

# ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Leslie/Wolk Analyst: Raul Guzman Bill Number: AB 1847

Related Bills: None Telephone: 845-4624 Amended Date: February 22, 2006

Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Conformity To Credit For Disabled Access Expenditures

## SUMMARY

This bill would modify the existing credit for disabled access expenditures by conforming fully to the current federal credit.

## PURPOSE OF THE BILL

According to the author's staff, the purpose of this bill is to facilitate greater accessibility for disabled individuals by substantially increasing the incentive for making improvements to businesses in California.

## SUMMARY OF AMENDMENTS

On February 22, 2006, the bill was amended to make the following changes:

- Assembly member Wolk was added as coauthor.
- On page 2, line 5, the word "in" was deleted and "by" was inserted.
- On page 2, line 27, the word "in" was deleted and "by" was inserted.

## EFFECTIVE/OPERATIVE DATE

This bill is a tax levy and would be effective immediately upon enactment and operative for taxable years beginning on or after January 1, 2006.

## POSITION

Pending.

## ANALYSIS

### FEDERAL

Existing state and federal laws provide various tax credits designed to provide tax relief for taxpayers that incur certain expenses 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:

\_\_\_\_\_ S      \_\_\_\_\_ NA      \_\_\_\_\_ NP  
\_\_\_\_\_ SA      \_\_\_\_\_ O      \_\_\_\_\_ NAR  
\_\_\_\_\_ N      \_\_\_\_\_ OUA        X   PENDING

Department Director

Date

S. Stanislaus

3/14/06

Existing federal law allows eligible small businesses a credit against net tax for costs paid or incurred for complying with the requirements of the Americans with Disabilities Act (ADA) of 1990. The credit is allowed in accordance with Internal Revenue Code Section 44; the credit is subject to the carry back and carry forward rules, but it is not refundable.

The amount of the credit is 50 percent of the eligible access expenditures for the taxable year that exceed \$250 but do not exceed \$10,250. The maximum federal credit amount is \$5,000 (50% of \$10,000).

An eligible small business is any business or person that had either of the following:

- gross receipts (less returns and allowances) for the preceding tax year that did not exceed \$1 million, or
- no more than 30 fulltime employees during the preceding tax year.

Eligible access expenditures means amounts paid or incurred for removing barriers that prevent a business from being accessible to individuals with disabilities, including each of the following:

- Removing architectural, communication, physical, or transportation barriers.
- Providing qualified interpreters, readers, taped texts.
- Acquiring and modifying equipment, devices, or materials.

Expenses in connection with new construction are not eligible.

#### STATE LAW

Existing California law conforms to the federal law, except that the credit amount is 50 percent of the first \$250 of the eligible access expenditures for the taxable year. The maximum California credit amount is \$125 (50% of \$250). Unused credits may be carried over until exhausted, but cannot be carried back.

This credit is allowed under the Personal Income Tax Law and the Corporation Tax Law.

The California Disabled Access Expenditures Credit has been allowed for taxable years beginning on or after January 1, 1996.

#### THIS BILL

This bill would fully conform California tax law to federal tax law by allowing a maximum credit of \$5,000 in accordance with Section 44 of the Internal Revenue Code. The California credit would no longer be limited to \$125 (50% of \$250).

#### IMPLEMENTATION CONSIDERATIONS

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

This bill does not limit the number of years for the carryover period. The department would be required to retain the carryover on the tax forms indefinitely because an unlimited credit carryover

period is allowed. Recent credits have been enacted with a carryover period limitation since experience shows credits typically are exhausted within eight years of being earned.

**FISCAL IMPACT**

The department's costs are expected to be minor.

**ECONOMIC IMPACT**

Revenue Estimate

This proposal would produce annual revenue losses as follows:

Revenue Discussion

Estimated Impact of AB 1847 on California Applicable for tax years beginning on or after 1/1/06 <i>(Rounded to Nearest Million)</i>			
Fiscal Year	2006-07	2007-08	2008-09
Disabled Access Credit	\$5	\$5	\$5

Approximately 1,000 California taxpayers claim this credit annually. The average claim per taxpayer is currently \$100. This proposal would increase the maximum credit that could be claimed from \$125 to \$5,000.

It is assumed that the number of taxpayers claiming the credit would increase 25% from 1,000 to approximately 1,250 taxpayers in response to the increased credit amount. It is also assumed that the average claim would increase by \$4,000 or 80% of the maximum allowed. Accordingly, the estimated impact of this proposal would be \$5 million annually (1,250 X \$4,000 = \$5 million).

**POLICY CONCERNS**

Credits generally are provided as a percentage of amounts paid or incurred. This bill would allow a 50% federal credit and a 50% California credit for a combined 100% credit, other than the \$250 floor, which is unprecedented.

This bill provides a state credit in an amount equal to the federal credit for disabled access expenses. In general, a taxpayer's federal income tax liability is significantly higher than the state income tax liability. As a result, a state tax credit equal in amount to a federal credit could be considered to provide a greater proportionate benefit for state tax purposes than for federal tax purposes.

This bill may result in more taxpayers making improvements to comply with ADA requirements.

**LEGISLATIVE STAFF CONTACT**

Raul Guzman  
Franchise Tax Board  
845-4624  
[raul.guzman@ftb.ca.gov](mailto:raul.guzman@ftb.ca.gov)

Brian Putler  
Franchise Tax Board  
845-6333  
[brian.putler@ftb.ca.gov](mailto:brian.putler@ftb.ca.gov)