

**ASSEMBLY BILL**

**No. 1664**

**Introduced by Assembly Member Friedman**

February 24, 1995

An act to amend Section 30461.6 of the Revenue and Taxation Code, and to amend Section 9 of Chapter 661 of the Statutes of 1993, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1664, as introduced, Friedman. Cigarette taxes: breast cancer research.

The Cigarette and Tobacco Products Tax Law requires revenues from a specified increase in the cigarette tax rate to be deposited in the State Treasury to the credit of the Breast Cancer Fund for allocation to, among other things, the Breast Cancer Research Program and the Breast Cancer Control Program.

This bill would make technical, nonsubstantive changes in those provisions.

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

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

1 SECTION 1. Section 30461.6 of the Revenue and  
2 Taxation Code is amended to read:  
3 30461.6. (a) Notwithstanding Section 30461, the  
4 board shall transmit the revenue derived from the  
5 increase in the cigarette tax rate of one mill (\$0.001) per



1 cigarette imposed by Section 30101 on and after January  
2 1, 1994, to the Treasurer to be deposited in the State  
3 Treasury to the credit of the Breast Cancer Fund, which  
4 fund is hereby created. The Breast Cancer Fund shall  
5 consist of two accounts: the Breast Cancer Research  
6 Account and the Breast Cancer Control Account. The  
7 revenues deposited in the fund shall be divided equally  
8 between the two accounts.

9 (b) The moneys in the accounts within the Breast  
10 Cancer Fund shall, upon appropriation by the  
11 Legislature, be allocated as follows:

12 (1) The moneys in the Breast Cancer Research  
13 Account shall be allocated for research with respect to the  
14 cause, cure, treatment, earlier detection, and prevention  
15 of breast cancer as follows:

16 (A) Ten percent to the Cancer Surveillance Section of  
17 the State Department of Health Services for the  
18 collection of breast cancer-related data and the conduct  
19 of breast cancer-related epidemiological research by the  
20 state cancer registry established pursuant to Section 211.3  
21 of the Health and Safety Code.

22 (B) Ninety percent to the Breast Cancer Research  
23 Program, which is hereby created at the University of  
24 California, for the awarding of grants and contracts to  
25 researchers for research with respect to the cause, cure,  
26 treatment, prevention, and earlier detection of breast  
27 cancer and with respect to the cultural barriers to  
28 accessing the health care system for early detection and  
29 treatment of breast cancer.

30 (2) The moneys in the Breast Cancer Control Account  
31 shall be allocated to the Breast Cancer Control Program,  
32 which is hereby created for the provision of early breast  
33 cancer detection services for uninsured and  
34 underinsured women. The Breast Cancer Control  
35 Program shall be established in the State Department of  
36 Health Services and shall be administered in coordination  
37 with the breast and cervical cancer control program  
38 established pursuant to Public Law 101-354.



1 (c) The early breast cancer detection services  
2 provided by the Breast Cancer Control Program shall  
3 include all of the following:

4 (1) Screening, including mammography, of women  
5 for breast cancer as an early detection health care  
6 measure.

7 (2) After screening, medical referral of screened  
8 women and services necessary for definitive diagnosis,  
9 including nonradiological techniques or biopsy.

10 (3) If a positive diagnosis is made, then assistance and  
11 advocacy shall be provided to help the person obtain  
12 necessary treatment.

13 (4) ~~Outreach~~ *Targeted outreach* and health education  
14 activities to ensure that uninsured and underinsured  
15 women are aware of and appropriately utilize the  
16 services provided by the Breast Cancer Control Program.

17 (d) Any entity funded by the Breast Cancer Control  
18 Program shall coordinate with other local providers of  
19 breast cancer screening, diagnostic, followup, education,  
20 and advocacy services to avoid duplication of effort. Any  
21 entity funded by the program shall comply with any  
22 applicable state and federal standards regarding  
23 mammography quality assurance.

24 (e) Administrative costs of the State Department of  
25 Health Services shall not exceed 10 percent of the funds  
26 allocated to the Breast Cancer Control Program created  
27 pursuant to paragraph (2) of subdivision (b). Indirect  
28 costs of the entities funded by this program shall not  
29 exceed 12 percent. The department shall define “indirect  
30 costs” in accordance with applicable state and federal  
31 law.

32 (f) Any entity funded by the Breast Cancer Control  
33 Program shall collect data and maintain records that are  
34 determined by the State Department of Health Services  
35 to be necessary to facilitate the state department’s ability  
36 to monitor and evaluate the effectiveness of the entities  
37 and the program. Commencing with the program’s  
38 second year of operation, the State Department of Health  
39 Services shall submit an annual report to the Legislature  
40 and any other appropriate entity. The costs associated



1 with this report shall be paid from the allocation made  
2 pursuant to paragraph (2) of subdivision (b). The report  
3 shall describe the activities and effectiveness of the  
4 program and shall include, but not be limited to, the  
5 following types of information regarding those served by  
6 the program:

- 7 (1) The number.
- 8 (2) The ethnic, geographic, and age breakdown.
- 9 (3) The stages of presentation.
- 10 (4) The diagnostic and treatment status.

11 (g) The Breast Cancer Control Program shall be  
12 conducted in consultation with the Breast Cancer  
13 Research Program created pursuant to subparagraph (B)  
14 of paragraph (1) of subdivision (b).

15 (h) In implementing the Breast Cancer Control  
16 Program, the State Department of Health Services may  
17 appoint and consult with an advisory panel appointed by  
18 the State Director of Health Services and consisting of  
19 one ex officio, nonvoting member from the Breast Cancer  
20 Research Program, breast cancer researchers, and  
21 representatives from voluntary, nonprofit health  
22 organizations, health care professional organizations,  
23 breast cancer survivor groups, and breast cancer and  
24 health care-related advocacy groups. It is the intent of the  
25 Legislature that breast cancer-related survivors and  
26 advocates and health advocates for low-income women  
27 compose at least one-third of the advisory panel. It is also  
28 the intent of the Legislature that the State Department  
29 of Health Services collaborate closely with the panel.

30 (i) It is the intent of the Legislature in enacting the  
31 Breast Cancer Control Program to decrease cancer  
32 mortality rates attributable to breast cancer among  
33 uninsured and underinsured women, with special  
34 emphasis on low-income, Native American, and minority  
35 women. It is also the intent of the Legislature that the  
36 communities served by the Breast Cancer Control  
37 Program reflect the ethnic, racial, cultural, and  
38 geographic diversity of the state and that the Breast  
39 Cancer Control Program fund entities where uninsured



1 and underinsured women are most likely to seek their  
2 health care.

3 (j) The State Department of Health Services or any  
4 entity funded by the Breast Cancer Control Program  
5 shall collect personal and medical information necessary  
6 to administer this program from any individual applying  
7 for services under the program. The information shall be  
8 confidential and shall not be disclosed other than for  
9 purposes directly connected with the administration of  
10 this program or except as otherwise provided by law or  
11 pursuant to prior written consent of the subject of the  
12 information.

13 The State Department of Health Services or any entity  
14 funded by the Breast Cancer Control Program may  
15 disclose the confidential information to medical  
16 personnel and fiscal intermediaries of the state to the  
17 extent necessary to administer this program, and to other  
18 state public health agencies or medical researchers when  
19 the confidential information is necessary to carry out the  
20 duties of those agencies or researchers in the  
21 investigation, control, or surveillance of breast cancer.

22 (k) The State Department of Health Services shall  
23 adopt regulations to implement this act in accordance  
24 with the Administrative Procedure Act (Chapter 3.5  
25 commencing with Section 11340) of Part 1 of Division 3  
26 of Title 2 of the Government Code). The initial adoption  
27 of implementing regulations shall be deemed an  
28 emergency and shall be considered as necessary for the  
29 immediate preservation of the public peace, health and  
30 safety, or general welfare, within the meaning of Section  
31 11346.1. Emergency regulations adopted pursuant to this  
32 section shall remain in effect for no more than 180 days.

33 (l) It is the intent of the Legislature in enacting this  
34 section that this section supersede and be operative in  
35 place of Section 30461.6 of the Revenue and Taxation  
36 Code as added by Assembly Bill 478 of the 1993–94  
37 Regular Session.

38 SEC. 2. Section 9 of Chapter 661 of the Statutes of 1993  
39 is amended to read:



1 Sec. 9. (a) The Legislature hereby requests the  
2 University of California to establish and administer the  
3 Breast Cancer Research Program, which is created by this  
4 act, as a comprehensive grant and contract program to  
5 support research efforts into the cause, cure, treatment,  
6 earlier detection, and prevention of breast cancer. It is  
7 the intent of the Legislature that this program  
8 incorporate the principles and organizational elements  
9 specified in this act, including, but not limited to, a  
10 research program office with a director and other  
11 necessary staff, a Breast Cancer Research Council, and  
12 research review panels.

13 (b) For the purposes of this section:

14 (1) “Breast cancer research” includes, but is not  
15 limited to, research in the fields of biomedical science and  
16 engineering, the social, economic and behavioral  
17 sciences, epidemiology, technology development and  
18 translation, and public health.

19 (2) “Council” means the Breast Cancer Research  
20 Council.

21 (3) “Grantee” means any qualifying public, private, or  
22 nonprofit agency or individual, including, but not limited  
23 to, colleges, universities, hospitals, laboratories, research  
24 institutions, local health departments, voluntary health  
25 agencies, health maintenance organizations,  
26 corporations, students, fellows, entrepreneurs, and  
27 individuals conducting research in California.

28 (4) “Program” means the Breast Cancer Research  
29 Program.

30 (5) “University” means the University of California.

31 (c) It is the intent of the Legislature that this program  
32 be administered pursuant to the following principles:

33 (1) The university shall work in close collaboration  
34 with the council and seek the consent of the council  
35 before taking an action different from the action  
36 recommended by the council.

37 (2) The council shall develop the strategic objectives  
38 and priorities of the program, actively participate in the  
39 overall management of the program, and make final  
40 recommendations on which research grants should be



1 funded based on the research priorities established for  
2 the program and the technical merits of the proposals as  
3 determined by peer review panels.

4 (3) The program shall fund innovative and creative  
5 research, with a special emphasis on research that  
6 complements, rather than duplicates, the research  
7 funded by the federal government and other entities.

8 (4) The university and the council shall work in close  
9 collaboration with the Breast Cancer Control Program  
10 established in this act.

11 (5) All research funds shall be awarded on the basis of  
12 the research priorities established for the program and  
13 the scientific merit of the proposed research, as  
14 determined by an open, competitive peer review process  
15 that ensures objectivity, consistency, and high quality. All  
16 investigators, regardless of affiliation, shall have equal  
17 access and opportunity to compete for program funds.

18 (6) The peer review process for the selection of  
19 research grants awarded under this program shall be  
20 generally modeled on that used by the National Institute  
21 of Health in its grantmaking process.

22 (7) An awardee shall be awarded grants for the full  
23 cost, both direct and indirect, of conducting the  
24 sponsored research consistent with those federal  
25 guidelines governing all federal research grants and  
26 contracts. All intellectual property assets developed  
27 under this program shall be treated in accordance with  
28 state and federal law.

29 (8) In establishing its research priorities, the council  
30 shall consider a broad range of cross-disciplinary breast  
31 cancer research, as defined in paragraph (1) of  
32 subdivision (b), including, but not limited to, research  
33 into the cause, cure, and prevention of breast cancer;  
34 translational and technological research, including  
35 research regarding the development and translation of  
36 technologies of earlier detection; research regarding the  
37 cultural, economic, and legal barriers to accessing the  
38 health care system for early detection and treatment of  
39 breast cancer; and research examining the link between  
40 breast cancer and environmental factors, including both



1 natural and industrial chemicals, estrogen imitators, and  
2 electromagnetic fields.

3 (d) It is the intent of the Legislature that the  
4 university, as lead agency, do all of the following:

5 (1) Establish the Breast Cancer Research Council  
6 within 45 days of the enactment of this act in accordance  
7 with the following:

8 (A) The council shall consist of at least 13 and no more  
9 than 15 members representing a range of expertise and  
10 experience, appointed by the President of the University  
11 of California from nominations submitted by relevant  
12 organizations, as follows:

13 (i) Four members from breast cancer survivor and  
14 breast cancer-related advocacy groups, including, but not  
15 limited to, the California Breast Cancer Organizations  
16 (CABCO).

17 (ii) Four members drawn from the ranks of scientists  
18 or clinicians, including one from an independent  
19 research university in California. The scientists shall have  
20 expertise covering the various fields of scientific  
21 endeavor, including, but not limited to, the fields of  
22 biomedical research and engineering, social, economic,  
23 and behavioral research, epidemiology, and public  
24 health.

25 (iii) Two members from nonprofit health  
26 organizations with a commitment to breast cancer  
27 research and control.

28 (iv) One member who is a practicing breast cancer  
29 medical specialist.

30 (v) Two members from private industry with an  
31 interest in breast cancer research and control, including,  
32 but not limited to, entrepreneurs, or persons from the  
33 science or high technology industry or persons from the  
34 health care sector.

35 (vi) One ex officio, nonvoting member from the  
36 Breast Cancer Control Program.

37 (B) If the president appoints more than 13 members,  
38 it is the intent of the Legislature that the proportional  
39 representation remain substantially the same as set forth  
40 in subparagraph (A).



1 (C) Members shall serve without compensation, but  
2 may receive reimbursement for travel and other  
3 necessary expenses actually incurred in the performance  
4 of their official duties.

5 (D) Membership shall be staggered in such a way as to  
6 maintain a full council while ensuring a reasonable  
7 degree of continuity of expertise and consistency of  
8 direction.

9 (2) Provide overall coordination of the program.

10 (3) Provide staff assistance to the program and  
11 council.

12 (4) Develop administrative procedures relative to the  
13 solicitation, review, and awarding of grants to ensure an  
14 impartial, high quality peer review system.

15 (5) Recruit and supervise research review panels. The  
16 membership of these panels shall vary depending on the  
17 subject matter of proposals and review requirements, and  
18 shall draw on the most qualified individuals. The work of  
19 the review panels shall be administered pursuant to  
20 policies and procedures established for the  
21 implementation of the program. In order to avoid  
22 conflicts of interest and to ensure access to qualified  
23 reviewers, the university may utilize reviewers not only  
24 from California but also from outside the state. When  
25 serving on review panels, institutions, corporations, or  
26 individuals who have submitted grant applications for  
27 funding by this program shall be governed by  
28 conflict-of-interest provisions consistent with the  
29 National Institute of Health Manual (Chapter 4510 (item  
30 h)), and any applicable conflict-of-interest provisions in  
31 state law.

32 (6) Provide for periodic program evaluation to ensure  
33 that research funded is consistent with program goals.

34 (7) Maintain a system of financial reporting and  
35 accountability.

36 (8) Provide for the systematic dissemination of  
37 research results to the public and the health care  
38 community, and provide for a mechanism to disseminate  
39 the most current research findings in the areas of cause,  
40 treatment, cure, earlier detection, and prevention of



1 breast cancer, in order that these findings may be applied  
2 to the planning, implementation, and evaluation of the  
3 breast cancer-related programs of the State Department  
4 of Health Services, including the Breast Cancer Control  
5 Program authorized by this act.

6 (9) Develop policies and procedures to facilitate the  
7 translation of research results into commercial, alternate  
8 technological, and other applications wherever  
9 appropriate and consistent with state and federal law.

10 (10) Transmit, on or before December 31, 1994, and  
11 annually on or before each December 31 thereafter, a  
12 report to the Legislature on grants made, grants in  
13 progress, program accomplishments, and future program  
14 directions. Each report shall include, but not be limited  
15 to, the following information:

16 (A) The number and dollar amounts of research  
17 grants, including the amount allocated to indirect costs.

18 (B) The subject of research grants.

19 (C) The relationship between federal and state  
20 funding for breast cancer research.

21 (D) The relationship between each project and the  
22 overall strategy of the research program.

23 (E) A summary of research findings, including  
24 discussion of promising new areas.

25 (F) The institutions and campuses receiving grant  
26 awards.

27 In addition, the first annual report shall include an  
28 evaluation and recommendations concerning the  
29 desirability and feasibility of requiring for-profit grantees  
30 to compensate the state in the event that a grant results  
31 in the development of a profit-making product. This  
32 evaluation shall include, but not be limited to, the costs  
33 and benefits of requiring a for-profit grantee to repay the  
34 grant, to provide the product at cost to Medi-Cal and  
35 other state programs serving low-income breast cancer  
36 patients, and to pay the state a percentage of the royalties  
37 derived from the product.

38 (e) It is the intent of the Legislature that no more than  
39 5 percent of the allocation to the university be used for  
40 the ~~purposes of~~ administration of this program.



1 (f) It is the intent of the Legislature that the  
2 responsibilities of the council shall include, but not be  
3 limited to, the following:

4 (1) Development and review of the strategic  
5 objectives and research priorities of the program.

6 (2) Delineation of resource allocation across the  
7 various priorities established for the program.

8 (3) Participation in periodic program and financial  
9 review, including the report transmitted pursuant to  
10 paragraph (10) of subdivision (d).

11 (4) Development and review of guidelines to ensure  
12 fairness, neutrality, and adherence to the principles of  
13 merit and quality in the conduct of the program.

14 (5) Development of appropriate linkages to  
15 nonacademic entities, including, but not limited to,  
16 voluntary organizations, health care delivery systems,  
17 industry, government agencies, research entrepreneurs,  
18 and public officials.

19 (6) Development and review of criteria and standards  
20 for granting awards.

21 (7) Oversight and review of the request for  
22 applications (RFA).

23 (8) Review of research review panel reports and  
24 recommendations for grant awards.

25 (9) Making of final recommendations on which grants  
26 are to be awarded.

27 (10) Development and review of oversight  
28 mechanisms for the dissemination of research results.

29 (11) Development and review of policies and liaison  
30 programs to facilitate the translation of research results  
31 into commercial, alternate technological, or other  
32 applications wherever appropriate.

33 (12) Establishment of its own internal rules of  
34 operation.

35 (13) Participation in the identification and  
36 recruitment of scientists with relevant expertise for  
37 possible participation in a peer review panel. The council



- 1 may propose to assign a member of the council to sit as a
- 2 nonvoting member of the peer review panels.

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