AGENDA ITEM C-13

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Receive Report Regarding Communication Pertaining to Senate Bill 594 (Hill)

MEETING DATE: September 4, 2013

PREPARED BY: City Clerk

RECOMMENDED ACTION: Receive report regarding communication pertaining to Senate Bill 594 (Hill).

BACKGROUND INFORMATION: The City received a request for communication from the League of California Cities regarding SB 594 (Hill). There was a need to send a letter of opposition immediately in light of a pending hearing.

As you may be aware, SB 594 is a last minute gut-and-amend bill that prohibits nonprofit organizations, such as the League of California Cities, from using stated public resources from a local agency for campaign activities, including supporting or opposing a ballot measure or candidate. Specifically, the communication was requested because the bill prohibits local government organizations from any form of communication advocating for or against local or state ballot measures.

The attached letter electronically signed by the Mayor was sent out on August 15, 2013. A copy of the initial request along with the text of the bill is also attached. This report is provided for informational purposes only pursuant to policy.

FISCAL IMPACT: None.

FUNDING AVAILABLE: Not applicable.

Randi Johl-Olson
City Clerk

APPROVED: _____
Konradt Bartlam, City Manager

CITY COUNCIL
ALAN NAKANISHI, Mayor
PHIL KATZAKIAN,
Mayor Pro Tempore
LARRY D. HANSEN
BOB JOHNSON
JOANNE MOUNCE

CITY OF LODI

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KONRADT BARTLAM,
City Manager
RANDI JOHL-OLSON,
City Clerk
D. STEPHEN SCHWABAUER
City Attorney

August 14, 2013

The Honorable Bob Wieckowski
Chair, Assembly Judiciary Committee
State Capitol, Room 4016
Sacramento, California 95814
Via Facsimile: (916) 319-2125

SUBJECT: **OPPOSITION TO SB 594 (HILL): USE OF PUBLIC RESOURCES.**

Dear Assemblyman Wieckowski,

The City of Lodi regrets to inform you of our opposition to SB 594 (Hill) as it is currently written. We stand with the League of California Cities, an organization representing 97 percent of California cities, in our respectful opposition.

SB 594 places unnecessary and significant new restrictions on nonprofit organizations that receive public funds and participate in campaign activities – primary, ballot measures. It prohibits local government organizations, their officers, employees and agents from any form of communication advocating for or against ballot measures. By curbing the vital influence of local government organization in the ballot measure arena, SB 594 delivers a direct assault on an organizations ability to ensure the opinions and political voice of cities are heard.

According to the bill's author, the purpose of the bill is to address and eliminate the supposed practice of "co-mingling" public and private resources. I find this allegation to not only be incorrect, but offensive. As a trusted city official, I work hard to ensure that my city abides by existing law in addition to continually seeking advice and education on the scope of public funds prohibition. Furthermore, such allegations are unsubstantiated and, as a matter of fact, have already been addressed by the Fair Political Practices Commission (FPPC).

The bill also creates a new system that would require the Attorney General to audit local government organizations every two years to ensure that they have complied with this measure. In the event that the Attorney General determines that a local government organization has been in violation of this measure through the audit, local government organizations would be subject to stiff financial penalties. Given the vague language in the current version of this bill, local government organizations would in effect not participate in weighing-in on ballot measures that would impact their members to avoid any potential penalties against their organizations.

In its current form, SB 594 lacks a consistent and equitable approach to this issue. If public resource disclosure is the main intent of the bill, then I strongly believe that the author and SB 594 supporters should amend the bill so it applies equally to all organizations. The current version of SB 594 singles-out specific types of organizations for these restrictive provisions, but exempts others such as educational organizations.

Finally, I am disappointed that such a significant measure has been introduced via the practice of gut-and-amend. It wasn't until last week that the bill was amended to its current form. This approach is inappropriate and appears to be an end-run attempt to single-out and silence the political voice of local government advocacy organizations that represent cities like min. If this is such a pressing issue, I would suggest the author table the bill for now and allow time for a full discussion with all stakeholders to come up with the best solution.

For the reasons stated above, the City of Lodi is respectfully opposed to SB 594. Should you have any questions, please feel free to contact me at (209) 333-6702.

Sincerely,

Alan Nakanishi

Alan Nakanishi
Mayor

CC: The Honorable Jerry Hill, Author (916-651-4913)
Members Assembly Judiciary Committee (916-319-2188)
Tom Clark, Consultant, Assembly Judiciary Committee (916-319-2188)
Paul Dress, Consultant, Assembly Republican Caucus (916-319-3902)

Randi Johl

From: Randi Johl
Sent: Thursday, August 15, 2013 02:01 PM
To: Randi Johl
Subject: FW: URGENT: Letters and Calls Needed
Attachments: Opposition to SB594(HILL).pdf

From: Randi Johl
Sent: Thursday, August 15, 2013 09:20 AM
To: Alan Nakanishi; Rad Bartlam
Subject: FW: URGENT: Letters and Calls Needed

The attached letter was sent a few minutes ago as requested. We used an electronic signature on behalf of the Mayor in light of the time sensitivity. As is our practice, we'll include the letter on the consent calendar for informational purposes at the next council meeting -

Randi

From: Rad Bartlam
Sent: Thursday, August 15, 2013 07:02 AM
To: Randi Johl
Subject: Fwd: URGENT: Letters and Calls Needed

Let's get a letter in. Thanks.

Sent from my iPhone

Begin forwarded message:

> **From:** "Stephen R. Qualls" <squalls@cacities.org>
> **Date:** August 15, 2013, 6:53:58 AM PDT
> **To:** "Stephen R. Qualls" <squalls@cacities.org>
> **Subject: URGENT: Letters and Calls Needed**
>
> This bill passed the Senate unanimously but was not the same bill as it was "gutted and Amended" into a completely different bill.
>
> This means that we must urge our legislators to vote no when it comes before them again.
>
> Please notify me with any feed back that you may receive.
>
> Thank you.
>
> ACTION ALERT!!
>
> SB 594 (Hill)
>
> A measure that will silence the voice of local government.

OPPOSE

Quick Facts on SB 594:

SB 594 would silence the voice of local government. This measure would single-out and silence the political voice of organizations that advocate for local government by creating a special set of criteria that would prohibit local government organizations (i.e. the League and the CA State Association of Counties) to take positions on ballot measures that affect their members (See list of OPPOSITION below).

Unclear language masks bills true intent. The measure appears to seek transparency, but it is an end-run effort to target organizations from expressing their policy positions on statewide ballot measures. SB 594 places unnecessary and significant new restrictions on nonprofit organizations that receive public funds and participate in campaign activities – primarily ballot measures. It prohibits local government organizations like the League, their officers, and their employees from any form of communication advocating in support/opposition of ballot measures.

SB 594 would create a new mechanism to punish local government organizations for representing its members in the political process. This measure creates a new system that would require the Attorney General to audit local government organizations every two years to ensure that they have complied with this measure. In the event that the Attorney General determines that a local government organization has been in violation of this measure through the audit, local government organizations would be subject to stiff financial penalties. Given the vague language in the current version of this bill, local government organizations would in effect not be able to sponsor or weigh-in on ballot measures that would impact their members to avoid any potential penalties against their organizations.

Unsubstantiated allegations by the author and the sponsors of this measure. SB 594 is based on allegations that nonprofit organizations are co-mingling public and private resources. When it comes to the League, this allegation completely unfounded. Our practices have been validated by the Fair Political Practices Commission. In response to a similar allegation made by the Howard Jarvis Taxpayers Association against the League and others, the FPPC ruled in November 2009, after a one-year investigation, that there was "no evidence that public funds were used to make political contributions by the organizations."

Let's be consistent. The current version of SB 594 singles-out specific types of organizations from these restrictive provisions. If the Legislature desires to adopt broader disclosure policies, then they should apply to all organizations active on ballot measures.

OPPOSITION: League of California Cities, California State Association of Counties, California Special Districts Association, California Police Chiefs Association, California Sheriffs Association, California District Attorneys Association, California Society of Association Executives (CalSAE), and the Rural County Representatives of California.

ACTION:
This bill is scheduled to be heard in the Assembly Judiciary Committee on the afternoon of Thursday, Aug. 15. City officials who have members on this committee should contact their member and place CALLS ASAP. (phone and fax numbers included below, sample letter attached).

Asm. Bob Wieckowski (Chair)
Ph: (916) 319-2025
Fx: (916) 319-2125

Asm. Don Wagner (Vice Chair)
Ph: (916) 319-2068
Fx: (916) 319-2168

Asm. Luis Alejo
Ph: (916) 319-2030
Fx: (916) 319-2130

Asm. Ed Chau
Ph: (916) 319-2049
Fx: (916) 319-2149

Asm. Roger Dickinson
Ph: (916) 319-2007
Fx: (916) 319-2107

Asm. Cristina Garcia
Ph: (916) 319-2058
Fx: (916) 319-2158

Asm. Jeff Gorell
Ph: (916) 319-2044
Fx: (916) 319-2144

Asm. Brian Maienschein
Ph: (916) 319-2077
Fx: (916) 319-2177

Asm. Al Muratsuchi
Ph: (916) 319-2066
Fx: (916) 319-2166

Asm. Mark Stone
Ph: (916) 319-2029
Fx: (916) 319-2129

Talking Points:

- I strongly OPPOSE any effort to effectively eliminate my voice in matters of statewide importance.

- SB 594 is a direct assault on our ability to have our voices heard on ballot measures that could impact my city and its constituents.

o SB 594 contains broad language that would be subject to considerable interpretation by the Attorney General and has the potential to not only limit direct financial participation in

campaigns, but perhaps even taking positions on ballot measures that would have a direct impact on California cities and services we provide to the public.

- SB 594 should be inclusive of all entities.

o There should not be a second, stricter standard applied to cities, counties, and special districts when compared to other local elected officials that are generally identical.

- SB 594 is a solution in search of a problem and I encourage you to vote "No" or to stay-off of this very over reaching measure.

Stephen Qualls
Central Valley Regional Public Affairs Manager
League of California Cities

209-614-0118
Fax 209-883-0653
squalls@cacities.org<mailto:squalls@cacities.org>

To expand and protect local control for cities through education and advocacy in order to enhance the quality of life for all Californians.

<http://www.cacities.org/AC>

AMENDED IN ASSEMBLY AUGUST 7, 2013

AMENDED IN SENATE MAY 24, 2013

AMENDED IN SENATE APRIL 18, 2013

SENATE BILL No. 594

Introduced by Senator ~~Steinberg~~ *Hill*

February 22, 2013

~~An act to add Part 38 (commencing with Section 64200) to Division 4 of Title 2 of the Education Code, and to add Sections 17057.6 and 23610.6 to the Revenue and Taxation Code, relating to education.~~ *An act to add Sections 8314.1, 8314.2, and 54964.5 to the Government Code, relating to campaign activity.*

LEGISLATIVE COUNSEL'S DIGEST

SB 594, as amended, ~~Steinberg~~ *Hill*. ~~California Career Pathways Investment.~~ *Use of public resources.*

(1) Existing law prohibits the use of public funds for campaign activities.

This bill would prohibit a nonprofit organization from using, or permitting another to use, public resources, including but not limited to public resources received in exchange for consideration, from a local agency for campaign activities. This bill would also prohibit an officer, employee, or agent of a nonprofit organization from expending, or authorizing the expenditure of, public resources from a local agency to support or oppose a ballot measure or candidate. This bill would define, among other terms, "public resources" to include, but not be limited to, cash, lands, buildings, funds, and facilities, and "nonprofit organization" to mean an entity incorporated under the California Nonprofit Corporation Law or a nonprofit organization that qualifies

for exempt status under the federal Internal Revenue Code of 1986, except as specified. This bill would authorize a civil cause of action for a violation of these prohibitions and damages that include, but are not limited to, 3 times the value of the unlawful use of the public resources. This bill would authorize the Attorney General, a district attorney, and a city attorney of a city having a population in excess of 750,000 to seek the civil remedies.

(2) Existing law requires qualifying individuals and political organizations to report specified information, including, but not limited to, political contributions, in statements filed with the Fair Political Practices Commission.

This bill would require an auditable nonprofit organization that engages in campaign activity to deposit into a separate bank account all "specific source or sources of funds" it receives and to pay for all campaign activity from that separate bank account. This bill would define, among other terms, "auditable nonprofit organization" to mean a nonprofit organization for which public resources from one or more local agencies account for more than 20% of the organization's annual gross revenue, as specified, and "specific source or sources of funds" to mean any funds received by the auditable nonprofit organization that have been designated for campaign activity use or any other funds received by the nonprofit organization, including funds received in exchange for consideration, as specified.

This bill would further require an auditable nonprofit organization that engages in campaign activity to periodically disclose to the Attorney General, and post on its Internet Web site in a certain manner, the identity and amount of each specific source or sources of funds it receives for campaign activity, a description of the campaign activity, and the identity and amount of payments the organization makes from the required separate bank account, as specified. This bill would require the Attorney General to regularly audit each auditable nonprofit organization, issue a written audit report, and transmit the report to the district attorney for the county in which the auditable nonprofit organization is domiciled. This bill would require the Attorney General to assess a monetary penalty against an auditable nonprofit organization for a violation of these disclosure requirements, as specified.

~~The Personal Income Tax Law and The Corporation Tax Law authorize various credits against the taxes imposed by those laws.~~

~~This bill, in accordance with legislative findings contained in this bill and for calendar years beginning on or after January 1, 2014, would,~~

~~for a business entity, as described, that provides career technical education, authorize a credit against those taxes, subject to specified limitations, in an amount equal to that allocated by the California Career Pathways State Investment Committee, a committee established by this bill. This bill would establish in each local educational agency and community college district a Career Pathways Investment Trust Fund, the moneys in which would be used for purposes of financing program and administrative costs relating to the operation of career pathways programs, as provided.~~

~~This bill would impose specified duties on school districts with regard to career pathways programs.~~

~~Existing law authorizes the governing board of a community college district to establish contract education programs within or outside the state by agreement with any public or private agency, corporation, association, or any other person or body, to provide specific educational programs or training to meet the specific needs of these bodies. Existing law authorizes the governing board of any school district to initiate and carry on any program or activity, or to otherwise act in any manner that is not in conflict with or inconsistent with, or preempted by, any law and that is not in conflict with the purposes for which school districts are established.~~

~~This bill would, among other things, authorize the California Career Pathways State Investment Committee and a school district or districts, or a community college district or districts, to enter into a pay-for-performance contract for a career pathways pay-for-performance pilot project to fund career pathways programs operated by the school district, community college district, or a consortium of school districts and community college districts, and under which a business entity partner may be compensated for its costs.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement shall be made pursuant to these statutory provisions for costs mandated by the state pursuant to this act, but would recognize that local agencies and school districts may pursue any available remedies to seek reimbursement for these costs.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~yes~~ *no*.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 8314.1 is added to the Government Code,*
2 *to read:*
3 *8314.1. (a) It is unlawful for any nonprofit organization to*
4 *use or permit others to use public resources, including, but not*
5 *limited to, public resources received in exchange for consideration,*
6 *from any local agency for any campaign activity not authorized*
7 *by law.*
8 *(b) For purposes of this section:*
9 *(1) "Campaign activity" means a payment that is used for*
10 *communications that expressly advocates for the approval or*
11 *rejection of a clearly identified ballot measure or the election or*
12 *defeat of a clearly identified candidate by the voters, or constitutes*
13 *a campaign contribution.*
14 *(2) "Local agency" shall include those entities listed in Section*
15 *54951 and a public entity created pursuant to the Joint Exercise*
16 *of Powers Act (Chapter 5 (commencing with Section 6500) of*
17 *Division 7 of Title 1) by one or more entities listed in Section*
18 *54951, but "local agency" shall not include a county*
19 *superintendent of schools, a school district, or a community college*
20 *district.*
21 *(3) "Nonprofit organization" means an entity incorporated*
22 *under the Nonprofit Corporation Law (Division 2 (commencing*
23 *with Section 5000) of Title 1 of the Corporations Code) or a*
24 *nonprofit organization that qualifies for exempt status under*
25 *Section 115 or 501(c), excluding Section 501(c)(3), of the Internal*
26 *Revenue Code of 1986.*
27 *(4) "Public resources" means any property or asset owned by*
28 *a local agency, including, but not limited to, cash, land, buildings,*
29 *facilities, funds, equipment, supplies, telephones, computers,*
30 *vehicles, travel, and local government compensated time that is*
31 *provided to a nonprofit organization.*
32 *(5) "Use" means a use of public resources from one or more*
33 *local agencies that is substantial enough to result in a gain or*
34 *advantage to the user or a loss to any local agency for which any*
35 *monetary value may be estimated.*
36 *(c) This section does not prohibit the use of public resources*
37 *for providing information to the public about the possible effects*
38 *of any bond issuance or other ballot measure on state activities,*

operations, or policies, provided that the informational activities are otherwise authorized by the California Constitution or the laws of this state, and the information provided constitutes a fair and impartial presentation of relevant facts to aid the electorate in reaching an informed judgment regarding the bond issue or ballot measure.

(d) (1) Any nonprofit organization that intentionally or negligently violates this section is liable for a civil penalty not to exceed one thousand dollars ($1,000) for each day on which a violation occurs, plus three times the value of the unlawful use of public resources. The penalty shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General or by any district attorney or any city attorney of a city having a population in excess of 750,000. If two or more nonprofit organizations are responsible for a violation, they shall be jointly and severally liable for the penalty. If the action is brought by the Attorney General, the moneys recovered shall be paid into the General Fund. If the action is brought by a district attorney, the moneys recovered shall be paid to the treasurer of the county in which the judgment was entered. If the action is brought by a city attorney, the moneys recovered shall be paid to the treasury of that city.

(2) A civil action alleging a violation of this section shall not be commenced more than four years after the date of the alleged violation.

SEC. 2. Section 8314.2 is added to the Government Code, to read:

8314.2. (a) An auditable nonprofit organization that engages in campaign activity, either directly or through the control of another entity, shall deposit into a separate bank account all specific source or sources of funds received and shall pay for all campaign activity from that separate bank account.

(b) For purposes of this section:

(1) "Auditable nonprofit organization" means a nonprofit organization for which public resources from one or more local agencies account for more than 20 percent of the organization's annual gross revenue in the current fiscal year or either of the previous two fiscal years, including gross revenue from public resources received in exchange for consideration.

(2) "Specific source or sources of funds" shall mean any funds received by the auditable nonprofit organization that have been designated for campaign activity use or any other funds received by the nonprofit organization, including, but not limited to, funds received in exchange for consideration, that are used, in whole or in part, within a two-year period from receipt for campaign activity.

(3) Unless otherwise defined herein, the definitions found in subdivision (b) of Section 8314.1 shall apply to this section.

(c) Fifteen days after the end of each quarter, beginning with the first quarter of each odd year through the fourth quarter of the following even year, an auditable nonprofit organization that engages in campaign activity, either directly or through the control of another entity, at any point during that quarter shall disclose the following information for that quarter:

(1) The name and amount of each specific source or sources of funds used for campaign activity, provided that the aggregate amount of funds received since January 1 of the most recent odd year by an auditable nonprofit corporation from that specific source or sources of funds is at least two hundred fifty dollars ($250).

(2) The name of the payee and amount of all payments aggregating two hundred fifty dollars ($250) or more made from the single bank account required under subdivision (a).

(3) A description of each campaign activity.

(d) Fifteen days after the end of each even year, an auditable nonprofit organization that engages in campaign activity, either directly or through the control of another entity, at any point during that even year or the prior odd year shall disclose all the following information for those two calendar years:

(1) The name and amount of any specific source or sources of funds used for campaign activity, provided that the aggregate amount of funds received since January 1 of the most recent odd year by an auditable nonprofit corporation from that specific source or sources of funds is at least two hundred fifty dollars ($250).

(2) The name of the payee and amount of all payments made from the single bank account required under subdivision (a).

(3) A description of each campaign activity.

(e) Each auditable nonprofit organization that engages in campaign activity, either directly or through the control of another entity, shall display on its Internet Web site the information it is required to disclose under this section. The information shall be clearly described and identified on a separate Internet Web page, which shall be linked from the home page of the organization's Internet Web site. The link to this Internet Web page from the home page shall be as visible as all similar links.

(f) The Attorney General shall conduct a biennial audit of each auditable nonprofit organization. Each auditable nonprofit organization shall provide records to the Attorney General that substantiate the information required to be disclosed by this section. The audit shall determine whether the organization complied with the requirements of Sections 8314.1 and this section. The Attorney General shall issue a written audit report and transmit it to the district attorney for the county in which the auditable nonprofit organization is domiciled.

(g) If the audit determines that an auditable nonprofit organization has violated Section 8314.1 or this section, the Attorney General may impose a fine upon the auditable nonprofit organization in an amount up to ten thousand dollars($10,000) for each violation.

SEC. 3. Section 54964.5 is added to the Government Code, to read:

54964.5. (a) An officer, employee, or agent of a nonprofit organization may not expend or authorize the expenditure of any public resources from any local agency to support or oppose the approval or rejection of a ballot measure or the election or defeat of a candidate by the voters.

(b) As used in this section, the following terms shall have the following meanings:

(1) "Ballot measure" means a state or local initiative, referendum, or recall measure certified to appear on a regular or special election ballot.

(2) "Candidate" means an individual who has qualified to have his or her name listed on the ballot, or who has qualified to have write-in votes on his or her behalf counted by elections officials, for nomination or election to an elective office at any regular or special primary or general election, and includes any officeholder who is the subject of a recall election.

(3) "Expenditure" means a payment that is used for communications that expressly advocate the approval or rejection of a clearly identified ballot measure, or the election or defeat of a clearly identified candidate, by the voters or that constitutes a campaign contribution.

(4) "Local agency" shall include those entities listed in Section 54951 and a public entity created pursuant to the Joint Exercise of Powers Act (Chapter 5 (commencing with Section 6500) of Division 7 of Title 1) by one or more entities listed in Section 54951, but "local agency" shall not include a county superintendent of schools, an elementary school, high school, or unified school district, or a community college district.

(5) "Nonprofit organization" means any entity incorporated under the Nonprofit Corporation Law (Division 2 (commencing with Section 5000) of Title 1 of the Corporations Code) or a nonprofit organization that qualifies for exempt status under Section 115 or 501(c), excluding 501(c)(3), of the Internal Revenue Code of 1986.

(6) "Public resources" means any property or asset owned by any local agency, including, but not limited to, cash, land, buildings, facilities, funds, equipment, supplies, telephones, computers, vehicles, travel, and local government compensated time that is provided to a nonprofit organization.

(c) This section does not prohibit the use of public resources for providing information to the public about the possible effects of any bond issuance or other ballot measure on state activities, operations, or policies, provided that the informational activities are otherwise authorized by the California Constitution or the laws of this state, and the information provided constitutes a fair and impartial presentation of relevant facts to aid the electorate in reaching an informed judgment regarding the bond issue or ballot measure.

(d) (1) Any person who intentionally or negligently violates this section is liable for a civil penalty not to exceed one thousand dollars ($1,000) for each day on which a violation occurs, plus three times the value of the unlawful use of public resources. The penalty shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General or by any district attorney or any city attorney of a city having a population in excess of 750,000. If two or more persons

are responsible for any violation, they shall be jointly and severally liable for the penalty. If the action is brought by the Attorney General, the moneys recovered shall be paid into the General Fund. If the action is brought by a district attorney, the moneys recovered shall be paid to the treasurer of the county in which the judgment was entered. If the action is brought by a city attorney, the moneys recovered shall be paid to the treasury of that city.

(2) A civil action alleging a violation of this section shall not be commenced more than four years after the date of the alleged violation.

~~SECTION 1. It is the intent of the Legislature to appropriate two hundred fifty million dollars ($250,000,000) from the General Fund in the 2013–14 fiscal year to the Career Pathways State Revolving Fund. The source of funds for that appropriation may include state apportionments for purposes of Section 8 of Article XVI of the California Constitution and offsetting budget savings derived from reforms to the Enterprise Zone Act (Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code) and the New Jobs Tax Credit.~~

~~SEC. 2. Part 38 (commencing with Section 64200) is added to Division 4 of Title 2 of the Education Code, to read:~~

~~PART 38. CAREER PATHWAYS INVESTMENT CREDIT AND TRUST FUND~~

~~64200. (a) The Legislature finds and declares the following:~~

~~(1) After five years of deep recession and high rates of unemployment, the California economy has begun to recover.~~

~~(2) One of the most important actions California can take to hasten that recovery is to invest in the development of a skilled workforce to perform well-paying jobs in growing and emerging sectors of its regional economies.~~

~~(3) The fastest-growing occupations are expected to be those that require scientific, technical, engineering, or mathematics (STEM) skills, such as jobs in biotechnology, digital media arts, agricultural technology, green technology, or computer-related and health-related fields.~~

~~(4) California's systems of public education, which includes primary and secondary schools, technical training, apprenticeship, two-year and four-year colleges, and graduate schools, play a~~

~~critical role in workforce preparation, one that could be significantly strengthened by a tighter focus on education and training that delivers the skills and capacities most called for in high-opportunity sectors.~~

~~(5) This kind of workforce preparation is best accomplished in concert with regional business and industry, so that students receive the most current and relevant education that prepares them to compete for good jobs in their communities after graduation from high school or postsecondary education and training.~~

~~(6) Work-based educational and training opportunities enhance the employment prospects of low- and moderate-income individuals and contribute to the stability and economic development of their communities.~~

~~(b) It is the intent of the Legislature that federal bank regulators, specifically, the Federal Reserve bank, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision, give credit to federally insured banks and thrifts on their compliance examinations under the federal Community Reinvestment Act of 1977 (Public Law 95-128) for grants, investments, and loans to educational institutions, nonprofit organizations, and businesses in support of career pathways programs.~~

~~(c) It is the intent of the Legislature to establish state fiscal incentives, such as pay-for-performance contracts, grants, and tax credits, that encourage California businesses and industry to enter into partnerships with schools and community colleges that strengthen the nature and quality of education provided by those institutions. These partnerships will connect high school pupils and teachers, and college students and faculty, to real-world experience that provides sustained exposure to applied academics, skill development, work-related experience, and potential future employment. This experience will keep students on track to graduation, further education, and productive careers.~~

~~(d) The dissolution of redevelopment agencies will increase property tax revenues to K–14 school districts and community college districts, including the one-time distribution of redevelopment agency cash assets expected to occur in the 2012–13 and 2013–14 fiscal years. It is the intent of the Legislature that school districts and community college districts capitalize the Career Pathways Investment Trust Funds established pursuant to~~

~~this act for purposes of financing program and administrative costs relating to the operation of career pathways programs.~~

~~64201. For purposes of this part:~~

~~(a) "Applicant" means a business entity that enters into a contract or memorandum of understanding with a local educational agency, community college, or workforce investment board to provide career technical education that connects pupils to real-world experience and provides sustained exposure to applied academics, skill development, work-related education, and potential future employment, and that applies to the committee for the career pathways investment credit.~~

~~(b) "Budget" means an estimate of all qualified expenditures to be paid or incurred in providing the career pathways program over the period for which the applicant is applying for the career pathways investment credit.~~

~~(c) "Career Pathways Investment Trust Fund" means a fund established in each local educational agency and community college district for the purpose of financing program and administrative costs relating to the operation of career pathways programs.~~

~~(d) "Career pathways pay-for-performance pilot project" means a career pathways program approved for funding by the committee under a pay-for-performance contract between the committee and the school district or districts or community college district or districts. The pay-for-performance contract shall specify the accountability and performance measurements that determine the extent to which a business entity partnering with the school districts or districts or community college district or districts may be compensated for its costs. The amount of compensation shall vary in accordance with demonstrated performance. Performance measures shall include all of the following:~~

~~(1) Demonstrated improvement in academic performance.~~

~~(2) Demonstrated improvement in postsecondary enrollment.~~

~~(3) Decreased dropout rates.~~

~~(4) Demonstrated improvement in transitions to appropriate employment, apprenticeships, or any other job training school, if applicable.~~

~~(5) Measurements of pupil, parent, and employer satisfaction.~~

~~(e) "Career pathways programs" means programs that support the following:~~

~~(1) Integrated academic and technical learning that prepares pupils for both postsecondary education and careers in high-growth or high-need sectors of the economy. These programs include core academic courses emphasizing authentic applications, sequences or clusters of three or more courses that align with the Office of the Chancellor of the California Community Colleges-approved or state board-approved career technical education standards and frameworks that also integrate key academic concepts and skills, work-based learning opportunities, and additional services like counseling or supplementary instruction in reading, writing, and mathematics. These programs may be delivered through high schools, regional occupational centers or programs, California Partnership Academies or other career academies, alternative education programs, including continuation schools and programs administered by county offices of education, adult education programs, or community colleges.~~

~~(2) Curriculum and professional development.~~

~~(3) Middle school and early high school career exploration activities.~~

~~(4) Externship and fellowship opportunities that expose middle school and high school teachers and community college faculty to the skills and competencies that pupils need for successful employment in high-growth sectors of the California economy.~~

~~(5) Active engagement by business and industry in pathway design and implementation, work-based learning, assessment of student work, and other aspects of effective preparation for success in further postsecondary education and careers.~~

~~(6) Workplace learning and educational opportunities that prepare pupils for careers in high-skilled, high-growth, and emerging employment sectors, including, but not limited to, biotechnology research and development, engineering and construction, advanced manufacturing, health sciences and nursing, environmental sciences, and agricultural technology.~~

~~(7) Programs that provide employment services and support to individuals with exceptional needs, including autistic individuals.~~

~~(f) "Career Pathways State Revolving Fund" means a fund established in the State Treasury for the purpose of providing state financial assistance to local educational agencies, community college districts, and business entities that have entered into agreements to implement and operate career pathways programs.~~

~~State financial assistance may include grants and pay-for-performance contracts.~~

~~(g) "Committee" means the California Career Pathways State Investment Committee.~~

~~(h) "Qualified expenditures" includes the following:~~

~~(1) The costs of work-based learning specialists that convene, connect, measure, and broker partnerships between local educational agencies and business entities, including the costs of all of the following activities:~~

~~(A) Matching pupils with work-based learning opportunities, including school year or summer internships and paid employment within a career pathway.~~

~~(B) Using schoolsite mentors as liaisons between local educational agencies, business entities, parents, and community partners.~~

~~(C) Providing technical assistance to help local educational entities and business entities design comprehensive career pathways programs.~~

~~(D) Providing technical assistance to help teachers integrate school-based and work-based learning with academic and career technical subject matters.~~

~~(E) Brokering the involvement of business entities in school-based and work-based activities.~~

~~(F) Assisting pupils in finding appropriate work, continuing pupils' education or training, and linking pupils to other community services.~~

~~(G) Evaluating outcomes to assess career pathways program success, particularly in regard to pupil subgroups.~~

~~(H) Linking existing youth development activities with employer and industry strategies to upgrade worker skills.~~

~~(2) Paid jobs or internships for high school pupils or community college students that are related to course work in a career pathways program.~~

~~(3) Support and supervision for unpaid internships or other work-based learning opportunities that give pupils the opportunity to connect what they are learning in high school or community college to its application in the real world.~~

~~(4) Teacher or faculty externships.~~

~~(5) Contributions to programs administered by postsecondary institutions that provide support to middle school, high school, or~~

~~community college career pathways programs. This support may include, but shall not be limited to, teacher training, curriculum development, and other forms of technical assistance.~~

~~(6) Equipment and instructional materials, including equipment and software to support technology-based instruction that provides one or more of the following:~~

~~(A) Accelerated learning opportunities.~~

~~(B) Identification of skill and knowledge gaps.~~

~~(C) Targeted remediation to prepare pupils for college and careers.~~

~~(7) Employees to provide instruction, in partnership with credentialed teachers employed by the school district or faculty employed by the community college, at the schoolsite or community college campus.~~

~~(8) Contributions to support staff who link career pathways programs with regional business entities and assist in the development of the memoranda of understanding provided in subdivision (h) of Section 64204. The staff may be employed by local educational agencies, community colleges, or regional intermediary organizations.~~

~~64203. (a) A Career Pathways Investment Trust Fund is hereby established in each local educational agency and community college district for the purpose of financing program and administrative costs relating to the operation of career pathways programs. The trust fund may accept revenues from any source, including one-time property tax revenues resulting from the dissolution of the assets of the former redevelopment agencies, other tax revenues, grants, and contributions or employment training funds made available through the employment training panel or workforce investment boards. The trust fund shall be administered by each local educational agency or community college district.~~

~~(b) Moneys in a Career Pathways Investment Trust Fund may be used for any of the following purposes:~~

~~(1) Career pathways program operations.~~

~~(2) Development of rigorous and career-relevant curriculum by the applicant and the school district, community college district, or consortium of school districts and community college districts.~~

~~(3) Paid internships.~~

~~(4) Post-high-school financial aid for college, licensing, and credentialing programs.~~

~~(5) Wage subsidies for full-time employment for pupils who successfully complete a career pathways program.~~

~~64204. (a) The California Career Pathways State Investment Committee is hereby established in state government.~~

~~(b) The committee shall be composed of the following members:~~

~~(1) The Chancellor of the California Community Colleges, or his or her designee, who will serve as the chairperson of the committee.~~

~~(2) The Superintendent or his or her designee.~~

~~(3) The Chair of the California Workforce Investment Board, or his or her designee.~~

~~(4) One appointee of the Senate Committee on Rules, who shall represent the business community and will serve a four-year term.~~

~~(5) One appointee of the Speaker of the Assembly, who will serve a four-year term.~~

~~(c) The committee is granted the sole authority to allocate to local educational agencies, community college districts, and applicants moneys appropriated to the Career Pathways State Revolving Fund for state financial assistance, including grants and the payment of pay-for-performance contracts entered into by the committee as part of a career pathways pay-for-performance pilot project. The committee is also granted the sole authority to allocate to applicants the Career Pathways Investment Credits authorized pursuant to Section 64206.~~

~~(d) The committee shall establish criteria and guidelines for evaluating applications for state financial assistance, including requirements for commitments of financial or other resources by applicants or a local educational agency, community college district, or workforce investment board. The committee shall give priority in allocating state financial assistance to the following:~~

~~(1) Proposals that would fund a work-based learning specialist to convene, connect, measure, and broker efforts to establish or enhance a locally defined career pathways program that provides connections between local educational agencies and business entities.~~

~~(2) Local educational agencies and community college districts that have an unemployment rate higher than the statewide average unemployment rate for the most recent calendar year, as determined~~

~~by the Employment Development Department, or a high school graduation rate lower than the statewide high school graduation rate for the most recent calendar year, as determined by the committee using the California Longitudinal Pupil Achievement Data System.~~

~~(3) Local educational agencies and community college districts that include in their application a significant amount of private funding support from their business partners.~~

~~(4) Local educational agencies and community college districts that include in their application articulated pathways connecting high school and postsecondary certificate and degree programs in their region.~~

~~(5) Local educational agencies and community college districts that are not seeking state financial assistance for existing activities. However, priority in allocating state financial assistance shall be given to applicants that seek to expand or augment existing investments in career pathways programs.~~

~~(c) The committee shall develop performance criteria for determining the financial returns to private entities participating in a career pathways pay-for-performance pilot project. The performance-based compensation to be paid to private entities by educational agency participants for each pay-for-performance contract shall be specified in the contract. The performance criteria shall include, but are not limited to, high school pupil and community college student achievement and opportunity in the following areas:~~

~~(1) High school graduation.~~

~~(2) Completion of postsecondary programs that culminate in a certificate or degree.~~

~~(3) Attainment of industry-recognized credentials that are valued in high-growth, high-need, or emerging economic sectors.~~

~~(4) Provision of internships to high school pupils and community college students.~~

~~(5) Provision of paid summer jobs for high school pupils and community college students.~~

~~(6) Provision of externships for high school teachers and community college faculty.~~

~~(7) Provision of scholarships or other financial assistance for students pursuing postsecondary education or training in a relevant career pathway.~~

~~(8) Offer of paid employment or apprenticeship to high school pupils or community college students who are participants or graduates of a career pathways program.~~

~~(f) The committee may spend up to ten million dollars ($10,000,000) of the amount appropriated to the California Career Pathways State Revolving Fund for the career pathways pay-for-performance pilot project.~~

~~(g) The committee may prepare forms, establish procedures, set priorities, assess, and perform other administrative functions as necessary.~~

~~(h) The Superintendent, the Chancellor of the Community Colleges, and the California Workforce Investment Board shall enter into a memorandum of understanding to allocate staff resources to the committee. The costs to these entities shall be offset by fees charged to applicants for Career Pathways Tax Credits.~~

~~64205. (a) There is hereby created in the State Treasury the California Career Pathways State Revolving Fund for the purpose of providing financial assistance to local educational agencies, community college districts, and business entities that have entered into agreements to implement and operate career pathways programs. Within the fund there shall also be established a Career Pathways Financing Account, a Career Pathways Grant Account, and additional accounts and subaccounts that the committee may establish from time to time.~~

~~(b) Moneys in the Career Pathways Financing Account shall be used to pay pay-for-performance contracts entered into by the committee as part of a career pathways pay-for-performance pilot project, or other financing agreements entered into by the committee.~~

~~(c) Moneys in the Career Pathways Grant Account shall be used to award grants from the committee to local educational agencies and community college districts.~~

~~(d) Notwithstanding Section 13340 of the Government Code, all moneys in the Career Pathways State Revolving Fund shall be continuously appropriated without regard to fiscal year for the support of the committee and for expenditure for the purposes stated in this part.~~

~~(e) All expenses incurred in carrying out the purposes of this part shall be payable solely from funds provided pursuant to this~~

~~part, and no liability or obligation shall be imposed upon the state and none shall be incurred by the committee beyond the extent to which money shall have been provided pursuant to this part.~~

~~64206. For calendar years beginning on or after January 1, 2014, the committee shall allocate the career pathways investment credit in an amount authorized in the Budget Act for that calendar year. For purposes of this section, the committee shall do all of the following:~~

~~(a) Allocate the career pathways investment credit for up to five calendar years for each application the committee approves, as long as the amount allocated does not exceed the amount authorized in the Budget Act.~~

~~(b) (1) Give priority in allocating tax credits to the following:~~

~~(A) Applicants that have entered into a contract or memorandum of understanding with local educational agencies, community colleges, or workforce investment boards, as specified in subdivision (a) of Section 64201, in communities that have an unemployment rate higher than the statewide unemployment rate, as determined by the United States Census, and a high school graduation rate lower than the statewide high school graduation rate, as determined by the committee using the California Longitudinal Pupil Achievement Data System.~~

~~(B) Applicants that have entered into a contract or memorandum of understanding with local educational agencies, community colleges, or workforce investment boards with an applicant financial commitment that exceeds the commitment of public funds.~~

~~(C) Applicants that have entered into a contract or memorandum of understanding with local educational agencies or community colleges that offer articulated pathways connecting high school and postsecondary certificate and degree programs in their region.~~

~~(D) Applicants that are not seeking tax credits for existing activities. However, priority shall be given to applicants that seek to expand or augment existing investments in career pathways programs.~~

~~(2) To the maximum extent practicable, subject to paragraph (1), give priority in allocating career pathways investment credits to applicants that seek to expand or augment existing investments in career pathways programs.~~

~~(3) The committee shall not give priority to any applicant by virtue of the date of submission of its application, except to allocate credits where two or more applicants have the same rating.~~

~~(c) An applicant shall enter into an enforceable contract or memorandum of understanding with the committee to comply with the requirements of this part, Sections 17057.6 and 23610.6 of the Revenue and Taxation Code, any applicable state laws, and any additional requirements the department deems necessary or appropriate to serve the purposes of this part. The contract or memorandum of understanding shall also provide for legal action to obtain specific performance or monetary damages for breach of contract and shall require regular programmatic audits.~~

~~(d) Adopt rules that award credits to applicants that demonstrate that either the applicant or the local educational agency, community college, or workforce investment board with which it has entered into a memorandum of understanding pursuant to this part performed well in regard to the following criteria:~~

~~(1) The effectiveness of the career pathways program toward preparing students for productive, high-wage employment in growing or high-need sectors of the California economy. Effectiveness criteria shall include:~~

~~(A) Pathway completion rates.~~

~~(B) High school graduation rates or community college completion rates, as appropriate.~~

~~(C) Percentages of students attaining an industry certification.~~

~~(D) Percentages of students transitioning successfully to postsecondary education or apprenticeship.~~

~~(E) Employment and earnings after high school.~~

~~(2) The level of the applicant's investment in, oversight of, and ability to leverage and sustain current career pathways programs and current career technical education programs.~~

~~(e) Develop and provide forms for purposes of informing potential applicants of the purposes of this part.~~

~~(f) The amount of the credit reserved for a calendar year shall not exceed 50 percent of the qualified expenditures estimated by the applicant for the calendar year.~~

~~(g) The committee shall report to the Franchise Tax Board, once each year, the identity of the qualified taxpayers for whom the career pathways investment credits are allocated each year.~~

~~(h) The committee may, in its discretion, consult with the Treasurer and the California Tax Credit Allocation Committee regarding the allocation of tax credits. If a request for consultation is made, the Treasurer and the California Tax Credit Allocation Committee shall aid the committee.~~

~~(i) Establish audit requirements. The committee may share information established during an audit with the Franchise Tax Board.~~

~~(j) It is the intent of the Legislature, subsequent to the enactment of the act adding this section, to reduce the statutory cap on the authorization for the new jobs tax credit enacted by Chapter 17 of the Statutes of 2009, Third Extraordinary Session, from four hundred million dollars ($400,000,000) to three hundred million dollars ($300,000,000) and to authorize one hundred million dollars ($100,000,000) for the Career Pathways Investment Credit, effective January 1, 2014.~~

~~SEC. 3. Section 17057.6 is added to the Revenue and Taxation Code, to read:~~

~~17057.6. (a) For each taxable year beginning on or after January 1, 2014, there shall be allowed to a qualified taxpayer as a credit against the "net tax," as defined in Section 17039, an amount equal to that allocated to a qualified taxpayer by the California Career Pathways Investment Committee pursuant to Section 64206 of the Education Code.~~

~~(b) For purposes of this section a "qualified taxpayer" means an applicant, as defined in Section 64201 of the Education Code, who is either the sole owner if an individual, partners if the taxpayer is a partnership, or shareholders if the taxpayer is an "S" corporation, and who was awarded an allocation of the career pathways investment credit by the California Career Pathways Investment Committee.~~

~~(c) In the case where the credit allowed under this section exceeds the "net tax," the excess credit may be carried over to reduce the "net tax" in the following taxable year, and succeeding taxable years, if necessary, until the credit has been exhausted.~~

~~(d) If a qualified taxpayer fails to comply with the requirements of this section or with Part 38 (commencing with Section 64200) of Division 4 of Title 2 of the Education Code, the credit shall be disallowed and assessed and collected under Section 19051 until the requirements are satisfied.~~

~~SEC. 4. Section 23610.6 is added to the Revenue and Taxation Code, to read:~~

~~23610.6. (a) For each taxable year beginning on or after January 1, 2014, there shall be allowed to a qualified taxpayer as a credit against the "tax," as defined in Section 23036, an amount equal to that allocated to a qualified taxpayer by the California Career Pathways Investment Committee pursuant to Section 64206 of the Education Code.~~

~~(b) For purposes of this section a "qualified taxpayer" means an applicant, as defined in Section 64201 of the Education Code, that is subject to the taxes imposed by this part.~~

~~(c) In the case where the credit allowed under this section exceeds the "tax," the excess credit may be carried over to reduce the "tax" in the following taxable year, and succeeding taxable years, if necessary, until the credit has been exhausted.~~

~~(d) If a qualified taxpayer fails to comply with the requirements of this section or with Part 38 (commencing with Section 64200) of Division 4 of Title 2 of the Education Code, the credit shall be disallowed and assessed and collected under Section 19051 until the requirements are satisfied.~~

~~SEC. 5. No reimbursement shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.~~

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