

AMENDED IN ASSEMBLY APRIL 2, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 320

Introduced by Assembly Member Nazarian

February 12, 2013

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

LEGISLATIVE COUNSEL'S DIGEST

AB 320, as amended, Nazarian. Tobacco use programs.

Existing law establishes the Tobacco Education and Research Oversight Committee to provide advice to the State Department of Public Health and the State Department of Education with respect to policy development, integration, and evaluation of tobacco education programs. Existing law requires the State Department of Education to allocate funds to county offices of education for tobacco use prevention, intervention, and cessation activities. ~~If funds are sufficient to provide all participating county offices of education a minimum of \$37,500, existing law requires the remaining funds to be allocated according to a specified schedule based on average daily attendance in the prior year.~~ Existing law also requires that all school districts and county offices of education that receive funding, as specified, adopt and enforce a tobacco-free campus policy, no later than July of each fiscal year, prohibiting the use of tobacco products, any time, in district-owned or leased buildings, on district property and in district vehicles.

This bill would ~~require that the remaining funds described above be allocated according to a specified schedule based on enrollment, rather than average daily attendance~~ *expand eligibility for funding for the*

tobacco use prevention program to include charter schools. The bill would require the State Department of Education to require that all school districts, *charter schools*, and county offices of education *receiving funding under the program* adopt and enforce a tobacco-free campus policy prohibiting the use of products containing tobacco and nicotine, *as specified*, in and on the properties described above *and would, in addition, prohibit the use of tobacco and nicotine products in a county office of education, charter school or school district-owned or leased building, on school or district property, and in school or district vehicles* without regard to whether those entities receive funding. *The bill would also require school districts, charter schools, and county offices of education to prominently display signs at all entrances to school property stating “Tobacco use is prohibited.”* The bill would make other technical and clarifying changes.

By imposing new duties on school districts and county offices of education, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

- 1 SECTION 1. Section 104420 of the Health and Safety Code
- 2 is amended to read:
- 3 104420. The State Department of Education shall provide the
- 4 leadership for the successful implementation of this article in
- 5 programs administered by local public and private schools, school
- 6 districts, and county offices of education. The State Department
- 7 of Education shall do all of the following:
- 8 (a) Provide a planning and technical assistance program to carry
- 9 out its responsibilities under this article.
- 10 (b) Provide guidelines for schools, school districts, and school
- 11 district consortia to follow in the preparation of plans for

1 implementation of antitobacco use programs for schoolage
2 populations. The guidelines shall:

3 (1) Require the applicant agency to select one or more model
4 program designs and shall permit the applicant to modify the model
5 program designs to take special local needs and conditions into
6 account.

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

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

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

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

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

36 (f) Prepare guidelines within 180 days of the effective date of
37 this article for a school-based program of outreach, education,
38 intervention, counseling, peer counseling, and other activities to
39 reduce and prevent smoking among schoolage youth.

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

1 (3) Every school district, *charter school*, and county office of
2 education that receives a grant pursuant to this section for pupils
3 in grades 7 to 12, inclusive, shall provide ~~tobacco use~~ *tobacco use*
4 intervention and cessation activities targeted for pupils in high-risk
5 groups.

6 (4) The State Department of Education shall develop criteria
7 and standards for the allocation of grant awards that consider the
8 need to balance rural, suburban, and urban projects. In addition,
9 the State Department of Education shall give priority to applicants
10 and programs that do all of the following:

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

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

14 (C) Utilize existing antismoking resources, including local
15 antismoking efforts by local lead agencies and competitive grant
16 recipients.

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

20 (E) Design the project to use and develop existing services and
21 resources.

22 (F) Demonstrate an understanding of the role that the
23 environment and community norms play in influencing tobacco
24 use.

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

26 (I) Allocate funds to county offices of education to provide
27 technical assistance and leadership for tobacco use prevention,
28 intervention, and cessation programs. The funds shall be allocated
29 to all participating county offices of education at a minimum
30 amount of thirty-seven thousand five hundred dollars (\$37,500).
31 If funds appropriated for purposes of allocating at least thirty-seven
32 thousand five hundred dollars (\$37,500) to all participating county
33 offices of education are insufficient, the Superintendent of Public
34 Instruction shall prorate available funds among participating county
35 offices of education ensuring that all participating county offices
36 of education receive an equal minimum level of funding of
37 thirty-seven thousand five hundred dollars (\$37,500). If funds are
38 sufficient to provide all participating county offices of education
39 a minimum of thirty-seven thousand five hundred dollars (\$37,500),
40 the remaining funds shall be allocated according to the following

1 schedule based on ~~enrollment~~ *average daily attendance* in the prior
2 year credited to all elementary, high, and unified school districts,
3 and to the county superintendent of schools within the county as
4 certified by the Superintendent of Public Instruction:

5 (1) For counties with over 550,000 units of ~~enrollment~~ *average*
6 *daily attendance*, thirty cents (\$0.30) per ~~enrollment~~ *average daily*
7 *attendance*.

8 (2) For counties with more than 100,000 and less than 550,000
9 units of ~~enrollment~~ *average daily attendance*, sixty-five cents
10 (\$0.65) per ~~enrollment~~ *average daily attendance*.

11 (3) For counties with more than 50,000 and less than 100,000
12 units of ~~enrollment~~ *average daily attendance*, ninety cents (\$0.90)
13 per ~~enrollment~~ *average daily attendance*.

14 (4) For counties with more than 37,500 and less than 50,000
15 units of ~~enrollment~~ *average daily attendance*, one dollar (\$1) per
16 ~~enrollment~~ *average daily attendance*.

17 (5) For counties with less than 37,500 units of ~~enrollment~~
18 *average daily attendance*, thirty-seven thousand five hundred
19 dollars (\$37,500).

20 (m) Allocate funds appropriated by the act adding this
21 subdivision for local assistance to school districts and county
22 offices of education based on ~~enrollment~~ *average daily attendance*
23 reported in the *second principal apportionment* in the prior fiscal
24 year.

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

29 (2) Require that all school districts, *charter schools*, and county
30 offices of education *that receive funding pursuant to paragraph*
31 *(1)* adopt and enforce a tobacco-free campus ~~policy~~ *policy no*
32 *later than July of each fiscal year*. The policy shall prohibit the
33 use of products containing tobacco and nicotine, including, but
34 not limited to, smokeless tobacco, snuff, chew, clove cigarettes,
35 and nicotine delivery devices, such as electronic cigarettes, any
36 time, in *charter school or school* district-owned or leased buildings,
37 on *school or* district property, and in *school or* district vehicles.
38 However, this section does not prohibit the use or possession of
39 prescription products, *nicotine patches, or nicotine gum*.
40 Information about the policy and enforcement procedures shall be

1 communicated clearly to school personnel, parents, pupils, and
2 the larger community. Signs stating “Tobacco use is prohibited”
3 shall be prominently displayed at all entrances to school property
4 *as provided in Section 104559*. Information about smoking
5 cessation support programs shall be made available and encouraged
6 for pupils and staff. Any school district, *charter school*, or county
7 office of education that does not have a tobacco-free district policy
8 implemented by July 1, shall not be eligible to apply for funds
9 from the Cigarette and Tobacco Products Surtax Fund for that
10 fiscal year.

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

13 104466. Notwithstanding subdivision (a) of Section 2.00 of
14 the Budget Act of 2002 and any other provision of law,
15 commencing with the appropriation for the 2002–03 fiscal year,
16 and for each fiscal year thereafter, any amount appropriated to the
17 department or the State Department of Education to implement
18 the following tobacco use prevention programs shall be available
19 for encumbrance and expenditure for three fiscal years beyond the
20 date of the appropriation:

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

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

25 (c) The competitive grant program provided for in Section
26 104385.

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

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

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

34

35 *Article 4. Tobacco Use Prohibition*

36

37 104559. (a) *The use of tobacco and nicotine products is*
38 *prohibited at any time in a county office of education, charter*
39 *school or school district-owned or leased buildings, on school or*
40 *district property, and in school or district vehicles. This includes,*

1 *but is not limited to, smokeless tobacco, snuff, chew, clove*
2 *cigarettes, and other nicotine-delivery devices, such as electronic*
3 *cigarettes.*

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

7 ~~SEC. 3.~~

8 *SEC. 4.* If the Commission on State Mandates determines that
9 this act contains costs mandated by the state, reimbursement to
10 local agencies and school districts for those costs shall be made
11 pursuant to Part 7 (commencing with Section 17500) of Division
12 4 of Title 2 of the Government Code.