

ANALYSIS OF ORIGINAL BILL

Author: Gipson Analyst: Jessica Deitchman Bill Number: AB 2055
See Legislative
Related Bills: History Telephone: 845-6310 Introduced Date: February 17, 2016
Attorney: Bruce Langston Sponsor _____

SUBJECT: CA Competes Credit/Qualified Sustainable Freight Investments

SUMMARY

This bill would, under the Personal Income Tax Law (PITL) and Corporation Tax Law (CTL), modify the allocation of the California Competes Tax Credit.

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

RECOMMENDATION

No position.

REASON FOR THE BILL

The reason for the bill is to increase investment in zero or near-zero emissions equipment by requiring the Governor's Office of Business and Economic Development (GO-Biz) to provide allocations of the California Competes Tax Credit to businesses that invest in this type of equipment.

EFFECTIVE/OPERATIVE DATE

As tax levy, this bill would be effective immediately upon enactment and specifically operative for allocations made for each fiscal year beginning with the 2018-19 fiscal year.

STATE LAW

The CA Competes Credit is administered by GO-Biz. The amount of the credit available to a taxpayer for a taxable year is negotiated and set forth in a written agreement between GO-Biz and a taxpayer, and approved by the "California Competes Tax Credit Committee," consisting of the State Treasurer, the Director of the Department of Finance (DOF), the Director of GO-Biz, and one appointee each by the Speaker of the Assembly and Senate Committee on Rules. GO-Biz will consider a variety of factors when determining which businesses will receive the credit including, but not limited to;

- The number of jobs the taxpayer will create and retain in this state;
- The compensation paid or proposed to be paid by the taxpayer to its employees, including wages and fringe benefits;
- The amount of investment in this state by the taxpayer;
- The incentives available to the taxpayer in other states; and
- The opportunity for future growth and expansion in this state by the taxpayer's business.

Upon approval of the written agreement by the Committee, GO-Biz informs the Franchise Tax Board (FTB) of the terms and conditions of the written agreement. The FTB reviews the books and records of taxpayers allocated a CA Competes Credit to ensure that the taxpayer complied with the terms and conditions of the written agreement. In the case of a small business, the FTB reviews the books and records of the taxpayer if it deems the review appropriate or necessary in the best interest of the state. If the FTB determines that a possible breach of the agreement has occurred, GO-Biz is provided detailed information regarding the basis of the possible breach.

THIS BILL

For allocations made in fiscal years beginning with 2018-19, this bill would require GO-Biz to reserve 25 percent of the aggregate amount of California Competes Credit that may be allocated for taxpayers that make qualified sustainable freight investments.

“Qualified sustainable freight investment” would mean the purchase or installation, or a proposed future purchase or installation, of zero-emissions and near-zero-emissions equipment and supporting infrastructure for use by or at a marine terminal in a California seaport.

The FTB would be required to review the books and records of the taxpayer that is allocated the California Competes Credit because they make qualified sustainable freight investments, to ensure compliance with the terms and agreements of the written agreement and notify GO-Biz of a possible breach of the written agreement by a taxpayer and provide detailed information regarding the basis for that determination.

IMPLEMENTATION CONSIDERATIONS

The bill would add additional language to require the FTB to examine the books and records of taxpayers allocated the California Competes Credit under the new provisions provided by this bill. The requirement for the FTB to examine the books and records of all taxpayers allocated the California Competes Credit exists under current law. Because this language is duplicative, it is unclear which section would prevail. To avoid confusion between taxpayers and the department, it is recommended the bill be amended to remove the additional language.

LEGISLATIVE HISTORY

AB 961 (Gallagher, 2015/2016) would have modified the amount of funding for the California Competes Tax Credit. AB 961 failed to pass by the constitutional deadline.

AB 1560 (Quirk-Silva, et al., Chapter 378, Statutes of 2014), modified the funding for the California Competes Tax Credit.

AB 93 (Assembly Committee on Budget, Chapter 69, Statutes of 2013), repealed the geographically targeted economic development area tax incentives and the New Jobs Tax Credit under the PITL and CTL, created a New Hiring Tax Credit, established the California Competes Tax Credit Committee, and created the California Competes Tax Credit under the PITL and CTL.

OTHER STATES' INFORMATION

Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York laws do not provide a credit comparable to the credit allowed by this bill. The laws of these states were selected due to their similarities to California's economy, business entity types, and tax laws.

FISCAL IMPACT

The department's costs to implement this bill have yet to be determined. As the bill moves through the legislative process, costs will be identified and an appropriation will be requested, if necessary.

ECONOMIC IMPACT

Revenue Estimate:

This bill does not increase the total amount of funds allocated to the California Competes Credit. Because the DOF allocates the funds available for this credit, staff defers to the DOF to determine the revenue impact of this bill.

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

Revenue Discussion:

The amount and timing of the California Competes Credit is subject to the written agreements between GO-Biz and the taxpayer. Accordingly, staff defers to the DOF to determine the revenue impact of this bill.

SUPPORT/OPPOSITION

Support: None provided.

Opposition: None provided.

ARGUMENTS

Proponents: Some may argue that this bill would increase investment in zero-emission or near-zero-emission equipment and infrastructure.

Opponents: Some may argue that this bill may be overly narrow and requiring allocation to only those businesses that make zero-emission or near-zero-emission equipment and infrastructure.

LEGISLATIVE STAFF CONTACT

Jessica Deitchman
Legislative Analyst, FTB
(916) 845-6310
jessica.deitchman@ftb.ca.gov

Jame Eiserman
Revenue Manager, FTB
(916) 845-7484
jame.eiserman@ftb.ca.gov

Gail Hall
Legislative Director, FTB
(916) 845-6333
gail.hall@ftb.ca.gov