

**JBC STAFF FISCAL ANALYSIS  
SENATE APPROPRIATIONS COMMITTEE**

CONCERNING TRANSPARENCY FOR DRIVERS WHO CONNECT WITH CONSUMERS THROUGH THE USE OF A DIGITAL PLATFORM.

Prime Sponsors: Senator Rodriguez  
Reps. Bacon and Vigil

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**Appropriation Items of Note**

**Appropriation Required, Amendment in Packet**

**General Fund/TABOR Impact**

**New Cash Fund (with Continuous Appropriation)**

**Fiscal Impact of Bill as Amended to Date**

The most recent Legislative Council Staff Revised Fiscal Note (attached) reflects the fiscal impact of the bill as of 03/02/23.

|            |  |
|------------|--|
| <b>XXX</b> | <b>No Change:</b> Attached LCS Fiscal Note accurately reflects the fiscal impact of the bill                 |
|            | <b>Update:</b> Fiscal impact has changed due to <i>new information or technical issues</i>                   |
|            | <b>Update:</b> Fiscal impact has changed due to <i>amendment adopted</i> after LCS Fiscal Note was prepared  |
|            | <b>Non-Concurrence:</b> JBC Staff and Legislative Council Staff disagree about the fiscal impact of the bill |

**Amendments in This Packet for Consideration by Appropriations Committee**

| <b>Amendment</b> | <b>Description</b>  |
|------------------|---|
| J.001            | Staff-prepared appropriation amendment                                  |
| L.008/J.002      | Bill Sponsor amendment - changes fiscal impact <i>and</i> appropriation |

**Current Appropriations Clause in Bill**

The bill requires but does not contain an appropriation clause.

**Description of Amendments in This Packet**

**J.001** Staff has prepared amendment **J.001** (attached) to add a provision appropriating a total of \$604,426 General Fund to the Department of Labor and Employment for FY 2023-24. This

provision also states that the appropriation is based on the assumption that the Department will require an additional 5.3 FTE. The appropriation clause also reappropriates \$57,100 to the Department of Law and is based on an assumption that the Department of Law will require an additional 0.3 FTE.

**L.008 and J.002**

Bill Sponsor amendment **L.008** (attached) creates the Gig Worker Transparency Fund and continuously appropriates the fund to the Department of Labor and Employment to administer and enforce the bill. The amendment creates fees on transportation and delivery network companies, which will be deposited in the fund. JBC Staff and Legislative Council Staff agree that this amendment increases cash fund revenues by an expected \$500,000 in FY 2023-24 and \$1.0 million in FY 2024-25. This amendment also increases expenditures by the Department of Revenue by \$31,428 in FY 2023-24. The amendment also delays implementation of the bill until April 2024, reducing the FTE needed in FY 2023-24 by 3.1, thereby reducing costs in the first year of implementation.

JBC Staff has prepared amendment **J.002** (attached) to add a provision appropriating a total of \$286,368 for FY 2023-24, including:

- \$254,940 General Fund to the Department of Labor and Employment that is based on an assumption that the Department of Labor and Employment will require an additional 2.3 FTE; and
- \$31,428 cash funds from the DRIVES Vehicle Services Account to the Department of Revenue.
- The appropriation clause also reappropriates \$57,100 to the Department of Law and is based on an assumption that the Department of Law will require an additional 0.3 FTE.

**Points to Consider***General Fund Impact*

The Joint Budget Committee has proposed a budget package for FY 2023-24 based on the March 2023 Office of State Planning and Budgeting (OSP) revenue forecast. The budget package includes two set-asides for legislation outside of the package: (1) \$30.0 million General Fund for bills that create ongoing obligations; and (2) \$469.0 million for bills that create one-time obligations for FY 2023-24 (see table on next page).

| General Fund Appropriation Placeholders for Other 2023 Legislation   |                      |
|--|----------------------|
| Description  | FY 2023-24           |
| Legislation with Ongoing Fiscal Impacts  | \$30,000,000         |
| Legislation with One-time Fiscal Impacts   |                      |
| Workforce-related legislation, including free credentials, math scholarships, adult education, and concurrent enrollment                           | 103,000,000          |
| Housing-related legislation, including property tax relief, land use, and public-private partnerships  | 221,000,000          |
| Legislation related to topics other than workforce and housing, including rural opportunity, line of duty loss, and Proposition 122 implementation | 145,000,000          |
| Subtotal   | \$469,000,000        |
| <b>TOTAL Placeholders for Other 2023 Legislation</b>   | <b>\$499,000,000</b> |

The budget package accounts for the 15.0 percent reserve associated with the above placeholders (a total of \$74.9 million).

As included in **J.001**, this bill does not create a General Fund obligation for FY 2023-24.

As included in **J.002**, this bill creates a one-time General Fund appropriation of \$254,940 for FY 2023-24, reducing the \$30.0 million set aside by the same amount. Beginning in FY 2024-25, the ongoing appropriations in this bill will come from the Gig Worker Transparency Fund.

*TABOR/ Excess State Revenues Impact*

The March 2023 Office of State Planning and Budgeting (OSPB) revenue forecast projects a TABOR surplus liability of \$720.9 million for FY 2023-24 and \$1.2 billion for FY 2024-25 to be refunded to taxpayers out of the General Fund. Legislation that increases non-exempt revenue (such as cash funds) will increase the TABOR refund from the General Fund. The budget package includes a set aside of \$30.0 million General Fund for ongoing appropriations and \$469.0 million General Fund for bills that create one-time obligations in FY 2023-24.

This bill is estimated to increase cash fund revenues by \$500,000 in FY 2023-24 and by \$1.0 million in FY 2024-25, which will reduce the available General Fund in each fiscal year by equal amounts. This bill increases the TABOR refund made out of the General Fund by \$500,000 for FY 2023-24, reducing the \$30.0 million General Fund set aside for FY 2023-24 by the same amount.

*Legislative Appropriation Authority*

Continuous spending authority, also known as **continuous appropriation**, allows state agencies to spend money for statutorily specified purposes up to the total amount available in a specified fund source without seeking further legislative approval through the budget process.

The term *appropriation* is broadly understood as expressing or conveying legal spending authority. However, the term *appropriation* also inherently expresses fundamental legislative fiscal authority by communicating a *limit* on or maximum amount of spending from a specified fund source for a defined period such as a fiscal year. While continuous spending authority also expresses or conveys legal spending authority it does so by eliminating legislative fiscal authority and oversight.

An annual appropriation provides a limit on spending authority, while a continuous appropriation provides unlimited spending authority. This method of funding moves these expenditures off-budget, and thus expenditures are not reported or accounted for through the budget process.

Is it necessary for the Department of Labor and Employment to **not** seek annual authority from the General Assembly to spend money from the Gig Worker Transparency Fund?