



Agenda

Monday, March 15, 2021

10:30 A.M. – State Capitol, Assembly Chamber

Due to the ongoing COVID-19 safety considerations, including guidance on physical distancing, seating for this hearing will be very limited for the press and for the public. All are encouraged to watch the hearing from its live stream on the Assembly's website at <https://assembly.ca.gov/todayevents>.

We encourage the public to provide written testimony before the hearing. Please send your written testimony to: AsmBudget@asm.ca.gov. Please note that any written testimony submitted to the committee is considered public comment and may be read into the record or reprinted.

*A moderated telephone line will be available to assist with public participation. The public may provide comment by calling the following toll-free number: **877-692-8957, access code: 242 62 37.***

Informational Hearing

1. Call to Order
2. Introductory Comments from Chair and Vice Chair
3. Consideration of the Early Action Clean Up Items and Sick Leave
 - a. SB 95 Paid Sick Leave (AB 84 is identical to this bill in the Senate)
 - b. AB 83 Small Business Licensing Fee—Clean up
 - c. AB 88 Golden State Stimulus—Clean Up

Panelists:

- Erika Li, Department of Finance
- Carolyn Chu, Legislative Analyst's Office

4. Committee Member Questions
5. Public Comment
6. Adjournment

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2021 Budget Trailer Bill Analyses Packet
Assembly Budget Committee Hearing
Monday, March 15, 2021

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SUMMARY:

This trailer bill makes statutory changes related to COVID-19 supplemental paid sick leave provisions associated with the Budget Act.

Major Provisions

1. Reestablishes the COVID-19 supplemental paid sick leave requirement for employers, as defined under existing law, who have more than 25 employees.
2. Specifies that a covered employee is entitled to COVID-19 supplemental paid sick leave if the employee is unable to work or telework because the employee is:
 - a. Subject to quarantine or isolation period related to COVID-19 as defined by the State Department of Public Health, Centers for Disease Control and Prevention, or a local health officer who has jurisdiction over the workplace;
 - b. Advised by a health care provider to self-quarantine due to concerns related to COVID-19;
 - c. Attending an appointment to receive a COVID-19 vaccine;
 - d. Experiencing symptoms related to a COVID-19 vaccine that prevents the employee from being able to work or telework;
 - e. Experiencing COVID-19 symptoms, and is seeking a medical diagnosis,
 - f. Caring for a family member, as defined by existing law, who is subject to quarantine or isolation as defined in (a) and (b) above, or;
 - g. Caring for a child, as defined by existing law, whose school or place of care is closed due to COVID-19.
3. Provides up to two weeks or 80 hours of paid supplemental leave to eligible employees.
4. Specifies that firefighters who worked more than 80 hours for the employer in the two weeks preceding COVID-19 supplemental paid sick leave, the firefighter is entitled to the amount of supplemental paid sick leave equal to the number of hours worked.
5. Specifies that the total number of hours provided under COVID-19 supplemental paid sick leave is in addition to any paid sick leave that may be available under existing law.
6. Authorizes the employee to determine how many hours of COVID-19 supplemental paid sick leave to use, up to the total number of hours provided under the section, and specifies that the employers shall make the supplemental sick leave available for immediate use by the employee upon request.
7. Specifies that an employer is not required to provide more hours of COVID-19 supplemental paid sick leave than is required in this section.
8. Establishes the amount of COVID-19 supplemental paid sick leave a covered employee is entitled to if they are not considered a full-time employee or work at least 40 hours a week in the two weeks preceding the date the employee took COVID-19 supplemental paid sick leave.

9. Specifies that each hour of leave shall be compensated based on the highest of the following for nonexempt employees at a rate equal to the regular rate of pay for the workweek, state minimum wage, or local minimum wage, or average total wage not including overtime. For other employees, the bill specifies that employees will be compensated based on regular rate of pay pursuant to existing law or collective bargaining agreement. The compensation shall not exceed \$511 per day or \$5,110 in total, unless federal legislation is enacted to increase these amounts.
10. Specifies that an employer shall not require a covered employee to use other paid leave or unpaid leave before the employee uses COVID-19 supplemental paid sick leave or in lieu of such leave.
11. Authorizes an employer to require an employee to exhaust their COVID-19 supplemental paid sick leave prior to taking COVID-19 Emergency Temporary Standards leave associated with employees excluded from the workplace due to COVID-19 exposure.
12. Authorizes an employer to count the hours of other paid leave provided to employees on or after January 1, 2021 for the COVID-19 related reasons, as specified earlier in the analysis, towards the number of hours required under COVID-19 supplemental paid sick leave. In addition, the bill authorizes the employer to also include leave provided to any federal or local law for the same COVID-19 related reasons, as specified, that became effective on or after January 1, 2021.
13. Requires the Labor Commissioner to enforce the COVID-19 supplemental paid sick leave as “paid sick days”, “paid sick leave” or “sick leave” under existing law, as specified.
14. Requires the Labor Commissioner by seven days after this bill is effective to make publicly available a model notice for employers to display a poster regarding COVID-19 supplemental paid sick leave. A hiring entity may satisfy this requirement for workers who do not frequent a workplace by disseminating notice through electronic means, such as by electronic mail.
15. Specifies that the COVID-19 supplemental paid sick leave will take effect 10 days of after enactment, and shall retroactively apply to January 1, 2021.
16. Requires the employer to provide full retroactive payment to an employee that took unpaid leave for COVID-19 related reasons, as specified earlier in the analysis, upon request of the employee. This retroactive payment is in addition to the COVID-19 food sector supplemental paid sick leave or the COVID-19 paid sick leave as provided under existing law.
17. Sunsets the COVID-19 supplemental paid sick leave on September 30, 2021.
18. Includes a severability clause.

In-Home Supportive Services (IHSS) Providers

19. Provides COVID-19 supplemental paid sick leave for in-home supportive services (IHSS) providers for COVID-19 related purposes as specified earlier the analysis.
20. Provides up to two weeks or 80 hours of COVID-19 supplemental paid sick leave for IHSS providers, and authorizes the provider to determine how many hours to use.
21. Specifies that the paid sick leave shall be compensated at the regular rate of pay which the provider is entitled to pursuant to existing law or collective bargaining agreement.

22. Specifies that the provider shall not be required to use other leave before COVID-19 supplemental paid sick leave or in lieu of such leave.
23. Specifies that if a provider takes paid leave on or after April 1, 2021 for COVID-19 related reasons, as specified earlier in the analysis, and is compensated at least the same amount, then the hours of the other paid level may be counted towards the total number of hours required for COVID-19 supplemental paid sick leave.
24. Applies the provisions of this bill retroactively to January 1, 2021.
25. Requires retroactive payment for COVID-19 supplemental paid sick leave.
26. Specifies that COVID-19 supplemental paid sick leave is in addition to any unused sick leave benefits provided as a part of the Families First Coronavirus Response Act (FFCRA), which the provider may use until March 31, 2021.
27. Sunsets the provisions of this bill on September 30, 2021.
28. Includes a severability clause.
29. Authorizes the Department of Social Services and the State Department of Health Care Services to implement and interpret the provisions of this bill through county letters or similar instructions, without taking regulatory action.

COMMENTS:

This 2020-21 budget trailer bill implements the March 2021 early action package provisions related to paid sick leave.

Executive Order N-51-20. Last year, Governor Gavin Newsom signed an executive order that requires a hiring entity with 500 or more employees to provide an eligible food sector worker supplemental paid sick leave related to COVID-19, as specified. The executive order also permitted employees working in any food facility to wash their hands every 30 minutes and additionally if needed.

Families First Coronavirus Response Act (FFCRA). In March 2020, the federal government passed FFCRA, which included up to two weeks of paid sick leave to all employees of employers of 500 or less employees for specified reasons related to COVID-19 at with specified rate of pay. The FFCRA authorizes a health care or emergency responder employer to exclude certain health care providers and emergency responders from these provisions. Additionally, the FFCRA authorizes the Secretary of Labor to issue regulations to exclude certain health care providers and emergency responders from this, including allowing an employer of these workers to opt out. The FFCRA sunset on December 31, 2020.

FFCRA provided payroll tax credits to employers to qualified employers who provided paid sick leave through December 31, 2020. The Coronavirus Response and Relief Supplemental Appropriations Act extends the FFCRA tax credit through March 31, 2021.

California COVID-19 Supplemental Paid Sick Leave. Last year, California enacted AB 1867 (Committee on Budget, Chapter 45), which closed the gaps in federally-provided paid sick leave by establishing COVID-19 supplemental paid sick leave, and COVID-19 food sector supplemental paid sick leave. Both policies provided up to two weeks of supplemental sick leave at hiring entities with 500

or more workers. Employees were allowed to take this leave if they were subject to quarantine or isolation period due to COVID-19 or prohibited from working due to concerns related to potential transmission of COVID-19. These provisions expired on December 31, 2020.

American Rescue Plan Act of 2021. On March 11, 2021, President Joe Biden signed the American Rescue Plan (ARP) Act of 2021, which provides an additional extension of the FFCRA tax credits through September 20, 2021 for employers with less than 500 employees that voluntarily provide COVID-19 supplemental paid sick leave. The ARP specifies that these tax credits are an additional set of tax credits for 80 hours or two weeks of COVID-19 supplemental paid sick leave beginning on April 1, 2021. The ARP also authorizes leave to be taken when getting a COVID-19 vaccine or is recovering from any injury, disability, illness, or condition related to the vaccine.

According to the Author:

This trailer bill in the 2020-21 early action package is necessary to prevent the spread of COVID-19.

Arguments in Support:

The Committee received substantial feedback on a prior version of the bill that was substantially different than the current version. The Committee did not have time to clarify if the arguments made in those letters would still be relevant to the current version.

Arguments in Opposition:

The Committee received substantial feedback on a prior version of the bill that was substantially different than the current version. The Committee did not have time to clarify if the arguments made in those letters would still be relevant to the current version.

FISCAL COMMENTS:

This bill makes an appropriation by providing \$100,000 from the General Fund to the Labor Commissioner for staffing resources to implement and enforce the provisions related to COVID-19 supplemental paid sick leave.

VOTES:

SENATE FLOOR: 22-2-15

YES: Allen, Archuleta, Atkins, Becker, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Hertzberg, Laird, Leyva, McGuire, Newman, Pan, Portantino, Roth, Rubio, Umberg, Wieckowski, Wiener

NO: Nielsen, Wilk

ABS, ABST OR NV: Bates, Borgeas, Dahle, Glazer, Gonzalez, Grove, Hueso, Hurtado, Jones, Limón, Melendez, Min, Ochoa Bogh, Skinner, Stern

UPDATED:

VERSION: March 12, 2021

CONSULTANT: Jessica Duong / BUDGET / (916) 319-2099

FN:

CONCURRENCE IN SENATE AMENDMENTS
AB 83 (Committee on Budget)
As Amended March 10, 2021

SUMMARY:

This trailer bill authorizes the Department of Alcoholic Beverage Control to issue license renewal fee waivers to additional licensees, as specified.

The Senate Amendments: Deleted the contents of the bill and instead adds the current language.

COMMENTS:

This 2020-21 budget trailer bill amends SB 94 (Skinner, Chapter 9 of 2021), which authorizes the Department of Alcohol Beverage Control (ABC) to issue license renewal fee waivers to specified licensees. This trailer bill adds specified winegrowers, beer manufacturers, and craft distillers that have licenses expiring between March 1, 2021, and February 28, 2023 to the list of licensees eligible for a waiver. These licensees are small businesses identified to have suffered due to the COVID-19 pandemic.

Arguments in Support:

None on File.

Arguments in Opposition:

None on file.

FISCAL COMMENTS:

This bill makes an appropriation by providing \$3 million from the General Fund to the Alcohol Beverage Control Fund to be used to backfill revenues related to the license renewal fee waivers.

VOTES:

ASSEMBLY FLOOR: 48-13-19

YES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Chau, Chiu, Cooley, Cooper, Daly, Friedman, Eduardo Garcia, Gipson, Lorena Gonzalez, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, O'Donnell, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Stone, Ting, Villapudua, Ward, Rendon
NO: Bigelow, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Mayes, Smith, Voepel, Waldron

ABS, ABST OR NV: Cervantes, Chen, Frazier, Gabriel, Cristina Garcia, Gray, Kamlager, Lackey, Mathis, Nazarian, Nguyen, Patterson, Quirk, Salas, Seyarto, Valladares, Weber, Wicks, Wood

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CONCURRENCE IN SENATE AMENDMENTS
AB 88 (Committee on Budget)
As Amended March 3, 2021

SUMMARY:

Provides technical amendments to the Golden State Stimulus trailer bill SB 88 (Committee on Budget) and amends the 2020 Budget Act to enact an ‘early action’ budget to respond to COVID-19 relief. Specifically, this bill:

The Senate Amendments:

- 1) Clarifies that the “qualified recipient” means
 - a. Any individual who has a qualifying child for the taxable year, or
 - b. Any individual who does not have a qualifying child for the taxable year, if
 - i. Is a California resident on the date the Controller issues the payment.
 - ii. Not eligible to be claimed as a dependent.
- 2) Exempts Golden State Stimulus Payments and Golden State Grant payments from garnishment orders, with the exemption of a garnishment order in connection with an action for, or judgement awarding, child support, spousal support, family support, or a criminal restitution payable to victims.
- 3) Provides that a financial institution shall exempt payments from any garnishment order if the payment is marked by the state as a “Golden State Stimulus payment” or “Golden State Grant payment” or includes some other industry-standard unique identifier, as specified.
- 4) Provides that in exempting a Golden State Stimulus payment or Golden State Grant payment from a garnishment order, a financial institution shall identify an exempt deposit using a lookback period during an account review.
- 5) Establishes that a financial institution that attempts in good faith to comply with this section shall not be subject to liability or regulatory action under a federal or state law, regulation, court or other order, or regulatory interpretation for actions concerning applicable payments.
- 6) Includes the following definitions:
 - a. Account reviews means the process of examining deposits in an account to determine if a benefit agency has deposited a benefit payment into the account during the lookback period
 - b. Garnishment order means a writ, order, notice, summons, judgment, levy, or similar written instructions issued by a court, a state or state agency, or a municipality or municipality corporation, including an order to freeze the assets in an account, to effect a garnishment against a debtor.
 - c. Lookback period means the two-month period that begins on the date preceding the date of account review and ends on the corresponding date of the month two months earlier or on the last date of the month two months earlier if the corresponding date does not exist.

- 7) Includes Legislative findings and declarations that, for the purposes of complying with Section 41 of the Revenue and Taxation Code as follows:
 - a. The purpose of the tax expenditure allowed, as specified, is to provide financial relief for low-income Californians who may have been adversely impacted by the economic disruptions resulting from the COVID-19 emergency; and
 - b. In order to provide information on this tax expenditure, the Franchise Tax Board shall, in consultation with the Controller, prepare a written report, by April 1, 2022, that shall include the number of eligible individuals issued a payment, as specified.
- 8) Excludes Golden State Grant payments from gross income similar to existing law that excludes the Golden State Stimulus payments.
- 9) Makes clarifying and technical changes to the section of law that directs the Department of Social Services to make Golden State Grant payments.

COMMENTS:

- 1) This is a budget trailer bill and amends the 2020-21 Budget Act to reflect an ‘early action’ budget package related to the Golden State Stimulus.
- 2) SB 88, established a one-time stimulus payment of \$600 in order to provide relief to low-income Californians impacted by the COVID-19 emergency. These stimulus payments are administered through 1) the Golden State Stimulus, which provides payments to qualified recipients that receive a California Earned Income Tax Credit (CalEITC) for the 2020 tax year and to income tax filers for the 2020 tax year who make no more than \$75,000 and file their taxes using an Individual Tax Identification Number (CalEITC recipients that file using an ITIN will receive a total of \$1,200), and 2) the Golden State Grant Program, which provides payments to qualified individuals in the CalWORKS program, Supplemental Security Income/State Supplemental program, or the Cash Assistance Program for Aged, Blind, and Disabled Legal Immigrants.

According to the Author:

Arguments in Support:

None on File.

Arguments in Opposition:

None on File.

FISCAL COMMENTS:

- 1) Appropriates \$100,000 to the Franchise Tax Board to be allocated to existing California Earned Income Tax Credit outreach contracts to provide increased awareness of the Golden State Stimulus.

VOTES:

ASSEMBLY FLOOR: 48-13-19

YES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Chau, Chiu, Cooley, Cooper, Daly, Friedman, Eduardo Garcia, Gipson, Lorena Gonzalez, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, O'Donnell, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Stone, Ting, Villapudua, Ward, Rendon

NO: Bigelow, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Mayes, Smith, Voepel, Waldron

ABS, ABST OR NV: Cervantes, Chen, Frazier, Gabriel, Cristina Garcia, Gray, Kamlager, Lackey, Mathis, Nazarian, Nguyen, Patterson, Quirk, Salas, Seyarto, Valladares, Weber, Wicks, Wood

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