

AMENDED IN ASSEMBLY MARCH 30, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2782

**Introduced by Assembly Member Bloom
(Coauthors: Assembly Members Chiu and Wood)**

February 19, 2016

~~An act to amend Section 104655 of the Health and Safety Code, relating to nutrition. An act to add Chapter 5 (commencing with Section 104895.50) to Part 3 of Division 103 of the Health and Safety Code, relating to public health.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2782, as amended, Bloom. ~~Healthy food.~~ *Healthy California Fund.*

Existing law provides for various programs that prevent disease and promote health.

This bill, subject to specified exemptions, would impose a fee on every distributor, as defined, for the privilege of distributing in this state bottled sweetened beverages, at a rate of \$0.02 per fluid ounce and for the privilege of distributing concentrate in this state, either as concentrate or as sweetened beverages derived from that concentrate, at the rate of \$0.02 per fluid ounce of sweetened beverage to be produced from concentrate. The Board of Equalization would be responsible for administering and collecting the fee and registering the distributors upon whom the fee is imposed. These amounts would be deposited into the Healthy California Fund, created by the bill. The bill would require moneys in the fund, upon appropriation by the Legislature, to be allocated to the State Department of Public Health, the State Department of Health Care Services, the Department of

Education, and the Department of Food and Agriculture, as specified, for various purposes related to statewide diabetes and childhood obesity treatment and prevention activities and programs, including awarding competitive grants to local governments, nonprofit organizations, school districts, and other entities for activities in support of the bill's objectives. This bill would also authorize the State Public Health Officer, the Director of Health Care Services, the Superintendent of Public Instruction, and the Secretary of Food and Agriculture to establish regulations and provide procedural measures to bring into effect those purposes.

The bill would create the Healthy California Fund Oversight Committee, to advise the affected state departments in implementing the bill's requirements. Among other requirements, the committee would evaluate programs and interventions funded under the bill and report to the Legislature annually regarding programs funded by the Healthy California Fund. The committee would produce a comprehensive master plan for implementing diabetes and obesity prevention programs throughout the state, increase healthy eating and active living, reduce food insecurity, and promote sustainable, healthy, resilient communities.

This bill would require the State Department of Public Health, in consultation with the other participating departments, to prepare and adopt an annual program budget, as specified. The bill would establish the Children and Family Health Promotion Administration Account within the fund, to be used, upon appropriation by the Legislature, to reimburse expenditures by the State Department of Public Health in administering and implementing the activities required by the bill, and to repay specified loans from other funds.

This bill would make legislative findings and declarations relating to the consumption of sweetened beverages, diabetes, childhood obesity, and dental disease.

This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

~~Existing law requires the State Department of Public Health to establish and implement the 5 A Day—For Better Health program to promote public awareness of the need to eat more fruits and vegetables in order to improve health and prevent major chronic diseases. Existing law provides that nothing shall operate to prohibit contributions to the~~

~~program by certain marketing organizations and commissions subject to specified provisions.~~

~~This bill would make technical, nonsubstantive changes to this provision.~~

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

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

1 SECTION 1. *The Legislature finds and declares as follows:*

2 (a) *Over 2.3 million California adults report have been*
3 *diagnosed with diabetes, representing one out of every 12 adult*
4 *Californians. The vast majority of diabetes cases in California are*
5 *type II, affecting 1.9 million adults.*

6 (b) *According to the State Department of Public Health, diabetes*
7 *is the seventh leading cause of death in California and has been*
8 *determined to be the underlying cause of death for almost 8,000*
9 *people each year.*

10 (c) *Adults with type II diabetes more often have other health*
11 *problems. Half of adults with type II diabetes also have*
12 *hypertension. This rate of occurrence is twice as high as for those*
13 *without diabetes. Adults with diabetes are also twice as likely to*
14 *have cardiovascular disease than adults without diabetes.*

15 (d) *Adults with diabetes are 50 percent more likely to have*
16 *arthritis than adults without diabetes. Over 40 percent of new*
17 *cases of kidney failure are attributed to diabetes. New cases of*
18 *kidney failure declined slightly from 2001 to 2007, but began to*
19 *increase again after 2007.*

20 (e) *Hispanics, African Americans, American Indians, Alaska*
21 *Natives, Asian Americans, Native Hawaiians, and Pacific Islanders*
22 *have a higher prevalence of type II diabetes than non-Hispanic*
23 *whites. Hispanics and African Americans have two times higher*
24 *prevalence: 7 percent of non-Hispanic Whites have type II diabetes,*
25 *compared with 12 percent of Latinos, 9 percent of Asian*
26 *Americans, 14 percent of Pacific Islander Americans, 13 percent*
27 *of African Americans, and 17.5 percent of American Indian and*
28 *Alaska Native populations. In some populations, type II diabetes*
29 *remains undiagnosed. For example, more than half of Asian*
30 *Americans with type II diabetes, and even more Asian Americans*
31 *with prediabetes, are undiagnosed. Nationally, the lifetime risk of*

1 *developing diabetes is now 40 percent, or 2 of every 5 adults, and*
2 *exceeds 50 percent for Hispanic men and women and non-Hispanic*
3 *black women. If trends are not reversed, it is predicted that 40*
4 *percent of Americans and nearly half of Latino and African*
5 *American children born in the year 2000 will develop type II*
6 *diabetes in their lifetime.*

7 *(f) The prevalence of obesity in the United States has increased*
8 *dramatically over the past 30 years. In California, obesity rates*
9 *have increased even more, rising from 8.9 percent in 1984 to 23.8*
10 *percent in 2011. Although no group has escaped the epidemic,*
11 *low-income populations and communities of color are*
12 *disproportionately affected.*

13 *(g) The rate of children who are overweight has also increased*
14 *dramatically in recent decades. In 2010, 38 percent of California*
15 *children in grades 5, 7, and 9 were overweight or obese. Thirty-one*
16 *of California's 58 counties experienced an increase in childhood*
17 *obesity from 2005 to 2010.*

18 *(h) In 2006, overweight and obesity-related health costs in*
19 *California were estimated at almost \$21 billion. The cost of health*
20 *care alone for diabetes in California in 2010 is estimated to have*
21 *been \$13 billion.*

22 *(i) There is overwhelming evidence of the link between obesity,*
23 *diabetes, and heart disease and with the consumption of sweetened*
24 *beverages, including soft drinks, energy drinks, sweet teas, and*
25 *sports drinks. California adults who drink one or more per day*
26 *are 27 percent more likely to be overweight or obese, regardless*
27 *of income or ethnicity.*

28 *(j) According to nutritional experts, sweetened beverages, such*
29 *as soft drinks, energy drinks, sweet teas, and sports drinks, offer*
30 *little or no nutritional value, but massive quantities of added*
31 *sugars. A 20-ounce bottle of soda contains the equivalent of*
32 *approximately 16 teaspoons of sugar, yet the American Heart*
33 *Association recommends that Americans consume no more than*
34 *five to nine teaspoons of sugar per day.*

35 *(k) Research shows that almost half of the extra calories*
36 *Americans consume in their diet comes from sugar-sweetened*
37 *beverages, with the average American drinking nearly 50 gallons*
38 *of sugar-sweetened beverages a year, the equivalent of 39 pounds*
39 *of extra sugar every year.*

1 *(l) Research shows that 41 percent of California children from*
2 *2 to 11 years of age, inclusive, and 62 percent of California teens*
3 *from 12 to 17 years of age, inclusive, drink soda daily, and for*
4 *every additional serving of sweetened beverage that a child*
5 *consumes per day, the likelihood of the child becoming obese*
6 *increases by 60 percent.*

7 *(m) Sugary drinks are a unique contributor to excess caloric*
8 *consumption. A large body of research shows that calories from*
9 *sugary drinks do not satisfy hunger the way calories from solid*
10 *food or beverages containing fat or protein do, such as those*
11 *containing milk and plant-based proteins. As a result, sugary*
12 *beverages tend to add to the calories people consume rather than*
13 *replace them.*

14 *(n) Dental caries, commonly referred to as tooth decay, is the*
15 *most common chronic childhood disease, and by third grade tooth*
16 *decay affects almost two-thirds of the children in California.*
17 *Twenty-eight percent of elementary school children— some*
18 *750,000— have untreated tooth decay. Dental disease caused by*
19 *tooth decay is linked to broader health problems, including*
20 *cardiovascular disease, strokes and diabetes. It can lead to serious*
21 *health, developmental, and social concerns, as well as significantly*
22 *increased cost of restorative care and reliance on high-cost health*
23 *care settings like hospital emergency departments.*

24 *(o) Research shows that low income and minority populations*
25 *disproportionately feel the burden of tooth decay, as low-income*
26 *children suffer twice as much from dental disease as those from*
27 *higher income families, and their disease is more likely to be*
28 *untreated. Nationally, 32 percent of Latino children and 28 percent*
29 *of African American children have untreated tooth decay,*
30 *compared to only 18 percent of white children. Pain and infection*
31 *from untreated tooth decay impairs concentration and learning in*
32 *students and leads to missed schooldays.*

33 *(p) Sugar is the primary and necessary factor in the development*
34 *of tooth decay. In addition to sugar, the acids found in beverages*
35 *like soda, energy drinks, and juice erode tooth enamel, making*
36 *sweetened beverage consumption one of the most significant*
37 *contributors to dental caries in children. Children from families*
38 *of low socioeconomic status have a significantly higher*
39 *consumption of soda and other types of sugary beverages.*

1 (q) *It is the intent of the Legislature in creating the Healthy*
2 *California Fund to diminish the human and economic costs of*
3 *diabetes, obesity, heart disease, and dental disease in California.*
4 *The fund is intended to create a dedicated revenue source for*
5 *health, education, and wellness programs designed to prevent and*
6 *treat obesity, diabetes, and heart and dental disease and to reduce*
7 *the burden of attendant health conditions that result from the*
8 *overconsumption of sugar-sweetened beverages.*

9 SEC. 2. Chapter 5 (commencing with Section 104895.50) is
10 added to Part 3 of Division 103 of the Health and Safety Code, to
11 read:

12
13 CHAPTER 5. *HEALTHY CALIFORNIA FUND*

14
15 104895.50. *The following definitions shall apply for purposes*
16 *of this chapter:*

17 (a) (1) *“Beverage for medical use” means a beverage suitable*
18 *for human consumption and manufactured for use as an oral*
19 *nutritional therapy for persons who cannot absorb or metabolize*
20 *dietary nutrients from food or beverages, or for use as an oral*
21 *rehydration electrolyte solution for infants and children formulated*
22 *to prevent or treat dehydration due to illness.*

23 (2) *“Beverage for medical use” includes a “medical food.”*
24 *Consistent with Section 5(b)(3) of the Orphan Drug Act (Public*
25 *Law 97-414; at 21 U.S.C. 360ee(b)(3)), “medical food” means a*
26 *food that is formulated to be consumed or administered enterally*
27 *under the supervision of a physician and that is intended for the*
28 *specific dietary management of a disease or condition for which*
29 *distinctive nutritional requirements, based on recognized scientific*
30 *principles, are established by medical evaluation.*

31 (3) *“Beverage for medical use” does not include drinks*
32 *commonly referred to as “sports drinks,” or any other derivative*
33 *or similar terms.*

34 (b) *“Board” means the State Board of Equalization.*

35 (c) *“Bottle” means any closed or sealed container, regardless*
36 *of size or shape, including, without limitation, those made of glass,*
37 *metal, paper, plastic, or any other material or combination of*
38 *materials.*

39 (d) *“Bottled sugar-sweetened beverage” means any*
40 *sugar-sweetened beverage contained in a bottle that is ready for*

1 consumption without further processing, such as dilution or
2 carbonation.

3 (e) “Caloric sweetener” means any caloric substance suitable
4 for human consumption that humans perceive as sweet, including,
5 but not limited to, sucrose, fructose, glucose, fruit juice
6 concentrate, or other sugars. “Caloric sweetener” excludes
7 noncaloric sweeteners. For purposes of this definition, “caloric”
8 means a substance that adds calories to the diet of a person who
9 consumes that substance.

10 (f) “Consumer” means a person who purchases a
11 sugar-sweetened beverage for consumption and not for sale to
12 another.

13 (g) “Distributor” means any person, including a manufacturer
14 or wholesale dealer, who receives, stores, manufactures, bottles,
15 or distributes bottled sugar-sweetened beverages, syrups, or
16 powders for sale to retailers doing business in the state, or any
17 combination of these activities, whether or not that person also
18 sells those products to consumers.

19 (h) “Fund” means the Healthy California Fund.

20 (i) “Milk” means natural liquid milk, regardless of animal or
21 plant source or butterfat content, natural milk concentrate, whether
22 or not reconstituted, or dehydrated natural milk, whether or not
23 reconstituted.

24 (j) “Natural fruit juice” means the original liquid resulting
25 from the pressing of fruits, or the liquid resulting from the dilution
26 with water of dehydrated natural fruit juice.

27 (k) “Natural vegetable juice” means the original liquid resulting
28 from the pressing of vegetables, or the liquid resulting from the
29 dilution with water of dehydrated natural vegetable juice.

30 (l) “Noncaloric sweetener” means any noncaloric substance
31 suitable for human consumption that humans perceive as sweet,
32 including, but not limited to, aspartame, acesulfame-K, neotame,
33 saccharin, sucralose, and stevia. “Noncaloric sweetener” excludes
34 caloric sweeteners. For purposes of this definition, “noncaloric”
35 means a substance that contains fewer than five calories per
36 serving.

37 (m) “Person” means a natural person, partnership, cooperative
38 association, limited liability company, corporation, personal
39 representative, receiver, trustee, assignee, or other legal entity.

1 (n) *“Place of business” means any place where sugar-sweetened*
2 *beverages, syrups, or powders are manufactured or received for*
3 *sale in the state.*

4 (o) *“Powder” means any solid mixture of ingredients used in*
5 *making, mixing, or compounding sugar-sweetened beverages by*
6 *mixing the powder with one or more other ingredients, including,*
7 *but not limited to, water, ice, syrup, simple syrup, fruits, vegetables,*
8 *fruit juice, vegetable juice, or carbonation or other gas.*

9 (p) *“Retailer” means any person who sells or otherwise*
10 *dispenses in the state a sugar-sweetened beverage to a consumer*
11 *whether or not that person is also a distributor.*

12 (q) *“Sale” means the transfer of title or possession for valuable*
13 *consideration, regardless of the manner by which the transfer is*
14 *completed.*

15 (r) *“State” means the State of California.*

16 (s) (1) *“Sugar-sweetened beverage” means any nonalcoholic*
17 *beverage, carbonated or noncarbonated, that is sold for human*
18 *consumption and contains added caloric sweetener. As used in*
19 *this subdivision, “nonalcoholic beverage” means any beverage*
20 *that contains less than one-half of 1 percent alcohol per volume.*

21 (2) *“Sugar-sweetened beverage” does not include any of the*
22 *following:*

23 (A) *Bottled sugar-sweetened beverages, syrups, and powders*
24 *sold to the United States government and American Indian tribal*
25 *governments.*

26 (B) *Bottled sugar-sweetened beverages, syrups, and powders*
27 *sold by a distributor to another distributor that is registered*
28 *pursuant to Section 104895.58 if the sales invoice clearly indicates*
29 *that the sale is exempt. If the sale is to a person who is both a*
30 *distributor and a retailer, the sale shall also be fee-exempt and*
31 *the fee shall be paid when the purchasing distributor or retailer*
32 *resells the product to a retailer or a consumer. This exemption*
33 *does not apply to any other sale to a retailer.*

34 (C) *Beverages sweetened solely with noncaloric sweeteners.*

35 (D) *Beverages consisting of 100 percent natural fruit or*
36 *vegetable juice, with no added caloric sweetener.*

37 (E) *Beverages in which milk, or soy, rice, or similar milk*
38 *substitute, is the primary ingredient or the first listed ingredient*
39 *on the label of the beverage.*

1 (F) Beverages with fewer than five grams of added sugar or
2 other caloric sweeteners per 12 ounces.

3 (G) Coffee or tea without added caloric sweetener.

4 (H) Infant formula.

5 (I) Beverages for medical use.

6 (J) Water without any caloric sweetener.

7 (t) “Syrup” means a liquid mixture of ingredients used in
8 making, mixing, or compounding sugar-sweetened beverages using
9 one or more other ingredients, including, but not limited to, water,
10 ice, powder, simple syrup, fruits, vegetables, fruit juice, vegetable
11 juice, carbonation, or other gas.

12 (u) “Water” includes nonflavored water, or water flavored with
13 noncaloric “natural fruit essence” or “natural flavor.” The source
14 of the water may be artesian, mineral, spring, or well. The type of
15 water may also include carbonated, such as sparkling, club, or
16 seltzer, and still, distilled, or purified, such as demineralized,
17 deionized, or reverse osmosis.

18 (v) “Culturally and linguistically appropriate” means meeting
19 the requirements of paragraphs (1) and (2) of subdivision (c) of
20 Section 2190.1 of the Business and Professions Code.

21 104895.51. (a) (1) The Healthy California Fund is hereby
22 established in the State Treasury with the purpose of diminishing
23 the human and economic costs of diabetes, obesity, heart disease,
24 and dental disease in California. The fund shall support culturally
25 and linguistically appropriate programs and interventions that
26 use educational, environmental, policy, and systems change, and
27 other public health approaches to improve access to, and
28 consumption of, healthy and affordable foods and beverages,
29 reduce access to, and consumption of, calorie-dense and
30 nutrient-poor foods, encourage physical activity and decrease
31 sedentary behavior, improve oral health literacy, raise awareness
32 about the importance of nutrition and physical activity in the
33 prevention of obesity and diabetes, and raise awareness of the
34 impact of nutrition and oral health habits on dental disease.

35 (2) The majority of expenditures shall be directed to support
36 comprehensive policy, systems, and environmental change
37 approaches that promote healthy eating, active living, and
38 improved oral health, including, but not limited to, those
39 recommended by the Institute of Medicine and the federal Centers
40 of Disease Control and Prevention. The fund shall consist of all

1 *fees, interest, penalties, and other amounts collected pursuant to*
2 *this chapter, less refunds and reimbursement for expenses incurred*
3 *in the administration and collection of the fees.*

4 *(b) Fifty-one percent of the moneys in the fund shall be allocated*
5 *to the State Department of Public Health and distributed for the*
6 *following purposes:*

7 *(1) Twenty-seven percent to develop and administer a regular*
8 *grant program to all county and city health departments, or their*
9 *nonprofit designee, seeking to invest in obesity, diabetes, and*
10 *dental disease prevention activities. Funds shall be distributed in*
11 *a reasonable proportion for prevention activities across the three*
12 *chronic diseases and pursuant to the Target Population Funding*
13 *Criteria under Section 104895.52.*

14 *(2) Twenty-eight percent to develop and administer a competitive*
15 *grant program for nonprofit and community based organizations*
16 *seeking to invest in obesity, diabetes, and dental disease prevention*
17 *activities. At least 15 percent and up to 20 percent of these funds*
18 *shall be used to support nonprofit organizations working statewide,*
19 *including those that provide capacity building and technical*
20 *assistance services. At least 8 percent of these funds shall be used*
21 *for statewide priority population leadership networks, including*
22 *African American, Hispanic, American Indian and Alaska Native,*
23 *Asian American, Native Hawaiian and Pacific Islander and low*
24 *socioeconomic status populations. Grants to community-based*
25 *organizations shall be distributed in a reasonable proportion for*
26 *prevention activities across the three chronic diseases and shall*
27 *meet the Target Population Funding Criteria pursuant to Section*
28 *104895.52.*

29 *(3) Twenty-eight percent to develop and administer a competitive*
30 *grant program for clinics licensed under subdivision (a) of Section*
31 *1204 to invest in a comprehensive approach to obesity, diabetes,*
32 *and dental disease prevention and treatment activities. In addition*
33 *to direct services, funding shall support programs that use*
34 *culturally and linguistically appropriate educational and other*
35 *public health approaches that raise awareness about the*
36 *importance of nutrition and physical activity in the prevention of*
37 *childhood obesity, diabetes, and dental disease. Funds shall be*
38 *distributed in a reasonable proportion for prevention activities*
39 *across the three chronic diseases and pursuant to the target*
40 *population funding criteria specified in Section 10895.52.*

1 (4) Seven percent to the department or its nonprofit partners
2 for statewide advertising and media campaigns, including social
3 media initiatives, to change social and cultural norms around risk
4 factors for chronic diseases, including diet and physical activity,
5 and dental disease prevention. The statewide advertising and media
6 campaigns shall be guided by a subcommittee of the Oversight
7 Committee pursuant to Section 104895.53 and ensure that
8 advertising and media campaigns are tailored for the populations
9 most affected, as listed in subdivision (a) of Section 104895.52.

10 (5) Ten percent to the department, of which no more than 3
11 percent may be used for administration of the Fund to include
12 technical assistance to potential grantees and its prevention
13 activities; a minimum of 3 percent for independent evaluation; 1
14 percent subgranted to California-based public universities or
15 nonprofits to strengthen chronic disease surveillance, including
16 measures to track economic, racial, and ethnic disparities and
17 health inequities; and 3 percent to the department's Oral Health
18 Program to support statewide coordination and delivery of
19 preventive dental health programs and to ensure that funding is
20 directed to programs in accordance with the implementation of
21 the Oral Health Program.

22 (c) Four percent to the Expanded Access to Primary Care, Rural
23 Health Services Development, Health of Seasonal Agricultural
24 Migratory Workers, and Indian Health programs in the State
25 Department of Health Care Services. Funds shall be used to
26 support culturally and linguistically appropriate clinic-based
27 obesity and diabetes prevention and related disease management
28 pursuant to subdivision (v) of Section 104895.50 with no more
29 than 3 percent going towards department administrative costs.

30 (d) Twenty-five percent to the Department of Education and
31 distributed for the following purposes and pursuant to the Target
32 Population Funding Criteria, under Section 104895.52, with no
33 more than three percent to be used for department administrative
34 costs:

35 (1) Twenty-eight percent to administer a competitive grant
36 program for school districts for educational, environmental, policy,
37 and other public health approaches that promote physical activity.
38 The approaches funded pursuant to this paragraph may include
39 improving or constructing school recreational facilities that are
40 used for recess and physical education, joint-use activities during

1 after hours, providing continuing education training for physical
2 education teachers, hiring qualified physical education teachers,
3 and implementing Safe Routes to School programs.

4 (2) Thirty-one percent to administer a competitive grant
5 program for school districts for educational, environmental, policy,
6 and other public health approaches that promote improved
7 nutrition and access to healthy foods and beverages. The
8 approaches funded pursuant to this paragraph may include
9 improving the quality and nutrition of school breakfasts, lunches,
10 and snacks, increasing access to federal meal programs for
11 underserved populations, and incorporating practical nutrition
12 education into the curriculum.

13 (3) Fourteen percent to the California Farm to School Program
14 administered by the department.

15 (4) Twenty-four percent to administer a competitive grant
16 program for school districts for ensuring access to clean drinking
17 water throughout the schoolday, including, but not limited to,
18 drinking fountains and water bottle refilling stations.

19 (e) Twenty percent to the Department of Food and Agriculture,
20 to be distributed equally for the following purposes, with no more
21 than 3 percent going towards department administrative costs:

22 (1) To the Office of Farm to Fork, including, but not limited to,
23 consumer incentive programs, pursuant to Section 49001 of the
24 Food and Agricultural Code.

25 (2) To the Office of Farm to Fork, Chapter 12 (commencing
26 with Section 49001) of Division 17 of the Food and Agricultural
27 Code, to administer a competitive grant program to aide
28 community food producers, as defined under Section 113752, or
29 socially disadvantaged, beginning, military veteran, or limited
30 resource specialty crop producers that improve the health and
31 resilience of their communities by increasing access to any variety
32 of fresh, canned, dried, or frozen whole or cut fruits and vegetables
33 without added sugars, fats or oils, and salt.

34 104895.52. (a) The target populations described in paragraphs
35 (1) to (5), inclusive, at a minimum, shall be the focus of the
36 campaign implemented pursuant to this chapter, and all moneys
37 in the fund, including those designated for statewide activities,
38 shall be allocated with no less than 60 percent priority given to
39 communities located in zip codes with the highest 30 percentile of
40 type II diabetes, as reported by the California Health Interview

1 Survey (CHIS) conducted by the University of California, Los
2 Angeles Center for Health Policy Research. Departments shall
3 use the most current survey data available in identifying the
4 following populations:

5 (1) African American, Hispanic, American Indian and Alaska
6 Native, Asian American, Native Hawaiian, and Pacific Islander.

7 (2) Low socioeconomic status populations.

8 (3) Zip codes with the top 30th percentile of rates of type II
9 diabetes.

10 (4) Communities identified as dentally underserved or with high
11 rates of dental disease.

12 (5) At-risk populations, as determined by the California Health
13 Interview Survey (CHIS) and other data sources.

14 (b) Pursuant to this chapter, the State Department of Public
15 Health and the State Department of Education shall use the most
16 current survey data available to target all moneys in the fund to
17 address the needs of the identified target populations using the
18 following criteria and methodologies:

19 (1) For funding to the California Department of Public Health:

20 (A) (i) Pursuant to the county and local government funding
21 criteria, funding shall be focused and primarily expended on
22 programs and activities with a priority and focus on directly
23 serving communities identified in paragraph (1) of subdivision
24 (a), and where consumption of bottled sugar-sweetened beverages
25 is the highest, in neighborhoods with schools with a high
26 concentration of students who qualify for supplemental and
27 concentration grants, pursuant to Section 2574 of the Education
28 Code, and in neighborhoods with a demonstrated need for services,
29 including a high concentration of Medi-Cal eligible residents.

30 (ii) The department shall develop a funding formula to provide
31 a minimum base level to all county and city health departments
32 with the additional amount weighted to reflect the number of
33 residents in each jurisdiction living below 150 percent of the
34 federal poverty level. Funding shall be dependent on each local
35 health department submitting an approved implementation plan
36 and maintaining a community coalition to support the objectives
37 of the funding. At least one third of each jurisdiction's funds shall
38 be subgranted to community partners selected through a
39 competitive process with a priority and focus on directly serving

1 *communities and populations described in paragraph (1) of*
2 *subdivision (a).*

3 *(B) Grants for nonprofit and community-based organizations,*
4 *pursuant to paragraph (2) of subdivision (b) of Section 104895.51,*
5 *shall be reserved for providing activities in communities described*
6 *in paragraph (1) of subdivision (a) and assisting populations that*
7 *are no more than 150 percent above the poverty level. Priority*
8 *shall be given to culturally and linguistically appropriate activities,*
9 *pursuant to subdivision (v) of Section 104895.50. Those activities*
10 *shall directly serve communities with a demonstrated need for*
11 *health care services, including those with high levels of*
12 *limited-English-Proficient residents.*

13 *(2) Funding to the State Department of Education shall be*
14 *focused and primarily expended on campuses located in*
15 *neighborhoods and serving children, pursuant to paragraph (1)*
16 *of subdivision (a), with a high density of students who qualify for*
17 *the National School Lunch Program or the federal School*
18 *Breakfast Program, more than 50 percent of students who would*
19 *qualify for supplemental or concentration grants, pursuant to*
20 *Section 2574 of the Education Code, and a demonstrated need*
21 *that may include showing that access to fresh fruits and vegetables*
22 *is limited in the neighborhood surrounding the school.*

23 *104895.53. (a) Upon appropriation by the Legislature, all*
24 *moneys in the fund shall be expended only for the purposes*
25 *expressed in this chapter and shall be used only to supplement*
26 *existing levels of service. Moneys in the fund shall not supplant*
27 *any federal, state, or local funding for existing levels of service.*

28 *(b) The State Public Health Officer, the Secretary of the*
29 *Department of Food and Agriculture, the Director of Health Care*
30 *Services, and the Superintendent of Public Instruction may*
31 *coordinate to establish regulations and procedural measures*
32 *necessary to effectuate the purposes of this chapter. The regulations*
33 *may provide for specific programs to be funded consistent with*
34 *the allocation of funds as set forth in this chapter. In establishing*
35 *these regulations, the departments shall give particular*
36 *consideration to reducing the prevalence of diabetes, as identified*
37 *by data from the CHIS and other data sources.*

38 *(c) The California State Auditor's office shall conduct periodic*
39 *audits to ensure that the annual allocation to individual programs*
40 *is awarded by the fund in a timely fashion consistent with the*

1 *requirements of this chapter. The first audit shall be conducted no*
2 *later than 24 months after the effective date of this section.*

3 *104895.54. (a) The Healthy California Fund Oversight*
4 *Committee is hereby created in state government. The committee*
5 *shall advise the State Department of Public Health, the State*
6 *Department of Health Care Services, the Department of Food and*
7 *Agriculture, and the State Department of Education with respect*
8 *to policy development, integration, and evaluation of the state and*
9 *local programs funded under this chapter, and shall develop a*
10 *master plan for the future implementation of diabetes, obesity, and*
11 *dental disease prevention programs.*

12 *(b) The committee shall be composed of 13 members to be*
13 *appointed as follows, with specific consideration to address the*
14 *needs of the target populations described in Section 104895.52:*

15 *(1) Two members representing nonprofit public health*
16 *organizations dedicated to healthy eating, active living, and*
17 *diabetes and obesity prevention, appointed by the Speaker of the*
18 *Assembly.*

19 *(2) One member representing an organization that represents*
20 *the health center community, appointed by the Senate Rules*
21 *Committee.*

22 *(3) One member of a professional education association, such*
23 *as an association of teachers, appointed by the Senate Rules*
24 *Committee.*

25 *(4) One representative of a professional dental organization, a*
26 *nonprofit dental health organization, or representing an*
27 *organization dedicated to dental disease prevention, appointed by*
28 *Governor.*

29 *(5) One member of a university facility with expertise in*
30 *programs intended to promote healthy eating, active living, and*
31 *diabetes and obesity prevention, appointed by the Governor.*

32 *(6) Two representatives of a target population group, appointed*
33 *by the Governor.*

34 *(7) One representative of the State Department of Public Health,*
35 *appointed by the Governor.*

36 *(8) One representative of the State Department of Health Care*
37 *Services, appointed by the Governor.*

38 *(9) One representative of the Department of Food and*
39 *Agriculture, appointed by the Governor.*

1 (10) One representative of the State Department of Education,
2 appointed by the Superintendent of Public Instruction.

3 (11) One representative of local health departments, appointed
4 by the Governor.

5 (c) Members shall serve for a term of three years, renewable
6 at the option of the appointing authority, with up to two consecutive
7 terms. The initial appointments of members shall be for two or
8 three years, to be drawn by random lot at the first meeting. The
9 committee shall be staffed by the coordinator of the State
10 Department of Public Health programs created pursuant to
11 subdivision (b) of Section 104895.51.

12 (d) The committee shall meet as often as it deems necessary,
13 but not fewer than four times per year.

14 (e) The members of the committee shall serve without
15 compensation, but shall be reimbursed for necessary travel
16 expenses incurred in the performance of the duties of the
17 committee.

18 (f) An equity subcommittee shall be established as part of the
19 Oversight Committee to ensure progress on advancing health
20 equity.

21 104895.55. The committee shall be advisory to the State
22 Department of Public Health, the State Department of Health Care
23 Services, the Department of Food and Agriculture, and the State
24 Department of Education, for the following purposes:

25 (a) Evaluating programs and interventions funded under this
26 chapter as necessary in order to assess the overall effectiveness
27 of efforts made by the program to promote healthy eating and
28 active living and to prevent diabetes and obesity. In order to
29 evaluate programs, the committee shall seek the cooperation and
30 assistance of the State Department of Public Health, the State
31 Department of Health Care Services, the Department of Food and
32 Agriculture, the State Department of Education, the University of
33 California, local health departments, local education agencies,
34 administrative representatives, target populations, school officials,
35 nongovernmental organizations, and researchers. A principal
36 measurement of effectiveness shall be the reduction of diabetes
37 and obesity and the increased consumption of healthy foods and
38 levels of physical activity among a given target population.

39 (b) Facilitating programs directed at promoting healthy eating
40 and active living and preventing diabetes and obesity that are

1 *operated jointly by more than one agency or entity. The committee*
2 *shall propose strategies for the coordination of proposed programs*
3 *administered by the State Department of Public Health, the State*
4 *Department of Health Care Services, the Department of Food and*
5 *Agriculture, and the State Department of Education, and local*
6 *lead agencies, in order to avoid the duplication of services and to*
7 *maximize the public benefit of the programs.*

8 *(c) Making recommendations to the Department of Public*
9 *Health, the Department of Health Care Services, the Department*
10 *of Food and Agriculture, and State Department of Education*
11 *regarding the most appropriate selection criteria for, and*
12 *standards of, the operation and the types of programs to be funded*
13 *under this chapter.*

14 *(d) (1) Notwithstanding Section 10231.5 of the Government*
15 *Code, reporting to the Legislature on or before January 1 of each*
16 *year on the number and scope of programs funded by the Healthy*
17 *California Fund created by Section 104895.51, the amount of*
18 *money in the fund, any moneys previously appropriated to the*
19 *State Department of Public Health, the State Department of Health*
20 *Care Services, the Department of Food and Agriculture, and the*
21 *State Department of Education, but unspent by the departments,*
22 *a description and assessment of all programs funded under this*
23 *chapter, and recommendations for any necessary policy changes*
24 *or improvements for program interventions and strategies.*

25 *(2) A report submitted pursuant to paragraph (1) shall be*
26 *submitted in compliance with Section 9795 of the Government*
27 *Code.*

28 *(e) Ensuring that the most current research findings regarding*
29 *diabetes and obesity prevention are applied in designing the*
30 *programs administered by the State Department of Public Health,*
31 *the State Department of Health Care Services, the Department of*
32 *Food and Agriculture, and the State Department of Education.*
33 *The departments shall apply the most current findings and*
34 *recommendations of research and best practice.*

35 *(f) Based on the results of programs supported by this chapter*
36 *and any other proven methodologies available to the committee,*
37 *producing a comprehensive master plan for implementing diabetes*
38 *and obesity prevention programs throughout the state to increase*
39 *healthy eating and active living, reduce food insecurity, and*
40 *promote sustainable, healthy, resilient communities. The master*

1 *plan shall include longitudinal data on obesity prevalence and*
2 *incidence rates, data on diabetes prevalence and incidence rates,*
3 *and longitudinal information on sweetened beverage consumption*
4 *rates across the state population. The master plan shall also*
5 *include implementation strategies for programs to address the*
6 *needs of underserved and at-risk target populations throughout*
7 *this state. The Healthy California Fund Oversight Committee shall*
8 *submit the master plan to the Legislature biennially, in compliance*
9 *with Section 9795 of the Government Code. The master plan and*
10 *its revisions shall include recommendations for administrative*
11 *arrangements, funding priorities and integration and coordination*
12 *of approaches by the Department of Public Health, the Department*
13 *of Health Care Services, the Department of Food and Agriculture,*
14 *and State Department of Education and their support systems,*
15 *local lead agencies, and nongovernmental organizations, as well*
16 *as progress reports relating to the needs of specific target*
17 *populations.*

18 *104895.56. (a) A health impact fee is hereby imposed on every*
19 *distributor for the privilege of distributing bottled sweetened*
20 *beverages and concentrate in the state, for deposit into the fund.*
21 *The fees shall be calculated as follows:*

22 *(1) The fee on bottled sweetened beverages distributed in this*
23 *state shall be two cents (\$0.02) per fluid ounce.*

24 *(2) The fee on concentrates distributed in the state either as*
25 *concentrate or as a sweetened beverage derived from that*
26 *concentrate shall be equal to two cents (\$0.02) per fluid ounce of*
27 *sweetened beverage produced from that concentrate. For purposes*
28 *of calculating the fee for concentrate, the volume of sweetened*
29 *beverage to be produced from concentrate shall be the largest*
30 *volume resulting from use of the concentrate according to any*
31 *manufacturer's instructions.*

32 *(b) In each transaction described in subdivision (a), the*
33 *distributor shall include the following information on each receipt,*
34 *invoice, or other form of accounting for the distribution of bottled*
35 *sweetened beverages or concentrate:*

36 *(1) The name and address of the distributor.*

37 *(2) The name and address of the purchaser.*

38 *(3) The date of sale and invoice number.*

39 *(4) The kind, quantity, size, and capacity of packages of bottled*
40 *sweetened beverages, sweetened beverages, or concentrate sold.*

1 (5) *The amount of fees due from the distributor on the sale of*
2 *the bottled sweetened beverages, sweetened beverages, or*
3 *concentrate.*

4 (6) *Any other information, as required by the board.*

5 (c) *The program shall develop reimbursement criteria to enable*
6 *participating departments to recover administrative costs*
7 *associated with collecting the charge.*

8 (d) *This section shall not preempt a city or county from enacting*
9 *or enforcing an ordinance related to taxation of sugar-sweetened*
10 *beverages if the ordinance is more stringent than this section.*

11 104895.57. (a) (1) *No later than July 1, 2017, and annually*
12 *thereafter, the State Department of Public Health, the State*
13 *Department of Health Care Services, the Department of Food and*
14 *Agriculture, and the State Department of Education shall*
15 *commence preparation of a program budget for the following*
16 *calendar year. The budgets shall include all of the following*
17 *information:*

18 (A) *Anticipated revenues and costs of implementing the program,*
19 *including related programs, projects, contracts, and administrative*
20 *expenses.*

21 (B) *A recommended funding level sufficient to cover the*
22 *program's budgeted costs and to operate the program over a*
23 *multiyear period in a prudent and responsible manner.*

24 (C) *The amount of the health impact fees, as described in Section*
25 *104895.56, and itemization of costs that the fees cover.*

26 (2) *The State Department of Public Health, the State Department*
27 *of Health Care Services, the Department of Food and Agriculture,*
28 *and the State Department of Education shall solicit feedback on*
29 *their proposed budgets from the Healthy California Fund Oversight*
30 *Committee before adopting a final budget.*

31 (3) *The departments shall adopt final program budgets for*
32 *purposes of this chapter by October 1 of each year.*

33 (b) *The fund shall reimburse the State Department of Public*
34 *Health, the State Department of Health Care Services, the*
35 *Department of Food and Agriculture, and the State Department*
36 *of Education for administration and implementation costs the*
37 *departments incur pursuant to this chapter, as provided in*
38 *subdivision (c). The reimbursement shall not exceed the*
39 *departments' direct costs to implement and enforce this chapter.*

1 (c) *The State Department of Public Health, the State Department*
2 *of Health Care Services, the Department of Food and Agriculture,*
3 *and the State Department of Education shall deposit all moneys*
4 *submitted for reimbursement costs by the program into the Healthy*
5 *California Fund Administration Account, which is hereby*
6 *established within the fund. Upon appropriation by the Legislature,*
7 *moneys in the account shall be expended by the departments to*
8 *administer and enforce this chapter and to repay any outstanding*
9 *loans made from other funds used to finance startup costs of the*
10 *department's activities pursuant to this chapter.*

11 104895.58. (a) *The board shall administer and collect the*
12 *charges imposed by this chapter pursuant to the Fee Collection*
13 *Procedures Law (Part 30 (commencing with Section 55001) of*
14 *Division 2 of the Revenue and Taxation Code). The board may use*
15 *no more than 3 percent of the revenues generated to cover its*
16 *administrative costs in collecting the fees imposed under this*
17 *chapter.*

18 (b) *The board may prescribe, adopt, and enforce regulations*
19 *relating to the administration and enforcement of this chapter,*
20 *including, but not limited to, collections, reporting, refunds, and*
21 *appeals.*

22 (c) *The board may adopt regulations to implement this chapter.*
23 *The adoption, amendment, repeal, or readoption of a regulation*
24 *authorized by this section is deemed to address an emergency, for*
25 *purposes of Sections 11346.1 and 11349.6 of the Government*
26 *Code, and the board is hereby exempted for this purpose from the*
27 *requirements of subdivision (b) of Section 11346.1 of the*
28 *Government Code.*

29 104895.59. *The fees imposed by this chapter are due and*
30 *payable to the board on or before the last day of the first month*
31 *following each calendar quarter.*

32 104895.60. (a) *On or before the last day of the first month*
33 *following each calendar quarter, a return for the preceding*
34 *calendar quarter shall be filed with the board using electronic*
35 *media.*

36 (b) *The board may prescribe those forms and reporting*
37 *requirements as are necessary to implement the fees, including,*
38 *but not limited to, information regarding the total amount of bottled*
39 *sweetened beverages and concentrate sold and the amount due.*

1 (c) Returns shall be authenticated in a form or pursuant to
2 methods prescribed by the board.

3 104895.61. A distributor required to pay the fees imposed
4 under this chapter shall register with the board. An application
5 for registration shall be made upon a form prescribed by the board
6 and shall set forth the name under which the applicant transacts
7 or intends to transact business, the location or locations of each
8 place of business, and any other information required by the board.
9 An application for an account under this section shall be
10 authenticated in a form, or pursuant to methods, prescribed by the
11 board.

12 104895.62. The distribution of bottled sweetened beverages
13 or concentrate by a distributor to either of the following persons
14 shall be exempt from the fees imposed by this chapter:

15 (a) A person when, pursuant to the contract of sale, the bottled
16 sweetened beverages or concentrate shall be shipped, and are
17 shipped, to a point outside of this state by the distributor by means
18 of either of the following:

19 (1) Facilities operated by the distributor.

20 (2) Delivery by the distributor to a carrier, customs broker, or
21 forwarding agent, whether hired by the purchaser or not, for
22 shipment to the out-of-state point.

23 (b) A person who is otherwise exempt from the taxation of that
24 sale, use, or consumption under the Constitution of the United
25 States, federal law or regulation, or the California Constitution.

26 104895.63. A distributor who has paid a fee, either directly to
27 the state or to another distributor registered under this chapter
28 and makes a subsequent distribution of bottled sweetened
29 beverages or concentrate may claim a credit on the distributor's
30 return for the period in which the subsequent sale or distribution
31 occurs.

32 ~~SECTION 1. Section 104655 of the Health and Safety Code~~
33 ~~is amended to read:~~

34 ~~104655. Notwithstanding any other law, nothing shall operate~~
35 ~~to prohibit contributions to the program created pursuant to this~~
36 ~~article by organizations and commissions subject to Division 22~~
37 ~~(commencing with Section 63901) of the Food and Agricultural~~
38 ~~Code.~~

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