

SUMMARY ANALYSIS OF AMENDED BILL

Author: Ma, et al. Analyst: Jahna Alvarado Bill Number: AB 47
 Related Bills: See Prior Analysis Telephone: 845-5683 Amended Date: March 5, 2009
 Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Child Adoption Costs 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 December 1, 2008.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED December 1, 2008 STILL APPLIES.

OTHER – See comments below.

SUMMARY

This bill would increase the nonrefundable child adoption credit for adoptions of certain California foster children to a maximum of \$5,000 for the specified period.

SUMMARY OF AMENDMENTS

The March 5, 2009, amendments added language that would do the following:

- Increase the maximum credit for adopting certain minor children to \$5,000,
- Provide a sunset date for the increased maximum credit.
- Restore the existing credit for periods after the sunset date.
- Add several co-authors.

The March 5, 2009, amendments resolved one, with one remaining of the implementation concerns as discussed in the department’s analysis of the bill as introduced December 1, 2008. For convenience, all addressed and existing concerns are provided below. Except for the “This Bill,” “Economic Impact,” and “Implementation Considerations” discussion, the remainder of the department’s analysis of the bill as introduced December 1, 2008, still applies.

Board Position:	Legislative Director	Date
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POSITION

Pending.

ANALYSIS

THIS BILL

This bill would increase the maximum allowable personal income tax credit for costs to adopt certain minor children from \$2,500 to \$5,000 for the specified period.

This bill would provide a maximum credit of \$5,000 for adopting a minor child who meets the following requirements:

1. Is over the age of 12 years at the time of the adoption, or
2. Is living in a group home or residential treatment facility for a period of a minimum of 6 months of the 18 month period prior to the adoption date, or
3. Meets the criteria of both 1 and 2, above.

This increased maximum credit would apply to taxable years beginning on or after January 1, 2009, and before January 1, 2015.

The existing credit would be restored for taxable years beginning on or after January 1, 2015.

IMPLEMENTATION CONSIDERATIONS

The following concern was identified in the analysis of the bill as introduced December 1, 2008. This concern was resolved by the March 5, 2009, amendments.

This bill would increase the current Child Adoption Credit for a taxpayer that adopts a minor child who, immediately prior to adoption, meets the description of a person described in Section 300, 601, or 602 of the Welfare and Institutions Code. Verification of this requirement would be difficult for Franchise Tax Board unless the author amends the bill to include certification from an agency such as the Department of Social Services.

This concern from the analysis of the bill as introduced December 1, 2008, remains unresolved.

This bill would provide a maximum credit of \$5,000 per qualifying minor child living in a group home or residential treatment facility at the time of adoption. This bill lacks definitions for the terms "group home" and "residential treatment facility," which could lead to disagreements between the department and the taxpayer claiming the credit.

Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

TECHNICAL CONSIDERATIONS

ECONOMIC IMPACT

Revenue Estimate

This bill would result in the following revenue losses:

Estimated Revenue Impact of AB 47 Effective for Tax Years BOA January 1, 2009 Enactment Assumed After 6/30/09		
2009-10	2010-11	2011-12
-\$45,000	-\$45,000	-\$45,000

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

Revenue Discussion

The revenue impact of this bill would be limited to adoptions of children who have been living in a foster care and/or are over the age of 12, and where adoption costs exceed \$5,000 in qualified costs. Current law allows a credit of 50% of qualified costs up to \$2,500. A 2004 study of the federal child welfare information gateway indicates costs of adopting a child from the public foster care range from \$0 - \$2,500. Therefore, it is likely that few adoptions will exceed \$5,000 in costs.

For the 2003-2006 taxable years, applied adoption credits averaged \$2 million annually and were reported on approximately 1,700 tax returns. If 5% of these taxpayers, or 85 (1,700 taxpayers x 5%) incur costs up to \$7,000, the taxpayer would be entitled to claim an additional credit of \$1,000 [(\$7,000 - \$5,000) X 50%] increasing total adoption credits generated by \$85,000 per year (85 X \$1,000). Currently, an applied adoption credit reduces tax liability, on average, by \$1,182. Of the total increased adoption credits generated of \$85,000 per calendar year, it is assumed that only half, \$42,500, would be applied to reduce a tax liability. Of the half applied, it is assumed these credits are applied in the year generated. This amount has been fiscalized to arrive at the revenue estimates presented.

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