

Date of Hearing: April 11, 2018

ASSEMBLY COMMITTEE ON EDUCATION
Patrick O'Donnell, Chair
AB 1744 (McCarty) – As Introduced January 3, 2018

[Note: This bill is doubled referred to the Assembly Health Committee and will be heard by that Committee as it relates to issues under its jurisdiction.]

SUBJECT: After school programs: substance use prevention: funding: cannabis revenue

SUMMARY: Authorizes the California Department of Health Care Services (DHCS) to consider after school programs in allocating funds generated from an excise tax on the retail sale of cannabis for youth education, prevention and treatment efforts, and encourages schools offering specified afterschool programs to apply for these funds. Specifically, **this bill:**

1) States findings and declarations as follows:

- a) The After School Education and Safety Program (ASES), the 21st Century Community Learning Centers Program (21st CCLC), and the 21st Century High School After School Safety and Enrichment for Teens Program (ASSETS) provide after school programs to low-income public school pupils in order to maximize their retention in school, reduce dropout rates, improve academic performance, reduce substance use and abuse, and expand educational enrichment opportunities.
- b) Personal, family, and cultural dynamics often interfere with a pupil's ability to achieve academically. These dynamics can include exposure to substance abuse in the home and the community.
- c) Absent appropriate intervention, a pupil who experiences substance abuse challenges in the home or the community is at increased risk of his or her own substance abuse.
- d) Youth who are unsupervised after school and during the summer are at greater risk of substance abuse.
- e) After school programs have been shown to reduce substance abuse, including through the development of protective or resiliency factors such as school connectedness, self-control, self-confidence, and quality peer relationships.
- f) Because the ASES, 21st CCLC, and ASSETS programs augment the regular schoolday and keep youth supervised during a time when they are at risk of substance abuse, these programs are uniquely positioned to provide alternatives to substance abuse and provide education and assistance to pupils about substance abuse, how it can affect their academic performance, and how to avoid substance abuse.
- g) In approving Proposition 64 at the November 8, 2016, statewide general election, the voters of California identified substance abuse pupil assistance programs in schools as a high priority for the allocation of tax revenue from the sale and cultivation of cannabis and cannabis products.

- h) The ASES, 21st CCLC, and ASSETS programs represent ideal conduits for Proposition 64 tax revenues to realize the goals of preventing and reducing substance abuse among pupils and improving school retention and performance.
- 2) Specifies that “pupil assistance to prevent and reduce substance use and improve school retention and performance” is a permissible enrichment element for the ASSETS program.
 - 3) Encourages schools offering ASSETS programs to apply to receive funding from the *Youth Education, Prevention, Early Intervention and Treatment Account* established through the passage of Proposition 64 in 2016.
 - 4) Specifies that “pupil assistance to prevent and reduce substance use and improve school retention and performance” is a permissible enrichment element for the ASES program.
 - 5) Encourages schools offering ASES programs to apply to receive funding from the *Youth Education, Prevention, Early Intervention and Treatment Account* established through the passage of Proposition 64 in 2016.
 - 6) Encourages schools offering 21st CCLC to apply to receive funding from the *Youth Education, Prevention, Early Intervention and Treatment Account* established through the passage of Proposition 64 in 2016.
 - 7) Authorizes DHCS in considering which programs to be funded through the *Youth Education, Prevention, Early Intervention and Treatment Account*, to consider selecting ASSETS, ASES, and 21st Century after school programs.

EXISTING LAW:

- 1) Establishes the ASES program through the 2002 voter approved initiative, Proposition 49. The ASES program funds the establishment of local before and after school education and enrichment programs, which are created through partnerships between schools and local community resources to provide literacy, academic enrichment and safe constructive alternatives for students in kindergarten through ninth grade (EC 8482).
- 2) Establishes the 21st CCLC contained within the federal No Child Left Behind Act of 2001 to complement the ASES program. Specifies that the requirements of the ASES program apply to the 21st CCLC program with specified exceptions (EC 8484.7).
- 3) Establishes the 21st Century ASSETs Program to create incentives for establishing locally driven after school enrichment programs between schools and local community organizations serving pupils from grades nine through twelve (EC Section 8421).
- 4) Establishes effective January 1, 2018, a cannabis excise tax to be imposed upon purchasers of cannabis or cannabis products sold in this state at the rate of 15 percent of the average market price of any retail sale by a cannabis retailer (Revenue & Tax Code (RTC) 34011).

- 5) Establishes the California Cannabis Tax Fund in the State Treasury consisting of all taxes, interest, penalties, and other amounts collected and paid to the board to carry out the purposes of the *Control, Regulate and Tax Adult Use of Marijuana Act* and all revenues deposited into the Tax Fund, together with interest or dividends earned by the fund, are to be expended only in accordance with the provisions of the Act (RTC 34018).
- 6) Specifies that the Controller is to disburse funds in the California Cannabis Tax Fund as follows (RTC 34019):
 - a) Reasonable costs incurred by various state agencies for carrying out specified duties associated with the Act.
 - b) Ten million dollars (\$10,000,000) to a public university or universities annually beginning in 2018-19 to 2028-29 to research the effect of the Control, Regulate and Tax Adult Use of Marijuana Act.
 - c) Three million dollars (\$3,000,000) annually from 2018-19 through 2022-23 to the California Highway Patrol to adopt protocols to determine whether a driver is operating a vehicle while impaired by the use of cannabis or cannabis products.
 - d) Ten million dollars (\$10,000,000) annually in 2018-19, increasing to fifty million dollars (\$50,000,000) in 2022-23 and beyond to the Governor's Office of Business and Economic Development to administer a community reinvestments grants program.
 - e) Two million dollars (\$2,000,000) annually to the University of California San Diego Center for Medicinal Cannabis Research.
 - f) By July 15 of each year, beginning in 2018-19 the Controller will, after disbursing funds for the purposes identified in (a) through (e) above, disburse 60 percent of the remaining funds into the *Youth Education, Prevention, Early Intervention and Treatment Account* to DHCS for programs for youth designed to educate about and to prevent substance abuse disorders and to prevent harm from substance use. Requires the DHCS to enter into interagency agreements with the State Department of Public Health (CDPH) and the California Department of Education (CDE) to implement and administer these programs. Specifies that these programs may include, but are not limited to, the following:
 - i. Prevention and early intervention services to recognize and reduce risks associated with substance use and the early signs of problematic use and of substance abuse disorders.
 - ii. Grants to schools for student assistance programs designed to prevent and reduce substance abuse, and improve school retention and performance, by supporting students who are at risk of dropping out of school and promoting alternatives to suspension or expulsion.
 - iii. Grants to programs for outreach, education, and treatment for homeless youth and out-of-school youth with substance use disorders.

- iv. Access and linkage to care provided by county behavioral health programs for youth who have, or are at risk of developing, a substance use disorder.
 - v. Youth-focused substance use disorder treatment programs, which utilize a two-generation approach with the capacity to treat youth and adults together.
 - vi. Programs to assist individuals, as well as families and friends, to reduce the stigma associated with substance use including seeking substance use disorder services.
- g) Specifies that the funds identified in (f) above may also be utilized for workforce training and wage structures to increase the hiring pool of behavioral health staff with substance use disorder prevention and treatment expertise, and for construction of community-based youth treatment facilities.
- h) Specifies that the DHCS may contract with each county behavioral health program for the provision of services and that the funds identified in (f) above will be allocated to counties based on demonstrated need, including the number of youth in the county, and the prevalence of substance use disorders among adults.

FISCAL EFFECT: Unknown

COMMENTS: *Need for the bill.* According to the author,

“In November of 2016, the voters passed Proposition 64—the *Control, Regulate and Tax Adult Use of Marijuana Act of 2016*—which legalizes, regulates, and taxes the adult use of cannabis. The initiative is expected to generate up to \$1 billion annually in tax revenue, with 60% of revenues dedicated to youth education, prevention, and treatment. The Yes on Proposition 64 ballot argument stated that Proposition, “64 pays for itself and raises billions for afterschool programs that help kids stay in school.”

The Proposition 64 campaign clearly articulated its intent for after-school programs to be a prime beneficiary of these new revenues and it is critical that laws and regulations honor this intent. Even though voters were sold and promised that after school programs would receive Proposition 64 funds, there are no current assurances, which is why AB 1744 is needed.

Stagnant funding for after school programs threaten quality and access to successful programs that help prevent youth substance abuse and that voters were promised would be funded to ensure student access but the demand for these programs far exceeds funding and these programs are inadequately funded to ensure quality programs which are necessary to prevent substance abuse. Keeping kids supervised and providing youth with positive opportunities and mentoring relationships do and will reduce drug use and ensure better academic success in the classroom.”

Background. The CDE currently administers three expanded learning programs:

- 1) ***The After School Education and Safety (ASES) Program*** is the result of the 2002 voter-approved initiative, Proposition 49. The ASES Program funds the establishment of local after school education and enrichment programs. These programs are created through partnerships between schools and local community resources to provide literacy, academic enrichment and safe constructive alternatives for students in kindergarten through ninth grade. Funding is designed to: (1) maintain existing before and after school program funding; and (2) provide eligibility to all elementary and middle schools that submit quality applications throughout California. The current funding level for the ASES program is \$550 million or \$8.16 per student per day.

The ASES program involves collaboration among parents, youth, representatives from schools and governmental agencies, such as local law enforcement and local parks and recreation departments, and individuals from community-based organizations and the private sector. Programs are created through partnerships between schools and local community resources to provide literacy, academic enrichment, and safe, constructive alternatives for students in grades K-9.

After school programs must consist of the two elements below and ASES program leaders work closely with school site principals and staff to integrate both elements with the school's curriculum, instruction, and learning support activities.

- An educational and literacy element must provide tutoring and/or homework assistance designed to help students meet state standards in one or more of the following core academic subjects: reading/language arts, mathematics, history and social studies, or science. A broad range of activities may be implemented based on local student needs and interests.
 - The educational enrichment element must offer an array of additional services, programs, and activities that reinforce and complement the school's academic program. Educational enrichment may include but is not limited to, positive youth development strategies, recreation and prevention activities. Such activities might involve the visual and performing arts, music, physical activity, health/nutrition promotion, and general recreation; career awareness and work preparation activities; community service-learning; and other youth development activities based on student needs and interests. Enrichment activities may be designed to enhance the core curriculum.
- 2) ***21st Century Community Learning Centers (21st CCLC)*** This state-administered, federally funded program provides five-year grant funding to establish or expand before-and after-school programs that provide disadvantaged kindergarten through twelfth-grade students with academic enrichment opportunities and supportive services to help the students meet state and local standards in core content areas.

The purpose of the 21st CCLC Program, as described in federal statute, is to provide opportunities for communities to establish or expand activities that focus on improved academic achievement; enrichment services that reinforce and complement the academic program; and family literacy and related educational development services.

- 3) ***21st Century High School After School Safety and Enrichment for Teens Program (ASSETs)***. The Every Student Succeeds Act (ESSA) was signed into law on December 10, 2015, taking effect in school year 2016–17 and providing funding for the ASSETs program. The ASSETs grant provides incentives for establishing before and after school enrichment programs that partner with schools and communities to provide academic support; safe, constructive alternatives for high school students; and assistance in meeting graduation requirements. Programs may operate after school, before school, weekends, summer, intersession, and vacation. Each program must consist of three elements: academic assistance, educational enrichment, and family literacy services. Any public or private organization is eligible to apply for an ASSETs grant including the following entities: LEAs; community-based organizations; Indian Tribes or Tribal Organizations; or consortia.

This state-administered, federally funded program provides five-year grant funding to establish or expand before school, after-school and summer programs that provide disadvantaged students academic enrichment opportunities and supportive services to help the students meet state and local standards in core content areas. The programs are created through partnerships between schools and local community resources, and must meet program compliance requirements. Under ESSA, priority will be given to applicants who intend to:

- Serve students who attend school-wide Title I schools implementing comprehensive support and improvement activities.
- Enroll students who may be at risk for academic failure, drop out, criminal or delinquent activities, or who may need positive role models, as well as their families.
- Submit a joint application from an LEA and a community-based organization or another public or private entity.
- Add or expand accessibility to high quality after school programs.

Unmet need for expanded learning opportunities in California. According to a 2016-17 report, “*State of the State of Expanded Learning in California*” by the California After School Network, California has the largest expanded learning infrastructure in the nation. These programs support after school, summer, inter-session and before school programs at over 4,500 sites serving nearly 860,000 children annually with a daily capacity of 485,000. These programs offer a range of supports and resources for underserved communities, which include year-round learning opportunities, STEM learning, nutrition education, increased physical activity, and social and emotional learning.

Over 2,900 low income schools, including over 1,000 elementary and middle schools, do not currently benefit from a state ASES or federally funded 21st CCLC after school program. In addition, more than a quarter of the state’s English Learners attend schools that do not benefit from an ASES or 21st CCLC after school program.

This report by the After School Network notes that California’s expanded learning system is at risk as a result of stagnant funding and increased operating costs due to rising costs of living and the increased state minimum wage. The federal CCLC program is limited to \$7.50 per student per day, while the ASES grant was increased to \$8.19 per student per day in 2017.

In 2016-17 approximately \$541 million in state ASES grants were allocated to 4,200 elementary and middle school sites and approximately \$130 million in federal 21st Century CCLC grants, including ASSETS grants, were provided to 745 school sites, including 288 high schools. Some programs receive both state and federal funding. Many more applicants requested funding than could be filled with the available funds.

Expanded learning programs serve high need students. Expanded learning programs in California are concentrated in high need schools as 81% of the students enrolled are eligible for free or reduced price meals, 31% are English learners, 2% are migrant students, 11% are special education students, 5% are homeless students, and 3% are students in foster care.

Research supports positive outcomes for high quality expanded learning programs, including reductions in drug use. Research suggests that regular attendance in expanded learning programs increases student achievement, attendance, and positive behaviors as well as closing of achievement gaps. A review of 68 studies on after school participation across the country found that high quality programs are associated with significant increases in academic performance, school attendance, as well as positive social behaviors and significant reductions in conduct problems and drug use. A 2012 study by The National Youth Violence Prevention Resource Center found that children who do not spend any time in after-school activities are 49 percent more likely to have used drugs.

Proposition 64, the marijuana legalization initiative statute establishes funding for youth education, prevention, early intervention and treatment. Proposition 64, as passed by voters in November of 2016, legalizes marijuana and imposes a 15% excise tax on the retail sale of cannabis and cannabis products. The initiative identifies specified uses of the funds generated, including programs for youth education, prevention, early intervention and treatment of substance use disorders. The Legislative Analyst's Office estimated that this measure could generate additional state and local tax revenues in the range of high hundreds of millions of dollars to over \$1 billion annually.

The Yes on Proposition 64 ballot argument in the official Secretary of State voter guide identified after-school programs as an example of programs the initiative would fund:

“Proposition 64 creates a safe, legal system for adult use of marijuana. It controls, regulates and taxes marijuana use, and has the nation's strictest protections for children. It provides billions for afterschool programs, job training, drug treatment, and cracking down on impaired driving. Fix our approach to marijuana.”

After-school programs were also prominently featured in campaign commercials. The ad “Revenue” stated “Proposition 64 generates a billion in new tax revenues for California to fund after-school programs and job training and placement initiatives, and the ad “Sense” states “64 taxes marijuana to fund priorities like after-school programs.”

This bill would authorize DHCS to consider ASSETS, ASES, and 21st Century CCLC programs for funding under the provisions of the measure and encourages schools offering these programs to apply to DHCS for funding.

Arguments in support. The Partnership for Children and Youth notes that California's after-school programs are woefully underfunded as many programs having long waiting lists and 41

percent of schools serving a large proportion of low-income pupils have no state or federally funded after-school programs.

The American Academy of Pediatrics states that the majority of people with substance abuse problems begin abusing substances before they turn 18, and half of graduating seniors have tried an illegal drug at least once. It is essential that substance abuse education begin early and AB 1744 would help fund after school substance abuse education programs. This would help steer children away from substance abuse.

Other supporters note that AB 1744 would uphold the intent of Proposition 64 to use revenues from the sale of recreational marijuana to support high-quality after school programs.

Similar and prior legislation. AB 2471 (Thurmond) of this Session requires the transfer of funds from the *Youth, Education, Prevention, Early Intervention and Treatment Account* established through the passage of the *Control, Regulate and Tax Adult Use of Marijuana Act* to the California Department of Education (CDE) to establish a grant program which would allow schools to provide in-school support services to pupils. This bill is pending before this committee.

AB 2622 (Dahle) of this session amends operating and funding requirements for After School Education and Safety Program (ASES) operating at a schoolsite in an area that has a population density of less than 11 persons per square mile.

AB 2615 (Wood), Chapter 470, Statutes of 2016 makes a number of revisions to the 21st Century High School After School Safety and Enrichment for Teens program (ASSETs), the After School Education and Safety program (ASES), and the 21st Century Community Learning Centers (21st CCLC) program.

SB 1221 (Hancock), Chapter 370, Statutes of 2014 included provisions to assist small/rural programs, such as establishing a new minimum grant for ASES, and authorizing transportation funding for ASES programs in an extreme rural census tract.

AB 1426 (Cooper) of the 2015-16 Session, increases the per-student daily and weekly rates for the ASES program, and eliminates the requirement for the after school component of the program to operate at least until 6 p.m. on regular schooldays. This bill was held in Senate Appropriations.

REGISTERED SUPPORT / OPPOSITION:

Support

A World Fit For Kids!
After-School All-Stars, Los Angeles
After School & Experiential Education
American Academy of Pediatrics
Boys & Girls Clubs of Greater Redlands-Riverside
California AfterSchool Network
California Alliance of Boys & Girls Clubs
California Federation of Teachers

California School-Age Consortium
California State Alliance of YMCAs
California Teaching Fellows Foundation
Central Valley Afterschool Foundation
Children's Initiative
City of Moreno Valley
Common Sense Kids Action
Covina-Valley Unified School District
EduCare Foundation
Fight Crime: Invest n in Kids
ICES Education, LLC
Jewish Community Center of San Francisco
LA's Best After School Enrichment Program
Mendocino County Office of Education
Mission: Readiness
Moreno Valley Unified School District
Mountain View School District
Partnership For Children and Youth
Partnership for Los Angeles Schools
San Francisco Unified School District
State Superintendent of Public Instruction, Tom Torlakson
Think Together
Youth Policy Institute

Opposition

None on file

Analysis Prepared by: Debbie Look / ED. / (916) 319-2087