

**SUMMARY ANALYSIS OF AMENDED BILL**

Author: Nava Analyst: Angela Raygoza Bill Number: AB 287  
 Related Bills: See Prior Analysis Telephone: 845-7814 Amended Date: May 1, 2007  
 Attorney: Daniel Biedler Sponsor: \_\_\_\_\_

**SUBJECT:** Employer Wages Paid To Agricultural Employees Credit/January 2007 Freezing Conditions

\_\_\_\_ 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 DEPARTMENT'S 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

February 9, 2007, STILL APPLIES.

\_\_\_\_ OTHER – See comments below.

**SUMMARY**

This bill would provide a tax credit to agricultural employers for wages paid to employees during the freezing conditions that began on January 11, 2007.

**SUMMARY OF AMENDMENTS**

The May 1, 2007, amendments added a sunset date, narrowed the definition of “Qualified Taxpayer,” and provide a carryover period. As a result of the amendments, the “Implementation Considerations” and “Policy Concerns” provided in the department’s analysis of the bill as introduced February 9, 2007, have been resolved but others have been identified.

Except for the “This Bill”, “Implementation Considerations”, “Policy Concerns”, and “Economic Impact” discussions, the remainder of the department’s analysis of the bill as introduced February 9, 2007, still applies.

Board Position:	Legislative Director	Date
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## **ANALYSIS**

### **THIS BILL**

For taxable years beginning on January 1, 2007, and before January 1, 2009, this bill would provide a tax credit to agricultural employers that conduct an agricultural trade or business in a county that had a state of emergency, as declared by the Governor, as a result of the freezing conditions that began on January 11, 2007. The credit would be equal to 40% of the amount of the wages paid to a qualified employee.

This bill would limit the credit to the first \$6,000 in wages paid to the same individual during a taxable year by a qualified taxpayer.

The bill would define the following terms:

- “Qualified county” means a county that is included in the state of emergency, as declared by the Governor, as a result of extreme low temperatures and freezing conditions that began on January 11, 2007.
- “Qualified employee” means an agricultural employee of a qualified taxpayer whose principal place of employment with the qualified taxpayer as of January 12, 2007, was in a qualified county.
- “Qualified taxpayer” means any agricultural employer, as defined by Section 1140.4 of the California Labor Code, in a qualified county and whose trade or business in that qualified county was reduced by over 50%, as claimed on the statement of loss forms submitted by the qualified taxpayer to his or her respective County Agriculture Commissioner, on any day on and after January 12, 2007, as a result of damage sustained in connection with the extreme low temperatures and freezing conditions that began on January 11, 2007, for which a state of emergency was declared by the Governor.

Unused credits can be carried over to the succeeding nine years or until exhausted.

### **IMPLEMENTATION CONSIDERATIONS**

The department has 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 would allow a credit for a qualified employee whose “principal place of employment” was with a qualified taxpayer in a qualified county. Because the bill fails to define how the “principal” place of employment is to be determined, the department would be unable to verify whether a particular employee’s principal place of employment on January 12, 2007, was within a qualified county. To ease administration of this credit, the author may wish to amend the bill to define the term “principal place of employment.”

This bill would define a “qualified taxpayer” as a taxpayer whose trade or business was reduced by more than 50%, as claimed on the statement of loss forms submitted to the county agricultural commissioner. The department lacks the expertise to certify whether the statement of loss forms qualify the taxpayer for this credit. Typically, credits involving areas for which the department lacks expertise are certified by another agency that possesses the relevant expertise. The author may wish to amend the bill to specify a certifying agency.

**TECHNICAL CONSIDERATION**

This bill specifies the credit would be disallowed for wages paid in excess of \$6,000 by a qualified taxpayer for the same individual during a taxable year. The term "individual" is undefined and is probably intended to mean “qualified employee” in order for this bill to be read consistently. Amendments 1 and 3 have been provided to correct the error.

This bill would provide a limited period that the credit can be taken. It is suggested a repeal date be added to the provision because the credit is only available for the two-year period. Amendments 2 and 4 have been provided with a suggested repeal date.

**ECONOMIC IMPACT**

**Revenue Estimate**

This bill would result in the following revenue losses.

Estimated Revenue Impact of AB 287 as Amended 5/1/07 Effective for Taxable Years BOA 1/1/07 and Before 1/1/09 (\$ in Millions)		
2007-08	2008-09	2009-10
-\$45	-\$50	-\$30

**Revenue Discussion**

The revenue impact of this bill was estimated by the amount of wages paid to qualified employees and the amount of credits that can be applied to reduce the tax liabilities of qualified employers. The estimate was developed in the following steps:

1. Identified 18 qualified counties;
2. Estimated the number of qualified taxpayers in the 18 qualified counties: roughly 2,000;
3. Estimated the number of qualified employees: 140,000 in 2007 and 53,200 in 2008; and
4. Quantified wages paid to qualified employees that would be eligible for the credit: \$330 million in 2007 and \$192 million in 2008.

Qualified wages of \$330 million are multiplied by the proposed credit of 40% to derive credits generated in 2007 ( $\$330 \text{ million} \times 40\% = \$132 \text{ million}$ ). For 2007, the \$132 million is reduced by 20% to account for qualified taxpayers eligible for the credit but do not report it ( $\$132 \text{ million} \times 80\% = \$106 \text{ million}$ ). It is assumed qualified taxpayers apply 50% of credits generated in the year, or \$53 million in 2007 ( $\$106 \text{ million} \times 50\% = \$53 \text{ million}$ ). Taxable year estimates are converted to cash flow fiscal year estimates.

Unapplied credits are carried over and assumed applied ratably in the succeeding three taxable years.

### **POLICY CONCERN**

This bill would provide a credit for taxable years beginning on or after January 1, 2007. The credit would not be available to fiscal year filers with a 2006 taxable year that overlaps the actual freeze date, but ends after the freeze date, because the credit is only available for taxable years beginning on or after January 1, 2007. As a result, the credit may not be available to some fiscal year taxpayers who might be intended to be eligible for this credit.

This bill would provide a two-year credit for wages that were paid or incurred to a qualified employee. Even though the second year is intended for a recovery period, this could allow taxpayers who have already recovered from their business losses caused by the freeze to claim the credit again in 2008.

### **LEGISLATIVE STAFF CONTACT**

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FRANCHISE TAX BOARD'S  
PROPOSED AMENDMENTS TO AB 287  
As Amended May 1, 2007

AMENDMENT 1

On page 2, line 10, strikeout "individual" and insert:  
qualified employee

AMENDMENT 2

On page 2, after line 34, insert:

(e) This section shall remain in effect only until December 1, 2009, and as of that date is repealed.

AMENDMENT 3

On page 3, line 6, strikeout "individual" and insert:  
qualified employee

AMENDMENT 4

On page 3, after line 30, insert:

(e) This section shall remain in effect only until December 1, 2009, and as of that date is repealed.