

ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author: Horton Analyst: Rachel Coco Bill Number: AB 2801

Related Bills: See Legislative History Telephone: 845-4328 Introduced Date: February 20, 2004

Attorney: Patrick Kusiak Sponsor:

SUBJECT: Jobs Tax Credit Act/10% Of Wages Paid To Each Employee Certified By EDD

SUMMARY

This bill would reinstate the California Jobs tax credit.

PURPOSE OF THE BILL

According to the author's office, the purpose of the bill is to encourage industry to employ certain economically disadvantaged individuals.

EFFECTIVE/OPERATIVE DATE

As a tax levy, this bill would be effective upon enactment and operative for taxable years beginning on or after January 1, 2004, and before January 1, 2010.

POSITION

Pending

SUMMARY OF SUGGESTED AMENDMENTS

Amendments 1 through 8 have been provided to address the department's technical considerations.

ANALYSIS

FEDERAL/STATE LAW

Current federal law allows a Work Opportunity Tax Credit (WOTC). The amount of the credit is equal to 40% of the wages earned in the first year of employment and may not exceed \$6,000 per year. The WOTC is allowed for employers who hire Aid to Families with Dependent Children (AFDC) recipients, veterans, ex-felons, high-risk youths, vocational rehabilitation referrals, summer youth employees, food stamp recipients, and Supplemental Security Income (SSI) recipients.

The federal credit currently applies to wages paid to individuals who begin work for the employer before January 1, 2004. However, there is pending federal legislation to extend the WOTC to January 1, 2005.

Under prior state law, beginning on or after January 1, 1979, and before January 1, 1994, California allowed a tax credit for wages paid to individuals in certain disadvantaged and disabled categories who were certified by the Employment Development Department (EDD) to meet specific requirements. As a condition for claiming the credit, the taxpayer was required to obtain the certification on or before the first day an individual commenced employment with the taxpayer.

Board Position:

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Department Director

Date

Gerald H. Goldberg

4/9/04

The amount of the credit was equal to 10% of the first \$3,000 of wages paid to each qualified individual during a 24-month period beginning on the date of employment, with a \$600 limit on the aggregate credit for each employee. Thus, under this credit the taxpayer was allowed a maximum credit amount of \$300 per year for each qualified employee.

The taxpayer was allowed to elect not to have the credit apply in any given year and was allowed to revoke that election any time before the four-year statute of limitations for filing an amended return expired.

While the Jobs tax credit still appears in current law, the credit specifies that qualifying wages must be paid to an employee hired by December 31, 1993. Therefore, the credit has essentially been inoperative since December 31, 1995.

Existing state and federal laws allow a deduction for business expenses, including employee salaries.

THIS BILL

This bill would reinstate the California Jobs tax credit, as described above under current Federal/State Law.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would require some changes to existing tax forms and instructions and information systems, which could be accomplished during the normal annual update.

TECHNICAL CONSIDERATIONS

This bill lacks the standard statutory language in which operative dates are specified. It appears that the operative dates of this bill are contained within the definition of "wages not included." This provision may cause confusion for some taxpayers. Amendments 1-3 and 5-7 are provided to clearly state the operative dates of this bill.

While the bill indirectly provides that the tax credit would be operative until January 1, 2010, it does not provide a repeal date. Repeal dates generally are provided to allow periodic review by the Legislature. Amendments 4 and 8 have been provided to address this concern.

LEGISLATIVE HISTORY

AB 1232 (Granlund, 1997) would have reinstated the California Jobs Tax Credit Act, but instead of a 10% credit, AB 1232 would have increased the amount of the credit to 25%. AB 1232 failed to pass out of the Assembly Revenue and Taxation Committee.

SB 1167 (Hurtt, 1997) would have reinstated the California Jobs Tax Credit Act. SB 1167 was subsequently amended to remove all provisions relating to the reinstatement of the credit.

SB 71 (Greene, Ch. 1564, Stats. 1985) enacted the California Jobs Tax Credit Act of 1985.

SB 93 (Greene, Ch. 1182, Stats. 1979) enacted the California Jobs Tax Credit Act of 1979.

OTHER STATES' INFORMATION

Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York laws do not provide a credit comparable to the credit this bill would allow. The laws of these states were reviewed because their tax laws are similar to California's income tax laws.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT

Revenue Estimate

This bill would result in the following revenue losses:

Revenue Impact of AB 2801 Personal Income and Corporate Tax (\$ Millions)			
Fiscal Year	2004-05	2005-06	2006-07
Revenue Loss	-\$0.5	-\$1	-\$1

This bill does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

Revenue Discussion

The impact of this bill would depend on the number of employers claiming the credit and the average credit applied against tax liabilities.

The estimate above was based on departmental actual figures for the expired Jobs tax credit (Ch. 1564, Stats. 1985). According to departmental actual figures, the average annual credit claimed for the expired Jobs tax credit by all taxpayers (a 10% credit with a \$600 maximum per employee) was approximately \$650,000. A 2% annual growth rate was applied through 2009, resulting in approximately \$1 million in credits used. The initial fiscal year was reduced somewhat to allow for the start-up effect.

The same growth rate was applied to the number of taxpayers claiming the credit (approximately 900 taxpayers claimed the previous Jobs tax credit), resulting in approximately 1,200 returns filed.

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 2801
As Introduced February 20, 2004

AMENDMENT 1

Modify page 2, line 3, as follows:

17053.7. (a) For taxable years beginning on or after January 1, 2004, and before January 1, 2010, there ~~There~~ shall be allowed as a credit against the "net tax" (as defined by Section 17039) an amount equal to 10 percent of the amount of wages paid to each employee who is certified by the Employment Development Department to meet the requirements of Section 328 of the Unemployment Insurance Code.

AMENDMENT 2

On page 4, modify lines 5-8 as follows:

(j) The term "wages" shall not include ~~either of the following: (1) Payments~~ payments defined in Section 51(c)(3) of the Internal Revenue Code, relating to payments for services during labor disputes.

AMENDMENT 3

On page 4, ~~strikeout~~ lines 9 through 11, inclusive.

AMENDMENT 4

On page 4, after line 11, insert the following:

(k) This section shall remain in effect until December 1, 2010, and as of that date is repealed.

AMENDMENT 5

Modify page 4, line 14, as follows:

23621. (a) For taxable years beginning on or after January 1, 2004, and before January 1, 2010, there ~~There~~ shall be allowed as a credit against the "tax" (as defined by Section 23036) an amount equal to 10 percent of the amount of wages paid to each employee who is certified by the Employment Development Department to meet the requirements of Section 328 of the Unemployment Insurance Code.

AMENDMENT 6

On page 6, modify lines 10-13 as follows:

(j) The term "wages" shall not include ~~either of the following: (1) Payments~~ payments defined in Section 51(c)(3) of the Internal Revenue Code, relating to payments for services during labor disputes.

AMENDMENT 7

On page 6, strikeout lines 14-16, inclusive.

AMENDMENT 8

On page 6, after line 16 insert the following:

(k) This section shall remain in effect until December 1, 2010, and as of that date is repealed.