

AMENDED IN ASSEMBLY AUGUST 27, 2015

CALIFORNIA LEGISLATURE—2015–16 SECOND EXTRAORDINARY SESSION

ASSEMBLY BILL

No. 9

Introduced by Assembly Members Thurmond and Nazarian

July 16, 2015

An act to amend Sections 104420 and 104466 of, and to add Article 4 (commencing with Section 104559) to Chapter 1 of Part 3 of Division 103 of, the Health and Safety Code, relating to tobacco use programs.

LEGISLATIVE COUNSEL'S DIGEST

AB 9, as amended, Thurmond. 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. 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 expand eligibility for funding for the tobacco use prevention program to include charter schools. The bill would require the State Department of Education to require that all school districts, charter schools, and county offices of education receiving funding under the program adopt and enforce a tobacco-free campus policy prohibiting the use of products containing tobacco and nicotine, as specified, in

and on the properties described above and would, in addition, prohibit the use of tobacco and nicotine products in a county office of education, charter school or school district-owned or leased building, on school or district property, and in school or district vehicles without regard to whether those entities receive funding. The bill would also require school districts, charter schools, and county offices of education to prominently display signs at all entrances to school property stating “Tobacco use is prohibited.” 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, county
- 11 ~~offices;~~ *offices of education*, and school district consortia to follow
- 12 in the preparation of plans for implementation of antitobacco use
- 13 programs for schoolage populations. The guidelines shall:
- 14 (1) Require the applicant agency to select one or more model
- 15 program designs and permit the applicant to modify the model
- 16 program designs to take special local needs and conditions into
- 17 account.

1 (2) Require the applicant agency to prepare for each target
2 population to be served a description of the service to be provided,
3 an estimate of the number to be served, an estimate of the success
4 rate, and a method to determine to what extent goals have been
5 achieved.

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

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

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

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

30 (f) Prepare guidelines within 180 days of January 1, 1996, for
31 a school-based program of outreach, education, intervention,
32 counseling, peer counseling, and other activities to reduce and
33 prevent smoking among schoolage youth.

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

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

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

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

1 the State Department of Education shall give priority to applicants
2 and programs that do all of the following:

3 (A) Target current smokers and pupils most at risk for beginning
4 to use tobacco.

5 (B) Offer or refer pupils to cessation classes for current smokers.

6 (C) Utilize existing antismoking resources, including local
7 antismoking efforts by local lead agencies and competitive grant
8 recipients.

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

12 (E) Design the project to use and develop existing services and
13 resources.

14 (F) Demonstrate an understanding of the role that the
15 environment and community norms play in influencing tobacco
16 use.

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

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

37 (1) For counties with ~~over~~ 550,000 *or more* units of average
38 daily attendance, thirty cents (\$0.30) per average daily attendance.

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

4 (3) For counties with ~~more than~~ 50,000 *or more* and less than
5 100,000 units of average daily attendance, ninety cents (\$0.90)
6 per average daily attendance.

7 (4) For counties with ~~more than~~ 37,500 *or more* and less than
8 50,000 units of average daily attendance, one dollar (\$1) per
9 average daily attendance.

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

12 (m) Allocate funds appropriated by ~~chapter~~ *Chapter* 415 of the
13 ~~statutes~~ *Statutes* of 1995 for local assistance to school districts and
14 county offices of education based on average daily attendance
15 reported in the second principal apportionment in the prior fiscal
16 year.

17 (n) (1) Provide that all school districts, charter schools, and
18 county offices of education that receive funding under subdivision
19 (m) make reasonable progress toward providing a tobacco-free
20 environment in school facilities for pupils and employees.

21 (2) Require that all school districts, charter schools, and county
22 offices of education that receive funding pursuant to paragraph (1)
23 adopt and enforce a tobacco-free campus policy no later than July
24 1 of each fiscal year. The policy shall prohibit the use of products
25 containing tobacco and nicotine, including, but not limited to,
26 smokeless tobacco, snuff, chew, clove cigarettes, and ~~nicotine~~
27 ~~delivery devices, such as electronic cigarettes,~~ *electronic cigarettes*
28 *that can deliver nicotine and nonnicotine vaporized solutions, at*
29 any time, in charter school or school district-owned or leased
30 buildings, on school or district property, and in school or district
31 vehicles. However, this section does not prohibit the use or
32 possession of prescription products, nicotine patches, or nicotine
33 gum. Information about the policy and enforcement procedures
34 shall be communicated clearly to school personnel, parents, pupils,
35 and the larger community. Signs stating “Tobacco use is
36 prohibited” shall be prominently displayed at all entrances to school
37 property as provided in Section 104559. Information about smoking
38 cessation support programs shall be made available and encouraged
39 for pupils and staff. Any school district, charter school, or county
40 office of education that does not have a tobacco-free district policy

1 implemented by July 1, shall not be eligible to apply for funds
2 from the Cigarette and Tobacco Products Surtax Fund for that
3 fiscal year.

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

6 104466. Notwithstanding subdivision (a) of Section 2.00 of
7 the Budget Act of 2002 and any other provision of law,
8 commencing with the appropriation for the 2002–03 fiscal year,
9 and for each fiscal year thereafter, any amount appropriated to the
10 department or the State Department of Education to implement
11 the following tobacco use prevention programs shall be available
12 for encumbrance and expenditure for three fiscal years beyond the
13 date of the appropriation:

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

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

18 (c) The competitive grant program provided for in Section
19 104385.

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

22 (e) The tobacco use prevention program directed at schools
23 provided for in Sections 104420, 104430, and 104435.

24 SEC. 3. Article 4 (commencing with Section 104559) is added
25 to Chapter 1 of Part 3 of Division 103 of the Health and Safety
26 Code, to read:

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Article 4. Tobacco Use Prohibition

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30 104559. (a) The use of tobacco and nicotine products is
31 prohibited at any time in a county office of education, charter
32 school or school district-owned or leased buildings, on school or
33 district property, and in school or district vehicles. This includes,
34 but is not limited to, smokeless tobacco, snuff, chew, clove
35 cigarettes, and other ~~nicotine-delivery~~ *nicotine delivery* devices,
36 such as electronic cigarettes.

37 (b) School districts, charter schools, and county offices of
38 education shall prominently display signs at all entrances to school
39 property stating “Tobacco use is prohibited.”

1 SEC. 4. If the Commission on State Mandates determines that
2 this act contains costs mandated by the state, reimbursement to
3 local agencies and school districts for those costs shall be made
4 pursuant to Part 7 (commencing with Section 17500) of Division
5 4 of Title 2 of the Government Code.

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