

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Cunneen Analyst: Kristina E. North Bill Number: AB 81

Related Bills: See previous analysis Telephone: 845-6978 Amended Date: April 6, 1999

Attorney: Patrick Kusiak Sponsor:

SUBJECT: Employer Public School Or Vocational Institution Math Or Science Teachers Credit/Open Enrollment Class Credit/FTB Report To Legislature Re: Credits

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced December 9, 1998, and as amended February 4, 1999.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO NEUTRAL.

REMAINDER OF PREVIOUS ANALYSIS OF BILL As Introduced December 9, 1998, and Amended February 4, 1999, STILL APPLIES.

OTHER - See comments below.

SUMMARY OF BILL

Under the Personal income Tax Law (PITL) and the Bank and Corporation Tax Law (B&CTL), this bill would authorize a credit to taxpayers equal to 50% of the qualified expenses paid or incurred during the taxable or income year in connection with lending a qualified employee to a high school, community college or vocational school for the purpose of teaching math or science.

Under the PITL and the B&CTL, this bill also would authorize a credit to taxpayers equal to 50% of qualified expenses paid or incurred during a taxable or income year in connection with allowing a public school teacher to attend an employer-sponsored education class by using an open enrollment space.

This analysis will not address this bill's changes to the Education Code as they do not impact the Franchise Tax Board (FTB).

SUMMARY OF AMENDMENT

The April 6, 1999, amendment would limit the credit for lending a qualified employee to a high school to an employee filling a vacant teaching position for which no certified high school teacher was available, as certified by the employing school district.

The amendment also would require the FTB to provide an annual report to the Legislature, beginning on or before January 1, 2002. The report must include the number and dollar amounts for each type of credit authorized by this bill, the number and locations of the schools receiving loaned teachers, and the number and locations of the schools sending teachers to employer sponsored classes to fill open enrollment positions.

Board Position:

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Department/Legislative Director Date

Johnnie Lou Rosas **4/29/1999**

Except for these changes, and the resulting implementation and technical considerations, the remainder of the department's analysis of the bill as introduced December 7, 1998, still applies. The previously discussed implementation and technical considerations for the credits were discussed separately and are restated below. Department staff is working with the author's office to resolve these concerns.

FTB REPORTING REQUIREMENT ON BOTH CREDITS

Implementation Considerations

A public school or vocational institution receiving a loaned employee would be required to provide the **taxpayer** with certification that teaching services had been received, including the employee's name, dates of teaching service and number of teaching hours. However, neither the school name nor its location is required. Further, this bill does not require any certification for a public school sending teachers to employer-sponsored education classes. Thus, the department would not have access to nor be able to provide some of the information required to be reported annually to the Legislature. Also, if the bill is amended to require the taxpayer to provide the appropriate information, this type of information would go beyond the department's normal reporting requirement, requiring forms changes and additional keying.

Technical Considerations

The annual reporting requirement for both credits is located only in the B&CTL credit for allowing a public school teacher to attend an employer-sponsored education class. The annual reporting requirement would be more appropriately located in each individual credit section or in an off-code section of this bill.

LENDING QUALIFIED EMPLOYEE TO TEACH MATH AND SCIENCE

Implementation Considerations

- ◆ It is unclear what constitutes "preparation time."
- ◆ Further definition is needed as to which items would constitute "qualified expenses" (i.e., direct/indirect wages for classroom personnel, teaching supplies, class materials, equipment, etc.).
- ◆ A definition is needed for "vocational institution" for the department to process this credit since it is unclear whether "public" applies to vocational institution. Further, it is unclear if the author intended that this credit be allowed for teaching in a vocational institution outside of this state.
- ◆ Credits are typically used within eight years of being earned. Since this credit does not have a carryover limit, the department would be required to retain the credit carryover on the tax forms and instructions indefinitely.

Technical Considerations

- ◆ The school must certify certain items for the credit to be allowed. Further language should be added to this provision to include verification that the employee has or is eligible for issuance of an eminence credential and to require the taxpayer to provide a copy of the certification to the department upon request. In addition, the requirement that the school district certify that the employee is filling a vacant position for which no certified high school teacher is available should be located within the same subdivision as the other certification requirements.
- ◆ Wages paid for both teaching and "preparation time" qualify for this credit. Teaching time must be certified by the public school or vocational institution. "Preparation time" need not be certified. The lack of definition of "preparation time," together with the lack of any method to verify "preparation time," would make it impossible to audit wages paid for "preparation time."

PUBLIC SCHOOL TEACHER TO ATTEND EMPLOYER-SPONSORED EDUCATION CLASS BY USING AN OPEN ENROLLMENT SPACE

Implementation Considerations

- ◆ It is unclear if an "employer-sponsored education class" would 1) include conferences, conventions, presentations, seminars, and other related events; or 2) be a "class" normally provided for the benefit of his or her employees. Also, it is unclear if the author intended to provide a credit for California public school teachers to attend employer-sponsored education classes provided outside of this state. A definition is needed to clarify the author's intent.
- ◆ It is unclear what would characterize an "open enrollment space."
- ◆ Further definition is needed as to what items would constitute "qualified expenses" (i.e., direct/indirect wages for personnel teaching the class, teaching supplies, class materials, equipment, etc.) and allocation of those expenses to the open enrollment participant.
- ◆ It is unclear if "public school teacher" would include a teacher assistant, a teacher aide or other part-time or volunteer position. To prevent disagreement between taxpayers and the department, the author may wish to specify what positions would qualify as a "public school teacher."
- ◆ Credits are typically used within eight years of being earned. Since this credit does not have a carryover limit, the department would be required to retain the credit carryover on the tax forms indefinitely.

Board Position

On March 23, 1999, the Franchise Tax Board voted 2-0 to take a neutral position on this bill as amended February 4, 1999.