

**SHORT FORM ANALYSIS**

Author: Runner Analyst: Jahna Alvarado Bill Number: SB 640  
 Related Bills: See Prior Analysis Telephone: 845-5683 Amended Date: July 12, 2011  
 Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Employer Hiring Credit/Qualified Full Time Employees Who Have Received Unemployment Insurance Benefits For Not Less Than 6 Months Prior To Hiring/FTB Periodically Provide Notice On Web Site On Amount Of Credits Claimed

**SUMMARY**

This bill would provide a tax credit for a qualified taxpayer who employs qualified employees.

**ANALYSIS**

Minor/Technical Amendment

The July 12, 2011, amendments resolved the department’s technical considerations by accepting the amendments suggested in the department’s analysis dated May 12, 2011. Except for the technical considerations, the department’s analysis of the bill as amended May 12, 2011, still applies. The Implementation Considerations, Fiscal Impact, Economic Impact, and Policy Concern have been provided below for convenience.

**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.

This bill uses the undefined terms, “actively received unemployment insurance benefits,” “nonseasonal, full-time employment position,” and “unemployment insurance benefits.” The absence of definitions to clarify these terms could lead to disputes with taxpayers and would complicate the administration of this credit. For example, unemployment benefits paid by a jurisdiction outside of California could qualify an individual for purposes of this credit. If this is contrary to the author’s intention, this bill should be amended. The author may wish to consider the definition of “qualified full-time employee” contained in the existing new jobs tax credit.<sup>1</sup>

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<sup>1</sup> Revenue and Taxation Code sections 17053.80(b)(2) and 23623(b)(2).

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	Asst. Legislative Director                      Date  Anne Maitland                                      7/20/11 for Patrice Gau-Johnson
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Because this bill would require an individual to have received unemployment insurance benefits for a specified period to qualify for the credit, an individual that had been unemployed for the specified period who was ineligible for unemployment insurance benefits would fail to qualify for the credit. If this is contrary to the author's intention, this bill should be amended.

It is unclear whether the qualified amount of \$250 that would be allowed for two two-week pay periods is intended to address mid-month hiring and separations. Lack of clarity could lead to disputes with taxpayers and would complicate the administration of this credit. If it is the author's intention that the \$250 qualified amount would be limited to the calendar months of a qualified employee's hire date and, if applicable, the last date of a qualified employee's employment, this bill should be amended.

Although this bill would establish the minimum requirements for being eligible for the \$250 qualified amount, it is silent on both the maximum number of hours employed during a month and the maximum gross monthly income for purposes of determining whether the qualified amount for the month would be \$250 or \$500. As a result, a qualified employee could be eligible for both the \$500 qualified amount and the \$250 qualified amount in the same month while still remaining subject to the \$6,000 maximum aggregate qualified credit amount. If the author intends that a qualified employee could only satisfy requirements for one of the two qualified amounts in any given month, this bill should be amended.

The FTB lacks the ability to verify the minimum duration of receipt of unemployment insurance benefits that this bill would require. Typically, credits involving areas for which the department lacks expertise are certified by another agency or agencies that possess the relevant expertise. For example, the agency responsible for paying the unemployment insurance benefits could serve as the certifying agency. For example, the Employment Development Department could serve as the certifying agency for individuals receiving benefits from the state of California. The certification language would specify the responsibilities of both the certifying agency and the taxpayer.

### **FISCAL IMPACT**

Department staff is unable to determine the costs to administer this bill until the implementation concerns have been resolved.

### **ECONOMIC IMPACT**

Estimated Revenue Impact of SB 640 Credit for Employing Certain Unemployed Effective For Taxable Years Beginning On or After January 1, 2011 Enactment Assumed On or After June 30, 2011 (\$ in Millions)		
2011-12	2012-13	2013-14
-\$44	-\$18	-\$9.7

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

### **POLICY CONCERN**

Because this bill fails to specify otherwise, a taxpayer could claim the credit proposed by this bill and a deduction for the wages paid to a qualified employee. Generally, a credit is allowed in lieu of any deduction or credit already allowable in order to eliminate multiple tax benefits.

### **LEGISLATIVE STAFF CONTACT**

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