

**SUMMARY ANALYSIS OF AMENDED BILL**Author: La Suer Analyst: Raul Guzman Bill Number: AB 2245Related Bills: See Prior Analysis Telephone: 845-4624 Amended Date: May 2, 2006Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_**SUBJECT:** Qualified Disabled Veteran Credit DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended \_\_\_\_\_. AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided. AMENDMENTS DID NOT RESOLVE THE DEPARTMENTS CONCERNS stated in the previous analysis of bill as introduced/amended \_\_\_\_\_. FURTHER AMENDMENTS NECESSARY. DEPARTMENT POSITION CHANGED TO \_\_\_\_\_. REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED/AMENDED \_\_\_\_\_ STILL APPLIES. OTHER – See comments below.**SUMMARY**

This bill would allow a tax credit for disabled veterans.

**SUMMARY OF AMENDMENTS**

The May 2, 2006, amendment struck-out the language that was introduced on February 22, 2006, and added new language.

As a result of the amendment, the analysis of the bill as introduced February 22, 2006, no longer applies.

**EFFECTIVE/OPERATIVE DATE**

As a tax levy, this bill would be effective upon enactment and by its terms, would be operative for taxable years beginning on or after January 1, 2006, and before January 1, 2016.

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

Legislative Director

Date

Brian Putler

5/11/06

## **POSITION**

Pending.

## **ANALYSIS**

### FEDERAL/STATE LAW

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. A credit for disabled veterans does not exist under federal or state law.

Existing federal and state laws provide an income tax exclusion for amounts received as a pension annuity or similar allowance for personal injuries or sickness resulting from active service in the armed forces. For individuals that became members of the armed forces after 9/24/1975, the exclusion is limited to those who receive payment as a result of a combat-related injury. Federal law defines combat-related injury as any personal injury or sickness that is either:

(A) incurred:

- 1) as a direct result of armed conflict,
- 2) while engaged in extra hazardous service, or
- 3) under conditions simulating war, or

(B) caused by an instrumentality of war.

### THIS BILL

This bill would allow qualified disabled veteran taxpayers a \$100 credit. The credit would be allowed for each taxable year beginning on or after January 1, 2006, and before January 1, 2016.

This bill would define a "qualified disabled veteran" as an individual that meets all the following requirements:

- Disability rating of 30% or more disabled during an armed conflict as a member of the Armed Forces, including the California National Guard.
- Honorable discharge from the Armed Forces, including the California National Guard, between the years 2001 and 2010.
- California resident.

This bill would require that taxpayers maintain documentation that verifies eligibility for the credit.

This bill specifies that unused credits may be carried over to future years until the credit is exhausted.

## IMPLEMENTATION CONSIDERATIONS

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

This bill's definition of a "qualified disabled veteran" would require that the taxpayer be at least 30% disabled, but the bill fails to further identify the basis for that disability determination. Disability determination for members of the armed forces and veterans can be made by the military departments and by the U.S. Department of Veterans Affairs (DVA).

DVA disability determinations and the percentages of disability can and do vary. .

This bill would allow the department to determine eligibility for the credit on the basis of a disability determination by either the military department or the DVA with respect to each taxable year. If that is inconsistent with the author's intent, the language needs to be revised to clarify the author's intent.

This bill would consider a "qualified disabled veteran" as someone who was disabled during an armed conflict. The bill does not refer to federal law or other rules to determine what constitutes an armed conflict and fails to define the term.

This bill fails to require that the disability be incurred as a result of an armed conflict. Consequently, a veteran would be eligible for the credit so long as it was incurred during the same time frame of an "armed conflict."

This bill leaves the number of years for the carryover period unlimited. Consequently, the department would be required to retain the carryover on the tax forms indefinitely. Recent credits have been enacted with a carryover period limit because experience shows credits are typically exhausted within eight years of being earned.

## **LEGISLATIVE HISTORY**

AB 2325 (Bates, 2003/2004) would provide employers a tax credit for wages paid to disabled employees. This bill failed to pass out of the second house.

AB 2801 (Horton, 2003/2004) would have reinstated the jobs tax credit by providing a credit equal to 10 percent of wages paid to qualified employees certified by EDD. This bill failed to pass out of the house of origin by the constitutional deadline.

SB 1121 (Margett, 2001/2002) would have allowed employers a credit in an amount equal to 40 percent of qualified wages paid to individuals who were state disability insurance recipients. This bill failed to pass out of the originating house by the constitutional deadline.

**OTHER STATES' INFORMATION**

*Illinois, Massachusetts, Michigan, Minnesota, and New York* have no comparable credit. The laws of these states were reviewed because their tax laws are similar to California's income tax laws.

**FISCAL IMPACT**

The department's cost to administer this bill cannot be determined until implementation concerns have been resolved but are anticipated to be minor.

**ECONOMIC IMPACT**

**Revenue Estimate**

Based on data and assumptions discussed below, the tax revenue impact from this bill would be as follows:

Estimated Impact of AB 2245 on California (APTBA) Applicable for tax years beginning on or after 1/1/06, Assumed enacted after 6/30/06 <i>(\$ in Millions)</i>			
Fiscal Year	2006-07	2007-08	2008-09
Revenue Loss	-\$0.5	-\$0.6	-\$0.6

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

**Revenue Discussion**

In November 2005, the Department of Veterans Affairs (DVA) estimated that roughly 433,000 veterans had been discharged from the military in 2001 and after. Based on Census 2000 statistics, California is home to approximately 10% of the national veteran population. This suggests roughly 42,000 recently separated veterans are presently living in this state.

Bureau of Labor Statistics (BLS) reports that about 21% of veterans have a "service-connected disability." Among those discharged after 2001, around 65% have a disability rating of 30% or higher. Based on the above figures, this suggests about 5,700 qualified veterans (42,000 x 21% x 65%) are living in California as of late 2005. Using DVA's recent data on annual discharges, the size of this impacted population is estimated to grow by about 1,100 annually, beginning in 2006.

BLS surveys indicate about 72% of disabled veterans with a rating of 30% or higher are in the civilian labor force and are currently employed. As such, about 4,900 disabled veterans (5,700 x 0.72 = 4,900) are projected to incur at least a \$100 income tax liability on their 2006 California tax

return and claim the entire amount of proposed credit. This yields an estimated revenue loss of roughly \$500,000 ( $4,900 \times \$100 = \$490,000$ ) for fiscal year 2006-07.

## **LEGAL IMPACT**

This bill would require that the taxpayer reside in California to be eligible for the credit. A requirement that the taxpayer reside in California may be subject to constitutional challenge.

## **LEGISLATIVE STAFF CONTACT**

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