



## **Analysis of Amended Bill**

Author: Garcia, et al.

Sponsor:

Bill Number: AB 2312

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Amended: March 20, 2018 and  
April 30, 2018

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Related Bills: See Legislative  
History

**Subject:** CA Competes Tax Credit/ Allow 50% of Unallocated Credit to be Reserved for Taxpayers Who Create or Retain Regionally Significant Jobs

### **Summary**

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

**Recommendation – No position.**

### **Summary of Amendments**

The March 20, 2018, amendments removed intent language, and the April 30, 2018, amendments expanded the definitions under the credit and added co-authors.

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

This analysis only addresses the provisions of the bill that would impact the department.

### **Reason for the Bill**

The reason for the bill is to allow cities, counties, or cities and counties, to preliminarily allocate a portion of the California Competes Tax Credit for those taxpayers that will significantly impact their region by adding or maintaining manufacturing jobs.

### **Effective/Operative Date**

As a tax levy, this bill would be effective and operative immediately upon enactment.

### **State Law**

Current state law allows the California Competes Tax Credit. This allocated credit is capped at \$25 million per fiscal year and is administered by the Governor's Office of Business and Economic Development (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 considers a variety of factors when determining which businesses will receive the credit, but must reserve 25 percent of the aggregate amount of the credit that may be allocated for certain small businesses.

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 California Competes Tax Credit to ensure that the taxpayer complied with the terms and conditions of the written agreement.

### **This Bill**

This bill would, under the PITL and the CTL, , amend the California Competes Tax Credit to allow up to 50 percent of the unallocated and recaptured credit amount, if any, from the preceding fiscal year to be reserved as a preliminary allocation to taxpayers that create or retain regionally significant jobs.

To receive a preliminary allocation, the city, county, or city and county in which a taxpayer is considering establishing, expanding, or retaining a manufacturing, research and development, or testing facility, or a corporate headquarters, would be required to demonstrate that it is currently competing for the establishment, expansion, or retention of a manufacturing, research and development, or testing facility, or corporate headquarters, which directly relates to the retention or creation of 150 or more full-time jobs. A taxpayer that retains jobs would be eligible for preliminary allocation only when an existing facility or headquarters is being considered for purchase. .

To receive a preliminary allocation, the city, county, or city and county must apply to GO-Biz on behalf of the taxpayer. In order to finalize the allocation, the taxpayer must submit documentation to the California Competes Tax Credit Committee as required by GO-Biz, and enter into a written agreement.

A taxpayer that is establishing, expanding, or retaining a manufacturing, research and development, or testing facility is eligible for a preliminary and final allocation if that taxpayer is primarily engaged in those lines of business described in Codes 31111 to 3399, inclusive, 221111 to 221118, inclusive, 221122, 541711, or 541712 of the North American Industry Classification System published by the United States Office of Management and Budget, 2012 edition.

The bill states that it is the intent of the Legislature that preliminary and final allocations authorized pursuant to this paragraph remain in effect if the repeal dates of the credits allowed are removed or extended, to the extent there is authority to allocate these credits.

### **Implementation Considerations**

Because this credit is administered by GO-Biz, implementing this bill would not significantly impact the department.

## **Legislative History**

AB 2055 (Gipson, 2015/2016), would have modified the items for Go-Biz to consider when allocating the credit to give special consideration to those installing zero or near-zero emissions equipment. AB 2055 failed to pass by the constitutional deadline.

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.

## **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.

## **Economic Impact**

### Revenue Estimate

This bill would result in a revenue loss. In accordance with the bill provisions, staff defers to 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 or for the net final payment method of accrual.

### Revenue Discussion

The amount and timing of the California Competes Credit is subject to the written agreements between GO-Biz and the taxpayer. Staff defers to DOF for the estimated revenue loss for this credit.

## **Support/Opposition**

Support: None provided.

Opposition: None provided.

## Arguments

Proponents: Some may argue that this bill would encourage businesses to create and retain manufacturing jobs in the state.

Opponents: Some may argue that this bill would overly complicate the administration of the California Competes Tax Credit.

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