

Date of Hearing: April 19, 2022

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Jose Medina, Chair

AB 1691 (Medina) – As Amended March 11, 2022

SUBJECT: Education finance: Classified School and Community College Employee Summer Assistance Programs.

SUMMARY: Establishes the Classified Community College Employee Summer Assistance Program (CCCESAP); makes changes to the Classified School Employee Summer Assistance Program (CSESAP); and, requires the State Controller to appropriate \$90 million from the General Fund (GF) for the CSESAP and the CCCESAP. Specifically, **this bill:**

- 1) Establishes the CCCESAP for eligible classified employees of community college districts (CCDs) where these employers and employees may elect to participate. Specifies all of the following relating to the CCCESAP:
 - a) Provides a participating classified employee up to one dollar for each one dollar that the employee elects to have withheld from their monthly paychecks;
 - b) Authorizes a CCD to elect to participate in the CCCESAP, and requires the CCD to notify classified employees in writing that it has elected to participate for the next academic year. Once a CCD elects to do so and notifies classified employees, the CCD is prohibited from reversing its decision to participate for the next academic year beginning after the end of the fiscal year in which moneys are appropriated for these purposes;
 - c) Requires a classified employee who elects to participate in the program to notify the CCD in writing on a form developed by the California Community College's Chancellor's Office (CCCCO) by March 1 during the fiscal year in which moneys are appropriated for these purposes. Further, the employee must specify the amount to be withheld from their monthly paycheck during the applicable academic year (up to 10%) and whether they choose to have the amounts withheld paid out during the summer recess period in either one or two payments;
 - d) Provides that for participation, a classified employee is eligible if the employee has been employed by the CCD for at least one year at the time the employee elects to participate in the program, and if the employee is employed by the CCD in the employee's regular assignment for 11 months or fewer out of a 12-month period, excluding any hours worked outside of the regular assignment;
 - e) Provides that for the 2023-24 and 2024-25 academic years, for purposes of determining a classified employee's total months employed by the CCD, the employing CCD must exclude any hours worked by the employee as a result of an extension of the academic year directly related to the COVID-19 pandemic, if the hours are in addition to the employee's regular assignment and prevent the employee from being eligible for this program;
 - f) Prohibits a classified employee from participating in the program if the employee's regular annual pay received directly from the CCD is more than \$62,400 for an entire

academic year at the time of enrollment. Specifies that the CCD must exclude any pay received by the employee during the previous summer recess period for purposes of determining the employee's regular annual pay received directly from the CCD;

- g) Requires a CCD that elects to participate in the program to notify the CCCCCO in writing, as specified, that it has elected to participate by April 1 during a fiscal year in which moneys are appropriated for these purposes. The CCD must also specify the number of employees that have elected to participate in the program and the total estimated amount to be withheld from participating employees' paychecks for the applicable academic year;
- h) Requires the CCCCCO to notify participating CCDs in writing by May 1 during the fiscal year in which moneys are appropriated for these purposes, of the estimated amount of state match funding that a participating employee can expect to receive as a result of the employee's participation, and if the funding is insufficient to provide a one-to-one dollar match that has been withheld from the employee's monthly paycheck, the CCCCCO must notify the CCDs of the expected prorated amount of state match funds that the participating employee can expect to receive as a result of participation;
- i) Requires participating CCDs to notify participating employees, by June 1 during a fiscal year in which moneys are appropriated for these purposes, the amount of estimated state match funds that a participating employee can expect to receive as a result of participating in the program. After receipt of that notification, an employee may withdraw their election to participate in the program or reduce the amount to be withheld from their paychecks by notifying the employing CCD no later than 30 days after the start of the school instruction for the applicable academic year;
- j) Authorizes a classified employee who separates from employment with a CCD during the applicable academic year, or, due to economic or personal hardship, to request any pay withheld from their paycheck from the CCD; however, if the employee requests (a return of) the pay withheld under these circumstances, the employee must not receive any state match funds (i.e., the employee must only receive the funds that were withheld from their paycheck);
- k) Prescribes the administrative process for the CCCCCO and CCDs participating in the program relating to funds for these purposes;
- l) Requires participating CCDs to pay participating classified employees the amounts withheld according to the employee's choices, plus the amount apportioned by the CCCCCO attributable to the amounts withheld from those paychecks during the applicable academic year, and the amount to be paid to the employee during the summer recess period in either one or two payments according to the employee's option;
- m) Establishes that state match funds received by classified employees participating in the program must not be considered to be compensation for purposes of retirement benefits for the California Public Employees' Retirement System or the California State Teachers' Retirement System;
- n) Requires the State Controller to appropriate \$90 million from the GF for the CSESAP and the CCCESAP; and,

- o) Defines the following terms for purposes of CCCESAP:
 - i) “Regular Assignment” to mean a classified employee’s employment during the academic school year, excluding the summer recess period; and,
 - ii) “Month” to mean 20 days or 4 weeks of 5 days each, including legal holidays.
- 2) Includes budgetary and apportionment provisions relating to the CCCCCO, CCDs, State Controller, CDE, and LEAs, respectively, for each program.
- 3) Makes the following changes to the CSESAP:
 - a) Extends the exclusion of hours worked by the result of an extension of the academic school year directly related to the COVID-19 pandemic for the 2023-24 and 2024-25 school years;
 - b) For purposes of CSESAP, defines “month” to mean 20 days or 4 weeks of 5 days each, including legal holidays; and,
 - c) Modifies the definition of “regular assignment” by adding “job duties” to the definition. As proposed, the definition of “regular assignment” is defined to mean a classified employee’s employment *job duties* during the academic school year, excluding the summer recess period.

EXISTING LAW:

- 1) Establishes the CSEAP and authorizes local educational agencies (LEAs) to elect to participate in the CSEAP.
- 2) Authorizes a classified employee of a participating LEA who meets specified requirements to withhold an amount from the employee’s monthly paycheck during the school year to be paid out during the summer recess period, as specified.
- 3) Authorizes a classified employee to be eligible to participate in the program if the classified employee is employed by the local educational agency in the employee’s regular assignment for 11 months or fewer out of a 12-month period.
- 4) Requires that, for the 2020–21, 2021–22, and 2022–23 school years, for purposes of determining a classified employee’s total months employed by the local educational agency, the employing LEA exclude any hours worked by the classified employee as a result of an extension of the academic school year directly related to the COVID-19 pandemic, as specified (Education Code (EC) Section 45500).
- 5) Establishes the California Community Colleges (CCC), a postsecondary education system in this state, consisting of CCDs and the Board of Governors of the CCC (EC Section 70900).

FISCAL EFFECT: Unknown

COMMENTS: *Double referral.* This bill passed out of the Assembly Committee on Public Employment and Retirement (P. E. & R.), with a vote of 4 – 0 on March 16, 2022. The Committee heard the measure as it pertained to matters that were germane to the P. E. & R. jurisdiction.

Classified School Employee Summer Assistance Program. Established in 2018, the CSESAP allows classified employees in K-12 districts to withhold up to 10% of their monthly salary during the school year, and receive that money — matched by the state up to a dollar for dollar — in one or two payments during the summer.

For classified employees to participate, their district must choose to participate in the CSESAP. If a classified employee's district is participating, classified employees must be employed by the district for at least one year prior to electing to have funds withheld. Additionally, the employee must work 11 months or fewer out of a 12-month period, and earn no more than \$62,400 per school year.

How many? Committee Staff understands that every year since the creation of the CSESAP, the number of participating LEAs increases. As of last year, of the nearly 2,300 LEAs, 267 LEAs participated in the CSESAP.

Additionally, the number of eligible classified employees participating in the CSESAP increases every year. Last year, 35,634 eligible classified employees participated in CSESAP.

This measure, in part, establishes a program similar to the CSESAP for community college classified employees.

Classified employees of the community colleges. The CCC classified staff are an integral part of the 116 community colleges and 73 CCDs in California. These employees are the first and last line of operations of a community college, the mechanism that keeps the community colleges working smoothly for students, faculty, staff and the community. With years of combined experience and training, the experience of classified staff is invaluable.

Need for the measure. According to the author, classified employees, which are comprised by a large percentage of women and people of color, are the lowest-paid school employees. The author states that, "CSESAP has helped ease the financial burden for many classified employees; however, many employees still cannot access the program."

The author states, "Making CSESAP permanent will provide classified employees and LEAs with the assurance that CSESAP will continue to exist and make clear that it is not just a short-term investment." Further, the author contends that, "This will give more LEAs the confidence they need to opt to participate in the program to help countless more classified employees."

Lastly, the author states, "Without ongoing funding, stakeholders will continue to have to ask the legislature for support for the program each year. This can leave classified employees and LEAs feeling uncertain about CSESAP's future."

This measure, in part, by creating the CCCESAP in order for community college classified employees to participate in a program similar to CSESAP, creates parity with classified school

employees. Additionally, this measure increases the funding for both the CSEASP and the CSCCESAP, seeking to make both programs permanent.

Recent budgetary actions. In June 2020 and 2021, the Legislature appropriated \$60 million in one-time funds to the California Department of Education to fund the Classified School Employee Summer Assistance Program. The districts were required to notify employees of its participation in the CSESAP by January 1, 2022. Additionally, the initial funds are to be available through June 30, 2024.

Additionally, the 2021 Budget Act authorized a classified employee to be eligible to participate in the CSESAP if the employee is employed by the LEA in the employee's regular assignment for 11 months or fewer out of a 12-month period. For purposes of determining an employee's total months employed by the LEA, the Budget Act required the LEA to exclude any hours worked by the classified employee as a result of an extension of the academic school year, for specified school years, directly related to the COVID-19 pandemic.

As stated in the *Existing Law* section of this analysis, existing law requires that, for the 2020–21, 2021–22, and 2022–23 school years, the employing LEA shall exclude any hours worked by the classified employee as a result of an extension of the academic school year directly related to the COVID-19 pandemic, if the hours are in addition to the employee's regular assignment and would prevent the employee from being eligible to participate in the CSESAP.

This measure, in part, extends, for the 2023-24 and 2024-25 school years, the exclusion of hours worked by the classified employee as a result of an extension of the academic school year directly related to the COVID-19 pandemic.

Committee comments and amendments. As currently drafted, this measure requires the State Controller to appropriate \$90 million dollars from the GF for the CSESAP. Further, the measure requires an unspecified dollar amount to annually be apportioned to the California Department of Education (CDE) and the CCCCO for classified employees participating in the CSESAP. Additionally, the measure specifies that of the unspecified amount, the sum of \$50,000 plus one-half of 1% of the total amount apportioned, as specified, may be used by the CDE and CCCCO, respectively, annually for administrative costs of the CSESAP.

Committee Staff understands that the State Controller does not appropriate funds; nor can the State Controller apportion funds if there is no appropriated balance. Further, while this measure authorizes a maximum amount of funding for the CDE and CCCCO for administrative costs of the CSESAP, the bill is silent as to the State Controller's administrative costs for the CSESAP.

With the aforementioned in mind, the Committee recommends, and the author has accepted, the following amendments:

SEC. 3. ~~The Controller shall appropriate the~~ The sum of ninety million dollars (\$90,000,000) is hereby appropriated from the General Fund for the Classified School Employee Summer Assistance Program, established pursuant to Section 45500, and the Classified Community College Employee Summer Assistance Program, established pursuant to Article 11 (commencing with Section 88280) of Chapter 4 of Part 51 of Division 7 of Title 3 of the Education Code, ~~to be apportioned~~ to be appropriated as follows in the XX fiscal year, and thereafter: as follows:

(a) The sum of ____ dollars (\$____) shall be annually appropriated and apportioned to the State Department of Education

(b) The sum of ____ dollars (\$____) shall be annually appropriated and apportioned to the office of the Chancellor of the California Community Colleges ~~California Community Colleges Chancellor's Office~~

(c) Of the total amount appropriated, the lesser of ten thousand dollars (\$10,000) or one-half of 1 percent pursuant to this section, may be used by the Controller annually for administrative costs.

Lastly, Committee Staff notes that this measure remains silent as to the amount that shall be annually appropriated to the CDE and CCCCO for administrative costs to the CSESAP. As well as, per the amendments noted above, there is no specified time or frequency for the appropriation to take place.

Moving forward, the author may wish to provide a specified dollar amount for the annual appropriation to the CDE and CCCCO for administrative costs to the CSESAP. Further, the author may wish to work with the State Controller and other stakeholder groups in determining the best time and frequency for the appropriation to occur.

Prior legislation. Several pieces of legislation have been introduced in the span of almost a decade that, in part, would have allowed classified employees to collect unemployment insurance during the summer. These measures include, but are not limited to, the following:

- 1) SB 1177 (Portantino) of 2018, which was subsequently amended to address a different subject matter, would have created a six-year program to allow classified school employees to contribute earnings voluntarily, matched by the state on a two-to-one basis, to provide income during months in which the classified employees do not currently receive a salary.
- 2) AB 621 (Bocanegra) of 2017, which was vetoed by Governor Brown, would have established a partially self-funded account that would allow classified school employees, as specified, to voluntarily contribute earnings that are matched by the state on a two-to-one ratio, for the purpose of covering their payroll during periods of school recess.
- 3) AB 2197 (C. Garcia) of 2016, which was vetoed by Governor Brown, would have permitted classified school employees to be eligible to collect unemployment insurance (UI) benefits between school years with or without a reasonable assurance of being employed in the next academic year.
- 4) AB 399 (Ridley-Thomas) of 2015, which was held on the Suspense File in the Assembly Committee on Appropriations, would have, allowed classified, non-certificated public school employees to collect UI benefits between school years with a formula that, over a span of four years, would allow said employees to be able to draw down on up to a total of eight weeks of UI per year.
- 5) AB 399 (Bocanegra) of 2013, which was held on the Suspense File in the Assembly Committee on Appropriations, would have allowed employees of government and non-profit educational institutions who are not in an instructional or administrative role to collect UI compensation benefits between school years.

REGISTERED SUPPORT / OPPOSITION:

Support

American Federation of State, County and Municipal Employees (AFSCME), AFL-CIO
California Federation of Teachers AFL-CIO
California Labor Federation, AFL-CIO
California School Employees Association (Co-Sponsor)
California State Council of Service Employees International Union (SEIU California) (Co-Sponsor)

Opposition

None on file.

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