



Bill Analysis

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Bill Number: SB 87

SUBJECT

Collection of Small Business COVID-19 Relief Grants

SUMMARY

This bill would establish the Small Business COVID-19 Relief Grant Program ("Grant Program") under the Office of Small Business Advocate ("CalOSBA"). The bill would also exempt grants from gross income under the Personal Income Tax Law (PITL) and Corporation Tax Law (CTL) and provide authority to the Franchise Tax Board (FTB) to collect any grants identified for recapture by the CalOSBA.

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

REASON FOR THE BILL

The reason for this bill is to provide grants to small businesses that were impacted by COVID-19.

ANALYSIS

This bill would, under the Government Code, create the Grant Program within the CalOSBA.

Grant Program

This bill would provide grants to qualified small businesses that would be required to be awarded in a minimum of three rounds, which includes a closed round, in the following amounts:

- Five thousand dollars (\$5,000) for applicants with an annual gross revenue of one thousand dollars (\$1,000) to one hundred thousand dollars (\$100,000) in the 2019 taxable year.
- Fifteen thousand dollars (\$15,000) for applicants with an annual gross revenue greater than one hundred thousand dollars (\$100,000), and up to one million dollars (\$1,000,000), in the 2019 taxable year.
- Twenty five thousand dollars (\$25,000) for applicants with an annual gross revenue greater than one million dollars (\$1,000,000), and up to two million five hundred thousand dollars (\$2,500,000), in the 2019 taxable year.

The bill would require the fiscal agent to issue Forms 1099 and otherwise adhere to tax reporting guidelines regardless of whether the grants are excluded from gross income for purposes of the PITL or CTL. The bill also provides several other provisions related to the Grant Program administration.

The bill would allow a grant to be recaptured by CalOSBA if the grantee has failed to meet specified criteria. FTB's role in the Grant Program would be to collect any amounts identified for recapture by CalOSBA.

The bill specifies that both Governor's Office of Business and Economic Development (GO-Biz) and the FTB may adopt regulations, notwithstanding Chapter 3.5 of the Administrative Procedures Act, for purposes of implementing the grant program.

The article adding the Grant Program would remain in effect only until January 1, 2024, and as of that date would be repealed.

Under the PITL and CTL, this bill indicates that for taxable years beginning on or after January 1, 2020, and before January 1, 2030, gross income does not include any of the following grant allocations:

- Grant allocations received by a taxpayer pursuant to the COVID-19 Relief Grant under Executive Order No. E 20/21-182.
- Grant allocations received by a taxpayer pursuant to the Grant Program.

Collection of Recaptured California Small Business COVID-19 Relief Grants

CalOSBA is required to provide to the FTB a list of grantees and their respective recaptured grant amounts as approved, in whole or in part, by CalOSBA, for collection.

This bill defines the following terms:

- "California Small Business COVID-19 Relief Grant Program" or "program" means the grant program established by this bill.
- "CalOSBA" or "office" means the Office of Small Business Advocate within the GO-Biz.
- "Recaptured grant amount" means the amount identified in any recommendation for recapture of a grant approved, in whole or in part, by CalOSBA.

The bill specifies that any recaptured grant amount shall be treated as final and due and payable to the State of California, and shall be collected from the grantee by the FTB in any manner authorized under the law for collection of a delinquent personal income tax liability, including, but not limited to, issuance of an order and levy, as specified. Amounts that CalOSBA provides to the FTB for collection, shall accrue interest as specified. Amounts collected by the FTB for this grant, shall not be

considered payment for income taxes as specified. The Controller may, in their discretion, offset any amount due a grantee by a state agency against any recaptured grant amount, as specified.

In addition to the information, information sources, and remedies currently available to the FTB, the FTB shall also have available to them any information, information sources or enforcement remedies and capabilities available to the CalOSBA or the state, which they may use in conjunction or independently in regards to the recaptured grant amounts.

This bill specifies that Section 41 shall not apply to the gross income exclusion allowed by this bill.

The provisions related to the gross income exclusions would remain in effect only until December 1, 2030, and repealed as of that date.

Effective/Operative Date

This bill, providing for appropriations related to the Budget Bill and identified as a bill related to the budget in the Budget Bill, would be effective immediately upon enactment and specifically operative for taxable years beginning on or after January 1, 2020.

Federal/State Law

Federal Law

Under current federal law, the U.S. Small Business Administration (SBA) offers several COVID-19 relief programs for small businesses, including:

- The Paycheck Protection Program (PPP) was established by the Coronavirus Aid, Relief, and Economic Security (CARES) Act, is for small businesses who were in operation on February 15, 2020. The PPP provides small businesses that have 500 or fewer employees (including nonprofit organizations, veterans organizations, tribal business, individuals who are self-employed or are independent contractors), with funds to pay payroll costs including benefits. These funds can also be used to pay interest on mortgages, rent, and utilities. The funds are provided in the form of loans that will be fully forgiven when used for payroll costs, interest on mortgages, rent, and utilities. The Consolidated Appropriations Act, 2021 added another round of PPP loans. This round of PPP loans contains many similar provisions as those under the CARES Act with some differences.
- Economic Injury Disaster Loans provides economic relief to businesses, which may include agricultural businesses that are currently experiencing a temporary loss of revenue due to COVID-19. Loans are low-interest bearing and not forgivable. Additionally, Economic Injury Disaster Loan advance grants up to \$10,000 are available to provide funding to businesses meeting specific requirements. *State Law*

State Law

No comparable provision in state law.

Implementation Considerations

None noted.

Technical Considerations

None noted.

LEGISLATIVE HISTORY

Research of California legislation history found no legislation similar to the provisions of this bill.

PROGRAM BACKGROUND

None noted.

FISCAL IMPACT

At this time, the department will absorb costs to implement the changes in this bill. However, volumes are uncertain and costs could change if workload demands resulting from this program later increase.

ECONOMIC IMPACT*Revenue Estimate*

This bill would result in the following revenue loss:
Estimated Revenue Impact of SB 87 as Amended February 17, 2021

(\$ in Millions)

Fiscal Year	Revenue
2021-2022	-\$85
2022-2023	-\$2.0
2023-2024	\$0

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill or for the net final payment method of accrual.

Revenue Discussion

Based on data from the US Census Bureau and FTB, it is estimated there would be 2.7 million small businesses and nonprofits that would qualify under the bill's proposal. It is assumed \$2 billion would be appropriated to the CalOSBA and the grants would be awarded in 2021. Of that amount, it is assumed 5 percent, or \$100 million, would be recaptured. Assuming an average tax rate of 4.3 percent would result in a revenue loss of \$87 million in 2021.

The tax year estimates are converted to fiscal year estimates, and then rounded to arrive at the amounts reflected in the above table.

LEGAL IMPACT

None noted.

APPOINTMENTS

None.

VOTES

Location	Date	Yes Votes	No Votes
Concurrence	February 22, 2021	38	0
Assembly Floor	February 22, 2021	77	0
Senate Floor	January 21, 2021	22	2

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