

# SUMMARY ANALYSIS OF AMENDED BILL

Author: Rodriguez Analyst: Jessica Deitchman Bill Number: AB 151  
 Related Bills: See Prior Analysis Telephone: 845-6310 Amended Date: May 20, 2015  
 Attorney: Bruce Langston Sponsor \_\_\_\_\_

<b>SUBJECT:</b>	Apprentice Training Credit
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## SUMMARY

This bill would provide a tax credit under the Personal Income Tax Law (PITL) and Corporation Tax Law (CTL) to a taxpayer that trains qualified apprentices.

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

## RECOMMENDATION

No position.

## SUMMARY OF AMENDMENTS

The May 20, 2015, amendments added language that would limit the number of apprentices a qualified taxpayer may train and cap the amount of the credit at \$10,000,000 for each calendar year.

As a result of these amendments, the "This Bill," and "Economic Impact" sections of the department's analysis of the bill as amended April 21, 2015, have been revised, and an "Implementation Consideration" has been identified. The remainder of the department's analysis of the bill as introduced still applies. The "Support/Opposition" section is provided below for convenience.

## THIS BILL

For taxable years beginning on or after January 1, 2016, and before January 1, 2020, this bill would, under both the PITL and CTL, allow a credit equal to \$1 for each hour a registered apprentice worked during the taxable year, up to \$2,000 for each registered apprentice that is trained by the taxpayer in the taxable year, not to exceed 10 registered apprentices per taxable year.

The aggregate amount of credits allowed could not exceed ten million dollars (\$10,000,000) for each calendar year.

The bill would define a "registered apprentice" as an individual who meets all of the following requirements:

- Is 16 years of age or older, at the time of application into the program.

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- Meets one of the following requirements:
  - Has not obtained a high school diploma and is enrolled in high school or a General Education Development test preparation program.
  - Has obtained a high school diploma or General Education Development credential while participating in the apprenticeship.
- The registered apprentice must be trained by a taxpayer through an apprenticeship program that meets all of the following requirements:
  - The program must be approved by the “Chief of the Division of Apprenticeship Standards,”<sup>1</sup> and is also registered with the office of Apprenticeship at the United States Department of Labor.
  - The program must be provided pursuant to an apprenticeship agreement described in the Labor Code.<sup>2</sup>
  - The minimum term for the program must be at least 2,000 hours.

A credit for the taxable year would only be allowed if the taxpayer has received a certificate from the Division of Apprenticeship Standards in the Department of Industrial Relations. A certificate is required for each taxable year. The taxpayer would be required to provide a copy of the apprenticeship agreement to the Franchise Tax Board (FTB) upon request.

The Division of Apprenticeship Standards would be required to do all of the following:

- Establish a procedure for taxpayers to apply and receive a certificate, in the form and manner jointly prescribed by the Division of Apprenticeship Standards and the FTB.
- Verify that the taxpayer is training during the taxable year an individual that meets the requirements to be a registered apprentice.
- Provide the taxpayer with a certificate for the registered apprentice. The certificate would contain the name of the taxpayer and the name of the apprentice, a brief description of the apprenticeship, the primary location of the apprenticeship, and any other information the Division of Apprenticeship Standards or the FTB deems relevant.
- Annually provide the FTB with a list of the names of the taxpayers that received certificates and the names of the registered apprentices of the taxpayer. The list may also contain any other information from the certificates.
- Inform the FTB if the Division of Apprenticeship Standards has knowledge that the training of a registered apprentice is terminated prior to the completion of the apprenticeship program after the taxpayer has received a certificate.

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<sup>1</sup> As defined in Section 3070 of Chapter 4 of Division 3 of the Labor Code.

<sup>2</sup> Labor Code section 3077.

If the training of the qualified apprentice is terminated prior to the completion of the apprenticeship program, any unused carryover of the credit would be canceled and any previously claimed credit that reduced net tax would be recaptured by increasing the tax imposed for the taxable year in which the training is terminated. If the termination occurred due to any of the following, the recapture provision would not apply:

- The registered apprentice voluntarily leaves the apprenticeship program.
- The registered apprentice, before the end of the completion of the apprenticeship program, becomes disabled and unable to perform the services of that program, unless that disability is removed before the close of the period of that program and the taxpayer fails to offer reinstatement to the program for the apprentice.
- The training of a registered apprentice was terminated due to the misconduct<sup>3</sup> of that apprentice.
- The training of the registered apprentice was terminated due to a substantial reduction in the trade or business operations of the taxpayer.

Unused credits could be carried over for five years or until exhausted.

A deduction otherwise allowed for any amount paid or incurred by the qualified taxpayer in training a registered apprentice as a trade or business expense would be reduced by the amount of the credit allowed by this bill.

This credit would be repealed on December 1, 2020.

The Division of Apprenticeship Standards may adopt rules and regulations needed to administer this bill, but would be required to consult with the FTB.

The FTB may prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purpose of this bill.

The Division of Apprenticeship Standards would be required to prepare reports for the legislature for each of the five calendar years beginning on January 1, 2017, and before January 1, 2022, and would include, but not be limited to, the following information:

- The number of companies or businesses taking advantage of the credit.
- The number of apprentices participating in the apprenticeship programs and who completed the apprenticeship program, which was the basis of the apprenticeship tax credits.
- The number of apprentices that were hired by the taxpayer after the apprenticeship training was completed for which the taxpayer was allowed a tax credit for training that apprentice.

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<sup>3</sup> As described in Sections 1256-30 to 1256-43 inclusive of Title 22 of the California Code or regulations.

- Information on the employment status of individuals who have completed an apprenticeship, to the extent the information is available.
- The fiscal impact of the apprenticeship tax credits.

This report would be submitted by the Division of Apprenticeship Standards to the Assembly and Senate Appropriations Committees, the Assembly Revenue and Taxation Committee, and the Senate Governance and Finance Committee on or before March 1 of the following calendar year, commencing March 1, 2018.

The FTB would be required to provide the Division of Apprenticeship Standards with any information necessary to prepare the report. This requirement would be repealed on January 1, 2023.

### **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.

This bill lacks administrative details necessary to implement the aggregate cap of \$10,000,000 per calendar year. The bill is silent on the following issues and creates the following questions:

- Who would administer the cap?
- When should the credit be cut off when the cap is reached? On a first come, first served basis? Or using some other method?
- How would a taxpayer know when or if a cap has been reached in any given calendar year?

To eliminate disputes between taxpayers and the department, it is recommended that the bill be amended to clearly define how the cap on the credit would be administered.

### **ECONOMIC IMPACT**

#### **Revenue Estimate**

This bill would result in the following revenue loss:

Estimated Revenue Impact of AB 151 As Amended May 20, 2015 Assumed Enactment After June 30, 2015 (\$ in Dollars)		
2015-16	2016-17	2017-18
-\$200,000	-\$500,000	-\$700,000

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

### **Revenue Discussion:**

Based on data from the Department of Industrial Relations the number of registered apprentices 16 years or older without a high school diploma is estimated to be 4,800 in 2016. Because some of these registered apprentices will not enroll in a GED program or high school, the population is reduced by 5 percent to account for these individuals that would not meet the program requirements.

This credit is anticipated to increase the number of registered apprentices by 75 percent for the following reasons; expanding program requirements to allow the hiring of qualified apprentices, increase in available apprenticeships from the high speed rail program, and incentive to hire qualified apprentices to take advantage of the credit. The population was reduced by 95 percent to include only the first 10 qualified apprentices for each employer. This adjustment also includes a small decrease in credit for potential recapture.

The estimated number of qualified apprentices is multiplied by the expected credit generation amount of \$2,000 resulting in total estimated credit generated of \$800,000 in 2016. Due to the short implementation period, the first year of credit generation is reduced by 20 percent. It is assumed that taxpayers will use 75 percent of the credit in the year generated, 10 percent in year two and year three, and 5 percent in year four. It is further assumed that 30 percent would be used by personal income taxpayers and 70 percent by corporate taxpayers.

The bill specifies that the deduction otherwise allowed must be reduced by the amount of the credit allowed. This reduction of expense is equal to the amount of credit generated multiplied by the marginal tax rate of 6 percent for personal income taxpayers and 5.5 percent for corporate taxpayers. The resulting revenue gain is \$43,000 in 2016.

The tax year estimates are converted to fiscal year estimates, and then rounded to arrive at the estimates shown in the table above.

### **SUPPORT/OPPOSITION<sup>4</sup>**

Support: Council of California Goodwill Industries.

Opposition: California Tax Reform Association.

### **LEGISLATIVE STAFF CONTACT**

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

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

Jame Eiserman  
Revenue Manager, FTB  
(916) 845-7484

[jame.eiserman@ftb.ca.gov](mailto:jame.eiserman@ftb.ca.gov)

Gail Hall  
Legislative Director, FTB  
(916) 845-6333

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

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<sup>4</sup> As provided in the Assembly Revenue and Taxation Committee Analysis dated May 15, 2015.