

ANALYSIS OF AMENDED BILL

Author: Olsen, et al. Analyst: Diane Deatherage Bill Number: AB 54
 See Legislative History
 Related Bills: See Legislative History Telephone: 845-4783 Amended Dates: March 16, 2015 & April 22, 2015
 Attorney: Bruce Langston Sponsor _____

SUBJECT:	Disabled Access for Eligible Small Businesses Credit
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SUMMARY

This bill would modify existing law’s Disabled Access for Eligible Small Businesses Credit (Disabled Access Credit) under the Personal Income Tax Law and Corporation Tax Law.

RECOMMENDATION

No position.

Summary of Amendments

The March 16, 2015, amendments added co-authors, and modified the Disabled Access Credit as discussed in this analysis.

The April 22, 2015, amendments removed the provisions that made changes to the Civil Code and made some nonsubstantive technical changes to the Disabled Access Credit provisions.

This is the department’s first analysis of the bill.

REASON FOR THE BILL

The reason for the bill is to help offset the cost for eligible small businesses to have their business site certified by a Certified Access Specialist (CASp) to ensure that their business site is compliant with the Americans with Disabilities Act (ADA).¹

EFFECTIVE/OPERATIVE DATE

As a tax levy, this bill would be effective January 1, 2016, and operative for expenditures, as specified, paid or incurred, in taxable years beginning on or after January 1, 2016.

¹ [Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213 \(2000\)](#).

Board Position:	Executive Officer	Date
_____ S _____ NA _____ X _____ NP	Selvi Stanislaus	4/29/15
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FEDERAL/STATE LAW

Existing federal law allows a credit² to eligible small businesses related to costs paid or incurred for complying with the ADA. An eligible small business means an electing taxpayer with either (a) gross receipts for the preceding taxable year of \$1 million or less, or (b) not more than 30 full-time employees during the preceding taxable year. The credit is computed as 50 percent of the eligible access expenditures for the taxable year in excess of \$250 but not more than \$10,250.

Under federal law, eligible access expenditures must be made to enable the qualified small business to comply with ADA requirements, including costs to remove architectural, communication, physical or transportation barriers of persons with disabilities; costs of qualified interpreters or equipment to make materials available to persons with hearing impairments, costs of qualified readers or equipment to make material available to persons with visual impairments; and costs to acquire or modify equipment for persons with disabilities.

The federal tax credit may be used against the net tax of the taxpayer and the excess, while not refundable, is available for carryback to the immediately preceding tax year and may be carried forward to the following 20 taxable years or until exhausted. Taxpayers may not increase the adjusted basis of property or claim any deduction for eligible access expenditures that qualify for the credit.

California conforms to the federal tax credit provisions as modified to limit the credit to 50 percent of the first \$250 of eligible access expenditures for a taxable year. The maximum credit per eligible small business per taxable year is \$125.

Under the Civil Code:

- "Certified access specialist" or "CASp" means any person who has been certified pursuant to the Government Code.³
- "Inspected by a CASp" means the site was inspected by a CASp and is pending a determination by the CASp that the site meets applicable construction-related accessibility standards pursuant to paragraph (2) of subdivision (a) of Section 55.53. A site that is "CASp determination pending" on or before the effective date of the amendments made to this section by Senate Bill 1186 of the 2011-12 Regular Session of the Legislature means that the site was "inspected by a CASp."
- "Site" means a place of public accommodation.

² The federal Disabled Access Credit, established under IRC section 44, was created in 1990 specifically to help small businesses cover ADA-related eligible access expenditures.

³ [Government Code section 4459.5](#).

THIS BILL

The bill would, for taxable years beginning on or after January 1, 2016, modify the Disabled Access Credit to include the amount paid or incurred for a site to be inspected by a CASp, which is a certified access specialist.

“Certified access specialist,” “inspected by a CASp,” and “site” would have the same meaning as those terms defined in the California Civil Code (see Federal/State Law Section).

IMPLEMENTATION CONSIDERATIONS

The legislative findings and declarations provide that the California Commission on Disability Access would include in its annual report to the Legislature the impact the tax credit has had on reducing ADA compliance lawsuits. The bill lacks a mechanism for the Franchise Tax Board to provide information to the California Commission on Disability Access, as well as how the information would indicate if it affected the number of ADA compliance lawsuits.

TECHNICAL CONSIDERATIONS

The term “for” on page 7, line 15 is unnecessary and should be deleted.

LEGISLATIVE HISTORY

AB 1847 (Leslie, 2005/2006) would have fully conformed California tax law to federal tax law relating to the disabled access credit by allowing a maximum credit of \$5,000 in accordance with Section 44 of the Internal Revenue Code. AB 1847 failed to pass out of the Assembly by the constitutional deadline.

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

This bill would impact the department's printing, processing and programming costs. 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

This bill would result in the following revenue loss:

Estimated Revenue Impact of AB 54 As Amended April 22, 2015 Assumed Enactment After June 30, 2015		
2015-16	2016-17	2017-18
- \$1,000	- \$4,000	- \$4,000

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

Revenue Discussion

This bill would revise the Disabled Access Credit for eligible access expenditures by including the cost for a CASp inspection as a qualified expense. In taxable year 2012, taxpayers claimed \$40,000 in Disabled Access Credit. This estimate assumes claims would increase 10 percent, resulting in additional credits claimed of \$4,000 per year.

The tax year estimates are grown,⁴ converted to fiscal year estimates, and then rounded to arrive at the estimates shown in the table above.

SUPPORT/OPPOSITION

Support: None provided.

Opposition: None provided.

ARGUMENTS

Proponents: Some may say that this bill would facilitate greater accessibility for disabled individuals by including CASp-related expenditures for making improvements to businesses in California.

Opponents: Some may argue that the burden of calculating the credit is disproportionate to the maximum credit allowable.

⁴ Indexed using Department of Finance forecasts.

POLICY CONCERNS

This bill would create differences between federal and California tax law, thereby increasing the complexity of California tax return preparation.

LEGISLATIVE STAFF CONTACT

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