

Franchise Tax Board

ANALYSIS OF AMENDED BILL

Author: Pan Analyst: Jessica Matus Bill Number: AB 1278

Related Bills: See Legislative History Telephone: 845-6310 Introduced and Amended Dates: February 18, 2011, and March 31, 2011

Attorney: Patrick Kusiak Sponsor:

SUBJECT: Employer School Volunteer Credit

SUMMARY

This bill would allow an income tax credit to taxpayers for the wages, salary, or other compensation paid to an employee who volunteers at a qualified school.

RECOMMENDATION AND SUPPORTING ARGUMENTS

No position.

Summary of Amendments

The March 31, 2011, amendments removed provisions that would have made nonsubstantive changes related to agricultural commodities, and replaced them with the provisions discussed in this analysis. This is the department's first analysis of the bill.

Summary of Suggested Amendments

Three amendments have been provided below under "Technical Considerations." One is to correct a typographical error; two will delete unnecessary language.

PURPOSE OF THE BILL

According to the author's office, the purpose of this bill is to encourage taxpayers to allow their employees to volunteer at their children's school to build strong relationships with their children and teachers.

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, 2019.

Table with Board Position (S, SA, N, NA, O, OUA, NP, NAR) and Executive Officer (Selvi Stanislaus) and Date (04/26/11).

ANALYSIS

FEDERAL/STATE LAW

Existing federal and state laws allow an employer to deduct expenses paid or incurred for ordinary and necessary business expenses of a trade or business, such as, salaries, wages, and employee benefits.

Existing federal and state 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.

THIS BILL

This bill would allow an income tax credit for the wages, salary, or other compensation paid or incurred by a taxpayer to an employee of the taxpayer for each day, not to exceed two days per taxable year, that the employee performs volunteer services at a “qualified school.”

“Qualified school” is defined as any school in this state that provides instruction for any grade from kindergarten through 12th and enrolls a child of the employee with respect to whom a tax credit is claimed.

Unused credits may be carried over for up to seven taxable years. The credit would be repealed as of December 1, 2019.

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 terms “salary,” “compensation,” “volunteer services,” “school,” and “child of employee” are undefined. Undefined terms can lead to disputes between the taxpayers and the department. The author may wish to amend the bill to define these terms to ease the department’s administration of this bill.

The bill would allow a credit for the wages, salary, and other compensation paid to an employee for each day that employee volunteers at a qualified school, not to exceed two days per taxable year. The bill fails to specify whether the credit would be limited to the hours volunteered and as a result, it appears the employer would be allowed two full days of credit, regardless of if the employee volunteers for two full days. If the author intends the credit to be on an hour-by-hour basis during the time the employee volunteers in two days, limited to actual amount of hours volunteered, the bill should be amended to specify that the credit is for volunteer time worked and paid, not only for wages paid. It is unclear how the department would verify the accuracy of a taxpayer’s reporting of the number of employees that volunteer. To avoid disputes between the taxpayer and the department, the author may wish to amend the bill to require the taxpayer to maintain proof of the volunteer activities and provide the documentation to the department upon request.

TECHNICAL CONSIDERATIONS

On page 2, line 14 after “.” delete “.”.

On page 2, line 20, delete “However, any unused credit may continue to be carried forward, as provided subdivision (c), until the credit is exhausted.”

On page 3, line 6, delete “However, any unused credit may continue to be carried forward, as provided subdivision (c), until the credit is exhausted.”

LEGISLATIVE HISTORY

AB 1508 (Torrico, 2009/2010) would have allowed a credit equal to 25 percent of qualified expenses paid or incurred and related to an employer (taxpayer) lending a qualified employee to a Title I public school to assist in the teaching of mathematics or science. This bill failed passage out of the Assembly Appropriations Committee by the constitutional deadline.

AB 462 (Wyland and Zettel, 2001/2002) would have allowed employers to claim a credit equal to 50 percent of the expenses related to lending an employee to a public school to teach mathematics or science. This bill failed to passage out of the Assembly Revenue and Taxation Committee by the constitutional deadline.

SB 558 (Morrow, 2001/2002) would have allowed employers to claim a credit equal to an unspecified percentage of the expenses related to lending an employee to a public school to teach mathematics or science. This bill failed passage out of the Senate Revenue and Taxation Committee by the constitutional deadline.

SB 1948 (Lewis, 1999/2000) would have allowed employers to claim a credit equal to 50 percent of the expenses related to lending an employee to a public school to teach math or science. This bill failed passage from the Senate Revenue and Taxation Committee by the constitutional deadline.

OTHER STATES' INFORMATION

The states surveyed include *Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York*. These states were selected due to their similarities to California's economy, business entity types, and tax laws. Florida does not have a personal income tax. These states do not have a credit similar to the one proposed by this bill.

FISCAL IMPACT

If the Implementation Considerations discussed above are resolved, it is expected that this bill would not significantly impact the department's costs.

ECONOMIC IMPACT

Revenue Estimate

Estimated Revenue Impact of AB1278 (As amended March 31, 2011) For Taxable Years Beginning On or After January 1, 2012 Enactment Assumed After June 30, 2011 (\$ in Millions)		
2011-12	2012-13	2013-14
-\$5	-\$22	-\$30

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

SUPPORT/OPPOSITION

Support: None provided.

Opposition: None provided.

ARGUMENTS

Pro: Some taxpayers may say that this credit would provide a benefit to employers to encourage their employees to volunteer at their child's school.

Con: Some taxpayers may argue that this credit creates an unfair bias to this type of volunteer service.

POLICY CONCERNS

The 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 wages paid to an employee that are currently 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.

Generally, credits are limited as a percentage of amounts paid or incurred. This bill would allow a 100 percent credit, which is unprecedented.

LEGISLATIVE STAFF CONTACT

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