



Analysis of Amended Bill

Author: Garcia, et al.

Sponsor:

Bill Number: AB 2312

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Amended: May 15, 2018

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Related Bills: See Legislative
History

Subject: CA Competes Tax Credit/Allow 50 Percent 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 May 15, 2018, amendments removed language that would have modified the existing California Competes Tax Credit and added provisions that would modify how the credit would be allocated in future years. As a result of the amendments, two new implementation considerations have been identified. Except for the “Effective/Operative Date,” “This Bill,” “Implementation Considerations,” and “Economic Impact” sections, the remainder of the department’s analysis of the bill as amended April 30, 2018, still applies. The “Fiscal Impact” section is restated for convenience.

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

Effective/Operative Date

This bill would be effective and operative January 1, 2019.

This Bill

This bill would, under the PITL and the CTL modify for 2018–2019 fiscal year and through and including the 2023–2024 fiscal year, the preliminary allocation rules applicable to 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 Governor's Office of Business and Economic Development (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.

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 would modify the rules governing allocations for the 2018–2019 fiscal year and through and including the 2023–2024 fiscal year, for the California Competes Tax Credit. However, the current California Competes Tax Credit only allows allocations by GO-Biz with respect to the 2013–2014 through and including the 2017–2018 fiscal years. As a result, the provisions of this bill would not extend the authority of GO-Biz to allocate credits and would have no effect on the existing credit. If it is the author's intent to extend the California Competes Tax Credit and modify the way allocations are made, the bill should be amended.

This majority vote bill, if enacted into law before September 30, 2018, would not be effective until January 1, 2019. As a result, the first date that allocations for the 2018–2019 fiscal year could be made is the effective date of the law, January 1, 2019. If the author intends to include changes in the rules governing allocations for the 2018–2019 fiscal year, then the bill should be amended to ensure that the bill will be immediately effective so that allocations may be made using these new rules starting with the first date of the 2018–2019 fiscal year.

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

The current California Competes Tax Credit is funded through the 2017–2018 fiscal year. Because the revenue impact of this bill as amended on May 15, 2018, would depend on allocations made for the current credit beginning in the 2018–2019 fiscal year, it would not have a revenue impact. However, this assumes any unallocated amounts from the existing credit would not be eligible for preliminary allocations specified in this bill. If unallocated amounts from the current credit are eligible for preliminary allocations, then there would be a revenue loss. However, in accordance with the bill provisions, staff defers to Department of Finance to determine the revenue impact of this bill.

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