

Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author: Denham, et al. Analyst: Matthew Cooling Bill Number: SBX8 63
Related Bills: See Legislative History Telephone: 845-5983 Introduced Date: February 16, 2010
Attorney: Patrick Kusiak Sponsor:

SUBJECT: Employer Hiring Credit/Wages Paid To Each Qualified Veteran

SUMMARY

This bill would have provided employers a 25 percent tax credit for wages paid to qualified veterans, as specified.

This bill failed to pass out of the Eighth Extraordinary Session, which adjourned on March 11, 2010.

PURPOSE OF THE BILL

According to the author's office, the purpose of the bill was to incentivize employers to hire currently unemployed veterans to bring them back into the workforce, thus reducing the rate of unemployed veterans.

EFFECTIVE/OPERATIVE DATE

As a tax levy, this bill would have been effective upon enactment and specifically operative for taxable years beginning on or after January 1, 2010.

POSITION

Pending.

ANALYSIS

FEDERAL/STATE LAW

Existing state and federal laws allow a taxpayer to deduct expenses paid or incurred in the ordinary course of a taxpayer's trade or business, including employee wages and benefits.

Under existing federal law, the Work Opportunity Tax Credit program, an employer may qualify for a tax credit of up to \$9,000 if the employee is a member of a designated target group including qualified veterans receiving Food Stamps or qualified veterans with a service connected disability who:

- Have a hiring date which is not more than one year after having been discharged or released from active duty, or
• Have aggregate periods of unemployment during the one year period ending on the hiring date that equal or exceed six months.

Table with Board Position (S, SA, N, NA, O, OUA, NP, NAR, PENDING) and Department Director/Date (Selvi Stanislaus, 05/03/10)

Existing state and federal laws provide various tax credits designed to provide tax relief for taxpayers that incur certain expenses or to influence behavior, including business practices and decisions (e.g., research credits or economic development area hiring credits). These credits generally are designed to provide incentives for taxpayers to perform various actions or activities that they may not otherwise undertake.

The New Jobs credit enacted in 2009 allows a credit for taxable years beginning on or after January 1, 2009, for a qualified employer in the amount of \$3,000 for each qualified full-time employee hired in the taxable year, determined on an annual full-time equivalent basis. The credit is allocated by the Franchise Tax Board (FTB) on a first-come-first-served basis and has a maximum cap of \$400 million for all taxable years. The credit remains in effect until December 1 of the calendar year after the year in which the cumulative credit limit has been reached and is repealed as of that date. Any credits not used in the taxable year may be carried forward up to eight years.

THIS BILL

For taxable years beginning on and after January 1, 2010, this bill would have provided a tax credit in an amount equal to 25 percent of the qualified wages, not to exceed \$6,000, paid to employees who are qualified veterans.

This bill would have defined “qualified veteran” as an individual who satisfies all of the following:

1. Is a member of the Armed Forces of the United States who has been honorably discharged within the five calendar years prior to employment,
2. Received unemployment compensation within California for no less than four weeks during the 12 calendar months before the date of employment, and
3. Is employed by the taxpayer for not less than 120 hours during the calendar year in which the credit is generated

This bill would have provided that the credit allowed under this section would have been reduced by any other credit or deduction claimed with respect to qualified wages or qualified employees.

This bill would have allowed any unused credits to be carried forward to future taxable years until the credit is exhausted.

IMPLEMENTATION CONSIDERATIONS

The department has identified the following implementation concern. Department staff is available to work with the author’s office to resolve this and other concerns that may be identified.

This bill does not provide a definition for “wages.” “Wages” are generally defined by reference to amounts subject to withholding under the California Unemployment Insurance Code. Amendments 1 and 3 have been provided to define the term.

TECHNICAL CONSIDERATIONS

This bill states that the credit would have been decreased by the amount of any other credits or deductions with respect to qualified wages or qualified employees. The language of this provision would have reduced the amount of any credit to zero because employee wages are deductible. Often, credits include provisions to reduce the amount of any deductions otherwise allowable for the same expense used to calculate the credit. Amendments 1 and 3 would also revise the language to reduce the amount of other deductions otherwise allowable by the amount of the credit allowed by this bill.

Amendments 2, 4, and 5 would make technical changes related to the application of the credit against tax under the Corporate Tax Laws.

LEGISLATIVE HISTORY

AB 340 (Knight, 2009/2010) would have provided a hiring credit for hiring employees to work in a company relocating to California with 30 or more qualified employees, as specified. This bill failed to pass out of the house of origination by the Constitutional deadline.

AB 1973 (Swanson, 2009/2010) would allow an employer a credit equal to 20 percent of a new qualified employee's salary, not to exceed \$5,000 in the first and second years of employment if the employee is a qualified ex-offender. This bill is currently on the suspense file in the Assembly Revenue and Taxation Committee.

AB 2617 (Tran, 2009/2010) would provide a tax credit to a qualified taxpayer for qualified wages in an amount equal to 15 percent of the wages paid or incurred during the taxable year. This bill will be heard in the Assembly Revenue and Taxation Committee on May 3, 2010.

AB 2630 (Emmerson, et al., 2009/2010) would provide a tax credit of \$3,000 for each net increase in full-time employees hired during the taxable year by a qualified employer until the state employment rate is 5.5 percent or lower. This bill will be heard in the Assembly Revenue and Taxation Committee on May 3, 2010.

ABX3 15 (Krekorian, Stats. 2010 Third Extraordinary Session, Ch. 10) and SBX3 15 (Calderon, Stats. 2010 Third Extraordinary Session, Ch. 17) allowed several credits under the Revenue and Taxation Code, including the New Jobs Hiring Credit.

SBX6 7 (Denham, 2009/2010) and SB 1056 (Denham, 2009/2010) would provide a credit identical to this bill. SBX6 7 is currently in the Senate Rules Committee; SB 1056 will be heard in the Senate Revenue and Taxation Committee on April 28, 2010.

AB 2245 (La Suer, 2005/2006) would have allowed an employee hiring credit equal of \$100 for every qualified disable veteran hired, as specified. This bill failed to pass out of the Assembly Revenue and Taxation Committee.

AB 2325 (Bates, 2003/2004) would have provided employers a tax credit for wages paid to disabled employees. This bill failed to pass out of the second house.

OTHER STATES' INFORMATION

Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York have no comparable credit. The laws of these states were reviewed because their tax laws are similar to California's income tax laws.

FISCAL IMPACT

This bill would have required a calculation for the credit that would require a new form or worksheet to be developed. As a result, this bill would have impacted the department's printing, processing, and storage costs for tax returns. The additional costs have not been determined at this time. Because this bill failed to pass out of the Eighth Extraordinary Session before adjournment on March 11, 2010, the fiscal impact will not be provided.

ECONOMIC IMPACT

Revenue Estimate

This bill would have had the following revenue losses:

Estimated Revenue Impact of SBX 8 63 as Introduced on February 16, 2010 For Taxable Years Beginning On or After January 1, 2010 Enactment Assumed September 30, 2010 (\$ in Millions)			
Fiscal Year	2010-11	2011-12	2012-13
Revenue Loss	-\$170	-\$190	-\$200

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

POLICY CONCERNS

This bill lacked a sunset date. Sunset dates generally are provided to allow periodic review by the Legislature.

This bill would have allowed for an unlimited carryover period. Consequently, the department would be required to retain the carryover on the tax forms indefinitely. Recent credits have been enacted with a carryover period limitation because experience shows credits typically are exhausted within eight years of being earned.

LEGISLATIVE STAFF CONTACT

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO SBX 8 63
AS INTRODUCED FEBRUARY 16, 2010

AMENDMENT 1

On page 2, strikeouts lines 11 through 23, inclusive and insert:

(c) For purposes of this section:

(1) "Qualified veteran" means a member of the Armed Forces of the United States who has been honorably discharged from service within the five calendar years preceding employment by the taxpayer, who received unemployment compensation within California for not less than four weeks within the 12 calendar months preceding the date of employment by the taxpayer, and who is employed by the taxpayer for at least 120 hours during the taxable year for which the credit is claimed.

(2) "Wages" means wages subject to Division 6 (commencing with Section 13000) of the Unemployment Insurance Code.

(d) Any deduction otherwise allowable under this part for an expense for which a credit is allowed under this section shall be reduced by the amount of the credit allowed under this section.

AMENDMENT 2

On page 2, line 25, strikeouts "net tax" and insert:

"tax"

AMENDMENT 3

On page 3, strikeouts lines 1 through 13, inclusive and insert:

(c) For purposes of this section:

(1) "Qualified veteran" means a member of the Armed Forces of the United States who has been honorably discharged from service within the five calendar years preceding employment by the taxpayer, who received unemployment compensation within California for not less than four weeks within the 12 calendar months preceding the date of employment by the taxpayer, and who is employed by the taxpayer for at least 120 hours during the taxable year for which the credit is claimed.

(2) "Wages" means wages subject to Division 6 (commencing with Section 13000) of the Unemployment Insurance Code.

(d) Any deduction otherwise allowable under this part for an expense for which a credit is allowed under this section shall be reduced by the amount of the credit allowed under this section.

AMENDMENT 4

On page 3, line 15, strikeout "net tax" and insert:

"tax"

AMENDMENT 5

On page 3, line 16, strikeout "net tax" and insert:

"tax"