

ANALYSIS OF AMENDED BILL

Author: Gorell, et al. Analyst: Narinder Dosanjh Bill Number: AB 1261
 See Legislative
 Related Bills: History Telephone: 845-5275 Amended Date: June 5, 2014
 Attorney: Bruce Langston Sponsor _____

SUBJECT: Contribution to California Preschool Investment Fund Credit

SUMMARY

This bill would establish a tax credit under the Personal Income Tax Law and Corporation Tax Law for cash contributions made to the California Preschool Investment Fund.

This analysis only addresses the provisions of the bill that impact the department’s programs and operations.

RECOMMENDATION

No position.

Summary of Amendments

The June 5, 2014, amendments eliminated provisions of the bill related to school buildings and added the provisions discussed in this analysis. This is the department’s first analysis of the bill.

REASON FOR THE BILL

The reason for the bill is to generate an additional source of funding to expand the number of preschool slots and subsidies available to parents seeking prekindergarten child care assistance by offering an income tax credit.

EFFECTIVE/OPERATIVE DATE

This bill would be effective January 1, 2015, and specifically operative for taxable years beginning on or after January 1, 2015, and before January 1, 2019. The credit would be repealed by its own terms on December 1, 2019.

FEDERAL/STATE LAW

Existing federal and state 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.

Board Position: _____ S _____ NA _____ X _____ NP _____ SA _____ O _____ NAR _____ N _____ OUA _____	Executive Officer Selvi Stanislaus	Date 07/17/14
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Current state law allows corporations that are members of the same unitary combined reporting group to assign "eligible" credits to other members of the group. An "eligible" credit is any credit earned by the taxpayer in a taxable year beginning on or after July 1, 2008, or any credit earned in any taxable year beginning before July 1, 2008, that was eligible to be carried forward to the first taxable year beginning on or after July 1, 2008. The credit assignment is made by an irrevocable election. The assignor and assignee taxpayers must be members of the same combined reporting for the taxable year in which the credit is earned and the taxable year the credit is assigned.

Currently, neither federal nor state law provides a credit similar to the one this bill would create.

Existing federal and state laws allow individuals to deduct certain expenses, such as medical expenses, charitable contributions, interest, and taxes, as itemized deductions. Itemized deductions may be limited for high-income taxpayers.

Federal and state laws generally allow deductions from income for charitable contributions. Under certain circumstances an individual is allowed to deduct the fair market value of the property being contributed. An individual can deduct an amount not to exceed 50 percent of their adjusted gross income. The charitable contribution deduction for a corporation is limited to the adjusted basis of the property being contributed and the total charitable contribution deduction in a given year is limited to 10 percent of the corporation's net income. Contributions made by either an individual or a business in excess of the percentage limitations may be carried over and deducted in future years.

THIS BILL

This bill would create the California Preschool Investment Fund in the state treasury. For taxable years beginning on or after January 1, 2015, and before January 1, 2019, this bill would allow an income or franchise tax credit of 40 percent of amounts contributed during the taxable year to the California Preschool Investment Fund. Taxpayers may only claim this credit on an original, timely filed return.

The credit would be allowed to taxpayers that received a receipt for their contribution to the California Preschool Investment Fund from the State Department of Education (Department of Education). Taxpayers would be required to provide the receipt to the Franchise Tax Board (FTB) upon request.

A deduction otherwise allowed for amounts the credit is based upon would be required to be reduced by the amount of the credit allowed.

Any unused credit may be carried over to reduce the tax for the following five years if necessary, until the credit is exhausted.

The aggregate amount of credit that could be allocated by the Department of Education for each calendar year would be \$250 million.

The Department of Education would be required to do all of the following:

- Allocate the income and franchise tax credit to taxpayers on a first come, first served basis.
- Establish a procedure for taxpayers to contribute to the California Preschool Investment Fund and obtain receipt for the credit.
- Notify the FTB of the credits allocated on a monthly basis.

The FTB and the Department of Education would be required to place this information on their respective web sites together with the amount of remaining credits, and update the information every calendar quarter, including information as to whether the \$250 million cap may be reached by the end of the calendar quarter.

Amounts contributed to the California Preschool Investment Fund would first be allocated to reimburse the General Fund for the aggregate amount of the credit allowed. Then, upon appropriation by the Legislature, the funds would be allocated to the FTB and the Department of Education to reimburse all administrative costs incurred in connection with this credit and to the Department of Education for the purposes of funding preschool programs.

The FTB may prescribe rules, guidelines or procedures necessary or appropriate to carry out the purpose of the credit. These rules, guidelines, or procedures would be exempt from the normal rulemaking requirements of the Administrative Procedures Act.

The credit would be repealed by its own terms as of December 1, 2019.

IMPLEMENTATION CONSIDERATIONS

The department has identified the following implementation concern. Department staff is available to work with the author's office to resolve this and other concerns that may be identified.

The bill would require that the General Fund be reimbursed for the aggregate amount of the certified credit that was allowed. It is unclear whether the general fund reimbursement would be based on the allocated credit amount or the amount of credit used to reduce tax. The bill should be amended for clarity.

LEGISLATIVE HISTORY

AB 2107 (Gorell and Olsen, 2013/2014) would have created an income tax credit for cash contributions made to the California Preschool Investment Fund. AB 2107 was held in the Assembly Appropriations Committee.

SB 1356 (De Leon, 2011/2012) would have created an income tax credit for cash contributions made to an education special fund with an aggregate credit cap of \$100 million per calendar year. SB 1356 was held in the Assembly Appropriations Committee.

AB 279 (Duvall, 2009/2010) would have created an income tax credit for contributions to a scholarship granting organization. AB 279 failed passage out of the Assembly Revenue and Taxation Committee.

OTHER STATES' INFORMATION

Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York laws do not provide a credit comparable to the credit allowed by this bill. These states were selected due to their similarities to California's economy, business entity types, and tax laws.

FISCAL IMPACT

Until the implementation consideration is resolved, the department is unable to determine the costs related to this bill.

ECONOMIC IMPACT

Revenue Estimate

Estimated Revenue Impact of AB 1261* As Amended June 5, 2014 Assumed Enactment After June 30, 2014 (\$ in Millions)		
2014-15	2015-16	2016-17
- \$2.2	- \$17	- \$19

*The table above shows the impact on income and corporation tax revenue. This bill would require funds to be transferred from the California Preschool Investment Fund to the General Fund so that the net impact of Preschool Investment Fund Credits on the General Fund would be zero or a minimal gain due to timing and usage.

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

Proponents: Supporters could argue that this bill would encourage more taxpayers to contribute to the California Preschool Investment Fund and expand the state support available to parents seeking prekindergarten child care assistance.

Opponents: Some could argue that using a tax credit to expand state support of prekindergarten child care assistance, while a worthy cause, would provide a funding advantage over other worthy state services that rely on the budget process for funding.

POLICY CONCERNS

This bill would create differences between federal and California tax law thereby increasing the complexity of California tax return preparation.

Tax credits generally are designed to provide incentives for taxpayers to perform various actions or activities that they may not otherwise undertake. This bill would create a credit for certain donations that are currently deductible as charitable contributions. As a result, because the credit's dollar-for-dollar reduction of tax is a more generous tax benefit than a deduction, there could be a redirection of existing, planned charitable giving to obtain the tax credit allowed under this bill.

LEGISLATIVE STAFF CONTACT

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