


# REPORT OF THE CHIEF LEGISLATIVE ANALYST

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DATE: August 20, 2015

TO: Honorable Members of the Rules, Elections, Intergovernmental Relations, and  
Neighborhoods Committee

FROM: Sharon M. Tso   
Chief Legislative Analyst

Council File No.: 15-0002-S9  
Assignment No.: 15-02-0083  
**REVISED**

SUBJECT: State Legislation Relative to Electronic Cigarettes.

CLA RECOMMENDATION: That the City Council adopt the attached revised Resolution to include in its 2015-16 State Legislative Program SUPPORT for SBX2 5 (Leno) and ABX2 6 (Cooper) relative to the use of electronic cigarettes.

## SUMMARY

On January 30, 2015, Resolution (Koretz – O’Farrell – Parks) was introduced to support SB 140 (Leno) relative to various regulations on the use of electronic cigarettes (C.F. 15-0002-S9). Electronic cigarettes, also known as e-cigarettes, are battery-powered devices that provide doses of nicotine and other additives (such as flavorings) which are heated, vaporized, and inhaled by the user. In contrast to traditional cigarettes, electronic cigarettes only emit substances when activated by pressing a button or through suction.

On July 27, 2015, this Office issued a report which recommended support of SB 140 if the bill is amended to define electronic cigarettes as tobacco products (C.F. 15-0002-S9). SB 140 was amended in the Assembly Committee on Governmental Organization to delete the provision that defines electronic cigarettes as tobacco products in State law. According to the City Attorney and various health groups, defining electronic cigarettes as tobacco products ensures that electronic cigarettes are regulated in the same manner as traditional tobacco cigarettes.

Subsequent to the release of the July 27, 2015 report, the Governor called two Extraordinary Sessions of the Legislature to address transportation and health care issues, including bills related to tobacco and the use of electronic cigarettes. This action was designed to allow lawmakers additional time to focus on critical health care issues outside of the constitutional budget deadlines. The special session will meet concurrently with the regular legislative session and it is expected that the next round of special session meetings will begin after the Legislature’s summer recess ends on August 17, 2015. Committees that review any special session proposals will have to be established under the organizational rules. The regular legislative deadlines do not apply to the special session, with the exception of the September 11, 2015 deadline for the Legislature to pass bills.

Currently before the Legislature in the Second Extraordinary Session are SBX2 5 (Leno) and ABX2 6 (Cooper) relative to electronic cigarettes. These bills would: define electronic cigarettes as tobacco products, restrict the use of electronic cigarettes in the same locations as traditional cigarettes, increase the penalties and enforcement options for selling electronic cigarettes to minors, and require electronic cigarette retailers to be licensed. SBX2 5 and ABX2 6 are substantially similar to SB 140 and, as previously noted, includes a provision that defines

electronic cigarettes as tobacco products. Therefore, we have prepared a revised Resolution to support both bills. The City Attorney supports both bills.

BACKGROUND

SB 140, introduced on January 26, 2015, would extend the requirements of the STAKE Act from tobacco cigarettes to the sale of electronic cigarettes; prohibit the use of electronic cigarettes in specific places such as schools, places of employment, public buildings, apartments, and other places; and require electronic cigarette wholesalers to obtain a license from the State Board of Equalization. SB 140, as introduced, contained a provision to expand the definition "tobacco product" in certain sections of current law to include electronic cigarettes and would specify that "tobacco cessation products" licensed by the Food and Drug Administration are not considered tobacco products. On July 27, 2015, this Office issued a separate report which contains additional information on SB 140 (C.F. 15-0002-S9).

Department Notified

City Attorney

Bill Status

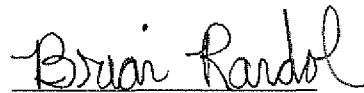
SBX2 5 (Leno)

July 16            Introduced. Read first time. Referred to Committee on Public Health and Developmental Services

Aug. 13           Set for hearing August 19.

ABX2 6 (Cooper)

July 16           Read first time. To print.



Brian Randol

Analyst

Attachment:    Revised Resolution

# RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must first have been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, the City has taken various steps to address health concerns related to the growing proliferation of electronic cigarettes; and

WHEREAS, SB 140 (Leno), introduced on January 26, 2015, would extend the requirements of the STAKE Act from tobacco cigarettes to the sale of electronic cigarettes, prohibit the use of electronic cigarettes in specific places such as schools, places of employment, public buildings, apartments, and other places; and

WHEREAS, SB 140 as introduced defined electronic cigarettes as tobacco products in State law, but this provision was deleted by the Assembly Committee on Governmental Organization; and

WHEREAS, SB 140 is being held in Assembly Committee on Governmental Organization without recommendation; and

WHEREAS, the Governor has called two Extraordinary Sessions of the Legislature to address transportation and health care issues, including bills related to the use of electronic cigarettes,

WHEREAS, before the Legislature are SBX2 5 (Leno) and ABX2 6 (Cooper) which would: define electronic cigarettes as tobacco products, restrict the use of electronic cigarettes in the same locations as traditional cigarettes, increase the penalties and enforcement options for selling electronic cigarettes to minors, and require electronic cigarette retailers to be licensed; and

SBX2 5 and ABX2 6 are substantially similar to SB 140 and includes provisions to define electronic cigarettes as tobacco products; and

WHEREAS, these bills contain provisions that would help safeguard the health of residents throughout the City and should be supported;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that upon adoption of this Resolution, the City of Los Angeles hereby includes in its 2015-16 State Legislative Program SUPPORT for SBX2 5 (Leno) and ABX2 6 (Cooper) relative to the use of electronic cigarettes.