

## ANALYSIS OF AMENDED BILL

Author:	<u>Gallagher</u>	Analyst:	<u>Jessica Deitchman</u>	Bill Number:	<u>AB 1586</u>
Related Bills:	<u>See Legislative History</u>	Telephone:	<u>845-6310</u>	Amended Date:	<u>March 21, 2017</u>
		Attorney:	<u>Bruce Langston</u>	Sponsor:	<u></u>

**SUBJECT:** Employer Wages Paid to Hearing Impaired Employees Credit

### SUMMARY

This bill would, under the Personal Income Tax Law (PITL) and Corporation Tax Law (CTL), create a tax credit for certain taxpayers that employ employees that have little to no functional hearing.

### RECOMMENDATION – NO POSITION

#### Summary of Amendments

The March 21, 2017, amendments removed provisions of the bill relating to taxable income in the PITL, and replaced them with the provisions discussed in this analysis. This is the department's first analysis of the bill.

### REASON FOR THE BILL

The reason for the bill is to encourage taxpayers to employ individuals with little to no functional hearing.

### EFFECTIVE/OPERATIVE DATE

As a tax levy, this bill would effective immediately upon enactment and specifically operative for taxable years beginning on or after January 1, 2020.

### FEDERAL/STATE LAW

Existing federal law provides special tax incentives for empowerment zones and enterprise communities, to provide economic revitalization of distressed urban and rural areas.

Current state and federal laws generally allow taxpayers engaged in a trade or business to deduct all expenses that are considered ordinary and necessary in conducting that trade or business.

Current state law allows a New Employment Credit that is available to a qualified taxpayer that hires a qualified full-time employee, has an overall net increase in employment, and pays or incurs qualified wages attributable to work performed by the qualified full-time employee in a designated census tract or former Enterprise Zone. The qualified taxpayer must receive a tentative credit reservation from the Franchise Tax Board for that qualified full-time employee.

## **THIS BILL**

For each taxable year beginning on or after January 1, 2020, this bill would allow under the PITL and CTL a taxpayer a credit equal to the qualified wages paid or incurred to a qualified employee during the taxable year, not to exceed 35 percent of the first \$6,000 of qualified wages.

The bill would define the following terms:

- “Qualified employee” means an employee who has little to no functional hearing.
- “Qualified wages” means wages subject to withholding under Division 6 (commencing with Section 13000) of the Unemployment Insurance Code.

“Taxpayer would specifically exclude a sexually oriented business.”<sup>1</sup>

A deduction otherwise allowed for any amount paid or incurred by the taxpayer upon which the credit is based would be required to be reduced by the amount of the credit allowed.

The bill specifies that Section 41<sup>2</sup> would not apply.

## **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 uses the undefined phrase, “little to no functional hearing.” The absence of a definition to clarify this phrase could lead to disputes with taxpayers and would complicate the administration of this bill. The author may want to amend the bill to clearly define the phrase.

The department lacks expertise on hearing disabilities. It is unclear how a taxpayer or the department would verify that an employee has limited or no hearing. Typically, credits involving areas for which the department lacks expertise are certified by another agency that possess relevant expertise. The certification language would specify the responsibilities of both the certifying agency and the taxpayer. It is recommended that this bill be amended to include a certifying agency.

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<sup>1</sup> As described in clause (v) of subparagraph (C) of paragraph (11) of subdivision (b) of Section 17053.73.

<sup>2</sup> Under Revenue and Taxation Code section 41, legislation that would create a new tax credit is required to include specific goals, purposes, objectives, and performance measures to allow the Legislature to evaluate the credit's effectiveness.

It is unclear whether the credit amount would be determined by applying a rate of 35 percent or 100 percent to the qualified wages paid to a qualified employee during the taxable year. For clarity and to ensure consistency with the author's intent, the bill should be amended to specify how the credit would be calculated and the maximum credit allowable per taxable year on a per taxpayer or per qualified employee basis.

## TECHNICAL CONSIDERATIONS

For clarity, it is recommended the term "qualified taxpayer" be added to the language to clearly define which taxpayers would qualify for the credit.

## LEGISLATIVE HISTORY

AB 1629 (Maienschein, 2017/2018) would allow a credit for employers that hire employees eligible to be paid a special minimum wage and pay them at or above the minimum wage. AB 1629 is currently in the Assembly Committee on Appropriations suspense file.

AB 1404 (Grove, 2015/2016) would have allowed a credit for employers that hire employees eligible to be paid a special minimum wage and paid them at or above the minimum wage. AB 1404 failed to pass out of the house of origin by the constitutional deadline.

AB 2582 (Maienschein, 2015/2016) would have allowed a credit for employers that hire employees eligible to be paid a special minimum wage and paid them at or above minimum wage. AB 2582 failed to pass out of the house of origin by the constitutional deadline.

## OTHER STATES' INFORMATION

Review of *Florida, Illinois, Massachusetts, Michigan, Minnesota*, and *New York* laws found no comparable tax credit. These states were selected and reviewed 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 would result in the following revenue loss:

Estimated Revenue Impact of AB 1586 As Amended March 21, 2017 Assumed Enactment After June 30, 2017 (\$ in Millions)		
2017-18	2018-19	2019-20
\$0	\$0	- \$8.1*

\*Increases to a \$15 million loss in the 2020-21 fiscal year.

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

## **Revenue Discussion**

Using data from the Department of Finance, the Census Bureau, and available research, it is estimated there would be 8,400 qualified employees working at for-profit firms in 2020. US Census data suggests a majority of employed individuals who have little to no functional hearing work full time. For purposes of this estimate, it is assumed employers would generate the credit on the first \$6,000 in qualified wages, resulting in \$2,100 in credit per qualified employee, or an estimated \$18 million in credit generated in the 2020 taxable year. It is assumed that 80 percent of the credit generated would be used in the year generated and the remaining credits would be unused because the bill lacks a carryover provision. Because taxpayers must reduce their deductions by the credit amount, an offsetting gain of \$1.5 million is applied to account for the decrease in the wage deduction.

The tax year estimate is converted to fiscal years and rounded to arrive at the amounts reflected in the table above.

## **SUPPORT/OPPOSITION**

Support: None provided.

Opposition: None provided.

## **ARGUMENTS**

Proponents: Some may argue that this bill could encourage hiring of difficult to employ individuals by offering a tax credit to employers.

Opponents: Some may argue that this credit is overly narrow and inadvertently excludes other groups of difficult to employ individuals who could benefit from an incentive being offered to employers that hire these employees.

## **POLICY CONCERNS**

This bill lacks a sunset date. Sunset dates generally are provided to allow periodic review of the effectiveness of the credit by the Legislature.

This bill would allow taxpayers to claim multiple tax benefits for the same item of expense because wages paid to employees may also be eligible under another provision of state tax law for a wage credit.

This bill lacks carryover language. As a result, any unused credit would be lost if the taxpayer is unable to use the entire credit amount in the year claimed. The author may wish to add language allowing a limited carryover period.

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