

SUMMARY ANALYSIS OF AMENDED BILL

Author: Walters Analyst: William Koch Bill Number: SB 1179
 Related Bills: See Prior Analysis Telephone: 845-4372 Amended Date: May 15, 2012
 Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Employer Credit For Hiring Disabled Veterans

SUMMARY

This bill would provide a \$3,000 tax credit for each disabled veteran hired by a qualified employer, as specified, limited to a cumulative total of allowable credit of \$25 million.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The May 15, 2012, amendments (1) reduced the cumulative total of allowable credit this bill would provide from \$100 million to \$25 million, (2) added provisions that would provide an exemption from the underpayment of estimated tax penalty to the extent the penalty is attributable to the cumulative total of \$25 million of allowable credit being reached, and (3) made technical changes to the bill.

As a result of the amendments, the "This Bill," "Implementation Considerations," "Technical Considerations," and "Fiscal Impact" sections of the department's analysis of this bill as amended April 10, 2012, have been revised. The remainder of that analysis still applies. The "Economic Impact" section has been restated for convenience.

ANALYSISTHIS BILL

This bill would, for taxable years beginning on or after January 1, 2013, provide a tax credit for a qualified employer in the amount of \$3,000 for each increase in qualified full-time employees hired during the taxable year, determined on an annual full-time equivalent basis, limited to a cumulative total of allowable credit of \$25 million. Any credits not used in the taxable year may be carried over for up to eight years.

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input checked="" type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	

Legislative Director

Date

Gail Hall

06/13/12

This bill provides the following definitions:

- “Qualified employer” means a taxpayer that is primarily engaged in the lines of business classified in Code 339113 (Surgical Appliance and Supplies Manufacturing) of the North American Industry Classification System (NAICS) published by the United State Office of Management and Budget, 2012 edition. Examples of products manufactured by such businesses include orthopedic devices, prosthetic appliances, surgical dressings, crutches, surgical sutures, hospital beds, and operating room tables.
- “Qualified full-time employee” means an employee who is a disabled veteran, as defined in Section 999 of the Military and Veterans Code¹, who was (1) paid qualified wages during the taxable year by the qualified employer for services of not less than an average of 35 hours per week, or (2) was a salaried employee and was paid compensation during the taxable year for full-time employment, within the meaning of Section 515 of the Labor Code², by the qualified employer.
- “Qualified full-time employee” would not include an employee (1) certified as a qualified employee in an enterprise zone or targeted tax area, (2) certified as a qualified disadvantaged individual in a manufacturing enhancement area, or (3) whose wages are included in calculating any other credit allowed.
- “Annual full-time equivalent” means either of the following:
 1. In the case of a full-time employee that is paid hourly, the total number of hours worked for the taxpayer by the employee (not to exceed 2000 hours) divided by 2000.
 2. In the case of a salaried full-time employee, the total number of weeks worked for the taxpayer divided by 52.
- “Qualified wages” means wages to subject to Division 6 of the Unemployment Insurance Code (California wage withholding).

This bill would provide that the net increase in qualified employees would be determined on an annual full-time equivalent basis by comparing the number of qualified full-time employees employed by the taxpayer in the current taxable year with the number of qualified full-time employees that were employed by the taxpayer in the preceding taxable year. For taxpayers who first commenced doing business in the state during the taxable year, the number of qualified full-time employees for the immediately preceding taxable year would be zero.

¹ Military and Veterans Code Section 999(b)(6) defines "disabled veteran" as a veteran of the military, naval, or air service of the United States, including, but not limited to, the Philippine Commonwealth Army, the Regular Scouts, "Old Scouts," and the Special Philippine Scouts, "New Scouts," who has at least a 10-percent service-connected disability and who is domiciled in the state.

² Labor Code Section 515(c) defines "full-time employment" as employment in which an employee is employed for 40 hours per week.

Any deduction an employer is allowed for qualified wages would not be reduced by the amount of the credit allowed by this bill. Taxpayers would only be able to claim this credit on an original timely filed return received by the Franchise Tax Board (FTB) on or before a cut-off date specified by the FTB, which would be the last day of the calendar quarter within which the FTB estimates it will have received timely filed original returns claiming the credit that cumulatively total \$25 million for all taxable years. The date received on a return would be determined by the FTB. Determinations made by the FTB with respect to the cut-off date, the date a return is received, and whether a return has been timely filed would not be reviewable in any administrative or judicial proceeding. This bill also would provide that a penalty for the underpayment of estimated tax would not apply if the underpayment was created or increased by the disallowance of the credit due to the \$25 million cumulative total of allowable credit being reached.

In addition, any disallowance of the credit due to the cumulative total of the credit being reached would be treated as a math error, and would not be subject to review in any administrative or judicial proceeding.

This bill would require the FTB to provide periodic notice on its website of the amount of the credit claimed on timely filed original returns and would allow the FTB to prescribe rules, guidelines, or procedures necessary to carry out the provisions of the bill. Any rules, guidelines or procedures established would be exempt from the Administrative Procedures Act.

The credit allowed by this bill would remain in effect only until December 1 of the calendar year after the year in which the cumulative credit limit has been reached and would be repealed as of that date.

IMPLEMENTATION CONSIDERATIONS

If the resources identified below in the "Fiscal Impact" section are received, implementing this bill would not significantly impact the department's programs or operations.

TECHNICAL CONSIDERATIONS

On page 3, lines 26 and 30, and on page 7, lines 14 and 18, after "of" insert:

qualified

FISCAL IMPACT

This bill would require the FTB to revise the tax forms and instructions, make changes to tax return processing systems and procedures, and monitor the allowance of the credit in order to ensure the cap of \$25 million is not exceeded. As a result, the department expects to incur one-time implementation costs of \$417,000 and absorbable annual ongoing costs.

ECONOMIC IMPACT

Revenue Estimate

Estimated Revenue Impact of SB 1179 For Taxable Years Beginning On or After January 1, 2013 Assumed Enactment After June 30, 2012		
2012-13	2013-14	2014-15
-\$200,000	-\$600,000	-\$800,000

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

SUPPORT/OPPOSITION³

Support: American Legion
AMVETS
California Association for Health Services at Home
Vietnam Veterans of America

Opposition: None reported.

LEGISLATIVE STAFF CONTACT

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³ According to the May 25, 2012, Senate Floor analysis of this bill which can be found at:
http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_1151-1200/sb_1179_cfa_20120525_090752_sen_floor.html