

SUMMARY ANALYSIS OF AMENDED BILL

Author: Steinberg, et al. Analyst: Jahna Alvarado Bill Number: SB 974
 Related Bills: See Prior Analysis Telephone: 845-5683 Amended Date: May 19, 2010
 Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Career Pathways Investment Credit/ Enterprise Zone Employer Hiring Credit/ Ex-Offender

- DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as amended April 5, 2010, and May 3, 2010.
- 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 April 5, 2010, and May 3, 2010, STILL APPLIES.
- OTHER – See comments below.

SUMMARY

This bill would do the following:

- Establish the Career Pathways Investment credit, as specified; and
- Modify the enterprise zone (EZ) hiring credit, as specified.

This bill would also make changes to the Education Code. The discussion of these changes is limited to the changes that would impact the department.

SUMMARY OF AMENDMENTS

The May 19, 2010, amendments deleted the language related to the sales and use tax credit and the Targeted Tax Area hiring credit, and added language that would modify the Career Pathways Investment credit this bill would establish and the EZ hiring credit.

Board Position:	Asst. Legislative Director	Date
_____ S		
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<input checked="" type="checkbox"/> PENDING	Patrice Gau-Johnson	05/24/10

As a result of the amendments, the “Effective/Operative Date,” “This Bill,” “Implementation Considerations,” “Technical Considerations,” and “Revenue Impact” discussions, as provided in the department’s analysis of the bill as amended April 5, 2010, and May 3, 2010, have been revised. The remainder of that analysis still applies. The “Policy Consideration” section is included for convenience.

EFFECTIVE/OPERATIVE DATE

As a tax levy, this bill would be effective immediately upon enactment and specifically operative for taxable years beginning on or after January 1, 2011, with regard to the Career Pathways Investment credit, and would apply to qualified employees hired on or after January 1, 2011, with regard to the EZ hiring credit modifications.

POSITION

Pending.

Summary of Suggested Amendments

A suggested amendment to correct an incorrect reference to a fiscal year appears in the “Technical Considerations” section below.

ANALYSIS

THIS BILL

This bill would allow a qualified taxpayer, as defined, a franchise or income tax credit in an amount equal to the amount that is allocated and certified by the State Department of Education (DOE) for support for career exploration activities, curriculum and professional development programs, and middle school or high school programs that create career pathways, as defined. The certification would be required to be provided by the taxpayer to the department upon request. Any credit unused in a taxable year because it is in excess of the taxpayer’s tax liability could be carried over until exhausted. The Career Pathways Investment credit would be allowable for taxable years beginning on or after January 1, 2011.

This bill provides that the aggregate amount of credits that may be allocated by the DOE in any calendar year would be equal to the sum of the following:

- \$78 million for the 2011 calendar year, \$100 million for the 2012 calendar year (the baseline amount), and the baseline amount as adjusted for inflation or deflation as measured by the Consumer Price Index for each calendar year thereafter; and
- The unused credit allocation amount, if any, for the preceding calendar year.

In the event that a qualified taxpayer fails to comply with the requirements set forth in this bill, the credit would be disallowed, and assessed and collected until the requirements are satisfied. A disallowed credit would be treated as a math error.

Under the Education Code, this bill would define a number of terms and phrases including: “applicant,” “authentic application,” “career pathways investment credit ceiling,” “department,” and “middle school or high school programs that create career pathways.”

This bill would modify the EZ hiring credit for employees hired on or after January 1, 2011, as follows:

- Redefine the term “ex-offender;”
- Replace obsolete references to state and federal programs with current references;
- Eliminate “resident of a targeted employment area” from the definition of “qualified employee;”
- Add a requirement that an application for certification as a “qualified employee” shall be submitted to a certifying agency within 28 days and obtained from the certifying agency within 42 days of the employee’s first day of work for the qualified taxpayer; and
- Make several technical, non-substantive changes.

IMPLEMENTATION CONSIDERATIONS

Department staff have identified the following implementation concerns impacting the department. 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 qualified taxpayer a credit in the amount that would be certified by the DOE. The bill is silent on how, when, and what information would be provided to the department to allow for confirmation of eligibility for the credit. As a result, verification of the credit would require the department to request a copy of the DOE certification from a taxpayer. In order to reduce taxpayer burden and provide for ease of administration, it is recommended that the bill be amended to require that the DOE provide a list of the allocated Career Pathways Investment credits, along with taxpayer identification numbers, to the department.

This bill would disallow the credit for noncompliance by the qualified taxpayer. This bill fails to specify who would measure and record whether the qualified taxpayer is compliant. Further, it is unclear how the department or qualified taxpayer would be notified of the noncompliance after the DOE has provided certification of the credit. It is recommended that this bill be amended for clarity and ease of administration.

This bill uses the undefined term “collection” and the undefined phrase “requirements are satisfied.” The absence of definitions to clarify this term and phrase could lead to disputes with taxpayers and could complicate the administration of this credit.

The bill lacks administrative details that must be determined to implement the bill and determine its impacts to the department's systems, forms, and processes. For example: If a credit were disallowed for noncompliance, would the recaptured credit be included in tax for the current year? Would the amount of the disallowed credit be subject to interest?

This bill would require that a taxpayer apply for certification that an individual is a "qualified employee" within 28 days of the individual's first day of work and obtain that certification within 42 days of the individual's first day of work. It is unclear whether the agency issuing the certification could respond to applications within the period specified and what the consequences of a failure to obtain certification within the specified period would be. For example, would a credit be denied if a certification was requested within the 28 day period and obtained after the expiration of the 42 day period? It is suggested that the author amend this bill to prevent disputes between taxpayers and the department.

TECHNICAL CONSIDERATIONS

This bill would allow an allocation of the Career Pathways Investment credit on a calendar year basis. As a result, the reference to a fiscal year on page 23, line 6, should be corrected to refer to a calendar year.

FISCAL IMPACT

This bill would require additional resources to verify eligibility for the Career Pathways Investment credit and confirm that applications for certifications in support of the EZ hiring credit had been submitted within the specified period, as well as the development of a new form or worksheet for the calculation of the credit. As a result, this bill could impact the department's audit, printing, processing, and storage costs for tax returns. The additional costs have not been determined at this time. As the bill continues to move through the legislative process and implementation concerns are resolved, costs will be identified and an appropriation will be requested, if necessary.

ECONOMIC IMPACT

Revenue Estimate

This provision would result in the following revenue impacts:

Estimated Revenue Impact of SB 974, As Amended May 19, 2010			
Effective For Tax Years Beginning On or After January 1, 2011			
Assumed Enactment Date By September 30, 2010			
(\$ in Millions)			
	2010-11	2011-12	2012-13
Career Pathways Investment Credit	-\$20	-\$75	-\$100
Enterprise Zone Credit Hiring Changes	\$20	\$75	\$100
Net Impact to General Fund	-	-	-

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this bill.

POLICY CONCERNS

Generally, credits are limited as a percentage of amounts paid or incurred. This bill would allow a credit equal to an allocated amount without regard to any amount having been paid or incurred, which is unprecedented.

LEGISLATIVE STAFF CONTACT

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