Assembly Budget Committee Hearing

Wednesday, May 3, 2023

2023 Early Action Budget Package

SENATE THIRD READING
SB 100 (Committee on Budget and Fiscal Review)
As Amended May 1, 2023

SUMMARY

Amends the 2022 and 2021 Budget Acts to make mostly technical changes associated with the 2022-23 mid-year budget package. Specifically, this bill:

Major Provisions

1) Provides $15.4 million in additional funding to CalRecycle for clean up and debris removal associated with the McKinney fire in Siskiyou County;

2) Makes technical and clarifying changes to legislative priorities appropriated in the 2022 and 2021 budget acts;

3) Clarifies the allowable use of funding provided to the Tahoe and Baldwin Hills Conservancies in the 2022 budget;

4) Extends the encumbrance period for funding provided for the St. Paul's Program for All-Inclusive Care for the Elderly in the 2022 budget;

5) Allows funding provided in 2022 for early care and education family fee waivers to be available until September 30, 2023; and

6) Adjusts and clarifies allowable administrative cost levels for the State Water Efficiency and Enhancement Program and Healthy Soils programs operated by the Department of Food and Agriculture.

COMMENTS

This bill amends the 2022 Budget Act (Chapters 43, 45, and 249, Statutes of 2022) to make changes necessary to implement a mid-year budget package. It also makes clarifying changes to one section of the 2021 Budget Act related to legislative priorities.

This bill includes funding for unexpected state costs from the McKinney fire that occurred in the current fiscal year. This bill also helps facilitate the continuation of the early care and education family fee waiver until September 30, 2023 by allowing funds already contained in the 2022 budget to be available for three additional months. In addition, this bill makes technical changes to a variety of items.

While this bill amends sections for legislative priorities contained in the 2021 and 2022 Budget Act, there is no change to any of the funding amounts for these items.

According to the Author
This bill makes mostly technical changes to the 2022 and 2021 Budget Acts but includes important funding for a recent fire and allows the state to extend the waiver of family fees for early care and education programs.

Arguments in Support
Changes made in this bill are necessary for the items in the 2021 and 2022 Budget Act as intended.

Arguments in Opposition
None on file.

FISCAL COMMENTS

This bill has a net cost of $15.4 million General Fund associated with clean up costs for the McKinney fire.

VOTES

SENATE FLOOR: 29-8-3
YES: Allen, Alvarado-Gil, Archuleta, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hurtado, Laird, Limón, McGuire, Menjivar, Min, Newman, Padilla, Portantino, Roth, Skinner, Smallwood-Cuevas, Umberg, Wahab, Wiener
NO: Dahle, Grove, Jones, Nguyen, Niello, Ochoa Bogh, Seyarto, Wilk
ABS, ABST OR NV: Ashby, Rubio, Stern

UPDATED

VERSION: May 1, 2023

CONSULTANT: Christian Griffith / BUDGET / (916) 319-2099

SENATE THIRD READING
SB 110 (Committee on Budget and Fiscal Review)
As Amended May 1, 2023

SUMMARY

This bill reappropriates one-time federal funds from the Coronavirus Response and Relief Supplemental Appropriations Act of 2021 (CRRSSA) to provide an additional, temporary rate supplement for all state-subsidized child care and preschool programs and extend the family fee waiver from June 30, 2023 to September 30, 2023 for all child care programs. The bill, in coordination with SB 100, authorizes the Department of Education to extend the family fee waiver from June 30, 2023 to September 30, 2023 for the full day preschool program.

Major Provisions

This bill:

Reappropriates one-time federal funds for child care from the Coronavirus Response and Relief Supplemental Appropriations Act of 2021 (CRRSSA), which are required under federal law to be expended by September 30, 2023.

Provides an additional, temporary rate supplement for all state-subsidized child care and preschool programs, including all child care programs administered by the Department of Social Services (DSS), and the California State Preschool Program, administered by the Department of Education (CDE).

Authorizes DSS to extend the family fee waiver from June 30, 2023 to September 30, 2023 for all child care programs. This bill, in coordination with SB 100, authorizes the CDE to use 2022-23 Budget Act funds for preschool to be used to extend the family fee waiver from June 30, 2023 to September 30, 2023 for the full day preschool program.

COMMENTS

According to the Author

Arguments in Support
None on file.

Arguments in Opposition
None on file.

FISCAL COMMENTS

The bill authorizes the Department of Social Services to reappropriate unencumbered CRRSSA funds for additional rate stipends and family fee waivers.

VOTES

SENATE FLOOR: 29-8-3
YES: Allen, Alvarado-Gil, Archuleta, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hurtado, Laird, Limón, McGuire, Menjivar, Min, Newman, Padilla, Portantino, Roth, Skinner, Smallwood-Cuevas, Umberg, Wahab, Wiener
NO: Dahle, Grove, Jones, Nguyen, Niello, Ochoa Bogh, Seyarto, Wilk
ABS, ABST OR NV: Ashby, Rubio, Stern

UPDATED

VERSION: May 1, 2023

CONSULTANT: Erin Gabel / BUDGET / (916) 319-2099

SENATE THIRD READING
SB 111 (Committee on Budget and Fiscal Review)
As Amended May 1, 2023

SUMMARY

Clarifies that there is no state tax liability from certain higher education loan and fee relief given to Californians as part of the COVID-19 emergency.

Major Provisions

1) For taxable years beginning on or after January 1, 2021, and before January 1, 2026, excludes from an individual's gross income the amount of certain student loans discharged, in whole or in part, after December 31, 2020, and before January 1, 2026, in conformity with exclusions in existing federal law.

2) For taxable years beginning on or after January 1, 2022, and before January 1, 2027, excludes from an individual's gross income, any amount relating to the discharge of unpaid fees due or owed by a student pursuant to existing law that authorizes the Chancellor of the California Community Colleges to discharge unpaid fees due or owed by a student to a community college district.

3) For taxable years beginning on or after January 1, 2020, and before January 1, 2028, excludes from an individual's gross income specified higher education emergency grants received by a student in postsecondary education, as specified. Existing federal law authorizes various specified higher education emergency grants to support students and higher education institutions with expenses and financial needs related to the COVID-19 pandemic.

4) Appropriates $20,000 General Fund to the Franchise Tax Board for the purpose of administering the provisions of this bill.

5) Requires reporting from the Legislative Analyst's Office on the number and total dollar amount of individuals benefiting from the provisions of this bill by November 1, 2028, to the extent data is available.

COMMENTS

During the COVID-19 Pandemic Emergency, government used many tools to help stabilize the impact of the pandemic on workers and the economy. Student loan repayments were paused by the federal government and the state provided Community Colleges the ability to discharge unpaid fees. As part of this effort, on August 24, 2022 President Biden announced the Student Loan Debt Relief Plan to forgive up to $20,000 per borrower of debt relief for certain borrowers. At the time of writing this analysis, this program is currently paused while being reviewed by the courts.

Most COVID-19 relief had been exempted from taxation from the federal and state governments, so it was assumed the existing conformity measures in place would apply for the debt forgiveness. However, questions were raised in the media about whether this Student Loan Debt Relief Plan would fall within existing law and could potentially be taxable at the State as income. On

September 9, 2022, Speaker Rendon and Pro Tem Toni Atkins made a joint statement that a clarifying statutory fix in a budget trailer bill would be enacted to end any ambiguity about the tax treatment of this COVID-19 relief. Thus, this bill is part of a package that amends the 2022 budget act and removes any doubt that these important COVID-19 relief provisions will not be taxed.

According to the Author
This bill provides needed clarity to Californians that they will not owe state taxes on potential student loan debt forgiveness and community college fee relief.

Arguments in Support
None on file.

Arguments in Opposition
None on file.

FISCAL COMMENTS

This bill will cost $20,000 to administer, but is not expected to impact forecasted state revenues.

Until recently, it was assumed the California's tax treatment for loan forgiveness would be the same as the federal government, but concerns were raised that without statutory clarification this could not happen automatically. The State did not project or anticipate that individuals receiving federal student loan forgiveness would be taxed by the State nor would the relief given to Community College fees be taxable, and the baseline revenue estimates for the state budget do not assume revenue from either provision. If the state had intended to tax this forgiveness as income, the impact of taxing loan forgiveness could have been as much as $850 million in 2023-24 and $450 million in 2024-25 and the taxing of community college fees could have generated tens of millions of dollars of potential revenue.

This bill is to clarify that the State intends to conform to federal tax treatment of the loans, so it has no impact on the revenues assumed in the Governor's 2023 budget proposal.

VOTES

SENATE FLOOR: 29-8-3
YES: Allen, Alvarado-Gil, Archuleta, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hurtado, Laird, Limón, McGuire, Menjivar, Min, Newman, Padilla, Portantino, Roth, Skinner, Smallwood-Cuevas, Umberg, Wahab, Wiener
NO: Dahle, Grove, Jones, Nguyen, Niello, Ochoa Bogh, Seyarto, Wilk
ABS, ABST OR NV: Ashby, Rubio, Stern

UPDATED

VERSION: May 1, 2023

CONSULTANT: Christian Griffith / BUDGET / (916) 319-2099

SENATE THIRD READING
SB 112 (Committee on Budget and Fiscal Review)
As Amended May 1, 2023

SUMMARY

This is a health trailer bill which is necessary to implement provisions of the Budget Act of 2023.

Major Provisions

This bill establishes the Distressed Hospital Loan Program (DHLP), until January 1, 2032, which will provide interest free cashflow loans to not-for-profit hospitals and public hospitals, as defined, in significant financial distress, or to governmental entities representing closed hospitals. Requires the Department of Health Care Access and Information (HCAI) to administer the DHLP and to enter into an interagency agreement with the California Health Facilities Financing Authority (CHFFA) to implement the DHLP. Specifically, this bill:

1) Establishes the DHLP, until January 1, 2032, to provide interest free cashflow loans to not-for-profit hospitals and public hospitals, as defined, that are in significant financial distress or to governmental entities representing closed hospitals, for purposes of preventing the closure of, or facilitating the reopening of, those hospitals.

2) Defines the following, for purposes of this bill:

   a) "Closed hospital" means a hospital that closed after January 1, 2022.
   b) "Not-for-profit hospital" means a general acute care hospital that is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff that provides 24-hour inpatient care, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services that is organized as a not-for-profit entity.
   c) "Public Hospital" means a hospital that is licensed to a county, a city, a city and county, the University of California, a local health care district, a local health authority, or a municipal hospital, as defined.

3) Requires HCAI to enter into an interagency agreement with CHFFA to implement the DHLP.

4) Requires HCAI, in collaboration with the California Department of Health Care Services (DHCS), the Department of Managed Health Care, and the California Department of Public Health, to develop a methodology to evaluate an at-risk hospital's potential eligibility for state assistance from the DHLP.

5) Requires the methodology to consider factors, including but not limited to, whether the hospital is in financial distress, as solely determined by HCAI, whether the hospital is small, rural, a critical access hospital, a trauma center, an urban hospital providing access for an underserved area, a hospital that serves a disproportionate share of Medicaid patients, or serving a rural catchment area, whether closure of the hospital would significantly impact access to services in the region, and whether the hospital is publicly owned. Requires the methodology to also be used for identification and ongoing monitoring of hospitals at-risk of financial distress.

6) Allows for the methodology for determining financial distress to consider such factors as the hospital's prior and projected performance on financial metrics, including the amount of cash on hand, and whether the hospital has, or is projected to experience, negative operating margins.

7) Requires a hospital or closed hospital, applying for aid, to provide CHFFA and HCAI with financial information demonstrating the hospital's need for financial assistance.

8) Requires a hospital, prior to receiving state assistance from the DHLP, to submit a plan to CHFFA, which it must share with HCAI, with projections detailing the uses of the proposed loan and strategies proposed by the hospital's governing body to regain financial viability and continue to operate.

9) Prohibits HCAI, prior to issuing a loan, to review the plan submitted by a hospital and make a determination that the plan is viable and that there is a reasonable likelihood that the hospital will be able to regain financial viability and continue to operate.

10) Requires HCAI to issue the loan award to a qualifying hospital as soon as is reasonably practicable following its eligibility determination.

11) Prohibits not-for-profit hospitals and public hospitals that belong to integrated health care systems, with more than two separately licensed hospitals, from being eligible for state assistance under the DHLP.

12) Requires HCAI, in consultation with CHFFA to determine the application process, underwriting review, and methodology for approval and distribution of the loans under DHLP. Requires HCAI to make the methodology publicly accessible on its website.

13) Grants HCAI the authority to determine service provision requirements in approving, and for the duration of, loans to eligible hospitals. Requires HCAI, in making its determination, to consider the impact of any changes to the hospital's service delivery on access to necessary medical care, particularly for Medi-Cal beneficiaries.

14) Requires hospitals to begin making monthly repayments of the loan after the first 18 months and to discharge the loan within 72 months of the date of the loan.

15) Requires, to the extent permissible under federal rules, security for the loans to be Medi-Cal reimbursements due to the hospital from DHCS. Restricts HCAI or CHFFA's recoupment of the loans from exceeding 20% of the hospital's respective Medi-Cal checkwrite payments until the loan amount has been satisfied. Authorizes HCAI to extend the repayment term of the loan if a 20-percent withhold will not result in full repayment of the loan within a 72 month period.

16) Requires HCAI, in consultation with CHFFA, and upon approval of the Department of Finance, to develop an application and approval process for loan forgiveness or modification of the terms of the loan, including a delay of the beginning of the loan repayment period or an extension of the 72-month loan repayment term, or both.

17) Requires HCAI to establish the terms and conditions associated with accepting loan forgiveness or modification of loan terms, subject to approval of the Department of Finance.

18) Requires HCAI to submit to the Joint Legislative Budget Committee and relevant policy and fiscal committees of the Legislature notice of a request and subsequent action, including a summary of the request and reason for the denial, approval or modification, prior to any action taken on a request for forgiveness or modification of any loan, and again not later than 60 days after final approval or denial of the forgiveness or modification.

19) Establishes the Distressed Hospital Loan (DHL) Fund in the Treasury, to be administered by HCAI. Requires all moneys in the fund to be continuously appropriated, without regard to fiscal years, for HCAI and CHFFA to implement the provisions of this bill.

20) Requires CHFFA to make secured loans from the DHL Fund to a hospital for purposes of preventing the closure, or facilitating the reopening of the hospital.

21) Authorizes HCAI to allocate an amount not to exceed 5% of the total program funds to administer the DHLP, including, but not limited to, administrative costs to CHFFA. Requires any funds transferred to be available for encumbrance or expenditure until June 30, 2026.

22) Authorizes Department of Finance to transfer up to $150,000,000 from the General Fund to the DHL Fund between fiscal years 2022-23 and 2023-24 to implement this program.

23) Authorizes the Treasurer to invest moneys in the DHL Fund that are not required for its current needs in eligible securities as specified. Requires all interest or other increment resulting from the investment or deposit of moneys from the DHL Fund to be deposited in the DHL Fund.

24) Prohibits moneys in the DHL Fund from being subject to transfer to any other funds, except to the Surplus Money Investment Fund.

25) Authorizes HCAI and CHFFA to implement, interpret, or make specific the provisions of this bill, by means of information notices or other similar instructions, without taking any further regulatory action.

26) Authorizes HCAI and CHFFA to enter into exclusive or nonexclusive contracts, or amend existing contracts, on a bid or negotiated basis. Exempts contracts entered into or amended pursuant to this provision from existing standards for the use of personal services contracts and from the review or approval of any division of the Department of General Services.

27) Requires the abolishment of the DHL Fund on December 31, 2031, and requires that any remaining balance, assets, liabilities, and encumbrances of the DHL Fund revert to the General Fund.

28) Authorizes HCAI and CHFFA to require any hospital receiving a loan to provide the state with an independent financial audit of the hospital's operations for any fiscal year in which a loan is outstanding.

29) Requires the provisions of this bill to remain in effect until January 1, 2032, and as of that date to be repealed.

30) Adds the following requirements to hospitals' existing financial and utilization data that is reported to HCAI on a quarterly basis:

a) Revenues attributable to commercial insurance coverage specific to the total amount of a hospitals inpatient gross revenues;
b) Revenues attributable to commercial insurance coverage specific to the total number of inpatient days, outpatient visits, and discharges attributable to commercial insurance coverage; and,
c) A balance sheet detailing the assets, liabilities, and net worth at the end of the quarter in the detail as specified by the department.

31) Requires HCAI to allow and provide for, in accordance with appropriate regulations, additions or deletions to the summary financial and utilization data to meet the purposes of this bill.

32) Authorizes HCAI to adopt regulations, including emergency regulations, necessary to implement this section.

33) Declares this act is a bill providing for appropriations related to the Budget Bill, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.

COMMENTS

This bill is a budget trailer bill to establish the Distressed Hospitals Loan Program, to provide assistance to public and not-for-profit hospitals that are at risk of closing, and to governmental entities representing closed hospitals.

According to the Author

Arguments in Support
None on file.

Arguments in Opposition
None on file.

FISCAL COMMENTS

This bill authorizes the transfer of up to $150,000,000 from the General Fund to the Distressed Hospitals Loan Fund, being created by this bill, to implement this bill.

VOTES

SENATE FLOOR: 29-8-3
YES: Allen, Alvarado-Gil, Archuleta, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hurtado, Laird, Limón, McGuire, Menjivar, Min, Newman, Padilla, Portantino, Roth, Skinner, Smallwood-Cuevas, Umberg, Wahab, Wiener
NO: Dahle, Grove, Jones, Nguyen, Niello, Ochoa Bogh, Seyarto, Wilk
ABS, ABST OR NV: Ashby, Rubio, Stern

UPDATED

VERSION: May 1, 2023

CONSULTANT: Andrea Margolis / BUDGET / (916) 319-2099

SENATE THIRD READING
SB 113 (Committee on Budget and Fiscal Review)
As Amended May 1, 2023

SUMMARY

This budget trailer bill enacts changes to the collective bargaining process for agricultural workers.

Existing Law:

1) States that agricultural employees have the right to form, join, assist labor organizations, and to bargain collectively through representatives of their own choosing with respect to rates of pay, wages, hours of employment, or other conditions of employment.

2) Establishes the Agricultural Labor Relations Board (ALRB), which is responsible for overseeing and protecting the rights of agricultural employees to organize themselves in negotiating the terms and conditions of their employment, including whether or not to have labor unions represent them.

3) Provides that the union election process for agricultural workers is done through secret ballot elections overseen by the ALRB. Generally, a union who wishes to represent the agricultural workers of an employer can submit a petition to the ALRB with a number of signatures equal to at least 50% of the peak agricultural employment of that employer. If the union meets this threshold, a secret ballot election must commence within 7 days.

4) Sets two alternative pathways to the secret ballot election for agricultural workers to select a union representative, as follows:

    a. A mail-in ballot election (also known as a labor peace election process), in which the employer agrees to make no statements for or against union representation to its employees. Then, agricultural employees may make a choice regarding union representation through a mail ballot election without holding a polling place election. The employees or the union would request voting kits issued by the ALRB that would contain voting instructions for participating in a mail ballot election. The ALRB would verify the validity of the petition for representation and the supporting mail ballots, such as comparing the names on the mail ballots submitted by the labor organization to the names on the list of currently employed employees provided by the employer, before certifying the collective bargaining representative.

    b. A "card-check" election (also known as a non-labor peace election), in which the employer does not agree to make statements for or against union representation to its employees. In this process, a union may submit proof of majority support, through authorization cards or petitions, demonstrating majority support of currently employed employees determined from the employer's payroll. Upon receipt of the proof of majority support, the ALRB verifies the validity of the petition before certifying the collective bargaining representative.

This budget trailer bill makes the following changes to the collective bargaining process for agricultural worker:

Major Provisions

1) Eliminates the option to conduct union elections using mail-in ballots.

2) Retains the option to conduct union elections via the “card-check” system, now called the “Majority Support Petition.” Similar to current existing law, a Majority Support Petition is submitted by a union wishing to represent employees to the ALRB, accompanied by proof of majority support through petition cards, petitions, or other appropriate proof.

3) Limits the number of card-check / Majority Support Petition elections that result in the certification of a labor organization to 75 certifications.

4) Sunsets on January 1, 2028. On that date, Majority Support Petitions would no longer be an available option for union elections.

COMMENTS

In September of 2022, Governor Newsom signed AB 2183 (Stone, Chapter 673, Statutes of 2022) which created two alternative pathways for agricultural workers to select a union representative. At that time, the Governor, the United Farm Workers, and the California Labor Federation agreed on clarifying language to be made to the enacted law to address concerns around implementation and voting integrity. This agreement was formalized in a published letter and a supplemental agreement language. This bill implements the provisions of this supplemental agreement.

According to the Author
This budget trailer bill is makes necessary changes to implement and streamline the process for agricultural workers to choose a collective bargaining representative.

Arguments in Support
None on file.

Arguments in Opposition
None on file.

FISCAL COMMENTS

The bill provides a sum of ten thousand dollars ($10,000) appropriated for the 2022–23 fiscal year from the General Fund to the Agricultural Labor Relations Board to implement the bill’s provisions.

VOTES

SENATE FLOOR: 29-8-3
YES: Allen, Alvarado-Gil, Archuleta, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hurtado, Laird, Limón, McGuire, Menjivar, Min, Newman, Padilla, Portantino, Roth, Skinner, Smallwood-Cuevas, Umberg, Wahab, Wiener
NO: Dahle, Grove, Jones, Nguyen, Niello, Ochoa Bogh, Seyarto, Wilk
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CONSULTANT: Patrick Le / BUDGET / (916) 319-2099