

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Alquist Analyst: Kristina E. North Bill Number: AB 2

Related Bills: See Prior Analysis Telephone: 845-6978 Amended Date: June 15, 2000

Attorney: Patrick Kusiak Sponsor:

SUBJECT: Exclusion/Educ. Assist. Programs Payment Incl. Graduate Level Courses/Ltd. To Employees Whose Annual Wages From Employer Are Less Than \$50,000

- 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/amended _____.
- FURTHER AMENDMENTS NECESSARY.
- DEPARTMENT POSITION CHANGED TO _____.
- REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED **AUGUST 16, 1999**, STILL APPLIES.
- OTHER - See comments below.

SUMMARY OF BILL

Under the Personal Income Tax Law (PITL), this bill would allow an employee to exclude from income the amount that an employer pays or incurs, up to \$5,250 per calendar year, for the employee to take graduate level courses in pursuit of a law, business, medical, or other advanced academic or professional degree. For the employee to qualify for the exclusion, the wages paid by the employer to the employee must be less than \$50,000 for the taxable year. These changes would apply for taxable years beginning on or after January 1, 2000, and before January 1, 2005.

SUMMARY OF AMENDMENTS

The June 15, 2000, amendments deleted the August 16, 1999, version of the bill in its entirety and made the changes discussed in this analysis. Except for the items discussed in this analysis, the remainder of the department's analysis of the bill as amended August 16, 1999, still applies.

POLICY CONSIDERATION

Employees with multiple employers during a taxable year who earn more than \$50,000 in total wages might qualify for the exclusion if the employee does not receive more than \$49,999 from the employer that pays or incurs the educational assistance. Thus, this limitation, as written, would prevent an employee earning \$50,001 from one employer from qualifying for the exclusion, while allowing it to another employee who earns \$100,000 during the taxable year, but less than \$50,000 from the employer that pays or incurs the educational assistance. It is unclear whether this is consistent with the legislative staff's intent in inserting this limitation.

Board Position:

<input checked="" type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
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Legislative Director

Date

Johnnie Lou Rosas

7/24/00

IMPLEMENTATION CONSIDERATIONS

Current law allows the exclusion from "gross income." This bill deletes the word "gross," thus leaving it unclear whether the exclusion is from gross income, adjusted gross income or taxable income. For clarity, the word "gross" should be reinstated.

The method by which the bill amends the existing law could be strictly read as applying the wage limit, the repeal date, and the deletion of the word "gross" to both the graduate and the undergraduate levels of education. Legislative staff indicated that this was not the intent. The department is available to assist with amendments to clarify that the bill applies only to graduate level courses.

FISCAL IMPACT

Departmental Costs

Because the June 15, 2000, amendment deleted the department's reporting requirement, this bill would not significantly impact the department's costs.

Tax Revenue Estimate

The revenue losses from this bill are estimated to be:

Fiscal Year Revenue Loss \$ Millions Assumes Enactment After June 30, 2000		
2000/2001	2001/2002	2002/2003
-\$7	-\$8	-\$8

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

Tax Revenue Discussion

The June 15, 2000, amendment limits the exclusion for employer-reimbursed educational expenses for graduate level classes to students whose wages paid by the employer are less than \$50,000. Based on information found in *Student Financing of Graduate and Post-Professional Education 1995/1996* (Department of Education report), it is concluded that the revenue loss will decrease from \$10 million to \$7 million for 2000/2001 and to \$8 million for 2001/2002 and 2002/2003 with this cap. (This estimates reflects the legislative intent that the wage limitation apply only to those receiving education assistance for graduate level classes.)

BOARD POSITION

Support.

At its meeting of March 23, 1999, the Franchise Tax Board voted 2-0 to take a support position on this bill as introduced December 7, 1998, with Member B. Timothy Gage abstaining.