

**SUMMARY ANALYSIS OF AMENDED BILL**

Author: Liu, DeSaulnier, et al. Analyst: Jessica Deitchman Bill Number: SB 1189  
 Related Bills: See Prior Analysis Telephone: 845-6310 Amended Date: April 29, 2014  
 Attorney: Bruce Langston Sponsor: \_\_\_\_\_

**SUBJECT:** Earned Income Credit/15 Percent of Federal Credit

**SUMMARY**

This bill would, under the Personal Income Tax Law, create a nonrefundable California Earned Income Credit for residents and nonresidents.

**RECOMMENDATION**

No position.

**SUMMARY OF AMENDMENTS**

The April 29, 2014, amendments added a sunset date to the credit, corrected a cross reference, and added a requirement for the Franchise Tax Board (FTB) to annually provide a report on credit utilization to the legislature. As a result of these amendments, the Technical Considerations as provided in the department’s analysis of the bill as introduced February 20, 2014, have been resolved. The outstanding Implementation Considerations and Policy Concerns have been restated below for convenience. The Revenue Estimate and Fiscal Impact remain unchanged and have also been included below.

Except for the “This bill”, and “Effective/Operative Date” discussions, the remainder of the department’s analysis of the bill as introduced February 20, 2014, still applies.

**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, 2015, and before January 1, 2026.

**ANALYSIS**

THIS BILL

For taxable years beginning on or after January 1, 2015, and before January 1, 2026, this bill would provide a nonrefundable state Earned Income Credit (EIC), equal to 15 percent of the federal EIC, as applicable for federal purposes.

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	<table style="width: 100%; border: none;"> <tr> <td style="border: none;">Legislative Director</td> <td style="border: none; text-align: right;">Date</td> </tr> <tr> <td style="border: none;">Gail Hall</td> <td style="border: none; text-align: right;">5/8/14</td> </tr> </table>	Legislative Director	Date	Gail Hall	5/8/14
Legislative Director	Date				
Gail Hall	5/8/14				

The bill would require the FTB to submit a report on the utilization of the credit to the Legislature on or before January 1, 2025. The report must include information regarding the effectiveness of the credit, including the amount of credit claimed, the number of claims made, and an estimate of the amount overclaimed and underclaimed.

**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.

The taxpayer error rate and fraud concerns on the federal EIC cause the IRS to adjust many returns. Consequently, the correct federal EIC amount may be unknown until after the taxpayer has filed the state return, claimed the proposed California credit, and received a refund. The FTB would be required to issue assessments to correct and collect tax due as result of a change to the federal EIC.

Relying on the EIC under federal law may present implementation problems for Registered Domestic Partners (RDPs). RDPs are required to file California income tax returns using the rules applicable to married individuals. If the author’s intent is to allow an EIC for RDPs, a rule should be included in the bill to address the difference between federal and state law.

The bill would require the FTB to report to the Legislature the “effectiveness of the credit” and the amount “overclaimed and underclaimed.” These terms are undefined in the bill. Without a definition, the term could be broadly interpreted and the department may not be able to capture and report the information intended.

**FISCAL IMPACT**

Costs to administer this bill have not been determined at this time. As the bill continues to move through the legislative process, costs will be identified and an appropriation will be requested, if necessary.

**ECONOMIC IMPACT**

Revenue Estimate

Estimated Revenue Impact of SB 1189 As Amended April 29, 2014 Enactment Assumed After June 30, 2015 (\$ in Millions)		
2014-15	2015-16	2016-17
- \$24	- \$120	- \$130

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

## **SUPPORT/OPPOSITION**

Support: California Catholic Conference of Bishops, California Family Resource Association, California for Shared Prosperity and EARN California.

Opposition: None provided.

## **POLICY CONCERNS**

This bill lacks carryover language. As a result, any unused credit would be lost if the taxpayer is unable to use the entire credit amount in the year claimed. The author may wish to add language allowing a limited carryover period.

## **LEGISLATIVE STAFF CONTACT**

Jessica Deitchman  
Legislative Analyst, FTB  
(916) 845-6310

[jessica.deitchman@ftb.ca.gov](mailto:jessica.deitchman@ftb.ca.gov)

Mandy Hayes  
Revenue Manager, FTB  
(916) 845-5125

[mandy.hayes@ftb.ca.gov](mailto:mandy.hayes@ftb.ca.gov)

Gail Hall  
Legislative Director, FTB  
(916) 845-6310

[gail.hall@ftb.ca.gov](mailto:gail.hall@ftb.ca.gov)