

Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author: Jones-Sawyer Analyst: Michelle Chan Bill Number: AB 2427
Related Bills: See Legislative History Telephone: 845-6805 Introduced Date: February 21, 2014
Attorney: Bruce Langston Sponsor:

SUBJECT: Teacher's Unreimbursed Instructional Materials & Classroom Supplies Expenses Credit

SUMMARY

This bill would, under the Personal Income Tax Law, create a tax credit for certain education-related expenses.

RECOMMENDATION

No position.

REASON FOR THE BILL

The reason for this bill is to provide state tax relief for education expenses, leveraged with current federal deductions that would further support and strengthen new teachers for successful careers in their noble profession.

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, 2014, and before January 1, 2019.

ANALYSIS

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.

Current federal law allows eligible educators to deduct up to \$250 of the cost to purchase books, supplies (other than nonathletic supplies for courses of instruction in health or physical education), computer equipment (including related software and services) and other equipment, and supplementary materials used by the eligible educator in the classroom as an adjustment to gross income. This above-the-line deduction applies to taxable years beginning during calendar years 2002 through 2014. California does not conform to this deduction.

There are currently no federal or state credits comparable to the credit this bill would create.

Table with 2 columns: Board Position and Executive Officer/Date. Board positions include S, SA, N, NA, O, OUA, NP, NAR. Executive Officer is Selvi Stanislaus, Date is 4/30/14.

THIS BILL

This bill would, for taxable years beginning on or after January 1, 2014, and before January 1, 2019, create a tax credit in an amount equal to the amount paid or incurred by a qualified teacher during the taxable year for instructional materials and classroom supplies, not to exceed \$250 per qualified teacher or \$500 for two qualified teachers who are married to each other and file a joint return.

For the purpose of determining this credit, the following definitions would apply:

- “Instructional materials and classroom supplies” means books, supplies, computer equipment, including related software and services and other equipment, and supplementary materials used in the classroom, including, but not limited to, supplies for courses in health and physical education, the amount paid or incurred for which is otherwise deductible under Section 162 of the Internal Revenue Code¹ and not reimbursed.
- “Qualified teacher” means a teacher who meets all of the following requirements:
 - A. The individual has worked at least 900 hours in the school year as a teacher, in a school offering instruction in kindergarten or any of grades 1 to 12, inclusive, in California at a public, charter, or private school that has a current private school affidavit on file with the State Department of Education in a school year.
 - B. The teacher is primarily engaged in the duty of imparting knowledge to pupils by teaching, instructing, or lecturing.
 - C. The teacher customarily and regularly exercises discretion and independent judgment in performing the duties of a teacher.
 - D. The teacher is not employed as a tutor, teaching assistant, instructional aide, student teacher, day care provider, vocational instructor, or similar position.

The credit would be available for qualified teachers based upon the years of employment as a qualified teacher as follows:

<u>Taxable Years</u>	<u>Years of Employment</u>
January 1, 2014 – January 1, 2015	No more than one year
January 1, 2015 – January 1, 2016	No more than two consecutive years
January 1, 2016 – January 1, 2019	No more than three consecutive years

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

¹ Internal Revenue Code Section 162 – Trade or Business Expenses.

The Franchise Tax Board (FTB) would be authorized to 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.

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

IMPLEMENTATION CONSIDERATIONS

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

It is unclear how the department would verify whether a teacher meets the requirements of this bill and therefore be eligible for the credit. The author may wish to consider requiring the proper local agency to certify that the teacher met the requirements of this bill and requiring the taxpayer to obtain, retain and provide to the FTB, upon request, evidence of that certification.

This bill would allow a credit for qualified teachers based upon the years of employment as a qualified teacher. However, this bill fails to specify as to when or how recently that employment as a qualified teacher must have occurred. For example, would the years of employment begin one year after the effective date of the statute or one year for the teacher's entire life as a qualified teacher? To avoid conflicts between taxpayers and the department, the bill should be amended.

LEGISLATIVE HISTORY

SB 413 (Knight, 2013/2014) would have created a personal income tax credit for qualifying science, technology, engineering, or mathematics (STEM) teachers. SB 413 failed passage out of the Senate Governance and Finance Committee.

SB 693 (Correa, 2013/2014) similar to this bill, would have created a personal income tax credit for certain education-related expenses. SB 693 failed passage out of the Senate Appropriations Committee.

AB 1071 (Fuentes, 2011/2012) would have created an income tax credit for the purchase of qualified school supplies by a credentialed teacher. AB 1071 failed passage out of the Assembly Revenue and Taxation Committee.

AB 2088 (Bonilla, 2011/2012) would have created a personal income tax credit for qualifying science, technology, engineering, or mathematics (STEM) teachers. AB 2088 failed passage out of the Assembly Revenue and Taxation Committee.

SB 87 (Senate Budget Committee, Chapter 180, Statutes of 2007) repealed the provision authorizing the Teacher Retention Credit that was allowed to credentialed teachers in specified amounts depending on the number of service years as a credentialed teacher in a qualifying educational institution.

OTHER STATES' INFORMATION

Review of *Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York* laws found no comparable tax credits. These states were reviewed because of their similarities to California's economy, business entity type, and tax laws.

FISCAL IMPACT

Department staff is unable to determine the costs to administer this bill until the implementation concerns have been resolved. As the bill continues to move through the legislative process and the implementation concerns are resolved, costs will be identified and an appropriation will be requested, if necessary.

ECONOMIC IMPACT

Revenue Estimate

Estimated Revenue Impact of AB 2427 As Introduced February 21, 2014 Assumed Enactment After June 30, 2014 (\$ in Millions)		
2014-15	2015-16	2016-17
- \$2.5	- \$4.9	- \$7.1

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

SUPPORT/OPPOSITION²

Support: California Catholic Conference (Sponsor).

Opposition: None provided.

ARGUMENTS

Proponents: Supporters could argue that this bill would provide financial assistance to new teachers who reach into their own pockets to fund vital education resources and services.

Opponents: Some could argue that providing a tax credit to assist teachers with expenses could result in higher taxes on others or reductions in services to make up for the revenue losses associated with the tax credit.

² As noted by the Assembly Member Reginald B. Jones-Sawyer's Assembly Bill 2427 Fact Sheet as of February 5, 2014.

POLICY CONCERNS

This bill would create a tax credit for specified instructional materials and classroom supplies purchases that may currently be deductible as employee business expenses. Generally, a tax credit is allowed in lieu of a deduction in order to eliminate multiple tax benefits for the same item of expense.

LEGISLATIVE STAFF CONTACT

Michelle Chan

Legislative Analyst, FTB

(916) 845-6805

michelle.chan@ftb.ca.gov

Mandy Hayes

Revenue Manager, FTB

(916) 845-5125

mandy.hayes@ftb.ca.gov

Jahna Carlson

Asst. Legislative Director, FTB

(916) 845-5683

jahna.carlson@ftb.ca.gov