



## **Bill Analysis**

Author: Santiago

Sponsor:

Bill Number: AB 1515

Related Bills: See Legislative  
History

Amended: March 25, 2021,  
April 12, 2021, & April 26, 2021

## **SUBJECT**

Earned Income Tax Credit Outreach, Education, and Free Tax Assistance Grant Program

## **SUMMARY**

This bill, under the Revenue and Taxation Code (RTC), would establish the Earned Income Tax Credit Outreach and Education and Free Tax Assistance Grant Program (EITC Grant Program) and would authorize the Franchise Tax Board (FTB), upon appropriation, by the Legislature, to allocate grants to qualified nonprofit community-based organizations or local government agencies to increase the number of eligible households claiming the California Earned Income Tax Credit (CalEITC) and federal Earned Income Tax Credit (EITC), the Golden State Stimulus (GSS), and the Young Child Tax Credit (YCTC). The grants awarded would be at the sole discretion of the FTB Executive Officer.

The FTB would be required to report to the Legislature by January 1, 2023, and annually thereafter, on the effectiveness of the EITC Grant Program.

## **RECOMMENDATION**

No position.

## **SUMMARY OF AMENDMENTS**

The March 25, 2021, amendments removed provisions under the Government Code related to housing authority responsibilities and replaced them with provisions under the RTC that would have modified requirements for providing identifying numbers for purposes of claiming the CalEITC, the GSS, and other nonspecified tax credits and stimulus payments and established the statutory EITC Grant Program.

The April 12, 2021, amendments removed the provisions that would have modified the requirements for providing identifying numbers.

The April 26, 2021, amendments replaced the phrase "other relevant tax credits and stimulus payments" with "YCTC" and other nonsubstantive changes.

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This is the department's first analysis of this bill.

## **REASON FOR THE BILL**

The reason for this bill is to increase outreach, education, and free tax filing services so that all Californians are able to obtain available credits and stimulus payments.

## **ANALYSIS**

This bill, under the RTC, would establish the EITC Grant Program, and in the State Treasury, would establish the Earned Income Tax Credit Outreach and Education and Free Tax Assistance Grant Fund.

Upon appropriation by the Legislature, the FTB would be required to allocate grants to qualified nonprofit community-based organizations or local government agencies for the purpose of increasing the number of eligible households claiming the CalEITC and federal EITC, the GSS, and the YCTC.

The FTB would be required to equally allocate grant moneys for all of the following purposes:

- To provide timely distribution of funds for CalEITC and federal EITC, GSS, and YCTC and for awareness of ITIN eligibility.
- To existing CalEITC outreach contracts.
- To existing Volunteer Income Tax Assistance (VITA) clinic contracts to provide free tax preparation assistance and federal individual taxpayer identification number (ITIN) application assistance.
- Focus funding in regions of the state with low participation in the CalEITC relative to the estimated eligible population in that area.
- Focus funding in regions of the state with estimated high percentages of ITIN filers and ITIN eligible workers who do not have a current ITIN status.
- Emphasize collaboration of grantees with other community-based organizations and local government agencies.
- Encourage targeting of specific underserved communities, particularly those that experience barriers to taking advantage of the credit or stimulus, with a focus on extremely low-income households, likely ITIN eligible workers, populations with limited English proficiency, rural communities, and other hard-to-reach populations.

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This bill would provide that grants allocated under the EITC Grant Program would be:

- Effective for 12 months to ensure continuity of services.
- Awarded at the sole discretion of the Executive Officer of the FTB and exempt from the State Contract Act.

The FTB would be authorized to do all of the following:

- Contract or administratively partner with the Department of Community Services and Development to administer any provisions of the EITC Grant Program as the FTB deems necessary.
- Adopt regulations for purposes of implementing the EITC Grant Program in accordance with the Administrative Procedure Act.

Additionally, the FTB would be required to report to the Legislature beginning January 1, 2023, and annually thereafter, on the effectiveness of the EITC Grant Program. The report would be submitted pursuant to Section 9795 of the Government Code.

#### *Effective/Operative Date*

This bill would be effective January 1, 2022, and operative as of that date. However, the allocation of grants is subject to an appropriation by the Legislature.

#### *Federal/State Law*

##### *Federal Law*

Existing federal law (Internal Revenue Code (IRC) section 32) allows eligible individuals a refundable EITC. A refundable credit allows for the excess of the credit over the taxpayer's tax liability to be refunded to the taxpayer. The EITC is a percentage of the taxpayer's earned income and is phased out as income increases. For 2020, the EITC is available to individuals and families earning up to \$56,844. The federal credit rate varies from 7.65 percent to 45 percent, depending on the number of qualifying children, up to a maximum of three children.

An eligible individual (and spouse, if filing a joint return), and any qualifying children must have a SSN issued by the Social Security Administration that is valid for employment.

To claim the federal EITC, eligible individuals must file a federal personal income tax return (Form 1040 or Form 1040-SR) with the Internal Revenue Service (IRS). Federal Schedule EIC Earned Income Credit must be included with the income tax return, if the eligible individual claims a qualifying child.

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Please see the "Program Background" section below for additional information on free filing options and education and outreach.

### *State Law*

#### *CalEITC/YCTC*

State law provides a refundable CalEITC that is generally determined in accordance with IRC section 32, as applicable for federal income tax purposes for the taxable year, except as modified.

State law for taxable years beginning before January 1, 2020, conforms to the federal requirement that an eligible individual (and spouse, if filing a joint return) and any qualifying child must have a valid SSN.

Starting with taxable years beginning on or after January 1, 2020, state law modifies the identification number requirement. Eligible individuals, their spouses, if married, and any qualifying children may have a federal ITIN or an SSN without regard to whether it was issued for employment or issued solely for the purpose of receiving federally funded benefits.

For taxable year 2020, the refundable CalEITC is generally available to households making \$30,000 or less regardless of whether the eligible individual has a qualifying child.

State law also allows the refundable YCTC for a qualified taxpayer, who has at least one qualifying child younger than six years old as of the last day of the taxable year. The maximum credit is limited to \$1,000 per taxable year, and phases out as the qualified taxpayer's earned income exceeds the threshold amount, initially set at \$25,000.

To claim the refundable CalEITC and the refundable YCTC, eligible taxpayers must file their California personal income tax return and attach Form 3514 *California Earned Income Tax Credit*, similar to the IRS requirements.

Please see the "Program Background" section below for additional information on free filing options.

#### *GSS*

The Controller is authorized to make a one-time GSS payment in the applicable amount to each qualified recipient, as defined. The one-time GSS payment would be either \$600 or \$1,200.

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A "qualified recipient" is either of the following:

- An eligible individual as determined under the CalEITC who filed a California individual income tax return for the taxable year beginning on or after January 1, 2020, and before January 1, 2021, who has been allowed the CalEITC for that taxable year by November 15, 2021, and is a resident on the date the Controller issues the payment.
- An individual who meets certain requirements applicable to eligible individuals for purposes of the CalEITC including residing in California for more than one-half of the year and not being eligible to be claimed as a dependent, and satisfies all of the following:
  - Filed a California individual income tax return on or before October 15, 2021, for the taxable year beginning on or after January 1, 2020, and before January 1, 2021.
  - Included on the return either their federal ITIN, or, if married, the federal ITIN of their spouse.
  - Had California adjusted gross income (CA AGI) of \$75,000 or less.
  - Is a California resident on the date the Controller issues the payment.

### *Implementation Considerations*

The department has identified the following implementation considerations for purposes of a high-level discussion; additional considerations may be identified as the bill moves through the legislative process. Department staff is available to work with the author's office to resolve these and other considerations that may be identified.

This bill would require the FTB to allocate grants to increase participation in the federal EITC, the CalEITC, the GSS, and the YCTC. The term "increase" is undefined. It is unclear what tangible metrics would be used to make this determination, or what level of increase would be an effective program. In addition, eligibility for the one-time GSS stimulus payment is based on an individual meeting specified requirements related to their tax year 2020 California individual income tax return. It is unclear how an increase in GSS participation could result as this bill would be effective and operative on January 1, 2022.

This bill would require the FTB to "equally allocate" grant moneys for specified purposes. The use of the term "equally" suggests that the FTB would be required to allocate the same amount for each item. Therefore, if there is no recipient for one item, the money would be unused rather than be reallocated to one of the other purposes. If this is not the author's intent, it is recommended that the term "equally" be removed or defined.

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FTB would be required to allocate grant moneys to existing CalEITC outreach contracts and existing VITA clinic contracts. It is unclear on what date a contract would be considered to be an existing contract and whether this would mean an existing contract must be awarded in perpetuity. Community based organizations have different focuses and abilities and awarding existing contracts in perpetuity could disadvantage other community based organizations that could add equal or additional value to outreach efforts with no ability to seek grant funds. Additionally, the total of "existing" contracts could exceed the amount appropriated making the FTB unable to "equally" allocate grants for the other purposes specified in the bill.

Grants allocated pursuant to this bill would be effective for 12 months. However, under the current grant allocation process, contracts are being granted for up to two years. If the author's intent is to provide funding year round, it is recommended that the bill be amended.

This bill would specify that all grants are at the discretion of the FTB Executive Officer. To facilitate the administration of the grants, it is recommended that the bill be amended to allow discretion to the Executive Officer or the Executive Officer's designee.

This bill would require the FTB to report to the Legislature beginning January 1, 2023, and annually thereafter, on the "effectiveness of the program." Although grantees report on the use of grant funds, it is unclear by what standard "effectiveness" would be measured. Additionally, the author may wish to extend that date to March 1, 2023, to allow a more complete evaluation of the prior filing season.

#### *Technical Considerations*

In subdivision (a) of Section 19901, it is recommended that the term "article" be replaced with "part."

This bill would add Part 10.4 to the RTC as would SB 104 (Mcquire, et al.) currently pending in the committee process. The author may wish to renumber the proposed Part.

#### *Policy Considerations*

This bill would require FTB to allocate grant moneys to existing VITA clinic contracts to provide free tax preparation assistance and federal ITIN application assistance. However, there could be certain limitations and prohibitions on the use of the funds by the VITA sites.

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## LEGISLATIVE HISTORY

AB 81 (Ting, Chapter 5, Statutes of 2021), among other changes, appropriated an additional \$5 million to existing CalEITC outreach to provide increased awareness of the GSS.

AB 88 (Ting, Chapter 12, Statutes of 2021), among other changes, clarified that to receive the one-time GSS payment, individuals filing a California individual income tax return for tax year 2020 must otherwise be an eligible individual under the CalEITC, including residing in California for more than one-half of the year and not being eligible to be claimed as a dependent, and augmented by \$100,000 the CalEITC outreach appropriation to increase awareness for the GSS.

SB 88 (Committee on Budget and Fiscal Review, Chapter 8, Statutes of 2021), authorized the Controller to make a one-time GSS payment to qualified recipients, as defined, of either \$600 or \$1,200.

AB 1876 (Committee on Budget, Chapter 87, Statutes of 2020), modified the CalEITC by allowing all eligible individuals, eligible individuals' spouses, and qualifying children to have either a federal ITIN or SSN without regard to it being valid for employment. As a result of the expanded eligibility for the CalEITC, eligibility for the YCTC was expanded by allowing a "qualified taxpayer" and "qualifying child" to have either an SSN or federal ITIN.

SB 115 (Committee on Budget and Fiscal Review, Chapter 40, Statutes of 2020), among other provisions, specified that \$5 million appropriated to the FTB (The Budget Act of 2020) would be allocated in a manner to maximize participation and claiming of the CalEITC, emphasizing nonprofit and community-based organizations that provide increased awareness of the CalEITC.

SB 1409 (Caballero, Chapter 114, Statutes of 2019), required the FTB to analyze and develop a plan to increase the number of CalEITC claims and the federal EITC. The FTB is required to report to the Legislature by January 1, 2022, its analysis and plan.

AB 74 (Ting, Chapter 23, Statutes of 2019), among other provisions, specified that \$10 million appropriated to the FTB (The Budget Act of 2019) would be allocated in a manner that emphasizes nonprofit and community-based organizations that provide increased awareness of the CalEITC and that provide free tax preparation services.

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## PROGRAM BACKGROUND

### Free Tax Help

Free tax help is available through VITA and Tax Counseling for the Elderly (TCE). Taxpayers living in California can get free tax help from these programs to file their federal and California personal income tax returns:

- VITA, is available to taxpayers that:
  - Make \$57,000 or less
  - Have disabilities, or
  - Speak limited English
  - Are active duty or retired military personnel, or a dependent
- TCE is available to taxpayers over 60 years old

Individuals with adjusted gross income of \$72,000 or less for tax year 2020 may also be eligible for free online filing. For more detail, refer to the IRS website Free File Online Lookup Tool.

Additionally, CalFile, is the FTB's free online direct to government e-filing program of the California personal income tax return. For the 2020 process year, the FTB received 120,122 returns through the CalFile application.

### Education and Outreach

The Legislative Analyst (LAO) report "*The 2019-20 Budget: Analysis of Proposed Earned Income Tax Credit Expansion*" noted that the Legislature in 2016, 2017, and 2018, authorized funding for education and outreach by "community-based organizations and other state and local government agencies (such as school districts and county social services offices) to raise awareness about the state and federal EITC."

According to the LAO report, these efforts included advertising and media outreach, distribution of printed materials, and canvassing—direct contact with individuals in targeted residential neighborhoods. Additionally, starting in 2018, grant recipients were allowed to fund tax filing assistance.

In the Budget Act of 2019, the Governor and the Legislature set aside \$10 million for state outreach grants to promote the CalEITC and to promote free tax preparation. Grantees will carry out statewide and local outreach efforts aimed at reaching eligible families.

In the Budget Act of 2020, \$5 million was appropriated for state outreach grants to maximize participation and claiming of the CalEITC, emphasizing nonprofit and community-based organizations that provide increased awareness of the CalEITC.



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Additional amounts totaling \$5.1 million were appropriated during 2021 to augment CalEITC outreach to provide increased awareness of the GSS.

Additionally the *EITC Information Act* requires employers and specified state departments and agencies that serve those who may qualify for the EITC to provide annual notification of possible eligibility for both the federal EITC and the CalEITC.

## **FISCAL IMPACT**

The department's costs to implement this bill have yet to be determined. As the bill moves through the legislative process, costs will be identified. Although, resources may be required to ensure FTB is able to fully support the outreach program.

## **ECONOMIC IMPACT**

### *Revenue Estimate*

This bill as amended April 26, 2021, would not impact state income or franchise tax revenue.

## **LEGAL IMPACT**

None noted.

## **APPOINTMENTS**

None noted.

## **SUPPORT/OPPOSITION**

Support: As noted in the Assembly Revenue and Taxation Committee analysis dated April 16, 2021: United Way of California (Sponsor), California Association of Food Banks, Friends Committee on Legislation of California, Golden State Opportunity, Inland Coalition for Immigrant Justice, Inland Empire Immigrant Youth Collective, Latino Community Foundation, Nourish California, Orange County Communities Organized for Responsible Development, Working Partnerships USA, and Young Invincibles.

Opposition: None noted.

## **ARGUMENTS**

To be determined.

## **LEGISLATIVE CONTACT**

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