

Date of Hearing: June 21, 2021

ASSEMBLY COMMITTEE ON ARTS, ENTERTAINMENT, SPORTS, TOURISM, AND
INTERNET MEDIA

Sharon Quirk-Silva, Chair

SB 628 (Allen) – As Amended April 13, 2021

SENATE VOTE: 35-3

SUBJECT: California Creative Workforce Act of 2021.

SUMMARY: Would establish a new workforce grant program to promote “earn and learn” job training and career exploration opportunities for creative workers. Specifically, **this bill:**

- 1) Establishes the California Creative Workforce Act of 2021 and sets forth the following objectives for the Act:
 - a) to establish creative arts workforce development as a state priority.
 - b) to recognize creative workers across California as essential workers and contributors for overcoming California’s greatest challenges through the rebuilding of California’s cultural landscape into a more equitable and just framework.
 - c) to develop and support a workforce career development pipeline that serves creative workers at all stages of their careers
 - d) to create equitable opportunities for career exploration and participation in creative work for individuals and communities who may have faced barriers to participation and employment in creative work as a result of low levels of public and private investment, limited exposure to arts programming, or other social or economic barriers to participation and employment in creative work
 - e) to promote employment and “earn and learn” job training opportunities for creative workers throughout the state.
- 2) Defines “Creative work” as work directly relevant to the creation, development, production, and marketing of visual, performance, and literary art, including, but not limited to, painting, mural-making, photography, music, performance art, acting, filmmaking, dancing, fashion design, graphic design, poetry, and all other forms of creative writing.
- 3) Defines “Creative workers” as visual, performance, and literary artists, including, but not limited to, painters, muralists, photographers, musicians, performing artists, actors, filmmakers, dancers, fashion designers, graphic designers, poets, and writers.
- 4) Directs the California Workforce Development Board (CWDB) and the California Arts Council (CAC) to work together collaboratively to design a grant program pursuant to the objectives of the California Creative Workforce Act.
- 5) Directs the CWDB and the CAC to consult with local governments, community nonprofit organizations, educational institutions with arts programming, and workers, unions, and employers in relevant industry sectors on the design of the grant program.

- 6) Directs the CAC to adopt criteria, guidelines, and policies for the grant program.
- 7) Exempts the criteria, guidelines, and policies from the rulemaking provisions of the Administrative Procedures Act, and requires that the CAC make the criteria, guidelines, and policies available to the public.
- 8) Directs the CAC, in consultation with the CWDB, to oversee and administer the grant program.
- 9) Establishes that the program be operated and implemented locally or regionally by program grantees, including but not limited to local government entities, cultural arts agencies, community nonprofit organizations, as well as other organizations operating a program consistent with the objectives of the grant program.
- 10) Requires that the CAC specify and set aside a portion of program funds to be awarded to grantees to provide, either directly or through contract, earn and learn job training employment opportunities for students who have enrolled in or completed a program in the arts, low-income or unemployed creative workers, and other individuals with a demonstrated interest in or commitment to creative work in their communities.
- 11) Establishes the following parameters for the first set aside portion of the program:
 - a) Grantees may serve as, or contract with, labor market intermediaries, who will connect prospective program participants to employers with earn and learn job training employment opportunities that involve creative work
 - b) Earn and learn job training employment opportunities for a creative worker shall be for a period of no less than 12 months and no more than 24 months
 - c) Employment funded by the project shall pay a living wage in the regional labor market where the work is performed.
 - d) Creative workers shall be employed in jobs that provide opportunities to progressively learn, over the course of their enrollment in the program, occupational skills relevant to jobs characteristic of the arts and entertainment industry.
 - e) Employment shall support creative workers in diverse activities and projects, including, but not limited to, public artworks, musical and theatrical performances, and community documentation that lift up the voices of systemically marginalized populations and that reframe and reimagine the possibilities of defining a new California culture.
 - f) The program shall be structured so as to promote transition to actual unsubsidized employment at the time program participants complete their program enrollment, with post enrollment job placement in a living wage job serving as an important underlying objective of the program.
- 12) Requires that the CAC specify and set aside a second portion of program funds to be awarded to grantees to create equitable opportunities for career exploration and participation in creative work for individuals and communities who have faced barriers to participation and

employment in creative work as a result of low levels of public and private investment in the arts, limited exposure to arts programming, or other social or economic barriers to participation and employment in creative work.

- 13) Requires that the second “set aside” portion of grant funds shall provide a portion of the grant funds to organizations serving veterans and individuals with employment barriers as defined by UI Code section 14005 (j).
- 14) Establishes that the CAC, in consultation with the CWDB, may specify and set aside a third portion of program funds to be awarded to grantees to provide other workforce services permitted under the California Workforce Innovation and Opportunity Act to unemployed, underemployed, and displaced creative workers.
- 15) Directs the CWDB, in consultation with the CAC, to develop and implement a plan for grant program evaluation and to specify the data needed to be collected to evaluate program efficacy. Requires the data collected to include information pertaining to all of the following:
 - a) the demographics of program participants
 - b) data pertaining to any employment barriers of individual program participants
 - c) data pertaining to the types of earn and learn job training programs participants enroll in
 - d) data on any workforce services received during the period of program participation
 - e) outcome data, including labor market data pertaining to the wages and employment of program participants after they exit the program
- 16) Establishes that the CAC shall require grantees, as a condition of receiving funding, to collect and remit all requisite data necessary to conduct program evaluation.
- 17) Clarifies in the Government Code that the CAC may carry out duties assigned to it by the California Creative Workforce Act.

EXISTING LAW:

- 1) Establishes that the state’s workforce system shall operate according to the following principles:
 - a) Programs shall be responsive to the needs of employers, workers, and students, preparing students and workers with the skills necessary to compete in the economy, producing greater numbers of individuals who obtain industry-recognized certificates and career-oriented degrees; adapting to changing local and regional labor market conditions, preparing workers for good-paying jobs; and aligning efforts around industry sectors that drive regional employment.
 - b) State and local workforce development boards are encouraged to collaborate with other public and private institutions, including businesses, unions, nonprofit organizations, and education programs, among others, to better align resources across workforce, training, education, and social service delivery systems.

- c) Workforce investment programs are to operate in a data driven and evidence based manner when setting priorities, investing resources, and adopting practices.
 - d) Workforce investment programs and services are to develop strong partnerships with the private sector, ensuring industry involvement in needs assessment, planning, and program evaluation.
 - e) Workforce investment programs and services are to be outcome oriented and accountable, measuring results for program participants, including, but not limited to, outcomes related to program completion, employment, and earnings.
 - f) Programs and services are to operate in a manner that ensures accessibility to employers, the self-employed, workers, and students, including individuals with employment barriers, such as persons with economic, physical, or other barriers to employment.
- 2) Establishes the California Workforce Development Board (CWDB) as the body responsible for assisting the Governor in the development, oversight, and continuous improvement of the workforce system. (Unemployment Insurance Code 14010 et seq).
 - 3) Requires that the CWDB work collaboratively with state and local partners to identify ways to eliminate system wide barriers and better align and leverage federal, state, and local Workforce Innovation and Opportunity Act funding streams, and other funding streams, and policies to develop, support, and sustain regional alliances of employers and workforce and education professionals who are working to improve the educational pipeline, establish well-articulated career pathways, provide industry-recognized credentials, certificates, and recognized postsecondary credentials, and address the career advancement needs of current and future workers in competitive and emergent industry sectors and clusters.
 - 4) Requires the CWDB to identify industry sectors and industry clusters that have a competitive economic advantage and demonstrated economic importance to the state and its regional economies.
 - 5) Defines “earn and learn” job training programs to include, but not be limited to, programs that do either of the following:
 - a) Combine applied learning in a workplace setting with compensation allowing workers or students to gain work experience and secure a wage as they develop skills and competencies directly relevant to the occupation or career for which they are preparing.
 - b) Bring together classroom instruction with on-the-job training to combine both formal instruction and actual paid work experience. (Unemployment Insurance Code §14005(q))
 - 6) Establishes that “earn and learn” programs include, but are not limited to the following:
 - a) Apprenticeships
 - b) Pre-apprenticeships.
 - c) Incumbent worker training.
 - d) Transitional and subsidized employment, particularly for individuals with barriers to employment.

- e) Paid internships and externships.
 - f) Project-based compensated learning
(Unemployment Insurance Code §14005(q))
- 7) Defines “Individual with employment barriers” as an individual with any characteristic that substantially limits an individual’s ability to obtain employment, including members of all of the following groups:
- a) Displaced homemakers.
 - b) Low-income individuals.
 - c) Indians, Alaska Natives, and Native Hawaiians, as those terms are defined in Section 3221 of Title 29 of the United States Code.
 - d) Individuals with disabilities, including youths who are individuals with disabilities.
 - e) Older individuals.
 - f) Ex-offenders.
 - g) Homeless individuals, as defined in Section 14043e-2(6) of Title 42 of the United States Code, or homeless children and youths, as defined in Section 11434a(2) of Title 42 of the United States Code.
 - h) Youth who are in, or have aged out of, the foster care system.
 - i) Individuals who are English language learners, individuals who have low levels of literacy, and individuals facing substantial cultural barriers.
 - j) Eligible migrant and seasonal farmworkers, as defined in Section 3322(i) of Title 29 of the United States Code.
 - k) Individuals within two years of exhausting lifetime eligibility under Part A of Title IV of the Social Security Act (42 U.S.C. Sec. 601 et seq.).
 - l) Single parents, including single, pregnant women.
 - m) Long-term unemployed individuals.
 - n) Transgender and gender nonconforming individuals.
 - o) Any other groups as the Governor determines to have barriers to employment
(Unemployment Insurance Code § 14005(j)).
- 8) Establishes the Breaking Barriers to Employment Grant Initiative administered by the CWDB which provides individuals with barriers to employment services to help enter, participate in, and complete broader workforce preparation, training, and education programs aligned with regional labor market needs. Services are delivered locally through partnerships between community-based organizations and local workforce development boards.
(Unemployment Insurance Code § 14030 et seq.)
- 9) Establishes the Prison to Employment Grant Initiative administered by the CWDB. This initiative provides funding to local workforce development boards and their partners to coordinate workforce, education, and related services for formerly incarcerated and other justice-involved individuals with the goal of helping these individuals secure and retain employment. (Unemployment Insurance Code § 14040 et seq.)

- 10) Authorizes the CWDB to develop guidelines for public agencies receiving Road Maintenance and Rehabilitation Account funds to participate in, invest in, or partner with, new or existing pre-apprenticeship construction training programs. (Streets and Highway Code §2038).
- 11) Funds the CWDB to establish a pre-apprenticeship grant program to prepare women, minority participants, disadvantaged youth, and the formerly incarcerated to enroll in construction apprenticeship programs (Streets and Highway Code §§2032 & 2038).
- 12) Establishes the California Arts Council with the following duties:
 - a) Encourage artistic awareness, participation and expression.
 - b) Help independent local groups develop their own art programs.
 - c) Promote the employment of artists and those skilled in crafts in both the public and private sector.
 - d) Provide for the exhibition of art works in public buildings throughout California.
 - e) Enlist the aid of all state agencies in the task of ensuring the fullest expression of our artistic potential.
 - f) Adopt regulations in accordance with the provisions of the Administrative Procedure Act necessary for proper execution of the powers and duties granted to the council by this chapter.
 - g) Employ such administrative, technical, and other personnel as may be necessary.
 - h) Fix the salaries of the personnel employed pursuant to this chapter which salaries shall be fixed as nearly as possible to conform to the salaries established by the State Personnel Board for classes of positions in the state civil service involving comparable duties and responsibilities.
 - i) Appoint advisory committees whenever necessary. Members of an advisory committee shall serve without compensation, but each may be reimbursed for necessary traveling and other expenses incurred in the performance of official duties.
 - j) Request and obtain from any department, division, board, bureau, commission, or other agency of the state such assistance and data as will enable it properly to carry on its power and duties.
 - k) Hold hearings, execute agreements, and perform any acts necessary and proper to carry out the purposes of this chapter.
 - l) Accept federal grants, for any of the purposes of this chapter.
 - m) Accept only unrestricted gifts, donations, bequests, or grants of funds from private sources and public agencies, for any of the purposes of this chapter. However, the council shall give careful consideration to any donor requests concerning specific dispositions.
 - n) Establish grant application criteria and procedure.
 - o) Award prizes or direct grants to individuals or organizations in accordance with such regulations as the council may prescribe. In awarding prizes or directing grants, the council shall notify the offices of the legislators in whose district the recipient resides.
 - p) Have the authority to appoint peer review panels whenever necessary. Each member of a peer review panel may, at the discretion of the council, receive a per diem and

honorarium for each day of service and be reimbursed for necessary travel and other expenses incurred in the performance of official duties.

(Government Code §8751 & §8753).

- 13) Prohibits the CAC from making any grants or fund any program which has not been established pursuant to the powers granted to it by the Government Code. (Government Code §8753.5).

FISCAL EFFECT: According to the Senate Committee on Appropriations:

The California Workforce Development Board (CWDB) and the California Arts Council (CAC) each would, over the duration of the grant program, incur annual costs in the hundreds of thousands of dollars to implement their respective provisions of the bill.

The size of the grant program is not specified in the bill, thereby creating a cost pressure to fund the program. The magnitude of the grant program would likely be in the tens of millions of dollars annually over several years. The bill does not address whether the administrative costs of CWDB and CAC would be paid from grant program funds.

COMMENTS:

Author and supporters statements for need of legislation. According to the author, “The Golden State’s \$230.3 billion creative economy is the largest in the world yet COVID-19 brought much of it to a standstill. According to Americans for the Arts, 96% of creative workers have lost revenue or employment because of the pandemic. There are over 764,000 creative workers in California; of those over 450,000 creative workers are unemployed due to the COVID-19 pandemic. California’s economic and civic recovery will depend on returning as many people to work as rapidly as possible.

“SB 628, the Creative Workforce Development Act, would direct the California Workforce Development Board and California Arts Council to establish an earn-and-learn program – in consultation with local governments and community nonprofits – to employ creative workers in their communities. This bill would establish a training program focused on developing marketable skills in the arts, prioritizing low-income, unemployed, and disadvantaged persons beginning their careers in the creative arts.”

Californians for the Arts writes in support to say, “SB 628 represents an innovate solution to help build back the arts and creative industries workforce by offering jobs creation opportunities for the recently unemployed and workforce development for a new pipeline of creative workers. Innovation is crucial to competition, and creativity is integral to innovation. According to 2019 LinkedIn behavioral data, creativity is the most in-demand soft skill in short supply.

Additionally, a recent McKinsey study predicts that as automation transforms the skills companies need, demand for creativity will rise sharply by 2030. The training and development prescribed by SB 628 would serve people who are at the beginning of their careers in the creative arts, Veterans, and returning citizens, and, among other things, would focus on building marketable skills in the arts and creative industries.”

Mariposa County Arts Council bring the committee’s attention to the restorative powers of creativity, saying. “The Creative industries are integral to the recovery, rebuilding, and healing

of California. Creative workers and projects heal communities, drive social-emotional learning, improve cultural competency and cohesion, address trauma, and inspire new thinking in communities with unmet needs. If California is to retain its premier position in arts and culture, and realize the social, cultural, and economic benefits of the creative industries there must be greater opportunities for creative employment and training across the state. SB 628 addresses this need by creating a program to fund creative employment and training opportunities at the local level across the state.”

Background.

Otis Parsons Creative Economy Report for 2021. Started in 2007, the Otis Report on the Creative Economy chronicles the creative economy of Los Angeles and California through five creative industries through eight regions of the state. The 5 sectors are: Creative Goods and Services; Entertainment and Digital Services; Fashion, and; Fine Arts and Performing Arts. The annual review of the California statewide creative economy was a dire report in 2021. Their findings include the following:

The COVID-19 pandemic has had a devastating effect on the Creative Economy in California. The professionals who work across the Creative Economy’s sectors have been profoundly affected by the public health mandates implemented to help contain the virus. Across California, the Creative Economy suffered 175,360 job losses (roughly 13%) from February to December 2020. In L.A. County, the Creative Economy sectors lost 109,400 jobs (24%). The Entertainment & Digital Media sector experienced estimated job losses of 128,100; Fashion lost 22,870 jobs, and Fine Arts and Performing Arts lost 15,900 jobs. Motion Picture and Video Production has been one of the hardest hit sectors in the Creative Economy, with almost 92,000 jobs lost nationwide. California accounts for roughly 60,000 of the jobs lost, and L.A. County accounts for most of that number with 50,000 of the jobs lost.

The loss of Creative Economy jobs statewide resulted in a severe cut in wages, economic output, and fiscal revenue. Between February and December 2020, an estimated 175,361 jobs were lost in the Creative Economy due to the pandemic. Creative Economy job cuts have a massive ripple effect on supply chains and household spending. For example, loss of jobs in Motion Picture and Video Production means that the logistics firms hired to move filming equipment between locations have now also been cut. Workers from both the movie production company and the logistics firms now have lower wages to spend at home. Both the supply chain job cuts and the lower household spending are referred to as secondary impacts. The total job losses from secondary impacts are estimated to be 337,000 jobs, combined with other sources totals over half a million job losses in California from damage to the Creative Economy. California’s total economic output loss was roughly \$140.0 billion between February and December 2020. (*2021 Otis College Report on the Creative Economy*, accessed February 25, 2021; <https://www.otis.edu/creative-economy/2021>)

AEST&IM Committee Informational Hearings into impacts of Covid 19 Emergency Shutdown Orders on the Travel, Tourism, Art and Performance Venue workforce uncovered severe impacts. Over the interim study break, this committee held a series of hearings looking at the impacts of the worldwide Covid 19 pandemic on the California workforce. The findings were

devastating. On October 14, 2020, the Committee held a hearing on, “The Economic Power and Resilience of California’s Tourism Industry,” where we examined the issues California’s tourism industry faced, including how the industry has weathered the pandemic of 2020. We learned that the travel and hospitality workforce was by far the hardest hit employment sector across the state: 600,000 lost their jobs a month after lockdown. Visitor spending and taxes generated were down by half after a record 2019 brought \$145 billion in visitor spending. Theme parks and meeting venues were stranded without state health guidance to even plan for reopening. One example, hotel tax collections in Anaheim - home to iconic theme parks and a vibrant convention and meeting business - were down nearly 90 percent from the last full pre-pandemic year. The hearing ended on an optimistic note, with participants hoping to weather the storm long enough to serve the pent up demand and members pledging support.

The next hearing, held February 2, 2021, was “Restarting the Arts: Best Practices for Safely Reopening” where we examined impacts of the pandemic shut down and best practices for reopening our prestigious arts venues, museums and performing arts centers. Again the story was one of devastating impact. Museums were forced to close due to strict guidance standards. Performing arts venues were shut down completely. Businesses and restaurants shuttered under stay-at-home orders closed, many to never open again. Californians for the Arts testified before the Committee and provides a summary of the economic impacts the creative sectors have struggled through during 2020-21, “As the statewide advocacy organization for the arts, culture and creative industries in California, we are deeply concerned that unless immediate measures are taken to support what was one of California’s leading industries before the pandemic, California could face a cultural depression for years to come. In fact, a recent McKinsey and Company report states that in a muted recovery, they estimate that it will take until 2025 for the arts, entertainment, and recreation sectors to recover to pre-COVID 19 sector GDP.

The Impact:

- 59% of creative workers were unemployed due to the shutdown.
- 69% of businesses including nonprofits severely impacted by COVID 19.
- Estimated 43.1 Billion revenue loss for creative industries in 2020.”

Double referral. Should this bill pass out of this Committee, it will be re-referred to the Assembly Committee Labor and Employment.

Prior and related legislation.

SB 866 (Senate Budget Committee), Chapter 53, Statutes of 2018, required CWDB to administer the Prison to Employment (P2E) program and award grants for the development of regional partnerships and regional plans to provide and coordinate the necessary workforce, education, supportive, and related services that formerly incarcerated and other justice-involved individuals need to secure and retain employment.

AB 1111 (Eduardo Garcia), Chapter 824, Statutes of 2017, established the Breaking Barriers to Employment Initiative grant program at CWDB to provide individuals with barriers to employment with services to aid them in workforce preparation, training and education.

AB 398 (Eduardo Garcia), Chapter 135, Statutes of 2017, directed CWDB to assess the need for increased education, job training, and workforce development resources to help workers and

communities' transition to a low carbon economy. The required legislative report was provided to the Legislature in the fall of 2020.

SB 342 (Jackson), Chapter 507, Statutes of 2015, required CWDB to assist the Governor in helping individuals with barriers to employment, including low-skill, low-wage workers, the long-term unemployed, and members of single-parent households, achieve economic security and upward mobility by implementing policies that encourage the attainment of marketable skills relevant to current labor market trends. The legislation also defined “earn and learn” job training opportunities.

REGISTERED SUPPORT / OPPOSITION:

Support

Arts Connection
Arts for LA
Arts Orange County
Association of California Symphony Orchestras
California Arts Advocates
California Association of Museums
California State PTA
Los Angeles Philharmonic Association
Mariposa County Arts Council
Neighborhood Music School Association
Ophelia's Jump Productions
Pacific Ballet Dance Theatre
Pasadena Playhouse
San José Arts Advocates
The Latino Arts Network of California
The Music Center
Theatrical Producers League of Los Angeles

Opposition

There is no opposition on file.

Analysis Prepared by: Dana Mitchell / A.,E.,S.,T., & I.M. / (916) 319-3450