



## Analysis of Original Bill

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Sponsor:

Bill Number: AB 1904

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Related Bills: See Legislative  
History

**Subject:** Apprentice Training Credit

### Summary

This bill would, under the Personal Income Tax Law (PITL) and the Corporation Tax Law (CTL), allow a tax credit to a taxpayer that employs a registered apprentice.

**Recommendation – No position.**

### Reason for the Bill

The reason for the bill is to address the state's need to encourage workers to learn a specialized trade, and to provide additional tax incentive programs to encourage employers to offer these programs.

### Effective/Operative Date

As a tax levy, this bill would be effective immediately upon enactment and specifically operative for taxable years beginning on or after January 1, 2019, and before January 1, 2023

### Federal/State Law

Existing state and federal laws provide various tax credits designed to provide tax relief for taxpayers who incur certain expenses (e.g., child adoption) or to influence behavior, including business practices and decisions (e.g., research credits or economic development area hiring credits). These credits generally are designed to provide incentives for taxpayers to perform various actions or activities that they may not otherwise undertake.

Current federal and state laws lack a comparable credit for training apprentices.

### This Bill

Under the PITL and CTL, this bill would, for each taxable year beginning on or after January 1, 2019, and before January 1, 2023, allow a taxpayer a credit in an amount equal to \$1 for each hour a registered apprentice worked during the taxable year, up to \$1,000 for each registered apprentice trained by the taxpayer in the taxable year, not to exceed 10 registered apprentices per taxable year.

The bill would define a “registered apprentice” as an individual that meets all of the following requirements:

- Is 16 years of age or older at the time of application into the program.
- Meets one of the following requirements:
  - Has not obtained a high school diploma and is enrolled in high school or a General Education Development (GED) test preparation program.
  - Has obtained a high school diploma or GED credential while participating in the apprenticeship.
- Is trained by the taxpayer through an apprenticeship program that meets all of the following requirements:
  - The apprenticeship program is 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 is provided pursuant to an apprenticeship agreement as described in Section 3077 of the Labor Code.
  - The minimum term in hours for the program is 2,000 hours.

The credit would only be allowed for a taxable year if the taxpayer has received the certificate from the Division of Apprenticeship Standards in the Department of Industrial Relations (DIR).

A certificate would be required for each taxable year.

The taxpayer would be required to provide a copy of the certificate 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, in the form and manner jointly prescribed by the Division of Apprenticeship Standards and the FTB, to apply and receive a certificate.
- 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 shall 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.

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<sup>1</sup> Pursuant to Chapter 4 (commencing with Section 3070) of Division 3 of the Labor Code.

- 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.

The Division of Apprenticeship Standards would be allowed to adopt rules and regulations as reasonable necessary to effectuate this section in consultation with the FTB.

The credit may be carried forward for up to five years from the year in which the credit was allowed, or until exhausted, whichever occurs first.

The FTB may prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of the credit, except as otherwise provided.

The bill would require recapture of previously-claimed credits and cancellation of unused credit carryovers applicable to a registered apprentice whose training is terminated prior to the completion of the apprentice program, unless the training was terminated for any of the following reasons:

- The registered apprentice voluntarily leaves the apprenticeship program.
- The registered apprentice, before the end of the completion of the apprenticeship program become 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 that apprentice.
- The training of the registered apprentice was terminated due to misconduct<sup>2</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.

The credit would be recaptured by increasing the tax for the taxable year the training was terminated.

Any 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.

The maximum aggregate amount of credits allowed would be \$10,000,000 for each calendar year.

The Division of Apprentice Standards would be required to prepare reports on the apprenticeship income tax credits allowed for the five calendar years beginning on January 1, 2020, and before January 1, 2025, and must include, but not be limited to, the following information:

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<sup>2</sup> As defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations.

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

The report must be submitted 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, 2021.

The FTB would be required to provide the Division of Apprenticeship Standards with any information necessary to prepare the report.<sup>3</sup>

This bill's provisions would remain in effect until December 1, 2023, and would be repealed as of that date.

### **Implementation Considerations**

Department staff has identified the following implementation considerations for purposes of a high-level discussion; additional concerns may be identified as the bill moves through the legislative process. Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

The bill uses the undefined term "qualified taxpayer." The absence of a definition to clarify this term could lead to disputes with taxpayers and would complicate the administration of this bill. It is recommended the bill be amended to clearly define this term.

Additionally, the bill lacks the details necessary to administer the credit and raises the following questions:

- How, when, and by whom would the 10 registered apprentices per taxable year be identified?
- How, when, and by whom would the calendar year limit of \$10 million be administered? For example, how would a return reporting a credit that exceeds the limit be treated?

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<sup>3</sup> Pursuant to Section 3073.7 of the Labor Code.

Because the bill fails to specify otherwise, registered apprentices that work full-time and part-time would be treated the same for certification purposes and a taxpayer could receive more than 10 certificates in a calendar year. Additionally, wages paid for work outside of the state would be included in the calculation of the credit.

The bill requires the taxpayer to receive a certificate from the Division of Apprenticeship Standards for each taxable year. However, it is unclear if that certificate would be required for each registered apprentice or if only one certificate would be adequate per taxpayer.

Additionally, it is unclear if the taxpayer hires the same apprentice for more than one year if the taxpayer would be required to obtain another certificate. It is recommended the bill be amended to specify the author's intent.

It is unclear what information would be required to be disclosed pursuant to Revenue & Taxation Code section 19560.3 for the report required under Labor Code section 3073.7 or whether that information is retained by the FTB. Additionally, the FTB is subject to disclosure and privacy provisions that may preclude the FTB from providing this information. In order to determine what information may be available for the report, the bill should be amended to specify the information to be disclosed.

The bill would require a report to be submitted to the legislature on or before March 1st of the following calendar year after the credit is generated. Because of the timing of when returns are filed and information is received, most of the information in the report would be unavailable at the due date of this report. Personal income tax returns may be filed, with extension, until October 15. Corporate returns may be filed even later, depending on when the taxpayer's fiscal year ends. The department generally processes returns within six months of receipt. If the author's intent is to have each report contain complete information for the taxable year, the due date of the report should be changed. For example, the return due date for corporate taxpayers with fiscal years beginning December 1, 2020, and ending November 30, 2021, is February 15, 2022, and with extension, September 15, 2022. The department would complete processing of these returns by March 2023. Thus, the earliest that data from these corporate returns could be included in a report would be approximately June 2023.

Additionally, the bill states that the data provided in the report would be reported on a "calendar year." Tax return data is reported on a "taxable year." To ensure the correct information is provided in the report, the bill should be amended to specify that the information in the report should be provided based on taxable years.

### **Legislative History**

AB 361 (Cervantes, 2017/2018) would have created a tax credit in an amount equal to \$1,000 for each registered apprentice. AB 361 failed to pass by the constitutional deadline.

AB 151 (Rodriguez, 2015/2016) would have created a tax credit in an amount equal to \$2,000 for each registered apprentice. AB 151 failed to pass by the constitutional deadline.

AB 1569 (Rodriguez, 2013/2014), substantially similar to this bill, would have created a tax credit in an amount equal to \$2,000 for each registered apprentice. AB 1569 failed to pass by the constitutional deadline.

AB 985 (Dutton, 2009/2010) would have created a tax credit in an amount equal to 50 percent of the costs paid or incurred by a taxpayer for education and training. AB 985 failed to pass by the constitutional deadline.

### Other States' Information

The states surveyed include *Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York*. These states were selected due to their similarities to California's economy, business entity types, and tax laws. No similar tax credits were identified.

### Fiscal Impact

This bill would require some changes to the existing tax forms and instructions, and information systems. 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 1904 as Introduced January 22, 2018  
Assumed Enactment after June 30, 2018.

Fiscal Year	Revenue
2018-2019	- \$90,000
2019-2020	- \$250,000
2020-2021	- \$250,000

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 DIR, the number of active apprentices without a high school diploma totaled 6,600 as of January 29, 2018. This population was reduced by 5 percent to account for those registered apprentices will not enroll in a GED program or high school and would not meet the program requirements.

This credit is anticipated to increase the number of registered apprentices by 20 percent because of the incentive to hire registered apprentices to take advantage of the credit. The resulting population was reduced by 96 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 \$1,000 resulting in a total estimated credit generated of \$300,000 in 2019. Due to the timing of the legislation and the amount of time needed to set up the certification system, the first year of credit generation is reduced by 10 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 is calculated by multiplying the amount of the credit by the marginal tax rate of 6 percent for personal income taxpayers and 5 percent for corporate taxpayers, resulting in an offsetting revenue gain of \$17,500 in 2019. As a result, the estimated revenue loss would be \$210,000, in taxable year 2019.

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

### **Support/Opposition**

Support: None Provided.

Opposition: None Provided.

### **Arguments**

Proponents: Some may argue that the bill could encourage taxpayers to hire apprentices and thereby create additional jobs in California.

Opponents: Some may argue that providing a tax credit limited to apprenticeship programs may be overly narrow and inadvertently exclude other training programs in emerging industries.

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