

**JBC STAFF FISCAL ANALYSIS
HOUSE APPROPRIATIONS COMMITTEE**

CONCERNING THE REVIEW OF PAYMENTS MADE BY THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING TO PROVIDERS.

Prime Sponsors: Reps. Bird and Bockenfeld
Sens. Zenzinger and Kirkmeyer

JBC Analyst: Eric Kurtz
Phone: 303-866-4952
Date Prepared: April 27, 2023

Appropriation Items of Note

Appropriation Required, Amendment in Packet

General Fund Impact

Fiscal Impact of Bill as Amended to Date

The most recent Legislative Council Staff Fiscal Note (attached) reflects the fiscal impact of the bill as of 04/25/23.

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

Amendments in This Packet for Consideration by Appropriations Committee

Amendment	Description
J.001	Staff-prepared appropriation amendment
L.009/J.002	Bill Sponsor amendment - changes fiscal impact <i>and</i> appropriation
L.010/J.003	Bill Sponsor amendment - changes fiscal impact <i>and</i> appropriation
L.011	Bill Sponsor amendment - does not change fiscal impact
L.012	Bill Sponsor amendment - does not change fiscal impact

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 providing \$52,103,787 total funds to the Department of Health Care Policy and Financing for FY 2023-24, including \$42,926,896 General Fund, \$1,875,000 cash funds from Healthcare Affordability and Sustainability Fee Cash Fund, and \$7,301,891 from anticipated federal funds. This provision also states that the appropriation is based on the assumption that the Department will require an additional 20.1 FTE.

The appropriation also includes \$786,177 reappropriated funds for the Department of Law, based on the assumption the Department of Law will require 4.1 FTE, to provide legal services for the Department of Health Care Policy and Financing.

Finally, the appropriation includes \$265,637 reappropriated funds for the Department of Personnel, based on the assumption the Department of Personnel will require 2.1 FTE, to provide administrative law judge services for the Department of Health Care Policy and Financing.

L.009 and J.002

Bill Sponsor amendment **L.009** (attached) strikes everything below the enacting clause and requires the Office of the State Auditor to: (1) conduct an independent review of the Department of Health Care Policy and Financing's recovery audit contractor program; and (2) contract for consulting services to assess federal flexibility to improve the recovery audit contractor program and assist in pursuing that flexibility.

With the amendment, the Office of the State Auditor will require an estimated \$850,000 General Fund to implement the bill, including \$575,000 General Fund for the independent review and \$275,000 for the consulting services. The actual cost will depend on the outcome of the competitive bid process. Legislative Council Staff agrees with this assessment.

The amendment has a technical problem because the independent review is due by November 1, 2023, but the Office of the State Auditor estimates the work could not be completed until near the end of FY 2023-24. Audits take an average of 11 months to complete once they begin, and the large audit that would be required by this bill could not begin until after the bill is effective and after the Office of the State Auditor selects one or more contractors with special expertise to conduct the audit.

Joint Budget Committee Staff is also uncertain about the scope of work (and resulting cost) of the consulting services. To estimate the cost, the JBC Staff looked at two contracts by the Department of Health Care Policy and Financing, including one for technical assistance in designing and implementing home- and community-based services to address the behavioral health needs of children, youth, and young adults and another to research strategies to improve equity outcomes by analyzing the financial, population size, and demographic

impacts of less restrictive eligibility income and resource methodologies for individuals with disabilities. If subsequent amendments refine the scope of work for the contract for consulting services, the estimated cost may need to be refined.

Staff has prepared amendment **J.002** (attached) to appropriate \$850,000 General Fund to the Office of the State Auditor for FY 2023-24, consistent with the estimated fiscal impact of the bill with L.009. **If L.009 is adopted, the Appropriations Committee should adopt J.002 and not J.001.**

L.010 and J.003

Bill Sponsor amendment **L.010** (attached) amends L.009 to require the Department of Health Care Policy and Financing to: (1) prepare quarterly audit activity reports and offer quarterly training for providers; and (2) create a provider advisory committee. To implement these requirements the Department of Health Care Policy and Financing would need \$78,573 total funds, including \$39,287 General Fund and \$39,286 federal funds, and 0.9 FTE in FY 2023-24. Legislative Council Staff agrees with this assessment.

Staff has prepared **J.003** (attached) to appropriate \$39,287 General Fund to the Department of Health Care Policy and Financing in FY 2023-24. This provision is based on the assumption the Department will receive \$39,287 federal funds and require 0.9 FTE.

If both L.010 and L.009 are adopted (L.010 cannot be adopted independent of L.009), the Appropriations Committee should adopt both J.003 and J.002, but not J.001.

L.011 Bill Sponsor amendment **L.011** (attached) amends L.009 to modify the independent review by the Office of the State Auditor and who can be hired for the contract work. The amendment does not change the estimated fiscal impact. Legislative Council Staff agrees with this assessment. Amendment L.011 cannot be adopted without L.009, but it could be adopted independent of whether L.010 and J.003 are adopted.

L.012 Bill Sponsor amendment **L.012** (attached) amends L.009 to change the due date for the independent review by the Office of the State Auditor from November 1, 2023, to during FY 2023-24. The amendment does not change the estimated fiscal impact. Legislative Council Staff agrees with this assessment. Amendment L.012 cannot be adopted without L.009, but it could be adopted independent of whether L.010, J.003, or L.011 are adopted.

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 (OSPB) revenue forecast. The budget package includes two set-asides for legislation outside of the package: (1) \$30.0 million General Fund for bills that

HB23-1295

JBC Staff Analysis

create ongoing obligations; and (2) \$469.0 million for bills that create one-time obligations for FY 2023-24 (see table below).

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
TOTAL Placeholders for Other 2023 Legislation	\$499,000,000

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

As introduced, this bill creates an ongoing obligation and requires a General Fund appropriation of \$42.9 million for FY 2023-24. The JBC included as part of its FY 2023-24 budget package \$400,000 General Fund to be appropriated for implementation of this bill. After accounting for the money the JBC set aside for this bill, there is still a General Fund cost of \$42,526,896 above the set aside amount to implement this bill. This bill will (a) utilize the entire \$30.0 million set aside and (b) require other General Fund appropriations for existing programs to be reduced by \$12.5 million in order to maintain a 15.0 percent statutory General Fund reserve.

If L.009 and L.010 are adopted, this bill creates an on-going General Fund obligation of \$39,286 and a one-time General Fund obligation of \$850,000 for FY 2023-24. The JBC included as part of its FY 2023-24 budget package \$400,000 General Fund to be appropriated for implementation of this bill. After accounting for the money the JBC set aside for this bill, there is still a General Fund cost of \$489,286.