Franchise Tax Board

ANALYSIS OF AMENDED BILL

Author:	Swanson	Analyst:	Jessica Deitchman	Bill Number:	AB 236
Related Bills:	See Legislative History	Telephone:	845-6310	Amended Date:	January 17, 2012
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: New Jobs Tax Credit Modification/New Full-time Hiring Credit For Employing Previously Unemployed Individuals

SUMMARY

This bill would reduce the New Jobs Tax Credit allocation and would create an income tax credit for employers that hire previously unemployed individuals.

RECOMMENDATION AND SUPPORTING ARGUMENTS

No position.

Summary of Amendments

The January 17, 2012, amendments removed provisions that would have modified the New Jobs Tax Credit and added language to reduce the total credit allocation for the New Jobs Tax credit to $350 million. The amendments would also create a New Full-time Hiring Credit that would be limited to $50 million. As a result of the amendments, the department's analysis of the bill as amended January 5, 2012, no longer applies. This analysis replaces the prior analysis of the bill.

Summary of Suggested Amendments

Technical amendments have been provided to correct a drafting error in the calculation of the credit.

PURPOSE OF THE BILL

According to the author's office, the purpose of this bill is to provide a tax incentive to businesses to stimulate the economy and promote hiring of the unemployed in California.

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. The reduction in the maximum allocation amount for the New Jobs Tax Credit would apply as of the effective date.

Board Position:			Executive Officer	Date
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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.

Current state tax law, SBX3 15 (Calderon, Stats. 2009, Third Extraordinary Session, Ch. 17), allows a New Jobs Tax credit, for taxable years beginning on or after January 1, 2009, to 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) and has a 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.

Current federal law does not provide a credit comparable to the New Jobs Tax Credit allowed by this bill. Federal law does allow employers who hire employees from a “targeted group,” as defined, to elect to claim a work opportunity tax credit (WOTC).[1] The credit is equal to 40 percent of the qualified first-year wages for that year. The amount of the qualified first-year wages that may be taken into account with respect to any individual is limited to $6,000 per year ($12,000 per year in the case of any individual who is a qualified veteran).

Under the Government Code, state law provides for several types of geographically targeted economic development areas (G-TEDAs): Enterprise Zones (EZs), Manufacturing Enhancement Areas (MEAs), Targeted Tax Areas (TTAs), and Local Agency Military Base Recovery Areas (LAMBRAs).

Under the Revenue and Taxation Code, existing state law provides special tax incentives for taxpayers conducting business activities within a G-TEDA. These incentives include a hiring credit, sales or use tax credit, business expense deduction, and special net operating loss treatment. Two additional incentives include net interest deduction for businesses that make loans to businesses within G-TEDAs and a credit for employees working in an EZ.

Hiring Credit: A business located in a G-TEDA is eligible for a hiring credit equal to a percentage of wages paid to qualified employees. A qualified employee must be hired after the area is designated as a G-TEDA and meet certain other criteria. At least 90 percent of the qualified employee’s work must be directly related to a trade or business located in the G-TEDA and at least 50 percent of the employee's services must be performed inside the G-TEDA.

[1] Internal Revenue Code (IRC) 51-Work Opportunity Tax Credit.

The credit is based on the lesser of the actual hourly wage paid or 150 percent of the current minimum hourly wage, under special circumstances for the Long Beach EZ, the maximum is 202 percent of the minimum wage. The amount of the credit must be reduced by any other federal or state jobs tax credits, and the taxpayer's deduction for ordinary and necessary trade or business expenses must be reduced by the amount of the hiring credit.

THIS BILL

This bill would reduce the maximum allocation for the New Jobs Tax Credit from $400 million to $350 million.

In addition, for taxable years beginning on or after January 1, 2012, this bill would create a new, allocable full-time hiring credit for employing previously unemployed individuals subject to a $50 million cap. Specifically, this new full-time hiring credit would do the following:

- Allow a $5,000 credit (or portion thereof for less than full-year hires) for each "qualified employee" hired during the taxable year by a "qualified taxpayer."
- Define "qualified employee" as an individual who was: (1) unemployed for at least 12 months immediately prior to being hired during the taxable year, (2) employed on a full-time basis and be paid wages of at least the prevailing state minimum wage, and (3) employed as of the last day of the taxable year.
- Define "qualified taxpayer" as any taxpayer that employed 20 or fewer employees as of the last day of the preceding taxable year and had an overall increase in full–time employment as of the last day of the current taxable year.
- Allow any unused credit amounts to be carried over for nine taxable years.
- Require that the credit be claimed on a timely-filed original return.
- Prevent a taxpayer from claiming this new full time hiring credit and the existing New Jobs Tax credit with respect to the same employee.
- Cut-off the credit as of the last day of the calendar quarter in which the FTB estimates it will have received timely-filed original returns claiming credits that cumulatively equal $50 million for all taxable years.
- Repeal the credit as of December 1 of the calendar year after the year of the cut-off date.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would occur during the department's normal annual update.

TECHNICAL CONSIDERATIONS

On page 9, line 26: after "be" delete "the total number of calendar months in the taxable year" and insert "12"

On page 20, line 4: after "be" delete "the total number of calendar months in the taxable year" and insert "12"

LEGISLATIVE HISTORY

AB 234 (Wieckowski, 2011/2012) would modify the current New Jobs Tax Credit to increase the amount of the credit to $4,500 or $9,100, depending on how much employees were paid, and would expand the definition of qualified employers. This bill is currently in the Assembly Revenue and Taxation Committee.

AB 304 (Knight, 2011/2012) would allow a credit of $3,000 or $5,000, as specified, to an employer with 30 or more employees that moves or establishes a headquarters within California. This bill is currently in the Assembly Revenue and Taxation Committee.

AB 248 (Perea, 2011/2012) would limit the total amount of the New Jobs Tax Credit to $250 million. The “Qualified Medical Services” tax credit that would be authorized by the bill would be limited to $150 million. AB 248 is currently in the Assembly Appropriations Committee.

AB 1009 (Wieckowski, 2011/2012) would modify the current New Jobs Tax Credit to increase the allowance of the credit from employers with less than 20 employees to employers with 100 or less employees. This bill is currently in the Assembly Revenue and Taxation Committee.

SB 643 (Davis, 2011/2012), would limit the total amount of the New Jobs Tax Credit to $100 million. The “California New Markets” tax credit that would be authorized by the bill would be limited to $300 million. SB 643 is currently in the Assembly Appropriations Committee.

ABX3 15 (Krekorian, Stats. 2010, 3rd Ex. Sess. 2009, Ch. 10) and SBX3 15 (Calderon, Stats. 2010, 3rd Ex. Sess. 2009, Ch. 17) created the New Jobs Tax Credit, which provides a tax credit of $3,000 for each net job increase.

PROGRAM BACKGROUND

As of December 31, 2011, the total Personal Income Tax and Business Entity returns claiming the New Jobs Credit was 12,914 and the amount of credits generated was $76.1 million. The cut-off date is the last day of the calendar quarter within which FTB estimates it will have received timely filed original returns claiming the credit that cumulatively total $400 million.

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, Illinois, New York, Michigan, and *Minnesota* do not offer a credit similar to the New Jobs Tax Credit or the New Hiring Credit proposed by this bill.

Massachusetts allows a Full Employment credit to employers who participate in the Full Employment Program and continue to employ a participant for at least one full month. The taxpayer may claim a credit of $100 per month of eligible employment per participant, up to $1,200 per participant

FISCAL IMPACT

This bill would require a calculation for a New Full-time Hiring Credit that would require a new form to be developed and would require tracking the credit usage. As a result, this bill would impact the department's printing, processing, and storage costs for tax returns. As the bill continues to move through the legislative process, costs will be identified and an appropriation will be requested, if necessary.

ECONOMIC IMPACT

Revenue Estimate

Estimated Revenue Impact of AB 236 as Amended January 17, 2012
For Taxable Years Beginning On or After January 1, 2012
Enactment Assumed On or After June 30, 2012
($ in Millions)

	2012-13	2013-14	2014-15	2015-16	2016-17
New Hiring Credit	-$27	-$11	-$6	-$4	-$1
Reduction in Existing Jobs Credit	$0	$0	$0	$0	+$25
Net Revenue Impact	-$27	-$11	-$6	-$4	+$24

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 bill would provide a tax incentive to businesses to stimulate the economy and promote hiring in California.

Con: Some taxpayers may say it is unfair for taxpayers that hire previously unemployed individuals to receive special treatment and obtain an additional tax credit.

LEGISLATIVE STAFF CONTACT

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