

ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Fuentes Analyst: Jessica Deitchman Bill Number: AB 1071

Related Bills: See Legislative History Telephone: 845-6310 Amended Date: January 4, 2012

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Credentialed Teacher Qualified School Supplies Credit

SUMMARY

This bill would create an income tax credit for the purchase of qualified school supplies during the first weekend of August by a credentialed teacher.

RECOMMENDATION AND SUPPORTING ARGUMENTS

No position.

Summary of Amendments

The January 4, 2012, amendments removed provisions that would have required the Franchise Tax Board (FTB) to create a system that would have allowed individuals to use state-issued taxpayer identification numbers to file income tax returns. The amendments added provisions that would create an income tax credit, as discussed in this analysis. This analysis replaces the department's analysis of the bill as amended April 5, 2011.

PURPOSE OF THE BILL

It appears that the purpose of the bill is to relieve some of the financial burden that is placed on teachers that purchase necessary school supplies using their own funds.

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, 2012, and before January 1, 2015.

SUMMARY OF SUGGESTED AMENDMENTS

An amendment has been provided under the "Technical Consideration" discussion to correct a term.

Board Position:

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Executive Officer

Date

Selvi Stanislaus

01/10/12

ANALYSIS

FEDERAL/STATE LAW

Existing state and federal laws provide various tax credits designed to provide tax relief for taxpayers who incur certain expenses (e.g., child adoption) 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.

Existing federal and state laws provide various tax credits that are used to reduce the taxpayer's tax liability dollar-for-dollar. One benefit of allowing tax credits rather than deductions is that tax credits are claimed after taxable income has been calculated and, therefore, do not create differences between the taxable income amounts shown on the federal and state income tax returns.

Current federal law¹ allows teachers to exclude expenses from income, not in excess of \$250, paid or incurred in connection with books, supplies (other than nonathletic supplies for courses of instruction in health or physical education), computer equipment (including related software and services) and other equipment, and supplementary materials used by the eligible educator in the classroom. This exclusion applies to taxable years beginning on or after January 1, 2002, and before January 1, 2012. California does not conform to this exclusion.

THIS BILL

For each taxable year beginning on or after January 1, 2012, and before January 1, 2015, this bill would allow a personal income tax credit equal to 20 percent of the amount paid or incurred by a credentialed teacher for purchases of qualified school supplies, within a specified period during the taxable year.

Purchases eligible for the credit would be limited to purchases made during the period beginning at 12:01 a.m. on the first Friday of August and ending at 12:00 midnight on the first Monday of August during the taxable year.

"Credentialed teacher" would mean a person that holds a teaching credential issued by the Commission on Teacher Credentialing, as specified, and who teaches at a qualifying educational institution.

"Qualifying educational institution" would mean:

- Any elementary, secondary, or career-technical school located in the state providing education to pupils in Kindergarten or grades 1 through 12 (K-12).
- Any agency or instrumentality of the federal government that provides K-12 education at any location within the state including Indian reservations or military installations where a credentialed teacher is employed by the federal agency or instrumentality.
- Any elementary, secondary, or career-technical school located in the state that files an affidavit pursuant to Section 33190 and 33191 of the Education Code and provides education for pupils in grades K-12.

¹ Internal Revenue Code section 62(a)(2)(D)

“Qualified schools supplies” would mean pens, paper, pencils, binders, notebooks, school textbooks, book bags, backpacks, lunchboxes, and calculators.

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.

The bill states that the period in which purchases must be made in order to qualify for the credit is from the first Friday of August to the first Monday of August. It is possible that the first Monday could come before the first Friday in August. In the years where this occurs, it is unclear when the qualified weekend should occur. To avoid confusion, department staff recommends that the author amend the bill to clarify that the qualifying purchasing period would be the first Friday in the month to the first Monday following the first Friday in the month.

TECHNICAL CONSIDERATION

On page 2, line 15, after means delete “a” and insert “an”
On page 2, line 15, after “a” delete “person” and insert “individual”

LEGISLATIVE HISTORY

SB 1438 (Railey, 1999/2000) would have established a credit of 100 percent of the costs, to a maximum of \$200, for qualified educational expenses, as defined, paid or incurred by a parent or teacher. SB 1438 failed to pass out of the Senate Revenue and Taxation Committee by the constitutional deadline.

AB 2879 (Stats. 2000, Ch. 75) established the Teacher Retention Credit. The Teacher Retention Tax Credit was enacted in 2000 and first operative for the 2000 taxable year. It was subsequently suspended for the 2002, 2004, 2005, and 2006 taxable years, and was repealed for taxable years beginning on or after January 1, 2007.² This credit was designed in part to compensate teachers for unreimbursed expenses related to classroom supplies.

OTHER STATES’ INFORMATION

Review of *Illinois, Massachusetts, Michigan, Minnesota, and New York* laws found no comparable tax credits or deductions. These states were reviewed because of the similarities between California income tax laws and their tax laws.

Florida only has a corporation income tax therefore this personal income tax credit is not applicable.

FISCAL IMPACT

This bill would not significantly impact the department’s costs.

² The Teacher Retention Credit was repealed by SB 87 (Stats. 2007, Ch. 180).

ECONOMIC IMPACT

Revenue Estimate

Estimated Revenue Impact of AB 1071 For Taxable Years Beginning On or After January 1, 2012, and Before January 1, 2015 Enactment Assumed After June 30, 2012 (\$ in Millions)			
2012-13	2013-14	2014-15	2015-16
-\$19	-\$20	-\$21	\$0

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

SUPPORT/OPPOSITION

Pro: None provided.

Con: None provided.

ARGUMENTS

Pro: Some taxpayers may say that this bill would provide some needed financial assistance to California's teachers.

Con: Some taxpayers may say that with the state's current fiscal crisis, additional credits should be avoided.

POLICY CONCERNS

This bill would allow a credit for specified classroom purchases that may currently 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.

The bill lacks a re-capture period. A teacher could spend \$1,000 on school supplies and claim a \$200 credit, then return the \$1,000 in supplies, and still claim the entire credit. The author may wish to add language to require that those supplies be provided to, or used by, the pupils or used by teacher in the classroom.

This bill fails to limit the amount of the credit that may be claimed. Credits that could have a significant revenue impact are sometimes limited either on a per-project or per-taxpayer basis.

This bill lacks carryover language. As a result, any unused credit would be lost if the taxpayer is unable to use the entire credit amount in the year claimed. The author may wish to add language allowing a limited carryover period.

LEGISLATIVE STAFF CONTACT

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