HOUSE DOCKET, NO. 3708 FILED ON: 1/20/2023

HOUSE . . . . . No. 2266

The Commonwealth of Massachusetts

PRESENTED BY:

Jon Santiago and Tram T. Nguyen

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to promote public health through the Prevention and Wellness Trust Fund.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Jon Santiago	*9th Suffolk*	*1/17/2023*
Vanna Howard	*17th Middlesex*	*2/7/2023*
James B. Eldridge	*Middlesex and Worcester*	*2/13/2023*

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HOUSE . . . . . No. 2266

By Representatives Santiago of Boston and Nguyen of Andover, a petition (accompanied by bill, House, No. 2266) of Jon Santiago, Vanna Howard and James B. Eldridge for legislation to promote public health through the Prevention and Wellness Trust Fund. Public Health.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

An Act to promote public health through the Prevention and Wellness Trust Fund.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 2G of Chapter 111 of the MGL is hereby amended by striking in its entirety and replacing it with the following new section:-

Section 2G. (a) There shall be established and set upon the books of the Commonwealth a separate fund to be known as the Prevention and Wellness Trust Fund to be expended, without further appropriation, by the department of public health. The fund shall consist of revenues collected by the commonwealth including: (1) any revenue from appropriations or other monies authorized by the general court and specifically designated to be credited to the fund; (2) any fines and penalties allocated to the fund under the General Laws; (3) any funds from public and private sources such as gifts, grants and donations to further community-based prevention activities; (4) any interest earned on such revenues; and (5) any funds provided from other sources. The commissioner of public health, as trustee, shall administer the fund. The commissioner, in consultation with the Prevention and Wellness Advisory Board established

under section 2H, shall make expenditures from the fund consistent with subsections (d) and (e); provided, that not more than 10 per cent of the amounts held in the fund shall be used by the department for the cost of program administration and not more than 10 per cent of amounts held in the fund shall be used for technical assistance to grantees, program evaluation and data analytics.

(b) The department may incur expenses and the comptroller may certify payment of amounts in anticipation of expected receipts; provided, however, that no expenditure shall be made from the fund which shall cause the fund to be in deficit at the close of a fiscal year. Revenues deposited in the fund that are unexpended at the end of the fiscal year shall not revert to the General Fund and shall be available for expenditure in the following fiscal year.

(c) All expenditures from the Prevention and Wellness Trust Fund shall support 1 or more of the following purposes: (1) increase access to community-based preventive services and strategies which complement and expand the ability of MassHealth to promote coordinated care, integrate community-based services with clinical care, and develop innovative ways of addressing social determinants of health; (2) reduce the largest drivers of poor health, health disparities, reduced quality of life, and high health care costs though community-based strategies; (3) increase access to health promoting conditions and opportunities to improve quality of life and reduce health care costs for populations experiencing health outcome inequities through community-based strategies including policy, systems, and environmental changes or (4) develop a stronger evidence-base of effective primary prevention strategies.

(d) The commissioner shall award not less than 80 per cent of the Prevention and Wellness Trust Fund through a competitive grant process to municipalities, community-based

organizations, health care providers, regional-planning agencies, and health plans that apply for the implementation, evaluation and dissemination of evidence-based community preventive health strategies. To be eligible to receive a grant under this subsection, a recipient shall be a partnership that includes at minimum: (1) a municipality or regional planning agency; (2) a community-based health or social service provider; (3) a public health or community action agency with expertise in implementing community-wide health strategies (4) a health care provider or a health plan; (5) where feasible, a Medicaid-certified accountable care organization or a Medicaid-certified Community Partner organization. Expenditures from the fund for such purposes shall supplement and not replace existing local, state, private or federal public health-related funding. All entities awarded funds through this program must demonstrate the ability to utilize best practices in accounting, contract with a fiscal agent who will perform accounting functions on their behalf, or be provided with technical assistance by the Department to ensure best practices are followed.

(e) A grant proposal submitted under subsection (d) shall include, but not be limited to: (1) a plan that defines specific goals for the reduction in preventable health conditions and health care costs over a multi-year period; (2) the evidence-based or evidence-informed programs the applicant shall use to meet the goals; (3) a budget necessary to implement the plan, including a detailed description of the funding or in-kind contributions the applicant or applicants will be providing in support of the proposal; (4) any other private funding or private sector participation the applicant anticipates in support of the proposal; (5) a description of how the proposed strategies have been informed by community residents most at risk for health inequities, including women, racial and ethnic minorities and low income individuals; and (6) the anticipated number of individuals that would be affected by implementation of the plan. Priority

may be given to proposals in a geographic region of the state with a higher than average prevalence of preventable health conditions, as determined by the commissioner of public health, in consultation with the Prevention and Wellness Advisory Board. If no proposals were offered in areas of the state with particular need, the department shall ask for a specific request for proposal for that specific region. If the commissioner determines that no suitable proposals have been received, such that the specific needs remain unmet, the department may work directly with municipalities or community-based organizations to develop grant proposals. The department of public health shall, in consultation with the Prevention and Wellness Advisory Board, develop guidelines for an annual review of the progress being made by each grantee. Each grantee shall participate in any evaluation or accountability process implemented or authorized by the department.

(f) The department of public health shall, annually on or before January 31, report on expenditures from the Prevention and Wellness Trust Fund. The report shall include, but not be limited to: (1) the revenue credited to the fund; (2) the amount of fund expenditures attributable to the administrative costs of the department of public health; (3) an itemized list of the funds expended through the competitive grant process and a description of the grantee activities; and (4) status report of the evaluation of the effectiveness of the activities funded through grants. The report shall be provided to the chairpersons of the house and senate committees on ways and means, the joint committee on public health, and the joint committee on health care financing and shall be posted on the department of public health's website, and shall be posted on the department's website.

(g) The department of public health shall, under the advice and guidance of the Prevention and Wellness Advisory Board, report periodically on its strategy for administration

and allocation of the fund, including relevant evaluation criteria. The report shall set forth the rationale for such strategy, which may include: (1) a list of the most prevalent preventable health conditions in the commonwealth, including health disparities experienced by populations based on race, ethnicity, gender, disability status, sexual orientation or socio-economic status; (2) a list of the most costly preventable health conditions in the commonwealth; (3) a list of community-level risk factors and precursors to the health conditions identified in (1) and (2); and (4) a list of evidence-based or promising community-based strategies related to the conditions identified in clauses (1) and (2). The report shall recommend specific areas of focus for allocation of funds. If appropriate, the report shall reference goals and best practices established by the National Prevention and Public Health Promotion Council, the Centers for Disease Control and Prevention, and other relevant experts, including but not limited to MassUP, the Hi-5 Initiative, the national prevention strategy, the healthy people report, the guide to community preventive services, and the Robert Wood Johnson culture of health initiative.

(h) The department of public health shall promulgate regulations necessary to carry out this section.

SECTION 2. Section 2H of Chapter 111 of the General Laws is hereby amended by striking in its entirety and replacing it with the following new section:-

Section 2H. (a) There shall be a Prevention and Wellness Advisory Board to make recommendations to the commissioner concerning the administration and allocation of the Prevention and Wellness Trust Fund established in section 2G, establish evaluation criteria and perform any other functions specifically granted to it by law.

(b) The board shall consist of the commissioner of public health or a designee, who shall serve as chairperson; the house and senate chairs of the joint committee on public health or their designees; the house and senate chairs of the joint committee on health care financing or their designees; the secretary of health and human services or a designee; the executive director of the center for health information and analysis or a designee; the executive director of the health policy commission established in section 2 of chapter 6D of the MGL or a designee; and 16 persons to be appointed by the governor, 1 of whom shall be a person with expertise in the field of public health economics; 1 of whom shall be a person with expertise in public health research; 1 of whom shall be a person with expertise in the field of health equity; 1 of whom shall be a person from a local board of health for a city or town with a population greater than 50,000; 1 of whom shall be a person of a board of health for a city or town with a population of fewer than 50,000; 1 of whom shall be representatives of health insurance carriers; 1 of whom shall be a person from a consumer health advocacy organization; 1 of whom shall be a person from a hospital association; 1 of whom shall be a person from a statewide public health organization; 1 of whom shall be a representative of the interest of businesses; 1 of whom shall be a public health nurse or a school nurse; 1 of whom shall be a person from an association representing community health workers; 2 of whom shall represent a statewide association of community-based service providers addressing public health; and 2 of whom shall be a person with expertise in the design and implementation of community-wide public health strategies. In selecting appointees, the governor shall consider diverse representation on the board by race, ethnicity, gender, and geographic region.

(c) The Prevention and Wellness Advisory Board shall evaluate the program authorized in section 2G of said chapter 111 and shall issue an evaluation report at an interval to be

determined by the Board, but not less than every 5 years from the beginning of each grant period. The report shall include an analysis of all relevant data to determine the effectiveness of the program including, but not limited to, an analysis of: (i) the extent to which the program impacted the prevalence, severity, or control of preventable health conditions and the extent to which the program is projected to impact such factors in the future; (ii) the extent to which the program reduced health care costs or the growth in health care cost trends and the extent to which the program is projected to reduce such costs in the future; (iii) whether health care or other costs were reduced and who benefited from the reduction; (iv) the extent that health outcomes or health behaviors were positively impacted; (v) the extent that access to evidence-based community strategies was increased; (vi) the extent to which the social determinants of health were addressed by grantees; (vii) the extent that community wide risk factors for poor health were reduced or mitigated; (viii) the extent that grantees increased their ability to collaborate, share data, and align services with other providers and community-based organizations for greater impact; (ix) the extent to which health inequities experienced by populations based on race, ethnicity, gender, disability status, sexual orientation or socio-economic status were reduced across all metrics; and (x) recommendations for whether the program should be discontinued, amended or expanded and a timetable for implementation of the recommendations.

The department of public health shall coordinate with grantees to contract with an outside organization that has expertise in the analysis of public health and health care financing to assist the board in conducting its evaluation. The outside organization shall be provided access to actual health plan data from the all-payer claims database as administered by the center for health information and analysis and data from MassHealth, to the extent permitted by law;

provided, however, that the data shall be confidential and shall not be a public record under clause Twenty-sixth of section 7 of chapter 4 of the General Laws.

The board shall report the results of its evaluation and its recommendations, if any, and drafts of legislation necessary to carry out the recommendations to the house and senate committees on ways and means, the joint committee on public health, and the joint committee on health care financing and shall post the board's report on the website of the department of public health.

SECTION 3. Section 68 of Chapter 118E of the General Laws is hereby amended by inserting after subsection (f) the following subsection:–

(g) (1) In addition to the surcharge assessed under subsection (a), acute hospitals and ambulatory surgical centers shall assess a prevention and wellness surcharge on all payments subject to surcharge as defined in section 64. The prevention and wellness surcharge amount shall equal the product of (i) the prevention wellness surcharge percentage and (ii) amounts paid for these services by a surcharge payor. The office shall calculate the prevention and cost control surcharge percentage by dividing $15,000,000 by the projected annual aggregate payments subject to the surcharge, excluding projected annual aggregate payments based on payments made by managed care organizations. The office shall determine the prevention and wellness surcharge percentage before the start of each fund fiscal year and may redetermine the prevention and wellness surcharge percentage before April 1 of each fund fiscal year if the division projects that the initial prevention and wellness surcharge established the previous October will produce less than $10,000,000 or more than $20,000,000. Before each succeeding October 1, the office shall redetermine the prevention and wellness surcharge percentage

incorporating any adjustments from earlier years. In each determination or redetermination of the prevention and wellness surcharge percentage, the office shall use the best data available as determined by the office and may consider the effect on projected prevention and wellness surcharge payments of any modified or waived enforcement under subsection (e). The office shall incorporate all adjustments, including, but not limited to, updates or corrections or final settlement amounts, by prospective adjustment rather than by retrospective payments or assessments.

(2) Prevention and wellness surcharge payments shall be deposited in the Prevention and Wellness Trust Fund, established in section 2G of chapter 111.

(3) All provisions of subsections (a) to (f) and section 64 shall apply to the prevention and wellness surcharge, to the extent not inconsistent with the provisions of this subsection.

SECTION 4. Section 14 of Chapter 94G is hereby amended by striking out subsection

(b), inserted by section 40 of chapter 55 of the acts of 2017, and inserting in place thereof the following subsection:-

(b) Money in the fund shall be subject to appropriation. Money in the fund shall be expended for the implementation, administration and enforcement of this chapter by the commission and by the department of agricultural resources for the implementation, administration and enforcement of sections 116 to 123, inclusive, of chapter 128 and the provision of pesticide control pursuant to chapter 132B; provided, that 10 per cent of the amounts held in the fund in any 1 year shall be transferred annually to the Prevention and Wellness Trust Fund established in section 2G of chapter 111, not later than June 30. Thereafter, money in the fund shall be expended for: (i) public and behavioral health including but not

limited to, evidence-based and evidence-informed substance use prevention and treatment and substance use early intervention services in a recurring grant for school districts or community coalitions who operate on the strategic prevention framework or similar structure for youth substance use education and prevention; (ii) public safety; (iii) municipal police training; and (iv) programming for restorative justice, jail diversion, workforce development, industry specific technical assistance, and mentoring services for economically-disadvantaged persons in communities disproportionately impacted by high rates of arrest and incarceration for marijuana offenses pursuant to chapter 94C.