Franchise Tax Board

SUMMARY ANALYSIS OF AMENDED BILL

Author:	Hill	Analyst:	Jahna Alvarado	Bill Number:	AB 1278
Related Bills:	See Prior Analysis	Telephone:	845-5683	Amended Date:	August 15, 2011
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: Enterprise Zone, LAMBRA, Manufacturing Enhancement Area, Or Targeted Tax Area Hiring Credits/Limit Credits for Relocating Businesses

SUMMARY

This bill would, for taxpayers that relocate from a location within the state to a Geographically Targeted Economic Development Area (G-TEDA), modify the calculation of the G-TEDA hiring credit.[1]

RECOMMENDATION AND SUPPORTING ARGUMENTS

No position.

SUMMARY OF AMENDMENTS

The August 15, 2011, amendments replaced all of the bill's provisions which related to the G-TEDA hiring credit available to businesses that relocate to a G-TEDA with the provisions discussed in this analysis.

As a result of the August 15, 2011 amendments, the "This Bill" and "Implementation Considerations" sections have been revised. A "Technical Consideration" regarding inconsistent use of language was identified. The "Fiscal Impact," and "Economic Impact" sections were unaffected by the amendments and are provided for convenience.

The remainder of the department's analysis of the bill as amended May 18, 2011, still applies.

ANALYSIS

THIS BILL

This bill would limit the G-TEDA hiring credit available to taxpayers that relocate from within the state to a G-TEDA during a taxable year beginning on or after January 1, 2011, and that have made written, bona fide offers of employment at the new location to each employee at the previous location or locations. The limited credit would be calculated as the amount attributable to the taxpayer's net increase in qualified employees for the taxable year.

[1] "G-TEDA" includes Enterprise Zones, LAMBRAs, Manufacturing Enhancement Areas, and Targeted Tax Areas.

Board Position:			Asst. Legislative Director	Date
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The net increase in employees would be determined as the excess of the number of employees employed by the qualified taxpayer in the state in the current taxable year, as specified, over the number of employees employed by the qualified taxpayer in the preceding taxable year, as specified.

A qualified taxpayer that relocated as described above and failed to make the required written offer would be ineligible for the G-TEDA hiring credit for an unspecified period of time.

IMPLEMENTATION CONSIDERATIONS

Department staff has identified the following implementation considerations for purposes of a high level discussion; additional concerns may be identified as the bill moves through the legislative process. In order for the Franchise Tax Board (FTB) to implement this bill, clarification is necessary for the following issues.

The changes that this bill would make would apply to all relocations within the state, including relocations from one G-TEDA to another G-TEDA. If it is the author's intention that the hiring credit limitation would apply only to relocations from a non-G-TEDA location to a location that is within a G-TEDA, this bill should be amended.

This bill uses the undefined term "relocated" and the undefined phrase "written bona fide offer." The absence of definitions to clarify these terms could lead to disputes with taxpayers and would complicate the administration of this credit.

Because the bill uses the term "employee" and the phrase "qualified employee" interchangeably, it is unclear whether this credit would be limited to the lesser of the net increase in qualified employees or the taxpayer's net increase in statewide employment, as defined. If it is the author's intention to allow a credit only when the taxpayer's statewide workforce has increased relative to the workforce employed at the prior location **and** there has been an increase in the number of qualified employees during the taxable year, this bill should be amended.

It is unclear how the credit would be calculated under the proposed limitation because the basis for determining the limitation on the credit (net increase in qualified employees), and the basis for calculating the amount of the credit (qualified wages paid to specific employees) are inconsistent. For example, if a taxpayer exceeded the previous taxable year's qualified employment by 10, would the wages paid to the most recently hired 10 qualified employees be used to calculate the credit? The 10 qualified employees with the highest wage? Would the taxpayer be allowed to select which 10 qualified employees the credit would be based on? For ease of administration, clarity of language, and internal harmony and consistency with the existing credit language, it is recommended that this bill be amended.

It is unclear how the number of qualified employees for the year preceding a relocation would be determined. Would the number be specified as zero? For a taxpayer that relocates from outside a G-TEDA, would the taxpayer be required to determine the number of employees employed at the prior location that would have been "qualified employees" "as if" the taxpayer had been eligible for a G-TEDA hiring credit? Additionally, would these "as if" "qualified employees" be subject to the existing G-TEDA certification requirements?

The bill is silent on whether the limitation would apply for a limited period, e.g., the taxable year that the relocation occurred in, or would apply in perpetuity. If it is the author's intention that the limitation would be applicable for a specified period, this bill should be amended.

FISCAL IMPACT

The department's costs to administer this bill are unable to be determined until implementation concerns have been resolved. As the bill continues to move through the legislative process and implementation concerns are resolved, costs will be identified and an appropriation will be requested, if necessary.

ECONOMIC IMPACT

The economic impact of this bill on the state's income tax revenue is unable to be determined because numerous assumptions regarding how to calculate the credit would be required to produce an estimate. The accuracy of the estimate would be based on the accuracy of the assumptions, which are incapable of being ascertained.

SUPPORT/OPPOSITION[2]

Support: California Conference Board of the Amalgamated Transit Union
California Conference of Machinists; California Labor Federation
California Nurses Association; California Professional Firefighters
California Teamsters Public Affairs Council
Engineers and Scientists of California
International Longshore and Warehouse Union
Northern California District Council - International Longshore and Warehouse Union
Professional & Technical Engineers, Local 21; UNITE HERE!
United Food and Commercial Workers Union, Western States Council
Utility Workers Union of America, Local 132

Opposition: California Association on Enterprise Zones; California Chamber of Commerce
County of Imperial

LEGISLATIVE STAFF CONTACT

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[2] As reported by the Assembly Jobs, Economic Development, and the Economy Committee Analysis dated August 22, 2011 at <http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_1251-1300/ab_1278_cfa_20110822_150356_asm_comm.html>[as of August 29, 2011].