



Summary Analysis of Amended Bill

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Sponsor:

Bill Number: AB 2945

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Amended: April 30, 2018

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Related Bills: See Prior Analysis

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 wages paid by a qualified taxpayer to a qualified employee.

Recommendation – No position.

Summary of Amendments

The April 30, 2018, amendments modified the operative date and added a sunset date, modified several definitions, clarified the amount of the credit allowable, added a certifying agency, added a limit for the carryover period, and added language to preclude a taxpayer from claiming multiple credits on the same wages paid to a qualified employee. As a result of the amendments, all but one of the implementation considerations, and all of the technical considerations and policy concerns provided in the department's analysis of the bill as introduced February 16, 2018, have been resolved. Except for the "Effective/Operative Date," "This Bill," "Implementation Considerations," "Technical Considerations," "Economic Impact," and "Policy Concerns" sections, the remainder of that analysis still applies. The outstanding "Fiscal Impact" section has been restated below for convenience.

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, 2029.

This Bill

For each taxable year beginning on or after January 1, 2019, and before January 1, 2029, this bill would allow, under the PITL and CTL, a tax credit equal to 35 percent of the qualified wages paid or incurred by a qualified employer to a qualified employee during the taxable year, not to exceed \$2,100 per qualified employee.

The bill would define the following terms:

- “Qualified employee” means an employee who has no functional hearing and who has completed, or is completing, rehabilitative services provided by the Department of Rehabilitation, the Department of Veterans Affairs, or an employment network under the Ticket to Work Program.
- “Qualified Employer” means a taxpayer that is an employer that qualifies for a federal Work Opportunity Tax Credit,¹ as certified by the Employment Development Department (EDD). A qualified employer would specifically exclude a sexually oriented business.²
- “Qualified wages” means wages subject to withholding under Division 6 (commencing with Section 13000) of the Unemployment Insurance Code.

Any credit amount in excess of tax could be carried forward for up to eight years, until exhausted.

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

No other credit would be allowed for qualified wages included in the calculation of the credit this bill would allow.

The EDD would be required to annually provide the Franchise Tax Board (FTB) a list of qualified employers and qualified employees in the form and manner that is agreed upon by the EDD and the FTB.

The provisions of Section 41³ would be inapplicable to this credit.

Implementation Considerations

The department has identified the following implementation concern. Department staff is available to work with the author’s office to resolve this and other concerns that may be identified.

It is unclear whether the \$2,100 limit applies to the creditable wages or the allowable credit. 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 if it should be calculated on a per taxpayer or per qualified employee basis.

¹ Pursuant to Section 51 of the Internal Revenue Code.

² As described in Revenue and Taxation Code (R&TC) section 17053.73(b)(11)(C)(v)(II)(ia).

³ Under R&TC 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.

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 the following revenue loss:

Estimated Revenue Impact of AB 2945 as Amended on April 30, 2018
For Taxable Years Beginning On or After January 1, 2019
Assumed Enactment after June 30, 2018

(\$ in Millions)

| Fiscal Year | Revenue |
|-------------|---------|
| 2018-2019 | - \$17 |
| 2019-2020 | - \$41 |
| 2020-2021 | - \$50 |

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

Based on data from the Department of Rehabilitation, the Department of Veterans Affairs, the Social Security Administration's Ticket to Work Program, and available research data, it is estimated there would be 23,000 qualified employees working for for-profit firms in taxable year 2019. It is then assumed that there would be a short phase-in period as taxpayers learn about the credit, resulting in an estimated \$110 million in qualified wages in taxable year 2019, \$140 million in taxable year 2020, increasing to \$150 million in taxable year 2025. For purposes of this estimate, it is assumed employers would pay or incur at least \$6,000 in qualified wages to an employee each taxable year. Applying a credit percent of 35 percent resulted in approximately \$39 million in credit generated. This equates to a \$2,100 credit per qualified employee. This bill provides that if a qualified employer is allowed a credit pursuant to this section for qualified wages paid or incurred, no other credit shall be allowed to the qualified employer under this part with respect to any wage consisting in whole or in part of those qualified wages. It is assumed the offsetting impact of this would be minimal. It is estimated that 90 percent, or \$36 million of the credit would be used in 2019, and the remainder would be carried over the next two years.

This bill specifies that the wage deduction would be reduced by the amount of the credit allowed. To arrive at the offsetting tax effect of wage deductions that would be otherwise allowed under current law, the credit amount is multiplied by the average marginal tax rate resulting in an estimated \$2.7 million offsetting gain in taxable year 2019. This results in a \$33 million net revenue loss in taxable 2019, and increases to \$55 million in taxable year 2025.

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

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