

SUMMARY ANALYSIS OF AMENDED BILL

Author: Swanson Analyst: Angela Raygoza Bill Number: AB 1973
 Related Bills: See Prior Analysis Telephone: 845-7814 Amended Date: June 28, 2010
 Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Jobs Tax 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 AMENDED

MAY 28, 2010, STILL APPLIES.

OTHER – See comments below.

SUMMARY

The bill would expand the existing Jobs Tax Credit.

SUMMARY OF AMENDMENTS

The June 28, 2010, amendments would modify the definition of qualified full-time employee, restore the definition of qualified employer, and make technical changes to the existing Jobs Tax Credit.

As a result of the amendments, the “Effective/Operative Date” and the “This Bill” discussions have been revised. The amendments do not resolve the “Implementation Considerations” or “Technical Considerations” in the department’s analysis dated May 28, 2010. Those discussions and the “Economic Impact” discussion have been repeated for convenience. The remainder of the department’s analysis of the bill as amended May 28, 2010, still applies.

Board Position:

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Asst. Legislative Director

Date

Patrice Gau-Johnson

06/30/10

EFFECTIVE/OPERATIVE DATE

As a tax levy, this bill would be effective immediately and operative for taxable years beginning on or after January 1, 2010. The increase in the credit amount from \$3,000 to \$5,000 for “ex-offenders” and persons unemployed for 12 months or more would be specifically operative for taxable years beginning on or after January 1, 2011.

ANALYSIS

PROGRAM BACKGROUND

As of June 26, 2010, the total Personal Income Tax and Business Entity returns generating the new Jobs Tax Credit¹ was 3,626 and the amount of credits generated was \$32.6 million. The cut-off date is the last day of the calendar quarter within which FTB estimates it will have received timely filed original returns claiming the credit that cumulatively total \$400 million.

THIS BILL

For taxable years beginning on or after January 1, 2011, the credit amount for the existing Jobs Tax Credit would be increased from \$3,000 to \$5,000, for ex-offenders and persons unemployed for 12 consecutive months prior to being hired by a qualified employer. The existing credit of \$3,000 would continue for employees who do not qualify as an ex-offender.

This bill would modify the definition of “qualified full-time employee” and “qualified employer” as follows:

- “Qualified full-time employee” would include either an ex-offender who was convicted of a felony or a person who has been unemployed for 12 consecutive months prior to being hired with qualified employer. Ex-offender would exclude a sex offender or the equivalent under the laws of another state or territory, under military law, or under federal law, or a person convicted of a serious or violent felony as defined by the Penal Code.²
- “Qualified employer” would be a taxpayer that as of the last date of the preceding taxable year employed total of 20 or fewer employees

Additionally, for taxable years beginning on or after January 1, 2010, the calculation of the increase in annual full-time employees would be modified to include the employees of a trade or business acquired in a preceding year with the number employees employed by the taxpayer during the preceding year.

¹ ABX3 15 (Krekorian, Stats. 2010, 3rd Ex. Sess. 2009, Ch. 10) and SBX3 15 (Calderon, Stats. 2010, 3rd Ex. Sess. 2009, Ch. 17) created the Jobs Tax Credit, which provides a tax credit of \$3,000 for each net job increase.

² Penal Code section 290 is known as the “Sex Offender Registration Act.”

² Penal Code subdivision (c) of sections 667.5 and subdivision (c) 1192.7 define “violent felony” and “serious felony.”

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 increase the amount of the credit from \$3,000 to \$5,000 for ex-offenders. The \$3,000 credit would continue after 2010. Additionally, the existing credit is not a per employee credit. It is based on a "net increase in full-time employees" determined on a full-time equivalent basis. These two rules are conflicting and could cause computational issues for the credit. It is recommended the author amend the bill to clarify how to apply the \$5,000 credit and the computation of the two separate credit pools.

TECHNICAL CONSIDERATIONS

Under existing law, the taxpayer would calculate the increase in full-time employees for a taxable year by comparing the number of employees employed during the current taxable year with the number of employees employed by the taxpayer during the preceding year. In order to prevent distortions in this credit formula that could result from the acquisition of an existing business with employees, existing law requires the taxpayer to count the acquired business' employees in the credit base for both the prior and current year. As a result, when a taxpayer acquires another business during the current year, a taxpayer would not have an increase in full-time employees during the current year by merely acquiring another business with existing employees. This bill changes that rule by eliminating the requirement that the acquired business' employees be included in the prior year base computation, so that a taxpayer could have an increase in full-time employees simply by acquiring a business, even though there were no new jobs created as a result of that acquisition (and, in fact, even if some of the existing employees of the acquired business are laid off, there could still be an increase in full-time employees under this change to the formula). It is recommended that this bill be amended to refer to acquisitions in the current taxable year.

The term "persons" is broadly defined by statute and includes individuals, trusts, and pass-through entities subject to tax under the personal income tax law. To narrow the definition, it is recommended replacing the term "person" with "individual." On page 2, lines 22 and 27, strikeout "person" and insert "an individual." On page 6, lines 27 and 32, strikeout "person" and insert "an individual."

ECONOMIC IMPACT

Revenue Estimate

Because this bill does not increase the \$400 million limit on tax credits in current law, it is estimated that there would be no remaining amounts to be allocated for tax credits in the 2011 tax year. Therefore, there would be no revenue impact from the bill as amended June 28, 2010.

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