

SUMMARY ANALYSIS OF AMENDED BILL

Author: Steinberg, et al. Analyst: Jahna Alvarado Bill Number: SB 974
 Related Bills: See Prior Analyses Telephone: 845-5683 Amended Date: June 15, 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 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 amended May 19, 2010.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED May 19, 2010, STILL APPLIES.

OTHER – See comments below.

SUMMARY

This bill would do the following:

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

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 June 15, 2010, amendments substituted the Superintendent of Public Instruction for the State Department of Education as the administrating entity for the CPIC, added language modifying the process of applying for an allocation of the CPIC, made a technical correction, and added a coauthor.

Board Position:	Asst. Legislative Director	Date
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As result of these amendments, two “Policy Concerns” have been identified. Additionally, the “This Bill,” “Implementation Considerations,” “Fiscal Impact,” and “Revenue Estimate,” sections as provided in the department’s analysis of the bill as amended May 19, 2010, have been revised and the “Technical Consideration” has been resolved. The remainder of that analysis still applies.

POSITION

Pending.

Summary of Suggested Amendments

Amendment 1 is provided to suggest appropriation language to fund the department’s costs to implement the provisions of this bill.

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 of the CPIC ceiling that is allocated and certified by the Superintendent of Public Education (Superintendent) 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 CPIC would be allowable for taxable years beginning on or after January 1, 2011.

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.

As the entity administering the CPIC, the Superintendent would be required to allocate the CPIC ceiling on a regular basis of two or more periods in a calendar year during which applications may be filed and considered. The Superintendent could, for each application received, reserve credits for up to five calendar years. The amount of credits reserved during a calendar year would be required to be applied against the career pathways program.

This bill provides that the aggregate amount of career pathway credit that shall be reserved in each 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.

The Superintendent would be required to establish procedures for filing the written application for reservation of the tax credit, adopt reserve criteria for awarding credits, and give priority to applications based on a number of criteria. The Superintendent would be allowed to contract with other entities to assist in the processing and review of the applications.

This bill would require that the Superintendent certify for each applicant the amount of the CPIC ceiling reserved to the applicant for the calendar year. The applicant's reserved credit for the calendar year would be limited to 50 percent of the qualified expenditures, as defined, as estimated by the applicant for the calendar year. Subsequent to audit and verification of the amount of qualified expenditures, as defined, incurred by the applicant in performance of the career pathways program, the Superintendent would be allowed to allocate the career pathways tax credit to the applicant. The Superintendent would be required to provide a certificate to the applicant that would be required to include the amount of the credit allocation that may be distributed and applied by the applicant against a tax liability.

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

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 the Superintendent to reserve credits for up to 5 calendar years for each approved application. It is unclear how a reservation in excess of 1 calendar year would interact with the annual allocation limit. For example, for a 3 year reservation would the entire amount reserved be counted against the allocation limit for the calendar year the reservation was made? Or would the amount reserved be offset equally among the allocation limits for each calendar year the reservation is in effect? The author may wish to amend this bill to clarify the credit reservation process.

The requirement that the Superintendent allocate the CPIC upon audit and verification of an applicant's qualified expenditures, as defined, is permissive. This is inconsistent with the requirement that a taxpayer receive a CPIC allocation prior to claiming the income tax credit this bill would allow. This inconsistency could result in a taxpayer being denied a credit for qualified expenditures that have been paid or incurred because the allocation is outstanding. The author may wish to amend this bill for consistency.

This bill is silent on the process of requesting and obtaining the Superintendent's certification of the CPIC allocation. Because the allocation is required to be eligible for the CPIC being claimed on a tax return, this could result in uncertainty on the timing of a CPIC credit being allowed and reduce the incentive to participate in the CPIC program. The author may wish to amend this bill to clarify the CPIC certification and allocation process.

Annually, the Superintendent would be required to report to the Franchise Tax Board the identity of the qualified taxpayers that received a CPIC reservation, allocation, or both. The bill is silent on requiring the report to include the amount of the reservation, allocation, or both for each qualified taxpayer. This could result in additional taxpayer burden to respond to FTB requests to provide the certification of their reported CPIC. In order to minimize taxpayer burden and simplify administration of the credit, the author may wish to amend this bill.

This bill uses terms and phrases that are undefined, i.e., "career pathways investment credit," "career pathways program," "career technical education programs," "credit" and "credits." The absence of definitions to clarify these terms and phrases could lead to disputes with taxpayers and would complicate the administration of this credit.

It is unclear whether the definition of qualified expenditures would include expenses to design and construct buildings, e.g. computer labs, science research labs, and commercial kitchens and restaurant facilities for vocational culinary training. If it is the author's intention that contributions leading to the construction of facilities would be qualified expenditures, the author may wish to amend this bill.

FISCAL IMPACT

Staff estimates a cost of approximately \$32,000 to develop, program, and test revisions to existing systems for this bill. Due to the current fiscal environment and the need for increased resources necessary to implement other pending bills, implementation of this bill is contingent on funding. Accordingly, suggested language is provided in Amendment 1 to fund the department's implementation costs for this bill. If this bill is enacted without appropriation language, the department will pursue a budget augmentation ("legislative budget change proposal") through the normal budgetary processes, which would delay implementation of the bill's provisions to July 1, 2011. If approval of a legislative budget change proposal is denied, the department may be unable to implement the provisions of this bill.

ECONOMIC IMPACT

Revenue Estimate

This bill would result in the following revenue impacts:

Estimated Revenue Impact of SB974 Amended June 15, 2010 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	(\$6)	(\$75)	(\$95)
Enterprise Zone Hiring Credit Changes	\$20	\$75	\$100
Net Impact to General Fund	\$14	\$0	\$5

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

POLICY CONCERNS

This bill would not be limited to only future business decisions because a reservation and allocation could be awarded to an applicant seeking tax credits for activities in place at the time of introduction of the bill. Therefore, the bill would allow the CPIC for business decisions that have already been made, rather than only business decisions made in response to the CPIC that would be allowed by this bill.

This bill would allow taxpayers in certain circumstances to claim multiple tax benefits for the same item of expense.

This bill would allow a credit for qualified expenditures to provide a career pathways program that could be deductible as business expenses. Generally, a credit is allowed in lieu of a deduction in order to eliminate multiple tax benefits for the same item of expense.

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO SB 974
AS AMENDED JUNE 15, 2010

AMENDMENT 1

On page 31, before line 1, insert:

SEC. 6. The sum of thirty two thousand dollars (\$32,000) is hereby appropriated to the Franchise Tax Board in augmentation of its support budget.

AMENDMENT 2

On page 31, on line 1, ~~strikeout "SEC. 6."~~ and insert:

SEC. 7.