



August 13, 2019

Assembly Member Lorena Gonzalez  
Chair, Committee on Appropriations  
California State Assembly  
P.O. Box 942849  
Capitol Office, Room 2114  
Sacramento, CA 94249-0080

Assembly Member Frank Bigelow  
Vice Chair, Committee on Appropriations  
California State Assembly  
P.O. Box 942849  
Capitol Office, Room 4158  
Sacramento, CA 94249-0005

Re: In support with recommendations of California S.B. 472, *An Act to add Division 21 to the Financial Code. Earned Income Access Service Providers Act*

Dear Chair Gonzalez and Vice Chair Bigelow:

The American Payroll Association (APA) supports S.B. 472, concerning early access to earned wages, with recommendations for improving the bill. This legislation represents a substantial improvement to the financial well-being of California's workforce, as well as a model for other states to follow. APA appreciates the opportunity to comment, and we support the bill generally but have a number of concerns and recommendations for the California State Assembly to consideration.

#### **About APA**

Established in 1982, APA is a nonprofit association serving the interests of about 21,000 payroll professionals nationwide. APA's primary mission is to educate its members and the payroll industry about the best practices associated with paying America's workers while complying with applicable federal, state, and local laws and regulations. APA members are directly responsible for calculating wages and tax withholding for their employers.

## Support for S.B. 472

Generally, APA members view the bill as very helpful because it would recognize and codify emerging financial technology approaches that facilitate early access to earned wages. Some employers have offered pay advances on request for decades, usually on an occasional and informal basis and only when an employee has a true emergency. In recent years, new service providers and offerings have emerged that serve to facilitate early access to earned wages. These systems are recognized as far more efficient than alternatives; e.g., one-sixth the cost of a bank overdraft fee and a very small fraction of the cost of a payday loan.

Payroll administration is among the most heavily-regulated business activities. A number of federal and state wage and hour and tax laws would make it prohibitively costly for employers to offer employees pay on demand or to easily change pay frequencies or pay periods. As a result, most workers are paid twice per month (i.e., biweekly or semimonthly). Managing bills and expenses that come due at different points in the month is a challenge that every U.S. worker shares. According to a recent report by the Federal Reserve, 40% of Americans in 2017 did not have sufficient savings to cover a \$400 medical emergency or car repair.<sup>1</sup> This leads many people to resort to high-cost, short-term loans, such as payday loans. If enacted, this bill would enable far more California workers to efficiently manage unexpected expenses without the high costs.

## APA's Concerns

Considering the importance of early wage access, this bill seems rushed without sufficient time to appropriately study and consider the many implications and alternatives. APA supports the bill and notes that, if enacted, it would expire in 2023, which ensures that any replacement would be subject to further deliberation; nevertheless, APA would welcome the opportunity to work on this bill in 2020.

The primary concern for APA members is with proposed sections 60003(d) and 60003(e), which provide:

- (d) An earned income access service provider shall not allow a consumer to receive delivery of earned income more than three separate times during each pay period.

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<sup>1</sup> Board of Governors of the Federal Reserve System, Division of Consumer and Community Affairs, U.S. Federal Reserve, *Supplemental Appendixes to the Report on the Economic Well-Being of U.S. Households in 2018 – May 2019*, Washington, D.C.

(e) A contract between an earned income access service provider and an obligor shall not contain a limitation on the number of pay periods during which the consumer may utilize the services of an earned income access service provider.

The need for these provisions is unclear. Early access to earned wages should be available to employees for emergency use and to cover significant unexpected expenses between paydays. Section 60003(d) would prohibit employers from being able to set limits that they deem appropriate, such as allowing employees early wage access only once or twice per pay period. In addition, section 60003(e) serves to encourage frequent use of early wage access by employees and, thus, to increase the aggregate costs paid by employees.

Instead, APA recommends striking proposed sections 60003(d) and 60003(e) to allow employers the necessary flexibility to establish early wage access programs appropriate for their employees. In this way, employees would be able to take advantage of early wage access without entangling with child support and other “required by law” withholding (i.e., income taxes).

Again, we would be pleased to discuss this further and to work with the legislature in the future concerning this very important topic. Thank you.

Sincerely,



Pete Isberg  
Cochair, APA State and Local Topics Subcommittee



Bruce Phipps, CPP  
Cochair, APA State and Local Topics Subcommittee



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Cc: Senator Caballero