and other services to children living in high‑poverty, rural areas, working in partnership with local schools;

(8) one hundred thousand dollars must be credited to the South Carolina Department of Health and Human Services to fund the Second Chance Quit Assistance Program to provide expanded options for cessation counseling and treatment to Medicaid enrollees who have unsuccessfully completed three quit attempts under current Medicaid covered cessation programs;

(9) 1.5 million dollars must be credited to the South Carolina Department of Health and Environmental Control to fund Maternal and Child Health programs; and

(10) the remaining funds must be deposited into the Medicaid Match Fund created pursuant to Section 44‑6‑1430.”

SECTION 4. Chapter 6, Title 44 of the 1976 Code is amended by adding:

“Article 9

Second Chance Quit Assistance Program

Section 44‑6‑1210. (A) There is established the Second Chance Quit Assistance Program within the Department of Health and Human Services. The purpose of this program is to provide additional counseling and expanded smoking cessation services for Medicaid smokers who have unsuccessfully completed three quit attempts under current Medicaid program protocols.

(B) The department shall apply to the Centers for Medicaid and Medicare Services for a waiver to carry out the provisions of this section.

(C) Funding for this program must be provided from funds in the Medicaid Match Fund created pursuant to Section 44‑6‑1430. However, the department shall place appropriate caps on the number of enrollees that may enroll in the Second Chance Smoker Quit Assistance Program so that no more funds are expended for this program than are available in the Medicaid Match Fund after funds are expended for the expansion of Medicaid funding pursuant to Section 44‑6‑1420.

(D) Smoking cessation counseling services and prescription and nonprescription agents when used to promote smoking cessation, if these agents otherwise meet the definition of ‘covered outpatient drug’ under the federal Social Security Act, Section 1927 (k), not covered in the first line protocol of treatments must be eligible for inclusion in the Second Chance Program.”

SECTION 5. Implementation of the provisions of Article 9, Chapter 6, Title 44 of the 1976 Code, as added by Section 4 of this act, are contingent upon the availability of funding, with Section 44‑6‑1410 of the 1976 Code, as added by Section 2 of this act having priority in receipt of such funding for implementation of the provisions of that section.

SECTION 6. Except as otherwise provided for, this act takes effect upon approval by the Governor.

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