

**SUMMARY ANALYSIS OF AMENDED BILL**

Author: Nava, et al. Analyst: Angela Raygoza Bill Number: AB 287  
 Related Bills: See Prior Analysis Telephone: 845-7814 Amended Date: May 23, 2007  
 Attorney: Dan 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 AMENDED

May 16, 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 23, 2007, amendments made the following changes to the bill:

- Revised the operative dates for the credit.
- Revised the credit limitation.
- Resolved the Technical Considerations relating to the credit limitation, operative date, and definition of “quarter”, as discussed in the department’s analysis of the bill as amended May 16, 2007.

Except for the “Effective/Operative Date, “This Bill,” “Technical Considerations,” and “Economic Impact,” the remainder of the department’s analyses of the bill as introduced on May 16, 2007, and subsequently amended still apply. As a result of the May 16, 2007, amendments, all of the department’s implementation considerations have been resolved. The “Policy Concerns” remain and have been included below for convenience.

Board Position:	Legislative Director	Date
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## **EFFECTIVE/OPERATIVE DATE**

As a tax levy, this bill would be effective immediately upon enactment and specifically operative for wages paid to qualified employees beginning on or after January 12, 2007, and before January 1, 2009.

## **POSITION**

Pending.

## **ANALYSIS**

### THIS BILL

For wages paid to qualified employees beginning on or after January 12, 2007, and before January 1, 2009, without regard to taxable year, 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 per qualified employee at the calendar quarterly rate set forth as follows: One-quarter of the credit (not to exceed \$2,400 per taxable year) will be allowed for each quarter in which the qualified taxpayer employs the qualified employee, for at least one-half the calendar quarter, for each quarter beginning on or after January 1, 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.

## ECONOMIC IMPACT

### Revenue Estimate

This bill would result in the following revenue losses:

Estimated Revenue Impact of AB 287 as Amended 5/23/07 Effective for Wages Paid between 1/12/07 and Before 1/1/09 (\$ In Millions)		
2007-08	2008-09	2009-10
-\$4	-\$5	-\$3

### Revenue Discussion

The revenue impact of the bill depends on the projected number of qualified employees and the amount of credits that are applied to reduce tax liabilities.

The estimate was developed in the following steps:

- Identified 18 qualified counties;
- Estimated the number of qualified taxpayers in the 18 qualified counties: roughly 1,700;
- Estimated the number of qualified employees: 4,700 in 2007 and 4,300 in 2008;

The revenue impact for tax year 2007 reflects the maximum allowable credit of \$2,400 multiplied by roughly 4,700 qualified employees. This amounts to approximately \$11 million in proposed credits generated in 2007 ( $\$2,400 \times 4,700$  employees = \$11.3 million employer wage credits). Approximately \$240 dollars per qualified employee is offset against the \$2,400 proposed credit generated because of the required wage expense reduction, which yields a net tax benefit of \$2,160 per qualified employee on average ( $\$2,400 - \$240 = \$2,160$ ). Thus, \$10.2 million in net tax benefits are estimated to accrue in the initial impact year ( $\$2,160 \times 4,700 = \$10.2$  million).

The estimated 2008 tax year revenue loss assumes 90% of qualified employees in the prior year continue to be employed full-time with a qualified taxpayer in the following year. The revenue impact for tax year 2008 is based on the maximum \$2,400 credit being claimed for 4,300 qualified employees, equal to a net tax benefit of \$9.2 million ( $\$2,400$  credit - \$240 wage expense offset = \$2,160 net benefit  $\times$  4,300 retained qualified employees = \$9.2 million).

It is assumed that in the first and second year between 80%-90% of taxpayers eligible for the credit will actually claim it on their income tax returns. This assumption is based on the amount of taxpayer awareness and the amount of the benefit as well as whether the taxpayer filed their own return or paid a preparer to file their return. Based on the projected tax liabilities of the population affected by this bill, it is estimated that only 50% of credits claimed would be applied in the year generated. 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 \$4 million ( $\$10.2$  million  $\times$  0.8  $\times$  50% = \$4 million). 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**

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