



## *Bill Analysis*

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*Legislative Service Commission*

### **S.B. 321\***

126th General Assembly  
(As Introduced)

**Sen. Carey**

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#### **BILL SUMMARY**

- Removes the Attorney General from the Tobacco Use Prevention and Control Foundation (TUPAC) Board of Trustees.
- Changes the quorum requirements for the TUPAC Board of Trustees to a majority of voting members instead of a majority of the members.
- Requires an affirmative vote of a majority of the quorum, instead of an affirmative vote of a majority of the members, in order for the TUPAC Board to take action.
- Provides that not more than 5% of the total "disbursements, encumbrances, and obligations" (rather than "expenditures") of certain Tobacco Master Settlement Agreement foundations and funds in a fiscal year may be used for administrative expenses in the same fiscal year.
- Makes changes to the law governing the Physician Loan Repayment Program including changes to eligibility requirements, reimbursement for certain expenses associated with Program recruitment, and Advisory Board membership.

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\* *This analysis does not include appropriations or other fiscal provisions. See the Legislative Service Commission's Fiscal Note for S.B. 321 for an analysis of those provisions.*

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## CONTENT AND OPERATION

### Tobacco Use Prevention and Control Foundation (TUPAC) changes

#### Background

Current law establishes the Tobacco Use Prevention and Control Foundation (TUPAC). The purpose of the Foundation is to reduce tobacco use by Ohioans, with emphasis on reductions by youth, minority and regional populations, pregnant women, and others who may be disproportionately affected by tobacco use. The reduction in use is to be accomplished through a plan created by the Foundation that provides, among other things, for grants for research and programs related to tobacco use prevention and cessation. Grants are funded primarily using money distributed to the state pursuant to the Tobacco Master Settlement Agreement entered into between the state and leading United States tobacco product manufacturers on November 23, 1998.

The general management of the Foundation is vested in a 24-member board of trustees that is made up of 20 voting members and four nonvoting members. Of the 20 voting members, the Director of Health, the Executive Director of the Commission on Minority Health (or the Executive Director's designee), and the Attorney General are ex officio members. Of the four nonvoting members, two are members of the House of Representatives and two are members of the Senate. A majority of the members of the board constitutes a quorum, and no action can be taken without the affirmative vote of a majority of the members.

#### Removal of Attorney General from Board of Trustees

(R.C. 183.04)

The bill removes the Attorney General from the TUPAC Board.

#### Change of Board of Trustees quorum requirement

(R.C. 183.05)

The bill changes the quorum requirement for the TUPAC Board of Trustees to a majority of voting members, instead of a majority of the members. This change coupled with the removal of the Attorney General from the board will result in the quorum number requirement changing from 13 to ten.

**Change of vote requirement for Board of Trustees action**

(R.C. 183.05)

The bill provides that the TUPAC Board of Trustees cannot take action without an affirmative vote of a majority of a quorum, instead of an affirmative vote of a majority of the members.

**Administrative expense limitations regarding certain Tobacco Master Settlement Agreement foundations and funds**

(R.C. 183.30)

Under current law, the money received by the state through the Tobacco Master Settlement Agreement is divided up and distributed to various funds and foundations that include, for example, the Tobacco Use Prevention and Control Foundation, the Southern Ohio Agricultural and Community Development (SOACD) Foundation, and the Biomedical Research and Technology Transfer Trust Fund (BRTTTF). With respect to the TUPAC and SOACD Foundations, current law provides that no more than 5% of each foundation's total expenditures in a fiscal year can be for its administrative expenses. No more than 5% of the total expenditures of the BRTTTF by the Third Frontier Commission in a fiscal year can be used for the Commission's administrative expenses.<sup>1</sup> The 5% limitations do not apply, however, for any fiscal year for which the Controlling Board approves a spending plan submitted by the Commission or particular foundation.

The bill alters the 5% limitation by substituting "total disbursements, encumbrances, and obligations" for "total expenditures." The bill also specifies that the 5% limitation in a fiscal year applies to the administrative expenses in the same fiscal year. Finally, the bill provides that the 5% limitation for the BRTTTF applies to expenses relating to the administration of that fund by the Third Frontier Commission, instead of applying to any Commission administrative expenses.

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<sup>1</sup> *The Third Frontier Commission administers the BRTTTF pursuant to the law governing the Commission. (R.C. 183.18 and Chapter 184.)*

## Physician Loan Repayment Program

### Background

(R.C. 3702.71 through 3702.81)

In 1993, the General Assembly created the Physician Loan Repayment Program.<sup>2</sup> Under the Program, primary care physicians<sup>3</sup> agree to provide primary care services<sup>4</sup> 40 hours per week in a "health resource shortage area."<sup>5</sup> They also agree to treat a percentage of Medicaid and Medicare patients equal to the

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<sup>2</sup> *The Physician Loan Repayment Program was authorized by H.B. 478 of the 119th General Assembly.*

<sup>3</sup> *A "primary care physician" is an individual authorized under Ohio law to practice medicine and surgery or osteopathic medicine and surgery who is Board-certified or Board-eligible in a primary care specialty. (R.C. 3702.71(A).) The terms "Board-certified" and "Board-eligible" are not defined in the Revised Code. However, according to the American Board of Medical Specialties (ABMS), a physician who is Board-certified has completed an approved educational training program and an evaluation process including an examination designed to assess the knowledge, skills, and experience necessary to provide quality patient care in that specialty. A physician who is Board-eligible is in the process of becoming Board-certified, although the ABMS discourages the use of this description. ABMS, FAQs (visited Mar. 2, 2004) <<http://www.abms.org/faq.asp#WBE>>.*

<sup>4</sup> *"Primary care services" means professional comprehensive personal health services, which may include health education and disease prevention, treatment of uncomplicated health problems, diagnosis of chronic health problems, and overall management of health care services for an individual or a family, and the services of a psychiatrist. "Primary health care services" also includes providing the initial contact for health care services and making referrals for secondary and tertiary care and for continuity of health care services. (R.C. 3702.71(B).)*

<sup>5</sup> *The Director of Health has designated the following areas as health resource shortage areas:*

- *A geographical area, facility, or population group in Ohio that has been designated by the United States Secretary of Health and Human Services as a health manpower shortage area under Title III of the "Public Health Services Act." (Title III now classifies a "health manpower shortage area" as a "health professional shortage area.")*
- *A geographical area, facility, or population group in Ohio that meets both of the following criteria: (1) has a population to primary care physician ratio exceeding two thousand to one, and (2) has previously been designated to be a health manpower shortage area by the United States Secretary of Health and Human Services, but the Director of Health has determined no longer meets the criteria to be a health manpower shortage area.*

(O.A.C. 3701-6-04.)



percentage in their service areas. In return for their service, the physicians receive repayment of up to \$80,000 of medical school debt (\$20,000 annually over a four-year period).<sup>6</sup>

Program participants contract to provide an initial two years of service, then either enter into one follow-up contract for two years of service or two follow-up contracts for one year of service each.<sup>7</sup> The Director of Health may approve a physician for the Program only if the General Assembly appropriates funds for the Program, the Director finds that the physician is eligible for participation, and the physician's primary care specialty<sup>8</sup> is needed in a health resource shortage area.<sup>9</sup>

### **Eligibility to apply for Program**

(R.C. 3702.72)

**Current law.** Under current law, a primary care physician may apply for participation in the Physician Loan Repayment Program if the physician has not received national health service corps tuition or student loan repayment assistance and meets one of the following requirements:

(1) Has enrolled in the final year of an accredited program required for Board certification in a primary care specialty.

(2) Is enrolled in the final year of a fellowship program in a primary care specialty.

(3) Has been engaged in the practice of medicine and surgery or osteopathic medicine and surgery in Ohio for not more than three years prior to submitting the application.

**The bill.** The bill eliminates the requirement that an applicant for the Program cannot have received national health service corps tuition or student loan repayment assistance and instead requires that the applicant cannot have an outstanding obligation for medical service to the federal government, a state, or other entity at the time of participation in the Program. The bill also eliminates the requirement in (3), above that the applicant has been in practice not more than three years, and replaces it with a requirement that the applicant hold a valid

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<sup>6</sup> *Ohio Department of Health, Physician Loan Repayment--Ohio (visited May 1, 2006) <<http://www.odh.ohio.gov/odhPrograms/chss/phyloan/ploan1.aspx>>.*

<sup>7</sup> *Id.*

<sup>8</sup> *"Primary care specialty" means general internal medicine, pediatrics, obstetrics and gynecology, psychiatry, or family practice. (R.C. 3702.71(C).)*

<sup>9</sup> *R.C. 3702.73.*

certificate to practice medicine and surgery or osteopathic medicine and surgery from the State Medical Board of Ohio. The bill retains the requirements in (1) and (2), above.

**Reimbursement for travel, meals, and lodging; referral to association**

(R.C. 3702.73)

**Current law.** Current law permits the Director of Health, when recruiting an applicant for the Program, to pay costs incurred by the applicant and the applicant's spouse for travel, meals, and lodging in making one visit to one health resource shortage area. Current law also permits the Director to refer the applicant to the Ohio Primary Care Association, Inc., for assistance in being recruited to a site within a health resource shortage area at which the applicant agrees to be placed.

**The bill.** The bill eliminates the Director's authority to undertake these activities.

**Advisory board**

(R.C. 3702.81; R.C. 3702.79 and 3702.80 (not in the bill))

**Current law.** Current law provides for a Physician Loan Repayment Advisory Board that must provide consultative services, along with the Ohio Board of Regents, to the Director of Health when the Director adopts rules governing the Program. The Advisory Board must also annually submit a report to the Governor and General Assembly describing the operations of the Program during the previous calendar year.

Current law requires that the Board consist of 11 members as follows:

(1) Six members appointed by the Governor: a representative of the Department of Health, a representative of the Ohio Academy of Family Practice, a representative of the Board of Regents, a representative of the Ohio Primary Care Association, Inc., a representative of the Ohio State Medical Association, and a representative of the Ohio Osteopathic Association.

(2) Two members of the Ohio House of Representatives: one representative from each political party, appointed by the Speaker of the House.

(3) Two members of the Ohio Senate: one representative from each political party, appointed by the Senate President.

Existing law specifies that Board members serve without compensation but may be reimbursed for reasonable and necessary expenses incurred in the discharge of their duties.

***The bill.*** The bill removes the requirement that one of the six members of the Advisory Board appointed by the Governor be a representative of the Ohio Primary Care Association, Inc., and replaces it with a requirement that one of these six members be a representative of the Ohio Association of Community Health Centers. The bill also eliminates the provision under which Board members may be reimbursed for reasonable and necessary expenses incurred in the discharge of their duties.

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## **HISTORY**

<b>ACTION</b>	<b>DATE</b>
Introduced	05-02-06

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