AMENDED IN SENATE APRIL 13, 2009

SENATE BILL No. 600

Introduced by Senators Padilla and Steinberg
(Coauthors: Senators DeSaulnier, Oropeza, and Romero)

February 27, 2009

An act to add Article 4 (commencing with Section 30135) to Chapter 2 of Part 13 of Division 2 of the Revenue and Taxation Code, relating to taxation, making an appropriation therefor, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 600, as amended, Padilla. Cigarette and Tobacco Products *Taxes: Tobacco* Tax and Health Protection Fund.

The Cigarette and Tobacco Products Tax Law, the violation of which is a crime, imposes a tax on every distributor of cigarettes and tobacco products at specified rates, including additional taxes imposed under the Tobacco Tax and Health Protection Act of 1988 (Proposition 99) and the California Families and Children Act of 1998 (Proposition 10). A provision of that law imposes a tax upon the distribution of tobacco products at a tax rate which is equivalent to the combined rate of all taxes imposed on cigarettes, which is deposited in specified accounts.

This bill would, commencing on or after the first day of the first calendar quarter commencing more than 90 days on or after the effective date of the bill, impose an additional tax on the distribution of cigarettes at the rate of ~~($0.0075)~~ *($0.075)* or 75 mills for each cigarette distributed, and would require a dealer or wholesaler to file a return with the State Board of Equalization showing the number of cigarettes in his or her possession or under his or her control on that date, as specified. Because the bill would impose an additional tax on cigarettes under the Cigarette and Tobacco Products Tax Law, it would increase the tax upon the distribution of tobacco products under that law. The bill would provide that the revenues collected from the additional tax ~~would be created by the bill, and~~ would be allocated, upon appropriation by the Legislature, for certain purposes. The bill would require funds to be transferred from the fund to the California Children and Families First Trust Fund, which is a continuously appropriated fund, the Hospital Services Account, the Physician Services Account, the Unallocated Account of the Cigarette and Tobacco Products Surtax Fund, and the Breast Cancer Fund, as necessary to offset revenue decreases to those accounts directly resulting from imposition of additional taxes by these provisions. Because this bill would require funds to be ~~tranferred~~ *transferred* to a continuously appropriated fund, it would make an appropriation.

This bill would result in a change in state taxes for the purpose of increasing state revenues 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.

Because this bill would impose new requirements under the Cigarette and Tobacco Products Law, the violation of which is a crime, it 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 no reimbursement is required by this act for a specified reason.

This bill would take effect immediately as a tax levy.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

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

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) Tobacco use and tobacco-related diseases place a tremendous financial burden upon the persons with the disease, their families, the health care delivery system, local and state governments, and society as a whole.

(b) Smoking related diseases have a major negative economic impact on all taxpayers and the entire health care system, which justifies the use of tobacco taxes to fund prevention, early detection, treatment, and research of major diseases.

(c) Tobacco use costs Californians more than $8.6 billion in medical expenses every year. The cost of lost productivity due to tobacco use adds an additional estimated $7.2 billion to the annual economic consequences of smoking in California.

(d) Smoking is the single most preventable cause of death and disease in California. Fully one in five deaths in California is attributable to smoking: more than 40,000 every year.

(e) Tobacco use is a major contributor to all the leading causes of death in California, including heart disease and stroke, cancer, diabetes, and lung disease.

(f) Smoking can have an adverse health effect on all Californians because secondhand smoke has been proven to be a leading cause of disability, disease, and death in California. Secondhand smoke is causally associated with lung disease, heart disease, cancer, and obesity.

(g) Increasing the cost of cigarettes and other tobacco products has proven to be one of the most effective ways to reduce smoking, especially among youth.

(h) Funding for California's pioneering tobacco prevention and control program has dropped to the point where it is now far below what is recommended by federal public health agencies.

(i) Tobacco companies spend approximately 10 times more to promote tobacco use than the state spends to prevent it and to help tobacco users quit.

(j) California currently ranks 30th among the states in the level of cigarette taxes. If this measure were approved, four states would still have higher cigarette taxes than California.

(k) Forty-four states have raised their tobacco taxes since California last raised its tax.

(*l*) Providing new funding for enforcement of tobacco laws will reduce cigarette smuggling, the sale of black market cigarettes, and illegal sales of tobacco products to minors.

(m) Increasing tobacco taxes and directing a portion of the revenues for smoking cessation programs will assist smokers to quit smoking, especially persons of low socioeconomic status who comprise the largest number of current smokers.

SEC. 2. Article 4 (commencing with Section 30135) is added to Chapter 2 of Part 13 of Division 2 of the Revenue and Taxation Code, to read:

Article 4. ~~Cigarette and Tobacco Products~~ *Tobacco* Tax and Health Protection Fund

30135. Notwithstanding any other provision of law, the Tobacco Tax and Health Protection Fund is hereby created in the State Treasury for the exclusive purpose of funding the tobacco control provisions of the Tobacco Tax and Health Protection Act of 2009.

30135.l. The revenue from the taxes imposed pursuant to this article shall be deposited as follows:

(a) Fifteen percent in the Tobacco Tax and Health Protection Fund.

(b) Eighty-five percent in the General Fund.

30135.2. For the purposes of this article:

(a) "Cigarette" has the same meaning as that in Section 30003, as it read on January 1, 2009.

(b) "Tobacco products" includes, but is not limited to, all forms of cigars, smoking tobacco, chewing tobacco, snuff, and any other articles or products made of, or containing at least 50 percent, tobacco, but does not include cigarettes.

30135.3. In addition to any other taxes imposed upon the distribution of cigarettes, there shall be imposed an additional tax upon every distributor of cigarettes at the rate of seventy-five mills ~~($0.0075)~~ *($0.075)* for each cigarette distributed on or after the first calendar quarter commencing more than 90 days after the effective date of this section.

30135.4. Every dealer or wholesaler, for the privilege of holding or storing cigarettes or tobacco products for sale, use, or consumption, shall pay a floor stock tax for each cigarette or tobacco product in his or her possession or under his or her control in this state at 12:01 a.m. on the first day of the first calendar quarter commencing more than 90 days after the effective date of this section at the rate of seventy-five mills ~~($0.0075)~~ *($0.075)* for each cigarette or the equivalent rate of tax for each cigarette or the equivalent rate of tax for each tobacco product, as determined by the State Board of Equalization.

30135.5. To offset the effects of inflation and further reduce smoking prevalence, on or before March 1 of each year, the State Board of Equalization shall calculate the percentage increase in the California Consumer Price Index of December of the prior calendar year over December of the preceding calendar year. Each fiscal year, the tax imposed by Section 30135.3 on cigarettes and tobacco products shall be reset by the State Board of Equalization to reflect the California Consumer Price Index percentage increase, if any. The reset tax shall be effective during the state's next fiscal year. For purposes of this section, the term "California Consumer Price Index" means the Consumer Price Index as determined by the Department of Industrial Relations.

30135.6. (a) The State Board of Equalization shall determine within one year of the operative date of this article, and annually thereafter, the effect that the additional tax imposed on cigarettes by this article, and the resulting increase in the tax on tobacco products required by subdivision (b) of Section 30123, have on the consumption of cigarettes and tobacco products in this state. To the extent that a decrease in consumption is determined by the State Board of Equalization to be a direct result of the additional tax imposed by this article, or the resulting increase in the tax on tobacco products required by subdivision (b) of Section 30123, the State Board of Equalization shall determine the fiscal effect the decrease in consumption has on the California Children and Families First Trust Fund created by Proposition 10 as approved by the voters at the November 4, 1998, statewide general election, the Hospital Services Account, Physician Services Account, the Unallocated Account of the Cigarette and Tobacco Products Surtax Fund created by Section 30122 (Proposition 99 as approved by the voters at the November 8, 1988, statewide general election), and the Breast Cancer Fund created by Section 30461.6.

(b) Funds shall be transferred from the Tobacco Tax and Health Protection Fund to the California Children and Families First Trust Fund, the Hospital Services Account, the Physician Services Account, the Unallocated Account of the Cigarette and Tobacco Products Surtax Fund, and the Breast Cancer Fund, as necessary to offset the revenue decrease directly resulting from imposition of additional taxes by this article.

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

30135.7. The Tobacco Tax and Health Protection Fund shall, upon appropriation by the Legislature annually, be distributed as follows:

(a) Sixty-five percent to the State Department of Public Health Tobacco Control Program for carrying out tobacco prevention and control programs. These programs include, but are not limited to, the following:

(1) Media advertisements and public relations programs to prevent and reduce the use of tobacco products, as described in paragraph (1) of subdivision (e) of Section 104375 of the Health and Safety Code.

(2) Competitive grants directed at the prevention of tobacco-related diseases, as described in Section 104385 of the Health and Safety Code.

(3) Local health department tobacco prevention and control programs to prevent tobacco use, as described in Section 104400 of the Health and Safety Code. Notwithstanding Section 104380 of the Health and Safety Code, funds shall be appropriated to local lead agencies based on each county's proportion of the statewide population.

(4) Tobacco cessation programs and services to assist adult and minor tobacco users to quit tobacco, including, but not limited to, counseling, referral and support services, pharmaceutical tobacco cessation products, and training and technical assistance activities.

(5) Oversight and evaluation of tobacco control programs as required by subdivisions (b) and (c) of Section 104375 of the Health and Safety Code.

(b) Fifteen percent to the State Department of Education to be used solely for programs to prevent or reduce the use of tobacco products as described in Section 104420 of the Health and Safety Code. Any program receiving funds pursuant to this section must participate in program evaluations conducted by the State Department of Health Care Services pursuant to Article 1 (commencing with Section 104350) of Chapter 1 of Part 3 of Division 103 of the Health and Safety Code.

(c) Ten percent to the University of California to supplement the Cigarette and Tobacco Products Surtax Medical Research

Program described in Article 2 (commencing with Section 104500) of Chapter 1 of Part 3 of Division 103 of the Health and Safety Code. The research funded by the program with these supplementary funds shall include, but not be limited to:

(1) Research to improve the effectiveness of tobacco control efforts in California, including programs and strategies for governmental and other organizations to reduce tobacco use and exposure to secondhand smoke.

(2) Research on the prevention, causes, and treatment of tobacco-related diseases, including, but not limited to, coronary heart disease, cerebrovascular disease, chronic obstructive lung disease, and cancer.

(d) Ten percent to the University of California, for the establishment and administration of a Lung Cancer Early Detection and Treatment Research Program. Funds appropriated for the Lung Cancer Early Detection and Treatment Research Program shall be used to support research efforts related to lung cancer early detection and treatment and a program for the collection, assessment, and periodic publication of data pertinent to the research.

30135.8. All moneys deposited in the Tobacco Tax and Health Protection Fund shall be appropriated and expended only for the purposes expressed in this article, and shall be used only to supplement existing levels of service and not to fund existing levels of service. No moneys in the fund shall be used to supplant state or local General Fund money for any purpose.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

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