

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: 04/20/2023
POSITION: Oppose

BILL NUMBER: SB 227
AUTHOR: Durazo, Maria Elena

BILL SUMMARY: Unemployment: Excluded Workers Program.

This bill, upon appropriation, requires the Employment Development Department (EDD) to establish the Excluded Workers Pilot Program (Program) in 2025 to provide unemployment benefits to workers ineligible for state and federal Unemployment Insurance (UI) benefits due to their immigration and work status, and make quarterly reports on the outcome of the Program starting on or before April 1, 2025, until all funding for the Program has been exhausted.

FISCAL SUMMARY

EDD estimates one-time costs of \$270.7 million General Fund, with the majority of funding associated with developing the new information technology (IT) system for the Program, which will take approximately 72 months. The one-time costs also include funding to prioritize language access, fraud detection and prevention systems, establish a call center, create forms, promulgate regulations, design marketing and communications materials, develop reporting systems, establish secure payment methods, and other activities including developing Program policy and procedures, training, and accounting. This bill will also result in significant General Fund costs to provide unemployment benefits for eligible excluded workers. An estimate of those costs is currently unknown, but could range from hundreds of millions to billions of dollars General Fund annually.

At the time of this analysis, costs to the Franchise Tax Board (FTB) to implement this bill were yet to be determined. However, FTB estimates a loss of \$4.3 million in Personal Income Tax revenues for the 2025 tax year related to the provisions of this bill.

COMMENTS

Finance is opposed to this bill because it results in significant General Fund costs not included in the 2023 Budget. Additionally, this bill places infeasible timelines on EDD to adopt regulations and establish the Program given EDD must first establish a new IT system, which will take multiple years.

Existing law establishes the UI program as a federal-state partnership program to provide weekly payments to workers who lose their job through no fault of their own. Eligibility for benefits requires a claimant to be able to and seeking work. These benefits range from \$40 to \$450 per week for up to 26 weeks depending on the employee's previous work and pay.

Under existing federal law, undocumented immigrants are not considered eligible for participation in the UI program because they are not legally authorized to work or seek work.

Under existing state law, undocumented workers are eligible for other benefits provided by the state, such as workers' compensation or State Disability Insurance (SDI).

Analyst/Principal (723) March, Andrew	Date	Program Budget Manager Calvert, Teresa	Date
Department Deputy Director		Date	
Governor's Office:	By:	Date:	Position Approved _____ Position Disapproved _____
BILL ANALYSIS			Form DF-43 (Rev 03/95 Buff)

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COMMENTS (continued)

This bill, upon appropriation, requires EDD to establish the Program to provide eligible unemployed individuals with \$300 per week for up to 20 weeks of unemployment occurring between January 1, 2025 and December 31, 2025. To be eligible, an individual must:

- Reside in California at the time of application;
- Have performed at least 93 hours of work, or earned \$1,300, as an employee over the course of three calendar months in the 12 months preceding their application;
- Have experienced a week of unemployment;
- Be ineligible to receive traditional UI benefits; and
- Not have received Paid Family Leave (PFL) or SDI benefits that week.

This bill requires EDD to promulgate regulations to administer the program by January 1, 2025, including the manner in which determinations are made, among other administrative processes. This bill explicitly prohibits EDD from taking the following actions in the administration of this program:

- Requesting an individual's nationality, place of birth, or eligibility for a social security number;
- Requesting whether an individual has lawful presence in the United States;
- Contacting an individual's current, former, or prospective employer to verify employment status; or
- Recording an individual's immigration or citizenship status.

These restrictions prevent EDD from verifying employment in its traditional manner of an employer interview. Instead, this bill provides that applicants for the program would establish the identity, residency, and work history required for eligibility through documents graded on a point system. Eligibility would depend on the accumulation of four points. Documentation that is highly credible, such as wage stubs and tax returns, collect four points. Relatively credible documents, such as regular bank deposits, are worth two points. Evidence such as emails, employer identification cards, and communications about work are worth one point.

Additionally, under the Personal Income Tax Law, this bill, for taxable years beginning on or after January 1, 2025, and before January 1, 2027, excludes from gross income benefits or payments received under the EWP. Finally, this bill requires EDD to submit a report to the Legislature by June 15, 2026, on total benefits paid and the average amount allowed.

A similar program for excluded workers was established in New York State. New York's \$2.1 billion Excluded Workers Fund provided payments between \$3,200 and \$15,600 to workers not eligible for the traditional UI benefits or pandemic unemployment benefits. That program was not a UI equivalent however, and instead took the form of a one-time payment beginning in August 2021 for workers who could prove they had faced significant hardship as a result of losing their jobs in 2020 and 2021. That program approved 130,000 claims before it expended its funding in October 2021.

BILL ANALYSIS--(CONTINUED)

AUTHOR

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COMMENTS (continued)

Code/Department Agency or Revenue Type	SO LA CO RV	(Fiscal Impact by Fiscal Year)						Fund Code	
		PROP 98	FC	2023-2024 FC		2024-2025 FC			2025-2026
7100/EDD	SO	No	C	135,300	C	155,000	C	34,800-43,800	0001
4116200/Personal I	SO	No	U	0	U	0	U	-4,300	0001