

SUMMARY ANALYSIS OF AMENDED BILL

Author: Nava, et al. Analyst: Angela Raygoza Bill Number: AB 287
 Related Bills: See Prior Analysis Telephone: 845-6111 Amended Date: May 16, 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 amended May 1, 2007.
- 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/AMENDED February 9, 2007/May 1, 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 16, 2007, amendments made the following changes to the bill:

- Added coauthors.
- Revised the bill title.
- Revised the operative date.
- Revised the limitation on the amount of credit allowed.
- Resolved the Implementation Considerations, Technical Considerations, and the Policy Concern relating to the operative date as discussed in the analysis of the bill as amended May 1, 2007.
- Added rules relating to other credits and deduction for wages paid.
- Resulted in additional technical considerations.

Board Position:	Legislative Director	Date
_____ S	Brian Putler	5/24/07
_____ NA		
_____ SA		
_____ N		
_____ O		
_____ OUA		
_____ NP		
_____ NAR		
<input checked="" type="checkbox"/> PENDING		

Except for the "Effective/Operative Date," "This Bill," "Technical Considerations," "Economic Impact," and "Policy Concern" discussions, the remainder of the department's analyses of the bill as introduced on February 9, 2007, and amended on May 1, 2007, still apply.

EFFECTIVE/OPERATIVE DATE

As a tax levy, this bill would be effective immediately upon enactment and operative for taxable years beginning on or after February 1, 2006.

POSITION

Pending.

ANALYSIS

THIS BILL

For taxable years beginning on or after February 1, 2006, 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 \$2,400 during a taxable year for a qualified taxpayer at the quarterly rate set forth as follows: One-quarter of the credit (not to exceed \$2,400) will be allowed for each quarter in which the qualified taxpayer employs the qualified employee, for at least one half the quarter, for each quarter beginning after March 31, 2007.

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, as defined in Section 1140.4 of the California Labor Code, who performed services of employment at a rate equivalent to at least 35 hours per week for the period beginning January 12, 2007, through March 31, 2007, and continuously thereafter, with the qualified taxpayer 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 agricultural operations in that qualified county were reduced by more than 50%, as determined by the difference between profit or loss attributable to California agriculture operations reported on a taxpayer's federal Schedule F for the taxable year that includes January 12, 2007, and the average reported profit or loss reported by the taxpayer on all federal Schedules F filed by the taxpayer for the preceding five taxable years, without regard to Revenue and Taxation Code sections 17207/24347.5 (the disaster loss carryover and carryback provisions) 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.

No other tax credit may be allowed for any cost used to determine the tax credit provided by this bill. In addition, any deduction for wages paid to a qualified employee would be reduced by the amount of the credit.

Unused credits could be carried over in the following year and in the succeeding eight years until the credit is exhausted.

TECHNICAL CONSIDERATIONS

1. The bill provides for a credit limitation of \$2,400 per qualified taxpayer. It appears that the intent of the author is for the credit limitation to apply to each qualified employee instead of each qualified taxpayer. Amendments 2, 3, 6, and 7 are attached that would apply the limitation to each employee per taxable year.
2. The author should consider changing the operative date to transactional versus based on taxable years to clearly provide that it is the wages paid on or after January 12, 2007, and before January 1, 2009, that would qualify for the credit. Amendments 1 and 5 are attached that would revise the operative date to transactional.
3. The author should consider clarifying that “quarter” means “calendar” quarter. In addition, if it is the intent of the author to include wages paid in the calendar quarter that includes January 12, 2007, an amendment is necessary. Amendments 4 and 8 would clarify calendar year and allow wages paid on or after January 12, 2007, in the first calendar quarter to qualify for the tax credit.

ECONOMIC IMPACT

Revenue Estimate

Based on data and assumptions discussed below, this bill would result in the following revenue losses.

Estimated Revenue Impact of AB 287 as Amended 5/16/07 Operative For Taxable Years BOA 2/1/06 and Before 1/1/09 (\$ in Millions)		
2007-08	2008-09	2009-10
-\$1	-\$2	-\$1

Revenue Discussion

The revenue impact of the bill depends on the projected number of qualified employers that have at least one qualifying employee and the amount of the generated credits that can be applied. Of the various amendments to this bill made on May 16, 2007, the most significant changes in terms of the effect on the prior revenue analysis and assumptions are the specified maximum allowable credit of \$2,400 per qualified taxpayer and the more restrictive test for determining who is a qualified taxpayer.

The estimate was developed in the following steps:

- Identified 18 qualified counties;
- Estimated the number of qualified taxpayers in the 18 qualified counties: approximately 1,700¹;

The revenue impact for tax year 2007 would be the maximum allowable credit of \$3 million (\$1,800 for the three eligible quarters in year 1 x 1,700 qualified taxpayers). Because of the required wage expense reduction provision of the bill, approximated \$180 dollars per qualified taxpayer would be offset against the \$1,800 proposed credit generated, which would yield a net tax benefit of \$1,620 per claimant on average ($\$1,800 - \$180 = \$1,620$). Thus, approximately \$2.7 million in net tax benefits are estimated to accrue in the initial impact year in aggregate ($\$1,620 \times 1,700 = \$2.7M$).

The projected 2008 tax year revenue loss assumes 95% or 1,600 ($1,700 \times 95\%$) qualified taxpayers in the prior year would continue to claim this credit in the following year. The revenue impact for tax year 2008 is based on the maximum \$2,400 credit being claimed per qualified taxpayer, a wage expense reduction of approximately \$240 per qualified taxpayer; equal to a net tax benefit of \$3.5 million [$(\$2,400 - \$240) \times 1,600$ taxpayers].

It is assumed that between 80%-90% of eligible qualified taxpayers would actually claim the credit on their income tax returns. Based on the projected tax liabilities of the population affected by this provision, it is assumed 50% of the tax benefit generated will be applied in the year reported. Unapplied credits are carried over and assumed applied ratably in the succeeding three taxable years. For the 2007 tax year, total revenue impact is estimated at \$1 million ($\$2.7M \times 0.8 \times 50\% = \$1M$). Taxable year estimates are converted to cash flow fiscal year estimates.

POLICY CONCERN

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

Angela Raygoza
Franchise Tax Board
(916) 845-7814
angela.raygoza@ftb.ca.gov

Brian Putler
Franchise Tax Board
(916) 845-6333
brian.putler@ftb.ca.gov

¹ The estimated amount of qualified taxpayers in 18 counties decreased from the previous analysis from 2,000 to 1,700 because the May 16, 2007, amendments added additional rules for claiming this credit.

Analyst Angela Raygoza
Telephone # 845-7814
Attorney Daniel Biedler

FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 287
As Amended May 16, 2007

AMENDMENT 1

On page 2, lines 3 and 4, ~~strikeout "For each taxable year beginning on or after January 1, 2007, February 1, 2006, and before January 1, 2009,"~~ and insert:

"For wages paid to a qualified employee on or after January 12, 2007 and before January 1, 2009,"

AMENDMENT 2

On page 2, line 11, after "allowable" insert:

"per taxable year"

AMENDMENT 3

On page 2, line 13, after "(\$2,400)" ~~strikeout "during a taxable year by a qualified taxpayer"~~ and insert:

"per qualified employee"

AMENDMENT 4

On page 2, lines 16 through 18, after "each," ~~strikeout "quarter in which the qualified taxpayer employs the qualified employee, for at least one half the quarter, for each quarter beginning after march 31, 2007"~~ and insert:

"calendar quarter beginning on or after January 1, 2007, in which the qualified taxpayer employs the qualified employee for at least one half of that calendar quarter."

AMENDMENT 5

On page 3, lines 28 and 29, ~~strikeout "For each taxable year beginning on or after January 1, 2007, February 1, 2006, and before January 1, 2009,"~~ and insert:

"For wages paid to a qualified employee on or after January 12, 2007 and before January 1, 2009,"

AMENDMENT 6

On page 3, line 36, after "allowable" insert:

"per taxable year"

AMENDMENT 7

On page 3, line 38, after "(\$2,400)" strikeout "during a taxable year by a qualified taxpayer" and insert:

"per qualified employee"

AMENDMENT 8

On page 4, lines 2 through 4, after "each," strikeout "quarter in which the qualified taxpayer employs the qualified employee, for at least one half the quarter, for each quarter beginning after march 31, 2007" and insert:

"calendar quarter beginning on or after January 1, 2007, in which the qualified taxpayer employs the qualified employee for at least one half of that calendar quarter."