



## **Bill Analysis**

Author: Skinner, et al.

Sponsor:

Bill Number: SB 65

Related Bills: See Legislative  
History

Amended: June 14, 2021

## **SUBJECT**

California Momnibus Pilot Program: Gross Income Exclusion

## **SUMMARY**

This bill, among other things, under the Welfare Institutions Code (WIC) would establish the California Momnibus Pilot Program (MPP). This would establish a three-year pilot program to test the capacity of the California Work Opportunity and Responsibility to Kids (CalWORKs) program to serve as a distribution point for monthly guaranteed income payments to certain pregnant people, parents, or relative caretakers of a child less than 24 months of age. Under the Personal Income Tax Law (PITL), this bill would provide a gross income exclusion for the monetary benefits received under this program. Also, such monetary benefits would not be considered earned income for purposes of eligibility for the California Earned Income Tax Credit (CalEITC) pursuant to the Revenue and Taxation Code (RTC) Section 17052.

This analysis only addresses the provisions that would impact the department.

## **RECOMMENDATION**

No position.

## **SUMMARY OF AMENDMENTS**

The June 14<sup>th</sup> amendments did the following:

- Added four coauthors;
- Made technical, nonsubstantive clarifying changes;
- Changed the name of the program created by this bill from the California Guaranteed Income Pilot for Pregnant People and Infants to the MPP; and
- Added Exclusions to the MPP and stated that the Program would only become operational if there is an appropriation in the Budget Act.

The June 14<sup>th</sup> amendments additionally implemented various other amendments that do not impact the department.

## **REASON FOR THE BILL**

The reason for this bill is to better support pregnant people, parents, and relative caretakers of children less than 24 months old by providing them with a guaranteed monthly income, with the goal of reducing prenatal and postnatal death and the incidence and impact of maternal depression, and improving short- and long-term health outcomes.

## **ANALYSIS**

This bill would, under the WIC, establish the MPP. This program would be a three year program commencing from the start date of the distribution of the monthly guaranteed income payments.

This program would be administered by the counties and participation in it would be optional for counties. Counties participating in the program would issue a monthly guaranteed income payment in the amount of \$1,000 to participants through the electronic benefit transfer system.

If a person is generally eligible for the program if they would otherwise be eligible to participate in the CalWORKS Home Visiting program regardless of whether or not their county of residence or assistance unit participates in the CalWORKS Home Visiting program. However, a "Noncustodial Parent" is not eligible to participate in this program.

This guaranteed income payment would not be considered income for the purposes of determining eligibility and the benefit amount for any means-tested program to the extent permitted under federal law.

In order for this program to be implemented, the Director of State Department of Social Services (DSS) and the Director of State Department of Health Care Services (DHCS) must certify to the legislature, that the payments will not be treated as income for federally funded means-tested program administered under the DSS or the DHCS. In addition, if the payment would be deemed to be a tax credit, they must certify that they have received any additional required authority from the Franchise Tax Board (FTB).

Additionally, this bill would, under the PITL, for taxable years beginning on or after January 1, 2022, provide an exclusion from gross income for monetary benefits provided under MPP. Furthermore, the monetary benefits would not be considered earned income for purposes of eligibility for the CalEITC.

The MPP would only become operational on January 1, 2022, if there is an appropriation for this program in the Budget Act, or on the date the Legislature receives certification from the Director of DSS and Director of DHCS that federal law and guidance authorized the state to exempt payments under the pilot program from being considered income for certain federally-funded means tested programs, whichever is later.

Subject to an appropriation in the Budget Act, the DSS would award funds to participating counties to provide the MPP monthly payments to any assistance unit that meets the requirements of this act. These benefits are not entitlement services and participating counties may limit the number of families participating in the program to ensure that the costs do not exceed the amount of funds awarded to the county for this purpose.

#### *Effective/Operative Date*

This bill would become effective January 1, 2022. The PITL provisions would be specifically operative for taxable years beginning on or after January 1, 2022.

#### *Federal/State Law*

Existing federal and state laws provide that gross income includes all income from whatever source derived, including compensation for services, business income, gains from property, interest, dividends, rents, and royalties, unless specifically excluded.

Existing federal and state laws provide that certain types of income are excluded from gross income, such as amounts received as a gift or inheritance, certain compensation for injuries and sickness, qualified scholarships, educational assistance programs, foster care payments, and interest received on certain state or federal obligations.

Existing federal law allows eligible individuals a refundable Earned Income Tax Credit (EITC) under Internal Revenue Code (IRC) section 32. The 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.

State law provides a refundable CalEITC that is generally patterned after IRC section 32, as applicable for state income tax purposes for the taxable year, except as modified.

Under RTC section 41, legislation that would create a new tax expenditure, which includes a credit, deduction, exclusion, exemption, or any other tax benefit as provided for by the state, is required to include specific goals, purposes, objectives, and performance measures to allow the Legislature to evaluate the effectiveness of the tax benefit.

### *Implementation Considerations*

We are available to work with the author's office to resolve these and other considerations that may be identified.

It is unclear how the FTB would determine those taxpayers who are recipients of the MPP's monetary benefits and thus eligible for the gross income exclusion. This concern could be addressed by allowing counties and the FTB to share information to allow the FTB to validate eligibility.

The bill provides that if this monthly guaranteed income would become a tax credit, then the Director of DSS and the Director of DHCS must certify to the legislature that they received "additional required authority" from the FTB. The phrase "additional required authority" is undefined as it is unclear what additional required authority the FTB would be granting. The absence of a definition to this undefined phrase could lead to confusion. For clarity, it is recommended that the bill be amended.

### *Technical Considerations*

Both sections 11347(a)(2) and 13347.3(b) state "if this is considered a tax credit" in reference to the MPP potentially becoming a tax credit. However this type of program does not typically become a tax credit and there are no other references in this bill discussing how or why this program would become a tax credit. In order to avoid confusion about the nature of this payment, it is suggested that the language "if this is considered a tax credit" be removed for clarity.

### *Policy Considerations*

Under RTC section 41, legislation that would create a tax benefit as provided for by the state is required to include specific goals, purposes, objectives, and performance measures to allow the Legislature to evaluate the exemption's effectiveness. Due to the fact that this bill proposes to allow an income exclusion for the MPP payments, the author may want to amend the bill to satisfy the RTC section 41 requirements.

## **LEGISLATIVE HISTORY**

SB 139 (Committee on Budget and Fiscal Review, 2021/2022). This bill authorizes the Controller to make one-time Golden State Stimulus II payment of specified amounts to qualified recipients. This bill additionally provides a gross income exclusion for the payments. This bill has passed both chambers and is currently enrolled.

AB 1338 (Low, 2021/2022), would provide an exclusion from gross income for amounts received as financial assistance by a taxpayer who is enrolled in a program or research project. This bill is currently in the committee process and has been placed in the suspense file.

AB 65 (Low, 2021-2022), would establish the California Universal Basic Income Act that would require the FTB to administer the California Universal Basic Income Program providing monthly payments in the amount of \$1,000 to eligible California residents. This bill is currently in the committee process.

## **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.

## **ECONOMIC IMPACT**

### *Revenue Estimate*

This bill as amended on June 14, 2021, would exclude from gross income monetary benefits received through the MPP, as provided for under the Welfare and Institutions Code. These benefits would not constitute compensation for labor or services rendered. As a result, it would not change the way income or franchise tax is computed under the RTC.

## **LEGAL IMPACT**

None noted.

## **APPOINTMENTS**

None noted.

## **SUPPORT/OPPOSITION**

Senate Floor Analysis dated May 22, 2021, lists the following support and opposition.

Support: Black Women for Wellness Action Project (co-source); California Nurse Midwife Association (co-source); March of Dimes (co-source); NARAL Pro-Choice California (co-source); National Health Law Program (co-source); Western Center on Law and Poverty (co-source); Access Reproductive Justice; ACLU California Action; BreastfeedLA; Business & Professional Women of Nevada County; California Coalition of Welfare Rights Organizations; California League of Conservation Voters; California Pan-Ethnic Health Network; California Women's Law Center; Center on Reproductive Justice at Berkeley Law; Children Now; Children's Specialty Care Coalition; Citizens for Choice; Coalition of California Welfare Rights Organizations; Consumer Watchdog; Courage California; Disability Rights Education and Defense Fund; Empowering Pacific Islander Communities; Essential Access Health; Every Mother Counts; Health Access California; If/When/How: Lawyering for Reproductive Justice; In Our Own Voice; National Black Women's Reproductive Justice Agenda; LA Best Babies Network; Los Angeles County Board of Supervisors; Maternal and Child Health Access; National Association of Social Workers, California Chapter; National Center for Youth Law; Plan C; Planned Parenthood Affiliates of California; Providence; Public Law Center;

Religious Coalition for Reproductive Choice; SBCC-Strength Based Community Change; TEACH; The Birth Equity Advocacy Project; The Birthworkers of Color Collective; The Children's Partnership; The Coalition of 100 Black Women, Los Angeles Chapter; The Praxis Project; Time for Change Foundation; Training in Early Abortion for Comprehensive Healthcare; Three Individuals

Opposition: None noted.

## **ARGUMENTS**

Senate Floor Analysis dated May 22, 2021, includes the following argument in support of SB 65: "A coalition letter from the sponsors of this bill states that although California has reduced the rates of maternal mortality over the past 30 years, mortality and morbidity for Black and Indigenous/Native American pregnant people, women, and infants remain considerably higher than the state's average. Research points to structural racism, as well as socioeconomic factors, contributing to the racial and geographic disparities seen in birthing outcomes of people of color. In addition, although we have not gotten updated data at the state level in several years, county data suggest that the racial disparities are widening, with deaths for Black birthing people ticking back up here in California.

Between 2011 and 2013, the ratio of death for Black women was 26.4 per 100,000, almost 3.8 times higher than that for white women. In certain counties, the disparities are even greater. In Los Angeles County, the largest county in California, the rate of maternal death for Black women is over 4.5 times higher than the County overall rate for women. According to the Los Angeles County Office of Women's Health Indicators for Women in Los Angeles County 2013 report, the ratio of Black maternal mortality in Los Angeles was 58.6 per 100,000. In the 2018 version of the report, the number was 85.8 per 100,000. LA County's ratio for all women in the 2018 report was 17.9 per 100,000.

Meanwhile, California's infant mortality rate is 4.2 per 1000 live births, lower than the national average of 5.7. However, a closer look at the numbers demonstrates sharp racial disparities. Indigenous/Native American infants in California die at a rate of 11.7 per 1000 live births, followed by Black infants who die at a rate of 8.7 per 1000 live births. Higher numbers of Black and Asian and Pacific Islander pregnant and postpartum people report unfair treatment, harsh language, and rough handling during their labor/delivery hospital stay, as compared to white pregnant and postpartum people. Higher numbers of pregnant and postpartum people who speak an Asian Language or Spanish at home also report unfair treatment during their labor/delivery hospital stay, as compared to pregnant and postpartum people who speak primarily English at home.

In addition, California is heading towards a maternal health crisis, with critical shortages in maternity providers predicted by 2025. Currently, California has nine counties that do not have a single OBGYN. California only has two nurse-midwifery programs in the entire state, and only one direct-entry midwifery program, approved by their respective state licensing boards. It is becoming increasingly difficult for these programs to expand the midwifery workforce in California to meet the demand in maternity care deserts and low access areas."

There is no opposition noted in the floor analysis.

#### **LEGISLATIVE CONTACT**

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