

SUMMARY ANALYSIS OF AMENDED BILL

Author: Torrico Analyst: Matthew Cooling Bill Number: AB 1508

Related Bills: See Prior Analysis Telephone: 845-5983 Amended Date: May 20, 2009

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Employer Title 1 Public School Mathematics Or Science Teacher Lending Credit

- DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as amended May 4, 2009.
- AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.
- AMENDMENTS DID NOT RESOLVE THE DEPARTMENTS CONCERNS stated in the previous analysis of bill as amended May 4, 2009.
- 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 certain expenses related to lending an employee to a public school to assist in teaching, as specified.

SUMMARY OF AMENDMENTS

The May 20, 2009, amendments would do the following:

- Redefine “wages” and “Title I public school,” and
- Clarify the required amount of charitable contributions necessary to receive the credit.

As a result of the amendments, some of the implementation considerations in the department’s analysis of this bill as amended May 4, 2009, have been resolved. The implementation considerations related to the definitions of mathematics and science remain. These amendments also resolved the department’s technical considerations by redefining certain terms that clarify the limitation of charitable contributions, as specified. The remaining concerns are listed below for convenience.

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| <input checked="" type="checkbox"/> PENDING | Patrice Gau-Johnson | 06/25/09 |

The department's analysis of this bill as amended May 4, 2009, has been revised, which includes the "This Bill," "Implementation Considerations," and "Technical Considerations" discussions. Except for the discussions listed here, the remainder of our analysis of this bill as amended May 4, 2009, still applies. The "Economic Impact" Discussion has been provided below for convenience.

POSITION

Pending.

ANALYSIS

THIS BILL

This bill would allow a credit equal to 25 percent of qualified expenses paid or incurred and related to an employer (taxpayer) lending a qualified employee to a Title I public school to assist in the teaching of mathematics or science.

This bill would define the following:

- "Qualified expenses" would mean:
 - ◆ The expenses paid by the taxpayer associated with assisting in the teaching of mathematics and science at a Title I public school, limited to expenses for teaching supplies, materials, and equipment; and
 - ◆ Expenses paid or incurred by the taxpayer for wages paid to an employee for time spent in a classroom assisting in the teaching of mathematics and science at a Title I public school.
- "Qualified employee" would mean an employee whose employment specialty includes the areas of mathematics or science, as specified.
- "Title I public school" would mean any public high school that is a Title I school under Chapter 70 (sections 6301 through 6339 and sections 6571 through 6578) of Title 20 of the United States Code.
- "Mathematics" would mean instruction that will develop students in the areas of mathematical reasoning and problem solving, which includes, courses in algebra I, algebra II, linear algebra, calculus, geometry, trigonometry, mathematical analysis, probability and statistics, and advanced probability and statistics.
- "Science" would mean instruction that promotes development of the skills and procedures used in problem solving and recognition, data collection through observation and experimentation, and the formulation and testing of hypotheses. "Science" includes courses in biology, life science, physical science, physics, chemistry, and others.

For a taxpayer to receive the credit, the school district governing board would have to certify by resolution that the employee is qualified to assist in the teaching of mathematics and science. This resolution would have to be made before the employee begins assisting in the classroom. In addition, the Title I public school would have to issue a service record to the taxpayer that would certify the number of hours that the employee assisted in teaching the qualified courses. The service record would certify that no teacher currently employed by the school would be replaced by one of these teacher assistants, and the taxpayer would have to make charitable contributions, which include classroom materials, resources, equipment, or facilities.

The maximum amount of the credit allowable would be limited to the amount of charitable contributions made to the school for that taxable year by the taxpayer in excess of the taxpayer's qualified expenses. The charitable contributions used to calculate the limit would exclude any contributions used as expenses to calculate the credit. This bill would allow a credit carryover for eight years. No other deduction would be allowed for the amount of any qualified expenses for which this credit is allowed.

This bill would also require the Legislative Analyst's Office (LAO) to submit a report to the Legislature on the usage of this credit. The report would evaluate the tax credit allowed by this bill and contain information including the number of taxpayers utilizing the credit, the identity of those taxpayers, and the total dollar amount of tax credits issued per year. This report would be submitted by LAO by November 1, for each year in which the credit is operative.

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 uses the term "employment specialty" but does not define this term. Absence of a definition for this term could lead to disputes between the department and taxpayers. It is recommended that the author amend the bill to define "employment specialty."

The definitions for the terms "mathematics" and "science" in this bill could lead to disputes between the department and taxpayers because both terms are defined to mean instruction designed to develop a particular skill set, as specified, and both definitions include a broad range of subject areas. It is recommended that the author amend the definition of "mathematics" and "science" to clarify that "mathematics" and "science" are specifically defined by instruction in specified subject areas. In addition, to clarify the definitions of "mathematics" and "science," the author may wish to look to the Content Standards for Mathematics¹ and Science² adopted by the California State Board of Education in 1997 and 1998, respectively.

¹ Mathematics Content Standards: <http://www.cde.ca.gov/be/st/ss/documents/mathstandard.pdf>

² Science Content Standards: <http://www.cde.ca.gov/be/st/ss/documents/sciencetnd.pdf>

This bill would require a report to be made to the Legislature by LAO. The report would include detailed information regarding the usage of the credit including the taxpayers' identities. LAO would not be able to obtain detailed information regarding this expenditure without the assistance of this department. Without statutory authority to do so, the department would not be able to release specific taxpayers' identities. The author may wish to amend this bill to remove the requirement of providing specific taxpayer information.

TECHNICAL CONSIDERATIONS

Amendments 1 through 4 have been provided to clarify the language of the bill regarding the charitable contributions condition and limitation of the credit.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT

Revenue Estimate

This bill would result in the following revenue losses:

| Estimated Revenue Impact of AB 1508 As Amended May 20, 2009 Assumed Enacted After June 30, 2009 Effective On or After January 1, 2010 | | | | |
|---|-----------|------------|-----------|-----------|
| 2009-10 | 2010-11 | 2011-12 | 2012-13 | 2013-14 |
| -\$25,000 | -\$80,000 | -\$110,000 | -\$90,000 | -\$40,000 |

Any changes in employment, personal income, or gross state product that might result from this provision are not taken into account.

Revenue Discussion

The revenue loss of this bill would depend on the amount of qualified expenses incurred by taxpayers in connection with lending qualified employees to California Title I public high schools for assisting in teaching mathematics or science classes, the amount of charitable contributions by taxpayers of classroom materials, resources, equipment or facilities, and the amount of credits that can be applied to reduce tax liabilities.

According to the California Department of Education, the total number of mathematics and science teachers in California public schools was approximately 24,000 full time equivalents during the 2007-08 school year. Title I high school staffing represents 18 percent of all high school staffing, which would bring the number of math and science teachers to approximately 4,300 (24,000 teachers X 18% in Title I schools).

It would be assumed that employees loaned by taxable employers under this proposal would constitute 1 percent of Title I public high school certified hires, or 43 employees (4,300 X 1%). It is not known what the average salary would be of a loaned employee. For purposes of this estimate, the median yearly secondary school teaching salary of \$62,800 is used. This salary was determined by 2008 data from the Employment Development Department. If an employee would assist in teaching one class five times a week for one semester, the employee would be allocating 12.5 percent of his or her time to assisting in teaching. Qualified expenses would be estimated at approximately \$340,000 (43 loaned employees X \$62,800 X 12.5%). Applying the proposed 25 percent to qualified expenses of \$340,000, credits generated in the first full taxable year would be approximately \$85,000 annually (\$340,000 X 25%).

The credit would be limited to expenses paid by the employer for charitable contributions of classroom materials, resources, equipment, or facilities. Assuming a taxpayer would contribute \$5,000 per loaned employee each school year, the contribution would be \$215,000 (\$5,000 contribution X 43 employees). Applying the 25 percent credit would yield an approximate \$54,000 (\$215,000 X 25%) credit for equipment. The total amount of allowable credits for 2010 would be approximately \$140,000 (\$85,000 + \$54,000).

The May 20, 2009, amendments would reduce the amount of allowable credits because qualified expenses (employee wages and teaching-related equipment) have been specifically excluded from charitable contributions used to calculate the credit limitation. It would be assumed that this exclusion would reduce allowable credits by approximately 20 percent, from \$140,000 [(1 - .20) X 140,000] to \$112,000.

The 2009-10 fiscal year would have a reduced revenue loss because it represents a partial fiscal year, as does 2012-13 when the provision expires.

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 1508
As Amended May 20, 2009

AMENDMENT 1

On page 3, line 34, after "facilities", strikeout "in excess of" and insert:

disregarding

AMENDMENT 2

On page 3, lines 35 to 39, inclusive, make the following changes:

(f) The maximum amount allowable as a credit to the taxpayer for qualified expenses shall not exceed the total amount of charitable contributions ~~made by the taxpayer to the school for that taxable year in excess of the taxpayer's qualified expenses~~ as described in paragraph (2) of subdivision (e) for that taxable year.

AMENDMENT 3

On page 6, line 5, after "facilities", strikeout "in excess of" and insert:

disregarding

AMENDMENT 4

On page 6, lines 6 to 10, inclusive, make the following changes:

(f) The maximum amount allowable as a credit to the taxpayer for qualified expenses shall not exceed the total amount of charitable contributions ~~made by the taxpayer to the school for that taxable year in excess of the taxpayer's qualified expenses~~ as described in paragraph (2) of subdivision (e) for that taxable year.