

ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author: Wyland & Zettel Analyst: Kristina E. North Bill Number: AB 462

Related Bills: See Legislative History Telephone: 845-6978 Introduced Date: February 21, 2001

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Employer Public School Math or Science Teachers Credit

SUMMARY

This bill would allow employers a credit equal to 50% of the expenses related to lending an employee to a public school to teach math or science.

PURPOSE OF THE BILL

According to the author's office, the purpose of this bill is to encourage employers, such as high technology employers, to allow their employees to teach math or science at public schools to help fill the need for teachers in these subject areas.

EFFECTIVE/OPERATIVE DATE

This bill is a tax levy and would be effective immediately. The credit would apply to taxable years beginning on or after January 1, 2002, and before January 1, 2006.

POSITION

Pending.

Summary of Suggested Amendments

This bill will need amendments before the department could implement this bill, as discussed in "Implementation Considerations." Department staff is available to assist the author's office.

ANALYSIS

FEDERAL/STATE LAW

Existing federal and state laws allow an employer to deduct expenses paid or incurred for ordinary and necessary business expenses of a trade or business, such as, salaries, wages, and employee benefits.

Board Position:

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Department Director

Date

Gerald H. Goldberg

03/27/01

Existing federal and state laws provide various tax credits designed to provide tax relief for taxpayers who incur certain expenses (e.g., child adoption) or to influence behavior, including business practices and decisions (e.g., research credits or economic development area hiring credits). These credits generally are designed to provide incentives for taxpayers to perform various actions or activities that they may not otherwise undertake.

Existing state law authorizes the Commission for Teacher Preparation and Licensing (the Commission) to issue various teaching and service credentials. The Commission may issue: 1) a "preliminary credential" upon completion of the fifth year of study; 2) a "first clear multiple or single subject teaching credential" for the life of the holder upon a minimum of one-half of a school year of successful service as a classroom teacher and completion of an individual program of professional growth as prescribed by law and by the Commission; and 3) any other "clear multiple or single subject teaching credential" for the life of the holder. Single subject instruction is commonly practiced in California high schools and most junior high schools. Multiple subject instruction is commonly practiced in early childhood education. The Commission is required to issue single subject teaching credentials only in various subjects, including mathematics and science.

THIS BILL

Under the Personal Income Tax Law (PITL) and the Bank and Corporation Tax Law (B&CTL), **this bill** would allow an employer to claim a credit equal to 50% of the qualified expenses associated with lending a qualified employee to a public school for the purpose of teaching math or science.

This bill defines:

- "qualified expenses" as those costs paid or incurred in connection with lending employees located in this State to a public school located in this State for the purpose of teaching math or science, including wages paid for teaching or preparation time.
- "qualified employee" as an employee whose employment duties require upper division post-secondary preparation in math, science, or engineering.
- "public school" as any high school in this State that is part of a public school district or a community college that is part of the California Community College system.
- "certified" as the issuance to the taxpayer of a service record by the public school, verifying receipt of the teaching services. Such "service record" would contain the employee's name, dates of teaching service, number of teaching hours, and a verification signature from an authorized agent or designee of the public school.

The bill specifies that no deduction would be allowed for the same expenses for which the credit was allowed.

With respect to lending a qualified employee to a high school, **this bill** specifies that no credit would be allowed unless the qualified employee has filled a vacant teaching position for which no teacher possessing a preliminary or clear credential with an authorization to teach math or science is available as certified by the employing school district.

Any excess credit amount could be carried over until exhausted.

IMPLEMENTATION CONSIDERATIONS

The department has identified the following implementation concerns. Department staff is available to work with the author's staff to resolve these and other concerns that may be identified.

- This bill uses terms that are undefined, i.e., "preparation time." The absence of a definition to clarify this term could lead to disputes with taxpayers and would complicate the administration of the credit. While teaching time must be certified by the public school, "preparation time" requires no such certification. The lack of definition for "preparation time," together with the lack of any method to verify this time, would make it impossible for the department to verify in the audit process the amount of wages paid for this time.
- Clarification is needed of what constitutes "qualified expenses" (i.e., direct/indirect wages for classroom personnel, teaching supplies, class materials, equipment, employee benefits -health, pension, etc., training, etc.).
- If the author's intent is to use the terms "preliminary" or "clear" as defined in the Education Code to describe types of teaching credentials, the author may wish to cross-reference the applicable Education Code section(s) in this credit to avoid possible confusion.
- A public school must certify certain items for the credit to be allowed. Language should be added to require verification from the school district that a teaching position was in fact vacant.
- This bill does not limit the number of years for the carryover period. The department would be required to retain the carryover on tax forms indefinitely because an unlimited credit carryover period is allowed. Recent credits have been enacted with a carryover period limitation since experience shows that credits typically are exhausted within eight years of being earned.

TECHNICAL CONSIDERATIONS

The PITL provisions of the bill define "qualified employee" as an employee whose employment duties involve the performance of tasks that require upper division post secondary "preparation" in math, science, or engineering. The B&CTL provisions define a qualified employee as an employee whose employment duties involve the performance of tasks that require upper division post secondary "preparation" in math, science, or engineering. This PITL provision should be corrected.

The B&CTL provisions specify that no credit will be allowed unless the employee has filled a vacant teaching position "for which teacher...is available...." The PITL provisions specify that the vacation position is one "for which **no** teacher ...is available.... This B&CTL provision should be corrected.

LEGISLATIVE HISTORY

AB 902 (Alquist, 2001/2002) would provide two credits: 1) a similar credit to an employer for costs in connection with lending a qualified employee to a public high school, community college, or vocational institution for the purpose of teaching math or science; and 2) a credit to an employer for costs for allowing a public school teacher to attend an employer-sponsored education class by using an open enrollment space. This bill is at the Assembly Desk.

SB 558 (Morrow, 2001/2002) would provide a similar credit to an employer for costs in connection with lending a qualified employee to a public high school, community college, or vocational institution for the purpose of teaching math or science. This bill is in Senate Rules Committee.

SB 1948 (Lewis, 1999/2000) would have provided a similar credit to an employer for costs in connection with lending a qualified employee to a public high school, community college, or vocational institution for the purpose of teaching math or science. This bill failed passage from the Senate Revenue and Taxation Committee.

AB 81 (Cunneen/Alquist, 1999/2000) and **AB 1713** (Cunneen, 1997/1998) would have provided a credit nearly identical to SB 1948. Also, these bills would have provided a credit equal to 50% of qualified expenses for employer costs connected with allowing a public school teacher to attend an employer-sponsored education class by using an open enrollment space. **AB 81** failed to pass reconsideration in Assembly Revenue and Taxation Committee and was returned to Assembly Desk without further action. **AB 1713** was held under submission in Assembly Appropriations.

OTHER STATES' INFORMATION

Illinois, Massachusetts, Michigan, Minnesota and New York do not have a similar credit. These states were chosen for their similarities to California state law.

FISCAL IMPACT

If this bill was amended to resolve the implementation considerations, this bill would not significantly impact the department's costs.

ECONOMIC IMPACT

Tax Revenue Estimate

Based on data and assumptions discussed below, revenue losses from this bill are projected to be as follows:

Estimated Revenue Impact of AB 462 As Introduced February 21, 2001 Effective After 12/31/01 (In \$Millions)			
Fiscal Years	2001/2002	2002/2003	2003/2004
Revenue Impact (Rounded)	Minor	-\$1	-\$1

Note: (\$Minor) means losses less than \$100,000

Any possible changes in employment, personal income, or gross state product that might result from this bill are not taken into account.

Tax Revenue Discussion

Revenue losses would depend on the number of qualified employees lent to any California public high school or community college for teaching math or science classes, the amount of total qualified expenses incurred by employers, and their respective income tax liabilities. This estimate was based on available information pertaining to math and science teachers in California public schools and community colleges.

- According to the California Department of Education, the total number of math and science teachers in California public high schools was nearly 26,800 in full time equivalent (FTE) positions during the school year 1997/98 (over 10% of total teachers). During the 2000/2001 school year, over 4,900 math and science teachers are projected to be hired for California public schools (mainly for high schools or approximately 65% of the total).
- Based on an estimate from the Community Colleges' Chancellor's Office, public community colleges had about 4,000 math and science teachers for the 1996/97 school year and there is a demand for approximately 10% additional teachers for these classes (i.e., 400 teachers in FTE).
- Only traditional math and science classes were considered for this credit. Computer-related classes were not considered.
- It was assumed that employees loaned by taxable employers under this bill would constitute 1% of specified public schools certified hires. It also was assumed that employees teaching classes for whom employers do not forfeit work time on the job (e.g., evening classes) do not qualify the employer for this credit.
- Total qualified employer expenses for these employees are projected to be in the magnitude of \$2 million based on a yearly salary of \$50,000 paid, on average, to loaned employees for their teaching activities.
- At a 50% tax credit (with the deduction offset considered), the revenue loss would be on the order of \$1 million annually.

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