

**ASSEMBLY BILL**

**No. 320**

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**Introduced by Assembly Member Nazarian**

February 12, 2013

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An act to amend Sections 104420 and 104466 of the Health and Safety Code, relating to tobacco use programs.

LEGISLATIVE COUNSEL'S DIGEST

AB 320, as introduced, Nazarian. Tobacco use programs.

Existing law establishes the Tobacco Education and Research Oversight Committee to provide advice to the State Department of Public Health and the State Department of Education with respect to policy development, integration, and evaluation of tobacco education programs. Existing law requires the State Department of Education to allocate funds to county offices of education for tobacco use prevention, intervention, and cessation activities. If funds are sufficient to provide all participating county offices of education a minimum of \$37,500, existing law requires the remaining funds to be allocated according to a specified schedule based on average daily attendance in the prior year. Existing law also requires that all school districts and county offices of education that receive funding, as specified, adopt and enforce a tobacco-free campus policy, no later than July of each fiscal year, prohibiting the use of tobacco products, any time, in district-owned or leased buildings, on district property and in district vehicles.

This bill would require that the remaining funds described above be allocated according to a specified schedule based on enrollment, rather than average daily attendance. The bill would require the State Department of Education to require that all school districts and county offices of education adopt and enforce a tobacco-free campus policy

prohibiting the use of products containing tobacco and nicotine in and on the properties described above without regard to whether those entities receive funding. The bill would make other technical and clarifying changes.

By imposing new duties on school districts and county offices of education, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 104420 of the Health and Safety Code
- 2 is amended to read:
- 3 104420. The State Department of Education shall provide the
- 4 leadership for the successful implementation of this article in
- 5 programs administered by local public and private schools, school
- 6 districts, and county offices of education. The State Department
- 7 of Education shall do all of the following:
- 8 (a) Provide a planning and technical assistance program to carry
- 9 out its responsibilities under this article.
- 10 (b) Provide guidelines for schools, school districts, and school
- 11 district consortia to follow in the preparation of plans for
- 12 implementation of antitobacco use programs for schoolage
- 13 populations. The guidelines shall:
- 14 (1) Require the applicant agency to select one or more model
- 15 program designs and shall permit the applicant to modify the model
- 16 program designs to take special local needs and conditions into
- 17 account.
- 18 (2) Require the applicant agency to prepare for each target
- 19 population to be served a description of the service to be provided,
- 20 an estimate of the number to be served, an estimate of the success
- 21 rate and a method to determine to what extent goals have been
- 22 achieved.

1 (3) Require plan submissions to include a staffing configuration  
2 and a budget setting forth use and distribution of funds in a clear  
3 and detailed manner.

4 (c) Prepare model program designs and information for schools,  
5 school districts, consortia, and county offices of education to follow  
6 in establishing direct service programs to targeted populations.  
7 Model program designs shall, to the extent feasible, be based on  
8 studies and evaluations that determine which service delivery  
9 systems are effective in reducing tobacco use and are cost effective.  
10 The State Department of Education shall consult with the  
11 department, and school districts with existing antitobacco programs  
12 in the preparation of model program designs and information.

13 (d) Provide technical assistance for schools, school districts,  
14 and county offices of education regarding the prevention and  
15 cessation of tobacco use. In fulfilling its technical assistance  
16 responsibilities, the State Department of Education may establish  
17 a center for tobacco use prevention that shall identify, maintain,  
18 and develop instructional materials and curricula encouraging the  
19 prevention or cessation of tobacco use. The State Department of  
20 Education shall consult with the department and others with  
21 expertise in antitobacco materials or curricula in the preparation  
22 of these materials and curricula.

23 (e) Monitor the implementation of programs that it has approved  
24 under this article to ensure successful implementation.

25 (f) Prepare guidelines within 180 days of the effective date of  
26 this article for a school-based program of outreach, education,  
27 intervention, counseling, peer counseling, and other activities to  
28 reduce and prevent smoking among schoolage youth.

29 (g) Assist county offices of education to employ a tobacco use  
30 prevention coordinator to assist local schools and local public and  
31 community agencies in preventing tobacco use by pupils.

32 (h) Train the tobacco use prevention coordinators of county  
33 offices of education so that they are:

34 (1) Familiar with relevant research regarding the effectiveness  
35 of various kinds of antitobacco use programs.

36 (2) Familiar with department guidelines and requirements for  
37 submission, review, and approval of school-based plans.

38 (3) Able to provide effective technical assistance to schools and  
39 school districts.

40 (i) Establish a tobacco-free school recognition awards program.

- 1 (j) As a condition of receiving funds pursuant to this article, the  
 2 State Department of Education, county offices of education, and  
 3 school districts shall ensure that they coordinate their efforts toward  
 4 smoking prevention and cessation with the lead local agency in  
 5 the community where the local school district is located.
- 6 (k) (1) Develop, in coordination with the county offices of  
 7 education, and administer a competitive grant program for  
 8 school-based, antitobacco education programs and tobacco use  
 9 intervention and cessation activities in order to reduce the number  
 10 of pupils who begin to use tobacco, continue to use tobacco, or  
 11 both. Grants shall be awarded, after consultation with local lead  
 12 agencies, the committee, and representatives of nonprofit  
 13 organizations dedicated to the reduction of tobacco-associated  
 14 disease, to school districts and county offices of education for all  
 15 pupils in grades 6 to 12, inclusive, that comply with the  
 16 requirements of paragraphs (2) and, if applicable, (3).
- 17 (2) Every school district and county office of education that  
 18 receives a grant pursuant to this section shall provide tobacco-use  
 19 prevention instruction that addresses all of the following essential  
 20 topics:
- 21 (A) Immediate and long-term undesirable physiologic, cosmetic,  
 22 and social consequences of tobacco use.
  - 23 (B) Reasons that adolescents say they smoke or use tobacco.
  - 24 (C) Peer norms and social influences that promote tobacco use.
  - 25 (D) Refusal skills for resisting social influences that promote  
 26 tobacco use.
- 27 (3) Every school district and county office of education that  
 28 receives a grant pursuant to this section for pupils in grades 7 to  
 29 12, inclusive, shall provide tobacco-use intervention and cessation  
 30 activities targeted for pupils in high risk groups.
- 31 (4) The State Department of Education shall develop criteria  
 32 and standards for the allocation of grant awards that consider the  
 33 need to balance rural, suburban, and urban projects. In addition,  
 34 the State Department of Education shall give priority to applicants  
 35 and programs that do all of the following:
- 36 (A) Target current smokers and pupils most at risk for beginning  
 37 to use tobacco.
  - 38 (B) Offer or refer pupils to cessation classes for current smokers.

1 (C) Utilize existing antismoking resources, including local  
2 antismoking efforts by local lead agencies and competitive grant  
3 recipients.

4 (D) Design the project to coordinate with other community  
5 services, including, but not limited to, local health agencies,  
6 voluntary health organizations, and parent organizations.

7 (E) Design the project to use and develop existing services and  
8 resources.

9 (F) Demonstrate an understanding of the role that the  
10 environment and community norms play in influencing tobacco  
11 use.

12 (5) Available funds shall determine grant award amounts.

13 (l) Allocate funds to county offices of education to provide  
14 technical assistance and leadership for tobacco use prevention,  
15 intervention, and cessation programs. The funds shall be allocated  
16 to all participating county offices of education at a minimum  
17 amount of thirty-seven thousand five hundred dollars (\$37,500).  
18 If funds appropriated for purposes of allocating at least thirty-seven  
19 thousand five hundred dollars (\$37,500) to all participating county  
20 offices of education are insufficient, the Superintendent of Public  
21 Instruction shall prorate available funds among participating county  
22 offices of education ensuring that all participating county offices  
23 of education receive an equal minimum level of funding of  
24 thirty-seven thousand five hundred dollars (\$37,500). If funds are  
25 sufficient to provide all participating county offices of education  
26 a minimum of thirty-seven thousand five hundred dollars (\$37,500),  
27 the remaining funds shall be allocated according to the following  
28 schedule based on ~~average daily attendance~~ *enrollment* in the prior  
29 year credited to all elementary, high, and unified school districts,  
30 and to the county superintendent of schools within the county as  
31 certified by the Superintendent of Public Instruction:

32 (1) For counties with over 550,000 units of ~~average daily~~  
33 ~~attendance~~ *enrollment*, thirty cents (\$0.30) per ~~average daily~~  
34 ~~attendance~~ *enrollment*.

35 (2) For counties with more than 100,000 and less than 550,000  
36 units of ~~average daily attendance~~ *enrollment*, sixty-five cents  
37 (\$0.65) per ~~average daily attendance~~ *enrollment*.

38 (3) For counties with more than 50,000 and less than 100,000  
39 units of ~~average daily attendance~~ *enrollment*, ninety cents (\$0.90)  
40 per ~~average daily attendance~~ *enrollment*.

1 (4) For counties with more than 37,500 and less than 50,000  
 2 units of ~~average daily attendance enrollment~~, one dollar (\$1) per  
 3 ~~average daily attendance enrollment~~.

4 (5) For counties with less than 37,500 units of ~~average daily~~  
 5 ~~attendance enrollment~~, thirty-seven thousand five hundred dollars  
 6 (\$37,500).

7 (m) Allocate funds appropriated by the act adding this  
 8 subdivision for local assistance to school districts and county  
 9 offices of education based on ~~average daily attendance enrollment~~  
 10 reported in the second principal apportionment in the prior fiscal  
 11 year.

12 (n) (1) Provide that all school districts and county offices of  
 13 education that receive funding under subdivision (m) make  
 14 reasonable progress toward providing a tobacco-free environment  
 15 in school facilities for pupils and employees.

16 (2) ~~All~~ *Require that all* school districts and county offices of  
 17 education ~~that receive funding pursuant to paragraph (1) shall~~  
 18 ~~adopt and enforce a tobacco-free campus policy no later than July~~  
 19 ~~of each fiscal year~~. The policy shall prohibit the use of *products*  
 20 *containing tobacco products and nicotine, including, but not limited*  
 21 *to, smokeless tobacco, snuff, chew, clove cigarettes, and nicotine*  
 22 *delivery devices, such as electronic cigarettes*, any time, in  
 23 district-owned or leased buildings, on district property, and in  
 24 district vehicles. *However, this section does not prohibit the use*  
 25 *or possession of prescription products*. Information about the  
 26 policy and enforcement procedures shall be communicated clearly  
 27 to school personnel, parents, pupils, and the larger community.  
 28 Signs stating “Tobacco use is prohibited” shall be prominently  
 29 displayed at all entrances to school property. Information about  
 30 smoking cessation support programs shall be made available and  
 31 encouraged for pupils and staff. Any school district or county  
 32 office of education that does not have a tobacco-free district policy  
 33 implemented by July 1, shall not be eligible to apply for funds  
 34 from the Cigarette and Tobacco Products Surtax Fund for that  
 35 fiscal year.

36 SEC. 2. Section 104466 of the Health and Safety Code is  
 37 amended to read:

38 104466. Notwithstanding subdivision (a) of Section 2.00 of  
 39 the Budget Act of 2002 and any other provision of law,  
 40 commencing with the appropriation for the 2002–03 fiscal year,

1 and for each fiscal year thereafter, any amount appropriated to the  
2 department *or the State Department of Education* to implement  
3 the following tobacco use prevention programs shall be available  
4 for encumbrance and expenditure for three fiscal years beyond the  
5 date of the appropriation:

6 (a) The program to evaluate tobacco control programs provided  
7 for in subdivisions (b) and (c) of Section 104375.

8 (b) The tobacco use prevention media campaign provided for  
9 in subdivision (e) of Section 104375.

10 (c) The competitive grant program provided for in Section  
11 104385.

12 (d) The local lead agency tobacco use prevention programs  
13 provided for in Section 104400.

14 (e) The tobacco use prevention program directed at schools  
15 provided for in Sections 104420, ~~104425~~, 104430, and 104435.

16 SEC. 3. If the Commission on State Mandates determines that  
17 this act contains costs mandated by the state, reimbursement to  
18 local agencies and school districts for those costs shall be made  
19 pursuant to Part 7 (commencing with Section 17500) of Division  
20 4 of Title 2 of the Government Code.