

AMENDED IN ASSEMBLY JULY 15, 2021

AMENDED IN SENATE MAY 3, 2021

AMENDED IN SENATE APRIL 12, 2021

AMENDED IN SENATE MARCH 25, 2021

SENATE BILL

No. 395

Introduced by Senator Caballero

(Principal coauthor: Assembly Member Arambula)

(Coauthors: Senators Limón and Rubio)

(Coauthors: Assembly Members Bauer-Kahan, Quirk-Silva,
Robert Rivas, and Stone)

February 11, 2021

An act to add Article 7 (commencing with Section 128586) to Chapter 5 of Part 3 of Division 107-~~of~~ *and to add Chapter 1.5 (commencing with Section 130075) to Part 7 of Division 107 of*, the Health and Safety Code, and to add Part 13.6 (commencing with Section 31000) to Division 2 of, the Revenue and Taxation Code, relating to the Healthy Outcomes and Prevention Education Act, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 395, as amended, Caballero. ~~Healthy Outcomes and Prevention Education Act: excise~~ *Excise tax: electronic cigarettes: Health Careers Opportunity Grant Program. Program: Small and Rural Hospital Relief Program.*

(1) Existing law establishes a nonprofit public benefit corporation, known as the Health Professions Education Foundation, for the purpose of administering various programs related to health education, including the California Registered Nurse Education Program.

This bill would establish the Health Careers Opportunity Grant Program under the administration of the foundation for the purpose of improving access by underrepresented students from disadvantaged backgrounds to health profession programs offered by the state's public postsecondary education institutions. The bill would require the foundation to provide grants to specified types of public postsecondary education institutions, including schools of medicine, to be used only for specified purposes, including identifying, recruiting, and selecting underrepresented students from disadvantaged backgrounds to access education and training programs in a health profession. The bill would also create the Health Careers Opportunity Grant Program Fund and would continuously appropriate the moneys in the fund for the purpose of administering the program.

(2) Existing law requires, in accordance with the compliance schedule approved by the Office of Statewide Health Planning and Development, but in any case no later than January 1, 2030, owners of all acute care inpatient hospitals to either demolish, replace, or change to nonacute care use all hospital buildings not in substantial compliance with certain regulations and standards developed by the office related to seismic safety or to seismically retrofit all acute care inpatient hospital buildings so that they are in substantial compliance with those regulations and standards.

This bill would establish the Small and Rural Hospital Relief Program under the administration of the Office of Statewide Health Planning and Development for the purpose of funding seismic safety compliance with respect to small hospitals, rural hospitals, and critical access hospitals in the state. The bill would require the office to provide grants to small, rural, and critical access hospital applicants that meet certain criteria, including that seismic safety compliance, as defined, imposes a financial burden on the applicant that may result in hospital closure. The bill would also create the Small and Rural Hospital Relief Fund and would continuously appropriate the moneys in the fund for the purposes of administering the program.

(2)

(3) The Cigarette and Tobacco Products Tax Law imposes a tax on distributors of cigarettes at the rate of \$2.87 per package of 20 cigarettes and a tax on distributors of tobacco products, based on wholesale cost, at a rate determined annually that is equivalent to the combined rate of all taxes imposed on cigarettes plus an additional rate equivalent to \$0.50 per package of 20 cigarettes. These taxes are inclusive of the

taxes imposed under the Tobacco Tax and Health Protection Act of 1988, the California Families and Children Act of 1998, and the California Healthcare, Research and Prevention Tobacco Tax Act of 2016.

The California Healthcare, Research and Prevention Tobacco Tax Act of 2016 (Proposition 56), an initiative measure approved at the November 8, 2016, statewide general election, revised the definition of tobacco products to include electronic cigarettes, thereby extending the taxes on distributors of tobacco products to distributors of electronic cigarettes, which is based on the wholesale cost of these products. Proposition 56 requires the California Department of Tax and Fee Administration to adopt regulations providing for the implementation of the equivalent tax on electronic cigarettes and the methods for collection of the tax.

This bill would, beginning July 1, 2022, require a purchaser of electronic cigarettes, as defined, at retail to pay a tax of 12.5% of the gross receipts from the sale of electronic cigarettes in this state. The bill would require a retailer to collect the tax from the consumer at the time of the retail sale of an electronic cigarette. The bill would require all revenues, interest, and penalties, less refunds, collected from the tax described above to be deposited into the California Electronic Cigarette Excise Tax Fund, a continuously appropriated fund created by the bill, and would require all amounts in the fund to be distributed to the *Health Education Account in the Cigarette and Tobacco Products Surtax Fund*, the California Children and Families Trust Fund, to fund the Proposition 56 Medi-Cal Physicians and Dentists Loan Repayment Act, *the University of California, to support the joint program in medical education between the University of California, Merced and the University of California, San Francisco at Fresno, the Small and Rural Hospital Relief Fund created by this bill*, and to the Health Careers Opportunity Grant Program Fund created by this bill, as specified. By creating a continuously appropriated fund ~~and funds~~ and allocating additional moneys to continuously appropriated funds, this bill would make an appropriation.

The bill would provide for the administration and collection of this tax pursuant to procedures set forth in the Fee Collection Procedures Law. By expanding the application of the Fee Collection Procedures Law, the violation of which is a crime, this 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 no reimbursement is required by this act for a specified reason.

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:

1 SECTION 1. Article 7 (commencing with Section 128586) is
2 added to Chapter 5 of Part 3 of Division 107 of the Health and
3 Safety Code, to read:

4
5 Article 7. Health Careers Opportunity Grant Program
6

7 128586. The Health Careers Opportunity Grant Program is
8 hereby established under the administration of the Health
9 Professions Education Foundation for the purpose of improving
10 access by underrepresented students from disadvantaged
11 backgrounds to health profession programs offered by the state’s
12 public postsecondary education institutions.

13 128587. As used in this article:

14 (a) “Foundation” means the Health Professions Education
15 Foundation.

16 (b) “Grant program” means the Health Careers Opportunity
17 Grant Program.

18 (c) “Public postsecondary education institution” means
19 California Community Colleges, the California State University,
20 and the University of California.

21 128588. (a) The Health Careers Opportunity Grant Program
22 Fund is hereby created in the Treasury.

23 (b) Notwithstanding Section 13340 of the Government Code,
24 all moneys in the Health Careers Opportunity Grant Program Fund
25 are continuously appropriated, without regard to fiscal years, for
26 the administration of the grant program pursuant to this article.

27 128589. (a) The foundation shall provide grants to all of the
28 following types of public postsecondary education institutions:

- 29 (1) Schools of medicine.
- 30 (2) Schools of osteopathic medicine.

- 1 (3) Schools of public health.
- 2 (4) Schools of dentistry.
- 3 (5) Schools of optometry.
- 4 (6) Schools of pharmacy.
- 5 (7) Schools of allied health, as defined in Section 295p of Title
- 6 42 of the United States Code.
- 7 (8) Graduate programs in behavioral and mental health.
- 8 (9) Programs for the training of physician assistance.
- 9 (10) Nursing programs.
- 10 (b) A grant provided by the foundation *pursuant to this section*
- 11 *may be used only for any of the following purposes:*
- 12 (1) Identifying, recruiting, and selecting underrepresented
- 13 students from disadvantaged backgrounds to access education and
- 14 training programs in a health profession.
- 15 (2) Facilitating underrepresented students from disadvantaged
- 16 backgrounds in accessing a public postsecondary institutions
- 17 education or training program.
- 18 (3) Providing counseling, mentoring, or other services designed
- 19 to assist underrepresented students from disadvantaged
- 20 backgrounds in successfully completing their educational program
- 21 or training at the applicable public postsecondary institution.
- 22 (4) Providing support services to underrepresented students
- 23 from disadvantaged backgrounds to assist them in accessing an
- 24 educational program or training at a public postsecondary
- 25 institution.
- 26 (5) Providing outreach to underrepresented students from
- 27 disadvantaged backgrounds regarding how to access available
- 28 programs and training at a public postsecondary institution.
- 29 (6) Providing financial aid to underrepresented students from
- 30 disadvantaged backgrounds to enroll in an eligible education or
- 31 training program.
- 32 (7) Developing and implementing programs that enable
- 33 underrepresented students from disadvantaged backgrounds to
- 34 gain experience regarding a career in a field of primary health care
- 35 through working at facilities of public or private nonprofit
- 36 community-based providers of primary health services.
- 37 (8) Developing partnerships with institutions, school districts,
- 38 and other community-based entities to provide information to
- 39 underrepresented students from disadvantaged backgrounds who
- 40 may be interested in pursuing a career in a health occupation.

1 128590. (a) In providing grants to eligible entities pursuant to
2 this article, the foundation shall prioritize applicants that reflect a
3 comprehensive approach to establishing, enhancing, and expanding
4 health educational programs that propose to increase the number
5 of underrepresented students from disadvantaged backgrounds
6 pursuing a health professions career.

7 (b) The foundation shall give priority consideration, pursuant
8 to subdivision (a), to an applicant only if the applicant does all of
9 the following:

10 (1) Demonstrates a commitment to expanding the number of
11 underrepresented students from disadvantaged backgrounds
12 enrolling in public postsecondary education and training programs
13 leading to a career in a health occupation.

14 (2) Reflects an effort to coordinate educational opportunities
15 and support services available to underrepresented students from
16 disadvantaged backgrounds within a specific geographic area.

17 (3) Reflects the development and implementation of outreach
18 activities focused on expanding the number of underrepresented
19 students from disadvantaged backgrounds pursuing a health
20 professions career.

21 (4) Focuses on the development of educational opportunities
22 that further enable a culturally competent health care workforce
23 to be available to serve the state's unserved and underserved
24 populations within a geographic area.

25 128591. (a) The foundation shall work with other existing
26 programs under its administration to implement this section and
27 provide opportunities for underrepresented students from
28 disadvantaged backgrounds to access the grant program and other
29 foundation programs.

30 (b) The foundation may enter into contracts to meet the
31 requirements of this article with nonprofit entities headquartered
32 in California that have previous experience with administering
33 statewide workforce programs aimed at building a diverse provider
34 workforce.

35 *SEC. 2. Chapter 1.5 (commencing with Section 130075) is*
36 *added to Part 7 of Division 107 of the Health and Safety Code, to*
37 *read:*

1
2 *CHAPTER 1.5. SMALL AND RURAL HOSPITAL RELIEF PROGRAM*

3
4 *130075. The Small and Rural Hospital Relief Program is*
5 *hereby established under the administration of the Office of*
6 *Statewide Health Planning and Development for the purpose of*
7 *funding seismic safety compliance with respect to small hospitals,*
8 *rural hospitals, and critical access hospitals in the state.*

9 *130076. For purposes of this chapter:*

10 (a) *“Fund” means the Small and Rural Hospital Relief Fund*
11 *established in Section 130077.*

12 (b) *“Grant program” means the Small and Rural Hospital Relief*
13 *Program.*

14 (c) *“Office” means the Office of Statewide Health Planning*
15 *and Development.*

16 (d) *“Seismic safety compliance” means compliance with Article*
17 *9 (commencing with Section 130050) of Chapter 1.*

18 (e) *“Qualified applicant” means any of the following hospitals:*

19 (1) *A small hospital.*

20 (2) *A rural hospital.*

21 (3) *A critical access hospital.*

22 *130077. (a) The Small and Rural Hospital Relief Fund is*
23 *hereby established in the Treasury.*

24 (b) *Notwithstanding Section 13340 of the Government Code,*
25 *all moneys in the fund are continuously appropriated, without*
26 *regard to fiscal years, for the administration of the grant program*
27 *pursuant to this chapter.*

28 *130078. (a) The office shall provide grants to a qualified*
29 *applicant that meets both of the following criteria:*

30 (1) *Seismic safety compliance imposes a financial burden on*
31 *the applicant that may result in hospital closure.*

32 (2) *The hospital closure described in paragraph (1) would*
33 *substantially impact the accessibility to health care in the*
34 *communities surrounding the hospital.*

35 (b) *A grant provided by the office pursuant to this section may*
36 *be used only for funding seismic safety compliance.*

37 *130079. The office may adopt regulations necessary to*
38 *implement this chapter.*

1 ~~SEC. 2.~~

2 SEC. 3. Part 13.6 (commencing with Section 31000) is added
3 to Division 2 of the Revenue and Taxation Code, to read:

4

5 PART 13.6 HEALTHY OUTCOMES AND PREVENTION
6 EDUCATION (HOPE) ACT

7

8 31000. This article shall be known, and may be cited, as the
9 “Healthy Outcomes and Prevention Education (HOPE) Act.”

10 31001. For purposes of this article:

11 (a) “California Electronic Cigarette Excise Tax” means the tax
12 imposed by Section 31002.

13 (b) “Department” means the California Department of Tax and
14 Fee Administration.

15 (c) (1) “Electronic cigarette” means any of the following:

16 (A) A device or delivery system sold in combination with any
17 liquid substance containing nicotine that can be used to deliver to
18 a person nicotine in aerosolized or vaporized form, including, but
19 not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah.

20 (B) A component, part, or accessory of a device described in
21 subparagraph (A) that is used during the operation of the device
22 if sold in combination with a liquid substance containing nicotine.

23 (C) A liquid or substance containing nicotine, whether sold
24 separately or sold in combination with any device, that could be
25 used to deliver to a person nicotine in aerosolized or vaporized
26 form.

27 (2) “Electronic cigarette” does not include a product that has
28 been approved by the United States Food and Drug Administration
29 for sale as a tobacco cessation product or for other therapeutic
30 purposes if that product is marketed and sold solely for that
31 approved use.

32 (d) “Gross receipts” has the same meaning as that term is defined
33 in Section 6012.

34 (e) “In this state” means within the exterior limits of California
35 and includes all territory within these limits owned by or ceded to
36 the United States of America.

37 (f) “Purchaser” means a person who purchases electronic
38 cigarettes in a retail sale.

39 (g) (1) “Retailer” has the same meaning as defined in Section
40 6015.

1 (2) “Retailer” includes a person that operates vending machines
2 from which electronic cigarettes are sold in this state or a person
3 conducting a sale regulated by Section 22963 of the Business and
4 Professions Code.

5 (h) “Retail sale” has the same meaning as defined in Section
6 6007.

7 31002. (a) (1) Beginning July 1, 2022, a purchaser shall pay
8 a tax at the rate of 12.5 percent of the gross receipts from the retail
9 sale of electronic cigarettes in this state.

10 (2) A retailer shall collect the tax imposed by this part from the
11 consumer at the time of the retail sale of an electronic cigarette.

12 (b) A retailer shall include the amount of the tax in any price
13 marketing on any sign or display inside or outside a licensed brick
14 and mortar establishment.

15 (c) (1) *The* department shall collect the tax imposed by this part
16 pursuant to the Fee Collection Procedures Law (Part 30
17 (commencing with Section 55001)).

18 (2) For purposes of this article, the references in the Fee
19 Collection Procedures Law to “fee” shall include the tax imposed
20 by this part, and references to “feepayer” shall include any person
21 liable for the payment of the tax imposed by this article.

22 (d) (1) Except as provided in paragraph (3), the tax imposed
23 by this part shall be due and payable quarterly on or before the last
24 day of the month following each calendar quarter.

25 (2) (A) The payments shall be accompanied by a return filed
26 by the retailer using electronic media on or before the last day of
27 the month following each quarterly period for the preceding
28 quarterly period.

29 (B) Returns shall be authenticated in a form or pursuant to
30 methods as may be prescribed by the department.

31 (3) The department may require the payment of the tax and the
32 filing of returns for other than quarterly periods.

33 (e) A retailer subject to the provisions of this part shall register
34 with the department using electronic media and shall set forth the
35 name under which it transacts or intends to transact business and
36 any other information as the department may require.

37 (f) (1) The department may prescribe, adopt, and enforce
38 regulations relating to the administration and enforcement of this
39 part, including, but not limited to, collections, reporting, refunds,
40 and appeals.

1 (2) (A) The department may prescribe, adopt, and enforce
2 emergency regulations as necessary to implement this part.

3 (B) An emergency regulation prescribed, adopted, or enforced
4 pursuant to this paragraph shall be adopted in accordance with
5 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
6 3 of Title 2 of the Government Code, and, for purposes of that
7 chapter, including Section 11349.6 of the Government Code, the
8 adoption of the regulation is an emergency and shall be considered
9 by the Office of Administrative Law as necessary for the immediate
10 preservation of the public peace, health and safety, and general
11 welfare.

12 31003. For each retail sale of an electronic cigarette, a retailer
13 shall provide a purchaser with a receipt or other document that
14 sets out and separately identifies the “California Electronic
15 Cigarette Excise Tax” and the amount paid by the purchaser.

16 31004. (a) (1) The department may, upon a hearing, revoke
17 or suspend one or more of the permits held by a person after giving
18 the person 10 days’ notice in writing specifying the time and place
19 of the hearing and requiring the person to show cause why the
20 person’s permit or permits should not be revoked if any of the
21 following is true:

22 (A) A person fails to comply with a provision of this part or any
23 rule or regulation of the department prescribed and adopted under
24 this part.

25 (B) A person’s seller’s permit has been suspended or revoked
26 under Part 1 (commencing with Section 6001).

27 (C) A person’s license has been suspended or revoked under
28 Division 8.6 (commencing with Section 22970) of the Business
29 and Professions Code.

30 (2) The department shall give to the person written notice of
31 the suspension or revocation of any of the person’s permits.

32 (b) The notice required by subdivision (a) shall be served
33 personally or by mail in the manner prescribed for service of notice
34 of a deficiency determination under Section 55061.

35 (c) The department shall not issue a new permit after the
36 revocation of a permit unless it is satisfied that the former holder
37 of the permit will comply with the provisions of this part and the
38 regulations of the department.

1 (d) A person whose permit has been previously suspended or
2 revoked shall pay the department a fee of one hundred dollars
3 (\$100) for the issuance of a permit.

4 31005. (a) All revenues, interest, and penalties derived from
5 the California Electronic Cigarette Excise Tax shall be deposited
6 into the California Electronic Cigarette Excise Tax Fund, which
7 is hereby created in the State Treasury, less payments for refunds
8 and reimbursement to the department for expenses incurred in the
9 administration and collection of the tax.

10 (b) Notwithstanding Section 13340 of the Government Code,
11 all amounts in the California Electronic Cigarette Excise Tax Fund
12 are continuously appropriated without regard to fiscal year as
13 follows:

14 (1) ~~Twenty-three~~ *Fifteen* percent of the moneys ~~into the~~
15 ~~Cigarette and Tobacco Products Surtax Fund created by Section~~
16 ~~30122. to the Health Education Account, established in paragraph~~
17 ~~(1) of subdivision (b) of Section 30122, for tobacco control~~
18 ~~programs described in Article 1 (commencing with Section 104350)~~
19 ~~of Chapter 1 of Part 3 of Division 103 of the Health and Safety~~
20 ~~Code.~~

21 (2) ~~Thirteen~~ *Twelve* percent of the moneys into the California
22 Children and Families Trust Fund created by Section 30131.

23 (3) ~~Fifty-two~~ (A) *Forty-eight* percent of the moneys to fund the
24 Proposition 56 Medi-Cal Physicians and Dentists Loan Repayment
25 Act (Section 14114 of the Welfare and Institutions Code).

26 (B) *Of the moneys described by subparagraph (A), 70 percent*
27 *shall be allocated to the physician payment pool and 30 percent*
28 *to the dentist payment pool.*

29 (4) ~~Twelve~~ *Ten* percent of the moneys into the Health Careers
30 Opportunity Grant Program Fund created pursuant to Section
31 128588 of the Health and Safety Code.

32 (5) *Five percent of the moneys to the University of California*
33 *to support the joint program in medical education between the*
34 *University of California, Merced and the University of California,*
35 *San Francisco at Fresno, including to establish new residency and*
36 *clinical rotation positions for program participants and graduates*
37 *in the San Joaquin Valley.*

38 (6) *Ten percent of the moneys to the Small and Rural Hospital*
39 *Relief Fund established in Section 130077 of the Health and Safety*
40 *Code.*

1 (c) (1) The department shall transmit the funds, pursuant to
2 subdivision (b), periodically as promptly as feasible but shall
3 transmit funds at least once in each calendar quarter.

4 (2) The department shall furnish a quarterly statement indicating
5 the amounts paid and withheld for expenses of the department.

6 *31008. (a) On or before July 1, 2024, the department shall*
7 *provide a report to the Assembly Committee on Revenue and*
8 *Taxation, the Assembly Committee on Health, the Senate*
9 *Committee on Health, and the Senate Governance and Finance*
10 *Committee regarding the effect of collecting the California*
11 *Electronic Cigarette Excise Tax on the purchase of electronic*
12 *cigarettes at retail in the state.*

13 *(b) The report required by this section shall include an estimate*
14 *of retail electronic cigarette purchases to compare to the total*
15 *purchase price reported under this part for calendar years 2022*
16 *and 2023. The estimated retail electronic cigarette purchases shall*
17 *be calculated using any information available to the department,*
18 *including, but not limited to, the reported wholesale cost of*
19 *electronic cigarettes as reported under Part 13 (commencing with*
20 *Section 30001) of Division 2.*

21 ~~SEC. 3.~~

22 *SEC. 4.* No reimbursement is required by this act pursuant to
23 Section 6 of Article XIII B of the California Constitution because
24 the only costs that may be incurred by a local agency or school
25 district will be incurred because this act creates a new crime or
26 infraction, eliminates a crime or infraction, or changes the penalty
27 for a crime or infraction, within the meaning of Section 17556 of
28 the Government Code, or changes the definition of a crime within
29 the meaning of Section 6 of Article XIII B of the California
30 Constitution.