

AMENDED IN ASSEMBLY APRIL 16, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1396

Introduced by Assembly Member Bonta
(Principal coauthor: Senator Pan)

February 27, 2015

An act to add Sections 30130.53 and 30130.55 to the Revenue and Taxation Code, relating to ~~Medi-Cal~~ public health finance, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1396, as amended, Bonta. ~~Medi-Cal~~. Public health finance.

The Cigarette and Tobacco Products Tax Law, the violation of which is a crime, imposes a tax of \$0.87 per package of 20 cigarettes on every distributor of cigarettes and a tax on the wholesale cost of tobacco products distributed at a tax rate that is equivalent to the combined rate of all taxes imposed on cigarettes, and at a rate equivalent to \$0.50 per pack cigarette tax. Revenues from taxes imposed under this law are deposited in specified accounts. These taxes are inclusive of the taxes imposed under the Tobacco Tax and Health Protection Act of 1988 (Proposition 99) and the California Children and Families Act of 1998 (Proposition 10).

This bill would require moneys collected from an additional tax to be imposed on the distribution of cigarettes, a related floor stock tax, and a cigarette indicia adjustment tax deposited into the California Tobacco Tax Act of 2015 Fund, and transferred from that fund to the California Children and Families Trust Fund, which is a continuously appropriated fund, the Cigarette and Tobacco Products Surtax Fund, the Breast Cancer Fund, and the General Fund, as necessary to offset

revenue decreases to those funds directly resulting from additional taxes to be imposed.

This bill would also continuously appropriate funds of accounts in the California Tobacco Tax Act of 2015 Fund to specified state entities supplement tobacco prevention and control programs, to improve existing programs to provide quality and access to health care programs for families and children, and to supplement funding for the enforcement of laws that regulate the distribution and sale of cigarettes and other tobacco products, as specified.

This bill would require the Department of Justice, the State Department of Public Health, the State Department of Education, the State Department of Health Care Services, and would request the Regents of the University of California, annually to publish an accounting of moneys received from the fund on their respective Internet Web sites.

This bill would become operative only if SB 591 of the 2015–16 Regular Session is also enacted and takes effect on or before January 1, 2016.

~~Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Existing federal law requires, among other things, that a state plan for medical assistance provide methods and procedures relating to the utilization of, and the payment for, care and services available under the plan as may be necessary to assure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that care and services are available to the general population in the geographic area.~~

~~This bill would state the intent of the Legislature to enact legislation to align state law with federal law, as specified above, and to require an independent, third party to establish standardized metrics on access to care and quality of care, and to assess services using those metrics.~~

Vote: ~~majority~~^{2/3}. Appropriation: ~~no~~^{yes}. Fiscal committee: ~~no~~^{yes}. State-mandated local program: ~~no~~^{no}.

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

1 *SECTION 1. Section 30130.53 is added to the Revenue and*
2 *Taxation Code, to read:*

3 30130.53. (a) *The board shall determine within one year of*
4 *the effective date of this act, and annually thereafter, the effect*
5 *that the additional taxes imposed on cigarettes by this article, and*
6 *the resulting increase in the tax on tobacco products required by*
7 *subdivision (b) of Section 30123, have on the consumption of*
8 *cigarettes and tobacco products in this state. To the extent that a*
9 *decrease in consumption is determined by the board to be a direct*
10 *result of the additional tax imposed by this article, or the resulting*
11 *increase in the tax on tobacco products required by subdivision*
12 *(b) of Section 30123, the board shall determine the fiscal effect*
13 *the decrease in consumption has on the Cigarette and Tobacco*
14 *Products Surtax Fund created by Section 30122 (Proposition 99*
15 *as approved by the voters at the November 8, 1988, statewide*
16 *general election), the Breast Cancer Fund created by Section*
17 *30461.6, the California Children and Families Trust Fund created*
18 *by Section 30131 (Proposition 10 as approved by the voters at the*
19 *November 3, 1998, statewide general election), and the General*
20 *Fund with respect to revenues derived from Section 30101.*

21 (b) *Funds shall be transferred from the California Tobacco Tax*
22 *Act of 2015 Fund, to the Cigarette and Tobacco Products Surtax*
23 *Fund, the Breast Cancer Fund, the California Children and*
24 *Families Trust Fund, and the General Fund, to offset the revenue*
25 *decrease directly resulting from imposition of additional taxes by*
26 *this article.*

27 (c) *Transfers under this section shall be made by the board at*
28 *times as the board determines necessary to further the intent of*
29 *this section.*

30 *SEC. 2. Section 30130.55 is added to the Revenue and Taxation*
31 *Code, to read:*

32 30130.55. (a) *Notwithstanding any other law, the California*
33 *Tobacco Tax Act of 2015 Fund is a trust fund established solely*
34 *to carry out the purposes set forth in this article, and all revenues*
35 *deposited into the California Tobacco Tax Act of 2015 Fund,*
36 *together with interest earned by the fund, shall be expended only*
37 *in accordance with this article and its purposes.*

1 (b) (1) Funds in the Tobacco Prevention and Education Account
2 are hereby appropriated with out regard to fiscal year to
3 supplement tobacco prevention and control programs as follows:

- 4 (A) ___ percent to the State Department of Public Health.
- 5 (B) ___ percent to the State Department of Education.
- 6 (C) ___percent to the University of California.

7 (2) Funds in the Tobacco Disease Related Health Care Account
8 are hereby appropriated without regard to fiscal years to the State
9 Department of Health Care Services to improve existing programs
10 to provide quality and access to health care programs for families
11 and children pursuant to Chapter 7 (commencing with Section
12 14000) to Chapter 8.9 (commencing with Section 14700), inclusive,
13 of Part 3 of Division 9 of the Welfare and Institutions Code.

14 (3) Funds in the Tobacco Law Enforcement Account are hereby
15 appropriated without regard to fiscal years to the board, the
16 Department of Justice, and the State Department of Public Health
17 for the purpose of supplementing funding for the enforcement of
18 laws that regulate the distribution and sale of cigarettes and other
19 tobacco products, including, but not limited to, laws that prohibit
20 cigarette smuggling, counterfeiting, selling untaxed tobacco, selling
21 tobacco without a proper license, and selling tobacco to minors,
22 and enforcing tobacco-related laws, court judgments, and
23 settlements.

24 (c) Not more than 2 percent of the funds received from the
25 California Tobacco Tax Act of 2015 Fund shall be used by any
26 state recipient for administrative costs.

27 (d) The Department of Justice, the State Department of Public
28 Health, the State Department of Education, and the State
29 Department of Health Care Services shall, and the Regents of the
30 University of California are requested to, on an annual basis,
31 publish on their respective Internet Web sites an accounting of
32 moneys received from the California Tobacco Tax Act of 2015
33 Fund and how the moneys were spent.

34 SEC. 3. This act shall become operative only if Senate Bill 591
35 of the 2015–16 Regular Session is also enacted and takes effect
36 on or before January 1, 2016.

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38 ~~SECTION 1. It is the intent of the Legislature to enact~~
39 ~~legislation that would align state law with federal law, specifically~~
40 ~~to assure that Medi-Cal “payments are consistent with efficiency,~~

1 ~~economy, and quality of care and are sufficient to enlist enough~~
2 ~~providers so that care and services are available under the plan at~~
3 ~~least to the extent that such care and services are available to the~~
4 ~~general population in the geographic area” (42 U.S.C. Sec.~~
5 ~~1369a(a)(30)(A)), that would require an independent, third party~~
6 ~~to establish standardized metrics on access to care and quality of~~
7 ~~care, and that would require that same entity to annually assess,~~
8 ~~using the standardized metrics, services provided to Medi-Cal~~
9 ~~beneficiaries, and report those findings annually to the Legislature.~~

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