

# ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author: Morrow Analyst: Kristina E. North Bill Number: SB 558  
Related Bills: See Legislative History Telephone: 845-6978 Introduced Date: February 22, 2001  
Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Employer Public School or Vocational Institution Math or Science Teachers Credit

## SUMMARY

This bill would create a credit for employers who lend an employee to a public school or vocational institution to teach math or science.

## PURPOSE OF THE BILL

According to the author's office, the purpose of this bill is to provide more qualified teachers in the areas of math and science by encouraging employers to lend their employees educated in math or science to the schools.

## EFFECTIVE/OPERATIVE DATE

As a tax levy, this bill be effective immediately upon enactment and apply to taxable years beginning with January 1, 2002, and before January 1, 2007.

## POSITION

Pending.

### Summary of Suggested Amendments

Department staff is available to assist the author in resolving the implementation considerations discussed below.

## 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.

**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.

Board Position:

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Department Director

Date

Gerald H. Goldberg

03/27/01

Generally, **existing state law** requires teachers for grades K-12 to be credentialed, with certain exceptions such as in emergency situations. Single subject and multiple subject credentials may be issued when specified criteria are met. A person working as an assistant under the direction of a credentialed teacher need not be credentialed. Upon the recommendation of the governing board of a school district, the Commission on Teacher Credentialing may issue an eminence credential that authorizes the recipient to teach in a public school within a subject matter(s) and at a level(s) approved by the Commission and designated on the credential. Each credential is initially issued for a two-year period and renewable in three-year increments.

### THIS BILL

Under the Personal Income Tax Law and the Bank and Corporation Tax Law, **this bill** would allow an employer to claim a credit equal to an unspecified percentage of qualified expenses paid or incurred in connection with lending a qualified employee to a public school or vocational institution for the purpose of teaching math or science.

#### **This bill** defines:

- "qualified expenses" as those costs paid or incurred in connection with lending qualified employees located in this state to a public school or vocational institution located in this state to teach math or science, including wages paid for teaching or preparation time.
- "qualified employee" as an employee whose employment specialty includes mathematics or science.
- "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" teaching as the issuance to the taxpayer of a service record by the public school or vocational institution, verifying receipt of the teaching services. The 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 or vocational institution.

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

**This bill** specifies that no credit would be allowed unless the qualified employee has 1) been issued, or is eligible for the issuance of, an eminence credential; and 2) filled a vacant teaching position for which no certified high school teacher was available, as certified by the employing school district.

**This bill** would allow any credit amount that exceeded tax liability to 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.

- The term "preparation time" is undefined. While teaching time must be certified by the public school or vocational institution, "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 difficult for the department to audit wages paid for this time.
- This bill uses terms that are undefined, i.e., "mathematics," "science," and "employment specialty." Additionally, it would be helpful to clarify the meaning of the phrase "for which no certified high school teacher was *available*..." to ensure the credit is given in accordance with the author's intent.
- It is unclear if a "vocational institution" would include private schools or adult educational institutions. A definition for "vocational institution" would assist the department's administration of this credit.
- Clarification is needed for what constitutes "qualified expenses" (i.e., direct/indirect wages for classroom personnel, teaching supplies, class materials, equipment, etc.).
- A public school or vocational institution 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.
- To assist the department in administering this credit, verification should be provided that a "qualified employee" teaching in a high school has been issued or is eligible for issuance of an "eminence credential."
- This bill does not limit the number of years for the carryover. Consequently, the department would be required to retain the carryover on tax forms indefinitely. Recent credits have been enacted with a carryover limit since experience shows that credits typically are exhausted within eight years of being earned.

## **LEGISLATIVE HISTORY**

**AB 902** (Alquist, 2001/2002) would create 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 to teach 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.

**AB 462** (Wyland & Zettel, 2001/2002) would create a similar credit to employers for costs in connection with lending a qualified employee to a public high school, community college, or vocational institution to teach math or science. This bill is in the Assembly Revenue and Taxation Committee.

**SB 1948** (Lewis, 2000/2001) would have created a similar credit for employers that pay or incur costs in connection with lending a qualified employee to a public high school, community college, or vocational institution to teach math or science. This bill failed passage from the Senate Revenue and Taxation Committee.

**AB 81** (Cuneen/Alquist, 1999/2000) and **AB 1713** (Cunneen, 1998/1999) would have created a credit nearly identical to SB 1948. Also, these bills would have created a credit nearly identical to the open enrollment credit described under AB 902. **AB 81** failed to pass reconsideration in Assembly Revenue and Taxation Committee and returned to Assembly Desk without further action. **AB 1713** was held under submission in Assembly Appropriations.

## **OTHER STATES' INFORMATION**

**Florida, 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 were 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 would be on the order of \$1 million per year (a 50% tax credit rate is assumed).

### Tax Revenue Discussion

Revenue losses would depend on the number of qualified employees lent to any California public high school, community college, or vocational institution for teaching math or science classes, the amount of total qualified expenses incurred by employers, their respective income tax liabilities, and the credit rate (which currently is not specified). 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 1997/1998 (over 10% of total teachers). During year 2000/2001, over 4,900 math and science teachers are projected to be hired for California public schools, mainly for the high schools (approximately 65%).
- Based on an estimate from the Community Colleges' Chancellor's Office, public community colleges had about 4,000 math and science teachers for the 1996/1997 school year and there is a demand for approximately 10% additional teachers for these classes (i.e., 400 teachers in FTE positions).
- 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 proposal would constitute 1% of specified public schools certified hires. It was also 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.
- Since there is no definition for “vocational institutions,” it is assumed that the number and hours of loaned employees for all California “vocational institutions” would be equivalent to community college levels.
- 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.
- If this tax credit would be 50%, revenue losses (with the deduction offset considered) would be on the order of \$1 million annually.

#### **LEGISLATIVE STAFF CONTACT**

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