

**SUMMARY ANALYSIS OF AMENDED BILL**

Author: Wieckowski, et al. Analyst: William Koch Bill Number: AB 246  
 Related Bills: See Prior Analysis Telephone: 845-4372 Amended Date: May 8, 2012  
 Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** New Jobs Credit Modification/ Increase Credit Amount Based On Employee Wages

**SUMMARY**

This bill would modify the existing New Jobs Tax Credit by changing the definition of a qualified employer and increasing the amount of the credit to either \$4,500 or \$9,100, depending on the wages paid to employees.

**RECOMMENDATION**

No position.

**SUMMARY OF AMENDMENTS**

The May 8, 2012, amendments added a coauthor and made numerous technical changes to the bill. As a result of the amendments, the "This Bill" section of the department's analysis of this bill as amended February 13, 2012, has been revised. The "Fiscal Impact" section has been revised to indicate that implementing this bill would not significantly impact the department's costs. The previously noted technical consideration no longer applies, but new technical considerations have been identified. The remainder of the department's analysis of this bill as amended February 13, 2012, still applies. The "Economic Impact" section has been restated for convenience.

**ANALYSIS**

THIS BILL

For taxable years beginning on or after January 1, 2012, this bill would change the existing New Jobs Tax Credit to re-define the term "qualified employer" to be a "disabled veteran business enterprise," a "disadvantaged business enterprise," a "micro-business," or a "small business." These terms would be defined by reference to other provisions of law as follows:

- A "disabled veteran business enterprise" is a business that is owned at least 51 percent by a disabled veteran(s); the management and control of daily business is completed by one or more disabled veteran(s); and it is a sole proprietorship, corporation, or partnership with its home office located in the United States (US).<sup>1</sup>

<sup>1</sup> Military and Veterans Code section 999, subdivision (b), paragraph (7).

Board Position:	Legislative Director	Date
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- A “disadvantaged business enterprise”<sup>2</sup> is a business that is a “disadvantaged business enterprise,” as defined in the code of federal regulations, that is:
  1. An individual proprietorship, partnership, corporation, or joint venture; and
  2. Organized for profit with a place of business located in the US and which makes a significant contribution to the U.S. economy through payment of tax or use of American products, material, or labor.

The federal code of regulations defines a disadvantaged business to mean a small business concern<sup>3</sup>:

- (a) Which is at least 51 percent owned by one or more socially and economically disadvantaged individuals, or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and
  - (b) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals<sup>4</sup> who own it.
- A “micro-business” is a specified small business that has average annual gross receipts of \$2.5 million or less for the previous three years, or is a specified manufacturer with 25 or fewer employees.<sup>5</sup>
  - A “small business” is a specified independently owned and operated business that is not dominant in its field of operation, has its principal office located in California, has the officers domiciled in California, has 100 or fewer employees, and has average annual gross receipts of \$10 million or less over the last three years, or is a specified manufacturer with 100 or fewer employees.<sup>6</sup>

For taxable years beginning on or after January 1, 2012, this bill would also increase the amount of the existing New Jobs Tax Credit to be equal to \$4,500 for employees whose wages are less than \$16 per hour, or an equivalent amount if paid other than on an hourly basis, or \$9,100 for employees whose wages exceed \$16 per hour, or an equivalent amount if paid other than on an hourly basis. The credit amount would be determined based on the increase in qualified full-time employees, or portion thereof, determined using the “annual full-time equivalent” calculation.

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<sup>2</sup> Public Contract Code, section 2051, subdivision (f).

<sup>3</sup> Small business concern means a small business as defined pursuant to section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto except that a small business concern shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has annual average gross receipts in excess of \$14 million over the previous three fiscal years.

<sup>4</sup> Socially and economically disadvantaged individuals means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are women, Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, or Asian-Indian Americans and any other minorities or individuals found to be disadvantaged by the Small Business Administration pursuant to section 8 of the small business act, as provided.

<sup>5</sup> Government Code section 1483, subdivision (d), paragraph (2).

<sup>6</sup> Government Code section 14837, subdivision (d), paragraph (1).

Under this bill, “annual full-time equivalent” would be calculated using the total number of hours worked for the qualified employer by the employee (not to exceed 1,820 hours per employee) divided by 1,820, instead of the current calculation that uses 2,000 hours. For salaried full-time employees, the calculation of “annual full-time equivalent” would remain unchanged, and would be computed by taking the total number of weeks the employee worked for the qualified employer and dividing by 52.

**TECHNICAL CONSIDERATIONS**

1. On page 3, delete lines 16 and 17 and on page 7, delete lines 29 and 30, because the term “acquire” is already defined in Revenue and Taxation Sections 17276.20(f)(6) and 24416.20(g)(6) and would be applicable to this bill.
2. On page 3, line 26, and page 7, line 39, between “qualified” and “employee” insert:

“full-time”

**FISCAL IMPACT**

Implementing this bill would not significantly impact the department’s costs.

**ECONOMIC IMPACT**

**Revenue Estimate**

Estimated Revenue Impact of AB 246 For Taxable Years Beginning On or After January 1, 2012 Enactment Assumed After June 30, 2012 (\$ in Millions)		
2012-13	2013-14	2014-15
-\$150	-\$46	+\$16

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 reported.

Opposition: None reported.

**LEGISLATIVE STAFF CONTACT**

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