

# Assembly Budget Committee Hearing

Tuesday, June 11, 2024

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SENATE THIRD READING  
SB 154 (Committee on Budget and Fiscal Review)  
As Amended June 10, 2024  
2/3 vote

## **SUMMARY**

This bill suspends the requirement in subdivision (b) of Section 8 of Article XVI of the California Constitution, that the state meet a calculated minimum funding obligation for school districts and community colleges, for purposes of the 2023-24 Budget Act.

### **Major Provisions**

This bill suspends the Proposition 98 minimum funding guarantee for school districts and community colleges in 2023-24. Specifically, this bill:

1. Makes finding and declarations that the Proposition 98 minimum funding obligation for school districts and community colleges in 2023-24 exceeds the state's available revenues for this purpose in 2023-24.
2. Invokes the provision of the California Constitution that allows the Legislature to suspend the Proposition 98 minimum required funding obligation for school districts and community colleges in 2023-24 as calculated by subdivision (b) of Section 8 of Article XVI of the California Constitution.
3. Specifies the amount of funds counted towards the minimum funding obligation that will be provided to school districts and community colleges in 2023-24 is \$98.484 billion.
4. States that the amount of maintenance factor created in 2023-24 shall be calculated and allocated pursuant to the Constitution.
5. Declares that this bill take effect immediately as an urgency statute.

Proposition 98 sets the constitutional minimum annual funding guarantee for public schools and community colleges, and the process by which the Legislature may suspend this guarantee.

## **COMMENTS**

### **According to the Author**

#### **Arguments in Support**

None on file.

#### **Arguments in Opposition**

None on file.

## **FISCAL COMMENTS**

SB 154 suspends the Proposition 98 guarantee in the current 2023-24 Budget Year, pursuant to the Constitution, to \$98.5 billion, creating as estimated \$8.314 billion in maintenance factor, which will be repaid pursuant to Subdivision (e) of Section 8 of Article XVI of the California Constitution. The first maintenance factor repayment is estimated at \$4 billion in the 2024-25 Budget Year.

## **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: June 10, 2024

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

FN:

## **SUMMARY**

This is the revenue trailer bill for the 2024-25 Budget. This bill contains statutory changes necessary to implement the Budget Act of 2024.

### **Major Provisions**

This bill contains various statutory changes necessary to implement the Budget Act of 2024. Specifically, this bill:

#### Business Credit Cap

1. Specifies that for each taxable year beginning on or before January 1, 2024, and before January 1, 2027, the total specified credits otherwise allowable under the Personal Income Tax Law and the Corporate Tax Law claimed may not exceed \$5 million for each taxable year.
2. Provides for an exemption for specified credits to the \$5 million limit on total allowable tax credits described above.
3. Specifies that the amount of any credit otherwise allowable that is not allowed solely due to the application of this bill limitation, shall be allowed an additional carryover period equal to the number of taxable years the credit was not allowed because of this limitation.
4. Includes intent language for the Legislature to enact legislation in the 2023-24 legislative session to allow taxpayers subject to a temporary credit limitation beginning with the 2024 tax year to utilize their credits after the limitation period ends by electing to receive a refund of the credits they would have otherwise used to reduce tax liability during the limitation time period.

#### Net Operating Loss Suspension

5. Specifies that a net operating loss deduction shall not be allowed in respect to both corporate and income taxes for any taxable year beginning on or after January 1, 2024, and before January 1, 2027.
6. Extends the carryover period for up to three years, as specified, for any net operating loss for which a deduction is denied pursuant to the changes made by this bill.
7. Specifies that the suspension of the net operating loss deduction included in this bill does not apply to a taxpayer with a net business income or a modified adjusted gross income of less than \$1 million.

## Bad Debt Deduction Elimination

8. Eliminates the sales and use tax deduction and refund for a lender or retailer's affiliate related to bad debt, commencing January 1, 2025.

## Charitable Conservation Easements Conformity

9. Conforms state law with federal law related to deductions for charitable contributions commencing January 1, 2024. This conformity specifically limits deductions for charitable conservation easements to two and a half times the investment cost for the purchaser, and disallowing the deduction for any taxpayer who has previously engaged in fraud.

## Oil and Gas Subsidy Elimination

10. Commencing with the 2024 tax year:
  - a. Eliminates a deduction for intangible drilling and development costs for oil and gas wells.
  - b. Disallows the calculation of depletion as a percentage of gross income from the property for specified natural resources, including coal, oil, shale, and gas and eliminates statute allowing the state to not conform to federal law that prevents large crude oil producers from calculating a depletion deduction as a percentage of gross income.
  - c. Disallows a nonrefundable credit of up to five percent of the qualified enhanced oil recovery costs for projects located in the state if oil prices fall above a specified amount for the preceding year.

## Advanced Strategic Aircraft Credit

11. Extends the timeline for when the Advanced Strategic Aircraft Credit could be used to reduce the alternative minimum tax before January 1, 2026, to before January 1, 2031.

## Legal Ruling of Counsel APA Exemption

12. Specifies that the Administrative Procedures Act (APA) is inapplicable in circumstances pursuant to a legal ruling of counsel issued by California Department of Tax and Fee Administration (CDTFA). Current statute specifies that the APA is inapplicable in circumstances pursuant to a legal ruling of counsel issued by the Franchise Tax Board or the State Board of Equalization.

## Underground Storage Tank Fee Savings Clause and Cost Reimbursement

13. Specifies that CDTFA may continue specific requirements related to the Underground Storage Tank Cleanup Trust Fund, after other provisions of the Barry Keane Underground

Storage Tank Cleanup Trust Fund Act of 1989 expire on January 1, 2036. Specifically, CDTFA may continue providing refunds and credits, among other activities.

#### Apportionment Factor

14. States that when a corporation receives income that is excluded from taxable business income, then it must exclude this income from its apportionment factor formula, consistent with existing law and practice of the Franchise Tax Board.
15. Makes findings and declarations that it is the intent of the Legislature that this section is not a change in, but is declaratory of existing law.

#### Disaster Tax Relief

16. Specifies that the Director of Finance shall determine when Section 7508A of the Internal Revenue Code, related to postponement of certain federal tax-related deadlines, applies to a taxpayer affected a state of emergency declared by the Governor.
17. Specifies that during any period beginning on the date the state postponement period expires and ending on the date the federal postponement period expires, Section 7508A of the Internal Revenue Code shall apply to an impacted taxpayer that requests relief from the Franchise Tax Board and provides specified supporting documentation.

#### Middle Class Tax Refund Clarification

18. Specifies that the unexpended or unused balance of payments made for purposes of the Middle Class Tax Refund shall be deposited by the Franchise Tax Board (FTB) into the General Fund. This does not impact the timeline for taxpayers to utilize the Middle Class Tax Refund.

#### Extend Exemption for Cannabis Businesses

19. Extends the timeline from December 1, 2025, to December 1, 2030, to specify that personal income tax law does not conform to federal income tax law that disallows credits or deductions for businesses engaged in sales of controlled substances, including commercial cannabis activity.

#### Terminate Fund Transfers to Delinquent Tax Collection Fund

20. Removes the requirement for transfer of funds from the General Fund to the Delinquent Tax Collection Fund. This requirement is outdated and FTB no longer uses this authority.

#### Repealing Expiration Date for Electronic Notifications to Taxpayers

21. Eliminates the sunset date (currently January 1, 2025) for allowing the Franchise Tax Board to provide notification to the taxpayer in a preferred electronic communication

method designated by the taxpayer that a specified notice, statement, bill, or other communication is available for viewing in the taxpayer's folder on the Franchise Tax Board's internet website, and allows the taxpayer to file a protest, notification, and other communication to the Franchise Tax Board in a secure manner.

Income Threshold for California Earned Income Tax Credit (CalEITC), the Young Child Tax Credit (YCTC), and the Foster Youth Tax Credit (FYTC).

22. Aligns the maximum earned income thresholds for the California Earned Income Tax Credit (CalEITC), the Young Child Tax Credit (YCTC), and the Foster Youth Tax Credit (FYTC).

#### Historic Venues Restoration and Resiliency Act

23. Requires that the return filed with the CDTFA and DOF specify the taxable sales made at a qualified event for each confirmed historic venue.
24. Limits the requirement to segregate taxable sales on the return to qualified events that occur on or before June 30, 2029.
25. Requires that DOF, no later than 15 days after enactment of the annual Budget Act, for each confirmed historic venue located within the geographic boundaries of a city or county report to the Controller the amounts to be allocated from the fund to each city and county.
26. Changes the requirement from 90 to 10 days that a city or county, or its designee notify any retailers who will be making sales during the qualified event of their reporting obligation as specified.
27. Deletes the requirement for a city or county to deliver a report to CDTFA by January 1, 2027.
28. Specifies that CDTFA's annual report is due November 1 of each year.

#### California Tire Recycling Fee Program

29. Removes the authorization for the California Department of Resources, Recycling and Recycling to contract with another state agency for collection and the requirement for reimbursement for fee collection, audit, and refund service and instead replaces it with a requirement that the California Department of Tax and Fee Administration collect the fee required by the California Tire Recycling Act.
30. Specifies that net funds from fee collection and related activities shall be deposited into the California Tire Recycling Management Fund.
31. This change is made in conjunction with technical changes in the 2024-25 budget act that eliminates reimbursement authority for CDTFA to provide these services and instead provides a budget act appropriation for these purposes.

## COMMENTS

This bill contains various statutory changes necessary to implement the Budget Act of 2024.

### According to the Author

#### Arguments in Support

None on file.

#### Arguments in Opposition

None on file.

## FISCAL COMMENTS

According to the Senate Budget and Fiscal Review Committee, the provisions of this bill result in a net General Fund benefit of approximately \$6 billion for the 2024-25 fiscal year, including:

- a) The provisions of this bill related to the NOL suspension and tax credit limitation are estimated to increase revenues by \$5.95 billion in 2024-25, and \$5.5 billion 2025-26 and \$3.4 billion in 2026-27.
- b) The provisions of this bill related to oil and gas subsidy elimination are estimated to result in revenue gains of \$22 million in 2024-25 and ongoing gains of \$17 million in subsequent years.
- c) The provisions of this bill related to charitable conservation easement deductions are estimated to result in revenue gains of \$55 million in 2024-25 and 2025-26, and ongoing gains of \$25 million in subsequent years.
- d) The provisions related to bad debt are estimated to result in revenues gains of \$2.5 million in 2024-25, and by \$10 million in 2025-26, and 2026-27, and rising to over \$50 million ongoing over time. Additionally, revenues for other funds, which support various local programs, are estimated to increase by similar amounts as well.
- e) Without action on the Apportionment Factor Fix, due to lower apportionment factor for multi-state and multi-national firms, there would be an estimated potential negative revenue impact of up to \$1.3 billion over multiple years based on similar filings from past tax years, and an estimated \$200 million in potential refund claims generated in each tax year prospectively.
- f) The provisions of the bill related to aligning the EITC, YCTC, and FYTC are estimated to increase result in revenue loss of \$150,000 in 2024-25; revenue gains of \$30,000 in 25-26, \$50,000 in 2026-27 for a total loss of \$70,000 from 2024-25 through 2027-28.

## **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

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